UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS
SECOND SESSION

VOLUME 124—PART 23

SEPTEMBER 21, 1978 TO SEPTEMBER 26, 1978
(PAGES 30559 TO 31794)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1978

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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

SENATE—*Thursday, September 21, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Almighty God, who hast given us this good land for our heritage; we humbly beseech Thee that we may always prove ourselves a people mindful of Thy favor and glad to do Thy will. Bless our land with honorable industry, sound learning, and pure manners. Save us from violence, discord, and confusion; from pride and arrogancy, and from every evil way. * * * Endue with the spirit of wisdom those to whom in Thy name we entrust the authority of government, that there may be justice and peace at home, and that, through obedience to Thy law, we may show forth Thy praise among the nations of the Earth. In the time of prosperity fill our hearts with thankfulness, and in the day of trouble, suffer not our trust in Thee to fail; all which we ask through Jesus Christ our Lord. Amen.

(Common Prayer, adopted).

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 21, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TO: 9 A.M. ON FRIDAY, SEPTEMBER 22, 1978; 9 A.M. ON SATURDAY, SEPTEMBER 23, 1978; 10 A.M. ON MONDAY, SEPTEMBEP 25, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today and tomorrow and Saturday, it stand in recess until the hour of 9 o'clock on Friday morning, 9 o'clock on Saturday morning, and 10 o'clock on Monday morning, respectively.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

Mr. BAKER. Mr. President, I have no requirement for my time, no requests for it, and I am happy to yield it back.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, with statements limited therein to 5 minutes each, and that the period not extend beyond 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, there is no further morning business.

The ACTING PRESIDENT pro tempore. If there is no further morning business, morning business is closed.

REHABILITATION, COMPREHENSIVE SERVICES, AND DEVELOPMENTAL DISABILITIES AMENDMENTS OF 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2600, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2600) to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a comprehensive services program for the severely handicapped, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3302

Mr. BUMPERS. Mr. President, I call up my amendment No. 3302, a printed amendment at the desk.

The ACTING PRESIDENT pro tempore. There is an amendment pending which will first have to be set aside.

Mr. BUMPERS. What is the pending business, Mr. President?

Mr. RANDOLPH. What is the pending amendment?

The ACTING PRESIDENT pro tempore. Amendment 3441.

Mr. BUMPERS. Could the Chair state whose amendment that is, and the status of the amendment?

The ACTING PRESIDENT pro tempore. It was offered by the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the amendment be set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The amendment of the Senator from Arkansas will be stated.

The assistant legislative clerk read as follows:

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

The Senator from Arkansas (Mr. Bumpers) offers an amendment numbered 3302:

On page 76, strike lines 5 through 18 and redesignate subsection (c) as subsection (b).

Mr. BUMPERS. Mr. President, I offer this amendment on behalf of myself, Mr. Thurmond, Mr. Randolph, Mr. Hathaway, Mr. Morgan, Mr. Eastland, Mr. Hatch, Mr. Hodges, Mr. Hollings, Mr. Abourezk, Mr. Domenici, Mr. Chiles, Mrs. Allen, Mr. Nunn, Mr. Young, Mr. Sparkman, Mr. Helms, Mr. Bentsen, Mr. Sasser, and Mr. Schmitt.

This is an amendment which goes to the very heart of this bill so far as I am concerned, because the pending committee bill changes the funding formula and revises the State basic grant formula to the point that a lot of States in this country are going to suffer through no fault of their own.

A lot of them are going to have to curb their vocational rehabilitation programs. But for the edification of my colleagues who may not have been following this closely, I would like to point out that in 1978, in the current fiscal year, $750 million was appropriated for this program. The money is allotted to the States on the basis of the Hill-Burton formula, which takes into consideration two factors: First, the population of the State, and two, the per capita income of the State.

This is the formula that we have been living under in the disbursing of these rehabilitation funds.

This matter was hotly contested in the committee. Finally, the bill that we now have was reported and this formula was adopted by the committee on a 9-to-6 vote.

Mr. RANDOLPH. Will the Senator yield?

Mr. BUMPERS. I will be happy to yield.

Mr. RANDOLPH. The Senator mentioned the committee action and the vote. That is correct. I want the record to indicate that the Subcommittee on the Handicapped continued the current formula when we brought the bill from the subcommittee to the full committee where, as the Senator indicated, the change was made and the bill reported to bring it to the Senate.

Mr. BUMPERS. That was my understanding, that the full committee overruled the subcommittee to continue the present funds formula.

Mr. RANDOLPH. And, further, and I want Senator Stafford to follow this, in the subcommittee there was unanimity of the members of the subcommittee in reference to this amendment.

Mr. STAFFORD. If the distinguished chairman of the subcommittee, the manager of the bill, will yield to me. I would say that is my recollection of the action of the subcommittee.

Mr. RANDOLPH. I thank the Senator.

I thank the Senator from Arkansas for yielding.

Mr. BUMPERS. I thank the Senator from West Virginia and the Senator from Vermont.

Mr. President, this is a matter that I have not been able to invest a lot of attention to since I came to the Senate. When I was Governor of my State it was crucial to us; these funds were crucial to us. What the new funding formula does is strike a mortal blow to States such as mine, the State of West Virginia, and other States similarly situated. What we are going to do under this bill is betray the American ethic. We will not just help those people who need help, but we will help those people who happen to have the most people in their State.

It will be a mortal blow to my State. Not in 1979, as we are not cut that significantly under this formula in 1979. But as time goes by, the matter is going to be exacerbated. What we are doing is continuing to fund the 1978 level under the old formula, but all additional funds appropriated after fiscal year 1978—$62.3 million in fiscal year 1979, $66.7 million in fiscal year 1980, and $64.7 million in fiscal year 1981—will go under a pure population formula.

Let me give an example. New York is going to enjoy an increase of more than $2 million in 1979, with corresponding increases of $4.2 and $4 million during the next 2 years. California's share is going to increase by $3.3 million in 1979, $5.1 million in 1980, and $4.9 million in 1981.

What we are doing here is changing the way we have been dividing up the Federal pie. We will not pay attention to need any more. We will just use a head count.

I know the distinguished Senator from New York (Mr. Javits) who is here in the Chamber says that his State deserves an additional $1 million in 1979 alone. But I wonder if he realizes that the $3 million increase for his State in 1979 is more than the total grant received by nine States in 1978. That increase to New York under the amount of money being appropriated is being given to them at the expense of the poorest people in the country.

I am not sure that this is really relevant, but I have voted for aid to New York City every time it has been presented on this floor. I want you to know, Mr. President, that is not the most politically popular thing I have ever done since I have been in the Senate. I did it, because I thought the financial plight in New York was, indeed, unique. It is unique in the culture and economy of this country. I took a lot of flack and voted for what I thought was right and in the best interests of the country, and certainly the best interests of New York City. I have never shied away from it and I have never demagoged that issue.

One thing about my amendment is that it does not force any State to curtail its activities. Under this formula, my State is going to get about the same amount of money it got last year. As a matter of fact, there are 26 States which will get about the same amount of money they got last year. What does this mean? It means, of course, they will have to curb their programs, because vocational rehabilitation programs are hit by inflation, just like everybody else. What is the effect of that? People who have been promised admittance to rehabilitation centers are going to be turned away. Twenty-six States are going to lose funds under this proposal, seven other States will be unaffected, but the handful of the remaining States are going to enjoy the windfall just because they happen to have more people per square mile.

The interesting thing about this, I say to the chairman of the Human Resources Committee, is that this does not take into consideration anything to do with the number of people in his State who need vocational rehabilitation training. If we carry this formula to its ultimate extreme I can conceive of a situation where a State, let us say a State which has 2 million people and does not have a single person in it who needs this kind of training, will still get full funding based on its total population.

Take the case of exceptional children, another area of deep and abiding interest to me. When I became Governor we had 2,000 people waiting to get into the colonies for exceptional children. In the first place, I concluded that that is the worst thing you can do with an exceptional child, to institutionalize him, unless he is profoundly retarded. We built one or two more of those facilities to take care of the profoundly retarded, and then we built community facilities to take care of the rest of them. Happily, there is not a child in Arkansas today who needs these facilities that does not have them available to him.

I want to say further, you can use this same argument on every program designed to eliminate or alleviate human suffering, human indignity. What if a State does not have a single mentally retarded child and another State has twice as many as the national average? I will tell you what, Mr. President. The State that has no mentally retarded children will get exactly the same funding as though they had the national average.

What kind of a betrayal is this to these poor States? What kind of a betrayal is it to everything we believe that is right, decent, and honest about the U.S. Government?

Do you want to know something else, Mr. President? It is a fact that poor States, such as mine, have the highest worker disability rate. I am not proud of it. I was not here when OSHA was adopted, but if I had been here I would have voted for it, because my State had the highest industrial accident rate of any State in the Nation, and it still has a high industrial accident rate. I daresay that the State of West Virginia with its coal mines, a very dangerous profession, has an inordinate number of people needing rehabilitation as a result of industrial accidents. But that is not taken into consideration in the committee formula. West Virginia is going to receive funding based on the number of people in that State regardless of how many people are actually in need of vocational rehabilitation services. That is the funding formula under this bill.

Now, the committee states that, because of the enhanced economic posture of many of the poor States, there is no longer any need to consider per capita income or even the number of people needing vocational rehabilitation services for the purpose of distributing Federal assistance.

Second, the committee report says that the State can pick up the difference. Mine cannot. We have a small surplus down there right now, but there is also a referendum on the ballot to take the sales tax off food and drugs, and it is probably going to pass.

Third, the committee says that the per capita income factor is "an imprecise measure of a State's relative ability to pay."

Finally, the committee says that administrators of State vocational rehabilitation programs feel that annual fluctuations in per capita income among States make planning very difficult

Let me take that last one first. Russell Baxter is the commissioner of Vocational Rehabilitation Services in Arkansas. I wrote him and asked, "Is this a valid argument? Are you administrators really having difficulty?"

He wrote back and said:

> History has shown that the variations caused by changes in per capita income are minimal, less than 1% of the amount allocated to the States. This is partially true because the percentage is figured on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available. It is obvious therefore that very little change would result. In addition, the States have from September 30 to the beginning of the next fiscal year to adjust to any fluctuation in the allotment percentage. Since the amount is generally known as soon as the authorization is established—due to the entitlement provision—planning is based on the authorization amount. It is quite easy to adjust from that figure to the new one based upon changes in relative per capita income since there are more than nine months in which to adjust to it. This in no way makes State planning for anticipated Federal funds difficult.

This is a man in whom I have great confidence. We are a rural State and we do not have very many rehabilitation centers in our State. Yet, geographically, we are a fairly big State. So we have two difficulties: one, we have difficulty locating people to let them know what services are available to them. When I was Governor, we found children all over the State, adults all over the State, who had been handicapped for years, who had never been given any training on how they might become productive because they did not know it was available to them. You have to go out and find them for the programs. No. 2, you have to transport them long distances. And we have to pay for that out of these funds.

Mr. President, I am not going to belabor the point. I have a lot of other things I could say. One thing I will say is that the House of Representatives did not adopt this formula. Frankly, when it gets to conference, I do not think they are going to recede either. But I do not think they ought to have to. I think we ought to eliminate it now and then not worry about it in conference.

The committee does an interesting job of using the results of a study conducted on the formula by JWK International Corp. As the committee points out, the central thesis advanced in the JWK study is this:

> The best means of an allocation's equity is the extent to which the allocation matches the relative size of the population of its citizens to be rehabilitated.

The committee used that report, but they did not follow it. They quoted it, but they did not follow it. I could not agree more with the report. I would be willing to scrap the whole formula and do a head count of the number of people in this country who need vocational rehabilitation and then distribute the funds on that basis. I do not see how anybody can defend or justify a formula which delivers funds to the States regardless of their per capita income, regardless of their relative economic wealth, but, more especially, regardless of the number of people who need that kind of training.

Mr. President, I am not going to belabor this. My distinguished colleague from South Carolina (Mr. THURMOND) wants to be heard. I know, of course, the Senator from New York wants to have a chance to speak. We do not want to speak up too much time on this bill because of our work load. But I urge my colleagues to look every closely. On each of their desks, they will find the dollar amount as it applies to their State under the bill. But let me tell my colleagues, when they look at that, bear one thing in mind: the amount they are getting under the formula of this bill is about what they are going to get from now on.

Mr. President, I yield the floor.

Mr. RANDOLPH. Mr. President, I give my full support for Senator BUMPERS' amendment and to reinforce all the reasons he states as to why this amendment is necessary. However, I sincerely believe that the major rationale for keeping the formula which is in present law is that we must not reduce the funding to the lower income States. I have no objection to increased funding to provide services to the handicapped in the larger more densely populated States, but it must not be at the expense of the handicapped who happen to live in the lower income States. To deprive those States, who would have to interrupt their present services to handicapped clients and delay the provision of services to those handicapped individuals, who are waiting to be served in order to increase the dollars to the larger States, would be most unfair. It is for these reasons that the existing formula was retained by the Subcommittee on the Handicapped when it reported S. 2600 to the full Committee on Human Resources. The administration supports the amendment by the Senator from Arkansas (Mr. BUMPERS).

Mr. President, during the earlier debate in reference to the Bumpers and Javits amendment, the Senator from Alabama (Mrs. ALLEN) was unable to be present. I ask unanimous consent that her statement in reference to that matter at that time be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR ALLEN

I wish to express my strongest opposition to Sec. 105(b) of S. 2600, the Rehabilitation, Comprehensive Services and Development Disabilities Act of 1978.

I am a cosponsor of Senator Bumpers' Amendment which would remove this Section from the bill and restore the Hill-Burton model for the allotment formula of funds to the States.

Since the enactment of the Vocational Rehabilitation Act of 1954, which utilized the provisions of the Hill-Burton Hospital Survey and Construction Act as a model for the allotment formula, Alabama has made great strides in her Vocational Rehabilitation program.

In Fiscal Year 1978, Alabama was allotted $21.9 million for this program. That money was supplemented by $5.7 million from the State of Alabama and one quarter of a million dollars from local sources. This money enabled the Office of Rehabilitation to interview, counsel, and treat 53,592 handicapped Alabamians. Many of these people are now enrolled in progressive programs preparing them for meaningful employment. Nine thousand one hundred forty-four have been placed in gainful employment. Of these, four thousand eight hundred fifty-one are severely handicapped.

The afflicted of Alabama continue to cross the thresholds of the Rehabilitation Offices all over the State seeking help, *and getting it.*

Under Sec. 105(b) of S. 2600, Alabama stands to lose over $1 million a year for her Vocational Rehabilitation Programs. Yet, the dedicated people in the Vocational Rehabilitation Office in the State of Alabama are looking forward to an increase in appropriations, not a decrease.

The proposal, S. 2600, calls for an overall increase in funding for Fiscal Year 1979. However, under the proposed allocation formula under Sec. 105(b), Alabama would lose money while the more populous states like New York would gain substantially.

I would not have the heart to tell my friends in the Vocational Rehabilitation Program in Alabama that Congress had reduced funding for our State. Nor would I be able to explain to the many handicapped citizens that the Congress of the United States had lessened its concern for their welfare.

I am certain that there was no ill intent in reverting to the 1920 formula contained in the original Vocational Rehabilitation Act of 1920, which made allocations to the states on the basis of population. However, a return to the 1920 formula would severely weaken, even cripple, the Vocational Rehabilitation program in Alabama and many of her neighboring states for all time to come.

I can appreciate the need some states may have for increased funding for their Vocational Rehabilitation Programs. But the rob Peter to pay Paul approach is an unrealistic contrivance to benefit certain states at the expense of others. I say, let those states find another source of assistance.

Therefore. I respectfully urge my colleagues to approve the amendment offered by the distinguished Senator from Arkansas.

Mr. DOMENICI. I thank my good friend from Idaho.

Mr. President, at this time, I would like to join with my colleagues, Senators

THURMOND, BUMPERS, HOLLINGS, HODGES, and MORGAN, in opposing the Human Resources Committee amendment to S. 2600 which would delete per capita income as a factor in determining each State's allotment of basic grants funds above the fiscal year 1978 level.

Under current law, the Hill-Burton formula is used to determine a State's allocation of basic grants funds. This distribution formula takes into account two critical factors—population and per capita income. Section 105(b) of S. 2600, the Javits-Williams-Kennedy formula, will significantly alter the distribution pattern by deemphasizing per capita income as a factor in determining basic grants allocations to the States. Under this revised arrangement, more than 30 percent of the authorized funds will be distributed solely on the basis of population by 1983. In my opinion, the existing formula, with its dual emphasis on both population and per capita income, is an infinitely more equitable approach. Continued emphasis on the per capita income criterion will insure that New Mexico and many other States will continue to receive their fair share of basic grants funds.

Vocational rehabilitation experts in my State and 25 other States which will be adversely affected by the formula change, can attest to the fairness and workability of the existing Hill-Burton formula. My State and many others will lose if the revisions contained in section 105(b) of S. 2600 are approved. I join today with my colleagues to strongly support retention of the Hill-Burton funding formula contained in the current vocational rehabilitation law.

UP AMENDMENT 1872

Mr. JAVITS. Mr. President, I send an amendment to the desk substituting language for the language to be stricken. I ask that it be considered.

The PRESIDING OFFICER (Mr. CULVER). The Clerk will state the amendment.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 1872 to the amendment numbered 3302 of the Senator from Arkansas:

On page 76, strike lines 5 through 18 and insert in lieu thereof:

"(b) Section 8(a)(1) is amended by striking out '75' each time it appears in such section and inserting in lieu thereof '55' each such time.".

Mr. JAVITS. Mr. President, I offer, for myself and Senators WILLIAMS, CRANSTON, STEVENSON, SCHWEIKER, and HAYAKAWA, a perfecting amendment to the Bumpers amendment. This amendment would simply reduce the State maximum "allotment percentage" to 55 percent. This is the relative per capita income factor in the existing formula which determines State allocations. Current law provides that no State's "allotment percentage"—which relates State per capita income to national per capita income—be less than 33⅓ percent or greater than 75 percent. These parameters were instituted as part of the original Hill-Burton Act in 1946, and were adopted for the Rehabilitation Act in 1954. At that time, these parameters reflected the wide discrepancy in relative per capita incomes among States. In 1954, for example, the per capita income of Nevada was 137 percent of the national average, reflecting an allotment percentage of 32 percent. Mississippi, with a State per capita income of 51 percent of the national average, had an allotment percentage of 75 percent. Thus, at that time, those wide parameters adequately reflected relative State per capita income standing.

In the past quarter century, however, since the initiation of these maxima and minima for this program, State per capita incomes have converged toward the national average, reducing the need for such wide parameters. By reducing the maximum allotment percentage to 55 percent, 29 States will receive additional assistance, enabling them to better to serve their handicapped citizens, relative to the Bumpers amendment, which would return us to current law.

Mr. President, this perfecting amendment in no way affects the 7 States—Alaska, Delaware, Hawaii, Nevada, North Dakota, Vermont, and Wyoming—which will receive the minimum allotment of $3 million under S. 2600. The Human Resources Committee, in reporting S. 2600, included an increase in the minimum State allotment from $2 million to $3 million, and I firmly supported this increase.

Our perfecting amendment merely limits the disparities among the States, while simultaneously retaining the Hill-Burton formula. By reducing the maximum allotment percentage to 55 percent, the current allocational disadvantage to those 29 States below that level is somewhat diminished. This limitation will enable these States to begin better to serve thousands of handicapped individuals. Such a reduction does not change the actual Hill-Burton formula; it merely limits the per capita income range in which the formula can be applied. While I believe the committee bill to contain the most just and equitable solution to the formula issue, this alternative, frankly, will provide more States with additional funding relative to current law, and I urge the adoption of the perfecting amendment.

I ask unanimous consent that first, a listing of State allotment percentages, second, a table showing State allocations under a 55-percent maximum, and third, a chart showing annual dollar increments with a 55-percent maximum relative to the 75-percent maximum in current law be printed in the RECORD. The first two charts were prepared by the Congressional Research Service, and the third was prepared by committee staff using CRS data.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS CONGRESSIONAL RESEARCH SERVICE—ALLOTMENT PERCENTAGES FOR REHABILITATION ACT OF 1973, SEC. 8

[Note: This presentation does not reflect the provision for minimum (33⅓ percent) or maximum (75 percent): Sec. 8(a)(1)(A)]

State	Allotment (percent)	Allotment percent squared
Alabama	61	37
Alaska	32	10
Arizona	53	28
Arkansas	61	37
California	45	20
Colorado	49	24
Connecticut	41	17
Delaware	43	18
District of Columbia [1]	75	56
Florida	51	26
Georgia	56	31
Hawaii	45	20
Idaho	55	30
Illinois	43	18
Indiana	52	27
Iowa	48	23
Kansas	49	24
Kentucky	59	35
Louisiana	59	35
Maine	59	35
Maryland	46	21
Massachusetts	48	23
Michigan	47	22
Minnesota	50	25
Mississippi	65	42
Missouri	53	28
Montana	53	28
Nebraska	49	24
Nevada	44	19
New Hampshire	55	30
New Jersey	43	18
New Mexico	60	36
New York	44	19
North Carolina	58	34
North Dakota	48	23
Ohio	50	25
Oklahoma	56	31
Oregon	51	26
Pennsylvania	50	25
Puerto Rico [1]	75	56
Rhode Island	51	26
South Carolina	61	37
South Dakota	55	30
Tennessee	58	34
Texas	53	28
Utah	58	34
Vermont	58	34
Virginia	51	26
Washington	48	23
West Virginia	59	35
Wisconsin	52	27
Wyoming	49	24

[1] Sec. 8(a)(1)(B) states: The allotment percentage shall be 75 percent for the District of Columbia, Puerto Rico, Guam, Virgin Islands, American Samoa, and the Trust Territory of the Pacific. Without this provision, the District of Columbia would have an allotment percentage of 35 percent and Puerto Rico would be 65 percent.

STATES WHICH GAIN RELATIVE TO CURRENT LAW BY REDUCTION OF MAXIMUM ALLOTMENT PERCENTAGE FROM 75 TO 55

	Fiscal year—		
	1979	1980	1981
1. Arizona	+$218,000	+$393,000	+$472,000
2. California	+1,387,000	+2,508,000	+3,016,000
3. Colorado	+207,000	+375,000	+450,000
4. Connecticut	+176,000	+319,000	+383,000
5. Florida	+741,000	+1,339,000	+1,610,000
6. Idaho	+51,000	+117,000	+145,000
7. Illinois	+657,000	+1,188,000	+1,428,000
8. Indiana	+465,000	+840,000	+1,009,000
9. Iowa	+239,000	+433,000	+520,000
10. Kansas	+183,000	+331,000	+398,000
11. Maryland	+282,000	+510,000	+614,000
12. Massachusetts	+436,000	+788,000	+948,000
13. Michigan	+679,000	+1,229,000	+1,477,000
14. Minnesota	+333,000	+602,000	+723,000
15. Missouri	+445,000	+804,000	+966,000
16. Montana	+74,000	+133,000	+159,000
17. Nebraska	+134,000	+242,000	+291,000
18. New Hampshire	+78,000	+142,000	+170,000
19. New Jersey	+421,000	+761,000	+916,000
20. New York	+1,145,000	+2,070,000	+2,489,000
21. Ohio	+871,000	+1,575,000	+1,894,000
22. Oklahoma	+106,000	+313,000	+400,000
23. Oregon	+202,000	+364,000	+437,000
24. Pennsylvania	+949,000	+1,717,000	+2,064,000
25. Rhode Island	+79,000	+142,000	+170,000
26. Texas	+1,140,000	+2,060,000	+2,477,000
27. Virginia	+425,000	+769,000	+924,000
28. Washington	+262,000	+473,000	+569,000
29. Wisconsin	+411,000	+742,000	+893,000

Note: States unaffected (minimum States): (1) Alaska, (2) Delaware, (3) Hawaii, (4) Nevada, (5) North Dakota, (6) Vermont, (7) Wyoming. 14 States held-harmless.

CURRENT FORMULA USING APPROPRIATIONS LEVELS IN S. 2600—APPROXIMATE ALLOCATIONS, FISCAL YEAR 1979 THROUGH 1981 FOR SEC. 110(A)

[Fiscal year 1979: Hypothetical appropriation—$813,000,000. Fisca. year 1980: Hypothetical appropriation—$880,000,000. Fiscal year 1981: Hypothetical appropriation—$945,000,000. All appropriations are reduced by a constant percentage for grants to territories other than Puerto Rico: 0.3182 percent minimum. $3,000,000 or ⅓ of 1 percent of appropriation, whichever is greater. Allotment percentage maximum reduced to 55. Warning: All estimates based on 1974–76 per capita income and 1977 population data. Hold-harmless: Fiscal year 1978. Population not reduced as provided in sec. 130(E), American Indian VR program.]

	State	Fiscal year—			
		1978	1979	1980	1981
1	Alabama	18,103,000	18,103,000	18,103,000	19,091,000
2	Alaska	2,000,000	3,000,000	3,000,000	3,150,000
4	Arizona	8,527,000	9,668,000	10,643,000	11,485,000
5	Arkansas	10,473,000	10,473,000	10,473,000	11,092,000
6	California	57,036,000	61,739,000	67,966,000	73,347,000
8	Colorado	8,295,000	9,222,000	10,153,000	10,956,000
9	Connecticut	7,018,000	7,851,000	8,643,000	9,327,000
10	Delaware	2,000,000	3,000,000	3,000,000	3,150,000
11	District of Columbia	5,427,000	5,427,000	5,427,000	5,427,000
12	Florida	29,138,000	32,959,000	36,283,000	39,155,000
13	Georgia	21,134,000	21,984,000	24,201,000	26,117,000
15	Hawaii	2,311,000	3,000,000	3,000,000	3,150,000
16	Idaho	3,345,000	3,732,000	4,109,000	4,434,000
17	Illinois	27,499,000	29,240,000	34,190,000	34,738,000
18	Indiana	19,067,000	20,663,000	2,747,000	24,547,000
19	Iowa	9,037,000	10,641,000	1,715,000	12,642,000
20	Kansas	7,200,000	8,140,000	8,961,000	9,671,000
21	Kentucky	15,919,000	15,919,000	16,578,000	17,891,000
22	Louisiana	18,074,000	18,074,000	18,798,000	20,286,000
23	Maine	4,967,000	4,967,000	5,202,000	5,613,000
24	Maryland	11,456,000	12,559,000	13,826,000	14,921,000
25	Massachusetts	18,213,000	19,394,000	21,350,000	23,041,000
26	Michigan	26,886,000	30,234,000	33,284,000	35,919,000
27	Minnesota	13,304,000	14,816,000	16,310,000	17,601,000
28	Mississippi	13,403,000	13,403,000	13,403,000	13,403,000
29	Missouri	18,199,000	19,786,000	21,782,000	23,506,000
30	Montana	2,886,000	3,268,000	3,598,000	3,882,000
31	Nebraska	5,033,000	5,961,000	6,562,000	7,081,000
32	Nevada	2,000,000	3,000,000	3,000,000	3,150,000
33	New Hampshire	3,283,000	3,490,000	3,842,000	4,146,000
34	New Jersey	18,376,000	18,739,000	20,629,000	22,263,000
35	New Mexico	5,648,000	5,648,000	5,705,000	6,157,000
36	New York	47,714,000	50,947,000	56,086,000	60,526,000
37	North Carolina	24,465,000	24,465,000	26,488,000	20,585,000
38	North Dakota	2,472,000	3,000,000	3,000,000	3,150,000
39	Ohio	36,617,000	38,763,000	42,672,000	46,051,000
40	Oklahoma	11,530,000	12,242,000	13,476,000	14,543,000
41	Oregon	8,110,000	8,954,000	9,857,000	10,637,000
42	Pennsylvania	39,946,000	42,257,000	46,519,000	50,202,000
43	Puerto Rico	22,368,000	22,368,000	22,368,000	22,368,000
44	Rhode Island	3,265,000	3,491,000	3,843,000	4,147,000
45	South Carolina	13,905,000	13,905,000	13,905,000	14,880,000
46	South Dakota	2,800,000	3,001,000	3,303,000	3,565,000
47	Tennessee	19,263,000	19,263,000	20,610,000	22,242,000
48	Texas	46,756,000	50,702,000	55,815,000	60,234,000
49	Utah	5,559,000	5,559,000	6,079,000	6,560,000
50	Vermont	2,124,000	3,000,000	3,000,000	3,150,000
51	Virginia	17,499,000	18,929,000	20,839,000	22,488,000
53	Washington	11,079,000	11,648,000	12,823,000	13,838,000
54	West Virginia	8,538,000	8,538,000	8,912,000	9,618,000
55	Wisconsin	16,786,000	18,279,000	20,122,000	21,715,000
56	Wyoming	2,000,000	3,000,000	3,000,000	3,150,000
	Federal total	758,054,000	810,413,000	877,200,000	941,993,000

Mr. JAVITS. Mr. President, I am going to belabor this issue. It is high time that it was belabored, because, Mr. President, there are few things more unfair in this country than the formulas, encrusted with age and injustice, under which funds like these have been distributed. Handicapped people who need to be rehabilitated are just as handicapped and just as deserving if they live in New York or California or Illinois or Michigan as they are if they live in Arkansas. What is being attempted here by this amendment on the part of Governor Bumpers is to perpetuate a deep injustice, which, at long last, we are trying a little bit to undo, but which, the argument is made, should not be undone, notwithstanding that every reason why this was incorporated in the law, this formula, exists today to show that it should be undone.

Now, Mr. President, the usual stops are pulled out. I have heard them so many times. I hope that Members of the Senate are listening on their little speakers to this debate, because it ought to be decided on its merits, and on its merits the committee position itself ought to be sustained, even though, because I am a realist, I have just put in an amendment which very materially modifies the committee position.

These unjust formulas, which have been very harmful to highly populous States, have been perpetuated here—and "perpetuated" is exactly the right word. This one is 24 years old and is made completely obsolete by the fact that the income situation in Arkansas and every other State has changed. They are no longer the poor of the United States.

Second, we are now appropriating 34 times what we appropriated for this purpose when this formula was written: 34 times more; $21 million as against roughly three-quarters of a billion dollars, $760 million. And the States which are the industrial States, the heavy population States, are now in trouble themselves, like my own State of New York which was nearly as bankrupt as New York City only 3 years ago. Let us remember, Mr. President, that our handicapped are just as handicapped as those in any other State in the United States.

Now, what arguments are used to try to perpetuate this outworn, completely unjust formula? The usual ones. I have heard them in this Chamber for 20 years: get New York. Now, my colleague did not talk about California or Illinois or Michigan or Pennsylvania; he talked about New York.

Because New York is supposed to be the one to get it, you strip it, you beat it up. Is that justice?

Second, he said, "Look at your chart and you'll see you get a little more dough."

That is the same argument. People rush in to vote and look at the chart. If they get a little more money, they vote that way.

Well, Mr. President, the amendment I have just put in gives 29 States more money. Let us see if it is just as broad as it is long. It gives 29 States more money. That is why I said I am practical. I realize this injustice will continue to perpetuate precisely on that ground. "Get them they're big States, they can afford it."

Well, they were, but they are not any more.

Therefore, as I say, this amendment will improve the situation for 29 States and the other States are held harmless as of 1978. That is what this bill will continue to say—before, as it says now, and after the amendment—and it will try to begin to undo—and I emphasize the word "begin"—this completely obsolescent formula, which does what? Why is it obsolescent? Because it adopts the Hill-Burton formula used at a time hospitals had to be built.

Now, we have a surplus of those, and we say, "Stop, we do not want them," because they have to be maintained and that is expensive, too.

The Hill-Burton formula is essentially a population and per capita income formula except that instead of giving per capita income, as compared with a per capita income of other States, equal weight, it squares, it more than doubles, the impact of per capita income.

So it gives a discriminatory advantage to the per capita income problem as compared with the population problem.

I heard my colleague (Mr. BUMPERS) complain about the standard of population. Well, that is in the present formula. If we go back to the present formula, that is an element of the present formula. He is not changing that. It remains, population.

Mr. President, on the basis of population and because handicapped are handicapped, whether in Arkansas or any other State, let us take a look at the figures.

As I said a minute ago, the traditional argument about trying to keep these outmoded and highly unjust formulas is New York, but my colleague did not mention that, under the proposal which the committee has made, California would get $9 million more. I did not hear him say a word about California because, as I say, New York is a blueprint for trying to defeat an effort to reform these highly unjust and completely outworn formulas.

I have fought every one of them, including this one, and we have made minuscule progress simply because Members will not listen and pay attention to the equity argument.

Again, they rush to consider the chart. Well, OK.

Mr. President, the amendment I have put in now improves the situation for 29 States. So I hope very much that Members will consult the chart which will be on their desks and let us see if the same thing obtains for large States that obtains for States which for years and years and years have had the benefit of this highly unfair and, as I say, highly outworn formula.

Mr. President, the amendment which I have put in accomplishes this by dealing with the State allocation percentage. That State allocation percentage today is called the allotment percentage and that allotment percentage determines what the State actually gets out of the aggregate money which is appropriated based upon the formula which is in the law. It limits the operation of the formula.

So, by changing that limit in its upper bracket, to wit, to the national bracket which, under the law today, is 75 percent, and bringing that down to 55 percent, we result in improving the situation of 29 States.

Arkansas is not a bit hurt by that and not a bit prejudiced by that situation at all because the hold-harmless States not only are not hurt by it, but their situation, if this formula which I have now proposed is adopted, will gradually improve in 1980 and 1981 and their situation will be better.

Again, we will have a chart on everybody's desk respecting this matter.

The important point which I wish to emphasize is this: The current formula has been in the vocational rehabilitation program since 1954 and, as I just explained, the formula is based on relative State population, multiplied by a squared factor of State per capita income relative to national per capita income.

So that element, for all of these years, has established a basic inequity among the States which has become worse and worse and worse as per capita incomes have improved in the so-called poor States and as the appropriation for this purpose has increased, as I say, 34 times.

When the formula was introduced originally, it was introduced to stimulate the growth of vocational rehabilitation activity in States where progress materialized slowly.

Major changes have occurred, of course, since these startup allocations and the States have been encouraged to provide for rehabilitation services of a much broader character than they had before.

But, Mr. President, sometime, somewhere, somehow, we have to stop.

The committee felt that for old money, that is, what had been appropriated, and the amount up to and including 1978, the old formula should continue; but for new money, that there ought to be a new formula. That is what the committee proposed, and that benefited 19 States.

The amendment I have put in has materially improved the situation for 10 other States by limiting the national allotment percentage. As I say, 29 States.

So I hope very much that people will consult the chart and will vote in this matter as they usually have voted to benefit, even if marginally, their own States.

Let us take some practical application as to why I said the handicapped are handicapped here, in my State, in California and Illinois, as well as in other comparable States, just as much handicapped as they are in Arkansas or any of the other States which have enjoyed this bulge because of the formula.

For example, the testimony before the Subcommittee on the Handicapped given on March 14, 1978, of the vocational rehabilitation directors of the States of California, Illinois, and New York, stated that their States could cumulatively provide services to an additional 68,000 handicapped persons in need of such services if these States received even the national average per capita allocation.

The other point which I think is very important to note is this: It is claimed there is a difference in the ability to pay between low and high per capita income States, but that is not really as great as it was in 1954.

Higher taxation and costs-of-living and massive debts due to the provision of essential social services in the higher per capita income States have eroded a once substantial gap among the States in relative ability to pay.

Mr. President, this a very profound struggle, because it is also a rather universal situation which has arisen. That situation is attributable to the fact that there has been a very conscious effort to perpetuate formulae which may have been relevent a quarter of a century ago—and I am the first to say OK to that—but sometime, somewhere, somehow there has to begin to be some conformance to modern conditions. We simply cannot stand pat and stand still.

It was the committee which went along that line; and in my judgment, the committee determination which would distribute appropriations up to the level of those of 1978, according to the old formula and new money, additions to that appropriation of 1978, based upon relative population, was a very sound one.

By the way, the States which got the minimum—and we have raised the minimum from $2 million to $3 million per year—would not be affected in any way. They continue to get that minimum—the seven States which get the minimum. For the others, there would be some readjustment, it is hoped.

However, realizing, as I say, that when Members dash down to vote, they look at the chart, the amendment I have proposed will benefit affirmatively 29 States and, at long last, will begin to undo, with full protection of "hold harmless" for 1978, this unfair and outworn formula. In all States which might get less, the minimum is now raised from $2 million to $3 million. Over and above that, 29 States will be benefited by this new formula, which carries on with the old but controls something of the inequity which, for so long, has existed through the maximum allotment percentage which is reduced, in round figures, between a third and 25 percent.

On that basis, Mr. President, I hope very much that Members will support this approach and that we may make some little progress, even if it is little, in trying to undo these unjust and now completely archaic formulas which my colleague's amendment seeks to perpetuate.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by Senator BUMPERS, myself and others. I wish to associate myself with the remarks made by the Senator from Arkansas in reference to the work done by Senator RANDOLPH'S Subcommittee on the Handicapped. In recent years, primarily through the work done by this subcommittee, we have made much needed progress toward acceptance of handicapped citizens as an integral part of our businesses, our schools, and our communities. Equal access to facilities, to jobs, and to programs and services is essential to the further integration of the handicapped individual into society. The Bumpers-Thurmond amendment will restore to this bill a provision which is absolutely essential to making vocational rehabilitation services equally accessible throughout all areas of the country.

There are approximately 32 million disabled persons in the United States. A basic need of many of these people is the attainment of economic independence by securing gainful employment. Since 1920, the primary objective of vocational rehabilitation has been to provide rehabilitation services which assist physically and mentally handicapped individuals to become employable.

Over the last few years the poorer and more rural states of this country have made commendable progress in the vocational rehabilitation field. We have for years suspected, and the Social Security Administration office of Research and Statistics has confirmed, that proportionately more disabled persons live in the South than in any other region of the country. Many of these States have responded to this situation with strong State and local support of rehabilitation efforts. An indication of this support is the fact that many of these States have, for the past 6 years, over-matched their Federal rehabilitation funds. Most have organized and are operating cost-effective and highly successful programs. Others are just beginning.

I am proud to say that as a result of very hard work and careful organization, South Carolina has, for the past 4 years, operated the most successful rehabilitation program in the Nation. Last year South Carolina rehabilitated 659 per 10,000 disabled persons. South Carolina also led the Nation in the percentage of severely disabled citizens who are now working as a result of rehabilitation programs. Commendation of State efforts is not to say that the Federal dollar is not important in South Carolina. It is most important—it is absolutely essential. It is my intention only to point out that in South Carolina the Federal dollar is not only needed, it is well-spent. South Carolina spends approximately $1,600 to rehabilitate an individual. California spends $6,000 to rehabilitate a similar individual. Now, with the change in formula instituted by section 105(b), we are proposing to take from those who need Federal dollars the most and are using this money efficiently and successfully, and give these dollars to the States which need it least and which, in many cases, see far less results from the money they already have.

In the last few years, there has been feeling among the more populous and more wealthy States that there should be a change made in the formula for allocating vocational rehabilitation moneys. These States do, in fact, receive less per capital in vocational rehabilitation funds. However, the purpose of vocational rehabilitation is not to serve the needs of the general population of this country. The services are designed strictly for physically and mentally handicapped individuals who are potentially employable. The JWK study commissioned in 1937, stated emphatically that the total resident population is not the best measure of the potentially disabled population; that total population includes large groups that are not, or are unlikely to be, part of the target population. Now the very Members of this body, who were instrumental in seeing that HEW study the formula question, are ignoring a very significant part of that analysis.

If we fail to amend section 105(b), by 1983, almost one-third of vocational rehabilitation funds will be allotted to the States strictly on the basis of population. In South Carolina, as in Senator BUMPER's State, the money lost in the formula change would not impress persons from the more populous areas of the country. South Carolina will lose approximately $4.6 million. However, to the people of my State, particularly to those handicapped individuals who seek these services, you can be certain that it means a great deal. Over the next 5 years, 18,176 persons who would otherwise receive some type of vocational rehabilitation services will receive none, 3,402 persons who would have become working, productive individuals, will remain untrained and unemployed.

I urge my colleagues to consider this formula change carefully and vote for the Bumpers-Thurmond amendment. A formula based on general population will do nothing to improve the quality or accessibility of vocational rehabilitation services.

Mr. President, in closing, I just want to say that, again, this should be based on the need.

I understood when we started this program originally it was based on need, not on total population, but where the disabled are located.

If you want to change it and allow a State the same amount of funds for each individual as being trained under vocational rehabilitation, that would be another thing. But just to say base it on population, where you come in with population from New York and California and the big States, they hog most of the money, and they are the richest States in the Nation.

Is that what we want to do? I do not think so. I do not think that it was the intention of the act. The study that was made showed that the greatest need in vocational rehabilitation programs is where? It shows it was in the South, that there are more disabled people there, and in the smaller States and in the rural States.

Are we going to ignore the small States and the rural States and give to the big rich States many more billions of dollars?

I hope the Senate will think over this matter, as a matter of fairness, as a matter of justice, and apply these funds where they are needed and not just to give the money to the States because they are big and have big populations, but apply this money where it is needed. We think the formula as provided in the current law or certainly under the amendment of the distinguished Senator from Arkansas will be a much fairer and a more just formula than that offered by the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I yield to the distinguished Senator from Arkansas.

Mr. HODGES. I thank the senior Senator from Arkansas.

Mr. President, I ask unanimous consent that Linda Laibstain, of my staff, be accorded the privilege of the floor during the debate and any votes on these measures.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Miss Pamela Melton be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, back in Arkansas during my Governor days, in the legislature we used to always have these perennial battles between what we called the country boys and the city boys. Anything Little Rock wanted or anything that benefited Little Rock, the other 72 or 73 counties outside that metropolitan area opposed. It did not work the other way because we are pretty much a rural State and the country boys almost always won, and this battle rages on unabated to this very day.

But now, Mr. President, I had hoped that when I got to the most deliberative body in the world I would once and for all be leaving that country boy-city boy fight. I thought this body legislated on the basis of deliberative thought, on the basis of how we alleviate suffering, on the basis of who needs help. I did not think we were going to start putting out money just based on how many people you can stack within a particular geographical area.

When I voted for aid to New York City I did it because I knew that city was desperate.

If we are going to get into the city boy-country boy fight, we can stack this body up against New York City, and New York City will get about eight votes.

Fortunately this body rose above those parochial interests and did what was in the best interests of that city, of that State, and this Nation, including my State.

If I had not thought I was doing the right thing by bailing New York City out, if I did not think my State would benefit from it, I might not have voted for it.

But I can tell Senators one thing. It was not popular in my State.

The Senator from New York refers to perpetuating an injustice, changing a formula. He says it is time we do away with this archaic system.

Here just the other day when the Senator from New Mexico moved to change the formula under the Older Americans Act to take into account the fact that rural area people have to be transported long distances to get their meals and assistance, the Senator from New York rose up and in righteous indignation said: "Why do we want to change this formula? This formula is working fine. It is one we have always had."

But now he says this one is archaic. We have to change it.

He says we are appropriating 34 times more money now for this program than we did when it started, and I ask what relevance that has to whether the formula should be changed or not? We still have tens of thousands of people in this country who need vocational rehabilitation help who are not getting it simply because there still is not enough money. But the amount of money we appropriate has absolutely nothing to do with the formula.

This amendment, the substitute of the Senator from New York, has been very skillfully drafted, as is so often done, to benefit 29 States. Twenty-nine States represent 58 votes in the Senate.

How does it work? Under today's formula they have an allotment percentage range of about 33 to 75 percent. The allotments formula does not mean anything to you. But I will tell Senators what it means. It means that all the States relative per capita income is included in an area between 33 and 75 percent, which means this: If you are in the bottom 25 percent in per capita income, the formula is the same for you because it starts at 75 percent.

There are only two jurisdictions in the United States that are at the 75-percent level. Do Senators know who those are? Puerto Rico and Washington, D.C.

Did Senators hear the Senator from New York say this is "Get New York day?" It is always the same here—"Get New York." I voted less than 24 hours ago for aid to New York City. And then he says, "This is get New York day."

I will tell Senators what it is. Look at his amendment. It is "Get the Confederacy day."

Look down the list and see the States that get kicked in the teeth under this substitute: Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and West Virginia.

Get New York?

Those States that lose are the poorest of the poor in this country. Do Senators know how much money Puerto Rico, the poorest jurisdiction by far, loses over the next 3 years? Puerto Rico's per capita income is less than half the poorest State in the United States. Yet Puerto Rico loses twice as much as any State in the Nation, $15,350,000.

Get New York? Why it is "get Puerto Rico day." It is "get Arkansas day." It looks like a rollcall of the Confederacy, outside of Maine, Utah, North Dakota, Puerto Rico, and Washington, D.C.

I suspect that after we vote here in a few minutes, Senators are going to come walking into this body and are going to pick up this chart and are probably not going to look at my chart because it is underneath his, and they are going to see where their relative position is here and they are going to say, "Mr. President, aye," for the substitute of the Senator from New York.

The Senator from New York says I did not talk about California. On the contrary, I did. Obviously, I was not very persuasive and I was not very eloquent in my approach because he obviously did not hear it.

I pointed out that New York City and Califorinia are obviously the big recipients. Any time we put something on a population base, we do not have to be "broke out with brilliance" to know who is going to benefit from it. Everyone knows where the most people are in this country.

If we are going to start legislating in this body on the basis of might makes right, we will not have to attend so many sessions.

We will just get the population of all the States and we will not pay any attention to need. It will not make any difference, the fact that Arkansas has 25 percent more people disabled from industrial accidents than the State of New York has will be inconsequential. That is not going to be the criterion. The criterion is how many people have you got?

Mr. President, do you know something else? Even per capita income does not deal with relative wealth. I will tell you something. In my State we have a lot of very rich folks and a lot of very poor folks. Average their incomes out and it comes out more than it really ought to.

Win Rockefeller used to be Governor. I ran against him when I ran for Governor. I used to say, "You put my income and Rockefeller's income together and we have a great average per capita income."

But that does not measure the relative wealth of the State or the State's ability to take care of those who cannot take care of themselves.

Anytime you draft an amendment in this body where 29 States benefit and the rest of them stay even or lose you pretty well know what is going to happen. But I am going to tell you something. If you adopt the Senator from New York's substitute you are going to be betraying the people in this country who need the kind of help you are trying to give.

If our interests are going to be so parochial in here that we are going to do everything on the basis of population or other parochial interests, let me say this: I will not have to vote for aid to New York City any more; I will not have to worry about the poorest of the poor; I will not have to worry about anything else. I will just start voting for those things that help my State, and to heck with everybody else.

I think that is what we are getting ready to do this morning, and it is going to be a great betrayal of the American people when you do it.

What you are going to be saying to the people of my State and what you are going to be saying to the people of West Virginia, Virginia, Mississippi, Alabama, the whole rollcall? You are gong to be saying that it does not matter how many people you have disabled; it does not matter how many people need vocational rehabilitation assistance. You do not have enough other people to qualify for the kind of money you need to do the job.

I hope the people who are listening on their squawkboxes, as the Senator from New York says, because it is a very important amendment. Realize that we are about to make a very dramatic turn in a funding formula that is crucial to a lot of States, and I plead with you not to do it.

I thank the Chair.

Mr. WILLIAMS. Mr. President, I wonder if I could ask the Senator from New York a question or two? It seems to me that we have been through this debate.

Mr. JAVITS. That is correct.

Mr. WILLIAMS. This discussion is dealing with the Hill-Burton formula, time honored; am I right? Basically, the Hill-Burton formula is being used for the allotment and distribution of funds under the Vocational Rehabilitation Act?

Mr. JAVITS. That is correct. It has been in effect for 24 years, and it has gotten to the time when it is completely invalid.

Mr. WILLIAMS. It was 1954, I believe?

Mr. JAVITS. Right.

Mr. WILLIAMS. Was the Senator here in 1954?

Mr. JAVITS. No, I came here in 1957.

Mr. WILLIAMS. There was a hiatus when he served as Attorney General.

Mr. JAVITS. That is right.

Mr. WILLIAMS. I recall the basic philosophy behind the adoption of the formula, that low-income States needed proportionately more assistance to start up a program to meet the human needs of poorer people. Am I correct, is that the way it started?

Mr. JAVITS. Exactly right. They were way behind, and it was felt that they ought to have a weighting based on per capita income in order to bring them up, especially as to the establishment of hospitals.

That was the Hill-Burton formula. It was terribly needed in smaller communities in States which were essentially rural, and this was the way to bring them, to help to bring them back. The formula, which was that of Lister Hill, was called the Hill-Burton formula. Lister Hill of Alabama, the chairman of our committee, where Senator WILLIAMS is now the chairman, carried that for a considerable number of years.

I would like to point out to my colleague that Senator BUMPERS has just argued, and Senator THURMOND has just argued, that we ought to supply the need where the handicapped are located. That is what I am contending for. Let us put the money where the handicapped are located, and the proportion of handicapped is very heavily based upon population.

My amendment now would continue to give over and above the 1978 hold harmless for everybody, a lower benefit to those States which have enjoyed the 100 percent benefit of the Hill-Burton formula.

The argument, therefore, that I am trying to apply this only to population is not valid. I am not. I realize our problem. Our problem is that even if it is archaic and out of date and unjust you are not going to depart from it all that quickly.

The committee decided to try to make some break as to the future by providing that everything but newly appropriated money—everything stand pat as to 1978, and only as to new money, new appropriated money, would the new formula obtain.

But with that being challenged by Senator BUMPERS and his associates, I feel we should try a halfway measure which benefited many more States, and hope that at least there would be some little bit undone about this archaic formula.

Mr. WILLIAMS. I want to make an observation, if the Senator from New York will bear with me, and acknowledge that there is something missing in both approaches we are discussing. I refer to the degree being made at the State and local level to meet the needs of the population we are addressing today, the handicapped who need rehabilitation for vocational purposes.

I do not believe either change proposed to the formula reflects State and local effort; am I correct in that observation?

Mr. JAVITS. That is right.

Mr. WILLIAMS. It impresses me that over the years we have used per capita income as the basic test for distribution. Those States with higher per capita income have been forced, because we have not denied these human needs, to put a relatively larger part of their own resources into meeting these particular human needs.

Mr. JAVITS. I was just going to point out that Senator THURMOND's figures show that so eloquently. He says South Carolina spends $1,300—I think this was the figure—per handicapped person, and California spends $6,000. But the distribution from the Federal Government is twice as great to South Carolina as it is to California, so South Carolina is not spending its own money but California is spending a great deal of its own money, and its people are paying the tab for their handicapped.

Mr. WILLIAMS. I would like to pursue this point. The Senator mentions California, and I would like to look at Minnesota, and Massachusetts. I wonder, and suggest also whether in those States where the people are expressing themselves, in a manner parochially described as "the revolt," that it is not an expression against the crushing incidence of State and local taxation. One of the reasons why those States are being forced to such taxation is because throughout the years the formulas that we established have not been applied in an equitable manner to the "high income States." The high-income States have had to meet these human problems more with their own resources. The taxation there is higher, and we are going to find one day around here that, with proposition 13 and all of that cutting back at the State level, we are going to have some advocates in here from the high income States who are going to be added to those who realize we have got to find a more equitable way to get these moneys back to the people we are trying to serve.

That is the direction the Senator from New York is beginning to pursue. We still use the basic formula, but it is moving it in a direction, I would say, that more accurately reflects the need.

Mr. JAVITS. That is the way I feel. I would say to the Senator that I do not claim any formula is perfect and, when we get to conference, Senator RANDOLPH will be a conferee and Senator STAFFORD will be a conferee as well as you and I. I would like to work out a formula of the kind the Senator mentions, which would deal with local efforts and give that weight as well. I am very openminded on the substance.

What Senator BUMPERS' amendment would do is simply freeze in both bills—this is a 3-year bill, and what he is going to do is simply freeze the present situation for 3 years. That, I think, is most unfair, considering the new problems. If we adopt any other formula, whatever it may be, except his, it will put the matter in conference. That is not unsatisfactory to me. I am willing to leave it in Senator RANDOLPH's hands. The fact that his point of view and mine may differ does not disturb me a bit; he is very deeply committed to the handicapped, and any formula which will deal with how much we spend per handicapped person, somewhat conditioned by the State's ability, I will be highly pleased with.

My problem as the bill stands is that, if we adopt Senator BUMPERS' proposal to strike out what is in the bill, that is it. There can be no change for 3 years. The Hill-Burton formula is postulated for 3 years.

I have no particular brief to draw; I was very frank with the Senate about why I put in the substitution, simply because I wanted to unlock the door. That is all. But I have every feeling that Senator RANDOLPH is extremely fair, and as a cosponsor, as long as the matter is in conference, I am confident we will work out some decent formula.

Mr. WILLIAMS. I thank the Senator.

Mr. RANDOLPH. Mr. President, I wish to be very careful in my choice of words. I am not sensitive as an individual about this matter—as I say, as an individual—because whatever is said in this Chamber, I want to consider its merits and demerits.

I do think the Senator from New York (Mr. JAVITS) has used phraseology that I would rather not have had him use, when he indicates that the members of our Subcommittee on the Handicapped—the subcommittee that brought this measure to the full Committee on Human Resources—presented a formula which is archaic and unfair, thus saying, by implication at least, that we are unfair and are approving something that is archaic.

That distresses me, because it was a unanimous decision of the members of our subcommittee that the measure we brought to the full committee had very careful consideration—18 hearings, 201 witnesses. We were not acting hastily or without due regard.

As long as I am privileged to serve in this body, particularly in this capacity with Senator STAFFORD in the leadership of the Subcommittee on the Handicapped, I shall never allow the motivating interest of the Senator from West Virginia to be toward a formula that would favor one State and cause disfavor to another.

Mr. JAVITS. Mr. President, will the Senator yield so that I might explain why I said what I did?

Mr. RANDOLPH. Yes.

Mr. JAVITS. I could claim the same thing about the vote in the full committee, which was nine to six: By implication, Senator RANDOLPH would be saying to them, "You are trying to undo something that is fair."

I think we debate these matters here too often, and we understand each other too well, for a Member to assume that I question the sincerity or the perspicacity of any member of the subcommittee. We just saw the thing differently, that is all; the full committee saw it differently from the subcommittee, and obviously the chairman of the subcommittee sees it differently from the way I do.

Also, while I am on my feet, I would like to say a word about New York. The only reason that I raise the New York issue is because New York is always taken as—you know, that we are trying to do something special for New York, et cetera.

Believe me, no one appreciates, Senator BUMPERS, more than I do your broadmindedness in helping New York avoid bankruptcy. Undoubtedly you felt, or you would not have voted as you did, that it had an important element of national interest.

But that does not stop us from addressing a situation which we think is unfair. I say the same about you; your sincerity is undoubted; it is great to have you here; ex-Governors are very important to the U.S. Senate; and I am glad to have you.

We simply do not see eye to eye on this situation. I have voted time and again for all kinds of assistance, aid to agriculture, et cetera, which would go heavily to Arkansas, and I shall again, and be proud of it.

However, one may express oneself in debate, and the odds are that our sincerity and our real purposes will not be misunderstood.

I simply say that to my mind this is an out-of-date formula, and it is very unfair, in my opinion, to the thousands of handicapped persons who cannot be helped in my State and other States. I am very grateful to the Senator when he does help us, as he did on the New York City issue. But I would not be true to my oath, or he to his, unless we did everything we could for our own constituencies.

I know the Senator from West Virginia is hurt, but I hope we can mend our feelings and go on to the next issue.

Mr. RANDOLPH. Mr. President, we often, in this body, suggest the absence of a quorum. Sometimes it is to permit a Senator who has an amendment he wishes to offer to come from his office to this Chamber. We do it for several reasons.

I am going to suggest the absence of a quorum, and I want to say exactly why I am doing it. I want those of us who are perhaps a little closer to this subject matter, and those who are offering amendments—Senator STAFFORD and I, the able chairman of the full committee, Mr. WILLIAMS, the Senator from South Carolina, who has spoken, and other Senators who are in the Chamber, of course—to have the opportunity for consultation. Senator BUMPERS is agreeable, I know Senator JAVITS would be agreeable, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DeConcini). Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Robert Morgan, the Senator from North Carolina, be added as a cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I withdraw the amendment which I proposed and which is now pending.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 1873

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. Javits) proposes unprinted amendment numbered 1873 to the Bumpers amendment.

On page 76, strike lines 5 through 18 and insert in lieu thereof:

Section 110(a) is amended by adding at the end thereof:

Notwithstanding the provisions of this section, the Secretary, pursuant to regulations which the Secretary shall prescribe, shall make such adjustments in state allotments as is appropriate to reflect state efforts with respect to rehabilitating handicapped individuals.

Mr. JAVITS. Mr. President, our desire now is that Senator Bumpers will withdraw his amendment and this will be a substitute for the language in the bill.

The effect of this amendment is to omit any reference to the bill's formula, which means that the present law will continue, subject to a new element, which is an adjustment in the State payments or allocations which will have a relation to State effort.

The reason I say "relation," Mr. President, is that we are not prescribing some mathematical formula or any other precise way of doing it. We are vesting that authority in the Secretary. We just use the word "appropriate" because it has been pointed out that there are so many variances among States which make up State effort.

Mr. President, the real purpose of an amendment at all is to bring the matter into conference. I have stated that I rely very heavily upon Senator Randolph, and at his request I amend that to read Senator Randolph and Senator Stafford, in deciding what we shall do about the formula.

The only point of principle which has been acknowledged and which is critical to me is that we will do something about it, whatever seems fair in the light of modern circumstances. But I do not say that to qualify my reliance upon Senators Randolph and Stafford, but only to explain why I feel this is the way to approach it. Whatever we are going to do about the formula will be decided in the conference.

That is my purpose and intent, and that is the basis upon which I understand we have all come to a meeting of the minds.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. I understood that the Javits amendment, which was just described, was offered as a substitute to mine and if it is approved will wipe my amendment out. Is that correct?

The PRESIDING OFFICER. If the Javits amendment is agreed to the amendment by the Senator from Arkansas will fall.

Mr. BUMPERS. It is not necessary that I withdraw it. Is that correct?

The PRESIDING OFFICER. No; it is not necessary.

Mr. BUMPERS. Mr. President, I wish to state that we have agreed on this. The Senator from New York feels very strongly that the formula should have something done about it. I cannot agree to the idea that something should be done about it. I hope the House of Representatives, of course, will not agree to this language; however, like the Senator from New York, I have immense faith in the Senator from West Virginia and the Senator from Vermont to discuss this matter more fully and determine whether or not there are inequities in the current formula.

I am not saying that there are not. I am saying that I just felt that the old formula was better than the one that was presented to us in the bill.

I have no objection to this amendment and allowing this matter to be discussed and determined in the conference whether or not any adjustments to the present formula are indeed necessary.

Mr. THURMOND. Mr. President, under the original amendment of the distinguished Senator from New York, my State would have been hurt very badly, to the extent of over $4 million, and this would have handicapped the rehabilitation program in our State. Our State is making a desperate effort to help these handicapped people, and I was anxious to see steps taken to prevent passage of the Javits amendment.

However, the distinguished Senator from New York has withdrawn his amendment and has now offered an amendment, the purpose of which chiefly, as I understand it, is to get this matter in conference where it can be worked out.

As I understand his purpose, he wishes for the State effort to be acknowledged in such a program.

Mr. President, in view of the situation as it stands now, it appears that that is a reasonable course to pursue and then the conference committee can take the matter under consideration and decide whether or not to keep the present formula or to take some steps to acknowledge the effort being made by the respective States.

In view of that, I go along with this amendment and approve it.

Mr. RANDOLPH. Mr. President, I am pleased that there is an understanding of the parties who are involved. Senator Stafford and I are most appreciative of the desire of Senator Bumpers and Senator Javits to work with us as we go to conference.

I do want Senator Bumpers and Senator Javits to understand that the current formula under which the program now operates is in effect and that we shall work in conference from that formula with the additional language that has been explained by Senator Javits, and agreed to by Senator Bumpers.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. JAVITS. I shall make one point. I do not know that Senators Randolph and Stafford are going to come to this way of solving it, but it will give them an opening to solve it. That is all I have in mind.

Mr. RANDOLPH. I understand. But I do want the Senator to realize that as we go to conference we will take a modified version of the formula that is now in present law.

Mr. JAVITS. That is correct. We understand that.

Mr. RANDOLPH. That is all. I wanted to clarify that for the record.

Mr. JAVITS. We understand that. But if the Senator is going to make some change as to what it will be, I am going to lean very heavily on Senator Randolph and Senator Stafford.

Mr. RANDOLPH. I thank my able colleagues from New York and from Arkansas for their help on this matter.

Mr. McCLURE. Mr. President, I state that, first of all, I understand the concern of the Senator from New York with respect to the formula and the allocation of money, and I commend him for trying to bring to the Chamber something which would solve the problem, as he sees it, confronting his State.

The State that I represent, however, would be very adversely affected by the formula presented in the bill. For that reason I supported the position which Senator Bumpers took.

I am concerned about the language which has been added which allows, in effect, the Secretary of HEW to write his own formula.

I am hopeful that, while that may be a compromise that gets us off the problem here, that language is not going to be left open when it comes back from conference.

If there were ever the possibility for tremendous mischief, it would be in granting a large fund of this kind to the Secretary to divide up as he saw fit. I am certain that this language must be tightened up in conference, or there will be a major effort made against this bill when it returns in the conference report.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. McCLURE. I would be happy to yield.

Mr. THURMOND. Mr. President, I am in accord with the statement of the distinguished Senator from Idaho.

This amendment, as I construe it, is primarily to put the matter in conference so if any change is made—and no change may be made, but if it is—then State effort could be considered. I believe that was the purpose of the distinguished Senator from New York, to get the matter in conference. But I agree with the distinguished Senator from Idaho that that would be entirely too much power for the Secretary.

I can visualize where a President in power would use his influence on that Secretary to allocate a larger amount of funds to some particular State in an election year, which would throw the matter into politics, and it would be very bad.

Mr. McCLURE. Yes, I agree completely with the distinguished Senator from South Carolina. Again, I repeat, I understand the means by which we arrived where we are, but I am very concerned with it. I am sure the conferees will attend to that matter when they get to conference. But if by any chance that did not occur then I think we would have extreme difficulty with the conference report when it returns.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. McCLURE. I would be happy to yield to my colleague.

Mr. JAVITS. As a matter of fact, the facts help us in this matter. Take my own State. We overmatch compared to other States. Our match is 25 to 75, so by adopting this, even as you would fear, you would be stuck with it. So it is not unlimited. There are parameters. I understand the Senator. He has heard our explanation, and the explanations entirely relate to each other.

Mr. McCLURE. I understand the Senator from New York, and matching formulas or allocation formulas are always very difficult, and I understand that. I just thought it would be unfair to the people who would be going to conference, the managers of the bill, and the distinguished Senator from New York himself, if I did not say something at this time concerning what might confront the Senate in the event the conferees are unable to resolve this.

Mr. JAVITS. I think they will resolve it.

I am going to rely very heavily on Senators RANDOLPH and STAFFORD. The Senator has every right to oppose what they resolve, and I have every right to defend them here.

Mr. McCLURE. That is assuming it is resolved in the Senator's way. It might be the other way around.

Mr. JAVITS. We will see.

Mr. McCLURE. I understand that.

Mr. JAVITS. Mr. President, we are ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment (UP No. 1873) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The amendment of the Senator from New York having been agreed to, the amendment of the Senator from Arkansas, which is an amendment to strike the same section, falls and it is not acted upon.

● Mrs. HUMPHREY. Mr. President, I strongly support S. 2600, the Rehabilitation, Comprehensive and Developmental Disabilities Act of 1978.

It has been estimated that there are 27 to 35 million chronically disabled people in the United States. Five percent, or from 10 to 11 million persons, are severely disabled. S. 2600 is targeted on those who are severely handicapped. This is a significant part of our population, whose rights and needs merit effective and comprehensive action by Congress.

It is morally wrong, when an affluent and supposedly compassionate nation allows thousands upon thousands of people to be shut away, forgotten, and left simply to exist. There is a great need for a variety of continuing services for severely handicapped persons, who have much to contribute—if they have the necessary support services.

One section of the bill is entitled "Rights of Severely Handicapped Individuals." This part of the bill extends the rights that were established in the Developmental Disabilities and Bill of Rights Act for the developmentally disabled, to all severely handicapped persons. Through this plan for the severely handicapped, those individuals receiving State services must have an individualized plan set up for them.

Under part B of this legislation the States are to work toward a goal of providing comprehensive services to the severely handicapped. However, the States can adjust their timespan in developing a long-range plan in consultation with people who are handicapped, organizations representing such persons, and service providers. For the development of new programs, States must consider needs in the areas of community living arrangements, infant and preschool services, and nonvocational social developmental assistance.

Area centers for the handicapped will be established, using the best methods of appraising and developing the employment potential of severely handicapped persons. These training programs would not only be for those who would be employed in sheltered workshops, but also for those who can take their place in competitive employment.

Part D of this bill requires the Secretary of HEW to conduct an independent study concerning the implications of deinstitutionalization and report the findings to Congress. To bring to the attention of the President the problems and needs of people who are handicapped, a Federal Council on the Handicapped is to be established. There will be 15 members appointed by the President to be representative of handicapped individuals, national organizations with an interest in such individuals, providers of service, business concerns, and labor organizations.

These are only some of the many provisions of this bill, but they are indicative of the effort that has been taken in incorporating a new program for our severely disabled citizens. People have high expectations for quality legislation, and Senators and Congressmen are aware of this. Through S. 2600 they have tried to provide strong legislation.

It is of critical importance that we enact this Federal program.●

The PRESIDING OFFICER. The bill is open to further amendment. The Senator from Vermont.

UP AMENDMENT NO. 1874

(Purpose: To require that the Secretary of Health, Education, and Welfare make special reports concerning certain programs.)

Mr. STAFFORD. I have an unprinted amendment which I am offering on behalf of Senator BELLMON of Oklahoma. I send it to the desk and ask that it be stated and called up for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) for Mr. BELLMON proposes an unprinted amendment numbered 1874.

Mr. STAFFORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 80, line 14, immediately after "GRANTS" add a semicolon and the following: "SPECIAL REPORTS".

On page 81, between lines 2 and 3, insert the following:

(c)(1) Title I is amended by adding immediately after section 131 (as added by section 107 (a) of this Act) the following:

"PART E—COORDINATION WITH DISABILITY PROGRAMS

"SPECIAL REPORT

"SEC. 141. Within one year after the date of enactment of this section, the Secretary shall prepare and transmit to the Congress a study concerning the impact of vocational rehabilitation services provided under this Act on recipients of disability payments under titles II and XVI of the Social Security Act. The study shall examine the relationship between the vocational rehabilitation services provided under this Act and the programs under sections 222 and 1615 of the Social Security Act, and shall include—

"(1) an analysis of the savings in disability benefit payments under titles II and XVI of the Social Security Act as a result of the provision of vocational rehabilitation services under this Act;

"(2) a specification of the rate of return to the active labor force by recipients of services under sections 222 and 1615 of the Social Security Act;

"(3) a specification of the total amount of expenditures, in the five fiscal years preceding the date of submission of the report, for vocational rehabilitation services under this Act and under sections 222 and 1615 of the Social Security Act, and recommendations for the coordinated presentation of such expenditures in the Budget submitted by the

President pursuant to section 201 of the Budget and Accounting Act, 1921; and

"(4) recommendations to improve the coordination of services under this Act with programs under sections 222 and 1615 of the Social Security Act, including recommendations for increasing savings in disability benefits payments and the rate of return to the active labor force by recipients of services under sections 222 and 1615 of the Social Security Act.

(2) The table of contents is amended by adding after item Sec. 131. (as added by section 107(b) of this Act) the following:

"PART E—COORDINATION WITH DISABILITY PROGRAMS

"SEC. 141. Special report.".

On page 122, line 8, strike out the closing quotation marks and the end period.

On page 122, between lines 8 and 9, insert the following:

"PART D—COORDINATION OF PROGRAMS

"SPECIAL STUDY REQUIRED

"SEC. 631. Within two years after the date of enactment of this title, the Secretary shall prepare and transmit to the Congress a study concerning the impact of this title on eligibility requirements and service availability for severely handicapped individuals, and the relationship of eligibility requirements and service availability under this title to eligibility requirements and service availability under the Developmental Disabilities Services and Facilities Construction Act. The report shall include—

"(1) an analysis of the impact of the programs established by this title on the range of choice of services and programs for severely handicapped individuals, as defined in section 602(1) of this title, and for persons with developmental disabilities, as that term is used in the Developmental Disabilities Services and Facilities Construction Act;

"(2) a specification of the costs for the provision of services under this title and under the Developmental Disabilities Services and Facilities Construction Act, and a comparison of such costs;

"(3) an analysis of the effect on eligiblity requirements under this title and under the Developmental Disabilities Services and Facilities Construction Act due to the use of functional rather than categorical definitions of the term 'severely handicapped individual' in section 602(1) of this title and of the term 'developmental disability' in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, as modified by section 301 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978; and

"(4) recommendations concerning the advisability of legislation to revise the definitions of 'severely handicapped individual' and 'developmental disability' in relation to the effect of such definitions on eligibility requirements.".

On page 122, in the amendment to the table of contents, strike out the closing quotation marks and the end period in item Sec. 622.

On page 122, in the amendment to the table of contents, immediately after item Sec. 622, add the following:

"PART D—COORDINATION OF PROGRAMS

"SEC. 631. Special study required.".

Mr. STAFFORD. Mr. President, the amendment will require HEW to evaluate and report to Congress on the impact of this bill's expansions of eligibility and services for the severely disabled, and on the relationships between the Federal disability payment programs and the vocational rehabilitation program. These evaluations will be invaluable, when Congress again considers reauthorization of this legislation.

The evaluations and the recommendations will address questions such as:

First, the impact of the new program services for the severely handicapped on individual choice of programs, the costs associated with providing these services, and the effect of "functional" definitions on eligibility determinations. Recommendations based on the evaluation findings would be submitted to the Congress by the Secretary of HEW on program features such as eligibility criteria for comprehensive services for the severely disabled.

Second, the HEW evaluation would examine the impact of vocational rehabilitation services to recipients of disability payments under the social security disability insurance program and under SSI (supplemental security income program), including savings in benefit payments, and rates of return to active labor force participation resulting from such services. Congress would receive recommendations from the Secretary of HEW for improving the linkage between these other programs and the vocational rehabilitation program, and for any other legislative changes the evaluation findings indicate would improve effectiveness of the programs. The end result should be increased savings in disability benefit payments and a higher rate of return to work for recipients of such benefits.

I believe, in this area where technology is evolving very rapidly; and particularly in view of the fact that this bill would require the vocational rehabilitation delivery system to accommodate a major new program—and over 7 million new clients—I believe, Mr. President, that careful evaluation is necessary for prudent congressional oversight.

No Member of this body, Mr. President, needs to be reminded of the rapidly increasing cost of disability payments. They are the single most rapidly expanding component of social security costs. There are now 2.8 million people receiving disability payments under social security and 2.2 million disabled recipients of SSI. The number of SSI disability recipients now exceeds the number of elderly low-income people getting benefits under that program—a situation never dreamed of by those who designed the SSI program only a few years ago. Unfortunately, only a small fraction of those receiving SSI and social security disability benefits are participants in vocational rehabilitation programs. Many of the other recipients are deemed not to have rehabilitation potential; but it appears likely that many who may have potential are not being rehabilitaed.

I believe that the vocational rehabilitation system, with its proud record of achievement, may be the key vehicle which can help arrest the alarming upward trend in Federal disability payments. The present relationships between the vocational rehabilitation system and the social security and SSI systems, are unclear to me and I imagine to most of my colleagues and our staffs. Trust fund and SSI payments to the vocational rehabilitation program do not appear at all in the vocational rehabilitation part of the budget. They are listed separately—and described differently—in three places in the appendix to the budget. We need to know more about these relationships and about how the recipients of Federal disability payments and the taxpayer can benefit more from them.

To this end my amendment—and I am speaking, Mr. President, of the Bellmon amendment which I have offered for that distinguished Senator—will require the Secretary of HEW to recommend how all vocational rehabilitation expenditures can be presented in one place in the President's budget each year so that we may more easily understand the size and scope of the program.

Mr. President, for Senator BELLMON, the distinguished Senator from Oklahoma, I urge the adoption of his amendment and, speaking as the minority manager of the bill, I am prepared to recommend to my colleagues the adoption of the amendment.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. STAFFORD. I am delighted to yield to the chairman of the committee, the manager of the bill for the majority (Mr. RANDOLPH).

Mr. RANDOLPH. I am in agreement with the amendment. As stated by the able Senator from Vermont, the ranking Republican members of our subcommittee, I feel that this is a realistic and helpful approach to a problem that does not mitigate against the trust of the bill.

Mr. STAFFORD. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● **Mr. MUSKIE.** Mr. President, I would very much appreciate clarification of a point of great concern to me and, I expect, to other Senators; particularly those who are members of the Committee on Governmental Affairs.

In a review of the other body's counterpart measure, the Rehabilitation Services Amendments of 1978, the Governmental Affairs Committee staff noted that that bill would exempt the vocational rehabilitation program from the Joint Funding Simplification Act. I refer particularly, Mr. President, to section 122 of the other body's bill. That section declares that the provisions of the Joint Funding Simplification Act shall not apply to the administration of the vocational rehabilitation program.

As you know, Mr. President, the Joint Funding Act allows Federal agency heads and State and local program administrators to work together to combine funds from a number of separate categorical programs and focus them on a single local project. It is one way that State and local officials can convert separate programs which address pieces of a problem into a single, comprehensive approach. The act's provisions are a small step toward overcoming the fragmentation and duplication inherent in the vast number of Federal programs which States and localities must administer.

I would welcome your assurance that no similar exemption exists in the measure we are now considering.

Mr. CHILES. If the distinguished Senator will yield, I would like to add my concerns to his. Mr. President, the provisions of the Joint Funding Simplification Act to which the distinguished Senator has referred are more than mere technical niceties. They are key elements in a series of intergovernmental management tools Congress has made available to State and local governments. Joint funding simplification provides these units a measure of flexibility in the ways they can organize and administer Federal categorical assistance programs. This flexibility, property and creatively used, can result in reduced red tape and lower administrative costs.

Mr. President, in the face of the rising tide of taxpayer anger over the high cost of government, it would be a mistake for us to dismantle the very tools we have created to help States and localities manage programs better. I, too, would welcome your assurances that provisions exempting the vocational rehabilitation program from the Joint Funding Simplification Act are not included in this bill. Exemption of this program would inevitably lead to exemption of others until the Joint Funding Simplification Act is rendered useless.

Mr. RANDOLPH. I assure my two distinguished colleagues that the bill now before the Senate does not include such provisions. I am well aware of the advantages of the Joint Funding Simplification Act.

Mr. MUSKIE. I thank the Senator. May I say that Joint Funding Projects are currently underway. State and local governments in Rhode Island, Maine, South Carolina, Georgia, Kentucky, Tennessee, Indiana, Minnesota, New Mexico, Nebraska, Iowa, Kansas, Utah, Arizona, California, Washington, and West Virginia are presently involved in such projects. Clearly, this intergovernmental management tool is working. I hope the distinguished chairman and other Members of the Senate who are conferees on this bill will be mindful of our concerns when they meet in conference with the other body.

Mr. RANDOLPH. I thank the Senators for their statements of concern. I assure you that I will be mindful of them at such times as a conference committee is convened.●

UP AMENDMENT NO. 1875

(Purpose: To establish a National Institute of Handicapped Research, and for other purposes.)

Mr. RANDOLPH. Mr. President, I send to the desk a modified version of the pending amendment that I offered yesterday, No. 3441.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH) proposes a modification to his amendment No. 3441.

The amendment, as modified, is as follows:

On page 81, beginning with line 21, strike out through line 3 on page 82 and insert the following:

DECLARATION OF PURPOSE

SEC. 110. Section 200 is amended to read as follows:

"DECLARATION OF PURPOSE

"SEC. 200. The purpose of this title is to—

"(1) provide for a comprehensive and coordinated approach to the administration and conduct of rehabilitation research, rehabilitation demonstration projects, and related activities for the rehabilitation of handicapped individuals, including programs designed to train persons who intend to provide rehabilitation services and persons who intend to conduct rehabilitation research by authorizing Federal assistance in accordance with a plan for rehabilitation research developed under this title;

"(2) facilitate the distribution of information concerning developments in rehabilitation procedures, methods, and devices to rehabilitation personnel and to handicapped individuals to assist such individuals to live more independently;

"(3) improve the distribution of technological devices and equipment for handicapped individuals by providing financial support for the development and distribution of such devices and equipment; and

"(4) increase the scientific and technological information presently available in the field of rehabilitation.".

NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

SEC. 110. Title II is amended by —

(1) redesignating section 202 as section 204, redesignating section 203 as section 206, and redesignating section 204 as section 207; and

(2) inserting immediately after section 201 the following new sections:

"NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

"SEC. 202. (a) In order to carry out the purposes of this title there is established, within the Department of Health, Education, and Welfare, a National Institute of Handicapped Research (hereinafter in this title referred to as the 'Institute').

"(b)(1) The Institute shall be headed by a Director (hereinafter in this title referred to as the 'Director') who shall be appointed by the Secretary, and shall be compensated at the rate prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

"(2) In the performance of the functions assigned to the Director under this title, the Director shall be directly responsible to and report to the Secretary, or to the Under Secretary, or an appropriate Assistant Secretary of the Department of Health, Education and Welfare, as designated by the Secretary: *Provided*, That the Secretary, after consultation with appropriate Committees of the Congress, may determine that the Director shall be directly responsible to and report to an individual other than the Secretary or such Under Secretary or appropriate Assistant Secretary if the Secretary finds that the purposes of this title would thereby be more effectively carried out.

"(3) The Director shall not delegate any of the functions assigned to the Director under this title to any officer who is not directly responsible to the Director.

"(4) There shall be a Deputy Director of the Institute (hereinafter in this title referred to as the 'Deputy Director') who shall be appointed by the Secretary. The Deputy Director shall be compensated at the rate provided for grade GS-17 of the General Schedule under section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director, exercising such powers as the Director may prescribe. In the case of any vacancy in the Office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1) of this section.

"(5) The positions created by paragraphs (1) and (4) of this subsection shall be in addition to the number of positions placed in grades GS-18 and GS-17 of the General Schedule under section 5108 of title 5, United States Code.

"(c) The Director shall be responsible for—

"(1) overseeing all programs and activities carried out under this title;

"(2) disseminating information acquired through rehabilitation research funded by the Institute to other Federal, State, and local public agencies and to private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(3) coordinating, through the Interagency Committee established under Section 203 of this Act, all Federal programs and policies relating to research in rehabilitation;

"(4) disseminating educational materials to primary and secondary schools, institutions of higher education, and public and private entities concerning the improvement of the quality of life of handicapped individuals;

"(5) conducting an education program to inform the public about ways of providing for the rehabilitation of handicapped individuals, including information relating to family care and self-care;

"(6) conducting conferences, seminars, and workshops (including in-serving training programs) for rehabilitation personnel concerning advances in rehabilitation research and rehabilitation engineering;

"(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title; and

"(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Social Security Administration, and such other Federal departments and agencies as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of handicapped individuals and disseminating such reports and studies to rehabilitation professionals and others to assist in the planning and evaluation of vocational and other rehabilitation services for handicapped individuals.

"(d) The Secretary, subject to the approval of the President, may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Secretary deems necessary to accomplish the functions of the Institute, in a number not in excess of one-fifth of the number of full-time, regular technical and professional employees of the Institute. The Director may not appoint any employee under this paragraph for a term in excess of three years.

"(e) The Secretary, after consultation with the Director, may obtain the services of consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(f) The Secretary, pursuant to regulations which the Secretary may prescribe, may establish and maintain research fellowships in the Institute, with such stipends and allowances, including travel and subsistence expenses provided for under title 5, United States Code, as the Secretary considers necessary to procure the assistance of highly qualified research fellows from the United States and foreign countries.

"(g) The Secretary, pursuant to regulations which the Secretary shall prescribe, shall provide for scientific review of all research grants and programs over which he has authority by utilizing, to the maximum extent possible, appropriate peer review groups established within the Institute and composed of non-Federal scientists and other experts in the rehabilitation field.

"(h) Not less than 90 per centum of the funds appropriated under paragraph (2) of section 201(a) to carry out section 203 shall be expended by the Director to carry out such section through grants or contracts with qualified public or private agencies and individuals.

"(i)(1) Within eighteen months of the date of enactment of this section, the Director shall submit to the appropriate Committees of the Congress a long-range plan concerning the conduct of rehabilitation research under this title. Such long-range plan shall include goals and timetables for identifying the research activities to be conducted and identifying any research activities which should be conducted with respect to problems encountered by handicapped individuals in their daily activities, the funding priorities for the conduct of such activities, and the basis for such priorities. Such plan shall be reviewed by the Director not less than once every three years.

"(2) In developing the plan required to be submitted under this paragraph, the Director shall consult with the Commissioner, the Commissioner of Education (or successor thereto), appropriate officials responsible for the administration of the Developmental Disabilities Amendments of 1978, and other appropriate individuals and organizations.

"INTERAGENCY COMMITTEE

"SEC. 203. (a) In order to promote cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Handicapped Research (hereinafter in this section referred to as the 'Committee'), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner, the Commissioner of Education (or successor thereto), the Administrator of Veterans' Affairs, the Director of the National Institutes of Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, and the Director of the National Science Foundation.

"(b) The Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of handicapped individuals.

"(c) The Committee, not later than 18 months after the date of enactment of this section, and annually thereafter, shall submit to the Office of Management and Budget and appropriate Committees of Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of handicapped individuals.

RESEARCH BY PRIVATE ORGANIZATIONS

SEC. 111. (a) Section 204(a) (as redesignated by section 111(1) of this Act) is amended by striking out "public or nonprofit" and inserting in lieu thereof "public or private".

On page 82, line 7, strike out "Sec. 205." and insert "Sec. 207.".

On page 82, strike out lines 11 through 16 and insert in lieu thereof the following:

RESEARCH AND TRAINING CENTERS

SEC. 112. (a) Section 204(a) (as redesignated by section 111(1) of this Act) is amended—

(1) by striking out "The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "The Secretary may";

On page 82, line 17, strike out "(1)" and insert in lieu thereof "(2)".

On page 82, line 19, strike out "(2)" and insert in lieu thereof "(3)".

On page 82, between lines 20 and 21, insert in lieu thereof the following:

(b) Section 204(b) (as redesignated by section 111(1) of this Act) is amended by striking out "the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "the Secretary may".

On page 82, line 21, strike out "(b) Section 202(b)(1)" and insert in lieu thereof "(c) Section 204(b)(1) (as redesignated by section 111(1) of this Act)".

On page 83, line 1, strike out "(c) Section 202(b)(2)(A)" and insert in lieu thereof "(d) Section 204(b)(2)(A) (as redesignated by section 111(1) of this Act)".

On page 83, line 4, strike out "(d) Section 202(b)" and insert in lieu thereof "(e) Section 204(b) (as redesignated by section 111 (1) of this Act)".

On page 83, line 14, strike out "Sec. 113. (a) Section 203(b)" and insert in lieu thereof "Sec. 114. (a) Section 205(b) (as redesignated by section 111(1) of this Act)".

On page 83, line 17, strike out "Section 203" and insert in lieu thereof "Section 205 (as redesignated by section 111(1) of this Act)".

On page 84, line 2, strike out "Sec. 114." and insert in lieu thereof "Sec. 115.".

On page 85, line 24, strike out "Sec. 115." and insert in lieu thereof "Sec. 117.'.

On page 86, line 11, strike out "Sec. 116." and insert in lieu thereof "Sec. 118.".

On page 92, line 8, strike out "Sec. 117." and insert in lieu thereof "Sec. 119.".

On page 93, line 16, strike out "Sec. 118." and insert in lieu thereof "Sec. 120.".

On page 95, line 12, strike out "Sec. 119." and insert "Sec. 121.".

On page 147, line 2, insert "(a)" immediately after "Sec. 422.".

On page 147, line 4, strike out "section 205" and insert in lieu thereof "section 207".

On page 147, line 5, strike out "section 206" and insert in lieu thereof "section 208".

On page 147, line 6, strike out "section 204 as section 205" and insert in lieu thereof "section 206 (as redesignated by section 111 (1) of this Act) as section 207".

On page 147, line 7, strike out "section 203" and insert in lieu thereof "section 205 (as redesignated by section 111(1) of this Act)".

On page 147, line 10, strike out "Sec. 204." and insert in lieu thereof "Sec. 206.".

On page 150, between lines 13 and 14, insert the following:

(b) The items relating to title II in the table of contents of the Rehabilitation Act of 1973 are amended to read as follows:

"TITLE II—RESEARCH AND TRAINING

"Sec. 200. Declaration of purpose.
"Sec. 201. Authorization of appropriations.
"Sec. 202. National Institute of Handicapped Research.
"Sec. 204. Interagency Committee.
"Sec. 205. Training.
"Sec. 206. Interpreter Services.
"Sec. 207. Reports.
"Sec. 208. Definitions.".

On page 150, line 15, insert "(a)" immediately after "Sec. 423.".

On page 150, beginning with the word "redesignating" on line 16, strike out through the word "by" on line 17.

On page 150, line 18, strike out "section 305" and insert in lieu thereof "section 304".

On page 150, line 21, strike out "sec. 306." and insert in lieu thereof "sec. 305.".

On page 153, between lines 16 and 17, insert the following:

(b) The item relating to section 305 in the table of contents of the Rehabilitation Act of 1973 is amended to read as follows:

"Sec. 305. National Network of Services for Deaf Individuals.".

On page 122, at the end thereof, insert the following new section:

STUDIES

SEC. 120. (a) The Secretary after consultation with the Commissioner of the Rehabilitation Services Administration, Commissioner of Education (or successor thereto), the Director of the National Institute on Handicapped Research, and other appropriate officials, organizations, and individuals, shall conduct a study of the special problems and needs of handicapped individuals who reside in rural areas in the United States. Upon the completion of such study, but not later than 18 months after the date of enactment of this section, the Director shall submit the results of such study; together with such recommendations as the Secretary deems appropriate to the President, and appropriate Committees of the Congress.

(b) In consultation with appropriate Federal departments and agencies, the Secretary shall conduct a study of possible ways to structure Federal programs providing benefits to handicapped individuals in order to eliminate any disincentives for individuals receiving benefits under such programs to obtain and continue in employment. Upon the completion of such study, but not later than 24 months after the date of enactment of this section, the Secretary shall submit the results of such study, together with such recommendations as the Secretary deems appropriate to the President and the Congress.

Mr. RANDOLPH. Mr. President, this was an amendment that earlier carried, and in this instance carries, the names of other Senators as cosponsors.

The cosponsors are as follows: Mr. CRANSTON, Mrs. HUMPHREY, Mr. JAVITS, Mr. MATHIAS, Mr. STAFFORD, and Mr. WILLIAMS.

A serious problem has been the need for coordination of Federal efforts in research rehabilitation. The report of the Panel on Research Programs To Aid the Handicapped to the House Science and Technology Committee documents the lack of a well-organized Federal research effort in the important area of rehabilitation.

There is no Government-wide mechanism, no effective mechanism, to plan for rehabilitation research across agency lines.

It is very, very important that the haphazard effort now being made, should be changed to carry across agencies, instead of the present abrupt starts and stops.

The Institute will have the authority to coordinate research, and is charged, as I have said earlier, with developing a rehabilitation research plan. The Institute also would have the authority to jointly fund projects with other agencies.

This Institute will address the need to

expand the rehabilitation research focus to new areas: Children; the aged; technology; and disability statistics and information.

Research regarding the rehabilitation of and needs of the disabled child or aged person—including medical rehabilitation, engineering and the development of devices and equipment, social and psychological needs of the physically impaired—is not supported by existing research programs. The Administration on Aging does not focus on the rehabilitation needs of physically disabled aged, and the Institute on Aging deals with basic research regarding the aging process and diseases common to aging, not methods of reducing the effects of disabling conditions. Similarly, the Office of Education focuses only on the educational process and not the physical, social or vocational rehabilitation of the child. The Office of Child Development is concerned with cognitive development and is not focused on handicapped children and the maternal and child health program and Institute on Child Health are focused on disease prevention—not rehabilitation. Rehabilitation Services Administration focuses primarily on the working age adult.

Furthermore, there is also no major Federal effort dealing with research, development and distribution of devices and equipment. Rehabilitation Services Administration spends about 7 million and Veterans' Administration about 6 million on research regarding equipment and devices, but the next steps of production on a large scale and demonstrations and other methods to assist in distribution are not being supported. Research regarding engineering to assist in home and workplace adaptions is not financed at all and the latter is a particularly important area. Finally, the development of improved information and statistics on disability and its effects and the analysis, improvement and use of such statistics has not been undertaken in the Department of Health, Education, and Welfare. The Center for Health Statistics does not deal with the nonhealth data such as employment, income levels, and housing on disabled people. Social security has good data on the numbers of disabled and types of disability of those on SSI or disability insurance and develops some good general information on working aged disabled, but does not deal with disabled children or adults and does not look at the full range of factors relevant to disability. The Institute would be a logical place to organize and analyze existing data and develop the additional data which the Social Security Administration and other relating agencies would not collect.

I believe that the modified amendment, and the thrust of what I said yesterday in the debate on this matter, should have the full support of the Senate.

Mr. STAFFORD. Mr. President, I would like to tell my chairman, the distinguished Senator from West Virginia, that for the minority we are prepared to recommend to our colleagues in the Senate the adoption of the amendment as he now proposes it. I think it is a good compromise of the difficulties we found ourselves in yesterday, and I hope that the Senate will accept the amendment.

Mr. RANDOLPH. I thank my very helpful colleague, who has been working with me on the passage of this vital legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified (UP No. 1875), was agreed to.

Mr. RANDOLPH. I want to move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there be no further amendments——

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. McCLURE. I yield to the Senator from Vermont for a unanimous-consent request.

Mr. STAFFORD. I appreciate the Senator yielding. I ask unanimous consent that Larry Horowitz of the staff of Senator yielding. I ask unanimous consent ator CHURCH's staff be given the privilege of the floor during the consideration of and all votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1876

Mr. McCLURE. Mr. President, I call up an amendment which I have at the desk.

The PRESIDING OFFICER (Mr. STEVENSON). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1876.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 99, line 12, insert the following: "(3) The provisions of section 1913 of title 18 of the United States Code shall be applicable to all monies authorized under the provisions of this section."

On page 131, after the first period on line 5, insert the following: "The provisions of section 1913 of title 18 of the United States Code shall be applicable to all monies authorized under the provisions of this section."

Mr. McCLURE. I ask unanimous consent that Mike Hammond, of my staff, be accorded the privilege of the floor at all stages of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. My amendment would make clear that the establishment of protection and advocacy systems is not intended to override the earlier provisons making it a criminal offense to lobby with Federal funds. During negotiations with staff members on the committee, it became clear that there was neither a consensus over the status of current law with respect to lobbying by the P and A systems nor consensus over whether the type of lobbying with Federal funds which has been so effectively applied over the last few weeks in connection with this bill is desirable.

I, for one, find it outrageous that, while the President of the United States is pushing for lower funding in connection with this program, federally funded agencies are using Federal dollars to undercut his efforts. This is why 18 U.S.C., section 1913 requires that all lobbying with appropriated funds be done through official channels. I believe that use of Federal funds for the purpose of the criminal code be made applicable to this program as well. My amendment would do just that.

I therefore urge its adoption.

Mr. President, I had suggested earlier an amendment which would specifically prohibit lobbying activities. The managers of the bill and their staffs found some difficulty in accepting the language which I had formulated. It has since been suggested that we make reference to the existing statute with respect to the use of Federal funds for the purpose of lobbying. It is my understanding that the managers of the bill are willing to accept the amendment.

I am happy to yield to the distinguished managers of the bill for whatever statement they might wish to make.

Mr. STAFFORD. Mr. President, speaking for the minority as minority manager, what the distinguished Senator from Idaho has said is correct. We do consider that the proposed amendment is the appropriate way in which to handle the matter of possible lobbying. Reference to existing language is the best way to do it.

For the minority, I am prepared to recommend to my colleagues that the amendment be agreed to. I appreciate the spirit of compromise with which the author of the amendment has dropped the earlier proposal and substituted the one we now have before us. I yield to my senior manager (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, the statement of the Senator from Vermont is correct. He speaks for the minority, but the Senator and I hope always to be speaking for the majority on both sides when we consider legislation of this type.

This is a clarification of the intent of the Senator from Idaho. It does no disservice to what he is attempting to do. Is that correct?

Mr. McCLURE. The Senator is correct.

Mr. RANDOLPH. I can understand his desire in reference to this matter. Therefore, with the changed language, and understanding of what the Senator wants to accomplish, I am very glad to agree to the amendment.

Mr. McCLURE. Mr. President, I am prepared to vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McCLURE. I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STAFFORD. Mr. President, I suggest the absence—I withhold that.

UP AMENDMENT NO. 1877

Mr. McCLURE. I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1877.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 6, strike "$12,000,000" and insert in lieu thereof "$3,000,000".

On page 6, line 8, strike "$15,000,000" and insert in lieu thereof "$3,000,000".

On page 6, line 10, strike "$18,000,000" and insert in lieu thereof "$3,000,000".

On page 9, strike lines 9 through 15 and insert in lieu thereof the following: "On page 131, line 3, strike "$12,000,000" and insert in lieu thereof "$3,000,000".

On page 131, line 5, strike "four" and insert in lieu thereof "two".

Mr. McCLURE. Mr. President, I thank the Senator from Vermont for not putting in a quorum call. I think we may have to have a quorum call, but I think it might be well to have the amendment pending and to explain it, and then we could have the quorum call to see if we could arrive at an agreement.

This amendment would restore the funding levels for "protection and advocacy systems" for the handicapped to levels closer to those recommended by the President. Currently, these systems—designed to lobby and litigate—receive a total of $3 million per year, and the administration has recommended that the level remain at $3 million for the next 3 years.

S. 2600 would increase this amount elevenfold to a 3-year total of $101 million. Even the compromise offered by the committee would involve a ninefold increase to $80 million.

There is, Mr. President, a limit on the ability of any program to absorb massively expanding levels of funding and spend it effectively. The administration, I believe, recognized this fact when it threatened to veto this legislation unless reasonable cuts were made.

While my amendment, which would reduce P. & A. funding to $18,000,000 over 3 years—or twice the current level—does not give the administration the cost reduction that it asked for, I have reason to believe that, if held in conference, it will give the President enough of a compromise to allow the bill to be signed into law.

Mr. President, let me repeat what the President has said: he believes that the current level of funding for protection and advocacy systems, $3 million per year, is sufficient. The President has threatened to veto this measure if, as a matter of fact, funding levels within the bill are not drastically reduced below that which was originally suggested by the committee.

My amendment, again, Mr. President, would allow a doubling of those funds. The bill, to repeat what I said, would require an elevenfold increase in these funds, to $101 million. The compromise which the committee agreed to would represent an increase to $80 million, nearly 9 times the amount of money which is now being spent.

If ever there were a need to have fiscal responsibility reflected in authorizing legislation it is now. It is no secret that the President has become much more outspoken in recent days about the need to contain the Federal budget. There is no doubt that the President has undertaken to enhance his image as a firm leader of this country by threatening to veto legislation which does not meet his criteria for fiscal restraint.

It is no secret that the President's decline in the polls has caused all kinds of repercussions within the administration, and that as a result he is planning to be much more positive on the side of fiscal restraint than he has been in the past. I do not think we should fail to heed that very clear warning, a very clear warning in his statement, a very clear warning on this particular legislation.

I would think that the President and his staff would be looking for items in which there is an increase 9 times greater than the present level of funding, or 11 times greater than the present level of funding. This is particularly true if, as a matter of fact, he is going to meet the challenges of budgetary restraint and fiscal responsibility which he has already identified as major thrusts for the next month to 6 or 8 weeks prior to this election coming up in November.

I can only say to the managers of the bill that they may indeed defeat the amendment, but they might do so at the expense of getting the legislation vetoed by the President of the United States, if he carries out the commitments he has already stated a number of times.

Mr. President, I am happy to yield to the Senator from Vermont for any statement he might wish to make. Let me say before yielding that there is no desire on the part of the Senator from Idaho to restrict unduly the protection and advocacy systems, because I think the need for P. & A. is very obvious. I believe the people who are disabled within our society have not had an equal opportunity to enforce the provisions of law as they exist, and they do need some assistance. The question is, what is a reasonable sum?

Mr. STAFFORD. I thank the distinguished Senator for yielding, Mr. President. It is my intent very shortly to note the absence of a quorum to see if, in a brief time, it might be possible to reach an agreement between the Senator from Idaho and members of the committee, including this one, who are present.

I just want to comment very briefly that, in connection with fiscal responsibility, the committee voluntarily reduced the total cost of the program and the number of years—the number of years from 5 to 3 years. We cut the cost of the program over 3 years by something like $471 million, which was, I point out, $130 million more than I think the distinguished Senator from Idaho intended to cut the bill in those areas. I just wanted to make clear that we have taken that step voluntarily.

Does the Senator from Idaho wish to take the floor back before we have a quorum call?

Mr. McCLURE. If I might, just very briefly respond to what the Senator said, I am very much aware of the agreements that have already been arrived at to reduce the level that was suggested in the authorization.

I know that we always get into a discussion of whether the authorization bill ought to be a statement of need or a realistic assessment of how much money might be appropriated. That is a continuing discussion in these halls and there is no easy resolution of that question. I do appreciate the agreements that have already been arrived at to reduce the amount of authorizations within the bill by $471 million.

I might note, and I do not say this in the context of this bill, that we are running into a rash of 2-percent cuts in appropriations. I note that some of the appropriations measures have been cut by that sum, and a number of Members of this body have then been able to go home to their constituents and say, "Look, I am a great fiscal conservative; I have reduced the amount of spending," when it was a 2-percent cut in a 14-percent increase. That still looks like a 12-percent increase to the Senator from Idaho.

I do not say that with regard to the $471 million cut. I think it was a reduction in good faith. I think it probably comes about more as a result of the real debate about the differences between a statement of need and an authorization bill which more closely reflects the budgetary priorities of the Congress.

I thank the Senator for his statement and I am happy to yield.

(Mr. SPARKMAN assumed the chair.)

Mr. KENNEDY. Mr. President, I strongly support the positions taken by the floor manager and the distinguished minority manager of this legislation in expressing opposition to the McClure amendment. I think, first of all, Mr. President, we have to understand that the groups that are being covered by the P. & A. system are the ones that probably need the greatest advocacy and protection in our society. We are talking about the developmentally disabled; we are talking about those with cerebral palsy; we are talking about the autistic disease; we are talking about the mentally retarded.

Mr. President, this issue was gone into great depth by the committee. I think the record justifies the authorization levels which are recommended to the Senate. It is a program that is expanding upon the sound experience of the developmentally disabled advocacy program, which has been extremely successful and which the States, themselves, have warmly embraced and which the handicapped people and the developmentally disabled people of this Nation warmly endorse.

Mr. President, the evaluation of the existing programs has shown some of the most dedicated, committed individuals involved in these programs. And still they are only able to have a minimum program.

Mr. President, this is a program which I think is strongly needed. I do not know how many times we have had television documentaries on Willowbrook, and Forest Haven, and other institutions in this Nation, and still nothing gets done. The public looks at these various programs and they absolutely deplore the conditions that, in too many instances, have been the lot of the people that are covered by this legislation.

Everyone in here knows that the only way that change is going to be brought about is the long, difficult, persistent, and dedicated advocacy of those who are prepared to follow through administrative hearings, through hearings on regulations, through challenges in the courts, for the kinds of rights which are being guaranteed in this legislation. That is the way it is done.

So it seems to me, Mr. President, that this is a bare-bones program even as it is constructed. It is a program which is building upon a solid record of achievement and accomplishment. It has the wide and broad support of the people that have been affected, and, I dare say, those that have been touched by the need to insure adequate advocacy of those that are covered by this legislation.

I say further, Mr. President, that the establishment of a protection and advocacy system for the developmentally disabled in 1975 marked a major advance in the movement to assure that the human and legal rights of all developmentally disabled persons would be secured.

No struggle to proclaim and demand fundamental human rights has been harder or more tragic than the struggle of the developmentally disabled, for among such persons—the mentally retarded, the autistic, the cerebral palsied—are found some of those most victimized by society's prejudices and least able to be heard effectively.

The P. & A. system was developed after careful and extensive congressional review of outrageous violations of the rights of the developmentally disabled.

Names like Forest Haven and Willowbrook still conjure in one's mind the grossest form of human rights violations.

Congress authorized and appropriated $3 million annually for fiscal years 1976, 1977, and 1978 to plan, develop, and to initially operate the P. & A. systems. Congress authorized and appropriated such amounts with the expectation that these sums were sufficient to plan for and get the systems in operation. That phase has now been completed. Each State now has a protection and advocacy system in place. The system now must have sufficient Federal support to insure the protection of the rights of developmentally disabled persons and be assured that it will be in existence for another 3 years.

Let us remember that the current developmentally disabled population totals over 2 million very severely handicapped individuals, most of whom cannot effectively communicate their needs or even realize that their basic rights are being violated.

What does the P. & A. system do? Let me cite a few examples.

In New Jersey, 40 developmentally disabled children were receiving inadequate education and therapeutic treatment in an unheated building with numerous other health and safety violations. When the private operator attempted to bill the families for services already paid for by the local school boards, the parents sought help from the P. & A. system. As a result of its prodding, county officials launched a probe which put the operator out of business because of massive fiscal irregularities. A countywide special education program was begun with the cooperation of the municipal, county, and State governments with increased services and at a net savings to the taxpayer. One hundred and fifty disabled students were enrolled in the program this fall. Five hundred will be enrolled in January when it will provide services to children who heretofore have been sent out of the county and out of the State and at considerable expense for treatment they will now get while living at home.

In New York, a severely mentally retarded adult had been living in the shower room of a State institution for 10 years. The shower room was equipped only with a mattress. The P. & A. system intervened and the young man has been relocated in another institution where a habilitation program is being developed for him.

In Texas, a 27-year-old woman with cerebral palsy was being physically and sexually abused by her brother and father. The P. & A. system was responsible for removing her from her home and found placement for her in a community residence program, providing habilitation services.

In New Jersey, a mentally retarded woman who had worked for the State government with distinction for 22 years had never been able to pass a civil service examination. As a result, she was laid off when her agency ran short of funds, even though less productive workers were kept on. The P. & A. system appealed her case to the State Civil Service Commission and arranged an oral examination for her. She passed it and is now a permanent employee.

In Massachusetts, a 46-year-old man with epilepsy was held in a county jail without bail for 3 months and denied medical attention and medication. As a result he had several seizures and injured himself badly. His family obtained P. & A. system intervention. As a result, he was released without bail pending trial.

The committee amendment to S. 2600 provides for authorization levels of $10 million, $12 million, and $13 million. These levels will allow the P. & A. systems to prevent the abuses like the ones I just mentioned. They will allow the P. & A. systems to survey institutions for developmentally disabled persons for abuse, appropriate care such as nourishing meals, sufficient medical and dental services, inappropriate use of physical and chemical restraints, protection from harm and exploitation by staff and other residents; monitor the rights to an appropriate education advocate for a variety of Federal and other governmental benefits to which developmentally disabled individuals are entitled; and provide information and referral services.

We are not talking here about fat, overstaffed bureaucracies. The American Bar Association has recently completed a study of the newly established P. & A. systems. Among the findings of the ABA are that more than 60 percent of the States have P. & A. budgets under $100,000 including all resources, governmental and private, and more than half of the States have three or fewer P. & A. staff.

It is essential therefore that we not reduce the authorization levels for this program contained in the committee amendments to S. 2600. The lives of our Nation's most severely handicapped citizens hang in the balance. We are not talking about numbers that are budget busters. In fact, this represents one of the most important uses of Federal resources that disabled persons who cannot help themselves could receive. I strongly urge my colleagues not to reduce the length of the reauthorization and the authorization levels contained in the committee amendment to S. 2600.

So I support the current authorization figures on this matter. I think they are really essential if we are to try to meet the responsibilities to which this program is committed.

I thank the Senator from Vermont for the opportunity to make these brief comments.

Mr. STAFFORD. Mr. President, I appreciate the statement just made by the distinguished Senator from Massachusetts.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Hugh Hadden of the Judiciary Committee be granted privilege of the floor today and tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President,

I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:03 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 12:33 p.m., recessed until 1:03 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CLARK).

The PRESIDING OFFICER. In my capacity as the Senator from Iowa I suggest the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I have an amendment pending at the desk. I ask unanimous consent that it may be withdrawn; that another amendment be substituted in its place; and that that amendment be in order, even though it amends language which has heretofore been amended in the bill.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment.

The amendment (UP amendment 1877) was withdrawn.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

UP AMENDMENT NO. 1878

Mr. McCLURE. Mr. President, I ask for immediate consideration of the amendment I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1878.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 99, line 7, strike "$12,000,000" and insert in lieu thereof "$6,000,000".

On page 99, line 8, strike "$15,000,000" and insert in lieu thereof "$7,500,000".

On page 99, line 9, strike "$18,000,000" and insert in lieu thereof "$9,000,000".

On page 131, line 3, strike "$10,000,000" and insert in lieu thereof "$8,000,000".

On page 131, line 5, strike "$12,000,000" and insert in lieu thereof "$10,000,000".

On page 131, line 5, strike "$13,000,000" and insert in lieu thereof "$11,000,000".

Mr. McCLURE. Mr. President, while we were in recess, we have been able to arrive at a compromise respecting the P. & A. funding levels. That compromise has been expressed in the amendment which is at the desk. I understand that the managers of the bill and the Senator from Massachusetts (Mr. KENNEDY) are in agreement with the figures now contained in the amendment.

I am happy to yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the statement just made by the able Senator from Idaho (Mr. McCLURE) is correct. The parties who have discussed this compromise, including the Senator from Idaho and the Senator from Massachusetts (Mr. KENNEDY), and the Senator who manages this measure on the minority side, the Senator from Vermont (Mr. STAFFORD), and myself, believe that this is a compromise that is a realistic approach, keeping in mind the interest of the Senator from Idaho.

Mr. STAFFORD. Mr. President, I wish to join in the statement made by my distinguished colleague (Mr. RANDOLPH). I have examined the figures in the substituted amendment and they have the concurrence of Senator KENNEDY, Senator RANDOLPH, and myself. We think this is an appropriate and workable compromise in dollars of the original proposal in the bill and the original proposal of the Senator from Idaho. We are prepared to recommend to our colleagues that the amendment be agreed to.

Mr. McCLURE. Mr. President, I want to point out again, as I did in the original colloquy on this proposal, that there is a very large increase in the levels. Even under the agreed-upon amount in the amendment, it will be 5½ times the amount of money currently devoted to these types of programs, although the target population now covered under the law would be broadened under the bill as proposed by the committee.

So it is not simply 5½ times as much for exactly the same things, 5½ times as much money as is currently being spent for P and A, but it is for a broader level of protection than now in existence. There may be some hope that the President will find reason not to veto the bill on the basis of this figure and this program.

Mr. President, I am prepared to vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1879

Mr. McCLURE. Mr. President, I have an unprinted amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1879.

Mr. McCLURE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 94, line 2, insert the following: "provided, however, that no equitable relief or affirmative action remedy disproportionately exceeding actual damages in the case shall be available under this section."

Mr. McCLURE. Mr. President, my amendment would provide that the federally financed affirmative action remedy contained in S 2600 could not be used to initiate massive construction projects for relatively minor temporal damages.

It would not in any way limit the actual damages which could be recovered. It would not curtail any lawful procedure for aggregating claims and for receiving any equitable remedy which is reasonably commensurate to the magnitude of the damages which such an aggregation would produce.

Its single function would be to insure that mammoth affirmative action remedies involving substantial construction could not be compelled in instances in which actual damages were comparatively small.

For the purpose of the negotiations which took place over this amendment, the following example was used: Assume that, in order to receive a promotion, a handicapped Government employee would be required to reach a computer which, because of its location, is currently inaccessible to him. The monetary damages, including nonaffirmative action equitable remedies, would amount to $50,000 over that person's lifetime. The cheapest mechanism for creating accessibility would cost $10 million. The opponents of this amendment would have us spend the $10 million to move this computer.

This, in my opinion, is unreasonable. It is theoretically unjustifiable, and in my opinion, politically unwise to set the stage for this type of "horror story," because of the potential for eroding the broad bipartisan base of support which handicapped programs have always enjoyed.

My amendment would allow considerable judicial discretion, while providing some guidance with respect to the boundaries of "reasonableness" in litigation under this section. This was in accordance with recommendations of various committee staff people, who opposed the imposition of any fixed numerical limitation on this type of affirmative action remedy.

This formulation is intended to present, with the fewest possible ancillary issues, a philosophical choice between a remedy reasonably calibrated to the damages and a remedy which is absolute and which is oblivious to the harm which it is designed to alleviate.

Mr. President, I would like to make some comments concerning the kind of attention Rehabilitation Act programs have already attracted, in the absence of a reasonableness test.

I will read the lead editorial in the Washington Star dated Monday, September 18, 1978. It is entitled, "Transit and the Handicapped":

TRANSIT AND THE HANDICAPPED

Did Congress, when it passed the Rehabilitation Act of 1973, intend to require local, state and federal governments to spend billions of dollars to make mass transit facilities available to the handicapped? Or did executive agencies again go to excessive lengths in interpreting anti-discrimination laws?

Whatever the case, transit agencies are struggling with what The Star's Thomas Crosby referred to the other day as a "multibillion-dollar time bomb" dropped in their lap by the Department of Health, Education, and Welfare's Office of Civil Rights. Estimates of the cost of complying with the HEW edict to make transit facilities fully accessible to the handicapped run as high as $8 billion over the next dozen years.

Transit agencies that get federal financial help for constructing and operating transportation systems—which include those in most big cities—would be required to comply with the HEW rules. New fleets of specially designed buses would have to be bought or old buses would have to be specially equipped to handle wheelchairs. Elevators would be required at all subway and commuter rail stations.

The Baltimore Sun reported recently that New York State transit officials estimate that elevator installation would cost from $1.5 billion to $2.4 billion in New York City alone. Besides huge capital outlays, annual operating costs would be increased substantially. The American Public Transit Association estimates that the additional operating cost for New York City would be $200 million a year.

A principal element of the argument is the cost-to-benefit ratio. One study commissioned by the Department of Transportation estimated that of 7.4 million transportation-handicapped people in the United States, only 25,000 couldn't get to work because of lack of transportation. The DOT study estimated that making public transportation fully accessible would benefit perhaps as few as 3 per cent of handicapped persons.

Washington's Metro was required, as a result of a lawsuit, to install elevators in its subway system, at a cost of $65 million. It is estimated that the elevators are used by about a dozen handicapped persons a day.

Not only are transit officials agonizing over the high costs of complying with the HEW guidelines but administration officials reportedly are concerned about the inflationary impact.

There are alternatives to making every bus, subway and commuter rail system completely accessible. The Baltimore transit system, for example, provides a "mobility service" in which handicapped persons can arrange by telephone to be picked up by specially designed small buses. According to a state transit official, that service costs $719,000 a year while the cost of making one-half of the system's bus fleet accessible to wheelchair users would be 10 times that much a year.

Critics of the HEW guidelines do not lack compassion for the handicapped. The issue is how far government should go, and at what cost, to ease their burden.

The cost of complying with the HEW edict seems to us to be out of balance with the benefits. We doubt that's what Congress had in mind when it passed the 1973 law.

That is the end of the editorial in the Washington Star, September 18, 1978.

Mr. President, I would like to also read an article which appeared in the Washington Post on Wednesday, September 20, an article by Mr. Douglas Feaver. I quote:

Equipping Transit Lines for Disabled Would Cost Billions, Group Testifies

(By Douglas B. Feaver)

Proposed regulations requiring reconstruction of old subway stations and refitting existing transit vehicles for full access by wheel chairs will cost billions of dollars and return little benefit, the American Public Transit Association said yesterday.

APTA, which represents most of the public transit authorities in the United States, estimated that the cost of the regulations as now drafted would be $3 billion to $5 billion annually and that such expenditures would divert money from other, more beneficial projects.

Furthermore, APTA chairman James J. McDonough said, even if all existing buses are equpiped with wheel chair lifts, even if all old subways stations are refitted with new elevators, even if all commuter train stations are reconstructed with high platforms for easy boarding, "most existing mobility barriers which limit transit use will not be removed . ."

That is because, McDonough said, 90 percent of the "transportation handicapped" would still have "the inability to get to and from transit stops, the inability to wait out-of-doors, the inability to travel alone or in crowds and the inability to ride while standing."

McDonough was citing data developed by the U.S. Department of Transportation in a national survey completed in June. His comments here came at the last of a series of five DOT hearings being held across the nation in response to the proposed regulation.

And while McDonough and individual transit authorities attempted to make a case for changing the national rule to one favoring more localized standards, an equally well-organized elderly and handicapped lobby was present yesterday to make its case.

John A. Lancaster, the wheelchairbound advocacy director of the Paralyzed Veterans of America, told the hearing panel that "I resent being unable to use buses and other modes of public transportation merely because I decided to serve my country in time of war."

Full accessibility of transit facilities, Lancaster said, is simply a civil rights issue. "One theme needs reaffirmation," he said, "integration and nondiscrimination. A civil rights issue cannot be decided on the basis of cost-effectiveness and local option."

He also said that, as some of the other barriers to mobility by the handicapped were removed or remodeled, such as curbs, "disabled people will be able to get to the bus stops."

William R. Hutton, executive director of the National Council of Senior Ctlizens, testified in favor of a section of the proposed rule that requires half of all bus fleets to be fully accessible by 1985.

"That requirement is necessary and should remain," Hutton said. "We believe the industry can do it."

Hutton said he had some problems, however, with the concept of wheelchair lifts on buses. Such devices which lift a wheelchair from the curb to the bus, are now being purchased by some transit authorities, including Washington's Metro. But there have been severe reliability problems. "They're probably unsafe," Hutton said.

Theodore C. Lutz, Metro's general manager, said that eight additional mechanics will have to be added just to work on the lifts. About 60 lifts have been delivered to Metro; none has been accepted because of various mechanical problems, Lutz said. "We are committed to having them work properly so we can provide a credible test," Lutz said.

Just last week, DOT issued a final rule requiring all new buses bought with federal aid after September 1979 to have low floors and be equipped with either ramps or lifts for wheelchairs. That kind of bus, called Transbus, received broad support from elderly and handicapped spokesmen yesterday.

The biggest cost issue is the refitting of old commuter rail equipment and subway stations.

Peter V. Young of the Southeastern Pennsylvania Transit Authority, which serves Philadelphia and its suburbs, said the ultimate cost of making the system fully accessible would be $614 million—much of it in providing wheelchair access to the rail network. He said Philadelphia should have the option of making some—but not all—stations accessible.

Lutz, in his testimony, posed the central question, "Will a regulation requiring total accessibility provide real mobility for the vast majority of handicapped citizens or, rather, a somewhat empty symbolic victory?" he asked.

I urge those of my colleagues who favor tying level of remedy to level of harm to vote for my amendment.

Mr. President, it is not a question of whether or not we are trying to provide access to public facilities and public transportation for those who are handicapped, but a question of trying to provide some reasonable level, some reasonable means, to test whether a proposed action is the appropriate action—whether that action, if taken at its cost to the taxpayers, will result in a net loss of support for the program. I think that is a serious question.

My amendment will not destroy affirmative action. It simply will require that affirmative action be placed within reasonable context of cost and public acceptability.

I hope the managers of the bill will find it possible to accept the amendment, and I urge them to do so.

(Mr. MUSKIE assumed the chair.)

Mr. CRANSTON. Mr. President, I oppose the amendment offered by my colleague from Idaho (Mr. McClure) for a number of reasons.

First, the Senator's amendment would set a limitation on the Federal Government's obligation and responsibility to be an equal opportunity employer. The practical result of such a limitation would be the inability of the Federal Government, in certain circumstances, to acquit its responsibilities for successfully implementing the mandated affirmative action program plan for the hiring, placement, and advancement of handicapped individuals. Under his amendment, in certain instances, a handicapped individual could be denied a job, an advancement, or appointment solely by reason of his handicap.

Second, Mr. President, with respect to such denial solely on the basis of handicap, section 504 of the Rehabilitation Act provides:

> No otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

I believe that the requirement with respect to Federal Contractors and grantees should be no less stringent than the requirements attached to the Federal Government. The amendment offered by the Senator from Idaho would create an unwise and unrealistic distinction with respect of employment between the obligations of the Federal Government and the obligations of Federal contractors and grantees. Ironically, the Senator's amendment would limit—with a financial test—the Federal Government's obligation of being an equal opportunity employer. Federal contractors and grantees would—appropriately—continue to be required to be equal opportunity employers. Rather than a leader in this field, the Federal Government would become a distant also-ran requiring more of its grantees and contractors than it would be willing to require of itself.

Third, with respect to Federal Government employment, a two-tiered standard for redressing discrimination on the basis of race, sex, religion, or handicap would exist—one with respect to handicapped individuals; a second with respect to the other factors. Some may claim that this double standard may be necessary; inasmuch, as the barriers facing handicapped individuals are physical, as well as attitudinal, and most civil rights remedies are designed to overcome attitudinal barriers. Unfortunately, be the discrimination based on a physical or an attitudinal barrier, the result to the handicapped individual is the same—a denial of a job, an advancement, or a promotion to an otherwise qualified individual solely by reason of handicap. I reject this notion. An individual denied a job, an advancement, or promotion on the basis of handicap is a person entitled to the same remedies as a person discriminated against unlawfully on the grounds of any other factor.

Fourth, the General Accounting Office in its July 6 report entitled, "Federal Employment of Handicapped People," recommended making available to handicapped individuals under section 501, the rights, remedies, and procedures of title VII. Thus, Mr. President, after study, both the Human Resources Committee and the General Accounting Office have recommended a similar approach to the problem of Federal employment of handicapped individuals. Neither recommended a limitation on available remedies.

Mr. President, this amendment would fashion half-remedies for whole wrongs. I oppose it, and I urge my colleagues to oppose it, also.

Mr. STAFFORD. Mr. President, for the first time today, I find that I also must oppose an amendment offered by the distinguished Senator from Idaho (Mr. McCLURE). Until this one, we have been able to work out our differences and compromise them into an acceptable solution on the part of all concerned.

However, this amendment which the distinguished Senator has offered would put a ceiling, in my judgment, on the remedy which a person may be entitled to under section 504 of the 1973 Rehabilitation Act. I am concerned about any action which seeks to place a limit upon an individual's civil rights and rights of access.

After hundreds of years of being alienated, degraded, insulted, and otherwise ignored by society, the Congress of the United States has given the handicapped population access to their civil rights in section 504 of the Rehabilitation Act of 1973. This amendment, I fear, would take away part of their rights as individuals. We must insure that all minority groups are treated equally under our laws. Therefore, with reluctance, I am forced to find myself opposing the amendment and encouraging my colleagues to vote in opposition to it.

Mr. McCLURE. Mr. President, I am sorry that the managers of the bill have taken this position, because I think there is a rule of reasonableness that could be found. What they have done is cast me and the others who are concerned about the rule of reasonableness as people who are callous to the needs of the handicapped and do not care whether or not they are made whole.

As a matter of fact, that is a misreading of the amendment. It springs from emotions rather than intellect; and, unfortunately, it does not enhance the value of this debate.

I wish we could focus for a moment upon what it is we are talking about, rather than simply responding emotionally by saying that someone who is handicapped must be given exactly the same opportunities in our society that everyone else is given, as though those of us who are concerned about how that is done have no feeling at all.

I should like to ask a rhetorical question, and I ask if the Senator from California or the Senator from Vermont wishes to respond. I am not insisting that they do, but I invite them to do so if they wish. I ask them if they would admit to the proposition that, regardless of cost, the Government must take whatever action is necessary to remove barriers to the physically handicapped—regardless of cost. We will do whatever is necessary. We will spend whatever is necessary. We will take whatever affirmative action is necessary. We will construct whatever buildings are necessary. We will construct whatever physical aids are necessary to remove barriers to equal access in our society. That, in effect, is what they are saying.

I ask this question, and I invite their comment, if they would like to comment: An emphysema victim is a handicapped person—perhaps a disabled veteran who has had lung damage, because of his service in the military. That person must be in an atmosphere that is totally controlled as to temperature, humidity, and content of the air. Is it to be suggested here that if that person applies for a job in a steel mill, the steel mill must then have a controlled atmosphere suitable for his particular and unique needs, and that we, as a matter of fact, are unfeeling and uncaring if we do not respond to that?

Let us not use a steel mill as an example. Let us say that person with an impairment decides that he wishes to be a waiter in a restaurant. Does that mean then that we must go into that restaurant and have a controlled atmosphere for the benefit of that particular individual? I submit to the Senator that is precisely what he is saying. Without regard to cost, without regard to effectiveness, without regard to the limitations on our capacity to do it, we are going to afford to them an affirmative action remedy under this bill and provide the money and the personnel to bring the suits that will be necessary to force that kind of action, without restriction and without end.

Mr. President, that seems to me to be softheaded in the extreme. I do not mind being softhearted, but I think we cannot also be softheaded. I think some of the Senators who are arguing against this amendment are responding to the very real needs of the handicapped, and the Senator from Idaho is not unaware of those needs. I respond, also—I think everyone in our society responds, and we are grateful that we can respond—but there are limits to what can be required.

And it seems to me to be ridiculous to establish a new affirmative action remedy and then say there are absolutely no limits to the affirmative action relief that can be sought under this new provision of the law.

My amendment does not affect the other rights and remedies that are already on the statute books. It does not apply limitations to affirmative action that can be taken under the Civil Rights Act. It does not limit what may be done under the Rehabilitation Act of 1973. All of those remedies are still available, without limit and without restriction. All this amendment seeks to do is say that there must be a reasonable limit to the affirmative action relief which is sought under the new remedies being established under this bill. I do support the affirmative action and protection and advocacy provisions in this bill. I think they are justified.

But to say that they are justified without limitations on cost or reach or scope seems to me to reflect the kind of legislation that has caused us so much trouble in so many other programs of the Federal Government.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. McCLURE. I am happy to yield to my good friend from West Virginia.

Mr. RANDOLPH. I thank him very much.

I have, of necessity, been away from the Chamber during earlier discussion of his amendment.

Is there a limitation dollarwise that the Senator is thinking of in connection with this action?

Mr. McCLURE. No, there is no limitation and arbitrary ceiling. What I seek to do in the amendment is to say that in granting affirmative action relief, courts must weigh the costs of that relief against the damages. Necessarily, then, under this, they would also have to look at the other ways in which it might be possible to alleviate the conditions which they seek to abate.

Mr. RANDOLPH. I am just going to maybe not think out loud too much but just counsel with the Senator.

Mr. McCLURE. Certainly.

Mr. RANDOLPH. Is this an action that would be taken across the board, or is the Senator thinking about special cases of the handicapped who might feel that they had not been properly considered for employment or perhaps removed from jobs they held?

Mr. McCLURE. I think the application would be an individual application, because most of the affirmative action to be sought will be in individual cases.

Mr. RANDOLPH. A further question: Does the Senator have knowledge of, let us say, that provision helping a handicapped person which indicates that we are asking or the language in the bill would ask for something to which that handicapped person is not entitled?

Mr. McCLURE. Let me indicate to my friend from West Virginia that, the way that is phrased, it is very difficult to answer. When we get down to a question of what people in our society are entitled, we are opening a Pandora's box. Let me give the Senator the example which was given in the article in the Washington Post with regard to the refitting of all mass transit vehicles. There are other ways in which we can meet the needs of the handicapped by providing transportation. We can and should be working on creating new mass transit systems which are more accessible to the handicapped than present mass transit systems.

But we should not set precedents for allowing handicapped persons to use Government financial assistance to force on public agencies unlimited improvements for the purpose of making public facilities accessible to the handicapped as they are to nondisabled persons.

That seems to me to be the crux of the problem. There is no limit to the recourse which plaintiffs could seek. For instance, again I take that partially disabled veteran with a lung disability. He could, under the theory of recovery of Senator CRANSTON, receive Government assistance to bring suit to make certain that every bus in the city had a controlled atmosphere, because his lung condition might require it.

We can all be sympathetic to the problems of the person with that lung condition. But there are certainly limitations upon the extent to which we can alleviate the burden which he does suffer.

Mr. RANDOLPH. A further question is as to the matter of the mass transit facilities for the handicapped. As I understand it—and I can be helped or corrected by the Senator—is that a matter that is actually being considered in the Banking and Currency Committee of the Senate?

Mr. McCLURE. I think there are a number of initiatives around with respect to mass transit. I think that is one of several. There are others who are looking at the same problem of how to make transportation available to those who cannot use the existing facilities as fully as those of us who are not disabled.

But I say that under the relevant sections of this bill, there is nothing at all to prevent the problems I have outlined. And as a matter of fact, if we use the entitlement language implied by the thrust of Senator CRANSTON's remarks, any disabled person, regardless of the nature or extent of his disability, should be entitled to have the Government bring suit to force every mass transit agency in the country to accommodate his special needs.

Mr. RANDOLPH. I am asking questions because I was away from the Chamber. Does the amendment simply go to Federal employees?

Mr. McCLURE. The Senator is correct.

Mr. RANDOLPH. Only to employment within the Federal Government; is that correct?

Mr. McCLURE. Well, there is some doubt as to whether it is Federal employees alone or whether it will also include those activities in which there is a Federal expenditure.

Mr. RANDOLPH. Is that recognized by the Senator in the drafting of his amendment?

Mr. McCLURE. I attempt to, yes, sir. As a matter of fact, if there can be an improvement in the language of the amendment I would be happy to accept such improvement.

Mr. RANDOLPH. That is a possible ambiguity?

Mr. McCLURE. Yes. I think there is a possible ambiguity in existing statute, not in my amendment. My amendment may not adequately alleviate the ambiguity in present statutes, as well as in the pending bill.

Mr. RANDOLPH. I am asking for information now and, perhaps, we can have it from others as well as the Senator from Idaho. What is the Department of Transportation doing at the present time in the area the Senator discusses of providing facilities for the handicapped in connection with those facilities that are used in one category or another?

Mr. McCLURE. Well, as far as the Department of Transportation is concerned they have conducted studies and, I believe, they have been holding hearings.

I say to the Senator that the precedent in the pending bill goes far beyond the principles of existing law to provide a new affirmative action remedy which would be funded by the Government to compel the Government to do what may be required, without regard to the expense that is involved or without regard to the reasonableness of the remedy.

Mr. RANDOLPH. The amendment offered by the Senator from Idaho applies to section 501; is that correct?

Mr. McCLURE. I believe it is section 505.

Mr. RANDOLPH. Well that is under section 501.

Mr. McCLURE. Section 118 of the bill, section 505 of the statute.

Mr. RANDOLPH. The application is to 501 of the act, that is what I am trying to ascertain.

Mr. McCLURE. It will be section 501 of the underlying act.

Mr. RANDOLPH. That is what I wanted to know; that, of course, is only the employment of handicapped individuals. That is indicated in the report.

Mr. McCLURE. But there is some confusion concerning the reach of that provision under existing law. I would say to my friend that he knows better than I that words may be plain, but the courts find ways of making them obscure.

Mr. RANDOLPH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1880

Mr. McCLURE. Mr. President, I send a modification of my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read as follows:

> The Senator from Idaho (Mr. McCLURE) proposes as a modification to UP amendment No. 1879, an unprinted amendment numbered 1880.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment, as modified, be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

> On page 94, line 2, insert at the end of line the following: In fashioning an equitable or affirmative action remedy under such section, a court may take into account the reasonableness of the cost of any necessary workplace accommodation, and the availability of alternatives therefor or other appropriate relief.

Mr. McCLURE. During the quorum call, Mr. President, we have been in consultation, trying to achieve the ends which both sides desire to attain. I think the language has been agreed upon. I am prepared to accept the amendment, as modified, if the managers of the bill are prepared to accept it.

Mr. RANDOLPH. Will the Senator yield?

Mr. McCLURE. I yield.

Mr. RANDOLPH. Mr. President, I am not enthusiastic about the compromise, but I am a realist, and I feel that we are going to protect that handicapped worker within the Federal structure. We must do that. Is that the feeling of the Senator?

Mr. McCLURE. Yes. And I would say to the Senator I have every desire to do that wherever it is reasonably possible to do so. We will take actions under this amendment to protect the handicapped worker.

Mr. RANDOLPH. Mr. President, I think if we had a colloquy for an hour it would not change the situation from my standpoint. I will hope that this will work. I believe the Senator would want it to work.

In that spirit, as well as with the cooperation of the able Senator from California, who certainly feels strongly in opposition to the original amendment, the Senator from California might want to add his comments at this point, and I am sure Senator STAFFORD would also want to comment.

Mr. CRANSTON. I am delighted that we have been able to work out a compromise that makes clear what we would expect a reasonable court to take into account in fashioning appropriate relief if any relief is warranted.

Mr. STAFFORD. Mr. President, compromise usually leaves both sides somewhat unsatisfied. I think that is the way this Senator feels about the compromise that we have reached, but it has been necessary to reach a compromise. For this Senator, I shall say that if it proves that this language does not achieve the ends that we really want, this Senator will be among the first to offer legislation in the near future to correct what may turn out to be a deficiency in the bill. But at this point, I am prepared reluctantly to accept the compromise.

Mr. McCLURE. Mr. President, I thank the able Senator from West Virginia as well as the majority whip, the Senator from California, and my colleague, the minority floor manager, the Senator from Vermont, for their willingness to address the problem. As the Senator has said, it does not do exactly what they desire; it does not do exactly what I desire. But I think it is a reasonable compromise.

I share with them the feeling that, as a matter of fact, if this language does not work in practice and there are problems that remain that need to be addressed, I shall join with them in trying to address those problems, too.

I thank the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, Senator STAFFORD and I, as far as we are informed, know of no amendments that will be offered from the floor or that have been sent to the desk. I believe that that is the correct situation.

Mr. STAFFORD. Mr. President, I concur with what the distinguished Senator from West Virginia has said. I believe we have reached the end of amendments that are known to us.

Mr. RANDOLPH. I move third reading.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. HATCH. Mr. President, I want to call particular attention to the provisions of title IV of this bill which seek to assist those persons with sensory impairments—the blind and the deaf. Mr. President, we have made great efforts in passing special legislation to remove the architectural barriers which have long prevented our handicapped citizens from full participation in education, employment, and community life, but I fear we have so far largely overlooked those disabled individuals for whom architectural modifications are, for the most part, unnecessary. Specifically, while blind and deaf persons are able to enter our public buildings and facilities, they are often prevented from full and equal opportunities because, in addition to the barriers frequently imposed by negative attitudes about the handicapped, there may also be communications barriers to overcome.

Title IV addresses this problem more directly than any legislation we have had to date. It recognizes the need which blind people have for reading services since written communication is so fundamental to productive living in this society. It also takes into account the needs of deaf persons for alternative methods to oral communication by establishing improved systems for procuring and training interpreters.

It is high time that the Congress consider legislation creating programs aimed at removing these communication barriers, for it is sound economics if we can provide new methods by which people who have impaired sight or hearing can be aided, educationally, and in the labor force. Mr. President, spending tax dollars on affording blind persons greater access to print information and for interpreters for the deaf is a worthy and wise investment in the productivity of these Americans; it extends to them what they want most—a hand up, not a handout.

Mr. President, in addition to these meritorious provisions of title IV, the legislation also creates a formula grant program to serve older blind persons. I have been shocked to find that the older blind (particularly those over age 65) go largely unserved by our current rehabilitation programs, and yet this is more than half of the blind population—an estimated 265,000 people. Clearly these individuals must not be forgotten any longer. They should be entitled to benefit from the specialized adjustment services which are available to blind people who are still fully in their working years. The skills of independent living must be taught; for example, mobility with a white cane or other guidance device and cooking techniques. The constructive attitudes which lead to continuing independence must be conveyed, and an older person who becomes blind must receive the necessary counseling in order to maintain self-care, self-confidence, and self-sufficiency.

Mr. President, these are the realistic and worthwhile objectives of the title IV provisions for the older blind. Studies growing out of the Rehabilitation Act of 1973 have confirmed the need for this legislation, and special projects which have been funded to demonstrate delivery of service to the older blind have had outstanding success. Based on this track record, it is now time that we act to provide a nationwide system of service, so I commend to my colleagues the provisions of title IV and ask for your unanimous support.

Mr. DOMENICI. Mr. President, it was recently brought to my attention that the Rehabilitative Services Administration was considering withdrawing vocational rehabilitation funds from correctional institutions in States with third-party matching agreements. Apparently, in some States with third-party matching agreements, the General Accounting Office found considerable evidence of misuse and abuse of funds. I was alarmed by the decision to withdraw vocational rehabilitation funds from correctional institutions, since I knew that my State, and I am sure many others as well, was operating successfully and effectively under third-party matching agreements without any evidence of misuse of funds.

I though the matter significant enough to warrant an amendment to S. 2600. My proposed amendment would prevent the Rehabilitative Services Administration from withdrawing funds to these States without first analyzing the programs on a State-by-State basis to determine if, indeed, misuse or fraud had occurred. However, in speaking with Rehabilitative Services Commissioner Robert Humphreys, I have been assured that he and his staff are very willing to work with States which have third-party matching agreements to eliminate any abuse or deficiencies which may have developed.

The vocational rehabilitation program in my State, directed by Dr. Robert Swanson, is an excellent one. I am not aware of any deficiencies in the program and I am certain that funds are not being misused. However, I wanted to be sure that my State, and other States with efficient and abuse-free programs, would not be penalized by the Rehabilitative Services Administration in any manner.

At this point, I see no need for my amendment, since I know I can rely on Commissioner Humphreys assurances that he and his staff will work with any affected States. I would like at this time to insert in the RECORD a policy statement prepared by the Commissioner outlining his commitment to work with States to resolve any third-party matching agreement problems. I ask that the directive be printed in its entirety in the RECORD and suggest that the reader pay special attention to the last paragraph which outlines the Rehabilitative Services Administration's intentions.

There being no objection, the directive was ordered to be printed in the RECORD, as follows:

[Rehabilitation Services Administration]

PROGRAM INSTRUCTION, RSA-PI-78-22,
JUNE 5, 1978

To: State Rehabilitation Agencies (General),
State Rehabilitation Agencies (Blind)

Subject: Termination of FFP for Third Party Funding Agreements

Content: Federal financial participation will not be available for cooperative programs utilizing third party funds certified as having been expanded for vocational rehabilitation activities by a State or local agency under a cooperative program pursuant to 1361.13 of the Federal Regulations.

Effective Date: September 30, 1979.

EXCEPTION

For those States whose State legislature meets on a biennium and who have reported in FY 1977 (Annual Report for Vocational Rehabilitation—OHDS-RSA-2) that 50 percent or more of the State funds expended in such State are from this source, the effective date will be September 30, 1980.

POLICY RATIONALE

On April 17, 1978 under Information Memorandum 78-49, I transmitted to you the GAO Audit Report "Third Party Funding Agreements no Longer Appropriate for Serving the Handicapped through the Vocational Rehabilitation Program." The deficiencies noted by GAO related to (a) State agencies purchasing educational, health, correctional, and mental health services which were the legal responsibility of the third party; (b) State agencies not retaining control over expenditures of the VR services to institutional clients; and (c) certified and assigned participating third party staff not being under the direct control and supervision of the VR agencies while performing duties.

The deficiencies raised serious questions as to the legality and effectiveness of the Third Party Agreements being administered by most States, and in fact, it was recommended by GAO that the Third Party Agreements be terminated.

A series of meetings were held with State and Regional Office staff to discuss the findings and the recommendation to discontinue Third Party Agreements, concluding with a meeting I had with the Executive Committee of the Council of State Administrators of Vocational Rehabilitation on March 23, 1978 and further discussions of the issues at the CSAVR Spring meeting on May 1.

At each of the above meetings confusion was evident over the relationship between adverse audit findings and the nature of the non-Federal expenditure in cooperative programs utilizing third party funds. Section 1361.80 of the Federal Regulations describes those expenditures of State and local funds which can earn Federal funds under Section 110 of the Rehabilitation Act of 1973, as amended.

These non-Federal expenditures in cooperative programs utilizing third party funds can be of three types. The first, while technically not from a third party, is direct appropriation of State funds to the vocational rehabilitation agency, earmarked for use with a particular cooperative program. The second is the transfer of cash to the vocational rehabilitation agency by a State or local agency for use in carrying out cooperative programs. The last method is through the certification of expenditures made by the State or local agency under a cooperative program meeting the requirements of 1361.13 of the Federal Regulations.

While problems have been identified in many cooperative programs utilizing third party funds, regardless of the type of non-Federal expenditures, the major problem, which is addressed by this policy issuance, involve certified expenditures. It is my considered opinion that if RSA does not take immediate action on this issue that it will be found seriously derelict in discharging one of its basic Federal responsibilities and that State agencies will find themselves involved in ever increasing difficulty in trying to continue to manage a strong, viable program directed towards serving the needs of the handicapped.

IMPLEMENTATION ACTION

1. Within 120 days of the issuance of this policy, Sections 1361.13 and 1361.80(b)(1) will be amended removing present FFP authority for goods, services, and personnel made available for vocational rehabilitation purposes by a State or local agency under a third party agreement with the State VR agency.

2. State agencies are expected to take immediate administrative steps to assure that Third Party Agreements involving the improper use of Federal funds are discontinued and new agreements are not initiated.

3. In accord with the recommendation of the Third Party Agreement Task Force, RSA will work closely with the CSAVR in developing and implementing a formalized system for entering into Cooperative Arrangements with other public agencies involving direct appropriation to the vocational rehabilitation agency or the transfer of funds from another State or local agency. A goal of the Federal and State Task Force will be to formalize State VR agency responsibilities so as to insure that present problems are eliminated and that States will have adequate controls in place to assure maximum accountability of cooperative programs with other State and local agencies.

Inquiries to: Director, Office of Rehabilitation Services.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that a statement by Senator Bellmon be placed in the Record at an appropriate point, and a letter written to Senator Bellmon by officials of the State of Oklahoma be included in the Record with his statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement of Senator Bellmon

The bill before us authorizes services to those who are disabled. There is no group more deserving of our assistance; and this legislation would expand both the range of services available and the population eligible for services to those most severely disabled.

There are three major components to this bill, Mr. President. Sixty-one percent of the funds authorized under the Act ($813 million in Fiscal Year 1979) would support the State-Federal Vocational Rehabilitation program. The bill also authorizes increases in funding for this program in each subsequent year. The funding levels authorized for the Vocational Rehabilitation program are consistent with the assumptions in the Second Concurrent Resolution on the Budget as it passed the Senate and as revised by the House-Senate Conference which has just concluded.

The Vocational Rehabilitation program offers hope of economic self-sufficiency to a group of citizens who need and deserve our help. The program also provides services to recipients of disability payments under the Social Security Disability Insurance and Supplemental Security Income programs. Most of the vocational rehabilitation services to recipients of benefits under these programs are funded by transfers (over $150 million annually) from the Social Security trust funds and from Supplemental Security Income (SSI) program resources.

The other major programs authorized under the bill are the Developmental Disability program, which is being extended and a new program of comprehensive services to the severely disabled. The Developmental Disability program has been the source of support to persons who suffer early in life from five specific severely disabling conditions. (To be eligible for Developmental Disability services, a person must suffer autism, cerebral palsy, dyslexia, epilepsy, or mental retardation, and must exhibit the condition prior to age 22.) The new program of comprehensive services to the severly disabled would provide for services for disabled persons. Eligibility for the new program would be functionally defined and would not depend on age, nor on disability resulting from any specific disease. The Developmental Disability program is authorized at $117 million in FY 1979; the new program is authorized at $202 million for that year.

Full funding for the combined authorizations, in FY 1979, would breach the targets in the Budget Resolution, unless something else in Function 500 were funded at lower than the assumed level.

As it was originally reported, I had two major concerns about this bill. The first was the duplication and overlap between the Developmental Disabilities program, which the Act would reauthorize, and the new program of comprehensive services to the severely disabled, which would also be authorized under the Act. I was very concerned that the side-by-side existence of these two programs would inevitably lead to confusion for the clients they are designed to serve; would be administratively inefficient; and would result in tremendous pressure for excessive spending.

Second, I thought the five-year authorization proposed by the Human Resources Committee was too long. The rapid expansion of eligibility and services proposed under the Act requires careful evaluation ond oversight. Five years is too long to wait for a thoughtful review of the implications of such expansion. Also, I saw a need for the relationship between Federal disability payment programs and the Vocational Rehabilitation program to be examined to determine if more can be done to assist recipients of Federal disability benefits to recover economic self-sufficiency.

I am pleased that the Managers of the bill have themselves offered an amendment to reduce the authorizations for appropriations under this bill to three years. Thus, the first of my concerns has been responded to.

My second concern—the potential overlap and confusion between the existing Developmental Disabilities program and the new program of comprehensive services for the severely disabled has been responded to in part by the amendment offered yesterday by Senator Griffin and accepted by the Bill Managers. Senator Griffin's amendment gives State Governors the option—with the concurrence of the Secretary of HEW—of administering the new program of comprehensive services for the severely disabled in an agency other than the Vocational Rehabilitation agency.

I do not think the Federal Government contributes anything to good state services for the people we are trying to help when it puts organizational straight jackets on states.

This is a particularly serious problem when Federal legislation precludes organizational options that could help programs fit together efficiently. This bill, as it came to the Senate Floor, would prohibit a state from administering through the same agency the Developmental Disabilities program and the new program of Comprehensive Services for the Severely Disabled. This type of restriction seems to me patently unwise, given the overlapping purposes, eligibility rules, and services of the two programs.

So, I am very glad that the Griffin amendment has been adopted. I am concerned, however, that the amendment may not survive the Senate-House Conference on this bill. For one thing, Mr. President, the Managers of this bill didn't seem all that persuaded of the merits of the Griffin amendment when it was proposed yesterday.

Secondly, some of the House Members who will undoubtedly be participants in the Conference have, in the past, taken a very narrow view of state flexibility regarding organizational arrangements for the Vocational Rehabilitation program.

I hope the Senate Conferees will become more enthusiastic about the Griffin amendment and bring it through the Conference. Otherwise, we will create a serious mess in some states when the new program for the Severely Disabled is implemented.

I ask that a letter from Mr. Lloyd Rader, Director of the Oklahoma Department of Institutions, Social and Rehabilitative Services be included in the Record at this point. Mr. Radar, who has many years experience in administering human services programs, makes some very persuasive points regarding the organizational matters I have just been discussing.

The letter follows:

OKLAHOMA PUBLIC WELFARE
COMMISSION,
Oklahoma City, Okla., July 31, 1978.

Hon. HENRY BELLMON,
U.S. Senate. Russell Building,
Washington, D.C.

DEAR SENATOR BELLMON: In recent conversations between staff members of the Senate Budget Committee and staff members of this Department, there have been several questions raised about the direction that Vocational Rehabilitation services are going. I would like to express my concern regarding proposed legislation which will amend the Rehabilitation Act of 1973 and the proposed legislation which would transfer the Rehabilitative Services Administration to a newly created Department of Education. I would also like to discuss proposed amendments to the Social Security Act, which would have a direct effect on Vocational Rehabilitation funding and on State administration of the disability determination process for Social Disability Insurance and Supplemental Security Income.

I would like to identify and comment on the following legislation:

S. 991: This bill, which would establish a Cabinet-level Department of Education, contains an amendment which transfers the responsibility for administering Rehabilitative Services to the new Department, with the stipulation that such a transfer shall not affect the options available to the States with regard to organizational placement of the Rehabilitation Program. Given what appears to be a new program emphasis—the provision of social services and long-term care—the transfer of Rehabilitative Services would require the establishment of an administrative structure which duplicates those under which Title XIX and Title XX are administered. If it is the will of Congress that Rehabilitative Services be expanded to include mandated services already authorized under titles XIX and/or XX, then it would be more administratively desirable to leave Rehabilitative Services under the Cabinet-level agency that administers those titles. That point is especially significant in light of suggestions that the Secretary of DHEW is contemplating a strengthened long-term care initiative in 1979 which will seek to cut across all program lines under his administration. I believe there is a greater potential for economy if programs with greatly similar components are kept together under a single administration. I further believe the proposed transfer would ultimately lead to fragmentation rather than integration in the delivery of services to handicapped clients.

S. 2600: This bill which extends the Rehabilitation Act and the Development Disabilities Act appears to be the most palatable piece of legislation regarding these two programs. However, the expanded definition of "developmental disability" and the provision for comprehensive services could create a duplication of effort in the provision of social services. The deletion of the Hill-Burton formula in appropriation of Vocational Rehabilitation funds would remove equitable treatment to States with a smaller number of V–R recipients. Although this bill authorizes funding for five years with an annual cost of living increase, we would not be opposed to a shorter time frame as long as it was not an annual authorization.

H.R. 12467: This bill extends the Vocational Rehabilitation Act of 1973 and creates Community Service Employment Programs for Handicapped Individuals and Comprehensive Services for Independent Living. This bill creates an autonomy which would lead to a circumvention of power beginning with the Secretary of HEW and affecting the administration of Federal, State and local governments.

I would appreciate your consideration of this legislation and the impact such laws would have on Oklahoma and other States. I am especially concerned with the expansion of "services" to be provided by the Vocational Rehabilitation and Developmental Disability programs. I can appreciate the intention to assure that handicapped persons will benefit from services. But to change the direction of a program whose primary role is to assist persons in returning to labor market activities and mandate such a program to provide services which for the most part are available under other social service programs, seems illogical, unreasonable and undoubtedly expensive. I would be the first to say that handicapped individuals should be assured all benefits available under existing programs. However, I feel that the Vocational Rehabilitation program should continue with its original intent and that comprehensive services be provided by better integration of existing programs.

With regard to the federalization of the disability determination process, it is imperative that we understand the full implications of such a move. This expansion of the Federal bureaucracy would undoubtedly lead to increased cost of administration at a time when the high cost of government is under attack. Historically, State involvement in the disability determination process was mandated in order to guarantee that the Federal program would be responsive to the needs of the people. I question whether the needs of the people of Oklahoma would be better served by the federalization of this program. Oklahoma administers the V–R program and also the Disability Determination services. This provides an opportunity of sharing common efforts such as exchange of medical information, data processing activities and referrals for V–R services. If federalization occurred, there would be a breakdown in these shared efforts which would result in decreased productivity and quality as well as a significant increase in administrative costs.

Your assistance in this matter would be greatly appreciated.

Very truly yours,

L. E. RADER,
Director.

I shall offer an amendment to require that the Department of Health, Education and Welfare (HEW) undertake evaluations of the expansion of services and eligibility and of the relationship between the disability payment programs and Vocational Rehabilitation. My amendment will direct the Secretary of HEW to report back to Congress the findings from these evaluations, and to make appropriate recommendations for legislative changes.

To reiterate what I said at the outset of my statement, Mr. President, there is no group more deserving of our assistance than the handicapped who will be served under this Act. I believe that the amendments already approved and the one I am about to offer are consistent with the demands for government efficiency and responsible resource management now being heard across the land.

Mr. HATCH. Mr. President, on behalf of Mr. WALLOP, the Senator from Wyoming, I ask unanimous consent to print his speech in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR WALLOP

As we continue debate on the Vocational Rehabilitation and Developmental Disability Act, I should like to call to the Senate's attention one particular provision in this bill which I consider of great importance. Title IV of S. 2600 is entitled "Reader's Services for the Blind, Interpreter Services for the Deaf and the Hearing Impaired." It is to this provision I would like to address my remarks this morning. The handicapped in this country deserve our attention, our immediate attention. We can legislate public health programs, new public health system plans, billions of dollars for Labor-HEW appropriations, yet it takes months to bring to the Senate floor a bill which will provide necessary services for handicapped people in this country. There are many different reasons why one may be handicapped.

I wish to concentrate on the several million people in this country who are handicapped because they cannot hear. Imagine what it must be like to live in the world of silence. A child reared from birth without the ability to hear must experience not only his childhood, but his adult life in a way far different from those who are able to hear. Society is structured for those who not only see well but also hear well. Although great strides have been made in deaf education in the past few years, there is still a great deal to be done. A 1971 study of the prevalence rates for the hearing-impaired in the civilian, noninstitutionalized population point out that almost 13½ million people in this country have impaired hearing to some degree. This study also shows that almost 2 million people are totally deaf. How does a deaf person communicate with others? Lipreading is an accepted way of communication. Some deaf persons even learn to speak. However, the most common way of communicating is through sign language.

Title IV of S. 2600 would add a new section to title II of the Rehabilitation Act of 1973, providing for the establishment and continued funding of twelve centers (six of which are already in operation) to train interpreters for the deaf. This bill authorizes $30 million to be used over a three year period. The Senate should do as well to limit our budget on other bills which are not nearly so necessary and vital to a segment of our population, as is this approximately ten million dollars a year to the deaf.

As of 1977, there were less than 1600 certified interpreters for the deaf in the United States. It could easily be pointed out that the majority of these 1600 live in the highly populated areas of the country, leaving small and more rural areas with no way of reaching out to the deaf population in their communities. Wyoming is such an example of a rural state which is desperately in need of interpreters for the deaf. In a recently published directory by states of interpreters for the deaf, Wyoming's list was limited to one person. One person, Mr. President, in a State which claims close to 3,500 totally deaf people, and more than 24,000 who have impaired hearing! The single certified interpreter for the deaf in Wyoming does not mean the State is ignoring the problem. At the present time there is a small clinic in Cheyenne, Wyoming. For people who are, basically, training themselves on their own time to learn to interpret for the Deaf.

Title IV of this bill could provide the necessary facilities and emphasis to find and train new interpreters for the deaf and encourage them to stay in the rural communities where they are most needed. You note my emphasis on the words "could provide." This $30 million will not necessarily assure a state like Wyoming, Montana, or North and South Dakota that they will have programs unless we can be assured that some of the six new centers for training deaf interpreters will be established in rural sections of the country.

There are now six base centers which will be maintained for training interpreters for the deaf. These six centers are at the following locations: Gallaudet College in Washington, D.C.; St. Paul Technical-Vocational Institute in St. Paul, Minnesota; California State University in Northridge, California; Seattle Central Community College in Seattle, Washington; Delgado College in New Orleans, Louisiana; and the National Technical Institute for the Deaf in Rochester, New York. The Committee report states that an additional six centers may be established by the Secretary if such centers have operating programs for training interpreters, and if such centers are geographically situated so that every part of the nation is served.

The lack of facilities in the Western States is obvious from the all-too-infrequent listing of certified interpreters in the regional directory, and also from the locations of the existing schools. There is not only a great need in the West but a strong desire to establish training centers for deaf interpreters in this part of the country.

I have received excellent letters from Mr. Gerald Meyer, Vice-President of student affairs at the University of Wyoming in Laramie, Wyoming and the Director of the Vocation Rehabilitation Department in Cheyenne, Wyoming, Mr. Bernard Geise. The letters show a willingness by and the necessity for the State to broaden its existing facilities for training interpreters for the deaf and to begin a new program, one which could be established if this legislation is passed. I ask that the text of these letters be printed in the RECORD.

In conclusion, let me state that services to train deaf interpreters are needed throughout this country. However, the greatest need seems to be in the rural communities. If the Senate chooses to pass S. 2600 as recommended by the full committee, it is my sincere hope that new services can be directed to these areas. Wyoming is openly requesting a chance to establish a major center in the West for training interpreters for the deaf. The University of Wyoming now offers major programs in speech pathology and audiology and would be willing to accept the responsibility in conjunction with the Vocational Rehabilitation Department in the State for pioneering a new center for training interpreters for the deaf. If we can establish a credible, quality program, which I believe we can, then all the surrounding Western States would benefit by the increased numbers of interpreters who will choose to live in our area and work with the deaf in more rural communities and settings. Washington, D.C. or other similar major metropolitan areas do not have to be the mecca for the hearing impaired.

Given a chance, Wyoming, with its wide open spaces and friendly people, might well prove to be the very place to establish a major center committed to helping the deaf "hear" through the ears of other people.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AUGUST 10, 1978.

Hon. MALCOLM WALLOP,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR WALLOP: I appreciate your concern, and the concern of your staff, about the deaf in the State of Wyoming. I particularly appreciate your concern and interest in S. 2600.

Present services for the deaf in Wyoming might be summarized as follows:

In November of 1977 Vocational Rehabilitation initiated the first statewide deaf meeting, which included deaf and service providers for the deaf. Since that time we have started three movements.

A. TTY network development, and this has resulted in about twenty-five machines installed and over thirty-five on order. We started with one machine. Attached is a current directory.

B. The Deaf Association has organized and become more prominent in affecting services to the deaf.

C. We have started sign language classes in several schools, including the University of Wyoming.

D. An Interpreters Group has started with the help of the Utah Association for the Deaf and the St. Paul Consortium. Although Vocational Rehabilitation has funded most of these efforts, a wide variety of sources have offered support, some financially.

Presently we are engaging in an attempt to institutionalize and make permanent interpreter training in this state. We have a reasonable chance of obtaining funds through the present S. 2600 as regional interpretor training. At least there will be a proposal registered with HEW by the time the bill is passed. Our competition in this region will come from Utah, which has had a long established program, and Colorado, which is also trying to institutionalize its present training efforts.

I can't promise that we would succeed in our efforts to become a regional trainer of interpreters of the deaf, however, I think we stand a reasonable chance, and the bill in its present form offers Wyoming a fair opportunity to accomplish this.

The only problem with the present system is that our federal region is served by two consortiums, therefore regionally our efforts are rather diverse, to say the least.

Your office employee Cynthia ought to have other details which you may find helpful. Thakn you for your support and interest.

Aye,

BERNARD W. GIESE,
Field Services Director.

TTY CONTACTS, STATE OF WYOMING,
JULY 20, 1978

Albany County:
1. DVR, 745–3160.
2. U. Wyo. Mobile Speech & Hearing Office, 766–3144.

Campbell County:
1. Cosner, Dean, 939–1297 ranch and 682–5911 home.

Carbon County:
1. DVR Office, 326–2238.

Laramie County:
1. Baumgardner, Barbara, 632–5305.
2. Bitner, William, 632–8637.
3. DVR District Office, 777–7364.
4. Laramie County Emergency 911.
5. Laramie County Non-Emergency 635–4185.
6. Ross, William, 634–8909.
7. Slye, Edwin, 638–9244.
8. State Health & Social Services 777–7657.
9. Umaly, Tammy, 634–8909.
10. Wyoming Information & Referral 635–4105 and 1–800–442–2744.
11. McGuire, Doris, 634–1832.
12. Goodwill Living Skills, 634–6912.

Natrona Couty:
1. Bogh, Dennis, 265–1344.
2. Horn, Paula, 266–3525.
3. Quale, Burt, 265–8969.
4. Spirek, Tom, 235–0674.
5. Vocational, Rehabilitation & Casper DPASS, 234–8961.

Sweetwater County:
1. Sheneberg, Mrs. Ed., 382–3736.
2. DVR Office, 362–2770.

Unita County:
1. DVR Office, 789–2766.

LARAMIE, WYO.,
August 10, 1978.

Hon. MALCOLM WALLOP,
U.S. Senator from Wyoming. Dirksen Office Building, Washington, D.C.

DEAR MALCOLM: It was a pleasure to have talked with your staff person, Cynthia Gulley, about the possibility of a regional audiology program at the University of Wyoming. The program would have the training of interpreters for the hearing handicapped as its central thrust. It would involve cooperation with state agencies, public schools and relevant associations.

We would be pleased to have such a facility at the University of Wyoming. Our previous experience, with major programs in such pathology and audiology, would, I believe, enable us to conduct the training effort effectively and responsively.

Sincerely,

E. GERALD MEYER,
Vice President for Research.

● Mr. KENNEDY. Mr. President. I rise in support of S. 2600, a bill that establishes a comprehensive services program for the severely handicapped and extends the support programs under the Developmental Disabilities Services and Facilities Construction Act. S. 2600 is an expansion and amplification of the Mental Retardation Facilities and Community Health Centers Construction Act of 1963. Through the years, I have become increasingly concerned that although the individuals to be served by this kind of legislation has expanded, because of continued broadening of eligibility requirements, the funding levels have remained inadequate.

S. 2600 has expanded the target group to be served by the Developmental Disabilities Act by approximately 600,000 persons by including the learning disabled and others with severe chronic disabilities within the purview of the act. While I certainly believe that this expanded population has legitimate needs to be served, I am concerned that once again, while we increase the numbers of people to be served, there is not at the same time an adequate increase in funding to reflect this expansion. This may result in a diminution of service to those people currently in the program.

I want to reaffirm what the committee made clear in its report: that services provided under the act to individuals already receiving service should not be diminished as a result of the revised definition. The bill requires the Secretary to report to Congress within 2 years following enactment whether the revised definition results in a diminution of services to individuals with disabilities specifically mentioned in current law. I intend to carefully review that report.

In extending the developmental disabilities program, the committee has recognized that the developmentally disabled population, totaling almost 3 million people, is a group with special needs not shared by other handicapped individuals. Developmentally disabled individuals require care, services and planning activities from birth or early childhood throughout most of their lives. The act that is being extended is a major Federal commitment to these special people.

The philosophy underlying the DD program is unique in its broad approach to advocacy and planning. Since the inception of the act in 1970, the DD program has attempted to bring together a variety of agencies traditionally serving disabled people to develop a coordinated and comprehensive service delivery system for its target population.

Since the revision of the act in 1970, great strides have been made in making society aware of the fact that handicapped people exist and can be productive citizens if provided the appropriate programs and opportunities.

I want to emphasize, among other provisions of the act, the importance of having State planning councils, which provide a forum for an exchange of views among all parties most concerned with efforts to improve services to the developmentally disabled. Most importantly, the councils provide a structure which guarantees handicapped individuals the opportunity to express their views. I believe that it is critical to assure handicapped citizens and their advocates a voice at all stages in the development and implementation of programs designed to serve the developmentally disabled individual.

I also wish to note that the establishment of a protection and advocacy system for the developmentally disabled in 1975 marked a major advance in the movement to assure that the human and legal rights of all developmentally disabled persons would be secured. No struggle to proclaim and demand fundamental human rights has been harder or more tragic than the struggle of the developmentally disabled, for among such persons—the mentally retarded, the autistic, the cerebral palsied—are found some of those most victimized by society's prejudices and least able to be heard effectively. Names like Forest Haven and Willowbrook still conjure in one's mind the grossest form of human rights violations.

Congress authorized and appropriated $3 million annually for fiscal years 1976, 1977, and 1978 to plan, develop, and to initially operate the P. & A. systems. Congress authorized and appropriated such amounts with the expectation that these sums were sufficient to plan for and get the systems in operation. That phase has now been completed. Each State now has a protection and advocacy system in place. That system now must have sufficient Federal support to insure the protection of the rights of developmentally disabled persons. Let us remember that we are talking about a population of almost 3 million very severely handicapped individuals, most of whom cannot effectively communicate their needs or even realize that their basic rights are being violated.

I also want to strongly endorse the extension of the university-affiliated facilities demonstration and training program. In my review of the program I have been impressed, both with the training of professional personnel and in the development of exemplary service programs.

The heart of the DD program is contained in the State formula grants. These grants are used to fund State planning councils, plan services, and provide gap-filling services when necessary services cannot be provided through other monetary sources. Approximately 75 percent of the formula grant money is used to provide services. The committee amendment to S. 2600 provides, I believe, room for reasonable growth in this grant program.

I want to commend my colleagues, Mr. Randolph and Mr. Stafford, for the fine work they have done in fashioning S. 2600, and I want to particularly thank Senator Stafford for helping to achieve a most reasonable settlement with Senator McClure in making modest reductions in the authorization levels for the protection and advocacy systems.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record a statement by Mr. Anderson concerning a section of the bill S. 2600, the Vocational Rehabilitation Act.

Vinland National Center

Mr. Anderson. Mr. President, I would like to express my support of S. 2600, a bill to amend the Rehabilitation Act of 1973. Of particular concern to me and my constituents in Minnesota is the section of the bill under which programs developed by states and nonprofit agencies and organizations initiating recreational programs for handicapped individuals could be funded.

A recent nationwide survey found that, although important advances have been made in vocational and restoration programs for the handicapped, there is a critical need for centers which provide life-enriching and motivational experiences for disabled persons.

From 1975 to 1977, Vinland, a nonprofit corporation based in Minnesota, took initial steps to establish a health-related center for handicapped persons in an attempt to meet this need. The center was to be patterned, in part, after the Beitostolen Sports Center in Norway. The State of Minnesota, recognizing the potential of such a center, appropriated a $200,000 planning grant for Vinland to supplement a $200,000 Bicentennial gift from the Kingdom of Norway for the Center. Also, on August 10, 1978, the Senate-House Conference Committee on the 1978 Second Supplemental Appropriations bill included $600,000 in the bill for planning funds for Vinland.

The proposed Vinland National Center would be located near the Twin Cities in Minnesota and would serve as an education/training center for people with disabilities. Its programs would extend beyond the traditional rehabilitation-restoration programs which are designed to meet the basic needs of the disabled person and emphasize the maximum fulfillment of that person's capabilities.

This goal would be accomplished by offering a series of learning experiences to handicapped people which enable them to improve physical fitness, develop health-care skills, gain increased self-reliance and employability, and use leisure time profitably. Under the "Life Enrichment Program," handicapped persons would be taught to participate in strenuous health and sports activities at the Center. Minnesota, with four seasons, is the ideal site for such a program, since a program located there could provide learning experiences in all types of sports activities from swimming to skiing.

In addition to athletic training, the handicapped would participate in health education designed to develop and maintain sound health practices. Programs to develop proficiency and understanding of the creative and performing arts, thus enabling the individual to participate in and utilize arts and cultural resources in the community, would be an essential part of the program. Finally, one of the most important parts of the program would be personal growth and development, which would enhance the individual's ability to become an active, productive member of society upon leaving the Center.

The Vinland Center would not function in isolation, but would work with existing rehabilitation agencies and programs, state and federal governments, educational institutions, foundations, etc., in an attempt to provide the best assistance possible for disabled persons. To this end, the Center would provide information about its programs' effectiveness to the scientific community as well as to the public at large. Through services for individuals and public information programs, the Center would seek to develop community awareness of the needs of the handicapped. The Center would also provide education services, in conjunction with other institutions, to students preparing for careers as well as to professionals and volunteers working with the disabled or in related occupations.

Mr. President, S. 2600 seeks to meet the urgent needs of our handicapped citizens by extending and initiating programs to ensure protection and enhancement of their fundamental rights and opportunities. The Vinland National Center, with its philosophy of providing educational and life-enriching experiences for disabled persons, is clearly consistent with these goals.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 837, H.R. 12467.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12467) to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes.

The Senate proceeded to consider the bill.

Mr. RANDOLPH. Mr. President, I move to strike all after the enacting clause of H.R. 12467 and substitute in lieu thereof the text of S. 2600 as amended by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The question is on engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass.

The bill (H.R. 12467) was passed.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that in the engrossment of the Senate amendment to H.R. 12467, the Secretary of the Senate be authorized to make such technical and minor changes, including but not limited to changes in section and subsection designations and cross-references thereto, as may be necessary.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that consideration of S. 2600 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I must go back just a moment. We had felt that there should be a rollcall, is that correct?

Mr. STAFFORD. That is correct?

Mr. RANDOLPH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator ask that passage of the bill be vitiated?

Mr. RANDOLPH. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second for the yeas and nays? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Alabama (Mrs. Allen), the Senator from Minnesota (Mr. Anderson), the Senator from Colorado (Mr. Haskell), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Minnesota (Mrs. HUMPHREY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from Delaware (Mr. ROTH), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The result was announced—yeas 81, nays 1, as follows:

[Rollcall Vote No. 383 Leg.]

YEAS—81

Bartlett
Bayh
Bellmon
Bentsen
Biden
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Eastland
Ford
Garn
Glenn
Goldwater
Gravel
Hansen
Hart
Hatch
Hatfield, Mark O.
Hatfield, Paul G.
Hathaway
Hayakawa
Hodges
Hollings
Inouye
Jackson
Javits
Kennedy
Laxalt
Leahy
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Scott
Stafford
Stennis
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tower
Weicker
Williams
Young
Zorinsky

NAYS—1

Proxmire

NOT VOTING—18

Abourezk
Allen
Anderson
Baker
Brooke
Chafee
Griffin
Haskell
Heinz
Helms
Huddleston
Humphrey
Johnston
McIntyre
Ribicoff
Roth
Sparkman
Wallop

So the bill (H.R. 12467), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

A bill to amend the Rehabilitation Act of 1973 to extend certain programs in such act and to establish a comprehensive services program for severely handicapped individuals, to amend the Development Disabilities Services and Facilities Construction Act to extend certain programs established in such act, and for other purposes.

Mr. RANDOLPH. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. SASSER). The Senate will be in order.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the Senate insist upon its amendments and request a conference with the House of Representatives on the disagreeing votes therein; and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. RANDOLPH, Mr. WILLIAMS, Mr. EAGLETON, Mr. KENNEDY, Mr. CRANSTON, Mr. HATHAWAY, Mr. JAVITS, Mr. STAFFORD, Mr. HATCH, and Mr. SCHWEIKER conferees on the part of the Senate.

Mr. RANDOLPH. Mr. President, I shall not detain the Senate from the pursuit of other important matters. However, it is important that I state my belief that this bill reflects the very best in the Senate. The final vote shows a very substantial, almost unanimous, approval of the measure which has been debated, discussed, amended, and finally passed by the rollcall just announced.

It is a privilege to share with Senator STAFFORD and the other members of our Subcommittee on the Handicapped of the Human Resources Committee not only the opportunity—although we look upon that as a very great opportunity—but to share the responsibility of giving the attention necessary to vital legislation for handicapped individuals.

I repeat what I said in the first statement I made yesterday: What we have done by bringing this bill to the Senate is to have documented a record of 18 hearings in the Senate Subcommittee on the Handicapped and the testimony of 201 witnesses.

It is very important, when any legislation is brought into this Chamber, that there be the fullest exposure to its purposes through the hearing process and the markup within the subcommittee and within the full committee. All these meetings are on the record as are our actions in this Chamber.

On two important matters, we have compromised. We had quorum calls, and in one instance a recess, so that we might attempt not to compromise the purpose and the goal, because we have all shared that, but because we needed clarification of the intent in language of the Members of the Senate.

So I again express my appreciation to the Members of the Senate. We hope, in the near future, to bring about an agreement with the House of Representatives, so that this bill finally can be enacted and signed by the President of the United States.

I think it is most appropriate to place in the record the names of all the members of the Committee on Human Resources, of the Subcommittee on the Handicapped, and of other Senators who, during the debate in the Senate, offered amendments to perfect this measure. In this way I want to indicate my deep appreciation to those who were identified most closely with what we have done in these 2 days.

Members of the Committee on Human Resources: Mr. WILLIAMS (chairman), Mr. RANDOLPH, Mr. PELL, Mr. KENNEDY, Mr. NELSON, Mr. EAGLETON, Mr. CRANSTON, Mr. HATHAWAY, Mr. RIEGLE, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, Mr. HATCH, Mr. CHAFEE, and Mr. HAYAKAWA.

Members of the Subcommittee on the Handicapped: Mr. RANDOLPH (chairman), Mr. WILLIAMS, Mr. EAGLETON, Mr. STAFFORD, and Mr. HATCH.

Senators who offered amendments to S. 2600: Mr. BARTLETT, Mr. BELLMON, Mr. BUMPERS, Mr. CANNON, Mr. CRANSTON, Mr. DOLE, Mr. GRIFFIN, Mr. HATHAWAY, Mr. JAVITS, Mr. MCCLURE, Mr. RANDOLPH, and Mr. STAFFORD.

I also thank all the Members of the Senate, and I say again that the Senate has taken what I call a posture of positive attitude and aid to those people within our population who, in a sense, do not come to us demanding attention but come with a valid case. We have listened, and we have counseled, and now we have acted.

I also want to thank the staffs of all the members of the subcommittee and the full committee who have worked with us, and the staffs of many other members: Patria G. Forsythe, Betty Griffin, Jo Ellen Hetherington, Helyn Eagle, Jacqueline Jackson, Jan Zarro, Kathy Roy, Peter Harris, Peter Parham, Judy Robinson, Marcia McCord, Jack Wickes, Shelly Edelman, Ellen Akst, Craig Polhemus, Jack Andrews, Polly Gault, Mike Francis, Sue Walbridge, Sherri Kramer, Fran Paris, Ginny Eby, Nancy Olson, Mary Arneson, Susan Zilstra, David Morse, Mary Wheat, Carol Cox, Greg Jones, and Sandra Walker.

It is not just a pleasantry but it is a truism that here we have worked for 2 days and we have brought forth a measure that is substantial, for a very important segment of our American society.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Vermont.

Mr. STAFFORD. Mr. President, I appreciate the majority leader yielding to me.

At the conclusion of the debate and the passage of this bill on vocational rehabilitation, I think the Senate, as Senator RANDOLPH has said, has passed an excellent bill which will advance substantially the cause of those who need vocational rehabilitation in this country.

As always, it has been inspiring for this Senator, as the minority manager of the bill and the ranking minority member of the Subcommittee on the Handicapped of the Committee on Human Resources, to work with the chairman of that subcommittee (Senator RANDOLPH) under his most distinguished leadership, through long hearings in the subcommittee, through the debates and formulation of legislation in the full committee, and on the floor of the Senate.

I join Senator RANDOLPH in thanking other members of the committee for their participation, and particularly express appreciation to our personal staffs, who have assisted us throughout the consideration of this bill. I also thank the members of the committee staff, who have helped us. Without their skillful assistance, I am sure we would not have been able to pass the bill as expeditiously as we have.

Mr. JAVITS. Mr. President, the Senate should be fully cognizant of the great contribution to this legislation by Senator Jennings Randolph, the chairman of the Subcommittee on the Handicapped, and of Senator Robert Stafford, the subcommittee's ranking minority member. Their diligence, wisdom and hard work has resulted in extraordinary improvement in programs to assist handicapped persons.

I would like to express my appreciation to the many staff members whose hard work has also contributed so greatly to S. 2600. In particular, I commend the efforts of Pat Forsythe and Betty Griffin of Senator Randolph's staff, Mike Francis and Sue Walbridge of Senator Stafford's staff, and David Morse of my committee staff. I would also like to recognize the efforts of Mike Hermann, currently a student at Harvard University and Jay Gede, currently a student at the Virginia Military Institute, who interned with the committee minority during the summer months and whose assistance to us in the preparation of S. 2600 was invaluable.

The PRESIDING OFFICER. The majority leader, the Senator from West Virginia, is recognized.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the able majority leader.

Mr. President, I take this opportunity to commend the able Senator from West Virginia (Mr. Randolph), the able Senator from Vermont (Mr. Stafford), the able Senator from Utah (Mr. Hatch), and others who performed so nobly in this rehabilitation bill which has just been passed by the Senate.

This bill extends certain programs, and it goes further than that. It also provides comprehensive services for the severely handicapped.

Mr. President, it is amazing how many handicapped people there are in this country, and this bill, in my judgment, is going to bring good returns because there are thousands of these people who with proper training can be made productive citizens and can lead to efficient lives and contribute to our civilized society.

I just commend them for this important legislation, and I look upon vocational rehabilitation as one of the finest programs upon which Congress acts.

I wish to thank the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from South Carolina.

ROUTINE MORNING BUSINESS

(Routine morning business transacted and additional statements submitted follow:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE 1976 UPLAND COTTON PROGRAM—MESSAGE FROM THE PRESIDENT—PM 218

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, with an accompanying report, which was referred to the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the provisions of section 609, Public Law 91-524, I transmit herewith for the information of the Congress the report of the 1976 upland cotton program.

Jimmy Carter.

The White House, *September 21, 1978.*

REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT—PM 219

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with Section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the fourteenth quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council's activities during the first quarter of 1978 in monitoring both prices and wages in the private sector and various Federal Government activities that may lead to higher costs and prices without creating commensurate benefits. It discusses Council reports, analyses, and filings before Federal regulatory agencies.

The Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

Jimmy Carter.

The White House, *September 21, 1978.*

REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 220

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Human Resources:

To the Congress of the United States:

I transmit herewith the 1977 Annual Report on the Administration of the Radiation Control for Health and Safety Act (Public Law 90-602) as prepared by the Secretary of the Department of Health, Education, and Welfare.

The report recommends that those sections of subpart 3, Part F of Title III of the Public Health Service Act, 42 U.S.C. 262 et seq. (Public Law 602), which require the compilation of this annual report be repealed. This report cost $3,780 to prepare.

All of the information found in this report is available to Congress on a more immediate basis through Congressional committee oversight and budget hearings and the FDA Annual Report. We have concluded that this annual report serves little useful purpose and diverts agency resources from more productive activities.

Jimmy Carter.

The White House, *September 21, 1978.*

AGREEMENT BETWEEN THE UNITED STATES AND THE REPUBLIC OF GERMANY ON SOCIAL SECURITY—MESSAGE FROM THE PRESIDENT—PM 221

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Finance and the Committee on Foreign Relations, jointly, by unanimous consent:

To the Congress of the United States:

Pursuant to section 233(e)(1) of the Social Security Act as amended by the Social Security Amendments of 1977 (P.L. 95-216; 42 U.S.C. 433), I am transmitting the Agreement between the United States of America and the Federal Republic of Germany (F.R.G.), signed on January 7, 1976, the Final Protocol to the 1976 Agreement, also signed on January 7, 1976, and the Administrative Agreement to implement the 1976 Agreement, signed on June 21, 1978.

These U.S.-F.R.G. agreements are similar in objective to the U.S.-Italian social security agreements which I submitted to the Congress on February 28, 1978. Such bilateral agreements, which are generally known as totalization agreements, provide for limited coordination between the United States and foreign social security systems to overcome the problems of gaps in protection and of dual coverage and taxation. In addition to remedying these problems, the 1976 U.S.-F.R.G. Agreement and Administrative Agreement would extend under specified conditions voluntary coverage rights under the F.R.G. system to U.S. citizens who have a prior connection with the F.R.G. system or who reside in the United States and were victims of persecution.

I also transmit for the information of the Congress a comprehensive report prepared by the Department of Health, Education, and Welfare, which explains the provisions of the Agreement and provides data on the number of persons affected by the agreements and the effect on social security financing as required by the same provision of the Social Security Amendments of 1977.

The Department of State and the Department of Health, Education, and Welfare join in commending this Agreement, Protocol, and Administrative Agreement.

JIMMY CARTER.

THE WHITE HOUSE, *September 21, 1978.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States, transmitting an agreement, final protocol to the agreement, and the administrative agreement to implement the agreement on social security between the United States and the Federal Republic of Germany be jointly referred to the Committees on Finance and Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 10:32 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bills, each with an amendment in which it requests the concurrence of the Senate:

S. 1816. An act to amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of guayule rubber production and manufacture as an economic development opportunity for the Southwestern States; and

S. 2416. An act to amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training.

The message also announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 3092. An act to amend the Federal Meat Inspection Act to require that meat inspected and approved under such act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to H.R. 3702, an act to amend title 10, United States Code, to make certain changes in the retired serviceman's family protection plan and the survivor benefit plan as authorized by chapter 73 of that title, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 12326. An act to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs under that act, and for other purposes;

H.R. 12460. An act to amend the Public Health Service Act and the Community Mental Health Centers Act to revise and extend the programs under those acts for health care delivery centers, and for other purposes;

H.R. 13097. An act to amend certain provisions of title XVIII of the Social Security Act with respect to the medicare program established by such title, and for other purposes; and

H.R. 13817. An act to amend the Social Security Act with respect to health programs authorized under it, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 1896. An act to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979;

S. 3002. An act to modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes;

S. 3271. An act to amend the pilot project workfare provisions of the Food Stamp Act of 1977;

S. 3272. An act to amend the Packers and Stockyards Act, 1921, and for other purposes;

S. 3375. An act to amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines;

H.R. 8149. An act to provide customs procedural reform, and for other purposes;

H.R. 11401. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; and

H.R. 12935. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1979, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. EASTLAND).

At 3:15 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to H.R. 8811, an act to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 8755. An act to make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States; and

H.R. 11409. An act to make permanent the existing temporary suspension of duty on certain dyeing and tanning materials.

HOUSE BILL HELD AT THE DESK

The following bill was read by title and held at the desk, pursuant to order of May 23, 1978:

H.R. 12326. An act to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs under that act, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 8755. An act to make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States; to the Committee on Finance.

H.R. 11409. An act to make permanent the existing temporary suspension of duty on certain dyeing and tanning materials; to the Committee on Finance.

H.R. 12460. An act to amend the Public Health Service Act and the Community Mental Health Centers Act to revise and extend the programs under those acts for health care delivery centers, and for other purposes; to the Committee on Human Resources.

H.R. 13097. An act to amend certain provisions of title XVIII of the Social Security Act with respect to the medicare program established by such title, and for other purposes; to the Committee on Finance.

H.R. 13817. An act to amend the Social Security Act with respect to health programs authorized under it, and for other purposes; to the Committee on Finance.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 21, 1978, he presented to the President of the United States the following enrolled bills:

S. 1896. An act to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979;

S. 3002. An act to modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes;

S. 3271. An act to amend the pilot project workfare provisions of the Food Stamp Act of 1977;

S. 3272. An act to amend the Packers and Stockyards Act, 1921, and for other purposes; and

S. 3375. An act to amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

SECOND CONCURRENT RESOLUTION—CONFERENCE REPORT

Mr. MUSKIE, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 683) revising the congressional budget for the United States Government for the fiscal year 1979 (Rept. No. 95-1205).

By Mr. KENNEDY, from the Committee on Human Resources, with an amendment:

S. 2910. A bill to establish a program for developing networks of community-based services to prevent initial and repeat pregnancies among adolescents, to provide care to pregnant adolescents, and to help adolescents become productive independent contributors to family and community life (together with minority and additional views) (Rept. No. 95-1206).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 551. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2995 (Rept. No. 95-1207).

S. Res. 558. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 2329 (Rept. No. 95-1208).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. CANNON. Mr. President, as in

executive session, I report favorably sundry nominations in the National Oceanic and Atmospheric Administration and the U.S. Coast Guard which have appeared previously in the CONGRGESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of August 14 and September 6, 1978, at the end of the Senate proceedings.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Ambler Holmes Moss, Jr., of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States to Panama.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Ambler H. Moss, Jr.

Post: Ambassador to the Republic of Panama.

Contributions, amount, date, donee.

1. Self: See reverse of this form.
2. Spouse: No contributions.
3. Children and Spouses: Names—Ambler H. Moss, III; Benjamin S. Moss; no contributions.
4. Parents: Names—Mrs. Dorothea W. Garrett; no contributions.
5. Grandparents: Deceased.
6. Brothers and Spouses: Names—Robert W. and Marguerite Moss; no contributions.
7. Sisters and Spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Marilyn Pricila Johnson, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Togo.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Marilyn P. Johnson.

Post: Ambassador to Togo.

Contributions, amount, date, donee

1. Self: None.
2. Spouse: None.
3. Children and Spouses: None.
4. Parents: None.
5. Grandparents: None.
6. Brothers and Spouses: None.
7. Sisters and Spouses: Margaret Persis Johnson, None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Thomas R. Pickering, of New Jersey, to be an Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

G. William Miller, of California, to be U.S. Alternate Governor of the International Monetary Fund.

The following-named persons to be Representatives of the United States to the 33d Session of the General Assembly of the United Nations;

Andrew J. Young, of Georgia;
James F. Leonard, Jr., of New York;
ABRAHAM A. RIBICOFF, U.S. Senator from the State of Connecticut;
JAMES B. PEARSON, U.S. Senator from the State of Kansas; and
Set Charles Momjian, of Pennsylvania.

The following-named persons to be Alternate Representatives of the United States to the 33d Session of the General Assembly of the United Nations:

Donald F. McHenry, of Illinois;
Melissa F. Well, of New York;
Angelique O. Stahl, of Florida;
John W. Hechinger, of the District of Columbia; and
Richard W. Petree, of Virginia.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. THURMOND:

S. 3513. A bill for the relief of Dr. C. Sethumadhaven; to the Committee on the Judiciary.

By Mr. MORGAN:

S. 3514. A bill to provide for recalculation of the retired pay of individuals who served as Sergeant Major of the Marine Corps before December 16, 1967; to the Committee on Armed Services.

By Mr. BENTSEN:

S. 3515. A bill to amend the Internal Revenue Code of 1954 to facilitate tax exempt financing of public water resource projects and to allow advanced refundings of obligations issued to finance public airports, docks and wharves; to the Committee on Finance.

By Mr. BARTLETT:

S.J. Res. 163. A joint resolution designating March 30, 1979 and succeeding years as "Black Americans Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT MEASURES

By Mr. MORGAN:

S. 3514. A bill to provide for recalculation of the retired pay of individuals who served as sergeant major of the Marine Corps before December 16, 1967; to the Committee on Armed Services.

● Mr. MORGAN. Mr. President, I am pleased and honored to introduce today legislation that will correct an inequity and pay tribute to two of the senior enlisted persons who have served as sergeants major of the U.S. Marine Corps.

This bill will provide recalculation of the retired pay of persons who served as sergeant major of the Marine Corps between September 1, 1959, and December 16, 1967.

In reviewing the history of the U.S. Armed Forces, we find that the U.S. Marine Corps first began experimenting with a top enlisted billet in the 1950's. Through the subsequent period leading to December 16, 1967, four senior enlisted marines were assigned to the billet of sergeant major of the Marine Corps. The first is deceased. Of the three living, two are not entitled to a monthly retired pay calculated on the same basis as their peers, while the third retired following a congressional amendment to title 37 authorizing a higher basic pay for persons assigned to the top enlisted positions in each armed force.

It was through the pioneering dedication, devotion, and loyalty of these former marine noncommissioned officers that the other services came to realize the importance of having a senior enlisted advisor to their respective chiefs of staff.

They served in a most trying and difficult period and through determination and sincere belief in the mission of their office, dedicated every minute to the task before them. They traveled extensively, their workloads were tremendous, their hours demanding—yet they maintained the trust and confidence of their seniors and won the plaudits of enlisted members.

Unfortunately, they served at an inappropriate time for pay purposes. They were provided proficiency pay under Public Law 85-422, but were not authorized to compute this additional pay upon retirement. Despite the demands of their high office, these sergeants major were retired with the same annuity as that entitled to any E-9 with the same paygrade and years of active service.

Public Law 90-207 increased the pay of the top enlisted persons and subsequent assignees were entitled to compute their retired pay at the higher figure.

I believe very strongly that by virtue of their pioneering spirit, and because they served so admirably during their assignments as sergeants major of the Marine Corps, they are entitled to special legislation that would authorize them to recompute their retired pay, based on the amount of increase provided for senior enlisted persons under Public Law 90-207, upon enactment of this legislation.

This is no more than equity for two senior enlisted men similar to that rendered two senior general officers in the bill, S. 2714, passed during the 93d Congress, 1st session (Calendar No. 491, Senate Report No. 93-517). In any case, it is a fair way to provide entitlements to two dedicated NCO's that are now available to all other military retirees who are serving or have served or will serve in these prestigious positions.

I believe it is only fair that we now apply the same principle of authority to the first sergeants major of the Marine Corps. Only three of the four are still living, and one was serving in that position when the Pay Act of 1967 was adopted. He will not be affected by this legislation. One of the remaining two is now 76 years of age.

It is fitting that we honor these pioneer senior Marine noncommissioned officers for paving the way for all the services to recognize the value of having top enlisted advisers in a position of authority.

The legislation I offer is supported by the Noncommissioned Officer Association of the U.S.A. (NCOA). It will permit these two distinguished enlisted military men to recalculate their retired pay to reflect the special basic-pay adopted in 1967.

The legislation would be effective October 1, 1978, and will have no retroactive payments and no increase in entitlements for periods before October 1, 1978. The first year's cost is estimated to be $6,196 and will be approximately $7,749 by 1983.

This matter was passed by the House as H.R. 10343 on the Consent Calendar and we should do no less for these deserving men. I ask unanimous consent that the bill and the biographies of these two men be printed in the RECORD:

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the retired pay of any individual who served as sergeant major of the Marine Corps and who completed such service before December 16, 1967, shall be computed based upon a rate of basic pay of the sum of (1) the highest rate of basic pay to which such individual was entitled while so serving, and (2) $150.

(b) For the purpose of computing any adjustment under section 1401a of title 10, United States Code, in the retired pay of any individual whose retired pay is affected by subsection (a), the rate of basic pay provided under such subsection for the purpose of computing the retired pay of such individual shall be considered to have been the rate of basic pay applicable to such individual at the time of his retirement, and any adjustment under such section 1401a in the retired pay of such individual before September 30, 1978, shall be readjusted to reflect such rate of basic pay.

SEC. 2. (a) Any change in the retired pay of any individual by reason of the enactment of this Act shall be effective for months beginning after September 30, 1978.

(b) The enactment of this Act shall not reduce the retired pay of any individual.

SERGEANT MAJOR THOMAS J. MCHUGH, USMC

Sergeant Major Thomas J. McHugh served as the third Sergeant Major of the Marine Corps from June 29, 1962, until July 16, 1965. For outstanding service as the Marine Corps' senior noncommissioned officer, he was awarded the Navy Commendation for Achievement Award. He was promoted to the rank of sergeant major, December 31, 1955.

Sergeant Major McHugh was born December 23, 1919 in New York City, the son of the late Peter and Bridget Porter McHugh. He grew up in Philadelphia, Pennsylvania, where he received his education, and enlisted in the Marine Corps Reserve on October 3, 1938. He was called to extended active duty, November 7, 1940, and integrated into the regular Marine Corps in May 1943, following the expiration of his first enlistment.

Following his entry into service, Sergeant Major McHugh served as a corporal at the Philadelphia Navy Yard; the Marine Barracks, Quantico, Virginia; the Training Center, New River (later Camp Lejeune), North Carolina; and the Marine Corps Air Station, Cherry Point, North Carolina. Promoted to sergeant in March 1942, he joined C Company, 1st Battalion, First Marines, and that June sailed aboard the USS *Barnett* from San Francisco for the Pacific area.

During World War II combat, he was attached to the 1st Marine Division with his unit, taking part in the Guadalcanal, Cape Gloucester and Peleliu campaigns, and rose to platoon sergeant and gunnery sergeant prior to his return to the United States in November 1944. He was awarded the Purple Heart for wounds suffered in the Peleliu operation.

On his return to the United States, Sergeant Major McHugh served as NCO in charge of the Rifle Range, Marine Corps Air Station, Cherry Point. In July 1945, he was ordered to Camp Lejeune, where he served as Company First Sergeant and Compnay Gunnery Sergeant with the Infantry Training Regiment, with the 1st Infantry Battalion of the 1st Special Marine Brigade, and with the 2d Battalion, Eighth Marines. He was redesignated a technical sergeant in December 1946, and remained at Camp Lejeune until September 1948.

Transferred to the West Coast, he embarked in November 1948 for Guam, where he joined the Fifth Marines, 1st Provisional Marine Brigade, Fleet Marine Force, as Company First Sergeant and Company Gunnery Sergeant. Upon the outbreak of hostilities in Korea, he took part in combat with the 1st Marine Brigade and, subsequently, the 1st Marine Division, as First Sergeant, H Company, 3d Battalion, Fifth Marines, during the Pusan Perimeter, Inchon-Seoul, and Chosin Reservoir campaigns. The Navy Commendation Ribbon with Combat "V" was awarded him for meritorious service in Korea. He was promoted to master sergeant in Korea in December 1950, and returned to the United States in March 1951.

That summer he was assigned briefly as Assistant Battalion Sergeant Major of the Officer Candidate Class Battalion, Special Training Regiment, Parris Island, South Carolina. In August 1951, he began a three-year tour of duty with the U.S. Naval Reserve Officers' Training Corps unit at Yale University, New Haven, Connecticut. He served there as Assistant Marine Officer Instructor, and NCO in charge of recruiting and enrolling candidates for the Officer Candidate Class and Platoon Leader Class programs.

Sergeant Major McHugh returned to Camp Lejeune in August 1954, and served briefly as Sergeant Major of the 2d Engineer Battalion, 2d Marine Division, before becoming Division Field Sergeant Major. In July 1957, he again embarked for duty overseas with the 1st Marine Brigade, Fleet Marine Force, Kaneohe Bay, Oahu, Hawaii. During his three years there, he served consecutively as Sergeant Major of the 1st Marine Brigade, the 2d Battalion, and the Fourth Marine Regiment (Reinforced).

In July 1960, he was assigned as Sergeant Major of the Marine Corps Landing Force Development Center, Marine Corps Schools, Quantico. The following May, he became Sergeant Major of the Marine Corps Air Station, Quantico. While serving in this capacity, he was selected for the Corps' top enlisted billet, and assumed his new duties as Sergeant Major of the Marine Corps, June 29, 1962.

Following his tour as Sergeant Major of the Marine Corps, he was ordered to Okinawa for duty as Sergeant Major of Camp Smedley D. Butler, serving in that capacity until September 1966.

Upon his return to the United States, Sergeant Major McHugh became Sergeant Major, Marine Corps Schools, Quantico, Virginia. Upon redesignation of that command, he was Sergeant Major of Marine Corps Development and Education Command. He was awarded a Certificate of Commendation for his service at Quantico.

Transferred to Camp Lejeune, North Carolina, in May 1968, he served as Sergeant Major of Force Troops, Fleet Marine Force, Atlantic until April 1969, when he was ordered to the Republic of Vietnam. He served in Vietnam for 13 months as Sergeant Major of the 1st Marine Aircraft Wing. In 1970 he returned to the United States and was assigned as Sergeant Major, Marine Corps Air Station, New River, N.C. In December of that year he retired with more than 32 years of service to his country.

A complete list of Sergeant Major McHugh's medals and decorations includes: the Navy Commendation Medal with Combat "V", the Purple Heart, the Presidential Unit Citation with four bronze stars in lieu of second through fifth awards, the Good Conduct Medal with one silver star and 2 bronze stars, indicative of five through 8th awards, the American Defense Service Medal, the Asiatic-Pacific Campaign Medal with one silver star indicative of five bronze stars, the American Campaign Medal, the World War II Victory Medal, the Navy Occupation Service Medal with Europe clasp, the National Defense Service Medal, the Korean Service Medal with four bronze stars, the Vietnam Service Medal with three bronze stars, the United Nations Service Medal, three awards of the Korean Presidential Unit Citation, and the Republic of Vietnam Campaign Medal.

SERGEANT MAJOR FRANCIS D. RAUBER, USMC (RETIRED)

Sergeant Major Francis Drury Rauber served as Sergeant Major of the Marine Corps from September 1, 1959 until his retirement from active duty on June 28, 1962.

Born July 10, 1901, in Rochester, New York, Sergeant Major Rauber graduated from high school there in 1918, then saw two years' active duty in the National Guard. He began his first enlistment in the Marine Corps December 9, 1921, rising to the rank of sergeant prior to his honorable discharge in February 1926. During this time, he received his initial training at Parris Island, South Carolina, then was assigned to the 1st Marine Brigade at Port au Prince, Haiti; the 5th Marine Regiment, Marine Expeditionary Force, the forerunner of the Fleet Marine Force; the Marine Barracks, Norfolk, Virginia; and the 29th Company, 4th Regiment, Marine Corps Base, San Diego, California.

Upon the outbreak of World War II, the sergeant major again offered his services to the Marine Corps, and on May 1, 1942 reenlisted and was reappointed to the grade of sergeant. In January 1943, he completed First Sergeants' School at the Philadelphia Navy Yard.

His service in the rank of sergeant major dates from February 1943 when he was named Post Sergeant Major at the New York Naval Shipyard, Brooklyn, and Sergeant Major of the 3rd Marine Corps Reserve District. In March 1948, he was transferred to the West Coast for assignment to Fleet Marine Force, Pacific, as Sergeant Major with the 9th Marine, 1st Provisional Marine Brigade. Arriving in Guam, Mariana Islands, in May 1948, he served in this capacity there until November, and in Tsingtao and Shanghai, China, until April 1949, when he returned to Camp Witek, Guam.

In March 1950, Sergeant Major Rauber embarked for the United States for a brief assignment as Sergeant Major, Staff of the Inspector-Instructor, 19th Infantry Battalion, Rochester. Ordered to Cherry Point, North Carolina, in January 1951, he served consecutively as Squadron and Group Sergeant Major with MGCIS-5 and MACG-1, 2d Marine Aircraft Wing. In March 1952, he joined the Marine Corps Air Station, Miami, Florida, as Operations Squadron 3 Sergeant

Major, becoming Headquarters Sergeant Major in June 1953.

Transferred to Washington, D.C., in April 1954, the sergeant major began a four-year tour of duty as Sergeant Major of the Personnel Department, Headquarters Marine Corps. In May 1958, upon being transferred to Pearl Harbor, Oahu, Hawaii, he became Sergeant Major of Fleet Marine Force, Pacific. Following this assignment, he returned to Headquarters Marine Corps and, in September 1959, assumed the Marine Corps' top enlisted billet as Sergeant Major of the Marine Corps. He served in this capacity until his retirement, June 28, 1962, serving under the late General Randolph McC. Pate, and his successor, General David M. Shoup.

Sergeant Major Rauber is married to the former Kathleen Benton. He has two daughters, Mrs. Daniel A. Malay and Mrs. Waldemar M. Riley. The Raubers now live in Sun City, California.●

By Mr. BENTSEN:

S. 3515. A bill to amend the Internal Revenue Code of 1954 to facilitate tax exempt financing of public water resource projects and to allow advanced refundings of obligations issued to finance public airports, docks and wharves; to the Committee on Finance.

WATER DEVELOPMENT BONDS

● Mr. BENTSEN. Mr. President, I am today introducing legislation to amend section 103(b) of the Internal Revenue Code to clarify that tax exempt bonds can continue to be used for the financing of public water resource projects.

This proposal would insure that Federal tax policy does not unintentionally interfere with the important national objective of providing adequate supplies of water and energy to ranchers, farmers, and other persons in rural America. In light of the seriousness of the water problem throughout the Western States, I intend to offer this bill as an amendment to the tax cut bill currently pending before the Senate Finance Committee.

In addition, this legislation will allow advanced refundings of revenue bonds that are issued for public airports, wharves, and docks. The technique of advanced refundings can be used to reduce the interest costs of State and local governments.

I intend to work closely with the Treasury Department to insure that this legislation allows tax exempt financing only for legitimate public functions and does not permit any abuses.●

By Mr. BARTLETT:

S.J. Res. 163. A joint resolution designating March 30, 1979 and succeeding years as "Black Americans Day"; to the Committee on the Judiciary.

BLACK AMERICANS DAY

● Mr. BARTLETT. Over a century ago, this Nation formally recognized that suffrage should not be denied on the basis of race with the ratification and certification of the 15th amendment. I am today introducing a resolution to commemorate this occasion and designate it as Black Americans Day.

As a result of the Civil War, Congress amended the Constitution three times. The 13th amendment abolished slavery. The 14th amendment guaranteed equal rights regardless of race. The 15th amendment provided that—

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous servitude.

Passage of a separate amendment covering voting rights emphasized the central importance of voting in this country. Congress justifiably feared that blacks would lose many of their new found rights if they were denied suffrage. After much deliberation and consideration, the amendment was passed by the Congress, ratified by the States, and finally certified by the Secretary of State on March 30, 1870.

The certification of the amendment did not automatically solve the suffrage problem. Many years of judicial review and legislative action have been needed to insure enfranchisement of blacks. However, I believe that procedural barriers to black registration and voting have finally been all but eliminated.

We have made remarkable progress in the last century. Nearly 9 million blacks are registered today. Black officials are beginning to appear with increasing frequency. Unfortunately, the elimination of procedural barriers has not been enough. Although we have made immense registration gains, blacks have not exercised their right to vote as much as others in our society for some reason or another. For example, the gap between the percentage of eligible blacks voting and the overall percentage of eligible citizens voting in the 1976 elections was over 10 percentage points.

Many reasons have been advanced to explain this low turnout. Some observers feel that blacks are disillusioned and do not believe that voting matters. They may feel that their voices will never be heard. Others may be insufficiently informed about their right to vote and even about elections in general. We are apparently facing the final stumbling block in our efforts to provide universal opportunities to vote—an attitudinal barrier which does not recognize the value of such opportunities.

No amount of legislation can cure this malaise. The only remedy is a growing awareness and willingness to participate in the electoral process in the black community. The best we can do as legislators is to stimulate and encourage this community change. That is why I am proposing Black Americans Day.

I have always been interested in programs which seek to involve blacks in the mainstream of our society. As Governor of Oklahoma, I sponsored several successful programs which aimed to increase black employment and the number of black-owned businesses.

As Senator, I have provided outreach services to help Oklahoma blacks participate fully in Federal programs. In the Select Committee on Small Business, I have frequently focused attention on the problems of minority businesses. Since voting is essential for true mainstream involvement in the system, I am now proposing this resolution.

It is my hope that the adoption of this resolution will encourage blacks across the country to develop programs and activities built around voter rights and privileges. These programs should eventually lead to higher black voting percentages and increased participation in the governing process.

In the not-so-distant future, we will celebrate the 200th anniversary of the ratification of the U.S. Constitution. I hope that we will have reached our goal of equal participation by all groups in the electoral process by that time. I believe that the adoption of this resolution, designating March 30 of each year as Black Americans Day, would be an important step toward promoting black voting and participation in Government.●

ADDITIONAL COSPONSORS

S. 2920

At the request of Mr. HOLLINGS, the Senator from New Jersey (Mr. CASE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Idaho (Mr. CHURCH), the Senator from Nevada (Mr. LAXALT), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of S. 2920, a bill to amend the Trade Act of 1974.

S. 3371

At the request of Mr. DECONCINI, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 3371, a bill to repeal certain provisions of law establishing limits on amounts of land which certain religious corporations can hold in any territory of the United States.

S. 3392

At the request of Mr. JACKSON, the Senator from Colorado (Mr. HASKELL), the Senator from Michigan (Mr. RIEGLE), the Senator from Kentucky (Mr. FORD), and his own name were added as cosponsors of S. 3392, a bill to provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy and other Federal agencies.

SENATE JOINT RESOLUTION 153

At the request of Mr. ROBERT C. BYRD (for Mr. ANDERSON), the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of Senate Joint Resolution 153, authorizing the President to proclaim the third week in June 1979 as "National Veteran's Hospital Week.

AMENDMENT NO. 3302

At the request of Mr. BUMPERS, the Senator from New Mexico (Mr. SCHMITT) and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of amendment No. 3302 proposed to S. 2600, the Rehabilitation, Comprehensive Services and Developmental Disabilities Act of 1978.

AMENDMENT NO. 3383

At the request of Mr. SCHWEIKER, the Senator from Texas (Mr. TOWER) was added as a cosponsor of amendment No. 3583, intended to be proposed to H.R. 5285, an act providing for tariff treatment of film, strips, sheets, and plates of certain plastics or rubber.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

● Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Mississippi

(Mr. Eastland), and for the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, September 28, 1978, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

Norval Morris, of Illinois, to be Administrator of Law Enforcement Assistance vice Richard W. Velde, resigned.

Homer F. Broome, Jr., of California, to be Deputy Administrator for Administration of the Law Enforcement Assistance Administration vice Paul K. Wormell, resigned.

Henry S. Dogin, of New York, to be Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration vice Henry F. McQuade, resigned.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.●

SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES

● Mr. BIDEN. Mr. President, on Wednesday, September 27, 1978, on Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary will hold hearings on the subject of career criminals. Two bills, S. 28, introduced by Senator Mathias, and S. 3216, introduced by Senator Bentsen, will be under discussion during the hearings.

The hearing will begin at 10 a.m. in room 2228, Dirksen Senate Office Building. Further information may be obtained from the subcommittee staff at 224–3281, in room 2204, Dirksen Senate Office Building.●

MEETING ON COOPERATIVE PRICING ON WHEAT EXPORTS

● Mr. TALMADGE. Mr. President, on September 27 at 9:30, there will be an informal discussion in the caucus room of the Russell Senate Office Building among a group of visiting Canadian senators, members of the Senate Committee on Agriculture, Nutrition, and Forestry, and others interested in considering cooperative pricing on wheat exports. The Canadian delegation will be led by the Honorable Hazen Argue, chairman of the Canadian Senate Committee on Agriculture. The discussions are a followup of the June sessions in Winnipeg, Canada, which were attended by Senators McGovern, Bellmon, and Melcher of our committee.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a markup session on S. 3392, the photovoltaics bill, and S. 3078, the uranium milltailing bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hold a hearing on numerous nominations and to consider S. 3309, legislation to amend the Indochina Migration and Refugee Assistance Act of 1975, in providing for assistance to new refugees.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

D.C. VOTER REPRESENTATION

● Mr. HAYAKAWA. Mr. President, the California State Legislature was the first to consider the proposed amendment to the Constitution granting full voting representation in Congress to the District of Columbia. I believe that members of this legislature made a wise decision in deferring a final vote on ratification until the substantive merits of the amendment could be considered more thoroughly.

To be first in line to approve an amendment is a dubious honor if it prevents careful and reflective consideration. Amending the Constitution is too important to permit any other course of action.

I am also pleased that the State legislators in my State will now have the opportunity to read an excellent article, recently published in the San Francisco Chronicle, written by my friend and distinguished colleague from Utah, Senator Orrin Hatch. Mr. President, I ask that the text of the article written by Senator Hatch be printed in the Record.

The article follows:

How Congress Blew It on the D.C. Question

(By Orrin G. Hatch)

(The Senate recently approved a proposed constitutional amendment that would grant the 700,000 residents of the District of Columbia full voting representation in Congress. The amendment must be ratified within seven years by at least 38 state legislatures.)

Seldom does the Senate face easy issues that have easy answers. Usually we are so well aware of the complexity of issues that even when they are resolved by a vote, few can say with confidence whether we have done good or ill for the country.

In the midst of unresolved energy concerns, rising taxes, a declining dollar, and growing Soviet power, District of Columbia representation offered pressure-cooked senators a brief respite. The prospect of righting a long-standing injustice at a single vote created a mood of euphoria. We jumped at this rare chance to do so much good so easily.

Euphoria is a wonderful thing in that it tends to dispel all doubts, fears and apprehensions. Those who are usually deliberate and given to sound judgment become hasty. Euphoria feeds itself and becomes epidemic-like as it spreads, nourished by its own momentum. And as every senator knows, we need something sometimes to be euphoric about.

But how can so much good be done so easily? Usually progress proceeds, if at all, in small steps, not by leaping whole buildings in a single bound. Already we realize that one translate a difficult constitutional question into an easy civil rights issue.

What we have done has costs that we didn't consider. We haven't just expanded the Civil Rights Act of 1964. We have set aside the intent of the framers of the Constitution in a manner that has created Constitutional problems.

Article V of the Constitution says that "no state, without its consent, shall be deprived of its equal suffrage in the Senate." But that is what we do when we give the District of Columbia representation in the Senate. Treating a non-state the same as a state deprives the states of equal suffrage in the Senate.

The manner in which we have provided representation for the District has created another constitutional problem with even more far-reaching implications.

The measure that we passed and are asking the states to ratify creates two kinds of democracy. According to the provisions of the measure, residents of the District, which does not have a state legislature, would vote directly for president and vice president and ratification of constitutional amendments.

This would be a direct form of democracy, in contrast with the representative form that characterizes the 50 states. Residents of states elect the president and vice president indirectly through the electoral college, and the states' legislatures ratify constitutional amendments.

In these instances, citizens of states would not have rights equal to citizens of the District. To avoid this inequality, states would have to move to direct election, by the people, of the president and vice president and direct ratification of constitutional amendments.

It is at least an open question whether the Senate has righted a wrong or set in motion a process that will completely alter our system of government.

What have we gained in the representation that justifies the constitutional problems we have acquired? We have gained two senators who cannot act independently of the majority party in Congress. The measure that has passed does not remove Congress' power of exclusive legislation over the affairs of the District.

The authority of Congress over the District is equivalent to that of a state legislature over a state. Congress can veto the decisions of the District government and even abolish it.

What does it mean for the District to have voting representatives in Congress when the majority in Congress has them under its thumb through its veto power over the governing actions of the District itself? The District will have senators without sovereignty. Is this representation or hegemony of a congressional majority over the votes of the District's senators?

The inescapable question is what do we do? To avoid the problem with Article V of the Constitution we must either get consent of the 50 states, which is unlikely, repeal the specific proviso of Article V, or make the District a state.

It may be better to repeal Article V because if we make the District a state, it is going to lack the diversity of interests that characterize all other states. Sixty-four percent of the residents of the District work for the Federal government. Others are employed by the District government, and a large number of others live on federal transfer payments.

District senators would be federal senators representing the interests of government itself.

The clearest solution to representation is to retrocede the inhabited part of the District to Maryland. This avoids both constitutional problems without producing a new state that would be a "company town" without a diversity of interests. There is a good precedent for this solution. Alexandria was retroceded by the District to Virginia in 1846.

The states must now do what the Senate didn't do—face the constitutional issues that the Senate avoided by pretending it was dealing with a civil rights issue.

Perhaps the framers of the Constitution foresaw that Congress would, in times of pressure and haste, make constitutional mistakes. That is why constitutional changes provide for deliberation by requiring ratification by three-fourths of the states.

The euphoric mist has lifted, leaving the states to face the hard issues that are now clearly discernable. ●

THE CAMBODIAN SITUATION: TWO VIEWS

● **Mr. McGOVERN.** Mr. President, several weeks ago I raised some questions concerning the reported genocide in Cambodia in an attempt to focus international attention on that grim situation. An accurate accounting of the numbers of people executed, starved, or worked to death is difficult to obtain because of the severe restrictions the Cambodian Government has put on the press and the few diplomats allowed in that country.

This morning's Washington Post carried an article which highlights a report just released by the British Government. It cites "reputable observers" who say that—

> . . . The estimate that more than 100,000 Cambodians had been executed must be taken as an absolute minimum. It is possible that two or three times as many people have been executed. The number who died because of the lack of food and of medical and sanitary facilities, and from the frantic pace of work, might well have been more than 2 million.

The report also contains charges of no trials, no courts, family separation, forcible evacuation of cities, and complete suppression of religion.

I have received a letter from the Government of Cambodia (now called Kampuchea) taking issue with the statements I made concerning the conditions in their country. In an effort to present two views of the situation, I ask that the Washington Post article and the letter to me from the Government of Cambodia, dated August 26, 1978, be printed in the RECORD.

The article and letter follow:

[From the Washington Post, Sept. 21, 1978]

REPORT ON CAMBODIA SAYS HUNDREDS OF THOUSANDS PERISH

LONDON.—Many hundreds of thousands of people have perished in Cambodia directly or indirectly as a result of the policies of the Communist government that came to power there in 1975, according to a British government report released yesterday.

The report cited "reputable observers" for this estimate.

It spoke of wide-scale executions, forcible evacuation of cities and complete suppression of the Buddhist religion.

There have been a number of charges of widespread executions in Cambodia, but the Cambodian government, in a note to the United Nations last April, said it had taken action only against a "handful of traitors." It criticized Britain for demanding action on alleged human rights violations in Cambodia.

The British government report, released by the Foreign Office, made these allegations:

1. Since April 1975 thousands of refugees have fled Cambodia, following a radical upheaval which had involved the "forcible evacuation of the cities, widescale executions, and the destruction of much of the traditional . . . way of life."

2. There were widespread executions of military officers of the former government after the Communists came into power. "It is clear from many accounts from different sources that the execution of officers of the former Khmer Republic's army was . . . a calculated act of policy," the report said.

3. Most senior officials who "disappeared" in 1975 have not been seen again.

4. Father Francois Ponchaud, a French authority on Cambodia, prepared a report drawing on the evidence of 40 Cambodian refugees from eight Cambodian provinces, all of whom left their country in 1977. This provided evidence that the executions were continuing on a considerable scale in 1977, the British report said.

5. No refugee and no official Cambodian statement has ever mentioned a trial. There were no courts, no defense and no appeals. Refugees frequently reported that laziness or the mere expression of a complaint about the conditions of life were sufficent grounds for execution.

6. It has been estimated that at least 85 percent of the population of Cambodia used to practice Buddhism, which was the state religion. In the past three years however, Buddhism has been completely suppressed, the British report said.

7. Families have been divided and it has been general policy to separate men from women.

8. The report said Fr. Ponchaud gave it as his view in February 1978 that the estimate that more than 100,000 Cambodians had been executed must be taken as the absolute minimum. It is possible that two or three times as many people have been executed. The number who died because of the lack of food and of medical and sanitary facilities, and from the frantic pace of work, might well have been more than 2 million. He added that he had reports of villages in which a third, a half or even nine-tenths of the population had died.

OPEN LETTER TO SENATOR McGOVERN,
WASHINGTON, D.C., USA

Sir. Your present campaign of calumnies and disparagements against Democratic Kampuchea forces us to make the following observations:

1. First of all, your hysteric and overexcited tune of your shameless and wanton attacks against Democratic Kampuchea, an independent, peaceful, neutral and nonaligned country, and against the legal and legitimate Government of the Kampuchea's people have eloquently shown your resentment and hatred against our people, our Revolutionary Army and our Government. That, for as a representative of the U.S. imperialism, you have obviously not forgot the glorious victory of April 17, 1975 won by our people over the U.S. imperialism and on the same occasion, the ignominious and historic defeat of this imperialism in Kampuchea. This defeat has always haunted your mind and will continue to haunt you until the end of your life.

2. On the other hand, as your virulent appeals for new wars of aggression against Democratic Kampuchea and new massacres of our people have proved, you have not forgot the genocide in Kampuchea perpetrated during the more than 5 year war of aggression by the U.S. imperialists, who have massacred and rendered invalid more than one million of our compatriots. Your orchestrated campaigns of calumnies and disparagements against Democratic Kampuchea aim also at making this genocide, these crimes and these devastations perpetrated by the U.S. imperialists in the name of "human rights", be forgot. As a fanatic and inveterated imperialist, you continue to shamelessly interfere in the internal affairs of the other countries in contempt of the most elementary international laws, which rule the relations between States.

3. Besides, you lose your temper, for you have seen that Democratic Kampuchea, on the contrary to your wishes and coward manoeuvres, has become genuinely and definitively independent, and the Kampuchea's people have for ever become the real masters of their country. You have been aware of, and for a very good reason, that during more than these past 3 years, the Kampuchea's people have smashed into pieces all the activities of spying and subversion of the imperialists, the expansionists, annexationists and their followers as well as their attempts at coups d'état aiming at overthrowing Democratic Kampuchea. The Kampuchea's people have then victoriously safeguarded, strengthened, developed and embellished the worker-peasant people's power. At the same time, the people and the Revolutionary Army of Kampuchea have annihilated the acts of aggression of all enemies from outside, particularly the Vietnamese aggressors. They have totally defended and safeguarded the independence, sovereignty and territorial integrity of Democratic Kampuchea. All these facts are unendurable for you, more especially as during this same period, our people have produced brilliant proof of their capability to successfully build up their country by relying on their own forces. You have also been aware of that the conditions of living of our people have always been considerably improved in the same way for every one, thanks to the correct policy of the Communist Party of Kampuchea and our Government, which are always concerned about the well-being and happiness of the people.

4. At last, by your rage and rancour towards our people, you have become a real accomplice of the Vietnamese who are fostering their ambition to swallow Kampuchea, of their strategical policy to force Kampuchea to join the "Indochina Federation" under the Vietnamese domination, and their expansionist ambition in South East Asia. In a like manner, you have dropped your mask in front of the independence-, peace- and justice-loving peoples the world over, who have taken a dislike to and rejected your hysteric and narrow-minded words into the garbage can, like the American people have refused you their vote.

5. The Kampuchea's people are convinced that the peoples throughout the world, including the American people, will surely pass a just and severe judgment on your account, for all your acts against Democratic Kampuchea, particularly your criminal complicity with the Vietnamese aggressors and swallowers of the territory of Democratic Kampuchea.

As for the Kampuchea's people, closely united under the correct leadership of the Communist Party of Kampuchea and its Secretary Pol Pot, they will unswervingly continue to for ever defend and safeguard the independence, sovereignty, territorial integrity of their country, their national honour and dignity, their right to decide by themselves their own destiny against all foreign interventions, both imperialist and expansionist. They will continue to build up a just and genuine democratic society where one and all lives in perfect harmony, happiness, equality and prosperity.

DEPARTMENT OF
PRESS AND INFORMATION OF
MINISTRY OF FOREIGN AFFAIRS,
DEMOCRATIC KAMPUCHEA.

PHNOM PENH, *August 26, 1978.*●

NEW TRUCK HAZARD STATISTICS HIGHLIGHT NEED FOR PROMPT LEGISLATIVE ACTION

● **Mr. PERCY.** Mr. President, it has become painfully clear that inadequate truck safety on our Nation's highways has reached dangerous proportions. Each day, thousands of mechanically unfit trucks roll down America's roads. These multiton rigs are often equipped with seriously worn or even inoperative braking systems. When faced with severe situations they are unable to stop and careen out of control. These trucks, which pose a hazard because of lackadaisical maintenance, threaten the lives of not only their drivers but also the millions of Americans who daily share the highways with them.

On April 20, 1978, I introduced legislation designed to ameliorate this severe situation, and am pleased to be joined in this effort by my esteemed colleague, Senator Ted Kennedy. S. 2970, the Truck Safety Act of 1978, provides for a substantial upgrading of the effectiveness of Federal and State enforcement of trucking safety regulations.

S. 2970 builds upon and focuses the general authority given the Department of Transportation to regulate safety. It directs the DOT's safety function toward those areas which have caused the most serious safety problems in the 10-year period since DOT was created. Its provisions would greatly enhance the effectiveness and efficiency of DOT in insuring truck safety. Specifically the bill:

Expands the scope of violations for which civil fines may be imposed, and raises the maximum fine from $500 to $2,500 for each substantial violation and $10,000 for extremely serious safety violations.

Enlarges the scope of Federal safety regulation by including any truck over 10,000 pounds gross vehicle weight rating in interstate commerce—interstate trucks—and affecting interstate commerce—intrastate trucks.

Authorizes the Secretary of Transportation to regulate the working conditions and operating practices of employees, to insure that trucks are so maintained as to prevent accidents, and to conduct research into new enforcement techniques and training programs.

Authorizes the Secretary to arrange to conduct on-the-job inspections and investigations.

Gives trucking employees the right to require DOT investigations of violations of safety regulations.

Requires the DOT to serve citations upon alleged violators of safety laws who are then given 15 days to notify DOT of their intent to contest the citation.

Authorizes an administrative adjudicatory hearing before the National Transportation Safety Board in cases of contested citations.

Provides for judicial review and enforcement of NTSB decisions and orders.

Protects trucking employees from discharge or discrimination for their attempts to promote greater trucking safety.

Authorizes DOT to establish penalty schedules designed to induce timely compliance with the law.

Authorizes funds to be appropriated from the Highway Trust Fund for the purpose of offering financial incentives to States to implement truck safety programs which have been approved by the Secretary.

Requires the Secretary to submit a yearly report to Congress outlining his progress in increasing truck safety on the Nation's highways.

On September 8, 1978, the Senate Committee on Commerce, Science and Transportation conducted a hearing on S. 2970. At this time, I would like to express my deep appreciation to Senator Howard Cannon, chairman of the committee, for his expeditious action in convening the hearings. I would also ask unanimous consent to attach Chairman Cannon's opening statement from that session at the conclusion of my remarks.

During the course of the day's testimony, the committee heard some startling figures and statistics. The testimony before the committee poignantly expressed the severity of the truck safety problem and the urgency of the situation.

Last year, 6,614 Americans died in truck accidents. That is nearly a 21-percent increase in the 2-year period since 1975. In a collision with a heavy truck, a car rider has only a 43 percent chance of living. A motorcycle rider has an even more dismal 15-percent chance of survival.

These figures mean that truck accidents kill, on the average, one American every 80 minutes.

Susan Ginsburg of the Professional Drivers Council (PROD) supplied the committee with startling additional information. According to her testimony and statistics, driving trucks poses perhaps the greatest occupational safety hazard in America today.

A heavy truck is about twice as likely as a car to be a place of death for the person in it. Each year, approximately 4.8 heavy truck occupants are killed per 10,000 heavy trucks, versus an average of about 2.4 occupants per 10,000 vehicles for all motor vehicles.

She also cited a June 1978 study in Wisconsin which demonstrated that the 1976 death rate for injuries on the job was approximately nine times as high for truckdrivers as for the average of all other workers in that State.

The fatal accident rate for trucks per million miles is twice as high as that for cars. According to the National Highway Traffic Safety Administration's reporting system, from 1975 to 1977 the total number of truckdrivers killed on the job rose 36 percent.

Some 587 truckdrivers were killed in 1975, 715 in 1976, and 799 in 1977. This is a remarkable increase of over 36 percent in the last 2 years.

Based on figures compiled by the National Safety Council, trucks are far more likely than cars to be involved in fatal and nonfatal accidents. While heavy trucks comprise less than 1 percent of all registered vehicles, they constitute over 7 percent of those vehicles involved in fatal accidents.

Driving a truck is one of the most dangerous occupations in the United States. Statistics compiled by the National Safety Council show that the national average of all workers killed on the job in this country is 14 per 100,000. In the mining industry, long considered to be one of the most dangerous occupations, the rate of on-the-job deaths is 63 per 100,000. According to PROD figures, the rate of truckdrivers killed on the job is an astounding 88 per 100,000.

The drivers are acutely aware of the potential for danger that driving an unsafe truck entails. They are frightened when they see routine maintenance being neglected and unsafe rigs being put on the road. Many drivers go out of their way to point out unsafe conditions when authorities inspect their trucks. The drivers want and deserve safe vehicles. But a few truck companies—an unscrupulous minority—ignore their drivers' warnings and send these death-traps-on-wheels out on the road anyway. Likewise, a few reckless truckdrivers seem perfectly willing to violate even basic safety standards. It is time we got them off the road.

Information recently received from the Bureau of Motor Carrier Safety dramatically illuminates the extent of the problem. Last month, BMCS investigators, assisted by the Pennsylvania State Police, conducted one of the largest and most concentrated safety checks on commercial interstate drivers and vehicles. The results of this test—conducted in Berwick, Pa., during the period August 7–11—were startling.

Of the total of 676 inspections conducted during this 1-week period, 352 vehicles were found to be in such dangerous condition that they were immediately placed out of service. That is, over 52 percent of the vehicles inspected involved severe safety hazards.

The inspectors found 2,743 total violations, 567 of which were so flagrant that they required placing the vehicle out of service. Fully 60 percent of the violations were attributable to faulty brakes. In fact, in 65 vehicles the brakes were inoperative.

Many of the drivers themselves were found to be in violation of basic safety regulations. Some 271 of the drivers were found to have exceeded their hours of service limitations. A total of 25, or 3 percent, were immediately taken out of service for extreme extensions. In addition, the inspectors found that 56 of the drivers did not even meet minimum driver qualification standards.

The violations were spread throughout all three classifications of truck carriers: those authorized by the Interstate Commerce Commission (70 percent of the inspected) private carriers (28 percent), and carriers of exempt commodities (2 percent). Of those vehicles authorized by the ICC for hire, 55 percent were placed out of service. Of the private carriers, 50 percent of the trucks were placed out of service. And 63 percent of the vehicles carrying exempt commodities were placed out of service.

Most significantly, an informed source at the Bureau of Motor Carrier Safety told my staff that these Berwick, Pa., figures are "not a fluke." "The number of vehicles that have to be placed out of service due to severe safety violations have increased sharply over the past year and is a problem all over the country," the BMCS official noted.

Legislation to enhance the effectiveness of truck safety has been introduced in the last three Congresses. These safety inspection findings, just released by the

Department of Transportation, attest to the fact that we cannot afford to wait much longer. Without remedial legislation the situation on this Nation's highways is steadily worsening.

This egregious situation will not improve by itself. The number of trucks and busses on the roads is expected to double within the next 15 years. Highways should not be death traps—they were constructed for the safe, enjoyable use of all Americans. The Truck Safety Act is essential to the protection of the driving public and of the businesses and consumers of this Nation.

The International Brotherhood of Teamsters stated at the hearings that the Truck Safety Act "is an important step in providing additional safety protection for truck drivers."

In addition, the Federal Highway Administration praised the measure as "a very important legislative initiative" which would strengthen Federal safety regulation of commercial vehicles.

It is imperative that Congress act quickly and decisively to alleviate the hazardous situation that now exists. Timely passage of this legislation will mean that the law and related safety regulations are strictly enforced. This was the intent of Congress and this is what all Americans have a right to expect.

Senator Cannon's Comments

The Chairman. Today the Senate Committee on Commerce, Science and Transportation begins a hearing on S. 2970, the Truck Safety Act of 1978.

This legislation, introduced by Senator Percy, would greatly strengthen the power of the Federal Government in the truck safety area.

Yesterday this committee heard testimony on more limited aspects of the truck safety—the issue of regulation of truck length. Today's hearing concerns the broader question of how to regulate the multitude of heavy-duty commercial vehicles on this nation's highways.

This nation and its economy are highly dependent on trucks to ship goods through the country. Approximately 4,500,000 interstate truck drivers share the nation's highways with other drivers.

In the reporting entitled "The Federal Motor Carrier Safety Program: Not Yet Achieving What the Congress Wanted," the General Accounting Office noted that trucks and buses were involved in approximately 20 percent of highway accidents resulting in deaths in this country.

The GAO report also stated that over one-third of the 54,800 trucks and buses inspected by federal personnel during 1974 and 1975 were unsafe and taken off the road until repaired. The GAO found that the number of federal inspectors was inadequate to carry out sufficient inspections in the Federal Motor Carrier Safety area. Thus the safety aspects of trucking are of particular concern to the committee.

Recently there was further confirming evidence of potential serious hazards on the highways as a result of unsafe trucks. In early August the Department of Transportation's Bureau of Motor Carrier Safety in conjunction with the Pennsylvania State Police conducted an intensive roadside inspection campaign near Berwick, Pennsylvania. According to the Department of Transportation's preliminary report, some 30 inspectors conducted visual inspections of all trucks passing on the highway. If nothing was obviously wrong on initial visual inspection, the vehicle was immediately waved on. However, if the inspectors found something obviously wrong, then the vehicle was pulled over for more thorough inspection.

These more thorough inspections yielded some startling results.

Out of 676 vehicles, 52 percent were actually put out of service until the violations were fixed.

The Department of Transportation emphasized that these defects were significant enough safety defects, such as faulty or virtually inoperative braking systems, that in the judgment of the inspectors they were likely to cause accidents.

The trucks put out of service averaged four and a half such defects.

Also, the Department of Transportation found 24 drivers violating the federal regulation that limits their time behind the wheel.

Despite the scope of these truck safety problems, S. 2970 goes beyond the issue of truck safety to apply to the safety of operation of all commercial motor vehicles over 10,000 pounds gross vehicle weight rating. Thus this legislation would address the regulation of buses, farm equipment, and all other commercial vehicles above 10,000 gross vehicle weight.

In the course of these hearings the committee particularly will be interested in analyzing the adequacy of the federal regulation of the commercial motor vehicles and what, if anything, is necessary in order to strengthen these programs.

The committee also is concerned about how federal programs interact with state regulation of commercial motor vehicles and whether this relationship is operating smoothly and effectively.

As part of this overall examination, the committee will seek to determine whether the funding and manpower allocated to these programs is adequate to carry out these important functions.

The committee will also focus on how priorities are set in the regulation of commercial vehicles and what method of initiating investigations of improper behavior in this area would be most effective.

In examining these issues, the committee is fortunate to be receiving testimony today from an extremely wide spectrum of witnesses drawn from the Federal Government, state agencies, private trucking organization, farm representatives, the Teamsters Union, and private experts.●

THE GREAT WHALES

● Mr. PACKWOOD. Mr. President, of all the endangered species, none have captured the imagination and the sympathy of the American people as have the great whales. Support for the preservation of these gentle giants is widespread, spanning differences in age and political philosophy. Drawing its strength from this grassroots support, citizen organizations and Congress made great strides toward permanent protection of the whales.

But our successes have been short lived. Within the past year, several events have reversed the direction of U.S. policy, and have set the great whales back on the slide toward extinction. The Carter administration's new whaling commissioner has chosen to ignore the concerns of Americans.

Mr. President, Lewis Regenstein's recent article in the Washington Post, entitled "Selling Out the Whale," clearly illuminates the current plight of the great whales. I ask that it be printed in the Record in its entirety.

I sincerely hope the President and Congress will take note and move swiftly to stop this dangerous course of events.

The article follows:

Selling Out the Whales

(By Lewis Regenstein)

Until recently, the United States led the fight to save the great whales from extinction. But now that policy has been largely abandoned.

In 1972, after the United Nations Conference on the Human Environment and after Congress passed resolutions calling for a 10-year moratorium on commercial whale-killing, America assumed the lead in pushing for international whale conservation. When the eight great whales were added to the U.S. endangered-species list, the last U.S. whaling company was put out of business and the import of whale products into the United States was banned. Throughout the rest of the Nixon and Ford administrations, the United States fought to end or drastically reduce commercial whale-killing (some 85 percent of which is carried out by Japanese and Soviet whalers). The result was the achievement of significantly lower quotas and the protection of several depleted or endangered whale species and population stocks.

But the Carter administration has effectively abandoned that leadership position in saving the whales—despite the fact that Jimmy Carter said repeatedly during the 1976 presidential campaign that he favored a 10-year moratorium on deep-sea whaling and would use this country's 200-mile limit as a bargaining tool.

But the officials appointed by Carter to carry out policy on whales have ignored and reversed those commitments. Instead of fighting for whale protection, the administration has endorsed an increase in their killing.

At the June 1977 meeting of the International Whaling Commission, the U.S. delegation, led by Commissioner William Aron and Deputy Commissioner Tom Garrett, obtained a reduction of 10,000 whales in the following year's quota, which many people felt might put the whaling industry out of business. That was accomplished in part through a very strongly worded message sent by Carter, including a clear warning that the United States might use economic sanctions against any nations that "diminish the effectiveness of the conservation regime of the IWC."

But that victory for the whales was largely nullified at a subsequent IWC meeting last December. Richard Frank, administrator of the Commerce Department's National Oceanic and Atmospheric Administration, in effect forced the resignation of Aron as whaling commissioner and took the position himself. He then proceeded to vote in favor of an increase of 6,000 sperm whales to be killed by the Soviet and Japanese whaling industries. That was done even though it was ostensibly U.S. policy to seek a 10-year moratorium on commercial whaling, and despite the fact that the sperm whale is on the endangered-species list. By voting to increase the 1978 sperm whale quota from 763 to 6,444, Frank helped guarantee the perpetuation of the foreign commercial whaling industry.

At this year's IWC meeting, the U.S. delegation, led by Frank, again failed to work for effective whale-conservation measures. Although the United States paid lip service to the moratorium, no real effort was made to push for it or even for significantly lower overall quotas.

Indeed, a few days before the meeting, Frank publicly suggested that the California gray whales had recovered sufficiently so that commercial hunting could possibly be revised. "Grounds exist for optimism that the gray whale may be removed from the protected list," Frank said in a news release, thus virtually inviting the slaughter of those whales, which winter and calve off Baja California and have been protected for some 40 years.

Sure enough, at the IWC meeting the California gray whale was removed from the protected list without U.S. objection, and the Russians were given a quota of 178 to be killed for their aboriginal population and reportedly to be fed to ranch-raised fur-bearing animals, such as mink. Although there will be no additional commercial killing of them this season, there is now no effective mechanism to prevent it from being resumed and expanded in future years.

Nor did the United States protest when Japan successfully pressured Panama to fire its pro-conservation whaling commissioner and drop its proposal for a moratorium on commercial whaling, reportedly under threat of cancellation of a $10-million sugar purchase from Panama.

In the end, the United States went along with the quotas set by the IWC at basically the same levels as last year (except for sperm whales), when 23,520 whales were killed by the whaling industry. Although there was an overall quota reduction of only 5 percent, Frank pronounced the IWC meeting a success.

As Deputy Commissioner Garrett put it, "Leadership in the fight to save the great whales passed from U.S. hands." A major reason for this change of policy seems to be Frank's determination not to provoke the Japanese and Soviet delegations, whose support he sought to increase by 50 percent the number of gravely endangered bowhead whales—probably the most critically imperiled of all whale species—to be killed by Alaskan Eskimos. According to Garrett, "The dominant concern seemed to be getting more bowheads for the Eskimos; protecting the great whales was entirely subordinate to that."

It is difficult to understand what the administration hopes to gain politically by abandoning this worldwide movement. Until the president orders or persuades his appointees to bring about a change in policy, his often-repeated commitment to whale conservation will remain unfulfilled. And the great whales will continue to be slaughtered until these awe-inspiring leviathans are gone forever.●

FEDERAL CONFLICT-OF-INTEREST STATUTE HELD INADEQUATE

● Mr. PERCY. Mr. President, the Government has been extremely lax in its enforcement of existing laws designed to limit the influence of Federal regulators who move in "revolving door" fashion into jobs in industries they once regulated. A recently released General Accounting Office study sharply rebuked the Government for allowing Federal officials to take advantage of their former connections to seek special favors for private industry.

As ranking Republican on the Governmental Affairs Committee, I ordered the 72-page report entitled "What Rules Should Apply to Post-Federal Employment And How Should They Be Enforced?" The report confirms the need for timely legislative action in this area. To correct such abuses of post-federal employment, along with my distinguished colleague Senator ABRAHAM RIBICOFF, chairman of the Governmental Affairs Committee, I introduced S. 555, the "Public Officials Integrity Act." This measure was approved by the Senate in June 1977 and the House is expected to take up companion legislation (H.R. 1) this week.

In introducing this legislation, Senator RIBICOFF and I both concurred in our strong commitment that regulatory agency decisions should be based on the merits of a case, and not be made at the behest of favor buyers and influence peddlers. To the extent that Government service is being abused by officials who leave an agency to work for a private firm and then seek special favors for that firm, we must shut off such shenanigans. If the conduct of former regulators gives even the appearance of wrongdoing, it serves to undermine public confidence in the integrity of all Government officials.

The GAO, observing that Government agencies have had "ample notice" of the existence of possible conflicts problems, and that "appearances of impropriety can be as damaging to Government's credibility as an actual violation of law," reported that:

> Since 1970, the Justice Department has only prosecuted five cases of violations of the existing post-employment federal conflict-of-interest statute. Of the five cases, one resulted in a conviction. The Chief of the Public Integrity Section at Justice conceded to GAO that he was not enforcing this statute because of what he views as vaguely defined prohibitions and loopholes.
>
> Enforcement of post-employment restrictions at 13 federal agencies has been "inactive and ineffective," according to GAO.
>
> The Civil Service Commission employs only one person to review conflict-of-interest cases, justifying its actions on the grounds that it has no mandate to enforce the law.

The GAO report also cited numerous examples of the failure of regulatory agencies to enforce post-employment rules, including:

> The Consumer Product Safety Commission (CPSC) and the Federal Reserve Board (FRB) do not monitor the jobs taken by former officials despite specific statutory prohibitions against certain types of employment for those leaving the agency.
>
> The National Aeronautics and Space Administration (NASA) statute requires former employees who go to work for aerospace contractors to file employment reports with the agency. However, NASA officials told GAO that they do not check the reports for violations nor monitor compliance.
>
> The Nuclear Regulatory Commission (NRC) requires former officials who plan to appear before it to notify the agency. An NRC official told GAO that he wasn't certain that such notifications are filed but "that in his opinion the agency is small and a former employee who appeared would be recognized." (NRC employs 2,606 persons.)
>
> The Federal Trade Commission (FTC), among other agencies, consistently failed to inform departing employees of its rules governing post-employment conduct. (Since the GAO review began, the FTC says it is now conducting such briefings.)

The GAO report was requested because of news accounts and studies implying that a significant number of ex-Federal regulators may have attempted to use their former positions as Government insiders to gain favorable decisions for their new employers. Earlier this year Common Cause, a public interest lobby, reported that between 1971 and 1975, 17 out of 35 Federal regulatory commissioners took jobs with regulated companies or their law firms. A Senate Commerce Committee report released in April 1976, found that a majority of regulators end up in the employ of the regulated.

The Public Officials Integrity Act (S. 555) contains strong provisions which address the concerns expressed by GAO. These include prohibitions on former Federal regulators from engaging in behind-the-scenes signal-calling as to matters in which they were substantially involved while in office. The measure also contains a "cooling-off" provision which would prevent high-ranking officials from returning to practice before, or even contact their former agencies on any matter of business for a period of 1 year following termination of agency service.

In addition, S. 555 provides for the establishment of an Office of Ethics within the Civil Service Commission to coordinate within the executive branch attempts to minimize post-employment conflict-of-interest situations or the appearance of conflicts. The report by the GAO endorses such a provision.

The GAO report found major inadequacies in the existing Governmentwide statute on post-employment conflicts-of-interest, concluding that:

> Experience has shown that due to loopholes, the vagueness in its terms, and the absence of a designated responsibility within the executive branch to enforce its provisions, this law and the various laws and regulations patterned after it are not adequate to deal with current post-employment issues.

The report further states:

> The absence of enforcement can also be serious because previous studies have pointed out that many apparent conflict-of-interest situations, or cases which raise ethical questions, have occurred either at the highest levels of career employees, or, in many instances, at the political appointee level. On this basis, doubts can be legitimately expressed whether high-level employees who would likely be affected by such enforcement systems can make serious attempts to enforce post-employment regulations.
>
> We believe that post-federal employment matters have too long been handled on an ad hoc basis with limited top-level executive branch initiatives, guidance, and leadership, the GAO concluded.

Mr. President, I ask that two portions of the GAO report, the "Digest" and "Conclusions and Recommendations," be printed in the RECORD at this time.

The material requested follows:

[Comptroller General's Report to the Congress]

WHAT RULES SHOULD APPLY TO POST-FEDERAL EMPLOYMENT AND HOW SHOULD THEY BE ENFORCED?

DIGEST

The interchange of personnel between the Government and private business can create problems. Former Government officials using or appearing to use their public experience to their person advantage in private business can detrimentally affect the Government's credibility.

Executive branch and Federal agency efforts to enforce existing post-Federal employment laws and regulations have been limited. There is no single agency with adequate administering and enforcing responsibility and authority. Agencies' uncertainty over their authority, vague statutory language, loopholes in laws and regulations, and the absence of administrative and civil penalties for noncompliance with the laws all contribute to the limited enforcement.

As a result:

Government-wide data is not available to determine the extent of post-Federal employment violations and whether other ethical problems exist due to post-Federal employment practices.

Department of Justice prosecution of post-Federal employment violation referrals has had limited success.

Inadvertent violations may occur because agencies are not thoroughly advising employees of their post-Federal employment responsibilities.

Agencies generally rely on informal methods to monitor employee compliance with post-Federal employment restrictions.

Existing agency enforcement attempts have been limited.

There is an increasing public consciousness of former Government officials using or appearing to use their public experience to their personal advantage in the private sector. The administration and the Congress have made ethics a high priority and are employing a strategy of legislating increasingly restrictive Government-wide prohibitions on a former Government official's employment activities.

Sufficient evidence is currently available to illustrate that conflict-of-interest situations can take various forms, including improprieties that do not violate a specific law or regulation, which can be as damaging to the Government's credibility as an actual violation of the law. Both issues—actual violations of the law and conflict-of-interest improprieties that do not violate a law—need a specific focus. Attempting to restrict post-Federal employment practices so that the Government is protected and the employee is not unduly restricted in career opportunities will involve overcoming the administrative problems of developing effective enforcement systems that do not create a lot of paperwork or require a large agency staff.

As with financial disclosure issues, GAO believes that the effectiveness of the executive branch to deal with post-Federal employment matters depends heavily on strong administration and enforcement by a central office. S. 555, already passed by the Senate, and H.R. 13676, under consideration in the House of Representatives, contain a provision to establish an executive branch Office of Ethics. This Office is the same as the one recommended by GAO in a prior report "Action Needed To Make The Executive Branch Financial Disclosure System Effective" and which was subsequently proposed by the President in his Ethics in Government Act of 1977. GAO reiterates its support for such an Office. However, GAO strongly recommends that language be added to legislation specifically mandating this Office to recommend either to the President or the Congress appropriate Government action in post-Federal employment matters needed to protect the public's interest in avoiding situations in which real or apparent conflict-of-interest situations exist and protect the rights of individuals to seek and obtain employment. GAO believes specific language is necessary due to the limited enforcement activities of Federal agencies to date.

Since individual agency operations, missions, activities, and personnel activities are diverse and the types of potential or apparent post-Federal employment violations will vary, this Office can, among other things,

Monitor or establish an agency-implemented monitoring system to study the post-Federal employment issue and define its characteristics and its parameters;

Provide leadership and guidance to Federal agencies and recommend to the President and the Congress strategies and tactics required to minimize actual post-Federal employment conflict-of-interest situations or appearances of such situations;

Establish, in collaboration with individual agencies, agency enforcement strategies and tactics and monitor agency efforts to implement them; and

Provide a continuing program of information and education for Federal officers and employees.

Notwithstanding the establishment of an Office of Ethics, the Congress should remedy the shortcomings of 18 U.S.C. 207 and specify to the Executive agencies their responsibilities and authorities in post-Federal employment matters.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

In past years, concern over conflict-of-interest situations has been centered on the financial interests of Federal employees during their Government employment. More recently, however, the "revolving door" syndrome has received increased attention. Yet, the Government's concern over post-Federal employment activities has been the subject of legislation for well over 100 years, and former Government officials are subject to statutes and regulations restricting appearances before the former employing agency or future employment in the private sector.

While Federal agencies have an implicit responsibility to enforce post-Federal employment laws and regulations, executive branch initiatives and agency efforts to enforce 18 U.S.C. 207 and corollary statutes and regulations have been limited.

Since 1963, there has only been one Government-wide Presidential initiative concerning post-Federal employment (the proposed "Ethics in Government Act of 1977").

For the most part, the Department of Justice has played a reactive role in enforcing existing laws and regulations and providing assistance and guidance to Government agencies in post-Federal employment matters.

Department of Justice prosecutions of post-Federal employment violation referrals have met limited success.

The Civil Service Commission does not play a role in post-Federal employment matters.

The executive branch and independent agencies do not know how many former employees go to work for regulated industries or the extent to which post-Federal employment violations occur.

Agencies are not thoroughly advising employees of their post-Federal employment responsibilities at recruitment, during employment, or at termination of service.

The extent to which a post-Federal employment problem exists is not known, appropriate levels of enforcement have not been determined, and little hard data is available to determine whether or not existing statutes and regulations are adequate to preclude post-Federal employment problems or the appearance of such problems.

There is a complex series of interrelated reasons why executive branch enforcement of post-Federal employment statutes and regulations is limited. The problem seems to originate from the absence of specific or general language in legislation establishing enforcement responsibilities. Also, there is no single Government agency with a responsibility to address the problems of administration and enforcement of a program designed to minimize post-Federal employment problems or the appearance of problems.

Other contributing reasons are:

Agencies' uncertainty about their authority to enforce post-Federal employment restrictions, including the absence of administrative or civil remedies to facilitate the Government's enforcement.

Vague statutory language, loopholes in the law, and a difficulty in establishing a former official's intent to violate the law and demonstrate actual adverse consequences from the violation, which make agency authority unclear and discourage prosecutions by the Department of Justice.

Many agencies, perhaps as a result of having no monitoring systems, do not view post-Federal employment as a problem and therefore do not see the reason for increased enforcement.

We believe the executive branch experience with enforcement of post-Federal employment regulations closely parallels that of enforcement of other ethics regulations. There have been (1) little guidance to agencies and (2) limited enforcement. Attempting to restrict post-Federal employment practices so that the Government is protected and the employee is not unduly restricted in career opportunities will involve overcoming the administrative and legal problems of developing effective enforcement systems that do not invade an individual's privacy, create a lot of paperwork, or require a large agency staff.

In our February 28, 1977, report, "Action Needed To Make the Executive Branch Financial Disclosure System Effective" (FPCD-77-23), we stated that the effectiveness of the executive branch's system depends heavily on strong administration and enforcement by a central office. We had found that enforcement of ethics and financial disclosure regulations could no longer be managed on an ad hoc basis with limited support and insufficient resources. We recommended that an Office of Ethics be established in the executive branch either as an independent agency or within another agency, to address the problems of enforcement and compliance with ethics regulations. We believe this recommendation also applies to post-Federal employment issues.

Legislation currently before the Congress may provide the key to solving the post-Federal employment dilemma. An Office of Ethics is already included in S. 555 and H.R. 13676 which could serve as the basic vehicle through which to determine appropriate Government action needed to balance the evils of post-Federal empoyment activities against benefits of exchanges of expertise between the private and public sectors and protect the rights of individuals to seek and obtain employment.

This Office can, among other things, serve to:

Oversee an agency-by-agency study of post-Federal employment problems with a view toward determining what enforcement mechanism(s) is best suited for each individual agency;

Establish, in collaboration with individual agencies, agency enforcement strategies and tactics and monitor agency efforts to implement them;

Provide a continuing program of information and education for Federal officers and employees; and

Provide leadership and guidance to Federal agencies and recommend to the President and the Congress strategies and tactics required to minimize actual post-Federal employment conflict-of-interest situations or appearances of such situations.

Recommendations

We endorse the enactment of pending legislation (S. 555, H.R. 1, and H.R. 13676) which would establish, within the executive branch, an Office of Ethics. We recommend, however, that specific language be added to this legislation to establish within this Office the responsibility for the Government's efforts to administer post-Federal employment laws and regulations. This Office, in collaboration with other executive branch departments and agencies, should be directed to develop and implement a system to determine the extent to which post-Federal employment activities of former Government officials may be a problem. Based on information developed, the Office should (1) recommend either to the President or the Congress necessary action to enforce post-Federal employment prohibitions and (2) act as the central administrating authority to ensure successful implementation of such recommended action by individual Government agencies.

Notwithstanding the establishment of an Office of Ethics, the Congress should amend 18 U.S.C. 207 to remedy certain shortcomings and to provide additional guidance to executive agencies in enforcing post-Federal employment statutes and regulations. Specific issues which should be addressed include:

Requiring executive agencies to take action to determine the extent to which post-Federal employment may be a problem;

Establishing specific agency responsibility and authority to enforce post-Federal employment prohibitions;

Defining terms in existing legislation which now are subject to interpretation and inhibit enforcement;

Encouraging Government-wide dissemination of post-Federal employment advisory information by assigning such responsibility to a single agency;

Supplementing existing criminal sanctions with civil remedies; and

Requiring agencies to develop and implement information programs to ensure their employees are aware of their post-Federal employment responsibilities.●

THE BUDGET "BATTLE," SEPTEMBER 21, 1978

● Mr. THURMOND. Mr. President, as the House, then the Senate, and then later our Senate-House conferees considered the fiscal 1979 budget, each group gave much serious thought to the major items in the budget but, more importantly, each group viewed with much concern the overall budget level. I, and others here in the Senate, have worked very hard to reduce unneeded Federal spending and to enact legislation that would establish and enforce a realistic and acceptable budget ceiling and debt ceiling for our American citizens. Certainly you and my other distinguished colleagues share the feeling that the people of this great Nation deserve a better break and better treatment than we in the Congress have given them as we legislate these unconscionable deficit spending budgets year after year.

An editorial titled, "The Budget 'Battle,'" in the Wall Street Journal, dated September 18, 1978, contains a very good discussion of some of the problems related to the congressional budget process, budget ceiling, and the Federal deficit. Reference is made in the editorial to the efforts earlier in this session by nine of us in the Senate to make the budget process work as intended. Our efforts were directed toward holding the 1979 budget authority to a 7 percent increase and thus offering the prospect for holding the Federal deficit down to a more reasonable level. While those particular dollar objectives were not realized, hopefully our efforts will be useful and effective in some ways as all of us continue to give much needed and serious consideration to this problem.

The attached editorial from the Wall Street Journal provides a useful discussion and informative insight that can be beneficial to all who read it.

Mr. President, I ask unanimous consent that the editorial to which I have referred be printed in the RECORD.

THE BUDGET "BATTLE"

Senate and House budget conferees, it seems, are locked in gentlemanly combat over House insistence on authorizing a further $2 billion for "soft" public works in the 1979 budget. The Senate wants no further authorization, and as a result of the dispute Congress failed to meet its Sept. 15 deadline for agreeing on a second budget resolution for fiscal 1979.

This little tempest will not become a major crisis, we can safely assume. Great institutions don't crumble over a piddling $2 billion. Some compromise will be found and there will be agreed upon targets for authorizations, outlays, revenues, the federal deficit and the federal debt for 1979.

But the struggle does give occasion for wondering if the congressional budget process, now three years old, will ever begin to accomplish what was intended when it was devised. It was intended to bring self-discipline to Congress by having that body set a budget ceiling that would force members and committees to hold their individual spending appetites in check.

The idea was that the size of the federal budget and the federal deficit would be determined by economic assessments. If the nation were suffering, inflationary pressures, for example, an attempt would be made to put the budget into surplus to relieve the pressures. In a recession a deficit could be tolerated to help preserve jobs and demand. A large brain trust, the Congressional Budget Office, was set up to help with such calculations.

But the "soft" public works fight shows that it isn't so easy to persuade a major committee—House Public Works in this case—to give up some goody, even if there isn't room for it under the budget umbrella and the umbrella is already too big. Individual appetites still count for something in Congress.

The difficulty is emphasized by the fact that the $2 billion authorization isn't something most people would consider to be of crucial importance. There will be an appropriation for soft public works in fiscal 1979 anyway, under existing authorizations. The authorization could be extended next year. A lot of people wonder whether soft public works, which focus on projects that employ unskilled labor, are worth all the trouble it takes to organize them. If a budget item like this can't be scrapped, what can be?

As it happens, a bold attempt was made in the Senate to make the intended budget process work. Nine Senators—Proxmire, Hatch, Hayakawa, DeConcini, Bentsen, Roth, Stone, Harry F. Byrd Jr. and Thurmond—proposed to cut 1979 budget authority to $540 billion. That would still be an increase of 7% from a year ago, but it would be some $30 billion under the President's budget authority target and would offer prospects for wedging the federal deficit down to a more reasonable level.

Well, it didn't work. The Senate adopted the $557 billion authority of its own Budget Committee. Deficits of $40 billion or more will be with us for some time, it seems, even though everyone agrees that inflation is the nation's number one problem.

And the House, fighting for that $2 billion public works pork, isn't even content with the generosity the Senate has already displayed in a budget authority target that is up 11% from a year ago.

Sen. Proxmire put his finger on the problem by saying on the floor that, the budget process hasn't changed the reluctance of his fellow Senators to attack someone else's spending project. "Senators soon learn that the best way to get along is to go along and that the 'something in it for everybody policy' is easier to live with than rocking the boat," said the Wisconsin Senator.

The soft public works battle shows how true that is. It is an exaggeration, quite clearly, to call it a battle when there is so little evidence that anyone has really begun to fight.●

PRINCIPLES OF NATIONAL HEALTH INSURANCE

● Mr. McINTYRE. Mr. President, the goal of comprehensive health insurance for all Americans has long been promised to the American people, and I am heartened that President Carter recently took the first major administration step toward filling that promise.

President Carter set forth 10 principles to govern a national health program and I applaud them for being a sensible approach to a very complex social problem.

I have always believed that the goal of guaranteeing all Americans access to comprehensive health insurance, including preventive care and protection against catastrophic illness can in fact be realized if we utilize and strengthen the private sector and move on a phased-in basis. The President's principles embody these beliefs and call for no additional Federal spending until fiscal 1983 with a gradual phasing-in thereafter. It calls for a significant role for the private sector using its expertise and existing mechanisms.

We must recognize that our resources are not unlimited and that the money which we take from our people through taxation must be spent wisely and judiciously, never frivolously or carelessly.

For example, an enormous amount can be done without the spending of any Federal tax dollars.

About 9 out of 10 Americans not covered by medicare, that is, those under 65 are already covered by some kind of private insurance, usually through their employer. In many cases this employee group insurance is excellent, in other cases it is not. For years employers have had to meet Federal standards under the Internal Revenue Code to get their deduction for qualified employee pension plans. This was law long before ERISA which created Federal minimum standards for private pension plans.

Why not make employee health plans also meet general minimum benefit standards in the same way—requiring the inclusion of preventive care, outpatient care to help control rising hospitalization costs, and protection against catastrophic illness? This would upgrade the protection of millions of Americans without requiring another dollar out of the Federal budget. And those same standards could include the continuation of coverage for a limited period after layoff, thus easing the problems of unemployment.

What about solving the problem of the "uninsurables": those persons who are self-employed or otherwise not covered by employee group insurance, who want health insurance and are willing and able to pay for it, but can't get insurance because they are in poor health? Why not require all the States, as a condition to getting billions of dollars in medicaid funds, to enact a law like the one in Connecticut? There are no "uninsurables" in Connecticut. Every insurance company doing business in Connecticut must, as a condition of doing business, belong to an organization which guarantees every resident of the State not eligible for medicare a comprehensive policy at a reasonable rate. Benefits include unlimited hospital room and board, skilled nursing facilities, home health agency services, an alcoholism treatment benefit, physicians fees, certain oral surgery, prescription drugs, and so forth. A limit of $1,000 on an individual's out of pocket expenses, for example, deductibles and coinsurance, gives true catastrophic protection. Any losses incurred by the association are shared by the insurers doing business in the State proportionally to their business in the State. There is no subsidy by either State or Federal tax revenues.

Those same Federal standards should apply to the benefits we provide the poor through tax dollars. Benefits now available to the poor through medicare vary widely from State to State. Through Federal tax dollars from general revenues, we should guarantee this uniform benefit package to all Americans who cannot provide for themselves.

Mr. President, this means that tax dollars need only be used to guarantee the poor, those who cannot afford adequate protection for themselves, the same Federal minimum benefits which we can guarantee everyone else without tax dollars.

Mr. President, this general approach, which is reflected in the S. 5, National Health Care Act which I introduced early in this Congress, recognizes America's health needs while drawing prudently on her resources.●

SUGGESTIONS FOR IMPROVING COLLEGES

● Mr. PERCY. Mr. President, in today's Chicago Sun-Times is a provocative article written by a recent college graduate, Adlai E. Stevenson IV, son of my friend and colleague, Senator Adlai Stevenson. Mr. Stevenson questions the role of colleges and suggests that their main emphasis should be first, to educate students and second, to train them for jobs.

The Senate this year has spent a lot of time considering educational issues. As we continue to evaluate the quality of education, I believe the comments of Mr. Stevenson should be kept in mind.

I ask that Mr. Stevenson's comments be printed in the Record.

Colleges Have Lost Education's True Goals

(By Adlai E. Stevenson IV)

During my four years of college I couldn't get the thought out of my mind that I was learning only how to spell words "in more different ways than there are."

As students, we were not exposed to very many challenging ideas, nor was there any direct connection between the work we did in school and the work we would be doing once we got out. Beyond the ivy curtain—the world of exams, term papers and grades—important things were happening. But these were lost to us. We were students, and spelling better was the order of the day.

I am among the million students who graduated from college this year. Considering the time and expense that the college ritual now involves, it seems appropriate to question the course of institutionalized education.

In 1955, 2.5 million students, including 28 per cent of the population between 18 and 21, were enrolled in college. Since then enrollment has risen to 8.6 million, more than 50 per cent of the "college-age" population. This has happened because universities exercise a virtual monopoly on opportunity. An undergraduate degree, or better, is no longer an advantage in pursuing good jobs—it is a necessity.

Administrators and students have accepted too readily the illusion that one school can be all things to all people. As a result, colleges don't distinguish between vocational training and liberal education, not recognizing the specific problems and advantages of each. The goal of education has been lost among a mass of conflicting pressures on students and administrators and over-idealism about what their schools can accomplish.

Students are pressured to find a secure career once they graduate, and look to their school as the key to their success. However, the student who wants to train for a career would be much better off in a specialized school or in on-the-job training, where the relationship between what they learn and the work they will do is clear and direct.

Students also go to college for a broad education that presumably will help them understand the world around them. Here, too, the colleges fail. Instead of enlightenment, they offer production-line classes and incredible academic competition that robs students of any possibility that they might actually enjoy the work they do in school.

Universities have carried the role of competition beyond the point that it awards those with the greatest merit the greatest opportuniy. The competent student may choose to work after class, but then he sacrifices a degree of academic performance. So the paradox the career-minded student faces is that, as more people go to college, his degree becomes less of an advantage; yet if he tries to get a head start on a job by working part-time, he'll lose out in the severe academic competition. Thus, he relies on the reputation of his institution to open doors when he starts looking for a job. In the meantime, academic challenge is steadily replaced by academic drudgery.

The role of colleges should be to educate their students first, and, second, to train them for jobs. By trying to do both, they do neither very well. We would like to believe that the motivation to learn and the motivation to work are the same. Unfortunately, they are not. The motivation to work is based upon necessity; the motivation to learn is a counterpart of desire.

College has come to mean to many things to a generation of students. Where did this notion that education begins and ends there come from? A closer look should be paid to the merits of alternative or continuing education to complement or replace the trivial routine that college rapidly is becoming. This would mean admitting that colleges are limited as job-training centers, and might enable them to perform better their legitimate job of transmitting information about the past.

I did not expect college to hand me a career on a silver platter. I did expect it to be a dynamic experience through which I could learn ways of action as well as words. I was an average student, sharing the concerns of a majority of my peers. Perhaps I was expecting too much.●

THE BRITISH NATIONAL HEALTH SERVICE

● Mr. CURTIS. Mr. President, the entire membership of this body should be aware of a recent excellent and incisive study by Lord Arthur Porritt, a distinguished British physician, evaluating the British National Health Service. Lord Porritt was sergeant surgeon to Queen Elizabeth II of the United Kingdom from 1952 to 1972. Earlier, he was surgeon to King George VI. He served as president of the Royal College of Surgeons from 1960–63, the British Medical Association from 1960–61, and the Royal Society of Medicine from 1966–67. He now chairs the East African Medical Research Foundation.

In particular, Lord Porritt describes the political milieu in existence at the time national health insurance was adopted in Great Britain, together with the very serious results which have ensued. The parallel between a number of the events and factors which he describes, and a number of the premises being advanced in this country in support of national health insurance, is striking. He states:

> Medicine became a political football to be kicked around as required by short-term policy—always provided the ball was never allowed out of play . . . Sadly, the basic premise of the practicality of the scheme as put forward by Beveridge and Bevan has proved to be false. This was that the existence of a comprehensive state medical service, although obviously going to be an expensive luxury, would automatically and in a relatively short time ensure a reduction in the overall demand for health care. Exactly the opposite has proved to be the case. The costliness of the service has gone up by leaps and bounds—from a few hundred million pounds in 1948 to over 4,500-million today—with no sign of any likely decrease.

We see in this country advocates of national health insurance using medicine as a political football to meet short-term political goals. We see, moreover, a specious claim that only national health insurance will control rising medical costs—in the face of spiraling costs in medicare and medicaid, which were authored or supported by many of these same proponents. How, one might ask, can the Government control the cost of any national health insurance plan when it seemingly is unable to do so for the existing medicare and medicaid programs?

I ask that the study by Lord Porritt be printed in its entirety in the Record.

The study follows:

A Critical Evaluation of the British National Health Service

(By Lord Arthur Porritt, former president of the British Medical Association)

(Note.—Lord Arthur Porritt was sergeant surgeon to Queen Elizabeth II of the United Kingdom from 1952 to 1972. Earlier, he was surgeon to King George VI. He served as president of the Royal College of Surgeons from 1960–63, the British Medical Association from 1960–61, and the Royal Society of Medicine from 1966–67. He now chairs the East African Medical Research Foundation.)

The United States has still to make up its mind about what kind of state medical service it wants. The choice should take into consideration not only particular domestic conditions peculiar to your country but also the best and worst features of the many and varied systems that now exist throughout the world. Therefore, the somewhat sad story of the British National Health Service would seem to have relevance at this point for U.S. physicians.

I should stress at the outset that the choice should be made by the profession and not by the government.

In Britain, it was the government, with the best will in the world, that in 1948 forced the nationalization of medicine onto a largely dissenting profession. The country had already been acclimatized by the exigencies of war to a medical organization—the Emergency Medical Service—controlled by government and paid for out of general taxation.

The new Health Service was to be the brightest jewel in the utopian crown of the welfare state—that brain child of Lord Beveridge in the late '30s. The architect of the scheme was the then minister of health—the astute left-wing politician and idealistic Welshman, Aneuran Bevan. He sensed correctly that a plan to provide "free" medical services to all (however much that word "free" might be camouflaged by special conditions in tax structure) would have an immediate appeal to a war-weary population and bring kudos to the new Labour Government.

I should stress, however, that no one political party is to blame for the disastrous situation that now exists—nor is the medical professional itself free of censure. Both major political parties in the United Kingdom soon came to realize that the Health Service was the best electoral vote-catcher that had ever appeared on the political scene! Medicine became a political football to be kicked around as required by short-term policy—always provided the ball was never allowed out of play.

Bevan, by a shrewd piece of "horse trading" with the senior echelons of the profession, in particular with Lord Moran, Churchill's physician and then president of the prestigious Royal College of Physicians, inveigled a largely unwilling profession into agreeing to the scheme. He promised that independent private practice would be permitted within the ambit of the NHS.

So, in 1948, the NHS was started and, although it was not appreciated for some time, the rape of British medicine began.

At first, this was a physical process—the enforced takeover of all hospitals and their facilities and their endowment funds and the automatic metamorphosis of 90 per cent of the profession into either part- or full-time *government employees*. The relatively more important and more sinister changes in the social, ethical, and moral approach to the practice of medicine have become obvious only as the years have passed.

Sadly, the basic premise of the practicality of the scheme as put forward by Beveridge and Bevan has proved to be false. This was that the existence of a comprehensive state medical service, although obviously going to be an expensive luxury, would automatically and in a relatively short time ensure a reduction in the overall demand for health care.

Exactly the opposite has proved to be the case. The costliness of the service has gone up by leaps and bounds—from a few hundred million pounds in 1948 to over 4,500-million today—with no sign of any likely decrease. This is due largely to rapid scientific and technological advances in medicine, requiring greatly increased facilities, more expensive sophisticated equipment, and the multiplication of highly paid teams to provide this level of care.

At the same time, a considerably better educated public, still laboring under the delusion that it is getting something for nothing, has become more and more demanding. The result has been less and less appreciation of the service and a steady increase in its overuse and misuse. Worst of all, there has been a decline in the historically happy relationship between patient and medical practitioner.

Three primary faults in the system soon developed and became obvious.

1. As was bound to be the case, the intervention of a government department, however indirectly, between patient and doctor detrimentally affected the atmosphere of trust, respect, and confidentiality so essential to the practice of medicine.

2. At the beginning, NHS was divided into three quite separate components—a hospital service, a general practitioners service, and a public health service. The first two were under central government control, the last under local government administration. Politically, of course, this was an admirable arrangement, allowing one section to be played off against the others in times of difficulty or disagreement. But it produced a woeful lack of overall cohesion, which was at the time unnecessarily expensive and sadly ineffective.

3. Under the so-called "capitation system" for remuneration of general practitioners, each doctor acquired a list of some 2,000 patients for whom he was annually paid a sum per head decided upon by the government, irrespective of how often or to what degree or at what time of night or day he gave his services to that patient. Patients became numbers, anything humanitarian or personal in the normal doctor-patient relationship was adversely affected. Any individual initiative was automatically removed. The NHS was up against human nature: the lazy and energetic doctor received the same reward; the demanding and the thoughtful patient received the same service; no account was taken of work capacity or individual ability.

From its inauguration, therefore, the scene was badly set for the implementation of this unique socioeconomic experiment. The politicians had not appreciated that to nationalize a profession was something very different from nationalizing a business or an industry. The training of a doctor did not gear him for managerial responsibility. Quantifying professional work proved impossible, and it became increasingly difficult to institute operational research or estimate medical cost-effectiveness. At the same time, the ever-lengthening tentacles of bureaucracy began to wrap themselves more and more firmly around what must essentially be a humanitarian relationship—the trust, confidence, and confidentiality of the doctor-patient atmosphere.

Within a decade, the yellow warning lights were beginning to flash. To cope with these premonitory signs of trouble in the early '60s, two new bodies were set up.

An independent review body was established to deal with the contentious subject of doctors' pay. For some years it fought a praiseworthy battle on behalf of the profession. But in due course the government—the "paymaster"—now in severe trouble because of the rapidly escalating costs of NRS exerted such constitutional pressures as to make the independent body simply a tool of political policy. In doing so, the government relied on physicians' lack of organizational ability, their seemingly inherent distaste for such materialistic discussions. As the state was "paying the piper," it insisted on calling the tune and it became more and more discordant.

The other body set up was one organized by the profession itself in an attempt to salvage the original ideal, using the experience of the first decade. This committee (perhaps sadly called the Porritt Committee) consisted of a widely representative membership of the tops of the profession. After four years of strenuous work, it produced a unanimous and constructive report with many practical suggestions as to how to make NHS work for the benefit of patients and doctors, yet still within the reasonable limits of government control. As has so often been the case, the report was duly received and duly shelved without any action being taken.

Another decade passed during which things went from bad to worse—before the so-called reorganization took place in 1975. This piece of Conservative legislation was implemented by a Labour Government. This "reorganization" has to give it its due, at long last, united the three parts of the NHS under one administration. Apart from that, however, it has been a calamity.

The yellow lights turned to red some time ago. For any advance to be possible in the traffic jam of patients and doctors, some radical rethinking—amounting almost to dismantling and restructuring—is urgently required.

In recent years, new and sinister elements have entered into the relationship between the ministry of Health and the medical profession. Doctrinaire Marxist socialism has taken over the reins of policy. Virulent personality clashes have become the order of the day. Petty squabbles are everyday affairs—constantly interrupting what should be a smooth flow of healing, caring services to patients.

The latest and most acute of these elements is the government's move to exclude pay-beds and private practice from state hospitals—thus breaking unilaterally the promise given at the inception of the service. With this comes the threat of a complete monopoly of medical services by the state—with consequent loss of independence and freedom of choice for both patient and doctor.

Can you wonder that under these conditions lack of trust and cooperation between government and profession is increasing rapidly, that morale is abysmally low, and that standards of practice are falling?

In Britain, the same sinister battle of collectivism versus individualism is being waged. Everywhere, the welfare state slogan, "Equality is more important than Quality," rings in one's ears. It seems to be quite impossible to persuade the powers that be that all men are born *un*equal and that this is a genetic fact.

As a result of such precepts, nationalized medicine has become balanced on a three-legged stool of science, cash, and government control. What a triumvirate! What a wobbly and insecure base for a humanitarian profession! Cut off—or even damage—any one of the three and the whole is in dire danger of complete collapse.

One of the most insidious side effects, as I see it, is the development of a new type of doctor—one who has an employee mentality rather than a vocational one. Perhaps patients in today's mercenary, mechanized materialistic world appreciate this type of medical practitioner. I only know that in my time such words as "overtime," "negotiation," "industrial action," and even "strike" had no place in the medical dictionary!

But perhaps this basic change in a doctor's philosophy of life is the inevitable answer to a society that has decided that medical care is an inborn *right* rather than a privilege, a society that demands a doctor should act as a professional but be treated as an employee.

Is it any wonder that some 4,000 doctors, mostly young and keen but also including a significant number of trained and experienced specialists, leave British shores every year? These British professionals emigrate to happier climes where talent is appreciated and where each individual can make his independent living according to his ability, restricted only by ethical and professional standards. The vacuum so created is filled by an approximately equal number of overseas doctors, mainly from the Asiatic subcontinent. They not only find themselves up against linguistic and medical difficulties but would be infinitely better employed dealing with the crying needs of their own countries.

And yet more and more clinical doctors are being swallowed up in the insatiable maw of ever-expanding bureaucratic administration. In Britain, the NHS now employs over a million people. And there are 30 per cent more administrators than practicing doctors! There is little delegation of authority in this monolithic structure. Sadly, this applies equally well to the nursing profession despite the overall shortages that have led to the closing of wards, specialized units, and even hospitals. In 1965, there was in the NHS one administrator to 10 hospital beds; now it is about one to five. In the same period, appproximately 100,000 more nurses have joined the service (an overall 20 per cent rise); yet there is an acute shortage of nursing nurses. They have been absorbed into administration!

There is only one sensible place for responsibility to rest and accountability to be required. That is at the periphery of the system, where doctor and patient meet. Instead, every problem—even relatively minor ones—has to be filtered up through three or four levels of administrative incompetence to the ministry itself. Here, as far divorced as possible from practical politics, consensus agreements on policy are ultimately reached so that they can be filtered back in due course to their point of origin. The dangerous delays and utter frustration of such a system can perhaps be imagined but not really appreciated by anyone who has not personally suffered it.

This top-heavy, overmanned administration has to cope with such vitally urgent problems as dissatisfied medical staff, militant trade unionists, insufficient funds, aging facilities (70 per cent of Britian's hospitals are of pre-war vintage and 50 per cent of these are from the last century) and a demanding public.

To the public, the NHS is part of a way of life and nothing must interrupt its supply. Administration, both medical and nursing, appears to consist of a plethora of committees at all levels. These committees require a quite unjustifiable use (and therefore waste) of technically skilled manpower.

The result is delay and inefficiency. There is not enough autonomy at the periphery and far too much at the center. It is at the center, the ministry, that consensus management takes place by undoubtedly well motivated but, in general, woefully untrained civil servants.

The administration hierarchy and the medical planners just cannot understand that it is the *quality* of medical care that counts. Keynote of their system is impersonality. The result is a steady depletion of production activity.

And at the same time, central control steadily increases. In six months of last year, the profession received some 260 "directives" from the ministry. A sufficient multiplication of directives leads ultimately, if their production is unchecked, to state monopoly. In such a situation, the doctor is employed by the government and not by the patient. His clinical conscience is blunted, and he will not dare to disobey and will be more concerned with keeping out of trouble than helping patients!

We have produced some very significant and, I would venture to say, some very sinister changes in the pattern of British medicine in the last 30 years.

Do not let me give you the impression, however, that the NHS has been an abject failure. This is far from the case, and thousands of British patients have received better medical care, free from financial worries, than would have been the case had it not existed. No, it is primarly the work and status of the doctor—and hence of the profession as a whole—that has suffered and is suffering. Sadly, the extent is such that both clinical and ethical standards are being adversely affected.

And, yet, the good doctor, the clinical doctor is essentially a man of honor, an individualist, who is by nature self-employed and needs this stimulus of being a responsible, well trained entity to produce his best work on his own terms.

How are we in Britain going to raise this "Phoenix" from the ashes? How are you in America, who have yet to face up to the fearsome problems associated with the institution of a nationalized medical service, going to avoid producing another heap of ashes?

Let us recapitulate briefly the major problems to be faced, as learned from 30 years firsthand experience of the British system, in establishing a service equally of benefit to the patient, the doctor and the nation. A humanitarian profession has come into head-on collision with an impersonal governmental machine. Financial concerns have taken precedence over clinical and ethical standards. Expensive hospitalization has become the order of the day, isolating the patient from his home environment. Treatment has become more technical and scientific rather than personal. Clinical and ethical standards have become increasingly geared to a regimented methodology, as have the curricula of both undergraduates and postgraduates, producing a new type of doctor. Fear of a state monopoly has steadily grown, threatening loss of independence and freedom of choice to both doctor and patient and producing a markedly low morale in the profession. All this has taken place in a rapidly changing socioeconomic environment.

How can we cope with such a frightening collection of problems as this? First, a genuinely realistic view of the situation is essential—unbiased by any political dogma, especially partly political dogma. The basic purpose of the exercise is to provide a health service for the community to the best of the nation's financial ability. And let the words "health service" mean what they say! The British model to date has been essentially a "disease service" and, sadly, has become a "diseased service"!

So far no country in the world has been either able or willing to provide from its gross national product sufficient funds to ensure the initiation and maintenance of a comprehensive state medical service. In Britain, the figure is now 5.5 per cent of the GNP. That translates to almost £100 per head of the total population—men, women, and children.

Yet patently this is completely inadequate, as evidenced by underpaid staff, inability to replace out-of-date hospitals, or even to maintain reasonably old ones, and failure to keep facilities up to modern levels. All of these shortcomings inevitably lead to an overall fall in the standards of medical care.

In the NHS some 10 years ago, a doctor on the average was receiving about five times the wages of a top manual laborer. Now it is cut to three times. British salaries are almost ludicrously below those of the physician's counterparts in the rest of Europe, America, Canada, and Australia.

Hence, it would seem only logical to find other methods of ensuring overall medical care for the community. Such methods can perhaps be best summarized under three headings:

1. Other *parallel* methods of providing medical care.
2. Efforts to introduce practical economies and the establishment of priorities.
3. The possibility of raising new monies, other than exclusively from national income tax.

Among parallel methods of providing medical care, one may mention private practice, insured practice, subsidized practice, or some combination of these. One would expect any reasonable and intelligent government, not obsessed with the miasma of monopoly and realizing its limitations, to be willing not only to allow but actively to encourage such additional methods. Running in parallel *and* in amity with the NHS, such methods would surely promote a symbiosis that could only be competitively stimulating, productive, and advantageous to the state system.

Many examples of such arrangements can now be found throughout the world, and the diversity well merits close study. Many schemes far less ambitious than the British have resulted in far better end products. One of the best at the moment is the Australian scheme. Based on compulsory national insurance (except for the destitute), it is backed by state subsidy as necessary. France and Canada seem to have come to terms with a broad based and efficient system. In these countries, all patients enjoy the status of private patient.

In respect to economies, the first and most obvious lies with administration. Radical streamlining of the British service is vitally necessary. Multiplication of levels of control—with concomitant overstaffing in unnecessary and expensive premises—is so easy to initiate and so difficult to curb. The result is always delay, reduplication of work, and inefficiency. Such is bureaucracy! It is in this connection that a national service governed by an independent corporation has come under discussion—a concept well worthy of consideration.

A more controversial, but very rewarding, possible economy lies in adjusting the present overemphasis on hospital treatment at the expense of primary care and community health. No doubt it would be difficult to dislodge from its pride of place in the medical hierarchy the prestigious acute general or special hospital, nurtured as it is by all the wonders of modern scientific technology and employing as it does by far the largest part of available medical manpower. Yet, the hospital portion of medical service accounts for about 70 per cent of total expenditures while providing benefits for something less than 10 per cent of the population. Far greater dividends and considerable savings would result from expending less on hospitals and more on community medicine, the work of general practitioners, small local country and urban hospitals and health centers, the teaching and practice of health education and preventive medicine, and the development of occupational and industrial health services.

This would not be an easy metamorphosis to bring about; both profession and public have been conditioned over the years to accept institutionalization as the optimum answer to all ills. Such a widely accepted concept—perhaps most of all in the investigative, geriatric, and psychiatric fields—is proving an ever more expensive luxury in times of straitened financial resources.

In more minor categories of economy (which nevertheless add up to vast sums), one should seriously consider overuse (and misuse) of drugs, excessive in-patient investigation when outpatient attendance or day-stay wards would serve equally well, misuse of ambulance services (for instance, to take ill members of Parliament from their homes to the House of Commons for crisis votes), and such "frill services" as various screening programs, family planning, tourist innoculation, comprehensive immunization, pregnancy tests, sterilization, and even wholesale abortion. All of these services in Britain are given "free."

Do we make optimum use of our trained nursing and medical strength? Do we train enough paramedical personnel and deploy them to best advantage? Do we obtain maximum benefit from our available facilities—both equipment and buildings? And do we, without wasting valuable clinical time in managerial activities, keep a sufficiently vigilant eye on our self-perpetuating health service administration?

These questions (and one could raise many more) will demand answers if a state medical service—be it brand new or renovated—is to be set up and be economically viable.

In regard to new monies, I have already raised the possibility of management by an independent corporation. I would also plead for some form of fee-for-service method of payment of doctors—both in practice and in hospital. One has seen the possibility of the artificial creation of work (you in America have faced this problem with Medicaid) but worldwide experience has shown this problem soon becomes self-regulatory. On the other hand, it does possess the great advantage of maintaining the essentially basic personal doctor-patient relationship; it does reward actual work done and reflect the nature of that work. And it does stimulate initiative and a sense of responsibility.

In contradistinction, the capitation system is coldly impersonal, encourages "head hunting," produces services at less than the rate for the job, and breeds mediocrity and sloth.

To produce further "new monies," I would suggest "board and lodging" charges for all patients in hospitals and similar modest fees for all "frill benefits." In the mass, these would produce a considerable accretion of funds and also would give the patient a sense of responsibility and would tend to maintain his independence and individuality.

Finally, let us not forget but remember with warm gratitude, that even in today's tough, pragmatic world there are people—good people—who voluntarily give to good causes. They may do it to boost a national service in financial difficulties; they may do it to show up a state service not fulfilling its promises; or they may do it because surely there is no better cause than caring for people in trouble.

Finally, let us address the question of morale. No state medical service will flourish or "produce the goods" unless the morale of all those who work in it and for it is kept high. The insidious sapping of morale in the medical and nursing services of NHS has finally brought it to its knees.

Politics and medicine are by their very nature immiscible. On the assumption, therefore, that nationalized medicine produces the most good for the most people (itself arguable, although seemingly and intentionally accepted fact today), it is essential to produce a satisfactory medicopolitical emulsion. Such a mixture demands all the cooperation, mutual trust, and understanding both sides can give it. It is all too easy for the emulsion to settle out into its two separate layers.

To prevent this, the government concerned must go out of its way to inculcate into the profession a sense of being fairly treated. It must provide freedom of choice for the patient of his doctor and vice versa and give the doctor the right to decide how, where, and under what conditions he can work to the best of his ability. It must ensure the doctor his professional freedom to the extent that he as an individual is responsible for his own ethical and clinical standards.

A lot to ask you may fairly say—in fact, perhaps an unattainable ideal. But looking around this gray world of ours, it is already obvious that it is those governments that are prepared to ride their medical professions on a light rein that have achieved the most economic and the most efficient state medical services.●

ERA

Mr. GARN. Mr. President, Prof. Jules B. Gerard of Washington University, St. Louis, Mo., has done some of the most interesting legal research on the issues raised by House Joint Resolution 638, the resolution purporting to extend the time for ratification of the Equal Rights Amendment. Professor Gerard has combined original research with thoughtful analysis to produce some very provocative conclusions. We should be especially grateful to Professor Gerard for his work on the ratification documents which have been submitted by the States to the Administrator of the General Services Administration. After checking all the ratification documents that were available to him, Professor Gerard has concluded that an extension of the ratification period will invalidate at least 24 rescissions.

In Professor Gerard's words:

> It is as clear as the English language can make it that the 24 states . . . consciously assented to the seven-year time limit proposed by Congress as one of the express terms of their ratification agreements. Congress had proposed an amendment to the Constitution, the proposal containing an expressly stated, unambiguous term, viz., that to be valid, the proposal must be ratified by three-fourths of the states "within seven years." The 24 ratifying states expressly accepted that term and incorporated it into their agreements to ratify. Thus a consensus was reached that the seven-year limitation was one of the terms of the ratification agreement. And since that consensus exists, it is binding upon Congress and those states.

House Joint Resolution 638 raises numerous and significant questions for all who are interested in the Constitution, legislative policy, jurisprudence, separation of powers, and other issues. It raises questions that are profound, and I only hope that we provide answers that are equally profound. I fear, however, that our response may be inadequate, because it will be made during a time of intense pressure when expedience may prevail over prudence. I hope that these fears never become expressed in the Senate's actions, and I am buoyed by the interest that some of our colleagues are showing in this issue. I know that some Senators and staff members are making a conscientious effort to study the issues raised by House Joint Resolution 638. This is an effort that I applaud. It is also an effort in which I am participating, because the issues are many and complex and I am certainly learning as I go along.

Professor Gerard's statement on extension will be valuable to any student of these issues, and I ask that it be printed in the RECORD, in its entirety.

The material follows:

STATEMENT ON EXTENDING THE TIME FOR RATIFICATION OF THE PROPOSED EQUAL RIGHTS AMENDMENT

(By Jules B. Gerard)

My name is Jules B. Gerard. I am a Professor of Law at Washington University School of Law in St. Louis, where I have taught constitutional law for the past 15 years.

The four questions submitted by the Subcommittee, and my answers to them, are:

(1) "Does Congress have the power to extend the time for ratification of the ERA?" Of course it does, provided it does not also attempt to bind states that already have ratified to their previous ratifications.

(2) "Must a resolution to extend the ratification period be approved by a two-thirds vote in each House or is a simple majority constitutionally sufficient?" A two-thirds vote of each House is required.

"(3) "Would an extension of the time period available for ratification by the states empower them to rescind prior ratification during this extension period?" The States already have that power. However, since representatives of the Department of Justice have testified in both the House and the Senate that states are powerless to rescind their ratifications, thereby raising doubts in the minds of some state legislators about the constitutionality of rescissions, Congress should specifically provide, if an extension is granted, that people in the ratified states may withdraw their ratifications.

(4) "Would an extension of the ratification deadline invalidate some state ratifications on the theory that those states materially relied upon the initial seven-year limitation?" An extension surely will invalidate at least 24 ratifications; "materiality," "reliance," and "right to rely" are irrelevant.

My primary interest lies with the first and fourth questions, which are related. I begin by addressing those two questions simultaneously.

I

Congress, having incorporated a seven year time limit as a condition of ratification into its proposal to the states, has no power to change that condition without invalidating the ratifications of those states that accepted the condition in their ratification documents.

Amending the Constitution is a process governed by a set of principles that everyone has understood, that scholars and text writers have agreed upon, and that the Supreme Court has made the bedrock foundation for its few decisions on the subject.[1] Those principles are:

(1) When Congress proposes an amendment to the people, it is performing a unique function under Article V. It is not acting in its capacity as a legislative to make laws that govern those subject to its commands. Rather, it is proposing that the people agree to change the Constitution.

(2) When a state legislature acts on a proposed amendment, it, too, is performing a unique function under Article V. That function is to indicate whether the people of that state consent (or "assent," as it was called in earlier centuries) to the change proposed by Congress.

(3) The essence, the gist, the core of this process is consent by the people in overwhelming numbers.

Until the present debate over extending the time to ratify ERA transformed the amending process of Article V into a collection of lawyers' quibbles over irrelevancies, no one ever seriously questioned these principles.

The Constitution begins with the immortal words, "we the people of the United States, in order to form a more perfect union . . . do ordain and establish this Constitution for the United States of America." The Constitution is a compact, an agreement, a contract by and between the people of the nation the major feature of which is consensus about what the supreme law of the land ought to be.

Footnotes at end of article.

Article V expressly adopts this majestic conception by requiring consensus in no uncertain terms:

> "The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution . . . which . . . shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by Congress. . . .[3]

The plain language of Article V thus requires consensus on what is to be added to the Constitution (the proposal) and whether it is to be added (the ratification). Nothing in the language or history of Article V suggests that consensus is not required, or that majorities smaller than those specified are permissible, on either of these questions. Consensus of the requisite size must exist as to both.

Consensus, then, is the sine qua non, the absolute essential, to a valid constitutional amendment. The question then becomes how the existence of that consensus is to be determined. Time out of mind, that question has had a single answer: one looks to what the parties said in the formal documents alleged to create the consensus.

The language of House Joint Resolution 208, which submitted ERA to the states for ratification, reads in part as follows:

"*Resolved by the Senate and House of Representatives* . . . (*two thirds of each House concurring therein*), That

"The following article is proposed as an amendment to the Constitution of the United States *which shall be valid* . . . as part of the Constitution *when ratified* by the legislatures of three-fourths of the several States *within seven years* from the date of its submission by Congress: (the three sections of ERA are then recited)." (Emphasis added.)

That resolution clearly proposed a condition on the ratification of ERA: the language is, "*when* ratified . . . *within* seven years." There really can be no serious dispute over the proposition that the resolution was intended to, and did, propose a seven year time limit on the consideration of ERA as a condition of ratification.

What did the ratifying states say? For purposes of analysis, the ratification documents on file with GSA can be classified into six separate categories:

Category 1 includes those states which ratified as follows:

"Whereas both Houses of the 92nd Congress . . . made a proposition to amend the Constitution . . . in the following words, to wit: (reciting, first, the time limit, and then the text of ERA)."

There are ten states in this group, (Connecticut, Maine, Michigan, Montana, New Hampshire, New Mexico, North Dakota, Wisconsin, Ohio, and Wyoming), twelve if one includes Idaho and Nebraska which since have rescinded their ratification.

Category 2 consists of states whose ratification documents are in these words: "where the 92nd Congress has adopted H.J. Res. No. 208 . . . proposing an amendment to the Constitution . . . in the following words, to wit: (reciting, first, the time limit and the text of ERA)."

There are eight states in this category (Kansas, California, Colorado, Indiana, Massachusetts, Minnesota, Washington, and West Virginia).

Category 3 includes states that explicitly recite the time limit as a separate inducement persuading them to ratify. There are two states in this category (Oregon and Vermont).

Category 4 consists of states that explicitly say that what was submitted to them for ratification was House Joint Resolution 208 containing the time limit, *not* ERA independent of the Joint Resolution: "whereas, this Joint Resolution . . . has now been submitted to a vote of the States, and reads [etc.] . . ." There are two states in this group (Iowa and South Dakota).

Category 5 is composed of states which mention the time limit in their ratification documents, but do not indicate a reason for doing so. There are 4 states in this group (Delaware, Hawaii, New York and Texas).

Finally, in category 6, are those 4 states which ratified ERA without adverting to the time limit in their ratification documents (Maryland, New Jersey, Pennsylvania, and Rhode Island).

It is as clear as the English language can make it that the 24 states in the first four categories consciously assented to the seven-year time limit proposed by Congress as one of the express terms of their ratification agreements. Congress had proposed an amendment to the Constitution, the proposal containing an expressly stated, unambiguous term, viz., that to be valid, the proposal must be ratified by three-fourths of the states "within seven years." The 24 ratifying states expressly accepted that term and incorporated it into their agreements to ratify. Thus a consensus was reached that the seven-year limitation was one of the terms of the ratification agreement. And since that consensus exists, it is binding upon Congress and those states. There is no rule of law that permit a search behind the expressly-stated, unambiguous, mutually-agreed-upon, terms of a compact in order to prove that an apparent consensus is something different than what is plainly set forth, or that it did not exist at all. Nor is there a rule that requires a party to "materially rely" upon such a term in order to make it binding. Consensus is what the Constitution requires, not reliance. "Reliance," and "right to rely" simply are irrelevant when parties with equal bargaining power and equal knowledge (which is the case here) have mutually agreed to an unambiguous, expressly-stated term of a compact.

The issue before your Committee, then, is this: After Congress has proposed a condition upon ratification which has been expressly accepted by the states in their ratification documents, can Congress then change that condition without the states' approval, but nevertheless require the states to adhere to the other terms of the agreement? There is no legal principle, constitutional or otherwise, that permits—much less requires—an affirmative answer to that question. tI therefore follows that the ratifications of those 24 states inevitably will become invalid (will expire) after March 22, 1979.

What are the opposing arguments? The first is based entirely upon a casual dictum of *Dillon* v. *Gloss*.[4] *Dillon* rejected a claim that the 18th Amendment was a nullity because it contained a seven year time limit on ratification which Congress was powerless to propose. In the course of rejecting that claim, the Court said that establishing a time limit was a "matter of detail" of the amending process, and was an "incident of" Congress' power "to designate the mode of ratification." Building upon this dictum, the argument proceeds that since Congress has the unreviewable discretion to propose the "mode of ratification" (by legislatures or conventions), it also must have the unreviewable discretion to establish, and change, time limits, since the latter are only "incidents of" the former. But this argument is flawed. First, its strength depends entirely upon the correctness of the *Dillon* dictum's assertion that Congress' power to establish time limits on ratifications derives from its power to propose "the one or the other mode of ratification," rather than from its power to "proposed amendments to this Constitution." But that issue was not even remotely involved in *Dillon*. And no one yet has claimed that Congress has the power to change the text of a proposed amendment after it has been ratified by the people in one or more states. Second, in elevating this offhand dictum to a constitutional rule, the argument entirely disregards the reasons the *Dillon* Court gave for upholding congressional power to propose time limits. Those reasons are not in doubt, and both conclusively refute the argument under discussion. The first reason, given in *Dillon* itself, is "so that all may know what [the time period] is and speculation on what is a reasonable time may be avoided."[5] The second reason, elaborated at length in *Coleman* v. *Miller*[6] but also noticed in Dillon, is that serious constitutional problems are generated by amendments that are proposed without time limits and that remain unratified by the requisite number of states years after being proposed; the Court held that Congress had power to propose time limits to avoid embarrassments of this kind. It is too plain for dispute that both of these reasons are founded upon the need for consensus and have nothing whatever to do with lawyers' quibbles about which phrase of Article V provides the source of the power.

The Court has said, with respect to Article V, "The Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary as distinguished from technical meaning; where the intention is clear there is no room for construction and no excuse for interpolation or addition."[7]

A second argument runs that since the time limit is in the "resolving clause" rather than in the proposed constitutional text, Congress may change it. One fault of this argument lies in its failure to acknowledge that Congress has no power to enact a law and impose it upon the amending process like a statute of limitations; it has only the power to "propose" a term of ratification and to seek a consensus from the people. If this second argument is sound, the following conclusions flow from it inescapably: (1) Because the time limit will not be part of the constitutional text, Congress has power to declare that the period for ratification is at an end right now, and that no further ratifications will be accepted. (2) Because the time limit will not be part of the constitutional text, Congress has the power to declare that a ratification voted after the existing period expires would still be valid. (And if that follows, these hearings and the debate about the proposal to extend the time for ratification are pointless.) Moreover, the argument implies that consensus is needed only as to the terms of the constitutional text, but not as to whether the proposed text is to become a part of the Constitution at all. That is to say, the argument implies that consensus from the people of three-fourths of the states is not required with respect to the proposed terms under which the agreed-upon language is to be added to the Constitution. There is no justification in Article V for such a distinction.

As is more fully developed in Part II, Article V draws no distinction between "proposing an amendment and "submitting" it for ratification; Congress' powers are the same with respect to the latter as to the former. Congress' function under Article V is not that of a legislature, but that of an agent of the people seeking consensus from the people. Once that consensus has been established, as it has here with respect at least to the 24 states noted earlier, Congress has no power unilaterally to change one of the terms of that consensus without simultaneously destroying the consensus, thus invalidating the ratifications containing the original term.

The vote to extend the period of ratification must be by a two-thirds majority of both Houses of Congress.

What is the nature of the proposed extension? If it is to have any effect, it must be either because it is a part of the amending process, and therefore requires a two-thirds vote, or because it is a "law" that must be obeyed. But the authorities are unanimous that Congress does not act as a legislature when it performs the functions delegated to it under Article V.[8] So how can it pass a "law" to change a term of a proposal to amend the Constitution?

Article V reads, "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution. . . ." It does not draw a distinction between proposing an amendment and submitting an amendment for ratification.[9] The proponents of extension would read Article V as though it provided, at the end of the above quote, "and, whenever a majority of both Houses concur, shall submit the proposal. . . ." Until now, Congress has followed the Constitution and has not distinguished between "proposing" and "submitting" an amendment. Every proposed amendment has been submitted in one resolution containing both the proposed text and the proposed terms of ratification.[10] Article V requires a consensus of two-thirds of the members of Congress both as to the terms of the proposed constitutional text and as to the terms under which that proposed text is to be submitted to the people for ratification. There is no justification in the language or history of Article V for the bizarre assertion that a majority of Congress to accomplish.

The issue is not, as some have said, "whether Congress may accomplish in two steps what it might have accomplished in one." The only thing Congress is permitted to "accomplish" under Article V is to decide by two-thirds vote of both Houses, whether to propose an amendment for ratification; after the proposal has been sent to the states, and has been acted upon, an extension of time is not a second step to one decision, but a second decision. And like the first, it requires a two-thirds vote in both Houses of Congress.

Nor is the issue whether the people rather than Congress have the power to decide what is a "reasonable period" for ratification. The people made no such decision. Congress did, and the people of 24 states accepted Congress' judgment and incorporated it into their ratification agreements. It may be that simple majorities of both Houses can determine whether an amendment proposed without a time limit has been ratified within a reasonable period. But that is not the problem here, and the argument is not relevant.

States have the power to rescind their ratifications. However, since the Department of Justice has taken the position that a state is powerless to rescind a ratification, it behooves this Congress specifically to authorize ratifying states to rescind their ratifications during whatever extension period, if any, is provided.

First, as to the argument that Article V authorizes the states only to "ratify" a proposed amendment, not to reject it; therefore, once a state has ratified, it has exhausted its power under Article V. A parallel argument would hold that Congress lacks the power the repeal legislation because Article I does not, in terms, authorize it to do so. Both arguments are nonsensical.

Second, as to the policy implicit in permitting withdrawals of ratifications, I can do no better than quote the leading text on constitutional amendments:

"Ratification should not be more final than rejection. Ratification by less than three-fourths of the states is ineffectual. Such is the theoretical approach. But there are even stronger practical arguments. It is more democratic to allow the reversal of prior action. A truer picture of public opinion at the final date of ratification is obtained. No great confusion is likely to result from such a rule. Not to allow reversal of an acceptance may cause a cautious legislature not to act." [11]

Orfield's argument compellingly supports the proposition that has been stressed throughout this paper: that the indispensable element in a valid ratification is overwhelming consensus at the time of ratification. It simply is impossible to conceive of a consensus that includes the people of a state who are on record as having withdrawn their consent.

Third, as to the argument from precedent. I believe it is undesirable to extend precedents established by the vengeful Reconstruction Congress, following the shattering events of the Civil War, to any situations today.

Fourth, as to the argument that the conditions calling for ratification still exist, and that a reasonable time to consider ERA has not yet expired. Many of the states that ratified ERA in the early months after its submission did so without debate, without hearings, without calling witnesses, and without any real reflection. If the proponents seriously wish to argue extension on the ground of the need for further debate, there can be no reason for precluding that debate from occurring in states which did not engage in it to begin with. Precluding debate in those states is inconsistent with the basic premise of the argument, and is unfair, unjust, and, as I have attempted to show, probably unconstitutional. Moreover, to say that ERA is as necessary today as it was in 1971 is to ignore the interim developments of sixteen thoroughly considered Supreme Court decisions on sex discrimination[12] and at least five major pieces of congressional legislation to improve the status of women.[13]

Finally, representatives of the Department of Justice have testified that a state is powerless to rescind a ratification. This testimony has raised doubts in the minds of many state legislators considering rescission of the constitutionality of their doing so. Even though it is arguable that the ultimate decision of such a question would be made by the next Congress, this Congress, as a matter of fairness, should indicate i's view that such rescissions would be effective.

FOOTNOTES

[1] See, e.g., *The Federalist* Nos. 40 (Madison), 43 (Madison) and 85 (Hamilton); L. Orfield, *Amending The Federal Constitution, passim* (1942); Hawke v. Smith, 253 U.S. 221 (1920); Smiley v. Holm, 285 U.S. 355 (1931).

[2] This paper responds to the precise questions asked by the Subcommittee and ignores unrelated problems. Hence here and at other places I have not quoted the full text.

[3] The ratification documents of Alaska, Kentucky and Tennessee were not available when I prepared this analysis. So only 35 states are shown.

[4] 256 U.S. 368 (1921).

[5] *Id.* at 376.

[6] 307 U.S. 433 (1939).

[7] United States v. Sprague, 282 U.S. 716, 731 (1931) (emphasis added).

[8] E.g., Hawke v. Smith, 253 U.S. 221, 229–30 (1920); United States v. Sprague, 282 U.S. 716, 733 (1931); Orfield, *supra* note 1, at 48–49.

[9] Orfield, *supra* note 1, at 50, and n. 30.

[10] *Ibid.*

[11] *Id.* at 72.

[12] City of Los Angeles v. Manhart, 98 S. Ct. 1370 (1978); Nashville Gas Co. v. Satty, 98 S. Ct. 347 (1977); Dothard v. Rawlinson, 97 S. Ct. 2720 (1977); Califano v. Webster, 97 S. Ct. 1192 (1977) Califano v. Goldfarb, 97 S. Ct. 1021 (1977); General Electric v. Gilbert, 429 U.S. 125 (1976); Craig v. Boren, 429 U.S. 190 (1976) Stanton v. Stanton, 421 U.S. 7 (1975); Weinburger v. Wiesenfield 420 U.S. 636 (1975); Schlesinger v. Ballard, 419 U.S. 498 (1975) Geduldig v. Aiello, 417 U.S. 484 (1974); Kahn v. Shevin, 416 U.S. 351 (1974); Cleveland Board of Education v. LaFleur, 414 U.S. 632 (1974); Frontiero v. Richardson, 411 U.S. 677 (1973); Stanley v. Illinois, 405 U.S. 645 (1972) and Reed v. Reed, 404 U.S. 71 (1971).

[13] Equal Employment Opportunities Act (Title VII, Civil Rights Act 42 U.S.C. § 2000e; Title IX of the Education Amendments of 1972 20 U.S.C. § 1681; Women's Educational Equity Act of 1974, 28 U.S.C. § 1886; Equal Pay Act, 29 U.S.C. § 206(d); and the Equal Credit Opportunity Act, 15 U.S.C. § 1691.●

THE NATION LOSES ONE OF ITS OUTSTANDING REPORTERS

● **Mr. PERCY.** Mr. President, on September 11, 1978, the Nation lost one of its most outstanding investigative reporters with the death of George Bliss, 60, in the Chicago suburb of Oak Lawn.

George was a personal friend whom I admired and respected. I will miss him.

As a reporter for the Chicago Tribune, he wrote stories that resulted in the award of three Pulitzer Prizes and at least 40 other journalism awards, an almost unprecedented accomplishment in American newspaper annals. George's 41 years of reporting were full of accomplishments. Yet, he always took the time to teach young reporters the intricacies of investigative reporting. I would like to relate the highlights of his brilliant career.

In 1937, at the age of 19, he went to work as a copy boy for the Chicago American newspaper. It was not surprising that George chose journalism. His father, William, was a reporter for the Denver Post, the Chicago Tribune and the Chicago Herald & Examiner. In 1938, George was given his first reporting assignment at the American. "There was a murder in the loop and before I knew it I was on my way," George was quoted as saying afterward.

Four years later, he joined the staff of the Tribune, but soon enlisted in the Navy for service in the Pacific during World War II.

Following the war, he uncovered a major scandal in 1951 at the Audy Juvenile Home in Chicago. Major reforms in the operation of the facility resulted from his stories on abuse inflicted on the residents of the detention center.

From 1953 to 1968, he was the Tribune's labor editor. His hard-hitting stories exposed attempts by crime syndicate operatives to seize control of many honest unions.

George won his first Pulitzer in 1963 after conducting an investigation into widespread corruption at the Metropolitan Sanitary District of Greater Chicago.

In 1968, George left the Tribune to work for the Better Government Association, and a year later became its chief investigator. In that capacity, George zealously and effectively carried out the mandate of the BGA to root out corruption in all aspects of public life in Illinois. I was especialy satisfied with his performance because in the early 1960's I helped establish the BGA's investigative program: "Operation Watchdog."

While at the BGA, he exposed the sadistic and brutal treatment of the sick by private ambulance firms in Chicago. George worked with Bill Jones, then a Tribune reporter and now managing editor, who wrote stories about this treatment. Jones was awarded a Pulitzer for these stories.

George's BGA-sponsored investigation of nursing homes focused nationwide attention on abuses of the elderly. Even today, the Special Committee on Aging continues to investigate and expose those same patterns of abuse uncovered by George more than 7 years ago.

In 1971, George joined the Tribune to lead the paper's investigative task force. His reporting resulted in dozens of election officials going to prison. In the following year, the Pulitzer Committee recognized the significance of these stories, by granting another Pulitzer to the Tribune.

Three years later, George shared in still another Pulitzer together with Chuck Neubauer, a Tribune reporter, when they revealed that the Federal Housing Administration wasted millions of dollars and caused the abandonment of thousands of houses throughout the Nation.

George represented the best of American journalism because of his active role in protecting the innocent and the vulnerable from the abuses of those in authority and power. For decades corrupt politicians and election workers in Chicago would brazenly flaunt our election laws and thus weaken the cornerstone of our democracy—the ballot box. Through untiring reporting, George exposed their machinations and sent many of them to prison. Elections are much more secure and honest in Chicago today because of George's efforts.

George has left us with a rich legacy. Today, we seem to hear only from the critics of a free press who point out some of its defects. Rarely do we hear about men such as George Bliss who have helped preserve democracy by helping it insure that the honest citizen will be protected. Although he was only armed with a typewriter, George made the city of Chicago, the State of Illinois, and this Nation a better place to live.

We extend our deepest sympathy to the Bliss family.●

SOUTHERN HIGH SCHOOL ROTC WINS AWARD

● Mr. MORGAN. Mr. President, on 18 September of this year, the Aerospace Education Foundation, an affiliate of the Air Force Association, awarded first place in its annual contest for Junior ROTC units to Southern High School of Graham, N.C.

Three cadets produced a remarkable essay that won the contest, entitled "Theater Defense for the 1980's". The three cadets are Craig Knapp, David Moon and Ray Rider. Their military instructor at Southern High School is Col. Robert C. Newman, the school principal is Dr. Robert M. Stockard and the area superintendent is Dr. Robert Nelson.

I was privileged to attend the ceremony honoring these fine young men. Not only my State of North Carolina can be proud of these young men and their teachers, but all Americans should be thankful that we are still raising young people in this country with the motivation, dedication and competence that will mean success to them and security to the Nation in the years to come.

I ask that the text of their essay be printed in the RECORD as an inspiration to all of us.

The essay follows:

THEATER DEFENSE FOR THE 1980's

When the term theater operations is mentioned, the general reaction is to think of General-Purpose forces deployed in a geographic area to achieve specified objectives. In looking at World War II, the European and Pacific Theaters each had their forces and objectives. Korea and Vietnam introduced a connotation of more limited areas and objectives. However, in a strict sense both could be considered theaters of operations.

In examining the subject of this paper, it readily became apparent that it must be limited to one theater in addressing specific threats and recommended actions. The major area of emphasis to the United States national defense interest today is Europe. It logically followed that this paper should focus on the military organization charged with the responsibility of defending Western Europe, the North Atlantic Treaty Organization. While this paper deals primarily with the problems of NATO defense in the 1980s, it must be borne in mind that whatever happens in the NATO area of responsibility will have a major impact on events in the rest of the world.

BACKGROUND

Since its signing in 1948 by twelve of the present fifteen member nations, the North Atlantic Treaty Organization (NATO) has fulfilled its primary objective of stemming the spread of Russian control of Western Europe. It has been a defensive alliance with the policy of maintaining adequate forces necessary for preserving a stable balance between it and the Warsaw Pact. NATO has been vital to United States security, especially during the post-Korea and post-Vietnam conflict periods. We have felt secure with an approximately two million man military force because the three million man force of our NATO allies has provided a balance with the five million man force of the Warsaw Pact.

U.S. participation in NATO has strengthened our bargaining position in our efforts to improve East-West relations. By being a strong NATO member, we have given credibility to our commitment to the defense of Western Europe and our belief in the need for a high level of conventional forces. Our membership has also assured our European allies that we do not intend to disregard their interests in order to reach agreement with the USSR. Substantial U.S. force commitments have encouraged participation by European members, thereby strengthening the Alliance.

From its military headquarters near Mons, Belgium, NATO has security responsibility for three strategic areas, based on geographic and political factors. These three areas are organized into military commands. The Atlantic Command covers the area from the North Pole to the Tropic of Cancer, from the coastal waters of North America to Europe and Africa, excluding the British Isles and the English Channel. The Channel Command has responsibility for the English Channel and the southern areas of the North Sea. Responsibility for the area from North Cape to the Mediterranean and from the Atlantic to the eastern border of Turkey, excluding Portugal and the United Kingdom lies with the European Command.

In the first 25 years of its existence, NATO depended primarily on the U.S. nuclear deterrent superiority. The Warsaw Pact perceived this nuclear superiority to mean that any move against a NATO member would present the risk of nuclear disaster for the attacker. As we have passed through an era of nuclear equivalence and approach one of imbalance, there is an increasing threat to NATO.

THE THREAT

The Communist threat must not be looked at in a narrow context of just one geographical area. Communism is focused in three centers of power and control today: China, Russia and the Third World with the other two probing for control and influence. The Chinese have traditionally been more influenced by strategic reality than by doctrine. A weakened Western Alliance would have a big impact on the policies Peking chooses to pursue.

Soviet involvement in Northeast African affairs and in the Indian Ocean indicates Russian interest in influencing oil resources in the Persian Gulf and the untapped other resources on the continent of Africa. Since Western European countries depend almost entirely on imported oil and many other resources, these Russian probes in Africa represent a serious economic and political threat.

The Soviet Union realized this and has been producing modern military equipment to honor the requests of emerging leaders in the underdeveloped countries. For example, in 1974 alone Russia gave 50% more aid to third world countries than the U.S. did. This is largely responsible for the existing Soviet influence in more than 20 African nations today.

These developing countries have been receptive to communism because it offers a disciplined system with which to exercise control. The dictatorial system that follows makes it easy to shift policy rapidly in order to cooperate with whatever major power is wooing them at the time. The current situations in Ethiopia and Somali are excellent examples of this.

All of these comprehensive plays for influence contribute to the economic, moral, and ethical differences between East and West and provide for many possible confrontations. All of these are threats to NATO and emphasize the fact that concern should not be confined just to Central Europe.

While Soviet intentions may change with leaders and the world political climate, Soviet military power has relentlessly grown. Over the past ten years their military spending has increased to a present level of 4–5 percent a year in real purchasing power. This equates to approximately 15 percent of their Gross National Product (GNP), compared to a NATO expenditure of 4–5 percent of GNP for defense. This sustained Soviet military spending has built a broad military-industrial complex that has produced high quality equipment in increasing numbers. This quantity and quality production has narrowed the numerical gap between NATO and the Warsaw Pact. It has also demonstrated a parity in production capability with the West. This means we can no longer relax in the knowledge that we could outproduce them in a crisis as we might have in the past.

This ten years or so of increased Soviet military spending has changed the nature of their threat. It is now global rather than concentrated in the European continent. It is no longer just a military threat. It has expanded to an economic and political threat fundamental to NATO. Because of the Warsaw Pact military superiority. NATO, and particularly the United States, has lost the ability to influence crisis situations in a way favorable to Western collective interests. The Warsaw Pact, on the other hand, with its integrated coalition forces, totally controlled by the USSR, has greatly increased its ability to influence crisis situations in favor of long term Communist goals.

The heart of the current military threat to NATO lies in the unpleasant fact that the leverage it has enjoyed for the past twenty years or so from the U.S. strategic and tactical nuclear forces no longer exists. Coupled with this loss is the Warsaw Pact's systematic improvement in force structure, posture, and capabilities. The Pact forces have enhanced their mobility from a once limited capability to a highly mobile force. Concurrently, the Pact has grown from a primarily defensive capability to a predominantly offensive one.

Lenin is credited with saying "the one who wins out is the one who has the greatest technology, organization, discipline, and the best machines." One only has to examine current Warsaw Pact capability briefly to see that its leaders also subscribe to this philosophy of their revered Communist hero. For example, the Warsaw Pact outnumbers NATO in active army personnel by a 1.3 to 1 ratio with an estimated rapid escalation capability of a 5 to 1 ratio. The Pact's tank inventory gives it at least a 3 to 1 ratio in armor. In tactical aircraft, NATO is outnumbered roughly 2 to 1. According to Gen. Alexander Haig, NATO Commander, the Pact is producing 1,000 modern fighters per year. By 1980, they will produce 4,000 T-2 tanks. Another source has estimated that if the USSR maintains about the same production rate of fighter aircraft this year, their 1976–79 output would equal all U.S. tactical fighters in place in Europe, all of the reinforcements from the U.S. and all the rest of the NATO Central Region fighter inventory!

The Soviet military-industrial complex has produced third, fourth, and fifth generation quality equipment. They never retire a weapons system, but keep adding new ones. Older weapons, such as the MiG-15, are used to equip satellite forces. This concept emphasizes an offensive posture rather than a defensive one. With this trend for all to see, it is hard to fathom why the Western countries continue to limit themselves with fiscal constraints while the threat continues to grow.

Another alarming fact is the increasing deployment of intermediate-range and medium-range ballistic missiles (IRBM/MRBM) by the Warsaw Pact. Of the some 600 plus, at least 20 are IRBMs with a 3,000-mile range, multiple independently targeted re-entry vehicle (MIRV) capability. These longer-range, more-destructive weapons could be used against most large European cities. In contrast, more than two-thirds of NATO's nuclear weapons have a range of less than 100 miles. This short range and low yield would restrict their use to NATO territory. This would be especially true if an aggressive Warsaw Pact initial thrust pushed deep into West Germany. The devastating effects of nuclear weapons on the civilian population would probably make their use an unacceptable option to NATO.

This disparity in theater nuclear missile capability plus the increasing number of Soviet Backfire supersonic bombers has far-reaching implications. It has reached the point where NATO would likely be deterred from using nuclear weapons first if defeat appeared imminent.

An equally disturbing aspect of the threat is the attractiveness to the Warsaw Pact to preempt NATO's nuclear capabilities. Several factors make this an attractive option. Probably most attractive is the fact that most of NATO's tactical nuclear warheads are located on a few sites. Most of the delivery vehicles capable of deep penetration into Pact territory are either immobile or concentrated on a few large airfields. Another tempting aspect would be the use of tactical nuclear weapons against the one large storage site where approximately half of NATO's conventional ordnance is stored. A further inducement to consideration of this preemptive option by the Pact is the vital, but highly vulnerable, NATO command and control system. Most experts seem to agree that even the newest NATO command centers are not sufficiently hardened to withstand a sizable nuclear attack.

In past years, NATO has depended largely on the giveaway of manpower and logistic buildup by the Warsaw Pact for warning of intentions. This source of warning has been virtually eliminated by the Pact's ability to attack from presently deployed positions through improved logistics and mobility. Most experts now believe that this warning time may be as little as 48 hours now. In an interview on "Meet the Press" on April 23, 1978, General Haig, NATO Commander, confirmed this as a bottom figure. The Pact's improved logistic capability has also increased its ability to sustain combat well beyond the initial phase.

There is another serious aspect to this loss of warning time that NATO has always considered up to two weeks. Warsaw Pact training exercises are different each year. This variety in maneuver conduct is intended to control the way NATO sees the threat so that it enhances their element of surprise.

Another aspect of the sophisticated Warsaw Pact threat is their superior, well-disciplined electronic warfare capability. NATO command and logistic communications networks as well as data-processing networks are priority targets of Pact electromagnetic warfare.

NATO planners have traditionally considered three scenarios in planning to meet the threat: (1) a Warsaw Pact attack with conventional weapons and NATO holds its response to a nonnuclear one, (2) the initial Pact thrust is an aggressive one with conventional weapons and, because of impending defeat, NATO escalates to tactical nuclear war, and (3) the Warsaw Pact uses nuclear/chemical weapons in the first attack or if they find a conventional attack fails.

We have tried to assess the threat and point out that there would be serious problems for NATO in either of the three scenarios described as the basis for planning. It is almost unfathomable that while this visible threat grew, we let the constraints on our defense budget grow, with our national priority focused on social programs.

On the plus side, there seems to be a general awakening to the dangers of this growing threat. The in-depth report prepared by Senators Sam Nunn and Dewey Bartlett for the Senate Armed Services Committee on the subject has caused many eyebrows to be raised. Hopefully reports of this type and the many other visible signs will stir NATO political leaders to take the actions necessary to counter the growing threat.

NATO INTERNAL PROBLEMS

There are several internal problems within NATO that have a direct bearing on theater deterrence in the 1980s. One of these is the "tunnel-vision" approach that NATO countries have taken by being concerned only with the threat from Central Europe. They have virtually ignored the Middle East. There is an urgent need for concern with the security of the strategic approaches to the Persian Gulf and the sea lanes in the South Atlantic in the event the Suez Canal is closed again. Europe is more dependent than ever on Mideast oil; the exceptions are Britain and Norway, who are producing North Sea oil. The U.S. has tripled Mideast oil imports since 1974 and the beginnings of our so-called energy program. Extended interruption of Mideast oil would be a catastrophe for the free world.

Another internal NATO problem is that each member nation has become more concerned with its individual internal economic interests and the Alliance has assumed a second priority. A major reason for this is each country's concern with oil and its impact on their respective economies. Closely related to this same problem is the intense nationalism on the part of some NATO members. The most prominent example of this was the French withdrawal from NATO military affairs in 1966. This created serious problems by denial of positioning of troops in France or permitting their transport across or over the country. An important goal for NATO should be to negotiate the realignment of France with NATO goals.

A third internal NATO problem is the failure to realize that theater deterrence is not a unilateral U.S. problem. Both the U.S. and our allies have to realize that it is a coalition problem. A look at air strength is a good example. Of the 13 air forces represented in NATO, the USAF in Europe provides one third of the tactical aircraft. Tactical Air Command augmentation from the U.S. would make our share about one-half.

Another serious internal NATO problem is the lack of standardization. This problem will only be solved by a lot of willingness to "give" by each country. The U.S. must be willing to relax its "buy American" concept. U.S. and Western European industry must start thinking NATO common, not individual country. There must be some research and development and procurement structure for commonality. Not only will this solve serious degrading logistic support problems, but it will help make costs more acceptable.

OTHER REQUIRED ACTIONS

Since a major contributing factor to the current NATO dilemma lies in the loss of leverage provided by U.S. strategic forces, it follows that, as a minimum, U.S. strategic capability must not be allowed to fall below its present level. All parts of the strategic triad must be modernized with priority to prevent the imbalance from becoming more unacceptable. Heading this modernization should be an immediate decision to develop or modify an existing aircraft that can replace the aging B-52 as an ALCM platform.

Even if the U.S. stops the strategic balance from becoming even more one sided, there are many other priority actions required to cope with the Warsaw Pact threat. A most basic and urgent action must be for all European NATO members to realize they can no longer sit on the sidelines and watch the U.S. move in and out of crisis situations, either supporting or criticizing. They must realize there has to be a joint effort and a joint capability that must be concerned with problems beyond Central Europe. There must be an in-being capability that can be protected in global terms in order to back Western diplomacy.

All members must realize the social, military, and economic crisis they face and that it is a common problem. Politicians who are more concerned with their own political security than Alliance security must reorient their thinking. Each national leader must build the confidence of the people in NATO's security arrangements.

There must be more pooling of resources and effort. The Western world collectively has one and one half times the manpower, twice the production base, and 70 percent of the commerce of the world. Western leaders only need to establish the will and priorities to meet the threat. The Brussels Conference of Alliance defense ministers in the spring of 1977 seemed to take an initial step toward this end. It is interesting to note that in the recent past, according to General Haig, our NATO allies' contributions have increased 13 percent while U.S. contributions have declined by 20 percent. The defense ministers' agreements to improve efficiency, ability to work together, integrate capability, and to increase spending by 3 percent in real terms all need to be aggressively followed by all Alliance members.

In looking specifically at the military threat facing NATO, a basic problem that must be solved with priority is warning. Warning and indication is critical and depends on intelligence, which is now a national function. The technical capability exists to provide warning data. But any NATO response to indication and warning must have consensus. Therefore, warning data must be put in intelligible form so they can be understood by all members. Only then can the NATO decision making process act.

As a closely related vital top priority, there must be an integrated command and control system. As a minimum it must be based on common doctrine, organizational structure, personnel, equipment, and standardized communications. As an extension to a fixed command and control system, AWACS as a NATO capability must be actively pursued on a coalition basis. In this coalition effort the F–16 program could serve as a model.

In addition to the lack of standardization in command and control, glaring deficiencies exist in tactics and doctrine and in ammunition. In these areas, there are virtually 14 different systems. While aircraft of the various nations can land and be refueled at any base, they cannot be re-armed. There must be a cross-servicing of munitions and weapon-loading procedures. Each member nation should teach coalition war doctrine in its respective service schools.

The pace of U.S. tactical modernization must be increased. Much of it is focused on NATO with the F–16 and AWACS as a coalition effort. With the capability of the A–10 against tanks, priority should be given to stationing more of these aircraft in Europe than is now programmed. These should also be integrated into other members' air forces on a coalition basis. Concurrent with the deployment of the A–10, a wide-area antitank munition needs to be developed. With the density of tank targets possible in the Warsaw Pact forces, a high kill per pass ratio of five or six is needed to replace the single attack weapon such as the GAU–8 or Maverick.

Another area that must receive priority is airlift, both tactical and strategic. The problem of rapid reinforcement can only be solved by airlift. This is especially critical since roughly half of the Alliance force is based in the U.S. 3,000 miles away when warning time may be 48 hours or less. A markedly enhanced U.S. Civil Reserve Air Fleet (CRAF) is needed immediately; efforts should also begin now to create a NATO CRAF. The C–141 stretch program and the C–5 wing modification program should be funded and contracts negotiated on a priority basis.

The tactical airlift capability must be improved by replacing/augmenting the aging C–130 with the Advanced Medium STOL transport. The testing program with the YC–14 and YC–15 should be complete enough now to serve as the basis for deciding which aircraft to buy. This decision needs to be made, funded, and implemented now.

In the area of mobility and in an environment where runways are highly vulnerable, priority must be given to the procurement of an advanced tanker cargo aircraft. This should be done on the basis of integrating it with all our NATO allies.

Since all needed equipment and supplies cannot be moved to Europe on the basis of limited warning, the pre-positioning of war readiness material (WRM) is absolutely vital. Realistic WRM pre-positioning planning must take into account planned transportation. Sufficient stocks must be on hand to take care of a surge in a flexible response and to support a high-sortie rate. Here again, the joint ownership and storage of supply items must be increased. This realistically means that the U.S. must waive its "Buy American" concept and open up spares buying on a competitive bidding basis within the Alliance.

There is an urgent need to increase depot maintenance capability in Europe in order to increase aircraft availability and sortie rates, which will be especially vital in the initial thrust of a first effort. The European coproduction program of the F–16 should be an ideal system to assist in a theater depot maintenance capability.

The awesome tank threat posed by the Warsaw Pact is one of the toughest problems NATO must come to grips with. The current controversy over the enhanced radiation weapon (ERW), generally known as the neutron bomb, is directly related to this threat. This weapon has been endorsed by the military leaders of our NATO partners, including General Haig, as an effective way to offset the tank advantage the Pact enjoys. Obviously, Mr. Brezhnev and his advisors realized this equalizing potential when he offered not to build the neutron bomb if the U.S. would not. The President of the U.S., supported by the political leaders of NATO, needs to make a positive, prompt decision to produce these tactical warheads on a priority basis.

Another NATO capability that needs to be developed on a priority basis is the ground-launched cruise missile (GLCM). Armed with a nuclear warhead and targeted against fixed bases of the Warsaw Pact, it would be a vital addition to NATO's triad capability. While the GLCM is not a total answer by any means, and Pact technological improvements may make it increasingly vulnerable, it is an excellent counter to the Soviet SS–20 medium-range MIRV missile. Present SALT II discussions hold the GLCM range to 600 kilometers; this will not reach Warsaw Pact rear areas. A range of 1,000 miles is mandatory if we are to restore the balance in theater nuclear force. There is also a pressing need to improve the existing capability of our missiles in Europe.

CONCLUSIONS

It is a fact that the Warsaw Pact maintains and continues to improve its capability to launch a major attack on Western Europe. Such an attack could be nuclear or nonnuclear. It might occur after an extended mobilization and deployment by the Warsaw Pact, but we cannot rule out the possibility that already positioned forces would attack without reinforcement, and with little tactical warning.

NATO does not need to match the Warsaw Pact weapon for weapon. We can regain and retain a qualified edge at an affordable cost. In order to do this, the Alliance must upgrade its forces to a high level of readiness capable of responding to any threatening move by the Warsaw Pact. The Alliance must be able to move its reinforcements quickly into position with a minimum amount of warning. Member nations must jointly identify national or multinational contributions to remedy NATO deficiencies. They must establish time phasing of these contributions and achieve greater standardization and interoperability if any effective coalition of integrated national forces is to become a reality.

There are some encouraging trends. The NATO defense ministers took some positive corrective, short term steps in the spring of 1977. In their respective reports to the 95th Congress in February 1978, both Secretary of Defense Brown and Secretary of the Air Force Stetson recognized the Warsaw Pact threat and highlighted some U.S. defense proposals to counter it. The NATO Planning Group met in Denmark in April 1978 to discuss upgrading Alliance capability.

These examples indicate a growing recognition of the problem. However, if they are to become effective beginnings of reversing the present unacceptable situation, more than words are necessary. All of these proposals must be backed by the money, the national will, and the priority to bring them into actions that the Warsaw Pact can perceive as an effective deterrent.●

SALT II AND MAXWELL TAYLOR ARTICLE

● **Mr. BARTLETT.** Mr. President, last June, it was my privilege to act as Congressional Adviser to the U.S. delegation at the Strategic Arms Limitation Talks in Geneva. At that time, there had been considerable progress toward a SALT II agreement.

At present, however, the prospects of an acceptable SALT II agreement reaching the Senate are not good. For a variety of diplomatic, military, and political reasons it is more than apparent that a SALT II agreement may not be ratified by the Senate this year or in the foreseeable future. For this reason, I deem it prudent that we begin consideration of what our unilateral strategic posture might assume in lieu of SALT II, yet in anticipation of a future agreement.

I would like to bring to the attention of my colleagues an article by Gen. Maxwell Taylor entitled "What if SALT II Fails?" published in a recent edition of the AEI Defense Review. I commend his emphasis upon maintaining our strategic nuclear deterrence and our bargaining power for any future SALT talks. I further commend the American Enterprise Institute for its ongoing review of the SALT process.

I ask unanimous consent that General Taylor's article be printed in the RECORD.

The article follows:

[From the AEI Defense Review]

WHAT IF SALT II FAILS?

(By Maxwell D. Taylor)

It now appears very doubtful that the Geneva negotiations on SALT II will be able to produce a treaty with a reasonable chance of obtaining ratification by the Senate this year or in the foreseeable future. The efforts of the Carter administration to obtain such a treaty may fail in any of three ways: through the inability of our negotiators to obtain a satisfactory agreement with the Soviet Union in Geneva; through the Senate's refusal to ratify an agreement sent to the Hill; or through a presidential decision to delay or withhold the submission of a negotiated treaty for fear of its rejection by the Senate. Of these contingencies the most likely is that the Senate will reject any text submitted to it that has been approved by the Soviet Union.

Based on the record of the Senate in dealing with the Panama Canal treaties, there is ample reason for the administration to expect a rough reception for any SALT treaty, which, by its nature, will entail far more complex and controversial issues than those which arose over the canal. From a combination of press leaks and official disclosures, the Senate is already aware of most of the provisions of the proposed treaty, and several senators have already taken public positions in opposition. Their primary concern is over the prospect of what appears to them continued inferiority under the terms of the treaty, coupled with grave doubts about the ability of our national means of inteligence to detect violations of provisions such as those restricting the numbers and deployment of the Backfire bomber, the range and number of cruise missiles, or the modernization of existing weapons. There is also dissatisfaction with the limitations reportedly accepted on cruise missiles, which restrict the full development and exploitation of this promising new weapon. In all such matters, many senators are inclined to stress the importance of preserving our superiority in military technology as a means of offsetting the numerical superiority that the Soviet Union possesses in many weapon categories.

In defending a SALT II treaty, the administration may find itself hampered by apparent contradictions between the terms of the treaty and official statements[1] regarding the necessity of maintaining strategic forces essentially equivalent to those of the Soviet Union that will be able to survive a full-scale surprise attack and still inflict an unacceptable level of damage on the Soviet Union. Congressmen are generally aware that the United States, in a surprise attack by the Russians, would be at a serious disadvantage.

Required to absorb heavy losses from such an attack and still be able to retaliate effectively, our forces would need a large initial superiority in weapons over the enemy, a superiority we do not have now or plan for the future.

Another disadvantage we suffer is the greater exposure to attack of our population and industry concentrated in large urban areas, generally in proximity to our coasts. Comparable Soviet assets are far more widely dispersed and derive some protection from their civil defense programs. The existence of such disabilities on our side makes it difficult for the administration to establish a case for an essential equivalence of forces resulting from SALT II.

The combined effect of these foreseeable objections, coupled with the growing chill in U.S.-Soviet relations arising from current events in Africa and elsewhere, makes the likelihood of Senate ratification so slight as to justify the withholding of the treaty by the President to avoid the consequences of its rejection. Rejection would be a serious blow to our already weakened relations with Moscow, certain to evoke a storm of recriminations and charges of bad faith. Given Brezhnev's personal involvement in supporting SALT, its failure might even bring about some changes in the Kremlin power alignment, possibly to our regret.

At home, rejection would create deep divsions within the body politic, with hawks pressing for an immediate drive to catch up with the Soviet Union regardless of cost, and doves urging an early return to negotiations, if only to keep open communications with Moscow. For President Carter, rejection by the Senate of a treaty that had been prepared under his direction, approved by his negotiators, and recommended by him to the Senate would be a political disaster of major dimensions—both for him personaly and for the presidency as an institution.

The argument of this paper is twofold. First, our negotiators should never initial a draft treaty in Geneva that does not have a high probability of Senate approval. If this does happen, the President should withhold the treaty from the Senate and play for time while developing a new plan of action. It should not be difficult to find an excuse for prolonged delay. Despite the valid argument against making American support for SALT contingent upon improved Soviet behavior in Africa or elsewhere, in the present dilemma a resort to linkage might offer the President a way to extricate himself from the embarrassment of disposing of a treaty virtually certain of Senate repudiation. He could probably gain broad public support by taking a forthright position to the effect that recent Soviet actions had raised such doubts about Moscow's motives and intentions as to make impossible the conclusion of a SALT treaty under such conditions.

The second part of the argument is that, given the strong possibility that no ratifiable treaty will be forthcoming for some time, our government badly needs an alternative course of action that can be pursued independently in the absence of a treaty, in order to mitigate the adverse effects of treaty failure, forestall an emotional demand for a dramatic increase in strategic forces, and, at the same time, give assurance of continued security from strategic aggression or intimidation. The remainder of this article is devoted to outlining the content of an alternative strategic policy for these purposes.

AN ALTERNATIVE POLICY

To summarize its principal features, the new policy would undertake to maximize the deterrent effectiveness of our forces by reducing their vulnerability to a Soviet first strike, generally regarded as the worst contingency that could arise. This could be accomplished by reducing our present dependence on intercontinental ballistic missiles (ICBMS) and the progressive transfer of their targets to the far less vulnerable submarine-launched ballistic missiles (SLBMS) and cruise missiles. The size of our forces would henceforth be determined not by the need for rough parity with comparable elements of the Soviet establishment but by the weapons needed to destroy specific Soviet target systems. The destructive potential of our forces would be measured and publicly described in terms of their capacity to inflict damage in multiples of the losses suffered by the Soviet Union in World War II. Thus we would lessen the fixation on weapon numbers, moderate the danger of a senseless arms race for numerical parity or superiority, and utilize the interruption in negotiations to develop a more rational and effective strategic policy—one that could be readily explained and justified to our people and our allies.

MUTUAL DETERRENCE

A first step in implementing this policy would be to reaffirm publicly our unaltered commitment to mutual deterrence as the central purpose of our strategic policy. Once the old-time religion of our policy makers, mutual deterrence has in recent years been challenged as both inadequate and irrelevant in dealing with an enemy who gives little appearance of pursuing deterrence as a policy objective—who, indeed, often seems to be seeking decisive superiority in all categories of military strength, nuclear and conventional. Yet, in agreeing to the drastic limitation of anti-ballistic missile defenses under the terms of SALT I, both sides in effect accepted the indefensibility of their cities to nuclear attack, and thereby tacitly acknowledged a dependence on deterrence for the protection of their people and industry. This demonstration of confidence in its efficacy would appear to jusitfy the retention of mutual deterrence as a primary policy objective. I shall return later to this question of Soviet susceptibility to deterrence.

If such is our objective, our policy makers should review the current requirements for mutual deterrence and seek ways to maximize the contributory capabilities of our forces. If we are to convince Soviet leaders—those confirmed believers in power politics—of the unacceptable hazards of risking strategic warfare, they must clearly perceive the United States as a formidable adversary possessing strategic forces of vast destructiveness and flexibility of employment. To create this impression, our forces should appear (and be) a relatively invulnerable aggregate of accurate and reliable strategic weapons capable of inflicting mortal damage on the Soviet Union at all times under all conditions. For full deterrent effectiveness, it must also be clear that all weapons of the force are linked to the president and intermediate commanders by a secure and reliable system of command and communications with many redundant channels, and that these leaders are equally reliable and ready for action.

Because of the importance of the role of our strategic forces, they are entitled to an unstinted allocation of all the national resources—money, manpower, and equipment—necessary to meet their legitimate needs. Only after they have been satisfied would our leaders be justified in diverting resources to hedge against the many contingencies that may arise if deterrence fails. To give them first priority would be a further indication of our unshakable faith in deterrence and in the ability of our forces to restrain any opponent from a resort to strategic warfare.

REDUCTION OF FORCE VULNERABILITY

In determining the size and composition of these forces, a major consideration would be to reduce their vulnerability to a surprise attack, a contingency that seems very unlikely now but one that could become more tempting to the Russians with the new and more accurate missile systems currently in production and development. At the outset of our new program, the weapons of our forces would necessarily consist of the missiles and strategic bombers in our present inventory, but our plans should call for early action to decrease their vulnerability by reduced reliance on land-based ICBMs and by the full exploitation of the potential of the new cruise missiles. For the present, the ICBMs are valuable because of their accuracy, their speed to target, and the relatively highly yield of their warheads; thus they are our best means of destroying Soviet ICBMs that may remain in their silos after a Soviet surprise attack.

There are a variety of reasons, however, why our policy planners should move promptly to phase down our silo-based ICBMs. Becaue of the expected effectiveness of future enemy missiles, our ICBMs can never be made completely secure by hardening or by any other known protective measures. A current thought is to develop a mobile ICBM, the M–X, which being mobile would be less vulnerable than our present fixed missiles, but the proposal is meeting with many difficulties. Under one concept, each missile would be placed on a track in a covered, underground tunnel about twenty miles long where it would be recurrently moved back and forth for safety. Another idea is the multiple aiming point concept whereby the mobile ICBMs would be shifted secretly by truck or railway between vertical holes called shelters, each missile having several empty holes about a mile apart from one another, to permit random relocation.

Neither concept has been completely developed, and both have the liabilities of high cost and a large requirement for land likely to raise public opposition. Also both may contravene an agreement with the Soviets not to "use deliberate concealment measures which impede verification by national technical means of compliance with treaty provisions." Although the administration may feel obligated to undertake some such program if only to allay Senate opposition to the treaty, even if successful it would still have the critical defect of being a complex weapon system of uncertain performance located on

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[1] See Department of Defense, *Annual Report, FY 1979*, pp. 54–56.

American soil, inviting attack or attempts at intimidation through the threat of attack.

Since it is patently to our advantage to remove all such targets from the homeland, now would be the time to move toward that goal along two routes: by improving the accuracy and yield of SLBMs to allow them to take over responsibility for some of the hard, time-sensitive targets now covered by ICBMs; and by developing large numbers—possibly thousands—of cruise missiles, both air- and sea-launched, capable of overwhelming Soviet air defense systems, then penetrating to targets whose destruction does not require the shorter flight time of a ballistic missile.

For this course to be valid, the cruise missile in its various launch modes must live up to the expectations of its enthusiastic sponsors. In their view, the weapon has many unusual qualities and advantages: extraordinary accuracy resulting from a sophisticated guidance system; low vulnerability to hostile interception because of a small radar cross-section and its very low flight path to target; relative cheapness per missile; an ability to saturate Soviet defenses by numbers; and an overall versatility of employment. Since it may be launched from aircraft, submarines, surface ships, or mobile land-launchers, it can penetrate the Soviet Union from many directions. Furthermore, its maximum range may be varied within limits and its warhead may be either nuclear or conventional. Thus, it is a weapon capable of undertaking both tactical and strategic missions—an advantage that, unfortunately, greatly complicates arms control restraints and verification procedures.

In addition to the arms control difficulties raised by the cruise missile, this paragon of weapons is not without other defects. Its smallness prevents it from carrying warheads of more than fractional megaton yield, and limits its range to about 1,500 miles, as currently designed. Its comparative slowness to target, while voiding any charge of contributing to the first-strike fears of the Soviet Union, limits its strategic usefulness largely to the attack of fixed targets. A final objection is that if the performance of the cruise missile justifies our present hopes, the Soviet Union will surely produce its own version at an early date and thus present the United States with analogous problems of defense against it. Coupled with the threat of the Backfire bomber, the cruise missile might oblige us to renew our interest and increase our budgetary expenditures in continental air defense.

Although most of the new technology involved was developed for other purposes and now needs only to be adapted to new uses, the cruise missile as an operational system will not be ready to take over an important strategic role before about 1981–1982.

Thus our planners should have ample time to decide how much reliance can be safely placed upon it before making important reductions in our ICBMs or reaching a final decision with regard to the M–X program. They should enjoy the further advantage of making their decisions unaffected by the restraints that any SALT treaty acceptable to the Soviets would be likely to impose.

FORCE PERFORMANCE

Having decided in general terms upon the kinds of weapons to be included in our future deterrent forces, the policy makers will be obliged to establish standards of performance against which to measure their size and numbers. As previously mentioned, the Carter administration has adopted two criteria for sufficiency, one based on retaliatory destructiveness following a surprise attack, the other on possession of essential equivalence with the Soviet forces. In the language of the secretary of defense,[2] our strategic forces, to be adequate, must "retain the capability at all times to inflict an unacceptable level of damage on the Soviet Union," including the destruction of at least 200 major cities representing some 34 percent of the nation's population and 62 percent of its industrial capacity. He explains that essential equivalence describes "a condition such that any advantages in strategic force characteristics enjoyed by the Soviets are offset by other U.S. advantages," adding that such a condition "helps insure that political perceptions are in accord with military realities" and hence is so important that its attainment will constitute a major objective in current and future SALT negotiations.

Unfortunately, this double-barrelled formula is seriously defective as practical guidance for force planners. Rather than being a clarification, it raises new questions regarding such things as the extent to which our forces should be prepared to destroy military as well as urban-industrial targets, the kinds of advantages that must be equalized for essential equivalence, and the means to assure congruence between "political perceptions" and "military realities."

Regardless how essential equivalence should be measured, in past practice most studies to determine the comparative strength of the U.S. and Soviet strategic forces have concentrated on numerical differences between those elements for which data are available that permit numeration—missiles, launchers and warheads, ballistic missile submarines and launch tubes, strategic bombers and their payloads, and the megatonnage deliverable to target by the various systems. Such analyses are equally prone to neglect those factors for which there are inadequate quantitative data or which by their nature cannot be weighed or measured: for example, weapon accuracy, reliability, and vulnerability; environmental factors that may affect weapon performance; and the character and attributes of the leaders and nations in confrontation. By concentrating on numbers, such studies usually credit the Soviet Union with a considerable net superiority over U.S. forces, since much of our strength derives from the quality of our weapons and the superiority of the American technology that underlies them.

While no perfect rationale has ever been found for determining the exact size of adequate strategic forces, there is one solid requirement against which to measure the adequacy of any military force regardless of time, place, and weaponry: its ability to perform successfully the missions it may be assigned. The mission of our strategic forces in its simplest terms is to deter a Soviet strategic attack by their ability to destroy the Soviet war-making capability to any extent desired, if deterrence fails. To fulfill this mission, our forces must be able to engage successfully a variety of Soviet targets: government and military control centers, strategic weapon sites and support facilities, airfields, ports, air defense systems, and urban-industrial complexes. It is possible to calculate with reasonable accuracy the weapons required on target to produce the desired level of damage under various conditions. This on-target requirement translated into bomber and missile components would determine the size of adequate forces as measured against possible missions, without consideration of probable losses that might degrade their effectiveness.

Unfortunately, there are many unpredictable events that could prevent weapons from performing as planned: for example, weapon and communications failures in excess of expectations, disruptive natural phenomena occurring in an environment of multiple nuclear detonations, and losses resulting from enemy action.

As to the technical environmental factors, since neither the United States nor the Soviet Union has ever completely tested a ballistic missile from launch to detonation in a nuclear environment at an intercontinental range, there is a paucity of information that limits their computation and makes compensation for them in added weapons largely a matter of judgment.

An even more important factor justifying extra weapons is the loss to be anticipated from an enemy surprise attack on our ICBMs in their silos and our strategic bomber forces on the ground. The extent of these losses would depend on the degree of surprise achieved and the size of the attack—whether a massive effort to do maximum damage, or a relatively limited one to reduce the strength of our retaliatory forces in the hope of intimidating our leaders into withholding a punitive response. Obviously, any numerical estimate of our weapons likely to be destroyed would vary as widely as the conditions postulated.

Thus, one must conclude that there is no satisfactory way to anticipate losses with any real accuracy or to estimate the forces available to us after an attack. Nor can we be sure against what enemy targets we should be prepared to retaliate. In a massive first strike, most of the enemy's ICBMs would have been fired, leaving only empty holes for retaliation. In a limited attack, most of their ICBMs will remain in their silos, but in the chaotic conditions to be expected after even a minor attack, we are unlikely to know which silos are empty and which occupied.

SAFETY FACTORS

This discussion of the many variables and unknowns present in strategic warfare underscores the difficulty of developing reliable safety factors to compensate for unpredictable losses and the absence of any rational way to determine how many weapons to add to the undegraded initial forces to ensure continued destructive sufficiency. In the past, various assumptions have been proposed to provide rough factors of safety for planning. One has been to assume that we would lose, say 30–50 percent of our total ICBMs in a first strike, and then to compensate would include in our initial forces enough ICBMs and other applicable weapons to attack all known enemy silos, even though many would be empty. Another approximation would be to include in the undegraded initial forces the means to target all Soviet strategic missile sites and control facilities with three different weapons—an ICBM, an SLBM, and a bomber—representing the three components of the so-called Triad. We would then hope that, in a retaliatory attack, at least one weapon would get to target in time to effect the desired destruction.

I might interject that my proposal eventually to replace ICBMs wholly or in large part by SLBMs and cruise missiles is likely to raise objections from many strategic experts wedded to the indispensability of the Triad—that is, a mixed force of three kinds of weapons in roughly present proportions. With them it has become an article of faith that this combination must be preserved in its present form because of the invaluable contribution each component makes to both our deterrent and retaliatory capabilities. Its aggregated effect is to force the Soviet Union in a first strike to attack several different kinds of targets: ICBM silos, ballistic missile submarines and their bases, and aircraft and airfields. It also imposes on them a requirement to defend against three kinds of weapons: ballistic missiles, short-range air-to-surface missiles, and bombs, calling for three different kinds of defense—air defense against high- and low-level air attack, and civil defense against all Triad weapons.

From the point of view of our retaliatory capability, the Triad gives us some protection against a sudden breakthrough in Soviet technology that might neutralize an entire weapons system—our submarine-launched missiles, for example. Also the combination enjoys great flexibility derived from the widely differing characteristics of its components. ICBMS have accuracy, large-yield warheads, and short time to target. SLBMS have a similar time of flight but lesser accuracy and lower warhead yields, with the latter disadvantages offset by lesser prelaunch vulnerability than the ICBMS. The bomber is much slower to target and is vulnerable to attack on the ground and in flight; however, it can carry very heavy payloads and may be recalled from its mission if desired.

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[2] Ibid, pp. 54–57.

The weapons combination proposed in this article, while reducing the ICBM component, retains most of the advantages of the pesent Triad and adds the asset represented by large numbers of cruise missiles transported in a variety of ways by air and sea. The aircraft used may be a specially designed transport, a modified commercial transport, a B-52, or some other medium or heavy bomber; the ships may be submarines or surface craft of various kinds. Although under this proposal the ultimate goal is the elimination of all ICBMS by cruise missiles and SLBMS, for several years we would have this option of retaining some ICBMS in inventory for trading purposes in future negotiations or as a contribution to the force safety factor and the overall impression of force equivalence. Thus the new organization, far from doing violence to the concept of the Triad, would provide a fourth component which would further enhance the flexibility that is its distinguishing virtue.

ESSENTIAL EQUIVALENCE

This discussion of compensatory safety factors and their difficulty of computation suggests the wide range of issues affecting the size and composition of the strategic forces that can be settled only by judgmental determinations of the president and his principal deputies. They include such fundamental questions as the urgency to be assigned the strategic threat, the targets our forces must be prepared to destroy, the levels of damage they should be able to inflict on enemy population and industry, and their aggregated adequacy to fulfill all probable military missions while concurrently giving evidence of essential equivalence with corresponding Soviet forces.

The force requirements of this latter factor, essential equivalence, are particularly difficult to evaluate since the task involves an understanding of Soviet psychology and thought processes well beyond that usually possessed by American leaders. While our forces would certainly possess awesome destructiveness capable of destroying the Soviet Union as a state and a society, would the Soviet leaders perceive them thus? To dispel any doubts on the subject, American leaders should boldly proclaim their deadly potential, describing the latter in terms of their ability to multiply the Soviet losses suffered in World War II, a measure easily understood, particularly in Moscow. These losses amounted to about 20 million dead and the destruction of some 1,700 cities and towns, along with 32,000 industrial establishments—a hideous price paid for victory in the course of four years of war. The destructiveness of our deterrent forces as ultimately structured could be readily evaluated in multiples of these Soviet losses, with the point stressed that, under the conditions of strategic war, they would occur in a matter of hours rather than years.

Many of the skeptics in our country who question the present relevance of mutual deterrence also insist that there is no certainty of restraining the Soviet Union from major aggression by fear of losses. They apparently believe that if Soviet leaders undertook to wage unlimited war against the United States and its allies, their forces would attack with all weapons at their disposal, nuclear and conventional, with total disregard for losses and absolute confidence in ultimate victory.

I have no real doubt of our ability to deter the Russians from any course of action, provided they perceive in time the exorbitance of the risk and the cost involved in relation to possible gains. Khrushchev in his memoirs gives repeated evidence of his appreciation of the disastrous nature of nuclear war. "It is infinitely better to prevent a war than to try to survive one," he wrote. "I know all about bomb shelters, command posts, emergency communications, et cetera. But listen here. In a single thermonuclear flash, a bunker can be turned into a burial vault for the civilian leaders and military commanders."[3] If this suggests that Khrushchev had little regard for protective shelters and civil defense, he also showed little respect for the importance of essential equivalence. "I am not complaining," he said, "so long as President Kennedy understands that even if he may be able to destroy us two times over, we're still capable of wiping out the United States, even if it is only once."[4] While it is true that Khrushchev is long since departed from the Kremlin seats of powers, his successors still include many old associates who, having shared his experiences of World War II or its sequel, are unlikely to deviate widely from him in their attitude toward nuclear war. They, too, probably understand that total destruction, like infinity, cannot be multiplied or divided.

If, despite the foregoing considerations, American authorities should still feel that the impression of essential equivalence of our strategic forces requires a further reinforcement for political or psychological reasons, they could authorize an additional increment of weapons for these nonmilitary purposes. The justification for such an action would presumably be the felt need to provide greater numbers of visible weaponry to bolster self-confidence and that of our allies, while reducing the temptation for the Soviet Union to exploit any superiority, real or imagined, for the purposes of political intimidation or blackmail. It would have the disadvantage of diverting resources from probably more remunerative purposes, military or civil, and of stimulating a numbers race that should be avoided. It could suggest to observers, not determination, but rather the lack of assurance of the frontier tenderfoot in the Western movie who carries two oversized guns into town to demonstrate his readiness for "high noon." A far more serious thought is that American leaders because of an exaggerated concern for numbers, if caught in a crisis with less than parity, might succumb to self-intimidation and capitulate to illusory fears.

MERITS OF THE UNILATERAL POLICY

To return now to the question that initiated this inquiry, if the present SALT II negotiations fail to produce a ratifiable treaty, do we have a more satisfactory alternative for future action than an all-out arms race, an effort to resume bargaining with the Soviet Union, or a period of indecisive waiting for the tumult to die and something to turn up?

While it is no substitute for a truly equitable treaty effecting a significant reduction in arms, I believe that the unilateral policy proposed here has much to recommend it. While rejecting, at least for the time being, precipitate action to rush either to arm or to conciliate, this unilateral course would utilize the lapse in negotiations to rectify longstanding defects in past strategic policy and to improve our posture in anticipation of an eventual return to negotiations. A major defect already emphasized is our overdependence on ICBMs. The vulnerability of these weapons to a surprise attack places our retaliatory capability permanently in doubt, creates fears for their safety that could lead to a premature decision to launch, and makes it necessary to maintain supernumerary peacetime forces to compensate for probable but incalculable losses. The proposed corrective would be progressively to replace the ICBMs by SLBMs and cruise missiles, the latter at a rate regulated by hard evidence of cruise missile reliability. A further remedial action would be to determine the adequacy of forces not primarily by the requirements of numerical parity with corresponding Soviet forces but by the need to destroy specific target systems. Under such a policy, new strategic weapons would be authorized for development and production only on the basis of a verifiable relationship of their characteristics to the probable need to attack present or future targets. Thus, size would derive from mission.

This independent course of action would be consistent with an eventual resumption of arms control negotiations; indeed, without a treaty its imperatives could lead to self-imposed reductions in current forces. Any combination of strategic forces that, by reduced vulnerability, does not require a large factor of safety to compensate for losses inflicted by a surprise attack and that justifies its size primarily by the requirements of target destruction should be considerably smaller than the forces generated by present methods. This prediction would, of course, be nullified if our leaders failed to exercise good judgment in approving all factors of safety, to include any additional forces justified primarily by the political-psychological effect of perceptible numbers. In the end, with or without a treaty, we would benefit from a rational strategic policy that maximizes deterrent effectiveness through a decrease in force vulnerability, thus reducing Soviet incentive for a first strike by recovery, and measures the overall adequacy of our forces by what they can do regardless what Soviets do or have.●

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[3] Nikita Khrushchev, *Khrushchev Remembers*, vol. 2 (Boston: Little, Brown & Co., 1974), p. 542.

[4] Ibid., vol. 1 (1970), p. 517.

THE FREE ENTERPRISE SYSTEM

● **Mr. GOLDWATER.** Mr. President, it has long struck me that there is nothing wrong with our free enterprise system that could not be corrected if the heavy hand of Government were lifted in many areas. The free enterprise system is what has made this Nation great. It has made the United States the world's most technically advanced nation and the world's freest nation. Therefore, it behooves us to protect and nurture the free enterprise system rather than to keep wrapping it in tighter and tigher Government controls.

In a recent speech, Mr. Thomas G. Pownall, president of the Martin Marietta Corp., delivered a very important current appraisal of American industry and the American experience. In it, he describes our competitive enterprise system as "the only worthy vehicle" for all of our hopes.

I ask that the text of this be printed in the RECORD.

The material follows:

AMERICAN INDUSTRY AND THE AMERICAN EXPERIENCE: A CURRENT APPRAISAL

(By Thomas G. Pownall)

I would like to share with you some of my views on a matter that I think all of us in business and industry, small and large enterprises alike, should understand better and concern ourselves more actively about.

We have in this country the highest order of civilized society that mankind's organized effort has ever produced anywhere, in all the span of recorded history.

That our society is not perfect is abundantly evident, but that fact hardly diminishes the point. A learned man, George Stigler of the University of Chicago, has put the central point in these words:

"The immense proliferation of general education, of scientific progress, and of democracy are all coincidental in time and place with the emergence of the free enterprise system of organizing the market place."

For my part, I cannot imagine a better or deeper perspective on what we have in this country today, or what has made it what it is.

Professor Stigler is absolutely correct. High levels of universal education, high levels of scientific progress, the development of and our adherence to democracy as a precept for self-government, and the free enterprise system for the conduct of our industry and business—these things are dependent one upon the other. They are, in fact, inseparable.

Our vitality and our viability as the most prosperous, the best fed, the best housed, the most technologically advanced, and the freest nation in this world are the result.

I said to you that I wanted to share with you a concern. I do, and it relates to one integral part of the equation, the free enterprise system for organizing the market place. I don't believe for a moment that this audience needs convincing of the value of that system. Nor am I here to deliver in its behalf a eulogy, or to administer the last rites.

But I am here to suggest that those of us who value it most should give it more tender loving care and thought. If we don't, some future speaker in this, or a similar forum, may indeed be called upon to say, yes, it lived out its life and now may it rest in peace.

I hasten to add that I don't think the system is especially fragile. It has endured and has adapted itself to the remarkable requirements and accomplishments of the American experience for 200 years. So, let's agree: It has demonstrated durability, but now I think we all should agree, further, that it can be strangled. And my view is that the time has come when we should step back and ask, are we acquiescing in a silent strangulation, which would surely mean the degradation or the destruction of our future?

Well, that's a pretty profound question. I happen to think the answer is, maybe. And I also happen to think that is enough to command our attention.

The public generally supports the business system, which is to say, our competitive enterprise system of operating in the markets. Poll after poll has produced evidence of such support. There is, I perceive, a basic understanding that business and industry are the basic creators of our national wealth.

I rather suspect it is not quite so widely understood by nearly so many people how important is that fact to our democratic society, to its most enlightened aspects—higher education, technological innovation, and unlimited freedom of opportunity for the individual.

There is a tendency all too often among all of us, including those of us who certainly should know better, to take these for granted. From there it is all too easy a step to tacitly condone proposals to over-organize and over-regulate the market by interfering with its basic mechanisms, to artificially limit the size of companies by limiting the scope of their operations, or to promote increasing governmental competition with the private sector, and, in general, to impose layer upon layer of operational restrictions and restraints. We must understand that, by doing so, we are diminishing ourselves, our whole society, in some ways that are at the very least quite hazardous to our future.

The enterprise system is certainly a favorite target. To be big or successful—and especially to be big and successful—is suddenly bad or suspect.

Some sociologists have commented on the rise of a new class of elitists, insinuated into positions of power from which they now tell us all—very often in disregard for the most elemental economic facts—what is good for us, or what, in fact, should be done because, in some abstract way, they think it would be or might be good for us.

Let me say specifically that I do not believe this development is some sinister or deliberately destructive plot. It is dismaying, and I do think what we are seeing may be ultimately destructive. But I think it has developed out of opportunistic rather than sinister motives. It has become a threat because not enough of us have thought about it, not enough of us have cared vigorously enough to take a stand, not enough of us have insisted upon reason being exerted through our political system, which is still the most responsive in the world.

Make no mistake, the opportunists have had a field day—are having a field day. I believe that because American confidence in the American experience has sagged. An unpopular war that we didn't win, seamy political scandals, sorry behavior by industry leaders who should have known better—all these things, and perhaps some others, have left us reeling; and too many of us have stopped thinking rationally. We often seem to feel there is no future.

And so we find ourselves, from within the government and without, facing what conservatively must be construed as a threat to the free system of competitive enterprise.

I think the essence of our jeopardy is contained in the rising urge to greater economic and social regulation than the system needs, and perhaps greater than it can tolerate. I want to establish right here that I perceive this to be a political problem, not a partisan capital "D" Democrat problem, nor a partisan capital "R" Republican problem, but as a lower case "d" democratic problem.

The Conference Board has recently published an analysis of this rush to regulate. The analysis is at once illuminating and disturbing. From 1970 through 1975, the summary shows, the number of federal economic regulatory agencies with large-scale charters—the so-called major agencies—increased from eight to ten.

The corresponding increase in major social regulatory agencies grew from 12 to 17. To delineate the so-called economic regulatory agencies for you, they include such as the Civil Aeronautics Board, the Federal Communications Commission, the Federal Power Commission, the Securities and Exchange Commission, and so forth.

The major social regulatory agencies are certainly the more virulent of the breed nowadays. For purposes of the Conference Board analysis they include such as the Consumer Product Safety Commission, the Employment Standards Adminstration, the Occupational Safety and Health Review Commission, and the Workplace Standards Administration.

The economic regulators, most of which have been in place for a long time and many of which go back to the New Deal era, cost $166.1 million in budgeted dollars in 1970 and $427.6 million in 1975. The social regulators cost $1.4 million in 1970 and more than $4.2 billion in 1975.

These impressive sums certainly would be larger if 1976 and 1977 figures were surveyed, but they are, in any case, large; and they are only the tip of the iceberg. They do not take into account the costs of parallel state and local government agencies that have been created, sometimes by local initiatives and sometimes by federal requirement, but almost always in duplication and often with conflicting and overlapping charters.

Now it would be the height of audacity for me to argue that this is all bad. And it would be completely removed from reality even to hope that much, if any, is going to collapse under the weight of protest and ridicule, some of which are merited. For my part, I'm willing to concede that there are some redeeming social and economic values somewhere in the fabric of the regulatory structure.

But it is self-evident, I believe, that the trend has carried us far in a short period, and the Conference Board analysis shows there has been seemingly little thought given to full understanding of its consequences.

The real costs of regulation are concealed. They are not those budget numbers, which to remind you were about $4.6 billion in 1975 for both classes of federal regulatory agencies, economic and social.

The real costs should also include those costs incurred by private participants in the regulatory process and those costs that the private sector then must bear as a result of agency decisions.

These real costs are never stated. In fact, they probably are not even known. They are, to put it mildly, gargantuan.

The Conference Board sheds some light here by reference to just two large examples. Its analysis says that regulations issued thus far by the Environmental Protection Agency will cost the economy an additional $40 billion annually by 1984, and those of OSHA (the Occupational Safety and Health Administration) will impose another $18.5 billion of capital costs on employers, not to mention billions more in annual operating costs.

For only two cases, these are staggering costs. They will not add a penny of real new wealth to the economy. They are, in short, non-productive costs to be borne by the regulated private sector. Some of them may, in fact, be necessary, but who among us can really believe that all of them at those prices are really credible?

Beyond that, this valuable study suggests two very important but essentially overlooked effects.

One says that the heaviest burden in comparative terms really falls on smaller business. This is because smaller businesses are the least likely to be able to participate successfully in the regulatory process—meaning, just being able to cope. And in any event, the cost burdens almost invariably will be proportionately more onerous for smaller business and industrial institutions.

So, unintentionally perhaps, the first unseen effect is to penalize smaller institutions disproportionately.

The second overlooked effect suggested in this study is equally interesting and of great consequence. It is this: industry can adjust in the short-term to a few regulatory changes, and in the long-run to many, but it is terribly difficult to react and adjust well to many new regulations simultaneously or crammed into a short time. This lag in response time, in turn, can of itself generate new demands for even more regulation. And so we get exactly one more things we don't need—an accidental multiplier effect. Regulation begetting regulation.

Having involved you this far in my thoughts, I owe you now some concluding suggestions.

I don't believe we need to push the panic button. As business and industry-oriented people, though, I think we must reflect in all our actions a deeper concern for the survival of the system: that we understand it is quite durable but insist that it may have limits of fragility, that we abandon extreme humility and stop doing penance for being in business, for being big, for being successful. We are neither perfection nor evil personified. We of business and industry are, however, very large contributors to what this nation stands for. Business and industry are the absolute backbone, all of us together in our efforts, of the national abundance which, of course, generates of itself ever more abundance for our future.

I think it is time for us to insist upon and to lead the way to rational and non-partisan understanding in both political and economic terms of what we are, what we can do, what we stand for. We are as surely consumerists—we of industry and business—as those who now have seized upon consumerism and exploit it as a narrow and specialized interest of only an elite few. We are as surely environmentalists as those who have made captive that word in its very narrowest definition.

I am not a pessimist by nature. I am optimistic by nature, even now. I believe that this concern I've discussed tonight may be coming into the attention it deserves.

Any national dialogue on our future must be conducted not on narrow ideological fields of limited or special interest, but rather must now be moved up to a higher plane with the broadest view. And I suggest again that view must say in thunderous terms, yes, we want to maintain our status:

as the world's best educated nation,

as the world's most technologically advanced nation,

and, as the world's freest nation—the nation that is based upon respect for the individual, that better than any other nation cultivates the idea that individual opportunity is no luxury but a basic right.

I said to you earlier that I construe the great national rush to regulation as a threat to these very hallmarks of our society. I return now to that point. In that rush we have seen some good, along with a lot of bad. Let me dwell for a moment on just one example of what I think is good. We have come a long way, in a short time, toward achieving a rational balance in terms of racial equality. This is both a social and an economic matter, for it has finally brought us to the realization that economic opportunity is really, at the end, the foundation stone that will support the correction of racial imbalances.

Try it another way: In the largest sense, the root problem was less racial discrimination, per se, than economic discrimination because of race. Or try it one more way: The richest, brightest, freest nation on earth could not afford any longer the luxury of denying itself full access to the resource of any segment or segments of its population for such impertinent reasons as color.

So, perhaps it should not have been a function of reform. Perhaps, one can argue, the system ought to generate its own internal reform movements. In most cases, that may be too much to expect. In most cases, the system has to be nudged, sometimes forcefully, and sometimes new abuses are created in place of old ones. Even that is tolerable within some rational limit.

I say again, though, because it so urgent that the matters of so-called reform and social regulation must be only a part of the nation's agenda. And when the agenda is over-weighted or dominated by them, we are exposed to a new hazard that we had better understand. Reform then becomes abuse. Proliferated reform becomes proliferated abuse. Thoughtless reform creates thoughtless abuse. It needs selective (and hopefully gradual) reform. It does not need to be dominated by reform. As one element among many in our national life, reform is justifiable. As the overriding element, it become another and, I suggest, a potentially hazardous factor.

A most hopeful undercurrent is even now taking shape in the national scene. You have perhaps seen within the month reports of the new turn in policies and priorities established by the National Association for the Advancement of Colored People. This is my interpretation, not theirs, but what I think they're saying is that so-called social reform and "make work" have not, will not, cannot be responsive to their priority needs. They have signaled their recognition of the fact that the answers they want, the jobs and opportunities they need, must come from a growth of economy and from a private sector that is able to perform its primary function—the creation of new wealth—without an overload of thoughtless restraint or other stultifying influences imposed erratically or thoughtlessly.

The free and competitive enterprise system is, I submit, the only worthy vehicle for their hopes and, in fact, for the hopes of all of us if we insist upon a society both free and strong.

All this reminds me of a story—about the very young lad who stumbled and fell into a neighbor's swimming pool. His older brother rushed home somewhat out of breath to report to their mother. She was understandably upset and wanted to know where is Johnny now. Well, said the older boy, I really don't know—I tried to give him artificial respiration, but he kept jumping up and running away.

That's where I think our system is—ready to jump up and go forward unless we wrestle it down and give it too much help of the wrong kind.●

DESIGN ASSEMBLY

● Mr. MOYNIHAN. Mr. President, I am delighted to note that the fourth Federal Design Assembly, sponsored by the National Endowment for the Arts and the General Services Administration, has been convened. At this moment, hundreds of delegates, from each of the major departments and agencies of the Federal Government, are gathered in the great central hall of the Pension Building in the interest of improved design.

I applaud this official attention to the contribution which good design can make to the work of the Federal Government. As a member of the Senate Committee on Environment and Public Works, I have a responsibility for the construction of new public buildings as well as the renovation of historic structures—to add to my continuing interest in a quality of life supported by a decent concern for esthetic and historic values.

This kind of event in the Pension Building illustrates precisely the sort of public forum and the kind of function which we envision for the Pension Building when it begins to function as the Nation's Museum of the Building Arts.

My colleagues will recall that only last Friday the Senate unanimously approved Senate Joint Resolution 160, by which the Senate declared that the Pension Building "constitutes an architectural treasure belonging to the people of the United States, and that its most appropriate use would be as the Nation's Museum of the Building Arts," I am delighted that my good friends Liv Biddle and Jay Solomon, both able public servants, had the foresight to secure the Pension Building for the Design Assembly—for it is they who will also guide the studies called for by the Senate in Senate Joint Resolution 160, whose opinion we value, and whose guidance we seek together with that of the Smithsonian Institution, in pursuing promptly and effectively the proposal to establish a national Museum of the Building Arts.

Mr. President, the assembly program states:

> Vindicated by history, shrouded in legend, sought for a new mission, the red-brick Pension Building is a fitting site for the Assembly.

I have expressed my views of the building on several occasions. I know my colleagues will forgive my taking a contrary view to that of General Sheridan—who when told of the building's unusual, and fireproof, construction declared, "What a pity."

Mr. President, I submit for the RECORD an excerpt from the program of the fourth Federal Design Assembly, which speaks about the leadership of Wolf Von Eckhardt and Cynthia Field—and I must say with the support of Joan Mondale and Nancy Stevenson and others—for this exciting proposal for the future of the Pension Building:

ASSEMBLY SITE: A BUILDING WITH A PAST AND A FUTURE

> Once a way station to shelter upwardly mobile agencies while they waited for more modern quarters, the red-brick Pension Building in Washington's Judiciary Square has become a highly valued national asset.
>
> Early this year a national committee of prominent citizens proposed that the 93-year-old building be made a National Museum of the Building Arts. The proposal calls for permanent and changing exhibitions, an extensive nationwide public education program, and research services.
>
> "To advance the national goal of a suitable living environment for every American," said the committee, "the museum should be established by Congress."
>
> In April, Maryland Senator Charles Mathias introduced a bill, co-sponsored by nine other senators to carry out this recommendation.
>
> Delegates to the Fourth Federal Design Assembly will be able to examine at close range features of the building that prompted the committee to choose it as the ideal site for a museum of building.
>
> The massive building was completed in 1885 as a memorial to Civil War Veterans and as headquarters of the Pension Bureau, an agency that processed more than $8 billion in payments to veterans of four wars and their widows. Even before the building was completed, its colonnaded inner court was the scene of the inaugural ball for the first term of President Grover Cleveland. It was the first of nine inaugural balls held in the spacious court, the latest being a hall held for President Jimmy Carter and Vice-President Walter F. Mondale.
>
> The building contains approximately 150,000 square feet of usable space in its three major floors and a fourth smaller one. Its two tiers of clerestory windows rise above the fourth level under a gable roof that peaks at 148 feet above street level.
>
> Delegates to the Fourth Federal Design Assembly will be seated in that same court, described by the authors of the museum proposal as "a breathtaking space marked by eight 76-foot-high Corinthian columns, surrounded by four tiers of galleries, and pleasantly lighted by clerestory windows." The words are those of architectural and urban design critic Wolf Von Eckardt and researcher Cynthia R. Field, who call the building "a successful 19th century fusion of classical design and machine-age technology."

As they approach the structure in Washington's Judiciary Square, delegates will note the striking terra cotta frieze that extends 1,200 feet around the exterior of the building between the first and second floors (see top of page). The work of Bohemian-American sculptor Casper Buberl, the basrelief depicts soldier and sailors, persumably members of Union forces.

In the years immediately after its completion, the building was not universally admired. Its designer was U.S. Quartermaster General Montgomery Meigs, who specified red brick (2½ million were used) for its construction, making it fire resistant. This was an unusual technological achievement for that period, but it gave rise to some caustic comments from the building's detractors. Told of the building's fireproof construction, General Philip H. Sheridan is reported to have replied, "What a pity!"

Sheridan made the remark, according to legend, at Cleveland's inaugural ball, where Buffalo Bill Cody was the center of attention. The old Indian fighter's presence is linked to still another legend, one that has been traced to an experience of a Pension Building night-watchman some 30 years later. In the light of his gas lamp, the guard stared in disbelief at an image that formed on one of the columns, then finished to resemble onyx. The outline of an Indian began to form in the veins of the fake stone. Further down the column he saw a buffalo head.

He dismissed the experience, convinced he had dreamed the whole thing. But the next day the strange profiles were still there. The morning papers reinforced his sense of awe. There on page one was a story about the death the night before of Buffalo Bill Cody.

None of the Design Assembly delegates is likely to let these colorful legends keep them from taking a careful look at this remarkable example of federal design—a building that inspired Von Eckardt and Field to declare: "Although almost a hundred years old, it set an example for building in the future."●

AN OLD SOLDIER SOUNDS CALL TO STRENGTHEN U.S. MILITARY

● Mr. GOLDWATER. Mr. President, many people have spoken out concerning the present declining world position of our military strength but none, so far, has spoken so clearly and with so much background as has Gen. Maxwell D. Taylor. Appearing in the Pittsburgh Press of September 9 is an article entitled, "And Old Soldier Sounds Call to Strengthen U.S. Military," written by General Taylor. It comes at a very important time in the history of our country and I ask unanimous consent that it be printed at the conclusion of my remarks.

The article follows:

AN OLD SOLDIER SOUNDS CALL TO STRENGTHEN U.S. MILITARY

(By Maxwell D. Taylor)

I am deeply impressed by the inadequacy of our military forces.

There are a number of grounds for my pessimism. To begin with, despite political oratory to the effect that the United States is and must always remain second to none in military strength, the fact is that our forces have fallen behind those of the Soviet Union in many categories, and their capabilities are not commensurate with the tasks they are likely to be called upon to perform.

The growth of the Soviet navy creates justified concern among security planners in Washington. In the course of the expansion of the Soviet military establishment, the Soviet navy has become numerically superior to our fleet in both surface combat ships and sea-going submarines, the latter by nearly three to one.

It is a navy clearly designed to challenge American control of important sea areas and to give the Soviet Union a capability for military intervention overseas at a distance from its frontiers.

In the years ahead, the freedom of action of our forces overseas will be restricted not only by the Soviet submarine force, but also by a shortage of secure bases needed to provide logistic support for distant operations.

In the Mediterranean—which until recently was a NATO lake—political instability in Portugal, Italy and Spain, along with anti-American feeling in both Greece and Turkey, render uncertain our access to the ports and airfields which would be essential to conduct military operations.

In the Persian Gulf, we never have had a military base worthy of the name, and the same can be said for all of Africa south of the Sahara. Although we still have bases in Northeast Asia, we have announced an intention to make a progressive reduction of our ground forces in Korea.

In the resource-rich areas of Southeast Asia and the Southwest Pacific, we have no foothold of importance except in the Philippines, where President Marcos recurrently expresses dissatisfaction over our presence.

In an ideal world, we would have potent allies with strength capable of offsetting some of our deficiencies, but such is not the case. Many governments are fragile, subsisting on paper-thin parliamentary majorities and preoccupied with economic slowdowns, the rising price of oil and the growth of local Communist parties.

Certain impediments to the effectiveness of our armed forces are largely of our own creation. In contrast to the Soviet Union, which has built up its armed forces rapidly, in recent years have permitted our own to decline steadily in trained manpower, aircraft, ships, submarines and reserves of war equipment.

This decline has been, in large part, the result of repeated reductions in the military budget both in purchasing power and as a percentage of the gross national product.

Over the same period, primarily for domestic political reasons, the United States adopted an all-volunteer system of recruiting which this far has produced volunteers adequate in number and quality to meet the peacetime needs of the active forces, but inadequate in the case of the reserve forces.

The fact is that, despite the high price being paid to attract and retain volunteer manpower in peace, the nation could not sustain significant forces in combat without a prompt reversion to some form of conscription.

This doubt as to the availability of adequate trained manpower in war is but one factor which creates uncertainty about our national readiness to use military force promptly and effectively. The post-Vietnam attitude of Congress, and much of the public, has been one of opposition to further military intervention abroad and of distrust of limited war as an appropriate means to advance foreign policy.

This anti-military reaction, which coincided with the determination of Congress to deprive the president of his ability to involve the country in another Vietnam, produced the War Powers Act of 1973.

Regardless of the merit of its purpose, the provisions of the act offer endless possibilities for prolonged debate in the time of crisis between Congress and the White House over the justification of sending troops overseas into potential combat situations, and could thus constitute a formidable legal obstacle to any timely use of military force.

Although at present there are indications of change in the national mood and of some recovery of self-confidence and national pride, our past performance remains a matter of record, one which will contiue to cause uncertainty abroad about our will to take sides vigorously in causes which may entail military involvements.

Some foreign observers seriously question whether we again would resort to arms unless directly attacked ourselves, and many wonder whether the president remains truly the commander-in-chief and prime architect of national policy. Such uncertainties weaken the credibility of the armed forces as a reliable weapon-in-being, capable of deterring or suppressing armed violence promptly on presidential order.●

SITUATION IN LEBANON

● Mr. STONE. Mr. President, I wish to express my deep concern as chairman of the Senate Foreign Relations Subcommittee on Near Eastern and South Asian Affairs about the continued bloodshed in Lebanon. The Christian community of that country has been put under great pressure by Syrian military forces. First, the traditional Christian suburbs of Beirut were shelled heavily by the Syrian army, causing many deaths and creating another Lebanese refugee community. Now the Syrian army has moved against Christian communities in the north of the country, using mobile helicopter forces and paratroops to carry out the attack.

Prior to the Syrian operations in northern Lebanon, the United States pressed diplomatically for the Syrian military forces to disengage from the Christian neighborhoods in Beirut. It appears there may have been some progress in gaining this end. However, if the cost of this is merely to have Syrian armed forces see-saw in their attacks on the Lebanese Christian community, first in Beirut, then in the north, and then again back in Beirut or in southern Lebanon, our diplomatic action is simply inadequate for the job at hand. In the meanwhile, the Christian community faces gradual destruction at the hands of overwhelmingly strong forces.

Failure to take clear action to stop this process may also lead to another war in the Middle East—a war that can serve no one's best interests. A firm American warning to Syria could, we believe, help to avert such a war.

The time has come to disengage Syrian military forces in Lebanon and find an alternative for their presence in that country. America should adopt a clear policy in this regard. Moreover, America should make it clear it cannot stand by and allow the destruction of the Christian community of Labanon at the hands of the Syrian army. I hope that the Administration will report to the Congress speedily on its efforts to disengage the Syrian army from Lebanon and certainly, at least, to stop the senseless military action directed at what remains of the once flourishing Lebanese Christian community.●

CONDEMNATION OF VIOLENCE IN LEBANON

● Mr. DOLE. Mr. President, the Lebanese situation deserves special attention in light of the recent events at Camp

David. The conflict which has been ravaging Lebanon continues, and should not be overlooked. While Israel and Egypt both stand behind fairly secure borders, Lebanon is ridden with a spectrum of Arab, Christian, and Palestinian forces, whose fighting threatens to cast Lebanon into another bloody civil war.

SYRIA'S BELLIGERENT ROLE

Throughout this conflict, the Government of Syria has played a major belligerent role, through support of Arab terrorist groups and hostile elements of the Lebanese community. Their role has been destabilizing and aggressive. Yet the United States continues to provide economic assistance, which will amount to $90 million for the fiscal year 1979. Does Syria really deserve American assistance, even without some kind of protest of their disruptive activity, or sign of disapproval? We should look to see exactly where Syria does stand in regard to the United States, and where it stands in relation to peace in the Middle East.

The United States had no diplomatic relations with Syria before 1974. After which ties were established in an effort to bring them into stabilizing efforts in the Middle East. However, Syria remains closely allied with the Soviet Union. More than 1,000 Soviet and East German military advisers are active in Syria. Syria has not been a friend of the United States, and has not shown itself willing to moderate its policies for any U.S. peace initiatives, or any peace initiatives, for that matter.

SYRIA ENGAGED IN LEBANESE HOSTILITY

For the past 2 months, the Palestinian Liberation Organization, under the obvious direction of the Syrians, and the Syrian army itself, has been involved in military action in Lebanon, where they are attempting to eradicate the Christian militia, with whom Arab terrorist groups and the PLO have been fighting for a long time. In the process, Lebanon has been torn apart, thousands of Lebanese civilians have been murdered, and a United Nations peacekeeping force has been beleaguered. Syria's military operations, designed to destroy or disrupt the Christian population, have been a gross violation of human rights and are detrimental to U.S. objectives of regional stability.

ISRAEL DRAWN IN ONCE

Israel has already been engaged in one military venture into Lebanon, earlier this spring, to destroy terrorist bases used to launch violence against Israel. As long as these forces remain. and the unstable situation prevails, the threat of this happening again is not small. Such threats in the future could endanger the progress made at Camp David.

COMMITTEE ADVISES PRUDENCE

It should be noted that although the Subcommittee on International Relations of the Senate Appropriations Committee opposed cutting off the $90 million earmarked for aid to Syria for fiscal year 1979, it expressed grave concern over the state of the situation in the Middle East and stated that it expected the administration to insure that the assistance is used to promote political and economic stability in the area. The committee report states that it:

> Believes that there is a point where the political significance of assistance loses any intelligible meaning because the amount of assistance no longer bears any relationship to need or purpose, a point where what is assistance comes to be regarded as an entitlement, where means become confused with ends. Assistance to Syria is not an entitlement; if it does not achieve desired ends, it should be terminated.

Mr. President, we should take note of the fact that despite American assistance of around $425 million since 1974, Syria has not moderated its policies, nor furthered stability in the Middle East. On the contrary, their activity in Lebanon has increased.

SYRIA THREATENS CAMP DAVID PROPOSALS

The Camp David summit has ended, and Syria has given a highly negative response to the proposals. The Damascus newspaper Al-Ba'ath of September 19 wrote:

> The outcome of Camp David is in effect a real ambush of our nation. It is not surprising that Sadat concluded a bilateral peace with the enemy. Syria expected such an outcome. It was the logical finale for Sadat's renegade course, a course which began with Sadat's humiliating and treasonous trip at the 101 KM talks: continued with the penetration in the Deversoir, the Sinai agreement, his visit to Jerusalem, his talks at the King David Hotel: and ended with the Camp David Summit. Syria knew that all these concessions would end in a humiliating climax like the Camp David Summit.

Syria has had a harsh, negative attitude throughout the peace negotiations. They stand as solid opponents of Israel and the Jewish people. The Syrians have been strong military, financial, physical, and political supporters of PLO terrorists, those responsible for countless acts of violence. They have been quick to convene a meeting in response to the Camp David summit, the "Damascus summit," which would be, as the Damascus paper Al-Ba'ath stated, a "decisive and strong reply to the Camp David results * * *" These measures enjoy the support of the Soviet Union. Even if Syria cannot muster enough support to sway Hussein or the Saudis against the Camp David proposals, it still can foment violence with tremendous disrupting, destabilizing effects.

DOES SYRIA STILL DESERVE SUPPORT?

This response is, in effect, a complete rejection of the proposals and a threat to their fulfillment. It should be noted here that an amendment to the Foreign Aid Appropriations bill in the House of Representatives was introduced by Congressman DERWINSKI, which would cut out the $90 million earmarked for Syria. This amendment was passed by a large majority, and enjoyed the strong support of many House Members. This amendment was stricken in Senate committee. But in view of the hopes raised by the proposals of Camp David, the potential the Syrians have for disrupting the peace initiatives might be a good reason to terminate our financial assistance to Syria. It can be easily argued that they no longer deserve this support. In view of the policies and intentions of Syria, they at least deserve sound condemnation and warning.

CONCERN FOR LEBANON FOREMOST

Mr. President, I would like once more to reiterate my great concern for the Lebanese people, particularly those Christian Lebanese who are being terrorized by the PLO, other terrorist groups, and the Syrian army. The Syrian army has been implementing a campaign of kidnaping, threats, and killing of civilians in Christian villages to control the population through terror. The hostile fragmentation of Lebanon, so close to breaking into civil war again, is being unjustly capitalized upon by the Syrians, who are supporting their own Arab factions and are directly fighting Christian militia under the ruse of "peace-keeping forces." Israel has warned the Syrians against pressing the Christians further. The United States should join in condemning this disruptive, unwarranted action. Mr. President, it is my hope that perhaps when Secretary of State Cyrus Vance visits Syria during his Mideast tour, he might use this opportunity to pressure the Syrians to heed this disapproval and withdraw their forces from Lebanon. For the sake of the people of Lebanon, and the future of peace in the Middle East, let us take the lead in preventing further violence in Lebanon.

Mr. President, I would like to add an appeal on the behalf of the Christian people of Lebanon, who are suffering terribly at the hands of the Palestinian terrorist groups. Lebanon is in a virtual state of war. The Syrians and Palestinians have the Lebanese Christians limited to approximately 50 square miles of territory in Lebanon. It is feared that in a short period of time, perhaps even the 90 days we must wait for the Middle East peace proposals, that these innocent people may be eliminated. Yet these refugees, even those fortunate enough to escape, are not allowed to find sanctuary in the United States. Are we to turn our backs on these Lebanese Christians? Are we to witness the slaughter of innocent people in one part of the Middle East, while struggling for peace in another? I have received petitions signed by virtually hundreds of people from my own State of Kansas protesting this tragedy. I call upon all Americans to pray for these people, and to appeal for their rescue.●

IN MEMORY OF ORLANDO LETELIER AND RONNI MOFFIT

Mr. KENNEDY. Mr. President, 2 years ago, on September 21, 1976, Orlando Letelier and his young coworker, Ronni Moffit, were murdered on the streets of Washington by a bomb planted in their car. On that day, the cause of democracy and human rights in Chile lost two of its strongest and most dedicated supporters.

A former Foreign and Defense Minister, and Ambassador to the United States, Orlando Letelier devoted his life to the return of democracy in his homeland—a country with a proud democratic tradition of 168 years, violently interrupted by a military coup in 1973.

The role of the United States in the months preceding the 1973 coup is not one to be proud of. Nor can we afford to forget the political murder which occurred in this Nation's Capital just 2 short years ago.

As we remember the life and death of Orlando Letelier and Ronni Moffit, I am heartened by the continued strong efforts of our Ambassador, George Landau, to see that justice is fully served. Ambassador Landau has just presented the full evidence against the alleged murderers of Letelier and Moffit, who were allegedly directed by the Chilean secret police, the DINA. We have a right to exepect early Chilean action on this evidence, and agreement to the U.S. request to extradite all those implicated in this brutal crime. I strongly support the efforts of the Carter administration to this essential end.

But beyond the indictment and request for extradition is the continued struggle of the people of Chile, and their friends throughout the hemisphere and the world, for human rights and a democratic future. The labor unions of Chile have been supported by their brothers in the United States and in Europe in their struggle for labor rights and decent working conditions. The democratic parties of Chile have been supported by democratic forces throughout the world in their opposition to the military junta and their support for rapid transition to democratic rule. Only last July, a legislative conference on Chile reaffirmed the commitment of Members of Congress, the trade union movement, and civil and human rights organizations to redouble their efforts in behalf of the Chilean people.

It is this commitment, and this effort, which will be the best memorial to Orlando Letelier and Ronni Moffit. We join with their families in thinking of them and their work and their legacy for the future.

LOSS OF LIFE IN LEBANON

Mr. HOLLINGS. Mr. President, I rise today to express America's concern and America's sadness over the needless spilling of blood in the Christian communities of Lebanon. The extensive and provocative shelling by Syrian armed forces in Lebanon has, within the past month alone, cost some 800 lives. The continuing Syrian onslaught has further caused the exodus of 200,000 persons, including women, children, the sick, and the elderly, from their homes and into the refuge of schools and monastaries and whatever make-shift shelters can be constructed. This kind of slaughter and dislocation cannot go unremarked and unprotested, even at a time when our hopes for peace in the Middle East are on the rise.

There are those who would say, "Oh, don't say a thing now. The Secretary is in the Middle East, and Syrian cooperation is essential to the progress of the Camp David agreements."

I do not buy that kind of approach. On the contrary, unless this situation is brought under control, Lebanon will go up in smoke, and Camp David with it. Just a week ago, there was rampant speculation that if things got worse in Lebanon, the Camp David talks themselves could break up. While there is today a decrease in violence by the Syrians in Lebanon, there is every possibility that the situation can heat up again. By turning our face the other way, all we do is encourage exactly that. And by approving the $90 million in assistance without providing some direction and without stating our apprehensions, we act irresponsibly at a time when responsible policy is more than ever necessary.

But there is more involved, Mr. President. It is not just that this bitterness and killing could spill over and poison Middle East peace prospects. It is also that continuation of this senseless slaughter will mean the destruction of the Christian community in Lebanon.

We are talking here about people—lives—the continued existence of a nation. Lebanon is not a means to an end, not part of a peace "process"—it is not something we can sacrifice in order to win a larger peace. It is a diverse and pluralist country, containing over 1 million Christians, and part of a history and a heritage vital to our Western society, our values, and beliefs. The preservation of this diverse people is an end in and of itself, and there can be no sacrificing this solemn obligation.

So I would hope today that the concern being expressed in this Chamber—concern which mirrors the attitude of millions of Americans—will be heard. Heard by our own policymakers in the administration and the State Department. And heard by those in power in Syria.

Instead of acquiescence in the destruction of Lebanon, our policy should be to build the strength of Lebanon, to shore up its internal stability so that it can guide its own destiny without any need or any excuse for Syrian, or any other, intervention. That is why just last week, our Senate Appropriations Committee approved Senator EAGLETON's amendment to provide foreign military sales credits for Lebanon. We in the committee were convinced that an effective Lebanese Army is a much better bet to keep the peace and protect the religious communities of Lebanon than are the Syrian forces.

President Carter, by fairness and firmness, has brought closer to reality the day of peace in the Middle East. We must not falter now in either the fairness or the firmness. If we suddenly sacrifice all our principles—if we look the other way while innocent hundreds are killed and maimed—we will not be encouraging the prospects for peace. We will be shoring up the disciples of violence and hatred. The Camp David agreements are in step with the interests and values of the American people. But a "peace at any price" policy of placating and encouraging Syrian policy is not.

U.S. SWIMMERS VICTORIOUS IN WORLD CHAMPIONSHIP MEET

Mr. THURMOND. Mr. President, I rise to recognize and commend the actions of a very special group of young athletes who recently completed a recordbreaking series of victories in the world swimming championships in West Berlin.

The truly outstanding performance of our U.S. swimmers at these swimming events in late August deserves our special recognition and commendation. I am sure that my colleagues join me in expressing our most sincere congratulations and appreciation to this group of dedicated and well-trained young athletes and their coaches who represented the United States and themselves so ably.

At the completion of the 10-day championship competition, the U.S. swimmers had won 23 gold medals and had broken or tied eight world records. The American total of 44 medals, which included the 23 gold and 14 silver and 7 bronze medals, was the best performance ever by the United States in the world swimming championship series. The second place Soviet Union won a total of 16 medals, including six gold medals.

Mr. President, I am sure that these hard-earned victories over the best of the rest of the world are the result of rigorous training, fierce determination, and the highest desire to excel by our American swimmers and their coaches. We salute them and rejoice with them in their record performances—performances that reflect the highest honor on themselves and on the United States.

Mr. President, additional details about this swimming event were carried in a news article in the Washington Post on August 29, 1978. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. SWIMMERS GET THREE MORE GOLD

BERLIN.—American swimmers climaxed the third world swimming championships by capturing the men's 400-meter medley after gold-medal performances by Greg Louganis and David McCagg yesterday.

The victories in the final day of competition in the 10-day championship gave the United States 23 gold medals to six for the second-placed Soviets.

Barbara Krause saved East Germany from a humilitating gold-medal shutout by winning the women's 100-meter freestyle in 55.68 seconds.

McCagg, 20-year-old from Fort Myers Beach, Fla., took the men's 100-meter freestyle in 50.24. Former world record-holder James Montgomery of Madison, Wis., finished second in 50.73. Klaus Steinbach of West Germany established an European record of 50.79 in earning the bronze.

Americans Robert Jackson, Nick Nevid, Joe Bottom and McCagg finished the men's medley in 3:44.63, more than two seconds slower than the world record set by the U.S. at the 1976 Montreal Olympics. West Germany, two-time European champion in the event, took the silver in 3:48.58. Britain, runner-up in the 1978 Commonwealth Games, placed third in 3:49.06.

In diving, Louganis, 18-year-old American champion from El Cajon, Calif., edged East Germany's veteran Olympian Falk Hoffmann for the gold.

Louganis, who began the final competition just behind Hoffmann in the points standings, fashioned his victory with careful dives. His seventh dive, a forward somersault, earned him the day's high score of 72.90 points. He finished with 844.11 points to Hoffman's 836.76.

Louganis' fortunes took a turn for the better when the governing board of the International Swimming Federation rejected a protest that would have sent him into the final with 12 fewer points.

East Germany, Mexico, Canada and Norway had protested a decision by U.S. referee R.

Jackson Smith in Sunday's preliminaries to allow Louganis and six other divers to repeat their dives in the ninth round, interrupted by a storm.

Louganis' second try on the ninth dive netted him 25 more points than his first attempt. The divers carry half their qualification points into the final.

During the championships 14 world records were broken or tied, with eight of the performances by Americans.

In addition to its 23 golds, the U.S. won 14 silver and seven bronze medals. The Soviets were second with six gold, four silver and six bronze medals. Canada was third with three gold, one silver and five bronze medals.

The American total of 44 medals included 36 for swimming events, the best performance by the United States in the world championship series. The Americans won 32 swimming medals at the first championships in Belgrade in 1973 and 31 two years later in Cali, Colombia.

Men's Platform Diving—1, Greg Louganis, U.S.A., 844.11 points; 2, Falk Hoffman, East Germany, 836.76; 3, Vladimir Weinik, Soviet Union, 813.63.

Women's 100 Freestyle—1, Barbara Krause, East Germany, 55.68; 2, Lene Jenssen, Norway, 56.82; 3, Lrisa Tsareva, Soviet Union, 56.85.

Women's 800 Freestyle—1, Tracy Wickham, Australia, 8.24.94; 2, Cynthia Woodhead, U.S.A., 8:29.35; 3, Kimberly Linehan, U.S.A., 8:32.60.

Men's 100 Freestyle—1, David McCagg, U.S.A., 50.24; 2, James Montgomery, U.S.A., 50.73; 3, Klaus Steinbach, West Germany, 50.79.

Men's 400 Medley—1, U.S.A. (Jackson, Nevid, Bottom, McCagg) 3:44.63; 2, West Germany, 3:48.58; 3, Great Britain, 3:49.06.

Total Points—United States 473 points, Soviet Union 204, East Germany 176, Canada 155.5, West Germany 120, Britain 85, Holland 76, Sweden 59, Australia 54, Italy 54, Hungary 45, Japan 41, Yugoslavia 20, Switzerland 20, Romania 13, Mexico 11, Czechoslovakia 11, New Zealand 9, Norway, 9, France 8, Brazil 6, Denmark 6, Argentina 5, Puerto Rico 4, Egypt 2, Bulgaria 2, Belgium 1.

Final medal standings

	G	S	B	T
Country:				
United States	23	14	7	44
Soviet Union	6	4	6	16
Canada	3	1	5	9
Australia	2	0	0	2
East Germany	1	10	4	15
West Germany	1	2	4	7
Italy	1	0	1	2
Japan	0	2	1	3
Hungary	0	1	2	3
Yugoslavia	0	1	1	2
New Zealand	0	1	0	1
Norway	0	1	0	1
Britain	0	0	2	2
Brazil	0	0	1	1
Denmark	0	0	1	1

REPORT ON CONSEQUENCES OF COMPREHENSIVE TEST BAN TREATY

Mr. THURMOND. Mr. President, the distinguished junior Senator from Oklahoma (Mr. BARTLETT) has rendered the Senate and the Nation a singular service in his recently issued report on the Test Ban Treaty to the Senate Armed Services Committee.

Senator BARTLETT was the first congressional observer to the comprehensive test ban negotiations in Geneva and has given considerable personal time to a study of these issues.

His report, dated August 11, 1978, and available as a committee print, deals with the hard issues of a possible Test Ban Treaty. He concludes that it would not be in the best interests of the United States to sign a zero-yield Test Ban Treaty at this time.

Mr. President, I commend Senator BARTLETT for this outstanding service and ask unanimous consent that the recommendations of his report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE CONSEQUENCES OF A COMPREHENSIVE TEST BAN TREATY

(Report of Senator DEWEY F. BARTLETT, August 11, 1978)

RECOMMENDATIONS

In my opinion, the United States should not conclude a zero-yield nuclear test ban at this time. The benefits are uncertain and the risks great. Under a zero-yield test ban, the United States would not be permitted to conduct the testing necessary to maintain the reliability of its nuclear weapons stockpile. At the same time, it could not be sure that the Soviets were not conducting those very tests. Nevertheless, significant progress toward a comprehensive test ban is possible.

1. The United States must make clear that progress in arms control requires improvements in vertification technology, procedure, and cooperation. An international agreement or treaty, particulary one dealing with such an important segment of our national security as strategic nuclear weapons, is built on mutual trust. In the minds of many Americans, violations of détente through Russian adventurism in Africa and Soviet violations of the human rights provisions of the Helsinki agreements are obvious reasons why the Soviets cannot be trusted. Soviet propaganda paints a similar distrust of the United States. An unverifiable treaty, by its structure, would sow the seeds of greater distrust rather than develop more confidence and mutual trust. To conclude an unequivocally unverifiable "zero-yield" test ban treaty at this time would be the height of self-deception and would jeopardize future steps toward meaningful arms control.

2. Both Houses of Congress should hold extensive hearings on the impact of test limitations on our Nation's security. All sides should be heard in an effort to identify the facts. I believe the Senate Armed Services Committee should take a major role in this effort.

3. The Senate should proceed with actual consent to ratification of the Threshold Test Ban Treaty and the Treaty on Peaceful Nuclear Explosions. This would illuminate many of the issues surrounding a comprehensive test ban treaty and would help to educate the Senate. It would also require the Soviet Union to join the United States in "cooperative measures" provided for in those treaties to assist in verification of compliance. We should see how willing the Soviets are to cooperate before we let ourselves become overly dependent upon their cooperation in verifying a comprehensive test ban.

4. The administration should present, and the Congress should support, an extensive research and development program which would:

(1) Improve those technologies which would help verify compliance with a CTB,

(2) Investigate nuclear weapons designs which would be less dependent on testing for confidence in long range reliability,

(3) Complete all testing needed for present and anticipated weapons systems,

(4) Continue a vigorous technology base program which recognizes that the reliability of the stockpile has always been dependent upon the accumulation of knowledge by experienced scientists, and

(5) Maintain a program which would permit the immediate resumption of testing if the Soviet Union attempted to break out of a comprehensive test ban in the same sudden way they ended the testing moratorium in 1961.

5. The United States should not conclude a comprehensive test ban treaty until after a SALT II treaty has been ratified and the United States has those programs underway which would be necessary to maintain the strategic balance into the future. In particular. the United States should be certain that the interaction of SALT or MBFR and CTB does not work against the national security interests of the United States.

6. Any new test ban treaty should be clearly linked to our ability to verify compliance. As a first step, the United States and the Soviet Union could sign a lowered threshold test ban treaty which would prohibit tests above say 5 or 10 kilotons, or whatever is then verifiable. The threshold could be lowered periodically to correspond with improved verification technologies and extended onsite inspection rights. Ultimately, a "zero-yield" or near "zero-yield" treaty might be attained at a time when risks and uncertainties have been reduced, and cooperation and trust strengthened.

As long as the United States and the Soviet Union are unable to abolish the existence of their nuclear weapons, and those of nations such as the People's Republic of China, they should maintain reliable nuclear forces in sufficient quantity to guarantee present and future worldwide nuclear stability. At this time, it is too dangerous to conclude a "zero-yield" test ban treaty, or even one that permits tests of a few hundred pounds. Such a treaty would not be verifiable and would not permit the United States to be certain of the future reliability of its nuclear weapons.

It must be remembered that a long-term, zero-yield or near-zero-yield test ban treaty would be more than an effort at controlling the arms race. It would threaten our strategic nuclear deterrence which has prevented world war for one-third of this violent century. Such a major move toward complete nuclear disarmament should only come about in a world of greater stability, harmony, and trust than the one that exists today. For the present, we should concentrate on the less dangerous task of maintaining a stable nuclear and conventional military balance while seeking a verifiable, reduced threshold test ban treaty.

FOREIGN ASSISTANCE APPROPRIATIONS, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 12931, Calendar Order No. 1118, the foreign assistance appropriations bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12931) making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

Mr. ROBERT C. BYRD. Mr. President, we have up before the Senate the act making appropriations for foreign assistance and related programs.

I wish to inquire as to the possibility of getting a time agreement on this bill. I know that the distinguished chairman of the subcommittee, Mr. INOUYE, is very willing to enter into a time agreement, and I, of course, have not spoken to the distinguished ranking minority member, Mr. SCHWEIKER, but I hope that a time agreement can be reached.

Mr. STEVENS. Mr. President, if the Senator will yield, I have just inquired about this, and we have at least three Senators who are prepared to object to any time agreement on this bill.

Mr. ROBERT C. BYRD. Very well. Mr. President, I respect the right of any Senator to object to a time agreement on the bill.

But I should state that the Democratic Policy Committee members on yesterday and the committee chairmen voted overwhelmingly to set October 14 as a date for adjournment sine die of the Senate.

In order to meet that date, which everyone present on that occasion recognized would be difficult, I was instructed to meet on Saturdays and to inform Members that lengthy daily sessions would be in progress in order to make the adjournment and complete the work of the Senate.

Among those measures that remain to be done before the Senate can adjourn are these:

The conference report on the second concurrent budget resolution, which by law has to be enacted before Congress can adjourn. Mr. MUSKIE is planning on calling that conference report up on Saturday.

Also among the measures which have to be acted upon before we can adjourn are the HEW appropriations bill, which the Senator from Washington (Mr. MAGNUSON) has been ready to call up for days, but has not called up because of the necessary absence of his counterpart on the other side of the aisle, Mr. BROOKE, but now that the election is over it is hoped that the Senate can proceed in due time to take up the HEW appropriations bill, and I hope that the Senate could have a time agreement on that bill.

In addition to that bill is the foreign assistance bill, which is now before the Senate; the defense appropriations bill, which is practically ready to go but which has to be preceded by the defense authorization bill, which is ready to go and on which there is a time agreement entered.

Additionally, there are the various energy conference reports.

Last April, the Senate leadership announced that energy was the No. 1 priority, sui generis, one of a kind, the top priority, No. 1, blue ribbon priority. That was energy.

Now we have the natural gas pricing conference report, which is before the Senate to be voted on next Wednesday. Following, at some point, there will be the energy conservation conference report, the utility rate reform conference report, and, hopefully, an energy tax conference report.

But we must complete our action on energy before we adjourn sine die.

In addition to these bills are those measures that deal with expiring authorizations—which mean authorizations for programs that will expire if Congress does not renew those authorizations.

Congress cannot go home until it renews the authorizations for these programs, and there are several of them.

So, Mr. President, there are a number of "must" bills. I have not attempted to specificate as to the number. I would say there must be at least 25 measures. There is, for example, the countercyclical revenue-sharing bill. There is a time agreement on that. There is the public health services bill. We have a time agreement on that bill. There is the tax cut. Now every Senator knows that before this Senate goes home the American people expect Congress to act on a tax cut, and it is important that it do so in order that we may have a fiscal policy that is reliable and responsible. That tax cut hopefully will be of a moderate nature so as to keep the economic growth on an upward curve, give relief to the American taxpayers, and make some adjustments in consideration of those social security tax increases last year that had to be enacted in order to shore up the social security trust funds that were rapidly becoming actuarially unsound. So a tax cut is absolutely necessary, necessary from the standpoint of adding economic stimulus, increasing consumer and investor confidence, so as to enhance the continuing downward curve of the unemployment rate. So these are measures that we have to act upon, and there are others.

Mr. President, I went directly to the Speaker of the House and informed him yesterday as to what the judgment of the Democratic Policy Committee members and Democratic chairmen was.

I stopped by the distinguished minority whip's office on the way back from the Speaker's office and informed the minority whip. Later in the evening I met with the distinguished minority leader (Mr. BAKER) and again with Mr. STEVENS and informed them of the decision and expressed hope that time agreements be given on every possible necessary measure, every "must" bill, if at all possible.

Also I would urge that Members who have holds on bills—h-o-l-d-s on bills—not expect the Senate to delay action on those bills simply because a particular Senator is out of town. We have had too much of a problem in this entire session in calling up measures because a particular Senator was out of town and could not be here to offer amendments, et cetera, et cetera, and it sometimes has been with great difficulty that the leadership has been able to find a bill to call up on which Senators would be present and ready to call up their amendments.

So these are problems, Mr. President, that during the final days of the session can be compounded in such a way that if we do not have the cooperation of every Member, it will be impossible for the Senate to complete its work by October 14, in which case the Senate will have to come back and have a post-election session.

Now, I would hope that the Senate could complete its work. That was the judgment, the overwhelming judgment, of the Policy Committee members and the chairmen—the overwhelming judgment. But we just simply cannot make that date unless we get time agreements on the necessary legislation that must be passed.

I know when we get up to October 14, Senators will want to pack their bags and get a one-way ticket home as far as coming back this year is concerned. They will not want to come back to Senate floor sessions. If that is going to become a reality, we have to start now, yesterday, and we have to have cooperation. We have to have time agreements, and Senators have to be here in town, this town, and call up their amendments, or let somebody else call up their amendments for them.

I have never asked this Senate in 20 years to hold up a single vote for me. If I could not be here to call up an amendment I would not ask the Senate to hold up the work on a bill. I would let somebody else call up the amendment if I felt that strongly about it or I would cancel the trip back home and I would be here. That is my responsibility, as I see it, in these closing days of the session.

We told the Speaker of the House what our decision was. If we expect him to call on his members to work to that end we have a responsibility to do our level best to get the work done over here by October 14.

I know why we are having problems getting time agreements. I am not going to say why at this point, because I hope we can still get the time agreements. I hope we can get time agreements on the necessary legislation. But if we do not get time agreements, everybody is going to know why; everybody is going to know why we cannot get time agreements. So I hope that we will get those time agreements and we will be able to get out of here, because on October 14, I want to be able to put on my red vest, take my eight fiddles—I have acquired a new one since I talked last about this subject in the Senate—get out and go to West Virginia. I want to help JENNINGS RANDOLPH on the campaign trail, and after that is over and he has won his race for reelection, I do not want to have to come back in here on this Senate floor until sometime in January, and I hope it is late January, because Congress will have done a good job. It will have been a record that both sides can take pride in, Republicans and Democrats, because when it comes to leadership, the leadership of the Senate is a joint leadership, and the responsibilities of leadership fall upon both parties.

I just want to say that I hope every effort will be made to get time agreements and cooperate with the leadership in getting the work of the Senate done so we can go home sine die, s-i-n-e d-i-e, in italics——

Mr. MAGNUSON. In Latin.

Mr. ROBERT C. BYRD. In the Latin.

Mr. MAGNUSON. There is another reason why it is so important to pay heed to what the majority leader said about time agreements. I want to remind the Senate that a week from tomorrow unless our appropriation bills are on their way or passed there will be no payday, and I want to place that responsibility in the right place, too. A week from tomorrow is the last day, and we had better get these appropriation bills done or there will be no payday for all of the Government workers. I am sure no one wants to take the responsibility for that. That is a week from tomorrow. That is why HEW, this bill, all the rest of them, ought to be done because if we do not do it it is going to be very serious all over the country.

Mr. ROBERT C. BYRD. I thank the distinguished chairman.

Mr. SCOTT. Mr. President, will the Senator yield? It may be that I am mistaken or misinformed on this matter, but the staff was telling me that the House had passed a continuing resolution with regard to appropriations which, of course, would take care of the payment that the distinguished Senator from Washington mentioned; is that accurate?

Mr. MAGNUSON. Well, you have to pass it. If you do not do something you have to pass a continuing resolution on all the appropriation bills that are not passed.

Mr. SCOTT. I was told the House had already done that.

Mr. MAGNUSON. The House is preparing some continuing resolutions. I am not going to consider them until it is absolutely necessary because I think we can get this done if we just sit down——

Mr. SCOTT. I do not disagree.

Mr. MAGNUSON. What is the use of not having time agreements on some of these things? Everything has been said that can be said. I do not say that we should not have a full debate, but we have gone through the Appropriations Committee for months and have had scores and hundreds of hearings and if anyone has any questions on a particular part—the Senator from Hawaii on this bill will answer it. But there is no reason why we should not have some time agreements. I think I know why, and I am going to do what the majority leader has done, because I am going to tell why if this happens, I will tell you that. I know why. I know where it comes from, and I know why it comes. I have been around too long. This game has been going on for years. Sure you can have a continuing resolution but that means that when you only do what you did last year, and you get one-twelfth of the total appropriation for last year you can spend each month.

There are some programs around here that we have changed, some we have cut out. We do not want them to have one-twelfth. There are others that maybe we have changed the formula or something like that, particularly in appropriations. Continuing resolutions are no good. Do you know why? Everybody goes home and says, "Oh, we do not need to worry about our problem. We have a continuing resolution."

We abdicate all of the responsibility we have ever had for the expenditures of the Federal Government when we pass continuing resolutions.

If you people, some of you, not me, will quit putting legislation on appropriation bills we can get them through pretty fast.

Mr. SCOTT. Mr. President, I only raised the question, and I do not disagree with what the distinguished chairman of the Appropriations Committee has said as to the desirability of passing the bill, but I just wondered whether the House and the Senate were working in harmony and in the same direction, because I had heard they had passed one or more continuing resolutions.

Mr. MAGNUSON. The House, because of the laggardness of the Senate, is preparing continuing resolutions. They may pass some, but once they pass them they pack their bags and go home and we are stuck.

That is what will happen.

Mr. SCOTT. I appreciate that, but——

Mr. MAGNUSON. I served in the House long enough to know what happens over there. This is a bad way, when we could get these things done. Why not have a time limitation? If it is something very, very important that someone is shut off from time on, I have never seen a time in the Senate when Senators were not adaptable to the fact that a Senator asked unanimous consent to proceed for another half-hour, or something of that kind, on something really important that has not been discussed.

But, you know, I do not know of anything in the Senate all during this session, these long 9 months, that has not been discussed pro and con, over and over, and over and over again; and I think it is time to stand up and vote.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Washington.

Let me say that I know that the distinguished minority whip—who has stated that he was under an obligation not to make a time agreement on this bill—that he has to listen to those Senators on his side of the aisle. I know he has tried. I know he is sympathetic with the idea of adjourning by October 14; and I know beyond any peradventure of a doubt that he will do everything he can to cooperate in getting time limitations. There is only so much he can do, but he will do what he can.

Heaven help us. I wish I had the rules of that body just across on the other side of the Capitol. I wish we had the rules of the House over here at times. If unanimous consent to proceed to the consideration of a matter met with one objection, we would just move, and it would be a motion that would be open to only 40 minutes of debate. And, of course, it would take two-thirds to suspend the rules, but we would have 40 minutes of debate and a showdown. And with a two-thirds vote to suspend the rules, we would get on with the business.

There are lots of other rules over there I would just love to have. And by the way, when Congress comes back in session next January, at the beginning of the new Congress, it may be time to take a good look at the rules.

Mr. MAGNUSON. It is long overdue.

Mr. ROBERT C. BYRD. I, for one, have never been one who favored changing the rules by a majority vote at the beginning of a new session. There have been those who have argued that at the beginning of any new Congress, the Senate should have the right to adopt new rules by a majority vote. I have never been for that. But I will tell you one thing: I have become so fed up, in this very Congress, by what I consider to be the abuse of some of the rules here, which have been used to hamstring and straitjacket the Senate from getting on with its business, that I am ready, for my part, to change some of those rules so that the Senate can act.

I want to protect, at all times, any minority in the Senate, whether it be a partisan minority or a minority of one. But I am not for the abuse of the Senate rules to the extent that we have a tyranny by a minority, whether it be a partisan minority, a minority of one or two or three, or half a dozen, including this Senator.

So I think we may want to give some consideration to a change in the rules. If we do not get some time agreements on these remaining necessary "must" measures, Mr. President, not only is this country going to know why, but right here is one Senator who is ready to retreat from a position that he has held for 20 years, and come next January, rewrite the rules in a way that they will be fair, but in a way that they will be workable, and not subject to the abuse of one of two or three Senators who, by simply staying out of town, can keep the Senate from operating, or who, simply because they personally do not want a bill to pass, can keep the Senate from operating, or because they want somebody to come and bow and scrape before them on every bill, and clear every bill with them.

Can you imagine that? Now, my colleagues can put me out of the leadership any time they wish. Any time they want, they can do that. They put me in the leadership; they can take me out. As I have always said, the path that leads to Washington leads home.

But I will never, never be majority leader and subject myself to the business of having to go to any Member of the Senate and clear every last time agreement with that particular Member. I will not do it, because that would give a single Member a veto on all legislation. I will go to any Member who has a particular interest in a particular bill and clear that time agreement with him, but there is not going to be any blanket, wholesale, carte blanche veto power given to any single Member so far as I am concerned.

If my fellow Democrats do not like what I have said, they will relieve me of these responsibilities; but I think they support that viewpoint, because I do not think they feel that any single Member should have that kind of veto power. But, Mr. President, I am saying this: If we do not get time agreements, we are going to be here after October 14, and you can get ready for everything but the kitchen sink. If a Senator or group of Senators do not want to see a certain piece of legislation brought up here, and feel that, by denying time agreements on "must" legislation, other legislation to which they may object will not be called up, they will prevent the Senate from finishing its work by October 14.

If we do not get out by October 14, and have to come back, they can just get ready for anything and everything; you name it. If we do not get time agreements, there will be plenty to do after October 14. There will be all kinds of measures that will be subject to being called up and then, come next January, we may take a good look at the rules.

If the Senate does not want to change its rules, that is the Senate's will.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HATCH. I hope my good friend the majority leader, who is my friend, is not referring just to the minority when he says there are some things he does not care for; because, as I have watched, the last couple of years, as a freshman Senator, I have seen an awful lot of cooperation from the minority with the distinguished majority leader to resolve difficulties and obtain time agreements for the expedition of the Senate's business.

But as I listen to the majority leader today, he seems to be accusing the minority as being responsible for some of the delays which have occurred. I want to make it clear that my own opinion is that the minority has done an awful lot of cooperating during the last couple of years, and I think we want to always continue to cooperate with the work of the distinguished majority leader and those in the majority so that we can expedite the Senate's business and can do our work.

As to the fact that people here do not want to have a time agreement, we have before us a very important bill that has had 51 changes, as I look at it, between the House and Senate versions.

I personally will work to get a time agreement in this matter, but I hope that the majority is not accusing the minority of trying to slow down the Senate at this particular time, other than to look at these bills in more than a cursory way so that we can do our job as Senators.

I do respect the distinguished majority leader. I have a lot of regard for him. He has done a great job of pushing legislation through. But sometimes I get the impression that we have a desire to have legislation by number and quantity rather than legislation by quality. I also know the distinguished majority leader would prefer quality. But occasionally we get that impression around here.

Just as a member of the minority and as a minority member of the minority, I personally would hate to have the impression go out of this Chamber that the minority is causing all of these logjams, if there are any, when I think we have cooperated rather fully and in a very good spirit of cooperation through our distinguished minority leader and minority whip with the distinguished majority leader who, in my opinion, has done an excellent job here.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. HATCH. Yes.

Mr. ROBERT C. BYRD. I did not anticipate the distinguished Senator from Utah being the Horatio at the bridge. I have not named any Senator and I have not referred to any particular party, but what I have said is that we are going to have to have time agreements and we are going to have to have cooperation. We are going to have to have Senators in town. If the Senators wants me to be very specific, I will be specific. The 3-day rule, for example. I have heard that 3-day rule until I am sick of it, and I have heard it from his side of the aisle.

Mr. HATCH. You have not heard it from me.

Mr. ROBERT C. BYRD. I did not say that. The wicked fleeth when no man pursueth. I did not name the Senator.

Mr. HATCH. You heard it from your side.

Mr. ROBERT C. BYRD. Yes, once or twice or three times, and the 3-day rule is a good rule, if it is not abused. Any Senator ought to have a right to look at a committee report for 3 days if it involves the HEW appropriation bill or the military appropriations——

Mr. HATCH. But I wanted to say——

Mr. ROBERT C. BYRD. I have the floor.

The military appropriations bill or the foreign assistance appropriations bill, or the natural gas bill. But this business of holding every pitiful little bill on the Senate Calendar to the 3-day rule is an abuse of that rule, and it comes from the Senator's side of the aisle.

Yes, once in a while I will have a request over here. I have had the Senator from Virginia (HARRY F. BYRD, JR.) occasionally, very occasionally, invoke the 3-day rule. I do not blame any Senator for invoking the 3-day rule on a bill that is controversial, on a big bill. That is what the rule is for. But not just to blanket the calendar and except for a few little old miserable, pitiful relief bills exercise that 3-day rule, "Oh, the 3-day rule has not run," I have to say in fairness to the minority that the distinguished minority leader and the distinguished minority whip have attempted many times to get the 3-day rule waived and they could not. They could not get it waived on their side.

What I say is not disrespectful of the minority whip or the minority leader. They have cooperated. I have had splendid cooperation. And I am the one who has stood and said from the housetops time and time again that we have had good cooperation out of the minority leader and the minority whip.

It is not the minority leader and the minority whip. I am not talking about them at all.

A Senator has the right, if he wants to invoke the 3-day rule. That is his right. But when it comes to the abuse of that rule, then I think too much is too much.

Yes, we have had excellent cooperation from the minority leadership.

May I say to the distinguished Senator from Utah that the distinguished minority whip is here and he is very capable of speaking up for himself, defending himself, defending his side of the aisle.

I am sorry if the Senator from Utah felt that I was taking the floor at a time when the minority lacks able defenders. I do not have a better friend in the Senate than the able minority whip. If it were left up to him at this moment, we would have an agreement on this bill. The reason why we do not have a time agreement, I will say to the Senator from Utah, is simply because someone on that side of the aisle objects to a time agreement. That is what the minority whip said. That is what he said publicly and on the record. It was not someone over here on my side.

Mr. President, I do not intend to prolong this discussion. I have said enough. But what I have said is in the spirit of getting on with the business of the Senate. Every Senator knows what his responsibility is. If we hope to get out by October 14 and not come back, you tell me how it can be done without time agreements and without everybody's cooperation, and I will say there is indeed a Santa Claus.

FOREIGN ASSISTANCE APPROPRIATIONS—1979

The Senate continued with the consideration of the bill.

UP AMENDMENT NO. 1881

(Purpose: Three technical amendments to correct printing errors in the reported bill)

Mr. INOUYE. Mr. President, before proceeding with my statement, I ask unanimous consent to offer three technical amendments correcting printing errors in the report on the bill.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Reserving the right to object, will the Senator repeat his statement?

Mr. INOUYE. These are three printing errors I would like to correct before I begin with my statement.

Mr. HATCH. I have no objection.

The PRESIDING OFFICER. Is there objection to the amendment being in order at this time? Without objection, the amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE) proposes an unprinted amendment numbered 1881.

Mr. INOUYE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 23, immediately after "section 121," insert "$60,000,000".

On page 22, line 5, strike out "$163,079,165," and insert in lieu thereof "$300,000,000,".

On page 27, line 13, strike out "$1,950,000,000" and insert in lieu thereof "$1,831,640,000".

Mr. INOUYE. These are technical

amendments correcting printing errors. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. INOUYE. Mr. President, I am pleased to report H.R. 12931, the foreign assistance and related programs appropriation bill for fiscal year 1979, which, incidentally, will begin in less than 2 weeks. I know that I need not point out to the Senate the very real costs which may be charged to delayed action on appropriations bills. If we fail to act with dispatch—if we fail to complete action on this bill prior to the start of the fiscal year—inevitably there will be a costly postponement of management decisions, a loss of momentum in the timing and execution of projects and programs, and a deferral of necessary personnel actions. I hope, therefore, that we will concentrate on the work before us and pass a sound well-considered bill appropriating funds for these programs.

Mr. President, the bill recommended by the committee for fiscal year 1979 totals $9,202,456,072. This amount is $2,438,583,072 greater than the amount appropriated in the bill last year and $2,025,733,419 more than the House allowance for fiscal year 1979. I must underscore the fact that the committee considered $1,943,440,000 in budget amendments which were not considered by the House. Furthermore, and perhaps more importantly, I would like to stress that the bill before us is not an ordinary, or "normal" foreign aid bill; it provides significant amounts of funding for activities which are not foreign assistance. This year, we must fully recognize that this is the foreign assistance and related programs appropriation bill.

The principal difference between the bill which is now before us, and that which was passed last year, is the provision of funds for U.S. participation in the supplementary financing facility of the International Monetary Fund. The President has requested the appropriation of $1,831,640,000 to permit U.S. participation in the supplementary financing facility, which is commonly known as the "Witteveen facility," after the name of the former managing director of the IMF, H. Johannes Witteveen. This item was not considered by the House and, thus, accounts for a large part of the difference between the bill total recommended by the committee and the House allowance.

(Mr. SARBANES assumed the chair.)

Mr. INOUYE. As we stated in our report, the Witteveen Facility calls for substantial participation by the OPEC countries as well as the more traditional contributors from the industrial nations. The largest single participant is Saudi Arabia which is expected to pledge approximately $2.5 billion; the United States share is approximately 17 percent or $1,831,640,000. In all, the Witteveen Facility expects to obtain commitments totaling about $10 billion as a supplement to IMF resources to provide medium-term balance-of-payments financing to countries facing difficult balance-of-payments problems.

The supplementary financing facility is to be a temporary facility. Contributing countries will commit themselves to provide the IMF, on call, funds which will add to the contributor's reserve position in the IMF. Reserve positions in the IMF are denominated in SDR's. So, when the U.S. contributes dollars, it increases its holdings of SDR's. But, it should be noted, the IMF determines when the SDR's can be drawn.

The commitment to provide funds is for 5 years. If a call is made upon the funds of a contributor, that contributor will receive interest at U.S. Treasury market rates. Actual drawdowns will be repaid by the IMF to the contributor over a 3½- to 7-year period. The point to note here is that the contributing participant must have the funds on hand to meet the calls which the IMF makes against that participant's pledge. Hence, the need for appropriated funds to be held in the U.S. Treasury.

When a participant provides funds to the IMF for use in the Witteveen facility, they are, in turn, lent to borrowing countries. The borrower will pay interest to the IMF equivalent to the Treasury borrowing rate plus a surcharge to cover IMF administrative costs.

The Witteveen facility is not conceived of as a means of financing deficits; it is a means of financing adjustments to reduce deficits. In order to borrow from the facility an IMF member must meet three criteria: First, the member's balance-of-payments financing need must be greater than its remaining access to regular IMF resources; second, the member's problems must justify an adjustment and repayment period longer than that which applies to regular IMF resources; and three, the member must provide a detailed economic program that the IMF is satisfied is adequate to solve the country's balance-of-payments problems.

These are the distinctive characteristics of the Witteveen facility: It will provide medium-term financing, in order to allow borrowing countries sufficient time to institute the necessary changes to stabilize their economies; and it requires that borrowing countries advance comprehensive programs for dealing with their balance-of-payments problems before they are permitted to borrow from the facility.

The committee regards the Witteveen facility as a significant international cooperative effort on the part of the industrialized and oil exporting countries which will serve to strengthen and stabilize the international monetary system. The committee urges the Senate to approve its recommendation and appropriate $1,831,640,000.

Mr. President, another large item in the bill which, I believe, should not be regarded as foreign assistance is the economic support fund. These are funds which are provided, in the words of the Secretary of State, "to countries which are experiencing political and economic stresses and where U.S. security interests are involved."

As was the case last year, nearly all of the economic support fund program, over 90 percent of the fiscal year 1979 request, is designated to programs in the Middle East. Israel is again to be the largest recipient, with a $785 million program proposed for fiscal year 1979. The program request for Egypt is $750 million; for Syria, it is $90 million; and for Jordan, $93 million. In addition to these individual country programs in the Middle East, the administration is requesting the appropriation of $50 million as the initial U.S. contribution to the construction of the Maqarin Dam-Jordan Valley irrigation system.

A special proposal has been made for Turkey. The administration has requested the appropriation of $50 million to finance a loan to assist Turkish efforts to stabilize the economic situation in that country. This is a 10-year loan, with a rate of interest equal to the U.S. Treasury cost of borrowing. The administration has suggested that the loan will "provide a concrete indication of our concern for the economic problems of an ally" and, thus, strengthen our bilateral relationship with this important country in the strategic area of the eastern Mediterranean.

The remaining funds requested for security supporting assistance would go to southern Africa and to refugees and dislocated persons in Cyprus. A $45 million economic support fund program is proposed for financing such activities as improving transportation in Botswana, providing balance-of-payments support for Zambia, and making educational opportunities available to refugees and dislocated persons in southern Africa. An additional $5 million in support for refugees in Cyprus has also been requested for fiscal year 1979. The committee recommends that this amount be increased to $15 million.

If I may summarize to this point, Mr. President, the amounts requested for the supplementary financing facility and the amounts requested for the economic support fund are not what has traditionally been regarded as "foreign aid." If the total amount the committee recommends for these two activities is removed from the total, we are left with $5.5 billion for foreign aid in this bill. This is still a large amount, but it is considerably less than what the uninformed might mistakenly view as the committee's recommendation for foreign assistance, if they were to look only at the bill total. This $5.5 billion represents the committee's considered judgment as to the proper amount of U.S. resources which should be allocated to multilateral and bilateral military and economic assistance programs in fiscal year 1979. In this regard, I remind the Senate that the committee took note of major foreign assistance programs which are not funded in this bill when it made its recommendations for the programs contained in this bill. These other foreign assistance programs, which are detailed on page 5 of the committee's report, total $1,861,958,000.

Mr. President, I suggest to you that the Appropriations Committee has done its work—it has done so in a responsible, judicious manner. The committee has recommended the appropriation of the full amount requested by the President for the Witteveen Facility and somewhat more than was requested for the economic support fund. That means the committee's recommendation for the remainder of the bill—for the so-called traditional "foreign aid" program—is $1,192,303,847 below the amount which was requested by the President, or a reduction of 18 percent. In each case, for each appropriation account, the committee considered both the need for assistance and the ability of our government agencies and the international financial institutions to meet that need. The amounts we have recommended reflect this careful consideration—lesser amounts would be harmful to the interests of the United States and would damage the programs; larger amounts would encourage waste and inefficiency.

Mr. President, the committee's report provides a detailed commentary on each of the items in the bill. It represents a considerable amount of effort on the part of the committee to expound on its reasoning and the underlying considerations which formed the committee's judgments. I invite those who wish to fully understand the committee's recommendations to read this report. For the present, however, I shall proceed to a discussion of major items in the bill, in the hope that I may alert Senators to those committee recommendations which may be of particular interest to them.

For the so-called functional development assistance accounts—agriculture, rural development and nutrition; population planning; health; education and human resources development; and selected development activities—the committee recommends a total of $1,118,794,000, an amount which is $143,606,000 below the President's budget estimate. As I have noted, the committee report details specific reductions in these accounts and provides extensive commentary on the committees' views on functional development assistance.

For international organizations and programs, the committee recommends the appropriation of $261,700,000. With regard to a matter of some concern to the Senate, the committee considered and accepted House bill language prohibiting the use of funds appropriated under this account for a U.S. contribution to the United Nations University. For the largest item within this account, the United Nations development program, the committee recommends $128,050,000, an amount which is $5 million more than the House allowance.

For American schools and hospitals abroad the committee recommends the appropriation of $25 million. This equals the amount provided by the House, but it is $17 million more than was requested by the administration.

Mr. President, if I may step back for a moment from my position as floor manager of the bill, let me say that at the proper time I intend to offer an amendment to this committee recommendation. I have not had an opportunity to discuss my amendment with my colleagues on the committee, because the events which make this amendment desirable have only recently happened. In brief, I intend to offer an amendment earmarking $3 million of the funds provided for American schools and hospitals abroad for an exchange of Israeli and Arab students in American-sponsored centers of learning in Israel and the Arab countries. In the wake of Camp David, I believe it is vitally important to the prospects for peace in the Middle East that we encourage cooperation and understanding, and I can think of no better way to do that than by providing for a student exchange.

For the Sahel development program, the committee recommends the appropriation of $75 million, an amount which is $15 million below the President's request, but which is also $15 million above the amount provided by the House. The committee, basing its judgment on a General Accounting Office report on the Sahel development program, and our own fiscal year 1979 hearings, believes that the necessary organizational structures of the Sahel development program are not yet sufficiently developed. This is, after all, a complex, coordinated multidonor program which must be developed and implemented in a systematic way, if it is to succeed. Accordingly, we have recommended what we believe is the proper amount of funding to continue the pace of development in the Sahel.

For the foreign service retirement and disability fund, the committee recommends the full amount requested by the President—$24,820,000. However, the committee also recommends bill language which prohibits the use of these funds, or other funds available to the foreign service retirement and disability fund, to provide retirement annuities based on the highest paid year of service. The so-called "golden handshake" provision of the State Department authorization bill is strongly opposed by OMB and the Secretary of State. The Civil Service Commission estimates that, at the extreme—that is, if the "high one" were to be extended Government-wide, this "high one" provision would require appropriations of roughly $200 million a year for each of the next 30 years! The committee opposes this dangerous precedent and, therefore, urges the Senate to adopt the limitation recommended by the committee.

For AID operating expenses the committee recommends the appropriation of $240 million, an amount which is 13 percent above that appropriated in fiscal year 1978, but a reduction of 8 percent from the fiscal year 1979 budget estimate. The committee report supports this modest reduction by detailing over 20 items of waste and excesses in AID's management of its operating expenses. Let me cite a few:

Forty-nine percent of AID's foreign service officers are still in the top three grades as compared to 8.4 percent in the bottom three grades;

GAO found 188 foreign service officers who were working in jobs rated at one to four grades below their pay level;

At the beginning of this fiscal year, AID had more typewriters—2,480—in Washington than employees—2,329, and 10 months later it still had not been able to reconcile its typewriter property account.

The committee believes that its recommendation will provide sufficient funding for AID's legitimate operating expense needs; but it will not subsidize inefficiency and waste.

For the Israel-United States Binational Agricultural Research and Development Fund, the committee recommends the appropriation of $40 million. The Binational Fund is to be an endowment supported equally by Israel and the United States. Under the terms of the agreement negotiated by the U.S. Treasury Department and the Government of Israel, each country would contribute $40 million to be held in an endowment fund whose objective is to support agricultural research and development projects of mutual benefit to Israel and the United States. The committee recognizes the leadership of the people of Israel in many important areas of agricultural research, particularly that being done on arid zone agriculture, and, accordingly, we recommend the appropriation of the full amount requested by the administration.

For the Inter-American Foundation, the committee recommends the appropriation of the full amount of new obligational authority requested by the President, together with a limitation of $3,618,000 on the fiscal year 1979 availability of funds previously appropriated.

In addition to appropriated dollars, the Foundation has been authorized to make use of local currency reflows on the Social Progress Trust Fund (SPTF). These are moneys which are, in fact, owned by the United States, but which are administered by the Inter-American Development Bank as the agent of the United States. Because of restrictive policies on the use of local currencies, the Foundation has now reached the point where it now has virtually no SPTF funds available for its use in Central America.

In view of this situation, the House has provided an additional amount in new obligational authority. This committee does not believe that this is the proper way to deal with the Foundation's shortage of funds. We believe that the SPTF funds, which I would stress are owned by the United States, should be made available to the Foundation. Accordingly, we have asked the U.S. Treasury to suggest ways through which SPTF funds might be made available to the Foundation, or, failing that, how the U.S. could withdraw its SPTF moneys from the trusteeship of the Inter-American Development Bank.

Mr. President, I now come to a complicated issue which is difficulty to clarify in a verbal presentation. I refer to the committee's recommendations for the military assistance program. The committee's actions provide for a $35 million add-on in MAP assistance for Greece and an unspecified reduction of $2,625,000 for the remainder of the administration's proposed program. In addition, the committee recommends a limitation on the amount of recoveries, recoupments, and reimbursements which may be used to provide fiscal year 1979 funding of the MAP program. This latter recommendation is an exception to the general position the committee has taken with respect to making funds available from prior year appropriations. It is recommended in an effort to provide a smooth transition to current year funding of the MAP program and, next year, the committee will recommend that there be no further reappropriation of MAP funds. In sum, the committe recommends the fiscal year 1979 appropiration of $84,875,000 together with the reappropiration of $127 million of prior year funds, for a total program of $211,875,000.

The same exception has been made for the same reasons for the international military education and training program. The committee recommends tne fiscal year 1979 appropriation of $30,210,000 for the IMET program, together with the reappropriation of $705,000, for a total IMET program of $30,915,000.

For foreign military credit sales, the committee recommends the appropriation of $673,960,000. This action by the committee includes three specific recommendations: First, an add-on of $5 million for the Lebanon program, second, a total of $550 million in assistance for Israel, and $17,500,000 for Zaire, and third, an unspecified reduction of $5,340,000 to the remainder of the administration's proposed program.

For migration and refugee assistance, the committee recommends the appropriation of $110,044,200.

Mr. President, the U.S. refugee assistance effort has become a "crazy quilt" assemblage operating under the direction of three major Federal agencies and through more than a dozen independent organizations. The overlapping and frequently competing programs in this cluster have resisted reorganization, central direction and reform at least since 1972. Ongoing programs bear little relationship to established need and have perpetuated inexplicable inequities in the types and levels of assistance to which individual refugees are entitled. In fact, it is difficult to escape a conclusion that some programs discriminate by race or by religion or by ethnic identity or by national origin.

I believe that assistance to refugees is an international responsibility and that U.S. refugee assistance should be evenhanded on the basis of need, both overseas and during resettlement in the United States. The fact is, it is not, neither at home nor abroad.

Mr. President, is it right, is it just, for the United States to provide $351.14 for a Soviet refugee in Italy or $2,500 for a Soviet refugee in Israel, when we provide only $42.30 per Indochinese refugee in Thailand or $28.88 for a Palestinian, or $26.68 for a South African refugee, or $2.50 for a Bengali refugee in Burma, or 70 cents for a Kurdish refugee in Turkey? I think not.

Comparisons are admittedly difficult, but the President's original budget proposed $1,111 per refugee for private and voluntary agencies resettling Soviet, Eastern European and other refugees in the United States, and $350 per refugee for PVOs resettling Indochinese in the United States, and $200 for PVOs resettling Cuban refugees. All groups are eligible for additional assistance through on-going HEW programs.

Mr. President, because of my strong beliefs on this matter, I proposed an amendment during committee consideration of this bill—an amendment which would have required that funds made available for resettlement assistance in the United States to refugees not covered by other Federal programs would be made available for obligation only through the Department of Health, Education, and Welfare for the same purposes and under the same conditions as for resettlement of refugees from Cuba and Indochina.

That amendment was not accepted by the committee, and I advised my colleagues that I would ask the full Senate to consider my position. Accordingly, at the conclusion of my remarks, I intend to again propose an amendment to this committee recommendation.

Mr. President, we now come to the International Financial Institutions. The committee recommends the appropriation of the full amount requested for the Asian Development Bank, the African Development Fund, and the International Finance Corporation.

For the International Development Association, the committee recommends the appropriation of $1,300,000,000, of which $800 million is for the fifth replenishment of IDA resources, and $500 million is for the fourth IDA replenishment.

For the fiscal year 1979 U.S. contribution to the International Bank for Reconstruction and Development, the committee recommends a total of $163,079,165 in paid-in and callable capital.

In its general commentary on the several International Financial Institutions, Mr. President, the committee raised questions about the pattern of lending in the Inter-American Development Bank—a pattern which shows that the IDB has favored the wealthier nations in its concessional lending programs. The committee had reference to the most recent (1977) annual report of the Inter-American Development Bank and stated:

> The annual report, however, shows that Brazil and Mexico, two of the wealthiest of Latin American countries, received the lion's share of FSO funding in 1977. Brazil received $541.6 million in concessional funds, and Mexico received $407.8 million, the total for the two being nearly one-third of all FSO funds disbursed in 1977. Venezuela, a member of the Organization for Petroleum Exporting Countries and the country with the highest per capita GNP in all of Latin America, received more FSO concessional funding in 1977 than did Haiti, the only country in the Western Hemisphere that is on the United Nations list of Least Developed Countries.

It has since been brought to our attention that the table—to which the committee had referred—that appears on page 11 of IDB's 1977 annual report depicts cumulative disbursements of fund for special operations concessional lending and not, as we had stated, disbursements in 1977. I ask unanimous consent that this table be printed, as it appears in the Bank's annual report, at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BANK'S DISBURSEMENTS

[In millions of dollars]

Country	Total amount	Detail by funds: Ordinary capital	Detail by funds: Inter-regional capital	Detail by funds: Fund for special operations	Detail by funds: Funds in administration
Argentina	$811.3	$555.4		$199.7	$56.2
Barbados	9.9	6.8		3.1	
Bolivia	196.8	55.5		125.1	16.2
Brazil	1,521.1	885.6	$3.5	541.6	90.4
Chile	384.0	165.4		174.6	44.0
Colombia	529.4	261.8		199.8	67.8
Costa Rica	129.1	52.0		65.2	11.9
Dominican Republic	114.9	7.3		91.8	15.8
Ecuador	223.5	36.5		140.7	46.3
El Salvador	130.3	7.1		89.5	33.7
Guatemala	142.5	27.0		92.1	23.4
Haiti	59.5			59.5	
Honduras	111.6	.5		102.8	8.3
Jamaica	45.7	8.9	.1	35.9	.8
Mexico	1,132.7	689.9		407.8	35.0
Nicaragua	130.2	20.5		96.7	13.0
Panama	114.3	4.3		97.1	12.9
Paraguay	160.9	6.6		141.9	12.4
Peru	272.5	60.4	1.4	156.9	53.8
Trinidad and Tobago	15.8	.2		15.6	
Uruguay	99.5	50.1		37.9	11.5
Venezuela	292.7	132.2		87.6	72.9
Regional	148.9	78.0		64.6	6.3
Total	6,777.1	3,112.0	5.0	3,027.5	632.6

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[1] Social Progress Trust Fund, $507,500,000; Argentine Fund, $1,700,000; Canadian Fund, $67,400,000; Populorum Progressio Fund, $1,000,000; Swedish Fund, $4,900,000; United Kingdom Funds, $13,400,000; Venezuelan Fund, $36,000,000; and Norwegian Fund, $700,000.

Mr. INOUYE. Mr. President, the committee has prepared an errata sheet which corrects this inaccurate reference and has provided it to all Senators.

But there is a larger question here, and I would contend that the committee is sustained in its assertion that IDB's concessional lending has historically favored the wealthier Latin American countries. The Bank's table of cumulative loan authorizations clearly shows that the largest amount of concessional assistance has been provided to Brazil—$750.6 million—and that the next highest amount has been provided to Mexico—$445.7 million.

It is true that in recent years, the Bank has begun to shift its concessional lending to the poorer countries, but it is equally true that countries which are now comparatively wealthy continue to receive disbursements of concessional assistance. For example, if all of the concessional loans which have been authorized for Brazil are disbursed, Brazil will receive $209 million in concessional assistance over the coming years. Venezuela, under these conditions, will receive disbursements of concessional funds totaling $14.2 million. It should be noted that these funds are made available at interest rates of 1 to 4 percent for 20- to 30-year terms, including grace periods.

Furthermore, Mr. President, I note that, while Venezuela has made the equivalent of $500 million available to the Banks through the Venezuela Trust Fund, it has retained "the right to the return of all sums received in repayment of loans made from the trust fund as well as all collections of income derived from trust fund resources."—IDB 1977 Annual Report. The income from the trust fund may be as much as 7.5 percent of the funds made available.

Mr. President, the committee acknowledges that IDB has made progress in recent years, and we are happy to acknowledge that fact; but we also wish to urge the Bank to make the concessional funds it has on hand available to the poorer countries, rather than continuing to disburse these funds to countries that are now wealthy. It may be that, with the Bank's urging, wealthier members will agree to accept disbursements from the Bank's ordinary capital lending program and make the concessional funds, which were previously authorized to them, available to the poorer members.

Accordingly, the committee recommends the appropriation of $763,728,483 for the Inter-American Development Bank. The committee's recommendation equals the House allowance for callable capital, an amount which provides an increase of 77 percent over the fiscal year 1978 contribution to callable capital. Our recommendation would equal the House allowance for interregional paid-in and callable capital. We would propose, however, to reduce the U.S. contribution to the fund for special operations by $33.9 million below the House. I point out that this reduced amount is still a 54-percent increase over last year's appropriation for the fund for special operations.

Mr. President, that concludes my introductory remarks. I hope that the Senate will support the committee in its amendments and give us a strong foreign assistance and related programs appropriation bill. We will have many issues to take into conference with the House, and I hope the Senate will speak with assurance and distinction as it voices its support for this measure.

Mr. President, I am certain that my very distinguished colleague, the Senator from Pennsylvania wishes to make his remarks at this time.

But before he proceeds with his remarks I wish at the outset to acknowledge his full cooperation throughout the year. His advice and counsel throughout the deliberations have been extremely helpful.

Mr. President, the bill we have before us is not a Democratic bill, it is not a Republican bill; it is a bill that has been worked upon by both sides of the aisle, and I believe that it provides what is necessary for this country to carry on its foreign policy.

I am pleased to yield to my distinguished colleague from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that Michael Shorr, Jacques Gorlin, Mike Kraft, of Senator CASE's staff, and Cass Yost, of Senator MATHIAS' staff, and Elvira Orly and Tom Carter of Senator HAYAKAWA's staff, and Mrs. Howard of the Appropriations Committee staff, be accorded the privilege of the floor during consideration of all matters pertaining to this bill, H.R. 12931.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, if the Senator will yield for another unanimous consent request, I ask unanimous consent that John Haddow, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, before I make my statement regarding the foreign assistance appropriations bill presently before the Senate, I express my deep appreciation to the chairman of our subcommittee, the distinguished senior Senator from Hawaii. At all times throughout the consideration of this legislation, the chairman has been both fair and courteous, and it has been a privilege to work with him on this bill which is very difficult and complex in many facets, but he always was very evenhanded and very objective in approaching how we solved some of the problems that are raised in this bill.

I also express my appreciation to my Republican colleagues on the subcommittee who played an important role in this bill and to the majority staff as well as the minority staff who have been very helpful to me.

Mr. President, the recommendations contained in the foreign assistance appropriations bill for fiscal year 1979 total $9.202 billion which is $1.185 billion below the administration's budget request. I believe that latter point should be emphasized, that is, this bill is $1.2 billion or 12 percent below the President's requests.

By making these recommendations I think we are sending a strong message to this administration which says that so long as important domestic programs are held down so too must our foreign aid be held down.

In making this point, however, it is only fair to state that the United States continues to be very generous in exercising its responsibilities to the developing countries of the world.

There are some figures that make it an unusual situation, and of the total amount of this bill, $909.8 million is callable capital of the IFI, an amount that will not result under any ordinary circumstances in any cash or dollar outlays, and callable capital has never been utilized in the past since the banks have managed their affairs with great prudence and without at any time using it.

In addition, there is $1,831,640,000 for the Witteveen Facility of the International Monetary Fund, an extraordinary request of a separate nature.

Subtracting these amounts leaves a regular foreign aid program of $6,461,064,637. This will compare to last year's appropriation of the same comparison of $5,942,118,000.

I think the $6.4 billion to the $5.9 billion comparison is a little more accurate indicator of what this bill is about.

To some extent the Witteveen Facility which came through just at this particular time and in this particular necessity as well as the callable capital distorts a realistic comparison of what we are doing compared to last year.

Mr. President, while I am sure that some of my distinguished colleagues on our committee wish to see more funds added to this appropriations bill, it is important to point out that the bill as reported by the Appropriations Committee is very close to being the amount provided for this function under the second budget resolution. The committee is up to the ceiling allowed it under the resolution, notwithstanding 12 percent under the President's budget. If we are going to support our budget process, I believe it is imperative that we resist any attempts to add more funds to this legislation.

Mr. President, the bill before the Senate is $2.025 billion above the House bill. However, these unusual items are not in the House bill; $1.8 billion of this difference represents an appropriation for the supplementary financing facility of the International Monetary Fund, which was not considered by the House and which I just mentioned.

In addition, budget amendments not considered by the House include $50 million in economic support funds for Turkey, $1.8 million in foreign military credit sales for Greece, and $34.5 million in assistance for Indo-Chinese refugees. Thus, excluding these amounts, the Senate bill is approximately $108 million over the House bill. This difference can largely be explained by the fact that the Senate committee recommends the appropriation of $90 million for Syria which the House did not include, and an add-on of $35 million in military assistance grants to Greece which the House of Representatives also did not include. The obvious point I am making here, Mr. President, is that after considering the factors I just enumerated, the Senate and House bills are very close in terms of overall dollars.

Mr. President, it is not my intention at this time to reiterate the details so ably presented by the chairman, but I shall highlight a few of the aspects of this legislation that have great significance.

ECONOMIC ASSISTANCE

For economic assistance under title I the committee is recommending an appropriation of approximately $3,766,000,000, just over $185 million below the budget request. Included in these recommendations are funds for the Agency for

International Development, voluntary contributions to international organizations, security supporting assistance, and funds for the Israeli-United States Binational Agricultural Research and Development Fund.

MILITARY ASSISTANCE

For military assistance under title I the committee recommends an appropriation of $115 million, which is $50 million below the administration's request. Funded under this category is the military assistance grant program for the Philippines, Jordan, Portugal, Spain, and an add-on of $35 million for Greece I referred to a moment ago. Also funded under this category is the international military education and training program which funds grant training for 40 different countries which the administration has determined are important to our international security and foreign policy objectives.

I might say as a matter of interest it was under this program that President Sadat first came to our country.

FOREIGN MILITARY CREDIT SALES

The recommendations for title II FMS credit sales is $673.9 million, and contains financing programs for a number of countries including $1 billion in financing for Israel, $175 million in financing for Turkey and $140 million in financing for Greece.

MIGRATION AND REFUGEE ASSISTANCE

Mr. President, for migration and refugee assistance, including the emergency fund, the committee is recommending an appropriation of $119.5 million. This recommendation contains a program to assist refugees from the Soviet Union and other Communist countries in Eastern Europe for resettlement in Israel.

INTERNATIONAL FINANCIAL INSTITUTIONS

Mr. President, for the International Financial Institutions, namely the World Bank, International Financial Corporation, the Asian Development Bank, Inter-American Development Bank, the International Development Association, and the African Development Fund, the committee recomends an appropriation of $2.6 billion, which is $903 million below the President's budget. As my colleagues are well aware, these institutions have recently been subject to a great deal of congressional scrutiny, and our recommendation that we cut this request by over $900 million reflects that scrutiny. While this is a substantial cut, nevertheless, these institutions will have ample funds to carry on their programs.

WITTEVEEN FACILITY

Mr. President, by far the largest single amount contained in this legislation is the appropriation of $1,831,640,000 for the supplementary financing facility of the International Monetary Fund, the so-called Witteveen Facility. This recommendation is contained in this legislation largely because of an amendment I sponsored which was added to the legislation authorizing U.S. participation in this facility. My amendment, which passed the Senate floor by a vote of 67 to 0, requires that U.S. participation in the facility be wholly subject to appropriation of funds, rather than through an exchange of assets concept originally proposed by the administration. My amendment was cosponsored by the chairman and ranking members of the Appropriations, Budget and Banking Committees, as well as by the distinguished Senator from Hawaii, the chairman of our subcommittee.

The U.S. contribution to this facility represents approximately 17 percent of the total amount being contributed. The facility is to be a temporary one, and eventually the United States will get back these funds together with interest on any of the funds which are called during the life of the facility. The facility will provide a supplement of approximately $10.5 billion to IMF resources, which the IMF will use to provide medium-term balance-of-payments financing to countries facing particularly difficult payments problems. The need for this special facility arises mostly because of the imbalances resulting from increased oil costs, and this country certainly knows what this is, and it is interesting to note that there will be substantial participation in the facility by the OPEC countries. The largest single participant is Saudi Arabia which is expected to pledge approximately $2.5 billion.

Mr. President, again I would like to state that the bill before the Senate is $1.2 billion or 12 percent below the President's budget request and presently in compliance with the Budget Committee resolution.

Once again I compliment the chairman of our subcommittee for the fine job he did in bringing forth this very complex piece of legislation.

● Mr. MUSKIE. Mr. President, I support H.R. 12931, the fiscal year 1979 appropriation bill for foreign assistance and related programs, and take this opportunity to comment on the budgetary aspects of this bill.

Under section 302(b) of the Budget Act, the Committee on Appropriations allocated to the Foreign Operations Subcommittee $9.5 billion in budget authority and $5.1 billion in outlays.

The budget authority provided in H.R. 12931 is $200 million under the subcommittee's allocation, while the outlays are $300 million over the allocation. The outlay overage results from an acceleration of economic supporting assistance for Israel, which has been taken into account by the second budget resolutions of both Houses. When the Committee on Appropriations makes its allocations under the second budget resolution. I am confident that the outlays associated with this bill will be within the subcommittee allocation. The committee will have enough leeway to accomplish this without difficulty.

Mr. President, a word of caution. There could be other claims against the allocation in the coming months. A request for the United States to contribute 25 percent of the cost of United Nations peacekeeping forces in Namibia, or about $50 to $60 million in budget authority and somewhat less in outlays, may be forthcoming. The outlay ceiling under the second budget resolution when Congress completes action on that measure will be very tight. In order to stay within the congressional budget and leave some room for later requirements, I expect to oppose floor amendments which add to the cost of the measure.

An important part of this bill is $1.8 billion for the United States to partake in the supplementary financing facility of the International Monetary Fund—the so-called Witteveen facility. The Witteveen facility will be funded at a $10.5 billion level.

The U.S. share to help countries adjust to higher oil prices and inflation is only 17 percent. The OPEC countries are putting up 50 percent.

It is important to note that this is the first time that the OPEC members, many of whom now have their own balance-of-payments problems, have agreed to such an arrangement. At a time when U.S. economic leadership is questioned by our allies and friends, it is important that the Senate give full and favorable consideration to this aspect of the foreign assistance appropriation bill. Without U.S. participation, the Witteveen facility cannot be implemented.

Congress itself has taken the initiative to place on-budget and require appropriations for the U.S. share of the Witteveen facility. Under the original administration proposal, no appropriation would have been required. The authorization legislation would have been considered sufficient legal authority to disburse Treasury funds to the IMF. These funds, I should point out, will be repaid with full interest within 7 to 12 years.

A number of members of the Banking, Appropriations, and Budget Committees, led by Senator SCHWEIKER, amended the authorization bill to provide for full appropriation of the U.S. share of the Witteveen facility. If Senate and House conferees working on H.R. 12931 approve this $1.8 billion provision, the entire $10.5 billion will be available to the IMF within a few months.

I wish to extend my appreciation to my good friends, the distinguished Senator from Hawaii, Mr. INOUYE, who is handling this difficult and not very popular bill for the seventh year, and to the distinguished chairman of the Committee on Appropriations, Mr. MAGNUSON, for their dedicated efforts in bringing before us a bill consistent with the guidelines established in the first budget resolution, and with the ceilings approved by the Senate in the second budget resolution.●

Mr. JAVITS. I support H.R. 12931, the foreign assistance and related programs appropriations bill.

The programs that will be funded by this appropriations bill are vital to the continued proper functioning of the international economic system. Not only will we be appropriating more than $6.5 billion in bilateral and multilateral aid; but we will also be providing $1.8 billion for U.S. participation in the Witteveen Facility of the International Monetary Fund.

We must expedite final congressional consideration of the Witteveen Facility, for we in the Congress cannot appear to be a stumbling block in next week's consideration of an increase in the quotas of the International Monetary Fund or any other plan that may be developed at the annual meeting of the IMF here in Washington to strengthen the international monetary system.

I hope that the Senate conferees will insist that the $1.8 billion for the Witteveen Facility remain in the final appropriations bill. This would greatly expedite increases in the quotas and any consideration of further structural reform of the IMF.

With respect to the appropriations for the international development banks, the Appropriations Committee has cut $900 million, or more than 25 percent from the administration's original request for these financial institutions. I deplore especially, the step that the committee made in reducing by $466 million the administration's request for funds for callable capital to the International Bank for Reconstruction and Development—World Bank—and the $210 million cut in the request for the International Development Association, which provides highly concessional assistance to the poorest countries of the world.

The callable capital for the World Bank is not actually spent by the Treasury, but serve as a contingency guarantee, should the World Bank default on its borrowings in the capital markets. The World Bank enjoys the best credit ratings in the bond markets, and it is inconceivable that these funds will ever be used. We are the only country that appropriates callable capital, and we must develop a method within the budgetary process to deal with this unique phenomenon. Until we do so, we will continue to face large appropriations requests which do not bear any relation to actual disbursements.

Furthermore, we cannot let such secondary issues as the level of salaries in the World Bank and the International Monetary Fund divert the attention of the Congress from the more critical issue facing the international monetary system: The need for greater transfers of capital to the developing countries in order to spur their economic growth. The World Bank and the regional development banks play an important role in this process, and we must analyze our role in these institutions from a constructive and not a negative point of view.

Also, we cannot accept restrictions on the use of U.S. funds by the banks for lending to particular countries or for particular commodity programs. The banks cannot accept funds which are restricted for use. Any legislation incorporating such a provision thus would effectively take the United States out of the banks and could take the banks out of the development process. The committee should should be commended for not including such restrictions, and I urge my colleagues to support the committee's decision.

Delegates from all over the world to next week's World Bank/IMF meeting will be looking at how the United States delivers on its pledges to these agencies. Today we have a responsibility to demonstrate congressional support for the international banking and financial institutions by passing a bill which provides meaningful amounts of funds to these institutions.

I ask unanimous consent to have printed in the RECORD an article from the Journal of Commerce of September 19, 1978.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONGRESS AND THE MONETARY SYSTEM

Unless Congress moves quickly on the $1.83 billion appropriation for the International Monetary Fund's new Witteveen facility, it will get the blame for blocking any progress towards agreement on the seventh review of quotas at this weekend's Interim Committee meeting.

This could be awkward since the U.S. is considering a possible drawing on the IMF as a means to help stabilize the floundering dollar. The U.S. could draw on its unconditional credit line of roughly $5 million, which would be provided through the GAB, or General Agreements to Borrow.

A fair share of the $7 billion in GAB funds is already outstanding to the British and Italians and would be further reduced if its largest contributor, namely the U.S., were to become the borrower. Britain is expected to repay another billion dollars to the IMF before the end of the year, the bulk of which will be returned to the GAB. The Italians may repay a smaller amount. This will make some funds available if the U.S. decides that an IMF drawing would have any point.

The U.S. Treasury is morbidly afraid of committing the U.S. to an increase in IMF quotas or a new allocation of SDRs until it is sure it has the Witteveen funds on hand. The dollar has depreciated so much since the Witteveen facility was first proposed early last year that the administration had even considered asking for $1.9 billion rather than the $1.7 billion originally under discussion.

The IMF is already six months behind on a decision on the next quota increase. Agreement will be impossible until the U.S. says whether it wants the 50 percent increase most other countries favor.

These countries have been willing to go along with the American proposal made in Mexico to link the quota increase with the next allocation of SDRs. This would remind the world that SDRs—the numerary of the monetary system—still have a practical role and would assure the Germans, for example, that there won't be an explosion of international liquidity.

They are ready, moreover, to pay lip service to the American pronounced desire to have increased surveillance by the fund if that will get matters moving along.

What kind of surveillance does Washington have in mind? Well it would like to make sure the emerging European monetary arrangements don't have the impact of pegging the dollar or maintaining an artificial rate. Negotiations within Europe on monetary integration have gone a good deal better and faster than the U.S. would have supposed or even liked.

The House finally named the conferees to work out minor differences with the Senate on the Witteveen authorization last week. A date hasn't as yet been set on when conferees are to meet.

Meanwhile, a Senate appropriations subcommittee approved $1.83 billion for the Witteveen facility to be amended to the foreign aid bill. The House didn't include that amount in its $7.2 billion aid appropriations and it is an open question whether it will be prepared to let an amount of that size be tacked on in conference It probably will want to look at the issue in committee. The election is a very important factor in this connection.

Even more disturbing to those that follow the monetary scene is the possibility that Congress will insist that fund quota increases go through the appropriation process. This is the way things were done before William Simon became treasury secretary and it is unlikely that Secretary W. Michael Blumenthal will be in the position to stop the reversion to old ways.

The international community is concerned about the congressional obsession with salaries in the World Bank and IMF and its woolly attitude towards the whole amorphous area of "human rights." The Senate, for example, is asking the treasury secretary to report annually on whether countries obtaining Witteveen funds are violating human rights, whatever that might mean.

These issues have tended to divert attention from a discussion of the role of the World Bank and a general capital increase. The Kafka Committee on compensation is to report its findings, after a great deal of soul-searching, in a few months. Meanwhile, the new managing director of the fund has negotiated a salary of $78,000 and $30,000 in representation allowances, net of tax, leaving World Bank President Robert McNamara well behind with $60,000 and $16,000. The parity between the two salaries will have to be restored in time.

It doesn't take a high paid consultant to inform the world that these salaries look all right stacked up against those of senior officials in the Treasury and the Federal Reserve but pale beside those of private commercial and investment bankers.

Be that as it may, the onus will be on Congress to show that it is prepared to play a constructive role in the evolution of the monetary system, such as it is. They will also have to ease the way for the administration to deal with the problem of the dollar.

As long as Treasury has its present paralytic fear of Congress, the work of the IMF and World Bank threatens to come to a dead halt.

AID TO SYRIA

Mr. CASE. Mr. President, that the bill contains $90 million in economic aid to the country. There are doubts as to the value of this aid proposal in view of Syria's recent actions in Lebanon and reactions to the Middle East agreements reached at Camp David.

The shelling of the Christian areas day after day, for example, went far beyond the scope of a peacekeeping force or retaliation against actions by the Christian militia.

Press reports indicate, Mr. President, that indiscriminate attacks on the Lebanese Christian population have been deliberately targeted against apartments, hospitals, and homes for the aged. In many cases, Christians have been forced to seek refuge in the mountains.

It is no exaggeration to say that these attacks on the Lebanese Christians are having the effect of tearing apart the fabric of this unique and energetic people who have made outstanding contributions throughout the ages to Western culture, especially in the United States, where their descendents continue today to add to those accomplishments.

The senseless slaughter of the Christian Lebanese must now cease, Mr. President. Lebanon and its people must be permitted to live—its people must be allowed to provide for themselves and police their own as soon as possible. They must be allowed to realize once again that they are an independent people. For that reason, the Syrians, as the main participants of the so-called Arab deterrent force, should be making every effort to prepare the Lebanese for this difficult task ahead, particularly in taking over the areas of social functions and for maintaining public order.

Mr. President, I appreciate the Syrians have not had an easy task and that they have shown a measure of restraint in certain cases in restoring order to this embattled country. The Syrians in the early stages of the civil war saved the lives of many Christian Lebanese, including whole villages. Now, the next progression to restoring Lebanon to the Lebanese must begin.

The United States should stand ready to assist the Syrians in meeting this goal. For example, I seconded an amendment offered by Senator EAGLETON in the Appropriations Committee recently that would provide $50 million in foreign military sales credits for Lebanon.

It was made clear then as I am underscoring now that a reconstituted Lebanese arm needs to replace the Syrian forces as expeditiously as possible and also protect the religious communities of that country.

There is no doubt that the Syrian attitude toward Camp David has been negative. However, in view of Secretary Vance's current trip during which he is expected to meet Syrian leaders, I will not move to reduce or eliminate the funds provided for Syria in this bill. However, I hope that the situation will be reassessed carefully before the conference committee meets to work out a final version of the bill.

As you know, the House cut all the Syrian money and thus this Chamber can be patient and wait for the conference committee to make whatever decisions it believes the situation warrants.

AID TO SYRIA: THE LEBANESE ISSUE

● Mr. McGOVERN. Mr. President, the foreign aid appropriation, H.R. 12931, contains $90 million in security supporting assistance for Syria. The House version of the bill deleted the assistance to Syria, but it has been reinstated here.

I have some doubts about the wisdom of supplying those funds. As every Member of the Senate knows, Syria over many months has maintained an extensive military involvement in the beleaguered neighboring state of Lebanon. Far from bringing stability to that tragic country, Syrian forces now seem to be contributing to the bloodshed and chaos which have become the most prominent features of Lebanon's existence. In my mind this warrants, at the very least, a close and critical reexamination of the merit of supplying security supporting assistance to Syria.

In view of the recent Camp David summit and the President's efforts to achieve peace in the Middle East, I have concluded that it would not be appropriate at this point to delete any funds which have been requested by the administration for that region. Therefore, I will not initiate or support an effort now to strike the funds for Syria. However, I want to join a number of my colleagues in making clear that this conclusion in no way supports or condones Syrian operations in Lebanon. On the contrary, I deplore those activities, and my position on the aid request is taken for one reason only—to accommodate the President of the United States at a particularly critical and sensitive time in his diplomatic efforts in the Middle East.

But the independence and national vigor of Lebanon are important to the United States. All of us who admire the culture and democracy of Lebanon long for a return of peace, independence and security to this troubled state.●

REGIONAL DEVELOPMENT FUND

Mr. CASE. Mr. President, on another matter, the bill contains a provision for a regional development fund.

It is a fortunate coincidence that this foreign aid appropriations bill has reached the Senate floor shortly after the Camp David summit.

A little-noticed provision in the bill and report language can help the effort to foster cooperation between Israel and the Arab countries.

An amendment I sponsored to the International Security Assistance Act of 1978 (S. 3075) authorizes $5 million for this purpose. The State Department advises me that studies of projects already are underway.

The pending appropriations bill does not contain a specific line item for the amount. However, the report language makes it clear that money should be used from unobligated funds in the Middle East Special Requirements Fund Page 83 of the report says:

> The committee believes that funds currently available in the fund could well be used to finance projects which encourage scientific, technological, or agricultural cooperation among the states of the Middle East. We expect the Agency for International Development to identify appropriate regional projects for funding in the coming fiscal year.

I understand that Senator INOUYE is offering an amendment which will enable the use of unobligated funds in the Midde East Special Requirements Fund.

In view of the Camp David developments, regional cooperation—an idea which seemed a bit ahead of its time when the amendment was offered earlier this year to the authorization bill—now seems within reach.

It is hoped that by working together on agricultural, scientific, and technical projects, a peaceful relationship can be developed and contributions can be made to help improve the economies of all the nations of the region.

The program, I might add, would not be confined to Egypt and Israel. It could involve Israel and the other Arab nations whenever they are willing to work together in joint projects.

Mr. President, in view of the most hopeful developments at Camp David, I had seriously considered proposing an amendment to add a specific appropriation for the authorized $5 million.

However, I recognize the desirability of keeping this bill within the budget ceiling and the fact that such regional programs are at an early stage of consideration.

Thus, with Senator INOUYE's concurrence that there is sufficient money and authority already available under the Middle East Special Requirements Fund, I am content to see the program started with unobligated money from that fund. I am told that the funds are sufficient for the authorized $5 million if there are suitable projects.

It is my hope that the Agency for International Development and the governments of the Middle East can see their way clear to give a high priority to such projects. It would be a good way of turning the agreements, documents, and frameworks of diplomats into tangible benefits for the people of the nations which choose to participate.

Mr. MORGAN. Mr. President, I rise in support of H.R. 12931, which makes appropriations for the entire range of U.S. bilateral and multilateral economic assistance, and contains funds for U.S. participation in various international financial institutions.

As reported by the Senate Appropriations Committee, the bill represents a cut of $1.2 billion below what the administration requested. The entire bill has been the object of careful scrutiny by the Appropriations Committee and particularly, the distinguished Senator from Hawaii (Mr. INOUYE). Thus, I believe that further cuts from this important funding measure are unjustified and would not serve our national interest.

As a member of the Senate Banking Committee, I want to speak briefly to the issue of U.S. participation in the World Bank and various related international financial institutions, including the special funding facility of the International Monetary Fund, the so-called "Witteveen Facility".

I strongly believe that full and active U.S. participation in these important institutions is in our own best interest. To encumber our participation—either through further crippling cuts in funding—or by politically motivated restrictive amendments—would curtail our effectiveness within the institutions and would reduce our ability to conduct effective overall international economic and political policy.

Americans should make no mistake about the degree to which we live in what has become a politically and economically interdependent world. Our own economic health and vitally is tightly bound up with that of other nations, including the developing countries, which represent significant and growing markets for U.S. goods and services.

Our country is dependent on developing countries for an array of raw materials critical to the maintenance of our industrial economy.

In 1976, the non-oil-producing developing countries purchased 24 percent of our exports, which resulted in over 1 million jobs for Americans. If we include the oil-rich but otherwise underdeveloped OPEC countries in this figure, then 40 percent of total U.S. exports went to developing countries in 1976.

America now exports nearly $7½ billion worth of agricultural products to developing countries.

I certainly know the value of such exports to my own State of North Carolina, where an estimated 32,000 jobs are directly dependent on the export of goods produced in our State, and thousands more jobs are indirectly involved. A major and increasing portion of those exports go to the developing nations.

The various regional development banks, as well as the International Development Association, and the special funding facility of the International Monetary Fund all represent an effective, hard-headed means for concerted international development efforts.

These institutions provide high quality technical assistance, and they promote meaningful development projects based on no-nonsense economic assessments of a country's needs and capabilities.

Perhaps most importantly, they involve other countries to a very significant degree. On the basis of the most recent replenishments, other countries now provide 74 percent of the resources of the banks. Simply put, every dollar the United States contributes generates $3 in subscriptions and contributions by other member countries.

Moreover, far more than our contribution is returned in direct purchases of U.S. goods and services. The Treasury estimates that the development banks return to the U.S. economy through purchase of export goods, an average of $400 million, or more than $1.30 for every dollar paid in via subscriptions and contributions.

In the 5-year period 1972–76, average annual U.S. payments were $303 million, while recipients averaged $758 million annually, or $2.50 for every dollar paid in.

Mr. President, I have only touched on some aspects of U.S. participation in the various international financial institutions. I hope, however, I have illustrated just part of the reason why I believe it would be extremely unwise to cut further funding from this bill or remember it with additional amendments of a restrictive nature. I strongly urge support for H.R. 12931.

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that the bill as thus amended be regarded for purposes of amendment as original text, provided, that no point of order shall be considered to have been waived by reason of agreement to this order.

Mr. HATCH. Mr. President, reserving the right to object, as I look at the bill there are a considerable number of changes. Some of them I do not understand. I have listened carefully to the distinguished Senator from Hawaii's comments here today and they have been excellent, as usual.

I have also listened carefully to my friend and colleague from Pennsylvania. So, regretfully, in order to resolve some of the misunderstandings I have to object to the consideration of the amendments en bloc and the treatment thereof as original text. I will certainly cooperate to try to expedite the matter of trying to consider these amendments. So I do object.

The PRESIDING OFFICER. Objection is heard to the unanimous-consent request of the Senator from Hawaii and, objection having been heard, the clerk will report the first amendment.

The legislative clerk read as follows:

> (On page 2, line 11, strike "$610,000,000" and insert $605,000,000";

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next amendment.

The legislative clerk read as follows:

> On page 2, line 11, beginning with the colon, strike through and including "expended" in line 14;

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next amendment.

The legislative clerk read as follows:

> On page 2, line 17, strike "$195,000,000" and insert $180,000,000";

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next amendment.

The legislative clerk read as follows:

> On page 2, line 17, beginning with the colon, strike through and including "expended" in line 19;

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next amendment.

The legislative clerk read as follows:

> On page 2, line 21, strike "104(e)" and insert "104(c)";

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HATCH. Mr. President, I do have some questions about that amendment, and I would like to raise them at this time. May I suggest the absence of a quorum?

The PRESIDING OFFICER. The absence of a quorum is being suggested, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. I ask unanimous consent that Allen Moore of Senator DANFORTH's staff be accorded floor privileges during the consideration, debate, and voting on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

Mr. HATCH. Mr. President, with regard to the committee amendment, on page 3, beginning with line 19, it says:

> *Provided,* That loans made pursuant to this authority to countries whose annual per capital gross national product is greater than $550 but less than $900 shall be repayable within twenty-five years following the date on which funds are initially made available under such loans, and loans to countries whose annual per capita gross national product is greater than $900 shall be repayable within twenty years following the date on which funds are initially made available under such loans.

My question is, Why this particular language? I have a little bit of difficulty with it. I am not sure that I should raise any objection to it, but I still raise the question, Why greater than $550 but less than $900 per capita gross national product?

Maybe I could make a little explanation of some of my concerns. At present rates of inflation, the sovereign-risk loan made over a 25-year term is, in effect, a grant. A 15-year loan at interest rates provided under this program is still a substantial subsidy to the recipient government, but probably significantly less than the almost total subsidy rendered by a long-term, 25-year loan of the sort envisioned by the provision written in the committee amendment. Medium-term money is more appropriate under present economic conditions and the Senate should insist that sovereign-risk lending under the category "Development Assistance" be confined to medium-term money so there is some chance of securing a repayment.

I note that much of this development assistance money provided in the form of long-term loans will be used only to roll over existing debts to commercial banks in order to protect overextended internatonal banking programs.

I think that ought to be noted here today. Very little of the money will actually go toward development assistance.

The two questions I really have are: Why not simply less than $900 annual per capita gross national product; then, why have the 25-year sovereign-risk loan provision, which I think basically becomes a grant? Are we not, in essence, protecting lending institutions that may be overextended at this time—at least in some of their international banking programs?

Mr. INOUYE. Up until last year, under this section, loans were for 40 years—all loans were for 40 years. The first 10 years were a grace period, the remaining period carried an interest rate of 3 percent. The committee, for the last 5 years, has made a very conscientious effort to tighten the loan provisions. We have submitted recommendations, we have submitted amendments, and we have been turned down. Last year, we were finally able to tighten the Agency's loan program. This year we are furthering that effort by dividing up the loans in several categories.

Mr. HATCH. So, in essence, what the committee is trying to do, as I understand the Senator's explanation, the committee has decreased it from 40 years, with the first 10 years forgiven, down to 25 years, still at 3 percent. The distinguished chairman of the committee, my friend from Hawaii, indicates that he feels that this is tightening this matter up over prior years?

Mr. INOUYE. It is tightening when you consider that, up until last year, it was 40 years for all of them, with the first 10 years being grace, and thereafter, 3 percent. We were quite concerned that countries that may be less developed today fined themselves, 20 years from now, with several thousand oil wells, becoming some of the wealthiest nations in the world, repaying a loan at 3 percent interest.

Mr. HATCH. I see.

Would the Senator give me the rationale behind the greater than $550, but less than $900, on the annual per capita gross national product?

Mr. INOUYE. This is just a scale, taking into consideration that there are some countries wealthier than others.

Mr. HATCH. If that is understood, why not take care of those countries that are less than $550?

I ask the distinguished manager of the bill how many countries there are in this world that we might be interested in assisting through this act that actually have an annual per capita gross national product of less than $550?

Mr. INOUYE. Today, 65 percent of the peoples of this world have less than $550 per capita income, per annum.

Mr. HATCH. Would it not be better then to strike out the words "greater than $550, but" and just leave the words in, "less than $900"?

I think that would give our Government more flexibility in dealing with at least not only those countries which would be between $550 and less than $900, but also would allow us to work with those countries that comprise 65 percent of all countries less than $550. Would that not make this a better foreign assistance bill?

Mr. INOUYE. Well, this was a great improvement. As the Senator knows, AID does not want change.

Mr. HATCH. Any restriction at all.

Mr. INOUYE. No restrictions; and they want to have it as it was back in the old days: 40 years, 10-year grace, 3 percent.

Mr. HATCH. I can see the change down to 25, but I would prefer 15, so there would be some pressure involved, so it would not be just a grant.

What does bother me, if we are concerned about foreign assistance, would it not be better to strike the words "greater than $550, but" and just let it be used by our Government, or any country that needs assistance that has an annual per capita gross national product less than $900, and thus gives the consideration for the 65 percent of all countries in this, because they fit in that category, because I think we would be as interested in those countries from a lower allocation development assistance viewpoint as the countries that fit within this rather unique category, unless I fail to understand the real purpose behind this development provision.

Mr. INOUYE. It is very simple. We just wanted to tighten the loan provisions. We tried to take in some of the flexibility. We felt they had too much flexibility and we made a scale.

Mr. HATCH. If I might interrupt, would it not be better to allow flexibility? Since the Senator said the top scale of less than $900 per capita, would it not be better to allow, so we can help some of these very undeveloped countries, because, again, not raising the $550 minimum we would have right here.

I do not see any reason why we would have the minimum. I would like to have a better rationale on that, because my amendment to this would be to strike those words "greater than $550."

Mr. INOUYE. The $550 figure is for those with 40-year loans.

Mr. HATCH. I am sorry.

Mr. INOUYE. If the per capita income is less than $550, then it is a 40-year loan.

Mr. HATCH. I see.

Mr. INOUYE. And if it is over $550 but less than $900, then it has to be paid up in 25 years.

Mr. HATCH. In other words, what this program really means is that we have a flexibility, helping any country as long as the per capita income is less than $900 per capita on the annual per capita gross national product basis.

However, those countries having at least $550 minimum, annual per capita gross national product, are only entitled to a 25-year loan period, and those countries with less than $550 will be entitled to, actually, I guess, a 40-year loan.

Mr. INOUYE. Up to 40.

Mr. HATCH. So this does not foreclose the lesser developed countries below $550, but it does change the provision from having everybody——

Mr. INOUYE. It recognizes the fact that there are some countries that have become more wealthy. Those with the greater potential we feel should pay the loans in a shorter period of time.

Mr. HATCH. I thank the distinguished Senator from Hawaii, because I had not understood that in precisely that form up until today.

In that regard, I would like to make a suggestion to the distinguished floor managers of the bill that we strike the word "twenty-five" on page 3, line 22, and, thereafter, especially on line 25 as well, and substitute in lieu thereof the word "fifteen."

I think that would be even tighter. It would make it in the form of a loan and it gives our country a little more pressure which we can exert on having loans repaid.

In the process, it seems to me, if we find a country is unable to meet those figures, or the 15-year period, then we can, through subsequent legislation, resolve those difficulties.

Mr. INOUYE. These are loans that are made to countries that cannot borrow from the established international financial institutions, because of their fiscal condition, because of the level of education, because of the level of talent within the country. The possibility of that country increasing the gross national product, its potential, is extremely limited.

However, at the same time, realizing all sovereign countries have some feeling of nationalism and pride, we have decided, instead of providing grant programs throughout the world for these very poor, that we give them the opportunity of borrowing this money.

I grant that at 40 years, 10-year grace, 3 percent—the Senator knows finances, all of us know what finances are—it is a grant. But at least there is a contract that says, "We are borrowing this money," and they do not lose all of their national pride.

We also find from past experience that for these countries with a per capita gross national product of less than $550, it is virtually impossible for them to repay their loans in, say, 20 years or 25 years.

Mr. HATCH. Or, certainly in the case that I brought up, 15 years.

Mr. INOUYE. Or 15 years. So if we agreed to the Senator's suggestion, No. 1, it would force some of these less developed countries to seek assistance elsewhere.

The Senator might ask, "Why should we be concerned about these less developed countries?"

Mr. HATCH. I am very concerned, so I would not ask that question.

Mr. INOUYE. But I think that, for the record, we should ask ourselves this question: Why should the United States be concerned about these less-developed countries, with exotic names and strange places, with strange-looking faces, strange customs, strange cultures?

This Government of ours, over the years, has maintained what we call a list of goods that are strategic to our well-being, defense, and economy. We have found that more than 85 percent of the goods listed as strategic materials cannot be provided by our allies in Western Europe or by ourselves. Western Europe may be very powerful, but there is not much there that would be of any assistance to us so far as raw materials are concerned.

Where do we find these important strategic materials? Most of the 85 percent is found in less-developed countries—in Latin America, in Africa, in these strange places with strange people.

There is no question that the Russians are in Africa not because they love Africans. I think the record shows that their treatment of the blacks is scandalous. They are there, because they want to compete with us for these strategic materials, the things we do not have: Manganese, titanium, plutonium, chromium, bauxite.

In this way, our foreign policy is such that we are providing assistance to these countries in such a way that they do not lose their national pride—and, frankly, to keep them on our side. So far, I think we have been successful.

Mr. HATCH. If the Senator will yield, I appreciate this explanation. There is no question that less developed countries are very important to this country, not only because we have compassion for them and want to assist them as friends and neighbors, regardless of strange sounding names and strange faces and strange cultures, but also, I suspect, the

Russians have a great desire to use pincer movements, as we call them in foreign policy, and other leverage positions, in these various countries, to put pressure on the United States, politically and otherwise.

I think the Senator has given me excellent answers to my questions on this particular provision. I had misread the provision, believing that maybe we were foreclosing those smaller countries which have an annual per capita gross national product of less than $550.

The Senator's explanation of why it is important to have these, in essence, grants for 25 and 40 years—I think they would be grants in either event, but with a loan provision showing that they are literally debts—is a very good explanation. Therefore, I withdraw any objection I have to the acceptance of that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment on page 2, line 21.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 2, line 22, strike "$135,000,000" and insert "$125,000,000";

Mr. HATCH. I have no objection to that amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 2, line 22, strike "*Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available until expended" and insert "*Provided*, That $5,000,000 shall be available only for an Expended Immunization Program—Yaws Eradication Program in West Africa";

Mr. HATCH. I have no objection to that amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. HATCH. As a matter of fact, I think we can accept all amendments down through line 2 on page 4. Am I correct?

The PRESIDING OFFICER. Is there objection to adopting en bloc the amendments down through——

Mr. HATCH. Page 4, line 2.

The PRESIDING OFFICER. Down through page 4, line 2. Is there objection? Without objection, the amendments are agreed to en bloc.

The amendments adopted en bloc are as follows:

On page 3, line 5, strike "$100,000,000" and insert "$94,000,000";

On page 3, line 4, beginning with the colon, strike through and including "expended" in line 8;

On page 3, line 12, strike "$120,000,000" and insert "$114,794,000";

On page 3, line 12, beginning with the colon, strike through and including "expended" in line 14;

On page 3, line 18, strike "$406,000,000" and insert "$372,558,000";

On page 3, line 19, after "1979" insert a colon and the following: "*Provided*, That loans made pursuant to this authority to countries whose annual per capita gross national product is greater than $550 but less than $900 shall be repayable within twenty-five years following the date on which funds are initially made available under such loans, and loans to countries whose annual per capita gross national product is greater than $900 shall be repayable within twenty years following the date on which funds are initially made available under such loans".

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 4, line 7, strike "$260,000,000" and insert "$261,700,000";

Mr. MORGAN. Mr. President, I make a parliamentary inquiry at this point.

The PRESIDING OFFICER. The Senator will state it.

Mr. MORGAN. I desire to offer an amendment at the appropriate time which would delete the proviso immediately following the figures "$261,700,000." I do not want to be precluded later from offering it, and I ask the Chair if my amendment would be in order at this time, or, if not, when it would be in order.

The PRESIDING OFFICER. The Senator's amendment would have to wait until all committee amendments have been disposed of, since it is not an amendment to the committee amendment.

Mr. MORGAN. It would be an amendment to the House bill, the House language?

The PRESIDING OFFICER. The Senator is correct. It would be in order after the committee amendments are disposed of.

Mr. HATCH. Mr. President, a parliamentary inquiry.

I asked before if we could bring up amendments to each of these sections at the time we consider them on the floor, and I think that is all the Senator is asking to be able to do.

The PRESIDING OFFICER. The Senator cannot bring up amendments to the section, but he can bring up amendments to each of the committee amendments.

Mr. HATCH. That is what I mean. In other words, as I understand it, if the distinguished Senator from North Carolina desires, after we have discussion on this particular committee amendment, he can, before it is accepted, bring up his amendment thereto.

The PRESIDING OFFICER. The amendment of the Senator from North Carolina is not to the committee amendment.

Mr. HATCH. I see.

Mr. MORGAN. It does not relate to the amount of money, but to the proviso which was added by the House. Is that basically correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. If I understand correctly, the Senator's amendment will not be to the $261,700,000 figure but will be at the end of that paragraph.

The PRESIDING OFFICER. The Senator is correct. Therefore, it will have to be considered at the end, unless he has unanimous consent.

Mr. MORGAN. Did I correctly understand the Chair to say that it would be at the end of the section or at the end of the whole bill?

The PRESIDING OFFICER. The Senator's amendment comes after the figure and amends the House text. It would be in order by unanimous consent.

Mr. HATCH. Yes.

Mr. MORGAN. Mr. President, if there is no amendment pending, I ask unanimous consent that I may offer my amendment.

Mr. HATCH. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, I wonder if we could have a very brief quorum call, and then the Senator could renew his unanimous-consent request.

The PRESIDING OFFICER. Does the Senator withdraw his unanimous-consent request?

Mr. MORGAN. Yes.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, on the next amendment on line 7 at page 4 where the monetary figure is increased from $260 million to $261.7 million, the only question I have is: Why the $1.7 million increase?

Mr. INOUYE. We added $5 million to the House-appropriated amount for the United Nations development program. We reduced the administration's request for the OAS by $2 million. We deleted $1 million for the International Year of the Child, and we deleted the amount of $300,000 that the House provided for the Southern Africa trust fund, because there was no budgetary request for this item. Finally, we reduced the account by the amount requested for the U.N. University—$7.5 million.

Mr. HATCH. This is how much, then, added to the House amount?

Mr. INOUYE. So the net result was that we added $1.7 million to the House bill.

Mr. HATCH. To the actual House bill. Is there any money here for the International Year of the Child?

Mr. INOUYE. None.

Mr. HATCH. Is there any anywhere in this bill?

Mr. INOUYE. None.

Mr. HATCH. I appreciate the Senator's response.

I ask unanimous consent that as soon as this amendment is accepted the distinguished Senator from North Carolina be permitted to add his amendment to the "provided" clause wherever he wants in the bill.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, will the Senator withhold that until the Senator from Arizona (Mr. DeConcini) arrives in the Chamber?

Mr. HATCH. I certainly will.

The PRESIDING OFFICER. Will the Senator withhold his request?

Mr. HATCH. I withhold my request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. INOUYE. Mr. President, may we act upon the committee amendment in the amount of $261.7 million?

Mr. HATCH. Mr. President, reserving the right to object, I wonder if we should not reserve on the committee amendment itself until Senator DECONCINI gets here.

Did Senator DECONCINI have an objection to the committee amendment?

Mr. INOUYE. No.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment. That does not require unanimous consent. That is the pending question.

Mr. HATCH. Senator DECONCINI has no objection to the committee amendment. I am happy to accept it.

Mr. CASE. Does the Senator mean the figure?

Mr. HATCH. The figure. I am happy to accept it.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KENNEDY). Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I ask unanimous consent that I may offer an amendment striking the proviso, immediately following the last committee amendment which was adopted, just adopted.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

UP AMENDMENT NO. 1882

(Purpose: To eliminate the restriction on contributions to the United Nations University)

Mr. MORGAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 1882:

On page 4, line 7, delete ":" and all that follows on page 4, through line 10, and insert in lieu thereof "."

Mr. MORGAN. Mr. President, this amendment deletes a proviso that was placed in the House bill which said, in effect, that none of the funds appropriated under this act or under this section could be made available by the administration or by the State Department to the United Nations University.

In effect, what my amendment would do would not appropriate money for contributions to the United Nations University, but it would give the administration the authority to use some funds out of this amount for contributions to the United Nations University if the administration deems it appropriate.

Mr. President, let me say that I voted against funds for the United Nations University last year and, to the best of my recollection, I voted against them the year before last. I remember specifically having voted against them last year because, first of all, I think I misunderstood the concept on which the United Nations University was established, and because I did misunderstand it I felt that, perhaps, any funds we had could best be used for education in our own country.

But in the meantime during the last year or so I have had an occasion, and I have had an opportunity, to carefully look at the objectives of the university, and I did so, of course, at the request of those, some of those, who are interested in it.

During the past year, my chief legislative counsel, Dr. Indorf, was visiting in Japan for the purpose of participating in a conference and lecture, and he went by at my own request to visit the headquarters of the United Nations University and to talk to Dr. Hester there, who is an American, who is president of the United Nations University.

When he came back he and I did a careful analysis, a study of it, and, Mr. President, I concluded that I was wrong, and I concluded that Congress had been wrong for the last 2 years in refusing to participate in an institution we were instrumental in bringing about.

For instance, when the idea originated back in 1969 or so it was established or brought about by a study commission headed, as I recall, by a former president of Columbia University, and many other Americans. Now the reactor of it is Dr. James Hester, who was a former president of New York University; so, Mr. President, I think we ought to give careful consideration to untying the hands of the administration in regard to this.

I am convinced that the university deserves our support because it offers us an additional opportunity to deal effectively with the world's problems of hunger, disease, and poverty through international cooperation in basic research. Let me elaborate briefly, if I may.

For my mind, Mr. President, the wording in the foreign aid bill that prohibits a U.S. contribution to the United Nations University is detrimental to the interest of the United States. It undermines a timely and useful international institution which is supportive of those interest.

Our rejection of this contribution this year will mean that the Government of the United States has refused three times to give endorsement and some financial assistance to an international undertaking based on principles of fundamental importance to this country. The U.N. University is headed by an American educator. It has received support and large contributions from Japan and from other American allies.

The principles on which the U.N. University is based are American educational principles. They are the principles of free inquiry, free exchange of knowledge, and free expression of ideas which are contained in our traditions of academic freedom. These principles are among the main strengths of America. We hold them to be essential to factual, truthful objective scholarship and science. But they are not easily realized in many parts of the world and in many international organizations. The U.N. University has been carefully designed, with substantial American leadership, to be an international institution in which the free exchange of knowledge and ideas can take place. Will we now turn our backs on what is fundamental to American freedom and scholarship? It would be ironic that such an effort should be frustrated by lack of support from the Congress of the United States.

An American educator, James M. Hester, former president of New York University, undertook the leadership in developing this institution because of the importance of establishing an international research institution based on academic freedom. He has been successful in attracting an outstanding staff from all over the world.

It is a relatively small staff, Mr. President. As I recall, at the end of last year it constituted only 89 persons. Together this group has organized useful programs of research and training while maintaining freedom of inquiry and expression as the Hallmarks of the university's work.

Twenty countries have contributed funds to the university. Many others—especially those, some of those, in Western Europe—are waiting to see how Dr. Hester's own country, the United States supports this effort. So far they have seen only a reluctant Congress. When the variety of causes to which our country contributes is considered, it seems strange that we might withhold support from an international institution that extends American ideals beyond our shores under the leadership of a fellow countryman.

Japan is the host country for this international institution. It invited the United Nations to set up the headquarters of its university in Tokyo and has been generous in its support. The Japanese pledged $100 million to the university's endowment fund which is what makes academic freedom in the U.N. university's a practical possibility. Japan has accepted that premise. We want Japan to be an increasingly active participant in international matters. Are we to frustrate Japan's first major international initiative?

Aside from these considerations, Mr. President, the university deserves U.S. support because it is doing work that needs to be done. In particular, it is helping nationals in developing countries to become more self-reliant. It is not sending in experts to tell them how to build or buy things they don't want or need. It is helping them to obtain the knowledge and the expertise they do need to understand and to solve their own problems. It is doing this by forming cooperative networks of research institutions in both developing and industrialized countries.

I might mention that one of those is located in my own State, the very well known Triangle Research Institute, one of the better ones in the world, which is doing research work, trying to help solve some of the world's problems, for the U.N. University.

Through these networks, coordinated from the university's headquarters in Tokyo, research tasks are apportioned around the world, increasing the speed and efficiency with which knowledge can be shared and avoiding needless and costly duplication of effort. Through these networks information can be exchanged among developing countries where conditions are similar as well as between the industrialized and developing worlds.

Information exchange is not a one-way street. An increasing portion of the world's research and development is being conducted outside the United States. The United Nations University offers to our country a practical means for receiving as well as giving useful knowledge.

Many thoughtful observers have pointed out the need to encourage opportunties through which developing and industrialized countries can work together on common problems, not as clients and patrons, but as partners in creating a more cohesive world. We need institutions through which the peoples of the northern and southern hemispheres can come to look upon each other not as antagonists but as fellow human beings with many common concerns. The United Nations University has the capacity for uniting the many national sources of brainpower in the service of mankind.

Mr. President, I think we can be sure that global problems will increase in number and complexity in the decades ahead. The need for research collaboration across national boundaries will also inevitably increase. An organization like the U.N. University is not a luxury; it is an essential for world peace in the years ahead. It exists now on a very modest, practical, and efficient scale. Our support will show that the United States endorses this practical effort to deal with a worldwide need which is also this country's need. Our endorsement will help the university gain further support around the world.

Mr. President, in concluding, let me say a word or two of explanation. This is not a university in the sense we often think of it. There is no campus, and there are no students. The headquarters simply coordinates the scholars around the world, to help find solutions to world problems. It is not going to solve all of the problems, but it is a start, and I think it deserves the support of this country.

This is not to be a continuing appropriation. The idea would be that the university will eventually have a $500 million endowment, contributed by countries around the world on a volunteer basis, and then the income or proceeds from that endowment would give the university that kind of freedom to operate which is so important for free inquiry and academic freedom.

Japan pledged immediately one-fifth of the total expected endownment of $500 million. Japan pledged $100 million, and they have paid in over $70 million of it. Eighteen different countries have already pledged and paid into the endowment fund. Among those are some of the smaller countries. I have a list here available of the countries that have paid in. Even countries like Cyprus and Ghana. Greece, India, Japan, Norway, the Netherlands have paid in, as well as the Philippines and Saudi Arabia. The small country of Sudan, Sweden, Switzerland, Venezuela, and others.

Mr. President, if we in this country will show our good faith by helping support the institution, which was originally our idea, fostered and encouraged by Americans and headed by Americans, then I think we can expect immediately the full realization of this endowment fund. The income from the endowment last year was something over $5 million, which was slightly more than enough to cover all of the operating costs. Some of the research projects have been funded otherwise, but it is hoped that if this endowment can be established, they will be able to operate and carry on its programs completely free of any other contribution.

It has already made some progress in a number of areas. It has made progress in studying world hunger, land use, and management of our natural resources, as well as in some other areas.

There is some question of duplication. But I do not believe, Mr. President, that the university duplicates the functions of existing universities or other international organizations.

It was created because the U.N. system needed a nonintergovernmental institution capable of mobilizing and bringing together worldwide research and advanced technical resources on an advanced cultural basis to focus attention on global problems.

Mr. President, I equate the U.N. University with the National Academy of Sciences in this country, which is one of the most highly respected institutions in this Nation. There is no real headquarters of the National Academy as such. It is a mechanism whereby scientists, scholars, and engineers are brought together whenever we in Government need them to evaluate difficult situations or help us find difficult solutions. Less than a month ago I offered an amendment on this floor calling for $200,000 for the National Academy of Sciences to bring together its scholars and its scientists to look into the question of cotton dust in the textile mills.

This is what the U.N. University can do. It can capitalize on world scholarship. Mr. President, I hope we can at least unleash the administration so that it, in its wisdom, in carrying out the foreign policy of this country, can make the contributions out of existing appropriations if it sees fit. I ask for no additional appropriations for this purpose.

Mr. LUGAR. Mr. President, I rise to support the amendment introduced by the distinguished Senator from North Carolina. I think he has stated the case well for participation by our country in support of the United Nations University. His amendment is a modest one in that he does not propose additional funds, but rather follows the idea suggested by the executive branch of our Government, that the executive branch supports elimination of the prohibition, and assumes that if the prohibition is not finally approved, the funds might be shifted, or reprogramed, I suppose is the proper terminology, so that at least a modest level of support might be forthcoming.

I share the enthusiasm as expressed by the Senator from North Carolina for the leadership of this university. I must say that I have counted Dr. Hester as a personal friend over many years. I have admired his extraordinary work in American academic circles. I have admired his idealism and the leadership he has undertaken in this endeavor. Very clearly, the sort of interchange which is suggested by those who are proponents of the university, and there are many within this country, merits the attention of this body and merits, I believe, support for the amendment now under consideration.

I hope, Mr. President, we will recognize the major contribution of Japan already to the endowment, and the ways in which this country with Japan will share the expertise which might be forthcoming through this endeavor, likewise recognize the chilling effects upon these relationships if, for what would amount to the third straight year, there is repudiation of this opportunity.

For these reasons, I am most hopeful that Members will support the amendment and give Dr. Hester and his very able staff in the United Nations University the accolades they deserve from this country and likewise make possible the benefits which this country will obtain from the interchanges in the United Nations University.

Mr. HATCH. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that Jerry Bonham and Romano Romani of my staff be granted the privileges of the floor during the debate and vote on the foreign assistance appropriations.

The PRESIDING OFFICER. Without objection, it is so ordered. The order will include Jerry Tinker and Jan Kalicki.

Mr. DeCONCINI. Mr. President, I rise in opposition to this amendment for a number of reasons, but the most important is the simple fact that there are much better uses to which our foreign assistance dollars can be put. The "pressing global problems" UNU proposes to address do not require elaborate, multidisciplinary efforts at identification and analysis. They demand timely, appropriate, and more often than not, quite uncomplicated action. An investment in sophisticated research and in the training of a highly educated elite in the underdeveloped world is, in my judgment, unnecessary when millions of impoverished and hungry people are threatened with disease and an early grave for the want of the basic necessities of life. The committee's report underscores this point most starkly:

> It is not an easy thing to awake each day to the gaunt faces of your children, to see the grim visage of famine reflected in their eyes, and then to go out again to till the parched, barren earth. It is not an easy thing to look upon the three youngest of the seven children you now have and know that one is likely to die before he is five years old. And yet, for hundreds of millions of people, eking out a precarious existence on the desiccated hillsides and arid wastelands of that vast area we refer to as the developing world, this is how the day often begins.
>
> It is an easy thing to become lost in the weighty statistics of macroeconomic analysis, to think in terms of numbers rather than of people. It is an easy thing to become convinced that not enough is known, to believe that yet another study is needed before action can be taken.

The request for UNU this year is for $7.5 million; last year, it was $10 million and a total contribution of at least $50 million has been planned, commitments supposedly made by our State Department. These are not insignificant sums, Mr. President, especially when they are compared with some of the outlays projected for programs that can have an immediate, beneficial impact on the people of the developing world. Let me just cite a few examples of what I mean:

First. The entire food and nutrition program proposed for Botswana amounts to only $2.8 million; for Guinea, $2.5 million; for Somalia, $3 million; for Nepal, $6.7 million; for Guatemala, $5.8 million; for the Dominican Republic, $300,000; for the Caribbean region, $2.5 million.

Second. The same pattern is evident in population planning: $7.5 million exceeds the amount planned for population control in every country except Bangledesh and Indonesia.

Third. Similarly, under the health account, only four countries are slated to receive more than $7.5 million in assistance.

Fourth. Further, $7.5 million would double or treble the amount of education and human resources assistance provided most countries under this account.

Fifth. It should also be pointed out that any funds reprogramed to UNU under the international organizations and programs account would have to be taken from other activities, most of which have a far more direct relevance to development and the satisfaction of basic human needs. From which programs do the proponents of this amendment recommend a UNU reprograming be taken? The UNDP; U.N. Capital Development Fund; the U.N. Children's Fund; U.N. Food and Agriculture Organization; World Food Program; the U.N. Relief and Works Agency; U.N. Disaster Relief? Where should the cut be made?

Proponents say they are not suggesting any, but realistically if we adopt this program, this amendment, we will see a reprograming and something will have to be cut. I think the committee was wise in taking this appropriation out.

Finally, Mr. President, it is clear that UNU adds another cross-cutting, duplicative layer to an already fragmented and poorly coordinated UNU bureaucracy.

Both the Appropriations Committee and the Foreign Relations Committee have been concerned for some time about the ramified and disjointed structure of the U.N.'s administrative arrangements, especially with regard to its development programs. As a result of congressional initiatives in this connection, some improvements have been made, I am glad to say. The creation of an international thinktank like UNU, though, is obviously a backward step. It would be tedious and time consuming to detail the full extent of the overlap between UNU and other educational and/or assistance agencies. But, a couple of illustrations should suffice to make the point:

First. One of UNU's major program areas is "the use and management of natural resources." Yet, under the same account is a request for $10 million for the U.N. environment program. This, of course, ignores the activities in this area of the U.S. Department of Agriculture, the Interior Department, Environmental Protection Agency, and most major universities in the country and abroad.

Second. UNU, under its world hunger program, proposes a study of the problem of postharvest food conservation; but $3 million is included in the same general account for a FAO postharvest conservation program.

Third. And insofar as UNU's proposed training program is concerned, the U.N. Institute for Training and Research already focuses on "short-range, action-oriented methods of economic and social development and cooperation and identification of long-range needs of the international community." That is part of the training and research already underway.

Fourth. Finally, it should be noted that our own bilateral assistance effort entails a substantial research component. AID's compendium of the studies it has sponsored fills two large volumes and indexes a literature covering every conceivable aspect of the developmental process.

Mr. President, I hope the Senate will reaffirm its commitment to insuring that our foreign assistance program genuinely seeks to address the real needs of the people of the developing countries by rejecting this amendment.

(Mr. MATSUNAGA assumed the chair.)

IN SUPPORT OF THE U.N. UNIVERSITY

Mr. KENNEDY. Mr. President, I wish to speak in support of the $7.5 million contribution to the United Nations University recommended by President Carter. In so doing, I hope to help set the record straight on the nature of the University about which there seems to be some confusion. That is understandable, since it is a new kind of institution with no campus, no degrees, students, or faculty of its own. It does not seek money to build buildings. Instead, contributions go to an endowment whose purpose is to protect the University's objectivity and whose income funds the annual budget. A small part of the budget—in time only 12 percent—is scheduled to pay for the cost of the headquarters where worldwide research and training activities are planned and coordinated. The rest of the budget—eventually 88 percent—goes to cover the costs of practical research, training, and communication of knowledge throughout the world. This effort is directed to the solution of carefully delineated problems concerning hunger, technology, and energy—particularly to problems that prevent poor people in developing countries from achieving self-reliance. The headquarters staff is less than 90. The Government of Japan contributes headquarters facilities as well as having supplied 90 percent of the existing endowment.

Mr. President, perhaps the best way to describe the U.N. University is to say that it is a worldwide system for integrating already existing research and advanced training facilities into cooperative networks focused on specific global problems. During its first 3 years, the university has established seven such networks with operations in 50 countries. These networks are concerned with such tasks as remedying deficiencies in knowledge about essential human nutritional requirements, ways of preserving food for human consumption in small villages, practical scientific guidelines for managing deteriorating coastal zones and inexpensive applications of solar energy technology in remote areas. These topics have been selected because they have a direct bearing on urgent worldwide conditions and they are not being dealt with adequately by other institutions.

The U.N. University seeks to increase the practical effectiveness of existing worldwide research investments by organizing collaboration among researchers across national boundaries to share knowledge and avoid duplication. The university strengthens practical research and expertise in developing countries and thus helps to reverse the brain drain and improve the effectiveness of development assistance.

Mr. President, the U.N. University is a new kind of academic organization to help meet the needs of a new kind of world. Scientific and scholarly institutions lag far behind governments, industries and financial institutions in responding to conditions of increased international interdependence. Scientists and scholars lack substantial opportunities for working with their counterparts abroad on a sustained basis. As a result, there is tremendous duplication in research on the same topics. Scholars and scientists, particularly in developing countries but in industrialized countries as well, are unable to learn quickly and accurately about work in their own fields being done elsewhere. As a result, significant and cost-saving opportunities for sharing knowledge and research and training capabilities are being missed. No other institution possesses this capability for mobilizing and coordinating research on a worldwide basis.

Therefore, the U.N. University was created for that purpose, after extensive consultation with scientists and scholars throughout the world. These experts recognized the need for an institution that could organize international scientific and scholarly collaboration on a systematic basis. As they saw it, other organizations were either too specialized in their functions or were too political in nature for dispassionate scholarship. That is why the concept of an academically free institution within the United Nations was needed.

Some concern has been expressed that no institution operating within the framework of the United Nations, even with a guarantee of academic freedom, can avoid politicization and can advance the principles of free inquiry and expression. The University has been designed and organized to meet, precisely, those concerns. The University has been successful in this endeavor. The endowment fund for the University is the principal bulwark of its autonomy. If this Nation fails to support the endowment we will fail to help protect the University from the very dangers we may fear and to safeguard scientific principles which we hold to be a fundamental aspect of human freedom.

Mr. President, I shall take just a moment more of the Senate's time. I want to commend the distinguished Senator from North Carolina and the Senator from Indiana for their amendment. I have every intention of supporting it. I believe that the merits of this case have been spelled out very well by the two able Senators.

I had the opportunity, when I was in Tokyo this past year, to go to the University and spend several hours meeting with the students and the faculty, and also President Hester, at that time.

Mr. President, the clear intention of the UNU is to try, at least in the area of global problems, to get ahead of the wave so that we are not submerged as a country and in the countries around the world on so many of the issues which have global implications, and for which we, as a society and the leader of the free world, bear some important responsibility and, hopefully, some opportunity for leadership.

Some of the issues that we deal with here in this body are responding or reacting to issues and questions—whether it is in the area of foreign policy or domestic policy. Hopefully, the UNU, which will have the opportunity through the contributions of thoughtful men and women, experienced in some different areas of public policy, will begin to formulate for the leaders in developing parts of the world, as well as the developed parts of the world, at least some agenda of matters to which we should direct our attention. I think it is important to understand that the Japenese have committed $100 million already to the development of this program. This is an extremely modest program and the investment is, I think, worth the extremely modest amount that is included in this legislation.

Finally, I do not really feel that this is an issue where we have to be in an either/or situation. I support as strongly as any person in this body the efforts of the United States to try to deal with the problems of health, nutrition, famine, or development in all parts of the world. I think there are some very interesting opportunities, again, for U.S. leadership, and, really, for doing something for an extremely modest sum.

We have some 15.9 million children under the age of 5 that die every year from preventable diseases; 15.1 million of those are in the developing countries, 500,000 in developed nations. These are preventable diseases where extremely small amounts of resources, working with primary care organizations in developing nations, can make a major difference in the saving of lives. We watch television night after night, in recent times, showing the tragedy of Nicaragua. Yet there are millions of children who are dying every year. In this particular legislation, there are resources to work with specialized agencies, such as the World Health Organization and other agencies, that are attempting to deal with these problems. We could immunize every child in this world for $180 million and save millions and millions of lives.

Mr. President, I strongly support these efforts and will continue to do so. It does seem to me that this very modest amendment of the Senator from North Carolina is justified and worthwhile. I think the Senator has obviously given it a great deal of thought. He started out with some serious concerns and reservations and he has given the kind of attention to this issue which he is well known to give to matters of public policy that come before this body. I am extremely hopeful that the Senate will follow his leadership and that of the Senator from Indiana and support this.

Mr. INOUYE. Mr. President, I rise in support of the amendment proposed by my distinguished friend from North Carolina. Much has been said about the value of the U.N. University, but I believe there is another element that should be touched upon, because it is an important factor.

The first time the Senate was privileged to vote on this measure, several Senators voted against the U.N. University, not because of the value of the university but because they wanted to send a "message" to the Japanese Government. There were many of us here who were quite concerned with the apparent lack of interest demonstrated by the Japanese Government in the problem of refugees throughout the world. Many of us, including the chairman of this committee, were concerned and frustrated with the Japanese refusal to accept Vietnamese refugees at the end of the war in Indochina. Therefore, several Senators felt that a message was appropriate and a message was necessary. However, in order not to disrupt the good relations we had with the Japanese Government, this item was selected for the message.

Mr. President, since then, I believe the Japanese Government has responded. Steps are now being taken to contribute over $10 million to the United Nations refugee fund. Steps have already been taken to invite and accept Southeast Asia refugees. I suggest to the Senate that if we are going to be in the business of sending messages and if the recipient country has responded in a way that we desired, then I think we should reciprocate by rewarding them. If messages are answered and we refuse to reciprocate accordingly, then I do not believe any country will take our messages too seriously. Therefore, I hope that those Senators who voted to send a message will realize that the message has been heard, the Japanese Government has responded, and positive steps have been taken more generously and more effectively to involve themselves in the business of helping refugees throughout the world.

I hope that the vote is favorable and in support of the amendment submitted by the Senator from North Carolina.

Mr. JAVITS. Mr. President, I support Senator MORGAN. I know a good deal about Jim Hester, who is the former president NYU, which is in my own State. We have had a great many hearings, a great many conferences on the U.N. University. I think that the concept is a sound one, buttressing the U.N. activities which we undertake.

I should like very much to identify myself with the arguments just made by Senator INOUYE. A great many people in a great many countries have become interested in the U.N. University, the United States still is not as identified with culture and education in the world as it should be in.

Even leaving those considerations aside, I should like to underwrite and endorse very strongly what Senator INOUYE has just said about the Japanese. In my judgment, Japan is the linchpin of the U.S. position in the western Pacific. It is the most successful country in that whole area especially in its relations with the People's Republic of China. In my judgment, the lateral support which is given to the security of the whole world in that area, which can be a very difficult and dangerous one, by the presence there of Japan, South Korea, and Taiwan is a critical factor in our security considerations.

I have sponsored the United States-Japan Friendship Fund. That fund, Mr. President, it which is financed by at $30 million, which represent 10 percent of the Okinawa reversion payment, was expressly for the purpose of developing closer cultural ties with Japan.

Even if it were only for that reason alone, we should participate in the U.N. University. Furthermore, we should not give the Japanese the feeling that we are not standing behind what started which at the time was—and still is a very enterprising U.S. effort.

So I hope very much, with Senator INOUYE, that we act accordingly.

Mr. CASE. Mr. President, I support the amendment. I think it is a most salutary thing we would do by adopting it.

I supported it in committee and I have supported it in previous years. I think it would be a great mistake not to take this action of providing this very modest amount to continue a venture in which the interests of the United States, I think, are deeply involved.

Mr. SCHWEIKER. Mr. President, I rise in opposition to the amendment.

The U.N. appropriations request was defeated by a vote of 10 to 8 in the Appropriations Committee. It was also defeated by a vote of 50 to 35 last year here on the Senate floor.

My concern with the proposal is twofold.

First of all, let us not kid ourselves about how much this little reprograming is going to cost. It is very clear that we are going to be asked to give a total of $50 million for the U.N. University in Japan. So it is not $7.5 million, as was originally in the bill, and it is not a little reprograming action.

The only way we will live up to what some people say we have to do is to put $50 million on the line.

I look around this country and I see small colleges starving to death, going out of business. I see our own college students having trouble making ends meet for college payments. I ask myself, is this really the best priority use of the money that is involved here?

We have in the U.N. dozens of agencies that do studies, which is what this eventually will be, a center that programs studies around the world.

We have plenty of organizations in the U.N. and AID that do this kind of research for population. They do it for hunger. They do it for food. They do it for health. Virtually everything we can think of that a university like this would suposedly do, we are already doing in some agency or branch or function of the U.N. or AID.

I think we begin to ask ourselves, are we just building a duplication of the programs we are now implementing?

I think it is also wrong to do this by reprograming. Reprograming used to be something whereby we took a little money out of one account and put it in the other account because we could not quite run our affairs, really, to the last dollar or so.

Now we are talking about making a $50 million pledge by a little reprograming action.

As painless as that may seem, we are still expected to pay $50 million as our fair share of what this is all about.

I think it is fine to say that Japan is putting up $100 million, but I can recall having met with some of the leaders—that was just 6 or 8 months ago—that the leadership there pledged to us they would make every effort to redress a very real problem we have every day with the dollar and the yen, and we were going to have a real effort to get the balance of payments worked out.

Here we are, instead of working it out, it probably is going to double this year and, depending on whose estimate we look at, we are talking about a $10 billion or $12 billion deficit and balance of payments.

So does it really make sense for us, who are getting kicked around with the dollar and we do not have enough money to balance our own budget, or enough money to put our own kids in college with full scholarship programs, and not save our universities, to put $50 million in a U.N. University?

I just think, as we look at the priority of spending, and ask ourselves what we say "Yes" to and "No" to, that this is something we could just as easily and logically and prudently say "No" to.

This is not to say that UNU is not a great idea, but anything that costs $250 million usually is a great idea.

If we were not doing these things through UNESCO, through the World Health Organization, the same kind of studies, the same kind of moneys in this budget, which we are going to be debating tonight, for population studies and hunger studies and all kinds of studies that are done now through our other institutions, it might be different.

So I agree with the Senator from Arizona on his point that it is not a bad program. But should we really be making a $50 million commitment? You can say that we should; yet, these little things keep adding up. It is these little things that keep our dollar inflating. It is these little things that I think show the rest of the world that we do not really care about getting our dollar straightened out or keeping our budget in balance or tending to our problems, or our ability to manage ourselves.

It seems to me that in the key area of managing ourselves and managing our budget and managing our own priorities, we have done a pretty poor job.

I agree with the thrust of the opposition to this amendment, that it is this kind of thing that gives us that reputation abroad, notwithstanding all the good proposals and good arguments that can be made. But I dare say that there is hardly one study or one program that will be initiated in the UNU that really is not being done now through AID, UNDP, UNESCO, and the World Health Organization. That is what they are doing now, and that is what we have money in this bill to do.

In terms of setting up more international bureaucracy and more international programs, sure, we can do it. But we have to put a discipline on ourselves, and we should ask ourselves whether we should make a $50 million commitment.

Mr. DECONCINI. Mr. President, I thank the Senator from Pennsylvania for calling the Senate's attention to the prior vote.

Last year, when we had this bill up, it was a relatively simple vote, the committee's amendment to prohibit use of funds for any contribution by the United States to the United Nations University. As the Senator from Pennsylvania has pointed out, the committee's position was sustained. The committee's position today is in opposition to the amendment. I would like the RECORD to show that.

I understand full well and realize the intent of the Senator from Hawaii last year to oppose this. I thanked him then, and I thank him again for opposing it last year. I realize that perhaps he feels that a message has been sent to the Japanese Government.

I have a hard time accepting that if we fail to provide that this commitment of $50 million can be fulfilled, we are giving any bad message or bad signs to the Japanese Government. I think the record is clear that the United States has been a good ally, a good friend, and, if anything, overgenerous with our Japanese friends, in trade. We provide, in essence, their whole defense for their nation. That is our doing.

I cannot believe that failure to go along with a $50 million is going to interrupt this fine relationship with this good ally and friend.

The United Nations University Council met in Caracas, Venezuela, in January of 1976 to study the purposes and goals of a potential U.N. university.

I should like to take a moment to read the summary of the guidelines proposed for the university by the experts, and they are experts:

> Innovation in organizing research and training, avoiding the disciplinary restrictions that limit the effectiveness of much academic work and exploiting the freedom the University enjoys to depart from tradition;
>
> Conservation of inherited cultures, technologies and environments;
>
> Anticipation and conceptualization of problems;
>
> Practical application of knowledge;
>
> Communication, particularly to decision makers:
>
> Networks and linkages among institutions and scholars.

All those are very laudable, and no one can dispute that those are fine objectives; but, in fact, the record is clear today, in the appropriations meeting, of duplications, and the need is not proved.

The report continues:

> These emphases can be classified in two categories of processes for the University: those having to do with defining problems and those having to do with solving problems, both of which are eminently germane to an intellectual institution established for the practical benefit of humanity.

That is taken from the same report.

I should like to underscore, Mr. President, that it is time that we be careful and that we cautiously appropriate and obligate ourselves for millions of dollars of the American taxpayers' money. As worthy as these objectives and programs and incentives are that this university wants to put forth, that is fine; let it go forward.

If the Japanese and other nations think this is something their taxpayers are willing to appropriate money for, I do not see why the United States must always be there. We have paid our dues to the international world and will continue to do so. No one needs to hang his head in shame if the United States does not participate in international affairs and monetary contributions. It is important for each Senator to remind himself continuously that we in this country have participated and, in fact, have given ample to our Japanese allies, and certainly to the United Nations, under whose auspices this program would be.

On the average, 40,000 taxpayers in this country, paying income tax in the neighborhood of $2,200 annually, according to my calculations, to make the contribution to this organization.

Let us put our priorities in some kind of proper line, and let us allocate the tax dollars of the U.S. taxpayer for more meaningful appropriations than those which are set out in this report.

Mr. INOUYE. Mr. President, I have a position paper prepared by the Department of State, dated September 20, 1978. This relates to future U.S. funding for U.N. University. I read from the paper:

> The Executive Branch does not intend to ask Congress for additional funds for UNU in FY 1980 if an FY 1979 contribution can be made.
>
> Major pledges are expected from other Western donors, but they are waiting until the U.S. acts to see if the project remains alive.
>
> Before requesting additional funds, we would assess carefully the response of Western donors to a U.S. contribution.

There is good reason for Western donors to wait until the United States acts, because this multilateral endeavor is a United States initiative. We were the ones who gave birth to this project. We were the ones who suggested that it be placed in Japan. Therefore, the Western Allies are waiting to see if we will act in good faith.

Accordingly, I hope that we will give an opportunity to our executive branch to carry out its commitment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from New Hampshire (Mr. DURKIN), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

I further announce that, if present and voting, the Senator from Maine (Mr. HATHAWAY) would vote "yes."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Virginia (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 30, nays 37, as follows:

[Rollcall Vote No. 384 Leg.]

YEAS—30

Bayh
Case
Chiles
Clark
Cranston
Culver
Danforth
Ford
Gravel
Hart
Hatfield, Mark O.
Hatfield, Paul G.
Inouye
Javits
Kennedy
Leahy
Lugar
Matsunaga
Melcher
Morgan
Muskie
Packwood
Pell
Riegle
Sarbanes
Schmitt
Stafford
Stevenson
Talmadge
Williams

NAYS—37

Bartlett
Bentsen
Biden
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Church
DeConcini
Dole
Domenici
Eagleton
Eastland
Garn
Glenn
Goldwater
Hansen
Hatch
Hayakawa
Hodges
Hollings
Jackson
Laxalt
Long
Magnuson
McClure
Metzenbaum
Moynihan
Nelson
Nunn
Proxmire
Randolph
Sasser
Schweiker
Tower
Weicker
Zorinsky

NOT VOTING—33

Abourezk
Allen
Anderson
Baker
Bellmon
Brooke
Bumpers
Chafee
Curtis
Durkin
Griffin
Haskell
Hathaway
Heinz
Helms
Huddleston
Humphrey
Johnston
Mathias
McGovern
McIntyre
Pearson
Percy
Ribicoff
Roth
Scott
Sparkman
Stennis
Stevens
Stone
Thurmond
Wallop
Young

So the amendment (UP No. 1882) was rejected.

(Later the following occurred:)

Mr. STEVENSON. Mr. President, I ask unanimous consent that the RECORD be corrected to reflect that I voted "aye" on the Morgan amendment earlier, not "nay."

The PRESIDING OFFICER. Without objection, it is so ordered.

(The above rollcall vote reflects the foregoing order.)

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment.

The legislative clerk read as follows:

> On page 4, line 18, strike "$20,000,000" and insert "$22,500,000: *Provided*, That $1,000,000 shall be available only to control locust plagues in Africa";

Mr. HATCH. Mr. President, if I can ask the manager of the bill——

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats. Senators will cease conversations on the floor.

Mr. HATCH. The only question I have on that is why the $2.5 million raise. I understand the $1 million of that probably is the amount you say shall be available to control locusts plagues in Africa, so I suppose I really ask why the $1.5 million?

Mr. INOUYE. When the House acted upon this section, there was available a carryover amount of about $6 million. Since then, India has experienced some devastating floods, and the carryover of $6 million was sharply reduced. In other words, the House had intended to provide approximately $26 million. Especially what we have done, in effect, is to provide about $3 million in carryover funds and $22.5 million new appropriations.

Mr. HATCH. I have no objection to that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next amendment.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that Jeff Bergner of Senator LUGAR's staff, and Ira Nordlicht, Rudy Rousseau, Johannes Binnendijk, Dick McCall of the Senate Foreign Relations Committee staff and Tom Gibson of Senator BARTLETT's staff have the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. I ask unanimous consent that Bruce Van Voorst of Senator CLARK's staff have the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. I ask unanimous consent that Bob Downen of Senator DOYLE's staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. I ask the same privileges for John I. Brooks of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii.

Mr. INOUYE. Proceed with the amendments.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

> On page 4, beginning with line 20, strike through and including line 21;

Mr. HATCH. I have no objection.

The PRESIDING OFFICER. Without objection, the committee amendment is agreed to.

The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

> On page 4, line 23, after "121," insert "$75,000,000,";

Mr. HATCH. Mr. President, if I could ask the distinguished manager of the bill, was the House figure $60 million in that regard?

Mr. INOUYE. The House figure was $60 million.

Mr. HATCH. And we did increase it to $75 million?

Mr. INOUYE. The suggestion made by Senator BROOKE was $90 million. We suggested that it could be raised to $75 million. The reason for not acceding to the full amount was based on our study, which indicated that the Sahel organization was not quite prepared to effectively absorb the full $90 million. But we feel that organizationally they are capable of absorbing and effectively utilizing $75 million.

Mr. HATCH. I have no objection.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

> On page 4, line 24, after "expended" insert a colon and the following: "*Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program".

Mr. HATCH. I have no objection to that amendment.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). Without objection, the committee amendment is agreed to.

The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

> On page 5, line 5, strike "$40,000,000" and insert "$37,500,000: *Provided*, That not to exceed $3,000,000 shall be for the United Nations Fund for Drug Abuse Control";

Mr. HATCH. Mr. President, if I could have the attention of the distinguished floor manager, why do we have that last provision, that $3 million should be for the United Nations fund for drug abuse control?

Mr. INOUYE. We just felt that the European countries should provide more assistance to the United Nations fund, and we felt that the only way to force the hand of the Europeans was by placing a limitation on our contribution.

This U.N. fund is primarily concerned with the drugs, the opiates, opium, and heroin, that come in from the Golden Triangle.

The drugs from the Golden Triangle, for the most part, end up in Europe. Some come into the United States, but there is no doubt that Europe is the major target of the Golden Triangle.

That being the case, the committee felt that Europeans should pay more attention to their own problems, and pick up their load accordingly.

Mr. HATCH. So the committee feels this will actually encourage that type of activity?

Mr. INOUYE. It will encourage Europeans to put up more money.

Mr. HATCH. I have no objection to this amendment.

Mr. HARRY F. BYRD, JR. Mr. President, I have no objection to this amendment, but I do want to put a question to the manager of the bill.

The manager of the bill mentioned the United Nations. I wonder if the manager would give to the Senate the total figure, as to the total amount that the United States contributes to all of the activities of the United Nations.

Mr. INOUYE. Are we speaking of assessments also? That subject comes under another bill, as the Senator knows.

Mr. HARRY F. BYRD, JR. Yes, I do know. Yes, I was speaking overall. The total amount of money, assessments, voluntary contributions, everything; what is the total that we contribute to the United Nations?

Mr. INOUYE. The voluntary contributions to international organizations under this bill total $282,150,000. The U.S. assessment as a member totals $247,487,000. So the grand total would be those two figures added together.

Mr. HARRY F. BYRD, JR. Somewhere around 600——

Mr. INOUYE. $529.6 million.

Mr. HARRY F. BYRD, JR. So the total amount of U.S. taxpayer funds which are given to the United Nations totals about $530 million; is that approximately correct?

Mr. INOUYE. If you combine the assessed contributions and the voluntary contributions, it would be in excess of $529.6 million.

Mr. HARRY F. BYRD, JR. In excess of $529 million would be what the American taxpayers are putting up for the United Nations?

Mr. INOUYE. The Senator is correct.

Mr. HARRY F. BYRD, JR. I thank the Senator from Hawaii.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

> On page 5, line 11, after "$24,820,000" insert a colon and the following: "*Provided*, That none of these funds or other funds available to the Foreign Service Retirement and Disability Fund shall be available to carry out th eprovisions of section 406 of the Foreign Relations Authorization Act, Fiscal Year 1979".

Mr. HATCH. Mr. President, I would like to ask both the majority manager and the minority manager of the bill why this provision is in there. I would like to have some explanation of this.

Mr. INOUYE. Mr. President, the conference report on the Foreign Relations Authorization Act, which was filed September 6 of this year, placed the Senate on notice that the conferees had agreed to a most unusual provision in the House-passed authorization bill relating to retirement of Federal high-level Foreign Service officers—incidentally, all of them making in excess of $47,500 per year; we are not talking about low-level employees—on the basis of their single highest year's salary.

When originally proposed, this provision was given the nickname of "high one" or "the golden handshake" provision. Incidentally, Mr. President, it was not included in the Senate-passed bill, and was strongly opposed by the administration.

When we inquired as to the administration's position on this provision, we were supplied with letters from the Secretary of State and the Director of the Office of Management and Budget. These letters are printed on pages 75 to 77 of the committee report. I ask unanimous consent that they be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, June 26, 1978.

Hon. JOHN SPARKMAN,
Chairman, Foreign Relations Committee, United States Senate.

DEAR MR. CHAIRMAN: Section 132 of S. 3076, the Foreign Relations Authorization Act for fiscal year 1979, would authorize substantially larger retirement benefits for about 555 Foreign Service executives paid at supergrade-equivalent or Executive schedule rates (1) whose pay was previously frozen, and (2) who decide to retire between October 1, 1978 and December 31, 1979. Their annuities would be based on their highest single year's salary as opposed to their highest three year average required by current law.

This would allow executives opting to retire early under the amendment to collect roughly $50,000 in additional annuity because of the early retirement.

The Administration strongly opposes this provision and, indeed, the President has personally expressed his disapproval to me. The Administration objects to section 132 for the following reasons:

One of its effects would be to compensate for a pay freeze with higher annuities. As you know, the President has decided to freeze executive pay, and the House has already passed implementing legislation. Enactment of section 132 would be contrary to the spirit of that policy;

Section 132, if enacted, could become an expensive precedent to extend similar benefits to "capped" Federal executives under Civil Service and other retirement systems.

Once adopted, this "high-one" provision might be sought each time there are extended pay freezes or in the event of large scale personel reductions at all grades;

Further, enactment would result in strong pressures to extend this benefit to all Federal employees. Use of the "high-one" formula for all employees would be expected to increase greatly the number of retirements. At the extreme, if 75% of eligibles retired during the "high-one" period, the Civil Service Commission estimates liabilities would be increased by $3.5 billion, requiring annual appropriations of roughly $200 million a year for each of the next thirty years;

There is an increasing public belief that Federal retirement systems, including that of the Foreign Service, are very generous. Further liberalization at this time is inappropriate in view of the President's effort to control inflation by setting an example of restraint in expenditures for Federal services.

For these reasons, the Administration respectfully requests that section 132 of S. 3076 be deleted during Senate debate on the measure. Retention of this section may jeopardize Presidential approval of S. 3076.

The Office of Management and Budget advises that enactment of section 132 would not be in accord with the President's program.

Sincerely,

CYRUS VANCE.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., July 18, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, United States Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Prior to the conferees considering H.R. 12598, the "Foreign Relations Authorization Act, Fiscal Year 1979", I believe it important to emphasize the Administration's position on certain provisions of the Senate and House bills. The Department of State and the International Communication Agency will also state the Administration's position on a number of provisions.

I wish to re-emphasize the President's concern with section 407 of the House bill. That provision would significantly liberalize retirement benefits for Foreign Service officers whose salaries are now "capped" at $47,500 and who elect to retire between October 1, 1978, and December 31, 1979. By basing annuities on the highest single year's salary, as opposed to the highest three years, the pension would allow retiring Foreign Service executives to receive approximately $50,000 by retiring two years earlier. This in effect would be contrary to the principle of the executive pay freeze that the President has proposed and the House has approved.

If enacted, section 407 would become an expensive precedent for extending similar benefits to other "capped" Federal executives, including those under the Civil Service. Enactment would also lead to strong pressures to extend the "high one" benefit to *all* Federal employees. If that were to occur, the Civil Service Commission estimates that, assuming 75 percent of eligible employees retire during the "high one" period, retirement liabilities would be increased by $3.5 billion, necessitating about $200 million of additional appropriations annually over the next thirty years.

As you know, there is a public perception that Federal retirement benefits are already very generous. The additional benefits authorized by section 407 are certainly not consistent with the President's efforts to control inflation by restraining Federal expenditures as an example for the private sector to follow. The President has reviewed this matter in some detail and he is concerned about its precedent-setting nature and its budgetary impact. Retention of this section may jeopardize the President's approval of H.R. 12598.

There are other provisions that would weaken the President's ability to prepare his budget proposals or to contain budget costs and Federal employee compensation.

* * * * *

I respectfully urge that consideration be given to these Administration views in conference committee deliberations.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

Mr. INOUYE. Mr. President, it might be said that the most logical and direct challenge to this provision would have been a move to reject the conference report, which was adopted yesterday by the Senate, but that would have necessitated a reconvening of the conference and a further delay on an already too-long delayed authorization bill. Therefore, in the effort to focus direct attention on the "high-one" retirement, the committee chose another route readily available to it, which was to restrict the funding of this Foreign Service retirement fund.

It has been calculated by OMB that this would cost as much as $50,000 per employee, by permitting retirement two years earlier; and, if extended to other programs—and you cannot very well provide this type of retirement just for Foreign Service Officers, because I am sure all other civil servants would be seeking the same kind of treatment—the cost would reach an astounding $3.5 billion, or $200 million a year for the next 30 years. That is why, Mr. President, we decided to put this proviso in this bill.

It should be noted that at the present time Members of Congress, Members of the Senate, and our staff personnel would have to use the high three to determine their retirement pay. Foreign Service officers want to retire on a high one, and we thought it was not a good idea.

Mr. SCHWEIKER. Will the Senator yield?

Mr. HATCH. I yield.

Mr. SCHWEIKER. I want to make the point that last year a bill came over from the House to give every Congressman and Senator the high one option, which I frankly felt was a pension grab, which would have said you could retire at whatever your highest year pay was. I do not know of any private pension plan that has that kind of a deal. Our Legislative Appropriations Committee did not accept it. We rejected this high one for Congressmen, Senators, and for executive department people. Now without a vote in the Senate, the conference committee on foreign relations slipped through a high one pension grab for Foreign Service officers.

I have a great respect for Foreign Service officers. They do a great job. But I personally do not think they should be a privileged class over anyone else. If one group of officers in this group has it, it will only be a matter of time before everybody says, "equity demands we have it."

I think the Senator has raised a very important question. I strongly support the committee chairman on this. I hope that President Carter will not accept the high one procedure. I think the conference committee on foreign relations was in error to allow the high one thing to come in and get started. We are trying to stop it.

Mr. HATCH. I compliment both the majority and minority managers on this matter. I think they have made a good point. I think the record will disclose this is a better method of handling it. Thus far, the distinguished majority manager on this bill has been able to answer me and very, very well. On this particular provision I was concerned as to why the provision. I can see it is a very valid provision that I think protects in many, many ways this approach. I certainly accept the amendment.

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, the amendment is agreed to.

Mr. HATCH. Mr. President, I will certainly accept all the amendments subject to any other points raised by anybody else, on page 5, page 6, and through line 18 on page 7.

The PRESIDING OFFICER. Is there objection to the consideration of the amendments en bloc?

Without objection, the amendments are considered en bloc and agreed to en bloc.

The amendments agreed to en bloc are as follows:

On page 5, beginning with line 21, strike through and including page 6, line 18;

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 7, line 19, strike "498, 499, and 500" and insert in lieu thereof $531 through 534".

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, as a matter of fact, I will accept that amendment. It is the next amendment I thought he was going to read.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will report the next amendment.

The assistant legislative clerk read as follows:

On page 7, line 21, strike "$1,747,000,000" and insert in lieu thereof "$1,882,000,000".

Mr. HATCH. I do ask the manager of the bill why the increase in this particular situation. Why the $1.1 plus increase in this situation?

Mr. INOUYE. Mr. President, the $1,182,000,000 broken down would be as follows: $785,000,000 to Israel, $750,000,000 to Egypt, $93,000,000 to Jordan, and then we added $90 million for Syria, which did not appear in the House bill. Furthermore, we added $50 million as a loan to Turkey.

Mr. HARRY F. BYRD, JR. Will the Senator yield at that point?

Mr. HATCH. Yes.

Mr. HARRY F. BYRD, JR. I did not understand the last country.

Mr. INOUYE. Turkey.

Mr. HARRY F. BYRD, JR. What was the country after Turkey?

Mr. INOUYE. That was it.

Mr. HARRY F. BYRD, JR. Turkey was the last country?

Mr. INOUYE. Yes. This did not appear in the House bill.

We also added $10 million to the Cyprus refugee assistance program. The House allowance was $5 million.

Mr. HARRY F. BYRD, JR. If the Senator will yield further, those countries, except for Syria, do not appear in the text of the bill.

Mr. INOUYE. This appears in the justification submitted by the administration. It is also shown in the committee report. The total amount, if I may repeat myself, is as follows: $785 million for Israel, $750 million for Egypt, $90 million for Syria, $93 million for Jordan, $50 million for the Margarin Dam, $3 million for the private voluntary agency development projects, $1 million for project development support, an $11 million grant to improve the transportation network in Botswana, $20 million in a 40-year loan for balance-of-payments support in Zambia, $14 million for the refugee assistance program in Africa, $15 million for the refugee asistance program in Cyprus, and $50 million for the 10-year loan for balance-of-payments year balance-of-payments loan to Turkey. That gives you a grand total of $1.822 billion.

Mr. HARRY F. BYRD, JR. If the Senator will yield further, in reading the text of the legislation on page 7, in the amendment now before the Senate the committee struck out $1.747 billion and inserted in lieu thereof $1.882 billion. Then it goes on to enumerate $785 million for Israel, $750 million for Egypt, $93 million for Jordan, and $90 million for Syria. But those figures do not add up to the $1.882 billion provided by the amendment, the way the Senator from Virginia computes it.

Mr. INOUYE. The Senator is correct. Those figures are legislative earmarking.

As the Senator knows, in accounts of this sort the committee report will indicate how the grand total will be spent on what projects. These have been earmarked by legislation; 785 for Israel, 750 for Egypt, et cetera. However, the remainder of the funds will be spent as I indicated to the Senator. The total amount can be found on page 82 of the report.

Mr. HARRY F. BYRD, JR. If the Senator would not mind, would he indicate again those countries involved other than the ones listed in the bill? Would he indicate which are the others?

Mr. INOUYE. $11 million or improvement of the transportation network in Botswana; $20 million as a 40-year-loan in Zambia.

Mr. HARRY F. BYRD, JR. What is the purpose of that $20 million for Zambia?

Mr. INOUYE. Zambia is having problems with its balance-of-payments and this is to support its effort to bring about a better balance. It is a 40-year loan.

Mr. HARRY F. BYRD, JR. I think it is most interesting that the United States, which has the greatest balance-of-payments problem of any nation in the world, is now involved in helping Zambia with its balance-of-payments. I guess that is all right, but I think all of us would admit, at least the way the value of the dollar is going down all over the world, the United States has the worst balance-of-payments problem of any nation in the world. Yet we hear about the Senate tonight appropriating tax funds from American taxpayers for the balance of payments of some other country, regardless of what that country might be. If that is what the bill says, that is what it says; it is all right.

Will the Senator indicate what other countries are involved?

Mr. INOUYE. $15 million for refugee assistance for Cyprus; $50 million, a 10-year loan, for Turkey.

Mr. HARRY F. BYRD, JR. What is the purpose of the Turkish loan?

Mr. INOUYE. Turkey is having problems with her economy; this is a balance-of-payments loan. It is a 10-year loan which will have to be repaid at the Treasury interest rate for borrowing.

Mr. HARRY F. BYRD, JR. Turkey is a wonderful country, it is a fine friend, it is a fine ally, and it is having problems. But the United States is also having problems. I am a great supporter of Turkey, but I think that somewhere along the line, we have to draw the line, when our own country is having so much trouble, on trying to bail out other nations.

I ask the Senator this: In going through the committee report, on page 116 of that report, it says, "Proposed Fiscal Year 1979 Program by Region and Country." Then it lists the countries in Africa to which the United States is giving foreign aid. As I add it up, that is 25 countries. Then it lists the countries in Latin America to which the United States is giving, under this legislation, foreign aid. That is 14 countries.

Then it lists, under North Africa, Near East, Asia, and Pacific region, 19 countries to which the United States is giving foreign aid—is giving foreign aid in this legislation. All of that adds up to 58 different countries. I think there are other countries beyond these to which the United States is giving foreign aid. I do not see any European countries involved in this list.

Is there another list with other countries involved?

Mr. INOUYE. The list that the Senator has referred to, which appears on pages 116 and 117, sets forth the countries and the amounts being spent in those countries by our Peace Corps.

Mr. HARRY F. BYRD, JR. Oh, just by the Peace Corps?

Mr. INOUYE. That is right.

Mr. HARRY F. BYRD, JR. Now I begin to understand it a little better. So the Peace Corps is involved in 58 different countries.

Mr. INOUYE. That is right.

Mr. HARRY F. BYRD, JR. It is involved in 25 countries in Africa, involved in 14 countries in Latin America, and is involved in 19 countries in north Africa, Near East, Asia, and the PAC region. So the Peace Corps is involved in 58 countries.

Mr. INOUYE. The Senator is correct, at the invitation of these countries.

Mr. HARRY F. BYRD, JR. If the Senator could indicate, what other tables are there which show what other countries are receiving foreign aid from other sources than the Peace Corps?

Mr. INOUYE. If the Senator will look in the Senate hearings for fiscal year 1979, on page 1409, he will find appendix 7, which sets forth completely the transfer of U.S. resources to foreign nations. This is the absolute total. It covers everything from military assistance to economic assistance.

Mr. HARRY F. BYRD, JR. What number is that?

Mr. INOUYE. Page 1409. That will give the Senator a listing of the regions and the countries receiving U.S. resources.

Mr. HARRY F. BYRD, JR. The reason I inquire of the able Senator from Hawaii is that the last time, last year, when I read the committee report, it listed all of the countries to which the United States gave foreign aid. At that time, there were 101 different countries—101 different countries to which the United States gave foreign aid. The point I am trying to establish this evening is, is the figure in this appropriations bill 101 or 105, or 96? What might the figure be?

Mr. INOUYE. In this appropriations bill, we are providing American resources to 95 countries.

Mr. HARRY F. BYRD, JR. Ninety-five different countries are receiving American tax funds?

Mr. INOUYE. The Senator is correct. They range from large amounts in some countries, such as Israel, to small amounts in other countries.

Mr. HARRY F. BYRD, JR. This may not be a really fair question to ask the Senator, because there is no reason why he should really know the answer to it. If I were in his position, I do not think I would know it. But if there are 101 countries which received U.S. foreign aid last year and 95—96?—this year.

Mr. INOUYE. Ninety-five.

Mr. HARRY F. BYRD, JR. Ninety-five this year. Could the Senator indicate which six countries are being left out?

Mr. INOUYE. If the Senator will be patient, I think we can provide him with that information in about 10 minutes.

Mr. HARRY F. BYRD, JR. Fine. I thank the Senator from Hawaii.

I also want to commend him for the painstaking work which he has done on this legislation. Although we may not agree as to the wisdom of the amount of money to be appropriated. I do appreciate and commend the Senator for the tremendous amount of work he has put in on this and the diligence and conscientious effort he has made in this regard.

My questioning of the Senator from Hawaii, as I am sure he knows, is not in any sense critical of the distinguished chairman of the committee; I am seeking information because, as the Senator also knows, I am not totally enthusiastic about the amount of tax dollars that are being appropriated for foreign aid.

Mr. INOUYE. If the Senator will yield, I should like to have the record show that I am not in total agreement with the funding in this bill.

However, this bill is important in the implementation of the foreign policy of the United States.

So, one could find many inconsistencies. Oftentimes, the so-called contributions are made not according to the need of the recipient country, but according to the national interests of the United States.

The striking example would be the funds we have set aside for the Middle East countries. I could cite the case of Egypt.

At the present time, there is approximately $400 million in the pipeline for Egyptian assistance, $400 million that has not been spent.

Ordinarily, one would look upon this amount and say, "Well, if you've got $400 million unspent, you will not need $750 million additional. Why not spend that amount before we appropriate an additional penny?"

However, this bill also involves $785 million for Israel. In order to carry out the foreign policy of the United States as it relates to that part of the world and try to appear evenhanded, if we had provided Israel with $785 million and zero for Egypt, I do not think we would have had this meeting at Camp David.

Second, there are a lot of funds that have been set aside, as I indicated earlier this evening, for so-called less developed countries, or developing countries.

Mr. HARRY F. BYRD, JR. If the Senator will yield at that point, somewhere around 90, 95 countries involved in the foreign aid program, all such, of course, are not less developed countries, but some of them are.

Mr. INOUYE. I would like to point out that, in general, I believe that the foreign policy of the United States in assisting these 95, or 90-plus less developed countries, is in our national interest.

As the Senator is well aware, periodically this country puts out a list of those goods and materials which we consider to be strategic, strategic to our defense and strategic to our economy.

If we are to maintain a viable economy or a viable defense structure, there are certain things that we need. The facts indicate that of the list of strategic goods, we can provide ourselves only 15 percent, 85 percent of the strategic goods which we need for our defense and our economy must be purchased from abroad.

For example, we use tons upon tons of bauxite, the basic material necessary to make aluminum. Without bauxite, Detroit would close up its factories in 24 hours. We would not be manufacturing automobiles, we would not be manufacturing tanks, we would not be manufacturing aircraft.

We need bauxite, but we do not find bauxite in the United States, nor do we find bauxite in Europe. We find bauxite in places like Jamaica.

Mr. HARRY F. BYRD, JR. So that is why we are giving Jamaica $1,256,000?

Mr. INOUYE. Well, if I were the head of Jamaica and if the Congress of the United States decided to wipe out Jamaica and say, "We don't want to give you any aid, we don't want any relationship with you," I would say, "Well, Mr. United States, if that is your attitude, you buy your bauxite elsewhere."

Mr. HARRY F. BYRD, JR. Does the Senator from Hawaii really think that a country must get aid from the United States before it considers the United States a friend?

Mr. INOUYE. Not, not necessarily. But it would help.

Mr. HARRY F. BYRD, JR. But it would be more friendly to give a lot of aid, is that it?

Mr. INOUYE. We cannot necessarily buy friendship with money.

Mr. HARRY F. BYRD, JR. I do not think we can. That is my whole point. That is the whole point.

In my judgment—now, my judgment may be wrong and, according to the majority of the Senate, it is wrong—but in my judgment an individual cannot buy friendship with money, and a nation cannot buy friendship with money, and the United States cannot buy friendship with money.

Mr. INOUYE. But it opens a few doors.

Mr. HARRY F. BYRD, JR. That is one way of looking at it, I suppose.

Mr. INOUYE. At least we can carry on a relationship, and I think the facts indicate that this policy has worked. We are able to build the Minuteman III, we are able to build the Polaris submarine, we are able to build automobiles.

Mr. HARRY F. BYRD, JR. Because of our foreign aid program?

Mr. INOUYE. In many ways it is because of the foreign aid program.

If we decide to ignore all of the African countries because they are small, indefensible, and let them go to the Russians, we would find that our economy would come to a screeching halt.

Mr. HARRY F. BYRD, JR. So the way we keep them from going to the Russians is to funnel our tax funds to them?

Mr. INOUYE. Not funnel them.

Mr. HARRY F. BYRD, JR. Foreign aid to them, trying to buy their friendship? I do not believe we can buy their friendship.

Mr. INOUYE. No. We are just making it known to them we would like to assist them in their problems.

Mr. HARRY F. BYRD, JR. Just as the Senator said earlier, it is a question of buying their friendship. In my judgment, we cannot buy their friendship.

Mr. INOUYE. There is another phase in our foreign policy. The economy of the United States requires that we trade with others.

Mr. HARRY F. BYRD, JR. We have got to trade with others.

Mr. INOUYE. It is necessary.

Mr. HARRY F. BYRD, JR. It is vitally important. But that does not mean we have to funnel out a lot of tax dollars for nothing, just for a matter of aid.

We trade with a lot of countries we do not give aid to.

Mr. INOUYE. We have provided assistance to many countries to help themselves build up their own economies and eventually become trading partners.

Mr. HARRY F. BYRD, JR. That is our objective. I approve of that objective.

Mr. INOUYE. And that objective has worked.

I would remind this Senate, the foreign aid program began with the Marshall plan.

Mr. HARRY F. BYRD, JR. That was an entirely different proposition, going back to 1948.

Mr. INOUYE. What is so different about that? It was foreign aid.

Mr. HARRY F. BYRD, JR. It was an entirely different situation. We had just won a war. What we were trying to do then was help those countries which we had destroyed by a war which was forced on us. We did not voluntarily get into the war.

I think it was an entirely different situation, the Marshall plan, from continuing it over a period of 30 years now. That is where we differ a little bit.

I think we have an entirely different situation now.

What we ought to do, or ought to be doing, is phasing down our foreign aid. We are not phasing it down. We are increasing it.

Mr. INOUYE. I think the Senator is mistaken. I think the record will show we have phased down foreign aid. In fact, what this bill——

Mr. HARRY F. BYRD, JR. I do not think that it is so. Let us look at the front page of the report. It says:

> Fiscal year 1978 appropriations, $6,763,873,000.

Now let us look at this appropriation, amount recommended to the Senate, amount of bill as reported to the Senate, $9,202,456,072.

Regardless of the reason, it is foreign aid. We have not phased it down at all. We are increasing it.

Mr. INOUYE. We have activities in here which neither of us would consider foreign aid. We have approximately $2 billion in appropriations to finance our participation in the so-called Witteveen Facility of the International Monetary Fund. It is a callable account. But we insisted on this appropriation going through this route.

Furthermore, we have other activities, such as aid to Israel, aid to Egypt, and aid to Jordan.

Mr. HARRY F. BYRD, JR. All that has been in previous foreign aid bills. It is nothing new.

Mr. INOUYE. The economic support fund is not truly foreign aid.

Mr. HARRY F. BYRD, JR. I am sure the Senator will find, when he adds up all the foreign appropriations, that we are spending more now than we did 4 or 5 years ago.

Mr. INOUYE. Coming back to the question the Senator asked, the six countries which no longer are receiving any assistance are Colombia, Uruguay, Bahrein, Portugal, Malta, and the Central African Empire.

Mr. HARRY F. BYRD, JR. I thank the Senator. If I had been handling this bill and had been asked that question, I am sure I could not have answered it.

I thank the Senator for that information. It shows again what I said earlier today—how diligent and conscientious the Senator from Hawaii has been in bringing this bill before the Senate, although I do not agree with all the details of the bill. I thank him for the information he has given.

Mr. INOUYE. As always, the Senator is generous with his remarks.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. MELCHER. The Senator from Hawaii, who is managing the bill, perhaps is placed at a disadvantage in having to explain some of the funding in this particular section of the bill. He mentions bauxite, which we need. I judge that that comes from Jamaica, one of the countries included in this section.

However, also included in this section is Zambia, of which I have spoken on the Senate floor previously, as to their efforts—successful efforts, I might say—to sell copper to the United States, while the United States shuts down its copper production.

This section of the bill contains $20 million for the country of Zambia, to help in their balance of payments, to meet a very acute problem in Zambia with respect to their balance of payments, which principally comes about because Zambia is engaged in producing copper in its Government-owned mines and selling it on the world market at an admittedly low price—in fact, a price below the cost of production. So Zambia has a problem of meeting its balance of payments.

When you sell below the cost of production something that you are going to export, you will go broke if you do not get back some money to make up the deficits. So, earlier this year, they got a $320 million loan from the World Bank to tail them up. Zambia, with its Government-owned copper mines, continues to produce copper below the cost of production.

I do not advocate that method. I will continue to advocate the method which American companies that produce copper are following, one based on supply and demand. When the supply exceeds the demand so greatly in a commodity that the cost of production exceeds the price you are going to receive for the product, you have to curtail. That is what the privately owned copper companies in our country have done.

So I will offer an amendment, if it is in order, if it is not precluded by some other amendment that has been accepted to this section of the bill, that will reduce the appropriation by $20 million, taking that next tail up for Zambia out of this bill.

There are plenty of reasons for this, and I will cite them if the opportunity comes to me to offer the amendment. We have the costs in this country of paying the unemployed copper workers—there are about 2,500 of them in my State—while we are going to continue to dole out, through the World Bank, the loans to Zambia; and then, to add insult to injury, make a $20 million direct appropriation from this country to help them in their balance of payments.

This is while they continue, through their government-owned copper mines, to flood the market and to send copper to us. In the United States, I think we bought $150 million worth off copper from Zambia in 1977, to the hardship of our own industry, and about $77 million during the first 6 months of this year, to our own hardship.

If one wants to look at what makes good sense in this country, we have, first an industry that is in trouble in my State and in every other copper-producing State in this country; second, we have the unemployed workers, who are entitled, under our law, to some compensation. We are doling out more each year to those unemployed workers than is involved in this extra appropriation to Zambia, which merely will prolong the problem of the copper price throughout the world, to the detriment of Zaire, to the detriment of Chile, and—let us not forget—to the detriment of the United States.

So there is plenty to criticize in this section of the bill.

I feel for my friend from Hawaii and my friend from Pennsylvania, who are managing this bill, with all their good intent to help an underdeveloped nation, but which in truth does not help that nation. It only prolongs their misery. It prolongs their maladjustment to what, after all, we have to live with in this world, the law of supply and demand, to where they are going to produce copper at a losing price, to get their country further in debt, to a further retrogression in development.

It will continue the situation that is hopeless for those countries producing copper, particularly the underdeveloped countries, which really will not tail them up. It only will prolong their misery. It can be corrected only when their country has to join the rest of the world and look at supply and demand an recognize that copper prices throughout the world are terrible, and the only way to get a balance is to reduce production at this time, so that they can look forward to a brighter day.

I thank the Senator.

Mr. HARRY F. BYRD, JR. Did the Senator from Montana say that Zambia received a loan last year from the World Bank of $330 million?

Mr. MELCHER. This year, this March—$323 million.

Mr. HARRY F. BYRD, JR. Zambia received from the World Bank, this year——

Mr. MELCHER. I should correct not only my remarks, but also the impression I have left in the Senate. It is the International Monetary Fund.

Mr. HARRY F. BYRD, JR. From the World Bank?

Mr. MELCHER. From the International Monetary Fund.

Mr. HARRY F. BYRD, JR. From the International Monetary Fund, to which the United States is a very substantial contributor?

Mr. MELCHER. Yes. It is correct to say that about 40 percent of that money is funded by the United States.

Mr. HARRY F. BYRD, JR. This amendment we are talking about at the present time carries an additional $20 million in direct aid for Zambia?

Mr. MELCHER. Yes, that is correct? It would be extremely low-interest rates payable in 40 years, and perhaps an additional 10 years beyond the 40 years.

Mr. HARRY F. BYRD, JR. The amendment now pending before the Senate is the amendment to which I would assume the Senator from Montana was planning to offer his amendment to strike out the Zambian $20 million?

Mr. MELCHER. That is correct.

I thank the Senator for yielding to me.

Mr. INOUYE. Mr. President, the best interests of the United States requires stability and tranquillity throughout the world. It is a goal that we have been seeking for many years and many decades, unfortunately unsuccessfully at times.

One of the most volatile areas in the world is that area surrounding Rhodesia. In that area we find Zambia in the forefront, trying to bring about a negotiated settlement and avoiding war.

I believe that most of us who are knowledgeable of the African situation will agree that, if the present conflict in that area should ever become a bloodier one, the Soviet Union and Cuba would get involved. President Kenneth Kaunda of Zambia has been extremely helpful in holding down the level of terrorism and has been extremely helpful in bringing diverse forces together to discuss this matter.

As the Senator from Montana has indicated, Zambia is at present in an economic crisis. This economic crisis is sufficiently severe to threaten the political stability in Zambia.

Our best interests would call for political stability in Zambia. Our best interests would call for the continuance of President Kenneth Kaunda as head of state.

Therefore, national foreign policy calls for a continuance of our relationship and continuance of assistance.

I sincerely believe that our best interests would be served by providing this assistance. Incidentally, the amounts that have been suggested will be used to purchase U.S.-produced fertilizer. They will be used to purchase U.S.-produced farm equipment and other related items.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. INOUYE. I am happy to yield.

Mr. MELCHER. Where in the bill are those stipulations?

Mr. INOUYE. The bill does not specify precisely how the moneys are spent, but the programs submitted by the administration would indicate how the moneys will be spent.

Mr. MELCHER. Where in the committee report, then, might I ask the Senator how that comes about, since on page 81 of the committee report specifically——

Mr. INOUYE. I regret to advise my distinguished colleague that we did not bring here the justifications which are submitted by the State Department and AID, which incidentally weighs over 50 pounds, justifications covering every country as to why such assistance would be necessary. We do not have it here with us. But those plans were listed there, believe me.

Mr. MELCHER. I might say to my friend from Hawaii I do believe him completely.

But the committee report is very frank and candid and says that the commodity import program is designed to ease Zambia's critical foreign exchange. And the foreign exchange I believe is with the United States, and it is brought about because of selling comfort to the United States.

Mr. INOUYE. The foreign exchange situation is critical, because Zambia does not have any hard currency and therefore part of our program is to make it possible for Zambia to purchase through this aid farm equipment, fertilizer, and such, because none of the fertilizer companies here would be selling fertilizers to Zambia for whatever currency Zambia has, just as much as I doubt that any company in the United States would sell fertilizer to India for rupees. So we provide this type of assistance to make it possible for these countries to purchase these items.

Mr. MELCHER. Will the Senator yield again?

Mr. INOUYE. I yield.

Mr. MELCHER. The $323 million loan as of March of this year I assume was in hard currency, assuming that the American dollar in March and what they have left of it is still hard currency. That $323 million loan is not to be considered as a small loan for the country of Zambia or for that matter for the United States if someone were willing to loan us $323 million.

The PRESIDING OFFICER. The question is on the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, I had not planned to say anything else. I was ready to approve the committee amendment.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. If the Senator from Montana will delay just a moment, I had not planned to oppose the committee amendment. I wanted to get some information on it. And I had not planned to say anything in addition except the Senator from Hawaii brought up the question of Rhodesia, and I am glad he brought up the question of Rhodesia.

It has been argued on the floor of the Senate tonight that we should reward Zambia with $20 million of tax funds, plus the $323 million they have received from the International Monetary Fund, because of Zambia's activity in regard to Rhodesia.

Mr. President, the problem of Rhodesia could have been worked out in a peaceful way, in a way consistent with the vision and principles of the United States, were it not for the extremists in the Department of State here in Washington, and were it not for those nations surrounding Rhodesia which have been harboring the terrorists and the guerrillas who have been killing people in Rhodesia.

So I am not at all persuaded to vote to take $20 million of American tax funds and turn it over to Zambia because of Zambia's activity in regard to Rhodesia.

The American State Department is totally wrong, in my judgment, in the way it has handled this Rhodesian matter. The extremists in the Department have made a good job so far of sabotaging an agreement made within that nation itself by the leader of the government there and the leaders of the three black major parties in that nation.

Ian Smith and the three black leaders worked out an agreement whereby there would be free elections in Rhodesia, and Rhodesia would have a black majority rule and a black government by the end of this year. But that did not satisfy the extremists in the State Department. That did not satisfy the neighbors of Rhodesia. They demanded, and they are demanding, that these terrorist guerrillas be made a part of whatever government might come about as a result of the elections in Rhodesia.

I had not intended to get on the question of Rhodesia this evening, but as it was brought up in the Senate, that led me to state again what I have said many times, that I think that our country has handled this matter of Rhodesia very badly and very inappropriately over a long period of time.

I yield to the Senator from Montana.

Mr. HATCH. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MELCHER. I yield.

Mr. HATCH. I ask unanimous consent that Tom Perry of my staff be granted the privileges of the floor during consideration and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1883

(Purpose: To reduce the fiscal 1979 appropriation for Economic Support Funds to Zambia by $20 million.)

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER), on behalf of himself and Mr. DOMENICI, proposes an unprinted amendment numbered 1883:

On page 7, line 21, strike "$1,882,000,000" and insert in lieu thereof "$1,862,000,000.

On page 8, line 15, strike the period and insert "; *Provided further*, that no more than $500,000 of funds appropriated under this heading shall be available to Zambia.

The PRESIDING OFFICER. The second part does not apply to the committee amendment.

Mr. MELCHER. Mr. President, I will speak about the first part of the amendment then.

The situation here, as we have discussed it this evening, has dwelt somewhat on the $323 million loan to Zambia's two major government-owned copper mines by the International Monetary Fund, which was made in March of this year.

Mr. President, I ask unanimous consent that the second part of my amendment be considered with the first part and that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. MELCHER. I thank the Chair.

Now, we have dwelt on this $323 million loan from the International Monetary Fund for the production of copper from Zambia's government-owned copper mines despite the fact that the copper industry throughout the world is depressed, and despite the fact that the price of copper right now, regardless of who is producing it and which country is producing it, is selling at a figure below the cost of production.

That is a sad situation for Zambia, a sad situation for any country that is producing copper. It is a sad situation for all of the copper industry throughout the world. There is only one way to correct it, and that is by balancing supply with demand.

There is no evidence that Zambia in their copper mines, owned by the government, is willing to do that, because they are continuing the problem by all-out production in the sale of copper at those low prices. They cannot afford it, we cannot afford it, no other copper-producing country can afford it.

In our country we just retrench. Our copper companies are privately owned, and they are reducing production. But it costs us money, Mr. President. Last year we spent in this country some $40 million—well, the copper industry lost $40 million, and we spent about $22.5 million out of Government funds for employees of the copper industry who were laid off, because they are importing too much copper, and our law provides in that case it take some care of those employees.

The bill before us has $20 million in it ostensibly to protect the balance of payments, to help in the balance of payments, of Zambia. The balance-of-payments problem Zambia has is because of their copper production and their continual sale of that government-produced and government-owned copper selling at low prices in the world copper market, prices which are below the cost of production. That has been brought on by their own economic practices.

I do not feel it is right to underwrite Zambian copper production at the cost of American workers and producers. It is painful for me to see the American Government spending tax dollars to support Zambian copper production while American workers are laid off and American companies suffer serious economic losses.

There are now more than 5,000 copper workers unemployed in the United States, because of the imported copper, and the loss to the industry was more than $40 million last year, and it may exceed that greatly this year. In my own State of Montana there are more than 2,200 copper workers unemployed, because of the retrenchment of the Anaconda Co. to produce less copper during this time of an extremely low world price for copper.

In the nation of Zambia, if they had done what American copper-producing companies had to do—Anaconda, Phelps-Dodge, Inspiration, Ranchers, ASARCO, Cyprus, Duval—they have all had to cut back production in the face of copper supply. If Zambia had done that after they got the loan, or at the time they got the loan last March of $323 million from the International Monetary Fund, there might be some case made for the United States to further help them.

This $20 million is limited assistance; sure it is. But it is 20 million tax dollars to spend for Zambia to continue their practice of cutting off their nose to spite their face, to continue to produce copper and sell it at a price that is below the cost of production, and further aggravate their problem. They further aggravate their problem and the problems of other copper-producing countries, some of which are also underdeveloped countries.

I do not believe we look at Chile or Peru as particularly affluent countries, but they are copper-producing countries also, and they are suffering along with all other copper-producing countries.

It is getting close to home. How can we justify, with the outlays we are making for unemployed copper workers at this time, a continual building aggravation of the situation which Zambia contributes to?

We have had to close down an underground mine at Butte, Mont., because of this. We have closed down the Arbiter smelter at Anaconda, and we have curtailed some work at Great Falls, all in my State of Montana.

There are other direct costs of America's economic support of the Zambian copper industry. I think I have earlier mentioned that out of our treasury we have had to spend $22.5 million of trade assistance for copper workers forced out of their jobs by imported copper since April 1975, and about one-third of that cost can be directly attributed to Zambian copper.

We imported last year from Zambia about $150 million worth of copper, in 1977. So far this year—or during the first 6 months of this year—we have imported $77 million worth of copper from Zambia.

If we take the $22.5 million and supply that under the trade adjustment assistance to copper workers, that may be about the figure that is paid out of the Treasury this year, and then add the $40 million that the copper industry is losing—that is, that the copper industry in the United States is losing due to imports—we have got roughly a $62.5 million loss in copper for the United States, and about a third of that problem, we estimate, is being caused because Zambia continues to produce copper in their government-owned mines and sell it on the world market at below the cost of production.

How long can the United States, in bits and pieces, continue to contribute to our own downfall economically? Is there any doubt anywhere in this country that we have a balance-of-payments problem of our own? Here is a small part of it; and we are asked tonight to agree to pay $20 million from the Treasury to help Zambia meet their balance of payments.

The Senator from Hawaii, managing the bill says:

> Well, Zambia is next to Rhodesia, and it is very important to the United States that a successful peace plan be found for Rhodesia.

If that is the case, why do we not address the problem directly in this bill, and provide whatever assistance is needed to carry out that policy, rather than funneling it to Zambia in a manner that will continue to aggravate a domestic problem that the United States has?

Where is the logic in fending off a problem in Rhodesia by contributing to a further aggravation of the world copper market that hurts the United States directly through losses in funds paid out to unemployed copperworkers, through losses to American copper firms, and continue a policy that hurts our own balance of payments?

I do not know why Zambia should be immunized from the world market by being propped up with the help of the U.S. taxpayers, when American copper mines and American smelters must shut down their operations. I do not think they should, and I believe the majority of the American taxpayers would agree with me. I hope the majority of my colleagues here in the Senate will accept the amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I cannot disagree with the eloquent statement of my friend from Montana. It is true that the Zambians are involved in a losing proposition as far as their copper mines are concerned. At the present time, most of their mines have been flooded, and the cost of extracting the copper just about equals or exceeds the sale price.

The U.S. Government and the State Department are well aware of that problem. The International Monetary Fund is also well aware of the problem. Experts have been sent in to see what can be done.

The loan Zambia just received was conditioned upon their agreement to abide with a game plan which was proposed by these experts. The major element of this game plan called for diversification. As I indicated to the Senator, the $20 million will be spent to purchase goods in the United States, such as farm equipment, fertilizer, and such, primarily to make it possible for the Zambian economy to diversify.

Much of the loan that Zambia has received this year and last year is going toward this end. The experts are well aware, as the Senator from Montana is, that continuing an economy based upon the copper production is not helping anyone; and, therefore, this $20 million, together with the loan that they have received from the international financial institution, will make it possible for Zambia to proceed with their diversification plan.

Therefore, I believe that it really ties in with the Senator's argument. It would make it possible for the Zambians to maintain economic stability, which in turn will assure political stability, which in turn, hopefully, would permit the leadership of Kenneth Kaunda to continue, which in turn would permit the Zambian voice to be heard, the voice of moderation, the voice of antiterrorism, and the voice of peaceful negotiation. That is the goal of the United States.

It is not the goal of the United States to assist Zambia at the expense of Montana or other States which have copper mining activities. This is an attempt to help the Zambians get into something else, to diversify, to cultivate their lands, to provide goods that can be purchased by their neighbors.

I hope the Senator will go along with this, because I believe that the end result will be to the benefit of Montana. It will mean that Zambia will be less dependent upon this losing proposition in copper mining and later become a bit more dependent upon diversified agriculture.

I hope the Senator will reconsider and go along with the committee.

Mr. MELCHER. Mr. President, first of all, nowhere in the bill is there a requirement that Zambia use this money for the purchase of fertilizer and farm equipment. While that might be corrected, and should be corrected if my amendment fails, might I point out that I leave untouched the half million dollars that is identified in the bill that could conceivably be of economic assistance to Zambia and not just a dole to protect their balance of payments, to permit them to perpetuate or continue their overproduction of copper.

The third point I would like to make is that I believe the Senator from Hawaii in referring to flooded mines was probably talking about Zaire, the province where the Katanga rebels want the mines in order to curtail production and hurt the Government of Zaire.

That is not the case in Zambia. Their production of copper continues at full scale. They have already exceeded in the first 6 months their previous sale of copper to the United States. It is in huge quantities, $77 million. If that does not help their balance of payments month-by-month I do not know what would. But it is a losing proposition for them and it is a losing proposition for all other copper-producing countries. It is a losing proposition for the United States. I hope my amendment can be accepted. Since there is no inclination on the part of the managers to accept the amendment, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I assure the Senator from Montana that in the presentation made by the State Department, the State Department, for the record, assured the committee that these funds would be used for the purchase of agricultural equipment, fertilizer, and such, to permit the Zambians to diversify. In this bill we have provisions which say that moneys may be spent only as justified in the presentation.

Mr. MELCHER. If the Senator will yield, I accept that as a fact, and will accept the State Department's reassurance given by the able and distinguished Senator. I would just point out that on the basis of selling $12 million worth of copper to the United States, they are drawing $2 million worth of purchasing power from the United States in less than 2 months' time.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that the pending amendment be set aside temporarily and that we proceed with committee amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

The clerk will state the next committee amendment.

The legislative clerk read as follows:

> On page 7, line 24, after the word "Egypt" strike the word "and".

The PRESIDING OFFICER. The Senator from Utah.

Mr. INOUYE. It is just a grammatical correction.

Mr. HATCH. I have no objection.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The legislative clerk read as follows:

> On page 7, line 24, after the word "Jordan" insert new language.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. HATCH. Mr. President, I think I know why $90 million is allocated to Syria in here. This committee amendment states:

> "*Provided further*, That of the funds appropriated under this heading, not to exceed

$200,000,000 shall be available for Economic Support Fund loans having maturities in excess of twenty years following the date on which funds are initially made available under such loans to countries whose annual gross national product per capita is in excess of $3,500."

I take it that is the amendment. Is that correct?

Mr. INOUYE. Yes.

Mr. HATCH. I believe I personally know why we are giving $90 million to Syria. However, I have been a little bit concerned about Mr. Assad's attitude with regard to the Camp David agreement and the approaches he is taking toward that, with, I think, the almost vicious attacks against President Sadat. I am concerned that we should give $90 million to Syria under those circumstances. The question I would ask the distinguished manager of the bill is, Should we not reconsider this amount of money? If not, why not?

Second, as to the $200 million mentioned in the latter part of the amendment, should not we reduce that in order to take into consideration the falling dollar and the devaluation which has occurred thereto? If not, why not, I inquire of the manager of the bill?

Mr. INOUYE. I should like to respond. The administration, after consultation with the officials of Syria, decided to proceed with an assistance program totaling $90 million for this country. I do not disagree with my distinguished friend from Utah that there have been times when the President of Syria has been extremely harsh, in his words, about the United States. However, we are now at the threshold of peace. The possibility is excellent. We have never been this close in the 30-year history of Israel. Notwithstanding the rhetoric of the times, Syria is still one of the more moderate Arab nations. They are not in the same league with Libya or Iraq.

At this moment, our Secretary of State is in Damascus, hoping to convince President Assad to temper his rhetoric to possibly join in this effort for peace. I believe that what we are asked to do in this bill will help toward that end. I hope that the Senator will go along with the $90 million. To cut this in half or to delete this completely would have the effect of very dramatically undermining our Secretary's authority while he is in Damascus.

Mr. HATCH. If I could interrupt the distinguished Senator from Hawaii, I agree with him. I think, as in all of these objections, or at least questions, I have raised here this evening, the distinguished Senator from Hawaii has been most eloquent, informed, and, if I may say so myself, I think correct. Although Mr. Assad has, I think, used—to borrow a word from the distinguished Senator from Hawaii—rhetoric that may be unfortunate over the last couple of days, on the other hand, he is not particularly an enemy of the United States. I, for one, would not want to stand in the way of the possibilities for better relationships in the Middle East, especially at this time, when we have had the wonderful results that have occurred at Camp David and the tremendous potential for future peace in that area.

I do think it needs to be noted for the record that we cannot continue to support nations who continue to be logjams in crisis-ridden areas like the Middle East. We cannot continue always to be the giving Nation. There has to be some give on the part of other nations as well. I hope that President Assad will consider our colloquy here this evening, that we are going a long way, under the circumstances, to satisfy him and to keep our relationship inviolate with him and his great country.

I tend to agree with the Senator from Hawaii, and certainly, under the circumstances and with his recommendation, would not ask for that to be threatened or even cut down in any manner at this point. I take the distinguished Senator's expertise into account and I think that would be very persuasive to me, and has been.

With regard to the $200 million, however, I would suggest that we should consider reducing that somewhat as a result of the decline in the dollar and as a result of the hardships that occur in our country. I see little or no reason to keep it at that high level, $200 million. If it were up to me, I would suggest that we change that or reduce it to $50 million as a substitute in lieu thereof.

Again, I shall listen to the distinguished Senator from Hawaii, who has been most persuasive to me this evening, as he usually is, and listen to his advice on this very important matter concerning the $200 million.

I still have trouble with the 20 years. I would prefer to have that be 15 years, but I think that may be a little different from what we discussed before. I would like his viewpoint with regard to that as well.

Mr. INOUYE. Mr. President, oftentimes, the language that appears in a document such as this fails adequatly to explain what is intended by the authors or the managers of the measure. This amendment is one that actually tightens up the provisions of the loan. Under the proposal submitted by the administration, $260 million has been set aside for Economic Support Fund assistance for the State of Israel. We felt that, since the per capita income of Israel is as high as it is, $60 million of the proposed loan program ought to be for 20-year loans; the remaining $200 million to be paid according to the more concessional terms.

The original proposal did not have this type of restriction. The original proposal was concessionary for the total $260 million. If we go along with the Senator's suggestion, it would, in effect, mean that we would reduce the loans that we assured Israel under the Economic Support Fund from $260 million to $50 million. That would be the actual effect.

Mr. HATCH. As I understand it, then, the $3,500 figure in this amendment, the gross national product per capita, was put in there mainly to benefit Israel. I certainly would not stand in the way of that. Again, the very cogent explanation of the Senator from Hawaii has certainly persuaded me.

Mr. President, under the circumstances, I have no objection to that amendment, down through line 8 on page 8 of the committee bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment beginning on page 7, line 24, through page 8, line 6, was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment.

The legislative clerk read as follows:

On page 8, line 7, strike $50 million and insert $45 million.

Mr. HATCH. I have no objection to that. Down through line 8, I have no objection.

The PRESIDING OFFICER. The parliamentary procedure is that the question now reverts to the amendment offered by the Senator from Montana to the last committee amendment, which was set aside temporarily.

Mr. HATCH. I suggest the absence of a quorum.

Mr. President, I ask unanimous consent that the consideration of the amendment submitted by the Senator from Montana be further delayed and that we proceed with the committee amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 8, line 7, strike "$50 million" and insert "$45 million."

Mr. HATCH. That is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment.

The legislative clerk read as follows:

On page 8, line 9, after "gram," strike out all through line 12 before the word "Provided."

Mr. HATCH. Mr. President, I do have difficulties with this. Will the distinguished manager of the bill tell me why this has been stricken in the bill? Starting with line 9, on page 8, down through the first three words of line 12. Why has that been stricken?

Mr. INOUYE. These restrictions, the first one, would have prevented the Congress from providing assistance to Turkey, and we took that out.

The second proviso would have prohibited the Congress from making funds to assist Syria.

Mr. HATCH. What proviso is that, beginning line 12?

Mr. INOUYE. The one beginning on line 9 and ending on line 12 covers Turkey.

Mr. HATCH. That is Turkey.

Mr. INOUYE. The one beginning line 15 and ending on line 20 is the prohibition against aid to Syria.

Mr. HATCH. The prohibition, 9 to 12, does that involve Rhodesia, the part from 9 to 12?

Mr. INOUYE. It involves Turkey.

Mr. HATCH. Do either of these provisos involve Rhodesia?

Mr. INOUYE. It does not affect Rhodesia.

Mr. HATCH. Then I have no objection to the amendments being accepted en bloc from line 9 right down through line 20.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The two committee amendments are considered en bloc and agreed to.

The clerk will state the next amendment.

The legislative clerk read as follows:

On page 9, line 8, strike "$258 million" and insert "$240 million".

Mr. HATCH. Mr. President, I ask the distinguished Senator from Hawaii why the reduction of $18 million?

Mr. INOUYE. I beg pardon?

Mr. HATCH. Why has that been reduced?

Mr. INOUYE. We decided to reduce the amount by 8 percent because we felt that with the history of past abuses and past excesses, $240 million should be sufficient.

For example, as I said in my opening remarks, according to our studies, 49 percent of AID Foreign Service officers are still in the top three grades, and it is a bit top heavy.

The GAO found 188 officers presently working in jobs which were one to four grades below their pay grade. And at the beginning of the year, October 1977, AID had more typewriters in Washington than employees.

These are examples of the type of waste that we feel can be taken out, and the reduction of $258 million to $240 million should bring about these economies.

Mr. HATCH. Would the distinguished Senator from Hawaii have any objection to reducing, since we are reducing because of abuses that have occurred, the $97 million in line 9, say, down to $50 million, which would be more than adequate for the operations of the Agency for International Development?

Mr. INOUYE. If we reduced the $97 million, it would actually cripple the operations. It would make it almost impossible for the AID Washington office to set up the necessary programs for training, et cetera.

This covers the cost of transportation.

If the Senator looks on page 89 of the report, he will see why it would be necessary to maintain that $97 million figure.

Mr. HATCH. The amendments from line 8 down through line 4 on page 11, as far as I am concerned, are acceptable to me en bloc.

The PRESIDING OFFICER (Mr. NUNN). The amendments are agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, would the Senator from Hawaii yield?

Mr. INOUYE. I am very happy to yield.

Mr. HARRY F. BYRD, JR. On line 9, page 9, it states, "not more than $97 million of this amount shall be for AID-Washington operating expenses."

How does that figure compare with the Washington operated AID expenses for the current year?

Mr. INOUYE. At the present time, the estimate is about $93 million and the request submitted was $100 million. We have reduced the 100 to 97.

Mr. HARRY F. BYRD, JR. But put another way, it is raised, the current year will be $93 million?

Mr. INOUYE. The current fiscal year, the estimated amount.

Mr. HARRY F. BYRD, JR. The estimated amount for the current fiscal year would be $93 million, and this figure is $97 million.

Mr. INOUYE. And that can be explained, one, because of mandatory pay raises which they have no control over; and two, the increase in cost of transportation.

Mr. HARRY F. BYRD, JR. The $93 million which the Senator cited, is that the figure that was appropriated last year?

Mr. INOUYE. The Senator is correct.

Mr. HARRY F. BYRD, JR. I thank the Senator.

One other question, on line 11, "not to exceed $700,000 in funds provided to the Agency for International Development by this act shall be available for hiring experts and consultants."

Is that not a very high figure to be used for hiring experts and consultants?

That is quite a few experts involved there.

Mr. INOUYE. This $700,000 is the result of action taken by the Senate.

Incidentally, this was put in by the House because of initiative taken by the Senate.

The request submitted by the administration was in excess of $1,100,000. We felt that from past experience, too many so-called experts and consultants were being retained and hired—many of them, incidentally, home employees of AID.

We felt that by putting this ceiling or this cap, it would discourage them from doing that.

Mr. HARRY F. BYRD, JR. Does the Senator have a figure showing how much was spent during this current fiscal year, the hiring of consultants and experts?

Mr. INOUYE. It will be the same amount because we had in the last year's appropriation bill a limitation of $700,000, also.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. INOUYE. Mr. President, can we resolve this? I believe the Senator from Utah agreed to accept it.

The PRESIDING OFFICER. Without objection, the amendments specified by the Senator from Utah are agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1883

The question now recurs on the amendment of the Senator from Montana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Florida (Mr. STONE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

Mr. HANSEN: I announce that the Senator from Tennesee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Virginia (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 21, nays 34, as follows:

[Rollcall Vote No. 385 Leg.]

YEAS—21

Bartlett
Burdick
Byrd, Harry F., Jr.
DeConcini
Domenici
Eagleton
Garn
Hansen
Hatch
Hatfield, Paul G.
Hayakawa
Laxalt
McClure
Melcher
Morgan
Nunn
Proxmire
Randolph
Schmitt
Weicker
Zorinsky

NAYS—34

Bayh
Bentsen
Biden
Byrd, Robert C.
Case
Clark
Culver
Danforth
Dole
Glenn
Gravel
Hart
Hatfield, Mark O.
Hathaway
Heinz
Hodges
Hollings
Inouye
Jackson
Javits
Leahy
Lugar
Magnuson
Matsunaga
Moynihan
Packwood
Pell
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stevenson
Williams

NOT VOTING—45

Abourezk
Allen
Anderson
Baker
Bellmon
Brooke
Bumpers
Cannon
Chafee
Chiles
Church
Cranston
Curtis
Durkin
Eastland
Ford
Goldwater
Griffin
Haskell
Helms
Huddleston
Humphrey
Johnston
Kennedy
Long
Mathias
McGovern
McIntyre
Metzenbaum
Muskie
Nelson
Pearson
Percy
Ribicoff
Roth
Scott
Sparkman
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Wallop
Young

So Mr. MELCHER's amendment (No. UP 1883) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. MATSUNAGA). The question now occurs on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendment appearing on page 27, beginning at line 4 and ending on line 24, be taken out of order at this moment and I ask for its immediate consideration.

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 11, line 10, strike "$64,500,000" and insert in lieu thereof the following: "$84,875,000, in addition to which amount the unobligated balance as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1977 and the unobligated balance as of September 30, 1978, in the basic account symbol assigned by the Treasury for the fiscal year 1978 are continued available for the fiscal year 1979, and, further, amounts obligated as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1978 are, if deobligated, continued available for the fiscal year 1979, the total of all such funds made available not to exceed $211,875,000. The unobligated and obligated balances as of September 30, 1978, shall be merged with and accounted for under the same basic account symbol assigned by the Treasury for the appropriation made under this heading: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the obligation of such deobligated funds for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified for the fiscal year 1979: *Provided further*,".

Mr. HATCH. Mr. President, I wish to ask a question of the distinguished floor manager of the bill with reference to where it mentions $64,500,000 and that was increased to $84,875,000. Why the $20,375,000 increase at this particular point in the bill?

Mr. INOUYE. The effect of this amendment has the end result similar to that of the House of Representatives. The only difference is in the method employed. In the case of the House of Representatives it appropriated $64.5 million and applied to this without indicating that in the bill unobligated funds or reflows from the present fiscal year. Therefore, it is appearing in their measure as though they have spent less than us.

Here we are appropriating $84,875,000 and carryovers of $127 million, making the total $211,875,000 million.

We just wanted to be a bit more honest in our presentation.

Mr. HATCH. I see. As I understand it, the funds are not spent; they are deobligated, but they are made continually available for the next fiscal year as long as they do not exceed $211,875,000; is that correct?

Mr. INOUYE. That is correct.

Mr. HATCH. My question is why not let the funding go back into the Treasury, and then as we come up with this bill in the future be able to, you know, restore them? Is there any particular reason why we do not put these moneys back into the Treasury?

Mr. INOUYE. If I may respond to that, sir, I would prefer to do it that way. But the House is indicating they just do not want to do it that way, so we felt the proposal we made would be a better compromise. At least we will indicate the amounts available openly and proceed as though appropriated, but making it appear in the budget resolution.

Mr. HATCH. I agree with the distinguished Senator from Hawaii that this is not the way to do it. It is one of the things I find objectionable in the bill itself.

Therefore, I move to table this amendment for that purpose and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. We are now in the process of a rollcall vote. Debate is not in order. The motion was to table and a motion to table is not debatable.

Mr. INOUYE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. A parliamentary inquiry is not in order during a rollcall vote.

Mr. INOUYE. It is not proper?

The PRESIDING OFFICER. Inquiry constitutes debate and it is not in order. The clerk will proceed.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

Mr. HANSEN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The PRESIDING OFFICER. The Senate will please be in order.

Mr. WEICKER. Regular order.

The PRESIDING OFFICER. The regular order is the tallying of the vote. The clerk will continue to tally the vote.

Mr. INOUYE. Am I recorded, Mr. President?

The PRESIDING OFFICER. The Senator from Hawaii is recorded.

Mr. LEAHY. Am I recorded?

The PRESIDING OFFICER. The Senator from Vermont is recorded.

Mr. WEICKER. Regular order, Mr. President.

The PRESIDING OFFICER. The regular order is being observed. It might be proceeding a little slowly, but the clerk is tallying the vote.

[Laughter.]

The yeas and nays resulted—yeas 7, nays 43, as follows:

[Rollcall Vote No. 386 Leg.]

YEAS—7

Burdick
Byrd,
  Harry F., Jr.
Hatch
Hatfield,
  Mark O.
McClure
Melcher
Proxmire

NAYS—43

Bartlett
Bayh
Biden
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Eagleton
Garn
Glenn
Gravel
Hansen
Hart
Hatfield,
  Paul G.
Hathaway
Hayakawa
Hodges
Hollings
Inouye
Jackson
Javits
Laxalt
Leahy
Lugar
Matsunaga
Morgan
Moynihan
Packwood
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Stevenson
Weicker
Zorinsky

NOT VOTING—50

Abourezk
Allen
Anderson
Baker
Bellmon
Bentsen
Brooke
Bumpers
Cannon
Chafee
Chiles
Curtis
Durkin
Eastland
Ford
Goldwater
Griffin
Haskell
Heinz
Helms
Huddleston
Humphrey
Johnston
Kennedy
Long
Magnuson
Mathias
McGovern
McIntyre
Metzenbaum
Muskie
Nelson
Nunn
Pearson
Pell
Percy
Ribicoff
Roth
Scott
Sparkman
Stafford
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Wallop
Williams
Young

The PRESIDING OFFICER. On this vote, the yeas are 7, the nays are 43. A quorum not being present, the vote is invalid.

The Senator from West Virginia.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move, under the order, that the Senate stand in recess until 9 o'clock tomorrow morning. This means that the first thing tomorrow morning there will be a rollcall vote. It will be automatic.

The motion was agreed to; and at 9:34 p.m., the Senate recessed until Friday, September 22, 1978, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 21, 1978:

DEPARTMENT OF STATE

Marshall W. Wiley, of Florida, a Foreign Service officer of class two, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Sultanate of Oman.

DEPARTMENT OF ENERGY

Thomas S. Williamson, Jr., of the District of Columbia, to be Deputy Inspector General of the Department of Energy. (New Position)

HOUSE OF REPRESENTATIVES—*Thursday, September 21, 1978*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
September 21, 1978.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for two legislative days.

THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives.

PRAYER

The Reverend E. Owen Kellum, Jr., First United Methodist Church, Griffin, Ga., offered the following prayer:

Almighty God, who dost hold us to account for the use of all our powers and privileges; grant us the faith to believe in earnest prayer that Thy will may be done in us and in our land.

Our Father, we pray for our Nation that it might strive for its ideals and not be too proud to confess its mistakes.

Let us look with renewed and respectful eyes upon the men and women, the plain, frail men and women, whose daily efforts in these Halls must articulate for us the sound of Thy Word.

Give to them the meekness of wisdom to know that the good laws which are made are not ours to do with as we please but have upon them Thy unassailable majesty; and that when bad laws are made and honored we are flouting Thee.

Let Thy voice answer the monotony of limitless days of dull routine that we may keep our honor and credibility in spite of the overarching demands of the agonies of our times.

Help us to achieve our own best expectations. Nudge us, urge us, teach us with Thy love and Thy patience that Thy spirit may be upon us. For Christ's sake. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 12443. An act to amend section 201 (a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy;

H.R. 12508. An act to amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children; and

H.J. Res. 1088. Joint resolution providing financial assistance for the city of New York.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12222) entitled "An act to amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12598) entitled "An act to authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the foreign service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12936) entitled "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes," and that the Senate agreed to the House amendments to the Senate amendments Nos. 6, 9, 32, and 42 to the foregoing bill.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 11567. An act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979–81, and for other purposes.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 12605. An act to amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12605) entitled "An act to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CANNON, Mr. HOLLINGS, Mr. MAGNUSON, Mr. GRIFFIN, and Mr. SCHMITT to be the conferees on the part of the Senate.

The message also announced that Mr. PERCY was appointed as an additional conferee on H.R. 6536, to establish an actuarially sound basis for financing retirement benefits for D.C. policemen, firemen, teachers, and judges.

THE REVEREND E. OWEN KELLUM, JR.

(Mr. FLYNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLYNT. Mr. Speaker. it is my pleasure to advise the House that our guest chaplain for today is the Reverend E. Owen Kellum, Jr., minister of my own church, the First United Methodist Church, Griffin, Ga.

Reverend Kellum is a native of Atlanta, Ga., where he attended the public schools. After graduation from North Fullar High School, he entered and graduated from Davidson College, N.C. Thereafter he graduated from Duke Divinity School, Duke University, Durham, N.C. He then received his master's degree in sacred theology at Boston University, Boston, Mass.

He was admitted in full connection to the North Georgia Conference in 1956. His first pastoral assignment was Headland Heights Methodist Church, East Point, Ga. After 7 years in this assignment, he was appointed pastor of the First Methodist Church, Covington, Ga., where he served for 6 years.

In 1970 he was appointed pastor of the Dunwoody United Methodist Church, Atlanta, Ga., where he served for 8 years before being appointed by Bishop William R. Cannon to be minister of the First United Methodist Church, Griffin, Ga.

It is significant to note that of Owen's four assignments within the North Georgia Conference, three have been in churches which are or were in our congressional district.

Reverend Kellum is married to the former Olive Long, the daughter of another outstanding Georgia Methodist preacher, Dr. Nat G. Long. Owen and Olive are the parents of three children, Vera Lynn, a senior at Converse College; Glenn, a sophomore at Davidson College, and Natalie, who is in the ninth grade at Griffin Junior High School, Griffin, Ga.

We in Griffin, Ga., feel very fortunate to have Owen and his fine family as a part of our church and our community. He is not only an excellent preacher but one of the finest men it has ever been my privilege to know. It is my pleasure to have him serve as guest chaplain of the House of Representatives, and I know that you join me in welcoming him here today.

HAPPY BIRTHDAY TO HON. JOHN M. ASHBROOK

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I take this time to inform the House of Representatives of a very happy event in which I am sure all Members will be most interested. I am speaking of a half century of progress which culminates today in the 50th anniversary of the nativity of our colleague from Ohio, JOHN M. ASHBROOK.

Mr. Speaker, it is not often that a conservative reaches such a young age unscathed as has the gentleman from Ohio, JOHN ASHBROOK, but certainly over the years he has gained the reputation not only for political sagacity and parliamentary knowledge, but, like the gentleman from Maryland, has acquired a vast following and has gained great affection here in the House, as I am sure my colleagues will agree.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I know that our friend and distinguished colleague, the gentleman from New Jersey, FRANK THOMPSON, JR., would be most distressed at having missed this significant moment in the history of our country.

Therefore, Mr. Speaker, I ask unanimous consent, on his behalf, that he have the opportunity to make appropriate comments later.

Mr. BAUMAN. Mr. Speaker, I would say to the distinguished majority whip that a request for exension of remarks for a specific Member is not in order; but knowing of the great love for the gentleman from Ohio (Mr. ASHBROOK), I shall ask for general leave for all Members including the gentleman from Ohio's traveling companion, the distinguished gentleman from New Jersey (Mr. THOMPSON).

GENERAL LEAVE

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on this commemoration of the 50th birthday of the gentleman from Ohio (Mr. ASHBROOK), so that all Members may have the opportunity to wish him a happy birthday.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 683, SECOND CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1979

Mr. GIAIMO. Mr. Speaker, pursuant to the order of the House of September 20, 1978, I call up the conference report on the concurrent resolution (H. Con. Res. 683) revising the congressional budget for the U.S. Government for the fiscal year 1979, and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will read the conference report.

The Clerk read the conference report.

(For conference report and statement, see proceedings of the House of September 20, 1978.)

The SPEAKER pro tempore. The Chair lays before the House the Senate amendment, which the Clerk will read.

The Clerk read the Senate amendment, as follows:

Strike out all after the resolving clause and insert: That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $477,200,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $23,400,000,000;

(2) the appropriate level of total new budget authority is $557,700,000,000;

(3) the appropriate level of total budget outlays is $489,500,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $42,300,000,000; and

(5) the appropriate level of the public debt is $839,500,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased in $41,500,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares, pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $127,000,000,000;

(B) Outlays, $112,500,000,000.

(2) International Affairs (150):

(A) New budget authority, $12,600,000,000;

(B) Outlays, $7,200,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $5,200,000,000;

(B) Outlays, $5,000,000,000.

(4) Energy (270):

(A) New budget authority, $8,900,000,000;

(B) Outlays, $8,900,000,000.

(5) Natural Resources and Environment (300):

(A) New budget authority, $13,600,000,000;

(B) Outlays, $11,700,000,000.
(6) Agriculture (350):
(A) New budget authority, $12,200,000,000;
(B) Outlays, $7,200,000,000.
(7) Commerce and Housing Credit (370):
(A) New budget authority, $5,500,000,000;
(B) Outlays, $2,800,000,000.
(8) Transportation (400):
(A) New budget authority, $19,500,000,000;
(B) Outlays, 17,500,000,000.
(9) Community and Regional Development (450):
(A) New budget authority, $8,900,000,000;
(B) Outlays, $9,600,000,000.
(10) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $31,500,000,000;
(B) Outlays, $30,200,000,000.
(11) Health (550):
(A) New budget authorly, $51,900,000,000;
(B) Outlays, $48,600,000,000.
(12) Income Security (600):
(A) New budget authority, $191,500,000.000;
(B) Outlays, $159,600,000,000.
(13) Veterans Benefits and Services (700):
(A) New budget authority, $20,900,000,000;
(B) Outlays, $20,400,000,000.
(14) Administration of Justice (750):
(A) New budget authority, $4,300,000,000:
(B) Outlays, $4,200,000,000.
(15) General Government (800):
(A) New budget authority, $4,100,000,000;
(B) Outlays, $4,000,000,000.
(16) General Purpose Fiscal Assistance (850):
(A) New budget authority, $8,800,000,000;
(B) Outlays, $8,800,000,000.
(17) Interest (900):
(A) New budget authority, $48,100,000,000;
(B) Outlays, $48,100,000,000.
(18) Allowances (920):
(A) New budget authority, $500,000,000;
(B) Outlays, $500,000,000.
(19) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$17,300,000,000;
(B) Outlays, —$17,300,000,000.

Mr. GIAIMO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

CALL OF THE HOUSE

Mr. EVANS of Delaware. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 810]

Ambro
Ammerman
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashley
Beard, R.I.
Beilenson
Boggs
Breaux
Burke, Calif.
Burton, John
Caputo
Chappell
Chisholm
Cochran
Collins, Ill.
Conable
Conyers
Corman
Crane
D'Amours
Daniel, Dan
de la Garza
Dellums
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Early
Eckhardt
Fithian
Flowers
Ford, Mich.
Fraser
Garcia
Gaydos
Gibbons
Hansen
Harrington
Harsha
Heckler
Hightower
Hillis
Ireland
Jenrette
Kasten
Kastenmeier
Krueger
LaFalce
Lehman
Lott
McCloskey
McDonald
McHugh
McKinney
Mathis
Meeds
Meyner
Michel
Mikva
Milford
Miller, Calif.
Mitchell, Md.
Moss
Neal
Nichols
Nix
Patterson
Pattison
Pepper
Pike
Pressler
Preyer
Quie
Rahall
Rhodes
Risenhoover
Roncalio
Rosenthal
Rousselot
Rudd
Russo
Santini
Sarasin
Sawyer
Scheuer
Shipley
Shuster
Sisk
Skubitz
St Germain
Stark
Stockman
Stokes
Teague
Thone
Tsongas
Tucker
Van Deerlin
Wiggins
Wilson, Tex.
Wolff

The SPEAKER pro tempore. On this rollcall 325 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR SUBCOMMITTEE ON COAST GUARD AND NAVIGATION OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT TODAY WHILE HOUSE IS IN SESSION

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries may be permitted to hold oversight hearings, purely oversight hearings, today, while the House is in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 683, SECOND CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1979

The SPEAKER pro tempore. The Chair recognizes the gentleman from Connecticut (Mr. GIAIMO).

MOTION OFFERED BY MR. GIAIMO

Mr. GIAIMO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GIAIMO moves that the House recede from its disagreement to the Senate amendment and to concur therein with an amendment as follows: In lieu of the matter proposed by the Senate, insert the following:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978:

(1) the recommended level of Federal revenues is $448,700,000,000 and the amount by which the aggregate level of Federal revenues should be decreased is $21,900,000,000;

(2) the appropriate level of total new budget authority is $555,650,000,000;

(3) the appropriate level of total budget outlays is $487,500,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $38,800,000,000; and

(5) the appropriate level of the public debt is $836,000,000,000 and the amount by which the temporary statutory limit on such debt should accordingly be increased is $38,000,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category as follows:

(1) National Defense (050):
(A) New budget authority, $127,000,000,000;
(B) Outlays, $112,400,000,000.
(2) International Affairs (150):
(A) New budget authority, $12,600,000,000;
(B) Outlays, $7,100,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $5,200,000,000;
(B) Outlays, $5,000,000,000.
(4) Energy (270):
(A) New budget authority, $8,700,000,000;
(B) Outlays, $8,100,000,000.
(5) Natural Resources and Environment (300):
(A) New budget authority, $13,300,000,000;
(B) Outlays, $11,500,000,000.
(6) Agriculture (350):
(A) New budget authority, $9,200,000,000
(B) Outlays, $7,500,000,000
(7) Commerce and Housing Credit (370):
(A) New budget authority, $5,500,000,000
(B) Outlays, $2,800,000,000
(8) Transportation (400):
(A) New budget authority, $19,500,000,000
(B) Outlays, $17,300,000,000
(9) Community and Regional Development (450):
(A) New budget authority, $8,900,000,000
(B) Outlays, $9,600,000,000
(10) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $32,900,000,000
(B) Outlays, $30,300,000,000
(11) Health (550):
(A) New budget authority, $52,000,000,000
(B) Outlays, $48,100,000,000
(12) Income Security (600):
(A) New budget authority, $191,800,000,000
(B) Outlays, $159,300,000,000
(13) Veterans Benefits and Services (700):
(A) New budget authority, $21,050,000,000
(B) Outlays, $20,700,000,000
(14) Administration of Justice (750):
(A) New budget authority, $4,300,000,000
(B) Outlays, $4,200,000,000
(15) General Government (800):
(A) New budget authority, $4,100,000,000
(B) Outlays, $4,000,000,000
(16) General Purpose Fiscal Assistance (850):
(A) New budget authority, $8,800,000,000
(B) Outlays, $8,800,000,000
(17) Interest (900):
(A) New budget authority, $48,000,000,000
(B) Outlays, $48,000,000,000
(18) Allowances (920):
(A) New budget authority, $800,000,000
(B) Outlays, $800,000,000
(19) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$18,000,000,000
(B) Outlays, —$18,000,000,000

Mr. GIAIMO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The SPEAKER pro tempore. The gentleman from Connecticut (Mr. GIAIMO) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. LATTA) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I yield myself such time as I may consume.

I am proud to bring to the floor the

conference report on the second concurrent budget resolution for fiscal year 1979.

My pride stems from that fact that the conference has brought forth a resolution in which the deficit has been reduced by $1 billion from that passed by this House in August. Moreover, this has been accomplished while allowing for a larger tax reduction than was assumed in the resolution that passed the House.

We provide in this conference report for $448.7 billion in revenues, assuming tax reductions of up to $2 billion more than those which have passed the House. We provide $555.65 billion in budget authority and $487.5 billion in outlays, resulting in a deficit of $38.8 billion—the lowest since 1974. It represents a reduction of $21.8 billion or 36 percent from the deficit proposed by the President's budget in January of this year.

We have labored long and hard in conference to achieve this result. We have managed to hold in our functional totals sufficient provisions to protect programs that are important to the House and to its legislative committees. Before explaining this further, I wish to call the attention of Members to one more achievement of the conference. We have reduced budget authority in the aggregate, by $5.4 billion below our resolution. This bodes well for our efforts to control future spending and bring about a balanced budget soon, perhaps in 2 or 3 years.

When the conference began, it was immediately apparent that the differences between House and Senate were primarily in four areas: Revenues, provision for middle-income student assistance, public works and the across-the-board cuts in appropriations passed by the House, including the percentage cuts and the Michel amendment.

As I have stated, we have assumed a tax cut of $2 billion more than was accommodated by the House's second resolution. This will result in a loss of revenues in the amount of $1.3 billion on a fiscal year basis according to Treasury and the Joint Tax Committee.

The Senate had not assumed any funding for middle-income student assistance in its version of the budget resolution although the body passed an authorization for the program. The House assumed $1.4 billion in budget authority and $100 million in outlays for this program. The House conferees insisted in this matter and the conference report does include adequate funding for MISAA.

With regard to public works, the House resolution assumed $1 billion in budget authority and $100 million in outlays each for labor intensive, or so-called soft, public works and Round 3 of the so-called hard public works. The Senate resolution assumed no spending for either program.

As many of you know, this issue was most difficult to resolve. Each group of conferees remained steadfast in its position. The issue was finally resolved by increasing the budget authority for function 450 beyond that which had been previously agreed to. The House conferees assume and believe that provision has been made for at least $700 million in new budget authority that can be used for public works.

The fourth point of greatest disagreement was the percentage cuts made on the floor of the House to various appropriations bills. The conference report retains the $1 billion Michel cut—the Senate did not assume a comparable reduction—and has distributed it to the appropriate functions. We believe this has been done in a manner that will not impede or disrupt programs endorsed by the House or expected to be endorsed by the House.

The resolution provides funding for a range of programs to meet important national needs. It provides for new initiatives in urban programs, education, energy, and veterans affairs. Here are some major items that enabled us to achieve these results. A recent report from the General Accounting Office with respect to strategic petroleum reserves indicated that the program was experiencing certain technical problems at one of the storage sites. As a result, the Congressional Budget Office assured us that some $600 million in outlays provided for in our resolution would not be spent in fiscal year 1979 because of these problems.

We have accepted the assumption that hospital cost containment will result in some $500 million in savings beyond that foreseen by our resolution.

Legislative progress toward passage of the natural gas bill led the conferees to conclude that we could assume an additional $700 million in estimated Outer Continental Shelf leasing receipts. This estimate was provided by the CBO.

Of course, all this is in addition to the $1 billion in assumed savings through elimination of fraud, waste, and abuse as foreseen by the House in the passage of the Michel amendment.

In short, we have taken into account latest estimates of real program needs, of offsetting receipts, of expenditures, and of the disciplined action on spending bills. The result is one which we all can support.

Finally, let me emphasize the significance of what is being achieved and what this can mean in the future.

We have reduced the deficit some $22.1 billion from the President's budget submitted in January.

We have reduced outlays some $13 billion from those suggested by the President in January.

We have provided for modest, but meaningful, funding of people-oriented programs, including a number of new initiatives.

We have provided for a tax cut that will compensate the citizens and corporations of this country for the ravages of inflation and the increase in payroll taxes. In addition, we have assumed passage of the kind of stimulus that will enhance capital formation in our private sector.

I say to my liberal friends, we are in support of the kinds of programs you hold dear.

I say to my conservative friends, this budget resolution can be embraced as tight and prudent. It is a major step toward a balanced budget.

To my Republican colleagues, I would say the deficit is down from 60.5 to 38.8, and I would think this is sufficient progress to get even the most conservative Members of the House to support the resolution. When you look at the out years I think we can say that it will be balanced in 1980–81.

We can look forward to a balanced budget. We can vote for this budget resolution and point out our accomplishments with pride and satisfaction.

EXPLANATION OF CONFERENCE SUBSTITUTE

050: NATIONAL DEFENSE

Both the House and Senate Second Resolutions contained essentially the same amounts when rounded. There was no disagreement. The Conference substitute provides budget authority of $127.0 billion and outlays of $112.4 billion. This level provides for all completed actions and for the Appropriations Committee expected conference agreement on the major defense appropriations bill, as well as an expected Spring Supplemental for the October 1978 pay raise.

150: INTERNATIONAL AFFAIRS

The Conference substitute provides $12.6 billion in budget authority and $7.1 billion in outlays for International Affairs, an increase of $235 million in budget authority and a decrease of $19 million in outlays from the House resolution.

The Conference substitute would accommodate anticipated conference action on the Foreign Assistance Appropriations Bill.

250: GENERAL SCIENCE, SPACE, AND TECHNOLOGY

The conference substitute provides $5.2 billion in budget authority and $5.0 billion in outlays. This amount is slightly higher than the House resolution in budget authority and reflects conference agreement on appropriations bill affecting this function.

270: ENERGY

The conference substitute provides $8.700 billion in budget authority and $8.100 billion in outlays. This is less than the amounts adopted in the House resolution primarily because of two reasons. First, the conferees assumed that final action on appropriations for the Strategic Petroleum Reserve will provide funding for fiscal year 1979 requirements only, instead of fully funding the first 500 million barrels for storage as assumed in the House resolution. This results in a reduction in budget authority of over a billion dollars. Second, the conferees agreed to a downward adjustment of outlays for the petroleum reserve. This reestimate was provided by the Congressional Budget Office (CBO) after the House and Senate adopted their versions of the Second Budget Resolution. This reestimate of over $600 million in outlays reflects anticipated slippage in spending primarily because of technical problems with one of the storage sites. A recent GAO report addressed these problems.

For all other energy programs, the Conference substitute is approximately $200 million above the House resolution primarily to accommodate some of the items proposed by the Senate.

300: NATURAL RESOURCES AND ENVIRONMENT

The Conference substitute provides $13.600 billion in budget authority and $11.700 billion in outlays. While this amount is $337 million in budget authority and $120 million in outlays above the House resolution, it is $300 million in budget authority and $200 million in outlays below the amounts in the Senate resolution. In essence, the substitute maintains the policy assumptions adopted in the House resolution, but adjusts the amounts to conform to the conference agreements on appropriations bill affecting the various programs in this functional category.

350: AGRICULTURE

The Conference substitute provides $9.2 billion in budget authority and $7.5 billion in outlays. This is a reduction of $3.025 billion in budget authority from the House passed resolution to reflect the conferees' lower estimate of additional new borrowing or contract authority required by the Commodity Credit Corporation. This amount for the Commodity Credit Corporation is $2.0 billion over the $20.0 billion level requested by the President and should be sufficient to implement anticipated agricultural programs. In outlays, the reduction of $128 million from the House passed resolution reflects a lower estimate of grain purchases in the international grain reserve. The $300 million assumed in the Conference agreement for the international grain reserve should be sufficient to purchase an additional 100 million bushels or 3 million metric tons of wheat.

370: COMMERCE AND HOUSING CREDIT

The Conference substitute provides $5.500 billion in budget authority and $2.800 billion in outlays for function 370, Commerce and Housing Credit. These amounts compare to $5.551 billion in budget auhority and $3.814 billion in outlays provided in the House resolution. The Conference substitute is due to rounding.

400: TRANSPORTATION

The Conference substitute provides $19.500 billion in budget authority and $17.300 billion for outlays. These amounts compare to the $19.451 billion in budget authority and the $17.063 billion in outlays provided in the House resolution. These amounts should provide adequate funding for our overall national transportation needs.

450: COMMUNITY AND REGIONAL DEVELOPMENT

The Conference substitute provides $8.900 billion in budget authority and $9.600 billion in outlays. These amounts compare to $10.327 billion in budget authority and $9.474 billion in outlays provided in the House resolution. The major change involves funds assumed for public works assistance. The House conferees assume that within the amount provided, $700 million in budget authority will be available for public works programs.

Further, the House conferees are agreed that the amounts provided for disaster assistance programs should be adequate to fund real needs during fiscal year 1979 at the levels already appropriated—$200 million in Presidential grants and $230 million additional capitalization for the SBA disaster loan fund. A more rational and cost-conscious disaster assistance program is a necessity. The Executive Branch and the legislative committees should revise disaster assistance programs to bring their costs under control and ensure that benefits go only to those in real need.

500: EDUCATION, TRAINING, EMPLOYMENT AND SOCIAL SERVICES

The House resolution provided budget authority of $33.887 billion and outlays of $31.111 billion. The Senate amendment provided budget authority of $31.5 billion and outlays of $30.2 billion. The Conference substitute provides budget authority of $32.9 billion and outlays of $30.3 billion.

The Conference substitute provides sufficient flexibility to accommodate the House middle-income student tuition assistance program.

In view of improved overall unemployment rates, the Conference substitute recognizes the reduced need for CETA public service jobs for the temporarily unemployed and therefore assumes a phase-down in the number of these jobs. Increased emphasis is placed on private sector employment initiatives and employment programs for youth.

The Conference substitute reflects the expectation that increases over fiscal year 1978 program levels are not likely to occur until mid-fiscal year 1979 because of delays in authorizations and appropriations. In other words, newly authorized and reauthorized programs which will not be funded until passage of a supplemental appropriations bill will require less budget authority and outlays to fund programs will only operate for six months of fiscal year 1979.

550: HEALTH

The Conference substitute provides $52.0 billion in budget authority and $48.1 billion in outlays. These totals represent a reduction of $0.158 billion in budget authority and $1.198 billion in outlays from the House resolution.

The major changes from the House resolution are as follows:

The House resolution included savings of $1 billion in budget authority and outlays in the allowance function (function 920) reflecting the impact of the Michel amendment to the Labor-HEW appropriations bill. The Conference substitute retains the outlay savings but allocates them among the specific functions which would be affected by the Michel amendment. The outlay savings assumed in the Health function are $0.600 billion, divided equally between the medicaid and medicare programs.

The House resolution also included savings of $0.2 billion in outlays in the medicare program resulting from the voluntary efforts of hospitals to contain the increase in hospital costs. The House resolution assumed that the failure of the House to enact legislation instituting mandatory cost controls in the event the hospitals' voluntary efforts were to fail would reduce in the incentive for hospitals to control costs. The Conference substitute assumes savings of $0.7 billion in the medicare program based on the expectation that the voluntary efforts by hospitals to reduce the annual rate of increase in hospital costs to 11.6 percent by December 1979 essentially will be successful.

Finally, the House resolution provided $0.3 billion in budget authority and outlays for benefit improvements to the medicaid program which would expand coverage of children and low-income pregnant women. The Conference substitute provides $0.2 billion in budget authority and outlays for these initiatives based on the assumption that the final legislation would be somewhat more modest than the bill reported in the House and/or that enactment of the legislation will be delayed.

The following table provides a more detailed comparison of the House resolution and the Conference substitute as well as a distribution of budget authority and outlays for the Health function in the First Budget Resolution.

FUNCTION 550: HEALTH—COMPARISON OF 1ST AND 2D BUDGET RESOLUTIONS, FISCAL YEAR 1979

[In millions of dollars]

Programs	1st budget resolution		House-passed 2d budget resolution		Conference agreement 2d budget resolution		Difference: 2d budget resolution over 1st budget resolution	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Medicare—Current law	31,900	30,048	31,648	29,598	31,650	29,598	−250	−450
Savings from voluntary effort to constrain hospital costs				−200		−680		−680
Savings from reduction in waste, fraud, and abuse (Michel amendment)						−300		−300
Proposed legislation:								
Hospital cost containment		−730						+730
Other program changes		+82		+82		+82		
Loss of receipts resulting from social security tax reduction	−7,500		−5,400				+7,500	
General fund appropriation to offset loss in tax receipts	+7,500		+5,400				−7,500	
Subtotal (Medicare)	31,900	29,400	31,648	29,480	31,650	28,700	−250	−700
Medicaid—Current law	11,515	11,515	11,515	[1] 11,202	[1] 11,200	[1] 11,200	−315	−315
Savings from reduction in waste, fraud, and abuse (Michel amendment)						−300		−300
Proposed legislation:								
Hospital cost containment	−85	−85					+85	+85
Other program changes	+270	+270		+310	+200	+200	−70	−70
Subtotal (medicaid)	11,700	11,700	11,515	11,512	11,400	11,100	−300	−600
Discretionary Health Programs	8,950	8,400	8,995	8,306	8,950	8,300		−100
Total: Health	52,550	49,500	52,158	49,298	52,000	48,100	−550	−1,400

[1] Includes offsetting savings of $50,000,000 resulting from H.R. 10173, Veterans and Survivors Pension Improvement Act and additional costs of $30,000,000 resulting from H.R. 12972, supplemental security income program amendments.

FUNCTION 600: INCOME SECURITY

The Conference substitute provides $191.8 billion in budget authority and $159.3 billion in outlays, or a reduction of $0.3 billion in budget authority and $0.350 billion in outlays below the House resolution.

These totals include the following changes from the House resolution:

The House resolution included savings of $1.0 billion in budget authority and outlays, in the allowances function, reflecting the impact of the Michel amendment to the Labor-HEW appropriations bill. The Conference substitute retains the outlays savings but allocates them among the specific functions which will be affected. The outlay savings assumed in the income security function are $300 million.

Two, the House resolution included the funding for subsidized housing in the House-passed HUD-Independent Agencies appropriations bill. The Conference substitute accommodates the Appropriations conference agreement of this bill and reduces budget authority by $250 million.

Three, the Senate resolution included $0.5 billion for entitlement legislation under the jurisdiction of the Senate Finance Committee, and the House resolution included $0.7 billion for entitlement legislation under the jurisdiction of the Committee on Ways and Means. The estimate in the Senate resolution was intended to accommodate an expansion of the earned income tax credit. The estimate in the House resolution accommodated the following:

Bill and status

[In millions of dollars]

	Budget authority/ outlays
Passed House:	
Public Assistance Amendments of 1977 (H.R. 7200)	153
Elimination of work disincentives under SSI program (H.R. 12972)	84
Adjustment assistant for workers and firms (H.R. 11711)	149
Reported:	
Fiscal relief (H.R. 13335)	331
Total	717

The Conference substitute includes $0.6 billion for entitlement legislation. This amount will accommodate the bills assumed in the House resolution because it is likely that there will be some delays in implementing several of these bills. However, because of the immediate spendout of legislation, such as H.R. 13335, the full cost of this Fiscal Relief Bill is assumed.

The Conference substitute does not accommodate enactment of both the expansion of the earned income tax credit assumed in the Senate resolution and enactment of the bills assumed in the House resolution.

The following adjustments also were made to the House resolution estimates:

Inclusion of $80 million to finance the October 1978 Pay Raise for Employees of the Social Security Administration.

Savings of $13 million in budget authority and outlays reflecting a Senate Floor Amendment to the Child Nutrition Amendments of 1978 (S. 3085), which delayed the effective date of a provision to change the reimbursement rate for commodities.

Inclusion of $21 million in budget authority and outlays, reflecting the estimate of the cost to extend the Southeast Asia Refugee Program which was included in the OMB Mid-Year Estimates.

Addition of $9 million in budget authority and outlays to accommodate S. 666, a bill to provide early retirement to Non-Indian employees of the Indian Health Service and Bureau of Indian Affairs.

The following table provides more detail on the House Budget Committee's allocation of the Conference substitute for Function 600, Income Security:

FUNCTION 600: INCOME SECURITY

[In millions of dollars]

Subfunctions and programs	Fiscal year 1979 1st budget resolution		Fiscal year 1979 OMB mid-year review		House-passed fiscal year 1979 2d budget resolution		House Budget Committee allocation of conference agreement on 2d budget resolution	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
General retirement/disability:								
Social security	101, 763	103, 528	101, 066	103, 089	101, 361	103, 032	101, 361	103, 112
Proposed legislation		−150		−334				
Railroad retirement	3, 928	4, 262	3, 992	4, 290	3, 992	4, 290	4, 003	4, 267
Rejected proposed legislation	50							
Special benefits to disabled coal miners	1, 423	1, 404	1, 531	1, 321	1, 546	1, 378	1, 546	1, 378
Other	5	5	6	6	5	5	5	5
Proposed legislation	1	1						
Subtotal: 601	(107, 170)	(109, 050)	(106, 594)	(108, 372)	(106, 903)	(108, 705)	(106, 915)	(108, 762)
Federal employee retirement	20, 302	12, 030	19, 732	12, 061	20, 257	12, 051	20, 257	12, 051
Proposed legislation	18	13	4		1		10	9
Subtotal: 602	(20, 320)	(12, 043)	(19, 736)	(12, 061)	(20, 258)	(12, 051)	(20, 267)	(12, 060)
Unemployment insurance	16, 475	11, 071	15, 327	11, 127	15, 427	10, 355	15, 427	10, 355
Proposed legislation	92	92			149	149	[1] 149	[1] 149
Subtotal: 603	(16, 567)	(11, 163)	(15, 327)	(11, 127)	(15, 576)	(10, 504)	(15, 576)	(10, 504)
Public assistance and other:								
Supplemental security income (SSI)	5, 617	5, 511	5, 558	5, 482	5, 558	5, 455	5, 558	5, 455
Proposed legislation	139	139			223	223	[1] 223	[1] 223
Aid to families with dependent children (AFDC)	6, 667	6, 667	6, 823	6, 810	6, 663	6, 748	6, 663	6, 748
Proposed legislation	−105	−105	23	23	14	14	[1] 14	[1] 14
Housing assistance	25, 519	4, 359	25, 519	4, 369	25, 585	4, 438	25, 335	4, 431
Proposed legislation	74	52	74	30				
Food stamps	5, 779	5, 949	5, 779	5, 825	5, 779	6, 042	5, 779	6, 042
Anticipated supplemental					143	143	143	143
School lunch; child nutrition	3, 780	3, 796	3, 681	3, 556	3, 788	3, 754	3, 788	3, 754
Proposed legislation	−93	−109	−205	−204	18	18	5	5
Anticipated supplemental					96		96	
Refugee assistance	148	166	148	166	148	166	148	166
Proposed legislation			21	21			21	21
Proposed energy legislation			926	926				
Earned income tax credit (EITC)	900	900	841	841	841	841	841	841
Fiscal relief (public assistance)	400	400			331	331	331	331
Other	217	219	217	218	215	217	215	217
Subtotal: 604	(49, 042)	(27, 944)	(49, 405)	(28, 063)	(49, 402)	(28, 390)	(49, 160)	(28, 392)
Ways and means legislation							[1] −117	[1] −117
Savings from Michel amendment								−300
Offsetting receipts	−1	−1	−1	−1	−1	−1	−1	−1
Grand total	193, 100	160, 200	191, 061	150, 622	192, 139	159, 650	191, 800	159, 300

[1] The House assumes unspecified savings of $117,000,000 from delayed implementation of certain legislative initiatives under the jurisdiction of the Ways and Means Committee.

700: VETERANS BENEFITS AND SERVICES

The Conference substitute provides $21.05 billion in budget authority and $20.7 billion in outlays for veterans programs. These amounts include reductions of about $200 million from the House-passed function totals. The reductions reflect the conference agreement on HUD and Independent Agencies appropriations, which provides somewhat lower levels than House-passed appropriations. The reductions also reflect the fact that lesser amounts will be required for new initiatives on which House committee action is pending, since the new fiscal year is about to begin.

The Conference substitute fully accommodates all House-passed and reported new entitlement initiatives, including pension reform; accommodates the HUD and Independent Agencies appropriations conference agreement; and provides additional new entitlement authority to the Veterans' Affairs Committee to complete its legislative programs.

750: ADMINISTRATION OF JUSTICE

The Conference substitute provides $4.300 billion in budget authority and $4.200 billion in outlays. The House resolution provided $4.163 billion in budget authority and $4.173 billion in outlays for these activities. The Conference substitute represents rounding to the nearest $100 million, plus an allowance for the pending legislation on Federal judges.

800: GENERAL GOVERNMENT

The Conference substitute provides $4.100 billion in budget authority and $4.000 billion in outlays. These amounts are rounded from the House resolution amounts of $4.098 billion in budget authority and $4.035 billion in outlays.

850: GENERAL PURPOSE FISCAL ASSISTANCE

The Conference substitute provides $8.800 billion in budget authority and outlays. These amounts compare to $8.931 billion in budget authority and $8.959 billion in outlays provided in the House resolution. These amounts assume funding for the proposed Supplementary Fiscal Assistance program at $550 million in budget authority and outlays, a level which should be sufficient to fund this legislative initiative in fiscal year 1979.

900: INTEREST

The Conference substitute provides $48.000 billion in budget authority and $48.000 billion in outlays. These are the amounts contained in the House resolution.

920: ALLOWANCES

The Conference substitute provides $800 million in budget authority and $800 million in outlays. These amounts compare to —$1,087 million in budget authority and —$743 million in outlays provided in the House resolution.

The Conference substitute distributes to the appropriate functions the savings assumed in the House resolution as a result of across-the-board cuts in several appropriations bills and the Michel amendment on fraud, waste, and abuse in HEW programs. Funds remaining in the function are those assumed to fund the 5.5 percent pay increase for employees of civilian agencies after estimated savings from absorption of a portion of the gross pay-raise costs. The Conference substitute continues to assume enactment of legislation to reform the blue-collar wage-setting system.

950: UNDISTRIBUTED OFFSETTING RECEIPTS

The Conference substitute provides $—18,000 million in budget authority and outlays. These amounts compare to $—17,163 million in budget authority and outlays provided in the House resolution. The major differences are in estimated royalty and rental receipts from production of oil and gas on the Outer Continental Shelf and correction of an error in estimating the effect of pending legislation to revise the method of leasing on the Outer Continental Shelf.

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Speaker, may I ask the distinguished chairman, am I correct in understanding there is $500 million in this budget resolution to cover a possibility of tuition tax credits?

Mr. GIAIMO. We have provisions in the revenue section of this which would cover the tuition tax credit.

Mr. COUGHLIN. Is there $500 million in the revenue section to cover that?

Mr. GIAIMO. Is there $500 million? As I understand it, there is. Bear in mind that these are estimates of what is available to the tax-writing committees. In the composition and makeup of the tax cut, there is a package of many things, one of which is tuition tax credit, and then energy legislation, Americans living abroad, and others. In the totality of that it is our firm belief that we are protected, that there is enough to protect the tuition tax credit.

Mr. COUGHLIN. Could I ask the distinguished chairman how much there is in terms of the estimate?

Could I ask the distinguished chairman, how much is in the estimate for the tuition tax credit which is included?

Mr. GIAIMO. We have an estimate, and bear in mind we are not a line item committee, we are not writing the tax bills, we are making assumptions in arriving at the total tax figure, and we are making assumptions on what the tax-writing committees are going to do. Our assumptions are based on the fact that we think they are going to need $700 million for tuition tax credit.

Mr. COUGHLIN. I thank the distinguished chairman. This was voted on in the House so it is a matter of record.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the final opportunity the 95th Congress will have to shape our country's economic future for fiscal year 1979. Since being seated in January 1977, this Congress has revised the fiscal year 1977 budget, and written new budgets for the succeeding 2 years. I have served on the Budget Committee for all 4 years of its existence and am deeply saddened today to state that none of the meaningful reductions the budget process was to have brought to the Congress have ever materialized. Rather than making meaningful reductions in Federal spending, the budget process has been little more than a minor inconvenience to the forces of big spending and high taxes which have controlled the Congress without exception for the past 24 years. It could, and should do more. During the 95th Congress—a period marked by strong economic expansion—we have seen the national debt climb by over $200 billion. Taxes have gone from 18.6 percent of the gross national product in 1976 to 19.8 percent in 1979. Three fiscal years will have passed without a net tax reduction and—as a result—the Federal income tax burden will have risen 15 percent in the short space of three budgets. Yet even with this record high tax increase, we are still not in sight of a balanced budget. Is it any wonder that today's economic headlines report that inflation was 11 percent for the second quarter and the dollar's value is at an all-time low compared to European and Japanese currencies.

Our repeated efforts to introduce meaningful budget discipline to slow spending growth by establishing total spending ceilings before taking up the individual functional categories have been defeated by the big spenders who fear their pet programs could not stand the sort of close scrutiny this approach would require. As a result, the budget we have before us is little different from what we would have had without a budget process altogether. Rather than boast about how the deficit is lower than that projected last January by President Carter, I would remind my colleagues that the $38.8 billion deficit now before you compares very poorly with the $9 billion surplus we could have had if this Congress had shown some courage and followed the budget blueprint laid out by President Ford when he submitted his budget for fiscal year 1977. Because we did not do that, we are now faced with trying to put the best face on double digit inflation and a budget mired deep in red ink.

It is for these reasons, Mr. Speaker, that I continue to oppose the second budget resolution for fiscal year 1979 and want to warn my colleagues who may be considering an "aye" vote that they should not be misled by appearances. True, the bill that came out of conference is an improvement over what went in, but only slightly. A lot of cosmetics have been applied to this budget resolution, but beneath the prettied-up surface it increases the public debt to $836 billion and gives us a deficit of $38.8 billion for fiscal year 1979.

In January 1978, President Carter proposed a budget with a deficit of almost $61 billion. Now the majority members of the Budget Committee tell us, by their figures, they have reduced that deficit to less than $39 billion. However, I feel I must clarify something that the majority members prefer to pass over quickly; namely, the methods they have used for cutting that deficit. In short, they have reduced the deficit figure by two methods—by letting taxes rise due to inflation, thereby increasing Government revenues, and by incorporating reestimates of the rates of Government spending, which are proving to be lower than anticipated.

That the majority has not cut back on the single most important determinant of future spending; namely, budget authority, is shown by the fact that they have allowed an increase of more than 11 percent over the current fiscal year. This figure of $555.7 billion in budget authority will thus provide an average annual increase over the last 3 fiscal years of more than 11 percent. This enormous increase will provide the Government with almost $1.2 trillion—or about half of our gross national product—in total available spending authority. With regard to the outlay estimates, we should stress the fact they are only that—estimates. In truth, there is little the Congress can do to control the rate of spending once funds are appropriated to Federal agencies. Thus, we can only sit on the sidelines and hope that we will curtail unnecessary spending.

In addition to the majority's wishful approach on spending, the majority would lower the deficit by letting taxes rise to an unprecedented high level. In fact, the net tax increase totals $13.2 billion. Consequently, when we hear the majority's rhetoric about balanced budgets, fiscal restraint, and shrinkage of the deficit, we should keep in mind that they are merely talking conservatively, as the voters now demand, but in reality have not deviated from their tax and spend philosophy.

I hear my Democrat colleagues talk about how high taxes and high inflation. Instead of doing something about them, the majority proposes a budget resolution which would actually cause taxes to go up by $13 billion next fiscal year and force the Government to borrow about $40 billion more than it takes in to stay afloat. It would finance today's extravagances through higher inflation and by giving generations yet unborn a good share of the bill.

Typical of the majority's refusal to cut spending is the disagreement which tied up the budget conference for more than a week. The Senate, to its credit, wanted to eliminate funding for more accelerated public works and the so-called soft-public-works programs. The House proposal would have authorized $6 billion of public works over the next 2 years, as much as was provided in so-called economic stimulus during the depth of the recession. Ostensibly, the program would relieve hard-core, inner-city unemployment, but I find this hard to believe. Only one-sixth of the jobs would go to the hard-core unemployed, and at a cost running between $17,000 and $175,000 per job. Obviously, such a program is unnecessarily costly, especially when you recall the size of the Federal deficit versus the combined surplus of State and local governments.

Moreover, the additional pork-barrel spending would be highly inflationary, since all the economic indicators clearly argue against further Federal stimulus to the construction industry. Construction employment is at record levels; construction unemployment has dropped to levels reached in only 11 months out of the last 8 years. With public construction already at high levels, demand for some basic construction materials is exceeding current supply.

For example, the prices of the following materials have increased dramatically over the period July 1977 to July 1978:

The cost of lumber has increased 15.7 percent.

Plywood: 9.2 percent.

Portland cement: 9 percent.

Concrete products: 11.1 percent.

Asphalt roofing: 16 percent.

Gypsum: 25.4 percent.

Obviously, then, the Senate conferees had the economic facts to back up their refusal to fund these new spending programs, and the entire Senate voted 63 to 21 not to provide new money in next year's budget for these prime examples of unneeded political pork. Yet the House insisted that we throw good money after bad and held out for more public works money. The compromise was to fudge it and have it both ways: the Senate continues to claim that $700 million added to this budget in function 450 is for natural disaster relief while the House says that the same $700 million is for manmade disasters, namely public works. Let us not fool ourselves: that $700 million will be spent twice, once for the legitimate purpose of aiding victims of natural disasters as the Senate provides for, but then a second time for wasteful and unnecessary pork-barrel public works programs favored by the majority House conferees.

The present situation could have been avoided. During the 1979 budget cycle, the minority members offered alternatives which, had they not been so partisanly opposed by the House leadership, would have passed. First, a Republican substitute budget resolution sponsored by one of the committee members, Mrs. HOLT of Maryland, was defeated on the grounds that it contained too big a tax cut. It turns out that if we had adopted the level of spending contained in this conference report, and refused to reprogram the savings which have come to us in the form of spending shortfalls, then we could have restrained the aggregate level of spending at the level proposed by Mrs. HOLT—namely $480 billion. Instead, the majority has decided to reprogram the funds, thereby increasing the deficit and increasing the rate of inflation. And still the Members of the House do not seem to grasp the reasons causing their constituents to complain about excessive taxation, runaway government spending, and a crippling rate of inflation.

The Republican amendment offered by Mrs. HOLT was part of a 5-year Republican plan to balance the budget and reduce taxes. The Republican plan aimed to reduce inflation and cut deficit spending by slowing the rate of increase in Federal spending to 7 percent. The Republican plan also aimed to bring taxes back from their currently inflated, record-high levels to 18.6 percent of GNP—the ratio they were at when President Ford left office. On the other hand, the Democrat budget increases spending by 11 percent, and continues the country down a fiscal path where—in 5 year's time—the budget would still be in deficit and the tax burden would be a record-high 22 percent of GNP.

Subsequent to the defeat of this Republican alternative budget by only five votes on the House floor, I put forth an amendment which would have split the difference between Mrs. HOLT's amendment and that supported by the Budget Committee majority. It would have reduced the budget deficit to below $30 billion while still providing for a 7-percent growth in Federal outlays—or $480 billion—and a 7-percent increase in budget authority—or $539 billion. While I did not approve of even this lower deficit proposed in my amendment, I offered it in the spirit of compromise. It would have reduced the public debt to $828 billion from the $836 in this conference agreement. It was rejected by only six votes. Given the treatment the minority has suffered at the hands of the House leadership, it should come as no surprise that budget resolutions do not enjoy bipartisan support.

Now a lot of you may think you can keep the interest groups happy on the one hand and still manage to convince the voters you are cutting out wasteful Federal spending and reducing taxes. The truth of the matter is that once and for all we have to choose between the taxpayers and the interest groups. This resolution makes the wrong choice. I am for the taxpayer and reduced spending. Therefore, I urge defeat of this resolution.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Indiana.

Mr. JACOBS. I thank the gentleman for yielding.

I simply want to say for the record that I have costed out the Kemp-Roth tax proposal and have concluded that that proposal calls for increased Federal spending, to wit: in 3 years it will subtract and cause a $112 billion additon to the national debt every year. That will call for increased Federal spending of $7.8 billion a year.

I thank the gentleman for yielding.

Mr. LATTA. I am happy to yield to the gentleman. I thank the gentleman for his comments, even though I was not discussing Kemp-Roth.

Mr. GIAIMO. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. BURLESON) for purposes of debate only.

Mr. BURLESON of Texas. Mr. Speaker, this conference report does not and could not please everyone. It does not please anyone. I could embrace the views—many of them—of the gentleman from Ohio (Mr. LATTA) from purely a fiscal standpoint, but this is more than that: it is a process. It really is just beginning to have a chance to work. Incidentally, it seems to me that these efforts should have, as much as anything that ever comes before this body, have bipartisan support. Surely, we can take the nuts and bolts, and the square pegs and the square holes and the round pegs and the round holes, and move them around in sort of a puzzle, but finally it comes down, I would repeat, to the process which in my judgment, needs to be preserved.

It is one of these things that is not as good as it should be, not as good as we want it to be, but it is a lot better than it used to be. Given a chance, I think we can get some handles on our fiscal affairs.

In leaving this Congress at the end of this year, I am going to be sitting back and looking at this procedure, as well as some of the others. I may be writing some letters to some of you and saying, "What are you guys doing up there?" just like many do now. It is important to try, and we have tried to bring some order to our fiscal affairs and there is opportunity to greatly improve in the future. Thinking back to other attempts back in 1949, and in the 1950's, we tried to have a consolidated appropriation, everything in one package; it did not work, but this is working and it can be made to work.

I think this is the greatest hope that the country can view as an effort to finally get a balanced budget and to get on a pay-as-we-go basis; to restore a confidence in this Nation that we can govern ourselves and run the business of the country more efficiently than has been the case in the past.

For that reason, I signed this conference report with enthusiasm, really, not because I want to see a $38.8 billion deficit, not because I want to see some of these other spending programs referred to by my friend, the gentleman from Ohio, but because it is better than anything that we have produced yet.

With this experience, since 1974 when we started this process, we have come quite a way by comparsion. The gentleman from Oregon (Mr. ULLMAN) was the first Budget chairman and performed admirably in getting this thing on track, and then our former colleague, Brock Adams, became Chairman and continued to ably lead the Budget Committee and the House toward the goals to which we committed ourselves in 1974. Our present chairman, the gentleman from Connecticut (Mr. GIAIMO) is trying so hard. It is a tremendous effort. I compliment all three of them and the fine staff who is able to advise them; so I hope that my colleagues will support this resolution and look forward to better ones in the future.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. GIAIMO. Mr. Speaker, I yield one additional minute to the gentleman from Texas.

Will the gentleman yield?

Mr. BURLESON of Texas. Yes, of course.

Mr. GIAIMO. I just want to say, Mr.

Speaker, that the gentleman from Texas is retiring from a long and distinguished career of service in the Congress. It is at the end of this term. I have had the pleasure of knowing him, I guess, for 20 years now. He has always been a fine, outstanding, able and hard-working Member of this House of Representatives. For the last four years he has been a Member of the Budget Committee. We have worked very closely.

We are going to miss his wisdom and his spirit of cooperation, his voice of caution against excessive spending, his voice of advice on the necessity to get better control over spending and over the Federal budget.

The gentleman from Texas has been a fine, warm and capable Member of the committee. I speak for all the Members of the committee when I say we are going to miss very much the distinguished gentleman from Texas (Mr. BURLESON) when he retires.

Mr. BURLESON of Texas. Mr. Speaker, I thank the gentleman from Connecticut most kindly for his remarks.

Mr. REGULA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Speaker, the history of the fiscal 1979 budget is an amazing story. We started the year with every indication that President Carter and the congressional majority would commit the country to a wild spending spree.

President Carter, you will recall, proposed a $500 billion budget, heavily larded with new and expanded programs. The House Budget Committee majority produced a first budget resolution that estimated outlays at $501 billion.

In committee and on the House floor, I offered a substitute budget with outlays of $488 billion, which was enough to continue current Government services adjusted for inflation. This substitute was carefully worked out with the help of the outstanding Budget Committee staff.

What I proposed was a responsible alternative to the liberal-spending monstrosity produced by the committee majority. I lost by only six votes on the House floor, and here is how our distinguished Budget Committee chairman, who works very hard to reconcile all our differences, described my amendment:

> The programs that will suffer and the people who will suffer will be those who need help from the Government—those who are poor, those who need health programs and educational programs and urban programs to rebuild the cities of America. They will be the last people to get the crumbs that are left. We cannot have this type of a total cut.

And what is our chairman presenting to us today as he comes from the House-Senate Conference Committee on the Budget? You will be astounded to learn that the conference has recommended outlays of $487.5 billion, which is just a bit less than what I proposed in my amendment to the first budget resolution.

Is the chairman appearing before us today with expressions of horror? Is he telling us that this budget recommended by the conference will hurt the poor and cause great suffering? Of course, he is not.

What has happened is that the estimates of what the administration will actually be able to spend in both 1978 and 1979 have dropped drastically, and the Budget Committees have accepted the savings possible from these reestimates.

Unfortunately, this conference report does not represent any substantial policy changes. The new and expanded programs are mostly still intact. The conference report still has $15 billion in new budget authority to create or expand programs.

It would be possible to reduce budget authority $15 billion and outlays by another $7.5 billion and still fund current services through 1979 with adjustments for inflation.

But when I offered such an amendment to the second budget resolution on August 16, it lost by five votes. Here is what the chairman had to say on that occasion:

> You are going to take it out of the hides of the people who can least defend themselves and least help themselves in this high inflationary process.

Mr. Speaker, I have never proposed taking anything from the poor. I am saying that we do not need new and expanded programs, except as they can be funded by drawing money from old programs. We should be making some hard decisions on how best to help the poor and provide opportunity, not just piling program on top of program.

My amendment to the second budget resolution provided for a 7-percent growth rate of Federal spending in fiscal 1979. I proposed to hold spending to the current services level so that we could provide substantial tax cuts for the American people.

We desperately need major tax reductions to offset the impact of inflation and the rising social security taxes. We need tax cuts to stimulate investment in economic development and jobs for our citizens.

The poor need opportunity, and they will not have that opportunity with Government spending and heavy taxation crippling the ability of the economy to expand.

I am very proud to be a Member of a dedicated minority that has kept pressure on the House to reduce the growth rate of Government this year. I believe that our relentless pressure has had an impact on the budget.

This conference report represents some progress, but still not enough. The spending could be less, the tax cut could be larger, the deficit could be lower, and without cutting the existing programs that help the poor.

I hope that my colleagues will join me in passing H.R. 12345 which will require two-step budget preparation. First, we must arrive at the aggregates and then decide how much to spend on each function. Only in that manner can we discipline ourselves.

We will continue the fight next year. Our plan is a balanced budget with lower taxes. Our goal is more investment, economic development, and great opportunities for all Americans.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would first of all like to compliment the gentleman from Texas (Mr. BURLESON) for his remarks. I think they were very appropriate, and I am hopeful that in the future we will be able to develop bipartisan support for the budget resolution. I share the same confidence the gentleman expressed that this process can work well.

I think that is quite evident this year from the fact that we were able to get some real cuts compared to what the President requested in January. They were not as great as might appear, because of the reduced estimates due to shortfalls and the reduction in the tax cut, but this budget does reflect a real reduction in outlays of somewhere between $3 to $4 billion under the Presidential request that we received in January. This reflects the ability of the Committee on the Budget to respond to changing economic conditions, and it is a strong argument in favor of the continuation of the budget process. The gentleman from Texas (Mr. BURLESON) made the case very clearly and very well.

My reaction to this second resolution is that it is a good news-bad news type of budget. The good news is that it allows greater tax cuts than did the second budget resolution passed by the House. It recognizes the fact that we should let the American taxpayer retain a greater share of his earnings to spend at his or her discretion. The bad news in that respect is that there will still be a tax increase next year resulting from inflation and social security taxes totalling $23 billion. This $23 billion of additional taxes will be only partially offset by a tax cut of approximately $10 to $11 billion. I am speaking in terms of taxes for individuals. Therefore because of inflation and increased social security taxes, this budget still reflects a new tax increase of $13 billion despite the changes in the Internal Revenue Code the Congress will be making within the next several weeks.

I think on the "good news" side is the fact that the budget authority in this resolution is $13.2 billion less than in the first budget resolution, and $5.4 billion below the House passed second resolution. Because budget authority is the driving force down the road for increased deficits and outlays, the fact that we have been able to reduce the amount by as much as we have is very commendable, and I certainly compliment the majority members of the conference committee for the efforts they made in conceding on this and working with the Senate to reduce budget authority.

The bad news on this is that it is still too high. It still reflects an 11 percent increase over last year's amount, and when we have an underlying inflation rate of at least 7 to 8 percent. What we are saying by this is that even though budget authority is less than it was in the first resolution, we are setting up for the future an 11-percent increase in outlays in the face of a lesser growth in the gross national product. In effect, the impact of this will be to have more government rather than less. I think this flies in the face of the great public feeling today that we ought to reduce the impact of the Government on the taxpayer and reduce the impact of the Government on the lifestyle of this Nation.

I would hope that in the future we can reduce budget authority even more. Certainly we are headed in the right direction. Likewise, it is good news that outlays are down, the deficit down, and the debt is down by some $2.1 billion.

There is one last point I would like to make, Mr. Speaker, and that is that this budget resolution does contain the seeds for success in gaining a balanced budget down the road. I say that because it does represent a reduction in budget authority and because it does not provide vast new programs. What is in this resolution is very selective in terms of new programs. This is in recognition of the fact that oftentimes in the past this body has started out with some small program at very little first year cost, but with enormous obligations in outyears. As we begin to face the reality of what that meant in terms of future costs, we discovered that the budget impact was far greater than we anticipated. The fact that the members of the Committee on the Budget and the members of the conference committee said in effect, "Let us reduce budget authority and let us not get into new programs" has the very great potential for a balanced budget in the foreseeable future.

If this is continued, then with it will come strong bipartisan support. I hope the gentleman from Texas will be able to look back here next year and see the kind of bipartisan support he is urging on us today, in terms of the budget resolution. I think there is a potential for this to happen; we are certainly headed in the right direction. That is the good news in this second budget resolution. We are disappointed, on our side of the aisle, that we did not reduce the budget authority substantially more and the outlay somewhat more, in the face of a strong economy; but, nevertheless, we commend the majority for the effort it has made in the number of points that I have mentioned earlier.

I hope we can look forward to budget resolutions which will reflect the feeling of the American people—their desire to have more efficient government—and not start new programs which prove to be very costly and very ineffective, and, as we look forward to the next budget resolution in the next fiscal year, I hope that we will develop a strong bipartisan approach to the budget. I am optimistic. I do not completely share the disappointment of the distinguished gentleman from Ohio, the ranking minority member on the committee, as to the effectiveness of the budget process. In my 2 years on the Budget Committee I have developed a great respect for what it can achieve. The limited success in bringing about a reduction this year from the President's original budget is a very persuasive case for the budget process.

Mr. Speaker, we have no further requests for time.

Mr. GIAIMO. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. DERRICK).

Mr. DERRICK. Mr. Speaker, I was elected to the House in 1974 and began service in 1975. We had a $76 billion deficit. That coincided with the first year of the Budget Committee in its present form. Today we have back from conference a deficit figure that has become, without question, a high visibility figure of some $38.8 billion. That is almost half of what it was in fiscal year 1976, just 3 years ago.

I think that this House—all of us, together with the Budget Committee—can take pride in those figures. If we will remember back to the rhetoric of several years ago, there were very few in the public sector or in the private sector who thought that this would be possible.

In our conference just the day before yesterday, the Senate and the House both expressed a determination and a real belief that this figure could become balanced over the next 2 or 3 years. And although I, like most of the Members, have spoken of a balanced budget for a number of years, I will have to say that, as we came back with this conference report, for the first time I can see something concrete in the next 2 or 3 years as to balancing the budget, and I have a very positive and definite feeling about it. But balancing the budget is but one part of this budget resolution. While meeting this figure, we have been able to meet the needs of this country—our social programs, our national defense, all of these programs—while at the same time exercising prudent fiscal responsibility.

Mr. Speaker, I can look to many areas in this resolution and point out many things that I might not be happy with.

The SPEAKER pro tempore. The time of the gentleman from South Carolina has expired.

Mr. GIAIMO. Mr. Speaker, I yield 1 additional minute to the gentleman from South Carolina.

Mr. DERRICK. But, those are just a very few compared to the areas that I can look at on behalf of this House, on behalf of this Budget Committee, and say, "A job well done, Congress of the United States. You have done what the majority of the population, the citizens of this Nation, thought you could not do".

Mr. DAVIS. Mr. Speaker, will the gentleman yield?

Mr. Speaker, I thank the gentleman for yielding. I would just like to associate myself with his remarks, and congratulate the chairman of the subcommittee.

As one who has never really voted for a budget resolution until the last resolution we brought before this House, I want to say that I think this committee is publicly moving in the direction the American people want it to go. It has brought great credit to this Congress by showing the fiscal responsibility we need. I am glad to see that we have begun to go down the road toward a balanced budget.

I thank the gentleman for his leadership.

Mr. DERRICK. I thank the gentleman.

The SPEAKER pro tempore. The time of the gentleman from South Carolina has again expired.

Mr. REGULA. Mr. Speaker, I yield 1 additional minute to the gentleman from South Carolina.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 additional minute.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, I want to compliment the gentleman in the well for some language that appears in the conference report, in the 270 function. During the conference we discussed the issue of full funding, and the gentleman in the well is one of the proponents of the full-funding approach in the budget resolution. As a result of his work, the conference report contains this language:

> The conferees note that the full funding approach is one means of promoting early disclosure of total program cost, improved management and long-term savings for major construction and procurement programs.

I hope the gentleman will continue his efforts to get a full-funding approach in the budget resolution in the future, and he deserves a great deal of credit for this one small step for the taxpayer.

Mr. DERRICK. I thank the gentlemen very much. Of course, as the gentleman well knows, he was of great assistance to me in bringing this about.

Mr. GIAIMO. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker and my colleagues of the House, I join in support of this resolution. I mean no disrespect to the chairman of this committee, whose eloquence we heard this morning, nor to the distinguished gentleman from South Carolina (Mr. DERRICK), but the gentleman from Texas (Mr. BURLESON) really hit the nail on the head, and I commend him for what he had to say.

We are down to $38.8 billion in the deficit. In fact, with the fall-off which always occurs we may be down this next fiscal year to $36 billion or $35 billion, and I hope a year from now, Mr. Speaker, that I can write to the gentleman down in Abilene, Tex. (Mr. BURLESON) and interrupt that golf game and tell him that we are down to $19 billion. I hope 2 years from now that I can write down and interrupt a Rotary Club or whatever else he is doing for relaxation and tell him we are down to zero. We are getting there.

He also mentioned one other thing that is important, and my colleague from Ohio (Mr. REGULA) mentioned it also. That is the need for this to be bipartisan. At one point in the course of the conference there was a dispute between the House and Senate on public works figures, and the chairman of the committee (Mr. GIAIMO) turned to the ranking minority Member (Mr. LATTA) who was agreeing with the Senate and said, "All right, will you support the resolution?"

The gentleman declined to indicate

that he would support the resolution. Then, Senator BELLMON of Oklahoma, certainly one of the finest Members of either body of this Congress, gave a little lecture to the minority Members saying—he is a Republican, I point out—urging them to make this a bipartisan effort.

I commend my colleague from Ohio, who incidentally was the most active of the Republican members of the conference committee, for his remarks. He did not indicate how he was going to vote, and I hope by the tenor of his remarks that he will be voting in favor of the resolution. That is important. This is a compromise.

There are things that each of us would like to see changed, but we are moving in the right direction. The gentleman from South Carolina, Mr. BUTLER DERRICK, used the proper term when he described this as a prudent budget. Prudence was exercised. We are moving toward balance in figures. It is a balanced budget in terms of national needs.

I am pleased and proud to support it.

● Mr. LEGGETT. Mr. Speaker, the adoption of this conference report brings to a close one of the most volatile and unpredictable economic years since the inception of the budget process in 1974.

When this process began, this Nation was faced with the worst recession since the 1930's, characterized by not only high unemployment, but also by high double-digit inflation. At the time we were carrying a deficit in excess of $70 billion, an unemployment rate in excess of 8 percent, and an inflation rate of 9 percent or more. Moreover, the American people were burdened with heavy taxation at all levels of government—Federal, State, and local.

It is little wonder that a taxpayers revolt was in the making and that there was a growing dissatisfaction with Government spending, particularly when there was widespread evidence of waste and mismanagement.

The role of the Budget Committee has been to address these economic problems using the limited instruments of Federal fiscal policy to bring about a balanced economy. The budget process has not been entirely successful in solving our economic problems, but I think it has helped in alleviating some of the effects of these economic problems.

For the first time in 4 years, we have brought the deficit down below $40 billion. We need to balance the budget. I even supported a constitutional amendment that would require that. We are at long last moving in the right direction, and once we get there, we should never allow the budget to contain such excessive imbalances again.

Through the budget process, we have been able to adopt and implement stimulative economic policies, including public service employment, community and urban development grants, job training assistance, and supplementary fiscal assistance to our distressed cities throughout the Nation. These programs have helped to bring the unemployment rate below 6 percent, which is, of course, still too high. In any event, it has been a process characterized by compassion, tempered by self-discipline and restraint.

But many pressing problems remain. We must restore confidence in the dollar, both domestically and internationally. This means we need a national energy policy. I regret to say that the energy policy now being formulated seems to fall short of the mark. I am particularly concerned about the pricing mechanisms being formulated for natural gas.

Structural unemployment continues to plague our society. The capitalistic system is failing our minorities, particularly black teenagers. This problem contains the seeds of social destruction.

Again, I want to reaffirm my position that we need a nationwide wage and price policy. We need firm guidelines for both labor and management that will insure fairness and increased productivity. I do not believe we can solve our current inflationary dilemma without wage and price guidelines that are enforced.

As my colleague, the gentleman from Texas (Mr. BURLESON) said, "The budget process does not please everbody." What we have been able to do is reach a sort of creative consensus about what our overall fiscal policy should be. Some tough decisions await the next Congress in the budgetary field, including welfare spending, defense funding, national health insurance, energy research and development, to name only a few. The pressures for large-scale Federal spending are still with us and they are not going to go away. We must be ready and willing to carefully assess and formulate national priorities that will not lead this country down the road to bankruptcy. That is the challenge of the future.●

GENERAL LEAVE

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous matter on House Concurrent Resolution 683.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. GIAIMO. Mr. Speaker, I have no further requests for time.

I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. GIAIMO.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 225, nays 162, not voting 45, as follows:

[Roll No. 811]

YEAS—225

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Annunzio
Applegate
Ashley
Aspin
Baldus
Barnard
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Byron
Carney
Clay
Collins, Ill.
Conte
Cornell
Cornwell
Cotter
Danielson
Davis
Delaney
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Fary
Fascell
Fisher
Flippo
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Fraser
Fuqua
Garcia
Gephardt
Giaimo
Ginn
Glickman
Gonzalez
Gore
Hall
Hamilton
Hanley
Hannaford
Harkin
Hawkins
Hefner
Heftel
Holland
Holt
Holtzman
Howard
Hubbard
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Krebs
LaFalce
Le Fante
Lederer
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCloskey
McCormack
McFall
McHugh
McKay
Maguire
Mahon
Mann
Markey
Mattox
Mazzoli
Metcalfe
Mikulski
Mikva
Milford
Mineta
Minish
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Panetta
Patten
Pattison
Pease
Perkins
Pickle
Poage
Preyer
Price
Rangel
Reuss
Richmond
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Scheuer
Schroeder
Seiberling
Sharp
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stark
Steed
Steers
Stokes
Stratton
Studds
Thompson
Thornton
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Watkins
Waxman
Weiss
Whalen
White
Whitley
Whitten
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Yates
Yatron
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—162

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
AuCoin
Badham
Bafalis
Baucus
Bauman
Beard, Tenn.
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burton, John
Butler
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Coleman
Collins, Tex.
Corcoran
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Fithian
Flynt
Forsythe
Fountain
Frenzel
Frey
Gammage
Gilman
Goldwater
Goodling
Gradison
Grassley
Green
Gudger

Guyer
Hagedorn
Hammerschmidt
Harris
Harsha
Heckler
Hillis
Hollenbeck
Horton
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Johnson, Colo.
Kasten
Kelly
Kemp
Kindness
Kostmayer
Lagomarsino
Latta
Leach
Lent
Livingston
Lott
Lujan
Luken
McClory
McDade
McDonald
McEwen
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Gary
Myers, John
Neal
O'Brien
Ottinger
Pettis
Pike
Pressler
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rinaldo
Risenhoover
Robinson
Rousselot
Ruppe
Santini
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steiger
Stump
Symms
Taylor
Thone
Treen
Trible
Vander Jagt
Walker
Walsh
Wampler
Weaver
Whitehurst
Wilson, Bob
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—45

Ammerman
Anderson, Ill.
Armstrong
Burke, Calif.
Caputo
Chisholm
Cochran
Cohen
Conable
Conyers
Corman
Crane
de la Garza
Dent
Dickinson
Flowers
Gaydos
Gibbons
Hansen
Harrington
Hightower
Jenrette
Krueger
Meeds
Meyner
Michel
Miller, Calif.
Mitchell, Md.
Nichols
Patterson
Pepper
Quie
Rahall
Rhodes
Rudd
Runnels
Sarasin
Shipley
Sikes
Stockman
Teague
Tsongas
Tucker
Wiggins
Wilson, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Mitchell of Maryland for, with Mr. Anderson of Illinois against.

Mr. Ammerman for, with Mr. Sikes against.

Mr. Nichols for, with Mr. Cochran of Mississippi against.

Mrs. Chisholm for, with Mr. Rudd against.

Mr. Corman for, with Mr. Cohen against.

Mr. Dent for, with Mr. Quie against.

Mr. Shipley for, with Mr. Michel against.

Mr. Meeds for, with Mr. Hansen against.

Mrs. Meyner for, with Mr. Dickinson against.

Mr. Tucker for, with Mr. Crane against.

Mr. Rahall for, with Mr. Conable against.

Mr. Pepper for, with Mr. Wiggins against.

Until further notice:

Mrs. Burke of California with Mr. Caputo.

Mr. Conyers with Mr. Flowers.

Mr. Gaydos with Mr. Gibbons.

Mr. de la Garza with Mr. Harrington.

Mr. Jenrette with Mr. Hightower.

Mr. Krueger with Mr. Miller of California.

Mr. Patterson of California with Mr. Teague.

Mr. Runnels with Mr. Tsongas.

Mr. BREAUX changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 13335, AMENDING THE SOCIAL SECURITY ACT

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95-1597) on the resolution (H. Res. 1367) providing for consideration of the bill (H.R. 13335) to amend part A of title IV of the Social Security Act to provide additional fiscal relief for States and political subdivisions with respect to the costs of certain welfare programs, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 12299, ESTABLISHING A FEDERAL OFFICE ON DOMESTIC VIOLENCE

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95-1596) on the resolution (H. Res. 1366) providing for consideration of the bill (H.R. 12299) to establish a Federal Office on Domestic Violence, and a Federal Counsel on Domestic Violence, to provide grants for the assistance of victims of domestic violence and for training programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 12161, AMENDING REGIONAL RAIL REORGANIZATION ACT OF 1973

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95-1595), on the resolution (H. Res. 1365) providing for consideration of the bill (H.R. 12161) to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations to the United States Railway Association for purposes of purchasing securities of the Consolidated Rail Corporation, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 14042, DEPARTMENT OF DEFENSE AUTHORIZATIONS

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95-1598), on the resolution (H. Res. 1368) providing for consideration of the bill (H.R. 14042) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpoedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SUBCOMMITTEE ON COAST GUARD AND NAVIGATION OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT DURING 5-MINUTE RULE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries may be permitted to sit for purposes of hearing only during the 5-minute rule today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the gentleman can assure us that it is for a hearing only; there will be no markup of any legislation?

Mr. OBERSTAR. Mr. Speaker, if the gentleman will yield, there is no markup scheduled.

Mr. ROUSSELOT. These witnesses have been scheduled for some time?

Mr. OBERSTAR. The hearing has been scheduled for several weeks. It is on the sinking of the *Edward Fitzgerald*.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota (Mr. OBERSTAR)?

There was no objection.

PERSONAL EXPLANATION

(Mr. PIKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PIKE. Mr. Speaker, I feel that I owe an apology to my colleagues in the House for having missed last night the debate and the vote on the earned income limitation.

I was preoccupied with a much higher priority matter. I was downtown at the time making a speech.

I want to apologize further for the fact that, although it was a superb speech, the honorarium would have been wholly legal under the new rules of the House of Representatives.

MAKING IN ORDER ON TUESDAY NEXT OR ANY DAY THEREAFTER CONSIDERATION OF HOUSE JOINT RESOLUTION 1139, CONTINUING APPROPRIATIONS, FISCAL YEAR 1979

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it may be in order on Tuesday next or any day thereafter to consider in the House, as in the Committee of the Whole, the joint resolution (H.J. Res. 1139), making continuing appropriations for the fiscal year 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman tell us, this will be a continuing resolution for what?

Mr. MAHON. Mr. Speaker, if the gentleman will yield, the continuing resolution is for certain bills that will not be enacted into law by the beginning of the new fiscal year, and specifically Defense and HEW.

Mr. ROUSSELOT. HEW?

Mr. MAHON. The Labor-HEW and the Defense appropriation bills.

It also involves about $17 billion in budget estimates for programs that were not authorized and which were not contained in the Labor-HEW appropriation bill which passed the House in June.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the answer of the chairman of the Committee on Appropriations as to the specifics of what is in the proposed continuing resolution. It is, then a continuation appropriations for HEW, and a continuation of Defense Department appropriations, and roughly $17 billion worth of other appropriation items that have not yet been authorized. Is that basically the fact?

Mr. MAHON. That is basically correct. They were not authorized at the time the bill passed the House in June. Some have since been authorized but there are not yet regular appropriations in process.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman.

Mr. MAHON. Mr. Speaker, will the gentleman yield further?

Mr. ROUSSELOT. I yield to the chairman of the committee.

Mr. MAHON. Mr. Speaker, the resolution contains certain "works of art," so to speak, and those are always contained in a continuing resolution.

Mr. ROUSSELOT. Mr. Speaker, I assume at this point in the record the gentleman will insert what will be covered in this continuing resolution since he is asking that consideration of the resolution be made in order next week?

Mr. MAHON. Mr. Speaker, if the gentleman will yield, the report is being filed today, and I will insert explanatory material in the RECORD at this point.

Mr. ROUSSELOT. Mr. Speaker, I appreciate that.

Mr. MAHON. Mr. Speaker, the explanatory material consists of excerpts from the committee print of the report considered by the Appropriations Committee this morning and is as follows:

This resolution is necessary in order to provide continuing authority for existing Federal programs for which regular annual appropriations will not be enacted when the new fiscal year begins on October 1, 1978. Basically the resolution covers activities usually funded in the Department of Defense appropriations bill and the Departments of Labor and Health, Education, and Welfare and related agencies appropriations bill.

The resolution also provides continuing authority for a wide range of health, manpower, and education programs which have not been included in the Labor-HEW bill because of long delays in the enactment of further authorizing legislation. These items are enumerated later in this report.

The resolution follows the basic form and concept of similar resolutions of past years. It is effective until March 31, 1979. However, the funding levels provided in the resolution cease to exist when the applicable appropriation bills are signed into law.

LEVELS OF FUNDING UNDER THE RESOLUTION

As has been the general practice over a period of years, the continuing resolution establishes an appropriate rate of funding for departments and agencies until the regular appropriation bills are enacted.

With respect to items contained in the Defense and Labor-HEW bills, the operating levels which obtain under the continuing resolution are based on the status of the bills as of October 1, 1978, as follows:

(1) Where the applicable bill has passed both Houses and an amount provided for in the bill as passed by the House is different from that as passed by the Senate, the pertinent project or activity is continued under the lesser amount or the more restrictive authority (sec. 101(a)(3));

(2) Where the applicable bill has been passed by only the House, the pertinent project or activity is continued at the current level or the level provided by the House, whichever is lower (sec. 101(a)(4)); and

(3) Where an item is included in only one version of an act as passed both Houses, the pertinent project or activity is continued at the current rate or the rate provided by the one House, whichever is lower (sec. 101(a)(4)).

With respect to items which have been omitted from the regular Labor-HEW bill because of delay in the enactment of authorizing legislation, the pertinent project or activity is continued at the current rate (sec. 101(b)).

The programs covered by section 101(b) of the resolution, which account for approximately $17 billion in budget estimates for fiscal year 1979, are as follows:

Employment and Training Administration:
Program administration;
Employment and training assistance;
Temporary employment assistance; and
Community service employment for older Americans.

Department of Health, Education, and Welfare:

Health Services Administration:
Community health centers;
Comprehensive health grants to States;
Sudden infant death information dissemination;
Genetic information and counseling;
Family planning;
Migrant health;
National Health Service Corps;
Hemophilia treatment centers;
Home health services; and
Emergency Medical Services.
Center for Disease Control:
Venereal Disease;
Immunization;
Rat control; and
Lead-based-paint poisoning prevention.
National Institutes of Health:
Research training;
Medical library assistance; and
Population research.
Alcohol, Drug Abuse, and Mental Health Administration:
Rape Center;
Mental health, drug abuse, and alcoholism training;
Community mental health centers; and
Drug abuse project grants and contracts and grants to States.
Health Resources Administration:
Health planning;
Nursing institutional assistance; and
Nursing student assistance.
Assistant Secretary for Health:
Health statistics;
Health services research; and
Health maintenance organizations.
Office of Education:
Follow Through;
Drug-abuse education;
Environmental education; and
Educational broadcasting facilities.
All programs administered by the Assistant Secretary for Human Development.
Related agencies:
Action—Domestic volunteer programs;
All programs administered by the Community Services Administration; and
Corporation for Public Broadcasting.

Mr. ROUSSELOT. Mr. Speaker, I would like at this time to yield to my colleague, the gentleman from Maryland (Mr. BAUMAN), who has questions concerning the HEW appropriation and the continuing resolution as it applies to HEW.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, may I ask the chairman of the committee this question: Am I correct in saying that all of the levels of funding under this continuing resolution will be kept at last year's levels?

Mr. MAHON. Mr. Speaker, if the gentleman from California will yield, it would depend upon the circumstances and where the applicable appropriation bill is on the first day of the new fiscal year. If a bill has passed both Houses, we take the lowest figure. If it has passed only the House, we take the lower of the House figure or the current rate. Then the items which were omitted from the regular Labor-HEW bill because of the lack of further authorization are continued at the current rate.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman.

And all the statutory restrictions are continued from last year in these various appropriations?

Mr. MAHON. Generally speaking, yes; restrictions are provided for.

Mr. BAUMAN. Including the HEW appropriation?

Mr. MAHON. Including the HEW appropriation.

Mr. BAUMAN. Mr. Speaker, if the gentleman from California will yield further, I would like to ask the chairman of the committee one more question which I think is of importance to all the Members, and that is this:

Usually a continuing resolution is evidence of an inability to resolve differences between the two Houses, and it is usually asked for in the closing days of a session of Congress. May I infer from the fact the gentleman is asking for this permission now for defense and HEW that we may well adjourn without reaching a final conclusion on these bills, and then this continuing resolution will serve as our authority for spending?

Mr. MAHON. Mr. Speaker, if the gentleman will yield further, I feel very hopeful that the Labor-HEW appropriation, which is scheduled to pass the Senate early next week, may be settled in conference and we may not be required to depend upon the continuing resolution.

With respect to defense, I anticipate that the defense appropriation bill will clear the Senate and that we will reach conference agreement. But the reason we have to initiate the continuing resolution at this time is that there is no likelihood that final congressional action will be taken and the bill sent to the President and signed into law by the beginning of the new fiscal year, which is less than 10 days from today. So we will need this resolution in order to prevent chaos.

Mr. BAUMAN. Nevertheless this resolution extends these appropriations on a continuing basis until March 31, 1979, and this will serve as a convenient way out if deadlocks are reached on these appropriations; is that not correct?

Mr. MAHON. Mr. Speaker, will the gentleman yield further?

Mr. ROUSSELOT. I will be glad to yield to the committee chairman.

Mr. MAHON. Mr. Speaker, I believe there will be a disinclination on the part of the House to go forward under the continuing resolution because the continuing resolution would provide a lower funding level in many cases than would be available otherwise in the regular bills.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his responses.

While it is not my intention to object, I think I would feel more comfortable with this resolution if we knew from the leadership what is going to happen here in the next few weeks. I would like to know how many of this clutter of bills that are being reported out by the Committee on Rules are coming up, and I would like to know whether we have a reasonable date set for adjournment. As yet we have been kept in the dark, and they are reporting out more bills from the Committee on Rules. Yet here we are asking for two major pieces of legislation to go through on a continuing basis.

Mr. Speaker, I think this might call for some explanation from the leadership if requests like this are to be granted.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I do not know whether anybody from the leadership wants to respond, but I think the gentleman has made a good point. We all realize that appropriation bills are important items on the legislative agenda. As I had a discussion with the chairman, we cannot even find out how many people are aware what the actual funding levels will be in this continuing resolution, even though it will be discussed next Tuesday. But there is an awful lot in a continuing resolution that will in fact be beyond the scope of what we dscussed in authorizing bills. It is possible. We do not know what the Senate might tack onto such a continuing resolution, because the other House does not have the rules of germaneness over there that this body does. So I guess what some of us are concerned about is that we want as much definition as possible. If we are going to take this up Tuesday, when will it be, early in the schedule, or has the chairman been given a time frame?

Mr. MAHON. If the gentleman will yield, we do not know whether it will actually come up Tuesday. That will depend upon the scheduling suggested by the leadership. But that was the first day we thought we would undertake to bring it before the House if we were able to do so. The request was that it be in order next Tuesday or any day thereafter. Of course, one just cannot predict what the exact situation will be.

Mr. ROUSSELOT. Further observing the right to object, let me pose a question to the distinguished majority leader. He is in the chair. Does the gentleman (Mr. WRIGHT) have any idea whether this continuing resolution will be brought up Tuesday?

The SPEAKER pro tempore (Mr. WRIGHT). The Chair will state to the Members that it is the definite plan and intention of both the House and the Senate leadership that we shall complete the necessary legislative schedule in order to permit adjournment sine die on October 14.

The Chair is advised that the other body has made specific plans aiming toward that date.

The Chair should further declare that there are only five categories of items regarded as absolute necessities prior to adjournment. One of those has been acted upon in the House today by the adoption of the concurrent budget resolution. Another is the energy bill. A third is the Tax Reduction Act. A fourth consists of the appropriations bills. And, quite obviously, the House could not adjourn, nor could the Congress adjourn, absent action on the necessary departmental appropriations bills. Finally, there are the expiring authorizations, on which, the Chair will state, the House has made significant progress in the last 2 weeks.

Therefore, the Chair believes that it is possible, perhaps even probable but most emphatically possible, that we shall adjourn on October 14. To that end, it would seem plausible that the request of the gentleman from Texas (Mr. MAHON) should be agreed to, in that it would expedite the conclusion of our business.

Mr. ROUSSELOT. I appreciate the majority leader's very definitive response. So it is the gentleman's judgment that the continuing resolution will in fact come up Tuesday?

The SPEAKER pro tempore. It is the intention of the leadership that this continuing resolution will be scheduled and will not be delayed beyond its time of necessity. The Chair is not prepared to state at this moment that it emphatically will come up on Tuesday next. The gentleman from Texas (Mr. MAHON) has requested unanimous consent that it may come as early as Tuesday.

Mr. ROUSSELOT. I thank the Chair.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE REPORT ON HOUSE JOINT RESOLUTION 1139, CONTINUING APPROPRIATIONS, 1979

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on the joint resolution (H.J. Res. 1139) making continuing appropriations for the fiscal year 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMENDING PRESIDENT CARTER, PRESIDENT SADAT, AND PRIME MINISTER BEGIN ON CAMP DAVID SUMMIT

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the concurrent resolution (H. Con. Res. 715) commending President Carter of the United States, President Sadat of Egypt, and Prime Minister Begin of Israel for the courageous steps they have taken to resolve the differences between Egypt and Israel and to bring about a comprehensive, just, and durable peace in the Middle East, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 715

Whereas the people of the United States earnestly hope and pray that a just and durable peace in the Middle East can be negotiated by the parties to the Arab-Israeli conflict;

Whereas President Carter has responded to this hope by his courageous and dedicated effort in convening the Camp David Summit;

Whereas President Anwar al-Sadat and Prime Minister Menahem Begin have been willing to negotiate with understanding, humility, and a willingness to compromise in order to try to achieve solutions acceptable to all sides and promote lasting peace and justice in the Middle East; and

Whereas continued good will and cooperation will be needed from the leaders of all states in the Middle East: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress commends President Carter for his leadership in promoting peace in the Middle East and endorses his efforts to further encourage support and understanding among the leaders of all states in the Middle East of the two agreements reached at the Camp David Summit.

SEC. 2. The Congress commends President Sadat and Prime Minister Begin for the courageous steps they have taken to resolve the differences between their nations and to bring about a comprehensive, just, and durable peace between Israel and its Arab neighbors.

SEC. 3. It is the sense of the Congress that the framework for Middle East peace embodied in the two agreements reached at the Camp David Summit provides the basis for peace treaties among the parties to the Arab-Israeli conflict and provides hope that human dignity, justice, and security for all peoples in the Middle East can be achieved.

SEC. 4. It is further the sense of the Congress that the United States should continue to pursue further direct peace talks among parties in the Middle East in order to build on the momentum created by the Camp David agreements to promote a comprehensive settlement among all parties to the conflict.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I shall not object, but I would like to have the gentleman from Wisconsin explain the purpose of the resolution.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I will be delighted to yield.

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, House Concurrent Resolution 715 and House Concurrent Resolution 719, an identical resolution, are measures of great significance to the cause of peace in the Middle East. It is my urgent hope that these concurrent resolutions will receive the unanimous support of the House of Representatives. Clearly they merit full support.

I was privileged to introduce these resolutions together with a total of 39 cosponsors including 35 members of the House International Relations Committee, the House majority leader (Mr. Wright) and the House minority chairman of the Republican Conference (Mr. Anderson).

As the title indicates, the resolutions relate to the Camp David summit negotiations. They commend President Carter, President Sadat of Egypt, and Prime Minister Begin of Israel for the courageous steps they have taken to resolve the differences between Egypt and Israel and to bring about a comprehensive, just, and durable peace in the Middle East.

There is obviously little point in going into the background of the troubled and tragic situation in the Mideast. We all know what an enduring tragedy that conflict has been for the people of the region. We know, too, how war has sapped the vital energy of many countries in the area, depleted their economies, and otherwise prevented them from fulfilling the great and fruitful potential of which they are capable individually and collectively.

Above all, this Congress certainly knows what an enormous challenge the Middle East situation has represented to United States foreign policy. Over the years we have made a determined effort to end hostilities there, to bring peace to the people of that region, and to assure protection of vital U.S. national security interests.

The recognition of all those concerns and interests led President Carter to convene the recently concluded Camp David summit. As a complement to his courageous move it is appropriate that we endorse the outcome of that summit. That is what House Concurrent Resolution 715 would do.

Considering the many difficult challenges that still lie ahead in fully and finally implementing the summit agreements it is urgent that we give every possible impetus and encouragement to the understandings reached at Camp David.

House Concurrent Resolution 715 offers the Congress an opportunity to join with President Carter, Prime Minister Begin, and President Sadat. They are deserving of our praise, respect, and gratitude. The resolution is deserving of the support of every Member. I therefore enthusiastically urge the approval of House Concurrent Resolution 715.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the distinguished gentleman from Michigan for yielding to me. I have a few questions I would like to direct to the distinguished chairman.

First, may I say that of course I join every Member of the House in applauding President Carter for his courage, imagination, strength, zeal, determination, fortitude, and so forth but I am wondering whether this resolution was drafted by our chief of staff, Dr. Brady, or by some obscure foreign service officer in the Department of State, or by Mr. Rafshoon in the White House. Who was the actual author?

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. My good friend from Illinois is very perceptive. Our very able chief of staff, Dr. Brady, with the assistance of others of the staff and myself, have been instrumental in drafting this resolution.

Mr. DERWINSKI. Then in order to be helpful, and in the process I trust I will not have to object, in reading the whereas clauses, I join the Members who have sponsored this resolution in referring to the President as courageous and dedicated. I am wondering though in the third whereas clause where it refers to President Sadat and Prime Minister Begin as having negotiated with understanding and humility, I am wondering whether that term "humility" is really accurate. I think they are more apt to be described as men of strength and power rather than men of humility.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, of course, as the gentleman from Illinois knows, humility lends itself to varied interpretations. However, in drafting this resolution we thought that "humility" was the proper word under the circumstances that prevailed at Camp David.

Mr. DERWINSKI. Mr. Speaker, if the gentleman will yield further, I accept that, knowing of course the great humility the chairman always shows.

I have one question on section 4. I refer to "the sense of the Congress that the United States should continue to pursue further direct peace talks among the people of the Middle East." I assume we would not force the Israelis to engage in direct talks with the PLO unless they deemed it in their interest.

Mr. ZABLOCKI. Mr. Speaker, if the gentleman will yield further, that is correct and there is no way that section 4 could be interpreted that way.

Mr. DERWINSKI. Mr. Speaker, I thank the chairman.

Then I notice the language which calls our attention to the momentum attained at Camp David. I would like to point out to the Members of the House that this momentum will soon be interrupted by the machinations of the Soviet Union, who I predict will use their client states—Syria and Iraq and Libya and South Yemen—to try to torpedo the summit. I want all Members to know that even though I support this resolution, and I applaud the authors, and especially the skillful draftsmanship of Dr. Brady, my prediction is that the diabolic goals of the Soviet Union are such that this wonderful momentum will soon be halted.

With that frank and sorrowful note, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from New York.

Mr. GILMAN. I thank the distinguished ranking minority member for yielding.

Mr. Speaker, I want to join our distinguished chairman, the gentleman from Wisconsin (Mr. Zablocki) and the ranking minority member the gentleman from Michigan (Mr. Broomfield) in support of this resolution House Concurrent Resolution 715 and the companion resolution 719, which I cosponsored, commending our President and the leaders of Egypt and Israel for their accomplishments at Camp David.

While we all recognize that we have come a long way by way of the Camp David summit agreements, we also recognize that we still have a long, long way to go before there is a final treaty.

President Carter, Prime Minister Begin, and President Sadat have taken significant strides toward the institution of a lasting bond of peace. The summit confrontation at Camp David has hopefully ended a war and produced a reasonable plan for peace.

The Camp David agreements are major milestones on the road to peace in the Middle East. The three leaders we are commending today are fully cognizant of the fact that these agreements are but frameworks, and that there is still much to be accomplished before there can be a full resolution of all the problems between the Arabs and the Israelis.

The ultimate success of these agreements will now depend, not only upon our Nation's support, but will also depend upon the sincerity and commitment of the peoples of Egypt, Israel, and the Arab world.

As we stand poised on the threshold of what appears to be a workable peace for the first time in the past three decades, let us hope and pray that these framework Camp David agreements will yield a final treaty for a permanent peace in the Middle East.

Accordingly, I urge my colleagues to vote for this resolution so that we can demonstrate to the entire world our Nation's strong support for what has been accomplished at Camp David.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois (Mr. Findley) for a comment.

Mr. FINDLEY. Mr. Speaker, I thank the gentleman for yielding.

First of all, I thank the chairman of the committee for holding hearings on this. Sometimes in the past our committee has stood aside and let resolutions of this kind come directly to the floor, a process I think is unfortunate. I am glad the usual regular procedure has been adopted on this occasion.

Like my colleague, the gentleman from Illinois (Mr. Derwinski), I want to compliment the draftsmanship so evident in this resolution, particularly on the comprehensive scale it denotes. For example, in section 4, it calls for the promotion of a comprehensive settlement among all parties. Section 3 refers to all peoples in the Middle East. In section 2 it refers to a just and durable peace between Israel and its Arab neighbors.

Even though this clearly does not call for the State of Israel to communicate directly with the PLO, it does not preclude communication with the PLO, nor does it preclude the possibility of a settlement which would encompass the problems of the Palestinian refugees who are presently organized as the PLO.

I congratulate the committee for the fine work done in drafting this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I do so for the purpose of yielding to the gentleman from Indiana (Mr. Hillis).

Mr. HILLIS. Mr. Speaker, I too rise in support of this resolution. I have been one of those on the floor at times who has been critical of this administration in various areas, but I certainly want to stand on this occasion and salute our President, and all involved in the Camp David summit for the effort that was made there as a beginning toward solving this horrendous problem, and I want to emphasize that, and I too look upon it as a beginning point. I think it will result in helping maintain the momentum in the Congress to further carry on this type of action. More importantly, I sincerely hope that this also denotes a return to, or a "new beginning point," of a truly bipartisan foreign policy by the Carter administration.

I again want to thank the distinguished gentleman from Michigan (Mr. Broomfield) for yielding me this time so that I might express my opinion.

Mr. ASHBROOK. Mr. Speaker, would the gentleman yield?

Mr. BROOMFIELD. Mr. Speaker, continuing to reserve the right to object, I yield to the gentleman from Ohio (Mr. Ashbrook).

Mr. ASHBROOK. Mr. Speaker, I appreciate the gentleman yielding, and although perhaps this is not the time to add a discordant note, I do think we ought to realize that in the last 20 years we have had the Spirit of Geneva, we have had the Spirit of Glassboro, the Spirit of Shanghai and now the Spirit of Camp David. We have had all these spirits that do not seem to last as long as we would like.

I know there is always a sense of euphoria right after a conference, but many of us wonder what really will happen possibly 2 weeks from now, and whether we will see if this spirit actually can stick together that long. But, since I look upon this House concurrent resolution as being little more than a letter to Santa Claus, I certainly would not object at this time.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I do so only for the purpose of yielding to the gentleman from Masachusetts (Mr. Conte).

Mr. CONTE. Mr. Speaker, I thank the gentleman for yielding to me, and I certainly want to take this opportunity to congratulate the chairman of the Committee on International Relations, the gentleman from Wisconsin (Mr. Zablocki) and the ranking minority member, the gentleman from Michigan (Mr. Broomfield) and the rest of the members, for their wisdom in bringing this concurrent resolution to the floor of the House.

Mr. Speaker, I rise in support of House Concurrent Resolution 715. Throughout the centuries, man has embarked upon countless quests in search of riches, power, and that elusive dream of peace on this earth. Numerous times riches and power have been realized, while peace continues to be the most unattainable of these pursuits. The struggle among nations, the injustice perpetrated by man against his brother, the perpetual misery and poverty experienced daily by many, almost convince us that life is the "War of man against every other man".

Yet, on occasion, this near endless chaos in which we exist is interrupted—something occurs to give man inspiration, to convince him that the pursuit of peace not necessarily be a "quixotice quest", but a real goal. The recent Camp David summit is such an occurrence.

Nations immersed in conflict for years have begun to set "the framework for peace." While many problems are yet to be solved, the accomplishments thus far achieved have been a bold thrust forward for the countries of the Middle East. If peace replaces the conflict which has plagued this volative region for decades, similar successes may spread to all corners of the globe.

The embrace of the two leaders, Mr. Sadat and Mr. Begin has monumental consequences for peace throughout the world, a potential peace which in no small way may be attributable also to our own President Mr. Carter.

Yes, I am heartened by the Camp David summit, for if men "worlds apart" can transcend national differences to work together for peace in the Middle East, there is no limit to what men of similar beliefs can accomplish toward the goal of peace in our time. My only hope now is that a solution to the remaining problems can be achieved without undue delay. Thank you.

Mr. McDONALD. Mr. Speaker, would the gentleman yield?

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I do so for the purpose of yielding to the gentleman from Georgia (Mr. McDonald).

Mr. McDONALD. Mr. Speaker, I think this is a very fine resolution that does show courage and long range vision on the part of those involved, but I hope we would not be doing anything that might not be in complete synchronization with the executive branch.

I would inquire, Has this concurrent resolution been reviewed by the White House?

Mr. BROOMFIELD. Mr. Speaker, I would be glad to yield to the gentleman from Wisconsin (Mr. Zablocki) if the gentleman would care to respond to that inquiry.

Mr. ZABLOCKI. Mr. Speaker, would the gentleman from Georgia repeat his inquiry?

Mr. McDONALD. I was just wondering, as I say, I think this is a very fine resolution that has been brought before us in commending what was done at Camp David, but I hope we would not be doing anything in this body that would be in any way out of synchronization with the plans of the executive branch. So I was just wondering whether the White House has been made aware of this resolution.

Mr. ZABLOCKI. Yes, this resolution was made available to the White House and a representative from the State Department was present when we were considering it and there was approval by the White House and the State Department.

Mr. McDONALD. I think that is very important because the executive branch has taken steps to be sure that its image to the public has been properly presented and I think it is important that any such resolution be run through the "image department" before they go out from this body.

Again I thank the gentleman for yielding.

Mr. WAGGONNER. Mr. Speaker, would the gentleman yield?

Mr. BROOMFIELD. Mr. Speaker, further reserving the right, I do so for the purpose of yielding to the gentleman from Louisiana (Mr. Waggonner).

Mr. WAGGONNER. Mr. Speaker, I want to commend the gentlemen who are presently handling this resolution today, both my dear friend, the gentleman from Wisconsin (Mr. Zablocki) and the gentleman from Michigan (Mr. Broomfield) for bringing this resolution to the floor. Cerltainly I want to commend Mr. Sadat and Mr. Begin but, most of all, we need to pass this concurrent resolution so as to commend the President of the United States, Jimmy Carter, who deserves nothing but the kindest expressions we can offer for what he has done. Certainly he does not have full control over what might happen in the future but he has done his best, to move the peace process along, he has done it well, and I, for one, appreciate it and thank him for it.

Mr. BROOMFIELD. Mr. Speaker, from Jerusalem to Camp David, this past year has been a dramatic one for the United States and its friends—Israel and Egypt—as they seek security and peace in the Middle East. For many years amidst rhetoric, wars, and politics—the search for a lasting peace in the Mideast has continued.

With candor and strength, with understanding and goodwill, President Carter, Israeli Prime Minister Begin and Egyptian President Anwar Sadat, have dramatically and courageously negotiated a framework for peace—a written diplomatic plan through which our friends in the Middle East can, after 30 years of hostilities, begin to move toward peace.

I sincerely congratulate the President, Mr. Begin, and President Sadat, on their cooperative efforts to promote peace in the Middle East. Like Mr. Begin, it is my hope that we can all continue to work together to make the details of this framework a reality and that as a result of our cooperation, we can—at the same future date—finally say: "We have peace."

I urge my colleagues to support House Concurrent Resolution 715.

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

● Mr. BIAGGI. Mr. Speaker, I lend my full support to House Concurrent Resolution 715 commending Presidents Carter and Sadat and Prime Minister Begin for their work for peace during the recent Camp David summit.

These are critically important days. The framework for peace was reached at Camp David. It is now time to employ some salesmanship to convince others of its merits. This is why Secretary of State Vance's trip is so critical. I am hopeful that those world leaders in support will say so and those opposed or with reservations will follow the directions of King Hussein and keep an open mind so as to get all the facts.

Peace in the Middle East is a goal which should be pursued without interruption. The Camp David summit has lent great momentum to the peace effort and it is the responsibility of the participants to keep it going.

The nation of Israel has existed for just over 30 years. They have been years marked with conflict and adversity. They are perhaps on the threshold of achieving their first generation of peace. No more important accomplishment could there be.

This resolution deserves our unanimous support. The energy and dedication of these three leaders is worthy of the highest commendation. The Camp David summit was an act of great courage and sacrifice but if it achieves the goal of peace in the Middle East it will certainly earn its own place in the annals of world history.●

● Mr. BOLAND. Mr. Speaker, I strongly support House Concurrent Resolution 715.

The events of the last 5 days have given the world renewed hope that a true and just peace in the Middle East can be the product of negotiation rather than confrontation. The Camp David summit has produced not just a framework for achieving peace but a blueprint for effecting that result. The documents that were signed in the White House on September 17 represent a historic departure from the pattern of bitterness and hostility that has produced the tragic events which have marred the Middle East for the past 30 years.

The three principal figures at the Camp David summit, President Carter, President Sadat, and Prime Minister Begin, deserve our praise and thanks for their monumental efforts in the search for peace. President Sadat and Prime Minister Begin, in an exemplary display of statesmanship, were able to rise above the many sharp differences which have divided their people for years. The nations of Egypt and Israel were well served by the efforts of these two distinguished leaders.

The pivotal role of President Carter in bringing together the Israeli and Egyptian leaders and in working with them in their efforts to negotiate and to compromise cannot be overstated. In fact, Mr. Speaker, President Sadat and Prime Minister Begin have given public testimony to the fact that agreement could not have been reached without the patient, persistent, and effective mediation of President Carter. All Americans can take pride in their President's work at Camp David.

It is appropriate, therefore, that Congress commend these men for their historic achievement. I support House Concurrent Resolution 715 because it does just that. In addition, I support the concurrent resolution because it expresses the recognition by Congress of an important fact. There are many difficult negotiating sessions to be completed before the promise of Camp David is fully realized. The United States has an important role to play in this process. President Carter has shown that our Government can be an effective participant in these talks. We must continue to encourage the parties in the Middle East to meet with us and with each other so that what has been accomplished at Camp David may serve as the foundation for a lasting peace for the entire region.

I urge that the concurrent resolution be adopted.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin (Mr. ZABLOCKI)?

There was no objection.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AIR SERVICE IMPROVEMENT ACT OF 1978

Mr. ANDERSON of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12611) to amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the H.R. 12611, with Mr. ROSENTHAL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, September 14, 1978, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the reported bill as an original bill for the purpose of amendment.

It shall be in order to consider an amendment to said substitute printed in the CONGRESSIONAL RECORD of August 15 by the gentleman from Kentucky (Mr. SNYDER).

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Air Service Improvement Act of 1978".

DEFINITIONS

SEC. 2. (a) Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) is amended—

(1) by inserting after paragraph (18) the following new paragraph:

"(19) 'Essential air transportation' means, with respect to the air transportation provided by any air carrier to any point (A) two round trips per day at least five days per week, or (B) the level of service provided by such air carrier to such point based on the schedule of such air carrier in effect for calendar year 1977, whichever is the lesser"; and

(2) by inserting after paragraph (32) the following new paragraph:

"(33) 'Predatory' means any practice which would constitute a violation of the antitrust laws as set forth in the first section of the Clayton Act (15 U.S.C. 12).".

(b) Section 101 of such Act is amended by renumbering the paragraphs of such section, including all references thereto, as paragraphs (1) through (41), respectively.

The CHAIRMAN. Are there amendments to section 2?

If not, the Clerk will read.

The Clerk read as follows:

DECLARATION OF POLICY

SEC. . (a) Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(a)) is amended to read as follows:

"FACTORS FOR INTERSTATE AND OVERSEAS AIR TRANSPORTATION

"(a) In the exercise and performance of its powers and duties under this Act with respect to interstate and overseas air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services.

"(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

"(3) The encouragement and development of an air transportation system which is responsive to the needs of the public and is adapted to the present and future needs of (A) the foreign and domestic commerce of the United States, (B) the Postal Service, and (C) the national defense, and which includes, where feasiblle, the authority for air carriers to serve unused routes authorized to be served by other air carriers.

"(4) The availability of a variety of adequate, economic, efficient, and low-cost services by air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions.

"(5) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital.

"(6) The development and maintenance of a sound regulatory environment under which decisions are reached promptly in order to facilitate adaptation of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.

"(7) The encouragement of new air carriers and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.

"(8) The encouragement of air service at major urban areas through secondary or satellite airports, encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport.

"(9) The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of (A) industry concentration, excessive market domination, and monopoly power, and (B) other conditions, that would tend to allow one or more air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

"(10) The maintenance of a comprehensive and convenient system of continuous scheduled airline service for small communities and for isolated areas, with direct Federal assistance appropriate.".

(b) Section 102 of such Act is amended by adding at the end thereof the following new subsection:

"FACTORS FOR FOREIGN AIR TRANSPORTATION

"(c) In the exercise and performance of its powers and duties under this Act with respect to foreign air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The encouragement and development of an air transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(2) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in such transportation, and to improve the relations between and coordinate transportation by air carriers.

"(3) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices.

"(4) Competition to the extent necessary to assure the sound development of an air transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(5) The promotion of safety in air commerce.

"(6) The promotion, encouragement, and development of civil aeronautics.".

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading "Sec. 102. Declaration of Policy: The Board." is amended by striking out

"(a) General factors for consideration.
"(b) Factors for all-cargo air service."

and inserting in lieu thereof

"(a) Factors for interstate and overseas air transportation.
"(b) Factors for all-cargo air service.
"(c) Factors for foreign air transportation.".

Mr. SNYDER (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Are there amendments to section 3?

AMENDMENT OFFERED BY MR. MILFORD

Mr. MILFORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILFORD: Page 73, strike out lines 14–18 and insert in lieu thereof the following:

"(8) The encouragement of air service at major urban areas through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State agencies encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services.

Mr. MILFORD. Mr. Chairman, this is primarily a technical amendment. I do not believe there is any objection to it. The amendment changes the bill's wording to prevent interference with regional airport plans that are already in existence around the country. I do not believe there is any objection to the amendment.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MILFORD. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. I thank the gentleman for yielding.

Will the gentleman explain his amendment more fully? We have a situation in Chicago where the airlines have systematically and by design refused to serve Midway Airport. What does this amendment do with regard to that situation?

Mr. MILFORD. This is an amendment that was, I believe, worked out with the gentleman from Illinois (Mr. FARY). I did not see him on the floor.

Mr. MURPHY of Illinois. He is right in front of the gentleman.

Mr. MILFORD. I see him now, but at the time I introduced the amendment I did not see him. The amendment has been worked out with the gentleman from Illinois (Mr. FARY) as well as certain California interests who had a similar problem.

Mr. MURPHY of Illinois. My question is, these airlines have entered into a design and have withdrawn all their apparatus from Midway Airport. They have refused to go back into Midway Airport, which used to be the busiest airport in the world. We have a very congested situation in Chicago. If the gentleman's amendment is passed, I am afraid that the airlines in league with the FAA and the CAB will never see service at Midway.

Mr. MILFORD. I do not think that will affect what the gentleman is trying to do at Midway. We have carefully worked out the wording of this amendment so that it would do what the gentleman is seeking to have done in the case of Midway Airport. At the same time the amendment will not harm efforts at DFW Airport in Dallas and Fort Worth. We worked for several days with the gentleman from Illinois and with the committee attorneys to be sure that it did what the gentleman was trying to do at Midway and at same time not undo what we have already done at DFW and at Oakland.

Mr. MURPHY of Illinois. If the gentleman would yield further, I wonder if the chairman of the Subcommittee on Aviation could answer.

Mr. ANDERSON of California. If the gentleman will yield, we have tried to work this out, and it is my understanding this amendment does take care of the problem at Midway. It also takes care of the problem at DFW in Texas, and we have also checked similar airport problems in Oakland, and elsewhere in California.

Mr. MURPHY of Illinois. From my reading of the amendment, if the airlines, the CAB, and the FAA deem it in the best interests of, say, the city of Chicago that O'Hare is serving those needs—which I disagree with, and which has been their stance—then this gentleman's amendment, as I understand it, would cement their policy and we will never get any service in there.

Mr. ANDERSON of California. Only if the city or the State also takes the position the service at O'Hare is adequate.

This amendment requires the CAB to consider "The encouragement of air service at major urban areas through secondary or satellite airports"—such as Midway—"where consistent with regional airport plans of regional and local authorities"—and this is the case at Midway—"and when such encouragement is endorsed by appropriate State agencies"—and I understand that the State of Illinois supports service to Midway. I think this provision will encourage the development of air service at Midway.

Mr. MURPHY of Illinois. I hope so, because it has been the track record of the airlines to really be very obstinate about their policy in the city of Chicago as regards Midway.

The genteman has been kind enough to come out there and hold hearings, and I commend him for it. But the airlines, in league with the CAB, have just turned deaf ears to a large segment of the population in Gary, Ind., the south and southwest side of Chicago and the suburbs, where millions and millions of people have to drive hours and hours to get into the O'Hare area.

Mr. MILFORD. Although the amendment is general in nature, it is intended that the Board give careful consideration to the views and objectives of local and State authorities responsible for regional airport planning.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Milford was allowed to proceed for 1 additional minute.)

Mr. MILFORD. The Board should strive for a result consistent with those views and objectives, which I think very definitely would handle the gentleman's situation.

Mr. MURPHY of Illinois. Mr. Chairman, if the gentleman will yield further, I would hope the committee would keep this in mind, because the committee chairman knows there has been a track history in Chicago for 6 or 8 years that we have been trying to get the airlines to do their duty.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. MILFORD. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, let me state that this legislative history of this amendment and the policy statement should be very clear. It is specifically for the purpose of opening up the secondary and satellite airports for service and, in effect, saying to the CAB that is what we expect the CAB to do.

The record at the hearing has been very clear with the gentleman from Illinois (Mr. Fary). That is why this provision is in the bill.

The CHAIRMAN. The time of the gentleman from Texas (Mr. Milford) has expired.

(At the request of Mr. Levitas, and by unanimous consent, Mr. Milford was allowed to proceed for 1 additional minute.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield further?

Mr. MILFORD. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, it is for that purpose, to open up the secondary and satellite airports, as both gentlemen from Illinois pointed out, that this is in there. We do not believe that the amendment offered by the gentleman from Texas is in any way inconsistent with that. Indeed, it carries forward that purpose.

Mr. MURPHY of Illinois. Mr. Chairman, I thank the gentleman for his assurance.

Mr. SNYDER. Mr. Chairman, I move to strike the requisite number of words.

I do this only for the purpose, Mr. Chairman, of reassuring my friend, the gentleman from Illinois (Mr. Murphy) that what the gentleman intends and what the gentleman wants is what we are hoping will be brought about by this amendment.

The gentleman from Illinois (Mr. Fary) offered the amendment during the full committee markup, but there were some problems with it. In an effort to get the bill out, but still remain sympathetic to the problem, we agreed to have the language cleaned up to the satisfaction of the staff because of the technical problems involved in the first draft.

It was my understanding the gentleman from Illinois (Mr. Fary) was going to offer this amendment today, in the same form as the gentleman from Texas (Mr. Milford) offered it.

I want to reaffirm for the legislative history on this side, it is our intention to take care of the Midway situation and we have no objection to the amendment.

Mr. ANDERSON of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the amendment.

The amendment adds several desirable provisions to the bill's policy statement which requires CAB to develop air service to secondary or satellite airports.

In many of our major urban areas the prime airports are operating close to, or at, full capacity. Rational transportation planning requires that additional service be developed at secondary airports near the city, or at outlying satellite airports. The CAB has recently shown an awareness of this problem and has taken steps to develop service at Midway Airport in Chicago, and at Oakland Airport. The new policy statement will encourage similar cases for other cities.

The pending amendment adds two provisions. First, it requires CAB to take account of the views of local and State authorities, and second, it requires CAB to develop an environment which will enable new satellite airport carriers to develop.

I believe that these provisions are desirable and I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Milford).

The amendment was agreed to.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to engage in a colloquy with the distinguished chairman of the subcommittee, the gentleman from California (Mr. Anderson).

Mr. FASCELL. Mr. Chairman, as you know, Florida is one of five States that regulate intrastate air transportation in this country. Florida commuters and our intrastate carriers, which are regulated by our State public service commission, are serving the people of our State through one of the finest air transportation systems in the United States. I am concerned with a provision (section 14) of the Senate-passed bill which creates a new class of carrier that would be regulated by the CAB and that would be exempt from any State regulation, regardless of whether a State regulates intrastate transportation or not. The only exception in the Senate bill is the State of Alaska.

If I may ask the gentleman from California (Mr. Anderson) a question at this point, is it not correct that under the Senate provision, any individual having equipment that seats 36 passengers or less could receive a CAB certificate and come into the State of Florida and service any points within the State without going through our State's present licensing procedure and be exempt from any State regulation—in other words, totally circumventing the State's present licensing and regulatory procedure?

Mr. ANDERSON of California. Mr. Chairman, if the gentleman will yield, as I understand it, the gentleman is correct.

Mr. FASCELL. May I also ask the gentleman, is there a provision in the House bill creating a new class of certificated commuter carrier?

Mr. ANDERSON of California. No, there is not.

Mr. FASCELL. I am concerned that the Senate provision would have a detrimental effect on the State of Florida and cause undue economic hardships on those commuter airlines that have developed air transportation service throughout the years under State regulation and direction. It does not seem reasonable that a new class of carrier should come in and compete against Florida carriers which have invested so much and have served our people so well.

Mr. ANDERSON of California. Let me assure the gentleman from Florida that I will do my best to guarantee that the House conferees do not yield to the Senate on this provision, and that should the Senate provision prevail, I will attempt to insure that Florida be afforded the same exemption that the State of Alaska was given in the Senate bill and that this new class of certificated commuter carrier would be required to go through the same licensing procedure that Florida intrastate carriers and commuters are required to go through.

Mr. FASCELL. Mr. Chairman, I thank the gentleman from California (Mr. Anderson) for his consideration, and I yield back the balance of my time.

AMENDMENTS OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Mineta: Page 71, line 23, before the period insert the following: "and full evaluation of any report or recommendation submitted under section 107 of this Act".

Mr. MINETA. Mr. Chairman, I have another amendment that was submitted at the same time as the amendment that was just read, and I offer it at this time and ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. The Clerk will report the remaining amendment.

The Clerk read as follows:

Amendment offered by Mr. Mineta: Page 78, line 2, insert "and of the Effects of Implementing the Air Service Improvement Act of 1978 on the Level of Air Safety" and "Transportation".

Page 78, line 5, strike out "section" and insert in lieu thereof "sections".

Page 79, line 2, strike out the quotation marks and the second period, and after such line insert the following new section:

"STUDY OF THE EFFECTS OF IMPLEMENTING THE AIR SERVICE IMPROVEMENT ACT OF 1978 ON THE LEVEL OF AIR SAFETY

"REPORT

"Sec. 107. (a) Not later than January 31, 1980, and each January 31 thereafter, the Secretary of Transportation shall prepare and submit to the Congress and the Board a comprehensive annual report on the extent to which the implementation of the Air Service Improvement Act of 1978 has, during the preceding calendar year, affected the level of air safety. Each such report shall, at a minimum, contain an analysis of each of the following:

"(1) All relevant data on accidents and

incidents occurring during the calendar year covered by such report in air transportation and on violations of safety regulations issued by the Secretary of Transportation occurring during such calendar year.

"(2) Current and anticipated personnel requirements of the Administrator with respect to enforcement of air safety regulations.

"(3) Effects on current levels of air safety of changes or proposals for changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

"(4) The adequacy of air safety regulations taking into consideration changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

"Recommendations

"(b) Not later than January 31, 1980, and each January 31 thereafter, the Secretary of Transportation shall submit to the Congress and the Board recommendations with respect to the level of surveillance necessary to enforce air safety regulations and the level of staffing necessary to carry out such surveillance. The Secretary of Transportation's recommendations shall include proposals for any legislation needed to implement such recommendations.".

Page 79, strike out the quotation marks and the period at the end of the matter below line 6, and after such matter insert the following:

"Sec. 107. Study of the effects of implementation of the Air Service Improvement Act of 1978 on the level of air safety.

"(a) Report.

"(b) Recommendations.".

Mr. MINETA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California that the amendments be considered en bloc?

There was no objection.

Mr. MINETA. Mr. Chairman, during the consideration of the provisions of this airline deregulation bill there has been some concern about safety involving commuter airlines, and as a result of hearings held by the Committee on Government Operations, the chairman of the Subcommittee on Government Activities and Transportation has suggested certain amendments. Therefore, on behalf of the gentleman from California (Mr. JOHN L. BURTON) I am submitting these amendments which are being considered en bloc at this time.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I am pleased to yield to the distinguished gentleman from California, the chairman of this subcommittee.

Mr. ANDERSON of California. Mr. Chairman, I would like to advise the gentleman from California (Mr. MINETA) that we have checked both these amendments and find no objection to them. We are willing to accept both amendments.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the distinguished gentleman from Kentucky, the ranking minority member of this Subcommittee on Aviation.

Mr. SNYDER. Mr. Chairman, I thought when we drafted the bill, we came up with about as strong safety requirements as we could, but I must confess that I think these amendments do add to the safety provisions of the bill. Therefore, on this side we are prepared to accept the amendments.

Mr. MINETA. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. MINETA).

The amendments were agreed to.

The CHAIRMAN. If there are no further amendments to this section, the Clerk will read.

The Clerk read as follows:

FEDERAL PREEMPTION

SEC. 4. (a) Title I of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new section:

"FEDERAL PREEMPTION

"PREEMPTION

"SEC. 105. (a) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier granted the authority under this title to provide interstate air transportation.

"PROPRIETARY POWERS AND RIGHTS

"(b)(1) Nothing in subsection (a) of this section shall be construed to limit the authority of any State or political subdivision thereof or any interstate agency or other political agency of two or more States as the owner or operator of an airport served by any air carrier certificated by the Board to exercise its proprietary powers and rights.

"(2) Any aircraft operated between points in the same State (other than the State of Hawaii) which in the course of such operation crosses a boundary between two States, or between the United States and any other country, or between a State and the beginning of the territorial waters of the United States, shall not, by reason of crossing such boundary, be considered to be operating in interstate or overseas air transportation.

"EXISTING STATE AUTHORITY

"(c) When any intrastate air carrier which on August 1, 1977, was operating primarily in intrastate air transportation regulated by a State receives the authority to provide interstate air transportation, any authority received from such State shall be considered to be part of its authority to provide air transportation received from the Board under this title, until modified, suspended, amended, or terminated as provided under this title.

"DEFINITION

"(d) For purposes of this section, the term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and any territory or possession of the United States.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE I—GENERAL PROVISIONS"

is amended by adding at the end thereof

"Sec. 105. Federal preemption.

"(a) Preemption.

"(b) Proprietary powers and rights.

"(c) Existing State authority.

"(d) Definition.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to section 4?

If not, the Clerk will read.

The Clerk read as follows:

STUDY OF FEDERAL, STATE, AND LOCAL GOVERNMENTAL SUBSIDY OF SCHEDULED AIR TRANSPORTATION

SEC. 5. (a) Title I of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is further amended by adding at the end thereof the following new section:

"STUDY OF FEDERAL, STATE, AND LOCAL GOVERNMENTAL SUBSIDY OF SCHEDULED AIR TRANSPORTATION

"REPORT

"SEC. 106. (a) Not later than January 1, 1980, the Board and the Secretary of Transportation shall jointly prepare and submit to the Congress a comprehensive report on the extent of direct and indirect subsidization of the United States scheduled air transportation system presently being incurred or anticipated to be incurred by the United States and by States and their political subdivisions, particularly with respect to communities directly benefiting from section 406 (rates for transportation of mail) and section 419 (commuter air carrier compensation) of this Act.

"RECOMMENDATIONS

"(b) Not later than January 1, 1980, the Board and the Secretary of Transportation shall, separately or jointly, submit recommendations to the Congress with respect to the feasibility and appropriateness of devising cost-sharing formulas by which States and their political subdivisions could share part of the cost being incurred by the United States under sections 406 and 419 of this Act.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE I—GENERAL PROVISIONS"

is amended by adding at the end thereof

"Sec. 106. Study of Federal, State, and local government subsidy of scheduled air transportation.

"(a) Report.

"(b) Recommendations.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to this section?

If not, the Clerk will read.

The Clerk read as follows:

ROUTE APPLICATIONS

SEC. 6. (a) Section 401(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(c)) is amended to read as follows:

"ROUTE APPLICATIONS

"(c)(1) Upon the filing of any application pursuant to subsection (b) of this section, the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of the certificate requested by such application. Such application shall—

"(A) be set for a public hearing;

"(B) be scheduled for a determination under the simplified procedures established by the Board in regulations pursuant to subsection (p); or

"(C) be dismissed on the merits.

not later than ninety days after the date the application is filed with the Board. Any order of dismissal of an application issued by the Board without setting such application for a hearing or scheduling such application for a determination under such simplified procedures shall be deemed a final order subject to judicial review in accordance with the provisions of section 1006 of this Act.

"(2) If the Board determines that any application should be set for a public hearing under clause (A) of the third sentence of paragraph (1) of this subsection, an initial or recommended decision shall be issued not later than one hundred and eighty days after the date of such determination by the Board. Not later than ninety days after the initial or recommended decision is issued, the Board shall make its final order with respect to such application. If the Board does not act within such ninety-day period—

"(A) in the case of an application for a certificate to engage in interstate or overseas air transportation, the initial or recommended decision shall become the final decision of the Board and shall be subject to judicial review in accordance with the provisions of section 1006 of this Act; and

"(B) in the case of an application for a certificate to engage in foreign air transportation, the initial or recommended decision shall be transmitted to the President pursuant to section 801 of this Act.

"(3) Not later than the one-hundred-eightieth day after the Board schedules an application for a determination under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section the Board shall issue its final order with respect to such application.

"(4) If an applicant fails to meet the procedural schedule adopted by the Board in a particular proceeding, the applicable period prescribed in paragraph (2) or (3) of this subsection may be extended by the Board for a period equal to the period of delay caused by the applicant. In addition to any extension authorized by the preceding sentence, in extraordinary circumstances, the Board may, by order, delay an initial or recommended decision or a final decision, or both, for not to exceed ninety days beyond the final date on which the decision is required to be made.".

(b) The amendments made by subsection (a) of this section shall apply to any application filed under section 401(b) of the Federal Aviation Act of 1958 on or after the three-hundred-sixty-fifth day after the date of enactment of this Act.

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by striking out

"(c) Notice of application."

and inserting in lieu thereof

"(c) Route applications.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 6 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the genteman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to section 6? If not, the Clerk will read.

The Clerk reads as follows:

ISSUANCE OF CERTIFICATE

Sec. 7. Paragraphs (1), (2), and (3) of section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(1)–(3)) are amended to read as follows:

The Clerk read as follows:

"(d)(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the application is fit, willing, and able to perform such transportation properly, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation—

"(A) in the case of interstate or overseas air transportation, is consistent with the public convenience and necessity; and

"(B) in the case of foreign air transportation, is required by the public convenience and necessity,

otherwise such application shall be denied.

"(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods—

"(A) in the case of an application for interstate or overseas air transportation, as is consistent with the public convenience and necessity; and

"(B) in the case of an application for foreign air transportation, as may be required by the public convenience and necessity,

if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

"(3) In the case of an application for a certificate to engage in supplemental air transportation, the Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection authorizing interstate air transportation of persons, which authorizes the whole or any part thereof—

"(A) in the case of an application for interstate or overseas air transportation, for such periods as is consistent with the public convenience and necessity; and

"(B) in the case of an application for foreign air transportation, for such periods, as may be required by the public convenience and necessity,

if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder. Any certificate issued pursuant to this paragraph shall contain such limitations as the Board shall find necessary to assure that the service rendered pursuant thereto will be limited to supplemental air transportation as defined in this Act.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 7 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to section 7?

If not, the Clerk will read.

The Clerk read as follows:

UNUSED AUTHORITY

Sec. 8. (a) Section 401(d) of the Federal Aviation Act of 1958 (59 U.S.C. 1371(d)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraph (B) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(B) If an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(C) With respect to any application which is submitted pursuant to subparagraph (A) or (B), the Board shall issue a final order granting such certificate within fifteen days of the date of such application.

"(D) Except as provided in subparagraph (E) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(E) If an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(F)(i) With respect to any application which is submitted pursuant to subparagraph (D) or (E) of this paragraph, the Board shall issue a final order granting such certificate within sixty days of the date of such application, unless the Board finds that the issuance of such certificate is inconsistent with the public convenience and necessity. Prior to issuing such final order, the Board shall afford adequate notice and opportunity for interested persons to file appropriate written evidence and argument, but the Board need not hold oral evidentiary hearings.

"(ii) For purposes of clause (i) of this subparagraph there shall be a rebuttable presumption that any transportation covered by an application for a certificate submitted pursuant to subparagraph (D) or (E) of this paragraph is consistent with the public convenience and necessity.

"(G)(i) Whenever the Board issues a certificate pursuant to subparagraph (A) or (D) of this paragraph, the air carrier receiving such certificate shall commence service pursuant to such certificate within forty-five days of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

"(ii) Whenever the Board issues a certificate pursuant to subparagraph (B) or (E) of this paragraph to provide seasonal service, the air carrier receiving such certificate shall commence service pursuant to such certificate within fifteen days after the beginning of the first such season which begins on or after the date of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

"(H) Not more than one certificate shall be issued under this paragraph for round trip nonstop service between two points in interstate air transportation based upon the failure of the same air carrier to provide such service between such points.

"(I) Whenever the Board issues a certificate pursuant to subparagraph (A) or (D) of this paragraph based upon the failure of any air carrier to provide the round trip service described in such subparagraph, the Board shall suspend the authority of such air carrier to provide such service, and suspend the authority of any other air carrier which failed to provide such service during the same twenty-six-week period, until such time as the air carrier to which a certificate is issued under such subparagraph fails to provide such service at a minimum of five round trips per week for at least thirteen weeks during any consecutive twenty-six-week period the last day of which ends on or after the date of enactment of this paragraph.".

(b) Section 401(f) of such Act is amended by striking out "hereinafter provided" and inserting in lieu thereof "provided in this section".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 8 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California.

There was no objection.

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ertel: Page 84, line 24, strike out "and" and all that follows through "air carrier" on page 85, line 3.

Page 85, line 23, strike out "and" and all that follows through "air carrier" on page 86, line 2.

Page 86, strike out line 16 and all that follows through line 7 on page 89.

Page 89, line 8, strike out "(G)" and insert in lieu thereof "(D)".

Page 89, line 9, strike out "or (D)".

Page 89, line 15, strike out "or (E)".

Page 89, line 22, strike out "(H)" and insert in lieu thereof "(E)".

Page 90, line 3, strike out "(I)" and insert in lieu thereof "(F)".

Page 90, line 4, strike out "or (D)".

Mr. ERTEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ERTEL. Mr. Chairman, this amendment is to strike a provision which was put in as a protective provision on part of the bill which I amended in the subcommittee.

Let me explain briefly what the committee bill provides on this particular situation. In regard to the airlines, there is something called dormant authority. Dormant authority is when an airline has a right to fly a route between two cities and subsequently elects not to do it and quits the market. In the United States there are a tremendous number of dormant markets where there is authority; for example, flights from Schenectady to Binghamton, or to other cities. Under the committee bill, if an airline applies for that dormant authority, they go ahead and get it, and they can go ahead and fly that authority. The CAB has already made a determination at one point that there should be in fact flights between those two cities, but nobody will fly them. Subsequently, if another airline comes in and wants to fly that route, it would have to go through the entire procedure to determine whether there is an economic need, and so on.

Under my provision, which is in the bill, any carrier certificated and deemed safe can come in and take over that route authority. However, in a deal that was made subsequently, after the amendment was defeated in the subcommittee and this had been accepted without any restriction, we then went to a substitute which was passed by one vote in the subcommittee, and then began the dealing outside the committee. When the bill came back to the full committee from the subcommittee to be passed, they had a restriction on this dormant authority which had been accepted and passed by the committee. That restriction said that if there are two or more carriers serving that market, and there is dormant authority, they will still have to go through a hearing to take over that dormant authority.

Now, let us look and see what this does and who it protects. It does not protect the little airlines. It does not protect the local service carriers, who need protection, if anybody. Who does it protect? This can be termed the "Big Boy Protection Act." In the top 100 markets of the United States, there is dormant authority, 16 dormant authorities, that can be exercised.

Who gets the protection from this bill? Let me lay it out for the Members. United gets three of its routes protected; Delta Airlines gets seven of its routes protected; American Airlines gets eight of its routes protected; TWA gets two protected, and Eastern gets five protected. This is a protection for the big boys. Little boys cannot come in and compete in the top markets.

So, what this bill would do is to allow the big boys to go into the little boys' markets, but it will not allow the little boys to go into the big boys' markets.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I completely concur with the gentleman, but for the benefit of the House I wonder if the gentleman might tell us what routes he is talking about. What cities are not being served, where their people do not have the benefit of their service because of this?

Mr. ERTEL. I cannot spell out each and every route because there are numerous ones, but these are all major routes in the United States.

Mr. GLICKMAN. We are talking about routes between major cities that are not getting service?

Mr. ERTEL. No. They have two carriers already, but if a third carrier wants to take over dormant authority which has already been approved by CAB, they cannot come in freely into these markets. There is service already. I have taken care of all the little dormants under my initial amendment, but this is for those markets that have two carriers. They are the big boys we are protecting.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(At the request of Mr. Volkmer and by unanimous consent, Mr. Ertel was allowed to proceed for 3 additional minutes.)

Mr. ERTEL. Assume that American Airlines and Delta are in a market. They are not competing very much, but Ozark wants to come in and compete, and it is a big market, one of the top 100 markets. Ozark cannot come in even though there is dormant authority that somebody has and has let lapse. They have to go through the hearing procedures, whereas if it is one where the small boys are operating, the big boys can come in. So, it protects the big boys at the expense of the little boys.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would like to have the gentleman explain again, because I am not as familiar with this problem as the gentleman in the well. If the language in the bill is retained, would an applicant have to go through the full hearing process as outlined in the bill?

Mr. ERTEL. Yes.

Mr. VOLKMER. On a dormant authority?

Mr. ERTEL. If there are two or more carriers in the market they would have to go through it.

Mr. VOLKMER. Under the gentleman's amendment, in the same circumstances what would the applicant carrier have to do?

Mr. ERTEL. If there is only one carrier in the market and the dormant authority, he would merely apply and get the right to go in and take over the dormant authority, assuming he was safe, fit, willing, and able.

Mr. VOLKMER. He would not have to meet the immediate necessity test?

Mr. ERTEL. Not if there was one carrier in the market.

Mr. VOLKMER. But if there are two?

Mr. ERTEL. If there are two, the other side must prove that it is inconsistent with public convenience and necessity.

Mr. VOLKMER. The gentleman puts the burden of proof on the two carriers, or two or more, that are already serving the area, that they are providing all the required services necessary, is that correct?

Mr. ERTEL. Yes; as I understand it.

Mr. VOLKMER. If they did not, then of course the airline applicant would be able to go into that dormant authority and take over.

Mr. ERTEL. Let me give the gentleman my understanding of why this provision was put in. Of course, there were no hearings on it. There is no committee history of it. This was put in in an agreement where there were no public hearings on this provision, this restrictive provision, so we are shooting in the dark except for the information I have gotten from the CAB. But, I understand this was put in to protect one airline, specifically Texas International—and they really need protection, with 29.3 percent net profit last year, and out trying to gobble up National Airlines.

Mr. VOLKMER. How many dormant authorities does Texas International have?

Mr. ERTEL. I cannot answer that. All I know is, that was what I was told informally, who this was to protect, but it really protects the big boys such as Delta, United, American, Eastern basically. If we go into the next 200 markets numbers, United in two; Delta in seven; American Airlines in three; TWA in three; Eastern in six markets. So, those are the carriers getting the protection.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

(At the request of Mr. Levitas and by unanimous consent, Mr. Ertel was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. Will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Georgia.

Mr. LEVITAS. I would first of all like to inquire whether or not the gentleman from Pennsylvania has the figures and would make them available to the House and to this committee as to the number of routes which would be opened up by the provision in the bill without any CAB protection at all?

Mr. ERTEL. I do not have that because that would be impossible to accumulate, I think.

Mr. LEVITAS. Would the gentleman agree that the overwhelming number of unused routes would fall into that category?

Mr. ERTEL. A tremendous number of them would, but most of them are unused, as the gentleman is aware.

If I may reclaim my time, I would like to finish my statement. In the top 500 markets where we really want competition and low fares, 124 of those markets are dormant. Under this protective provision, 54 would be protected, 54 of the top 500 markets would be protected for the big boys.

Mr. LEVITAS. And those routes already are being served by two or more carriers. Is that correct?

Mr. ERTEL. That is correct.

Mr. LEVITAS. So, in the markets the gentleman says are being protected there is already at least two-carrier service, sometimes perhaps three- or four-carrier service.

Mr. ERTEL. Not just under this.

Mr. LEVITAS. No. In some of the markets the gentleman just described there is dormant authority where there are as many as three or four carriers.

Mr. ERTEL. Some of those are.

Mr. LEVITAS. The gentleman from Missouri (Mr. Volkmer) asked a question about would there be a regular CAB proceeding for a person who wanted to apply to take up unused authority. I believe the gentleman said "yes." Is it not the truth that the provisions for taking up the unused authority where CAB comes into play are certainly much less stringent and much quicker than is presently required by law?

Mr. ERTEL. To answer the gentleman's question, they would be the same as any other provisions under this bill.

Mr. LEVITAS. With one exception, which I think is very important, and the gentleman will be addressing himself to it very shortly, that the bill establishes a premise of rebuttal to the application to replace dormant authority.

Mr. ERTEL. I believe that I explained to the gentleman from Missouri (Mr. Volkmer) there is a lesser burden to some degree, but there has already been a determination by the CAB that there is dormant authority, the public convenience and authority, and now they have to go back and go through it again.

Mr. LEVITAS. One last question. If the gentleman has the data, will he provide the members of this committee with the number of routes with dormant authority which would come under second-tier proceedings in the case of local carriers or airlines? I assume there are a number.

Mr. ERTEL. I do not understand what the gentleman means by second-tier.

Mr. LEVITAS. If there is a market like Allegheny Airlines or Ozark Airlines.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. Ertel was allowed to proceed for 3 additional minutes.)

Mr. ERTEL. Mr. Chairman, I am sorry I did not catch the gentleman's question.

Mr. LEVITAS. Let me restate it. The gentleman made a statement and read off some figures about routes that are being protected for the larger trunk carriers and their routes, as the gentleman says, would be protected which are now being serviced by smaller carriers, which would prohibit major carriers from coming in and wiping them out without having the CAB take a look at it.

Mr. ERTEL. There is no such statistic. Frankly, the smaller carriers are probably in markets where there are less than two carriers, so in effect this does not protect the little fellows. It really protects the big fellows.

As we go down through the top 500 markets, we will see United, Delta, American, TWA, and Eastern have about 90 percent of the protection, and those are the big 5. They get the protection.

Mr. LEVITAS. But you do not have the figures for the small, local service carriers that would fall into that category?

Mr. ERTEL. Quite frankly, we are only talking about the top major markets, and that is where the largest airlines are.

Mr. ANDERSON of California. Mr. Chairman, if the gentleman will yield, there is a provision in the bill, which I will read, that says that with respect to any application which is submitted pursuant to subparagraph (D) or (E) of this paragraph, the Board shall issue a final order granting such certificate within 60 days of the date of such application, unless the Board finds that issuance of such certificate is inconsistent with the public convenience and necessity. Prior to issuing such final order, the Board shall afford adequate notice and opportunity for interested persons to file appropriate written evidence and argument, but the Board need not hold oral evidentiary hearings.

So, I think we have relaxed the procedural requirements a good deal.

Mr. ERTEL. Not quite as much as you would relax the procedure as I do in my amendment, and I anticipate that my reverse burden concept will be accepted by the House, this provision would be a harder burden and it would take longer.

Mr. ANDERSON of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the amendment.

The committee's bill distinguishes between two kinds of markets in which there is dormant or unused authority. In dormant markets in which no more than one carrier is actually providing service, the CAB must grant replacement authority to any fit applicant. In dormant markets served by two or more carriers, the CAB is given some discretion to deny applications.

The amendment would take away the Board's power to deny replacement applications in markets already served by two or more carriers. This would not be desirable. We need a "safety valve" permitting denial of applications because there are cases in which markets served by two or more carriers are very important to one of these carriers, and represent a major portion of the carrier's profits. In these cases the CAB should have discretion to decide that added competition in the market would threaten the incumbent carrier's ability to provide needed, less profitable service elsewhere.

It is important to bear in mind that the bill's provisions for dormant markets served by two or more carriers encourage the Board to grant these applications whenever possible. The Board is required to issue its decision on an application for replacement authority for these markets within 60 days after an application is filed. The Board is required to grant the application unless it finds that the award would be inconsistent with the public convenience and necessity. There is a rebuttable presumption that a replacement application is consistent with the public convenience and necessity. In view of these provisions I anticipate that most applications for replacement of dormant authority in markets served by two or more carriers will be granted.

For these reasons I urge defeat of this amendment.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I thank the gentleman for yielding.

On the point of rebuttable presumption, if, in fact, the reverse burden test is made, and that gets into the bill, is it not true that the rebuttable presumption is more difficult to meet than the reverse burden which is being proposed in the amendment here?

Mr. ANDERSON of California. I think there is a disagreement as to whether rebuttable presumption or reverse burden of proof is the more difficult test. You can make an argument one way or another.

Mr. ERTEL. Does not the standard law say that the rebuttable presumption drops out, but the reverse burden remains, once there is evidence of reverse burdening, the burden remains with the party objecting, and is not that the standard rhetoric in this field?

Mr. ANDERSON of California. I think that the law is not clear on that point.

Mr. ERTEL. I guess we have a genuine dispute as to what reverse burden is and rebuttable presumption, but let us go one step further. But what airlines are best able to meet competition? The big ones?

Mr. ANDERSON of California. It depends on the particular carrier you are talking about.

In our bill we are opening up, as the gentleman from Georgia (Mr. LEVITAS) point out, a tremendous amount of dormant authority in the one carrier and monopoly markets. This bill liberalizes dormant authority a great deal.

Mr. ERTEL. Yes; I understand that, and that was my amendment. I appreciate my chairman for getting that amendment in the bill, but what we have here is different. Are we afraid to make more competition in that market? Are we talking about protecting a competitive market?

Mr. ANDERSON of California. No; as I pointed out earlier, there might be a case in which a particular market was the main one for a carrier, the main one from which they would get their profits, and the main one upon which they depend. If we take that market away from them, they would not be able to serve some of the other, less profitable areas.

Mr. ERTEL. It may be a case of one carrier being in a market in which that carrier makes the biggest profit, and we are not protecting them. However, we are going to protect those who have two competitors. Are we going to allow full competition in this area, or are we going to have them protected? I think that is the issue on this amendment.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we are dealing in semantics.

In the first place, this bill is designed to provide additional means by which more competition can be injected into the airlines; but in this particular case there is already competition among the airlines or in those particular markets.

Mr. Chairman, there has to be, in the first place, two or more airlines competing. However, the important thing which is being overlooked is the great burden with which applicants have historically been confronted. The CAB has had to make a finding that that application is required by the public convenience and necessity, and that has been a very difficult test for airlines to meet. There have been relatively few new certificates granted because of the difficulty in meeting that test.

We have gone to great lengths to change that test, and it no longer will be in the law if this bill is passed. We will then have a much more easy test to meet. We also have in this bill a rebuttable presumption that the applicant, by filing his application, has already met the new test of being "consistent with" rather than being "required by" the public convenience and necessity. The applicant is presumed to provide service which is consistent with the public convenience and necessity, and that is much different than the test which is in the law.

It is true that some of the bigger airlines will benefit by this particular provision; but it is also true that most of the smaller airlines will benefit by it because they are the ones who are least able to meet additional competition since they have fewer markets to serve. They do not have the economic wherewithal to compete against a half dozen different applicants for the same markets. They do not have the economic strength that the bigger airlines have; and therefore, they will be the most affected or impacted by the gentleman's amendment.

Mr. Chairman, this bill is a finely tuned instrument to set forth a new balance in aviation legislation, in an effort to go down the route of deregulation; yet, at the same time, we want to know where we are advancing. We do not want to take a great airline transportation industry and destroy it; and until we try these provisions to see how they work and understand their ramifications, we should proceed cautiously.

Mr. Chairman, we heard in the committee after many days of hearings and much deliberation that it would be best to proceed in a cautious, slow manner, with the ultimate objective of trying to get as much deregulation as we could without destroying the airline industry.

Mr. Chairman, I urge that the committee defeat the amendment.

Mr. SNYDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, as the Members, who are not on the committee but who have been listening to the debate, can understand, I am sure, this is a little bit more complicated than it sounds on its face.

I am probably going to say the same thing a couple of different ways in order that those who may be present but who are not on the committee or those who may be watching me can understand. Let me say first that I concur in the comments of my colleague, the gentleman from Ohio (Mr. HARSHA); and I concur somewhat in what the gentleman from Pennsylvania (Mr. ERTEL) said about the transaction and what went on in the committee.

We did have a lot of hearings on dormant authority per se. However, it is correct that in the early days of marking up the bill we did adopt a "use it or lose it" theory, which basically is what his amendment calls for. Whoever got to the courthouse first with the CAB got any unused authority. I want to say this, though, that when we did that, I was not descended upon by the trunk carriers in objection to what we had done. I was decended upon by local service carriers, and there we are talking about smaller people insofar as airlines are concerned.

Now let us talk about what we are doing. First, I want to read from the committee report. On page 6 it says:

> Under H.R. 12611, a certificate for a market becomes unused or dormant if the certificated carrier does not provide service of at least five round trips a week for at least 13 weeks during a 26 week period.

Which is half the time during a 6-month period. There is a different standard for seasonal routes where you are going into a resort.

> The bill provides two types of procedures for replacement of carriers with dormant certificates.
>
> Markets which do not receive any nonstop service or which receive nonstop service by only one carrier are the markets most in need of replacement service. For these markets, H.R. 12611 provides that CAB must authorize replacement service in fifteen days by the first applicant who certifies that it is in compliance with FAA regulations and is able to comply with CAB regulations.

If there is only one carrier in a monopoly, the first applicant who says, "I want it," who is a certificated carrier, who will comply with FAA safety requirements, gets it within 15 days. So there we have got to pick up automatic entry immediately.

> For markets actually served by two or more carriers, H.R. 12611 provides that the CAB must authorize the first applicant who makes the foregoing certifications, unless the CAB finds, within 60 days, that award of replacement authority would be inconsistent with the public convenience and necessity.

So if there are already two carriers serving nonstop and another carrier applies, they are going to get it almost automatically within 60 days unless one can prove it is inconsistent with public convenience and necessity.

In addition to this, the bill provides and establishes a rebuttable presumption in favor of any carrier who files an application to replace a dormant authority over and above those that already have two or more—a rebuttable presumption that giving them the dormant authority would be consistent with the public convenience and necessity. So what I am saying to the Members is that we are going from a stage where we are now where dormant authority is almost locked up, unused authority, to where we are going to give it automatically virtually to anyone where there is one carrier or a monopoly, and almost as easily where there are only two serving it, and reversing the burden of proof to pick up the dormant authority beyond markets served by two or more carriers.

It is true that there are many dormant authorities. It is also true that we go much further in this bill than the Senate goes and that we are much more liberal, and it is much easier to pick up the dormant authority.

My basic political philosophy is, yes, let them have it, or let them warm up and fly if they can make the flight go. But, on the other hand, I have got to admit to the Members that if we move away from a regulated industry, we have got to do it with some sense; we have got to do it with some plan; we have got to do it so that we are not going to destroy what has become the best airline industry in the world.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Pennsylvania .

Mr. ERTEL. I thank the gentleman for yielding.

I am very interested in the gentleman's sense of how we are going to move out of this. Will the gentleman describe to me what hearings, what evidence we ever took in our committee on the two or more carriers in a dormant area? Can the gentleman tell me anybody who testified on that?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ERTEL and by unanimous consent, Mr. SNYDER was allowed to proceed for 3 additional minutes.)

Mr. SNYDER. I would say to the gentleman that we had a lot of evidence on dormant authority and the "use it or lose it" concept from a lot of people on both sides of it. We had no evidence of specifically where we ought to trigger the test of consistency with the public, conveniences, and necessity. We made that determination based upon weighing the evidence on the two sides, that were extreme sides, and we cut it down the middle. I think that is the sensible thing.

Mr. ERTEL. Let me ask the gentleman: Did we have any testimony at all on the provision of two or more markets? I suggest we never had it. The only person who ever got that evidence was me from the CAB.

Mr. SNYDER, I say to the gentleman I think I have responded to the question.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Georgia.

Mr. LEVITAS. If the gentleman will recall, during the markup of this bill in the subcommittee, the gentleman from Georgia (Mr. EVANS) offered an amendment which would have made a cutoff at one market or more similar to the two or more that is now in there. During that debate and during the discussion of the compromise which was finally brought out, the gentleman from Pennsylvania and others did make available to the committee evidence as to the dormant markets and where the cutoff would apply.

I think it is also important to emphasize for another reason the point the gentleman from Texas just made, that when this language was being developed the persons developing that language had no idea which airlines would be benefited and which airlines would not be benefited. It was done as the balancing of an issue that had to be resolved and I think we came up with a good resolution.

Mr. SNYDER. Mr. Chairman, I still say to the gentleman, I do not know who will be benefited and who will not. I am of the opinion that to adopt the Ertel amendment will hurt the local carriers, which are smaller than the trunk lines.

I only make the observation because they lobbied against the proposition with great vigor.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I would remind the gentleman that I did spell out these figures in the hearing and I did spell out the carriers that would be protected. I made the same speech on the "big boy" protecting provision which I just finished.

I might also point out that Chairman KAHN supports this amendment. He does not want to destroy the little boys at the expense of the big boys.

Let me point out that Continental and Texas International are competing in the Dallas-Albuquerque market. Bumping and overbooking is the No. 1 problem there. Two other airlines have tried to get into it and nobody can, even though there is dormant authority. Now we are going to protect them under this provision.

Mr. SNYDER. Mr. Chairman, I am not familiar with the bumping and the overbooking; but if the facts are right, if Continental and Texas International are serving it, then there are only two serving it.

Mr. GOLDWATER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania.

Let me say that I understand the position and the concern of the gentleman. A critical aspect of our regulatory reform effort is the so-called use it or lose it concept. There is no question that in many instances dormant or unused authority is detrimental to the convenience of the traveling public.

But the gentleman's amendment, in my opinion, goes too far. In essence, it defines as dormant even those markets where service is being provided on a highly competitive basis. In fact, out of some 28,000 markets for service, there are only about 4,500 that are being used, about 84 percent. But they are in a competitive mode, and can serve the market demands.

The amendment strikes at management's ability to make decisions, decisions affecting competition that we, in fact, are seeking to encourage. It gives no flexibility, because it does not allow airlines to make decisions based on market trends or demands. Instead, it encourages, in essence, a defensive approach to market scheduling and service.

The committee, I think, has a strong dormant market section in this bill. It does represent a compromise and, in fact, I think many minds could agree or disagree on this particular issue, either on the side of the gentleman from Pennsylvania (Mr. ERTEL) or on the side of the committee. In fact, some people have told me that the committee went too far.

When there is no service or no competitive service, we have virtually given carte blanche to any new applicant. Even in markets where competition exists, we have provided expedited procedures for encouraging additional competition.

Let us live with what we have right now. Rome was not built in a day. Our committee and this House can always come back at a later time and reexamine the dormant authority; so therefore, Mr. Chairman, I think the committee's approach is a reasonable approach, recognizing that a compromise has been effected.

I would urge defeat of the gentleman's amendment.

Mr. WRIGHT. Mr. Chairman, I take this time in order that we may make some legislative history that will be clear to any and all who may undertake to administer this act.

I refer to the new section 8 which has been inserted in the bill by the amendment offered by the gentleman from Illinois (Mr. FARY). It refers to the encouragement of air service in major urban areas through secondary or satellite airports where consistent with regional airport plans of regional and local authorities. I emphasize the operative phrase, "where consistent with regional airport plans of regional and local authorities."

That is a concept which I certainly support. Situations and local desires vary widely throughout the country, and the needs and priorities of local authorities must by all means be respected. I know there are areas in the country such as Chicago and other localities where the local and regional authorities desire to get more service at satellite airports. There are, however, situations in this Nation which are exactly the reverse, and my purpose here is to give the Members one such illustration to make it abundantly clear to all for all time to come what this means with regard to them.

As the members of the committee are aware, I am sure, the cities of Dallas and Fort Worth, at the urging of the CAB, formally agreed that Love Field, as well as Meacham Field, the first in Dallas and the second in Fort Worth, would be closed to interstate and foreign flights as a part of their agreement to build and invest in the Dallas-Fort Worth Regional Airport. Based on that commitment, well over $500 million has been spent to build and develop the Dallas-Fort Worth Regional Airport.

As I understand it, the 1968 Regional Airport Concurrent Board Ordinance of the two cities specifically contains a regional airport plan which absolutely precludes the use of Love Field or Meacham Field for interstate or foreign flights. I am insistent that this decision shall be respected and that nothing be done to place it in jeopardy.

Now, if the CAB were to be allowed nevertheless to certificate any service into Love Field, let us say, then there would be a very serious concern that it could become a major air carrier airport once again, and that service would be drawn away from the Dallas-Fort Worth Airport into which all the cities' moneys and their futures have been pledged, to the serious inconvenience of Fort Worth passengers and also to the serious financial detriment of the cities of Dallas and Fort Worth and their ability to pay off the Dallas-Fort Worth Airport bonds. I want to leave no possibility that any future administration or board member could misconstrue any language in this bill as encouraging or permitting such a travesty.

Mr. Chairman, I refer once again to the language:

> The encouragement of air service at major urban areas through secondary or satellite airports where consistent with regional airport plans of regional and local authorities.

I should like to ask the manager of the bill, the gentleman from California (Mr. ANDERSON): Am I correct in understanding that if the Dallas-Fort Worth Regional Airport Board or the cities inform the CAB that any interstate service to Love Field is not in accordance with the plan of the 1968 Board Ordinance, and that they do not desire it, then the CAB could not certificate any such service to Love Field or to Meacham Field?

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to my friend, the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, my understanding of the language is as the gentleman stated it.

Mr. WRIGHT. Mr. Chairman, I thank the gentleman.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Yes, I yield.

Mr. GOLDWATER. Mr. Chairman, is it the purpose of this colloquy to make a point that the service offered between Fort Worth and Dallas shall only be at the Fort Worth-Dallas International Airport?

Mr. WRIGHT. In regard to interstate and foreign flights, yes. Mr. Chairman, the purpose of the colloquy is to make abundantly certain that nothing whatever in this bill shall interfere with the determination of the cities of Dallas and Fort Worth, since they invested $500 million of their futures in the bonds that will be guaranteed by their citizens upon the premise and upon the decision, and upon the encouragement of the CAB, that the Dallas-Fort Worth Regional Airport shall be the only airport to serve interstate or foreign flights.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 3 additional minutes.)

Mr. GOLDWATER. If the gentleman will yield further, it is not the gentleman's intention that we should abandon or destroy Love Field or perhaps other fields in the surrounding area, is it?

Mr. WRIGHT. Let me say to the gentleman that no commentary that I have made could lead to that conclusion. The cities of Dallas and Forth Worth, in their mutual, joint efforts, decreed that, in exchange for their putting huge sums of money into the development of this regional airport, there will be no interstate or foreign flights from any of the other airports in that region. Everybody is happy with that. I just want to make clear that nobody misreads anything in this bill as an encouragement to put competing flight in interstate commerce into any other airport, because it would be seriously detrimental to the citizens and the taxpayers of the area.

Mr. GOLDWATER. I think it was abundantly clear. But I am certain that the gentleman recognizes that aviation travel, the evolution aspect of it, with commuter service and short haul coming into being, that at some point in time, as long as it is compatible with the regional plan, perhaps Love Field, and other fields, might become once again an attractive place to land. It is not encouraging by the construction of another field.

Mr. WRIGHT. I think what the gentleman fails to appreciate is that presently their are short-haul intrastate flights and many private flights going into Love Field and into Meacham Field. There will be a continuing need for those airports. Meacham Field is currently undergoing an expansion program. We have no objection to that. What we would seriously object to would be any act on the part of the CAB which certificate any interstate or foreign flights into any place other than Dallas-Fort Worth Airport to serve those two cities.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

Mr. Chairman, I want to say this, in support of chairman ANDERSON's response to the gentleman from Texas. During the full markup—and I mentioned this earlier—the gentleman from Illinois (Mr. FARY) offered an amendment similar to the one that the gentleman makes reference to today. And we recognized their problem at Midway. But we were also well aware of the situation at Love that the gentleman from Texas has laid out here, and our agreement with him was that we wanted to try to help his situation but under no circumstances did we want any language that might be interpreted to adversely affect the situation which the gentleman from Texas just described. It was with that understanding that the staff developed the language that the gentleman is making reference to and which we have earlier adopted today, and it was with that understanding, at least on this side of the aisle, that we were acceptable to the amendment.

I hope that clarifies my understanding.

Mr. WRIGHT. Mr. Chairman, I will say to the gentleman that I am grateful to him for that clarification.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(On request of Mr. HARSHA and by unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Ohio.

Mr. HARSHA. I thank the gentleman for yielding.

Mr. Chairman, I would also like to associate myself with the remarks of both the chairman of the subcommittee and the ranking minority member of the subcommittee. When the gentleman from Illinois offered his amendment initially, I was the one who raised the most objections to it, because at that time it was so worded that it may have impacted on some litigation that was presently going on. So as a result of that, I met with the gentleman from Illinois and two or three other members from Illinois and the members of our committee. With the assistance of the staff, we worked out what we felt was an acceptable amendment, recognizing the problem with Midway and O'Hare Airport and the problems there that those members from Illinois were concerned with. While at the same time I made a commitment with my good friend, the gentleman from Illinois, relative to this amendment, I also believe I had an understanding that it in no way was to have a detrimental effect on the Fort Worth-Dallas Airport.

That is my understanding of the legislative history of it, and I hope it will so be interpreted.

Mr. WRIGHT. I thank the gentleman, and I am pleased and satisfied with the response.

Mr. MILFORD. Mr. Chairman, I move to strike the requisite number of words.

If we can get back to the debate on the amendment before the committee at this time, I would just like to make one point in addition to those that have already been made in opposition to the amendment. I first would respectfully disagree with the argument made in the well that this benefits the big air carriers. During the committee deliberations and hearings on this bill, I was never approached by a single large carrier, and I represent some in my district. But, I was asked by practically all of the smaller local carriers to defeat this particular effort.

One segment that is going to be hurt or could be hurt if this amendment should be adopted would be the smaller cities. I have heard it mentioned that Texas International was one air carrier that was lobbying for this effort. That is true. But, I would point out to the Members that Texas International is one of the smaller air carriers in business. It is a local air carrier. It gets the name "International" because it flies to Monterey, Mexico, which is but a short distance from the Texas border.

Back when this airline first came into being, CAB granted it rights to serve blocks of cities, and it literally came up through the ranks by going into the county seat-size towns in some instances. That means that it has a "collector network" where it may start in Harlingen in far south Texas, drop into San Antonio or Houston, then on to Dallas. From Dallas, it will provide direct plane service as far as Los Angeles.

If we take away the cream route, such as a direct flight from Dallas to Los Angeles or from Houston to Los Angeles, or even Houston to Dallas, the loser would be the little town of Harlingen where passengers have direct plane service to as far as Los Angeles.

So, in adopting this amendment we may be depriving small- and medium-sized cities of direct plane service that they are now enjoying, or indeed, deprive them of any service at all. If left the way it is in the bill, each case can be looked at individually by the CAB. If an application has merit, it can be granted. Otherwise, we are turning loose virtually hundreds of routes, many of which were awarded back in the 1920's. In adopting this amendment, we may be seriously interrupting a very complex air transportation system.

So, Mr. Chairman, I urge the Members to vote down the amendment.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

I speak, of course, not on behalf of any airline, large or small, but more on behalf of the consumers whom I once represented in my State. What we have seen here is precisely what we have seen in the Interstate Commerce Commission. Over the years, the phrase "public convenience and necessity," instead of being a spur to competition, has been a barrier. Nothing is more convenient to the public or more necessary to the consumer than competition, which increases efficiency and reduces costs.

The Civil Aeronautics Board and Interstate Commerce Commission have wound a cocoon around these two industries of transportation and airlines that is hampering normal development. There came a time when it was clear that the poor consumer could only choose between having champagne on one flight or steak on another; and the airlines, in order to compete, were compelled to run half-empty planes with fringe goodies given instead of competition.

I think we must make the phrase "convenience and necessity" a positive rather than a negative thing. It has been interpreted to a point where now unless one can absolutely prove that there is no alternative, that consumers cannot travel in any other way, there will be no new air transport. The further we can go from that the better.

Mr. SNYDER. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, the gentleman is making a good argument for an amendment I understand the gentleman from Pennsylvania will offer later for reversing the test for public convenience and necessity. In cases where there is only one carrier serving a market there is no test to be met. Beyond that, if there is dormant authority, we do change the law from what it is. Today the law says it has to be required by public convenience and necessity. Our bill today says it only has to be consistent with the public convenience and necessity. I do not know whether or not the gentlewoman understood the situation.

Mrs. FENWICK. Yes, I did. And I would like to point out that one of the appointments of this whole administration is the appointment of the chairman, Mr. Kahn. He is an extraordinarily able and sensible human being and it is a great solace to all of us to have him.

Mr. ERTEL. Mr. Chairman, if the gentlewoman will yield, I am glad to say I support her remarks with respect to Chairman Kahn.

If we do not pass the Ertel amendments that would be strictly to protect the big boys in the big routes. Where the gentleman and Mrs. FENWICK would receive the benefits and where there are only two carriers flying, the rates would drop, because they would be able to enter that market. The Members are exactly correct, that this is an essential revision of this air service market.

Mr. LEVITAS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to just put this discussion back into perspective in the context of this very important piece of legislation. The airline deregulation bill is one of the most important and complex pieces of economic legislation that this Congress will deal with. It is highly technical. The bill deals with all manner of major concerns, lower fares, greater service, more competition and indeed—I do not know where the gentlewoman from New Jersey has gone, but I would like point out to her—this bill would even abolish the CAB in 5 years by a sunset provision and then we will have full and complete competition. As such it is the only true and complete deregulation bill before Congress.

In moving toward the total deregulation of the airline industry and in trying to strike a delicate balance between the competing concerns, the committee has come up with a finely tuned and delicate and prudent approach to the transition from the highly overregulated climate of today to the totally deregulated climate after sunset.

The House bill in that respect is far superior to the bill of the other body in every respect. And indeed on the question of dormant authority the bill passed by your Public Works and Transportation Committee is far more liberal in opening up dormant authority routes than the bill passed by the other body.

But let us see what it does and why the amendment offered by my friend the gentleman from Pennsylvania is a mischievous amendment in this regard and can upset this delicate balance very easily and swiftly. If an amendment is adopted I must say there are other provisions in this bill I do not like, but if we are going to try to rewrite this complex piece of legislation on the floor I have some amendments over there which I intend to offer at the proper time.

But let us see what this does. This provision in the bill today says if there is dormant authority in a market and no service is being offered, any carrier can come in and pick up the dormant authority and use it and provide service without any CAB procedure. If there is only one carrier in a market and it alone is serving that market and therefore there is no competition in fares or service or anything else, and dormant authority, then any carrier can come in and service that market and provide competition without any proceedings.

The bill also says that where there is competition and dormant authority, a carrier who wants to serve that market can make application for it, it is presumed that the applicant is entitled to the authority, and only if the carriers in that market can show it would have a detrimental effect to the public and be inconsistent with public convenience and authority, can they be kept out new service and that occurs in expedited CAB proceeding.

Now lets turn to the question of does this provision in the bill benefit the big boys? You know, it is one thing to argue on the merits of an issue and it is another to engage in the creation of false images.

I am perfectly willing for the Members of this House who are here and those who are listening to the debate on television to make that judgment on the issues. But let me deal with the comments made several times by my good friend the gentleman from Pennsylvania (Mr. Ertel) that this is a "big boys protection provision." The exact opposite is the truth. The opposite is the case. As the gentleman from Texas and the gentleman from Kentucky have pointed out, the only people in the industry who have tried to keep this balance in this part of it rather than just throwing it wide open, right away, are the small, little carriers. Because this is what is going to happen, where you have a large carrier and a small carrier serving a small market, Frontier, a dormant authority exists there. If you let one of the big boys in then they will drive the small carrier out of the market altogether. It is not a question of letting Frontier compete with American and United, that is not what is at stake here. The small carriers I think perhaps know their own concerns better than the gentleman from Pennsylvania (Mr. Ertel) does. It is a small carrier provision.

Mr. ERTEL. Mr. Chairman, will the gentleman yield on that point?

Mr. LEVITAS. I will yield to the gentleman as soon as I complete my sentence.

It is a small carrier's provision because, if we are transforming this regulated protectionist system into a completely deregulated one, do not let the big carriers wipe out the small carriers in the first few years, let them continue to provide competitive service and let the CAB be there to make the judgment and act as a safety valve.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. Ertel and by unanimous consent, Mr. Levitas was allowed to proceed for 3 additional minutes.)

Mr. ERTEL. Will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to the gentleman from Pennsylvania.

Mr. ERTEL. The gentleman indicated that there are markets where a big carrier and a little carrier are in the market. Have you any statistics where a big carrier and a small carrier are in a truly competitive market of two or more? Do you have any statistics on that? Since the gentleman made this statement, I would like to see his statistics because, this applies to all of the carriers, except one, who have over 10 million seat miles.

Mr. LEVITAS. Let me respond to the gentleman. I asked the gentleman earlier if the gentleman had those statistics and he said he did not and I can only point to a number of markets that I am personally aware of, and let me give you one example that the gentleman even called to our attention today, you talked about Dallas-Fort Worth and Albuquerque, what are the two carriers you now say are in that market?

Mr. ERTEL. Continental and Texas International.

Mr. LEVITAS. All right.

Mr. ERTEL. Let me answer the gentleman.

Mr. LEVITAS. Let me complete my statement.

You say Texas International and Continental. Who did the gentleman say was going to apply for it and could not get it? What little bitty carriers? I think the gentleman said American and United.

Mr. ERTEL. I did not. I did not say that.

Mr. LEVITAS. What are the carriers?

Mr. ERTEL. The carriers are TWA and American.

Mr. LEVITAS. TWA? So is that the big boy going after the little boy, or is it the other way around?

Mr. ERTEL. Let me read to you the conditions in that market, if I might. What has happened is that the current service is definitely inadequate:

> . . . as there are perpetual waiting lists of passengers seeking to get on every flight to and from those cities. Bumping/overbooking is a common problem on that route.
>
> Both TWA and American Airlines have interest in getting into that market. Albuquerque only expects that traffic will be even further expanded if a new carrier were to begin providing service.

Mr. LEVITAS. I agree they need more service and this bill would give them more service. I am dealing with the charge that the gentleman has made several times that it is protecting the big boys from the little boys, yet the two carriers that are trying to get into that market are little old American and little old TWA, and they are going after big old Texas International and big old Continental.

I am saying it is not a big boy's protection provision, and the gentleman's own facts bear that out.

Mr. ERTEL. Is the gentleman aware that Texas International is right now trying to buy National Airlines in a battle with Pan-Am? In addition, it had 29.3 percent net profits last year, the highest in the industry, yet you are worried about protecting this poor little boy who happens to fly 1,760,000-seat miles.

Mr. LEVITAS. Texas International has been described, I might point out, by the Wall Street Journal, as a sardine trying to swallow a whale. That might give you some idea.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Ertel).

The question was taken; and on a division (demanded by Mr. Ertel) there were—ayes 7, noes 18.

Mr. ERTEL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Pennsylvania (Mr. Ertel) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 8? If not, the Clerk will read.

The Clerk read as follows:

FILL-UP RIGHTS

Sec. 9. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(6) Any air carrier holding a valid certificate to engage in foreign air transportation is authorized, on any scheduled flight in foreign air transportation, to transport persons, property, and mail between points in the United States between which it is authorized to operate during such flight. The authority described in the preceding sentence shall be limited to one round-trip flight per day between any such pair of points, unless the Board authorizes more than one round-trip flight per day between any such pair of points.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 9 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to section 9?

If not, the Clerk will read.

The Clerk read as follows:

EXPERIMENTAL ENTRY PROGRAM

Sec. 10. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(7)(A) Not later than the thirtieth day of the first calendar year which begins after the date of enactment of this subparagraph—

"(i) any air carrier which (I) has operated during the entire preceding calendar year in accordance with a certificate issued by the Board under this section which has been in force during such period of operation, and (II) has provided air transportation of persons during such calendar year; and

"(ii) any intrastate air carrier which has a valid certificate or license issued by a State regulatory authority to engage in intrastate air transportation and which has operated more than one hundred million available seat-miles in intrastate air transportation in the preceding calendar year.

may apply to the Board for a certificate under this subparagraph to engage in nonstop service between any one pair of points in interstate or overseas air transportation in addition to any pair of points authorized by any existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application from an applicant under this subparagraph, the Board shall issue a certificate to such applicant for the nonstop service specified in such application, unless within such sixty-day period the Board determines that the issuance of such certificate is likely to result in a substantial impairment of the national air transportation system or a substantial reduction in air service to small- and medium-sized communities in any region of the United States.

"(B) Not later than the one-hundred-twentieth day of the first calendar year which begins after the date of enactment of this subparagraph, any air carrier which submitted an application to the Board in accordance with subparagraph (A) of this paragraph in such calendar year and—

"(i) which did not receive a certificate to provide service between the pair of points set forth in the application because of a determination by the Board under such subparagraph (A); or

"(ii) which received a certificate to provide service between such pair of points, but was not the only air carrier to receive a certificate under such subparagraph (A) during such calendar year to provide nonstop service between such pair of points,

may reapply to the Board for a certificate to engage in nonstop service between any one pair of points in interstate or overseas air transportation (other than the pair of points specified in the first application submitted to the Board by such air carrier in such calendar year) in addition to any pair of points authorized by any existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application under this subparagraph, the Board shall issue a certificate to the applicant for such nonstop service, unless within such sixty-day period the Board makes a determination with respect to the issuance of such certificate in accordance with the second sentence of subparagraph (A) of this paragraph. If the Board issues a certificate to an applicant under this subparagraph, it shall revoke any authority in any certificate which it granted to such applicant in the same calendar year under subparagraph (A) of this paragraph.

"(C)(i) Subject to clause (ii) of this subparagraph, any air carrier which is authorized pursuant to paragraph (1) or (2) of this subsection to engage in nonstop service between any pair of points in interstate or overseas air transportation on the first business day of the first calendar year which begins after the date of enactment of this section and which wants to preclude any other air carrier from obtaining authority under subparagraph (A) or (B) of this paragraph to engage in nonstop service between such pair of points may, on such day, file written notice to the Board which sets forth such pair of points. Upon receipt of any written notice under the preceding sentence, the Board shall make such notice available to the public.

"(ii) No air carrier may file a written notice under clause (i) of this subparagraph with respect to more than one pair of points in interstate or overseas air transportation.

"(D) The Board shall conduct a study of the procedure for certification of air carriers and intrastate air carriers set forth in subparagraphs (A) and (B) of this paragraph to evaluate—

"(i) whether such procedure is consistent with the criteria set forth in section 102 of this Act; and

"(ii) the relative effectiveness of such procedure as compared with other procedures for certification set forth in the Act, including but not limited to, the procedures set forth in paragraphs (5) and (6) of this subsection, and in subsection (p) of this section. Not later than June 30, 1980, the Board shall complete such study and report the results of such study to the Congress.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 10 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ERTEL. Mr. Chairman, I ask unanimous consent to go back to the previous section and offer an amendment to section 9.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. SNYDER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Are there any amendments to section 10?

If not, the Clerk will read.

The Clerk read as follows:

EXPERIMENTAL CERTIFICATES

SEC. 11. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(8) The Board may grant an application under subsection (d)(1), (2), or (3) of this section (whether the application be for permanent or temporary authority) for only a temporary period of time whenever the Board determines that a test period is desirable in order to determine if projected services, efficiencies, methods, rates, fares, charges, or other projected results will in fact materialize and remain for a sustained period of time, or to assess the impact of the new services on the national air route structure, or otherwise to evaluate the proposed new services. In any case where the Board has issued a certificate under any one of those subsections on the basis that the air carrier holding such certificate will provide innovative or low-priced air transportation under such certificate, the Board, upon petition, or its own motion, may review the performance of such air carrier, and may alter, amend, modify, suspend, or revoke such certificate or authority in accordance with the procedures prescribed in section 401(g) of this title, on the grounds that such air carrier has not provided, or is not providing, such air transportation.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 11 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ERTEL. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued to read.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 11 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to section 11?

If not, the Clerk will read.

The Clerk read as follows:

REMOVAL OF RESTRICTIONS

SEC. 12. Section 401(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(e)) is amended by adding at the end thereof the following new paragraph:

"(7) Upon application of any air carrier seeking removal or modification of a term, condition, or limitation attached to a certificate issued under this section to engage in interstate, overseas, or foreign air transportation, the Board shall, within sixty days after the filing of such application, set such application for oral evidentiary hearings on the record, or begin to consider such application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section for purposes of eliminating or modifying any such term, condition, or limitation which it finds is inconsistent with the criteria set forth in section 102 of this Act. Applications under this paragraph shall not be subject to dismissal pursuant to section 401(c)(1) of this Act.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 12 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to section 12?

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 100, before line 4, insert the following new section:

DETERMINATION OF CONSISTENCY WITH PUBLIC CONVENIENCE AND NECESSITY

SEC. 12. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(9) Transportation covered by an application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection shall, for the purposes of such paragraphs, be deemed to be consistent with the public convenience and necessity, unless the Board finds based upon clear and convincing evidence that such transportation is inconsistent with the public convenience and necessity.".

Renumber the succeeding sections of the bill accordingly.

Mr. ERTEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. LEVITAS. Mr. Chairman, reserving the right to object, I wonder if we have had sufficient opportunity to see this amendment at this point.

Mr. ERTEL. Mr. Chairman, if the gentleman will yield, I received the amendment from the committee counsel.

Mr. LEVITAS. Mr. Chairman, the reason I reserved the right to object is to ascertain whether or not there is a point of order which should be reserved against the amendment.

Mr. Chairman, I withdraw my reservation of objection, but I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Georgia (Mr. Levitas) reserves a point of order on the objection.

Is there objection to the request of the gentleman from Pennsylvania?

Mr. SNYDER. Mr. Chairman, reserving the right to object, I take it this is the same amendment we had in the committee? I understand this is amendment No. 9, the same amendment that was going to be offered, and it has not been changed?

Mr. ERTEL. Mr. Chairman, if the gentleman will yield, this is the reverse burden amendment. We did not have it in the committee, but we did have it in a meeting.

Mr. SNYDER. Yes, I stand corrected. But this amendment is in the same language as the one that was in the meeting?

Mr. ERTEL. Mr. Chairman, the gentleman is correct.

Mr. SNYDER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ERTEL. Mr. Chairman, this is the reverse burden of proof amendment on which there has been a great deal of discussion in the Chamber. Perhaps I should basically explain what it is.

The 1938 act is silent on who would have the burden of proof in proving who should go forward and in fact prove that there should be new air service or air traffic brought into an area. Section 7 of the Administrative Procedures Act requires that the proponent of a particular proposal have the burden of proof. The existing law requires that a new applicant asking for service between cities, for instance, from Albuquerque to Dallas or anywhere else, would have the burden of proving that it was in the public convenience and necessity.

This is a very expensive burden for an applicant to have when he wants to apply for a new route. Even if there is not one scintila of evidence in the record that in fact it would be detrimental to the public convenience and necessity, the new applicant must in fact put forward evidence to prove it is economically feasible for him to service that route.

What my amendment does is it basically reverses that procedure. The person coming in and asking for the new route would not have the burden of proving it is an economic necessity, but anybody who is trying to hold him out would have the burden of proving that he should not be in.

In other words, the person who has the monopoly has to protect the monopoly rather than put the burden on the new applicant.

What the procedure has done is to stultify new applications. The applications procedure before the CAB is bogged down. Sometimes it takes 3 to 5 years to get new service into small communities.

In Peoria, Ill., which is a classic case, it took approximately 5 years to get an application through to get service from Peoria to Atlanta, Ga., and it cost the city of Peoria $200,000. Then after they got the service through, the fares fell 26 percent, and the boarding for passengers on planes went up tremendously.

So what we are doing is saying that those small communities are not going to have to meet this burden of going forward. We are going to say, "You have the presumption that new service will help," and we are saying to the new guy in town, "You can come in." We are going to be pro-competition and pro-free enterprise. We are saying to the new applicant that "a monopoly cannot hold you out and stultify the growth of new airlines.

Let us just take a look at what has happened in the airline industry, which we talk about as being the best transportation system in the world. In the past 10 years, because of this bureaucracy that has been created in the CAB, we have lost 10,000 jobs in the airline industry.

The indirect annual cost in airline regulation borne by industry and eventually by the public has been estimated by the General Accounting Office at $1.8 billion.

Now, remember, we do have the procompetitive Kahn board, and things have changed in some regards. But since they have come in, the rate of return with this pro-competitive board has increased tremendously with the airlines, and before it was one of the lowest industrial group's rate of return in the Nation. So we have improved with the Kahn board, make no mistake about it. But they are pro-competitive. They are probably ahead of where the legislation will wind up out of this House and out of the Senate. What we are doing here is making an improvement in the law. Let us take a look at the people who are supporting this particular amendment, because it is really a wide spectrum of people. The airport operators in the 50 States contend that this amendment will save airport communities, in the overwhelming majority of cases, from having to expend large amounts of local public funds to engage consultants and attorneys to obtain economic data to file with the board. That is the local communities.

Take the Louisville service case. The Louisville Air Board spent $500,000 to argue for air service in markets that included Louisville.

Kansas and Nashville both report that from $10,000 to $20,000 is likely to be spent developing data to support the case for new authority.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. Ertel) has expired.

(On request of Mr. Glickman) and by unanimous consent, Mr. Ertel was allowed to proceed for 3 additional minutes.)

Mr. ERTEL. That was just for the economic aspects, and that does not include the attorneys' fees. I am an attorney, and I know what those fees cost and they are tremendous.

But let us take a look at who is supporting this amendment and why there is time for a change. We have the National Association of Counties, Common Cause, the American Conservative Union, Congress Watch, the National Association of Manufacturers, the Airport Operators Council International. Chairman Kahn has written a specific letter to every Member of this House supporting it.

The gentleman from California (Mr. Mineta), the gentleman from Illinois (Mr. Crane), the gentleman from Michigan (Mr. Stockman), the gentleman from Michigan (Mr. Carr), the gentleman from Pennsylvania (Mr. Kostmayer), the gentleman from Nevada (Mr. Santini), the gentleman from Michigan (Mr. Sawyer), and the gentleman from Ohio (Mr. Whalen) support this amendment.

If you vote against this amendment, you are saying that competition is not a part of the American marketplace.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding, and the gentleman might include Mr. Glickman, too. But is this amendment roughly the same as the bill that came out of the Senate, that is, on the burden-of-proof issue?

Mr. ERTEL. It is.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I want to associate myself with the remarks of the gentleman in the well, the gentleman from Pennsylvania (Mr. Ertel), and say that, in my view, this amendment can help promote competition. It is fair, so far as both large and small airlines are concerned. Having had some experience in other types of regulatory bodies where certificates of convenience and necessity are required, I am well aware of the tremendous burden placed upon an applicant trying to enter a market which is already being served. And this would transfer the burden of proof so that it would facilitate entering the market and enhance competition and improve service and provide benefits to the consumer, it seems to me. I applaud the gentleman for offering his amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I want to commend the gentleman for offering this amendment. If there is one basic reason for the tremendous increase in inflation in recent years it is, in my opinion, the fact that competition is not nearly as strong as it once was in our free-enterprise system. If we are really going to mean what we say about deregulating airlines and promoting competition, it seems to me that this amendment is one of the things that we need to accept to make this real. If the burden of proof to enter a new market is on the person who wants to compete, it creates a roadblock. The burden of proof should not be on that person. I think the gentleman is right on target with his amendment, and we should support the gentleman's amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Georgia insist on his point of order?

Mr. LEVITAS. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman will state the point of order.

Mr. LEVITAS. The amendment offered by the gentleman from Pennsylvania is purporting to amend page 96, line 10, by inserting a new section there. According to the reading of the Clerk, the Clerk had already begun to read section 12.

The CHAIRMAN. Does the gentleman from Pennsylvania wish to speak to the point of order?

Mr. ERTEL. Mr. Chairman, I cannot recall whether the Clerk started to read section 12 or not.

The CHAIRMAN. Section 12 had been considered as read by unanimous consent. The Chair is prepared to rule unless the gentleman from Pennsylvania wishes to address the matter further.

Mr. ERTEL. Mr. Chairman, I ask unanimous consent that section 12 be treated as not read.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. MILFORD. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GOLDWATER. Mr. Chairman, I would like to speak to the point of order.

I only rise to plead for a sense of reasonableness here. Mr. ERTEL has a number of amendments. He has a point of view, and recognizing the power in the opposition, it just seems to me that the gentleman ought to have an opportunity to present his amendments. Even though I am in opposition to his amendment, it just seems to me that we should not roll this thing through, but that the gentleman ought to have at least an opportunity.

I think we are nitpicking, making a point of order because for some reason we began reading a new section when the gentleman is sitting over there by himself trying to handle his amendments. I rise to appeal to a sense of reasonableness to my colleagues on that.

The CHAIRMAN. The Chair is prepared to rule.

The Clerk had read section 12, and in the opinion of the Chair the amendment adds a new section prior to section 12 and comes too late at this point, and the point of order is sustained.

Are there amendments to section 12? If not, the Clerk will read.

The Clerk read as follows:

PROCEDURES FOR PROCESSING APPLICATIONS

SEC. 13 (a)(1) Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is amended by adding at the end thereof the following new subsection:

"PROCEDURES FOR PROCESSING APPLICATIONS FOR CERTIFICATES

"(p)(1) The Board shall promulgate rules establishing simplified procedures for—

"(A) the disposition of applications for a certificate to engage in air transportation pursuant to subsection (d) (1), (2), or (3) of this section; and

"(B) the alteration, amendment, modification, suspension, or transfer of all or any part of any certificate pursuant to subsection (f), (g), or (h) of this section.

Such rules shall provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings.

"(2) In determining whether to employ such simplified procedures in a particular case, the Board shall give consideration to the magnitude of the potential impact of its decision in the case on the air transportation system. The rules adopted by the Board pursuant to this subsection shall, to the extent the Board finds it practicable, set forth the standards it intends to apply in determining whether to employ such expedited procedures, and in deciding cases in which such procedures are employed.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of Public Convenience and Necessity."

is amended by inserting at the end thereof

"(p) Procedures for processing applications for certificates.".

(b)(1) Section 402 of the Federal Aviation Act of 1958 (49 U.S.C. 1372) is amended by adding at the end thereof the following new subsection:

"PROCEDURES FOR PROCESSING APPLICATIONS FOR PERMITS

"(h) The Board shall promulgate rules establishing simplified procedures for—

"(1) the disposition of applications for a permit to engage in foreign air transportation pursuant to this section; and

"(2) the alteration, amendment, modification, suspension, or transfer of all or any part of any permit pursuant to subsection (f) of this section.

Such rules shall provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 402. Permits to foreign air carriers."

is amended by inserting at the end thereof

"(h) Procedures for processing applications for permits.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 13 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to section 13?

AMENDMENT OFFERED BY MR. CHARLES WILSON OF TEXAS

Mr. CHARLES WILSON of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHARLES WILSON of Texas: Page 99, before line 8, insert the following new section:

THROUGH SERVICE AND JOINT FARES

SEC. 14. Paragraph (4) of section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(4)) is amended to read as follows:

"(4)(A) Notwithstanding any other provision of this Act, any citizen of the United States who undertakes, within any State, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority for such carriage within such State granted by the appropriate State agency is authorized—

"(i) to establish services for persons and property which includes transportation by such citizen over its routes in such State and transportation by an air carrier or a foreign air carrier in air transportation; and

"(ii) subject to the requirements of section 412 of this title, to enter into an agreement with any air carrier or foreign air carrier for the establishment of joint fares, rates, and or services for such through services.

"(B) The joint fares or rates established under clause (ii) of subparagraph (A) of this paragraph shall be the lowest of—

"(i) the sum of the applicable fare or rate for service in the State approved by the appropriate State agency, and the applicable fare or rate for that part of the through service provided by the air carrier or foreign air carrier;

"(ii) a joint fare or rate established and filed in accordance with section 403 of this Act; or

"(iii) a joint fare or rate established by the Board in accordance with section 1002 of this Act.".

Renumber the succeeding sections of the bill accordingly.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. SISK). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ANDERSON of California Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, I would just like to inform the gentleman that we support his amendment.

Last year we adopted legislation allowing intrastate carriers in California and Florida to enter into interline agreements with interstate carriers. Interline agreements relieve through passengers of the inconvenience of buying two tickets and making their own arrangements for baggage transfer. These benefits should also be available to passengers using intrastate carriers in Texas. I support the amendment.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Kentucky.

Mr. SNYDER. What the gentleman's amendment does is the identical, same thing that is accomplished by an amendment that had been circulated by the gentleman from Texas (Mr. KRUEGER).

Mr. CHARLES WILSON of Texas. Yes. I am offering the amendment as a favor to the gentleman from Texas (Mr. KRUEGER).

Mr. SNYDER. It looks like the same language. If the gentleman from Texas assures me it is the same, I supported the Krueger amendment.

Mr. CHARLES WILSON of Texas. I so assure the gentleman.

Mr. SNYDER. Then, Mr. Chairman, I support it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Charles Wilson).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read section 14.

The Clerk read as follows:

TERMINATION OR SUSPENSION OF CERTAIN SERVICE

Sec. 14. (a) Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is further amended by adding at the end thereof the following new subsection:

"TERMINATION OR SUSPENSION OF CERTAIN SERVICE

"(q) If an air carrier holding a certificate issued pursuant to section 401 of this Act proposes to terminate or suspend nonstop or single-plane air transportation between two points being provided by it under such certificate, and such air carrier is the only air carrier certificated pursuant to such section 401 providing nonstop or single-plane air transportation between such points, at least ninety days before such proposed termination or suspension such air carrier shall file with the Board and serve upon each community to be directly affected notice of such termination or suspension.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by adding at the end thereof

"(q) Termination or suspension of certain service.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 14 be considered as read and open for amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ertel: Page 100, before line 4, insert the following new section:

DETERMINATION OF CONSISTENCY WITH PUBLIC CONVENIENCE AND NECESSITY

Sec. 15. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(9) Transportation covered by an application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection shall, for the purposes of such paragraphs, be deemed to be consistent with the public convenience and necessity, unless the Board finds based upon clear and convincing evidence that such transportation is inconsistent with the public convenience and necessity.".

Renumber the succeeding sections of the bill accordingly.

Mr. ERTEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. SNYDER. Mr. Chairman, reserving the right to object, I do not have a copy.

Mr. ERTEL. This is the same amendment that I offered to a previous section, that was objected to because the Clerk had started to read section 12. It is the reverse burden.

Mr. SNYDER. Mr. Chairman, I will reserve a point of order on the amendment pending our receiving it, and I withdraw my reservation of objection.

The CHAIRMAN pro tempore. The gentleman reserves a point of order on the amendment.

Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ERTEL. Mr. Chairman, this is the same amendment I had discussed previously which was subject to the point of order because the Clerk had gotten into the next section before I offered it. It is now being reoffered.

This is the reverse burden of proof. This is the same section which requires the one opposing a new entry to have the burden, to accept the financial burden of preventing someone from coming to the marketplace. This is the same amendment which was accepted in the Senate today. I have already discussed it previously and I will not discuss it again.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I thank the gentleman for yielding.

The question I ask is: Has not the incumbent airline had the burden of proving the convenience and necessity of serving that market?

Mr. ERTEL. If it is already serving the market at this point, he has been through the public convenience and necessity.

Mr. GOLDWATER. And he has already gone through that proof and he may have been awarded that route.

Mr. ERTEL. He may or may not have. He may have been grandfathered in.

Mr. GOLDWATER. But, nevertheless, he is the incumbent. He went through the pains of defending or acquiring that position, of making the presentation to the CAB that there was a need.

Mr. ERTEL. That may or may not be correct, based on the grandfathering in.

Mr. GOLDWATER. Under the gentleman's amendment, he would have to go through the whole scenario and prove it again, that in fact he meets all the requirements and standards.

Mr. ERTEL. That is not correct. The incumbent carrier would have to prove he is meeting the market and serving it adequately and that there is no need for another carrier. He is not proving he is necessary in the market. He is going to be there. But he has got to prove that the other carrier will not improve the service and cut fares. That is what he has to prove—not that he is capable but that the other fellow should not come into the market.

Mr. GOLDWATER. But he has to prove his service is a public convenience and necessity.

Mr. ERTEL. Not at all.

Mr. GOLDWATER. And if we require him to go through the same scenario again and throw the same burden of proof on his shoulders again, that is like trying a fellow a second time and requiring him to prove his innocence.

Mr. ERTEL. Not at all.

He is going to remain there. He does not have to prove he should be in the market. All we are saying is we believe in free competition and the free enterprise system and we are, in fact, procompetitive. A new applicant should be permitted to get into the market unless the incumbent thinks his monopoly is such that can serve the market entirely, then the incumbent can prove that the services are not needed.

Mr. GOLDWATER. That would be the same thing as if I held a patent, and it has been given to me under legal grounds and then you come along and want to infringe on the patent, the proof should be on you, but, under the amendment, the proof would have to be on the patent holder, and that is contrary to the law and practice.

Mr. ERTEL. No, it is not. If I am a patent holder and somebody comes along and starts to build something which is within my particular patent area, the burden is on me to prove that he infringed. That is a burden that remains with the patent holder, the monopoly holder, he must prove that the other person is infringing. That is exactly what we are doing here. We are saying to the monopoly holder, you have to prove that the other one is infringing or does not give good service. The patent law is very clear that the burden of proof remains with the patent holder.

Mr. GLICKMAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania (Mr. Ertel).

Mr. Chairman, this is an incredibly important amendment for the future of air transportation in the United States. I believe that this is clearly the most important amendment that will be offered to this bill, and is an important amendment to insure that air transportation in the future remains competitive.

Let us start with two basic premises. First, that the experience within the last year at the CAB, particularly the efforts by Chairman Kahn, has proved that in the air deregulation area that the free enterprise system works, without equivocation—and all you have to do is to go out to the airport and see the airplanes filled, see the airlines profits to know they are doing well, because of it.

Second, we have to come to the assumption that air transportation has replaced rail transportation, it has replaced bus transportation, as the only real feasible way in this country by which people can move around any more. Therefore, it is vital to the economic well-being throughout the 50 States that air services be as unrestricted as possible in order to promote a strong, solid economy throughout the entire country.

Basically there just are not any feasible ways for people to move in any large numbers except in air transportation. And, coming from a place where we make over half of the airplanes in the world, most of them general aviation, I have some interests to preserve and see that that industry is protected, but, more than that, I have an interest in being sure that our economy remains strong.

With reference to the burden of proof, the difference between the amendment and the basic bill is on the question of whether the incumbent air carrier has to prove that the new service constitutes a public necessity or not. The amendment offered by the gentleman from Pennsylvania (Mr. ERTEL) sets up the burden of proof providing that an incumbent carrier, on a current route structure must show by clear and convincing evidence that a proposed new airline service on that route will not be in the public interest, therefore, making it easier for a new carrier to come in. That is the key. That is what the Senate adopted, that is what the President approved, that is what the Chairman of the CAB requested, and that is what is responsible for the increased air service.

Now let me tell you about my case in Wichita, Kans.

In May 1975 Kansas filed a case to increase air service to the Southeast. It was the Kansas case primarily which included Denver, Wichita, and Atlanta. That case took 3 years to complete, and it cost plenty in fees and other expenses directly attributable to the quest for new air service.

The Wichita airport authority, civic groups, and other people spent over $150,000. That does not include volunteer time expended. More importantly, it does not account for the sizeable economic loss which undoubtedly resulted for the firms choosing not to locate in the Wichita area, because of inadequate service.

We went through delay after delay after delay on route service, which was wanted, which was needed, which was economically sound, and which the public deserved.

After 3 years we got the service. By the way, people are eating this service up. The numbers of people who have taken advantage of this service have increased absolutely dramatically. However, the important point about it is the fact that what the Ertel amendment tries to do is to try to increase this kind of opportunity for people to have air service in a much quicker and a much more expeditious way in all parts of the country.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I believe I understand the gentleman from Kansas (Mr. GLICKMAN) to say and I think I understood the author of this amendment to say that this was the provision adopted by the Senate as well; is that correct?

Mr. GLICKMAN. I believe it is roughly equivalent to the provision in the Senate.

Mr. ERTEL. If the gentleman will yield, Mr. Chairman, it is roughly the same. There are grammatical changes which we thought were better than the Senate's language.

Mr. LEVITAS. If the gentleman will yield further, I think this is an important, although perhaps technical, point which I would like to clarify.

I have here the bill passed by the other body, and I have here the amendment offered by the gentleman from Pennsylvania.

The bill passed by the other body says:

> An opponent of the application shall have the burden of showing that such air service is not consistent with the public convenience and necessity.

The amendment offered by the gentleman from Pennsylvania says:

> Unless the Board finds based upon clear and convincing evidence that such transportation is inconsistent with the public convenience and necessity.

Is there any significance to that difference in language?

Mr. GLICKMAN. I will yield to the gentleman from Pennsylvania (Mr. ERTEL) for an answer to that question.

Mr. ERTEL. There is not any significant difference in the language. It is a different way of saying the same thing.

The CHAIRMAN pro tempore. The time of the gentleman from Kansas (Mr. GLICKMAN) has expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. GLICKMAN was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield further?

Mr. GLICKMAN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I just want to make certain that we understand this point.

The author of the amendment says that this difference in language is not a difference in substance; is that correct?

Mr. ERTEL. If the gentleman will yield further, Mr. Chairman, some people might consider that "clear and convincing" is a difference in the burden of proof; but I would suggest that they are substantially the same.

Mr. LEVITAS. That is what the gentleman, as the author of the amendment, is seeking; is that correct?

Mr. ERTEL. That is correct.

Mr. GLICKMAN. Mr. Chairman, I just want to add one additional point.

I go back to this issue of the competitive spirit of America. I would say to the people equivocating on this issue that the Ertel amendment puts into law a provision which will dramatically increase the ability of Americans to get air service; and inasmuch as air service is critical to our free economy, I really personally do not believe that there is any sound alternative except to support the Ertel amendment.

Mr. ERTEL. If the gentleman will yield further, Mr. Chairman, will the gentleman outline the various steps which the Wichita group had to go through until they finally got air service to Atlanta and will he outline the time delay as a result of those proceedings, which this bill would leave intact without the Ertel amendment?

Mr. GLICKMAN. It was 3 years, primarily waiting for a hearing examiner to issue his rulings. That hearing examiner decision was delayed somewhere between four and six times. In the meantime, my community was denied bona fide air service between Salt Lake City, Denver, Wichita, Memphis, and Atlanta. It was unfair to my constituents and I think unfair to those living in that entire part of the country and unfair to all Americans in general.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment offered by my colleague, Mr. ERTEL, which provides that the CAB can only deny an application for new route authority if it receives or develops clear and convincing evidence that the new authority would be inconsistent with the public convenience and necessity.

I am very pleased to be a cosponsor of this amendment, because I firmly believe that its considerable benefits will accrue to communities seeking new air service. Passage of this amendment will significantly reduce the expenses associated with the application process to receive new service. It will, in addition, reduce the congestion at the CAB which must review such applications.

Although H.R. 12611, the Air Service Improvement Act, is designed to increase competition in the aviation field, our bill does not address the issue of "burden of proof." It thus leaves intact existing practice under which route proceedings before the CAB are governed by section 7 of the Administrative Procedures Act. Section 7 provides that the proponent of a new rule or order (for example, an application to fly a new route), has the burden of proving to the CAB that new service is not inconsistent with the public convenience and necessity. As a result potential new competitors and small communities seeking additional service must face the substantial costs involved in engaging consultants and attorneys to develop data supporting an application for new route authority.

This amendment would simply reverse this situation by requiring that the airline seeking to keep out potential competitors must demonstrate that the new competition is inconsistent with the public convenience and necessity.

As many of my colleagues are aware, the Senate-passed legislation on aviation regulatory reform contains a similar provision to reverse the burden of proof. The amendment before us, however, makes two important improvements in the Senate language.

In the Senate language, in determining whether new service is consistent with the P.C. & N., the burden falls on the opponent. The question has been raised regarding this language as to what happens if there is no opponent. The amendment before us would correct that problem by removing the reference to "opponents."

Second, the Senate language, although stating where the burden is placed, does not state what is required to be proven. There are two legal tests for what is required to be proven; either a "preponderence of the evidence," or "clear and convincing evidence." Our amendment clarifies this matter by establishing the test as "clear and convincing evidence," which is the more rigorous of the two tests.

I believe that this simple but very important amendment will guarantee that opponents of new service and more competition will not continue to have the upper hand in CAB proceedings. Without this amendment, carriers seeking to maintain monopoly routes will continue to be able to slow the regulatory proceedings by filing countless objections to new route applications. Placing the burden of proof upon the opponents of competition will dramatically improve the chances for a community to get new service and will thereby increase competition.

When Secretary Brock Adams was asked for his comments on the "burden of proof issue," he stated:

> The rules of the game should be that competition is consistent with the public convenience and you should have to prove your case if you're against new competition, not the other way around.

I certainly share the views of the Secretary in this matter.

I urge my colleagues to support this important procompetitive amendment to our bill.

Mr. PANETTA. Mr. Chariman, will the gentleman yield?

Mr. MINETA. I am pleased to yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

My only concern with regards to the amendment is whether in changing the basic presumptions and procedures does this in any way impact on the safety issue with regards to those airlines that are seeking these routes. Is there any implication or any possibility that this would reduce safety requirements?

Mr. MINETA. Not at all. The whole bill itself is addressed to CAB. Safety matters involve the Federal Aviation Administration, and safety considerations are not touched at all in this bill. What safety considerations are involved relative to increased activity by commuter airlines are being addressed by several amendments I have offered. In fact, one has already been accepted by the committee and put into the legislation, and one which I will be offering shortly.

Mr. PANETTA. I thank the gentleman.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding.

A fit, willing, and able test, which is still the basis for safety, still has to be met.

Mr. MINETA. I thank the gentleman.

Mr. SNYDER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as has been said before in the debate, we spent a lot of time in committee, as a matter of fact, months and I guess a couple of years, trying to put together a good middle-of-the-road bill. I am very sympathetic with and understand very well the problems that the gentleman from Kansas outlined.

What has to be understood is that the provision for application for certificates, is only one of the many ways we will open up the bill for new route authority. Most of us heard the debate on the dormant authority proposition. That opens up hundreds of routes that can be picked up without any test other than being a qualified carrier. If there is a monopoly carrier, it is automatic that dormant authority be picked up by that new carrier.

In addition, I want to say to the gentleman from Kansas, we have had the same continuing problem in Louisville that the gentleman described in his area.

We have a provision for expedited procedures. Under no circumstances can approval of an application for new authority take more than 1 year. Normally under the bill it would take 180 days.

In addition to that, we have the automatic market entry provision that allows every airline to go in and pick up one new market and protect one market. In this instance, we have opened up hundreds of markets across the Nation.

Let me address reverse P.C. & N. specifically. Under existing law, the applicant has to prove that his application is required by the public convenience and necessity, which we refer to as P.C. & N. Under our bill, he only has to prove it is consistent with the public convenience and necessity. The applicant still has the burden of proof, but the burden of proof he has to meet is so much less than it is and in our policy statement we lay out that we want the board to decide it on the basis of allowing more competition; so we have laid out the guidelines that the applicant has to meet to fulfill the requirements of the certificate of public convenience and necessity, as opposed to the gentleman's amendment. As the gentleman from Georgia pointed out, the proponent has the burden of proof, but he does not have a consistent burden of proof. He has to prove by clear and convincing evidence, certainly a preponderance of the evidence ought to be enough; but you are putting it on the basis, my friends and colleagues in the House, where if we adopt this, you can say to all the airlines, "Warm up and fly." That is a pretty good philosophy, but when they start doing it, then you do not have the equipment looked after as it should be. You have a confused situation. They are vying for the dormant authority. They are vying for the automatic entries and now they are vying for the routes under P.C. & N.

We want deregulation of the airlines as fast as we can have it, but we want it in a methodical way. After 1 year, under the automatic market provision, the CAB is going to report back to us and we will see how much further we can go, if we can go all the way.

Finally, in this bill we sunset the CAB. It is a deregulation bill. It does not do it today, but it moves mighty fast.

I hope we will oppose this amendment and give us a fair shot with a good deregulation bill that moves methodically toward deregulation and does not go all the way in 1 day.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, I would like to commend the gentlemen from Pennsylvania for offering this amendment, because I do feel it focuses attention on one of the differences between the bill passed by the other body and this very delicately balanced piece of legislation reported out by the House committee.

As I said before, if we adopt major changes in this legislation, I think many Members will feel the whole bill will then be open for such other substantive amendments as they would desire to offer, including myself; but let us go back and address the concerns expressed by the gentleman from Kansas and compare that to the bill now before this House. The problems addressed by the gentleman from Kansas deal with the inherent problems in the existing law, which this committee believes is a very poor law and not suited to modern times. In order to get new authority under the present law, you have to prove to the CAB that this new authority was required—required by the public convenience and necessity.

We change that. We say that—

> All you have to do in order to get new authority is show that your application is consistent with the public convenience and necessity.

That is a major liberalizing procompetitive change.

The charter of the CAB by which it is to make these decisions has been changed entirely by the bill before the committee and it is a totally procompetitive charter which says:

> You are in your decision-making to bring in competition.

Finally, as the gentleman from Kentucky (Mr. SNYDER) so accurately points out, the provision in the bill before us has expedited administrative procedures under which specific time limits are imposed. So whether the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL) is adopted or not, quite frankly, there is going to be a major procompetitive change, there will be shorter time periods involved, and there will be more competition.

So I think it is important for everybody to understand that this is not going to bring the competition in. This is a more competitive provision in the sense that it puts the burden on the person resisting the application, but the major changes for more competition, a procompetitive charter, and more airline service have already been written into this bill.

I think it is also important to emphasize that the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL) is different from the provision in the bill passed by the other body, because not only does it shift the burden of proof, which may or may not be a good idea—in fact, in all candor I cannot vigorously argue against that concept—but it goes beyond that, I think, and it says that not only does the proponent have a burden, but that burden is one which in the law is quite high, because it requires clear and convincing evidence.

Perhaps this amendment could be improved substantially by accepting the language that the other body passed in this regard, and then we might have the type of balance that we are seeking. So except for those two or three points, I think we can address this issue appropriately.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, the remarks of the gentleman from Georgia

(Mr. LEVITAS) are scholarly as usual, and they do point out that the bill is a significant improvement over present law. But as a matter of policy, the question raised as between the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL), apart from perhaps some wording, and the base bill is: Who has the burden of proof?

The base bill indicates that the applicant has the burden to prove that the service is consistent with public necessity. The gentleman from Pennsylvania (Mr. ERTEL) says, no, it is really up to the opposition to prove that it is not consistent. That as a policy matter appeals to my competitive conscience, and I think it appeals to the people who want air service.

Mr. LEVITAS. Mr. Chairman, if I may be allowed to reclaim my time, that is why I tried in my remarks to lay out very carefully what the issue is.

I do not want the members of this committee to believe that this is the provision that is going to bring us new competition. The provisions that accomplish are the dormant authority provision, the new pro-competitive charter, and the change in the requirement for what is consistent with public convenience and necessity. These are the important provisions.

The question we are resolving here is: Who should have the burden of proof? As I pointed out and as the gentleman from Kentucky (Mr. SNYDER) pointed out as well, perhaps we ought to look and focus on what that burden of proof should be, and then I think we could deal with the issue appropriately.

Mr. RAILSBACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the committee and say I have a high regard for the gentleman from Kentucky (Mr. SNYDER).

In Illinois, for example, six cities: Alton-Wood River, Cairo, Lawrenceville-Vincennes, Galesburg, Sterling-Rock Falls, and Danville have lost all CAB-regulated air service with only the last three of these cities now being served by small commuter airlines. An additional six cities—Bloomington, Moline, Peoria, Quincy-Hannibal, Rockford, and Springfield—have lost the services of at least one CAB-certificated airline. A total of eight cities were authorized service, but never received it.

The Board has been less eager to authorize new or improved air service. Of the 251 route applications received for Illinois from 1972 through February 1978, the Board has approved 79. As of February 1978, 95 of these applications were still pending or had not been acted on.

In August and September 1974, North Central and Ozark requested nonstop authority between Minneapolis/St. Paul and Chicago, Cincinnati and Indianapolis. These two applications and 37 others were dismissed as stale in June 1978.

The CAB's problem is that it has its hands full. Under existing law it is charged with the impossible task of setting fares and routes, second-guessing airline management practices and, in effect, running the carriers from Washington while simultaneously protecting the system as a whole. As a consequence both carriers and the system suffer.

Regulatory reform legislation can improve these conditions by removing the Board from the day-to-day business of running the airlines, by lowering the artificial regulatory barriers that now prevent new competitors from entering the industry and by setting firm deadlines to speed up the Board's decisionmaking process.

Most important, such legislation would permit the Board to devote its efforts to insuring a viable air transportation system and to break away from its narrow preoccupation with protecting airline managements from their competitors, their customers, and themselves.

Mr. ANDERSON of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the amendment.

The bill reported by the committee has been carefully structured to strike a balance between adding new competition and insuring that new competition does not become excessive, to the detriment of the public and the industry. A change in the burden of proof would tip the balance too far in the direction of adding new competition.

The bill as reported contains a number of provisions which will facilitate additional competition. The new policy statement requires the CAB to emphasize competition, low fares, and entry by new carriers in all its decisions. The new standard for awarding certificates provides that the Board need find only that award of a certificate is "consistent with" the public convenience and necessity. Under existing law the Board must find that award of a certificate is "required by" the public convenience and necessity. H.R. 12611 also encourages new competition by the dormant authority and experimental entry programs.

The committee concluded that these provisions were sufficient and that adding a change in the burden of proof could encourage too much additional competition. I share this concern and urge defeat of the amendment.

● Mr. UDALL. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania. This is a good amendment, a bipartisan amendment, overwhelmingly adopted by the Senate and strongly supported by the Chairman of the CAB.

This amendment really embodies what this legislation is all about—to promote competition in the airline industry in order to provide better service and lower fares to the public and higher revenues to the carriers.

By making it easier for carriers to enter new routes we honor both the goal of increased competition and the statutory mandate to accommodate "public convenience and necessity". If you assume that new routes are desirable and market entry should be easier, then it seems only reasonable that those who oppose new service should bear the burden of proving that it is not warranted or desirable.

Under the present system, with applicants having to prove need for their services, much time is consumed in the process and the burden is especially heavy on other beneficiaries such as small communities, airports, and consumers, all of whom might desire increased service.

In the course of the long debate on this bill, we have heard a lot about the potential dangers to small communities. It was certainly a matter of concern to me for with a couple of exceptions, Arizona is dominated by small cities and towns who have suffered from the lack of adequate air service or none at all. Fortunately, the CAB and the congressional committees involved have paid special attention to this problem. The Senate has already acted to assure access to new and reinstated service to small communities both by adopting an amendment similar to this one and through other provisions which I will address later. Unless we adopt stronger protections, small communities will continue to have to waste local tax dollars and local officials' time with the long process of supporting new air service to their communities.

And I cannot imagine very many instances when a community would not want another carrier serving its citizens. Increased competition can only improve service, either by forcing out the one unwilling or unable to compete and allowing the newcomer to pick up the business, or by simply providing a larger choice of flights among two or more carriers. The public cannot lose in this situation.

The public can lose, however, when it has to wait years for a decision from the CAB on whether to grant new route authority. And that is what this amendment seeks to correct—expediting the application process and placing the burden of proof where it belongs—on the opponents of new routes.

Probably every Member in this Chamber who is not from a major urban area could cite examples of air service cases which have dragged on before the CAB, because of this complicated process of proving the need for service to a particular area or community. Just this month, the CAB finally decided the Arizona service investigation that has been pending since March 1976. This case involved four air carriers; nine communities in Arizona plus four more in California and Nevada; numerous civil parties including the Arizona Department of Transportation, the Four Corners Regional Commission, the Arizona congressional delegation, and others in Arizona, Nevada, and Utah. An enormous amount of time, money, and effort went into this application. Even so, some small communities in Arizona will be left out when these new routes are instituted, although one of the carriers wanted to serve them.

So, let us really have competition, really let market forces work, let the public have a choice of service. I urge my colleagues to vote for this amendment which will go a long way toward achieving those goals.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

The question was taken; and on a division (demanded by Mr. LEVITAS) there were—ayes 14, noes 14.

Mr. ERTEL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. ERTEL) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 300, noes 86, not voting 46, as follows:

[Roll No. 812]

AYES—300

Alexander
Andrews, N.C.
Annunzio
Applegate
Archer
Ashbrook
Aspin
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Cavanaugh
Cederberg
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Cornell
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
Delaney
Dellums
Derrick
Derwinski
Devine
Dicks
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Garcia
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Heckler
Hefner
Hillis
Holt
Holtzman
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenrette
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Nedzi
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pattison
Pease
Pickle
Pike
Preyer
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Regula
Reuss
Richmond
Rinaldo
Robinson
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Rousselot
Runnels
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Simon
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
St Germain
Stark
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Symms
Thompson
Thone
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vanik
Waggonner
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Wylie
Yates
Yatron
Young, Fla.
Zablocki
Zeferetti

NOES—86

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N. Dak.
Ashley
AuCoin
Badham
Bafalis
Bolling
Breaux
Brown, Ohio
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Carney
Carter
Chappell
Chisholm
Coleman
Corman
Cotter
Dingell
Edwards, Ala.
Eilberg
Fary
Flynt
Ford, Mich.
Gibbons
Goldwater
Guyer
Hammerschmidt
Harsha
Hawkins
Heftel
Hollenbeck
Howard
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Kazen
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
McCormack
Mahon
Milford
Miller, Ohio
Mollohan
Myers, Gary
Neal
Nowak
Patten
Perkins
Poage
Pressler
Roberts
Roncalio
Rose
Roybal
Ruppe
Shuster
Sisk
Skelton
Skubitz
Snyder
Staggers
Stangeland
Stanton
Steed
Stump
Taylor
Thornton
Vander Jagt
Vento
Volkmer
Walsh
Wilson, Bob
Wright
Young, Alaska
Young, Mo.
Young, Tex.

NOT VOTING—46

Ammerman
Anderson, Ill.
Armstrong
Burke, Calif.
Caputo
Cochran
Cohen
Conable
Conyers
Cornwell
Danielson
de la Garza
Dent
Dickinson
Diggs
Fascell
Flowers
Gammage
Gaydos
Hansen
Hightower
Holland
Krueger
Meeds
Miller, Calif.
Nichols
Nix
Patterson
Pepper
Pettis
Quayle
Quie
Rahall
Rhodes
Risenhoover
Rodino
Rudd
Sarasin
Shipley
Sikes
Teague
Tsongas
Tucker
Waxman
Wiggins
Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. Krueger for, with Mr. Sikes against.

Mr. Ammerman for, with Mr. Teague against.

Mr. Nichols for, with Mr. Risenhoover against.

Mr. Tucker for, with Mr. Nix against.

Messrs. CLAY, RUNNELS, and D'AMOURS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. STAGGERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, The proposed bill would, as I understand it, delete among other things, section 408(a)(5) of the present Federal Aviation Act, which required any person other than an air carrier who wishes to acquire control of any air carrier in any manner whatsoever to obtain prior Civil Aeronautics Board approval. At the same time however, section 401 of the present act (which we are going to keep) requires that any applicant for air transportation authority be "fit, willing and able" and section 401(h) states that any transfer of a certificate must be approved by the Civil Aeronautics Board as being consistent with the public interest.

Interstate and Foreign Commerce Committee was the committee of jurisdiction in 1969 when section 408(a)(5) was enacted. The bill was passed unanimously by both the Subcommittee on Transportation and Aeronautics and the full committee of Interstate and Foreign Commerce. The committee felt that the CAB should have the same reviewing authority whether the changes in the transportation rights of a corporation were affected by a carrier or noncarrier. As I stated at that time:

> Our air carriers are certificated by the Civil Aeronautics Board. They are authorized to provide service in the public convenience and necessity. Under the statute, the carrier, before it receives its authority, must establish that it is fit, willing and able to provide safe and adequate service, pursuant to its certificate, under honest and efficient management.

In passing that legislation, the House clearly indicated its intent that the CAB should be in a position to review changes in the control of an air carrier to ascertain whether or not the purpose for which the carrier was licensed; namely, to provide transportation, has been altered to the detriment of the public. I said then, "we should not have any group operating an airline in America that is not competent." I still believe that and I do not believe that someone should be able to come in after a company has acquired know-how and knowledge of how to operate and just acquire the airline. I hope the changes contained in this bill in no way implies the intent of Congress that the CAB will no longer have a responsibility to the traveling public to insure that someone acquiring an air carrier is fit, willing and able. Mr. DINGELL will recall this very well since he was a strong supporter of the legislation as was now Secretary of Transportation Brock Adams who was as that time a member of the committee and participated in the debate in support of the legislation.

If we are going to eliminate the requirement for prior Civil Aeronautics Board approval under section 408(a)(5), I assume that any air carrier which has information that somebody is going to acquire it who does not meet the fit, willing and able standards of section 401 will be able to petition the Civil Aeronautics Board to investigate the matter and disapprove the new owner or take other action to insure that we continue to have air carriers who are fit, willing and able. In other words, I want to make sure that the elimination of the takeover provision in section 401(a)(5) does not open up the possibility that air carriers will be owned or controlled by persons who do not meet the requisite standards contained in section 401. Mr. Chairman, I would like to inquire that if this is the intent of the Committee, in my opinion, the Civil Aeronautics Board should continue to have absolute control to insure that our country's airlines are owned and controlled by persons who will conduct business in the public interest, and if that is not the intent of the committee, and if the Civil Aeronautics Board loses that control when we eliminate section 401(a)(5) then I am against it and think we should give it some further careful consideration.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, under section 415 of the Federal Aviation Act, the CAB may inquire at any time into the management of the business of any air carrier and, in connection with such an investigation, obtain information from persons controlling such air carrier. Under section 401(g) of the act, the CAB may revoke the certificate of any air carrier which intentionally violates the Federal Aviation Act, the terms of its certificate, or the CAB's regulations.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I think the House, in fact, our country, owes the chairman of the Interstate and Foreign Committee a great debt of gratitude for his leadership and his concern over this transportation by air.

In those days, around 1969, there was an emergency, a real problem. The Commerce Committee and the gentleman from West Virginia responded with an amendment that took care of that.

During our committee hearings and our reviews, it was determined that the situation had changed since 1969 and that new laws were passed requiring Government review of airline activities. Therefore, it is not necessary to retain that provision which the gentleman and the Commerce Committee put in the law back in 1969. In fact, this was a question of great concern to the committee, that there be a thorough review of new equity positions, of buy-outs, or purchases of airlines, so that we could maintain high standards and be assured of the capabilities of our Nation's airlines.

I only cite to the gentleman certain sections of the law, such as section 401 of the Federal Aviation Act of 1950 and I offer the words of that act:

Authority to Modify, Suspend, or Revoke

401(g) The Board upon petition or complaint or upon its own initiative, after notice and hearings, may alter, amend, modify or suspend any such certificate, in whole or in part, if the public convenience and necessity so require, or may revoke any such certificate, in whole or in part, for intentional failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate: *Provided*, That no such certificate shall be revoked unless the holder thereof fails to comply, within a reasonable time to be fixed by the Board, with an order of the Board commanding obedience to the provision, or to the order (other than an order issued in accordance with this proviso), rule, regulation, term, condition, or limitation found by the Board to have been violated. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of the certificate.

The CHAIRMAN. The time of the gentleman from West Virginia (Mr. STAGGERS) has expired.

(On request of Mr. GOLDWATER and by unanimous consent, Mr. STAGGERS was allowed to proceed for 3 additional minutes.)

Mr. GOLDWATER. If the gentleman will yield further, I think it is important to clarify this and to make certain that there are adequate safeguards.

In addition to the section 401 authority of CAB, under the Federal Aviation Act of 1958, sections 101(3), 101(13) and section 407 spell out citizenship requirements that limit purchasers to strictly U.S. citizens.

In addition to that, section 407 gives the CAB the right to investigate and inspect books and records of air carrier managers and controlling parties. Allow me to cite the actual language:

SEC. 101(3) "Air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation: *Provided,* That the Board may by order relieve air carriers who are not directly engaged in the operation of aircraft in air transportation from the provisions of this Act to the extent and for such periods as may be in the public interest.

SEC. 101(13) "Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

SEC. 407. [*72 Stat. 766, as amended by 83 Stat. 103, 88 Stat. 2105, 49 U.S.C. 1377*] (a) The Board is empowered to require annual, monthly, periodical, and special reports from any air carrier; to prescribe the manner and form in which such reports shall be made; and to require from any air carrier specific answers to all questions upon which the Board may deem information to be necessary. Such reports shall be under oath whenever the Board so requires. The Board may also require any air carrier to file with it a true copy of each or any contract, agreement, understanding, or arrangement, between such air carrier and any other carrier or person, in relation to any traffic affected by the provisions of this Act.

Disclosure of Stock Ownership

(b) Each air carrier shall submit annually, and at such other times as the Board shall require, a list showing the names of each of its stockholders or members holding more than 5 per centum of the entire capital stock or capital, as the case may be, of such air carrier, together with the name of any person for whose account, if other than the holder, such stock is held; and a report setting forth a description of the shares of stock, or other interest, held by such air carrier, or for its account, in persons other than itself. Any person owning, beneficially or as trustee, more than 5 per centum of any class of the capital stock or capital, as the case may be, of an air carrier shall submit annually, and at such other times as the Board may require, a description of the shares of stock or other interest owned by such person, and the amount thereof.

Disclosure of Stock Ownership by Officer or Director

(c) Each officer and director of an air carrier shall annually and at such other times as the Board shall require transmit to the Board a report describing the shares of stock or other interests held by him in any air carrier, any person engaged in any phase of aeronautics, or any common carrier, and in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, air carriers, other persons engaged in any phase of aeronautics, or common carriers.

Form of Accounts

(d) The Board shall prescribe the forms of any and all accounts, records, and memoranda to be kept by air carriers, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money, and the length of time such accounts, records, and memoranda shall be preserved; and it shall be unlawful for air carriers to keep any accounts, records, or memoranda other than those prescribed or approved by the Board: *Provided*, That any air carrier may keep additional accounts, records, or memoranda if they do not impair the integrity of the accounts, records, or memoranda prescribed or approved by the Board and do not constitute an undue financial burden on such air carrier.

Inspection of Accounts and Property

(e) The Board shall at all times have access to all lands, buildings, and equipment of any air carrier or foreign air carrier and to all accounts, records, and memorandums, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers, foreign air carriers, or ticket agents and it may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memorandums. The provisions of this section shall apply, to the extent found by the Board to be reasonably necessary for the administration of this Act, to persons having control over any air carrier, or affiliated with any air carrier within the meaning of section 5(8) of the Interstate Commerce Act, as amended.

In addition to that, under the Securities Act of 1934, sections 13(d) and 14(d) again provide for disclosure of corporate acquisition, including the identity of purchasers, the source of funds, and plans for corporate liquidation and changes in corporate structure. Again I include the actual language.

SEC. 13(d) Reports by persons acquiring more than five per centum of certain classes of securities

(1) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to section 78*l* of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 78*l*(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.]; is directly or indirectly the beneficial owner of more than 5 per centum of such class shall, within ten days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing such of the following information, and such additional information, as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors—

(A) the background and identity of all persons by whom or on whose behalf the purchases have been or are to be affected;

(B) the source and amount of the funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading such security, a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 78c(a)(6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public;

(C) if the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities, any plans or proposals which such persons may have to liquidate such issuer, to sell its assets to or merge it with any other persons, or to make any other major change in its business or corporate structure;

(D) the number of shares of such security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by (i) such person, and (ii) by each associate of such person, giving the name and address of each such associate; and

(E) information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.

(2) If any material change occurs in the facts set forth in the statements to the issuer and the exchange, and in the statement filed with the Commission, an amendment shall be transmitted to the issuer and the exchange and shall be filed with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

(3) When two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a "person" for the purposes of this subsection.

(4) In determining, for purposes of this subsection, any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

(5) The Commission, by rule or regulation or by order, may permit any person to file in lieu of the statement required by paragraph (1) of this subsection or the rules and regulations thereunder, a notice stating the name of such person, the number of shares of any equity securities subject to paragraph (1) which are owned by him, the date of their acquisition and such other information as the Commission may specify, if it appears to the Commission that such securities were acquired by such person in the ordinary course of his business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the issuer nor in connection with or as a participant in any transaction having such purpose or effect.

(6) The provisions of this subsection shall not apply to—

(A) any acquisition or offer to acquire securities made or proposed to be made by means of a registration statement under the Securities Act of 1933 [15 U.S.C. 77a et seq.];

(B) any acquisition of the beneficial ownership of a security which, together with all other acquisitions by the same person of securities of the same class during the preceding twelve months, does not exceed 2 per centum of that class;

(C) any acquisition of an equity security by the issuer of such security;

(D) any acquisition or proposed acquisition of a security which the Commission, by rules or regulations or by order, shall exempt from the provisions of this subsection as not entered into for the purpose of, and not having the effect of, changing or influencing the control of the issuer or otherwise as not comprehended within the purposes of this subsection.

SEC. 14(d) Tender offer by owner of more than five per centum of class of securities; exceptions

(1) It shall be unlawful for any person, directly or indirectly, by use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, to make a tender offer for, or a request or invitation for tenders of, any class of any equity security which is registered pursuant to section 781 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 781(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), if, after consummation thereof, such person would, directly or indirectly, be the beneficial owner of more than 5 per centum of such class, unless at the time copies of the offer or request or invitation are first published or sent or given to security holders such person has filed with the Commission a statement containing such of the information specified in section 78m(d) of this title, and such additional information as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors. All requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders of such a security shall be filed as a part of such statement and shall contain such of the information contained in such statement as the Commission may by rules and regulations prescribe. Copies of any additional material soliciting or requesting such tender offers subsequent to the initial solicitation or request shall contain such information as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors, and shall be filed with the Commission not later than the time copies of such material are first published or sent or given to security holders. Copies of all statements, in the form in which such material is furnished to security holders and the Commission, shall be sent to the issuer not later than the date such material is first published or sent or given to any security holders.

(2) When two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a "person" for purposes of this subsection.

(3) In determining, for purposes of this subsection, any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

(4) Any solicitation or recommendation to the holders of such a security to accept or reject a tender offer or request or invitation for tenders shall be made in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

(5) Securities deposited pursuant to a tender offer or request or invitation for tenders may be withdrawn by or on behalf of the depositor at any time until the expiration of seven days after the time definitive copies of the offer or request or invitation are first published or sent or given to security holders, and at any time after sixty days from the date of the original tender offer or request or invitation, except as the Commission may otherwise prescribe by rules, regulations, or order as necessary or appropriate in the public interest or for the protecton of investors.

(6) Where any person makes a tender offer, or request or invitation for tenders, for less than all the outstanding equity securities of a class, and where a greater number of securities is deposited pursuant thereto within ten days after copies of the offer or request or invitation are first published or sent or given to security holders than such person is bound or willing to take up and pay for, the securities taken up shall be taken up as nearly as may be pro rata, disregarding fractions, according to the number of securities deposited by each depositor. The provisions of this subsection shall also apply to securities deposited within ten days after notice of an increase in the consideration offered to security holders, as described in paragraph (7), is first published or sent or given to security holders.

(7) Where any person varies the terms of a tender offer or request or invitation for tenders before the expiration thereof by increasing the consideration offered to holders of such securities, such person shall pay the increased consideration to each security holder whose securities are taken up and paid for pursuant to the tender offer or request or invitation for tenders whether or not such securities have been taken up by such person before the variation of the tender offer or request or invitation.

(8) The provisions of this subsection shall not apply to any offer for, or request or invitation for tenders of, any security—

(A) if the acquisition of such security, together with all other acquisitions by the same person of securities of the same class during the preceding twelve months, would not exceed 2 per centum of that class;

(B) by the issuer of such security; or

(C) which the Commission, by rules or regulations or by order, shall exempt from the provisions of this subsection as not entered into for the purpose of, and not having the effect of, changing or influencing the control of the issuer or otherwise as not comprehended within the purposes of this subsection.

It is again a demonstration for the gentleman from West Virginia for his undying vigilance for the safety, for the enhancement in the future of American aviation.

The CHAIRMAN. The time of the gentleman from West Virginia has again expired.

(At the request of Mr. Milford and by unanimous consent, Mr. Staggers was allowed to proceed for 1 additional minute.)

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, as I understood it during committee deliberations, one of the main reasons why this feature was added to the bill had to do with capital problems. In the case of some small carriers acquiring the next generation airplanes, it was my understanding that in order to acquire a next generation airplane the small carrier might have to increase its capital almost 100 percent.

Mr. STAGGERS. This has nothing to do with that. That has been the law. It has been in the law. That is for one carrier that is physically unable to acquire others, but this provision was put into the bill at that time. I just wanted to be sure that it was not taken out, and that they still have that authority to do it to protect themselves.

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

(At the request of Mr. Levitas and by unanimous consent, Mr. Staggers was allowed to proceed for 1 additional minute.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would also like to give the gentleman some assurances on that point. I should point out that the bill passed by the other body contains in section 16 a provision which specifically gives the CAB, on its initiative, authority to suspend any certificate of any carrier at any time when the public interest so requires. So, that is in the bill passed by the other body, and will be a matter of conference.

Mr. STAGGERS. I thank the gentleman.

The CHAIRMAN. The Clerk will read section 15.

The Clerk read as follows:

RATES OF CARRIAGE FOR PERSONS AND PROPERTY

Sec. 15. Section 404(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1374(a)(1)) is amended by inserting "authorized to engage in scheduled air transportation by certificate or by exemption under section 416(b)(3) of this title" immediately before the first semicolon.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 15 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to section 15?

If not, the Clerk will read.

The Clerk read as follows:

RATES FOR TERMINATION OF MAIL

Sec. 16. (a) Clause (3) of the second sentence of section 406(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1376(b)) is amended to read as follows: (3) the need of each such air carrier (other than a supplemental air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and—

"(A) during the period beginning on the date of enactment of this clause and ending on January 1, 1983, both dates inclusive, together with all other revenue of the air carrier from the service for which the compensation is being paid; and

"(B) after January 1, 1983, together with all other revenue of the air carrier,

to enable such air carrier under honest, economical, and efficient management, to provide (except for modifications with respect to an individual city determined after January 1, 1983, to be required by the public interest, after giving interested parties an opportunity for an evidentiary hearing with respect to air transportation for such individual city) air transportation of at least the same extent, character, and quality as that provided during the year ending December 31, 1977, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense.".

(b) Section 406 of the Federal Aviation Act of 1958 shall cease to be in effect after the last day of the ten-year period which begins on the date of enactment of this Act.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 16 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Mineta: On page 101, line 12, after the word "defense," insert the following: "*Provided*, That rules of compensation paid to any carrier hereunder for service performed between the date of enactment of this proviso, and January 1, 1983, shall be based on the subsidy need of such carrier with respect to service performed to points for which such carrier was entitled to receive compensation for serving during calendar 1977, such subsidy need in the case of any local service carrier to be based on the adjusted eligible need of such carrier determined in a manner consistent with the provisions of Local Service Class Subsidy Rate VIII, with technical adjustments, and in the case of any other carrier receiving compensation during the twelve months ended June 30, 1978, to be determined pursuant to the method in effect during the twelve months ended June 30, 1978."

Mr. MINETA (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of the amendment, and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MINETA. Mr. Chairman, I offer an amendment to section 16 of H.R. 12611, relating to subsidized air service.

One of the major concerns of the regulatory reform movement has been to assure that airline service to small communities be preserved while creating a more competitive and less regulated airline industry.

H.R. 12611, as drafted by the Committee of Public Works and Transportation, will maintain the small community air service now enjoyed in the United States. The bill requires continuation of the current subsidy system now administered by the CAB for a 4-year transition period. Under this program, which has broad congressional and community support, certificated local service airlines are paid Federal subsidy to provide service to more than 200 communities which would probably not otherwise receive airline service.

It was the committee's intention that the CAB not involuntarily replace the certificated local service carriers during the 4-year transition period we have allowed. While H.R. 12611 actually extends the current subsidy program for 10 years, it only guarantees it for the 4-year transition period after which the Board may, on a case-by-case basis and with an evidentiary hearing, substitute commuter airlines or air taxis for certificated local service carriers, if the Board finds that the public would be better served by such a change.

These provisions were developed by the committee for several reasons. First, there was concern that without a continuing subsidy program for the local service airlines they might abandon service to some small communities.

Second, while in the long run many communities might be better served by small aircraft with the possibility of reduced Government subsidy, we believed that such a change should occur gradually. In that way, the certificated local service airlines which have pioneered small community air service would be able to make the transition from small community service status to regional trunkline status.

The Senate, in its version of the regulatory reform legislation, has also passed a similar program.

Now, although the CAB has indicated its intention to proceed gradually in replacing the existing subsidy program, there has nevertheless been considerable concern expressed about the Board's recent proposals relating to subsidized air service. It is for this reason that I am offering an amendment to clarify the committee's intention with respect to the subsidy program during the 4-year transition period.

The CAB has under consideration a proposal which would eliminate subsidy for any community which is not "isolated from the national air transportation system," and which enplanes fewer than 5 or more than 25 passengers per day. The isolation factor has been traditionally interpreted by the Board to mean any community which is more than a drive of an hour and one-half from an existing airport. The application of these two standards could eliminate most cities currently receiving subsidized air service.

My amendment, Mr. Chairman, simply reaffirms, in more precise language, the policy determination made by the committee that for the next 4 years the small community service program be maintained on the present basis; and that these new standards—while potentially appropriate after the 4-year transition period—not be applied during that time.

Let me say in concluding that it is not the intent of this amendment to freeze into law the exact subsidies paid at present under a rate known by the title. "Class Rate VIII." This amendment will permit the Board to develop new class rates as the need arises and make technical changes to insure that the rate is fair to the public and fair to the airlines. It will not, however, permit the abandonment of the principles embodied in the class rate which would lead to a new subsidy program comparable to that contemplated by the Board if it applied the "isolation factor" and enplanements factor.

In addition, I believe it is important to point out that if, under this amendment, any local service airline reaches the point where it is making enough profit over a sustained period without further need for subsidy, then the Board may, following procedures currently in effect, remove an airline from subsidy—notwithstanding the fact that the carrier may continue to serve cities which are eligible for subsidy-supported airline service. For example, 3 years ago the Board ended subsidy for Allegheny Airlines and more recently proposed that Texas International Airlines be removed from subsidy. Under the terms of this amendment, the Board would continue to have such authority.

I urge my colleagues to vote for this amendment which will assure a continuation of the present system of airline service to our small cities and towns during the 4-year transition period envisioned by H.R. 12611.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from California (Mr. Anderson).

Mr. ANDERSON of California. Mr. Chairman, I support the amendment.

The objective of H.R. 12611 is to maintain the same extent, character, and quality of subsidized air service for the next 4 years. The amendment adds clarifying language to further this objective. At the same time the amendment leaves CAB flexibility to make adjustments in the subsidy formula, so that subsidy payments will be limited to the actual costs of providing air service efficiently.

Mr. SNYDER. Mr. Chairman, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Mineta).

The amendment was agreed to.

The CHAIRMAN. There being no further amendments to section 16, the Clerk will read.

The Clerk read as follows:

LOCAL SERVICE AIR CARRIER COMPENSATION

Sec. 17. (a) The last sentence of section 406(b) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1376(b)), is amended as follows:

(1) By striking out "the year 1966" and inserting in lieu thereof "the years 1964, 1965, and 1966".

(2) By striking out "Rate III-A" and inserting in lieu thereof "Rates III and III-A".

(3) By striking out "order E-23850 (44 CAB 637 et seq.)" and inserting in lieu thereof "orders E-21311 and E-23850 (41 CAB 138 et seq. and 44 CAB 637 et seq.)".

(b) Section 12(b) of Public Law 95-163, Ninety-fifth Congress, approved November 9, 1977, is amended by striking out "the year 1966" and inserting in lieu thereof "the year 1964, 1965, or 1966".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 17 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ertel: Page 101, strike out line 16 and all that follows through line 6 on page 102.

Renumber succeeding sections accordingly.

Mr. ERTEL. Mr. Chairman, this is a very simple amendment. It merely strikes the section which will give a subsidy to two airlines. What it does is it knocks out a subsidy for an airline that no longer exists, which is Mohawk, which was the subject of a very nice article in the St. Petersburg Times which says: "House panel votes money for airline that no longer exists."

What this is in my judgment is a gift from the U.S. Government to the Allegheny Airlines. If there is anybody here who should favor Allegheny, I should because they have a lot of constituents in my district. Allegheny Airlines was formed in a small city just to the north of where I live, so I should be here arguing for Allegheny Airlines to get this $1 million as a ripoff from the U.S. Government, and that is what it is, make no mistake about it.

Let me explain the facts of this particular situation. This is, incidentally, part of that well-balanced bill that was agreed upon by the committee.

Allegheny Airlines took over Mohawk in 1972 through a merger. Mohawk back in about 1966 or 1965 contended through a rate subsidy case that they were entitled to certain money.

They had a hearing on it and there was a compromise and an agreement, and Mohawk never took an appeal.

There was a compromise agreement and Mohawk never took an appeal. Other carriers who had the same arguments, appealed, and they won in some of them, some of them lost, at the circuit courts of appeals, there was a conflict in the circuit courts of appeals in the decision. Allegheny, incidentally, was one of those carriers that appealed and they won at the circuit court level. Meanwhile, back at Mohawk, Mohawk settled at the administrative level. We do not know what they got. We cannot find the records. The CAB has searched and they cannot tell us what the trade-off was, but it was a compromise. So what they chose to do was to settle their case. Allegheny won their case on appeal. Later Mohawk merged into Allegheny, now Allegheny comes back to us, the Congress, in a reform bill to reform the provisions of the Air Transportation Act and say, "Give us this money that Mohawk compromised away over 10 years ago. Give it to us because we took over Mohawk."

And we certainly voted them this money. And that is what we are doing here today.

Make no mistake about it, Allegheny has no valid claim to that money any more than you have a claim on the money that we may have underpaid the Indians for Manhattan Island.

To me it is inappropriate to have this in a reform bill. It is not reform. It is not even equitable.

I raised these objections in the committee and Allegheny sent their attorney in to see me. So I sat down and listened to their attorney and for about 2 hours we went through the whole process of what happened. The Allegheny attorney finally said, "You know, I argued this for Allegheny on appeal and I won at the circuit court level."

I said, "Can you tell me why Mohawk settled at the administrative level?"

He said, "No, I can't."

I said, "Did you ever think about suing him for malpractice if there was malpractice? Why are you coming to the U.S. Congress to give you the money which you did not get in a compromise which was made with the U.S. Government?"

And he never had an answer.

But, yet today you have the opportunity to pass this money from the U.S. taxpayers to Allegheny Airlines—and they certainly need it. I mean we need to give alms to the poor.

Let me read to you from an Allegheny press release which they have been kind enough to send me.

ALLEGHENY AIRLINES REPORTS RECORD JULY EARNINGS

Washington, D.C.—Allegheny Airlines today reported record net earnings of $3,050,000 for July, an increase of 82 percent over the $1,679,000 earnings for the same month last year. Total revenues were $49,800,000, up 17 percent from $42,645,000 reported for July 1977.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Ertel was allowed to proceed for 1 additional minute.)

Mr. ERTEL. Mr. Chairman, make no mistake about it, this is alms for the rich and there is no equitable basis on which to give it to them. You will hear the argument that this may be the last time, that we did it for other carriers but those were carriers who went to the

Court of Appeals and lost in the Court of Appeals; there was a conflict of decisions. There was no compromise in that decision.

So I urge my colleagues to stop this rip-off of the U.S. Treasury.

Mr. RONCALIO. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania (Mr. Ertel).

Mr. Chairman, public law 95-163 included a provision which corrected an earlier inequity in the subsidy payment paid by the CAB to Texas International Airlines and Ozark Airlines, wherein subsidy payments to these carriers made in 1966, were reduced by tax loss carrybacks utilized by those carriers. Legislative history indicates that while these carriers had to refund part of their 1966 subsidies, other carriers did not. Section 406(b) of the Federal Aviation Act as amended by Public Law 95-163 directed the CAB to make a redetermination for 1966 and make a repayment to such air carriers so entitled.

This act, however, excluded three air carriers with the identical problem. The carriers excluded were Frontier, Lake Central, and Mohawk. Lake Central and Mohawk are now merged into Allegheny, but they excluded Frontier. At the time the legislation was considered it was disclosed through the hearings that other airlines, the three airlines mentioned, Frontier, Mohawk, and Lake Central, were affected, and should also be dealt with.

Mohawk, Lake Central, and Frontier were adversely affected and should also be dealt with. The committee provision would entitle Frontier to receive a subsidy refund of $433,000. That is what we are talking about for Frontier, and Allegheny would receive $486,000 for the 1964 Mohawk claim and $556,000 for the 1965 Mohawk claim.

I would assume that Allegheny Airlines took it on their shoulders to take the action they did because they were probably directed by the board of directors to proceed either in liquidation to get this item off the asset books or convert it one way or another. These are the sums of subsidy under issue in this amendment.

My good colleague, the gentleman from Pennsylvania (Mr. Ertel), a most diligent member of the committee, I think misconstrued this provision, and feels that these airlines would receive a windfall. If it is a windfall, then everything we appropriate is a windfall. Last week we took care of every airline in America with a great windfall for noise abatement. That is alms for the rich as well as alms for the poor. We are a beloved Congress. But a subsidy is a subsidy, nevertheless.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I am happy to yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, the gentleman is a member of the committee, and I am sure he is more familiar with this legislation than I am.

I am disturbed about this amendment because Allegheny happens to be the only carrier which serves upstate New York. In fact, the members of the New York delegation were so concerned about the inadequacy of air transport in New York State that we met with Allegheny in an effort to try to determine whether we could get some transportation which would allow Members of Congress to get down here from time to time to attend the sessions, as well as serve the needs of our people.

My query is whether we are talking about a subsidy arrangement which would be available when Allegheny is not making a profit, or are we talking simply about a couple of ex post facto subsidies? The gentleman mentioned only the years 1964 and 1965. My impression has been that Allegheny has generally been in the same financial situation that Mohawk was in, namely, that it has had some good years and it has also had some bad years. The subsidy, of course, was available only in those bad years.

Now if the Ertel amendment is going to knock out that kind of arrangement, we get little enough service now, and if this further amendment is adopted, it might just finish airline service entirely for some of the smaller communities of upstate New York.

Mr. RONCALIO. In that case I would believe that the gentleman from New York (Mr. Stratton) ought to vote against this Ertel amendment.

Mr. STRATTON. That is what I have intended to do.

But does the gentleman know whether this is just a one-shot subsidy we are talking about?

Mr. RONCALIO. It is my opinion that this provision would save a one-shot effect on the three specific amounts I mentioned, $433,000 for Frontier and two payments, one for 1964 and one for 1965, respectively, being $486,000 and $556,000, for Allegheny.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I am happy to yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I think we ought to clarify for this gentleman exactly what this is. This is not a subsidy for Allegheny. This is a subsidy for Mohawk, which, as a result of Allegheny's take-over, will now flow to Allegheny. It is a one-shot deal. It is not a continuing thing. Allegheny had nothing to do with this. Allegheny got its subsidy in 1966.

In fact, the CAB in their memorandum to our committee told us that the events relating to the subject matter of this amendment in question took place more than 12 years ago.

The records had been sent to Allegheny. They said later that they could not find them. Even when we went ahead and did it in the committee, the CAB could not substantiate any of this, and Allegheny itself could not substantiate what the deal was on the compromise. They did not have any records; at least, that is what they tell me.

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. It would be totally inconsistent and grossly unfair if the Congress did not place Allegheny and Frontier in the same status as Texas International Ozark and other local service carriers which did not have to return subsidy payments because of inconsistent CAB accounting procedures, court or congressional action.

During hearings on this issue in the aviation subcommittee, on which I serve, the ranking member of the subcommittee, Mr. Snyder, pointed out there were other instances, besides 1966, where the CAB treated carriers differently. The CAB then told us that Frontier, Mohawk, and Lake Central had to make subsidy refunds because of tax loss carryback adjustments for 1964 and 1965. Allegheny, of course, represents the interests of Mohawk and Lake Central, having merged with these carriers.

The committee, in considering this issue again, believed that as a matter of simply equity, all local service carriers should be treated the same. This was the rationale in providing a refund to Ozark and Texas International last year. These two carriers had to return subsidy payments to the Government while other carriers did not because of inconsistent CAB accounting procedures.

As I have indicated, it would be absolutely unconscionable for the Congress to treat carriers differently under the same factual situation. The Public Works and Transportation Committee believes that Allegheny and Frontier must not be treated any differently than Ozark and Texas International. The only reason they did not receive reimbursement under the 1977 law is because Congress was not aware that the same situation existed in 2 previous years—1964-1965. If the committee had been fully aware of the situation, Allegheny and Frontier would surely have been included in the initial legislation, thus eliminating the need for the provision in this bill.

Congressional approval today would resolve a situation which has resulted in inequitable subsidy payments under the law. The Public Works and Transportation Committee strongly supported this "fairness" language in the bill. I urge the House to support committee action and reject this amendment.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I will be happy to yield to the gentleman from Colorado.

Mr. EVANS of Colorado. I thank the gentleman for yielding.

I understand there is some controversy about Allegheny, but is there any controversy in relation to Frontier?

Mr. SHUSTER. There certainly must be, because this amendment strikes Frontier as well.

Mr. EVANS of Colorado. That was going to be my next question. Then, to get at the problem of the gentleman from Pennsylvania, apparently both the other carriers are being stricken as well in his amendment.

Mr. SHUSTER. That is right. I am sure the gentleman recognizes that although a different company, Mohawk, was involved here, when a corporation buys another corporation, it buys the assets and liabilities generally, and if there is something which in all fairness is due Mohawk, a predecessor corporation, that obviously would flow to the company that purchased them.

Mr. EVANS of Colorado. If the gentleman would yield again, I want to say to my friend, the gentleman from Pennsylvania, that if he has difficulties with Allegheny and wishes to strike Allegheny from the bill, that is fine, but I would have to oppose his amendment if it includes the striking of Frontier as well.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding.

Frontier, according to the CAB, was involved within the same process: settlement. There is no difference.

Mr. SHUSTER. I thank the gentleman.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from New York.

Mr. WALSH. I thank the gentleman for yielding.

As I understand this provision, this will be the final action that has to be taken by the Congress to settle this matter.

Mr. SHUSTER. That is correct, and we are assured that while the past action did not encompass all the airlines involved, this action will now rectify that unfairness, and there will be no further action required.

Mr. WALSH. I would further point out, if I may, that the gentleman from Pennsylvania's reference to the Allegheny balance sheet is totally irrelevant to this situation; is that not true?

Mr. SHUSTER. I believe that is an accurate observation.

Mr. WALSH. Mr. Chairman, as I understand, although I was not present in the committee at the time, the gentleman raised the same objection in the committee. The committee voted it down.

Mr. SHUSTER. That is correct.

Mr. WALSH. So it is without any standing as far as the committee is concerned.

Mr. SHUSTER. That is right. The motion was overwhelmingly defeated.

Mr. GOLDWATER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania. This is a matter that was thoroughly discussed in committee and the overwhelming majority of our colleagues on the committee agreed that both Allegheny and Frontier have not been treated fairly in refunding mail compensation.

Actually, a precedent has been set in this area as we just heard. Are we to now deny the two airlines in question their just refund when only last year this House allowed a similar refund for Ozark and Texas International? It is simply a matter of fairness and equity.

The fact that one of the airlines in question was involved in a consolidation is totally irrelevant. If you own stock in company X and company Y buys the majority stock and changes the name of the company, you as a stockholder still reserve your ownership rights regardless of the change of name. When in a merger the acquiring company assumes assets and liability. Allegheny should not lose its financial arrangement simply because it bought another company, especially since it absorbed all the financial obligations of the previous company.

In regard to the courts, two circuit courts actually came to different opinions regarding this question. One court of appeals held that Allegheny should be refunded the subsidy and another circuit court held that Texas International and Ozark should not.

Because of the conflict of opinion the former Chairman of the CAB recommended to Congress that legislative action be taken to correct the inequity. Such action, as has been pointed out, was taken last year in behalf of Texas International and Ozark, but Congress inadvertently did not consider the case of Frontier and Allegheny who were in identical situations. The present legislation addresses the inequity. I think that Frontier and Allegheny have a good case.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, the gentleman stated that Frontier and Allegheny was an identical situation. Did Frontier and Mohawk appeal?

Mr. GOLDWATER. The circumstances surrounding the original allegations were identical. The happenings in the court took several different directions.

Mr. ERTEL. Did they appeal? The proof is that they did not appeal. They settled the case. They are not identical. If you settle the case, that is the end of it. You do not come back and say, "We made a bad settlement."

Texas International went to the circuit court and lost.

Allegheny in its original suit went to the court and won. We corrected that conflict of court. This is an entirely different situation. Here they settled their case and now they are asking for additional money.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Missouri.

Mr. TAYLOR. Mr. Chairman, I would like to associate myself with the gentleman from California.

The committee went over this very thoroughly. The section that was added brings equity.

I believe it is incorrect that Texas International went to court and won. I think they went to court and lost and that was the reason for the action last year, because seven airlines were treated one way and the others were treated another in identical cases.

It was the recommendation of the Chairman of CAB that we made this legislative correction last year, which we did. The situations are identical and it only to bring simple equity to these airlines for that which they have been denied.

I think it should be our responsibility to correct it and I certainly support the provisions as it is in the bill and I hope we will reject the amendment as offered by the gentleman from Pennsylvania.

Mr. GOLDWATER. Mr. Chairman, I suggest the gentleman puts it in proper perspective.

I urge rejection of the amendment.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, it seems to me that this amendment typifies one of the problems that many of us find with this particular bill. It seems to be based on the general conception that the airlines are all "rolling in dough." They are all "fat cats" and somehow if we let everybody in on the transportation bonanza, we are going to get better service.

The fact of the matter is that under some of these deregulations, I am afraid that many cities are going to find that they are going to get less service, rather than more.

Albany, for example, the capital of New York State, has virtually no service to the New York City area or to Washington or in any other direction except by Allegheny Airlines. The same thing is true of the entire upstate area.

As I mentioned a moment ago, the situation is so bad the flights have gradually been taken off by Allegheny because apparently they can do better financially somewhere else and make a little bit more money. It has gotten so bad that our Members of Congress from New York have had to meet together to try to find some way they could get some better air service from Buffalo, from Rochester, from Syracuse, and from Albany so that our constituents can go somewhere by air and, incidentally, so that even we Members of Congress can occasionally get down here for service in this body.

The fact of the matter is that Allegheny Airlines did take over from Mohawk. It is a good thing they did, because Mohawk was at the nadir in terms of service. They had some old two-engine prop jobs, and some of them were dangerous. They were not even operating on an on-time schedule.

When Allegheny came in, we got some new planes; we even got some new jet aircraft. So there was an upgrading, and I would assume that when they took over from Mohawk, they had some fairly substantial obligations that had to be settled.

I think it is completely misleading to suggest that because Allegheny may be making money in their last quarter they were not entitled to the sums that were due them in 1964 or 1965.

I do not pretend to be an expert in this field, and I am not on the committee, but I do know that the problem we face in upstate New York is that we have a minimum of airline service. It is getting worse, and I am afraid that with this bill the situation is going to deteriorate even further.

Mr. Chairman, Allegheny is not a line that I have been enchanted with, and I have spoken rather frankly with the president of that company. In fact, we had a dinner up in my district, and the Speaker of the House was scheduled to be the main speaker, but he could not get up there because the plane could not get off the ground. Every time it went to the end of the runway to take off, something happened.

Allegheny needs new aircraft, and they need better maintennce. To suggest that they are rolling in dough and that we can, therefore, punish them by striking out this provision seems to me to be a very shortsighted point of view.

This appears to be, Mr. Chairman—and I am sure the gentleman who is Chairman of the Committee of the Whole House is aware of the situation—another amendment addressed against New York, although this one is directed primarily against upstate New York, not downstate New York. I would hope the amendment will be defeated so at least some of us can count on getting to Washington by air.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I am quite interested in the gentleman's comments. The gentleman from New York (Mr. Stratton) says this is an anti-New York amendment. I would say that it is probably not only an anti-New York amendment but an anti-Pennsylvania amendment. On the facts that have been presented, I cannot grasp for sure whether it is an anti-Pennsylvania amendment.

Mr. STRATTON. Mr. Chairman, I am better aware of the airline situation in New York than I am of the situation in Pennsylvania, but Allegheny does serve Pennsylvania, so perhaps the amendment would be directed against the gentleman's area as well. However, I dare say the gentleman has many more airlines serving Pittsburgh than we have serving Albany.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I am glad to yield to my colleague, the gentleman from New York.

Mr. WALSH. Mr. Chairman, I think the gentleman from New York (Mr. Stratton) has put this amendment in the proper perspective.

Allegheny Airlines is providing a service to the Northeastern section of the country that is not being provided by any other airline. For example, Eastern Airlines walked away from the Syracuse-to-Washington market, leaving us totally without service, either going to Syracuse or coming to Washington. The only airline that could pick that service up and did pick it up was Allegheny. They stepped into the breach, and they are now providing better service than Eastern provided.

The CHAIRMAN. The time of the gentleman from New York (Mr. Stratton) has expired.

(On request of Mr. Walsh, and by unanimous consent, Mr. Stratton was allowed to proceed for 1 additional minute.)

Mr. WALSH. Mr. Chairman, if the gentleman will yield further, as I was saying, Allegheny is now providing the type of service we need. The gentleman from New York (Mr. Stratton) has mentioned that Allegheny's equipment is not good. That is true, it is not good. It is a "white-knuckle" airline most of the time, but they are trying to provide some service with the equipment they have. With the subsidy that they will rightfully get because of the settlement with Mohawk, that will perhaps enable them to buy better equipment and to provide better service.

It is not just air service to Syracuse, Schenectady, or Buffalo; it is service to the entire Northeast.

We have helped the other airlines, we have helped them all along. This is an airline that is responsive to our needs. It is not as responsive as we would like sometimes, but they are trying.

So I do not think we should deprive them of this rightfully earned subsidy. It is not a subsidy. It is a payment. It is a moral payment that they should have.

Mr. Chairman, I urge the defeat of the amendment.

Mr. STRATTON. Mr. Chairman, the gentleman has spoken very eloquently, and I subscribe to all he has said.

The CHAIRMAN. The time of the gentleman from New York (Mr. Stratton) has expired.

(On request of Mr. Ertel and by unanimous consent, Mr. Stratton was allowed to proceed for 3 additional minutes.)

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I notice the gentleman's eloquent argument that New York State should have additional air service. I am all in favor of that. I am in favor of Pennsylvania having additional air service. Allegheny has pulled out of my town. It is not very good service, I agree. But why should the gentleman say we ought to give them a gift? Are we going to nationalize the airlines, give them a gift every time they are in trouble? Did the gentleman take the time to call CAB and ask if they settled the case?

Mr. STRATTON. My understanding is that it is not a gift. Allegheny bought Mohawk Airlines. They took over, as I think the gentleman from Pennsylvania indicated, Mohawk's liabilities as well as their assets, and the liabilities were pretty substantial. If those liabilities entitled them to a subsidy, then I think they ought to get it. Other airlines have gotten the same subsidy in similar circumstances. I do not see why we should discriminate against Allegheny just because they pulled out of the gentleman's town.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Mr. Chairman, I certainly would emphasize the fact that the gentleman is making. This is not a gift. This is a matter of simple equity. There are a lot of us who are not enthralled with the quality of Allegheny's service in Pennsylvania, for example. I suppose I could strike out against Allegheny, to try to get even with them for eliminating service in one of my cities, but I think that is the wrong way to go. I think the constructive and fair thing to do is to face up to our obligations and treat all airlines alike.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I think the gentleman missed the point. Does the gentleman know of a settlement and a lawsuit? Is the gentleman a lawyer?

Mr. STRATTON. I am not a lawyer.

Mr. ERTEL. If you have a settlement, you do not go back and say to the U.S. Congress, "Give me a lot of money." They had a right to go to court. They did not do that.

Mr. STRATTON. This is a poorly conceived amendment. If there is a legal case then maybe it ought to be settled in the courts. But it seems to me that adopting this kind of an amendment is the wrong way to go.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, the point was made that this was settled in 1977 for the other airlines, so while they tried to get a solution they did not get a solution until 1977, and now they all should be treated separately. Any settlement took place before 1977 when the Congress acted.

Mr. STRATTON. I think the gentleman has explained it very clearly. I am strongly against discrimination in airlines.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Ertel).

The question was taken; and on a division (demanded by Mr. Ertel) there were—ayes 9, noes 29.

Mr. ERTEL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Pennsylvania (Mr. Ertel) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. There being no further amendments to section 17, the Clerk will read.

The Clerk read as follows:

CONSOLIDATION, MERGER, AND ACQUISITION

SEC. 18. (a) Section 408(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1378) is amended—

(1) by striking out "It shall be unlawful unless approved by order of the Board as provided in this section—" and inserting in lieu thereof "Except as provided in subsection (b) of this section, it shall be unlawful—"; and

(2) in paragraph (5) thereof, by striking out "or any other person to acquire control of any air carrier in any manner whatsoever: *Provided*, That the Board may be order exempt any such acquisition of a noncertificated air carrier from this requirement to the extent and for such periods as may be in the public interest;' and inserting in lieu thereof "to acquire control of any air carrier in any manner;".

(b) Section 408(b) of such Act is amended—

(1) by amending the first sentence thereof to read as follows: "(1) In any case in which one or more of the parties to a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section is an air carrier holding a valid certificate issued by the Board under section 401(d) of this section to engage in interstate or overseas air transportation, a foreign air carrier, or a person controlling, controlled by, or under common control with, such an air carrier or a foreign air carrier, the person seeking approval of such transaction shall present an application to the Board, and thereupon the Board shall order a public hearing on the application and shall notify the persons involved in the consolidation, merger, purchase, lease, operating contract, or acquisition of control, and other persons known to have a substantial interest in the proceeding, of the time and place of a public hearing.";

(2) in the second sentence thereof, by striking out: ": *Provided*, That the Board" and all that follows down through the period at the end of such subsection and inserting in lieu thereof a comma and the following: "except that the Board shall not approve such consolidation, merger, purchase, lease, operating contract, or acquisition of control—

"(A) if such consolidation, merger, purchase, lease, operating contract, or acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize air transportation in any region of the United States; or

"(B) if the effect of such consolidation, merger, purchase, lease, operating contract, or acquisition of control in any region of the United States may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade,

unless the Board finds that the anticompetitive effects of the proposed consolidation, merger, purchase, lease, operating contract, or acquisition of control are outweighed in the public interest by the probable effect of the consolidation, merger, purchase, lease, operating contract, or acquisition of control in meeting significant transportation needs of the community to be served, and unless it finds that such significant transportation needs may not be satisfied by any reasonably available less anticompetitive alternative. In any case in which the Board determines that the transaction which is the subject of the application does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition, and determines that no person disclosing a substantial interest then currently is requesting a hearing, the Board, after publication in the Federal Register of notice of the Board's intention to dispose of such application without a hearing (a copy of which notice shall be furnished by the Board to the Attorney General no later than the day following the date of such publication), may determine that the public interest does not require a hearing and by order approve or disapprove such transaction."; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) In any case in which none of the parties to a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section, is an air carrier holding a valid certificate issued by the Board under section 401(d) of this title to engage in interstate or overseas air transportation, a foreign air carrier, or a person controlling, controlled by, or under common control with, such an air carrier or a foreign air carrier, any person seeking approval of such transaction shall file with the Board not later than the forty-fifth day before the effective date of such transaction, a statement of its intent to enter into any of the prohibited acts set forth in subsection (a) of this section. The Board may, within forty-five days after the date of such filing, require such person to file an application for approval pursuant to the requirements of paragraph (1) of this subsection if it finds either that the proposed transaction may monopolize, tend to monopolize, or otherwise restrain competition in air transportation in any section of the country or that the person may not be fit, willing, and able to properly perform the transportation authorized by any license which is a part of such transaction and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board issued pursuant to this Act. Subject to subparagraph (B) of this paragraph, if the Board fails to require such person to file an application pursuant to such paragraph (1) within such forty-five days, the proposed transaction shall not be subject to subsection (a) of this section.

"(B) If the Board determines that any transaction is not subject to subsection (a) of this section as a result of the last sentence of subparagraph (A) of this paragraph and such transaction received such statutory exemption due to any fraud, misrepresentation, or omission of relevant and material facts, the Board may, pursuant to rules which it is authorized to prescribe, make such transaction subject to subsection (a) of this section.".

(c) Section 408(c) of such Act is amended by inserting "any person controlling such air carrier," after "air carrier," the first place it appears in such subsection.

(d)(1) Section 408(f) of the Federal Aviation Act of 1958 is repealed.

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading.

"Sec. 408. Consolidation, merger, and acquisition of control."

is amended by striking out

"(f) Presumption of control.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 18 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. There being no amendments to section 18, the Clerk will read.

The Clerk read as follows:

AGREEMENTS AND CARRIER DISCUSSIONS

SEC. 19. (a)(1) The center heading of subsection (a) of section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382(a)) is amended by striking out "REQUIRED" and inserting in lieu thereof "AND REQUESTS TO DISCUSS COOPERATIVE WORKING ARRANGEMENTS".

(2) Subsection (a) of such section 412 is further amended by inserting "(1)" immediately after "(a)" and by inserting at the end thereof the following new paragraph:

"(2) Any air carrier may request authority from the Board to discuss possible cooperative working arrangements between such air carrier and any other air carrier, foreign air carier, or other carrier.".

(b) Section 412(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1382(b)) is amended to read as follows:

"PROCEEDINGS UPON FILING

"(b) Upon filing of any contract or agreement, or any modification or cancellation thereof, pursuant to subsection (a)(1) of this section, or upon the filing of a request by an air carrier for authority to discuss possible cooperative working arrangements, pursuant to subsection (a)(2) of this section, the Board, in accordance with regulations which it prescribes, shall provide to the Attorney General and the Secretary of Transportation written notice of, and an opportunity to submit written coments on, the filed document. The Board may, upon its own initiative or if requested by the Attorney General or such Secretary, hold a hearing, in accordance with regulations prescribed by the Board, to determine if a contract or agreement, or request for discussion authority, whether or not previously approved, is consistent with the provisions of this Act.

"CONDITIONS FOR APPROVAL

"(c)(1) The Board shall by order disapprove any contract or agreement filed pursuant to subsection (a)(1) of this section, whether or not previously approved by it, which it finds to be adverse to the public interest, or in violation of this Act, or which substantially reduces or eliminates competition, unless the contract or agreement is necessary to meet a serious transportation need or to secure important public benefits. The Board shall by order approve any such contract or agreement, or any modification or cancellation thereof, which it does not find to be inconsistent with the standards set forth in this section, except that the Board may not approve any contract or agreement between an air carrier not directly engaged in the operation of aircraft in air transportation and a common carrier subject to the Interstate Commerce Act, as amended, governing the compensation to be received by such common carrier for transportation services performed by it.

"(2) The Board shall by order disapprove any request for authority to discuss possible cooperative working arrangements which the Board finds may be adverse to the public interest or which it finds may substantially reduce or eliminate competition, unless the discussions are necessary to meet a serious transportation need or to secure important public benefits. The Board shall by order approve any such request which it does not find to be inconsistent with the standards set forth in this section.".

(c) That portion of the table of contents which appears under the side heading

"SEC. 412. Pooling and other agreements."

is amended by striking out

"(a) Filing of agreements required.

"(b) Approval of Board."

and inserting in lieu thereof

"(a) Filing of agreements and requests to discuss cooperative working agreements.

"(b) Proceedings upon filing.

"(c) Conditions for approval.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 19 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBERSTAR: Add at the end of Line 17 on page 109 a new subsection "(d)" as follows:

"(d) Any contract between air carriers relating to pooling or to the apportionment of revenues for the purpose of providing financial assistance to any air carrier when employees of such air carrier are engaged in a lawful work stoppage is hereby declared to be unlawful."

Mr. OBERSTAR. Mr. Chairman, and colleagues, today is the day we vote on welfare reform—corporate welfare reform.

The mutual aid pact is no less than welfare checks paid by airlines with good labor records to those with poor labor records.

About the kindest description I can think of is that it is strike insurance by airlines, for airlines.

Without mincing words, the mutual aid pact is one of the most anticompetitive practices in the history of labor-management relations.

The mutual aid pact is a cozy arrangement among the airlines, under which brother airlines guarantee any one of their members 50 percent of average operating expenses during a strike.

This food-stamps-for-airlines sweetheart deal has paid out over a half billion dollars to member airlines since the pact was approved by the CAB in 1958.

My amendment will end the pact. It has never been sanctioned by act of Congress. Quite the contrary, the pact is a creature of the CAB, which allowed it to come into being and which monitors the pact's existence.

The mutual aid pact has so tilted the balance of power in the collective bargaining process in favor of one party—management—that its very existence actually encourages the carriers not to bargain seriously—to the point where management does not even try to avoid a strike.

Why should they, when the mutual aid pact strike insurance fund virtually assures them a profit while they are on strike.

For example, during the recent 109-day work stoppage at Northwest Airlines, the company received $108 million in mutual aid pact payments—$920,000 a day—and made a $22 million profit.

Over the life of the pact, Northwest has paid in some $15.9 million, and received about $209 million in pact payments—making a handsome multimillion-dollar profit during every one of their four strikes.

American Airlines, on the other hand, has paid in $93 million, and received $24.7 million. Braniff has paid in $15.6 million, and received $620,000 in benefits. No wonder many of the airlines themselves, quietly, to be sure, want out of the pact.

By whatever yardstick you choose to measure it, the mutual aid pact is improper, has no place in labor-management relations, and should be banned.

It so tilts the collective bargaining process in favor of the airlines as to actually prolong strikes.

In the prepact days, airline strikes lasted an average of only 15 days. Today, the average airline strike is 92 days. The average in nonpact industries is 25 days.

Longer strikes mean hardship on the traveling public and economic losses to communities—especially towns in remote areas.

Committee hearings on this issue have documented numerous cases of community hardship caused by airline work stoppages. In 1972, Fargo, N. Dak., petitioned the CAB to rescind Northwest's operating certificate and issue a new one to another airline, so severely hurt was it by the 95-day strike in that year.

North Dakota Governor Guy said of that strike that "North Dakota businesses have suffered economic losses—far greater losses, I would suspect—than Northwest Airlines."

A 124-day strike at Texas International deprived 26 Texas cities of all airline service. It hurt New Mexico and Louisiana cities to the extent that the Lafayette, La. City Council wrote the Louisiana congressional delegation saying: "The economic impact on the area and the oil industry is catastrophic."

The city of Rapides, La., understood the issue and stated it clearly in their message to the congressional delegation: "Citizens of central Louisiana have suffered the loss of needed air service while Texas International is being compensated for not serving our community."

The New Mexico legislature in 1972 memorialized Congress to end the Mutual Aid Pact because of economic adversity caused by the long strike resulting from the Mutual Aid Pact.

These are only a few representative examples of hardships, of actual economic injury caused by the pact. There are many more—including numerous cases of individual anguish—which have been reported, but which we just do not have the time to report here.

Suffice it to say that the Mutual Aid Pact is an inherently unfair antilabor practice. It should not have standing in our collective bargaining process—certainly not status approved by an agency of the Federal Government.

You know, it just goes against the grain of our American sense of fair play to allow this practice to continue. It stacks the deck—with Governmental approval—against one of the parties in a labor-management negotiation, and the weaker part at that.

Let us restore fairness and equity to collective bargaining in the airline industry. Let us ban the pact.

I urge my colleagues to join me in relegating the pact to the history books.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I am happy to yield to our chairman, the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I support the amendment.

By furnishing substantial payments to airlines on strike, the Mutual Aid Pact encourages prolonged strikes which seriously inconvenience the public. It is difficult to see why most airlines want to participate in the pact, since most benefits go to a few airlines with a long history of labor difficulties. Although the unions do have some economic self-help measure, they are very small in comparison to mutual aid benefits. The modifications of the pact recently proposed by the industry will lessen the problem, but it is a classic of "too little too late."

I support the amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to my colleague, the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I want to commend the gentleman for his work on this amendment. It is something that I had envisioned when I first began serving in the Congress as did my predecessor who labored diligently over the years to eliminate such counterproductive arrangements and I know that the gentleman from Minnesota (Mr. OBERSTAR) has had a keen interest during his service in this House.

I think if we are going to deregulate then I think we ought to go all the way and eliminate the airline MAP. It's the type of deregulation we all should agree with.

The reason that there is this MAP agreement today is because it is a regulated industry. The CAB authorizes its existence. You know we extend tremendous benefits to regulated industries in our society; they have franchises, protection of their routes, and it remains virtually inviolate, for practical purposes, during a strike or a labor dispute. The MAP is a protection they do not need, because it raises the total cost of airline services for everyone who uses the carriers that participate in this type of payment arrangement.

I think we ought to strike a blow here for deregulation all the way. To eliminate this anachronism, to eliminate this unreasonable mutual aid pact. this method of making payments to airlines. That is all it does. Members of this organization, this mutual aid pact, and there are few of them, have strikes that last twice as long as nonmembers, because it is the bigger airlines that use it, it is not the small ones. We are not protecting the little guys with this, because it is basically the large carriers who are members.

So, I would urge my colleagues to vote for the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR) that will let us do away with this mutual aid pact and restore equality at the bargaining table and restore the service so vital to the people we represent in States that have been unreasonably affected by MAP-prolonged labor disputes.

I rise in support of the amendment that, in effect, will prohibit the continuation of such arrangements between air carriers as the so-called Air Lines Mutual Aid Pact which provide companies affected by work stoppages with substantial amounts of lost operating revenues.

It is now well documented that since 1959 when the MAP was first organized the average length of strikes in the industry has increased threefold.

The northern tier of our country just experienced the economic disaster of a 109-day airline shutdown during which North Dakota and Montana suffered a loss of $155 million and Minnesota another $37 million. Since 1970 the management of the airline serving these States deliberately chose to shut down four times for a total of almost 1 year in the last 8 years, because the MAP made it possible to turn a profit without flying its routes.

Here is a major corporation which during MAP's existence has chiseled $210 million in benefits from its peers and saying in effect "the public be damned." Yet we talk about the welfare cheats, the poor and sick who try to eke out a few extra dollars for food and medicine.

Belatedly, the industry itself is making some tentative moves to close the open-ended cornucopia. First, Pan American and recently Eastern have withdrawn from MAP or announced their intention to do so. Next, on Tuesday the MAP members have met and agreed on revision which is to be submitted to the Civil Aeronautics Board when the matter of the extension comes up. The MAP expired last February 27 but has been observed as being in effect since then.

Interestingly, the new benefit schedule reduces the 50-percent rate of benefits to 35 percent of operating revenue of the struck airline for 2 weeks and 25 percent for 8 weeks. The revised MAP will, however, continue providing the so-called windfall payments from competing carriers for the duration of the stoppage. Windfall payments are those revenues left after operating costs are paid by nonstruck airlines who enjoyed traffic at the expense of the nonflying company.

Tuesday's action of the air carriers in revamping the discredited Air Lines Mutual Aid Pact indicates to me that even they are belatedly recognizing that is a dying scheme.

The pact has caused companies with enlightened labor-management policies to waste millions of shareholders' and taxpayers' dollars. I am disappointed that the executives did not have the guts to kill the pact outright and voted to prolong its dying agony. If my colleagues and I in Congress have to do the job of killing it for them, so be it.

Since the millions of dollars paid to a struck airline are considered as legitimate business expenses to MAP members, mutual aid payments are "rolled into" the higher price of each airline ticket or air freight bill. I suggest that under the present circumstances such increases contribute to inflation.

I think the termination of the Mutual Aid Pact contemplated by this amendment is the preferable way of encouraging airline managements to continue serious bargaining in labor-management disputes. Others have recommended such drastic measures as decertification of nonoperating airlines or the encouragement of the CAB to grant permission to competitors to fly unserviced routes. However, I have confidence in the efficacy of free collective bargaining in our democratic system and believe that if airline managements are not insulated from economic reality by the "security blanket" of MAP they will have the economic incentive to bargain in good faith and quickly agree on contracts with airline workers.

Early in this Congress, I introduced H.R. 1606, which would kill the pact. Recently, as the abuses of the Mutual Aid Pact again became apparent, many of my colleagues and I from the Northern Tier joined in a variety of efforts to facilitate the settlement of the most recent dispute.

We appealed to the CAB, the National Mediation Board, and to the Department of Commerce, but to no avail. Sixty-four of us to date have joined in a resolution calling upon the CAB to cease payments under the expired pact and to conduct a study to alleviate strikes in the air transportation industry.

However, because of the lateness in the session and the impossibility of holding hearings on this important issue, I urge my colleagues to vote for the Oberstar amendment and to end, once and for all time, this anachronistic antilabor Airlines Mutual Aid Pact which has done so much economic damage to our country.

If we are going to streamline national air service, let us go all the way and get rid of the antilabor Air Lines Mutual Aid Pact which harks back to the open-cockpit Jenny era, not today's jet age.

I hope the amendment will be adopted.

Mr. OBERSTAR. Mr. Chairman, I want to thank the gentleman from Minnesota (Mr. VENTO) for his contribution and for his predecessor in the Fourth Congressional District in St. Paul, Joe Karth, who championed this cause in earlier years.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, I rise in support of the amendment offered by the gentlemen from Minnesota (Mr. OBERSTAR). The Airline Mutual Aid Pact (MAP) is antibusiness and antilabor.

Adoption of the Oberstar amendment would abolish MAP and would be completely consistent with the thrust of H.R. 12611. Section 19 of the bill, which deals with interairline agreements such as the pact, is designed to prohibit anticompetitive agreements that do not serve an important air transportation function. It is clear from the record that MAP does not serve such a function.

Proponents of the pact will claim it is needed to protect financially weaker carriers from the effects of a strike. Recent experience with MAP destroys that argument. More than half of the estimated $530 million in payments to struck carriers since 1968 has gone to just two airlines—Northwest and National.

Northwest is one of the only two airlines that has been profitable each year since 1968. The other, Delta, has never belonged to MAP. National has made money each year since 1971, but 13 other airlines did not.

On the other hand, Pan American lost between $25 and $82 million each year from 1969 to 1975. During that time, the financially troubled airline paid out $45 million in MAP payments. It is not surprising that Pan Am withdrew from MAP at the end of 1975.

Eastern Airlines announced last July that it is withdrawing from the pact. Through the end of last year, the airline received $26.1 million in MAP payments, but paid out $74 million. Most of that amount was paid in recent years as the carrier's financial situation worsened. Clearly, the weaker airlines have been supporting the stronger ones. Since the pact in practice runs counter to one of its basic justifications, it should be abolished.

MAP also puts airlines that strive to develop a competitive edge promoting good relations with employees at a serious disadvantage. A strike at a competing airline with poor employee relations means any competitive advantage gained by an airline still flying is offset by its having to turn over a portion of its revenue to the struck carrier.

Those of us who believe deeply in free enterprise, Mr. Chairman, consider MAP opposed to those principles. All the pact does is encourage a few airlines with bad employee relations to continue them, knowing that competing carriers will, in effect, pick up the cost.

It is time to follow the lead of the airlines themselves and put an end to this practice. I urge the adoption of the amendment.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for his support.

Mr. NOLAN. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Minnesota.

Mr. NOLAN. Mr. Chairman, I just want to commend the gentleman from Minnesota (Mr. OBERSTAR) and associate myself with his remarks.

Mr. MILFORD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment should be voted down.

Voluntary action has already been

taken by airlines, who are members of the mutual assistance agreement, to eliminate entirely the possibility that an airline could show a profit while on strike. Furthermore, the entire matter of mutual aid is under current and careful review by the Civil Aeronautics Board. For this reason alone, it is totally inappropriate and precipitous for us to take any action at this time.

Mutual aid agreements in the airline industry, whether they affect management or labor, should undergo careful consideration and have full public examination of all viewpoints before being executed.

Obviously, we cannot do that here today. It would be untimely and irresponsible for us to act without full consideration of the complicated details of this matter. Like many of you, in the past I have been very concerned about some of the features contained in the Mutual Aid Pacts. I was particularly offended by charges that a carrier could make a profit during a strike.

I am impressed by the fact that the airline members of the mutual aid agreement have now submitted to the Civil Aeronautics Board for approval, amendments which will significantly reduce benefits to a carrier which is struck.

As all of us know, airlines are particularly vulnerable to strikes because an empty airline seat is a totally perishable item.

It is important also for all of us who are concerned about inflation to recognize that if airlines arbitrarily are denied any form of mutual aid, while such assistance is authorized for airline employees, the end result of this discrimination inevitably will be soaring wage demands and inevitably soaring costs for air travel and air shipments. Let me add that no other industry of which I am aware can match the anti-inflation record of air transportation, with average fares for coach travel in the United States actually less than it was a year ago.

The fact of the matter is, of course, that the more than 300,000 employees of the airlines are the best paid of any employees in any U.S. industry. The average airline employee today receives more than $27,000 a year in pay and benefits. Many airline captains make more money than Cabinet officials and Members of Congress.

I recognize, of course, that many Members of the House understandably have been concerned, because it had been possible in the past for an airline to show a profit while on strike. That is no longer the case.

Under the amended agreement that is being presented to the Civil Aeronautics Board, guaranteed benefits payable to a struck airline will be reduced by approximately one-third and there will be no guaranteed benefits at all if a strike should last more than 10 weeks.

So, I submit to you that we would be acting recklessly if we took any action before the House Public Works and Transportation Committee and the Civil Aeronautics Board have had an opportunity to examine all aspects of this matter in full public hearings.

I submit that the mutual assistance agreement has served the public well during its 20 years of existence. This is attested by the fact that on numerous occasions, after full public discussions, its validity has been reaffirmed here in the Congress, in the Civil Aeronautics Board, and in our courts.

We need time to assess fully the changes that have been made and we need time to reexamine the entire matter of agreements that relate to industry and labor. As you know, unions have mutual assistance arrangements too.

In conclusion, I urge that we avoid premature action today, and thereby make certain that this matter will receive comprehensive consideration by the committee on which I have the honor to serve, by the Civil Aeronautics Board, and by all other interested parties.

That is the fair and responsible way to act in the public interest. I urge you to vote down the amendment.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am troubled by the fact that we have not had any hearings on this matter. The distinguished gentleman from Minnesota (Mr. Oberstar), who offered this amendment, is a member of our committee. We certainly had many, many months of open hearings. Anybody who wanted to testify could have come before the committee to do so.

I would ask the gentleman why was this not brought before the committee in an orderly fashion so that we might carefully consider this proposal, rather than having it sprung on us here in this fashion?

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding.

Hearings were held by the Committee on Public Works and Transportation 2 years ago on the Mutual Aid Pact. In fact, I testified at those hearings as well as sat in as a member not of the Aviation Committee but as a member of the full Committee on Public Works and Transportation. The Senate Public Works and Transportation Committee, or our counterpart in the other body, I should say, had extensive hearings on this more recently. So we have heard this issue discussed.

Mr. SHUSTER. As the gentleman knows, the Aviation Subcommittee which did hold hearings relative to this legislation received no testimony relative to this legislation this year, and there are many members of the committee who were not on the committee. Indeed, am I correct in saying—I would address this question to the chairman of the subcommittee—that the previous testimony was not even submitted to be entered into the Record during the hearings this year?

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from California.

Mr. ANDERSON of California. I thank the gentleman for yielding.

It was 2 years ago that we held hearings, and we had testimony presented at that time.

Mr. SHUSTER. Yes, but we did not hold hearings this year on this bill.

Mr. ANDERSON of California. There has been, I believe, an election since our hearings, so there may have been some Members who did not get that testimony, but we had good, full hearings about 2 years ago.

Mr. SHUSTER. But we had no hearings on this legislation which is before this Congress.

Mr. ANDERSON of California. Here is the hearing record, some 250, almost 300 pages.

Mr. SHUSTER. But we have had no hearings, am I correct in saying, in this Congress on the legislation which is before us today?

Mr. ANDERSON of California. If the gentleman will check, he will find, as I say, almost 300 pages. It all goes to the subject of the mutual aid pact.

Mr. SHUSTER. In previous Congresses. It does not pertain to the legislation on the floor today.

May I ask another point of the gentleman. I am also concerned about when the Congress begins to tell voluntary associations, in this case airlines, that they cannot ban together in mutual aid, should we not in the interest of equity and in the interest of fairness take the same position with regard to the labor unions? What is the difference between our ordering by law that airlines cannot ban together for mutual aid during a strike, but not giving exactly the same direction to the other parties to a strike—the labor unions?

Mr. OBERSTAR. Mr. Chairman, if the gentleman will yield, first of all, little has changed since the hearings were held 2 years ago. We have had longer, extensive labor-management disputes since that. As for the gentleman's point about labor unions, there is no agreement among labor unions that is sanctioned by an agency of the Federal Government, and that is the case of the Mutual Aid Pact. It is sanctioned by an agency of the Federal Government; namely, the CAB.

Second, I just cannot conceive of any valid comparison between a few hundred pilots, about 1,500 of them, or a few hundred other cabin attendants, stewardesses, and a few hundred machinists who join together to help each other out, as compared with the enormous corporate wealth raid against the $16 billion combined wealth of all of the airlines joined together. When you put $5 billion of stockholder equity against that, I am sure that the net worth of all the airline employees would not make up the cost of one aircraft, one 727.

Mr. SHUSTER. So the gentleman is saying the difference is the magnitude; the principle is the same. Does the gentleman agree with me that what I think I hear him saying is that the principle is the same; it is the difference in the magnitude?

Mr. OBERSTAR. The magnitude is so great as to make a difference.

Mr. SHUSTER. I thank the gentleman and yield back the remainder of my time.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is a lot more difference than what the gentleman from Pennsylvania would have the Members believe between MAP and a union strike benefit fund. It is a very serious matter for an airline in our area. One has been on strike 1 whole year in the last 8 years. Another airline has been on strike 1 whole year in the last 6 years. During this period of time tremendous economic loss occurred in the communities I represent in the northern tier States particularly. We find evidence that the recent strike of 109 days caused a $210 million loss collectively to the States effected. The difference here, of course, is we are dealing with a regulated industry. The CAB in 1959 decided to approve this, because the airlines were considered to be an infant industry. I do not think it is an infant industry any more. It is a big industry. It is powerful. It has the resources to deal with labor disputes. What we are talking about is the means of bringing money back to these airlines on strike which have demonstrated they want to prolong a strike. That is the case. That is the fact.

As far as the economy of it goes, whether or not they have been able to hold down salaries and be an inflation fighter, I think quite the contrary is the case, because if the airlines, if the members of the mutual aid pact pay back to an airline effected by a labor dispute, they are in essence raising their prices in order to meet and pay that particular expense.

I would remind my colleagues that in the first quarter of this year Northwest Orient had a profit of $25 million. In the second quarter, being out on strike 2 out of the 3 months, they still had a profit of $20 million. This is the magnitude of what we are talking about. We are not talking about the $5 a day a machinist gets when he walks the picket line. I do not think there is any comparison. MAP payments are a blatant violation of the Sherman Antitrust Act. But because the CAB has authorized it this has thrown a protective insulation over these arrangements. There is the substantial difference between MAP and a union strike benefit fund. If this were not a regulated industry you would not have that protection. That is what this body had to consider when voting on this amendment.

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Chairman, I rise to compliment both gentlemen from Minnesota for offering the amendment. I would like to associate myself with their remarks.

Mr. Chairman, I rise in support of the amendment to H.R. 12611 offered by my distinguished colleague Mr. OBERSTAR.

The airlines mutual aid pact is not conducive to earnest collective bargaining.

Anyone who doubts that, has only to look at the recently concluded strike by pilots against Northwest Airlines.

The strike lasted 109 days, but Northwest was able to show second quarter earnings topping $22 million thanks to the mutual aid pact.

The real loser in the strike was the airline passenger who for more than 3 months was forced to frantically search about for connections to cities normally served by Northwest.

I have introduced H.R. 13735 which would prevent the Civil Aeronautics Board from approving any similar mutual aid pacts in the future.

I commend Mr. OBERSTAR for his amendment and will enthusiastically support him.

● Mr. RUSSO. Mr. Chairman, I rise in support of Mr. OBERSTAR's amendment to terminate the airline mutual aid pacts. As a member of the Subcommittee on Transportation I would, at this time, like to address the need for abolishing mutual aid pacts which exist in the railroads.

Like the airline industry, railroads have formed mutual aid pacts. As a supporter of abolishing mutual aid pacts in the airline industry, I believe mutual aid pacts will have the same unsettling effects on labor-management relations in the railroads as its does for the airlines. Since July 10, 1978 Norfolk and Western Railroad employees have been on a legal strike. Men and women are receiving minimal benefits of $145 a week, and the Norfolk and Western Railroad earning $800,000 a day while not in operation.

When I attend hearings, I hear the cries of the airline and railroad industry that since the employees are receiving large benefits from unemployment compensation and union strike funds, then why should not the industry be entitled to such benefits? I believe this is a comparison of apples and oranges. The apples being the ability of a large corporation to make money and stimulate profit and the oranges being an individual head of household who must meet basic food and housing needs and must dip into his savings to exist.

The obvious difference in apples and oranges leads us to greater unsettled labor-management negotiations.

Let us look at the facts: During the pre-mutual-aid pact era, airline strikes averaged 15 days—the last strike against Northwest Orient lasted 109 days. Before mutual aid pacts, there was only one major railroad strike—it was in 1955 and lasted 55 days. With the advent of mutual aid pacts, the Norfolk & Western railroad strike has already lasted 70 days.

There are 24,600 people directly affected by the Norfolk & Western strike. Not only are these railroad workers being effected but so are the coal workers in West Virginia, and the economies of 12 States, including Illinois, Indiana, Michigan, Missouri, Nebraska, Iowa, New York, Ohio, North Carolina, Pennsylvania, Virginia, and West Virginia.

In the near future, we will be addressing the issue of railroad mutual aid pacts. The facts speak for themselves. Mutual aid pacts makes a travesty of the negotiating process. They should be terminated.●

● Mr. LAFALCE. Mr. Chairman, I rise in favor of the amendment to H.R. 12611 offered by the gentleman from Minnesota (Mr. OBERSTAR), which eliminates a major impediment to the prompt and equitable resolution of conflicts between labor management, by terminating the mutual aid pact between airlines.

As the consponsor of a bill which would have accomplished the same end, I believe that the mutual aid pact (MAP) has only been an inducement for the airlines to conduct labor contract negotiations in a very intransigent fashion. The history of the recent strike by the airlines pilots against Northwest Airlines sadly demonstrated what the consequences of the existence of MAP could be.

Under the provisions of MAP, an airline confronted by a work stoppage was guaranteed 35 percent of its usual weekly operating costs without having to share 1 cent of these funds with its striking employees. These funds were supplied by other airlines which adhered to the pact and which would be enjoying windfall profits because of their increased business. Understandably, there is very little inducement for members of MAP to work for an early settlement of the issues involved in a strike.

Clearly, the prolonged and unnecessary deadlocks in contract negotiations which have been the direct result of MAP have not been in the public interest. Thousands of travelers have been delayed, rerouted, and inconvenienced; and some areas have been virtually deprived of all air service. Millions of dollars in tax revenues have been lost because of elimination of thousands of flights. In the last 10 years, there have been 20 strikes against MAP members, and the average duration of those strikes has been 65 days. Before MAP was instituted in 1958, airline strikes averaged 15 days. The average strike duration for all industries in the United States in recent years has been approximately 25 days. These statistics speak for themselves.

As serious as the injury to the public interest is the harm which MAP inflicts on employees of the airlines. While many airlines continue to make profits during strikes, as was recently the case with Northwest Airlines, employees suffer grievous economic hardships. Many airline unions pay no strike benefits at all, which means that their members are forced to live on their saving during work stoppages. I might add that a union which does not have a strike fund is not a union which is going to engage in irresponsible and unreasonable bargaining during contract negotiations.

The Federal Government should be encouraging prompt and just settlements of differences between labor and management. The Civil Aeronautics Board's approval of MAP has placed the Federal Government in the position of encouraging the airline industry to be incorrigible at the bargaining table. The Board's sanction of MAP has given the airlines a financial club to be held over the head of its unions, which has resulted in longer and longer strikes and increased hardships for the general public.

The proposed termination of MAP will result in more "good faith" bargaining between the airlines and the airline unions, which should decrease the number of strikes and the length of strikes. The general public will benefit, and the members of airline unions will no longer be subjected to needless distress. Finally, the airlines will not suffer, if they adopt other industries' more modern attitude toward labor relations, which means a flexible attitude at the bargaining table.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MILFORD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 299, noes 78, not voting 55, as follows:

[Roll No. 813]

AYES—299

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chisholm
Clausen, Don H.
Clay
Cleveland
Coleman
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Cunningham
D'Amours
Danielson
Davis
Delaney
Dellums
Derwinski
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frey
Fuqua
Gammage
Garcia
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Grassley
Green
Gudger
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Kildee
Kostmayer
Krebs
LaFalce
Lagomarsino
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pike
Pressler
Preyer
Price
Pritchard
Pursell
Rangel
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Russo
Ryan
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Shuster
Simon
Sisk
Skelton
Slack
Smith, Iowa
Snyder
Solarz
Spellman
St Germain
Staggers
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Studds
Taylor
Thompson
Thornton
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walsh
Wampler
Waxman
Weiss
Whalen
White
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—78

Abdnor
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Breaux
Breckinridge
Brown, Mich.
Broyhill
Burgener
Burleson, Tex.
Butler
Chappell
Clawson, Del
Collins, Tex.
Corcoran
Daniel, Dan
Daniel, R. W.
Devine
Dornan
Edwards, Okla.
English
Erlenborn
Evans, Del.
Fenwick
Flynt
Fountain
Frenzel
Gephardt
Gibbons
Goodling
Gradison
Hall
Holt
Huckaby
Jones, Okla.
Kelly
Kindness
Latta
McClory
McDonald
McEwen
Martin
Mathis
Milford
Montgomery
Moore
Moorhead, Calif.
Myers, Gary
Pettis
Pickle
Poage
Regula
Robinson
Rousselot
Ruppe
Satterfield
Schulze
Sebelius
Skubitz
Smith, Nebr.
Spence
Stangeland
Stratton
Stump
Symms
Treen
Trible
Waggonner
Walker
Watkins
Whitehurst
Whitley
Wilson, Bob
Winn

NOT VOTING—55

Ammerman
Anderson, Ill.
Armstrong
Brown, Ohio
Burke, Calif.
Caputo
Cochran
Cohen
Conable
Cornwell
Crane
de la Garza
Dent
Derrick
Dickinson
Diggs
Eckhardt
Eilberg
Fascell
Flowers
Forsythe
Fraser
Gaydos
Giaimo
Hansen
Hightower
Kemp
Krueger
Meeds
Miller, Calif.
Mitchell, N.Y.
Nichols
Nix
Oakar
Patterson
Pepper
Quayle
Quie
Quillen
Rahall
Railsback
Rhodes
Rodino
Rudd
Santini
Sarasin
Shipley
Sikes
Teague
Thone
Tsongas
Tucker
Weaver
Wiggins
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Eilberg for, with Mr. Sikes, against.

Mr. Cornwell for, with Mr. Nichols against.

Mr. Ammerman for, with Mr. Teague against.

Messrs. ENGLISH, WATKINS, SYMMS, and BEARD of Tennessee changed their vote from "aye" to "no."

Messrs. HEFNER, LENT, ROSE, and GUDGER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. There being no further amendments to section 19, the Clerk will read.

The Clerk read as follows:

ANTITRUST EXEMPTION

SEC. 20. (a) Section 414 of the Federal Aviation Act of 1958 (49 U.S.C. 1384) is amended to read as follows:

"ANTITRUST IMMUNITY

"SEC. 414. In any order made under section 408, 409, or 412 of this Act, the Board may, as part of such order exempt any person affected by such order from the operations of the 'antitrust laws' set forth in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12) to the extent necessary to enable such person to proceed with the transaction specifically approved by the Board in such order and those transactions necessarily contemplated by such order, except that the Board may not exempt such person unless it determines that such exemption is required in the public interest.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking out

"Sec. 414. Legal restraints."

and inserting in lieu thereof

"Sec. 414. Antitrust exemption.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 20 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. There being no amendment to section 20, the Clerk will read.

The Clerk read as follows:

CLASSIFICATIONS AND EXEMPTIONS

SEC. 21. (a) The center heading of section 416 of the Federal Aviation Act (49 U.S.C. 1386) is amended by striking out "OF CARRIERS".

(b) Subsection (a) of such section is amended by—

(1) striking out "air carriers" the first place it appears and inserting in lieu thereof "air carriers and foreign air carriers"; and

(2) striking out "air carriers" the second place it appears and inserting in lieu thereof "air carriers or foreign air carriers".

(c) Paragraph (1) of subsection (b) of such section is amended to read as follows:

"(1) Except as provided in paragraph (2) of this subsection, the Board from time to time and to extent necessary, may exempt from any requirement of this title, or from any rule, regulation, term, condition, or limitation prescribed under authority of this title, any person or class of persons if the Board finds (A) that such exemption is or will be justified by unusual circumstances, or by reason of the limited extent of the activity to be exempt, and (B) that the exemption is not inconsistent with the public interest.".

(d) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking out

"Sec. 416. Classification and exemptions of carriers."

and inserting in lieu thereof

"Sec. 416. Classifications and exemptions.".

Mr. ANDERSON of California (during

the reading). Mr. Chairman, I ask unanimous consent that section 21 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. There being no amendments to section 21, the Clerk will read.

The Clerk read as follows:

COMMUTER EXEMPTION

SEC. 22. Section 416(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)) is amended by adding at the end thereof the following new paragraph:

"(3) Any air carrier in air transportation which provides (A) passenger service solely with aircraft having a maximum passenger capacity of less than fifty-six passengers, or (B) cargo service in air transportation solely with aircraft having a maximum payload capacity of less than eighteen thousand pounds, shall be exempt from the requirements of subsection (a) of section 401 of this title, and of such other sections of the Act as may be prescribed in regulations promulgated by the Board, if such air carrier conforms to such liability insurance requirements and such other reasonable regulations as the Board shall from time to time adopt in the public interest. The Board may by regulation increase the passenger or property capacities specified in this paragraph when the public interest so requires, except that with respect to air transportation between points both of which are within the State of Alaska, or one of which is in Alaska and the other in Canada, the Board may decrease the passenger or property capacities specified in this paragraph or require air carriers engaged in Alaskan intrastate air transportation to obtain operating authority from the State of Alaska, as the public interest may require.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 22 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. There being no amendments to section 22, the Clerk will read.

The Clerk read as follows:

COMMUTER AIR CARRIER COMPENSATION

SEC. 23. (a) Title IV of the Federal Aviation Act of 1958 is amended by inserting immediately after section 418 the following new section:

"COMMUTER AIR CARRIER COMPENSATION

"ESTABLISHMENT OF COMPENSATION

"SEC. 419. (a)(1) If, on the date of enactment of this section, any air carrier is (A) providing service to any point in the United States pursuant to a certificate issued to such carrier under section 401 of this title, or (B) authorized pursuant to such certificate to provide such service, but such service is suspected on such date of enactment and such suspension is conditioned as a commuter air carrier providing such service, and is thereafter terminated or reduced below the essential level of air transportation for such point, the Board, upon a determination that essential air transportation will not be provided by any other air carrier or commuter air carrier for such point without Federal financial assistance, shall establish a rate of compensation to be paid for providing such essential air transportation, and any additional air transportation to such point which the Board determines is required in the public interest, to that commuter air carrier which by order of the Board provides such air transportation. If after establishing such rate of compensation for such commuter air carrier the Board determines that a commuter air carrier or an air carrier will provide essential air transportation to such point without Federal financial assistance, the Board shall terminate the payment of such compensation to any commuter air carrier. Federal financial assistance shall not be paid under this paragraph after the last day of the tenth year which begins after the date of enactment of this section.

"(2) No later than January 1, 1980, the Board shall commence a review of each point (A) which has been deleted from a certificate issued under section 401 of this Act, or (B) set forth in such a certificate but to which service has been suspended without a condition that substitute service be provided, between July 1, 1968, and the date of enactment of this section, both dates inclusive, to determine whether the Board should provide Federal financial assistance under this paragraph to a commuter air carrier to provide essential air transportation to such point. The Board shall complete each such review no later than January 1, 1982. Whenever, after completing a review of any point pursuant to the preceding sentence, the Board determines that the public interest requires interstate or overseas air transportation for persons, property, or mail to such point and that no adequate service will be provided by any air carrier or commuter air carrier to such point without Federal financial assistance, the Board may establish a rate of compensation to be paid for providing such service to that commuter air carrier which by order of the Board provides such service. Federal financial assistance shall not be paid under this section for the same period of time to more than one commuter air carrier for providing such service to such point.

"(3) Notwithstanding section 416(b) of this Act, the Board shall not provide any Federal financial assistance under this section to any commuter air carrier to provide service to any point, and the Board shall prohibit any commuter from providing service to any point described in clause (A) or (B) of paragraph (1) of this subsection, unless the Board determines that such commuter air carrier—

"(A) is fit, willing, and able to perform such service; and

"(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator under paragraph (4) of this subsection.

"(4) Not later than the one-hundred-eightieth day after the date of enactment of this paragraph, the Administrator, by regulation, shall establish safety standards (A) for aircraft being used by commuter air carriers to provide any service described in paragraph (3) of this subsection, and (B) for all operations relating to such service. In promulgating such safety standards, the Administrator shall take into account the safety standards applicable to service being replaced by such commuter air carriers.

"PROCEDURES

"(b)(1) The Board may make any determination or establish any rate of compensation under subsection (a) of this section, with or without evidentiary hearings as the Board deems necessary, and the Board may impose such terms and conditions as it deems necessary on any commuter air carrier paid compensation under such subsection.

"(2) The Board in establishing any rate of compensation under this section may—

"(A) base such rate upon aircraft mile, load factor, pound mile, weight, space, or any combination thereof; and

"(B) establish such rate for such period of time as it deems appropriate.

"(3) In making any determination under this section to provide compensation to any commuter air carrier, the Board shall consider, among other things, the cost of such compensation, the number of persons to be benefited by the service, the availability of air transportation at nearby communities, and the methods of surface transportation which are available to the point to be served by such commuter air carrier.

"CONSULTATION

"(c) Prior to making any determination under this section, the Board shall consult with appropriate State and local governmental officials.

"(d) For purposes of this section, the term 'commuter air carrier' means an air carrier exempt from any requirement of this Act under section 416(b)(3) of this title.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by adding at the end thereof

"Sec. 419. Commuter air carrier compensation.

"(a) Establishment of compensation.

"(b) Procedures.

"(c) Consultation.

"(d) Definitions.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 23 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. JOHN L. BURTON

Mr. JOHN L. BURTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHN L. BURTON: Page 116, line 6, strike out "In promulgating such" and all that follows through the period at the end of line 9 and insert in lieu thereof the following:

Such safety standards shall become effective not later than the last day of the eighteenth month which begins after such date of enactment and shall impose requirements upon such commuter air carriers to assure that the level of safety provided to persons traveling on such commuter air carriers is, to the maximum feasible extent, equivalent to the level of safety provided to persons traveling on air carriers which provide service pursuant to certificates issued under section 401 of this title.

Mr. JOHN L. BURTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. JOHN L. BURTON. Mr. Chairman, this is an amendment that is a result of a report issued by the Government Operations Committee unanimously. It would provide that 18 months after the effective date of this measure, the FEA would impose safety requirements on commuter air carriers to assure a level of safety provided to persons to the maximum feasible extent, equivalent to the level of safety provided to persons traveling on air carriers which provide service pursuant to certificates issued under section 401 of this title.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, I support the amendment.

The bill and committee report include provisions designed to insure that the traveling public is not required to accept lower safety standards when subsidized commuters replace certificated air carriers. As the gentleman explained, this amendment will strengthen these provisions by requiring that the rules governing subsidized commuters be effective within 18 months, and by clarifying that the safety level on commuters shall be the same as that on certificated carriers, to the maximum feasible extent. These amendments will strengthen the reported bill.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the chairman.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, I thank the gentleman for yielding.

Will the gentleman inform me as to what his intent is when he uses the phrase "to the maximum feasible extent"?

Mr. JOHN L. BURTON. Mr. Chairman, in response to the inquiry of the gentleman from Ohio, let me say that this language would be consistent with the attempt of the gentleman from Ohio (Mr. HARSHA) in the committee, where the FAA could not impose burdensome conditions upon commuter airlines that would make it impossible for them to operate but still require them, to the maximum feasible extent, to meet the highest level of certificated aircraft.

Mr. HARSHA. The gentleman is aware, I am sure, that there are two safety standards. The first is FAR part 121, which imposes the highest safety standards required of the most sophisticated aircraft. Then there is another standard, FAR part 135, which is somewhat less stringent than the other because it takes into account the differences in the type of aircraft to which it is applicable.

Is it the intent of the gentleman in this amendment to require commuter airlines to meet a standard which is somewhat less than that for the largest, most sophisticated aircraft, but, yet, meet the highest standards which are possible considering the size of the aircraft?

Mr. JOHN L. BURTON. The highest standards consistent with the type of aircraft.

What the FAA has done, they were considering issuing regulations say for 10–C planes, and nothing for 9–C planes. What we are saying is that if you are flying in a commuter aircraft you should have the highest level of safety standards feasible. That is certainly consistent with the gentleman's language that was put in the committee.

Mr. HARSHA. I thank the gentleman.

I think safety is of interest to every Member of the House. I hope the House will see fit to adopt the gentleman's amendment. I think it strengthens the amendment I put in the bill regarding safety. I thank the gentleman for his contribution to this and urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. JOHN L. BURTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'HUGH

Mr. McHUGH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McHUGH: Page 117, line 14, at the end thereof, insert the following new subsections to the proposed new section 419:

"Essential Air Transportation

"(e)(1) For the purposes of this section, 'essential air transportation' means scheduled air transportation of persons of the extent, character, and quality which the Board finds necessary to satisfy the needs of the community concerned for air transportation to one or more communities of interest and to insure the community's access to the Nation's air transportation at rates, fares, and charges which are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial."

"(2) In determining the criteria for the character and quality of essential air transportation, the Board shall consider the community's needs for among other services, the frequency of service, the advance reservation of passenger seats, baggage handling and insurance, pressurized or other specialized equipment, timely departures and arrivals, joint fares, and the establishment of single plane or connecting plane service to points beyond the primary community or communities of interest.

"(3) As soon as practicable after enactment of this section, but no later than January 1, 1980, the Board shall, by rule, and after the consultation required by subsection (c), establish the criteria for essential air transportation for all points specified in subsection (a)(1).

"Continuity of Guaranteed Essential Air Transportation

"(f)(1) No air carrier shall terminate, suspend, or reduce air transportation to any point specified in subsection (a)(1) below the standards of essential air transportation established by the Board unless such air carrier has given the Board, the appropriate State agency or agencies, and the communities affected at least 90 days notice of its intent to do so.

"(2) Upon receipt of a notice required by subsection (f)(1) for a point specified in subsection (a)(1), the Board shall assist the communities affected to secure essential air transportation from another air carrier, whether or not such alternate air transportation is to be compensated under this section. The Board shall require the air carrier serving a notice required under subsection (f)(1) to postpone such termination, suspension, or reduction in service until another air carrier has begun to provide essential air transportation. If the Board requires an air carrier to postpone an intended service change for more than 90 days, then the Board shall, in accordance with the procedures of subsection (b), compensate such air carrier for any losses that the air carrier demonstrates that it incurred in complying with this requirement, unless such an air carrier is already provided compensation under this section or section 406.

"(3) With respect to any point specified in subsection (a)(1), unless the Board has completed the consultation required by subsection (c) and determined the essential air transportation for such point, either individually or by rule adopted under (e)(3), the Board shall, upon petition of any appropriate representative of such point, prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of essential air transportation, until the Board has completed such determination.

"(4) The Board's authority under this subsection shall cease to be in effect on the last day of the tenth year which begins after the date of to enactment of this section."

Page 117, line 18, insert the following items at the end thereof:

"(e) Essential Air Transportation

"(f) Continuity of Guaranteed Essential Air Transportation

Mr. McHUGH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. McHUGH. Mr. Chairman, I believe that the amendment which I am offering is of vital importance to small and medium size communities, and, more specifically, to those communities that are now dependent upon certificated air carriers for their essential air transportation.

We all know that these smaller communities are the most vulnerable as we move toward less regulation of the airline industry. Many of them now rely upon the certificated carriers for their essential service. Yet, those carriers will be reducing and terminating that service as they increasingly opt for the more profitable routes. Without adequate protection, at least during a transition period, our smaller communities will be in serious trouble.

The administration and others assume that the commuter air carriers will pick up the slack. If a route is profitable, they say, a commuter will come in to replace the certificated carrier. If the route does not have potential for profit, this bill authorizes the CAB to compensate a commuter air carrier to provide essential air transportation to a community. The authority for this subsidy extends for 10 years, the period the committee believes is a reasonable transition period during which smaller communities may need this special help.

Mr. Chairman, the bill is fine as far as it goes. Unfortunately, however, it provides no assurance to smaller communities that there will be no interruption in their essential air transportation, that is, that they will enjoy continuous essential air transportation during the transition period. In this respect, the bill is critically deficient.

Under section 401(q) of the bill, a certificated carrier must give 90 days notice to the CAB and any affected community if it wants to terminate or suspend service between two points. However, no such notice is required if it seeks a reduction in service which is short of total abandonment of the market. This is true even if the proposed change in service would deprive a community of its essential air transportation.

Moreover, even when such notice is required, if the termination or reduction in service is less than complete abandonment of the market, there is nothing to prevent the certificated carrier from terminating or reducing essential air transportation to the community at the end of 90 days.

How can we be sure that replacement service will be found within 90 days? We cannot be sure, and indeed in many cases it will not be found. The fact that the CAB can pay a commuter air carrier to provide essential air transportation does not mean that a commuter carrier will want to provide the transportation, or, if it is willing, that it will be able to move that quickly. It may need to hire additional personnel. It may need to acquire new equipment. It may need to seek FAA approval for that equipment. Any number of things may make it impossible for a commuter carrier to respond promptly when a certificated carrier decides to deprive a community of its essential air transportation.

Mr. Chairman, the implications of this are clear. Many of our smaller communities will be left without essential air transportation established by the CAB for the affected communities. Since notice would be given to the CAB, the appropriate State agencies, and the affected communities, they could all cooperate in attempting to find replacement service. However, if such service were not found within 90 days, the CAB would require the carrier seeking the change to maintain essential air transportation until replacement service was in place. The community would then be assured of continuous essential air transportation.

This requirement of notice and maintenance of essential service would apply to any air carrier, including a commuter carrier, if its proposed change in service would affect a community's essential air transportation. The purpose, of course, is to assure continuous service for 10 years regardless of the nature of the carrier.

My amendment would also authorize the CAB to compensate a carrier for any losses it might sustain as a result of its being required to maintain service after 90 days. The Board would determine the amount of compensation in such a case in accordance with the procedures of section 419(b).

In addition to assuring that essential air transportation is not interrupted, my amendment would broaden the definition of "essential air transportation." This definition is critical, because it is this transportation that we are seeking to guarantee. In my judgment, Mr. Chairman, the definition in the bill is too narrow and would not be appropriate for every community.

The bill now provides that "essential air transportation" is: First, two round trips per day at least 5 days per week, or second, the level of service provided by any air carrier serving the community in 1977, whichever is less. Under this definition the maximum service a community would be guaranteed is two round trips a day, 5 days a week. While that may be essential air transportation for some communities, it would be less than essential for many others.

In defining essential air transportation we should also take into account quality of service. An air carrier may be willing to provide frequent flights, but the quality of its service may be so abysmal as to be totally unacceptable to the public. In such a case, the community would not be receiving essential air transportation.

In an effort to meet these concerns, my amendment would require the CAB to establish criteria for essential air transportation for every community we are seeking to protect, that is, for every community receiving certificated service when this bill goes into effect. The criteria would be established by rule no later than January 1, 1980, and the CAB would be required to consult with the local community before establishing its criteria.

In promulgating its definition of essential air transportation for a community, the CAB would have to take into account the community's needs and some of the factors affecting quality of service. These would include not only frequency of flights, but such things as baggage handling, advance reservations, through service, joint fares, timely scheduling, and necessary equipment. While these would not be mandated, and while I recognize that commuter air carriers cannot be expected in all cases to provide the same quality of service as certificated carriers, it is important that the CAB consider some minimum standards in defining "essential air transportation."

After the CAB has established a definition of essential air transportation for a community, any carrier seeking to terminate, suspend, or reduce service to that community will know if its proposed change will affect essential air transportation. If it would, then the carrier must give the 90 days notice required by this amendment, and, if no replacement is found within the 90 days, the CAB must require the carrier to maintain its service until a replacement carrier is in place, with or without compensation under section 419.

In the event a carrier wants to terminate, suspend, or reduce service prior to the time the CAB defines essential air transportation for the affected community, my amendment provides that the CAB shall require the carrier to stay on if it reasonably appears that the proposed change will deprive the community of essential air transportation. This determination would be made after consultation with the community and upon the Board's own initiative or upon the petition of the affected community.

Mr. Chairman, I believe that the movement toward less regulation of the airline industry is a healthy one. In the long run, it will promote more competition and greater efficiency. For many travelers the cost of airline service will be less. However, in the short run, we must recognize that our smaller communities need special protection. Without such protection during a transition period, they will suffer substantial losses in essential air transportation. The bill recognizes this in principle, but it falls short of providing the protection that is required.

I would, therefore, urge the adoption of this amendment, which in my judgement will rectify some serious deficiencies in the proposed legislation.

Mr. ANDERSON of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the amendment.

The amendment supplements the program of H.R. 12611 of guaranteeing essential air service to communities which are now listed in air carrier certificates.

Under existing law, which H.R. 12611 does not change, an air carrier which wishes to terminate all service at a city may not do so without permission of CAB. As I understand the amendment, it is not intended to weaken these requirements.

The amendment applies to cities which are guaranteed air service by H.R. 12611. The amendment provides that when a carrier wishes to reduce its service at one of these cities below the level of "essential air transportation," the carrier must give 90 days notice of its intention to do so. Upon receipt of notice, CAB must find a replacement carrier. CAB is directed to postpone the proposed reduction of service until replacement service is available. Carriers which are required to continue service under this provision are entitled to compensation for any losses incurred.

I believe that these provisions are a good addition to our program of small cities air service, and I support the amendment.

Mr. SNYDER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is much more complicated and does much more than has been explained, in my opinion.

I rise in opposition to the amendment, because I think it is deficient in several respects. First, by January 1, 1980, the CAB would be required to determine on a case-by-case basis what essential air transportation is for each community in the United States which is listed on a section 401 certificate. This would involve assessment of some 400 to 500 cities across the United States.

I believe that this would impose an unreasonable burden on the Board, and I suspect that many of the 400 to 500 cities now are receiving service equal to or better than essential air transportation at the present time. It is not reasonable to ask the Board to examine all of these cities to make that determination.

We say in the bill that essential air transportation is two round trips a day, at least 5 days a week.

Now, this amendment says, in addition, that essential air transportation is to be determined by the CAB. The CAB is to decide whether or not communities are receiving adequate air transportation by considering such things as pressurized equipment, baggage handling and advance reservations, the timeliness of their departures and arrivals, whether the airplanes are running on time, joint fares, and whether or not there is single-plane or connecting-plane service to points beyond the primary community or communities of interest.

Now, all of us would like to have such service. We recognized this when we put this bill together. We said: We realize there will be communities which will be losing service when we go to deregulation, so what did we do? We established a commuter program under which some routes now served by subsidized local service carriers will be served in the future by commuter carriers. The commuter carrier will come in and replace the local service carriers. And the commuter carrier will be eligible for a subsidy. But what this amendment says is that for any community to obtain what the CAB determines to be essential air transportation will involve determining whether they handle the baggage right or whether the reservations are right or whether the planes are running on time. The amendment also says that the CAB can tell the carrier now serving the community to continue serving for 10 years. If they lose money, CAB would have to pay them a subsidy for their losses for up to 10 years. This includes the trunk carriers, which are not now participating in the subsidy program.

So what I am saying is that we could begin to subsidize trunk carriers with this amendment. And you would be placing an unreasonable burden on the CAB by requiring them to make these determinations by 1980.

Now, in addition, the amendment makes no provision for any change in the needs of the community. What may be essential air transportation under these provisions by 1980, may not be in 1982, or 1984, or any other time during the 10-year period. Conditions will surely change. The definition of essential air transportation we put in the bill is at least two round trips a day, 5 days a week, or the service the community was receiving in 1977, whichever is less. This is the minimum we are locking in as essential air transportation in the bill. The thrust of the amendment is contrary to the concept of deregulation, of moving away from the subsidy program, as we are attempting to do in this bill. It is not consistent with that concept to put the additional regulation required by this amendment in the bill.

I say this is the wrong way to go. We can and do provide for essential air transportation for these smaller communities in the bill. We can and do provide for a minimal subsidy for the commuter carriers in the bill. But it may mean that there will be smaller aircraft. It may mean that some baggage handling will not be as adequate as when the large aircraft were in service. But we also will be moving toward a reduced subsidy program. And we certainly do not move toward subsidies for trunk carriers in the bill, as this amendment provides.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

(By unanimous consent, Mr. Snyder was allowed to proceed for 2 additional minutes.)

Mr. SNYDER. The amendment also says that even though there might now be service by two carriers operating two, three, or four nonstop flights, with 727's, a determination could be made that the community was not receiving air transportation. If one carrier wanted to drop out, then it would become eligible for a subsidy to cover its losses. How is this justified? Maybe it was just not doing a good job of merchandizing its product.

I say this is a bad amendment. It is a mischievous amendment. It ought to be defeated.

Mr. Chairman, I am sorry that the chairman of my subcommittee is in support of the amendment because it does violence to the concept of deregulation. I think it does violence to the concept of the bill.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, did the gentleman say the matter was taken up before the subcommittee?

Mr. SNYDER. Mr. Chairman, the general concept of replacing service was considered, and we deal with it in the bill under the new commuter subsidy program. But the concept of continuing to have the same kind of equipment serving these communities for 10 years, even though they would do so at a loss with Government subsidies to recover the loss, was not dealt with.

Mr. GOLDWATER. But did we get into the matter of intervention by the CAB? This appears to be an economic matter.

Did we ever get into that aspect of it?

Mr. SNYDER. I do not recall that we did. No.

Mr. GOLDWATER. Mr. Chairman, it just seems to me that we are requiring, through this amendment, an unnecessary intervention on the part of the CAB. There generally is an economic consideration and evaluation as to levels of service and relationship to the cost of equipment and the operation of equipment, and that ought to be market-dictated without certification or determination by the CAB.

Mr. SNYDER. Mr. Chairman, the gentleman from California (Mr. Goldwater) is eminently correct in that respect.

We are attempting to continue small community service by, in effect, allowing the present local service carrier subsidy to flow down to the commuters who may come in and replace them. But at no time did we ever contemplate subsidizing service by trunk carriers. The gentleman is correct. We can and do define essential air transportation in terms of frequency in the bill. But we should not attempt to mandate a minimum quality of service, as the amendment seeks to do. After all, we might wind up subsidizing a higher quality of service with subsidies than is provided at present without subsidies. It would be possible under this amendment. I think the author of this amendment should have limited himself to the problem of interrupted service which he has encountered in his district and not gone to the question of quality of service.

Mr. LUNDINE. Mr. Chairman. I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the gentleman from New York (Mr. McHugh) and I have had unfortunate and considerable experience with the termination of service to small and medium-sized communities. We have found that there has to be a reasonable standard for replacement service, and I think this amendment goes a long way toward assuring that in the interest of deregulation we will not cut out air service which is essential to the economic viability of many small and medium-sized communities in this country.

We in Binghamton, N.Y., in Elmira, N.Y., in Corning, N.Y., and in Ithaca, N.Y. have found air service was not adequate, and it is not a trivial matter when we talk about such things as baggage-handling. In fact, our commuter service has gained wide notoriety recently for having bumped the President's consumer adviser and FTC officials and other distinguished persons, including Congressmen, off planes and for again and again not having been there to provide service.

Mr. Chairman, there is a very deep concern in the small communities of this Nation, including those in my own congressional district, that they will be abandoned as major air carriers seek the high profit concentration of large markets following passage of this legislation.

Gov. Robert W. Scott, Federal Cochairman of the Appalachian Regional Commission, has confirmed the fact that many certificated carriers have already left the smaller, marginal markets in Appalachia under liberalized exit policies of the CAB in recent years. Those markets have since seen the growth of many noncertificated commuter airlines.

High-quality air service is vital to the economic health of any community where more than local industries exist. Americans today are increasingly choosing to live and work outside metropolitan centers. They must not be denied safe, reliable air service that will support their economic growth.

It matters little in most of the smaller communities of America whether the airline to their city is a certificated prestige airline or a commuter line capable of equal service. But after conversations with many constituents, and after my own experiences, I am concerned that not all airlines are created or operated with equal care and responsibility. Today, there are two primary commuter airlines serving cities in my district where all or some certificated service was discontinued. Both have demonstrated admirable safety records, but there is a wide variance in their dependability records.

In my home city of Jamestown, the commuter airline is both safe and dependable. In the city of Elmira, however, the commuter operator is extremely cavalier in approach to service. Flight times and passenger guarantees are irregular, and even routing is sometimes changed in midair. I would like to enter into the Record two articles which appeared this week in the Washington Post which demonstrate this point. Both deal with the problems of this commuter operation. They started the week by bumping from a flight to my district White House consumer specialist Esther Peterson, and following by leaving an FTC official also headed to my district without transportation after a runway accident.

Community leaders in Elmira who are expected to use this commuter to fill gaps left by the certificated carrier can do nothing to assure an upgrading of the uncertificated operator's dependability factor. While the CAB assumes that one carrier is equal to another regardless of size, service to Elmira is a very clear example of the fallacy of this assumption.

Passage of this legislation means that commuter airlines stand to inherit a windfall business with increased passenger loads. These greatly expanding lines, however, must take seriously the responsibility as well as the opportunity of their new positions.

I strongly endorse the principles behind this legislation: deregulation of a private industry and the encouragement of open market competition. My constituents, even with major problems with their commuter service from one operator, also endorse these principles. If such commuter airlines demonstrate that they will not live up to their responsibilities to provide safe and dependable service during this next year, however, I will return to the CAB and to this Congress to demand stricter oversight and controls on their operations.

As one community leader told me recently, airlines are not just another business. They are as vital to our well-being as telephones and other utilities. Where the livelihood of entire communities is at stake, we have every right to expect high standards of performance or the right to take steps to assure that the need is met.

I would like to offer articles headlined "Commuter Airlines Bumps Peterson," from the Post of September 19; and "Problems Mount for Washington Commuter Line" from the Post of September 21.

The articles follow:

[From the Washington Post, Sept. 21, 1978]

Problems Mount for Washington Commuter Line

(By Larry Kramer)

This just hasn't been Commuter Airline's week.

On Monday, if you remember, the airline inadvertently bumped White House consumer advocate Esther Peterson from a flight to Corning, N.Y., where she was scheduled to be the keynote speaker at the first annual convention of consumer "Action Line" reporters.

But then things got worse.

On Tuesday night, Gary Laden, who studies the problems of unexpected product risks for the Federal Trade Commission, and who was scheduled to be a featured speaker at the same convention yesterday, boarded Commuter's last night—Number 551—scheduled for Corning.

But 10 feet down the runway, the plane's nose gear collapsed, crashing the front end of the aircraft into the ground.

Laden never got to Corning.

"What REALLY bothered me," said Laden, "was the fact that they didn't do anything to help me find another flight, and there were no efforts made to accommodate any other passengers."

Laden said he first sensed problems when he got to the gate for the 6:15 p.m. flight at 7:30 p.m., and "no one was there to check us in."

"There was a sign saying that there would be a person there an hour before flight time," Laden said, "and there was also an "800" (toll free) number for people to call if no one was there."

Laden said when he called the "800" number he was told that sometimes the pilot of the arriving plane comes out, takes tickets, and checks passengers in.

"Sure enough," he said, "that's what happened. Only the flight was about half an hour late coming in."

And after the accident, in which none of the four passengers of the Navajo Piper was hurt, the pilot scurried to the back, opened the door and asked everyone to leave, Laden said.

After he discovered that the airline would do nothing to get him to his destination that night, Laden discovered that Commuter, because of its size, is virtually unregulated by the Civil Aeronautics Board, and is thus not required to compensate stranded passengers.

Commuter president Jerry Winston said, "it was the end of the day and our pilots were out of flying time. We asked the passengers involved to take our first flight the next day, and two of them did. The problem is we don't have enough equipment to handle all the people we have to."

Commuter's business soared when Allegheny Airlines dropped some unprofitable routes, including Washington to Corning, last summer.

But even though Commuter purchased two 50-seat Convairs from Allegheny, the Federal Aviation Administration has yet to certify the airline to fly the large planes. "We only have a total of 158 seats," Winston said. "We are flying with backup equipment now."

One of Commuter's biggest customers, and the now speakerless consumer conference sponsor, is Corning Glass Works, Inc. Corning's president, Thomas MacAvoy, called Commuter Airlines "a real problem from my standpoint. I only hope that Esther and Gary's problems help to focus attention on this, and the problems with deregulation when it causes cities to be served with small commuter airlines like this one.

He called Commuter's personnel, "barely civil. The company is just not responsive and it's difficult even to talk to them."

Commuter owner Winston disagrees: "I think we should be applauded. We try to do the best we can."

[From the Washington Post, Sept. 19, 1978]

Commuter Airlines Bumps Peterson

(By Larry Kramer)

Commuter Airlines has had more than its share of consumer complaints, but yesterday was a day company officials would like to run through again.

White House consumer affairs advocate Esther Peterson, the highest ranking consumer affairs official in the federal government, was bumped from a Commuter flight to Elmira, N.Y., from National Airport yesterday.

To make matters worse, Peterson was on her way, with an official of the Federal Trade Commission and a public relations adviser, to Corning, N.Y. for the first annual convention of "Action Line" consumer affairs reporters from more than 100 newspapers.

Peterson was scheduled to be the keynote speaker at last night's opening dinner.

Peterson was told there was no room for her on the 11:40 flight of Commuter's 16-seat Navajo Piper Chieftan to Elmira—even though she was at the gate twenty minutes before flight time.

"What really irked us," said Ira Furman, the FTC official, "was that two gentlemen came after we did, but got on the plane because they had something called guaranteed reservations—which was never mentioned to any of us." He and PR adviser Edie Fraser, who helped set up the program, were bumped.

At the last minute, however, a passenger with a guaranteed reservation nobly gave up his seat to allow Peterson to get to her conference on time.

Several years ago, consumer advocate Ralph Nader won damages in a court case against an airline that bumped him from a flight despite his confirmed reservation. Because of Nader's suit, the airlines are required to post warnings that they deliberately overbook passengers to compensate for no-shows.

But Civil Aeronautics Board spokesman Howard Schmeltzer said that Commuter is a small enough airline not to be governed by that rule.

Schmeltzer did point out, however, that the CAB had 21 complaints about Commuter's service last year which, when considering the total number of passengers flying, proved to be five times the industry average for complaints.

For its part, Commuter, a Binghamton, N.Y.-based airline, said that Peterson wasn't really bumped at all. Commuter spokesman Marc Winston said that there were really supposed to be two aircraft there to make the Elmira run, but one experienced mechanical troubles.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from New York.

Mr. McHUGH. Mr. Chairman, I thank the gentleman for yielding.

If I may, I would like very much to respond briefly to a few of the points which the gentleman from Kentucky (Mr. SNYDER) made, because I think he has misread this amendment.

The gentleman has suggested that somehow this amendment would impose a great administrative burden on the CAB, and that we would be unreasonably interposing the CAB into the marketplace. I do not think there is a person in the country who is any more interested in deregulation of the airline industry and withdrawal of the CAB from the market than the chairman of the CAB, Mr. Kahn. As I pointed out in my remarks, Mr. Kahn supports this amendment and does not believe that it would impose any unreasonable administrative burden.

The gentleman from Kentucky (Mr. SNYDER) talked of 500 airports across the country. The fact is there are 417 cities which are now receiving certificated service and would be affected by this amendment. However, there are only 207 of those that are small enough that we really have to be concerned with. And as a matter of fact, many of those cities are now being considered and reviewed by the CAB.

Therefore, there is no administrative burden here that the CAB cannot handle.

Second, the gentleman from Kentucky has cited some of the factors in my amendment which relate to quality of service. This amendment would not mandate that every commuter airline provide that standard of service. We simply say that the CAB should take these factors into account when defining "essential air transportation" for a community.

Let me give one example. One of the

items on our list is pressurized or other special equipment. We do not expect commuter airlines to provide pressurized equipment in every case. That would be unreasonable. However, if a commuter airline were providing service in a mountainous region, it may be necessary for reasons of safety and comfort to provide pressurized cabins. We only ask that the CAB take that into account when guaranteeing service to such communities.

Mr. Chairman, I hope the committee does not take too seriously some of the objections which the gentleman from Kentucky raised, because my amendment would not do the things he suggested.

Mr. LUNDINE. I thank the sponsor of the amendment for his comments.

Mr. BALDUS. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from Wisconsin.

Mr. BALDUS. I thank the gentleman for yielding, and I want to commend the author of this amendment.

Mr. Chairman, I want to support the amendment very strongly. There are small communities in my area which I think are very concerned about the whole idea of deregulation, because they are the ones which are most vulnerable. It is not just the people of the cities but the businessmen in those cities who are very concerned. I think this would go a long way toward responding to that concern and also making it reasonable, should the event come up, where a termination of service takes place.

Mr. BAUCUS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. BAUCUS. Mr. Chairman, I support the McHugh amendment to the Air Service Improvement Act. The McHugh amendment is a useful step toward insuring adequate service for our small communities.

In the past, I have strongly opposed airline deregulation due to the potential loss of service to small communities such as the towns in Montana I represent. The bill we are considering today includes some safeguards for communities. But I do not believe it provides adequate safeguards for our Montana service.

Representative McHugh's amendment goes a long way toward making this bill more palatable for rural communities. As the bill is written, communities will be assured "essential air transportation" which means two flights a day or the 1977 level of service, whichever is smaller. That is not enough.

The McHugh amendment would expand the definition of essential service to consider the special needs of low population areas.

Mr. Speaker, I would like to submit for the Record some amendments to the Air Service Improvement Act that were suggested by the National Association of Counties and other members of the Small Communities Air Service Committee.

While I will not introduce these amendments formally, I would hope that the soon-to-be-appointed conferees will keep them in mind during their negotiations with the Senate.

These amendments offer a strong small communities program. They would help insure that these communities would receive adequate service by certified carriers and be recognized as full participants in our national air system.

No one can predict the final impacts of this airline deregulation bill. There may be significant benefits: Montanans traveling nationally and internationally may profit from lower fares, and commuter airline service might expand. Easier entry provisions could help new airlines enter our State.

But on balance, the dangers of this bill outweigh the benefits. Reluctantly, I will vote against final passage of H.R. 12611.

Recommended Amendments to the Air Service Improvement Act of 1978

Section 1. The title of Section 419 is amended to read as follows:

SMALL COMMUNITY AIR SERVICES

Sec. 2. Section 419(a)(1) is amended to read as follows:

Until, at least January 1, 1989, the Board shall insure the provision of essential air transportation at all points in the United States currently included in a certificate issued to a carrier, by, if necessary, financial assistance to an eligible air carrier. Eligible carriers are those which the Board shall certificate without hearing for a period of not less than seven years, upon a finding of fitness and ability. Such certificates shall only permit the use of aircraft having a seating capacity of 36 passengers or less and a maximum certificated gross takeoff weight of 40,000 pounds or less, and such certificate shall specify geographic limitations and may include relief from such other Sections of this title as determined by the Board.

Sec. 3. Section 419(a)(2) is amended to read as follows:

By January 1, 1980, the Board shall establish rules which provide for financial assistance for small community air services at points in the United States not included in subsection (1), and to determine the eligibility of all points after January 1, 1989. Criteria for such determinations shall include, but are not limited to: (A) Need for Economic Development, (B) Isolation and desirability to connect small communities to the National Air Transportation System by air, (C) Degree of local and community assistance, and (D) Fuel conservation. In the rulemaking, the Board shall solicit and respond to the comments of state, local and regional civic bodies.

Sec. 4. Subsection (3) is amended to read as follows:

Essential air transportation is the provision of certificated service with appropriate aircraft providing two or more, reasonably scheduled daily roundtrips, a minimum of 5 days per week.

Sec. 5. Section 419(b) "PROCEDURES" is amended to read as follows:

(1) Carrier Selection. In selecting eligible applicants for financial assistance the Board shall consider, at least, the following:

(A) the connecting of a number of small communities in a region into a system served by one or more carriers;

(B) State, local and regional requirements, including coordination between State, local, regional authorities and the Board;

(C) service quality;

(D) cost;

(E) experience of the operator; and

(F) potential for quality service without financial assistance.

In determining (B) the Board shall solicit the participation of such civic parties, and if the Board makes findings contrary to such views it shall detail the reasons therefor.

(2) The minimum term for the guarantee of financial assistance shall be seven years. During that term, the Board shall, with civic participation, periodically review the carrier's performance, including the carrier's progress to service without financial assistance, and whether the carrier is meeting local needs. If the carrier's performance is unsatisfactory the Board shall give the carrier 90 days to correct any deficiencies, before the Board may institute a proceeding, under this Section, to replace the carrier.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, under this amendment, conceivably, you could have one of the largest airlines serving a particular community and because of the economic situation it desired to terminate its service, but under this amendment that service could not be terminated until such time as a replacement had been found. In the meantime, the CAB could order that airline, it being a trunk carrier, a large airline to continue to serve that particular community even though it was serving the community at a loss. In that event, the Federal Government would be required to compensate that air carrier for the loss it sustained.

Now, that immediately raises a question of who is going to look for any replacement service. In the first place, unless we get into the approach that is used in the bill, where there is a smaller airline or a commuter airline which could be reasonably subsidized to provide service for that area, there is no incentive, no incentive whatsoever, for the airline itself to look for a replacement, because it is going to be compensated for making this service. There is no incentive for the community to go out and look for a replacement because they have an airline which the Federal Government is compensating to serve that area. So this subsidy will run ad infinitum, until it expires according to the language of the amendment for at least for 10 years. But nowhere have we been able to find out what this particular amendment would cost the U.S. Treasury because we do not know how many of these cities which are now getting service would lose service. An airline would terminate service, and we do not know how much the Federal Government is going to have to subsidize until a replacement service actually comes in.

We are dealing with an amendment which conceivably could cost the Federal Treasury and the taxpayers of the United States millions and million of dollars to subsidize and continue at a loss the existing service in that area, and without any incentive to try to replace it with more efficient and economical service.

Mr. Chairman, I urge the defeat of the amendment.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I will be happy to yield to the gentleman from New York.

Mr. McHUGH. Mr. Chairman, I appreciate the gentleman yielding. Please bear in mind that this provision would come into play only if the carrier seeking to reduce service to a community would thereby deprive the community of essential air transportation.

Mr. HARSHA. It applies in every case an airline wants to cease service in an area.

Mr. McHUGH. The gentleman raises a theoretically possible situation. There is no question about it. It is possible that if a large carrier wanted to leave, and by so doing would deprive a community of essential air transportation, the Board would hold it in; and if the carrier were losing money it could apply to the CAB for compensation after 90 days. The whole theory of the legislation, however, is that commuter airlines will, over a period of time, be growing to the point where they will replace and will want to replace these larger carriers.

Thus, the hope and belief of the legislation is that there will not be any lengthy period of broken service. What this amendment is trying to do is to assure that there will be no break in essential air transportation. We do not know how much the compensation for commuter airlines, which is now in the bill, will cost. We do not know.

Mr. HARSHA. We know now because we know what those subsidies are right now. The CAB can give the gentleman that information, but under his definition of what essential service is, he is not going to be satisfied with a commuter coming in there and replacing a trunk carrier.

Mr. McHUGH. That is not true.

Mr. HARSHA. Because he is not going to have all these things he defines as criteria to be taken into consideration with a commuter.

Mr. McHUGH. Apparently the gentleman did not hear what I said before. What I said before is that I fully expect commuter airlines to be replacing these certificated air carriers in many communities. That is a fact of life in the industry. What I am saying is, in defining essential air transportation, we want the Board to take into consideration—not mandate—take into consideration some standards affecting quality of service. We are not telling the Board that it has to require a commuter air carrier to provide all those things.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. Harsha was allowed to proceed for 1 additional minute.)

Mr. HARSHA. Under the gentleman's amendment, he would not have to accept the commuter replacement if it did not meet all of those criteria or was not a comparable service to what the trunk carrier was providing.

Mr. McHUGH. That is not what my amendment says. It says that when the Board defines essential air transportation, it should take into account some of those items which relate to quality of service. It does not require the Board to say that the replacement service has to provide all these things.

Mr. HARSHA. The problem is, some of the commuter services do not have pressurized equipment. Some do not have advance reservations for passengers. Some do not even have baggage handling, but unless they do have that, under the gentleman's amendment they do not have to accept them.

Mr. McHUGH. That is not true. My amendment simply says that when the Board defines essential air transportation, it should at least consider these things.

Mr. HARSHA. Does the gentleman mean, then, that it is not true that some commuters do not have pressurized equipment, some do not have advance reservations? I am afraid it is true.

Mr. Chairman, I urge defeat of the amendment.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

I thank the Chairman for recognizing the gentleman from Georgia, and I take this time to pursue, if I may, with the gentleman from New York the problem that I think is concerning our colleague from Ohio.

The whole thrust of the bill which the committee reported is to provide service to those communities which are today receiving service, but where it is no longer economically feasible to provide the type of service—size of aircraft, nature of aircraft—to move into a less-costly-to-the-taxpayer commuter-type system.

I think what concerns the gentleman from Ohio is that it seems to be implied it has to be really identical service that is presently being received in terms of reservations, in terms of the type of aircraft, and in terms of baggage handling, and the like.

Am I correct in believing that the gentleman from New York does not really intend that to be the case but is simply saying that when the CAB is looking for a commuter or other carrier to come in and take the place of the trunk carrier, that they ought to consider the qualities of the service but would not be required to replace with identical levels of service?

Mr. McHUGH. The gentleman has stated it very well. Yes; that is correct.

Mr. LEVITAS. I thank the gentleman.

● Mr. UDALL. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York. For over 3 years, as I mentioned earlier, the Arizona Congressional Delegation, the Four Corners Regional Commission, the State of Arizona and many towns and countries in our State have appeared before the Civil Aeronautics Board in an effort to secure adequate air service to our small communities.

This amendment partially addresses some of my concerns about strengthening the small communities provisions of H.R. 12611 in order to fulfill the bill's own policy statement which calls for "the maintenance of a comprehensive and convenient system of continuous scheduled airline service for small communities and for isolated areas, with direct Federal assistance where appropriate."

I urge the adoption of this amendment, but I would like to go even further. I believe the Senate bill contains a far more comprehensive system of small community air service, and I would hope that committee members who are appointed to the conference committee will carefully consider accepting the Senate's provisions for small communities.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. McHugh).

The question was taken; and the Chairman being in doubt, the committee divided, and there were—ayes 29, noes 15.

So the amendment was agreed to.

The CHAIRMAN. There being no further amendments to section 23, the Clerk will read.

The Clerk read as follows:

PRESIDENTIAL REVIEW OF INTERNATIONAL ROUTE CASES

SEC. 24. Section 801(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1461(a)) is amended to read as follows:

"THE PRESIDENT OF THE UNITED STATES

"(a) The issuance, denial, transfer, amendment, cancellation, suspension, or revocation of, and the terms, conditions, and limitations contained in, any certificate authorizing an air carrier to engage in foreign air transportation, or any permit issuable to any foreign air carrier under section 402 of this Act, shall be presented to the President for review. The President shall have the right to disapprove any such Board action concerning such certificates or permits solely upon the basis of foreign relations or national defense considerations which are within the President's jurisdiction, but not upon the basis of economic or carrier selection considerations. Any such disapproval shall be issued in a public document, setting forth the reasons for the disapproval to the extent national security permits, within sixty days after submission of the Board's action to the President. Any such Board action so disapproved shall be null and void. Any such Board action not disapproved within the foregoing time limits shall take effect as action of the Board, not the President, and as such shall be subject to judicial review as provided in section 1006 of this Act."

ASSESSMENT OF CIVIL PENALTIES

SEC. 25. (a) Paragraph (1) of subsection (a) of section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471) is amended by inserting after the fourth sentence thereof the following new sentences: "The amount of any such civil penalty for any violation of any provision of title IV, or any rule, regulation, or order issued thereunder, or under section 1002(i), or any term, condition, or limitation of any permit or certificate issued under title IV shall be assessed by the Board only after notice and an opportunity for a hearing and after written notice upon a finding of violation by the Board. Judicial review of any order of the Board assessing such a penalty may be obtained only pursuant to section 1006 of this Act.".

(b) Paragraph (2) of subsection (a) of such section 901 is amended to read as follows:

"(2) Any civil penalty may be compromised by the Secretary of Transportation in the case of violations of title III, V, VI, or XII, or any rule, regulation or order issued thereunder, or by the National Transportation Safety Board in the case of violations of title VII, or any rule, regulation, or order issued thereunder, or by the Postmaster General in the case of regulations issued by him. The amount of such penalty when finally determined, or fixed by order of the Board, or the amount agreed upon in compromise, may be deducted from any sums which the United States owes to the person charged.".

PROCEDURES FOR CIVIL PENALTIES

SEC. 26. (a) The first sentence of subsection (b)(1) of section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473(b)(1)) is amended by inserting "or assessed" immediately after "imposed".

(b) The second sentence of subsection (b)(1) of such section 903 is amended by inserting "with respect to proceedings involving penalties other than those assessed by the Board," immediately after "except that".

RATES

SEC. 27. (a) Subsection (d) of section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482(d)) is amended—

(1) in paragraph (1), by inserting "or (4)" immediately after "paragraph (2)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) The Board shall not have authority to find any rate, fare, or charge for interstate or overseas air transportation of persons to be unjust or unreasonable on the basis that such rate, fare, or charge is too low or too high if—

"(A) with respect to any proposed increase filed with the Board on or after the date of enactment of any law by the Congress which provides a procedure pursuant to which air carriers may obtain authority to provide air transportation without a determination by the Board whether such authority is consistent with, or required by, the public convenience and necessity and which is enacted after the date on which the Board submits a report to the Congress on the study required to be carried out pursuant to section 401(d)(7)(D) of this Act, such proposed rate, fare, or charge would not be more than 5 per centum higher than the rate, fare, or charge in effect one year prior to the proposed effective date of the rate, fare, or charge under consideration for the same class of service of such transportation, except that this provision shall not apply to any proposed increase in any rate, fare, or charge filed by any air carrier if such proposed rate, fare, or charge is for air transportation between any pair of points and such air carrier provides air transportation to 90 per centum or more of the persons traveling in air transportation between such points on aircraft operated by air carriers with certificates issued under section 401 of this Act;

"(B) with respect to any proposed decrease filed within one year after the date of enactment of this paragraph, the proposed rate, fare, or charge would not be more than 25 per centum lower than the lowest rate, fare, or charge in effect on such date of enactment for coach service between the same pair of points; or

"(C) with respect to any proposed decrease filed after the last day of the first year which begins on the date of the enactment of this paragraph, such proposed rate, fare, or charge would not be more than 50 per centum lower than the lower rate, fare, or charge in effect on the date of enactment of this paragraph for coach service between the same pair of points, except that this provision shall not apply to any proposed decrease in any rate, fare, or charge if the Board determines that such proposed rate, fare, or charge would be predatory.

If any air carrier reduces any rate, fare, or charge for interstate or overseas air transportation of persons pursuant to subparagraph (B) or (C) of this paragraph, such air carrier may increase such reduced rate, fare, or charge up to any rate, fare, or charge which is no greater than the rate, fare, or charge in effect prior to the first such reduction, and the Board shall not have authority to find such increased rate, fare, or charge to be unjust or unreasonable on the basis that such increase is too high.".

(b) Subsection (e) of such section 1002 is amended to read as follows:

"RULE OF RATEMAKING

"(e) In exercising and performing its power and duties with respect to determining rates described in paragraph (1) of subsection (d) of this section, the Board shall take into consideration, among other factors—

"(1) the criteria set forth in section 102 of this Act;

"(2) the need for adequate and efficient transportation of persons and property at the lowest cost consistent with the furnishing of such service;

"(3) the effect of prices upon the movement of traffic;

"(4) the desirability of a variety of price and service options such as peak and offpeak pricing or other pricing mechanisms to improve economic efficiency and provide low-cost air service; and

"(5) the desirability of allowing an air carrier to determine prices in response to particular competitive market conditions on the basis of such air carrier's individual cost.".

(c)(1) Whenever the Board pursuant to its authority under section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482) prescribes a uniform method generally applicable to the establishment of joint fares, and the divisions thereof, between air carriers holding certificates issued under section 401 of such Act, it shall make such uniform method applicable to the establishment of joint fares, and the divisions thereof, between such air carriers and commuter air carriers. Any commuter air carrier which has an agreement with any air carrier to provide service for persons and property which includes transportation over its routes and transportation by such air carrier in air transportation shall provide at least ninety days notice to such air carrier and to the Board prior to modifying, suspending, or terminating such service, and if such commuter air carrier fails to provide such notice, any uniform method made applicable to the establishment of joint fares, and the divisions thereof, between air carriers and commuter air carriers in accordance with the preceding sentence shall not apply to such commuter air carrier.

(2) For purposes of this subsection—

(A) the terms "air carrier" and "Board" have the meanings given such terms in the Federal Aviation Act of 1958; and

(B) the term "commuter air carrier" means any air carrier operating pursuant to section 416(b)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1386) who operates at least five round trips per week between one pair of points, pursuant to flight schedules.

(3) Paragraph (1) of this subsection shall apply to any uniform method described in such paragraph which the Board prescribes on or after December 27, 1974.

TIME REQUIREMENTS

SEC. 28. (a) Title X of the Federal Aviation Act of 1958 (49 U.S.C. 1481 et seq.) is amended by adding at the end thereof the following new section:

"TIME REQUIREMENTS

"SEC. 1010. In the case of any application or other written document submitted to the Board under section 408, 409, 412, or 416 of this Act on or after the one-hundred-eightieth day after the date of enactment of this section, the Board shall—

"(1) if the Board orders an evidentiary hearing, issue a final order or decision with respect to such written document, not later than the last day of the twelfth month which begins after the submission of such document, except in the case of an application submitted under section 408 the Board shall issue its final order or decision not later than the last day of the sixth month after submission; or

"(2) if the Board does not order an evidentiary hearing, issue a final order or decision with respect to such document, not later than the last day of the sixth month which begins after the date of the submission of such document.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading.

"TITLE X—PROCEDURE"

is amended by adding at the end thereof "Sec. 1010. Time requirements.".

WITHHOLDING OF INFORMATION

SEC. 29. Section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504) is amended to read as follows:

"WITHHOLDING OF INFORMATION

"SEC. 1104. Notwithstanding any other provision of law, any person may make written objection to the public disclosure of information contained in any application, report, or document filed pursuant to provisions of this Act or of any information obtained by the Board, the Secretary of State, or the Secretary of Transportation pursuant to the provisions of this Act stating the grounds for such objection. Any information contained in such application, report, or document, or any such other information obtained by the Board, the Secretary of State, or the Secretary of Transportation, shall be withheld from public disclosure by the Board, the Secretary of State, or the Secretary of Transportation, as the case may be, if such information is exempted from disclosure, or if disclosure of such information would prejudice the formulation and presentation of positions of the United States in international negotiations and adversely affect the competitive position of any air carrier in foreign air transportation. The Board, the Secretary of State, or the Secretary of Transportation, as the case may be, shall be responsible for classified information in accordance with appropriate law, except that nothing in this section shall authorize the withholding of information by the Board, the Secretary of State, or the Secretary of Transportation from the duly authorized committees of Congress.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that sections 24 through 29 be considered as read and open to amendment at any point. I am informed that there are not any amendments at the desk to these sections.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

GOVERNMENT GUARANTEE OF EQUIPMENT LOANS

SEC. 30. (a)(1) The first sentence of the Act entitled "An Act to provide for Government guarantee of private loans of certain air carriers for purchase of modern aircraft and equipment, to foster the development and use of modern transport aircraft by such carriers, and for other purposes", approved September 7, 1957 (49 U.S.C. 1324 note) (hereinafter in this section referred to as the "Act"), is amended by striking out "and short-haul air transportation" and inserting in lieu thereof "short-haul, and supplemental air transportation".

(2) The second sentence of the first section of the Act is amended by inserting "and commuter air carriers" immediately after "air carriers".

(b) Section 2 of the Act is amended to read as follows:

"SEC. 2. As used in this Act—

"(1) 'aircraft purchase loan' means any loan, or commitment in connection therewith, made for the purchase of commercial transport aircraft, including spare parts normally associated therewith;

"(2) 'air carrier' means any air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371);

"(3) 'commuter air carrier' means any air carrier operating pursuant to section 416(b)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)(3)) who operates at least five round trip flights per week between one pair of points in accordance with published flight schedules;

"(4) 'supplemental air transportation' has the meaning given such term in section 101(37) of the Federal Aviation Act of 1958; and

"(5) 'Secretary' means the Secretary of Transportation.".

(c) Section 3 of the Act is amended to read as follows:

"Sec. 3. The Secretary is authorized to guarantee any lender against loss of principal or interest on any aircraft purchase loan made by such lender to—

"(1) any commuter air carrier, or

"(2) any air carrier whose certificate (A) authorizes such air carrier to provide local or feeder air service, (B) authorizes such air carrier to provide supplemental air transportation, (C) authorizes operations only within the State of Hawaii, (D) authorizes operations (the major portion of which is conducted either within Alaska or between Alaska and the forty-eight contiguous States), within the State of Alaska (including service between Alaska and the forty-eight contiguous States, and between Alaska and adjacent Canadian territory), or (E) authorizes metropolitan helicopter service. Such guarantee shall be made in such form, on such terms and conditions, and pursuant to such regulations, as the Secretary deems necessary and which are not inconsistent with the provisions of this Act.".

(d)(1) Section 4(c) of the Act is amended by striking out "10" and inserting in lieu thereof "15".

(2) Section 4(d) of the Act is amended by striking out "the same carrier, or corporate predecessor carrier or carriers, guaranteed and outstanding under the terms of this Act, exceed $30,000,000." and inserting in lieu thereof "the same air carrier or commuter air carrier, or corporate predecessor of such air carrier or commuter air carrier guaranteed and outstanding under the terms of this Act, exceed $75,000,000.".

(3) Section 4(e) of the Act is amended by inserting "or commuter air carrier" immediately after "air carrier".

(4) Section 4(f) of the Act is amended by inserting "or commuter air carrier" immediately after "air carrier".

(5) Section 4(g) of the Act is amended to read as follows:

"(g) Unless the Secretary finds that the prospective earning power—

"(1) of the applicant air carrier, together with the character and value of the security pledged, furnish (A) reasonable assurances of the applicant's ability to repay the loan within the time fixed therefor, and (B) reasonable protection to the United States; and

"(2) of the applicant commuter air carrier, together with the character and value of the security pledged, furnish (A) reasonable assurances of the applicant's ability and intention (i) to repay the loan within the time fixed therefor, (ii) to continue its operations as a commuter air carrier, and (iii) to the extent found necessary by the Secretary, to continue its operations as a commuter air carrier between the same route or routes being operated by such applicant at the time of the loan guarantee, and (B) reasonable protection to the United States.".

(6) Section 4 of the Act is amended by adding at the end thereof the following new paragraph:

"(h) On any loan or combination of loans for the purchase of any new turbojet-powered aircraft which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator of the Federal Aviation Administration (14 C.F.R. part 36), as such regulations were in effect on January 1, 1977.".

(e) Section 8 of the Act is amended to read as follows:

"Sec. 8. The authority of the Secretary under section 3 of this Act shall terminate five years after the date of enactment of this section.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 30 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. ANDERSON OF CALIFORNIA

Mr. ANDERSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Anderson of California: Page 127, strike out line 24, and insert in lieu thereof the following:

Act is amended by inserting ", commuter air carriers, and intrastate air carriers".

Page 128, after line 16, insert the following:

"(4) 'intrastate air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage primarily in intrastate air transportation (as such term is defined in section 101(24) of the Federal Aviation Act of 1958);

Page 128, line 17, strike out "(4)" and insert in lieu thereof "(5)".

Page 128, line 20, strike out "(5)" and insert in lieu thereof "(6)".

Page 129, line 1, strike out "or".

Page 129, line 13, strike out the period and insert in lieu thereof ", or".

Page 129, after line 13, insert the following:

"(3) any intrastate air carrier.

Page 129, line 24, strike out "or commuter air carrier" and insert in lieu thereof ", commuter air carrier, or intrastate air carrier".

Page 130, line 1, strike out "or commuter air carrier" and insert in lieu thereof, "commuter air carrier, or intrastate air carrier".

Page 130, lines 5 and 7, strike out "or commuter air carrier" each place it appears and insert in lieu thereof ", commuter air carrier, or intrastate air carrier" in each such place.

Page 130, line 17, insert "or intrastate air carrier" after "commuter air carrier".

Page 130, line 22, insert "or intrastate air carrier" after "commuter air carrier".

Page 130, line 24, insert "or intrastate air carrier" after "commuter air carrier".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ANDERSON of California. Mr. Chairman, this amendment would add a small group of carriers to the aircraft purchase loan guarantee program of H.R. 12611. This amendment has been known as the Pepper amendment, but Congressman Pepper could not be here today, so he asked me to handle it for him. The loan guarantee program has been in effect for 20 years and his been highly successful. The program has enabled local service carriers to purchase aircraft needed to serve small communities. There have been no defaults of the guaranteed loans and the loan guarantee fees received by the Government have exceeded the expenses of the program.

H.R. 12611 adds to the program commuter carriers, who are now providing a substantial volume of small communities air service, and supplemental air carriers.

My amendment makes large intrastate air carriers such as PSA, Southwest Airlines, and Air Florida eligible for the program. Intrastate carriers are comparable in size to carriers who are eligible for the loan guarantee program. The intrastate carriers pioneered in low fare air service which only recently has been offered by the interstate carriers. In addition, the intrastate carriers serve a number of small and medium sized communities. Adding these carriers to the loan guarantee program will enable them to provide better service to the traveling public.

I urge adoption of this amendment.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, as far as the minority is concerned, we accept the amendment.

Mr. ANDERSON of California. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Anderson).

The amendment was agreed to.

The CHAIRMAN. There being no further amendments to section 30, the Clerk will read.

The Clerk read as follows:

SUNSET PROVISIONS

Sec. 31. (a) The Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new title:

"TITLE XVI—SUNSET PROVISIONS

"Termination of Civil Aeronautics Board and Transfer of Certain Functions

"TERMINATION OF AUTHORITY

"Sec. 1601. (a) Any authority of the Board set forth in this Act shall cease to be in effect on December 31, 1982.

"TRANSFER OF CERTAIN AUTHORITY

"(b)(1) The following authority of the Board is transferred to the following Federal departments:

"(A) The authority of the Board under sections 406 and 419 of this Act is transferred to the Department of Transportation.

"(B) The authority of the Board under this Act with respect to foreign air transportation is transferred to the Department of Transportation which shall exercise such authority in consultation with the Department of State.

"(C) The authority of the Board under sections 408 and 412 of this Act is transferred to the Department of Justice.

"(D) The authority of the Board under this Act with respect to the negotiation of the rates for the carriage of mail is transferred to the Postal Service.

"(2) Any authority transferred under paragraph (1) of this subsection shall take effect on December 31, 1982.

"REPORT AND ASSESSMENT BY BOARD

"(c) Not later than December 31, 1981, the Board shall prepare and submit to the Congress a comprehensive review of the Board's implementation of the provisions of this Act during the preceding initial period of this Act's existence, and a comprehensive review of each of the Board's programs under this Act. Each such review shall be made available to the committee or committees of the Senate and House of Representatives having jurisdiction with respect to the annual authorization of funds for the Board and its programs for the fiscal year beginning October 1, 1981.

"ELEMENTS FOR BOARD CONSIDERATION

"(d) The comprehensive review of the Board's implementation of this Act, prepared for submission under subsection (c), shall include—

"(1) a detailed comparison of the degree of competition within the airline industry as of the year preceding enactment of this section and the final year covered by the review;

"(2) a comparison of the degree of pricing competition in the industry during those two one-year periods;

"(3) a comparison of the extent of unused authority held by the industry during those two one-year periods, with details as to the number of nonstop route segments which have been transferred from one carrier to another under section 401(d)(5) of this Act;

"(4) an assessment of the degree to which agreements approved under section 412 of this Act have affirmatively or negatively affected the degree of competition within the industry;

"(5) a comparison of the extent of air transportation service provided to small communities during the two one-year periods specified above, together with details as to the comparative subsidy costs during these two periods;

"(6) an assessment of the degree, if any, to which the administrative process has been expedited under this Act;

"(7) an assessment of the impact of the foregoing changes upon the national air transportation system in terms of benefits or detriments to the traveling and shipping public, the Postal Service and the national defense, and the benefits and detriments to air carriers, certificated and uncertificated; and

"(8) the Board's opinion as to whether the foregoing changes in combination, have improved or harmed this Nation's domestic air transportation system and the United States-flag foreign air transportation system.

This assessment shall be accompanied by a detailed opinion from the Board as to whether the public interest requires continuation of the Board and its functions beyond December 31, 1982, and, if it is the Board's conclusion that it should continue to exist, detailed recommendations as to how the provisions of this Act should be revised to insure continued improvement of the Nation's air transportation system beyond December 31, 1982. The Board's assessment under this subsection shall also be accompanied by a comparative analysis of procedures under section 801 of this Act before and after the date of enactment of the Air Service Improvement Act of 1978, together with the Board's opinion as to the benefits of each set of procedures.

"ELEMENTS FOR EACH COMPREHENSIVE REVIEW

"(e) Each comprehensive review of the Board's programs under this Act, prepared for submission under subsection (c) of this section, shall include—

"(1) an identification of the objectives intended for the program, and the problem or need which the program was intended to address;

"(2) an identification of any other programs having similar or potentially conflicting or duplicative objectives;

"(3) an assessment of alternative methods of achieving the purposes of the program;

"(4) a justification for the authorization of new budget authority, and an explanation of the manner in which it conforms to and integrates with other efforts;

"(5) an assessment of the degree to which the original objectives of the program have been achieved, expressed in terms of the performance, impact, or accomplishments of the program and of the problem or need which it was intended to address, and employing the procedures or methods of analysis appropriate to the type or character of the program;

"(6) a statement of the performance and accomplishments of the program in each of the previous four completed fiscal years and in the year of submission, and of the budgetary costs incurred in the operation of the program;

"(7) a statement of the number and types of beneficiaries or persons or entities served by the program;

"(8) an assessment of the effect of the program on the national economy, including, but not limited to, the effects on competition, economic stability, employment, unemployment productivity, energy consumption and conservation, and price inflation, including costs to consumers and to businesses;

"(9) an assessment of the impact of the program on the Nation's health and safety;

"(10) an assessment of the degree to which the overall administration of the program, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the officers executing the program are believed to meet the objectives of the Congress in enacting this Act;

"(11) a projection of the anticipated needs for accomplishing the objectives of the program, including an estimate if applicable of the date on which, and the conditions under which, the program may fulfill such objectives;

"(12) an analysis of the services which could be provided and performance which could be achieved if the program were contained at a level less than, equal to, or greater than the existing level; and

"(13) recommendations for necessary transitional requirements in the event that funding for such program is discontinued, including proposals for such executive or legislative action as may be necessary to prevent such discontinuation from being unduly disruptive.".

(b) That portion of the table of contents contained in the first section of such Act is amended by inserting at the end thereof

"TITLE XVI—SUNSET PROVISIONS

"Sec. 1601. Termination of Civil Aeronautics Board and transfer of certain functions.

"(a) Termination of authority.
"(b) Transfer of certain authority.
"(c) Report and assessment by Board.
"(d) Elements for Board consideration.
"(e) Elements for each comprehensive review.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 31 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. There being no amendments to section 31, the Clerk will read.

The Clerk read as follows:

LABOR PROTECTION

SEC. 32. No authority granted by this Act, or by any amendment made by this Act, shall be exercised by any carrier unless prior to each such exercise, the Secretary of Labor has certified to the Civil Aeronautics Board that the interests of the employees who may be affected thereby have been adequately protected by fair and equitable arrangements providing levels of protection no less beneficial to and protective of such interests than those established pursuant to section 5(2)(f) of the Interstate Commerce Act and section 405 of the Rail Passenger Act, as such sections are in existence on the date of enactment of this section or are hereafter amended, except that the carrier-employer of the affected employees shall be responsible for the application of the protective arrangements to such employees and shall be reimbursed by the Secretary of the Treasury for the cost of such application. There is hereby established in the Treasury of the United States a separate account to be known as the "Airlines Employees' Protective Account". Funds in such account shall be available to the Secretary of the Treasury to make reimbursements pursuant to this section. There is authorized to be appropriated to such account annually such funds as may be required to meet the obligations thereunder.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 32 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. SNYDER

Mr. SNYDER. Mr. Chairman, I offer an amendment that has been made in order under the rule.

The Clerk read as follows:

Amendment offered by Mr. SNYDER: Page 138, after line 18, insert the following new section:

COLLECTION OF FEES, CHARGES, AND PRICES

SEC. 33. Notwithstanding any other provision of law, neither the Secretary of Transportation nor the Administrator of the Federal Aviation Administration shall collect any fee, charge, or price for any approval, test, authorization, certificate, permit, registration, conveyance, or rating relating to any aspect of aviation (1) which is in excess of the fee, charge, or price for such approval, test, authorization, certificate, permit, registration, conveyance, or rating which was in effect on January 1, 1973, or (2) which did not exist on January 1, 1973, until all such fees, charges, and prices are reviewed and approved by Congress.

Renumber the succeeding section of the bill accordingly.

Mr. SNYDER (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. SNYDER. Mr. Chairman, the amendment I offer would prohibit the Secretary of Transportation or the Administrator of the Federal Aviation Administration from imposing so-called "administrative user charges" for certificates and examinations which are issued and administered by the FAA without congressional approval. Those fees in effect on January 1, 1973, would not be affected by the amendment and would stay at the same level.

The FAA's most current proposed rules on these user fees was published April 20, 1978. The legal basis that the FAA uses for these fees is title V of the Independent Offices Appropriation Act of 1952. In determining the fee for each category, the projected fiscal year 1979 costs of administering the program were divided by the estimated number of registrations and certificates to be issued. Also, the fees would be revised yearly to cover additional administrative costs including salary increases.

I would point out that the result was a series of exorbitant fees ranging from $10 to $354. It should also be noted that legal authority cited by the FAA in imposing these fees requires that the agency "be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts * * *"

Certainly, the methodology the FAA used in arriving at the proposed fees did not take all of these factors into account.

FAA regulations concerning registration and certification are intended to protect the public more than they are designed to benefit the pilot, mechanic, or whatever; thus, they have a substantial public benefit which FAA fails to recognize in its zeal to impose user charges.

The proposal also states that they will propose fees for other FAA services; for example, fees for airway use. Are we to find a fee every time we use a control tower to land and take off, call for a weather briefing, or check with center for enroute information. Is the FAA briefer or flight inspector going to be equipped with a coin changer, same as a bus driver, or carnival barker so he can be sure the pilot pays his fee. How much is it going to cost to "bond" all the FAA people involved? or, are we going to be billed monthly using the social security number the FAA started putting on pilot certificates a few years back, and be denied landing after a flight because we are in arrears or the computer is messed up.

The Aviation Subcommittee of the Public Works and Transportation Committee has held hearings on the proposed schedule of user charges which FAA proposed to levy earlier this year. These would not be merely token fees—but, rather, FAA contemplates the recovery of all associated costs of administering pilot certification and examination. Many of us believe the FAA estimates of these costs—well over $20 million per year—to be considerably higher than the actual costs which would be incurred.

In any case, Mr. Chairman, I contend that these are nothing more than regressive excise taxes levied on the aviation community by the executive branch—without congressional authority. Not only would they retard the growth of aviation, but they would derogate aviation safety by inviting evasion of FAA regulations and requirements which involve these fees.

Mr. Chairman, the House Appropriations Committee has included a yearly prohibition against the imposition of such user charges in each of the past five or six Department of Transportation appropriations bills. Such a prohibition is included in the DOT appropriation bill for fiscal year 1979, but the Appropriations Committee correctly suggests that the issue should be taken up by the appropriate legislative committee, which is public Works and Transportation.

Mr. Chairman, we must not allow the FAA to impose this kind of monetary constraint on the flying community, possibly denying the financially marginal pilot his right to participate in the greatest adventure known to mankind. I urge my colleagues to support this amendment.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of the gentleman from Kentucky's amendment. The amendment, as the gentleman explained, would require approval of the Congress prior to FAA increasing existing, or creating new, user fees. Similar provisions have been included in appropriations legislation for a number of years. Those provisions are needed to insure that the FAA does not develop a schedule of user fees which is prohibitively expensive to pilots, owners, and other users of the national airways, airports, and airway facilities. The recent proposal for increasing user fees by the FAA shows a need for continuing congressional control.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I commend my colleague, the gentleman from Kentucky, for introducing this very important amendment. His amendment is straightforward and attempts to do what we need to be doing more of—asserting the right of Congress to review arbitrary and capricious Federal edicts.

The administrative user fee situation is not a new one. For years we have had some Federal officials telling us that general aviation provides minimum public benefit, and therefore, should bear a greater percentage of costs association with the aviation system. Now, I will not list all the benefits of general aviation, but they are many, including being a major employer and contributor to the plus side of our balance of payments to the tune of over a billion dollars.

General aviation pays its way in the aviation system, and general aviation is not necessarily opposed to some user fees, as long as they are fair and are reviewed by the Congress.

Now, there is ample legislative precedent for the Snyder amendment. In the past, the levying of administrative user fees by the Department of Transportation has been discouraged by a general provision in section 312 of the DOT appropriations bill. That section is intact this year. It subjects any proposal to impose user fees to a review by the Congress.

But we need a more permanent vehicle to achieve this objective. The gentleman from Kentucky is offering such a vehicle. All he is saying is that agencies of Government must be responsible to the people they serve. It is an irresponsible act to hit general aviation with a schedule of user fees without their approval and the approval of the Congress. I urge adoption of the amendment.

Mr. SNYDER. Mr. Chairman, I thank the gentleman.

Let me just close, Mr. Chairman, by saying that the House Committee on Appropriations has included this prohibition in the appropriation bills for the last 5 or 6 years in the Department of Transportation appropriations. They have rightly suggested that the appropriate legislative committee, which is our committee, should look at the matter. We did have hearings on the subject about the time we reported this bill and reached the conclusion that this would probably be the proper way to approach this matter.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding, and I would like to commend the gentleman from Kentucky (Mr. SNYDER) for offering this amendment. I think this is properly the approach that should be taken through the legislative committees and not as amendments as parts of appropriation bills, for it to go to the appropriate committee with authority, rather than leaving these decisions to the unelected bureaucracy.

● Mr. DON H. CLAUSEN. Mr. Chairman, I would like to join my colleagues in supporting the amendment being offered by my colleague from Kentucky (Mr. SNYDER). The purpose of the amendment is to prohibt the FAA from imposing user charges, including those for examinations, certificates and pilot licenses which were not in effect on January 1, 1973, or are in excess of those existing on that date without congressional approval.

This amendment will insure that we have an opportunity to review any and all proposals for increased charges by preventing the FAA from taking any independent action.

Before any fee is established, it must be closely studied to determine its justification and its impact on the industry. If left to escalate these charges could be highly detrimental. For example, they could discourage some individuals from becoming pilots by making the cost of their license prohibitive. It is also possible that excessive charges could present a safety problem as pilots would be inclined to avoid using certain safety checks available to them if charged for each service.

I urge my colleagues to support this amendment as a means of strengthening the congressional oversight function and the aviation industry as a whole.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. SNYDER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 138, after line 18, insert the following new section:

LABOR DISPUTES

SEC. 34. Within 10 days after the date of enactment of this section, the President, pursuant to section 10 of the Railway Labor Act, shall create a board to investigate and report on the dispute between Wein Air Alaska, Incorporated, and the Air Line Pilots Association. Such board shall report its findings to the President within thirty days from the date of its creation.

Renumber the succeeding sections of the bill accordingly.

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, for the 16 months since May 1977 residents of Alaska or others wishing to travel or ship goods over a vast expanse of Alaskan territory have been stymied or delayed by a labor dispute.

In an effort to bring about a just end to this dispute between Wien Air Alaska and the Air Line Pilots Association, I have laid this simple amendment before the committee.

The provision would cause the President to appoint a board to investigate and report on the facts of the case. The panel would function under the terms of section 10 of the Railway Labor Act: It would begin its work within 10 days and report to the President within 30 days of its creation. The cost to the Treasury would be minimal.

The reason that it is necessary to enact this provision is that, because Wien has been able to maintain a semblence of its former service, the National Mediation Board has refused to ask the President to establish a factfinding board.

However, the quality of service provided to the outlying communities, which can in fact only be served by air, has deteriorated in some respects. Smaller, single engine planes are being flown. Those planes do not have the capacity to fly needed materials to remote locations; the U.S. mails are being delayed.

Some Members may not be aware of the importance of unhampered air transportation to Alaska. Wien and its subcontractors constitute a virtual transportation monopoly to many communities in Alaska: There are no roads and often no navigable waterways.

This labor dispute affects particularly harshly Alaska's Native population, a group with which the Federal Government has a special relationship and on whose behalf we should intervene. Most of the villages whose service has been disrupted are largely Native.

Mr. Chairman, the fact that this strike is working a severe hardship on the Alaskan people is reflected in the hundreds of letters I have received from my constituents urging me to help end this strike. This week, a petition with over 4,000 signatures has been presented to me, calling for action to end this strike.

Mr. Chairman, I am not taking sides in this dispute. I only want a settlement to be reached, a settlement that both sides can live with. It is my belief that if we pass this provision, which only calls for factfinding, that we will be on the way to such a settlement.

Mr. Chairman, I want to emphasize that it is not the intent of this legislation to interfere in this dispute—but only to move the parties involved toward a settlement. We do not want to interfere with the prerogatives of the airline or the union in any way. It should be clear that the last sentence of section 10 of the Railway Labor Act, to the extent that it would apply in this case, would only apply—here, as in other cases—to new changes by the parties in the conditions out of which the dispute arose.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I support this amendment.

Mr. Chairman, the Wien Air Alaska strike has been prolonged and it appears to be having a detrimental effect on local air service in Alaska. Appointment of a board to investigate and report on the dispute may help resolve this unfortunate situation.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Kentucky.

Mr. SNYDER. May I ask the gentleman, Mr. Chairman, is this the second version which the gentleman is offering?

Mr. YOUNG of Alaska. It is the second version.

Mr. SNYDER. Mr. Chairman, we will accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. AKAKA

Mr. AKAKA. Mr. Chairman, I ask unanimous consent to offer an amendment to page 129, line 5.

The CHAIRMAN. The Clerk will report the amendment, and then the Chair will put the question on the unanimous-consent request.

The Clerk read as follows:

Amendment offered by Mr. AKAKA: Page 129, line 5, strike all after the word "(C)" through the comma on line 6 and insert in lieu thereof: "Authorizes scheduled passenger operations the major portion of which are conducted within the State of Hawaii".

The CHAIRMAN. Is there objection to the request of the gentleman from Hawaii?

Mr. HARSHA. Reserving the right to object, Mr. Chairman, and I think I shall not object if I can get the attention of the author of the amendment, may I ask the gentleman whether this is the amendment which deals with Hawaiian equipment loan guarantees?

Mr. AKAKA. Yes.

Mr. HARSHA. Mr. Chairman, I withdraw my reservation of objection, and I have no objection to the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Hawaii?

Mr. SNYDER. Reserving the right to object, Mr. Chairman, I am sorry, but I missed the request. What is the request?

The CHAIRMAN. The Chair will state that the request of the gentleman from Hawaii (Mr. AKAKA) was to be permitted to offer an amendment to a section of the bill we have already passed.

Mr. SNYDER. Mr. Chairman, if the amendment applies only to the one particular section the gentleman intends to amend, I have no objection to it.

I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Hawaii (Mr. AKAKA)?

There was no objection.

Mr. AKAKA. Mr. Chairman, first, I would like to commend the subcommittee chairman, Mr. ANDERSON, the members of the subcommittee, and the committee, for the thorough and excellent work done on this bill, the Air Services Improvement Act.

The amendment I am offering today is technical. It is necessary to clarify a legal ambiguity which creates an uncertainty for financial institutions to which local passenger Hawaiian Airlines have applied for equipment loans.

The amendment is essential, because existing law appears to eliminate eligibility of local Hawaiian passenger carriers for loan guarantees—if these carriers obtain section 418 all-cargo certificates—a result unintended by the recently approved all-cargo deregulation legislation. The amendment would preserve the historical eligibility of local Hawaiian passenger air carriers.

It is identical to the Senate version of the airline regulatory reform legislation.

Equipment loan guarantees are uniquely important in Hawaii where local air service is the only form of transportation between the islands. The equipment loan guarantees are the only realistic means by which small local passenger air carriers in Hawaii may obtain the necessary financing to acquire aircraft and equipment.

It would not expand any existing programs nor impinge upon any existing carriers. Rather, it would assure that the purposes of the equipment loan guarantee program are fulfilled.

Mr. SNYDER. If the gentleman will yield, Mr. Chairman, we will accept the amendment on this side.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. AKAKA. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, I support the amendment.

The amendment is needed to insure that airlines operating within Hawaii continue to be eligible for the aircraft purchase loan guarantee program. In H.R. 12611 Hawaii carriers must operate only within the State of Hawaii to be eligible for the program. Recently, one of the intrastate Hawaiian airlines obtained a cargo certificate which authorizes operations between Hawaii and the continental United States. The amendment would continue this carrier's eligibility for the loan guarantee program so long as the major portion of its operations are within the State of Hawaii. If the Hawaiian carriers continue to operate primarily within the State of Hawaii, I see no reason for termination of their eligibility for the loan guarantee program.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Hawaii (Mr. Akaka).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

AVAILABILITY OF FUNDS

Sec. 33. Any funds authorized to be appropriated pursuant to this Act or pursuant to any amendment to any other law made by this Act shall be for fiscal years beginning after September 30, 1978.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 33 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to section 33?

Mr. LEVITAS. Mr. Chairman, I move to strike the last word, believing that there are no further amendments pending.

Mr. Chairman, I take this time, first of all, to commend the chairman of the subcommittee, the gentleman from California (Mr. Anderson), and the ranking minority member, the gentleman from Kentucky (Mr. Snyder), for the outstanding work and performance they have demonstrated in bringing this bill to the House.

This bill is the result of almost 3½ years of hearings. The committee has taken a great amount of testimony dealing with some of the most difficult and complex economic problems which face any regulated industry.

The bill which has been brought to the floor and the bill which this House will soon vote on, I think, will stand as a landmark in creating a less regulated, openly competitive industry. The bill which this House will soon adopt contains, in addition to a transition of greater and more competition, ultimately the complete abolition of the CAB in a totally unregulated, free, competitive industry, and I think that it is really notable that this Congress and this House by adopting good legislation can get less regulation, better service to consumers, lower fares, and accomplish the purposes that many of us in Congress have been seeking for so many years. I wanted to take this time to express my commendation to the chairman of the subcommittee and the ranking member for their outstanding work.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I, too, would rise in support of this legislation, and in so doing, I do not think the moment should pass without recognizing the catalyst part that the gentleman from Georgia (Mr. Levitas) played in bringing together the many controversial issues and points of views of members of the committee, as well as outside the committee, and certainly for the part he played I think he is to be commended, as well as the ranking minority member of the committee.

Mr. Chairman, I rise in support of the Air Service Improvement Act of 1978. On the balance this is a good bill. It represents a compromise between giving the airlines and the consumer some protection by the CAB while at the same time letting the free marketplace work its will.

We must understand that the airlines have been regulated for 40 years. To indiscriminately cut them loose without some minimum CAB oversight and safeguards is not fair, and it could result in economic disruption of the worse sort.

Ideally, we should take the CAB out of the decisionmaking process totally, and this has been prominently suggested. But, let us not throw the baby out with the bathwater. The key is orderly transition and that is what the bill before us today is all about.

Our committee, under the able leadership of Chairman Johnson, Glen Anderson, Bill Harsha, Gene Snyder, and Elliott Levitas, has done a remarkable job of giving the Congress and the American people a bill that is reasonable and well thought-out. Two years ago, most of the airlines were opposed to a regulatory reform bill and I must admit that there was much in the original committee bill that I myself found objectionable. In all, during the last two Congresses, the aviation subcommittee on which I sit held 36 days of hearings and heard testimony from over 200 witnesses on this issue. We had some tough times—some very strained moments—during a series of committee markup sessions, but the law or reason and the art of compromise prevailed. In my judgment, we can all live with and be proud of this bill.

For the airlines, it guarantees an orderly retreat from strict CAB regulation. This will give them time to readjust. In addition, section 6 simplifies and streamlines route application procedures. Overall, new air carriers and the smaller existing carriers will be encouraged by this bill's provisions.

More importantly, the consumer—the traveling public—will be given a break. Under section 27, upward pricing of airfares will generally be limited to no more than 5 percent per year while prices could be lowered a full 25 percent the first year after passage and a healthy 50 percent per year thereafter. At the same time, safety is given the highest priority and growing urban traffic congestion is addressed by encouraging the use of secondary airports near major urban centers.

In summary, all interests are afforded something by this bill, with the maximum benefit being reaped by the average American air traveler. It will not disrupt our Nation's airline system. It will guarantee a continuation of America's leadership in world aviation.

Mr. LEVITAS. I thank the gentleman from California. I am grateful for his remarks, and I urge the Members of the House to overwhelmingly adopt this important legislation. I think it is truly landmark legislation.

● Mr. CRANE. Mr. Chairman, I have long been a proponent of airline regulatory reform and have spoken in favor of the concept both in debate in this Chamber and in hearings of the Public Works and Transportation Committee. In this regard, I commend Representative Allen Ertel for the leadership he has offered to those Members who realize the need to inject pro-competitive forces into the airline industry. I support his numerous efforts to this end and I cosponsored his amendment reversing the burden of proof in application proceedings. Without the inclusion of language to expedite this time-consuming procedure, the competitive, free market thrust of this legislation is seriously undermined.

The need for this amendment pervades the entire domestic air transportation system, but I will cite examples limited to my home turf, the State of Illinois.

The Civil Aeronautics Board is notorious for being less than eager to grant new or improved air authority, and the batting average in Illinois is no exception. Of the 251 route applications received for Illinois from 1972 through February 1978, the Board has approved 79. As of February 1978, 95 of the applications were still pending or had received no action. In August and September 1974, North Central and Ozark requested nonstop authority between Minneapolis/St. Paul and Chicago, Cincinnati, and Indianapolis. These 2 applications and 37 others were dismissed as "stale" in June 1978. I am sure that anyone who has tried to secure a flight between these cities would hardly call the experience stale.

Actions like this result not from a vendetta against the Midwest; the CAB simply has its hand full. Under existing law, the Board sets fares, approves routes, second-guesses management practices, and oversees the whole system from its home base in Washington. No wonder the whole system exists in a torpid state.

The enactment of such pro-competitive language would eliminate a generous share of CAB busywork and allow airlines to more readily respond to the demands of the market. By removing the Board from the day-to-day running of the air transportation systems, we could break it from its superfluous "Big brother" role of protecting airline managements from their competitors, their customers, and themselves. If it is considered ruthless to place the airlines out on their own, at the mercy of the demands of the market, and thus necessitate an efficient and responsively run system, let me be known as ruthless. If it is irresponsible to slowly extricate Uncle Sam as overseer of this industry and allow free market forces to regulate, let me be so irresponsible. If it is antiquated to believe that Thomas Jefferson and Adam Smith understood the nature of businesses when they espoused belief that the free market allocation of resources provides for the most efficient use of available assets, I am, indeed, antiquated.

Yet, this doctrine is alive and well and thriving in America; the desire to reduce Government intervention in our businesses is strong and growing stronger. I enjoin you, enlightened colleagues, in this spirit, to approve Mr. ERTEL's amendments and the entire bill.

If this Congress is to be remembered as ruthless, irresponsible, and antiquated because it decreased Government regulation of a major mode of transportation and took vigorous steps toward an efficiently run industry, I challenge you to join me in earning such a title.●

● Mr. RONCALIO. Mr. Chairman, I rise in support of the amendment offered by my colleague, DON YOUNG.

Mr. YOUNG's amendment is a well-founded attempt to bring about a just end to a 16-month dispute between Wein Air Alaska and the Air Line Pilots Association. This labor dispute has affected virtually every aspect of Alaskan society, and this amendment is a logical approach to helping solve the conflicts involved.

Under this amendment, the President is directed to appoint a board to investigate and report on the facts involved in the case. The panel would be authorized pursuant to section 10 of the Railway Labor Act, would be created within 10 days after enactment of the act, and would report to the President within 30 days after its creation.

This board is considered very necessary because, since Wein Airlines has been able to maintain a degree of its former service, the National Mediation Board has refused to ask the President to establish a factfinding board. The level of service now offered, however, is not nearly as adequate as before the strike, and is the cause of a great deal of concern to hundreds of Alaskans.

Due to a lack of pilots, Wein has subcontracted service for about 60 communities to various air taxi companies. Because these air taxi companies use smaller, single engine planes, the nature of the service is inherently different. These planes do not have the capacity to carry bulky materials to remote locations, thereby greatly disrupting mail service to these areas. Especially upsetting is the fact that, on the routes subcontracted because of the strike, a total of 16 people have been killed, and several others have been seriously injured.

For many of these communities either without service, or being served by the air taxi companies, air service is the only mode of transportation, since roads and navigable waters are often lacking. Without air service, these communties are virtually isolated.

I sincerely hope that this amendment will be adopted, affording an opportunity for both sides to arrive at a settlement through a factfinding study.

REIMBURSEMENT BY THE AIRLINES OF SUBSTANTIAL COSTS INCURRED BY BUSINESS CONCERNS WHICH PERFORM RESERVATIONS AND TICKETING ON BEHALF OF THE AIRLINES

Mr. Chairman, I have previously indicated in the remarks inserted in the CONGRESSIONAL RECORD (Wednesday, June 8, 1978, CONGRESSIONAL RECORD 16914) that I intended to offer an amendment to H.R. 12611, section 15, which would expressly authorize reimbursement by the airlines of business concerns performing reservations and ticketing services on behalf of the airlines, as an exception to the antirebate provisions of section 403 of the Federal Aviation Act of 1958, 49 U.S.C. 1373(b)(1).

Since making these remarks, it has come to my attention that the U.S. Court of Appeals for the District of Columbia Circuit rendered a decision on June 21 in which the court observed that 5 years have passed since the CAB approved existing carrier practices with respect to this matter and suggested that the CAB might appropriately reconsider cost reimbursement for business concerns. The Board in that case did not take the position that reimbursement to business users would necessarily be a rebate forbidden by section 403. Nor did it take the position that it lacked adequate legal authority to deal with this issue. Rather it defended as discretionary an earlier determination by a prior Board.

I am also aware that sister transportation agencies, the ICC and FMC, have for years recognized as lawful payment of cost-related reimbursements to shippers without considering those payments to violate antirebate provisions identical to provisions in existing section 403 of the Aviation Act. Examples can be found in *United States* v. *B. & O. R. Co.*, 231 U.S. 274, 293–294 (1913); *American Trucking Associations* v. *United States*, 17 F. Supp. 655, 659 (1936); *Allowances for Privately Owned Tank Cars*, 258 I.C.C. 371, 378 (1944); *Pacific Far East Lines-Alleged Rebates*, 11 F.M.C. 357, 364 (1968); *Phillipine Merchants Steamship Co., Inc.*, 9 F.M.C. 155, 165 (1965).

In addition, I note the Board has broad general powers under the existing statute, sections 204, 404, and 412, which would not be reduced but in fact, in the case of section 412, are expanded by H.R. 12611.

Finally, under the leadership of its new Chairman, Mr. Kahn, the CAB is already aggressively promoting more competition in the airline transportation system and it is taking new and bold steps to promote innovative, pro-competitive regulation.

In view of the above considerations, and upon further reflection, I have come to the conclusion that the amendment, which I said I would sponsor, is not necessary. Accordingly, I will not sponsor the amendment but instead urge the Board to promptly and favorably consider regulations which authorize, subject to appropriate safeguards, cost reimbursement for persons who furnish directly or indirectly substantial services by way of reservations and ticketing functions which save considerable costs for the airlines.●

● Mr. PRESSLER. Mr. Chairman, I am opposed to the Air Service Improvement Act. This measure will not improve air service in South Dakota. In fact, it is my fear that the South Dakota towns and cities currently enjoying air service will lose certificated service within the next 10 years, and unfortunately, this bill does not guarantee replacement for certificated service.

The bill does provide a subsidy for commuter airlines serving small communities. Even with a subsidy, we have no assurance that a commuter line will serve our towns. The bill also provides that commuter lines will not have to go through the CAB for fare approval. Therefore, we have no assurance that air service will be provided at a reasonable cost.

The Department of Transportation issued a report entitled "Air Service to Small Communities" which indicates that if a deregulation bill similar to H.R. 12611 were to become law, Huron, Mitchell, and Brookings, S. Dak., would either lose service completely or certificated service would be replaced by commuter service.

There is no question that the airline industry is overregulated. However, the CAB currently has the authority to remove many of the regulations now in force. I believe South Dakotans would rather take their chances with administrative changes than having to face the uncertainties H.R. 12611 provides for continued air service in the North Central States.●

● Mr. ANNUNZIO. Mr. Chairman, today we are presented with the opportunity of aiding millions of consumers by promoting more free enterprise and less Government regulation. For years, the option of traveling by air was limited to a privileged minority because of constantly rising air fares, which were set by the Government for an industry seeking the protection of Washington. O'Hare Airport in Chicago, my hometown, is the busiest airport in the Nation. Despite this, thousands of people in my district have never had the opportunity to go to that airport because they could not afford the price of an airline ticket.

Under the admirable chairmanship of Alfred Kahn, the Civil Aeronautics Board has recently taken steps to free the airline industry to set its own fares. The result has been a great benefit both to the airlines and to millions of American consumers who previously could not afford the luxury of riding on an airplane. Reduced air fares have led to a new passenger pool and record profits for the industry. The Air Service Improvement Act, H.R. 12611, is Congress sign of support for the recent actions of the CAB in promoting greater competition in the airline industry. This legislation creates fare flexibility, and will allow airlines to reduce their fares up to 50 percent of current ticket prices. Consumers are protected by a limitation on fare increases of 5 percent per year.

In the past, competition between the various airlines was limited to unimportant frills. Airlines advertised the nicest piano, the prettiest airplanes, or the most delicious meals to entice customers. Under this bill, consumers will be provided with a real option—that of price. Of course, Congress must monitor the effects of this legislation to make sure that the trend towards lower air fares does not reverse itself once the airlines become free from the reins of Government regulation.

Finally, I have noted that some people object to this bill because they believe it is wrong to tamper with the world's best air transportation system. I say let us make the greatest even better by increasing Americans' access to this speedy, comfortable, and efficient form of transportation.●

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 12611.

As the House begins consideration of this bill, the Air Service Improvement Act of 1978, I would like to emphasize my strong support for the bill in its present form. At my urging and as a result of the long and careful efforts of the Public Works Subcommittee on Aviation, several changes have been made to extend the full coverage of the bill to air service between Puerto Rico and the U.S. mainland. By taking a major step in regulatory reform and providing equal treatment for Puerto Rico, H.R. 12611 should result in significant benefits to all Americans.

Unlike many districts in the continental United States, Puerto Rico is uniquely dependent on air transportation. It is our only means of travel to and from U.S. mainland. Because many of the 1½ million Puerto Ricans living on the mainland have strong family and emotional ties to Puerto Rico, there is a heavy demand for air travel to visit friends and relatives. Puerto Rico's industry and economy are highly dependent on air freight. For example, most food items have to be imported to Puerto Rico. Finally, tourism, a growth industry that accounts for, directly or indirectly, over 10 percent of the jobs in Puerto Rico, is wholly dependent on air transportation.

Unfortunately, Puerto Rico has never enjoyed the strong, competitive air service from the U.S. mainland that it needs and its markets can support. Eight out of nine daily nonstop markets from the U.S. mainland to Puerto Rico are presently monopolies. It is this lack of competition that has, in large part, been responsible for the fare and service problems in the U.S. mainland/Puerto Rico market.

I am hopeful that two ongoing investigations at the CAB, the Northeast Points-Puerto Rico/Virgin Islands investigation (D.32293) and the Caribbean Area Service investigation (D.30697), will solve our immediate needs, but we are convinced that basic air transportation regulatory reform legislation is needed to assure over the long run the healthy competition and low fare service that Puerto Rico's dependence on air transportation requires.

By streamlining the regulatory process, facilitating new entry, providing new fare flexibility, and preserving safeguards for small community service, H.R. 12611 should significantly improve air service throughout the United States and between the United States and Puerto Rico. Both Gov. Carlos Romero-Barcelo and I are committed to competition in air travel. We believe that the competitive pressures of the marketplace can best provide for expanded and reasonably priced air service to and from Puerto Rico.

I strongly urge passage of this legislation.●

The CHAIRMAN. Are there any other amendments? If there are no other amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the Chair, Mr. ROSENTHAL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12611) to amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares pursuant to House Resolution 1324, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. HARSHA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 363, nays 8, not voting 61, as follows:

[Roll No. 814]

YEAS—363

Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Coleman
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corcoran
Corman
Cornell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Delaney
Dellums
Derwinski
Devine
Dicks
Diggs
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Goodling
Gore
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marriott
Martin
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Preyer
Price
Pritchard
Pursell
Rahall
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Runnels
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stratton
Studds
Symms
Taylor
Thompson
Thornton
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—8

Abdnor
Baucus
Dingell
Marlenee
Milford
Poage
Pressler
Stump

NOT VOTING—61

Addabbo
Ammerman
Anderson, Ill.
Armstrong
Brown, Ohio
Burke, Calif.
Caputo
Cochran
Cohen
Conable
Cornwell
Crane
de la Garza
Dent
Derrick
Dickinson
Eckhardt
Eilberg
Fascell
Flowers
Forsythe
Gibbons
Gonzalez
Gradison
Hansen
Hightower
Kemp
Krueger
McKinney
Mathis
Meeds
Miller, Calif.
Mitchell, N.Y.
Nichols
Nix
Oakar
Patterson
Pepper
Quayle
Quie
Quillen
Railsback
Rhodes
Rodino
Rudd
Ruppe
Sarasin
Shipley
Sikes
Stokes
Teague
Thone
Tsongas
Tucker
Vanik
Weaver
Wiggins
Wilson, C. H.
Wilson, Tex.
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. Eilberg with Mr. Anderson of Illinois.
Mr. Addabbo with Mr. Conable.
Mr. Zeferetti with Mr. Dickinson.
Mr. Sikes with Mr. Forsythe.
Mr. Ammerman with Mr. Brown of Ohio.
Mr. Cornwell with Mr. Rudd.
Mr. Shipley with Mr. Wiggins.
Mrs. Burke of California with Mr. McKinney.
Mr. Teague with Mr. Caputo.
Mr. Krueger with Mr. Hansen.
Mr. Miller of California with Mr. Thone.
Mr. Stokes with Mr. Gradison.
Mr. Rodino with Mr. Railsback.
Mr. Dent with Mr. Cochran of Mississippi.
Mr. Mathis with Mr. Quillen.
Mr. Nichols with Mr. Kemp.
Mr. Nix with Mr. Sarasin.
Ms. Oakar with Mr. Cohen.
Mr. Pepper with Mr. Quie.
Mr. Derrick with Mr. Quayle.
Mr. de la Garza with Mr. Crane.
Mr. Fascell with Mr. Eckhardt.
Mr. Gonzalez with Mr. Flowers.
Mr. Vanik with Mr. Tucker.
Mr. Meeds with Mr. Ruppe.
Mr. Hightower with Mr. Mitchell of New York.
Mr. Weaver with Mr. Gibbons.
Mr. Charles H. Wilson of California with Mr. Charles Wilson of Texas.
Mr. Patterson of California with Mr. Tsongas.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The **SPEAKER** pro tempore (Mr. WRIGHT). Pursuant to the provisions of House Resolution 1324, the Committee on Public Works and Transportation is discharged from the further consideration of the Senate bill (S. 2493) to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. ANDERSON OF CALIFORNIA

Mr. ANDERSON of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ANDERSON of California moves to strike out all after the enacting clause of S. 2493 and to insert in lieu thereof the provisions of the bill H.R. 12611, as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Air Service Improvement Act of 1978".

DEFINITIONS

SEC. 2. (a) Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) is amended—

(1) by inserting after paragraph (18) the following new paragraph:

"(19) 'Essential air transportation' means, with respect to the air transportation provided by any air carrier to any point (A) two round trips per day at least five days per week, or (B) the level of service provided by such air carrier to such point based on the schedule of such air carrier in effect for calendar year 1977, whichever is the lesser."; and

(2) by inserting after paragraph (32) the following new paragraph:

"(33) 'Predatory' means any practice which would constitute a violation of the antitrust laws as set forth in the first section of the Clayton Act (15 U.S.C. 12).".

(b) Section 101 of such Act is amended by renumbering the paragraphs of such section, including all references thereto, as paragraphs (1) through (41), respectively.

DECLARATION OF POLICY

SEC. 3. (a) Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(a)) is amended to read as follows:

"FACTORS FOR INTERSTATE AND OVERSEAS AIR TRANSPORTATION

"(a) In the exercise and performance of its powers and duties under this Act with respect to interstate and overseas air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under Section 107 of this Act.

"(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

"(3) The encouragement and development of an air transportation system which is responsive to the needs of the public and is adapted to the present and future needs of (A) the foreign and domestic commerce of the United States, (B) the Postal Service, and (C) the national defense, and which includes, where feasible, the authority for air carriers to serve unused routes authorized to be served by other air carriers.

"(4) The availability of a variety of adequate, economic, efficient, and low-cost services by air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions.

"(5) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital.

"(6) The development and maintenance of a sound regulatory environment under which decisions are reached promptly in order to facilitate adaptation of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.

"(7) The encouragement of new air carriers and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.

"(8) The encouragement of air service at major urban areas through secondary or satellite airports, were consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State agencies, encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services.

"(9) The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of (A) industry concentration, excessive market domination, and monopoly power, and (B) other conditions, that would tend to allow one or more air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

"(10) The maintenance of a comprehensive and convenient system of continuous scheduled airline service for small communities and for isolated areas, with direct Federal assistance where appropriate.".

(b) Section 102 of such Act is amended by adding at the end thereof the following new subsection:

"FACTORS FOR FOREIGN AIR TRANSPORTATION

"(c) In the exercise and performance of its powers and duties under this Act with respect to foreign air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The encouragement and development of an air transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(2) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in such transportation, and to improve the relations between and coordinate transportation by air carriers.

"(3) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices.

"(4) Competition to the extent necessary to assure the sound development of an air transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(5) The promotion of safety in air commerce.

"(6) The promotion, encouragement, and development of civil aeronautics.".

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 102. Declaration of Policy: The Board."

is amended by striking out

"(a) General factors for consideration.
"(b) Factors for all-cargo air service."

and inserting in lieu thereof

"(a) Factors for interstate and oversea air transportation.
"(b) Factors for all-cargo air service.
"(c) Factors for foreign air transportation.'

FEDERAL PREEMPTION

SEC. 4. (a) Title I of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new section:

"FEDERAL PREEMPTION

"PREEMPTION

"SEC. 105. (a) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier granted the authority under this title to provide interstate air transportation.

"PROPRIETARY POWERS AND RIGHTS

"(b)(1) Nothing in subsection (a) of this section shall be construed to limit the authority of any State or political subdivision thereof or any interstate agency or other political agency of two or more States as the owner or operator of an airport served by any air carrier certificated by the Board to exercise its proprietary powers and rights.

"(2) Any aircraft operated between points in the same State (other than the State of Hawaii) which in the course of such operation crosses a boundary between two States, or between the United States and any other country, or between a State and the beginning of the territorial waters of the United States, shall not, by reason of crossing such boundary, be considered to be operating in interstate or overseas air transportation.

"EXISTING STATE AUTHORITY

"(c) When any intrastate air carrier which on August 1, 1977, was operating primarily in intrastate air transportation regulated by a State receives the authority to provide interstate air transportation, any authority received from such State shall be considered to be part of its authority to provide air transportation received from the Board under this title, until modified, suspended, amended, or terminated as provided under this title.

"DEFINITION

"(d) For purposes of this section, the term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and any territory or possession of the United States.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE I—GENERAL PROVISIONS"

is amended by adding at the end thereof

"Sec. 105. Federal premption.

"(a) Preemption.

"(b) Proprietary powers and rights.

"(c) Existing State authority.

"(d) Definition.".

STUDY OF FEDERAL, STATE, AND LOCAL GOVERNMENTAL SUBSIDY OF SCHEDULED AIR TRANSPORTATION AND OF THE EFFECTS OF IMPLEMENTING THE AIR SERVICE IMPROVEMENT ACT OF 1978 ON THE LEVEL OF AIR SAFETY

SEC. 5. (a) Title I of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is further amended by adding at the end thereof the following new sections:

"STUDY OF FEDERAL, STATE, AND LOCAL GOVERNMENTAL SUBSIDY OF SCHEDULED AIR TRANSPORTATION

"REPORT

"SEC. 106. (a) Not later than January 1, 1980, the Board and the Secretary of Transportation shall jointly prepare and submit to the Congress a comprehensive report on the extent of direct and indirect subsidization of the United States scheduled air transportation system presently being incurred or anticipated to be incurred by the United States and by States and their political subdivisions, particularly with respect to communities directly benefitting from section 406 (rates for transportation of mail) and section 419 (commuter air carrier compensation) of this Act.

"RECOMMENDATION

"(b) Not later than January 1, 1980, the Board and the Secretary of Transportation shall, separately or jointly, submit recommendations to the Congress with respect to the feasibility and appropriateness of devising cost-sharing formulas by which States and their political subdivisions could share part of the costs being incurred by the United States under sections 406 and 419 of this Act.".

"STUDY OF THE EFFECTS OF IMPLEMENTING THE AIR SERVICE IMPROVEMENT ACT OF 1978 ON THE LEVEL OF AIR SAFETY

"REPORT

"SEC. 107. (a) Not later than January 31, 1980, and each January 31 thereafter, the Secretary of Transportation shall prepare and submit to the Congress and the Board a comprehensive annual report on the extent to which the implementation of the Air Service Improvement Act of 1978 has, during the preceding calendar year, affected the level of air safety. Each such report shall, at a minimum, contain an analysis of each of the following:

"(1) All relevant data on accidents and incidents occurring during the calendar year covered by such report in air transportation and on violations of safety regulations issued by the Secretary of Transportation occurring during such calendar year.

"(2) Current and anticipated personnel requirements of the Administrator with respect to enforcement of air safety regulations.

"(3) Effects on current levels of air safety of changes or proposals for changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

"(4) The adequacy of air safety regulations taking into consideration changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

"RECOMMENDATIONS

"(b) Not later than January 31, 1980, and each January 31 thereafter, the Secretary of Transportation shall submit to the Congress and the Board recommendations with respect to the level of surveillance necessary to enforce air safety regulations and the level of staffing necessary to carry out such surveillance. The Secretary of Transportation's recommendations shall include proposals for any legislation needed to implement such recommendations.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE I—GENERAL PROVISIONS"

is amended by adding at the end thereof

"Sec. 106. Study of Federal, State, and local governmental subsidy of scheduled air transportation.

"(a) Report.

"(b) Recommendations.".

"Sec. 107. Study of the effects of implementation of the Air Service Improvement Act of 1978 on the level of air safety.

"(a) Report.

"(b) Recommendations.".

ROUTE APPLICATIONS

SEC. 6. (a) Section 401(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(c)) is amended to read as follows:

"ROUTE APPLICATIONS

"(c)(1) Upon the filling of any application pursuant to subsection (b) of this section, the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of the certificate to or in support of the issuance of the certificate requested by such application. Such application shall—

"(A) be set for a public hearing;

"(B) be scheduled for a determination under the simplified procedures established by the Board in regulations pursuant to subsection (p); or

"(C) be dismissed on the merits,

not later than ninety days after the date the application is filed with the Board. Any order of dismissal of an application issued by the Board without setting such application for a hearing or scheduling such application for a determination under such simplified procedures shall be deemed a final order subject to judicial review in accordance with the provisions of section 1006 of this Act.

"(2) If the Board determines that any application should be set for a public hearing under clause (A) of the third sentence of paragraph (1) of this subsection, an initial or recommended decision shall be issued not later than one hundred and eighty days after the date of such determination by the Board. Not later than ninety days after the initial or recommended decision is issued, the Board shall make its final order with respect to such application. If the Board does not act within such ninety-day period—

"(A) in the case of an application for a certificate to engage in interstate or overseas air transportation, the initial or recommended decision shall become the final decision of the Board and shall be subject to judicial review in accordance with the provisions of section 1006 of this Act; and

"(B) in the case of an application for a certificate to engage in foreign air transportation, the initial or recommended decision shall be transmitted to the President pursuant to section 801 of this Act.

"(3) Not later than the one-hundred-eightieth day after the Board schedules an application for a determination under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section, the Board shall issue its final order with respect to such application.

"(4) If an applicant fails to meet the procedural schedule adopted by the Board in a particular proceeding, the applicable period prescribed in paragraph (2) or (3) of this subsection may be extended by the Board for a period equal to the period of delay caused by the applicant. In addition to any extension authorized by the preceding sentence, in extraordinary circumstances, the Board may, by order, delay an initial or recommended decision or a final decision, or both, for not to exceed ninety days beyond the final date on which the decision is required to be made.".

(b) The amendments made by subsection (a) of this section shall apply to any application filed under section 401(b) of the Federal Aviation Act of 1958 on or after the three-hundred-sixty-fifth day after the date of enactment of this Act.

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by striking out

"(c) Notice of application."

and inserting in lieu thereof

"(c) Route applications.".

ISSUANCE OF CERTIFICATE

SEC. 7. Paragraphs (1), (2), and (3) of section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(1)–(3)) are amended to read as follows:

"(d)(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the application is fit, willing, and able to perform such transportation properly, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation—

"(A) in the case of interstate or overseas air transportation, is consistent with the public convenience and necessity; and

"(B) in the case of foreign air transportation, is required by the public convenience and necessity,

otherwise such application shall be denied.

"(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods—

"(A) in the case of an application for interstate or overseas air transportation, as is consistent with the public convenience and necessity; and

"(B) in the case of an application for foreign air transportation, as may be required by the public convenience and necessity,

if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

"(3) In the case of an application for a certificate to engage in supplemental air transportation, the Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection authorizing interstate air transportation of persons, which authorizes the whole or any part thereof—

"(A) in the case of an application for interstate or overseas air transportation, for such periods, as is consistent with the public convenience and necessity; and

"(B) in the case of an application for foreign air transportation, for such periods, as may be required by the public convenience and necessity,

if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder. Any certificate issued pursuant to this paragraph shall contain such limitations as the Board shall find necessary to assure that the service rendered pursuant thereto will be limited to supplemental air transportation as defined in this Act.".

UNUSED AUTHORITY

SEC. 8. (a) Section 401(d) of the Federal Aviation Act of 1958 (59 U.S.C. 1371(d)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraph (B) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum or five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(B) If an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(C) With respect to any application which is submitted pursuant to subparagraph (A) or (B), the Board shall issue a final order granting such certificate within fifteen days of the date of such application.

"(D) Except as provided in subparagraph (E) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(E) If an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(F)(i) With respect to any application which is submitted pursuant to subparagraph (D) or (E) of this paragraph, the Board shall issue a final order granting such certificate within sixty days of the date of such application, unless the Board finds that the issuance of such certificate is inconsistent with the public convenience and necessity. Prior to issuing such final order, the Board shall afford adequate notice and opportunity for interested persons to file appropriate written evidence and argument, but the Board need not hold oral evidentiary hearings.

"(ii) For purposes of clause (i) of this subparagraph there shall be a rebuttable presumption that any transportation covered by an application for a certificate submitted pursuant to subparagraph (D) or (E) of this paragraph is consistent with the public convenience and necessity.

"(G)(i) Whenever the Board issues a certificate pursuant to subparagraph (A) or (D) of this paragraph, the air carrier receiving such certificate shall commence service pursuant to such certificate within forty-five days of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

"(ii) Whenever the Board issues a certificate pursuant to subparagraph (B) or (E) of this paragraph to provide seasonal service the air carrier receiving such certificate shall commence service pursuant to such certificate within fifteen days after the beginning of the first such season which begins on or after the date of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

"(H) Not more than one certificate shall be issued under this paragraph for round trip nonstop service between two points in interstate air transportation based upon the failure of the same air carrier to provide such service between such points.

"(I) Whenever the Board issues a certificate pursuant to subparagraph (A) or (D) of this paragraph based upon the failure of any air carrier to provide the round trip service described in such subparagraph, the Board shall suspend the authority of such air carrier to provide such service, and suspend the authority of any other air carrier which failed to provide such service during the same twenty-six-week period, until such time as the air carrier to which a certificate is issued under such subparagraph fails to provide such service at a minimum of five round trips per week for at least thirteen weeks during any consecutive twenty-six-week period the last day of which ends on or after the date of enactment of this paragraph.".

(b) Section 401(f) of such Act is amended by striking out "hereinafter provided" and inserting in lieu thereof "provided in this section".

FILL-UP RIGHTS

SEC. 9. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(6) Any air carrier holding a valid certificate to engage in foreign air transportation is authorized, on any scheduled flight in foreign air transportation, to transport persons, property, and mail between points in the United States between which it is authorized to operate during such flight. The authority described in the preceding sentence shall be limited to one round-trip flight per day between any such pair of points unless the Board authorizes more than one round-trip flight per day between any such pair of points.".

EXPERIMENTAL ENTRY PROGRAM

SEC. 10. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(7)(A) Not later than the thirtieth day of the first calendar year which begins after the date of enactment of this subparagraph—

"(i) any air carrier which (I) has operated during the entire preceding calendar year in accordance with a certificate issued by the Board under this section which has been in force during such period of operation, and (II) has provided air transportation of persons during such calendar year; and

"(ii) any intrastate air carrier which has a valid certificate or license issued by a State regulatory authority to engage in intrastate air transportation and which has operated more than one hundred million available seat-miles in intrastate air transportation in the preceding calendar year,

may apply to the Board for a certificate under this subparagraph to engage in nonstop service between any one pair of points in interstate or overseas air transportation in addition to any pair of points authorized by an existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application from an applicant under this subparagraph, the Board shall issue a certificate to such applicant for the nonstop service specified in such application, unless within such sixty-day period the Board determines that the issuance of such certificate is likely to result in a substantial impairment of the national air transportation system or a substantial reduction in air service to small- and medium-sized communities in any region of the United States.

"(B) Not later than the one-hundred-twentieth day of the first calendar year which begins after the date of enactment of this subparagraph, any air carrier which submitted an application to the Board in accordance with subparagraph (A) of this paragraph in such calendar year and—

"(i) which did not receive a certificate to provide service between the pair of points set forth in the application because of a determination by the Board under such subparagraph (A); or

"(ii) which received a certificate to provide service between such pair of points, but was not the only air carrier to receive a certificate under such subparagraph (A) during such calendar year to provide nonstop service between such pair of points,

may reapply to the Board for a certificate to engage in nonstop service between any one pair of points in interstate or overseas air transportation (other than the pair of points specified in the first application submitted to the Board by such air carrier in such calendar year) in addition to any pair of points authorized by any existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application under this subparagraph, the Board shall issue a certificate to the applicant for such nonstop service, unless within such sixty-day period the Board makes a determination with respect to the issuance of such certificate in accordance with the second sentence of subparagraph (A) of this paragraph. If the Board issues a certificate to an applicant under this subparagraph, it shall revoke any authority in any certificate which it granted to such applicant in the same calendar year under subparagraph (A) of this paragraph.

"(C)(i) Subject to clause (ii) of this subparagraph, any air carrier which is authorized pursuant to paragraph (1) or (2) of this subsection to engage in nonstop service between any pair of points in interstate or overseas air transportation on the first business day of the first calendar year which begins after the date of enactment of this section and which wants to preclude any other air carrier from obtaining authority under subparagraph (A) or (B) of this paragraph to engage in nonstop service between such pair of points may, on such day, file written notice to the Board which sets forth such pair of points. Upon receipt of any written notice under the preceding sentence, the Board shall make such notice available to the public.

"(ii) No air carrier may file a written notice under clause (i) of this subparagraph with respect to more than one pair of points in interstate or overseas air transportation.

"(D) The Board shall conduct a study of the procedure for certification of air carriers and intrastate air carriers set forth in subparagraphs (A) and (B) of this paragraph to evaluate—

"(i) whether such procedure is consistent with the criteria set forth in section 102 of this Act; and

"(ii) the relative effectiveness of such procedure as compared with other procedures for certification set forth in the Act, including but not limited to, the procedures set forth in paragraphs (5) and (6) of this subsection, and in subsection (p) of this section.

Not later than June 30, 1980, the Board shall complete such study and report the results of such study to the Congress.".

EXPERIMENTAL CERTIFICATES

SEC. 11. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d) is further amended by adding at the end thereof the following new paragraph:

"(8) The Board may grant an application under subsection (d) (1), (2), or (3) of this section (whether the application be for permanent or temporary authority) for only a temporary period of time whenever the Board determines that a test period is desirable in order to determine if projected services, efficiencies, methods, rates, fares, charges, or other projected results will in fact materialize and remain for a sustained period of time, or to assess the impact of the new services on the national air route structure, or otherwise to evaluate the proposed new services. In any case where the Board has issued a certificate under any one of those subsections on the basis that the air carrier holding such certificate will provide innovative or low-priced air transportation under such certificate, the Board, upon petition, or its own motion, may review the performance of such air carrier, and may alter, amend, modify, suspend, or revoke such certificate or authority in accordance with the procedures prescribed in section 401(g) of this title, on the grounds that such air carrier has not provided, or is not providing, such air transportation.".

REMOVAL OF RESTRICTIONS

SEC. 12. Section 401(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(e)) is amended by adding at the end thereof the following new paragraph:

"(7) Upon application of any air carrier seeking removal or modification of a term, condition, or limitation attached to a certificate issued under this section to engage in interstate, overseas, or foreign air transportation, the Board shall, within sixty days after the filing of such application, set such application for oral evidentiary hearings on the record or, begin to consider such application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section for purposes of eliminating or modifying any such term, condition, or limitation which it finds is inconsistent with the criteria set forth in section 102 of this Act. Applications under this paragraph shall not be subject to dismissal pursuant to section 401(c)(1) of this Act.".

PROCEDURES FOR PROCESSING APPLICATIONS

SEC. 13. (a)(1) Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is amended by adding at the end thereof the following new subsection:

"PROCEDURES FOR PROCESSING APPLICATIONS FOR CERTIFICATES

"(p)(1) The Board shall promulgate rules establishing simplified procedures for—

"(A) the disposition of applications for a certificate to engage in air transportation pursuant to subsection (d)(1), (2), or (3) of this section; and

"(B) the alteration, amendment, modification, suspension, or transfer of all or any part of any certificate pursuant to subsection (f), (g), or (h) of this section.

Such rules shall provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings.

"(2) In determining whether to employ such simplified procedures in a particular case, the Board shall give consideration to the magnitude of the potential impact of its decision in the case on the air transportation system. The rules adopted by the Board pursuant to this subsection shall, to the extent the Board finds it practicable, set forth the standards it intends to apply in determining whether to employ such expedited procedures and in deciding cases in which such procedures are employed.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by inserting at the end thereof

"(p) Procedures for processing applications for certificates.".

(b)(1) Section 402 of the Federal Aviation Act of 1958 (49 U.S.C. 1372) is amended by adding at the end thereof the following new subsection:

"PROCEDURES FOR PROCESSING APPLICATIONS FOR PERMITS

"(h) The Board shall promulgate rules establishing simplified procedures for—

"(1) the disposition of applications for a permit to engage in foreign air transportation pursuant to this section; and

"(2) the alteration, amendment, modification, suspension, or transfer of all or any part of any permit pursuant to subsection (f) of this section.

Such rules shall provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 402. Permits to foreign air carriers."

is amended by inserting at the end thereof

"(h) Procedures for processing applications for permits.".

THROUGH SERVICE AND JOINT FARES

SEC. 14. Paragraph (4) of section 431(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(4)) is amended to read as follows:

"(4)(A) Notwithstanding any other provision of this Act, any citizen of the United States who undertakes, within any State, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority for such carriage within such State granted by the appropriate State agency is authorized—

"(i) to establish services for persons and property which includes transportation by such citizen over its routes in such State and transportation by an air carrier or a foreign air carrier in air transportation; and

"(ii) subject to the requirements of section 412 of this title, to enter into an agreement with any air carrier or foreign air carrier for the establishment of joint fares, rates, and or services for such through services.

"(B) The joint fares or rates established under clause (ii) of subparagraph (A) of this paragraph shall be the lowest of—

"(i) the sum of the applicable fare or rate for service in the State approved by the appropriate State agency, and the applicable fare or rate for that part of the through service provided by the air carrier or foreign air carrier;

"(ii) a joint fare or rate established and filed in accordance with section 403 of this Act; or

"(iii) a joint fare or rate established by the Board in accordance with section 1002 of this Act.".

TERMINATION OR SUSPENSION OF CERTAIN SERVICE

Sec. 15. (a) Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is further amended by adding at the end thereof the following new subsection:

"TERMINATION OR SUSPENSION OF CERTAIN SERVICE

"(q) If an air carrier holding a certificate issued pursuant to section 401 of this Act proposes to terminate or suspend nonstop or single-plane air transportation between two points being provided by it under such certificate, and such air carrier is the only air carrier certificated pursuant to such section 401 providing nonstop or single-plane air transportation between such points, at least ninety days before such proposed termination or suspension such air carrier shall file with the Board and serve upon each community to be directly affected notice of such termination or suspension.".

(b) That portion of the table of contents contained in the first section of such Act, which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by adding at the end thereof

"(q) Termination or suspension of certain service.".

DETERMINATION OF CONSISTENCY WITH PUBLIC CONVENIENCE AND NECESSITY

Sec. 16. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(9) Transportation covered by an application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection shall, for the purposes of such paragraphs, be deemed to be consistent with the public convenience and necessity, unless the Board finds based upon clear and convincing evidence that such transportation is inconsistent with the public convenience and necessity.".

RATES OF CARRIAGE FOR PERSONS AND PROPERTY

Sec. 17. Section 404(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1374(a)(1)) is amended by inserting "authorized to engage in scheduled air transportation by certificate or by exemption under section 416(b)(3) of this title" immediately before the first semicolon.

RATES FOR TERMINATION OF MAIL

Sec. 18. (a) Clause (3) of the second sentence of section 406(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1376(b)) is amended to read as follows: "(3) the need of each such air carrier (other than a supplemental air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and—

"(A) during the period beginning on the date of enactment of this clause and ending on January 1, 1983, both dates inclusive, together with all other revenue of the air carrier from the service for which the compensation is being paid; and

"(B) after January 1, 1983, together with all other revenue of the air carrier,

to enable such air carrier under honest, economical, and efficient management, to provide (except for modifications with respect to an individual city determined after January 1, 1983, to be required by the public interest, after giving interested parties an opportunity for an evidentiary hearing with respect to air transportation for such individual city) air transportation of at least the same extent, character, and quality as that provided during the year ending December 31, 1977, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense: *Provided*, That rules of compensation paid to any carrier hereunder for service performed between the date of enactment of this proviso, and January 1, 1983, shall be based on the subsidy need of such carrier with respect to service performed to points for which such carrier was entitled to receive compensation for serving during calendar 1977, such subsidy need in the case of any local service carrier to be based on the adjusted eligible need of such carrier determined in a manner consistent with the provisions of Local Service Class Subsidy Rate VIII, with technical adjustments, and in the case of any other carrier receiving compensation during the twelve months ended June 30, 1978, to be determined pursuant to the method in effect during the twelve months ended June 30, 1978.".

(b) Section 406 of the Federal Aviation Act of 1958 shall cease to be in effect after the last day of the ten-year period which begins on the date of enactment of this Act.

LOCAL SERVICE AIR CARRIER COMPENSATION

Sec. 19. (a) The last sentence of section 406(b) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1376(b)), is amended as follows:

(1) By striking out "the year 1966" and inserting in lieu thereof "the years 1964, 1965, and 1966".

(2) By striking out "Rate III–A" and inserting in lieu thereof "Rates III and III–A".

(3) By striking out "order E–23850 (44 CAB 637 et seq.)" and inserting in lieu thereof "orders E–21311 and E–23850 (41 CAB 138 et seq. and 44 CAB 637 et seq.)".

(b) Section 12(b) of Public Law 95–163, Ninety-fifth Congress, approved November 9, 1977, is amended by striking out "the year 1966" and inserting in lieu thereof "the year 1964, 1965, or 1966".

CONSOLIDATION, MERGER, AND ACQUISITION

Sec. 20. (a) Section 408(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1378) is amended—

(1) by striking out "It shall be unlawful unless approved by order of the Board as provided in this section—" and inserting in lieu thereof "Except as provided in subsection (b) of this section, it shall be unlawful—"; and

(2) in paragraph (5) thereof, by striking out "or any other person to acquire control of any air carrier in any manner whatsoever: *Provided*, That the Board may by order exempt any such acquisition of a noncertificated air carrier from this requirement to the extent and for such periods as may be in the public interest," and inserting in lieu thereof "to acquire control of any air carrier in any manner;".

(b) Section 408(b) of such Act is amended—

(1) by amending the first sentence thereof to read as follows: "(1) In any case in which one or more of the parties to a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section is an air carrier holding a valid certificate issued by the Board under section 401(d) of this section to engage in interstate or overseas air transportation, a foreign air carrier, or a person controlling, controlled by, or under common control with, such an air carrier or a foreign air carrier, the person seeking approval of such transaction shall present an application to the Board, and thereupon the Board shall order a public hearing on the application and shall notify the persons involved in the consolidation, merger, purchase, lease, operating contract, or acquisition of control, and other persons known to have a substantial interest in the proceeding, of the time and place of a public hearing.";

(2) in the second sentence thereof, by striking out ": *Provided*, That the Board" and all that follows down through the period at the end of such subsection and inserting in lieu thereof a comma and the following: "except that the Board shall not approve such consolidation, merger, purchase, lease, operating contract, or acquisition of control—

"(A) if such consolidation, merger, purchase, lease, operating contract, or acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize air transportation in any region of the United States; or

"(B) if the effect of such consolidation, merger, purchase, lease, operating contract, or acquisition of control in any region of the United States may be substantially to lessen competition, or to tend to create a monopoly, or which in any manner would be in restraint of trade,

unless the Board finds that the anticompetitive effects of the proposed consolidation, merger, purchase, lease, operating contract, or acquisition of control are outweighed in the public interest by the probable effect of the consolidation, merger, purchase, lease, operating contract, or acquisition of control in meeting significant transportation needs of the community to be served, and unless it finds that such significant transportation needs may not be satisfied by any reasonably available less anticompetitive alternative. In any case in which the Board determines that the transaction which is the subject of the application does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition and determines that no person disclosing a substantial interest then currently is requesting a hearing, the Board, after publication in the Federal Register of notice of the Board's intention to dispose of such application without a hearing (a copy of which notice shall be furnished by the Board to the Attorney General no later than the day following the date of such publication), may determine that the public interest does not require a hearing and by order approve or disapprove such transaction."; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) In any case in which none of the parties to a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section, is an air carrier holding a valid certificate issued by the Board under section 401(d) of this title to engage in interstate or overseas air transportation, a foreign air carrier, or a person controlling, controlled by, or under common control with, such an air carrier or a foreign air carrier, any person seeking approval of such transaction shall file with the Board not later than the forty-fifth day before the effective date of such transaction, a statement of its intent to enter into any of the prohibited acts set forth in subsection (a) of this section. The Board may, within forty-five days after the date of such filing, require such person to file an application for approval pursuant to the requirements of paragraph (1) of this subsection if it finds either that the proposed transaction may monopolize, tend to monopolize, or otherwise restrain competition in air transportation in any section of the country or that the person may not be fit, willing, and able to properly perform the transportation authorized by any license which is a part of such transaction and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board issued pursuant to this Act. Subject to subparagraph (B) of this paragraph, if the Board fails to require such person to file an application pursuant to such paragraph (1) within such forty-five days, the proposed transaction shall not be subject to subsection (a) of this section.

"(B) If the Board determines that any transaction is not subject to subsection (a) of this section as a result of the last sentence of subparagraph (A) of this paragraph and such transaction received such statutory exemption due to any fraud, misrepresentation, or omission of relevant and material facts, the Board may, pursuant to rules which it is authorized to prescribe, make such transaction subject to subsection (a) of this section.".

(c) Section 408(c) of such Act is amended by inserting "any person controlling such air carrier," after "air carrier," the first place it appears in such subsection.

(d)(1) Section 408(f) of the Federal Aviation Act of 1958 is repealed.

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 408. Consolidation, merger, and acquisition of control."

is amended by striking out

"(f) Presumption of control.".

AGREEMENTS AND CARRIER DISCUSSIONS

SEC. 21. (a)(1) The center heading of subsection (a) of section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382(a)) is amended by striking out "REQUIRED" and inserting in lieu thereof "AND REQUESTS TO DISCUSS COOPERATIVE WORKING ARRANGEMENTS".

(2) Subsection (a) of such section 412 is further amended by inserting "(1)" immediately after "(a)" and by inserting at the end thereof the following new paragraph:

"(2) Any air carrier may request authority from the Board to discuss possible cooperative working arrangements between such air carrier and any other air carrier, foreign air carrier, or other carrier.".

(b) Section 412(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1382(b)) is amended to read as follows:

"PROCEEDINGS UPON FILING

"(b) Upon filing of any contract or agreement, or any modification or cancellation thereof, pursuant to subsection (a)(1) of this section, or upon the filing of a request by an air carrier for authority to discuss possible cooperative working arrangements, pursuant to subsection (a)(2) of this section, the Board, in accordance with regulations which it prescribes, shall provide to the Attorney General and the Secretary of Transportation written notice of, and an opportunity to submit written comments on, the filed document. The Board may, upon its own initiative or if requested by the Attorney General or such Secretary, hold a hearing, in accordance with regulations prescribed by the Board, to determine if a contract or agreement, or request for discussion authority, whether or not previously approved, is consistent with the provisions of this Act.

"CONDITIONS FOR APPROVAL

"(c)(1) The Board shall by order disapprove any contract or agreement filed pursuant to subsection (a)(1) of this section, whether or not previously approved by it, which it finds to be adverse to the public interest, or in violation of this Act, or which substantially reduces or eliminates competition, unless the contract or agreement is necessary to meet a serious transportation need or to secure important public benefits. The Board shall by orders approve any such contract or agreement, or any modification or cancellation thereof, which it does not find to be inconsistent with the standards set forth in this section, except that the Board may not approve any contract or agreement between an air carrier not directly engaged in the operation of aircraft in air transportation and a common carrier subject to the Interstate Commerce Act, as amended, governing the compensation to be received by such common carrier for transportation services performed by it.

"(2) The Board shall by order disapprove any request for authority to discuss possible cooperative working arrangements which the Board finds may be adverse to the public interest or which it finds may substantially reduce or eliminate competition, unless the discussions are necessary to meet a serious transportation need or to secure important public benefits. The Board shall by order approve any such request which it does not find to be inconsistent with the standards set forth in this section.

"(d) Any contract between air carriers relating to pooling or to the apportionment of revenues for the purpose of providing financial assistance to any air carrier when employees of such air carrier are engaged in a lawful work stoppage is hereby declared to be unlawful."

(c) That portion of the table of contents which appears under the side heading

"Sec. 412. Pooling and other agreements."

is amended by striking out

"(a) Filing of agreements required.

"(b) Approval of Board."

and inserting in lieu thereof

"(a) Filing of agreements and requests to discuss cooperative working agreements.

"(b) Proceedings upon filing.

"(c) Conditions for approval.".

ANTITRUST EXEMPTION

SEC. 22. (a) Section 414 of the Federal Aviation Act of 1958 (49 U.S.C. 1384) is amended to read as follows:

"ANTITRUST IMMUNITY

"SEC. 414. In any order made under section 408, 409, or 412 of this Act, the Board may, as part of such order exempt any person affected by such order from the operations of the 'antitrust laws' set forth in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12) to the extent necessary to enable such person to proceed with the transaction specifically approved by the Board in such order and those transactions necessarily contemplated by such order, except that the Board may not exempt such person unless it determines that such exemption is required in the public interest.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking out

"Section 414. Legal restraints."

and inserting in lieu thereof

"Sec. 414. Antitrust exemption.".

CLASSIFICATIONS AND EXEMPTIONS

SEC. 23. (a) The center heading of section 416 of the Federal Aviation Act (49 U.S.C. 1386) is amended by striking out "OF CARRIERS".

(b) Subsection (a) of such section is amended by—

(1) striking out "air carriers" the first place it appears and inserting in lieu thereof "air carriers and foreign air carriers"; and

(2) striking out "air carriers" the second place it appears and inserting in lieu thereof "air carriers or foreign air carriers".

(c) Paragraph (1) of subsection (b) of such section is amended to read as follows:

"(1) Except as provided in paragraph (2) of this subsection, the Board, from time to time and to the extent necessary, may exempt from any requirement of this title, or from any rule, regulation, term, condition, or limitation prescribed under authority of this title, any person or class of persons if the Board finds (A) that such exemption is or will be justified by unusual circumstances, or by reason of the limited extent of the activity to be exempt, and (B) that the exemption is not inconsistent with the public interest.".

(d) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking out

"Sec. 416. Classification and exemption of carriers."

and inserting in lieu thereof

"Sec. 416. Classifications and exemptions.".

COMMUTER EXEMPTION

SEC. 24. Section 416(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)) is amended by adding at the end thereof the following new paragraph:

"(3) Any air carrier in air transportation which provides (A) passenger service solely with aircraft having a maximum passenger capacity of less than fifty-six passengers, or (B) cargo service in air transportation solely with aircraft having a maximum payload capacity of less than eighteen thousand pounds, shall be exempt from the requirements of subsection (a) of section 401 of this title, and of such other sections of the Act as may be prescribed in regulations promulgated by the Board, if such air carrier conforms to such liability insurance requirements and such other reasonable regulations as the Board shall from time to time adopt in the public interest. The Board may by regulation increase the passenger or property capacities specified in this paragraph when the public interest so requires, except that with respect to air transportation between points both of which are within the State of Alaska, or one of which is in Alaska and the other in Canada, the Board may decrease the passenger or property capacities specified in this paragraph or require air carriers engaged in Alaskan intrastate air transportation to obtain operating authority from the State of Alaska, as the public interest may require.".

COMMUTER AIR CARRIER COMPENSATION

SEC. 25. (a) Title IV of the Federal Aviation Act of 1958 is amended by inserting immediately after section 418 the following new section:

"COMMUTER AIR CARRIER COMPENSATION

"ESTABLISHMENT OF COMPENSATION

"SEC. 419. (a) (1) If, on the date of enactment of this section, any air carrier is (A) providing service to any point in the United States pursuant to a certificate issued to such carrier under section 401 of this title, or (B) authorized pursuant to such certificate to provide such service, but such service is suspected on such date of enactment and such suspension is conditioned as a commuter air carrier providing such service, and is thereafter terminated or reduced below the essential level of air transportation for such point, the Board, upon a determination that essential air transportation will not be provided by any other air carrier or commuter air carrier for such point without Federal financial assistance, shall establish a rate of compensation to be paid for providing such essential air transportation, and any additional air transportation to such point which the Board determines is required in the public interest, to that commuter air carrier which by order of the Board provides such air transportation. If after establishing such rate of compensation for such commuter air carrier the Board determines that a commuter air carrier or an air carrier will provide essential air transportation to such point without Federal financial assistance, the Board shall terminate the payment of such compensation to any commuter air carrier. Federal financial assistance shall not be paid under this paragraph after the last day of the tenth year which begins after the date of enactment of this section.

"(2) No later than January 1, 1980, the Board shall commence a review of each point (A) which has been deleted from a certificate issued under section 401 of this Act or (B) set forth in such a certificate but to which service has been suspended without a condition that substitute service be provided, between July 1, 1968, and the date of enactment of this section, both dates inclusive, to determine whether the Board should provide Federal financial assistance under this paragraph to a commuter air carrier to provide essential air transportation to such point. The Board shall complete each such review no later than January 1, 1982. Whenever, after completing a review of any point pursuant to the preceding sentence, the Board determines that the public interest requires interstate or overseas air transportation for persons, property, or mail to such point and that no adequate service will be provided by any air carrier or commuter air carrier to such point without Federal financial assistance, the Board may establish a rate of compensation to be paid for providing such service to that commuter air carrier which by order of the Board provides such service. Federal financial assistance shall not be paid under this section for the same period of time to more than one commuter air carrier for providing such service to such point.

"(3) Notwithstanding section 416(b) of this Act, the Board shall not provide any Federal financial assistance under this section to any commuter air carrier to provide service to any point, and the Board shall prohibit any commuter from providing service to any point described in clause (A) or (B) of paragraph (1) of this subsection, unless the Board determines that such commuter air carrier—

"(A) is fit, willing, and able to perform such service; and

"(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator under paragraph (4) of this subsection.

"(4) Not later than the one-hundred-eightieth day after the date of enactment of this paragraph, the Administrator, by regulation, shall establish safety standards (A) for aircraft being used by commuter air carriers to provide any service described in paragraph (3) of this subsection, and (B) for all operations relating to such service. Such safety standards shall become effective not later than the last day of the eighteenth month which begins after such date of enactment and shall impose requirements upon such commuter air carriers to assure that the level of safety provided to persons traveling on such commuter air carriers is, to the maximum feasible extent, equivalent to the level of safety provided to persons traveling on air carriers which provide service pursuant to certificates issued under section 401 of this title.

"PROCEDURES"

"(b) (1) The Board may make any determination or establish any rate of compensation under subsection (a) of this section, with or without evidentiary hearings as the Board deems necessary, and the Board may impose such terms and conditions as it deems necessary on any commuter air carrier paid compensation under such subsection.

"(2) The Board in establishing any rate of compensation under this section may—

"(A) base such rate upon aircraft mile, load factor, pound mile, weight, space, or any combination thereof; and

"(B) establish such rate for such period of time as it deems appropriate.

"(3) In making any determination under this section to provide compensation to any commuter air carrier, the Board shall consider, among other things, the cost of such compensation, the number of persons to be benefited by the service, the availability of air transportation at nearby communities, and the methods of surface transportation which are available to the point to be served by such commuter air carrier.

"CONSULTATION

"(c) Prior to making any determination under this section, the Board shall consult with appropriate State and local governmental officials.

"DEFINITIONS

"(d) For purposes of this section, the term 'commuter air carrier' means an air carrier exempt from any requirement of this Act under section 416(b)(3) of this title.".

"ESSENTIAL AIR TRANSPORTATION

"(e) (1) For the purposes of this section, 'essential air transportation' means scheduled air transportation of persons of the extent, character, and quality which the Board finds necessary to satisfy the needs of the community concerned for air transportation to one or more communities of interest and to insure the community's access to the Nation's air transportation at rates, fares, and charges which are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial."

"(2) In determining the criteria for the character and quality of essential air transportation, the Board shall consider the community's needs for among other services, the frequency of service, the advance reservation of passenger seats, baggage handling and insurance, pressurized or other specialized equipment, timely departures and arrivals, joint fares, and the establishment of single plane or connecting plane service to points beyond the primary community or communities of interest.

"(3) As soon as practicable after enactment of this section, but no later than January 1, 1980, the Board shall, by rule, and after the consultation required by subsection (c), establish the criteria for essential air transportation for all points specified in subsection (a)(1).

"CONTINUITY OF GUARANTEED ESSENTIAL AIR TRANSPORTATION

"(f) (1) No air carrier shall terminate, suspend, or reduce air transportation to any point specified in subsection (a) (1) below the standards of essential air transportation established by the Board unless such air carrier has given the Board, the appropriate State agency or agencies, and the communities affected at least 90 days notice of its intent to do so.

"(2) Upon receipt of a notice required by subsection (f) (1) for a point specified in subsection (a) (1), the Board shall assist the communities affected to secure essential air transportation from another air carrier, whether or not such alternate air transportation is to be compensated under this section. The Board shall require the air carrier serving a notice required under subsection (f) (1) to postpone such termination, suspension, or reduction in service until another air carrier has begun to provide essential air transportation. If the Board requires an air carrier to postpone an intended service change for more than 90 days, then the Board shall, in accordance with the procedures of subsection (b), compensate such air carrier for any losses that the air carrier demonstrates that it incurred in complying with this requirement, unless such an air carrier is already provided compensation under this section or section 406.

"(3) With respect to any point specified in subsection (a) (1), unless the Board has completed the consultation required by subsection (c) and determined the essential air transportation for such point, either individually or by rules adopted under (e) (3), the Board shall, upon petition of any appropriate representative of such point, prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of essential air transportation, until the Board has completed such determination.

"(4) The Board's authority under this subsection shall cease to be in effect on the last day of the tenth year which begins after the date of enactment of this section.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by adding at the end thereof

"Sec 419. Commuter air carrier compensation.
"(a) Establishment of compensation.
"(b) Procedures.
"(c) Consultation.
"(d) Definitions.".
"(e) Essential Air Transportation.
"(f) Continuity of Guaranteed Essential Air Transportation.".

PRESIDENTIAL REVIEW OF INTERNATIONAL ROUTE CASES

SEC. 24. Section 801(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1461(a)) is amended to read as follows:

"THE PRESIDENT OF THE UNITED STATES

"(a) The issuance, denial, transfer, amendment, cancellation, suspension, or revocation of, and the terms, conditions, and limitations contained in, any certificate authorizing an air carrier to engage in foreign air transportation, or any pemit issuable to any foreign air carrier under section 402 of this Act, shall be presented to the President for review. The President shall have the right to disapprove any such Board action concerning such certificates or permits solely upon the basis of foreign relations or national defense considerations which are within the President's jurisdiction, but not upon the basis of economic or carrier selection considerations. Any such disapproval shall be issued in a public document, setting forth the reasons for the disapproval to the extent national security permits, within sixty days after submission of the Board's action to the President. Any such Board action so disapproved shall be null and void. Any such Board action not disapproved within the foregoing time limits shall take effect as action of the Board, not the President, and as such shall be subject to judicial review as provided in section 1006 of this Act.".

ASSESSMENT OF CIVIL PENALTIES

SEC. 27. (a) Paragraph (1) of subsection (a) of section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471) is amended by inserting after the fourth sentence thereof the following new sentences: "The amount of any such civil penalty for any violation of any provision of title IV, or any rule, regulation, or order issued thereunder, or under section 1002(i), or any term, condition, or limitation of any permit or certificate issued under title IV shall be assessed by the Board only after notice and an opportunity for a hearing and after written notice upon a finding of violation by the Board. Judicial review of any order of the Board assessing such a penalty may be obtained only pursuant to section 1006 of this Act.".

(b) Paragraph (2) of subsection (a) of such section 901 is amended to read as follows:

"(2) Any civil penalty may be compromised by the Secretary of Transportation in the case of violations of title III, V, VI, or XII, or any rule, regulation or order issued thereunder, or by the National Transportation Safety Board in the case of violations of title VII, or any rule, regulation, or order issued thereunder, or by the Postmaster General in the case of regulations issued by him. The amount of such penalty when finally determined, or fixed by order of the Board, or the amount agreed upon in compromise, may be deducted from any sums which the United States owes to the person charged.".

PROCEDURES FOR CIVIL PENALTIES

SEC. 28. (a) The first sentence of subsection (b)(1) of section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473(b)(1)) is amended by inserting "or assessed" immediately after "imposed".

(b) The second sentence of subsection (b)(1) of such section 903 is amended by inserting "with respect to proceedings involving penalties other than those assessed by the Board," immediately after "except that".

RATES

SEC. 29. (a) Subsection (d) of section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482(d)) is amended—

(1) in paragraph (1), by inserting "or (4)" immediately after "paragraph (2)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) The Board shall not have authority to find any rate, fare, or charge for interstate or overseas air transportation of persons to be unjust or unreasonable on the basis that such rate, fare, or charge is too low or too high if—

"(A) with respect to any proposed increase filed with the Board on or after the date of enactment of any law by the Congress which provides a procedure pursuant to which air carriers may obtain authority to provide air transportation without a determination by the Board whether such authority is consistent with, or required by, the public convenience and necessity and which is enacted after the date on which the Board submits a report to the Congress on the study required to be carried out pursuant to section 401(d)(7)(D) of this Act, such proposed rate, fare, or charge would not be more than 5 per centum higher than the rate, fare, or charge in effect one year prior to the proposed effective date of the rate, fare, or charge under consideration for the same class of service of such transportation, except that this provision shall not apply to any proposed increase in any rate, fare, or charge filed by any air carrier if such proposed rate, fare, or charge is for air transportation between any pair of points and such air carrier provides air transportation to 90 per centum or more of the persons traveling in air transportation between such points on aircraft operated by air carriers with certificates issued under section 401 of this Act;

"(B) with respect to any proposed decrease filed within one year after the date of enactment of this paragraph, the proposed rate, fare, or charge would not be more than 25 per centum lower than the lowest rate, fare, or charge in effect on such date of enactment for coach service between the same pair of points; or

"(C) with respect to any proposed decrease filed after the last day of the first year which begins on the date of the enactment of this paragraph, such proposed rate, fare, or charge would not be more than 50 per centum lower than the lowest rate, fare, or charge in effect on the date of enactment of this paragraph for coach service between the same pair of points, except that this provision shall not apply to any proposed decrease in any rate, fare, or charge if the Board determines that such proposed rate, fare, or charge would be predatory.

If any air carrier reduces any rate, fare, or charge for interstate or overseas air transportation of persons pursuant to subparagraph (B) or (C) of this paragraph, such air carrier may increase such reduced rate, fare, or charge up to any rate, fare, or charge which is no greater than the rate, fare, or charge in effect prior to the first such reduction, and the Board shall not have authority to find such increased rate, fare, or charge to be unjust or unreasonable on the basis that such increase is too high.".

(b) Subsection (e) of such section 1002 is amended to read as follows:

"RULE OF RATEMAKING

"(e) In exercising and performing its power and duties with respect to determining rates described in paragraph (1) of subsection (d) of this section, the Board shall take into consideration, among other factors—

"(1) the criteria set forth in section 102 of this Act;

"(2) the need for adequate and efficient transportation of persons and property at the lowest cost consistent with the furnishing of such service;

"(3) the effect of prices upon the movement of traffic;

"(4) the desirability of a variety of price and service options such as peak and offpeak pricing or other pricing mechanisms to improve economic efficiency and provide low-cost air service; and

"(5) the desirability of allowing an air carrier to determine prices in response to particular competitive market conditions on the basis of such air carrier's individual cost.".

(c)(1) Whenever the Board pursuant to its authority under section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482) prescribes a uniform method generally applicable to the establishment of joint fares, and the divisions thereof, between air carriers holding certificates issued under section 401 of such Act, it shall make such uniform method applicable to the establishment of joint fares, and the divisions thereof, between such air carriers and commuter air carriers. Any commuter air carrier which has an agreement with any air carrier to provide service for persons and property which includes transportation over its routes and transportation by such air carrier in air transportation shall provide at least ninety days notice to such air carrier and to the Board prior to modifying, suspending, or terminating such service, and if such commuter air carrier fails to provide such notice, any uniform method made applicable to the establishment of joint fares, and the divisions thereof, between air carriers and commuter air carriers in accordance with the preceding sentence shall not apply to such commuter air carrier.

(2) For purposes of this subsection—

(A) the terms "air carrier" and "Board" have the meanings given such terms in the Federal Aviation Act of 1958; and

(B) the term "commuter air carrier" means any air carrier operating pursuant to section 416(b)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1386) who operates at least five round trips per week between one pair of points, pursuant to flight schedules.

(3) Paragraph (1) of this subsection shall apply to any uniform method described in such paragraph which the Board prescribes on or after December 27, 1974.

TIME REQUIREMENTS

SEC. 28. (a) Title X of the Federal Aviation Act of 1958 (49 U.S.C. 1481 et seq.) is amended by adding at the end thereof the following new section:

"TIME REQUIREMENTS

"SEC. 1010. In the case of any application or other written document submitted to the Board under section 408, 409, 412, or 416 of this Act on or after the one-hundred-eightieth day after the date of enactment of this section, the Board shall—

"(1) if the Board orders an evidentiary hearing, issue a final order or decision with respect to such written document, not later than the last day of the twelfth month which begins after the submission of such document, except in the case of an application submitted under section 408 the Board shall issue its final order or decision not later than the last day of the sixth month after submission; or

"(2) if the Board does not order an evidentiary hearing, issue a final order or decision with respect to such document, not later than the last day of the sixth month which begins after the date of the submission of such document.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE X—PROCEDURE

is amended by adding at the end thereof

"Sec. 1010. Time requirements.".

WITHHOLDING OF INFORMATION

SEC. 31. Section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504) is amended to read as follows:

"WITHHOLDING OF INFORMATION

"SEC. 1104. Notwithstanding any other provision of law, any person may make written objection to the public disclosure of information contained in any application, report, or document filed pursuant to provisions of this Act or of any information obtained by the Board, the Secretary of State, or the Secretary of Transportation pursuant to the provisions of this Act stating the grounds of such objection. Any information contained in such application, report, or document, or any such other information obtained by the Board, the Secretary of State, or the Secretary of Transportation, shall be withheld from public disclosure by the Board, the Secretary of State, or the Secretary of Transportation, as the case may be, if such information is exempted from disclosure, or if disclosure of such information would prejudice the formulation and presentation of positions of the United States in international negotiations and adversely affect the competitive position of any air carrier in foreign air transportation. The Board, the Secretary of State, or the Secretary of Transportation, as the case may be, shall be responsible for classified information in accordance with appropriate law, except that nothing in this section shall authorize the withholding of information by the Board, the Secretary of State, or the Secretary of Transportation from the duly authorized committees of Congress.".

GOVERNMENT GUARANTEE OF EQUIPMENT LOANS

SEC. 30. (a)(1) The first sentence of the Act entitled "An Act to provide for Government guarantee of private loans of certain air carriers for purchase of modern aircraft and equipment, to foster the development and use of modern transport aircraft by such carriers, and for other purposes", approved September 7, 1957 (49 U.S.C. 1324 note) (hereinafter in this section referred to as the "Act"), is amended by striking out "and short-haul air transportation" and inserting in lieu thereof "short-haul, and supplemental air transportation".

(2) The second sentence of the first section of the Act is amended by inserting ", commuter air carriers, and intrastate air carriers" immediately after "air carriers".

(b) Section 2 of the Act is amended to read as follows:

"SEC. 2. As used in this Act—

"(1) 'aircraft purchase loan' means any loan, or commitment in connection therewith, made for the purchase of commercial transport aircraft, including spare parts normally associated therewith;

"(2) 'air carrier' means any air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371);

"(3) 'commuter air carrier' means any air carrier operating pursuant to section 416 (b)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)(3)) who operates at least five round trip flights per week between one pair of points in accordance with published flight schedules;

"(4) 'intrastate air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage primarily in intrastate air transportation (as such term is defined in section 101(24) of the Federal Aviation Act of 1958);

"(4) 'supplemental air transportation' has the meaning given such term in section 101(37) of the Federal Aviation Act of 1958; and

"(5) 'Secretary' means the Secretary of Transportation.".

(c) Section 3 of the Act is amended to read as follows:

"SEC. 3. The Secretary is authorized to guarantee any lender against loss of principal or interest on any aircraft purchase loan made by such lender to—

"(1) any commuter air carrier,

"(2) any air carrier whose certificate (A) authorizes such air carrier to provide local or feeder air service, (B) authorizes such air carrier to provide supplemental air transportation, (C) "authorizes scheduled passenger operations the major portion of which are conducted within the State or Hawaii", (D) authorizes operations (the major portion of which is conducted either within Alaska or between Alaska and the forty-eight contiguous States), within the State of Alaska (including service between Alaska and the forty-eight contiguous States, and between Alaska and adjacent Canadian territory), or (E) authorizes metropolitan helicopter service or "(3) any intrastate air carrier. Such guarantee shall be made in such form, on such terms and conditions, and pursuant to such regulations, as the Secretary deems necessary and which are not inconsistent with the provisons of this Act.".

(d)(1) Section 4(c) of the Act is amended by striking out "10" and inserting in lieu thereof "15".

(2) Section 4(d) of the Act is amended by striking out "the same carrier, or corporate predecessor carrier or carriers, guaranteed and outstanding under the terms of this Act, exceed $30,000,000." and inserting in lieu thereof "the same air carrier, commuter air carrier, or intrastate air carrier or corporate predecessor of such air carrier, commuter air carrier, or intrastate air carrier guaranteed and outstanding under the terms of this Act, exceed $75,000,000.".

(3) Section 4(e) of the Act is amended by inserting ", commuter air carrier, or intrastate air carrier" immediately after "air carrier".

(4) Section 4(f) of the Act is amended by inserting ", commuter air carrier, or intrastate air carrier" immediately after "air carrier".

(5) Section 4(g) of the Act is amended to read as follows:

"(g) Unless the Secretary finds that the prospective earning power—

"(1) of the applicant air carrier, together with the character and value of the security pledged, furnish (A) reasonable assurances of the applicant's ability to repay the loan within the time fixed therefor, and (E) reasonable protection to the United States; and

"(2) of the applicant commuter air carrier or intrastate air carrier, together with the character and value of the security pledged, furnish (A) reasonable assurances of the applicant's ability and intention (i) to repay the loan within the time fixed therefor, (ii) to continue its operations as a commuter air carrier or intrastate air carrier, and (iii) to the extent found necessary by the Secretary, to continue its operations as a commuter air carrier or intrastate air carrier between the same route or routes being operated by such applicant at the time of the loan guarantee, and (B) reasonable protection to the United States.".

(6) Section 4 of the Act is amended by adding at the end thereof the following new paragraph:

"(h) On any loan or combination of loans for the purchase of any new turbojet-powered aircraft which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator of the Federal Aviation Administration (14 C.F.R. part 36), as such regulations were in effect on January 1, 1977.".

(e) Section 8 of the Act is amended to read as follows:

"SEC. 8. The authority of the Secretary under section 3 of this Act shall terminate five years after the date of enactment of this section.".

SUNSET PROVISIONS

SEC. 31. (a) The Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new title:

"TITLE XVI—SUNSET PROVISIONS

"TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

"TERMINATION OF AUTHORITY

"SEC. 1601. (a) Any authority of the Board set forth in this Act shall cease to be in effect on December 31, 1982.

"TRANSFER OF CERTAIN AUTHORITY

"(b)(1) The following authority of the Board is transferred to the following Federal departments:

"(A) The authority of the Board under sections 406 and 419 of this Act is transferred to the Department of Transportation.

"(B) The authority of the Board under this Act with respect to foreign air transportation is transferred to the Department of Transportation which shall exercise such authority in consultation with the Department of State.

"(C) The authority of the Board under sections 408 and 412 of this Act is transferred to the Department of Justice.

"(D) The authority of the Board under this Act with respect to the negotiation of the rates for the carriage of mail is transferred to the Postal Service.

"(2) Any authority transferred under paragraph (1) of this subsection shall take effect on December 31, 1982.

"REPORT AND ASSESSMENT BY BOARD

"(c) Not later than December 31, 1981, the Board shall prepare and submit to the Congress a comprehensive review of the Board's implementation of the provisions of this Act during the preceding initial period of this Act's existence, and a comprehensive review of each of the Board's programs under this Act. Each such review shall be made available to the committee or committees of the Senate and House of Representatives having jurisdiction with respect to the annual authorization of funds for the Board and its programs for the fiscal year beginning October 1, 1981.

"ELEMENTS FOR BOARD CONSIDERATION

"(d) The comprehensive review of the Board's implementation of this Act, prepared for submission under subsection (c), shall include—

"(1) a detailed comparison of the degree of competition within the airline industry as of the year preceding enactment of this section and the final year covered by the review;

"(2) a comparison of the degree of pricing competition in the industry during those two one-year periods;

"(3) a comparison of the extent of unused authority held by the industry during those two one-year periods, with details as to the number of nonstop route segments which have been transferred from one carrier to another under section 401(d)(5) of this Act;

"(4) an assessment of the degree to which agreements approved under section 412 of this Act have affirmatively or negatively affected the degree of competition within the industry;

"(5) a comparison of the extent of air transportation service provided to small communities during the two one-year periods specified above, together with details as to the comparative subsidy costs during these two periods;

"(6) an assessment of the degree, if any, to which the administrative process has been expedited under this Act;

"(7) an assessment of the impact of the foregoing changes upon the national air transportation system in terms of benefits or detriments to the traveling and shipping public, the Postal Service and the national defense, and the benefits and detriments to air carriers, certificated and uncertificated; and

"(8) the Board's opinion as to whether the foregoing changes in combination, have improved or harmed this Nation's domestic air transportation system and the United States-flag foreign air transportation system.

This assessment shall be accompanied by a detailed opinion from the Board as to whether the public interest requires continuation of the Board and its functions beyond December 31, 1982, and, if it is the Board's conclusion that it should continue to exist, detailed recommendations as to how the provisions of this Act should be revised to insure continued improvement of the Nation's air transportation system beyond December 31, 1982. The Board's assessment under this subsection shall also be accompanied by a comparative analysis of procedures under section 801 of this Act before and after the date of enactment of the Air Service Improvement Act of 1978, together with the Board's opinion as to the benefits of each set of procedures.

"ELEMENTS FOR EACH COMPREHENSIVE REVIEW

"(e) Each comprehensive review of the Board's programs under this Act, prepared for submission under subsection (c) of this section, shall include—

"(1) an identification of the objectives intended for the program, and the problem or need which the program was intended to address;

"(2) an identification of any other programs having similar or potentially conflicting or duplicative objectives;

"(3) an assessment of alternative methods of achieving the purposes of the program;

"(4) a justification for the authorization of new budget authority, and an explanation of the manner in which it conforms to and integrates with other efforts;

"(5) an assessment of the degree to which the original objectives of the program have been achieved, expressed in terms of the performance, impact, or accomplishments of the program and of the problem or need which it was intended to address, and employing the procedures or methods of analysis appropriate to the type of character of the program.

"(6) a statement of the performance and accomplishments of the program in each of the previous four completed fiscal years and in the year of submission, and of the budgetary costs incurred in the operation of the program;

"(7) a statement of the number and types of beneficiaries or persons or entities served by the program;

"(8) an assessment of the effect of the program on the national economy, including, but not limited to, the effects on competition, economic stability, employment, unemployment, productivity, energy consumption and conservation, and price inflation, including costs to consumers and to businesses;

"(9) an assessment of the impact of the program on the Nation's health and safety;

"(10) an assessment of the degree to which the overall administration of the program, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the officers executing the program, are believed to meet the objectives of the Congress in enacting this Act;

"(11) a projection of the anticipated needs for accomplishing the objectives of the program, including an estimate if applicable of the date on which, and the conditions under which, the program may fulfill such objectives;

"(12) an analysis of the services which could be provided and performance which could be achieved if the program were contained at a level less than, equal to, or greater than the existing level; and

"(13) recommendations for necessary transitional requirements ,in the event that funding for such program is discontinued, including proposals for such executive or legislative action as may be necessary to prevent such discontinuation from being unduly disruptive.".

(b) That portion of the table of contents contained in the first section of such Act is amended by inserting at the end thereof

"TITLE XVI—SUNSET PROVISIONS

"Sec. 1601. Termination of Civil Aeronautics Board and transfer of certain functions.

"(a) Termination of authority.

"(b) Transfer of certain authority.

"(c) Report and assessment by Board.

"(d) Elements for Board consideration.

"(e) Elements for each comprehensive review.".

LABOR PROTECTION

SEC. 34. No authority granted by this Act, or by any amendment made by this Act, shall be exercised by any carrier unless prior to each such exercise, the Secretary of Labor has certified to the Civil Aeronautics Board that the interests of the employees who may be affected thereby have been adequately protected by fair and equitable arrangements providing levels of protection no less beneficial to and protective of such interests than those established pursuant to section 5(2)(f) of the Interstate Commerce Act and section 405 of the Rail Passenger Service Act, as such sections are in existence on the date of enactment of this section or are hereafter amended, except that the carrier-employer of the affected employees shall be responsible for the application of the protective arrangements to such employees and shall be reimbursed by the Secretary of the Treasury for the cost of such application. There is hereby established in the Treasury of the United States a separate account to be known as the "Airlines Employees' Protective Account". Funds in such account shall be available to the Secretary of the Treasury to make reimbursements pursuant to this section. There is authorized to be appropriated to such account annually such funds as may be required to meet the obligations thereunder.

COLLECTION OF FEES, CHARGES, AND PRICES

SEC. 35. Notwithstanding any other provision of law, neither the Secretary of Transportation nor the Administrator of the Federal Aviation Administration shall collect any fee, charge, or price for any approval, test, authorization, certificate, permit, registration, conveyance, or rating relating to any aspect of aviation (1) which is in excess of the fee, charge, or price for such approval, test, authorization, certificate, permit, registration, conveyance, or rating which was in effect on January 1, 1973, or (2) which did not exist on January 1, 1973, until all such fees, charges, and prices are reviewed and approved by Congress.

LABOR DISPUTES

SEC. 36. Within 10 days after the date of enactment of this section, the President, pursuant to section 10 of the Railway Labor Act, shall create a board to investigate and report on the dispute between Wein Air Alaska, Incorporated, and the Air Line Pilots Association. Such board shall report its findings to the President within thirty days from the date of its creation.

AVAILABILITY OF FUNDS

SEC. 37. Any funds authorized to be appropriated pursuant to this Act or pursuant to any amendment to any other law made by this Act shall be for fiscal years beginning after September 30, 1978.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON).

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "To amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 12611) was laid on the table.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks in the RECORD on the bill just passed, H.R. 12611.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announnce to the Members the program for the remainder of the day.

It is the intention of the Chair at this time to take unanimous-consent requests, following which it will be the intention of the Chair to recognize the gentleman from New Jersey (Mr. HOWARD), who will move that the House resolve itself into the Committee of the Whole House for the further consideration of the surface transportation bill.

Whether or not the consideration of that bill should be completed, the definite plan is that we shall adjourn at 7:30 this evening. The Committee will rise prior to that time.

Tomorrow, after convening, the first main order of business will be the further consideration of the Comprehensive Employment Training Act.

FIRE PREVENTION AND CONTROL ACT OF 1974

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11291) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Contorl Administration to the U.S. Fire Administration, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That (a) section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended—

(1) by striking out "except section 11 of this Act," and insert in lieu thereof "except as otherwise specifically provided, with respect to the payment of claims, under section 11 of this Act,"

(2) by striking out "and" after "September 30, 1977,"; and

(3) by inserting immediately after "1978" the following: ", and not to exceed $25,252,000 (of which not more than $6,043,000 may be used for the establishment of the Academy, including the renovation and alteration of a suitable site therefor) for the fiscal year ending September 30, 1979".

(b) Section 16(b) of the Act of March 31, 1901 (15 U.S.C. 278f(b)), is amended—

(1) by striking out "and" after "September 30, 1977,", and

(2) by inserting immediately after "1978"

the following: ", and not to exceed $5,600,000 for the fiscal year ending September 30, 1979".

Sec. 2. (a)(1) Sections 3, 4, and 5 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2202–2204) are amended by striking out "National Fire Prevention and Control Administration" each place it appears and inserting in lieu thereof "United State Fire Administration".

(2) The heading of section 5 of such Act is amended by striking out "NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION" and inserting in lieu thereof "UNITED STATES FIRE ADMINISTRATION".

(b) Section 16(a) of the Act of March 3, 1901 (15 U.S.C. 278f(a)), is amended by striking out "National Fire Prevention and Control Administration" in the matter preceding paragraph (1) and inserting in lieu thereof "United States Fire Administration."

(c) Section 12(g) of the Act of February 14, 1903 (15 U.S.C. 1511), is amended by striking out "National Fire Prevention and Control Administration" and inserting in lieu thereof "United States Fire Administration".

Sec. 3. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is further amended by adding at the end thereof the following new section:

"FIRE INVESTIGATION

"Sec. 24. (a) In accordance with the provisions of this subsection, the Administrator, upon the request of any State or local government, may provide for the investigation of the facts, conditions, circumstances, and probable cause of any fire which occurs within the jurisdiction of such State or local government if, in the discretion of the Administrator, (1) the fire is of a serious nature and contains aspects which are of a recurring character, or (2) such investigation would further the purposes of this Act.

"(b) The Administrator is authorized to make available to interested persons at a reasonable cost the results of any investigation performed pursuant to this subsection. However, no part of any investigation performed pursuant to this subsection shall be admissible as evidence in any court or used in any suit or action for damages growing out of any matter mentioned in such investigation.".

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with and that it be printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the House amendment to the Senate amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That (a) section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended—

(1) by striking out "except section 11 of this Act," and insert in lieu thereof "except as otherwise specifically provided, with respect to the payment of claims, under section 11 of this Act,";

(2) by striking out "and" after "September 30, 1977,"; and

(3) by inserting immediately after "1978" the following: ", and not to exceed $24,352,000 for the fiscal year ending September 30, 1979".

(b) Section 16(b) of the Act of March 3, 1901 (15 U.S.C. 278f(b)), is amended—

(1) by striking out "and" after "September 30, 1977,", and

(2) by inserting immediately after "1978" the following: ", and not to exceed $5,600,000 for the fiscal year ending September 30, 1979".

Sec. 2. (a)(1) Sections 3, 4, and 5 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2202–2204) are amended by striking out "National Fire Prevention and Control Administration" each place it appears and inserting in lieu thereof "United States Fire Administration".

(2) The heading of section 5 of such Act is amended by striking out "NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION" and inserting in lieu thereof "UNITED STATES FIRE ADMINISTRATION".

(b) Section 16(a) of the Act of March 3, 1901 (15 U.S.C. 278f(a)), is amended by striking out "National Fire Prevention and Control Administration" in the matter preceding paragraph (1) and inserting in lieu thereof "United States Fire Administration".

(c) Section 12(g) of the Act of February 14, 1903 (15 U.S.C. 1511), is amended by striking out "National Fire Prevention and Control Administration" and inserting in lieu thereof "United States Fire Administration".

Sec. 3. (a) The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by adding at the end thereof the following new section:

"FEDERAL PROGRAMS TO COMBAT ARSON

"Sec. 24. (a) The Administrator shall—

"(1) develop arson detection techniques to assist Federal agencies and States and local jurisdictions in improving arson prevention, detection, and control;

"(2) provide training and instructional materials in the skills and knowledge necessary to assist Federal, State, and local fire service and law enforcement personnel in arson prevention, detection, and control;

"(3) formulate methods for collection of arson data which would be compatible with methods of collection used for the uniform crime statistics of the Federal Bureau of Investigation;

"(4) develop and implement programs for improved collection of nationwide arson statistics within the National Fire Incident Reporting System at the National Fire Data Center;

"(5) develop programs for public education on the extent, causes, and prevention of arson; and

"(6) develop handbooks to assist Federal, State, and local fire service and law enforcement personnel in arson prevention and detection.

"(b)(1) The Administrator shall prepare and submit to Congress, not later than March 15, 1979, a report on ways in which the Federal Government may better assist the States and local jurisdictions in providing for more effective arson prevention, detection, and control. Such report shall include, but need not be limited to—

"(A)(i) an assessment of State and local capabilities in regard to arson investigation and detection; and

"(ii) an evaluation of the necessity for and the desirability of Federal supplementation of such State and local capabilities or other Federal assistance in arson detection;

"(B) a summary of Federal programs which seek to reduce arson;

"(C) an identification and analysis of existing Federal and State laws which may contribute to the incidence of arson;

"(D) recommendations for additional legislation or other programs, including research programs, or policies which may be required to assist in reducing arson in the United States: and

"(E) an assessment, where practical, of the costs and benefits of these programs and activities cited in paragraphs (1) through (4) of subsection (a) or recommended by the Administration.

"(2) Of the funds authorized to be appropriated in section 17 of this Act, $100,000 shall be available in fiscal year 1979 for carrying out the purposes of paragraph (1) of this subsection.".

(b) Section 16(a)(1) of the Act of March 3, 1901 (15 U.S.C. 278f(a)(1)), as amended, is further amended by—

(1) striking out "and" at the end of clause (G) thereof;

(2) adding "and" at the end of clause (H) thereof; and

(3) adding at the end thereof the following:

"(I) methods, procedures, and equipment for arson prevention, detection, and investigation;".

Sec. 4. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) as amended by section 3 of this Act, is further amended by adding at the end thereof the following new section:

"ACADEMY SITE

"Sec. 25. (a) The Administrator is authorized to sell the former Marjorie Webster Junior College facility, located in Washington, D.C., which was previously purchased as the site for the Academy. In the event of the sale of such facility, the Administrator shall establish within the Administration an Academy Acquisition and Construction Account (hereinafter referred to as the 'Account') and shall deposit into such Account only the proceeds from the sale of such facility Following such deposit, the Administrator shall calculate the sum of both the funds deposited into the Account, and the total moneys which have been or may be appropriated for the acquisition, construction, and/or rehabilitation of a site for the Academy. If the Administrator finds that the total amount so calculated would exceed $9,000,000, the Administrator shall deduct from the Account the difference between this comined total and $9,000,000, and shall deposit such difference into the Treasury as miscellaneous receipts.

"(b) The Administrator is thereafter authorized and directed to retain and apply funds in the Account for the acquisition, construction, and/or rehabilitation of any site which may be selected, together with such other moneys as have been or may be appropriated for such purposes, except that the total authorized expenditure for such moneys shall not exceed $9,000,000. Such sums shall remain available until expended.".

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. HOLLENBECK. Mr. Speaker, reserving the right to object, I yield to the gentleman from Florida (Mr. Fuqua) for the purpose of explaining this action.

Mr. FUQUA. Mr. Speaker, when the Senate acted on H.R. 11291 it struck all after the enacting clause and inserted new language. As a result, there were major differences between the House and Senate versions of this bill. A compromise which I propose here as an amendment has been reached with the

Senate. It contains three major provisions.

First. While both bills provide authorization for fiscal year 1979 for the National Fire Prevention and Control Administration and for the Center for Fire Research, the Senate authorizations were higher than the amounts contained in the House-passed bill. The original House version authorized a total of $25,567,000 for these two programs, and the Senate bill authorized a total of $25,252,000 for the NFPCA and $5,600,000 for the CFR giving a total authorization of $30,852,000.

The compromise, while somewhat nearer the Senate figure than to the House authorization; emphasizes the growing importance of arson losses; particularly arson for profit, which has been astutely recognized by the Senate. Thus, I concur with the Senate's judgment in recommending these higher authorizations.

Second. The Senate also proposed an amendment to become section 24 of the act which would have authorized the Administrator of the NFPCA, upon request of State or local governments, to undertake fire investigations. The amendment further provided that the information so obtained could not be used in any criminal investigation since the intent was primarily for factfinding purposes.

While arson is indeed an extremely serious problem I do not concur with the Senate's judgment that it is appropriate or desirable for the Federal Government itself to undertake investigations of fires which may be examples of arson, and there are certainly other more appropriate tasks for the Fire Administration to undertake in this area; for example, the assembling of arson statistics gathered by State and local investigators, or the development of more advanced arson detection techniques and the provision of training for State and local investigators, are instances of needed Federal initiatives to assist in a nationwide attack on arson. Regardless of the final policies this problem does deserve further examination by specialists intimately involved in the field of arson.

Therefore, the amendment I offer would delete the Senate's proposed section 24. In its place the amendment would direct the Administrator to prepare and submit to Congress a report on ways in which the Federal Government might better assist State and local jurisdictions in providing for more effective arson prevention, detection and control. Among other things this report would evaluate the necessity for and desirability of Federal supplementation of State and local arson capabilities including possible arson investigation by Federal authorities.

In addition, the Administrator is specifically instructed to develop more advanced arson detection techniques, to provide training, to formulate better methods for collecting arson data and arson statistics, to develop programs for public education on arson, and to develop handbooks to assist fire service and law enforcement personnel in arson prevention and detection. Furthermore, the Center for Fire Research would be explicitly authorized to develop methods of and equipment for arson prevention, detection and investigation.

Third. The amendment I offer would authorize the Administrator to sell the Marjorie Webster Junior College facility located in Washington, D.C., which was purchased in 1977 as the site for the National Academy for Fire Prevention and Control. The limit of $9 million on the purchase and construction of the National Academy would be retained. If the total of appropriated funds and the proceeds from a sale exceed $9 million, any excess is returned to the Treasury.

This provision is necessitated by the conference reports of the Appropriations Committees with regard to second supplemental appropriations for fiscal year 1978. That report appropriated for the construction of Academy facilities but at the same time directed that these funds not be spent for the renovation of the Marjorie Webster College site. Several reasons were given by members of our Appropriations Committee for their action, notably increased costs estimated for the renovation, the inflexibility of District zoning laws which might not permit growth of the Academy in future years, and the desire to see Federal facilities located outside Washington. In support of this position the House-Senate conferees to H.R. 13467 urged that a new site for the Academy be found and purchased as soon as possible. At that time they also urged the authorizing committees of the House and Senate to propose legislation which would permit the Administrator to sell the Marjorie Webster site and apply the proceeds against the purchase of a new site.

The proposed amendment to H.R. 11291 would do just that, and I urge its adoption by the House so that completion of a National Fire Academy can proceed as expeditiously as possible. In picking a new site the general criteria laid down by the Site Selection Board in its previous selection are sound, although I believe it important that the Academy be located some place with easy access. For if there is one important purpose of a central Academy it is that it should bring fire service personnel as well as architects, engineers, and building officials concerned with fire problems together from all over the country and from other nations as well.

Mr. Speaker, this amendment, I believe, addresses substantial concerns raised concerning the Senate amendments to our bill while at the same time pinpointing the importance of arson as a rapidly increasing major loss of property. At the same time the amendment also addresses the concerns expressed by those who felt that the Marjorie Webster College site had real problems and was not completely suitable for the National Fire Academy. This, I might add, includes myself. With this new directive, I hope, however, that the Administrator of the NFPCA will move as rapidly as possible so that we may complete the mandate of Congress in 1974 for a national fire academy without further delay.

Mr. Speaker, I understand that the Senate would agree to these amendments if adopted by the House, and therefore I strongly urge their adoption.

Mr. HOLLENBECK. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Speaker, I rise in support of this compromise on the fiscal year 1979 authorization for the National Fire Prevention and Control Administration and the Center for Fire Research. The Compromise has resolved a number of difficult issues and has the support of the members of the Subcommittee on Science, Research, and Technology, which considered the bill in detail.

The amendment reflects the importance of greater Federal effort on the problem of arson, particularly the growing arson for profit problem which has been recently dramaticized on national television.

On the other hand, the compromise reflects the feeling of the members of the subcommittee that the establishment of a Federal fire investigation unit or an arson squad, which was proposed by the amendments offered by Senator GLENN in the Senate, may not be desirable. However, since there is some question on this matter, the Administrator is directed to study the situation and report back to Congress next March.

The amendment recognizes the need to get on with the establishment of the National Fire Academy and authorizes the Administrator to sell the presently purchased Majorie Webster College site. There was concern by the Appropriations Committee that substantial cost overruns would be experienced. Furthermore, that site apparently has little room for expansion should future needs arise. I urge the Administrator to act expeditiously in choosing a new site. Furthermore, a principal justification for a central fire academy is to bring in fire service personnel, as well as other professionals concerned with fire prevention and control, together from all over the country and from other nations. Therefore, I hope that whatever site is chosen will be the highly accessible second choice in the State of New York.

In conclusion Mr. Speaker, I urge my colleagues to support this compromise amendment to H.R. 11291. It is my understanding, also, that the Senate will concur in this amendment if passed by the House.

Mr. HOLLENBECK. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, like my colleague, the gentleman from New Jersey, I know of no controversy over this bill, but can my friend the gentleman from New Jersey (Mr. HOLLENBECK) assure me that no amendments were adopted that were not germane?

Mr. HOLLENBECK. Yes, I can assure the gentleman of that.

Mr. ASHBROOK. I thank the gentleman.

Mr. HOLLENBECK. Mr. Speaker, further reserving the right to object, I concur in the judgment of my colleague that the amendment he offers represents a constructive compromise with the Senate, It will also permit the National Academy to be completed at the earliest possible moment.

I urge the House to adopt the amendment offered by my colleague, Mr. FUQUA.

Further, Mr. Speaker, I join my colleague in urging the House to adopt this amendment to the Senate amendment to H.R. 11291 authorizing appropriations for fiscal year 1979 for the National Fire Prevention and Control Administration and for the Center for Fire Research.

Arson is an extremely important problem, and I fully concur that greater efforts should be applied toward its prevention. I was, however, concerned that the establishment of a de facto arson squad by the NFPCA was inappropriate, and more important, in an era of limited funds I believe that there are other areas where the Federal Government can better spend its money in assisting States and local governments to reduce arson. Specifically, as my colleague mentioned, assembling better arson statistics, developing better training for arson investigators, developing more advanced arson detection and prediction techniques as well as the support of public education are necessary. I believe the amendment supports those general needs. While the report called for by the amendment would specifically examine some of the issues raised in determining whether a Federal fire investigation capability is desirable, the report would also seek to pinpoint important areas for research on the prediction and detection of arson.

Finally, the amendment will enable us at last, 5 years after the enactment of the Federal Fire Prevention and Control Act, to establish the National Fire Academy. The Appropriations Committee has appropriated money for the construction of Academy facilities. Those funds together with the proceeds of the sale of the Majorie Webster site will permit completion of a National Academy. After all the delays, we should get on with that job. On this point I, however, join my colleague, in urging those responsible for selecting a new site to bear in mind that a major reason for a central National Fire Academy is to permit fire service personnel and other professionals concerned with fire prevention and control from all over the country and from other countries as well to assemble, to exchange ideas and to learn from each other the newest and the most advanced techniques. Therefore, I hope that a new site would be highly accessible.

Mr. Speaker, to conclude, I urge my colleagues to adopt the amendment which I understand the Senate will accept.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

Mr. HOWARD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11733, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, September 15, 1978, all time for general debate had expired. Pursuant to the rule, the Clerk will now read by titles the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the reported bill as an original bill for the purpose of amendment, and said substitute shall be read for amendment by titles instead of by sections. No amendment to title V of said substitute, and no amendmbent to said substitute changing or modifying said title, shall be in order except amendments recommended by the Committee on Ways and Means.

The Clerk will read.

The Clerk read as follows:

H.R. 11733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Transportation Assistance Act of 1978".

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1978".

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 102. (a) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1980," and all that follows down through the period at the end of the sentence and by inserting in lieu thereof the following: "the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1980, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1981, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1982, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1983, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1984, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1985, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1986, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1987, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1989, and the additional sum of $2,333,000,000 for the fiscal year ending September 30, 1990.".

(b) $3,500,000,000 of the sum authorized for each of the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983, by the amendment made by subsection (a) of this section shall be apportioned in accordance with the applicable provisions of chapter 1 of title 23 of the United States Code. $500,000,000 of each such authorized sum shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sum apportioned on such date except that (1) the obligation of such $500,000,000 shall be at the discretion of the Secretary of Transportation, (2) half of such $500,000,000 shall be obligated only for projects on those routes in rural areas which are on the National System of Interstate and Defense Highways on the date of enactment of this subsection which are essential for the completion of continuous sections of such System, (3) half of such $500,000,000 shall be obligated only for projects on those routes in urban areas which are on such System on the date of enactment of this subsection which are of unusually high cost or which would otherwise require long periods of time for their construction, and (4) any part of such $500,000,000 not obligated before October 1 of the fiscal year for which such sum is authorized shall be immediately apportioned in the same manner as was the $3,500,000,000 authorized for such fiscal year, and such part of such $500,000,000 shall be available for obligation for the same period as is the apportionment of such $3,500,000,000. A project which has received Federal financial assistance from any such $500,000,000 shall not be eligible for withdrawal of approval by such Secretary under section 103(e) (2) or (4) of title 23, United States Code.

AUTHORIZATION OF USE OF COST ESTIMATES FOR APPORTIONMENT OF INTERSTATE FUNDS

SEC. 103. The Secretary of Transportation shall apportion for the fiscal year ending September 30, 1980, the sums authorized to be appropriated for such periods by section 108(d) of the Federal-Aid Highway Act of 1956, as amended, for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of Committee Print 95–49 of the Committee on Public Works and Transportation of the House of Representatives.

HIGHWAY AUTHORIZATION

SEC. 104. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, including the extensions of the Federal-aid primary system in urban areas, and the priority primary routes, out of the

Highway Trust Fund, $2,100,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. For the Federal-aid secondary system in rural areas, out of the Highway Trust Fund, $650,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, $800,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(3) For forest highways, out of the Highway Trust Fund, $33,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(4) For public lands highways, out of the Highway Trust Fund, $16,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(5) For forest development roads and trails, $140,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(6) For public lands development roads and trails, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(7) For park roads and trails, $30,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(8) For parkways, $45,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. The entire cost of any parkway project on any Federal-aid system paid under the authorization contained in this paragraph shall be paid from the Highway Trust Fund.

(9) For Indian reservation roads and bridges, $83,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(10) For economic growth center development highways under section 143 of title 23, United States Code, out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(11) For necessary administrative expenses in carrying out section 131 and section 136 of title 23, United States Code, $1,500,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(12) For carrying out section 215(a) of title 23, United States Code—

(A) for the Virgin Islands, not to exceed $5,000,000, per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(B) for Guam, not to exceed $5,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(C) for American Samoa, not to exceed $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

(13) For the Commonwealth of the Northern Mariana Islands, not to exceed $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. Sums authorized by this paragraph shall be expended in the same manner as sums authorized to carry out section 215 of title 23, United States Code. Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

(14) For authorized landscaping, including, but not limited to, the planting of flowers and shrubs indigenous to the area, and for litter removal, an additional $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(15) For the Great River Road, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for construction or reconstruction of roads not on a Federal-aid highway system; and out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for construction or reconstruction of roads on a Federal-aid highway system.

(16) For control of outdoor advertising under section 131 of title 23, United States Code, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(17) For control of junkyards under section 136 of title 23, United States Code, $15,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(18) For safer off-system roads under section 219 of title 23, United States Code, $300,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, except that 50 per centum or more of such funds expended in any State in each such fiscal year shall be expended in each such State only for projects for safety improvement.

(19) For access highways under section 155 of title 23, United States Code, $15,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(20) For traffic control signalization under section 146 of title 23, United States Code, out of the Highway Trust Fund, $75,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(21) Nothing in the first ten paragraphs or in paragraph (12), (13), (15), (18), (19), or (20) of this section shall be construed to authorize the appropriation of any sums to carry out sections 131, 136, or chapter 4 of title 23, United States Code.

(b)(1) For each of the fiscal years 1980, 1981, 1982, and 1983, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, and rehabilitation of the Interstate System within such State, the excess amount shall be transferred to and added to the amounts last apportioned to such State under paragraphs (1), (2), and (6) of such section 104(b) in the ratio which these respective amounts bear to each other in that State, and shall thereafter be available for expenditure in the same manner and to the same extent as the amounts to which they are added. In order to carry out this subsection, and section 158 of the Federal-Aid Highway Act of 1973, there are authorized to be appropriated out of the Highway Trust Fund, not to exceed $125,000,000 per fiscal year for each of the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.

(2) In addition to funds otherwise authorized, $85,000,000, out of the Highway Trust Fund, is hereby authorized for the purpose of completing routes designated under the urban high density traffic program prior to May 5, 1976. Such sums shall be in addition to sums previously authorized.

(c) In the case of priority primary routes, $125,000,000 per fiscal year of the sums authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, by subsection (a)(1) of this section for such routes, shall not be apportioned. Such $125,000,000 for each such authorized sum shall be available for obligation on the date of apportionment of funds for each such fiscal year, in the same manner and to the same extent as the sums apportioned on such date, except that such $125,000,000 shall be available for obligation at the discretion of the Secretary of Transportation only for projects of unusually high cost or which require long periods of time for their construction. Any part of such $125,000,000 not obligated by such Secretary on or before the last day of the fiscal year for which authorized shall be immediately apportioned in the same manner as funds apportioned for the next succeeding fiscal year for such routes, and available for obligation for the same period as such apportionment.

(d)(1) Thirty-six per centum or more of the apportionment for each fiscal year to each State of the sum authorized in paragraph (1) of subsection (a) of this section for the Federal-aid primary system (including extensions in urban areas and priority primary routes) for such fiscal year shall be obligated in such State for projects for the resurfacing, restoration, and rehabilitation of highways on such system.

(2) Thirty-six per centum or more of the apportionment for each fiscal year to each State of the sum authorized in paragraph (1) of subsection (a) of this section for the Federal-aid secondary system for such fiscal year shall be obligated in such State for projects for the resurfacing, restoration, and rehabilitation of highways on such system.

INTERSTATE SYSTEM RESURFACING

SEC. 105. In addition to any other funds authorized to be appropriated, there is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1980 and September 30, 1981, and not to exceed $275,000,000 per fiscal year for each of the fiscal years ending September 30, 1982 and September 30, 1983. Such sums shall be obligated only for projects for resurfacing, restoring, and rehabilitating those lanes on the Interstate System which have been in use for more than five years including such lanes on any toll road which has been designated as a part of the Interstate System if an agreement satisfactory to the Secretary of Transportation has been reached with the State highway department and any public authority with jurisdiction over such toll road prior to the approval of such project that the toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time of such agreement constituting a valid lien against it, and the cost of maintenance and operation and debt service during the period of toll collections.

DEMONSTRATION PROJECTS—RAILROAD HIGHWAY CROSSINGS

SEC. 106. (a) (1) Section 163 of the Federal-Aid Highway Act of 1973 (Public Law 93–87) is amended by adding immediately after subsection (l) the following new subsection:

"(m) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Hammond, Indiana, for the relocation of railroad lines for the purpose of eliminating highway railroad grade crossings.".

(2) Existing subsections (m), (n), (o), and (p) of such section 163 are relettered as (n), (o), (p), and (q), respectively, including any references thereto.

(b) Subsection (n) (as relettered by this section) of section 163 of the Federal-Aid Highway Act of 1973 (Public Law 93–87) is amended to read as follows:

"(n) The Federal share payable on account of such projects shall be 95 per centum of the cost.".

(c) Subsection (p) (relettered by this section) of such section 163 is amended by striking out "and $51,400,000 for the fiscal year ending September 30, 1978, except that" and inserting in lieu thereof the following: "$51,400,000 for the fiscal year ending September 30, 1978, $90,000,000 for the fiscal year ending September 30, 1979, and $110,000,000 per fiscal year for each of the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982, except that".

(d) Title III of the National Mass Transportation Systems Act of 1974 (Public Law 93–503) is hereby repealed.

DEFINITIONS

SEC. 107. The definition of "construction" in section 101(a) of title 23 of the United States Code is amended by adding at the end thereof the following new sentence: "The term also includes capital improvements which directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.".

COMPLETION OF INTERSTATE SYSTEM

SEC. 108. (a) The fourth and fifth sentences of paragraph (2) of subsection (e) of section 103, of title 23, United States Code, are amended to read as follows: "The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph. The Secretary shall not designate any interstate route or portion thereof under authority of this paragraph after January 1, 1978. Every route on the Interstate System which is in a rural area, and identified in the 1977 estimate of the cost of completing the Interstate System transmitted to Congress by the Secretary of Transportation and which has not been withdrawn from such System prior to the date of enactment of the Federal-Aid Highway Act of 1978, is essential and shall be constructed, and paragraph (4) of this subsection shall not apply to such a route. Every other route on the Interstate System which is identified in the 1977 estimate of the cost of completing the Interstate System transmitted to Congress by the Secretary of Transportation and which has not been withdrawn from such System prior to the date of enactment of the Federal-Aid Highway Act of 1978, shall be constructed, and paragraph (4) of this subsection shall not apply to such a route unless the Secretary withdraws approval for such a route in accordance with such paragraph (4) before September 30, 1982, except that this sentence shall not apply to any such route which on the date of enactment of the Federal-Aid Highway Act of 1978 is under judicial injunction prohibiting its construction. Every route approved by the Secretary as part of the Interstate System on or after January 1, 1976, shall be constructed and paragraph (4) of this subsection shall not apply to such a route.".

(b) Paragraph (4) of subsection (e) of section 103, title 23, United States Code, is amended by inserting immediately after the second sentence the following: "Substitute projects under this paragraph may not be approved by the Secretary under this paragraph after September 30, 1982.", and by adding at the end of such paragraph the following new sentences: "The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph. After the date of enactment of this sentence, the Secretary may not designate any mileage as part of the Intertsate System pursuant to this paragraph or under any other provision of law.".

(c) The amendment made by subsection (a) of this section shall apply to each route or portion thereof designated under section 103(e) (2) of title 23, United States Code, before January 1, 1978, the construction of which was not complete on such date, and the Secretary of Transportation shall make such revisions in existing contracts and agreements as may be necessary to carry out this section and the amendment made by subsection (a) of this section.

(d) Notwithstanding any other provision of law, including but not limited to section 103 of title 23, United States Code and this section, no route or portion thereof shall be constructed on the National System of Interstate and Defense Highways with respect to which an environmental impact statement has not been submitted to the Secretary of Transportation in accordance with the National Environmental Policy Act of 1969 by September 30, 1984. Any such route or portion thereof shall thereupon be removed from designation as part of such Interstate System.

(e) Notwithstanding any other provision of law, including but not limited to section 103 of title 23, United States Code and this section, no route or portion thereof shall be constructed on the National System of Interstate and Defense Highways with respect to which the right-of-way has not been acquired, or construction of which has not been commenced, by September 30, 1986, and such route or portion thereof shall thereupon be removed from designation as part of such Interstate System.

TRANSFERABILITY

SEC. 109. (a) Paragraph (1) of subsection (d) of section 104 of title 23, United States Code, is amended by striking out "40" each place it appears and inserting in lieu thereof at each such place "50".

(b) Paragraph (2) of subsection (d) of section 104 of title 23, United States Code, is amended by striking out "20" each place it appears and inserting in lieu thereof at each such place "25".

REPORT OF OBLIGATIONS

SEC. 110. Section 104 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary shall submit to Congress not later than the 20th day of each calendar month which begins after the date of enactment of this subsection a report on (1) the amount of obligation, by State, for Federal-aid-highways and the highway safety construction programs during the preceding calendar month, (2) the cumulative amount of obligation, by State, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated apportionment of each State by fiscal year, and (4) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for that fiscal year.".

PROGRAMS

SEC. 111. Subsection (g) of section 105 of title 23, United States Code, is amended by striking out "public airports and public ports for water transportation," and inserting in lieu thereof "public airports, public ports for water transportation, new town communities, and new town-intown communities,".

ACCESS TO RIGHTS-OF-WAY

SEC. 112. Section 111 of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the Interstate System (1) if such establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaries or otherwise, and (2) if all access to, and exists from, such establishment conform to the standards established for such a highway under this title.".

INTERSTATE RESURFACING

SEC. 113. (a) Chapter 1 of title 23 of the United States Code is amended by inserting immediately after section 118 the following new section:

"§ 119. Interstate System resurfacing.

"Beginning with funds apportioned for fiscal year 1980, the Secretary may approve projects for resurfacing, restoring, and rehabilitating those lanes in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978). Sums authorized to be appropriated for this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title and the Federal share shall be that set forth in section 120(c) of this title.".

(b) Section 104(b)(5)(B) of title 23, United States Code, is amended to read as follows: "One-half in the ratio that lane miles in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and one-half in the ratio that vehicle miles traveled on lanes in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such vehicle miles in all States.".

(c) The analysis of chapter 1 of title 23, United States Code, is amended by deleting:

"119. Repealed."

and inserting in lieu thereof:

"119. Interstate System resurfacing.".

BUSES FOR THE ELDERLY AND HANDICAPPED

SEC. 114. Section 127 of title 23, United States Code, is amended by adding at the end thereof the following new sentence. "Notwithstanding any other provision of law, no bus which meets standards established by the Secretary for access for elderly and handicapped persons shall be denied access to any route on the Interstate System if such vehicle does not exceed 25,000 pounds per single axle-weight and the width thereof does not exceed 102 inches.".

FEDERAL SHARE

SEC. 115. (a) The first sentence of subsection (a) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" each place it appears and inserting in lieu at each such place "80 per centum".

(b) Subsection (d) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(c) The first sentence of subsection (f) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(d) Subsection (g) of section 131 of title 23, United States Code, is amended by striking out "75 per centum" and inserting in lieu thereof "80 per centum".

(e) Subsections (i) and (j) of section 136 of title 23, United States Code, are each amended by striking out "75 per centum" and inserting in lieu thereof "80 per centum".

(f) Subsection (e) of section 148 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(g) Subsection (b) of section 155 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(h) Subsection (a) of section 215 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(i) Subsection (a) of section 118 of the Federal-Aid Highway Amendments of 1974 (Public Law 93–643) is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(j) (1) The first sentence of subsection (d) of section 402 of title 23, United States Code, is amended by inserting "provisions relating to the Federal share," immediately after "other than".

(2) Subsection (d) of such section 402 is amended by inserting immediately after the first sentence thereof the following new sentence: "The Federal share payable to implement highway safety programs under this section shall be 90 per centum of the cost thereof.".

(k) The last sentence of subsection (c) of section 406 of title 23, United States Code, is amended by striking out "title shall not exceed 70 per centum" and inserting in lieu thereto "section shall not exceed 90 per centum"

(l) The amendments made by subsections (a) through (k) of this section shall take effect with respect to obligations incurred after the date of enactment of this section.

(m) Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of this section or of this title, the Federal share payable on account of any project under this title in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be 100 per centum of the total cost of the project.".

CONTROL OF OUTDOOR ADVERTISING

SEC. 116. (a) Subsection (g) of section 131, title 23, United States Code, is amended by striking the period at the end of the first sentence and adding the following "and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section.".

(b) Subsection (k) of section 131, title 23, United States Code, is amended by striking the first word and inserting in lieu thereof the following: "Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing".

(c) Subsection (o) of section 131, title 23, United States Code, is amended to read as follows:

"(o) The Secretary shall approve the request of a State to permit retention of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of subsection (c), where such signs, displays, and devices were in existence on May 5, 1976, and where the State demonstrates that such signs, displays, and devices (1) provide directional information about goods and services in the interest of the traveling public, and (2) are such that removal would work a substantial economic hardship in any specific area defined by such State.".

ELECTRONIC SIGNS

SEC. 117. (a) Clause (3) of subsection (c) of section 131 of title 23, United States Code, is amended by inserting immediately after "devices" the following "including those which may be changed by electronic process or by remote control,".

(b) Subsection (d) of section 131 of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "Nothing in this section shall authorize the Secretary to prohibit the use of any sign, display, or device which may be changed by electronic processes or by remote control in any commercial or industrial area (whether zoned or unzoned) subject to this subsection.".

(c) The Secretary of Transportation shall make such revisions in agreements entered into with State highway departments under section 131 of title 23, United States Code, as in effect on June 30, 1965, to make bonus payments for the control of outdoor advertising signs, displays, and devices in order to carry out the amendments made by subsection (a) of this section.

(d) The Secretary of Transportation shall make such revisions in agreements entered into with States under section 131 of title 23, United States Code, relating to the control of outdoor advertising in any commercial or industrial area (whether zoned or unzoned) as may be necessary to carry out the amendments made by subsection (b) of this section.

HIGHWAY BRIDGE REPLACEMENT PROGRAM

SEC. 118. (a) Section 144 of title 23 of the United States Code is amended to read as follows:

"§ 144. Highway bridge replacement program.

"(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a highway bridge replacement program be established to enable the several States to replace highway bridges, in whole or in part, over waterways, other topographical barriers, other highways, or railroads when the States and the Secretary find that a bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.

"(b) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on any Federal-aid system which are bridges over waterways, other topographical barriers, other highways, and railroads; (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement; and (4) determine the cost of replacing each such bridge, in whole or in part, with a comparable facility.

"(c) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on public roads, other than those on any Federal-aid system, which are bridges over waterways, other topographical barriers, other highways, and railroads, (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement, and (4) determine the cost of replacing each such bridge, in whole or in part, with a comparable facility.

"(d) Whenever any State or States make application to the Secretary for assistance in replacing a highway bridge, in whole or in part, which the priority system established under subsections (b) and (c) of this section shows to be eligible, the Secretary may approve Federal participtaion in replacing such bridge, in whole or in part, with a comparable facility. The Secretary shall determine the eligibility of highway bridges for replacement for each State based upon the unsafe highway bridges in such State. In approving projects under this section, the Secretary shall give consideration to those projects which will remove from service those highway bridges most in danger of failure.

"(e) Funds authorized to carry out this section shall be apportioned on October 1 of the fiscal year for which authorized. Funds authorized to carry out this section for the fiscal year ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be apportioned to the States in accordance with table 1 of Committee Print 95–49 of the Committee on Public Works and Transportation of the House of Representatives. Funds authorized to carry out this section which are apportioned under this section shall be available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system under this title. Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to other States in accordance with table 1 of Committee Print 95–49 of the Committee on Public Works and Transportation of the House of Representatives.

"(f) The Federal share payable on account of any highway bridge replaced, in whole or in part, under this section shall be 90 per centum of the cost thereof.

"(g) To carry out this section, there is authorized to be appropriated out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $125,000,000 for the fiscal year ending June 30, 1976, to be available until expended. Of the $2,000,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, authorized by paragraph (6) of section 202 of the Highway Safety Act of 1978, $1,800,000,000 shall be apportioned as provided in subsection (e) of this section. $200,000,000 per fiscal year of the amount authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date except that the obligation of such $200,000,000 shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement cost of each of which is more than $10,000,000. Not less than 25 per centum nor more than 35 per centum of the amount apportioned to each State in each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be expended for projects to replace, in whole or in part, highway bridges located on public roads, other than those on a Federal aid system.

"(h) Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525–533) shall apply to bridges authorized to be replaced, in whole or in part, by this section.

"(i) The Secretary shall report annually on projects approved under this section, shall annually revise and report the current inventories authorized by subsections (b) and (c) of this section, and shall report such recommendations as he may have for improvement of the program authorized by this section.

"(j) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.

"(k) Not later than six months after the date of enactment of this subsection, and periodically thereafter, the Secretary shall review the procedure used in approving or disapproving applications submitted under this section to determine what changes, if any, may be made to expedite such procedure. Any such changes shall be implemented by the Secretary as soon as possible. Not later than nine months after the date of enactment of this subsection, the Secretary shall submit a report to Congress which describes such review and such changes, including any recommendations for legislative changes.

"(l) Notwithstanding any other provision of law, any bridge which is owned and operated by an agency (1) which does not have taxing powers, (2) whose functions include operating a federally assisted public transit system subsidized by toll revenues, and (3) whose sole sources of revenues (other than subventions and transit operating revenues) is vehicle tolls, shall be eligible for assistance under this section.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by deleting:

"144. Special bridge replacement program."

and inserting in lieu thereof:

"144. Highway bridge replacement program.".

(c) The Secretary of Transportation shall complete the requirements of subsection (c) of section 144 of title 23, United States Code, as amended by subsection (a) of this section not later than the last day of the second full calendar year which begins after the date of the enactment of this section.

(d) Subsection (d) of section 116 of title 23, United States Code, is amended (1) by striking out "on any of the Federal-aid highway system" at the end of the first sentence, and (2) by striking out "on the Federal-aid system" at the end of the last sentence.

TRAFFIC CONTROL SIGNALIZATION

SEC. 119. (a) Chapter 1 of title 23, United States Code, is amended by inserting immediately after section 145 the following new section:

"§ 146. Traffic control signalization program.

"(a) The Secretary is authorized to make grants to States for traffic control signalization projects that are designed to conserve motor vehicle fuel, decrease traffic congestion, increase the capacity of existing highways, improve air and noise quality, and improve highway safety on any toll-free highway which is under the jurisdiction of and maintained by a public authority and open to public travel. Projects shall be selected by each State highway department in consultation with appropriate local officials. Priority shall be given to projects which provide coordinated signalization of two or more intersections.

"(b) The Federal share payable on account of any project under this section shall be the same as that provided in section 120(c) of this title.

"(c) On October 1 of each fiscal year the Secretary shall apportion the sums authorized to be appropriated to carry out this section for that fiscal year among the several States in the ratio which the population in urban areas, or parts thereof, in each State bears to the total population in such urban areas, or parts thereof, in all of the States as shown by the latest available Federal census, except that no State shall receive less than one-half of 1 per centum of each year's apportionment. Sums apportioned under this section shall be available for obligation and expenditure in the same manner and for the same period as if such sums were apportioned for the Federal-aid primary system under this chapter.

"(d) In any State where the State highway department does not have legal authority to construct or maintain a project under this section, such State highway department shall enter into a formal agreement for such construction or maintenance with the appropriate local officials of the county or municipality in which such project is located. The requirements of section 116 of this title that the State highway department maintain, or cause to be maintained, any project constructed under this section shall include the duty to operate such project, and the State's duty to maintain, or cause to be maintained (including the operation of) any such project shall exist whether or not the project is part of the Federal-aid system.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by striking out

"146. Repealed."

and by inserting in lieu thereof:

"146. Traffic control signalization.".

(c) Section 120(d) of title 23, United States Code, is amended by inserting after "section 130 of this title," the following: "and for any project for traffic control signalization, other than a project for which a grant is made under section 146.".

SPUR HIGHWAYS—GREAT RIVER ROAD

SEC. 120. Section 148 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary is authorized to provide for the construction of such spur highways as he determines necessary to connect the Great River Road, by the most direct feasible routes, with existing bridges across the Mississippi for the purpose of providing persons traveling such road with access to significant scenic, historical, recreational, or archeological features on the opposite side of the Mississippi River from the Great River Road.".

PAVEMENT MARKING

SEC. 121. Section 151(e) of title 23, United States Code, is amended by striking the period at the end thereof and adding the following: "for the Federal-aid primary system. On October 1 of each fiscal year the Secretary shall allocate the sums authorized to carry out this section for that fiscal year among the several States in such manner as he deems most appropriate to expedite the completion of pavement marking of all highways. Any amounts allocated to the States remaining unobligated at the end of the fiscal year following the fiscal year for which such amounts are authorized shall immediately be reallocated by the Secretary among the other States.".

ENERGY IMPACTED PUBLIC ROADS

SEC. 122. (a) Chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following new section:

"§ 157. Energy impacted public roads.

"(a) The Secretary is authorized to apportion funds made available for the purpose of this section for the repair of public roads which have incurred a substantial increase in use as a result of transportation activities to meet national energy requirements and will continue to incur such use for such purpose. Such apportionment shall be without regard to allocation of apportion formulas otherwise established under this title.

"(b) The Federal share on account of any public road repairs under this section shall be 80 per centum of the cost thereof.

"(c) There is authorized to be appropriated, out of the Highway Trust Fund, for the purpose of this section not to exceed $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following:

"157. Energy impacted public roads.".

ENERGY IMPACTED RAIL HIGHWAY CROSSINGS

SEC. 123. (a) Chapter 1 of title 23, United States Code, is amended by inserting at the end thereof the following new section:

"§ 158. Energy impacted rail highway crossings.

"(a) The Secretary is authorized to make grants under this section for projects to separate rail highway crossings where there is a substantial increase in use of those rail facilities in transporting coal to meet national energy requirements and where the continued use of these facilities for such purpose will result in substantial delays in highway travel. Such grants shall be without regard to any allocation otherwise made under this title.

"(b) The Federal share on account of any project under this section shall be 80 per centum of the cost thereof.

"(c) There is authorized to be appropriated, out of the Highway Trust Fund, for the purposes of this section, not to exceed $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"158. Energy impacted rail highway crossings.".

BRIDGES ON DAMS

SEC. 124. (a) Subsection (d) of section 320 of title 23, United States Code, is amended by striking out "$50,000,000" and inserting in lieu thereof "$65,000,000".

(b) Sums appropriated or expended under authority of the increased authorization established by the amendment made by subsection (a) of this section shall be appropriated out of the Highway Trust Fund for the fiscal year ending September 30, 1978, and for subsequent fiscal years.

APPALACHIAN DEVELOPMENT HIGHWAYS

SEC. 125. (a) Subsection (f) of section 201 of the Appalachian Regional Development Act of 1965 is amended to read as follows:

"(f) Federal assistance to any construction project under this section shall not exceed 70 per centum of the costs of such project except that if a State uses funds appropriated under this section for not less than 45 per centum and not more than 60 per centum of the costs of a development highway project that State may use funds appropriated under section 104 of title 23, United States Code (other than subsections (b)(5) and (b)(6) of such section), and available for construction on the Federal-aid primary system and its extension within urban areas, to increase such Federal assistance to not more than 90 per centum of such costs.".

(b) The third sentence of section 201(a) of the Appalachian Regional Development Act of 1965 is amended by striking out "two thousand nine hundred miles." and inserting in lieu thereof "three thousand and fifty miles.".

OVERSEAS HIGHWAYS

SEC. 126. Subsection (b) of section 118 of the Federal-Aid Highway Amendments of 1974 (Public Law 93-643) is amended to read as follows:

"(b) There is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $143,000,000 to carry out such projects.".

OBLIGATION LIMITATION

SEC. 127. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1979 shall not exceed $10,900,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code.

(b) Notwithstanding the limitation contained in subsection (a) of this section, the Secretary shall not in any way control—

(1) the rate of obligation of such limitation by allocation of such limitation or in any other manner; and

(2) by priority or otherwise, programs or projects eligible for Federal financial assistance from those funds for such programs and projects which are subject to such limitation, if such programs or projects are otherwise eligible for such assistance under title 23, United States Code, or any other applicable provision of law.

CARPOOL AND VANPOOL PROJECTS

SEC. 128. (a) Section 3 of the Emergency Highway Energy Conservation Act, as amended, is amended as follows:

(1) Subsection (a) is amended by striking out "is authorized to approve demonstration projects" and inserting in lieu thereof "is authorized to approve projects".

(2) Subsection (c) is amended by striking out "acquiring vehicles appropriate for carpool use," and inserting in lieu thereof the following: "acquiring four-wheeled vehicles, other than station wagons, manufactured primarily for use on public highways for the transportation of not less than eight nor more than fifteen individuals and which are appropriate for carpool use,".

(3) Subsection (d) is amended by striking out "except that" and all that follows down through and including the period at the end of such sentence and inserting in lieu thereof the following: "except that the Federal share of such project shall be 80 per centum, and only funds apportioned under section 104(b) (1) and (6) of such title shall be available to carry out projects authorized by this section.".

(4) Subsection (e) is amended to read as follows: "(e) The Secretary of Transportation shall not approve any project under this section which will have an adverse effect on any mass transportation system.".

(b) It is hereby declared to be national policy that special effort should be made to promote commuter modes of transportatin which conserve energy, reduce pollution, and reduce traffic congestion. The Secretary of Transportation is directed to serve as an advocate of carpooling and vanpooling for the purpose of increasing voluntary participation in such modes, particularly during commuting periods, and for the purpose of identifying and removing legal and regulatory barriers which prevent increased participation of such modes. The Secretary is also directed to assist both public and private employers and employees who wish to establish carpooling programs where they are needed and desired, and to assist local and State governments, and their instrumentalities, in encouraging such modes by removing legal and regulatory barriers to such programs, supporting existing carpooling and vanpooling programs, and providing technical assistance, for the purpose of increasing participation in such modes.

(c) The Secretary of Transportation is authorized to make grants and loans to States, counties, municipalities, metropolitan planning organizations, and other units of local and regional government consistent with the policy of this section. Such grants and loans shall be awarded in a manner which emphasizes energy conservation, although the Secretary may use other factors as he deems appropriate. The Federal share of the costs of any project approved under this section shall not exceed 80 per centum. No grant awarded under this subsection may be used for the purchase or lease of vehicles.

(d) There is hereby authorized to be appropriated, out of the Highway Trust Fund, not to exceed $1,000,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981, for expenditures incurred by the Secretary of Transportation in carrying out the provisions of subsection (b) of this section, and $15,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980, for the purpose of carrying out the program described in subsection (c) of this section.

(e) Section 120 of the Federal-Aid Highway Amendments of 1974 (Public Law 93-643) is hereby repealed.

(f) The Secretary of Transportation shall not approve any project under subsection (b) or (c) of this section which will have an adverse effect on any mass transportation system.

(g) The Secretary of Transportation is directed to study the administrative effectiveness of carpooling and vanpooling programs within the Department of Transportation, including programs of the Federal Highway Administration, the Urban Mass Transportation Administration, and the Office of the Secretary. Such study shall be completed no later than September 30, 1979. Upon completion of such study, the Secretary shall propose a plan to centralize or modify such programs to make delivery of services and grants more efficient, more cost-effective, and to avoid duplication of effort. Such plan shall list statutory changes needed to implement such a plan, which shall be sent to Congress no later than March 30, 1980. There is hereby authorized to be appropriated to carry out this subsection not to exceed $125,000.

(h) Section 203(b)(7a) of part II of the Interstate Commerce Act is amended by inserting after "aircraft" a semicolon and the following: "or (7b) vehicles carrying up to fifteen persons in a single daily roundtrip for the purpose of commuting to and from work;".

ACCELERATION OF CONSTRUCTION OF INTERSTATE SYSTEM

SEC. 129. (a) If a State has not expended or otherwise obligated any of the funds apportioned to it for the Interstate System for any fiscal year which begins on or after October 1, 1978, before the first day of the fiscal year for which such funds are authorized, then all funds authorized to be apportioned to such State for the Interstate System for the next fiscal year shall be immediately available for obligation in any State which has obligated all of its apportionments other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval. The amount of the apportionment made for the next succeeding fiscal year to such State for the Interstate System shall be reduced by the amount obligated under this section in the preceding fiscal year by such State, and a State whose apportionment for the preceding fiscal year was made available for obligation by another State shall receive an apportionment for such preceding fiscal year in an amount equal to the amount so made available. No State shall have made available to it in any fiscal year for obligation under the first sentence of this section an amount in excess of the amount which the Secretary determines may be apportioned to such State in the next succeeding fiscal year.

(b) Section 122 of title 23, United States Code, is amended by striking out "the retirement of the principal of such bonds", and by inserting in lieu thereof the following: "the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or extensions of any of the Federal-aid highway systems in urban areas and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System"; and by striking out "This section shall not be construed as a commitment or obligation on the part of the United States to provide funds for the payment of the principal of any such bonds." and inserting in lieu thereof the following: "This section shall not be construed as a commitment or obligation on the part of the United States to provide for the payment of the principal or interest of any such bonds. The payment of interest on such bonds and incidental costs in connection with the sale of such bonds shall not be included in the estimated cost of completing the Interstate System.".

(c) No interest shall be paid under authority of section 122 of title 23, United States Code, on any bonds issued prior to the date of enactment of this Act, unless such bonds were issued for projects which were under construction on January 1, 1978. Interest on bonds issued in any fiscal year by a State after the date of enactment of this Act may be paid under authority of section 122 of title 23, United States Code, only if (1) such State was eligible to obligate funds of another State under subsection (a) of this section during such fiscal year and (2) the Secretary of Transportaiton certifies that such eligible State utilized, or will utilize, to the fullest extent possible during such fiscal year its authority to obligate funds of other States under such subsection (a) of this section. No interest shall be paid under section 122 of title 23, United States Code, on that part of the proceeds of bonds issued after the date of enactment of this Act used to retire or otherwise refinance bonds issued prior to such date.

ACCESS CONTROL DEMONSTRATION PROJECTS

SEC. 130. (a) The Secretary of Transportation is authorized to carry out access control demonstration projects designed to demonstrate whether preserving the capacity of existing highways to move traffic safely by acquiring and controlling the right of access to such a highway is a cost effective alternative to the construction of additional highways. Such demonstration projects shall be carried out (1) on highways which are of the Federal-aid primary or secondary system, and are well maintained and in good condition, and (2) in traffic corridors which are not already subject to heavy industrial, commercial, or residential development. The Secretary of Transportation shall carry out one such demonstration project in each of five States.

(b) On or before September 30, 1982, the Secretary shall report to Congress the results of the projects carried out under this section.

(c) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $50,000,000 for the four fiscal year period ending September 30, 1982.

(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

BIKEWAYS

SEC. 131. (a) For the purpose of this section, the term—

(1) "Secretary" means the Secretary of Transportation;

(2) "bikeway" means a new or improved lane, path, or shoulder; a traffic control device; a shelter or a parking or a support facility designed or regulated to serve bicycles and persons using bicycles;

(3) "urbanized area" means an area so designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census;

(4) "urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary which boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census, except in the case of cities in the State of Maine and in the State of New Hampshire;

(5) "rural area" means an area not an urban area or an urbanized area; and

(6) "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.

(b) The Secretary is authorized to make grants to States, to municipalities wholly or partly within urban areas or urbanized areas, and to political subdivisions wholly or partly within rural areas, for projects for the construction of bikeways. Such bikeways shall be for commuting or recreational purposes, or for both such purposes. Such bikeways shall be located in urban areas, in urbanized areas, or in rural areas, or shall connect such areas with schools or employment centers, national, State, or local parks, seashores, or recreational areas.

(c) The Federal share of any project for which a grant is made in subsection (b) shall be 80 per centum of the total cost of such project. The remaining 20 per centum of such cost shall be paid by the grantee.

(d) Grants made under subsection (b) in urbanized areas should be in accordance with a continuing, comprehensive transportation planning process carried on cooperatively by States and local communities in accordance with section 134 of title 23, United States Code.

(e) The Secretary shall, by regulation, establish design and construction standards for projects for which grants are authorized in subsection (b) and section 217 of title 23, United States Code. Such regulations shall contain criteria that would ensure smooth surfaces, adequate widths, ample sight distances, design speed, reasonably negotiable grades, and such other requirements as the Secretary may deem necessary.

(f) Grants made under this section shall be in addition to, and not in lieu of any sums available under section 217 of title 23, United States Code.

(g) Section 109(f) of title 23, United States Code, is amended by adding after the words "median strips,", the following: "bikeways,".

(h) Section 109 of title 23, United States Code, is amended by adding a new subsection as follows:

"(l) The Secretary shall not approve any project under this title that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists.".

(i) There is authorized to be appropriated to the Secretary to carry out this section, $12,500,000 per fiscal year out of the Highway Trust Fund, and $12,500,000 per fiscal year out of any other money in the Treasury not otherwise appropriated for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

USE OF TOLL RECEIPTS

SEC. 132. The second sentence of subsection (b) of section 2 of the Act entitled "An Act granting the consent of Congress to the State of California to construct, maintain, and operate a bridge across the Bay of San Francisco from the Rincon Hill district in San Francisco by way of Goat Island to Oakland", approved February 20, 1931, is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and new approaches to the San Mateo Bridge in the San Francisco Bay Area.".

LIMITATIONS

SEC. 133. To the extent that any section of this Act provides new or increased authority to enter into contracts under which outlays will be made from funds other than the Highway Trust Fund, such new or increased authority shall be effective for any fiscal year only in such amounts as are approved in appropriations Acts.

STUDY—FACTORS AFFECTING TRANSPORTATION OPERATIONS

SEC. 134. The Secretary of Transportation shall make a full and complete investigation and study of all those factors affecting the safe and efficient operation of bridges, tunnels, and roads within the United States, including, but not limited to, structural, operational, environmental, and civil disturbance factors.

EAST-WEST TOLL ROAD—INDIANA STUDY

SEC. 135. The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall study the possibility of relieving the Indiana Toll Road Commission of obligations resulting from the use of certain Federal funds and report the results of such study to the Congress by November 15, 1978. Such study shall be limited to the following:

(1) Additional Indiana East-West Toll Road entrances and exits in locations designated as metropoltan areas by the United States Census Bureau, 1970 census or cities of twenty-five thousand or more population, and the approximate cost and course of funding of each interchange.

(2) Methods of economical toll collections assuring fair and equitable payment from the individual user and ascertainment of urban toll free areas.

(3) Improvements necessary to insure compliance of the Indiana East-West Toll Road with Interstate Highway Standards and the approximate cost and source of payment for such improvements.

(4) Projection of maintenance costs and revenues of the Indiana East-West Toll Road until 1994 under various toll systems and charges.

(5) Formula of toll distribution by which Indiana communities directly affected by ingress to or egress from the Indiana East-West Toll Road (limited to Indiana communities within fifteen miles of the Indiana East-West Toll Road) may be reimbursed for costs incurred due to the toll road from revenues remaining after expenditures are made for the upgrading of the Indiana East-West Toll Road to Federal highway standards, the maintenance of the toll road, the construction of new interchanges and bond obligations, specifically including reserves.

(6) The total cost to the State highway commission if tolls are removed.

(7) An estimate of the time frame for the earliest construction of whatever improvements are recommended, based upon each of the following alternative methods of financing: by proceeds from the sale of toll supported bonds, by funds provided solely by the State of Indiana, and by funds principally provided by the Federal Government.

BONDED INDEBTEDNESS STUDY

SEC. 136. The Secretary of Transportation shall conduct a study to determine the extent of outstanding bonded indebtedness for each State as of January 1, 1979, incurred by each State or public authority within each State prior to June 29, 1956, for the construction of toll roads or portion thereof incorporated into the Interstate System. The study should determine a method of allocating bonded indebtedness between portions of toll roads which have been incorporated into the Interstate System and portions which remain free to public travel. The study should determine what specific encumbrances there are to expeditious removal of tolls and recommended alternative methods for equitable payment of debt service for the purpose of making toll roads incorporated into the Interstate System free to public travel. The Secretary shall report his findings to Congress not later than January 1, 1979.

DEMONSTRATION PROJECT—RESTRICTED ACCESS

SEC. 137. (a) The Secretary of Transportation is authorized to carry out a demonstration project in a metropolitan area having a population of five hundred thousand, or more, to restrict the access of motor vehicles to the central business district of such area during hours of peak traffic for the purpose of determining the practicability of this method of reducing motor vehicle congestion in this area.

(b) The Secretary of Transportation shall submit a progress report annually on the project authorized by this section and a final report, together with his recommendations, not later than three years after the date of enactment of this Act.

(c) There is authorized to be appropriated, out of the Highway Trust Fund, such sums as may be necessary to carry out this section.

DEMONSTRATION PROJECT—VENDING MACHINES

SEC. 138. The Secretary of Transportation shall carry out a demonstration project on the Interstate System, which, notwithstanding section 111 of title 23, United States

Code, would permit the placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on the rights-of-way of such System. The vending machines shall dispense such food, drink, and other articles as the Secretary of Transportation determines necessary to ascertain the need for, and desirability of, this service to the traveling public. The Secretary of Transportation shall report to Congress not later than two years after the date of enactment of this section on the results of the demonstration project authorized by this section together with any recommendations he deems necessary.

THOUSAND ISLANDS BRIDGE AUTHORITY

SEC. 139. The facility owned by the Thousand Islands Bridge Authority located in part on the right-of-way of Interstate Route I-81 in New York State six hundred feet from the border with Canada is hereby exempt from the restrictions contained in section 111 of title 23, United States Code, prohibiting certain commercial establishments on such rights-of-way. Such exemption shall be only for the purpose of permitting the use of such facility for the sale of only those articles which are for export and for consumption outside the United States.

INTERSTATE ROUTE I-90

SEC. 140. (a) Notwithstanding section 129 of title 23, United States Code, or any regulation or agreement to the contrary, the Secretary of Transportation is authorized to approve projects on the Interstate System for the construction of approaches and interchanges connecting route I-88 to route I-90 and route I-87 to route I-90, in New York State although such projects have no use other than as approaches to route I-90, if such projects are otherwise eligible for such approval.

(b) The Secretary of Transportation is authorized to approve as a project on the Interstate System the construction of an additional lane in each direction on route I-90 connecting route I-88 to such route I-90 between exits 25 and 26 on condition that traffic using such lanes be free of tolls.

HUNTINGTON BRIDGE

SEC. 141. (a) The Secretary of Transportation, hereinafter referred to as the "Secretary", shall, notwithstanding the provisions of subsection (b) of section 129 of title 23 of the United States Code, reimburse the Federal share of the actual cost of construction of a new toll bridge across the Ohio River at or in the vicinity of Huntington, West Virginia, construction of which (other than piers) is begun after October 1, 1978, but not including the cost of toll collection and service facilities, on the same basis and in the same manner as in the construction of free highways under chapter 1 of title 23 of the United States Code upon compliance with the conditions contained in this section.

(b) The Secretary shall reimburse the Federal share of the costs of construction as applicable to a project under section 120 (a) of title 23 of the United States Code from funds apportioned to the State of West Virginia, hereinafter referred to as "State", pursuant to paragraph (1) of subsection (b) of section 104 of title 23 of the United States Code whenever the State enters into an agreement with the Secretary whereby it undertakes performance of the following obligations:

(1) to provide for the construction of such bridge in accordance with standards approved by the Secretary;

(2) all tolls received from the operation of such bridge, less the actual cost of such operation and maintenance, shall be applied by the State to the repayment of the actual costs of construction, except for an amount equal to the Federal share payable of such actual costs of a project; and

(3) no toll shall be charged for the use of such bridge after the Federal share has been paid and the bridge shall be maintained and operated as a free bridge.

Upon the enactment of this section the Secretary shall, at the request of the State, enter into an agreement with that State if such agreement meets the requirements of this subsection.

(c) Such bridge shall be designated as a part of the Federal-aid primary system, other than the Interstate System, before the payment of any Federal funds under this section, notwithstanding the mileage limitations in subsection (b) of section 103 of title 23 of the United States Code.

(d) The Federal share payable of such actual cost of the bridge shall be made in not more than fifteen annual installments, from the funds apportioned to the State pursuant to paragraph (1) of subsection (b) of section 104 of title 23 of the United States Code, with the first installment being made one year after the project agreement has been entered into between the Secretary and the State highway department. Each such payment shall be applied against the outstanding obligations of the bridge.

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

SEC. 142. (a) Section 154(c) of the Federal-Aid Highway Act of 1976 is amended by striking out "December 31, 1978" and inserting in lieu thereof "July 1, 1979,".

(b)(1) Subsection (h)(1) of section 154 of the Federal Aid Highway Act of 1976 is amended by inserting after the second sentence thereof the following new sentence: "The personnel shall be entitled to reimbursement for travel expenses, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in performance of their duties as personnel of the Commission.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on May 5, 1976.

METRIC SYSTEM SIGNING

SEC. 143. (a) No Federal funds may be expended to construct, erect, or otherwise place any sign relating to any speed limit, any distance, or other measurement, on any highway if such sign establishes such speed limit, distance, or other measurement solely using the metric system, unless Congress after the date of enactment of this Act specifically authorizes such expenditure.

(b) No Federal funds may be expended to modify any sign relating to any speed limit, any distance, or any other measurement on any highway for the conversion of such sign solely to the metric system unless Congress, after the date of the enactment of this Act specifically authorizes such expenditure.

(c) For purposes of subsections (a) and (b)—

(1) the term "highway" means a highway as defined in section 101 of title 23, United States Code; and

(2) the term "metric system" means metric system of measurement as defined in section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c).

ENFORCEMENT OF VEHICLE WEIGHT LIMITATIONS

SEC. 144. (a) Not later than the one-hundred-eightieth day after the date of enactment of this section, the Secretary of Transportation, hereinafter referred to as the "Secretary", in consultation with each State shall inventory the existing system of penalties for violations of vehicle weight laws, rules, and regulations on any portion of any Federal-aid system in such State.

(b)(1) Not later than the one-hundred-eightieth day after the date of enactment of this section, the Secretary, in consultation with each State, shall inventory the existing system in such State for the issuance of special permits.

(2) For purposes of this subsection, the term "special permit" means a license or permit issued pursuant to State law, rule, or regulation which authorizes a vehicle to exceed the weight limitation for such vehicle established under State law, rule, or regulation.

(c) Not later than January 1 of (1) the second calendar year which begins after the date of enactment of this section, and (2) each subsequent calendar year, each State shall submit a report to the Secretary, in such form and containing such information as the Secretary by regulation deems necessary to determine whether such State enforced all the laws, rules, and regulations of the State respecting maximum vehicle weights permitted on the Federal-aid primary system, including the Interstate System, the Federal-aid urban system, and the Federal-aid secondary system during the fiscal year ending on September 30 of the calendar year preceding the calendar year in which such report is submitted to the Secretary. As soon as practicable after receiving such State reports the Secretary shall submit an annual report to Congress based on such State reports, together with such recommendations as the Secretary deems necessary.

FRANCONIA NOTCH, NEW HAMPSHIRE

SEC. 145. Section 158 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following: "Upon approval by the Secretary of such Franconia Notch parkway, there is authorized to be appropriated to the State of New Hampshire, out of the Highway Trust Fund, an amount equal to 90 per centum of the difference between the cost of such parkway as established in the 1979 Interstate System cost estimate and the cost of constructing a four-lane Interstate System highway at that location as such cost would be established in such 1979 cost estimate if such Interstate System highway were to be constructed. The funds authorized by the preceding sentence shall be available only for expenditure on highways on any of the Federal-aid highway systems, other than the Interstate System, which serve as alternative routes around Franconia Notch. Such funds shall be available in the same manner and to the same extent as any of the funds authorized by section 104(b)(1) of the Federal-Aid Highway Act of 1978, shall be available until expended, and shall be subject to all other applicable provisions of chapter 1 of title 23, United States Code.".

DEMONSTRATION PROJECT—LOTTERY TICKETS

SEC. 146. The Secretary of Transportation shall carry out a demonstration project permitting a State to sell, by vending machine, or by employees of the State, at publicly owned and controlled rest and recreation areas and in safety rest areas on the rights-of-way of the Interstate System in such State, tickets for any lottery run by such State. Any agreement with such State entered into by the Secretary of Transportation before the date of enactment of this section prohibiting such sales shall be revised to permit such demonstration project. The Secretary of Transportation shall report to Congress not later than two years after the date of enactment of this section on the results of the demonstration project authorized by this section, together with any recommendations the Secretary deems necessary.

DEMONSTRATION PROJECT—BYPASS HIGHWAY

SEC. 147. The Secretary of Transportation is authorized to carry out a demonstration project on the Federal-aid primary system for the construction of a bypass highway from a point south of Prairie Creek Redwood State Park through the drainage of May Creek and Boyes Creek to extend along the eastern boundary of Prairie Creek Redwood State Park within Humboldt County, California, for the purpose of determining the extent such bypass highway will divert motor vehicle traffic around such park so as to best serve the needs of the traveling public while preserving the natural beauty of the park. Such project shall be subject to the provisions of chapter 1 of title 23, United States Code, applicable to highway projects on the Federal-aid system. The Secretary shall report to Congress upon completion of the project the results of this demonstration project, together with any recommendations the Secretary deems necessary. There is authorized to be appropriated, out of the Highway Trust Fund, $50,000,000, to carry out this section. Such sum shall remain available until expended.

COLUMBIA RIVER BRIDGE STUDY

SEC. 148. The Secretary of Transportation, in cooperation with the States of Washington and Oregon, shall conduct a feasibility study of an additional bridge across the Columbia River between Vancouver, Washington, and Portland, Oregon. The Secretary shall report the results of such study, together with his recommendations, not later than January 1, 1979.

RURAL HIGHWAY PUBLIC TRANSPORTATION DEMONSTRATION PROJECT

SEC. 149. Subsection (a) of section 147 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following: "A demonstration project shall be carried out under this section in and in the vicinity of the Sherman, Texas-Denison, Texas area.".

MULTIMODAL CONCEPT

SEC. 150. Section 143 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following new subsection:

"(c) Based upon the report submitted to Congress under subsection (b) of this section, the Secretary of Transportation is authorized to provide for the preparation of preliminary engineering and design plans and the construction of models in connection with the development of the multimodal concept along the route described in paragraph (1) of subsection (a) of this section. There is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $9,000,000 to carry out this subsection.".

ACCELERATION OF PROJECTS

SEC. 151. Section 141 of the Federal-Aid Highway Act of 1976 (90 Stat. 444-445) is amended by adding at the end thereof the following new sentence: "Not later than six months after the completion of such project, the Secretary of Transportation shall submit a report to Congress which includes, but is not limited to, a description of the methods used to reduce the time necessary for the completion of such project, recommendations for applying such methods to other highway projects, and any changes which may be necessary to existing law to permit further reductions in the time necessary to complete highway projects.".

BLOOMINGTON FERRY BRIDGE

SEC. 152. There is authorized to be appropriated to the Secretary of Transportation, out of the Highway Trust Fund, $200,000 for expenditure through the State of Minnesota in preparing environmental impact statements required by Federal law in connection with the construction of the Scott County-Hennepin County Highway 18 Bridge (Bloomington Ferry Bridge) in the vicinity of Bloomington, Minnesota. Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

DEMONSTRATION PROJECT OF INTEGRATED MOTORIST INFORMATION SYSTEM

SEC. 153. (a) The Secretary of Transportation is authorized to carry out a demonstration project of the use of a sophisticated automated roadway management system to increase the capacity and safety of automobile travel in high density travel corridors without providing additional lanes of pavement. The management system shall coordinate the traffic flow in major freeways and arterials servicing the travel corridor by use of an integrated system of vehicle sensors to monitor traffic, computers to assess traffic conditions throughout the corridor, and devices to communicate with drivers, police, and emergency equipment.

(b) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $30,000,000 for the four fiscal year period ending September 30, 1982.

(c) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

DULLES AIRPORT HIGHWAY ACCESS

SEC. 154. Notwithstanding any other provision of law, the Secretary of Transportation shall permit carpools and vanpools to enter and leave the Dulles Airport Access Highway during rush hours using those entrances, exits, and ramps which are in existence on the date of enactment of this Act.

MAINE TURNPIKE

SEC. 155. (a) Upon the State of Maine or the Maine Turnpike Authority satisfying the following conditions, such State and such Authority shall be free of all restrictions with respect to the imposition and collection of tolls or other charges on the Maine Turnpike or for the use thereof contained in title 23, United States Code, or in any regulation or agreement thereunder:

(1) Repayment by the State of Maine or the Maine Turnpike Authority to the Treasurer of the United States of the sum of $3,055,000 which is the amount of Federal-aid highway funds received for the construction of interchanges or connections with the Maine Turnpike at West Gardiner, Kennebec County, Maine, and at York, York County, Maine.

(2) Destruction and removal of any existing toll plaza and toll collection facility on Interstate 295 at a location known as Exit 6A to the Maine Turnpike.

(3) Agreement by the State of Maine and the Maine Turnpike Authority, that no toll shall be imposed or collected by the State of Maine or the Maine Turnpike Authority, for the use of the following interchange or connection with National System of Interstate and Defense Highways in South Portland, Cumberland County, Maine, and Scarborough, Cumberland County, Maine, and identified as Interstate 295, connecting Interstate 295 and the Maine Turnpike.

The amount to be repaid shall be deposited to the credit of the appropriation for "Federal Aid Highway (Trust Fund)". Such repayment shall be credited to the unprogrammed balance of the Federal-aid highway funds of the same class last apportioned to the State of Maine. The amount so credited shall be in addition to all other funds then apportioned to such State and shall be available for expenditure in accordance with the provisions of title 23, United Sttaes Code.

INTERDEPARTMENTAL COORDINATION STUDY

SEC. 156. (a) The Secretary of Transportation shall make a full and complete investigation and study with the cooperation of the Secretaries of the Departments of Energy, Housing and Urban Development, and Commerce, the Administrator of the Environmental Protection Agency, and the Director of the Office of Management and Budget of—

(1) all those factors affecting the integration of the Clean Air Act Amendments of 1977 (Public Law 95-95), the Energy Policy and Conservation Act (Public Law 94-163), the National Mass Transportation Assistance Act of 1974 (Public Law 93-503), and the Federal-Aid Highway Act of 1978;

(2) the parallel among all rules regulations, administrative reviews, and approvals pursuant to the Acts referred to in paragraph (1) of this subsection;

(3) all those factors affecting the availability and coordination of funding sources to achieve improved air quality, energy conservation, and transportation efficiency; and

(4) the degree to which urban growth, development and Federal funding to urban areas is predicated upon compliance with the Clean Air Act requirements and plans to attain air quality standards.

(b) The results of the investigation and study described in subsection (a) of this section shall be reported to the President and the Congress no later than one year following the date of enactment of this section.

(c) Nothing in this section shall be construed to amend, stay, or in any other way restrict or limit any authority or duty under the Clean Air Act, the Energy Policy and Conservation Act, the National Mass Transportation Assistance Act, or the Federal-Aid Highway Act of 1978.

INCLUSION OF ROUTES IN INTERSTATE SYSTEM

SEC. 157. (a) The Secretary of Transportation shall make a full and complete investigation and study for the purpose of determining appropriate routes in the State of Alaska and in the Commonwealth of Puerto Rico for inclusion in the National System of Interstate and Defense Highways.

(b) In conducting such investigation and study, the Secretary of Transportation shall consult and cooperate with the State of Alaska and the Commonwealth of Puerto Rico.

(c) The Secretary of Transportation shall report to Congress his findings and recommendations under this section not later than January 1, 1979.

ROUTE DESIGNATION

SEC. 158. Notwithstanding the amendments made by section 108(b) of this Act, the Secretary of Transportation shall, not later than sixty days after the date of enactment of this Act, designate as routes on the National System of Interstate and Defense Highways 20.5 miles of existing State Route 11 in the city of Los Angeles, California, between FAI Route 10 and State Rcute 47/Community of San Pedro, 4.2 miles of the proposed Lockport Expressway in the town of Amherst, Erie County, New York, and 5.1 miles of proposed Interstate Route I-481, connecting Exit 34-A of I-90 to the Bear Road Interchange of I-81 in Onondaga County, New York.

Mr. HOWARD (during the reading). Madam Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENTS OFFERED BY MR. HOWARD

Mr. HOWARD. Madam Chairman, I have a series of amendments to titles I, II, and III. I ask unanimous consent that they be considered en bloc, considered as read, and printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The amendments are as follows:

Amendments offered by Mr. HOWARD: Page 84, lines 13, 14, 16, 17, 19, 20, 22, 23 and page 85, lines, 1 and 2, strike out "$4,000,000,000" each place it appears and insert in lieu thereof at each such place "$3,700,000,000".

Page 85, line 4, strike out "$2,333,000,000" and insert in lieu thereof "$3,700,000,000".

Page 85, line 5, strike out "1990.". and insert in lieu thereof "1990, and the additional sum of $1,633,000,000 for the fiscal year ending September 30, 1991.".

Page 85, lines 12, 16, 17, and 22 and page 86, lines 3, 7, 10, and 11, strike out "$500,000,000 each place it appears and insert in lieu thereof at each such place "$200,000,000".

Page 87, line 8, strike out "$2,100,000,000,000" and insert in lieu thereof "$1,950,000,000".

Page 87, line 12, strike out "$650,000,000" and insert in lieu thereof "$600,000,000".

Page 94, lines 8 and 16, strike out "Thirty-six per centum" each place it appears and insert in lieu thereof at each such place "Thirty-three per centum".

Page 110, line 22, strike out "$2,000,000,000 and insert in lieu thereof "$1,500,000,000".

Page 111, line 1, strike out "$1,800,000,000" and insert in lieu thereof "$1,300,000,000".

Page 153, line 2, strike out "$2,000,000,000" and insert in lieu thereof "$1,500,000,000".

Page 172, line 20, strike out "$1,860,000,000" and insert in lieu thereof "$1,675,000,000".

Page 178, lines 16 and 17, strike out "$400,000,000" and insert in lieu thereof "$335,000,000".

Page 183, line 3, strike out "$150,000,000" and insert in lieu thereof "$100,000,000".

Page 189, strike out lines 11 through 22 inclusive.

Page 189, line 23, strike out "(c)" and insert "(b)".

Page 190, line 8, strike out "(d)" and insert in lieu thereof "(c)".

Page 190, line 13, strike out "(e)" and insert in lieu thereof "(d)".

Page 190, line 14, strike out "$50,000,000" and insert in lieu thereof "$40,000,000".

Page 190, line 17, strike out the semicolon and all that follows down through and including "1982" on line 21.

Page 192, line 17, strike out "$50,000,000" and insert in lieu thereof "$30,000,000".

Page 195, line 15, strike out "$30,000,000" and insert in lieu thereof "$25,000,000".

Page 196, line 20, strike out "$125,000,000" and insert in lieu thereof "$110,000,000".

Page 204, after line 6, insert the following:

FEDERAL FINANCIAL ASSISTANCE

SEC. 329. (a) Paragraph (1) of subsection (a) of section 3 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(1) The Secretary is authorized, in accordance with the provisions of this Act and on such terms and conditions as he may prescribe to make grants or loans (directly, through the purchase of securities or equipment trust certificates, or otherwise) to assist States and local public bodies and agencies thereof in financing the following categories of projects.

"(A) The acquisition, construction, reconstruction and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas and in coordinating such service with highway and other transportation in such areas.

"(B) (i) Transportation projects which enhance the effectiveness of any mass transportation project and are physically or functionally related to such mass transportation project or which create new or enhanced coordination between public transportation and other forms of transportation, either of which enhance urban economic development, or incorporate private investment including commercial and residential development. Eligible costs include property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space and the acquisition, construction, and improvement of facilities and equipment for intermodal transfer facilities and transit malls, but does not include the cost of construction of commercial revenue producing facilities, whether publicly or privately owned, or the costs of those portions of public facilities not related to mass transportation.

"(ii) The Secretary shall require that all grants and loans under this paragraph be subject to such terms, conditions, requirements, and provisions as the Secretary determines necessary or appropriate for purposes of this section including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section and that any person or entity that contracts to occupy space in facilities funded under this paragraph shall pay a fair share of the costs of such facilities, through rental payments and other means.

"(2) No grant or loan shall be provided under this section unless the Secretary determines that the applicant has or will have—

"(A) the legal, financial, and technical capacity to carry out the proposed project; and

"(B) satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and the equipment.

The Secretary may make loans for real property acquisition pursuant to subsection (b) upon a determination, which shall be in lieu of the preceding determination, that the real property is reasonably expected to be required in connection with a mass transportation system and that it will be used for that purpose within a reasonable period. No grant or loan funds shall be used for payment of ordinary governmental or nonproject operating expenses, nor shall any grant or loan funds be used to support procurements utilizing exclusionary or discriminatory specifications.".

(b) Existing paragraph (2) of subsection (a) of section 3, is renumbered as paragraph (3) of the Urban Mass Transportation Act of 1964, including any references thereto.

Page 174, after line 9, insert the following:

"(10) Projects which meet the criteria set forth in section 3(a)(1)(B) of this Act may be funded from any amounts made available in paragraphs (5), (7), and (8) of this subsection or from any amounts which are transferred to any such paragraph pursuant to paragraph (9) of this subsection, except that the total amount available for such projects in any one fiscal year shall not exceed $200,000,000.".

Page 174, line 10, strike out "(10)" and insert in lieu thereof "(11)".

Mr. HOWARD. Madam Chairman, this series of amendments considered en bloc, is to reduce the amount of authorization levels in the highway and the mass transit portions of this bill. The Subcommittee on Surface Transportation and the full Committee on Public Works and Transportation reported out, by voice vote, a bill that involved approximately $11.3 billion per year in the highway and highway safety areas, and authorized $4.6 billion per year for the 4-year mass transit portion.

Due to the request of many of our colleagues we were asked if we could not find ways, even after 3½ years of study and hearings and testimony, to reduce the total amount in this legislation.

The subcommittee and its staff worked over the bill very well. We came up here with what amounts to an 8.8-percent reduction per year in the highway and highway safety authorizations, and an equally proportionate cut of 8.8 percent in the mass transportation portion of the legislation.

As to where the cuts would come, it amounts to $1 billion in the highway portion. There would be a reduction of $300 million in the interstate program from the Secretary's discretionary $500 million; so even with this cut, the formula amounts going out to every State will remain the same. The Secretary will have $200 million in discretionary funds rather than the $500 million.

The bridge replacement and repair program, a program which was expanded greatly due to the fact that we have 105,000 unsafe bridges in the Nation today, was reduced by a half billion dollars per year, bringing that down in the bill, which presently has $2 billion per year, to $1.5 billion per year.

One effort we made in this legislation had to do with modernization and improvements in the primary and secondary systems. The committee added $750 million per year for modernization, dualizing, adding safety features, and upgrading of the primary system, and added $250 million, to do the same for the secondary system. In this amendment we reduce those amounts: $150 million from the primary, $50 million from the secondary system.

Madam Chairman, we also have a series of changes amounting to $400 million per year in the mass transit part of the legislation. This was done not alone by the committee, but in talking to mass transit people throughout the country, both in the small towns and cities, and in the large areas, and in talking to the representatives from the American Public Transit Association.

We feel that if we are going to cut this bill, this is the most prudent way in which to do it. We feel justified with the original numbers; but, Madam Chairman, there is one other point we would like to make. In bringing the highway portion of this bill from $11.3 billion per year down to $10.3 billion per year, we can be assured that not only for the 4 years of this bill, but as far into the future as we can see, if every State is able to use every dollar every year, we can continue this program with no need for any additional gasoline tax increase. It is well below the level where we might, down the road, have to consider a gas tax increase.

Madam Chairman, we hope that the committee will accept this as a response to the colleagues who have asked us if we could reduce the levels. We have reduced them substantially, not with a 2-percent cut, not with an across-the-board cut, not with a 5-percent cut, but with an 8.8-percent cut, equally proportionate in both modes.

Madam Chairman, I urge the committee to accept this amendment.

I yield back the balance of my time.

Mr. SHUSTER. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in support of the amendments of the gentleman from New Jersey, the chairman of the subcommittee, amendments which fulfill a commitment we made jointly more than 2 months ago.

These are reasonable and responsible amendments. If adopted, they will preserve this bill as a sound and balanced piece of legislation which we can take to conference with a good chance of negotiating a compromise responsive to the needs of surface transportation.

The reductions imposed by these amendments are substantial—totaling $1.4 billion—and are offered as our best efforts to accommodate genuine concern over rising levels of Government spending.

At the same time, it is not excessive. It does not cut so deeply into the programs we have shaped after 3 years of work as to betray the hopes of those who look to this bill—and to this Congress—for a rational response to the enormous problems burdening our transportation systems. Like spending and inflation, those are matters of genuine public concern.

The amendments are balanced, too, in that the reductions are largely concentrated in areas of highest increase in authorizations, proportioned so that the priority needs they reflect will still receive significantly increased assistance.

It, therefore, represents the best judgment of your authorizing committee with respect to the achievement of maximum economies with minimal damage to the program. I would caution Members that further cuts—in the name of economy—would be false economy. Deferral of needed work on deteriorating facilities would simply mean much higher costs to be faced eventually. This we have sought to avoid in this amendment.

As ranking minority member of the Surface Transportation Subcommittee, I want Members to be aware that it is a consensus amendment, based on extensive consultation between majority and minority, and endorsed by the committee leadership and an overwhelming majority of the subcommittee.

In concluding, Madam Chairman I say this to Members, particularly those troubled by the magnitude of this and other spending measures: I share your concerns. We share them. We have done our best to accommodate them. Support these amendments, support the bill, and let us get it into conference. Let us move this bill without any crippling amendments.

I urge adoption of the amendments.

Mr. DON H. CLAUSEN. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I thank the gentleman for yielding.

I rise to associate myself with the remarks of the gentleman in the well in support of this amendment, and also to commend the chairman, the gentleman from New Jersey (Mr. Howard) for offering this amendment. It is generally representative of the committee's position, and I want to support the fact that it does represent a consensus.

The amendment would strike $1 billion per year from the highway portion of the bill and $400 million per year from the public transportation portion—a total of more than $5 billion over the 4-year life of the legislation.

It is the consensus of the committee that these cutbacks are prudent and wise and I intend to support the amendment.

There is no doubt but that there is ample justification could be made for the full funding as presently contained in the legislation. For the first time, we have combined highway, highway safety, and public transportation funding in the same bill. This approach is superior to a piecemeal effort and will lead to a better coordinated and improved transportation system.

However, despite these justifications, we have concluded after careful and thorough evaluation that inflation must be taken into consideration necessitating an 8.8-percent cutback to insure that program needs are balanced with available revenues.

This cutback will remove any possibility of the need for an increase in gasoline taxes or the need to dip into general tax revenues to support the programs. More importantly, there will be no need to reduce our authorizations in the future.

This amendment is the result of an honest effort on the part of the gentleman from New Jersey (Mr. Howard) and those of us on the committee to bring the authorization levels down to a reasonable and more realistic level.

This amendment has the support of those involved in the implementation of the programs. There is general agreement that the committee's recommendation is acceptable.

I urge my colleagues to support the amendment.

Mr. EDGAR. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

I would like to compliment the gentleman in the well and I would like to associate myself with his remarks and indicate that I think that this cut is a balanced cut between the highway and public transit in all facets of the bill. I think it makes sense, and I think we must underscore the gentleman's comments that to go any lower than this or to put any further restrictions on spending would not be in the best interests of the Nation's transportation needs.

I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey (Mr. Howard).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. GIAIMO

Mr. GIAIMO. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Giaimo: On page 84, after line 4, insert the following new section:

POLICY ON LEVEL OF AUTHORIZATIONS FROM HIGHWAY TRUST FUND

Sec. 101A. (a) Chapter 1 of title 23 of the United States Code is amended by inserting after section 101 the following new section:

"§ 101A. Policy on level of authorizations from Highway Trust Fund.

"(a) Declaration of Policy.—(1) It is hereby declared to be the national policy that annual authorizations for programs to be financed from the Highway Trust Fund be closely related to anticipated annual receipts accruing to the fund in order that the decision on appropriate program levels and the decision on sources of revenue to finance the program be made in conjunction with each other.

"(2) It is further declared that whenever authorizing legislation provides for growth in program levels, such growth should be consistent with (A) the rate of growth of revenues from existing sources, (B) the ability of States responsibly to obligate increased Federal funds, and (C) a sound overall Federal fiscal policy.

"(3) In determining for these purposes whether or not authorizations are closely related to Highway Trust Fund receipts, the estimated net receipts are to be adjusted upward as described in subsection (e) of this section. The annual authorizations will be considered to be closely related to receipts if they are less than or equal to the adjusted net receipts; but if the new authorizations from the Highway Trust Fund for the next fiscal year are greater than the adjusted net receipts, such new authorizations are to be reduced as provided for in the following subsections.

"(b) Determination of Need for Cutback in Authorizations.—(1) The Secretary of the Treasury, after consultation with the Secretary of Transportation and at least one hundred and twenty days before the beginning of each fiscal year, shall estimate—

"(A) the adjusted net receipts of the Highway Trust Fund for such fiscal year, and

"(B) the new Highway Trust Fund authorizations for such fiscal year.

"(2) If the Secretary of the Treasury estimates that the new Highway Trust Fund authorizations for the fiscal year will exceed the estimated adjusted net receipts for such fiscal year, he shall determine the percentage which such adjusted net receipts are of such authorizations, and he shall publish this percentage in the Federal Register at least 90 days before the beginning of the fiscal year.

"(c) Cutback of New Highway Trust Fund Authorizations.—Nothwithstanding any other provision of law, if for any fiscal year the new Highway Trust Fund authorizations exceed adjusted net receipts, the Secretary of Transportation shall—

"(1) in the case of any new Highway Trust Fund authorization which is of the kind subject to apportionment, apportion (in lieu of the amount which, but for this subsection, would be apportioned) the amount obtained by multiplying the amount authorized to be apportioned for such fiscal year by the percentage determined for such year, and

"(2) in the case of any new Highway Trust Fund authorization which is not of the kind subject to apportionment, place a ceiling on the amount of such authorization for such fiscal year which is the amount obtained by multiplying the amount of such authorization by the percentage determined for such year.

"(d) Adjustment Superseded by Legislation Reducing Authorizations.—An adjustment made by the Secretary of Transportation under subsection (c) shall not go into effect if, prior to the start of the fiscal year involved, the Congress passes legislation containing new Highway Trust Fund authorizations that are less than or equal to the estimated net adjusted receipts.

"(e) DEFINITIONS.—For purposes of this section—

"(1) The term 'net receipts', with respect to any fiscal year, means—

"(A) the amounts appropriated to the Highway Trust Fund by section 209(c) of the Highway Revenue Act of 1956 for such year, reduced by the amounts transferred to other trust funds and further reduced by payments and credits under the Internal Revenue Code of 1954, and

"(B) interest credited to the Highway Trust Fund for such year.

"(2) The term 'adjusted net receipts', with respect to any fiscal year, means the net receipts for such year, appropriately adjusted as follows:

"(A) For each of the fiscal years 1979, 1980, 1981, and 1982, the net receipts shall be increased by $300,000,000, $300,000,000, $300,000,000 and $300,000,000, respectively.

"(B) The net receipts shall be further adjusted by the amount by which any new Highway Trust Fund authorization taken into account for a prior fiscal year under this section has lapsed, been cancelled, or otherwise been changed.

"(C) The net receipts shall be further adjusted by the amount by which the actual net receipts for the most recent fiscal year for which actual receipts are known differ from the estimate made by the Secretary of the Treasury for that year.

"(D) The net receipts shall be further adjusted for any excess of adjusted net receipts over the new Highway Trust Fund authorizations, to the extent such excess has not theretofore been taken into account under subsection (f) of this section.

"(3) The term 'new Highway Trust Fund authorization', with respect to any fiscal year, means authorization to make appropriations out of the Highway Trust Fund which first becomes available for obligation in such fiscal year. The term includes contract authority.

"(f) TECHNICAL CONSIDERATIONS—RESTORATION OF CERTAIN WITHHELD ACCOUNTS.—(1) If—

"(A) the Secretary of the Treasury estimates that the adjusted net receipts for a fiscal year will exceed the new Highway Trust Fund authorizations for such fiscal year, and

"(B) the Secretary of Transportation has reduced new Highway Trust Fund authorizations for any preceding fiscal year pursuant to subsection (c), the Secretary of the Treasury shall compute the amount of the excess referred to in subparagraph (A) and shall advise the Secretary of Transportation of the amount thereof. The Secretary of Transportation shall then apportion (or otherwise make available for use) the new Highway Trust Fund authorizations referred to in subparagraph (B) for their authorized purposes.

"(2) For purposes of paragraph (1)—

"(A) the aggregate amount restored for any fiscal year shall not exceed the excess determined under paragraph (1) for such fiscal year;

"(B) restoration under this subsection shall be made in the order of the fiscal years for which amounts were withheld under subsection (c);

"(C) in the case of any partial restoration of authorizations for any fiscal year, the amount of any authorization restored shall bear the same relation to the total amount restored as the amount of such authorizations withheld bore to the aggregate amount withheld under subsection (c) for such fiscal year; and

"(D) any amount restored shall remain available for the period for which it would be available if the authorization took effect with the fiscal year for which there is restoration under this subsection.

"(g) TRANSITIONAL RULES.—(1) In the case of the fiscal year beginning October 1, 1978, the Secretary of the Treasury—

"(A) shall make the estimate under subsection (b) not later than 5 days after the date of the enactment of this section, and

"(B) shall publish the percentage in the Federal Register not later than 10 days after such date.

"(2) Any new Highway Trust Fund authorization which becomes available on the enactment of the Surface Transportation Assistance Act of 1978 shall be treated as a new Highway Trust Fund authorization for the fiscal year 1979.".

"(h) EFFECTIVE DATE.—The provisions of this amendment shall first be effective for trust fund authorizations for fiscal years beginning after September 30, 1978 and shall not be interpreted to reduce or withhold any funds authorized for prior fiscal years."

(b) The table of sections for chapter 1 of such title 23 is amended by inserting immediately after the item relating to section 101 the following new item:

"101A. Policy on level of authorizations from Highway Trust Fund."

Mr. GIAIMO (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. It has been printed in the RECORD previously, I might add.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GIAIMO. Madam Chairman, using what the Clerk just read as part of the amendment will stress and set forth what I am trying to do here with my amendment. It is declared to be the national policy that annual authorizations for programs to be financed from the highway trust fund be closely related to anticipated annual receipts, other words, pay as you go. If we do not adopt my amendment, I submit to the Members that we are going to be spending more than we are taking in in revenues, and we are going to go down the road, within 5 or 6 years, that the social security program went down where we increased the benefits and did not increase the revenues accordingly to pay for those benefits. I recognize the importance of the highway program.

I recognize that we have to in America get on with the highway program, but ask yourselves the question, why did the gentleman from New Jersey offer an amendment just a few moments ago to reduce his bill by $1 billion? I will tell you why, because he knows it is too high and the committee knows it is too high. It is an effort to try to get the bill in line so it will be acceptable. Acceptable to whom? Acceptable to those in the Congress and acceptable to the President downtown, who is extremely concerned about the effect of this legislation on inflation.

What are we doing here? We are not passing a simple little authorization bill here, which will come back to the Congress each year where it will then be subjected to the careful, close scrutiny, of the Committee on Appropriations, who will decide, given the economic conditions and given the inflationary pressures which confront us, what the proper and adequate level of Federal spending should be in the highway program, a Committee on Appropriations which scrutinze and study what the States could properly commit and contract for without adding to the massive inflationary pressures we already have in this country. We do not have that kind of legislation before us today.

Certainly insofar as the mass transit portion of this legislation is concerned, that is a classic authorization bill which has to come back each year for appropriations and each year when the Committee on Appropriations studies it, the Committee on Appropriations can determine what a proper level of funding would be, but not in the highway program. The highway program is contract authority. It is trust fund. You know what that means. That means once you vote this program today, that is the end of it. They can go out and commit up to $11.4 billion and, with the amendment of my colleague from New Jersey, it will now be $10.4 billion.

We have a steady revenue inflow from the taxes, the gasoline tax, or some of the other taxes on tires and batteries and from the other things. We have about $8.3 billion which flows in from revenues into the trust fund. We have been funding this program at about the $8 billion level. Now it is suggested to go to $10 billion. How are you going to pay for it?

Well, they will tell us we have plenty of money rolling into the trust fund. Well, we had a heck of a lot of money rolling into the social security fund for years. Then what happens? There is an old rule, "There is no free lunch in the world," and ultimately, "You have to pay the piper." That is ultimately the reason we have so much trouble in Government today.

Look at our unfunded liabilities in Government. Look at our social security unfunded liabilities and in the hospital accounts. Look at the pension fund of the Federal Government, which is mostly unfunded as far as it affects military persons and the civil service.

Now we are going to do the same thing with the trust fund in highways. We have a program that will be spending over $100 billion when it comes to completing the highway programs of this country. We have been going along fine in funding it as we go along.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(By unanimous consent, Mr. GIAIMO was allowed to proceed for 5 additional minutes.)

Mr. GIAIMO. Madam Chairman, we have been funding it as we go along with revenues from the trust fund; but we know they are running out, because the trust fund is not designed to increase in the out years. It is assumed in the out years—and by the out years I mean 4 years from now—that this program level will stay at $10 billion.

Well, I submit to you, I have yet to see a Federal program that is funded at the rate of $10 billion today which will not grow because of inflation or program growth in the out years.

Now, they tried to remedy this a year or so ago when they came in with the gasoline tax increase, and I think that was the way to do it. I voted for that tax increase. I was one of the heroic few around here at that time who did.

I think there were fewer than 100 of us—I believe about 70—and we said, "If you want to make the trust fund better, if you want to make it more viable, increase the gas tax."

That did not happen, so they had to look for other alternatives. What are some of the other alternatives?

We could remedy the program so that we can get revenues from general revenue taxes rather than from user taxes, but obviously that is not an acceptable alternative. Or we can do what basically this committee is doing. It is setting up a 4-year program, but it is setting up a revenue trust fund for 5 years. The theory is that ultimately the 5 years of Federal revenues will pay for the 4 years of the program, and perhaps they will for the first 4 years.

But what happens at the end of 4 years? We are already using the revenues from the year before. At the end of 4 years we are not going to terminate the highway program in this country. I certainly hope we would not because I know we are going to need one. We will renew it, and we will borrow against future revenues again, and at that point we will be well down the road that we have gone in the use of social security funds and in the social security accounts.

This is an inflationary program. This program, even with the amendment offered by the gentleman from New Jersey (Mr. HOWARD), will provide us a 47-percent rate of increase over last year. That is a staggering level of increase, particularly today when we talk about the need to hold the line, the need to get our budget in better shape, and the need to get our deficits down. We will be adding fuel to the flames of inflation if we build up this program and if we force the States to take more money. And, believe me, they will take it if we force them to take it; they always do. What we do by following this course is to give impetus to the upward pressures on inflation.

The time to get control of this program is now, if we are serious about controlling Government spending. We have talked about that time and time again in this Chamber. We have talked about it on budget resolutions, we have talked about it on tax cuts, and we have even talked about it on foreign policy issues. We have even tacked on riders to balance the budget.

But I submit that there in the authorizing process is where we really get control over spending, particularly in the mandatory programs, the nonappropriation programs, and the trust fund programs. We must get control now when we are authorizing them, because if we do not do it now, we will forever lose control over them.

I submit that we should bring this down to the level which the Prsident recommends—and that is 8.3—which the other body recommends, which the Committee on the Budget recommends, and which many Members in this Chamber recommend. We must bring it down to a more modest rate of growth. That still leaves us with an adequate rate of increase over last year—something in the neighborhood, I believe, of about 17 percent.

For heaven's sake, let us not go forward in this massive inflationary way and begin to borrow from future revenues in the highway fund.

We are going to hear all kinds of statements that we have plenty of money on hand, that we have revenues on hand. We may have them now, but here we are talking about revolving funds. It is like going out and buying things and paying for them with a credit card. It does not take the money out of one's pocket, but eventually the bill comes due.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. GIAIMO) has expired.

(On request of Mr. ROSTENKOWSKI, and by unanimous consent, Mr. GIAIMO was allowed to proceed for 3 additional minutes.)

Mr. GIAIMO. Madam Chairman, if it were not the fact that they have to borrow against future revenues, they would not be in here proposing this revenue change in the tax law to finance this bill in the out years, which are those years in the middle 1980's.

Mr. ROSTENKOWSKI. Madam Chairman, will the gentleman yield?

Mr. GIAIMO. I am delighted to yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Madam Chairman, as I understand the gentleman's amendment, it would cut the authorization $2 billion and bring it in conformity with the Senate bill; is that correct?

Mr. GIAIMO. Yes, in conformity with the Senate bill and to conform to what the estimate is of existing revenues.

Mr. ROSTENKOWSKI. Madam Chairman, there have been rumors about vetoes with respect to this particular legislation. Has the gentleman from Connecticut (Mr. GIAIMO) had any discussions with the administration with respect to the possibility of a Presidential signature on a bill such as this, with the amendment which the gentleman has offered?

Mr. GIAIMO. I have had discussions with the President's representatives at OMB. They inform me the bill is unacceptable to them in its present form. I have a letter here from Secretary Adams, who expresses opposition to the bill and urges support for my amendment.

Mr. ROSTENKOWSKI. I have had some discussions with the Secretary, and in those discussions it was pointed out to me that the funding in this authorization is far beyond their expectations and that, in fact, they find it very difficult to spend all of the money in the framework of the present legislation.

Given that as an observation, and with the possibility of a threatened veto, I should think that the wise avenue of approach would be to support the gentleman's amendment and to hope for a favorable consideration on the part of the executive.

Mr. GIAIMO. Madam Chairman, let me just give the Members an example. We have a very important program here which is known as the bridge program. It is a real program. I know there are many Members of the House who are concerned about it. I understand, if we adopt my amendment, it would provide for a bridge program I believe in the area of about $450 million or $500 million. That would be a massive increase, incidentally, over what that program has been carried at and funded at at the present. I believe it has been funded at less than $200 million. So there is a substantial increase there. This program, I believe, would increase the authorization for the bridge program to $2 billion. My God, are we serious about trying to get control over inflation?

And, second, do the Members realize, when we increase a program from $180 million to $2 billion, the tremendous pressures which we build on the States to try to raise their moneys to try to match those programs?

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. GIAIMO) has expired.

(By unanimous consent, Mr. GIAIMO was allowed to proceed for 5 additional minutes.)

Mr. GIAIMO. That kind of pressure and that kind of money available, as the Members know, pushes up the cost of bidding, it pushes up the cost of material, and it is a most inflationary way to initiate programs.

Mr. YATES. Madam Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

Madam Chairman, I happen to be a member of the Appropriations Subcommittee for the Department of Transportation and for the Highway Department. There is very little we can do on the Appropriations Committee to have any kind of control over the expenditures of the Highway Department. We get the bills, we pay the bills.

Mr. GIAIMO. It is contract authority.

Mr. YATES. That is right. In contrast to that, when we get the request for appropriations for urban mass transit we go over the request for appropriations and we are able to review it project by project by project, to determine what expenditure should be made. We have some semblance of control.

In his discussion with the distinguished gentleman from Illinois (Mr. ROSTENKOWSKI), and others, and the gentleman's own statement with respect to the bridges, I notice the gentleman talks about authorization. This is more than authorization.

Mr. GIAIMO. Yes. I said it is really contract authority.

Mr. YATES. The gentleman said that. I think it must be emphasized time and time again that what we are voting for here is not authorization, that when we pass the bill with the amounts in it, that is it. The Highway Department is authorized to enter into contracts. The expenditures are automatic. There is no further review by the Appropriations Committee, there is no second look at the expenditures. There is no control for budgetary purposes.

Madam Chairman, I support the gentleman's amendment, and I hope the amendment passes.

Mr. GIAIMO. In fact, as the gentleman knows, in the old legislation they worked out some system where the Appropriations Committee set some sort of ceiling limitation.

Mr. YATES. That was on administrative expenses, though.

Mr. GIAIMO. Even that is eliminated in this bill, as I understand it. So when the Appropriations Committee moves, even that modicum of control is developed in an ad hoc way.

Mr. YATES. All control is gone, and there is no more congressional control at all.

Mr. GIAIMO. The gentleman is right. Although we use the term "authorization," we have to remember that this is not an authorization bill in the classic sense, where you pass the law and you go to the Appropriations Committee. Here you pass the law. It is outflow. Congress cannot look at it again unless we deal with the basic legislation.

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I thank the gentleman for yielding.

Madam Chairman, at the risk of some criticism from my own committee, because I do serve on the Committee on Public Works, I do feel the gentleman is offering a prudent amendment.

I have great concern that we are going down the path the Congress took during the 1960's on the social security, "Easy to raise the benefits but kind of tough to raise the revenue" situation, as evidenced by the fact that probably today if there is a vote taken on the gentleman's amendment, I would think that most of the Members who would be voting against him are also the same ones who voted against the Howard 5-percent gas tax last year, which would have provided a situation which was much more acceptable. I voted for that, and I respect the gentleman for having offered it to the House, because I do think it would have brought revenues we needed.

There is some slight difference between this and social security because of the fact that social security is an entitlement program, but I do think that we do need to put a proper relationship between what we are willing to raise in revenues and what we are willing to give in spending.

Mr. GIAIMO. Let me say this: I have a great deal of affection and admiration for the gentleman from New Jersey. He has done magnificent work in this highway program and in the Public Works Committee. It is not with a sense of lightness that I come here and offer this amendment, but it is only because I am pleading with the Members, for heaven's sakes—and I work with this, as the Members know, with the budget all the time—for heaven's sakes, let us not go down the same road where we have increased benefits for the American people but we do not want to vote the money to pay for them. That is what gets us into all our trouble. The social security program, as I said, is a tragic example of that.

This would be beginning an unfunded operation. This trust fund will run out of money in the middle 1980's, and when it runs out of money we are going to have a bill submitted to us which is going to stagger us. Let us have a modest program with less increases. An increase of 17 percent is better than we do for defense or veterans or anyone. Let us get control of this program now. I urge the Members to support this amendment.

My amendment would make it national policy in determining the level of backdoor highway trust fund contract authorizations to consider "the rate of growth of the revenues from existing sources, the ability of States responsibly to obligate increased Federal funds and * * * overall Federal fiscal policy." Furthermore, the amendment would require that highway trust fund authorization levels not exceed anticipated net receipts of the highway trust fund on an annual basis, plus interest accruing to the trust fund. The immediate impact of this amendment will be to require a reduction in the highway trust fund contract authorizations in H.R. 11733 from the proposed level of $11.4 billion per year to roughly $8.3 billion for fiscal year 1979.

I offer this amendment because I believe that the highway trust fund authorization level in H.R. 11733 is unacceptable and that the $8.3 billion reflected in the House-passed second budget resolution is a proper level for fiscal year 1979 and provides a responsible 17-percent increase in the program.

When the House Budget Committee tallied the March 15 views and estimates from the committees, we were faced with an $80 billion deficit for fiscal year 1979. As the Budget Committee and the Congress worked together in preparing the first budget resolution, we reduced the anticipated deficit to around $51 billion. Now we have adopted the second budget resolution for fiscal year 1979 and we have a budget deficit of $38.8 billion. House actions on the first and second budget resolutions for fiscal year 1979 show that we are aware that there is a real relationship between Federal spending, Federal tax policy, national inflation, and the value of the American dollar. We know that we still have to reduce the deficit and we will. We all hope to see a balanced budget as soon as possible; maybe by 1980 or 1981.

Now, the $11.4 billion in highway trust funded authorization in H.R. 11733 is approximately $3.1 billion more than the amount assumed in the House passed second resolution. That is right, $3.1 billion more budget authority than in the resolution. The $11.4 billion in the bill is approximately 60 percent more than the current level of highway trust program funding. A 60-percent increase in the highway trust fund program is totally out of line with the funding increases granted in all other areas of the budget. There was no 60-percent increase in funding in defense, which must certainly be ranked as being of primary importance. There was nothing close to a 60-percent increase in veterans' affairs or other transportation programs for that matter. The increases were closer to 10 percent in defense, 12 percent in veterans' Affairs and 17 percent in all other transportation programs. A 60-percent increase for the highway program—or 45 percent if you assume the $1 billion amendment of the bill's floor manager, Mr. HOWARD—is totally out of line with the hard work and wisdom reflected in the work of the House in all other areas of the second budget resolution.

The American people do not want to see programs grow 60 percent or 45 percent in 1 year and the Congress understands that. Now we are faced with a bill that does not seem to reflect either the will of the American people or the will of the House. In the past I have termed this bill a budget buster, and that is what it is. It is a disagreement with the House-passed second budget resolution, and 60 percent and 45 percent increases in any annual program make it that much harder to reduce the deficit, control inflation, and defend the dollar. We can't struggle to reduce the deficit to $38.8 billion and then turn around and in the same breath pass bills which will ultimately raise the deficit. We cannot hope to balance the budget in 1980 or 1981 or 1982 or whenever if we vote today for uncontrollable outlays in those years—outlays which will then be completely out of our control.

There are real needs in the highway program. The $8.3 billion level for trust fund programs that my amendment contemplates recognizes our priority needs. It represents an increase of 17 percent over current year levels. In contrast, the $11.4 billion in H.R. 11733 cannot even be obligated by the States. The Department of Transportation's most recent estimate, based on surveying the States, is that the States can obligate a maximum of from $7.6 billion to $8.6 billion in fiscal year 1979.

I understand that when the Federal Government comes along and waves $4 billion in new money in front of the States and localities, they are going to have a hard time saying no. But can we conscionably give States more money than they can spend? Can we raise specific programs by 33 percent, 50 percent, and 100 percent in 1 year and expect the money to be spent effectively? The Public Works Committee says that the States need $10.4 billion (originally it was $11.4 billion). The President, the House and Senate Appropriations Committee, the Senate Authorizing Committee, and the Senate and House Budget Committees all agree that the fiscal year 1979 highway trust fund program should be in the area of $8.3 billion.

Make no mistake, about it, if we follow the course that this bill would set out for the highway program, we will find ourselves with another social security tax problem on our hands. We will spend big in the early years without any significant increase in revenues. Sooner or later down the line, we will find that we need more revenues to pay for the increased programs. Is not that just what happened to social security?

If the highway bill is much above the $8.3 billion projected for highway trust programs as per my amendment, the

President has said he will veto the bill. The President will veto the bill not because he is against highways, but because of the inflation, tax, and deficit problems associated with the proposed levels of funding in H.R. 11733.

Today, we have an opportunity to act responsibly—an opportunity to vote fiscal restraint and wage a fight against inflation. We have a classic opportunity to show the American people that we are not foolish big spenders. We can show by our votes on my amendment that we expect efficiency and not waste in our programs. I urge you to support my amendment.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, we did have a long, single debate on the pro side of this amendment. I would first like to respond to just a few of the things the gentleman from Connecticut said.

First, on this talk about mortgaging the future, the fact that we have a 4-year authorization bill with a 5-year extension of the highway trust fund is as it has always been done. In the very beginning, in the 1950's, we established a 16-year highway trust fund for a 13-year program because we know that when we authorize or obligate for a construction program for highways or bridges or safety, it takes several years before the project is completed and the bills come due in various stages of the development. What we have to be sure of is, will the money be there when the bills come due.

This is a pay-as-you-go program. If we were to adopt the amendment offered by the gentleman from Connecticut, we would destroy the total highway program as well as the trust fund. We would be saying that this is a "pay-before-you-go" program. It would mean that if you have a project that will take several years to complete, you will have to have the money in hand before you begin it. No one in this Nation would ever buy an automobile on time; no one would ever be able to buy a house with a mortgage if we had a program throughout the country similar to this.

The idea, of course, is this: If you have a certain amount of money to begin a program, and if you have an assured source of income, whether it be a trust fund here or a job somewhere else, you are purchasing an automobile or a home, and make the payments as they come due, it is not necessary that you have all the money now or just go without years from now.

The gentleman from Connecticut talked about the social security system and how it can run into trouble. We have to have a certification in this program now. The Byrd amendment was adopted years ago. The Secretary of the Treasury must certify to the Secretary of Transportation that when the bills come due for these programs, the money will be there. If that is not the case, the law says that the Secretary of Transportation must cut back the programs to meet the amount of money that will be available.

The Byrd amendment has never been invoked in the history of the highway program. It would not be invoked in this bill. This bill goes 4 years.

But the gentleman said we are going to have a deficit in the trust fund in the 1980's or the mid-1980's. At the level that is in the bill at this moment, we can go on ad infinitum with this amount of money if every State uses every dollar every year, without a deficit, without the need for a tax increase. We have got 4 cents a gallon in this fund since 1959. That is what we get now. That is what we could carry this bill with completely.

The gentleman talked about the bridge program and his support for his bridge program. There would be under his amendment about $450 million a year or so. Just a couple of facts about the bridge problems in this country. We have 105,000 unsafe bridges in the Nation today. We have a bridge collapse on the average of one every 2 days in this Nation. In the older parts of our country we have hundreds and hundreds of bridges that need either repair or replacement. The cost at today's dollars to fix the bridges in this Nation is $25.1 billion. Under our present law we put $180 million into it.

But let us look at what we have in the bill now. In the bill now we have $1.5 billion per year on a 90–10 basis, Federal against State. The gentleman says $450 million a year is enough. Well, with the bill we have before us, just the bridges that are bad today, if no more bridges go bad or get old or fall down, and we just have to meet this problem, and we reject the gentleman's amendment and put this $1.5 billion in, if we go along with $1.5 billion a year just for these bridges at the normal 7-percent inflationary rate of cost, do Members know when we will finish fixing the bridges that are bad now? Never.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. Howard) has expired.

(By unanimous consent, Mr. Howard was allowed to proceed for 5 additional minutes.)

Mr. HOWARD. Madam Chairman, we will never catch up with it, even at $1.5 billion.

And then what will we be doing with $450 million? Has anyone talked about jobs and the spurt to the economy? The gentleman talked about a tax increase. That is absolutely wrong. He talked about inflation. If somebody does not like a bill, we talk about inflation. Spending causes inflation sometimes. Spending has negligible effect on inflation sometimes. But just off the cuff we hear the word: "Inflation."

I do not know whether the OMB or the DOT or the gentleman from Connecticut has a study on the inflationary aspects of this legislation before we made the cut a half hour ago, but we asked the Library of Congress to do an inflationary impact study on this legislation. The response comes back. It boils down to negligible, something like less than four-tenths of 1 percent.

This is a pay-as-you-go program. We are going to conference. As far the Appropriations Committee is concerned, they set and have the final word on the obligation ceilings every year, so we are not going into any kind of program that is going to send us down the line for years to come with no one in Congress being able to say anything about it.

If the gentleman's amendment passes, we will be by law ordering the Secretary of Transportation to cut back highway trust fund money.

The gentleman from Connecticut (Mr. Giaimo) does not cut the gasoline tax at all. What he is telling you is this: He is going to have us keep collecting the tax money, but then not letting it be used for anything, and we are going to put billions and billions of dollars per year into the trust fund which, by law, we say can never be spent.

In view of proposition 13, if there is anything worse in the people's mind than taking a gas tax from them, or any tax, it is to take the tax from them and not use it for anything.

We have great needs in reclaiming our highways, great needs in fixing the bridges, great needs to help provide more safety in our transit system, we have great needs in the field of public transportation, if we are going to meet the energy problems and the needs that we have in the coming years.

So, Madam Chairman, with that prologue, I rise in strong opposition to the amendment.

Mr. JOHNSON of California. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I am happy to yield to the chairman of our full Committee on Public Works and Transportation, the gentleman from California (Mr. Johnson).

Mr. JOHNSON of California. Madam Chairman, I thank the gentleman for yielding to me. I want to join the gentleman in the remarks he has just made and in strong support for the position he has taken. I know of no one in the House of Representatives who has done a better job in going throughout the United States and its territories and in coming up with the facts and figures and justifications for the programs that he has advocated and has put together in this bill than the gentleman from New Jersey (Mr. Howard). I just hope that the Members in the House will follow the advice of the chairman of their Subcommittee on Transportation and support his position and be in opposition to the Giaimo amendment.

Mr. HOWARD. I thank the gentleman for his kind remarks.

Mr. DUNCAN of Oregon. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Madam Chairman, the gentleman said that the Committee on Appropriations carries final responsibility for setting authorization levels. Am I not correct that we yielded that back to the authorization committees, and said that we did not seek to appropriate that power so long as the authorizing committees did it themselves?

Mr. HOWARD. We also said, however, we would confer with them and attempt to come to an agreement each year, which we have at this time with the Committee on Appropriations.

Mr. DUNCAN of Oregon. I just wondered. I would not want it left unanswered.

Mr. HOWARD. Absolutely, we would not want to take it all on by ourselves.

Mr. ULLMAN. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Oregon.

Mr. ULLMAN. Madam Chairman, let me say that the matter in the gentleman's amendment came before the Committee on Ways and Means, in a different form, but it would have accomplished the same basic purpose. The committee looked at it very carefully and the committee voted against it on its merits. The trust fund has never operated in the way that the Giaimo amendment would force it to operate.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Howard was allowed to proceed for 3 additional minutes.)

Mr. ULLMAN. Madam Chairman, if the gentleman will yield still further, it would therefore appear to me that the wise thing to do would be to vote down the Giaimo amendment. We had some misgivings about the Highway Trust Fund program being too large; and I am hopeful in conference we may be able to pull it back somewhat and keep it within the budget.

We are concerned about the long-range fiscal responsibility of the whole trust fund concept. But I have to come out in sympathy with the gentleman's (Mr. Howard) argument, and in opposition to the amendment before us now.

Mr. HOWARD. I thank the gentleman very much.

Madam Chairman, if this amendment is adopted the Committee on Public Works and Transportation might just as well close up shop and look for some other job. And we might look at other committees in later years, or later this year, that might be overrun by this concern called budget, it might be the Committee on Agriculture next, it might be the Committee on Science and Technology next. This amendment makes a complete mockery of the authorization process.

Prior to the beginning of each fiscal year—and I think Congress ought to take a look at what it is giving up to the administration—prior to each year the Secretary of the Treasury would tell the Congress what the limit on authorization for the year should be. If Congress fails to comply, then the Secretary of Transportation himself would be ordered to cut back the program to the level which the Secretary set.

Madam Chairman, no other Federal program operates in this manner, and I think it is absurd that such a scheme as the Giaimo amendment should be applied to the highway program, all in the name of what? Those key words "fiscal responsibility."

Is it fiscally responsible to cut back a program below the levels the trust fund can safely sustain when we have needs for those funds? Is it fiscally responsible to adopt policies which would effectively prevent the use of the present $11 billion balance in the trust fund and even increase that balance? Is it fiscally responsible to let highway tax dollars lie fallow while inflation erodes the value of those very dollars?

Are we, in the name of fiscal responsibility, to rob the highway user of the taxes he pays and will continue to pay, under the gentleman's amendment, for better and safer roads and highways and bridges, so as to build up a balance in the Treasury to be used for what? Other Federal programs?

Madam Chairman, this is what the Giaimo amendment does, and all in the name of fiscal responsibility. As the gentleman from Oregon (Mr. Ullman) stated, this is not a new amendment. We had it around for 3 months, from May 16, the date the full committee passed the bill out, until just recently when it was before the Committee on Ways and Means. There was so much opposition to it because we thought it would lead to the destruction of the fund.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. Howard) has expired.

Mr. HOWARD. Madam Chairman, in order to have basic equality with the gentleman from Connecticut, I believe that if I can get unanimous consent for 5 additional minutes, we would be equal.

Therefore, Madam Chairman, I ask unanimous consent to be allowed to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOWARD. Madam Chairman, the Committee on Ways and Means has recognized the validity of our funding approach. This mechanism has been used for years, used successfully, with never a deficit. Everytime a dollar was due, a dollar was there, and it was paid by the user.

Madam Chairman, the gentleman from Connecticut (Mr. Giaimo) says that the bill will add to the deficit. Such claims have been made before; but how in the name of commonsense can we say that a pay-as-you-go program which draws its money from a dedicated source can contribute to the general deficit? If anyone wants to buy that notion, then perhaps the problem lies with the accounting system and not with a program which draws its funds from dedicated tax dollars.

Madam Chairman, we have safeguards. The Byrd amendment, which we have already mentioned, would guarantee that the trust fund may never go into a deficit. The trust fund is one of the few funding mechanisms which has worked well, and we should not tamper with it now.

The gentleman from Connecticut (Mr. Giaimo) says that highway trust fund programs, if we amended this, would represent a 47 percent increase over fiscal year 1978. This may be superficially true, but the statement ignores the fact that this is a 4-year bill, with level authorizations, and not a 1-year bill and a one-shot increase of 47 percent.

Considering all 4 years, Madam Chairman, the average annual percentage increase in trust fund financed programs is approximately 15 percent.

The gentleman from Connecticut (Mr. Giaimo) says that the funds in this bill cannot be spent by the States. He cites a survey of States which was taken by DOT some months ago. I have a statement that has not been released by DOT, which put funding levels for fiscal year 1979 ability of the States at $9.3 billion per year; $9.5 billion in 1980; and over that in fiscal year 1982, so that the Department of Transportation has its own sheet which says that these funds can be well over $9 billion, well above what the gentleman would reduce this program to.

Madam Chairman, aside from what would happen to safety, to bridges, to the upgrading of older roads in this Nation, in this bill there is not one extra dollar to build one foot of new highway in the country. We are going to fix the bridges, modernize the old roads, so that the States can use them.

The committee takes great pride in this bill, Madam Chairman. We worked on it for 3½ years. We heard hundreds of witnesses, have thousands of pages of testimony, and we bring to the committee a sound, fiscally responsible program, a program that uses the trust fund as it has been successfully used over 20-some years, and we begin to meet the real needs of our people in safety, in transportation, in energy conservation. We hope that the Members will not destroy the whole thing at this time. We are going to go to conference with the other body. They are much lower than we are. We did not work 3½ years to reach a stalemate, to have a bill vetoed, to have no legislation at all. We are going to probably end up like we always end up. A bill will go down to the White House that will be a little bit lower than Congress really thinks we ought to have and a little bit higher than the President would like to sign, but within that reach where Congress will have done its work in fulfilling its responsibility; the President will sign the bill, and we will have a good, progressive program for future years.

I urge the defeat of this vital, vital, destructive amendment, and I yield back the remainder of my time.

Mr. SHUSTER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise to vigorously associate myself with the remarks of the distinguished gentleman from New Jersey (Mr. Howard), the chairman of our Subcommittee on Surface Transportation. There are several points which need to be emphasized.

The first is that the receipts into the Trust Fund, plus the balance, can sustain the projected expenidtures. The Department of Transportation itself has the document which says that. The

Committee on Public Works and Transportation came to that conclusion. The Committee on Ways and Means, very carefully looking into this very question, came to that conclusion, and the Department of the Treasury came to that conclusion. Receipts can sustain these expenditures.

It is very significant to note that the gentleman's amendment does not talk about expenditures. It talks about authorizations; authorizations must equal the receipts in any given year. That is an apples and oranges comparison. What really counts is whether or not the money is going to be there to pay the bills, to pay the expenditures when they come due. The evidence shows that it will be there, but, even more significantly, if it is not there, under the law we cannot have deficit spending in this program. It is one of the few programs, if not the only program, in Washington where there can be no deficit spending. Under the law the Secretary of the Treasury must certify that the funds will be there and, indeed, if this straitjacket is put on this program, if this new approach is legislated by the Congress this year, the end result will be a ballooning of the money in the trust fund. The $11 billion balance in the fund today will go higher and higher. Think about that for a moment.

I would suggest that there are many, at least some here, who understand that perfectly and know what they are doing. It is the same old antihighway crowd which has been against the highway trust fund, has been in favor of destroying the highway trust fund, and that is precisely what the end result would be here today if we accept this amendment. The highway trust fund would be straitjacketed, and there would be a ballooning balance in it. For some at least in this House that would be good news, because it means there would be more money in the highway trust fund which could be used to finance the deficit spending for other unrelated programs in this Congress.

Further, this amendment is blatantly biased because it cuts highways but does not touch mass transit. It cuts the program where there is money in a trust fund but does not touch the expenditures which must come out of an already deficit-ridden general fund. I can assure the Members that if, indeed, this amendment does pass—I do not think that it will, but if it does pass—I can assure the Members there are those of us who are going to give you "born again" fiscal conservatives the opportunity to exercise your fiscal conservatism on voting for a like amount of cuts in the mass transit program. I can assure the Members that they will have that opportunity should this amendment pass.

Lastly, it cannot be emphasized too strongly the highway needs of this Nation are enormous. The gentleman from New Jersey (Mr. Howard), the chairman, commented on them. The Members know from their own districts what their needs are.

In summary, let us take the funds which the users are putting into the trust fund and let us expend those funds for the needed highway programs across this Nation. Let us not be bamboozled in the name of false fiscal conservatism to let that money balloon for other unrelated programs, when the users of America's highways so badly need the taxes they pay expended to give them better and safer highways.

Mr. DUNCAN of Oregon. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Madam Chairman, my understanding is that there is about a $19 billion, maybe a little better, surplus in this trust fund.

Mr. SHUSTER. There is an $11.4 billion balance.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(At the request of Mr. Duncan of Oregon, and by unanimous consent, Mr. Shuster was allowed to proceed for 2 additional minutes.)

Mr. DUNCAN of Oregon. Madam Chairman, if the gentleman will yield further, my understanding of the fund is that most of that has been committed, not in the sense of having been obligated, but having been committed for projects that have been approved by the Department of Transportation.

Now, I recall over the past few years that we have continually expanded or continually extended the benefits out of the social security trust fund and here within the past 6 months it has suddenly caught up with us.

Mr. SHUSTER. I would point out, there is nothing in the social security trust fund that requires the Secretary of the Treasury to certify that the funds will be there to meet these expenditures; but there is that language in the law today and, therefore, the analogy between the two trust funds simply does not hold up. They are not analogous.

Mr. DUNCAN of Oregon. Madam Chairman, if the gentleman will yield further, I would concede about that point. The gentleman is talking about the so-called Byrd amendment; is that correct?

Mr. SHUSTER. That is correct.

Mr. DUNCAN of Oregon. The only thing that disturbs me about this so-called surplus, it has been committed, it is not obligated. It is committed in the sense the Department of highways has committed and approved projects.

I worry about whether that Byrd amendment is effective in the slightest to protect that trust fund until these commitments are so high it is too late to do anything about it.

Mr. SHUSTER. It is effective in the extreme, because we cannot do anything about it, because the Secretary of the Treasury must certify that the funds will be there to meet the expenditures; so under the law there can be no deficit spending in this program, perhaps the only or one of the few programs in this National Government which is so protected.

Mr. DUNCAN of Oregon. Madam Chairman, if the gentleman will yield further, my figures were a little off. I was speaking from a hazy recollection and I thought we had about a $19 billion surplus, about $18 billion of which had been committed.

I have been supplied with some figures that indicate it is about $11.2 billion.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

(At the request of Mr. Duncan of Oregon, and by unanimous consent, Mr. Shuster was allowed to proceed for 1 additional minute.)

Mr. DUNCAN of Oregon. Madam Chairman, if the gentleman will yield further, I have been supplied with figures which indicate that there is a cash balance of $11.2 billion, but there is an $18 billion unfunded commitment, which leaves us with $6.8 billion of unfunded authorizations at the end of the year, and the Byrd amendment has not done a thing about it.

Mr. SHUSTER. They extend over many years and the funds will be there, assuming an ongoing program to meet these obligations.

Madam Chairman, I urge defeat of this amendment.

Mr. BREAUX. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I take this time just to very strongly rise in opposition to the amendment of the gentleman from Connecticut and to try and emphasize another area that I think we should consider when we cast our votes in opposition.

Now, the committee has worked very, very hard on the legislation for a long period of time.

I think the bill was a very sound bill from a fiscally responsible position, even before the amendment of the gentleman from New Jersey (Mr. Howard), chairman of the subcommittee. The gentleman's amendment cut titles I and II by approximately $1.4 billion. We adopted that amendment here this evening .

I think everyone here this evening has already served in this body longer than I have. All of you have served on conference committees. All of you realize the understanding and trading and the give and take that is going to have to occur in the conference that this body is going to have to go through with the Senate on this particular legislation.

Right now with the chairman's $1.4 billion cut, the Senate bill is already $2 billion more than the House bill.

We are going to need some leverage when we get to the conference with the Senate. We are going to have to have something to pull out with them in order to get them to give in some areas in which we are vitally interested. If the amendment of the gentleman from Connecticut is adopted, the House conferees will be crippled. We will be at the total and complete mercy of the Senate as far as getting some things in which we are really interested and I think in which all the House Members are vitally interested.

I am speaking particularly of areas such as bridges where we differ a great deal from what the Senate has adopted in its version. We have more funds included in the bridge program. I think the figure in the Senate bridge program is very, very low.

In addition, on the issues of primary and secondary roads, our bill differs a great deal from the Senate-passed version.

If the Giaimo amendment is agreed to, the only negotiating tool the House conferees are going to have will be taken away from them, and I think that would be a very serious mistake. The House is going to have an opportunity to look at the levels before the bill is passed on and sent to the White House. We should not cripple the hands of the Members we are going to be sending to the conference with the Senate by adopting the Giaimo amendment.

We have heard the reasons for our position, and the chairman of the subcommittee, the gentleman from New Jersey (Mr. HOWARD), has very accurately outlined the reasons why we think the money is at an appropriate level and could be easily spent and spent in a manner that would help this country, not hurt it.

On the other hand, we have heard the arguments of the gentleman from Connecticut (Mr. GIAIMO) as to why he thinks the funding is a little heavy.

Be that as it may, I think this amendment is something we should consider carefully, and we should not cripple the hands of the conferees when the bill goes to conference. The bill is bound to be a little different when it does come back from conference, we all realize that.

Madam Chairman, let us not cripple the House conferees in their negotiations with the Senate, and let us reject the Giaimo amendment.

Mr. GARY A. MYERS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I do not understand why we must make the assumption that just because the House and the Senate come close in their figures, there would be no capability of the House to prevail on some of its provisions. Certainly there is an historical lineage on legislation on which we have gone to conference where the totals have differed. If we look at the total dollars related to such legislation, some sections were very similar to the Senate's, but some sections and subsections of the bill were changed, some reflecting the Senate's preference and some reflecting the House's preference.

So I do not think we can be convinced by that argument. The argument about the position of the House in the conference could actually be used as an endorsement for the amendment. It would seem to me there would certainly be a leverage for the two bodies to negotiate in conference. If in fact there are technical difficulties with the item which does, as the gentleman from Pennsylvania (Mr. SHUSTER) indicated, lock in a ballooning amount in the trust fund, that is not the objective of this gentleman in support of the amendment.

However, I would hope that the language of the amendment does not do that. If it does do that, it would not seem to me to create a situation in which that technical aspect of it could not be corrected in conference.

I had earlier mentioned the proposal of the gentleman from New Jersey during the consideration of the energy program and I refer to the proposal for a 5-cent gas tax. I would like to make reference to the fact that I stood shoulder to shoulder with the gentleman, along with a very minimal number of Members of the House, supporting the gentleman from New Jersey, who was indicating there is a need for funding to meet the growing transportation needs of this country.

I agree with the gentleman from Louisiana (Mr. BREAUX) that we do need an expanded bridge program. I think $1 billion is probably the area in which we ought to be, rather than $2 billion, for a number of reasons. That is a great expansion. I also agree that a number of our highways need to be rehabilitated.

I agreed with the gentleman during that debate that we ought to be responsible enough as Members of the House to not only agree to fund those programs but to raise the revenues to match those needs.

That is why I supported the gentleman in his position.

Mr. GIAIMO. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Madam Chairman, I agree with much of what the gentleman from Pennsylvania (Mr. GARY A. MYERS) has said.

Is it not curious that even though it is represented that their funding system in this legislation is sound, the committee felt it had to find new sources of revenue?

Mr. GARY A. MYERS. That is what is puzzling me now.

Mr. GIAIMO. It also puzzles me.

First, they sought a gasoline tax, which I supported, because I believe we should keep this trust fund on a pay-as-you-go basis. But beyond that, not having received that tax, they are now initiating a 4-year program with a 5-year revenue package to take care of the 4-year program.

At the end of the 4 years they will come in with another 4-year program with another 5-year revenue package or perhaps a 6-year revenue package to pay for it. That is when we start the pyramiding effect, and in the middle 1980's is when we run out of money.

Mr. GARY A. MYERS. The gentleman is correct. And many of us may not be Members of the House at that time to take the responsibility for making appropriations to make up for the revenues that will be absent. That is all I am saying. I am willing to vote for increased funding for bridges and for increased funding for highways.

But I am also willing to say that I will vote for a 5-cent or a 2-cent gas tax if that is what it takes.

The gentleman is correct. The bill coming out of committee would require 6 years' funding revenues authorization and only a 4-year bill for spending. That has been trimmed down.

The gentleman from Oregon did not mention the fact that his committee was affected to some extent.

Mr. GIAIMO. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Connecticut.

Mr. GIAIMO. I thank the gentleman for yielding.

Madam Chairman, would not the gentleman also suspect that the fact that the chairman of the committee is offering a $1 billion reduction in this program, and also the fact that the chairman of the Committee on Ways and Means suggests the possibility of further reductions in a conference, indicate that they concede that the program is excessive?

Now, if that is the fact, it seems to me the House ought to take responsible action and not await the conference committee with the other body and then arrive at a more consistent position.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. Madam Chairman, I commend the gentleman. I agree with him. The argument that we have to go in extremely high so that we can deal with the Senate does not seem to be a meritorious argument. There are many authorizations in some of the bills that come out of the other committees, and some of the Members now speaking on that approach would certainly not advocate that approach.

Mr. ROUSSELOT. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Madam Chairman, do I understand the gentleman correctly that he thinks one way to properly fund this is to increase the gasoline tax 2 cents?

Mr. GARY A. MYERS. The original proposal that failed last year by this Congress was a 5-cent gas tax.

A 1-cent gas tax would yield about $1 billion a year in revenue. I think we ought to look at what is involved.

Mr. ROUSSELOT. Most of the advocates of the Giaimo amendment feel we should have a gasoline tax increase?

Mr. GARY A. MYERS. I am not sure. I have not polled those Members.

Mr. ROUSSELOT. May we get an answer from the gentleman from Connecticut on that? A gasoline tax increase, is that what we are advocating if we are for the Giaimo amendment?

Mr. GARY A. MYERS. I will respond. I do not view the Giaimo amendment to say that it endorses a gas tax. I view it to say that if you are not in favor of a gas tax increase, you ought not be in favor of increasing expenditures in the absence of an adequate amount of revenues, which is what I think the Giaimo amendment says.

Mr. ROUSSELOT. Several of the people who support the Giaimo amendment favor a tax increase?

Mr. GARY A. MYERS. No; I think it is split down the middle.

Mr. ROUSSELOT. It is split down the middle?

Mr. GARY A. MYERS. If I can recapture my time, the split would be that there are some Members who support the Giaimo amendment who think we ought to expand the program and, therefore, increase gas taxes to meet that obligation. There are some, obviously, who support the Giaimo amendment—if the gentleman from California would like to listen to my response, I would be glad to make it.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. Gary A. Myers) has expired.

Mr. HOWARD. Madam Chairman, in order that we may meet the 7:30 rising time which has been promised, I ask unanimous consent that all debate on this amendment and all amendments thereto close at 7:15 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for approximately 20 seconds each.

(By unanimous consent, Mr. Shuster and Mr. Cleveland yielded their time to Mr. Harsha.)

(By unanimous consent, Mr. Volkmer yielded his time to Mr. Simon.)

(By unanimous consent, Mr. Blouin and Mr. Fary yielded their time to Mr. Howard.)

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Corman).

Mr. CORMAN. Madam Chairman, nobody believes that one foot of highway is ever going to be built by anything other than the trust fund, and the trust fund ought not be used to balance the budget.

I urge a "no" vote on the amendment

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Gary A. Myers).

Mr. GARY A. MYERS. Madam Chairman, I take time only to finish the answer to the gentleman from California (Mr. Rousselot). I am not speaking for anybody supporting the Giaimo amendment. Some certainly would support increased gas taxes; some would support increased road rehabilitation. Some would suggest that we could keep the level of spending as it currently is and not raise gas taxes. That is the simple answer I can give to the gentleman from California.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Harsha).

Mr. HARSHA. Madam Chairman, I never cease to be amazed at how some of the Members change their approach and philosophy throughout the years to various problems confronting this legislative body. Some of the very proponents of this amendment were the same people who several years ago criticized the previous administration for impounding highway funds. That is exactly the intent and the full force and effect of the Giaimo amendment. It would impound highway funds to prevent this Congress from exercising its jurisdiction, and would give the executive branch the ability to impound highway funds.

That is exactly what we are doing, because it says that the apportionments would be based on the Secretary of the Treasury's annual estimates of trust fund revenue rather than the authorization bill enacted by Congress. In fact, this amendment could well be interpreted as a de facto overturning of the decision of the U.S. Court of Appeals for the Eighth Circuit in Missouri against Volpe which held that the Secretary of Transportation did not have the authority to reduce highway funding below the levels set by Congress.

Madam Chairman, I urge defeat of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Simon).

Mr. SIMON. Madam Chairman and my colleagues, I come from a district that is in desperate straits for highway funds and bridges. Since I have been in Congress for two terms, I have had two people killed on bridges that have fallen down. For that reason, I voted for the Rostenkowski amendment to increase taxes and the Howard amendment.

But, if we do not have the courage to vote the taxes, let us not spend the money. It is that simple, and it is inflationary. Let me quote from the Engineering News-Record of September 21, 1978:

> Any sigh of relief from state highway officials after a brief drop in federal-aid highway bid prices early this year quickly turned into a gasp as bid prices during the second quarter of this year moved to record highs.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Ashley).

Mr. ASHLEY. Madam Chairman, I rise in support of the chairman of the Budget Committee and his amendment. I think that the integrity of our budget process is very much on the line. I also think on the line is whether or not there is a feeling on the part of this body to address itself to what is the No. 1 issue of the Nation today, that is, inflation. If we want to do that, if we want to come to grips with that pernicious disease, this is an appropriate time to start.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. Giaimo).

Mr. GIAIMO. Madam Chairman, I urge support of this amendment. If we really want to go back home and tell the American people we are really doing something about excessive Federal spending and we are doing something about getting control of the excessive expenditures, we have got to eliminate this kind of grab against future revenues and have a program we can pay for as we go.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. Howard).

Mr. HOWARD. Madam Chairman, the gentleman from Illinois, our good friend (Mr. Simon) quoted from the Engineering News Record that this could be inflationary. I quote from the Library of Congress that it would not, and we have the study.

People talk about the need for a tax increase. But the Department of Transportation and the Department of Treasury and the Congressional Budget Office all say that with the amount in this bill now there will be no need for a further tax increase.

Do not try to cut funds by destroying the program. We still have to go to conference. I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. Giaimo).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GIAIMO. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 111, noes 238, not voting 83, as follows:

[Rollcall Vote No. 815]

AYES—111

Andrews, N.C.
Ashley
Aspin
AuCoin
Bedell
Beilenson
Bennett
Blanchard
Bonker
Brademas
Brinkley
Brodhead
Broyhill
Burleson, Tex.
Burlison, Mo.
Carr
Cavanaugh
Cornell
Danielson
Delaney
Dellums
Diggs
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Calif.
Fenwick
Fisher
Foley
Ford, Mich.
Fraser
Frenzel
Garcia
Gephardt
Giaimo
Gudger
Hamilton
Hanley
Harris
Holtzman
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Kastenmeier
Kostmayer
Krebs
LaFalce
Latta
Leggett
Lehman
Lent
Long, La.
Long, Md.
McCloskey
McFall
McHugh
Maguire
Mann
Markey
Marks
Martin
Mattox
Mazzoli
Mikulski
Mikva
Moffett
Mollohan
Mottl
Murphy, Ill.
Myers, Gary
Neal
Nedzi
Nolan
Obey
Panetta
Pattison
Pease
Pike
Poage
Preyer
Pritchard
Rangel
Regula
Reuss
Richmond
Rogers
Rostenkowski
Russo
Scheuer
Schroeder
Seiberling
Sharp
Simon
Spellman
Staggers
Stark
Steers
Stockman
Studds
Udall
Volkmer
Waxman
Weiss
Whalen
Whitley
Wirth
Wylie
Yates

NOES—238

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Badham
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Benjamin
Bevill
Biaggi
Bingham
Blouin
Boggs
Bolling
Bowen
Breaux
Breckinridge
Brooks
Broomfield
Brown, Mich.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Butler
Carter
Cederberg
Chappell

Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Coleman
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corcoran
Corman
Cotter
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
Derwinski
Devine
Dicks
Dingell
Dodd
Dornan
Downey
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Findley
Fish
Fithian
Flippo
Flood
Florio
Ford, Tenn.
Fountain
Fowler
Frey
Fuqua
Gaydos
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Grassley
Green
Guyer
Hagedorn
Hall
Hammerschmidt
Hannaford
Harkin
Harsha
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holt
Horton
Howard
Hubbard
Huckaby
Hughes
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Keys
Kildee
Kindness
Lagomarsino
Le Fante
Leach
Lederer
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lujan
Luken
Lundine
McClory
McCormack
McDade
McDonald
McEwen
McKay
Madigan
Mahon
Marlenee
Marriott
Mathis
Meyner
Michel
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Nowak
O'Brien
Oberstar
Ottinger
Patten
Perkins
Pettis
Pickle
Pursell
Rahall
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Roncalio
Rooney
Rose
Rosenthal
Rousselot
Roybal
Runnels
Ryan
Santini
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Skelton
Slack
Smith, Iowa
Snyder
Solarz
Spence
St Germain
Stangeland
Stanton
Steed
Stokes
Stratton
Stump
Symms
Taylor
Thompson
Traxler
Treen
Trible
Ullman
Van Deerlin
Vander Jagt
Vento
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Wolff
Wright
Wydler
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—83

Addabbo
Ammerman
Anderson, Ill.
Armstrong
Bauman
Boland
Bonior
Brown, Calif.
Brown, Ohio
Burke, Calif.
Byron
Caputo
Carney
Cochran
Cohen
Conable
Cornwell
Coughlin
Crane
de la Garza
Dent
Derrick
Dickinson
Eckhardt
Eilberg
Erlenborn
Evans, Colo.
Fascell
Flowers
Flynt
Forsythe
Gammage
Gibbons
Gradison
Hansen
Harrington
Hawkins
Hightower
Holland
Ireland
Kemp
Krueger
McKinney
Meeds
Metcalfe
Milford
Miller, Calif.
Mitchell, N.Y.
Moss
Nichols
Nix
Oakar
Patterson
Pepper
Pressler
Price
Quayle
Quie
Quillen
Railsback
Rhodes
Rodino
Rudd
Ruppe
Sarasin
Shipley
Sikes
Sisk
Skubitz
Smith, Nebr.
Steiger
Teague
Thone
Thornton
Tsongas
Tucker
Vanik
Weaver
Wiggins
Wilson, C. H.
Winn
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Gammage for, with Mr. Addabbo against.

Mr. Derrick for, with Mr. Zeferetti against.

Mr. Teague for, with Mr. Eilberg against.

Mr. ERTEL and Mr. BROWN of Michigan changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

● Mr. ALEXANDER. Madam Chairman, I opposed the amendment. The funding levels as they will be revised by the amendments of the Surface Transportation Subcommittee chairman, the gentleman from New Jersey (Mr. HOWARD), are not extravagant. This bill is the result of 3 years of in-depth study and deliberation on the part of the Public Works and Transportation Committee.

Those who oppose the spending levels on the basis of environmental grounds fail to recognize that this highway bill shifts the emphasis on new construction to rehabilitation and restoration of existing highways. Rehabilitation of existing roads will have minor adverse environmental impact.

This bill continues the pay-as-you-go approach that Congress has followed in highway financing for over 20 years.

This bill is not inflationary. It provides Federal resources in an area that impacts on virtually every American—transportation. At some point, improvements on the Nation's highways, bridges and mass transit systems will have to be made. To commit Federal resources now will be less costly than in the future.

Madam Chairman, for those of us who rely on rural roads, I can tell you that my people support the use of their tax dollars toward an improved transportation system.

I am not prepared to support a reduction of the estimated $16 million in highway and bridge replacement funds that my State would experience if this amendment were adopted when our roads and bridges are deteriorating 50 percent faster than we can rejuvenate them.

I urged my colleagues to defeat the Giaimo amendment.●

● Mr. MILLER of Ohio. Madam Chairman, I rise to strike the requisite number of words. For nearly a decade completion of the East Huntington Bridge between Huntington, W. Va., and Lawrence County, Ohio, except for the placement of two piers finished in February 1977, has been delayed because of funding problems in the State of West Virginia. Originally scheduled to open in 1970 and alleviate the congestion on other Ohio River spans, the East Huntington Bridge was to be a vital commercial and commuting link between the tri-State area of Ohio, West Virginia, and Kentucky.

Because this bridge is unfinished, a serious traffic bottleneck has been created that has disrupted the commerce and growth potential of the area. Last year I personally inspected the bridge site and found incredibly long lines of vehicles waiting to cross the existing West Huntington Bridge and Sixth Street Bridge where 16,000 vehicles cross the Ohio. Due to their heavy use especially by large trucks, the maintenance and safety of these bridges have become a serious problem.

Section 141 of the bill will alleviate this situation by allowing a Federal reimbursement procedure whereby the State of West Virginia can begin construction that will lead to an early completion of the East Huntington Bridge.

I appreciate the excellent cooperation we have received from the committee and its staff and especially to Chairman HOWARD who inspected the bridge site.

I support section 141 and urge its approval.

Madam Chairman, I rise to strike the requisite number of words.

The highway bridge replacement program under section 118 of the bill is needed. There are more than 4,300 bridges in Ohio's 10th Congressional District—an estimated 25 percent of which are in need of major repair or total replacement. These bridges are vital links for fire and emergency vehicles, school buses as well as commuters. There simply are not the local resources to undertake such a massive bridge replacement program. That is why I support and urge approval of section 118.●

● Mr. ANDERSON of California. Madam Chairman, I have the greatest respect for the author of the amendment now before us (Mr. GIAIMO). I also recognize the position he finds himself.

But I must rise to oppose his amendment. His arguments are essentially the same as those presented—and rejected—by the Ways and Means Committee.

Our Public Works Committee and the Ways and Means Committee have carefully reviewed the funding levels of this bill and we all agree that the trust fund can sustain H.R. 11733's authorizations with no new taxes or increases in existing taxes.

For more than 2 years our committee has worked with businessmen, State and local officials, and taxpayers to develop a bill that addresses the priority needs of surface transportation programs.

The result of this work now hinges on the gentleman's amendment being rejected. This bill is not extravagant. Quite the contrary.

SUMMARY OF TRANSPORTATION NEEDS

Witnesses before our committee have testified that we are beginning to see the first symptoms of deterioration of our national highways. This follows the collapse of the Northeast railroads, the steady worsening of railroad beds and the inability of the air carrier industry to attract the investment capital needed to replace aging equipment.

This system, with its 3 million miles of paved surface serving more than 130 million vehicles traveling more than 1.3 trillion vehicle-miles annually, is essential for both passenger and freight traffic. Over 80 percent of this Nation's annual expenditures for all forms of transportation of persons and goods involves the highway mode.

Fundamentally, the highway system is supported by its users. From its beginning in 1916, Federal highway law has developed into a close working relationship between the Federal and State and local governments.

Let me take a few minutes to explain the effects of our accepting the amendment before us today.

We know that the highway plant is

wearing out faster than it is being replaced—we are going backwards. In 1972, DOT, in its National Highway Needs Report (NHNR) estimated that the total cost of bringing all roads and streets to minimum standards by 1990 would be $562 billion. This does not include the cost of completing the Interstate System.

This figure—adjusted to exclude local roads and street needs, to modify traffic growth—averages $47.3 billion per year.

WHO'S SPENDING WHAT?

In 1974, the Federal Government spent $265 million on capital outlays. State agencies spent $10 billion. Counties spent $1.3 billion. Municipalities spent $1.5 billion. Including maintenance, these totals changed to $534 million Federal, $16.7 billion State, $3.86 billion county, and $5 billion municipality.

In 1974, of over $26 billion spent on highways and maintenance, just $226 million came from the trust fund, and indeed, only $534 million came from the Federal Government.

It was forecast, that in 1977, trust fund expenditures would approximate $283 million while the other units of Government would spend nearly $30 billion.

Costs of maintenance and traffic services—historically a State and local responsibility—can be expected to increase from the current level of $8 billion. The costs may well average about $12 billion.

Madam Chairman, in addition to the documented fact that we are rapidly losing ground at keeping our Nation's highway system in repair, we have to all realize that the public's perception of what constitutes tolerable conditions is also involved.

A school bus accident with multiple fatalities may generate a public demand for the correction of certain deficiencies.

A catastrophe such as the collapse of a major bridge can change a situation from tolerable to intolerable immediately.

But given this, the amendment before us seeks to cut funding levels drastically.

In 1979, the gentleman's amendment would cut over $4.6 billion. Further, cuts would be $4.1 billion in 1980, $3.9 billion in 1981, and $3.6 billion in 1982. These are cuts of 60 percent.

THE ALTERNATIVE

Madam Chairman, I dislike taking to the floor to criticize amendments offered in good faith by my colleagues. I do it today only because of the alternative—that being the committee amendment offered by Chairman JIM HOWARD.

This amendment will reduce the $11 billion balance in the trust fund, but no deficit will be created. Nor will there be a need to provide additional gas taxes or reduce authorization levels in the future. In fact, by rejecting the amendment by the gentleman from Connecticut and accepting that of the gentleman from New Jersey (Mr. HOWARD) the balance in the trust fund will decrease from $11 billion this year to $9.5 billion in 1980, $3 billion in 1985, $514 million in 1990 to $1.9 billion in 1993.

In my home State of California, the Budget Committee's amendment would reduce funding by over $100 million. I ask unanimous consent to print at this point a chart explaining the effects of the amendment before us.

ATTACHMENT A

EFFECT OF GIAIMO AMENDMENT ON FISCAL YEAR 1979 APPORTIONED HIGHWAY FUNDS (FHWA) (AFTER THE HOWARD CUTS)

[In thousands; fiscal years]

State	1979 (Howard)	1979 (Giaimo)	Howard change from 1978	Giaimo change from 1979 (Howard)
Alabama	$169, 264	$138, 710	+$48, 645	−$30, 554
Alaska	132, 516	108, 595	+37, 684	−23, 927
Arizona	128, 385	105, 210	+22, 508	−23, 175
Arkansas	89, 725	73, 529	+38, 494	−16, 196
California	562, 054	460, 596	+122, 918	−101, 458
Colorado	113, 615	93, 106	+3, 598	−20, 509
Connecticut	144, 876	118, 724	+25, 369	−26, 152
Delaware	41, 227	33, 785	+11, 549	−7, 442
District of Columbia	88, 259	72, 327	+19, 250	−15, 932
Florida	255, 413	209, 308	+69, 252	−46, 105
Georgia	206, 642	169, 341	+56, 398	−37, 301
Hawaii	68, 369	56, 028	+13, 303	−12, 341
Idaho	60, 058	49, 217	+15, 462	−10, 841
Illinois	373, 980	306, 472	+57, 543	−67, 508
Indiana	129, 034	105, 742	+33, 505	−23, 292
Iowa	140, 329	114, 998	+44, 939	−25, 331
Kansas	136, 097	111, 530	+45, 308	−24, 567
Kentucky	192, 678	157, 897	+73, 959	−34, 781
Louisiana	229, 419	188, 006	+75, 466	−41, 413
Maine	50, 638	41, 497	+15, 547	−9, 141
Maryland	223, 475	183, 135	+51, 368	−40, 340
Massachusetts	213, 047	174, 589	+51, 944	−34, 458
Michigan	241, 902	198, 236	+54, 164	−43, 666
Minnesota	202, 720	166, 127	+57, 205	−36, 593
Mississippi	89, 726	73, 529	+21, 328	−16, 197
Missouri	188, 835	154, 748	+46, 393	−34, 087
Montana	81, 012	66, 388	+14, 279	−14, 624
Nebraska	83, 228	68, 204	+29, 636	−15, 024
Nevada	66, 903	54, 826	+15, 268	−12, 077
New Hampshire	49, 980	40, 958	+17, 764	−9, 022
New Jersey	187, 420	153, 588	+47, 016	−33, 832
New Mexico	81, 064	66, 431	+17, 631	−14, 633
New York	475, 274	389, 481	+139, 654	−85, 793
North Carolina	189, 053	154, 927	+56, 522	−34, 126
North Dakota	58, 310	47, 784	+15, 968	−10, 526
Ohio	294, 495	241, 335	+68, 675	−53, 160
Oklahoma	90, 998	74, 572	+27, 965	−16, 426
Oregon	123, 712	101, 380	+24, 544	−22, 332
Pennsylvania	410, 784	336, 632	+106, 539	−74, 152
Rhode Island	72, 978	59, 805	+28, 466	−13, 173
South Carolina	110, 646	90, 673	+40, 092	−19, 973
South Dakota	58, 237	47, 724	+16, 737	−10, 513
Tennessee	186, 148	152, 546	+59, 736	−33, 602
Texas	450, 758	369, 391	+109, 666	−81, 367
Utah	76, 131	62, 388	+15, 839	−13, 743
Vermont	50, 959	41, 760	+18, 604	−9, 199
Virginia	274, 712	225, 123	+76, 186	−49, 589
Washington	218, 994	179, 463	+64, 661	−39, 531
West Virginia	129, 960	106, 501	+31, 341	−23, 459
Wisconsin	143, 983	117, 992	+46, 929	−25, 991
Wyoming	59, 965	49, 141	+13, 873	−10, 824
American Samoa	570	467	+81	−103
Guam	570	467	+81	−103
Puerto Rico	37, 362	30, 618	+12, 828	−6, 744
Virgin Islands	570	467	+81	−103
Grand total	8, 537, 059	6, 996, 014	+2, 229, 761	−1, 541, 045

Note: Table prepared by Public Works staff from DOT data. Compariso.. includes interstate, primary, secondary and urban systems, planning, bridge replacement, high hazard/roadside obstacles, rail highway crossings, 402 FHWA, traffic signals and forest highways. Giaimo amendment would cut an additional estimated $319,000,000 from other trust fund financed programs for a total cut of $1,860,000,000 below Howard levels in fiscal year 1979.

We must not allow our Nation's system of highways to deteriorate. To that end we must not accept the Budget Committee's amendment.●

● Mr. DON H. CLAUSEN. Madam Chairman, the Surface Transportation Assistance Act of 1978, H.R. 11733, is the culmination of more than 3 years of work by the House Public Works and Transportation Committee of which I am a member. It is a major, comprehensive highway bill which provides for highway construction, highway safety, mass transportation in urban and rural areas and for a number of other worthwhile and needed highway related activities.

I intend to support the bill and would like to commend my colleagues on the committee for their hard work in completing action on the legislation. In particular, my friend and colleague from New Jersey (Mr. HOWARD) should be recognized for the central role he played in developing this legislation despite an illness that would have kept a normal man away from his work for many months longer. Our able chairman, the gentleman from California (Mr. JOHNSON) and the ranking minority members on the subcommittee and full committee also deserve our congratulations for their efforts in keeping this legislation on the right track.

The inflation problems we face and the cost escalations associated with this inflation suggest that we must move selectively to commit the necessary funds for completion of our highway systems. A number of unsafe segments of highway continue to threaten the lives of motorists and impede the free flow of goods and services. A positive funding commitment is necessary for the restructuring or rebuilding of these segments of our highway system.

We must also move in the direction of improving and updating our highways to accommodate our new and more comprehensive bus systems both in rural and urban communities where public transit requirements exist.

I support the future funding commitments contained in our legislation as they are necessary for the advance planning needed to permit the most modern and efficient transportation system possible. Our transportation engineers require assurances of funding to begin work in these areas.

The bill does in fact increase the percentage of Federal share for most noninterstate Federal-aid highway projects from 70 percent to 80 percent. This increase will permit the States to take fuller advantage of the programs. The Federal share for highway safety programs is also increased from 80 percent to 90 percent to encourage greater participation in this program as well.

We have also included for the first time the Northern Mariana Islands in our territorial highway program raising the share to 100 percent. As a member of the House Interior and Insular Affairs Committee which has principal jurisdiction over our territories I am pleased that the committee has recognized the special highway needs of this area.

Our bill continues our commitment to construction of bikeways. Bikes are becoming more and more important and popular as an alternative mode of transportation and recreation. Our bill provides for additional investments in bicycle routes in both urban and rural areas and also recognizes the importance of not reducing access to these pathways by requiring that every effort be made not to sever or destroy heavily used routes when new highway projects are undertaken.

Bikeways provide us with an alternative to automobiles. A comprehensive bicycle trail system will mean that a person is not locked into using his/her car for short local trips which will benefit people in terms of health and energy savings.

During our consideration of the legislation, we heard a good deal of testimony regarding the insurance problems affecting the safe and efficient operation of bridges, tunnels, and roads. The bill recognizes this problem and directs the Secretary of Transportation to make a full and complete investigation and study of the problem. The risk factors to be studied include, but are not limited to, structural, operational, environmental, and civil disturbance factors. The study will direct particular attention to the needs of our toll facilities.

Section 147 of the bill provides for a demonstration project for the construction of a bypass highway around a portion of the Redwood National Park located in my congressional district.

This provision is a continuation of a concept we first initiated in the Federal-Aid Highway Act of 1975—the preservation of parklands—and a commitment made earlier this year to assist the communities adversely affected by the expansion of the Redwood National Park. We first authorized the Secretary of Interior to acquire the land necessary for construction of the bypass in the Redwood National Park Expansion Act. This section in the highway bill represents a continuation of our efforts.

The present highway cuts through a portion of the park known as the Prairie Creek Unit. The volume of traffic through the park and the number of park visitors has grown to such proportions that other methods of handling the traffic must be considered.

The slow moving traffic consisting mostly of park visitors is forced to move with the faster moving commercial traffic. The result is a serious safety hazard as well as a diminished park experience for those who have traveled great distances to see the wonders of the majestic northcoast redwoods.

A well conceived and developed transportation system is essential to the creation of a viable park.

I urge my colleagues to support this legislation. I believe we must bring to this Nation a surface transportation program which addresses the needs of both rural and urban areas, safety considerations, and funding concerns in a long range manner. This has not been done before and is deserving of our support.●

● Mr. GILMAN. Madam Chairman, I rise in support of H.R. 11733, the Surface Transportation Assistance Act of 1978.

This bill is a comprehensive measure providing sorely needed funding for the priority needs of our Nation's interstate highway and mass transit systems.

The highway funding provisions of this legislation authorize $48 billion or $12 billion a year for highway construction, maintenance, and safety over the next 4 years. With $44 billion of these funds to be derived from the highway trust fund, the remainder is slated to come from general revenues. Fiscal year 1978 spending has been approximately $8.3 billion.

A significant portion of noninterstate highway programs would be increased from the 1978 level of about $2.6 billion to $3.6 billion a year. This increase over the current spending would be directed towards resurfacing, restoration, and rehabilitation projects on primary, secondary, and urban roads.

Mass transit authorizations over the next 4 years would amount to $18.5 billion or approximately $4.6 billion per year.

In addition, H.R. 11733 authorizes the highway trust fund for an additional 5 years, and calls for a study of alternatives to the highway trust fund tax system and a research assessment of who uses the highway system and what each user pays for his utilization of our Nation's highway systems.

Among the bill's other major provisions are: a 4 year authorization of $25 million annually to more effectively promote bikeway projects—a worthy energy saving and exercise-promoting program; and a $35 million program to be committed over the next 4 years to encourage energy conserving ridesharing projects involving carpooling and van pooling.

Madam Chairman, the critical importance of expeditiously passing this comprehensive proposal cannot be overstated: spending authorizations under the current Federal Highway Act are due to expire on September 30, 1978. While all States will suffer in the absence of speedy enactment of the measure before us, my New York colleagues and I are all too well aware of the consequences that would befall our State.

Responding to the critical need for new highways and the repair of existing roadways, New York State has substantially increased spending for highway construction. Contract lettings for highway construction during the fiscal year ending March 31, 1978 exceeded $700 million, approximately $200 million more than the previous year.

Due to this accelerated pace, all available State and Federal funds have been converted into productive employment. Such a program has allowed New York to make real progress in upgrading and reconstructing the highway facilities so vital to our State's continued economic health and growth.

However, the progress made by New York and those other States so desperately needing continued highway improvement—as well as the economic shot-in-the-arm such programs provide—will come to a grinding halt in the absence of passage of H.R. 11733.

In New York, for example, over 50 scheduled highway, bridge, and safety contracts have been or will be withdrawn from the State's letting schedule; just the beginning of project delays, and the layoffs accompanying them, if fiscal years 1979 funding is not provided soon.

H.R. 11733 will provide an estimated $1.35 billion in Federal transportation assistance to New York in 1979, funding essential to operating the existing transportation networks on which our economy relies and an estimated 56,800 jobs depend.

Madam Chairman, I also urge my colleagues to support an amendment, introduced by the distinguished chairman of the Surface Transportation Subcommittee, the gentleman from New Jersey (Mr. HOWARD), which will reduce trust funds expenditures by $1 billion in 1979 alone. This amendment is a reasonable step to assist us in providing for the continued integrity of the highway trust funds.

Madam Chairman, our highway system has contributed significantly to the social and economic structure of the Nation by providing large geographical choices of residence and job opportunities, and by distributing commercial and industrial activity while increasing the effectiveness of services.

Accordingly, I urge my colleagues to support H.R. 11733 so that we may continue to move forward in meeting the above objectives.●

● Mr. LEACH. Madam Chairman, I rise in support of the highway bridge replacement program provisions in the Surface Transportation Assistance Act.

My home State of Iowa leads the Nation in the number of deficient or obsolete bridges, so the problem is very close to home for me.

Iowa has, in effect, two "coasts," being bordered by the Mississippi and Missouri Rivers. As an agricultural State, we are dependent on good transportation to get our commodities to market. Bridges—both on system and off—are thus critical to our economy and to the public safety.

Of particular concern to me is a major bridge crossing the Mississippi River from Keokuk, Iowa, to Hamilton, Ill., which is in desperate need of replacement. Cost estimates for replacement reach as high as $15 million.

First built in 1871, when trains and horsedrawn carriages were the common modes of transportation, the Koekuk Bridge has become a critical problem to the safe and efficient transportation and commerce of our area of the State. Not only is it over 100 years old, it is barely 17 feet wide, thus requiring the large eight foot tractor trailers to stop in order to pass each on the bridge. A swing span on the bridge is used about 3,000 times annually to permit free flow of river traffic. Breakdowns of the swing span can indefinitely delay traffic and have caused more than a few births to occur midstream. While the bridge certainly has continued utility for railroad use, it has become obsolete for vehicular traffic.

The structure serves a tri-State area, including northeast Missouri and a total regional population of 100,000. Since the bridge serves more than one State, cross-jurisdictional funding problems have complicated progress towards replacement.

Earlier this year, I introduced special bridge replacement and repair legislation which, like the committee legislation before us today, expands the bridge assistance program. However, my bill placed emphasis on the establishment of a special discretionary fund for bridges serving more than one State. I am pleased to note that H.R. 11733 includes a similar discretionary authorization for bridges costing $10 million or more and am hopeful the Secretary of Transportation will take into account the special dual jurisdiction needs to which I have just alluded in authorizing special assistance for bridges in this category.

Madam Chairman, I commend the chairman and the members of the House Public Works and Transportation Committee for their efforts in bringing this constructive legislation before the House and believe that it will provide important relief to what has become a crisis problem in the area of transportation needs.●

Mr. HOWARD. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro temcore (Mr. WATKINS) having assumed the chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safetv, for mass transportation in urban and in rural areas, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 11733, presently under consideration.

The SPEAKER pro tempore (Mr. WATKINS). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ANNUAL REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I transmit herewith the 1977 Annual Report on the Administration of the Radiation Control for Health and Safety Act (Public Law 90–602) as prepared by the Secretary of the Department of Health, Education, and Welfare.

The report recommends that those sections of subpart 3, Part F of Title III of the Public Health Service Act, 42 U.S.C. 262 et. seq. (Public Law 602), which require the compilation of this annual report be repealed. This report cost $3,780 to prepare.

All of the information found in this report is available to Congress on a more immediate basis through Congressional committee oversight and budget hearings and the FDA Annual Report. We have concluded that this annual report serves little useful purpose and diverts agency resources from more productive activities.

JIMMY CARTER.

THE WHITE HOUSE, *September 21, 1978.*

FOURTEENTH QUARTERLY REPORT OF COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs:

To the Congress of the United States:

In accordance with Section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the fourteenth quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council's activities during the first quarter of 1978 in monitoring both prices and wages in the private sector and various Federal Government activities that may lead to higher costs and prices without creating commensurate benefits. It discusses Council reports, analyses, and filings before Federal regulatory agencies.

The Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *September 21, 1978.*

REPORT OF 1976 UPLAND COTTON PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Agriculture:

To the Congress of the United States:

In accordance with the provisions of section 609, Public Law 91–524, I transmit herewith for the information of the Congress the report of the 1976 upland cotton program.

JIMMY CARTER.

THE WHITE HOUSE, *September 21, 1978.*

AGREEMENT BETWEEN UNITED STATES AND FEDERAL REPUBLIC OF GERMANY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–386)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

Pursuant to section 233(e)(1) of the Social Security Act as amended by the Social Security Amendments of 1977 (P.L. 95–216; 42 U.S.C. 433), I am transmitting the Agreement between the United States of America and the Federal Republic of Germany (F.R.G.), signed on January 7, 1976, the Final Protocol to the 1976 Agreement, also signed on January 7, 1976, and the Administrative Agreement to implement the 1976 Agreement, signed on June 21, 1978.

These U.S.–F.R.G. agreements are similar in objective to the U.S.-Italian social security agreements which I submitted to the Congress on February 28, 1978. Such bilateral agreements, which are generally known as totalization agreements, provide for limited coordination between the United States and foreign social security systems to overcome the problems of gaps in protection and of dual coverage and taxation. In addition to remedying these problems, the 1976 U.S.–F.R.G. Agreement and Administrative Agreement would extend under specified conditions voluntary coverage rights under the F.R.G. system to U.S. citizens who have a prior connection with the F.R.G. system or who reside in the United States and were victims of persecution.

I also transmit for the information of the Congress a comprehensive report prepared by the Department of Health, Education, and Welfare, which explains the provisions of the Agreement and provides data on the number of persons affected by the agreements and the effect on social security financing as required by the same provision of the Social Security Amendments of 1977.

The Department of State and the Department of Health, Education, and Welfare join in commending this Agreement, Protocol, and Administrative Agreement.

JIMMY CARTER.

THE WHITE HOUSE, *September 21, 1978.*

MINILECTURE SERIES—TOURISM: OUR NATION'S GREATEST ASSET—PART V

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKUBITZ. Mr. Speaker, over the past several days, I have spoken repeatedly of my sense of shock over the State Department's careless disregard for promoting this country's national interest, particularly in view of our disastrous balance-of-payments situation. My sense of shock turns to outrage when I begin to realize just how much the Congress, and every Member can be misled and lulled into a false sense of security.

In January 1977, in a document transmitted to the Congress entitled "International Economic Report of the President," on page 112, it is stated and I quote:

> Tourism is an important and growing segment of the U.S. economy, and it has a significant impact on the world economy. Annual tourism expenditures in the United States of $100 billion support over 4 million American jobs. Foreign travellers, some 17.5 million in 1976, account for over one twentieth of all tourism expenditures in the United States and generates more than 300,000 jobs with payrolls on the order of $2 billion. Tourism is one of the three largest employers in at least 30 states.

It is further stated and I continue to quote:

> In most industries, competition is between individual firms; in tourism, it is between governments. More than 120 nations today operate national government tourist offices—organizations charged with developing policies and programs to generate inbound tourism and foreign visitor receipts . . . By the late 1950's foreign government spending in the United States on advertising and promotion designed to attract the American tourist exceeded $20 million annually. . . Concern over the economic implications of the deficit—the dollar drain" and the export of service sector jobs—led Congress to conclude that the nation had an economic interest in international tourism.
>
> In 1961, the United States Travel Service (USTS) was established in the Department of Commerce as a national tourist office.
>
> In 1976, the USTS conducted full-scale tourism promotion programs in Canada, France, Japan, Mexico, the United Kingdom, and West Germany which together account for 85 percent of foreign visitor arrivals to the United States and 80 percent of U.S. tourism receipts.

Mr. Speaker, the message was clear: Tourism is important to the U.S. economy, it will help reverse the "dollar drain" and the export of service sector jobs, and it is a matter for Federal Government involvement, since we are talking about government-to-government competition for the same tourist dollar.

In line with the message to Congress, a priority cable went out in February 1977, to all diplomatic posts and I wish to quote this cable in its entirety:

> FM SecState WashDC
> To all diplomatic posts priority
> Unclas State 014670
> For the Ambassador
> Also for USOECD, USEEC
> Subject: Assistance to U.S. business abroad
>
> I am pleased to transmit the following letter from the President to you:
>
> DEAR MR. AMBASSADOR: I am writing to emphasize that the support that you and your Embassy provide to the U.S. business community in increasing exports is one of your most important missions. A recent meeting with prominent business leaders concerned with our export performance convinced me that assistance to American business engaged in legitimate trade and investment activities is a vital element of our foreign economic policy. As such, it deserves your continuing personal attention.
>
> Trade expansion is particularly important at the present time. Sales abroad are needed to reduce unemployment and restrain protectionism at home, and to improve the Nation's balance of payments. I ask that you, as my representative, ensure that a high priority is placed on the trade expansion and other commercial programs in operation at your Embassy.
>
> We are performing well in this field, but I believe that, with your help, we can do even better.
>
> Sincerely,
>
> JIMMY CARTER.

I fail to see how a statement of intent could be clearer. There can be no doubt that this statement refers as much to Trade Center efforts as to the efforts of an agency such as the U.S. Travel Service which is unquestionably engaged in "legitimate trade and investment activities."

While I am sure that these two messages are clear to you Mr. Speaker, they apparently do not carry very much weight with our Department of State. I can only assume that certain ambassadors have chosen to interpret the mandate to place a "high priority on trade expansion and other commercial programs in operation at your embassy" as clear instructions to do away with viable and export performance oriented agencies not under the direct control of the Department of State, in favor of expanding the number of foreign service officers within the embassy.

In view of their apparent inability to read or perhaps comprehend the message from the President, it would seem to be rather futile to remind the Department of State that the U.S. Travel Service was mandated by act of Congress to maintain offices overseas in 1961. The Congress has also chosen to require that the overseas offices of the U.S. Travel Service be available and accessible to the general public. Do we conclude the Department of State feels that they are a law unto themselves?

Mr. Speaker, I am pleased to report, however, that there are a number of farseeing individuals even in Foggy Bottom. A number of our ambassadors have conveyed to me their recognition of the importance of tourism to the United States and their frustration at being unable to set up a USTS office in their post. I take great heart for the future of our national tourism industry when these few courageous individuals raise their voice in protest at this further example of bureaucratic wool-pulling.

Thank you, Mr. Speaker.

HELPING MAKE THE WORLD SAFE FOR COMMUNISM—PART 2

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, under the above heading, on June 8 of this year, I inserted in the record the edifying statement of Mr. Frank Emmick, the American businessman who defiantly opposed communism in Castro's Cuban prisons for 14 years. The thrust of those remarks, condemning the "Make the World Safe-for-Communism" theme of liberals in this country was briefly stated thus:

> What a difference between this courageous American businessman and the U.S. traveling salesmen who are eager to ply their wares in Cuba, further tightening Castro's bonds of tyranny over the Cuban people.

In the same camp with these American businessmen one must put U.N. Ambassador Andrew Young some of whose disruptive statements, associations and activities I reviewed in the CONGRESSIONAL RECORD of August 16, 1978. I am sure Mr. Emmick would apply Ambassador Young's statement describing Cuban troops in Angola to the thousands of political prisoners in Castro's prisons—the prisons—"bring a certain stability and order." I would be more than glad to put Ambassador Young in touch with Mr. Emmick if the Ambassador decides he wishes to compare notes on Cuban and American political prisoners.

That the case of Ambassador Young is beyond redemption is demonstrated by a resolution by the American Legion this year at their national convention calling for the "Resignation of the U.S. Ambassador Young to the United Nations." This action to remove the Ambassador supports the "Young Must Go" solution which many Americans must endorse and which motivated a number of us here in the House to ask for his impeachment.

Any "Make the World Safe-for-Communism" study would find copious material in our present China policy. While making continuing overtures to Red China, the regime that helped account for the loss of thousands of Americans lives during the Korean war, present American policy is downplaying our long-standing, faithful ally Tiawan at every turn. Here again, the American Legion has expressed its concern regarding the trend in our China policy by calling for continued diplomatic relations with Taiwan and continuing in force the Mutual Defense Treaty of 1954 with Taiwan. This is the same proposal which my resolution, House Concurrent Resolution 677 of August 2, 1978, would implement.

I insert at this point in the RECORD an example of the "Young-Must-Go" sentiment, the above-mentioned Legion Resolution 397, along with resolution 404 supporting our ally Taiwan. Both resolutions were adopted this year at the American Legion's 60th National Convention in New Orleans in August. In addition, there is included the text of House Concurrent Resolution 677 which I introduced on August 2, 1978, and which is now before the Committee on International Relations for action.

60TH NATIONAL CONVENTION OF THE AMERICAN LEGION HELD IN NEW ORLEANS, LA., AUGUST 22-24, 1978

Resolution 397. (Texas).

Subject. Resignation of the United States Ambassador Young to the United Nations.

Committee. Foreign Relations.

Whereas, Andrew Young, the U.S. Ambassador to the United Nations, has been a constant source of embarrassment to the government and the people of the United States since his appointment by reason of his many intemperate and ill considered public statements and verbal attacks upon various friendly countries and their representatives and officials, as well as the United States; and

Whereas, he has a consistent record of being too loose with the truth in remarks that either contradict the official position of the U.S. government such as American African Policy, or needlessly antagonize those involved, which does not enhance the image of the United States; and

Whereas, in an interview with a French newspaper during the week of July 9, 1978, while extremely sensitive negotiations were being conducted by the U.S. Secretary of State and the Soviet Foreign Minister over Human Rights and the SALT II agreement in which the Secretary of State at the U.S. President's request, was expressing the American government's objections to Soviet trials of dissidents in Russia and just prior to important conferences in Bonn, Germany and London, attended by the U.S. President and Secretary of State, Ambassador Young stated in substance that the United States holds hundreds, perhaps thousands of political prisoners in our prisons in comparing the dissidents on trial in the Soviet Union with civil rights workers in the United States; and

Whereas, in the same interview, Ambassador Young expounded the theory that those missionaries slain in Rhodesia were victims, not of terrorists but of "the camp" of Rhodesian Prime Minister Ian Smith; and

Whereas, such irresponsible and inexcusable reckless statements not only indict the United States; and, by inference, forgive the Soviet Union for its harassment of dissidents, but undermine U.S. policy and provide grist for the Communist propaganda mills; the reaction of the U.S. Secretary of State was reported to be unprintable and the Majority Leader of the U.S. Senate on July 16, 1978, stated publicly: "He has made several irresponsible statements. His latest was of such magnitude that resignation should have been considered . . ."; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in New Orleans, Louisiana, August 22, 23, 24, 1978, that we strongly urge the President of the United States to demand and accept the immediate resignation of the United States Ambassador to the United Naations. from that office, and should he refuse to resign, that his appointment be terminated without further delay; and, be it further

Resolved, that The American Legion calls upon the Congress of the United States to join The American Legion in this action; and, be it further

Resolved, that copies of this resolution be forwarded to all members of Congress, to the Secretary of State, and to the President.

60TH NATIONAL CONVENTION OF THE AMERICAN LEGION HELD IN NEW ORLEANS, LA., AUGUST 22-24, 1978

Resolution 404. (Texas).

Subject. People's Republic of China (Peking) and Republic of China (Taiwan).

Committee. Foreign Relations.

Whereas, a new era of continuing good relationships has been established between the governments of the United States and the Republic of China (Taiwan) with the inauguration on May 30, 1978 of the Republic of China's new president, Chiang Ching-kuo; and

Whereas, it is most important that the United States continue its support of the people and government of the Republic of China (Taiwan); and

Whereas, President Carter stated on May 12, 1977, he would move "expeditiously toward normalizing relationships with the People's Republic of China (Peking)", with one reservation: "We don't want to see the Taiwanese people punished or attacked"; and

Whereas, Vice Premier Chi Teng-kuei of Peking stated on May 14, 1977, "From our (Peking) viewpoint, there are certain antirevolutionary elements in Taiwan. I even believe that liberation may not be possible unless it is a military liberation by our (Peking) efforts"; and

Whereas, the People's Republic of China (Peking) is reported to be increasing its Red lobbying efforts throughout the United States; and

Whereas, The American Legion is aware of the efforts of the United States business community and the U.S. Government to improve peace and trade relations with the People's Republic of China (Peking); now, therefore, be it

Resolved, by The American Legion in National Convention assembled in New Orleans, Louisiana, August 22, 23, 24, 1978, that it recommends the U.S. Government continue its efforts to promote peace and trade with the People's Republic of China (Peking), and that it continue to support the Republic of China (Taiwan); under no circumstances should the United States reduce its support to the Republic of China (Taiwan) economically, militarily or psychologically; and, be it further

Resolved, that the United States should continue both its diplomatic relationship and its defense treaty commitment with the Republic of China (Taiwan).

H. CON. RES. 677

Whereas the free and valiant people of the Republic of China have been faithful allies of the United States throughout this century in war and peace, specifically in World War I, World War II, the Korean war and the Vietnam war, while the Peoples Republic of China, under Communist dictatorship, has been either directly or indirectly responsible for the deaths of thousands of United States servicemen during the Korean and Vietnamese wars and for thirty years has worked for policies directly in opposition to those of the United States and the free world, has conducted a vitrolic and unrelenting anti-United States propaganda campaign and has formented strife and radical actions in international affairs; and

Whereas the human rights policies of the two Chinas stand in vivid contrast, the Republic of China having progressed and developed into a free and open society with a free enterprise system, free movement of its citizens, and a high standard of living while the Communist government on the mainland has continued unabated its repressive policies, having liquidated millions of Chinese and through a reign of terror extinguishing free expression and thought; and

Whereas the Mutual Defense Treaty between the United States and the Republic of China was signed in 1954 at the end of the Korean war to discourage and defend against further Communist aggression and expansion in the west Pacific area; and

Whereas the Republic of China has honorably and faithfully carried out its responsibilities under that treaty for twenty-four years and that treaty is an integral part of the North Asian security commitments of the United States affecting not just China but Korea, Japan, the Philippines, and the entire Pacific area; and

Whereas deserting our wartime ally and faithful free China friends would seriously undermine the reliability and moral integrity of the United States leadership of the free world and among our allies; and

Whereas the future security of the United States depends on continued alliance with free and democratic nations of the world such as the Republic of China: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress—

(1) that the United States continue to have diplomatic relations with the Republic of China; and

(2) that the President not violate, abrogate or terminate the Mutual Defense Treaty between the United States of America and the Republic of China, signed December 2, 1954 (6 UST 433; TIAS 3178; 248 UNTS 213).

UNION ORGANIZING OF ILLEGAL ALIENS SHOULD BE PROHIBITED

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, I have been deeply disturbed by the flood of illegal aliens into the United States. It is now estimated that between 7 and 10 million illegal aliens are within our borders.

I am especially concerned about this situation as it relates to jobs. Millions of jobs that could be held by Americans have been taken by illegal aliens. This is unfair to the unemployed men and women of our Nation who need a job.

To make matters worse, some unions are now openly organizing and aiding foreign workers. Two of these unions are the United Farm Workers and the International Ladies Garment Workers Union. They readily admit that they have large numbers of illegal aliens on their union rolls and that they are conducting organizing drives to recruit more.

This is intolerable. The UFW and the ILGWU, rather than seeking to prevent illegal aliens from taking jobs in our Nation's farms and factories, are now working against the interests of American workers. They are accomplices in taking away jobs that otherwise would belong to American citizens.

I have previously introduced legislation that would, among other things, make it unlawful for an employer knowingly to employ, continue to employ, or refer for employment an illegal alien. At the same time, however, it also should be unlawful for labor unions to knowingly organize illegal aliens. This must be a two-way street.

It is time that Congress moved to halt the flood of illegal aliens into the United States. Effective legislation is needed now to prevent foreign workers from taking American jobs. Any such legislation should include a prohibition on union organizing of illegal aliens.

Following is the text of a Washington Post story that discusses union organizing of illegal aliens.

[From the Washington Post, Sept. 11, 1978]

TWO LABOR UNIONS, AID, ORGANIZE ILLEGAL ALIENS

(By Joel Kotkin)

LOS ANGELES.—Faced with a growing stream of aliens illegally crossing the border to work in the Southwest's farms and factories, some trade unions have begun openly organizing and aiding these undocumented workers.

Officials of the International Ladies Garment Workers Union (ILGWU) and the United Farm Workers claim that leaving illegal aliens unorganized threatens the job security and pay rates of native-born American workers. The unions' organizing drives have placed them in direct conflict with the Immigration and Naturalization Service (INS), the federal agency charged with finding, apprehending and deporting these illegal alien workers.

"We try to organize all unorganized workers. It's not of interest to us what their status is except their status as exploited workers," said Frederick Siems, executive vice president of the ILGWU. "This is the newest group and this is the group we must organize."

The ILGWU drive runs counter to one of the basic thrusts of the American labor movement: preventing foreign workers from taking jobs in the nation's farms and factories. Earlier this year the union, bolting from the official AFL–CIO position, endorsed a proposal to grant unconditional amnesty to all illegal aliens now residing in the United States. The AFL–CIO supports legislation to grant amnesty only to aliens who can prove U.S. residence dating from 1970.

The ILGWU's increasing interest in undocumented workers stems from their increased presence in the industrial work force. According to INS spokesman Bob Seitz, more than 40 percent of them now find their work in the industrial rather than the agricultural sector of the economy.

ILGWU officials in Los Angeles say their membership, now an estimated 8,000 here, has shot up since they began organizing heavily in garment plants employing large numbers of illegal aliens. Many of these plants, according to union organizer Mario Vasquez, employ as many as 80 percent Hispanic workers; sometimes a majority are illegals.

To help organize these workers, very few of whom speak any English, the ILGWU over the last three years has put 10 Hispanics on its 13-member organizing task force here. The common language at the union's office here is Spanish, and most posters, leaflets and pamphlets lying around are in that language.

"The union is simply adapting to new conditions," said organizer Vasquez, native of Mexico and long-time community activist. "The ILG was built by immigrants and really could not get away from it. The only difference now is it's not legal to immigrate, but it's all the same thing."

The ILGWU and other unions attempting to organize illegals are finding themselves at loggerheads with INS. Federal raids on factories employing illegal aliens are disrupting unionizing efforts and violating constitutional rights of both legal and illegal workers, union officials say.

Last month ILGWU attorneys filed suit in federal court here to force restrictions on INS raids on garment factories in search of illegal aliens. The suit charges current INS practices violate due process, privacy and search and seizure rights.

Joining the ILGWU as plaintiffs are four Hispanic union members in America legally who were interrogated by INS agents during a raid.

The immigration service is also being sued by a group of predominantly Hispanic workers arrested in May at the Sbicca of California factory in El Monte, east of Los Angeles.

That raid took place six days after the company turned back a representation bid by the Retail Clerks Union. Sbicca Co. spokesman Gordon Swain denies worker charges that the employer called in the INS, but he would provide no further comment on the case.

Bob Seitz, INS spokesman for the southwest region, insists it is extremely rare for federal agents to raid a factory without permission of the employer. "I'm not sure of it in this case, but in about all these big cases we have the support of the employers," Seitz said.

INS tries to steer clear of labor disputes, although sometimes "this can happen," he said.

Seitz believes the attorneys pressing the Sbicca and ILGWU suits are trying to "get illegals all the rights they can." He said most big unions, such as the United Mine Workers and United Auto Workers, support his agency's work because it protects the jobs of Americans from unfair competition from noncitizens.

The INS spokesman denied charges, leveled in both suits, that the service employed racist methods in its raids because only Hispanic-looking workers were questioned. Seitz said an experienced officer knows almost immediately which worker is legal and which is not.

"The average Mexican national is very polite and probably frightened," Seitz said with a grin, "while the average Chicano will look at you and say, 'I don't have to talk to you, pig.' "

Seitz believes the only way to cut illegal immigration to "manageable levels" is to raid factories where large numbers of illegal workers are suspected. He warned that union moves to restrict INS activities—such as requiring individual search warrants for each alien and full Miranda self-incrimination warnings for each arrested worker—could further over burden the service.

Many labor leaders working with illegals, however, claim no amount of police power can stop the tide of immigration until countries like Mexico begin providing more jobs for their citizens. "There will be no long-range solution until Mexico gets on the ball," said Marc Grossman, spokesman for the United Farm Workers.

His union has large numbers of illegal aliens on its rolls, Grossman admits, "but we're not the government, we don't bring them here, the employers do. But when they do, we'll organize them."

Grossman said these illegal workers are extremely vulnerable to employer pressure because of fears about "Migra," as INS is known to Hispanic workers. John Moore, attorney in Fresno for the California Agriculture Labor Relations Board, said veiled employer threats about deportation and the very presence of INS around the fields has a distinctly chilling effect on attempts to organize undocumented farm workers.

"The effect of the INS comes through the whole social system in the field," Moore said. "When the Migra comes to a place like Giumarra Vineyards and starts popping people like locusts in the fields just before the (unionization) election, what do you think the effect is? If you're an illegal, you're scared. You have no choices, your survival depends on doing what the employer tells you."

Giumarra Vineyards, just east of Bakersfield in the San Joaquin Valley, was the site of a disputed election last year in which a UFW representation bid was defeated. The election itself and the employer tactics are being investigated by the California Farm Labor Board.

For many illegal workers, a union job seems the best protection from the alleged abuses of employers and the dreaded Migra.

"We have to have the union to help us," said Arturo Viallejo, who comes from an impoverished town south of Mexico City and was arrested during the INS raid at Sbicca. "I think that with our union maybe we will have some representation. Without it we have no protection, no benefits."

Currently allowed in to testify on the Sbicca case, the 30-year-old worker is determined to stay in this country and help his fellow illegals organize into unions. "You can't stay in Mexico," Viallejo said. "The political and economic situation is terrible there. People without jobs keep growing. People have nothing and have to come here to live better."

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I want to make sure, if the gentleman will yield, to take advantage of the kindness of the gentleman from Maryland and wish the gentleman a happy birthday. I think it is his 50th birthday. He looks a lot older than that.

Also, I wish to convey to his absolutely gorgeous young wife my congratulations on her birthday, too. In her case, for those who believe as I do, there will be no purgatory: She is serving her time now.

Happy birthday.

PRESIDENT CARTER'S ADDRESS TO THE UNITED STEELWORKERS OF AMERICA CONVENTION, ATLANTIC CITY, N.J.

(Mr. BRADEMAS, asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, I believe that Members of the House will read with interest the address of President Carter before the United Steelworkers of America Convention on September 20, 1978. I ask unanimous consent to insert the text of the President's address in the RECORD. The address follows:

REMARKS OF THE PRESIDENT UPON ADDRESSING UNITED STEELWORKERS OF AMERICA CONVENTION, SEPTEMBER 20, 1978

President McBride, Senator Williams, Senator Case, Governor Byrne, delegates of the United Steel Workers of America, and my other friends: It is an honor to be introduced by one of the most outstanding leaders in America today—your president, Lloyd McBride—(applause)—and it is also a pleasure to meet with and to talk to one of the finest groups of working men and women that I know, the United Steel Workers of America. (Applause)

You may not know it, but you had a great deal to do with the success of the Camp David meeting. Knowing that I had to be here with you to speak today, I was able to bring to a conclusion those difficult negotiations.

Late Saturday night, Prime Minister Begin finally came to me and he said, "Mr. President, I agree to get out of the Sinai if you will let me out of Camp David." (Laughter, applause)

So I am here to point out to you that we are partners, we are brothers and sisters in a great effort to make our country and the world better.

I am also here to reaffirm my solidarity with the working people of our Nation in pursuing the goals that we share. There is no clearer expression of my commitment to this solidarity with working people than my appointment of Ray Marshall as Secretary of Labor. He is my friend and he is yours. (Applause)

You who have gathered here in convention represent one of America's greatest national assets. I am not talking about the size of your great organization alone, nor even about the enormous gains that steelworkers have realized from this union in the last forty-two years.

I am talking about the broader social vision of this international union and of the American labor movement.

You have been part of the conscience of America. Conscience is what motivated Phil Murray to organize this union in the beginning. Conscience is what motivated one of the most decent and honorable men ever to serve as a union president, my friend, I. W. Abel. (Applause) And as you well know, the president's able successor on my right here is poured out of the same crucible. These men exemplify your fight for decency and for social justice and for human rights—not just for your own members, but also for millions of others who never carried a union card.

You have fought for the right of young people to have a decent education; your own children and the children of others. And we are working together this year to achieve an unprecedented increase in Federal aid to education.

You have fought for the right of older people to enjoy security and to escape the burden of doubt and fear.

When I assumed office less than two years ago, our Nation's social security system was on the verge of financial collapse. Everywhere I went during the campaign, the elder citizens of our country would stand up and say, "What are we going to do in the future because we are about to lose our sense of purpose and our sense of security?"

You can be proud that the Steelworkers Union, under very political circumstances, joined with my Administration and the leaders of Congress to restore the integrity of the social security system.

As long as I am in the White House, as long as the Steelworkers continue your momentous influence in our country, the social security system will continue to be sound, and you can depend on it. (Applause)

LABOR AND THE CARTER ADMINISTRATION

On issue after issue, right down the line, the labor movement and my own Administration have stood together. And we can be proud of what we have accomplished.

We stood together to give four million Americans a chance to earn a life, a living of dignity and decency under revised and improved Federal minimum wage. We have stood together to pass the new Mine Safety and Health Legislation which Lloyd McBride and all of you have been fighting to pass for many years.

That legislation greatly strengthens the thousands of miners in your union, and puts the responsibility for enforcement for the first time where it belongs—in the Department of Labor under Secretary Ray Marshall. (Applause)

We have stood together on occupational safety and health. Your union helped to lead the fight to pass a strong Occupational Safety and Health Bill years ago. But for eight years, that legislation was systematically undermined by a hostile Administration.

We have turned away from the nitpicking that was designed to discredit the OSHA program. We are inspecting the most dangerous job sites. Today, we are attacking the most serious threats to health.

The value of a human life cannot be measured on a balance sheet. And as long as I am President and have your support, the health and safety of American workers on the job will be protected. And you can depend on that. (Applause)

PROTECTING AMERICAN JOBS

In the last two years, we have stood together to safeguard American jobs threatened by unfair foreign trade. The skills and the experience of America's steelworkers cannot be matched anywhere in the world. But the rules of international trade must be fair to America's workers.

America's workers, and especially America's steelworkers, should not be forced to compete against foreign exporters who do not sell their products at a fair price. (Applause)

I will not permit our workers to suffer from unfair trading practices; dumping must stop. (Applause) The steps that we have taken to help steelworkers and the steel industry are already beginning to be felt: employment in steel has increased just this year 24,000 jobs; plant utilization was only 76 percent when I became President. Now the utilization of plant capacity in our country in the steel industry has risen to 90 percent. (Applause) Shipments of steel throughout the world, as you well know, have dropped off at an alarming rate in the last two years. But shipments of domestic steel this year are already up five percent over last year; industry revenues which are needed to modernize the plants and equipment to keep you in jobs in the future, have risen substantially.

We will continue to work toward an international steel agreement with our major trading partners to deal with the problems of a depressed world steel market. I pledge to you that we will sign no agreement that is not fair to American steelworkers and to the people of the United States. (Applause)

THE ENERGY CRISIS

Closely related to our trade problems is the challenge of the energy crisis. Last year, foreign oil cost us in American dollars $45 billion. This is an increase of 800 percent in the last six years. This means that this massive export of American dollars is not only eroding the value of American dollars overseas, it has helped to build the inflation that we face at home. It has weakened confidence in our Government, both here and throughout the world. It has cost America many jobs and will cost many more in the future.

It has left our Nation far too dependent on uncertain foreign oil supplies for the energy that we must have to run our steel mills, to heat our homes, and our schools, and to fuel our transportation system.

The Senate began voting yesterday on one of the most crucial parts of my national energy plan—the natural gas conference report. This legislation, when passed, will save our country in oil imports, two million barrels per day by 1985, keeping jobs here at home, making us independent, letting us have a sound, sure supply of natural gas in states where it is not produced, with carefully prescribed prices.

As you well know, industry is now tending to move to states that produce natural gas from states that are not major natural gas producers.

This legislation will let those opportunities for jobs prevail throughout our country; and, at the same time, will not damage the economic strength or prosperity of the natural gas in oil-producing states, either. We must pass this legislation to ensure that industries and communities which depend on natural gas will be assured of continued supplies. This is especially true, as you well know, in the steel industry.

I am sure that you all remember the crisis that this Nation faced during the natural gas shortage in the winter of 1977, just after I became President.

Nationwide, more than a million Americans were laid off because the American gas industry could not obtain, could not supply enough, and the rest of industry in our country could not obtain the gas it needed. Between fifty and one hundred thousand steelworkers were left unemployed. Our Nation, and your own members, other working people in our country, cannot afford that kind of loss in the future.

Passage of this legislation, along with the other less controversial energy conference reports before the Congress, will give our Nation what America so badly needs: our first National Energy Plan. The consequences of failure for our country are unacceptable. We have debated long enough. It is time to put the interest of our Nation and the American people first and act without further delay to have a national energy policy to benefit you and all others.

I ask you this morning to help me with this crucial decision that will affect your lives.

You and I have also stood together to enhance our Nation's crucial role in world affairs.

I believe that our Nation must continue to have a strong defense. And as long as I am in the White House and you give me your support, our defense capability will be second to none on earth. And you can depend on that. (Applause)

Our Nation must continue to lead in the most difficult and important undertaking on this planet—the search for peace. And we will do that, in the Middle East and elsewhere throughout the world.

Our Nation, as you know, was damaged by Watergate, CIA, Vietnam, and we lost a lot in the esteem of other people around the world for us, and in the esteem that American people have always had for our own Government. But our basic commitments, the beliefs and ideals on which our Nation was founded have not changed at all.

Our Nation must continue to support human rights. And I am proud that our country stands, not only here but everywhere, for liberty and justice. And I pledge to you that as long as I am in the White House, America will never turn its back on the struggle for human freedom and human rights around the world. And you can depend on that. (Applause)

There is something clean about America. There is something decent about America. There is something idealistic about America. There is something unselfish about America. There is something strong about America. It is what makes our people love our country.

And I want to see those basic commitments restored. And in that restoration will come strength, based on the American people themselves, where those commitments have never changed, in spite of mistakes made in the past by some of our leaders. Worldwide human rights questions are important. And we know that our own rights, our own freedoms were won in struggle, and we know that struggle still continues. It continues for you and me in the fight to have a fair and responsible labor law reform bill. (Applause)

LABOR LAW REFORM

I am disappointed that because of a massive expensive, completely distorted propaganda effort, that the Congress has not yet passed this important legislation.

Our labor law reform bill is not a grab for power by the unions, but it is a reach for justice, justice for American working men and women which is long overdue. This is the only piece of legislation that I personally helped to draft every single paragraph. It is a reasonable and responsible piece of legislation. Its purpose is to prevent a small minority of employers from flagrantly continuing to violate the law. (Applause)

I see very clearly how you feel about this matter. (Laughter)

Our goal is simply to guarantee the rights which were promised American workers 43 years ago in the National Labor Relations Act. And I am determined to reach that goal. It will be at the top of our legislative priority list for next year if we don't get it this year. And I want to be sure that we have legislation of which you and I can be proud. (Applause)

You represent more than a million Americans. What has always impressed me is that you have never used your influence or power to demand a handout. What you have asked for is jobs, good jobs, sound jobs, safe jobs, healthy jobs, with reasonable pay.

Our society honors work. We believe in work. That is the great strength that we have as Americans.

JOBS FOR THE AMERICAN WORKER

When I took office less than two years ago, there were 10 million people in this country who wanted to work, but could not find full-time jobs. Unemployment had more than doubled in the preceding eight years. The unemployment rate stood at eight percent.

I pledged to work with you to provide jobs for the American people.

Working together, we have doubled the number of public service jobs in America to 725.000. We have tripled Federal support for public works. We have cut taxes for working Americans and low-income Americans by $7 billion last year, a much larger increase—decrease in taxes will come this year so that American people could have the purchasing power to stimulate demand for goods, to create jobs for people who produce those goods. We doubled the size of the Job Corps. We have passed our Nation's first Youth Employment Bill to reduce the tragic unemployment rate among our young people. And we have already begun to see the results.

We have had a net increase, a net increase of six million new jobs in America, never before achieved. Last month, the unemployment rate dropped below six percent, a reduction of 25 percent since I have been in office. (Applause)

In New Jersey, for instance, the unemployment rate in the last 12 months has dropped almost three percent. I am proud of that record. We still have a long way to go. We have a right to be proud of the gains we have made. But the progress that we have made and the progress that we can make are both in danger. They all face a threat of the utmost seriousness—the threat of inflation.

Inflation strikes at our faith in the future.

ANTI-INFLATION LEGISLATION

Inflation can wipe out our savings, and it can destroy our dreams.

Inflation is hardest, though, on those who have no savings and who lack the degree of economic power and security that union membership has brought to you. Inflation cruelly gouges and cheats the old and the poor. With inflation at seven percent, which we have seen for the last ten years, fixed incomes are cut in half every ten years.

When there is inflation, it is often the government and unions that get the blame. That is obviously unfair. But you and I do share, along with others, of course, a great responsibility.

We must join together to fight this enemy, inflation.

We must join together to help the Congress resist the special economic interests which behave as if they care nothing for the common good.

One example is the hospital cost containment legislation that I submitted earlier this year.

A couple of weeks ago, Speaker Tip O'Neill came back to Washington from a weekend in Boston. One of his friends, a working man, brought him a copy of a hospital bill which was received by one of his constituents. The man's little son was in an accident. He had fallen and struck his mouth and four of his front teeth were driven up into his gums. He stayed in the hospital 26 hours. His bill was $2,330.99. As we all know, those who own and operate many of our hospitals are the very ones who decide whether a patient should be admitted or not, who decide how long they stay, who decide what treatment they shall get, who decide how much to charge for that treatment.

Because of this extraordinary monopoly over a certain aspect that is crucial to every American's life, the cost of hospital care is increasing at twice the rate of inflation in our country.

Something must be done. This year, we have not been successful in getting legislation passed which would have permitted hospital costs to go up only 50 percent more than the inflation rate.

But with your help next year, perhaps we can be successful in defending the basic rights of American people to good health care at a reasonable cost. (Applause)

Since 1950, hospital costs have gone up more than 1,000 percent. Well, the medical lobby and the hospital industry lobby so far have been successful in blocking this legislation. There would be a saving for the American people in the next five years if this legislation was passed of $56 billion. Obviously, there is a lot at stake. So far, the conscience of America, including yourself, have not yet been aroused enough to convince the members of Congress that this needed legislation should be passed. But it is time for all of us to stand up to these special interests and to all the others that refuse to look past their own selfish concerns.

Another example of important anti-inflation legislation is airline deregulation.

Many of you flew in here by commercial airline service. One price that has gone down in the last year substantially is the price of an airline ticket on domestic and overseas flights.

At first, the airline industry screamed that this would be devastating to them. Many airplanes on which I flew as a candidate for President would only have 25 percent or less of the seats filled. Now, because of reduced fares, those same planes are averaging 75 percent accuracy. Travel to other countries is increasing rapidly. The average working people of our country can travel in speed and comfort. And the profits of the airline companies have gone up substantially. It has been good all around.

This has mostly been done by regulatory action, the Civil Aeronautics Board, my own decisions, particularly in overseas flight. But shortly, perhaps even today, the House will vote on an airline deregulation bill that will put these enormously improved practices into law and make them permanently.

We need to let those policies be imbedded in the law so that domestic airline fares can also be reduced by competition under the American free enterprise system. Government, of course, cannot do jobs like this alone in holding down unnecessary prices. In fiscal year 1976, I began to study how I might, as President, if elected, do something about the very large Federal budget deficits. I believe in a balanced budget.

BALANCING THE FEDERAL BUDGET

When I ran for President, the Federal deficit was in the 60's of billions of dollars, $66 billion. In Fiscal Year 1978, the first budget that I prepared, we had cut it down in the 50's of billions of dollars, $51 billion. Next year, Fiscal Year 1979, the Federal deficit will be down into the 40's of billions of dollars. And my goal for 1980 Fiscal Year, which I am preparing now, is to bring the deficit down into the 30's of billions of dollars.

This is in spite of the fact that we are giving better services to the American people and in spite of the fact that we will probably have a total of $25 billion or more of reduced income taxes for the American people.

I am determined to exercise discipline over the Federal budget—even if it means saying no to popular proposals on occasion, if that is what it takes to fight inflation.

We can get more out of what we do spend if our government is streamlined and responsive. I talked about government reorganization during the campaign. But it is worse by far than I thought it would be.

That is why Civil Service reform is so important. We need a Civil Service system that makes the bureaucracy manageable and rewards good performance.

The Civil Service reforms will do this. The House passed this bill overwhelmingly. The Senate has already passed it. And I believe that if this is accomplished, we will have a better government while fully protecting the rights of government workers.

In waging this war on inflation, I reject the policies of the past. I will not fight inflation by throwing millions of Americans out of work. And you can depend on that. (Applause)

Such a policy was followed in the past. But it is morally wrong. We have suffered from severe inflation for the last ten years.

Our current inflation is certainly not due to excessive wage increases or responsible Government programs. It will do no good to search for villains, whether in government, business or labor. But business and labor, like government, are critical to stopping inflation. As both business and labor try to catch up with past inflation and protect themselves against future inflation, prices and wages keep mounting, just to protect oneself. And in the end, no one wins.

To bring inflation under control, we must have cooperation among business, labor, government, the general public of our country. This is indisputable.

In the near future, I will announce a strengthening of our limited arsenal of weapons against inflation.

I can tell you today that what we will do will be fair. It will not penalize labor or any other group in our society.

At the same time, it will be tough. I will ask for restraint and some sacrifice from all.

I ask you to consider what I will have to say with open minds and in a spirit of cooperation and patriotic concern.

The problem of inflation is enormously difficult, far more complicated, far more difficult than it was a decade or two ago. Controlling this problem is not just one option among many. It is an absolute necessity. We must control inflation, and in order to do it, we must work together.

I spoke of conscience at the beginning of this talk. I have no hesitation in calling upon the conscience of the United Steelworkers of America and the American Labor movement, when the best interests of our country are at stake. I place my faith in the broad social concern that you have shown so often in the past. I have doubt that you will meet the challenge that faces our country once more.

Together—as partners—we can, and we will, continue to build for the future, an even greater America.

Thank you very much. (Applause) ●

THE NEW RIGHT: LIBERALS REAPING WHAT THEY HAVE SOWN

The SPEAKER pro tempore (Mr. Watkins). Under a previous order of the House, the gentleman from Ohio (Mr. Ashbrook) is recognized for 15 minutes.

Mr. ASHBROOK. Mr. Speaker, by their own admission; liberals are facing a grassroots rebellion of hundreds of thousands of people, against both liberal candidates and their policies. Carter appointee Bella Abzug accused these people of being connected with the Ku Klux Klan, Senator McGovern has declared them racists, and junior Senator from Ohio (Howard Metzenbaum) has connected them with the Know Nothings and the Ku Klux Klan.

When the equal rights amendment was stopped in its tracks, Bella Abzug blamed the Ku Klux Klan, the Roman Catholic hierarchy, and the Mormon Church. When the people of California voted two to one for proposition 13, George McGovern declared the action had "undertones of racism." Mr. Metzenbaum discussed the know nothing movement and the Ku Klux Klan of the 1920's. He then said:

> The same mean, vindictive spirit rallied behind Joe McCarthy's witch hunts of the 1950s and that [T]hat same mean spirit that gave us McCarthyism is today at the root of violent, die-hard resistance to equal rights for all Americans.

The very liberal Ohioian went on to link those who helped defeat liberal Clifford Case, "one of the finest men who ever served in the U.S. Senate," with the Ku Klux Klan mentality.

Bella Abzug, George McGovern, and Howard Metzenbaum all know that nobody believes their wild charges. Nobody believes that the half of the American population which opposes the equal rights amendment is in league with the Ku Klux Klan. Nobody believes that two-thirds of the population of California objects to high property taxes because of "undertones of racism." And nobody believes that a majority of the Republicans in New Jersey favored Jeff Bell for the Senate because they are secret Ku Klux Klan sympathizers. Everyone, including Abzug, McGovern, and Metzenbaum, knows very well that what they are really saying is that the people have no right to organize to fight liberalism.

This is probably the first time in history that politicians in a democratic country ever had the unmitigated gall to accuse the grassroots of plotting to take the Government away from them.

But the fact that no one believes the liberals' hysterical charges does not mean that no one resents them. As chairman of the conservative victory fund, which was instrumental in nominating Jeff Bell and in defeating Clifford Case, I resent the charge that those associated with that effort are somehow related to the Ku Klux Klan. The fact that the man who made the charge does not really believe it himself does not make it any less serious. We all know the uproar they would create if we did the same thing by linking those who vote for indirect aid to Communist countries, vote against strong defense, vote against intelligence activities, attack the FBI, CIA, and the military, with Communist motivations or Communist causes. Oh no, that would be a smear but what they are doing is supposedly all right. We all know that the big unions have targeted the right as their major focus for attack and we can expect the vituperative attacks such as the IAM chief leveled against a great American, Congressman Jack Kemp. Let them do it. The American people will not be fooled.

If people from all over the country gave $10, $20, or $100 to defeat Clifford Case, it is because liberals like Clifford Case have voted, year after year, to tax and spend. People are mad at the crushing burden forced on them by prolifigate liberal spenders and the architects of runaway Government.

Hundreds of thousands of Americans in this country choose to send their money to defeat Case or reelect Jesse Helms for the simple and legitimate reason that liberal party bosses in their own States will not listen to them. There is no clearer proof of the lack of choice offered to Americans today in many States than that so many people have chosen to use the mails to have some influence in areas where a choice is offered. This is a reason, not an excuse. No American citizen needs to give anyone an excuse for giving his small donation to any candidate anywhere in this country he chooses.

Liberals cannot attack this right directly. Instead, they conjure up a sense of outrage which is almost comical. When it comes to conservatives giving money to support conservative candidates, liberals suddenly become fanatical States' righters. After attacking supporters of Jeff Bell and Jesse Helms, Mr. Metzenbaum made one of the most provincial statements I have heard from a Member of Congress in many years. This is a direct quote:

> "And some U.S. Senators even have the audacity these days to write letters to residents of other states, to the constituents of other U.S. Senators, to tell us how to vote on issues like situs picketing and labor law reform. I say to the new right and to those Senators 'keep out of Ohio. I don't need your help to speak and vote for the people of my state.'"

Does this mean that the next time George Meany dumps thousands of dollars earned by workers in others parts of the country to support a liberal candidate in the South, my colleague from Ohio will object? Of course not. Does this mean that Mr. Metzenbaum or Mr. McGovern or Bella Abzug will not endorse liberal organizations which solicit money for leftist causes all over this country? Of course not. It means simply that State borders, like everything else, are good only so long as they serve the liberal interest.

Mr. Speaker, you may be assured that Jeff Bell, Senator Helms and myself are all three being opposed by money from outside our States. But most of it is not money which has been given freely by those who earned it, as is that of the conservative victory fund. The money opposing us is taken from working people by pressure and distributed by labor bosses according to their own liberal political preferences. To these out-of-State funds, the Abzugs, McGoverns, and Metzenbaums have never been known to object. They certainly did not object to the massive contributions of the National Education Association in 1976, contributions which have been held illegal by the courts. I know my 1976 opponent was the recipient of NEA contributions in the union's efforts to defeat me that year.

For 30 years liberals have been going to Washington, and for 30 years they have sent out hordes of bureaucrats and tons of regulations to harass Americans of every section and class. Liberals have given us a half a trillion dollar budget and gutted down defense system to the point that freedom is being endangered throughout the world. It is not a surprise that there is a political rebellion on. What is surprising is that it took so long to get under way.

As for those liberal elitists who shout that the grassroots have no right to object to all this, they are shouting into the wind. And the wind is rising.

DEFENSE EXPENDITURE PLANNING AND SALT: A CASE FOR THE MX ICBM SYSTEM IN THE INTEREST OF PRESERVING PEACE.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 15 minutes.

● Mr. KEMP. Mr. Speaker, nearly a year has elapsed since the expiration of the first-round strategic arms limitation accords, and we appear no closer to a satisfactory agreement assuring the survivability of U.S. land-based forces than we were a year ago. President Carter's veto of the fiscal year 1979 defense authorization bill underscores the adverse impact the protracted delays in negotiating a ratifiable SALT agreement are having on our defense planning process and consequently, our defense posture for the 1980's.

In his fiscal year 1978 budget submission, President Ford provided funding for the initiation of full-scale development of the MX ICBM system. This proposal was subsequently withdrawn by the Carter administration in its revisions to the Ford budget. Regretably, the administration not only refused to provide for such funding in the fiscal year 1979 budget, but has also decided against funding in fiscal year 1980 as well. Despite suggestions made during the course of the administration's testimony in upport of its fiscal year 1979 budget requests, to the effect that it would request supplemental funding for MX full-scale development, this has not occurred.

The failure of the administration to

press forward with the development of the MX program is having a damaging effect on both our SALT posture and on our future defense posture. By failing to press expeditiously with MX development, we are providing the Soviet Union with no incentive to negotiate a SALT agreement which would reduce their ballistic missile payload capacity (throw-weight), and thereby provide a more equitable and ratifiable agreement. Indeed, our failure to develop the MX rapidly encourages the Soviets to accelerate their ballistic missile modernization program to deploy heavy-payload ICBM's, and fractionate the payload into large numbers of high-yield ICBM warheads with accuracy sufficient to destroy any work of man in the United States.

Expeditious development of MX would persuade the Soviets, as can no other act or rhetorical assertion of this administration, that the Soviet investment in ICBM's is futile. By deploying MX, the Soviet Union would be deprived of the most important element of U.S. nuclear forces which it can now target; the land-based ICBM force. With the MX deployed in a multiple aim point (MAP) mode, it could not be targeted by current or projected Soviet force levels through the mid-1980's. Only U.S. submarines in port (30 to 40 percent of the 41 U.S. missile-firing submarines now deployed) and the portion of the manned-bomber force not on operational alert (75 percent of the force is not on alert) could be targeted.

Moreover, the failure of the administration to act on the full-scale development of the MX system has given the Soviet Union an opportunity to "stonewall" U.S. negotiators at SALT on such complex issues as the problem of the modernization of the ICBM force currently delaying completion of the SALT exercise. The Soviets see an opportunity to stop for at least 3 years, if not forever, via the SALT protocol, U.S. development of a survivable ICBM. The vacillation of the Carter administration has provided Soviet negotiators with an incentive to seek restrictive language in SALT that make such an agreement utterly unratifiable.

The protracted delays in initiating MX full-scale development are pushing further into the future, the day when MX can be deployed, and even further away from the day when MX can make a substantial contribution to achieving a significant reduction in the vulnerability of U.S. land-based ICBM's. Since President Carter assumed office, the initial operating capability (IOC) of MX has slipped 3 years at the earliest under the expenditure "profiles" considered by the administration.

As a result, U.S. defense planning for the 1980's is facing its gravest era of uncertainty since the Soviets initiated their own deployment of nuclear weapons in the 1950's. In the absence of MX, defense planners must contend with the stark vulnerability of the entire U.S. ICBM force by the mid-1980's if not before. Further, because of construction delays, the number of submarine-launched ballistic missiles (SLBM's) will have available in the event of war will be at its lowest point since the U.S. SLBM deployment was completed in the mid-1960's. As President Carter has declined to modernize the penetrating bomber force, we will be compelled to rely on the untried first-generation cruise missile, to deliver bomber-carried nuclear weapons by the mid-1980's.

All of these adverse trends are having their impact on U.S. strategic nuclear forces at a time when the Soviet threat has never been greater. Not only are the number of Soviet targets more numerous as Soviet strategic and general purpose forces grow in number, but the forces are more dispersed and hardened, thereby increasing the requirement for numbers of U.S. nuclear weapons to provide a credible threat to these forces to preserve deterrence.

The Carter veto of the defense authorization bill has brought home the concerns about the adequacy of present expenditures to preserve nuclear deterrence we can reliably foresee in the next decade. Decisions made this year to "save" a few hundred million dollars in fiscal year 1979 can cost literally tens of billions of dollars in a crash program in the next decade to meet the threat whose contours are readily visible to nonpoliticized observers today.

The defense authorization bill which is likely to emerge, if President Carter gets his way, will be approximately $10 billion below the level of spending proposed by President Ford for fiscal year 1979. Expenditures for NATO—allegedly a major concern of the Carter administration—will be 14 percent below the amount proposed by President Ford for the same fiscal year.

In short, President Carter's defense policy not only contributes to the long-term weakening of our defense posture for the confrontations with the Soviets in the 1980's, but also cripples our SALT posture to the point where it will be impossible to win an agreement which will assure American security during the next decade, and be capable of winning congressional approval.

A supplemental appropriation bill for fiscal year 1979 is urgently needed to initiate full-scale development of MX so that we may have hopes of gaining an equitable SALT agreement, while providing our forces with weapon systems adequate to both our defense requirements and arms control objectives in the next decade and beyond.●

NICARAGUA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 60 minutes.

Mr. MURPHY of New York. Mr. Speaker, my purpose here today is to call to the attention of the U.S. Congress some of the salient facts relative to the serious situation in Central America, and in Nicaragua particularly. I must point out that many hysterical headlines have given American readers a grossly distorted picture, not only of the reality of the Nicaraguan position, but of the open and blatant involvement of various Communist/Marxist revolutionaries from the Havana/Moscow axis, as well as both active and passive aid from other South American nations such as Venezuela, Costa Rico, and Panama.

Let me make it very clear at the outset: Nicaragua has a constitutional government, and Anastasio Somoza is its constitutionally elected President. In that respect, it is no different than the United States. Yet if the Black Panthers, Weathermen, or Symbionese Liberation Army were to invade the White House, take hostages on Capitol Hill, and begin executing residents of Foggy Bottom, the Washington Post would certainly cry out for the speedy containment of such a bizarre move to take over the U.S. Government. So far, the media have been distressingly silent on the comparative situation in Nicaragua.

Nicaragua is not isolated in its troubles with the Communist campaign of violence and terrorism. It is only one step in a finely orchestrated program to destabilize all of Central America, including the governments of Guatemala, Honduras, El Salvador, and Costa Rica. I include Panama in these governments about to be lost to the Soviet sphere of influence, but that is a story for another time, and one which you may be certain I will pursue at considerable length at the appropriate time. And now Venezuela has become involved, openly aiding the terrorists, many of which have been trained in Cuba.

Venezuela, of course, is one of the leading members of OPEC, the Organization of Petroleum Exporting Countries, an organization made of many members who openly support the Palestine Liberation Organization—who, in turn, depend quite heavily on the Soviet Union for support. The PLO and the Sandanistas, according to Radio Havana, issued a joint communique in Mexico City to "emphasize the bonds of solidarity which exist between the two revolutionary organizations." It attacked "the racist State of Israel" for reported military sales to anti-Communist Latin American countries, and for serving as "an enclave of North American imperialism" in the Middle East. That should help give us some clue as to the basic political philosophy of the Nicaraguan rebels. As the founder of their movement originally stated, murder and terrorism is acceptable if done in the cause of communism. I would hope there are none in this Chamber who believe that to be so.

Yet that is precisely the case in Nicaragua: The attempted violent and armed overthrow of an elected government. The Sandanista's "Commander Zero" left no doubt they would create a revolutionary state, expropriate all Somoza property, nationalize natural resources, and establish a popular and democratic army. I cannot believe that this is what we Americans would wish for. President Somoza was elected, which cannot be said of Castro or Torrijos, both of whom took office at gunpoint, and who leave little doubt of their Communist philosophy. Nicaragua holds elections, and President Somoza, by law, cannot succeed himself in 1981. Nicaragua is a nation where the opposition party holds 40 percent of the seats in the legislature—7 percent more than the minority in this body of the U.S. Congress. There is a thriving and free opposition press which openly criticizes the Government. And yet, we hear only of the Government's use of force—a legitimate use of force—in putting down riots and terrorism in the streets.

As I have noted, the attacks are not solely from the inside. Training takes place in Cuba and elsewhere, while Venezuela and Panama openly aid the terrorists. Raids are conducted across the border from Costa Rica, whose Government claims it is powerless to stop these attacks against its neighbor, but when the Government of Nicaragua acts to defend itself by pursuing the terrorists, Costa Rica protests that its borders are being violated. I have included in my prepared remarks a chronology of Costa Rican involvement which I would ask to be inserted in the RECORD at this point. (Attachment No. 1.)

Nicaragua has been told that, should it attempt to destroy the Sandanista bases in Costa Rica, it will have to answer to Venezuela as well. Panama has threatened to send in "volunteers," and the Panamanian Ambassador to the OAS announced Panama had already sent helicopters to Costa Rica to defend its territory—helicopters which are supplied by U.S. security assistance programs and are, by law, not to be used or assigned to third countries.

Where is our outrage at this?

The Nicaraguan situation is not, contrary to newspaper reports, a popular uprising against a repressive government. President Somoza has brought to Nicaragua the most liberal, progressive, and democratic government it has enjoyed in its entire history. The attacks against him are not even Nicaraguan in origin—most of the highest leaders of the Sandanista front are Costa Rican and Mexican citizens, while the most recent attacks were orchestrated immediately after the Communist's world youth festival in Havana, Cuba, last month. Radio Havana is now calling for the formation of international regiments to aid the Sandanistas, most likely to be commanded by officers of Cuba's Africa Corps.

Is it simply a coincidence that the Soviet Union maintains a huge embassy in the capital of Costa Rica, where the Cuban Government is also represented? None of the other five Central American countries have diplomatic relations with either of these Communist countries.

When the Russian Embassy was established, they officially requested seven accredited members of the Embassy. As of today there are 38 official and an estimated 180 Russians who are participants in Embassy activities compared to the 26-member Embassy that the United States maintains in Costa Rica. The United States conducts $260 million in trade with Costa Rica. And the U.S.S.R.? Six million dollars in trade. Just today La Nacion, the largest newspaper printed in Costa Rica, editorially questioned this huge Russian "force" and an article in that same paper stated that the Russian Embassy is a center of conspiracy in Latin America and is behind the unrest and strikes that exist in that country.

The Marxist interest in the region is not at all surprising. It is the largest country in the area, and occupies a key geographical position, as well as being known as a close ally of the United States. Nicaragua contains the primary potential alternative site for a transoceanic canal, if one is needed in addition to the Panama Canal. I have great fears for the future of Panama Canal in the hands of Torrijos, and to lose the Nicaraguan alternative to communism is to completely lose control of our shipping lanes and our southern defenses. The rest of Central America is a simple step from Nicaragua. And if we learned nothing else from the Cuban situation, we should have learned that Cuba was the first step of the Soviets into our hemisphere, not the last.

The Sandinistas have vowed to continue terrorizing Nicaragua until they impose a "popular proletariat democratic" government. That title has a haunting ring to it. The best interests of the United States, and indeed the rest of the free world, is by no conceivable means an alinement with terrorist groups, abetting murder in the overthrow of a constitutional government by the single stated enemy of the United States: Soviet-style communism.

Our Government can no longer afford the luxury of a hands-off attitude. This is true not only in the direct case of Nicaragua and the continuing terrorism but also in the case of the indirect assistance afforded the guerrillas by Costa Rica, Venezuela, Panama, Cuba, and others. We are not a simple onlooker: We are, or should be, directly and actively, involved at the very least in negotiating an end to the violence. We should, and must, take a firm stand in calling for an end to the fighting, and an end to the outside interference.

Nicaragua has always been a strong ally of the United States, a position which was outlined at considerable length in this Chamber last year when we debated the continuance of aid to Nicaragua in the military assistance legislation. I have supplied a transcript of that debate and my statement for the RECORD on human rights in Nicaragua of June 21, 1977 (Appendixes B and C) and ask that they be printed at the end of my remarks.

The essence of that debate, however, was that by a considerable margin (225 to 180) this Chamber agreed that it was in the best interests of the United States to continue military assistance to the Government of Nicaragua. Military assistance, by any definition, means defense of the nation and its government from armed invasion or conflict. Can there be any possible foundation for the Congress to separate our military assistance from moral or political assistance?

We approved that aid so that the existing constitutional government might be strengthened against its enemies. Now that those enemies are committing murder in the streets and countryside, there are those who complain that perhaps the Nicaraguan Government should not defend itself and its people from terrorism inflicted upon them by Communist-led zealots whose only aim is to impose another Cuba upon a free people. I find that point of view extremely difficult to understand or to defend.

As you can read in last years debate, many of my colleagues in the House have joined me in telling the American people that Nicaragua has been faced with a Marxist revolution for years. Now that the violence is a reality, the media appears to portray the terrorists as daring heroes in pursuing their cause. That cause is communism, pure and simple, and their threat to execute members of the Nicaraguan Legislature is blood lust at its worst, and I point out that the U.S. media groups trumpeting the initial sneak-attack successes of the terrorists in Nicaragua are the same media groups that called the Tet offensive in Vietnam a raging Communist success, when in reality it was a disastrous defeat. The incidents have many similarities. For example, the media played up to a fare-thee-well the fact that two dozen Communist sappers fought their way into the American Embassy in Saigon just as they are still playing up the fact that the FSLN stormed and took the Nicaraguan Legislature.

The misreporting is the same—I know the results will not be.

I say we should not be stampeded again by a publicity hype like we were 10 years ago. I say let those who demand change take their case to the Nicaraguan people in the next election. President Somoza will not be a candidate, being eliminated by law from succeeding himself. Let the Sandinistas tell the people of Nicaragua, and those of us in the Free World, what they have to offer in the way of a proper rational government. Let the well organized opposition party in Nicaragua make its case. And then let the people of Nicaragua decide for themselves at a ballot box, not at the muzzle of a Communist gun.

Mr. Speaker, the foes of Nicaragua have worked on this Congress long and assiduously. On June 23, 1977, they succeeded in bringing the House to an extended debate on aid to Nicaragua and my friend from Texas, Mr. DE LA GARZA, made an eloquent statement at that time that is today more germane than ever. He said:

> So we topple this Somoza. So we knock out the military in Argentina. So we knock out the military in Chile. What will take their place? Communism.
>
> * * * * *
>
> The Cubans are there. The Russians are there. We will not have any church. We

will not have any bishops. We will not have any liberty. We will continue the oppression. We will continue the torture. This is historical.

We do not have a need for any hearing in any committee to accept the fact that the Communists torture, that they oppress, that they deny religious choice.

The alternative in these countries, if we just cut them off at this time and stop the dialog, is Communism.

Many of us cheered. As for myself, I cheered. I said: "Batista is out. Castro, the brilliant young man with stars in his eyes, is coming in. He has toppled the dictatorship." Take a look at how many Cubans are left who were free. Take a look at those in Florida. Yes, I cheered when Castro came into power. I said: "The dictatorship is out. Freedom will once again come to Cuba. The people will be able to go to their churches. The bishops will be able to minister to their brethren." Democracy will return, free elections, our system of freedom.

Did this happen? No. And if we knock out the existing governments, right, left, dictator, or what, as the gentlemen have suggested, what will be left, my friends? Communism. We must work with the President, we must work within the established institutions. We have sent the message, we will not tolerate oppression, denial of human rights from any source. But you do not do this by striking blindly in an appropriation bill.

That advice is just as good today as it was then and I urge my colleagues to heed it.

Mr. Speaker, in the interests of making available more speaking time for my colleagues to join in support of a constitutional Nicaraguan Government, rather than a bloody Communist coup, I would insert at this point in the RECORD a number of newspaper articles and editorials. All are not particularly laudatory of the President of Nicaragua; instead, they represent in most cases a balanced point of view in noting that Nicaragua is only the latest crescendo in the Communist orchestration of savagery and brutality designed to encompass within their repressive grasp what remains of the free world. Also included is a transcript of a televised interview with President Somoza which took place September 19, 1978, on the Public Broadcasting Network. I recommend it highly to my colleagues to dispel many of the misconceptions of the current media image which has so inaccurately portrayed the reality of today's Nicaragua.

APPENDIX A

COSTA RICA AND THE NICARAGUAN FSLN

The government of Nicaragua has repeatedly complained that the Costa Rican government has taken little or no action against the Sandinista terrorists. The following are a compilation of incidents with Costa Rica which have given rise to the Nicaraguan complaint.

On Sept. 30, 1977, 4 Sandinistas that were arrested in Costa Rican territory were released by a judge because of lack of evidence against them. These 4 Sandinistas were Manuel Mora Salas, the son of the former Deputy Manuel Mora Valverde, who is the leader of the Communist Party in Costa Rica; Carina Rivas, Guillermo Tejada and Eduardo Ferreje. The Costa Rican Public Security Ministry reported at the time of their arrest the discovery of documents that revealed a terrorist operation in Managua and Rivas. The Costa Rican Minister of Public Security, Mario Charpentier Gamboa, stated that 4 people were arrested, and that they were involved in a plot to topple the Somoza government. Minister Charpentier added that they supplied arms to the leftist guerrillas in Nicaragua.

In April 1978, security forces in Costa Rica apprehended Plutarco Elías Hernández while he was "training militant anti-Somoza forces in the outskirts of San José."

On June 1, 1978, Plutarco Elías Hernández, well-known Costa Rican Sandinist, was pardoned by the Costa Rican authorities. He had been sentenced to 16 years in jail for his participation in a bloody attack on the Costa Rican prison of Alajuela, where he was trying to free Carlos Fonseca Amador, a Cuban-trained Marxist who was in jail in Costa Rica.

1977

February 23

UPI—Costa Rica announces trade mission visit to Cuba.

February 25

EFE—announces arrival in Costa Rica of a Soviet technical mission headed by Romuald Tomberg.

October 18

UPI—Guido Fernández, director of newspaper LA NACION of San José, Costa Rica, stated that "it was possible that (there were) Sandinistas conspiring to overthrow the government of Managua from Costa Rican territory, as there were many of them exiled in this country."

October 17

EFE—quoted the former Costa Rican Foreign Affairs Minister as saying that his government "will never hand over any Sandinista to Nicaragua."

EFE—also reported that large quantities of arms were discovered on a farm in Costa Rica owned by Nicaraguans. One of the Nicaraguans confirmed participation in Sandinista terrorist attack on San Carlos in Nicaragua.

EFE—also reported that the Costa Ricans had detained 15 people allegedly involved in the San Carlos attack.

October 26

UPI—Costa Rican government extended political asylum to 8 Sandinistas fleeing the Nicaraguan National Guard. One of them was a Honduran. They had attacked San Carlos on Oct. 13 killing several National Guardsmen.

Costa Rican Vice President Fernando Guzman's decree granting them political asylum stated that they could live anywhere in Costa Rica but not within 100 kilometers of Nicaraguan border.

UPI story states that FSLN has been using the area on both sides of the Nicaraguan-Costa Rican border since its founding in 1961.

October 15

UPI—Sandinistas entered Costa Rican territory after the attack on San Carlos.

October 27

New York Times service quotes Costa Rican and FSLN leader Plutarco Elias Hernández, "Those who think we will be going straight to Communism are wrong. . . . "we have always avoided so-called terrorism. . . . We haven't gone in for bombings or political assassinations and we have carried out only one kidnapping in 1974 . . . to free some companions from jail".

Pedro José Chamorro is murdered in his bed in May by FSLN terrorists.

Gen. Pérez Vega of the National Guard is drugged, beaten and murdered by Nora Jenkins, avowed member of the FSLN in March.

October 27

New York Times article (continued) "Although Hernández recognizes that the Front enjoys the moral support of Cuba, he insisted that it receives no money from Castro regime and that no Nicaraguan guerrillas have been trained in Cuba since President Fidel Castro stopped "exporting revolution" around 1970. (Within a week after the FSLN siege of the National Palace last month, 22 of the Sandinista guerrillas were reported to be in Cuba).

Even though Hernández stated that they (the FSLN) would not go straight to Communism, he also said the first actions planned by the Sandinistas when they took over the Nicaraguan government would be the expropriation of Somoza interests; nationalization of the banking sector; sweeping land reform and the establishment of diplomatic relations with Socialist countries.

October 31

Agence France Press reports a solidarity meeting in Mexico City of Chilean MIR and Bolivian Army of Liberation in support of Nicaraguan FSLN.

October 21

Latin American Political Report states, "Now that Costa Rica as well as Honduras is providing sanctuary for FSLN guerrillas, the National Guard may find that it has its work cut out, especially since they are now operating in the deep south as well as from their traditional bases in the northern hills."

Novedades, pro-Somoza newspaper, claimed that the invasion of San Carlos "occurred with the knowledge and acquiescence of the Costa Rican authorities."

Granma, official organ of the Cuban Communist Party, reports formal opening of Cuban Consultate General in San José, Costa Rica.

Granma also reports on FSLN communique distributed in Costa Rica detailing the activities of Sandinistas during October.

The Guardian, a Communist organ, reports Nov. 2 "In Costa Rica, a group of well-known Nicaraguans, including several wealthy businessmen and lawyers issued a statement praising the 'political maturity' of the guerrillas in warning that the Sandinista Front must participate in any solution to Nicaragua's problems."

EFE reports that 14 FSLN terrorists captured by Costa Rican authorities for engaging in political activities against the Nicaraguan government. 3 had been given poltical asylum just a few weeks earlier by the Costa Rican government.

In July, the Group of 12, Nicaraguan exiles living in Costa Rica, return to Nicaragua where they exhort populace to overthrow the government.

La Prensa reports that on July 22 last the police station at Los Sabalos and El Castillo near the Costa Rican border were attacked by the FSLN. National Guardsmen and civilians were killed.

1978

August 22–24

FSLN siege and kidnapping at National Palace is followed by terrorist attacks on Masaya, Estelí, León, Chinandega, Matagalpa, Peñas Blances, and Jinotepe.

The 25 Sandinista terrorists and 59 of their terrorist colleagues released from Nicaraguan prisons were flown to sanctuary in Panama. Shortly thereafter, 22 of the terrorists were reported to be in Cuba. Commander Zero (Eden Pastora), the leader of the Sandinistas, went from Panama to Costa Rica and then returned to Nicaragua clandestinely. Zero gave a press conference in Costa Rica as well as Panama.

September 19

As of this date, all the major cities in Nicaragua had been secured by the National Guard after fierce fighting with the Sandinistas, with the exception of Estelí, which was still offering some resistance, although it was waning at last report.

APPENDIX B

[From the CONGRESSIONAL RECORD, June 23, 1977]

"Amendment offered by Mr. CHARLES WILSON of Texas: On page 20, line 21, of the bill, in section 505, delete 'Nicaragua'."

Mr. CHARLES WILSON of Texas. Mr. Chairman, this amendment is very simple. It simply reinstates Nicaragua as a recipient of U.S. military assistance.

First of all, the most important point which needs to be made is that, in my judgment, Nicaragua is not a gross violator of human rights. Nicaragua's main sin seems to me to be that it is friendly to the United States. What is the situation in Managua? The largest newspaper in Nicaragua, La Prensa, is in vigorous opposition to the Somoza regime. In any country which we think of as being in gross violation of human rights we very seldom see a vigorous, large, major newspaper that is anti the President. But there is active opposition to the President of Nicaragua. The last election there was monitored by the Organization of American States. The very people who helped my good friend from New York orchestrate the case against human rights in Nicaragua are now back in Nicaragua continuing their opposition to the government.

How many countries can we think of that are accused of being in gross violation of human rights would allow their people to come to the United States, testify against their country, and then go home and remain free? Certainly that does not fit my description of a country that violates human rights, nor that of most Members.

We did have some Catholic priests making allegations, and we had a bishop's letter of some sort that alleged great violations of human rights there. I am suspicious of this, however.

In my district I have 500,000 white Protestants, mostly Baptists; I have 100,000 black Protestants, mostly Baptists. As a result of this and as a result of only being exposed to Protestant preachers and in many cases to evangelists, I became very suspicious of radical preachers as a very young boy. Since I came to Washington I have expanded that suspicion to include radical rabbis, radical priests, and radical Korean gurus. We should rely on our own State Department and not on religious opinion in these matters, especially when religious opinion has a stake in the results.

Before the present government took power in Nicaragua, the church was much more powerful and the church owned much more land.

It has been said by my friend, the gentleman from Wisconsin (Mr. OBEY), that the gentleman from New York (Mr. KOCH) has indeed made a case against Nicaragua, in fact a compelling case against Nicaragua. I submit to the Members that any Member of this House can make a compelling case against any country on this Earth. No one is perfect, no one is pure.

I would like to show the Members some things I would use if I were making cases against people that I did not particularly like for one reason or another. I could show the police in Houston pictured as "brutal and unchecked." But my friend, the gentleman from New York (Mr. KOCH), could say, "What would you expect from barbarians such as those?"

And so in addition to that, I might say to my friend, the gentleman from New York: "Attica—a premeditated massacre. They came to Attica to kill and to torture—Attica where time ran out."

The recipient countries of about one-third of the funds in this bill have also been accused of violations of human rights. Israel is pictured as an "occupier, using excessive force, and enforcing strict security." This resulted in a 5-month investigation where reporters have shown that Israeli interrogators routinely mistreat and often torture Arab prisoners.

That is not true. I have been there many times, and I know it is not true. The Israeli occupation of the West Bank is probably the most humane occupation in the history of civilization. Just because some reporters who wanted to write a story said it violates human rights does not make it true.

In the same light, because some dissident bishop came up here and said these things about Nicaragua does not make them true.

On the international scene there are over 100 countries, that are said to be violators of human rights, and money for many of them is contained in this bill. We should not single out one country, and if we are going to single out one country, we should not single out one of our best friends in this hemisphere.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman. I thank the gentleman for his statement. I certainly concur with it, and I go back to the gentleman's initial point.

The gentleman has indicated—and I think it is proper—that almost every country falls a little bit short of what we might ideally establish as a norm. Does the gentleman not think that many in this body try more zealously to apply these high standards to our friends than to our enemies?

Mr. CHARLES WILSON of Texas. I think that is right, but I am not even conceding that Nicaragua has done these things. I am only saying that some dissidents in that country say they have.

The CHAIRMAN. The time of the gentleman from Texas (Mr. CHARLES WILSON) has expired.

(On request of Mr. DERWINSKI and by unanimous consent, Mr. CHARLES WILSON of Texas was allowed to proceed for 1 additional minute.)

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I have one question to ask of the gentleman, but first I wish to comment that in going over his worldwide list of oppressive regimes, the gentleman should not forget the Democratic machine in Chicago.

Mr. CHARLES WILSON of Texas. Yes, of course.

Mr. DERWINSKI. Mr. Chairman, my question is this: Would the gentleman enlighten the House on the facts of guerrilla war that is going on in Nicaragua and the need for some of the security measures they have had to take because of lawlessness?

Mr. CHARLES WILSON of Texas. That is true. As this House will recall, as ill fated and as ill advised as it was, the Government of Nicaragua allowed its country to be used as a steppingoff point for the Bay of Pigs, and as a result Nicaragua has been a continuous target for Castro. The result has been continuous confrontations with Castro-trained guerrillas.

The CHAIRMAN. The time of the gentleman from Texas (Mr. CHARLES WILSON) has again expired.

(On request of Mr. ZABLOCKI and by unanimous consent, Mr. CHARLES WILSON of Texas was allowed to proceed for 2 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding. At the very outset I wish to commend the gentleman from Texas (Mr. CHARLES WILSON) for proposing this amendment. I think it is a responsible amendment.

We are all dedicated to promoting human rights, but we certainly should not single out countries that are friendly to us in trying to get them to live up to our mores and our standards.

There are violations of human rights in some degree as the gentleman from Texas (Mr. CHARLES WILSON) has pointed out, in almost every country.

Mr. Chairman, I must ask the gentleman this question: Would it not be preferable, if the gentleman's amendment did prevail, in order that the FMS funds be available? It is my understanding that Secretary Todman has given assurance that the funds would be withheld until improvements in the area of human rights would be made. Would that not be a greater incentive to bringing about that which the Subcommittee on Appropriations and particularly the gentleman from New York are trying to bring about in Nicaragua?

Mr. CHARLES WILSON of Texas. The gentleman is absolutely correct. The State Department has given our committee assurances that there will be no military assistance for 1978 unless there are improvements in human rights. The administration feels that if it has this leverage, there will be an improvement in human rights; and only if it has this leverage will that improvement occur.

Mr. ZABLOCKI. Would the gentleman also agree, if his amendment does not prevail, that the proposal of the Subcommitee on Appropriations would be counterproductive to our countries' interests?

Mr. CHARLES WILSON of Texas. Absolutely counterproductive.

Mr. ZABLOCKI. I thank the gentleman.

Mr. KOCH. Mr. Chairman, I move to strike the last word.

(Mr. KOCH asked and was given permission to revise and extend his remarks.)

Mr. KOCH. Mr. Chairman, it is always somewhat painful to ever be in opposition to my good friend, the gentleman from Texas (Mr. CHARLES WILSON). We are on the same side so many times.

However, let me say why this is a clear, convincing, and compelling case, and why the committee did what it did.

I think we ought to put all the cards on the table, Mr. Chairman.

This amendment introduced by my good friend, the gentleman from Texas (Mr. CHARLES WILSON, is supported by my colleague the gentleman from New York (Mr. MURPHY). It would restore $3.1 million in military credit sales. That is all we are cutting off. We are not cutting off the $15 million in economic aid that is in the bill. They already have $58 million in appropriated moneys not yet expended, which we gave them, and that money is now in the pipeline.

The amount of $3 million for military aid for last year has been held up by the State Department because of the current human rights situation, so they have not even gotten last year's sum which we appropriated. The United States still holds it.

Why are we in this situation and why can I demonstrate that this is a compelling case, different from any of the others that might have been brought to us? I say that because this committee held extensive hearings, 2 days of hearings on this subject of a deprivation of human rights in Nicaragua.

It is interesting to hear the witnesses against the Samosa regime discounted by Mr. WILSON. Let me recite who the witnesses were. One would get the impression from my good friend, the gentleman from Texas (Mr. CHARLES WILSON), that the witnesses here are some dissident priests, some radical priests, who, God knows, want to topple

Nicaragua. Let me recite who the committee relied on.

In January of this year all of the Catholic hierarchy, including the archbishop of Managua, the bishop of Grenada, and the bishop of Matagalpa, and a number of other members of the Catholic clergy in Nicaragua issued a pastoral letter which could not be printed in the press because the press is under censorship. However, it was read from the pulpit of every church.

Let me just read a couple of passages. This statement is from that pastoral letter, which as I said, was read in every church in Nicaragua.

It says, talking about the Government, that the Government utilizes methods which are "humiliating and inhuman; from tortures and rapes to executions without a previous civil or military trial."

Then it goes on to say as follows:

"Another violation that disturbs the practice of the fundamental liberties is the interference in the religious realm.

"In other locations in the mountains of Zelaya and Matagalpa the patrols have occupied the Catholic chapels using them as barracks.

"There are cases in which delegates of the Word (the reference is to priests) have been taken prisoners by members of the Army, have been tortured and others have disappeared."

Then it goes on to say as follows:

"All these practices and others like them, contrary to human dignity and the fundamental rights of man, degrade civilization and are totally contrary to the plan of God, Christ is categorical in what He says in this respect: 'What you did with one of these the least of my brothers, you did to Me.'"

Mr. Chairman, that is the pastoral letter which was read in every church in Nicaragua.

My good friend, the gentleman from New York (Mr. MURPHY) put a four- or five-page statement in the RECORD a couple of days ago, and I read it with great interest. He talked about the witnesses who came before our very committee, and he said the following in his statement:

"As to the allegations of political prisoners, torture, disappearance, and the threat of exile, our intelligence sources can confirm no political prisoners, no executions, no torture, and no disappearances."

However, Mr. Chairman, what does the State Department say about that? Let me quote from the hearings of April 5. I am now quoting the Deputy Assistant Secretary of State Charles Bray, who said:

"It is our belief, based on available information and the opinions expressed by reasonable and unbiased sources, that the Nicaraguan National Guard has used brutal and, at times, harshly repressive tactics in maintaining internal order. . . .

Let me go on and tell the Members—because there will be a question raised as to whether or not we will in some way or other endanger U.S. national security if we cut off the $3,100,000 in military credit sales—let me tell you what the Secretary in charge of the State Department's Division on Human Rights has said in response to a question posed by this committee, a question which the gentleman from Maryland (Mr. LONG), the chairman asked her:

"What would be the reaction of the State Department if this committee were to suspend all aid to Nicaragua, in view of some of the gross violations of human rights that have taken place there? What would be lost to the United States and would there be a violation of our security interests?"

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KOCH was allowed to proceed for 3 additional minutes.)

Mr. KOCH. The answer to that question was given by Mrs. Lucy Benson, Assistant Secretary of State for Security Assistance, and she said:

"I cannot think of a single thing."

What do we have here that distinguishes this case from any other one that might be brought up by way of an amendment? We have testimony, that is what we have, and we have the testimony of opponents that was given to us by my friend, the gentleman from New York, JACK MURPHY. He asked for a special day of hearing. We gave it to him. I interrogated those witnesses. I said to one of the witnesses that Congressman MURPHY quotes in his statement in the CONGRESSIONAL RECORD. I said to one of the witnesses that testified:

"Would you characterize the archbishops of Nicaragua as radicals on the left?"

And this answer was given by the witness, Professor Wilson, who was brought to the committee by JACK MURPHY and referred to in his statement in the CONGRESSIONAL RECORD, and Professor Wilson said this:

"I would say definitely they are not characterized as such."

So the difference, my friends, is this, when the gentleman from Texas, CHARLIE WILSON, says he is talking about some radical priests whom he does not trust, I do not know what he is talking about. But I can say that one of the most conservative Catholic hierarchies in Latin America, happens to be the hierarchy in Nicaragua, and they have had it up to here.

Finally, Mr. Chairman, the Nicaraguan Government would not permit this pastoral letter to be published in the press that was written by the bishops.

Just to conclude, Mr. Chairman, what are we taking from them? Three million one hundred thousands dollars in military sales credits when there is exactly that amount in last year's appropriation that the State Department has said it would not turn over because of the repression in Nicaragua.

What are we giving them? We are giving them some $15 million in economic aid. Let us face it, what did we give them in addition to this $15 million, last year and the years before? Fifty-eight million dollars in economic aid that is still unspent and appropriated now in the pipeline.

If there ever was an occasion to cut off military aid, this is it.

Mr. CEDERBERG. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Mr. CEDERBERG asked and was given permission to revise and extend his remarks.)

Mr. CEDERBERG. Mr. Chairman, I rise on this occasion in support of the amendment because I do not think we are doing anything for human rights by naming Nicaragua in this bill.

First let me say that all of us are for human rights. I do not know of anyone who is not for human rights. The question is how do we best accomplish the objectives that we want in human rights? It certainly is not by naming countries in this bill.

I have been down at the White House and and the President has expressed a desire for some flexibility as he deals with this very difficult problem. I have told the President, and I told Secretary of State who called me yesterday morning, that I would try to be helpful as they try to foster human rights and improvements in human rights in all of these countries.

No one is saying there are not problems, not only in Nicaragua but in many other areas. But it just seems to me that we are going to lose our ability to be helpful in this area if we just go blindly on our way naming countries in this bill, because the President and the Secretary of State then do not have the opportunity, or the opportunity will be denied them, of trying to accomplish the very thing that we all want. So I would hope that we would seriously consider supporting this amendment. It is a good amendment. Here is a country that is one of the friendliest countries we know, who always supports us in the United Nations, who allowed us to use their territory to prepare for the Bay of Pigs operation. For us at this time to deny the administration the ability to deal with these people is unwise.

I received a letter yesterday, and it may have been referred to earlier, from Terence Todman, the Assistant Secretary for Inter-American Affairs, on this very subject. Let me just quote. I will not quote all of it.

"I give you the formal assurance of this Administration that we will not sign a fiscal year 1978 security assistance agreement unless there is an improvement; nor would we sign an agreement in fiscal year 1978 without further consultations with this Committee designed to assure that you and we agree that there has been improvement in the human rights situation."

What more do we want if the administration says this? I believe the administration, and we should not take away from them the tool that will give them the opportunity to improve human rights in this and in other areas.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the requisite number of words, and rise in opposition to this amendment.

The gentleman from New York (Mr. KOCH) was the author of an amendment which cut out this money for Nicaragua. The cutting is only one-sixth of the money. Five-sixths of all the aid will still be there; so nobody can say we are really hurting our friends too much. If we have hurt Somoza, it has been in a very friendly way.

What we are trying to do is to send him a message, a message that the Department of State has always been very reluctant to give. State is great on talking but when it comes to actual performance, really doing something, they do not deliver. That is what this Congress is for. That is what the appropriations process is for.

We talk here about human rights violations. Some say their rights have been violated if somebody speaks to them harshly. Let me read the Members a little bit about what real brutality is.

We have here testimony from Fernando Cardenal, Society of Jesuits—a Nicaraguan Jesuit priest, former dean of the University of Central America, currently professor of philosophy at the National Autonomous University of Nicaragua. Here are some of the human rights violations he describes.

When a prisoner is captured, his head is immediately covered by a sort of sack made of strong black material and tied at the neck with a cord. This sack hardly allows the person to breathe. In this fashion the questioning starts.

The prisoner is insulted, threatened, and beaten, especially in the stomach, chest and head. Simulations of hangings and executions are frequently practiced. The testicles of prisoners are stuck with needles. The prisoner is left in a refrigerated room for several days, still hooded, and with no nourishment but salt water. Electric shocks are also applied, especially in the genital area.

Other common forms of torture practiced including hanging the prisoner from the thumbs, clubbing him on the head, and submerging him in pits of filthy water until the prisoner loses consciousness.

Women are raped, and they are stripped naked for interrogation.

Father Cardenal goes on—

Amada Pineda, Arauz, a married peasant woman and mother of eight children was brutally raped in 1974 by all the members of the National Guard patrol headed by Sergeant Soto. They abused her sexually for several days, leaving her very ill.

The gentleman from New York has correctly pointed out that Mrs. Benson said no great harm is going to happen to our foreign policy if we cut this one-sixth of our foreign aid to Nicaragua, if that is cut off. People came before us and gave plenty of time to those who wanted to defend the Government of Nicaragua. Here was my colloquy with Mr. Molina:

"Mr. Long. Your 5 minutes are up, Mr. Molina.

"Do you have a contract with the Nicaraguan Government?

"Mr. Molina. At the present time I don't have a contract.

"Mr. Long. Have you had a contract?

"Mr. Molina. Yes; I have had a contract. Under contract I worked with the Government. Like I say, my field has been the human rights area.

"Mr. Long. How big a contract did you have?

"Mr. Molina. A $2.5 million contract."

Then I said, after some further discussion: "... Supposing you came here and gave us the story that Mr. Brown gave us—just suppose. Do you think you would ever get another contract in Nicaragua?"

There followed about 15 minutes of this and that and the other, but he did not claim he could ever get another contract if he had given the opposite kind of testimony.

If we believe in human rights, if we are shocked by this kind of thing, then this is the case we go to bat with. If we do not do it, then let us say we are never going to cut off anything to any country because of human rights violations. This is a crucial case.

I urge that this amendment be defeated.

Mr. O'Brien. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would address myself, before getting into the body of my remarks, to the notion that if human rights were not being violated in this area we would not be debating the issue at all, so notwithstanding the powerful statements by the chairman, the heart of the matter is how can we best improve human rights in Nicaragua.

As the gentleman from New York (Mr. Koch) asked the other day while we were in general debate: Why Nicaragua? Well, while I am not the most knowledgeable Member of the House on foreign affairs by a long shot, let me nevertheless tell the Members what I think is persuasive in this argument over the adoption of the amendment.

First, it is supported by the State Department and the administration. Notwithstanding the comment by Mrs. Benson before the committee, there is no doubt that the testimony of support by Mr. Bray, representing the State Department, given this year on April 5, was that the administration needed this amendment.

Second, it was mentioned by the gentleman from Maryland earlier in the debate that the best kind of aid is a bilateral type of aid. We are a party to this agreement for aid. We are not giving it to any independent body that will isolate us from all control.

Third, we are dealing with an international friend. There is no Latin American nation that has supported us in Latin American affairs or in the United Nations more consistently than Nicaragua.

Fourth, consider executive authority and its importance to a new administration. This is the administration of the majority. This is the first time this administration has had a chance to do something with human rights. This administration is the announced champion of human rights. Let our President try. He wants the authority to act in such matters, and, quite candidly, he could not have such authority and we could not give it to him in any better way than we are doing in the Nicaraguan case.

In addition to the exercise of this authority, there has to be some proof of some progress in the negotiations over human rights before the funds can be transferred.

And something that has not been touched upon, the negotiators must return to the committee and consult with Members like the distinguished gentleman from Maryland (Mr. Long) on whether there has been any progress. If there is any way or any proper way in which we should be involved in such matters, this is that way.

With respect to human rights, we are all involved in the cause. But how do we provide them and protect them? Keep in mind we should not have so much anxiety to punish the offender that we would forget our objective, which is to help the oppressed.

The Nicaraguans are the humans who are having the trouble. These are the people we are trying to help, and the amendment serves this purpose.

There has been some evidence the light of freedom is breaking through in Nicaragua. I understand on good authority that the National Guard's questionable activities have been cut back, and that political exiles are being granted more freedom. There is some light coming through. We ought to encourage this trend. I do not think we should strip the President of his chance to help Nicaraguans.

One more point. The gentleman from New York (Mr. Koch) talked about Uruguay last year. Where are we now? Uruguay is now one of the most inflexible countries of Latin America. This business of cutting off aid has not worked with Uruguay. We did it last year, and now these people are isolated from us.

I do not think the human rights committee of the gentleman from Minnesota (Mr. Fraser) had any access to Uruguay at all.

Mr. Chairman, all I say in conclusion is that if we cut off this particular aid, such action will not remove any sacks from any heads. It will not help a single Nicaraguan who needs help. It will simply freeze up a bad situation.

Mr. Koch. Mr. Chairman, will the gentleman yield?

Mr. O'Brien. I yield to the gentleman from New York.

Mr. Koch. Mr. Chairman, the gentleman mentioned that last year we cut off aid to Uruguay in the same amount, $3 million. The Department of State was in opposition.

This year Secretary of State Cyrus Vance came before our committee and said, in effect, "You were right last year, you were so right. We are not going to ask for military aid for Uruguay this year."

In addition, things have changed in Uruguay. Does the gentleman know that Uruguay has allowed people from the outside to come into Uruguay and to inspect the prisons; is the gentleman aware of that?

Mr. O'Brien. No; the gentleman knows they would not let the gentleman from Minnesota (Mr. Fraser) come there for hearings. I do not think the case of Uruguay supports the gentleman's position.

Mr. Murphy of New York. Mr. Chairman. I move to strike the requisite number of words. I rise in support of the amendment.

(Mr. Murphy of New York asked and was given permision to revise and extend his remarks.)

Mr. Murphy of New York. Mr. Chairman, I think we may have two State Departments, particularly when we hear Lucy Benson say there will be no effect on U.S. policy if we do not support Nicaragua in this endeavor.

I would like to read part of a statement that accompanied the letter from Secretary Terence Todman to the chairman of the subcommittee, the chairman of the full committee; and the ranking minority member:

"SECURITY ASSISTANCE FOR NICARAGUA

"U.S. security concerns in Nicaragua and the rest of Central America relate directly to our need for secure flanks and our commitment to hemispheric collective security under the Rio Treaty. Our objectives include prevention of the jurisdiction of hostile forces and bases into the region, limitation of hostile influences, protection of lines of communication, and maintenance of regional stability. We seek to provide the Central Americans with the sense of security essential for social, economic and political development, and to encourage their initiatives toward regional cooperation. While no single Central American country can be considered vital to U.S. security, further attenuation of our influences in the region as a whole would weaken our security position in the hemisphere."

"In addition to that security interest, the Department feels that for political reasons Nicaragua should continue to receive the modest amount of security assistance from the U.S. requested for fiscal year 1978."

Nicaragua physically is the largest of the Central American countries. It extends from the Pacific to the Caribbean. It is a blocking position in Central America against the spread of Communist subversion. That is why it is a target for Communist infiltration from Cuba and has been ever since Castro took power in Cuba. That country has a blocking position and we knew it 30 or 40 years ago when we put two U.S. Marine divisions in there in order to stop the flow of terror in Central America. We realized even then the strategic importance of this particular country.

Now, how did the witnesses get here that built up such a convincing case of human rights violations in Nicaragua? Well, now, there is an organization here in Washington called WOLA; that is the Washington Office of Latin America. The Washington Office of Latin America has gone into Central America, and here is their statement and I read from it. It is addressed to participants in hearings before the Subcommittee on International Organizations of the Committee on International Relations. It is from Bill Brown, who works with the gentleman from New York (Mr. Koch). The statement is coauthored by Mr. Jose Eldride, an Allende Chilean supporter. It gives instructions on the preparation of testimony, its nature and format. WOLA says it is going down in Latin America to find the people to testify against El Salvador, Guatemala, and Nicaragua and to do their work.

I submit at this point in the Record the text of this primer for anti-American testimony before a committee of the Congress, dated May 11, 1976:

Washington Office of Latin America,
Washington, D.C., May 11, 1976.

Re Preparation of Testimony: Its nature and format.

To: Participants in Hearings before Subcommittee on International Organizations of the Committee on International Relations, House of Representatives of the U.S. Congress.

From: Bill Brown and Jose Eldridge.

We are mailing this information sheet concerning your participation in the upcoming Congressional hearings in the hope that it will be helpful to you in the preparation of your testimony. It is also planned to have a member of our staff (probably Bill Brown) come to Central America to meet with you sometime during the week of May 24th. Exact details will be furnished soon.

First, we reprint herewith a substantial part of the text of the original proposal for the above-cited hearings, since this outlines the nature and the scope of the proceedings which will be held on June 8th and June 9th. It is quite probable that you have already seen this proposal; copies were mailed to all prospective witnesses about two weeks ago, but, due to the uncertainties of mail delivery in some areas, we feel that a repetition of the material could prove beneficial to you in the preparation of your testimony. Furthermore, under separate cover, we are sending a Congressional publication (South Korea and the Philippines) containing the published records of a previously-held set of hearings, similar in format to this in which you will be concerned. This should give you a good idea of just how such hearings are held.

"Proposal for a Congressional Hearing into the Denial of Democratic Processes and the Violations of Human Rights in El Salvador, Guatemala and Nicaragua: The underlying premise of this proposal is that the present policy of the United States toward Latin American countries, as carried out under the direction of Secretary of State Henry Kissinger tends toward the support of military dictatorships, with the consequent undermining of locally engendered attempts to maintain and/or to establish free and genuine democracies, and that this policy is, unfortunately, pursued openly at the precise moment in history when the United States is commemorating the 200th anniversary of the founding of its democracy. It is contended herein that this morally bankrupt support of dictatorships in the countries affected results, first, in absolute suppression of political expression and the functioning of all democratic processes and, second, in wholesale violations of human rights, all of which is done to guarantee the continuance of the dictatorship.

"In order to illustrate this premise it is proposed that the state of civil and human rights violations in three Latin American countries be examined, with qualified witnesses from each asked to testify before an appropriate committee of the Congress. These countries are El Salvador, Guatemala and Nicaragua. They were chosen because they have much in common (extreme poverty, repressive military dictatorships, large scale denial of political rights and wholesale violation of human rights) with respect to the area of proposed investigation. Witnesses from these countries, chosen from among the leaders of the opposition to the governing dictatorships, could be expected to provide much valuable criticism and constructive comment.

"In all three of these countries, in spite of many years of repression, strong and potentially viable political coalitions survive, and continue to strive for meaningful democratic expression. These political coalitions have broad bases of popular support, from professional and business groups, from university professors and students, from church, labor and farm organizations. In general, however, it may be said that the largest organization, and the dominant leadership, is provided by the Christian Democrats, who have sound roots in democratic processes.

"These coalitions today, despite strong demonstration of continuing efforts to mount effective political opposition to the ruling dictatorship, have been robbed time and again of victory at the polls—through fraud, military interference and the complete denial of the ordinarily accepted expressions of political rights. Yet, in each of these three countries, political leaders continue to look toward and to work for a future in which the benefits of a true democracy may be enjoyed by all citizens. In these efforts political leaders daily face death, torture, disappearance (a relativoly new and frightening form of political harassment) and the threat of exile.

"In the proposal outlined here, testimony before an appropriate committee of the Congress would be given by three outstanding political leaders of the political coalitions, one each from El Salvador, Guatemala and Nicaragua. This testimony would be relevant to an examination of the total problem of United States policy in relation to these countries. Such important considerations as the following, as well as any additional pertinent material which might be included, would be taken under examination at the proposed hearings.

1. State Department policy in relation to the charge frequently voiced in the host country that the United Sates supports and 'props up' the military dictatorship.

2. The nature and the value of U.S. economic aid, whether it does indeed reach those most needy segments of the population. Open criticism of the AID program, from highly qualified non-government leaders should be beneficial in future AID planning.

3. Military aid (and the now discontinued OPS aid), just what it means and how much it is used to support the military dictatorship and to repress the exercise of democratic rights. (Guatemala and Nicaragua, on a per capita basis, have been among Latin America's largest recipients of such aid.)

4. First hand reports from qualified witnesses on the nature and extent of violations of human rights in each country.

5. First hand reports from qualified witnesses on the nature and extent of the denial of the free exercise of democratic rights to the citizens of the respective countries.

6. Other relevant information germane to the subject matter of the proposed hearing.

"The Washington Office on Latin America has made inquiries among the leaders of the political coalitions in each of the countries under consideration and has received assurances of cooperation and support. There are a number of responsible and truly democratic persons, each of whom would make highly qualified and articulate witnesses, ready to testify. It is felt that the proposed plan is workable and that the results would be of great value not only to members of Congress, but to the people of the United States as well, people who, while jealously guarding their own principles of democracy, have demonstrated for 200 years their love and their concern for democracy everywhere in the world."

These proposed hearings have now become a reality and will be held over a two-day period (June 8th and 9th, 1976). In Washington with the afternoon of each day from 2:00 p.m. to 5:00 p.m. or 6:00 p.m. scheduled for testimony. On the first day, June 8th, testimony will be given by each of the three spokesmen from the countries under consideration. (Verbal testimony should last from 15 to 20 minutes, no longer, and will be followed by questions from committee members. Complete details regarding presentation of testimony are given below).

Invitations have now been sent by the Congressional Committee to the following individuals: Dr. Fabio Castillo (El Salvador), Dr. Rene de Leon Schlotter (Guatemala) and Lic. Petdor Joanquin Chamorro (Nicaragua). These distinguished representatives of their respective countries will testify on the first afternoon. Testimony on the following afternoon (June 9th) will be furnished by three qualified witnesses who have not as yet been designated. It is planned that two will be from the academic field, and one from the U.S. Department of State. In the case of the witnesses from the academic area, it is planned to have one witness testify on the state of violations of human rights in the three countries under consideration; the second will be asked to analyze the implications of U.S. economic assistance and of U.S. military aid to the area. These witnesses will address themselves to overall considerations of the problems under investigation, and will not duplicate the specific testimony of the first three witnesses.

On the first day each of the three witnesses will be expected to comment on the following four topics, as they apply to his particular country and, of course, to include any additional testimony which he might feel would be appropriate and useful to these hearings. The four topics are:

1. Violations of human rights, including documentation regarding unlawful arrest and imprisonment, use of torture, assassination, "disappearances", and instances wherein large segments of the population of entire villages have been slaughtered.

2. Violations of political rights, including documentation of wholesale political repression, massive pre-election intimidation, illegal restraint on freedom of political activity, restraints on freedom of the press and of public assembly, and large-scale fraud in the voting process itself.

3. Assessments of the impact of U.S. policies toward each country, with reference to the significance of U.S. support in helping the dictatorships perpetuate their positions of power.

4. Evaluation of U.S. economic aid programs in terms of benefit to the people as a whole, i.e., the economically lowest 60 percent of the population. (This assessment should include all Agency for International Development funding, as well as financial aid from sources largely controlled by the U.S., such as the Inter-American Development Bank, the World Bank, etc.) and an evaluation of the impact of U.S. military assistance programs.

As stated above, it is expected that these hearings will result in the providing of much information which will be useful to the Congress in establishing guidelines in the preparation of future legislation. It is, therefore, imperative that testimony be sharp, penetrating and critical of U.S. involvements wherever necessary. It is our understanding, from direct conversation with or from reliable reports concerning, each of the witnesses being asked to testify that each has profound concerns regarding U.S. policies in his country; that each has profound concerns regarding the suppression of political rights in his country. We would, therefore, expect a thorough and completely critical analysis of the problems we are addressing in these hearings.

As to the format of the testimony itself there is no limit (except the dictates of prudence) to the length of the material submitted—perhaps a limit of 9,000 to 10,000 words. Your testimony, in its entirety, will be printed in the hearing report, as indicated in the publication (dealing with South Korea and the Philippines) sent separately for your guidance. Those sections which you will read from your testimony as you appear before the Subcommittee, should not, in total, be more than 1600 to 4000 words. Just that amount which can be read by you in 15 to 20 minutes, no longer. This is important, since ample time each afternoon must be left for questioning by members of the Subcommittee. You should arrange your material so that paragraphs to be read (totalling no more than 15 to 20 minutes of reading time; see above) can be easily excerpted from the entire testimony.

It is our understanding that each of the witnesses is sufficiently fluent in English to permit the reading of his own testimony. Should, however, a witness desire to have an interpreter during questioning, this will be arranged. All written testimony must be submitted in English. If it is necessary to have translations made, this can be done, but such material must be submitted to us by June 1. When our staff person meets with you, any remaining questions can be answered.

It is also possible to include additional written testimony, distinct and separate from the testimony given by the witnesses before the Subcommittee. This written testimony will be printed in the hearing report and will become an important part of the total body of information produced by the hearings. (For examples of the way this written testimony is handled, see South Korea and Philippines hearings publication). We urge you to elicit such material from qualified persons—scholars, church leaders, labor leaders campesino leaders—those in your country who have recognized expertise in their respective fields. Their written testimony, subject to acceptance by the Subcommittee, will enhance the value of these hearings.

[continuing.]

Mr. Ashbrook. Mr. Chairman, will the gentleman yield?

Mr. Murphy of New York. I yield to the gentleman from Ohio.

Mr. Ashbrook. Are they going to look for witnesses to give the same testimony on Cuba?

Mr. Murphy of New York. I would imagine they would have already come if they did request that opportunity to go to that country.

But, they find Pedro Joaquin Chammorro in Nicaragua as their key man, and he is the one who sent up Father Fernando Cardenal, whose brother is a Marxist, and both of them have freedom of movement throughout Nicaragua and the Americas. They sent Father Miguel D'Escoto who advocates violent overthrow of the government and who presently is operating a housing program which is financed with $7 million of United States funds for the people of Nicaragua.

I would like, however, to point out that Pedro Joaquin Chammorro, is the publisher of La Prensa—and my friend from Texas just referred to it—let me give a little of the background as it was placed in the record of the Committee on International Relations. He has organized an armed invasion of Nicaragua. He was convicted of conspiracy in the assassination of the former President of Nicaragua, the present President's father.

The Chairman. The time of the gentleman from New York has expired.

Mr. Murphy of New York. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The Chairman. Is there objection to the request of the gentleman from New York?

There being no objection——

Mr. Long of Maryland. Mr. Chairman, I reserve the right to object. I wonder if we could try and get a limitation on debate. I wonder if the gentleman could cut that down to a couple of minutes.

Mr. Murphy of New York. I think that if my colleague would bear with me, 5 minutes is a small amount of time to address ourselves to a vital area of interest in the Americas, because Nicaragua is the first target and the first wedge as we seal away our allies in Central America, and the evidence of what this is about——

Mr. Long of Maryland. Further reserving the right to object, at the conclusion of the gentleman's testimony I would like——

Mr. Dellums. Mr. Chairman, I object.

The Chairman. Objection is heard.

POINT OF ORDER

Mr. Biaggi. Mr. Chairman a point of order.

The Chairman. The gentleman will state it.

Mr. Biaggi. The time for objecting has passed. If the Chair will read back, he has stated no objections were heard.

The Chairman. The Chair will indicate to the gentleman from New York that the gentleman from Maryland was on his feet seeking to reserve the right to object.

Mr. Murphy of New York. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The Chairman. Is there objection to the request of the gentleman from New York?

There was no objection.

The Chairman. The gentleman from New York is recognized for 3 minutes.

Mr. Murphy of New York. We are still talking about Pedro Joaquin Chammorro. He is one of the individuals who sent these witnesses up and worked with the Washington Office on Latin America. He met with Fidel Castro and Che Gueverra to send support for armed rebellion against the Government of Nicaragua. He conducted a full armed invasion. He led public riots in the streets of Managua. He was banished from Nicaragua twice, and officially advocated defiance of the Nicaraguan Constitution, which requires citizens to vote, and called upon citizens to abstain from voting.

He became head of UDEL—the Union for Democratic Liberation. That is a conglomeration of Marxists and violent organizations.

That is where the witnesses came from, and then we had some balanced witnesses come up and give some quite different information.

The pastoral letter from the Bishops had two translations. There is one in Mr. Koch's statement in the report, and there is a second translation in the hearings of the committee. I wish the committee staff would get together on the two translations, because there is no mention of rape in the committee statement, but there is in Mr. Koch's report.

What the pastoral letters says is that if you cause terrorism and violence on one side, you cause terrorism and violence on both sides. They were talking about the FSLN, the enemies of the Nicaraguan government, the Sandinista Liberation Front. It is the same type of entreaty that Pope Pius, Pope John and Pope Paul have all used—throughout World War II, the Korean war and the Vietnam war. And here is why it decries violence on both sides. An incident took place in Nicaragua in December of 1974 where FSLN terrorists captured hostages to blackmail the Government of Nicaragua. Fourteen terrorists surrounded a home where a party was being held for the U.S. Ambassador to Nicaragua.

They killed Mr. Castillo, the host and three guards at the house. They captured the former Minister of Agriculture. They captured Sevilla-Sacasa, Nicaragua's Ambassador to the United States—a man who is the dean of the diplomatic corps here in Washington. They captured in all, 42 other people. Who negotiated their freedom? President Somoza, with the Archbishop of Managua, Monsignor Miguel Obando y Brovo of Managua. These people demanded 14 convicted criminals—all FSLN terrorists—to be taken out of cells. They demanded $5 million. They got $1 million. They got a plane. They flew to Cuba. The Ambassadors of Spain and Mexico were among those who helped negotiate. The same terrorists, 14 months later, were back in Nicaragua.

Mr. Long of Maryland. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 15 minutes.

The Chairman. The question is on the motion offered by the gentleman from Maryland (Mr. Long).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. Ashbrook. Mr. Chairman, I demand a division.

Mr Long of Maryland. Mr. Chairman, I withdraw my motion.

Mr. Bauman. Regular order, Mr. Chairman.

The Chairman. The Chair has already put the question, and a division has been demanded.

On a division (demanded by Mr. Ashbrook) there were—ayes 29, noes 26.

Mr. Bauman. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The Chairman. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device

QUORUM CALL VACATED

The Chairman. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The Chairman. The pending business is the demand of the gentleman from Maryland (Mr. Bauman) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 220, not voting 42.

Mr. Spence and Mr. Sebelius changed their vote from "aye" to "no."

So the motion was rejected.

The result of the vote was announced as above recorded.

Mr. Obey. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have resisted every amendment in this bill so far in this debate to cut off funds for any country by legislative act. I opposed the amendment yesterday which would cut off the funds for Argentina.

This is the only time today that I will make an exception to that rule and it is the only time today that I will oppose the position of the administration. I think there is a very good reason for doing so.

It has been my general position that we should leave it to the President and to the State Department to determine who gets aid and who does not unless extraordinary conditions are present. I think those extraordinary conditions must be two.

No. 1. There should not be any U.S. security interest involved in the area; and

No. 2. I think it is incumbent upon those who try to cut off funds to build a specific record in black and white which the entire Congress can read before they make a determination as to whether or not they ought to cut off funds.

Mr. Chairman, what I am more concerned about than any other factor at this point, given what has happened to this bill, is process. I am concerned that a bill like this, which is always emotional, will always be unraveled unless we follow a disciplined procedure. That is why I opposed the Argentine amendment yesterday, because we have not built where everyone could read it in the committee hearings, a record to justify the elimination of funds to Argentina; but the committee did that in this instance. We had a full day's hearing at the request of persons opposed to the committee action. We went into it in great detail.

It seems to me that while as a general rule we ought to follow the administration's request and give them maximum flexibility, in an area where there is no security interest and in an areas where we can show beyond a shadow of a doubt that the country we are talking about is beyond hope of redemption in terms of their behavior on human rights, then we ought to make that one exception.

Mr. Chairman, I do not know if anyone knows or is very familiar with the record of the Somoza regime, but I will state there is not a bigger ripoff operation in this world than that by the Somoza family. There is not anything that happens in Nicaragua that that family does not have a piece of. It is one of the most disgusting, cruel and corrupt governments in the world. There is no U.S. security interest that requires us to continue to make our funds available. We are not trying to knock out economic aid to help poor people. This is military aid. They do not have a military threat.

General Fish testified last year there is not a single Latin American country that faces a cross-border threat from its neighbors.

Now, the specter of communism in Cuba has been raised. Let me state that the one sure way we can make it easy for Castro to continue to gain converts in Latin America is if we continue to support regimes of the ilk of the Somoza family. That is how we encourage the growth of communism. That is how we discourage the growth of democracy in Latin America.

Mr. Chairman, given the speeches I have made lately about the press, I am not one, I suppose, who should quote from a newspaper editorial, but I think we ought to follow in this instance the advice of the Washington Post when they said:

"No factor of American security requires the United States to persist in military support of a regime that, we believe, scarcely a single American would willingly accept for himself."

Let me read one paragraph from the New York Times.

The Chairman. The time of the gentleman from Wisconsin has expired.

(By unanimous consent, Mr. Obey was allowed to proceed for 1 additional minute.)

Mr. Obey. Mr. Chairman, that article says in part:

"Prisoners are frequently suspended by their fingers or thumbs and beaten in the stomach or forced to swallow a button attached to a string that is then tugged violently. Those that are subsequently executed are buried in an improvised cemetery just east of Waslala."

That is routine treatment in that country. We do not have any security interest that requires that we continue to finance that kind of operation.

Mr. Somoza has shown by his past arrogance that the only way he will pay attention is if we do limit funds. We are not cutting off all funds. We are limiting 15 percent. All we are doing is hitting him on the head to get his attention.

Mr. Chairman, I submit in this one instance we ought to ignore, if you please, the late advice of the administration and remember what Assistant Secretary Benson said when she testified before the committee, that there was no damage to U.S. security by this amendment.

The Chairman. The time of the gentleman from Wisconsin (Mr. Obey) has expired.

Mrs. Fenwick. Mr. Chairman, I ask unanimous consent that the gentleman from Wisconsin (Mr. Obey) be recognized for 1 additional minute.

The Chairman. Is there objection to the request of the gentlewoman from New Jersey?

Mr. Bauman. Mr. Chairman, reserving the right to object, I do so only to ask whether the gentleman from Wisconsin voted to cut off debate a few moments ago.

Mr. Obey. I did not ask for the extension.

Mr. Bauman. I understand.

Mrs. Fenwick. I ask for the extension.

Mr. Bauman. In deference to my colleague from New Jersey, I withdraw my reservation of objection.

The Chairman. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. Fenwick. Mr. Chairman, will the gentleman yield?

Mr. Obey. I yield.

Mrs. Fenwick. We have had questions as to the qualifications of witnesses on the two sides of this question. I just wanted to ask, has Amnesty International expressed any views on this?

Mr. Obey. I yield to the gentleman from New York (Mr. Koch) to reply to that.

Mr. Koch. Amnesty International has expressed a point of view with respect to Nicaragua. Let me read it:

"Torture, arbitrary detention and 'disappearance' appear increasingly characteristic of the human rights situation in Nicaragua. Amnesty International is currently studying the cases of more than 100 prisoners detained in the custody of military courts under the state of siege that has been in force since December 1974. The state of siege suspends personal guarantees—including the right to *habeas corpus*—and permits indefinite administrative detention incommunicado. Many of these prisoners have alleged periods of up to four months in complete isolation. Most have allegedly suffered severe torture."

Mr. Rudd. Mr. Chairman, I move to strike the requisite number of words.

(Mr. Rudd asked and was given permission to revise and extend his remarks.)

Mr. Rudd. Mr. Chairman, I support this amendment to restore the $3.1 million in military assistance to the pro-American Government of Nicaragua. I suggest we do what is best for the United States of America.

Congress must not become a party to the concerted effort to single out Nicaragua for termination of U.S. assistance.

Nicaragua is an influential nation in Central America. Leftists and pro-Communist elements in Nicaragua and throughout Latin America are most anxious for an end to U.S. assistance, which is helpful to the legitimate Nicaraguan Government in defending itself and the Nicaraguan people from Communist-inspired terrorism.

Leftists have, therefore, mounted a massive propaganda campaign against Nicaragua on the human rights theme to achieve this objective.

During the committee hearings about alleged human rights violations in Nicaragua, I am not aware of a single witness who gave credible firsthand evidence of such violations.

These reports have been thirdhand accounts taken without verification from La Prensa—Nicaragua's major opposition newspaper—published by Pedro Joaquin Chamorro, leader of the opposition Democratic Liberation Union.

I have lived and traveled in Nicaragua during my many years in Latin America on diplomatic assignment.

I found that the way to learn what is going on in these countries was to get out and talk to the people—working people, shopowners, taxi drivers—not to be swayed or taken in by limiting one's information to what is written in the partisan press, or handed out by our State Department.

I have talked to the Nicaraguan people. They are free—living in a relatively free country.

They have an elected government and freedom of the press. They are not afraid to criticize their government—which is an unmistakable hallmark of freedom—and do so without reprisal.

These are not indications of a repressive government, as critics of military assistance to Nicaragua would have us believe.

There is no question about the police action to protect freedom against a Castro-supported Communist guerrilla insurgency in Nicaragua's northern jungles.

Communist revolutionaries have initiated the same kind of terrorist assault and bloodshed to intimidate the Nicaraguan people that they have initiated in other Latin American countries.

The Nicaraguan Government is responding properly to this Communist terrorism to protect the country's free institutions.

We would expect a similar response from our own Government if murderous revolutionaries attempted to overthrow the legitimate authorities by force, terror, and bloodshed.

This is a Castro-supported guerrilla operation by the Sandinista National Liberation Front, which aims to overthrow Nicaragua's free institutions and impose their own style of government.

The United States has a moral obligation to assist the friendly Nicaraguan Government with military aid, in order to maintain stability and freedom in that country—a stability desperately needed.

Nicaragua's President Anastasio Somoza is an educated man, who was trained at West Point.

He is pro-American, and stands out clearly as a man for stability and against bloodthirsty terrorists.

He deserves our Government's continued support—to protect his people and his country's free institutions from Cuban-supported revolutionary assaults.

Why unnecessarily kick a friendly government in the teeth by denying Nicaragua $3.1 million of needed military assistance?

Why needlessly deny President Carter the flexibility he needs to improve relations between our two nations?

We must preserve a friendship in Latin American not incur an unnecessary and unneeded enmity.

I urge a yes vote for this amendment.

Mr. Biaggi. Mr. Chairman, I move to strike the requisite number of words.

Mr. Murphy of New York. Mr. Chairman, will the gentleman yield?

Mr. Biaggi. I yield to the gentleman from New York (Mr. Murphy).

Mr. Murphy of New York. Mr. Chairman, we were discussing Matagalpa a little while ago and we were reviewing the reasons and the problems in Nicaragua and why there was violence. There were, of course, 42 people, mostly government dignitaries and their families, who had been captured by 14 terrorists. Four of them were brutally murdered. Those terrorists and their requests would empty Nicaragua's jails. Fourteen of them were flown to Cuba. One million dollars was paid out as ransom as part of the deal to retrieve the innocent hostages. And, of course, in 2 years these same terrorists infiltrated Nicaragua again. They came over the Costa Rica border and also they came over the Honduran border with forged passports. They had a retraining and rearming period in Cuba. That is the insurgency operation in Nicaragua that has been going on for years. It has been going on for years for a very simple reason.

When the United States felt that it could start its Bay of Pigs operation, it trained its force in Guatemala, moved it to Nicaragua and launched it from the beaches of Nicaragua. That made Nicaragua a target. And, to correct my colleague, the gentleman from Wisconsin, we are not worried about a border threat. We are worried about the threat of a naval invasion from Cuba.

Mr. Obey. Mr. Chairman, will the gentleman yield at that point?

Mr. Murphy of New York. I will yield in just a moment.

The Chairman. The gentleman from New York (Mr. Biaggi) has the time.

Mr. Murphy of New York. Also, to correct the gentleman from Wisconsin, I do not think any Member of this committee has visited Nicaragua. They have been to Timbuktu, they have been out to Mount Kilimanjaro. They bring along their own fly nets these days, and fans. Try going to Nicaragua, you will find you are far safer in the towns and cities in Nicaragua than you are here in Washington, D.C. The oligarchy in Nicaragua——

Mr. Obey. Do the trains run on time?

Mr. Murphy of New York. Happen to be the monied families. Those are the families who control the economic interests and oppose Somoza.

That happens to be a fact. We should find out who the conservative party is. I would ask my colleague to go there and get the facts for himself.

I want to give the Members 10 reasons why they should support this amendment.

The first has to do with Nicaragua's support of the United States in the United Nations and the OAS on terrorism. Nicaragua has always supported and worked hand in hand with the United States in the common cause against international terrorism and has opposed the Soviet bloc on this issue.

Second, the expulsion of Nationalist China: Nicaragua was the only Latin American country that supported the position of the United States to avoid the expulsion of China from the United Nations. Costa Rica refused to support the United States.

Third, Israel: Whenever the United States asks Nicaragua to speak in defense of an Israel position in the United Nations—and it is usually by request of the U.S. Mission—the Nicaraguan delegation has supported Israel's position. During the last year in the General Assembly, on a vote on a draft resolution against Israel, Nicaragua joined with the United States in support of Israel's position.

Fourth, disarmament: At the request of the U.S. delegation, Nicaragua has taken the floor and argued against the U.S.S.R. and for the American position on disarmament.

Fifth, South Korea: At the request of the United States, Nicaragua cosponsored the U.S.-backed Korean peace plan.

Sixth, Puerto Rico: Whenever Cuba has presented draft resolutions in different committees and the General Assembly calling for Puerto Rican independence, Nicaragua has supported the United States.

Seventh, Cuba: Whenever the Cuban delegation has insulted the U.S. Government and its Presidents, including the last three, Nicaragua has taken the floor in defense of the United States and its several administrations.

Eighth, in the Security Council, Nicaragua has consistently supported the different motions presented by the United States.

Ninth, Nicaragua was one of two Latin American countries that supported the U.S. military base in Iceland. Costa Rica voted against it.

Tenth, Cuba: Nicaragua voted with the United States against lifting the OAS ban on Cuba. Costa Rica was in favor.

On a historical note, Nicaragua was the second country to declare war against the Axis countries in World War II and was the first Latin American country to give the United States rubber and raw materials for the war effort. Nicaragua was the No. 1 exporter of rubber to the United States in World War II.

Finally, the fact of the matter is that the Carter administration—which certainly cannot be faulted for its high standards in the international area in terms of human rights—has requested that Nicaragua not be retaliated against or punished by the Congress through the withholding of these foreign assistance funds. I would hope that the Congress would act as responsibly toward a government that has been our friend and ally and which should continue to be supported by the U.S. Government which has taken freely of that little country's friendship and support.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I have spent the greater part of my adult life in America fighting for both civil and human rights. I oppose oppression anywhere in the world.

But, Mr. Chairman, I support the amendment now before us, and I support it for several reasons: First, because I object to singling out one nation under these circumstances.

There is already a provision in this bill that says this:

"Funds appropriated by this act may not be obligated or expended to provide security assistance to any country for the purpose of aiding directly or indirectly the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights."

Mr. Chairman, I think this covers the situation. I think there is something basically and morally wrong with singling out a particular country under these circumstances, and particularly when it is being singled out by one of the countries that is itself one of the 66 countries listed by Amnesty International as being violative of human rights.

I think that some of us ought to read Amnesty International. We ought to read the part where they say Amnesty International groups are working in eight cases of American prisoners, and other cases are being investigated by its research department. They go on to say that it is impossible to estimate the number of political prisoners in the United States; then they go on to make reference to persons in the United States who are imprisoned for crime, he or she is alleged to have committed, under suspicionable circumstances.

There is something immoral to me in saying to Nicaragua that, "We are going to cut off your funds because you are more wrong than we are." There is something morally wrong with that.

Realizing the importance of this particular issue, Mr. Chairman, I was at the White House about 2 weeks ago and I asked the President what his position is with regard to Congress cutting off funds to these countries that are violative of human rights.

The President said, "I would hope that the Congress would not tie my hands. I would hope that the Congress would permit me the right to negotiate with these countries, where these violations of human rights are occurring."

The President said recently that on an issue in the United Nations that is important to the United States, only 20 percent of the nations in the world would vote with the United States.

It is to me distressing to see the President of the United States standing there grieving over the fact that 80 percent of the nations in the world vote against the United States on something that is important to this Nation.

The President reminded those of us who were there that the United States is not itself free of violations of human rights. He said:

"Under the McCarran Act, Americans couldn't even travel around the world until I became President and signed an Executive Order permitting you to travel to other countries."

Then he mentioned the fact that Paraguay had just released its political prisoners because his wife was on her way there.

The President talked of how his hands are being tied and how his position as President of the United States is being lessened in his relationship to Soviet Russia because we have taken this kind of action in the Congress.

Mr. Chairman, I happened to have worked pretty hard to see him become President of the United States. He has been President for 100 days and a little more. I happen to think that he is entitled to an opportunity to negotiate these things though with these countries, particularly in view of the strong stand he has taken in favor of human rights and against the violation of human rights.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. STOKES. I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, what distresses me about the gentleman's position is this: The gentleman in the well never has any hesitation in asking this House to single out Rhodesia for special treatment, and I agree with him because I think the deprivation of human rights there is outrageous. I voted the same way the gentleman did on Rhodesia, and the reason was that case was made for action against that repressive government.

The gentleman is on the subcommittee, but he did not sit in on the testimony that was taken. We made out a case, an extensive case establishing repression exists in Nicaragua; and we used as evidence the pastoral letter of the Archbishop of Nicaragua.

Mr. STOKES. Mr. Chairman, I would say to the gentleman that whether he made out an extensive case or not is a matter of his own judgment.

Mr. KOCH. If the gentleman will just let me proceed for 1 minute. I reiterate the gentleman did not sit in on those hearings.

Mr. STOKES. I would say to the gentleman that he has never been to Nicaragua, either.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

(Mr. DELLUMS asked and was given permission to revise and extend his remarks.)

Mr. DELLUMS. Mr. Chairman, I have not spoken in 2 days as we have debated this bill; but I now take the opportunity to make several comments. In a moment I will speak directly to the amendment before us, but first I would like to address a procedural issue.

Mr. Chairman, I believe that it has been shocking and appalling over the past couple of days that Members of this House who are not members of this subcommittee have, on most occasions, not had the opportunity to speak for their full 5 or more minutes under the 5-minute rule.

Mr. Chairman, this is the House of Representatives. It is not the House Subcommittee on Appropriations; it is the House of Representatives. All of us should have an opportunity to speak.

I would simply say to my distinguished colleague, the gentleman from Ohio (Mr. ASHBROOK), that I will ask him publicly now, as I ask him in private, will he reconsider his standard objection to those of us who are the garden-variety noncommittee Members of the House who end up at the conclusion of the debate speaking for 45 or 50 seconds, which I consider to be a gross embarrassment, creating an indignity for those of us who have the right to speak out as articulately and as intelligently as we can on the issues that come before this body?

Mr. Chairman, I ask him to reconsider that because it is those of us who are at the tail end who do not have enough time to make an intelligent and a cogent statement. I hope the gentleman will think about it and will reconsider it.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, as the gentleman knows, most of my objections have been directed toward the exact object the gentleman is talking about, about most Members not being able to get 5 minutes to speak while committee members take 10 or 15 minutes.

The gentleman does present the case very well, and I will reconsider.

Mr. DELLUMS. Mr. Chairman, I appreciate that. May I say for the record that I am totally appalled about the manner in which this debate is being conducted because it has not provided an opportunity for noncommittee members to speak out intelligently.

Mr. Chairman, how can anyone make a statement on matters as complex and as profound as human rights and dignity and freedom and world peace, our responsibility to the world and our role in the world, in 50 seconds? It is absurd, it is ridiculous, it is ludicrous, and it is tragic. Yet, that is how we end up in debate. That is why I voted not to limit the time, and I have decided that I am never going to limit the time anymore because I think all Members of the House ought to have an opportunity to speak.

Mr. Young of Florida. Mr. Chairman, will the gentleman yield?

Mr. Dellums. I yield to the gentleman from Florida.

Mr. Young of Florida. Mr. Chairman, I thank the gentleman for yielding.

I think he makes an excellent point.

I do not believe we should cut off debate on the part of Members of the House because they are nonmembers of the particular committee.

I join the gentleman, Mr. Chairman. I have never voted to cut off debate on any measure or on any motion.

Mr. Dellums. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I ask unanimous consent that I may be permited to proceed for 3 additional minutes.

The Chairman. The Chair will advise the gentleman from California that the gentleman still has one and a half minutes remaining under his original 5 minutes.

Mr. Dellums. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for whatever time is necessary to give me 5 full minutes to speak on the amendment.

The Chairman. Without objection, the gentleman from California will be recognized for 5 minutes at this time.

There was no objection.

Mr. Dellums. Mr. Chairman, there are several points that have been made during this debate that I am in total agreement with. My distinguished colleague, a member of the Congressional Black Caucus, the gentleman from Ohio (Mr. Stokes) I agree with the gentleman that the United States is a nation that in many instances has been and continues to be in gross violation of human rights. There is no question at all about that. That is not contradictable, debatable or negotiable, it is a fact. It is right. I think whatever we have to do in order to bring this country to a position where it is in total compliance with not only the letter of the law but also the concept and the spirit of human rights, human freedom and human dignity, we must try to do. I join my colleagues in this effort.

The second point on which I agree is this: The statement has been made by many of my colleagues, particularly on this side of the aisle, who tend to be labeled as right of center, that we should be consistent in our application of the code of human rights. I agree with that. I am in total agreement with that. But we have not achieved, unfortunately, an agreement upon which shall be the criteria. That is a discussion that we must have in this House. That discussion must be orderly, it must be intelligent, it must be consistent and it must make sense at the end so that we can apply it around the world.

Also, Mr. Chairman, the statement has been made as to why we are singling out Nicaragua.

In the absence of the United States being committed to human rights totally, in the absence of a code, in the absence of a consistent application of that code, I would suggest the following principle that we must be guided by because we live in a real world. We cannot close the door on that world until that magic moment when America is a great nation and the blacks, the whites, the browns, the reds, and the yellows can live together with equal human rights and freedom. However, we live in the world of 1977 so, Mr. Chairman, what shall be the criteria? I suggest this one: That knowledge brings responsibility, and we, since we are in the House of Representatives, guided by certain particular processes on how we achieve knowledge, and that is through committee hearings, testimony, printed records, et cetera, let that be the criteria of knowledge.

In this instance we are not singling out a country, because this committee processed and worked on it, in this instance, the committee held hearings on it. It did not hold hearings on Angola, it did not hold hearings on Mozambique, it did not hold hearings on Cape Verde, or Vietnam, it did not hold hearings on Cuba, it did not hold hearings on all these other countries, but it did hold hearings on this country. In the absence of other criteria, then I bring you a guide to use on this floor and that is that knowledge brings responsibility and in this instance all of us in this Chamber have knowledge that is documented through that committee process that Nicaragua is oppressing human beings. All of us on the floor of this Congress ought to be adamant in our objection to other people being able to murder, imprison, starve, harm, and maim other people on the face of this Earth.

Why are there only three democracies in the world? Maybe it is because we have not stood up as a democratic nation and said clearly and firmly that we do not just stand on the side of our friends, we stand on the side of what is right. A murderer, I do not care if he is a friend of the United States or if he is a friend of the Soviet Union, is still a murderer, I repeat, a murderer. That ought to be the position we take.

Violating human rights does not bring back life when you kill someone because they are a friend of the United States.

It would seem to me that we must be guided by this principle.

I heard many statements yesterday about Idi Amin and Uganda. I said to a Member, "Why is it that you keep bringing this up?"

The Member said, "Because he is a dictator."

When I came to the Congress in 1971, we were propping up 22 tin gods in the world, 22 military dictators, and we still are. What about Park? What about all the other people we are propping up and sending money to? The justification, it is said, is they are friends of the United States. I object to that.

We got rid of Richard Nixon because he played friendship games. We got rid of many other people because they played friendship games. Do we think violating human rights is any better because they are pro-West rather than pro-East? If someone is kicking me in my teeth, I do not care what side he is on; it still hurts.

It seems to me that if the Members of Congress stand for what is right and want the United States to play a healthy role in the world, then I stand as one person saying to my colleagues that knowledge brings responsibility. In this instance we are not singling out a country. We have worked within the framework of the process that guides the U.S. Congress—the committee process, the subcommittee process, holding hearings. A report has been developed. Hearings are held.

I applaud the gentleman from New York for the articulate nature of his presentation, for his clarity, his courage, and his integrity on the question of human rights. I appreciate the fact that he had the courage to come into this well and challenge the sentiment of this House.

Mr. Chairman, if we are to come here and debate which side of the issue we shall be on, we have to understand the world that goes on around us. For a moment we must freeze that world with the camera of our mind and evaluate it and say against those perceptions we must make decisions. I would suggest to the Members that the tragedy is that many of us have not updated the camera shot. We froze the world in the 1950's, the days of the good guys and the bad guys, the white hats and the black hats, the anti-Communists and the pro-Communists. I ask the question, Is McCarthyism over in this country? If it is and the right of free speech prevails, then let all people speak on the issue. Let it be understood by everyone, whether a friend or foe of the United States, that we would not allow that friendship to be the umbrella under which they are supported in a rain of terror on these people.

President Carter has now opened this issue of human rights up. Maybe he did not know exactly what he was opening up. You and I do not know. We are stumbling and bumbling right here. But it is healthy that we are stumbling, and it is healthy that we are trying, but it is not healthy when we do not understand that there is a criterion that needs to be developed. But in this instance we have done it. We have proved it beyond a shadow of a doubt. That knowledge does indeed bring a responsibility to act.

Mr. Chairman, I urge all of my colleagues to strike down this amendment. It does not speak to the best that is within us but only the worst.

Mr. Young of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from California who has just spoken has raised an excellent question, and I believe the Members deserve an answer. He suggested that we are stumbling about on the question of human rights, and maybe we are. But the House has spoken very specifically on the question of human rights. I should call to the attention of all the Members what we have done.

In section 113 of this bill we cite the Universal Declaration of Human Rights. That is the guideline on human rights for this bill. I call attention to that document: The Universal Declaration of Human Rights. It is a very, very broad, generous statement on the protection of human rights.

When we go back into the House, I will ask permission to submit this Universal Declaration of Human Rights following these remarks so that all of us can see exactly what it is we are talking about when we discuss protection of human rights.

Mr. Volkmer. Mr. Chairman, will the gentleman yield?

Mr. Young of Florida. I will be happy to yield to the gentleman from Missouri.

Mr. Volkmer. I thank the gentleman from California that if human rights are being violated in Nicaragua, and that if the Declaration of Human Rights is being violated in Nicaragua, that there should be no funds given to Nicaragua?

Mr. Young of Florida. I am saying to the gentleman, as I said earlier in the debate, that I believe that standard of human rights should apply consistently across the board, to left-wing governments, to right-wing governments, or to middle-wing governments, and I believe the President of the United States should be able to apply that parameter, and that is what this language in section 113 provides.

What I am attempting to do at this point is answer the question of the gentleman from California as to what we mean by human rights. This Universal Declaration of Human Rights tells us what we mean by human rights.

Mr. Chairman, I insert the Universal Declaration of Human Rights in the Record at this point:

Universal Declaration of Human Rights

The declaration was the work of the UN Commission on Human Rights which met in January 1947 under the chairmanship of Mrs. Franklin D. Roosevelt. The Universal Declaration of Human Rights they drew up was adopted and proclaimed by the General Assembly on December 10, 1948. It was the first effort to set common standards of achievement in human rights for all peoples of all nations.

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and the security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

No. 2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attack upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouse.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone has the right of equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening or respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activi-

ties of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

[Continuation.]

Mr. VOLKMER. Mr. Chairman, that gives us a starting point. Perhaps that should give us something from which we could start and we could develop it further. But does the gentleman agree with the statement then that whether or not the country is friendly or unfriendly does not decide the issue as to whether they should be given funds from this Government?

Mr. YOUNG of Florida. I believe I have answered that question thoroughly.

Mr. VOLKMER. I thank the gentleman.

Mr. DORNAN. Will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I would like to ask the gentleman from California, if he would come back to the leadership table, perhaps the chairman on the other side would ask for more time so he might respond to my question. I believe he inadvertently just overlooked it.

I believe the statement of the gentleman from California was very eloquent and credible and I would like to associate myself with those remarks. I will get those remarks and mail them to New England to Alexandr Solzhenitsyn and have him send his comments on this problem of undercutting a military junta on the right with the sometimes sad result that we deliver the nation over to leftwing terrorists and a worse police state with all the problems the gentleman just discussed compounded to the *n*th degree.

Does the gentleman not believe the President is so sincere in his commitment to human rights that if he extend to him and our State Department this aid, in accordance with the wishes of the gentleman from Texas, that if human rights continue to be violated, that our President would not immediately come down hard upon the side of human rights in that country? I believe he would.

Mr. DELLUMS. Mr. Chairman, if the gentleman will yield, first of all I cast no aspersion on the President of the United States.

Second, I do not perceive the President as an individual I do or do not trust. I see the President as having a constitutional responsibility, whoever occupies that position.

Secondly, I would say we also have a responsibility. When I was in elementary school we were taught that there are three branches of Government, three coequal branches, and these three coequal branches have responsibilities to participate in and make policy.

I am not saying in this that I do not trust the President. I am saying, given the fact that we are coequal branches of Government, that with respect to Nicaragua we have a responsibility to investigate and to document, which we have done, and I say based on that this whole body has a responsibility and we cannot leave it to the President now because the whole mechanism has evolved.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will yield some of my time to the gentleman from California Mr. DELLUMS but first I would like to mention to him a discussion I have had with a South American ambassador. I believe if the gentleman from California and I were to make up a list of South American countries that are doing a fair job in respecting human rights, I think he would agree with me that the country I'm thinking about is doing as good a job as any Latin neighbor.

I will not mention the name of the South American Ambassador that I will quote, but I will tell Mr. Dellums his identity privately if he wishes. This ambassador told me that as the American Ambassador he has clout with the head of state in the host country and that he can ease some of the human rights problems with prisoners, but when our Government cuts off funds and publicly blackballs a country, then the U.S. Embassy is left without any clout at all to do what they can to help alleviate civil rights violations.

I know that the gentleman has discussed this problem before on the Jackson-Vanik amendment and how that valiant effort may have backfired and brought more suffering to people of various ethnic groups in the Soviet Union. Maybe I am singing an old song to say to these countries. "We are giving you another chance. We are going to you conditional aid. We are going to give you help so you can protect yourself from left wing terrorist bombers, but if you do not clean up your act in regard to civil rights, that is it, and if you end up behind a banana or iron or bamboo curtain, so be it."

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I appreciate the comments of my distinguished colleague from California.

First of all, I would simply say we have not cut off economic aid. There is $15.9 billion in the bill for economic aid.

Point No. 2, We have not closed the door. The door is, in fact, 85 percent open, not closed. We only cut off 15 percent of the amount of aid, so we are well over 50 percent of reaching into that door to play some influential role. We are trying by this 15 percent to make a clear statement to Nicaragua and many other countries that we are associated with.

Finally, Mr. Chairman, I cannot associate myself with one of the gentleman's evaluations that Nicaragua would be ranked as one of the least repressive nations.

Mr. DORNAN. No. I was referring to another country hundreds of miles to the south of Nicaragua.

Mr. DELLUMS. Mr. Chairman, if the gentleman will yield further, that is my response to the question. The door is 85-percent open, not 85-percent closed.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, let me say to my friend, I have a consistent record of deploring repression, whether it is left or right. The gentleman can confirm that with my good friend, the gentleman from California (Mr. ROUSSELOT).

Mr. Chairman, I want to say with respect to the particular question, it is not just the fact that we are giving this $15 million in this bill. We gave them $3 million on credit sales last year, still held by our Government because of the human rights situation, which are still available when they clean up their act.

In addition, there is $58 million that is now in the pipeline for economic aid that we have appropriated and it was not expended.

Mr. LORNAN. Mr. Chairman, if the gentleman will give me back some time, I promise to give the gentleman the last word.

Mr. Chairman, let me state that I will probably vote for the amendment of the gentleman from Texas (Mr. CHARLES WILSON).

I notice that many of the Members of our body can give an up-to-date report on Paris or London, but nobody has taken advantage of an opportunity to go to Nicaragua to get an incountry briefing there or who has any first-hand evidence to give the House.

I took note of the 33 weird votes yesterday on giving reparations to one of the most vicious, killing, repressive regimes on the face of the Earth, North Vietnam. I believe if we were to have a vote today on recognizing Cuba today and thereby giving respectability to its head of state who shot to death his opponent in a student body election in the 1930's, Fidel Castro, a first degree murderer, who executed 1,000 people in just the first 30 days of his regime for openers, that same weird 33 would vote for embracing Cuba. So I feel again we see a tragic selective morality here.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, the gentleman is absolutely wrong. I happened to vote in support of the amendment yesterday. Before the gentleman casts any more aspersions than the gentleman has already, the gentleman should know that I consider the Soviet Union under Stalin the same way that I consider Germany under Hitler.

I consider what is happening in Nicaragua the same way that I consider it in Uruguay or any other country like that.

Mr. DORNAN. Mr. Chairman, I do know the gentleman's feelings about the Soviet Union and applaude him and I did not mean by inference to put him in that group of 33 weird pro-North Vietnam votes of yesterday.

Mr. BOWEN. Mr. Chairman, I move to strike the requisite number of words.

(Mr. BOWEN asked and was given permission to revise and extend his remarks.)

Mr. BROWN. Mr. Chairman, I will not use the full 5 minutes.

I rise in support of this amendment. I had an opportunity to spend about a week in Nicaragua last fall, and I toured extensively throughout that country. I had a chance to travel without the accompaniment of Government officials. I had a chance to talk to opposition politicians, to opposition newspaper editors, to people who were highly critical of the Government. They told me that they were amazed at the progress that was being made in that country, though they certainly wanted more.

Now, I read a story in the Washington Post about a week ago containing a long list of horrors recounted by a reporter who toured that country recently. To read that story, which referred to the bishops' report, one would think that all those atrocities were occurring right now. I investigated that story and found that the events that were referred to in that story all occurred more than a year ago. The bishops' pastoral letter was in mid-1976, not in 1977.

Most of these events were in the early part of 1976 when the Sandinista terrorism was at it speak. This does not mean that the Government countermeasures were good. They were bad, but they are not happening now. People I talked to indicated that the Government response was a pattern which developed because of the very atrocities imposed upon people by the terrorist themselves. I regret very deeply, as all of us do, that we have terrorism and the kind of methods used by the Sandinista front and others of that stripe. I deeply regret that it is sometimes necessary to fight violence with violence.

After spending a week in that country I found a strong spirit of dissent, the freedom to stand up and criticize the Government. Newspapers were printing editorials attacking the Government just as in this country.

I do not say that they have anything remotely approximating the freedom we have, but just because this committee devoted a great deal of time and attention to analyzing that one country, we should not single it out for discrimination. As the gentleman from California (Mr. Dellums) said, knowledge brings responsibility. If we want to analyze another 100 nations around in the world in the same detailed manner, we certainly could come up with many of the same conclusions.

But, Mr. Chairman, I feel there is no justification for singling out one nation which is making progress. It sets no standard for anybody, but it is making progress. So, why should we tie the hands of the President of the United States in dealing with this country? Why should we punish them when they are substantially reducing the use of force in dealing with their internal problems and showing greater respect for human rights than in recent years?

Mr. Charles Wilson of Texas. Mr. Chairman, will the gentleman yield?

Mr. Bowen. I yield to the gentleman from Texas.

Mr. Charles Wilson of Texas. Mr. Chairman, I thank the gentleman for his support. I think it is very significant that probably in this body the gentleman from Mississippi (Mr. Bowen) and the gentleman from New York (Mr. Murphy) have been the only ones who have been to that country. I would like to say to my friend that I am going over the Fourth of July recess, and I would like to have some company.

Mrs. Heckler Mr. Chairman, will the gentleman yield?

Mr. Bowen. I yield to the gentlewoman.

Mrs. Heckler. Mr. Chairman, I rise in support of the amendment and agree with the decision made by my distinguished colleague. My information received from the State Department today reveals that their present assessment of the problem of human rights in Nicaragua is that there is a meaningful recognition by the Nicaraguan Government of the need that substantive steps taken to protect human rights and that there are indications that there will be a movement for change.

I would not accept an indication of a movement for social change as being adequate. I have been assured by the State Department further, which was contained in their testimony before the Committee on International Relations, that this aid would not be granted without proof acceptable to the State Department that actual change had taken place. In view of that commitment by the State Department, and in view of the fact that the gentleman in the well has witnessed himself some of the progress that Nicaragua is experiencing, I feel that our commitment to human rights can best be served by extending support on this conditional basis, which provides a reward for the fulfillment of the promise in terms of the aid which they claim to need very badly.

Thus, I support this amendment, and I feel that on a country-by-country basis, we will be less than accurate, less than just, less than informed, if we are to make broad, sweeping judgments of principle which are unrelated to the specific facts in the individual countries affected and the assessment of our own State Department and of our President.

Mr. Chairman, the relationship between our governments and the people of Nicaragua remains a warm and friendly one. For this reason, and particularly because of the assurances by the State Department that respect for human rights will be a condition of this aid, that I urge approval of this appropriation.

Mr. Bowen. I thank the gentlewoman. I would simply conclude by saying that there is progress in Nicaragua. It might not be going on as rapidly as it should. Certainly, it is happening more rapidly than in many of the nations around the world which are receiving American assistance. There is no reason for us to single this nation out as a leper among nations for statutory punishment of this kind.

I urge the Members to support President Carter and allow him and the State Department the flexibility to make appropriate decisions in this matter. I urge you to vote for this amendment.

Mr. Ashbrook. Mr. Chairman, I move to strike the requisite number of words.

(Mr. Ashbrook asked and was given permission to revise and extend his remarks.)

Mr. Ashbrook. Mr. Chairman, I listened with interest to the statement of my friend and colleague, the gentleman from California, and one point he made was that knowledge should bring responsibility. I agree with that, but I wonder how much knowledge came from this particular hearing on Nicaragua. I am not a speed reader, but as I look at the hearings I find it quite interesting. If the Members will follow the text and go through it, I believe they will also wonder what kind of a hearing was conducted by the Appropriation Subcommittee.

In reading from these hearings, the gentleman from Maryland (Mr. Long) said, "The witnesses before us today are * * *" and he names them. He then said, "We will give them 3 minutes apiece." Think of that. Can you have an in-depth probe in 3 minutes?

In the middle of almost every witness he cut them off, and he said, "I am sorry, Mr. Dubon, your time has expired." He took that much space in the record, about 2 inches.

On page 533, here is a Dr. Somarrida. He took 3 inches of type, perhaps 2 inches. Right in the middle of his statement, the gentleman from Maryland (Mr. Long) said, "Doctor, your time has expired."

I do not think they wanted to hear him very badly.

Mr. Koch. Mr. Chairman, if the gentleman will yield. I was at those hearings. I can tell the gentleman what took place.

Mr. Ashbrook. At the end of the testimony of Mr. Gallo, the gentleman from Maryland (Mr. Long) said, "I am sorry, the time has expired."

Mr. Morice spoke for a while. The gentleman from Maryland (Mr. Long) said "The time of the gentleman has expired," Mr. Morice said. "Thank you, Mr. Chairman."

The gentleman from Maryland (Mr. Long), again I read from the record, said, "We have allowed 18 minutes to the people who speak favorably on Nicaragua. Now we will hear the opponents."

I do not know why, but it seems they took little longer time in hearing the opponents. It looks to me like he got three pages. He got three pages because he was talking about Nicaragua. This is all in the hearings.

Mr. Chairman, I would like to have some justification for this. No questions appear to be asked by any Member to anybody favorable to Nicaragua, and yet there are pages and pages—the gentleman from New York (Mr. Koch) has a number of them—pages and pages asked given to opponents of Nicaragua.

Knowledge may bring responsibility, but I cannot help but wonder how much knowledge we deduce in allowing people favorable to a country to speak for 18 minutes, they are not even questioned, and the hearing is closed off within a very few minutes.

I would agree with the gentleman from California (Mr. Dellums) that something of this importance, if it is to guide the House of Representatives in its decision, ought to be a book as thick as the entire hearing, not just a few pages. Not a few pages certainly and not allotting, as the gentleman from Maryland pointed out, 18 minutes to those who spoke in favor of the situation in Nicaragua.

We have a word to describe it. That sounds a little bit like a kangaroo court. I do not want to cast any aspersions, but that is not giving a whole lot of time for people to speak for the life and death of their country. Let us be honest about this. We all know that there are differences of opinion in this body. I serve on a labor committee with my good friend, the gentleman from New Jersey (Mr. Thompson). We both look at bills. One does not have to be a Phi Beta Kappa to know that the gentleman from New Jersey (Mr. Thompson) is going to come down on one side and I am going to come down on the other side in most cases. One does not have to be a Phi Beta Kappa to know which side the gentleman from New York (Mr. Koch) is going to come down on. I think I had a pretty good idea on which side the gentleman from New York (Mr. Murphy) was going to come down on. I respect all of their opinions. But to stand up here and say that we had a hearing, to say that Nicaragua had its day in court, they were found wanting, ergo this conclusion, I cannot agree with that. My friend from California (Mr. Dellums) is right. Knowledge brings responsibility. But we did not get much knowledge from these brief hearings on Nicaragua.

Mr. Koch. Mr. Chairman, will the gentleman yield?

Mr. Ashbrook. I yield to the gentleman from New York (Mr. Koch).

Mr. Koch. I thank the gentleman for yielding.

Mr. Chairman, I think if the gentleman looks at my record he will find that one cannot call in advance what position I take on every issue. If he looks at yesterday's voting, he will find that on several amendments he and I voted in the same way.

Mr. Ashbrook. I will tell my friend that I have been surprised many times.

Mr. Koch. If the gentleman will yield further, this is not a situation where he is talking to someone who condones left wing oppression or right wing oppression. I denounce both.

Let me get to the hearings. I suspect that these hearings on Nicaragua were far more extensive, and I will get to their extensiveness in a moment, than any hearings the gentleman has held on Cuba.

I would ask the gentleman if he has held hearings on Cuba. The gentleman is always introducing amendments on Cuba.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 2 additional minutes.)

Mr. KOCH. Mr. Chairman, will the gentleman yield further?

Mr. ASHBROOK. I will be glad to yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, I happen to vote against permitting aid to Cuba because I think it is an oppressive government and engages in repression. I believe it violates human rights.

But when the gentleman from Ohio (Mr. ASHBROOK) cites this hearing, which went on for 2 days—and I know because I was there—and when the gentleman points to a hearing record that contains for the most part the full statements of everyone who wanted to put in a statement and decrys the hearing, I think he is misleading the Members.

There was extensive questioning at the hearings. I did some of the questioning.

I asked Mr. Wilson of Nicaragua who was introduced to the committee by my colleague, the gentleman from New York (Mr. MURPHY), and who was brought into that hearing room by the same gentleman, whether or not he would describe the Catholic hierarchy in Nicaragua, consisting of the archbishop and the bishops, as radicals.

He said, "Definitely not."

This committee relied in part on the pastoral letter of the hierarchy from Nicaragua that stated there was raping and torturing of not only the civilian population but also there was torturing of the clergy in that country.

Does the gentleman have hearings comparable to that concerning Cuba?

Mr. ASHBROOK. Yes, I do.

Mr. KOCH. Did the gentleman conduct hearings on that respect on Cuba?

Mr. ASHBROOK. Well, starting in the 1960's, we did.

Mr. KOCH. That was back in the 1960's. These Nicaragua hearings were held this year.

Mr. ASHBROOK. Mr. Chairman, I would have to admit that those hearings were held by a committee with which the gentleman has not always been very friendly over the years, and perhaps the gentleman does not remember too much about it. It was the old Internal Security Committee.

If I may refer again to this volume of hearings, on page 542 I find this to be quite interesting and will repeat:

Mr. LONG. All time has expired for those who are defending the human rights situation in Nicaragua."

The total time they were allotted was approximately 18 minutes . . .

Mr. Chairman, I yield back the balance of my time.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, there are a number of reasons why my area, the Greater Miami area, feels a strong friendship for Nicaragua and has a special interest in Nicaragua. The first one, I suppose, is that we have physical proximity to that territory.

Another one is because the second largest city in Dade County—Hialeah, a city of 150,000—is a sister city of the capital city of Managua, Nicaragua.

The third reason is that recently when they had a terrible earthquake in Nicaragua, our area, led by Hialeah, contributed a great deal of food and medical supplies and other aid to Nicaragua, as did the rest of Florida and many other parts of America, alleviating the awful suffering that the people of Nicaragua experienced as a result of that very disastrous earthquake.

Another reason is that there are a great many people of Cuban background in my area, some of whom hold high office, who remember that Nicaragua was the area from which they embarked upon the Bay of Pigs invasion. I had a telephone call yesterday from Mr. Manolo Rebozo, who was in the Bay of Pigs invasion launched from Nicaragua and who is now a member of the city commission of the city of Miami. Those people who are identified as being in opposition to Castro and who had some part, either sympathetically or physically, in the Bay of Pigs invasion, which embarked from Nicaragua have a very warm feeling toward the Government and the people of Nicaragua for the aid that country gave them in their efforts to wrest the freedom of that country from the tyranny which has taken it over.

Another reason is that those people with their sources of information feel that they have adequate information that Castro is very rapidly infiltrating Nicaragua with Communists, and that he is trying his best and doing everything he can to subvert that territory and convert all the territory he can in the Western Hemisphere to the philosophy and the practice of communism.

Those are things that are meaningful to me, because they come from the sentiment of my area.

I think that all of us agree that we are, of course, for the protection of human rights. But is there any Member of this House who claims that he is more zealous in the protection of human rights than President Jimmy Carter?

And yet President Carter has asked this House to support this amendment.

It was only by a vote in the committee of 21 to 20 that the prohibition against Nicaragua, against which this amendment is aimed, was inserted in this bill. The margin was one vote, not a large majority.

What we do about this matter is not a matter of our power or of our devotion to the cause of human rights; it is a matter of policy, a matter of wisdom.

The best way to achieve our objective sometimes is to make a frontal attack. Sometimes one goes around to the rear or makes a side assault. One's tactics will, perhaps, determine the course that he chooses to pursue. One's objective is not discredited because he chooses other than a frontal attack upon his objective.

Mr. Chairman, who has better information, who has better sources of information to determine the degree to which human rights are being denied by nations which seek our aid, the executive branch of this Government or this House of Representatives?

We have heard some reports here about a hearing that was had before our subcommittee. Is that superior to the information that the CIA and the FBI and all the intelligence services of the Armed Forces of our country and our U.S. Embassies and Ambassadors, and all of our executive personnel can supply to the Chief Executive?

Mr. Chairman, unless we question the sincerity of the Executive, it would seem to me that we should give him an opportunity, considering his avowed advocacy of the protection of human rights, to try to work out, in the best possible way, the achievement of that high goal.

We do not have too many friends in the world. Anybody who has ever followed a vote in the United Nations or in the Interparliamentary Union or in other organizations of worldwide character has found out that we do not have too many nations who are standing up beside us.

It happens that this government of Nicaragua is our friend. That does not excuse it for violating human rights and perpetrating wrongs upon human beings; but it should, perhaps, influence our discretion, our judgment in this House, so as to allow the Executive an opportunity, at least until his effort fails dismally, to try to work out this situation in a way that would best protect the human rights of the people of Nicaragua and the public interests of America.

Mr. METCALFE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to support the statement made by my distinguished colleague, the gentleman from Florida (Mr. PEPPER), and my good friend, the gentleman from Mississippi (Mr. BOWEN), and associate myself with those remarks.

I would like to bring a sobering note into this particularly animated discussion.

I happen to have been privileged to have visited Nicaragua. I had the opportunity to talk with the President and to visit and talk with the people of Nicaragua.

What disturbs me, Mr. Chairman, is the trend that I see emanating from this august body, and that is one of a lack of concern for human rights.

Yes, I applaud President Carter for his bold stand in rewriting history and trying to bring a morality to this world that has never been seen before. I applaud him for recognizing that there is a need for it through his program for human rights. I recognize that he would not be advocating anything that would be contrary to what he morally thinks is right.

Mr. Chairman, it is not going to be an easy job. We have a long history of prejudice and of biased opinions that have been emanating from our society simply because too frequently we do not recognize the dignity of our fellow man and fellow woman.

What disturbs me, Mr. Chairman, is that we are dealing not with a single country, Nicaragua, because of its leadership or because of its dictatorship, but, rather, we are singling out Nicaragua. I think this is a gross error on our part, and I solicit the Members' consideration of the fact that we have had to deal with heads of state at times when we do not necessarily agree with the policy of those states. However, if we are going to try to imbue within their minds the dignity of the human being and the need for civil rights, I think that the answer is not in cutting the appropriation for a single country that we have designated, Nicaragua; but rather, to show that we are broad enough to recognize that we have faith that we are going to be a part of the human rights program for the world so that we will be writing a legacy for our children and our children's children, thereby bringing love and understanding into a government as well as showing that we are able to get along with our neighbors.

Has there ever been a period in which there has been no war or no threat of war? There is discord in the Middle East. There is discord in many other sections of our world. Why do we single out Nicaragua? Why do we not single out the dictatorship that exist in Africa and in all of Latin America? I believe we are making a serious mistake if we so single out Nicaragua.

I rise in support of restoring the funds to Nicaragua and saying to not only Nicaragua but to the President that we are behind you because you are doing a decent thing and because it is the fair thing for us to do. There is no justifiable reason in my opinion for us to do otherwise.

Mr. Chairman, I would repeat that I did visit Nicaragua and I found there a very vital and clean country. Surely there is need for improvements in human rights and that is true not only in Nicaragua but we do not even have to leave the shores of these United States before we see a need for us to improve human rights.

Let us act with good judgment. Let us not single out Nicaragua.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words.

(Mr. CARTER asked and was given permission to revise and extend his remarks.)

Mr. CARTER. Mr. Chairman, during World War II, it was my pleasure to have in the company I commanded three Mexican-American men, three of the nicest, pleasantest fellows one could imagine, and men who carried out the wounded under fire. One Mexican-American boy in another company of the 152d Infantry Regiment, Joe Alverado, was given a battlefield promotion to lieutenant. Just a few years ago, his son was the center of Notre Dame's football team.

It has given me great pleasure to serve with such good men as Hon. HENRY B. GONZALEZ, Hon. MANUEL LUJAN, and Hon. E. DE LA GARZA for a number of years. I know of no men I respect and admire more. Now, Mr. Chairman, over the years our country's made a sad mistake in not concentrating more on our southern neighbors in Mexico, Central America, and South America. Our children should be taught Spanish. They are our neighbors, and I trust that we shall treat them as good neighbors.

These countries have various forms of government, some are benevolent dictatorships, some are dictatorships without benevolence; but it should behoove us to do our best to be of help to all of these countries. I submit, Mr. Chairman, that we should give great flexibility to the President and to the State Department. I strongly support a good neighbor policy toward the people of Mexico, Central America, and South America, and I trust we will reflect this in what we say and in how we vote.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I suppose that I may be the only person who came to this floor without a predetermination on how to vote on this question. But I am persuaded by arguments on the floor that the amendment offered by the gentleman from Texas (Mr. WILSON) is a proper and a good amendment, in part because of what the gentleman from Kentucky (Mr. CARTER) has said on the floor, and also in part from somewhat of a reappraisal of the extremely eloquent speech given by the gentleman from California (Mr. DELLUMS).

The one thing that the gentleman from California (Mr. DELLUMS), did not point out, I believe, is that never at any time did any committee of this House make a comprehensive study of comparative repression of human rights in various Latin American and other countries. I think this body is an excellent body with respect to investigation of the bases of legislation, but I am sometimes inclined to think that this body is not a very good inquisitor when it comes to the question of determining good or evil. I am convinced that a comparative study of the positions of various nations has not made a case against Nicaragua alone.

Mr. CARTER. I thank the distinguished gentleman for his contribution.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

I just noticed something that I do not know how many other Members of the body here know—I am sure the members of the committee know—and that is that this section 505 really does not just apply to Nicaragua. We are just not saying no military aid to Nicaragua; we have got Ethiopia and Uruguay in there also. I noticed that during the debate on this a lot of the Members have said, Well, we have got this other language in the bill that prohibits human rights; we have got the President who is going to stand by the concept of human rights; why are we just picking out Nicaragua as far as the amendment is concerned?

I would like to ask the gentleman from Texas, Why do we not just say let us knock out the whole section, if we really feel the way the debate has indicated?

Mr. CARTER. I thank the distinguished gentleman for his contribution.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

I commend the gentleman for his comments. I would like to associate myself with his remarks, and with the remarks of the gentleman from Illinois (Mr. METCALFE) who preceded him. Mr. Chairman, I support the amendment.

Mr. CARTER. I thank the distinguished gentleman.

Mr. Chairman, I yield back the remainder of my time.

Mr. DE LA GARZA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman. I will not prolong the debate much longer. I just wanted to bring out a couple of matters hat I do not think have been covered.

One point, and perhaps the most important point, is that in showing our concern over human rights, in showing our concern for the individual and for the dignity of the individual during the debate we have had in this Chamber over this amendment, I think that possibly will be one of the greater moments for this body, so that the world can see and all the countries of the world can realize our interest, our concern and our determination for the cause of universal human rights.

My concern is about the way we operate. As the gentleman preceding me mentioned briefly, it is not the most practical because we are dealing with such difficult matters. One of my colleagues takes after Argentina and another one takes after El Salvador and another one takes after Nicaragua, and we are spreading our efforts and I think not achieving our purpose. If anything comes of this matter it will be because of the debate that was held here.

As far as I am concerned I feel somewhat—not ashamed, but I feel somewhat sad that many of our colleagues from the opposition, from the minority party have had to come up here and remind us: "Support your President." They have said: "Support your President who has spoken out for human rights. Support your President who is working for human rights."

I think we should support him. The matter is moving.

Yesterday a committee of the Organization of American States adopted a resolution on human rights. This is the last hurdle for it to be adopted by the Organization of American States. That has not been mentioned here. We are moving, the message has been sent.

So we topple this Somoza. So we knock out the military in Argentina. So we knock out the military in Chile. What will take their place? Communism.

The gentleman from New York is a brilliant young dedicated American. But I am concerned that in his honest, dedicated efforts, he will, in fact, do the opposite. If we do as he says, and I say this with respect for my friend and I will yield to him momentarily, I say this because what do we substitute?

The Cubans are there. The Russians are there. We will not have any church. We will not have any bishops. We will not have any liberty. We will continue the oppression. We will continue the torture. This is historical.

We do not have a need for any hearing in any committee to accept the fact that the Communists torture, that they oppress, that they deny religious choice.

The alternative in these countries, if we just cut them off at this time and stop the dialog, is communism.

Many of us cheered. As for myself, I cheered. I said: "Batista is out. Castro, the brilliant young man with stars in his eyes, is coming in. He has toppled the dictatorship." Take a look at how many Cubans are left who were free. Take a look at those in Florida. Yes, I cheered when Castro came into power. I said: "The dictatorship is out. Freedom will once again come to Cuba. The people will once again come to Cuba. The people will be able to go to their churches. The bishops will be able to minister to their brethren." Democracy will return, free elections, our system of freedom.

Did this happen? No. And if we knock out the existing governments, right, left, dictator, or what, as the gentlemen have suggested, what will be left, my friends? Communism. We must work with the President, we must work within the established institutions. We have sent the message, we will not tolerate oppression, denial of human rights from any source. But you do not do this by striking blindly in an appropriation bill.

Mr. KOCH. Mr. Chairman, will the gentleman yield? He mentioned my name.

Mr. DE LA GARZA. I yield to the gentleman. I mentioned the gentleman's name.

Mr. KOCH. Mr. Chairman, I really regret that the gentleman made that statement. I tell the gentleman why. I happen to believe that it is when we do not denounce oppression on the right, equally with the oppression on the left, and become associated with right-wing oppression, that the people's suffering under these regimes, losing all hope for democracy, turn to the Communists.

Mr. DE LA GARZA. We have denounced them here. We are doing it. The gentleman has denounced it.

Mr. KOCH. The gentleman used my name. Will he not let me respond?

Mr. DE LA GARZA. Yes, but not for the rest of my time. I yielded to the gentleman the time that I used mentioning his name.

Mr. KOCH. I ask the gentleman to yield to me to respond.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(On request of Mr. KOCH, and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 1 additional minute.)

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman.

Mr. KOCH. Mr. Chairman, I believe it is in the national interest of the United States to make certain that we do not become identified with oppressive governments. I consider myself as anti-Communist as any Member in this Chamber. I denounce Castro's repression of the Cuban people. I denounce the Soviet Union repeatedly on this floor. But how do we defeat communism? Do we blindly support right-wing dictatorships? No. Dictators like Somoza create support for the Communists. Democratic opponents of the Somoza regime have no hope to end the dictatorship and create a real democracy if we blindly support Somoza. Must we tell the people of Nicaragua, "Sorry, you have only two choices, Somoza or the Communists." If we support Somoza by providing him with U.S. arms to repress his own people, then we become the oppressors. And that is not in our national interest.

Mr. DE LA GARZA. The gentleman has made his point and my point. We have denounced communism. We have denounced the oppression. We have denounced the lack of human rights. This has been done. That is what I said in the beginning. The best thing we could have done was to debate this issue. We do not support these actions, but now I give the Members the alternative.

If the gentleman prevails, what replaces that? Communism. That is the answer. It will not be democracy, I would say, I wish it were, and we need to work toward that end for all peoples of the world, but if we look at history, at the countries involved, I am afraid we risk more than we gain. We must continue to work with the President, within the norms available for effective action and send the message, as we have done, to all the world. Not by individual action, for individual personal reasons, but because we are all committed to that end as a country and as a people.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment.

The proposed amendment would prohibit the use of funds appropriated in the fiscal year 1978 Foreign Assistance Appropriations Act for bank lending for palm oil, sugar, and citrus. The provision would in effect require that the United States condition its contributions and subscriptions to the international development banks on a requirement that these funds not be used to finance loans for such commodities.

Specifying that U.S. funds could not be used for these commodities would in all probability make it impossible for these institutions to accept U.S. funds and would jeopardize continued U.S. participation in the banks.

The terms and conditions on which the U.S. contribution and the contributions of all other countries are made available to the international development banks are laid down in their articles of agreement and in the replenishment resolutions of the Boards of Governors of these institutions. Neither the charter nor such resolutions contain provisions permitting the banks to agree to receive funds subject to a unilaterally imposed restriction that the funds not be used for certain commodities. In fact, any decision with respect to particular loans, must be made in accordance with the multilateral decision-making process and the criteria for making loans established in the charter.

In 1975, the Inter-American Development Bank refused to accept contributions earmarked for a specific purpose from the United States. The funds were accepted only after the earmarking requirement was repealed in subsequent legislation.

A requirement that contributions from a member cannot be used to lend for certain commodities would be totally inconsistent with the multilateral framework within which these institutions operate.

Such earmarking would set a bad precedent. If the United States were to earmark funds, other countries would undoubtedly follow the same practice. This would eventually lead to a complete breakdown of the international cooperative character of the development banks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WILSON).

The question was taken; and on a division (demanded by Mr. KOCH) there were— ayes 66, noes 28.

RECORDED VOTE

Mr. KOCH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 225, noes 180, answered "present" 1, not voting 27, as follows:

STATEMENT OF THE HONORABLE JOHN W. MURPHY ON HUMAN RIGHTS AND NICARAGUA, JUNE 21, 1977

(Mr. MURPHY of New York asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MURPHY of New York. Mr. Speaker, there has been a tragic error made in the decision to delete foreign assistance appropriations to Nicaragua in the amount of $3.1 million. By a single vote margin of 22 to 21, we have meted out a severe punishment to the strongest ally and supporter the United States has in Latin America. This unconscionable tragedy is geometrically compounded by the fact that the punishment is based totally on unfounded allegations, baseless innuendo, and guilt by declaration.

What compounds the error even further is the fact that all the charges are made by sworn enemies of the elected government. Some of these enemies have themselves attempted assasinations, committed kidnapings and murders of representatives of the Government of Nicaragua and the people of Nicaragua.

And the final blow is that all of these charges have been uncritically, unquestioningly accepted by some Members of Congress who are apparently unaware that they have been duped by those opposed to the Government of Nicaragua, including an organization known as the Washington Office on Latin America. It is a group which is well known for its solicitation and aggressive funneling of antagonistic witnesses against the Government of Nicaragua into congressional hearings and meetings. I will document for you their techniques of channeling witnesses' testimony into Congress. Both terrorists and known Communists have been their "witnesses."

I will outline for Members: First, the nature of the opposition to the Government of Nicaragua; second, the facts—the true facts—as obtained by our own State Department and intelligence agencies; third, the relationship between the United States and the Government of Nicaragua, and fourth, the position of the administration and of those of us in Congress who have made an effort to look past the anti-U.S. pressure groups to determine what the true facts really are.

THE NATURE OF THE OPPOSITION TO THE GOVERNMENT OF NICARAGUA

First let us know with whom we are dealing. Opposition to the Government of Nicaragua is not exactly a benevolent or objective consortium. Nor is there necessarily a cohesion and unity of purpose binding the opposition into a reasonable political force. Most of the information foisted off as fact consists of second and third hand stories, seldom substantiated by any fact-finding efforts or credible support. Much of the so-called evidence is in the form of simple letters signed by persons, including clergymen, whose credibility and backgrounds are less than outstanding. And of the alleged atrocities and crimes blamed upon the existing Government which may have occurred, there is displayed compelling evidence that they were instead committed by the opposition for the sole purpose of discrediting the Government.

And finally, defenders of the opposition point at newspaper headlines which claim an ever-rising repression by the Government. Since La Prensa is the loudest voice of dissent, let me first address myself to the publisher's credentials:

Dr. Pedro Joaquin Chamorro is the owner and publisher of La Prensa, which he inherited from his father in 1948, rather than by any record of journalistic excellence. In the years since then, Dr. Chamorro has proven himself to be of wide-ranging interests beyond a journalistic search for truth:

He has organized an armed invasion of Nicaragua;

He was convicted of conspiracy in the assassination of the former President of Nicaragua;

He met with Fidel Castro and Che Guevara to seek support for an armed revolution against the Nicaraguan Government;

He conducted a second armed invasion;

He led public riots in the streets of Managua;

He has been banished from Nicaragua twice for such activities as these;

He has openly advocated defiance of the Nicaraguan constitution—which requires citizens to vote—he called for abstention;

He became head of the UDEL—Union for Democratic Liberation—party board of directors, a coalition of small parties, in the main made up of Communists;

And not last in importance to today's discussion, he has become well known as being blindly obsessed with the notion of himself becoming President of Nicaragua.

It is small wonder that such a man as this would do everything in his power to discredit the legitimate government. Yet he lives in total freedom in Managua where he runs a rather prosperous opposition newspaper and oversees his other financial interests. That is not a sign of a government which opposses those not in accord with its views.

Father Miguel D'Escoto is a Nicaraguan Maryknoll missionary, publisher of Orbis Books and the Maryknoll magazine, and the chairman of the board of Fundeci, a closed corporation set up with members of his own family, to take advantage of $7 million in private American sources for a "low-cost housing project." In one of his books, he is the creator of a concept of a "new non-capitalistic" system for Nicaragua which requires "the relinquishing of possessions and privileges." Failure to bring this about peacefully will justify, according to Father D'Escoto, and I quote him, "The use of violence and guerrilla warfare." I find it difficult to imagine where such a unique doctrine of creative government fits in with the responsible positions of the Catholic Church. Father D'Escoto is simply a political activist in sheep's clothing, closely associated with an organization calling itself Nonintervention in Nicaragua, with the support of the North American Congress on Latin America—a well-known Marxist organization. His letter and lobbying campaigns have advocated precisely what this Congress has done—cut off aid to Nicaragua.

Father Fernando Cardenal is a Nicaraguan Jesuit priest who was removed from his position as dean of student affairs at the Universidad Centroamericana for promoting political unrest among the students and advocating open subversion. He has testified at length before this Congress in opposition to the Government of Nicaragua. Yet he lives in complete freedom in Nicaragua, travels abroad at will, as does his brother, the Marxist poet Father Ernesto Cardenal. Again, hardly the kind of unbiased testimony upon which to base the decimation of relationships between two major nations of the Western Hemisphere.

And finally, one more group, known as the Washington Office on Latin America, co-directed by Messrs. William Brown and Jose Eldridge. WOLA is a militant group which lobbys extensively against right wing Latin countries. Mr. Brown is considered to be an anti-American radical, while Mr. Eldridge is known as a leftist pro-Allende Chilean supporter. That they were instrumental in organizing negative presentations to congressional hearings is without question; as a matter of fact, I have before you today a document from them which very specifically instructs witnesses in the fine art of biased testimony, unfounded facts and erroneous statements. In the document Mr. Bill Brown, discusses his plans to visit Central America to dig up witnesses to participate in hearings and coach them in the form and even the substance of their testimony.

The WOLA document contains six quoted paragraphs that constitute part of the text of the original proposal for congressional hearings, presumably the source being the international organizations subcommittee. They outline the "nature and scope of the proceedings" and indicate some of the "distinguished representatives" who will testify, including Pedro Joaquin Chamorro from Nicaragua—the aforementioned leader of two armed invasions.

The document, including the abovementioned quoted paragraphs, is couched in some of the most pejorative language I have ever seen used to prepare for an "open and frank discussion" before a congressional committee. For example, Mr. Brown admonishes witnesses on page 3 of his instructions that it is "imperative that testimony be sharp, penetrating and critical of U.S. involvements wherever necessary." And the document leaves no doubt that the author considers this "necessary". I think a person of even limited perception can determine the motivation of the author, the thrust of any testimony resulting from the document, and the totally biased, anti-United States—and in this case, anti-Nicaraguan Government leanings of the Washington Office on Latin America.

Other portions of the memo are even more pejorative in their blatant, distorted and frequent misstatement of alleged conditions in the country I am most familiar with, Nicaragua. One is led to ask why hearings were held at all. The author of these paragraphs has already made up his mind.

These gentlemen organize and coach witnesses before this Congress, draft and edit the prepared statements of various opposition leaders to present a consistently biased, incomplete and erroneous point of view, and continually issue reports and statements seeking to discredit legitimate Nicaraguan Government programs such as the aid-assisted invierno program to upgrade the standard of living of the rural poor.

I have no basic conceptual problem with the rights of any of these gentlemen, under our American system of government, to exercise their freedoms of press, speech, and assembly to advocate a change in the government. But they have chosen to do so through violence, deceit, stealth, murder, lies, distortions, armed revolt, and a multitude of similar approaches to forced change which is abhorrent to any democratic government on the face of the Earth—including our own. And the most distressing of all is the fact that it is these people who the Congress has chosen to believe in our misguided and erroneous action to cut off aid to Nicaragua, our closest Latin ally.

THE FACTS ON HUMAN RIGHTS IN NICARAGUA

The facts of current conditions in Nicaragua must be looked at in light of an atrocity perpetrated by Communist terrorists in Nicaragua during Christmas week in 1974. This event shocked almost all civilized people—except of course those who would destroy United States-Nicaragua relations.

I point out that since the 1974 atrocity, a "state of seige" has been imposed which is within the constitutional provisions—article 195—of Nicaragua. This means that certain preliminary due process constitutional guarantees have been temporarily suspended. This has meant that detention—which is loosely similar to our grand jury investigations and oddly enough adopted and based on procedures established by the U.S. Armed Forces—has been extended for some periods. But once the accused is charged publicly, he is afforded all of the rights of due process.

Let me briefly explain the reasons for these minimal and temporary losses of due process. The Government of Nicaragua, and in turn the United States, was severely jolted by a terrorist attack on December 27, 1974.

A private party of Nicaraguans were giving a farewell dinner for the then American Ambassador. Subsequent to his leaving the home of the host, the former minister of agriculture, with three protective aides, the premises were invaded by more than a dozen FSLN thugs with machine guns, carbines, and pistols. They terrorized 30 guests and attendants, shot and killed three guards and the host, Mr. Castillo. Taking hostages, these criminals made four demands on President Somoza: First, the release of 14 convicted criminals who also happened to be members of the FSLN; second, a sizable ransom now known to be $1 million; third, the broadcast and publishing of their "manifesto"; and fourth, safe passage to Cuba. President Somoza, to save lives, submitted to all of these demands and arranged the terrorists' passage while substituting as hostages for the innocent, the Archbishop of Managua Monsignor Miguel Obando y Bravo and the Ambassadors of Spain and Mexico, Jose Garcia-Banon and Joaquin Mercado.

Here are four killings—that are a matter of record—by a political terrorist group supported by Fidel Castro—that is also a matter of record. There have been no deaths in this vein that can be found perpetrated by the Government of Nicaragua.

The enemies of United States-Nicaragua relations shed crocodile tears over alleged and unproven abuses, yet ignore such an atrocity.

Where is their lament for the innocent dead in this case?

Aside from this incident, let me make one final comment on the meaning of this case. The FSLN activitists travel back and forth to Cuba where they receive ideological and paramilitary training, which is proof Cuba is giving moral and indirect support to a revolutionary organization. There would even be financial and weapons support by Castro if, in the words of our intelligence people, the "FSLN mounted an effective campaign" against Nicaragua. We know that Castro entertains a special hostility toward President Somoza and Nicaragua. President Somoza is acutely aware of this and is being forced to take what I consider minimum steps to protect his country.

His concern over Cuban intervention is, in my judgment, not exaggerated.

The Castro regime has taken dead aim at Nicaragua since 1962 and is bent on turning it from a strong U.S. ally into a pro-Communist satellite in the Caribbean. I am joined in this assessment by our intelligence people who state, and I quote from our people on the scene, that our "country Nicaragua team is unanimous in believing that possibility is genuine."

And so, the Government of Nicaragua, in protecting its country from subversion by the Communists have made it possible for the Communists to harp on these protective measures as "abuses". In the words of our State Department:

"The anti-guerrilla campaign has generated numerous "stories" of repression and abuse against the rural population by the national guard. Most of these appear to have been exaggerated or unfounded, however, and a concerted pattern of strong repression by the government has not emerged so far."

And this is why we have, incredibly, punished our strongest ally in Latin America. We have listened to "stories" that are based on hearsay, unfounded and put forth by persons who are enemies of the Government of Nicaragua—and the United States. One day of hearings were held for witnesses in support of the Government of Nicaragua. They were protesting the lies perpetrated by anti-Government witnesses on April 5, 1977, before a House committee. I would quote here the testimony of an American businessman with extensive experience in Nicaragua and with the areas where the alleged atrocities took place. He testified:

"EXCERPT FROM A STATEMENT BY RAYMOND MOLINA, VICE PRESIDENT OF LATIN AMERICA AFFAIRS, PETERSEN ENTERPRISES, INC., ORLANDO, FLA.

"I would like to express my appreciation to the honorable chairman and members of this distinguished Subcommittee on Foreign Operations of the House Appropriations Committee for the opportunity to submit this written statement relative to the hearing which took place on Nicaragua on April 5, 1977.

"My name is Raymond Molina and I am Vice President of Latin American affairs of Petersen Enterprises, Inc. of Orlando, Florida.

* * * * *

"As regards Nicaragua, I feel the hearing overlooked many aspects which are enormously important. As an American businessman with many years of residence in Nicaragua, I have traveled all over the country in the course of my business which is directly involved in helping with the development of the country's human resources through vocational training. I have personally visited those areas mentioned in this hearing where human rights violations are supposed to have taken place and I know the mood of the people. I am, therefore, a first-hand witness of conditions in the country and my personal experience and findings are not at all in accord with the testimonies I heard from those basing their allegations on second and third party testimonies.

"Nicaragua enjoys every known freedom including the freedom of worship, travel, political suffrage, work, ownership of property and all others. As a businessman, I know there is a valid free enterprise system in the country. The only restraint of freedom is confined to those persons who through acts of lawlessness, transgress the freedoms and rights of others under the law.

* * * * *

"I am not saying that there have not been any violations of human rights in Nicaragua. Even we, in the United States, do not have an unblemished record in this area either today or in the past. But it is entirely wrong to exaggerate conditions in Nicaragua. Some of the statements made by the church and other sources which I heard at the hearing were grossly misquoted or misrepresented by other witnesses.

* * * * *

"A case in point is the almost obsessive rashness to rely on press reports. In one glaring case, used frequently in the hearing, great reliance and believability was placed in a pastoral letter by Nicaraguan bishops which was said to have made reference to a purported massacre of 44 men, women and children in the village of Varilla. This is entirely false. A simple reading of this pastoral letter will show the church made no reference to this purported incident, which has since been unequivocally denied by the Nicaraguan Government."

Mr. Speaker, the facts regarding the charges that there is absolute supression of political expression and the functioning of all democratic processes in Nicaragua and that there have been terrorist activities on the part of the national guard are as follows: Our intelligence evaluation and my own personal knowledge based on frequent visits to Nicaragua indicate conditions regarding the above were excellent until the outrage of Christmas week 1974. Official documents from our State Department indicate the situation regarding political expression was "good," and our intelligence sources indicate that the "Government of Nicaragua performance in this field is substantially better" than anti-Nicaraguan propagandists and detractors would have the world believe. In terms of freedom of expression, since December of 1974 there has been a silencing of La Prensa and its guiding light, the upper class terrorist Pedro Joaquin Chamorro whom the Washington Office on Latin America promoted as the witness to testify before the Congress on conditions in Nicaragua. This firebrand whom our own State Department and others claim has been allowed to "run amuck" and "run wild" with the press—La Presna—since 1948 is a living testament to the freedom of political expression during 27 erratic years in the newspaper business in Nicaragua. To return to the charge of "suppression of political expression" our U.S. in-country team in Nicaragua states "freedom of expression exists—in Nicaragua—and is utilized fully in private and public meetings."

The facts regarding the allegations that there are wholesale violations of human rights in Nicaragua are totally false. While there may be isolated instances of such violations—as can be found in even the most advanced of societies—the U.S. team, including the State Department, have found not a shred of evidence to support such charges. To the contrary, they have found no "consistent pattern of gross abuse of human rights," and certainly no Government policy advocating such abuse and nothing that would remotely put Nicaragua in violation of 502(b) of the Foreign Assistance Act.

I quote a document supplied to me by the State Department entitled "Human Rights Report—Nicaragua".

III. Official attitudes toward and actual observance of internationally recognized human rights and freedoms.

"A. Integrity of the person.

"It has been widely alleged in Nicaragua during the past year that the national guard has restored to arbitrary arrest and physical abuse of detainees on a large scale in its efforts to uncover and disrupt the Sandinista organization. The available evidence indicates that several thousand persons have been questioned by the guard, and an undetermined number of these may have been subjected to a degree of physical and psychological harassment. A smaller number of suspects have also been detained for up to 8 weeks during the investigation, and a relatively few cases have been referred to a military court for trial on charges of terrorism. Most of these detained in the anti-Sandinista campaign have been released and all detainees have been accounted for. Less frequent allegations have also been noted of more methodial physical abuse and torture in a few cases. Such extreme violations, however, appear to reflect isolated lapses rather than any official policy to employ such methods systematically. No cases of unlawful killing have been documented.

"With the exception of the anti-guerrilla campaign, the Nicaraguan Government has been relatively conscientious in respecting personal rights in this category, even under the state of siege. A few cases were reported druing the previous decade of arbitrary arrest and prolonged detention without charges, all involving members of the Nicaraguan Socialist Party, a Soviet-support Communist organization. Prior to the Sandinista attack in 1974, the Nicaraguan judiciary had developed a fairly good reputation for independence and integrity.

"B. Other important freedoms.

"Strict media censorship is the single major violation of other human freedoms imposed under the state of siege. The opposition press had been permitted a free rein for many years prior to 1975. Freedom of movement, religion, assembly, and association have been generally respected also. The Government has permitted the UDEL opposition movement to conduct organizational activities and large rallies with no more than sporadic, low-level harassment. Political exiles have been permitted to return and live normally so long as they abstain from covert political activity against the regime. Prominent opposition figures have occasionally been harassed or restricted in their efforts to travel abroad, and 27 members of UDEL had their civil rights suspended for six months in 1974 for having advocated abstention in that year's presidential election. Such advocacy is prohibited by the constitution. No violations or religious freedoms have been reported. Active trade union movements not controlled by the Government have been suojected to occasional harassment by security officials and the labor ministry.

"Another State Department analysis supplied to me states:

"'While constitutional guarantees have technically been suspended, daily life and most institutions have continued with only limited disruption.'"

Mr. Speaker, the charge of the WOLA, that is the most vicious, is that in Nicaragua:

"In spite of many years of repression, strong and potentially viable political coalitions survive, and continue to strive for meaningful democratic expression . . . but are robbed at the polls . . . and in these efforts political leaders daily face death, torture, 'disappearance' . . . and the threat of exile."

The facts according to our own intelligence sources are that the political opponents of the Government of Nicaragua according to the U.S. Government's own evaluation "remain relatively ineffective and without a wide, solid popular base." Even though they organized a murderously successful criminal act in December 1974, the FSLN cannot do on the large scale what they achieved on the small. For example, our intelligence tells me the FSLN was promised financial aid and an armed action campaign by Castro if they could get their act together, but they are so disorganized they could not achieve any effective campaign.

As to the allegations of political prisoners, torture, "disappearance" and the threat of exile, our intelligence sources can confirm—

No political prisoners;
No executions;
No torture, and
No disappearances.

The so-called disappearances refer to certain suspected terrorists detained for interrogation such as the 13 members of the December terror squad who were arrested. But there is no record within the U.S. Government of anyone permanently disappearing from the streets of Managua or anywhere else in the country.

President Somoza, according to our analysts, "takes great pride in the fact" that there are no political prisoners in Nicaragua, and the State Department, based on our intelligence reports, confirmed to me that an impressive and virtually ironclad case can be made to substantiate this.

In addition to the refutation of charges of human rights violations by Raymond Molina, other reputable citizens of Nicaragua claimed the testimony of Bill Brown's WOLA group was untrue. In terms of due process, torture, ill-treatment, disappearances, political activity and religious freedom. I quote excerpts from the testimony of people who should know—the people of Nicaragua.

Dr. Aristidis Somarriba, lawyer, testified:

"At all times, prisoners investigated by the military tribunals have enjoyed all the rights of due process of law. In accordance with Nicaraguan law, as in the case with other Latin American courts whose legal tradition goes back to Roman law, fugitives are cited and if they do not present themselves, a defense attorney is appointed for them. Consequently, no law or right has been violated as was stated at these hearings on April 5 by William Brown.

"Reference also was made at that hearing to Miss Liana Benavides, a Costa Rican national. It is natural that congressmen of the Costa Rican Assembly should take an interest in her case, but there has been no evidence whatsoever that she was tortured or ill-treated in any way. During her detention she was visited by members of her family, high officials of the Costa Rican Government and the International Red Cross, whose statements support what I have just said."

Prof. Gustavo Wilson, director, Colegio Bautista, testified:

"Those of us who, however, modestly, are spiritual leaders of the Evangelical Protestant tradition, are deeply concerned over any form of human rights violations. However, it is important that we should not be mislead by oversimplistic charges of human rights transgressions. All too frequently the charges are not substantiated by any real first-hand evidence.

* * * * *

"Let me be specific: We have heard a great deal about the disappearances of peasants and the arbitrary detention of individuals. On the other hand, no mention has been made of the fact that these disappearances have occurred in rural areas of the country where terrorists are operating with the full support of another country. These terrorists have coerced the peaceful peasantry and have murdered a number of them in cold blood. In addition, this small band has even murdered their own companions.

"These actions—repugnant to any decent person—have been fully documented as part of the legal proceedings taken against the terrorists. They have openly admitted these crimes and accepted full responsibility for them."

Prof. Norberto Herrara, rector, Polytechnic University, testified:

"I would like to stress to this distinguished subcommittee that Nicaragua is a country which has every known freedom. We have the right to work, to travel to worship, and political suffrage. If indeed we have any genuine infringements on our rights, they are to be found among those natural conditions of a growing and developing society which relate to poverty, disease and the lack of knowledge. It is, however, precisely these areas that are the utmost concern to the Government of Nicaragua and where most of the programs being undertaken are being carried out to eliminate these deficiencies."

Mr. Dennis Gallo, businessman, testified:

"Here, before this subcommittee, it has been alleged that the Government of Nicaragua violates human rights. Credence has been given to malicious press reports and testimonies have been heard from persons and institutions which have distorted the image of the Government of Nicaragua. However, no one has come forward to explain that groups of terrorists have brought intranquility to my country and have forced the government to take extraordinary measures to protect the institutions and the internal order within the constitutional order of things."

Mr. William Dona Morice, business administrator fellow, testified:

"Therefore ,when the issue of human rights is discussed in terms of Nicaragua, it should not be forgotten that the conditions which are creating the risk of human rights violations is not only foreign sponsored but the work of a very small minority working outside the law and totally against the wishes of 2.3 million inhabitants. I have traveled all over my country and I found very little evidence of the alleged human rights violations which I have read about in the international press. It has to be a matter of concern to every law-abiding Nicaraguan that the image which is being projected abroad by unrepresentative militant political activists is a completely distorted picture of the real situation within the country.

* * * * *

"In conclusion, I would like to emphasize the importance of understanding the situation of Nicaragua in its proper perspective. The real and permanent solution to any form of human rights violations lies precisely along the road which the government is currently following and which is based on respect by all of our constitutional laws and the implementation of programs designed to raise the quality of life of even the most humble Nicaraguan."

Twenty-eight Catholic priests testified:

"Statement by Catholic Priests in Nicaragua (Translation)

"In common accord we state that in Nicaragua there is ample and unrestricted freedom of worship; that the Catholic Church has been able as we can vouch for, to carry out its Apostolic message in all freedom and even more so with the efficient support of the State. Relations between the Catholic Church and the State have always been broad and understanding and full of profound respect and sincere appreciation towards the Church and its ministers.

"We also state that for some time the Church has been working in the country among the peasants and lowest income sectors of the cities, with freedom and help of the authorities.

"Signed:

"Leon Pallais G., Jacobo Ortegaray, Monsenor Francisco Aranda, Fray, Domingo Del P. Fernandez, Pbro. Jose Carlos Jiron B., Monsenor Victor Manuel De Jesus Soto Gutterrz, Pbro. Donaldo Garcia, Monsenor Roberto Belamatamoros, Fray Rafael Herranz, Carlos Caballero S.J., Monsenor Noel Agusto Buitraga B., Canonigo Jose Del Carmen Quintana, Presbitero Pedro Gonzalez R., Presbitero Santiago Perez Davila.

"Etanislao Zabala, Monsenor Noel Buitrago B., Pbro Jose F. Gomez S., Monsenor Jose Suazo R., Pbro Benito Pititto L., Monsenor Miguel A. Guevara B., Fray Jesus Abad R., Monsenor Felix A. Andino C., Monsenor Juan B., Fray Juan Jose Uroz, P. Barnardino Formiconi, Canonigo Agustin Hernandez Bornos, Canonigo Francisco Salazar Aguado, Presbitero Haroldo Machado S."

RELATIONS BETWEEN UNITED STATES AND NICARAGUA

Mr. Speaker, I can best sum up United States-Nicaragua relationship by citing our long history of friendship, mutual support and defense, and trade.

I urge Members to look at the facts as they exist, and not at fabrications by those who would destroy an ally.

We have a strong friend in Nicaragua in a part of the world where we desparately need them.

Uncritical acceptance of unjust accusations and their dissemination would constitute not only a denigration of the U.S. Congress, but an injustice of great magnitude and inestimable harm to a country, a people, and a government that are a strong friend to the United States.

Again, referring to the State Department assessment of our relations I quote:

"U.S. Relationship and U.S. Interests

"Relations with the U.S. have traditionally been cooperative and friendly. There are no bilateral issues in dispute. Nicaragua tends to support U.S. positions in international FORA and to follow our lead on significant issues. Our own interest in Nicaragua focuses on our desire to retain this support and to assist the Government of Nicaragua in its program of reconstruction and rural development. U.S. investment in the country is in the vicinity of $75 million."

The strong identity of the United States with Nicaragua is characterized in a State Department report on political issues.

"Nicaraguan foreign policy stresses the maintenance of the closest possible ties with the United States. Nicaragua voted with the U.S. in the last U.N. General Assembly on the anti-Zionism resolution, on Korea, and on the decolonization resolutions. The GON is increasingly nervous about a potential threat from Cuba, particularly after Angola, and this reinforced the impulse to identify with the U.S."

Mr. Speaker, I ask Members to look at the support Nicaragua has given us in the United Nations—especially when compared to Communist-dominated Costa Rica. A partial listing of the vital issues in which that nation supported us will give an indication of the kind of courage this government of only 2.3 million people has.

First. Terrorism: Nicaragua has always supported and worked hand in hand with the United States in the common cause against international terrorism and has opposed the Soviet bloc on this issue.

Second. The expulsion of Nationalist China: Nicaragua was the only Latin American country that supported the position of the United States to avoid the expulsion of China from the United Nations. Costa Rica refused to support the United States.

Third. Israel: When the United States asks Nicaragua to speak in defense of an Israel position in the United Nations—and it is usually by request of the U.S. mission—the Nicaraguan delegation has supported Israel's position. During the last year in the General Assembly, on a vote on a draft resolution against Israel, Nicaragua joined with the United States in support of Israel's position.

Fourth. Disarmament: At the request of the U.S. delegation, Nicaragua has taken the floor and argued against the U.S.S.R. and for the American position on disarmament.

Fifth. South Korea: At the request of the United States—Nicaragua co-sponsored the U.S.-backed Korean peace plan.

Sixth. Puerto Rico: Whenever Cuba has presented draft resolutions in different committees and the General Assembly calling for Puerto Rican independence, Nicaragua has supported the United States.

Seventh. Cuba: Whenever the Cuban delegation has insulted the U.S. Government and/or their President, for example, Eisenhower, Kennedy, Nixon, Nicaragua has taken the door in defense of the United States and its several administrations.

Eighth. In the Security Council, Nicaragua has consistently supported the different motions presented by the United States.

Ninth. Nicaragua was one of two Latin American countries that supported the U.S. military base in Iceland. Costa Rica voted against it.

Tenth. Cuba: Nicaragua voted with the United States against lifting the O.A.S. ban on Cuba. Costa Rica was in favor.

On a historical note, Nicaragua was the second country to declare war on the Axis countries in World War II and was the first Latin American country to give the United States rubber and raw materials for the war effort. Nicaragua was the No. 1 exporter of rubber to the United States in World War II.

Testimony by the State Department as recently as April 1977 indicated an increasing concern on the part of the State Department based mainly on allegations contained in articles in the New York Times and Time magazine and a pastoral letter issued by Nicaraguan bishops in early February. These reports appear, again, to be based mainly on hearsay and have been proven to be unfounded or not credible. Allegations of misuse of aid funds, another favorite charge of anti-Nicaraguan groups—but in this case more subject to verification—proved to be totally unfounded. I am sure that in the long term the allegations of ill-treatment will also prove to be—in the main—propaganda.

Mr. Speaker, the fact of the matter is that the Carter administration—which certainly cannot be faulted for its high standards in the international area in terms of human rights—has requested that Nicaragua not be retaliated against or punished by the Congress through the withholding of these foreign assistance funds. I would hope that the Congress would act as responsibly toward a government that has been our friend and ally and which should continue to be supported by the U.S. Government which has taken freely of that little country's friendship and support.

Appendix D

[WETA–TV PBS Network, Washington, D.C., Sept. 19, 1978]

The MacNeil/Lehrer Report

INTERVIEW WITH PRESIDENT ANASTASIO SOMOZA

Robert MacNeil. Nicaraguan National Guardsmen appeard today to be preparing a final assault to wipe out the guerrilla forces attempting to overthrow the Somoza regime. One-by-one, cities occupied earlier this month by opposition forces have fallen in the past week to the 7500-man force controlled by the 52-year-old General and President. The cities of Masaya, Leon, and Chinandega fell in heavy fighting in which the Somoza forces attacked with artillery and aircraft.

Today, according to the Associated Press, the town of Esteli remains the last rebel stronghold. And Somoza troops have flown north of the city, to the town of Somoto, in a flanking movement for an attack.

But even if he defeats this latest uprising, can General Somoza survive the growing opposition from inside and outside Nicaragua? In a few moments, we'll hear his views.

Jim Lehrer. Robin, the roots of the unrest in Nicaragua are deep and go back many stormy months and years. But the current fighting began just 10 days ago. It followed the successful takeover of the National Palace on August 22nd by leftist Sandinista guerrillas. The guerrillas held 1500 people hostage, releasing them only after getting the release of 59 political prisoners, $500,000 in cash, and safe passage out of the country to Panama.

Apparently heartened by the guerrilla's success, other opponents of the Somoza government called a general strike.

Then came September 9th, and the guerrillas armed attacks on National Guard posts in most major cities. Assisted by sympathizers, the rebels gained control of several cities and towns, most of which, as Robin said, have now been won back by the National Guard.

The Red Cross estimates that at least 500 people have died in the fighting, another 3000 or more wounded. Those are only rough estimates and do not include any casualties suffered by the National Guard.

The guerrillas and their sympathizers, which now include some moderate and conservative businessmen and some members of the Catholic clergy, say their goal is to force President Somoza from office. President Somoza has steadfastly refused to step down. He has also thus far rejected suggestions from the United States and others that the conflict be submitted to mediation.

MacNeil. President Anastasio Somoza, a West Point graduate, is the third member of a family dynasty that has personally ruled Nicaragua since the early '30s. Succeeding his father and elder brother, General Astasio was elected President in 1967 and reelected in 1974 on a constitution of his devising.

Like his predecessors, the General-President draws his power from the National Guard, or army. For years he also enjoyed warm relations and aid from Washington. But on human-rights grounds, the State Department has cooled its enthusiasm for his anti-communism; and military aid has been cut off.

General Somoza, Mr. President, thank you for joining us this evening.

Can you—I've just been quoting American wire service reports. Can you tell us, from your point of view, how much of the country do your forces now control?

President **Anastasio Somoza.** Yes. First let me say this: We have been, for quite some time, harassed by guerrillas outside in the bush. These guerrillas have been backed by Cuba, and therefore we've had to fight them, to the point that last year we practically neutralized them, and we have no more guerrilla in the bush. They've moved into the city.

As of today, Nicaragua is at peace, with the exception of a very small pocket in the city of Esteli. This is the situation of the country.

MacNeil. Are you, in fact, as reported, preparing an attack to remove the guerrillas from that city?

President Somoza. We're not preparing an attack. We're engaged into a cleaning-up operation in the city of Esteli. And I think this afternoon we should finish the last pocket of people who were resisting it.

MacNeil. The fighting was quite heavy, as we understood it, in some of the other cities, like Leon, involving artillery and aircraft. Is the fighting as heavy in Esteli?

President Somoza. Yes, because the insurgents made up barricades which obstructed the foot soldier to go into his areas. Therefore we've had to blast the barricades out of the way of the streets in order for our vehicles and people to penetrate the areas that they control.

MacNeil. I see.

Do you expect the loss of life there to be similar to that reported from the other cities?

President Somoza. I don't think it's going to be as large, because those people had many days for the civilian population to move out of the way, unless the guerrillas have held the civilian population as hostages.

MacNeil. I see.

Can you tell us—we've had no estimate of what losses your forces have suffered. What have they been?

President Somoza. Up to today, we have had 40 dead, between officers and enlisted men, and about 140 wounded.

MacNeil. There are reports, Mr. President, that hundreds, perhaps thousands of Nicaraguans opposed to you are joining the Sandinista guerrillas. Is that true?

President Somoza. If that were true, we would have a very large corps of people out in the forest constituted as a force. There's no such thing. These people who were in the city have evacuated and have moved toward the frontier to get safe haven, either in Honduras or in Costa Rica.

MacNeil. Are you still determined, in view of all the bitterness and the bloodshed of the past two weeks, to remain in power through your full term, which ends in 1981?

President Somoza. It is not a thing of a personal choice; it's a thing of constitutional abidement. Our constitution—which I heard you say that I made it. I'd like to take an exception to that. The constitution of Nicaragua was rewritten in 1973, with the help of the Conservative Party of Nicaragua. Between the Liberal Nationalist Party and the Conservative Party, we make about 95 percent of the Nicaraguan opinion. So the constitution is not of my making; it's the making of both of the largest parties there are in Nicaragua.

So, what I am doing, and I am telling the Nicaraguans, is that I will serve out my term because the country needs some time to organize itself to go to the election, it needs also to debate the electoral law, and it needs many things that have to be put in objective for the next election, for me to hand the presidency to an organized group of people who might win the election.

MacNeil. Does it occur to you that if you remain to fill out your term, that, in view of all the fighting, that you may have to hold power simply by force for the remainder of that term?

President Somoza. Well, this is a good question, but I don't think so. The Nicaraguan people are a peaceful people, and this incident has shown that the great majority have not wanted to take part in this insurrection, and especially all the people who live out in the farmland. All the farming people are at peace. There has been no sign whatsoever of rebellion. It's been exclusive cities, that they have been worked up by the opposition and the guerrillas, with a very limited number of people who have had—who had the guns in their hand.

MacNeil. Thank you.

Lehrer. Mr. President, the Organization of American States, the OAS, has called a foreign ministers meeting for Thursday, as I'm sure you know, to discuss the proposal for meditating the dispute in your country. Would you agree to OAS mediation?

President Somoza. Nicaragua is a member of the Organization of American States. Therefore, we are bound to take the decisions of such a supranational body in the way that it can be helpful to Nicaragua. I don't think mediation is contemplated within the Organization of American States.

Lehrer. What is contemplated? Do you know, Mr. President?

President Somoza. The OAS has contemplated to settle disputes between states. It is not contemplated to settle disputes within a state, because then we would have this suprastate interfering into the internal affairs of anyone whenever there was any kind of strife. Say, like in the 1960s, you had strife in the cities in the United States. The OAS could have gotten together to intervene into your internal affairs.

So, it's a very touch and delicate situation.

Lehrer. I take it, then, by your answer, Mr. President, what you're saying is that you would not agree to an OAS proposal for mediation. Is that correct?

President Somoza. I would not be the first Latin President to accept intervention from a supranatural—from a supranatural [sic] orgainzation. I would not be the first one to agree to that. Because it's a terrible precedence, in the face of the history of interventions in the Americas.

Lehrer. What about the mediation of an individual country—say, Mexico, which has been suggested by some. Would you agree to that, Sir?

President Somoza. One has to accept mediation when you are dealing with equals. Here, the state is dealing with his opposition. This is not a court of law. This is a constitutional, elective government that has to deal with subversive people. And therefore we're not dealing with another state.

Lehrer. So, in other words, you will not agree to mediation by any third party. Is that correct? Is that the way I read you, Sir, correct?

President Somoza. In the past, when we've had differences in Nicaragua, we have had people to be the intermediary and more or less the mediator between factions. But they are Nicaraguans; they were not foreigners. In the history of Nicaragua, I have the reputation of dealing and talking with the opposition, and then arriving at a solution that has made bearable for them and live bearable for the people that I represent.

So, we are not against any kind of a bridge or any kind of a good, shall we say, fellow who can put us together. We're not against that. We are against a mediator, because a mediator pretends the power to put any of the parts in its place by force. So, we are not allowing any force to come into Nicaragua. We do things here on the goodwill that we all have to keep the peace and the welfare of the Nicaraguans.

Lehrer. Are attempts being made now, Mr. President, to form that bridge between you and those opposed to you, within the country?

President Somoza. I think so. And since the day of the rebellion, in the past, I've talked my face blue to tell the opposition that we should discuss this. But, apparently, they had this rebellion in hand. They were deadly sure that they would defeat me, so they never wanted to talk with me.

Lehrer. Yes.

The reports we get here in the United States, Mr. President, from the opposition says that they do not want to talk as long as you're the President. Is that what you have been told, as well?

President Somoza. That is correct. They are afraid to talk with me, probably because I have been an able negotiator in the past.

Lehrer. The United States has officially urged you to agree to mediation. Is that correct?

President Somoza. They have told me that it would be a good idea to have a ceasefire in order to let the people leave the communities. I have heard them, and we've been contemplating that. It takes a little time for us to make up our mind.

Lehrer. Let me make sure I understand. The United States has asked for a cease—asked for a ceasefire—is that right?—and then mediation; and you are contemplating the ceasefire aspect. Is that correct?

President Somoza. Yes. I have not been told in writing anything of what you said. It's been verbally suggested that there be a ceasefire to give the people a chance to get out of affected areas. And I have said I've listened to them and I'm going to answer them.

Lehrer. And this information was transmitted to you verbally by an official of the United States Government?

President Somoza. Yes, by the Ambassador.

Lehrer. I see.

MacNeil. Mr. President, does the fact that you are, as you put it, doing a mopping-up operation in Esteli mean that you've decided to complete removing the guerrillas, or the rebels, from the cities before you contemplate a ceasefire?

President Somoza. No. It was a situation that we were already in the stage of removing them when we were asked to contemplate a ceasefire, which would put my people in a disadvantage.

MacNeil. I see. So, in other words, you will complete the removing of the rebels before you contemplate a ceasefire. Is that it?

President Somoza. There wouldn't be any ceasefire necessary.

MacNeil. There would be a de facto ceasefire.

President Somoza. That's right.

MacNeil. Do you feel abandoned by the United States now, Mr. President? They used . . .

President Somoza. No.

MacNeil. No?

President Somoza. No, I don't. On the contrary. The United States has always been a country that has looked for the good auspices of the Nicaraguans, whether they are Somozistas or not. However, the Administration has taken different attitudes, which people take as being adverse to my government. It might be. But I also have a lot of friends in the United States, within and outside of the Administration.

MacNeil. You were quoted in an American newspaper interview recently as saying that U.S., recent U.S. policy had triggered the current wave of violence. How did you mean that?

President Somoza. I have stated time and time ago [sic] that the human-rights policy of this Administration has given the opposition in many countries the idea that they can overthrow the governments by force. And the Nicaraguans, very sorry for me to say, were elated by this policy, and they took on to make public demonstrations in the street, provoke the authority, and finally deliver an armed attack against my government, things that have been very difficult for me because we've been at this for months, with a great deal of temperance and a great deal of patience.

MacNeil. Does that mean you hold President Carter responsible for your present troubles?

President Somoza. Not entirely, and I wouldn't even hold him responsible. We're all responsible people in this. We have opposition. We recognize that.

But since the Nicaraguans have been so close to the United States, it means a great deal, of the attitudes of the Administration. Let's not get away from that. All of the Nicaraguans—the great majority are friends of the United States.

MacNeil. I see.

Where are you getting arms and military assistance from, now, Mr. President, that American military aid has been cut off?

President Somoza. The United States' supplying of arms was not really supplying any arms for us. They were credits given for us to buy armaments in the United States. So, since President Carter took office, the export of arms was cut off to Nicaragua. So, since then, we have purchased our arms in the worldwide market.

MacNeil. Who are your principal suppliers?

President Somoza. I'd rather not say.

MacNeil. I see.

There are also reports that some American citizens have been recruited to support your National Guard effort. Is that correct?

President Somoza. Partially. We have three people who were teaching karate to our recruits, and that's all we have as recruited people. We have not recruited any other people.

MacNeil. I see. Thank you.

Lehrer. Mr. President, news reports say that the fighting has slowly but surely destroyed many of the towns, villages, and cities of your country. How extensive is the damage?

President Somoza. Let me explain. In the city of Masaya, Leon, Chinandega, and Esteli, the insurgents closed into the police precincts, took some of them over, and finally came to the headquarters of the police. Then they held these headquarters at bay for one, two, three, four, five days and up to now. During that time, the insurgents decided to burn the establishment of the poor people in the market. And after that, they called the people to loot it. So, in the process of burning the markets or those places and looting the merchants' place, they have caused a tremendous amount of destruction, a destruction that I think you are aware of if you take, as an example, the Stuyvesant area of New York and the Bronx after the blackout. You didn't fire one shell, and the destruction was there. I remember seeing the photographs. Something similar like that.

In order for us to establish order into the city, we've had to fire into the barricades to open up the barricade and also to neutralize individual snipers. We have not caused the destruction that you would see in a World War II bombing, because we don't have that many bombs and the towns have not been subject to, perhaps, 50 or 60 shots from small, 37-millimeter cannons.

But the destruction was done by the fact that these people burned the marketplace and then looted and burnt the small merchant's places around the marketplace.

Lehrer. One of the news, American news magazines came out today and suggested that in the process of controlling the insurgency, that the country is on the verge of being destroyed; and when it's all over, you may have very little to govern.

Is there any possibility of that? Is the damage that extensive?

President Somoza. Absolutely not. The damage is only limited to the places where the small merchants sell their fruits and the small merchants sell wares. The rest of the infrastructure of the country is in complete sustainment.

Lehrer. There have also been reports, Mr. President, including some eyewitness accounts by U.S. reporters, of government troops killing innocent civilians. The Catholic Church issued a statement saying that there had been indiscriminate machinegunning of civilians. There also have been charges of the National Guard rounding up teenagers by indiscriminate means.

Have you—are these charges true? Are you investigating them? Or what is your feeling about them?

President Somoza. In any civil strife, in any country, when the lines are not drawn and you have to go after insurgents, some people get hurt without cause.

As far as recruiting, we don't recruit anybody in Nicaragua, because there's no draft here. The National Guard is composed of voluntary service. So that is a lie.

Lehrer. Well, I mis—I spoke incorrectly. I didn't mean to imply that. That they were rounding up teenagers, thinking that they might be insurgents, not that they were rounding them up to put them in the National Guard. I'm sorry. I didn't mean that.

President Somoza. Yeah. But, no, we haven't done that. We don't have a massive-arrest policy.

Lehrer. Are you satisfied that your troops are conducting themselves properly, under the circumstances?

President Somoza. Yes.

MacNeil. Mr. President, you've repeatedly accused your opposition of being Marxist- or Communist-inspired. I wonder how you maintain that when so many leaders of the Roman Catholic Church and business leaders in Nicaragua and wealthy Nicaraguan families now demand your resignation and have joined forces with the opposition, at least in spirit.

President Somoza. I would qualify them as democratic opposition.

MacNeil. And to what extent do you still maintain that the people fighting you are Communist-inspired?

President Somoza. To the extent of the organization that they have. You see, the right and the left have made an alliance here; and the left is the one that has the organization and the guts to fight.

MacNeil. Does that not send you a message, that the right and left have combined against you?

President Somoza. Surely. So we do have a Liberal Party who has a right and a left, too.

MacNeil. I saw the Secretary of the National Institute of Development in Nicaragua, Mr. Bayez (?), quoted as saying that you, President Somoza, yourself foment Communism by merely remaining in power.

What is your comment on that?

President Somoza. I think that's a pretty good cliche for a young man like him to say that. If he knew how much I and my administration have done to upraise the standard of living of the poor Nicaraguans, he certainly would retract.

MacNeil. Other people have wondered whether the longer you remain in power, in the face of this seeming increasing opposition, the more likely any successor to you will be—would have to be very radical. In other words, the longer you stay, the more radical the successor.

What is your comment on that? Along the Cuban model, in other words.

President Somoza. Well, there are two possibilities in Nicaragua. One is that I hand over the government to a duly elected man, whether he be pro-Somoza or against Somoza, on the basis of my democratic ideals. And the other one would be if I chickened out and ran out and left a power vacuum in the face of an opposition that has no leadership, it has no organization, and certainly has no control over its forces. For if I were the leader of this coup and I had control of the forces, I would certainly have told my people to start fighting because this is a lost cause. On the contrary. They have left these people fight without any instructions or without any guidance from the leadership of the opposition.

Now, can you imagine a country left without any leadership, in the hands of an army without a leader? It will be chaos.

I have a moral responsibility to all the people who follow me, and even the people who adverse me. That is why I'm sticking around here until we can devise an election and hand over the power to the man who wins.

MacNeil. If that could be devised before 1981, would you agree to it?

President Somoza. If you can find a way to reform the constitution without violating it, I would.

MacNeil. All right. Thank you, Sir.

Lehrer. How are you holding up personally through all of this, Mr. President?

President Somoza. I would say that I've been very preoccupied. I've had a lot of worries and sleepless nights. But, thank goodness to the program that I have had after my heart attack, I feel very well.

Lehrer. I understand that you spend most of your time in a well-guarded headquarters building within the National Guard compound. Is that correct?

President Somoza. If you want to call the presidential office the well-guarded headquarters, yes.

Lehrer. I see. I see.

Do you feel free to move around within the country now, or you've just got a lot to do right there in your office?

President Somoza. As a matter of fact, two days ago I went out to the airport to take a look at all of Nicaragua by air. I made an air inspection of Leon, Chinandega, and Esteli. I came back. I've gone around the city. I have no inhibitions to go outside of my office.

Lehrer. Looking back to 11 years ago, when you became President, General Somoza, what were your hopes and goals then for your country? What did you want to accomplish? And what do you feel—where do you feel you are now, 11 years later?

President Somoza. What I wanted to accomplish was to raise the standard of living of the small people in Nicaragua. I have done partly that, and I have left the institutional organizations of Nicaragua for these people to obtain their better standard of living. I have made political progress by making laws which give the opposition parties the right to political defention [sic], because we had a very powerful Liberal Party that was like a steamroller. And Nicaragua needs political defention against this powerful party because we need the opposition to be defended.

I am now running this country because of the earthquake. I had no idea to run in 1974, but there was no one capable—or no one out in the forefront with enough popular backing to run in 1974, so I ran again.

Lehrer. All right. I have to leave it there.

Thank you, Mr. President.

MacNeil. Thank you very much, Mr. President.

Appendix E

Invasions and Acts of Murder and Terrorism by FSLN

With the coming to power in 1959 of the Castro regime in Cuba, Nicaragua has been subjected to a continuous campaign of subversion by Cuban-trained and sponsored terrorists.

The training in guerrilla warfare, weapons and subversion, financial support and sanctuary given these terrorists by Castro Cuba was revealed in the testimonies of the Frente Sandinista de Liberacion Nacional (FSLN) terrorists at their open trial which ended on February 25, 1977.

Following is a chronology of earlier invasion attempts, a partial listing of acts of terrorism which resulted in the murder of innocent citizens and others.

These crimes were confessed to by the terrorists and described by self-confessed murderer and terrorist, Tomas Borge Martinez, as "acts of war" and "acts of economic recovery."

MAY 1959

The invasion of Olama y Mollejones takes place led by Dr. Pedro Joaquin Chamorro, following a visit to Cuba to seek the support of Fidel Castro. Despite his direct involvement in this invasion attempt and in subsequent subversion and illegal political acts against the constitutional governments of Nicaragua, Dr. Chamorro continues today to enjoy all the rights and freedoms accorded every citizen under existing laws.

JUNE 24, 1959

"El Grupo del Chaparral" made up of Cubans and Nicaraguans invade the country, suffering 7 dead and 17 wounded. The remaining 27 give themselves up to the Honduran authorities.

OCTOBER 20, 1959

Mr. Jack Kishner, American citizen, is kidnapped by the "El Chaparral" group in Susucayan, Department of Segovia. The group is made up of Cuban mercenaries and other nationalities, led by Julio Alonso Leclair.

In a confrontation with the Nicaraguan Guardia Nacional, Gregorio Iglesias (Cuban) and another individual only known as "El Mejicano" (the Mexican) are killed. Also killed are Salvador Castro (Salvadorean) and Jose Santos Rodriguez (Honduran). Cuban Lorenzo Puncet Vincet is wounded but escapes. Three other Cubans, Ricardo Mendoza Bello, Sergio Martinez Montepiere and Alberto Blanco Gomariz, the latter a captain in Fidel Castro's armed forces, are captured. Cuban Omar Fernandez is also known to have participated in the action.

DECEMBER 1959

A subversive group under the leadership of Indalecio Pastora is trained and prepared for the invasion of Nicaragua from Costa Rican territory. The group operates out of three camps located at Orosi, Rio Colon and La Mecha. The plan is sponsored by Enrique Lacayo Farfan and the reknown communist Edelberto Torres. The group is broken up by the Costa Rican National Guard.

JANUARY 1960

The "Juventud Patriotica Nicaraguense" is created forerunner of the Frente Nacional de Liberacion Nacional (FSLN), under the sponsorship of Quintin Pino Machado, Cuban Ambassador to Nicaragua, Pino Machado is subsequently declared persona non grata and recalled to Havana.

JANUARY 4, 1960

A group under the leadership of Heriberto Reyes, former lieutenant of rebel Augusto Sandino, enters Nicaragua from Honduras. The foray fails and the Nicaraguan Guardia Nacional captures Carlos Castro Desayes and Julio Peralta Sanabria out of the fourteen terrorists taking part, among who are Cubans and Venezuelans. In their flight, the terrorists kill two farmers, brothers, and Sr. José Rafael Quinones.

1960

The "Frente Unitario Nicaraguense" is founded in Venezuela with military materiel and economic help from Cuba. Training includes the use of arms, explosives and guerrilla warfare tactics.

FEBRUARY 25, 1960

A group of mercenaries led by Alejandro Martinez Saenz entered Nicaragua at El Rosario, region of El Dorado in the north of the country. Forced to flee to Honduras they return to Cuba.

FEBRUARY 5, 1960

Another group under the leadership of Julio Alonso Leclair invades Nicaragua and are killed in action by the Nicaraguan Guardia Nacional.

SEPTEMBER 23, 1960

Banco Nacional de Nicaragua, Oriental bank branch. (Hold-up)

Participating: Jacinto Baca Jerez, Lenin Cerda, Regis Mairena Toruño or René Madariaga.

JUNE 1961

"Nueva Nicaragua" is formed by Carlos Fonseca Amador, German Gaitan Mora and Julio Jerez Suarez which unites all the Socialist organizations in Nicaragua. The new organization sets up and operates through cells in every Department in the country and also opens two training schools for subversion, one in Esteli and the other in "Casa Colorada" in the Department of Managua.

The general plan for "Nueva Nicaragua" has been prepared in Cuba by F.U.N. (Frente Unitario Nicaraguense). Tomás Borge Martínez, Noel Guerrero Santiago, Silvio Mayorga Delgado and Carlos Fonseca Amador are founding members.

Acting as instructors are Denis Barquero Fernandez, Luis Fisher Perez, Modesto Duarte, Rolando Rosales, José Francisco Escorcia Urbina, Bayardo Altamirano and others, all of whom have undergone training in guerrilla warfare and Marxism-Leninism in Cuba for a period of 15 months, at La Cabana (Fifth District) in Havana.

APRIL 13, 1962

Carlos Fonseca Amador travels to Costa Rica (March 1962) to meet with members of F.U.N. (Frente Unificado Nicaraguense) to organize armed operations against border towns. On April 17, the invasion takes place, fails and sixteen members of the invading force are captured.

1962

Honduras is selected by Fidel Castro and "Che" Guevara as the beach-head for the operations of a new group known as Frente de Liberacion Nacional (F.L.N.). This group operated in Honduras for two years.

Later this group reorganizes and becomes the Frente Sandinista de Liberacion Nacional (FSLN) and from 1963 to 1970, its members are sent to Cuba for military training and political indoctrination.

Commencing in 1960, the FSLN carry out a series of killings, bank hold-ups, kidnappings and extortions for profit:

MARCH 20, 1963

Radio Mundial (Hold-up)

Participating: Leopoldo Rivas Alfaro, Alejandro Gutierrez Mayorga, Igor Ubeda Herrera and others.

MAY 31, 1963

Banco de America—El Carmen bank branch. (Hold-up) C$50,000.00

Participating: Sergio Narvaez Guerrero, Augusto Tercero Mora, Jose A. Mora Rivera, Guillermo Mejia Cardenal, Edmundo Narvaez Sanchez, Sergio Gardia Baldelomar, Ernesto Guerrero Montoya and others.

JANUARY 13, 1964

Banco de America—Diriamba bank branch. (Hold-up) C$60,000.00

Participating: José Santos Jarquin Flores, Francisco Rodriguez and others.

SEPTEMBER 24, 1966

Supermarket "La Criolla". (Hold-up)

JANUARY 20, 1967

Banco de America—San Sebastian bank branch. (Hold-up)

MARCH 10, 1967

Sorbeteria Lacmiel—business establishment. (Hold-up)

MAY 19, 1967

Banco Nicaraguense armored truck hold-up outside Fabrica Eskimo (business establishment). Driver Jose Antonio Espinoza Gonzalez is killed.

JUNE 21, 1967

Banco de Londres—Kennedy bank branch. (Hold-up) C$275,000.00

AUGUST 6, 1967

Lecheria "La Perfecta" (business establishment).

Attempted hold-up is impeded. Two guards employed by the business are seriously wounded and terrorist Selin Chibles Sandoval is killed.

OCTOBER 23, 1967

Sergeant Gonzalo Lacayo Murillo. (Murdered outside his home).

Participating: terrorist Jose Benito Escobar and others.

SEPTEMBER 18, 1968

Banco de America—Buenos Aires bank branch. (Hold-up) C$73,000.00

Policeman Pablo Ochoa Polanco is killed.

MAY 22, 1969

Banco de America—Centroamerica bank branch. (Hold-up)

NOVEMBER 4, 1969

Banco Nicaraguense—Leon bank branch. (Hold-up) C$66,000.00.

DECEMBER 17, 1969

Licorera Santa Cecilia—business establishment (hold-up).

JANUARY 9, 1970

Banco Nacional de Nicaragua—Boer bank branch. (Hold-up)

APRIL 2, 1970

Lieutenant Ernesto Abaunza Wilthford—City of Leon. (Murdered)

MAY 13, 1970

Banco Nacional de Nicaragua—La Palmera bank branch. (Attempted hold-up) Policeman Francisco Chavez Trana, wounded. Participating: terrorist Igor Ubeda Herrera is killed.

AUGUST 4, 1970

Alfredo Pellas Chamorro—Business leader and conservative (opposition party). (Attempted kidnapping)

DECEMBER 19, 1972

Neptune Gold Company—U.S. business establishment. (Attempted hold-up)

JUNE 22, 1973

Bananera El Hular—business establishment, Chinandega (Hold-up) Policeman Abelino Maldonado and executive Ing. Carlos Vigil Zeledon were killed.

FEBRUARY 2, 1974

Dr. Gustavo Blandon and wife—town of Jinotega. (Kidnapping and hold-up)

DECEMBER 18, 1974

Banco Nacional de Nicaragua—Hacienda La Sorpresa bank branch—Jinotega (Hold-up) C$41,972.00.

DECEMBER 27, 1974

Dr. Jose Maria Castillo Quant—private residence, Managua. (Murder, kidnapping, robbery and extortion and damage to private property).

Murdered: Dr. José Maria Castillo Quant, Mr. Lazaro Muñiz Tapia and policeman Rolando Espinoza Garcia.

Forty-one hostages, including women and children are taken. Following over 60 hours of negotiations, the 13-man terrorist group gain the release of 14 fellow terrorists from prison, a one million dollar ransom and a plane to fly them to sanctuary in Cuba.

JULY 1975

Commissary at Kuskawas (hold-up).

AUGUST 1975

Commissary at Yaosca, below Sergio Suarez (hold-up).

AUGUST 1975

Commissary at Yaosca, above Cesar Molinares (hold-up).

AUGUST 8, 1975

Radio Corporación—Managua (temporary take-over of radio station). Participating: Tomás Borge Martinez, Edgard Lang Sacasa and Charlot Baltodano.

APPENDIX F

[From the Richmond Times-Dispatch, Sept. 19, 1978]

ON THE REVOLUTIONARY LEFT, A DIFFERENT KIND OF CORRUPTION

(By Patrick J. Buchanan)

WASHINGTON.—As with Chiang Kaishek, President Diem, President Thieu and Lon Nol, the skids are being greased under President Anastasio Somoza of Nicaragua. He will likely become the next of this nation's friends to learn what it means to fall into terminal disfavor with the left.

The moral ground upon which we will stand to justify our desertion is all too familiar: Like all the rest, Somoza's regime is irredeemably "dictatorial and corrupt." Few even raise the question of whether the people of Nicaragua will be better off under the Somozas or under the Sandinista guerrillas who will likely replace them.

Using the same argument, we have deserted one friend after another in 35 years of cold war. The ineviable consequence: A flawed ring-wing authoritarian government is supplanted by a revolutionary regime that steals not a man's purse, but his freedom and his life.

We dumped Chiang and got the roots of madness of Mao's China. We dumped Diem and deserted Thieu, and South Vietnam is now a vast provincial prison camp of Hanoi. Three years after deploring the "corrupt Lon Nol regime" in Cambodia, Sen. George McGovern agonizes publicly over the genocide which the peace movement did so much to bring about, and which it does so little to protest.

This is what one finds so olfactory about the American left. Again and again and again, it beats the drums for formal abandonment of some right-wing dictator and then washes its hands of moral responsibility for the rivers of blood that flow directly from the policies it recommended we pursue.

No wonder the far right, watching one friend after another overthrown and a communist dictatorship rise from the ashes, has come to reject the claim of invincible ignorance—for the charge of conscious conspiracy.

How refute the accusation? How explain why journalists and politicians supposedly sickened over the repressions of Diem and Thieu can be photographed smiling in the presence of Fidel Castro?

The corruption of the authoritarian right is often the corruption of nepotism and graft—corruptions not unknown in the great cities of this country, or even in Congress. But the corruption of communism is of a different magnitude. It is a corruption of the spirit that comes of treating other human beings as objects, chattel.

Remember how we read daily of the censorship of the press in Saigon, the repression of the Buddhists, the corruption of the generals, the "tiger cages." How little we read or hear now of the economic desolation, the eradication of religious, political and press freedom, the nationwide system of concentration camps that pockmark the new Vietnam.

This is no special brief for President Somoza. But his regime's record on human rights is surely superior to that of Fidel Castro. And Nicaragua is not 18th-century New England. There is validity in the observation that bananas and self-government cannot be grown on the same piece of ground.

And for all their faults, the Somozas have been friends of the United States. They did not allow their country to be used for the installation of strategic missiles targeted against American cities. When Kennedy and Eisenhower, in turn, sought secret bases for staging assaults on communist Guatemala and communist Cuba, the Somozas, at risk to themselves, provided those bases.

All the excesses of Nicaragua's national guard are held up to daily inspection by our national press. Yet, the terrorist seizure of the national assembly, the threat to execute in cold blood its captured members are portrayed as bold and daring in the same journals.

Imagine the outrage had Somoza lined up his communist captives and threatened to shoot 10 a day until the Sandinistas turned in their weapons.

The sins of the right are never to be forgiven or forgotten. The atrocities of the left, however, are all washed away in the redeeming blood of the "revolution."

APPENDIX G

CASTRO'S EFFORTS TO DESTABILIZE NICARAGUA

Nicaraguan President Anastasio Somoza is clearly in trouble. Business, church and labor groups have joined in a general strike to oust him from office, while rebel youths have been battling government forces in Matagalpa Province. Hundreds of persons—including members of the military—have been arrested by the government and dozens have died in armed clashes with Somoza's troops.

Somoza may be on his last legs—his family has ruled this Central American country for more than 40 years—but if he topples, the main credit should go to Fidel Castro and his Marxist allies in Nicaragua.

What directly triggered the latest unrest was the August 22 assault on the National Palace by 25 guerrillas of the Sandinist National Liberation Front (FSLN), who held hostage members of the Nicaraguan legislature for 48 hours. After the guerrillas threatened to murder their captives one by one, at half-hour intervals, the government accepted, in modified form, the major demands of the revolutionaries. In exchange for the release of the hostages, Somoza let loose 53 members of the guerrilla movement he had previously imprisoned, paid the invaders $500,000 (they had asked for $10 million) and then allowed his foes safe passage to Panama.

The rebels had planned their attack over a six-month period. Mainly armed with German G–3 submachine guns, they struck at the very time they knew the Chamber of Deputies would be in session to approve a new loan from the United States. As a focal point of opposition to Somoza, the Sandinistas have touched a responsive chord among many Nicaraguans. But the gang who raided the Palace has no intention of expanding democracy and broadening justice, as many Somoza enemies are demanding. Make no mistake: the Sandinistas are Marxist revolutionaries whose favorite politician is Fidel Castro. This revolutionary terrorist outfit would eradicate virtually all forms of democratic dissent.

Whatever Somoza's failings, he allows fierce opposition—including a major opposition party (the Conservatives) and a vigorous anti-Somoza daily, La Prensa, published in Managua, the capital. But the Sandinistas have made it clear that they would crush anyone opposed to their way of thinking.

Indeed, a "communiqué" issued by the Sandinistas after they had seized the Palace laid down the line that business—should it join the battle against Somoza—would be forbidden to impose conditions for his departure and that "all maneuvers to dialogue with Somoza or his representatives" over his leaving would be treated as a crime of "high treason." Somoza's resignation cannot be negotiated, said the communiqué, because he shall be "condemned to die. . . ." In short, the Sandinistas threaten to execute those who may feel compromise with Somoza is on order.

The Marxist nature of these revolutionaries is beyond dispute. On August 29 at the Hay Adams Hotel in Washington, Human Events interviewed the guerrillas' chief hostage, Luis Pallais, who was instructed to relay the various demands of the insurgents to President Somoza.

Vice President of the Chamber of Deputies, editor of the newspaper, Novedades, and a first cousin to the President, Pallais was still showing signs of a slight scalp burn he had received from a grazing bullet when the guerrillas had burst into the Palace with guns blazing. Pallais was presiding over the Chamber of Deputies at the moment they began their assault. "I am convinced," he told us, "that they are complete Marxist fanatics." All the leaders, he said, spoke glowingly about Fidel Castro.

The guerrilla leaders were ranked according to their number, with the lowest number indicating the highest rank. Thus the head of the operation was "Commander Zero," while the second in command was "No. 1," the third "No. 2" and so forth. Commander Zero (Eden Pastora) admitted in talks with Pallais that he favored Marxism and that his main goal was to take over the Army.

No. 1 (Hugo Torrez) also informed Pallais: "Our goal is to eliminate the Nicaraguan Army and supplant it with the Army of the People of the Sandinista." No. 2 (Dora Maria Tellez Arguello), a 22-year-old woman who had a long discussion with Pallais about ideology, said the guerrillas don't care about elections or political parties but that their chief aim is to control the military. When Pallais asked why, she said that the guerrillas had learned from "the experience in Chile." Chile's Marxist President Salvador Allende, she maintained, had everything but the army, and was ousted because he couldn't control it.

Why asked Pallais, won't you submit to the elections, which are scheduled for 1980? "She said 'never' to that," he told us. The extreme leftist character of the revolutionaries is not only the assertion of Pallais, a member of Somoza's Liberal party. Reporter Ted Szulc, who interviewed the guerrillas after they flew to Panama, came to the same conclusion.

Said Szulc in his report to the Washington Post: "If they come to power, they said, they would establish a revolutionary state . . . that would expropriate all Somoza property, nationalize natural resources and implant social justice along with the establishment of a 'popular and Democratic army.'

"The guerrillas left no doubt about their admiration for the Cuban revolution, whose influence is powerful within the movement, and their bitterness toward the United States for its long-standing backing of Gen. Somoza. . . ."

The Cuban connection is overpowering. No. 1 (Hugo Torrez), who helped lead the raid on the National Palace, had previously been in Cuba, according to Pallais. Of the 59 members of the guerrilla movement Somoza released, 22 went directly to Cuba from Panama.

One of the prisoners, Tomas Borge Martinez, has emerged, in the words of Szulc (who interviewed him), "as the political and ideological leader" of the FSLN. Borge's Cuban links are also well established. During his 1977 trial in Nicaragua, Borge, who admitted to his membership in the FSLN and his role in the terrorist campaign against Nicaragua, said he had spent several months in Cuba in 1960 receiving military training at the hands of the Cuban army. In 1967, he returned to Cuba with more than 15 terrorists for additional military training. "This group," said Borge, "received the standard guerrilla course and certain special courses in communications, military sanitation, explosives and training in arms such as bazookas. . . ." Borge also said that the FSLN had received help from the Communist parties in Colombia and Peru.

When the rebels seized the Palace, they

indicated the blow was being struck on behalf of the late FSLN founder, Carlos Fonseca Amador. On finishing his secondary studies in Nicaragua, Fonseca traveled to Eastern Europe and enrolled in Patrice Lumumba University—Moscow's terrorist training school. Arrested in 1964 for subversive activities, he spent considerable time in Cuba organizing FSLN activities, according to the Nicaraguans.

Interestingly enough, the August 22 capture of the Palace wasn't the first time the FSLN had engaged in a sucessful effort to shake down the Somoza government in exchange for hostages.

Eduardo Contreras Escobar, for instance, was a leader of a 13-man assault group on the residence of Dr. Jose Maria Castillo Quant in Managua on Dec. 27, 1974. Following the attack, Contreras and his fellow Sandinistas took 41 hostages attending a party there, including some top Nicaraguan officials.

After negotiations were opened to save the lives of the hostages, the Nicaraguan government gave the terrorists $1 million in U.S. money, released 14 imprisoned terrorists and then provided them all with a plane to leave the country. They all made a bee-line for Cuba. Once there, the terrorists were interviewed by Radio Havana, where Contreras was introduced as the man who "one day would impose a Communist regime in Nicaragua." (Unfortunately for Contreras, he was later killed by the Nicaraguan National Guard.)

Even the U.S. State Department backs the claim that Cuban support has been the key reason for the longevity and vibrancy of the FSLN. In a letter dated April 19, 1977, Michele M. Bova, director, Central American Affairs, for the department, sent a memorandum-on the FSLN to then Rep. E. Koch (D-N.Y.), now Gotham's mayor. The memo pointed out that the FLN, the forerunner of the FSLN, was actually born in Havana. As the memo states in part:

The National Liberation Front (FLN) "was founded in Havana in September 1962 by a group of leftist extremists who had been active for some years in revolutionary causes in Nicaragua. Carlos Fonseca Amador, perhaps their most significant leader, was a proponent of Marxist-Leninist theory who had closely followed the Castro revolution in Cuba and whose attachment to the Cuban revolutionary model strongly influenced the FLN's early strategy and tactics. (Fonseca was killed in a shootout with the Nicaraguan National Guard in November 1976.)

"The FLN's primary objectives, declared in 1963, were:

"To fight against the economic exploitation and political domination of the United States;

"To fight against the Somoza regime;

"To institute agrarian reforms; and

"To seize power in Nicaragua and establish a government of national liberation.

"The FLN believed that the only effective means to achieve these goals were through warfare and terrorism.

"By 1964, the FLN had added the name of Sandino to its title, in honor of Gen. Augusto Sandino, the Nicaraguan guerrilla leader who had battled U.S. Marines in Nicaragua from 1923 until shortly before his death. . . .

"The FSLN's support appears to have come largely, but not solely, from within Nicaragua, and the FSLN itself has attempted to forge links with anti-Somoza elements of various political persuasions. It has benefited from the collaboration of front organizations among leftist student groups and while there has been some contact between the FSLN and the Nicaraguan Socialist party (PSN), there does not appear to have been close cooperation between them.

"External support has also come from Nicaraguans living abroad, but probably the most important source of external support has been Cuba. Cuban support appears to have been greatest during the early 1960s, when the Castro regime provided the FSLN with:

"Guerrilla warfare training in Cuba;

"Money for the purchase of arms, munitions, food and clothing; and

"Payment for propaganda material.

changes in Cuban policy and partly because

"By the early 1970s, partly as a result of changes in Cuban policy and partly because the FSLN had not been able to consolidate its position, Cuban support diminished. Nevertheless, the Cubans continued to provide a safe haven for FSLN members, some training for recruits, and contacts for the FSLN with extremist groups in Latin America and elsewhere. Perhaps not least among Cuba's contributions was the psychological boost to FSLN morale.

"That some revolutionary guerrilla organization or organizations akin to the FSLN would have existed in Nicaragua during this period, even without Cuban support, seems certain. Such groups had operated in the late 1950s, and, periodically, throughout Nicaraguan history. Whether they would have remained as active, long-lived or determined as the FSLN over its 15-year history without Cuba's material and moral support is doubtful."

Appendix H

[NANA, September 8, 1978]

Say It Straight! Nicaragua Not As Bad As Sandinistas Would Make It

(By Victor Lasky)

Washington.—Sitting next to Luis Pallais at dinner the other night, it was difficult to imagine that this soft-spoken Nicaraguan was one of those chosen for execution by the Marxist guerrillas who had seized control of his country's Congress late in August.

Pallais, 48, vice chairman of the Chamber of Deputies and a cousin of President Anastasio Somoza Debayle, was one of 2,000 hostages captured by the so-called Sandinistas who, disguised as national guardsmen and armed with Soviet-bloc weapons, invaded the National Palace.

It was a successful attack, one that forced President Somoza to capitulate to the guerrillas. The price he paid for the release of hundreds of hostages was the release of numerous imprisoned terrorists and a sum believed to be $500,000. The Sandinistas had originally demanded $10 million.

According to Pallais, whose life was spared in the bargain, Somoza had no alternative but to make the deal. Otherwise, dozens of hostages would have been executed. Had only a handful of people been taken, himself included, Pallais thinks Somoza would not have negotiated.

"Anyway, I'm glad to be alive," said Pallais, a leading editor and publisher in the capital city of Managua.

Pallais was in Washington to "straighten out" misconceptions over what actually is taking place in his homeland. He believes leftist propagandists have given the American people a distorted picture of Nicaragua as a "police state ruled over by a tyrant."

His cousin Somoza, he insists, is no such thing. Pallais points out that Somoza, whose family has ruled the Central American nation with U.S. support for 50 years, has promised to retire after new elections are held in 1980.

Also, and there can be little argument about it, Nicaragua is far more democratic than many other third-world nations ruled by "presidents for life." There is comparatively free press; there is an opposition represented in the legislature; and the police trappings are far less in evidence than elsewhere in Latin America.

Even President Carter, who bitterly opposes transgressions on human rights, was moved recently to send a letter to Somoza, praising the Nicaraguan leader for his continuing efforts to democratize his country.

Which is not to say that full freedoms have been achieved there. Far from it. But, as Pallais insists, "Ours is the Latin American version of democracy, one that needs advancement every day."

The alternative, he says, is communism.

"Make no mistake about it," he told me. "The Sandinistas do not intend to bring freedom to Nicaragua. They themselves told me, as they held a gun to my head, that they will institute a one-party, Marxist regime when they come to power."

In terms of U.S. interests, that would truly be a disaster. For all of Central America, the unstable regimes in neighboring El Salvador, Honduras and Guatemala, would inevitably be vulnerable to a communist thrust from Nicaragua.

The Sandinistas, named after Auguso Sandino, who was killed in 1934 after fighting against U.S. occupation, are closely allied with Fidel Castro. But not so well known is the fact that they are also connected with the Palestine Liberation Organization.

In a joint communique, broadcast by Radio Havana early this year, the Sandinistas and the PLO attacked the "racist state of Israel" for its reported military sales to anticommunist Latin American countries.

The communique pledge the destruction of the Jewish state.

Appendix I

[From Human Events, Apr. 22, 1978]

Nicaragua an Example—Why Must U.S. Make Enemies of Its Friends?

(By M. Stanton Evans)

It was Dr. Walter Judd, I think, who coined the phrase about making enemies of our friends by trying to make friends out of our enemies.

Whatever its origin, that phrase is an apt description of current U.S. policy in Latin America. The Carter Administration has been trying hard in recent months to give the Panama Canal to Omar Torrijos and to "normalize" relations with the Cuba of Fidel Castro. All of this despite the fact that both these governments are in the Marxist camp, antagonistic to the United States.

Latin regimes that are anti-Communist, however, receive an entirely different sort of treatment. Chile is the obvious example, but Argentina, Brazil and most recently Nicaragua provide additional instances. These nations are generally anti-Communist and pro-American in their posture. Yet despite this—or apparently because of it—they are constant targets of abuse in the United States.

Consider the case of Nicaragua. This is the largest of the Central American states in terms of land area, though its 2.3 million inhabitants make it the least densely populated. It has a strong and growing economy, oriented toward free enterprise. In foreign policy, it has long displayed a pro-American tilt. And on top of all this, it is also the most eligible site for a new canal between the Atlantic and Pacific theaters should anything occur to close the waterway at Panama.

In obedience to the rule described by Dr. Judd, these characteristics have seemingly earned for Nicaragua the undying hatred of elements in the U.S. media and government. A constant campaign has been waged against the current regime by spokesmen in our national press, and repeated moves have been made in Congress to discredit the Nicaraguan government and cut off the flow of U.S. military and economic aid.

As usually occurs in such campaigns, the attacks are launched in the name of "human rights," and on the pretext that the regime of Anastasio Somoza is a dictatorship. Such assertions stem from the fact that Somoza imposed a state of siege in 1974 to crack down on the Castroite terrorists who have killed more than 100 people in recent years. This state of siege was lifted in September, and by the assessment of even the most hostile observers the range of civil liberties in Nicaragua compares quite favorably with other places in Latin America.

One need only note in this respect that President Somoza was elected to his post—which cannot be said of Castro or Torrijos, both of whom are military dictators. Nicaragua has regular elections, and while the opposition party has not been very successful or effective, at least there is an opposition party. There is also vigorous dissent from Somoza's policies in the press, the church, and elsewhere in the political process—which, indeed, is a major source of his present troubles.

These and other facets of the current debate are examined in a recent study called *Nicaragua—An Ally Under Siege*, published by the Council on American Affairs.

Among the subjects covered in this volume are the political and economic history of Nicaragua, the background on the recent campaign of terror, and the state of civil liberties under Somoza. Editor Belden Bell provides some useful data about the so-called Sandinist National Liberation Front, which is the focus of armed rebellion against Somoza's government.

". . . the guerrilla organization," Bell observes, "sent cadres to Cuba throughout the 1963-70 period. Castro's main contribution to the FSLN at that time was guerrilla warfare training, money for buying arms, munitions, food and clothing, and payments for propaganda materials.

"By the 1970s, Cuban support became limited to providing a safe haven for FSLN terrorists, some training, and providing contact with other terrorist groups in Latin America and elsewhere. Daily Radio Havana broadcasts throughout this period openly confirm over Cuban support and assistance. . . ."

It was an FSLN attack against a reception for the U.S. ambassador in Nicaragua, killing four people and seizing 41 more and holding them for ransom, that prompted the recently lifted state of siege. Yet despite such acts of terror and the attempted crackdown against them, the discussion by Bell, columnist Jeffrey St. John and others suggests that civil liberties have survived far better in Nicaragua than in many other Latin nations such a Panama and Cuba.

After interviews with opposition figures in Panama, Bell concludes that while they are disorganized and not especially strong, and while they have faced official harassments of various kinds, nonetheless "the opposition is vocal, accessible, unafraid to voice its opinions and strong condemnation of the regime which it insists permits no such criticism."

The fact that civil liberties are better protected in Nicaragua than in Panama or Cuba is confirmed not only by the contributors to this study, but also by the nonpartisan researchers of Freedom House. According to this agency, Nicaragua merits a "partially free" rating, while Panama and Cuba are classed "not free."

Yet despite all this the Carter Administration and the national media are clamoring to give the Panama Canal plus other lavish benefits to Torrijos, while heaping obloquy on Nicaragua. How come? Those who seek an answer to that paradox will find it in the rule of thumb discerned for us by Dr. Judd.

Appendix J

[From Human Events, Sept. 23, 1978]

It's Nicaragua's Turn for Attacks by U.S. Media

(By Reed Irvine, Chairman, Accuracy In Media, Inc.)

It seems that the major media in the United States have a knack for aiding Communist attacks on governments that are friendly to us. They did it in China in the late 1940s, in Cuba in the 1950s, in Vietnam, Cambodia and Laos in the early 1970s. There is solid evidence that our news media played an important role in the triumph of communism in all of these countries. The pattern was remarkably similar in each case. The pro-American government was pictured as tyrannical and corrupt, unworthy of American support. The opposition was always portrayed as honest, democratic and heroic. Their triumph would usher in a better life for most.

On the eve of the Communist takeover in Cambodia, the New York *Times* ran a big headline over a story from Phnom Penh that read: "Indochina Without Americans: Life Will Be Better for Most." Since then perhaps two million Cambodian lives have been snuffed out, and life is so bad for the survivors that even Sen. George McGovern is upset.

The latest media target is Nicaragua and its president, Anastasio Somoza, who is a graduate of West Point and a long-time friend of the U.S. Nicaragua provided the base for the ill-fated Bay of Pigs invasion of Cuba in 1961. Nicaragua offered troops to help the U.S. in both Korea and Vietnam. It has been a staunch supporter of U.S. positions in the United Nations and international conference. And Nicaragua offers the one feasible site for a trans-isthmus canal outside of Panama.

This has been a big year for the critics of Nicaragua and its president. In January, Pedro Chamorro, publisher of Nicaragua's largest newspaper and an outspoken political opponent of President Somoza, was killed by gunmen. The killers were promptly caught and jailed. They said they had been hired by a Cuban-American who lives in Miami but who runs a blood bank in Nicaragua that had been under attack by Chamorro's paper. This revelation was virtually ignored by the American media, and both the Washington *Post* and the Washington *Star* have recently referred to the killing as "unsolved." The *Post* gratuitously added that while there was no "substantial" evidence that Somoza ordered the killing, "most Nicaraguans seem to feel he was responsible."

Our media regularly refer to Somoza as a "dictator." Time magazine on September 4 called him "Latin America's most notorious strongman," somehow overlooking Fidel Castro, to mention but one of a number of Latin American strongmen who have never stood for election, permit no opposition parties, and don't bother with a legislature.

Nicaragua's legislature came in for a little attention recently when the building in which it was meeting was occupied by two dozen Communist terrorists, who made hostages of the entire Chamber of Deputies and many employes and visitors to the building. The readers might have been surprised to learn that the opposition party holds 40 per cent of the seats in that legislature. That is the minimum that they are guaranteed by the constitution even if they don't win that many seats in the elections. Our own minority party might envy such a generous arrangement. The Republicans hold only a third of the seats in the House of Representatives.

Last January, our big newspapers did not bother to explain how Somoza could be such a tyrant while permitting Pedro Chamorro's newspaper, the largest in the country, to attack him mercilessly and regularly. In August, in reporting the seizure of the Nicaraguan legislature, our media barely mentioned this body, noting only that it was in session. It would have spoiled the picture to have explained that unlike two real dictators, Castro in Cuba and Torrijos in Panama, Somoza actually permits a vigorous opposition party which holds two-fifths of the seats in the legislature.

It would also have spoiled the picture to have pointed out that Somoza heads a strongly organized political party, the Liberals, which has some similarity to the Daley machine in Chicago in its ability to turn out the vote. No competent reporter would have suggested that Daley's grip on Chicago was in doubt when several thousand "New Left" radicals rioted in the city at the time of the 1968 Democratic National Convention. But Americans understand Chicago. All they know about Nicaragua is what the media tell them.

Appendix K

[From the Arizona Republic, Sept. 12, 1978]

Another Cuba?

It's no longer necessary to speculate on what kind of government Nicaragua will have if the Somoza dictatorship collapses.

The Sandanista guerrillas, who startled the world by seizing the National Palace in Managua and holding 1,500 persons there as hostage until their demands were met, make no bones about it.

Their goal is a Communist dictatorship, modeled on Cuba's. And, since they will be the only armed force in Nicaragua if Gen. Anastasio Somoza goes, they will have the power to achieve it.

Tad Szulc, a longtime correspondent in Latin America, recently interviewed the leaders of the Sandanista movement in Panama City, where they were flown after Somoza met their demands, which included the release of 58 imprisoned comrades. Among those he spoke to were Eden Pastora Gomez, better known as "Commander Zero," who led the raid on the palace, and Tomas Borge Martinez, the political and ideological leader of the movement.

In a dispatch to *The Washington Post*, Szulc reported:

If they come to power, they said, they would establish a revolutionary state—'Commander Zero' exclaimed at one point that 'there are only two solutions in Nicaragua: the revolutionary way and the counter-revolutionary way'—that would expropriate all Somoza property, nationalize natural resources, and implant social justice along with the establishment of a 'popular and democratic army.'

"The guerrillas left no doubt about their admiration for the Cuban revolution, whose influence is powerful within the movement, and their bitterness toward the United States for its long-standing backing of Gen. Somoza, whose father was installed in the 1920s with instrumental American support."

A Communist Nicaragua would be far more dangerous to U.S. interests than a Communist Cuba because of its geographical position.

It would quickly infect all Central America. Rebel movements with Sandanista ties already exist in El Savador, Guatemala and Honduras, Costa Rica, the most democratic country in Latin America, has no army, merely a national police force, which would be hard put to cope with a guerrilla force.

If Central America goes Communist, the U.S. can expect trouble in Mexico, where there has long been a good deal of unrest because of mounting unemployment.

It's not a pretty picture.

Appendix L

[From the Indianapolis Star, Mar 28, 1978]

Nicaragua: Red Alert

A replay of the Cuban scenario of 20 years ago that brought Fidel Castro to power is being lined up for Nicaragua, says a report in National Review.

"The replay is being arranged in Nicaragua with Anastasio Somoza in the role of Batista and the Sandinist Liberation Front taking the part of Castro's forces."

"In fact, they are Castro's forces, having been trained and financed by Cuba," says the magazine's Mexican correspondent.

"It seems plain that the overthrow of Somoza would create a power vacuum into which only the Sandinista troops are ready to rush. Democratic forces in Nicaragua have no armed forces, just as democratic forces in Cuba had none," the correspondent reports.

The Kremlin's interest in events in Nicaragua was expressed in a recent article in Pravda saying that the Union for the Democratic Liberation of Nicaragua, a group of seven political parties—including the Nicaraguan Socialist Party (which is what the communist party calls itself)—and two labor organizations, issued a call for the end of the four-decade-old Somoza family dictatorship.

Nicaragua, which is bounded on the north by Honduras and the south by Costa Rica, has a population of 2.1 million and is the largest of the Central American states.

In communist hands it could become a staging area for further Soviet-Cuban military thrusts aimed first at the conquest of its neighbors and then of other Latin American states including Panama.

It should be remembered that 20 years ago Castro posed as a "democrat" and was portrayed as such while he was undermining the regime of Fulgencio Batista. Castro appointed a non-communist, Dr. Manuel Urrutia Lleo, provisional president. Urrutia soon learned that the communists were plotting treason and he resigned.

Castro quickly turned the government into a full-fledged communist totalitarian dictatorship, ousted moderates, executed hundreds of dissidents and jailed thousands of others. More than 650,000 Cubans, nearly one-fifteenth of the population, went into exile.

Thanks in large part to U.S. fumbling, bungling and policies that could not have been much different if the product of outright treachery, Cuba wound up with a worse dictatorship than that of Batista and moreover one that is hostile to the United States, a constant subverter of hemispheric security and a willful violator of international peace.

It would be one thing for the United States to encourage better government in Nicaragua. But it would be a vicious betrayal of the American people and the national interest to connive at establishing a communist dictatorship there.

Appendix M

[From the Phoenix Gazette, May 10, 1978]

Nicaragua a Target of the Far Left

(By Allan C. Brownfield)

Managua, Nicaragua.—In recent days, Nicaragua has been the subject of almost extraordinary attention, particularly in the U.S.

Congressional hearings have dealt with its human rights policies. Newspaper editorials have criticized its president. Lobbying groups have called for an end to all U.S. aid.

This small Central American country, with a population of 2.3 million and a long history of friendly relations with the U.S., has slowly moved into the spotlight in Washington. The obvious question is: Why?

In order to examine this situation, I traveled to Nicaragua, and spoke with both supporters and opponents of the Nicaraguan government. The situation seems far different than the one which has been portrayed.

In how many of the world's "dictatorships," for example, is there a thriving and free opposition press? In how many "dictatorships" is there a flourishing opposition party? In how many brutal societies are individuals prepared to criticize the government—and the president—by name, with little evident fear of retribution?

In Panama, which I visited just prior to arriving in Nicaragua, few individuals were willing to be quoted by name in criticism of General Omar Torrijos, who has been referred to as a "good dictator" by President Carter. Almost every Panamanian who criticized Torrijos asked that his or her name not be used.

In Nicaragua, there was little hesitation to criticize President Somoza, and little fear expressed of any penalties to be inflicted for doing so.

Xavier Chamorro, editor of the opposition newspaper, *La Presna*, and brother of the slain publisher, Pedro Chamorro, said; "The economy is deteriorating very fast. Inflation and poverty are growing. The National Guard is corrupt. It is time for Somoza to leave office."

Each day, *La Prensa* criticizes President Somoza in the harshest language. The paper is widely read, and the government accepts the fact that in a society with a free press, such criticism is likely to continue.

The opposition Conservative Party has an office in a large building on the same street as the government information office. Rene Sandino Arguello, the leader, is outspoken in his opposition to the government, but he places that opposition in a somewhat different perspective from that expressed by those in the U.S. who have been most vocal with regard to Nicaragua.

Sandino says, "Mexico is a partial dictatorship. Venezuela, Colombia and Costa Rica are democracies. All the rest of the countries in this part of the world are military governments. Nicaragua is in no way the exception. This is not a total dictatorship. We do have have some freedoms. Of course, we would like more."

President Somoza argues that Nicaragua has been one of Castro's major targets in Central America since the Communists came to power in Cuba.

Castro's first rather naive efforts at exporting revolution in 1959 were directed against Nicaragua, the Dominican Republic and Haiti. The Nicaraguan guerrilla group, the Sandinist Front of National Liberation (FSLN) grew out of the guerrilla struggles beginning in 1958. It was from Havana in 1967 that FSLN leader Carlos Fonseca Amador "declared war" on the Nicaraguan government.

Nicaragua's leading critics in the U.S.—those who are brought to Washington to testify before the Congress by far-left groups such as the Washington Office on Latin America and the Institute for Policy Studies—are the radical priests Ernesto Cardenal and Miguel d'Escoto.

Cardenal, while in Havana, proclaimed "A single revolution is under way in America and Cuba is at the vanguard."

Although calling himself a "democrat" during his appearances before Congress, while in Havana, Cardenal, most recently in Februrary, 1978, proclaimed "Cuba is a model for all revolutionary Christians in our America." Similarly, d'Escoto urges a "non-capitalist" system for Nicaragua, along the Cuban model.

Informed sources in Managua, both American and Nicaraguan, argue that President Somoza now faces a concerted effort to drive him from office by Castro and his far-left supporters in the U.S. and throughout the Hemisphere not because he is brutal—but because he is vulnerable. The evidence certainly seems to point to this conclusion.

Appendix N

[From the Richmond (Va.) Times-Dispatch, Sept. 13, 1978]

Beleaguered Allies

Both Iran and Nicaragua are ruled by dynasties and both nations are on the verge of civil war, if indeed such has not already begun, because of challenges to the rulers by discontents. There most of the similarities end. Iran, astride the Persian Gulf, is the world's second largest exporter of oil, that most lucrative of natural resources. Nicaragua is a Central American banana republic.

Additionally, the two countries are poles apart in religious orientation. Iran's population is 96 percent Moslem, mostly of the Shi'ite sect. Nicaragua is about 95 percent Roman Catholic. Although many church leaders oppose President Anastasio Somoza's rule, Nicaragua's battle is not mainly about religion. By contrast, in Iran, Shi'ite militants are out to topple Shah Mohammed Reza Pahlavi because they believe his push to modernize ancient Persia defiles Islamic purity.

But for Americans who read of the mounting tragedies in these two countries nearly half a world apart from each other, there is one binding factor of transcendent importance: Both are currently ruled by men who have consistently sided with the United States and opposed Soviet-led communism. Neither the shah nor President Somoza are Jeffersonian democrats, but any national foreign policymaker in Washington ought to ask the question: If they are forced out, won't the alternative be much worse? The alternative, in each case, would most likely be an East-tilting leftist dictatorship hostile to American interests.

President Carter has not been consistent in this regard. He has cooled his human-rights crusading when dealing with the shah. Last Sunday he telephoned the shah from Camp David to express regret at the outbreak of violence and hope for further liberalization in that country. However, the main point of his call was to reaffirm the importance of Iran's alliance with the West. That was a realistic recognition that Iran, as an OPEC member and a neighbor of the Soviet Union, is indeed important to Washington strategically and economically. As for Nicaragua, however, Mr. Carter has not hesitated to lean hard on the Somoza regime for liberalization of its domestic policies. Such pressure may have contributed to a weakening of public support for the regime in its fight against the Marxist rebels of the Sandinista National Liberation Front.

Aside from raising a question whether the Carter administration has one set of human rights standards for allies that are rich and strong and quite another for allies that are poor and weak, the president's approach may underestimate Nicaragua's importance. If that nation fell to a communist-backed gang and became "another Cuba," the Red contagion could spread throughout Central and South America, where previous Castro-led revolutionary forays have pretty much been blunted.

If official Washington is to join the "Somoza must go" cabal, it ought at least to have a plan to assist non-communist moderates in bringing one of their own to power. There is no evidence that the administration is anywhere near that organized, however.

APPENDIX O

[From the Washington Star, Aug. 1, 1978]

CARTER IGNORES STATE OBJECTION, PRAISES SOMOZA

President Carter has overriden objections from the State Department and sent a complimentary personal letter to Nicaraguan President Anastasio Somoza, informed sources say.

Carter expressed appreciation in the letter for Somoza's decision to allow an investigation by the Inter-American Human Rights Commission, according to sources who asked not to be identified.

State Department officials, who have been pressing Somoza to improve his record on human rights, objected to Carter's sending the letter, the sources said.

One source said the Carter letter did not constitute general approval of Somoza's human rights record, but rather was limited to the question of the investigation by the human rights commission.

The Carter administration is attempting to use the commission as a principal agent in its program for furthering human rights in Latin America.

The deputy White House press secretary today confirmed that the president's letter to Somoza had been delayed a week. But he said that was because the State Department recommended the delay, since Somoza was not expected to be at his capital at the time and State officials wanted to discuss the situation further with the Inter-American Commission on Human Rights.

"It appears to be clearly a case of someone leaking a story at the lower level without knowing what the recommendation of their department was," Rex Granum said of the report.

He said Somoza apparently has not answered the president's letter.

Granum described it as "a private letter, not intended for public discussion. Obviously, the story today changes that."

He said the president's letter had been prompted by remarks the Nicaraguan president made at a press conference in June indicating a willingness to discuss a number of issues with the Inter-American Commission on Human Rights, including amnesty for political exiles.

Several countries, including Venezuela and the United States, have been calling for an investigation of Somoza's regime since the assassination of an opposition newspaper editor, Pedro Joaquin Chamorro, on the streets of Managua in January.

Somoza, who previously had been a close ally of the United States, became a target of the Carter administration's human rights offensive almost as soon as Carter took office.

Somoza has been seeking a rapprochement with Carter. Twice in the last few months he has visited the United States and let it be known that he would be interested in meeting Carter at the White House.

Both times, chiefly because of State Department influence, he received no invitation.

Last week Somoza warned Nicaraguans to get used to "a certain level of violence" for the next three years because he will not resign before his term ends in 1981, as his opposition has been demanding. He insists that the opposition "hasn't shown yet that they represent the majority."

He added, "All those people said they wanted me to get out. But I looked around and said, 'Who is ready to take the cake?' "

APPENDIX P

[From the Washington Post, Aug. 1, 1978]

CARTER LETTER TO SOMOZA STIRS HUMAN-RIGHTS ROW

(By John M. Goshko)

President Carter, overriding State Department objections, has sent a personal letter congratulating Nicaraguan President Anastasio Somoza for promises to improve the human-rights situation in his country.

Reliable sources said yesterday the letter has caused deep concern within the State Department because it was sent at a time when, despite Somoza's promises, the department has been receiving reports of increased rights violations by the Nicaraguan National Guard.

The reports, which involve charges of renewed crackdowns against anti-Somoza forces in rural areas of the tiny Central American country, are expected to trigger new protests from liberal democratic governments in Latin America and human-rights activists in the United States.

For that reason, according to State Department sources who declined to allow use of their names, many department officials regard the timing of Carter's letter as a case of sending Somoza the wrong signal at the wrong time. State Department officials are concerned that revelation of the letter, which was supposed to be secret, will raise questions about the credibility and sincerity of the administration's human-rights policy.

As a result, the sources said, the department ordered the U.S. embassy in Managua to delay delivering the letter to Somoza for several days while it tried to press these arguments at the White House. The White House refused to reconsider, and the letter was transmitted to Somoza in mid-July.

The incident could have repercussions in Congress this week when the House votes on the administration's fiscal 1979 foreign aid package, which totals about $8 billion.

The request includes a $150,000 military training grant for the Nicaraguan National Guard, and there is a possibility that some liberal House members will seek to delete those funds on grounds that Nicaragua is guilty of extensive rights violations.

That, in turn, could endanger the already tenuous position of the entire aid package, because congressional supporters of Somoza have threatened to retaliate by introducing amendments to cut funds for other countries with poor rights records.

Administration sources who defended the letter called it an attempt to encourage Somoza to take positive steps toward relaxing his dictatorial rule, and thus not inconsistent with administration policy. These sources, while conceding that the letter had elicited objections from the State Department, insisted that the department never actually recommended against sending it.

These differences within the administration are important because Nicaragua, which has been run by the Somoza family as a personal fiefdom for almost four decades, has assumed great symbolic status in the controversy over human-rights policy.

Since the beginning of this year, the country has been gripped with tension that has exploded into frequent violence. Rights activisits within and without the United States have called repeatedy for the Carter administration to take a tough line with Somoza, while his friends have charged Washington with selectively picking on Nicaragua while ignoring rights violations in more strategically important countries.

In the face of these conflicting pressures, the administration frequently has seemed to veer back and forth, drawing charges from both sides that its policy toward Somoza is confusing, inconsistent and ineffective.

The Carter letter is likely to add to these charges. As pieced together from various sources it appears to have come about in this way:

In mid-June, Somoza announced at a press conference that he planned to take several rights-improvements steps, including amnesty for some prisoners, allowing some exiles to return and inviting a visit by the Organization of American States Human Rights Commission.

That gave rise to a plan, apparently originating with the staff of the National Security Council, to give Somoza an encouraging pat on the back in the form of a letter from Carter. The letter was to be regarded as a personal communication to be treated by Somoza as confidential and not leaked to the press or used for political purposes.

A draft of the letter prepared by the NSC was forwarded to State for comment. David Newsom, undersecretary for political affairs, replied that State had several reservations and objections.

A second draft done at the White House was pronounced an improvement by State, but the department made clear it still had reservations about the idea. In the meantime, the letter had been sent to Mauricio Solaun, U.S. ambassador in Managua, with instructions from State to delay giving it to Somoza until the White House had a chance to reconsider the matter.

Solaun held up the letter for more than a week. In the end, though, State was unable to get White House authorization to pull the letter back, and Solaun was instructed to transmit it to Somoza in a private audience.

APPENDIX Q

[From the Richmond (Va.) Times-Dispatch, Aug. 3, 1978]

LATIN EMBARRASSMENTS

President Carter's penchant for public comment about the condition of human rights and political liberty has recently caused the United States considerable embarrassment in Latin America.

Tiny Nicaragua in Central America is one nation that the White House seemingly has picked out to make an example of. While abuses of a much wider scale are ignored in nations that are considered politically or strategically important, such as China, Washington issues reams of detailed reports on the unsavory aspects of one-man rule by Anastasio Somoza, whose family has controlled Nicaragua for four decades.

Recently Mr. Carter decided to take a more positive tact by sending President Somoza a personal letter of congratulations for his promise to improve the "rights" situation by such steps as releasing some political prisoners and permitting some political exiles to return. But according to published reports, human-rights activists in the State Department opposed Mr. Carter's gesture, pointing out in not-for-attribution comments to the Washington press that despite his promises, Mr. Somoza is currently using his National Guard to crack down even harder on his opponents. Officially State Department and White House spokesmen deny any disagreement.

The upshot of this little two-step by the administration is that certain liberal members of Congress are poised to delete funds for Nicaragua from the administration's proposed 1979 foreign-aid package. In retaliation, congressional supporters of Mr. Somoza threaten to take a hatchet after aid allotted to other countries that have poor rights records. If the president and his men wish to salvage the concept of foreign aid, they are being remarkably clumsy in pursuing that aim.

In South America, landlocked and impoverished Bolivia has been another special target for the rights-conscious White House. The administration pushed hard for the presidential election that was held there last month, the first in 12 years. Of course, the election turned into a farce and ended in yet another coup by Bolivian generals. Because the Bolivians so rudely failed to shape themselves into the American image, the red-faced Carter administration is now considering cutting off relations with and/or aid to that hapless country.

It requires a special kind of naivete to look at the political history of Bolivia—189 changes of government, mostly by coup d'etat, in 153 years of independence—and think that one is going to alter its whole course by bombast and bluster. But naivete is one quality much in evidence among those who now conduct this nation's relations with other nations. And ineptness is another.

APPENDIX R

[From United Press International, Aug. 1, 1978]

CARTER-SOMOZA

WASHINGTON.—State Department officials said today Nicaragua's human rights situation "is improving," but acknowledged to differences with the White House over President Carter's decision to send a personal letter to President Anastasio Somoza commending those improvements.

The officials said that a Washington Post report on Carter's letter, including some State Department misgivings about signaling Somoza in this way, "is apparently fairly accurate."

The officials acknowledged there was "some discussions" over the letter within the State Department. "There were those who would rather it had not happened or that the signals be sent in other ways," the officials said.

In his mid-July letter, drafted at the White House, Carter congratulated Somoza for promising to improve human rights in his country, particularly his decision to invite the Inter-American Human Rights Commission.

The State Department officials said "there is still some serious concern" about the human rights climate in Nicaragua. "But the fact that Somoza did invite the commission was a positive step and that is better than it was before."

"He (Somoza) seems to be making steps in that direction . . . and the situation is improving," according to the officials.

Deputy Press Secretary Rex Granum told reporters that Carter sent the letter to Somoza because Carter "prefers positive reinforcement rather than punitive measures, and this was a good opportunity to do so."

Granum also said Carter, the National Security Council and the State Department worked "in concert" on the letter. The spokesman denied that the Department disagreed with the sending of the letter.

In reciting the background for the letter, Granum said, Somoza told a news conference in mid-June that he would cooperate with the Inter-American Commission on Human Rights, would consider amnesty for 12 political opponents and would open up the political process for free elections.

Granum said Carter decided to send a letter to Somoza "to encourage him to implement those decisions."

"The State Department recommended that the letter be delayed for a week to permit the Inter-American Commission on Human Rights to discuss problems with Nicaragua and to permit the return of Somoza to Managua," Granum said.

He said that the reauest for a one-week delay was accepted by Carter.

"It appears to be a case of someone leaking the story at a lower level who did not know the facts," Granum added.

"The President prefers positive reinforcement rather than punitive action," he said.

Granum said Carter had not received a reply, but added the President's letter had not been for public consumption.

As to whether the Somoza regime is being monitored for compliance with the human rights pledges, he said "I'm certain we are."

APPENDIX S

[From the Jewish Advocate, July 13, 1978]

VIEWS—S. A. FRIEND

(By Joseph G. Weisberg)

Israel, the lone scarred state, can count her firm and constant friends on less than the stripes of her flag. Apart from the United States, mostly unknown are other committed supporters.

It will therefore be a revelation to many who read the recent book, For Jerusalem—A Life By Teddy Kollek with his son, Amos Kollek, to see the printed praise given the South American country of Nicaragua and its President 'Taco' Somoza.

Teddy Kollek recalls the UN vote of 1947 giving statehood to the Jewish People in then Palestine administered by the British under the League of Nations Mandate. But knowing of the intense Arab objection, the most important objective of the fledgling nation was to be thoroughly armed on its first day of independence or face total destruction by the well-organized Arab armies on the day of its birth.

Kollek, who at the time was on a mission to New York to collect arms, writes: "We had to find a country that would purchase arms for us in its own name but with our money and run the British blockade to Palestine. We were looking for a Latin American country, and one of the Zionist leaders in New York knew a man in Nicaragua who was a close friend of its dictator chief, General Somoza. So I was elected to fly to Nicaragua.

"Somoza, as well as the foreign minister," continues Kollek, "cooperated because of their strong basic sympathy with our cause. Our agreement included the understanding that Nicaragua would vote for Israel in the United Nations whenever the occasion arose, a point to which they pledged themselves out of genuine conviction (and indeed, Nicaragua has remained a true friend of Israel over the years)."

There were not only diplomatic ties set up for later implementation when Israel should become a sovereign state, but 8 million dollars in machinery and military equipment, a large amount at that time, was committed by Nicaragua.

Nicaragua has remained true to its word. It has never failed to support Israel in international forums. On a draft resolution against Israel in the UN last year, only Nicaragua and the U.S. supported the Jewish State in the General Assembly.

This loyal relationship to Israel could well be a factor in the announcement several months ago of the joining of forces of the Palestine Liberation Organization (PLO) with the Marxist Frene Sandinista de Liberacion Nacional (FSLN) of Nicaragua to wage war on U.S. imperialism, the "racist" State of Israel and the Somoza Government.

The two terrorist organizations have also formed common cause in the fight against the governments of El Salvador, Guatamala and other anti-Communist regimes in Latin America.

Jews of the world are well aware of who are the enemies of Israel. It is equally important that they should know who are her friends.

APPENDIX T

[From the Jewish Week, Washington, D.C., Aug. 31–Sept. 6, 1978]

NICARAGUA REBELS ARE PLO'S LATIN CONNECTION

The Sandinista guerrillas who seized Nicaragua's presidential palace last week are recent volunteers for the transnational terrorist war against Israel.

The Sandinistas emerged early in 1978 as the "Latin American connection" for radical anti-Israel activity, making a series of announcements aligning themselves with the Palestine Liberation Organization and other Palestinian groups committed to eliminating Israel.

Little known outside Nicaragua until last week, the Sandinistas attracted world attention by capturing more than 1,500 hostages in the presidential palace and trading them for 58 political prisoners, $500,000 and safe passage to asylum in Panama.

The official name of the group is the Sandinista Front for the Liberation of Nicaragua (FSLN). The group takes its name from Augusto Cesar Sandino, a guerrilla leader killed fighting against the U.S. Marines who occupied Nicaragua and put the Somoza family in power in 1937.

The PLO link to the Sandinistas is one of many contacts between Palestinian groups and members of the transnational terrorist and revolutionary movement. Other such groups include the Japanese Red Army, which carried out the Lod airport massacre; the German Baader-Meinhoff group, which helped the PLO in 1972 Munich massacre; and the Czech secret police, which helped the PLO assassinate Jewish leader Charles Jordan in Prague in 1967.

On Feb. 5, 1978 the PLO and the Sandinistas released a "joint communique" in Mexico City, which, according to Radio Havana, was to "emphasize the bonds of solidarity which exist between the two revolutionary organizations." This communique attacked the "racist state of Israel" for its reported military sales to anti-communist Latin American countries, for serving as an enclave of North American imperialism" in the Middle East, and particularly for alleged Israeli economic and military aid to Nicaragua.

MOSCOW GATHERING

This communique was released at a major Moscow-front gathering called the Continental Conference of Latin America and the Caribbean for Peace, Sovereignty and Economic Independence. The conference was sponsored by Moscow's international "peace and disarmament" organ, the World Peace Council, an organization reportedly run by the Central Committee of the Communist Party and the KGB. The communique was signed by the PLO representative for Latin America, Issam Sali, and by Jose Benito Escobar, a member of the Sandinista national board.

A few days later, on Feb. 10, the Guatemalan newspaper *La Nacion* reported that "Palestinian elements have offered to fight at the side of Nicaraguan guerrillas against the Anastasio Somoza regime." This reported offer came at a time of internal turmoil in Nicaragua following the assassination of opposition leader Dr. Pedro Joaquin Chamorro, which in turn was followed by FSLN terrorism.

According to *La Nacion*, a clandestine FSLN communique stated that "just as Somoza hired mercenaries (Green Berets), the FSLN guerrillas have offers from the Palestine Liberation front." No other details were available.

On March 6, the Sandinistas and the Popular Democratic Front for the Liberation of Palestine (DFLP), led by Nayed Hawatmeh, issued a similar joint communique datelined Havana, declaring war on "U.S. imperialism" as the common enemy of both groups, against the "racist regime of Israel" and against "the dictatorship of Anastasio Somoza in Nicaragua."

THE PLO CONNECTION

This newly emphasized tie-in between Israel and Nicaragua by the PLO and the Sandinistas is a result of several trends in international affairs. Israel has reportedly been selling military arms to Latin American governments who have been cut off from U.S. supplies as well as carrying on economic relations and limited aid programs.

Nicaragua has been a consistent supporter of both the U.S. and Israel in the United Nations, and was one of a handful of nations voting against the resolution which condemned "Zionism" as a form of "racism". Just as Israel is a key geographic point in the Middle East, so is Nicaragua in Central America.

There is at least one direct connection between the PLO and the FSLN in the past and it concerned a Sandinista leader, Pedro Arauz Palacios, a convicted murderer, kidnapper, and robber. Palacios was given intensive guerrilla warfare training in Cuba after hijacking a Nicaraguan airliner in November, 1969. According to the Nicaraguan Government Information Service, "he traveled to the Arab countries and underwent further guerrilla warfare training at the hands of Al-Fatah," after leaving Cuba in May 1970. Some of the information about Palacios was obtained from the courtroom testimony of captured FSLN terrorists.

On May 10, 1978, Colombian terrorists from the Marxist "M–19 Movement" kidnapped the Nicaraguan ambassador in Bogota and held him for several hours as an act "in solidarity with the Sandinist group." This may be the first inter-American act of "transnational terrorism" concerning Nicaragua and its parallels in theme the gist of the joint PLO-FSLN and FDLP-FSLN communiques of earlier this year.

COORDINATED EFFORT SEEN

Colombian Communist members have played a major support role for the Communist terrorist and PFLP (Popular Front for the Liberation of Palestine) agent, "Carlos the Jackal".

These recent developments concerning Nicaragua and the PLO involvement point to significant change in the PLO range of. While the Western Hemisphere has had isolated PLO operations in the past, the possibility now exists of a more sophisticated and coordinated effort by the PLO and its "Latin American Connection" supporters to expand the terrorist war against Israel.

APPENDIX U

[From the Miami Herald, Sept. 14, 1978]

"DIE SOMOZA, DIE GRINGO": AMERICAN CAUGHT IN MIDDLE

(By Morris S. Thompson)

For four years, Lester Lesavoy had a pleasant working relationship with Nicaragua. He made blue jeans in his textile factory. Politics wasn't his business.

Then, last Saturday, driving home from work in Managua, Lesavoy learned first-hand about an uprising he had done his best to ignore. The lesson nearly killed him.

"I couldn't believe it was happening," he said Wednesday from his bed in Miami's Jackson Memorial Hospital. "It didn't seem close to reality. It was remote, like you're in Miami and hear about an explosion in Louisiana."

Lesavoy, 31, became the first U.S. civilian casualty of Nicaraguan trauma because of a law-abiding blunder. He stopped for what he thought was a routine check.

"I saw two National Guard guys ahead of me, at a stopped car. As I pulled up behind, I saw them firing into the car with machine guns.

"That's when I saw that they were just dressed like the Guardia: They were wearing the red-and-black masks of the Sandinista guerrillas."

The guerrillas shot out his tires. They ordered him from the car, hands above his head.

"They told me to start running toward some houses. I did. They started firing. I felt my whole leg shatter and I fell into a ditch.

"They came over and pointed the guns at my head and I thought it was all over," Lesavoy said. "They shouted, 'Die Somoza! Die Gringo!' "

Lesavoy said his life was saved when real National Guardsmen arrived and engaged the guerrillas. While bullets whirled above his head, Lesavoy—only 10 feet away from the combatants—tied his shirt around his leg as a tourniquet.

"I lay in that ditch about an hour and a half. I thought I was going to bleed to death. My leg was flopping around—I found out later that both bones in my lower leg were shattered."

"I was only six feet from these houses and I was yelling for help," he said. "These people wouldn't come out and it really freaked me out. Every once in a while, the Sandinistas would look over at me, and I was afraid that they were going to come over to finish me off."

"The terrorists were calmly lighting these Molotov cocktails and tossing them out in the streets. At the same time, I saw this terrorist running by with an armful of food.

"It was really funny to me: Here they were running up and down the streets of this barrio shooting into these people's houses and one of them was tossing bread in through windows at the same time, like they were helping the people."

Eventually—it seemed an eternity—Lesavoy heard someone shouting "There's a wounded man in there." Then came Red Cross medics, waving a white flag and carrying a stretcher.

For nearly six hours, Lesavoy lay in Managua's Occidental Hospital while doctors first cared for those with more serious wounds. About 3 a.m. Sunday, surgeons removed two bullets from Lesavoy's right leg.

Later that day, Lesavoy's brother, Malcolm, a plastic surgeon in Los Angeles, arranged for a jet ambulance to Miami. Jackson surgeons removed two more bullets.

Lesavoy moved to Nicaragua from Costa Rica four years ago to get closer to the source of the denim fabric his factory uses. He has 300 employees, whom he said he pays an average wage of $40 to $50 a week, about 2½ times the Nicaraguan minimum wage. He said his workers were happy and so was he.

He said he and his workers didn't pay much attention to the developing storm against President Anastasio Somoza and didn't realize the extent of the terrorist organization, or its professionalism.

Lesavoy concluded that the guerrillas who shot him were trained professionals.

"I've been in the service, and I know. They were trying to get kids to come out and fight with them, to make it look like a children's army. But it isn't."

Mr. SCHEUER. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentleman for yielding.

In connection with the gentleman's remark about the training of terrorists in Cuba, we have heard reports that the Sandinista National Liberation Front is in fact supported by Cuba and that it is allied with the Palestinian Liberation Organization, the PLO, and it is led by foreigners who are attempting to establish their version of a Marxist state in Nicaragua. Can the gentleman elaborate on these reports we have all been reading?

Mr. MURPHY of New York. The Sandinista National Liberation Front is supported by Cuba. The best known Sandinista leaders are Costa Ricans and Mexican and not Nicaraguan. We know they have been trained in Cuba. It has been documented. The recent attacks launched from abroad were orchestrated immediately after the Communist's World Youth Festival in Havana last month. The PLO and the Sandinistas signed a mutual assistance pact, and in a communique issued at that time the Sandinistas joined the PLO in denouncing the racist state of Israel, which was condemned as an enclave of North American imperialism in the Middle East.

Mr. SCHEUER. If the gentleman will yield further, I remember in the early days of the Castro regime many so-called liberals, myself included, I am embarrassed to say, considered Castro a sort of an agrarian socialist and felt that he would have sort of a liberal democratic socialist regime. Is this true of the Sandinistas or is there evidence that they really are a hard-core Marxist group and that they will continue their terrorist attacks until they have established in effect Marxist government?

Mr. MURPHY of New York. The Sandinista leaders have clearly demonstrated that they are intent upon taking away any democratic or constitutional guarantees to Nicaraguan people, that they are definitely Marxist alined and Marxist oriented and that, No. 1, what they want to do initially is to get rid of the Guardia Nationale of Nicaragua and in that way they become the military force. And once they become the military force, of course, the political problem is secondary. But they then say they want to take away the private property rights of not only President Somoza but other Nicaraguans. And it is clearly this philosophy that dominates the Sandinistas.

Mr. SCHEUER. In this connection, the Sandinistas, whom the gentleman has described, have attacked Nicaragua from sanctuaries in Costa Rica.

Costa Rica, we read, claims it is powerless to stop these attacks, yet it protests that its borders are being violated.

Costa Rica has accepted sort of tacit military help from Nicaragua and Panama. Does this have in it the seeds of a conflagration which will envelop all of Central America in something pretty close to a widespread war?

Mr. MURPHY of New York. It is clearly documented, with the attacks on Nicaraguan customs outposts on the Nicaraguan side of the Costa Rica-Nicaragua border, that the attacks have emanated directly from Costa Rica, from bases in Costa Rica clearly established, that the Costa Rican Government has neither the will nor the ability to contest the Sandinistas that are using the bases in Costa Rica.

Let me remind you that this border in Central America is not a white line on the ground.

Just as soon the Nicaraguan plane went over a theoretical line and Nicaraguan troops were pursuing their attacks, Venezuela immediately sent aircraft to Costa Rica, Panama sent helicopters, and Costa Rica said they would then resist this intrusion of their borders. This, of course, smacks of the famous Parrot's Beak that pointed at

America's troops and caused so many thousands of casualties among American troops in Vietnam. We understand the double standard that we are dealing with in this regard.

There is nothing more that the Sandinistas would like than to involve all of South America in a conflagration of this type so that they could take over that Government of Nicaragua.

Mr. SCHEUER. Tell me then, we have heard reports that the International Monetary Fund, the IMF, with tacit support and encouragement from our country, is withholding interim financial support from Nicaragua. What is the significance of this, and what is the significance of what seems to be the United States official policy of hands off the whole Nicaraguan situation?

Mr. MURPHY of New York. The United States policy of hands off, of silence, of staying out of this situation, is tantamount to intervention. The fact that we deny our strongest ally in the United Nations, our strongest ally in the Organization of American States, our strongest ally in all of our international affairs is a precedent that ought to alarm free people everywhere.

The Government of Nicaragua was elected with international observers present during the voting. Having failed to win at the polls, the opposition turned to violence. The terrorists have been striking from abroad, with financing from abroad, at a time when the legally constituted Government needs all the support it can get.

The IMF is giving what amounts to support to the enemies of democracy. Not long ago, according to our polls, 30 percent of the American people disapproved of how our President was doing his job. If he slips that low again, perhaps the IMF will withdraw its support of the United States. That is the problem of these polls and the IMF's triple standards.

Mr. SCHEUER. Can the gentleman elaborate some on his passing comment about Nicaraguan support of the United States in the United Nations and in the Organization for American States? What exactly did the gentleman mean?

Mr. MURPHY of New York. A year ago, in a carefully documented debate on the floor of this House when we were discussing economic and military aid to Nicaragua, I clearly delineated and will submit as part of the RECORD here, the United States and how it has been supported by the Republic of Nicaragua from World War II through the Korean war, through the Vietnam war, and through, of course, all of the difficulties that have existed. It will be part of this RECORD. It will document clearly those votes both in the OAS and in the United Nations when Nicaragua has been the sole supporter of United States policy in international affairs, where we have been opposed by Group 77, opposed particularly by the Soviet Union, opposed at the instigation of Cuba.

Mr. SCHEUER. I thank my colleague.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I do not want to upset the script here, but I found this a very interesting discussion. I would like to ask the gentleman if it is his position that the only choice in Nicaragua is between the Sandinistas and the left wing guerrillas, and the Somoza dictatorship. Let us not kid ourselves; it is by no means comparable to the Presidency of the United States, which was installed by an election that was honest and open and democratic. In the Somoza regime, one family has been running Nicaragua for 40-some years.

Is there not a middle ground? Is it not true that the business community down there has practically boycotted the regime? Is it not true that the professional groups have boycotted it? Should we not talk about the possibility that maybe if Mr. Somoza would get out we could save the Guardia Nationale, and we could have a truly representative regime down there and put down the extremists of both ends? I would like to hear the gentleman discourse on this angle.

Mr. MURPHY of New York. There was a middle ground. The middle ground was a conservative party in the Republic of Nicaragua.

The party that supported President Somoza was the liberal party. The conservative party of course by constitution had 40 percent of the seats in the National Assembly and the Senate and 40 percent of the civil service positions—and I will bring that out as I go into the further discussions here.

I went to the State Department personally in August. I went to the CIA in August. I went to the White House in August. I said that if the United States does not make a statement that it deplores violence in this country, there will be violence—and there was violence.

And that violence has destroyed the middle ground that the gentleman is looking for. The Sandinistas and the Marxists have done this. They have threatened every middle ground person that if they open their stores, their stores will be bombed—and I will document that from stories from Norris S. Thompson in the Miami Herald, a responsible journalist on the scene who documents that.

The middle ground has been intimidated out of the political scene, and the United States has caused this by its failure to say one thing: Let us have peace instead of bloodshed in this country. If we had said this, it would have been a break on the extremists in that country. The extremists have attacked the middle ground, which has disappeared today as it did in Vietnam and as it did in every country where the left wing with its violence and its murderous tactics and disregard for human values has now destroyed any semblance of middle ground.

The United States has its Ambassadors—where? They are running around through Latin America trying to find somebody to bring together a middle ground. What does this speak of? This speaks of intervention in the internal affairs of a sovereign state.

That is what has happened in Nicaragua.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield further?

Mr. MURPHY of New York. Sure, I will be happy to yield further to the gentleman from Ohio.

Mr. SEIBERLING. Of course the instigation or rather the excuse that the Sandinistas and others accompanying them used to foment their violence was the refusal of the Somoza regime to restore democratic institutions. Is it not true that the Somoza regime was conducting an impressive vendetta against the press and against the middle ground itself?

Mr. MURPHY of New York. It is not true.

Mr. SEIBERLING. The gentleman from New York must not read the same papers I do.

Mr. MURPHY of New York. That is not true, and I will give the gentleman the facts right here and he can check it with his State Department and with the responsible American journalists. One would get the impression from casually reading some of the media in this country that this was a repressive regime. But when we go to the international organizations that happen to rate what is a rightwing and what is a dictatorship, Nicaragua comes out pretty good because there has always been freedom of the press, freedom for La Prensa to print, freedom for the radio stations to criticize and excoriate the government of the Somozas.

And the leader of the conservative party, as the gentleman may recall, was Pedro Joaguin Chamorro, publisher of La Prensa, who was part of the cabal that assassinated another President Somoza in 1956, and he was permitted to come back into the country with that record of terrorism, that record of violence in his own country, and permitted to print La Prensa, and La Prensa printed uninhibited until of course there was a state of seizure for about a year, which was lifted a year and a half ago.

There is freedom of the press. There is freedom of the radio. There is freedom for the people to criticize. That is why we hear this excoriation of the legitimate, constitutionally elected regime that is there today. That is why we hear it. That is why we see it.

The American press are moving throughout Nicaragua today and reporting to the Washington Post and to the Washington Star and to the press throughout the country as to what is taking place on freedom of speech and press.

Go to Panama and you will find that there is no freedom to print and that there is no freedom to broadcast.

Mr. SEIBERLING. I suggest that one need not hold any brief for Panama because obviously the actions of the Somoza regime, which I do not think can be deemed a regime that achieved power in a really, truly legitimate way sure, the forms were observed, but it strikes me that the very type of regime, and the oppressiveness of that regime, is the kind of thing that feeds the fires of violent reaction on the part of left wing groups, which then can obtain a lot of support among the general populace, because of what has happened in the Cuban revulsion against the acts of the existing regime.

In what way is the process that is going on in Nicaragua any different from what happened in Cuba as a result of the oppression of the Batista regime?

Mr. MURPHY of New York. It is totally different, totally different. It has been documented in this House today and I will document it again tonight. The Somoza regime is a constitutional regime. President Somoza was elected in free and open elections with international observers present throughout, myself included. I can say to the gentleman that it was a free and open election.

The problem that created the 40 percent rule that the minorty party would have 40 percent of the seats in their legislature—incidentally, 7 percent more than the minority in this chamber—was a fact to try and build a creative and moderate middle ground in that country, because President Somoza is a very sophisticated gentleman who, by the constitution, cannot succeed himself in 1981, wanted to have a viable minority so that the two parties would have a colloquy. He did so because he realized that if he did not have a viable minority the opposition in that country would be extremists and Marxist. He tried to create it.

I would commend the gentleman to read the Miami Herald and some of the Houston and daily papers from cities that are very closely allied and attuned to the happenings in Latin America, rather than some of our very esoteric and sophisticated journals in this city that, perhaps, do not have the same responsive attitude that they do. Read the Miami Herald, you will find that perhaps the one-sided impression that you have been reading is not the case.

Mr. SEIBERLING. I thank the gentleman, then I will read the gentleman's further remarks with great interest because he does have the advantage of having been down there and observing the elections, which I certainly have not and most of us have not.

So I commend the gentleman for bringing out this subject before us tonight. I think we all ought to read and listen to his words.

Mr. MURPHY of New York. I thank my colleague, the gentleman from Ohio (Mr. SEIBERLING).

Mr. BOWEN. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I will be happy to yield to the gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Speaker, I rise here tonight, not as an apologist for General Somoza or the National Guard. I think we can all agree that there have been atrocities on both sides during the recent fighting and certainly none more severely than that on the part of the National Guard.

I had the opportunity to visit extensively in Nicaragua a few years ago. I am not an expert on the country but I think I have seen enough of it to be able to make some judgments at this point that might be of some value to my colleagues.

I am concerned that we have allowed the situation to drift in that area to the point at which a violent uprising in that country has taken place. The question is: What can we do to put the pieces back together again? I certainly want to urge our State Department and our executive branch to exert more aggressive leadership in Nicaragua.

I think a leadership role on the part of this country can go far toward resolving this conflict into a stable democratic government. Frankly I believe that General Somoza is even prepared to accelerate the timetable which he has presented to the world in terms of the transition in 1981. I think with the right kind of mediation and leadership on the part of this country that that could well be worked out. I mentioned meditation. Who is to do the mediating? Why must it be the United States?

Let us see who is around to do it other than the United States. We have, of course, neighbors like Guatemala, El Salvador, and Honduras, which I think, frankly, would not be acceptable to any of the supporters of the leftwing forces in Nicaragua.

We have other countries such as Venezuela, Costa Rica, Panama, and Mexico, frankly, who are hostile to Somoza for one reason or another, in most cases because of active involvement indirectly or directly in hostilities.

Let us look at some of those countries. General Torrijos, of course, finds, I think, that he can placate some of the leftwing forces in Panama by supporting the Sandinista. His country, of course, serves as a conduit between Havana, Cuba, and Nicaragua as a haven for terrorists. Costa Rica, also hostile to Nicaragua, is a protective refuge for terrorists.

Mr. Speaker, very sadly, I must inform the House that the President of Venezuela, President Carlos Andres Perez, met on August 28, at the Miraflores Palace, the Presidential Palace in Caracas, with the two top leaders of the Sandinista, Commandante Zero and Numero Dos—Commander Zero and Number Two—the two chief leaders of the Sandinista.

Mr. Speaker, the Members might want to compare the date of that meeting with the events which followed. We have efforts underway in that area to try to put the pieces back together again. Ambassador Bill Jorden is down there visiting a number of countries, trying to find a third party to visit with. I know Ambassador Jorden. He is a good man. I visited with him in Panama when he was there. Assistant Secretary Viron Vaky is also a good man, and I think Secretary Vance is a good man. However, somehow or other, I just do not feel that we are going to find a third party which can take care of the matter, for a number of reasons which I mentioned before. I think it is going to take active American involvement. I think that if we do go in with something other than a negative attitude toward the Somoza regime, something other than just a view that anything that Somoza does is going to be good—the idea we have, unfortunately exhibited toward other countries in the world—an explosion will likely take place, but then we will think that somehow after the smoke blows away, whatever remains probably will be very decent. Unfortunately, it may not be very decent. If we allow things to continue going in the direction in which they have been going, it might well be that a Marxist, bitterly anti-American regime will take over.

Mr. Speaker, I just do not think that it is in the interests of the United States for us to allow this to happen.

For that reason, I want to urge the executive branch and I want to urge my colleagues in the House and in the Congress as a whole to do all that we can to exert a leadership role on the part of this country, working with conservatives in Nicaragua, working with other splinter parties, working with those who unfortunately have fought behind the Sandinista, because they have now picked up the sword and moved forward because our Government failed to protest the violence which the gentleman from New York (Mr. MURPHY) mentioned.

There are many persons in the country who are there to be organized, to be mobilized, to form the foundation of a democracy, which is clearly a commitment of President Somoza.

Therefore, I would like to urge our Government to take that active role of leadership. We must. I know of no other nation which can do so. Failure to act in this manner or a negative approach toward Nicaragua simply will result in chaos. It will result in a situation which I think no American wants to see develop in Central America.

Mr. MURPHY of New York. I thank my colleague, the gentleman from Mississippi (Mr. BOWEN).

I might point out at this time that Commander Zero and Numero Dos several weeks later were the leaders of a force which hit the national palace and captured 60 members of the assembly and 100 other people, held them hostage, demanded a half million dollars in ransom, demanded that 59 terrorists in jail be released, and then were flown to Panama and Venezuela in two separate aircraft.

Mr. Speaker, that is why I will return to Venezuela at this point. Of course, it is one of the leading members of OPEC, the Organization of Petroleum Exporting Countries, an organization made up of many members who openly support the Palestinian Liberation Organization, who, in turn, rely quite heavily on the Soviet Union for support.

The PLO and the Sandinista, according to Radio Havana, issued a joint communique in Mexico City to "emphasize the bonds of solidarity" which exist between the two revolutionary organizations.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I am happy to yield to my colleague, the gentleman from Georgia.

Mr. McDONALD. Mr. Speaker, the people of Nicaragua have been resisting a Soviet and Cuban-sponsored terrorist group for 20 years. In the past, each time the terrorists have returned from their training centers in Cuba and mounted an armed incursion from remote areas of Costa Rica and Honduras, the Nicaraguan National Guard was able to defeat them and drive them out to lick their wounds in Havana.

The present severe disturbances in Nicaragua are being spearheaded by that same terrorist group which has been able to take advantage of the lack of U.S. commitment toward the Government of Nicaragua to encourage totally untrained young teenagers to help them in city disorders. These naive youths are playing at being "noble guerrillas," but in fact are working with a terrorist cadre spawned in Moscow and fostered in Havana. Those in this country and in Nicaragua who are urging that our Government support formation of a coalition government in Nicaragua that would include the FSLN terrorists have been trying to cover up the Communist origins of the FSLN and for the influence of the Nicaraguan Communist Party—Partido Socialista de Nicaragua—in the so-called Third Force opposition.

The present terrorist threat in Nicaragua is posed by the Frente Sandinista de Liberacion Nacional (FSLN) whose members were recruited in the late 1950's and early 1960's by Carlos Fonseca Amador, a Nicaraguan who was educated in Moscow at Friendship University, now called Lumumba University, which is the Soviet Union's principal center for recruitment and indoctrination of Third World revolutionaries.

Somewhat parenthetically, Lumumba-Friendship University has produced an even more notorious terrorist than Carlos Fonseca, and that is Ilich Ramirez Sanchez, the Venezuelan killer known as "Carlos the Jackel." Those of my colleagues who may be particularly interested in the use of this Moscow institution for recruitment of terrorists may wish to read the account of the KGB's stage management of the formation of the Mexican terrorist Revolutionary Action Movement (MAR) in John Barron's book, "KGB: The Secret Work of Soviet Secret Agents."

According to Tomas Borge Martinez, characterized by writer Tad Szulc as "the political and ideological leader" of the FSLN and a member of its "national directorate" of politburo, Fonseca returned to Central America in the late 1950's and commenced organizing a Marxist revolutionary movement among leftist Nicaraguan university students in Costa Rica and Venezuela. One of his earliest recruits was Tomas Borge.

In his efforts, Fonseca had the assistance of Cuban and Soviet officials. Cuban Communist backing for armed violence in Nicaragua began in 1959, shortly after Castro took power, when a Cuban Air Force plane flew a small guerrilla nucleus to a neighboring country. This nucleus was to try to invade Nicaragua and take over the leadership of antigovernment groups. In June 1960, the Nicaraguan Government expelled Cuban Ambassador Quintin Pino Machada and all of his Embassy personnel in Managua because of their involvement in the program of subversion and terrorism then underway.

According to the statements of Tomas Borge made to a Nicaraguan court in 1976 in which he boasted of the international solidarity and support of the Cubans for his FSLN, in 1960, Fonseca and other early recruits received terrorist training during 1960 in Havana. Of the initial group of 60 recruits at a secret terrorist base in Honduras, "most had received small (short) guerrilla courses in Cuba," stated Borge.

In April 1977, U.S. State Department Central American Affairs Director Michele M. Bova provided the following information on the Cuban origins of the FSLN to Representative Edward I. Koch that the FSLN, first called the National Liberation Front or FLN,

> was founded in Havana in September 1962 by a group of leftist extremists who had been active for some years in revolutionary causes in Nicaragua. Carlos Fonseca Amador, perhaps their most significant leader, was a proponent of Marxist-Leninist theory who has closely followed the Castro revolution in Cuba and whose attachment to the Cuban revolutionary model strongly influenced the FLN's early strategy and tactics. (Fonseca was killed in a shootout with the Nicaraguan National Guard in November 1976).
>
> The FLN's primary objectives, declared in 1963, were:
>
> To fight against the economic exploitation and political domination of the United States;
>
> To fight against the Somoza regime;
>
> To institute agrarian reforms; and
>
> To seize power in Nicaragua and establish a government of national liberation.
>
> The FSLN believed that the only effective means to achieve these goals were through warfare and terrorism.

As the U.S. State Department informed Representative Koch, in order to capitalize on traditional anti-U.S. sentiment,

> By 1964, the FLN had added the name of Sandino to its title, in honor of Gen. Augusto Sandino, the Nicaraguan guerrilla leader who had battled U.S. Marines in Nicaragua from 1928 until shortly before his death.

Sandino has always been a particular hero to the Communists in Latin America. From the time Sandino began his attacks on the U.S. military presence in Nicaragua in 1927, he received wide support from the Communists and was closely alined with them. His brother, Socrates Sandino, was a member of the Communist Party, U.S.A. and was assigned by the Comintern to organize international support for the armed struggle in Nicaragua.

According to the minutes of the Political Committee of the Communist Party, U.S.A. (CPUSA) (Meeting No. 40, June 15, 1928), attended by Benjamin Gitlow, James Cannon, William Z. Foster, Robert Minor and others:

> Comrade Gomez reported on the request of Munzenberg to have Socrates Sandino make a tour of the European cities, and he recommended that permission be granted provided that the fare would be paid.

The proposal received unanimous approval. It is noted that Gomez was in charge of Latin American work for the CPUSA and that Willi Munzenberg was responsible for organizing and controlling the international fronts of the Communist International in Moscow. One of these, the International Anti-Imperialist League was used to organize Socrates Sandino's trip, clearly placing him under the control of the Communist International.

The success of Communist agent Socrates Sandino is indicated by the fact that the 1928 Sixth Congress of the Communist International (Comintern) in Moscow adopted a resolution proposed jointly by the Communist Parties of the United States and Mexico which sent,

> Fraternal greetings to the * * * heroic army of national emancipation of General Sandino, which is carrying on a brave, determined struggle with the imperialism of the United States.

It should be noted that General Sandino's private secretary and adviser was the Salvadorean Communist leader, Augustin Marti. Although the Communists criticized Sandino for abandoning the armed struggle in 1933, after his death in 1934 he was placed in the revolutionary pantheon.

In 1963, as Tomas Borge has related, the FSLN contingent based in Honduras illegally crossed the border and set up a base in Nicaragua in an area where the Nicaraguan citizens are primarily Indians. The Indian farmers gave no support to the university-educated Marxist guerrillas who attacked their small towns, robbed them of food and supplies, and fought with the National Guard only when cornered. Driven back into Honduras, the Honduran Army eventually rounded up surviving terrorists.

This set the pattern for FSLN revivals in 1965, 1967 and 1969. In each case, the small, but well-trained Nicaraguan National Guard, which has received training in counter-insurgency methods from the United States, was able to locate and defeat the FSLN groups before they were able to establish themselves in the remote rural areas.

Again and again, the captured or killed FSLN cadre have been identified as having received training in terrorism and guerrilla warface tactics in Cuba and other Communist countries. As the House Committee on Foreign Affairs, Subcommittee on Inter-American Affairs reported in 1968:

> In mid-1967, a band of young men, most of them members of the Frente Sandinista de Liberacion Nacional (FSLN), went to the mountains of north-central Nicaragua and began to train, gather ammunition, and cache food. A small contingent of well-trained Nicaraguan National Guard troops caught up with the guerrillas and killed fifteen. Of the dead, ten were identified as active members of the FSLN. Some of them had been trained in Cuba, others in Eastern Europe.
>
> Subsequently, there was an outbreak of Communist terrorism in Nicaragua's cities.

The current resurgence of FSLN activity dates to 1974 when a series of severe earthquakes not only virtually leveled Managua, the capital, but caused major landslides that severely disrupted roads in the remote rural areas where the FSLN had consistently tried to set up a land base.

On December 27, 1974, nine FSLN terrorists raided a private house in Managua, killing 3 persons and holding 17 persons hostage for 3 days. According to one of the FSLN members, the terrorists had waited outside the house until the U.S. Ambassador to Nicaragua had left so that there would be no immediate reason for U.S. intervention against the FSLN. Finally, the FSLN group, joined by 14 FSLN members released from jail by the Government and with a cash ransom of $1 million, the terrorists flew to Havana accompanied voluntarily by the Spanish and Mexican Ambassadors. The Spanish Ambassador had previously demonstrated such hostility to the Nicaraguan Government and people that he refused to allow a shipment of relief aid by the Spanish Red Cross following the great earthquake.

Reports in the Cuban Communist Party Central Committee newspaper, Granma, showed the FSLN receiving a hero's welcome in Havana. And when the Cuban officials introduced the leader of that FSLN operation, Eduardo Contreras, on a Havana Radio broadcast, they described him as the man who "one day would impose a Communist regime in Nicaragua." Contrereas did not live so long as to attain that goal. He and Fonseca were killed in separate shootouts with the Nicaraguan National Guard in November 1977.

The FSLN has undergone a number of modifications since its initial concentration on protracted rural guerrilla warfare and terrorism in the early 1960's. It has been collaborating with the Communist PSN since 1967 when the old-line PSN leadership was removed in order to facilitate both closer alinement with the FSLN and expanded efforts to build a "popular front" of all political opponents to the Nicaraguan Government.

During 1977, a three-way split appeared in the FSLN following the deaths of Fonseca and Contreras. One group of old-time FSLN cadre recommended sticking to a "prolonged people's war" in the rural areas, a tactic that has so far been notably unsuccessful. A second group, the "proletarian faction," wants to do more organizing "mass support" among the urban working class and some "peasant sectors" while also continuing the terrorist attacks; and finally the new majority group, the "terceristas," opted for a combination of urban terrorism and collaboration with the PSN's UDEL and Broad Opposition Front coalitions.

The hand of the Cuban Government in maintaining the FSLN is scarcely concealed. Throughout the 1960's, defeated FSLN leaders and new recruits went to Havana for refuge, training and preparation for the next assault on the Nicaraguan people.

Radio Havana has kept up running commentaries on the "new advances" of the FSLN. For example, the February 1977 "Nicaraguan Solidarity Week" in Havana included a lecture by FSLN member Jacinto Suarez who had "expressed gratitude for the support and solidarity of the Cuban people for the Nicaraguan people;" a broadcast interview by the chief FSLN representative in Havana, Jose Benito Escobar, who reported that the Nicaraguan revolutionaries had developed "the necessary organization and experience to carry out the final struggle." He boasted:

> The development of the labor and mass movements is considerable when compared to those in the days of Sandino. * * * We have military experience and an embryonic people's army.

And on February 21, the anniversary of Sandino's death, the Cuban regime staged a public rally at a sugar mill named after Sandino. Among those speaking at the rally were Jose Escobar of the FSLN; Rene Rodriguez, president of the Cuban Institute for Friendship with Peoples (ICAP), named repeatedly in Congressional hearings as a "cover" organization for Cuba's secret police and espionage agency, the General Directorate of Intelligence (DIG), which is subservient to the Soviet KGB; and Cuba's veteran chief of subversive and terrorist operations in the Western Hemisphere, Manuel Piniero Losada, head of the Americas Department of the Cuban Communist Party Central Committee. Piniero was head of the DGI until 1970, when Castro made him head of the Directorate of National Liberation, responsible for coordination of all Castro's subversive, revolutionary and terrorist endeavors in the Western Hemisphere.

Cuba has again made a public demonstration of support for the FSLN. On August 31, 1978, 22 of the FSLN members released from Nicaraguan jails as demanded by a group of their fellow terrorists who captured the National Palace in Managua arrived at Havana airport in a Panamanian Air Force plane. The FSLN members were greeted by top Cuban officials including Piniero's deputy head of the Americas Department of the Cuban Communist Party Central Committee, Ulises Estrada; Lt. Col. Justo Hernandez of the Cuban Interior Ministry which supervises the DGI; and Miguel Brugueras, the Cuban Ambassador to Panama.

On their arrival, the FSLN members gave interviews to the Cuban media. They reported that Alejandro Padilla was happy to be in Cuba "to see the revolution which is an example for all revolutionaries of Nicaragua and Latin America as a whole." Rene Nunez Tellez stated that the FSLN's "anti-imperialist" struggle relied on "the solidarity of the peoples of the world, especially of Cuba." And Margine Guterrez said:

> My ideological principles are based on Marxism-Leninism. We owe ourselves to this ideology and we of the Sandinista National Liberation Front will put it into practice constantly.

It should be pointed out that contrary to the claims of its supporters and apologists, the FSLN is not a guerrilla organization engaging only the Nicaraguan National Guard. Throughout its history, the FSLN's main victims have been Nicaraguan civilians. I provided the House with documentation of the FSLN's terorist record in many reports including those of May 25, 1977, 16732; June 22, 1977, 20454; June 23, 1977, 20696; July 13, 1977, 22809 and following; September 16, 1977, 29752; October 21, 1977, 34822; in my statement to the House Subcommittee on International Organizations on February 16, 1978.

Terrorism is violence directed against the civilian sector in order to demoralize people, extort their cooperation with the terrorists, and attain a political or military objective. Generally, terrorism is designed to end not only the active cooperation of civilians with their government, but to so intimidate them that even passive resistance to the terrorists is crushed.

By this standard, the FSLN is a terrorist organization. And indeed, the most notorious international terrorist organization, the Palestine Liberation Organization (PLO), has recognized its kinship with the FSLN. The PLO has operational links with a number of other terrorist groups and with the secret police of a number of Communist countries that have assisted the PLO carry out acts of terrorism. These include the East German secret police who aided members of the Marxist-Leninist Popular Democratic Front for the Liberation of Palestine (PDFLP), led by Nayif Hwatmeh, attempt to enter West Berlin armed with hand grenades and other weapons; the Japanese Red Army which performed the Lod Airport massacre for another Marxist-Leninist PLO member, the Popular Front for the Liberation of Palestine (PFLP) headed by George Habbash; the West German Baader-Meinhof gang which provided the logistical support for the Black September commando of Al Fatah at the 1972 Munich massacre; and the Czech secret police which assisted the PLO assassination of Jewish leader Charles Jordan in 1967 in Prague.

As I first reported in my statement to the Subcommittee on International Organizations on February 16, 1978, the bonds of international solidarity between the FSLN and the PLO were demonstrated on February 5, 1978, when Havana Radio announced that the PLO and FSLN, meeting in Mexico City, had signed a joint communique in which they emphasize the bonds of solidarity which exist between the two organizations.

The joint FSLN–PLO statement was released at a Mexico City meeting of the World Peace Council (WPC), an important international Communist front run by the International Department of the Central Committee of the Communist Party of the Soviet Union and by the KGB, held in Mexico City. The WPC's conference was called the Continental Conference of Latin America and the Caribbean for Peace, Sovereignty and Economic Independence. It followed by a few days the first World Peace Council meeting in the United States, held here in Washington just off Capitol Hill, which was attended by a number of congressional staff members and other U.S. persons.

The communique was signed for the FSLN by its Havana representative, Jose Benito Escobar, and by the PLO chief for Latin America, Issam Sali. This was followed by reports in the Guatemalan press that the PLO had offered to send the FSLN some volunteers who would fight at the side of the Nicaraguan guerrillas.

This event was followed the next month with a similar joint communique with the PDFLP, Hwatmeh's group that murdered more than two dozen Israeli schoolchildren at Maalot in May 1974. Recently Havana Radio has been broadcasting attacks on Israel for providing military equipment to the Government of Nicaragua.

As the Washington Post's editorialists noted earlier this year:

> The Sandinistas, Castroite in inspiration, are playing down their Marxism and winning acceptance from professional persons and non-Somoza capitalists.

Of course the Communists are down playing their ideology. They need the acquiescence, if not active support, of larger numbers if they are to take over Nicaragua. The scenario is the old one from Cuba; and the FSLN goal is the same as Castro's—to take state power and institute a Communist dictatorship.

The FSLN's supporters in the United States have been very frank about FSLN aims in private discussions with other Marxist revolutionary groups. Recently a Los Angeles activist with La Raza Unida, Pedro Arias, who has been acting as the press representative for a Sandinista support group called the Broad Anti-Somoza Front—Frente Amplio Antisomocista de Los Angeles (FAALA)—wrote a letter to another Marxist-Leninist group enclosing copies of FSLN communiques which he said:

> show we are not only trying to overthrow the Somoza dictatorship (though this is our first objective), but that we will also make many changes when we form the future Popular Democratic Government with the glorious and heroic FSLN at its head as the guiding armed hand of the Nicaraguan people.

NICARAGUA'S STRATEGIC IMPORTANCE TO THE COMMUNISTS

The question of why Nicaragua has been targeted for subversion and overthrow by the Communists was supplied by an article in the U.S. Communist newspaper, The Guardian, the publication that carriers KGB agent Wilfred Burchett on its staff, in March 1977. The article, written by one Alejandro Bendana, stated:

> The overthrow of Somoza by a popular anti-imperialist movement may well prove a critical turning point in the regional struggle for national liberation. U.S. imperialism and its allies are all too aware of their fragile grip on this strategically vital area—of the explosive situation in Panama, the strength of the progressive forces in Costa Rica, the deep unrest in El Salvador * * *, the organized revolutionary movement in Honduras and Guatemala, the nationalist surge in the Caribbean, and, of course, the towering influence of socialist Cuba.

This, of course, is an explication of the "domino theory;" usually characterized when propounded by an anti-Communist in the U.S. media as the "discredited domino theory."

DISASTEROUS U.S. POLICY TOWARD NICARAGUA

Until recently, the people of Nicaragua and their elected government were able to count on the United States of America as the leader of the free world to support their resistance against Communist aggression. However, it has become evident that in the past two years a clique has formed in the U.S. State Department that has instituted a radical new United States policy of non-support and nonassistance to Nicaragua.

Superficially, a so-called hands off Nicaragua policy might appear to be balanced, but in fact that policy is designed to be used as a weapon against the Government of Nicaragua which historically has enjoyed a stable, friendly relationship with the United States.

Denial of assistance to a long-time friend of the United States when it is under attack from the Communists and their allies in the guise of "nonintervention" is de facto provision of assistance to Nicaragua's enemies.

This open hostility of the U.S. Government toward the Nicaraguan Government is a matter of public record. One of its leading architects is Mauricio Solaun, the U.S. Ambassador to Nicaragua. Ambassador Solaun will be remembered for his sensational "confirmation" of false press reports that U.S. mercenaries were serving in a combat capacity with the Nicaraguan National Guard. The Ambassador's false statement was repudiated on that occasion by State Department spokesmen who pointed out that while a few U.S. citizens under contract to the Nicaraguan National Guard have participated in training programs as instructors, there are no U.S. citizens serving as mercenaries in Nicaragua.

But Ambassador Solaun has done much more. Another of his projects was to work with the Nicaraguan opposition group, the Democratic Union of Liberation (UDEL), and persuade President Somoza to engage in a political dialog, in other words, to make concessions to this group. In 1977, the CIA publicly characterized UDEL as a united front "composed of anti-Somoza political movements and labor groups with orientations ranging from conservative to Christian Democrat to Communist." The Hoover Institution 1975 Yearbook on International Communist Affairs, citing the official journal of pro-Soviet Communist parties published in Czechoslovakia, World Marxist Review Information Bulletin No. 1–2, 1974, quotes a major resolution passed at the 10th Congress of the Nicaraguan Communist party (Partido Socialista de Nicaragua (PSN)). At that meeting held secretly in Managua in October 1973, the Communists called for the formation of a "united front incorporating all labor unions, students, peasant organizations, committees for defense and improvement of the people's conditions, democratic political parties, elements of the middle class, progressive Christians, democratically minded military, and all others who oppose the Somoza government."

The PSN resolution continued:

> Only thus will it be possible to create a broadly-based popular movement capable of overthrowing the regime and bringing down its oligarchic imperialist mainstays.

Formation of the "democratic opposition front" was made the principal Communist task. In 1974, several months after the Nicaraguan Communist meeting, UDEL was formed. As of January 1978, the nine parties and groups forming the UDEL included both the PSN and its controlled labor front, the Independent General Confederation of Workers.

Thus we have a case where an American Ambassador has encouraged a Free World Government to cooperate with the Communists.

The new anti-Nicaraguan policy of the United States was developed by an activist State Department clique referred to in the press as the Christopher Committee. It is headed by Deputy Secretary of State Warren M. Christopher and is composed mostly of young activists from the Bureau of Human Rights and Humanitarian Affairs and Policy Planning Department.

Documentation of the State Department bias against the Nicaraguan Government and its leader, President Anastasio Somoza, appeared with the February 1978 publication in the Review of the News of excerpts of an October 1977 report drafted for Ambassador Solaun by his political officer in Managua, Jack Martin. The report was written after the Cuban-backed Marxist terrorist group in Nicaragua had greatly increased its attacks and had begun an urban terror campaign. But Mr. Martin's report blandly commented that despite a well-organized political and economic campaign aided by "pressure from the United States," against the government headed by President Somoza, he "appears to be in firm control and able to resist the pressure for change." Here we have a State Department political officer categorizing as mere "pressure for change" a combination of increasing terrorist violence by Marxist revolutionaries, an economic and political pressure campaign by the United States, and economic warfare organized by a coalition of opponents that is directed by the Nicaraguan Communists and supporters of the terrorist organization.

The purpose of a Communist front organization is to attract non-Communist dupes and opportunists and get people with varying motives working in a unified way along lines beneficial to the Communists. One of those who worked in UDEL was Pedro Chamorro, a liberal newspaper publisher whose family had been an opponent of the Somoza family for two generations. Chamorro allowed his blind hatred of President Somoza and his relatives to lead him into collaboration with first the Communists in UDEL, and finally, with the terrorists of the Sandinista National Liberation Front (FSLN). Sources favorable to the FSLN have reported that Chamorro had gone to Honduras to make arrangements to meet with the FSLN representatives in Mexico City at the end of January. The murder of Chamorro by hired assassins who confessed they worked for a U.S. citizen named Pedro Ramos who was involved in a law suit against Chamorro on January 10, 1978, provided the UDEL group and the FSLN with an excuse to organize an economic warfare campaign of strikes and rioting in an effort to cause the collapse of the Nicaraguan Government.

UDEL has now been supplanted by a new coalition, the Broad Oppositon Front (FAO). This consists of the old UDEL plus others, including the so-called Group of 12, formed on October 14, 1977, with the release of a statement of political support for the FSLN terrorists signed by a dozen Nicaraguan opposition politicians. Within the FAO coalition, the Group of 12 represents the interests of the FSLN.

To prevent any misunderstanding of the Group of 12's full support for the FSLN, I would point out the concluding section of their founding statement:

> Throughout more than a decade the FSLN struggled selflessly to achieve a change in Nicaragua, and the blood that so many young people have shed is the best witness to the seriousness and perseverance of the struggle which is being carried out with growing political maturity.
>
> We the undersigned do not hesitate to call upon conscientious Nicaraguans to find a national solution for Nicaraguas' grievious problem and to realize that a solution which will guarantee a permanent and effective peace cannot be achieved without the participation of the FSLN.

The signers of that statement included:

Felipe Mantica Abauza.
Joaquin Cuadra Chamorro.
Miguel d'Escoto Brockman.
Ricardo Coronel Kautz.
Carlos Tunnerman B.
Fernando Cardenal Martinez.
Emilio Baltodano Pallais.
Sergio Ramirez Mercado.
Arturo Jose Cruz.
Carlos Gutierrez Sotelo.
Ernesto Castillo Martinez.
Casimiro Sotelo Rodriguez.

This so-called group of 12 of proterrorist politicians which is the political front for the FSLN, has also been promoted by the State Department's activists as an alleged "Third Force" in Nicaragua, a "Third Force" of Las Doces and UDEL, now the FAO, to offer a "moderate" alternative to the traditionally anti-Communist, pro-American centralized government headed by President Somoza and to a possible military coup by the Nicaraguan National Guard.

This "Third Force" method of finding some "alternative" of existing governments friendly to the United States has been the State Department's main tactic for attacking American allies since the early 1950's. As usual, the Nicaraguan "Third Force" is an ally not of the Free World, but of the Communists, and ends up playing the role of a "front man" for a Communist takeover. R. Harris Smith wrote in his book, "OSS: The Secret History of America's First Central Intelligence Agency," that the most notorious failure of the "Third Force" theory was in Cuba where Fidel Castro's 26th of July Movement played that role.

Should the "Broad Opposition Front" in which the FSLN terrorists and the tightly organized PSN Communists have the strongest organization succeed in overthrowing the Nicaraguan Government, we may expect a reign of terror to follow, as it did in Cuba, Vietnam, Cambodia, Angola, Mozambique, and recently in Afghanistan where the pro-Soviet leaders have been executing landlords and supporters of the previous government.

The United States should show its strong support for the lawful Government of Nicaragua and its President, and give it the support needed to achieve civil peace, suppress the violence by the Marxist terrorists, and demonstrate to the enemies of freedom that the United States will not sit by and permit a Communist takeover of another Latin American country. The Cuban tragedy must not be repeated in Nicaragua.

● Mr. COLLINS of Texas. Mr. Speaker, I appreciate the opportunity to join my colleague from New York (Mr. MURPHY) in discussing our American foreign policy with Nicaragua. Many times it seems we have a policy of turning our back on our friends and encouraging Communist agitators.

With the liberals in Nicaragua we have a group of dissidents who will continue to ferment agitation in Central America. If Somoza's regime loses power, human life and stability of operations will be most uncertain for a long time to come. Recently, terrorists held legislators at gunpoint and demanded a $500,000 ransom plus, as I recall, 50 political prisoners. They received the money and prisoners and immediately headed for their sanctuary which was Panama.

It was just a few months ago that we talked about the Communist leadership in Panama. And here we have Panama where terrorists find they can seek asylum. With the Communists firmly established in Cuba, they have now moved forward in Panama through the administration giving them the canal, and now the Communist sympathizers and terrorists received more encouragement from the United States.

Around the world we should support our friends and help them maintain democratic institutions of responsible government. Nicaragua has always been our friend. Now in this year of domestic turmoil, why does America turn its back on them?

There are many of us here in Congress who want to see a peaceful business, agriculture, and academic climate reestablished in Nicaragua.

I believe we should encourage the existing government.●

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order on today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York.

There was no objection.

SOLID WASTE DISPOSAL: A NATIONAL SCANDAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 10 minutes.

● Mr. LAFALCE. Mr. Speaker, in a continuing effort to alert my colleagues to the environmental problems that are continuing to plague our Nation as a result of the nonimplementation of the Resource Recovery and Conservation Act of 1976, I am inserting into the RECORD two articles by Michael Desmond recently published in the Buffalo Courier-Express.

By not issuing regulations for RCRA, EPA is creating a gaping hole in our national policy to reduce the amount of uncontrollable pollutants in the environment. Congress has passed landmark legislation such as the Clean Air Act of 1977, the Clean Water Act of 1977, the Safe Drinking Water Act and the Toxic Substances Control Act. Congress clearly indicated that these laws should be implemented as quickly as possible, so that the Nation's health, welfare, safety, and environment could be protected in a well coordinated manner. Since RCRA is not currently being implemented, an integral part of that national policy is mising.

Without RCRA regulations, for example, "midnight haulers"—illegal waste dumpers—spill wastes into sewers, along roadsides, or at any other place which seems to be convenient for the hauler. The results of these actions are additional pollutants in our drinking water, increased burdens on our sewage treatment plants, increased pollution in our rivers and streams, and increasingly higher amounts of unhealthy and even toxic chemicals in the atmosphere which we must breathe.

The harmful effect on the health and welfare of society from the "midnight hauler" is only one example of the type of burden we must bear as a result of EPA's dereliction of duty. The "midnight haulers'" clandestine spills also mean that innocent victims must bear the expenses of protecting themselves from the irresponsible actions of others.

These two articles discuss the hazards which this Nation will face if the toxic wastes which our technological society is producing continue to pile up and are not disposed of properly in accordance with uniform Federal regulations.

EPA must implement RCRA immediately so that this Nation can have the coordinated national policy that it deserves and which Congress has mandated in order to protect it from the toxic wastes which are the unfortunate legacy of our highly industrialized society.

The articles follow:

ILLEGAL WASTE HAULERS CREATE U.S. TIME BOMB

(By Michael Desmond)

There are two ways to dispose of hazardous chemical wastes—legally and illegally. And the illegal way is by far the most common.

"Midnight haulers," as illegal waste-dumpers are known, are familiar figures in the chemical industry. They are especially familiar among smaller chemically-oriented companies which cannot afford the high costs of legal waste treatment or disposal.

How expensive is legal waste treatment? One operator of a well-known chemical waste treatment plant cited this example to The Courier-Express: To turn one type of chemical into harmless material costs $5 a gallon. The chemical comes in 55-gallon drums. The cost, then, is $275 per drum. Multiplied by the thousands of drums which must be disposed of, and the costs would be astronomical.

DUPONT COSTS

E. I. duPont DeNemours & Co. Inc., for example, will spend $35 million this year to operate its disposal system for chemical wastes from its own vast complex of plants across the nation. The firm said it expects to spend even more next year.

C. Edward Ashby Jr. is well aware of the "midnight hauler" problem. He is vice president-eastern region for Rollins Environmental Services Inc. in Bridgeport, N.J., a disposal firm located not far from the state's rustic Pine Barrens. He grimaces when "midnight hauling" is mentioned as an alternative to proper disposal, but admits it is common.

New Jersey is a chemist's dream. From the industrial complex across the Delaware River from Philadelphia to the miles of industry across the Hudson River from New York City, the state is a giant test tube.

BIG WASTE PRODUCER

Currently, the state produces 350,000 tons of chemical waste a year and 1.2 billion gallons more which is dumped into the ocean, according to Dr. Ronald Buchanan, chief of the Bureau of Hazardous and Chemical Wastes in the state's Department of Environmental Protection in Trenton.

But, he is well aware of the Pine Barrens and its counterpart in North Jersey, the Meadowlands, where illegal dumping is common.

Many states have equivalent illegal dumping areas. Kenneth Weiss, a research engineer for the Delaware Department of Natural Resources and Environmental Control in Dover, noted, "From what we have learned from our waste investigation, most of it is going out of state."

However, the department makes no attempt to verify records showing an out of state destination, he admitted.

Many states have laws or rules on the books to take care of hazardous wastes. But, there is little or no staff to enforce the laws, so they are largely just for show.

TIP OF ICEBERG

"We don't have the ability with our current staffing to do more than break the tip of the iceberg," was the comment of James Snyder, chief of the operations and compliance section of the Solid Waste Management Division of the Pennsylvania Department of Environmental Resources.

This isn't a problem confined to the large industrial states. "We're certain there are things that are going on we don't know about," commented Dennis Dalley, associate deputy director of health in the Environmental Health Services Branch in the Division of Health in the Utah Department of Social Services. He is one of three state employees in the hazardous waste field.

Louisville, Ky. found out about illegal dumping in the spring of 1977. A series of toxic chemicals used to make pesticides were dumped down a sewer. The chemicals contaminated the sewer system and sent 35 sewer plant workers for medical treatment.

SEWAGE DUMPED

For nearly three months, 100 million gallons of raw sewage a day was put into the Ohio River because the Morris Foreman Treatment Plant could not be used.

Final cleanup of sewer lines took more than a year, while much raw sewage continued to flow into a major river. A group of employees and officials of an Indiana chemical firm were indicted in federal court for violating the Federal Water Pollution Control Act.

Recently, midnight dumpers poured toxic PCB along 210 miles of road outside Raleigh, N.C.

"There are states, Minnesota is one, unlike New York who have put their head in the sands," commented Dr. Charles A. Johnson, technical director of the National Solid Wastes Management Association in Washington, D.C. He added:

"As long as we continue to be an industrial society we are going to have industrial wastes."

His group lobbied hard for the Federal Resource Conservation and Recovery Act (RCRA). At the same time, the association doesn't think the law provides enough protection into the distant future.

And, the future is the problem.

LOVE CANAL

When the Hooker Chemicals & Plastics Corp. buried its waste in the industrial dream that was the Love Canal area of Niagara Falls, it was using the standard approach of the time. The chemicals turned into a nightmare which haunts the quiet neighborhood and many haunt its residents for a generation or more.

So, as the horrible example of the Love Canal indicates, there are even problems with legal dumps.

The Love Canal was a chemical waste dump which went wrong. The bad dumps around the country—and there are probably many thousands of them—are ticking time bombs. In the Love Canal, the bomb has gone off. Chemicals from the leaking site are thought to have caused birth defects and miscarriages, and have forced evacuation of a section of Niagara Falls.

What former dump site will go off next? There is no way to tell. The U.S. Environmental Protection Agency, the government unit responsible for protecting the nation's health from such calamities, admits it does not even know where the sites are.

Some waste is supposed to be burned, Federal regulations require that PCBs be burned in special incinerators at 2,100 degrees. But, there is no public incinerator in the country licensed to burn liquid PCBs. So, they have to be stored until EPA can license incinerators.

WASTE FUEL

Some chemicals are cleaned and mixed and used as fuels in industrial processes. Since the oil embargo of five years ago, industry is much more aware of this source of heat, one large treatment plant uses about 10 percent of the wastes it handles as a fuel supplement.

Some liquid waste can be treated to pre- and reused. This is especially true of industrial solvents. One plant recycles 10 percent on the average.

Some liquid waste can be treated to precipitate out the contaminant in the form of sludge. The water is then cleaned and discharged. Usually the sludge is buried, But some metals can be reclaimed if concentrated.

Sometimes waste itself can be exchanged with other companies and used as a source material by the second company. Currently, little of this is being done.

There are three last resorts. Dumping in a secure land fill is one. Pumping material several miles into the ground in a deep well is a second, And, hauling the material out into the ocean or Gulf of Mexico is the third.

REDUCE WASTES

Of course, there is an alternative companies have been reluctant to use as long as disposal, at present, is cheaper: Reducing the amount of waste to be disposed of. This can be done by making production more efficient or by changing the basic process.

James Reilly, corporate director of environmental affairs for DuPont in Wilmington, Del., commented on efficiency: "That gets to be the topic of any manufacturing discussion."

Bruce Davis, executive vice president for Hooker's Industrial Chemicals Group, noted his firm spent $5 million in Niagara Falls on one of its industrial processes. It resulted in "a hell of a lot more efficiency and one of the savings is less disposal of residue."

In another process in Niagara Falls, he said, "We've essentially eliminated any material going to landfill or sewer system."

Davis said the technology involved in this change will be sold to other companies in the field by Hooker. "We are one of the leading purveyors of chloralkali technology in the world," he noted. This involves turning salt and water into commercial chemicals.

Simply trying to throw away the wastes isn't the answer because it doesn't work.

Ocean dumping will be stopped, by law after Dec. 31, 1981. It has been the subject of fierce talk.

TEXAS PROTEST

On Aug. 23, shrimp fishermen from Freeport, Texas attacked an EPA proposal to permit the federal agency department to dump salt brine into a fish spawning ground. The brine is being pumped out of an underground salt formation to make room for oil storage through the government's Strategic Petroleum Reserve Program.

The oil is being stored to be used in the event of another oil embargo. The brine is so much saltier than the ocean that it could pollute the spawning grounds.

Lonnie Vandergrifft is president of the Freeport Shrimp Association and a director of the Gulf Coast Fishermen's Defense Fund. Both groups are considering a federal court suit against the proposal. Vadergrifft said: "The EPA is supposed to be against ocean dumping. But, this will be just like a sewer line into the Gulf."

DUMPING SUPERVISED

Currently, the EPA is supervising the annual dumping of 1.5 million tons of waste off the New Jersey shore, Dr. Peter Anderson, chief of the Marine Protection Branch for EPA's Region 2 in New York City, told The Courier-Express.

Most of the waste is either chemically basic, as is the ocean, or acidic which is neutralized into a salt by the ocean. Some toxic pesticide wastes and pesticides are also dumped. Anderson claimed they deteriorate in the ocean. Garbage and sewage are also dumped and have washed back on shore.

Rep. Bob Eckhardt, D-Texas, was influential in pushing for the now required end to most dumping. He pointed out to The Courier-Express that one steel company used to dump 1,000 pounds of cynide into the Houston Ship Channel each day. Eventually, former Texas Governor John Connally was called in by the company to get EPA off its back about the waste.

"Connally went up to Washington and had some conversations with the Department of Justice. It was out of EPA's hands," Eckhardt told The Courier-Express.

CASE REOPENED

Eckhardt said a letter turned up which showed EPA was ordered to reopen the case. Connally, who was also formally treasury secretary, was later publicly praised by the president of the steel company.

Finally, tighter controls were put on by congress.

Eckhardt has been pushing on the dumping situation, even though he admits, "I really do have more of the chemical industry in my district than any other congressman."

TOUCHY ISSUE

The issue remains touchy:

On Aug. 23, the Ethyl Corp. withdrew a new application for ocean dumping in the Gulf of Mexico when EPA ruled that both Houston newspapers could use the Fredom of Information Act to find out what the company was dumping. Ethyl was the last company to have a federal permit to dump in the Gulf.

When EPA began to regulate Gulf dumping in 1973, there were seven companies dumping. Before that, the practice was loosely regulated by the Army Corps of Engineers.

It isn't known exactly what Ethyl wanted to dump, although in the past the firm has dumped calcium and sodium sludge in an area 50 miles off the Mississippi Delta.

Instead, the company said, it will incinerate its waste.

WASTE BURIED

Some other companies no longer dumping in the Gulf are now burying their waste.

At one time, the Gulf was close to being a main dumping ground for Middle America, Rep. Eckhardt noted:

"I started complaining a long time ago. People were shipping drums down the Ohio River to dump in the Gulf of Mexico."

Public Frets Over EPA "Laxity" on Dump Sites

(By Michael Desmond)

The federal Environmental Protection Agency is delaying more and better treatment of chemical wastes because of its tardiness in setting ground rules for the industry.

The federal Resource Conservation and Recovery Act (RCRA) of 1976 was designed to manage hazardous and chemical waste. But EPA, headed by administrator Douglas M. Costle, has not yet told potential investors what rules and regulations will be on waste handling. The act required the regulations to be written by April 1978. But EPA said it will not complete the work until 1980.

Sophisticated waste treatment is a small but growing field, facing growing opposition by neighbors of treatment plant sites.

Citizens are worried that the waste treatment plant set up in their neighborhood will go broke and leave behind lakes of chemicals and drums of unknown materials to pose a health threat.

There is reason for that kind of worrying: Michigan recently spent $700,000 in Pontiac cleaning up 20,000 drums of toxic wastes after Ankerson Resource Recovery Systems went broke.

The Coast Guard has just spent $1.9 million in Oswego, cleaning up liquid wastes after Pollution Abatement Services (PAS) went out of business.

New York State's proposed supplemental budget includes $750,000 to be used to find out what is in the PAS drums and how much it will cost to process the wastes. The drums are split between Oswego and a warehouse in nearby Mexico, N.Y.

MAKE CLAIM

Companies in the waste treatment field claim that wastes can be "properly" disposed of. But, none says it's easy. And no one can say "permanently."

There is considerable skepticism in the industry about buried wastes. No matter how well designed and how well built the waste burial vaults are, no one is really certain how long they will last.

What burying the waste really does is leave today's problems for future generations.

"When you get in that business, you have to be in the business of running a chemical plant," according to Carl Goslin, assistant technical director of the Manufacturing Chemists Association (MCA). The MCA is a trade group for chemical producers in Washington, D.C.

Goslin once ran a waste treatment site in Delaware. Since chemicals are going in and chemicals are going out, a treatment plant must be operated as if it were an initial maker of chemicals.

Proper disposal of chemicals and waste which cannot be turned to another use will cost a lot of money.

"We are going to have the costs of disposal built into the cost of the item," remarked Dr. Charles A. Johnson, technical director of the National Solid Waste Management Association. But one thing is for sure: the consumer will foot the bill.

No one can tell what the extra cost will be.

LOBBYING GROUP

Johnson's association is a lobbying group in Washington for the entire solid waste industry. A small segment of the group handles hazardous and chemical wastes.

Johnson admits the federal Resource Conservation and Recovery Act could be a real boon to his group's members in the chemical field. That is, if the EPA ever gets the regulations out to implement the law. EPA announced on Friday that it will issue its regulations in Jan. 1980—21 months late.

The regulations were due in April, 18 months after the RCRA became law.

On Sept. 7, Illinois Attorney General William J. Scott filed suit against the EPA for its failure to put the regulations into effect. Last Wednesday, also in Federal District Court in Washington, two activist groups, Environment Environmental Action and the Environmental Defense Fund, also sued EPA for the lack of regulations.

Without the rules, companies are reluctant to invest in the treatment field because the investments might wind up in violation of the final rules.

At the same time, the rules will guarantee the existence of the waste treatment industry. Basic to RCRA is the idea that the company which generates waste is responsible for whatever happens to it. Under the law, the company must prove its waste was properly disposed of in an approved site.

There will be much less opportunity for "midnight haulers," the clandestine operators who spill wastes into sewers, roadside ditches, drinking water sources or whatever.

CAN COP OUT

Now, chemical waste producers can simply cop out by saying to federal or state investigators they had hired a reputable hauler. The producers can claim to have no responsibility for later illegal disposal.

Jim Hunt, who oversees licensing of waste haulers for the Indiana Board of Health, noted:

"We don't have the controls or manpower to get totally on top of the problem. While this state has a liquid industrial wastes control program, there is still much illicit traffic. It is widespread, with a lot of interstate movement, and difficult to trace."

Basic to the whole problem is that no one really knows how much hazardous waste is generated, exactly where it goes or even exactly how to define hazardous waste.

ONLY 6 PERCENT

EPA throws around estimates of 98 billion pounds a year, with 80 percent going into on-premises factory sites and the other 20 percent going into the 20,000 private dump sites. Only 5.6 billion pounds are properly disposed of, EPA admits. That's only 6 percent.

Hazardous waste obviously include waste which can cause cancer, can cause birth defects, and cause gentic defects or an even cause immediate death. But, there is also waste which can explode or waste which is dangerous only in very high concentrations.

Reputable waste treatment operators offer a variety of services.

PICK IT UP

Initially, they test to see exactly what it is a waste generator wants handled. If it is something the treatment firm can handle, the plant can even pick it up. When the material arrives, it is checked again to make certain it is what it is supposed to be.

Proper analysis should clear any obscurities caused by the use of chemical trade names which do not indicate the actual chemical.

Waste treatment firms maintain elaborate facilities for electronic, mechanical and chemical tests of waste to make certain the firm knows what the stuff is.

Some waste must simply be burned. The federal government requires that liquids of the highly toxic PCB family be burned in incinerators which can maintain a temperature of 2,100 degrees Farenheit for long periods.

PILING UP

Since not a single public incinerator in the country is licensed to do that, PCB is piling up all over the country. Or, it is being illegally dumped.

EPA estimates that one million gallons a year of liquid PCB waste will be produced for the next 25 years. Disposal firms are unwilling to invest in building incinerators until the EPA issues its long-delayed regulations.

Some materials must be buried in "secure landfills." These aren't just dumps any more, as the Love Canal in Niagara Falls really was. Electrical materials made with PCB in solid form can be buried in secure landfills.

CAN BURN WASTE

Liquid wastes are handled differently. Treatment depends on exactly what they are. C. Edward Ashby, vice president/eastern region for Rollins Environment Environmental Services Inc., Bridgeport, N.J., said his disposal firm can burn waste which is 99 percent water. Because of the possibility of a patent application. Ashby won't say how. But apparently it involves using heat from the incinerator process to boil off most of the water in the incoming waste.

Right now, however, Rollins can't use the Bridgeport incinerator: Last December, an on site explosion of disputed cause killed six persons and knocked it out of service.

Some liquid wastes are mostly solvents, chemicals used to dissolve other chemicals. Through chemical treatment, some of these solvents can actually be cleaned and put back into use. Some solvents are cleaned and then simply used as fuel because it is not economically attractive to reuse them as solvents.

DIRTY WATER

Many wastes have a lot of water in them. Sometimes a "flocculant" can be added which turns the contaminant into residue, leaving dirty water. The residue is left to dry and then buried in a landfill. Sometimes various forms of bacteria can be put into the water which will literally eat the waste material.

Whatever liquid waste treatment process is involved, large amounts of water are produced which also must be cleaned. The water is pumped through giant tanks of activated carbon to remove oragnic wastes. Then, it is aerated to provide oxygen for bacteria and cleaning. Finally, the clean water is released.

FEARS ABOUND

But, people are afraid of places where solid hazardous waste is actually buried. Their fears are not without reason, The Courier-Express has found.

The little town of Wilsonville, Ill., fought and won a battle to get rid of a chemical waste dump in an abandoned coal mine there. Mrs. Gwen Molinar, a village trustee, explained to The Courier-Express:

"We've got a good water supply out there. There's no contamination yet. You know how you get the it's-all-right now . . . feeling." ●

MONTHLY LISTS OF GAO REPORTS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Brooks) is recognized for 10 minutes.

● Mr. **BROOKS**. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The July 1978 list includes:

NATIONAL DEFENSE

Need to Better Inform Military Personnel of Compensation Changes. FPCD-78-27, July 12.

Defense's Response to the Issues in the Defense Manpower Commission Report. FPCD-78-51, July 28.

The Department of Defense Could Save Several Million Dollars Annually Through Improved Management and Control of Reusable Containers. LCD-78-214, July 19.

Essentiality of Air Force War Reserve Items. LCD-78-421, July 25.

Aircraft Depot Maintenance: A Single Manager is Needed to Stop Waste. LCD-78-406, July 12.

Army Commissary Accounting for Gains and Losses Needs Improvement. FGMSD-78-43, July 17.

Letter reports

Based on its 10-year lease of Government property under the hammer and press program, does the Air Force intend to base rental charges on the appraised value of the facilities? LCD-78-331, June 12.

Actions to more fully evaluate the potential war-time role of the Coast Guard and Navy and to improve their coordination. LCD-78-424, July 13.

Redirection needed for successful development of Defense's Tri-Service Medical information system. LCD-78-121, July 19.

Are Defense contracting officials obtaining adequate data in support of forward-pricing rate proposals and are contract administration personnel adequately evaluating business volume forecasts for indirect expense rate negotiations? PSAD-78-127, July 20.

Regulations should be established for operational testing of foreign built weapons systems. PSAD-78-131, July 25.

The Department of Defense could save a substantial amount by shifting the National Parachute Test Range to other facilities. PSAD-78-136, July 27.

INTERNATIONAL AFFAIRS

U.S. Economic Aid For the West Bank and Gaza—A Positive Contribution. ID-78-35, July 5.

Coordination of International Exchange and Training Programs—Opportunities and Limitations. ID-78-37, July 24.

The Department of State Has Continuing Problems in Managing Real Estate Overseas. ID-78-16, July 12.

Revenue Estimates Under Various Methods of Taxing Americans Abroad. ID-78-52, July 27.

GENERAL SCIENCE, SPACE, AND TECHNOLOGY

Management of Federal Materials Research Should be Improved. EMD-78-41, July 14.

ENERGY

Liquified Energy Gases Safety. EMD-78-28, July 31.

Need to Improve Regulatory Review Process for Liquified Natural Gas Imports. ID-78-17, July 14.

Major Unresolved Issues Preventing a Timely Resolution to Radioactive Waste Disposal. EMD-78-94, July 13.

Letter reports

Impact of the energy situation on rural economic growth and development. EMD-78-79, July 18.

The new 10-year plan for energy conservation in Federal buildings will not adequately meet requirements of the Energy Policy and Conservation Act. EMD-78-89, July 20.

NATURAL RESOURCES AND ENVIRONMENT

The Strategic and Critical Materials Stockpile Will Be Deficient For Many Years. EMD-78-82, July 27.

The National Forests—Better Planning Needed to Improve Resource Management. CED-78-133, July 12.

The Department of the Interior's Computerized Resources Information Bank. EMD-78-17, July 17.

Inaccurate Estimates of Western Coal Reserves Should be Corrected. EMD-78-32, July 11.

The Department of the Interior's Minerals Availability System. EMD-78-16, July 17.

Interior Programs for Assessing Mineral Resources on Federal Lands Need Improvements and Acceleration. EMD-78-83, July 27.

AGRICULTURE

Department of Agriculture's Beef Grading: Accuracy and Uniformity Need to be Improved. CED-78-141, July 21.

Food: Reports, Legislation and Information Sources. (A Guide Issued by the Comptroller General.) CED-78-37, May 1978.

COMMERCE AND HOUSING CREDIT

Changes Needed in the United States Postal Service's Rural Carrier Pay Systems. GGD-78-84, July 14.

TRANSPORTATION

Unwarranted Delays by the Department of Transportation to Improve Light Truck Safety. CED-78-119, July 6.

Airline Passengers: Are Their Consumer Rights Protected? CED-78-143, July 20.

Need For More Federal Leadership in Administering Non-Urbanized Area Public Transit Activities. CED-78-134, July 3.

Use of Discount Airline Fares and Teleticketing Would Help Save on Government Travel Expenses. FGMSD-78-46, July 21.

The Alaska Railroad: Its Management is Being Improved; Its Future Needs to be Decided. CED-78-137, July 27.

Letter reports

Federal, State, county, and city government shares of the total cost of the proposed Crosstown Expressway in Chicago. CED-78-135, June 30.

COMMUNITY AND REGIONAL DEVELOPMENT

HUD's Evaluation System—An Assessment, PAD-78-44, July 20.

EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES

Job Training Programs Need More Effective Management. HRD-78-96, July 7.

Letter reports

Summary of Department of Agriculture views on why the Food Stamp Program, the Child Nutrition Programs, and the Special Supplemental Food Programs are funded by "no-year" appropriations. PAD-78-46b, July 14.

Updated analysis of economic effect of impact aid payments to school districts. HRD-78-132, July 13.

HEALTH

Can Health Maintenance Organizations Be Successful?—An Analysis of 14 Federally Qualified "HMOs". HRD-78-125, June 30.

Savings Available by Contracting for Medicaid Supplies and Laboratory Services. HRD-78-60, July 6.

Problems in Administration of Two Health Grant Projects in Region VIII. HRD-78-61, July 20.

INCOME SECURITY

Disability Provisions of Federal and District of Columbia Employee Retirement Systems Need Reform. FPCD-78-48, July 10.

Investment Decisionmaking Process in Two New York Public Employee Retirement Plans. HRD-77-41, February 16, 1977.

VETERANS BENEFITS AND SERVICES

Electron Microscopy in Veterans Administration Hospitals: Planning, Distribution, and Control Need Improvement. HRD-78-75, July 19.

Letter reports

VA's rationale for proposed reduction of beds and staff in its hospital system for fiscal year 1979. HRD-78-134, July 19.

ADMINISTRATION OF JUSTICE

Evaluation Needs of Crime Control Planners, Decisionmakers, and Policymakers. Are Not Being Met. GGD-77-72, July 14.

The Affirmative Action Programs in Three Bureaus of the Department of Justice Should be Improved. FPCD-78-53, July 5.

The Federal Bureau of Investigation Needs Better Representation of Women and Minorities. FPCD-78-58, July 10.

GENERAL GOVERNMENT

Further Simplification of Income Tax Forms and Instructions is Needed and Possible. GGD-78-74, July 5.

Legislative Recommendations of the Commission on Government Procurement: 5 Years Later. PSAD-78-100, July 31.

The Quality of Working Life: An Important Issue for Managers of the Federal Work Force. FPCD-78-38, July 3.

New Ways of Preparing Data For Computers Could Save Money and Time and Reduce Errors. FGMSD-78-39, July 18.

OMB Needs to Intensify its Work Measure Effort. FPCD-78-63, July 24.

Computer-Aided Building Design. LCD-78-300, July 11.

Federal Compensation Comparability: Need for Congressional Action. FPCD-78-60, July 21.

GSA Can Improve Traffic Management Practices. LCD-77-24, July 28.

Examination of the Bureau of Engraving and Printing Fund's Financial Statements for the 15 Months Ended September 30, 1976, and for Fiscal Year 1977. GGD-78-67, July 5.

Letter reports

Are GSA's contracting practices adequate and appropriate? LCD-78-323, July 6.

Is there sufficient competition in GSA's contracting? LCD-78-330, July 6.

Civil agency participation in the Federal Catalog System. LCD-78-229, July 7.

Recent New York City contract negotiations with its labor unions will set the pattern for all other settlements. GGD-78-98, July 26.

All FTC employees who have duties which could influence regulatory activities should be required to file annual financial disclosure statements. HRD-78-141, July 10.

GENERAL PURPOSE FISCAL ASSISTANCE

State and Local Governments' Views on Technical Assistance. GGD-78-58, July 12.●

THE INTERNATIONAL MACHINE TOOL FAIR

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

● Mr. **ROSTENKOWSKI**. Mr. Speaker, September 15 marked the end of the 10-day International Machine Tool Fair, which was held in Chicago. The most successful and best attended show of its kind, it drew over 100,000 businessmen from around the globe this year. O'Hare International Airport reported that its airline traffic for these 10 days exceeded that of any similar period in its history. The show generated a record volume of business, with a number of individual companies reporting multimillion-dollar earnings. Measured by floor space and the number of exhibitors, this was in fact the largest industrial trade fair ever held in the United States.

Mr. Speaker, what makes the machine tool industry unique is the long leadtime which is involved in its output. A company placing an order today often understands that it will not take delivery for up to a year. When corporations demonstrate a willingness to make long-term investments in capital equipment in the way that they did last week, it suggests to me that businessmen are confident about the economic outlook.

Mr. Speaker, the importance of this fair involves more than the amount of business that was generated by it. Its deeper significance lies in its emphatic demonstration that a major industrial sector has a basic faith in the strength of our economy. Clearly, the show was a great success for the machine tool industry, and for the city of Chicago. As a matter of fact, businessmen spent up to $50 million in the city over the 10-day period. But more than that, Mr. Speaker, the show was to me a clear economic indicator pointing to the success of President Carter's economic policies, and to the effective and far-reaching legislation enacted by this Democratic Congress.●

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I call to the attention of my colleagues a communication from the Export-Import Bank which has been referred to me as chairman of the Banking Subcommittee on International Trade, Investment and Monetary Policy. The communication notifies the Congress a proposed Eximbank transaction to assist in the export of U.S. goods and services to Algeria.

Section 2(b) (3) (i) of the Export-Import Bank Act of 1945 requires the Bank to notify the Congress of any proposed loan, guarantee, or combination thereof in an amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

The Bank proposes to lend $68,754,750 to Societe Nationale pour la Recherche, la Production, le Transport, la Transformation et la Commercialisation des Hydrocarbures (Sonatrach), a state-owned enterprise of the Government of Algeria. The loan will allow purchase of U.S. goods and services for the construction of a nautral gas pipeline in Algeria. The pipeline will be part of a system consisting of gas liquefaction plants, gas field treatment facilities, and gas pipelines which is already in part funded by Eximbank.

The total cost of the pipeline is $140 million with U.S. costs of $91,673,000. A cash payment will provide $13,750,950, private loans not guaranteed by Eximbank will provide $9,167,300, and Eximbank $68,754,750. The Eximbank loan will bear interest at 8.5 percent per annum payable semiannually. A commitment fee of one-half of 1 percent per annum will be charged on the undisbursed portion of the Eximbank loan. The combined total of Eximbank and private loans of $77,922,050 will be repaid by the borrower in 20 equal semiannual installments beginning November 30, 1981. The private loans will be repaid out of the first two and part of the third installments and the Eximbank credit will be repaid from the remainder. Repayment of the Eximbank credit will be guaranteed by Banque Algerienne de Developpement for the Government of Algeria.

I am inserting at this point in the RECORD the letter from the Eximbank pertaining to this transaction together with the accompanying materials and I welcome any comments my colleagues may wish to offer concerning this proposed loan:

WASHINGTON, D.C.,
September 13, 1978.

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b) (3) (1) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

JOHN L. MOORE, Jr.,
President and Chairman.

WASHINGTON, D.C.,
September 13, 1978.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Speaker's Room, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b) (3) (1) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to Algeria.

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to extend a direct credit in the amount of $68,754,750 to Societe Nationale pour la Recherche, la Production, le Transport, la Transformation et la Commercialisation des Hydrocarbures (SONATRACH), a state-owned enterprise of the Democratic and Popular Republic of Algeria, to assist in financing the export from the United States of U.S. goods and services for the construction of a natural gas pipeline from Hassi R'Mel to Arzew, Algeria. Repayment of the Eximbank credit will be guaranteed by Banque Algerienne de Developpement for and on behalf of the Democratic and Popular Republic of Algeria.

The total cost of the pipeline and related facilities is estimated at $140,000,000 with U.S. costs of $91,673,000 and the balance expected to be Algerian costs. The pipeline will be 42 inches in diameter, will extend 511 kilometers (319 miles) and is designated as the GZ–3 pipeline. The U.S. goods and services to be financed by Eximbank relate to the pipeline, terminals and related facilities but not to the pipe itself or the compressor stations.

The pipeline is part of a system in Algeria consisting of gas liquefaction plants at Arzew on the Mediterranean coast, gas field treatment facilities on Hassi R'Mel in the Sahara desert and gas pipelines connecting the two. The liquefaction plants will produce liquefied natural gas (LNG) for export from Algeria to the U.S. and Europe. The GZ–3 pipeline will mainly supply the liquefaction plant known as LNG–2, for which Eximbank recently approved a credit of $240 million.

An earlier liquefaction plant (LNG–1), also supported by Eximbank financing, is in process of completion at Arzew and is part of a system similar and related to the LNG–2 system. The Eximbank financing for LNG–1 supported the export of U.S. goods and services for not only the LNG–1 plant but also the gas field treatment facilities and gas pipeline built in connection with the LNG–1 plant.

The plants for LNG–1 and LNG–2, as well as others which are planned, will draw from the Hassi R'Mel field and later, from other gas fields, and some of the systems will have certain facilities in common. Other countries have also supplied and financed some of the components of the LNG–1 system and are providing a total of about $900 million of officially supported export financing for the LNG–2 system.

2. *Identity of the parties*

SONATRACH is the state-owned monopoly of Algeria under the jurisdiction of the Ministry of Energy and Petrochemical Industries charged with the responsibility for the development of Algeria's oil and gas resources.

Banque Algerienne de Developpement is the government-owned development bank which will guarantee repayment of Eximbank's credit for and on behalf of the Democratic and Popular Republic of Algeria.

3. *Nature and use of goods and services*

The principal goods and services to be exported from the United States for use in the construction and operation of the GZ–3 gas pipeline include U.S. services for engineering, procurement and construction supervision and U.S. goods consisting of pipeline valves, controls, connecting pipe, pipe coating and wrap, terminal equipment, other materials, and bulk construction materials and equipment. The major U.S. supplier for the project is the Houston Contracting Company, Houston, Texas, a division of Sedco, Inc., Dallas, Texas.

B. EXPLANATION OF EXIMBANK FINANCING

1. *Reasons*. The proposed extension of a $68,754,750 credit by Eximbank will facilitate the export of $91,673,000 of U.S. goods and services. In addition to the engineering, design and construction work which will result from this project for the Houston Contracting Company, other U.S. firms will receive contracts to supply equipment and material. Export sales generated by the project will result in an estimated 420 man-years of direct employment in the United States. None of the goods to be exported is in short supply in the United States, and Eximbank perceives no adverse impact on the U.S. economy from the export of these goods and services.

There has been active foreign competition offering official export credit support for this pipeline project from the Netherlands and the United Kingdom, and very active competition from all major industrial countries for projects in the oil and gas sector in Algeria. A contract for the related and parallel GZ–4 gas pipeline was awarded to a Dutch firm with official export credit support on similar financing terms, and contracts for another gas pipeline and an oil pipeline were recently awarded to Italian firms, also with official export credit support.

The overall LNG systems are major elements of Algeria's long-range plan to develop its vast reserves of natural gas. They will generate substantial amounts of foreign exchange earnings for Algeria and will help to expand the world supply of energy.

Because of present and past sales of U.S. goods and services with the support of Eximbank financing for Algeria's program for development of its natural resources, American firms will be in a better position to compete for further export sales under Algerian plans for other projects in such development.

2. *The Financing Plan*. The total cost of U.S. goods and services to be exported from the United States for the GZ–3 gas pipeline is estimated to be $91,673,000, which will be financed as follows:

		Percent
Cash payment ------	$13, 750, 950	15
Eximbank credit -----	68, 754, 750	75
Private loans not guaranteed by Eximbank	9, 167, 300	10
Total ----------	91, 673, 000	100

(a) *Eximbank Charges*. The Eximbank credit will bear interest at the rate of 8.5 percent per annum, payable semiannually. A commitment fee of one-half of 1 percent per annum will be charged on the undisbursed portion of the Eximbank credit.

(b) *Repayment Terms*. The total financing of $77,922,050 consisting of the Eximbank credit and private loans will be repaid by the Borrower in twenty equal semiannual installments beginning November 30, 1981. The private loans will be repaid out of the first two and part of the third installments, and the Eximbank credit will be repaid from the remainder.

Sincerely,

JOHN L. MOORE, Jr.,
President and Chairman.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CARR) is recognized for 5 minutes.

● Mr. CARR. Mr. Speaker, on Monday, September 18, I was absent during the first quorum call, rollcall No. 787.

I was in transit from my district at the time, and I was unable to reach the floor of the House in time for the quorum call.●

EXPORT TASK FORCE ORGANIZED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

● Mr. ALEXANDER. Mr. Speaker, today several of my colleagues and I met with a group of leading businessmen to discuss the current status of U.S. foreign trade. The special guests at the luncheon were Secretary of Commerce Juanita Kreps, the Assistant Secretary of Commerce for Industry and Trade Frank Weil, and the Deputy Assistant Secretary of Commerce for Field Operations Raymond DePaulo.

Among the congressional attendees were the gentleman from Washington (Mr. FOLEY); the gentleman from Wisconsin (Mr. ZABLOCKI); the gentleman from Oregon (Mr. ULLMAN); the gentleman from Wisconsin (Mr. REUSS); the gentleman from New York (Mr. BINGHAM); the gentleman from West Virginia (Mr. SLACK); the gentleman from North Carolina (Mr. NEAL); the gentleman from Ohio (Mr. VANIK); the gentleman from Oklahoma (Mr. JONES); the gentleman from Minnesota (Mr. FRENZEL); and the gentleman from Hawaii (Mr. AKAKA).

At this meeting we voted to organize as the Export Task Force in order to provide a forum for all Members of the House who are members of committees having jurisdiction over foreign trade issues or who have an interest in foreign trade to assemble regularly to share information, ideas, and goals on how best to resolve foreign trade problems. In the future, the Export Task Force will assemble an agenda for action, as well as continuing to meet on a regular basis with private and governmental figures involved in international trade. At our next meeting, G. William Miller, Chairman of the Federal Reserve Board, will present his views on our trade deficit.

Our speaker today was Mr. Richard Barovick, senior consultant with Fraser/Associates. His speech, entitled "U.S. Export Policy Issues," follows:

MEMORANDUM

SEPTEMBER 19, 1978.

To: Representative Bill Alexander.
From: Dick Barovick, Fraser/Associates.
Subject: U.S. Export Policy Issues.

Discussion of export policy issues can be broken down conveniently into three topics: (1) Exports are now much more important to the national economy than was the case in earlier years, and therefore require added government attention and support, (2) the international competitive environment in which U.S. exporters now operate is far more difficult, especially due to the support their competitors receive from their own governments, and (3) the U.S. has lacked an export policy and has therefore imposed some self-inflicted wounds on itself through a basketful of laws and regulations that damage the American competitive position.

I. The New Role of Exports.—Exports have become increasingly important to the United States in recent years due to the closer meshing of the world economy through trade and investment. For most of the Fifties and Sixties exports accounted for about 4 percent of U.S. gross national product. Then, in the Seventies, this figure started to climb, hitting a peak of 7.0 percent in 1975 before slipping to 6.3 percent in 1977.

Other major exporting nations experienced the same general trend. Germany's exports moved up from 18.4 to 23 percent of GNP, Italy's from 14.2 to 20.5, Britain's from 15.9 to 23.8.

The significance of exports is even more visible when it is related only to the production of goods, a meaningful ratio in an economy that is becoming increasingly service-oriented. Thus exports rose from 14.4 percent of production in 1970 to 24.3 in 1975 and slipped back to 22.8 in 1976.

In other countries this ratio is even more striking. In Germany exports moved up from 40 to 55 percent of goods production in 1970-76, in Italy from 41.8 to 55.4, in Britain from 47 to 62, in Japan from 23.7 to 32, and in Canada from 70 to 76.

The trend is clear: exports are now between one-fifth and one-quarter of U.S. goods production each year and are approximately half of production in several of our major exporting rivals.

Now, however, the trade deficit has made exports even more important. The United States had a trade surplus (exports exceeding imports) in every year this century until 1971. The first few deficits after that ran in the $1-6 billion range. But in 1977 the figure was nearly $27 billion and this year it will run in the low $30 billion area.

Short of massive import restrictions, export expansion is the only way to cope with this situation.

A closer look at the deficit, however, reveals that the problem is not just the huge ($40 billion-plus) energy imports. In early 1978 it became apparent that the trade deficit was being caused to a great extent by a deficit in manufactured goods trade. For the U.S. to lose its lead in several manufacturing sectors is disturbing enough, but to slip into a deficit is really cause for concern, and a signal that the nation's trade problems run much deeper than anyone had suspected.

In the first six months of 1978 the overall trade gap was $32.8 billion (projected onto an annual basis). The manufactured goods sector alone, which had provided a surplus of $13.8 billion as recently as 1976, was moving at an annual deficit of $10.7 billion. That means that in only two years we will have reversed our strong showing in this key sphere by as much as $24.5 billion.

That is an extraordinary turnabout. Within the manufacturing sphere two figures account for most of this deterioration. One is trade in goods classified by material (such as steel, textiles, paper and the like). Here the deficit mushroomed from $6.4 to $16.0 billion in two years. The other is the combined machinery and transport category, where the surplus fell from $19.7 billion to $9.0 billion.

In overseas construction activities too, U.S. companies have experienced a declining business. According to Engineering News Record magazine this business dropped 27 percent in the 1975–77 period, to $15.9 billion from $21.8 billion, a $6 billion decrease in contracts and 240,000 jobs. And since these operations normally generate substantial U.S. exports, it has been estimated that some $3 billion in export sales has been lost as well.

2. The New International Competitive Environment.—The manufacturing sector deficit may have many explanations, but three stand out. One is the decline in U.S. productivity and innovation in the face of strengthening in these factors among our main competitors abroad. The second is the growing support for exports provided by European and Japanese governments. The third is the emergence of some of the developing countries into the ranks of important exporters. Let's look at these one at a time.

First, Productivity and Innovation.—The decline in U.S. productivity is widespread. About two-thirds of the 67 industries whose performance is regularly monitored by the government have registered slippage. After a long period as a world leader, U.S. productivity has recorded a 1.6 percent annual growth rate over the past ten years, only half the rate of the prior 20 years. This year it looks like we will achieve almost no increase at all.

What makes this performance really discouraging is that our industrial rivals have been doing well while we are in the doldrums. In the years since 1967, Japanese productivity has soared 105 percent, that of Italy and France 54 percent and Canada's 39 percent. Even Britain has bested us (25 to 24).

The decline in productivity is paralleled by drying up in our innovative capacity. Partly this is due to the drop in the federal research budget, where R&D has declined from 3 percent of GNP to just over 2 percent this year. But an important explanation is that companies are forced to devote much of their R&D budget to cope with emerging legislation and regulations. One recent study showed that as much as 19.3 percent of corporate budgets are devoted to responding to regulation. Other research activities have been neglected accordingly.

Comptroller General Elmer B. Staats recently told a House subcommittee that if the U.S. annual productivity growth rate had increased over the past 10 years at the same 3.2 percent annual rate of the previous two decades the GNP would have grown an additional $100 billion. We can also assume that our exports would have grown accordingly. Mr. Staats said: "Equipment and facilities in this country are not being replaced fast enough to keep American industries competitive. The government, through tax and regulatory policies, can assist in turning this problem around."

Second, Foreign Government Policies.—In Europe and Japan governments pursue industrial policies whereby they identify certain sectors of the manufacturing economy as targets for future growth and employment, and then put their full resources behind these businesses. This support has been growing in two ways. First, governments provide subsidies through credit, tax, research and development, import restrictions, and other policies. Second, governments have increasingly moved to develop government-owned enterprises. Both of these approaches—subsidizing private firms and creating government-owned companies—have had a dramatic effect on world exports.

In the subsidy area, to take one of the more visible and widespread practices, European and Japanese government provide extensive export financing. Although the U.S. has substantial facilities in this sphere too through the Export-Import Bank, there are some important distinctions. One is that these governments generally finance a much larger percentage of their total exports than the U.S. Another is that they finance larger shares of individual transactions. In the case of France and Japan interest rates have frequently been lower, and both of those governments mix export credits with foreign aid programs so that their interest rates on some deals are very low. Moreover, Britain has offered its exporters a special insurance program that covers any change in foreign exchange rates between the time they bid and the time they land a contract.

In fairness to the U.S. Export-Import Bank, during the past year it has greatly improved the competitiveness of its facilities by lowering interest rates, taking larger shares of individual transactions, and matching foreign official competition.

In the government enterprise area, it has been estimated that as much as 30 percent of manufactured goods exports are now originating in these firms. In Britain the steel industry and a large part of the automotive industry, for example, are government-owned. In France the postal and telegraph agency is now planning to compete in the United States itself in the field of data-processing. In Italy and Spain a substantial part of the manufacturing sectors are government-owned.

In Japan, the manufacturing sector is privately owned but the government forces mergers to create economies of scale necessary for strong competitive companies, then provides them with substantial credit at home and abroad, and protects their home market (as in the case of computers, consumer electronics, automobiles and steel) during the period in which they are gaining enough strength to compete worldwide.

Among the developing countries a Big Six has now emerged with a commanding position in exports of numerous manufactured products, such as consumer electronics, textiles, clothing and shoes. The Six: South Korea, Taiwan, Hong Kong, Singapore, Mexico and Brazil. Through lower labor costs in fields where technology is readily accessible, they are now in the front ranks in a few manufacturing industries.

The governments of these countries have in some cases created "export platforms" which are special zones offering low-cost financing, ready-made factory buildings, duty-free entry of capital equipment, tax holidays, and in some cases even direct grants to cover training and equipment.

3. The Lack of a U.S. Export Policy.—Despite the growing need for exports, both as a percentage of production and as a cure for the huge trade deficit, sales abroad have remained a low priority in the U.S. Government and in public awareness. This is revealed in the Executive Branch in a variety of ways. The Administration has asked that DISC, the export tax incentive law, be terminated in the face of a $30 billion-plus trade deficit. The President's Export Council, a useful channel to communicate exporter problems and needs to the upper reaches of government, has never met in the last year and nine months (though an autonomous subcommittee on export controls has met). Two recently-appointed members of the Council have no previous experience in foreign trade. The Administration only reluctantly agreed to some adjustments in the tax treatment of Americans abroad, many of whom are the front lines of U.S. export penetration of important overseas markets. In recent months a stormy internal debate has been carried on over whether U.S. environmental laws and regulations should be imposed on exports, which could saddle American companies with critical and uncompetitive delays in doing business.

One of the major problems for exports in the past year has been the emergence of numerous competing values and priorities that, while important in their own right, have pushed sales abroad further into the shadows. Examples include human rights policies, the use of exports as a level in official relations with Communist nations, Arab Boycott laws and regulations, and the Foreign Corrupt Practices Act. Each of these policies has merit but the net effect of them in the aggregate on American exports has been to discourage foreign sales.

What has come to be called "linkage," the use of exports as a pawn in foreign policy, has resulted in a growing volume of lost business. Within the past few months, for example, U.S. companies have lost exports to Argentina, Chile, and Uruguay (because human rights policies prohibited Eximbank financing), as well as to Libya (on foreign policy grounds) and the Soviet Union (as a protest against the Moscow trial of dissidents).

All of these issues involve deep-rooted American values with which exporters can have no quarrel. But the increasing politicization of trade has produced an unrealistic and unfair balance. It is that balance that is the problem.

Recent decisions of Eximbank are perhaps most revealing of how competing policies can create serious problems for exporters. On a large capital goods sale to Argentina the State Department decided that Exim financing should be denied. This served as a signal to the Argentine government that the U.S. was displeased with its human rights practices. From an exporter point of view this kind of decision-making is enormously difficult to live with. More specifically, there is no list of countries that Eximbank can unqualifiedly do business with. Each loan is decided on the human rights situation during a specific time. If Argentina, for example, had demonstrated some compliance with U.S. demands during the period in which the export projects was negotiated, the Exim loan might have gone through. A few months later, however, some fresh episode might have brought new State Department signals. The exporter must now work with one eye on the market, and the other on rapid changes in U.S. diplomatic relations, which are difficult for an outsider to follow.

There is a need to broaden the base of American exporters, while strengthening the ability of existing exporters. Today some 100 firms account for somewhat over half of all sales abroad. Exports mean as much as 55,000 jobs for each $1 billion of business. That includes such service activities as transportation (especially ocean shipping and port operations), insurance and banking. If U.S. companies are competing with firms of other nations that do not have the same regulatory and foreign policy disincentives, the sales will go increasingly to those other countries.

In short, the signals that are being received by the American exporting community suggest that their role in the national economy is not adequately recognized. One solution to the linkage problem is for the appropriate government agencies to prepare an economic impact statement for each of these decisions, and then to make this study public. That will make it possible to achieve a better balance in decision-making. Another helpful solution, though harder to obtain, would be to seek international agreements on such issues as human rights and improper payments, so that the competitive impact of a unilateral U.S. position does not damage export sales.●

STATEMENT

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, on Tuesday, September 19, 1978, I was absent for the vote on rollcall No. 802 on final passage of the conference report on H.R. 8149, the Customs Procedural Reform Act. The report was agreed to by a vote of 360 to 1. I was paired for that report and had I been present, would have voted in favor of it.●

TRIBUTE TO THE LATE CHIEF JUSTICE FRED M. VINSON

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, 25 years ago this month Kentucky and the Nation lost one of their most distinguished sons when Chief Justice Fred M. Vinson died here in Washington. The Chief Justice served in this House in a district which I now represent. He was born in Lawrence County on January 22, 1890, and was one of the region's most eminent sons.

A few days ago Mr. Homer Q. Potter of Columbus, Ohio, sent me a copy of Chief Justice Vinson's address to the American Bar Association in Cleveland September 22, 1947. It is entitled "The Age of Great Challenge." Mr. Potter thinks that the message is so pertinent to our situation today that it should be republished in the Congressional Record in commemoration of the 25th anniversary of Mr. Vinson's death.

"The Age of Great Challenge"

(By Fred M. Vinson)

At some point in the distant future, scholars poring over the history of our time may well label the days through which we are passing as "The Age of Great Challenge." There can hardly be a thinking person in our country today who has not experienced the sense of urgency and crisis which our age envisions. The challenges cannot be ignored. They confront us in every aspect of human activity—in the political and economic, in the social and intellectual, and in the moral and spiritual realms.

Fundamental values upon which we have erected the edifice of our civilization are under attack. Our very successes in responding to the challenges of our time have bred new crisis and new challenge. Thus, confronted with the military might of the Axis, we rose to meet that test. In achieving success, we have fallen heir to the grave problems growing out of a postwar world in need of physical and spiritual rehabilitation. Our age gives striking confirmation to the observation of

Mr. Justice Holmes that "Repose is not the destiny of mankind."

The symptoms of this age of crisis are many and familiar. Perhaps the most striking evidence of the confusion of our time is the conception of the nature of man which forms a part of many widely-held ideologies. Under this view, man is a mere automaton incapable of sharing in the determination of his own destiny, bereft of dignity, capable of responding only to the grosser of materialistic motivations and irrational passions. That such a creature is incapable of exercising the high privilege of self-government is obvious. Essentially this conception of the nature of man underlies all of the totalitarian doctrines of our day, and unfortunately, it underlies the thinking of some in our own midst who shrink from its inevitable and logical conclusion. This conception contains the seeds of destruction. We must resist it and prove it fallacious.

But we see evidences of crisis elsewhere. We are confronted with the challenge of the weakening of the family and the loss of the spiritual values growing out of the strong family bond. As lawyers, we have been made disturbingly aware of a growing lack of faith in and respect for law and the legal process. After the first world war, the ideal of the supremacy of law was subjected to successful attack in many countries with the result that the legal systems of those nations abdicated their high functions and in cynical subservience served the demands of all-powerful States. But the challenge to the supremacy of law has not been confined to the totalitarian regimes. In our own country we have seen evidences that there are those who have failed to realize that the only alternative to the supremacy of law is anarchistic chaos or the reign of a personal dictator.

We need not explore the symptoms of our age at greater length. We are all conscious of their existence; they confront us at every turn. They confirm the proposition that we are, indeed, passing through "The Age of Great Challenge."

An age of great challenge is an age of danger and difficulty, but it is also an age of great opportunity. Though the hazards are real and menacing, the opportunities for great achievement are correspondingly enhanced. Rarely in human history have men been accorded so high a privilege and so appalling a responsibility. The release of atomic energy, for example, is fraught with dangers which could spell the doom of our civilization, but it also creates opportunities for advances in human welfare never before contemplated.

As lawyers, we have been accorded peculiar privileges and, therefore, we have inherited peculiar responsibilities. Perhaps no group in our society is in so favorable a position to observe and to contend with the challenges of our day. It is entirely appropriate, therefore, that we, from time to time, should give particular attention to the problem of how we may intelligently respond to the challenges that confront us, and then go forth to meet the demands of our age.

Men react to challenge in many different ways. In every age of crisis, there are those, for example, who react by attempting to escape challenge or to ignore it. Those persons live in the vain delusion that by avoiding responsibility and shrinking from the struggle they may find peace and security. In the words of Justice Holmes, they exist under the peril "of being judged not to have lived." We cannot escape the challenges of our time. Failure to respond in the face of crisis results in quite as positive consequences as the courageous assumption of responsibilities. A policy of drift can lead only to disaster. I would leave this thought with you: "He who lights a candle is better than he who curses the darkness."

There are also those who react to challenge by rigidly opposing all change and all innovation. There are others who reject all the methods and techniques of the past and find virtue only in the new. Frequently, such persons are sincere and well-intentioned. They are aware that the civilization which they value is under attack. The one group attempts to preserve and defend it by insisting that, in a changing world, the old institutions shall remain unchanged and inflexible and that the old forms of action shall remain unaltered. The other group reacts by insisting upon the precipitous abandonment of the entire legacy of the past without adequate consideration of the consequences. Both groups make the error of failing to distinguish between the essential values of their civilization and the transitory forms by which those values are given expression. They fail to realize that by insisting upon the use of outmoded techniques or by indiscriminately rejecting all that is old, they make impossible the effective defense of the foundation rocks of their civilization which are essential and timeless.

But there are other more constructive ways in which to react to the crisis of our time. We need, first of all, to reaffirm our faith in the fundamental values upon which has been based all that is worthwhile in our society. We need to revitalize our conviction that that society is best which gives the greatest practical recognition to the dignity of individual man and which affords greatest opportunities for the development of the higher potentialities of all men. We need to develop the same high sense of personal responsibility which led the early American statesman, George Mason, to write: "The debts we owe our ancestors we should repay by handing down entire those sacred rights to which we ourselves were born." We need, finally, to devote our full intelligence and greatest efforts to the task of devising ways and means whereby those essential values can be given their most complete expression in a world of flux and change.

Perhaps the greatest hazard which besets us today is the danger of losing faith in ourselves. In the face of the crisis of our time, some may be tempted to doubt the adequacy of human capacities to contend with the challenges which confront us, to fear for our ability to defend and preserve our civilization—our way of life. Such fears are irrational, but their consequences can be grave. The courage and sacrifice of our people in time of war mounted the heights. Courage and sacrifice were the paramount ingredients of miracles of production on the home front and the heroic deed on land, sea, and in the air. The courage and sacrifice of our sons and daughters in the face of death should shame us for our fears today. "Courage," 'tis said, "is fear that has said its prayers." And sacrifice, to paraphrase Emerson, is the real miracle out of which all the other miracles grow. We must be alive and alert to the problems of a shaken world; we need not be mercurial in arriving at quick conclusions as to the efforts to solve our problems; we must have patience, tolerance and understanding. We need always to keep a sense of proportion. The problems we face are human problems and therefore are capable of human solution.●

AMENDMENTS TO THE CLINICAL LABORATORY IMPROVEMENT ACT

(Mr. BURLESON of Texas asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BURLESON of Texas. Mr. Speaker, on yesterday, September 20th I filed two amendments to H.R. 10909 in order to comply with the rule House Resolution 1348. I now refile the Amendment with a brief explanation.

The following amendment will be offered to provide for a 2-year renewable waiver for rural hospital laboratories from national personnel standards, under limited conditions, similar to present law now in effect for rural hospital nursing staff:

Page 9, line 23, insert "and, with the approval of the Secretary, during subsequent two-year periods" before "the provisions."

I also intend to offer the following amendment to substitute the provision in the Senate-passed bill, S. 705, to limit the competitive bidding section to a 1-year experiment:

Page 56, line 8, strike out "three-year period" and insert in lieu thereof "one-year period".

Page 56, line 11, insert "on an experimental basis" after "competitive bidding process or otherwise".

Page 57, strike out lines 7 through 9 and insert in lieu thereof the following:

(2) Each State which has made arrangements under section 1902(a) (23) (B) for the purchase of laboratory services through a competitive bidding process or otherwise on an experimental basis shall report to the Secretary concerning the results of these experimental arrangements and the Secretary shall evaluate these arrangements and transmit

Page 57, line 12, strike out "twenty-four months" and insert in lieu thereof "18 months"."

It is also my intention to offer a motion to ask for a division on the amendments recommended by the Committee on Interstate and Foreign Commerce en bloc to provide the exemption from the national standards of insurance laboratories engaged solely in the assessment of an individual's insurability or eligibility for insurance policy benefits. This exemption has been an historic one and is in line with the action taken by the Commerce Committee's Subcommittee on Health and the Environment and the Senate Committee on Human Resources.●

RETIREMENT OF HON. OLIN TEAGUE, AN EMPLOYEE VIEW

(Mr. BURLESON of Texas asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BURLESON of Texas. Mr. Speaker, the attached letter from Mr. George Fisher, administrative assistant to our friend and colleague, OLIN TEAGUE, is most unusual and I feel deserving to be entered in the RECORD.

George Fisher was in battle in World War II with Congressman TEAGUE and as he indicates in the attached, has been with him in Congress for more than 30 years.

TWIN BRANCHES DRIVE,
Silver Spring, Md., July 20, 1978.

Hon. OMAR BURLESON,
Rayburn Building,
Washington, D.C.

DEAR MR. BURLESON: There have been literally thousands of words written over the years about Congressman Olin Teague, his war record, his work in the Congress for veterans, for space and technology and more recently in the field of energy. So, there is little more I could add. By the same token, thousands of words will no doubt be spoken by his peers as he leaves the Congress of the United States at the end of this session.

Because, as an employee, I have no vehicle to bring my sentiments to the attention of the general public on this great American, I have taken the liberty of writing this letter to you in the hopes you would see fit to place it in the Congressional Record.

With the exception of a period of approximately three years I have been closely associated with Congressman Olin Teague since 1942; first as a member of his Command during World War II and then as an employee in his office. My association with him has spanned a period of more than 30 years, and I feel well qualified to make a few simple statements about this man.

His compassion for his fellow man; his ability to empathize; his quality of leadership; his courage to fight for his convictions no matter what the odds; are but a few of the attributes which endeared then Colonel Teague to nearly 1,000 combat infantrymen during World War II. He could sternly order a soldier back to the front while secretly shedding a tear over the death of another; yet never order a soldier to do something that he would not do himself. It was this latter quality in him which led to the serious wounds he received while personally reconnoitering a safe passage through the Siegfried Line, that forced him to remain in military hospitals for over two years.

In the 30 years I have been with him in the Congress, I believe I can safely say that is these very same attributes which have endeared him to his Colleagues in the House of Representatives.

If I had my entire life to live over, I know of no other person who I would have wanted to lead me into battle; nor no other person who I would have wanted to represent me in the Congress of the United States than Olin Teague. It has been an honor for me to have been with him and honor to have been a part of the Congress. Need I say more to prove that he is truly a singular individual.

Sincerely,

GEORGE FISHER.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CORMAN (at the request of Mr. WRIGHT), unto 2 o'clock p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. ASHBROOK, for 15 minutes today, and to revise and extend his remarks.

(The following Members (at the request of Mr. MOORE) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 10 minutes, today.
Mr. GOLDWATER, for 5 minutes, today.

(The following Members (at the request of Mr. MCDONALD) to revise and extend their remarks and include extraneous material:)

Mr. MURPHY of New York, for 60 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. BINGHAM, for 5 minutes, today.
Mr. COTTER, for 30 minutes, today.
Mr. LAFALCE, for 10 minutes, today.
Mr. BAUCUS, for 10 minutes, today.
Mr. BROOKS, for 10 minutes, today.
Mr. ROSTENKOWSKI, for 5 minutes, today.
Mr. NEAL, for 5 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mr. CARR, for 5 minutes, today.
Mr. ALEXANDER, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. UDALL, to revise and extend in connection with the McHugh amendment to H.R. 12611 considered in the Committee of the Whole today.

Mr. DON H. CLAUSEN, to insert remarks during consideration of H.R. 11733, Surface Transportation Assistance Act of 1978.

Mr. DON H. CLAUSEN, to insert remarks during consideration of Snyder amendment.

Mr. RUSSO, to revise and extend his remarks prior to vote on Oberstar amendment.

Mr. MILLER of Ohio, to revise and extend his remarks and include extraneous matter on the bill H.R. 11733, in two instances.

Mr. MURPHY of New York, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $10,183.50.

(The following Members (at the request of Mr. MOORE) and to include extraneous matter:)

Mr. LENT.
Mr. COLLINS of Texas in two instances.
Mrs. HOLT.
Mr. HILLIS.
Mr. CAPUTO.
Mr. BAUMAN in 10 instances.
Mr. KEMP in two instances.
Mr. GRASSLEY.
Mr. PRESSLER.
Mr. ASHBROOK in two instances.
Mr. MCDADE.
Mr. DORNAN.
Mr. LEACH.

(The following Members (at the request of Mr. MCDONALD) and to include extraneous material:)

Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. MCFALL.
Mr. PEPPER in two instances.
Mr. MILLER of California.
Mr. FARY.
Mr. MOTTL.
Mr. LAFALCE in two instances.
Mr. STUDDS.
Mr. RUSSO.
Mr. EILBERG.
Mr. JENKINS.
Mr. BRODHEAD.
Mr. DERRICK.
Mr. BRECKINRIDGE.
Mr. MCDONALD in three instances.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 20, 1978, present to the President, for his approval, bills of the House of the following title:

H.R. 7814. To authorize Federal agencies to experiment with flexible and compressed employee work schedules;

H.R. 7819. To complement the Vienna Convention on Diplomatic Relations; and

H.R. 12860. To settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes.

ADJOURNMENT

Mr. McDONALD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 26 minutes p.m.) the House adjourned until tomorrow, Friday, September 22, 1978, at 10 o'clock a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAHON: Committee on Appropriations. H.R. 13611. A bill to strengthen and improve the early and periodic screening, diagnosis, and treatment program, and for other purposes. (Rept. No. 95-1481, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules, House Resolution 1365. Resolution providing for the consideration of H.R. 12161. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations to the United States Railway Association for purposes of purchasing securities of the Consolidated Rail Corporation (Rept. 95-1595). Referred to the House Calendar.

Ms. CHISHOLM: Committee on Rules. House Resolution 1366. Resolution providing for the consideration of H.R. 12299. A bill to establish a Federal Office on Domestic Violence, and a Federal Council on Domestic Violence, to provide grants for the assistance of victims of domestic violence and for training programs, and for other purposes (Rept. No. 95-1596). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 1367. Resolution providing for the consideration of H.R. 13335. A bill to amend part A of title IV of the Social Security Act to provide additional fiscal relief for States and political subdivisions with respect to the costs of certain welfare programs (Rept. No. 95-1597). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1368. Resolution providing for the consideration of H.R. 14042. A bill to authorize appropriations for fiscal year 1979 for procurement of aircraft, missile, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes (Rept. No. 95-1598). Referred to the House Calendar.

Mr. MAHON: Committee on Appropriations. House Joint Resolution 1139. Joint resolution making continuing appropriations for the fiscal year 1979, and for other purposes; with amendment (Rept. No. 95-1599). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 12917. A bill directing the Secretary of Agriculture to compile and publish certain information relating to the adequacy of a transportation system to meet the needs of agriculture and rural development in the United States, and for other purposes; with amendment (Rept. No. 95-1600). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance, and Urban Affairs. H.R. 8389. A bill authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy (Rept. No. 95-1601). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance, and Urban Affairs. H.R. 13174. A bill to provide for the striking of national medals to commemorate the XIII Olympic Winter Games to be held in Lake Placid, New York, in 1980 (Rept. No. 95-1602). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. S. 425. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lt. Gen. Ira C. Eaker, U.S. Air Force (retired) (Rept. No. 95-1603). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 13643. A bill to provide for the striking of medals in commemoration of the life and ideals of Dr. Martin Luther King., Jr.; with amendment (Rept. No. 95-1604). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 12051. A bill relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions; with amendment (Rept. No. 95-1605). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. S. 286. An act to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes (Rept. No. 95-1606). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FITHIAN:

H.R. 14144. A bill to suspend the duty on freight cars until the close of June 30, 1980; to the Committee on Ways and Means.

By Mr. KASTENMEIER (for himself, Mr. Danielson, Mr. Santini, Mr. Railsback, Mr. Butler, and Mr. Cohen):

H.R. 14145. A bill to amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the United States Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York; to the Committee on the Judiciary.

By Mrs. LLOYD of Tennessee:

H.R. 14146. A bill to amend certain provisions of the Tennessee Valley Authority Act of 1933, as amended, relating to the charge rates for power of the Tennessee Valley Authority; to the Committee on Public Works and Transportation.

By Mr. MAGUIRE (for himself, Mr. Steiger, Mr. Benjamin, Mr. Carr, Mrs. Collins of Illinois, Mr. Downey, Mr. Eilberg, Mr. Heftel, Mr. Livingston, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Nolan, Mr. Patten, Mr. Patterson of California, Mr. Pattison of New York, Mr. Seiberling, Mrs. Spellman, and Mr. Whitley):

H.R. 14147. A bill to amend the Higher Education Act of 1965 to raise the limits on insured loans for undergraduate students, to allow lenders to use a Government service administered by the Commission of Education and the Secretary of the Treasury for the collection of such loans, and for other purposes; to the Committee on Education and Labor.

By Mr. McCORMACK:

H.R. 14148. A bill designating the "Justice William O. Douglas Federal Building"; to the Committee on Public Works and Transportation.

By Mr. TREEN (for himself and Mr. Waggonner):

H.R. 14149. A bill to amend section 302 of the Internal Revenue Code of 1954 with respect to the redemption of corporate stock held by an estate or trust; to the Committee on Ways and Means.

By Mr. WOLFF:

H.R. 14150. A bill to amend title 5, United States Code, to entitle Civil Air Patrol Cadets 18 years of age and older to compensation available to Civil Air Patrol senior members in the event of disability or death, and to increase the level of compensation available to both; to the Committee on Post Office and Civil Service.

By Mr. GOLDWATER:

H.J. Res. 1141. Joint resolution to provide for the convening of an International Conference on Communication and Information, and for other purposes; to the Committee on International Relations.

By Mr. MINETA (for himself, Mr. Ashley, Mr. Fauntroy, Mr. Reuss, Mr. Thompson, and Mr. Brademas):

H.J. Res. 1142. Joint resolution to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. STANGELAND:

H.J. Res. 1143. Joint resolution authorizing the President to proclaim September 8 of each year as National Cancer Day; to the Committee on Post Office and Civil Service.

By Mr. GIAMO (for himself, Mr. Edgar, Mr. Harrington, Mr. Kazen, Mr. Sarasin, Mr. Vento, Mr. Weaver, and Mr. Whitehurst):

H. Res. 1369. Resolution expressing the sense of the House that the Reverend Sun Myung Moon appear before the Subcommittee on International Organizations investigating Korean-American relations; to the Committee on International Relations.

By Mr. LUKEN (for himself, Mr. Gradison, Mr. Applegate, Mr. Guyer, Mr. Stanton, Mr. Mottl, Mr. Harsha, Mr. Whalen, Mr. Regula, Mr. Kindness, Mr. Ashley, Ms. Oakar, Mr. Miller of Ohio, Mr. Brown of Ohio, Mr. Moffett, Mr. Hanley, Mr. Young of Missouri, Mr. Carney, Mr. Eckhardt, and Mr. Barnard):

H. Res. 1370. Resolution expressing the appreciation of the House to Pete Rose for his dedication and service to baseball; to the Committee on Post Office and Civil Service.

By Mr. LUKEN (for himself, Mr. Stokes, Mr. Madigan, Mr. Walgren, Mr. Goldwater, Mr. Horton, Ms. Chisholm, Mr. Dellums, Mr. Stark, and Mr. Steiger):

H. Res. 1371. Resolution expressing the appreciation of the House to Pete Rose for his dedication and service to baseball; to the Committee on Post Office and Civil Service.

By Mr. WAXMAN (for himself, Mr. Broomfield, and Mr. Gilman):

H. Res. 1372. Resolution supporting the nomination of the Public Groups to Promote Observance of the Helsinki Agreement in the Union of Soviet Socialist Republics for the 1978 Nobel Peace Prize; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FISHER:

H.R. 14151. A bill for the relief of Rodolfo S. Benedicto; to the Committee on the Judiciary.

By Mr. OBERSTAR:

H.R. 14152. A bill for the relief of Nelia Ruiz Hedlund; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of the XXIII. proposed amendments were submitted as follows:

H.R. 1

By Mr. ASHBROOK:

—On page 51, after line 19, insert the following new section and renumber accordingly:

"Sec. 243. Except where the employee's Agency, Department or other Federal employer shall have more restrictive limitations on outside earned income, all employees covered by this Act whose basic rate of pay is equal to or greater than the rate of basic pay for which is fixed at a rate equal to or greater than the minimum rate of basic pay for GS-16 (as prescribed by Section 5332 of title 5, United States Code) shall be limited in outside income to not more than fifteen percent of their salary."

H.R. 10909

By Mr. COLLINS of Texas:

—Page 6, line 14, strike out the comma and insert "and" and beginning in line 16 on that page, strike out "and (iii)" and all that follows through line 18.

—Page 6, strike out lines 19 through 23.

Page 6, line 24, strike out "(F)" and insert in lieu thereof "(E)".

Page 7, line 4, strike out "and technicians".

Page 7, line 8, strike out "subparagraphs (D) and (E)" and insert in lieu thereof "subparagraph (D)".

Page 7, strike out lines 13 through 21 and insert in lieu thereof the following:

"(2) For purposes of paragraph (1), the term 'technologist' means an individual employed in a laboratory who is performing services in such laboratory is required to exercise independent judgment.

Page 13, beginning in line 3, strike out "technologist, or technicians" and insert in lieu thereof "or technologists".

Page 35, line 4, strike out "technologists, and technicians" and insert in lieu thereof "and technologists".

—Page 9, beginning in line 7, strike out "which are located or doing at least 10 per centum of their business within the State" and insert in lieu thereof "which are located within the State or, as determined by the State, doing business within the State".

Page 20, beginning in line 24, strike out "or doing at least 10 per centum of their business" and insert in lieu thereof "or, as determined by the State, doing business".

—Page 9, strike out lines 10 and 11 and insert in lieu thereof the following: "(c) (1) During the".

Page 9, beginning in line 20, strike out "and which is not subject to section 103(a) (2) of the Clinical Laboratory Improvement Act of 1978".

Page 10, strike out lines 24 and 25 and insert in lieu thereof the following: ""(B) The".

Page 11, insert "and" after the comma in line 5, strike out ", and" in line 11 on that page and insert in lieu thereof a period, and strike out lines 15 through 17.

Page 36, line 21, strike out "(1)".

Page 37, line 5, strike out "(A)" and insert in lieu thereof "(1)" and in line 8 on that page, strike out "(B)" and insert in lieu thereof "(2)".

Page 37, strike out lines 13 through 19.

Page 37, strike out line 20 and all that follows through line 24 on page 38 and insert in lieu thereof the following:

(b) Within two years of the date of the enactment of this Act, the Secretary shall report to the Congress the results of the evaluation made under subsection (a). In such report the Secretary shall make recommendations as to whether clinical laboratories granted an exemption under section 372 (c) (3) (B) of the Public Health Service Act should be required as a condition to such exemption (1) to participate in proficiency testing programs, (2) to have laboratory procedure manuals or other items or procedures bearing on the medical reliability of tests and procedures performed by such laboratories, or (3) to both participate in such programs and have such manuals or other items or procedures.

Page 38, line 17, strike out "(a) (1) (B)" and insert in lieu thereof "(a)".

—Page 16, beginning in line 14, strike out "refused a request of the Secretary or any individual duly designated by him for permission to inspect, under section 376(b)" and insert in lieu thereof "refused to permit the Secretary, or any individual duly designated by him, to inspect, in accordance with section 376(b)".

Page 26, line 6, insert after "upon" the following: "obtaining a search warrant from a judicial officer and after".

Page 26, line 10, insert "pursuant to the search warrant" after "inspect".

Page 27, strike out lines 8 through 13.

Page 27, line 14, strike out "(4)" and insert in lieu thereof "(3)".

—Page 27, strike out lines 14 through 22.

—Page 27, strike out line 23 and all that follows down through and including line 16 on page 31.

H.R. 11733

By Mr. GOLDWATER:

—Page 166, after line 21, insert the following proviso: "*Provided*, That no chief motor vehicle official of a State shall include in any report the social security number of any individual, unless the individual's social security number is the official operator's license identification number and the use of such number by the State is specifically provided for and required by State law."

—Page 167, after line 17, insert the following new subsection "(d)" to read as follows: "The Secretary shall not release any information regarding any individual contained in the National Driver Register prior to the date of enactment of this Act, unless the Secretary has determined that the information is accurate and current in all respects and has received a notification from the appropriate chief of motor vehicles for the State from which the information was received to support such a determination."

—Page 167, after line 17, insert the following new subsection (e) to read as follows:

"The Secretary shall not receive from any source other than the chief motor vehicle official of a State any information about any individual for inclusion in the National Driver Register established in section 220 of this title, and the Secretary shall not receive any information about any individual from the chief motor vehicle official of a State, except that information specifically authorized in sections 221 and 222 of this title."

—Page 170, after line 8, strike out lines 9 through 14, inclusive and renumber succeeding lines accordingly.

H.R. 11733

By Mr. HORTON:

—Page 108, after line 3, insert the following new section:

ADVERTISING BY NONPROFIT ORGANIZATIONS

SEC. 118. Section 131(c) of title 23, United States Code, is amended—

(1) by striking out "and (4)" and inserting in lieu thereof "(4)"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (5) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System of the primary system. For the purposes of this subsection, the term 'free coffee' shall include coffee for which a donation may be made, but is not required.".

Renumber the succeeding sections of title I accordingly.

H.R. 11733

By Mr. GARY A. MYERS:

—Page 151, after line 10, insert the following new section:

FEDERAL PARTICIPATION IN PREVIOUSLY INCURRED COSTS

SEC. 159. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Federal participation in previously incurred costs

"(a) If, prior to the time that any sums apportioned to a State for expenditure on any Federal-aid system lapse pursuant to section 118 of this title, the State requests that such sums be available for payments to such State for expenditures made by such State for a project in such State which was constructed during the period that such sums were available for expenditure in such State without any Federal assistance, the Secretary shall enter into an agreement with such State for the payment of 50 per centum of the cost of such project if the Secretary determines that—

"(1) the project would, at the time of its construction, have been eligible for Federal financial assistance under this title;

"(2) such agreement will not adversely affect the public interest;

"(3) construction of such project was in substantial compliance with all Federal statutory requirements and that there was no willful violation of any other Federal requirements;

"(4) the cost to the United States under such agreement will not exceed what would have been the cost to the United States at the time of construction if Federal assistance had been provided; and

"(5) the project has been fully and adequately maintained since construction.

"(b) The total Federal expenditures in any State in any fiscal year under this section shall not exceed the amount of such State's apportionment which would have lapsed in such fiscal year under section 118 of this title but for this section.

"(c) Any request submitted under subsection (a) of this section shall provide information as the Secretary shall require.".

(b) The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"§ 159. Federal participation in previously incurred costs.".

H.R. 11733

By Mr. YOUNG of Missouri:

—Page 132, after line 8, insert the following:

BRIDGE DIVERSION STUDY

SEC. 135. The Secretary of Transportation shall make a full and complete investigation and study of the need for, and ways and means of accomplishing, diverting a portion of the traffic from the bridges on the Interstate System across the Mississippi River presently operating above designed capacity to other bridges in the vicinity of any such Interstate System bridge. The Secretary shall report to Congress not later than two years after the date of enactment of this section the results of such investigations and study together with recommendations for necessary legislation.

Renumber succeeding sections accordingly.

H.R. 13059

By Mr. VOLKMER:

—Page 85, following line 12, insert the following new section:

SEC. 185. Section 221 of the Flood Control Act of 1970 (Public Law 91–611), as amended (42 U.S.C. 1962d–5b) is further amended as follows:

Insert the following new sentence at the end of section 221(b): "Where the non-Federal interest is the State itself, performance and payment of damages may be contingent upon the legislative appropriations process of the States.".

Delete the period at the end of the sentence contained in section 221(f) and add the following words at the end of that sentence; "or to contract with non-Federal interests for water supply storage under the Water Supply Act of 1958 (Public Law 85–500), as amended, (43 U.S.C. 39b) or for recreational development under the provisions of the Federal Water Project Recreation Act of 1965 (Public Law 89–72), as amended (16 U.S.C. 4601–12 et seq.)".

Renumber suceeeding sections accordingly.

EXTENSIONS OF REMARKS

A SENIOR CITIZEN ADDRESSES METROPOLITAN DADE COUNTY'S HUD

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. PEPPER. Mr. Speaker, as chairman of the Select Committee on Aging, I am most fortunate to hear from some of the most courageous members of our society, the 23.5 million Americans 65 years of age and over, the senior citizens whose concerns are among the major focus of my endeavors.

Recently, Rafael Gonzalez, a naturalized citizen and president of the Highland Park Tenants Association, was most kind to forward a copy of his humble remarks which he presented to the Metropolitan Dade County, Fla., Department of Housing and Urban Development. These heartfelt remarks demonstrate a sincere sense of patriotism and truly honor the dedicated work of Mr. Melvin J. Adams, the Director of HUD. In addition, he was most kind to highlight my work on aging.

I wish to share these remarks with my colleagues and all that read this RECORD as they exemplify the intense sense of consciousness that is utmost among the senior citizens of our great Nation.

REMARKS BY RAFAEL GONZALEZ

Ladies and Gentlemen: My name is Rafael Gonzalez. I am 66 years old, a citizen of this Great Nation, The United States of America and President of Highland-Park Tenants Association, where there are more than a hundred Senior Citizens.

I know that I don't speak good English, but I am not afraid to do my best in this beautiful language, because I am sure that all of you prefer to hear my sincere expression, my feeling that come directly from my heart, than hearing me speak in perfect English that isn't heartfelt.

I am glad to see with us a nice Representative of our Government in Washington, a noble gentleman that is working hard for the benefit of the elderly, a person that understand perfectly our feeling, because he is an old man with the experience of the years lived, but also with the enthusiasm, energy and pep of a young. Everybody know that I am talking about our dear Representative, the Honorable Claude Pepper.

And here, in Dade County, in our little HUD, we have another very nice, human, sensitive person that is deeply concerned about our welfare, that is dedicated and cordial, that works hard and without interruption in favor of the poor and sick seniors citizens. I don't need to say his respected name. All of you know that he is our dearest Director of HUD, Mr. Melvin J. Adams.

But Mr. Adams alone could not do so much without the aid of the able people that he has appointed to works efficiently around him, people like Mrs. Helen M. Sawyer, his Assistant Director, Mrs. Gary, Mr. Brewer, Mrs. Smith and the other remainders of the Staff and also the humble employees.

In order that we the old people be understood better, I shall tell something that happened a few days ago. A young man was talking with a senior citizen that live in a government house. The young asked him how he felt. The answer was: I felt as a very rich man, if I were a millionaire, with money in the Bank, cars, yachts and big houses." The young did look at the old man as he were out of his mind and asked a second question. How can you be a millionaire if you are living in a house that is only for poor people? The elderly reply immediately. I am sure, no doubt about this. I am a rich man, richer than you think, because I am loved; I have persons concerned about me, that care, that pay me attention. Mr. Adams and the people that works with him show me that I am no more alone. And many wealthy people, with all the money that they have, can not buy love in the groceries or other stores or places. And if they paid for it this love would not be worth a penny. Do you understand now why I felt like a real millionaire, more rich that many with plenty of money?

Mr. Claude Pepper in Washington and Mr. Melvin Adams in Dade County, have given us tender love that is the most dear thing for the elderly. We are no more alone, no more abandoned, no more sad senior citizens. We are now happy and wealthy and healthy people.

In the name of the Tenants of Highland Park Congregate Building and also in my own name, I ratify the expression of our deep, truly and sincere gratitude to the defender of we the senior citizens, the Honorable Representative Claude Pepper and also to the able, noble and sensitive human Director of HUD, Mr. Melvin J. Adams for the things that they have done and are doing for us.

Thanks again, gentlemen, May God, that is not only in heaven but also is here around us, inside us, bless you.

RAFEAL GONZALEZ,
President of Highland-Park Tenants Association.●

MARGARET KACKLEY ON "WHAT AMERICA MEANS TO ME"

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mrs. HOLT. Mr. Speaker, it is wonderful that we have patriotic organizations and citizens who still express love of God and Country, even in these cynical times.

I was delighted recently when I heard the following statement written by a young girl, Margaret Kackley, who entered a competition sponsored by Post 9619, Veterans of Foreign Wars and Ladies Auxiliary, Prince George's County, Md.:

WHAT AMERICA MEANS TO ME

America means to me just what the letters spell.

A—Is for America, the land of the free and the home of the brave.

M—Is for the military who fought to keep our country free as it is today.

E—Is for the environment in which I live. It is great to look around and see the surroundings I have such as churches, schools, and monuments of our American heroes who are remembered like George Washington.

R—Is for the rights we have been given by the Constitution of the United States which consists of seven articles and twenty-two amendments which were adopted in 1789.

I—Is for I, meaning me as a proud American.

C—Is for the country, the territory of a Nation, this United States of America.

A—Is for Amen, the last word of my prayers thanking God our Father for what he has given me.

This is what America means to me. I am proud to be an American.●

THE MARYLAND OYSTER AND THE WASHINGTON STAR

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. BAUMAN. Mr. Speaker, there were those who feared the worst when Time, Inc., purchased the Washington Star. Oh yes, those of us who have read the Star all our lives were pleased that this venerable publication had been rescued from financial ruin and would continue. But there was that nagging doubt about the publishing colossus from New York which is Time, Inc. Would this powerful organ of the Eastern Establishment really understand and care about Washington, Maryland, and Virginia? Did they even know anything about the real us?

Today's Star editorial page proves that our fears were unfounded. I refer to a delectable editorial entitled "Considering the Oyster."

This editorial alone proves that Time, Inc., has placed in charge of the Star people who do understand. Not only people who understand, but who can appreciate the succulence and flavor of the Chesapeake Bay oyster in all its present glory.

September is, indeed, a month containing an "r" and obviously there is an "r" in the Star. Oysters are in season and Maryland produces the best. As their Representative and on behalf of our watermen, seafood processors, and all Maryland citizens, I thank the Star for this much deserved paean to the Chesapeake Bay oyster.

The editorial follows:

CONSIDERING THE OYSTER

Oysters don't come in vintages of varying prestige like wines, even though the official opening of their season coincides with the *vendange* that, each year, brings in grapes of a quality unique to the circumstances of a time and place. And yet oysters are like wine in offering taste experiences of infinite nuance.

To those who love them as they should be loved, they're all good. Ask the starfish whose five-armed embrace diminishes the number left for human delectation in the Atlantic coastal beds. Ask the sow-nose ray that smashes their shells with its weight, the better to do the same in the Chesapeake. Ask Samuel Johnson's cat, the stately Hodge, whose whiskers, history tells us, were forever

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

a-glisten with the juice of Colchesters and Helfords. Ask a lot of us.

Still, the most enthusiastically omniverous would admit that some oysters are more so. There are oyster aficionados who insist that you have to go to New Orleans for the ultimate. Cosmopolitan types hold out for Portugaises and Belons. Even prosaic Long Island has its fans.

Once the geographical parameters have been set, there are the subleties of seasonal variation. Which brings us to the present instant—September, 1978—and the fact that the oysters beginning to come into Washington are better than ever.

The oystermen talk about it in terms of no diseases and none of the pollution that so often cuts into the crop. The hurricanes that bring fresh water to dilute the salinity of the oyster beds are at least as much of a threat as oil spills and other environmental disturbers that can be blamed on humans; happily they haven't been a problem so far this year. Ninety-eight per cent of the Maryland oyster beds are open for harvesting and 89 per cent of those in Virginia.

But what have statistics to say to a true oyster-lover? The point is that the plumpness and firmness, the tang of elements only the sea puts together to such effect—in short, the marine glories—have never come on stronger than in this year's Chesapeake Bay oysters.

Unlike wine, of course, they don't keep. So much the better. The only thing to do is to order another round.●

JIMMY TOWNSEND, OUTSTANDING JOURNALIST

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. JENKINS. Mr. Speaker, I want to take this opportunity to recognize Mr. Jimmy Townsend, an outstanding journalist in our ninth congressional district in Georgia.

This year, Jimmy Townsend was named as recipient of the Georgia Press Association's award for the best personal column.

Jimmy's talent for writing first emerged in 1927, when at the age of 8 he wrote his first newspaper column, an essay about his father. The article appeared in his Uncle W. B. Townsend's newspaper, The Dahlonega Nuggett.

During summer vacations, he continued to work for The Nuggett until 1940 when he joined the Army. His writing career was temporarily interrupted by a 10-year tour with the Army and a brief job as a furniture dealer.

By 1956, he was back in the newspaper business. This time penning articles for the McCaysville Citizen. In 1968, Townsend went to work for the Cleveland Tennessee Courier. He has since worked with the Nashville Banner, Pickens County Progress, Calhoun News Dispatch, Cherokee Tribune, and Dalton Daily News.

His down-home style of writing about life in the red clay hills has touched the lives of many of my constituents and has made his column the most widely read in north Georgia.

A portion of his award-winning column follows:

[From The Cherokee Tribune, March 10, 1977]

A GRANDFATHER'S PRAYER

(By Jimmy Townsend)

"Dear Lord, I'm not one of these fellers that's always bothering you, so please, please look after Christopher Douglas Vaughn. I know that he is king of the roost right now—but as he grows older help him to learn about how much strength he can get from talking to you. Let him learn gently, if you can that for every scoundrel there is a hero. For every enemy there is a friend. Let him learn, Dear Lord, that it is far more honorable to fail than to cheat. And that to have faith is important. Try to give my grandson the strength not to follow the crowd when everybody else is getting on the bandwagon. He will have to learn, I know, that all men are not just, that all men are not true, but gently as can be done.

This is a big order, Dear God, but see what you can do. He's such a nice little feller, my grandson, and I'll see what I can do. I won't be bothering you with ridiculous requests for material things for myself, but I will be thanking you every day for looking after Chris . . . amen."

Mr. Townsend's writing is performed in a manner that teaches while providing pleasure. His is one of a vanishing style. He deflates the ego of the powerful, defends the weak, and reminds us constantly that there is more to life than material blessings.

I join with the many friends of Jimmy Townsend in congratulating him on being honored by his newspaper colleagues.●

CREATIVE APPROACHES TO THE TAX REVOLT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. BROWN of California. Mr. Speaker, California, not too long ago, brought forth a form of tax revolt to warn us that Government had to do something to lighten tax burdens and prevent breaking the backs of those carrying too much for too long. Congress this year was faced with one of its most urgent challenges. We had to do something about slashing taxes, even as inflation made the task more difficult.

One approach certainly could be the elimination of waste in Government. By establishing Offices of Inspector General in almost every agency, we in Congress are indeed recognizing that fraud, waste, and inefficiency must disappear—as soon and as completely as possible. As we now seek to trim off waste fat, we can indeed achieve even more creative solutions by locally getting for Federal dollars, not less community services, but more services for less money.

This seemingly impossible feat is not just an exercise in congressional rhetoric. There is a scientific and technological process long identified as "synergy" by those who realize, in engineering and management science, that it is indeed possible to get more for less. Whenever a total can be greater than the sum of its parts, you indeed have the possibility of a synergistic solution. Such synergies are the ultimate ideal solution for saving tax dollars while gaining in quality and quality of community services.

Obviously, to achieve such creative synergistic actions is more difficult than ordinary approaches of cutting taxes along with services, which most tax revolts in States currently seek and achieve.

As we today vote on the new CETA amendments, we need to be reminded that Congress on August 5, 1977, saw Public Law 95-93 become a reality. It sought for youth some remarkable creative synergies when it established possibilities of offering academic credit for community service learning experiences. Here, youth indeed could have a sense of belonging to the community to help relieve much of their current feelings of alienation. Youth would feel really part of the community, and yet could be part of a remarkable synergy if they acquired what is known in pedagogical circles as fundamental basics in learning, rather than mere enrichment experiences. When we passed the original Youth Employment and Demonstration Projects Act, last year, most of us knew such very creative possibilities existed.

One example of this intent was the inclusion of projects aimed at stimulating youth toward community based energy projects utilizing low-cost and readily available materials. I quote from a section of the act:

"SUBPART 2—YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECT"

STATEMENT OF PURPOSE

"SEC. 331. It is the purpose of this subpart to establish a program of community conservation and improvement projects to provide employment, work experience, skill training, and opportunities for community service to eligible youths for a period not to exceed twelve months, supplementary to but not replacing opportunities available under title I of this Act.

DEFINITIONS

"SEC. 332. As used in this subject, the term—

"(4) community improvement projects means projects providing work which would not otherwise be carried out, including, but not limited to the rehabilitation or improvement of public facilities; neighborhood improvements; weatherization and basic repairs to low income housing; energy conservation including solar energy techniques, especially those utilizing materials and supplies available without cost and conservation, maintenance or restoration of natural resources on publicly held lands other than Federal lands.

Here we specifically ought to utilize the talent and energy readily available in the youth of our own communities. This is the kind of synergistic coupling of the education and problem solving process that may save us from the tax inflation squeeze.

The CETA experience has taught us that there is no simple way to implement and administer this kind of approach. I want only to express today the feeling that we must continue to grapple with the problem of finding these implementation mechanisms and not abandon the approach itself. It is community based programs which will solve community problems, and our challenge is to create conditions optimal for the development of those programs.●

A HIGH MINIMUM WAGE CREATES UNEMPLOYMENT ACCORDING TO THE QUEBEC MINIMUM WAGE COMMISSION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. KEMP. Mr. Speaker, many economists have advised the Congress that a rising minimum wage results in rising unemployment among our semiskilled workers, many of whom are minority teenagers. Unfortunately, last year, the Congress went against this advice and voted to boost the Federal minimum wage 45 percent over a 3-year period from $2.30 last year to $3.35 in 1981. Today's minimum wage is $2.65.

New evidence of the harmful effects a rising minimum wage has on unemployment was recently made public by the Quebec Minimum Wage Commission. In a special study sponsored by that commission, a Laval University economist, Pierre Fortin, found that Quebec's high minimum wage (about $2.80 in U.S. dollars), has eradicated between 25,000 to 45,000 jobs in the Quebec economy over the last 20 months.

This finding was the subject of a recent outstanding Wall Street Journal editorial. In the editorial, the Journal suggested that our own newly appointed minimum wage study commission could save a lot of time and money in reproving the Quebec commission's findings by merely obtaining a copy of Mr. Fortin's study.

Since the likelihood that our own Commission will not publish its own report on the subject is very small, I would suggest instead that it liberally circulate Mr. Fortin's study among the Members of Congress as soon as possible, lest any of us express surprise 36 months from now when the report issued by our Minimum Wage Study Commission mirrors the report issued by the Quebec commission:

HOW TO LOSE 25,000 JOBS

In a benevolent attempt to pull workers up by their bootstraps, the government of Quebec has ordered minimum wage increases that have made the province's rate the highest in Canada. But officials were jarred this summer when a study they had commissioned showed Quebec's high minimum wage has actually increased unemployment and reduced the earnings of many workers.

Laval University economist Pierre Fortin said in the report, done for the Quebec Minimum Wage Commission, that the high minimum wage has wiped out at least 25,000 jobs—and perhaps as many as 42,000—in the last 20 months, adding 1 to 1½ percentage points to Quebec's unemployment figures. Quebec's jobless rate was a seasonally adjusted 11.0% in mid-August compared to 8.5% in all of Canada.

Provincial officials were, understandably, embarrassed by Mr. Fortin's findings. Even Mr. Fortin was surprised. He says in the report that he began his investigation with a prejudice in favor of redistributing income within Quebec society but as he gathered data he became convinced a high minimum wage was not the way to do it. He concluded, "It has raised unemployment and actually reduced the earnings from employment of those it is meant to help."

Quebec's minimum wage currently is $3.27 Canadian ($2.80 U.S.) compared to $2.85 Canadian ($2.45 U.S.) in neighboring Ontario. By comparison, the current U.S. minimum wage is $2.65.

Labor Minister Pierre-Marc Johnson obviously has been in a quandary about what to do with the report. Although the study was completed and in his hands in June, it was not made public until the Labor Day weekend. Even then, the accompanying news release tried to twist the results to show that the increase in the minimum wage does not bring about an increase in the rate of unemployment. The study actually says just the opposite.

But actions speak louder than words. And in June, likely because of the Fortin study, the Quebec government backed away from tying the provincial minimum wage to the cost of living index and postponed the scheduled July 1 increase.

Quebec had been committed to raising its minimum wage rate each six months but in June decided to delay a 10 cent an hour increase until October 1. The government didn't learn much of a lesson, but it is a beginning. According to the study, raising the minimum wage to a level higher than in Ontario or the U.S. resulted in companies laying off employes and shortening the hours of work. By reducing the profitability and competitive position of Quebec industry, it increased imports and reduced exports.

Now, of course, Quebec has other problems, some of them of long duration, that no doubt contribute to its woes. But we have seen enough studies of the Fortin type to believe that the professor has uncovered a major and unnecessary cause of economic distress.

The U.S. would do well to take note. When Congress last year ordered a 45% boost in the federal minimum wage over three years, it salved its conscience by establishing a national commission to study the economic and employment effects of such a move. But the eight-member commission was only appointed this summer and it has a leisurely 36 months to make its study.

It could save a lot of time and money by getting a copy of Mr. Fortin's report.●

NATIONAL DECA WEEK

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. RUSSO. Mr. Speaker, during the week of November 19–25, the Gold Chapter and the Blue Chapter of the Distributive Education Clubs of America at the Thornton Township High School in Harvey, Ill., will join with like clubs across this country to observe National DECA Week.

DECA, one of the largest and oldest student groups in America, is a national organization chartered to complement and enrich the development of occupational competence necessary for careers in marketing and distribution and to promote understanding and appreciation for the responsibilities of citizenship in our private, competitive enterprise system.

It is with great sincerity that I ask the other Members of the 95th Congress to join with me in saluting the members, alumni, and friends of the Distributive Education Clubs of America in this, their 32d year of accomplishment.●

MEXICO CELEBRATES 168 YEARS OF FREEDOM

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. FARY. Mr. Speaker, September 16, 1978, marked the 168th anniversary of freedom for our southern neighbors of the great Republic of Mexico. It is Mexico's Independence Day and is equivalent to our Fourth of July.

Mexico was still the center of the Spanish holdings at the time of America's war of independence. The proud Mexican people were not happy with the Spanish domination. A brave priest, Father Hidalgo y Costilla, rose to lead his people on to independence. Father Hidalgo chose September 16, 1810, as the day to proclaim Mexico's absolute independence from Spain.

America's independence was announced in Philadelphia with the ringing of the Liberty Bell. So it was in Mexico when Father Hidalgo rang the church bells in the small town of Dolores and urged its citizens to take up arms against the oppressive Spanish rulers.

Father Hidalgo gathered a poorly equipped army of 600 and rode out to challenge the Spanish forces. He rallied supporters along the way with cries of freedom. Their numbers quickly swelled to 50,000 and the citizen's army won many strategic battles. Each gain raised the hopes of more Mexicans that freedom was attainable.

The well armed Spanish forces eventually defeated the group and killed Father Hidalgo. They had only temporarily stalled the rebellion. The gallant actions of Father Hidalgo had ignited the bright torch of independence.

It took 11 years of intense fighting and the death of many more courageous freedom fighters before the Spanish were defeated in 1821. Mexico then had to fight a second war of independence against the French puppet emperor Maximillian before the country was finally free of European domination. Another holiday, May 5, "Cinco de Mayo," commemorates this victory of 1867.

It is September 16, that these Mexican patriots who devoted their lives, their valor, and their determination to the ideal of self-government and human liberty, are honored by the citizens of Mexico and by the many citizens of Mexican descent in the United States and elsewhere throughout the world.

Of course, it is not necessary to be of Mexican descent to appreciate the contribution to the revolutionary ideal of freedom that is signified by this historic date. For America's heritage is intertwined with Mexico. Mexico's struggle for independence is not dissimilar in spirit from our own American Revolution. In both nations there is a devotion to democracy and universal freedom.

The people of Chicago take pride in the contributions of the Mexican culture to our own Nation, and we are pleased to join in observing September 16, as Mexican Independence Day.

Americans of Mexican descent have contributed greatly to the building of our country, especially in the Southwest, and I would like to salute them, and to join them in commemorating this date which is so very important to their rich heritage.●

HOW MANY TIMES, ANDREW YOUNG?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. McDONALD. Mr. Speaker, it appears as through Ambassador Young went down his checklist and noted that he had never insulted the American Peace Corps and wanted to remedy the oversight. While I am no great supporter of the Peace Corps, I did agree with the recent Chattanooga News-Free Press editorial that his comparison of the Peace Corps to the Cuban troops in Africa was odious. Therefore, I am pleased to place the editorial from the Chattanooga paper of September 13, 1978, on this topic, in the RECORD, where I hope that those Members who did not support my impeachment resolution will now reconsider. The editorial follows:

[From the Chattanooga News-Free Press, Sept. 13, 1978]

HOW MANY TIMES, ANDREW YOUNG?

How many times should Andrew Young have been fired for making wild and irresponsible statements?

Just once—the first time. But since he wasn't fired the first time, he has continued making destructive comments that prove he has deserved on many occasions to be fired from the job to which President Jimmy Carter so foolishly appointed him, U.S. ambassador to the U.N.

But Mr. Young makes so many indiscretions, there hardly seems to be any time "in between" when he could be removed without appearing to be under fire.

You recall, of course, that Mr. Young suggested the Communist Castro Cuban troops the Soviet Union sent to take over Angola were a "stabilizing" influence there. That's like saying conditions in the United States would be stabilized if the Soviets and the Cubans occupied our country.

But that and additional experiences did not teach Mr. Young a lesson.

Recently, Mr. Young was speaking to some American volunteers who have been working on Peace Corps projects. To these unselfish, low-paid public service volunteers. Mr. Young said, according to the Washington Post, that "we complain that there are Cubans in Africa," but "there are 20,000 Cubans in Angola doing the kind of thing that you (the Peace Corps volunteers) are doing."

Do you think our Peace Corps people are armed with guns that have enabled any revolutionary faction anywhere to shoot its way into power?

But here was Mr. Young equating Peace Corps agricultural and sanitation projects with murderous Cuban Communist armed aggression!

When his hand was called, Mr. Young said he had slipped when he said "Angola," that he really meant Africa in general, that he wasn't really referring to the Cuban soldiers but to the "doctors, technicians and teachers" the Cubans had sent.

Even his quibble is faulty. It is estimated that there are about 30,000 Cuban Communist troops in African countries and only 12,000 to 14,600 Cuban "civilians," with most of them being involved in military support, certainly not Peace Corps-type operations.

Mr. Young has libeled the United States once more, has mis-represented the Peace Corps and has apologized once again for Communist Cuban and Soviet aggression.

He still ought to be kicked out of an official status where he proves a constant embarrassment and worse.●

THE CENTER FOR THE PORTUGUESE SPEAKING WORLD

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. STUDDS. Mr. Speaker, for the past several years, Americans have developed an increased interest in their "roots." Rediscovering the many heritages which comprise the American experience is a healthy and meaningful process that enables all Americans the opportunity to understand and appreciate the contributions other societies have made to the character of this Nation.

My own district of southeastern Massachusetts includes a substantial population from Portugal, the Azores, Madeira, and Cape Verde. People from these areas came to America in the early 19th century, bringing with them linguistic and cultural traditions that have been passed down through generations and reinforced by the continuing immigration of Portuguese-speaking individuals into southeastern Massachusetts and the rest of the United States.

Several years ago, Southeastern Massachusetts University (SMU) established the Center for the Portuguese-Speaking World, a program of intensive Portuguese studies. With the creation of the center, academic research has become an important element in the preservation of these immigrant traditions in addition to providing valuable channels of communication between American and foreign scholars. This specialized academic unit has two primary functions: to respond to the cultural needs of Portuguese descendants in Massachusetts, and to formulate academic programs focused on Portuguese speaking areas of the world.

Dr. Mary Vermette, director of the center, and Dr. Donald Walker, president of SMU, are to be commended for their efforts in promoting Portuguese studies. I insert the following document from the center, which describes its scope and functions more fully:

REPORT—CENTER FOR THE PORTUGUESE SPEAKING WORLD

The origins of the Center for the Portuguese-Speaking World (CPSW) lie deep within the people and culture of southeastern Massachusetts. With the establishment of Portuguese communities in Massachusetts in the 19th Century, the seeds were planted for the future study of the Portuguese American experience and for the creation of academic ties between America and the immigrants' homelands: the Azores, Madeira, Cape Verde and continental Portugal. By the mid-20th Century, people of Portuguese descent had become the predominant group in southeastern Massachusetts, and the creation of meaningful academic programs to serve the culture and society of this area became almost mandatory.

Following decades of relative educational neglect, the Commonwealth of Massachusetts created a major university for the area in 1969—Southeastern Massachusetts University (SMU). Within a very few years after its formal establishment, the new university began responding to the cultural needs of the Portuguese American people and to the unique opportunities for academic research and teaching. These efforts culminated in the formal acceptance of the CPSW as an integral part of the university by action of the Board of Trustees during the 1974–75 academic year.

In the few short years since the formal creation of the Center, it has become the outstanding Portuguese-oriented academic program of its type in the United States. A brief overview of the accomplishments of the Center will demonstrate the deep commitment of SMU and individuals associated with the Center to the cause of academic excellence and to the need for community relevance.

COURSES OF STUDY

SMU currently offers more than twenty-five separate and distinct academic courses on Portuguese language and literature, the history of Portuguese-speaking areas of the world, and in sociology, anthropology and other fields. SMU is one of the few universities in the country to offer courses on the Portuguese emigrant experience. Additionally, because of the existence of the Center, many other courses at the University include portions devoted to Portuguese area concerns.

CONFERENCES AND SPECIAL SEMINARS

With the Center as a focal point for organization and administration, conferences covering a wide range of subjects have been held for SMU students, faculty, and for the surrounding community. These events have ranged from a special one-week seminar offered by the President of the Azorean Assembly on political, economic and social characteristics of the Azores, to meetings on Brazilian music, and a conference on The Portuguese Experience in the Americas. Center personnel also pioneered the development of bilingual education for the Portuguese speaking in the United States.

STUDY ABROAD AND RESEARCH

The existence of the CPSW has enabled scholars from various disciplines to focus their research on the Azores, Portugal, and the experiences of emigrants. Individual research projects have been underway for several years, but joint and funded research will represent a major area of new growth for the Center in future years. Student Research and study in Portugal, the Azores and Madeira have been offered by the Center for the past three years as part of a special summer program.

COMMUNITY ACTIVITIES

The Center has provided the entire University with a centralized administrative unit for the development of linkages between the University's academic activities and the cultural needs of the community. In 1972, a Camoes Festival was organized, sponsored by SMU and ten social and cultural organizations in New Bedford, Fall River and surrounding areas. As early as 1969, prior to the formal founding of the CPSW, lectures on Portuguese literature and Portuguese speaking Africa were being offered for the benefit of the community, and since that time many lectures, seminars, artistic events, festivals and meetings have brought the University and the community closer together.

THE FUTURE

Beginning with the 1965 creation of a Portuguese Section in the Department of Modern Languages, through the 1969 graduation of the first Portuguese majors, and with the establishment of the CPSW in 1975, SMU has endeavored to focus its academic programs, to an extent not duplicated elsewhere in the United States, on the culture, arts and society of Portuguese-speaking and descended people. Although remarkable progress has been made, new and exciting challenges exist for the future. Basing future development on the successful achievements of the past, the SMU Center for the Portuguese-Speaking World is poised to take its place among the most respected programs in the United States. With continued faculty leadership, with the sustained support of the Portuguese American people of southeastern Massachusetts, and with appropriate funding from governmental and foundation sources, the Center's activities will bring Portuguese area studies to a new level of sophistication and relevance.●

SENIOR CITIZEN INTERN PROGRAM

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. HILLIS. Mr. Speaker, yesterday I introduced legislation which would create an official senior citizen intern program within the House and Senate. I am pleased to be joined by my colleague from California, BERNIE SISK, who has helped me coordinate this program for the last several years.

Senator ROTH is also introducing identical legislation over in the Senate.

Ours is a new bill, just recently drafted. It came about as a result of the increasing need for some legislative action to provide for an official senior citizen intern program within the House and Senate. The program, which we began nearly 7 years ago, has grown beyond all expectations.

Very briefly, I would like to emphasize that the program which we started in 1973 is like no other on Capitol Hill. The participants are active, experienced community leaders who come to Washington armed with grassroots knowledge and insight to gain a better understanding of the workings of the Congress and the Federal Government and of the many Federal programs which serve or affect older Americans.

The internship, perhaps, really begins when interns return to their home communities to share the internship experiences and information with local leaders and other seniors who are working together to resolve common problems. It is especially significant to note that unlike other congressional intern programs which affect only the individual interns who participate, this program touches our constituencies—it is our communities which benefit through the sharing of information about the workings of Government—and it is we who benefit through strengthened working relationships with those seniors who are active in our districts.

We have already set the date for the 1979 program. It will begin on May 7, 1979, and conclude on May 18. While we do intend to proceed with the planning of the internship for next year, we are especially hopeful that we will have the framework of enacted legislation to rely on.●

ROY CAMPANELLA, A GREAT AMERICAN

HON. BRUCE F. CAPUTO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. CAPUTO. Mr. Speaker, it is with great pride that I ask my colleagues to join me in honoring a great and courageous American, Mr. Roy Campanella.

Mr. Campanella now resides in Greenburgh, N.Y., which I have the pleasure of representing here in Congress.

I am sure that my colleagues will best remember Roy as the talented catcher with the Brooklyn Dodgers, the man who was three times voted the World Series most valuable player, and a member of Baseball's Hall of Fame.

Roy has accumulated innumerable awards as a baseball player. During his career he established records which stood unbroken for 15 years, including records for the most home runs by a catcher in a season and most runs batted in. Additionally, he led in fielding averages for catchers, tied the record for most putouts, and caught 100 or more games for the most consecutive years.

His skill as a baseball player is unquestionable. But I think, more importantly, we should honor Roy Campanella today for the bravery and determination which characterize his life.

His courage, as well as an overwhelming devotion to baseball, enabled Roy in 1945 to become the first black catcher in the major leagues. Prior to this, he had been an all-star in the Negro Baseball League. But he chose to confront segregation in the majors, eventually winning the admiration, respect and even devotion of both the fans and players.

Roy Campanella's greatest battle came off the baseball diamond. In 1958, a disastrous automobile accident paralyzed Roy from the shoulders down, putting an abrupt end to his baseball career.

Most men, particularly athletes, would have given up hope. But Roy Campanella chose to fight the paralysis, just as he fought the racial segregation. Eventually he regained some feeling in his arms and once again learned to sit.

Even while receiving therapy in the Rusk Institute, Campanella's determination led him back to work. He began a radio talk show on baseball called "Campy's Corner."

Roy Campanella has now become an important participant within our community. He often conducts baseball clinics for boys in the New York City area as well as operates a retail store in Westchester County.

Campanella's overwhelming drive and motivation have become a symbol of hope for all handicapped persons. I know that all of you, the elected representatives of the American people, will join me in honoring this courageous man, this inspiring New Yorker, this great American, Roy Campanella.●

HEARINGS ON ASBESTOS EXPOSURE AND HEALTH

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. MILLER of California. Mr. Speaker, today's Wall Street Journal contains the latest in a long, and profoundly disturbing series of accounts of the severe impacts on the health of men and women who work with asbestos. The findings of the Atlanta study show, as do others concerning workers in the San Francisco Bay Area and Paterson, N.J., alarmingly high cancer rates among people exposed to asbestos while on the job.

Last week, the AFL-CIO held its first conference on occupational safety and health. One of the symposiums, led by Dr. Irving Selikoff of Mount Sinai Hospital in New York City, focused on the interrelationship between exposure to asbestos and the incidence of cancer, mesothelioma, and other fatal diseases. Yet, at a briefing which I scheduled later in the week for legislative aides, Dr. Phillip Polakoff questioned the adequacy of existing asbestos workplace levels. Under the current standards, he noted, a worker could inhale as many as 16 million asbestos particles a day. Dr. Polakoff noted that we do not know what level of exposure may prove dangerous. But other studies indicate that exposure for as little as 30 days, or less, could result in cancer or other diseases 30 years from the date of exposure.

HEW Secretary Joseph Califano has recently issued departmental guidelines for asbestos, including educational materials concerning the dangers to workers' health from exposure. Several pieces of legislation have been introduced in Congress concerning the need for improved health screening and compensation programs. Meanwhile, the evidence of an epidemic of catastrophic proportions continues to mount.

It is because of this evidence, and the need for Congress to gather necessary data itself, that I have requested a hearing of the Subcommittee on Compensation, Health and Safety during October in San Francisco, Chairman JOSEPH GAYDOS has graciously agreed to this hearing, which has been scheduled for October 23 and 24. The record of this hearing, together with the studies and reports like the Atlanta study reported in the Journal below, will provide a sound basis for congressional review early in 1979.

The article follows:

GEORGIANS WORKING IN SHIPYARDS IN 1940'S FOUND TO HAVE HIGHER LUNG CANCER RISK

(By Gail Bronson)

A significantly higher risk of lung cancer was found in Georgia residents who worked in shipyards during World War II, scientists report.

Furthermore, investigators found that smoking cigarettes sharply increased that risk, indicative of a synergistic relationship between shipyard employment and cigarette smoking.

These are the major findings of a controlled study of 458 primary lung cancer cases in Georgia, conducted by the National Cancer Institute, or NCI, and the Center for Disease Control, or CDC, in Atlanta. The scientists concluded that asbestos and possibly other shipyard exposures during wartime employment account for part of the higher than expected mortality from lung cancer in certain U.S. coastal areas. The study also included 553 people who didn't contract lung cancer.

The study was spawned by the mapping of cancer mortality in the U.S. according to county, from 1950 to 1969, by NCI, explained Dr. Joseph F. Fraumeni Jr., chief of NCI's environmental epidemiology branch. The mapping disclosed a higher mortality among white men in metropolitan areas, with the highest rates clustered in a string of counties along the southeastern Atlantic seaboard. NCI decided to investigate these "hot spots", Dr. Fraumeni added, to determine what factors were responsible. The Georgia study is the first to be completed, and is reported in the current issue of The New England Journal of Medicine.

The federal government previously has estimated that between 8.5 million and 11 million workers have been exposed to asbestos since the beginning of World War II, and that the largest group of exposed workers is thought to be about 4.5 million who were employed in shipyards during wartime.

MUCH ATTENTION

Asbestos has received much attention as an occupationally related cancer risk. A few companies such as Johns-Manville Corp. in Denver have made it corporate policy against employing workers who smoke if they might receive occupational exposure to asbestos.

The latest study states that the higher estimates of relative risk for shipbuilding were indiscriminate of race or age. Nor did there seem to be any correlation between other industrial employment in addition to shipyard work and the risk of cancer.

The unusual rates of cancer were studied at hospitals in Savannah and Brunswick, Ga., where two large shipyards began operations in 1942, the scientists reported. By late 1943 about 22,000 were employed in the Savannah shipyard and about 16,000 in Brunswick. Both yards closed soon after the war was over.

A total of 21 percent of the lung cancer patients in the study reported working in the shipyard industry. Investigators found that among those who continued to work in shipbuilding and repair in other locations, the risk of cancer was exceptionally high.

SLIGHTLY HIGHER RISK

A total of 14 percent of the general population in the area, as represented in the group that didn't get cancer, had worked in the shipyards and were at a slightly higher risk than would be expected in the general population for lung cancer. Assuming the remaining 86 percent of the group that didn't get cancer would be at the usual risk, the coastal lung cancer rate would be expected to exceed the usual rate by only about 8 percent.

In reality, provisional estimates of lung cancer mortality rates for white men for 1970 to 1975 indicate that the area exceeded the national rate by about 30 percent. Scientists concluded that the coastal area excess may be only partly attributable to wartime shipyard exposures. However, these risks may be underestimated if the maximum effect of the exposures occurred before this five-year accounting period.

Another problem with the study is that while shipyard work involves contact with asbestos, little data on such exposure was available. Only 5 percent of those ever employed in the shipyards reported handling asbestos during shipyard duties. Nonetheless, the compounded effect between shipyard employment and cigarette smoking in this study is consistent with other reports of a synergism between asbestos exposure and smoking on lung-cancer risk.

Dr. Fraumeni, also an author of the study, said that NCI is involved in similar studies of coastal area shipyard workers to "clarify the magnitude of the industrial hazard". The smoking habits of area residents also are being examined to determine if they smoke more than in nearby areas where there are fewer lung cancer cases.●

COST OVERRUNS AT NEWPORT NEWS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. EILBERG. Mr. Speaker, the question of where the overhaul of the U.S.S. *Saratoga* should be carried out has become an issue of controversy.

The Navy has assigned the ship to the Philadelphia Navy Yard. However, officials at the commercial yard in Newport News have launched an all-out public relations and political effort to pressure the Navy to reverse this decision.

Tomorrow, the General Accounting Office is expected to issue a report claiming that the Navy could accomplish the overhaul at a lower cost at Newport News than in Philadelphia. But in fact, the Navy maintains that projected costs at the two locations are nearly equal, and that other factors have led to the decision to assign the *Saratoga* to Philadelphia—factors to which a dollar figure cannot be attached.

Today, in a meeting with the GAO staff members who prepared this report, my colleagues and I raised these factors—including the need to maintain a strong, viable public shipyard capacity, and the availability of job safety equipment.

The GAO representatives admitted that they did not examine these factors, and I very much regret that the scope of their review was so limited in this manner.

My colleagues and I from Philadelphia believe that the Navy have made a sound decision.

In addition, we believe that the report to be issued today by the GAO tells only half the story.

In preparing the report, the GAO did not even visit the Naval Shipyard in Philadelphia. It did not include any formal comment from the Navy. And perhaps most importantly, in arriving at a cost estimate it did not consider—even once—the possibility that the Navy would encounter cost overruns if this job were to be done in Newport News.

By failing in this manner, Mr. Speaker, I question whether the GAO report can be viewed seriously at all. I question whether it has even a basic credibility, because given the history of the enormous cost overruns at Newport News, I do not see how the GAO can estimate a project's cost at that yard without providing for the almost certain overruns that would take place.

I believe it is most important, Mr. Speaker, that we examine this cost overrun issue more closely. I offer for the RECORD the following excerpts of testimony by a former Newport News official before the Joint Economic Committee, chaired by our esteemed colleagues, Senator WILLIAM PROXMIRE.

STATEMENT OF WILLIAM R. CARDWELL, FORMER EMPLOYEE AND OFFICIAL, NEWPORT NEWS SHIPBUILDING CO., NEWPORT NEWS, VA.

Mr. CARDWELL. You have said most of what I was going to say to start with, Senator.

I presently am a real estate salesman. And prior to that I was employed by Newport News Shipbuilding for approximately 18 years. The last several years was spent in the production department of that company.

I was heavily involved in developing the original schedules of the SSN 688, the *Rivers*, and the SSN 687, which would be the *Russell*.

SCHEDULES FOR 636 CLASS SUBMARINES UNREALISTIC

I might add that on that original schedule we originally scheduled it for 2½ years, all our 636 class submarines. And their average construction time was 3 years. And because of this, and because of the historical data, there was no question that when the original schedule was put on the street—I developed that schedule myself—there was no way possible that we could build that ship in 2½ years. And everybody in the company knew it.

CHANGE ORDERS USED TO COVER UP INEFFICIENCY

I was also involved in processing change orders for these vessels. And in my opinion the changes by the Government had very little if any effect on the delays experienced during construction. In fact, in most cases we used these changes as crutches to cover up our inefficiency in late work.

COST ESCALATION CLAUSE

It is also my belief that the Bureau of Navy Standards Cost Index rose about 4 percent while the yard costs rose about 39 percent during the period of these ships. And they made out like a bandit, I might say, for this cost escalation clause that was in the contract. And I would suggest to prove this that you have a cost analysis made on a month by month basis. And I believe you will find that the yard, as Admiral Rickover has said, is ripping off the Government pure and simple.

RESPONSIBILITY OF SHIPYARD

The problems encountered by the yard in my opinion cannot be blamed on the Government, they are solely the responsibility of the shipyard.

Senator PROXMIRE. Was your work generally in the area of production control in the ship construction in Newport News? Tell us briefly what went into the master construction schedule and what went into the revisions and how often they were revised.

CONSTRUCTION SCHEDULE SQUEEZED

Mr. CARDWELL. The master construction schedule was an official document by means of which the shipyard and the Government supposedly kept track of the progress of the construction of the ship. It was developed over a period of some months prior to 1971. I think the keel was laid in June of 1971. And we started working on the master construction some years before, or a year before. It was developed by myself and two other gentlemen in the section from historical data. When we dug into the historical data on past 637 class submarines it was evident from the wording that there was no way that the ship could be built in 2½ years. But we just started squeezing, and as we squeezed, we shortened times that we knew were accurate, because they were data that had been taken over the years on how long it takes to do a particular job, until we got it down to 2½ years. And we put it out on the street, and it was signed by high company officials and went to the Navy.

Senator Proxmire. Were you part of management at this time?

Mr. Cardwell. Yes, sir.

Senator Proxmire. Did the people above you know what was going on?

Mr. Cardwell. Yes, sir. And as we went along the road, I think they went through revision okay. It started with the master construction schedule, and, A, B, C, and so on, skipping I. As the Navy would demand a new schedule and to show them that we would make up this time, we just shortened it a little more, pure and simple, and gave it to them.

I might comment that we knew all along, as I said from the start, that we weren't going to build a ship in that length of time. And we had our own little document that we had worked out, which I don't have of course. And when I walked out I walked out with my coat and my hat, and that is all.

Senator Proxmire. Will you explain what you mean by knowing that you weren't going to be able to build the ship within that time. Was that unrealistic schedule—was that proposed by Newport News, or was it something insisted upon by the Navy? How did you arrive at the schedule?

14-WEEK DELAY A HOAX

Mr. Cardwell. We were under contract to deliver on December 5, 1973. So I was told to put out a schedule showing delivery on December 5, 1973, until such time later on in the game that I was told we had moved it up a little bit. They gave us 14 weeks, or something. And we had a strike in DeLaval, who made the main engine complex, and the main and vital hydraulic turbines, and so forth. They went on a strike in 1971, I believe, September on through December. And we claimed a 14-week delay, which was a complete hoax, it only enabled us to hope to catch up. We weren't ready to put it——

Senator Proxmire. You say it was a big hoax. In what way was the 14-month delay a complete hoax?

Mr. Cardwell. 14-week delay.

Senator Proxmire. The 14-week delay was it caused by a strike?

Mr. Cardwell. There was a strike; yes, sir.

Senator Proxmire. How much of the delay was caused by the strike?

Mr. Cardwell. I think maybe 2 or 3 days. If you check the record when the pump finally came in it was several weeks to months before they were ever put in the ship anyway.

Senator Proxmire. So they were so far behind at that point—

Mr. Cardwell. We were behind. Like I say, they used it as a crutch to try to gain time. And I think the Navy finally did agree to delay delivery until March 3, 1974, at the time.

Senator Proxmire. What is the significance of the construction schedules? How are they used in the shipyards?

Mr. Cardwell. Well, the master construction schedule is solely a document used by the Navy and the management of the shipyard. Under the master construction schedule a group indexing schedule is made, which is a very complex, big thick book which goes down to the trades, and which is supported to make sure that the proper manpower and men and so forth are there at the proper time to build a certain section of the ship, or a certain element. And I don't know whether I am answering your question or not.

Senator Proxmire. Let me ask you some details about it, and perhaps that will bring it out. Is it correct that two sets of master construction schedule restrictions were prepared, and that there was a published set of schedules which was forwarded to the Navy, and there was a secret or unpublished set of schedules which was for shipyard use only?

TWO SETS OF SCHEDULES KEPT

Mr. Cardwell. Well, there was a second set, which I referred to a few minutes ago as the document we had in our office, which we had worked up showing when we were going to really deliver the ship.

Senator Proxmire. And that was kept from the Navy?

Mr. Cardwell. But that wasn't sent through the yard, right, it was kept in the production control office or the program manager's office.

Senator Proxmire. What was the reason for having those two sets of schedules?

Mr. Cardwell. Well, I don't know for the second one, other than to tell us what we were doing. We knew what was happening. And the Navy did, too, I think if the truth was known. I can't visualize them not knowing what was going on in that shipyard.

UNPUBLISHED SCHEDULES MORE REALISTIC

Senator Proxmire. Is it correct that the published or official schedules which went to the Navy showed that the yard was falling behind on the ships, but indicated that the work would be made up in the following period, but that the unpublished schedules which went to the construction department were more realistic and indicated that less work was to be accomplished in the following period?

Mr. Cardwell. Part of that statement is true.

Senator Proxmire. What part is true and what part is not?

Mr. Cardwell. The part where you said the schedule which went to the Navy showed we were falling behind, but we would make it up. The other part, those schedules did not go down to the waterfront, they stayed in the production control office. In other words, management knew it.

Senator Proxmire. They didn't go to the construction department?

Mr. Cardwell. No, sir, not the other ones. Now, they had kept——

Senator Proxmire. The management knew it and you had your own books indicating——

Mr. Cardwell. We knew when we were going to deliver the ship, yes, sir. And it wasn't what the master construction schedule said, the one that went to the Navy.

Senator Proxmire. Let me try to clarify what is happening with some hypothetical numbers. The schedule would show that a number of events or jobs were to be accomplished over the life of the projects?

Mr. Cardwell. Right.

Senator Proxmire. And when all the events were accomplished the ship would be delivered?

Mr. Cardwell. That is true.

Senator Proxmire. The schedule would also show the number of events to be accomplished in the next few weeks?

Mr. Cardwell. That is true.

Senator Proxmire. Let's suppose that the published schedule which went to the Navy showed that 100 events were to be accomplished in the next 4 weeks. Is it correct that the unpublished schedule could show that only 50 events were to be accomplished?

Mr. Cardwell. That is true.

Senator Proxmire. Now, the significance of this is, then, that while the Navy was being told 100 events were to be accomplished, in fact management intended only 50, there was to be less progress than the Navy thought there would be, is that correct?

Mr. Cardwell. That is correct.

Senator Proxmire. Now, was the reason for all of this that the yard was falling behind in its work?

LACK OF SKILLED LABOR

Mr. Cardwell. Yes; we were falling behind, yes, sir. We couldn't keep up. Some of the reasons why—I guess you are going to ask me why we weren't going to keep up. Admiral Rickover went over some of the reasons. We didn't have the skilled labor to do it. It was just like a man that spends too much money, I think at one time the shipyard was a small shipyard, and it handled one or two nuclear ships, and some overhauls, and so on. And then we got to a point where it went out and got all these contracts, and we just didn't have enough skilled manpower to go around, especially in the pipefitters trade and the welders trade. The welding rejects were very high during the construction of the SSN-686.

MANAGEMENT DID NOT WANT NAVY TO KNOW YARD FALLING BEHIND

Senator Proxmire. Is it correct that the management did not want the Navy to know how far it was behind in the construction of ships, and that it was falling further and further behind?

Mr. Cardwell. In my opinion, yes, sir.

Senator Proxmire. In your opinion what was the purpose behind this tactic? Why didn't the management want the Navy to know how far behind it was?

Mr. Cardwell. I couldn't answer that question, Senator, why they didn't want them to know. You would have to ask the person in the shipyard. I don't know the answer to that question.

Senator Proxmire. In your opinion why was the shipyard falling so far behind?

Mr. Cardwell. We didn't understand it ourselves. There were too many contracts and not enough experienced men.

Senator Proxmire. Can you discuss briefly some of the manpower problems you had in the yard? Was there a shortage of skilled workers, and if so, in what area?

SKILLED MANPOWER PROBLEMS

Mr. Cardwell. I think I just went over that briefly. The two big areas that I am familiar with are the welding trade and the pipefitters trade. The pipefitters were at a premium. We were delayed in the construction of 688 and 687 because the pipe banks were not installed. The pipe banks go right inside the hull of the ship. And they have to be put in before any equipment can be put inside the various sections. They are built in a pipe shop and then put in and tested on the ship, because once the other equipment goes in you can't get to the pipe banks. And these pipe banks, we just didn't have the people to build them or to install them.

Senator Proxmire. There was a shortage, then, of skilled workers?

Mr. Cardwell. Right. And in the north area of the yard where the hull units were being built, the shipyard claimed that escalation had cost them money, but I say that most of those hundred units took over double the man-hours that it took to build the previous sections on 637 class submarines.

Senator Proxmire. Did the shortage of skilled workmen also cause a lot of rework and contribute to spending more time during the construction phases than it estimated?

Mr. Cardwell. It certainly did. Because when you have inexperienced people building your hulls and working in your ship, it means that when the inspectors come, this probably would have to be done over.

Senator Proxmire. In your opinion, then, would you say that the lack of skilled workers was very costly to the yard? Was this a large cause of the delays and the cost overrun?

Mr. Cardwell. Yes, sir, I would say that is a true statement.

USE OF CHANGE ORDERS

Senator Proxmire. Earlier you mentioned the change orders, and I believe you stated that most of the change orders did not cause delay or disruption in the construction of ships, the change orders?

Mr. Cardwell. Yes, sir.

Senator Proxmire. Can you explain that?

Mr. Cardwell. Well, from the wording——

Senator Proxmire. Let me just make it a little easier for you by asking, how were the change orders used in the preparation of claims here?

Mr. Cardwell. Well, I personally was put on loan to the contract department to work up the statistics for the changed sectors. And I went through and picked out every change that we could possibly attribute to the Government, and listed them. And they are right in those volumes. And during the course of construction somebody in the upper management got the bright idea of using the duplicative impact which you heard Admiral Rickover mention. Some of those changes in there that had a cumulative impact on them have less than 5 hours labor involved. And they are in that claim right there. We put a cumulative impact on anything that has as much as 1 hour of production manpower. If it is 1 hour of production worker's time during that day we could put on those changes, we put cumulative impact on the changes.

The changes, like I said before, we used as a crutch. We looked for Government changes to hide our inefficiency and lateness in not making the schedule.

Senator Proxmire. So that you were taking changes that caused minimal delay and lumping them together to show a huge impact of delay, and therefore a very big cost?

Mr. Cardwell. Yes, sir.

Senator Proxmire. Now, was this a misstatement, inadequate indication of what the cost of delay was? Is that the way the delay was exaggerated?

Mr. Cardwell. I would say that is right. Like I said before, I don't think there was any delay caused by Navy changes, if the truth were known.

MEMBER OF NEWPORT NEWS CLAIMS TEAM

Senator Proxmire. When did you become a member of the claims team, and what were you told when you began work with claims?

Mr. Cardwell. I became a member sometime in late 1974. And I was called into a meeting of the team. And there were about 50 people that had formed this team. And I was called in because I had handled the changes during the construction of the 686. And I was told to go through and pick out every single thing, no matter how small, that I could find, that there was any proper way that we could blame the Government for the delay of the ship.

Senator Proxmire. Were items other than changes placed into the claims even though they did not increase the shipyard costs?

Mr. Cardwell. Repeat that.

Senator Proxmire. Were items other than changes placed into the claims even though they did not increase the shipyard costs?

Mr. Cardwell. Sir, I don't know about other items—

Senator Proxmire. Delays of various kinds, and so forth, that might not have been the result of changes requested by the Navy.

Mr. Cardwell. The only thing I worked on on the claim was the change section.

Senator Proxmire. How about the strike, isn't that an example?

Mr. Cardwell. The strike is in there. And I mentioned that.

Senator Proxmire. That wouldn't be a change, that was a delay caused by something else?

Mr. Cardwell. Right. But I didn't have anything to do with preparing that, although that chart that is in volume 2, book 5, section 7(c), I believe, that chart was drawn by me sometime prior to joining the claims team.

Senator Proxmire. I understand that the valve company supplying valves to Newport News had a strike, and that strike has been made the basis of a part of the claim. Will you tell us whether the strike in fact caused a delay in the construction?

Mr. Cardwell. Yes, by DeLaval.

CLAIMS KNOWINGLY EXAGGERATED

Senator Proxmire. Is it your testimony that much of the claims you worked on included exaggerated, unsupported, or inaccurate figures?

Mr. Cardwell. Yes, sir.

Senator Proxmire. And that this was done with the direction or the knowledge of Newport News Shipbuilding?

Mr. Cardwell. Yes, sir.

Senator Proxmire. Mr. Cardwell, I want to thank you very much. It is not easy to do what you have done this morning. And it is a real public service. And it takes a lot of courage. And it is the kind of action that on the basis of experience that I have had on this committee is likely to cause you some difficulty in the future. And I want to express my admiration and gratitude to you for coming forward the way you have.●

JOSEPH T. PERNA AND FRANK J. PERNA: TWO OUTSTANDING ITALIAN-AMERICANS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. LaFALCE. Mr. Speaker, the city of Buffalo and the whole Niagara frontier have been blessed with as varied an ethnic mixture as any other area in this country. Descendants of German, Polish, Italian, Irish, Jewish, Greek, and English immigrants, as well as immigrants from almost every other country in the world have enriched the western New York area with their own unique contributions.

The descendants of one of those groups of immigrants, the Federation of Italian-American Societies at its 71st annivtrsary, on October 8, 1978, will honor two of my most esteemed friends, Joseph T. Perna and Frank J. Perna, as their "men of the year". I want to congratulate the Federation for the excellence of its choices for this very well deserved accolade.

The Perna brothers' roots go back two generations in the Buffalo area, and their parents, Angelo and Mary Mercurio, provided excellent models for their sons to follow. Pillars of the Italian-American community, the brothers are a living example of both the possibilities and the responsibilities of the free enterprise system. Starting as small businessmen, the Pernas steadily built up their business and began diversifying into other lines. Demonstrating an unusual amount of acumen, the brothers enjoyed success after success.

Not satisfied with personal triumphs, the two brothers have also devoted a great deal of time and effort toward revitalizing a large portion of the west side of Buffalo. If their community development plan succeeds, a declining section of the inner city of Buffalo will experience a compete renaissance.

Mr. Albert Grande, executive editor of Il Giornaletto della Federazione, has written an article which discusses at length why these two talented brothers have received the Federation's "men of the year" award. I woud like to share with my colleagues that article, because it says so much about how this country has become the greatest economic power in the world and how it has provided endless opportunities for immigrants from every land.

The article follows:

MEN OF THE YEAR—JOSEPH T. PERNA AND FRANK J. PERNA

(By Albert Grande)

At its seventy-first anniversary celebration, the Federation will honor Mr. Joseph T. Perna, President of Supermarket Management, Inc., and Mr. Frank J. Perna, Vice President of Supermarket Management, Inc., five Tops Markets, as "Men of the Year." Their personal integrity and contributions to community development characterize the fudamental values of Italian-American life. Their parents, Angelo S. Perna, deceased, and Mary Mercurio Perna, an alert eighty-one year old lady, provided the Perna brothers with a living example of the good life. Their father, Angelo, was born in 1896 on Fly Street in "The Hook" area of Buffalo, so named for the sailors who used hooks, in their work, to catch, hold and pull.

Angelo Perna was charismatic by nature and authoritative in expression. When he spoke, people listened. He was a complex man, sometimes openly expressive and sometimes private and reserved. Very good-looking and, at all times, immaculately dressed, he was proud of his Italian heritage, with its roots in Palermo, Sicily. He was, while making a delivery, captivated by a glimpse through a window of his wife to be, Mary. Afterward, according to the formal arrangements of Old World custom, Mary learned of Angelo's interest in her.

Just a youngster, Angelo, with horse and wagon, supplied grocery stores with wholesale produce, fruit and citrus. A lifelong businessman, he had half a dozen retail stores in the 1920's, while continuing to supply wholesale produce. During the Depression years, his energy and enterprise remained undaunted. He delivered olive oil, managed Italian vaudeville, with acts from New York, Toronto and Buffalo, at the Keith Theater, known as the "Little Hippodrome," and operated a service station in Niles, Ohio.

In 1937, he opened a restaurant, the "Gay 90's," in Warren, Ohio, where in a short time, he became known, on sight, to everyone in the city. Joseph Perna, returning home in 1945 after almost five years in the service, recalls how his father took him, for a complete civilian wardrobe, to a men's clothing store in Warren. His father selected everything according to his own good taste. It was his way of preparing his son to meet the world appropriately dressed. The salesman told them it would take several days to make the necessary alterations, much too long to suit Angelo Perna. He told the salesman directly that he and his son would be back in two hours to pick up the new clothes. Returning in two hours, the Pernas found the new clothes ready, the salesman having responded to Angelo Perna's charisma.

From their mother, Mary Mercurio Perna, who was born in 1897 on Erie Street in Buffalo, Joseph and Frank developed a kindly disposition toward others. Their mother doesn't listen to criticism of others, preferring to look for something good in everyone She believes that lack of understanding prompts people to criticize. Her kindliness towards others has impressed deeply her sons, who speak reverently of their mother.

The Perna brothers, always together, could have stayed in Ohio and managed their father's second restaurant, but they decided to return to Buffalo, where family roots are deep. They returned to Buffalo with their father's sense of pride in achievement and their mother's disposiiton to do something constructive for others. Joseph worked briefly as a fireman for the Pennsylvania Railroad, after which, on May 17, 1947, he and Frank went into business. They opened a fruit market, The Woodside Open Air Market, in South Buffalo. Abbott at Woodside. The market had been a garage, but now became the Perna brothers first place of business. It was purchased for $3,309.00, the $50.00 deposit being what was left from Joseph's last paycheck from the railroad.

In 1950, the Perna brothers opened another fruit market called F. and J. Perna produce in Southgate, West Seneca. And in 1958, with three other partners, they explored the possibility of building a bowling alley. The following year, with twelve other equal partners, they acquired the Transit Lanes bowling alley in Williamsville, turning it into one of the most modern facilities of its kind in the country. Twice expanded with fifty employees, who help serve nine hundred patrons daily, Transit Lanes boasts fifty-two lanes that incorporate every modern feature available, including automatic scoring and pin setting and quick-ball return.

With unbounded energy, the Pernas, in 1961, became the largest independent banana distributorship in Western New York, having acquired the Frank Di Pasquale and Son wholesale banana business and the Gaglione Banana Company. Their new banana business was called the Mellow Ripe Banana Company, which distributed processed bananas throughout Western New York. Their next business investment constitutes a milestone in their career, the first Tops Markets franchise.

In 1964, along with one other partner, the Pernas acquired, on Transit Road in Lockport, the first Tops Markets franchise. Realizing the possibilities of the supermarket business, they divested themselves of the fruit markets and sold their interest in the banana business, retaining, however, till the present day, their interest in Transit Lanes. Four other Tops Markets franchises were to follow, franchises that employ six hundred area people: Ridge Road, West Seneca, 1967; 409 Nigara Street, Buffalo, 1968; Camp Road, Hamburg, 1971; and Broadway and Depew, 1973. The first franchise in Lockport had been negotiated through Mr. Armand J. Castellani, Chief Executive Officer and Chairman of the Board, Niagara Frontier Services.

The Pernas describe Mr. Castellani as a "merchandizing genius," someone who knows exactly what people want and what they're willing to pay. Mr. Castellani's business triumphs, of course, have become legendary in Western New York, but less well known are other facets of his personality. On an airplane trip to Rome in 1967, Joseph relates how Mr. Castellani read an entire novel in a matter of hours. Marveling at his speed-reading, Joseph, later on, decided, out of curiosity, to ask Mr. Castellani about certain passages and episodes in the book. He soon discovered that, not only did Mr. Castellani read rapidly, but with total recall. His speed-reading also includes his trunk-sized "briefcase" containing materials about food industries, which Mr. Castellani knows in exact detail, from the condition of this year's wheat crop to the latest techniques of marketing.

In 1973, the Perna brothers moved in yet another business direction. Along with three other partners, they bought into Flint Oil and Gas, Inc., which employs fifty-one people, and is the largest independent explorer of natural energy in New York State. Joseph is Vice President and a member of the Board of Directors. Frank is an investor, who speaks proudly of his brother's "fantastic business mind" that prompted his Dale Carnegie classmates, in 1957, to vote him the most likely to make a million dollars. Frank remembers, too, with a smile, how his brother, Joseph, as a boy, always talked business on a grand scale. He always had business aspirations that, encouraged by Frank's loyalty and business skills, have been realized.

For the past five years, the Pernas have been working on a sweeping five million dollar project for the revitalization of a large section of the lower West Side of Buffalo. The project would revitalize the block bounded by Niagara, Hudson, Prospect and Maryland Streets. Four councilmen, led by Councilman-at-Large Anthony M. Masiello, are sponsors of the project. The project has been well received by Mayor James Griffin, Congressman John L. LaFalce and Henry J. Nowak, and Mr. Armand J. Castellani.

The "Niagara Street Development Project" would provide new construction for eleven businesses, miniparks, benches, water fountains, parking facilities and a beautifully landscaped setting. The project would, if the authorities have the Pernas' vision of community development, restore life to a large section of the inner city. It would also provide one hundred new jobs and expanded business opportunities.

Gentlemen, businessmen, community developers and city planners, Joseph T. Perna and Frank J. Perna have embodied in their private lives and careers those values that have come from their Italian-American heritage. They resist those social forces that threaten to undermine family tradition and concern for the community. The Perna brothers believe in human fulfillment that goes beyond material possessions.

Italian-American heritage, they see, as the training ground for a happy and productive life. Highly motivated immigrants and their descendants, who have worked long and hard to provide for their families and develop the community, constitute a high human standard. The crucial importance of discipline is illustrated by Joseph's anecdote concerning an Italian general, Roberto Roberti, whom he met during one of his trips to Italy. Contrary to popular belief, General Roberti pointed out that Italian soldiers are highly disciplined with great respect for authority. They would have fought their hearts out during World War II, except that they had little desire to fight Americans. They surrendered to the side they preferred, says Joseph, but possess the same discipline that has served well Italian immigrants around the world.

To share, as always, in their special evening on October 8 will be the Pernas' families. Present will be Mr. Joseph T. Perna's wife, Phyllis, his son, Phillip, a lawyer with a major Buffalo law firm, and daughters, Linda, a Niagara University graduate, and Mary Jo, who will be entering Nardin Academy, Maria, Mr. Frank J. Perna's wife, will be accompaned by daughter, Sandra, and son, Paul, Assistant to Director of Operations, Tops Market.●

PERSONAL EXPLANATION

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. DERRICK. Mr. Speaker, on August 14, 1978, I was recorded incorrectly on Rollcall Vote No. 694, an amendment offered by Mr. YOUNG of Florida to the Foreign Aid Appropriations bill, H.R. 12931. I should have been recorded as voting "aye."●

JAMES K. MAHONEY, SR., SENIOR ASSISTANT COUNTY ADMINISTRATOR, COUNTY OF SAN JOAQUIN, CALIF., RETIRES FROM ACTIVE SERVICE

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. McFALL. Mr. Speaker, over the years the Federal Government has increased tremendously its involvement with local government. As a result the success of many Federal programs rests more and more with local officials.

I would like to take note of the many contributions of one such local official. He has been recognized nationally as an outstanding administrator and only recently retired from the service of the San Joaquin County government.

My friend James K. Mahoney has worked long and hard and with a great deal of skill with me and the members of my congressional staff. With his assistance and leadership a great deal has been accomplished for the people of San Joaquin County.

Jim Mahoney has received numerous commendations and awards for his fine service and in 1975 he was nominated to be the "County Employee of the Year."

I would like to share with you, Mr. Speaker and my colleagues, some of the facets of Jim Mahoney's life that allowed him to make such a substantial contribution to the people of his community.

Jim Mahoney completed 23 years of distinguished service with the county. He attended school in Stockton, Calif., and after high school graduation, he attended the University of California and Fresno State College from which he received his degree.

Mr. Mahoney is a native of Stockton, married to the former Mary Ann Boyd, the only daughter of Brig. Gen. Leonard R. Boyd and the late Marion Barber Boyd of Sonoma County. Jim and Mary Ann have four children, two boys, Sean age 15 and Kevin age 18, and two girls, Peggy age 19 and Eileen age 21.

Mr. Mahoney's community service activities are numerous including active participation in Cub Scout and Boy Scout troop work (troop committee member and merit badge counselor); 13 years sustaining member, Girl Scouts of U.S.A.; member and past president of the Sertoma Club of Stockton; past secretary-treasurer of the Pacific Southwest Region of Sertoma International; chairman of the Freedom Committee of the Sertoma Club involving personal presentation of welcoming address to new citizens at each naturalization ceremony in the superior court.

Additionally, Mr. Mahoney has been active in the YMCA, participating in the Corporate Planning Process Executive Committee operations, and for the last 12 years, promotion of the Y-Indian guide program.

Mr. Mahoney has been particularly active in the area of alcoholism and drug abuse prevention and treatment, and has devoted many hours of personal time to public presentations regarding these subjects.

Official recognitions received by Mr. Mahoney are numerous. Among the more important include a commendation from the State Director of Agriculture for design of in-service training program; certificate of outstanding public service presented by San Joaquin County Economic Development Association in 1970 for the authorship of the overall economic development program; certificate of outstanding service issued by the National Association of Counties' Council of Intergovernmental Coordinators for president of region IX in 1973 and 1974; commendation from Board of Supervisors for Rural Economic Development Council of San Joaquin County in 1975; commendation from Federal Paperwork Commission in 1975; and commendation from Secretary of Defense, Melvin Laird, for special study of San Joaquin County.

Mr. Mahoney's accomplishments include the coauthorship of the National Association of Counties' publication entitled "A Guide to Grantsmanship"; authorship of "Grants-in-Aid in San Joaquin County" (over 600 copies distributed nationwide), and involvement in authoring for the National Association of Counties an updated version of the Guide for Grantsmanship including a detailed model format for grant administration.

Mr. Speaker, I regret the County of San Joaquin losing the services of this valuable employee.●

OPPORTUNITIES FOR ARTISTS AND ART LOVERS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. LAFALCE. Mr. Speaker, too often it is easy for Government to overlook the importance of the quality of life to its citizens in favor of pursuing a measure of financial wealth for all. One of the major elements of any cultural heritage, and a revelation of the quality of life lived, is the art produced by the people of that society. Through art we have a unique opportunity to view life and its surroundings from the vantage point of another person. We need to encourage this sharing of perceptions, and to that end I have introduced H.R. 14101, a bill to establish an "art bank" within the National Endowment for the Arts.

The National Endowment for the Arts, under the able leadership of chairman Livingston Biddle, is the champion of the arts in the Federal Government, achieving notable results with a limited budget. The Endowment, under this bill, would be given funds to purchase or lease works of art from lesser known artists for use in public displays in Federal, State, and local office buildings, public museums, and other nonprofit institutions. Local governments and nonprofit institutions would also be encouraged to set up similar "banks" using their own funds. Government interest in the arts can greatly enhance public awareness and appreciation for the arts, and I hope the Federal Government will take a leading role in this effort.

The text of my bill follows:

H.R. 14101

Be it enacted by the Senate and House of Representaitves of the United States of America in Congress assembled, That the National Foundation on the Arts and the Humanities Act of 1965 is amended by redesignating section 14, and all references thereto, as section 15 and by inserting after section 13 the following new section:

"SEC. 14. (a) In order to assist and encourage artistic creation through the purchase and display of works of art, to beautify public places by increasing the availability of works of art for exhibition, and to foster appreciation and understanding of art by making it more accessible to the public, there is authorized to be established, within the National Endowment for the Arts, an Art Bank which shall be headed by a Director.

"(b)(1) The Director of the Art Bank shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.

"(2) The Director shall report to the Chairman of the National Endowment for the Arts with respect to the activities of the Art Bank.

"(c) The Director of the Art Bank shall—

"(1) appoint periodically ad hoc juries of artists and art experts for the purpose of assisting in the selection of visual works of art;

"(2) The Director shall report to the Chairman of the ---------- with the assistance of juries and enter into agreements to purchase at fair market value or lease such works directly from artists or from art dealers, which purchase agreements shall include the right of artists to repurchase their works after a reasonable time at a price not less than the cost of acquisition plus 50 percent of any increase in the fair market value of such works;

"(3) provide for the safe and secure storage, transportation, and insurance of such works;

"(4) make such works available on loan to Federal facilities;

"(5) make such works available on loan to museums, and by lease to State and local governments, nonprofit institutions, and private corporations, which shall provide for the public display and adequate security of such works;

"(6) sponsor exhibitions of works from the Art Bank;

"(7) select periodically works from the Art Bank for sale by public auction or otherwise;

"(8) encourage and provide technical assistance to State and local governments and nonprofit institutions for the establishment of art banks; and

"(9) promulgate such rules and regulations as may be necessary to carry out the provisions of this section.

"(d) Members of juries appointed pursuant to subsection (c)(1) of this section who are not regular full-time employees of the United States shall receive, while serving on such juries, compensation at a rate equal to an amount fixed by the Chairman of the National Endowment for the Arts but not to exceed $125 a day including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government services are allowed expenses under section 5103(b) of title 5, United States Code.

"(e)(1) In selecting works of art for purchase under subsection (c)(2) of the section, the Director shall consider—

"(A) the quality of such works;

"(B) the need to encourage artists who are not well known to the public; and

"(C) the need to encourage artists from all sections of the United States.

"(2) Not more than $25,000 may be expended for the work of any one artist in any one fiscal year.

"(f) Notwithstanding any other provision of law, amounts received by the National Endowment for the Arts from the sale or lease of works from the Art Bank under subsection (c) of this section may be used in the fiscal year of which such amounts are received and for succeeding fiscal year to carry out the provisions of this section.

"(g) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $2,000,000 for fiscal year 1979, $3,000,000 for fiscal year 1980, and $4,000,000 fo fiscal year 1981. Not more than $250,000 of the amounts appropriated in any fiscal year may be used for administrative costs.".

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"(141) Director, Art Bank, National Endowment for the Arts.". ●

ON THE REVOLUTIONARY LEFT, A DIFFERENT KIND OF CORRUPTION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. McDONALD. Mr. Speaker, throughout the world, since 1945, the United States and her allies have yielded to pressure stirred up directly by various leftwing circles, some within our own Government, to abandon various friendly countries because they were not carbon copies of our version of democracy. Under the guise of working for a more democratic world, dismantling colonialism, and other slogans we have one by one left our friends high and dry to become victims of a Marxist dictatorship. Once a nation became a Marxist dictatorship, of course, nothing more was heard as the silence of the prison camps closed about the unfortunate nation and visiting journalists only received conducted tours. This trend has accelerated in recent years, and if not stopped will result in our having no allies and the "Finlandization" of Western Europe. Patrick J. Buchanan recently pointed out our double standard in a column that appeared in the Richmond Times-Dispatch of September 18, 1978. His column applies particularly to events in Nicaragua today where we appear to be determined to cut off our nose to spite our face. I commend the column to the attention of the colleagues. The article follows:

ON THE REVOLUTIONARY LEFT, A DIFFERENT KIND OF CORRUPTION

(By Patrick J. Buchanan)

WASHINGTON.—As with Chiang Kai-shek, President Diem, President Thieu and Lon Nol, the skids are being greased under President Anastasio Somosa of Nicaragua. He will likely become the next of this nation's friends to learn what it means to fall into terminal disfavor with the left.

The moral ground upon which we will stand to justify our desertion is all too familiar: Like all the rest, Somoza's regime is irredeemably "dictatorial and corrupt." Few even raise the question of whether the people of Nicaragua will be better off under the Somozas or under the Sandinista guerrillas who will likely replace them.

Using the same argument, we have deserted one friend after another in 35 years of cold war. The inevitable consequence: A flawed right-wing authoritarian government is supplanted by a revolutionary regime that steals not a man's purse, but his freedom and his life.

We dumped Chiang and got the roots of madness of Mao's China. We dumped Diem and deserted Thieu, and South Vietnam is now a vast provincial prison camp of Hanoi. Three years after deploring the "corrupt Lon Nol regime" in Cambodia, Sen. George McGovern agonizes publicly over the genocide which the peace movement did so much to bring about, and which it does so little to protest.

This is what one finds so olfactory about the American left. Again and again and again, it beats the drums for formal abandonment of some right-wing dictator and then washes its hands of moral responsibility for the rivers of blood that flow directly from the policies it recommended we pursue.

No wonder the far right, watching one friend after another overthrown and a communist dictatorship rise from the ashes, has come to reject the claim of invincible ignorance—for the charge of conscious conspiracy.

How refute the accusation? How explain why journalists and politicians supposedly sickened over the repressions of Diem and Thieu can be photographed smiling in the presence of Fidel Castro?

The corruption of the authoritarian right is often the corruption of nepotism and graft—corruptions not unknown in the great cities of this country, or even in Congress. But the corruption of communism is of a different magnitude. It is a corruption of the spirit that comes of treating other human beings as objects, chattel.

Remember how we read daily of the censorship of the press in Saigon, the repression of the Buddhists, the corruption of the generals, the "tiger cages." How little we read or hear now of the economic desolation, the eradication of religious, political and press freedom, the nationwide system of concentration camps that pockmark the new Vietnam.

This is no special brief for President Somoza. But his regime's record on human rights is surely superior to that of Fidel Castro. And Nicaragua is not 18th-century New England. There is validity in the observation that bananas and self-government cannot be grown on the same piece of ground.

And for all their faults, the Somozas have been friends of the United States. They did not allow their country to be used for the installation of strategic missiles targeted against American cities. When Kennedy and Eisenhower, in turn, sought secret bases for staging assaults on communist Guatemala and communist Cuba, the Somozas, at risk to themselves, provided those bases.

All the excesses of Nicaragua's national guard are held up to daily inspection by our national press. Yet, the terrorist seizure of the national assembly, the threat to execute in cold blood its captured members are portrayed as bold and daring in the same journals.

Imagine the outrage had Somoza lined up his communist captives and threatened to shoot 10 a day until the Sandinistas turned in their weapons.

The sins of the right are never to be forgiven or forgotten. The atrocities of the left, however, are all washed away in the redeeming blood of the "revolution."●

BALANCE(S) OF POWER SERIES BOOK III(I)—ASIAN RIMLANDS

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, after consideration of Asia in its several subregions, the Regional Balance series now turns to the military balance in the Pacific Basin as a whole. It is appropriate that such an assessment be made from a naval standpoint, as provided by Adm. Maurice F. Weisner, USN in his recent Strategic Review article entitled "The U.S. Posture in Asia and the Pacific: The View from CINCPAC." (Summer 1978.)

Although Admiral Weisner's article focuses primarily on the Forces of the United States and the Soviet Union, his article makes clear the fact that the relationship between these Forces helps create the perceptions among nations in that region which apparently, are just as important as their military postures in guiding their defense activities. In Asia as elsewhere, as this series has shown, the regional balance is clearly affected by the superpower balance. The article follows:

U.S. POSTURE IN ASIA AND THE PACIFIC IN BRIEF

The vital economic and political stakes of the United States in the vast, variegated and dynamically changing Asia-Pacific region have not dwindled. They entwine with defense interests and commitments that are anchored essentially to a U.S. forward basing strategy, which today is quantitatively at its lowest ebb since 1941. In light of the steady growth in Soviet naval forces in the PACOM area, the protection of important U.S. sea lines of communication would be a difficult task. More generally, deficiencies in the U.S. regional posture need to be corrected, particularly with respect to rapidly deployable air, naval and light ground forces. A crucial role of the U.S. forward basing strategy also relates to its impact on the perceptions of key regional actors.

For more than a century, Asia and the Pacific Ocean have comprised a progressively central arena of United States policy interests. The events of the past decade have brought this dynamic area of the world even more squarely into the foreground of policy concerns. The Vietnam war and more recent conflicts, military coups d'etat, armed insurgencies and political upheavals underscore the constantly changing and volatile nature of the Asian environment.

CHARACTERISTICS OF THE AREA

Several factors are central to an understanding of Asia and the Pacific. The most striking characteristic of the region is its vastness. The Pacific Command's area of responsibility encompasses more than 100 million square miles—more than half the earth's surface. It embraces all the Pacific and Indian Oceans, or more than 70 percent of the world's ocean waters. Illustrative of the tremendous expanse of this area is the fact that an aircraft carrier task force, traveling at normal cruise speed, requires eleven days to sail from San Diego, California, to Subic Bay in the Philippines, and six more days to reach an operating location in the Indian Ocean. By air, military jet transports require eighteen hours to fly from the West Coast of the United States to the Philippines, and eight more hours to reach Diego Garcia in the center of the Indian Ocean.

The vastness of the Asia-Pacific area is matched by a staggering diversity of cultures, religions, economies and political systems. In the economic realm this diversity is graphically demonstrated by an economic scale that descends from Japan, an industrial giant (GNP of $625 billion), to economies such as Burma (GNP of $3 billion), and even down to several island nations whose GNPs range under $25 million.[1] This scale, moreover, is a dynamic one, including many countries in various stages of development and in the throes of the rapid change and arising expectations that can boil into conflict.

Against this background of diversity and change, an unstructured equilibrium now exists among the four major Asia-Pacific powers—the United States, the Soviet Union, Japan and the People's Republic of China (PRC). There are hopeful signs of greater stability and interdependence. Yet, the Soviet and Cuban intervention in the conflict between Ethiopia and Somalia on the Horn of Africa could affect the four-power relationship and bear profound implications for the broader regional balance.

A key to stability in the Asia-Pacific region is Japan. Its influence is spreading apace through the region by way of trade, investment and various forms of economic assistance. In many respects it now appears that Japan is willing to take on greater responsibilities of regional leadership. It is important to remember, however, that the Japanese have constitutionally renounced any armament beyond that necessary for the immediate defense of the nation. For some time now the Japanese government and people have been reluctant to discuss certain defense issues, especially those with regional dimensions. Although public dialogue on defense has become more audible in Japan during the past two years, it seems clear that the Japanese are determined to maintain only a defensive military posture, and that in the military realm they will continue to put primary reliance upon their security relationship with the United States.

The Southeast Asia area is beginning to witness the development of a cohesive force in the Association of Southeast Asian Nations (ASEAN), which offers signs of improved regional stability and greater regional interdependence and cooperation. ASEAN has entered into an economic dialogue with many Asia-Pacific nations, the United States, and also with the European Economic Community. ASEAN's ambitious development plans portend greater regional economic integration in the future.

Other stabilizing elements in the economies of the broader region include the Republic of China, with its robust and growing economy, and the Republic of Korea, which is equally exhibiting dynamic economic growth.

NATIONAL INTERESTS OF THE UNITED STATES

The vital stakes of the United States in the Asia-Pacific region have hardly dwindled. There are, first of all, its strong and growing economic interests. For the past six years, U.S. trade with Asia-Pacific countries has exceeded its economic interaction with the European Economic Community, and now accounts for 25 percent of all U.S. foreign commerce. In 1977, this amounted to about $62 billion, a 13 percent increase over the previous year and the indicators point to further rise. The 1977 exports by the United States to Asian nations amounted to $24 billion, a 12 percent increase over 1976.[2] Similarly, direct U.S. private investment in the region has grown to approximately $16 billion,[3] and prospects for an expanding investment are positive, subject to continued political and military stability in the region.

The Asia-Pacific region is a major reservoir

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of strategic raw materials, the significance of which has sharpened substantially in an era of heightened global competition for increasingly scarce resources. The United States imports from Australia more than 90 percent of its imported zirconium and titanium, as well as important quantities of manganese. Most of the tin, natural rubber and tungsten for U.S. industry comes from Indonesia, Malaysia and Thailand.[4] These resources are important commercially and industrially and have widespread applications to U.S. military and space programs.

Petroleum and other energy resources dominate these strategic-economic stakes. The flow of 90 percent of the Middle East's annually produced oil, valued in 1977 at over $80 billion, must traverse the Indian Ocean to reach the industrial economies of the world. This flow includes nearly 15 percent of U.S. oil consumption requirements; perhaps more important, it supplies 65 percent of Western Europe's, one-third of Australia's and nearly 80 percent of Japan's petroleum needs.[5] Other industrialized or semi-industrialized countries of the Pacific, such as South Korea, the Republic of China and the Philippines, are similarly dependent upon oil transiting the Indian Ocean.

These economic interests entwine with U.S. security commitments in the region. The United States has bilateral defense agreements with Japan, the Republic of Korea, the Republic of China and the Republic of the Philippines. It is a party to the ANZUS Treaty with Australia and New Zealand and is linked with five other countries (including Thailand) by the Southeast Asian Collective Treaty, known as the Manila Pact. Subject to American constitutional processes, the treaties commit the United States to come to the aid of these allies in the event of external attack.

These economic and security interests remain basic against the background of dynamic change in the Asian environment. Yet, the very nature of this dynamic change forces upon the United States a periodic reevaluation of its policies toward the region. Thus, the Sino-Soviet rift continues while the United States is no longer involved directly and militarily on the Southeast Asian mainland. The normalization of U.S.-Chinese relations, in accordance with the principles of the Shanghai communique of 1971, remains a major goal of U.S. policy. The United States has begun detailed planning for the reduction of its ground combat forces from the Korean peninsula. All of these changes and new dimensions place even greater emphasis on the U.S. relationship with Japan.

U.S. DEFENSE REQUIREMENTS

These national interests of the United States form a necessary backdrop for an examination of U.S. defense requirements in the region. The principal military task of the United States in the Asia-Pacific area continues to be the deterrence of aggression or violence that would threaten its interests or those of its allies. The U.S. military presence is designed to foster regional stability and to create an atmosphere that permits peaceful evolution and progress without outside interference. U.S. forces maintain a high state of combat readiness, which serves as credible evidence that if deterrence fails, the forces can and will be invoked to defend the United States and its national interests, including its treaty obligations. In the Pacific Command, this deterrent mission is carried out primarily by means of a forward basing strategy. That strategy rests upon a historical foundation that has been sustained since World War II, albeit with several large fluctuations in the levels of forces. At the present time, this force level is at the lowest point since 1941, numbering 140,000 U.S. military personnel stationed west of Hawaii. The forces are forward deployed on Guam, in Japan, Korea and the Philippines. They include an array of air, naval and ground combat elements. Also part of the total PACOM force structure are additional forces in California and Hawaii.

The U.S. forward basing posture is anchored in Northeast Asia, an area that derives its strategic importance above all from the intersection of the interests of the four major Asia-Pacific powers. It is also anchored in Southeast Asia, with its relevance to key air and sea lines of communication. Given the limited flexibility that is available to the United States to modify its base structure within the Pacific basin, the Philippine bases, both air and naval, are essential for our mutual security as well as the support of operations in the Indian Ocean and for the protection of those lines of communication.

In the Indian Ocean, the U.S. forward presence consists of two destroyers and a command ship operating in the Persian Gulf area. Periodically, a Pacific Command Task Group is also deployed in the Indian Ocean; it might include a carrier or a cruiser and three or four destroyers. The U.S. facility at Diego Garcia is an important, but limited, asset. It serves primarily as a communications relay site and as a filling station for refueling aircraft. The island is austere, however, and offers little potential for expansion.

There is a growing U.S. interest in the South Pacific region, due to its historical significance, its position with respect to important air and sea lanes, and the emphasis which Australia and New Zealand place upon the island complex. An entire family of independent nations is emerging south of the equator, with three new ones—Solomons, Gilberts and Tuvalu (Ellice)—slated for independence in 1978. The South Pacific island nations control vast prime fishing areas. The Soviet Union and the People's Republic of China have already evinced strong interest in establishing close relations with the new states. In recognition of the importance of the region and basic U.S. interests there, the United States is upgrading its diplomatic representation in the region, opening a new embassy and U.S. aid office in Fiji. Meanwhile, the U.S. continues to be an active participant in the South Pacific Commission.

In the strategic Trust Territory of the Pacific Islands (Micronesia), the United States continues to move toward a permanent political settlement and dissolution of the U.N. Trusteeship by 1981. An agreement to create a Commonwealth of the Northern Marianas has already been consummated. Negotiations with the remaining districts are in progress, with the objective of an autonomous Micronesian nation in free association with the United States.

THE POSTURES OF THE COMMUNIST POWERS

Let us now examine some of the military realities in Asia and the Pacific, and specifically address the Soviet Union's growing military strength and its ability to project military power throughout the region. In its principal thrusts, Soviet policy has undergone little change, except that its pressures seem greater, more diverse and sophisticated. While the Soviet Union probably continues to assign priority to Europe in its military planning, nevertheless an objective observer in the Pacific sees a relentless expansion in Soviet military programs in the Far East. Almost one-third of all Soviet forces are now deployed to the Soviet Far East. Soviet ground forces protect the Sino-Soviet border, the naval and maritime headquarters at Vladivostok, and airfield and industrial complexes in the region. In the past decade, these ground forces have been modernized, and their mobility enhanced with mechanized vehicles and helicopters. Soviet Far East tactical air forces include new generation fighters with substantially improved range, avionics, payload and electronic countermeasures.

Soviet heavy bomber aircraft include jet and turboprop bombers which can strike targets as distant as Hawaii from bases near Vladivostok. There is reason to anticipate that the Soviet force will soon be upgraded with the swingwing Backfire medium bomber.

The Soviet Pacific Navy has shown a marked improvement in mobility, range and armament. The Soviet Union has demonstrated the ability and willingness to deploy these forces and to project a Soviet naval presence throughout the region. Ten years ago, the Soviet Pacific Fleet was considered a coastal defense force, seldom seen beyond the Sea of Japan. Admiral Gorshkov, founder and Commander in Chief of the modern Soviet Navy, directs the Fleet as an instrument of state policy,[6] and today the Soviet Pacific Fleet routinely deploys in the East and South China Seas, the Philippine Sea, the South Pacific, the Indian Ocean and waters adjacent to the U.S. West Coast.

Ever since the Soviets' first Indian Ocean naval deployment in 1968, there has been a steady build-up in the number of Soviet ships in the region. The build-up is continuing against the background of Soviet involvement in Ethiopia and South Yemen. When the U.S.-Soviet negotiations for naval arms limitations in the Indian Ocean began in June 1977, the USSR had only fourteen ships in the Indian Ocean. Since then, the daily level has risen to as many as thirty ships, including twelve combatants. The Soviets are actively pursuing a course of exerting direct influence on the events in the Red Sea and Gulf of Aden, and they are persistently seeking access to naval berthing facilities, petroleum storage areas and airfields which would greatly enhance their military capabilities in the Indian Ocean region.

A scan of other communist military forces in Asia shows the PRC with the world's largest ground force, an improving air force and navy, but limited ability at present to project military power over great distances. North Korea has a large and formidable military establishment, offensively oriented, with the bulk of its ground forces deployed well forward to within fifty miles of the Demilitarized Zone (DMZ). This takes on added significance when we consider that Seoul, the cultural, political and economic heart of the Republic of Korea, is only twenty-five miles south of the DMZ. Finally, the Vietnamese command the largest and most powerful military force in Southeast Asia. Since the Vietnam war, they have continued to maintain a large standing army, which today is engaged in a border conflict with Cambodia. There may also be as many as 30,000 Vietnamese troops in Laos.

Countries friendly to and allied with the United States in the region show a wide variance in their military capabilities, particularly in their ability to protect themselves against a major military threat from the communist countries. Although most of these states have professional, efficient and highly trained military forces, these are modest in many respects and would require U.S. assistance against a major armed attack. Our Asian friends and allies are showing some willingness and more capability to assume some of their own defense burdens. We see their forces as complementing our own and contributing to overall deterrence without upsetting regional stability.

PERCEPTIONS OF THE U.S. FORWARD BASING POSTURE

In the context of such a broad assessment of the Asia-Pacific area and the military force postures contained within it, an examination of U.S. defense requirements should invite basic questions: Is our forward basing strat-

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egy sound? Is it politically and economically worthwhile for the United States to base and operate military forces overseas in this area?

With U.S. forces deployed forward, the United States has the ability to react much more quickly to contingencies. It can show force, as in the deployment of an aircraft carrier task group toward the east coast of Africa when President Idi Amin threatened U.S. citizens in Uganda. Or it can use force, as in the recovery of the merchant ship *Mayaguez* in 1975 after its seizure by the Cambodians in the Gulf of Thailand. It is also clear that U.S. forward bases give us the operational flexibility and support structure necessary to meet our treaty commitments. As was indicated earlier, none of our Asian allies could cope alone, without our help, against a major armed attack from the communist countries.

Evaluation of the threat in Asia and the Pacific is complicated by the fact that the threat takes many forms. We are not addressing here the nuclear threat; U.S. strategic deterrent forces provide the well-known "nuclear umbrella" over its allies. Yet, in the non-nuclear threat arena, one scenario that requires examination is a worldwide conventional conflict with the Soviet Union, perhaps flaring from an outbreak of war in Europe. In that situation, one would foresee primarily a struggle for control of the vital lines of communication (LOCs) throughout the Pacific and Indian Ocean regions. In light of the steady growth in Soviet naval forces in the Pacific Command area, and the corresponding minimum levels of U.S. forward deployed forces, it is my opinion that the United States would find it difficult to protect those important LOCs—we would have perhaps only an even chance of keeping them open in the initial period of conflict. There are some deficiencies in the U.S. force structure that must be rectified if we intend to remain capable of doing the required task in the Asia-Pacific theater. Like any Commander, I would like a better-than-even chance of defeating the opposition. The United States needs more air and naval forces to cope with growing Soviet capabilities. It needs improved antisubmarine warfare systems, enhanced strategic airlift, a better long-haul, secure command and control system and rapidly deployable light ground and airborne strike forces.

To carry the point further, except for the unique situation on the Korean peninsula, the United States does not contemplate in the Asia-Pacific theater a classical military scenario featuring opposing forces across some line or boundary. With this in mind, a deeper assessment of U.S. Asia-Pacific defense requirements and forward basing strategy is required. What is the United States trying to deter? What is it trying to prevent from happening? The answer to these questions lies clearly in the fundamental concept of national power. The use and utility of military forces, as one component of the United States' power, should be assessed in the context of overall national interests and goals. Therefore, deterrence means much more than just prevention of war or discouragement of overt military aggression.

A crucial contribution of the U.S. forward basing strategy lies in the *perception* it evokes of U.S. power and the *perception* of U.S. resolve. Some caution is inevitably in order when addressing the subject of perceptions, which are inherently variable, relative and not easily interpreted. One of the responsibilities of the Pacific Command is to assist national policymakers in evaluating these perceptions. Toward this end, we work closely with the leaders of other nations throughout the area, and with U.S. ambassadors and country teams. We also monitor and evaluate the activities of the Soviet Union, the PRC, North Korea and Vietnam. We see strong evidence that our forward presence is widely perceived—by friends, allies and potential adversaries alike—as evidence of the U.S. commitment and as the anchor of regional stability. It is also our experience that these perceptions are fragile and vulnerable to changes in economic or political policy and to actual or implied changes in the U.S. defense posture.

ASIAN PERCEPTIONS OF U.S. FORWARD BASING POSTURE

The impact of the U.S. forward basing posture, and the corresponding perceptions of Asia-Pacific countries, are critically relevant to U.S. national goals in the region. Our Asian friends and allies perceive the presence of U.S. military forces as a stabilizing influence and a necessary balance to the Soviet military presence. The ASEAN countries, wary of the military strength and intentions of Vietnam and the Soviet Union, believe that U.S. forces sustain the necessary atmosphere of security that allows them to proceed with their ambitious plans of economic development and nation-building. It is obvious that a secure atmosphere is a prerequisite for the continued influx of the foreign capital which is essential for the economic advancement of the region. ASEAN itself is a decidedly non-military organization.

The Japanese perceive the U.S. military presence not only as a prop of the regional stability which is conducive to Japanese investment and development activity, but also as a pillar of their security relationship with the United States—a relationship which permits the pursuit of current Japanese political, economic and defense policies. The vulnerability of Japan's economic lifelines makes her particularly sensitive to the tides of military power in Asia and the Pacific.

There are also indications that the PRC, at least in the short run, views the U.S. presence as a necessary balancing element in the area. This perception may offer the PRC the option of deferring somewhat the development of an improved capability to project Chinese military power. Peking may feel less pressure to compete with the Soviets for influence in some of the developing countries.

The Soviet Union probably views the U.S. military presence in several ways. It may perceive the U.S. presence as posing a capability against the Soviet Far East which limits Soviet military options and flexibility in a European conflict. The Soviets may also recognize in U.S. forces an impediment to the expansion of their own military presence in the region. Moreover, the U.S. forward basing posture renders the air and sea lanes of commerce less vulnerable to subtle intimidation or harassment. The Soviets may thereby perceive reduced opportunities to apply diplomatic or military pressures on Japan.

Any assessment of perceptions relating to the U.S. forward basing posture in the Asia-Pacific theater thus reinforces the immutable fact that perceptions of relative power and resolve are critical factors in the balance and stability of the Asia-Pacific region, and that the forward military presence of the United States, through its impact upon these perceptions, helps to deter conflict and more generally dampen destabilizing tendencies throughout the region. Clearly, military strength is not the only component of U.S. national power; the political and economic policies of the United States in the area are equally important purveyors of stability and U.S. national interests. Yet, if the economic and political policies of the U.S. government are the keys to stability and the improvement of human conditions throughout the Asian region, we believe that they will find support and ultimate success through a strong U.S. military presence.

In short, there are embryonic but promising signs of trends toward stability and greater interdependence in the Asia-Pacific region—an area that continues to host important economic and strategic interests of the United States. President Carter has stated that the United States will remain a Pacific power.[7] Our military posture will continue to emphasize the forward basing strategy and its contribution to stability and peaceful evolution in the Asia-Pacific region.

FOOTNOTES

[1] Gross National Product information was extracted from *National Basic Intelligence Factbook*, Central Intelligence Agency, Washington, D.C.: July 1977. See p. 103 for figures for Japan and p. 78 for Burma. As examples of Pacific island nations' figures, see pp. 197 and 125 for Tonga and the Maldives respectively.

[2] Interviews, U.S. Department of Commerce, International (Foreign) Trade Division, Washington, D.C.: February 1, 1978.

[3] Interviews, U.S. Department of Commerce, International Policy Division, Washington, D.C.: February 1, 1978.

[4] "A Comparison of U.S. and Soviet Self-Sufficiency in Critical Strategic Minerals," December 11, 1974, Defense Intelligence Agency Intelligence Appraisal, unclassified attachments.

[5] *International Energy Biweekly Statistical Review*, Central Intelligence Agency, ER IEBSR 78-002, Washington, D.C.: January 25, 1978.

[6] "Admiral Gorshkov: A Modern Naval Strategist," study prepared by Lulejian and Associates, Inc., Falls Church, Va., April 1974, p. 10-1.

[7] *New York Times*, June 24, 1977.●

FOUR LETTER WORDS

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. BRODHEAD. Mr. Speaker, the use of obscenities in speech is becoming more and more prevalent in the media and in everyday conversations. One of my constituents, Mr. Thomas Bootz of Detroit, is starting a movement to improve language. Many people find obscenities offensive; at the very least, they often betray the limited vocabulary of the user, who is unable to express himself in more precise terms.

An interesting article on this subject recently appeared in the Washington Post, and I would like to share it with my colleagues:

The article follows:

[From the Washington Post, Sept. 17, 1978]

FOUR LETTER WORDS

(By Henry Fairlie)

It is my impression that a reaction is taking place—rebellion would be too strong a word—against the indiscriminate use of four-letter words. Fewer people are using them as if they cannot speak without them, and more people meet those who do use them in this way with a restlessness that speaks volumes.

There is no lazier vocabulary to use, and none more tedious to have to listen to. One does not need to censor language such as this. People soon get bored with it, either in print or in conversation. One thing which is overlooked by censors, in their eagerness to clean up something, is that boredom is a very reliable human defense against the objectionable. What is more boring than a string of obscenities in conversation?

When used only occasionally, in moments

of exasperation or frustration, four-letter words can be vividly forceful. It is their unexpectedness that gives them their impact. In the mouths of a very few, they can even have something near to charm. These people seem not just to use the words, but to have manufactured them. One forgets the original meaning of the words; their letters seem to have been strung together to form a wholly new expletive, the expression of a whole personality that seems able to use them unobjectionably.

But it is not of these that I am talking. I mean those who punctuate their conversation with four-letter words, which, even if not intended to be objectionable, although they usually are; are bound to be offensive simply because they are used idly and without any humor.

I was not really aware of four-letter words until my late teens. They were not used in my home, not much in either my school or my university, not by my parents' friends or my own. I heard them mouthed when I spent my holidays on one of the family farms in Scotland, but I dismissed these as the rude expressions of country folk. Since my farming relatives had other rich eccentricities, looking up at the sky and saying, "Ar-r-r-rr!" and picking up a handful of earth and saying, "Gr-r-r-rr!", their four-letter words seemed just another of their monosyllabic turns of speech.

It was only during World War II, when I found myself in confined spaces with whole armies of soldiers, most of them belonging to what are known as the other ranks, that four-letter words first struck my ear with the sputter of a gatling gun. Their conversation was interspersed with them.

"The f—ing sun in the f—ing sky and not a f—ing cloud shining on Her f—ing Majesty's f—ing soldiers f—ing marching f—ing night and day through the f—ing desert with the f—ng Jerry f—ing swarming all over the f—ing place and that f—ing Monty saying that we f—ing well couldn't have one f—ing pint of f—ing beer."

I have to admit that I sat mesmerized. There was at least no need for punctuation.

I quickly concluded that I and my friends did not use such language because we had wider vocabularies. The four-letter words were a release of the soldier's tension in the absence of other words in which to express it, which is exactly why even those of us who do not use them regularly have recourse to them now and then. Four-letter words are the substitutes for fuller vocabularies, either because we do not have such vocabularies, or because in a moment of exasperation we do not reach to them.

This has been the main characteristic of the indiscriminate use of four-letter words in recent years. The primary objection to them is not that they are dirty, although that is an objection, but that they are lazy. They are a refusal to think, pause in one's mind as one speaks, keep one's wits about one and find the just word. The soldiers at least had the excuse that they were ill-educated. But those who have commonly used such language in recent years have not had that excuse. Their assault on their listeners is not the use of common obscenities—that merely makes them look childish—but the truculence with which they take no trouble to speak to one well and individually.

Educated people who regularly use four-letter words are always arrogant. Metaphorically at least, and often in fact, their collars are always undone, their ties pulled down, their chairs tipped back, their feet on the table, their interest indifferent, slack as their mouths. This is especially true when someone in authority regularly speaks in this way.

What I sense in the reaction against four-letter words is what can also be sensed in the revived concern for the language in general: a demand that when people speak to one they should at least pay the respect of making some effort to address one accurately and as an individual. When someone regularly and indiscriminately uses four-letter words, one feels that one is being treated as one of a herd. He or she is taking no trouble, and will speak in the same way to the next person.

I am sure that this is one of the things that our parents meant in telling us to go and wash our mouths out, even when we had given vent to only one of the mild expletives of the day. We were actually sent to the bathroom to wash our mouths—and actually did so, even though no one was watching—and I remember often thinking how I could have made my point better if I had used a careful word. It was a lesson in communication, the two-sidedness that it requires.

It was much the same with the peremptory, "Leave the table, and don't come back until . . . you're properly dressed . . . you can stop sulking" or whatever was the complaint. One was not punished, but sent away to think: to think of others, and of their rights. If one sulks, one is not communicating.

The brutality of four-letter words is not their obscenity. The power of obscenity to shock, like that of pornography, is as short-lived as its power to titillate. It comes: it goes. It waxes: it wanes. It hustles: it limps. That is why I can never join those who want to invoke the devices of censorship. If only they would wait, they would see odiousness die, simply of its own tedium. Once the dirty magazines had reached the newsstands of the supermarkets, one knew that any fitful effect that they might once have had was over. It was when people had to smuggle them that they had some significance.

All the same, something is lost. Bawdiness and ribaldry have a place in our live. When the use of four-letter words had become a commonplace, George Steiner, the English critic, wrote a famous article in which he protested that our "night words" were being taken from us. The only result would be that we would have to invent new "night words," and then when they in turn were brought into the light of day, we would weary of invention and be left with none at all.

Ribaldry and bawdiness need some privacy to thrive. One reason why their effect depends so much on wit is that wit itself is a form of privacy, since it depends on the use of a common language and common references between the speaker and the listener.

The limerick is the favorite form in which poets indulge in obscene verse, because the five lines of the limerick are a strict form, which demands great precision and wit if it is to be used well. The wit transforms the obscenity. When one laughs at a dirty limerick that is well done, one laughs less at the dirt than the skill, at the civility with which the unspeakable is spoken.

We all know that the dirty joke that is not witty is the most boring joke of all. One wonders why its teller has stored it up in his or her memory. But when an obscenity is used with the force, say, of vernacular it is irresistible.

A woman whom I know was the daughter of a Welsh miner, born when the worst years of the depression were over. When she came home from school as a little girl, it was her grandmother who looked after her, until her parents came back from the pit and the laundry. Her grandmother would ask her what kind of sandwich she would like and, when my pigtailed friend turned up her nose at them all, her grandmother once exclaimed, "Then you can have s--t between bricks," and left the wretched little girl to go hungry. How that spins from its vernacular with force and humor, and my friend still laughs at it and at her grandmother.

But it is this occasional use of the vernacular, to fit the occasion and to address someone as an individual, which is betrayed by the indiscriminate use of four-letter words today. My friend says that she was stunned by her grandmother using such a phrase—her Welsh Methodist grandmother—stunned but brought up short and made to look at herself. "She wasn't angry, she was merely contemptuous. I had made her use that phrase, it made me feel awful."

All of this applies to the imbecile way in which four-letter words are used in print, even in newspapers and journals which still have some claim to literacy. Here are people who are meant to be writers, trained and careful users of the language, and yet they reached for the most careless of words, which have the impact of a wet fish. But the main objection is still that the writer is taking no trouble to address one with effort and therefore with respect.

There is always some other word, not only just as powerful, but more powerful, which he or she could have found. But, no. Some titillation which is apparently found by typing the four-letter word is meant to give us the same titillation. Oh, how wrong they are. We just yawn.

The battle for the right to print four-letter words as one sees fit—thank heavens it came before the time when everything was made the subject of a constitutional amendment—was merely a part of the general undermining of the language and its dictionaries. As part of the same process, there came the other monosyllables, such as "wow!" and "neat", and perhaps the most inane of them all, "really", as an expression of interest when none is felt.

It is my belief that we are reaching the end of this period of idleness. People want their relationships to be enriched again, and they know that they are not enriched by either "s--t" or "wow!" It is from this that the reaction is coming. The rediscovery that there is a connection betwen language and manners is belated but still welcome.●

AND A FURTHER REASON YOU SHOULD SIGN DISCHARGE PETITION NO. 1

HON. RONALD M. MOTTL

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. MOTTL. Mr. Speaker, one of the results of court-imposed busing is an exodus of white people from the central city to the suburbs. This white flight, which results in a resegregated school system, is examined in detail by David Armor in the September 25 issue of Time magazine.

In an effort to save the neighborhood school, which is a concept supported by more than 80 percent of the American public including a majority of blacks, I am seeking congressional signatures on Discharge Petition No. 1 which seeks a constitutional amendment which would allow every child the right to attend his neighborhood school if he so desires.

Once again, I urge my colleagues to sign Discharge Petition No. 1 which is on the clerk's desk.

I would like to share the text of the Time article, "Forced Busing and White Flight," with you. It reads as follows:

FORCED BUSING AND WHITE FLIGHT

Back in 1975, Chicago Sociologist James Coleman, having looked at the early figures, felt called upon to report what most Americans thought they knew already: court-ordered busing to achieve racial balance in large U.S. cities and to ensure that more blacks and whites go to school together was causing a great deal of white flight from city schools.

If the finding came as no great surprise, its source was a considerable shock. Coleman was the man whose 1966 report, *Equality of Educational Opportunity*, had served as the main academic proof of the values of desegregation. Yet here he was, questioning the usefulness of busing. Coleman, of course, was merely asking whether, in the long run, "forced busing might not defeat the purpose of increasing overall contact among races in schools."

To many people, though, the question seemed virtually un-American. For months sociologists kept busy stomping all over Coleman's findings. His conclusions were premature, they said. There was no hard proof that white flight from city schools, already a phenomenon before the threat of busing, was significantly increased by busing. And even if such a connection might one day be proved, the condition was likely to be short-lived. In any case it would take years to measure the matter adequately. Three years have passed. Now comes a new study that has the advantage of being able to see the effects of busing in a slightly longer perspective. Produced by Harvard-trained David Armor, 39, a senior sociologist at the Rand Corp., the report seems to bear out many of Coleman's early fears.

Armor measured white flight over a six-year period in 23 Northern and Southern cities that had court-ordered mandatory busing. They also had accessible suburbs, school districts with an enrollment of at least 20,000 students and a large minority population (more than 20 percent). Then he compared his figures with a projected loss of white students that would have taken place without forced busing, based on established demographic patterns of white exodus and predictable birth rates. The results were remarkably consistent.

Against a projected white-student loss without busing that varies roughtly between 2 percent and 4 percent over the six-year period, the average rate of real white loss quickly rose toward 15 percent for the first year of busing, then dropped some, to about 7 percent to 9 percent, during the next three years. Predictably, the highest rates of white loss occurred in districts where large numbers of whites were forced to bus into predominantly nonwhite schools. "The size of the flight is both large and long-term," Armor concludes, and he estimates that 30 percent to 60 percent of it is due to forced busing.

Critics have already begun finding fault with Armor. He has been taken to task for not running more comparative studies in districts where results proved favorable to busing. He has been accused of exaggerating the influence of busing on white flight. His most significant contribution, the projection of white-flight levels likely to occur without busing, has been challenged. Above all, he has been reminded that the problem is complex, that nobody can tell how long white-flight loss percentages will stay high.

Nonetheless, there is now considerable academic consensus that in large cities a significant linkage exists between white flight and forced busing. The fact that sociologists show signs of catching up with everybody else's common-sense observation should be reassuring. But in the spectrum of hope for improving the education of minorities and for guaranteeing constitutional rights that have been violated for a century, Armor's report is depressing. Finding forced busing counterproductive, at least in inner cities, he offers evaluations of alternative measures.

The first is the "metropolitan plan," which tries to block white flight by incorporating suburbs under city control, then busing whites back into town to achieve balance. The courts have struck down such plans in Detroit and Richmond. Armor adds another glum note. After studying inconclusive results of the one metropolitan-integration plan tried so far, in Louisville, he says it does not seem to work. Whites, denied escape to near suburbs, move farther away, or flee into private schools. Even in sprawling Los Angeles, where, Armor thinks, some sort of metropolitan plan should be instituted and might work, the chances of getting approval seem small.

Armor has often testified in court hearings about mandatory busing plans. His personal hope for further progress boils down to a mixture of mandated school improvements—for instance, a court-ordered increase in the number of "magnet" schools to draw qualified whites and blacks from all corners of a city—and vigorously promoted voluntary school integration. The only hopeful example he gives, however, is San Diego. Using a voluntary system, the city has kept the level of white flight down (below 6 percent per year). But the increase in the actual number of whites and nonwhites going to school together—the real aim of integration—has been small. A similar failure to achieve much actual integration occurs in many forced-busing cities, as Armor keeps pointing out, but at a much greater cost in pain, dislocation and plain cash.

Perhaps significantly, Armor does not confront a fact that most parents, blacks especially, need no sociologist to remind them of. Without the constant threat of busing and the steady prodding of the courts, the amount of "voluntary" school integration in San Diego and elsewhere would probably have never occurred.●

BUFFALO COURIER-EXPRESS ON THE DISPOSAL OF POISONOUS CHEMICALS: A TIME BOMB IS TICKING AWAY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. KEMP. Mr. Speaker, a very serious event in western New York has received substantial national attention in recent weeks. I am referring to Love Canal in Niagara Falls.

For those few who may not have seen the coverage in newspapers, magazines, radio, and television on the matter, an abandoned chemical waste dump in the chemical industry center of Niagara Falls has begun to leech cancer-causing chemicals through the soil and into waterways less than 25 years after the best technology of the day was used to seal it. We do not know today just how serious that situation may really be in terms of threats to health and property, but we do know the situation is regarded as so critical by the attorney general of New York that the State is buying at fair market value the homes of 237 families on the contaminated site.

There are a multitude of questions to be asked and then answered on this matter of disposing of hazardous substances, especially poisonous and/or cancer-causing chemicals. The Love Canal episode is only one of a number across the country which have emerged in its wake. EPA has guestimated that there are as many as 20,000 dump sites for hazardous materials and that probably only 6 percent of the 5.6 billion pounds of hazardous waste disposed each year is disposed of properly. In short, there are more unanswered questions today than answered ones, but that cannot be a rationale for escaping responsibility and action. There is indeed a time bomb ticking in our midst with this matter.

How can we separate the policy questions with respect to those disposal sites already existing and those which will exist in the future? For example, are there ways in which costs for redisposal of materials, this time in a proper and safe way, can be allocated to the manufacturers or disposers? With respect to the future, ought a company which markets a hazardous chemical product be required by law to develop a technical means of neutralization of the hazard or to assure and pay for safe disposal?

Has much of the problem arisen from inadequate technology for neutralization and disposal? If that is the case, ought the cost of the development of that technology to be laid off to the customers in higher prices for the chemicals marketed, or laid off to the taxpayers through undertaking a Government-sponsored program?

How much of the problem has arisen from inadequate enforcement of existing local antidumping laws? Or from ill-conceived local zoning ordinances which permit residential and commercial construction over landfills containing hazardous substances?

Have the environmental protection agencies given this question the priority which we know now it must have? Commensurate with other environmental protection needs, has this received the dollars and manpower required? If an expanded effort is necessary, how can that be accomplished within budget restraints?

This is indeed a national problem. EPA estimates the 14 largest waste-producing industries pour out 28 million tons each year of these dangerous by-products. Twenty-five percent of that tonnage is in the deep South; 22.6 percent in the Midwest; 20.1 percent in the Mid-Atlantic, including New York and New Jersey; 15.6 percent in the Southeast; 5.2 percent in the Southwest, including Hawaii; 4.2 percent in New England; 3.7 percent in the Northwest; and about 2 percent each in the Great Plains and in the Rocky Mountain region.

I am devoting a substantial portion of my time, that of my staff, that of my scientific and legal advisers to this matter. I hope, working with my colleagues, to frame the questions in a solvable way and to offer, with them, the necessary Federal, State and local approaches and legislation. I have every intention of introducing the product of these deliberations early in the first session of the next Congress.

A significant contribution to this has been made by the Buffalo Courier-Express in a series of copyrighted articles by Michael Desmond, a staff writer for the paper who traveled extensively around the country in determining the extent of the problem, the status of incidents, the responses of the environmental protection agencies, et cetera.

This series has shown convincingly that this is a national problem, one requiring a national solution, if not a Federal one.

This series of articles is particularly authoritative. Mr. Desmond traveled 5,200 miles cross the country to find out "how and where the mountains and rivers of hazardous chemical wastes are being stored." He went to Cleveland and Akron, Ohio; Washington and Charleston, W. Va.; Baton Rouge and New Orleans, La.; Houston, Tex.; Chicago and Wilsonville, Ill. To Michigan, Connecticut, New Jersey, Georgia, Missouri, Maryland, Pennsylvania, Virginia, the District of Columbia, and, of course, New York. And he was appalled at what he saw and heard.

I intend to include all of the articles in this series, because Congress has a responsibility here which it must carry out. Unfortunately, their combined length requires me to read them into the RECORD in several parts.

The first in this series follows:

SEA OF POISON CHEMICALS THREATENS THE U.S.—LOVE CANAL HAZARD IS SMALL PART OF THE PROBLEM

(By Michael Desmond)

There is a sea of hazardous chemicals washing across this nation, a sea which provides a huge threat to the health of present and future generations, an extensive investigation by The Courier-Express has discovered.

The U.S. Environmental Protection Agency (EPA) estimates 5.6 billion pounds of hazardous waste is properly disposed of each year. That is only six percent of the estimated 92 billion pounds of hazardous waste actually generated each year.

That leaves 86.4 billion pounds to peril the nation's populace.

Despite the clear numbers they are really guesses: No one knows what the real figures are.

The EPA estimates there are 20,000 dump sites for hazardous materials operating now, but has no idea how many other thousands have been used and closed. The former dumps may be at least as dangerous as the present ones. And no one knows how long a "secure" dump site will remain safe—a year, a decade, a generation.

NEW CHEMICALS

No one knows what to do about the new chemicals produced by industry each year.

There are thought to be 1,000 new chemicals born each year, on top of the 70,000 which already exist, and no person or agency knows how to dispose of many of them safely and permanently.

In the Middle Ages, alchemists tried to turn base materials into gold. In a religious and superstitious age, the alchemists were feared because they were playing in a field reserved to God.

Today, scientists are also alchemists. They take oil and gas and water and salt and turn them into profitable chemicals and plastics and textiles.

LEGACY OF POISON

But, behind them, they are leaving a legacy for untold generations. The waste materials of an industrial age are seeping into the air we breathe, the water we drink and the land on which we grow our food.

Once, people could flee a flood by going to the nearest high grounds and watch the furious waters simply lash unavailingly at them. In the industrial age, there is no high ground: Witness:

In an industrial area outside the small town of Washington, W. Va., workers at the L. B. Foster metal pipe manufacturing plant were shocked to discover the ground exploded if they tried to dig into it. No one was injured. Research disclosed the tract had been used in 1959 by Carborundum metal and radioactive ore from a zirconium tube manufacturing plant. When Foster bought the site two years ago, it was a cornfield.

At a road intersection in the farm country of central Ohio, near Akron, a visit by The Courier-Express found thousands of drums and tanks of chemicals sitting on a former strip coal mine. They contain everything from paint thinner to a complicated chemical used to make the deadly pesticides Mirex and Kepone. The site isn't even fenced.

In the aging industrial city of Lowell, Mass., waste from a mismanaged waste treatment site is contaminating a river used downsteam for drinking water. Chemicals found in the Merrimack river include two chemicals which cause cancer in laboratory animals, chloroform and trichloroethylene.

In Bayou Sorrel, La., a few weeks ago, a 19-year-old boy was killed when caustic chemicals he was dumping from a tank truck into a lake of chemicals reacted together producing a deadly gas. He died almost immediately. Government investigators were initially denied admission to investigate by the operator of the lagoon.

Not far from Bayou Sorrell, a 100-square-mile area around Darrow and Geismar was contaminated with the toxic chemical hexachlorobenzene several years ago. The material was dumped on the land and cattle were contaminated after they grazed on grass growing out of the soil.

Waste from the Rocky Mountain National Arsenal near Denver has contaminated 30 square miles of underground water, damaged 6.5 square miles of farmland and may have caused earthquakes. The Defense Department recently estimated it will cost $78 million to clean up the mess.

In Muskegon, Mich., a chemical company went broke. A subsequent site examination by a purchaser and the State Department of Natural Resources turned up thousands of drums of chemicals stashed in the woods behind the plant.

In the desert of southwestern Idaho, near Boise, Wescon, Inc. has taken over a Titan missile silo and turned it into a giant mausoleum for dangerous wastes. Already, giant blast doors intended to protect missiles against atomic blasts have been closed over several silos of waste chemicals, leaving them for the future.

A "midnight hauler" dumped toxic chemicals called PCBs along 250 miles of road near Raleigh, N.C., in early August.

In the Gulf of Mexico, along the Gulf Coast of Louisiana and Texas, drums apparently containing metallic sodium waste, have turned up in fishing nets. Some have exploded, wrecking nets and killing at least one fisherman.

In the chemical industry center of Niagara Falls, an abandoned chemical waste dump in the city's Love Canal neighborhood began to leak cancer-causing chemicals less than 25 years after the best technology of the day was used to seal it. This is what prompted the extensive look by The Courier-Express into the entire hazardous waste situation.

WIDESPREAD HAZARD

"I'm sure all the states are going to be facing these kinds of problems," commented Tom Cook, hazardous waste section chief for the Washington State Department of Ecology.

Hazardous materials can turn up anywhere. A once thriving fishing industry in Virginia's James River and in parts of Chesapeake Bay has been crippled by the intensely dangerous pesticide Kepone. This material leaked out of two manufacturing plants in Hopewell, Va. Some of it was simply dumped down the drain.

Subsequently, an EPA report cited Life Science Products Co. for its "careless manufacturing and disposal practices" which led to "deleterious health effects on the production workers" of the Hopewell sewage treatment plant.

SHAKING PALSY

Many workers at the Life Science and the Semi-Works Plant of the Allied Chemical Corp., nearby, may never recover from a shaking palsy or the interal damage brought on in making the pesticide.

The pesticide Mirex has been found in significant quantities in Lake Ontario. Mirex and the Virginia pesticide were dumped from the Niagara Falls plant of the Hooker Chemicals and Plastics Corp. In addition, some scientists suspect natural action in the lake is turning some of the Mirex into Keponex.

Both are made from a chemical Hooker calls "C-56."

At a Hooker plant in Montague, Mich., a few miles north of Muskegon, waste material from the manufacture of C-56 was dumped on a site inside the plant not far from White Lake, a local source of water and recreation.

FOUND IN WELLS

The C-56 has turned up in wells in the immediate plant area and state officials say it is "migrating" toward White Lake.

Bruce Davis, executive vice president of the industrial chemicals group for Hooker, told The Courier-Express Mirex was never made, stored or handled in Montague. But, Mirex has been found in the dump site there.

There is speculation that somehow the C-56 molecules in the dump reacted together to form the dangerous Mirex.

More than two decades ago, the pesticide 2,4-D mysteriously turned up in ground water at Rocky Mountain arsenal. The 2,4-D apparently was produced deep in the earth from a variety of pesticide and chemical warfare wastes dumped into lagoons on arsenal grounds.

After the lagoons were found to be defective because they leaked, the Arsenal drilled a well more than two miles into the ground and over a three year period pumped 165 million gallons of the wastes into the ground.

A series of earthquakes in the area began shortly after the waste began to be pumped down the well. Some scientists think the material in some way lubricated rock and caused the quakes.

This is the subject of wide dispute. However, EPA noted in a report on the waste problem at Rocky Mountain Arsenal, "Correlation of the injection of large volumes of liquid into the well with earthquakes in the Denver area caused this operation to cease in 1966."

An industrial society is now paying the piper for the chemical wonders which surround us. Almost every chemical process leaves a waste in the air, the water or the land whose ability to accept what has been dumped has been overloaded.

The ability or the desire of too many governments to do anything about what is going on is doubtful. Without adequate federal regulation, states can attract industry by not checking too closely what industries are doing with their waste.

Some unscrupulous persons or companies proclaim themselves to be waste treaters or haulers and haul the waste off into the night, to dispose of the material by the side of the road, into regular garbage dumps or into scenic areas like the sandy forests of the Pine Barrens of southern New Jersey.

As long as industrial waste is produced, it has to go somewhere.

Perhaps the most truthful response to what happens then came from Burke Lokey, a public health engineer with the Radiation and Hazardous Waste Contamination Division of the Colorado Health Department.

He said, "We don't care as long as they take it out of state."

Factory Wastes Heaviest in Dixie

EPA estimates the 14 largest waste-producing industries pour out 28 million tons per year. On a regional basis, the waste is distributed this way, in millions of tons and percentages:

Area	Amount	Percent
New England	1.2	4.2
New York and New Jersey	1.8	6.5
Middle Atlantic	3.8	13.6
Southeast	4.4	15.6
Middle West	6.3	22.6
Deep South	7.0	25
Great Plains	0.56	2
Rocky Mountain	0.588	2.1
Southwest and Hawaii	1.5	5.2
Northwest	1.0	3.7

The industries are battery making; organic chemicals, pesticides and explosives; inorganic chemicals; petroleum refining; paint and allied products; textiles; rubber and plastics; primary metals; metal mining; petroleum re-refining; pharmaceuticals; leather; tanning and finishing; special machinery; and electroplating.

Chemical Glossary

Mirex.—A pesticide used against fire ants. It is thought to cause liver damage and some animal birth defects.

Kepone.—A pesticide used against ants and roaches. It is suspected as a chemical which causes cancer in humans. It is known to cause nerve disorders and liver damage in humans.

Chloroform.—A chemical used at one time as an anesthetic. It is a cause of animal cancer.

Trichloroethylene.—An industrial solvent. It causes cancer in laboratory animals.

Hexachlorobenzene.—A byproduct of the manufacture of industrial solvents. It can eventually cause liver damage.

PCB.—The term used to describe about 200 chemicals known as polychlorinated biphenyls. They are used in the electrical industry and in plastics. Manufacture is now banned. They cause liver damage to humans and have a variety of bad effects on fish and wildlife.

Sodium.—A metal which explodes on contact with air. It is usually stored so it will not be so exposed.

C–56.—The trade name of the Hooker Chemical's & Plastics Corp. for hexachlorocyclopentadiene. Very little is known about its effects on humans but in industrial use very low exposure is recommended.

2,4–D.—A herbicide sometimes used to keep down weeds in roadside ditches. It is known as 2,4–D because the full name is 2,4-dichlorophenoxyacetic acid.

Rules on Wastes Due in 1980—EPA

Washington.—New regulations governing the management, transportation and disposal of hazardous wastes will not be issued until January 1980, the Environmental Protection Agency announced Friday.

Staffen Plehn, deputy assistant administrator for solid waste, told a packed public meeting that although the law required them to be promulgated last April, the new regulations would be delayed for more than a year.

DIFFICULT ISSUES INVOLVED

"If it were within our power we would want to have an operational hazardous and solid waste regulatory program in place immediately," Plehn said. "However, that is not possible."

When asked what the agency had been doing for the past 18 months, Plehn replied that it was dealing with the "very difficult technical, financial, legal, and environmental issues" that the law provides.

He refused to answer any substantive questions dealing with the proposed rules themselves, restricting questioning to the limited issue of the timetable.

Congress passed the Resource Conservation and Recovery Act to deal with hazardous wastes. The law stipulated that the regulations should be promulgated "no later than 18 months" after enactment. The law was passed in October, 1976.

The State of Illinois and two ecology organizations, Environmental Defense Fund and Environmental Action, have brought separate suits against EPA for failing to enact the regulations.

Other groups, such as the National Solid Waste Management Association, have put EPA on notice that they also will sue if the rules are not issued soon.

The new timetable is a lengthy list of meetings, hearings, reviews, and assessments. EPA officials said all the actions were needed to insure "full public participation."

"These are the best procedures we've been able to devise as an agency," Plehn said.

Plehn also said that the procedure could be shortened or lengthened, depending on what the agency's review of public comments shows.

At Friday's meeting, representatives from industries who deal in hazardous wastes stood fully behind the expanded timetable.

"The promulgation date was set by Congress without understanding the difficulty," said Robert Harness of Monsanto, "Contrary to popular belief, the extended schedule will not mean open season for hazardous wastes."

Other industry representatives echoed Harness, saying they thought the timetable was "realistic."

They also complained, however, that the new regulations could end up being too broad. Harness said that "relatively innocuous wastes" would be included under the rules.

Some EPA sources said that the new timetable was drawn up because they were afraid to enact tougher rules in the emotional wake of Love Canal and similar situations elsewhere. They said they would prefer to take their time and wait until the clamor had died down.

5,200-Mile Journey Produces C–E Story

Michael Desmond, a reporter for The Courier-Express, has traveled 5,200 miles crisscrossing the country in the last several weeks to find out how and where the mountains and rivers of hazardous chemical wastes are being stored.

What he learned was that the nation is sitting on countless chemical time bombs that could go off without warning for generations to come. At stake, among others as yet unknown, are cancer, miscarriages, genetic defects, death.

"I'm appalled at the lack of knowledge on the part of government agencies as to what is going on," Desmond said, adding:

"Too many agencies of state government seem to be financed for show, rather than for effect in the field. As for the federal government, the Environmental Protection Agency is so snarled in its own bureaucracy that it is virtually powerless."

VETERAN REPORTER

Desmond has been with The Courier-Express since 1960, except for a stint as deputy press secretary to New York Assembly Speaker Stanley Steingut, D-Brooklyn.

At present, he is a member of the newspaper's Special Projects team. Previously, he held various other editorial posts, including that of Albany correspondent.

A Buffalo native, he is a graduate of Canisius High School and Holy Cross College in Worcester, Mass. He also attended the University of Buffalo Law School and did graduate work at Buffalo State College.

Outside of Buffalo, he has worked for newspapers in Lockport and Utica. He has won awards for news writing from the State Associated Press Association and the Buffalo Newspaper Guild.

To date, Desmond's pursuit of the scandalous hazardous waste story has taken him to Washington, D.C., Cleveland and Akron, Ohio, Washington and Charleston, W. Va., Baton Rouge and New Orleans, La., Houston, Texas, Chicago and Wilsonville, Ill., Muskegon, Montague and Grand Rapids, Mich., Bridgeport, Trenton, Newark and Elizabeth, N.J., Niagara Falls and New York City, Atlanta, St. Louis, Baltimore, Philadelphia, Pittsburgh, and Roanoke, Va.●

HUMAN RIGHTS IN CAMBODIA

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. LENT. Mr. Speaker, a number of my constituents have contacted me to learn what, if anything, the United States is doing to put an end to the atrocities conducted by the Communist Government of Cambodia (Democratic Kampuchea). Many have compared the slaughter of innocent people in Cambodia to the Nazi-led holocaust of World War II, and millions have been murdered since the Communist takeover in 1975.

To clarify the horrendous situation facing the people of Cambodia, I would like to share with my colleagues and the American people excerpts from the May 1978 issue of Commentary magazine entitled "After the Dominoes Fell" by Carl Gershman:

After the Dominoes Fell

(By Carl Gershman)

It is now almost three years since Vietnam, Cambodia, and Laos fell to the Communists. During the war, so much attention was focused on the mistakes of U.S. policy and on the undemocratic practices of the governments we were supporting that a complacent attitude developed toward the consequences of a Communist victory for the people in Indochina. But the time has come to challenge that attitude. For we now know that the end of the war has not brought an end to the suffering of the people of Vietnam, Cambodia, and Laos but has increased it—in the case of Cambodia beyond even the worst expectations.

Bad as conditions are in Vietnam and Laos, however, life in these two countries seems almost cheerful compared to what has been happening in Communist Cambodia, now known as Democratic Kampuchea, over the past three years. It is now recognized beyond any serious doubt that a great holocaust has taken place there, and even writers once sympathetic to the Khmer Rouge, like Lacouture and *Le Monde's* Patrice de Beer, have described the Cambodian upheaval as the bloodiest and most extreme revolution in history. It represents, at the very least, the worst crime to have been committed by a government against a people since Hitler's destruction of the Jews.

The savagery began, as is now well known, on April 17, 1975, the day of the Communists entered Phnom Penh. Within two days, they had emptied the city of its entire population of 3 million people, sweeping up everyone, including the old and the wounded, and even bedridden hospital patients, into a forced march to the countryside. Anyone who questioned or showed signs of resisting the orders to march was simply shot. The marchers were not given drinking water, food, or medicine—or any shelter against the monsoon rains, the tropical heat, or the bitter cold nights. Old people and children were the first to perish from dehydration, acute dysentery, and exhaustion; laggards were shot after one or two curt warnings, and their bodies left unburied on the side of the road. One Cambodian physician who took part in the forced exodus, Dr. Vann Hay, said later that in the course of the month he spent on different roads and trails before escaping into Vietnam, he "passed the body of a child every 200 yards. Most of them died of gastrointestinal afflictions which cause complete dehydration. . . . Thinking of all the bodies I saw, plus the sick who came to see me, between twenty and thirty every day, half of whom were not going to live, I figure that between 20,000 and 30,000 people must have died the first month, just in the area described [the route he walked before his escape]."*

Within a week of their entrance into Phnom Penh, the Communists had emptied all the other major cities of Cambodia as well. All told, an estimated 4 million people were forced to take to the roads (out of a population of about 7 million). The cities they left behind were sacked—books and documents of every kind were destroyed, temples were ransacked, everything from household furnishings to hospital equipment to automobiles was smashed to pieces or set on fire. In a matter of days, the Communist troops—acting in the name of Angka Loeu, the mysterious, all-powerful Organization on High—had obliterated Cambodian society, destroying everything which could be taken to represent a link with the old order. "More than 2,000 years of Cambodian history," Radio Phnom Penh declared, "have virtually ended." Father Ponchaud quotes a local Communist official as having said that the intention of the new regime was "to do away with every reminder of colonial and imperialist culture, whether visible or tangible or in a person's mind; to rebuild our new Cambodia, one million men is enough."

The first to be executed by the new regime were the military officers and officials of the former Lon Nol government, and their families. According to accounts given by the handful of survivors who managed to escape these massacres, officers of the surrendering army would be assembled in one place, given assurance of fair treatment, and then driven off in full dress uniform to what they were told would be welcoming ceremonies for the exiled Prince Sihanouk. Instead, the officers were taken to a prearranged location in the countryside, where Communist troops were waiting to slaughter them. Often no one remained alive after these massacres to tell the tale, but since the Communists left the bodies unburied—the better to terrorize the populace—many saw the officers' remains. Even a group of eighty-eight air-force pilots who had loyally returned from Thailand to the new "democratic" Cambodia were not spared, but stabbed and clubbed to death following a well-publicized welcoming ceremony at the Thai border.

Some of the more horrifying incidents described in Barron and Paul's *Murder of a Gentle Land* (based upon tape-recorded interviews with refugees who are identified by name) strain one's power of belief, but seem credible in the light of what we know about the present Cambodian regime. At the village of Kauk Lon, for example, some 360 men, women, and children—all the inhabitants of the village—were machine-gunned by Communist troops because some of the men were suspected of being police agents and government officials. Near the village of Khal Kabei, about forty wives and daughters of former military officers and senior civil servants were buried up to their necks in a line, then stabbed in the throat one by one. At Mongkol Borei, ten civil servants and their families, about sixty people in all, were rounded up, and then, with hands tied behind their backs, taken by truck to a banana plantation near the village of Banteay Neang. What happened next is described by Ith Thaim, the man drafted by the Communists to drive the truck:

"Weeping, sobbing, begging for their lives, the prisoners were pushed into a clearing among the banana trees, then formed into a ragged line, the terrified mothers and children clustering around each head of the family. With military orderliness, the Communists thrust each official forward one at a time and forced him to kneel between two soldiers armed with bayonet-tipped AK-47 rifles. The soldiers then stabbed the victim simultaneously, one through the chest and the other through the back. Family by family, the Communists pressed the slaughter, moving methodically down the line. As each man lay dying, his anguished, horror-struck wife and children were dragged up to the body. The women, forced to kneel, also received simultaneous bayonet thrusts. The children and babies, last to die, were stabbed where they stood."

A second wave of organized executions began in early 1976. This time it was not only high-ranking figures who were marked for destruction, but also all former government soldiers and civil servants, along with teachers, students, and village chiefs. Just how many people were killed in these massacres may never be known, though close observers have estimated that somewhere between 100,000 and 200,000 Cambodians were executed by the Communists during 1975 and 1976. Moreover, these deaths represent only a relatively small proportion—perhaps 10 percent—of the total number of people who have died at the hands of the Communist regime. An estimated 400,000 perished at the outset in the forced marches, and hundreds of thousands more who survived the marches died later—and are still dying—in the slave-camp "villages" to which they were sent.

In these camps, inmates are assigned to one of three separate work-gangs made up of adult men, adult women, and children between the ages of six and fifteen. (One consequence of this has been the virtual destruction of family life.) The three groups work from six in the morning to six in the evening seven days a week, except on moonlit nights when adults continue working until ten; the rest of the time is taken up with indoctrination sessions. The work consists mostly of digging irrigation ditches, building small dams, clearing trees, and plowing the ground for later rice planting. There are no rest periods and only two breaks for "meals," which consist of half of a small condensed-milk can of rice. In an effort to stay alive, prisoners have resorted to anything that seems edible—the bark of trees, leaves, insects. Nevertheless, death from starvation is extremely common, as is death from disease and by execution. Indeed, virtually any minor deviation from the rigid discipline imposed by village authorities can lead to execution. Flirtation, marital quarreling, talking during the work period, fraternizing outside the family, or any display of what the regime calls "old dandruff" (meaning any show of longing for the old days) may result in a kosang (or warning)—no one is allowed more than two kosangs. Extra-marital sex or attempting to marry without proper authorization lead to summary execution, as does any escape attempt, or any suspicion of harboring a desire to escape.

Not surprisingly, the attrition rate in these camps has been extraordinarily high, particularly for the half-million people from the south who were uprooted for the second time in the autumn of 1975, just a few weeks before they were to harvest the grain they had planted over the summer. One refugee from Krakor, a village located on the road from Phnom Penh to Battambang, reported that the population of his community declined from 12,750 in May 1975 to 6,000 in December 1976 as a result of starvation, disease, and execution. When these figures were announced by the local Communist chief, the announcement came in the form of a pep talk: "Because the population of Krakor is half what it was, you must all work twice as hard now." *Time* magazine recently reported that 250 people a month were dying of starvation in Kok Tiok, a village of 10,000 residents, and U.S. foreign-service officer Charles H. Twining has described a village that lost one-sixth of its population in the course of a year. Barron and Paul estimate that close to 20 percent of the survivors of the initial marches—about 700,000 people—died of starvation and disease between May 1975 and January 1977.

We may never know the total number of people who have died in revolutionary Cambodia. Barron and Paul estimate that from April 17, 1975, to January 1, 1977, as a result of all causes combined—the marches, disease and starvation in the camps, executions, and unsuccessful escape attempts—1,200,000 people have died. *Newsweek* recently estimated the number who have died at 2 million. An even higher estimate has been given by Father Ponchaud whose research, according to a recent article by William Shawcross in the *New York Review of Books*, "appears more thorough than any yet undertaken," and who has interviewed more than 1,000 Cambodian refugees. Shawcross quotes Father Ponchaud's latest summary of his work (late February): "The estimate that more than 100,000 Khmers have been executed must now be taken as an absolute minimum. It is possible that two or three times as many people have been executed. The number who have died because of the lack of food and of medical and sanitary facilities, and from the frantic pace of work, may well be more than 2 million. I have had reports of villages in which a third, a half, or even nine-tenths of the population have died." Others have come up with lower figures, like Lewis M. Simons who held in a recent article in the Washington *Post* that the first reports may have been "inflamed by horrifying tales carried by the

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*Quoted by John Barron in the hearings before the Subcommittee on International Organizations of the House Committee on International Relations, May 3, 1977. Most of the information on what has happened in Cambodia comes from interviews with Cambodian refugees in Thailand and France. The most comprehensive and thorough study, based on interviews with more than 300 refugees, is *Murder of a Gentle Land* by Barron and Anthony Paul (Reader's Digest Press, 240 pp., $9.95). Another valuable book is *Cambodge: annee zero* (Juliard) by Francois Ponchaud (Holt, Rinehart & Winston is bringing out an English edition, *Cambodia: Year One*, translated by Nancy Amphoux, in July). Ponchaud, a French priest and noted authority on Cambodia, spent ten years in the country before leaving in early May 1975 with the hundreds of other foreigners who had been confined in the French embassy. The information in these books is consistent with the reports of many journalists, notably Sidney H. Schanberg and Henry Kamm of the New York *Times*, and with the views of Charles H. Twining, the American foreign-service officer in Bangkok responsible for following events in Cambodia. Twining's views are contained in testimony before the economy than a series of cuts announced have a more favorable effect on the refugees." But even Simons's estimate places the number of executions *alone* at 200,000, which is *twice* the estimate of Barron and Paul, and he goes on to point out "that malnutrition and disease, notably malaria, had taken several times more lives than executions."

The hopes of some observers that the situation might improve, once the regime had consolidated its power, no longer seem warranted. All the evidence indicates that the regime is, if anything, growing more extreme in its policies, not less, and that people are still dying at a monstrous rate. Not long ago, moreover, a new phase got under way, as the revolution began, inevitably, to devour its own children. Thus, according to recent interviews with Khmer Rouge defectors in Thailand, thousands of Communist officers and soldiers have been executed in a purge which began in April of last year, and which may be directed against a faction in the regime suspected of having sympathies with the Vietnamesse Communists. The so-called "new" Khmer Rouge has intensified its efforts to seek out and destroy all soldiers and civil servants of the old Lon Nol regime who are still alive, as well as all Buddhist monks and "educated" people (meaning anyone with a seventh-grade education or above). In a speech delivered in late September, Communist party leader Pol Pot said that as many as 1 to 2 percent of Cambodia's population are "reactionary elements" and must therefore be eliminated. (Since Pol Pot estimates the population at 8 million—an exaggerated figure—this may mean as many as 160,000 people.) Recent events, however, make it conceivable that the Vietnamese army may conquer the shattered remains of Cambodia before Pol Pot can complete his ghastly revolution. Despite their historic enmity toward Vietnam, and despite the brutality of which the Vietnamese Communist are themselves capable, some Cambodians might even welcome a Vietnamese conquest as a fate preferable to life. and death, under Pol Pot.

Save perhaps for the unspeakable barbarism in Cambodia, there is nothing we have now learned about the nature of Communist rule in Indochina that could not have been anticipated during the war. For example, a front-page story in the New York Times of August 10, 1972 provided a detailed account of Communist practice during the three-month occupation of Binh-dinh province: ". . . . people who lived through the occupation have told of public executions, groups of people being led away, forced labor, enormously high taxes, stiff controls on everyday travel between hamlets, and mandatory nightly political lectures." Yet only a week after this story appeared, the Democratic party standard-bearer George McGovern, could proclaim that when Communists take over a village "they don't assassinate people there. They set up a school and a road system and a tax system."

McGovern's view of Communism as just "another economic system" which people should be allowed to "choose" without our interference was embraced by many opponents of the Vietnam war, even when this meant denying everything we had come to know about Communism. For those who may have forgotten the lessons of the past, or for those who may never have learned them, the recent tragic history of Indochina should be instructive.

The main lesson to be learned—or relearned—from the new Indochina is that Communism is a system based on terror and total power. It is a system, moreover, which is not content simply to destroy every trace of political opposition, or to subject every aspect of society to the rigid control of the party dictatorship. It also requires the individual to surrender his soul to the state and thereby become a "new man." In this respect, the Cambodian revolution, while singular in its brutality, must still be understood as merely another variant of the Communist totalitarian phenomenon. It is communism manifesting itself under particular national circumstances. Lacouture suggests, for example, that the long humiliation of colonialism, and particularly the "obsessive proximity" of the more powerful and domineering Vietnamese, might account for "the frantic desire of today's leaders in Cambodia to show themselves to be more radical, puritan, doctrinaire than their neighbors. . . ." But in another sense (as Leo Cherne has pointed out), the Cambodian revolution may be understood as the purest Communism on earth—so pure that it views all other forms of Communist rule as compromises with the goal of reshaping the human personality and building a completely new form of society.

It is true. as was often said during the war, that the Vietnamese Communists, like their Cambodian counterparts, are nationalists. But this does not mean that they have ceased to be Communists. Far from being subordinate to nationalism, and therefore inconsequential, Communism infuses nationalism and millennial purpose and terrifying power—power that can be used to destroy an entire nation, or to attack a neighbor, as the occasion demands. That is why neither the suffering nor the fighting in Indochina stopped when the Communists won the war. And it is also why the time has come to challenge the assumption left over from the anti-war movement that an attiude of benign indifference to the spread of Communism is perfectly acceptable from a moral as well as a political point of view.

Mr. Speaker, as we complete consideration on a number of remaining bills which could provide a vehicle for speaking out against the horrors in Cambodia, it is my deepest hope that we will not allow this Congress to adjourn without going on record against these heinous crimes.

Our Nation has no direct relations with Cambodia and we have been able to do little to halt the genocide taking place in that area. In addition, the United Nations has thus far failed to respond meaningfully to the shocking reports of these gross violations of human rights.

I believe we should give serious thought to whether we should continue to contribute to the U.N. Commission on Human Rights in the face of its failure to act on this most serious matter. As one who has been a consistent fighter for human rights, I, for one, intend to support efforts to bring an immediate end to this shocking situation in Cambodia. I urge my colleagues to do likewise.●

MRS. JULIA CISEK ZYGMUNT

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. McDADE. Mr. Speaker, I would like to take this opportunity to call attention to the tremendous contribution that was made by Mrs. Julia Cisek Zygmunt, of Peckville, Pa., to her country during World War II. Though many women watched their children go to war during those years, few Americans sent seven sons simultaneously into active duty on foreign soil or waters.

Sergeant Edward was the first to enter service; in 1941 he went to Italy to serve in the Army, to be followed a year later by his brother Walter, who was an Army sergeant stationed in Hawaii. That same year, Pfc. Stanley went to Corsica. A month later, on September 24, 1942, Sergeant Chester entered the Air Force, and was stationed in Saipan. Thirty-two days later Pfc. Michael followed Chester into the Air Force, and he went to Germany. On July 26, 1943, Pfc. Charles entered the Air Force Engineers, and was stationed in Saipan. In March of 1944 the seventh son to enter service, Sfc. John, entered the Navy.

When the last son left, there was no telling that they would all have the fortune to return unharmed, and Mrs. Zygmunt never lost her faith nor her patriotism. Though Julia died at the age of 78 on December 19, 1966, she is survived by six of her seven sons and the proud legacy of having served her country in this unique manner.●

COMMONSENSE AND CHEROKEE, IOWA

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. GRASSLEY. Mr. Speaker, the city of Cherokee, Iowa, is located in Cherokee County, which unfortunately, is not within the Third Congressional District of Iowa. For my colleagues who are not familiar with northeast Iowa, Cherokee is about halfway between the towns of Quimby and Larrabee. Its population, according to the 1970 census, was 7,272.

The Standford Museum and Planetarium is probably the greatest tourist attraction in Cherokee. The city also is the home of a pretty well-known daily newspaper known as the Cherokee Daily Times. I enjoy reading newspapers from back home and recently came across an editorial from that publication. The editorial's observations with regard to current tax cut legislation pending before Congress warrants the attention of my colleagues.

The article follows:

DEFLATING THE TAX CUT PUFFERY

Don't plan on a spending spree now that you've heard that the U.S. Senate has passed a tax cut of up to $19.4 billion for next year.

Yes, it's true that if the money were to be spread evenly to every man, woman and child, the per capita gain would amount to $90.65—a significant amount of $362.60 for a family of four.

But also consider that the Senate has approved a spending limit that is $42.3 billion higher than anticipated revenues. If you translate that deficit into a per capita figure, it comes to $197.66 . . . or $790.65 for a family of four.

The temptation is to think of the tax cut as money now in the pocket and the deficit as an amount that is to be added to the bulging national debt that no one plans to pay. But the truth is that the $42.3 billion that is to be spent from nonexistent money will be paid for now through inflation.

So what it comes down to for the example family of four is $362.62 saved and $790.65 lost for a net shrinkage of $428.03.

The U.S. House also has made projections for next year, and they call for a smaller tax cut, $16.6 billion, and a smaller deficit, $39.8 billion.

Per capita, the tax relief amounts to $77.10, or $308.41 per family of four.

Per capita, the deficit amounts to $185.89, or $743.93 for the sample family.

Put it together and $557.95 is the loss, $129.92 more than the Senate plan.

The two versions will be debated by a conference committee; and if the compromise splits down the middle, the sample family will lose $492.99 in earning power.

Which means that $9.48 more must be earned by the average family each week during the next year to retain the same standard of living. On the basis of a 40-hour week, that means you need a raise of 23.7 cents per hour.

So the next time that you are in the presence of a congressman or senator who is taking bows for giving you a tax cut, remind him that his approval of a budget that is larger than the revenues received is causing a diminishment of your buying power.

Then ask him why, if you have to live within your income, that the federal government doesn't abide by the same rule.

A tax cut, when overrun by inflationary deficit spending, can be likened to using a band aid to cover an amputation.●

NEW FACTS REVEALED IN FBI, KING CASE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. ASHBROOK. Mr. Speaker, almost 11 years ago, on October 4, 1967, there appeared in the CONGRESSIONAL RECORD an extensive treatment of Dr. Martin Luther King's philosophy, activities, and questionable associations up to that time. At that time I stated that "he has openly associated with the most radical elements in our society." Recent FBI information made public under the Freedom of Information Act confirms that this was no wild and irresponsible charge.

An exclusive story to the National Catholic Register, authored by investigative reporter Paul A. Fisher and appearing in the September 17, 1978, issue makes various references to FBI memos made available to the Register under the FOI statute. In a secret memorandum to Attorney General Katzenbach, dated May 17, 1965, FBI Director J. Edgar Hoover stated:

> This Bureau's investigation of the Communist influence in racial matters has developed considerable information indicating the influence upon Martin Luther King, Jr., head of the Southern Christian Leadership Conference, by individuals with subversive backgrounds, such as Stanley David Levison, Clarence Jones, Bayard Rustin and others.

Director Hoover continued:

> From time to time King meets with these individuals and coverage of these meetings by this Bureau results in the obtaining of evidence of the influence upon King, as well as information concerning the tactics and plans of King and his organization in the civil rights movement.

Another FBI memo quoted by Mr. Fisher in the Register article and dated October 27, 1965, states:

> Individuals with Communist backgrounds such as Stanley Levison, Harry Wachtel, Bayard Rustin, Clarence Jones and Randolph T. Blackwell, play "an important part" in "policy-making decisions" of Dr. King and aid him in his writings and speeches and declarations he makes concerning U.S. foreign policy.

The article, "New Facts Revealed in FBI, King Case," by Paul A. Fisher in the National Catholic Register issue of September 17, 1978, is inserted at this point.

NEW FACTS REVEALED IN FBI, KING CASE

(By Paul A. Fisher)

WASHINGTON.—Eleven days before the assasination of the late Senator Robert F. Kennedy, a prominent national columnist told a Federal Bureau of Investigation official that the Senator would receive "a death blow" prior to the Oregon primary.

The choice of words apparently was ill chosen and referred to the disclosure by the late Drew Pearson, that Mr. Kennedy, then Attorney General in his brother John's administration, authorized the FBI to conduct electronic surveillances on Dr. Martin Luther King.

It was expected that this revelation would mortally damage the Senator's Presidential campaign efforts.

Senator Kennedy was shot on June 5, 1968 in the Hotel Ambassador in Los Angeles after celebrating his California and South Dakota presidential primary victories.

This and other information concerning a variety of communist-related activities is contained in the official and confidential (OC) files of former FBI Director J. Edgar Hoover. These records, although heavily censored, were made available to the Register under the Freedom of Information Act.

The FBI records depict the late Dr. King in an entirely different light than has been generally reported in the past.

In an internal FBI memorandum, dated May 21, 1968, Assistant Director C. D. DeLoach wrote to Associate Director Clyde Tolson that columnist Jack Anderson advised him Drew Pearson would publish an article on May 24, 1968 "alleging" that Attorney General Robert Kennedy ordered the FBI to place a wire tap on Dr. King.

According to DeLoach, Mr. Anderson asserted that the article "would probably hurt Kennedy a great deal."

The Assistant FBI Director said he told Anderson that he was "doing a great disservice, inasmuch as the article would certainly dry up Negro sources of information who have been friendly to the FBI."

Anderson, the memo states, said "he and Pearson were well aware of this fact; however, they felt that Kennedy should receive a death blow prior to the Oregon primary."

The article by Pearson appeared in the Washington Post and other newspapers on May 24, 1968. However, Mr. Pearson did not report the fact that Attorney General Nicholas Katzenbach also authorized such surveillances on Dr. King for a number of months prior to his assassination of April 4, 1968.

In a memorandum to Attorney General Ramsey Clark on May 23, 1968, Mr. Hoover confirmed that Robert Kennedy "personally approved" a wiretap on Dr. King "as of October 10, 1963." The memorandum continued:

". . . Dr. King and his activities . . . including infiltration and domination by communists, were disseminated to authorized sources on a number of occasions."

The FBI records disclose that electronic surveillances were placed at Dr. King's home, the headquarters of the Southern California Leadership Conference, which was headed by the late civil rights champion, and at 10 various hotels in cities across the country where he stayed.

After approval by Mr. Kennedy and Mr. Katzenbach, most of these surveillances were authorized for installation by FBI field agents by William C. Sullivan, a former FBI official who was killed last year under mysterious circumstances in a hunting accident.

The FBI memoranda authorizing field agents to eavesdrop on Dr. King and his associates repeatedly state the "coverage is desired in view of King's association with communists."

Typical of such memoranda is one from Inspector Sizoo to Mr. Sullivan concerning a "tap" on rooms 2541 through 2543 at the Hotel Park Sheraton in New York City, where Dr. King and his aides Bernard Lee and Andrew Young (present Ambassador to the United Nations) were staying: Mr. Sizoo declared:

"In view of King's continued contact with Clarence Jones who is King's conduit for contact with communist Stanley Levison, and in view of other activities of King, it is considered highly desirable" to have a microphone surveillance on the civil rights leader.

In a secret memorandum to the Attorney General, dated May 17, 1965, J. Edgar Hoover wrote:

"This Bureau's investigation of the communist influence in racial matters has developed considerable information indicating the influence upon Martin Luther King, Jr., head of the Southern Christian Leadership Conference, by individuals with subversive backgrounds, such as Stanley David Levison, Clarence Jones, Bayard Rustin and others.

"From time to time King meets with these individuals and coverage of these meetings by this Bureau results in the obtaining of evidence of the influences upon King, as well as information concerning the tactics and plans of King and his organization in the civil rights movement."

A memorandum of October 19, 1965 notes that coverage of such meetings "has developed information concerning King's involvement in the Viet Nam situation."

A hand-written memorandum, dated January 10, 1966 from Attorney General Katzenbach to Mr. Hoover states:

"Obviously these are particularly delicate surveillances, and we should be very cautious in terms of the non-FBI people, who may from time to time necessarily be involved in some aspect of installation." This statement apparently refers to the use of employees of the telephone company to install the "taps."

A top secret memorandum, from Mr. Hoover to Attorney General Kennedy dated Oct. 7, 1963 (declassified on Feb. 13, 1978, after the Register's request for the FBI file material) confirms that Attorney General Robert Kennedy "approved" the memorandum request for a technical surveillance on Dr. King's Southern Christian Leadership Conference office on Oct. 10, 1963. (A copy of the memorandum, heavily censored, shows Mr. Kennedy's approval in the lower left hand corner of the document.)

According to a top secret memorandum dated July 16, 1963, written by the FBI's White House liaison agent, Courtney A. Evans, Robert Kennedy stated that technical surveillance on Dr. King "did not concern him at all; that in view of the possible communist influence in the racial situation, he thought it advisable to have as complete coverage as possible."

The Bureau's records state that Dr. King, guided by communist advisers, concerned himself with "the forthcoming Democratic National Convention (1964); the Mississippi situation; (and) the matter of racial disorders and demonstrations in New York City. . ."

According to a memorandum dated October 6, 1964, Mr. J. F. Bland of the FBI stated:

"A technical installation" on Dr. King's residence in Atlanta provided the FBI with information regarding his contacts "with well-known communist figures, as well as what they advise him to do."

Mr. Bland added that this technical installation "has provided a great amount of information concerning racial disorders in the South, racial riots in Northern cities, as well as racial activities at both major political conventions."

A memorandum for file, dated April 9, 1968 states that Courtney Evans, the FBI's White House liaison agent, personally delivered Attorney General Kennedy a top secret memorandum which contained "King's vilification of the late President (John F. Kennedy) and his wife."

Mr. Evans, according to the April 9, 1968 memo, recommended that this information be destroyed, but "Hoover said it would not be destroyed."

An FBI memorandum, dated Oct. 27, 1965 states: ". . . individuals with communist backgrounds," such as Stanley Levison, Harry Wachtel, Bayard Rustin, Clarence Jones and Randolph T. Blackwell, play "an important part" in "policy-making decisions" of Dr. King and "aid him in his writings and speeches and declarations he makes concerning U.S. foreign policy."

Included in the files is the following excerpt from Time magazine when it acclaimed Dr. King as "Man of the Year" and provides a more conventional public concept of him.

"It is with an inner strength so tenaciously rooted in Christian concepts that King has made himself the unchallenged voice of the Negro people—and the disquieting conscience of the whites . . ."

Verbatim accounts of the technical surveillance on Dr. King were denied by the FBI to the Register because of a court order on January 31, 1977 which stated:

"All known copies of the recorded tapes, and transcripts thereof, resulting from the FBI's microphonic surveillances, between 1963 and 1968, of . . . Dr. Martin Luther King, Jr. . . . shall be turned over under seal to Archivist of the United States, and remain under seal for a period of 50 years."

These OC files of Director Hoover also disclose that the late Joseph P. Kennedy, father of President John F. Kennedy, and Robert, was a "special service contact" of the Bureau's Boston office who feared "the impending threat of communism to our democratic institutions." ●

AT THE CAMBODIAN EMBASSY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1978

● Mr. DORNAN. Mr. Speaker, this morning I was the only Member of the House or Senate to attend a special press conference at the former Washington, D.C. Embassy of the Khmer Republic of Cambodia. The abandoned home was surrounded by an unkempt lawn, and the building appeared run down, forlorn and desolate, like the poor, suffering people whose representatives it once housed.

The main speaker at the press conference was Lon Nol, President of the Cambodian Republic. He claims he is still President of that Republic, for he was duly lected under the Cambodian Constitution of 1972, and to this day remains the only legally elected President of the Cambodian people. Political "realists" will quibble at his title. "Legalists" will make the point that his position is yet binding upon those of us who respect the rule of law, domestic or international. And yet, whatever is made of the point, the legal or constitutional arguments, the very debate itself, is nothing more than a grotesque little side show beside the main event: the worst genocide undertaken by any barbaric regime since the Nazis launched their slaughter of 6 million European Jews during World War II.

Lon Nol eloquently pleaded the case for his people and though realists might quibble over his title, I think that the legalists have the better of the argument. Unless we are willing to concede political legitimacy to the rule of terror by the raw force of a hideous little band of murderers, then we must accept Lon Nol's credentials as the head of the Cambodian state. If law, or the rule of law, is to have any meaning, his title remains intact. And, through him, his poor people, must be heard.

Mr. Speaker, I was somewhat surprised when I heard that the distinguished Senator from South Dakota, Mr. McGOVERN, advocated the use of military force to quell the violence being unleashed against millions of defenseless Cambodian people. I think it cruel to unleash a rhetorical litany, beginning with "I told you so", but the point remains that it is because American policy eventually shifted toward withdrawal, the very policy the distinguished Senator advocated for so many years, that we have the situation that we have now in Cambodia. I will leave it at that. Honest men, in the heat of battle, may disagree over issues of momentous international significance, and with the cause of their countrymen at heart. I believe that the Senator from South Dakota had the very best interests of his country at heart. But he was horribly mistaken then, as subsequent events have infallibly proved. I applaud his tacit recognition of that mistake.

Mr. Speaker, the political realists, given to extracting idealistic and even moral concerns from international politics, may think it silly to speak of Lon Nol as President of the Cambodian Republic. No doubt many thought it unrealistic to support Lon Nol's Government in 1973. We were told it was corrupt. We were told that its combat against the Communist insurgents was ineffectual. In all of this there was truth. But those who suggested giving up on that government failed to comprehend a more important truth: that the enemy that the ineffectual Lon Nol Government was fighting is and was a fanatical foe fortified with a murderous ideology and bent upon establishing an austere and brutal totalitarian regime. Far too many failed to percieve what many of us knew would happen. And it did. We did end up with a bloodbath in Southeast Asia.

Mr. Speaker, I do not know what the future holds for the Cambodian people. I cannot imagine that it will be much darker than their recent past. But I do know this. Every syllable uttered from the lips of the leaders of the Carter administration on human rights will ring hollow if they continue to do nothing about this terrorist genocide in Southeast Asia. The very least the United States should demand is a vote to throw the representatives of these terrorists out of the United Nations, an organization originally designed to protect peace and justice throughout the world.

I think that President Lon Nol's deeply touching address is worthy of our consideration. And I ask that it be inserted into the RECORD:

STATEMENT OF MR. LON NOL, PRESIDENT OF THE KHMER REPUBLIC

Ladies, gentlemen, distinguished guests and members of the media: In this moment of grave crisis for the Cambodian people, it seems inappropriate to have to discuss the past. However, I realize that without some reflection on past events the present cannot be placed in proper perspective and future actions might be based on myths instead of realities. On April 1, 1975, I left my beloved country at the request of the National Committee. I left only because I was convinced by the National Committee that my departure would facilitate additional assistance from our allies and that my departure could lead to a negotiated settlement. Unfortunately, my departure did not lead to additional assistance or to a negotiated settlement. It led instead to the present situation. The Khmer Rouge occupied Phnom Penh on April 17, 1975. The enclosed documents, made public for the first time, provide additional information concerning my departure. I wanted to return to my country, to resolve the situation in our favor or to die in attempting to do so but I was not even kept informed about the worsening situation.

I left my country without relinquishing my position as President. I have not surrendered that position. I remain head of state, the Khmer Republic maintains an army and controls territory.

Let me tell you something about the Khmer Republic; a Republic which all free Khmers know, remember and love. The people adopted a constitution on April 30, 1972. About 1.56 million people cast ballots and overwhelmingly approved this constitution. The constitution of the Khmer Republic guarantees equality before the law, freedom of press, speech, assembly and religion. We gave 18 year olds the right to vote. Our constitution sets forth a number of obligations. Among them is the obligation of the government to create employment for all citizens, to grant welfare assistance, provide social security insurance, improve the social conditions of less fortunate groups and to insure a standard of living compatible with human dignity. The presidential election of June 4, 1972 was free, universal and provided for secret suffrage. The registration process was kept open until 6:00 p.m. on the evening before the election. Although I lost the vote in Phnom Penh, I managed to win the election by 55 percent of the vote. I remain the only freely and legally elected President of Cambodia.

I could talk for hours about the Khmer Republic as it was in 1973 and 1974. Nearly every family had a radio. Over 35,000 families had a TV set. We made our own movies and published our own books.

However, the Government of the Khmer Republic was far from perfect. We did not have much time to learn and practice democracy or to fulfill the mandates of our constitution. There is the belief that the Khmer Republic occupies its present status because of previous widespread corruption, incompetence and treason which resulted in a lack of will to continue the struggle. I am not going to deny this. I do want to point out that the majority of my fellow countrymen were brave and honest. Thousands gave their lives to prevent the current situation. A few, however, should be condemned for lacking the will to be true patriots. I think that they did not fully understand the barbaric nature of the enemy they were fighting. Even so, it is also true that if some Khmers failed to understand the brutal, murderous and genocial nature of the enemy and lost the will to continue the struggle, some of our allies were guilty of the same mistake.

Debate over the past serves little purpose now. The Khmer Republic is today illegally occupied by a band of thugs—international terrorists. They kill children. They kill women. They kill the old. They kill the educated. They kill each other. They kill anyone who raises an objection; who refuses to be a slave to them. The beautiful Khmer Republic drips with the blood of 3,000,000 dead Cambodians. These bandit highjackers think that Khmers residing in free countries are also dead, well we want them to know that we are alive! We have continued the struggle and we shall continue it for five years, one hundred, one thousand years or for however long it may be necessary to restore our civilization.

Last Monday, September 18, 1978, the Khmer Republic sent a delegation to the United Nations. This delegation is made up of new and honest young leaders. This delegation is in the process of contesting the seat illegally occupied by the monstrous and bloody Pol Pot Government. I call upon all nations, in the name of God, and every group who has also been a victim of genocide—the Jews, the Armenians, the Irish—and our brothers and sisters in the Third World to help us. Help us show to the world that the UN charter and the UN Covenant on Human Rights are not meaningless words. We ask the members of the United Nations to have the courage to seat our delegation. I call upon every nation, every organization, every individual to do something, to take some action to end this senseless carnage of our people. I call upon Khmer people to join together, put aside their differences for common purpose and to rise up and to become active for the cause of freedom and justice in your homeland. I call upon you to resist with all your strength, colonial domination of our country from any clique, any state, any nation and any neighbor. For 3½ years the Khmer Republic has not received assistance from any source. I ask, in the name of the Khmer people, for support from freedom loving nations and organizations everywhere. Let us show you how we can fight. Help us free our country from international terrorism. Help us to once again reestablish our free, democratic and nonaligned nation. Help us save ourselves.

For the last 3½ years I have been living in the beautiful State of Hawaii. Even though I am surrounded by the beauty of that wonderful place, I have not been able to enjoy it. How can I eat when I know my countrymen are starving? How can I enjoy that beautiful place when I read in the paper every day that my country has become a hell on earth? I step forward today out of obligation not out of the desire for power, influence or position. This responsibility has been thrust upon me. And if I do not step forward, who will? I swear to you here today that I will step aside as soon as any strong and capable Khmer leader emerges. I know that among the free Khmers that somewhere there is a leader. I have a vision. A vision that this leader will come forward soon. He will be a brave and honest Khmer, a man who will lead the Cambodian people to freedom, justice and independence in this terrible hour. Let him not hesitate. Let him come forward and assist me now. Let him speak, let him lead and let him assume my responsibility at the proper time.

I ask all the people of the world who value human dignity and freedom to avoid the Khmer Rouge killers like a pariah; to avoid all negotiations, all diplomatic contact, all trade and all relations of any kind. History judges everyone by their actions. Do not stain your own hands with the blood of the Cambodian people through any type of association with these barbarians.

Finally, I wish to thank the press and media for bringing the Cambodian holocaust to the attention of the world. Please do not let the world forget us. I want to thank the many courageous political leaders, like Congressman Dornan who is with us here today, citizens and organizations who have stepped forward to condemn the Khmer Rouge for what they are: International terrorists, murderers, barbarians and savage animals who do not deserve to be members of the human race. I especially thank, on behalf of the Khmer people, the many countries and the United Nations which have provided comfort and assistance to the many Cambodian refugees. I ask that you continue to help them. I ask that you provide them a home. Do not forget us. Do not let our great civilization be ended by barbarians.

Long live the freedom loving spirit of the Khmer people.

Long live our struggle against slavery, tyranny, and domination.

Long live the Khmer civilization.

Long live the Khmer people.

Long live Cambodia.●

SENATE—*Friday, September 22, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Most gracious God, may we go forth into the hours of this new day with clean hands and pure hearts, restored in body and renewed in spirit. Through all the toiling hours help us to walk humbly with Thee and to work helpfully with one another. Overrule our mistakes, allay our anxieties, dispel our fears, and strengthen our faith in the things that matter. Let Thy presence live in our hearts that our coming in and our going out may be in the way of Thy holy will, ministering to the welfare of our country, meeting the needs of the people, and lifting all mankind upward.

Help us to live as the apostle taught us:

Be kindly affectioned one to another with brotherly love; in honor preferring one another;

Not slothful in business; fervent in spirit, serving the Lord.—Romans 12: 10, 11.

We pray in the name of the great Redeemer. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 22, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. The Senate having recessed in the absence of a quorum, the clerk will call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 11 Leg.]

Bayh
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
DeConcini
Garn
Hansen
Hart
Hatch
Hollings
Humphrey
Inouye
Jackson
Melcher
Metzenbaum
Moynihan
Randolph
Schweiker
Talmadge

The ACTING PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of the absentees.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms is so instructed.

After some delay, the following Senators entered the Chamber and answered to their names:

[Quorum No. 11 Leg.]

Cranston
Culver
Hayakawa
Leahy
Long
McGovern
Morgan
Weicker
Zorinsky

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators.

I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Hawaii (Mr. MATSUNAGA), are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF), is absent on official business.

Mr. HANSEN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

The result was announced—yeas 63, nays 1, as follows:

[Rollcall Vote No. 387 Leg.]

YEAS—63

Bartlett
Bayh
Bentsen
Biden
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Clark
Cranston
Culver
Danforth
DeConcini
Dole
Durkin
Eagleton
Ford
Garn
Glenn
Gravel
Hansen
Hart
Hatch
Hatfield, Mark O.
Hatfield, Paul G.
Hayakawa
Heinz
Hollings
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Lugar
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Proxmire
Randolph
Riegle
Sarbanes
Schmitt
Schweiker
Stennis
Stevenson
Stone
Talmadge
Zorinsky

NAYS—1

Weicker

NOT VOTING—36

Abourezk
Allen
Anderson
Baker
Bellmon
Brooke
Bumpers
Case
Curtis
Domenici
Eastland
Goldwater
Griffin
Haskell
Hathaway
Helms
Hodges
Huddleston
Magnuson
Mathias
Matsunaga
McClure
McIntyre
Percy
Ribicoff
Roth
Sasser
Scott
Sparkman
Stafford
Stevens
Thurmond
Tower
Wallop
Williams
Young

So the motion was agreed to.

The ACTING PRESIDENT pro tempore. With the addition of Senators votin, who did not answer the quorum call, a quorum is now present.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader, the Senator from West Virginia, is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Montana.

PRIVILEGE OF THE FLOOR

Mr. MELCHER. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the debate on this bill and all votes thereon: Wayne Mehl, Benton Stong, Jim Rock, and Jeannie Volsky.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. SCHWEIKER. Mr. President, I yield back the time.

FOREIGN ASSISTANCE APPROPRIATIONS, 1979

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 12931, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 12931) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes.

The pending question is on the motion to table the committee amendment.

Mr. HATCH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that the request for the yeas and nays on the motion to table be vacated.

Mr. BIDEN. I object.

Mr. ROBERT C. BYRD. Mr. President, Mr. HATCH last night at a very late hour asked for the yeas and nays on this motion to table. The Senate had to go out because of lack of a quorum. Now he wants to call off the yeas and nays.

Mr. HATCH. That is right.

Mr. ROBERT C. BYRD. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. HATCH. That is fine.

The ACTING PRESIDENT pro tempore. Objection is heard.

The pending question is on the motion to table the committee amendment.

The yeas and nays are automatic.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The question is on the motion to table the committee amendment.

The clerk will continue to call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. NELSON. Mr. President, may we have order in the Senate. Members cannot hear the roll.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is correct. The Senate is not in order. The Senators will clear the well, take their seats, and cease conversation before continuation of the rollcall, and the Sergeant at Arms will assist. The Senate is not in order.

The clerk will resume the roll.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "nay."

Mr. HANSEN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 7, nays 58, as follows:

[Rollcall Vote No. 388 Leg.]

YEAS—7

Burdick
Hatch
Hatfield, Mark O.
Long
Proxmire
Randolph
Talmadge

NAYS—58

Bartlett
Bayh
Bentsen
Biden
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Clark
Cranston
Culver
Danforth
DeConcini
Dole
Durkin
Eagleton
Ford
Garn
Glenn
Goldwater
Gravel
Hansen
Hart
Hatfield, Paul G.
Hayakawa
Heinz
Hollings
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Lugar
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Riegle
Sarbanes
Schmitt
Schweiker
Stennis
Stevenson
Stone
Weicker
Zorinsky

NOT VOTING—35

Abourezk
Allen
Anderson
Baker
Bellmon
Brooke
Bumpers
Case
Curtis
Domenici
Eastland
Griffin
Haskell
Hathaway
Helms
Hodges
Huddleston
Magnuson
Mathias
Matsunaga
McClure
McIntyre
Percy
Ribicoff
Roth
Sasser
Scott
Sparkman
Stafford
Stevens
Thurmond
Tower
Wallop
Williams
Young

So the motion to lay on the table the committee amendment was rejected.

The ACTING PRESIDENT pro tempore. The question now recurs on agreeing to the committee amendment.

The amendment (page 11, line 10) was agreed to.

The ACTING PRESIDENT pro tempore. The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

On page 12, line 9, strike the colon and "Provided,";

Mr. HATCH. I have no objection to that.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

On page 12, line 9, strike "in this paragraph" and insert "under this heading";

Mr. HATCH. I have no objection to that.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 12, line 16, strike "$25,700,000" and insert in lieu thereof the following: "$30,210,000, in addition to which amount the unobligated balance as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1977 and the unobligated balance as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1978 are continued available for the fiscal year 1979 and, further, amounts obligated as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1978 are, if deobligated, continued available for the fiscal year 1979, the total of all such funds made available not to exceed $30,915,000. The unobligated and obligated balances as of September 30, 1978, shall be merged with and accounted for under the same basic account symbol assigned by the Treasury for the appropriation made under this heading: Provided, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the obligation of such deobligated funds for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified for the fiscal year 1979".

Mr. HATCH. Mr. President, I do have some questions on this particular section.

I notice the increase is from $25,700,000 to $30,210,000, a difference of about $5 million, or a little less than that. As I understand this amendment, there is some money in here—let me begin by asking the distinguished floor manager of the bill the reason for the increase of better than $4 million over the House version or the reasons.

Mr. INOUYE. The House has made several cuts for so-called human rights reasons. We restored these cuts and then made an overall reduction of about 5 percent, establishing this $30,210,000.

Mr. HATCH. Could the Senator list the countries that were cut as a result of human rights allegations or violations?

Mr. INOUYE. The House bill does not make any specific designations by countries.

Mr. HATCH. Has the Senate committee, in its deliberations, considered any countries that it has reduced as a result of its examination of human rights violations or human rights allegations?

Mr. INOUYE. There are two countries that have evoked some interest on the part of Members of the Senate. In this act, there is the sum of $150,000 for a military training and education program for Nicaragua.

Mr. HATCH. I see. That is knocked out by this provision?

Mr. INOUYE. It is not. It is still here.

Mr. HATCH. Still here?

Mr. INOUYE. It would take an amendment to knock that out.

There is also in this act the total sum of $600,000 for a military education, training, and administrative support program for Afghanistan.

Mr. HATCH. For Afghanistan?

Mr. INOUYE. Yes.

Mr. HATCH. Could the distinguished Senator tell me why this country, under the circumstances, would be supporting military assistance in Afghanistan, or at least give me the rationale behind that? Because I personally feel that is a very dangerous and wrong thing to do under the present circumstances. I would be pleased to be enlightened by the distinguished Senator from Hawaii.

Mr. INOUYE. Afghanistan, as the Senator is well aware, has a long mutual border with the Soviet Union. It also serves as the buffer between the Soviet Union and Iran and Pakistan. At the present time, the Soviet Union is spending large sums of money to provide assistance to Afghanistan, militarily and economically. This, frankly, is an attempt on the part of the U.S. Government to make policy inroads into that country. So far, for the amounts spent, it is felt that the contributions or the investments have paid off.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. HATCH. I am happy to yield to the Senator.

Mr. HARRY F. BYRD, JR. Will the Senator from Hawaii enlighten me? As I recall, there was a takeover of the Government of Afghanistan recently, and the present regime is a Communist dominated regime; is that not correct?

Mr. INOUYE. The present regime, as described by the State Department and others, would be called socialistic.

Mr. HARRY F. BYRD, JR. I might say that those high officials of our Government who have come to see me have expressed grave concern from the point of view of the United States and from the point of view of the Middle East over what has happened in Afghanistan. Yet here we are, as I understand it, preparing to spend U.S. tax funds to help this Soviet-Marxist dominated government in Afghanistan. I just cannot quite understand that.

Mr. INOUYE. If I may spend a few minutes—will the Senator yield?

Mr. HATCH. I am delighted to yield.

Mr. INOUYE. Throughout the years, my colleagues have expressed great concern when the Soviet Union began to make inroads in countries where our influence appeared to be at a maximum. We are concerned when we see the presence of Cuban advisors and Cuban diplomats, Chinese advisors and Chinese diplomats, or Cuban troops and Soviet troops.

This is an opportunity to do exactly what the Communists have been doing to us. There is no question but that the government in Afghanistan, as of this day, is inclined to lean favorably to the Soviets.

Mr. HARRY F. BYRD, JR. Is inclined to lean favorably? It is a Marxist-dominated government, is it not?

Mr. INOUYE. You can call it that if you wish to.

Mr. HARRY F. BYRD, JR. Well, that is what I have understood.

Mr. INOUYE. We have this alternative: we can decide to completely cross out assistance to Afghanistan, and put them on the other side, and make them an adversary of ours. But please bear in mind that Afghanistan has one of the longest mutual borders with the Soviet Union, and it also serves as an important buffer between the Soviet Union and Iran and between the Soviet Union and Pakistan.

We are hoping that by our presence

there—when you consider the total foreign policy of the United States—by our $600,000 presence there, we may be able to temper the rhetoric and we may be able to temper some of the decisions there, and we may be able to frustrate the endeavors of the Soviets.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. INOUYE. Yes, sir.

Mr. SCOTT. Is it not true that the present government of Afghanistan murdered the President, the past President of Afghanistan and all of his official family, that they had a military coup and that they did have Soviet tanks and Soviet weaponry, and actually took over by killing all of the leadership in the country of Afghanistan?

Mr. INOUYE. I have no reason to question your statement, sir.

Mr. SCOTT. I know this to be a fact, because I believe I was the last Senator in Afghanistan. I talked with the President of Afghanistan, and he told me, being a Moslem, that he would like to be a friend of the United States, but that in the border to the north the Soviet Union has tunnels through those high mountains that they can bring their tanks in any time they want to.

I believe the government of Afghanistan is completely under the domination of the Soviet Union, and it seems a very foolish thing, in my own personal judgment, for us to be giving money to Afghanistan with a group of murderers there in charge of the government of that country. We might as well use plain words, because they did murder the legitimate government, all of the officials in charge of Afghanistan.

Mr. HATCH. Will the Senator yield?

Mr. INOUYE. Mr. President, may I suggest the absence of a quorum?

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

Mr. HATCH. Mr. President, I would just say this: I have no doubt in my mind that when Mr. Daoud was killed, he was thrown out pursuant to, I think, a new Soviet strategy. These countries accept from the Soviet Union and they utilize what they can until they get their stomachs full from the Soviet Union and then they tend to throw them out. That is what Daoud was going to do. In the process, they came in and overthrew him so they could have a Marxist regime there.

I do have some difficulty with this $600,000. I have some difficulty with the $150,000 to Nicaragua, under the present circumstances. On the other hand, they do seem like miniscule amounts compared to the billions we are talking about in this foreign aid bill.

Let me ask the distinguished majority floor manager of the bill a few other questions.

It seems to me that it is wrong for us to put these funds into the international military education and training part of this bill. I realize that the committee has chosen to do so. I am not against giving these funds perhaps in other forms. I am certainly not against giving foreign aid to the extent that we can do it.

Keep in mind, one of the things that worries me more than anything else with regard to foreign aid is that approximately $600 billion of our money, including Eurodollars, is in the hands of foreign nations—$600 billion. It is part of the reason why the dollar is presently in difficulty. I contend that if any one of those nations controlling 10 percent of that or more, or $60 billion, would drop that or discount it in the world monetary system, this country would be very, very hard pressed today.

That is why I am a little bit concerned about a $9 billion foreign aid assistance bill.

It seems to me that it does not take into consideration the needs of our country, and in the process may be giving funds, albeit however small they seem to be, to countries under the guise of international military education and training.

I have deep respect for the distinguished Senator from Hawaii and the position he is in right now in managing this bill, but I do question this, and I do have grave difficulties with this particular section.

My further questions are these:

Are there any other Asian countries under this particular amendment, this $30,210,000 amendment, which have also been considered one way or the other as a result of human rights? Or are there any other countries other than Afghanistan and Nicaragua—maybe I should put it that way—that are in addition to those two where human rights considerations have played a part either in deleting funds, preventing funds, or in giving funds?

Mr. INOUYE. Mr. President, in response to my dear friend's question, I would like to point out first that most of these funds will be spent in the United States. I am certain the Senator has noticed oftentimes when looking up in the gallery officers from foreign countries.

Mr. HATCH. That is correct.

Mr. INOUYE. This is part of the program.

From the standpoint of the State Department and the Defense Department, this program has been an extremely successful program. It has brought in officers from abroad, exposed them to the United States, exposed them to our culture, exposed them to our lifestyle, and exposed them to our democracy.

Mr. HATCH. And we reciprocate by sending some American citizens to their countries.

Mr. INOUYE. And we have reciprocated by sending some of our officers there to look into their training programs and maybe make a few suggestions.

From that standpoint, from the money spent, the State Department looks upon this as a most successful program.

Second, as to human rights, there are several countries listed here, and I am certain each could be cited as a violator of human rights. I have yet to see one country with clean hands.

We oftentimes portray ourselves as the country with the cleanest hands, the defender of human rights, the defender of civil rights. But when one considers the history of these United States, the progress we have made, the level of education, the level of our resources, we must not overlook less favorable events in our past. We should recall that it was not too long ago, by a decision of the President of the United States, that all members of an ethnic group, because they seemed to look like the enemy, were placed in concentration camps. This was done at a time when the courts were in operation, without due process of law, it caused these people to lose millions upon millions of dollars in property, but, worst of all it robbed them of their human dignity.

If the Senator will recall, it was only 4 years ago that, by an action of this Congress, we wiped out, legally, the existence of concentration camps in the United States.

This is a country which prides itself in due process, in the judicial system. But now we are picking out countries that are, in comparison to the United States, 50 years behind us, 100 years behind us. They do not have the resources we have. They do not have the educational level we have. They do not have a middle class. And yet we expect these countries to live up to the standards of the United States.

One of the countries listed here is the Philippines. I have heard so many of my colleagues exclaim, "Why can't the Filipinos be like us? After all these decades of American tutorship, after all these decades of being exposed to American democracy, why can't they be like us?"

Mr. President, I should like to suggest that during those decades of American tutorship, we were not teaching the Filipinos democracy. I think, if we are candid about it, we would recognize that it was, pure and simple colonialism. We had a military high commissioner there who sat above the civilian government. When the war was over, because of the geopolitical situation of that time, we decided that the best interests of the United States and the Western World would be served by building up Japan. So, while we were spending billions in Japan, our friends in the Philippines those who sacrified themselves, were waiting on the sidelines. Manila had been destroyed. Luzon had been destroyed. And we gave them a pittance.

We speak of human rights. In the treaty that we agreed upon with the Philippines, we told our Filipino brothers, "Since you have lived with us for a long time under our flag, we would like you to have the opportunity of serving in our Armed Forces, provided you serve as a waiter in the Navy."

That is what the treaty called for, that Filipinos may serve only as stewards. That is the tutorship of American democracy.

What I am trying to suggest is that when we look at these countries, these countries that are threatened by external forces or internal forces, countries whose resources are limited, whose educational level is low, I do not think we can be so demanding as to insist that their standards equal ours.

If we want to just write off the Philippines, let us do it. But do not expect any friendship from them. We can do the same with any other country. I am certain my friend from Utah will agree that if we wanted to be precise, there would not be a single country in this world with clean hands, when it comes to human rights.

Mr. HATCH. I think that the distinguished Senator from Hawaii has done a remarkably good job of pointing out some of the difficulties of using human rights as a major criterion for determination of whether or not we should grant foreign aid, particularly in this section, international military education and training.

On the other hand, one of the things that really bothers me about some of the approaches we take, at least in Congress, and I think we have taken for many of the last 30 to 40 years, is that we seem to shove human rights aside when it comes to nations that we want to help, regardless of whether or not they are pro-American or whether or not they really care for this country or whether or not they are cooperative with this country or whether or not they really thank us for the foreign aid we give them whether or not they are working for a better order in the world, or whether or not they are trying to straighten out some of the difficulties in their particular geopolitical area. Yet we turn around and, against other little nations that have the same problems, where we have friends, characteristic friends, who also violate human rights, as every country in the world does—and I have to admit that this country is still doing it in some ways, although probably less than any—we kick them in the teeth. I have seen, with particularity, the way that we have really mistreated Rhodesia over the last number of years, a country that characteristically has always been pro-American.

Even though I personally detest apartheid and detest a number of the racial problems down in South Africa, I do not think we would find it too far from the truth to examine the voting record in the United Nations and find that South Africa has probably been the most pro-United States country in the world. Yet we go down there and dictate to them what they have to do and tell them we are not going to help them while we turn around and help others, who have no care for this country whatsoever; in fact, who laugh at us for what is done on occasion.

Mr. SCHWEIKER. Will the Senator yield?

Mr. HATCH. I am happy to yield to the distinguished Senator from Pennsylvania, my dear friend (Mr. SCHWEIKER).

Mr. SCHWEIKER. I think the Senator is making an important point and I think it is important to know what the Senate Appropriations Committee position on it is. The House cut some money out on the basis of human rights, but the Senate committee did not.

In fact, we restored some money, treating most countries evenhandedly. I think it is most important to see that there is some difference between what the House did and what the Senate did.

One other point, if the Senator will permit me. These countries change and what one country's attitude toward us is today is something else tomorrow. The best illustration that I should like to point out, as to how this program can be constructive, involves President Sadat.

When President Nasser was head of Egypt, a lot of us were very critical, including me, of Nasser's attitude. And certainly, at some points, he leaned very strongly toward Russia. While he was president, he was sending a young colonel over here, named Sadat. Sadat came to this country under this very program. So, while we were all critical of Nasser, Sadat was being trained in this country under this very section.

Look at what has happened. Even though we had an unfavorable leader of the Government at the time, this program brought a leader that at least was receptive and open-minded about their relationship with this country. I do not know the background or know all that made up President Sadat's career, but certainly this program had a very significant impact at the very time that a number of us would have been standing up and criticizing programs that dealt with Egypt when President Nasser was in charge. I think we have to take the broader view of how these things come back and help us at times.

I think President Sadat's participation in the program at a time when anybody could point to Nasser and say he is against Americans, he is for the Soviets, is a pretty valid example of how these things can spin off and help us. The Senator has made some good points, and in the human rights area, we have been responsive to what he said.

So we also have to look at how this program has helped us, even though we have worked, sometimes, with countries who were opposed to us, but later turned out to be for us.

Mr. HATCH. I thank the distinguished Senator from Pennsylvania for his comments. I commend him and the distinguished floor manager of this bill for what I consider to be enlightened approaches to this subject and for their work in perhaps recognizing that we can be too rigid on these human rights requisites and, in the process, perhaps hurt our opportunities to be friends with many countries which may not be characteristically U.S. supporters.

On the other hand, I might mention that I agree with the illustration of the distinguished Senator from Pennsylvania in President Sadat, who has become, in my opinion, one of the true heroes in the world today, I think under intense, tremendous pressure that very few people have undergone. He has gone through the fire and I think he has done a lot of very, very courageous things, not the least of which is this recent Camp David agreement.

I think it is a perfect illustration.

I think Siad Barre, of Somalia, is another illustration of a person who, just a few years back was supposedly anti-United States and pro-Russian, and today is perhaps, if not pro-United States, at lest anti-Russian.

Of course, another converse illustration would be Ethiopia, where I guess the military leader's name is Mengistu. It is now pro-Russian and we do not give them any money in Ethiopia today, to my knowledge.

That may be wrong, but it is my understanding we are not giving them any help.

All I am trying to say is that the other day I had the privilege of speaking to the War College. At the end of my speech a number of questions were asked. A very intelligent and articulate black staff officer stood up. I had complained about our foreign policy attitudes toward countries that in the past have stood for the United States, have been friendly to us although directed by dictators, and how we seem to just kick those countries in the teeth—like Rhodesia, South Africa, Chile, Bolivia, and Brazil, which will be one of the most powerful countries in the world, and in this hemisphere is without peer on untapped natural resources—yet turn around and continually try—not to use the term "buy friends" as was used yesterday—but turn around and continually strive for friendship with countries that kick us in the face.

All I am saying is that I can see the wisdom in the distinguished Senator from Hawaii's position that $600,000 is not very much money to keep an open door with Afghanistan, even though it is Marxist dominated.

I can see the wisdom in $150,000 to try to have influence for the benefit of the people in the country in Nicaragua.

I cannot say I disagree very much with the distinguished Senator from Hawaii on those points.

But, on the other hand, I do not understand why we had to have the proposal of the Byrd amendment in 1977 allowing us to purchase Rhodesian chrome directly from the Rhodesians and why this country, through its present regime, continues to support the radical blacks in Rhodesia against the moderate blacks and moderate whites who would have, literally, brought about majority rule, I think, long before now had we just been supportive of that movement.

I will give another illustration of how hypocritical I think some of the things are that the State Department does. The illustration is that last year three black African chiefs, Jacob Chirau among others, moderate chieftains, highly respected, very pro-United States, and I think very influential in their countries, wanted to come to this country to explain their side of the controversy over here. They were barred, and they are presently barred from getting their visas by the State Department, while we allow Robert Mugabe to come over here and get on network TV and talk about their particular viewpoints.

I am not necessarily criticizing that we should hear their viewpoints. But I find it particularly offensive that we prevent three moderate black African chieftains from coming over here and shortly thereafter allow the British punk rock group to come over and participate in America. We all saw what a bust that was. That is the hypocrisy that bothers me.

What I am concerned with is that hypocrisy evidenced in this foreign aid assistance bill we are discussing right now, and I say that maybe it is.

So again I ask the distinguished floor manager of the bill this question, would he list the countries that have been excluded from this type of assistance, that have been discussed and excluded.

I am sure there are countries that have not even been considered for it. I am not asking that. I just want to know which ones have been excluded and why. I would like to have the names of them. If I may, as I basically have indicated, agree with the distinguished Senator from Hawaii that perhaps some of these payments should be made and that we should not be rigid either way. But, on the one hand, while I am willing to be unrigid with regard to some of these countries that clearly, at least under the present regimes, are against our country and seem to be rigidly on the other side with regard to countries pro-United States, but have some demeaning aspects in the U.S. press today, I think that if we are going to be kind to those Marxist-dominated countries and anti-American countries because of our fond hopes we might be able to spread the good word, to spread the gospel over there, then why should we not likewise keep our efforts strong in countries that are friendly?

Let me just make one more point because I brought it up and did not tie it in.

When this very articulate and intelligent staff officer asked me why I would make these comments about Rhodesia and South Africa, among others, when there are repressions of human rights, I said it was because we want to stop those repressions and the best way is not to kick them in the face. The best way is to get over there, work within the framework of their present government and to continually encourage and have that open door and our foot in it so we can get them to, maybe, change some of their ways and bring about some of these very important enhancements of human rights all of us would like to see.

I agree with the distinguished Senator from Hawaii that there are violations of human rights in every country, to a more or less degree.

I think we could put the United States in the least of all degrees, and perhaps Cambodia in the most of all degrees, and perhaps the Soviet Union belongs there, also, as we have seen some of the violations that occur almost in defiance of the whole world.

But all I am trying to do is perhaps have us consider our friends and keep the doors open with our friends so we can use our influence to mollify and clean up and work against some of the things that are hurting people in the countries that are dominated by our friends, albeit dictators, or dictatorships.

Now, if my friend from Hawaii, for whom I have inestimable regard and who I think, for the most part, has been answering my questions and objections to this bill with persuasive articulateness, if he would list the countries that have been considered and those that have been acceptable to us for this particular aid and those which have not, the countries we have cut out, I would be very interested if we have cut out countries like Rhodesia, and if we have been aiding countries like Namibia and some other countries throughout this world.

I would not expect him to list all countries we are cutting out because I am sure some have not even been considered for this aid.

Mr. INOUYE. The Senate committee did not cut out any country.

Mr. HATCH. So this particular provision literally allows the State Department to utilize any funds for any country it deems in its infinite wisdom.

Mr. INOUYE. The administration, in requesting these funds, listed in its justification documents the countries which would benefit under this program. The countries are listed on pages 41 and 42 of the committee report.

Mr. HATCH. Would the distinguished manager of this bill define for me what the committee considers to be the major use of these funds to the extent that he can on the floor?

Mr. INOUYE. The major use of these funds would be to provide some assistance to most of these countries in setting up their military administrative structures. Most of the funds are spent in the United States. Most of the funds are spent to transport promising officers and men to the United States to receive special training.

There is another place where special training is received. If the Senator will look at page 42, he will see the Canal Zone schools. This is where most of the Latin American officers——

Mr. HATCH. May I interrupt the Senator?

As I understand it, the military education training allowances are listed on pages 105, 106, and 107. Would those be the countries involved? I think the Senator from Hawaii gave me pages 41 and 42. That is the education and human resources development program.

Mr. INOUYE. No. Pages 41 and 42—I am looking at the House report.

Mr. HATCH. I am looking at the Senate report, and I think it begins at page 105. It would be helpful to me if we could use the Senate report.

Mr. INOUYE. It is the same table.

Mr. HATCH. Yes, it is the same.

Mr. INOUYE. The countries are the same.

Mr. ROBERT C. BYRD. Vote! Vote!

Mr. HATCH. With respect to the additional $4 million in this particular matter, I would appreciate it if the Senator would explain to me one more time. As I recall, he said that, actually, the Senate version was less than the House version, or what they had proposed, for some reason, unless I misunderstood. Could the Senator explain that to me one more time?

Mr. INOUYE. The Senate version is $1.890 million less than the request submitted by the administration.

Mr. HATCH. But a little more than $4 million over the House.

Mr. INOUYE. Because we restored those cuts made by the House for human rights.

Mr. HATCH. Is there anything in this military education and training program for Taiwan, in the Asian area, and Argentina, in the South American area?

Mr. INOUYE. This year, there is not, because Taiwan considers itself at the present time to be sufficiently wealthy and indicated that it does not need any specialized training.

Mr. HATCH. Do we do any foreign aid work with Taiwan? Do we consider them sufficiently independent?

Mr. INOUYE. Yes.

Mr. HATCH. Why not Argentina? Is there something in here for Argentina? I notice that in 1977, we had some moneys——

Mr. INOUYE. Argentina, on her own initiative, requested that they be taken out of this program.

The Senator from Utah will recall that early last year, statements were made by administration officials suggesting that if human rights conditions did not improve, certain countries would receive less in assistance. Argentina viewed this as a personal insult and said, "Take us out."

Mr. HATCH. I see. Is that the same with Brazil?

Mr. INOUYE. Yes.

Mr. HATCH. Do we give any foreign aid to Brazil at all?

Mr. INOUYE. Brazil receives indirectly through the Inter-American Bank.

Mr. HATCH. How about El Salvador and Guatemala? I notice that we gave them a little more than $1 million in fiscal 1977, but we have taken this out for fiscal years 1978 and 1979.

Mr. INOUYE. Are we talking about——

Mr. HATCH. The IMET program.

Mr. INOUYE. I think it is for the same reason. They did not desire to participate.

Mr. HATCH. So it was basically their decision.

Mr. INOUYE. Yes.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withdraw the request?

Mr. HATCH. I am happy to withdraw the request.

The PRESIDING OFFICER. Without objection, the request is withdrawn.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senate can come to a conclusion on this committee amendment as soon as possible, so that it can get on with other amendments. I understand there are 37 remaining committee amendments.

I hope that upon the disposition of this amendment, the Senator from Utah would be willing to grant consent to adopt the remaining committee amendments en bloc, that they be considered as original text and all points of order not be waived by that request. If he would object to that, I hope he would agree to exclude from the en bloc request any particular amendments that he would like to discuss separately, and let the remaining committee amendments be adopted en bloc.

Mr. HATCH. Mr. President, I appreciate the distinguished majority leader's request. As he has noticed, I have gone by a number of committee amendments as quickly as I could, and I intend to do that in the future. On the other hand, I would not want to have them considered en bloc at this time. but I will endeavor to speed up this matter. I will endeavor to cover these matters with as much dispatch as I can.

I understand that there are some amendments to this particular amendment, and that is why I suggested the absence of a quorum, in order to allow time for Senators to get to the floor.

So I again suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimaus consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1884

(Purpose: To reduce funds for Nicaragua relating to military education and training)

Mr. MARK O. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated

The legislative clerk read as follows:

The Senator from Oregon (Mr. MARK O. HATFIELD proposes an unprinted amendment numbered 1884.

On page 12 line 17, strike the figure $30,-210,000 and insert $30,060,000.

Mr. MARK O. HATFIELD. Mr. President, before I explain this amendment, I have been in contact this morning with the Senator from New York (Mr. JAVITS), who I understand, along with Senator CHURCH, is planning to offer an amendment to cut economic and other assistance from this budget as it relates to funds for Nicaragua.

I am associating myself with that general cause, but I want to be perhaps more specific. I address with respect to this particular committee amendment myself to a reduction of some $150,000 in the international military education and training program.

The moneys that are included in the Javits-Church proposal that we will consider later will, of course, have to come up under another committee amendment than the one we are now considering.

The purpose of this amendment is to recognize that since the committee's action there have been some very significant changes occurring within the country of Nicaragua.

I ask unanimous consent to include in the RECORD some articles which have been in the Washington Post and the Wall Street Journal concerning some of the mindless violence and atrocities that have been committed there in the recent days in connection with rebel movements and efforts by the military and National Guard to control the civilian population.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal
Sept. 19, 1978]

HUMAN RIGHTS AND NICARAGUA

(By John Huey)

MANAGUA, NICARAGUA.—When the Carter administration first began leaning on President Anastasio "Tacho" Somoza to clean up his human rights act—which included reports of widespread murder and torture by his National Guard—skeptics noted that Nicaragua was an easy target because it lacked the strategic importance of other offenders, like South Korea.

But now that incipient civil war is sweeping the country, Gen. Somoza has conjured up some return blackmail of his own—playing loudly on one of the U.S.'s most visceral fears. He is turning his longstanding warnings that he can only be succeeded by a Communist takeover into a sort of self-fulfilling prophecy. As a result, the shrewd dictator knows the strategic value of his little fiefdom is on the rise.

The advent of a Marxist government in the increasingly unstable Central American region (neighboring Guatemala and El Salvador have their problems with radical guerrillas, too) would clearly be a major black eye for the U.S. But the longer Gen. Somoza holds on to power here, the stronger popular support for the radical Sandinist National Liberation Front guerrillas becomes, and the louder he can warn the U.S. that it has a choice between him and the Communists.

There is substantial sentiment among U.S. diplomats that it's a no-win situation and that the U.S. should keep hands off. So far, that's what the U.S. has done. But such calculated inaction isn't likely to win us any friends in Nicaragua no matter who wins—either among the rebels, who claim they believed the Carter administration meant what it said about human rights, or among the Somoza family and its backers, who have received U.S. aid and comfort for over 40 years.

"It's a test of nonintervention," a U.S. diplomat said last winter. "Can we help bring about change to a moderate government without intervening and sparking an anti-Yankee backlash . . . like we've always done in the past."

THE ROLE OF THE U.S.

Like it or not, the U.S. is unalterably intertwined with this remote land of earthquakes, volcanoes, gambling casinos and cockfights. We established the National Guard, trained it and gave it guns. We educated Gen. Somoza at West Point and discouraged his political opponents because he offered stability. We launched the Bay of Pigs invasion of Cuba from here. The picture of a recent U.S. ambassador adorns Nicaraguan paper money. And there were even widespread rumors once that the late billionaire Howard Hughes—who lived atop the pyramid-shaped Hotel Intercontinental Managua for a spell—planned to buy the country from "Tacho," whose family has carefully groomed Nicaragua into a sort of family heirloom.

Most observers speculate that "Tacho" has become the wealthiest man in all Central America; his fortune is generally estimated in the hundreds of millions of dollars, including major interests in virtually every sector of his pitifully underdeveloped country's economy. The general scoffs at such estimates, saying his wealth probably doesn't exceed $100 million.

But the debate over such figures loses meaning upon examination of the plight faced by the bulk of Nicaragua's 2.5 million people.

A recent walk through a barrio in the colonial city of Leon—before it erupted into full-scale guerrilla warfare—reveals a degree of poverty and desperation that is startling, even by Latin American standards.

Inside a tumbledown, two-room hut, an old grandmother stands over a stone fireplace fueled by straw, frying plantain and scraps of fat for her family of 17. One baby sleeps in a hammock fashioned from a feed sack; another lies curled up in a pile of rubble with a dog. Outside, a naked infant—covered in ringworm—grips its distended belly and cries. Other naked children splash and drink from a fetid pool of water by the roadside. Rail-thin pigs share the same water. And down the road, a young father carefully tends a straw pigeon trap, his best means of putting meat onto the table.

The days of passive isolation appear over for this barrio. "Don't think we don't know we're poor," the pigeon trapper says. "This is why I am a revolutionary." The young men of this barrio spend their days at the university in town, where the walls are plastered with posters of their heroes: Cuban revolutionaries Fidel Castro and Che Guevara, and Augusto Cesar Sandino, the nationalist hero of Nicaragua, believed murdered by Gen. Somoza's father.

By night, they build barricades, toss homemade bombs, steal guns and remove street stones from the intersections to impede passage of Gen. Somoza's feared National Guard trucks. They hold political meetings and they listen to short-wave radios for words of encouragement from Radio Havana. They are preparing for war; it arrives a few nights later, and will certainly return again and again.

Back in Managua—at a spacious home equipped with swimimng pool, tennis courts, armed guards, watch dogs, live-in maid, imported beer and a giant stereo playing the latest disco records—the conversation is strikingly similar to that in the barrio. "Right now, our country has only a poor present and no future," says 32-year-old Reynaldo Hernandez, one of several affluent businessmen gathered here to discuss their role in the general strike aimed at toppling Gen. Somoza. "I've been in conflict with myself for years. We can't ignore the suffering of our people any longer. If we do, the Communists will have the country in a moment."

But moderate opposition leaders here—who have called two crippling national strikes in the last nine months—feel betrayed by the U.S. in their efforts to effect a moderate transition.

At first they were encouraged when the Carter administration pressured Gen. Somoza into making human rights concessions. Then, when the U.S. cut off most military aid to the regime, these moderates (who were privately encouraged by State Department officials) mistakenly thought open U.S. support of their cause was just around the corner.

Instead, the U.S. piously declared that it was no longer in the business of meddling in the affairs of other countries; Nicaragua was a good place to test "nonintervention," U.S. diplomats said.

Then in August, President Carter inexplicably sent Gen. Somoza a letter, openly praising him for agreeing to a human rights inspection. Opposition forces—who had been led to believe nonintervention was really supposed to favor them—were agog at this public pat on the back for their foe, whose popular support at home stands almost at zero.

To opposition leaders like Niguel D'Escoto—in their increasingly desperate situation—the whole idea of U.S. nonintervention is ridiculous. (Mr. D'Escoto is a U.S.-educated Catholic priest and one of "The 12," a group of prominent Nicaraguans who left the country last year, demanding the general's resignation; they have since returned to a heroes' welcome.)

"We have an awful mess here," he says, "and it's a mess we inherited from the United States. We are very aware that our people are being slaughtered by guns supplied by Americans and by soldiers trained by the U.S."

And as the passionate support for violent insurrection explodes night after night in the barrios, Gen. Somoza's "me or the Commies" scare tactics become increasingly effective.

The moderate opposition's change in attitude since last winter is ample evidence of the rapidly changing political picture here. In February, politicos in the business community talked of including the Marxist-leaning Sandinist guerrillas in a government controlled by moderates; now they seem resigned to merely wanting a piece of the action in a "national government" that they realize could well be dominated by leftist forces.

THINGS ARE BAD

"Things have gotten so bad here now that many businessmen believe maybe Somoza is worse even than a Communist system," says Emilio Baltodano, a 62-year-old former executive who is also one of "The 12" and whose 25-year-old son is a Sandinist guerrilla. "I am a capitalist. I could have lived a nice life here without any danger. But I am also a Christian, and no good Christian could tolerate the conditions in this country without speaking out."

Which is exactly what moderate opposition leaders want the U.S. to do on their behalf. They sincerely believe Gen. Somoza can't survive the popular groundswell against him. If the U.S. severs diplomatic relations with him now and pushes him to leave, they say, maybe a reasonable coalition government can be established. But if the U.S. encourages the general to stay on by its continued silence or by open support, they say the Yankees' worst fear—a Marxist takeover—is going to come eventually anyway.

One U.S. diplomat, who personally favors taking some subtle actions, believes "the situation may already be to the point where any action we take would be meaningless. Everybody expects us to solve their problems and I'm not sure we can."

But next to Gen. Somoza, it is the paralysis of the U.S. here that rankles opposition leaders the most. To them, it's as if the U.S. drove the car to the edge of the cliff, announced to the passenger that it had no brakes, then jumped out, yelling over its shoulder, "You determine your own fate. I don't want anybody to say I interfered."

[From the Washington Post, Sept. 15, 1978]

SOMOZA'S FOES CLAIM UNITY

(By Karen DeYoung)

MANAGUA, NICARAGUA.—After weeks of disagreement and indecision, the disparate sectors of Nicaragua's political opposition, including spokesmen for guerrilla leaders, announced yesterday that they have consolidated and cleared the way for a democratic provisional government to replace President Anastasio Somoza.

While it is still unclear if and when Somoza will give in to its demands for his resignation, the opposition took the long-argued and delayed step of appointing a three-man commission with authority to speak for all its factions.

These range from traditionally conservative politicians and millionaire industrialists to the guerrilla Sandinista Liberation Front.

Somoza has derided their disparity, saying he could not negotiate with his opponents because he did not know who they were. At the same time, other governments that have privately and publicly supported the call for Somoza's departure had begun to despair of any cohesive democratic leadership to take his place.

The new commission is empowered to negotiate a cease-fire in the bloody nationwide fighting and to link the opposition to a mediation effort by an outside government.

Governments envisaged for such an effort, according to Sergio Ramirez, a 36-year-old attorney and author who is one of the three, include Venezuela, Cost Rica, Panama, Mexico, Colombia or the Dominican Republic. Some of those governments already have offered to mediate, Ramirez said, and cables are being sent to the others.

The United States will not be asked, Ramiraz said, because "we prefer Latin American countries." The Somoza government has not responded to outside calls for mediation thus far.

Other members of the three-man group are opposition leaders Rafael Cordova Rivas, 54, and Alfonso Robelo, a 38-year-old industrialist.

A cease-fire, Ramirez said, is the commission's most immediate task.

"Hundreds of people are being killed," he said, and "entire cities are being wiped off the map."

Some opposition leaders also see the three as probable members of a future provisional government.

While Ramirez said the opposition coalition is willing to negotiate a cease-fire with government representatives it will not deal directly with Somoza and any acceptable solution to the crisis must include his resignation.

The consolidation announcement came as fighting between civilian rebels and guerrillas and Somoza's National Guard escalated in cities throughout the country and the opposition's political leadership began to appear less and less in control of the situation.

While 15 leading civic and political opposition groups several months ago organized under the umbrella Broad Opposition Front, the front itself has had no clear leaders and has seemed primarily a forum for disagreement and indecision.

Among its membership are three factions of the traditional opposition Conservative Party; a recently formed liberal businessmen's party called the Nicaraguan Democratic Movement (MDN); a liberal splinter from the Conservative Party called UDEL; and a dozen more civic, political and business groups.

The Broad Opposition Front also includes the Group of 12, a collection of priests, prominent professionals and industrialists who joined last year to oppose Somoza and call for support for the guerrillas.

Each group has had its own plan for a post-Somoza government and its own idea of who the leaders of such a government should be.

Several weeks ago, the long-bickering Conservative Party factions reached an accord for unity. Their plan for a new government calls for the election of a new president from party members within the 100-member Congress in which they—as the only legal opposition party—are in the minority to Somoza's Liberty Party.

That president would serve until scheduled elections in 1980.

The Conservative Party has insisted that its plan falls within the provisions of the Nicaraguan constitution for replacement of the president, and would thus preserve the country's legal infrastructure. But other groups in the Broad Opposition Front have opposed the replacement provisions.

The others, including the Nicaraguan Democratic Movement and UDEL have argued that neither the people nor the Sandinistas will accept a new government drawn from the ranks of the old parties, even from members of the legal opposition.

"Our optimum solution," said one front member, "is the appointment of a provisional civilian council," ideally a combination of leaders from various front groups, "that would rewrite the constitution and hold elections within three years."

The provisional government council now seems the most viable option for a new government, with the three newly appointed commission members the most likely candidates.

Cordova Rivas is an attorney who heads UDEL. While some of the younger opposition leaders think he lacks polish, he is an expansive populist who is well known and respected in the countryside.

Robelo, an engineer and vegetable oil producer who began the Nicaraguan Democratic Movement last summer, is little known outside Managua business and political circles. But he is a likable and shrewd strategist who is highly thought of by the U.S. Embassy here and the State Department.

Ramirez is a member of the Group of 12. Of the potential future leaders, he is considered closest to the Sandinistas.

Other possibilities within the Conservative Party include Eduardo Chamorro Coronel and Rene Sandino Arguell, both anti-Somoza conservatives, and Julio Molina, a congressman who is a reformist renegade within the party.

Key to the popular acceptance of any new government is the support and participation of the Sandinista guerrillas.

"We can't deny that the sympathy of the people is now with the Sandinistas" said the congressman. "Not necessarily with a political philosophy, but with them as defenders of national sovereignty."

A flood of Sandinista communiques over the past week apparently has been intended to demonstrate the degree of unity within the guerrillas' own previously faction-ridden ranks and to calm fears that they plan a Marxist takeover.

Over the weekend, the guerrillas called on their supporters to organize in support of a provisional government and named the Group of 12 as their delegate in discussions with other opposition groups.

[From the Washington Post, Sept. 15, 1978]

"HE WAS CRYING, 'DON'T KILL ME, DON'T KILL ME!'"

(By Karen DeYoung)

LEON, NACARAGUA.—At least 14 young men were killed last Friday afternoon on a two-block stretch of Santiago Arguello Avenue here. All of them, according to family members and neighbors, were executed by submachine gun at point-blank range by the Nicaraguan National Guard and all of them begged for mercy, some on their knees.

The eyewitnesses' story of the executions is supported by physical evidence on the scene and by countless similar reports, primarily here in Leon, of National Guard atrocities during nearly four weeks of civil war.

The widespread stories, which include tales of indiscriminate and often apparently accidental close-range shooting of women and children, attest to the ferocity of a war that has made bitter enemies of civilians and those in uniform. The mutual hatred is unlikely to be forgotten soon.

For the National Guard, which ostensibly believes it is saving the country from an imminent guerrilla-led communist threat, every Nicaraguan youth has become a potential terrorist, and every closed door a potential hideout.

In the case of the 14 men gunned down on Santiago Arguello Avenue, the families insist they had not taken part in the fighting. But all were between the ages of 18 and 25, as were most of the rebels who held the town last week.

"They took the first three boys across the street, to that wall," said Adela Alvarez, 38, pointing out her living room door, "with their hands over their heads and shot them." As two other young men and her son, Carlos, 18, were walking out the door with their hands up, Alvarez said, soldiers in the street machine-gunned their faces and chests. "He was crying, 'Don't kill me, don't kill me!'"

Another son, 13, was hit in the leg as one of the women pulled him back inside the door, she said.

Alvarez is not the real family name. Although the woman insisted on using her true name, it and others here have been changed to protect against reprisals.

Alvarez pointed to the bullet holes in her walls and in the concrete front stoop.

"Right here, this is where they killed my son," she said. Across the street, where she and neighbors said the first three young men had been executed, a concrete block wall was pocked with bullet holes and spattered with blood that was beginning to wash away in the heavy rain.

While low-ranking soldiers on the scene

admitted that summary executions took place here last week, officers denied it.

President Anastasio Somoza, asked last night by NBC television about alleged indiscriminate killings, replied: "In any civil strife, in any country when lines are not drawn and you have to go after insurgents, some people get hurt without cause." Asked if he was satisfied with the National Guard performance, he said, "Yes."

Fighting in this second-largest Nicaraguan city began Sept. 11, when Sandinista Liberation Front guerrillas attacked police and National Guard posts.

According to residents, the ensuing week of occupation by guerrillas and young rebels alongside them was tense but relatively calm.

On Thursday afternoon the National Guard entered a barricaded slum on the northern edge of the city where, according to Red Cross officials and residents, they ordered the residents of a block to come out into the street. Women and children were reportedly marched north, on a nearby highway, toward Chinandega. Husbands and sons over the age of 15 were marched south, toward Managua.

After walking a mile, the 21 men reportedly were stopped beside the highway, ordered to scratch out a shallow grave in the road shoulder, and shot.

It was not until two days later that the Red Cross, informed by the families of the executed men, arrived to find arms and legs sticking up from the grave. They dug up the bodies, partially burned them, and reburied off the highway in a cotton field.

On Monday, NBC correspondent Fred Francis filed a videotape report from beside the mass grave.

Yesterday, as a heavy rain fell on Leon, the grave was exposed and packs of dogs nuzzling among flowers placed there by relatives, foraged among the carnage.

On the same Thursday that the 21 were killed, the National Guard began an air attack on Leon, supported by what sounded to those on the outside like artillery shelling from a military post to the west of the city. Yesterday, U.S.-made 105-mm howitzer shells were found in the rubble of Leon.

The bombardment ended Friday afternoon. It had been especially severe in the Hermita de Dolores neighborhood, near the center of the city, where rebel barricades had been strongest along Santiago Arguello Avenue, the main street.

The one-story tin-roofed houses on the street are made of adobe and connected like Washington town houses. In yesterday's downpour, women and children picked their way along the rubble-strewn avenue, many appealing to their neighbors for shelter and food.

At 4 p.m. Friday, Adela Alvarez, wife of a chauffeur and mother of four, said she was huddling with her own family and that of two neighbors whose homes had been destroyed. They were behind a concrete wall in her small living room when four soldiers kicked open the front door.

"They ordered the women and girls to one side of the room, and the men and boys to walk out to the street," Alvarez said. Outside, she said, an armored car was parked. The killing of her son followed.

As he lay on the front step, Alvarez said, one of the soldiers turned to her.

"He said, 'you are pretty. Maybe I'll come back and visit you.' Then he told me to go to the middle of the street, where they had dragged three of the bodies, and to take a watch off one. He told me to wash it and put it on him. I did it, because I was afraid."

Maria Castillo, 27, was also inside the Alvarez home with her 18-month-old daughter. The soldiers ordered her into the street, she said yesterday, and forced her to walk in front of them, carrying her daughter, for 10 blocks with a machine-gun barrel in her back while they went from door to door. When they let her go, Castillo said, she ran to take refuge in a church.

Several doors down, past a burned-out house and across an intersection piled with rubble, was the house where Christina Medrano was hiding that day with her family, including children aged 5 months, 20 months, and 5 years. When the soldiers came in, her husband, a 22-year-old Health Ministry worker, was ordered into a courtyard along with seven other men.

"They told the women and children to stay in the house, and took the men out onto the patio and told them to get down on their knees," Medrano said. "Then they shot them through the head."

Because the residents were afraid to go into the street, Alvarez said, the bodies of the first three men were left there and burned by the Red Cross after the battle was over Saturday morning. She said she took her own son to a local cemetery.

Four of the men killed in the courtyard were buried there by their families. Medrano said there was no room for her husband's body, so she hid it from the Red Cross burning Brigades until Monday, when she buried it herself in a nearby cemetery.

Mr. MARK O. HATFIELD. Mr. President, it seems to me that without making any final assessment or judgment on the situation we must at the very least make a clear moral statement on the indiscriminant violence now occurring against many innocent civilians at the hands of the National Guard. I believe that until we can obtain a clearer picture from this particular country under the terrible distress it is suffering, and that until some positive action is forthcoming from OAS deliberations, we should suspend any moneys that would otherwise be available through military programs of this kind.

Again I do not in any way attempt to make any final assessment or judgment on the causes, but I do not think this is an appropriate time to make moneys available to the existing government until we do have an opportunity to have a clearer understanding of the political turbulence and reported human rights violations occurring in Nicaragua.

I might say that we have contacted the Carter administration through the State Department, and they have indicated their support for this approach. In fact, I would like to quote from a part of this statement which they have communicated to us:

> Because of the political turbulence and the charges of human rights violations, we do not wish to pursue our request for IMET.

Now that is the specific point which I am addressing at this time. There are some other comments they have to make concerning other programs of assistance to the country. I have been assured that FMS and other military assistance moneys in the pipeline have been put on hold by the administration.

I ask unanimous consent to have printed the entire statement we have received from the State Department concerning U.S. assistance to Nicaragua be placed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

U.S. Economic and Military Assistance to Nicaragua

ECONOMIC ASSISTANCE

The FY 77 A.I.D. program amounted to $1.4 million in grants supporting continuing projects in agriculture, health and population. Final consideration of loan projects for Rural Education Development ($7.5 million) and for Nutrition Improvement ($3.0 million) was deferred to FY 78 pending further assessment of the human rights situation in Nicaragua. The FY 78 program consists of the deferred $10.5 million plus approximately $2.3 million for on-going and new project costs. For FY 79 $5.46 million was requested in the FY 79 Submission to the Congress. This assistance would continue support for the integrated rural development strategy in Nicaragua and complement prior years efforts to improve the quality of life of the poor population.

MILITARY ASSISTANCE

The FY 77 Military Assistance Program consisted of $2.5 million in FMS credits and $597,000 for military training (IMET). Although we have signed the FMS Agreement with the GON, none of the funds have been obligated and, as was stated at the time of signing all requests for obligation will be considered in view of the current human rights situation. The funds for training have been expended. For FY 78, $2.5 million was appropriated for FMS credits but these funds have been reprogrammed and no agreement will be signed with the GON. $400,000 was appropriated and is being spent for training. In FY 79 no funds for FMS were requested while $150,000 for training was contained in the budget request. Congress has deleted that amount from the total IMET budget.

TALKING POINTS

As an expression of our concern about the GON's human rights record we have not authorized the shipment of any military supplies for the use of the Nicaraguan National Guard for the past year and a half, and have made numerous public and private statements of our concern about the highly polarized and increasingly violent political situation in Nicaragua.

Because of the political turbulence and the charges of human rights violations we do not wish to pursue our request for IMET.

U.S. economic assistance to Nicaragua, as elsewhere, seeks to fulfill one primary objective: to improve the productivity and welfare of the poor majority particularly those in rural areas and is not a sign of support for the government. We provide economic assistance for activities which address the basic human needs of the poor and which permit them to participate in the economic development of the country.

The U.S. Government is deeply concerned with the violent situation in Nicaragua. We want to maintain the funds for economic assistance in the appropriation so that they can be available for urgent use should the conditions warrant.

Because of our awareness of the political sensitivity of any U.S. assistance to Nicaragua, we assure the Congress that if the requested funds are appropriated all ongoing and new activities would be carefully studied by A.I.D. as well as reviewed by the Inter-Agency Group on Human Rights and Foreign Assistance in light of the prevailing situation.

Mr. MARK O. HATFIELD. Mr. President, that basically is the purpose of this amendment. Our effort here is to strike this $150,000 from the IMET section of the bill.

Mr. INOUYE. Mr. President, I have had the privilege of discussing this amendment with the distinguished Senator from Oregon, and I am prepared to accept his amendment.

Mr. SCHWEIKER. Mr. President, I want to commend the distinguished Senator from Oregon for this amendment. I think it is a very reasonable, moderate approach during a very difficult time, and I think it solves the immediate problem and gives our Government flexibility. So I do support the amendment.

Mr. MARK O. HATFIELD. I thank the Senator from Hawaii (Mr. INOUYE), the floor manager, and Mr. SCHWEIKER, the ranking minority member for their support.

I want to reiterate that there has been an attempt to communicate both with Senator CHURCH and Senator JAVITS. This amendment in no way prejudices the amendment I understand they may offer, at a later time. But because of the inability at this time to contact them, I moved independently on this particular issue of assistance under the military education and the training program.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

Mr. MARK O. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I have no further objection to the amendment. I think we have had a good discussion of the merits of this particular amendment. The comments of the distinguished Senator from Hawaii and the distinguished Senator from Pennsylvania certainly satisfy me.

The PRESIDING OFFICER. The question now recurs on agreeing to the committee amendment, as amended.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 14, line 7, strike "20" and insert "15";

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. HATCH. Mr. President, I find no particular problem with that amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 15, line 23, strike "$16,000" and insert "$10,000";

Mr. HATCH. I have no objection to that.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 16, beginning with line 8, insert the following:

SEC. 111. None of the funds made available by this Act shall be available for lease or purchase of housing or office space for official United States Government use outside the United States except through the Office of Foreign Buildings, of the Department of State.

SEC. 112. None of the funds made available by this Act shall be available for the payment of amounts of compensation attributable to step increases and rate increases with respect to more than ninety percent of the full-time Civil Service and Foreign Service employees in permanent positions of the Agency for International Development who are otherwise eligible for such step increases or rate increases.

Mr. HATCH. Mr. President, as I understand it, is this amendment just section 111 or does it include section 112?

The PRESIDING OFFICER. It includes section 112.

Mr. HATCH. It includes both?

The PRESIDING OFFICER. That is correct.

Mr. HATCH. May I ask for just a second to read this?

May I ask the distinguished manager of the bill in section 112 can he give me the rationale for the restriction on 90 percent of the full-time civil service and Foreign Service personnel?

Mr. INOUYE. The effect of this amendment, section 112, is to limit the number of step increases and rate increases which can be provided to AID's full-time civil service and Foreign Service employees.

Mr. HATCH. I beg the Senator's pardon, I am sorry. I was interrupted. May I ask the Senator to repeat?

Mr. INOUYE. The effect of this section is to limit the number of step increases and rate increases which can be provided to AID's full-time civil service and Foreign Service employees.

Mr. HATCH. I have no objection to that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATCH. Mr. President, I have no objection to the amendments down through section 114 en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments agreed to en bloc are as follows:

On page 16, line 20, strike "111" and insert "113";

On page 17, line 3, strike "112" and insert "114";

On page 17, line 9, strike "113" and insert "115";

On page 17, line 15, strike "114" and insert "116";

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

On page 17, line 17, strike "unless the Appropriations Committees of both Houses of the Congress are previously notified fifteen days in advance" and insert "without the written prior approval of the Appropriations Committees of both Houses of the Congress";

Mr. HATCH. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

On page 17, beginning with line 22, strike through and including page 18, line 5;

Mr. HATCH. Mr. President, I do have some objections to this.

As I understand, section 115 of the House language is restrictive. It would provide for "payments not required by law (other than the sums allocated to Israel, Egypt, Jordan, and Syria for the economic support fund), 2 per centum shall be withheld from obligation and expenditure. Of the amount provided in this title for each appropriation account, activity, and project, for payments not required by law, the amount withheld pursuant to this section shall not exceed 5 per centum."

It seems to me that that is a basically worthwhile provision, especially since this bill has risen so many billion dollars over last year's foreign assistance and related programs appropriations bill. I would like to ask the distinguished manager, why delete this particular section, since it seems to be a reasonable approach to trying to save the taxpayers of America some money without necessarily binding or tying the hands of those who have to administer the funds pursuant to this bill?

Mr. INOUYE. This amendment, which appeared in the House bill, attempts to reduce funding for certain accounts by 2 to 5 percent.

We in the Senate have made similar cuts, but we have given careful, informed consideration to each account. Instead of giving an across-the-line or across-the-board slash, we decided we should consider each account and make our decisions. Our decisions have been set forth in this bill, and incidentally, the final, grand total is approximately equal to that of the House.

I grant you that this measure is larger than that which we passed last year, but primarily because we have new programs which did not appear last time, most specifically the Witteveen Facility, which amounts to over $1.8 billion.

I would prefer that the Congress of the United States exercise its initiative and its considered judgment in making the cuts, instead of telling the administration, "Here, you have a knife; do your cutting by 2 percent."

Mr. HATCH. I thank the distinguished floor manager for his comments. I have to admit that I disagree with him. That is, I think, one of the few times we have disagreed as we have gone through this bill, or at least disagreed totally.

I yield to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the pending committee amendment would strike from the bill the following language:

Of the total budget authority provided in this title for payments not required by law (other than the sums allocated to Israel, Egypt, Jordan, and Syria for the Economic Support Fund), two per centum shall be withheld from obligation and expenditure. Of the amount provided in this title for each appropriation account, activity, and project, for payments not required by law, the amount withheld pursuant to this section shall not exceed five per centum.

The language I have just read was the language approved by the House of Representatives. In other words, the House of Representatives said:

> We want a 2 percent cut in this gigantic foreign aid bill.

I say it is a gigantic foreign aid bill. I refer to the committee report, the covering page, which shows that the amount of the bill as reported to the Senate is $9,202,456,072.

Mr. President, the House of Representatives, while I do not always agree with its decisions and many times disagree, nevertheless is closer to the public than is the Senate. It is closer for the very simple reason that every single Member of the House must face reelection every 2 years. Only one-third of the Senate faces reelection every 2 years.

I think that the proposal which the House of Representatives adopted is a reasonable one. It provides for a 2-percent reduction in these huge expenditures for foreign aid, but it specifies that no project shall be cut more than 5 percent. It also exempts sums allocated to Israel, Egypt, Jordan, and Syria from the 2-percent reduction.

So I think it is a reasonable one. I see no reason why the Appropriations Committee should have struck that section from the House-passed bill. So I shall vote against the committee amendment, and I ask for the yeas and nays on the committee amendment.

The PRESIDING OFFICER (Mr. ZORINSKY). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. It is a clear-cut proposition: Do the Members of the Senate want to reduce by 2 percent the huge sums involved in this bill for foreign aid?

Mr. SCOTT. Mr. President, I concur with the remarks made by my distinguished senior colleague, and, of course, shall vote against the committee amendment that would strike the House language.

I look, however, Mr. President, to the overall amount of this bill, and I envision $9.202 billion; and then, in the committee report, at page 5, it is indicated that much of the confusion with regard to foreign aid arises from the fact that major components of U.S. foreign assistance are considered in several different authorization and appropriation bills.

So this nine-plus billion dollar bill certainly is not the sum total of foreign aid.

Then, when we look at page 9 of the committee report, we find what is called the "historical totals" of U.S. economic and military assistance. I ask unanimous consent, Mr. President, that this table showing the amount of foreign aid provided by our country to other nations of the world during the period from 1946 through 1977, totaling $240 billion, be printed in the RECORD at this point. That would include beginning with the words "historical totals" on page 9, through page 12.

There being no objection, the excerpt from the report (No. 95-1194) was ordered to be printed in the RECORD, as follows:

HISTORICAL TOTALS OF U.S. ECONOMIC AND MILITARY ASSISTANCE

The following table presents summary and detail information relating to the totality of U.S. foreign assistance (economic and military) furnished to other nations during the period fiscal year 1946-77. It has been extracted from information assembled and presented by the Agency for International Development in the current edition of its publication, U.S. Overseas Loans and Grants.

HISTORICAL UNITED STATES FOREIGN ASSISTANCE [1]

Summary for all countries

Total, Economic and Military Assistance, fiscal years 1946-77	$199, 609, 000, 000
Total, Other U.S. Loans and Grants, fiscal years 1946-77	31, 398, 000, 000
Total, fiscal year 1978 (estimated)	9, 948, 366, 000
Grand total, U.S. Foreign Assistance, fiscal years 1946-77	[2] 240, 955, 366, 000

DETAIL BY REGION AND COUNTRY (FISCAL YEARS 1946-77)

A. Near East and South Asia	49, 001, 599, 000
Afghanistan	520, 270, 000
Bahrain	2, 075, 000
Bangladesh	1, 119, 104, 000
Cyprus	102, 691, 000
Egypt	3, 252, 165, 000
Greece	5, 050, 220, 000
India	9, 603, 253, 000
Iran	2, 164, 840, 000
Iraq	95, 584, 000
Israel	10, 121, 793, 000
Jordan	1, 825, 063, 000
Lebanon	197, 659, 000
Nepal	210, 336, 000
Oman	1, 368, 000
Pakistan	5, 528, 117, 000
Saudi Arabia	326, 514, 000
Sri Lanka	341, 470, 000
Syria	375, 890, 000
Turkey	7, 516, 743, 000
Yemen, People's Democratic Republic of	4, 500, 000
Yemen, Arab Republic	84, 920, 000
Central Treaty Organization (CENTO)	55, 176, 000
Near East and South Asia Regional	501, 848, 000
B. Latin America	$16, 654, 900, 000
Argentina	461, 848, 000
Bahamas	301, 000
Barbados	2, 130, 000
Belize	8, 089, 000
Bolivia	818, 926, 000
Brazil	3, 062, 531, 000
Chile	1, 359, 987, 000
Colombia	1, 501, 125, 000
Costa Rica	229, 371, 000
Cuba	20, 130, 000
Dominican Republic	578, 041, 000
Ecuador	392, 586, 000
El Salvador	187, 321, 000
Guatemala	426, 028, 000
Guyana	87, 362, 000
Haiti	207, 093, 000
Honduras	252, 679, 000
Jamaica	138, 881, 000
Mexico	300, 041, 000
Nicaragua	302, 245, 000
Panama	391, 729, 000
Paraguay	194, 877, 000
Peru	714, 615, 000
Surinam	5, 805, 000
Trinidad and Tobago	40, 486, 000
Uruguay	248, 556, 000
Venezuela	353, 684, 000
ROCAP	276, 825, 000
East Caribbean Regional	80, 625, 000
Latin America Regional	4, 010, 983, 000
C. East Asia	61, 750, 782, 000
Burma	180, 631, 000
Cambodia	2, 130, 209, 000
China, Republic of	6, 543, 351, 000
Hong Kong	43, 800, 000
Indochina, Undistributed	1, 557, 067, 000
Indonesia	2, 461, 241, 000
Japan	3, 950, 735, 000
Korea, Republic of	12, 831, 817, 000
Laos	2, 506, 214, 000
Malaysia	198, 008, 000
Philippines	2, 751, 795, 000
Ryukyu Islands	387, 825, 000
Singapore	22, 666 ,000
Thailand	2, 241, 844, 000
Vietnam	23, 364, 139, 000
Western Samoa	6, 907, 000
East Asia Regional	572, 533 ,000
D. Africa	7, 119, 148, 000
Algeria	198, 525, 000
Angola	188, 000
Benin (formerly Dahomey	19, 390, 000
Botswana	45, 625, 000
Burundi	13, 891, 000
Cameroon	45, 879, 000
Cape Verde	12, 735, 000
Central African Empire	11, 585, 000
Chad	42, 251, 000
Congo, People's Republic of the	7, 732, 000
Ethiopia	642, 573, 000
Gabon	13, 726, 000
Cambodia, The	11, 698, 000
Ghana	325, 125, 000
Guinea	126, 656, 000
Guinea-Bissau	3, 583, 000
Ivory Coast	42, 151, 000
Kenya	226, 115, 000
Lesotho	35, 868, 000
Liberia	277, 410, 000
Libya	230, 115, 000
Madagascar	17, 655, 000
Malawi	32, 267, 000
Mali, Republic of	93, 746, 000
Mauritania	31, 599, 000
Mauritius	16, 402, 000
Morocco	1, 117, 963, 000
Mozambique	17, 465, 000
Niger	80, 237, 000
Nigeria	408, 633, 000
Rwanda	15, 692, 000
Sao Tome & Principe	300, 000
Senegal	93, 178, 000
Seychelles	1, 042, 000
Sierra Leone	59, 191, 000
Somalia Republic	84, 229, 000
South Africa, Republic of	1, 300, 000
Southern Rhodesia	7, 005, 000
Sudan	136, 482, 000
Swaziland	12, 293, 000
Tanzania	194, 998, 000
Togo	33, 938, 000
Tunisia	910, 551, 000
Uganda	43, 350, 000
Upper Volta	65, 373, 000
Zaire	649, 207, 000
Zambia	41, 325, 000
Portuguese Territories	3, 350, 000
Central and West Africa Regional	143, 562, 000
East Africa Regional	126, 801, 000
Southern Africa Regional	109, 164, 000
Africa Regional	338, 029, 000
E. Europe	42, 803, 714, 000
Albania	20, 400, 000
Austria	1, 256, 642, 000
Belgium-Luxembourg	1, 867, 491, 000
Czechoslovakia	193, 001, 000

See footnotes at end of table.

SUMMARY FOR ALL COUNTRIES—Continued

DETAIL BY REGION AND COUNTRY—Continued

Denmark	921, 970, 000
Finland	56, 979, 000
France	8, 466, 547, 000
German Democratic Republic	800, 000
Germany (Federal Republic	4, 980, 422, 000
Berlin, West	131, 881, 000
Hungary	32, 700, 000
Iceland	82, 144, 000
Ireland	146, 524, 000
Italy	5, 854, 237, 000
Malta	76, 459, 000
Netherlands	2, 312, 211, 000
Norway	1, 245, 549, 000
Poland	539, 300, 000
Portugal	784, 051, 000
Romania	10, 125, 000
Spain	2, 091, 639, 000
Sweden	109, 037, 000
United Kingdom	8, 779, 506, 000
U.S.S.R.	186, 400, 000
Yugoslavia	2, 821, 923, 000
Europe Regional	835, 776, 000
F. Oceania	975, 245, 000
Australia	123, 540, 000
New Zealand	8, 600, 000
Papua New Guinea	300, 000
Trust Territory of the Pacific Islands	824, 151, 000
Other Oceania	18, 654, 000
G. Canada	30, 500, 000
H. Interregional	20, 272, 692, 000

Information as of September 30, 1977.

[1] Basic data (fiscal years 1946–1977) taken from "U.S. Overseas Loans and Grants and Assistance from International Organizations," a publication of the Agency for International Development. See this publication for explanation and detail. Summary totals may differ slightly due to use of full numbers.

[2] Through September 30, 1977, repayments of principal and interest of both economic and military loans total $23,419,000. In addition, it is estimated that $562,100,000 will be repayed on AID loans in fiscal year 1977.

Mr. SCOTT. Mr. President, our office, working through the Library of Congress a couple of years ago, did determine that the figure of $240 billion is just a fraction of the total overall foreign aid provided by our Government. The total was something in the neighborhood of $600 billion, because the figure of $240 billion does not include our contributions to a number of international organizations. I am not sure just which ones are included and which are not, but if we look over to page 134 of the committee report, we find the World Bank salaries. This is something I believe the Members of the Senate are well aware of, with the salary of the President of the World Bank being a net salary of $60,000, and its taxable gross equivalent $116,000.

I wonder if the Inter-American Development Bank salaries and the expenses of the World Bank and the Inter-American Bank are included, in the U.S. contributions, when we speak of the $240 billion which have been expended.

We have the Asian Development Bank, the Inter-American Development Bank, the International Bank for Construction and Development, the International Finance Corporation, the International Development Association, and the African Development Fund.

Mr. President, it is very difficult to comprehend. I doubt that more than a few Members of the Senate understand the entire amount of money that this country is rendering in assistance to foreign nations throughout the world.

During the 12 years I have spent in the Congress I have voted against these foreign giveaway measures, and certainly I am going to vote against this entire bill. I am not going to go through it any further to point out funds which are going to the various countries. It seems to me that we have a broad brush system of foreign aid in which we attempt to provide money to most of the nations of the world directly, and then we have an indirect method through the international organizations and international banks where we also give foreign assistance to all of the countries of the world.

When we have the inflationary problems that we have in the United States, when we have the deficit, when we have the demands from the people of the country that we reduce Government expenditures, that we reduce taxes, it just seems to me that it is irresponsible—and I use the word irresponsible advisedly—for the Congress to continue to be providing aid for all of the nations of the world, billions of dollars, such as we are providing.

I heard the distinguished majority leader yecterday comment with a great amount of feeling, which I am sure was sincere feeling on his part, about the must legislation which has to be enacted before the Congress can adjourn.

I heard the distinguished Senator from Utah respond in part by saying it was not just the quantity of legislation that passed the Congress that was important, but it was the quality of legislation.

Mr. President, I believe that all of us, as we act upon legislation, should reflect on the views of the American people with regard to that legislation. I think it is just as important to keep a bad bill from becoming law as it is to enact legislation that is in the interest of the people of the country.

Mr. President, I believe that the continued expenditure of taxpayers' money for foreign aid in the amount that it has been spent, with it being scattered and spread as widely as it is being spread and scattered, is against the public interest.

I am rather pleased that I have voted against all foreign aid bills for the past 12 years. For the remaining few months that I have in the Senate I intend to continue to so vote.

I yield the floor, Mr. President.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, in studying the committee report, one would obviously get the impression that the amount recommended by the Senate exceeds that recommended by the House. But if one should go further than the cover page and study the report, he will soon conclude that the difference can be easily explained.

For one thing, the Senate, at the request of the administration, considered the large sum of $1.882 billion for the so-called Witteveen Facility of the International Monetary Fund, an amount which was not considered by the House.

We also considered $35 million for Greece. We also considered $50 million in loans to Turkey. These are just examples.

We should also note that if one should read the committee report they will soon realize that the Senate committee, in its careful consideration of the request submitted by the administration, cut the administration request by 18 percent. This 18 percent did not apply to the Witteveen facility, nor did it apply to the economic support fund. The economic support fund, as all of us are aware, is that fund that has, for example, $785 million for Israel, $750 million for Egypt, $93 million for Jordan, $90 million for Syria, et cetera.

Mr. HARRY F. BYRD, JR. Will the Senator from Hawaii yield at that point?

Mr. INOUYE. Yes.

Mr. HARRY F. BYRD, JR. As the Senator from Hawaii knows, the 2-percent cut does not apply to Israel, Egypt, Jordan, and Syria

Mr. INOUYE. That is right.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. INOUYE. What the Senator from Hawaii is trying to suggest is that the Senate committee, instead of applying an across-the-board cut, looked at each account separately and gave each account very careful consideration. We added to some and we subtracted from others. In fact, we deleted some.

So, if we apply the knife over and above this, I would think that cuts may be a bit too deep. I hope the Senate will concur with the committee amendment and vote against the motion by the Senator from Virginia.

Mr. SCHWEIKER. Mr. President, I rise in support of the committee amendment. I want to reiterate that we did cut, in this bill, $1.2 billion from the President's budget. This is a 1-percent cut, so we did some hard cutting ourselves by just cutting $1.2 billion out of the President's figures.

Second, as the chairman said, we selectively used a scalpel and ended up with very close to the House amount except for the add-on items of Greece and new things that were brought into consideration later and were too late to be added in the House. So our bill is somewhat roughly comparable to the House bill, even without a 2-percent cut, because we did it selectively, rather than on a broad scale. I support the committee amendment.

Mr. President, I ask unanimous consent that Winslow Wheeler, of Senator JAVITS' office, and Peter Goldfarb and Steven Moore, of Senator WEICKER's staff, be permitted the privilege of the floor during consideration and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I shall take just a moment and, at this Senator's wish, there will be a rollcall.

I point out that this House proposal, which the committee plans to strike out, applies only to title I. The Senate committee did not cut title I below what the House reported. As a matter of fact, it increased title I by $128 million.

I say again, Mr. President, this proposal to strike out the House language is not, in my judgment, a desirable thing to do. I shall vote against the committee amendment and permit the House proposal for a 2-percent reduction to stand.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 17, line 22. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Alabama (Mrs. Allen), the Senator from Arkansas (Mr. Bumpers), the Senator from Colorado (Mr. Haskell), the Senator from Maine (Mr. Hathaway), the Senator from Arkansas (Mr. Hodges), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Long), the Senator from New Hampshire (Mr. McIntyre), the Senator from Tennessee (Mr. Sasser), the Senator from Alabama (Mr. Sparkman), the Senator from Mississippi (Mr. Stennis), the Senator from New Jersey (Mr. Williams), and the Senator from Minnesota (Mr. Anderson) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. Ribicoff) is absent on official business.

Mr. HANSEN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bartlett), the Senator from Oklahoma (Mr. Bellmon), the Senator from Massachusetts (Mr. Brooke), the Senator from New Jersey (Mr. Case), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from North Carolina (Mr. Helms), the Senator from Idaho (Mr. McClure), the Senator from Illinois (Mr. Percy), the Senator from Delaware (Mr. Roth), the Senator from Alaska (Mr. Stevens), the Senator from Texas (Mr. Tower), the Senator from Wyoming (Mr. Wallop), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The result was announced—yeas 40, nays 30, as follows:

[Rollcall Vote No. 389 Leg.]

YEAS—40

Bayh
Biden
Byrd, Robert C.
Chiles
Church
Clark
Cranston
Culver
DeConcini
Durkin
Glenn
Gravel
Hart
Hatfield, Mark O.
Hatfield, Paul G.
Hayakawa
Heinz
Hollings
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Mathias
Matsunaga
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Packwood
Pearson
Riegle
Sarbanes
Schmitt
Schweiker
Stafford
Stevenson
Weicker

NAYS—30

Bentsen
Burdick
Byrd, Harry F., Jr.
Cannon
Chafee
Danforth
Dole
Domenici
Eagleton
Eastland
Ford
Garn
Goldwater
Hansen
Hatch
Johnston
Laxalt
Lugar
Magnuson
Melcher
Nelson
Nunn
Pell
Proxmire
Randolph
Scott
Stone
Talmadge
Thurmond
Zorinsky

NOT VOTING—30

Abourezk
Allen
Anderson
Baker
Bartlett
Bellmon
Brooke
Bumpers
Case
Curtis
Griffin
Haskell
Hathaway
Helms
Hodges
Huddleston
Long
McClure
McIntyre
Percy
Ribicoff
Roth
Sasser
Sparkman
Stennis
Stevens
Tower
Wallop
Williams
Young

So the committee amendment (page 17, line 22) was agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that Miss Maureen Norton, a member of the staff of Senator Humphrey, be granted the privilege of the floor during the debate on this bill.

The PRESIDING OFFICER (Mr. Muskie). Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendment appearing on page 27, line 4, through and including line 24, be taken up out of order at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 27, beginning with line 4, insert the following:

TITLE V—UNITED STATES PARTICIPATION, SUPPLEMENTARY FINANCING FACILITY, INTERNATIONAL MONETARY FUND

For the purpose of participation by the United States, in an amount equivalent to 1,450,000,000 Special Drawing Rights, in the Supplementary Financing Facility established by decision numbered 5508–(77/127) of the Executive Directors of the Fund, as provided in the decision numbered 5509–(77/127) of the Fund, and for the expenditures resulting therefrom, not to exceed $1,950,000,000, to remain available until the termination of the facility: *Provided*, That no such payment may be made while the United States Exceutive Director to the International Monetary Fund is compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Fund is compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

The PRESIDING OFFICER. The Senate will be in order. Senators wishing to converse will please repair to the cloakroom.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Robert Russell, of the Banking Committee staff, be permitted the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. INOUYE. Mr. President, I wish to read a letter just received from the Secretary of the Treasury. It relates to title V, U.S. participation, Supplementary Financing Facility, International Monetary Fund. This is the so-called Witteveen Facility. This letter is dated September 21, 1978, from the Secretary of the Treasury:

Dear Senator Inouye: I understand that a proposal may be made to cut the appropriation for the Witteveen Facility recommended by the Senate Appropriations Committee. I want to make it unmistakably clear that any cut in U.S. participation will almost certainly destroy the Facility and that there is no prospect that it can be renegotiated or that the Administration would seek a renegotiation.

This Facility is strongly in our national interest, and our 17 percent share in the financing, which was the subject of long and difficult negotiations, is wholly justified by our position in the world economy and our stake in a strong international monetary system. All other participants—including the OPEC nations providing nearly half of the total financing—are ready to act and have been waiting for months for us to move. The Facility cannot take effect without our participation. It is needed urgently, in the total amount agreed, to enable the IMF to respond to serious balance of payments needs and maintain confidence in the underpinnings of the international monetary system.

If we are unwilling to act responsibly given our large stake in the world economic and financial system, we cannot expect others to meet their own responsibilities. A cut in U.S. participation would destroy an unprecedented international cooperative effort at a time of serious strain on the international monetary system. There is no question that such action by the U.S. would have the gravest implications for global U.S. economic and political interests, and I urge the Senate in the strongest possible terms to defeat any such proposal.

Sincerely,

W. Michael Blumenthal.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. INOUYE. I am happy to yield.

Mr. JAVITS. Mr. President, obviously, the Senator from Hawaii, who is managing this bill, realizes the importance of this particular item in the bill. Indeed, I consider it to be as important as any other item, and I am very grateful to him for opening the debate upon this note.

It really would be tragic if Members did not realize that the only bright sign on the horizon in what, since last August, I have been urging as a grave international crisis which could break into a great depression for the whole world, including the United States, is this Witteveen Facility. If that goes down in flames, Mr. President, I could not agree more with Secretary Blumenthal as to the implications for the pocketbook issue.

The biggest pocketbook issue in the United States is this: Will 90 million people continue to work, or will there be vast unemployment in our country, or will inflation sweep away everything we have, as it has in other countries? This very well could be the hallmark of it.

I hope to participate actively in this debate. I did not intend to detain the Senator, but I am grateful to him that, instead of following the normal course of letting the proponent of the amendment state his case, he set the tone for this debate.

Mr. INOUYE. I thank the Senator very much, I purposely did this, as the Senator from New York is aware, to indicate to my colleagues in the Senate the importance of this facility.

As the Senator from New York is well aware, for a long time we have been encouraging the countries of the so-called OPEC organization to participate in multinational activities. Here is one of the first demonstrations of OPEC participation. Saudi Arabia alone is contributing $2.5 billion. The OPEC countries taken together constitute about half of the total facility. So the United States should be commended for the effort it has exerted to bring into the fold of the international monetary system the countries in the OPEC organization.

I hope we keep all these things in mind as we proceed in the debate.

Mr. JAVITS. I thank my colleague.

UP AMENDMENT NO. 1885

(Purpose: To reduce the level of U.S. participation in the IMF Supplementary Financing Facility (Witteveen Facility))

Mr. DeCONCINI. Mr. President, I send to the desk an amendment to the committee amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Arizona (Mr. DeConcini) on behalf of himself and Mr. Randolph, proposes an unprinted amendment numbered 1885 to the committee amendment on page 27:
>
> On page 27, strike line 8 and insert thereof the following: "in an equivalent amount of Special Drawing".
>
> On page 27, line 13, strike $1,831,640,000 and insert in lieu thereof $500,000,000".

Mr. DeCONCINI. Mr. President, the purpose of my amendment is to reduce the appropriation for the U.S. share of the IMF Supplementary Financing Facility, or Witteveen Facility as it is more generally known, to $500 million for fiscal 1979.

This is equivalent to approximately $393,700,000 special drawing rights (SDR's) and is roughly 30 percent of the total requested. What I am suggesting, Mr. President, is a gradual phasein of U.S. participation in the Witteveen Facility.

The authorization for the proposed U.S. contribution has just been approved in conference and I am not convinced of the necessity for full funding of this institution at this time. Breaking the proposed contribution into a number of installments has at least two advantages, in my opinion. First, it will make it possible to carry on a continuing evaluation of the need for this special source of finance in the context of changing international economic circumstances. Second, it will permit the Appropriations Committee to exercise the sort of oversight that I think the Members of this body expected when they approved Senator SCHWEIKER's amendment to the authorizing bill July 31, 1978.

Mr. President, I ask the manager of the bill, the Senator from Hawaii, to agree to a unanimous-consent request that this amendment be taken up at this time, because I am advised that the amendment of the committee is pending, with a different figure adopted, and I ask unanimous consent that this amendment be the pending amendment.

The PRESIDING OFFICER. Is there objection to the amendment being considered in order, notwithstanding the fact that the figure it amends already has been amended?

The Chair hears none, and it is so ordered.

Mr. DeCONCINI. I thank the distinguished Senator from Hawaii.

Mr. President, as Senators recall, the vote on this amendment (67 to 0) was the culmination of a struggle of several weeks duration to insure that this contribution would be made subject to appropriations.

Mr. President, I do not believe that the Appropriations Committee has had sufficient opportunity to make a reasoned assessment of the need for this new IMF credit window. The committee has taken testimony on the issues involved on only one occasion, and then only briefly in the context of Secretary Blumenthal's general presentation with respect to Treasury's requests for the international development banks. A $1.8 billion is not an inconsiderable sum, and the issues surrounding the establishment of another special fund at the IMF have yet, in my judgment, to be satisfactorily resolved. At the very least, it is fair to say that whether the Witteveen Facility is needed or not is a debatable question.

Thus, for example, the resources of the extend fund facility are already available for longer-term lending. Financing of up to 3 years is available through this special facility. Yet, to date only $352 million SDR's have been drawn through the extended fund. This is equivalent to a little less than 1 percent of the potential reserve available through this facility.

Moreover, it is generally conceded that the Witteveen Facility is, at best, a stopgap measure that can make no direct and substantial contribution toward redeeming the fundamental structural inbalances that have plagued the international economic sector in the past few years. At best, it provides a temporary expedient for coping with the symptoms of the underlying economic malaise. At worst, as some experts maintain, it may forestall the kinds of adjustments that current economic realities make imperative. Some authorities believe the chronic inbalances plaguing the international economic system originate, at least in part, in deliberate policies on the part of some of the principal actors in international commerce. Some countries, according to this view, base their economies primarily on export industry, and thus, inevitably seek a trade surplus. But every surplus in the international system necessarily means a deficit somewhere else. Thus, a few major powers may, in this perspective, manage to export not only their goods, but their unemployment and other economic difficulties as well.

To the extent that this is an accurate description of existing international trade relations, it is arguable that the Witteveen Facility would be counterproductive, for it would be providing an additional financial buffer for deficit countries which functions to reduce the pressure for policy changes by the surplus nations.

I, frankly, do not know how to evaluate the merits of this argument, but I would like to have a chance to delve into it with the help of expert testimony. That is what effective and responsible oversight boils down to and it is the way the Appropriations Committee normally proceeds.

We are told that the consequences of denying this request for $1.8 billion would be extremely serious for the international economic system and the United States as well. It should be recalled, though, that in 1975 Congress chose not to approve U.S. participation of the financial support fund, also known as the OECD safety net. The same kind of dire predictions were heard at that time. Yet, the international economic order has not collapsed in the meantime.

Furthermore, when the Witteveen Facility was first proposed, the countries whose trade deficits were of primary concern were Mexico, Brazil, and the United Kingdom. None of these nations, despite the fact that the facility is not yet in operation, has suffered economic calamity in the interim.

It should also be noted that as a result of the 60 general review of quotas, the usable currencies available for IMF lending have been substantially increased. At the end of fiscal year 1977, usable reserves amounted to SDR $4.5 billion. Today, the IMF usable reserves amounted to SDR $4.5 billion, a sizable increase by any standard. Moreover, the six most probable beneficiaries of Witteveen lending have in the aggregate over $1.3 billion SDR in potentially available credit, as of July 31, 1978. Now, whether these reserves will be adequate until the seventh general review of quotas comes into effect sometime in fiscal year 1981 is anybody's guess, as the CBO study on the subject points out:

> The demand for IMF financing during the next few years will depend on a number of factors—all of which are difficult to predict: The economic policies adopted by member countries, the availability of financing from other sources, and the pace of world recovery from recession. It is not possible to predict that expanded IMF resources will not be required. Neither is it possible, however, to say that the IMF must have expanded resources to meet its commitments.

At the minimum, it seems clear that there is no compelling economic urgency that would require the approval of the entire request for the Witteveen Facility at this particular time.

The approach I am recommending has the additional advantage, of course, of allowing the Appropriations Committee to exercise its oversight responsibilities in a more judicious and prudent fashion.

I think it is also noteworthy, Mr. President, that of all the countries expected to contribute to the Witteveen Facility, only the United States has a serious balance-of-payments problem. All the rest range from negligible deficits to very hefty surpluses on their side of the ledger.

In summary, Mr. President, a considerable degree of uncertainty and ambiguity surrounds the proposal before us. I believe the American people expect us to make careful and informed decisions where billions of their tax dollars are at stake. I think it would, therefore, be a mistake to approve the entire contribution to the Witteveen Facility in one lump sum without giving it closer scrutiny.

I also believe, Mr. President, that the argument that any change of this committee amendment would kill this facility is not realistic. We are a Nation that negotiates all the time. The recent examples of Camp David indicate that negotiations only break down when people lack good will. And if the Witteveen Facility is not funded from the standpoint of the U.S. contribution as set forth by the committee it does not mean that this facility will die or has to die. It means that it would have to be renegotiated, and I believe that we, being people of good will, and the other members of that facility, the nations listed as contributors and negotiators, would negotiate a different phase-in approach toward our contribution and their own if necessary.

For these reasons, Mr. President, I urge approval of my amendment.

Mr. JAVITS. Mr. President, I am very grateful to the managers of the bill for permitting me to lead off the opposition to our colleague's amendment because I have made this concern about the international financial situation a very key part of my work here in the Senate for many years. I can assure my colleagues that we will wait a long time before we have anything comparable to this particular breakthrough.

Instead of beginning with a detailed analysis of the faculty, I shall first deal with what this facility means and why it is completely invalid to contend that this whole effort will not collapse if we do not participate. The best argument against this new facility has been cited by the mover of the amendment himself, the DECD safety net. The safety net which Secretary of State Kissinger agreed that the United States would enter into, has a $25 billion financing facility which was intended to do something about the grave financial shock to the world resulting from the oil embargo and the fourfold—since fivefold—increase in the price of oil.

Now, the United States did not join the safety net, and it collapsed. I believe that the collapse of the safety net has been a major factor in the danger which is now posed to the world's monetary and economic system, and so will failure to implement the Witteveen Facility. It will not be consummated if the United States adopts the course contained in the amendment by phasing in its contribution when all the other countries are all ready to put up their money.

Mr. President, we have been seeking, ever since the oil crunch in late 1973, to find some way, in a regularized fashion, with adequate expertise and planning, and through international sources, to use the resources of the OPEC countries in order to deal with the world's problems created by this very uneconomic price and by other factors, including the major recession of 1974–1975. Until the Witteveen Facility came along, Mr. President, we have simply been unable to crack that nut.

Now, Mr. President, we are on the threshold of being able to get OPEC surplus funds and if this facility is aborted now, Humpty Dumpty, I can assure my colleagues, it will not be put together again.

(Mr. PROXMIRE assumed the chair.)

Mr. JAVITS. Our reputation has not been enhanced by previous pitfalls of this character into which other projects have fallen.

Mr. President, this just does not involve the United States as one of the non-OPEC countries. It involves also the countries whose very surpluses we want very much to reduce and put out for international use. For example, Germany will provide $1.330 billion; Japan will provide for $1.140 billion; and Switzerland is in for $824 million. Altogether this is a sum of roughly $3.5 billion—yes, about $3.5 billion which comes from these countries, the currencies against which our currency has suffered very materially.

As to the OPEC countries, as has already been stated, Saudi Arabia is in for $2.5 billion. The OPEC countries as a group are in for 50 percent of the total capital of the facility.

Now, if this facility collapses it may very well signal the first step in the breakdown of the whole international monetary system because, in a sense, the implementation of this facility has been awaited by the banks and by the less developed countries.

The banks have provided large amounts of capital to the less developed countries and are reluctant to provide further credit. All they are willing to do is roll over the debt. Roughly speaking, there is about $100 billion at stake in those loans, of which the U.S. banks have the heaviest share.

Now, let us not misunderstand the problem. This debt is perfectly secure and perfectly safe, Mr. President, in terms of the bank's reserve being adequate to cover any losses which might occur on these loans. But the banks know, and the Comptroller of the Currency knows, they simply do not have any new money. Yet, the imbalance which still persists for many of these countries will continue as far as we can see for at least a few years more until the economic system of the world can be rationalized and stabilized.

We will simply break the backs of the banks and these countries if they are disappointed in the fact that this facility, which has been counted on and expected, is not made available.

Why are the less-developed countries in trouble? They are in difficulty because not every country is an OPEC country, and in many cases commodity prices have fallen.

Second, we have to realize that the benefits of the multilateral trade negotiations, which may eventually flow to the less-developed countries, will not do so until the MTN is consummated. In the meantime, the trade of these countries have been suffering.

Third, Mr. President, the LDC's have had to pay an excess oil bill. Hence, these nonoil developing countries will run a congenital imbalance, of about $20 billion a year. If they cannot get the money from the banks, because the banks cannot lend them anything new, and if they cannot get it from some international facility especially designed to deal with this particular problem, they have no way of waiting out the period of readjustment.

Mr. President, let us remember that 28 percent of the U.S. manufactured exports go to the less-developed countries, and that if we take into account triangular trade, where we trade with industrial nations which, in turn, trade with the LDC's, translates probably into half of U.S. foreign trade.

So, Mr. President, taking into account the weakness of the dollar and the fact that the world is awash with $400–$600 billion, unless you retain some kind of an effective economic and trading system in the world and some kind of stability to the currencies of the world, the stage is clearly set for a crash.

Mr. President, that is borne out by the troubles we have in this country, which are only the tip of the iceberg in terms of the world. Uncertainty is the principal complaint of all our businessmen upon whom we are calling to invest. What they say is, "How can we invest in this kind of an uncertain world?" When we have an opportunity fully negotiated, fully matured, to give the world financial system some kind of support, some kind of a redemption of a promise, our colleague would have us let it collapse.

We talk about the national interest or the security interests of the United States. But the world is far less likely to go Communist, Mr. President, because of the conspiracies or the military actions of the Soviet Union than it is by our own imprudence and our own unwillingness to do what needs to be done in order to save ourselves economically. This is a sterling example of that situation.

I said I would go into some of the details. Let us remember that the reason why Senator SCHWEIKER had such a struggle about the appropriation for this particular facility was not because Members like myself are arbitrary, but there is a very real question as to whether this represents anything other than a bank deposit, whether it needs to be or should be appropriated at all.

The Treasury puts money in banks and keeps it there for years, as it must, and rolls it over for years. The IMF facility which is here created is not even the purchase of IMF capital. The funds are repayable money which we can draw on, by the way, if we have balance-of-payments difficulties, and is repayable in a 3- to 7-year period with interest at the U.S. Treasury rate. It is really a certificate of deposit for a relatively long term.

Furthermore, Mr. President, and very importantly, too, in order to get such a loan, in order to qualify for such a loan, a country—not necessarily a less developed country—must demonstrate to the International Monetary Fund—which, if anything, has a reputation for being really hardline on this issue of conditionality—that within a short period of years, generally considered 3 to 5 years, it can, with the aid of capital out of this particular Witteveen Facility, balance its payments.

I doubt very much that the United States could qualify under those circumstances. But many small countries and other countries drawing on this facility will do so, and it will represent an enormous support for the economic and monetary system of the world.

Finally, my assistant reminds me, that our colleague says he wants to look into the whole matter, he wants to be convinced that it does work; he wants to consult experts.

A reading of the reports of the hearings—and, by the way, the hearings were before the Foreign Relations Committee; which went into the merits of the issue; and in the Committee on Banking, Housing, and Urban Affairs headed by the present occupant of the chair (Mr. Proxmire) will show that. But the experts uniformly agree, not just on the desirability of the Witteveen Facility in terms of the world, but the essentiality of the Witteveen Facility to the national interest of the United States in our relationship to the world's economic and military system.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. JAVITS. Of course.

Mr. INOUYE. Is this not a temporary facility?

Mr. JAVITS. Exactly.

Mr. INOUYE. Is it not the likelihood that the United States, after 12 years, will get back all the money we have put in?

Mr. JAVITS. I do not think there is any question about that, with interest.

Mr. INOUYE. And the interest is a cost-plus figure?

Mr. JAVITS. Exactly; plus an override for their administrative expenses. So it will cost us nothing.

Mr. INOUYE. So this is not a giveaway program?

Mr. JAVITS. It certainly is not, nor a soft loan window.

Mr. INOUYE. And as long as there is no call for the money, it remains in the United States?

Mr. JAVITS. Exactly. It is a standby credit, which is called on only when needed.

Mr. INOUYE. I thank the Senator.

Mr. JAVITS. I am very grateful to the Senator for allowing me to go into this issue at length, as I have worked hard and thought much about this critical problem.

The most serious problem which faces the world today is the problem of uncertainty. World leaders, leaders of democratic governments, are shaken by the prospect of the uncertainty which seems to face the world. The fact that we are asking for big money for this facility is great; it has to be big money. It is a big world. We ourselves have a $2 trillion gross national product, and the European Economic Community probably has a gross natural product of about $1 trillion. So when you say over $10 billion it may sound like much money, but when you compare it to what is at stake—the world trade of the United States alone is almost $250 billion, let alone all the other countries of the world—it is small.

So with this apprehension that we do not know where we are going, that the dollar, the best currency on Earth, is shaking and is being sold, so much so that Government action cannot stem it—not Japanese Government action, German Government action, or even U.S. Government action—of that, the one ray of hope on the horizon is that at last the industrialized countries and the OPEC countries are going to get together to give some basis of support to the system.

If we wash out on this one, then, Mr. President, I see no reason why speculators should not definitely feel that the dollar will continue to decline.

Mr. President, that kind of a world will produce not 6 million unemployed in the United States, but 12 million unemployed in the United States, and comparably in Europe and other countries.

Let us not forget, Mr. President, that nowadays, unlike in 1932, people are not going to stand in soup lines as they did during the Depression. They are going to take social and political action in countries where you would least expect it.

I am not dangling that alternative prospect simply in terms of this measure, the Witteveen Facility; but what I am saying is, here is something which has been agreed upon; here is the only thing on the international horizon which supports confidence and security, and if we wreck this one by a pusillanimous attitude that we will just give the facility $500 million at a time, Mr. President, we will richly deserve what we get; and I deeply doubt that my colleague would seek to do that.

Mr. LUGAR. Mr. President, I rise to support the remarks that have just been made by our distinguished colleague the Senator from New York, and to oppose the amendment proposed by the distinguished Senator from Arizona.

I think this is the most crucial issue of this bill. Without attempting to highlight specifically that which is most important, I would agree that this is essential to our focus on what is going to occur in international relations, and particularly those relations that have to do with money, in the foreseeable future.

The facts of life are that after the OPEC nations took action with their oil price increases, the world faced some very tragic consequences, not only from the shortage of petroleum at that point, but from the enormous dislocation in terms of trade balances.

It is a complex subject, and many people, I suppose, throughout the world will hope that the bankers might provide for this in some rough and ready fashion.

But the tens of billions of dollars that came into transfer payments during that time thoroughly packed the banking systems of the world. In hearings conducted before the Committee on Banking, Housing, and Urban Affairs, of which the distinguished occupant of the chair (Mr. Proxmire) is chairman, we heard a number of expert witnesses describe these dislocations, and we heard distinguished witnesses—I remember specifically the former chairman of the Federal Reserve Board, Arthur Burns—say that of all the things that were important in terms of international finance, speedy ratification of the United States position in the Witteveen Facility was perhaps the most important. He encouraged our committee and this body to act with dispatch not only to reinforce the trust of others who were involved with their commitments, but likewise to bring about some feeling on the part of the American public that we are in charge of this situation.

What is the situation? It simply means that if in fact there are winners and losers in international trade, somebody has to lend the money to make possible the facilitation of the payments of debts and bills that come about. Failure to do so, of course, will mean that we will be unable to pay for the petroleum and whatever else we are importing in this Nation. We have great resources, and have been able thus far to pay our bills, although the dislocations in this economy have been very substantial ever since.

This body has heard a great deal of oratory about the problems of inflation that resulted from those shifts. We have heard from time to time—and the Senator from New York has been distinguished in this effort—that the international banking picture is in a very fragile position. Indeed, Mr. President, the United States has been very lucky to have made it through thus far, and so have most banking situations in the world, because their total assets really are not substantial enough to continue to finance these sources of wins and losses occasioned by the dramatic shifts that the OPEC situation has brought to bear.

As the committee report points out very well, for some time the IMF participation in this has been relatively small. As I recall, the committee report says in the period of 1974 to 1976, only 7 percent of the balance of payment-type financing was being carried on by the IMF. Almost all the rest was by private banks.

Before the Banking Committee we heard testimony which would lead one to be, I think, very cautious about how this private banking situation is going to proceed in the future.

I bring this point to the attention of the Senate, Mr. President, because one of the criticisms of the Witteveen Facility has been that it is a banking relief act, that in essence the IMF is going to take over risks that have been held by U.S. banks or other banks working in a correspondent or commercial relationship with our banks.

The facts are, Mr. President, that many persons in this body have felt the involvement of United States banks in foreign government financing, and very frequently the loans if not directly to foreign governments very rapidly come to those sorts of obligations and dealings, could very easily get the United States into difficulty with its foreign policy from time to time.

To be very blunt about it, Mr. President, if in fact United States private banks become involved in very, very substantial loans, and countries, whether they be underdeveloped or well developed are unable to pay these loans—as a matter of fact, if there were changes of government and repudiations of some of the agreements—then we have foreign policy implications being guided in essence by the original loans of private banks in the United States, if we are to be made whole in this process.

Indeed, Mr. President, the suggestion has been made that, at a time of potential credit crunch in this country, at a time when many persons believe there may be a capital shortage in this country that these sorts of exposures might lead not only to difficulties with the banking system but, indeed, for our entire economy.

In short, it is a healthier situation for private banks as a part of their portfolio not to become so deeply involved in loans that may have vast political overtones and ramifications, and which could lead this country into many more difficulties than we might surmise.

The Witteveen Facility idea comes along as a development of the thought that, as opposed to leaving all of this to chance and having greater exposure by private banks, using the participation, and in this case the very substantial participation, of some newcomers among the wealthy of the world, namely Saudi Arabia with a substantial participation, a safety net can be created which makes sense. The United States is asked to make available 17 percent, essentially, of that participation.

As the colloquy between the distinguished Senator from New York and the distinguished Senator from Hawaii established, the money remains in banks in the United States, unless there are requirements for the participation to be repaid within 7½ years. In other words, it is our money. It is not a giveaway. It is not a scattering of dollars abroad, some sort of nebulous scheme. This is, in fact, a safety net which keeps these enormous balance-of-payments shifts under some sort of control and does so in the case of the Witteveen Facility as opposed to the earlier attempt, with the requirement there be a plan on the part of nations who borrow to get their affairs in order; to try to rearrange their economies to meet these foreign deficits. That was not a part of many of the earlier loan arrangements. For that reason, this is a vastly superior idea.

Finally, Mr. President, I would simply reiterate what other Members have said. On the repudiation of our 17-percent participation—that is the amount that is in the bill and the Senator from Arizona seeks to diminish this by about 17 percent, a sort of phasing-in situation—I oppose the phasing in, but I am in favor of 17 percent because that is basically the agreement this country had negotiated. It is important in good faith that our partners in these negotiations, the other 83 percent of the net, know that we can be relied upon and that the Senate is going to act in a responsible fashion.

I rise, Mr. President, simply to suggest that the strong affirmation given by the Secretary of the Treasury in behalf of the administration is shared by many on this side of the aisle, too, that in a bipartisan sense it is important to affirm that we recognize the fragile economics of the world and are prepared to deal with them responsibly.

For that reason I hope the amendment will be defeated and the committee's original language affirmed.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Mr. President, I rise to oppose this amendment. I commend the distinguished Senator from New York and the distinguished Senator from Hawaii for their statements in opposition to this amendment. There is not a great deal left to be said by those of us who do oppose it.

Since the oil price increases of 1973, the current account deficits of the non-oil-producing countries have been averaging about $50 billion a year. Those current account deficits have placed a severe strain, as the Secretary said, on the international monetary system.

They have placed a severe strain on credit facilities, some of which are overextended, and many of which simply do not have the resources with which to continue financing current account deficits.

This is not the first attempt to respond to this crisis in the international monetary system with additional facilities for current account financing.

The first international proposal was the safety net proposed by the OECD. We might, incidentally, bear in mind that the bulk of these deficits is sustained not in the developing countries but by the developed countries. It is not only the lesser developed countries which call upon IMF facilities for the financing of current account deficits but also developed countries, including this one, the United States, have asked the IMF, and may in the future have to call on the IMF, for current account deficit financing.

In addition to the economic consequences of a failure by the United States to support this facility, the political implication for this country is grave. We failed to support the OECD safety net. We have delayed now for a long time in acting to support the Witteveen Facility. All other subscribers to that facility are waiting for us. All of them are ready to approve it. All the while, as the monetary crisis deepens the United States continues to lose its authority in the world. The sinking dollar is a measure of declining confidence in our capacity for management of our internal economic affairs and economic leadership for the world.

The international monetary system began with a burst of leadership from the United States. It began some 40 years ago. It began here in Washington at Bretton Woods. Unhappily, it has not been followed by leadership from this country at the level to which we aspired and which we attained in the late forties.

Now, the world is waiting for leadership and the doubts about our capacity for leadership are growing. To defeat this attempt to offer it on the eve of the meeting of the International Monetary Fund here in Washington would deprive the world of confidence in our ability to offer it economic sanity.

This facility, unlike those in the past, requires of the United States a relatively small commitment. The bulk of it—half of it—is subscribed by OPEC oil-producing, surplus countries, most notably Saudi Arabia.

No one would benefit from the failure of Congress to approve this facility; least of all, the United States. It has the most at stake in the international economic system. It has more of an economic stake, it also has more to lose politically. I urge my colleagues to oppose this dangerous amendment for political as well as for economic reasons.

In conclusion, I point out that this has been studied. It has been studied in the Senate Banking Committee. I have here transcripts of the hearings in that committee on international monetary matters within the last 2 years, including the Witteveen Facility. We have had at least seven hearings. I understand that the Committee on Foreign Relations of the Senate has held 5 days of hearings on the Witteveen Facility; there have been hearings in the House.

To my good friend from Arizona, I point out that no other nation in the world submits participations in IMF facilities to appropriations process. Most of them do not submit participations or authority to participate in the IMF to any part of the legislative process, because they recognize, as we should, I believe, that participation involves an exchange of assets. The IMF is in the nature of a central bank for central banks. We do not require appropriations for bank deposits by the Treasury. There is no greater reason for doing so in the case of the IMF.

All that notwithstanding, there have been lengthy hearings in both Houses over a period of years, and I should be very surprised if any, or certainly very many, Members who have been a party to those hearings and have examined the stresses to which the international monetary system has been subjected since the oil price increases in 1973 would not support this measure enthusiastically and suggest that, if anything, it is too little.

(Mr. FORD assumed the chair.)

Mr. SCHWEIKER. Mr. President, I rise in opposition to the amendment of the Senator from Arizona. I want to say at the beginning of my remarks on this subject that the Senator from Arizona performed a great service, and certainly supported somewhat what I thought were very responsible, fiscally sound efforts to make sure that whatever money is going to go into the International Monetary Fund and its facilities in the future would go through the budget and appropriations process. I had an amendment on this matter that was adopted, 67 to 0, on the Senate floor. I commend the Senator from Arizona for his strong support of that principle.

I think it is vitally important, as we see the role of the International Monetary Fund grow larger and larger, that we bring it into conformity with the budget and appropriations process. I think it is absolutely vital that we do not start another system of back-door spending, where we put up money or credit or certificates, or whatever you want to call them, and say that, somehow, it is not chargeable to anybody. I strongly take issue with that. I am glad the Senate has spoken on this issue. The Senator from Arizona has done a great job in supporting that effort. I appreciate that.

I am opposing his amendment because of many of the reasons that have been stated. I shall try not to repeat those. I did say that if we accepted the principle of the appropriations process and the budget process applying to International Monetary Fund accounts, I would support the full amount of this facility. I am doing that today.

I think aside from that commitment I made earlier, there are some other sound reasons for supporting the full amount of this facility. This is the first time that I can recall that the United States is participating in an international facility where we are not the biggest donors, the biggest givers. I think that is a very significant step. The World Bank or whatever, we were always the biggest ones; we are the Sugar Daddy.

I think conditions have changed. I think it is important for other countries to pick up that burden where they can and that our efforts do not deserve always to put the most up in the quickest way. So, for the first time, we are going into an international facility where we are not the largest participants. We pay something like 17 percent of this facility, and the Saudi Arabian Government is responsible for 25 percent. I think that is very good and healthy, that we are recognizing, at long last, that there are other countries that can contribute to world security and monetary stability besides us. That is one of the reasons I am supporting it.

Second, I am also glad that we are getting the OPEC countries to accept their responsibility aside from their role in supplying oil and receiving payment for it. The Saudis are picking up 25 percent of this tab. I think that is a healthy development. I commend Saudi Arabia for doing it and I think we ought to encourage them and other OPEC members to pick up their share of the chits when we get some problems creating inequities from the distribution of oil and petroleum supplies around the world.

Mr. DeCONCINI. Will the Senator yield for a question?

Mr. SCHWEIKER. Yes, I will.

Mr. DeCONCINI. Is it fair to say that Saudi Arabia and most of the contributors to this fund have a favorable balance of trade?

Mr. SCHWEIKER. I think that is a very fair statement.

Mr. DeCONCINI. Of course, is it fair to say the United States has a very unfavorable balance of trade?

Mr. SCHWEIKER. That is also a fair statement.

Mr. DeCONCINI. Is it not fair to conclude then that when we have a favorable balance of trade it makes a lot more economic sense to participate in such an effort; would the Senator agree with that?

Mr. SCHWEIKER. I certainly do.

Mr. DeCONCINI. I thank the Senator from Pennsylvania.

Mr. JAVITS. If the Senator will yield further, does it not make a lot of sense to participate if we have an adverse balance of trade if in this way we gave material improvement to the balance of trade, and where we are in possession of just about one-half of the whole free world's industrial complex, so that we are that superpower?

Mr. SCHWEIKER. I would agree with that point and I was about to make it myself. I concur with that.

Mr. JAVITS. I thank the Senator.

Mr. SCHWEIKER. I want to point out one of the other roles along the same line the Senator from New York has pointed out. The International Monetary Fund has helped other countries who had severe balance-of-payments problems.

I can think of no better examples than England and Italy. There is a very serious question that if the IMF had not been available to England and Italy at their very critical times in the balance-of-payments problems, we might have seen some worldwide economic repercussions and some severe defaulting that could have had an effect throughout the world.

So, I think we have to point out the role they are doing, when we also look at it and see their ability to do what no other government can do, that is, to go to a country and say, "Hey, look, you have to stop living high off the hog, you have to face up to this inflation, you have got to face up to that wage rate problem and that cost of imports problem."

No other facility in the world has the ability to do that. That is exactly what England needed. That is exactly what Italy needed. It is what Jamaica and some other countries need.

I guess if we look at our own country, it is just about what we need. Some of these days we may be turning to them, as was pointed out.

So, it has done some good. They are able to give medicine nobody else will swallow politically because they tell the political leaders what is needed, and they say, "We don't like it, it's unpopular, but we do it to keep the integrity of our economic system and we take the orders to keep the integrity of our system."

So, they are performing a very critical role. I think we have to acknowledge that. They are performing a role of economic discipline that cannot be done by any other international facility. The U.N. does not do it. No one else can do it. It is a unique thing. And it is growing.

I want to see the whole thing subject to the appropriations budget process because I can see it enlarged in the future.

But I think we, as an appropriations committee, ought to have the right to do just what Senator DeConcini is doing now, saying, "Wait a minute, is this a fair deal?"

I will have to say, probably on the next go-round, if there is one, I will be questioning, as he is, what the deal is now.

Mr. DeCONCINI. Will the Senator yield?

Mr. SCHWEIKER. Yes.

Mr. DeCONCINI. I would like to pursue one thing the Senator brought up, indicating that the IMF can impose their restrictions, as he says, kind of force the swallowing of the medicine, to get lending countries to get their economic house in order.

Now, the United States, if we participate in this, has a right, as I understand it, under the committee amendments, of some $1.5 billion, or almost $1.5 billion.

Perhaps that is what the United States should do, draw on this so somebody will impose some already strict conditions on how we operate economically.

Does the Senator think that is a good idea?

Mr. SCHWEIKER. I think the point is well taken. We certainly need to administer medicine to ourselves. If we are not capable of it, then, obviously, we will have to have some help.

Mr. DeCONCINI. One moment further. The Under Secretary of International Economic Affairs expressed to me that the United States had no intent whatsoever to draw back on its drawing rights if we are a member of this facility. I would just like the record to show, if we are attempting to make an account here today that this is good for us, that the only way it will be good for us is if we have someone place restrictions on us, and if we are not going to draw the money for ourselves for our unfavorable balance of trade, we will not have any restrictions.

In fact, we are only offered it with the option of participating to the point of $1.8 billion and letting someone else get the benefit if the IMF imposes some restrictions on their economic house.

I thank the Senator from Pennsylvania.

Mr. SCHWEIKER. In response to the Senator's remarks, it is true, I do not believe our Government presently has the intent of using the facility to our own benefit. However, things change, economies change, and the world economy changes.

So, while I think he is correct in saying that, it could well change in the future.

I do point out, though, that if Italy had gone under financially, or Great Britain had gone under financially, we still might be picking up the check ourselves for that.

So I think there is a very specific benefit to us, even though it may not be directly, but the role they perform for our allies who we would have to stand behind and assist and help financially.

Mr. President, I feel the case has been made, and I do want to say that I am opposed to the amendment for the reasons I stated.

I want to yield now to the chairman of our committee.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, listening to the debate on this amendment causes me to want to inquire of the distinguished Senator from Hawaii, the manager of the bill, to clear some points that are uncertain on reading the report, then listening to the debate that has just transpired here.

I note the report is dated September 15. I would assume that the information contained in the report is the most accurate information then available, and perhaps may be more correct than some of the inferences made in the discussion.

For instance, if the Senator will oblige me by reviewing these questions, clearing the points up, the report on page 153 deals with the subject matter that when at least six countries, each providing $558 million or more, have formally agreed to participate, the Witteveen facility will enter into force.

Now, which countries, so far, have formally agreed to participate?

Mr. INOUYE. Mr. President, if the Senator will yield, the following countries have agreed to participate: Belgium, Canada, Germany, Japan, The Netherlands, Switzerland, United States, Iran, Qatar, Saudi Arabia, Venezuela, United Arab Emirates, Kuwait, Nigeria, Guatemala.

Mr. MELCHER. Now, those countries then have agreed to participate for a certain amount in the formal way, such as the appropriation bill we are considering today.

Mr. INOUYE. Does the Senator wish me to read them out?

Mr. MELCHER. Well, the confusion that is caused in my mind, is that I can certainly hear that the OPEC countries are going to pick up half. That was the tone of the debate this morning. I believe that was a point made by both the senior Senator from New York and the senior Senator from Pennsylvania.

Yet, the report says that the largest single participant is Saudi Arabia, which is expected to pledge approximately $2.5 billion.

It is a little unclear to me, in reading that sentence, whether Saudi Arabia, first of all, has made a formal agreement to participate. I judge that that is the case, since Saudi Arabia was included in that list. But I wonder why the report is indefinite on the amount. It says that it is expected to pledge $2.5 billion. What is the true case?

Mr. INOUYE. I regret that the language in the committee is subject to that interpretation.

There is no question as to Saudi Arabia's commitement. To be precise, the OPEC contribution totals 47 percent, not 50 percent. Saudi Arabia is the single largest participant—$2.5 billion, which constitutes slightly more than 23 percent of the total.

Mr. MELCHER. I thank the distinguished Senator.

As to these special drawing rights that are available to participating countries—I will take the United States as an example. If we were to appropriate this amount of money that is recommended in the bill, would those special drawing rights apply to the International Monetary Fund?

Mr. INOUYE. Yes. Special drawing rights are an invention of this age, because there is no common currency. These countries have their own hard currency. So each country, as a result of negotiation, came up with a conversion, that the dollar will be equal to so many special drawing rights—the SDR's.

In this case, in exchange for financing provided the IMF, a participant will receive a liquid reserve claim on the IMF which can be cashed at any time, by representation by the participant of balance of payments needs.

Mr. MELCHER. Are those special drawings rights adjusted daily according to the market of individual currencies?

Mr. INOUYE. No.

Mr. MELCHER. The dollar has been dropping. Would it be possible for Japan or any other country to exchange—well, since the dollar has been dropping, I will rephrase my question. In relation to the yen, how is that adjusted in special drawing rights? The Japanese would not want to exchange yen for dollars if the dollar had not been devalued, would they?

Mr. INOUYE. No. That would not be permitted. If that were permitted just within the facility, one country could exploit the situation and make some money on it. That would not be proper.

Mr. MELCHER. Then, the adjustments are made according to the adjustments and the value of the currencies.

Mr. INOUYE. No, they are not.

Mr. MELCHER. I thank the Senator.

My next question goes to what happens to the interest that accrues. Is it not necessary for the International Monetary Fund and, so far as that goes, this facility, which is a part of the International Monetary Fund, to use the interest for overhead costs?

Mr. INOUYE. The participants will receive interest equal to the yield on U.S. Treasury securities of comparable maturity. So the borrower would have to pay to the facility at an interest rate equal to the U.S. Treasury interest rate, plus administrative costs.

Mr. MELCHER. Plus an overhead cost.

Mr. INOUYE. Yes.

Mr. MELCHER. That may clear up my next question, or it could lead to clearing it up.

The interest rates on U.S. Treasury notes generally are lower than commercial interest rates. How does this relate to the interest rate that a borrower would have to pay through the Witteveen facility?

Mr. INOUYE. The interest rate that would have applied until June 30, 1978, was 7 percent. After that date, the rate will be adjusted semiannually to reflect the actual cost to the Treasury of borrowings of comparable maturity.

Mr. MELCHER. Then, am I to understand that on top of that interest rate, there will be an additional charge for overhead, an additional interest rate above that?

Mr. INOUYE. Yes.

Mr. MELCHER. Is there any available figure as to what that generally is?

Mr. INOUYE. It will depend upon the cost of operation of the facility.

Mr. MELCHER. I think most commercial banks feel that is about 2 percent or 2.5 percent.

Mr. INOUYE. If that is the case, that would be the amount added on to the prevailing interest rate.

Mr. MELCHER. Generally speaking, that would be about it?

Mr. INOUYE. That is a good estimate.

Mr. MELCHER. We use the International Monetary Fund, I am sure, as often as is advantageous to us, but the United States would not be likely to use the Witteveen fund, would it?

Mr. INOUYE. I cannot see any situation in which we would be using it, although there is no restriction on becoming a participant.

Mr. MELCHER. If the figure is available, what are the present special drawing rights that we now have with the International Monetary Fund?

Mr. INOUYE. I do not have that information on hand, but I can tell the Senator what we will get as a result of our involvement in the Witteveen Facility.

Mr. MELCHER. My question goes further than that. Since a participation in the Witteveen Facility will create the opportunity for special drawing rights for the United States, I merely wanted to put that in perspective with whatever special drawing rights are now available for the United States through the International Fund, since we probably never would use the Witteveen Facility.

Mr. INOUYE. I am sorry, but I cannot respond to that right now but I will have it in a minute or two.

Mr. MELCHER. I believe I can assume, can I not, that the United States would not use the Witteveen Facility because of the three conditions that are detailed on page 153 of the report, especially the third one:

> The member must provide a detailed economic program that the IMF is satisfied is adequate to solve the country's balance of payments problems.

We never have followed such a procedure, have we?

Mr. INOUYE. I believe the Senator is correct.

Mr. MELCHER. This brings me to the last question: What is the need for this particular facility, a part of the International Monetary Fund, that could not be taken care of under the existing International Monetary Fund?

Mr. INOUYE. It provides something that the regular IMF does not provide; it provides a longer period for adjustment.

Mr. MELCHER. The longer period is 3½ to 7 years. Is that correct?

Mr. INOUYE. Correct. The normal is 3 to 5, and this goes beyond that.

Mr. MELCHER. Does the Witteveen Facility go beyond 7 years?

Mr. INOUYE. The normal is 3 to 5.

Mr. MELCHER. I understand. The normal for the International Monetary Fund is 3 to 5.

Mr. INOUYE. That is right.

Mr. DeCONCINI. Mr. President, will the Senator from Montana yield?

Mr. MELCHER. I yield.

Mr. INOUYE. This can go to 3½ to 7 years.

Mr. DeCONCINI. My understanding is that what the chairman says is correct about the period of time, but it is interesting to note, for the information of the Senator from Montana, that the extended fund facilities are already available for long-term lending. This financing is up to 3 years and is available through the special facility that is already in existence and to this date only $352 million of SDR's have been drawn through the extended fund. This is equivalent to less than 1 percent of the potential reserves available under the extended fund.

That is one of my points. It does not make a lot of sense for us to get involved in another fund, another huge commitment when the only need here or the paramount need is to have a longer period of time than the 3 years permitted under the extended fund facility. We should ask that that fund facility be changed to 5 years and that those funds first be used before we obligate ourselves in this country, and the other nations as well perhaps, to the tune of $1.8 billion of American taxpayers' hard-earned dollars.

Mr. MELCHER. I thank the Senator.

Mr. INOUYE. If I may further respond, there is another condition which does not appear in the regular IMF facilities, and I think it is a very important one. There is a more stringent requirement that the borrowing country provide a detailed economic program that the IMF is satisfactory to solve the country's balance of payments problems.

Mr. DECONCINI. Mr. President, will either the chairman yield or whoever has the floor?

Mr. MELCHER. I yield to the Senator for a comment.

Mr. DECONCINI. If I could ask the chairman of the subcommittee, is it my understanding that the conditions placed on the Witteveen Facility loans would be different than those on the extended fund facility?

Mr. INOUYE. I am sorry.

Mr. DECONCINI. Do I understand correctly that the chairman's statement indicated that the conditions placed on the Witteveen Facility funds that are lent out to requested nations would be significantly different than the conditions imposed on the extended fund facility or any other IMF loan?

Mr. INOUYE. It would be more stringent.

Mr. DECONCINI. More stringent?

Mr. INOUYE. Yes.

Mr. DECONCINI. Is there any good reason that the conditions of the extended fund facility or other general IMF fund facilities could not be more extensive, or stronger, or whatever term we might want to use, more flexible, to permit more imposition of the corrections of governments who are borrowing money to get their economic house in order? Is there any prohibition of that changing?

Mr. INOUYE. I do not suppose there is any prohibition, but all the member countries would have to get together.

Mr. DECONCINI. They would have to agree?

Mr. INOUYE. They would have to agree.

Mr. DECONCINI. In other words, it would have to be renegotiated to make any alterations of those conditions?

Mr. INOUYE. As a result of the negotiations for the Witteveen, they have come up with this more stringent requirement.

If I may, in response to a question earlier asked, the U.S. SDR quota in the IMF at the present time is 8,405,000,000 SDR or the equivalent of $10.5 billion.

Mr. MELCHER. I thank the distinguished Senator because that represents the amount of investment the United States has currently in the International Monetary Fund. Is that not correct?

Mr. INOUYE. The Senator is correct.

Mr. JAVITS. If the Senator will yield, I will see if we can cast some light on why the extended facility has not been used very much. The extended facility is essentially a 3-year operation. It is a medium-term loan, and it is tied to the use by the applicant country of its regular tranche quotas so that the aggregate of the use of the extended facility plus the use of its regular quota, and most of these countries have to use their regular quotas—cannot exceed 161 percent of the quota. That has been a very serious and a very terrible limitation upon the utilization of the extended funds.

Second, the extended fund is not contributed to as is this one, especially.

Mr. DECONCINI. Will the Senator yield for a question as to the extended fund?

Mr. JAVITS. I yield.

Mr. DECONCINI. Is the Senator indicating that the quotas of the needy countries are all used and that is why they cannot use the extended fund facility?

Mr. JAVITS. I am not saying they are all used. All I am saying is a country has to have in front of its mind the fact that it may have to use its early tranches because the use of the extended facility is linked to its use of whatever its regular tranche is in its regular operation.

Mr. DECONCINI. If the Senator will yield further, if he cannot be positive that these needed nations have already exhausted their quota, or the amount they can have, is it not wise for us to make that determination before we advance another facility?

Mr. JAVITS. When you couple what this Witteveen Facility does with the fact that 50 percent of the funds will come from OPEC, which to me is the critical issue, and the limitations which are on the extended facility, you can begin to understand why the facility is critical. In addition, the resources available under the Witteveen Facility will be provided pari passu with normal Fund resources, under the regular credit tranches and the extended facility, and will be subject in each case to the adoption by the member of economic policies and a Fund approved under either of the two permanent programs.

Mr. DECONCINI. Yes. But the Senator moves to another argument.

Mr. JAVITS. No, I am not. I am sticking to this argument in the sense that the extended facility is obviously not usable because of its strict conditionality and 3 year program. The Witteveen Facility will provide a larger repayment period.

Mr. DECONCINI. If the Senator will yield, why is it not usable?

Mr. JAVITS. Because it is tied to the regular tranche of what a member country can draw.

Mr. DECONCINI. If the Senator will yield, does the Senator have information that will show us that countries cannot draw or it is detrimental to them to draw?

Mr. JAVITS. If the Senator will give me a few minutes, that is exactly the information just brought to me.

Mr. DECONCINI. I appreciate that, and I thank the Senator from New York.

Mr. MELCHER. I thank the Senator from New York and the Senator from Arizona for their comments and clarification, and I draw the conclusion from the comments and answers to questions that the Senator from Hawaii has given me that the principal difference with the Witteveen facility is the length of time that a loan can be made and that, while it is not the type of facility that the United States is likely to use, the contribution of $1.8 billion-plus will increase our special drawing rights in the International Monetary Fund.

I am a little bit confused, however, on what our total drawing rights or special drawing rights are in the International Monetary Fund.

I think the distinguished Senator said it was about $10.5 billion currently.

Mr. INOUYE. It is 8.405 billion in SDR's, the equivalent of $10.5 billion. If the Senator is interested, in addition, we have the reserve position of 3.3 billion in SDR's or $4 billion.

Mr. MELCHER. I believe the Treasury Department has informed us this morning that our special drawing rights in the International Monetary Fund came to on the order of $39 billion to $50 billion. I wonder if we could have a clarification on that.

Mr. INOUYE. It cannot be.

Mr. MELCHER. Then I am getting inaccurate information out of the Department of the Treasury.

I thank the distinguished Senator for his courtesy and his able discussion on the points I have inquired about.

I yield the floor.

Mr. CHURCH. Mr. President, I wonder if the point has been made in this debate that the Witteveen Facility is in the nature of a temporary addition to the capital otherwise available to the International Monetary Fund?

The temporary character of the facility is important, because any money loaned through the facility will be repaid, over a period of years, to the contributing countries.

Now, when the authorization bill for the IMF was before the Senate, we had a scrappy debate about whether it was really necessary to appropriate $1.8 billion. In the end, we accepted the position taken by the Appropriations Committee and the Budget Committee on that point, even though everyone acknowledged that, in all likelihood, the United States would not be called upon to pay out anything close to $1.8 billion. At most, the loss to the United States would consist of a possible reduction in exchange values on the monetary market which might occur during the period of repayment. So, actually it is misleading to discuss this issue in terms of an outlay by the United States of $1.8 billion of the taxpayers' money. It is entirely possible, if the exchange rates move in our favor, that it would cost the United States little or nothing at all.

Second, Mr. President, the nature of the emergency leading to the creation of the Witteveen Facility is embedded in the disequilibrium in the world economy that was occasioned by the decision of the OPEC cartel to quadruple the price of oil. That decision, taken all at once, in October of 1973, followed by additional price increases in the years since, has created a very serious imbalance in the world economy.

It has caused, as Senators know, a massive transfer of capital from the industrial nations and from the Third World, where the poorest countries are located, into the Middle East.

As surpluses have accumulated in the Middle East, they have been counterbalanced by growing deficits in the West and among these countries of the Third World. This is the emergency which created the necessity for the Witteveen Facility.

As the Senator from New York correctly points out, this is the first time we have secured a major contribution, approaching half of the entire fund, from the rich Arab nations that created the problem in the first place.

I am acquainted with the various forms of aid we have given to foreign nations. This is the first time we have ever entered into an international agreement, in which the Arab countries have extended half of the total. That, I think, is extremely significant, and it is one of the reasons why we should not be the country that drags its feet in implementing this agreement, but the country that, having taken the lead in creating the Witteveen Facility, should be the first to approve it here in Congress.

Unfortunately, that has not been the case. We have, in fact, dragged our feet.

I hope, Mr. President, that we reject the amendment offered by the distinguished Senator from Arizona because, to enact it, would repudiate the agreement entered into by the United States, which has been approved by all the other countries that still await our final action.

It would be very regrettable if Congress failed to give its approval.

Mr. DeCONCINI. Mr. President, I thank the distinguished Senator from Idaho for his remarks. I am sorry that I cannot subscribe to his statement that the fact that we have made a commitment, we must now appropriate the money and approve it. I think that is the process for us, to review and to tell the executive branch that maybe they have gone too far; maybe their appetites are a little bit too great.

I think it is important that the countries that are participating or that will participate in this Witteveen Facility, if it is enacted, should have their balance of trade looked at on the international dollar exchange: Belgium, for instance, has a $500 million balance of trade; Canada has a minus $3.9 billion; Germany has a plus $3.8 billion; Japan has a plus $11.1 billion; the Netherlands has a plus $200 billion; Switzerland has a plus $3.5 billion; Iran has a plus $4.7 billion; Qatar has a plus of $500 million; Saudi Arabia has a plus of $15.8 billion; Venezuela has a plus of $900 million; the United Arab Emitrate has a plus of $4.3 billion; Kuwait has a plus of $6.2 billion; Nigeria has a minus of $300 million; Guatemala has a minus of some $5 million; and the United States has a minus of some $15.2 billion.

Yet we are told that it is in our best interest to take the lead once again and "help bail out the world." And why? Because we were able to get the OPEC nations to contribute substantially.

I applaud the administration for its fine negotiations in getting the OPEC nations to contribute. That is what they should do, just as this country has contributed throughout the history. When times are good, and we have a surplus and people are prosperous in this country, we are the most generous nation on earth, and that is as it should be.

That is not the case today. When we are running a $15.2 billion deficit in balance of trade, for us to decline to appropriate $1.2 billion is not what I think the Senator from Illinois referred to as a "dangerous amendment"; I think it is a logical approach to our responsibility as U.S. Senators.

The argument is made that we have commitments, that we must now fulfill those commitments, that from the standpoint of the Senate the appropriation is only a superficial action that we have to go through.

That is hogwash. That is what the Appropriations Committee is supposed to do. Our responsibility is to review, hold extensive hearings, and make a judgment and a recommendation to this body. The Appropriations Committee has not held extensive hearings.

I do believe there is merit in this approach. What my amendment seeks to do is phase it in with $500 million, which is not peanuts, I would say, in the least part.

The argument is made that the banks are waiting for this to be enacted. Are we to take a position that we cannot expect the banks to wait any longer? They are in there to make money. It is not up to us to take a position to help the banks out. They lend money on a return basis; they seem to know what they are doing, and I believe they do, and they do it very well.

The argument is made that it is urgent that we must go ahead now, we cannot wait for any longer period of time.

How urgent is this? The administration only brought forth the budget amendment about 1 month ago. They had been in office 20 months, and it only came forward a month ago that now is the time to consummate this arrangement and this new facility.

It seems to me that if it was so urgent for the sake of the dollar, so urgent for us, it would have been one of the priorities of the administration. I do not say that they have not changed their minds; I say that is exactly what they have done. But I think it is time that we face up to the situation that the argument that the dollar is down, that the country is not going to survive, and that the international monetary system is going down the drain unless we supply this funding flatly cannot be sustained.

It was pointed out that 7 percent of the financing in the world now is done by the International Monetary Fund. This is not going to make any substantial increase. We still have to rely on the private market for sustaining the ability of nations to borrow. For the U.S. taxpayers to apply this kind of money to stop the banks from waiting any longer because they feel that we are not participating enough just does not make good economic sense, when you have the extended credit facilities that we were talking about recently, which have yet to draw more than 1 percent of the available funds. It seems to me we ought to have hard evidence that those funds cannot be used for the purposes that the Witteveen Facility is intended to be used for.

If there is a problem with the extended fund, let us change that and spend those dollars first, before we appropriate the kind of money we are asked to do today.

I thank the chairman for his indulgence in permitting this amendment to come up, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I rise in support of the amendment of the Senator from Arizona.

I believe we must keep in perspective the magnitude of the appropriation now under consideration. We are considering a bill, Mr. President, which would appropriate over $9 billion for foreign governments of varying degrees of enmity toward the United States. I daresay there are a few governments for which we are appropriating these funds which are truly our friends and allies, but, Mr. President, the great bulk of these nations have opposed us at every turn as we have sought to pursue constructive foreign policy seeking freedom for all nations.

Many of these governments, Mr. President, especially those which are perhaps the most poor, are governed by Marxist or socialist military dictatorships of the most repressive character. Yet here we are with a bill which provides funds to these same repressive regimes.

Now, Mr. President, I am concerned that the real purpose of at least some of these funds is not to assist the impoverished populations of these countries but rather to assist their dictators in paying off massive so-called sovereign risk loans taken out from the big international commercial banks both in the United States and in Europe. In other words, Mr. President, the big banks have lent massive sums in commercial loans to these dictatorial governments, and the only means available for paying off the loans is a bailout through the U.S. foreign aid program. It is something like the New York City bailout, but in this case we are not dealing with our own people but rather dictatorships unfriendly to our people.

Now, it is well recognized that this process of bailing out dictators to bail out banks has been going on for many years, but this year the bailout is reaching staggering proportions.

Last year in the 1977 foreign aid ripoff, which I fought hard and voted against, some 28 percent of its total $6.8 billion went for capital contributions to the big international financial institutions. These capital contributions in turn financed loans to roll over debt to commercial banks. This year's proposal, Mr. President, is a real bankers' bonanza, and it calls for similar capital contributions amounting to an outrageous 44 percent of the total foreign aid tab.

Why this tremendous increase in the slice of the pie given to the banks? Why this outrageous shift in emphasis from foreign aid for the relief of the poor to foreign aid for the relief of commercial banks?

Well, Mr. President, the main reason is that the large commercial banks have been unable to resist the massive profits they can make in booking offshore loans to foreign dictators who thereafter redeposit the loan in the same or another-large international bank where it is again lent out, and so on and so on, this process occurring with no reserve requirement whatsoever. You do not have to have a reserve requirement. There is no reserve requirement for offshore loans. It is like a gigantic balloon which frankly is reaching the bursting point. So what is the American taxpayer asked to do? The American taxpayer is asked to cough up untold billions to finance dictators to pay back the banks to prevent the balloon from bursting. Now, perhaps to some extent, we are compelled to give this assistance. But, Mr. President, we must begin to draw the line. We must begin to put the brakes on this process of churning off-shore loans. We must, finally, cease robbing the average working man and woman in the United States to pay for the excesses of Marxist and socialist dictatorships and to satisfy the greed for profit of the large international banks.

At the last annual meeting of the International Monetary Fund, the main topic of discussion was the care and feeding of the Witteveen Facility, which is, as Senators know, title V of this bill. Now Mr. President, what is the Witteveen Facility?

As I have outlined, over the last 25 years, poor countries around the world have gotten the advice that they should borrow massively from the big New York and London banks to build what is known, somewhat obscurely, as infrastructure. No one really knows what infrastructure means, Mr. President, and apparently a lot of times it means $20 million for the coronation of an emperor or perhaps $4 or $5 million for the wedding of a daughter of a dictator or perhaps $30 or $40 million for the well-known Swiss bank account, all of which we are aware of.

But anyway, Mr. President, infrastructure is what these poor countries were told they needed, and they were told they needed to get the money from New York and London.

So today, Mr. President, throughout the so-called Third World, there are infrastructure projects which were poorly conceived and corruptly administered, with the result that very few if any of them contribute whatsoever to the economies of the nations involved. But the debt is still there. The debt is still there and the interest on the debt must be paid. So, Mr. President, how are these nations going to pay off these debts? And I might add, Mr. President, that the Washington Star reports this debt ranges around $200 billion total. Well, one way these countries have sought to pay the debt off is to jack up their taxes, a process we are of course familiar with in this country. Then, typically, they are urged to adopt austerity programs. Well, Mr. President, there is already a great deal of austerity in many of these countries where the gross national product per capita is well below $550 per annum. In fact, things are pretty austere already when you are living on a subsistence economy. But these banks are demanding payment. Now at this point, Mr. President, enter the Witteveen Facility.

This Witteveen Facility, title V of this bill, is thought by many, and maybe they are correct, to be a ripoff of the taxpayers of the major industrial nations, in this case the taxpayers of the United States. Not being able to get water out of a stone, the banks have had to go to the nations of the world with free-enterprise economies in order to get their Third World loans and the interest on these loans paid off.

This indirect approach, using the Witteveen Facility, is essential in order to fool taxpayers into thinking that their contributions are to help the poor and are somehow charitable in nature. The fact is, Mr. President, that these contributions do not help the poor. They simply bail out the banks. This bill is masquerading as the Foreign Assistance Appropriations Act of 1978. I agree with the Washington Star that perhaps it should be called the Bankers Relief Act of 1978.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the editorial of the Washington Star entitled "The Witteveen Facility."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE WITTEVEEN FACILITY

The annual meeting of the International Monetary Fund starts today in Washington, D.C., which gives us an opportunity to lecture the whole gang of finance ministers all at once. The plain fact is, the IMF is among the chief sources of the planet's economic problems and it shows no sign of reforming.

The main topic of mischief this week no doubt will be the care and feeding of the Witteveen Facility, named after its creator, Johannes Witteveen, the IMF chairman. What is the Witteveen Facility? First we will tell you the problem the W–F seeks to correct.

Over the last 25 years, a lot of poor countries around the world came to the IMF and asked what they had to do to get ahead. The IMF advised them to borrow lots of money in the world's capital markets—the big New York and London banks, mainly—and use this capital to build "infrastructure." Dutifully, the little countries did so, but this has not proved the key to development.

So today, throughout the Third World, there is an abundance of rusting infrastructure, creaky steel mills, potholed roads. The cumulative debt now ranges around $200 billion, and the little countries have had to jack up their taxes to pay the debt service. From time to time a team of IMF economists drops by to recommend "austerity," mostly meaning higher taxes. By now the little countries have raised taxes on their miserable citizens to levels that can only be called "grinding." How can they now be further squeezed so the banks can be paid off?

Enter, the Witteveen Facility. The industrial countries should put $5.2 billion into the W–F, and the Arab oil sheiks will put up $4.8 billion. American taxpayers, in other words, will be asked to cough up a few billion for the IMF to loan to the poor countries so that they can pay off the banks.

This indirect approach is necessary in order to fool the taxpayers into thinking they are really helping the poor. Imagine the flap if the problem were solved honestly and directly: The Bankers Relief Act of 1977. How much more heartwarming it is to hear Sen. Jacob Javits who represents Manhattan, including lower Manhattan, warning that there will be an economic collapse unless we bail out the Third World (banks).

We doubt that such terrible things will happen if we fail to bail out the banks, though the big banks with the most infrastructure loans will no longer be quite so big unless they and the IMF can figure out another way to salvage their loans. We note that their problems can be solved by economic growth in the Third World, and see no reason why the IMF economists couldn't tell the little countries that what they need is not infrastructure but lower taxes, lower government expenditures, lower taxes, freer markets and lower taxes.

Mr. HATCH. Now, Mr. President, the banks have generally been able to take care of themselves, and I believe it is time for the Congress to take care of the American public first and let the banks write off a few bad loans. Banks collect interest on loans because of the risk they are taking in making the loan, the risk that the loan might not be repaid. So why do they not admit that these were bad loans? Why do they not admit that they took a risk and lost? Why is it they insist on coming to the Congress to get their bad loans taken care of? Why is it they insist on coming to the American taxpayer, who is already at the breaking point, to insist that he, the American taxpayer and American worker, cough up funds to pay for a bad loan made to a dictator, at least, in some of these cases? You know the saying, Mr. President, the public can be fooled some of the time but not all of the time, and, Mr. President, the word is getting out on this bankers' ripoff. The American public is getting the word on where these foreign aid funds really go, and I think it is time for us in the Senate to draw the line. And I think we had better draw the line now or the public will do it for us.

Why is it they insist on coming to the American taxpayers, who are already at the breaking point, to insist that they, the American taxpayers and the American workers, cough up funds to pay for bad loans made to dictators, at least in some of these cases?

You know the saying, Mr. President, the public can be fooled some of the time but not all of the time, and, Mr. President, the word is getting out that this is the bankers' relief bill.

The International Monetary Fund must be returned to its original purpose. The international financial institutions must be returned to their original purposes. The IMF and IFI's must cease being vehicles for strengthening socialist and dictatorial tendencies in recipient nations at the expense of taxpayers in free nations with strong, free-enterprise economies.

The House of Representatives, Mr. President, has had the good sense not to appropriate funds for the Witteveen Facility—the House of Representatives, Mr. President, has had the good sense—well, I guess they recently did appropriate the funds for the Witteveen Facility but only after a lot of discussion.

What I would like to bring forth at this particular point is a major speech delivered by Rimmer deVries, vice president, Morgan Guaranty Trust Co., at the World Outlook Conference, sponsored by World Econometric Forecasting Associates, in Philadelphia, Pa., on June 4, 1977.

Speaking of the international debt situation, he said:

> The high and rising levels of international debt continue to be the subject of lively controversy and considerable concern among bankers and economists. Most of the current commentary focuses on the external debt of the non-OPEC less-developed countries (LDCs), which by the end of last year may have risen to almost $180 billion, of which about $75 billion was owed to commercial banks. This concern is of fairly recent origin. It will be recalled that most LDCs were doing very well earlier in this decade when they showed good rates of economic growth, were able to increase substantially their reserve holdings, and had relatively modest external debt and debt service levels. But then the sharp rise in oil prices occurred and the OPEC countries created almost overnight a current account surplus of about $65 billion in 1974, radically upsetting the balance of the international economy.

This is precisely what the distinguished Senator from Arizona has pointed out.

I might add that this speech was given in June of 1977. The conditions have worsened since, so we can just magnify in intensity the things that are being spoken about here.

> Many commentators now take a fairly pessimistic view of the world payments and external debt situations. They typically hold a scenario which consists of the following assertions:
>
> (1) The annual OPEC current account surplus, while reduced from its 1974 high to a level of about $35–$40 billion in 1975 and 1976, will remain about that large for the indefinite future;
>
> (2) the direct and indirect burden of the OPEC surplus falls mainly on the LDCs, which therefore have large deficits to finance annually; as it happens, the OPEC surplus and the combined current account deficit of the non-OPEC LDCs are about the same in magnitude;
>
> (3) since the OPEC surplus will remain very large for a long time to come, the LDCs will not be able to finance their new deficits through private financial markets and they will have increasing difficulties servicing their large external debt;

And I might add parenthetically, after No. 3, how are we going to get paid back? We have been assured here today that all of these loans that we are making are going to be paid right back by these LDC's, who have a hard time servicing their largt external debt. So who is going to pay these back and how can they stand here and make these kinds of assurances on the floor today, knowing that there are only three countries in the world which literally have anywhere near decent economies right now, other than some of the OPEC countries themselves?

> (4) accordingly, if debt rescheduling and defaults are to be avoided, new official sources of financing will have to be created as soon as possible; and leading industrial countries such as the United States, Germany, and Japan, which are heavy recipients of OPEC surplus funds, should run large current account deficits offsetting the OPEC surplus and enabling the non-OPEC LDCs and smaller industrial countries to balance their current accounts;
>
> (5) this would help to restore balance in the world economy, improve the creditworthiness of the borrowing countries, and increase the confidence which private financial markets have in these countries.
>
> I do not accept all of the premises on which this scenario is based. I believe that the international situation is more hopeful than is customarily portrayed. A key point is that, if the international debt problem is the direct consequence of the large imbalance and dislocations created by the higher oil prices together with the subsequent tardy movement to restore international payments balance, the best way to deal with this problem is to improve international payments adjustment. Those who are pessimistic about the latter are also despondent about the international debt problem. But I am more hopeful than others about the outlook and possibilities for international payments adjustment.

Probably, one of these hopes is that we would fund the Witteveen Facility to the tune of $1.8 billion. I assume that that is about to be realized by our vote here today.

> THE OPEC SURPLUS WILL NARROW
>
> Fundamental to any analysis of the international adjustment process is the outlook for the OPEC surplus. The future course of the magnitude of this surplus depends on a number of important variables such as the price of oil and other goods and services, world demand and supply for oil, and the import capacity of OPEC countries, all of which are subject to a high degree of uncertainty. It nevertheless is misleading to postulate with a great deal of conviction that the OPEC surplus will stay at its present high level for many years to come. Based on assumptions which we believe reasonable, the OPEC surplus may well fall to about the $10 billion level by the end of this decade (see Table 1).

I ask unanimous consent to have the table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—OPEC CURRENT ACCOUNT BALANCE

[Excluding official transfers; in billions of dollars]

	1974	1976	1977	1978	1979	1980
4 Arabian Peninsula countries [1]	37.0	32.3	33.6	23.0	18.1	15.8
Rest of OPEC [2]	27.7	5.3	.5	1.5	−4.6	−5.3
Total	64.7	37.6	34.1	24.5	13.5	10.5

[1] Kuwait, Qatar, Saudi Arabia, UAE.

[2] Algeria, Ecuador, Gabon, Indonesia, Iran, Iraq, Libya, Nigeria, Venezuela.

Mr. HATCH. Mr. deVries continues:

> This more optimistic view of the evolution of the OPEC surplus is predicated on the following assumptions:
>
> (a) oil prices will rise as fast as world manufactures prices, or by 7 percent per annum;
>
> (b) world demand for oil will rise by 4½ percent per annum during 1977–80 due to slower economic growth than in the past, somewhat greater conservation efforts (but not as much as President Carter hopes to achieve) and modest development of non-oil energy sources;
>
> (c) OPEC oil export volume will grow only slowly for the rest of the 1970s, partly because of the coming on stream of oil production in Alaska, Mexico, and the North Sea;
>
> (d) the two-tier price system will be terminated by the end of this year, enabling most of the eleven OPEC countries again to step up their oil exports at the expense of Saudi Arabia and the UAE;
>
> (e) the real growth rate of imports of goods and services of OPEC countries will continue to slacken during 1977–80 to an average annual rate of about 17 percent for the four Arabian peninsula countries and 6 percent for the nine other OPEC countries.
>
> Beyond 1980, when OPEC oil exports are projected to rise somewhat faster after North Sea and Alaskan oil production reaches its peak, the OPEC surplus still could remain at or below the $10 billion level even if the growth rate of imports of goods and services of the OPEC countries decelerates to about half the rate of expansion assumed for the 1977–80 period. This projection, it should be noted, assumes that the objectives of the Carter Energy Program are only partially achieved and that by 1985 the United States is still importing about 9–10 million bpd instead of the 6 million bpd aimed at by the Carter program.

I think that is a very optimistic statement on the part of Mr. deVries, because I think it will be more than 9 to 10 million barrels per day as time goes on, and because we do not have an energy program and what the President has offered and others have offered are unlikely to create solutions to our energy problems in America.

Mr. deVries goes on:

> Many analysts have difficulty accepting this projected moderation of the OPEC surplus mainly because they have doubts about the absorptive capacity of the Arabian peninsula countries. Even with the considerable scaling down of the growth in imports of goods and services assumed in our projections, Saudi Arabia would import nearly $50 billion of goods and services in 1980 and about $100 billion in 1985, in current prices of those years. Experts have no doubts about the ability of countries such as Nigeria, Iran, Indonesia, and Venezuela to spend all their oil export earnings, but they are skeptical about the future import capacity of Saudi Arabia, the largest OPEC oil exporter.
>
> In view of the pivotal role of Saudi Arabia in OPEC, the future course of the OPEC surplus, and the international payments adjustment, I urge that more serious economic research be done on that country's potential absorptive capacity. In my opinion, it is easy to underestimate its potential imports of goods and services. First, the ratio between imports and national income should be extremely high in Saudi Arabia. A year ago it was over 40% but it could become substantially higher, partly because of the very capital-intensive nature of that country's economic development, its relatively small indigenous labor force, and its lack of natural resources other than oil. Last year Saudi Arabia's per capita imports of goods and services amounted to a little over $2,000,

about half of those of Kuwait, and I have no difficulty assuming that it could approximately double (in constant prices) by 1980 as we have postulated. Secondly, it seems to me erroneous to state that countries with small populations have a low capacity to import. The relationship between people and spending or import levels is not a close one. For example, Switzerland with 6 million people imported $19 billion of goods and services in 1976 and India with 600 million people had imports valued at less than $6 billion.

In my judgment, there is no *a priori* reason to expect that the overall OPEC surplus will stay at its present high level. In fact, it is more likely that it will be pared year after year and become much more moderate and manageable by the end of this decade.

CURRENT ACCOUNT ADJUSTMENT IN LDC'S AND INDUSTRIAL COUNTRIES

The second step in the pessimistic scenario is the contention that the non-OPEC LDCs are the countries most seriously affected by the higher oil prices. This view ignores several important developments. First, it is obvious that industrial countries are the largest consumers of energy and oil. In 1976, they accounted for about 85% of free world oil consumption. The cumulative current account deficit of the industrial countries excluding the major surplus countries (namely, Germany, the Netherlands, Switzerland, and Japan) during 1974–77 will be about twice as large as that of the non-OPEC LDCs. Second, while it is true that the principal industrial countries are in a preferred position to supply investment goods, entire plants, and arms to the OPEC countries, not all LDCs are incapable of increasing their exports to OPEC, and some of them (e.g., India and Korea) also are reaping substantial benefits from the repatriation of earnings of workers there.

Much more important, although the LDCs may not be in as good a position to sell the goods and services desired by OPEC, they have been stepping up their shipments to the United States and Germany. In other words, while industrial countries are expanding their sales to OPEC countries, the LDCs are accelerating their sales to industrial countries. This again indicates that considerable international adjustment is being accomplished and that the non-OPEC LDCs by no means are excluded from its beneficial aspects. Indeed, if the combined current account deficit of the non-OPEC LDCs is restated to allow for inflation and growth in trade volume it is about the same size as before the oil price increase. (See World Financial Markets, December 1976 and April 1977.)

The results of this overall adjustment process are registered in the various countries' current accounts, and it is instructive to examine the data for 1974 and the projected numbers for 1977. In the three years since 1974, the largest current account deterioration is shown by OPEC ($30½ billion), Germany ($7¼ billion), and the United States ($8½ billion). The benefits of this overall deterioration of more than $46 billion accrued to a great number of countries. Table 2 shows how the current accounts of a large number of countries have fared.

Mr. President, I ask unanimous consent that table 2 be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 2.—CHANGES IN THE CURRENT ACCOUNTS OF SELECTED COUNTRIES, 1974–77 [1]

[In billions of dollars]

	1974	Projected 1977	Change 1974–77	1977 imbalance as percent of GNP/GDP
OPEC	64.7	34.1	−30.6	
United States	[2] −1.6	−10.0	−8.4	0.5
Germany	9.8	2.5	−7.3	.5
Total			−46.3	
Countries showing improvement:				
Japan	−4.7	6.0	10.7	1.0
Switzerland	.2	3.5	3.3	5.6
Netherlands	2.0	2.7	.7	3.0
Italy	−9.0	0	9.0	0
United Kingdom	−7.8	−.8	7.0	.3
France	−5.9	−4.3	1.6	1.1
Yugoslavia	−1.2	−.5	.7	1.1
Australia	−2.6	−2.0	.6	1.8
New Zealand	−1.1	−.5	.6	3.8
Finland	−1.2	−.8	.4	.8
Ireland	−.7	−.5	.2	6.0
South Africa	−1.4	−1.2	.2	3.0
Greece	−1.2	−1.1	.1	4.0
Brazil	−7.1	−4.0	3.1	2.8
India	−.5	1.5	2.0	1.7
Korea	−2.1	−.3	1.8	.9
Taiwan	−1.1	.2	1.3	1.0
Colombia	−.4	.8	1.2	7.0
Malaysia	−.3	.6	.9	5.7
Mexico	−2.6	−1.8	.8	2.4
Argentina	.1	.4	.3	.5
Chile	−.4	−.3	.1	1.0
Peru	−.8	−.7	.1	5.0
Countries showing deterioration:				
Norway	−1.2	−3.8	−2.6	11.8
Canada	−1.5	−4.0	−2.5	2.0
Austria	−.5	−1.5	−1.0	3.4
Sweden	−1.0	−2.5	−1.5	3.0
Spain	−3.2	−4.0	−.8	2.9
Denmark	−.9	−1.5	−.6	3.5
Belgium	.9	.3	−.6	.4
Portugal	−.8	−1.1	−.3	6.1
Turkey	−.6	−2.1	−1.5	4.4
Philippines	.4	−1.1	−1.5	5.2
Thailand	−.1	−.6	−.5	3.5

[1] Including official transfers for industrial countries, and excluding official transfers for OPEC and non-OPEC LDC's.

[2] Excluding special transaction with India.

Mr. HATCH. Mr. President, he goes on to say:

> (1) Quite a few important LDCs have made considerable improvement in their current accounts—albeit at a considerable social cost—and several of them are now recording surpluses;
>
> (2) Some industrial countries, notably Japan and Switzerland, have strengthened their current accounts by a combined total of $14 billion over this period, far more than is desirable, offsetting a large part of the favorable adjustment contribution made by OPEC, Germany, and the United States, and worsening the relative positions of other countries;
>
> (3) Some countries, mostly industrial ones, have failed to register any current account improvement during the last three years and indeed have shown a deterioration.
>
> Thus, looking at the current account adjustment process of the major countries over the past few years, one must come to the conclusion that the LDCs have beneficially participated in this process in a significant way and that, with a few exceptions, the industrial countries have lagged behind. The countries which we should be concerned with in this respect are not only Turkey and the Philippines but especially Spain, Portugal, the Scandinavians, and Canada, and also those conutries whose deficits have been reduced only relatively little such as France, South Africa, and Ireland. Several of these countries (e.g., Spain and Denmark), however, could improve their positions rather quickly if they chose to pursue more realistic exchange rate policies, cut domestic consumption, and develop effective energy policies. A better policy framework in these deficit countries, together with a strong commitment on the part of industrial countries, especially those in surplus, to maintain high growth rates and ensure a steady expansion of international trade, should enable most deficit countries to achieve viable current account positions.
>
> THE RESPONSIBILITY OF THE UNITED STATES IN THE ADJUSTMENT PROCESS
>
> I also have difficulty accepting the view that the United States should be prepared to run a much larger current account deficit to help offset the OPEC surplus. There is a direct connection between U.S. oil imports and the OPEC surplus (Table 3).

Mr. President, I ask unanimous consent that table 3 be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 3.—SIGNIFICANCE OF U.S. OIL IMPORTS

[In billions of dollars]

	1973	1974	1976	Projected 1977
A. U.S trade and current account:				
Agricultural products, net [1]		10.3		7
Manufacturers, net [1]		8.6		11
Oil, net [1]		−22.0		−38
Trade balance [1]		−3.1		−20
Trade balance, b.o.p. basis		−5.4		−23
Services and transfers, net		3.8		13
B. Trends in cil trade 1973–77:				
1. U.S. oil consumption (million barrels per day)	17.31	16.65	17.44	18.30
2. U.S. net oil imports (million barrels per day) [2]	6.03	5.87	7.07	8.10
3 U.S. net oil imports (billion) [2]	$6.50	$22.00	$29.80	$38.00
4. OPEC crude oil exports (million barrels per day) [3]	29.95	29.60	29.00	28.50
(2) as a percent of (1)	34.80	35.30	40.50	44.30
(2) as a percent of (4)	20.10	19.80	24.40	28.40
5. OPEC current account balance (billions) [4]	$5.14	$64.70	$37.60	$34.10
6. Saudi Arabia's oil revenues (billions) [5]	$5.59	$27.89	$34.12	$46.62
7. Saudi Arabia's current account balance (billions)	$2.64	$23.31	$19.31	$22.90

[1] Customs basis.

[2] U.S. imports of crude and refined products minus exports of crude and refined products.

[3] Based on OPEC domestic consumption estimates by MGT.

[4] Excluding official transfers.

[5] Including natural gas liquids.

Mr. HATCH. Mr. President, Mr. deVries continues:

Net U.S. oil imports, Saudi Arabian oil revenues, and the OPEC surplus are all of the same order of magnitude. Largely because of the rapid rise in U.S. oil imports, the U.S. trade and current accounts have moved into large deficits. Rather than advocating even larger U.S. deficits, I would suggest that the deficit could be narrowed substantially to the benefit of both the United States and the world economy. A narrowing of the U.S. deficit through an effective energy policy and the curtailment of oil imports could accomplish several important objectives. It would help reduce pressure on oil prices to the benefit of all oil-importing nations; it also would contribute to narrowing the Saudi Arabian and the OPEC surpluses, and thus enhance world payments equilibrium.

In fact, I believe that in the entire discussion of the international debt situation far too little emphasis is placed on U.S. energy policies. The high level of U.S. oil consumption and the rapid rise in U.S. oil imports during this decade unquestionably have contributed significantly to the sharp rise in oil prices, to the failure of oil prices to come down, and to the recent stickiness at a high level of the OPEC surplus. This year, net U.S. oil imports will be equivalent to 29 percent of OPEC exports and will be a third higher than in 1974, while OPEC oil exports to countries other than the United States will be down by more than 10 percent. Thus, quite apart from obvious military and political considerations, the United States should formulate a strong energy policy in order to make an important contribution to the restoration of international payments equilibrium. I am sure that no one will deny that this country is able both to increase its domestic energy supply and cut its energy consumption without too much difficulty over the next several years. For example, just by doubling the average gasoline mileage of the U.S. automobile stock, U.S. oil imports could be halved.

THE GLOBAL PAYMENTS OUTLOOK

My comments so far indicate that the opportunities for narrowing the international payments equilibrium are greater than generally is assumed. In particular, the absorptive capacity of Saudi Arabia—the country showing the largest current account imbalance in the world—is probably much larger than is widely believed. Furthermore, the United States—the largest industrial country and the most extravagant oil consumer—has a much greater contribution to make to this adjustment process than we have thus far shown any signs of assuming. We are a bigger part of the problem than we have yet admitted, and we should point our finger at other countries less often.

During the four years 1974–77, OPEC countries will have accumulated a surplus of more than $150 billion (see Table 4).

Mr. President, I ask unanimous consent that table 4 be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 4.—CURRENT ACCOUNT BALANCES INCLUDING OFFICIAL TRANSFERS

[In billions of dollars]

	1974	Projected 1977	Cumulative total 1974–77
OPEC	61.5	29.8	153.5
Selected industrial countries	5.7	4.7	41.5
Germany	9.8	2.5	19.2
Japan	−4.7	6.0	4.3
Switzerland	.2	3.5	9.6
Netherlands	2.0	2.7	8.9
United States	−1.6	−10.0	−.5
Total	67.2	34.5	195.0

Mr. HATCH. Mr. President, Mr. deVries continues:

In addition, the four principal surplus industrial countries—Germany, Switzerland, the Netherlands, and Japan—will have racked up another $40 billion surplus, and the current account of the United States will have been about in balance. Together, these countries will have accumulated close to $200 billion of current account surpluses. The rest of the world, by definition, must have incurred an overall deficit of the same magnitude. Although there are a great many statistical problems involving discrepancies in coverage, timing and valuation in the recording of transactions, it appears that more than half of this overall deficit was incurred by other industrial countries, about 15% by communist countries, and about one-third by non-OPEC LDCs.

During the next four years 1978–81, the OPEC countries, on the basis of our scenario, may run a total surplus of about $50–$60 billion, about one-third the total of the previous four-year period. While the combined surplus of Germany, the Netherlands, Switzerland, and Japan has been rising in recent years, this is now largely offset by the current account deficit of the United States, and continued pressure on the four countries to cut their surpluses hopefully will bear some fruit. Accordingly, the combined current account imbalance of the deficit countries is likely to be substantially smaller—perhaps only $60–$70 billion—during the next four years, requiring much less net new official and private financing.

I think the distinguished Senator from Arizona has raised some very significant points here indicating they are backed up in part by what Mr. deVries has had to say in this very excellent speech.

What I might add is that I believe there are $600 billion, including Eurodollars, et cetera, in the hands of four nations, and we are about to make it $609 billion by this foreign aid bill, which is almost $3 billion more than last year's foreign aid bill, at a time when we are facing an $869 billion national debt next year and a $4 trillion to $6 trillion unfunded debt in our economy.

Yet nobody seems interested in cutting down this particular foreign aid bill.

I think it is time we start thinking about it. The Witteveen Facility perhaps should be supported, although I think it is to a great degree a bailout of the international banks—commercial banks, if you will—which have gotten themselves into the binds they are in.

All I can say is that if we continue to allow our dollars to escape this country, because we are so generous that we rape the American taxpayers continuously, to be able to do this, then I think we deserve what we are going to get, which is going to be a major recession in this country. It might even develop into a major depression. I am as much concerned with that as I am with what my distinguished friend from New York is concerned about in not financing the Witteveen Facility. I think he has made some interesting points, and I have listened carefully.

Mr. deVries goes on:

THE BUILDUP OF EXTERNAL DEBT

This more encouraging outlook notwithstanding, the fact remains that the current account imbalance and the ensuing external debt buildup have been very large in recent years. Available statistics are inadequate to determine with any precision how the combined imbalance of about $200 billion was financed. However, looking at the available data on financial flows, it is possible to estimate the orders of magnitude or shares of the total accounted for by several broad categories of financing. For example, the use of IMF credit over the four-year period may total approximately $17 billion, or about one-twelfth of the combined imbalance. Official development assistance loans and direct investment flows each may account for close to one-eighth of the total. Private financial markets—international bond issues and commercial bank loans—probably constitute nearly three-quarters of the total financing——

I think that is very relevant. He continues:

with bank lending alone representing perhaps 55%–60% of the financing of the global imbalance.

Table 5 shows bank loans to selected countries outstanding at the end of 1976.

I ask unanimous consent that table 5 be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 5.—BANK CLAIMS ON SELECTED COUNTRIES AT END-1976 [1] [2]

[In billions of dollars]

	All banks [3]	U.S. banks [4]	Non-U.S. banks
Non-OPEC LDC's	76.83	52.03	24.80
Brazil	21.22	13.86	7.36
Mexico	17.85	13.00	4.85
Korea	3.90	3.23	.67
Argentina	3.40	2.34	1.06
Peru	2.83	1.92	.91
Philippines	2.61	2.29	.32
Taiwan	2.56	2.56	
Turkey	2.06	1.27	.79
Colombia	1.63	1.34	.29
Thailand	1.43	.82	.61
Chile	1.09	.84	.25
Others	16.24	8.54	7.70
OPEC countries	24.80	12.98	11.82
Venezuela	6.86	4.37	2.49
Indonesia	3.44	2.22	1.22
Others	14.50	6.39	8.11
Eastern Europe	29.20	4.29	24.91
U.S.S.R	10.35	1.51	8.84
Others	18.85	2.78	16.07
Total	130.83	69.30	61.53

[1] Includes gross claims in domestic and Euro currencies.

[2] Excludes countries that are members of OECD (except Turkey), Israel, South Africa, Yugoslavia. and offshore banking centers (Bahamas, Bermuda, Cayman Islands, Hong Kong, Lebanon, Liberia, Netherlands Antilles, New Hebrides, Panama, Singapore, Virgin Islands, and West Indies).

[3] Includes banks in Belgium-Luxembourg, France, Germany, Italy, Netherlands, Sweden. Switzerland, United Kingdom, Canada, Japan, United States, and foreign branches of U.S. banks in the Bahamas, Cayman Islands, Panama, Hong Kong, and Singapore.

[4] Banks in the United States (including U.S. agencies, branches and subsidiaries of foreign banks), and foreign branches of U.S. banks.

Mr. HATCH. Mr. President, Mr. deVries continues:

This table indicates that at the end of 1976 commercial banks had about $130 billion of claims on less developed countries including both OPEC and non-OPEC countries, and Eastern Europe.

That is serious. That was 1976, and it is worse today. It is pretty easy to see why the Witteven Facility is thought to be so important by the commercial banks of this country, because they are going to lend our money, along with others, so that they can bail out the less developed countries, who in turn will pay it back to bail out the banks.

Mr. deVries continues:

The total amount was about equally divided among U.S. and non-U.S. banks. However, the table also shows that of the loans to these non-industrial countries, U.S. bank loans were heavily concentrated in the non-OPEC LDCs, while non-U.S. banks, mainly European, were heavy lenders to Eastern European countries and to OPEC countries, other than Venezuela and Indonesia.

I might add, parenthetically, that I think it is pretty important to see that while the European banks are taking good care of themselves, so that they, in turn, will be paid back, our banks have been lending money to countries that are unable to pay them back. We should understand that.

If we are going to give to the lesser developed countries that cannot pay back, let us do it straight up. Let us not bail out the banks which hold—according to Mr. deVries, in 1977—three-quarters of the total financing of these countries. We see that going on while at the same time they are financing the destruction of this country. That is why I support the very good amendment of the distinguished Senator from Arizona, among other reasons.

Mr. deVries continues:

These global numbers are staggering, and to many analysts frightening. Observers frequently ask whether the levels of external debt and servicing requirements are not already so high that borrowing countries and lending institutions will face serious financial difficulties——

This is back in 1977, and he hits the nail on the head. That is what we are talking about. And they are telling us that they are going to pay these moneys back?

Mr. deVries goes on:

and whether these borrowing countries will ever be able to run current account surpluses enabling them to repay their debts. Inherent in the minds of the questioners is the contention that for a borrowing country to be commercially creditworthy it should be able to run a current account surplus in the long run.

That is what bothers me about people walking onto this floor and saying, "Don't worry; this is a wonderful thing, for the American taxpayers to be assessed and promised $2 billion," while we have the problems we have: runaway inflation and nothing being done about it; runaway Government; overregulation of our society.

Then, the banking leaders of the world admit, in major speeches such as this, that, literally, there is probably nothing they can do to make these people pay back. Then they say that the Witteveen Facility is the beautiful way of solving the world's monetary problems and that we are going to be paid back, with interest.

I respect the Senators who have made these points, and I hope they are right; but I do not believe that Mr. deVries would agree with them, or at least this speech he made in 1977 does not agree with them. In the end I think he agrees, if anything, with the distinguished Senator from Arizona and with me, in our fight to try to get some reason in what we can do to keep the American taxpayer from being saddled well into the future.

Mr. deVries goes on:

There are no easy and quick answers to these questions. However, it should be pointed out first of all that it is incorrect to equate a country's creditworthiness with its ability to achieve current account balance or surplus. As noted, there is a substantial flow of direct investment and official development assistance loans which enables countries to maintain current account deficits without having to increase their borrowing from private credit markets.

That is a very true statement. That is exactly what the Witteveen Facility is supposed to do. In other words, they can borrow from these official development assistance loan situations, such as Witteveen, and at the same time, without having to increase their borrowing from private credit markets, and in the end maintain the account deficits they are living with.

Mr. deVries continues:

Furthermore, some countries should be able to attract substantial amounts of private credit because of their growth potential.

I say hooray for them. I certainly pray for their success, because it would take the burden off the American taxpayer for a change.

Obviously, a country with a politically stable, well-managed economy, and with considerable human and/or natural resources, holding forth excellent development and export prospects, should have ample access to international financial markets. For the most creditworthy countries the current account does not have to be in balance or in surplus at all, and certainly not for the life of the average loan.

The ability of a country to avoid external debt management difficulties depends to a large extent on whether it has maintained an appropriate balance between its relative level of existing debt on the one hand, and the terms on which it has attracted this debt plus its continued access to new debt, on the other. When such balance does not exist, or has deteriorated, debt management difficulties may still arise in countries with the best of overall policy intentions and best growth potential.

As yet, no one has developed a fully satisfactory statistical approach to determining what this balance should be. However, it is possible to tabulate a number of debt-related indicators which show how various countries rank on the basis of certain relevant ratios. Tables 6 and 7 show these indicators for some 30 countries, including industrialized, communist, and developing countries, both OPEC and non-OPEC.

Mr. President, I ask unanimous consent that tables 6 and 7 be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 6.—EXTERNAL DEBT OF SELECTED COUNTRIES

	External debt[1]			
	Billions of dollars, end-1976	Percent of exports of goods and services, average 1974–76		Real growth of external debt in percent, 1973–76[2]
3 Mexico	27.6	361	3 Poland	229
			3 Venezuela	204
3 Chile	5.1	242	1 Portugal	188
3 Peru	4.4	226		
3 India	13.6	223	1 New Zealand	133
2 Brazil	28.6	216	1 Ireland	110
			3 U.S.S.R	105
3 Poland	11.5	193	1 Mexico	103
2 Argentina	9.0	185	3 East Germany	97
3 East Germany	6.3	177	2 Spain	96
3 Hungary	3.9	173		
3 Colombia	3.8	142	2 France	89
			3 Taiwan	86
3 Turkey	5.7	128	3 Hungary	86
3 Philippines	5.5	121	3 Korea	73
3 Indonesia	10.8	118	3 Malaysia	73
3 Korea	9.5	111		
3 Finland	9.0	109	3 Philippines	67
			3 Finland	67
2 Algeria	6.7	88	2 Brazil	62

	External debt[1]			
	Billions of dollars, end-1976	Percent of exports of goods and services, average 1974–76		Real growth of external debt in percent, 1973–76[2]
3 Canada	45.1	86	1 Peru	51
3 Yugoslavia	8.0	84	1 Thailand	50
3 U.S.S.R	16.0	80		
3 Greece	3.9	78	3 Turkey	33
1 New Zealand	2.8	77	3 Colombia	31
3 Denmark	9.5	61	3 Denmark	29
			3 Canada	26
3 Thailand	2.2	55	2 Yugoslavia	25
2 Spain	10.2	53		
3 Iran	6.1	46	3 Italy	21
3 Venezuela	7.0	45	3 Greece	18
3 Italy	20.0	44	2 Argentina	0
1 Ireland	2.3	44		
3 Taiwan	3.9	43	3 India	−9
			3 Chile	−14
1 Portugal	2.3	38	1 Algeria	−36
3 France	26.2	34	3 Indonesia	−46
3 Malaysia	1.9	29	3 Iran	−54
1 Nigeria	1.0	11	3 Nigeria	−68

[1] 3 different levels of debt comprehensiveness are used in calculating ratios; highest of three levels for a particular country is shown above in case where more than one is reported or estimated: 1) total long-term public and publicly-guaranteed private external debt, plus IMF drawings; 2) total long-term external debt, public and private, plus IMF drawings; 3) total long- and short-term external debt, except that the short-term external liabilities of commercial banks are included only to the extent that they exceed their external assets.

[2] External debt outstanding deflated by export prices.

TABLE 7.—INDICATORS OF EXTERNAL DEBT MANAGEMENT[1]

	Debt service ratio 1976[2]	
2 Brazil	45.9	(11.7)
2 Chile	44.9	(39.5)
2 Argentina	40.9	(24.3)
1 Mexico	31.7	
2 Poland	30.0	(30.0)
1 Peru	27.9	
2 Philppines	15.9	(7.8)
2 Yugoislavia	15.3	(15.3)
1 Algeria	14.5	
1 New Zealand	14.0	
1 India	13.6	
2 Korea	12.8	(9.5)
2 Portugal	12.5	(NA)
2 Thailand	11.8	(2.2)
2 Greece	11.1	(10.0)
2 Finland	10.3	(NA)
1 Turkey	9.9	
2 Spain	9.1	(3.3)
1 Indonesia	8.7	
1 Colombia	8.6	
2 U.S.S.R.	8.1	
2 France	7.7	(NA)
2 Denmark	7.5	(2.5)
2 Canada	6.0	(NA)
2 Italy	5.4	(NA)
1 Ireland	5.3	
1 Venezuela	4.7	
1 Iran	4.2	
1 Taiwan	4.1	
1 Malaysia	3.0	

	Gross external borrowings as percent of imports, average 1974–76	
1 Mexico	68.9	
2 Brazil	57.7	(26.5)
2 Chile	56.0	(48.5)
2 Argentina	48.9	(38.3)
1 Peru	45.4	
1 Indonesia	33.8	
1 Malaysia	32.9	
1 Algeria	32.7	
2 Philippines	31.0	(15.2)
2 Yugoslavia	27.1	(27.1)
1 New Zealand	26.7	
2 Colombia	26.0	(23.0)
1 India	25.3	
2 Korea	23.9	(24.9)
2 Greece	20.6	(11.7)
2 U.S.S.R.	20.4	(20.4)
2 Finland	19.6	(NA)
2 Thailand	18.0	(5.2)
2 Canada	15.1	(NA)
1 Ireland	14.5	
2 Spain	13.8	(6.3)
1 Turkey	12.0	
2 Portugal	11.7	(NA)
1 Taiwan	8.6	
2 Italy	8.5	(NA)
1 Denmark	8.3	
2 France	8.0	(NA)

	Debt service as percent of gross external borrowings, average 1974–76	
1 Venezuela	288.6	
2 Italy	156.5	(NA)
2 Portugal	128.6	(NA)
2 Argentina	100.3	(81.9)
2 Thailand	73.8	(50.3)
1 Colombia	75.5	
2 Chile	69.6	(71.1)
1 India	69.1	
2 Yugoslavia	66.5	(66.5)
2 Philippines	61.5	(45.2)
1 Denmark	60.9	
1 Turkey	58.9	
2 Finland	58.4	(NA)
2 Brazil	57.9	(32.8)
2 Korea	53.7	(47.6)
1 Greece	52.7	
1 Peru	50.9	
2 Spain	50.2	(35.6)
1 Algeria	50.2	
2 Greece	47.3	(52.7)
2 Canada	45.8	(NA)
1 Taiwan	44.6	
2 U.S.S.R.	44.3	(44.3)
1 New Zealand	43.2	
1 Mexico	41.2	
1 Ireland	31.5	
1 Indonesia	27.9	

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[1] Debt definitions used in calculation of ratios are: 1 total long-term public and publicly guaranteed private external debt, plus IMF drawings; 2 total long-term external debt, public and private; where both definitions are available, countries are ranked on the basis of the 2d, and the 1st is shown in parenthesis.

[2] Debt service ratio is amortization and interest payments as percentage of exports of goods and services.

Mr. HATCH. Mr. President, Mr. deVries continues:

Table 6 presents the magnitude of external debt of these countries and also the relationship between their debt and their exports of goods and services. Furthermore, the recent growth of external debt in real terms is indicated. It is interesting to look at the top ten countries on each of these two bases. Mexico's total external debt was more than 3½ times its annual exports on average during 1974–1976, and four countries had external debt levels, variously defined, which were more than twice the size of average annual exports. Since 1973, seven countries' external debts have more than doubled in real terms. Looking at both rankings in this table, the countries which rank high on the basis of recent real debt growth are generally not the same as those which have high relative debt levels, with a few significant exceptions—notably Mexico, Poland and East Germany. It is also worth noting that some developed countries—Portugal, Spain, Ireland, France and New Zealand—have experienced very rapid real rates of external debt growth, though their debt/export ratios remain low due to their small initial debt levels and high export levels. With the exception of Mexico, none of the major LDCs normally cited in discussions of external debt rank very high on the basis of real debt growth.

That is serious. These are things that I think have to be considered. This is not some Senator talking. This is not just anyone talking. This is one of the top people in our international banking community, Rimmer deVries, vice president of Morgan Guaranty Trust Co., speaking at the World Outlook Conference sponsored by the Wharton Econometric Forecasting Associates in Philadelphia.

He goes on to say:

Table 7 relates a country's annual external debt service (amortization and interest payments) to the level of its exports of goods and services. It shows that the countries with the highest ratios are almost all LDCs and that five of the top six are Latin American countries. The high debt service ratios of some of them are explained in part by the less advantageous terms on which they acquired debt originally and by the sheer volume of external borrowing relative to export prospects. In certain of these countries, this has been due to the authorities' penchant for external financing of domestic fiscal deficits. Although the debt service ratio is the most widely used, by itself it is not necessarily an indicator of an unmanageable situation. Some countries with very high debt service ratios have nevertheless maintained their ability to borrow—no doubt a reflection of the high degree of their creditworthiness as perceived by financial markets.

Table 7 also shows two other ratios which, used together, may be more instructive. They relate a country's gross external borrowing to its imports and to its external debt service—the latter being a reflection of the need to replace existing debt with new debt, the so-called "rollover" ratio. For an external debt situation to be manageable, the rollover ratio needs to be maintained at a sufficiently low level to avoid gross external borrowing that is very high in relation to imports. The combination of a very high rollover ratio and a very high ratio of gross external borrowing to imports points to strong competing demands for the proceeds of external borrowing as well as, by implication, inadequate export earnings.

A country with high ratios in both instances may be faced with a need to borrow—to service existing debt and sustain a level of imports adequate for economic growth—on a scale which could exceed the willingness of international lenders to make additional loans. For a while a country may increase its access to external financing by the buildup of short-term debt, as has been done by a number of countries, but ultimately the chances are high that a country with a combination of high rollover and gross external borrowing/import ratios will be forced to reduce economic growth or restructure its external debt, or—more likely—to do both. The purpose of restructuring external debt—either through bilateral or multilateral negotiations—is to lower the rollover ratio to more realistic levels.

Table 7 indicates that the countries with the most unfavorable ratios in both columns are Argentina, Chile, the Philippines, Yugoslavia, and India. Of these, Argentina underwent a major debt refinancing last year, and its balance-of-payments outlook is reasonably favorable for the next few years. Chile had to formally reschedule its debt in 1973–75, but rescheduling was unnecessary last year; this country is quite vulnerable to declines in copper prices, although recently the trend of non-copper exports has been encouraging.

The Philippines face not only sizable debt service requirements, but also the prospect of no more than a modest improvement in the current account position. Accordingly it is incumbent upon the country to adhere closely to the conditions of its Extended Facility with the IMF, and avoid any slippage in its adjustment efforts. Within the past few years Yugoslavia has lengthened the maturity structure of its external debt and has taken strong measures which contributed to the elimination of its current account deficit in 1976. While the current account is moving back into deficit, Yugoslav authorities appear determined to keep it to manageable proportions, and avoid a significant increase in the external debt service ratio.

The rollover ratios in Table 7 are, of course, only on an historical basis. For Mexico and Peru particularly, the heavy gross borrowing during the 1974–76 period temporarily depressed rollover ratios relative to the experience of the early 1970s, while Brazil's ratio has tended to stay low throughout the 1970s so far. Given the harder terms of the new debt taken on in the past three years in these three countries, it is reasonable to expect rollover ratios to rise in the near term.

Peru is clearly facing an external debt refinancing problem this year, and has recently had some difficulty in agreeing with the IMF on the conditions for a new standby agreement, which will be important to maintain its access to the private markets. The long-term balance of payments outlook in Mexico is quite favorable due to its oil and natural gas resources; however, over the next two to three years there will be a quantum jump in the external debt servicing burden simultaneously with the need to borrow large amounts of new money to finance the expansion of oil and natural gas resources. In Brazil, the external debt is generally considered to be better managed than in most other developing countries, and the country has fairly favorable trade prospects for the medium run; but as in Mexico, a significant rise in gross borrowings seems necessary in the late 1970s.

SUMMARY

What does all this add up to?

(1) The world payments outlook is a good deal more sanguine than frequently is appreciated, and a substantial reduction in imbalances clearly appears attainable. In view of the high degree of interdependence of the world economy, a better international payments balance will require that many countries, but especially the United States, several industrial surplus countries, and OPEC cooperate and all make significant contributions. For the United States this means the implementation of an effective energy policy, the area in which this country has to make important adjustments. It is incumbent on all

> industrial countries to maintain domestic economic growth sufficient to ensure continued satisfactory expansion of international trade.
>
> (2) The international debt buildup has been very large in recent years. Certain countries have accumulated very high levels of external debt, in both absolute and relative terms, which may well necessitate the refinancing or restructuring of their external debts and further internal restraint measures.
>
> (3) The current discussion of the international debt situation is much too concerned with the LDCs. The benefits of the adjustment process have accrued to industrial and developing countries alike, and there is no reason to believe that this cannot continue. Countries that have lagged behind in the adjustment process include not only some LDCs, but especially a sizable number of the smaller industrial countries.
>
> (4) Private financial markets, in making new funds available to the balance of payments deficit countries, should not frustrate the much-needed adjustment process in these countries. Commercial financial institutions should toughen their lending conditions to those countries which are making inadequate efforts to adjust their international payments balances. Joint financing with the IMF does not seem to be practical. While the Fund is responsible to its member governments, banks have important responsibilities to their depositors and shareholders. Both should remain independent in their lending decisions. In some critical cases, the existence of a standby agreement with the Fund still may not be a sufficient reason for banks to extend new credit. This does not preclude the sharing of information by the Fund and the banks more fully than in the past where it can be accomplished without compromising the integrity of the different institutions.

(Mr. METZENBAUM assumed the chair.)

Mr. HATCH. I will add, again, I think that is a trigger phrase and a trigger sentence. When he says "Joint financing with the IMF does not seem to be practical," I think one could read into that what he means by impracticality.

"While the Fund is responsible to its member governments, banks," I think we could more appropriately say "commercial banks" have important responsibilities to their depositors and shareholders. That is to return a profit and to make sure people pay them back. They are not getting paid back and, therefore, it has become easy for them and easier for them to ask the good American taxpayers, even though we are in a deficit situation, to bail out the international banks through facilities like the Witteveen Facility and through bills like this $9 billion bill which is going to add $9 billion to the already $600 billion of our dollars held by foreign nations which I think is very disadvantageous to this country.

I commend Mr. deVries for this excellent speech with which I agree to a more than less degree, although I do not agree with everything he said.

On the other hand, I think he has given us enough trigger phrases enough trigger paragraphs enough trigger words here to make it very clear that we may very well be at this point triggered into supporting something that literally is not good for the American taxpayers and the peoples throughout the world in general. I mean by that this bailout of the commercial banks of this world.

Mr. President another matter which touches on the debate we are having now over the Witteveen Facility is the question of other massive loans made by international financial institutions to Third World countries to assist in rolling over their debts to commercal banks. These loans, often under the heading of development loans, are generally for very long terms, as we have seen in this debate, as many years as 40 with grace periods at the end of even that extraordinarily long term.

And these loans, Mr. President, are often made strictly for political reasons. These loans are often apparently made as rewards to nations which have conducted themselves in such fashion as meets with the approval of the member nations of the IMF or of the International Bank for Reconstruction and Development, the so-called World Bank. These loans are frequently withheld from nations which do not meet with the approval of the finance ministers involved.

But, Mr. President, let us examine a specific case which could help the Senate understand exactly how this process works. As Senators know, the terrorist forces of the Patriotic Front operating from Zambia recently shot down a civilian airliner and slaughtered the survivors of the crash. These terrorists operated with impunity from the country of Zambia. Zambia has declared, in effect, war on its neighbor, Rhodesia, and has openly since June 1976 supported terrorists committing atrocities along the northern border of Rhodesia. This support for terrorism has cost Zambia dearly, because Zambia's natural trading partner, Rhodesia, has been cut off as a source of foreign exchange. As a result, Zambia is in dire financial condition, and I might add, Mr. President, that this entire financial condition is also a result of fiscal mismanagement over a period of years since Zambian independence in 1964. And incidentally, if anyone disputes the condition of the Zambian economy, I will be happy to provide four volumes of World Bank studies indicating that fiscal mismanagement and socialist economic policies have taken a once prosperous nation and brought it to its knees, to the brink of bankruptcy.

But returning to my point, Mr. President, I believe it would be helpful to see what the World Bank is doing, in fact, to pay off Zambia for its efforts on behalf of the terrorists operating in Rhodesia.

(Mr. HARRY F. BYRD, JR., assumed the chair.)

ECONOMIC AID FOR ZAMBIA

Mr. HATCH. Mr. President, a meeting was held in Paris from June 27 to 29, 1978, under the chairmanship of the International Bank for Reconstruction and Development to consider economic aid for Zambia.

Apart from representatives of the World Bank, whose delegation was headed by Mr. Willi A. Wapenhans, the meeting was attended by representatives of Canada, Finland, France, West Germany, Italy, Japan, Netherlands, Norway, Sweden, United Kingdom, United States, Yugoslavia, the African Development Bank, the Arab Bank of Economic Development in Africa, the European Economic Community, the European Investment Bank, the International Monetary Fund, the Saudi Fund for Development, the United Nations Development Program, and Zambia. The United States' delegation was headed by Mr. W. Haven North, Deputy Assistant Administrator, Bureau for Africa U.S.-AID. Other U.S. representatives included Mr. Vernon C. Johnson, Deputy Assistant Secretary, Bureau of African Affairs, Department of State; Mr. Peter Smith, country officer for Zambia, Office of East African Affairs, Department of State; Mr. Leonard Pompa, AID desk officer for Zambia; Mr. John Hicks, program officer, U.S.-AID, Lusaka and Mr. duLavey, development assistance attaché, permanent delegation to OECD.

The participants reviewed the current economic situation and development prospects in Zambia and discussed the Government's resource requirements and current stabilization program. The meeting noted that Zambia's economic crisis was caused primarily by the country's overwhelming dependence on copper, which continues to suffer from depressed price levels. The meeting also noted that the heavy costs to Zambia of the closing of the border with Rhodesia had exacerbated the difficulties. It was estimated that by August 1977, the cost to Zambia of closing her border with Rhodesia was $544 million. Overall costs of applying sanctions against Rhodesia were calculated to be in excess of three quarters of a billion dollars. That is pretty interesting, I think.

The meeting agreed that Zambia needs and deserves the support of the international community in order to help it meet essential short-run requirements and at the same time initiate a long-term program of economic diversification. The participants declared their general intention to support Zambia in its present difficulties as well as in its effort to implement a development program designed to diversify the economy. The participants welcomed the initiative taken in establishing the consultative group, especially as it was felt that the group could provide for better coordination, planning, and deployment of technical assistance and financial resources. The consultative group agreed to consider a second meeting to focus on Zambia's long-term development requirements after the Government's third national development plan, presently under preparation, has been finalized. This was unlikely to be before 1979.

The United States' representative said his Government had given assurances, subject to congressional actions to be taken in the future, of something in the range of U.S. $100 million over the 3-year period 1978–80. This would be in the form of what was called quick-disbursing assistance-commodity aid. The United States' representative anticipated that the full amount would be drawn down within the proposed period. Most of this assistance would be in the form of agricultural inputs, fertilizers, and equipment and some of it would be in the form of agricultural commodities on concessional assistance terms. Apart from the commodity assistance, the U.S. Government was engaged in stepping up its program for manpower training and it was anticipated that something between U.S. $0.5 and U.S. $1 million would be spent annually for training Zambians in the United States, in Africa, and in Zambia in technical fields.

Unless somebody thinks this is a figment of my imagination, most of these data, in fact all of these data, I believe, were taken from a document of the International Bank for Reconstruction and Development entitled "For Official Use Only," and I ask unanimous consent that that document, including its cover page and a number of other pages be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[From the Deputy Secretary, International Bank for Reconstruction and Development, Aug. 14, 1978]

CONSULTATIVE GROUP FOR THE REPUBLIC OF ZAMBIA

CHAIRMAN'S REPORT ON PROCEEDINGS

1. Attached is the Chairman's Report on the Proceedings of the first meeting of the Consultative Group for Zambia, held in Paris from June 27 to 29, 1978.

2. Any comments or observations on this report should be sent to the Secretary of the World Bank in Washington.

Distribution—Executive Directors for: Austria, Canada, Finland, France, Germany, Italy, Japan, Netherlands, Norway, Romania, Sweden, United Kingdom, United States, Yugoslavia.

For information: President; Senior Vice President, Finance; Vice President, Operations; President's Council; Vice Presidents, IFC; European Office; Tokyo Office; Zambia Office; Regional Mission in Eastern Africa.

Executive Director for Zambia, African Development Bank, Arab Bank for Economic Development in Africa, Commission of the European Communities, European Investment Bank, International Monetary Fund, Saudi Fund for Development, United Nations Development Programme, Chairman, Development Assistance Committee/OECD.

FIRST MEETING, CHAIRMAN'S REPORT ON PROCEEDINGS, PARIS, JUNE 27–29, 1978

1. The first meeting of the Consultative Group for Zambia was held in Paris from June 27 to 29, 1978, under the chairmanship of Mr. Willi A. Wapenhans, Vice President, Eastern Africa Region, International Bank for Reconstruction and Development.

2. Present were representatives from Canada, Finland, France, The Federal Republic of Germany, Italy, Japan, Netherlands, Norway, Sweden, United Kingdom, United States, and Yugoslavia. Also represented were the African Development Bank, the Arab bank for Economic Development in Africa, the European Economic Community, the European Investment Bank, the International Finance Corporation, the International Monetary Fund, the Saudi Fund for Development and the United Nations Development Programme. The meeting was attended by observers from Austria, Romania and the DAC/OECD. Leading the Zambian delegation was the Hon. M. Mwanakatwe, Minister of Finance.

Documents

3. The main documents distributed for background information prior to the meeting were:

(a) A paper by the Government of Zambia entitled "The Current Economic Crisis, Government Response, and the Approach to the Third Plan," dated May 8, 1978;

(b) An IBRD economic report entitled "Zambia—A Basic Economic Report" (No. 1586b–ZA, October 3, 1977), together with a brief updating note:

(c) An IBRD paper entitled "Analysis of the Government of Zambia's Short-Run Program, Associated Foreign Exchange Requirements and Approach to the Third National Development Plan," dated June 7, 1978: and

(d) An IMF paper entitled "Recent Economic Developments," dated April 19, 1978.

Annexes

4. The following annexes are attached to the Report:

Annex I—List of Delegates and Observers.

Annex II—Opening Statement by the Chairman, Mr. Willi A. Wapenhans, Vice President, Eastern Africa Region, IBRD.

Annex III—Statement on Zambia's Current Economic Situation and Prospects by Mr. W. McCleary, IBRD Delegation.

Annex IV—Statement by Mr. M. Russo, IMF Delegation.

Annex V——Statement by Hon. John Mwanakatwe, M. P., Minister of Finance and Head of the Zambian Delegation.

Annex VI—Statement on Technical Assistance by Mr. M. Doo Kingue, UNDP Delegation.

Annex VII—Statement on Agricultural Development and Policies, Zambian Delegation.

Annex VIII—Statement on Transportation, by Mr. D. Bickers, IBRD Delegation.

Annex IX—Statement on World Bank Group Operations, Mr. M. Wiehen, IBRD Delegation.

Annex X—Statements by Delegations.

Annex XI—Press Release dated June 30, 1978.

Annex XII—Concluding Statement by Head of the Zambian Delegation.

Annex XIII—Concluding Remarks by the Chairman.

Proceedings

5. The proceedings of the Consultative Group are summarized below.

Item 1—Opening statement by the chairman

6. The Chairman opened the meeting on Tuesday, June 27, by reviewing the events leading up to the formation of the Consultative Group. He indicated that this first meeting would look at Zambia's immediate needs for commodity assistance and balance of payments support, while it was envisioned that a second meeting next year would review Zambia's long term development plans and resource requirements. Finally, he expressed his hope that at the close of the meeting the participants would be able to indicate their intended levels of support. His statement is provided in Annex II.

Item 2—Statement by the IBRD delegation on the current economic situation and prospects for the future

7. Mr. McCleary pointed to the vulnerability of Zambia's foreign exchange and budgetary position due to swings in copper prices, its heavy dependence upon imported inputs in the modern sectors, and the pitfalls associated with the failure to diversify through developing agricultural and local resource based industries. To encourage a different pattern of future development, government policies must be directed at diversifying the economy, mobilizing domestic resources for growth and stabilizing the Government's development program. A number of measures the Government had taken, or planned to take during the Third National Development Plan, were very encouraging. However, further measures were needed, most notably to strengthen the infrastructure and institutions supporting agricultural development, devise a system of incentives to encourage industrial growth more consistent with government objectives, extend economic pricing and improved efficiency in parastatals and mobilize and use technical assistance more effectively. Given the outlook for copper prices, the next 2–3 years would clearly be difficult for Zambia. According to Bank estimates, just to maintain the 1978 level of real imports would require an additional K 365 million financing—over and above IMF and other known capital flows—during 1978–80; to increase imports sufficiently to restore normal capacity utilization in 1979 and 1980 would require more than K 1 billion; and if reducing arrears and building up foreign exchange reserves were taken into account, larger amounts, ranging as high as K 1.8 billion, would be required during 1978–80. In conclusion, he said that the Government's continued progress in improving diversification and economic management, plus the severe balance of payments constraints, merited additional external support on concessional terms, without which, the Government would be forced to curtail its development efforts and recovery would be delayed until the 1980s, at a considerable cost in economic welfare. His statement is attached in Annex III.

Item 3—Statement by the IMF delegation

8. Mr. Russo, of the IMF, summarized developments in Zambia leading up to the recent IMF Stabilization Program which he described. His statement is contained in Annex IV.

Item 4—Statement by the head of the Zambian delegation

9. The Minister of Finance comprehensively reviewed Zambia's current economic situation, and indicated the steps the Government would take to restore equilibrium in the short term and bring about the required structural reform over the long term. He described the objectives of the forthcoming Third National Development Plan and reviewed the economy's short term external financial requirements. The text of this statement is contained in Annex V.

Item 5—General discussion on the Zambian economy

10. The Chairman opened the discussion by highlighting the points raised in Mr. Mwanakatwe's presentation. He noted that:

(a) Zambia's economy remains highly vulnerable to copper price fluctuations;

(b) Zambia has paid a high price due to its geopolitical situation and the disruptions that have resulted in the regional transport network;

(c) the Government has initiated new policies to diversify the economy and has enlisted the IMF's support through a comprehensive stabilization program.

The Chairman added that Zambia would still require in the short term substantial amounts of fast-disbursing financial assistance, although these requirements should not be viewed in isolation, but as part of a longer term program which would bring about structural change. He also noted the crucial need for technical assistance to extend the economy's absorptive capacity and enable external assistance to be utilized on a larger scale.

11. Mr. Lynch (UK) congratulated Mr. Mwanakatwe for his bold statements in the face of Zambia's seemingly intractable problems. He referred to Zambia's vulnerability, caused both by natural and political conditions and the current urgent need to improve transport, particularly TAZARA's capacity. Many of Zambia's problems, he noted, were not fully within the power of the Zambian Government—unaided—to resolve. In turning to copper price forecasts, Mr. Lynch pointed out that the IBRD's economic report, which was 8 months old, had projected a 40 percent price increase in the next few years, but today in the IBRD's presentation, the projections had been scaled down to 1–2 percent increase per annum. As these forecasts, which are considered reasonable and viable at the time, can change so markedly,

couldn't copper prices go either way, he asked, couldn't they increase rapidly if economic conditions change?

In turning to the Budget Stabilization Fund, Mr. Lynch felt its proposed establishment was extremely significant and appropriate in view of copper's shifting fate. He noted the mounting difficulties Zambia now faced in producing and transporting copper and the likelihood they would continue. He commented that little doubt remained that the Government intended to pursue in the Third National Development Plan a program of economic diversification through stimulation of agricultural and industrial activities. While this would be achieved in part through improved agricultural pricing policies and increased parastatal efficiency, it also meant adopting other stringent policies which would entail some real costs in terms of lower economic growth. In spite of these policies and the known capital inflows, including the IMF package, taken into consideration, a very large financing gap remained. Although the amount varied depending on assumptions, he said it would be safe to assume a figure of around $1 billion would be required in additional financing to enable: (i) the purchase of essential imports to sustain the economy, and here he noted that it appeared that Zambia's import licensing in the past had not been harmonized with foreign availability; (ii) the reduction of some of the pipeline of commercial debt, which, he pointed out, would be extremely difficult to reschedule considering the difficulties of gathering and coordinating suppliers, but nevertheless was a subject worth exploring further and which he would discuss with the Zambians during the course of the meeting; and (iii) a build up of foreign exchange reserves to a level representing at least two months of imports. Mr. Lynch indicated that he accepts the Zambian's overall analysis and requirements for quick-disbursing assistance. All recent United Kingdom aid has been in this form and will continue for now to be on similar terms. While he understood that donor agencies would prefer to finance development projects, these will have to be deferred until the most immediate and pressing problems have been addressed. He accepted the Government's desire for flexibility in the use of aid, but he assumed priority would be given to agriculture, industry and infrastructure requirements related to those sectors. He noted that local cost financing should receive sympathetic consideration and aid should be untied. In closing, he referred to ODM's extensive, ongoing technical assistance program and made reference to an outstanding offer to provide 50 additional positions to meet some of the high priority requirements among the parastatals.

12. In commenting on Mr. Lynch's statement, the Chairman wondered whether the figure of $1 billion in reference to the short term financing gap were not too low if it were assumed to include both an increase in foreign exchange holdings and a reduction in arrears. On the question of varying estimates of copper prices, Mr. McCleary (IBRD delegates) stated that the long term price forecasts were the same in the IBRD economic report and the IBRD paper, but that short term forecasts covering the period to 1980 had been revised downwards due to a slowdown in world economic recovery and the accumulation of copper stocks. Minister Mwanakatwe elaborated on the transport constraint and the importance of resolving this bottleneck if recovery and development programs were to proceed. He stated that Zambia has recently purchased 85 new trucks and hoped to increase this number to 300 within the coming months. While confirming that TAZARA would remain Zambia's most important external transport link, he said Zambia also should make more use of the ports of Beira and Nacal, though this would require improvement of several roads in Mozambique. Turning to import licenses, he agreed with Mr. Lynch's observations and noted that licenses issued from time to time did not match foreign exchange availability. He illustrated the problem by pointing out that in 1974 during a period of high copper prices, the Government decided to stimulate growth and allowed import licenses to increase; by 1975, outstanding licenses amounted to over K 800 million, but by then copper prices had fallen and foreign exchange was becoming scarce. There has been a leveling off of licenses since then and import controls have been tightened, though this has resulted in the economy virtually stagnating. He said that Government was trying to match foreign exchange with import flows, but this was an extremely difficult task to perform.

13. Ambassador Korhohen (Finland) raised several points concerning the coordination and implementation of development planning and project implementation. He referred to the various government ministries and agencies involved in the coordination of development planning and resource allocation, namely, the Ministry of Finance, Ministry of Economic and Technical Cooperation and the National Commission for Development Planning, and suggested it would be useful to have an explanation of how these bodies coordinated their activities. With regard to local cost financing, he said Finland considered the matter on a project by project basis, but that it would be normal to assume the beneficiary country would cover 25 to 30 percent of project costs. He agreed with the need for additional training and technical assistance, but he pointed out the difficulties with locating suitable Zambian counterparts.

14. Mr. Johansen (Canada) referred to the overall question of the allocation of scarce resources, whether fiscal or other. He cited the transportation sector as a case in point, where there were many weak elements (the port in Dar-es-Salaam, the railway, intermediate points, and the shortage of locomotives, wagons, and spare parts, etc.) He felt the solution of a problem such as this required tackling not any single aspect, but the total system. He wondered whether some form of consortium approach to problems of this nature were envisaged whereby individual donors, through a coordinated effort, could pick up certain aspects of the problem. Perhaps, it would be possible, he added, for the Zambian Government, or the World Bank, at the Government's request, to provide coordination for a group of donors to come together to tackle the whole system in order that a complete package could be put into place. Otherwise, he felt, investment by one donor on one particular section could be nullified if the rest of the system does not function effectively. He thought the same system of resource allocation could also be applied to inputs into agriculture and manufacturing.

15. The Chairman suggested it would be better to defer discussion of the transport sector until tomorrow's presentation, but he asked the Zambian delegation if they wished to comment on Ambassador Korhohen's question concerning the coordination of Zambia's economic activities, and on Mr. Johansen's question about Zambia's approach to the allocation of resources, the relevant criteria that were employed, and how these were reflected in the organizational setting in Zambia. In responding, Minister Lumina (Zambian delegation), described the interaction among various ministries in determining the priorities of projects to be included in the development plan and subsequently submitted to donors for financing. He admitted that problems can arise when donors are interested in financing specific projects while the Government has in mind an entire program. Part of the problem, he indicated, is due to the numerous ministries involved in the development process, but he is hopeful more efficient procedures will be introduced in the future. He stated in certain high priority cases, the same program might be put to different donors, but usually this happened only when it was not clear which donor would be interested or in what time frame.

16. The Chairman added that he felt Mr. Johansen had pointed to a problem that many of the participants had encountered in their work in Zambia. There was an obvious lack of donor coordination in terms of responding most effectively to Zambia's needs, or in making their respective development efforts most productive. In addition to coordination difficulties, he felt there may have been an underemphasis on pre-investment work. He suggested this may have resulted from excessive competition among donors for projects under pre-investment work sometimes was undertaken only by the prospective donor expected to finance the project. The World Bank, he admitted, had followed this policy at times, but now he felt it was important that all donors moved beyond this stage and took a much broader approach to pre-investment work. This was needed to create a base against which an accelerating rate of commitments could be contemplated. He also pointed out that Bank estimates showed that net disbursements from loan commitments made prior to the end of 1977 (private as well as public) would be negative in 1978–80. In other words, Zambia would be facing a negative net resource flow, due largely to a lack of pre-investment activities in the past. He felt it essential to improve and accelerate pre-investment work so that this pattern would not repeat itself in years to come.

Mr. North (U.S.) began by agreeing with the comments made earlier about Zambia's high sensitivity to its international and regional circumstances. Certainly the Zambian situation had special characteristics which deserved serious attention by all. He noted that the Government had taken courageous decisions regarding its regional situation, in spite of the economic consequences these actions had entailed. Also, he added, it was important to recognize the sensitivity of the Zambian economy to international forces. As mentioned earlier, Zambia was one of three countries in the world most seriously affected by commodity fluctuations. Certainly that suggested that the international community should have a particular understanding of Zambia's situation. Another point which should be appreciated, he said, was the social implication of Zambia's proposed programs, which amounted to a total transformation of the country's economic and social attitudes and habits. Achieving this transformation would not be an easy task given the capital intensive pattern of past investment decisions and the high level of consumption the country had become accustomed to. The difficulty this would entail on the human level was not reflected on the charts and in the statistics under review. While he had no doubt that the Government was sincere in its intentions, he felt it would be useful for the Consultative Group to remember the human dimension of the problem when discussing the statistical facts which are so present in these meetings. In turning to the Government's program, he indicated full support for the program's emphasis on stimulating rural and agricultural development. He supported the Government's proposals to create a stabilization fund and the intention to shift from capital-intensive to labor-intensive methods of production. He said he would like to hear a fuller description of the diversification plan, in particular the content and timing of it, and what it meant in terms of Zambia's short term balance of payments problem. In discussing diversification, he asked if the Government was talking of a 10 to 15 years time frame when the balance of payments problems were of 2 to 3 years duration? It was not clear to him if the diversification efforts and the balance of payments problem were to be treated in the same time dimension. He felt the time dimensions in any case should be longer than the 1978–80 period being talked about, because for all practical purposes 1978 was over in terms of mobilizing new resources and in some respects it was already too late for 1979. Also, the magnitude of the needs might not be so overwhelming if they could be looked at in a longer time span.

Moreover, he felt it would be useful to have more comments on the range of resource needs which ran from U.S. $500 million to U.S. $2 billion, as to what the implications were at different ranges and what were some of the minimum ranges which made sense. He also thought it would be helpful to have some response on this issue from the Government, the Bank or the Fund in order to put the large amounts of capital required into better perspective. Finally, he raised a point about the flow of resources and their utilizaiton. While the United States has had less of a problem in this area compared with others Zambia's absorptive capacity is of concern to all. In the end, he stated it became a fundamental question of the interaction of implementation ability and the decision making process on the one hand and, on the other, the ability of donors to provide the additional resources which are being sought. Part of his difficulty, he indicated, had been in convincing his colleagues back home that if additional resources were provided, they would be used efficiently and quickly. He recognized, however, that the United States' procedures and requirements were a factor in this problem. Related to the absorptive capacity question, he said, was the proposal to convert project aid to program aid, and in this context he asked for clarification on the order of magnitude of project aid suitable for such conversion.

18. The Chairman agreed with Mr. North's observations on the major social transformation involved in implementing the Government's diversification programs, particularly at this time of economic crisis. While suggesting the discussion on agriculture be deferred to later, he thought it useful to discuss the size and time frame of the resource gap as well as the interaction between resource flows to Zambia's absorptive capacity. On the latter point, he noted that a distinction should be made between capital investment and quick-disbursing program assistance: the first concerns project implementation and absorptive capacity in Zambia, while the utilization of the second type of aid depended largely on the transport situation already referred to in the discussions. Finally, he hoped the Zambian delegation could provide some order of magnitude of the amount of project assistance which it felt could be reprogrammed as quick disbursing program aid.

19. Mr. McCleary (IBRD) elaborated on the Bank's projections of the resource gap. The projected Scenario I would enable Zambia only to maintain its 1978 import levels, in real terms, in 1979 and 1980. It was only a reference point to determine what resources would be required just to continue what is an unsatisfactory situation. It was important to realize that Scenario I had very serious implications for the economy; Zambia would continue for two more years with already very low levels of imports (1978 levels were only 50 percent of 1969); shortages of spare parts and raw materials would continue, and production, absorptive capacity and real incomes would fall. Scenario I also would mean delaying the implementation of the Third Plan and Zambia's diversification. In turning to the question of timing, he agreed that the balance of payments crisis and diversification involved different time periods. The effects of diversification on the balance of payments would only be felt over three or five or ten years, after agriculture and industrial production had begun adding to exports or reducing imports. While it probably was too late for new resources to be used in the remainder of 1978, it was still possible to increase resource flows in 1979 and 1980 so as to significantly influence the implementation of the first years of the Third Plan. In this connection, he stated it was important to alleviate the transport problem, since short term improvement was needed, within the context of a long term solution, in order that additional imports could reach Zambia.

20. The Chairman referred to the fact that the resource requirements in the two scenarios were in terms of disbursements, not commitments. Therefore, 1978 was a crucial year for commitments if disbursements in 1979 and 1980 were to be increased significantly. He pointed out that the estimates reflect the totality of requirements and, while they should be on terms appropriate to Zambia's situation, these resources should not necessarily come from the public sector. Scenario I, he added, would not allow any addition to Zambia's present physical plant or its operation, Scenario II would, however, so that the question of absorptive capacity and implementation became pertinent.

21. Mr. Russo (IMF) commented on the IMF's procedures in connection with resource gap analysis. He noted that the IMF, in drawing up its program, must assume that there is no uncovered gap, since it dealt with an existing situation and what the implications of that situation were. The IMF analysis had shown that the terms of trade in Zambia had deteriorated so much that the foreign exchange availability, after the full servicing of foreign debt which is Zambia's policy, would limit imports to the extent that there would be no economic growth. Thus when the IMF discusses with Zambia the new terms of a program in 1979 within the existing standby arrangement, they will have to consider the likely availability of foreign exchange derived from exports as well as external assistance. Consequently, this meeting was important as it would provide information which would be useful in the IMF's future discussions with Zambia.

22. Minister Mwanakatwe commented on the resource flow requirements outlined in the various reports circulated to the Consultative Group. It appeared that there were no major conflicts among the various estimates of Zambia's need, and that the overall requirements were substantial. In reviewing past utilization of aid resources, he conceded Zambia had not been able to use fully all the resources made available. The Government had given careful consideration to this problem, and had taken corrective actions which, when combined with Zambia's willpower and determination, should enable the country to absorb practically all resources which would be made available. He suggested that there was a strong need for balance of payments support and that Zambia would be happy to discuss converting funds presently committed to low priority propects into commodity aid. In addition, he stated he hoped donors would consider converting existing loans either into grants, or extending repayment, so that these loans would not mature during the difficult 1978–80 period. Finally, he stated that his delegation agreed with the various estimates put forward for Zambia's resource need, which appeared to be in the US$1–1.2 billion range for 1978 and 1979. Minister Lumina (Zambia) added that inadequate coordination internally was partly to blame for difficulties in using with project assistance in the past.

He described some of the problems, such as weak planning in some of the ministries. There also had been inadequate local technical expertise which had hindered project development. This problem could best be addressed with external assistance to strengthen the planning capability at all levels of the Government. As an example of what was needed he referred to the recent agreement with Canada for technical assistance to the Ministry of Lands and Agriculture. He noted that improved pipeline of pre-investment studies was required, and while technical assistance teams were being mobilized, the Government would use consultants to help produce feasibility studies in short term for consideration by various donors. For the longer term, he emphasized that Zambia needed to develop a permanent capability to plan and prepare development programs. In the past, local counterparts had been scarce and donors had been reluctant to provide technical assistance. But Zambia's educational institutions were now turning out more qualified graduates, and he felt optimistic that counterparts would become increasingly available.

23. The Chairman referred to three interrelated requirements which have just been discussed; namely, the need for financial resources, for a functioning transportation system and for an expansion of the absorptive capacity, which to a certain extent rested on an effective technical assistance plan. All these combined to raise questions about whether an increased level of resources, if made available, could be used effectively. In general, he felt if sufficient resources were available to finance Scenario I, there would be no problem of absorptive capacity, since these levels were not substantially greater than those in previous years. If the resources were available to finance Scenario II, while there might be a strain on the physical and organization capacity to absorb them, it still should be possible to absorb them. However, for resource inflow substantially exceeding Scenario II requirements, the time frame for absorption would have to be reviewed carefully.

24. Mr. Palmlund (Sweden) began by expressing his hopes that the Consultative Group meeting would result in tangible support to help Zambia overcome its difficult economic situation. He noted that the Swedish Government felt it important that Zambia receive support for continued stability, given its exposed position in southern Africa, and its adherence to principles of majority rule in the region despite the severe economic costs it incurred. He added that his Government accepted the Zambian Government's position that the international community should assist Zambia in its current crises. Mr. Palmlund referred to the structure of the Zambian economy and the effect budgetary restrictions have had on reductions of expenditures for subsidies, education and health care. He wondered if these measures would result in greater disparities in income distribution, or if the Government had taken other measures to ensure that the entire country would bear the cost of the stringent policies necessary in the present situation. He was encouraged that Zambia had already established an extensive infrastructure network plus facilities for health and education, as this meant expenditure could be cut back without eliminating basic coverage. He also remarked on the great emphasis placed on diversification and suggested that, while this was appropriate, copper should not be ignored and that further investments in copper would probably be required in the years ahead. He noted that Zambia would need improved administration, institutions and training programs, in addition to enlarged resource flows. Turning to agriculture, he commented on the likely conflict between equity and growth objectives and expressed his hope that the equity perspective would not be forgotten and that small subsistence farmers would be remembered. In the long term, he felt it would be better to have met the needs of a large group of people rather than to have

concentrated exclusively on investments to increase productivity and exports. He accepted the Government's requests for program and commodity assistance, as well as untied aid in general, as being appropriate for Zambia's crisis situation. With regard to arrears, he though it would be easier for Sweden's guarantee board to react on a multilateral basis in concert with other agencies rather than alone.

25. The Chairman, in commenting, mentioned that it was important to remember that the issue of diversification, which had been raised by several speakers, was not the focus of the inaugural meeting of the Consultative Group, and that the direction and effects of diversification could only be traced once the longer term prospective of the Third National Development Plan was available. He noted the Government had proposed a two-staged strategy in dealing with its economic crisis: it proposed to address its short term problems in this first Consultative Group meeting in a subsequent meeting to be held after the Plan becomes available, the longer term situation would be reviewed. He agreed with Mr. Palmlund's comments on the important role copper will play in Zambia's future, but felt it was important nevertheless to help Zambia broaden its economic base to prevent future reoccurrence of the present crisis.

26. In response to Mr. Palmlund's question on income distribution, Mr. Mwanakatwe indicated that the measures introduced by the Government in its 1978 budget in response to the economic situation appeared to have caused less hardship on upper income groups than those at the lower end of the scale. But, he added, the Government's fiscal policies since 1972 had tended to impose heavier burdens year-by-year on the higher income groups. He also referred to other measures the Government had taken, such as freezing civil service salaries, which would penalize the higher income groups. Thus, he felt the pattern of income distribution as a whole would not become more inequitable in 1978 and 1979. With regard to expenditures on education and health, he pointed out that there had been no decreases in the amounts allocated to these sectors, but that the increase in budget allocations required to sustain the real rate of developments in health and education services had not been authorized. For the future, he expected that the social sectors would have a lower proportion of resources in the Third Plan than in the Second, but that there would be no decreases in actual expenditures on these services.

27. In a related point, Mr. Russo (IMF) mentioned that 70 percent of the population was involved in agriculture, mostly in the subsistence sector. In discussing measures which affected wages, he noted that the concerned individuals were those who worked in the non-agricultural sectors and who generally had been treated better than those in agriculture. Other measures in the Government's Plan, such as producer price policies, tended to correct the previous vias towards the urban sector, but he felt it would be difficult to make a judgment on whether the measures in the Government's proposed program would lead to better or worse income distribution.

28. Mr. Kirchoff (Germany) opened his statement by indicating support for the outstanding role Zambia was playing in southern Africa. He noted that the Federal Republic of Germany was enthusiastic about the idea of humanism and what has been realized under this idea. Zambia, he stated, had reached quite a respectable degree of democracy and human rights, which formed a basis for the difficult role it was playing in the region. In turning to economic matters, he noted Zambia's heavy dependence on world markets and commented that his country bought 20 percent of its copper from Zambia, all of which was processed in the Federal Republic. In this sense it was possible for his Government to look at assistance to Zambia as a type of income redistribution. He felt an important issue when examining Zambia's needs was the role of private financing, and wondered if this subject would be addressed in the meeting. He particularly agreed with three recommendations in the IBRD report, namely, strengthening the parastatal sector, improving agriculture and agricultural institutions, and creating a project preparation unit for agriculture and other ministries.

The Federal Republic, he stated, was prepared to provide additional funds for feasibility studies, and would seek to coordinate these activities with other interested donors. Regarding the proposed Third Plan, he referred to an earlier statement concerning Zambia's intention to set up large-scale agricultural estates for the production of export crops. He inquired if there were studies available on the possibilities of exporting those crops. Since commodity price projections for several crops were not favorable, he wondered on what basis the Zambian decision had been taken. On another point, he commented on the need to strengthen the parastatal sector and hoped it would be possible to increase efficiency and reduce dependence on government subsidy. He felt that control of the large parastatal organizations should be decentralized, and that there should be an effort to standardize machinery and transport equipment, in order to simplify maintenance and ensure higher utilization. NAMBOARD, in particular should be strengthened and better oriented to the needs of the agricultural sector. He felt NAMBOARD had difficulty in supplying inputs, collecting the harvest, and paying the producers in a timely fashion. He also supported the idea of more joint ventures, as a way of easing Zambia's capital requirements, but felt private investors might not be interested at the moment given the present economic climate. Finally, he indicated the German aid program would be untied in the future, except, perhaps, for the railway sector, and would include cost financing.

29. Mr. Hjelde (Norway) welcomed the formation of the Consultative Group as a sign of solidarity for hard-hit Zambia. He confirmed the willingness of the Norwegian Government to continue providing assistance to Zambia on grant terms. The Zambian Government, he noted, had initiated short term measures to address its economic crisis and he hoped it would introduce soon the various medium and long term measures it had proposed. His delegation welcomed the Government's intention to improve use of labor-intensive techniques, and to provide for better distribution of income.

He hoped, however, that Zambia's efforts to stimulate large scale agricultural production would not be at the expense, or neglect, of the small farmer. He was pleased that the Government plans to strengthen the machinery for implementing and monitoring development programs. Finally, he noted that Zambia's birth rate and population growth were quite high, leading to increasing pressures on limited social services and the labor market. While the documentation for the Consultative Group did not address this matter, he felt confident the Zambian Government took a strong interest in this important human dimension of the development process.

3. Miss Movus (France) began the session on the second day of the meeting with her delegation's comments on the economic presentation made the previous day. She noted that Zambia's development problems and balance of payments difficulties should be viewed together, and that certain of these problems were outside Zambia's control. She felt priority should be given to those development actions which could relieve the balance of payments situation as quickly as possible. She suggested that in dealing with its problems, Zambia should consider entering into arrangements to spread out payment arrears over a reasonable period of time, thereby relieving its debt burden over the critical years. While this meeting was not the proper forum for dealing with this situation, the Zambian delegation might use the opportunity to establish contacts with a view to discussing this matter at a later time.

31. Mr. Gudac (Yugoslavia) indicated this was the first time his country had been represented in such a meeting. Two reasons prevailed in favor of Yugoslavia's participation this time: first, this group was to be a forum to contribute to a coordinated approach and an additional effort by the international community to assist Zambia in regaining its development momentum; second, Yugoslavia's well-developed political and economic relations with Zambia supported its decision to participate. In commenting on the economic situation, he noted the degree to which exogeneous factors had contributed to Zambia's problems. He suggested that if there had been an effective international common fund for stabilizing commodity prices, which developing countries had urged for several years, Zambia's financial position would have been eased in a less painful way. He underlined that Zambia was paying a very high price for honoring U.N. resolutions towards racist regimes in southern Africa. The economic burden was increased by the just burden of the Zambian Government's struggle for complete liberation and decolonization in the region. He felt it was tempting for creditors and donors to come with well-intentioned advice on institutional improvements, some of which might compromise priceless social values. He cautioned that donors must permit Zambia to steer out of the present crisis without compromise longer term human and social goals. In commenting on the time dimension and the nature of the measures to be taken, he agreed that in stage one, additional quick disbursing balance of payment support was essential. In addition, project preparation should be intensified during the remainder of 1978 and early 1979 to attract increased financial flow during 1979. Project financing would allow those donors and international institutions who cannot provide untied aid or balance of payments support to participate actively in assisting Zambia. As a developing country itself with foreign exchange problems, he stated that Yugoslavia had no capacity to provide untied balance of payments support. It could, however, mobilize a combination of official and commercial funds which would add modestly to the capital available. More generally, he stated, it was essential that foreign investment should be directed towards mobilizing domestic material and human resources so as to reduce the Zambian economy's vulnerability in the medium term.

32. The Chairman welcomed Yugoslavia's participation in the Consultative Group, noting that the World Bank had been closely associated with Yugoslavia's development over the years. He stated it was gratifying to have the participation of an old borrower in a Consultative Group that now addressed the problems similar to the ones Yugoslavia experienced in the early 1950s.

Item 6—Statement by the UNDP on technical assistance

33. Mr. Doo Kingue (UNDP) delivered a statement, attached as Annex VI, on technical assistance activities in Zambia.

Item 7—Statement by the Zambian delegation on agriculture

34. Minister Lumina (Zambia) presented a comprehensive description of past agricul-

tural performance, existing sectoral constraints and proposed future developments. His statement is provided in Annex VII.

Item 8—Statement by the IBRD delegation on transport

35. Mr. Bicker pointed out that some 90 percent of Zambia's international traffic (apart from local trade with neighboring Zaire) was now moving via Tanzania and the port of Dar-es-Salaam, but effective capacity on the rail/road corridor to the port was currently so much below its potential as to cause major disruptions in the movement of both imports and exports. Key requirements for the railway were additional technical assistance and more storage and mechanical handling facilities, to help speed up loading and unloading wagons. The only apparent alternative to improving the railway's performance was to provide more extensive (and more expensive) road trucking capacity along the corridor. An acceleration in the off-take of Zambian imports from Dar-es-Salaam would help to relieve the serious congestion in the port area. However, many other improvements, including a high degree of cooperation among the various agencies involved in the whole complex of moving Zambia's traffic via this route, also were urgently needed to improve the situation. His statement is attached in Annex VIII.

Item 9—Continuation of the general discussion

36. Minister Mwanakatwe (Zambia), in commenting on the comprehensiveness and accuracy of the transportation presentation, noted that the situation in the sector had reached serious proportions and required immediate attention. If the problems were not realistically tackled in the next few months, the entire joint effort to speed up Zambia's recovery would be seriously undermined. He informed the meeting that President Kaunda had just sent an urgent letter to President McNamara of the World Bank stating that the transport situation had reached crisis proportions, and requesting the Bank to provide assistance.

37. Mr. Wessels (Netherlands) offered some general comments on Zambia's situation and indicated his delegation's approval of the measures Zambia had taken to begin diversifying the economy. He pointed out the dramatic consequences of Zambia's dependency on copper as measured in terms of the unprecedented decline in GNP per capita, which had gone from US$520 in 1974 to US$375 estimated for 1977. He noted the problems created by urban migration and an overdependence on capital-intensive methodologies. Industrial development, with emphasis on small-scale enterprises using local raw materials, he stated should be combined with an expansion in agricultural production in order to diversify the economy. He noted the present investment costs per job for industrial activity averaged US$100,000 and that there appeared to be little scope for labor-capital substitution. Parastatal performance, he observed, was weak, with room for improving capacity utilization and efficiency. Growth from this factor could be quickly realized by improving management and efficiency instead of creating costly new capacity. To ensure the success of its rural and industrial development efforts, the Government should provide adequate pricing and marketing policies for agricultural products, more competition among parastatals, improved extension services and rural infrastructure, and expanded technical, vocational and managerial training. Finally, he stressed that planning in the short and medium term should keep under consideration the fundamental long term issues relating to Zambia's development.

The Chairman noted, in response to Mr. Wessel's support for small-scale industrial development, that the Bank shared his concern and had been actively consulting with Zambian authorities to look at possibilities for light industries, especially those that are agro-based. Mr. Reese (IBRD) elaborated on the Bank's interest in stimulating development of small-scale industries. He noted that two missions had visited Zambia recently. One was particularly concerned with industries which would use local raw materials. This mission concluded that Zambia had a large potential for developing small and medium-scale enterprises based on available local materials. He noted this was important, not only for potential import substitution or export development, but because it would also provide for employment creation and increased agricultural production. The Bank, he explained, also was exploring other ways of assisting industrial development through such channels as the Development Bank of Zambia. The Chairman referred back to Mr. Wessel's statements on parastatal efficiency and the steady drop in Zambia's per capita income levels, noting how the latter phenomenon affected the efficiency with which the manufacturing sector could conduct its business. He noted that these entities in effect were operating in an environment where the local market had collapsed, where there was no foreign exchange to purchase spare parts and raw materials, and where the transport crisis impaired their ability to obtain imports or export their products. Thus, in talking about parastatal efficiency, he noted the importance of keeping in mind the environment within which parastatals have to operate.

39. Mr. Wirsing (EEC) commented that the Community was a relative newcomer to transport problems in this part of Africa. He indicated the EEC expected to look into different aspects of the regional transport network, including studies of the port facilities of Dar-es-Salaam, and transport routes involving Lake Tanganyika. The EEC, he stated, would be financing a study shortly which would consider the major problems facing Zambia's transport links with coastal areas. The study should be available in nine months, and he suggested it might be useful at that time to have a meeting with the Zambian Government and interested donor agencies. Regarding Dar-es-Salaam, he felt relatively low cost actions could increase in the short term the handling capacity of the port. He noted the EEC would be willing to join other donors in any action which might help to relieve the situation. He understood the World Bank had already taken interest in TAZARA's problems and indicated the EEC would be willing to provide assistance if needed. The Chairman intervened at this point to note that the World Bank was not presently involved with TAZARA, although, as previously mentioned, President Kaunda had now asked the Bank to look into the overall transport problem which, of course, included TAZARA. Minister Mwanakatwe suggested that a short term solution to Zambia's transport difficulties should first be found, followed by a longer term program to correct the underlying problems. He indicated he would report to President Kaunda on his return, giving him the general comments made by the delegations concerning this serious subject. He would also request President Kaunda to consider the possibility of raising the matter with President Nyerere. The Minister said it was important that the two Presidents harmonize their views at the earliest stage on how this problem should be handled. Thereafter he was confident the World Bank and other institutions could be approached to help find a solution to the problem. On another point, the Minister referred to the development of transportation in the Lake Tanganyika region, and indicated the great importance Zambia attaches to the proposed studies. He expressed his disappointment that donor procedures had caused delays in the initiation of the studies.

40. Mr. Doo Kingue (UNDP) commented on the problem of transport from various time perspectives. Over the long term, he noted that the U.N. General Assembly last year, on the initiative of African countries, had declared 1978–88, the "Transport and Communications Decade in Africa." The UNDP Governing Council had just passed a resolution last week requiring the UNDP administrator to report in a year's time on the UNDP's response. He also reported that the UNDP has set aside during 1977–81, US$10 million for projects concerning cooperation in southern Africa. Considering that many countries in the region are landlocked, he hoped that a sizable amount of money would be used to prepare specific projects to address these countries' problems. He also mentioned that UNDP and UNCTAD were carrying out studies on how to alleviate transport problems and bottlenecks in southern Africa, with emphasis on landlocked countries. He suggested it would be most useful for donors to cooperate in these endeavors to avoid duplication, and that perhaps at an appropriate time a special Consultative Group meeting for transport and communication in southern Africa might be useful. This would ensure maximum donor coordination from the pre-investment phase through project implementation. He suggested that a special subgroup could be set up to help with Zambia's problems.

41. Mr. Girma (ADB) stated that the African Development Bank fully agrees with the analysis and lines of actions indicated both by the World Bank and the Government of Zambia. The ADB also was interested in coordinating with other donors on transport development in the region from the earliest stages.

42. Mr. North (U.S.) joined the other delegations in expressing his concern about the immediate transport problem. Clearly this critical situation needed to be addressed rapidly, and, in that context, he was pleased to note the Government of Zambia had approached the Bank to be the focal point of an effort to help solve the problem. He agreed with the analysis of several other delegates that the problem must be tackled in a coordinated way, since it was beyond the resources of any one donor. On agricultural development, he complimented the Zambian delegation for its comprehensive presentation which linked the various elements of strategy, policies and programs into an integrated program. He noted the U.S. would wish to remain associated with efforts to assist the traditional farmer, as these people made up the bulk of the agricultural population. In this connection, he asked for further elaboration on the Government's plans and ideas for institutional development and manpower training related to its agricultural program. After the agricultural plan had been completed, he suggested the Government might wish to call interested donors together to review it and coordinate future assistance.

43. The Chairman noted the U.S. delegate's flexible response to dealing with the problems in the transport sector, and indicated the Bank would consult with the Government to determine an effective approach to the problem. The Bank would then call on the U.S. and others who are experienced and interested in this field to obtain counsel as well as material and technical assistance for a plan of action to deal with the problems. Minister Lumina (Zambia) responded to Mr. North's enquiry on strengthening the agricultural setcor by outlining the various training and research programs to be added or expanded during the Third Plan.

44. Mr. Lynch (U.K.) commented on the comprehensiveness of the Zambia delegation's agricultural proposals and noted that the goals of 5.5 percent growth in agriculture

and self-sufficiency in food production should be obtainable. He felt that pricing policy would be critical to the success of the entire operation, and must be rationally approached to ensure production targets were met. As a case in point, he stated that calculations showed that the current price of maize was not sufficient to meet production costs. On technical cooperation, he noted that in the U.K.'s program, amounting to £8 million annually, only 6.5 percent had been spent in the natural resources sector, and only 3.5 percent on transport, which showed the low priority both donor countries and Zambia had accorded these sectors in the past. The U.K., he added, had offered in the past 18 months over £14 million in program aid, the majority of which the Zambian Government had proposed to use in the transport and agricultural sectors. Turning to transport, he felt Zambia's long term investment plans should take into account the inevitability that the access routes to the sea, which were presently cut off, would be reestablished. Thus, the short-term strategy should concentrate on alleviating problems on those routes which remain open. He felt it would be imprudent to allocate scarce exchange resources to large new projects for outlets to the sea. He commented that certain problems affecting the operations of the TAZARA railway, namely spare parts and maintenance of rolling stock and locomotives, might require assistance from the original builders, but other elements such as storage facilities and mechanical handling equipment could be purchased from numerous donors.

45. Mr. Wirsing (EEC) affirmed the need for coordinated action on the transport sector. He noted the many studies, already completed or proposed, concerning transport in the region, several made elaborate recommendations which should probably be modified.

46. The Chairman concluded the session by offering his opinion that the discussions had introduced a degree of coordination on sectoral issues which perhaps had been absent in the past. He recapitulated the causes of the present crisis: the dependence on a single commodity, the deterioration in the terms of trade and the resulting pressure on the balance of payments. He noted the measures taken and under consideration to combat the crisis and restore stabilization and growth. The basic change in the Government's policies, he added, had been the concerted effort to diversify the economy with emphasis on stimulating agricultural and industrial development. He understood there was a consensus among the participants at the meeting that the directions of the Government's solutions were appropriate, even though much remained to be seen regarding the means and resources the Government would have available to implement its programs.

Item 10—Consultation between delegations

47. This session was devoted to discussions between delegations on topics of mutual interest.

Item 11—Statement by the IBRD delegation on bank group operations

48. Mr. Wiehen (IBRD) opened the meeting on Thursday, June 29, with a statement, contained in Annex IX, on the present and prospective operations of the World Bank Group in Zambia.

Item 12—Statement by delegations

9. The statements made by the following Delegations are provided in Annex X: African Development Bank; European Economic Community; International Finance Corporation; Saudi Development Fund; United Nations Development Programme; Canada; Finland; France: Federal Republic of Germany; Italy; Japan; Netherlands; Norway; Sweden; United Kingdom; and United States.

Item 13—Other business

50. A press release, attached as Annex XI, was discussed and approved.

Item 14—Concluding statement by the head of the Zambian delegation

51. In his concluding remarks, Mr. Mwanakatwe briefly reviewed Zambia's economic problems and indicated that the Government intended making rural development the cornerstone of its diversification strategy. The process would not be complete, however, without the active involvement of the private sector and more efficiently-working parastatals. He also said that the question of streamlining the administrative machinery for receiving and utilizing aid would be taken up with the Government. Finally, he thanked all the participants for their sympathetic responses and indicated support to Zambia in meeting its present crisis and in assisting its long-term economic development. The text of his remarks is provided in Annex XII.

Item 15—Concluding statement by the chairman

52. The Chairman, in closing the inaugural meeting, thanked the governments and agencies for their support and goodwill, and expressed appreciation and thanks to Zambia's representatives for their presentations and tireless efforts in answering questions. He summarized the causes of Zambia's present misfortunes as: (i) dependence on a single export commodity which continues to face depressed market prospects, (ii) a geo-political constellation which exacerbates Zambia's landlocked location, (iii) a decline in access to external transport links, and (iv) a paucity of experienced and skilled manpower. The economy was unprepared to absorb the kind of sudden jolts the world had recently experienced so that it was experiencing a liquidity crisis superimposed on imbalances. Fortunately, Zambia had the potential to solve its present problem and enjoyed leadership that was determined to effect the necessary changes in the direction and strategy of development. Regarding the financing gap, the figures presented were aggregate, in that they did not distinguish between official development assistance and private financing. They also did not take into account the levels of assistance historically made available to Zambia nor the possibility of new external commercial borrowing. Only commitments already made at the time of analysis were taken into account.

If it were assumed that during 1978–80, aid would continue at levels similar to the recent past and that additional long-term borrowing would be sufficient to cover repayments of previous loans, Scenario I's financing gap would be substantially eliminated. It was important, however, to keep in mind, first, that aid to Zambia over the past few years had been constant in nominal terms, thus implying a sharp drop in real terms, and, second, Scenario I's imports would not permit any progress toward normal capacity utilization. Even Scenario II's imports would not allow much expansion of investment during the first two years of the Third Plan. In addition were the commercial arrears. In this situation, only quick disbursing and/or commodity-type assistance could provide the needed stabilization. The impact of this assistance, of course, would depend on a well-functioning transport link. In this connection, the Bank intended to respond—perhaps in concert with others—to the best of its ability to the urgent call for help in this sector. The longer term solution required economic diversification, which, however, should not be expected to bring quick results nor should it sacrifice the equity that Zambia values highly. The Chairman listed some of the most important areas in which performance could be improved, namely, (i) better planning for and coordination of external assistance, (ii) increased absorptive capacity through preinvestment work, (iii) better utilization of technical assistance, (iv) improve parastatal efficiency, and (v) greater emphasis on agricultural institutions and training. Finally, it was hoped that the contacts made at the meeting would be followed up so that a sufficient resource base to meet Zambia's short term needs could be established. Hopefully, there then could be another meeting of the Consultative Group in the not too distant future which would tune its attention to development. In preparation, the Bank would want to make and circulate an appraisal of the Third National Development Plan. Although preparation of the Plan was well advanced, it was not expected that another meeting of the Consultative Group could be called until early 1979. The text of his remarks is provided in Annex XIII.

Annex I—Consultative Group for the Republic of Zambia

PARIS, TUESDAY TO THURSDAY, JUNE 27 TO 29, 1978

List of delegates

Bank: Mr. Willi A. Wapenhans, chairman; Mr. Michael H. Wiehen; Mr. Ravi Gulhati; Mr. David G. Reese; Mr. Donald H. F. Bickers; Mr. William A. McCleary; Mr. Roger C. Sullivan; Mr. M. Azizul Jalil, resident representative in Zambia.

IFC: Mr. M. A. K. Alizai, Deputy Director, CAF.

Canada: Mr. Karl Johansen, Director General, Commonwealth Africa Division, CIDA, head of delegation; Mr. Paul Dunbar, Senior Planning Officer, Zambia, CIDA; Mr. Jean-Paul Caron, International Programs Division, Ministry of Finance; Mrs. Catherine Peterson, Desk Officer for Zambia, Ministry of External Affairs.

Finland: H. E Mr. Unto Korohohen, Ambassador of Finland to Zambia, Head of Delegation; Mr. Erkki Laurila, Secretary of Section, Ministry of Foreign Affairs; Mr. Rauno Viemero, First Secretary, Permanent Delegation to OECD.

France: Miss Jeanne Moevus, Financial Counsellor for Africa, Treasury, Ministry of Economy, Head of Delegation; Mr. Sellier, DREE, Ministry of Economy; Mr. Remy Lahaye, Charge de Mission, Financial and Economic Affairs Department, Ministry of Foreign Affairs; Miss Siegel, Treasury, Ministry of Economy.

Germany: Dr. Karl Kirchhof, Head, Eastern & Southern Africa Division, Ministry of Economic Cooperation, Head of Delegation; Mr. Gunter Daniel, Regiergunsdirektor, Ministry of Economic Cooperation; Mr. Franz Ring, Ministry of Foreign Affairs; Mr. Klemens Scharte, Counsellor, Ministry of Finance; Mr. Rolf Howald, Counsellor, Ministry of Economic Affairs; Dr. Volkhard Hebisch, Kreditanstalt fur Wiederaufbau.

Italy: Mr. Riccardo Leonini, Head of Office, Economic Affairs Directorate, Ministry of Foreign Affairs, Head of Delegation; Mr. Alessandro Sottosanti, Counselor, Ministry of the Treasury; Mr. Giancarlo Brianconi, Head of Section, Ministry of Foreign Trade; Mr. Dino Volpicelli, Secretary, Permanent Delegation to OECD.

Japan: Mr. Tsuneo Jinma, Financial Counsellor, Embassy of Japan, Paris, Head of Delegation; Mr. Koji Kawasaki, Economic Cooperation Bureau, Ministry of Foreign Affairs; Mr. Hiroyuki Shiraishi, Financial Attache, Embassy of Japan, Paris; Mr. Gorota Kume, Ex-Im Bank, Paris, Observer; Mr. Yorihiro Narita, Overseas Economic Cooperation Fund, Observer.

Netherlands: Mr. W.G. Wessels, Head, Special Programes, Ministry of Foreign Affairs, Head of Delegation; Mr. A. van der Luit, Ministry of Economic Affairs.

Norway: Mr. Haakon B. Hjelde, Head of

Division, Ministry of Foreign Affairs, Head of Delegation; Mr. Per Tobiesen, Resident Representative in Lusaka, NORAD; Ms. Kersti Bredberg-Johansen, Senior Official, NORAD.

Sweden: Mr. Thord Palmlund, Head of Bilateral Department, Office of International Development, Ministry of Foreign Affairs, Head of Delegation; Mr. Lars-Olof Edstrom, Development Assistance Attache, Embassy of Sweden, Lusaka; Mr. Bengt Wahlstedt, Head of Section, Ministry of Economic Affairs; Mr. Bengt Oberger, Economist, Embassy of Sweden, Lusaka; Mr. Rolf Andreen, First Secretary, Permanent Delegation to OECD.

United Kingdom: Mr. Martin P. J. Lynch, Under-Secretary, Africa Division, Ministry of Overseas Development, Head of Delegation; Mr. A. K. Robertson, Head of Zambia Section, Ministry of Overseas Development; Mr. P. R. Carter, Economic Planning Staff, Ministry of Overseas Development; Mr. G. E. Hall, Advisor, Bank of England; Mr. J. R. Varcoe, Assistant Head, Central and Southern African Department, Foreign and Commonwealth Office.

United States: Mr. W. Haven North, Deputy Assistant Administrator, Bureau for Africa, USAID, Head of Delegation; Mr. Vernon C. Johnson, Deputy Assistant Secretary, Bureau of African Affairs, Department of State; Mr. Peter Smith, Country Officer for Zambia, Office of East African Affairs, Department of State; Mr. Leonard Pompa, AID Desk Officer for Zambia; Mr. John Hicks, Program Officer, USAID, Lusaka; Mr. du Lavey, Development Assistance Attache, Permanent Delegation to OECD.

Yugoslavia: Mr. Tom Gudac, Deputy Assistant Secretary, Federal Secretariat for Finance.

African Development Bank: Mr. W. M. Girma, Director, Operations Department, Head of Delegation; Mr. P. Rwelamira, Economist.

Arab Bank for Economic Development in Africa (Badea): Mr. Farah Warsame, Development Officer.

European Economic Community: Mr. Klaus Meyer, Director General; Mr. Maurice Foley, Deputy Director-General; Mr. Wirsing, Director of Programs; Mr. John Scott, Principal Administrator.

European Investment Bank: Mr. R. C. Speller, Projects Officer, Head of Delegation; Mr. M. Becker, Economist, Research Department.

International Monetary Fund: Mr. Massimo Russo, Division Chief, Equatorial African Division, African Department, Head of Delegation; Mr. Jukka M.T. Paljarvi, Economist, African Department; Mr. Hiroyuki Hino, Economist, Exchange and Trade Relations Division; Mr. Augustus W. Hooke, Senior Economist, IMF Office, Paris; Mr. Jorge Guardia, Counsellor, IMF Office, Paris.

Saudi Fund for Development: Mr. Yussuf Biyari, Counsellor to the Vice Chairman, Head of Delegation; Mr. Hahmoud S. Nadeen, Economist.

United Nations Development Programme: Mr. Michel Doo Kingue, Assistant Administrator and Regional Director for Africa, Head of Delegation; Mr. Gordon Groundrey, Joint Coordinator, Special Economic Assistance Programs; Mr. J. Mufti, Resident Representative, Zambia.

Zambia: Hon. Mr. John M. Mwanakatwe, Minister of Finance, Head of Delegation; Hon. Mr. Joshua P. Lumina, Minister, National Commission for Development Planning; Mr. Luke Mwananshiku, Governor, Bank of Zambia; Mr. Dominic Mulaisho, Assistant to the President (Economic Affairs); Mr. Francis Walusiku, Deputy Secretary to the Cabinet; Mr. Lloyd Sichilongo, Permanent Secretary, Ministry of Finance; Mr. S. K. Mutuna, Permanent Secretary, Ministry of Economic and Technical Cooperation; Mr. David Simonda, Permanent Secretary, National Commission for Development Planning; Mr. Andrew Hamaamba, Acting Permanent Secretary, Ministry of Lands and Agriculture; H. E. Mr. Isaac R. B. Manda, Ambassador of Zambia in Paris; H. E. Mr. W. Nkowani, Ambassador of Zambia to the European Economic Community; Mr. G. B Mbulo, Director of Research, Bank of Zambia; Mr. Timothy Thahane, Executive Director, World Bank; Mr. Austin H. Madinga, Alternate Executive Director, World Bank; Mr. Wila D. Mung'Omba, Executive Director, International Monetary Fund.

OBSERVERS

Austria: Mr. G. Janschek, Director, Ministry of Finance.

Romania: Mr. Nicolae Eremia, Director, Ministry of Finance, Head of Delegation; Mr. Emile Radulescu, Second Secretary, Embassy of Romania in Paris.

DAEC/OECD: Mr. Fred Livingston, Head, Programme and Sector Policies Division, Development Cooperation Directorate, Head of Delegation; Mr. John Diller, Principal Administrator.

ANNEX II—CONSULTATIVE GROUP FOR THE REPUBLIC OF ZAMBIA

PARIS, TUESDAY TO THURSDAY, JUNE 27 TO 29, 1978

Opening statement by the chairman

1. It is my great pleasure and honor to welcome you on the occasion of the first Consultative Group meeting on Zambia. The presence of so many distinguished delegations attests to the high levels of respect and goodwill Zambia has generated in the international community. We are indeed pleased to have with us a very distinguished delegation from the Republic of Zambia and I should like to extend an especially warm welcome to the Minister of Finance, His Excellency John Mwanakatwe, and his associates.

2. The formation of the Consultative Group—culminating a long process of deliberation—comes at a critical juncture in the Zambian economy. We know from the background documentation before us—and let me take the opportunity here to compliment the Zambian delegation for their lucid and candid statement on the recent past and current economic situation—that Zambia's crisis has been brought on by its overwhelming economic dependence on copper production, and the depressed state of copper prices since 1975 in the face of substantial international price rises while all contributed to adversely effect Zambia's terms of trade. While other contributing factors have exacerbated the situation, most notably the turbulent state of regional affairs and their disruptive impact on Zambia's vital transport links with its external markets, these events have only served to further demonstrate the severe structural imbalances within the economy, and the lack of internal resilience to external forces so often present in a one-commodity economy. Let me summarize briefly the unsettling effects brought on by three years of low copper prices:

Government revenues from mineral taxation have fallen precipitously and have been nil for the last two years;

Mounting budgetary deficits have been financed internally fueling domestic inflationary pressures;

The terms of trade have deteriorated rapidly;

Massive balance of payments deficits have occurred leading to an accumulation in arrears and a reduction in foreign exchange holdings; and

Lack of imported spare parts, intermediate goods and essential raw materials have cut into production causing a fall in real Gross Domestic Product.

The Zambian Government has responded by adopting a number of short-term internal measures to dampen demand, restrict imports, stimulate non-mineral production, and encourage adoption of labor-based techniques. For the longer-term, the Government has pledged itself to the long and difficult task of putting the economy on a broader footing, based on agriculture and manufacturing, as well as mineral production.

3. Nonetheless, the constraints imposed by current economic conditions may well combine not only to threaten the country's economic recovery, but imperil structural adjustments in general—unless there is immediate and substantial outside help. The immediate problem, then, is one of mobilizing the necessary external resources in order to maintain productive capacity and stimulate new investment, while restoring economic stability, in order that Zambia can get on with the longer-term task of restructuring its economy. To help in this endeavor, the Government has turned to the international community for assistance. It has embarked upon a comprehensive stabilization program, in connection with a standby agreement with the International Monetary Fund, which you will hear about in more detail later in the meeting. It has also asked the World Bank to form a Consultative Group to provide a forum for discussing Zambia's economic situation and prospects, priorities for development and needs for external assistance, with all countries and institutions which are interested in supporting Zambia's development. A unique aspect of this first meeting is that it will focus mainly on the economy's short-run resource requirements and the appropriate mechanisms for providing financial and economic assistance, and not on the details of Zambia's long-term economic strategy. Partly this is because Zambia's Third National Development Plan, already twice postponed because of pressures generated by the present crisis, will not be ready before the end of this year, and partly because Zambia's requirements for external resources in the 1978–80 period are so massive and immediate, that the Government has asked the Consultative Group members to address this problem first, and then to come together again, following the completion of the Third Plan to discuss Zambia's long-term development program and the sectoral requirements. Our own assessment of Zambia's situation supports the Government's views on the urgency of convening the first Consultative Group meeting now, rather than waiting for completion of the Third Plan. But this does not mean that we should focus exclusively on Zambia's short-run problems, as obviously there is a strong link between the policies and programs adopted in the short-run and Zambia's long-term development goals. The Government's paper provides an overview of its objectives for the Third Plan, and later in the meeting we will hear from the Zambian delegation on recent developments in agriculture, clearly the pivotal sector in the Government's long-term diversification efforts. I am sure the Zambian delegation would appreciate our frank comments on the Third Plan proposals as part of our general discussion of the economy.

4. Nevertheless, our primary objective in this meeting will be to review the Government's current financial situation and assess the various policy and financial actions taken to stabilize the economy and quicken the pace of diversification. We hope to update the assessment of the level of external resources required for Zambia to resume its economic growth as quickly as possible, within the set of constraints it faces. And while agriculture is crucial to our structural diversification, removing the transportation bottlenecks is absolutely essential to making the short term relief measures effective. In the course of the meeting, we would expect to learn more from the Zambian delegation of the relative pri-

ority their Government gives to the different uses to which external resources might be applied, given the economy's large requirements. These views would serve as a useful guide to Group members in considering the most appropriate forms of their assistance. We also expect to discuss the framework for initiating and coordinating the policy actions, as well as the specific measures, including technical assistance, needed to remove bottlenecks in transportation and in absorption of development finance and to carry out economic diversification and restructuring. In relation to these needs, the Government of Zambia's paper outlines the policy instruments they have used, or will use, to stimulate growth in new economic areas including inter alia: (i) increased budget allocations for agricultural investment, (ii) improved levels of agricultural producer prices and the intention to adjust these annually, (iii) an industrial Development Act providing a comprehensive package of incentives to spur industrial output and attract private investment, and (iv) reduction in subsidies benefiting urban consumers.

5. However, the Government has and must continue to move resolutely to translate its policy objectives into programs by strengthening institutions, revitalizing the bureaucracy, and organizing a substantial, well-directed and efficient technical assistance program. While these intentions are clearly stated as Government objectives, we look forward to hearing from the distinguished delegation from Zambia, how these important issues will be tackled since they are important both in our review of the short-run resource requirements and in giving effect to the courageous policy measures already adopted by the Government.

6. Let me add here that the Consultative Group meeting, as you know, is not intended to be a pledging session, but rather serves as an opportunity for Zambia's friends to come together for a frank discussion of their concerns, and, to the extent possible, to provide an opportunity for them to indicate their intended level, direction and type of support in the immediate future. Given the severity of the present crisis, Zambia obviously needs substantial amounts of quick-disbursing assistance on concessional terms. In this context, I invite the delegation during the meeting to consider this matter and to indicate whether assistance of this kind might be part of their respective programs in the immediate future, or in the case of funds already committed, but not spent, for projects, to what extent these funds might be diverted to program or commodity type assistance. Zambia has obviously committed itself to austerity and put in place a number of the requisite tools of demand management. Her friends can be of greatest help in the present situation by assuring success of this approach through alleviation on the supply side.

7. In summing up, Zambia faces a situation of mounting budget deficits, with few prospects to further expand the revenue base, substantial balance of payments deficits, despite deep cuts in imports, inadequate foreign exchange balances and substantial arrears on debt payments and foreign exchange remittances. While depressed copper prices have been the direct cause of these problems, and there have been other exacerbating influences outside Government's control, the fundamental disequilibrating force has been the economy's overwhelming dependence on copper and the neglect of other sources of production. The Government has announced policies to put the economy on a stronger footing, but they will only have a marginal impact in the short-run; meanwhile, there is a massive and immediate need for relatively quick-disbursing commodity assistance and balance of payments support to enable the Government to embark on its diversification program, while stabilizing the economy and restoring growth. I hope this meeting will contribute to a better understanding of Zambia's problems, and perhaps lead to a framework of support that could help restore the economy and enable a new, hopefully more-enduring, economic structure to develop.

8. I would like to call now on Mr. McCleary to make a statement on the current situation and prospects for the economy, but before I do, I might remind you that tomorrow afternoon is set aside for individual consultations between delegations. In order to use the time as effectively as possible, please let Mr. Sullivan, of our delegation, know your interest in meeting with either the Zambian delegation or ourselves. And now, I call on Mr. McCleary.

ANNEX III—CONSULTATIVE GROUP FOR THE REPUBLIC OF ZAMBIA

PARIS, TUESDAY TO THURSDAY, JUNE 27 TO 29, 1978

Statement on Zambia's current economic situation and prospects (Mr. McCleary)

1. As we are all well aware, for the past three years, Zambia has been undergoing a severe financial and economic crisis. Low copper prices, at times exacerbated by transport problems, have led to serious budgetary and balance of payments difficulties. Government efforts to raise non-mineral revenues and reduce budgetary expenditures—while successful—have not been able to compensate for the loss in mineral revenues, and large budgetary deficits, financed mainly through the monetary system, have added to inflationary pressures. Despite tight import controls, which reduced the real volume of imports by 42 percent between 1975 and 1977, the dramatic decline in copper export earnings has led to substantial current account deficits, financed mainly by a US$300 million reduction in Zambia's net foreign assets and an accumulation of over a half a billion dollars in payments arrears for imports and services. The decline in volume of essential inputs of spare parts, raw materials and other intermediate goods have led to production cutbacks in key sectors of the economy; manufacturing, for example, is estimated to be operating at 60 percent of capacity, construction at about 55 percent.

2. While fluctuations in copper prices and transport problems can be viewed as exogenous. Largely beyond the power of the Zambian Government to control, the financial crisis has clearly illuminated several structural defects in past Zambian development, namely:

The vulnerability of the country's foreign exchange and budgetary position to swings in copper prices;

The heavy dependence on the modern sectors upon imported inputs;

The pitfalls associated with the failure to diversify through agricultural development and the encouragement of local resource-based industries.

3. Zambia's continuing dependence upon copper has reinforced the dualism that characterized the economy at independence. The illusion of wealth based on copper—at least when prices were cyclically high—gave rise to the development of a modern sector based heavily on imported intermediate and capital goods, a rapid growth of government recurrent expenditures, subsidies for domestic food consumption and for agricultural imports, and large increases in modern sector wages. The resulting pattern of development was characterized by high levels of urban consumption, growing capital-intensity in production techniques in the modern sector, and relative neglect of the country's other important natural resource—agricultural land.

4. For economic stability, for more rapid growth and for the alleviation of poverty, the pattern of future economic development must clearly be different. Several recent studies have shown Zambia's exports to be among the most unstable of any developing country in the world; in the absence of better countercyclical management of budgetary and foreign exchange resources, Zambia will continue to suffer periodic financial crises characterized by sharp reductions in development programs, shortages of essential imports and unutilized capacity. Moreover, future growth based upon copper and heavily dependent upon imported inputs is bound to be slow. According to World Bank forecasts, copper production will grow at about 1–2 percent per annum between now and the mid-1980s and the real costs of producing copper in Zambia are expected to continue increasing. In addition, the projected long-term trends for copper prices are not encouraging: while the Bank is currently projecting an increase of about 50 percent in real copper prices between 1977 and the early 1980s (with virtually no improvement between now and 1980), thereafter real copper prices would fluctuate around an upward trend of only about 1 percent per annum. Thus, over the long run real earnings from copper will expand very slowly. Moreover, to the extent that modern sectors—such as manufacturing, construction and transport—remain heavily dependent upon imported inputs, their growth will be constrained by the slow expansion of foreign exchange earnings from copper. Lastly, if the future pattern of growth would be urban-oriented and capital intensive, it would have rather serious implications for employment and income distribution. With growing capital intensity in the modern sectors and continued rural stagnation, the expansion of the modern sector would not be sufficient to absorb the growing urban labor force and excess labor would become unemployed or be forced into employment in the low productivity urban informal sector or rural sector. The result would be a larger income gap between those employed in the modern sector and those who are unemployed or employed in the informal and rural sectors.

5. To encourage a different pattern of future development, government policies must be directed at diversification of the economy, mobilization of domestic resources for growth and the stabilization of the Government's development program. The development of agriculture and local resource-based industries offers the greatest diversification potential. With plentiful land resources for crop livestock development, Zambia's agricultural sector can provide the basis for rapid and sustained growth; with proper pricing, government investment policies and institutional reforms it would be possible to achieve a much higher average agricultural growth rate than has been achieved over the past decade. Such growth would make Zambia self-sufficient in virtually all agricultural products while producing surpluses for export in some crops such as sugar, cotton, and coffee. In addition, more rapid agricultural growth opens up greater possibilities for agro-processing industries (e.g., oilseeds, textiles). Properly supplemented with wage restraint and tax and exchange rate policies which raised the cost of imported inputs, the development of agriculture and agro-processing would generate greater employment opportunities as well as greater earnings or savings of foreign exchange. With respect to resource mobilization and stabilization, measures are needed which increase government savings and improve the efficiency and profitability of the parastatal sector as well as protect the Government's investment program from copper price instability.

6. When viewed in the above context, a number of measures the Government has already taken, or plans to take during TNDP, are very encouraging. With respect to diver-

sification and economic efficiency, several steps have already been taken and will be expanded upon during TNDP. Particularly noteworthy is the increasing attention being devoted to the agricultural sector. The significant increases in agricultural producer prices, the increase of project identification and implementation capacity in the Ministry of Lands and Agriculture and the growing proportion of government budgetary investment for agriculture, all reflect the Government's growing commitment to agriculture as the key to its diversification strategy. Agricultural price increases over the past several growing seasons have largely eliminated differences between domestic producer prices and international prices and provided needed incentives for added production; the encouraging response by both large and small farmers in producing such crops as maize, groundnuts, and cotton, shows the power of price incentives. Therefore, the Government's commitment to the annual review and revision of prices in light of domestic production costs and international trading opportunities is a welcome move, especially since further adjustments will soon be necessary because of the recent devaluation and the high rate of domestic inflation. However, further measures will be needed to strengthen the infrastructure and institutions which will support agricultural development in Zambia; while the capacity of the Ministry of Lands and Agriculture has been improved, further strengthening will be necessary in its ability to plan and implement projects and in its staffing for extension, research and the management of agricultural development. Expanding this capacity will be crucial to the Government's goal of increasing agriculture's share of its development budget from under 20 to over 30 percent during the Third Plan.

7. In addition, the Government has taken steps to clarify the role of foreign and domestic private enterprise and to provide tax incentives for those investments in manufacturing which further its objectives. The Government has made it clear that private enterprise has an important role to play in the development effort and the Industrial Development Act of 1977 gives foreign capital immunity against nationalization and assurances regarding the repatriation of investments and profits. The Act also gives tax relief to manufacturing firms which export, utilize domestic raw materials, provide significant employment opportunities, develop industrial skills or locate in rural areas. The Act is a welcome clarification of the role of private enterprise; it also, together with the recent devaluation and continuing wage restraints, should help to stimulate manufactured exports, the processing of local raw materials and labor-intensive production techniques. However, the Act is unlikely to have much immediate impact in view of the uncertain economic climate and the tight foreign exchange constraint. While awaiting such an improvement in economic conditions, it would be desirable, in our opinion, for the Government to clarify and formalize the criteria by which firms will qualify for tax incentives under the Act. Moreover, as the Government has already pointed out in its paper for this meeting, existing tax and tariff laws continue to favor the import of raw materials and the use of capital-intensive techniques; a study of the tax and tariff system, with a view toward recommending a system of incentives more consistent with government objectives, would be highly desirable.

8. Parastatals will play a critical role in the TNDP investment program and in Government efforts to shift the emphasis toward more directly productive investments in manufacturing and in agriculture. The Government has begun to pay increasing attention to parastatal performance, with emphasis on "economic pricing" and improvements in efficiency through better management and organization. Recent price increases—for maize meal, wheat flour, and cooking oil, for example—have improved the financial position of some parastatals and reduced their need for subsidies; the Parastatal Bodies Services Commission has been created to monitor the activities of parastatals and make recommendations for improvement. These steps represent an important start but much more remains to be done: other prices still need to be adjusted and the staff of the Service Commission must be strengthened so that it can carry out its function. The success of these efforts will be crucial to the Third Plan: in the absence of improved profitability, parastatals will not be able to finance a large proportion of their required investment through retained earnings; moreover, government budgetary resources would be diverted from other uses since parastatal tax contributions would be lower and their reliance on budgetary subsidies and loans would be greater.

9. On the budgetary side, the Government has already taken a number of important measures to increase resource mobilization; during TNDP, it plans to extend these measures still further and to adopt a program to stabilize long-term development expenditures. The restraints the Government has placed on the expansion of recurrent expenditures plus the impressive success it has achieved in mobilizing non-mineral tax revenues during the past three years has brought about a significant reduction in deficit financing. Between 1975 and 1978, the Government's annual level of borrowing from the banking system has been reduced 67 percent through a reduction in recurrent expenditure growth to 2 percent per annum—mainly by subsidy cuts and salary restraint—through a 30 percent reduction in capital expenditures and through an increase in non-mineral tax revenues of 42 percent. These measures are expected to bring about a significant reduction in inflationary pressures in 1978. Some—especially the tax increases and subsidy reductions—have fallen heavily on the urban classes and reflect the Government's willingness to take severe measures to deal with the financial crisis. These austerity measures, however, have imposed heavy real costs: recurrent expenditures have not kept pace with inflation and the level of government services in such areas as education, road maintenance and agricultural extension services has declined; in 1978 government real capital expenditures—the lowest aggregate level since independence—will involve a large shift in emphasis away from the social sectors—education, health—toward the more productive sectors, especially agriculture. Given the forecast for little improvement in copper prices until the early 1980s, budgetary resources will continue to be tight.

10. In addition, the adoption of a Budget Stabilization Fund (as will be called for in TNDP) will improve long-run economic management by insulating the Government's development program from fluctuations in copper prices. The Fund would operate countercyclically accumulating balances when copper prices were high and running them down to help maintain development expenditures when copper prices were low. The appropriate rate of expansion of development expenditures would be determined by long-run projections of tax revenues and borrowed funds and hence would be free from short-run fluctuations in available resources. While copper price prospects make it unlikely that the Fund will become operative until the early 1980s, its successful implementation will free the Government's development program from the "stop-go" pattern of the past.

11. The policies adopted thus far—or contemplated during TNDP—represent an encouraging start toward improving diversification and economic efficiency and toward better management of fiscal and foreign exchange resources. Nonetheless, to expect a rapid expansion of production or a sizable improvement in the country's financial position would clearly be overly optimistic. Shortages of financial resources and of skilled manpower will limit the speed of recovery. Shortages in foreign exchange for essential inputs have led to underutilized capacity in manufacturing, construction and transport; no government policies to promote the recovery of these sectors are likely to have a large impact unless complemented by an increase in available foreign exchange. Shortages in budgetary resources have already forced a cut in services financed through the Government's recurrent budget and a drastic reduction in the Government's development program. Faced with such a scarcity of resources, the Government has already shifted its development priorities toward the more directly productive sectors by raising the shares devoted to agriculture and industry while reducing the proportions devoted to the social sectors; it plans to continue this policy during TNDP. Despite the Government's commitment to further reductions in subsidies and increases in non-mineral tax revenues, the relatively low levels of mineral revenues expected until 1980 will not allow a speedy reversal of this situation; in the absence of an inflow of foreign resources, government services and capital expenditures will continue to be tightly constrained. Moreover, skilled manpower will continue to exercise a severe constraint on the Government's ability to plan and implement new projects and to increase parastatal efficiency through improvements in management and organization. Further improvements in the Ministry of Lands and Agriculture, for example, will be needed if a larger pipeline of projects is to be developed. Similarly, staffing in the parastatal and in the Parastatals Bodies Services Commission must also be strengthened. What is needed—and this, we feel, will be crucial to the success of TNDP—is a program for the mobilization and effective use of technical assistance; such a program should include plans for the development and training of Zambians so that the reliance on expatriate expertise may be phased out over time.

12. Given the outlook for copper prices, the next 2–3 years will clearly be difficult ones for Zambia. The need to provide for an expansion of the volume of imports plus reduce arrears and increase foreign exchange holdings leads to massive external capital requirements. While the IMF standby (and other IMF facilities) will supply a large flow of resources in the context of an effective stabilization program, Zambia's needs for balance of payments assistance to support a growth of imports and economic recovery will be much greater. According to our estimates, for example, a program which merely called for maintaining the level of real imports at the 1978 level would result in a financing gap of about K 365 million—over and above IMF and other known capital flows—during the period 1978–80; however, the financing gap would rise to over K 1 billion to support an import volume sufficient to restore normal capacity utilization in 1979 and 1980. If the necessary reduction in arrears and a gradual buildup of foreign exchange reserves are also taken into account, substantially larger financing gaps, ranging as high as K 1.8 billion during 1978–80, would result. Moreover, it is essential that a significant proportion of the required external capital be on concessional terms if debt servicing problems are to be avoided. With a large proportion of its present debt coming due for repayment by 1980, it is clear that Zambia should on balance avoid short-term loans, seek longer grace periods (say 3 years or more) and attempt to lengthen the maturity structure of its debt. During the 1980s, higher projected copper prices coupled with lower service payments on the already existing debt will lead to a substantial improvement in

Zambia's capacity to service debt. Our projections show that if the required resources could be raised—with about three quarters coming on a blend of IBRD and bilateral terms and the remainder on commercial terms—debt servicing would consume roughly 20 percent of export earnings during the 1980s.

13. The Zambian Government's continued progress in improving diversification and economic management plus the severe balance of payments constraints the country faces merit additional external support on concessional terms. Such support would speed the economic recovery and complement the Government's efforts to bring about a more desirable pattern of long-run growth. Without such additional assistance, the Government would be forced to curtail its development efforts in the Third Plan and the recovery would be delayed until the 1980s at a considerable cost in economic welfare.

ANNEX IV—CONSULTATIVE GROUP FOR THE REPUBLIC OF ZAMBIA

PARIS, TUESDAY TO THURSDAY, JUNE 27 TO 29, 1978

Statement of the International Monetary Fund (Mr. Russo)

Introduction

1. Since the fall in the world market price of copper in 1974 Zambia has been facing an increasingly serious economic and financial situation. Over the last three years real income has fallen considerably, and real GDP adjusted for terms of trade by as much as 25 percent. The annual rate of inflation has almost tripled to 20 percent in 1977 and, despite a drastic fall in the volume of imports brought about by stringent exchange restrictions, the overall balance of payments has registered a cumulative deficit of some SDR 720 million since 1974. This large imbalance has not only virtually exhausted the country's foreign exchange reserves but has also led to the accumulation of external payments arrears amounting to about SDR 500 million at present.

2. The factors which have led to the present difficult economic situation are of both external and internal origin. Zambia has experienced a very large deterioration in the terms of trade brought about by an unprecedented and persistent fall in the price of copper (which represents 90 percent of its export earnings) and by the large increase in import prices in 1974 and 1975. Also, unsettled conditions in neighboring countries (Rhodesia and Angola) have greatly affected the transport situation and have added to domestic costs. Development policies have failed to diversify the economy and promote export growth, while demand management policies had been greatly expansionary in 1975, and the attempts which were made in 1976 and 1977 to reduce the imbalance proved insufficient. Performance under a stand-by arrangement in the higher tranches approved by the Fund in July 1976 fell short of the agreed policy targets, and no new targets were set for the period of the stand-by arrangement after December 1976.

The Stabilization Program

3. The Government of Zambia has become increasingly aware that adjustment could not be avoided or postponed any longer and, with the introduction of the 1978 budget last January, began implementation of a new comprehensive stabilization program. On April 26, 1978 the Executive Board agreed to lend the support of the Fund to this effort with a two-year stand-by arrangement in the amount of SDR 250 million. In addition, the Fund approved a drawing equivalent to about SDR 49 million under the compensatory financing facility. Since Zambia's present quota is SDR 141 million, approval of the stand-by arrangement required a waiver of normal limits on Fund assistance on the basis of the exceptionally grave situation facing Zambia.

4. The program of the Government of Zambia is designed to achieve four main objectives: (1) to move progressively the overall balance of payments position from a deficit of SDR 233 million in 1977 to equilibrium in 1980; (2) to limit the fall of real income in 1978 and to facilitate a resumption of growth in 1979; (3) to reduce considerably demand pressures in 1978 and the overall rate of price increase in 1979; and (4) to set the basis for a diversification of the economy through an improved allocation of resources as between investment and consumption, as well as among different sectors of the economy.

5. These objectives are to be achieved through the comprehensive set of policy measures outlined below, which in turn are based on some key assumptions. The most important one concerns the evolution of Zambia's terms of trade during the program period. Import prices in terms of SDRs are expected to increase by 6 percent a year in line with presently available forecasts. Copper prices (LME) are assumed to average about US$0.60 per pound in 1978, and a national price of US$0.70 per pound has been retained for 1979.

6. Given the limited availability of foreign exchange, the planned reduction in the overall balance of payments deficit to SDR 140 million in 1978 is to come about in part through a 12 percent decline in real imports. On the basis of commitments existing in March of this year, the net capital inflow is estimated at some SDR 50 million in 1978, implying a significant improvement over 1977. Export receipts are not forecast to register large gains, given the assumed copper price and the flat volume of exports. The expected further decline in the overall balance of payments deficit in 1979 to some SDR 50 million is to be brought about by a higher value of exports due to rises in both volume and unit value, leaving some room for a modest expansion in the volume of imports.

7. The program contains several measures aimed at improving upon the recent poor production performance and setting the basis for economic growth for 1979 and beyond. Of most immediate concern is the improvement of the mining companies' financial position to allow them to maintain production and continue with the investment projects under way, as well as to eliminate their need to resort to the Bank of Zambia for financing their operating deficits. To eliminate the combined operating losses of the two large mining companies in 1978, several measures in the program have been implemented. The kwacha was depreciated by 10 percent on March 17, 1978 and operating costs were reduced through cutbacks in the provision of some social services, suspension of operations in certain high-cost mining sites, and policies to obtain supplies from cheaper sources in neighboring countries.

8. In order to diversify the economy and encourage nontraditional exports, better incentives will be provided for agricultural production by higher producer prices, and the policy of economic pricing in the parastatal sector is being strengthened. Among other important measures are the efforts to attract external funds for the development of these two sectors through intensified project identification and preparation by the Ministry of Rural Development, and by the implementation of the recently passed Industrial Development Act.

9. The resumption of growth requires that sufficient domestic savings to finance a higher level of investment be generated in the coming years. To this effect, and to rationalize the price/cost structure, consumer subsidies, including those for fertilizers, will be phased out over a period of three years, starting with the 33 percent reduction included in the 1978 budget. No increases in public sector wages will take place in 1978, and in the private and parastatal sector wage increases will be limited to those already foreseen in existing contracts, which are of the order of about 5 percent. Wage policies during the remaining period of the stand-by arrangement will be linked to productivity growth and the need to improve relative factor prices, and will take into account the progress made in stabilizing the economy.

10. Since investment and intermediate goods comprise about 80 percent of Zambia's import bill, economic activity in industry, construction, and commerce is expected to register a further fall, on average, in 1978. As little or no growth is anticipated in agriculture and mining, real GDP is forecast to decline by some 2–3 percent. In order to reduce the rate of inflation to around 16–18 percent, restrictive domestic policies are therefore required.

11. The immediate objective of demand management policies is to bring about a reduction in real domestic demand of some 5 to 7 percent in 1978. Over the medium term, both fiscal and monetary policies aim at increasing savings and improving the structure of demand in favor of investment.

12. The 1978 budget contains both revenue and expenditure measures designed to bring down the budget deficit from K 260 million in 1977 to K 160 million in 1978, or from the equivalent of 14 percent of GDP to 8 percent. Without any contribution from the mining sector, budgetary revenue is expected to increase in 1979 by some 8 percent, mostly through increases in the rate and coverage of sales and excise taxes. On the expenditure side the 1978 budget has introduced reductions from K 770 million in 1977 to K 711 million, or some 8 percent. These consist mainly of the aforementioned cuts in consumer subsidies, an almost complete hiring freeze in the Central Government as well as no increase in capital expenditure. With the reduced budget deficit, the estimated recourse of the Central Government to the banking system is limited to K 100 million, as opposed to K 220 million in 1977.

13. Further reductions in the overall budget deficit and borrowing from the banking system are planned for 1979 and 1980, with the progressive elimination of consumer subsidies and reduced reliance of parastatal enterprises on the budget. If necessary, additional tax measures will be taken during the program period, and the Government will look once again to the mining companies for revenue, once profitability in this sector has been restored. In addition, monetary and credit policies aim at a considerable deceleration in the overall domestic credit expansion from an annual rate of some 30 percent in 1977 to 18 percent in 1978, and at encouraging savings through higher interest rates.

14. Beside the depreciation of the kwacha, on the external side the authorities also plan an orderly reduction and eventual elimination of external payments arrears, to improve the country's creditworthiness. Should the capital account of the balance of payments register inflows in excess of the minimum assumed by the program, a significant proportion of the excess would be devoted to reducing arrears in addition to making it possible to raise the level of imports. External debt policies are being re-examined by a newly-established committee, whose task is to carry out a complete inventory of the existing debt and to monitor all transactions and commitments. Moreover, to improve the maturity structure of the external debt, under the present stabilization program quantitative limits have been established on new borrowing undertaken or guaranteed by the Government in the maturity range of 1–15 years, with a subceiling on the maturity range of 1–5 years.

Conclusion

15. It is as yet too early to evaluate the effects of the measures adopted by the Government and to comment on performance under the stand-by arrangement. The program, however, involves a considerable adjustment effort and as such will not be easy to implement. Though required to restore a sustainable medium-term balance of payments position along with a resumption of economic growth and a reduction in the rate of inflation, this effort implies a further large fall in real domestic demand and in living standards in 1978. This, though undesirable *per se,* seems unavoidable in view of the imbalance created by past policies and the large adverse shift in Zambia's terms of trade.

16. Zambia's need for additional external support over and above that provided by the Fund should be viewed in this context. To provide a perspective, the volume of imports planned in the program for 1978 is only about half that of 1969, and on the basis of existing loan commitments, even if copper prices improve, imports in real terms can only grow marginally in 1979 and 1980. Given the structure of the Zambian economy, the continued shortage of imported goods has had, and will have, very serious effects on the level of economic activity and future growth prospects. It is, therefore, of the highest importance that Zambia's adjustment effort be supported by timely external assistance on concessional terms. Such assistance should, as far as possible be available in a form which could be quickly converted into an increased flow of essential imports.

17. The stabilization program will have to be supplemented by a comprehensive review of investment policies aimed at lessening the balance of payments constraint and permitting the resumption of a sustainable rate of growth. A stepped up investment effort in the coming years will undoubtedly require large foreign assistance which should be provided at appropriate terms, in view of the current unfavorable debt profile. In this endeavor Zambia will, therefore, need the full support of the international financial community.

ANNEX V—CONSULTATIVE GROUP FOR THE REPUBLIC OF ZAMBIA

PARIS, TUESDAY TO THURSDAY, JUNE 27 TO 29, 1978

(Statement by Hon. J. M. Mwanakatwe, M.P., Minister of Finance)

Mr. Chairman, Distinguished Representatives, Your Excellencies, Ladies and Gentlemen: It gives me great pleasure to address this first meeting of the Consultative Group for Zambia, it is a considerable achievement to have convened so large a number of representatives of governments and international institutions who are willing to assist my country in its time of economic difficulty, and who have already extended such large amounts of assistance in the years since Zambia's independence. I wish to express to all countries and institutions represented here, the gratitude of my Government for the interest and concern which has already been demonstrated and which I am sure will continue.

Much of the credit in organizing and convening this meeting lies with the able and dedicated staff of the World Bank, and I wish to take this opportunity publicly to express my Government's gratitude for their invaluable efforts on our behalf. In addition, the success of our deliberations will, in no small measure, be due to the excellence of the conference facilities which have been placed at our disposal for this meeting. Mr. Chairman, I wish to convey to the World Bank, through you, our profound appreciation of the work which has been done on our behalf already, and which, we know, will continue in the months to come.

ECONOMIC BACKGROUND

Mr. Chairman, Zambia is passing through, what is without doubt, the most serious and prolonged economic crisis in the 13½ years since independence. The country's problems arise from our dependence on a single commodity, copper, and a series of external factors completely beyond Zambia's control. In retrospect 1973 may be seen as the year which marked a turning point in Zambia's hitherto satisfactory economic progress in January of that year, after severe and sustained provocation by the illegal regime in Rhodesia, Zambia's border with that country was sealed and it has remained closed ever since. Despite a massive re-routing exercise in 1973, the cost to Zambia of the loss of a major trading route has been very heavy, both in financial terms and in the relative slowness of moving goods through the overburdened port of Dar-es-Salaam in Tarzania.

The year 1973 marked the beginning of the most severe and prolonged postwar recession in the industrial countries. This was also associated with an unprecedented level of world inflation. It is well known that copper prices, in common with those of many "hard" commodities, have remained depressed, so that in early 1978 prices were probably lower in real terms than at their lowest level of 1975. The recent increase in copper prices is entirely attributable to short term factors, such as the current problems in Peru, instability in Zaire, and the problems of transporting finished copper from landlocked Zambia. Such price rises are unstable, and they do not reflect any long term improvement as is evident in the recent weakening in the copper market. Consequently, it is our belief that in the medium term the prospects for the price of copper are bleak.

The economic problems of the country are reflected vividly in the fact that between 1974 and 1977 real per capita national income has fallen by nearly 12 percent. When adjusted for the terms of trade real per capita GDP has fallen by a staggering 37.4 percent in the same period. This decline is indicative of the full extent of the deterioration of Zambia's economic position brought about by external influences. Zambia is highly sensitive to movements in the economic fortunes of the industrial nations, a small decline in these fortunes is amplified many times over in its impact on Zambia's domestic economy.

The collapse of copper prices has had disastrous effects on Zambia's economy. Firstly, the balance of payments position has deteriorated from a current account surplus of $112 million in 1973 to a massive deficit of $471 million in 1975, a year which saw a deficit on the balance of trade for the first time since independence. Despite a short lived recovery in 1976, the deficit in 1977 is estimated to have been $262 million. These consecutive deficits have been financed by the utilization of foreign reserves in the first instance, and, since 1975, by the accumulation of arrears on external payments. These arrears had risen to K 510.2 million by April 1978, while net foreign reserves had fallen to minus K 196.2 million in the same month.

Secondly, Zambia's two mining companies have experienced a period of non-profitability unprecedented in their history. As a result most expansion plans have had to be shelved pending more favourable prices. Since 1975 the companies have sold copper at prices which on average are less than the cost of production. Profits were reported in the 1976 financial year due to the 20 percent devaluation of the Kwacha and a short-lived modest recovery of prices. However, in the subsequent period substantial losses have been incurred. It is anticipated that the recent 10 percent devaluation of the Kwacha and the cost saving measures introduced by the mining companies will enable them to return to a break-even position by the end of 1978. However, much depends on the realization of the forecast average copper price of sixty cents per pound during 1978.

Thirdly, the Government budget has been seriously affected. Ir 1974 revenue from mineral taxation was K 339 million representing over 50 percent of total revenue. This has fallen rapidly to zero in 1977 and 1978. To meet this situation the Government has endeavoured to restrain expenditure, and reductions have been particularly severe in capital expenditure which, in real terms, is at its lowest level since independence. Thus many projects have had to be abandoned, deferred, reduced or their progress has been declerated. At the same time measures have been taken to diversify the Government's revenue base, particularly in the area of indirect taxation.

Considerable progress has been made in reducing the Government's deficits, from K 341 million in 1975 to an estimated K 160 million in 1978. The Zambian government recognizes that the continuation of such large deficits can only have a harmful effect on the long term progress of the economy. The Government intends to reduce these deficits still further in coming years. I must stress that, unless considerable external assistance is forthcoming, it will be necessary to impose further real reductions on the deplorably low level of capital expenditure.

Mr. Chairman, I have so far dwelt almost entirely on the consequences for the economy of the failure of copper prices. Zambia is at present suffering from other external influences largely beyond her control. Principal among these is the problem of transportation of Zambia's external trade.

After the closure of the border with Rhodesia in 1973 a massive re-routing execise had to be undertaken. In 1972, 65 percent of Zambia's imports amounting to 900,000 tonnes and 53 percent of all exports amounting to 430,000 tonnes were carried on the southern route. In 1973 this entire traffic of 1.33 million tonnes had to be shifted to Lobito in Angola and Dar-es-Salaam in Tanzania which in 1973 handled 50 percent and 30 percent respectively of Zambia's external trade.

The civil war in Angola during 1975 resulted in the need for a further re-routing of Zambia's trade, placing an increasing strain on the port of Dar-es-Salaam. This exercise was greatly facilitated by the early completion of the well-known Tanzania-Zambia railway. Dar-es-Salaam now handles about 80 percent of Zambia's external trade, the rest being moved through Malawi and Mozambique, with a small amount being air-freighted.

The closure of the Tanzania-Kenya border has meant that the trade previously moved through Mombasa has also had to be diverted, Dar-es-Salaam, which also handles trade for Zaire, Rwanda and Burundi, has now become seriously congested, with over 100,000 tonnes of cargo awaiting shipment or forwarding to Zambia.

In addition to this congestion, Zambia is experiencing considerable problems on the overland routes from Dar-es-Salaam into Zambia. The road route is heavily constrained by an ageing fleet of vehicles, and deteriorating roads. The rail route is not yet operating at full capacity and is suffering from an acute shortage of locomotives and rolling stock because the turnaround time of goods trains is considerably in excess of the assumption used in planning the rail link.

The costs of these constraints are difficult to quantify, but they are undobutedly very large. They are caused by the physical deterioration of perishable goods, losses, damages and escalating storage and demurrage charges. The costs and delays in the movement of cargo are imposing.

In addition to the enormous problems of

re-routing the major portion of the country's external trade, the closure of the Rhodesia border and the imposition of sanctions against the illegal regime have led to other enormous costs. These arise from the costs of servicing the additional borrowing required; the capital costs of, for instance, new transport facilities; and the higher recurrent costs of transportation on longer routes.

The United Nations has estimated that by August 1977 the costs of the Rhodesia border closure had risen to $544 million. It was estimated that in the period between Rhodesia's unilateral declaration of independence in 1965 and 1973, costs had been about $200 million. The cumulative cost of implementing the mandatory sanctions against the illegal regime in Rhodesia is more than $744 million. That is the burden which Zambia has bourne on behalf of the international community. In addition, there are the various "invisible" costs which cannot be quantified, such as the diversion of manpower and other resources from development oriented utilization, in order to meet the requirements of an emergency situation. Nevertheless, the directly quantifiable costs of UDI are now certainly well in excess of three quarters of a billion dollars.

These facts are well known, having been brought to the attention of the international community through many forums. Many countries have acknowledged Zambia's problems in this regard, having stepped up their programmes of assistance to my country. However, it is undoubtedly the case that the increased aid which Zambia has received, in no way compensates the full costs to the economy of the consequences of UDI in 1965.

I wish to take this opportunity to appeal once again to the international community and particularly the countries and institutions represented here, to accept the financial implications of the political stance which they have taken in condemning the illegal regime in Rhodesia.

Mr. Chairman, before proceeding to discuss future plans and requirements I must mention here the programme which Zambia has negotiated with the International Monetary Fund. This involves a total financial package worth SDR 315 million, to be drawn over a two-year period. It includes a standby arrangement of SDR 250 million. A compensatory financing drawing of SDR 49 million and a trust fund loan of SDR 16 million. This represents an IMF commitment of 223 percent of Zambia's quota in the Fund.

The programme will go some way towards easing the external payments position and restoring a more normal trade position. Also in the programme Zambia has undertaken a range of fiscal and monetary measures which, together with the correction of the external position, will assist the country to recover the momentum of its economic growth.

THIRD NATIONAL DEVELOPMENT PLAN

Mr. Chairman, I turn now to a brief consideration of the third five-year national development plan which will be launched in January 1979. A comprehensive statement of the general principles underlying this plan have been included in the Government paper before you and I need not elaborate in excessive detail.

The plan is based on a recognition of the need to diversify Zambia's economic structure. Particular emphasis will be placed on rural development and agricultural production. The object will not only be import substitution, but also the development of crops such as coffee, tea and sugar in quantities sufficient to develop substantial export markets.

The potential for agricultural development in Zambia is tremendous—land is plentiful and water is abundant, while the climatic and soil conditions are generally favorable. In addition to the crops I have mentioned, there is scope for developing the production of wheat, rice, citrus and other soft fruits, cotton, oilseeds and livestock to name but a few. The government has recognized the fact that in the past insufficient attention has been paid to the development of agriculture. It is intended to pursue a strategy encompassing the stimulation of small scale cash crop production by subsistence farmers, the provision of incentives to established medium scale "commercial" farmers, and establishing large scale agriculture estates for the production of export crops.

In the industrial sector it is intended to develop local resource based industries, particularly those using agricultural products as inputs. In addition industries will be encouraged to use more labor intensive techniques than in the past, in order to stimulate the creation of more employment opportunities.

In the years since independence, Zambia has made major investments in economic and social infrastructure. A good transport network has been built with tarred roads linking all provincial centres, and a rail link to the sea-port of Dar-es-Salaam has been constructed in co-operation with the Tanzanian and Chinese Governments. Large investments in health and education have also been made, so that primary education is universally available and all the people of Zambia now have free access to health services. In the third plan, although further investment in such areas will continue, the country will be forced to accept that a lower proportion of resources must be devoted to infrastructural projects. A greater proportion will go to directly productive projects in the agricultural, industrial and mining sectors.

In summary, the emphasis of this plan is to be the diversification of the economy, in particular its export capacity, concentrating on the development of the rural areas through directly productive projects, and the growth of incomes of the poorest of the community. In achieving these goals, personal and non-governmental initiative and enterprise will be central. Although the Government intends to allow parastatal institutions to continue to operate in a very large area of the economy, increasing emphasis is being placed on the need to run these institutions on fully commercial lines. Private investment will be sought and welcomed, including investment by foreign firms. In its attempt to stimulate private investment the National Assembly in 1977 approved the Industrial Development Act. This act provides for a wide range of incentives within the framework of a series of guidelines for the development of Zambia.

The third plan envisages an average rate of growth of 4.8 percent per annum, a modest target when compared with a population growth rate of 3.1 percent, although it may indeed appear ambitious against the background of recent economic performance. To achieve this, two conditions must be fulfilled. Firstly, the Government will continue to pursue its present policies designed to stabilize the economy and provide a sound financial base for economic growth. Secondly, a very large volume of resources from abroad will be required, both in the form of official development assistance—loans, grants and technical assistance—and direct investment in the economy. The second national development plan was prepared at a time when net foreign assets were extremely high; at the end of 1970 they stood at about $450 million. The third plan is being prepared against a situation which net foreign assets are minus $208 million, a dramatic reversal.

In both these areas significant progress has already been made with the conclusion of the IMF agreement to which I have already referred.

Mr. Chairman, I wish now to turn to a consideration of the volume of resources required by Zambia in the immediate future.

EXTERNAL FINANCING REQUIREMENTS

Mr. Chairman, in calling for the formation of this Consultative Group, Zambia envisages a two stage strategy. In this first stage, attention should focus on the immediate needs for economic recovery and in particular on correcting the external payments imbalance. In the second stage consideration would be given to the medium term prospects and requirements of the economy. The next stage can be carried out effectively only when my Government has finalized the third plan, a process which will be completed in the near future. It is for these reasons that I have restricted my attention almost exclusively to the present balance of payments requirements of my country.

The Government paper before you indicates that without taking account of payments arrears, a further $37 million will be required in 1978 to restore the balance of payments in equilibrium. In 1979 the gap remaining even after all known financing is expected to be $518 million. These figures take into account the maximum drawings possible under the IMF facilities recently negotiated and therefore represent a gap to be filed by new sources of finance. These balance of payments requirements have been calculated on the assumption that imports rise adequately to allow a reasonable level, though not a generous one, of necessary inputs to industry and essential consumer commodities.

In addition to the above, Government is committed to a reduction of the arrears on eternal payments. If these are to be eliminated by the end of 1979, and if net foreign assets are to be increased to zero then a further $642 million will be required. In other words to achieve the three targets of balance of payments arrears, all by the end of 1979, a total of $1,200 million will be needed.

Already a start has been made and recently a number of countries and institutions have made loans available to Zambia. The United States has announced a programme of $100 million over three years, of which $30 million has already been made available. The United Kingdom has announced a further soft loan of $28 million in addition to a $14 million loan signed earlier this year. These loans are for general balance of payments support. Additional loans have been negotiated with BADEA and the World Bank for project financing. The former for $10 million and the latter for $22.5 million including a 50 percent IDA element. I wish to take this opportunity to express the gratitude of my Government for these loans and the invaluable assistance which they represent.

However, even after taking these loans into consideration, the resource gap remains daunting. Zambia's immediate need is for assistance concentrating on providing some form of balance of payments support. The consequences for Zambia's domestic economy of the non-availability of external assistance would be serious. Industry would continue to stagnate and decline, while the agricultural sector would not receive even the small volume of capital which it so desperately requires. There would then be no basis for economic growth during the TNDP period and the level of employment and living standards would probably continue to decline.

Mr. Chairman, allow me to outline some of the ways in which I believe countries and institutions can assist Zambia. Firstly, as I have indicated, there is an enormous need for conventional balance of payments support through quick-disbursing programme loans and grants. I would hope that such financing would remain untied to the purchases of particular goods and services.

Secondly, one of Zambia's most pressing concerns is to reduce our external payments arrears. In this regard it will be of great value if the Governments of countries to whom large arrears are due would consider the consolidation of these arrears into formal financing arrangements through their export credit agencies. Although the impact of such assistance is not so immediately apparent, it is in broad economic terms just as valuable as normal balance of payments support.

Thirdly, participants in this group may wish to consider the financing of various priority projects which are being implemented or planned in advance of the Third Plan. My delegation will be pleased to discuss further details of such projects.

Fourthly, one of Zambia's current problems is in the implementation of all the projects to which it is committed in principle, because of the lack of funds, whether local or foreign. Some such projects are in the very early stages of implementation, and, if they do not hold a high priority status could be postponed in view of the current economic crisis. In such cases I would suggest that donors should consider the real re-allocation of funds from relatively low priority projects to more general balance of payments support. This would apply only where funds have been formally committed but have not been disbursed.

Fifthly, I wish to make a strong appeal to all potential donors to ensure that the terms of their assistance are appropriate to Zambia's needs. In this regard Zambia's debt service profile is important. A very noticeable bunching of payments in the period 1978–80 is discernible with a fairly sharp decline in service payments thereafter. There is no question that Zambia is unable to meet her debt service responsibility. Nevertheless in order to minimize Zambia's costs in the immediate future, it is important that loans should not involve repayment in this period. Therefore, I would urge potential donors to ensure that their aid carries as long a grace period as possible, and also that long amortization periods are allowed.

Sixthly, I wish to stress the general need for concessionality in the assistance which is given to Zambia. In recent months both the World Bank and the African Development Bank have granted Zambia access to their concessional facilities. This is an acknowledgment of Zambia's present economic difficulties. It may also be seen as a recognition of the inadequacy of per capita income as an indicator of the level of development. Although Zambia has a relatively high per capita income, this fact disguises very large inequalities in income distribution, and the large drain on economic resources arising from the importation of skills and the sophisticated technology required by the country's industrial structure. In order to stimulate economic growth it is essential that financial assistance should be given on concessional terms, particularly where such assistance is directly beneficial to the poorer sections of the community or is linked in any way to rural development.

Finally, in this discussion of the need for terms appropriate to Zambia's needs I wish simply to lay before this group, the observation that in the past certain donors have been willing to convert loans given under official development assistance to outright grants. As I have already stated Zambia is fully able to meet her contractual debt obligations, but obviously such a gesture in Zambia's case would remove a further drain on the country's limited resources.

TECHNICAL ASSISTANCE

I have already emphasized the importance of agricultural development in the third national development plan. My government recognizes the need to strengthen the key institutions charged with the development of the agricultural sector. Although Zambia is not presenting at this stage a package of projects for financing, there is an immediate requirement in this regard for technical assistance on a large scale to assist Zambia in the identification, preparation and execution of projects in the agricultural sector. There is a significant manpower gap which must be filled by permanent staff in the key Government and parastatal agricultural institutions in order to provide stability in the development of the sector.

Therefore, I wish to appeal to donor governments to place this requirement high on their list of priorities in providing assistance to Zambia. In addition, I would also request that donor governments should consider meeting the manpower needs of our parastatal institutions, in the fields of engineering and other technical areas and in financial control. Many governments are often reluctant to give technical assistance to nongovernmental organisations. However, I wish to emphasize, that, due to inadequate financial resources, Zambia is not able to effectively compete on world labor markets for the type of expertise which we require in such large numbers.

PROBLEMS IN THE UTILIZATION OF FOREIGN ASSISTANCE

Before concluding my statement I wish very briefly to outline some of the problems which Zambia has encountered in making use of the foreign financial and technical assistance made available to it.

Firstly, I have stressed the urgent need for quick disbursing balance of payments support as opposed to assistance tied to projects. Project financing is of course vital to any developing country, and the assistance Zambia has received in this regard has been invaluable. However, there are certain aspects of development which are not amenable to consolidation into projects which are suitable for financing in this conventional form. For instance, the requirements of small scale farmers for implements, tools and inputs of seed and fertilizers, or the limited capital inputs of small scale or cottage industries are not easily formulated into projects of the relatively large size involved in aid programs. Such import requirements are best covered by the ready availability of foreign exchange for the purchase of the necessary items by the commercial distribution outlets. In periods of foreign exchange shortfalls such assistance is often more valuable than project aid.

Secondly, project related aid often requires development programmes to be formulated into forms attractive to external donors, which would not otherwise be undertaken. More general support would allow the recipient country to pursue development objectives more in line with its overall strategy.

Thirdly, aid is usually restricted to the foreign cost component of projects. It is my belief that a much greater proportion of aid should be allocated to local cost financing, since one of the major problems in utilizing foreign funds is the inability of Government to provide sufficient counterpart funds because of the familiar constraints on the Government budget. This is one of the principal reasons for Zambia's apparent slowness in drawing down loans and credits which are already available. I would, therefore, ask potential donors to consider giving assistance that will also include a greater proportion of local cost financing.

Fourthly, in the area of technical assistance, many practical problems arise in the effective utilization of the experts provided. There are often very lengthy time lags in the placement of personnel in projects after a request has been made. Many such delays are inevitable because of administrative problems, and the unavoidable time periods which elapse in moving an individual from one job to another. It is also certainly true that some of the delays occur in Zambia itself. Thus in an attempt to improve the system the Government has created the Ministry of Economic and Technical Co-operation to act, inter alia, as a focal point for mobilizing technical assistance. It is my hope that co-operative action between Zambia and donor countries will remove some of these delays.

Further, problems are often encountered in providing the services required by the personnel, in particular housing. The Zambian Government encounters great difficulty in housing its employees both Zambian and expatriate, and the delay in providing housing has been of great concern to some donors. However, the Zambian Government is examining ways and means of resolving this problem.

Finally, most agreements for technical assistance provide for an element of on-the-job training of Zambian personnel. Very often it proves impossible to allocate counterpart personnel to understudy the experts provided. This is a result of the acute shortage of skilled indigenous manpower, and the need to allocate such manpower as is available to the most urgent vacancies. I simply wish to appeal to donors to appreciate this particular problem, and to continue to provide experts for as long as is reasonably needed before Zambian staff can be allocated and trained to acceptable levels.

CONCLUSION

Mr. Chairman, I have in my statement attempted to highlight the major economic problems which Zambia is facing, their causes, and some of the steps which the Government is taking to resolve them. I have indicated that Zambia still requires a very large volume of quick disbursing financial assistance to help the country over the next 12 to 18 months to establish a sound financial base for economic growth. I have tried to demonstrate that Zambia is now fully committed to finding short and long term remedies to its problems. Through the medium of this Consultative Group and the two-stage strategy which I have outlined, it is my hope and conviction that the countries and institutions represented here will be able to provide a large proportion of my country's needs, and to ensure the long-term economic stability and prosperity of its economy.

I am convinced that our discussion of Zambia's economic problems and prospects will be highly constructive. I anticipate that most, if not all, delegations will express freely and frankly their assessment of Zambia's economy and Government economic policy. This is naturally most welcome to my delegation, and I trust that the exchange of views on which we are about to embark will be mutually edifying and beneficial. For our part we can expect and hope that those comments and observations will assist us in devising answers to our problems.

Mr. Chairman, Ladies and Gentlemen, I thank you most sincerely for your kind attention.

Thank you.

ANNEX VI—CONSULTATIVE GROUP FOR THE REPUBLIC OF ZAMBIA

PARIS, TUESDAY TO THURSDAY, JUNE 27 TO 29, 1978

Statement on technical assistance (Mr. Doo Kingue)

1. In this brief presentation of problems of Technical Assistance in Zambia I intend to cover the following points:

(a) The importance of Technical Assistance in Zambia's development;

(b) Some indications on the Evolution of Technical Assistance since 1972;

(c) A review of problems concerning the use of Technical Assistance in Zambia;

(d) Some recommendations for the future.

The Importance of Technical Assistance in Zambia's Development

2. Several considerations explain the importance of Technical Assistance in the development of Zambia. First, the inadequacy of educational facilities at the time of the country's independence. In 1964, Zambia had

only about 100 men and women with standards higher than secondary school education to run the country. As a result, the Government implemented a vigorous programme of education expansion, thanks to which, within a decade, primary school enrollments more than doubled while secondary school enrollments quadrupled. A University was established in Lusaka and a great effort was made to develop technical and vocational training. Notwithstanding the intensive training policy adopted by the Zambian Government, the number of expatriates in the wage earning population has not changed significantly since independence. Thus, from 1972 to 1974, it has only declined by 2.5 percent, from 34,140 to 33,300 while the total wage labour force increased by 4.6 percent from 368,000 to 385,000.

3. The second consideration which explains the importance of Technical Assistance in the development of Zambia relates to the structure of the country's economy. At the time Zambia became independent on October 24, 1964, the country could claim to be the most industrialized and urbanized independent country in black Africa, although the vast rural areas containing about 70 percent of the population were hardly exposed to any significant socio-economic development. The sophisticated nature of the modern sector of Zambia's economy on the one hand, the need to develop such neglected sectors as education, infrastructure and agriculture on the other hand, enhanced the need for Technical Assistance, and that need is still great.

4. Yet another consideration to be borne in mind is the land-locked nature of the country and the consequences thereon of the geopolitical situation of Zambia. The need to implement a new transport and communications policy has led to a significant development of this particular sector for which a combination of large-scale training and Technical Assistance is required.

5. Last, but not least, in a country where the private sector is more attractive than the public sector and where a policy of retaining high level cadres in the civil service is still to be adopted, Technical Assistance is needed as a substitute to unavailable Government officers.

Some Indications on the Evolution of Technical Assistance since 1972

6. Zambia's propensity to seek aid was not high from the date of independence until late in the 60s. This was mainly due to the fact that, at the time of independence, the country inherited a seemingly healthy economy due to high copper prices. As a consequence, the volume of aid following into Zambia was relatively low compared to what has been happening since 1970.

7. With reference to Technical Assistance, it is estimated that its volume has nearly doubled between 1972 and 1977 from at least $23 million in 1972 to more than $40 million in 1977. These figures are being quoted with some caution in view of the fact that some of the Technical Assistance received by Zambia was not valued in monetary terms. Furthermore, the quoted monetary value of Technical Assistance is in current price while everybody knows that there have been significant fluctuations in the values of the various donors' currencies during those years. Be what it may, it is calculated that out of a total value of Technical Assistance estimated at $170.4 million for the period 1972–1977, bilateral aid accounts for $134.26 million (78.8 percent), aid from the UN organizations for $28.96 million (17 percent) and aid from Non-Government organizations for $7.18 million (4.2 percent).

8. Regarding the use made of that assistance, it appears that the highest percentage went to the sectors of Education ($42.96 million) and Agriculture ($42.61 million) each receiving more than 25 percent of allocated resources. These two sectors are followed by Transport and Communications ($24.38 million) with 14.3 percent, Health ($17.95 million) with 10.5 percent and General Economic and Social Policy Planning ($15.41 million) with 9 percent. Industry ($8.89 million), Labour/Management/Employment ($8.76 million) and Natural Resources ($8.04 million) come next with 5.2 percent, 5.1 percent, and 4.7 percent respectively.

9. During the last six years, UNDP has approved two Country Programmes for Zambia. The first one covered the years agriculture (24.3 percent of programmed resources), transport and communications (20.2 percent) and manpower development (16.9 percent). The majority of funds (around 70 percent) were used for the provision of expert services, the rest being equally divided between fellowship training and equipment. The second Country Programme covers the years 1977–81. It put emphasis on rural development (55 percent of programmed resources), manpower development (22 percent) and on public administration (19 percent. In view of the situation now being faced by Zambia it is envisaged to have a major review of that Country Programme in October of this year with a view to contributing to the solution of these problems. Both Country Programmes involve UNDP expenditure totalling $31 million.

Problems Concerning the Use of Technical Assistance by Zambia

10. The proper use of Technical Assistance provided to Zambia faces several problems. The very first one concerns the planning for and management of that assistance. Hon Mrs. L. A. W. Monze, Minister of State for Economic and Technical Co-operation, summed up the situation in February 1978 in the following words: "A point of major importance is the administrative set up which Zambia employs in regard to the identification of the need for and coordination of the utilization of foreign financial and technical assistance. It is obvious that lack of such coordination must have contributed to the comparatively lower level of assistance received by Zambia in the past. It is for this reason that 2¼ years ago His Excellency the President created the Ministry of Economic and Techncial Cooperation to perform this important function. This decision has already begun to yield results, even though the Ministry is still in the process of being established. A system of full and effective coordination is still being developed with the cooperation of sister Ministries and parastatals." Minister Lily Monze also added that there was "need for more personnel to man this Ministry so that its coordinating role can be played even more effectively."

11. Another problem concerning the use of Technical Assistance by Zambia and which is related to the previous one is the lack of proper consultations between donor countries and organizations with a view to enhancing the use of that assistance. The present meeting of the Consultative Group is a step forward in the right direction. However, as it can be witnessed in some other countries for which such a Group has been established, the existence of a Consultative Group in itself is not sufficient. There is need for periodic reviews (for instance on a monthly basis) between the donor representatives and the Government to ensure that the country's needs are covered adequately.

12. A third problem worth mentioning is the problem of relations between the respective levels of investments on the one hand and of technical assistance and pre-investment resources on the other hand. It is a well-known fact that in Zambia "the overall efficiency of investments is low because of the predominance of infrastructural developments which are not yet fully exploited" (D. A. Simonda). While the problem is more complicated than it is stated, the fact remains that attention should be paid to a better balance between the volume of technical assistance and the volume of capital investment with a view to maximizing the investment productivity.

13. A few other problems have yet to be mentioned: lack of flexibility in the regulations of donor countries and organizations, insufficient counterpart support on the part of the Zambian Government, slow Government's response to aid proposals, increasing difficulties in inducing experts to come to Zambia due to more and more difficult living conditions, etc.

Some Recommendations for the Future

14. In view of the foregoing, it is recommended that:

(a) The Government should endeavour to increase its capacity for planning for external aid, establishing and/or strengthening the machinery for project identification, formulation and evaluation. The Government may wish to request Technical Assistance for this purpose from such donors as UNDP or the IBRD.

(b) The Government should adopt a more effective policy regarding aid coordination. Regular meetings between the representatives of the donor community and the Government are recommended in addition to the establishment of the World Bank Consultative Group. The Resident Representative of UNDP is most willing to assist the Government in the organization of local donor coordination meetings.

(c) The Government should make every effort to attract to and keep in the Civil Service well trained Zambians.

(d) Donor countries and organizations should adopt a flexible approach in providing assistance to Zambia. In particular, the donor countries should be encouraged to meet the expenses for training Zambians in countries other than their own, especially in other developing countries.

Recognizing lack of Government staffing and funding capability, at this critical time, donor countries and organizations should also design assistance projects in such a way as to make them self-sufficient and for a long enough duration to allow time for Zambian staff development.

ANNEX VII—CONSULTATIVE GROUP FOR THE REPUBLIC OF ZAMBIA

PARIS, TUESDAY TO THURSDAY, JUNE 27 TO 29, 1978

Statement on agricultural development and policies by Zambian delegation

In the opening statement yesterday, it was stressed that Zambia's development strategy is to devote increasing attention to the growth of agriculture. Also the background statement already circulated by the Government of Zambia spells out in considerable detail the various measures taken by the Government to meet the challenge of the recent economic crisis and these, inter alia, include the steps taken to increase the production and efficiency of the agricultural sector. I, therefore, wish to recapitulate salient points made in that background paper and to further highlight the pivotal role which the party and the Government have assigned to rural development in the country's Third National Development Plan (TNDP) which is to start from January 1979.

I can only repeat here what has been stated in the Government's position paper. "The Zambian economy is a classic example of a dual economy," in which a small, wealthy, highly industrialized urban sector based on the copper mining industry, exists side-by-side with a large poor rural subsistence sector. This economic structure is characterized by an extremely large disparity between urban and rural incomes. Growth rates in the two sectors have differed widely. The Government has pursued in the Third National

Development Plan, which I shall discuss shortly, attempts to correct the past inadequacies of Government policy in this regard.

Past Policies and Performance

The objective of the First National Development Plan was to remove some of the structural imbalances in the economy, notably the gap between rural and urban incomes. Its other objectives included the concentration of development effort in the more neglected regions of the country and the provision of basic services and infrastructure to all areas of the economy.

To provide some background, the country's Second National Development Plan (SNDP) had postulated an average annual rate of 5–6 percent for value added from agriculture during the period 1972–76. In actual practice, the agricultural sector was able to record an annual rate of increase of 3.6 percent over the SNDP period. However, there were three important aspects of the performance of this sector which are noteworthy.

Firstly, there has been a significant shift in the relative shares of commercial and subsistence efforts in the economy. For instance, between 1971 and 1976 while the subsistence sector recorded an annual rate of increase of a bare 1.1 percent, the commercial sector was able to expand at an annual rate of 9.5 percent.

Secondly, there has been notable diversification in the form of increase in types of crops grown as well as in an increase in the share of traditional farmers in the total production. For instance, in the case of maize in which the country has attained self-sufficiency, the share of traditional farmers in marketed production has gone up from 40 percent during FNDP to over 50 percent in SNDP. The share of traditional farmers in cotton is as much as 90 percent.

Lastly, this involvement of the traditional farmers has resulted in achieving and even excelling targeted production in the SNDP. For example, the SNDP targets fixed for maize and poultry products were more than surpassed. It is only recently that the poultry industry has experienced a major setback due to non-availability of stockfeed as a result of a combination of factors, mainly, the scarcity of foreign exchange and transportation problems.

Particularly outstanding has been the dramatic expansion in cotton production. In 1975, before the Government created the appropriate environment for cotton production, we were able to produce approximately 2 million kilograms. In 1978 it is estimated that production which was 8 million kilograms last year will be 12 million this year.

We have, however, not been as successful in developing the tobacco and beef industries. This failure is all the more serious because of the important foreign exchange earning potential of these industries. To give only the example of tobacco, production has fallen from an all time high of approximately 11 million kilograms to 4.8 million kilograms this year. This fall in production has partly been the result of departures of commercial farmers as a result of unfavourable producer prices and, of late, the strained foreign exchange situation which has made remissions of earnings more difficult.

We will continue to do our best to attract commercial farmers through more favourable pricing. The real answer lies in motivating the traditional farmer to produce more. A campaign to induce them to produce more tobacco during the coming season is just about to start. Under this scheme, the traditional farmer will be provided with inputs and the extension service will deliberately concentrate on him. We are satisfied that, with an impending price review, next year's tobacco crop will show a substantial increase over this year's.

On the livestock side where the situation has been static, we are now taking extraordinary but well-thought out measures to redress the situation and achieve expansion as quickly as possible. With the assistance of the EEC a large dairy cross-bred heifer supply scheme is being set up at Batoka in the southern province. It will supply dairy crossbred heifers to the traditional farmers and the steers will provide improved beef. In addition to this, the EEC is assisting us in the establishment of cattle development area projects in western, central and eastern provinces.

The rural development corporation, the largest cattle owning Government enterprise, is in the process of securing expertise in the field of beef and dairy farming management and ensure maximum productivity. My main interest in focusing attention on this aspect of the agricultural performance is to stress the fact that this sector has the potential and ability to attain an average annual rate of 5.5 percent during the TNDP.

In fact, in response to production incentives provided to farmers in the form of remunerative producer prices, value added by agriculture increased by 7.2 percent in 1975 and 5.8 percent in 1976. Since 1974–75, agricultural producer prices have been raised significantly, for example, maize by 36 percent, groundnuts by 68 percent, wheat by 67 percent, sunflowers by 33 percent and soybeans by 63 percent. The Government is further committed to review all producer prices annually and to announce them well in advance of the growing season.

Some other areas of agriculture, however, have shown a declining or static trend. Tobacco production in 1977 was considerably below the level achieved in 1965, and has fluctuated about a fairly constant trend in the intervening period. The marketed production of cattle is still at a level only slightly higher than in 1965, although it has been increasing in recent years. The output of dairy products has declined.

Constraints

The development of agriculture has taken place against a background of numerous constraints. Some of the major ones are:

(i) shortage of skilled and experienced manpower to plan and execute development programmes;

(ii) insufficient trained workers to provide extension services to small scale farmers;

(iii) shortages of agricultural equipment and other inputs caused by the lack of foreign exchange;

(iv) the inadequacy of credit facilities for borrowing, particularly by small scale farmers.

Finally, it must again be stressed that Zambia's current transportation problems have imposed a severe restraint on agriculture as on other sectors. The re-routing of Zambia's external trade and the subsequent congestion at the port of Dar-es-Salaam have resulted in cost escalation and increasing delays in the delivery of agricultural capital equipment and other inputs.

Future Development

Zambia's Third National Development Plan gives the highest priority to rural development in general and to increased agricultural production in particular. While the overall growth of the economy is expected to yield an average annual rate of 4.8 percent, the sectoral growth pattern suggests that the mining sector will grow at an annual rate of 1 percent, agriculture at 5.5 percent and manufacturing at 8 percent.

In the light of the agricultural sector's performance during the SNDP, an annual rate of increase of 5.5 percent may not be difficult to achieve provided appropriate policy measures are taken and the necessary infrastructure is built. The strategy for this sector brings out clearly that the Government is fully committed to take all measures necessary to accelerate agricultural growth and to re-orientate the entire development strategy around rural development.

The Government intends to stimulate agriculture at three levels. Firstly, the largest section of the population, the small scale farmers will receive financial assistance and incentives together with technical advice in the form of extension services, in order to encourage them to produce cash crops. This group of farmers is by far the largest and will form the backbone of the rural development strategy. Secondly, existing medium scale commercial farming will be encouraged. For this group, the most important incentives are the provision of reasonable prices and the availability of adequate credit facilities. Thirdly, it is envisaged that very large scale estate type-farming will be undertaken for crops such as wheat, coffee and sugar which are suitable for this type of development. For all these groups of farmers, it is essential that basic services are provided, including marketing, input supply, land clearing, mechanization, and so on.

The TNDP strategy for the agricultural sector is primarily focused on achieving a higher level of self-reliance and self-sufficiency in staple foods and provide adequate supplies of raw material for the needs of the country's domestic agro-based industries. In addition, export potential will be exploited where feasible. To attain these objectives, the following policies will be pursued:

(i) a greater proportion of Government expenditure allocation will go to agriculture. The proportion is expected to rise from 8 percent in the SNDP period to 16 percent during the TNDP;

(ii) producer prices will be used as a means of stimulating production, a policy which is being pursued at present through the practice of annual price reviews;

(iii) the availability of credit facilities will be improved particularly by rationalizing the agricultural finance company and by taking various measures to increase its loan funds;

(iv) extension services will be substantially improved, by an increase in the number of technical and professional agricultural officers. It will also be necessary to provide better supporting services for these officers such as transportation and housing;

(v) agricultural research will continue to be undertaken on all commodities to ensure that production is increased by all types of farmers. Multidisciplinary research teams for all commodities will be established during the TNDP. These will work much more closely with the extension services than has been the case in the past;

(vi) the manufacturing sector will be encouraged to produce intermediate inputs, such as fertilizers, tools and equipment required by the agricultural sector;

(vii) it is part of the overall TNDP strategy to establish small-scale local resource based industries in the rural areas which would use the products of agricultural projects in the vicinity. This marks a departure from the present situation in which most industry involves large-scale, high technology production and is based almost exclusively in urban centres on the line of rail;

(viii) the Government intends to strengthen various key institutions in the agricultural sector, including the Ministry of Lands and Agriculture and its associated parastatal institutions, particularly with regard to the planning and project preparation and implementation capacity.

While agriculture will play the central role, the TNDP visualizes a coordinated programme of rural development which, besides agriculture, will also cover establishment of small-scale and village industries, rural electrification, construction of feeder roads and spread of health and educational facilities in rural areas. The essence of the whole approach is to make agriculture and allied activities more rewarding and to build a strong and self-reliant rural society.

Mr. Chairman, I wish to elaborate on the point, namely, the strengthening of key institutions. Government has not finalized a comprehensive programme in this regard, but in doing so it will consider a number of objectives:

(i) to strengthen the planning functions of these institutions, by recruiting more experienced personnel, while at the same time increasing the level of training of Zambians;

(ii) to improve the efficiency of the marketing and distribution systems;

(iii) to allow a greater degree of decentralization in project implementation, but maintaining planning and policy-making functions at the central Government level;

(iv) by improving the provision of credit facilities to farmers at every scale of production throughout the country.

Mr. Chairman, the potential for agricultural development in Zambia is enormous. Environmental conditions are conducive to a wide range of agricultural activities, and the country desperately needs a stable agricultural base which can only be provided by securing the strategies which I have already referred to above. We have many projects both in train and on the drawing board; projects such as coffee in the north and north western provinces, tea in the Luapula province, cotton in the eastern, central and southern provinces, rice in the northern, Luapula and western provinces, cashew nuts in the western province, livestock (beef and dairy) in the southern, western, central and eastern provinces. But all these projects cannot achieve permanent success unless the basic infrastructure is firm, and this does not only mean roads, but also the inculcation of a level of agricultural awareness which is only possible through better trained personnel, more efficient marketing and credit facilities and the decentralization of the execution of plans to attain maximum efficiency.

To implement the objectives set out above the aggregated investment requirement in agriculture during the TNDP will be in the order of K 404 million plus K 95 million for related water and irrigation programmes. The annual average requirement will therefore be in the region of K 100 million. The TNDP will set out clearly projects in which these amounts will be invested. These programmes can only come to fruition if a large volume of external assistance, both technical and financial, is forthcoming. These amounts are regarded as the very minimum to remedy the past distortions in the investment pattern and to promote a growth process which will imply an increase in the overall rate of GDP as well as fuller generation of employment for the poorer segments of the Nation.

Thank you.

ANNEX VIII—CONSULTATIVE GROUP FOR THE REPUBLIC OF ZAMBIA

PARIS, TUESDAY TO THURSDAY, JUNE 27 TO 29, 1978

(Statement on transportation (Mr. Bickers))

ZAMBIA'S TRANSPORT CRISIS

1. A number of differing reasons have been given for Zambia's current international transport predicament, but as a starting point two important observations can be made with confidence. First, an analysis of traffic patterns (attached) shows that the country's lifeline to the sea is essentially through Tanzania: all other available routes are currently giving only marginal support to the Zambia-Tanzania corridor. Zambia has been the victim of events in neighboring countries which, one after the other, have reduced or eliminated other transport alternatives. It was particularly unfortunate that, just as the new Tanzania-Zambia Railway (TAZARA) was beginning to offer some additional relief some three years ago, yet another important railway route, via Zaire and Angola, was severed.

2. Secondly, the transport crisis along the TanZam Corridor has now reached such proportions as to cause major disruptions to Zambia's international trade. Imports are worthless until they can be moved from Dar es Salaam, and equally, of course, copper is not an earner of foreign exchange if it cannot be moved from Zambia. Until recently the number of wagons and road trucks offloading imports in Zambia provided much more than sufficient capacity for the betterloading exports, but now the level of imports able to find transport to destination has sunk so low that exports are being stockpiled involuntarily on the Copper Belt, which is a new phenomenon.

TAZARA

3. The prime reason for the current shortage of transport to and from Dar es Salaam is the failure of TAZARA to achieve the performance expected when it first began full operations in August 1976. Attempts to restore the position by once more strengthening road transport have so far been unsuccessful: trucks on the TanZam Highway actually carried one-third fewer imports in the first four months of 1978 than in the same period last year.

4. In focusing on TAZARA's present difficulties, we are not implying criticism of the basic construction of the railway; indeed, all the available evidence indicates TAZARA was built to excellent standards. But, since operations began, TAZARA has been plagued by interlocking problems due to new and unseasoned staff, shortages of spare parts, inadequate maintenance of locomotives and rolling stock and difficulties associated with the onward offloading of goods.

5. To illustrate TAZARA's initial troubles, the best single measurement is in the statistics of average wagon turnaround time—the time it takes for a wagon to load at Dar es Salaam, travel to Zambia and return ready for loading with imports once more at the Port. Original planning expected this to take about 22 days, but in the first four months of 1978 it was taking about 40 days. If a wagon takes twice as long to complete a round trip it can only carry half the annual traffic it was expected to carry; and this in a nutshell is TAZARA's problem.

6. One of the major reasons for this poor wagon turnaround lies not with the wagons but with TAZARA's locomotives. The number of mainline locomotives stopped for repair has now reached very high proportions: in December 1977, 71 percent of the mainline locomotive fleet was available for work; by March of this year the figure had slipped to 61 percent, and on a later sample day (May 15) only 48 percent were available. These unsatisfactory results are due essentially to the problems encountered in maintaining the locomotives, rather than to the design or construction of the locomotives themselves. This, to repeat, is a new railway which, for some time to come, will need help from staff with a thorough knowledge of this particular equipment.

7. A second major reason for poor wagon turnaround time lies in the protracted time required to unload and load them at the terminals. To illustrate the situation, trainloads of perishable traffic arrive in Zambia to be unloaded essentially by manual labor, but even this slow process is delayed even more by the lack of proper storage facilities. In effect wagons are being used to some extent as expensive warehouses for storage. At the other end of the route there is a similar offloading problem for copper, within the port of Dar es Salaam. Again the prime solution is adequate storage and handling facilities outside of the Port area.

8. At Dar es Salaam empty wagons are sometimes delayed to await loading of urgent cargoes which have not yet arrived in the Port, in spite of the many thousands of tons of other imports ready for immediate loading. The selection of imports priorities—and the logistics of moving them to Zambia—is a complex operation, but one simple fact is clear: if wagons spent less time awaiting cargoes in Dar es Salaam, the total off-take of imports from the Port would be increased and the overall problem would be eased accordingly.

ROAD TRANSPORT BETWEEN ZAMBIA AND DAR ES SALAAM

9. A permanent improvement in TAZARA's performance is unlikely to be achieved quickly as many of the problems, such as to developing a seasoned corps of railway staff, or constructing adequate storage facilities, cannot be quickly achieved. In the immediate future, relief must be sought by building up road trucking capacity once again on the TanZam Highway, but this is a much more expensive solution, and should not be allowed to divert attention from the imperative need to increase TAZARA's effective capacity.

It is fortunately also a "flexible" solution, in the sense that the optimum life of a road truck is only about five years, and if TAZARA improves more quickly than expected there are ample opportunities for diverting the vehicles to other work in either Zambia or Tanzania. It is understood that a major step to replenish the vehicle fleet has just been taken by ordering 200 new trucks for the Zambia Tanzania Road Services, with deliveries starting this month.

THE PORT OF DAR ES SALAAM

10. Let me turn now to a related problem—operations at the port of Dar es Salaam. During the decade ending in 1975, Dar es Salaam developed from a purely lighterage harbour to a much larger port with eleven deepwater berths. But traffic demands, particularly from Zambian cargoes, have expanded to such an extent that the port is now once more seriously congested, with ships awaiting berths for up to 25 days and a resulting liner conference surcharge of 15 percent.

11. The capacity of the existing berths would be fairly adequate for present traffic if berth occupation time were kept down to reasonable levels. The immediate problem stems from the congestion and resulting confusion caused by the large amounts of cargoes stored all over the port area. This in turn slows down the servicing time for ships and causes the back-up outside the harbour. The first need is for a quicker off-take of imports from the port, particularly those destined for Zambia. A solution to TAZARA's problems would thus also help in part to solve those of the port and to keep the whole of its operations more "fluid." A massive effort is needed to clean up the port; first, to be sure, by a faster off-take of imports but also by removing the considerable amounts of imports which are now valueless due to damage or decay, which is in turn due to unduly long detention, inadequate storage facilities, or simply to careless and multiple handling in the congested port.

12. Congested conditions slow down operations and thus, in a vicious circle, create more congestion. This is well illustrated by the fact that for the port as a whole, productivity in terms of tons handled per gangshift is now about one-third lower than when the last three berths and their back-of-port areas first became available in 1975, and the Port received a substantial increase in its room to maneuver. But congestion is not the only reason for low productivity; the Port itself provides another example where effective mechanical handling equipment (which also demands effective means for its maintenance) is badly needed to speed the movement of cargoes. Here again, more storage is also an urgent requirement; outside of the Port to reduce the amount of cargo "warehoused" rather than in transit within

the Port, as well as bulk transit storage close to the berths to allow faster offloading of bulk-carrying vessels.

SHORT-TERM SOLUTIONS AND LONGER-TERM NEEDS

13. In conclusion, let me review the necessary actions which should be taken both to improve the transport situation in the short-term and to bring about more efficient operations in the sector over the long-term. For the short-term, an action program should be prepared and implemented to speed up the flow of goods along the TanZam corridor. The program should first include provisions for additional trucking capacity, including new trucks (some of which have already been arranged), improvements in the supply of spare parts and the availability of maintenance personnel to keep the trucks operational, and additional emergency road maintenance expenditures to improve the road link on sections where it has deteriorated. Our estimates on trucking costs alone indicate it would take an additional fleet of 750 trucks at a cost of $25–30 million to increase import flows from their 1977 level of 670,000 tons to one million tons. Second, it should be possible to improve TAZARA's performance in the short-term by using technical assistance to improve maintenance of locomotives and equipment, by acquiring spare parts and additional mechanical handling equipment to improve loading and unloading, and by improving the scheduling of TAZARA's operations to minimize turnaround times and effect a higher utilization of available rolling stock.

14. For the longer term, substantial investments are required to expand storage facilities along TAZARA in order to minimize bunching problems at Dar es Salaam. Better storage facilities at Dar es Salaam (particularly outside of the Port), at terminals in Zambia, and perhaps close to TAZARA's southern exchange point with Zambian Railways, would all help to introduce more flexibility into the whole transport operation. Also, over the longer term, both the Zambian Railways and the Port of Dar es Salaam will require assistance with their investment programs. Zambia Railways will need to expand its fleet of wagons and locomotives as well as provide replacements for older equipment, and for track renewal; the Port of Dar es Salaam will eventually require additional berths and improvements to the entrance channel. In addition, the Port's efforts to encourage container traffic and other unitization of cargoes should be strengthened by a gradual build-up of adequately planned terminal facilities.

15. Finally, successful efforts to remedy the transport crisis will require a coordinated approach by all the relevant parties. Physical improvements obtained from new investments will not solve the transport problem on a lasting basis, unless accompanied by efficient logistical planning for the system as a whole. The basic aim is to increase the effective capacity of available facilities as one of Zambia's most critical priorities.

ZAMBIAN EXPORTS AND IMPORTS BY ROUTE

[Thousands of tons]

Year	Tanzania		Zaire/ Angola	Mozambique			Kenya	Botswana	Air	Total
	Rail	Road		Via Rhodesia	Via Malawi	Direct road route				
1970		253	187	398	6				4	848
1971		221	176	390	9				2	798
1972		210	170	467	7					854
1973		284	438	5	41		45			813
1974		319	509		10		86			924
1975	46	349	309		66	10	2			782
1976	349	323	131		48	35	12			898
1977	524	181	131		34		1			871
1970		248	118	1,293	18				4	1,681
1971		295	269	1,048	29				7	1,648
1972		202	144	864	39				8	1,257
1973		200	418	35	109		68	4	25	859
1974	18	271	438		125		86	15	29	982
1975	69	311	257		129	30	22	41	20	879
1976	326	248	4		71	58	22	9	21	759
1977	413	156	1		25	9	3	47	18	672

ANNEX IX—CONSULTATIVE GROUP FOR THE REPUBLIC OF ZAMBIA

PARIS, TUESDAY TO THURSDAY, JUNE 27 TO 29, 1978

Statement on bank group operations (Mr. Wiehen)

1. The World Bank Group's operations in Zambia span more than two decades, and financial commitments during this period from the World Bank itself and from IDA total over half a billion dollars. Mr. Alizai will make a separate statement on the International Finance Corporation. Since 1953, when the first loan was made to pre-independence Zambia, the Bank has approved 24 loans for about $520 million and the International Development Association has just made its first credit of $11.3 million. The fact that we have begun to use IDA resources in Zambia and intend to continue providing a portion of future Bank Group lending to Zambia on IDA terms underscores the concern with which we view Zambia's current economic situation.

2. The Bank has disbursed more than $375 million, or 72% of total commitments. Twelve loans have been fully disbursed, while twelve projects are still under implementation. In the early years of our operations in Zambia, disbursements were quite rapid. More recently, with the Government facing severe financial problems, disbursements under World Bank supported projects also have been affected. Nevertheless, the Bank Group today is Zambia's largest creditor with a 24 percent share of Zambia's total external debt; its share of disbursed loans is about 28 percent and of current debt service, about 14 percent.

3. Turning to the specific direction of World Bank lending, almost $350 million, or 70% of the total, has been for infrastructure projects—primarily for hydro-electric schemes and for improving Zambia's highways. Two large power projects, the Kariba project on the Zambesi River and the second phase of the Kafue River project, have accounted for some $200 million, helping Zambia to develop generating capacity which not only meets its own power demands, including those of its energy-intensive mineral sector, but also enables the country to export power to neighboring countries. In the highway sector, the Bank has financed three projects; the most recent one, which was signed just a few days ago, will help Zambia improve the maintenance of its rapidly deteriorating road network through providing equipment and technical assistance.

4. In the key agricultural and rural development sector, the Bank Group's involvement in the past has been limited, much to our regret, comprising five loans totalling about $40 million. Two of the loans were for industrial forest plantations, which promise to be an important source of wood for both domestic and industrial uses. One loan for livestock was cancelled in 1973, mainly because of pricing and management problems. The other two loans, made in 1970 and 1973, were for commercial and family farming. To help identify Zambia's agricultural potential and to determine how it might be realized, the Bank, at the Government's request, made an in-depth study of the agricultural and rural sector in 1974/75. The report has stimulated discussions about agriculture and rural development at all levels of Government, and is playing an important role in increasing cooperation between Zambia and the Bank Group in the development of this sector.

5. To assist in Zambia's industrial development, the Bank, in 1976, opened a line of credit for the Development Bank of Zambia. Due to the depressed state of the economy since then, the DBZ has begun only slowly to make subloans from this credit line, but based on the Government's newly formulated policies and incentive programs for stimulating manufacturing and industrial development, we hope that these resources will be utilized effectively in the near future.

6. In education, the Bank has lent $69 million for four projects, helping provide new or improved facilities for over 70,000 secondary and university students, create additional capacity for improving technical and business education, and expand and upgrade Farm Institutes and Farmer Training Centers under the Ministry of Lands and Agriculture.

7. Lastly, the Bank has made two program loans to Zambia, of $30 million each, the first to help Zambia cope with the copper price decline in 1973, the second one at the beginning of the present crisis in 1976. The first one was drawn down rather slowly, and when copper prices recovered, the undisbursed balance was cancelled. The second loan was fully disbursed in record time.

8. Turning to future World Bank operations in Zambia, we anticipate the following pattern. First, we expect to continue lending to Zambia for some time on a blend of IDA and Bank terms. Second, while it is difficult for us to be precise as to the amounts the Bank and IDA will be able to commit, our present indicative lending program for the next few years envisages an average annual level of up to $50 million, provided the Government of Zambia can prepare a sufficient number of high-priority projects to absorb such a large amount. Third, in support of the Government's new priorities, Bank Group lending will, in future, be less for infrastructure and social services and more for directly productive investments, especially in agricul-

ture and industry. Agricultural investments may well account for as much as half of our total commitments over the next several years. Projects to expand coffee and cotton production are in advanced stages of preparation, and identification of additional agricultural projects has begun. In the industrial sector, preparation work has focused on developing projects based on local resources. At the same time, however, the Bank Group expects to continue supporting selected high priority projects in infrastructure (including roads and rural water supply) and in education.

9. In addition to providing financial assistance for these projects, we also plan to help Zambia, in more general terms, strengthen its capability to identify, prepare and implement projects through technical assistance. We are presently discussing with the Government how we can assist in this urgent task. The Government's limited ability to prepare projects suitable for external capital assistance in the past has constrained its absorptive capacity, and we are prepared to offer technical help as well as some financial resources, if needed to complement technical assistance from bilateral and other multilateral sources.

10. Finally, while the bulk of our future assistance will continue to be directed to specific development projects, we also expect to extend some further program assistance to Zambia to help alleviate the country's present economic plight. As you know, such assistance from the Bank will have to be exceptional and limited in amount; but, being united, it provides extra flexibility to the Government. Incidentally, the Bank has been made the custodian for a Special Action Fund set up by the EEC; we expect that a modest amount of that Special Action Fund will be allocated to Zambia, and we would most likely use it by attaching it to the proposed IBRD program loan.

11. In conclusion, then, the World Bank and IDA expect to build up lending activities in the years ahead to support a broad spectrum of essential investments, with increasing emphasis on agriculture and rural development. We are heartened by the fact that the Government has taken, or is initiating, a number of the steps—some very difficult indeed—which are needed to stabilize and diversify the economy and to realize its development objectives. The Government now is also embarking on a program to strengthen its institutional framework. The World Bank fully supports the Government of Zambia in these endeavors and intends to offer significant technical and financial assistance to it. We look forward to continue working very closely with the Government and now also with the members of the Consultative Group in this challenging task.

ANNEX X—CONSULTATIVE GROUP FOR THE REPUBLIC OF ZAMBIA

PARIS, TUESDAY TO THURSDAY, JUNE 27 TO 29, 1978

Statements by delegations[1]

(Statement by the Delegation from the African Development Bank (Mr. Girma))

Thank you very much, Mr. Chairman.

Due to some problems, mainly operational in nature, our operations in Zambia have not been picking up momentum for some time. For the future, we hope to be able to sufficiently increase the volume of our operations in Zambia. As a matter of fact, we have identified several projects in the agricultural sector which fall within the priorities of the Government's program. We are happy to see that these projects have already been discussed with the Government and found to be acceptable, although their preparations are either at an early stage or we have only preliminary information. Provided preparation can be done as quickly as possible, we hope within the 1978–81 period to finance—and I must bring out here these are very indicative levels—a program amounting to about US $30–36 million. But, I must emphasize that this will depend on the availability and the preparedness of projects.

We could prepare some of these projects ourselves; but we feel, more than anything else, the most important element in the recovery of the Zambian economy will be project preparation, and we also feel that this will be the major bottleneck. Apart from the institutional aspect, the state of project preparation will also affect disbursement. This is a very crucial element, and we would like as much assistance as possible to be provided to this aspect of the recovery program.

Because of the problems Zambia is facing, we consider Zambia to be in a particularly delicate situation. For that reason we have proposed to our Board that they deserve special treatment, and, therefore, some of the projects we finance, especially those of a commercial nature, will be on ADB terms; but those of a soft nature, such as infrastructure or agricultural projects which have a long gestation period, will be funded from ADF resources. Thank you very much.

Statement by the Delegation from the European Economic Community (Mr. Foley)

Mr. Chairman, may I apologize for my lateness in getting here. I was in the Caribbean till yesterday. It certainly does not reflect any lack of interest in Zambia, which is a country I know well, and which is a country, I think, if we examine its history and its geography, we must feel sympathy.

In the pre-independence period of the Central African Federation, we find basically the beginning of a distortion of a sovereign state in terms of its balanced economy. Southern Rhodesia became the bread basket for the Federation, and Northern Rhodesia, as it was, was the copper industry. And so this over dependence on copper, or the emphasis on copper in the economy of Zambia at the time of independence, was part of the legacy of its past. Indeed, there were so many distortions in the economic field at that time for political reasons. I can recall that the decision taken as to where the hydro-electric dam should be located was not taken on the economic grounds; if it had, Kafue would have been selected. It was taken on political ground and that is why it was Kariba. Zambia has been punished over the years, and deserves all the support, sympathy and interest that we can give. In this connection, realities, and the difficulties it has had as a of course, too, we must look at its present front line state and, in particular, because of its adherence to UN sanctions, linked to the closure of the Zambian and Mozambique border with Rhodesia. And, of course, Zambia has had to deal, too, with the closure of the Benguela Railway, raids from Zimbabwe and with the influx of refugees from five or six neighboring countries. This of itself has placed an intolerable burden on the country, which we must not ignore.

We think, too, that in establishing criteria and guidelines for the distribution of international aid, particular regard should be given to the special circumstances of countries with large mining sectors such as Zambia. In the case of such countries, we believe it would be inappropriate to rely too heavily on the per capita income criteria, which may fail to reflect the real economic circumstances and needs of the country concerned. This is particularly true in the case of Zambia which depends for some 90 per cent of its export earnings on copper sales. Although, it has a per capita GDP of the order of some US $400, practically all its foreign exchange is currently used to maintain the mining sector and related services. Virtually nothing remains of Zambia's foreign exchange earnings to cover the needs of development and maintenance in other sectors. This is a situation very rare in the world which we must fully take account of.

We believe these considerations suggest that particular account must be taken of the special circumstances confronting Zambia both in the economic and political fields when its status as an aid recipient is under consideration at an international level. We think this is a matter of considerable importance and that is why, frankly, I want to stress it here at this meeting.

Insofar as the indicative aid program that the Community has with Zambia, this is through the Lome Convention, and in this respect, Zambia is in receipt of something of the order of US$84 million over a period of 4 years. At least two thirds of that is in outright grants. Of course, in addition to Lome, there are bilateral arrangements between the member states of the Community and Zambia. The major emphasis on the EEC indicative aid program is in the field of agriculture and infrastructure. Clearly when I referred earlier to the agricultural development being largely in the Southern Rhodesia, as it then was, there was also agricultural development along the line-of-rail in Northern Rhodesia, and there is no question whatsoever that from the point of view of soil, from the point of view of climate, Zambia can be a potential exporter of maize, wheat, and a whole series of other crops.

In the past, disbursements have not been as high as they should; this, I think, is a matter of concern to all of us, and we should say this: that there is the art of development in spending the money that is available to you, not sitting on it, spending it. This is certainly a matter of concern, I would have thought, to our Zambian friends as well as to those of us who wish to work with them, and this does reflect then the need for skills, abilities, administration and so on. One cannot ignore this reality.

In the agricultural sector, our major emphasis up to now has been on basic studies as a take off for further activity. We now believe that we have at our disposal studies in key sectors of agricultural development: wheat, tea, cotton, rice, oilseed production, livestock and dairy development. We would wish to put this information at the disposal of anyone who is interested in working with us in joint financing schemes of this order in Zambia, both international agencies and individual countries. We will wish to look again with Zambia at the earliest possible moment at the indicative aid program and see how far it reflects the priorities of today and what alterations we can make in order to move into this area of quick disbursement in projects.

Reference was made yesterday to the area of transport, and clearly anyone who has in recent months looked at the port of Dar-es-Salaam, or looked at the port of Beira, will realize that there are immense difficulties, bottlenecks and inadequacies in port handling and unnecessary delays. We would be interested, if the governments of the area were also in providing technical assistance for port management and we would be quite happy to work with others in this regard. We believe of particular importance is the involvement of the Economic Commission for Africa. Its economists, statisticians and administrators ought to be involved with us in managing projects and providing technical assistance in this area.

Lastly, I would say that in the area of food aid, Zambia has a potential for, and indeed now has, a surplus of maize which might well be used in the neighbouring provinces of Zaire and elsewhere to help provide their basic needs. We have an aid program with Zambia in areas where there are deficiencies, such as butter oil, wheat, milkpowder, and clearly we would hope to improve our performance in this area.

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[1] The statements by the Delegations were presented orally and, in the process of being transcribed from tapes, have received minor editing.

In conclusion, Mr. Chairman, along with the European Investment Bank which has opened a line of credit to the Zambian Development Bank, we are anxious to participate and collaborate, firstly, with our friends in Zambia in revising, if necessary, the indicative aid program and bringing forward projects for quick disbursements, and secondly, in putting at the disposal of any other aid donors the detailed studies that we have now completed in the agricultural sector. We have done the studies. They are completed. We have committed money ourselves, and we are quite willing to sit down with others in a joint effort to meet some of Zambia's needs. My final point is that this is a country which because of history and geography needs and deserves all the support and energies and efforts we can put together. Thank you.

Statement by the Delegation from the International Finance Corporation (Mr. Alizai)

Mr. Chairman, Mr. Minister, Ladies and Gentlemen:

The statement on the Bank Group's operations refers to my making a separate statement on the work of IFC, the private enterprise arm of the World Bank.

We, in IFC, were very pleased to note the remarks of the Minister of Finance, highlighting Zambia's support of private initiatives, as evidenced by the Industrial Development Act of 1977. IFC's role is to seek to assist the development of the Zambian economy by initiating and promoting ventures in the private sector and by mobilizing capital for such ventures to supplement scarce domestic resources.

IFC has so far made three investments for some $4 million, in conjunction with domestic and foreign partners. These investments include the manufacture of shoes, a packaging materials plant and a development finance company. In the future, we stand ready to expand our activities considerably. We are looking particularly at the agrobusiness sector and into the mining field.

IFC's capital is in the process of being increased substantially and so now IFC feels better able to undertake larger financing operations for its own account. However, its basic task remains: namely to work with others with a view to establishing sound enterprises that will assist the economy of Zambia. We hope very much that any private bankers, industrialists or entrepreneurs from any of the countries represented here will feel free to consult with us to this end. For our part, we stand ready to do whatever we can, within our terms of reference, to assist the development of the Zambian economy.

We and the Government agree that, to make an effective contribution to the economy, ventures must be soundly conceived, with adequate capitalization and with satisfactory arrangements for management. It is by our support of such ventures that are intrinsically worthwhile, both economically and financially, that the interests of Zambia will be served.

Statement by the Delegation from the Saudi Development Fund (Mr. Biyari)

Thank you Mr. Chairman. I would like to start by expressing my gratitude for being invited to this meeting by the Zambian Government and the World Bank. This is very important to us because there has been virtually no contact in the past between the Saudi Fund and the Zambian Government.

While we realize how serious the problems facing Zambia are, unfortunately, the Saudi Fund does not operate in the short term, but it certainly can be involved in the medium term. I am sure that there will be good opportunities for cooperation in the very near future, especially in areas requiring technical and financial assistance. Undoubtedly, the Saudi Arabian Government will be involved in assisting Zambia through the other agencies in which she is a major member, such as the Arab Fund for African Development and the ADB. So really, at this point, there is not much to say except that I am sure that more contact through the World Bank and through other organizations will be made and further discussion with the Zambian Government will be forthcoming shortly.

Thank you, Mr. Chairman.

Statement by the Delegation from the United Nations Development Programme (Mr. Doo Kingue)

Thank you very much, Mr. Chairman.

First of all, I would like to say that the cooperations between UNDP and Zambia has to be looked at under two headings: the country program side, which covers the years 1977 to 1981, with an allocation of US$15 million; and the multinational program, which is subject to understanding between various governments, including Zambia, on a special problem that could be handled on a multinational basis and for which (with the exception of the figure I gave yesterday of US$10 million for the whole of Southern Africa in the coming three years) projects have to be looked at on an ad hoc basis. On the Country Program side, as I said yesterday, more than half of the resources (55 percent) are concentrated on rural development and agriculture. There is a particular feature here which I think the distinguished delegates may wish to note, which is that, of the US$6.5 million for which agricultural projects are going to be financed under the Country Program, there is about US$5 million for new projects which should normally start this year. I think that this gives scope for coordination of our efforts in this area with the efforts of the others.

I would like to mention three of these new projects because they are large ones, and they absorb more than US$1 million each (two of them absorb nearly US$2 million). The first one is the In-Service Training in Agriculture Project for which US$1.8 million is earmarked during the Country Program period. Another one is the Animal Disease Control Project for US$1.9 million, and the third one is the Repair, Maintenance, and Manufacture of Agricultural Implements Project, for which US$1 million is earmarked. In the other sectors, manpower, as I mentioned yesterday, absorbs 22 percent of our resources; here most of the projects are ongoing, the main one being the Management Development and Advisory Services Project for which nearly US$1.5 million is earmarked for the years 1977 to 1981. On Administration, which is the third major sector of our program, and which absorbs 19 percent of the resources, the main project is for assistance to the Ministry of Planning, for which US$1.3 million is earmarked for the period under review.

As I said yesterday, we intend, in the light of the discussions here and in the light of the new development plan for Zambia, to have a major review of our program in October. I do hope that by that time we will have either the development plan itself or elements which would help us in the assessment of the program and its review. I would simply express the hope that, if it is not already envisaged, the Government attempt to identify in the development plan the total requirements for technical assistance, so that we can see what role our inputs can play in that particular respect.

With regard to the multinational program of the regional program, particularly after listening to various speakers yesterday, I feel that I should make two points on transport which I did not have the opportunity of making yesterday. The first one concerns the landlocked country's project I mentioned yesterday for which UNCTAD is the executing agency. UNCTAD has been sounding out various governments with a view to formulating the project, but the project has not yet been formulated in detail. As I said yesterday, I will request the UNCTAD team to get in touch with those donors who are interested in this particular sector, to make sure that whatever projects are designed do not duplicate other efforts. I am thinking in particular of the EEC's program which we heard about yesterday. The second point is marginal and relates to the perspective for the future. I have the feeling—I might be wrong—that even if the problems are easily resolved in Zimbabwe, it will certainly take some time to utilize fully the infrastructure available in these countries in providing routes for Zambia to the ocean. Therefore, let me diverge somewhat from the statement we heard yesterday, that we should not put emphasis on new infrastructure, by saying that I am not completely sure that even if Zambia regains access to old routes in the near future, the infrastructure which is there could be utilized one hundred percent overnight. Thank you, Mr. Chairman.

Statement by the Delegation from Canada (Mr. Johansen)

Thank you, Mr. Chairman.

As this may be our last opportunity to intervene at this meeting, I wish to express on behalf of the Government of Canada, our appreciation to the Government of Zambia and to the World Bank for the invitation to attend this inaugural meeting of the Consultative Group. Recognising the considerable effort which is being made by the Zambians, by the Bank, and by others in preparing the documentation for this meeting, we appreciate the full and frank manner in which they, as well as the other delegates have discussed the formidable problems which Zambia is facing and to which we individually and collectively are trying to find a solution.

Since Zambia became independent, Canada has made a number of efforts to assist Zambia in the development of its economic and social structure. We intend to maintain these initiatives in the future. Recognizing the problems that can arise in a country which is dominated by one resource, Canada's program for development assistance for Zambia has for a number of years been oriented towards the longer term development of the rural, agricultural and transportation sectors. With respect to the agricultural and rural sectors, the objectives of the Canadian program are to undertake investments in economic and social infrastructure, to promote agricultural production, to improve the planning and operational capacities to those Ministries and parastatals responsible for rural development, and to support the education of Zambians, particularly in the agricultural disciplines. Projects which have been approved and which Canada has allocated over Can$35 million during the coming five year period include: 250,000 tons of capacity for maize and fertilizer storage costing approximately Can$18 million; Can$13 million for the construction of rural roads, and for fisheries development in the Northern and Luapula provinces; approximately Can$5 million for the development of wheat production, Can$2.5 million for technical assistance to strengthen the planning capacities of the Ministry of Lands and Agriculture and the National Commission for Development Planning, and Can$2.8 million for technical assistance to the University of Zambia School of Agriculture. Whereas the project documents for the two technical assistance projects just named have been signed, we have encountered delays in the launching of the other three. But, as a result of our discussions with the Zambian Government yesterday afternoon, we anticipate that these problems will be overcome shortly. In addition to the above, we are also planning an integrated project to improve the institutional capacity of the Ministry of Water and Natural Resources in the Northern and Luapula provinces and to provide potable water supplies in certain areas of these two provinces.

As regards the transportation sector, Canada is supporting Zambia's railway sector in recognition of several factors: the geopolitical and landlocked position of Zambia, and the essential requirements to maintain an effective railway system to permit the effective flow of imports and exports, particularly in view of the closure of the rail routes through Angola and through Rhodesia for which Zambia, in response to the U.N. sanctions, is paying a heavy economic price. Within the railway sector, CIDA is supporting the management of Zambia's railways with Canadian railway personnel and is currently providing in excess of 400 rial wagons under a Can$16.5 million development line of credit, bringing our total commitment in this sector to approximately Can$28 million. Further developments in this sector, including possible extension of the Malawi railways to Chipata, are under construction.

Should all the project documents be signed, total anticipated Canadian involvement in Zambia, in terms of committed projects, is in the order of Can$60 million during the coming five-year period. Of this, approximately 28 percent would be in the form of grants and 72 percent, in the form of loans which have zero percent interest, a 10 year grace period and a repayment period of 50 years. In terms of this fiscal year, disbursements are estimated at between Can$14 and Can$17 million.

So much for the present, Mr. Chairman. As regards the immediate future, other than to try and speed up disbursements of current projects, Canada is not likely to be able to respond immediately to the present balance of payments situation. The reason for this is that the available funds allocated for use in Zambia are at present fully committed. The Canadian Government, however, is fully aware of Zambia's present predicament and will be dealing with the subject of future allocations in the very near future. Meanwhile, as a matter of policy, we will continue to actively support those sectors in which we are currently involved. In this respect we are particularly keen in examining further developments in the agricultural and transportation sectors.

I should point out, Mr. Chairman, that our ability to attract further funds for Zambia will be conditioned to a certain extent by firstly, the record of disbursements and, secondly, by the effectiveness through which Zambia utilizes the aid funds currently at its disposal. In this respect, we are particularly pleased to learn of the plans which Zambia has to strengthen its administrative organization and, as a consequence, to speed up the process of project identification, approval and implementation. And we are willing to consider providing additional external assistance to put these plans into effect.

At the political level, Canada will continue to strive through international and other fora to bring about satisfactory solutions to the various political and other problems affecting Zambia's neighbours. In this respect, the opening of traditional transport routes is particularly important. We also will continue to assist Zambia indirectly through our other bilateral programs, by helping to overcome transportation problems on existing routes. Here I wish to refer specifically to the TAZARA rail system, Dar-es-Salaam port and Malawi railways. Thank you, Mr. Chairman.

Statement by the Delegation from Finland (Ambassador Korhohen)

Thank You, Mr. Chairman.

I will only make a brief statement to summarize some of the ideas put forward here and outline the Finnish standpoints on these issues. First of all, we also appreciate the thorough background papers prepared by the Bank, and the open and willing attitude taken by the Zambian delegation. We really appreciate the dedicated and frank efforts of the Zambian Government to develop the country in accordance with the principles of humanism.

It was quite correctly pointed out by the Honorable Mr. Mwanakatwe that, and I quote, "the donors must accept the financial consequences of the political stand they have taken on the situation in southern Africa". Accordingly, Finnish assistance to Zambia must not only be viewed as an appreciation of the development policies pursued by Zambia, but also in the context of Finland's consistent policy towards opposing apartheid and racism. As was pointed out Tuesday, by the distinguished delegate from Sweden, Mr. Palmulund, and I cannot but agree, restrictions followed by or agreed upon in the implementation of assistance given by some of the donors may affect the future distribution of benefits and development in Zambia. It should be a high priority in all countries, whether developed or undeveloped, to increase the wealth of the masses or, to put it in other words, to minimize the gap between different social groups. Therefore, we should all agree on the standpoint taken by Zambia to concentrate its development efforts in the rural areas and the subsistence sector.

Finally, I will, in short, describe Finnish bilateral assistance policies, with special reference to the Zambian case. Because Zambia is one of the main recipient countries of Finnish assistance, the planning of the assistance is done within a three year rolling country programming procedure. Any other consultations are held between representatives of both governments, in the last quarter of the year in order to mutually agree upon a concrete program of assistance.

The program is based on the priorities chosen by Zambia. We feel that any independent country must decide on her own development priorities and organizational structure. It is for no one to impose restrictions because some of the policies may not suit its own interests. The Finnish assistance program is reviewed quarterly, and, in that context, changes and possible additions of new projects can be made within the financial frame. In the Zambian case, it can be mentioned that in the last quarterly review of the program, a considerable reallocation was planned to the transport sector as suggested by the Zambian Government.

Finnish assistance to Zambia consists of both grants and credits. So far, 5 credit agreements have been concluded with Zambia for a total value of approximately U.S. $20 million, of which approximately U.S.$7 million later have been converted into grants as suggested by the Zambian Government. The terms of the credits have normally been a 25 years maturity, with a 7 year grace period, and an interest rate of 0.75 percent. The planned disbursements for this year will be approximately U.S. $3.5 million as grants and U.S.$4.5 million as credits.

Because of the severe economic situation in Zambia, the Government of Zambia has again requested Finland to consider converting an additional proportion of the credits to grants. This request also has some other additional possibilities to help Zambia and will be considered by my Government. Mr. Chairman, unfortunately, I am not in a position to inform the group of increased assistance to Zambia. The Ministry for Foreign Affairs in Finland has recently submitted the budget proposals for 1979, but only at the end of the year will it be known in what way the implications of the overall financial position of Finland will affect her positive attitude to assisting Zambia. Thank you very much, Mr. Chairman.

Statement by the Delegation from France (Translation from French) (Mr. Cellier)

Thank you, Mr. Chairman.

First of all, Mr. Chairman, I should like to speak to my friends of the World Bank on a matter which has nothing at all to do with the substance now under discussion. I have noted with some regret the total absence of documentation in the French language—I am referring to the documentation which was distributed for this Consultative Group. Of course, I would not be so presumptuous as to challenge the important role of the English language in international organizations, more particularly that of the Bank where English is, of course, the working language. But, I personally believe that in its move toward unity, which I think Africa will achieve one day, this move toward unity must go through a closing of the contacts among the African nations themselves. In order to strengthen these contacts the African countries will be compelled to use part of the colonial heritage including, of course, the imprtant role played by the French language. I believe, therefore, that the Bank could make its indirect contribution to the effort toward African unity, by making a small effort to provide greater importance to the French language with respect to its documentation. Mr. Chairman, I think that you will forgive me for the frank words that I have spoken, nevertheless, I must express my profound appreciation for the kind welcome that has been extended to us and the excellent manner in which this work has been organized.

Mr. Chairman, Mr. Minister, ladies and gentlemen. This Consultative Group from Zambia was very helpful to the French delegation, because it has made it possible for us to give further thought about our system of aid in general within the frame work of our present concerns for improvement in our assistance techniques, the level of which is nevertheless quite important. In actual fact, our direct aid to Zambia is quite modest. It consists mainly of budgetary grants, which in 1978 have reached a total amount of F3.5 million. That is, much less than US $1 million. However, the fact that this assistance has gone in the form of budgetary grants is, I think, fully in line with the requirements of the Zambian economy, since this is used for medical aid, agricultural de. velopment, educational aid, and management training.

This effort, of course, will be continued. I cannot advance any figure at present, in view of the fact, as was the case for Finland, our budget for 1979 is now being prepared. I spoke about the fact that our direct aid was modest, but I could, in passing, mention France's participation in multilateral assistance, particularly the European Development Fund. In this respect, the representative of the Community has just made a very interesting presentation. This group has made it possible for us to re-establish contact with the Zambian authorities in order to play a more active role in the assistance that Zambia now requires and to which the Bank has drawn our attention.

The conversations that the Bank has facilitated between us and the Zambian delegation will make it possible for us to shed further light on the modalities and the level of our bilateral assistance. I am in a position to announce that this will take a new turn in the future. France is prepared to grant Zambia a new form of aid which will be mixed credits. This type of assistance associates public treasury loans, which are long term at a low level of interest, with commercial credits, which are guaranteed. The total amount of these treasury loans and guaranteed commercial credits could reach a level of between F 56–60 million. It was agreed with the Zambian delegation that our two countries would meet in order to work out the modalities for this assistance. Therefore it is our firm hope that during the course of these meetings, we shall, with respect to this new type of credit, be able to find points of application which would be satisfying for both parties. That is what would be in conformity with our customary grant systems and, of course, would also be able to meet some of the requirements which have been referred to by the Zambian delegation during the course of this Consultative Group meeting. In making this extra effort, we are conscious of the fact that we are, on the one hand, responding to the appeal made by the Bank and the Zambian Government. On the other hand we also are aware of the fact that we are participating in the effort made by Zambia to cope with a very difficult situation with respect to its economy as well as the conflicts in the area.

I should like to avail myself of this opportunity to hail the humanitarianism of President Kaunda and his concern to bring about peaceful solutions to the conflicts from which his country has been suffering so directly and so painfully. His concern has always been to have the black majority recognized and given power in Zimbabwe; to have an internationally accepted solution, in accordance with the resolutions of the Security Council, be found for the independence of Namibia; and, of course, to have a peaceful solution, which would put an end to the apartheid regime which has been condemned unanimously by the international community. Thank you very much.

Statement by the Delegation from Germany (Mr. Kirchoff)

Mr. Chairman.

On behalf of the Government of the Federal Republic of Germany, I should first of all like to say thank you for this Consultative Group, whose invitation we were pleased to accept and which hopefully will continue its work. As we learned in the last few years, and especially through this meeting, the economic situation in Zambia has become increasingly critical as a result of the fall in copper prices on the world market, and, I would like to point out, due to the effects of the political developments in Southern Africa.

It is now in a serious state. For these reasons, we welcomed the initiative of convening this conference which had to address itself to the problem of how to support quickly and effectively, as well as structurally, the Zambian Government's own efforts in the next years.

May I repeat that the documents and reports compiled by the World Bank, and I would like to also include the information given by the Zambian Government, and the IMF, were exceptionally useful in preparing the Consultative Group. They also provided a good basis for programming our future bilateral cooperation with Zambia.

Permit me to begin by dealing with past bilateral German assistance to Zambia. The Federal Republic of Germany has so far provided Zambia with credits amounting to a total of DM 184.0 million at 2 percent interest rate with a maturity of 30 years including 10 grace years. Added to this are grants totalling approximately DM 31.0 million. However, may I illustrate the problems which existed up to now in the otherwise very good development cooperation with Zambia by giving some figures. Of the DM 184.0 million mentioned above, only DM 44.0 million have so far been disbursed, of which again is some DM 33.0 million in commodity aid. But hopefully we will succeed in diminishing the pipeline with the help of the Zambian Government, so that within the next year, by 1979, those amounts can be disbursed.

The problems resulted from an acute lack of feasibility studies and documents that were ready for appraisal. In addition to setting up a two-year program, we have established a study fund for the Zambian Government in order to plan projects earlier and more carefully in reply to the disbursement and pipeline problems. Our experience so far has been good. The indicative program for 1979 and 1980, which was worked out recently in collaboration with the Zambian Government, now contains a number of attractive and promising projects both in the area of financial and technical cooperation.

The Consultative Group also should be convened at regular intervals with a view to helping solve and improve the disbursement and pipeline problems by more intensive coordination on the part of Zambia's various partners. This could make a useful contribution towards allocating the development assistance funds available to the focal points of Zambian planning or channeling them towards the bottlenecks which the IBRD and the IMF have so clearly shown.

The Government of the Federal Republic of Germany believes that the harmonization of the bilateral programs between the donors and the Zambian Government could lead to a substantial increase in the effectiveness of aid contributions with a view to bringing about in the medium term an improvement in the structure of the Zambian economy. It will therefore give its active support to all efforts designed to achieve this end.

Since 1977, we have switched to a two-year cycle for our cooperation with Zambia, in order to be able to make more funds available for larger projects, and, in particular, to gain time for the early preparation of the projects. In the field of financial cooperation, DM 140.0 million alone have been set aside for the period 1976 till the end of 1978. The proportion of commodity aid has been raised twice in 1977 and 1978.

So in the 1977/78 two-year program, DM 19.0 million had previously been aside as commodity aid. The Government of the Federal Republic of Germany is now ready, in addition, to convert with immediate effect, an amount of DM 20.0 million in committed project aid into commodity aid. So the total amount for commodity aid will come up to DM 39.0 million. That means that for the current two-year program which runs until the end of 1978, DM 90.0 million are available for financial cooperation and some DM 10.0 as technical assistance.

The Government of the Federal Republic of Germany will endeavor to continue and further intensify cooperation with Zambia in 1979 and 1980 on the basis of another two-year program. The indicative program, which, along with the report of our Chancellor's office, will hopefully be proposed immediately to Parliament for the 1979 budget approval, should include a high proportion of commodity aid. The main aim of a further two-year program on our side, and the Zambian Government has given its agreement to that, would be:

(a) to extend existing development facilities in the rural sector in view of the need to improve agriculture and especially to increase productivity in agriculture and here we are willing to concentrate about 60 percent of our means to that target; and

(b) to help increase the efficiency of the parastatal organizations, with special regard to the transport sector, and here we will concentrate about 35 percent of our resources. By doing so, Mr. Chairman, we hope that we shall coincide with the priorities of the development plan being prepared and take up some of the recommendations of the IBRD which we consider so extremely important.

Thank you very much.

Statement by the Delegation From Italy (Translated from French) (Mr. Leonini)

Thank you, Mr. Chairman.

Very briefly, I should like to say how interested the Italian delegation was in the evaluation presented by the representatives of Zambia, the World Bank, the IMF and the other institutions here today. I would like to associate myself with all those who have expressed their gratitude for having convened this meeting. More particularly, we are very much interested in the information provided about that measures that have been adopted or that will be adopted by the Lusaka Government in order to check consumption, improve productivity in the mining sector, rationalize resources for investment and stimulate the agricultural sector. The determination expressed by the Lusaka Government to meet its commitment to pay its arrears and to meet its obligations in the middle and long run will undoubtedly make a decisive contribution to strenthening confidence in ecomonic circles, and at the same time facilitating trade, which is so essential for the country's economic recovery.

The Government of Italy has made important contributions to the development of Zambia in key sectors such as energy, infrastructure, transport, communication, industry and defence. Italy wishes to continue doing whatever it can along these lines in a spirit of solidarity and understanding. This has been confirmed at a very high level last year when President Kaunda visited Italy. We are certain that the economic problems now faced by Zambia are related, not just to international copper prices, but also to the difficulties of Zambia's being landlocked and the political problems involved in the decolonization process in Southern Africa. On the occasion of President Kaunda's visit, we indicated that at this important time, which is not an easy one for our economy, we have agreed to examine the possibilities of credit facilities so that our level of cooperation with Zambia would remain appropriate. And, in this context, we have recently granted credit facilities of about US$33 million, earmarked for initiatives in transport infrastructure.

Mr. Chairman, this is part of the past or, if you will, part of the present; but now, I should like to turn to the future. The Italian delegation has listened very attentively to the points made during the course of this meeting regarding the level of financial assistance required by Zambia, and we shall certainly inform our Government of the situation. At present, I can confirm the willingness of the Italian Government to continue participating in the economic development of Zambia and to meet, in so far as we can, some of the requirements of Zambia. We, for example, are considering with sympathy the granting of assistance for the priority sectors in accordance with our national legislation, provided that the Zambian authorities will do what they can to prevent excessive debt service burdens. We also shall bear in mind Zambia's requirements with respect to the development of a technical assistance program, and we shall also take into account the interesting information which has been provided by the Zambian delegation. We now are negotiating a technical cooperation agreement, and, in accordance with the wishes of the Zambian authorities, we have identified interesting projects regarding mineral research and agricultural mechanization. We believe this meets the requests of Zambia to bring about the diversification of production, a desire which is one of the key points emerging from this meeting.

Furthermore, Mr. Chairman, I would like to say that we are prepared to provide Zambia with food aid within the context of a bilateral food assistance program.

From the above, Mr. Chairman, you can see the desire of the Italian Government to develop, during coming months, our contracts with the Zambian authorities with a view to giving concrete form to a number of initiatives, which are now under way, and to identify other possible initiatives in light of the priorities which have been expressed by the Zambian authorities during this meeting. We are convinced that our assistance in the implementation of appropriate economic development programs is concrete testimony of our sympathy and our support not only for the efforts Zambia has taken to overcome her economic difficulties, but also for the attitude of the Lusaka Government towards the peaceful solution of the problems of the geographical area in which the country is located. Thank you.

Statement by the Delegation from Japan (Mr. Jinma)

Thank you very much, Mr. Chairman.

First of all, I would like to express my great pleasure at being able to participate in this meeting. My delegation and I greatly appreciate the efforts undertaken by the Zambian Government to stabilize the economic situation of the country.

I would like to describe, briefly, the position of the Japanese Government concerning economic cooperation towards Zambia. First, as a whole, the financial cooperation we have offered to Zambia amounts to ¥11.1 billion in project financing, mainly involving a railroad project and the extension of a telecommunications project. In addition, in December 1977, we approved credits for commodity assistance amounting to ¥4.5 billion. Consequently, the total amount of assistance we have already offered to Zambia comes to ¥15.6 billion. Secondly, in terms of future financial cooperation and, taking into consideration the debates and results of this meeting, we are ready to study the possibility of providing for Zambia's balance of payments needs. Thirdly, as for grant aid, Japan, in general, will provide grant aid in connection with programs related to basic human needs. We are ready to study the possibility of providing grant aid in the areas of medicine, health, education, agriculture, etc. Finally, regarding technical assistance to the Zambian Government, we have provided experts to do training or to undertake studies, of which the total amount comes to ¥69 million. Our technical cooperation program in the future will focus on those areas which meet Zambia's development needs. Thank you very much.

Statement by the Delegation from the Netherlands (Mr. Wessels)

Thank you very much, Mr. Chairman.

Mr. Chairman. Mr. Minister, dear colleagues. Netherland's bilateral cooperation with Zambia in the development field dates back only to 1975, when Zambia received the first aid allocation from our country. We realize that we are still a very modest donor with regard to Zambia. Over the period 1975–78, the total regular allocation, apart from additional aid, has been f. 46 million, that is, around US$20 million, of which f. 19 million was in grant form to be utilized for technical assistance which is untied. The remaining f. 27 million were provided on a long term basis. Up to and including 1977, almost 40 percent of the aid was allocated for rural water supply schemes, 25 percent for infrastructural activities and 20 percent for the development of agricultural and livestock activities.

Then in 1976, the serious effects of the border closure with Zambia's southern neighbor, Zimbabwe, became apparent, especially with regard to the sharp increases in the prices of imported food. Our Government decided to extend an additional loan of f. 5 million to the Government of the Republic of Zambia to be fully utilized for the import of essential agricultural implements and supplies. This effort was repeated on a larger scale in 1977 when an additional loan of f. 12 million was made available again for the import of essential commodities and minor capital goods for the agricultural sector. All loans since 1976 carry an interest rate of 2½ percent per annum and a redemption period of 30 years, including an 8 year period of grace. Those loans are untied with regard to procurement from development countries.

Although our cooperation program with Zambia is still fairly young, the activities under this program are quite numerous. Assistance is being given for preparing the plans for dairy farming to be included in the Third National Development Plan. Assistance is also being provided for the further developmen of artificial insemination programs, the improvement of agricultural and livestock production in scantly populated and isolated areas, and in support of the National Irrigation Research Station and rural settlement schemes. Some of these programs are in close cooperation with World Bank, EEC and FAO. Rural water supply projects are major elements of the program and may be followed by small-scale irrigation schemes. Technical assistance is being provided in connection with domestic water supply schemes in provincial capitals and the modernization and extension of existing water supply corporations in smaller towns. As regards infrastructural development, we are playing a supportive role in programs already being carried out in the rural areas by the Zambian Government. Assistance is being given, for example, for the construction and maintenance of waterways in marshy areas, and equipment has been bought from India under this program for some high voltage power lines between some major towns and rural areas. Our Government recognizes the essential need for strengthening and streamlining governmental organizations and procedures. On a request for the Zambian Government, therefore, technical support in this field is being increased in a cooperation program with some emphasis on the agricultural and rural sectors.

During our bilateral discussions with the Zambian authorities only one month ago, it was agreed to utilize the full 1978 financial assistance allocation for the roads and buildings departments of the Ministry of Public Works, for the procurement of essential construction and maintenance equipment. A small part of the overall program has been set aside for the financing of local costs. If the need arises, consideration may be given to increasing this in the future. In addition to that, we have some additional programs, quite apart from the regular bilateral allocations, to support the Regional Fellowship Program for Zambian fellows to study in neighboring countries. There is also the University Cooperation Program which dates back to 1970 where universities in the Netherlands cooperate with the University of Zambia, especially in the field of engineering. Then there is what we call the Volunteers Program which also dates back to the early 1970s, where a number of volunteers work mainly in the rural areas and in some technical institutions involved in the development of extension training offices for the rural areas.

Mr. Chairman, my delegation is not in a position to indicate as yet any further assistance this year, despite the fact that we realize the great problems Zambia has to overcome during the coming few months. We are, however, in a position to announce that our Government will continue in the the coming years to extend further its development cooperation program with Zambia, depending, naturally, on yearly parliamentary approval. Of course, it would help if disbursement performance would improve, since this is one of the elements on which our Government decides the division of allocations to what we call target countries. We are confident, even more so after what we have heard about the plans during this conference, that these problems will be overcome. Thank you very much, Mr. Chairman.

Statement by the Delegation from Norway (Mr. Hjelde)

Thank you, Mr. Chairman.

Norways' development cooperation with Zambia dates back to 1967, when the first agreement on technical and economic cooperation was signed. Technical assistance is predominant, covering about 40 percent of present bilateral program. All Norwegian assistance is given exclusively in the form of grants.

In 1977, Norwegian bilateral assistance to Zambia amounted to NKr 22.8 million, equivalent to approximately US$4 million. For the calendar year 1978, an amount equivalent to US$7 million is available. One-half of the financial assistance for this year will be in the form of commodity assistance, including as an interesting example of triangular development cooperation, the delivery of building materials from a new mill in Tanzania.

Projects assistance will be concentrated on water supply and rural development. It is our firm impression that projects identified coincide very well with the present development needs and aspirations of Zambia.

The development cooperation between Zambia and Norway operates under a rolling and flexible four year country programming system. Subject to governmental approval, the indicative planning figures for bilateral assistance for the period 1979–82 will be in the amount of NKr 140 million, equivalent to approximately US$26 million. In addition, continued assistance outside the country program is expected, primarily in the form of multilateral cooperation through various UN organizations.

It goes without saying, Mr. Chairman, that my delegation will report extensively on this meeting with a view to possible further consideration of the needs and requirements of Zambia in this trying period, taking also into account continued losses by Zambia due to well-known geo-political circumstances. Thank you.

Statement by the Delegation from Sweden (Mr. Palmlund)

Mr. Chairman.

Sweden has a long term development cooperation program with Zambia. The present level of our cooperation is approximately US$18 million a year. Parliament has approved an increase in this level by around 20 percent, adding a bit more than US$3 million, and this initial amount will be made available immediately after the first of July.

The Swedish Government is very sympathetic, as I have explained before, to the difficulties that the Zambian Government faces now and will be ready to consider a further contribution. We will indeed be happy if we can see that as a contribution from the whole group of countries here. It will function as oil in the machinery at home if I honestly can say that there will be contributions from many participants of this meeting.

Our next agreement with Zambia will, on the basis of decisions already taken with regard to resources, cover the period 1979–80, beginning July 1, 1979, and the amount, and this is on the basis of already taken decisions, will be in the range of US$40 million for those two years. The figures I mentioned are commitment figures, but at the same time they are very close to disbursement figures. The money is used for the estimated cost of projects during the period in question, and for import support or commodities. We have no difficulty in transferring money not used for projects to commodities, which makes it a good deal easier to reach the disbursement targets. I can say that already in 1977, when we have a considerable backlog of funds for projects, all this money was actually transferred to commodity assistance in recognition of the balance of payment problems that Zambia has.

From now on, all Swedish assistance will be on a grant basis; part had previously been provided on credit terms. All our project assistance is untied; part of the commodity assistance is tied, part is untied, and project cooperation is mainly concentrated on education, rural health and rural development, and we foresee—and judging from the discussions here we have good reason to hope—that there will be an increase in the cooperation with regard to the rural development efforts directed to the small farmers. We have no difficulty with local cost financing. Our impressions have been previously that Zambia has considered local cost financing as a sort of "sinning" more or less, but the statement from the Honorable Minister of Finance made it clear that Zambia now accepts this sort of "sinning". In the present situation, when expanding capacity seems less important than the full utilization of existing capacity, we accept the need to finance recurrent costs. Our commodity assistance will represent approximately 40 percent of the program. This has been the pattern for a number of years, although, as I said earlier, there is a possibility to increase it in case the projects will not absorb what has been planned for them. The tied part of the commodity assistance has largely gone to the telecommunication and transport sectors. I have no information about the untied part.

If I may add here a couple of points. Yesterday, I did not join into the discussions about the transport sector in which many have indicated an interest, and I would just like to say, first of all, that if the Zambian Government wishes our cooperation in this sector, we of course are available. Secondly, without looking for very diplomatic words, I would like to express the very sincere hope that Zambia will be able to establish effective cooperation with Tanzania to solve the transport problems and also that Zambia and Tanzania will take seriously the first point in the Bank's presentation yesterday about inviting the People's Republic of China to help with the TAZARA railway, so that this important development project can be fully utilized in the interest of the Zambian economy. Thank you, Mr. Chairman.

Statement by the Delegation From the United Kingdom (Mr. Lynch)

Thank you, Mr. Chairman.

Obviously from the remarks of other delegates, it is clear that this has been a most useful and informative meeting. I would like to add my thanks to those expressed by other delegates for the documentation provided by the Bank, the arrangements for the meeting, and, if I may say so, the frank and clear way in which the representatives of the Zambian Government described their present situation.

Until quite recently, United Kingdom assistance to Zambia was heavily on the side of technical cooperation. This, of course, was during the years of relatively prosperity or at least the prospect of orderly development rendered possible by the maintenance of a good price for copper. Those days have gone, and during those days the only capital assistance provided by the United Kingdom was in a program of emergency aid which followed immediately after the illegal declaration of independence by Southern Rhodesia. I should, perhaps, also mention that we have an arrangement whereby we have assumed certain repayment obligations by Zambia for the Kariba Northbank Power Station. This is an arrangement of such an infinite complexity that I think it would baffle delegates if I attempted to describe it.

In 1976, Mr. Chairman, in recognition of Zambia's growing economic difficulties, we offered special aid of £5 million in the form of a grant. All this has been allocted, I am very glad to say, and £3 million of it has been spent. After this, in the following year, there was further special aid in the form of a soft loan of £7.5 million for essential imports for the agricultural sector. To this was added, this year, a further £1.5 million for urgent requirements in the transport sector.

President Kaunda paid a highly successful visit to London a few weeks ago. On that occasion, in response to his urgent request for further assistance, our Prime Minister, Mr. Callaghan, announced that we would give a further soft loan of £15 million for essential imports, which would be our contribution to the international assistance, which was being mustered through the machinery of this Consultative Group. The President welcomed this offer, and I am glad to say that his Government has already put forward proposals, which appear to us at first reading to be acceptable. This, of course, is aid for essential imports, not project aid, and it will cover quite a wide range of raw materials, spares, components and other equipment for Zambian industries, particularly in the transport and agricultural sectors.

Well, Mr. Chairman, it would certainly be lese majesty to override my own Prime Minister, but I am very happy to announce that Her Majesty's Government has decided, in the light of a further study of Zambia's needs, to increase this amount of £15 million to £20 million. This allocation of program aid will cover roughly the first 2 years of the three year period we have been discussing. In short, it will go up to the end of March 1980. It does mean, Mr. Chairman, that there is a period of approximately nine months, within the period of assistance we have been discussing, in which it will, of course, be open to us in consultation with the Zambian Government to look further at their needs for this particular form of assistance.

Furthermore, when the Third National Development Plan is published, and I am delighted to hear that its drafting has progressed so far, we would like to seek the agreement of the Zambian Government to send a small mission to Lusaka to examine and to discuss with the Government the prospects of our participating in project aid related to the Plan in the medium and longer term. I know that these perpetual missions can be something of a diversion from the normal task of very busy Ministers and officials, but I know also that we can rely to the utmost on the cooperation of our Zambian friends in this matter.

I have no authority to make any commitments on the local cost question. I have never understood, as my distinguished Swedish colleagues have, that the Zambian Government considered it sinful to provide aid for local costs, but unfortunately my Treasury is inclined to regard it as sinful. However, the structure of many development plans is such, that unless a donor country, making project aid available makes part of it available for local costs, a kind of rigidity is imported into project financing operations. We should certainly want to consider whether a measure of British project aid assistance could be in this form, in the light of our examination with the Zambian Government of the Development Plan.

Well, Mr. Chairman, the summary of this—which again I would emphasize is for the period up to the immediate assistance I have been describing—apart from the possibility of project aid later, this means that the total United Kingdom assistance to Zambia during that period, including technical assistance and the complicated Kariba arrangement, should be in the region of £52 million. We hope that this, and any additional contribution which the Commonwealth Development Corporation is able to make (it is already active in Zambia), generally will be accepted as evidence of Her Majesty's Government's deep concern for Zambia's financial and economic recovery and as an appropriate contribution to it. Thank you very much, Mr. Chairman.

Statement by the Delegation From the United States (Mr. North)

Thank you, Mr. Chairman.

I have been to many of these sessions, and I have found this one particularly helpful in understanding a problem that we really had not gotten the full dimensions of the severity of the problem, or the dimensions of specific aspects of it. I also gathered a sense of spirit, of response and cooperation and willingness to tackle particular issues together that seem, to me, better than I have seen in other situations at times. I think we will go home from this meeting with a much fuller understanding of the depth of the problem and the extent of it, and we will need to reflect on it with our colleagues at home, as to how we might best respond even more effectively than perhaps we had thought to date.

Let me comment a little bit on some of this, but first of all I should say that we are particularly appreciative of the response of the Minister and his colleague, the Minister of Plans, our questions, and their patience and willingness to give thoughtful and careful response to questions that sometimes must appear a little prodding and poking and not always as tactfull as one would like. We do want to note that and appreciate their joining in the spirit of the occasion.

I also do want to note that clearly this is a situation that requires a very concerted and cooperative effort of all those participating, certainly on the part of the Zambian Government. They have an extraordinary task ahead of them, and though perhaps it need not be said, it is always very important to us and to others to note the extent to which they are able to maintain their performance in conjunction with the standby conditions and in the implementation of the programs that we have all been discussing. This is a very critical measure of the ability of the Government to carry out its part of the program, and therefore facilitates our willingness and our ability to respond in the years ahead. That is a very key consideration that we all have to bear in mind when we talk to our colleagues at home, and therefore I think needs to be emphasized. At the same time it is a two-way proposition, and I am sure the Zambian Government will be wanting to look very hard at us in terms of our performance and our responsiveness in that context. So it is very much a concerted and coordinated effort.

As far as U.S. assistance is concerned, I will talk essentially in the present and the future. We also had a very fine visit of President Kaunda to the United States. We were very proud to have him there and it was a very positive and effective exchange between our governments and our leaders. In that context there was discussion of future assistance in light of the very severe problems that the Government faces, and we have given our assurances, again, subject to congressional actions to be taken in the future, of something in the range of US$100 million, which has already been mentioned, over the 3 years of 1978 to 1980. This is entirely in the form of what we are now calling quick-disbursing assistance—commodity aid. Our experience to date—we have already had some of this in motion over the last year or two—has been very encouraging because the expenditures, the use of these loans, has moved very quickly, and it is very assuring for the future that this form of assistance can be responsible to the immediate problems. So that unless there is something that develops that I am not aware of, we anticipate that the full amount will be drawn down within this particular period we are talking about.

Most of this assistance is in the area of agricultural inputs, fertilizers and equipment, some is in the form of agricultural commodities and the terms are related to our normal concessional assistance terms. I should note also, related to the local cost question, that to the extent that these commodities in effect are resold into the economy, they do in fact generate kwacha that is available for the government's recurrent and development budget. In effect you get a double effect, a double impact, because you get also the benefit of local generations of kwacha as well as the foreign exchange input.

Beyond this commodity assistance, we are engaged in stepping up our program for manpower training and we anticipate, subject to availability of candidates in appropriate programs, anywhere from US$0.5 million to US$1.0 million annually for training of Zambians in the United States, in Africa and in Zambia in the technical fields that they feel are most important to their development effort.

We are discussing this with the Government, and wish to join in efforts of our colleagues in project design, particularly that related to the agro-industrial area and perhaps to small enterprise development as well. We share the experience and the problems that result from the lack of adequate projects and therefore we are prepared to join in that.

I have already mentioned that we are willing to join with others to address the immediate transport problem. It has a vital importance to the Zambian Government, and it has some very special interest to each of us in terms of movement of our own projects and our own commodities. There is a certain self-interest in joining in addressing this problem and we are perfectly willing to draw on available resources and supplementary technical assistance, if those who are taking a lead in this, wish to bring about a quick resolution to this problem which seems to be so important.

I have also mentioned that we have a keen interest in agricultural development related to the small farmer and also with a special emphasis on the institutional development dimensions of this. We think it is critically important, although it is a very long 10–15 year job, to show accomplishment, but has to start immediately on the long-term task of institutional improvement and manpower training so that the research work, the education work and the extension work is carefully integrated and in a way that is effective in addressing the practical problems of the small farming community. Therefore, we are very keen on joining with others in this kind of program as the Government of Zambia wishes.

My last thought is only related to the situation that Zambia faces. There is a general concern about the future of the southern Africa area and the interrelationships of the economy there, and we are giving some careful thought and undertaking some studies looking towards the longer term of that area, certainly with hopes about the efforts to bring about the peaceful transition to majority rule and the future economic cooperation of the countries in southern Africa. Therefore, we hope that in another year we will have a better perspective of how our assistance, and perhaps those of others, can be joined to bring about the kind of economic stimulus and support that the southern Africa area requires and deserves, particularly Zambia, to which, because of its rather unusual situation and problems, we wish to give a central emphasis in this effort. Thank you very much, Mr. Chairman.

ANNEX XI—CONSULTATIVE GROUP FOR THE REPUBLIC OF ZAMBIA

A first meeting of the newly formed Consultative Group for Zambia was held in Paris, from June 27 to 29, 1978, under the chairmanship of Mr. Willi A. Wapenhans, World Bank Regional Vice President.

Atttending the meeting were delegations representing Canada, Finland, the Federal Republic of Germany, France, Italy, Japan, the Netherlands, Norway, Sweden, the United Kingdom, the United States, Yugoslavia, the African Development Bank, the Arab Bank for Economic Development in Africa, the Commission of the European Economic Communities, the European Investment Bank, the International Monetary Fund, the Saudi Fund for Development, the United Nations Development Programme. Observers from Austria, Romania and OECD/DAC were present. The delegation of Zambia was led by the Honorable John M. Mwanakatwe, Minister of Finance, and included the Honorable J. M. Lumina, Minister for Development Planning.

The participants reviewed the current economic situation and development prospects and discussed the Government's resource requirements and ongoing stabilization program. The meeting received reports from the Government, the International Monetary Fund and the World Bank on Zambia's prolonged economic crisis. The meeting noted that this crisis was caused primarily by Zambia's overwhelming dependence on copper, which continues to suffer from depressed price levels. The meeting also noted that the heavy costs to Zambia of the closing of the border with Southern Rhodesia in keeping with the relevant United Nations resolutions, factors outside the Government's control relating to the unsettled conditions in neighboring countries and the disruption in the regional transportation network had exacerbated Zambia's difficulties. The Group reviewed the adverse impact that the current shortages of spare parts and raw materials, owing to the reduced availability of foreign exchange, have had on the economy's productive capacity. It further noted the short-run measures taken by the Government to deal with this situation. The Group received an outline of the Government's long-term diversification program which will be implemented in the forthcoming Third National Development Plan.

The Consultative Group discussed statements on the agriculture and transport sectors, presented by the Government of Zambia and the World Bank, and a report given by the UNDP on technical assistance. The meeting noted the central role agriculture will play in Zambia's future development and the associated external resource and technical assistance needed to carry out the proposed programs. In reviewing landlocked Zambia's external transport problems, the Group acknowledged the seriousness of the existing situation which threatens the flow of essential exports and imports.

The meeting agreed that Zambia needs and deserves the support of the international community in order to help it meet essential short-run requirements and, at the same time, initiate a long-term program of economic diversification.

The participants declared their general intention to support Zambia in its present difficulties as well as in its effort to implement a development program designed to diversify the economy.

The participants welcomed the initiative taken by the Government of Zambia and the World Bank in establishing the Consultative Group, especially as it was felt the Group could provide for better coordination, planning and deployment of technical assistance and financial resources. The Consultative Group agreed to consider a second meeting to focus on Zambia's long-term development requirements after the Government's Third National Development Plan, presently under preparation, has been finalized.

ANNEX XII CONSULTATIVE GROUP FOR THE REPUBLIC OF ZAMBIA

PARIS, TUESDAY TO THURSDAY, JUNE 27 TO 29, 1978

(*Concluding Statement by the Head of the Zambian Delegation, Minister Mwanakatwe*)

Mr. Chairman, distinguished ladies and gentlemen: Let me first thank you, Mr. Chairman, for inviting me to make a concluding statement on behalf of the Zambian delegation. Since last Tuesday, we have been engaged in a thorough examination of the very serious problems now facing my country. My delegation has attempted to explain the nature, origins and extent of the economic crisis facing Zambia today. We have tried to explain, firstly, how despite the efforts made in the past to diversify the economy, Zambia still remains an economy overwhelmingly dependent on the copper industry. We have, secondly, sought to explain how the price of copper has fallen over the last 4 years, and the consequences this has had on the following: (a) the government budget; (b) the mining industry; and (c) the balance of payments.

I have explained, Mr. Chairman, the efforts we have made to reduce the financing gap that has been created by the progressive reduction and eventual elimination of substantial revenues we have, in the past, received from the mining industry. I have also indicated the gap that has remained, and our desire to reduce it further through fiscal measures and restraint on expenditure.

Mr. Chairman, the papers prepared by the World Bank, and our own paper, have emphasized the serious problems we face on the balance of payments from, and the implications of these problems on Zambia's productive capacity, inflation and future prospects for economic development. In setting out these problems, we have also tried to point out the very serious complications that have arisen from the transport difficulties that have come about as a result of the nonavailability of our traditional routes of the sea, and the inadequate operation of the Tanzania-Zambia Railway and the transport routes by road.

Mr. Chairman, the message we brought to this meeting is one in which we asked for the urgent assistance of the international community in our present difficulties. As we have said in our previous contributions to the discussions, the assistance we require is basically of two types. We want assistance to meet our present crisis and we also seek help of a long-term nature to assist with the diversification of our economy.

I would, therefore, like to take this opportunity on behalf of my delegation, on my own behalf, and indeed on behalf of my country, to express our sincere thanks for the support that has been pledged this morning towards the objectives I have just outlined. It is our view that this assistance will go a long way towards reducing the problems we face. Ladies and gentlemen, we are most grateful.

Mr. Chairman, let me also take this opportunity to thank all the delegations that have taken part in this meeting. Their criticisms and suggestions have been most constructive and helpful.

On our part, we intend making rural development the cornerstone of our diversification strategy. To do this we shall need to strengthen the Ministry of Lands and Agriculture's project identification and preparation machinery, extension services and research. We shall also strengthen bodies such as National Agricultural Marketing Board, which are so crucial to agricultural development. We shall also continue to review regularly and in time, our pricing policies to reflect costs in the rural sector.

The process of diversification will not be complete unless the private sector is also involved in this effort and the parastatals are working efficiently. These are the areas on which we will continue exercising our minds.

Many delegations have suggested that we examine ways and means of streamlining the administrative machinery responsible for receiving and utilizing aid. This is an important suggestion we shall take up with our Government. We are anxious that the aid you have made available to us be committed without delay.

Finally, Mr. Chairman, my short statement would be incomplete if I do not again record my delegation's gratitude to the Governments and institutions represented at this first and most important meeting of the Consultative Group for Zambia. Throughout the discussions, I observed a remarkable and welcome appreciation of the difficult economic situation now facing my country. The sympathetic responses expressed by many delegations are greatly appreciated. We hope that after this meeting more consultations will be made on a bilateral basis. It is important that the momentum which this meeting has generated should not be allowed to slow down in the coming months. My government will be ready after this meeting to participate in further talks on a bilateral basis even at very short notice. Any invitation extended to us by delegations for this purpose will be readily accepted.

Mr. Chairman, this is my last intervention in this meeting's deliberations. Allow me, therefore, to thank you personally for the able manner in which you have guided our deliberations. I know that you have spent many long hours preparing for this meeting and I would request you also to thank all the World Bank's junior and senior staff for working so hard to make our meeting successful and productive. I also wish to record my delegations thanks to the UNDP and IMF for their own contributions. Thank you ladies and gentlemen.

ANNEX XIII—CONSULTATIVE GROUP FOR THE REPUBLIC OF ZAMBIA

PARIS, TUESDAY TO THURSDAY, JUNE 27 TO 29, 1978

Closing statement by the chairman

The time has come for me to draw the inaugural meeting of the Consultative Group for Zambia to a close. In so doing I should like to thank the Governments and Agencies for their support and encouragement to proceed with its project of applied international cooperation. Of all the Governments we have invited only two are not represented here today—and one of them has already offered financial assistance on appropriate concessional term, in recognition of the difficult circumstances Zambia faces at present.

Your presence here and your thoughtful interventions over the last few days all attest to the importance you attach to making your programs relevant to the priority-needs of Zambia as they present themselves now and to meet the most urgent of them with resources at least sufficient to prevent any further gross deterioration and—if at all possible and subject to the constraints you face yourself—to enlarge the level of resources sufficient to lay the foundation for diversification and development so urgently required by Zambia. I want to thank you for the understanding and good will so amply demonstrated here throughout the meetings and especially this morning.

Of course, our meetings and the dialogue we have begun could not have been as purposeful and productive without the Government of Zambia sharing so fully—and without hesitation—with us the findings regarding the diagnosis, the change of policy direction contemplated—and at least in part initiated—and the means and instruments it intends to employ for implementation. The Government's paper on the "The Current Economic Crisis, Government Response and Approach to the Third Plan" represents a clear and practical assessment of the present situation as well as the need for future action—an assessment well worth for all of us to consider seriously as we shape the content of our existing and future assistance programs. The further elaborations by H. E. the Minister of Finance, supported especially by the comprehensive statement on agriculture by the Honorable Minister of Planning, could not have been more eloquent and persuasive as well as candid and focused. I should like to express my sincere aprpeciation and thanks to the representatives of Zambia for their presentations and their tireless efforts in responding to the many questions we have put to them. I have to thank all of you for making it so easy and comfortable for the chair to conduct this meeting. As we proceeded I wondered whether we were really conscious of the fact that what we were witnessing was an inaugural meeting rather than a working session of friends and partners grappling with the misfortunes of one of us.

We have amply dwelt throughout the meeting with the causes of these misfortunes. Let me briefly summarize them once again:

(i) dependence on a single export commodity which continues to face depressed market prospects in the near term;

(ii) a geopolitical constellation which exacerbates an already difficult and trying circumstances of a landlocked country;

(iii) a decline in access to external transport links so crucial to the economy of Zambia; and

(iv) the paucity of experienced and skilled manpower to devise, prepare, implement and operate policies, programs and projects of development over the very wide and highly diverse range of needs executed by the dualistic nature of the Zambian economy.

The international and inter-regional interdependence and its fragility could not have been more vividly demonstrated than in the case of Zambia. At the same time we need to remind ourselves of the tremendous potential Zambia offers. Her resource endowment including that of minerals, hydropower and high potential agriculture lands together with favorable climatic conditions, combine to make Zambia one of the potentially most attractive and prosperous countries in Africa. Continuity and stability have marked internal political processes. An unquestionable commitment to her international obligations has been present all along and has been again confirmed here during our proceedings.

So what we see is a liquidity crisis superimposed on imbalances, that is an economy unprepared to absorb sudden jolts of the kind the world has recently experienced. While in its essence the problem was emerging long before the recent crisis it has been made much more severe by the simultaneous occurrence of world-wide recession and inflation which has affected Zambia perhaps more seriously than most other countries. While the urgency, and the acuteness of the crisis is caused by the absence of earlier adjustment measures, the direction in which the solution must be sought has not changed at all. Fortunately, Zambia has the potential for such a solution and enjoys leadership that is determined to affect the necessary change in direction and strategy of development.

This meeting has, in the first instance, dealt with the short term situation and clarified the additional measures necessary for the restoration of normality.

I would just like to remind all of you that the gap analysis presented here represents a set of aggregate figures—aggregate in the sense that they do not distinguish between ODA and private financing. Nor does it allow for levels of development assistance historically made available and for the possibility of new borrowing from foreign commercial sources by Government and Government enterprises. Only commitments already made at the time the analysis was made have been taken into account. If the assumption was made that during 1978–80 aid would continue to flow at levels similar to the recent past that additional long-term borrowing from commercial sources would be sufficient to cover repayments from past borrowing, the resulting flows would substantially eliminate the gap under Scenario I. The commercial parts of such flows are by no means assured, however. It is important, moreover, to keep two facts in mind: first, aid flows to Zambia over the past few years have been constant in nominal amounts, implying a sharp drop in real terms because of international inflation. Secondly, the level of imports under Scenario I would not allow any progress toward nominal capacity utilization. Even imports implied under Scenario II would not give the Government much flexibility to expand investment during the first two years of the Third Plan. These considerations would call for additional efforts by donors and institutions to increase the flow of resource to Zambia. In addition, of course, there are commercial arrears for which Zambia will want to find consolidation and relief.

In this situation, I believe we all agree, only quick disbursing and/or commodity-type assistance can provide the necessary stabilizing effect. And I was glad to note that in addition to the Monetary Fund action already taken, consideration will be given by a number of governments and agencies— including our own—to provide this type of financing on appropriate terms. Its impact is, of course, dependent on a well-functioning transport link. We have heard the urgent call for assistance in this sector and we certainly intend to respond—perhaps in concert with others—to the best of our ability. The longer-term situation, of course, requires structural adjustment, i.e. diversification of the economy, especially promotion of agriculture and indigenous, resource-based manufacturing. The meeting has rightly been cautioned that such diversification should not be expected to bring quick results and it should be approached—most importantly—without sacrificing the high value Zambia places on an equitable sharing of the benefits of its development. We have also been reminded that there remain numerous areas in which performance can be improved in both the short and the long term. Let me just list some of the most important:

(i) better planning for and coordination of external assistance;

(ii) increase in the absorptive capacity of the economy through a larger and well focused preinvestment work;

(iii) more effective utilization of technical assistance;

(iv) improvement in parastatal efficiency; and

(v) even more emphasis on agricultural institutions and appropriate and practical training to sustain the shift in emphasis into this sector.

I have no doubt that the delegation from Zambia has taken careful note of all of these as well as other valuable suggestions made throughout the meeting. I am equally sure that they will receive careful consideration.

I also hope that the contacts established here during these few days will be deepened and followed up so that the resource base to meet short term needs can be established and we—as a Consultative Group—can turn our attention to development when we meet again hopefully in the not too distant future. You will recall that the Minister spoke of a two-stage strategy. We still believe this to be the best approach to follow. In preparation for the next meeting we will want to put before you an appraisal of the TNDP. While plan preparation is well advanced we would not expect to be able to call for another meeting until early next year. I hope you all can be with us again at that time. Meanwhile I thank you once again for your attendance and the valuable contributions many of you were able to make. I wish you all a safe journey home.

Mr. HATCH. Finally, Mr. President, I have to bring this up again: This Zambian problem, I think, is a major problem, because here we are again rewarding those who commit terrorism, with those who sanction terrorism, those who have participated in shooting down a totally innocent airplane and then brutally murdering the passengers on the airplane, those who have continued to protect and incite the radical blacks of the Patriotic Front against the moderate blacks and moderate whites of Rhodesia, who could have brought about majority rule long before now, suddenly being helped by the taxpayers of the United States of America.

Mr. President, let me just say this: that I am concerned that we are supporting those who are totally antithetical to everything we believe in in this country, and I believe that the examples that have been given are supportive of the distinguished Senator from Arizona's amendment to the pending bill.

I support the amendment, and ask that all of my colleagues do the same. At this point, I yield the floor.

Mr. PROXMIRE. Mr. President, will the Senator from Hawaii, who is manager of the bill, yield?

Mr. INOUYE. I am very happy to yield.

Mr. PROXMIRE. Mr. President, I will not take long. The Senator from Hawaii has been extremely patient, and I know it has been very difficult for him to manage this bill on the floor.

I would like to ask him, the distinguished Senator from the Foreign Relations Committee (Mr. CHURCH) who has held hearings on this matter, or perhaps other Senators, this question: We held hearings on this matter in the Banking Committee, and the arguments for this facility were very persuasive, up until it came to the question of why we ever needed it at all.

That is not, I hasten to say, because there are not countries which need to borrow money from the International Monetary Fund. There are. But what bothers me is why the International Monetary Fund has to borrow $10.5 billion from various countries.

I raised the question in the hearings as to why the International Monetary Fund cannot do what various countries are doing in getting money for balance-of-payments purposes, borrow from the banks; and they did not have an answer to it.

We are told by the distinguished Senator from New York (Mr. JAVITS) and the Senator from Hawaii (Mr. INOUYE) that this is a safe exchange of assets on the part of the U.S. Government, that there is no way that there is any risk involved. I think that is very likely the case. But if it is the case, I do not understand why the Federal Government is involved at all. For the life of me I cannot understand why this is not a transaction that can be worked out between the International Monetary Fund, which has tremendously good credit, and the banking institutions that are now making available 80 to 90 percent of all money being loaned for balance-of-payments purposes.

Can the Senator from Hawaii suggest why this is not being done, and why, if the DeConcini amendment is adopted—and it will kill the International Monetary Fund Witteveen Facility, there is no question of that in my mind—why would it not be a good thing if it did force the International Monetary Fund to go to the private market and borrow money, and then make funds available to the various countries that may need balance-of-payments assistance?

Mr. INOUYE. The private banks, I suggest, would not be able to impose conditions upon the borrowing countries as effectively as those of the Witteveen Facility.

Mr. PROXMIRE. I agree with the Senator on that. I am not asking that the private banks make additional loans; I realize that would be a problem with the banks, although they are lending most of the money now.

My question is, Why can they not make loans to the International Monetary Fund? Just as we are assured by the manager of the bill that there is no risk to the Federal Government in making these funds available to the International Monetary Fund, why is it not also true, under those circumstances, that the banks could have the same assurance?

Mr. INOUYE. With the regular IMF loans the term of repayment is 3 to 5 years; under the facility, it is from 3½ to 7 years. This provides a longer period of adjustment for national economies.

Mr. PROXMIRE. I would think this would be an ideal transaction for a bank, because they are in the business, and the banks, in the aggregate, have an enormous amount of capital available. Indeed, they are lending hundreds of millions of dollars now to foreign companies. A loan to the International Monetary Fund is a sounder loan than loans to many of these countries.

Mr. INOUYE. There is another element here. For the first time, the Western industrialized countries have been able to convince the OPEC countries, especially Saudi Arabia, to make a substantial contribution to the stability of you know, in the Wittenveen Facility, Saudi Arabia's contribution is about 23 plus percent, and the OPEC countries put together put in about 47 percent. This, in and of itself, is quite an accomplishment, and something that should be encouraged. In the past, we have tried to encourage the OPEC countries to provide multilateral assistance. I believe OPEC was convinced that this is an area they should be involved in, because to some extent the economic condition we find ourselves in today was caused by the oil crisis.

So, if only to avail ourselves of this opportunity to involve the OPEC countries in a major international effort, I think it is well worth our investment.

Mr. PROXMIRE. I appreciate that, and I think that is a very good response, better than any other I could think of, except that the OPEC countries, as the Senator well knows, have deposited huge sums in the various banks around the world, and there is no reason why, indirectly, those sums could not then be borrowed by the International Monetary Fund.

I realize that this is a neat arithmetical invention that has been put together with $2.5 billion from Saudia Arabia, 47 percent from the OPEC countries, and only 17 percent from this country, which is probably the least portion we have had in any kind of international financial arrangement that I know of.

So, again, it has great merit on that score. But I think the fundamental issue is whether the governments ought to do it at all. It can be done in the private sector; and it seems to me whatever can be done in the private sector should be done in the private sector. It would be more efficient; it would be without reliance on the kind of procedure we are going through now.

It is true that we would not have had the delightful experience of some of the speeches we have heard this afternoon, but it seems to me to be a more orderly, economical, and efficient way to provide these funds to countries in balance of payments difficulties by using the IMF's own borrowing power, which they conceded, in hearings before the committee, that they could use; and they did not give any particular reason why they did not, or why they did not go to the private banks for the funds.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

Mr. SCOTT. A point of order, Mr. President. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New York (Mr. McINTYRE), the Senator from North Carolina (Mr. MORGAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "nay."

Mr. HANSEN. I announce that the Senator from Tennessee (Mr. BAKER), the

Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are absent on official business.

The result was announced—yeas 18, nays 47, as follows:

[Rollcall Vote No. 390 Leg.]

YEAS—18

Burdick
Byrd, Harry F., Jr.
Cannon
DeConcini
Domenici
Eastland
Garn
Goldwater
Hansen
Hatch
Laxalt
Proxmire
Randolph
Scott
Talmadge
Thurmond
Weicker
Zorinsky

NAYS—47

Bayh
Bentsen
Byrd, Robert C.
Chafee
Chiles
Church
Clark
Cranston
Culver
Danforth
Dole
Durkin
Eagleton
Ford
Gravel
Hart
Hatfield, Mark O.
Hatfield, Paul G.
Hayakawa
Heinz
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Riegle
Sarbanes
Schweiker
Stevenson
Stone
Williams

NOT VOTING—35

Abourezk
Allen
Anderson
Baker
Bartlett
Bellmon
Biden
Brooke
Bumpers
Case
Curtis
Glenn
Griffin
Haskell
Hathaway
Helms
Hodges
Hollings
Huddleston
McClure
McIntyre
Morgan
Moynihan
Percy
Ribicoff
Roth
Sasser
Schmitt
Sparkman
Stafford
Stennis
Stevens
Tower
Wallop
Young

So the amendment (UP No. 1885) was rejected.

Mr. GLENN subsequently said: Mr. President, I was unavoidably absent earlier today when the vote on the DeConcini amendment on the Witteveen Facility occurred. I was at the White House for a meeting at that time and could not be here for the vote. Had I been here, I would have voted nay. I ask unanimous consent that this notation of how I would have voted occur in the RECORD at the appropriate place with the vote on that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of the Senators?

The PRESIDING OFFICER. The Senate will be in order so the majority leader may proceed.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I rise at this moment to suggest that we attempt to get an agreement as to a final vote on the pending bill and to state that it is the intention of the leadership that on tomorrow, we do the countercyclical revenue sharing bill and the conference report on the second concurrent budget resolution. The distinguished Senator from Maine, the chairman of the Budget Committee, tells me there will be a rollcall vote on that conference report. There will, of course, be a rollcall vote or votes on the countercyclical revenue-sharing bill. These are two measures that we have to dispose of.

I make the request—I shall be glad to withhold for the time being. I suggest that we have a vote on passage of the pending measure no later than 6:30 p.m. today; that the distinguished Senator from Utah and others who are interested in specific amendments in the bill, possibly having votes on them, select those amendments, indicate which committee amendments they are, and let us get an understanding that we will vote on those amendments, and vote on passage not later than 6:30 p.m. today. Tomorrow, the business will be as stated—countercyclical revenue sharing and the conference report.

Mr. GOLDWATER. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. GOLDWATER. Will he indicate what time we will come in tomorrow?

Mr. ROBERT C. BYRD. At the present time, the time for convening is 9 a.m. I shall be glad to set that earlier in order to accommodate Senators. There is no reason we could not come in at 8 o'clock and start on the conference report.

I wonder how long the Senator from Maine expects to take on the conference report?

Mr. MUSKIE. The outside limit under the law is 2 hours. I would be surprised if we needed an hour. My guess would be no more than half an hour. I know of no controversy. The House approved the resolution 225 to 162 yesterday and the big issues were on that side. I expect that, unless there are issues of which I am unaware, we would take no more than an hour and probably less.

Mr. LEAHY. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. LEAHY. I wonder, in this case, perhaps it would be easier for some who, like myself, are staying over tonight, may possibly have to leave later tomorrow, if we might, when the leader propounds his request, set a specific time for a vote, say either at 9 or 9:30, something like that, for a vote on the budget resolution?

In this way, all Senators, whatever their plans might be, even those planning to leave tomorrow, would know specifically that relatively early, or by 9:30, that that is the time the vote would be.

Mr. ROBERT C. BYRD. I think that is an excellent suggestion.

Mr. MUSKIE. I suggest to the majority leader we agree on a time limit of 1 hour on the conference report.

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that a vote occur on the adoption of the conference report at 9 o'clock a.m.

Mr. DOLE. Reserving the right to object, the Senator from Kansas may want to submit a motion to recommit the conference report.

If I did that late today or in the morning, what would happen to the agreement here?

Mr. ROBERT C. BYRD. I could get consent that the distinguished Senator from Kansas be recognized at 9 o'clock a.m. to make his motion to recommit. How much time would the Senator want to debate?

Mr. DOLE. We could vote on it, I assume, sometime tomorrow.

Mr. ROBERT C. BYRD. Why not do it this way? The Senator could be recognized before 9 o'clock and we could vote at 9 o'clock on the Senator's motion to recommit, followed immediately, if the motion does not carry, with a vote on the adoption of the conference report.

Mr. GOLDWATER. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. GOLDWATER. On tomorrow, it is of such short duration, we have already exhausted any possibilities of any of us going home tonight, why would it not be better to say that we stay tonight and finish this one at 6:30, stay until 7:30 or 8 o'clock, and forget about tomorrow?

Mr. ROBERT C. BYRD. We cannot finish the countercyclical revenue-sharing bill today.

I would like the Senator from Maine to express his viewpoint on the conference report.

I think we will do well if we can finish the foreign assistance bill today, and may I say to my friend from Arizona, I think the rest of the program would be too much for today.

Is that agreeable with respect to the Senator's motion to recommit?

Mr. DOLE. I just wanted to say this to the majority leader, I understand there is a rather loose agreement we can go back to the conference report at any time.

Mr. ROBERT C. BYRD. Yes.

Mr. DOLE. I do not want to interfere with the vote on the budget resolution, but if the Senator from Kansas or anybody else decided after the vote to discuss the conference report on gas pricing, or to offer a motion to recommit, that would be in order, is that correct?

Mr. ROBERT C. BYRD. The Senator can offer a motion to recommit at any time, including today.

I merely ask an agreement which will allow the Senate to dispose of the budget resolution conference report tomorrow. That is a very highly privileged matter, and under the law we cannot adjourn sine die until that act has been completed.

I am also attempting to get an agreement on countercyclical revenue sharing so that as to that legislation, which is a piece of legislation that is absolutely necessary for the Congress to dispose of on tomorrow, all Senators will know precisely what we are going to have up tomorrow.

Mr. MUSKIE. I take it the Senator's motion to recommit has nothing to do with the budget resolution?

Mr. DOLE. No. I am talking about natural gas.

Mr. MUSKIE. So we would still have the vote on the budget resolution at 9 o'clock.

Mr. DOLE. At any time, we could discuss the conference report or move to recommit, any time until Wednesday.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. DOLE. I would not want to interfere with the arrangement with the Senator from Maine. My question was, following that, would it be in order then to prepare and file and discuss a motion to recommit the natural gas conference report?

Mr. ROBERT C. BYRD. It certainly would be in order under the agreement already entered. But I would hope the Senate could dispose of the countercyclical revenue bill tomorrow and, if the Senator wished to make his motion to recommit the gas bill and debate it, certainly, that would be in order.

I would hope we could get an agreement, however, to dispose of these two other measures tomorrow.

So I am asking unanimous consent——

Mr. MUSKIE. A question on the time limit.

Mr. ROBERT C. BYRD. Yes. That the vote occur up or down on the conference report on the second concurrent budget resolution tomorrow at 9 o'clock a.m.

Mr. JAVITS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. We have not agreed yet on when we will vote on this bill. Has that been set aside?

Mr. ROBERT C. BYRD. No. But if we can get that agreement first, we will proceed further.

Mr. HATCH. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. HATCH. If I understand the Senator correctly, we will decide this bill today, then two tomorrow, and then, if anyone wishes to talk on the natural gas bill, we will be able to do so tomorrow. But those are the only pieces of legislation.

Mr. ROBERT C. BYRD. The only pieces of legislation we would possibly call up tomorrow would be the conference report and, hopefully, there will be a vote at 9 o'clock a.m., and countercyclical revenue sharing.

Mr. HATCH. Is anything further to be called up today?

Mr. ROBERT C. BYRD. If we complete this bill today, if we can get an agreement to proceed with a firm time limitation on a final vote, I would not expect to call anything else up today.

Mr. HATCH. I would certainly agree.

As stated, reserve those sections, agree to accept the amendments en bloc of the committee through the end of the bill, except for those sections that Senator Byrd or anybody else, or I, want to try to amend.

Mr. ROBERT C. BYRD. Yes.

Mr. HATCH. And we will work those out in the next few minutes.

Mr. ROBERT C. BYRD. Yes.

Mr. HATCH. That is fine with me.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. I appreciate his cooperation.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

ORDER TO CONSIDER COUNTERCYCLICAL REVENUE SHARING BILL ON TOMORROW

Mr. ROBERT C. BYRD. Now, Mr. President, there is a time agreement on the countercyclical revenue sharing bill. The Senator who will be managing that bill tomorrow is Mr. MOYNIHAN, and I ask unanimous consent that immediately upon the disposition of the conference report on the second concurrent budget resolution, the Senate proceed to the consideration of the countercyclical revenue sharing bill tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Is there a time request for a vote on the countercyclical?

Mr. ROBERT C. BYRD. I have not made that request, but there is a time agreement on that bill already.

Mr. NELSON. What is the time agreement?

Mr. ROBERT C. BYRD. I just do not recall precisely the details, but they are 1 hour on the bill, 30 minutes on any amendment, and 15 minutes on any debatable motion, appeal, or point of order.

Mr. NELSON. And that would still mean following——

Mr. ROBERT C. BYRD. Excuse me, and 1 hour on an amendment by Mr. DANFORTH.

Mr. NELSON. I thank the Senator.

Mr. ROBERT C. BYRD. Will the Chair put the request?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

SPECIAL ORDER FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Saturday, Mr. CHAFEE be recognized for not to exceed 15 minutes, immediately after the prayer.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 7:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stands in recess until 7:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN ASSISTANCE APPROPRIATIONS, 1979

Mr. ROBERT C. BYRD. Mr. President, I wonder if I might have the attention of the distinguished Senator from Utah. Could we agree at this point on a final vote on the pending measure and leave the details with respect to amendments on which the Senator would want to have votes in abeyance until the Senator and other Senators may be able to confer to determine what amendments they wish specifically; can we do that?

Mr. HARRY F. BYRD, JR. Is that a unanimous-consent request?

Mr. ROBERT C. BYRD. I was going to ask unanimous consent, and will, but I will be willing to withdraw it if Senators would like a little more time to work it out.

Mr. President, I ask unanimous consent that a vote occur on final passage of the foreign assistance bill today no later than 6:30 p.m.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, there are four or five committee amendments on which I would like to have the yeas and nays. I assume that the request of the Senator from West Virginia would not preclude that.

Mr. ROBERT C. BYRD. It would not preclude rollcall votes on amendments.

Mr. HARRY F. BYRD, JR. I have no objection.

The PRESIDING OFFICER. And that rule XII be waived?

Mr. ROBERT C. BYRD. That paragraph 3 of rule XII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Would it be appropriate for the Senator from Virginia to ask unanimous consent to obtain the yeas and nays on certain amendments at this point?

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on—how many amendments?

Mr. HARRY F. BYRD, JR. I am not certain, but I could list them.

Mr. ROBERT C. BYRD. If the Senator would.

Mr. HARRY F. BYRD, JR. The yeas and nays on the amendment on page 20, line 11.

Mr. ROBERT C. BYRD. Page 20, line 11.

Mr. HARRY F. BYRD, JR. Page 23, line 4.

Mr. ROBERT C. BYRD. Page 23, line 4.

Mr. HARRY F. BYRD, JR. Page 31, line 8.

Mr. ROBERT C. BYRD. Page 31, line 8.

Mr. HARRY F. BYRD, JR. There may be another one or two. I do not think so, but that could be covered later.

Mr. ROBERT C. BYRD. Yes.

Mr. HARRY F. BYRD, JR. The Senator from Utah (Mr. HATCH) probably would have several amendments on which he would want the yeas and nays.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. GOLDWATER. May I suggest 10-minute votes?

Mr. ROBERT C. BYRD. Yes. I will put that request, also.

Mr. HATCH. Mr. President, if the Senator will yield, I would be happy to ask unanimous consent with respect to the amendments I intend to call up.

Mr. ROBERT C. BYRD. Let me complete these three, at this time, with one show of seconds.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays on those amendments.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Will the Senator from Utah indicate the amendments?

Mr. HATCH. On page 19, line 3.

Mr. ROBERT C. BYRD. Page 19, line 3.

Mr. HATCH. Page 20, line 11.

Mr. ROBERT C. BYRD. Page 20, line 11.

Mr. HATCH. Page 23, lines 4 and 5. That is probably the same as the one mentioned by Senator Harry F. Byrd, Jr., but it is just to protect the Record.

Mr. ROBERT C. BYRD. Page 23, lines 4 and 5.

Mr. HATCH. On page 24, strike out lines 9 through 13 and substitute.

Mr. ROBERT C. BYRD. Page 24.

Mr. HATCH. I ask for the yeas and nays on those.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the yeas and nays may be ordered at this time, with one show of seconds, on the amendments indicated.

Mr. HATCH. One other amendment—page 29, line 9.

Mr. ROBERT C. BYRD. And on the amendment on page 29, line 9.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. HATCH. Mr. President, I ask for the yeas and nays on all those amendments at this time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, we have at least seven amendments on which there are going to be rollcall votes.

Mr. MELCHER. Mr. President, I have a very mild amendment that I think the managers of the bill will be delighted to accept; but in case they do not, I would want to ask for the yeas and nays on it.

Mr. ROBERT C. BYRD. Very well. The Senator may do that.

Mr. President, I ask unanimous consent that there be a 10-minute limitation on rollcall votes for the remainder of the day.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. Senator Church and I will have an amendment with respect to Nicaragua. It may or may not be accepted; I hope it will. If not, we reserve the right for a rollcall vote.

Mr. ROBERT C. BYRD. Very well.

Mr. Presdient, did the Chair get the request for the 10-minute rollcall votes?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, I assume that what the Senator from New York said applies to all Senators, not just the Senator from New York and the Senator from Idaho.

Mr. ROBERT C. BYRD. Yes. The Senator may call up amendments. When 6:30 arrives, Senators may call up amendments, without debate.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request for 10-minute votes? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, obviously, in order to complete the bill by 6:30 p.m. today, Senators will want to talk with restraint on amendments that are called up in the meantime.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield the floor.

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays on final passage.

Mr. ROBERT C. BYRD. The yeas and nays are requested on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER OF PROCEDURE TOMORROW

Mr. CHAFEE. Mr. President, I wonder whether I could direct a question to the majority leader.

Mr. ROBERT C. BYRD. Yes.

Mr. CHAFEE. As the majority leader sees the schedule tomorrow, we are going to vote at 9. Then we will take up the countercyclical aid, with a time limitation on amendments, and so forth. As the Senator from West Virginia sees it—of course, he does not know exactly—how late does he think it will be before we vote on countercyclical?

Mr. ROBERT C. BYRD. It would depend upon how many amendments are going to be called up. Mr. Danforth has one amendment on which there is an hour, a half-hour to be under his control. It also would depend upon how much of the time is used by the offerers of the amendments and the manager of the bill.

Not knowing how many amendments are going to be called up, I cannot answer the question. However, we would begin on the bill at 9:15 a.m., and it would seem to me that this would allow for several amendments to be called up and disposed of by 12 or 1 o'clock.

Mr. CHAFEE. The majority leader has not had brought to his attention other amendments than Mr. Danforth's?

Mr. ROBERT C. BYRD. I have not. My Policy Committee staff members are indicating in the negative, to the effect that they have not.

Mr. CHAFEE. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. I thank the distinguished Senator from Utah again, and all Senators. I also thank the managers of the bill, the ranking members, Mr. Inouye and Mr. Schweiker, respectively.

Mr. CHURCH. Mr. President, a parliamentary inquiry. Is it in order at this time for me to offer an amendment to the pending bill, asking unanimous consent that the consideration of the committee amendments be set aside momentarily for this purpose?

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN ASSISTANCE APPROPRIATIONS, 1979

The Senate continued with the consideration of the bill.

UP AMENDMENT NO. 1886

Mr. CHURCH. Mr. President, I send to the desk an amendment on behalf of myself, Senator Javits, Senator Sarbanes, Senator Melcher, Senator Kennedy, and Senator Clark.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Idaho (Mr. Church), for himself and others, proposes an unprinted amendment numbered 1886:
>
> On page 30, between lines 18 and 19, insert the following:
>
> "Sec. 609. None of the funds appropriated or otherwise made available pursuant to titles I and II of this Act shall be obligated or expended to finance directly any assistance to Nicaragua except that the President may waive this provision by certifying in writing to the Speaker of the House of Representatives and the Chairmen of the Senate Committee on Foreign Relations and Appropriations that such funds will serve to promote democratic processes in that country."

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendments which were not specified by unanimous consent be considered and agreed to en bloc, and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, this amendment would delete some $8 million in development assistance to Nicaragua and would prohibit funds in titles I and II of this bill from going to the regime in Nicaragua unless the President of the United States certifies that such funds will promote democratic processes in that country.

The amendment would delete some $8 million in development assistance to Nicaragua, and would prohibit the use of reprogramed funds in other accounts included in titles I and II. Programs not affected by this amendment are Public Law 480, the Peace Corps, Mutual Education and Cultural Exchange, and International Red Cross. I would also note that the authority of section 491(b) of the Foreign Assistance Act will still allow the President to provide disaster relief funds to Nicaragua, should they be deemed necessary.

Mr. President, for over 40 years, Nicaragua has been a captive country ruled by the Somozas as a family fiefdom. They have subverted the economy to serve the family's interests. Those years spawned the revolution taking place in Nicaragua today, which is not simply a movement of poor against rich, of communists against capitalists, or of the military against a civilian government. Rather, it is a national mutiny in which almost every sector of the country has united against a dynasty which has plundered the country for nearly half a century. It is not the young radicals, the Sandanistas, who form the bulk of the opposition to Somoza. Rather, Somoza's antagonists span the political spectrum, embracing all parts of the Nicaraguan society. It is the moderates—the farmers, workers, bankers, businessmen, even the chambers of commerce—that have combined in a united front against Somoza.

The question is not whether Somoza falls from power, but when. If it occurs after a protracted guerrilla war, then the chances are that the extremists will take over.

The longer Somoza resists the will of his people and uses his armed guard to quell resistance, the more likely it is that another Castro-type revolutionary government will eventually emerge.

Press accounts indicate Somoza's National Guard is already killing indiscriminately throughout the country.

How did Somoza get into such trouble? Many trace the beginnings of his present plight to December 23, 1972, when an earthquake reduced Managua, the capital of Nicaragua, to rubble. In response, countries throughout the world, including the United States, sent aid to Nicaragua: food, medicine, clothes and cash. General Somoza placed himself in charge of an all-powerful national emergency committee which received and distributed the relief supplies. Much of this relief, it has been charged, was stolen by Somoza's cronies and National Guardsmen, Somoza's private military force. But stealing is said to have been mere child's play compared to the schemes of the Somoza circle. The earthquake had leveled most of downtown Managua, but instead of using aid funds to reconstruct the city on land owned by thousands of Nicaraguans, including many victims, Somoza decided to construct a new Managua on the outskirts of the old city. Somoza's intimates first bought up, at bargain prices, the land on which the new city was to be built. Then the government repurchased the land now owned by Somoza's cohorts. For example, the military Aide de Camp to General Somoza paid $71,428 for a parcel of land on June 4, 1975, and sold it, on September 24 of the same year, for $3,342,000.

The impoverished refugees of the earthquake were squeezed out. They were forced to remain in the crowded refugee camps where they had been temporarily housed.

These practices were exposed by U.S. investigators but our aid continues, nonetheless.

Responsible Nicaraguans were infuriated and alienated, the middle class was aghast, while the poor, for whom our aid was intended, remained destitute.

But Somoza's sins against the Nicaraguan people extend beyond gigantic swindles of this kind. On the twin issues of political rights and civil liberties, the record of the Somoza dictatorship could not be clearer.

In May 1976, Amnesty International reported:

> There is considerable evidence supporting allegations of torture of prisoners in the custody of the National Guard. . . . Furthermore, the delegates saw no evidence that responsible authorities have taken measures either to investigate allegations or halt the practice of torture, or to sanction, according to the law, members of the National Guard who might be found to order or to practice torture.

In June 1977, the Washington Post in a story headlined "U.S.-Trained Guard Said to Kill Peasants," reported:

> More than 200 peasants have been killed in Nicaragua's northern jungles in a "reign of terror and unjust extermination," according to the country's Catholic bishops.

The story goes on to say that—

> Most of the victims, including women and children, were killed by Nicaragua's National Guard, which doubles as army and police . . .

Despite these travesties, the United States has poured over $300 million in military and economic assistance into Nicaragua since the end of World War II. And American aid continues to flow today. Somoza is using this fact to claim that he still enjoys full U.S. support. Unless this amendment is approved, cutting off further aid, many Nicaraguans will link the United States with the hated Somoza regime, thus diminishing our influence, both now and in the future.

There is still time for the United States to make its position clear. We should disavow the discredited Somoza, and join with other governments in the region to encourage the formation of a moderate government in Nicaragua that respects human rights and free enterprise. The more we delay, the greater the chance that the revolution will fall into the hands of the extremists. Then, we will regret our paralysis at a time when a truly democratic government could still have been established in this tortured country.

Mr. President, I add to these remarks an article that recently appeared in the Catholic Standard on Thursday, September 21, 1978. I ask unanimous consent that this article, in its entirety, be printed here in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Priests Demand End to Nicaragua Aid

Managua, Nicaragua (NC)—Nicaraguan priests and foreign missionaries working in Nicaragua—including 34 from the United States—have written a letter to President Carter demanding an immediate end to all U.S. aid to the government of President Anastasio Somoza.

"The people of Nicaragua are suffering a degree of repression never felt before," they told Mr. Carter in a letter. "We are greatly concerned that the regime of Gen. Somoza will continue, because in its inability to effect structural changes of significance in this country, the only way it can stay in power is by resorting to bloody repression."

The letter was signed the members of the Managua archdiocesan priests' council and the National Conference of Religious. The council has 132 members. The conference represent 900 Religious.

Although Congress has placed restrictions on U.S. aid to Nicaragua because of Gen. Somoza's record of human rights violations, some educational and agricultural grants continue to reach his government. Some military programs involving training and weapons worth $5 million have been frozen for 1977 and 1978. In June, however, Congress lifted a freeze on $12.5 million earmarked for nutrition and schools.

After that a letter by Mr. Carter to Gen. Somoza encouraging him to increase observance of human rights was publicized in Nicaragua as an endorsement of Somoza by the United States, to the dismay of the opposition, observers said.

The priests and missionaries told Mr. Carter that "even the non-military aid in the long run is used for repression."

Mr. CHURCH. Mr. President, I see the able Senator from New York, a cosponsor of the amendment, on his feet. I am glad to yield to him at this time.

Mr. JAVITS. Mr. President, Senator Church and I decided that this must be done, notwithstanding that it does not represent, as yet, a coherent policy by the United States on the political and diplomatic as well as the aid front, but at least it does pledge us to a line of action which seems under the circumstances absolutely undeniable, and his arguments on that score are complete, and I shall not delay the Senate by repeating them.

I point out that we find ourselves confronted as a democratic country, believing in democratic institutions, to find a way to deal with a situation of this character where we know that, though the forms of democratic institutions seem to be followed, the substance is completely lacking and completely undermined and cheated.

We have directed our attention toward what to do in these cases.

The most obvious course is collective action by the American States and under whatever leadership we can afford, together with other nations. That is a proper way in which to bring the strong public opinion of the Americas to bear upon what is happening in this country.

But there may be more that needs to be done. There is a self-defense pact which a few of these nations have in Central America which might conceivably be invoked.

It seems inconceivable that civilized peoples have to stand by while the rank and file of people are massacred in a country solely because they have no means for otherwise expressing what they really feel and want except by some form of civil action which they have taken.

So, Mr. President, I wish to assure Senators of my purpose in speaking, that while we thoroughly believe that this is the right step that is by no means an answer, and our State Department and President have not come up with an answer. In situations of this character, it is very essential that we find a course. This may not by any means be an isolated situation in that area of the world or in any other area.

We will address ourselves to this problem as a Foreign Relations Committee.

But we invoke the aid of the Senate and the support of the Senate in taking this first step of repudiation of all that is going on down there in respect of an effort to repress the fundamental human right of the people to express themselves, and this is the immediate handle, the immediate bill before us, and the immediate way in which to begin to put our policy on the right road.

I hope very much that the Senate will support decisively this amendment.

Mr. INOUYE. Mr. President, it is with great reluctance that I rise to speak against the amendment, because I fear that by doing so one may get the impression that I am in support of the Somoza regime. I wish to have the record show that I am against the Somoza regime.

Looking at this amendment I note that about $8 million is involved. Of that amount $3.5 million has been set aside by AID to help small farmers in Nicaragua, to provide them with much-needed loans so that these farmers can purchase seeds, fertilizer, and farming equipment.

I do not believe this was the intention of the authors of this amendment to deny those already suffering to suffer even more than they are now.

Furthermore, Mr. President, earlier this day the Senate did take action by demonstrating to the Somoza Government by unanimous vote that we, the Members of the U.S. Senate, were not only concerned but against the action taken by its military.

Granted the amount involved was a small one. It was just $150,000, but it was part of the international military education and training program. We deleted that amount, and in the dialog we indicated our concern and the fact that we are against the actions now being taken by Nicaragua national guard.

The amounts in title I and title II were never meant to directly assist the regime or the family but, in effect, to assist those, I believe, whom all of us want to assist. For example, in the AID-financed inputs, small farmer loans are $3.5 million; technical assistance $175,000; campesino training $525,000.

The AID loan funds will finance technical assistance and training and provide credit for small business enterprises and home improvement.

If there is anything that is needed at this time of turmoil, where buildings have been destroyed and farms have been uprooted, it is this type of program I believe the people of Nicaragua, the suffering people of Nicaragua, would welcome it.

So I hope that the authors of this amendment would reconsider their action.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The Senator from Idaho.

Mr. CHURCH. Mr. President, if conditions in Nicaragua permitted the orderly administration of the programs to which the Senator has referred, I would certainly reconsider the amendment we have offered. But it is not possible in Nicaragua today for such programs to be administered properly. The streets are filled with barricades; the people are engaged in a general strike against the Government; the guard is engaged in indiscriminate killings.

The priests who called out for some measure of understanding of the desperate plight of the people of Nicaragua have charged that the money we are placing at the disposal of the Somoza regime for the good purposes the Senator from Hawaii has described, is not being used for these purposes. It is not getting to the needy people, nor will it as long as the country is managed by such a corrupt dynasty, particularly at a time when open warfare is being waged in the cities and in the countryside by Somoza's guard against the Nicaraguan people.

Now, we have tried to take into account those programs which are so independent in character that they might not be corrupted by this regime, where the money might not be turned to other purposes, and we have excluded them from the scope of this amendment. That includes the Peace Corps administered directly by the United States; it includes Public Law 480 for food supplies which might be administered in such a way as to make certain that the food reaches refugees; and it includes the International Red Cross and its good work.

But I think the Senate takes too much for granted if it assumes that the Somoza regime, with its army engaged in active warfare against the very people who have demonstrated their contempt for the government by engaging in a general strike against it, would put the money we give it into the programs the Senator has mentioned. For this reason, I think we would be gravely mistaken to limit this cut to the $150,000 that had been earmarked for the guard itself.

We must go further. Every day President Somoza is telling the world he has the support of the United States. Every day he points to the various kinds of aid we continue to furnish. If Congress does not make it clear that we do not intend to continue to provide aid to his regime, in the face of the general rebellion of the people against it, then surely we are going to reduce American influence in Nicaragua in the future, and may even contribute to a prolongation of this revolution which could only work in favor of its most extreme elements.

I believe it is very short-sighted, Mr. President, not to adopt this amendment, as it is really tailored to meet the objection raised by the distinguished Senator from Hawaii, namely, it excludes those programs where we can be certain that our aid will directly go to the people for which it is intended.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. CHURCH. Yes, happy to.

Mr. INOUYE. I am certain the Senator, as a senior member of the Foreign Relations Committee, is well aware that these funds have been appropriated to the President of the United States for food and nutrition, and that it was authorized in this manner by the committee.

Furthermore, I am certain that we are all aware that the President of the United States does not have to provide this assistance if, in his judgment, the situation in Nicaragua further deteriorates. So I wish to suggest that the law as it stands today provides ample authority to the President of the United States to use these funds at his discretion, if he feels that it will further democratic processes of that country.

At the present time, we have been advised that the U.S. Government and the Agency for International Development are studying the situation in Nicaragua, to see if they should progress further.

Mr. CHURCH. Mr. President, I realize that the policy is under study. That is why I think it is so mandatory for Congress to furnish some guidelines to the State Department. The Ambassador of the United States to Nicaragua, and other spokesmen for the State Department, have briefed the Foreign Relations Committee on the situation inside Nicaragua. Based on those briefings, we have come to the conclusion that it is urgent for the United States to clarify its position on Nicaragua, and to do so now.

The State Department cannot make up its mind what to do. It came to us for advice. This amendment is the advice we seek to give.

Mr. President, it is true, as the Senator from Hawaii has said, that our aid, in its various forms, is administered by the President for the purposes designated by Congress. It is equally true that the ability of our administrators to see to it that these purposes are served by American aid in any given foreign land depends upon the nature of the regime and the conditions within the country in question.

Today, I submit, it is impossible for any AID administrator to furnish funds to the present regime with any assurance whatever that those funds will go for their intended purpose. Earlier in my remarks, I pointed out that the United States was but one of many nations that gave to the Somoza Government generous quantities of aid in the form of food, clothing, medical supplies, and cash, for the purpose of giving relief to the victims of the terrible earthquake that reduced Managua to rubble. And what happened? A corrupt regime took the money and pocketed it. Somoza and his henchmen grew rich on real estate swindles. They took money intended for the refugees and diverted it into the pockets of the chosen few who are fed at Somoza's table.

Yet our administrators did not stop the aid. Conscious that it was not going for its intended purpose, they made no effort to see to it that the enrichment of Somosa through the misappropriation of this aid was brought to a halt.

In view of that record, what confidence can we place upon the argument that the aid in this bill will go for its intended purposes? I think none at all.

Now is the time for Congress to enunciate a policy, not to wait upon the State Department, where no one can make up his mind as to what we should do. I would heed the plea of the priests who are calling out to us to clarify the American position against the claim of Somosa, asserted from his bunker, that he continues to enjoy American support.

I regret that the manager of this bill has seen fit to oppose the amendment, because I think it is very much the right thing to do.

Mr. JAVITS. Mr. President, will the Senator yield for one further inquiry?

Mr. INOUYE. I yield.

Mr. JAVITS. I think, if I may address the Senator from Hawaii, his heart is very much in the right place in his position here; I would like to assert and certify that. He is just as much opposed to this dictatorship as we are. I can see his difficulty, and I would address this plea to him: I believe that as this matter is considered in conference, the opportunity will be afforded to get whatever commitments are required from the administration. Probably that is the case. Or otherwise, obeying the principles upon which the Senate will act to implement what we intend, I do not think Senator CHURCH or I or any other Senator supporting this, if we felt some poor farmer would get some direct help, would seek to stand in his way.

But, as Senator CHURCH has stated, the history has been so bad I think it takes a little brains and a little time to get this implemented—not between now and 6:30—once we adopt this proposal, to get it implemented.

I hope the amendment will carry, because I think it will give the Senator the assistance he will need to deal with the pragmatic situation.

Mr. KENNEDY. Mr. President, I join with the Senator from Idaho in support of this amendment. Last August, the Senator from Idaho and I proposed an amendment to the Security Assistance Act appropriation to terminate the military assistance. I have introduced similar amendments over the period of the last 3½ years. Yet we were unable to get either the Senate or the conferees to accept them, and consequently we are now seeking armaments, paid for by the American taxpayers, being used for the wholesale slaughter of innocent women and children. I find that an enormously distressing situation, to say the very least, Mr. President.

I find arguments that by terminating assistance we are intervening in the affairs of another country very interesting, because they are always based on the premise that the continuation of U.S. assistance is not interference at all. We must acknowledge that our foreign aid, military or economic, is widely interpreted as support for the ruling regime. This is particularly so in Nicaragua, where President Somoza has specifically suggested that he has U.S. support "because economic assistance has not been cut off." I am delighted that the Carter administration has ended our program of military assistance. It is long overdue; and I admire both their courage and the reasons for that step.

I think this further step now being proposed by the Senator from Idaho and the Senator from New York is, therefore, highly justified, for reasons that have been very eloquently expressed by both of them. For humanitarian assistance can continue, basic human needs will still be dealt with, as they should be, and the United States will remain in the vanguard of the cause of human rights by demonstrating a sense of compassion for needy people at the earliest possible time. But President Somoza, in this past month, has stated:

> The economic aid we are receiving from the United States has not been stopped.

By this he of course means:

> The fact that we are getting the economic aid shows that we are still on pretty good terms with the U.S. Government and they are not so distressed by our action to terminate.

The arguments in favor of this amendment are compelling. They serve to prevent the identification of the United States with a dictatorial regime. Yet the humanitarian assistance will be continued, as it should be. The President will have the discretion to decide that, if it is in the national interest, this amendment can be overridden to bring economic assistance to the Nicaraguan people in a meaningful way. I think this is the kind of built-in protection that provides the President with the discretion necessary to meet any eventuality that may develop.

Mr. President, I heard the Senator from Idaho present several newspaper articles that describe the reactions of some of the members of the clergy. I, too, would like to submit a very important and powerful letter written to the President from the New York Province of the Society of Jesus. It is a lengthy letter. I will not include it in its entirety in the RECORD, but only selective portions. It is from Joseph Towle, S.J., who with his colleagues records in tragic detail the effective genocide that is taking place in that country today.

I ask unanimous consent that excerpts of that letter be printed in the RECORD. In addition, I ask that the full text of my written statement be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AUGUST 10, 1978.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We the undersigned, Jesuit priests, have just returned from spending five weeks in the country of Nicaragua. The purpose of our stay there was to study conditions relative to justice and human rights.

We speak Spanish. We all lived among and with the people in daily contact in the rural areas and in the city of Managua. We met with small groups of from twenty to seventy Nicaraguans at least four times a week. We ate with them in their homes and spoke with them on the roads and streets, all with the express purpose of learning what was happening in their country and what was happening within them as Nicaraguans. We dialogued with native Jesuits, teachers and pastoral ministers, with American missionaries, and three of us conversed with the political attaché of the American Mission, Mr. Jack Martin.

During the time of our study (June 24–July 30) we witnessed shocking repression of the people, such that one American businessman there described the country as being "occupied" by its own army. One of our number, Father Michael Reilly, recently returned from ten years of service in the Philippines, observed that the armed repression in Nicaragua is greater than he had experienced of the Marcos regime in Asia. Here were students and bystanders being machine-gunned on the streets, innocent people in barrios killed and wounded while literally asleep, when the Guardia Nacional fired through the walls of their homes in arbitrary reprisal for public protests.

We spoke firsthand with poor people who testified that their homes and means of livelihood had been confiscated by Guardia officials for personal gain. We saw arbitrary taxes imposed on the highways (the so-called "Colonel's tax") and observed tax legislation passed by the congress in the absence of a true quorum, establishing massive sales and business taxes that our Jesuit analysts in Nicaragua assured us are intended only to liquidate the national debt and not serve the poor in any form or fashion.

We watched with our own eyes young people hounded by soldiers with sub-machine guns. We spoke with priests and nuns who had been beaten with rifles while trying to protect young people during peaceful student protests. One of our number, Father Joseph Towle, was taken prisoner by the B.E.C.A.T. (*Batallon de Emergencia Contra Actividades Terroristas*) and forced at gunpoint to enter a jeep for questioning—without their requesting identification and with no other provocation than his having been at a church meeting in the vicinity of an anti-government protest. We were able to feel at firsthand, then, the terror the people of Nicaragua are experiencing under the tactics of General Somoza's police force.

In reality, as General Somoza himself stated on television the day after the episode at the Intercontinental Hotel (July 21), there is no other police force in Nicaragua but the Guardia Nacional. This is to say, there is no police force in the country dedicated to protecting the people and their interests. The Guardia has, in fact, proved itself totally at the disposal of the President and lamentably undisciplined in times of crisis. The people believe that the Guardia have not only a license to kill, but orders to kill, in order to physically smash any public opposition to the regime. We believe there is truth in that view.

Despite government press accounts, we observed little "outside" intervention or agitation on the Nicaraguan scene, neither among the students nor among the masses. The government can always point of course to such a Cuba-linked Sandinista as José Benito Escobar (killed July 17) and to Communist designs on Nicaragua in general. But this does not obscure the actuality that the intense resistance to Somoza has its roots in the people themselves, and is the fruit of a growing conscientization process both human and religious. We are willing to testify to this through our experience . . .

Respectfully yours,

Rev. Joseph C. Towle, S.J., Vice-Provincial for Social and Pastoral Ministries, New York Province, Society of Jesus; Rev. Charles J. Burton, S.J., Jesuit Residence, P.O. Box 7, Hot Springs, North Carolina 28743; Rev. Matthew C. Flood, S.J., Fordham Preparatory School, Bronx, New York 10458; Rev. Joseph J. McGovern, S.J., Wheeling College, 316 Washington Avenue, Wheeling, West Virginia 26003; and Rev. Michael C. Reilly, S.J., LeMoyne College, Syracuse, New York 13214.

THE UNITED STATES AND THE CRISIS IN NICARAGUA

Mr. KENNEDY. Mr. President, I am pleased to join the Senator from Idaho (Mr. CHURCH) in sponsoring the amendment to terminate assistance to Nicaragua, unless the President certifies that it will serve to promote the democratic process in that country. This amendment would make clear that the Congress cannot support aid to President Somoza which simply strengthens his repressive regime. But at the same time, it gives the President flexibility to encourage forward movement toward democracy and human rights in Nicaragua.

We should clearly understand that this aid cut-off does not affect in any way the crucial efforts to provide humanitarian relief to the innocent victims of the Nicaraguan civil war. Specifically, the administration can and should use the disaster assistance fund in A.I.D. and the International Red Cross funds in the State Department to the maximum extent possible, to respond to the major humanitarian crisis occasioned by the civil war.

Mr. President, in Nicaragua a bloody civil war between rebels and the Somoza government's national guard has raged for many days. Hundreds of innocent people have died, and hundreds more will die, if a ceasefire agreement is not reached immediately. The saving of innocent lives is certainly the most important consideration at this time. In the name of humanity, I call upon both sides to enter immediately into a ceasefire agreement, and to make the concessions necessary to further negotiations for a lasting peace.

The Carter administration has correctly maintained a position of non-support for either belligerent in the ongoing crisis in Nicaragua. I commend the administration's efforts to mediate between sides as a prelude to negotiations.

Furthermore, the administration has taken the welcome step of ending U.S. military assistance to Nicaragua, a step Senator Church and I had advocated in August of last year. At this very moment, the organization of American States is meeting in an effort to bring an end to the violence in Nicaragua, and we must all wish the O.A.S. well in its efforts.

Yet that is not enough. After over forty years of political, economic and military support for successive Somoza governments, the burden is on the United States to demonstrate through positive action its commitment to human rights and democracy in Nicaragua.

We must acknowledge that our ongoing assistance to Nicaragua is widely interpreted as support of the ruling regime. Current economic assistance is intended solely to meet the basic human needs of the Nicaraguan people. Yet it does in fact serve to identify the United States with the recipient government. This is borne out by President Somoza's recent suggestion that he still has American support because "the economic aid we are receiving from the United States has not been stopped."

Although the administration has not asked for any military aid for Nicaragua this year, the flow of previously appropriated military assistance through the "pipeline", totally in unexpended funds, will continue to identify the United States with the Somoza government.

Furthermore, the presence of a four-man American military mission in Nicaragua links the United States with the ruling regime. Their professional role as advisers to the Nicaraguan national guard, the only military force and the mainstay of Somoza in the country, can only serve to identify the United States with forces which are clearly killing innocent men, women and children in their campaign against Sandinista guerrillas.

Therefore, in order to support a peaceful transition to democratic rule in Nicaragua, I call upon the administration to suspend our ongoing economic and military assistance, and to withdraw our military mission, until a peaceful solution to the current crisis is achieved.

At the same time, I welcome and support its efforts to organize humanitarian relief and provide for the thousands of refugees from the civil war.

Finally, a number of American citizens are reportedly being recruited as mercenaries to serve the Somoza regime. Besides being contemptible in moral terms, it is certainly damaging to our foreign policy and possibly in violation of U.S. law. I welcome the administration's strong warning against mercenary activity, and I urge it to do everything in its power to prevent potential American mercenaries from reaching Nicaragua.

The ending of United States assistance to Nicaragua, even at this critical time, should not be seen as "interventionism" by the United States.

It would be the opposite. It would end a situation that in fact reflects support for the status quo, the repression and violation of human rights by the Somoza government and its national guard.

Mr. KENNEDY. In closing, Mr. President, I hope the amendment of the Senator from Idaho will be agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, the description of these funds going for fertilizer, for seed, and equipment for the poor farmers of Nicaragua needs some explanation. There will not be $1, not 1 pound of fertilizer, not one seed, not one rake, hoe, or anything else from this money appropriated by the United States that will go to anybody in Nicaragua but a friend, a supporter, of Somoza.

That is not strange. That is not hard to believe. That is just the way it is played, and it has been played forever in those countries in Latin America which are dominated by dictators who have little regard for human rights and little regard for the people they govern. It is no wonder that the Latin Americans in Central America call us with disdain and dislike "gringos," because we prop up and we support the very people in their country who are massacring those poor people of Nicaragua.

Mr. President, I think the quote from the Washington Post of Sunday, September 17, by the opposition leader in Nicaragua is very apt at this time. I read from that article the statement of the opposition leader:

> The people of Nicaragua are fully aware of the role the United States has played in their history. They are conscious of the fact they are being massacred by an army and arms produced in the United States.

That is a very serious indictment of the United States. The very least this Senate can do today is to make sure that none of these moneys flow to that dictatorship for the continuation of that brutal massacre in Nicaragua.

I hope the amendment is agreed to if not by the manager, then by a large margin vote this afternoon.

Mr. ROBERT C. BYRD. Mr. President, I want to call attention to the fact that we have yeas and nays ordered, I believe, on six amendments, with 10 minutes to each rollcall. That is 60 minutes which will be utilized in rollcalls. That will leave only 1 hour 35 minutes. in other words 95 minutes, for debate on six amendments, which comes to around 16 minutes per amendment.

Mr. President, I ask unanimous consent that there be a time limitation on each amendment, after the disposition of the pending amendment, of 15 minutes on each amendment, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. I do not want to object, but I want to be sure I am protected in one amendment which will not take too much time.

Mr. INOUYE. The Senator is protected.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE UNITED STATES AND THE CRISIS IN NICARAGUA

Mr. KENNEDY. Mr. President, I am pleased to join the Senator from Idaho (Mr. CHURCH) in sponsoring the amendment to terminate assistance to Nicaragua, unless the President certifies that it will serve to promote the democratic process in that country. This amendment would make clear that the Congress cannot support aid to President Somoza which simply strengthens his repressive regime. But at the same time, it gives the President flexibility to encourage forward movement toward democracy and human rights in Nicaragua.

We should clearly understand that this aid cutoff does not affect in any way the crucial efforts to provide humanitarian relief to the innocent victims of the Nicaraguan civil war. Specifically, the administration can and should use the disaster assistance fund in AID and the International Red Cross funds in state to the maximum extent possible, to respond to the major humanitarian crisis occasioned by the civil war.

Mr. President, in Nicaragua a bloody civil war between rebels and the Somoza government's national guard has raged for many days. Hundreds of innocent people have died, and hundreds more will die, if a cease-fire agreement is not reached immediately. The saving of innocent lives is certainly the most important consideration at this time. In the name of humanity, I call upon both sides to enter immediately into a cease-fire agreement, and to make the concessions necessary to further negotiations for a lasting peace.

The Carter administration has correctly maintained a position of nonsupport for either belligerent in the ongoing crisis in Nicaragua. I commend the administration's efforts to mediate between both sides as a prelude to negotiations. Furthermore, the administration has taken the welcome step in ending U.S. military assistance to Nicaragua, a step Senator CHURCH and I had advocated in August of last year. At this very moment, the Organization of American States is meeting in an effort to bring an end to the violence in Nicaragua, and we must all wish the OAS well in its efforts.

Yet that is not enough. After over 40 years of political, economic, and military support for successive Somoza governments, the burden is on the United States to demonstrate through positive action its commitment to human rights and democracy in Nicaragua.

We must acknowledge that our ongoing assistance to Nicaragua is widely interpreted as support of the ruling regime. Current economic assistance is intended solely to meet the basic human needs of the Nicaraguan people. Yet it does in fact serve to identify the United States with the recipient government. This is born out by President Somoza's recent suggestion that he still has American support because "the economic aid we are receiving from the United States has not stopped."

Although the administration has not asked for any military aid for Nicaragua this year, the flow of previously appropriated military assistance through the "pipeline," totally in unexpended funds, will continue to identify the United States with the Somoza government.

Furthermore, the presence of a four-man American military mission in Nicaragua further links the United States with the ruling regime. Their professional role as advisers to the Nicaraguan national guard, the only military force and the mainstay of Somoza in the country, can only serve to identify the United States with forces which are clearly killing innocent men, women, and children in their campaign against Sandinista guerrillas.

Therefore, in order to support a peaceful transition to democratic rule in Nicaragua, I call upon the administration to suspend our ongoing economic and military assistance, and to withdraw one military mission, until a peaceful solution to the current crisis is achieved. At the same time, I welcome and support its efforts to organize humanitarian relief and provide for the thousands of refugees from the civil war.

Finally, a number of American citizens are reportedly being recruited as mercenaries to serve the Somoza regime. Besides being contemptible in moral terms, it is certainly damaging to our foreign policy and possibly in violation of U.S. law. I welcome the administration's strong warning against mercenary activity, and I urge it to do everything in its power to prevent potential American mercenaries from reaching Nicaragua.

The ending of U.S. assistance to Nicaragua, even at this critical time, should not be seen as "interventionism" by the United States. It would be the opposite. It would end a situation that in fact reflects support for the status quo, the repression and violation of human rights by the Somoza government and its national guard.

UP AMENDMENT NO. 1887

Mr. JAVITS. Mr. President, I send an amendment to the desk, on behalf of Senator CHURCH and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. CHURCH, proposes an unprinted amendment numbered 1887 to unprinted amendment numbered 1886.

The PRESIDING OFFICER. Without objection, the reading of the amendment will be dispensed with.

The amendment, as modified, is as follows:

On page 30, between lines 18 and 19, insert the following:

SEC. 609. "None of the funds appropriated or otherwise made available pursuant to titles I and II of this Act shall be obligated or expended to finance directly any assistance to Nicaragua except that the President may waive this provision by certifying in writing to the Speaker of the House of Representatives and the Chairmen of the Senate Committees on Foreign Relations and Appropriations that such funds will serve to promote democratic processes in that country or that effective and adequate provision has been made for such aid to move directly to the people for whom it is intended for their use and benefit according to its specific purposes."

Mr. JAVITS. Mr. President, I will not debate this amendment. I hope with that, the amendment will be accepted. It simply adds to the amendment proposed by Senator CHURCH as cosponsor the following:

or that, effective and adequate provision has been made for such aid to move directly to the people for whom it is intended for their use and benefit according to its specific purposes.

The purpose of the amendment, Mr. President, is to give the President an additional option: Either he can certify to the speaker and the chairman of the Senate Committees on Foreign Relations and Appropriations that the aid will serve to promote democratic processes in that country, or he can certify that it is going to move directly to the people for whom we intend it. That carries out our purpose. I hope very much the managers of the bill will accept the amendment.

Mr. INOUYE. Mr. President, I have conferred with the ranking minority member. We are please to accept the amendments as modified.

Mr. SCHWEIKER. Mr. President, I intended to oppose this amendment originally because I think this is one of the few program that directly does go to the rural poor. The data sheet very clearly shows that $3.5 million of this money went to small farmer loans and the backup sheet says the program was directed to the rural poor. By the end of fiscal 1979 it is estimated that 60,000 of the rural poor will have been directly reached by the program, with an additional 10,000 to 15,000 benefiting from the results of new credits, experiments, and training. In addition, they now have 16,000 loans outstanding for $3.8 million, and they have approved 8,500 participants.

It seems to me, with all the criticism we hear about foreign aid, this is the very kind of program we ought to be encouraging and not cutting off.

In view of the Senator's amendment to the amendment, which I am sure assures us that will still occur, I will not object to the amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I send an amendment to the desk which is an amendment to the Church-Javits amendment. I ask for its immediate consideration.

The PRESIDING OFFICER. Will the Senator suspend until the Chair studies the pending amendment? It is being copied.

Mr. HATCH. I am happy to wait.

Mr. CHURCH. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. Is the Senator's amendment in order?

The PRESIDING OFFICER. The amendment of the Senator from New York is in the second degree. Therefore, the amendment of the Senator from Utah is not in order at this time.

Mr. HATCH. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATCH. My amendment will be in order as soon as this amendment is accepted, is that correct? Is that correct, that my amendment will be in order as soon as the modification is accepted?

The PRESIDING OFFICER. It will be in order after the pending amendment is disposed of.

Mr. HATCH. I intend to bring it up as soon as the modification is accepted by the distinguished Senator.

Mr. CHURCH. Mr. President, I move agreement of the amendment as modified.

The PRESIDING OFFICER. The first question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move the amendment as modified.

The PRESIDING OFFICER. The Senator from Utah.

UP AMENDMENT NO. 1888

(Purpose: To prohibit the use of funds for IMET in Afghanistan)

Mr. HATCH. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 1888 to the amendment of Senator CHURCH as amended.

On line 4 of the language proposed to be inserted strike the word "Nicaragua" and insert in lieu thereof the words "Nicaragua and Afghanistan."

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is this amendment in order?

The PRESIDING OFFICER. Yes; it is in order.

Mr. HATCH. Mr. President, I do not intend to talk very long about this. We chatted earlier this morning and I accepted the explanation of the manager of the bill that there is flexibility to handle both these countries. Since both of them are on the opposite end of the spectrum as far as irritation to various Members of this body is concerned, I should like to have them both treated within the same framework as the amendment of the distinguished Senators from Idaho and New York as modified.

Mr. INOUYE. Mr. President, I am prepared to accept the modification.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CHURCH. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Idaho as amended.

Mr. MARK O. HATFIELD. Mr. President, before we vote, I should like to comment briefly on that.

I have listened to my colleagues who sponsor this amendment talk today about the need to establish a clear signal to the Nicaraguan people as to what the American policy is. I think it is important to put that into the context of what action the Senate has already taken.

Earlier today, we addressed ourselves to the more specific item. That was military assistance to Nicaragua, $150,000 in this bill. We were able to remove that amount of money for military purposes. In addition to that, and I think this is probably even more significant, we were able to elicit from the administration a commitment to put a hold on everything in the pipeline of a military character, which is the actual weaponry that has been used in this uprising and the attempt to quash it. That includes $420,000 in weapons, aircraft, spare parts, et cetera, in the foreign military sales. It also includes $425,000 in grant aid for parts and supplies, and so forth.

I think it is very significant to attach that action already that has been taken to this now, because, taken alone, I am concerned that it is not clearly understood that we are not in any way going to make difficult getting economic aid to the poor people of Nicaragua by accepting this amendment.

I am satisfied now, with the new language offered by the Senator from New York, that we have given sufficient flexibility to the administration to get this kind of support to the people who have enjoyed it in the past and who have made use of it in a very constructive way, in small farms and rural development. That is basically what we are talking about. There is going to be a greater need for this than at any time in the past once stability has been restored, regardless of what regime is in power.

I want it clearly understood that my support for this amendment at this time is purely on a basis that we have already taken the action necessary to cut out the weaponry that would be used to kill people; at the same time, we are willing to give support to help restore and rebuild the lives of people.

Mr. CHURCH. Mr. President, I rise to commend the Senator from Oregon for having acted earlier this morning with regard to terminating further military assistance to the Somoza regime. I think the action the Senate is about to take completes the necessary statement of what the American policy should be, at least as envisioned by the Senate.

I hope that these two amendments will be finally written into law when the final vote comes on the conference report of the two Houses. I commend the Senator for his initiative.

Mr. President, I move adoption of the amendment as modified.

The PRESIDING OFFICER (Mr. RIEGLE). The question is on agreeing to the amendment, as amended.

The amendment, as amended, was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1889

(Purpose: Restrict the use of Economic Support Funds appropriated for Zambia)

Mr. MELCHER. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendment be set aside temporarily to take up this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment of the Senator from Montana.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes unprinted amendment numbered 1889.

Mr. MELCHER. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add a new section under General Provisions as follows:

"The funds appropriated for Zambia under the Economic Support Fund shall be limited to purchases of materials and equipment for food production, and shall not be made available until the State Department provides assurances to Congress that Zambia is meeting the conditions of the IMF Standby Agreement for correcting Zambia's balance of payments deficit which is a condition of the International Monetary Fund loan of $322.6 million to Zambia in March 1978."

Mr. MELCHER. Mr. President, this is a very simple amendment that would designate that the State Department will be checking to see whether Zambia is indeed working its way out of its economic crisis as they use the funds that are contained in this bill for Zambia. I hope the managers of the bill can accept it.

Mr. INOUYE. Mr. President, earlier today, we had much to say about the Zambian situation, the ranking minority member and I have studied the amendment and we are pleased to accept it and take it to conference.

Mr. MELCHER. I thank the Senator.

I yield back the remainder of my time and ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 19, line 2, strike "provided further, That none of the funds appropriated in this paragraph shall be used to pay for abortions.".

The PRESIDING OFFICER. The Chair advises that there is a 16-minute time limitation on this amendment. Who yields time?

Mr. KENNEDY. Mr. President, will the floor leader set this aside for a moment?

Mr. INOUYE. Mr. President, I ask unanimous consent to set aside the committee amendment so the Senator from Massachusetts can bring up his amendment.

The PRESIDING OFFICER. The Chair must ask. on whose time?

Mr. KENNEDY. On the time of the amendment I am introducing. There is a time limitation of 15 minutes on any amendment. I believe.

The PRESIDING OFFICER. The Chair advises that there will only be time applying to the six committee amendments that have yet to be disposed of. The time would have to come from some part of those six.

Mr. KENNEDY. I ask unanimous consent that I be able to proceed for 15 minutes, the way the leader asked for all amendments. and that the Senator from Kansas and I be accorded that.

The PRESIDING OFFICER. The Chair is advised that because we are under an agreement to vote at 6:30 p.m., there is only agreed time on the six specified committee amendments. The Chair is advised that the Senator may receive time from those six or he can seek unanimous consent.

Mr. KENNEDY. I ask unanimous consent that we be able to proceed for 12 minutes. evenly divided.

Mr. SCHWEIKER. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHWEIKER. What is the amendment?

Mr. KENNEDY. It is amendment No. 3625, the Cambodian refugee amendment. I do not intend to take full time. It is a Kennedy-Dole amendment.

The PRESIDING OFFICER. The Chair inquires of the Senator from Massachusetts, will it be his intention. if 12 minutes are granted under unanimous consent, to move the vote at 6:30 back by 12 minutes?

Mr. DOLE. We can take 2 minutes from the time for each of the six amendments.

The PRESIDING OFFICER. The Chair is advised that we have to establish whose time is used to engage in the colloquy.

Who yields time?

Mr. KENNEDY. I will take 2 minutes off the 6 minutes and ask unanimous consent it be transferred.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none.

Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

AMENDMENT NO. 3625

(Purpose: To provide certain assistance to Cambodian refugees in Vietnam)

Mr. KENNEDY. Mr. President, I have sent the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and Mr. DOLE, proposes an amendment numbered 3625.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, lines 16 and 17, strike out "$110,044,200: *Provided.*" and insert in lieu thereof "$113,044,200: *Provided,* That $3,000,000 of this amount shall be available to the United Nations High Commissioner for Refugees only for the provision of assistance to Cambodian refugees in the Socialist Republic of Vietnam: *Provided further,*".

Mr. KENNEDY. Mr. President, this amendment is offered by the Senator from Kansas and myself. It is a $3 million add-on. It is targeted to the U.N. High Commissioner for Refugees to deal with Cambodian refugees that go to Vietnam in a similar way that we help Cambodian refugees that go to Thailand.

Few peoples of the world have experienced more tragedy, or have seen more death and destruction, than the people of Cambodia have in recent years. Few countries have ever experienced as much human turmoil and suffering as Cambodia today.

As chairman of the former Subcommittee on Refugees, I have closely followed developments in Southeast Asia, and the plight of hundreds of thousands of refugees displaced throughout the region. Among these refugees, few have greater claim upon our concern or attention than the refugees today from Cambodia.

Last year, I dispatched a special study mission to visit Thailand and other countries in Southeast Asia to assess the growing and continuing flow of refugees from Indochina, including those from Cambodia. Last month, at my request, another study mission visited the area to review a number of family reunion problems in Vietnam as well as study humanitarian issues among refugees and others in need in the area. What they found compels my action today in offering this legislation to help Cambodian refugees in Vietnam.

The study mission was composed of Archbishop Philip Hannan of New Orleans, Dr. Jean Mayer, president of Tufts University in Medford, Mass., Dr. LaSalle Leffall, president-elect of the American Cancer Society, Ms. Mildred Kaufman, chairman of the food-nutrition section of the American Public Health Association, and Jerry Tinker of my staff, and they had the opportunity to see firsthand the human crisis among refugees from Cambodia now in Vietnam.

What they saw and heard, and what they reported to the Judiciary Committee in a hearing last month, tells a tragic tale of human rights violations in Cambodia on a scale beyond comprehension—which has seen nearly a million people lose their lives, and hundreds of thousands flee as refugees to Thailand and to Vietnam. Countless more have been dispossessed of all they own or have.

The team visited two refugee camps in Tay Ninh Province, one only a few miles from the embattled Cambodian border. They spoke with scores of refugee families, and observed the relief efforts of the Vietnamese Government and the activities of the United Nations High Commissioner for Refugees. They heard the tragic tales of how families managed to escape from the Khmer Rouge troops, who have turned rural Cambodia into a massive forced labor camp. They heard the anguished stories of families divided, of husbands and fathers killed, of brothers and sisters separated, and families destroyed. And they heard the visible sigh of relief of these Cambodian refugees to be in a country of safehaven—which, today for 150,000 is Vietnam.

In fact, what our team reported they saw in Vietnam last month is strikingly similar to what last year's study mission saw in Thailand. Both countries have opened their doors to Cambodian refugees—albeit reluctantly. Both countries have established programs of assistance for them. And both Vietnam and Thailand have asked the United Nations High Commissioner for Refugees for international assistance—and in both cases the UNHCR has responded and established programs in their behalf.

To date, the only significant difference between the Cambodian refugee program in Thailand and Vietnam is that the United States contributes to one, but not to the other. We give to only one-half the problem. We currently contribute some $8 million each year to the UNHCR program in Thailand, but until now we have contributed nothing—not one penny—for UNHCR refugee programs in Vietnam.

Mr. President, one of the principal recommendations that our study mission to Vietnam made to me was that the United States should approach the needs of all refugees from Indochina equally, and immediately respond to urgent relief needs among Cambodian refugees in Vietnam. According to their report, at least 150,000 Cambodians are now in Vietnam as well as an equal number of Vietnamese and several thousand ethnic Chinese from Cambodia.

To date, the UNHRC has made an emergency contribution of $500,000, and has launched an appeal for approximately $5 million until the end of this year for a short-term program of relief for Cambodian refugees in Vietnam. However, it is very likely that the UNHRC program will be considerably more next calendar year, if the refugees situation fails to improve.

A comparable program in Thailand and Southeast Asia for about 150,000 refugees—for care and maintenance, plus transportation costs—has risen from an appeal of $18.3 million early this year, to a $25 million appeal this past June. The United States has contributed close to half the funding for this UNHCR program, and we should be equally forthcoming in support of the new UNHCR program for Cambodian refugees in Vietnam. The needs are just as real, and the refugees are the same as those in Thailand.

I believe a pledge now of $3 million would go a long way toward meeting the immediate needs of what may soon become a $10 to $15 million UNHCR program over the coming year. An American response now to the High Commissioner's appeal would also go a long way toward eliciting a more generous response from other donor nations, waiting to see whether the UNHCR program will get started soon.

Mr. President, I appreciate the dilemma of the Appropriations Committee and its Foreign Operations Subcommittee in not being able to anticipate this need, and for not having funds requested for Cambodian refugees in Vietnam. Not only have there been unfortunate legislative restrictions on our foreign assistance program relative to Vietnam generally, but until recently there has not been concrete information available on the scope or needs of Cambodian refugees in Vietnam.

Until the study mission I sent to Vietnam reported to our committee last month, bringing along a copy of a UNHCR report completed at the time of its visit to Vietnam, little information was known by our Government as to the dimensions of the Cambodian refugee problem in Vietnam. Furthermore, until the UNHCR's recent appeal, there was no vehicle nor international program to which we could offer humanitarian assistance for Cambodian refugees in Vietnam.

But these needs are now confirmed. The UNHCR has launched an international appeal in their behalf. A Senate study mission and a congressional delegation have both seen the needs of these refugees just last month. And assured mechanisms have been established to channel assistance to them.

What we need now are funds to respond, and to resolve any questions that might exist as to the intent of Congress as to whether the United States should respond to humanitarian programs in Indochina under international auspices—such as the UNHCR for refugees, as well as other United Nations agencies that have ongoing relief and rehabilitation programs in Vietnam, like UNICEF, the World Health Organization, the world food program of FAO, the U.N. development program, among others.

The specific purpose of the amendment we are offering today is to respond to the particular needs of Cambodian refugees in Vietnam, who are under the mandate of the U.N. High Commissioner for Refugees. But I hope that our action today will signal the concern of the Congress and American people over the many other humanitarian problems that remain in the aftermath of the Indochina war.

Mr. President, for the RECORD, I would like to submit the "Information Note" prepared by a team representing the U.N. High Commissioner for Refugees who visited Vietnam, outlining how the UNHCR and the international community could best help. Also, I would like to draw to the attention of Senators a strong appeal I have received from Church World Service and Lutheran World Relief for postive action on our amendment today, citing the report of their own mission which visited Vietnam and Laos recently. I ask that these reports be made part of the RECORD.

There being no objection, the reports were ordered to be printed in the RECORD, as follows:

[United Nations High Commissioner for Refugees]

Information Note.—Persons From Kampuchea in Viet Nam

INTRODUCTION

1. Following a written request for assistance from the Government of the SRV dated 8 April 1978, a joint mission from UNHCR and WFP visited Viet Nam between 17 and 27 May 1978 to evaluate the emergency and longer term requirements of displaced persons from Kampuchea seeking asylum in Viet Nam.

2. According to the provisional estimates of the SRV authorities, there are at present about 331,710 refugees and displaced persons having arrived from Democratic Kampuchea since April 1975, broken down as follows:[*]

135.600 of Khmer origin
25.810 of Chinese origin
170.300 of Vietnamese origin

3. The persons in question are primarily living in the eight provinces bordering Democratic Kampuchea and in Ho Chi Minh City, either living dispersed among the local population or in concentrations ranging in size from a couple of hundred persons up to 7000. The majority of the persons, or some 60 to 70 percent, are children, the remainder being women and older people and limited number of able bodied men.

EMERGENCY ASSISTANCE

4. Following detailed discussions with the provincial authorities in two of the border provinces and with the Central Government in Hanoi, the Mission recommended that urgent consideration be given to the provision of assistance in food, medicine, clothing, blankets, mosquito nets and tents under an Emergency Relief Programme. The High Commissioner subsequently decided to make available US$500.000 for such assistance and medicaments, clothing and mosquito net material is now being shipped to Viet Nam On their part, WFP approved the provision of food to 150.000 persons during a first three months period.

LONGER TERM REQUIREMENTS

5. With regard to the prospects for longer term solutions, the Vietnamese Government indicated to the Mission that their policy was to accept all border-crossers from Kampuchea, or whatever origin, and grant them asylum. Furthermore, the Government was willing to facilitate the rural settlement in Viet Nam of those desiring to stay, while also co-operating with UNHCR in promoting emigration to third countries for those who might fulfill the necessary conditions.

6. Following the departure of the Mission, the UNHCR delegation in Hanoi has continued to hold discussions with the SRV authorities on the above as well as continued to visit the border areas where the refugees and displaced persons are staying with a view to assess the needs for aid and develop longer-term programme of assistance.

7. In view of the food deficit in Viet Nam the authorities have requested that primary consideration be given to feeding the persons in question estimated to number more than 300,000. Total requirements for 1979 exceed 60,000 tons of food stuffs such as wheat flour, vegetable oil, canned or dried fish or meat, sugar and powdered milk.

8. Secondly the SRV authorities intend to start a settlement programme where by initially some 50,000 persons would be settled in ten rural settlements in the affected provinces at a secure distance from the border. Each settlement will contain about 1,000 households for which will be allocated about 2,000 ha of land for cultivation. Assistance requirements for these settlements are in the sectors of health, clothing and shelter, sanitation, education, agricultural implements and seeds and infrastructure the cost of which is estimated at several millions of US dollars.

9. Thirdly, some urgent assistance for those living outside the proposed settlements would also be required specifically in the sectors of health, shelter and clothing.

MODALITIES OF IMPLEMENTATION

10. The SRV authorities have designated the committee for the Reception of Aid from Abroad as the agency with over-all responsibility for the emergency and longer-term programme. The design and implementation of individual projects will be confirmed to the competent technical ministries or departments.

11. Contributions in kind will be routed directly to the Port of HoChiMinh-City. In accordance with earlier agreements between UNHCR and the SRV Government, all contributions will be free of import duty. Arrangements for unloading and delivery to the affected areas will be undertaken by the Vietnamese Government.

12. With a view to speeding up the identification of needs and formation of projects, and providing continued co-ordination with the agencies responsible for local settlement projects in the South of Viet Nam, as well as facilitating arrangements for emigration from HoChiMinh-City to third countries, UNHCR will reinforce its staff in the SRV. The UNHCR Representative in Hanoi, together with other members of his staff, will make regular visits to the areas in which assistance projects funded by UNHCR are being carried out and would thus also be in a position to report to other contributing agencies who do not have direct representative in the SRV.

CO-ORDINATION OF ASSISTANCE MEASURES

13. UNHCR maintains close contact with other interested UN organizations regarding assistance to the above mentioned persons. As referred to above, WFP has already approved an emergency programme and possible assistance is at present being considered by UNICEF.

14. ICRC has recently launched an appeal for emergency assistance for six months for some 750,000 Vietnamese displaced in the border areas (see footnote 1 on first page). The requirements for these persons are not included in the needs as described above.

CHURCH WORLD SERVICE/
LUTHERAN WORLD RELIEF,
Washington, D.C., September 20, 1978.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: As you know, Church World Service (CWS) and Lutheran World Relief (LWR) have long been involved in ecumenical relief and development programs in Vietnam and, to a lesser extent, in Laos. We continue to be actively concerned over the enormous human problems faced by the peoples of the two countries. The years of devastating war have given way to new challenges of reconstruction, but the difficulties have been greatly compounded by severe food shortages resulting from a series of natural disasters.

Our agencies will continue to seek useful ways to respond to the resulting human needs. We would be assisted in our efforts by two measures which we have learned that you may introduce during the Senate consideration of the Foreign Aid Appropriations Bill (HR 12931) this week.

First, we understand that you are considering offering an amendment making available High Commission for Refugees (UNHCR) in its work with Cambodian refugees in Vietnam. Such an initiative would have our enthusiastic support. The plight of the more than 150.000 Cambodian refugees now in Vietnam is a source of the deepest concern to us all. A Church World Service delegation which visited one of the refugee centers last May made the following observations in its report:

"We visited the Ben San Camp (Tay Ninh Province), which was also visited by the U.N. agencies. The refugees, we were told, receive 5 kilograms of wheat and 5 kilograms of rice per person per month and oil for cooking, soap, salt, fish sauce and some medicines. The government has built individual thatched roof housing for them to live with their families. However, the majority of the people in the center that we visited appear to be women and children and after interviewing many of them, we found that most of them had come because their husbands had been arrested by the Pol Pot regime in Kampuchea. Nine thousand Cambodians are in this center and it was the first time (in our visit to Vietnam) that we witnessed severe malnutrition in children.

"CWS was asked for assistance in the feeding of the refugees including dried fish, dried milk, textiles for making clothes, and CSM (Corn-Soya-Milk). We were told that the rice rations for the people of this province have been cut by one kilogram per person per month in order to provide food for the new population.

"The refugees arrived first in 1977, and the second large group as recently as three months ago. They have established their own school and have a form of self-government for the center. The Vietnamese are not interested in keeping them in Vietnam. However, they are concerned that if they are sent back to Cambodia they will be killed."

We understand that in the intervening months the situation of Cambodian refugees in Vietnam has not substantially improved. In fact, it may have worsened.

Secondly, we understand that you are considering offering an amendment which would make available ocean freight reimbursement for humanitarian shipments of materiel donated by the American people made by U.S. private voluntary organizations to Vietnam and Laos. We would support such a measure in that it would facilitate our ability as agencies to respond to needs like those just described.

Earlier this year, CWS, with the support of Lutheran World Relief, sent to Vietnam a shipment of 10,000 tons of wheat donated by the American people in response to the severe food shortages there. As is our common practice, we requested U.S. government reimbursement of shipping costs. It was denied, although such reimbursement is granted for most shipments we make. The shipping cost of the wheat shipment alone (approximately $800.000) represents funds which would otherwise have been available for relief and development projects themselves.

Your amendment would help assure that ocean freight reimbursement for humanitarian shipments is granted without political considerations. It would acknowledge the principle that food, clothing, medical supplies and other emergency and development assistance items provided by private American individuals and organizations should not become the instruments of government policy.

In sum, we welcome your leadership on these two items and wish you every success.

Sincerely,

DR. BERNARD A. CONFER,
Executive Director,
Lutheran World Relief.
DR. PAUL F. MCCLEARY,
Executive Director,
Church World Service.

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[*] In addition the Government estimates that there are some 750,000 Vietnamese who have been displaced from the border areas further inland.

Mr. KENNEDY. Mr. President, in this legislation, there is approximately $7 million appropriated for the UN High Commissioner for Refugees to help Cambodian refugees that go to Thailand. All we are trying to do is to provide the same kind of assistance to the UN High Commissioner for Refugees in helping Cambodians, who have lived in a society that is practicing genocide, but who so happen to flee to Vietnam.

It seems to me to be a fundamental issue of fairness and humanitarian equity, Mr. President, that we deal with this problem, with these people fleeing a society experiencing genocide, in the same kind of way we do for those that come into Thailand.

Mr. President, I yield time to my colleague, the Senator from Kansas, who has been concerned over the Cambodian tragedy and who joins me in this amendment.

Mr. DOLE. I thank my distinguished colleague.

Mr. President, I am pleased to join with my colleague, Senator KENNEDY, in proposing this amendment to facilitate humanitarian aid to Cambodian refugees located in Vietnam. As the distinguished Senator from Massachusetts has already indicated, the amendment would earmark $3 million in this bill to support efforts by the United Nations High Commissioner on refugees to feed, clothe, and otherwise ease the suffering of thousands who have managed to escape the horrors of Communist Cambodia.

This humanitarian aid is channeled through the United Nations and directed solely toward those of Cambodian origin who are temporarily settled in refugee camps inside Vietnam's borders. It does not involve U.S. aid to, or trade with Vietnam. I remain firmly opposed to any type of American aid, trade, or "reparations" for Vietnam, and am pleased that President Carter extended the total U.S. embargo against trade with Vietnam on September 8 of this year. Earlier, I had written to the President urging him to extend this embargo against Vietnam, and I ask unanimous consent that the text of that letter be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. Mr. President, in this respect, my views differ from those of my colleague from Massachusetts. If I understand his position correctly, the distinguished Senator from Massachusetts supports "normalizing" relations with the Socialist Republic of Vietnam to the extent of providing economic aid, lifting the current trade embargo, and promoting other ties between our two countries. I do not share this opinion. So long as Vietnam's limited cooperation in accounting for our missing servicemen inspires skepticism, and so long as major questions remain regarding political persecutions of their own people, I will be reluctant to support "normalization" of U.S. relations with the Socialist Republic of Vietnam.

But that is not what is involved here. We are talking about earmarking a certain portion of the funds contained within this bill for a legitimate United Nations operation designed to relieve the suffering of almost 200,000 refugees—persons who have risked their lives to escape from a land of disease and death, and who now huddle together in neighboring Vietnam.

A HUMANITARIAN VENTURE

We know that the location of these 200,000 Cambodian refugees in Vietnam reflects no particular ideological disposition on their part. Their movement northward into Vietnam is a function of their proximity to that border, and the relative ease with which that terrain can be crossed. Many fewer Cambodians have been able to escape westward into Thailand, largely because of the difficult terrain.

At present, the United States contributes substantially to relief programs for Indo-Chinese refugees in Thailand. Is there any real justification, then, for denying the same humanitarian consideration for others, simply because they had the misfortune to locate in a country with which we have no political ties? I think not. Genuine humanitarian empathy knows no political boundaries. Knowing, as we do, the horrible conditions in Cambodia which motivated the exodus, we sympathize with all Cambodian refugees wherever they may reside.

CONCERN FOR CAMBODIA

My own concern for the situation in Cambodia, and for Cambodian refugees, goes back for more than a year. In November of 1977, I introduced a Senate resolution condemning the brutality by the Communist Government of Cambodia, and urging the President of the United States to join in an international effort to bring about an end to atrocities in that country. That resolution recently was the subject of hearings before the Senate Foreign Relations Committee, and a committee resolution based on the measure is now pending on the Senate calendar. More recently, I participated in a rally on the Capitol steps with a group of Cambodian refugees last June, intended to help focus national attention on the Cambodian plight. On July 31 of this year, the Senate voted to accept my amendment to the International Monetary Fund authorization bill opposing American support for IMF aid to the government of Cambodia, and in August, the Senate accepted my amendment to the justice appropriations bill urging the Attorney General to grant special parole authority to allow 15,000 Cambodian refugees to immigrate to this country over the next 2 years.

I know that the Senator from Massachusetts and the Senator from Kansas do not agree entirely on the issue of Cambodian immigration into the United States. Both of us feel that immigrant quotas for Indochinese refugees entering this country should be increased. But we part company on the question of whether or not special parole authority should be granted for a particular ethnic group. I feel that domestic conditions within Cambodia are so abominable, so utterly devoid of any civilized character, that special authority is justified to permit Cambodians to enter the United States on an immigrant-parole basis. I understand that the Senator from Massachusetts disagrees with that approach, but both of us share a deep concern about Indochinese refugees in general, and about the Cambodian situation in particular.

ADDRESS CONCERNS

And so we are jointly proposing this amendment today, to go a step further in relieving the suffering of those who have managed to escape a modern holocaust. Because of my own confidence in the efforts and capabilities of the United Nations High Commissioner on refugees, I have no doubt that this money will be put to good use.

The only concerns I do have, in fact, relate to potential cooperation by Vietnamese Government officials with the United Nations Relief Organization. For this reason, I would like to engage in a short colloquy with my distinguished colleague from Massachusetts, Senator KENNEDY, and pose certain questions regarding this relief program, which I am sure he is in a good position to answer, as a result of his study mission's recent visit with officials from Hanoi.

Mr. President, it seems to me this amendment does have the support of the administration. I am certain it has the support of the Congress.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., August 2, 1978.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: It has come to my attention that the trade embargo which the United States currently maintains against the government of the Socialist Republic of Vietnam is due to expire on the 14th of September of this year. It is my understanding that this embargo, which has been in effect since the government of South Vietnam was overthrown in 1975, will be lifted unless you, as President of the United States, determine that it is within the national security interests of our country to continue it.

This embargo is a significant factor in our current relationship with the government of Vietnam, and I believe that its extension is justified by the deplorable state of human rights in Vietnam, the lack of full government cooperation in the location of missing American servicemen, and severe restrictions against emigration from Vietnam.

Extension of the embargo depends on an Executive interpretation of our national security interests and needs. With this in mind, a statement of your views on the matter would be instructive and appreciated; i.e., will the embargo be allowed to expire? Will the need for it be reasserted? Do we have a distinct policy in this regard?

As the deadline for this determination approaches, I would welcome your comments in this respect.

Sincerely,

BOB DOLE,
U.S. Senate.

Mr. DOLE. Mr. President, I would like to pose the following question to the Senator from Massachusetts: What has been the attitude of the Vietnamese Government during the past 3 years regarding accessibility to their refugee camps by outside groups, particularly international humanitarian organizations? Can we be sure that the United Nations High Commissioner for Refugees will at all times have full access to all Cambodian refugee camps, and that he will enjoy the full cooperation of the Vietnamese Government in providing aid directly to Cambodians located in these camps?

Mr. KENNEDY. Well, the UNHCR has had a permanent office in Vietnam for 3½ years, and has had free access to all areas and programs of its assistance. In order to monitor and assist the relief effort for Cambodian refugees in southern Vietnam, UNHCR has signed an agreement with the Vietnamese Government to open an office in Ho Chi Minh City—which will be the first formal international agency invited to have an office outside Hanoi, and to be permanently represented in the South. In addition, other international organizations, World Food Program, WHO, and UNICEF, have had access, on request, to program sites, as well as several U.S. voluntary agencies.

My study mission reported that all the international, U.N. agencies they visited in Vietnam felt confident that they could, and did, monitor fully all their programs in the field.

Mr. DOLE. I have been troubled by reports, coming from several sources, that the Vietnamese Government is training able-bodied Cambodian refugees in military combat outside the camps, so that they may be incorporated into Vietnamese army units to fight against the Communist Cambodian regime. These reports seem to be borne out by the U.N. High Commissioner's own report that "the majority of the (Cambodian refugees in Vietnamese camps), or some 60 to 70 percent, are children, the remainder being women and older people and a limited number of able-bodied men." To the extent that Cambodian refugees may volunteer to participate in Vietnamese military training, I suppose we have no objection. But can we be sure that arbitrary conscription is not being employed on a regular basis? And if we cannot, then should we not register our strongest objection to this mistreatment of Cambodian refugees?

Mr. KENNEDY. There have been reports of Cambodians being trained for guerrilla or other fighting in Cambodia from Vietnam. These are all speculative reports. One thing is certain, any UNHCR program of assistance to refugees will only go to bona fide refugees: That is the mandate and the hallmark of the UNHCR's programs around the globe, and he has a high record in depoliticizing his assistance. He can and is doing so in Vietnam.

UNHCR programs are targeted especially for mothers and children in any case—since they are the most vulnerable population group in any refugee movement. Contrary to speculative press reports, my study mission did see evidence of young men in the refugee camps in Vietnam—so the reports cannot be completely accurate.

Mr. DOLE. On a similar note, I am troubled by reports that some Cambodian refugees are forced, under duress by the Vietnamese, to return to Cambodian territory. If this is the case, we can be sure that those refugees face certain death upon their return. Were you able to obtain any information about this matter, and should we not register our strongest objections to this practice?

Mr. KENNEDY. No such evidence has come to UNHCR's attention relative to Vietnam. There has been some reports of forcible return of refugees from Thailand to Cambodia. But, in either case, best evidence I have seen suggests it is isolated, if at all.

Mr. DOLE. Is the Senator from Massachusetts confident of the Vietnamese Government's willingness to aid in the resettlement of Cambodian refugees, either within Viet Nam itself, or in other countries which would be willing to accept them as immigrants? Should not we expect the U.N. High Commissioner to facilitate this resettlement, and to work with the Vietnamese Government in this regard?

Mr. KENNEDY. The situation in Vietnam among Cambodian refugees is totally analogous to that in Thailand. UNHRC clearly functions in both countries on the assumption that three options are open in all refugee situations: "Third country resettlement"; "local settlement;" and "repatriation." As in Thailand, all three options are open in Vietnam for Cambodian refugees—except to the U.S., unless we pass our amendment.

Mr. DOLE. Finally, Mr. President, I would ask the Senator from Massachusetts to specify for the RECORD the particular form of services the U.N. Commission will be providing to Cambodian refugees in Vietnam.

Mr. KENNEDY. It is my understanding that the UNHCR has proposed a very basic form of refugee assistance, not greatly different from that for refugees in Thailand. It will consist in its early stages of basic food, shelter, and medicines—the provision of outside relief supplies. Later, it will likely include programs to help the refugees normalize their lives, by providing agricultural equipment, training programs, et cetera.

For now, the program is entirely basic humanitarian aid: Food mostly, medicines, and shelter materials where needed.

Mr. DOLE. I appreciate the cooperation of the Senator from Massachusetts in responding to these questions. I believe this discussion will be a valuable contribution to the legislative record on this measure, and will provide guidance to the U.N. High Commissioner in carrying out the Senate's intent in this regard. I trust, also, that the Government of the Socialist Republic of Vietnam will heed the concerns expressed here, and will understand our expectation that they give full cooperation to United Nations efforts to assist Cambodian refugees within their country.

Mr. President, I am pleased to be a part of this humanitarian effort, and trust that my colleagues will provide appropriate support for the amendment.

Mr. DOLE. Mr. President, I do not believe any further discussion is necessary, unless someone has questions.

Mr. INOUYE. Mr. President, I find it extremely difficult to say anything against the proposal here, but the Appropriations Committee has been trying now for several years to urge the administration to make a major study of the refugee situation.

At the present time, we have the State Department, the Department of HEW, AID, and the United Nations, and even in the United Nations we have about three refugee organizations, plus about 12 PBO's that are involved in this business of assisting refugees.

Then when the refugees come within the United States, we have another problem.

Therefore, I hope the authors of this amendment could wait just a few months until the administration is ready to submit a budget request and, if they do so with a supplemental request, I can assure them the Committee on Foreign Operations will give it expeditious treatment.

Second, I have been assured by the administration that they have studied this problem and they will be coming up with a coordinated, rational refugee program.

To add this new element into the present crazy quilt situation would not help the problem. So I hope the Senator from Kansas and the Senator from Massachusetts will be a bit patient and wait for another 3 or 4 months.

Mr. KENNEDY. Mr. President, I yield myself a minute and a half.

I understand the frustration of the Senator from Hawaii. It is virtually impossible to be able to predict in advance the numbers of refugees who are going to flee these countries in Southwest Asia and get on boats and go to Malaysia or Hong Kong and be transferred to the United States.

We have talked about probably 175,000 to date that have come to the United States. But this is really a relatively small influx. The fact of the matter is, we have got about 1 million illegal entries into the United States every year that come across the Mexican border, that put all kinds of pressure on our various assistance programs, that are costing a great deal in terms of local, State and Federal resources.

I think that this problem—which is long term—has to be dealt with in a comprehensive and a humane way. I hope our Judiciary Committee next year will deal with it. But we are dealing with a particular emergency now, involving a small number of people, and with a particular situation of a country that is virtually practicing genocide, where we have people that are in need—not to come here, but to help them where they are in Vietnam.

But, today, if they flee west, they get food and they get rice and they get milk for their infants and children in Thailand. If they happen to go to the east, they do not get help in terms of the U.S. participation in the UNHCR Vietnam relief effort.

I agree with the Senator generally. If he would take maybe just half of this amendment and then let us come back and try and justify it under a supplemental, to show good faith and show an indication now to the world community, that we are willing to participate in this program—take half and let us come back and justify the rest and see if we cannot work with the administration in terms of the justification. I would think that would be at least a fair undertaking.

Mr. INOUYE. Fine.

Mr. KENNEDY. If my colleague from Kansas will agree with that.

Mr. DOLE. I would agree. But I want to stress the emergency.

I understand the floor manager. But there are thousands and thousands of Cambodians who just cannot wait 4 or 5 months.

This $3 million will not be adequate. It would seem to me we are not talking about a great deal of money.

I know the great concern the Senator from Hawaii has. If it is the feeling of the floor manager and the ranking Republican that $3 million is excessive, then we probably should compromise and offer whatever help we can to people in great distress.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired.

Mr. KENNEDY. Mr. President, I ask unanimous consent for 30 seconds to modify my amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I modify the amendment by reducing it by $1.5 million, and I ask unanimous consent that the clerk make the necessary technical corrections.

Mr. INOUYE. Mr. President, the manager of the bill will accept the modified amendment.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3625), as modified, was agreed to, as follows,

On page 19, lines 16 and 17, strike out "$110,044,200: *Provided,*" and insert in lieu thereof "$111,544,200: *Provided,* That $1,500,000 of this amount shall be available to the United Nations High Commissioner for Refugees only for the provision of assistance to Cambodian refugees in the Socialist Republic of Vietnam: *Provided further,*".

Mr. KENNEDY. Mr. President, at this point in the RECORD I would like to offer a statement in connection with another amendment I had intended to offer.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Mr. President, in a relevant matter, I had intended to offer an amendment, No. 3624, to clarify the current prohibitions in the law regarding direct assistance to certain countries, and whether ocean freight reimbursement to private voluntary agencies falls under that prohibition. I believe it does not, that private voluntary agency programs, and any ocean freight reimbursement that might been given in support of those programs, are indirect assistance for the purposes of the legislative prohibitions enacted by Congress. I believe a longstanding feature of the foreign assistance law is the provision that encourages the participation and contribution of private voluntary agencies—by helping them meet the ocean freight costs of their foreign assistance projects and programs. Some $30 million is in the bill for this purpose, which I strongly support.

But because of current interpretations by A.I.D. on the prohibitions against direct assistance to certain countries, programs such as Church World Service's recent shipment of food to Vietnam did not qualify for ocean freight reimbursement. If it had gone to the Sahel or elsewhere, it would have.

Basically I believe it is a matter of principle, that voluntary agencies should have access to ocean freight reimbursement no matter what its destination, since it is indirect assistance not covered by the existing prohibitions in the law.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 19, line 2, beginning with the colon, strike through and including "abortions" in line 3;

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I believe that a Member of the Senate wishes to amend the committee amendment to restore the House language. Is the Senator from Utah present?

Mr. President, in anticipation that there will be an amendment, I wish to speak against any amendment to restore the House language.

The Peace Corps, since its inception, has had a policy of providing medical assistance to the members of the Peace Corps staff and volunteers, many of whom serve in remote areas.

If I should be in the Peace Corps and find myself with a broken leg, the Peace Corps medical officer would provide the necessary medical attention. If it calls for specialized care, he may take me to some hospital in the host country, or, if the host country cannot provide this medical care, to some other hospital in some other country.

In this respect, last year, a few of the women in the Peace Corps found that their circumstances required a termination of pregnancy. Many of these women were working in Africa, where hospitals were not readily available; so, in order to carry out the policy of the Peace Corps, the Peace Corps provided transportation to the nearest medical facility to bring about the termination of pregnancy. The medical expenses involved were less than $5,000.

Unless it provides full medical care, we have been advised, the Peace Corps would have some difficulty in its recruitment program.

Furthermore, under the Peace Corps policy, if a young woman—single or married—should find herself pregnant, the Peace Corps exercises the option of retaining her or terminating her employment or her association with the Corps.

I, therefore, hope the Members of the Senate will go along with the committee amendment deleting this House language.

UP AMENDMENT NO. 1890

Mr. HATCH. Mr. President, I send to the desk an amendment to that section and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair advises the Senator that until the time expires on the amendment that is presently before the Senate, another amendment is not in order—an amendment to it is not in order.

Mr. INOUYE. Mr. President, I ask unanimous consent that that amendment be considered appropriate at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 1890:

On page 19, line 3, strike out the period and substitute in lieu thereof the following: ": Provided further, That none of the funds appropriated in this paragraph shall be used to pay for abortions.".

Mr. HATCH. Mr. President, we do not have to spend much time on this.

Last year, more than $45,000 of Peace Corps funds were used to finance abortions on Peace Corps personnel. This was money which had been appropriated for the programs.

Representative YOUNG, of Florida, submitted an amendment during House consideration banning such use of Peace Corps funds, and it was approved by the Appropriations Committee by a vote of 60 to 8. It was agreed to on the floor by voice vote.

The PRESIDING OFFICER. The Chair is sorry to interrupt the Senator from Utah, but the amendment is not in order, and the Chair will explain why.

The language that the Senator is proposing is precisely the same as that which is proposed to be stricken.

Mr. HATCH. Mr. President, a parliamentary inquiry. In other words, the language in the bill has been modified by Senate amendment?

The PRESIDING OFFICER. The Chair advises that the language in the bill has not been changed. There is a proposed committee amendment to strike the language which is the same language as the Senator's amendment.

Mr. HATCH. Mr. President, a parliamentary inquiry. If I want to offer this amendment, in essence, what I should do is just argue against the committee amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. Then, I withdraw the amendment, and I will speak against the committee amendment, and suggest that my colleagues vote against the committee amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. HATCH. Mr. President, I have in my possession a copy of a letter from Sam Brown, Director of ACTION, wherein he admits that they estimate that the abortion-related costs of Peace Corps volunteers were approximately $45,000 in 1977.

I ask unanimous consent that that letter, dated May 11, 1978, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ACTION,
Washington, D.C., May 11, 1978.

Hon. HAROLD L. VOLKMER,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE VOLKMER: Thank you for your letter of April 5, 1978, concerning ACTION's policy on abortions. I appreciate your interest and hope this response will provide you with the information you need.

The health insurance that ACTION provides for full-time, domestic volunteers does not include coverage for elective abortions. In rare circumstances, however, ACTION would reimburse a domestic volunteer for the costs of a therapeutic abortion, if the requirements specified in Public Law 95-205 were met. ACTION does not pay directly, or indirectly through medical evacuations, the travel expenses of overseas staff members requiring abortions. However, it is the policy of the Peace Corps to pay all medical and transportation costs in connection with the pregnancy of any volunteer who, after becoming pregnant, wishes to continue Peace Corps service, and whose continued service has been medically and administratively approved. In accordance with this policy, the Peace Corps pays for either the termination of the pregnancy or the expenses incident to the birth of the child depending on the choice of the volunteer. We estimate that the abortion-related costs of Peace Corps volunteers were approximately $45,000 in 1977.

We believe this policy is in accord with the Supreme Court decisions which hold that women have a constitutional right to choose whether to bear a child or terminate a pregnancy free from any coercive influence imposed by the Government. We believe that the financial considerations imposed by the Peace Corps, if we elected not to pay for abortions but continued to pay birth-related costs, could be considered as a form of coercion designed to inhibit this freedom of choice.

We could, of course, elect to terminate any volunteer who becomes pregnant. This policy would achieve the same result of not influencing the volunteer's decision regarding her pregnancy, and was in fact, Peace Corps policy in the early days of its existence. However, we believe that such rule would be unduly harsh and deprive many qualified volunteers of the opportunity to complete their service.

We recognize that the area of abortions is an extremely controversial one which raises very emotional issues. However, we believe our policy provides Peace Corps volunteers with the greatest freedom to exercise their constitutional right to determine the future course of their pregnancy free of Governmental influence or coercion.

I understand your concern regarding this policy and hope that this response answers all of your questions. If not, please let me know.

Sincerely,

SAM BROWN,
Director.

Mr. HATCH. Mr. President. I ask unanimous consent to have printed in the RECORD an article by Patrick J. Buchanan entitled "What Makes Sammy Run to the Left?"

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT MAKES SAMMY RUN TO THE LEFT?

(By Patrick J. Buchanan)

WASHINGTON.—When last we encountered Sam Brown of ACTION—the Sammy Glick of radical politics—he was howling down the sewer of American journalism, Penthouse magazine: "I take second place to no one in my hatred of the intelligence agencies."

An interesting comment from a presidential appointee charged with oversight of the Peace Corps.

Further evidence continues to surface which raises questions as to where Sammy's ultimate loyalties lie. Last summer, for example, Brown was quoted as telling the Secretary's Open Forum at the Department of State:

"We know that workplace democracy is a concept ill-developed in American society. It is another of the places where we stand to learn from Jamaica, from Tanzania, from Cuba, from Yugoslavia . . ."

One wonders what free American labor, union and nonunion, can learn from the indentured servants of Marxist states.

One wishes, too, that Sammy and his subordinates would practice some of that proletarian virtue they forever preach.

According to the Enquirer, when Sammy takes home his thousand-dollars-a-week from Uncle Sam for fighting poverty at home and abroad, he rests his weary head in a $160,000 town house on Embassy Row.

Sam Brown is, in truth, the personification of that guilt-ridden anti-Americanism found on the extreme left of our national politics where there always existed enthusiasm for the Communist cause in Southeast Asia.

In his colloquy with Pat Moynihan on America's failure of nerve, in Public Opinion magazine, Henry Kissinger singles out Brown as symptomatic of the sickness within society.

"What I have difficulty understanding," noted Kissinger is the "relish" with which some Americans greeted our humiliation in Southeast Asia.

"When I see, for example, the head of ACTION going to a meeting where the North Vietnamese ambassador, upon joining the United Nations, castigates the United States, and this American official says, 'This is the proudest day of my life. This is what we've been working for all these years,' that raises to me really profound questions about the fundamental motivation from the beginning."

Sen. Moynihan: "That scene where the Vietcong flag was flown from the Peace Corps headquarters took place during a demonstration which that particular man organized."

Kissinger: "Exactly."

Brown's behavior should raise questions for President Carter, now visibly shifting toward a tougher line on the Russians and Cubans. Why does he retain upon his official premises this sycophant of a Communist movement which took the lives of 50,000 Americans?

Even if Sammy's sympathies did not reside with Hanoi, his performance at ACTION justifies a zone press by the General Accounting Office and the U.S. Congress.

Last month, for example, Brown conceded to a U.S congressman that last year the Peace Corps shelled out $45,000 to subsidize abortions for its volunteers.

Brown's thesis is that to deny those subsidies to pregnant volunteers is to interfere with their "freedom of choice" as guaranteed by the Supreme Court.

Is this what Jack Kennedy had in mind when he established the Peace Corps? That taxpayers should be shelling out 50 grand a year to execute the unborn children of upper-middle-class bimbos whose idea of bringing the blessings of Western Civilization to the Third World is to take a tumble in the hay with the local witch doctor?

Other ACTION funds have been shifted from one of Brown's subsidiaries, VISTA, to the Midwest Academy, a school for confrontation politics, and thence to Boston to help organize secretaries and clerical workers into unions—a clear violation of VISTA's charter.

This is not fighting poverty. It is advancing feminism. It is using tax dollars to promote the self-proclaimed agenda of radical Marge Tabankin and Brown from their super-salary posts, dropping them into that poverty class for whom they weep nightly from their respective town houses.

Mr. HATCH. Mr. President, in the last part of the article, Mr. Buchanan says this:

Last month, for example, Brown conceded to a U.S. congressman that last year the Peace Corps shelled out $45,000 to subsidize abortions for its volunteers.

Brown's thesis is that to deny those subsidies to pregnant volunteers is to interfere with their "freedom of choice" as guaranteed by the Supreme Court.

Is this what Jack Kennedy had in mind when he established the Peace Corps? That taxpayers should be shelling out 50 grand a year to execute the unborn children of upper-middle-class bimbos whose idea of bringing the blessings of Western Civilization to the Third World is to take a tumble—

And so forth.

For those of us who feel that abortion is taking innocent human lives. it is natural enough not to want abortions paid for by the Peace Corps funds and the Peace Corps program. But, in particular, when those funds are to be used to help underdeveloped nations, as is the major purpose of the Peace Corps, then it seems to me almost repugnant—well, totally repugnant—to allow this kind of payment pursuant to this particular bill; and I think that in this regard, a majority of the people in this country are against this type of thing.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. HATCH. I am delighted to yield.

Mr. RANDOLPH. Mr. President, I helped to draft the original legislation which created the Peace Corps. I believed in the Peace Corps and continue to believe in its purpose.

I recall when I talked with those young men and women on the night before they left Washington, D.C. They were the first group that moved from training in George Washington University, to Nepal. My sister's son, Randolph Carr, had taught them the language of a faraway place with a strange sounding name, Katmandu. They were volunteers who were not to work on matters of ideology, or of governing peoples. They were going as dedicated, mostly younger Americans, who had expertise in certain skills in health services. They had a knowledge that could be useful in helping to achieve greater productivity and strengthen the lives of the native populations in the countries in which they were to serve. They understood modern methods of farming, construction, housing, and transportation.

The PRESIDING OFFICER. The Chair is sorry to interrupt the Senator from West Virginia, but the time of the Senator from Utah has expired.

Mr. HATCH. Mr. President, will the Senator yield me some time on the bill?

Mr. INOUYE. Yes.

The PRESIDING OFFICER. The Chair advises that the floor manager has 2 minutes remaining.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given 1 extra minute for the distinguished Senator from West Virginia (Mr. RANDOLPH) and 1 extra minute for the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator is recognized for 1 additional minute.

Mr. RANDOLPH. Mr. President, I recall the young man from Iowa who was talking with me. He said:

> I wonder whether I'm doing the right thing in going far away, rather than remaining in my own State. I understand agriculture. I know what it is to farm. I think I can help the people there to raise certain crops with nutritive value. Hopefully I can be a part of helping children and their parents in building better lives:

I remember how I worked here to bring the Peace Corps into being, meeting with other Senators early in the morning at breakfast and talking about it, and that is a prerogative, sometime a mission of Senators, other than to speak here in the Senate and to vote on pending amendments.

I shall vote for the position of the Senator from Utah in this matter.

Mr. HATCH. I thank my distinguished colleague.

Mr. RANDOLPH. That is because the moneys were not to be spent for the purposes that are intended as the bill brings it to this floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SCHWEIKER. Mr. President, I expressed my opposition in subcommittee and full committee to the Peace Corps spending money on abortions. I strongly support the position of the Senator from Utah. I shall vote with him on the amendment and commend him for it.

Mr. HATCH. I thank my colleague from Pennsylvania.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATCH. As I understand it, the yeas and nays have been ordered on this committee amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered. It is a 10-minute vote.

All time on the amendment has expired.

The question is on agreeing to the committee amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Alabama (Mrs. Allen), the Senator from Minnesota (Mr. Anderson), the Senator from Delaware (Mr. Biden), the Senator from Arkansas (Mr. Bumpers), the Senator from North Dakota (Mr. Burdick), the Senator from Mississippi (Mr. Eastland), the Senator from Colorado (Mr. Haskell), the Senator from Maine (Mr. Hathaway), the Senator from Arkansas (Mr. Hodges), the Senator from South Carolina (Mr. Hollings), the Senator from Kentucky (Mr. Huddleston), the Senator from New Hampshire (Mr. McIntyre), the Senator from North Carolina (Mr. Morgan), the Senator from New York (Mr. Moynihan), the Senator from Rhode Island (Mr. Pell), the Senator from Tennessee (Mr. Sasser), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. Ribicoff) is on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) would vote "yea."

Mr. HANSEN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bartlett), the Senator from Oklahoma (Mr. Bellmon), the Senator from Massachusetts (Mr. Brooke), the Senator from New Jersey (Mr. Case), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from California (Mr. Hayakawa), the Senator from North Carolina (Mr. Helms), the Senator from Idaho (Mr. McClure), the Senator from Illinois (Mr. Percy), the Senator from Delaware (Mr. Roth), the Senator from New Mexico (Mr. Schmitt), the Senator from Vermont (Mr. Stafford), the Senator from Alaska (Mr. Stevens), the Senator from Texas (Mr. Tower), the Senator from Wyoming (Mr. Wallop), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The result was announced—yeas 30, nays 32, as follows:

[Rollcall Vote No. 391 Leg.]

YEAS—30

Bayh
Bentsen
Chafee
Chiles
Clark
Cranston
Culver
Glenn
Gravel
Hart
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Muskie
Packwood
Pearson
Riegle
Sarbanes
Stevenson
Talmadge
Weicker
Williams

NAYS—32

Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Church
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Ford
Garn
Goldwater
Hansen
Hatch
Hatfield, Mark O.
Hatfield, Paul G.
Heinz
Johnston
Laxalt
Long
Lugar
Melcher
Nelson
Nunn
Proxmire
Randolph
Schweiker
Scott
Stone
Thurmond
Zorinsky

NOT VOTING—38

Abourezk
Allen
Anderson
Baker
Bartlett
Bellmon
Biden
Brooke
Bumpers
Burdick
Case
Curtis
Eastland
Griffin
Haskell
Hathaway
Hayakawa
Helms
Hodges
Hollings
Huddleston
McClure
McIntyre
Morgan
Moynihan
Pell
Percy
Ribicoff
Roth
Sasser
Schmitt
Sparkman
Stafford
Stennis
Stevens
Tower
Wallop
Young

So the committee amendment was rejected.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MARK O. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate is not in order, and I would ask that the Senate be in order. We are under a time limit. There are amendments awaiting consideration.

Let me ask if Members who are standing in the aisles will find seats. I ask the staff members in the Chamber to find seats. The Senate cannot proceed until we have order. I wonder if I might appeal again to Senators who are engaged in conversation. If those conversations could end, we could have order in the Chamber so we can hear the Senator from Hawaii.

UP AMENDMENT NO. 1891

(Purpose: Require that resettlement of Soviet and other refugees within the United States be handled by HEW on a basis comparable to Cuban and Indochinese refugee resettlement programs)

Mr. INOUYE. Mr. President, I send an amendment to the desk and I ask unanimous consent for its immediate consideration. I further ask unanimous consent that each side be given 2 minutes on the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will report.

The second assistant legislative clerk read as follows:

> The Senator from Hawaii (Mr. Inouye) proposes an unprinted amendment numbered 1891.

Mr. INOUYE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 19, line 18, after the word "Africa" and before the colon, insert the following: ": *Provided further*, That funds made available for resettlement assistance in the United States to refugees not covered by other Federal programs shall be made available for obligation only through the Department of Health, Education, and Welfare for the same purposes and under the same conditions as for resettlement of refugees from Cuba and Indochina".

Mr. INOUYE. Mr. President, with reference to refugee assistance, in its report (p. 121) the committee stated:

> Operating under the direction of three major federal agencies and through more than a dozen independent organizations the United States refugee assistance effort has become a "crazy quilt" assemblage of overlapping and frequently competing programs that have resisted reorganization, central direction and reform at least since 1972. Ongoing programs bear little relationship to established need and have perpetuated inexplicable inequities in the types and levels of assistance to which individual refugees are entitled. In fact, it is difficult to escape a conclusion that some programs do not discriminate by race or religion or by ethnic identity or national origin. All of these problems did not originate in the Executive Branch, but the time has come not to assess blame but to establish a rational and coherent refugee policy for the United States.

My amendment would assign to the Department of Health, Education, and Welfare responsibility for carrying out the new program of U.S. resettlement assistance to Soviet and other refugees. It would also require that the funds be available for obligation for the same purposes as for resettlement of Cuban and Indochinese refugees. The Department of Health, Education, and Welfare has been responsible for domestic resettlement programs since the inception of the Cuban program almost 20 years ago. My amendment would keep it there rather than start up a new program in the Department of State. To do otherwise would, in my opinion, expand and perpetuate the many inequities now in the several programs.

The committee believes that U.S. assistance to refugees is an international responsibility and should be evenhanded on the basis of need both overseas and during resettlement for those coming to the United States. We first called for consolidation of refugee activities in fiscal year 1972 but virtually nothing has been done and programs are scattered through AID, HEW, and the Office of Migration and Refugee Affairs of the Department of State, plus more than a dozen private and voluntary agencies.

We should not, indeed, cannot continue to establish entitlement according to race, religion, or national origin. Comparisons are admittedly difficult, but the President's original budget proposed $1,111 per refugee for private and voluntary agencies resettling Soviet (85 percent of total), Eastern European, and other refugees in the United States, and $350 per refugee for PVO's resettling Indochinese in the United States, while Cuban refugee assistance through PVO's equals only $200 per refugee. It should be noted that both groups are eligible for additional assistance through ongoing HEW programs. Fixed funding levels also shift with changes in estimates as to number of refugees.

There are even greater differences in the level of United States assistance for basic support of refugees overseas. How can we possibly justify $351.14 for a Soviet refugee in Italy or $2,5000 for a Soviet refugee in Israel when we provide only $42.30 per Indochinese refugee in Thailand or $28.88 for a Palestinian, or $26.68 for a South African refugee, or $2.50 for a Bengali refugee in Burma, or 70 cents for a Kurdish refugee in Turkey?

The justification as to how the $20 million would be spent in the United States was not very specific but would be available for such vague and undefined objectives as "technical and professional training, including activities supportive of professional and skill adaptation such as recertification and remedial or equivalency education" and "services which materially contribute to acculturation in order to assure employment and earnings objectives." I submit that there is virtually no type or level of assistance that could not be provided under such justification.

Mr. President at the conclusion of my remarks, I ask unanimous consent to reprint a table prepared at the request of the committee by the Office of Migration and Refugee Assistance of the Department of State. This table graphically points out the many and varied programs of U.S. refugee assistance and the levels at which they are funded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INOUYE. Mr. President, this amendment is a first and vital step toward the committee's goal of "evenhanded" assistance to individual refugees based on the needs of that individual rather than his race, creed, color, or national origin.

EXHIBIT 1.—BUDGET ANALYSIS: HA/ORM FISCAL YEAR 1979—I. REFUGEE PROGRAMS WHICH ARE DESIGNED TO PROVIDE BASIC SUPPORT WITHIN COUNTRIES OF FIRST ASYLUM

Program name	Number of refugees involved	Source of funding	Amount of USG contributions	USG expenditure per capita
1. Africa	832,735	AID ORM	$14,000,000 8,225,000	$26.68
2. Indochinese	130,000	ORM	5,500,000	42.30
3. Burma/Bangladesh	200,000	AID	[1] 500,000	2.50
4. Latin America	7,000	ORM	800,000	114.28
5. Soviet and Eastern European	35,000	ORM	12,290,000	351.14
6. Soviets to Israel	10,000	ORM	600,000	60.00
7. Palestinians	[2] 1,800,000	IO	52,000,000	28.88
8. Cypriots	70,000	AID	5,000,000	71.42
9. Other refugees	750,000	ORM	525,000	.70
Total	3,834,735		[3] 99,440,000	25.93

[1] Fiscal year 1978 contribution from AID foreign disaster relief funds; fiscal year 1979 requirements will probably be at least as high.

[2] 600,000 Palestinians in camps.

[3] Does not include Public Law 480 contributions from Department of Agriculture estimated for fiscal year 1978 at $15,000,000 (see attached notes).

Note: Total program costs equals $99,440,000. Total number of refugees equals 3,834,735. Average per capita cost equals $25.93.

NOTES TO TABLE I

1. Statistics in Table I often include estimated refugee populations. All programs are included which provide basic support in countries of first asylum. In some cases, the country of first asylum may also be the country of final resettlement and some of these funds may be used for resettlement purposes.

Differences in per capita expenditures need to be viewed with extreme care since each refugee situation is different. The following are some of the factors which can lead to differing per capita costs:

Proportion of refugees in transit. Temporary arrangements are generally more expensive. Thus, per capita care and maintenance costs in Indochinese boat cases are generally higher than those in camp cases in Thailand. Soviet and Eastern European refugees are almost all in transit.

Actual cost differences in area of maintenance. Soviet refugees are largely located in the Rome area which is very expensive. Care and maintenance costs for Indochinese boat refugees in Hong Kong is much higher than for similar refugees in Malaysia.

The standard of living of the general population of the host country sometimes places a constraint on the amount of assistance which can be given. Assistance to refugees in a number of African and Asian countries is below levels which would be considered acceptable in the United States. Governments of host countries, however, point out that it would be unacceptable to them politically and morally if the refugees were supported at a level above that of the general population. To achieve that, they argue, a general development program, benefiting all elements of the population, is called for.

Participation by other donor countries in the programs in question. The Soviet program is funded largely by the United States; there is very wide participation by other countries in African programs. The large movements of ethnic Germans from Poland and elsewhere in Eastern Europe are absorbed and funded entirely by the Federal Republic of Germany and do not appear on these tables at all.

2. P.L. 480: Contributions in kind under the PL 480 program depend on demonstrated humanitarian requirements but also on commodity availability. In FY 1977, PL 480 contributions totaled $6.5 million; in FY 1978, an estimated $15.0 million. Humanitarian requirements appear likely to remain at least as high in FY 1979.

3. Africa: The figures shown are the estimates of the UNHCR as of May 31, 1978 (see attached table). They do not show displaced persons including an estimated 155,000 displaced persons in Ethiopia receiving assistance from the UNHCR.

Displaced persons in Africa can be assisted only through AID Foreign Disaster Relief funds or PL 480. In FY 1978, AID/OFDA funds were provided in the following amounts:

Displaced persons in Ethiopia, $2.43 million to UNHCR.

Displaced persons in Zaire, $222,000 to ICRC.

AID refugee funds of $14.0 million are limited to use in Southern Africa other than Mozambique. Those countries with refugee problems are Zambia, Botswana, Lesotho, Swaziland (and Namibia). ORM funds, including those added at Congressional initiative, can be used for refugees anywhere in Africa except Mozambique and Angola.

Per capita figure does not include Disaster Relief or PL 480 contributions which may become available during FY 1979. These resources have been relatively frequently used for refugee/displaced persons problems in Africa.

The European countries, especially Netherlands, Germany and the Nordic countries are heavy contributors to African refugee problems.

4. Indochinese: The United States has funded something over 60 percent of Indochinese care and maintenance costs. With the recent rapid growth in this refugee population and commensurate increases in costs, the requested amounts will cover only 25–30 percent of estimated UNHCR costs for this program.

5. Burma/Bangladesh: This is a mixed refugee/displaced person situation funded largely from UNHCR emergency funds. The United States contribution was $500,000 from AID Foreign Disaster Relief funds. Future funding not clear.

6. Soviets and Eastern Europe: This includes some refugees who are in process of resettlement in Europe and who are receiving only partial assistance. Most, however, are in transit to the United States.

7. Palestinians and Cypriots: Both of these programs, one administered by State/IO (Palestinians) and one by AID (Cyprus), involve continuing assistance to established populations which can be regarded as only partially in a refugee status.

8. Other Refugees: Most of these refugees are already resettled and assistance is limited

to legal protection and counseling services. Over 500,000 such refugees are in Europe; mostly Soviet and Eastern European refugees, but also Latin Americans, Indochinese and returnees from Angola in significant numbers. Also included are substantial groups of Assyrians and Armenians located in Lebanon, Greece, and Egypt and about 35,000 Kurds in Iran.

9. Elements in the HA/ORM FY 1979 budget which are included in figures on this table are:

United Nations High Commissioner for Refugees:	
Indochinese refugees	$5,500,000
African refugees	3,225,000
Latin American refugees	800,000
Other refugees	525,000
Subtotal	10,050,000
African refugees (added at congressional initiative)	5,000,000
U.S. refugee program:	
Assistance to refugees from Communist dominated countries	12,290,000
Assistance to refugees resettling in Israel (added at congressional initiative)	600,000
Total	27,940,000

AFRICAN REFUGEES [1]—UNHCR ESTIMATES AS OF MAY 31, 1978

Problem area/country of asylum	Total	Origin of main groups	Numbers requiring assistance
Grand total	2,114,935		832,735
Horn of Africa	662,500		231,000
Djibouti	12,500	Ethiopian	11,000
Somalia	500,000	do	150,000
Sudan	150,000	Ethiopian, Zairian, Ugandan	70,000
Southern Africa	927,135		420,935
Botswana	10,700	Rhodesian, South African, Angolan, Namibian.	4,800
Lesotho	1,000	South African	1,000
Swaziland	135	do	135
Mozambique	70,000	Rhodesian	60,000
Angola	250,000	Zairian, Namibian	235,000
Zambia	65,300	Angolan, Rhodesian, Namibian	20,000
Zaire	530,000	Angolan, Rhodesian, Burundi	100,000
East Africa	272,500		135,000
Kenya	6,000	Ugandan, Ethiopian	5,000
Uganda	112 000	Rwandese, Zairian, Ethiopian, Kenyan	500
Tanzania	154,500	Burundi, Rwandese, Ugandan, South African.	130,000
Other	252,800		45,300
Algeria, Morocco, Tunisia	3,800	Latin American, African, European.	2,000
Egypt	4,500	Armenian, Ethiopian, South African, Ottoman.	3,000
Burundi	50,000	Rwandese	5,000
Cameroon	30,000	Equatorial Guinean	7,000
Gabon	90,000	do	10,000
Rwanda	7,500	Burundi	300
Senegal	37,000	Guinean	3,000
Miscellaneous	30,000	Various, including South African students.	15,000

[1] Not including displaced persons remaining within their national boundaries.

BUDGET ANALYSIS—HA/ORM FISCAL YEAR 1979—II. REFUGEE RESETTLEMENT PROGRAMS WHICH REQUIRE INTERNATIONAL MOVEMENT

Program name	Number of refugees involved	Screening selection and documentation	Selection per capita	Sponsor search and initial placement	Placement per capita	International air transport	Travel per capita	Total	Program per capita cost
Indochinese:									
(a) to the United States	34,500	$2,415,000	$70.00	$12,075,000	$350.00	$17,940,000	$520.00	$32,430,000	$940.00
(b) to 3d countries	12,000	0	0	0	0	2,000,000	166.66	2,000,000	167.00
Soviet and Eastern Europeans:									
(a) to the United States	14,450	1,600,000	110.72	2,167,500	150.00	1,500,000	83.33	5,267,500	365.00
(b) to Israel	10,000	0	0	0	0	3,000,000	300.00	3,000,000	300.00
All others:									
(a) to the United States	5,550	0	0	832,500	150.00	0	0	832,500	150.00
(b) to Latin America	3,000	0	0	0	0	400,000	133.33	400,000	133.00
Total	79,500	4,015,000	$50.50	15,075,000	189.62	24,840,000	312.45	43,930,000	552.57

Note: Total program cost, $43,930,000; total number of refugees, 79,500; per capita cost, $552.57.

NOTES TO TABLE II

1. This table attempts to select out those costs which are related primarily to the selection and movement of refugees to a country of resettlement.

2. All "other refugees to the U.S." include an estimated 1,200 Chinese, 600 Kurds, 400 Afghanistanis, 300 Africans, 1,000 from the Middle East, 1,000 Latin Americans, 500 Cubans from Spain, and 500 miscellaneous.

3. Screening, selection and documentation.—

a. For the Indochinese refugee program this involves extensive screening activities by Joint Voluntary Agency Representative (JVR) staffs to assist in choosing refugees from a larger population to participate in the United States program. The use of the JVR substantially reduces requirements for official United States personnel.

b. This item for the Soviet and Eastern European program assists in meeting the administrative costs of American Voluntary Agencies in Europe which are assisting those refugees in preparing documentation for their entry into the United States. Some language training is also included in this item.

4. Sponsor search and initial placement: These grants are expected to assist in meeting the cost of seeking sponsors and the basic initial placement of the refugees. Pocket money, early months rent and maintenance, and initial limited medical care are the types of expenses envisaged. These are expenses shared with sponsors and voluntary agencies and the grants are not expected to cover all such expenses.

These grants are set at $350 per capita for the Indochinese program. Grants of $250 per capita have been paid in FY 1978 for non-Indochinese refugees. In FY 1979, however, only $3,000,000 is budgeted for such grants. With an increased outflow of these refugees, now estimated at 20,000, this will suffice only to pay an initial placement grant of $150 per capita.

It should be noted, however, that the domestic resettlement grants for non-Indochinese or Cuban refugees shown on the following Table III are designed to assist the voluntary agencies in resettling this group of refugees, thus minimizing the impact of the lower reception and placement grants.

5. International Air Transport: Obviously, this item varies with the distance to be traveled by the refugee.

However, it should also be noted that the item shown for Soviet and Eastern European refugees is not adequate to meet projected requirements. For 14,450 refugees, this could be expected to total almost $4,000,000.

The $2,000,000 for Indochinese to third countries is contributed to the UNHCR for transportation costs to encourage resettlement in third countries, primarily France.

The $3,000,000 for Soviet refugees to Israel is estimated based on past experience and the assumption that the $25,000,000 added to the HA/ORM budget at Congressional initiative will be approved.

6. The funds listed on this table are all to be found in the HA/ORM budget as follows:

United Nations High Commissioner for Refugees:	
Indochinese refugees	$2,000,000
U.S. refugee program:	
Assistance to refugees from Communist dominated countries	6,100,000
Budget amendment for Indochinese program	32,430,000
Soviet refugees resettling in Israel: (added at congressional initiative)	3,000,000
Intergovernmental Committee for European Migration:	
For movement of refugees in "other" category	400,000
Total	43,930,000

BUDGET ANALYSIS—HA/ORM FISCAL YEAR 1979—III. REFUGEE DOMESTIC INTEGRATION AND ASSIMILATION COSTS SUBSEQUENT TO THEIR ARRIVAL IN RESETTLEMENT LOCATIONS

Program name	Number of refugees involved	Source of funding	Amount of USG contribution	USG per capita expenditure
1. Cuba	[1] 72,000	HEW	$52,000,000	[2] $722
2. Indochinese	[3] 74,000 [5] 170,000	HEW	[4] 87,700,000	[3] 1,185 [5] 516
3. Soviets and Eastern Europeans	[6] 21,000	ORM	15,000,000	714
4. Soviet Jews to Israel	10,000	ORM	21,400,000	2,140
5. Others	[6] 7,000	ORM	5,000,000	714
Total	184,000 [5] 280,000		181,100,000	[3] 984 [5] 647

[1] The number of Cuban refugees needing medical, education, and social services.

[2] This calculation is based on the refugee population actually drawing assistance. It is not spread over the total of refugee population entering the United States. The Cuban per capita cost is lower than actual due to Federal coverage of SSI costs under the regular SSI program.

[3] The number of Indochinese needing cash assistance, medical and social services.

[4] Actual costs depend on 1978 legislation (other bills currently before Congress).

[5] This calculation is based on the total Indochinese population; this may be a more relevan number, since all Indochinese have come to the United States since 1975, whereas the Cuban have been here since the early 1960's.

[6] Includes 6,550 refugees already arrived in the United States in the last 6 mo of fiscal year 1978.

Note: Total program cost, $181,100,000; total number of refugees, $280,000; per capita cost $647.

NOTES TO TABLE III

1. This table brings together expenditures associated with longer term refugee resettlement costs. The table illustrates two quite different strategies for dealing with these problems. In the case of Cuban and Indochinese refugees, funds are provided to reimburse the States for welfare costs associated with refugee resettlement. In addition, special project funds are administered by HEW for language and skills training and related programs. Similar expenses for Soviets, Eastern European and other refugees coming to the United States are proposed to be covered through a new program which would provide funds to voluntary agencies on a matching basis to assist these refugees in this respect.

2. Certain conceptual problems are involved in developing per capita cost figures in HEW administered programs. The services are available to the entire refugee population concerned, on an eligibility basis, but clearly not all will require these services. In the case of Cuban refugees who have been here much longer, per capita figures have been provided on the basis of that proportion of the population which is actually receiving services. The per capita figure would, of course, be much lower if based on the over 600,000 Cuban refugees who have come to the United States. With respect to Indochinese refugees, who have been here only since 1975, per capita figures are provided both for the total population and for those actually receiving benefits.

3. The program for Soviet, Eastern European and other refugees is a new one, proposed to be funded in FY 1979 at $20,000,000. Covering all refugees other than Cuban and Indochinese, the program is designed to help the voluntary agencies responsible for resettling these refugees to provide some of the services provided through HEW for Cubans and Indochinese. The per capita figure is based on refugees expected to arrive in FY 1979 plus those estimated for the last six months of FY 1978 who will also be eligible to receive such benefits. It should be noted that services provided under the reception and placement grants shown on Table II phase into those to be provided under this item. Thus, inadequacies in the level of the reception and placement grants can be compensated by this program. It is noted on Table II that funds available for reception and placement grants would only be adequate to provide per capita grants of $150 based on the estimated number of such refugees for FY 1971.

In order to pay a reception and placement grant of $350, equal to that paid for Indochinese refugees, for the full 20,000 estimated refugees other than Cuban or Indochinese, an additional $200 per capita or $4,000,000 would be required. If, for purposes of comparability, this sum were subtracted from the $20,000,000 in resettlement grants for Soviet, Eastern European and other refugees in Table III, the per capita figure for these refugees in Table III would be $533 and the per capita figure for Soviet, Eastern European and "other" refugees in Table II would be increased by $200.

4. In broad terms the items included in Table III for the various refugee groups are as follows:

a. Cuban Refugees: Medical assistance, cash assistance, social services such as job placement, counseling and mental health activities, vocational skills and language training programs.

b. Indochinese Refugees: Medical assistance, cash assistance, social services such as job placement, counseling and mental health activities, vocational skills and language training programs.

c. Soviet and Eastern Europeans resettling in the United States: Assistance would be provided in counseling and job placement, vocational skills training, professional recertification, language training and training related care and maintenance. Funds will be provided on a matching basis against funds provided by the contracting voluntary agency.

d. Soviet Jews to Israel: Enroute care and maintenance, care and maintenance at absorption centers and hostels and Ulpanim, maintenance at youth Aliyah institutions, rental payments, financial assistance to needy refugees, scholarships, training, retraining and maintenance for artisans and technicians, absorption of professionals, and old age grants and rental subsidies for the aged.

5. Funding on Table III which is included in the HA/ORM budget is as follows:

U.S. refugee program:	
Resettlement assistance to refugees resettling in the United States	$20,000,000
Soviet refugees resettling in Israel (added at congressional initiative)	21,400,000
Total	41,400,000

BUDGET ANALYSIS—HA/ORM FISCAL YEAR 1979

[IV. Refugee program costs which cannot be identified with specific programs, but which support the infrastructure of the total international effort instead]

Program name	Source of funding	Amount of USG contribution	Percent of total ORM budget	Remarks
1. UNHCR	IO	[1] $2,500,000	2.2	(²)
2. ICRC	ORM	800,000	.7	
3. ICEM	ORM	3,200,000	2.8	
4. State administration	ORM	3,566,000	3.1	
Totals		10,066,000 7,566,000	8 6	(³) (⁴)

[1] Estimated fiscal year 1979 contribution.

[2] Not part of the ORM budget.

[3] Percentage including the IO budget costs.

[4] ORM only.

Mr. INOUYE. Mr. President, we have discussed this matter very thoroughly in the committee, and my colleague, the ranking member of the subcommittee, has a substitute worked over by his friend from Maryland (Mr. MATHIAS) and his friend from New Jersey (Mr. CASE). I am pleased to say that the amendment, the substitute, is acceptable.

The PRESIDING OFFICER. The Senator from Pennsylvania.

UP AMENDMENT NO. 1892

Mr. SCHWEIKER. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair would advise the Senator until the time has expired on the amendment presently pending the substitute will not be in order.

Mr. INOUYE. Mr. President, I ask unanimous consent that the substitute be in order at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The second assistant legislative clerk read as follows:

> The Senator from Pennsylvania (Mr. SCHWEIKER), for himself, Mr. MATHIAS, and Mr. CASE, proposes an unprinted amendment numbered 1892.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> In lieu of amendment by Senator INOUYE insert the following: "*Provided further*, That $20 million of these funds be expended only by HEW for the resettlement in the United States of Soviet and other refugees not currently covered by existing federal refugee programs: *Provided further*, That these funds shall be administered in a manner that ensures equity in the treatment of all refugees receiving federal assistance:".

Mr. SCHWEIKER. Mr. President, I think the chairman of our subcommittee has made a very important point about equity and equality in refugee treatment, and because of his leadership and because of his work in this area, we desire to work something out that complies with what I think are fair goals, but also complies with some other concerns that I have, and concerns expressed by Senator MATHIAS, who has done a lot in this area, Senator CASE, and Senator JAVITS.

This is a good faith effort to preserve a concept that I think meets the agreement of all Senators, which reflects the equity of consideration and treatment among all refugees that the Senator from Hawaii wishes to accomplish.

RESETTLEMENT OF SOVIET AND OTHER REFUGEES IN THE UNITED STATES

Mr. SCHWEIKER. Mr. President, I would like to commend my colleague from Hawaii, Senator INOUYE, for his many humanitarian efforts on behalf of refugees.

The bill before us today, to cite but one example, includes $115 million to aid refugees here in the United States and around the world, and is largely the result of Senator INOUYE's leadership of the Appropriations Subcommittee on Foreign Operations.

As chairman, Senator INOUYE has taken a special interest in the resettlement of refugees here in the United States, and he has emphasized the need for appropriate resettlement benefits to be made available to all refugees in our country regardless of country or origin, in a manner that insures self-sufficiency and independence of the refugees in their new American communities.

The dilemma of refugee resettlement has most recently involved refugees from the Soviet Union.

Since 1972, over 25,000 refugees have emigrated from the Soviet Union to the United States to escape political and religious persecution. The United States has welcomed these new immigrants on humanitarian rights principles and many have been admitted to this country under the State Department's parole system. While some Federal funds have been made available for refugee transportation to this country, the tasks of resettlement, job training, education, counseling, and social services have been funded almost entirely by private, voluntary agencies with philanthropic dollars. In 1977, the American Jewish community alone spent over $20 million to help resettle the 6,800 Soviet refugees who arrived in the United States.

The number of Soviet refugees coming to the United States has almost doubled this year due to the salutary effect of the Helsinki Accord and the steadfastness of Congress and the administration, but this has severely strained the financial abilities of the voluntary agencies to provide resettlement services.

To remedy the situation, President Carter has requested and both the House and Senate have approved, a $20 million authorization under the State Department's U.S refugee program to be used for matching grants to voluntary agencies to continue their resettlement of Soviet and other refugees in the United States, who are not currently covered by Federal refugee programs.

Twenty million dollars of the funds appropriated by H.R. 12931 will be used for this vital program. These funds will help insure equitable treatment for Soviet and other refugees not currently covered by Federal resettlement programs.

Currently, new Indochinese refugees, for example, are recipients of over $1,200 per capita in special Federal program funds:

$350 per capita from State Department for initial resettlement;

$850 per capita from HEW for reimbursement of State welfare agencies for cash, medical, and social service payments (Indochinese refugees who have been in this country for more than 1 year receive an average of $698 per capita in welfare agency benefits);

$10.25 million for an HEW emergency adult education program for Indochinese adults; and

$10 million for an HEW special job-training program for Indochinese.

(These funds have also been used for medical retraining and recertification of Indochinese physicians to help them pass the Council of Foreign Medical Graduates Examination, required before foreign physicians can practice in the United States. Note: The Cuban refugee program also provided retraining funds for Cuban physicians.)

New Soviet refugees, on the other hand, are not eligible for the above programs and receive no special Federal program support for resettlement costs in the United States. The Appropriations Committee estimates that the proposed program would result in benefits of $1,100 for each Soviet or other refugee not covered by existing refugee resettlement programs.

As the House International Relations Committee stated in its report authorizing the program, it is important that "the program be structured on a dollar-for-dollar matching grant basis," to the established voluntary agencies which have historically done such an excellent job of settling Soviet and other refugees with philanthropic dollars. This will provide "equal participation by the American public and private sectors."

Implementation in this manner will also insure both successful resettlement as well as equity with benefits currently received by Indochinese refugees. It may not be appropriate, however, to administer the proposed program in exactly the same way as HEW administers the Indochinese resettlement program. Currently, HEW's program for the Indochinese is aimed primarily at reimbursement of State welfare agencies ($124 million were appropriated for the purpose in fiscal year 1978). Some 30 percent of the Indochinese refugees are receiving welfare payments.

Only 2.5 percent of Soviet refugees currently receive welfare payments—A result of the education and job training programs sponsored for these refugees by American voluntary resettlement agencies. A welfare agency-oriented program would not foster the economic and social self-sufficiency of Soviet refugees necessary for their successful absorption in our country as independent citizens. Additionally, visa requirements for the Soviet refugees preclude refugee dependence on public welfare payments, and the voluntary agencies are insistent that the refugees not rely on welfare benefits. Finally, Soviet refugees who are on welfare 2 years after their arrival in the United States are not allowed to change their status to permanent residents. Indochinese refugees, on the other hand, can become permanent residents even though they are on welfare.

Thus, a system of matching grants through the voluntary agencies, as discussed by the House authorizing committee, seems an appropriate solution. We would also hope that these grants would be coordinated on a national level to insure a planned and comprehensive system of resettlement services.

However, Senator INOUYE has raised the excellent point that HEW, which administers the larger share of refugee resettlement funds, should be responsible for this new program as well. Such consolidation of refugee programs is entirely appropriate and I commend the chairman for his suggestion. In order to achieve this goal, I offer the amendment.

Mr. MATHIAS. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that my full statement be printed in the RECORD, that Jack Robertson of Senator HATFIELD's staff be accorded the privilege of the floor, and that the Senator from Maryland (Mr. MATHIAS) may have a minute to ask a question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. I thank the Senator.

Mr. President, am I correct in assuming that this amendment will still allow HEW to administer the program through matching grants to voluntary agencies, as has been requested by the administration and as was stated in the House International Relations Committee report authorizing the program?

Mr. SCHWEIKER. That is correct.

Mr. MATHIAS. Is that the chairman's understanding?

Mr. INOUYE. Yes.

Mr. MATHIAS. I commend the voluntary resettlement agencies which have done such an excellent job of resettling refugees in our country with philanthropic dollars. I am hopeful that this new program of Federal assistance will enable them to continue their job in a planned and coordinated manner, and on a national level.

I also want to thank the chairman for his leadership role in the establishment of our refugee programs and for his many humanitarian efforts in this regard.

Mr. President, I think we can all agree with Senator INOUYE that we must have equity in the treatment of our refugees. One of the reasons that this program is so vital is that Soviet refugees currently receive no special Federal assistance for resettlement in the United States and are not eligible for the major HEW programs that are available to the Indochinese. In addition to the $350 that go to voluntary agencies for initial resettlement of the Indochinese, HEW will reimburse State welfare agencies an average of $850 per capita in fiscal year 1979 for cash, medical, and social service payments to the Indochinese, as well as sponsoring several major education and job training programs—including Indochinese physician recertification—which are open only to the Indochinese.

Since none of the HEW reimbursement or job training programs can be used by Soviet and other refugees not covered by the existing Federal refugee resettlement programs, American voluntary agencies have been absorbing almost the entire cost of resettling these refugees with philanthropic dollars.

REFUGEE RESETTLEMENT PROGRAM

● Mr. JAVITS. Mr. President, I am in complete sympathy with Senator Inouye's concern that all refugees entering the United States be treated equally. To do otherwise would hardly be an appropriate welcome to any refugee, and I believe all have been treated equally to this point and will be so treated in the future. I was especially gratified to learn of the interpretation of the Schweiker amendment by Senator Schweiker himself and Chairman Inouye that the private voluntary organizations that have been participating so effectively in the Soviet refugee resettlement program under the administration of the Department of State would, of course, also be participants in the resettlement program for these people under the administration of the Department of Health, Education, and Welfare. I believe that is essential to the success of this important and humanitarian program.●

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment (UP No. 1892) of the Senator from Pennsylvania (Mr. Schweiker).

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 1891) of the Senator from Hawaii, as amended.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

> On page 20, line 11, strike "$220,000,000" and insert "$309,643,124";

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair would advise the Senator that the yeas and nays have already been ordered. Is all remaining time yielded back?

Mr. INOUYE. I yield back any remaining time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 20, line 11. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LONG (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Delaware (Mr. Biden). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Alabama (Mrs. Allen), the Senator from Minnesota (Mr. Anderson), the Senator from Delaware (Mr. Biden), the Senator from Arkansas (Mr. Bumpers), the Senator from North Dakota (Mr. Burdick), the Senator from Mississippi (Mr. Eastland), the Senator from Colorado (Mr. Hart), the Senator from Colorado (Mr. Haskell), the Senator from Maine (Mr. Hathaway), the Senator from Arkansas (Mr. Hodges), the Senator from South Carolina (Mr. Hollings), the Senator from Kentucky (Mr. Huddleston), the Senator from New Hampshire (Mr. McIntyre), the Senator from North Carolina (Mr. Morgan), the Senator from New York (Mr. Moynihan), the Senator from Rhode Island (Mr. Pell), the Senator from Tennessee (Mr. Sasser), the Senator from Alabama (Mr. Sparkman), the Senator from Mississippi (Mr. Stennis), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. Ribicoff) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) and the Senator from North Carolina (Mr. Morgan) would each vote "yea."

Mr. HANSEN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bartlett), the Senator from Oklahoma (Mr. Bellmon), the Senator from Massachusetts (Mr. Brooke), the Senator from New Jersey (Mr. Case), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from California (Mr. Hayakawa), the Senator from North Carolina (Mr. Helms), the Senator from Idaho (Mr. McClure), the Senator from Illinois (Mr. Percy), the Senator from Delaware (Mr. Roth), the Senator from New Mexico (Mr. Schmitt), the Senator from Vermont (Mr. Stafford), the Senator from Alaska (Mr. Stevens), the Senator from Texas (Mr. Tower), the Senator from Wyoming (Mr. Wallop), and the Senator from North Dakota (Mr. Young) are absent on official business.

The result was announced—yeas 39, nays 20, as follows:

[Rollcall Vote No. 392 Leg.]

YEAS—39

Bayh
Bentsen
Byrd, Robert C.
Chafee
Chiles
Church
Clark
Cranston
Culver
Danforth
Dole
Durkin
Eagleton
Glenn
Gravel
Hatfield, Mark O.
Hatfield, Paul G.
Heinz
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Muskie
Nelson
Packwood
Pearson
Riegle
Sarbanes
Schweiker
Stevenson
Stone

NAYS—20

Byrd, Harry F., Jr.
Cannon
DeConcini
Domenici
Ford
Garn
Goldwater
Hansen
Hatch
Johnston
Laxalt
Melcher
Nunn
Proxmire
Randolph
Scott
Talmadge
Thurmond
Weicker
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Long, against.

NOT VOTING—40

Abourezk
Allen
Anderson
Baker
Bartlett
Bellmon
Biden
Brooke
Bumpers
Burdick
Case
Curtis
Eastland
Griffin
Hart
Haskell
Hathaway
Hayakawa
Helms
Hodges
Hollings
Huddleston
McClure
McIntyre
Morgan
Moynihan
Pell
Percy
Ribicoff
Roth
Sasser
Schmitt
Sparkman
Stafford
Stennis
Stevens
Tower
Wallop
Williams
Young

So the committee amendment was agreed to.

The PRESIDING OFFICER (Mr. Melcher). The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

> On page 23, line 4, strike "$424,400,000" and insert in lieu thereof "$500,000,000".

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, before we go to this amendment, I made a technical mistake. Senator Byrd will cover line 4 and line 5, and I made a technical mistake and meant to cover lines 22 through 25. I ask unanimous consent that we be able to consider that as the next in order amendment.

Mr. INOUYE. Will the Senator yield for a question?

Mr. HATCH. I certainly will.

Mr. INOUYE. Am I correct in assuming that the Senator has no objection to the amendment appearing on lines 4 and 5?

Mr. HATCH. Senator Byrd does, but I wanted to get a unanimous consent to go to lines 22 through 25. I will not speak to it. I would just ask for the vote.

Mr. INOUYE. Mr. President, I have no objection. I believe there is sufficient time because on this last vote we did not spend any time discussing the matter.

I ask unanimous consent, Mr. President, that the Senator from Utah be given 5 minutes to explain his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I yield to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the pending amendment would add $79 million for the International Development Fund. I feel that that Fund already has adequate sums in it. This committee amendment would be $79 million more than the House approved. I urge rejection of the committee amendment.

Mr. INOUYE. Mr. President, I hope the Senate will concur with the action taken by the committee. Of all the windows of all the international banks, this is the window bank that restricts itself solely to the poorest countries. This is the so-called soft window. I would hope that the Senate will concur with this.

The amount that we have requested is still below that requested by the administration. I grant you, Mr. President, that it does exceed that of the House.

We feel that the $500 million we have suggested will carry out the programs adequately.

Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New Hampshire (Mr. McINTYRE), the Senator from North Carolina (Mr. MORGAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS), are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF), is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from North Carolina (Mr. MORGAN) would each vote "yea."

Mr. HANSEN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. McCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 41, nays 22, as follows:

[Rollcall Vote No. 393 Leg.]

YEAS—41

Bayh
Bentsen
Chafee
Chiles
Church
Clark
Cranston
Culver
Danforth
DeConcini
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield, Mark O.
Hatfield, Paul G.
Heinz
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Muskie
Nelson
Nunn
Packwood
Pearson
Riegle
Sarbanes
Schweiker
Stevenson
Weicker
Williams

NAYS—22

Biden
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Dole
Domenici
Garn
Goldwater
Hansen
Hatch
Johnston
Laxalt
Long
Melcher
Metzenbaum
Proxmire
Randolph
Scott
Stone
Talmadge
Thurmond
Zorinsky

NOT VOTING—37

Abourezk
Allen
Anderson
Baker
Bartlett
Bellmon
Brooke
Bumpers
Burdick
Case
Curtis
Eastland
Griffin
Haskell
Hathaway
Hayakawa
Helms
Hodges
Hollings
Huddleston
McClure
McIntyre
Morgan
Moynihan
Pell
Percy
Ribicoff
Roth
Sasser
Schmitt
Sparkman
Stafford
Stennis
Stevens
Tower
Wallop
Young

So the committee amendment was agreed to.

UP AMENDMENT NO. 1893

Mr. McGOVERN. Mr. President, I ask unanimous consent that I be permitted to call up an amendment to the bill and speak on it for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Will the Senator yield for a unanimous-consent agreement without losing his right to the floor?

Mr. McGOVERN. I shall be happy to yield after the amendment is stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes an unprinted amendment numbered 1893.

Mr. McGOVERN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 14, strike the period, insert in lieu thereof a comma, and add the following "and except that the President may waive this prohibition with respect to any such country if he determines, and so reports to the Congress, that furnishing such assistance to such country would further the foreign policy interests of the United States."

Mr. LEAHY. Mr. President, I ask unanimous consent that the privilege of the floor be granted for the rest of the day to Robert Paquin of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I have discussed this with the distinguished managers of the bill, the Senator from Hawaii (Mr. INOUYE) and the Senator from Pennsylvania (Mr. SCHWEIKER). The amendment is nothing more than an effort to make the foreign assistance appropriations legislation consistent with authorizing legislation already enacted by the Congress. I am referring to prohibitions on direct aid to Angola and Mozambique. My amendment provides that the President may waive this prohibition with respect to either country if he determines, and so reports to the Congress, that furnishing such assistance to such country would further the foreign policy interests of the United States.

I say to the Senators that this is precisely the language of the amendment offered by Senator BYRD of Virginia and the waiver authority makes important sense in this part of the world. I think it is crucial that we give the President the authority that he needs to deal with the constantly changing circumstances in that part of the globe.

My amendment would make this provision consistent with an amendment to S. 3075, the International Security Assistance Act of 1978, which was offered by the distinguished Senator from Virginia (Mr. BYRD).

Mr. President, I believe it to be imperative that the President be given this flexibility in dealing with Angola and Mozambique, particularly if it would enhance the foreign policy interests of the United States.

I personally am opposed to the continuance of prohibitions on aid to Angola and Mozambique, but I also recognize the difficulty in lifting this restriction. In my estimation, by continuing the legislative prohibition on assistance to Angola and Mozambique, we only increase those nations' dependence on the Communist countries.

During the past year, relations with Mozambique have improved considerably. President Machel of Mozambique has publicly expressed his desire for closer ties with the United States in the economic, cultural, technical, and other fields. Mozambique is also seeking to attract U.S. private investment.

Although it has continued its close links with the Soviet Union and other Communist countries, Mozambique regards itself as a non-alined nation. It has been making a strong effort to broaden its ties with countries in the West and the Third World, an effort for which we should give every encouragement. It is important to note that Mozambique has not permitted any foreign country to establish military or naval bases on its soil, despite such a request from the Soviet Union that it be extended such rights.

Britain, Canada, Denmark, Norway, Sweden, and the Netherlands have already begun assistance programs in that country. If we are concerned over Mozambique's relations with communist countries, then the congressional restrictions present a puzzlement to President Machel who has difficulty understanding why his country is being singled out by the United States with an aid ban when he is seeking friendlier relations with us and other Western countries.

In the case of Angola, it is important for the President to be able to take advantage of the opportunities that exist to cooperate with that country on questions whose resolution is in the interest of both of us.

Efforts for a peaceful settlement of the Namibian question, in which the United States has been deeply involved for over a year, involved the cooperation of the Angolan Government. The Southwest African People's Organization has accepted the Western proposal for majority rule in Namibia. The Government of Angola, through its close relations with SWAPO, played a crucial role in this development.

The Angolans also responded to our concern over two invasions of the Shaba Province in Zaire which were launched by Katangan rebels from Angolan territory. Angola and Zaire have now agreed to the stationing of African observers along their border to help prevent future occurrences of this nature. The Angolan Government also announced that it would move Zairian refugees in Angola back from the Zaire border and that the Katangan forces would be disarmed. In addition, the Benguela Railway, which is economically vital to Zaire, is being reopened.

Now that these agreements on Namibia have been reached and relations between Angola and Zaire have been improved, the next challenge will be to effect their smooth implementation. To this end it is imperative that the U.S. Government not endanger its influence and contacts with the Angolan Government.

How does the prohibition on aid to Angola affect our policy? Against the background of the Brazzaville accord with Zaire, the prohibition severely limits even the provision of purely humanitarian aid to support, for example, the repatriation of refugees.

More fundamentally, however, the continuing prohibition could be taken by the Angolan authorities as a signal that the United States is not interested in improving its relationship with Angola and indeed might be taken as a signal of long-term hostility. This would bring into question whether it is in Angola's interest to cooperate with us. Moreover, the fact of the existence of the legislative prohibition denies U.S. negotiators even the possibility of indicating an interest on our part in some form of bilateral assistance which would be reflective of, or responsive to, continued cooperation with the U.S. Government on matters of mutual interest.

In conclusion, Mr. President, I simply reiterate that all this amendment does is to give the President the ability to waive the prohibitions on direct aid if he determines, and so reports to Congress, that this waiver will further our Nation's foreign policy interests. This will make it consistent with the authorizing legislation already enacted by Congress, and insure the necessary flexibility for the President in pursuing the best interests of the United States.

At present, Mr. President, the administration has no plans to provide aid to Mozambique or Angola, but I think we should not restrict the President's flexibility in any event. This language would make the appropriations bill conform to the language that we previously approved in regard to the authorization bill. I hope the amendment will be accepted.

Mr. INOUYE. Mr. President, as manager of this bill, I am pleased to accept the amendment.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. McGOVERN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment was agreed to.

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to day on the table was agreed to.

The PRESIDING OFFICER. Pursuant to the request of the Senator from Utah, the vote on the committee amendment on page 23, lines 22 through 25, has been vitiated, and the clerk will state the amendment.

The assistant legislative clerk read as follows:

> On page 23, line 22, after the word Code, strike the colon and *Provided further*, That none of the funds appropriated or otherwise made available by this paragraph shall be obligated or expended to finance any assistance or reparations to the Socialist Republic of Vietnam.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I do not want to take very much time. All I want to bring up is that during the earlier debate in the House, Congressman YOUNG of Florida had offered an amendment prohiibting indirect assistance to Vietnam, among other countries. He had pointed out that, although no direct assistance was being given to Vietnam by the United States, the former had received money through UNICEF and it had a 50-year program under UNDP. In addition, the World Bank was supposed to consider shortly the first of five soft loans to Vietnam. The amendment had failed by five votes.

We found out later when he did bring up the amendment banning U.S. funds from being used by the World Bank's International Development Association to aid Vietnam, he cited the fact that in the intervening period the World Bank had approved the first of the five loans to Vietnam. Then he quoted a newspaper article as suggesting that "McNamara had held off presenting the loan until after the House had spoken on the foreign aid bill."

Of course, when they finally got this amendment in, it was approved in the House by a vote of 234 to 152, but later dropped by the Senate Appropriations Committee.

So I just recommend my fellow Senators vote to keep the House language in. I think that it is worthy of being kept in.

I thank the distinguished Senator from Hawaii for allowing me to bring this up at this time.

Mr. INOUYE. I am sorry, but I cannot concur with the argument submitted by my good friend from Utah.

If the proposition presented by the Senator from Utah were to prevail, it would most certainly jeopardize our continued participation in international banks.

I would like to point out that we are dealing with international banks, where for every dollar we put in, at least $3 comes from other donors. We cannot impose a condition upon other donors.

If we should vote for such a condition, then all other donors would be almost forced to impose their own conditions. With such conditional donations, the international banks would soon go out of existence.

So if we do believe in multilateral assistance, if we do believe in international banks, then I would urge my colleagues to support the committee amendment. To do otherwise would be to destroy international banks.

SEVERAL SENATORS. Vote.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HATCH. Yes.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New Hampshire (Mr. McINTYRE), the Senator from North Carolina (Mr. MORGAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. HANSEN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. McCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the

Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 32, nays 31, as follows:

[Rollcall Vote No. 394 Leg.]

YEAS—32

Chafee
Chiles
Church
Clark
Cranston
Culver
Danforth
Durkin
Eagleton
Glenn
Gravel
Hart
Hatfield, Mark O.
Hatfield, Paul G.
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Mathias
Matsunaga
McGovern
Metzenbaum
Muskie
Nelson
Packwood
Pearson
Riegle
Sarbanes
Stevenson
Williams

NAYS—31

Bayh
Bentsen
Biden
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
DeConcini
Dole
Domenici
Ford
Garn
Goldwater
Hansen
Hatch
Heinz
Johnston
Laxalt
Long
Lugar
Magnuson
Melcher
Nunn
Proxmire
Randolph
Schweiker
Scott
Stone
Talmadge
Thurmond
Weicker
Zorinsky

NOT VOTING—37

Abourezk
Allen
Anderson
Baker
Bartlett
Bellmon
Brooke
Bumpers
Burdick
Case
Curtis
Eastland
Griffin
Haskell
Hathaway
Hayakawa
Helms
Hodges
Hollings
Huddleston
McClure
McIntyre
Morgan
Moynihan
Pell
Percy
Ribicoff
Roth
Sasser
Schmitt
Sparkman
Stafford
Stennis
Stevens
Tower
Wallop
Young

So the committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 24, beginning with line 7, insert the following:

FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

It is the sense of the Congress that the United States share of contributions to future replenishments of the International Financial Institutions should not exceed the percentages enumerated below for each of the respective accounts within these institutions:

Asian Development Bank:
Paid-in capital, 16.3 percent;
Callable capital, 16.3 percent;
Asian Development Fund, 22.2 percent;
African Development Bank:
Special Fund, 18 percent;
Inter-American Development Bank:
Paid-in capital, 34.5 percent;
Callable capital, 34.5 percent;
Fund for Special Operations, 40 percent;
International Bank for Reconstruction and Development:
Paid-in capital, 24 percent;
Callable capital, 24 percent;
International Development Association, 25 percent;
International Finance Corporation, 23 percent.

Mr. HATCH. Mr. President, I withdraw my amendment to this section and will accept it the way it is.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

On page 29, line 9, strike "or indirectly";

Mr. HATCH. Mr. President, I am not going to take much time talking about this, but I hope my colleagues will support me in voting against the committee amendment, which would provide for funds to Cuba, at this particular point in our foreign relations with Cuba, especially since Cuba has been making a shambles of Africa and other areas of the world, including South Yemen.

I do not see any reason to say much more, other than that I think we should vote against the committee amendment in this situation, which strikes "or indirectly," so that Cuba can be helped indirectly.

I think that is the way we should vote. I was very disappointed on the last vote. So I ask my colleagues to please vote with us on this committee amendment, in stopping funds from going to Cuba at this time in our foreign relations with Cuba.

Mr. INOUYE. Mr. President, this amendment will also mean that whatever contributions we make to any bank or to any international institution will be a conditional contribution. These international organizations and international banks, cannot legally accept a conditional contribution.

If we were to establish this precedent of making a conditional contribution, it would almost certainly force every other contributing country to do the same. At the present time, countries that have joined in international organizations, such as the United Nations, have not placed conditions on their contributions.

Can you imagine what would happen if country A should say, "We will contribute to this function, provided Egypt, Israel, and Syria cannot benefit from this"; and country B comes forward and says, "We will contribute, provided Columbia, Guatemala, and Peru may not benefit from this provision"?

Mr. President, the multinational effort on the part of the countries of the world would be in absolute shambles. I hope the committee amendment is upheld.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. INOUYE. I am happy to yield.

Mr. SCOTT. Mr. President, I ask this question of the distinguished floor manager of the bill: Are we not indirectly contributing toward communism by the committee amendment?

Mr. INOUYE. We are contributing indirectly and directly to democratic causes.

Mr. SCOTT. But in response to my specific question, by giving to an international organization that is making loans or grants to Cuba or to Vietnam or to Communist governments, are not we really furthering communism in the world?

Mr. INOUYE. We are indirectly assisting, according to the Senator's definition, Communist organizations. But, I would contend that we are supporting democratic causes. If the Senate favors conditional contributions, then we might as well get out of all international organizations.

Mr. SCOTT. I think that is something worthy of consideration. But I am just restricting the matter at this time to our monetary contribution to the Communist cause when the taxpayers do want taxes reduced.

I appreciate the candor of the distinguished Senator.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. SCOTT. I yield.

Mr. JAVITS. Mr. President, we loan money to the Soviet Union, the biggest Communists of all. Our banks loan them money, as a matter of fact, and we do considerable trade with them, though not on the most favored nations basis, and Communist countries like Poland, Hungary, and Romania have other types of prime consideration with us.

Is it not a fact that we not only have to get out of all these international institutions which we believe right now are helping to keep the world together but we will have to sever all of these relations and simply have an absolute wall just like the Iron Curtain, if that is the way we are going to operate, and we have already taken that decision. We have taken it for years. So, what is the use in flyspecking it now and just trying to embarrass and encumber it?

That is why I believe on the whole the Senate on the last vote and I hope on this one will stand with the chairman on the committee.

Mr. SCOTT. Mr. President, if the Senator will yield briefly, when we are speaking of millions of dollars those are not fly specks.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from North Carolina (Mr. MORGAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. HANSEN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. McCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 32, nays 30, as follows:

[Rollcall Vote No. 395 Leg.]

YEAS—32

Byrd, Robert C.
Chafee
Chiles
Church
Clark
Cranston
Culver
Danforth
Durkin
Glenn
Gravel
Hatfield, Mark O.
Hatfield, Paul G.
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Muskie
Nelson
Packwood
Riegle
Sarbanes
Stevenson
Weicker
Williams

NAYS—30

Bayh
Bentsen
Biden
Byrd, Harry F., Jr.
Cannon
DeConcini
Dole
Domenici
Eagleton
Ford
Garn
Goldwater
Hansen
Hatch
Heinz
Johnston
Laxalt
Long
Lugar
Melcher
Nunn
Pearson
Proxmire
Randolph
Schweiker
Scott
Stone
Talmadge
Thurmond
Zorinsky

NOT VOTING—38

Abourezk
Allen
Anderson
Baker
Bartlett
Bellmon
Brooke
Bumpers
Burdick
Case
Curtis
Eastland
Griffin
Hart
Haskell
Hathaway
Hayakawa
Helms
Hodges
Hollings
Huddleston
McClure
McIntyre
Morgan
Moynihan
Pell
Percy
Ribicoff
Roth
Sasser
Schmitt
Sparkman
Stafford
Stennis
Stevens
Tower
Wallop
Young

So the committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 31, beginning with line 8, strike through and including line 16.

Mr. HATCH. Mr. President, I do not have any objection to this amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment. The yeas and nays have been ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection to vitiating the yeas and nays? The Chair hears none, and it is so ordered. The yeas and nays are vitiated. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1894

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 1894:

On page 8, line 7, strike out all that appears after the words "Provided further," down to and including the end of the word "program" on line 9, and substitute in lieu of the language stricken out the following new language:

"That not more than $45,000,000 shall be available for the Southern Africa Program, of which not to exceed $5,000,000 shall be available for refugee assistance through the Red Cross in Rhodesia".

Mr. HATCH. Mr. President, this amendment does not increase the appropriations at all, but it does earmark $5 million of those funds to be available for refugee assistance through the Red Cross in Rhodesia. Therefore, I ask my colleagues to consider this amendment and vote with us on it.

I am prepared to yield back the time.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

Mr. MAGNUSON. Mr. President, it has been mentioned here on many occasions during the course of this debate, but I think the RECORD should show, as shown in the report on page 1, that the budget estimate for this function for the fiscal year was $10.3 billion. The House-passed bill was $7.1 billion. The Senate bill as reported was $9.2 billion.

Over the 1978 appropriations, the bill is $2.438 billion, and it is still under the budget by $1.185 billion.

The main reason for that is the item involving the new venture in international loans, which was $1.8 billion; is that correct?

Mr. INOUYE. $1.831 billion.

Mr. MAGNUSON. And that came afterwards?

Mr. INOUYE. The Senator is correct.

Mr. MAGNUSON. So the committee ought to be complimented on the fact that without that particular unusual item, we would have been more than $3 billion under the original budget estimate.

Mr. INOUYE. The Senator is correct.

UP AMENDMENT NO. 1895

Mr. HATCH. Mr. President, I withdraw my prior amendment and send a modified amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. METZENBAUM). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 1895:

On page 8, line 8, insert the following: after $45.000.000 insert the following: "Of which sum $5.000.000 shall be for refugee assistance through International Relief Organizations in Rhodesia.".

Mr. HATCH. Mr. President, it is my understanding that with that modification, the managers of the bill will accept the amendment. Therefore, I shall not speak to it further.

Mr. INOUYE. Mr. President, although the amendment is subject to a point of order, the intent is excellent, and the managers are prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 1895) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1896

(Purpose: Provide $3 million for American Schools and Hospitals Abroad program to be used only for exchange of Israeli and Arab students)

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The Senator from Hawaii (Mr. INOUYE) proposes an unprinted amendment numbered 1896:

On page 4, line 13, after "$25.000,000" and before the period insert the following: ": *Provided*, That $3,000,000 shall be available only for support of Israeli students studying in American sponsored centers of learning in the Arab countries and Arab students studying in American sponsored centers of learning in Israel".

Mr. INOUYE. Mr. President, the American schools and hospitals abroad program has, over the years, been a valuable adjunct to our foreign assistance program. Throughout the world, schools, libraries, and hospitals which were founded or sponsored by U.S. citizens have served as study or demonstration centers for ideas and practices of the United States. As you know, many of the institutions which have received financial support through the American schools and hospitals abroad program are located in the Middle East.

It has occurred to me that the Camp David conference has presented us with a unique opportunity to foster peace and understanding in the Middle East. I would suggest that the American schools and hospitals abroad program, which is designed to give exposure to American ideas and practices, provides us with a most appropriate way of encouraging understanding in the Middle East.

Accordingly, I wish to propose an amendment which would provide that $3 million of the funds appropriated for the American schools and hospitals abroad program shall be available only for an exchange of Israeli and Arab students. My amendment would make these funds available as support for Arab students who are invited to study at American sponsored centers of learning in Israel and Israeli students who are invited to study at American sponsored centers of learning in the Arab countries.

Mr. President, I believe that this student exchange program will foster a spirit of cooperation and understanding among the future leaders of the nations of the Middle East. I would urge my colleagues in the Senate to give their support to this initiative.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, this is a good amendment, and I commend the chairman. I think it is in the spirit of Camp David. We are opening a new era in the Middle East, hopefully a very successful one. This brings in that new era with a constructive new program, and I commend the chairman for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (UP No. 1896) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 1897

Mr. INOUYE. Mr. President, in behalf of the senior Senator from Alabama (Mr. SPARKMAN) I am pleased to submit an amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE), for the Senator from Alabama (Mr. SPARKMAN), proposes an unprinted amendment numbered 1897:

On page 2, line 2, after the period insert the following: *"Provided,* That $4,000,000 shall be available for the establishment of an Institute of International Medicine.".

Mr. INOUYE. Mr. President, this amendment would establish an Institute of International Medicine, and I believe that it is deserving of our most serious consideration, and hopefully our support. Senator SPARKMAN, who has served the U.S. Senate for many years and has been our wise counsel as chairman of the Senate Foreign Relations Committee, will be retiring, and I believe this is an appropriate monument to his efforts to assist the underprivileged, the ill-housed, and the sick of this world.

I ask unanimous consent that Senator SPARKMAN's statement be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR SPARKMAN

AN AMENDMENT TO ESTABLISH AN INSTITUTE OF INTERNATIONAL MEDICINE

Human illness knows no national boundaries. While the incidence of certain diseases distinctly varies from one part of the world to another, all people generally are susceptible to all illnesses, given the appropriate circumstances.

Throughout history, it has been the poor who have been the most susceptible to the debilitating effects of illness, and the developing nations, with many poor, have suffered a much higher incidence of most diseases among their population than have those living in industrialized nations. Traditionally, the more effluent nations have made impressive efforts to alleviate these problems plaguing the peoples of other nations. The United States, most notably, has worked to alleviate the illness and suffering among the citizens of poorer countries.

It is for this reason that I am offering an amendment to H.R. 12931, an Act making appropriations for Foreign Assistance and related programs for fiscal year 1979. The purpose of my amendment is to establish a model program specifically designed to promote a better understanding of the nature of the incidence of disease in developing countries and to facilitate more effective treatment and prevention of such diseases.

Within poor countries there are two broad categories of illness. There are those attributed to infections and those resulting from poor nutrition. Yet, they are interrelated. Furthermore, many of these diseases afflict animals which are a major source of food in many of the developing countries.

In the past, these infections have been placed in the broad category of "tropical disease," a term now recognized as a misnomer if judged by the sole criteria of climate or geography. Nevertheless, it is that general category of diseases which still ravages entire nations (India, for example) and even continents (Africa especially).

While there is every humanitarian reason for the United States to assist in addressing these problems, there is also a powerful array of pragmatic reasons for helping the less developed nations of the world.

At the University of Alabama Medical Center in Birmingham there are both a tradition and history of such service. An internationally reknowned center for the study and treatment of cardiovascular disease, the University also offers strong programs in cancer, genetics, nutrition, immunology and many related fields which can be effectively applied in seeking new forms of disease treatment and prevention in developing countries. Today, patients come to Birmingham from all over the world for special care, and there are numerous programs for the training of physicians and scientists who then return to their countries with new knowledge and skills.

My amendment is directed at not only the preservation and enhancement of existing programs but also the expansion of new ones. It is not only a moral obligation for richer nations to help those less fortunate than ourselves, it is an equally pressing obligation for those with the intellectual and technological resources to share these resources. To that end the University of Alabama proposes to expand programs addressing such global problems as hypertension and arteriosclerosis and implement new programs addressed to research in "tropical diseases," such as malaria and Chagas disease. Special capabilities exist at this institution to study the biochemical, immunological and, eventually, the therapeutic aspects of these and similar illnesses which are presently so prevalent in so many poor countries.

Methods of improving nutrition as it relates to the preservation of health and resistance to disease will be a specific focus of the new work. It would be naive to ignore the economic and sanitary deficiencies which contribute to all "tropical diseases," or to think that a pill or a shot would eliminate all suffering from such illnesses. Nevertheless, it is a recurring lesson in the history of medical science that broad, meaningful and lasting advances are inextricably linked to successful research into fundamental biological processes which underlie all aspects of both health and disease.

Some research will require travel to, and living within, areas where the target diseases are especially prevalent. However, the scientific questions and puzzles of many "tropical diseases" are sufficiently clear and the research necessary for their solution is suitably and, perhaps, more effectively accomplished in centers of existing research excellence.

These endeavors will also require an exchange of scholars and scientists and periodic reviews of the state of knowledge will also require international collaboration. Training of foreign scientists, who have been carefully selected, will be undertaken, while the experience and training for University of Alabama Medical Center scientists can be arranged in appropriate centers and countries abroad.

Two examples of scientific subjects to be addressed at the University of Alabama Medical Center's proposed Institute of International Health are the immunology of malaria and the pathophysiology of cardiac damage by Chagas disease. Malaria remains the main cause of death in many developing countries. It is carried by the mosquito and human attractiveness for the mosquito varies widely. Some individuals are never bitten, and it is the basis for this trait that requires careful study. However, when an individual is infected, he or she develops a variety of cellular responses which have an immunologic basis; the cellular and molecular mechanisms of these responses require investigation.

Chagas disease especially affects the heart and is a major cause of disability and death in South America. Scientists in Birmingham have a special capability to study all components of this cardiac involvement with the goal of improving treatment and prevention of this particular effect of Chagas disease. Many viruses are widely prevalent among the peoples of poor countries especially, and are responsible for hepatitis and encephalitis, the latter causing loss of mental faculties or death. Scientists in Birmingham are already examining the basis of some of these viral problems, and expansion of this effort is planned.

For the pursuit of these goals and the establishment of the Institute, an initial funding base of $4,000,000 to be appropriated through the Agency for International Development is called for in my amendment. Additional funding necessary for the Center will be sought from foundations and other sources. The initial four million dollar appropriation will be utilized to meet three categories of funding required to establish the institute at the University of Alabama. The first of these categories is $10,000,000 for the construction of suitable physical facilities, to include research laboratories and space for teaching and conferences. The second category is five million dollars for the alteration and renovation of existing physical facilities, and for the equipping of all activities of the Institute. The third category is two million dollars, which would be required for the annual operation of the Institute.

Alabama is the native home of William Crawford Gorgas, one of the pioneers in successful research on "tropical diseases." Walter Reed was based in our state for some time. Tom Spies conducted much of his famous research on nutrition problems of the South at the same hospital which is now the clinical base of the University of Alabama Medical Center. This rich heritage of humanitarian research into problems afflicting the health of all people, but especially those of poorer nations, offers a stimulating and inspirational challenge to those who, today, chose to pursue these same goals. The Institute of International Medicine at the University of Alabama Medical Center will exist as tangible evidence of the continued dedication by the United States to alleviate suffering by citizens of all nations.

For these reasons, I am particularly hopeful that this amendment will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP amendment No. 1897) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there is no further amendments——

Mr. THURMOND. Just a minute, Mr. President.

UP AMENDMENT NO. 1898

(Purpose: Make available for fiscal 1979 unobligated balances of funds previously appropriated for International Disaster Assistance, Middle East Special Requirements Funds and U.S. Emergency Refugee and Migration Assistance Fund)

Mr. INOUYE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE) proposes an unprinted amendment numbered 1898:

On page 14, after line 9, insert the following: "SEC. 103. Unobligated balances as of September 30, 1978, of funds heretofore made available under the authority of the Foreign Assistance Act of 1961, as amended, for "International disaster assistance," "Middle East special requirements fund," and "United States emergency refugee and migration assistance fund" are hereby continued available for the fiscal year 1979, for the same appropriation account and for the same purposes for which appropriated.".

Mr. INOUYE. Mr. President, the purpose of this amendment is to make available for fiscal year 1979 the unobligated balances of funds which were previously appropriated for "international disaster assistance," "Middle East special requirements fund," and "U.S. emergency refugee and migration assistance fund."

I would note that each of these three accounts provides funds for emergency or unforeseen requirements. In establishing these accounts, the Congress expected that they would be reserved for emergencies or, in the case of the Middle East special requirements fund, "special requirements arising from time to time * * *." It may, therefore, be anticipated that there will be unobligated balances in these accounts, and it is both practicable and desirable to continue the availability of these funds.

In particular, Mr. President, I would note that the committee has recommended in its report that a portion of the funds currently available in the Middle East special requirements fund be used to finance projects which encourage scientific, technological or agricultural cooperation among the states of the Middle East. By continuing the availability of these funds into fiscal year 1979, my amendment would afford the Agency for International Development the opportunity to identify appropriate regional projects for funding in the coming fiscal year.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

The PRESIDING OFFICER. If there be no further amendments——

UP AMENDMENT NO. 1899

Mr. SCHWEIKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes an unprinted amendment No. 1899.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 30, between lines 18 and 19, insert the following:

"The President shall initiate wide international consultations beginning with the member nations of the Organization of Economic Cooperation and Development (OECD), designed to develop a viable standard governing the allocation of development assistance for the production and export of commodities. Such consultations shall relate to commodities which are in surplus in the world market and if produced for export would cause substantial harm to producers of the same, similar or competing products.

"Not later than one year after the enactment of this act the President shall report to the President of the Senate, the Speaker of the House of Representatives, and the Chairman of the House and Senate Appropriations Committees on the progress made in carrying out this section.".

Mr. SCHWEIKER. Mr. President, the amendment I am offering simply calls on the President to initiate discussions relative to the allocation of development assistance for the production and export of commodities. The purpose of my amendment is that hopefully through such discussions development assistance from donor countries would be such that serious disruptions of world markets by the overproduction of particular commodities would not occur. As my colleagues are well aware, there have been many attempts by Congress to limit our own foreign assistance so that it would not provide production capabilities which would harm our producers. I would hope that the passage of my amendment would eventually lead to some kind of a concensus by the donor countries so that serious disruptions of world markets would not occur.

This is also to hold off people from coming in with certain amendments to protect a certain product, which I have opposed, and yet it does provide that they have to take into account what the supply and demand of a product is and to have some kind of world consensus so that we will not injure a country by the over-production of a certain commodity. I hope the chairman of the committee will accept the amendment.

Mr. INOUYE. The chairman accepts the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

SYRIA AND LEBANON

● Mr. CRANSTON. Mr. President, the $90 million in this bill for economic aid to Syria should not be interpreted as Senate endorsement for the role Syria has played in the bloody Lebanese conflict. On the contrary, Syrian troops in Lebanon have overreacted and have helped to perpetuate the violence in that strife-torn country by indiscriminately killing and injuring thousands of civilians and by destroying property.

In the spirit of Camp David, I have not believed that the Senate should strike the economic assistance for Syria from the bill. I do believe, however, that the Syrians should consider themselves on notice that further atrocities committed by the Syrian Army in the name of peacekeeping will only escalate the conflict and intensify the suffering of the people of Lebanon. I support President Carter's call for a joint effort to bring about an end to the violence and bloodshed in Lebanon.

I fervently hope that Syria will recognize the constructive part it can uniquely play and begin to cooperate in a meaningful effort to restore peace to Lebanon.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments, and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. HARRY F. BYRD, JR. Mr. President, the bill which the Senate will vote on in a moment provides $9.202 billion for foreign assistance and related programs. That figure compares with $6.763 billion which is being spent in the current fiscal year. That is an increase for the upcoming year of $2.4 billion over the amount being spent this year. That is not the total of transfers of U.S. resources to foreign nations.

On page 5 of the committee report, it shows that for the fiscal year 1977, $9.649, billion was transferred to foreign nations; for fiscal year 1978, the figure was $14 billion, and for the upcoming year, fiscal 1979, the report shows that the transfer of U.S. resources to foreign nations will total $15.842 billion.

Mr. President, I shall vote against this bill, as I think it is entirely too high.

I ask unanimous consent that the cover page of the committee report in its entirety be printed in the RECORD at this point, to be followed by table I on page 5, captioned "Transfer of U.S. Resources to Foreign Nations."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORT NO. 95–1194—FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATION BILL, 1979

September 15 (legislative day, August 16), 1978.—Ordered to be printed

(Mr. INOUYE, from the Committee on Appropriations submitted the following report to accompany H.R. 12931.)

The Committee on Appropriations, to which was referred the bill (H.R. 12931) making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes reports the same to the Senate with amendments and submits the following explanation of its recommendations.

Amounts in new budget authority

Fiscal year 1978 appropriations	$6,763,873,000
Fiscal year 1979 amended budget estimate	10,387,760,919
Amount of bill as passed House	7,176,722,653
Amount of bill as reported to Senate	[1] 9,202,456,072
Bill as recommended to Senate compared to:	
1978 appropriations	+2,438,583,072
Amended budget estimate	−1,185,304,847
House action	+2,025,733,419

[1] Items considered by Senate, but not considered by House total $1,943,440,000.

TABLE I.—TRANSFER OF U.S. RESOURCES TO FOREIGN NATIONS [1]

	Fiscal year—		
	1977 (actual)	1978 (estimated)	1979 (proposed)
Military and supporting assistance	$2,255,661,000	$2,598,669,000	$2,398,945,000
Economic assistance	5,963,180,000	7,349,697,000	8,096,117,000
Grand total foreign assistance	8,218,841,000	8,948,366,000	10,495,062,000
Export-Import Bank	1,430,638,000	4,148,842,000	5,347,345,000
Total (including Export-Import Bank)	9,649,479,000	14,097,208,000	15,842,407,000

[1] Does not reflect budget amendments submitted after June 13, 1978.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, before the vote I would like to acknowledge the most conscientious and helpful assistance given me throughout the year by my distinguished friend from Pennsylvania (Mr. SCHWEIKER). It has been a pleasure working with him.

I would also like to recognize and thank members of the staff: Mr. James Bond, Mr. Bill Jordan, Mr. Richard Collins, and Miss Helen Dackis, for patiently and most conscientiously assisting the subcommittee and the committee in bringing this bill to this final stage. I believe the staff people are deserving of the highest commendation by the Senate.

Mr. SCHWEIKER. Mr. President, I commend Chairman INOUYE for his leadership in this field and the fact that he has been so fair and evenhanded in working out this bill, with all of its difficult problems. I commend him for his interest in the country and his interest in our national policies, as well as a combination of individual Senators.

I, too, want to thank Bill Jordan, Richard Collins, Helen Dackis, and Jim Bond for their help.

Mr. THURMOND. Mr. President, I commend the able Senator from Hawaii and the able Senator from Pennsylvania for their leadership in handling this bill, and handling it in such a skillful manner. I want to say, however, that I expect to vote against this bill. I do not believe the American people, if they had a chance to vote on this bill, would vote for it.

I think it is absolutely inexcusable that we would supply aid in any shape or form to Cuba, Vietnam, or any other Communist country. This bill has such provisions. I am disappointed in the bill in that respect. I would like to help some of these other countries which are deserving, those which stay with us and upon whom we can count.

But on account of the situation being what it is, all these countries are lumped together in this bill. For that reason we will not have the opportunity to vote for the countries we would like to help and vote against the Communist countries getting aid here. I shall cast my vote against the bill.

Mr. President, I ask unanimous consent that at this point in my remarks the staff prepare a list of the Communist countries that are getting aid under this bill and that it appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The material supplied for the RECORD follows:

Direct U.S. aid to Communist countries is prohibited by law.

Communist countries receiving assistance by this act through the International Financial Institutions are Vietnam, Yugoslavia, Romania, and Laos.

In addition, funds go to some Communist countries through the United Nations, but a list of those countries was not available for publication in today's RECORD.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I would like to add my thanks and appreciation to the able chairman and the ranking member of the committee.

The Senator from Hawaii has been very tolerant with the members of this committee who have certain views in certain areas of foreign assistance. He should be commended very highly for his willingness to be fairminded and listen to the approaches of all people and then exercise his judgment. I compliment the chairman for that.

The PRESIDING OFFICER. The question is on passage of the bill, as amended. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from North Carolina (Mr. MORGAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

On this vote, the Senator from Connecticut (Mr. RIBICOFF) is paired with the Senator from North Dakota (Mr. BURDICK).

If present and voting, the Senator from Connecticut would vote "yea" and the Senator from North Dakota would vote "nay."

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN), the Senator from Rhode Island (Mr. PELL), and the Senator from Iowa (Mr. CULVER) would each vote "yea."

Mr. HANSEN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS), the Senator from New Mexico (Mr. SCHMITT), and the Senator from North Dakota (Mr. YOUNG) would vote "nay."

The result was announced—yeas 39, nays 22, as follows:

[Rollcall Vote No. 396 Leg.]

AYES—39

Bayh
Bentsen
Biden
Chafee
Chiles
Church
Clark
Cranston
Danforth
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield, Paul G.
Heinz
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Muskie
Nelson
Packwood
Pearson
Riegle
Sarbanes
Schweiker
Stone
Weicker
Williams

NAYS—22

Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
DeConcini
Dole
Domenici
Garn
Goldwater
Hansen
Hatch
Hatfield, Mark O.
Johnston
Laxalt
Long
Melcher
Nunn
Proxmire
Randolph
Scott
Talmadge
Thurmond
Zorinsky

NOT VOTING—39

Abourezk
Allen
Anderson
Baker
Bartlett
Bellmon
Brooke
Bumpers
Burdick
Case
Culver
Curtis
Eastland
Griffin
Haskell
Hathaway
Hayakawa
Helms
Hodges
Hollings
Huddleston
McClure
McIntyre
Morgan
Moynihan
Pell
Percy
Ribicoff
Roth
Sasser
Schmitt
Sparkman
Stafford
Stennis
Stevens
Stevenson
Tower
Wallop
Young

So the bill (H.R. 12931), as amended, was passed.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 12931.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. Metzenbaum) appointed Mr. Inouye, Mr. Proxmire, Mr. Chiles, Mr. Johnston, Mr. Leahy, Mr. DeConcini, Mr. Magnuson, Mr. Schweiker, Mr. Brooke, Mr. Mark O. Hatfield, Mr. Mathias, and Mr. Young conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator from Hawaii (Mr. Inouye) and the Senator from Pennsylvania (Mr. Schweiker). I also commend them on the skillful and patient and knowledgeable manner in which they have managed this difficult bill.

It is not a popular bill with Members of the Senate. I have not voted for it in years. But it is a bill that has to be acted on, and the Senator from Hawaii knows if my vote were needed to pass this bill I would vote for it to keep it from being defeated.

It is a difficult bill. It is a complex bill. But on this occasion, as on all previous occasions, the manager of the bill (Mr. Inouye) and the ranking minority Member (Mr. Schweiker) have demonstrated the kind of expertise and knowledge that is absolutely imperative if the Senate is to understand the legislation and if the legislation is to be meaningful and is to pass.

They have also demonstrated the finest kind of cooperation and teamwork, which is an absolute necessity in the passage of a bill of this nature.

I congratulate them again and express my personal thanks to both of them.

Mr. INOUYE. Mr. President, I thank the leader for his kind remarks.

Mr. SCHWEIKER. I, likewise, thank the Senator.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business for not to extend beyond 30 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:52 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House recedes from its disagreement to the amendment of the Senate to the concurrent resolution (H. Con. Res. 683) to revise the congressional budget for the U.S. Government for the fiscal year 1979, and concurs therein with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 10965. An act to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation".

The message also announced that the House agreed to the following concurrent resolution in which it requests the concurrence of the Senate:

H. Con. Res. 715. A concurrent resolution commending President Carter of the United States, President Sadat of Egypt, and Prime Minister Begin of Israel for the courageous steps they have taken to resolve the differences between Egypt and Israel and to bring about a comprehensive, just, and durable peace in the Middle East.

At 5:20 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House agrees to the amendment of the Senate to the bill (H.R. 11291) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the U.S. Fire Administration, and concurs therein with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 2493) to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

HOUSE BILL HELD AT THE DESK

The following bill was read by its title and held at the desk pursuant to the order of September 18, 1978:

H.R. 10965. An act to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation".

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read by its title and referred as indicated:

H. Con. Res. 715. A concurrent resolution commending President Carter of the United States, President Sadat of Egypt, and Prime Minister Begin of Israel for courageous steps they have taken to resolve the differences between Egypt and Israel and to bring about a comprehensive, just, and durable peace in the Middle East; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 141. A bill for the relief of Doctor Orlando Fusilero Bravo (95–1209).

S. 148. A bill for the relief of Dr. Laurence T. Gayao, his wife, Edith Gayao, and their child, Lorraine Gayao (95–1210).

S. 152. A bill for the relief of Loi Lin Irene Chung (Tsui) (95–1211).

S. 953. A bill for the relief of Marcelino S. Silva and his wife, Emilie M. Silva (95–1212).

S. 1398. A bill for the relief of Jin Suk Park (95–1213).

S. 2349. A bill for the relief of Margaret Perry (95–1214).

S. 2677. A bill for the relief of Ching Wu Wang (95–1215).

S. 2834. A bill for the relief of Kyung Hee Kim, Dong Choon Kim, and Dong Ho Kim (95–1216).

S. 2841. A bill for the relief of Yang Soo Ko (95–1217).

S. 3042. A bill for the relief of Mary Jo Natividad and Regina Natividad (95–1218).

S. 3066. A bill for the relief of Yom Chong Ok (95–1219).

S. 3124. A bill for the relief of Douglas Jagdish Degenhardt (adoptive name) (95–1220).

Mr. EASTLAND, from the Committee on the Judiciary, with amendments and an amendment to the title:

S. 135. A bill for the relief of Leung, Tak-Ming (95–1221).

Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 144. A bill for the relief of Samuel S. H. Leung, his wife Carol O. K. Leung, and his sons, Johnny C. Y. Leung and Jimmy C. M. Leung (95–1222).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S. 1701. A bill for the relief of Narciso Michelina (95–1223).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 1778. A bill for the relief of Luzbella Y. Imasa, doctor of medicine (95–1224).

S. 2203. A bill for the relief of Dr. Cosme R. Cagas, his wife, Linda San Diego Cagas, and his children, Elcee Cagas, Chess Cagas, Georgina Cagas, and Chester Cagas (95–1225).

S. 2315. A bill for the relief of Savita Nandini (95–1226).

S. 2421. A bill for the relief of Shyy Wen-Huei (95–1227).

S. 2446. A bill for the relief of Caroline Valdez Sulfelix (95–1228).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S. 2451. A bill for the relief of Cho Tung Tang (95–1229).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 2670. A bill for the relief of Janet Abraham, also known as Janet Susan Abraham (95–1230).

S. 2671. A bill for the relief of Masami Yamada (95–1231).

S. 3051. A bill for the relief of Tsutomu Tanaka (95–1232).

S. 3106. A bill for the relief of Debbie Agatta Hepburn (95–1233).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S. 3114. A bill for the relief of Shavji Purshottam Dusara, Vasanti Mohanlal Gajjar Dusara, and their three children, Shareed, Mehul, and Saloni Dusara (95–1234).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 3169. A bill for the relief of Rocio Edmondson (95–1235).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 566. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3392. Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the following nominations for the Army: Lt. Gen. David E. Ott (age 55) and Rolland V. Heiser (age 53) to be placed on the retired list in that grade and Maj. Gen. John F. Forrest, Julius W. Becton, Jr., and James M. Lee to be lieutenant generals; in the Air Force, Lt. Gen. Bryan A. Shotts (age 55) to be placed on the retired list in that grade; and, in the Marine Corps, Lt. Gen. Leslie E. Brown (age 58) for appointment to the grade of lieutenant general on the retired list and Maj. Gen. Adolph G. Schwenk to be lieutenant general. I ask that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, in addition, there are 28 temporary promotions in the Navy to the grade of lieutenant (junior grade) (list begins with Harold S. Blinka) and 10 in the Navy for appointment to the grade of ensign (list begins with Patricia A. Daly). In the Reserve of the Air Force, there are 549 for promotion to the grade of lieutenant colonel (list begins with John G. Abizaid); 43 in the Air National Guard for promotion to lieutenant colonel in the Reserve of the Air Force (list begins with James B. Alford); 2,549 in the Regular Air Force for promotion to the grade of captain (list begins with John A. Arnl); and, 75 in the Regular Air Force for appointment to the grade of captain (list begins with George G. Aitken). Since these nominations have been printed in the Congressional Record and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record of September 6, 1978, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RANDOLPH:

S. 3516. A bill for the relief of Erroll Pullen; to the Committee on the Judiciary.

By Mr. SCHMITT:

S. 3517. A bill to amend the Federal Reserve Act to provide for the pricing of Federal Reserve System services and for the payment on reserves; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STEVENSON:

S. 3518. A bill to amend the Council on Wage and Price Stability Act to strengthen the independence, authority, and resources of the Council by establishing it as an independent Inflation Review Board, by authorizing the Board to require prenotification of and delay temporarily wage or price increases which could have serious inflationary effects on the economy, by authorizing the Board to recommend to the President appropriate governmental actions to counter inflation, including voluntary wage and price guidelines and accompanying measures to encourage adherence to such guidelines, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. NUNN:

S. 3519. A bill to authorize the Secretary of the Army to return to the Federal Republic of Germany 10 paintings of the German Navy seized by the U.S. Army at the end of World War II; to the Committee on Armed Services.

By Mr. PROXMIRE (for himself, Mr. McIntyre, and Mr. Brooke):

S. 3520. A bill to amend the Federal Credit Union Act in order to improve the efficiency and flexibility of the financial system of the United States by establishing within the National Credit Union Administration a central liquidity facility for Federal and State credit unions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHMITT:

S. 3517. A bill to amend the Federal Reserve Act to provide for the pricing of Federal Reserve System services and for the payment on reserves; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL RESERVE IMPROVEMENT ACT

● Mr. SCHMITT. Mr. President, today I am introducing legislation which seeks to address the problem of the declining membership of the Federal Reserve System.

This bill would authorize the Federal Reserve to pay interest on the reserves held by the system. This action will eliminate the disincentive for Fed membership which requires member banks to hold reserves in a non-interest-bearing status, placing them at a competitive disadvantage with nonmember banks.

The bill also encourages competition among various financial institutions and the Fed by permitting the Fed to charge for the services it offers to other banks. Under this proposal, all banks, whether members or not, would be able to take advantage of these services.

The bill provides for the Federal Reserve System, in conjunction with the FDIC, and the Comptroller of the Currency, to study the feasibility of permitting banks to earn a return on their reserves by investing them in interest-bearing securities. While it is intended that, initially, these shall be primarily government securities, it may be possible in the future for some reserves to be invested in the private marketplace, providing valuable resources for increasing the growth of our economy.

The Federal Reserve membership issue is a complex one. If remains unclear just what, if any, effect declining membership has on the Federal Reserve's ability to conduct monetary policy. Monetary policy is, after all, carried out primarily through open market operations rather than with the less subtle method of altering reserve requirements. Thus, proposals to increase Federal Reserve control over reserves do not appear to be crucial to the effective implementation of monetary policy.

Several of the proposals before the Banking Committee would extend reserve requirements to State chartered banks for the first time, but the effect of the imposition of universal reserve requirements on State banks has not yet been thoroughly gaged. What impact will it have on the dual banking system, which is generally recognized as a valuable component of our economy?

This is a difficult question needing detailed consideration by the Banking Committee before action is taken to fundamentally change our Nation's central banking system. Therefore, while I will look forward to discussing this issue and many others in the Banking Committee, it is my hope that a final decision on this matter can be deferred until next year, when additional hearings and discussions can be conducted.

I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Reserve Membership Act of 1978".

SEC. 2. (a) The Federal Reserve Act is amended by inserting after section 11 (12 U.S.C. 248) the following new section:

"SEC. 11A. (a) Not later than July 1, 1979, the Board of Governors shall have prepared and shall publish for public comment a set of pricing principles in accordance with this section and a proposed schedule of fees for Federal Reserve System services. Not later than July 1, 1980, the Board shall put into effect a schedule of fees for such services which is based on those principles.

"(b) The Federal Reserve System services which shall be covered by the schedule of fees under subsection (a) are—

"(1) currency and coin services;

"(2) check collection services;

"(3) wire transfer services;

"(4) automated clearinghouse services;

"(5) net settlement services;

"(6) securities safekeeping services; and

"(7) Any new payment services which the Federal Reserve System provides, including but not limited to payment services that effectuate the electronic transfer of funds.

"(c) The pricing principles referred to in subsection (a) and the schedule of fees prescribed pursuant to this section shall be based on the following general principles:

"(1) All services shall be priced explicitly.

"(2) Prices shall be established on the basis of all direct and indirect costs actually incurred in providing the services priced, including overhead, and an allocation of imputed costs that takes into account the taxes which would have been paid and the return on capital which would have been provided if the payment services had been furnished by a private business firm.

"(3) Services shall be made available to any depository institution at the same fee schedule applicable to member banks.".

SEC. 3. Section 19 of the Federal Reserve Act is amended by inserting after subsection (b)(3) (12 U.S.C. 461(b)) the following:

"(4) The Board shall pay interest on reserves required to be held pursuant to this subsection. The rate of interest on such reserves shall be periodically determined by an affirmative vote of not less than four members of the Board. The rate of interest shall not exceed the average rate paid during the preceding calendar quarter on United States Treasury bills with maturities of three months.

"(5) Not later than July 1, 1980, the Board, in consultation with the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Comptroller of the Currency, shall prepare a study to be transmitted to the House Committee on Banking, Finance and Urban Affairs and Senate Committee on Banking, Housing, and Urban Affairs on the feasibility and impact of permitting member banks to invest a percentage of their required reserves in specified securities, including but not limited to, obligations of the United States. The study shall examine the impact of such an arrangement on—

"(A) monetary and financial conditions;

"(B) Treasury revenues;

"(C) safety and soundness of member banks;

"(D) impact of benefits and costs of membership in Federal Reserve System; and

"(E) other depository institutions.

"(6) In its annual report to Congress the Board shall provide a full account of the changes in membership during the preceding year, the pricing structure for services in effect during the preceding year, and the interest rate structure on reserves in effect during the preceding year.".

SEC. 4. (a) The Federal Reserve Act is amended by adding at the end of section 1 (12 U.S.C. 221) the following new paragraph:

"The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank so defined in section 3 of the Federal Deposit Insurance Act;

"(4) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(5) any member as defined in section 2 of the Federal Home Loan Bank Act;

"(6) any insured institution as defined in section 401 of the National Housing Act; and

"(7) any association or entity which is wholly owned by or which consists only of institutions referred to in clauses (1) through (6).".

(b) The first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342) is amended—

(1) by inserting "or other depository institutions" after "member banks";

(2) by inserting "or other depository institution" after "nonmember bank or trust company" each place it appears;

(3) by inserting "and other factors as the Board may deem appropriate" after the words "held for its account by the Federal Reserve bank"; and

(4) by inserting "or other depository institution" after "nonmember bank" in the second proviso.

(c) The thirteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 360) is amended as follows:

(1) by striking out the words "member banks" wherever they appear and inserting in lieu thereof "depository institutions"; and

(2) by striking out the words "member bank" wherever they appear and inserting in lieu thereof "depository institution".

(d) The fourteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 248 (a)) is amended by striking out "its member banks" and inserting in lieu thereof "depository institutions".●

By Mr. STEVENSON:

S. 3518. A bill to amend the Council on Wage and Price Stability Act to strengthen the independence, authority, and resources of the council by establishing it as an independent Inflation Review Board, by authorizing the Board to require prenotification of and delay temporarily wage or price increases which could have serious inflationary effects on the economy, by authorizing the Board to recommend to the President appropriate governmental actions to counter inflation, including voluntary wage and price guidelines and accompanying measures to encourage adherence to such guidelines, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

INFLATION REVIEW BOARD ACT OF 1978

● Mr. STEVENSON. Mr. President, the Council on Wage and Price Stability lacks the necessary independence, authority, and resources to accomplish in an objective, timely, and effective manner the purposes for which it was created by the Congress—to identify the causes of inflation, to expose private and governmental inflationary behavior to public scrutiny, and to temper irresponsible wage and price decisions.

Since the Council on Wage and Price Stability is the principal government agency responsible for analyzing the inflationary effect of private and public sector activities, the council must be strengthened if we are to reduce inflation which in the second quarter of this year stood at an annual rate of 11 percent. Many factors have pushed inflation to this rate. The drop in the exchange rate of the dollar, increased food prices and severe weather in the first half of this year, energy prices, interest rates and the Federal deficit, the cost of compliance with regulations, housing costs, rising labor costs due in part to social security and minimum wage increases, together with the psychology of inflation which causes inflation by anticipating it, all contribute to inflation.

The council with a minuscule professional staff has been unable to monitor in an effective and timely manner these and other inflationary developments. And when it seeks to do its job, it is rewarded with an informal executive coordinating council with no apparent purpose save to keep the council's director, Mr. Bosworth, from telling the hard truth.

Mr. President, I am today introducing a bill which will strengthen the Council on Wage and Price Stability by making it an independent Inflation Review Board which reports directly to the Congress. The Board would have the power to monitor irresponsible wage and price increases by requiring prenotification; that is to say, notice of increases in the largest industries before they take place and it is too late. It would also have the power to temporarily delay wage and price increases which have serious inflationary effects. Thus, it could acquire time to examine the proposed increases and afford public opinion an opportunity to commend restraint upon the parties. Because of its independence of the Congress and President, it could also monitor the activities of both. The Board could recommend remedial actions to the President, including comprehensive or sectoral voluntary wage and price guidelines. With the resources offered by this bill, the Board could perform more effectively the tasks assigned to it by the Congress.

Mr. President, this legislation is needed to give the Council the stature and tools to carry out its mandate to fight inflation. It is an alternative to wage and price controls which in the past have been inequitable, have led to distortions in the allocation of resources, and have suffered from undue administrative complexity. The legislation disavows any authority for wage and price controls.

It creates no mechanism for the imposition of controls. By creating an Inflation Review Board with teeth in its jawbone and the independence to single out for public and congressional scrutiny inflationary behavior in both the private and public sectors, together with the financial resources to identify and monitor inflationary developments in a trillion dollar economy, the Board could focus our efforts on restraining and containing inflationary shocks to the economy, instead of bureaucratizing and stultifying the economic system with wasteful and nonproductive controls. Indeed, the

Board could not only relieve public pressures for the reimposition of wage and price controls, it could also obviate the need for punitive measures rumored to be under consideration in the White House. I hope we can keep the stick in the closet. Its use for jawboning purposes could be impulsive and unfair; ultimately it could create still more disorder in the marketplace. This legislation contemplates the therapeutic force of public opinion—no more.

This independent Inflation Review Board is needed to monitor the greatest inflation machine of all—the Government itself—and to insure that the Board will speak freely, even when it has to step on powerful toes—whether public or private. The Board proposed in section 3 of the bill would consist of five members—three of whom, including the chairman and vice chairman, would be appointed by the President with the advice and consent of the Senate. These members would all have to be broadly representative of the public interest and could not therefore be affiliated with particular large economic interest groups.

The other two members of the Board would be the Chairman of the Federal Reserve Board and the Chairman of the Council of Economic Advisers. Inclusion of these ex officio members insures input from and coordination with those responsible for formulating fiscal and monetary policy and should strengthen the Board's authority, judgment, and influence with the private and public sectors. Appointed members would serve 4-year terms, except for the first members whose terms would be staggered. The Chairman would be the Board's chief executive officer and the Board could take action with three members—insuring its ability to act on its own when necessary and when unpopular to do so.

Under section 4 of the bill, the Board would be given authority to delay for up to 45 days any price or wage increase which could or would significantly increase inflation. Such authority is essential if the Board is to have an opportunity to determine the basis of any such increase, the extent to which it may be justified, and the need for remedial action. Such delay would give the Board, the President, and the Congress time to fashion appropriate remedies before the public is made to suffer the consequences of irresponsible inflationary behavior. It would afford the pressure of public opinion time to effect restraint.

Section 4 of the bill would also give the Board the authority to require firms with gross sales or revenues in excess of $250 million to notify the Board of proposed price increases 30 days prior to the date of the increase. In addition, under section 4 the Board could require similar prenotification from employers with respect to wage increases affecting more than 5,000 persons. In any case in which a wage increase affecting more than 5,000 persons is subject to the collective bargaining process, the Board could require bargaining representatives to submit to it all proposed or tentative wage increases to give the Board—and public—some desirable lead time to ensure inflationary consequences are considered in reaching the final agreement.

The coal pact negotiations this year demonstrate the difficulty of trying to influence such decisions once they have been bargained out. Those involved should know ahead of time the inflationary consequences so that their own members and employees, as well as the public, can take these effects into account in reaching a final pact.

Many employees may not want to gain an increase that is eroded overnight in a new spiral of inflation. Once a final agreement involving more than 5,000 employees is reached pursuant to collective bargaining, the Board must be notified of the terms no more than 5 days after agreement and not more than 30 days prior to the effective date. Prenotification is essential to the effective exercise of the delay authority granted by the bill.

The bill will also give the Board the authority to recommend to the President appropriate actions to counter inflation, including voluntary wage and price guidelines, either comprehensive or sectoral.

The exercise of such authority by the Board could embolden the President to be more responsive to general, as opposed to special, economic interests. The authority to establish voluntary guidelines would remain exclusively with the President.

The Board is also given authority to recommend to the President governmental measures to encourage adherence to guidelines, though it is my hope that the force of public opinion would reduce the need for such measures. Be that as it may, the President and Congress would have the benefit of the Board's advice in determining what measures, if any, are needed to encourage guideline adherence.

Under section 5 of the bill the Board would be required to report directly to the Congress on a semiannual basis and in greater degree than under present law. This will help insure vigilant congressional oversight, as well as constant attention to inflationary developments.

Section 6 of the bill requires the Board to come directly to Congress for its appropriations—not through OMB. Again, this is crucial to maintaining the Board's independence—to insure that it has enough resources to perform its tasks, including its review of Government-induced inflation.

Finally, the bill would authorize such sums as are necessary to carry out its functions and give the Board an initial 5-year life.

These provisions would allow the Congress to determine appropriate funding and staff levels to insure that the Board will be able to perform the tasks assigned to it and will give the permanence and status necessary to organize and do its job. Annual appropriations will insure constant oversight of the Board's activities.

Cost-push induced inflation will continue, unless it induces serious recession—or receives an appropriate response from the Government. This is one such response; controls are not.

If the Nation is to avoid wage and price controls, it needs an independent agency with tools to identify irresponsible inflationary behavior, expose it to public scrutiny and provide time to devise measures to prevent such increases from triggering another inflationary spiral.

A strong, independent Inflation Review Board, with the powers and resources conveyed by this bill, will have such tools.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Inflation Review Board Act of 1978".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) the Council on Wage and Price Stability lacks the necessary independence, authority, and resources to accomplish in an objective, timely, and effective manner the purposes for which it was created—to identify the causes of inflation, to expose private and governmental inflationary behavior to public scrutiny, and to temper irresponsible wage and price decisions;

(2) since the Council on Wage and Price Stability is the principal Government agency responsible for analyzing the inflationary effect of private and public sector activities, the Council must be strengthened in order to reduce inflation which slows economic growth, raises unemployment, leads to increased interest rates, reduces investment, harms the national competitive position of the United States, reduces the purchasing power of the dollar and destabilizes world trade and investment, reduces real disposable income by moving taxpayers into artificially high tax brackets, and impacts most severely the aged, the poor, and those least able to cope with changing economic conditions.

(b) The purpose of this Act is to strengthen the Council on Wage and Price Stability by making it an independent Inflation Review Board which reports directly to the Congress, by giving the Board the authority to temper irresponsible wage and price increases by authorizing the Board to require prenotification of and to delay temporarily wage and price increases which have serious inflationary effects, by authorizing the Board to recommend to the President appropriate governmental actions to counter inflation, including voluntary wage and price guidelines and accompanying measures to encourage adherence to such guidelines, and by increasing the resources available to the Board to enable it to perform effectively the tasks assigned to it by the Congress.

(c) Nothing in this Act authorizes any Government control of production, employment, allocation of resources, or wages and prices or creates the administrative framework, for the implementation of any such controls.

(d) It is the purpose of this Act to create a strong and independent Inflation Review Board which will serve as an effective alternative to wage and price controls which in the past have been inequitable, have caused distortion in the allocation of resources, and have suffered from administrative complexity.

(e) The Congress further finds that the authority granted the Inflation Review Board under this Act should be applied equitably to both wages and prices, and, to the extent required, to all sectors of the economy, and should be applied in a manner which minimizes distortion in the allocation of resources and administrative complexity.

ESTABLISHMENT OF INFLATION REVIEW BOARD

SEC. 3. Subsections (a) through (e) of section 2 of the Council on Wage and Price Stability Act are amended to read as follows:

"(a) There is established as an independent agency in the executive branch an Inflation Review Board (hereinafter referred to as the 'Board') which shall consist of—

"(1) a Chairman to be appointed by the President, by and with the advice and consent of the Senate;

"(2) a Vice Chairman to be appointed by the President, by and with the advice and consent of the Senate;

"(3) a member to be appointed by the President, by and with the advice and consent of the Senate;

"(4) the Chairman of the Board of Governors of the Federal Reserve System; and

"(5) the Chairman of the Council of Economic Advisers.

The Chairman of the Board of Governors of the Federal Reserve System and the Chairman of the Council of Economic Advisers may, from time to time, designate other members or other officers and employees of their respective Board or Council to carry out their duties on the Board.

"(b) The members of the Board appointed pursuant to paragraphs (1), (2), and (3) of subsection (a) shall be broadly representative of the public interest and shall be appointed for terms of 4 years, except that of the members first taking office, one shall serve for a term of 2 years, and one shall serve for a term of 3 years, as designated by the President at the time of the appointments. Any vacancy in the membership of the Board shall be filled in the same manner as the original appointment was made, except that in the case of members appointed under paragraphs (1), (2), and (3) of subsection (a), any appointment to fill a vacancy shall be made only for the remainder of the unexpired term. Not more than 2 of the members appointed by the President shall be affiliated with the same political party.

"(c) The Chairman of the Board shall be compensated at the rate provided for an individual occupying a position under level III of the Executive Schedule (5 U.S.C. 5314). The Vice Chairman and the other appointed member of the Board shall be compensated at the rate for an individual occuping a position under level IV of the Executive Schedule (5 U.S.C. 5315).

"(d) Three members of the Board shall constitute a quorum for the transaction of business but the Board may designate a lesser number for the taking of testimony. The Board shall meet at the call of the Chairman or at the call of a majority of its members.

"(e) The Chairman of the Board may employ and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions of the Board at rates not to exceed the highest rate for Grade 18 of the General Schedule under section 5332 of title 5, United States Code. The Chairman may employ experts, expert witnesses, and consultants, in accordance with the provisions of section 3109 of title 5, United States Code, and compensate them at rate not in excess of the maximum daily rate provided for Grade 18 of the General Schedule under section 5332 of title 5, United States Code.".

PRENOTIFICATION; 45-DAY DELAY; RECOMMENDED ACTIONS

SEC. 4. Section 2 of the Council on Wage and Price Stability Act is amended by adding at the end thereof the following:

"(h) (1) The Board may require any person having gross sales or revenues in excess of $250,000,000 during its most recent full fiscal year to submit a prenotification to the Board with respect to any price increase of any product or service of such person not more than thirty days prior to the effective date of such increase.

"(2) The Board may require any person who is an employer to submit a prenotification with respect to any wage increase affecting more than five thousand employees not more than thirty days prior to the effective date of such increase. In any case in which a wage increase affecting more than five thousand employees is subject to agreement pursuant to the collective bargaining process, the Board may require the employer and the employees' representative to submit to the Board, either singly or jointly, any or all proposed or tentative wage increases to be considered during such process, and the Board may require a prenotification to be submitted jointly by the employer and the employees' representative of any final agreement with respect to any such increase not more than five days after such agreement has been reached and not more than thirty days prior to the effective date of such increase.

"(3) The Board may, by regulation prescribe the form and content of any prenotification required under this subsection, and it may require such prenotification to be submitted by any person, without regard to sales, revenues, or number of employees, whenever it finds that a wage or price increase implemented by such person might significantly increase inflation.

"(i) The Board is authorized, by order, regulation, or otherwise, to delay for one period of not to exceed forty-five days any proposed price or wage increase, in whole or in part which the Board determines would or could significantly increase inflation.

"(j) Whenever it appears to the Board that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any requirement imposed under this Act, the Board may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such act or practice, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue a mandatory injunction commanding such person to comply with such requirement.

"(k) The Board may recommend to the President appropriate governmental actions to counter inflation, including the establishment of comprehensive or sectoral voluntary guidelines for non-inflationary wage and price adjustments and governmental measures to encourage adherence to any such guidelines.".

REPORTING REQUIREMENT

SEC. 5. Section 5 of the Council on Wage and Price Stability Act is amended to read as follows:

"SEC. 5. The Board shall transmit to the Congress on a semi-annual basis and not later than thirty days after the close of the second and fourth calendar quarters, a report which shall include the following and such additional information as the Board deems relevant to its activities and purposes—

"(1) a description of its activities in monitoring the private and governmental sectors of the economy;

"(2) an analysis of changes during each of the quarters covered in wages, costs, supplies of commodities and industrial materials, productivity, prices, sales, profits, investment, executive compensation, fringe benefits, imports, exports, interest rates, and exchange rates;

"(3) developments during each of the quarters covered in key sectors of the domestice and international economy which could have an adverse inflationary effect on the economy in the next six-month period;

"(4) the Board's proposed activities for the next six-month period following transmission of the report; and

"(5) its recommendations with respect to the containment of inflation and the maintenance of a vigorous and prosperous peacetime economy.".

AUTHORIZATION

SEC. 6. Section 6 of the Council on Wage and Price Stability Act is amended to read as follows:

"SEC. 6. In addition to any amounts made available prior to the date of enactment of the Inflation Review Board Act of 1978 to the Council on Wage and Price Stability, there are authorized to be appropriated to the Board such sums as may be necessary to carry out the provisions of this Act. The Board shall transmit annually to the Congress a recommendation for additional appropriations. No office or agency of the United States shall have the authority to require the Board to submit any recommendation for appropriations for review or comment prior to the submission thereof to the Congress.".

EXTENSION

SEC. 7. Section 7 of the Council on Wage and Price Stability Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1984".

TECHNICAL AMENDMENTS

SEC. 8. (a) The Council on Wage and Price Stability Act is amended by striking out "Director of the Council" each place it appears and inserting "Chairman of the Board".

(b) Such Act is amended by striking out "Council" each place it appears and inserting in lieu thereof "Board".

(c) The first section of such Act is amended to read as follows: "That this Act may be cited as the 'Inflation Review Board Act'.".●

By Mr. NUNN:

S. 3519. A bill to authorize the Secretary of the Army to return to the Federal Republic of Germany 10 paintings of the German Navy seized by the U.S. Army at the end of World War II; to the Committee on Armed Services.

● Mr. NUNN. Mr. President, today I am introducing a bill to authorize the Secretary of the Army to return to the Federal Republic of Germany, 10 paintings of the German Navy seized by the U.S. Army at the end of World War II. These paintings depict the German Navy in World War II. They were seized by the United States pursuant to provisions to the Protocol of the Proceedings of the Berlin Conference and the Report of the Yalta Conference. They are now the property of the United States and are in the custody of the Secretary of the Army.

Representatives of the Navy of the Federal Republic of Germany have requested the return of these 10 paintings by the Artist Claus Bergen which are highly regarded by naval personnel.

I believe that we should honor this request by our German friends.

Legislation to authorize the transfer of the paintings to the Government of the Federal Republic of Germany is necessary since the paintings are now property of the United States. Both the Department of Defense and the Department of State support this legislation.●

By Mr. PROXMIRE (for himself, Mr. MCINTYRE, and Mr. BROOKE):

S. 3520. A bill to amend the Federal Credit Union Act in order to improve the efficiency and flexibility of the financial system of the United States by establishing within the National Credit Union Administration a central liquidity facility for Federal and State credit unions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

NATIONAL CREDIT UNION CENTRAL LIQUIDITY FACILITY ACT

Mr. PROXMIRE. Mr. President, on behalf of Senator McINTYRE and Senator BROOKE and myself, I am today introducing legislation to establish a central liquidity fund for credit unions for reference to the Banking Committee.

Credit unions play a significant part in bringing financial services to consumers. They have been innovative and competitive in providing needed services to their members. Congress recently recognized the ability of credit unions to provide even more financial services by granting them authority to make home mortgage loans.

While credit unions have increased in importance, the governmental regulatory structure responsible for assuring the safety and soundness of credit unions has not kept pace. Consequently, earlier this Congress, the Senate passed legislation to create a three-man board to regulate credit unions at the Federal level to replace the existing one individual structure. That legislation is pending in the House and its passage is expected this year.

This legislation will round out the updating of the credit union regulatory structure. Commercial banks experiencing liquidity difficulties can turn to the Federal Reserve for assistance. Savings and loan associations have the Federal Home Loan Bank Board to help them in their liquidity needs. The credit unions have nowhere to turn for assistance.

Establishment of the liquidity provided for in this bill will enable credit unions to better serve their members and will provide an impotrant facility for assuring the safety and soundness of credit unions across the Nation. Under the legislation, the liquidity facility will be available for essentially short-term adjustments of portfolios, seasonal needs for funds, or protracted credit needs in unusual or emergency circumstances resulting from national, regional, or local difficulties.

Mr. President, I commend this legislation to my colleagues and I am gratified by the support that Senators McINTYRE and BROOKE have given to the credit union movement.

I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Credit Union Central Liquidity Facility Act".

SEC. 101. The Federal Credit Union Act (12 U.S.C. 1751 et ceq.) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—CENTRAL LIQUIDITY FACILITY

"SEC. 301. The Congress finds that the establishment of a National Credit Union Central Liquidity Facility is needed to improve general financial stability by meeting the liquidity needs of credit unions and thereby encourage savings, support consumer and mortgage lending, and provide basic financial resources to all segments of the economy.

"DEFINITIONS

"SEC. 302. As used in this subchapter, the term—

"(1) 'liquidity needs' means the needs of credit unions primarily serving natural persons for—

"(A) short-term adjustment credit available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities;

"(B) seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans; and

"(C) protracted adjustment credit available in the event of unusual or emergency circumstances of a longer term nature resulting from national, regional, or local difficulties.

"(2) 'Central Liquidity Facility' or 'Facility' means the National Credit Union Central Liquidity Facility;

"(3) 'paid-in and unimpaired capital and surplus' means the balance of the paid-in share accounts and deposits as of a given date, less any loss that may have been incurred for which there is no reserve or which has not been charged against undivided earnings, plus the credit balance (or less the debit balance) of the undivided earnings account as of a given date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom. Reserves shall not be considered as part of surplus; and

"(d) 'member' means a Regular or an Agent member of the Facility.

"ESTABLISHMENT OF THE NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

"SEC. 303. There is hereby created the National Credit Union Administration Central Liquidity Facility. The Central Liquidity Facility shall exist within the National Credit Union Administration and be managed by the Administrator. The United States district courts shall have original jurisdiction over any case to which the Administrator on behalf of the Facility is a party, without regard to the amount in controversy.

"MEMBERSHIP

"SEC. 304. (a) A credit union primarily serving natural persons may be a Regular member of the Facility by subscribing to the capital stock of the Facility in an amount not less than one-half of 1 per centum of the credit union's paid-in and unimpaired capital and surplus.

"(b) A credit union or group of credit unions, primarily serving other credit unions, may be an Agent member of the Facility by—

"(1) obtaining the approval of the Administrator;

"(2) subscribing to the capital stock of the Facility in an amount not less than one-half of 1 per centum of the paid-in and unimpaired capital and surplus of all those credit unions which primarily serve natural persons and which are members of such credit union or of any credit union comprising such credit union group;

"(3) agreeing to comply with rules and regulations the Administrator shall prescribe with respect to, but not limited to, management quality, asset and liability safety and soundness, internal operating and control practices and procedures, and participation by natural persons in the affairs of such credit union or credit union group; and

"(4) agreeing to submit to the supervision of the Administrator which shall include, but not be limited to, reporting requirements and periodic unrestricted examinations.

"(c) Stock subscriptions provided for in subsections (a) and (b)(2) of this section shall be—

"(1) based on an arithmetic average of paid-in capital and surplus over the six months preceding application for membership; and

"(2) adjusted at the close of each calendar year in accordance with an arithmetic average of paid-in capital and surplus over a period determined by the Administrator.

"(d) An Agent member of the Facility shall perform for its member credit unions those functions required by the Administrator to carry out this subchapter.

"(e)(1) A member of the Facility whose capital stock subscription constitutes less than 5 per centum of such stock outstanding, may withdraw from membership in the Facility six months after notifying the Administrator of its intention to do so.

"(2) A member of the Facility whose capital stock subscription constitutes 5 per centum or more of such stock outstanding, may withdraw from membership in the Facility twenty-four months after notifying the Administrator of its intention to do so.

"(3) The Administrator may terminate membership in the Facility if, after opportunity for a hearing the Administrator determines a member has failed to comply with any provision of this subchapter or regulation issued pursuant thereto.

"CAPITAL STOCK

"SEC. 305. (a) As soon as practicable, the Administrator shall open books for subscriptions to the capital stock of the Facility. The minimum subscription shall be $50.

"(b) The capital stock of the Facility—

"(1) shall be divided into shares having a par value of $50 each;

"(2) shall be paid for with cash or with securities of the United States or any agency thereof in accordance with requirements the Administrator may impose;

"(3) shall share in dividend distributions without preference and at rates to be determined by the Administrator; and

"(4) shall not be transferred or hypothecated except as provided for herein.

"(c) When circumstances require that all or a portion of a member's stock be redeemed by the Facility, the Administrator shall pay an amount equal to what the member originally paid for the stock less any amount owed by the member to the Facility.

"(d) At least one-half of the payment for the subscription amount required for membership under section 304 of this subchapter shall be transferred to the Facility. The remainder may be held by the member on call of the Administrator and shall be invested in assets designated by the Administrator.

"(e) A credit union or credit union group that becomes a member of the Facility later than six months after the date the Administrator opens books for capital stock subscriptions, may not borrow or receive advances from the Facility without approval by the Administrator for a period of six months after becoming a member.

"EXTENSIONS OF CREDIT

"SEC. 306. (a)(1) A member may apply for an extension of credit from the Facility to meet its liquidity needs. The Administrator shall approve or deny any such application within five working days after receiving it.

"(2) The Administrator may advance funds to a member on terms and conditions prescribed by the Administrator.

"(b) The Secretary of the Treasury is authorized to lend to the Facility up to $500,000,000, in the event the Administrator certifies to the Secretary that the Facility does not have sufficient funds to meet liquidity needs of credit unions. Any such loan shall bear an interest rate not greater than one-eighth of 1 per centum above the current average market yield on outstanding obligations of the United States with remaining time to maturity comparable to the maturity of such loan. The authority of the Secretary to lend under this subsection shall be limited to such extent or in such amounts as are provided in advance in appropriation Acts.

POWERS OF THE ADMINISTRATOR

"Sec. 307. The Administrator on behalf of the Facility shall have the authority to—

"(1) prescribe the manner in which the general business of the Facility shall be conducted;

"(2) prescribe rules and regulations to carry out this subchapter;

"(3) determine the expenditures incurred by the Administration to carry out this subchapter, and the expenditures incurred by the Facility to carry out subchapters I and II of this chapter, and annually assess the Facility and the Administration accordingly;

"(4) borrow from—

"(A) any source with or without the guarantee of the United States as to principal and interest. The total face value of those obligations guaranteed by the United States shall not exceed twenty times the subscribed capital stock and surplus of the Facility; and

"(B) the National Credit Union Share Insurance Fund up to $500,000 to defray initial organizational and operating expenses of the Facility at such rates and terms consistent with prevailing market conditions;

"(5) guarantee performance of the terms of any financial obligation of a member but only when such obligation bears a clear and conspicuous notice on its face that only the resources of the Facility underlie such guarantee;

"(6) purchase any asset from a member with the member's endorsement;

"(7) invest in obligations of the United States or any agency thereof;

"(8) make deposits in federally insured financial institutions and make investments in shares or deposits of credit unions;

"(9) sue and be sued, complain, and defend, in any State or Federal court;

"(10) adopt a seal;

"(11) pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Department of Justice;

"(12) appoint officers and employees to assist in carrying out this subchapter, who shall be appointed subject to the provisions of title 5, United States Code;

"(13) conduct business, carry on operations, have offices, and exercise the powers granted by this subchapter in any State or territory;

"(14) lease, purchase, or otherwise acquire and own, hold, improve, use, or otherwise deal in and with property, real, personal, or mixed, or any interest therein, wherever situated; and

"(15) enter into contracts with any public or private organization, partnership, corporation, or individual, to the extent or in such amounts as are provided in advance in appropriation Acts.

"AUDIT OF FINANCIAL TRANSACTIONS

"Sec. 308. The Comptroller General of the United States shall audit the Central Liquidity Facility under such rules and regulations as the Comptroller may prescribe.

"ANNUAL REPORT

"Sec. 309. The annual report required by section 102(e) shall include a full report of the activities of the Facility.".

Sec. 102. (a) Paragraph (6) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended by inserting "from the Central Liquidity Facility," after "prescribed,".

(b) Paragraph (7) of such section is amended by striking the word "and" preceding "(H)", and adding at the end thereof the following: "and (J) in the capital stock of the National Credit Union Central Liquidity Facility;".

(c) Paragraph (9) of such section is amended by inserting ", except as authorized by the Administrator in carrying out the provisions of subchapter III," after "exceeding".

Sec. 103. Section 709 of title 18 of the United States Code is amended by striking the fourth paragraph and inserting in lieu thereof the following new paragraph:

"Whoever, other than a bona fide organization or association of Federal or State credit unions or except as permitted by the laws of the United States, uses as a firm or business name or transacts business using the words 'National Credit Union', 'National Credit Union Administration', 'National Credit Union Board', 'National Credit Union Share Insurance Fund', 'Share Insurance', or 'Central Liquidity Facility,' or the letters 'NCUA', 'NCUSIF', or 'CLF', or any other combination or variation of those words or letters alone or with other words or letters, or any device or symbol or other means, reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from, the National Credit Union Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely advertises or otherwise represents by any device whatsoever that his or its business, product or service has been in any way endorsed, authorized, or approved by the National Credit Union Administration, the Government of the United States, or any agency thereof, or falsely advertises or otherwise represents by any device whatsoever that his or its deposit liabilities, obligations, certificates, shares, or accounts are insured under the Federal Credit Union Act or by the United States or any instrumentality thereof, or being an insured credit union as defined in that Act falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which share holdings in such credit union are insured under such Act; or".

ADDITIONAL COSPONSORS

S. 1393

At the request of Mr. Bayh, the Senator from Texas (Mr. Bentsen) was added as a cosponsor of S. 1393, to protect the Civil Rights of the Institutionalized.

S. 2856

At the request of Mr. Morgan, the Senator from Colorado (Mr. Hart) was added as a cosponsor of S. 2856, the Uniformed Services Survivor Benefit Plan Amendments Act of 1978.

S. 2910

At the request of Mr. Kennedy, the Senator from Rhode Island (Mr. Pell) was added as a cosponsor of S. 2910, "The Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978."

S. 3116

At the request of Mr. Kennedy, the Senator from Maine (Mr. Hathaway) was added as a cosponsor of S. 3116, the Disease Prevention and Health Promotion Act of 1978.

S. 3426

At the request of Mr. Dole, the Senator from New York (Mr. Javits) and the Senator from Ohio (Mr. Glenn) were added as cosponsors of S. 3426, to increase the title XX ceiling under the Social Security Act.

SENATE JOINT RESOLUTION 162

At the request of Mr. Hansen, the Senator from Wyoming (Mr. Wallop) was added as a cosponsor of Senate Joint Resolution 162, to authorize the President to issue a proclamation designating March 1979 as "Youth Art Month."

AMENDMENTS SUBMITTED FOR PRINTING

INTERGOVERNMENTAL ANTIRECESSION AND SUPPLEMENTARY FISCAL ASSISTANCE AMENDMENTS OF 1978—H.R. 2852

AMENDMENT NO. 3626

(Ordered to be printed and lie on the table.)

Mr. DANFORTH submitted an amendment intended to be proposed by him to the act (H.R. 2852) to amend the Internal Revenue Code of 1954 to provide that refunds of the taxes on gasoline and special fuels shall be made to aerial applicators in certain cases.

● Mr. DANFORTH. Mr. President, today I am introducing an amendment which I will propose when the Senate considers H.R. 2852, the Intergovernmental Antirecession and Supplementary Fiscal Assistance Amendments of 1978.

The purpose of the amendment is to direct assistance only to those communities with genuine need and, in so doing, to effect a cost savings. Estimated savings under my amendment will amount to $47 million in fiscal year 1979 and $188 million in fiscal year 1980.

In my opinion, the bill reported by the Finance Committee symbolizes much of what is wrong with Government today. The original intent of the countercyclical revenue sharing program was to assist financially strapped State and local governments in meeting revenue shortfalls occasioned by a downturn in the Nation's economy. That noble purpose, however, was subverted to the ends of political expediency. The committee bill takes us from bad to worse. In order to provide $300 to $400 million to State and local governments with real need, the committee has reported a bill costing $550 to $600 million, spread among some 18,000 State and local governments.

Under the committee bill, instead of having program expenditures decline as unemployment declines (the fundamental basis of the original program), expenditures actually increase when national unemployment drops below 6 percent. This is not "countercyclical assistance." This is pork-barreling.

Existing law already strains credibility, because it provides "antirecession" aid to State and local governments with unemployment above 4.5 percent. Given the fact that the Council of Economic

Advisers considers 4.9 percent as the "full employment" level, it is apparent that we are sending aid to many areas with healthy economies and full employment.

The committee's bill retains the 4.5 percent local "trigger" for eligibility. But worse than that, in an effort to get dollars where there is no demonstrable need (but undoubted political points to be made) the committee created the vehicle of the "revenue sharing multiple," utilizing a community's general revenue sharing formula to beef up its shot at Federal assistance where need proves hard to justify under the countercyclical formula. The added cost of this provision alone would be $88 million in 1980.

The amendment I intend to offer would correct this situation by doing the following:

First. Increase the local eligibility trigger to 6 percent unemployment (State and local governments with unemployment below 6 percent would not be eligible for funds);

Second. Eliminate the general revenue sharing element from the funding formula (thus restoring the formula to that in current law); and

Third. Reduce the amount of available funds to $100 million per quarter when national unemployment is between 5 and 6 percent. (The committee bill provides $125 million per quarter).

I believe these changes will not disadvantage those with legitimate need and will save $235 million over 2 years. Perhaps as important, it would demonstrate our willingness to design a bill on the basis of merit rather than the basis of "what's in it for me?"

I ask that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 5, line 20, insert the following after "SEC. 5.":

"(a) Section 203(b) of the Public Works Employment Act of 1976 (42 U.S.C. 6723(b)) is amended by striking out "405" in paragraph (3)(B) and inserting in lieu thereof "6". (b)";

On page 6, strike line (1) and insert in lieu thereof:

"(2) by striking out "4.5" in paragraph (3)(A) and inserting in lieu thereof "6";

(3) redesignating paragraph (4) as (5) and by insert—";

On page 9, line 11, strike "4.5" and insert in lieu thereof "6";

On page 9, line 18, strike "4.5" and insert in lieu thereof "6";

On page 11, line 13, strike "4.5" and insert in lieu thereof "6";

On page 11, line 24, strike "$125,000,000" and insert in lieu thereof "$100,000,000";

On page 12, line 1, strike "this subtitle and";

On page 15, beginning with line 20, strike all through and including line 9, page 17;

On page 17, line 10, strike "(e)" and insert in lieu thereof "(d)";

On page 17, line 18, strike "4.5" and insert in lieu thereof "6";

On page 18, line 2, strike "4.5" and insert in lieu thereof "6".●

MILITARY PROCUREMENT AUTHORIZATION BILL—S. 3486

AMENDMENT NO. 3627

(Ordered to be printed and lie on the table.)

Mr. PROXMIRE submitted an amendment intended to be proposed by him to the bill (S. 3486) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

Mr. PROXMIRE. Mr. President, today I am introducing an amendment to S. 3486, the military procurement authorization bill, to abolish the Women's Army Corps.

On Tuesday we will have 40 minutes to discuss this issue, but I would like to make three points at this time.

First, the Army supports this legislation. It has actively pushed for this legislation. And the Office of Management and Budget has given its blessing as well.

Second, it would eliminate an unfair system of promotion, a system which allows less qualified men to be chosen for promotion over women and less qualified women to be chosen over men.

Third, it would eliminate layers of time-consuming and costly redtape. As it stands now, women are promoted by a specially convened board and receive an appointment in the Women's Army Corps. Then their files must be transferred into the mainstream of Army personnel administration for a second processing before the women can be detailed to duty. Why require two steps when one will do? Since women now serve alongside men in nearly every phase of Army operations, I can see no reason for separate promotion, appointment, and enlistment systems.

The Marine Corps, Air Force, and Navy have all abolished their distaff branches. I hope the Senate will see fit to allow the Army to do the same.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment is ordered to be printed in the RECORD, as follows:

At the end of the bill add a new section as follows:

ABOLISHMENT OF WOMEN'S ARMY CORPS

SEC. 820. (a) Section 505 of title 10, United States Code, is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (c).

(b) Chapter 307 of such title is amended by striking out section 3071 and by striking out of the table of sections at the beginning of such chapter the item relating to section 3071.

(c) Chapter 331 of such title is amended—

(1) by striking out "; Women's Army Corps" in the catchline of section 3209;

(2) by striking out the subsection designation "(a)" at the beginning of subsection (a) of section 3209 and striking out subsection (b) of such section;

(3) by striking out section 3215;

(4) by striking out "and the Women's Army Corps" in clause (1) of the third sentence of section 3220; and

(5) by striking out in the table of sections at the beginning of such chapter "; Women's Army Corps" in the item relating to section 3209 and by striking out the item relating to section 3215.

(d) Chapter 335 of such title is amended—

(1) by striking out ", in the Women's Army Corps," in subsection (a) of section 3283 and by striking out "and the Women's Army Corps" in subsection (b) of such section;

(2) by striking out clause (2) of section 3296(b) and redesignating clause (3) as clause (2);

(3) by striking out the third sentence of section 3297(a) "a selection board considering promotion-list officers of the Women's Army Corps under section 3300 (a) or (b) of this title may include officers of the Regular Army in that corps whose regular or temporary grades are above major, and";

(4) by striking out section 3311; and

(5) by striking out in the table of sections at the beginning of such chapter the item relating to section 3311.,

(e) Chapter 337 of such title is amended—

(1) by striking out "and the Women's Army Corps" and "or corps, as the case may be" in the first sentence of section 3363(g) and by striking out "or the Women's Army Corps" in the second sentence of such section;

(2) by striking out "and the Women's Army Corps" in section 3364(a);

(3) by striking out "or to the Women's Army Corps" and "or corps" in section 3364 (b):

(4) by striking out "or to the Women's Army Corps" in section 3364 (c); and

(5) by striking out the second sentence of section 3383 (b).

(f) Chapter 345 of such title is amended by striking out section 3580 and by striking out in the table of sections at the beginning of such chapter the item relating to section 3580.

(g) Section 3818 of such title is amended—

(1) by striking out clause (2) of subsection (a) and inserting in lieu thereof the following:

"(2) the appointment of a female warrant officer, or the enlistment of a female member, of the Regular Army."; and

(2) by striking out "of the Women's Army Corps" in subsection (c).

(h) Section 3848 (d) of such title is amended by inserting "or" before "the Army Medical Specialist Corps" and by striking out "or the Women's Army Corps,".

(i) Section 3916 (b) of such title is amended—

(1) by inserting "and" at the end of clause (1);

(2) by striking out "Women's Army Corps," in clause (2);

(3) by striking out the semicolon and the word "and" at the end of clause (2) and inserting in lieu thereof a period; and

(4) by striking out clause (3).

AIRCRAFT AND AIRPORT NOISE REDUCTION ACT—S. 3279

AMENDMENT NO. 3628

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HART submitted an amendment intended to be proposed by him to the bill (S. 3279) to provide assistance to aircraft operators to aid them in complying with Federal aircraft noise standards, to amend the Airport and Airway Development Act of 1970 to provide assistance to airport operators and aircraft operators to aid them in complying with noise standards, and for other purposes.

● Mr. HART. Mr. President, on September 14, 1978, the House of Representatives approved legislation to give domestic and some foreign airlines an estimated $4 billion over the next 5 years to help pay for quieter airplanes in order to comply with Federal antinoise regulations. The money would be diverted from existing taxes on air fares and freight. Similar legislation which has been reported by the Senate Commerce Committee and is now pending before the Senate Finance Committee may come before the full Senate shortly. S. 3279, like the companion bill just passed by the House, contains what I believe to be an ill-conceived financing mechanism to assure that airline operators are able to comply with Federal noise regulations.

S. 3279 deals both with domestic and international transportation. For domestic transportation the passenger ticket tax presently in effect is reduced from 8 percent to 6 percent and the tax on cargo reduced from 5 percent to 3 percent, both for a period of 5 years. All of the money raised by these taxes is currently earmarked exclusively for airport maintenance and air safety programs. The legislation then imposes a 2-percent noise abatement charge which may be adjusted or eliminated by the CAB after 1 year. The charges are authorized to be imposed for up to 5 years. For international transportation the legislation provides that the airlines may collect an increased departure tax on passengers leaving the country. The legislation specifies that the revenues received by the operator from noise abatement charges collected shall be used to bring its fleet into compliance with Federal noise regulations. Once a carrier's fleet is fully in compliance however, the carrier may expend these funds in any way it chooses.

Mr. President, the financing mechanism in this bill raises a number of serious problems that merit the careful consideration of this body. The most striking problem is the precedent that would be set by the Federal Government providing funds through a dedicated tax to a private industry to pay for federally mandated environmental changes. The program constitutes a bailout for one industry's environmental program, and as such is likely to pave the way for special pleadings by other industries.

The airlines claim they need the subsidy provided by S. 3279 to meet a 1976 FAA rule that requires them to use quieter airplanes after 1984. They argue that without Federal assistance there is a risk that achievement of the noise abatement goals could be compromised. It is clear, however, that the economic health of the airline industry has improved markedly in recent years. Many carriers have already found the money to buy new planes on their own. For example, Delta, and Northwest, have each spent $1.25 billion on new quieter aircraft since 1973. The industry is making record profits and financial analysts project that it will continue to do so into the 1980's. In 1976 and 1977 the industry made a total of $1.2 billion in profits and is expected to net a record $800 million in 1978. As Business Week explained in an editorial of August 14, 1978:

> Today the airlines are flying high, with record earnings and growing traffic. The Civil Aeronautics Board has given them wide latitude in setting fares. So far they have used it mainly to build revenues with promotional fares, but if they needed to cover increased costs, they could apply for higher rates. . . . Moreover, the airlines today have no stronger claim to help than the industries that must meet air and water pollution stadards. If the carriers are allowed to buck part of the cost back to the government, why should chemical manufacturers or oil refiners pay all the bills themselves?

I believe serious dobuts are raised by legislation such as S. 3279, which establishes the Federal Government as a collector agent of funds for a private purpose. At a time when the public is crying out for lower taxes and more careful Federal spending, we are confronted with a bill which levies a tax of nearly $4 billion on passengers and shippers and then transfers the money to airlines which are earning record profits for the second year in a row. I am also concerned that the legislation now being considered by Congress would hand over almost $1 billion in tax money to foreign airlines, most of which are owned by their governments, at a time when the dollar is sinking and the balance of payments deficit is mounting.

The amendment I have introduced today offers a simple method to resolve the serious problems I have outlined. It would reduce the 8 percent tax to 6 percent, eliminate the 2 percent domestic noise abatement charge as well as the international noise abatement tax, and would thereby let the airlines take care of their noise pollution problems in a competitive manner. By eliminating the noise abatement charges and telling the airlines to raise their prices by an equal amount, those airlines with the least planes to modify or replace will have a competitive advantage since they have to raise the least money.

Using a tax instead of a price increase to do the same job penalizes the airlines whose planes make the least noise now. If we are serious about wanting to keep the Federal Government out of the marketplace, if we really want to minimize Federal bureaucracy and maximize free market operations, then we must oppose the financing mechanisms provided in this bill.

An editorial in this morning's Washington Post outlines a number of the problems raised by this bill. I ask unanimous consent that both the editorial and my amendment be printed in the Record.

There being no objection, the editorial and the amendment were ordered to be printed in the Record, as follows:

A Tax or a Price Increase?

That was a strange set of taxes the House of Representatives approved last week on airline tickets, air freight and passengers who leave the country. Unlike other taxes, these are not designed to raise funds to pay for government programs. Instead, they are designed to raise funds to help the airlines buy quieter airplanes and engines. That is a unique use of the federal taxing power, and it should be rejected by the Senate.

The scheme works like this: Each airline will continue to collect an 8 percent tax on domestic tickets and a 5 percent tax on domestic air freight. In the past, that money went into the Airport and Airway Development Fund, which pays the bills for safety programs and other projects approved by Congress. Under the new plan, however, part of that tax money will go into a special fund where it will be mixed with the proceeds of a new tax on international air freight and an increased departure tax on international passengers. Once the money gets into the new fund, the Treasury will send a portion of it back to the airline that collected it—about a third of the airline's expenditures for quieter airplanes and engines. This bookkeeping transaction—moving the money to Washington and then sending it back—is apparently designed to get around constitutional objections to a tax imposed to support something other than a government.

Behind this complex arrangement lie the problems that the airlines face in complying with the federal noise standards that go into effect in 1985. The airlines say it will cost $6 billion to $8 billion to modify or replace their present noisy aircraft. They claim—with some justification—that this is an unreasonable burden for the government to impose on their profits and stockholders. The standards, after all, are retroactive, because the planes met existing standards when they were bought, and the outlays necessary for modifications are substantially greater in relation to profits than those imposed on most other industries by other environmental requirements.

That is an argument for direct federal aid, if we ever heard one, and it seemed to sell well when it was made on the floor of the House last week. Members were told, time and again, that the government has to do something to help the airlines meet this heavy financial burden. But the legislation the House approved doesn't provide direct federal aid. Nor does it even provide indirect federal aid, as does other legislation giving various tax breaks to other industries for their anti-pollution spending. All the new legislation really does it to require airline users to pay for the new equipment through a tax. Without the tax, they would pay for it through price increases.

We can understand why the airlines prefer it this way. It puts the onus on the government, instead of on them, for increasing the cost of international travel and freight and for not decreasing domestic prices. And it spreads the costs of meeting the new standards across the airline industry. If Congress simply eliminated the taxes that the House wants to put into this new fund and told the airlines to raise their prices an equal amount, those airlines with the most noisy planes to modify or replace would be at a competitive disadvantage because they have to raise the most money. In other words, using a tax instead of a price increase to do the same job penalizes the airlines whose planes make the least noise now.

If Congress wants to help the airlines, it ought to do so either directly through grants or indirectly through tax mechanisms like those already developed for other industries. If it thinks airline users should pay the bill for the anti-noise equipment, it can recoup the expenditures or tax losses through new ticket and freight taxes. But it should not meld those two processes by creating taxes that, in effect, transfer money directly from taxpayer to airline, with the government being merely a switching station rather than a controller.

Once a precedent like that is established, it is not hard to think of what could follow. How about a tax on new-car sales, instead of price increases, to pay for catalytic converters? Or a tax on gas and electric bills to pay for scrubbers? Or a tax on chemicals to pay part of the cost of cleaning up industrial wastes? The possibilities are endless. The Senate should cut them off before they arise by refusing to go along with the airline "taxes."

On page 17, beginning with line 14, strike out all through line 2 on page 23.

On page 23, line 4, strike out "311" and insert in lieu thereof "305".●

SENATE RESOLUTION 566—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. JACKSON, from the Committee on Energy and Natural Resources, reported the following original resolution, which was referred to the Committee on the Budget:

SENATE RESOLUTION 566

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such act are waived with respect to the consideration of S. 3392. Such waiver is necessary because the bill originally introduced in the House of Representatives, H.R. 12505, was not passed until June 22, 1978, after the required May 15th reporting date. Also, action by the Committee on Energy and Natural Resources has been delayed because of the priority consideration which had to be given to the President's energy program proposals and to the Alaska National Interest Lands legislation.

AUTHORITY FOR COMMITTEES TO MEET

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Friday, September 29, 1978 and Monday, October 2, 1978 in Atlanta, Ga. to hold an oversight hearing to hear testimony on narcotics and other contraband being smuggled into prisons by guards.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES

Mr. INOUYE. Mr. President, I ask unanimous consent that the Criminal Laws and Procedures Subcommittee of the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 27, 1978 to hold a hearing on career criminals.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the two notifications I have just received:

WASHINGTON, D.C.,
September 19, 1978.

Hon. JOHN J. SPARKMAN,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 78-100, concerning the Department of the Army's proposed Letter of Offer to Austria for defense articles and services estimated to cost $47.2 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(B) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Austria.

(ii) Total Estimated Value:

Major Defense Equipment,* $39.8 million.
Other, $7.4 million.
Total, $47.2 million.

(iii) Description of Articles or Services Offered: Fifty (50) M60A3 tanks and support equipment.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 19, 1978.

WASHINGTON, D.C.
September 19, 1978.

Hon. JOHN J. SPARKMAN,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 78-101, concerning the Department of the Army's proposed Letter of Offer to Iran for defense articles and services estimated to cost $250 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Iran.

(ii) Total Estimated value:

Major Defense Equipment* $0.0 million.
Other, $250.0 million.
Total, $250.0 million.

(iii) Description of Articles or Services Offered: One air defense systems depot, which will provide depot level refurbishment/overhaul maintenance capabilities for major items plus increase the depot level maintenance repair capabilities for assemblies for I-HAWK, Rapier and Oerlikon weapon systems.

(iv) Military Department: Army:

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 19, 1978.●

OFFICIAL CORRESPONDENCE ON PROPOSED MIDDLE EAST PEACE ARRANGEMENTS

● Mr. CHURCH. Mr. President, earlier today the Department of State furnished the Committee on Foreign Relations with copies of official correspondence relating to the proposed Middle East peace arrangements.

For the information of the Senate, I ask unanimous consent to have this correspondence and the attachments printed in the RECORD.

The letter follows:

SEPTEMBER 17, 1978.

The President,
Camp David,
Thurmont, Md.

DEAR MR. PRESIDENT: I have the honor to inform you that during two weeks after my return home I will submit a motion before Israel's Parliament (the Knesset) to decide on the following question:

If during the negotiations to conclude a peace treaty between Israel and Egypt all outstanding issues are agreed upon, "are you in favor of the removal of the Israeli settlers from the northern and southern Sinai areas or are you in favor of keeping the aforementioned settlers in those areas?"

The vote, Mr. President, on this issue will be completely free from the usual Parliamentary Party discipline to the effect that although the coalition is being now supported by 70 members out of 120, every member of the Knesset, as I believe, both on the Government and the Opposition benches will be enabled to vote in accordance with his own conscience.

Sincerely yours,

MENACHEM BEGIN.

SEPTEMBER 22, 1978.

HIS EXCELLENCY ANWAR AL-SADAT,
President of the Arab Republic of Egypt, Cairo

DEAR MR. PRESIDENT: I transmit herewith a copy of a letter to me from Prime Minister Begin setting forth how he proposes to present the issue of the Sinai settlements to the Knesset for the latter's decision.

In this connection, I understand from your letter that Knesset approval to withdraw all Israeli settlers from Sinai according to a timetable within the period specified for the implementation of the peace treaty is a prerequisite to any negotiations on a peace treaty between Egypt and Israel.

Sincerely,

JIMMY CARTER.

Enclosure.

SEPTEMBER 17, 1978.

HIS EXCELLENCY JIMMY CARTER,
President of the United States

DEAR MR. PRESIDENT: In connection with the "Framework for a Settlement in Sinai" to be signed tonight, I would like to reaffirm the position of the Arab Republic of Egypt with respect to the settlements:

1. All Israeli settlers must be withdrawn from Sinai according to a timetable within the period specified for the implementation of the peace treaty.

2. Agreement by the Israeli Government and its constitutional institutions to this basic principle is therefore a prerequisite to starting peace negotiations for concluding a peace treaty.

3. If Israel fails to meet this commitment, the "Framework" shall be void and invalid.

Sincerely,

MOHAMED ANWAR EL SADAT.

HIS EXCELLENCY, MENACHEM BEGIN,
Prime Minister of Israel

DEAR MR. PRIME MINISTER: I have received your letter of September 17, 1978, describing how you intend to place the question of the future of Israeli settlements in Sinai before the Knesset for its decision.

Enclosed is a copy of President Sadat's letter to me on this subject.

Sincerely,

JIMMY CARTER.

Enclosure.

SEPTEMBER 17, 1978.

HIS EXCELLENCY JIMMY CARTER,
President of the United States

DEAR MR. PRESIDENT: I am writing you to reaffirm the position of the Arab Republic of Egypt with respect to Jerusalem:

1. Arab Jerusalem is an integral part of the West Bank. Legal and historical Arab rights in the City must be respected and restored.

2. Arab Jerusalem should be under Arab sovereignty.

3. The Palestinian inhabitants of Arab Jerusalem are entitled to exercise their legitimate national rights, being part of the Palestinian People in the West Bank.

4. Relevant Security Council Resolutions, particularly Resolutions 242 and 267, must be applied with regard to Jerusalem. All the measures taken by Israel to alter the status of the City are null and void and should be rescinded.

5. All peoples must have free access to the City and enjoy the free exercise of worship and the right to visit and transit to the holy places without distinction or discrimination.

6. The holy places of each faith may be placed under the administration and control of their representatives.

7. Essential functions in the City should be undivided and a joint municipal council composed of an equal number of Arab and Israeli members can supervise the carrying out of these functions. In this way, the City shall be undivided.

Sincerely,

MOHAMED ANWAR EL SADAT.

SEPTEMBER 17, 1978.

The President,
Camp David,
Thurmont, Md.

DEAR MR. PRESIDENT: I have the honor to inform you, Mr. President, that on June 28, 1967—Israel's Parliament (The Knesset) promulgated and adopted a law to the effect: "the Government is empowered by a decree to apply the law, the jurisdiction and administration of the State to any part of Eretz Israel (land of Israel—Palestine), as stated in that decree."

On the basis of this law, the Government of Israel decreed in July 1967 that Jerusalem is one city indivisible, the Capital of the State of Israel.

Sincerely,

MENACHEM BEGIN.

HIS EXCELLENCY ANWAR AL-SADAT,
President of the Arab Republic of Egypt Cairo.

DEAR MR. PRESIDENT: I have received your letter of September 17, 1978, setting forth the Egyptian position on Jerusalem. I am transmitting a copy of that letter to Prime Minister Begin for his information.

The position of the United States on Jerusalem remains as stated by Ambassador Goldberg in the United Nations General Assembly on July 14, 1967, and subsequently by Ambassador Yost in the United Nations Security Council on July 1, 1969.

Sincerely,

JIMMY CARTER.

SEPTEMBER 17, 1978.

HIS EXCELLENCY, JIMMY CARTER,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: In connection with the "Framework for Peace in the Middle East", I am writing you this letter to inform you of the position of the Arab Republic of Egypt, with respect to the implementation of the comprehensive settlement.

To ensure the implementation of the provisions related to the West Bank and Gaza and in order to safeguard the legitimate rights of the Palestinian people, Egypt will be prepared to assume the Arab role emanating from these provisions, following consultations with Jordan and the representatives of the Palestinian people.

Sincerely,

MOHAMED ANWAR EL SADAT.

HIS EXCELLENCY MENACHEM BEGIN,
Prime Minister of Israel

DEAR MR. PRIME MINISTER: I hereby acknowledge that you have informed me as follows:

(A) In each paragraph of the Agreed Framework Document the expressions "Palestinians" or "Palestinian People" are being and will be construed and understood by you as "Palestinian Arabs."

(B) In each paragraph in which the expression "West Bank" appears, it is being, and will be, understood by the Government of Israel as Judea and Samaria.

Sincerely,

JIMMY CARTER.

STATEMENT BY AMBASSADOR CHARLES W. YOST

Once again the Council has been summoned to deal with certain actions taken by the Government of Israel in Jerusalem. We have listened carefully to the statements of the Permanent Representative of Jordan and other Arab Ambassadors, as well as the reply of the Representative of Israel.

The discussion thus far has made amply clear that the status of Jerusalem is not an isolated problem, but, rather, an integral part of a whole complex of issues in the current Middle Eastern conflict which must be resolved. This is not a novel conclusion. The Council clearly recognized that fact in Resolution 242, which treats the entire Middle Eastern situation as a package. This resolution remains the basis of our approach to a just and lasting peace in the area. You are all well aware of the strenuous efforts my own Government is making to help Ambassador Jarring promote a peaceful settlement. Progress in these efforts has, admittedly, been slow. This is perhaps not surprising when one reflects on how deep the roots of the conflict go. But the important thing is that some progress is being made. The fact that it has not been crowned with dramatic success should not give grounds for despair. Nor should it be exploited as justification for actions, which will make greater progress even more difficult. This applies to actions in Jerusalem as elsewhere in the area. Indeed, Jerusalem occupies a very special place in all our minds and all our hearts as one of the holiest cities in the entire world. For Jerusalem is a sacred shrine to three of the world's largest and oldest religious faiths: Islam, Christianity and Judaism.

By virtue of that fact the United States has always considered that Jerusalem enjoys a unique international standing and that no action should be taken there without full regard to Jerusalem's special history and special place in the world community. Unfortunately there have been acts of many kinds which have broken the peace in Jerusalem and which are of deep concern to my Government and to the international community. Mr. President, we understand the deep emotional concerns which move all parties to the Arab-Israeli dispute on the subject of Jerusalem.

We do not believe, however, that any of these concerns are served by what is now taking place in East Jerusalem, whether it be actions by those now exercising authority there or by individuals considering themselves aggrieved and therefore justified in resorting to violence. The expropriation or confiscation of land, the construction of housing on such land, the demolition or confiscation of buildings, including those having historic or religious significance, and the application of Israeli law to occupied portions of the city are detrimental to our common interests in the city. The United States considers that the part of Jerusalem that came under the control of Israel in the June war, like other areas occupied by Israel, is occupied territory and hence subject to the provisions of international law governing the rights and obligations of an occupying power.

Among the provisions of international law which bind Israel, as they would bind any occupier, are the provisions that the occupier has no right to make changes in laws or in administration other than those which are temporarily necessitated by his security interest, and that an occupier may not confiscate or destroy private property. The pattern of behavior authorized under the Geneva Convention and international law is clear: the occupier must maintain the occupied area as intact and unaltered as possible, without interfering with the customary life of the area, and any changes must be necessitated by immediate needs of the occupation.

I regret to say that the actions of Israel in the occupied portion of Jerusalem present a different picture, one which gives rise to understandable concerns that the eventual disposition of East Jerusalem may be prejudiced and the rights and activities of the population are already being affected and altered.

My Government regrets and deplores this pattern of activity, and it has so informed the Government of Israel on numerous occasions since June 1967. We have consistently refused to recognize these measures as having anything but a provisional character and do not accept them as affecting the ultimate status of Jerusalem.

I have explained in some detail the opposition of the United States to certain measures taken by the Government of Israel in Jerusalem, since this is the precise object of the complaint brought before us by the Government of Jordan. But, as I suggested earlier, we cannot logically and intelligently consider the problem of Jerusalem without putting it in its proper perspective—the Middle East situation as a whole. In this connection, I would recall that one of the first major policy decisions taken by President Nixon after assuming office this year was that the United States Government should take new initiatives in helping to try to bring peace in the Middle East.

For the past several months we have been devoting our best efforts to this task. We shall continue to do so but for these efforts to succeed we will require the goodwill and cooperation of the parties themselves. A just and lasting peace in the Middle East is long and tragically overdue. It will not be found through terror bombings, which inevitably harm innocent civilians, any more than through unilateral attempts to alter the status of Jerusalem. It will be found only through the instruments and processes of negotiation, accommodation and agreement. It will come only through the exercise by the parties of the utmost restraint—not just along the cease-fire lines or in public statements, but also on the ground in Jerusalem itself.

In treating the problem of Jerusalem, since we deal with it in the context of the total situation in the Middle East, my Delegation will subject any proposal for Council action, first of all, to the test of whether that proposal is likely to help or hinder the peaceful settlement process. I hope all members will do likewise. For example, one constructive move the Council might make would be to request the parties to lay aside their recriminations, to desist from any action—in Jerusalem or elsewhere—that might be construed as prejudicing or prejudging a final, comprehensive settlement, a just and lasting peace. Thus, our consideration of the situation in Jerusalem could provide a fitting occasion on which to insist once more that the parties to a dispute which keeps the world's Holiest City in turmoil act responsibly to resolve the whole dispute and, until it is resolved, that they take no action anywhere which could further jeopardize its resolution.

Statement by Ambassador Arthur J. Goldberg

Mr. President, the goal of the United States in the Middle East, one we believe shared by the great preponderance of the world community, is a durable peace and enduring settlement. We conceive of this goal as requiring throughout the area far more than a return to the temporary and fragile truce which erupted into tragic conflict on June 5.

We are convinced, both by logic and the unforgettable experience of a tragic history, that there can be progress toward the durable peace in the entire area only if certain essential steps are taken. One immediate, obvious and imperative step is the disengagement of all forces and the withdrawal of Israeli forces to their own territory. A second and equally immediate, obvious and imperative step is the termination of any claims to a state of war or belligerency on the part of Arab states in the area.

These two steps are essential to progress towards a durable peace. They are equally essential if there is to be substance and concrete meaning to the basic Charter right of every state in the area, a right to which the United States remains firmly committed, the right to have its territorial integrity and political independence respected by all and free from the threat or use of force by all.

The United States stands ready to give its full support to practical measures to help bring about these steps—withdrawal of forces and the termination of belligerent acts or claims as soon as possible.

But if our goal is a durable peace, it is imperative that there be greater vision both from this organization and from the parties themselves. It is imperative that all look beyond the immediate causes and effects of the recent conflict. Attention must also be focused, and urgently;

On reaching a just and permanent settlement of the refugee problem, which has been accentuated by recent events;

On means to ensure respect for the right of every member of the United Nations in the area to live in peace and security as an independent national state;

On arrangements so that respect for the territorial integrity and political independence of all states in the area is assured;

On measures to ensure respect for the rights of all nations to freedom of navigation and of innocent passage through international waterways; and

On reaching agreement, both among those in the area and those outside, that economic development and the improvement of living standards should be given precedence over a wasteful arms race in the area.

In each and every one of the separate but related imperatives of peace, we recognize fully that agreement cannot be imposed upon the parties from outside. At the same time, we also believe that the machinery, experience and resources of the United Nations can be of immeasurable help in implementing agreements acceptable to the parties.

The offer of such assistance by this organization is dictated not only by the roots of United Nations responsibility and involvement in the Middle East which have grown deep and strong over two decades; it is also dictated by our common determination, even duty, under the Charter to save succeeding generations in the Middle East from the scourge of another war.

It is against the background of this overall policy that my government has developed its attitudes toward the question of Jerusalem—and I wish to make that attitude very explicit:

The views of my Government on Jerusalem have been expressed by the President of the United States and other high level officials.

On June 28, the White House made the following statement:

"The President said on June 19 that in our view 'there must be adequate recognition of the special interests of three great religions in the holy places of Jerusalem.' On this principle he assumes that before any unilateral action is taken on the status of Jerusalem there will be appropriate consultation with religious leaders and others who are deeply concerned. Jerusalem is holy to Christians, to Jews, and to Moslems. It is one of the great continuing tragedies of history that a city which is so much the center of man's highest values has also been, over and over, a center of conflict. Repeatedly the passionate beliefs of one element have led to exclusion or unfairness for others. It has been so, unfortunately, in the last 20 years. Men of all religions will agree that we must now do better. The world must find an answer that is fair and recognized to be fair."

The second statement, released on the same day by the Department of State, read:

"The hasty administrative action taken today cannot be regarded as determining the future of the Holy Places or the status of Jerusalem in relation to them.

"The United States has never recognized such unilateral actions by any of the States in the area as governing the international status of Jerusalem."

During my own statement to the General Assembly on July 3, I said that the safeguarding of the Holy Places and freedom of access to them for all should be internationally guaranteed and the status of Jerusalem in relation to them should be decided not unilaterally but in consultation with all concerned. These statements represent the considered and continuing policy of the United States Government.

With regard to the specific measures taken by the Government of Israel on June 28, I wish to make it clear that the United States does not accept or recognize these measures as altering the status of Jerusalem. My government does not recognize that the administrative measures taken by the Government of Israel on June 28 can be regarded as the last word on the matter, and we regret that they were taken. We insist that the measures taken cannot be considered other than interim and provisional, and not prejudging the final and permanent status of Jerusalem. Unfortunately and regrettably the statements of the Government of Israel on this matter have thus far, in our view, not adequately dealt with this situation.

Many delegations are aware that we were prepared to vote for a separate resolution on Jerusalem which would declare that the Assembly would not accept any unilateral action as determining the status of Jerusalem and calling on the Government of Israel to desist from any action purporting to define permanently the status of Jerusalem. However, the sponsors made clear then, as was their right, that they preferred to proceed with their own text in Document A/2253, and now with their resolution in A/L 528, Rev. 2. The latter draft does include changes which we consider represent a marked improvement over the original version, particularly in that it no longer tends to prejudge action in the Security Council.

Nevertheless, since the resolution just adopted expressly builds on Resolution 2253, on which we abstained for reasons which we stated publicly, consistent with that vote, we also abstained today. Even as revised, the resolution does not fully correspond to our views, particularly since it appears to accept by its call for recision of measures that the administrative measures which were taken constitute annexation of Jerusalem by Israel, and because we do not believe the problem of Jerusalem can realistically be solved apart from the other related aspects of Jerusalem and of the Middle Eastern situation. Therefore, the United States abstained.

We have of course recently expressed ourselves in a more formal sense by voting for a resolution dealing with the question of Jerusalem. This was the Latin American resolution contained in Document A/L, 523 Rev. 1, which dealt with Jerusalem as one of the elements involved in a peaceful settlement in the Middle East.

It is in the treatment of one aspect of the problem of Jerusalem as an isolated issue, separate from the other elements of Jerusalem and of a peaceful settlement in the Middle East, that we were unable to support Resolution 2253. Certainly, Jerusalem, as has been pointed out universally, I think, by every speaker, is an important issue and, in our opinion, one which must necessarily be considered in the context of a settlement of all the problems arising out of the recent conflict.

In Jerusalem there are transcendent spiritual interests. But there are also other important issues. And we believe that the most fruitful approach to a discussion of the future of Jerusalem lies in dealing with the entire problem as one aspect of the broader arrangements that must be made to restore a just and durable peace in the area. And we believe consistent with the resolution we were ready to sponsor, that this Assembly should have dealt with the problem by declaring itself against any unilateral change in the status of Jerusalem.

Mr. President, since we are approaching the end of this session on this important subject, in which remarks were made not relating specifically to Jerusalem but ranging very broadly on other subjects, I cannot let this occasion pass without reference to some of the allegations made regarding my Government's role in the recent conflict in the Middle East. The charges that the United States instigated, encouraged or in any way participated in this tragic struggle are too unfounded to dignify by individual comment. I dealt with many of these falsehoods explicitly in the Security Council and will not take the time of the Assembly to go over the same ground here. I reaffirm what I said to the Security Council with respect to each and every one of these charges.

I will merely say that one positive note in this session has been the abandonment of the most vicious falsehood of all—which could have been productive of the most disastrous consequences—that United States planes and military personnel participated in the war on the side of Israel. Before the war broke out, we sought to prevent it by all means at our command. And once it began, we did everything in our power to bring it to an early end. The record of our diplomacy is very clear in this matter, despite comments which have been read from newspapers which scarcely characterize that diplomacy. And the record of the Security Council is plain and clear for everyone to read as to the actions we took, supported and initiated in the Security Council to bring the conflict to an end.

There is one charge about our position to which I believe no nation in this hall, faithful to the Charter would feel any necessity to plead. That is the charge that we support the right of every sovereign state member of the United Nations to an independent national existence, its right to live in a spirit of peaceful coexistence and good neighborliness with all in the area. That is a charge which the Charter of the United Nations places on us all and which we should all readily accept and acknowledge.

Our view has remained steadfast—before, during and now, after the conflict. We extend the hand of friendship to all states in the Middle East and express the fervent hope that as time heals the scars of war we can soon again join our common efforts in helping build a better, more enduring order in every state and throughout the area, with peace, justice, security and liberty for all.

Mr. President, so much vituperation has taken place in this Assembly, so unseemingly in a world forum, that I could not help recalling today a statement made by my distinguished predecessor who died two years ago today in the cause of peace, Adlai Stevenson. Adlai Stevenson, talking about our beloved Eleanor Roosevelt, said "She would rather light a candle than curse the darkness." And I share that spirit. I do not see that anything is gained in the cause of peace in the Middle East by the vituperation which has taken place, vituperation not only against other, small countries, vituperation which has no place in this forum.

The time has come—indeed, the time is long overdue—for vituperation and bitterness to be tempered by sober realization of the difficulties ahead and the willingness to face them squarely and to do something about them.

What is needed is the wisdom and statesmanship of all those directly concerned and the members of the United Nations so that conditions of hate, too much ventilated in this hall, can be eventually replaced by conditions of good neighborliness.

What is needed above all in the area is a spirit of reconciliation which will someday hopefully, make possible a peace of reconciliation. I fervently hope that all in the area and all in this hall will approach the days ahead in this spirit.●

FOURTH FEDERAL DESIGN ASSEMBLY

● Mr. MATHIAS. Mr. President, 800 delegates are gathered today in the Nation's Capital to honor and celebrate outstanding Federal design projects. The Fourth Federal Design Assembly brings together policymakers, administrators, and professional technicians in building design and construction. Their purpose in coming together is to share success stories of good design in Federal projects and to sensitize one another and their respective agencies, of which 60 are represented, to the possibilities yet to be explored for high quality design of Federal buildings.

What is especially gratifying to me is that the assembly is meeting in the Pension Building here in Washington. This 93-year-old, red brick landmark is an ideal setting for designers, architects, engineers, planners, and others concerned with humanizing our environment. The building features a remarkable interior court marked by eight 76-foot-high Corinthian columns. Ringed around this magnificent court, which has been the scene of nine inaugural balls over the years, are four tiers of galleries. The entire interior court receives natural light and ventilation from clerestory windows. The exterior of the building features a 1,200-foot frieze depicting soldiers and sailors on a march.

The Pension Building is a national architectural treasure, as is much of our built environment including the building trades, skills, professions, and tools used to create that built environment.

It was with this in mind that I introduced legislation earlier this year to utilize the Pension Building for a Museum of the Building Arts. I am sure the other sponsors of the bill, Senators RANDOLPH, PELL, STAFFORD, CRANSTON, JAVITS, MOYNIHAN, HEINZ, CASE, MORGAN, CHAFEE, and McCLURE, share my commitment to make this dream a reality. We have already started the wheels moving in this direction by approving a resolution here in the Senate directing the General Services Administration to prepare a Museum of the Building Arts.

We will be looking closely at those plans and designs and, through the hearing process, will define the kinds of museum activities that should go on in the Pension Building, along with the sources of financing for such a museum.

A Museum of the Building Arts will present us with numerous opportunities. It could be a catalyst for innovative cooperation in the building industry. It can serve as an educational forum on the history and current state of the art of building and planning in America. And it will be housed in a building which is itself a testament to American design and building genius.

I recommend that my colleagues visit the Fourth Annual Federal Design Assembly in the Pension Building. I am confident such a visit will make them as enthusiastic as I and the other sponsors of the Museum of the Building Arts are about this concept.●

MARY MUNSON RUNGE ELECTED PRESIDENT OF APhA

● Mr. CRANSTON. Mr. President, I am pleased to have this opportunity to make note of the recent election of a fellow Californian, Mary Munson Runge, to the presidency of the American Pharmaceutical Association (APhA).

Mr. President, I ask that there be printed in the RECORD the APhA announcement of Mrs. Runge's election, and I congratulate her on this great honor.

The announcement follows:

APhA ELECTS RUNGE FIRST WOMAN PRESIDENT

Mary Munson Runge, a practicing community pharmacist from Oakland, California, has just been elected president of the American Pharmaceutical Association (APhA), the national professional society of pharmacists with almost 60,000 active and student members.

She is the first woman and the first black to be elected president of APhA, which was founded 126 years ago. She is also believed to be one of the first black women to serve as president of a major national, professional, medical association.

Runge and APhA's other officers were elected by a mail vote of the entire active membership. The results of the balloting were announced August 20 by the APhA Board of Canvassers.

Sunge served as speaker of APhA's House of Delegates for 1977–78 and is a member of the Board of Trustees. She obtained her B.S. in pharmacy from Xavier University in 1948.

Active in California pharmacy affairs, pharmacist Runge was named the 1978 California Pharmacist of the Year. She served as president and vice president of the California Pharmacists Association and as speaker of its House of Delegates. She has also been president of the California Society of Hospital Pharmacists, the Northern California Society of Hospital Pharmacists, and the Women's Pharmaceutical Association of the Pacific Coast. She is the current APhA representative on the American Council on Pharmaceutical Education, the accrediting body for schools of pharmacy.●

EXPORTING PETTIFOGGERY

● Mr. HAYAKAWA. Mr. President, the October issue of Harper's contains an excellent article regarding the role of environmental regulation of certain U.S. exports. I think it is very timely, given the ongoing international trade debate and also the Eximbank legislation which is currently pending in the Senate.

This country has an astounding trade deficit and we are all aware that oil imports are responsible for a large part of it. However, I do believe that the oil problem has been exaggerated by the administration. The evidence given in the Harper's article suggests to me that we do not have our priorities straight.

I ask that the article "Exporting Pettifoggery" be printed in the RECORD for the benefit of my colleagues.

The article follows:

EXPORTING PETTIFOGGERY

(By Tom Bethell)

Within the past year there has been a good deal of comment about the nation's unfavorable balance of trade, which amounted to an excess of imports over exports of $27.8 billion in 1977. By contrast, ten years ago the country enjoyed a $4 billion trade surplus. Thus dollars have been flowing abroad, and the value of the dollar in relation to some other currencies has been declining. The customary explanation for this—favored by President Carter and others in his Administration—is that we now have to import greater quantities of much more expensive oil. We are therefore implored to use less oil so that our trade might be brought back into balance.

Upon examination, this explanation turns out to be a tendentious, not to say ideological, way of looking at the matter. Germany and Japan, for example, import greater quantities of oil in relation to their gross national product than the United States does. And so they have done for many years. It is not so much our imports that have been increasing as our exports that have been decreasing. America's market share of world exports has steadily declined from 18 percent in 1960 to 12.7 percent in 1977. (Had our market share remained at 18 percent, U.S. exports last year would have been $60 billion greater, converting the large trade deficit into an even larger surplus.) That is another way of looking at the matter: perhaps equally ideological, but less often discussed.

It is sometimes said that the United States does not have an "export ethic." Within the past few years, however, the truism has been given a new twist. Neglect is turning into positive abhorrence. Exports are in danger of being labeled "unethical." Carter's human rights policy under Assistant Secretary of State Patricia M. Derian is having the effect, apparently intentional, of converting former allies and trading partners into enemies. ("Two years ago I was standing on the flag," Derian told a group of Democratic contributors recently. "Now it is on the wall behind me.") The nuclear nonproliferation pact has caused Brazil to shift *all* its government purchases away from the United States.

Further, the U.S. government does not provide the same assistance and commercial promotion abroad that other governments routinely do. After more than a year and a half in office, Carter still has not appointed anyone to the President's Export Council. Inflation prompts potential businessmen to turn instead to bonds and other government paper. The pervasive anti-business background (e.g., restrictive tax policies limiting venture capital) also hurts exports. Finally, but not least, we should pay attention to the vigorous activities of those who are fashionably counterproductive, notably the environmentalists.

Consider the lawsuit filed by a "public

interest" law center called the Natural Resources Defense Council (and filed jointly by the National Audubon Society) a week before the Carter Administration took office. NRDC is one of the largest of approximately 100 public-interest law centers, a number of which were initially funded, and are currently sustained, by grants from the Ford Foundation, which in the past nine years has spent $20 million on such institutions. That is nearly half of all financial support given to public-interest law centers.

The lawsuit, filed in the U.S. District Court for the District of Columbia, sought to require Eximbank, the Export-Import Bank of the United States, to apply the same procedures for the protection of *foreign* environments as have been developed in recent years to protect the domestic environment. In short, Eximbank, which makes loans to foreign countries to facilitate their purchases of U.S. goods, technologies, and services, would be required to file an "environmental impact statement" before making a foreign loan.

The Washington law firm of White & Case, which represented the Mid-America Legal Foundation when it intervened on behalf of Eximbank several months after the initial filing, noted in a "status memorandum early this year that the ramifications of this lawsuit, if successful, could be enormous. In 1976, for example, Eximbank credits and guarantees supported nearly $12 billion in U.S. export sales to 157 markets. These sales were related to an Eximbank-estimated 500,000 American jobs. If even a small portion of these sales were lost through the encumbrance of Eximbank with the time-consuming, tedious, and expensive process of preparing gratuitous assessments of foreign environmental effects, the result would be disastrous.

There are two principal reasons for this foretaste of disaster. In the first place, America no longer enjoys a technological or manufacturing advantage over foreign competitors, and therefore the deciding factor in a major foreign sale is often the speed with which Eximbank's financing can be provided. Eximbank usually reacts to applications for loans within a matter of a few weeks; but a study by the General Accounting Office showed that environmental impact statements, on average, delayed projects by thirty-one months. Clayton Norris, as deputy vice-president of Eximbank's Project Development Division, has said that "speed is of the essence in working out successful export transactions." Bank loan procedures, if subjected to environmental impact statements, "would totally collapse, and bank operations would come to a virtual standstill."

The other difficulty would arise out of the breach of confidentiality involved in making the extensive economic and environmental inquiries in the foreign countries involved, and then promulgating these findings in accordance with the National Environmental Policy Act, or NEPA.

The Congress, perhaps unconsciously, delivered a powerful weapon into the hands of the public-interest law movement when, in 1969, it enacted NEPA, according to which the government is required to assess the "environmental impact" of any "major" federal action ("major" has never been precisely defined). This assessment takes the form of an "environmental impact statement," to be written by the federal agency contemplating the action in question.

From the point of view of the public-interest lawyer, by now comfortably ensconced within the Environmental Defense Fund, or the Natural Resources Defense Council, or the Sierra Club Legal Defense Fund, or the Center for Law and Social Policy, and financed in part by the proceeds from the sale of Ford automobiles, the beauty of the environmental impact statement was that it could always be challenged in court. A show of solicitousness for the environment, far from mollifying the environmentalist, tends to act as the red flag to the bull. Hitherto unsuspected complications within the environment could always be pointed out, thus delaying and delaying a proposed project. It was precisely in anticipation of such legal challenges that preparing environmental impact statements became such a time-consuming business. And it was in the tireless *deployment* of such legal challenges that the environmentalist eventually became the object of the following suspicion: that it wasn't so much the smoke coming out of the factory chimney that he objected to, as the activity going on within the factory itself.

Not long after the environmental movement was firmly established at home the discovery was made that it might also be possible to "export" environmentalism. The legislative history of NEPA is not precise on the subject of how far the "environment" extends, perhaps because Congress did not anticipate the fanaticism that would come to surround the subject. The act had said merely that "major federal actions significantly affecting the quality of the *human* environment" shall be assessed; but Sen Henry Jackson of Washington had also inserted into the CONGRESSIONAL RECORD, during a floor debate on October 8, 1969, the following summary of an early House-Senate conference: "Although the influence of the U.S. policy will be limited outside its own borders, the global character of ecological relationships must be the guide for domestic activities."

It was not long before lawsuits were filed challenging federal actions overseas. In 1974, for example, the Sierra Club and the Natural Resources Defense Council jointly sued the Atomic Energy Commission and Eximbank, requiring that they prepare impact statements on the "nuclear power export program." The issue of the extraterritorial application of NEPA was not decided in court, however, because the Atomic Energy Commission agreed to prepare a "generic" impact statement (as opposed to a specific one).

Concern about nuclear reactors seems reasonable enough. As Charles Warren, the current chairman of President Carter's Council on Environmental Quality, has pointed out, Eximbank authorized a loan of $277 million in December, 1975, to permit the Philippines to buy a nuclear reactor, and an environmental impact statement, had one been written, would have revealed that "the Philippine Islands are located in an earthquake belt."

But the suit filed in early 1977 by NRDC against Eximbank shows that environmentalists are also prepared to go to unreasonable lengths in pursuit of what is now occasionally described as "environmental imperialism." For several years, the Republic of Gabon has been attempting to build a 440-mile railroad across the heart of Gabon. The railroad, passing through swamps and forests, is intended to link the mineral-rich interior of the county to the coast, and so has been described as "the backbone of that country's future economic development." Numerous firms from different countries have joined in its construction, including a New York engineering firm, which was engaged to provide "consultative quality control services" for the continuing construction of the railroad.. This firm received a $4.6 million loan commitment from Eximbank. (The entire railroad will cost more than $1 billion.)

"Modest though the American involvement may be," Charles N. Brower of the White & Case law firm has noted, "it has now become the basis of an attempt to extend the procedural provisions of NEPA into the heart of Gabon." The construction may endanger the "habitats" of gorillas, crocodiles, buffalo, and elephants, the NRDC has warned in its suit against Eximbank, and so environmental impact statements that would no doubt take months if not years to prepare, inevitably resulting in the government of Gabon's purchasing its quality control services elsewhere.

The lawyer in the Justice Department responsible for defending Eximbank against this challenge turned out to be James W. Moorman, who was appointed Assistant Attorney General of the Lands and Natural Resources Division in May, 1977. Other lawyers in Washington who have been following this case have expressed doubts as to Moorman's enthusiasm for defending Eximbank, because before coming to the Justice Department, Moorman was, from 1971 to 1977, executive director of and attorney for the Sierra Club Legal Defense Fund. It was, of course, the Sierra Club that had brought the almost identical suit against the AEC and Eximbank three years earlier, and Moorman, while executive director, had recommended that the Sierra Club be party to that suit.

Moorman's subsequent involvement in the case raised the thorny matter of "conflict of interest," but with a difference. Normally the phrase refers to the possibility that someone might give financial assistance to former colleagues by construing the government's rules in such a way as to help them. In Moorman's case, the appearance of conflict of interest was ideological, not financial. Although he had worked for the Sierra Club, and was now in the position of defending against a challenge by NRDC, the two organizations shared many of the same goals and had, in fact, jointly sued the government at least ten times while Moorman was with the Sierra Club. Moorman and Thomas B. Stoel, Jr., counsel for NRDC, had served as co-counsel in the case that delayed construction of the Alaska pipeline for three years.

It was certainly arguable that the "extreme" environmentalist—as Moorman had been characterized in a letter to the Senate Judiciary Committee opposing his nomination—would put loyalty to the environment above all else, and so would be a weak advocate for the government against environmentalist attack.

Moorman's subsequent handling of the case did indeed raise the question of where his loyalty lay. A key issue whenever an environmentalist sues the government is that of "standing." That is, why should environmentalists in Manhattan be allowed to sue the government on behalf of Gabonese crocodiles, unless the environmentalists are able to show that they are personally going to suffer injury as a result of the death of such crocodiles? To show such a connection in court is to show one's legal "standing."

Thomas Stoel, representing NRDC, had candidly written to the Justice Department on the "standing" question: "Our problem is that we have virtually no knowledge of the current activities of the Bank, so we have no way of demonstrating the connection between those activities and the plaintiffs' members." In which case, why had NRDC brought suit in the first place? Clearly it was not in fact representing its members It was representing a cause.

Despite the exceedingly weak legal position adopted by his current adversary (and former partner), in September, 1977, Moorman withdraw an earlier government motion challenging NRDC's standing—a motion that had been filed while the Justice Department was still staffed by Ford Administration appointees. Thus, at one stroke Moorman was able to dismantle what he himself, in his public-interest lawyer days, had described as "the greatest hurdle in a suit with the federal government." There now would be no challenge to NRDC's standing.

In December, 1977, Moorman was attacked in a memorandum filed in court that suggested "an appearance of impropriety" in his role. He then temporarily withdrew from representation of Eximbank, pending a "review" of his status by the Justice Department's Office of Legal Counsel. Eight months later, this review still has not been completed.

Meanwhile, the Eximbank case is being handled by Lois Schiffer, chief of the General Litigation Section under Moorman. She previously worked for the Center for Law and Social Policy, an organization that "has been steadily plugging the extraterritorial application of NEPA since it was enacted," according to a Washington lawyer who has taken an interest in this case. Moorman, incidentally, is also an alumnus of the Center for Law and Social Policy, having worked there as a staff attorney from 1969–71. As Charles N. Brower noted in December, 1977, "Mr. Moorman is at least bureaucratically the man in charge," and even if he no longer is, it is clear that Eximbank will continue to be defended by lawyers more interested in the environment than in exports. Eximbank has expressed dissatisfaction with its legal representation, and has tried, unsuccessfully, to be represented by lawyers of its own choosing.

As matters have developed in the past few months, all three branches of government are wrangling over the complex matter of exports, the environment, and the law. In January, 1978, the Council on Environmental Quality issued draft provisions unequivocally stating that the "application of NEPA to significant environmental effects [is] not confined to the United States." The environmentalists had won this round, but there was much criticism of the draft regulations within some government departments, notably Commerce and State. Rowland Evans and Robert Novak wrote a column in which they claimed that "the proposed regulations were drawn secretly by CEQ planners with apparent help from the Natural Resources Defense Council." Although this has not been independently confirmed, it is at least suggestive that Gus Speth, one of three CEQ members, was formerly an attorney with NRDC.

In response both the NRDC suit against Eximbank and to CEQ's draft regulations, the National Legal Center for the Public Interest (a public-interest law firm that, among other things, keeps an eye on what other such firms are up to) held a conference in April on 'Environmental Restraints on U.S. Exports." The overall tone of the conference was critical of the overseas application of NEPA. Florencio Acosta, Mexico's Minister Counselor for Commercial Affairs, citing a recent cancellation of Eximbank financing in his country (due to U.S. domestic squabbling), noted that "the immediate repercussions on U.S. exports was the cancellation of steel pipe orders at a time when relief to the ailing U.S. steel industry would have been welcomed. Fortunately for Mexico, the existence of other money markets permitted the construction of the pipeline to develop a resource that would help better the conditions of our people."

An administrative assistant to Sen. Adlai E. Stevenson III, of Illinois, attended the conference and reported back his findings, and, in the early summer, Stevenson introduced to a bill extending Eximbank's charter an amendment that would have exempted the bank from any restrictions under NEPA. (Illinois is one of the principal exporting states.) But this amendment, which was passed by the Senate Banking Committee, was then "sequentially referred" to the Senate Committee on the Environment—chaired by Sen. Edmund Muskie of Maine—where it was, as expected, unanimously opposed. (Maine has more scenery than factories.) There the matter stands in Congress. Senators are undoubtedly hoping that they will not have to commit themselves in a floor vote to being either against exports or against the environment.

Although the Carter Administration at the middle levels is riddled with environmentalists, word does seem to have reached the White House, belatedly, that all the world does not necessarily love them. Public-opinion polls on the subject tend to be misleading. If asked "Do you want clean air?" nearly everyone will say yes. But if the phrase "at the expense of exports" is added to the question, most people will say no. Weeks passed, then months, and still CEQ's draft regulations were not recast into final and unalterable form. An Executive order has been issued that steers circumspectly between the extremes of commercialism and environmentalism, but that does not resolve, once and for all, the disputed legal question of whether Eximbank must conform to the provisions of NEPA.

As for the progress of the lawsuit against Eximbank at U.S. District Court, there has been very little action there, either, in recent months. In fact, eighteen months after the suit was filed, the government still has not filed a reply—a most unusual delay, and one that has been condoned by the judge in the expectation, it is thought, that one or another branch of government would alter the statutory rules in such a way as to render the case moot. But to date this has not happened. Everyone involved is waiting for someone else to make the first move. Eximbank meanwhile continues to operate without the burden of NEPA on its back.

The American government, it has been said, is constructed in such a way as to make it extremely difficult for those newly arrived at the seats of power to do good. For this we may be grateful, however, because as the events surrounding the Eximbank case suggest, the same machinery of government makes it just as difficult for well-intentioned visionaries to do harm.●

CECIL CALHOUN

● Mr. CHURCH. Mr. President, I call attention to a feature article in the Times-News of Twin Falls concerning the career of a remarkable man, Cecil Calhoun, the great-grand-nephew of Vice President John Calhoun.

Now 80, Cecil Calhoun looks back on a lifetime of farming, community service, and journalism. His articles on politics, public issues, personalities, and other events of the day have regularly been a feature of his hometown newspaper, the Buhl Herald, and he has written for several other newspapers in Idaho.

On September 7, the Times-News recognized Cecil Calhoun with a lengthy article, written by Lorayne O. Smith, and I ask that it be printed in the Record.

The article follows:

Public Issues Attract Buhl Writer, Farmer

(By Lorayne O. Smith)

Buhl.—Cecil Calhoun has no illusions about influence of private citizens, no matter how informed or dedicated, on legislation at any level of government.

The longtime Buhl farmer, a great-grand-nephew of John C. Calhoun, vice president under Andrew Jackson, probably has testified before both state and federal legislative committees on more issues than anyone else in this area.

What was his success ratio? Sitting in his "office" in the Calhouns' spacious mobile home in Buhl recently, Calhoun shrugged. He describes himself as a "political realist."

"They'll look you right in the eye and swear they're for a bill, then turn around and vote against it because of an amendment," he said.

The politician listens but the action is so hidden in maneuvering that hearing is little but a sop thrown to the public, he believes.

Nevertheless he has lobbied on many issues at the Idaho statehouse, including the sales tax, Sunset law, bus service for Buhl and highway right-of-way. He appeared before U.S. Senate Interior and Insular Affairs committee on Hells Canyon in the nation's capitol.

On the Hells Canyon issue he debated against the late Asher B. Wilson, prominent Twin Falls Democratic leader.

"That's the first time I ever bucked the big boys," Calhoun laughed.

He says many of his original ideas were incorporated by the Senate Agricultural Committee into a new farm program after Sen. Frank Church took them before the group.

Calhoun had written an article to the Western Farm Life magazine outlining his feeling that farmers should be allowed to partake in the federal farm program voluntarily. He first jotted down his notes on the dust of his tractor hood while cultivating beans.

While he technically may have received his impetus for testifying on many diversified public issues while serving as a legislative representative for Twin Falls Granges, Calhoun inherited his interest in public life from his father.

J. M. Calhoun, first prosecuting attorney of McPherson County, Neb., helped to found vo-ag in Nebraska schools. A pioneer settler of Nebraska, the elder Calhoun was a graduate of Northwestern University in Chicago who founded the first school for Sioux Indians at Pine Ridge Agency in 1892.

His son began his first community service when he was elected to the school board in Nebraska at age 27.

He was born at North Platte, Neb., Oct. 19, 1898. After graduating from high school there with honors, he enlisted to fight in World War I. He was to report on Dec. 4 but the Armistice was signed Nov. 11 so Calhoun has no military record.

On Nov. 26, 1923, he married Lettie Harris who had taught school at 17 years of age. After 11 years of married life the couple left Nebraska the victim of the Great Dust Bowl, preceded by repeated crop loss through hail, scorching winds, early frost and drought, long the natural foes of farmers in the Midwest.

When the Calhouns came to Idaho Dec. 18, 1934, they had just $52 to show for 11 years of hard work.

His last crop of grain in Nebraska netted him 1 cent per bushel, Calhoun estimated, after figuring the cost of the seed, threshing and labor.

When he arrived in Buhl, the farms "looked like a weed patch," Calhoun recalled, because of the way the fields were cut up. He had visualized a wide Snake River plain.

His first job in Buhl was sorting spuds at 25 cents per hour. He got his "toehold" into Idaho farming with 40 acres in the Deep Creek area, trading two sections of his old dry land ranch for seven cows, 130 leghorn hen and some machinery.

"That little 40 brought us two new cars and paid our expenses," Calhoun said. After seven years they moved to the Clover area where they "made good money" during World War II, enabling them to buy a "nice" place south of Buhl.

Purchase of this farm south of Buhl, where Calhoun farmed for a quarter of a century, fulfilled his wedding promise to his bride to provide her with a nice home.

"It took us 25 years to do it," Calhoun laughed. His life can be neatly divided into 25 year periods—the first quarter century to obtain a good farm, the second one operating the place, and the third one beginning with his retirement five years ago. On their 50th wedding anniversary the Calhouns sold their farm and moved into Buhl.

Although Calhoun is proud of his farming accomplishments and believes he still holds a red bean production record of 43 hundredweight per acre, he has devoted much of his time for many years to writing.

His ideas on current issues have been widely published. While still on the farm he started writing a column for the Buhl Herald which he continued for 15 years.

His articles have appeared in seven daily papers and one was published in the Congressional Record. One article on law enforcement was broadcast over 250 radio stations. His guest editorials have appeared in the Times-News, Wendell Irrigationist and Northwest Reporter.

Calhoun also has had articles in the Idaho Farmer-Stockman.

But he also has been active in community life in addition to his farming and writing interests. He served on the school board at Deep Creek and joined the Fairview Grange in 1943, holding every office, including state overseer.

He has served on the Production Marketing Administration Board, as legislative representative for Twin Falls Granges and was highway committee chairman in the Fairview Grange.

In the latter capacity he proposed a highway program whereby no farm would be less than one mile from a paved road, one issue on which he was successful.

The farmer-writer served on the Twin Falls County Fair board for seven years. During that time the new grandstand and new housing for livestock were built, 35 acres of additional land was obtained and Calhoun worked with I.T. (Pete) Creed of Twin Falls to develop the Junior Garden program.

Calhoun said he had observed too many of his neighbors making "three moves when they retired—into town, spending their days at the cigar store with the final one to the cemetery."

So he made up his mind he "was not going to dry rot" after he moved into town. He has continued writing letters to the editor, serves on the board of directors for the Buhl Senior Citizen Center which "now has the best facilities for its size of any center in Idaho."

While Calhoun dryly admits he "has kind of cooled off on solving world affairs" he has in recent years spoken on public issues for the Buhl Chamber of Commerce four times and for Kiwanis clubs both here and in Oregon.

He currently is working on a history of his family. It seems likely that his well-used typewriter will be kept busy preventing its owner from "dry rot."

The Calhouns' five children include Donald Calhoun of Twin Falls, Darrell Calhoun of Buhl; Joan Jones of Hailey; Nancy Krohn of Boise, and Leslie Fox of Auburn, Wash.●

FUSION ENERGY IN CALIFORNIA

● Mr. HAYAKAWA. Mr. President, I would like to bring to the attention of my colleagues a major energy event which took place in California last week.

On Monday, September 11, Doublet III, the Nation's largest operating fusion research machine, was dedicated at General Atomic Co. in San Diego. Doublet III is a $30 million magnetic confinement device designed to achieve for the first time—probably in the early 1980's—the star-like conditions necessary for a practical fusion reactor that can be applied to electric power production. Doublet III was built by General Atomic for the Department of Energy in a continuing cooperative program involving Government and private research facilities and the electric utility industry.

Under Secretary of Energy Dale Myers was principal speaker at the dedication. Other major guests were Edwin E. Kintner, director of the Office of Fusion Energy at the DOE, and Kenzo Yamamoto, vice president of the Japan Atomic Energy Research Institute, who both discussed the new United States-Japanese energy research agreement and planned participation by JAERI in the Doublet program. Richard E. Balzhiser, director of the Fossil Fuel and Advanced Systems Division of the Electric Power Research Institute also spoke. EPRI, the research arm of the electric utility industry, sponsored Doublet design work and supports related fusion research at General Atomic.

The Doublet program has evolved from research that began at General Atomic more than 20 years ago. Doublet was conceived by Dr. Tihiro Ohkawa, a General Atomic vice president and head of the GA fusion program.

I am very proud of the fusion program at General Atomic and I believe it deserves the attention of my colleagues. Therefore, I ask "Doublet III—A Major Step Toward Fusion Power" be printed in the Record. I am sure my colleagues will find it both educational and interesting.

The article follows:

DOUBLET III: A MAJOR STEP TOWARDS FUSION POWER

Fusion power holds potential as a long term solution to the world's energy problems. For its successful development, fusion power requires the demonstration of scientific, engineering, economic and environmental feasibility. This endeavor is perhaps one of the greatest scientific challenges ever undertaken.

In fusion research programs around the world, scientists are working to demonstrate fusion's scientific feasibility—to achieve simultaneously in one device, the physics parameters that are required for the net production of fusion energy. Doublet III has been specifically designed to address the scientific feasiability of magnetic confinement fusion, as well as to demonstrate the potential economic advantages of the doublet noncircular cross section.

The Doublet III device is an integral part of the U.S. Department of Energy's national long range fusion development plan to achieve a demonstration fusion power reactor by the late 1990's. Startup of Doublet III commenced on February 25, 1978, and engineering tests have been completed. Physics experiments are continuing towards the goal of obtaining thermal breakeven plasma parameters in the early 1980's.

FUSION: AN INEXHAUSTIBLE ENERGY RESOURCE

Fusion is the energy source of the sun and stars. Harnessed here on earth, fusion power promises to be not only an inexhaustible source of energy for future generations, but also one which is safe and has minimal impact on our evironment.

The basic fuel for fusion is deuterium, an isotope of hydrogen that is present in ordinary water. Each gallon of water contains enough deuterium to produce fusion energy equivalent to 300 gallons of gasoline. Extracting the deuterium from water costs only pennies per gallon and has no harmful environmental effect. The deuterium present in the oceans is sufficient to supply the world's energy needs for a billion years at present rates of consumption, and thus constitutes a virtually limitless source of fuel.

The promise of inexhaustible power is an empty one if there are safety problems or adverse environmental side effects. Fusion also looks attractive in these respects. The total amount of fusion fuel present in a fusion reactor at any one time is small, and the physics of the fusion process makes a runaway reaction impossible, even if part of the reactor system fails. There is no significant overheating problem if the reactor coolant is accidentally lost. Although there is some radio activity generated in the fusion process, the quantities and biological hazards are many orders of magnitude less than from other power sources.

Fusion reactors will not release chemical combustion products to the atmosphere. The amount of heat released to the environment will be no greater than that from present day fossil-fuel burning power plants. Advanced fusion fuels (other than deuterium) offer the promise of direct conversion of fusion energy to electrical power, with higher efficiency and less waste heat. Fusion reactor siting is not dependent on geography, climate or weather, and thus will allow great flexibility in plant location.

The role of fusion is not limited to electrical power generation. Other potential applications include the use of fusion for commercial process heating. The neutrons produced by fusion can also be used directly as an energy source for high-energy chemical reactions such as the splitting of water molecules to produce hydrogen or for the direct synthesis of hydrocarbon liquid fuels. The higher energy of fusion neutrons offers unique possibilities for these chemical applications.

Another group of potential applications for fusion is used in conjunction with fission power systems. Fusion neutrons can be used to breed alternative fissile fuels for subsequent use in conventional fission reactors. Simultaneously a fusion reactor could be used to "burn" or convert radioactive wastes from fission plants to more benign materials. A symbiotic combination of fusion and fission reactors promises to minimize potential problems of both technologies, and mav represent an effective solution to our mid-term energy needs.

CONTROLLED FUSION BY MAGNETIC CONFINEMENT

In nuclear fusion, nuclei of two light elements join or fuse. This is unlike fission, which is the splitting of a heavy nucleus. When fusion occurs, mass is converted to energy. By using Einstein's formula, $E=mc^2$, we can see how energy is produced by examining an illustration which shows a typical fusion reaction involving deuterium and tritium (isotopes of hydrogen).

The weight of the reaction products is less than that of the initially fusing particles. Matter has been transformed into energy to equal out the reaction equation. It is this energy in the form of heat or charged particles that can be utilized in fusion reactors to produce electricity or to provide an energy source for non-electrical applications.

In order to produce the conditions necessary to duplicate the sun's fusion process on earth, the fusion fuel must be hot enough, dense enough, and held long enough so that more energy is obtained from the fusion process than was invested in it.

The fusion fuel must be heated to temperatures around 100 million degrees (C) for a reaction to occur. At these extreme temperatures, the atoms in the fuel are dissociated into a gas-like uniform mixture of negatively charged electrons and positively charged nuclei (ions), commonly called a plasma. Because they are electrically charged, the plasma particles can carry an electrical current (similar to a copper wire) and respond to magnetic fields (similar to iron being attracted by a magnet). These properties of the plasma provide the key to confining the plasma and heating it to fusion temperatures.

As might be expected, providing an effective container for a high-temperature plasma is no simple task. Surprisingly enough, the key problem is not one of finding a substance that can survive at the high temperature of the plasma, but rather, of preventing the hot but very rarified plasma from being cooled by direct contact with the confinement vessel walls.

Since the random motion of the electrically charged plasma particles is inhibited by magnetic fields, the plasma, in principle, can be isolated from material walls by a suitably shaped magnetic field. This "magnetic bottle" concept is known as magnetic confinement. Doublet III uses a sophisticated magnetic confinement system to contain its plasma.

DOUBLET: AN EFFECTIVE MAGNETIC CONFINEMENT SYSTEM

At the outset of fusion research in the early 1960's, magnetic confinement of a fusion plasma was thought to be a simple process to achieve. Many magnetic field geometries were tried. There were straight devices with magnetic field "mirrors" on the ends, cusps, toruses, even figure 8's. But, these early "bottles" leaked plasma badly. The hot plasma was unstable; it writhed, kinked, twisted, and escaped from the magnetic field.

Then, in the late 60's, experimenters in the USSR and at General Atomic, pursuing different designs, achieved the same basic results: a toroidal magnetic field geometry that, on a small scale, provided effective plasma containment. In Russia, the concept was known as Tokamak; at General Atomic it was Doublet. The basic difference between the two concepts is in the plasma shape. The tokamak plasma cross section is nearly circular, while the doublet plasma is elongated and pinched in the middle.

HOW DOUBLET WORKS

The basic magnetic geometry of a doublet is toroidal (doughnut-like), in which field lines of the magnetic bottle are closed upon themselves to avoid plasma leakage. However, plasma still finds a way to leak out of a simple torus, by means of a plasma instability. To avoid this leakage, a second magnetic field called the poloidal field is added to the toroidal field; the resulting field lines now spiral around the torus. This spiral field configuration is highly resistant to plasma instabilities, and hence is very effective in confining plasma.

A doublet device consists of four essential parts—a plasma discharge chamber, a toroidal field coil, a plasma current driving coil (usually referred to as an ohmic heating coil) and a plasma shaping coil. In operation, the plasma chamber is first evacuated and then filled with hydrogen gas to a pressure of about one-millionth of an atmosphere. A steady current is then passed through the toroidal coil to produce the toroidal magnetic field. An initial high voltage pulse applied to the ohmic heating coil causes the hydrogen gas to ionize (break up into free ions and electrons) and form a low-temperature plasma. A lower voltage on the ohmic heating coil then drives a steady toroidal current in the plasma. Simultaneously, additional current is also driven in the plasma shaping coil to control the plasma position and shape.

The magnetic fields of plasma current and plasma shaping coil combine to generate the poloidal magnetic field, which in turn combines with the toroidal field to establish the magnetic "bottle" to maintain the plasma.

Initially, the plasma is heated by the current flowing through it, in exactly the same manner that an electrical current heats a light bulb filament. This initial heating (called ohmic heating) is not sufficient to raise the plasma to a high enough temperature for significant fusion reactions to occur. The additional power required to do so is supplied by auxiliary heating systems, either neutral beam or radiofrequency heating.

Neutral beam heating is accomplished by injecting high-energy neutral hydrogen atoms into the plasma. In operation, positively-charged atoms of hydrogen (H^+, H_2^+, H_3^+) are accelerated electrically to speeds of about eight million miles per hour. By a process called charge exchange, most of these atoms are electrically neutralized (the $H+$ ions pick up an electron within a gas cell to become H^0) before leaving the injector. All the remaining charged particles are removed by an ion dump, preventing their injection into the plasma. Unlike the electrically charged plasma particles, the neutral atoms are not affected by the magnetic confinement field and penetrate into the plasma. Once there, they are ionized and trapped in the magnetic field. They eventually collide with the plasma particles and thus raise the bulk plasma temperature. Radio-frequency heating uses a transmitting antenna located at the vacuum vessel wall to launch a high-frequency electronmagnetic wave into the plasma. The energy in this wave is eventually absorbed by the plasma particles, again heating the bulk plasma. The process is similar in some respects to the heating of food in a microwave oven. With either of these auxiliary heating processes, it is possible to increase the plasma temperature to the point where, if the plasma confinement is good enough, a thermonuclear reaction will begin.

WHAT DOUBLET III IS DESIGNED TO ACCOMPLISH

Feasibility of the magnetic confinement method of producing fusion energy requires both satisfactory plasma confinement and adequate temperature. The two fundamental measures of a fusion plasma are the confinement quality and the plasma temperature (T). The confinement quality (n_τ) is expressed as the product of the ion density (n) in particles per cubic centimeter multiplied by the confinement time (τ) in seconds.

The n_τ and T values of immediate significance to today's fusion development program are those of the "Lawson Criteria" first suggested by British physicist J. D. Lawson, which describe the minimum requimements for attaining "breakeven" power conditions. A minimum temperature of 100,000,000°C (or an ion energy of 10,000 electron volts) combined with an n_τ equal to or greater than 10^{14} (hundred trillion) particles per cubic centimeter per second (cm^{-3}-sec) allows the fusion reaction to produce as much energy as was invested to create the fusion conditions.

Results from plasma physics experiments performed in the early 1970's have shown significant advances in plasma density, confinement and temperature. Fusion reactions have been demonstrated in small-scale laboratory experiments, although demonstration of fusion breakeven with an n_τ on the order of 10^{14} has yet to be achieved. The ultimate goal of the Doublet III program is a demonstration of the breakeven condition.

ADVANTAGES OF DOUBLET

Although the plasma confinement attained in tokamak experiments is encouraging, there may be an upper limit on the plasma pressure that can be contained. Since fusion power output increases dramatically with plasma pressure, there is a strong incentive to operate future reactors at higher pressures and thus minimize potential size and cost. The elongated plasma cross section of Doublet promises to allow a Doublet reactor to operate at higher pressures than a circular cross section tokamak reactor of the same size. This pressure advantage of Doublet may be the key to an economically viable fusion reactor.

The ability of a magnetic confinement system to contain plasma pressure is characterized by a parameter called "beta" (β). Beta is defined to be the ratio of the plasma pressure to the maximum magnetic pressure that the magnetic confinement field can exert. The higher the β-value, the greater the plasma pressure than can be confined with a given magnetic field strength. Since there are definite technological and economic limitations on the strengths of magnetic fields, higher β translates directly into higher plasma pressures and fusion power output. It is presently anticipated that a Doublet reactor can operate at a β which is up to five times as high as a similar tokamak system. This higher β-limit is a direct consequence of the physics of the Doublet's unique plasma cross section.

Experimental results obtained with elongated plasma cross sections are encouraging. The plasmas obtained in Doublet IIA (a predecessor to Doublet III) are similar to those obtained in tokamaks of the same size, but with up to four times the toroidal magnetic field. Studies in Doublet IIA in which the plasma cross section was varied from circular to elliptical to doublet explicitly demonstrate the beneficial effect of increasing noncircularity on plasma confinement and stability.

Present-day plasma theory predicts that similar benefits of noncircularity will continue to apply at higher plasma temperatures and densities. Doublet III is designed to test this premise and to carry out experimental investigations of noncircular plasmas in the reactor regime. If the high-β expectations are borne out, Doublet III will not only demonstrate the scientific feasibility of fusion power, but, by makng it possible to build smaller fusion reactors, may also establish the basis for fusion's economic viability.

EXPERIMENTAL PROGRAM

Operation of Doublet III will be divided into two phases, an ohmic heating phase and a neutral beam heating phase. The ohmic heating phase is expected to last until early 1980 and will emphasize optimization of plasma confinement at moderate temperatures. Confinement values (n_τ) of up to 10^{14} cm^{-3}-sec are anticipated by the end of this phase. The plasma temperature will be about 500 electron volts (eV), or five million degrees centigrade. Physics studies will include plasma shaping, reduction of plasma impurities and confinement measurements.

Completion of 3.6 megawatts (MW) of the neutral beam system in early 1980 will allow beginning of the second phase of the experimental effort. Emphasis in this phase will be on increasing the plasma temperature while maintaining good confinement. The presently authorized 7.2 MW beam system should be sufficient to reach a plasma temperature of 3000 electron volts. At this temperature, the plasma will be sufficiently reactor-like to permit a meaningful study of plasma confinement and β-limits in the reactor regime. Determination of an optimum plasma shape for future reactor designs will be a key result of this study.

Doublet III has the potential to demonstrate breakeven plasma conditions. Based on our present understanding of the dependence of confinement on plasma density and magnetic field strength, breakeven plasma parameters ($n\tau=10^{14}$ cm^{-3}-sec, T=8000 electron volts) are possible in Doublet III if the toroidal field is increased to 40,000 gauss (40 kG) and the plasma current is increased to five million amperes (ME). Approximately 22 million watts of neutral beam heating will be required. Since Doublet III is designed for 40 kG, five MA operation, the major upgrades needed for breakeven operation with a Doublet plasma configuration are additional power supplies for the toroidal and ohmic heating systems, plus four additional neutral beam injectors. A second motor-generator set and upgraded plasma-shaping power supplies are also required.

MULTIFACETED SUPPORT

Funding for the Doublet III device and facilities has been provided by various sources. The Electric Power Research Institute (EPIR) supplied the funds for the conceptual design in 1974–75. The major funding support covering detailed design, construction, facility operation and experimental capital equipment has come from the U.S. Department of Energy (formerly the United States Energy Research and Development Administration). General Atomic contributed the land, buildings and related facilities. Funding from DOE for research operations, capital equipment, and the Neutral Beam Program will continue after the initial operation in February 1978. Doublet III is an excellent example of how private industry, the federal government and the utility industry have collaborated on a new energy source development program.●

ERA: NO TIME LIMIT ON EQUALITY FOR MEN AND WOMEN

● Mr. **BAYH.** Mr. President, the importance of extending the time period for ratification of the proposed 27th amendment to the Constitution—the equal rights amendment—continues to be acknowledged by a wide spectrum of organizations around the country. Each group named below is unanimous in its support for the ERA extension as a legal and moral base for the ending of sex discrimination in our country.

In a recent correspondence, the National Woman's Party, which was founded in 1913 by Alice Paul who wrote the equal rights amendment in 1923, voiced its support for extension. In an excerpt from their statement, the National Woman's Party noted that:

> The ERA is a matter of simple justice and should not be thwarted by technicalities.

The board of directors of the Girl Scouts of America was equally adamant in their support for the ERA extension:

> An artificial time limit of seven years seems an extremely arbitrary figure in which to determine . . . constitutional rights. I plea . . . for the elimination of an arbitrary, artificial deadline.

Nan F. Waterman, chairwoman of Common Cause, wrote that:

> The extension of the time period is an appropriate exercise of Congressional authority. Article V of the Constitution sets forth . . . no mention . . . of time limits for consideration by the states of a proposed amendment and in regard to the first seventeen amendments, no deadlines were imposed.

Mr. President, I ask that the following statements of the National Woman's Party; the Girl Scouts of America; Common Cause; the National Board of the Young Women's Christian Association; the American Association of University Women; the National Women's Program Development; and the Fifty Annual International UAW Women's Conference be printed in full in the RECORD.

The statements follow:

STATEMENT BY ELIZABETH L. CHITTICK

president of the National Woman's Party, the organization founded in 1913 by Alice Paul to seek legal equality under the law for women. After leading the fight for the suffrage amendment, including jail terms and force feeding, she studied law, securing three degrees, and in 1923 wrote the Equal Rights Amendment. It was introduced in the Congress by two Republicans from Kansas, Senator Carl Curtis and Representative Dan Anthony, nephew of Susan B. Anthony, the author of the suffrage amendment.

I shall not speak to the legal issues as you have had testimony from very distinguished constitutional authorities, and you, yourselves, are authorities on the Constitution. It seems clear that the issue is political rather than a legal issue.

My thesis is that the seven year limitation should not and never would have been in the amendment if we had read history or listened to the voice of experience—Alice Paul. Although it was a mistake for organizations and Congresspersons supporting the ERA to accept the provision, it is not an irreversible error and should be corrected by extending the time limitation.

Although the 18th Amendment had a seven year time limitation, there was NO limitation on the suffrage amendment (and not from oversight), and there was no time limitation on ratification of the ERA in any of the resolutions introduced by the sponsors until the 92nd Congress, when, after consultation with the organizations supporting the ERA, the Chief sponsors added it, along with several other procedural changes.

To get back to the suffrage amendment, the House Judiciary Committee in the 65th Congress reported the suffrage amendment without recommendations as to the substance but recommended addition of a new Section 3:

> The article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several states, as provided in the Constitution, *within seven years* from the date of submission hereof to the States by the Congress (emphasis supplied).

Congressman Dyer in an elequent minority report recommending that the suffrage amendment be passed included the following on the seven year limitation:

> To limit the time allowed the several States for ratification of the amendment is to trip up justice by technicalities. When Congress has once endorsed the principle involved in the extension of the franchise to women it will defeat its own ends if it limits the legislatures in their procedures (H.R. No. 219, 65th Congress, 2nd session, December 15, 1917).

The suffrage amendment was not passed until the 66th Congress when the seven year clause was proposed in the floor debate in the House of Representatives by Congressman Clark of Florida, the leading opponent. It was defeated without debate (58 Cong. Rec. 93, 1919).

Incidentally, I wish those who oppose the Equal Rights Amendment would read the debate on the Suffrage amendment. Congressman Clark's remarks are crude and racist, as well as sexist and emotional. Any Congressman today would be ashamed to make such remarks, and I think a generation from now the ERA opponents' remarks will seem as irrational, emotional, farfetched and contrary to all the ideals of our nation.

The ERA was introduced without any time limitation, and none was added when the Senate Judiciary Committee in 1943 revised the substantive and procedural provisions (S. Rept. No. 267, 78th Congress, 1st session, May 28, 1943). This obviously was deliberate since the language was carefully revised and the practice of including the seven year limitation had been established by the eighteenth, twentieth, and twenty-first amendments.

Twice later Senate Judiciary Committee reports recommended inclusion of a seven year time limitation (80th and 82nd Congresses); and when the ERA was considered by the Senate in the 81st Congress, it was amended to include a seven year limitation before the Hayden rider was added. The many other Senate Committee reports did not recommend amendment, and when the ERA was considered by the Senate in the 83rd and 86th Congresses, no amendment as to a time limitation was proposed by the Committee or on the floor.

We could not find any Senate or House Joint Resolutions that included a time limit.

Hindsight and belated research makes it clear that a time limitation was deliberately and properly excluded from the suffrage amendment and the ERA and that such a limitation was too casually added to the ERA when the substitute amendment was proposed in October 1971, after fatal amendments were added to the original ERA in the Senate.

The supporting organizations rejected the substitute amendment apparently giving little attention to the addition of the seven year limitation, and it was accepted as suitable for inclusion in the joint resolutions to be introduced in the next session.

When Miss Paul learned of the acceptance of the limitation by supporting organizations, she objected vociferously, but other organizations did not support her. Her experience with the suffrage amendment must have given her the wisdom to anticipate the difficulties in educating the public on the ERA and the problems with Southern legislatures.

Others of us did not anticipate what have become the chief obstacles to ratification:

(1) the failure of the media to educate the public on the issues and to treat the amendment as a serious constitutional issue.

(2) the emergence of opposition by the radical right using smear tactics and instilling doubts in the public through simplistic and sensational predictions as to impact, totally ignoring legislative history.

(3) the great power exercised by the very conservative leadership in some of the Southern States.

The media, with a few exceptions, has trivialized the ERA, ignoring the fact that it is an important constitutional issue with impact on a number of complex legal areas. Persons who are not even lawyers, let alone experts in Constitutional law or any of the areas the law affected, have been treated as equally credible with chief proponents who are Constitutional lawyers.

Although great care was exercised by the leading proponents and the appropriate House and Senate Judiciary subcommittees to prepare a comprehensive and clear legislative history, the media has all but ignored it.

The usual way of presenting the controversy has been to quote persons with pro and con views but with no mention of legislative history. For example, the New York Times Magazine of June 24, 1973, had a long article in which Phyllis Schlafly was quoted as if she was equally credible with Congresswoman Griffiths, chief proponent in the Congress. No mention was made of legislative history and its importance to the Courts in interpreting the ERA, although the author had been given a copy of the majority report of the Senate Judiciary Committee and the importance of the debate in Congress had been explained to him. This piece also quoted articles from the Harvard Law Review based on testimony on the ERA in the September 1970 hearings by Professors Freund and Kurland. Although both the Freund and Kurland testimony spoke to the importance of legislative history and the tentativeness of predicting impact without it, this part of the testimony was not referred to. It was not even mentioned that the testimony and the Harvard Law Review occurred before the Senate Committee report.

The pattern of the New York Times piece has been followed almost without exception by newspapers and magazines throughout the country. The U.S. News & World Report has published a number of reports on the ERA that did not mention that proponents' views were supported by the legislative history. After the first such item, the Chair of the Citizens Advisory Council on the Status of Women wrote the editor pointing out the importance of the majority report and the unfairness of quoting pro and con arguments as if of equal validity. Nevertheless, later references to the ERA controversy did not refer to legislative history.

There is no excuse for failure of the media to recognize the importance of legislative history Hundreds of thousands of copies of the majority report of the Senate Judiciary Committee (which incorporates the views of the chief proponents in the House) have been distributed by the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee. Several hundred thousand copies of the publications of the Citizens Advisory Council on the Status of Women have been distributed, and all stress the importance of the legislative history in interpreting the ERA. Most reporters writing stories and TV researchers preparing programs have had copies of Council publications and the majority report.

The 1976 report of the National Commission on the Observance of International Women's Year, which has been widely distributed and used extensively by the media, stresses legislative history and report on a survey of court decisions interpreting State ERA's, all of which have been in line with the intent of Congress in passing the Federal ERA.

The media has given an undeserved credibility as an ERA expert and representative of women to Phyllis Schlafly, who is not a lawyer and furthermore has little respect for fact, never supporting any changes in law that have or would benefit women. She and her followers have not even supported changes in domestic relations law designed to enhance the status of the homemaker. Yet she is presented as a leader of women. Her predictions of effects of the ERA are an insult to the Congressmen who voted for the ERA, an insult to State legislators who will be passing laws to implement the ERA, and an insult to the judges who will be interpreting it.

The subliminal effect of the Schlafly campaign is to undermine confidence in our legislative bodies and our courts. Her writings on other subjects, which are voluminous, are of the same nature, casting doubts on the integrity of our leaders and our institutions.

A third unanticipated problem is the great power and conservatism of the leadership in Southern legislatures. As has been pointed out in earlier testimony, defeating key State legislators frequently has no impact. Too many of the leaders who make appointments to committees, assign bills, and distribute benefits to legislators, have been in office for many, many years, and are from rural areas or other conservative areas where it is impossible to unseat them. Furthermore, they have the power to change the votes of legislators committed to ERA. The more progressive legislators who are supporters of ERA do not tend to have great power.

Women throughout the country, have been getting a political education, and in the long run the power of the leaders will be diffused, but not soon enough to get the ERA through by March 22, 1979.

The ERA is needed even though great reforms have been made in many State and Federal laws as a result of the ERA debate. These reforms are not uniform in every state and future state legislators could pass legislation which would rescind or change reforms to the detriment and disadvantage of women. Furthermore, the ERA is needed to insure that all States and the Federal government review all their laws and official practices and revise those not in conformity with the ERA.

Because women are a minority in the governing bodies and other powerful institutions in our country, changes in law and official practice are secured by concentrated lobbying by women's organizations. These organizations do not have the resources to make systematic reviews of all present laws and official practices and to keep a watchful eye on all activities of legislatures and other governmental institutions to see that hard won legal gains are not lost and that new laws do not disadvantage women.

Our forefathers forgot the women and the blacks when they wrote the Constitution. The blacks have since received their legal rights as persons in the Constitution. Women will receive theirs when the ERA becomes the 27th Amendment. Women need this kind of permanency under the law.

I urge you to correct the seven year mistake of 1972 and give women the time needed to educate the public on the ERA. The ERA is a matter of simple justice and should not be thwarted by technicalities.

AUGUST 14, 1978.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I am writing on behalf of the National Board of Directors of Girl Scouts of the United States of America to support S.J. Res. 138 to extend the time limitations for States to consider ratification of the Equal Rights Amendment to the Constitution of the United States.

As a long-time friend of Girl Scouting, you are aware of the major program thrusts of our organization nationally. With a membership of over 3,000,000 girls and adults, Girl Scouting today is committed to guiding each of its members in developing values, deepening self-awareness, relating to others, and contributing to society.

Worlds to Explore, the first major revision in Girl Scout educational activities released in 1977, reflects this commitment and represents an exhilarating renewal of the vitality of the Girl Scout program.

The World of Well-Being emphasizes physical and emotional health, interpersonal relationships, nutrition, and exercise, work and play;

The World of People portrays cultural diversity with a multitude of opportunities to appreciate ethnic, national, and religious conditions;

The World of Today and Tomorrow addresses the changing roles and responsibilities for girls and women;

The World of the Arts encourages girls to explore themselves through the art forms;

The World of the Out-of-Doors depicts national treasures so needful of humankind's understanding.

Paralleling the efforts of Girl Scouts of the U.S.A. in developing Worlds to Explore, developments in the women's movement have been of considerable interest to the Girl Scout movement. In 1976, the National Board of Directors of Girl Scouts of the U.S.A. voted to provide educational activities to the Girl Scout membership "to encourage local councils to engage in reflection and discusison of the Amendment for Equal Rights . . . as a means to help girls form independent opinions." In 1977, the National Board of Directors of Girl Scouts of the U.S.A. voted to endorse the Equal Rights Amendment. Although this action was not binding on the Girl Scout membership, it was a clear statement from the Board reflecting its own duties and responsibilities.

During that same year, I served on the President's Commission on the Observance of International Women's Year, whose primary focus was the planning and implementation of the National Women's Conference that took place in Houston, Texas. And you, Senator, are well aware of the decisions reached in Houston. The message from Houston was poignant and clear—women seek as a human right a full voice and role for women in determining the destiny of the world and the nation—women seek full partnership with men in order to achieve a world in which the whole human race can live in peace and security. Ratification of the Equal Rights Amendment was one of the points in the 25-point plan approved.

I am no expert in constitutional law, but as a citizen of the United States, and a woman, an artificial time limit of seven years seems an extremely arbitrary figure in which to determine my constitutional rights. What makes seven years more timely than ten years—or fourteen years. I have not found the answer to this question in anything I've read, and can only make a plea to those of your colleagues on the Committee and in the full Senate for the elimination of an arbitrary, artificial deadline and the acceptance of the proposal you have suggested in S.J. Res. 138.

As President of the National Board of Directors, and as a woman, I thank you for your unending efforts to improve the status of women in this country and the world.

With best wishes, I remain

Sincerely,

GLORIA D. SCOTT,
President.

COMMON CAUSE,
Washington, D.C., September 8, 1978.

DEAR SENATOR: Common Cause believes that, prior to adjournment, it is crucial for the Senate to schedule consideration of H.J. Res. 638 to extend the deadline for ratification of the Equal Rights Amendment until June 30, 1982. On August 15, the House passed H.J. Res. 638 by a vote of 233–189. Common Cause supports this extension which would provide an additional three years and three months for states to ratify the amendment.

Some opponents of the Equal Rights Amendment have made clear that they intend to use obstructionist tactics in order to bar consideration of the extension resolution. Common Cause strongly urges you to oppose any such tactics by voting in favor of cloture on the first ballot. If cloture is invoked, this will still provide ample time to debate the issue of extending the period for ratification. This fundamental issue should not be held hostage to parliamentary delaying tactics—it should be decided on its merits by the full Senate.

Common Cause has been actively involved in the effort to gain adoption of the Equal Rights Amendment. Initially we lobbied for passage of the amendment in the Senate and House and since then we have worked for ratification in state legislatures across the country. We consider adoption of the Equal Rights Amendment to be a crucial item of unfinished business. The case-by-case attack on discriminatory laws and regulations which has been waged in the legislatures and the courts for more than 50 years has not succeeded in eradicating sex discrimination. Only a constitutional amendment—with its fundamental legal, moral and symbolic impact—can provide the impetus for the necessary changes in our laws.

CASE FOR EXTENSION

Common Cause believes that extension of the time period is an appropriate exercise of Congressional authority. Article V of the Constitution sets forth in general terms the process for amending that document. No mention is made of time limits for consideration by the states of a proposed amendment and in regard to the first seventeen amendments, no deadlines were imposed.

The Supreme Court has had two occasions to construe Article V with regard to time limitations on the ratification process. In reviewing the validity of the Eighteenth Amendment, where Congress had imposed a seven year deadline, the Court unequivocably stated that "[as to the] power of Congress, keeping within reasonable limits, to fix a definite period for the ratification we entertain no doubt." *Dillion* v. *Gloss*, 256 U S. 368, 375 (1921). The Court further described the time limit as one of those "subsidiary matters of detail" which the Congress may deal with "as the public interests and changing conditions may require." *Id.* In *Coleman* v. *Miller*, 307 U.S. 433 (1939), the Court reiterated that the question of what constitutes a reasonable period of time for purposes of ratification of a proposed amendment "lies within the congressional province." *Id.* at 454.

The seven year time period originally set for ratification of the Equal Rights Amendment was not placed in the text of the proposed amendment. It was a statement of what the 92nd Congress believed would constitute a reasonable time for debate of the issues involved. Such an expression at the outset of official debate over the amendment does not bar this Congress from exercising its authority to determine whether the debate has run its course or whether an additional period is warranted.

The issue before the Congress today is not whether the Equal Rights Amendment itself has merit. Nor is the Congress asked to consider an alteration of language in the text of a proposed amendment. The question is whether the public interest in full and informed debate and consideration of the proposed amendment and the relevant political, social and economic conditions require that an adjustment be made in "a matter of detail," the time for consideration of that amendment. The fervor with which proponents and opponents alike are currently debating the issue and the level of public awareness of the issue on the eve of the expiration of the original time period for consideration of the Equal Rights Amendment make it clear that defeat of H.J. Res. 638 would mean a premature end to debate and consideration of this amendment Extension of the time for consideration for three additional years would permit a full airing of all sides of the issues and would still ensure that the end result would reflect the contemporaneousness necessary for the valid ratification of a constitutional amendment.

RESCISSION

Common Cause strongly opposes any amendment to authorize rescissions during the extended period. There has been a great deal of debate about the question of rescission and whether fairness requires Congress to authorize rescission in previouly ratified states during the extended time period. While this argument is characterized by a certain symmetry, we find it inappropriate and highly confusing for this Congress to make any determination as to the question of the validity of efforts to rescind.

Under the Supreme Court decision in *Coleman* v. *Miller*, it is clear that the Congress sitting at the time at which state ratifications are presented will be the interpreter of Article V in deciding whether the requisite number of states have approved an amendment. The issue before the Congress is whether the 95th Congress should state what interpretation a future Congress, whether it be the 96th or 97th, must or should place upon the powers of state legislatures under Article V.

It is Common Cause's view that H.J. Res. 638 properly takes no position with regard to rescission and that the House properly rejected a rescission amendment. H.J. Res. 638 neither prohibits rescission nor sanctions it. While our reading of the various legal and historical precedents lead us to conclude that rescissions are to be ignored in the ratifying process, Congress need not pass any judgment on that question at this time. Regardless of what a future Congress may do in the way of recognizing the validity of a purported rescission, *this* Congress should not hold out to state legislatures the option of recission as a viable course of action.

A subsequent Congress would not be bound by any determination by the 95th Congress regarding rescission, since it has historically been the prerogative of the Congress sitting at the time of the final ratification to determine whether ratification has taken place in the requisite number of states. If the subsequent Congress were to disagree with this Congress on the matter of rescission there would be considerable confusion and frustration particularly in those states which might have rescinded approval of the amendment in reliance upon this Congress views.

SIMPLE MAJORITY VOTE

Although a two-thirds vote of each House of Congress is required to propose a constitutional amendment to the states, Article V does not require a supermajority in Congress to set the mode of ratification or to conclude that a proposed amendment has been ratified. Time for ratification is not a part of the text of the amendment, and in no way changes its substance. As the time requirement is not a part of the substance and does not require a supermajority vote, extension of that time period should also not require a supermajority.

The matter of extending the period for consideration of a constitutional amendment assuring equality before the law regardless of sex is plainly a matter of great importance to all citizens. To have the public debate over the implications of the Equal Rights Amendment cut off in March 1979 while interest in it and public opinion for it still run strong would be premature and unwise. Common Cause strongly urges you to support adoption of H.J. Res. 638 and to oppose any efforts to amend it.

Sincerely,

NAN WATERMAN,
Chairwoman.

STATEMENT OF NAN WATERMAN

Common Cause has been an active supporter of the Equal Rights Amendment since 1972. In the 92nd Congress we lobbied for passage of H.J. Res. 208 proposing the Amendment to the states, and during the last six years we have worked for ratification in state legislatures around the country. We are pleased to have the opportunity to present our views on this vital issue to this subcommittee and to commend you, Mr. Chairman, for the outstanding leadership you have provided on this subject over the years.

Adoption of the Equal Rights Amendment remains a crucial item of unfinished business. The case-by-case attack on discriminatory laws and regulations which has been waged in the legislatures and the courts for more than 50 years has not succeeded in eradicating sex discrimination. Only a constitutional amendment—with its fundamental legal, moral and symbolic impact—can provide the impetus for the necessary changes in our laws.

THE NEED FOR AN EXTENDED PERIOD FOR CONSIDERATION

Common Cause strongly supports the pending legislation to provide additional time for states to ratify the Equal Rights Amendment. We believe that extending the time period is an appropriate exercise of Congressional authority.

Article V of the Constitution sets forth in general terms the process for amending that document. No mention is made of time limits for consideration by the states of a proposed amendment and, in regard to the first seventeen amendments, no deadlines were imposed. Only since 1917 has the Congress established deadlines for ratification.

The Supreme Court has had two occasions to construe Article V with regard to time limitations on the ratification process. In reviewing the validity of the Eighteenth Amendment, where Congress has imposed a seven year deadline, the Court unequivocably stated that "[as to the] power of Congress, keeping within reasonable limits, to fix a definite period for the ratification we entertain no doubt." *Dillon* v. *Gloss*, 256 U.S. 368, 375 (1921). The Court further described the time limit as one of those "subsidiary matters of detail" which the Congress may deal with "as the public interests and changing conditions may require." *Id.* In *Coleman* v. *Miller*, 307 U.S. 433 (1939), the Court reiterated that the question of what constitutes a reasonable period of time for purposes of ratification of a proposed amendment "lies within the congressional province." *Id.* at 454.

It is our view that the appropriate standard by which this Congress should measure the reasonableness of the proposed extended time limit is that set out by the Supreme Court in the *Coleman* case. The court in that case offered guidance to the Congress in reaching that determination:

> [T]he question of a reasonable time in many cases would involve . . . an appraisal of a great variety of relevant conditions, political, social and economic. . . . *Id.* at 453.

The court went on to suggest the following as proper areas of inquiry by the Congress in making its determination:

> "[T]he nature and extent of publicity and the activity of the public and of the legislatures of the several States . . . should be taken into consideration" . . . When a proposed amendment springs from a conception of economic needs, it would be necessary . . . to consider the economic conditions prevailing in the country, whether these had so far changed since the submission as to make the proposal no longer responsive to the conception which inspired it or whether conditions were such as to intensify the feeling of need and the appropriateness of the proposed remedial action. 307 U.S. at 453.

The House Judiciary Committee recently applied these standards to the case of the Equal Rights Amendment, examining "the current political, legal and economic situation [to] determine whether the amendment is still vital, whether the need for the amendment still exists and whether it still represents an appropriate solution to the problems it was originally designed to solve." Cite report at 11. The Committee concluded that "nothing the committee or subcommittee heard in its hearings and debates indicated other than an affirmative response to those questions." *Id.* Common Cause shares this view. Abundant evidence of discrimination on the basis of sex, which was the original rationale for the amendment, still exists.

The seven year time period originally set for ratification of the Equal Rights Amendment was not placed in the text of the proposed amendment. It was a statement of what the 92nd Congress believed would constitute a reasonable time for debate of the issues involved. Such an expression at the outset of official debate over the amendment does not bar this Congress from exercising its authority to determine whether the debate has run its course or whether an additional period is warranted.

There is no particular magic to the seven-year figure. When in 1917 Congress first set a seven-year limit—in the case of ratification of the proposed 18th amendment—debate indicated that the reason for the limit was to insure the "vitality" of the proposed amendment, i.e., that it be ratified while the issue was still of great public importance in the nation.

The issue before the Congress today is not whether the Equal Rights Amendment itself has merit. Nor is the Congress asked to consider an alteration of language in the text of a proposed amendment. The sole question is whether the public interest in full and informed debate and consideration of the proposed amendment and the relevant political, social and economic conditions require that an adjustment be made in "a matter of detail," the time for consideration of that amendment. The fervor with which proponents and opponents alike are currently debating the issue and the level of public awareness of the issue on the eve of the expiration of the original time period for consideration of the Equal Rights Amendment make clear that defeat of H.J. Res. 638 would mean a premature end to debate and consideration of this amendment. Extension of the time for consideration for a few additional years would permit a full airing of all sides of the issues and would still ensure that the end result would reflect the contemporaneousness necessary for the valid ratification of a constitutional amendment.

NO MORE THAN A MAJORITY VOTE IS NEEDED FOR EXTENSION

Just as the Congress has the authority to determine the time period during which the actions of state legislatures in ratifying the Equal Rights Amendment are reasonably contemporaneous, Congress also has the prerogative of establishing its own procedures for making that determination. When the Congress votes on the matter of a time limit for ratification (whether to decline to set a deadline, to set a deadline, to extend a time limit, or to determine whether a reasonable time has elapsed) Congress must also decide whether these matters must be decided by a majority of both Houses or by a two-thirds vote.

Article V expressly states what aspects of the amending process require supermajority votes: Amendments must be proposed by two-thirds of both Houses or by a convention convened on request of two-thirds of the states; legislatures or special conventions of three-fourths of the states must ratify the proposed amendments.

No congressional supermajority is required by Article V to propose the mode of ratification—by state legislature or state convention—or to conclude that a proposed amendment has been ratified. Because the timeliness of state ratification decisions is one of those "subsidiary matters of detail" which Congress may settle "incident [to] its power to designate the mode of ratification," Dillon, at 371, 376, it follows that no supermajority vote is required for settling the timeliness issue.

A further factor underlies this conclusion. The time for ratification of the Equal Rights Amendment is not included in the text of the amendment itself. It is simply stated as part of the proposing resolution. In this way, this proposed amendment differs in form from the Eighteenth, Twentieth Twenty-first and Twenty-second Amendments where the time for ratification was included in the text of the amendment itself and was thus itself voted upon and approved by three-fourths of the states. The Twenty-third, Twenty-fourth, Twenty-fifth and Twenty-sixth Amendments, like the Equal Rights Amendment contained no textual time limitations. However, the resolving clause of the legislation proposing the amendments set a time limit as a procedural facet of the amending process. As such, the amendment's time limit need not have received a two-thirds vote as part of H.J. Res. 208 in the 92nd Congress, nor need it be voted upon or "ratified" by the thirty-eight states which must ratify the text of the amendment itself.

One additional point has been raised relatives to this aspect of extending the time for consideration of the Equal Rights Amendment which deserves response. It has been questioned whether H.J. Res. 638, if passed by majority vote, must be submitted to the President for his signature as are all Joint Resolutions except those proposing a constitutional amendment (and therefore passed by a two-thirds vote). The answer to this question is that the text of Article V of the Constitution plainly accords the Executive no role in the amending process. While Congress's authority to create or extend time limits derives from its express authority to propose amendments to the states, there is no basis on which to imply any presidential role in any aspect of the amending process. Any contrary conclusion would be unprecedented and would violate the Constitution's division of responsibilities between the branches of the federal government and between the federal and state governments.

In sum, supermajority votes are not favored as a matter of constitutional construction. Where, as in Article V, supermajority votes are specifically required for certain aspects of the amending process, it would be contrary to this principle to require a two-thirds vote for a matter not expressly enumerated among those requiring such a vote. The time limit set by the proposing resolution in no way touches upon the meaning, intent, or substance of the amendment itself. Consequently, any resolution amending or altering that original time limit should require no more than a simple majority vote.

THE ISSUE OF RESCISSION IS INAPPROPRIATE FOR CONSIDERATION AT THIS TIME

Some have contended that, if Congress chooses to extend the time period for consideration of the Equal Rights Amendment, fairness requires that Congress also authorize rescission during the extended period by states which have already ratified the amendment. While this argument is characterized by a certain symmetry, we find it inappropriate, unnecessary and highly confusing for this Congress to make any determination as to the question of the validity of efforts to rescind.

Under the Supreme Court decision in *Coleman* v. *Miller*, 307 U.S. 443 (1939), it is clear that the Congress sitting at the time at which state ratifications are presented will be the interpreter of Article V in deciding whether the requisite number of states have approved an amendment. The issue before the Congress today is whether the 95th Congress should state what interpretation a future Congress, whether it be the 96th or the 97th, must or should place upon the powers of state legislatures under Article V.

It is Common Cause's view that H.J. Res. 638 properly takes no position with regard to rescission—it neither prohibits rescission nor sanctions it. While our reading of the various legal and historical precedents leads us to conclude that rescissions are to be ignored in the ratifying process, Congress certainly need not pass any judgment on that question at this time. Regardless of what a future Congress may do in the way of recognizing the validity of a purported rescission, this Congress should not hold out to state legislatures the option of rescission as a viable course of action.

A subsequent Congress would not be bound by any determination by the 95th Congress regarding rescission, since it has historically been the prerogative of the Congress sitting at the time of the final ratification to determine whether ratification has taken place in the requisite number of states. If the subsequent Congress were to disagree with this Congress on the matter of rescission, there would be considerable confusion and frustration particularly in those states which had rescinded approval of the amendment in reliance upon this Congress's views.

In sum, the issue of whether the Congress should recognize the rescission efforts of several states need not be reached now, would inevitably create substantial confusion and seems wholly inappropriate until such time as the requisite number of states are claimed to have ratified the amendment.

CONCLUSION

The matter of extending the period for consideration of a constitutional amendment assuring equality before the law regardless of sex is plainly a matter of great importance to all citizens. To have the public debate over the implications of the Equal Rights Amendment cut short in March 1979 while interest in it and public opinion for it still runs strong would be premature and unwise. Enactment of H.J. Res. 638 should be carried out promptly.

COMMON CAUSE,
Washington, D.C., September 8, 1978.

DEAR SENATOR: Common Cause believes that, prior to adjournment, it is crucial for the Senate to schedule consideration of H.J. Res. 638 to extend the deadline for ratification of the Equal Rights Amendment until June 30, 1982. On August 15, the House passed H.J. Res. 638 by a vote of 233–189. Common Cause supports this extension which would provide an additional three years and three months for states to ratify the amendment.

Some opponents of the Equal Rights Amendment have made clear that they intend to use obstructionist tactics in order to bar consideration of the extension resolution. Common Cause strongly urges you to oppose any such tactics by voting in favor of cloture on the first ballot. If cloture is invoked, this will still provide ample time to debate the issue of extending the period for ratification. This fundamental issue should not be held hostage to parliamentary delaying tactics—it should be decided on its merits by the full Senate.

Common Cause has been actively involved in the effort to gain adoption of the Equal Rights Amendment. Initially we lobbied for passage of the amendment in the Senate and House and since then we have worked for ratification in state legislatures across the country. We consider adoption of the Equal Rights Amendment to be a crucial item of unfinished business. The case-by-case attack on discriminatory laws and regulations which has been waged in the legislatures and the courts for more than 50 years has not succeeded in eradicating sex discrimination. Only a constitutional amendment—with its fundamental legal, moral and symbolic impact—can provide the impetus for the necessary changes in our laws.

CASE FOR EXTENSION

Common Cause believes that extension of the time period is an appropriate exercise of Congressional authority. Article V of the Constitution sets forth in general terms the process for amending that document. No mention is made of time limits for consideration by the states of a proposed amendment and in regard to the first seventeen amendments, no deadlines were imposed.

The Supreme Court has had two occasions to construe Article V with regard to time limitations on the ratification process. In reviewing the validity of the Eighteenth Amendment, where Congress had imposed a seven year deadline, the Court unequivocably stated that "[as to the] power of Congress, keeping within reasonable limits, to fix a definite period for the ratification we entertain no doubt." *Dillion* v. *Gloss*, 256 U.S. 368, 375 (1921). The Court further described the time limit as one of those "subsidiary matters of detail" which the Congress may deal with "as the public interests and changing conditions may require." *Id.* In *Coleman v. Miller*, 307 U.S. 433 (1939), the Court reiterated that the question of what constitutes a reasonable period of time for purposes of ratification of a proposed amendment "lies within the congressional province." *Id.* at 454.

The seven year time period originally set for ratification of the Equal Rights Amendment was not placed in the text of the proposed amendment. It was a statement of what the 92nd Congress believed would constitute a reasonable time for debate of the issues involved. Such an expression at the outset of official debate over the amendment does not bar this Congress from exercising its authority to determine whether the debate has run its course or whether an additional period is warranted.

The issue before the Congress today is not whether the Equal Rights Amendment itself has merit. Nor is the Congress asked to consider an alteration of language in the text of a proposed amendment. The question is whether the public interest in full and informed debate and consideration of the proposed amendment and the relevant political, social and economic conditions require that an adjustment be made in "a matter of detail", the time for consideration of that amendment. The fervor with which proponents and opponents alike are currently debating the issue and the level of public awareness of the issue on the eve of the expiration of the original time period for consideration of the Equal Rights Amendment make it clear that defeat of H.J. Res. 638 would mean a premature end to debate and consideration of this amendment. Extension of the time for consideration for three additional years would permit a full airing of all sides of the issues and would still ensure that the end result would reflect the contemporaneousness necessary for the valid ratification of a constitutional amendment.

RESCISSION

Common Cause strongly opposes any amendment to authorize rescissions during the extended period. There has been a great deal of debate about the question of rescission and whether fairness requires Congress to authorize rescission in previously ratified states during the extended time period. While this argument is characterized by a certain symmetry, we find it inappropriate and highly confusing for this Congress to make any determination as to the question of the validity of efforts to rescind.

Under the Supreme Court decision in *Coleman* v. *Miller*, it is clear that the Congress sitting at the time at which state ratifications are presented will be the interpreter of Article V in deciding whether the requisite number of states have approved an amendment. The issue before the Congress is whether the 95th Congress should state what interpretation a future Congress, whether it be the 96th or 97th, must or should place upon the powers of state legislatures under Article V.

It is Common Cause's view that H.J. Res. 638 properly takes no position with regard to rescission and that the House properly rejected a rescission amendment. H.J. Res. 638 neither prohibits rescission nor sanctions it. While our reading of the various legal and historical precedents lead us to conclude that rescissions are to be ignored in the ratifying process, Congress need not pass any judgment on that question at this time. Regardless of what a future Congress may do in the way of recognizing the validity of a purported rescission; *this* Congress should not hold out to state legislatures the option of rescission as a viable course of action.

A subsequent Congress would not be bound by any determination by the 95th Congress regarding rescission, since it has historically been the prerogative of the Congress sitting at the time of the final ratification to determine whether ratification has taken place in the requisite number of states. If the subsequent Congress were to disagree with this Congress on the matter of rescission there would be considerable confusion and frustration particularly in those states which might have rescinded approval of the amendment in reliance upon this Congress's views.

SIMPLE MAJORITY VOTE

Although a two-thirds vote of each House of Congress is required to propose a constitutional amendment to the states, Article V does not require a supermajority in Congress to set the mode of ratification or to conclude that a proposed amendment has been ratified. Time for ratification is not a part of the text of the amendment, and in no way changes its substance. As the time requirement is not a part of the substance and does not require a supermajority vote, extension of that time period should also not require a supermajority.

The matter of extending the period for consideration of a constitutional amendment assuring equality before the law regardless of sex is plainly a matter of great importance to all citizens. To have the public debate over the implications of the Equal Rights Amendment cut off in March 1979 while interest in it and public opinion for it still run strong would be premature and unwise. Common Cause strongly urges you to support adoption of H.J. Res. 638 and to oppose any efforts to amend it.

Sincerely,

NAN WATERMAN,
Chairwoman.

AUGUST 25, 1978.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH: The National Board of the YWCA of the U.S.A., representing an Association of two and one-half million women from every state in the union, wishes you to know that our members are expressing to us a unanimity of interest and a degree of concern for the passage of the Equal Rights Amendment that has been equalled seldom in our long history.

We urge you to support the extension of the ratification deadline as it passed in the House of Representatives, to oppose a clause allowing states to rescind their prior approval, to vote against a call for a two-thirds vote on the extension, and to support any cloture votes to override an attempt to filibuster.

The Equal Rights Amendment is a matter of basic human rights for half of our population. We hope that it will have your strong support.

Sincerely yours,

Mrs. SARA-ALYCE P. WRIGHT,
Executive Director.

AMERICAN ASSOCIATION OF
UNIVERSITY WOMEN,
Washington, D.C., August 11, 1978.

Hon. JAMES O. EASTLAND,
Chairman, Judiciary Committee,
Washington, D.C.

DEAR SENATOR EASTLAND: The American Association of University Women would like to have the attached testimony in the record of the Senate Judiciary Committee's hearings on the extension of the Equal Rights Amendment.

I do wish to call the Senator's attention to the fact that the first amendment to have a seven year limit was the Prohibition Amendment and that the second one was the Repeal of Prohibition. In between these two amendments, amendments had no time limit. One of these was of course the Women's Suffrage Amendment. I cannot help but believe the precedent of setting a time limitation had something to do with the subtle politics of alcohol. Please note the Congress thought nothing of establishing that seven year precedent. Nor were they concerned on the Repeal Amendment about setting another precedent in requiring amendment by convention.

The Senators' sudden fear of setting a precedent is but one more refusal to accord the majority of this so-called democratic nation's citizens equal rights under the Constitution. I urge your Committee to make real the American commitment to human rights by voting for the extension of the ratification period without amendment.

Respectfully yours,

MARJORIE BELL CHAMBERS.

Enclosure.

STATEMENT IN SUPPORT OF SENATE JOINT RESOLUTION 134

AMERICAN ASSOCIATION OF
UNIVERSITY WOMEN,
Washington, D.C., August 10, 1978.

The American Association of University Women is an organization of 190,000 members in 1,900 branches in the 50 states, District of Columbia, Puerto Rico, and Guam, as well as 1,000 colleges and universities as corporate members. Our membership is representative of a broad spectrum of American women: one-third of our members are full-time homemakers, one-third are educators, one-third are employed in business and the non-teaching professions. For almost a century AAUW's purpose has been the advancement of women. In 1971 our organization put its full weight behind support for the Equal Rights Amendment. It is our top priority. AAUW strongly favors extending the time period for the ratification by the states of the Equal Rights Amendment. Support for S.J. Res. 134 was unanimously reaffirmed in June 1978 by the presidents of all AAUW State Divisions throughout the nation. We entreat you to vote in favor of S.J. Res. 134 without amendments or deletions.

I. POLITICS AND LEGISLATIVE POLICIES

That ratification of the Equal Rights Amendment would warrant additional time for full discussion by the states is well justified because of the nature of the issue. Congress should be keenly aware that the type of policy it advocates directly influences the type of political activity associated with it. Thus, the Equal Rights Amendment, like civil rights concerns of the 1960s, constitutes a form of redistributive legislation which affects broad groups of society. Unlike regulatory policies, such as harbor legislation, the impact of redistributive legislation reaches to to core of the American vision of liberty and equality for all persons. Full and fair airing of its immediate, as well as future, benefits requires several years for deliberation.

History reminds us that progressive social legislation which challenges the status quo can be a slow, time-consuming process. Thus, had it not been for the victory of the Northern states in the Civil War it is highly doubtful that the Fourteenth and Fifteenth Amendments to the U.S. Constitution would have been ratified for many years. Would Congress have given up, then, on the ratification of the Fourteenth Amendment simply because several states showed reluctance to ratify it and to move history forward? We think not. Instead, Congress believed so strongly in the need to enshrine due process and equal protection guarantees into the Constitution that it reacted reconstituting the legislatures of several Southern states to guarantee ratification of this paramount amendment. Such a precedent was extraordinary for its time, but was deemed necessary for progress and justice in our great nation.

The American Association of University Women and hundreds of reputable organizations who solidly support the Equal Rights Amendment and the time extension for its ratification do not ask Congress to do today what it did over a century ago to resuscitate the life of the Fourteenth Amendment. Instead, we ask for a simple extention of the time period for ratification to secure the dream which our forefathers promised, but did not deliver, over two hundred years ago—equality of rights under the law for all Americans, regardless of sex.

II. THE PRECEDENT FOR THE TIME EXTENSION

Congress establishes precedents on a daily basis in a variety of its activities. Each of its decisions reflects the responsibility of nationally elected public officials to carefully mold the principles of American democracy to the needs of its citizenry in the Twentieth Century. Altering the dates of certain federal holidays to allow employees the opportunity for three-day weekend holidays, for example, was a radical departure from established precedent. To date, there are still small pockets of vocal resistance to this policy. Yet, the majority of Americans enjoy and applaud the innovation of the Congress in fostering the three-day weekend concept.

Extension of the time frame for the ratification of the Equal Rights Amendment offers a similar opportunity to enrich the principles of American democracy and to enact legislation to enhance, not to thwart, the public will. Thirty-five states, representing over 70% of the American public, have ratified the ERA. Yet, full equality under the law has been effectively denied to all Americans as a result of a concentrated, vocal campaign by a few individuals whose tactics in the unratified states have been to prevent debate of the Equal Rights Amendment on its true merits.

The need for the Equal Rights Amendment is as crucial now as it was when the article of amendment was first sent to the states. The Senate Judiciary Report in 1972 concluded that "the (Supreme) Court has upheld many laws which plainly discriminate against women." To date, the Supreme Court has refused to elevate sex discrimination to the level which race discrimination now holds in the law. Failure of the Congress to support the political decision to extend the time period for ratifying the ERA can only be interpreted as a signal to the courts that the Congress of the United States is no longer committed to Constitutionally guaranteeing equality of rights under the law.

Twenty-Two of the Twenty-Six Constitutional Amendments—the First through Seventh, the Nineteenth, Twenty-Third, Twenty-Fourth, Twenty-Fifth and Twenty-Sixth Amendments to the Constitution, respectively—had no time limits placed upon them. In only four amendments—the Eighteenth, Twentieth, Twenty-First and Twenty-Second Amendments, respectively—Congress imposed time limitations directly into the article of amendment which it sent to the states. In the proposed Twenty-Seventh Amendment to the Constitution—the Equal Rights Amendment—no time limitation was placed in the article of amendment. Consequently, extension of the ERA ratification period would not affect any previous ratification of it. By passing S.J. 134 by a majority vote, Congress would in essence be exercising properly its sole and unreviewable authority in a vital issue of upmost national and international significance. Surely human rights must begin at home if it is ever to be assimilated to nations abroad.

III. THE SEPARATION OF EXTENSION AND RESCISSION

Extension of the time period for ratifying the ERA and rescission of a state's ratification are entirely separte and distinct issues. To extend the time period for ratification of the ERA is a political decision which Congress alone can make. Court cases, such as *Coleman v. Miller*, provide strong indications that an article of amendment is deemed politically alive and vital as long as there is evidence of public interest in it. The vitality of the ERA is readily seen in current Gallop polls which show that the majority of the American public favors the Equal Rights Amendment. In addition, the recent Rally for Equality in Washington, D.C. on July 9, 1978, saw tens of thousands of women, men and children petitioning Congress through their physical presence demonstrating their commitment to and belief in equality of rights under the law. Over four hundred members of AAUW, representing all states, including Alaska and Hawaii, travelled at their own expense to the nation's capitol to show their support for the extension of the ERA time frame.

In the case of rescission Congressional precedent is well established and cannot be ignored. Rescission attempts by Ohio and New Jersey on the Fourteenth Amendment were to no avail. New York's rescission of its ratification of the Fifteenth Amendment was ignored by the Congress. With century-old precedents to guide rescission efforts, it would behoove Congress to look to these examples as its guide.

Nor should it be overlooked that there is already available a remedy for States which may wish to rescind ratification of an amendment. Once an amendment becomes law, it can be recalled by the same number of States needed to place an amendment into effect. Congress need not invent a new system, or place a rider onto S.J. Res. 134. Those who might wish to rescind an amendment must repeal it through well established procedures.

The national goal of equality of rights under the law for all individuals regardless of sex is truly an idea whose time has come. The vitality and salience of this issue is greater now than ever before. Constitutional provisions, legal precedents, and Congressional procedures clearly favor an extension of the time period for ratification of the ERA. Only Congress can exercise this prerogative. It alone has the sole authority to act on the matter. If any State wishes to rescind its ratification of the ERA, it can do so through well-established recall procedures applicable only after the ERA is ratified by three-fourths of the States. AAUW urges you to voice your convictions in support of human rights and liberties under the law, and to exercise your responsibilities as elected national representatives of the world's greatest democracy by supporting extension of the time period for ratification of the Equal Rights Amendment to the United States Constitution.

Dr. NANCY DOUGLAS JOYNER,
Association First Vice President.
KATHERINE EATON,
Chairman, Association Legislative Program Committee.

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN,
Washington, D.C., September 5, 1978.

DEAR SENATOR: In 1971, the American Association of University Women put its full weight behind support for the Equal Rights Amendment. It is our top priority. AAUW strongly favors extending the time period for the ratification by the States of the Equal Rights Amendment. Support for the extension was unanimously reaffirmed in June 1978 by the presidents of all AAUW State Divisions throughout the Nation. We urge you to vote in favor of H. Res. 638 without amendments or deletions.

History reminds us that progressive social legislation which challenges the status quo can be a slow, time-consuming process. Thus, had it not been for the victory of the Northern States in the Civil War it is highly doubtful that the Fourteenth and Fifteenth Amendments to the U.S. Constitution would have been ratified for many years. Would Congress have given up, then, on the ratification of the Fourteenth Amendment simply because several States showed reluctance to ratify it and move history forward? We think not. Instead, Congress believed so strongly in the need to enshrine due process and equal protection guarantees into the Constitution that it reacted by reconstituting the legislatures of several Southern States to guarantee ratification of this paramount amendment. Such a precedent was extraordinary for its time, but was deemed necessary for progress and justice in our great Nation.

The American Association of University Women and hundreds of reputable organizations who solidly support the Equal Rights Amendment and the time extension for its ratification do not ask Congress to do today what it did over a century ago to resuscitate the life of the Fourteenth Amendment. Instead, we ask for a simple extension of the time period for ratification to secure the dream which our forefathers promised, but did not deliver, over two hundred years ago—equality of rights under the law for all Americans, regardless of sex.

Extension of the time frame for the ratification of the Equal Rights Amendment offers a similar opportunity to enrich the principles of American democracy and to enact legislation to enhance, not to thwart, the public will. Thirty-five states, representing over 70% of the American public, have ratified the ERA. Yet, full equality under the law has been effectively denied to all Americans as a result of a concentrated, vocal campaign by a few individuals whose tactics in the unratified states have been to prevent debate of the Equal Rights Amendment on its true merits.

To date, the Supreme Court has refused to elevate sex discrimination to the level which race discrimination now holds in the law. Failure of the Congress to support the political decision to extend the time period for ratifying the ERA can only be interpreted as a signal to the courts that the Congress of the United States is no longer committed to Constitutionally guaranteeing equality of rights under the law.

Sincerely,
MARJORIE BELL CHAMBERS, Ph. D.

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN,
Worthington, Ohio, August 26, 1978.
Hon. JAMES EASTLAND,
Senate Office Building,
Washington, D.C.

DEAR SENATOR EASTLAND: Ohio members of American Association of University Women urge your support for Senate Joint Resolution 134. without crippling amendments, to extend the time limit for ratification of the Equal Rights Amendment.

Since ERA is already favored by the majority. its passage through the state legislatures should be allowed to continue. Debate is still active and should not be short-circuited by an arbitrary deadline.

We believe ERA to be a fundamental guarantee of human rights in the American tradition of basic constitutional guarantees. Please vote for the extension and to support cloture, if needed, in the Senate.

Sincerely.
SARA DUGAN WOLFE,
Co-Chairman, Legislative Program Committee.

NATIONAL WOMEN'S PROGRAM DEVELOPMENT,
San Antonio, Tex., September 6, 1978.
Hon. JAMES O. EASTLAND,
Senate Judiciary Committee,
Washington, D.C.

DEAR MR. EASTLAND: On behalf of members of our Board of Directors and myself, I would like to express our strong support of the Equal Rights Amendment Extension Bill without the rescission provision.

It is difficult to understand why in a Democracy and free country we would be forced to struggle so hard for equality.

Sincerely,

LUPE ANGUIANO,
President.

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 24, 1978.

Ms. LUPE ANGUIANO,
Marquette Drive,
San Antonio, Tex.

DEAR Ms. ANGUIANO: Thank you for your recent communication requesting my support for H.J. Res. 638 to extend the time for ratification of the Equal Rights amendment to the Constitution.

I am pleased to advise you that the bill passed the House by a vote of 233 to 189 without any crippling amendments, and it had my strong support. The next step will be to get the measure through the Senate before Congress adjourns.

With best wishes.

Sincerely yours,

HENRY B. GONZALEZ,
Member of Congress.

RESOLUTION

Whereas: The required 38 states have not ratified the proposed 27th Amendment to the United States Constitution; and

Whereas: The deadline for the ratification of the 27th Amendment to the Constitution is March 22, 1979; and

Whereas: The State Legislature in several states are recessed or adjourned for the balance of the year, making ratification impossible in those states: and

Whereas: 35 of the required 38 states have already ratified the 27th Amendment to the United States Constitution.

Therefore be it resolved: That the Delegates to the Fifth Annual International UAW Women's Conference held at the Walter and May Reuther UAW Family Education Center go on record supporting HJR638, which extends the time for ratification of the 27th Amendment to the United States Constitution.●

ENGINEERS ENDORSE S. 2011

● Mr. SCHMITT. Mr. President, the Subcommittee on Administrative Practice and Procedure of the Judiciary Committee held hearings last week on S. 2011, the Regulatory Reduction and Congressional Control Act. At that time, Dr. Richard Vaughan presented testimony on behalf of the National Association of Professional Engineers, the American Consulting Engineers Council, the American Society of Civil Engineers, and the American Society of Mechanical Engineers. I ask that this testimony be printed in full in the RECORD.

The testimony follows:

STATEMENT OF RICHARD G. VAUGHAN, P.E.

SEPTEMBER 12, 1978

Mr. Chairman, my name is Dr. Richard G. Vaughan. I am a registered professional engineer and a senior partner in the engineering firm of Cottrell/Vaughan and Associates of Albuquerque, New Mexico. I am here today on behalf of the National Society of Professional Engineers, the American Consulting Engineers Council, the American Society of Civil Engineers, and the American Society of Mechanical Engineers. The combined representation of our engineering organizations is almost 350,000 individuals. With me today are Michael M. Schoor, NSPE's Director of Legislative and Government Affairs, Richard L. Corrigan, ACEC's Director of Governmental Affairs, and William P. Miller, ASME's Director of Federal Government Relations.

Our societies welcome this opportunity to present our views on S. 2011, the Regulatory Reduction and Congressional Control Act of 1977 and other legislative proposals pending before you to reform the Federal regulatory process. We believe that S. 2011 is one particularly well-conceived step toward equitably solving an extremely complex problem. A problem that, admittedly, may require several different approaches and solutions. We believe S. 2011 is a realistic and feasible approach and we commend Senator Schmitt for developing the bill and you, Mr. Chairman, Senator Thurmond, and seven of your colleagues in the Senate for cosponsoring it.

The engineering profession's interest in the issue of reforming the Federal regulatory process stems from the unfortunate position in which many of our members find themselves due to the current situation. Like so many other Americans, our members are bombarded daily by a barrage of Federal regulations—some duplicative, some conflicting, some unnecessary—and as a result, are beginning to feel a powerlessness and alienation from a government whose impact upon their lives, their livelihoods, and America's free enterprise system increases every day. Of course, there are many reasons for this feeling of powerlessness and alienation from the government, but several factors which can and should be considered by the Subcommittee during these deliberations are the following: (1) an overgrown, self-serving, and seemingly insatiable bureaucracy; (2) an ever increasing intervening administrative layer being placed between those who must perform in technically productive roles and those responsible for crucial decisions; (3) the enactment of legislation over the past several years without adequate consideration as to its ultimate cost in terms of the economy and the loss of individual freedom and also, we hasten to point out, without adequate technological consideration; and (4) a body of regulations often duplicative or conflicting among various agencies promulgated without regard to their costs to consumers or to American productivity and innovation.

American engineering continuously receives reports of problems caused by excessive government regulations. We will not burden the Subcommittee with a litany of "horror" stories but will describe one or two experiences that are indicative of the type of experiences being related to us. A West Coast engineering firm is eliminating programs within its operation so Federal reporting requirements can be cut down and more time can be devoted to the practice of engineering. Another engineering firm comprised of fewer than 30 people has reported that it is considering abandoning its profit-sharing plan rather than going to the expense in time, money, and manpower to comply with the paperwork requirements under the Employee Retirement Income Security Act. Still another engineering firm complains of experiences with municipalities which have actually given up applying for EPA construction grants because of the enormous number of reports and forms required just to qualify for the grants. In this last case, funding that would benefit the general population goes unused.

Engineers also report frustrations with burdensome and unnecessary regulations that mandate technology that is not required and is frequently unavailable, In these instances, the program suffers immeasurably because implementation, in many cases, is delayed for many years. When this happens, Congress' will is thwarted. When implementation does occur, the program may then be outdated; also its cost is higher than it would have been if implemented promptly.

The National Society of Professional Engineers recently submitted testimony to the Joint Economic Committee on the cost of excessive regulations. In general, their testimony concluded that excessive and unnecessary regulations have burdened Americans to the tune of billions of dollars in direct costs. More importantly though, the hidden costs of lost productivity and innovation will cause serious harm to the American economy for decades to come. A copy of that statement is attached to this testimony for your study.

We realize that in a society as large and complex as ours, some regulation is necessary and we certainly do not advocate throwing out the baby with the bathwater. But, we do strongly believe that the degree of Federal regulations of our free enterprise system, particularly that part involving engineers, has far exceeded any tolerable level. We reject the concept of a government-controlled economy—we must return to the free market system that made America the economic and technological titan that it always has been and should be. A position that is being undermined daily and is slipping slowly and steadily away and, most assuredly will be gone entirely if corrective action is not taken now.

We commend the current Administration for recognizing the complex regulatory problems our Nation now faces and for taking a step to focus attention on the issue. In his January 1978 State of the Union Address, President Carter said:

"During these past years, Americans have seen our government grow far from us. For some citizens the government has almost become like a foreign country . . . This cannot go on. We must have what Abraham Lincoln wanted—a government for the people."

Later, in March, the President continued on this subject:

"One of my administration's major goals is to free the American people from the burden of overregulation. We must look, industry by industry, at what effect regulation has—whether it simply blunts the healthy forces of competition, inflates prices, and discourages business innovation. Whenever it seems likely that the free market would better serve the public, we will eliminate government regulations."

In this direction, the President issued Executive Order 12044 directing Federal agencies to simplify and reduce regulations and to assess the broad impact of Federal rules and procedures as a means of reducing paperwork burdens and costs.

But this same approach, as commendable as it is, was tried by previous administrations, and sadly, with little or no results. While the engineering profession applauds the Administration's concern over excessive government regulation, we view the President's action only as a preliminary step toward solving the problem. We believe that regulatory agencies are the creatures and responsibility of Congress. Ultimately, it is Congress that must correct, by legislation, the excesses and burdens of excessive regulation that were created by legislation.

We are pleased to know that this Subcommittee has before it several bills to do just that. Foremost, among these bills, in our opinion, is S. 2011, the Regulatory Reduction and Congressional Control Act of 1977. Most of our societies supported S. 2011 soon after it was introduced last year. More recently, Senator Schmitt explained S. 2011 at the 1978 Engineers Public Affairs Forum held this past June here in Washington. The Public Affairs Forum was sponsored by 19 engineering societies, and the hundreds of engineers in attendance generally supported the thrust of the bill. In general, the engineering profession supports S. 2011 because it (1) establishes a reasonable procedure for congressional review of proposed rules and regulations which may have serious impact on the public; (2) expands opportunities for public participation in the rulemaking process; (3) strengthens congressional oversight of regulatory agencies; (4) requires agencies to consider the impact of proposed regulations on the economy, paperwork and the Federal judiciary; and (5) requires agencies to provide more complete information on proposed regulations.

With regard to specific provisions of S. 2011, most of our societies are particularly pleased with the provision that gives Congress the opportunity to approve or disapprove a proposed rule or regulation. A uniform set of procedures and a review period would be mandated before such rules and regulations could go into effect. We feel that this provision will go a long way toward reestablishing Congress, the elected representatives of the people, as the controllers of Federal law making. This is most appropriate since Congress is the exclusive legislative arm of the Federal government. This will also help to insure that all rules and regulations promulgated are done so according to the intent of Congress. A similar precedent was set four years ago when Congress passed the Congressional Budget and Impoundment Control Act to reestablish its control over Federal budget procedures.

Our societies also strongly support the provision of S. 2011 which requires an agency proposing a new rule or regulation to file an economic impact analysis of that rule or regulation, taking into consideration paperwork requirements to complete compliance; a judicial impact analysis of each rule and its alternative; and an index of all existing rules and regulations on the same subject, cross-referenced. We feel that taking into account the effects of a proposed rule on American productivity, competition, employment and other important economic factors must be a consideration in the promulgation process, and currently, these factors are too often overlooked or disregarded. We urge the Subcommittee, however, to strengthen the economic impact provision to assure the statement's accuracy. All to often, we find agency cost estimates to be everything but accurate. You may wish to consider an approach whereby an agency would be precluded from enforcing a rule or regulation after its economic impact statement is determined to be substantially inaccurate. Requiring a judicial impact analysis is directly in line with Supreme Court Chief Justice Warren Burger's recommendation that the government carefully weigh the impact of its actions on the American court system and its administration of justice. Mandating this process will weed out a multitude of Federal regulations which cause far more problems than they solve.

We also support the provision of S. 2011 which provides that authorization of every rule adopted cease automatically at the end of five years from its effective date. Of course, prior to that date, an agency may recommend that a rule be renewed or amended, but will again be subjected to the approval of Congress. In this way, Congress can help insure that current rules are relevant to current needs.

We urge this Subcommittee to favorably consider these and the other provisions of S. 2011. We feel that the bill's restoration to Congress of the exclusive legislative function provided it by the Constitution is an idea long overdue.

Although our societies have not examined in depth the results of a government regulation's study by the American Bar Association which has been submitted to this Subcommittee, I would like to take a few moments to comment briefly on the general thrust of that study. As you know, the report was made by a group of lawyers and economists after three years of investigations into the impact of Federal regulations on the Nation's economy. As a result, the report's major finding—and I might add, one in which we agree—is that "congressional and administrative consideration has been undertaken all too often without adequate analysis and evaluation of the potentially adverse economic impact of the various forms of intervention, both by increasing the cost of goods and services and by impeding private initiatives." The study concludes, "In short, government by regulation, in pursuit of a variety of economic and social goals, increasingly controls, restrains, and limits many of the productive elements of our society." The engineering prefession agrees with these results and view, them as further evidence of the need for regulatory reform in general and enactment of S. 2011, with its economic and judicial impact analysis requirements, in specific.

The engineering profession would like to take this opportunity to comment on legislation which would require the periodic review of certain Federal regulatory programs. Periodic review of the regulatory reform system is essential to keeping the multitude of regulatory arrangements in harmony and to assure their relevance to current problems. Engineers generally support the concept of such review legislation, not as a substitute for conventional legislative oversight or budget reviews, but as a supplement to those measures. By critically reviewing regulatory agency policies, as would be required under such legislation, Congress could end the potentially dangerous tendency of assuming that the duties imposed upon a specific agency were imposed wisely and should continue ad infinitum. We also believe that such legislation would encourage agencies, in anticipation of their scheduled reviews, to complete in a timely fashion compilations and reports desired by Congress and to orient their programs toward serving current needs. Further, by providing machinery which permits cooperation between the legislative and executive branches in initiating the review process, the Executive branch would be more inclined to monitor the ongoing justification for economic regulation.

Organized engineering would be remiss if it did not point out that Congress must accept partial responsibility for agency excesses with regard to the regulatory process. Congress, many decades ago, delegated rule making authority to the Executive agencies and departments. With this delegation goes the authority to issue rules and regulations necessary to implement legislation enacted by Congress. However, Congress, in our estimation, all too often passes legislation without adequately considering the technological implications of their actions. This type of practice allows, and even encourages, bureaucratic excesses in rule making. We believe that Congress must better analyze the technological impact of legislation and reflect this analysis when legislation is approved. When this is done, Congress will pass better legislation and provide agencies with less discretion with regard to rule making. To this end, we urge Congress to better use those technological resources available to it including engineering and scientific organizations, and their members, who are reservoirs of technological experience and knowledge.

As I stated previously, there are several different approaches to regulatory reform legislation that merit consideration. Proposals, such as some before the Finance Committee, would allow tax credits for each form filed in compliance with a Federal rule or regulation and would put agencies on notice that excessive regulations are going to cost the Federal government dollars. Also, proposals to reimburse the costs incurred by a business or individual who wins an action brought by a Federal agency under authority of a regulation might prove beneficial. However, we believe that enactment of S. 2011 would be a first step in benefitting all Americans.

In closing, I would like to remind the Subcommittee of a charge made long ago against King George III of England in our own Declaration of Independence when it said that he had . . . "erected a Multitude of New Offices and sent hither Swarms of Officers to harrass our people . . . " That charge is still a valid warning for us about the dangers of too much government regulation. It was not a laughing matter to our colonial forefathers and it certainly is not a laughing matter to us today. It is an issue about which the engineering profession feels very strongly—an issue of enormous impact on our Nation, present and future. I assure the Subcommittee that your efforts to reform our regulatory system will be deeply appreciated not only by the engineering profession but by the general public as well. We would be pleased to answer any questions the Subcommittee has at this time.

Statement of the National Society of Professional Engineers on the Cost of Government Regulations to the Subcommittee on Economic Growth and Stabilization, Joint Economic Committee, United States Senate

June 9, 1978.

The National Society of Professional Engineers welcomes the opportunity to comment on the cost of government regulations to American business and the extent to which these regulations inhibit the performance of the American economy. NSPE, a nonprofit organization headquartered in Washington, D.C., represents 76,000 members engaged in virtually all disciplines of engineering. Many of NSPE's members are employed in industry; others are partners or employees of engineering consulting firms and therefore represent the small business community. Our members are confronted daily by the regulatory process and for this reason NSPE is particularly concerned with the issue of excessive government regulation.

According to a recently completed study at Washington University in St. Louis, the cost to American business for complying with government regulations exceeded $62 billion in 1976. Entitled "Public and Private Expenditures for Federal Regulations of Business," the study broke down the cost of regulation into specific areas and revealed that the administrative and compliance cost of consumer safety and health regulations alone was an estimated $6.6 billion in that calendar year. Regulation of milk by the Department of Agriculture, only one of many areas of regulation by that agency, was estimated to cost $986 million. The cost of compliance with Department of Transportation auto safety and damage regulations was estimated at $3.7 billion for 1976. The study cited many other areas of federal regulation and their costs, but the estimate of the total cost to American business of the paperwork alone required to comply with all federal regulations was set at $18 billion. The Commission on Federal Paperwork estimated that figure substantially higher in its final report; it set the cost of the federal paperwork burden at $100 billion per year.

Regardless of which figure is more accurate, the sad truth is that both figures almost certainly understate the actual cost to American business and the public-at-large since they do not reflect "hidden costs" of federal regulation burdens—the cost of diverting time, money, and manpower from productivity to the preparation of reports and compliance with regulations. And lower productivity only means higher consumer prices and additional fuel for the inflationary spiral.

NSPE believes that, with regard to engineering, the burdens of compliance with regulatory requirements hit small businesses hardest. Regulatory and reporting requirements frequently impose burdensome legal, accounting, and consulting costs as well as inequitable demands. It is difficult, if not impossible, for small engineering businesses to be aware of and to understand the vast numbers of government regulations. And even when small engineering businesses are aware of all pertinent regulations they often lack most of the resources necessary to comply adequately. Many simply cannot afford the necessary attorneys and accountants to complete the paperwork involved with a compliance which often amounts to a duplication of regulatory and reporting requirements, contradictory requirements, regulations demanding more information than is needed, regulations demanding more frequent reporting than can be useful, regulations that do not fit the scale of those being regulated, or regulations demanding reports from firms so small that they have little or no impact on the area being regulated.

NSPE continuously receives many reports of the problems caused by the excesses of government regulation. One West Coast engineering firm reported that it is eliminating some specific programs within its operation so that the awesome number of reporting requirements can be cut down. Individual engineers have reported repeatedly that as much as 40% of their time is taken up by record keeping for government agencies.

Another engineering firm comprised of fewer than 30 people has reported that it is considering abandoning its profit-sharing plan rather than going to the expense in time, manpower, and money to comply with mountainous paperwork requirements under ERISA.

Still another engineering firm reported experiences with municipalities who have given up applying for EPA federal construction grants because there are so many forms and applications required just to qualify for the grants. The result is that much-needed EPA funding goes unused due to the difficulties inherent in excessive government regulation.

NSPE certainly does not advocate the elimination of all federal government regulation. We do urge, however, that Congress approve pending regulatory reform legislation, such as H.R. 959 or S. 2011, which would reduce the regulatory and paperwork burdens now imposed upon American business and which would retain a competitive free enterprise system encouraging productivity and innovation. We further urge that the Congress take the necessary legislative measures to ensure that any future efforts to draft government agency regulations eliminate uneven and inequitable enforcement; that they eliminate regulatory duplications or conflict; that the regulations consider the costs versus actual benefit; and that they provide only the amount of regulation essential to monitor properly our Nation's competitive free enterprise system.

NSPE offers these recommendations with the hope of helping the Congress achieve much-needed regulatory reform. Our Society wishes to assure the Committee of our continued interest in this issue and of our willingness to assist the Committee in any way possible.●

COAST GUARD SHINES

● Mr. MARK O. HATFIELD. Mr. President, it is truly a pleasure to take this opportunity to publically praise and express my deepest admiration for the men of the 13th Coast Guard District who recently risked their lives to save 11 people and assist 182 others who were caught in a major storm 20 miles off the coast of Oregon.

The courage and dedication of these men, reflected daily in the normal course of their work, was especially evident as they were called upon to make the major rescue effort in a storm which packed winds of up to 60 miles per hour and seas as high as 18 feet.

The extent of the rescue is demonstrated by the fact that during the 2-day ordeal, 97 distress calls were received and responded to by almost 400 Coast Guard personnel, using all available boats and aircraft including 11 motor lifeboats, five helicopters, and several Coast Guard cutters from Oregon, Washington, and California. Off the Oregon coast alone, 7 fishing vessels were lost, 23 boats taken under tow or in escort, 17 other vessels were assisted, and pumps were delivered to still 7 others. Several people had to be taken from the water and one occasion Coast Guard motor lifeboats were observed herding 14 vessels to safety. Despite the very present danger, it stands as tribute to the Coast Guard that not one life was lost.

One particular rescue of an Oregon man (Mr. George Jameson of Seaside) is characteristic of the long-suffering efforts of our Coast Guard team. On Friday, at 6:30 p.m., Mr. Jameson transmitted a radio distress signal from his 31-foot fishing vessel, the *Joycily*, that his boat was sinking and was abandoning ship. Mr. Jameson informed the Coast Guard that he was wearing a survival suit and would be taking a crabpot marker with a red flag to aid in his recovery. Two helicopters and a motor lifeboat joined in the search which lasted through the night.

The 210-foot medium endurance cutter *Venturous*, was recalled from port to direct the search. Later, the 327-foot high endurance cutter, *Campbell*, and a C–230 fixed wing aircraft from Sacramento Air Station, Calif., were added. At 4:39 p.m. Saturday, after nearly 22 hours in the 50-degree Pacific Ocean, Mr. Jameson was recovered from the water by the *Campbell*. He was discovered 20 miles north of where his boat went down on the "search trackline" called for in the search plan. Except for fatigue and hunger, Mr. Jameson was in good condition, his body temperature only 1 degree below normal.

The massive effort to save the life of this one man reflects the very fiber of our national heritage—that being, that one life is as important as many. The unselfishness and dedication of the Coast Guard represents the very best of our Nation. We owe it our deepest appreciation and continued support.●

INTERVENOR ATTORNEYS' FEES AND THE DEPARTMENT OF JUSTICE

● Mr. LAXALT. Mr. President, earlier this year the Judiciary Committee considered at length the merits of S. 270, a bill which would have permitted Government agencies to pay expert witness and attorneys' fees to intervening public interest law firms and agency proceedings. After extensive hearings and lengthy debate, the Judiciary Committee declined to report the bill to the full Senate. Again, during the last several months, the bill reappeared in the Administrative Practice and Procedure Subcommittee of the Judiciary Committee, was reported to the full committee without recommendation, but has gone no further. Accordingly I think it is fair to say that the consensus of the committee was that the bill should not be passed.

On March 1, 1978, Assistant Attorney General John Harmon, of the Office of Legal Counsel of the Department of Justice, issued an opinion directed to the Department of Transportation, to the effect that agencies of the Government were free to find authority for intervenor reimbursement programs without explicit statutory authority. His opinion was based on the fact that the only circuit court opinion discussing such matters, *Greene County Planning Board* v. *Federal Power Commission*, 559 F. 2d 1227 (1976), cert. denied, February 21, 1977 (77–481)—did not explicitly state that agencies did not have such power.

I have sent, together with 11 other Senators, a letter to Attorney General Bell pointing out that Mr. Harmon's opinion of March 1, 1978, flew directly in the face of the law, and that such funding is neither authorized by case law nor, of course, by statute. To the contrary, we pointed out in our letter to Attorney General Bell that the Greene County case, which was the only case which has discussed the matter, specifically says that such payments cannot be made; additionally we pointed out that since Congress has not passed a law authorizing such payments, there was no authority whatever on which the Justice Department could have honestly based its opinion.

It is distressing to me, and to the other 11 Senators signing the September 15 letter to the Attorney General, that the head of the Office of Legal Counsel of the Department of Justice would issue an opinion so at variance with the law. However, it is even more distressing to us that the reason for Mr. Harmon's opinion appears to be a blatantly political, rather than a good faith attempt of interpreting the law. In that regard, we said in our letter:

> We believe that one of the lessons of Watergate is that a politicized Department of Justice is intolerable. In addition to our specific concerns regarding Mr. Harmon's opinion letter of March 1, 1978, we are thus troubled by what appears to be the Department's subordination of its paramount responsibility to fairly construe the law and by its clearly political accommodation to the so-called public interest law movement. A quick look at the political persuasions of those advocating public intervenor funding does, we believe, shed strong light on the politics behind the Harmon opinion, and as a result, on the Department itself.
>
> We note that the Harmon letter was addressed to the Department of Transportation, whose National Highway Traffic and Safety Administration ("NHTSA") is pressing most anxiously to initiate an intervenor reimbursement program for the so-called public interest participants in its proceedings. The Director of NHTSA, Joan Claybrook, is of course the former chief lobbyist for Ralph Nader. It takes little experience with Washington reality to know that the immediate effect of the Harmon letter, and therefore that its almost certainly intended purpose,

is the transfer of what will at first be hundreds of thousands, soon millions of dollars from the Federal Treasury to the current network of organizations dominated by Nader, and to other similar groups. We believe that the high percentage of alumni of the so-called public interest movement who occupy many of this Administration's senior policy positions make it particularly important for the Department of Justice to be wary of the appearance and reality of conflict of interest and unauthorized payments. This is particularly true because of the high percentage of public interest alumni in high positions at the Department of Justice.

We shudder to think of the public outcry which would greet so questionable a construction of a court case were it to result in substantial money payments to a former business associate of but a single high Administration official. Here, the Harmon letter, which appears to us to fly in the face of controlling precedent and Congressional authority, will enormously enrich many such former employers. If the Harmon letter stands, Ms. Claybrook and others, including a number of high Justice Department officials, will have federally endowed jobs and political bases to which to return when their government jobs end. The circumstances surrounding the Harmon letter thus make it, at a minimum, suspect, and at worst shameful.

We have asked that the Attorney General withdraw the Harmon opinion letter, and advise Federal agencies that such payments are not warranted under the law. I hope, Mr. President, that the Attorney General will comply with our request in order to preserve the integrity of the Department of Justice.

I ask that the full text of the September 15 letter be printed in the RECORD.

The letter follows:

WASHINGTON, D.C.,
September 15, 1978.

Hon. GRIFFIN BELL,
Attorney General of the United States, Justice Department, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: On March 20, 1978, we wrote to you with regard to the opinion letter of Assistant Attorney General John Harmon, dated March 1, 1978, regarding the use of public funds to reimburse intervenors in administrative proceedings. In that letter, written to the General Counsel of the Department of Transportation, Mr. Harmon purported to construe the effect of *Greene County Planning Board* v. *Federal Power Commission* 559 F. 2d 1227 (1976), *cert denied,* February 21, 1977 (No. 77-481), in which the Second Circuit determined that the Federal Power Commission lacked authority to award counsel fees and expenses to intervenors in its proceedings. Briefly stated, Mr. Harmon's letter sets forth the official position of the Justice Department that *Greene County* only applied to the Federal Power Commission and that agencies are free to find authority for intervenor reimbursement programs without any explicit statutory authorization for such programs.

We have received your response to our letter dated June 14, 1978, with its enclosed memorandum from Mr. Harmon, and are deeply troubled by a series of unanswered questions which still linger.

So as to avoid any problems, we shall try in this letter to pose more explicit questions to you than were posed in our earlier letter.

Before doing so, we wrote our agreement with Mr. Harmon as to the major outstanding issue which is posed by the Second Circuit's opinion in *Greene County*. That question, as Mr. Harmon notes, is whether, to quote him, "the holding of the Second Circuit in *Greene County* involved only a construction given to the Federal Power Act", or whether "(t)he Second Circuit * * * based its decision on a broader ground; for example, (by taking) the position that no compensation for expenses such as attorneys' fees could be paid absent explicit statutory authority."

As stated and as you know, Mr. Harmon has advised all federal agencies that the Second Circuit's ruling in *Greene County* was on the former ground. Yet, in reaching his conclusion, Mr. Harmon gave no basis for his finding other than the fact that a *footnote* in the three-judge panel opinion in *Greene County* "appeared to give great weight" to an earlier view of the Federal Power Commission that it lacked authority to establish an intervenor reimbursement program. Mr. Harmon thus took the position, which is the official position of the Department, that an agency which finds that it can establish such a program on the basis of its enabling act or other non-explicit legislation would, under *Greene County,* be held to have such authority.

Such a view, in our opinion, appears to be a shamefully distorted misreading of the Second Circuit's opinion and the law, for the following reasons:

1. The point made by Judge Van Graafeiland in the footnote cited by Mr. Harmon was not repeated in the opinion of the court. As you know, the controlling opinion of the Second Circuit was an en banc decision in which no reference to the footnoted point appears.

2. Mr. Harmon's opinion is in essence a recitation of opinion letters of the Comptroller General, and in any event leaves agencies free to follow the reasoning of those opinion letters. This is so notwithstanding the fact that the validity of the Comptroller General's opinion was clearly and explicitly rejected by the Second Circuit.

3. The view that the *Greene County* decision was in any measure based upon the Federal Power Commission's denial of its authority to establish an intervenor reimbursement program was presented to the Supreme Court in the certiorari petition of the Solicitor General. The Supreme Court, of course, denied the petition.

4. Mr. Harmon's opinion appears to make unnecessary, indeed ironic, the extensive congressional involvement which has recently taken place with regard to the intervenor reimbursement programs. For one, Mr. Harmon's opinion creates the anomaly of giving the Federal Trade Commission *less* authority than any other federal agency for the reimbursement of intervenor expenses, even though the Commission, under the Magnuson-Moss Act, is unique amongst all federal agencies in having explicit congressional authority to institute such a program. The authority of the Federal Trade Commission is specifically restricted by statute to rulemaking proceedings, which would appear to rule out any Commission reimbursement of intervenors in other types of administrative proceedings. By explicitly freeing all other federal agencies, on the basis of generalized enabling act language, "to determine the standards and procedures under which compensation may, in its discretion, be provided," Mr. Harmon and the Justice Department thus appear to clearly authorize all agencies but the Federal Trade Commission to reimburse intervenors in non-rulemaking proceedings.

5. More generally, and critically, it is unclear to us why Congress has lavished the considerable energies on the subject of intervenor reimbursement which have been spent if Mr. Harmon's view reflects the law. Congress has debated and, in Committee, voted on such issues as whether reimbursement should be restricted to rulemaking proceedings, whether reimbursement should be made by a central funding agency rather than by the agencies which conduct the proceedings, whether and to what extent legal fees should be limited in amount, whether and to what extent the financial condition of applicants should determine their right to reimbursement, whether small businesses and municipalities are to be eligible for reimbursement, and many other such important questions. Above all, Congress has, of course, been engaged in active debate as to the viability of the entire concept, but has passed no bill authorizing such payments. Yet, as noted, under Mr. Harmon's view, each agency is to have full authority, "to determine the standards and procedures under which such compensation may, in its discretion, be provided". We believe that there should be deference to Congress to determine the above issues, particularly in light of Congress's intense and continuing interest in the entire subject area.

In this regard, the views of Chief Judge Irving Kaufman in *Greene County* appear to us to be instructive and controlling. Judge Kaufman, an avowed supporter of intervenor financing programs, nonetheless wrote as follows in his concurring opinion in *Greene County*:

"The decision whether to expend public funds to advance an essentially private point of view by its very nature is political and, in a democracy, more appropriately made by the elected representatives of the people.* * * Indeed, the Supreme Court, in the *Alyeska Pipeline* case, refused to give the courts the right to determine, in the absence of legislative guidelines, which public policies are sufficiently important to warrant exceptions from the general prohibition of fee shifting. And the Comptroller General himself in *Matter of Costs—NRC,* at 8, stated:

"'. . . (W)e believe it would be advisable for the parameters of such financial assistance, and the scope and limitations on the use of appropriated funds for this purpose to be fully set forth by the Congress in legislation, as was done in the case of the FTC by the "Magnuson-Moss" Act.'

* * * * *

"(I)f Congress is of the view, as I am, that a reliable source of funding is a *sine qua non* to effective public participation in agency proceedings, it should appropriate money to that end. At the same time it should establish a comprehensive and flexible framework that will assure vigorous and independent representation of the public interest and avoid potential abuses."

In Mr. Harmon's view, the sole apparent purpose of the hearings, committee sessions and bills now pending before Congress regarding intervenor financing is for the purpose of restricting and not expanding the power of agencies. Such a view, of course, comes as a surprise to the proponents and opponents of the legislation, whose debates and positions have been premised upon the absolutely contrary view.

6. Most critically, and inexcusably for one holding the position of Assistant Attorney General in charge of the Office of Legal Counsel, we believe that Mr. Harmon's opinion ignores the earlier decision of the Second Circuit in *Greene County*, written in 1972, see 455 F. 2d 412, 425–27, which the 1976 *Greene County* opinion explicitly reaffirmed. In the 1972 opinion, the Second Circuit flatly held that generalized statutory language giving broad authority to the Federal Power Commission to "perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules and regulations as it may find necessary or appropriate to carry out the provisions of (the Federal Power Act)" were not sufficient to authorize reimbursement of intervenor expenses. Other general statutes giving broad powers to the Commission but not explicitly authorizing an intervenor reimbursement program were held insufficient to permit intervenor reim-

bursement. In words which appear to us to be clear, the Second Circuit held as follows after discussing the various non-explicit Federal Power Commission statutes brought to its attention:

"We would need a far clearer congressional mandate to afford the relief requested, especially in dealing with counsel fees, when Congress has not hesitated in other circumstances explicitly to provide for them when to do so was in the public interest. See Clayton Act, 15 U.S.C. 15; Communications Act of 1934, 47 U.S.C. 206; Interstate Commerce act, 49 U.S.C. 16(2)" See 455 F.2d at 426.

It is the above holding of the Second Circuit, rendered in 1972 and explicitly reaffirmed in 1976 en banc, which makes it almost impossible for us to understand how Mr. Harmon could advise all federal agencies, as he did with your approval, that "notwithstanding the *Green County* decision (each) department is required to interpret its own organic statute and any other relevant statutory provisions and determine whether Congress has authorized it, *explicitly or implicitly*, to provide compensation in proceedings before it." (Emphasis added). Even more difficult to accept are those portions of Mr. Harmon's letter, which still stand as the official position of the Department of Justice, and which read as follows:

"(W)e (do not) think that the Second Circuit, in reaching its conclusion regarding the Federal Power Act, announced a principle of law broad enough to cover other departments and agencies.

* * * * *

The Second Circuit could have based its decision on a broader ground; for example, it could have taken the position that no compensation for expenses such as attorney's fees could be paid absent explicit statutory authority. Had it done so, its decision would have created doubt as to whether other departments and agencies could construe their respective organic statutes as providing power to compensate where such authority was not explicit. The Second Circuit did not, however, do so * * *."

In light of the above, we ask for an expression of your views with regard to each of the items set forth in this letter. We are particularly interested in learning of your personal view of whether the 1972 opinion of the Second Circuit does not in fact state the view of that court, contrary to Mr. Harmon's finding, that general enabling acts do not constitute sufficient legislative authority for an agency to engage in an intervenor reimbursement program. We also wish to learn your personal view of whether the discretion of each individual agency or the will of Congress should, in the present context, most properly determine whether such programs are lawful, and if so, "the standards and procedures under which compensation may * * * be provided" for intervenors in agency proceedings. Is not the view of Judge Kaufman persuasive to you, both as a matter of law and policy?

It is our view that Mr. Harmon's opinion letter of March 1, 1978, should be immediately withdrawn, to be superseded by a letter which advises the various agencies that they lack authority to establish an intervenor reimbursement program in the absence of explicit authorizing legislation, and that general language of enabling and other acts does not constitute sufficient authority. Agencies should also be advised that the Comptroller General's opinion is without warrant in law. Finally, and at a minimum, we believe that agencies should be advised that intervenor reimbursement programs are lawful only to the extent that the language of their enabling acts or other nonspecific statutes are materially different from the language of the statutes cited and rejected in the Second Circuit's 1978 Green County opinion.

We believe that one of the lessons of Watergate is that a politicized Department of Justice is intolerable. In addition to our specific concerns regarding Mr. Harmon's opinion letter of March 1, 1978, we are thus troubled by what appears to be the Department's subordination of its paramount responsibility to fairly construe the law and by its clearly political accommodation to the so-called public interest law movement. A quick look at the political persuasions of those advocating public intervenor funding does, we believe, shed strong light on the politics behind the Harmon opinion, and as a result, on the Department itself.

We note that the Harmon letter was addressed to the Department of Transportation, whose National Highway Traffic and Safety Administration ("NHTSA") is pressing most anxiously to initiate an intervenor reimbursement program for the so-called public interest participants in its proceedings. The Director of NHTSA, Joan Claybrook, is of course the former chief lobbyist for Ralph Nader. It takes little experience with Washington reality to know that the immediate effect of the Harmon letter and therefore that its almost certainly intended purpose, is the transfer of what will at first be hundreds of thousands, soon millions of dollars from the federal treasury to the current network of organizations dominated by Nader, and to other similar groups. We believe that the high percentage of alumni of the so-called public interest movement who occupy many of this Administration's senior policy positions make it particularly important for the Department of Justice to be wary of the appearance and reality of conflict of interest and unauthorized payments. This is particularly true because of the high percentage of public interest alumni in high positions at the Department of Justice.

We shudder to think of the public outcry which would greet so questionable a construction of a court case were it to result in substantial money payments to a former business associate of but a single high Administration official. Here, the Harmon letter, which appears to us to fly in the face of controlling precedent and congressional authority, will enormously enrich many such former employers. If the Harmon letter stands, Ms. Claybrook and others, including a number of high Justice Department officials, will have federally endowed jobs and political bases to which to return when their government jobs end. The circumstances surrounding the Harmon letter thus make it, at a minimum, suspect, and at worst shameful.

We believe that it is not too late to gracefully withdraw the Harmon letter. In any event, we respectfully request a response to the questions we have here posed.

Further, we specifically request a listing of the public agencies other than the Federal Trade Commission which have adopted or currently propose the adoption of intervenor reimbursement programs.

Very truly yours,

Paul Laxalt, Jesse Helms, Carl T. Curtis, Dewey F. Bartlett, Strom Thurmond, Orrin G. Hatch, Maryon Allen, William L. Scott, Jake Garn, James A. McClure, Pete V. Domenici, Harrison Schmitt, U.S. Senators.●

CONGRESS AND THE PRESIDENT

● Mr. BAYH. Mr. President, there has been a great deal of talk recently about the relationship between the Congress and the President. Some people have said that we have not been able to get along. Some people have said that we have not been able to accomplish anything together. But, Mr. President, I dispute these claims. Sometimes the Congress and President Carter have had differing views, it is true. But this give-and-take is an integral part of our system of Government, and I feel that a great deal has been accomplished in the almost 2 years of the 95th Congress.

My good friend and fellow Hoosier, Congressman John Brademas, spoke recently to the Government Affairs Committee of the American Newspaper Publishers Association, on this subject. I feel his remarks are very much to the point, and that my colleagues will find them interesting and informative. Mr. President, I ask that the text of Congressman Brademas' speech be printed in the Record.

The speech follows:

Remarks of House Majority Whip John Brademas of Indiana

After having missed two previous opportunities to meet with the ANPA, I am delighted to be able to be with you this morning.

As I looked over the roster of the Government Affairs Committee, I noticed that your group is about as geographically representative as is mine, the House of Representatives. I expect it may be as politically one-sided also, though in the opposite direction—a situation I expect will continue among my group.

In inviting me to this breakfast, Jerry Friedheim suggested that I discuss political and legislative issues of general interest. This is an appropriate time for that because we are, as you know, within a few weeks of adjourning the 95th Congress.

We are on the verge of completing an unusual two-year span, one in which the Senate, the House and the executive branch of the government have had new leadership which contributed greatly to the substantial achievements of this Congress and of President Carter.

Before giving you my assessment of those two years, I want to revert to the years when, before I became a politician, I was a political scientist.

THE SEPARATION OF POWERS

In order really to understand what happens in Washington, it is essential to recognize that unlike the British, we have a governmental system characterized by genuine separation of powers.

Again and again, however, I find that Americans lack an understanding of this basic fact.

People know the phrase, "separation of powers," but for some reason the words lack meaning for them. They fail to comprehend that Congress and the executive, even when controlled by members of the same political party, are separate and distinct institutions performing different roles and answering to constituencies whose demands and expectations are also different.

Each President, each Senator and each Member of the House was his own mandate and his own responsibility to the people. This system has no parallel in the world today, a fact that sometimes eludes Congressmen and Presidents—and even the press and political scientists.

It perplexes me to find high school and college students, laborers and lawyers, reporters and editors, and publishers and presidents who are unaware of this arrangement and of what the separation of power means.

In order to get anything of consequence accomplished under this curious system of what Richard Neustadt called "separated institutions sharing powers," the executive and the legislative branches must work together.

Each must recognize that it is part of an over-all political system which represents diverse and often conflicting interests.

For a common result to be attained, there must be accommodation bargaining, compromise, words that unfortunately have, to some, an unwholesome meaning.

In the American government, when the executive and legislative branches are controlled by the same party—as they have been for the past 21 months—the two branches are likely to have common goals. Rarely, however, is there agreement on just how those goals are to be reached.

Successful politicians learn rather quickly that none of us has the sagacity of an editor or the perspicacity of a publisher. That is why we have a form of government that insists that no one person's proposals be accepted until they have been thoroughly aired and deliberately debated. That may be a terribly inefficient way of getting anything done, but it is also the system that enables us to develop support for public policy and to live in freedom.

The American system was not designed for peaceful coexistence between the executive and legislative branches nor have political realities done much to eliminate the potential for tension between them.

Much reporting from Washington deals with the relationship between the President and Congress, usually in terms of conflict. Most of that reporting is exaggerated because it fails to recognize that tension was deliberately built into our political system and that democracy makes no provision for revealed wisdom.

Two other aspects of contemporary political life deserve mention because, in combination with the constitutional separation of powers, they further dilute authority and thus make governing more difficult.

DECLINE OF PARTY LOYALTIES

The first of these is our lack of highly disciplined political parties. The fact of a decentralized party system significantly affects the relationships between Presidents and Members of Congress.

Our two traditional major political parties have made possible durable coalitions of diverse but broad compatible interests. Groups with substantially different goals have found enough common advantage to be mutually supportive under the broad umbrella of party.

The parties have served us as instruments for developing consensus across the spectrum of major issues. This is a crucial role in a nation as large as ours with its great differences of region, religion, race, ethnic origin and economic interests.

We have, however, been witnessing a significant decline in loyalties to even these relatively undisciplined parties. Vietnam and Watergate contributed to a demythification of the Presidency which has weakened the Presidential image in its several dimensions, including that of party leader.

The increased availability of television has intensified the impact of the President, and the presidential candidate, as a person, further diminishing the party role. Similarly, television has enabled Members of Congress and candidates for Congress to bypass the already weakened local party organizations and go directly to the people for support.

When coupled with the sheer complexity of American society, this decline in party loyalty contributes to the difficulty of holding Members of Congress of the same party together on issues. The United States is so large, so populous and so diverse that regional or economic interests, rather than partisan considerations, predominate.

As the party recedes from its primacy, it is more and more being supplanted by special interest groups that tend to concentrate on a single issue to the exclusion of all others.

THE NEW CONGRESS

A third factor that must be reckoned with in the contemporary political system is the new composition—and the new style—of the post-Vietnam, post-Watergate Congress. This development is linked closely with Congressional assertiveness.

The Members of the House and Senate today differ significantly from those who were there when I first came to Congress nearly 20 years ago.

The newer Members—and here I speak more knowledgeably of the House—are young, intelligent, well educated, very hard working, and they are skeptical. Those characteristics are not unlike those of your younger reporters and editors—and you know the probelms they sometimes cause you.

In the House, some 156 Members—more than one-third of the total—have served but one term or less. And 242 Members, well over a majority, have been elected since 1970.

These new Members bring both new vigor and new difficulties. It is not possible for either Presidents or Speakers easily to have their way with them. Neither the White House nor the House leadership can prevail by edict or command. To convince Members today, it is necessary to rely on reason and persuasion.

At the same time there has been a profound change in the legendary committee structure of the House The chairmanships of some 30 to 40 subcommittees, where the bulk of the legislative work is done, are held by junior Members. Committee chairmen, once all powerful, now must pay heed both to members of their committees and to their colleagues in the House, for ascension to committee chairmanships no longer is assured by seniority.

To be effective today, a committee chairman must operate like a politician, not an autocrat.

These changes in the operation of the House—and I have mentioned only a few of them—have made the House more open, more democratic, more accountable—and I strongly support them, having been among those who worked to make them possible.

But these reforms also have extracted a price: it takes considerably more time and effort to get things done, no trivial consideration at a time when the problems government is asked to address threaten to grow beyond management.

Having lowered your expectations by explaining how difficult it is to do anything, I want now to tell you what we have done.

Perhaps the single most significant accomplishment of this Congress and this Administration—one that is not, I believe, adequately reported in your newspapers or on television—is our record in putting people to work.

More new jobs have been created over a 12-month span—almost four million in the year ending last July 31—than in any similar period since 1940. And we have done it in peacetime.

SIX MILLION NEW JOBS

In the 21 months since President Carter and this Congress came into office, we have worked together to produce nearly 6 million new jobs—virtually all of them in the private sector.

That achievement has meant reduced government spending for welfare and unemployment and increased tax revenue. And it has also meant a stronger consumer market. Each of you, I'm sure, knows that your advertising lineage figures have risen considerably over the past year and that your profit margins are rising.

This didn't just happen. Recall the situation in late 1976: the country was facing a severe recession; unemployment was 7.8 percent; business faced a very unstable economic climate.

You will recall that President Carter and the congressional leadership, myself included, met at Plains even before we had taken office to discuss these problems and to shape an economic agenda for the nation.

The result of our efforts was the economic package—a number of new laws enacted in early 1977—that turned the economy around and pointed us toward recovery. The legislation included tax cuts for business and individuals, a tax credit to business for creating new jobs, local public works, anti-recession assistance to states and localities, and other economic recovery measures.

All of this combined to bring the remarkable improvement in our economic situation during 1977 and 1978, most spectacularly, as I have said, in the number of people put to work.

But there have been other good signs as well.

Just two weeks ago, the Labor Department announced that wholesale prices were down in August for the first time in two years.

Since January 1977, business investment has been at an annual rate of nine percent compared to an annual rate of only one percent over the eight years of the Nixon-Ford Administrations.

I don't say that we have made everything right in the world. We know that business still faces considerable problems in the form of high interest rates, inadequate capital formation and continuing inflation.

Indeed, the problem of inflation affects us all, not only in this country, but throughout the world.

We are perceived by other countries—rightly, I think—as the nation that must lead in the fight against inflation. I know that the people in my congressional district feel that way. They've made it pretty clear to me that they want something done about inflation.

CONGRESS CUTS SPENDING

And Congress is paying heed; as part of our contribution to the fight against inflation, we are cutting government spending. The House last month passed a binding budget resolution for fiscal 1979 that sets the lowest federal deficit in five years. We cut over $10 billion from the President's January budget request of $60 billion. House and Senate conferees are now meeting to resolve differences in their respective versions of the budget resolution, and we expect to have a bill in final form in a few days. It will undoubtedly carry a budget deficit many billions of dollars below the Carter request of January.

We have been able to make these overall reductions because throughout the year, during the consideration of the many spending bills that came before the House, we voted again and again to cut nonessential items and to hold spending in check. Let me give you some examples of these cuts—$8.1 million for an unnecessary executive jet for military brass; across-the-board slashes in specific appropriations bills; denial of the federal comparability pay raises to Members of Congress and senior government officials in 1977 and, in 1978, a 5.5 percent cap on pay raises for federal rank-and-file workers and the military; reductions in foreign aid; a $350 million cut in the New York City Loan Guarantee Act, and most recently, a deletion of $2 billion for a nuclear aircraft carrier the President made clear we did not need.

Cuts like these add up. They enable us to make room in the federal budget for essential economic measures like the new tax cut bill.

CONGRESS CUTS TAXES

Last month the House approved a tax cut bill that will mean a reduction of $16 billion in taxes on business and on individuals as well as some capital gains relief. We did this after first rejecting an inflationary alternative that would have reduced federal revenues by 30 percent over three years and forced huge deficit spending. The measure we finally sent to the Senate was pared by one-third from the $25 billion measure proposed early this year. We settled on what we believe is a prudent, balanced net reduction—enough to avert recession but not too much to spur inflation.

One of the principal purposes of the bill is to relieve the inflation tax on middle-income taxpayers—the increased tax you pay for being moved by inflation into a higher tax bracket.

Another goal is to provide relief for homeowners. A third is to give businesses an incentive to invest and produce. And finally, we acted to provide capital gains tax relief, one effect of which we hope will be to stimulate capital formation.

The bill is in the Senate, where some changes will occur. While it is as yet too early to tell what the final form of the tax bill will be, its general outline will not change drastically.

One other objective in cutting income taxes in 1978 is to offset, to some extent, the forthcoming increase in employer and employee Social Security taxes legislated earlier. That measure was necessary to preserve the financial soundness of a system that makes payments to 34 million Americans every month. At the same time, we recognize the burden on business and the worker and so Congress authorized the creation of a special panel of private experts to review the entire Social Security System. Some of the questions the commission must address include whether to supplement Social Security financing with general Treasury funds and whether to combine Social Security and public employee retirement systems.

These are just some of the ways in which Congress and the President have been working together to provide a strong, balanced economic program.

As our efforts shift further toward the problem of inflation, we must bear in mind that no quick, overnight fix is likely to solve it. If we are really serious about the fight against inflation, we must attack it on several fronts simultaneously—in both the public and private sector and with a variety of approaches.

TWELVE WAYS TO FIGHT INFLATION

Some of you may have already read a guest column about inflation I wrote for the Los Angeles Times Syndicate. In it I suggested a number of steps which I will run over briefly:

1. Keep lowering the size of the deficit in the federal budget. This means gradually reducing the proportion of the gross national product represented by federal spending from the current 22 percent to 20 percent by 1982.

2. Scrutinize the impact of the costs of government regulations. Estimates are that they add about three-quarters of one percent annually to the rate of inflation.

3. Keep reducing unemployment. Stimulating recession is no way to fight inflation. It would take an additional one million unemployed to lower the inflation rate one percentage point—a bad tradeoff.

4. Press for a national energy policy that sharply reduces our reliance on imported oil, steps up energy conservation and develops alternative sources.

5. Encourage private investment and higher productivity by tax cuts for both individuals and business. The bill the House passed in August would mean $12.2 billion in tax reductions for individuals, including $1.8 billion in capital-gains relief and $4.1 billion for business.

6. Intensify the drive to sell American goods abroad, thus improving our trade balance and strengthening the dollar.

7. Urge restraint on business and labor in price and wage policies. We should take a careful look at tax-incentive plans—tax credits to workers for holding down wage demands and to companies for holding down price increases, plus penalties for stiff boosts by either business or labor.

8. Consider the use of voluntary guidelines for wages and prices, geared to productivity, for companies and unions of significant size. Fact-finding, mediation and presidential jawboning would be the instruments of compliance.

9. Reduce interest rates as inflation subsidies. The rising cost of money is part of the rising cost of living.

10. Encourage competition in the private sector. Airline deregulation is a dramatic example of how a little free enterprise goes a long way in helping both consumers and business.

11. Focus with special efforts on those sectors of the economy that have special inflation problems, such as health care, food and housing.

12. Provide job training and employment opportunities to chronic welfare recipients who are able to work, thereby reducing unwarranted public expenditures.

No single one of these remedies will eliminate the curse of inflation. All will mean sacrifice by some sector of our society. But, taken together, they can improve the well-being of all Americans.

I'd like to turn now to another matter that is commanding the attention of the Senate this week and next. That is, of course, energy—and specifically the natural gas deregulation bill. This is a key part of President Carter's energy package. If the bill, which is in its final or conference report form, clears the Senate, we will take it up in the House, where chances for its passage are good.

It has been a long and arduous process since President Carter unveiled his energy plan more than a year ago.

In light of the experience of the past year, our performance in the House—where, with the strong guiding hand of Speaker O'Neill, we passed the President's program in just four months—is all the more remarkable.

CONGRESS AND PRESIDENT CARTER COOPERATE

Where it counts, Congress and President Carter have never lost the firm working relationship established at Plains almost two years ago. Certainly, we have our differences. That is the American way—and especially the Democratic way, since our party serves as the umbrella for so many different shades of politcal belief.

But we support the President. We in the congressional leadership have regular, biweekly White House breakfasts with the President to talk over legislation and other matters. We communicate. And we still work together.

A prime example, of this cooperation took place over the last two weeks while the President was at Camp David. In one day we won three major victories in the House—for the President, for Congress, for the country.

We voted decisively to sustain his veto of the defense authorization bill which contained over $2 billion for the nuclear carrier; the opposition was not even able to muster a majority to override, to say nothing of two-thirds.

Second, we beat off an attempt to prohibit the President from imposing oil import fees if they were needed as a last-resort conservation measure.

Third, the House approved a Foreign Intelligence Surveillance Bill which was strongly supported by the Administration.

And late last week we passed the monumental Civil Service Reform Bill which so many reporters and columnists had given up for dead.

Another conspicuous indicator of the good relations between Congress and the President—conspicuous by its absence—is the veto situation. President Ford vetoed 49 bills during his first 21 months in office. Today it is exactly 21 months since President Carter took office. In that time, he has vetoed only five bills.

I have not even touched upon the great success the President has had in the field of foreign policy, both legislatively and diplomatically. From the legislative standpoint, he won the Senate's support for ratifying the Panama Canal treaty and Congress agreed to support him in the sales of planes to Egypt and Saudi Arabia and in lifting the Turkish arms embargo.

The most dramatic and far-reaching foreign policy success is, of course, the agreement between Prime Minister Begin and President Sadat which the President was able to produce at Camp David.

Still to come are a second SALT agreement with the Soviets and what I believe will be the further improvement of our relations with both the Soviet Union and the People's Republic of China.

Having spoken too long about too many issues, I shall end by reiterating what I observed at the outset of my remarks—that the uniquely American constitutional system of government requires a certain amount of tension to exist between the legislative and executive branches. It is when that tension does not exist that there is cause to worry.

The existing relationship between Jimmy Carter and Congress is, therefore, I think, a healthy one. It is built on mutual respect and understanding. The results so far—and I have touched on only some of them—demonstrate that these two branches of our national government are working together, effectively, for the benefit of the American people.●

EQUAL RIGHTS AMENDMENT

● Mr. GARN. Mr. President, I am prepared to vote for House Joint Resolution 638, the resolution purporting to extend the time for ratification of the Equal Rights Amendment (ERA), if it is amended so that the concepts of fair play and constitutional integrity are integrated into the resolution. If the resolution is amended, I still think it will be of dubious constitutionality, but I am prepared to vote for it thereby giving the benefit of my doubts to those who wish to see an extension. If the resolution is not amended, then I will be unable to support it, because it will represent bad law—if it be "law" at all—and very bad policy.

At a minimum, House Joint Resolution 638 should be amended so as to require a two-thirds vote on final passage and to set out the policy of the 95th Congress with respect to State legislatures that change their minds regarding acceptance and rejection of the proposed amendment. These are the only two amendments with which I am primarily concerned and, as I have said, I think the success of these two amendments will cure some of the defects in the measure as passed by the House.

Many of us are aware of the recent action of the American Bar Association in refusing to agree to a resolution calling upon Congress to extend the ratification period. I was pleased to hear of the ABA's action, and particularly so because of the organized attempt to get the ABA to adopt the resolution. The delegates who voted against the resolution were not organized, they had only one unifying principle: Their opposition to a position that smacked of unfairness and crass expediency.

The organized bar's opposition to extension was also gratifying for another reason, viz., it was consistent with the report of the Special Constitutional Convention Study Committee which was established by the American Bar Association in response to resolutions passed by the board of governors and house of delegates in 1971. The Special Committee's report, "Amendment of the Constitution by the Convention Method Under Article V," (copyright 1974 by ABA) contains a section on ratification which expressly recommends that article V principles "more cogently argue in support of a rule permitting a State to change its position either way until three-fourths of the States have finally ratified."

The entire section of the ABA study will be of interest to our colleagues and I ask that it be printed in the RECORD.

History and reason also indicate to me that this resolution, if it is to have any legal effect at all, must be passed by a two-thirds vote of the Senate. Congressman HAROLD L. VOLKMER of Missouri has made an excellent case for this position, and so that his views will be widely available I ask that his supplemental views and appendix (from H. Rept. 95–1405) be printed in the RECORD. Also very useful is an appendix from Congressman WIGGINS' views and I ask that it be printed in the RECORD following the Volkmer material.

The material follows:

Ratification

As part of our study, the Committee has considered the advisability of including in any statute implementing the convention method a rule as to whether a state should be able to rescind its ratification of a proposed amendment or withdraw a rejection vote. In view of the confusion and uncertainty which exists with respect to these matters, we believe that a uniform rule would be highly desirable.

The difficult legal and policy question is whether a state can withdraw a ratification of a proposed amendment. There is a view that Article V envisions only affirmative acts and that once the act of ratification has taken place in a state, that state has exhausted its power with respect to the amendment in question.[80] In support, it is pointed out that where the convention method of ratification is chosen, the state constitutional convention would not have the ability to withdraw its ratification after it had disbanded. Consequently, it is suggested that a state legislature does not have the power to withdraw a ratification vote. This suggestion has found support in a few state court decisions[81] and in the action of Congress declaring the ratification of the Fourteenth Amendment valid despite ratification rejections in two of the states making up the three-fourths.

On the other hand, Article V gives Congress the power to select the method of ratification and the Supreme Court has made clear that this power carries with it the power to adopt reasonable regulations with respect to the ratification process. We do not regard past precedent as controlling but rather feel that the principle of seeking an agreement of public support espoused in *Dillon* v. *Gloss* and the importance and comparatively permanent nature of an amendment more cogently argue in support of a rule permitting a state to change its position either way until three-fourths of the states have finally ratified: [*][82]

Supplemental Views of Hon. Harold L. Volkmer

The proponents of House Joint Resolution 638 are applying two new concepts to the constitutional amendment process: (1) The power of Congress to extend a time limit for State ratification on a proposed constitutional amendment; and (2) the use of a new legislative vehicle, a House joint resolution passed by a majority vote without Presdential signature, to accomplish the extension. I agree with the first concept but reject the second as in violation of the constitutional process and having no binding effect.

Serious constitutional questions are raised by these concepts. If a time limitation set by the 92d Congress can be extended, by what process is a binding extension to be accomplished? My research of the testimony and statements of the constitutional experts, the Supreme Court cases, the discussions of the constitutional debates, the Constitution, the statutes, and the precedents, has led me to the conclusion that proper constitutional procedures requires the use of a joint resolution passed by two-thirds of both the House and the Senate. (See: article V, article I, section 7, and article VI, clause 2 of the Constitution; *Hollingsworth* v. *Virginia,* 3 Dall. 378 (1798) and *Hawke* v. *Smith,* No. 1,253 U.S. 221, 229).

I am supported in this conclusion by the following constitutional authorities: Prof. Charles L. Black, Prof. Thomas I. Emerson, Prof. William Van Alstyne, and Mr. Erwin Griswold. (See appendix following the supplemental views for statements by these authorities.)

Those that support the proposition that a majority vote of the House and the Senate is all that is required to extend the time for ratification of a proposed Constitutional amendment base their position on three premises: (1) The limitation is merely a detail of ratification and that under *Dillon* v. *Gloss,* 256 U.S. 368, Congress has the right by majority to determine details; (2) Congress initially decides a limitation or no limitation for ratification during the amendatory process by majority vote; and (3) if there is any question as to whether the required number of States have ratified, a majority of Congress could decide this question by majority vote.

I agree that a majority vote is all that is required in the last two instances. However, a distinction must be made between determining the number of years and determining final passage of the resolution. This distinction must be maintained on a resoluton extending the period of ratification when that period will go beyond the life of the Congress enacting the resolution, and is to be delivered to the GSA for the Administrator to follow. Under the 5-minute rule, when House Joint Resolution 638 is considered, amendments may be offered on the time limit therein and be determined by a majority vote. However, that is a process separate and distinct from final passage.

If the time limit is just a detail in the submission of a constitutional amendment, so is the mode of ratification. The preamble of the original equal rights amendment provided for ratification by State legislatures. Article V provides for ratification by the State legislatures or State conventions. Proponents of a majority vote have to logically argue that the mode of ratification could also be changed, in midseason, by a majority vote to require ratification by State conventions.

I believe that any such change would require a two-thirds vote for final passage. Both the time limit and the mode of ratification, although in the preamble of the proposed constitutional amendment, are integral parts thereof and by reference incorporate the amendments as part of the total resolution (H.J. Res. 208, 92d Cong.). For any Congress to change it, a two-thirds vote is mandated. (See article V of the Constitution.)

The proponents of majortly vote are also caught on the horns of a dilemma. There is no precedent for a joint resolution, which is to have legal effect beyond the period of the Congress enacting it, to be passed by a majority vote and not be submitted to the President for approval or disapproval. Yet, proponents insist that House Joint Resolution 638 will not be and need not be submitted to the President for approval, and that it will be binding on later Congresses and the Administrator of GSA. The Constitution (article I, sec. 7), the statutes (title I, secs. 106 and 106A), and the precedents (Jefferson's Manual, sec. 397), all require a joint resolution passed by a majority vote to be submitted to the President.

The framers of our Constitution, the Supreme Court (*Hollingsworth* v. *Virginia,* 3 Dall. 378 (1798), and a careful reading of article V, clearly demonstrate that the President has no power of participation in the submission of a proposed amendment to the Constitution. Only: (1) The Congress and State legislatures or State conventions, or (2) State legislatures and National Constitutional Conventions can effect changes in our Constitution. Justice Chase, in *Hollingsworth* v. *Virginia,* in reply to the contention that the 11th amendment was not valid because it had not been submitted by Congress to the President for approval, stated:

"There can surely be no necessity to answer that argument. The negative of the President applies only to the ordinary cases of legislation: He has nothing to do with the *proposition* or adoption, of amendments to the Constitution."

The proponents of House Joint Resolution 638 recognize that the President has no part in the process, so they say his signature is not necessary. However, our statutes and Constitution say a joint resolution is a bill to be signed by the President under article I, section 7, unless it is passed by a two-thirds vote under article V as part of the constitutional amendment process. This is the only time a joint resolution is not submitted to the President. In addition, what would happen if the President vetoed the joint resolution? Two-thirds is required to override a veto. If two-thirds of both Houses could not be obtained, then the President would be determining the constitutional amendment process. This, he has no power to do under our Constitution.

Proponents of House Joint Resolution 638 are attempting to bind subsequent Congresses and the Administrator of General Services Administration. Although designated a "joint resolution", if passed by a majority vote without the signature of the President, it can only have the effect on a

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[80] Jameson, supra note 17, at §§ 582–584; Dodd, "Amending the Federal Constitution," 30 Yale L.J. 321, 346 (1921).

[81] *Wise v. Chandler,* 270 Ky. 1, 108 S.W.2d 1024 (1937) (also holding that state legislative *rejection* of a proposed constitutional amendment cannot be reconsidered); *Coleman v. Miller,* 146 Kan. 390, 71 P.2d 518 (1937) (dicta). The issue was discussed, though not passed on by the Court, in Chief Justice Hughes' opinion in *Coleman v. Miller,* 307 U.S. 433, 447-50 (1938).

[82] This rule would taken precedence over the action of Congress in refusing to permit New Jersey and Ohio to rescind their ratifications of the fourteenth amendment. The right to ratify after a previous rejection would confirm precedent established in connection with the ratifications of the Thirteenth and Fourteenth Amendments. *See generally Myers, The Process of Constitutional Amendment,* S. Doc. No. 314, 76th Cong., 3rd Sess. (1940).

[*] These views of the Committee are in accord with the rule which is expressed in S. 1272 and its predecessor, S. 215, which was unanimously passed by the Senate in October 1971. See page 4, *supra.*

"concurrent resolution". Its effect would be only to express the sense of this Congress (95th) that the States have extended time to ratify. The resolution would appear on its face to have a binding legal effect, yet it could not and clearly would not be binding on any subsequent Congress.

I cannot bring myself to vote for legislation which purports to perform a certain purpose, but clearly does not. I cannot vote to tell State legislatures they have additional time to ratify when that is not binding on a later Congress. The later Congress would not have to recognize the extended time and would not have to recognize the ratification.

Proponents' argument that a majority of Congress determines if three-fourths of the States had ratified a proposed constitutional amendment, based upon *Coleman* v. *Miller*, 307 U.S. 433, is not totally correct. Congress has delegated, to the Administrator of the General Services Administration, the responsibility to make this decision. (See title I, sec. 106B). Without a positive action by the Administrator, such as occurred on the 14th amendment, Congress does not act. Is it necessary for the Administrator of GSA or the Congress to act when the 38th State has ratified? It is my opinion, from a careful reading of *Dillon* v. *Gloss*, 256 U.S. 368, at 376 and *ex parte Dillon* 262 F. 563, at 565, that when three-fourths of the States have ratified a proposed amendment, it becomes part of or Constitution without action by the Administrator of GSA or by Congress.

Could Congress today pass a concurrent resolution by a majority vote stating that Congress finds 38 (three-fourths) of the States had ratified the equal rights amendment? The answer is "Yes." Congress could pass such a resolution. Would such a resolution have any effect? The answer is obviously "No," since the records of GSA show only 35 States have ratified. Would you vote for such a resolution? I hope not.

For these reasons I cannot support a resolution extending the time limit unless it requires a two-thirds majority vote of the House and the Senate for final passage. I have introduced House Joint Resolution 1063 for that purpose. I support extension but believe it can only be done by a two-thirds vote on final passage.

I have approached the problem of extension from an objective viewpoint and urge my fellow Members to do likewise. We are not just dealing with the extension of time for ratification of the equal rights amendment. We are also setting a precedent in the amendatory process of our Constitution. We should respect precedents of our forefathers and not discard them summarily for the necessity of extending the time period for the States to ratify the equal rights amendment.

HAROLD L. VOLKMER.

APPENDIX

Erwin Griswold, former Solicitor General of the United States, and former Dean of the Harvard Law School:

"* * * this seems to me to be essentially a part of the process of amending the Constitution, as to which the Constitution is explicit that two-thirds majorities are required in both Houses of Congress."

Charles L. Black, Jr., Sterling Professor of Law, Yale Law School, hearings before the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, November 4, 1977:

"If the original resolution combined the proposal of the amendment and the setting of the time limit as an integral, locked-in part of that proposal, grammatically and as a matter of necessity of voting, the integral package being passed by a two-thirds vote—and that was true of the equal rights amendment—then it seems to me plainly right that a two-thirds vote of each House of Congress should be required for an extension.

"It may easily happen in any given case that a vote for the original resolution is cast partly on the ground that, in the view of the caster of the vote, the time is suitably limited. If that is not possible, then it must be because the limitation is simply nugatory or idle, it means nothing to anybody.

"It is impermissible to assume that this question of time means nothing to anybody. If that were so, why put it in? It cannot, therefore, be assumed that the original would surely have passed by the requisite two-thirds majority if the time had been longer."

Prof. Thomas I. Emerson, Lines Professor of Law Emeritus, Yale Law School, same hearings, same day:

"I think the general principle should be that you either have a two-thirds vote (on House Joint Resolution 638) or a Presidential signature; and that is a sound general principle."

Prof. William Van Alstvne, College of William and Mary, Marshall Wythe School of Law, Williamsburg, Va.; same hearings, same day:

"It is in this light that I believe that while extension of the period for ratification may well be desirable (because Congress may well conclude that the circumstances which justified the proposal of the equal rights amendment have not so changed that further consideration of the amendment is no longer timely), the joint resolution which would extend the time for an additional seven years should be deemed by Congress to require two-thirds majorities of both Houses rather than simple majorities. My reasons for this view are these:

"First, we are mutually aware that when the proposed equal rights amendment commanded the two-thirds majorities required by the Constitution, it did so in the form of a joint resolution which provided that the amendment would become valid 'when ratified by the legislatures of three-fourths of the several States within 7 years from the date of its submission by the Congress.' I do not think it fair or plausible to suppose that the provision for this original expiration date was without purpose or effect. None of us can know with any degree of reasonable certainty to what extent the provision for that expiration date may have rendered the amendment more acceptable to some Members of Congress than it would otherwise have been. That all but one amendment proposed during the last half century have been proposed only when accompanied by this same expiration date, and that at least some Members of Congress might not have approved the submission of an amendment with no expiration date at all, however, seem to me to be matters which this Congress ought now conscientiously to take into account.

"Insofar as article V itself requires two-thirds majorities as a condition of proposing an amendment to the Constitution, and insofar as we cannot know whether this proposed amendment would have commanded those majorities without provision of the original expiration date, it seems to me that this Congress ought not now resolve that further consideration of the amendment is still timely except by a similar consensus, i.e., by two-thirds majorities."

APPENDIX

EXCERPTS FROM DEBATE IN THE COMMITTEE ON JUDICIARY, JULY 18, 1978[*]

[The question of the purpose and effect of H.J. Res. 638 first arose during the discussion of an amendment expressly authorizing rescissions offered by Mr. Railsback. He and others were originally under the impression that the rescission amendment would not bind future Congresses. Since there appeared, however, no logical basis on which to distinguish the effect of the rescission amendment from the effect of the text itself, the question inevitably arose whether H.J. Res. 638 would have any binding effect.]

Mr. SANTINI. As I understand the debate as it has progressed on the issue of rescission, it seems to me that it is generally acknowledged and conceded that the amendment, if adopted, at best would represent an expression of intent and advice to future Congresses, or some of the quotes that are taken from a cross section of the membership that have examined this issue.

What comes screaming home to me in the context of those kinds of deductions about the capacity of this body to effect a rescission is that you can lay the very same indictment at the feet of the efforts to affirmatively extend the time limit and suggest that it is nothing more than an expression of intent and advice to a future Congress, and if it be that, *whatever anomalous sort of legislative creature are we concocting here under the guise of House Joint Resolution 638*.

I had understood, and obviously I was misguided, misdirected or misinformed. I had understood that this would have some sort of legally binding or perpetuating effect. I would ask the very distinguished subcommittee chairman to respond to these preliminary observations. What is the legal effect of House Joint Resolution 638?

Mr. EDWARDS. Well, we asked that question of experts during the hearings, and as I recall, the Department of Justice—are you talking about reducing the time?

Mr. SANTINI. Or extending it.

Mr. EDWARDS. The testimony of the Department of Justice was that it very clearly has the constitutional power by statute to extend the time in Congress.[1] However, when Mr. Harmon [2] was asked the question, could a future Congress reduce the time, it was his opinion no. He said the effect would be a withdrawal of the amendment from consideration by the States and that it would be unconstitutional.

However, I will say that there was some dispute on that. Professor Tribe [3] said the next Congress can change it up and down. So I think it points out, and I am glad the gentleman from Nevada has spoken on this, it really points out the fallacy of this advisory opinion that the gentleman from Illinois, Mr. Railsback, wants us to enact into statute.

Mr. EDWARDS. Two of the most recent constitutional amendments were submitted to the President. President Johnson signed the 22d and 25th. They were very happy occasions in the Rose Garden and it would be very nice to have the President sign this one, too.

Mr. SANTINI. *It seems to me, then, that in order to give this document that we have designated a resolution legal efficacy of some binding consequence beyond this Congress, that you must pursue some course of action*

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[*] Emphasis supplied throughout this excerpt indicated by italics.

[1] To the contrary the Department of Justice memorandum on this subject states the following: "With regard to the question of form, it is our view that H.J. Res. 638 need not be presented to the President for his approval. It has long been established that the President has no role to play in the amendment process. *Hollingsworth v. Virginia*, 3 Dall. 378 (1798). . . . We recognize that this may be the only instance in which Congress is empowered to take action (apart from purely internal 'housekeeping' matters) without either the constraint of a two-thirds vote requirement or the safeguard of a Presidential veto."

[2] Assistant Attorney General, Office of Legal Counsel, Department of Justice.

[3] Professor of Law, Harvard Law School.

such as the one you suggest, otherwise this becomes a concedingly grandiose but nonetheless advisory directive to succeeding legislative bodies.

Mr. VOLKMER. Would you yield?

Mr. SANTINI. Yes.

Mr. VOLKMER. *The gentleman from California just mentioned the word "statute" and this bothers me. As I understand it, then, and I ask the gentleman of California, is this going to be submitted to the President for signature?*

Mr. EDWARDS. *Well, that is an entirely different subject.*

Mr. VOLKMER. *In order for it to be a statute, it would have to be submitted to the President.*

Mr. RAILSBACK. Would you yield?

Mr. SANTINI. Yes.

Mr. RAILSBACK. I thank you for yielding and I want to try to cite now an even more ardent proponent of ERA who is Professor Emerson.[4] He was asked, "Assume that the 95th Congress extended the period for 7 years and then let us assume that in the elections of November 1978 all of the floor leaders of such a movement and some of those who voted for it were defeated. Could the 96th Congress in January 1979 rescind the extension?"

"Professor EMERSON. Insofar as they are dealing with what is a reasonable time and if they change their views as to what was a reasonable time, they could rescind. If they were attempting to withdraw the amendment from consideration by States, they could in my judgment not do that."

I don't think anybody would disagree that we cannot bind a future Congress that may want to do something different.

The CHAIRMAN. The time of the gentleman from Nevada has expired.

The gentleman from Pennsylvania, Mr. Ertel.

Mr. ERTEL. Thank you, Mr. Chairman.

I have to admit that this argument has left me totally confused. I have been sitting here trying to read the *Dillon* case[5] and the *Coleman* case.[6] Somehow we seem to have confused a couple of concepts unless I am confused But it seems to me the amendment that was submitted to the States for ratification is different than what we are talking about now. We are talking about a detail of the ratification and therefore that can be done by resolution which is a statute which can be submitted to the President.

I quote to you from *Dillon* v. *Gloss*, the Supreme Court decision where the Supreme Court says: "Whether a definite period for ratification shall be fixed so that all may know what it is and speculation of what is a reasonable time can be avoided is a matter of detail which Congress may determine as an incident of its power to designate the mode of ratification."

Mr. Railsback has indicated to me that rescission is not valid. But I am wondering if that is not one of the details of the mode of ratification, and in fact he could not offer an amendment here designating how you go about ratifying and the rescission in fact could be valid to rescind a prior ratification.

In fact, in another case it so indicates, and if I can find the exact words, I refer to the *Coleman* v. *Miller* when it was talking about ratification and rescission. In its opinion the precise question is now raised as whether when the legislature of the State as we have found has actually ratified the proposed amendment, the court should restrain the State officers from certifying the ratification to the Secretary of State because of an earlier rejection and thus prevent the question from coming before the political departments.

Skipping two lines, "Nor has the Congress enacted a statute relating to rejection."

It seems to me that implies we can enact a statute relating to rejection and we could put it in this resolution and have it signed by the President and we would have set up a procedure to ratify and the way it would be ratified for future times. It would be done as a matter of detail which is allowed us under the Constitution.

So I question whether Mr. Railsback, when he says that we cannot set this out, really if that is a valid statement. Could we not set out the ratification process?

Then comes the question, can we modify a statute? It is obvious that we have always modified a statute in this Congress by further legislative enactments. But it seems to me we are getting a little bit confused.

I would be willing, since we are looking for contemporaneous ratification, to have a provision in here for rescission and then we would have a contemporaneous ratification and require all the States to have it.

One further point: It seems that according to the procedures as I read them, the court can then concurrently or we can come back to the legislature and they must pass a concurrent resolution that it has been ratified. That has been done in one of the cases. We make the decision whether it has been ratified. That was done in the *Coleman* case. We determine whether there is a ratification. Then it is certified.

So it seems to me we have the option of doing anything we desire in this matter.

Mr. RAILSBACK. I wanted to say if you are right, that personally makes me feel even better. In other words, I was perhaps accepting some wisdom that appeared in the testimony, but if you are right that we could bind in the absence of any kind of a formal statutory repudiation or anything like that, in other words, I like that even better.

Mr. SANTINI. If you will yield further, if extending from the point that you have left the examination of these two cases, *it then seems to me, Mr. Subcommittee Chairman, that unless House Joint Resolution has the signature of the President to give it the force and effect of statutory law, that it is then nothing more than an expression of intent and not law.*

Mr. ERTEL. If I may reclaim my time, *I agree with you.* We are trying to pass at this point a resolution, we are not passing an amendment to the Constitution. *A resolution becomes a statute upon signature by the President.*

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The CHAIRMAN. The gentleman from Virginia, Mr. Butler?

Mr. BUTLER. I move to strike the last word.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. BUTLER. I want to clarify what our subcommittee was told with reference to the question of whether a President's signature would be required on the resolution.

Only one witness felt the extension proposal must be submitted to the President for signature. That was Mr. Black. Other witnesses seemed to agree with the statement of the Justice Department that the duty, power and accompanying obligation to oppose the amendment was reserved solely to Congress under Article V of the Constitution.

So far as I can determine, there was no intention expressed during our deliberations in our markup to submit this to the President for signature. If we have a different view of that presently, I would like for the record to show that.

Mr. SEIBERLING. If you will yield, I would like to say, as I read *Coleman* v. *Miller*, it stands for the proposition that the question of the reasonableness of the time is a political question to be determined by the Congress. That is what this bill does.

Now I see no objection to submitting it to the President if he wants to sign it, but *I do not read the Supreme Court decisions nor do I read the Constitution as requiring that he do.*

Mr. BUTLER. I thank the gentleman.

Of course, I am not speculating about the requirement and the necessity for it, I am just telling you. And you were a member of the subcommittee, although you did not attend the hearings.

Mr. SEIBERLING. If the gentleman would yield, I did attend the hearings.

Mr. VOLKMER. Will the gentleman yield?

Mr. BUTLER. I yield.

Mr. VOLKMER. I, too, have the concern because I can remember during the debates and in private discussions this was what concerned me. *It was my understanding that this joint resolution would not be submitted to the President*. I submitted to each of you a proposal on why I thought two-thirds was necessary because I feel if we are proceeding under Article V, that a two-thirds vote on final passage is necessary and a majority is required to determine the details in the meantime.

But if we are proceeding under Article I and VI, in other words, laws, then it could be done, but it has to be submitted to the President.

It is my opinion that if we did not do either, you did not do the two-thirds or you did not submit it to the President, the joint resolution was no more actually than the expression of the sense of Congress, that it was no more than a concurrent resolution.

I have now heard for the first time today that this may be submitted to the President. I know there are reservations and some say we don't think it is required. That may be, but *I, too, would like to know definitely* that answer because it makes a difference to me about the effectiveness of it, in my opinion.

Mr. BUTLER. *There is no intention to submit it to the President for signature, and if there is a contrary intention, I am sure somebody will state it.*

Mr. VOLKMER. Will the gentleman from California state on that?

Mr. ERTEL. If you will yield, the *Coleman* case talks about ratification and contemporaneous ratification after the fact of the passage when the legislature makes up its mind whether there is contemporaneous passage.

Are we not here dealing with a statute setting out a procedural way of passing this and therefore we are talking ahead of time and that is what we are doing?

Mr. VOLKMER. You are beginning the question.

Mr. ERTEL. If I may complete, *if we are talking about the proposal and the detail of how this will be ratified and the procedure, then it is statutory and needs the signature of the President*. But if we are only talking about after the fact and it is coming back to the Congress and being submitted, we can make a political judgment as to whether or not it was contemporaneously ratified. *It seems to me we need the signature of the President now because this was before the fact and we are setting out a statute*. We are not making the political judgment at the end of the process.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

The gentleman from Michigan, Mr. Sawyer.

Mr. SAWYER. *I am disturbed about this waffling on the question of submittal to the President*. In this particular case it probably will be just routine because the President has made it perfectly clear, but if we are creating a precedent to follow, it may be some time in the future we will have a President who is against it and what happens to it if he vetoes it?

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[4] Lines Professor of Law Emeritus, Yale Law School.

[5] *Dillon* v. *Gloss*, 256 U.S. 368 (1921).

[6] *Coleman* v. *Miller*, 307 U.S. 433 (1939).

I think we should give some mechanical thought to this problem. I think we ought not myopically look at this particular amendment knowing that the President will as a matter of ceremony sign it.

I think we have to look ahead that if we are establishing a precedent on how we are to do this, there may come a day when the President and a White House will be prepared to veto such a situation and why should we put future Congresses into that kind of a box where *really the President, as I see it, doesn't have any place in constitutional amendments.*

Mr. Wiggins. If you will yield, I think we should pay careful attention to the fact of these cases and understand what the *Coleman* stands for and what *Dillon* against *Gloss* stands for.

Now there is a lot of discussion in *Coleman* about contemporaneous consensus, but the fact remain that it was considering the action of the Kansas Legislature with respect to a child labor amendment which never became part of the Constitution. There was no occasion to determine whether or not a consensus had been received with respect to the child labor amendment.

The whole controversy there was whether or not the lieutenant governor was a member of the legislature to break the tie. That was the political question which the court properly stayed out of, and said the Congress, if the time should ever arise, could determine whether the lieutenant governor is part of the legislature.

That fact is quite relevant to the situation in Kentucky with reference to the current amendment. That is the political question, however. It is not that everything is submitted to Congress related to these amendments on the authority of Coleman. It doesn't stand on that proposition.

The Chairman. The gentleman from Ohio, Mr. Kindness, is recognized.

Mr. Kindness. Thank you, Mr. Chairman.

I have an amendment in the nature of a substitute.

The Chairman. The clerk will read the amendment.

The Clerk. On page 1, strike the lines 3–10 and insert the following in lieu thereof: * * *

Mr. Edwards. I believe this was the same substitute referred to earlier. I make a point of order against the amendment.

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The Chairman. The gentleman from California.

Mr. Edwards. My point of order is based on the fact that I believe the amendment is not germane. House Joint Resolution 638 deals with the conditions of ratification by the States of the amendment proposed by House Joint Resolution 208 back in 1972. It deals with the times and conditions for considering that proposal.

The amendment from the gentleman from Ohio clearly does not relate to that proposal at all but offers instead an entirely different constitutional amendment to send to the States. I suggest that it is not germane.

The Chairman. Does the gentleman wish to be heard?

Mr. Kindness. Yes, Mr. Chairman.

As has been brought out very clearly in the last few minutes of debate and discussion before the committee, *it is very difficult for the Chair to determine the question of germaneness because we are not sure what we have before us.*

What we have before us purports to be a House Joint Resolution that is not going to be signed by the President, not going to be submitted to the President for signature, not going to be legislation. It is going to be subject to interpretation by the courts, but very likely to be only advisory in nature.

What I would submit to the Chair in considering the point of order that has been raised is that we don't know what we have before us and we might as well do something constructive. We could settle the question of whether the President signs this or not by considering and hopefully adopting this amendment in the nature of a substitute.

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The Chairman. [The Chair ruled that the amendment was not germane and that the point of order was sustained.]

The gentleman from Missouri, Mr. Volkmer.

Mr. Volkmer. I would like to strike the last word.

The Chairman. The gentleman is recognized for 5 minutes.

Mr. Volkmer. As I have previously stated, one of my major concerns with Resolution 638 was that it does provide an action, proposal, under article V that it would need two-thirds, but if it is proceeding under article I and then article VI which says that the Constitution and the laws of the treaties are the supreme law, then, as I have stated earlier in my statement to each member of this committee, that would have to go to the President for signature.

I have found no precedent as to the effect of a joint resolution without signature by the President passed by a majority vote. This is of great concern to me. For the first time here—and by the way, I would say in all fairness that Mr. Harmon and other authorities did state in their opinion it would not require the signature of the President. I disagree with that.

They also said, Mr. Harmon also said, by the way, anything we do would not be binding on later Congresses. That disturbs me. *I have now heard today that this resolution may very well go to the President.*

I would like to ask the gentleman from California, Mr. Edwards, if he has any statement in that regard because that holds a considerable weight with me as to whether or not we are using a proper procedure, and if so, that determines my vote.

Mr. Edwards. If the gentleman will yield, the Parliamentarian of the House advised us that as a routine matter we may expect the Clerks of the Congress to send House Joint Resolution 638 to the President. *His signature, I believe, is not required, but I for one would welcome it for its symbolic demonstration of this administration's support for the ERA.*

Lest we be concerned that we are engaged in a superfluous act, let me remind you that certifications of ratification have been sent to the President and I am aware of at least two instances involving President Lyndon Johnson where the certification was signed by the President. Clearly that act, though not required, had not affected the validity of those amendments nor the authority of Congress.

Mr. Volkmer. But you would not use your enthusiasm in any way to attempt to prevent it. *If the joint resolution was passed by the House and Senate, you would not use your influence to attempt to prevent it from going to the President for signature?*

Mr. Edwards. No; that is right.

Mr. Volkmer. Therefore, thank you very much.

Mr. Fish. Mr. Sawyer of Michigan touched on this.

I would just like to establish and hope it will not be controverted because it is in support of what the gentleman from California, the chairman of the subcommittee, just did.

We do have this basic case of *Hollingsworth* v. *Virginia* decided in 1798. Now that case establishes the President has no role in either proposing or ratifying amendments, but that is all it says. It describes the lack of a role by the President. It neither forbids nor proscribes any role by the President if that is the wish of this committee to do in this particular instance.

But neither would it, I think, diminish either the scope of the power of Congress.

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The Chairman. There being no further amendments, the question occurs on the motion to recommend to the full House the bill House Resolution 638, as amended.

Mr. Butler. Mr. Chairman.

The Chairman. The gentleman from Virginia.

Mr. Butler. I have a motion to recommit at the desk.

The Chairman. The motion is in order. The clerk will read the motion to recommit.

The Clerk [reading]:

Mr. Chairman, I move to recommit the bill, House Joint Resolution 638, to the Subcommittee on Civil and Constitutional Rights with instructions to report back the same to the full Judiciary Committee no later than August 15, 1978, after consideration of the question whether any extension of the time to ratify a pending constitutional amendment must be passed by two-thirds of each house of Congress, or whether it may be passed by a simple majority and, if so, whether the extension measure must be presented to the President for signature.

The Chairman. The gentleman is recognized for five minutes.

Mr. Butler. Thank you, Mr. Chairman. I won't take the five minutes.

This is a motion to recommit which is self-explanatory. During the course of our discussion today it has become perfectly apparent both from the comments of the gentleman from Missouri and others there are hanging loose two questions which we ought to resolve and which the House is looking to us for guidance. One of them is whether this extension must be passed by two-thirds of each house of Congress or whether it must be passed by a simple majority. Of course if it must only be passed by a simple majority, and I question that, then we have a question of whether this extension must then be presented to the President for signature or not.

It is perfectly apparent on the basis of the discussion here that the previous assumption we have had that it would not be presented to the President for signature has evidently been rejected somewhere else than in the subcommittee, but I think our subcommittee owes it to the full committee, if we are going to report out this resolution, to resolve these two questions before it goes to the floor of the House.

That is the basis for the motion to recommit.

The Chairman. The gentleman from California, Mr. Edwards.

Mr. Edwards. Mr. Chairman, the subcommittee looked into this in great depth and the witnesses testified in great depth on this particular subject. We have also discussed it today. There is nothing really new to learn about the issue, and I urge a no vote on the motion to recommit.

The Chairman. The question occurs on the motion to recommit. [The motion was rejected on a rollcall vote 15–19.] ●

CZECHOSLOVAKIA 10 YEARS AFTER THE PRAGUE SPRING

● Mr. GLENN. Mr. President, 10 years ago freedom-loving people throughout the world were moved to great happiness by Alexander Dubcek's rise to power as head of Czechoslovakia's reform government.

Dubcek, a peace-loving Slovak, believed that concepts of decency and free speech—or at least freer speech—could exist behind the Iron Curtain. His efforts at peaceful reform stirred the entire free world as a possible harbinger of better things to come in Eastern Europe.

It seems hard to believe, but 10 years have passed since the end of that dream. August 21, 1968, will be marked forever by historians, because on that date the Soviet Union's Warsaw Pact forces swept through Czechoslovakia to crush Dubcek's government and restore a tightly regressive regime.

Alexander Dubcek, I am happy to note, survived the onslaught and resides today in Bratislava. But the hopes of democracy in Czechoslovakia, even a modified democracy, have been squelched by events of 1968 and subsequent trends.

Andrew Alexander, a Washington-based correspondent for the Cox Newspapers, wrote an article last month from Prague, noting the 10th anniversary of the Soviet invasion.

Mr. Alexander's description of conditions in Czechoslovakia offers us a stark reminder of how a repressive government operates. Despite the relative prosperity being enjoyed by Czechoslovakia today, the restrictions on personal freedom are very great.

I am requesting that Mr. Alexander's article be printed in the Record.

This article captures the spirit of modern Czechoslovakia very well, I believe, and is important to all of us who remember the Prague Spring as a noble moment, albeit a fleeting moment, in the history of democracy.

The article follows:

Fear and Prosperity Keep Czechs "In Line"

(By Andrew Alexander)

Prague, Czechoslovakia.—The Soviet tanks and troops are gone, as are the crowds that angrily jeered them.

The street signs, twisted or removed to confuse the invaders, are now back in their proper places.

The "Long Live Dubcek" graffiti, hastily painted on buildings and streetcars, has long since been scraped away or painted over.

Life in Czechoslovakia, with its history of repression, is now back to "normal."

It was exactly 10 years ago this morning that this nation of 15 million awoke to find itself occupied by Soviet-led Warsaw pact forces. They had moved with frightening speed the previous night to put a violent end to the "Prague Spring," that short-lived experiment in liberal Marxism which had attempted to combine freedom of press and speech with Socialist economic institutions.

A reporter returning here for the first time since those frenzied days following the occupation is struck most by the broken spirit of the Czech people.

Those who were then ready to risk their lives to preserve their newly-acquired freedoms now seem more concerned with the latest Soviet film in town or how to scrape together enough cash for a new Skoda automobile.

The leaders of the Prague Spring have been banished to obscurity, along with more than a half million others, according to Czech Government figures) who have been purged from Communist Party rolls.

Alexander Dubcek, the quiet Slovak who headed the Reform Government, now performs menial bureaucratic tasks in Bratislava where, it is said, old women occasionally hand him flowers on his way to work as a silent sign of appreciation.

Only the so-called Charter 77 group, which monitors human rights violations, has dared to publicly question the hard-line regime of Czechoslovak President Gustav Husak, who replaced Dubcek.

Today, according to U.S. sources, the group is only loosely organized. While more than 1,000 have signed the charter, only a handful are said to be active.

"The closest thing to unity was when they were founded in January of 1977," said an official at the U.S. Embassy in Prague.

"These are the brave exceptions to the rule," echoed a U.S. government expert on Czech political affairs recently in Washington, who termed the group "very ineffectual."

He said Charter 77 leaders have been subjected to "constant harassment," including round-the-clock surveillance, loss of jobs, driver's license, telephone service, pensions, and refusal to permit dissidents' children to receive advanced education.

Under Husak's rule, all published writings must be government-approved. Artists and playwrights must refrain from any expression hinting of government ridicule. Some western crime movies are shown on Czech television, but are usually followed by a discussion of how the film represents the decline of the non-Communist world.

(An exception to this hardline rule is that Czechs may purchase some rock music albums—mainly because they can listen to the music anyway on radio broadcasts from neighboring Austria and West Germany.)

The best intelligence available to the U.S. Embassy here suggests there will be no mass demonstrations marking the anniversary of the invasion, officials say.

One embassy staffer said there has been talk of boycotting public transportation or wearing black arm bands today. "But beyond that, nobody really feels like butting heads," he said.

A worker at the Czech Government Press Agency, C.T.K., gave a similar assessment last Friday as she talked during her lunch hour in downtown Prague.

"Some of the women have said they might wear black dresses to work to show how they feel," she said. "But who wants to be punished? Who wants to lose their pension? What's the use?"

A worker at the Jalta Hotel said with a sigh of acceptance: "We should do nothing and go to our jobs. There has been no talk here (about demonstrations). Nothing will happen."

Just the same, the Czech police in Prague have prepared for the worst.

Teams of patrolmen stand watch near the National Museum at Wenceslas Square, the rallying point for angry demonstrators a decade ago. The policemen prohibit crowds of more than a few to congregate near a large monument in front of the museum.

Surveillance is heavy as policemen with still and film cameras have spent the last several days photographing those who venture near the monument.

Local hotel and shop workers say there has been a marked increase in the numbers of police foot patrols walking the boulevard leading to the museum.

About a half mile away, all but hidden on a back street, are parked two armored personnel carriers which local residents said were brought in last week.

U.S. Embassy officials say they have been told, but have yet to verify, that a "water cannon" has been stationed near the square for use in dispersing large crowds.

Presumably trying to avert bad publicity, the Czechs have permitted few Western journalists to enter their country for the anniversary. And those who do get in are constantly reminded—sometimes subtly, sometimes, overtly—that they are on a short leash.

They are first required to register with the Government's press office, which an official there explained "will help to arrange your program." When told by a reporter that he wished to roam the city and speak with people at random, the official replied: "That must be arranged, also."

Czech Government officials also take down the make and model of visiting reporter's tape recorders and cameras, with special attention given to lens strength.

Speaking with anyone in public is made difficult. For several hours Saturday a young man, posing as a tourist and carrying a camera with a telescopic lens, followed this reporter through the streets of Prague, snapping photos whenever the reporter engaged in conversation, even if only to ask directions.

When the young photographer disappeared, uniformed Czech police took over with a hand-held motion picture camera which they operated from a patrol car. Retaliation by photographing them drew a reprimand.

In addition to the fear of punishment, the country's relatively stable economy may help explain why Czechs are more inclined to grumble privately than to protest actively against their repressive government.

Unemployment is virtually non-existent, and thousands of workers from Poland have even been imported to help with production and housing construction, a priority item.

Prague department stores are well-stocked in comparision to other East European Communist countries, and so-called "Tuzex" stores offer a wide variety of Western brand-name goods.

"Generally, the consumer here is pretty happy," said a U.S. Embassy official. "He sees himself living better than his Communist neighbors."

Also, unlike some Eastern Bloc countries like Poland, the Czechs carry only a very small hard-currency debt to Western nations.

Despite their relative prosperity, U.S. officials believe there is economic trouble ahead for the Husak Government. Ancient production machinery and sky-rocketing energy costs—which U.S. analysts says are rising at about 10 percent annually—are making Czechoslovakia less competitive worldwide in traditionally strong Czech markets like machine tooling.

But for the present, the Czech people seem content—and maybe fearful. ●

HOMEBUILDERS ENDORSE PROVISIONS OF S. 2011

● Mr. SCHMITT. Mr. President, the Subcommittee on Administrative Practice and Procedure of the Judiciary Committee held hearings last week on S. 2011, the Regulatory Reduction and Congressional Control Act. At that time, Herman J. Smith, vice president of the National Association of Home Builders, presented testimony on the costs borne by the housing industry in complying with Federal regulations. I ask that this testimony be printed in full in the Record.

The testimony follows:

Statement of the National Association of Home Builders

Mr. Chairman and Members of the Subcommittee: My name is Herman J. Smith, and I am a homebuilder from Fort Worth, Texas. I am testifying today on behalf of the more than 105,000 members of the National Association of Home Builders (NAHB). NAHB is a trade association of the homebuilding industry, of which I am Vice President and Secretary. Accompanying me today are Robert D. Bannister, Senior Staff Vice President, and Gary Paul Kane, Associate Legislative Counsel.

We appreciate the opportunity to appear today and discuss the effects government regulation is having on the housing industry and the home-buying public. At the same time, however, it is distressing to have to be here to discuss government overregulation. It is distressing because we believe the function of government should be to help the free market system in this country function rather than frustrate it. NAHB, however, commends this Committee for its attention to the serious problem of government overregulation. In our appearance here today I will outline how government regulations have added to the cost of housing to the point where only 30% of American families can afford to purchase the median priced home in this country.

HOUSING COST SPIRAL

NAHB would like to bring to your attention a serious trend that is developing in the housing industry. A trend, if left unabated, will literally deprive tens of millions of Americans the opportunity of home ownership. There is little question that this country is facing a housing cost problem of serious proportions. Since 1974, the median sales price of a single family home has increased from $35,900 to $57,300. (See Chart 1). From April to June of this year, the median sales price of a new home has increased $4,200. In urban areas housing costs have increased even more rapidly. The hundred thousand dollar ($100,000) home, once thought to be a dream estate for the very wealthy, now is not unusual in many areas throughout the country. Housing prices and operating expenses have increased and are continuing to increase more rapidly than family income and consumer prices generally.

IMPACT ON HOME-BUYING PUBLIC

The impact of housing costs on the home-buying public is dramatic. For every $1,000 increase in the cost of a house an average of 700,000 families are priced out of the home buying market. At the median sales price of $57,300, and assuming all families to be first time home buyers, 16 million or only 28% of the 57 million families in the United States can afford to buy a new home (See Chart below).

NUMBER AND PERCENT OF FAMILIES WHO ARE PRICED OUT OF THE HOUSING MARKET IN THE UNITED STATES BY $1,000 INCREASES IN THE SALES PRICE

Sales price	Income needed to afford	Percent of families who can afford	Number of families who can afford	Difference (priced out of the market)
$35,000	$14,000	57.7	33,013,000	--------
$36,000	14,400	56.2	32,166,000	847,000
$37,000	14,800	54.7	31,319.000	847,000
$38,000	15,200	53.2	30,438,000	881,000
$39,000	15,600	51.6	29,523,000	915,000
$40,000	16,000	50.0	28,608,000	916,000
$41,000	16,400	48.6	27,784,000	824,000
$42,000	16,800	47.1	26,960,000	834,000
$43,000	17,200	45.7	26,159,000	801,000
$44,000	17,600	44.4	25,381,000	778,000
$45,000	18,000	43.0	24,602,000	779,000
$46,000	18,400	41.7	23,836,000	766,000
$47,000	18,800	40.3	23,069,000	767,000
$48,000	19,200	39.0	22,302,000	767,000
$49,000	19,600	37.6	21,536,000	766,000
$50,000	20,000	36.3	20,769,000	767,000
$51,000	20,400	35.2	20,134,000	635,000
$52,000	20,800	24.1	19,493,000	641,000
$53,000	21,200	33.0	18,858,000	635,000
$54,000	21,600	31.9	18,223,000	635,000
$55,000	22,000	30.7	17,588,000	635,000
$56,000	22,400	29.6	16,936,000	652,000
$57,000	22,800	28.5	16,306,000	630,000
$57,300 (June 1978)	22,920	28.2	16,135,000	--------

Note: (1) Based on the 2½ times income rule (1977 data); (2) number of families in United States, 57,215,000.

Source: U.S. Department of Commerce, Bureau of the Census; analysis by NAHB Economics Department.

All Americans are affected by increasing housing and operating costs. Those who have purchased homes before the dramatic price increases, since 1970 or even 1973, have been least adversely affected. Those harmed most are newly formed families who are potential first-time home buyers, low income families, and elderly or others on fixed income. For those individuals, the rapid increase in cost of housing quickly outstrips the gains in income they may have. The gap between income and the sales price of new homes is continuing to widen.

The National Association of Home Builders believes that all Americans are entitled to enjoy housing that is decent, sanitary, and safe—and affordable, as a matter of right. Frankly, however, unless a concentrated and conscientious effort is taken to address this problem millions of Americans may never realize that right.

Why single family housing starts remain high

Despite record high interest rates of 10% and over the high cost of housing, starts remain at a very high level. The reasons for this are complex. It is due in part to strong demand resulting from the rate of new family formations and the perception that homeownership is the best investment most Americans can make.

Housing Demands: The current high demand for housing has been brought about by rapid increase in the rate of family formation. During the first 8 years of this decade (1970 to 1978) the number of households increased by 12.6 million, or 19.9% to a total of 76.0 million. This compares with an increase of 8.0 million households (15%) during the first 8 years of the 1960's. The increased rate of family formation is the result of the postwar baby boom and the number of increased single family households.

The baby boom generation has caused a 39% increase in the number of persons reaching the homebuying age of 30 years over the total from the 1960's. By the end of this decade it is projected that 32 million Americans will have reached the age of 30. During the 1980's about 42 million will reach age 30. We will see no significant drop in housing demand until the 90's when the "baby bust" generation of the 1960's enters the market.

Over the next 5 years, some population projections show an increase of 7.5 million additional households. When combined with the number of families currently occupying substandard housing, and the number of housing units removed from the market each year by demolition, disaster or other means, an additional 12.5 to 14 million housing units could be needed during the next 5 year period.

Good Investment: Even with high interest rates and accelerating prices, home buyers are continuing to purchase. To do this, major sacrifices are being made, and families are using two wage earners in order to make their monthly mortgage payments. Inflationary pressures, however, will continue to make home ownership an excellent investment. It is not uncommon for home owners to double their investment in less than 5 years in many areas throughout the United States.

GOVERNMENT REGULATIONS/REASON FOR HIGH COST

NAHB believes that the major contributor to the increase in housing cost is government regulations. We will spend the balance of our time this morning discussing specific proposals that adversely affect the home building industry.

Overview

The impact of government regulations on the housing industry and on housing cost almost defines any rational analysis. It ranges from the IRS Capital Gains Tax to the Forest Service timber policies and from EPA's environmental standards to HUD's Interstate Land Sales Regulations. Even the Federal Reserve Board with its impact on interest rates and the Army Corps of Engineers Wetland Protection Regulations make their contributions.

Before I address the specifics of government regulations and their relation to housing cost, I would like to bring into focus the magnitude of the problem. One means of documenting the increase in federal regulations is to look at the number of pages added to the Federal Register each year. The number of pages has increased from 7,952 in 1949 to 65,574 in 1977 (See Chart 2). Since 1969, there has been a startling 320% increase in the amount of regulations published in the Federal Register.

A more graphic demonstration of the cost of regulations can be observed by viewing Chart 3 based on a study by the Center for the Study of American Business in St. Louis. They have estimated that federal government expenditures for regulatory cost have increased from $2.2 billion in FY 1974 to $4.8 billion in FY 1979. The cost to the businessman and the consumer to comply with federal regulations has increased from $44.6 billion to an estimated $97.9 billion. In 1976 the aggregate cost of complying with federal regulations came to $300 for each man, woman and child in the United States. The estimate in 1979 could reach as high as $500 for every man, woman and child.

REGULATORY COSTS

[In millions of dollars]

	Administrative costs	Compliance costs (business and consumer pays)	Total
Fiscal year:			
1974	$2.2	[1] $44.6	$46.8
1975	2.7	[1] 54.7	57.4
1976	3.1	62.9	65.0
1977	3.7	[2] 75.4	79.1
1978	4.5	[2] 92.2	96.7
1979	4.8	97.9	102.7

[1] Computed by NAHB Governmental Affairs Division using a multiplier effect of 20.29 per the Center for the Study of American Business.

[2] Subtraction of figures provided by the study from cols. 1 and 3.

Note: Figures drawn from the study done for the Joint Economic Committee, "The Costs of Government Regulation of Business," by Murray L. Weidenbaum, director, Center for the Study of American Business, Washington University, St. Louis, Mo.

Effect of Government regulations on housing costs

When taken collectively the impact of government regulations dwarfs all other factors in their contribution for significantly increasing housing cost.

Rutger's University has completed a study which details excessive regulation at all 3 levels of government, federal, state, and local. The study estimates that the cost of excessive government regulation could add as much as $9,844, or almost 20 percent, to the purchase price of a $50,000 house. The excess regulation cost was broken down as follows: Development Stage, $5,115, Construction Stage, $4,129, and Occupancy Stage, $600.

The impact of government overregulation on the consumer is not just felt in the purchase price of the house. Using the housing market "rule of thumb" that 1 percent of the purchase price of a house is an approximate indication of monthly expenses (mortgage, taxes, insurance, operating and maintenance) a $50,000 house would cost almost $100 a month more in financing and operating expenses because of unnecessary regulations. Government regulations could be adding over $1,000 a year for the homeowner purchasing a median priced new home.

Regulations at all levels of government have added to these costs. Chart 4 shows the housing cost components affected by the various types of government regulation. At the federal level, we have countless government regulation eminating from the Clean Air Act, Coastal Zone Management Act, Federal Water Pollution Control Act, Interstate Land Sales Regulation Act, National Flood Insurance Act, Occupational Health and Safety Acts, etc. It has been estimated that over 40,000 permits annually will have to be filed by builders and others, under just one

Section, Section 404, of the Federal Water Pollution Control Act. Under the Interstate Land Sales Regulation Act, it can cost a developer $20,000 just to file for an exemption with HUD. I would like to point out that filing this exemption is required by HUD even though local subdivision regulations, which are more comprehensive, are followed by each builder. Local regulations, include land use restrictions, zoning, building codes, subdivision controls, sewer and water connection approval and fees, environmental impact statements, and the like. States are beginning to play a more dominant role in land developments in many cases following the "lead" by the federal government.

The Rutgers study found that a developer of a typical residential project in Los Angeles needed to contact a total of 36 different offices, file 12 different application forms, and produce 87 supporting documents and/or duplications in order to comply with all regulations. In Maryland a residential developer had to pay a total of 18 permit fees and 4 bonds for the project requirements. In New Jersey a project needed 14 reviews for various stages of water, sewer and site plans, 6 agency fees, 4 permits and the payment of 1 bond. Construction could not commence, however, until a building permit was obtained and plumbing inspection fees were paid.

The HUD Task Force on Housing Costs lists increased government regulation as a nationwide problem. In analyzing the housing cost question, the Task Force states:

"Regulation by all levels of government is a major factor in increasing housing costs through both substantive requirements and processing delays. The proliferation of government regulations, many of which are unduly burdensome, affects all areas studied by the Task Force. Increased and excessive standards are a factor in escalating the costs of financing, land development, housing construction and rehabilitation, and the provision of supporting amenities, as well as occupancy costs. Many localities impose burdensome fees and impact taxes on newly developed lots, in an effort to shift the cost of facilities from the community to the new homebuyer. Time-consuming and expensive review procedures and lengthy processing exact a heavy cost in terms of overhead, inflation, reduction in the return on investment, and fees and charges from construction or rehabilitation delays."

COMPONENTS OF HOUSING COST

Chart 5 shows the relationship to the major components of housing costs. Labor represents 16 percent, materials 30.7 percent, land 25 percent, financing 10.8 percent, and overhead, marketing and profit 17.5 percent. Chart 6 shows the proportionate cost of housing for each housing cost component since 1949. The major cost increase has been land and site development. In 1949 the percent of cost for land and land development was 11 percent. Today, that share of the median price of a single family home is 25 percent. By contrast, the portion of cost allocated to home price figures for labor and materials has actually decreased, from 69 percent in 1949 to 46.7 percent in 1977. While financing doubled over that period, it remains less than 11 percent of the total house cost. Nonetheless, it is a growing concern of NAHB.

Land and site development

Policies for federal, state and local governments constrained the supply of developable land, increased the cost of infrastructure development, and added new environmental requirements (many beyond what is necessary to protect public health and welfare). Land development regulations and procedures in many cases are unnecessarily complex, duplicative and overlapping.

Project Delays: A study completed by the Rice Center for Community Design and Research in Houston last May documented that the largest single percentage increase in the cost of a new, single family home was the cost of its lot. The report stated that a substantial portion of the lot costs resulted directly from government regulation. Between 1967 and 1977 there has been an increase of 13 months in the time needed to develop home site lots. This delay is extremely costly because the developer is continuing to carry overhead cost for financing through the delay period.

In 1967 no projects took over 39 months to develop. Only 9 percent took over 30 months. Today, however, there is a 33 percent chance that the project will run over 30 months and an 18 percent chance that it will take longer than 39 months. Land development time increased 64 percent between 1967 and 1977. Consumer cost increased from 17 to 27 percent. In other words, the consumer had to pay $1,140 to $2,100 per lot more because of delays created by government regulations. If application cost and cost of conformance with government specifications is added, the total increase would be between $3,200 and $5,400.

Excessive Local Requirements: The Government Accounting Office has measured how much the cost of single family housing in 11 metropolitan areas including 87 communities has been increased by land development fees and requirements. The study points out that the most restrictive communities had: (1) standards for streets and related site improvements that could increase the cost of a house by as much as $2,655; (2) requirements for 150 to 200 foot wide lots that further increased site improvement costs; (3) requirements for dedicating land for parks and schools costing up to $850 a house; (4) municipal fees as high as $3,265 a house for such items as local reviews, permits, inspections, and utility connections; and (5) local review and approval processes that took up to 21 months.

The report identified 17 costly site improvement items which, if required by communities could add to the cost of a house. These site improvement costs were broken down into 4 categories—streets, sidewalks, driveways, and water and sewer systems. For example, for each inch of asphalt pavement above 2 inches, an estimated $130 is added to the cost of a new house. Each 1 inch reduction in sidewalk thickness could save about $60 a house, a reduction of 2 inches in the size of the water pipe could save $155 a house.

Building Codes: Restrictive building codes according to the study requiring the use of expensive methods and materials afforded opportunities for savings if communities accept less expensive items. Potential savings varied widely among the sampled communities with a median savings of about $1,700 a house. The range was from zero in 2 communities to $7,300 in another.

The GAO report showed 64 building materials and methods and the savings per item if less expensive materials and methods were allowed. Individual, potential savings per item ranged between a low of $15 (use of gravel instead of sand under concrete floors) to $2,870 (basement versus no basement) per house. Collectively, using the less expensive items or methods could significantly reduce the price of a house. Consumer demand may be the cause of the more expensive methods or materials such as a garage. People want it even though it is not required.

Infrastructure Requirements: Many communities through regulation requiring dedication of land, construction of public facilities, or compliance with certain environmental requirements have substantively increased the cost of developing a lot for housing. The Urban Institute found that as much as $4 to $5 billion per year is attributable to the public capital stock by developers who must install community facilities at their own expense. They estimate that this breaks down to an average cost of $4,652 per house. These facilities include minor subdivision roads, water systems, parks, and recreation space.

Local Growth Plans: Many communities have sought to limit or control growth within their jurisdictions. They have imposed controls limiting the capacity of public services (sewer, water, roads), used zoning to limit growth, prohibit certain types of development, discouraged development through property taxes or placed ceilings on building permits or even population.

According to an economic impact analysis prepared by NAHB, $5,300 could be added to the price of a typical home and an estimated 4,800 local jobs could be lost during the first 2 years of a San Diego County proposed growth plan.

Under this limited growth plan, new housing would be restricted to designated urban areas served by existing facilities, including schools, highways, and water and sewer connection. Traditional single family developments in outlying areas would be prohibited until all the designated urban areas were developed. Limited growth policies such as this are short sighted because they ignore the basic market principles of supply and demand. The reductions in the supply of land and a diminished rate of housing production can only increase housing prices in view of the continuing strong demand for housing.

The study demonstrated that a moderate level of new housing construction pays its own way with property tax and other revenues, offsetting increased government expenditures.

Duplicative Regulations: Many federal regulations duplicate local regulations, thereby adding unnecessarily to the housing cost spiral. A classic example of how a federal administrative agency can duplicate local regulations can be observed by studying how the HUD Office of Interstate Land Sales Regulation (OILSR) distorted the purpose and intention of the Interstate Land Sales Full Disclosure Act between the time of its passage in 1968 and today.

OILSR has extended its regulation jurisdiction from undeveloped lots in remote parts of the country to fully improved or developed lots located in metropolitan areas where land development activities are already heavily regulated. In most of these "regulated jurisdictions" before a builder can sell even a single lot, he must gain approval from myriad local and state governmental entities. In addition, he must have either completed, or post a bond for the completion of water, sewer, electrical facilities, and roads.

When confronted with uncertain filing requirements, the potential delays and costs of a protracted dispute, and the potential civil and criminal sanctions, many builders are simply refusing to sell any lots whatever to individuals; they will sell only to other builders. This can prevent a family which does not yet want to be tied to a particular builder from buying a lot in a good neighborhood either as an investment or as a future home site. Those families who do purchase lots from the second builder pay a higher price for the land as the result of paying two builder's markups.

NAHB strongly believes that where lots are provided with the necessary public improvements, constructed under substantive state and local subdivision regulations, there is no need for OILSR to add yet another layer of federal regulations.

Building materials

Today the cost of materials as a share of the price of a new home is about 30%. It has decreased from around 45% in 1949. Hard costs which include labor and material cost has decreased from 59% in 1947 to 47% today.

While the overall percentage of materials as the cost of a house has gone down, material prices are still increasing. Shortages in cement and insulation and inordinate price hikes in lumber, gypsum and asphalt roofing are causing steep price increases. Construction material prices are increasing at a considerably faster rate than the Wholesale Price Index for all commodities.

The Council on Wage and Price Stability has called hearings in early October on building material price increases. Focus of the hearings will be on: (1) gypsum prices which are up 25.4% from last year; (2) cement which is up at an annual rate of 16%; and (3) lumber which has increased at an annual rate of 22.5% for Douglas fir, 26.7% for hardwood lumber, 14.1% for plywood and 38% for millwork. The Wholesale Price Index for all materials rose at a 13.2% annual rate.

According to McGraw-Hill systems Information, profits for all building materials producers rose 25% in the first quarter of this year as compared to 1977 while gypsum profits were up over 100% and cement profits were up 77% over the same period of time.

Government Regulations and Timber Prices: Fifteen percent of the total purchase price of a house and 30% of the construction cost is made up of lumber. Federal regulations including environmental restrictions and Forest Service policies are hindering timber harvesting in national forests and it is detrimental to the housing industry.

The annual harvest in the 1970's from the national forests—which constitute the single largest source of the softwood timber used in construction—is below what it was at the beginning of the decade. An increase in the timber supply of 1 billion board feet (the sale of 12.4 billion board feet, an increase over FY 78, has been appropriated by Congress for FY 79) could reduce lumber costs by somewhere between 2 and 5%.

Since timber production from privately held lands is expected to decline in the 1980's when housing demands is expected to increase, the national forests will become an even more critical factor in the lumber price situation. The only way lumber prices can be moderated is to increase the supply and the current trends show supply decreasing.

Government Policy and Insulation Cost: Governmental action has caused the price of insulation to increase by stimulating demand based on new federal energy conservation regulations, and the proposal for tax credits for installing additional insulation in existing structures.

Labor

Labor as the cost of the share of a house was much higher in 1949 than the 16% share that it occupies today. Nonetheless, less labor wages has increased significantly since 1949 which shows the dramatic impact of increased land development and financing costs.

Wages have increased astronomically from the minimum wage of 40 cents an hour in 1949 to the present $2.65 an hour. The minimum wage naturally affects other wages and no less than construction industry. The union construction wage has gone from $2.18 in 1949 to $10.63 as of the second quarter of 1978 for the seven main construction industry trades. Wage rates plus benefits for this same period is $13.01. Even the contract construction wage which most of our builders pay went from $1.70 in 1949 to $8.48 as of June of this year.

The Wharton School of Industry Research at the University of Pennsylvania estimates that the Davis-Bacon Act adds as much as $1.5 billion a year to the overall cost of federal construction in the United States. Davis-Bacon was passed in 1931 to prevent workers from outside localities from coming in and working at lower rates than those "prevailing" in the area at the time. This was a serious problem because of the conditions of the depression and does not pertain to modern economic conditions existing today.

Other areas of government regulation affecting labor in the construction industry include OSHA and ERISA.

Financing

The share expended on financing the construction of a single family house has more than doubled since World War II. It has gone from about 5% of the sales price of a new house in 1949 to almost 11% in 1977.

Federal Reserve Policy: The rate of interest builders pay for financing as a rule of thumb is the prime rate plus two. As of August, using this formula, construction financing has reached a level of 11%. The prime rate is affected by Federal Reserve policies in raising the Federal Funds rate and the Discount Rate of Interest. The impact of financing on consumers is particularly drastic during a sharp increase in rates. For instance, between 1970 and 1974 when Federal Fund rates shot up to an unprecedented 12%—and all rates followed—the cost paid for financing a typical home increased nearly 150%.

Sources of Funds. Thrift institutions remain the principal source of long term mortgage credit. Their ability to attract funds for housing investment depends upon their ability to offer investors yields which are competitive with yields from other investments. On the national level the tightening of the overall money supply, general increases in the demand for credit, or large scale borrowing by the U.S. Treasury push up yields on competitive investments reducing the availability of mortgage credit for housing industry.

Federal action through monetary policies and through the action of various administrative agencies can have a significant impact upon the availability of funds flowing into thrift institutions.

Real Estate Settlement Costs: The costs of settlement or closing, including brokerage commissions, points, title search and insurance, attorney's fees and transfer and recording fees, can total up to 10% of the cost of a home. Consumers can negotiate some reductions in some of these fees. But settlement costs remain a large expense, payable at the time of closing rather than over the term of the mortgage.

Overhead, marketing, and profit

On the average builders of new homes make little more than 6% in net profit before taxes. Their general overhead is approximately another 6% of the price while marketing expenses run approximately 3%. As can be seen by the chart, there has not been a great fluxuality in this component as a price of a house; but the longer the delays due to government regulation the greater the increase in this component also.

According to Edward R. Carr Associates, a building firm in Prince William County, Virginia, however, overhead cost increased 230% between 1971 and 1978, largely due to keeping up with all the paperwork and red tape created by the government bureaucracy. His financing costs are up 91%, his indirect costs are up 36%, and his marketing costs 71%. His gross profit is up too, but his percentage of the take is down almost 1%.

RECOMMENDATIONS

Having identified the causes of housing costs increases, I will now address myself to the role the federal government could and should play in alleviating or mitigating those cost increases.

I. Limiting the Volume of Regulations Issued

The increasing awareness of the onerous burdens and costs of government overregulation has brought about various suggestions and proposals, several of which are contained in the legislation before you this morning. We would like to offer our comments on some of the various alternatives.

A. Annual agenda and annual review

NAHB agrees with the concept contained in the Chiles Amendment to the HUD Authorization bill (S. 3084) and in Mr. Ribicoff's bill (S. 2490), that each government agency be required at the beginning of each year to provide an agenda of those regulations it intends to develop and introduce during that upcoming year. Agencies with unreasonably long agendas can be asked to focus on specific priorities and reduce the number of regulations proposed.

We also concur with the concept contained in S. 2490 that a government agency annually review its regulatory activities, noting whether or not its regulation issuances have been in conformance with its annual agenda and noting the length of time necessary from regulation proposal to implementation.

B. Cost/benefit analysis

We strongly endorse the proposal of the Chiles Amendment and of Senator Schmitt's bill (S. 2011) which require a cost/benefit or economic impact analysis to be made prior to or at the time of the promulgation of any regulation. Bureaucrats are frequently unmindful of the additional cost to consumers and to the economy of additional regulations. And while there are many well meaning and well intended regulations, the benefits of those regulations should be balanced against the cost to the public. In assessing the cost, the additional paperwork burden generated by the regulations should be one of the factors considered.

C. Congressional approval or veto

We haven't fully analyzed the impact of the Congressional approval or Congressional veto required in certain cases by S. 2011. Congressional review of those regulations which are expected to have a special or significant impact on the economy, on consumers or one industry has merit. However, we believe this option, as well as those contained in Senator Haskell's bill (S. 2862), should themselves be examined to weigh the cost and benefit of setting up a staff within Congress to monitor and review regulations promulgated by administrative agencies.

D. Sunset provisions

We concur with the concept that regulations once issued should be reviewed periodically to determine whether or not they are still accomplishing the objectives originally set forth and to reassess their cost/benefit ratio. We believe the proposal that regulations with particularly significant economic impact terminate at the end of 5 years unless repromulgated merits serious consideration.

II. Inflation

NAHB believes the national administration should take a strong leadership role in an effort to control inflation. We believe (a) that Congress and the Administration should proceed immediately toward a balanced budget, (b) that no tax cuts be adopted so long as there is a deficit in the federal budget, and (c) that new legislation or regulation be carefully considered for potential inflationary impact. As its part, NAHB adopted a resolution on June 29,1978, whereby NAHB pledged to limit 1978 price increases to less than the average during the December 1975–December 1977 period (barring unusual or unforeseen cost increases in the price of materials or labor beyond the control of the home builder), and to limit 1978 compensation increases to 5 percent.

III. Financing

Through national monetary policy the federal government can both ensure a continuous flow of financing for the housing industry and moderate the sharp fluctuations in housing production.

NAHB believes that housing cycles can be moderated without adversely affecting the national economy. We would support use by the federal government of various monetary policies intended to accomplish that result. Specifically, the use of the government's financial institutions (FNMA, FHLMC, GNMA, FHLBB) to moderate swings in the cost and availability of mortgage credit; increasing the ability of thrift institutions to attract funds, such as an extension of Regulation Q, and withdrawing Federal Reserve Board regulations which permit commercial banks to transfer funds automatically between checking and savings accounts; and the use of tax incentives and modified regulations to increase the participation of pension funds and life insurance companies in the residential mortgage market.

IV. Alternative Mortgage Instruments

NAHB also believes that increased consideration should be given to certain alternative mortgage instruments, such as graduated payment mortgages and the financing techniques provided under the proposed Housing Opportunity Act, S. 3053, introduced by Senators Sparkman and Morgan. However, NAHB continues its strong opposition to the use of variable rate mortgages, in the belief thrift institutions will use those instruments as a device to continue the upward trend of long term interest rates to the detriment of the home building industry and the housing consumer.

V. Tax Policies

National tax policy which impedes the steady flow of investment funds into housing only contributes to the cyclical nature of the housing industry, and causes a further escalation in housing costs. NAHB believes that national tax policies should be reviewed to ensure stability and predictability of the tax treatment of funds for housing related purposes, and to ensure that the private investment and financing of housing will be encouraged.

A. Contributions in aid of construction

NAHB supports S. 3176 which provides that contributions in aid of construction to electric and gas utilities be treated as nontaxable contributions to the capital of a utility, rather than as income. The Tax Reform Act of 1976 provided this rule for contributions to water and sewage disposal utilities. When contributions to gas and electric utilities are taxed as income to the utility company, that tax is passed back to the builder and ultimately the home purchaser in the form of higher housing cost.

B. Capital gains tax

NAHB supports the concept of the Steiger Amendment (H.R. 12111 and S. 3065) which would return the capital gains tax to a maximum of 25% which prevailed in 1969. We believe the lower rate will increase the supply of venture capital, which is critically needed at this time. We believe such a rollback would both stimulate the economy and increase federal tax revenues.

VI. Construction Materials

The federal government can have significant influence in removing some of the causes for the current high rates of inflation of construction materials costs. The supply of lumber and wood products could be substantially increased through efficient and environmentally sound management of the National Forests. An increase supply of these materials is absolutely vital if lumber prices are to be kept under control.

A review should be made of all existing and proposed federal regulations dealing with fuel conversion and pollution control of industries which produce construction materials to determine whether these regulations are unduly burdensome, either in extent or in timing of compliance, and contribute substantially to the rise in costs of such materials. Where the supply of essential building materials is comprised by such regulations, procedures for waiving or moderation of requirements should be established.

VII. Balancing Housing and Economic Goals With Environment Considerations

NAHB does not question the need for national goals to improve environmental quality. We do, however, believe that in light of the impact of regulatory initiatives on housing cost, it would be appropriate to closely examine ways to reduce unnecessary, adverse impacts. Accordingly, we would recommend:

A. Close Congressional review of future environmental legislation to ensure economic considerations, particularly housing cost impacts, are adequately considered.

B. Development of reasonable and balanced criteria to be utilized in any wilderness area designation.

C. EPA be urged to adequately consider the nation's future housing and growth needs as part of its mandate to protect the environment.

D. Review of the policy that is under consideration which would restrict the funding of interceptor sewer lines.

VIII. Land Supply and Development

As we noted earlier, excessive and burdensome regulation of state and local governments restricting the development of land, imposing excessive costs in the development of infrastructure or causing delays through red tape and inefficient administration contribute significantly to housing costs. We would recommend:

A. One-stop shopping concept

To reduce the delays and inconsistencies encountered when a home builder must obtain reviews or approvals from many government agencies or authorities, we recommend that a single individual within government be designated to coordinate and expedite the reviews by the various governmental entities. The home builder could deal with a single individual whose responsibility it would be to see that all reviews and approvals were obtained.

B. Unnecessary regulation/interstate land sales

To reduce the unnecessary added costs because of duplicative regulation by the Office of Interstate Land Sales, we strongly support passage of the Nelson bill, now incorporated as Section 715 of S. 3084. The Sparkman-Tower Amendment to the Nelson bill, in particular, would reduce duplicative regulations for builders, and reduce cost for housing consumers without sacrificing consumer protection.

C. Land use guidelines

We do not agree with the HUD Task Force recommendation that the federal government should specify land use standards or publish advisory guidelines for local governments on matters such as types and density of housing, amounts of land developable, or locational characteristics. It has too frequently occured that "advisory guidelines" have quickly evolved into federal controls or regulations. It is our belief that land use is an appropriate function of state and local government. And we believe we already have too many federal regulations.

We appreciate this opportunity to appear before you today, and I would be happy to answer any questions you may have.

GOVERNMENT REGULATIONS AFFECTING THE COST OF HOUSING

Level, type of regulation	Housing Cost Component Affected					
	Unimproved lot	Land development	Land development financing	Structural materials and labor	Construction financing	Mortgage financing and settlement costs
Federal Government:						
Clean Air Act	X					
Coastal Zone Management Act	X	X	X			
Consumer Product Safety Act				X	X	
Federal Noise Control Act				X		
Federal Water Pollution Control Act	X	X	X			
FHA and VA Mortgage programs				X	X	X
National flood insurance programs	X	X	X	X	X	
Occupational Health and Safety Act				X	X	
Real Estate Settlement Procedures Act				X	X	X
State Government:						
Building codes				X	X	
Coastal zone Management	X	X	X			
State Government—Con.						
Critical areas Restrictions	X	X	X			
Land Development acts	X	X	X			
Sewer moratoria	X	X	X			
Local government:						
Bonding requirements			X			
Building codes				X	X	
Energy codes				X	X	
Engineering inspection		X	X	X		
Environmental impact review	X	X	X			
Mechanical codes				X	X	
Plat review		X	X			
Sewer connection approval and fee		X	X			
Shade tree permits		X	X			
Site plant review		X	X			
Soil disturbance testing		X	X			
Utility connection fees		X	X			
Water connection approval and fee		X	X			
Zoning	X	X	X			

Source: Rutgers, Center for Urban Policy Research, Study on "Housing Costs and Government Regulations: Confronting the Regulatory Maze," p. 20, 1977. ●

HUMPHREY-HAWKINS, WORD FOR WORD

● Mr. GARN. Mr. President, it is no secret to most Americans that this is an election year. As is usual, many candidates are making many claims, many, many promises. Promises of everything, nothing—and both—are heard. Art Buchwald, one of our Nation's more reknowned and insightful political commentators, cited in a recent column some examples of the new end-to-rhetoric rhetoric. He quoted—

> One of the new breed of politicians running for Congress. The "new breed" made some interesting promises: I am against inflation that is bleeding every American dry. I am for jobs for everyone who wants to work. I support decent medical care for our senior citizens and better schools for our children. And I am against crime in the streets.
>
> I am for tax reform. . . . At the same time we must have tax incentives for business to invest in the future of America. But we can't forget the poor. I don't mean the welfare cheaters, but the real poor and disadvantaged.
>
> I want a strong American dollar. . . . I'll go even further. This country must get its house in order when it comes to our balance of payments. The way to do this is to export more than we import.

Mr. President, may I add that often, "reality is stranger than fiction." I say that, for these promises remind me of a measure currently pending before the Senate. I speak of that "new breed" of legislation known as the Humphrey-Hawkins bill. Allow me to quote from one of the two versions of the bill:

> The Congress finds that the Nation has suffered substantial unemployment and underemployment, . . . high rates of inflation and inadequate productivity growth. . . .
>
> A decline in small business enterprises contributes to unemployment by reducing employment opportunities.
>
> The Congress further finds that full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance through increased exports and improvement in the international competitiveness of agriculture, business, and industry, and reasonable price stability are important national requirements and will promote the economic security and well-being of all citizens of the Nation.
>
> The Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practicable means [to] promote full employment and productions, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance through increased exports and improvement in the international competitiveness of agriculture, business, and industry, and reasonable price stability . . . It has been suggested that we add "and a partridge in a pear tree."

One more quote:

> The Congress further declares that inflation is a major national problem requiring improved government policies. . . .

Mr. President, I would like to see improved Government policies, that is what I came to the Senate to help achieve. I think that we can all agree that improved Government policies will make us better off. I do not think that we need a bill just to tell us that. Improvement usually makes things better, even if the Congress has not passed a bill that says so.

Mr. President, there is more that I could quote from S. 50 to illustrate my point. It seeks to promise everything to everyone. As with a candidate who seeks in this way to buy votes, the high expectations raised are likely to be matched only by the poor results of the Humphrey-Hawkins bill. I ask that the column by Art Buchwald be printed in the Record.

The column follows:

AT LAST! A CANDIDATE WHO'LL TAKE A STAND ON THE ISSUES!

(By Art Buchwald)

As the results of last week's primaries came in over my television set I was happy to see that the winning candidates all had something new to say. If anything, 1978 will be the year when the old political rhetoric will be out, and the people seeking office will face the issues with honesty and candor.

I know this because right after the primary battle in a northeastern state, I spoke to one of the new breed of politicians running for Congress.

"Sir, how do you feel about winning your party's primary?"

"I was not the winner," he said. "The people of this state were the winner. I proved that old politics is out, and the electorate wants new ideas."

"Fantastic," I said. "What are some of these ideas?"

"I am going to speak out forcefully against big government and wasteful spending of the taxpayer's money."

"You're going that far out on a limb?"

"I may go even further. I am going to promise the voters that I will represent them, rather than the special interest groups which only care about themselves."

"Bully for you, What else do you plan to do?"

"Unlike my opponent, I'm going to speak out on the issues and tell people where I stand, even if it costs me votes."

"Such as?"

"I am against inflation that is bleeding every American dry. I am for jobs for everyone who wants to work. I support decent medical care for our senior citizens and better schools for our children. And I am against crime in the streets."

"That may lose you the criminal vote," I warned.

"So be it, I believe anyone who violates the law should be punished, whether he be a white-collar criminal or mugger."

"That's strong stuff in an election year. How do you feel about tax reform?"

"I've never said this in public before, but I am for tax reform. The burden of taxes is on the middle class. This burden must be redistributed so that everyone pays his fair share. At the same time we must have tax incentives for business to invest in the future of America. But we can't forget the poor. I don't mean the welfare cheaters, but the real poor and disadvantaged. We must bring them into the mainstream of our society."

"No one has ever said that before. I hate to ask you this, but are you for a strong America?"

"I don't object to the question. I know it's your job to ask the tough ones. It so happens I am for a strong America. This country cannot afford to be second best when the fate of the free world is at stake. If the people elect me, they will be sending a message to Washington and to Moscow that the United States no longer intends to be pushed around."

"How do you feel about the American dollar?"

"I want a strong American dollar. The prestige of this country depends on a dollar that can be defended against any currency in the world. I'll go even further. This country must get its house in order when it comes to our balance of payments. The way to do this is export more than we import."

"I'll say one thing, sir. You certainly are outspoken. It will be like a breath of fresh air if the voters send you to Washington."

"I'm not one of those people who just jumps on the bandwagon," he said. "Americans are tired of hearing the same old promises from their politicians. If I win this election it's because I'm going to tell it like it is." ●

ISRAEL AND HUMAN RIGHTS

● Mr. METZENBAUM. Mr. President, many Members of Congress have consistently supported the fundamental right of the small, democratic State of Israel to exist in peace and security. And similarly, many Members have also spoken out in defense of those brave people who have stood against the power of the Soviet State to demand the right to worship, to speak out, and to emigrate.

But, Mr. President, I can think of no Member of Congress who has been a stronger or more effective advocate of these just causes than my friend and esteemed colleague, Congressman Richard Ottinger of New York. Dick Ottinger has been in the forefront of the struggle and every American who treasures our Nation's tradition of respect for human rights owes him a debt of gratitude for his outstanding work.

Mr. President, I believe that the Senate should be aware of the extraordinary efforts that Congressman Ottinger has made in support of Israel and of human rights in the Soviet Union. I ask, therefore, that a compilation of his activities and statements in these areas be printed in the Record.

The material follows:

CONGRESSMAN RICHARD L. OTTINGER, 95TH CONGRESS, A COMPILATION OF HIS INVOLVEMENT WITH AND COMMITMENT TO ISRAEL AND SOVIET JEWRY AS DEMONSTRATED BY RELATED ACTIVITIES AND STATEMENTS

HIGHLIGHTS

Met with Prime Minister Menachem Begin to hear and to discuss his views on Mideast problems.

Addressed House of Representatives objecting strongly to President Carter's proposed sale of F-15s to Saudi Arabia and calling upon colleagues to express outrage over the proposed Mideast arms sales package.

Sent letter to President Carter expressing alarm and outrage over proposed arms sales to Saudi Arabia and intention to treat Arab-Israeli sales as a package.

Met with Vice President Mondale as part of small group of Congressional leaders on Middle East Affairs to advise him on peace seeking mission.

Called upon colleagues to join in censuring President Carter's Joint U.S.-Soviet Union Communique on Middle East for undermining our firm commitment to Israel and for marking significant and unwise shift in U.S. policy toward Mideast.

Cosigned letter to President Carter urging him to reaffirm U.S.'s complete support of U.S. Resolutions 242 and 338, and to reaffirm our firm support of Israel.

Cosponsored Resolution congratulating

Israel and Egypt on beginning direct negotiations toward peace in the Mideast.

Met with Prime Minister Begin and President Sadat to congratulate them on their courage and fortitude which produced the "framework" agreements at Camp David.

Cosponsored Resolution condemning PLO for its attack on Israeli citizens and expressing hope for successful conclusion of Mideast peace negotiations.

Called upon colleagues to oppose vigorously any amendments to Foreign Assistance Act which would adversely affect balance in Mideast and undermine security of Israel and our commitments to her.

As member of New York and International Committees to free Anatoly Shcharansky, sponsored letters to President Brezhnev urging permission for Shcharansky to emigrate from USSR (signed by 11 other Congressmen who represent relatives of Anatoly.)

Met with Avital Shcharansky to discuss measures we might take to assist in release of her husband, Anatoly Shcharansky.

Cosponsored legislation to bar Nazi War Criminals from sanctuary in this country.

Introduced in House of Representatives Joint Resolution prohibiting trade and cultural exchanges with USSR until Shcharansky and Ginsburg are free and USSR otherwise meets its obligations under Helsinki Final Act.

MEMBERSHIPS AND AFFILIATIONS

Member of the National Council of the American-Israeli Friendship League.

Member of the International Committee for the Release of Anatoly Shcharansky.

Honorary Sponsor and Member of the New York Committee to Free Anatoly Shcharansky.

Member of Temple Beth El of Northern Westchester.

Member of the Zionist Organization of America.

Member of the American Jewish Committee.

Member of the B'nai B'rith Upper Westchester Lodge.

Member of the Knights of Pythias Lodge No. 265.

Former Trustee of Jewish Board of Guardians and Linden Hill School.

Member of the Jewish War Veterans Post No. 70.

CHRONOLOGY OF ACTIVITIES AND STATEMENTS

January 1977

Initiated cosigned letter to Secretary Brezhnev protesting the imprisonment of Amner B. Zavurov (Signed by 23 other Members).

Cosigned telegram with Reps. Ambro and Eilberg to Secretary Brezhnev strongly protesting trial of Dr. Iosef Begun (Prisoner of Conscience).

Cosponsored with National Conference on Soviet Jewry a special briefing for Members of the House of Representatives on Soviet Jewry and U.S.-USSR relations.

Cosigned letter with Rep. Fenwick to Ambassador Dobrynin expressing deep concern for the fate of Amner B. Zavurov.

Cosigned letter with Rep. Fish to Eli Flam, Director of Voice of America calling for better communication with the Greater New York Conference on Soviet Jewry and continued coverage of plight of Soviet Jewish refuseniks in Europe.

Cosigned letter with Rep. Fenwick to Secretary of State Cyrus Vance commending the Administration for forthright stand on human rights and efforts on behalf of Andrei Sakhorov.

February 1977

Cosigned letter with Reps. Fraser and Jeffords to President Carter expressing support of human rights stand and urging President to press Soviets to comply with the Helsinki Final Act.

Cosigned letter with Reps. Dodd and Fenwick to Ambassador Dobrynin stating deep concern over the arrests of Aleksandr Ginsburg. Yuri Orlov, Mikola Rudenko and Oleksiy Tykhy.

Cosigned letter with Rep. Gilman to Secretary Brezhnev protesting disruption of symposium on "Jewish Culture in U.S.S.R." by Soviet authorities.

March 1977

Cosponsored with Rep. Moffet H. Con. Res. expressing the continued interest of the American people in the USSR's compliance with the Helsinki Final Act and the safety and freedom of Soviet Jews.

Addressed the House of Representatives as key participant in vigil entitled, "Helsinki's Unfulfilled Promise."

Cosigned letter with Rep. Florio to President Carter urging him to do everything possible to encourage the U.S.S.R. to remove ban on importation of flour and food containing flour.

Addressed House of Representatives in statement appearing in CONGRESSIONAL RECORD in support of Moffet H. Con. Res. (see above) and stating strong objection to U.S.S.R.'s transgressions from obligations under Helsinki Final Act.

Sent letter to Ambassador Dobrynin stating objection to Dr. Iosef Begun's recent conviction and subsequent sentence.

Sent letter to Ambassador Dobrynin demanding the release of Anatoly Shcharansky.

May 1977

Joined the International Committee for the Release of Anatoly Shcharansky.

Sent letter to Ambassador Dobrynin expressing continued concern for Dr. Iosef Begun.

Addressed the House of Representatives in statement appearing in the *Congressional Record* on the plight of Dr. Iosef Begun.

Sent telegram to Secretary Brezhnev urging release of Dr. Iosef Begun.

June 1977

Addressed House of Representatives in statement appearing in *Congressional Record* expressing strong condemnation of Soviets' treatment of Dr. Iosef Begun and Anatoly Shcharansky.

Cosigned letter with Rep. Yates to Secretary Brezhnev in protest of charges Anatoly Shcharansky.

Cosigned letter with Rep. Wolff to Delegations at the Belgrade Conference urging all delegations to insist upon a formal discussion of efforts to monitor governmental compliance with the Helsinki Final Act.

Sent letter to Spencer Oliver, Staff Director of Commission on Security and Cooperation in Europe documenting Soviet failure to adhere to Postal Treaties.

Cosigned letter with Reps. Steers and Sen. Humphrey to President Carter expressing support of U.S. Congress for positions taken by our government regarding human rights in relation to the Helsinki Final Act.

Cosigned letter to Secretary Brezhnev with Rep. Downey stating deep concern for fate of Lev Gendin.

Cosigned telegram with Rep. Waxman to Secretary Brezhnev objecting to detainment of Robert Toth, U.S. Reporter.

July 1977

Cosponsored resolution with Rep. Ertel which requests the President and the United States delegation to the 1977 Belgrade Review Conference to urge the Government of the Soviet Union to grant exit visas to the Emmanuil Smelinsky family.

Cosigned letter with Rep. Ertel to President urging him to bring the Smelinsky family's situation to the attention of the Soviet Government and to express the interest of the United States in Soviet compliance with the Helsinki Final Act.

Cosigned letter with Rep. Bonker to Secretary Brezhnev urging him to grant exit visa to Vladmir Lazaris.

Cosponsored resolution with Reps. Buchanan and Dodd calling for the release of Anatoly Shcharansky from custody and for permission for him to emigrate from the Soviet Union.

Met with Prime Minister Begin to hear and to discuss his views on Mideast problems.

Key participant in Vigil on House of Representative's floor entitled, "Helsinki's Unfulfilled Promise." Spoke on the plight of Mikhail Kornblit, Prisoner of Conscience.

August 1977

Cosigned letter with Rep. Weiss to Secretary Brezhnev urging him to grant exit visas to Vladmir Preston family.

Cosponsored resolution with Rep. Koch expressing Congressional concern for the plight of Mikola Rudenko and Oleska Tykhy.

Cosponsored resolution with Reps. Koch, Fenwick and Dodd requesting that the Government of the Soviet Union provide Valentyn Moroz with the opportunity to accept the invitation of Harvard University for the 1977–1978 academic year.

Cosigned telegram with Rep. Steers to Secretary Brezhnev urging him to grant an exit visa to Isacca Zlotver.

September 1977

Cosigned letters with Rep. Mikva to Secretary Brezhnev urging him to grant exit visas to Dr. Viniamin Levich and wife.

Cosigned letters with Rep. Mikva to Secretary Brezhnev and Ambassador Dobrynin urging them to grant exit visas to Abe Stolar and family.

Cosigned letter with Rep. Kemp to Robert Kane, President of the U.S. Olympic Committee, expressing distress at reports of efforts to exclude Israel from 1980 Olympic Games in Moscow.

October 1977

Cosigned letter with Rep. Jeffords to President Carter expressing Congressional support for a strong U.S. position on human rights at the 1977 Belgrade Review Conference and concern for Aleksandr Ginsburg.

Cosigned letter with Rep. Schroeder to Ambassador Arthur Goldberg regarding the apparent reluctance of other Western signatories to the Helsinki Final Act to take a forthright stand on human rights.

Addressed colleagues on the House floor in statement that appeared in the *Congressional Record* as well censuring President Carter's Joint U.S.-Soviet Union Communique on the Middle East for undermining our firm commitment to Israel and for marking a significant and unwise shift in U.S. policy toward the Mideast.

Cosigned letter with Reps. Bingham, Yates and Anderson to President Carter expressing concern over the Joint Communique and urging President Carter to reaffirm the U.S.'s complete support of U.N. Resolutions 242 and 338 and to reaffirm our firm support of Israel.

November 1977

Sent telegram to Secretary Brezhnev urging him to mark the 60th Anniversary of the Soviet revolution by granting amnesty to Soviet Jewish Prisoners of Conscience, approving emigration visas for refuseniks, dismissing the case of Anatoly Shcharansky and granting an exit visa to Mikhail Kornblit.

Instrumental in securing Mikhail Kornblit's release from prison.

Sent letter to Mikhail Kornblit to give encouragement and continued commitment to seek his release and emigration papers.

Initiated letter to Secretary Brezhnev requesting permission for Shcharansky to emigrate from Solvet Union (signed by 11 other Congressmen who represent relatives of Shcharansky).

Sent press release regarding letter to Secretary Brezhnev asking for release of Shcharansky.

Cosponsored resolution with Rep. Dodd congratulating Egypt and Israel on beginning direct negotiations toward peace in the Mideast.

December 1977

Cosigned letter to Secretary Brezhnev with Rep. Cornwell urging him to grant an exit visa to Lev Ovsishcher.

Sent letter to Secretary Brezhnev expressing profound distress over the arrest and imprisonment of Boris Penson and urging his release and permission for him to emigrate.

Sent letter to Dr. Iosef Begun, Prisoner of Conscience, expressing objection to the treatment he received and commitment to see that he is granted an exit visa.

Co-signed letter with Rep. Cotter to Soviet authorities calling for exit visas for the Leizer Falkovich family.

January 1978

Cosigned mailgram with Rep. Biaggi to Ambassador Dobrynin expressing objection to treatment of Edward Kuznetsov and urging his immediate release.

Cosigned letter with Rep. Brown to Secretary Brezhnev urging him to grant exit visa to Dr. Nahum Meiman.

Sent letters to G. D. Djavakhishvili, Chairman Council of Ministers of Georgia, USSR and N. Muskheliashvili, Chairman Academy of Sciences of Georgia, USSR expressing profound distress over the arrest of Grigory Goldstein. (Copies sent to Secretary of State Vance, Special Representative of Trade Strauss, Secretary of Treasury Blumenthal and Ambassador Goldberg)

Met with Mrs. Avital Shcharansky to discuss measures we might take to assist in the release of her husband, Anatoly Shcharansky.

Cosigned letter with Rep. Heckler to Ambassador Dobrynin urging him to grant exit visa to Ida Nudel.

Cosponsored legislation with Rep. Heckler to bar Nazi War Criminals from sanctuary in this country.

February 1978

Made statement appearing in the *Congressional Record* giving an account describing the plight of Soviet Jews.

Sent letter to Ambassador Dobrynin urging him to grant exit visas to Dr. Joseph As and family.

Cosigned letter with Rep. Steers to Minister of Interior Shcholokov urging him to permit Isaac Zlotver to be reunited with his family in accord with the Helsinki Final Act and the Universal Declaration of Human Rights.

Sent letter to Secretary Brezhnev expressing strong objection to the continued detention of Anatoly Shcharansky.

Cosponsored resolution with Reps. Beilenson and Leach condemning the poisoning of Israeli oranges and urging that this incident be considered as an important agenda item at the Geneva Disarmament Conference and at the U.S. Special Session on Disarmament.

Addressed House of Representatives and made a strong statement appearing in the *Congressional Record* objecting to President Carter's proposed sale of F-15 aircraft to Saudi Arabia and called upon my colleagues to express outrage over the proposed arms sales to the Mideast as a package.

March 1978

Cosigned letter with Rep. Waxman to Secretary Brezhnev urging him to grant exit visas to Dr. Viniamin Levich and wife.

Cosponsored legislation with Rep. Kemp providing for the issuance of a U.S. postal stamp commemorating Israel's 30th Anniversary.

Sent letter to President Carter expressing alarm and outrage at his proposal to sell sophisticated offensive aircraft to Saudi Arabia and to treat the Arab-Israeli sales as a package.

Cosponsored resolution with Rep. Yates condemning P.L.O. for its attacks upon Israeli citizens and expressing hope for successful conclusion of Mideast peace negotiations.

April 1978

Sent letters to Secretary Brezhnev and Ambassador Dobrynin expressing objection to the banishment of Dr. Isoef Begun from Moscow and his separation from his family.

Sent letter to Mrs. Begun and family expressing hope for the reunion of the Begun family.

Cosigned letter with Reps. Zeferetti and Drinan to Secretary Brezhnev asking that the Soviet Government cease its harassment of Isoef Mandelevich, permit him to exercise the fundamental right of freedom of religion and reduce his sentence to its original term of twelve years.

Cosigned letter with Rep. Luken to Ambassador Dobrynin urging him to grant an exit visa to Jessica Katz.

Spoke at Westchester Conference Observance of Warsaw Ghetto Resistance Movement at Temple Israel in New Rochelle.

May 1978

Cosponsored Joint Resolution with Sen. Danforth, Sen. Chiles and Sen. Percy which designates the weekend of or preceding April 29 as "Days of Remembrance of Victims of the Holocaust."

Addressed the House of Representatives as a key participant on House floor Vigil entitled, "A Vigil for Freedom" for Soviet Jewry.

Initiated telegrams to Secretary Brezhnev, Prime Minister Rudenko and Ambassador Dobrynin urging the release of Dr. Isoef Begun and permission for him and his family to emigrate from the Soviet Union.

Sent letters to Secretary Brezhnev, Secretary of Interior Scholokov, Prime Minister Rudenko and Ambassador Dobrynin urging them to grant exit visas to Ily Essas and family.

Cosigned letter with Rep. Gradison to Secretary Brezhnev requesting assistance in obtaining medical care for Jessica Katz, if necessary in the United States.

Cosigned letter with Reps. Steers and Eilberg to Ambassador Dobrynin urging him to grant Hillel Butman amnesty and an exit visa.

Cosigned letter with Rep. Waxman to President of the Soviet Academy of Sciences and the Chairman of the State Committee of Science and Technology expressing concern for Dr. Viniamin Levich and other Soviet scientists wishing to emigrate.

Spoke with Jesse Robison (from the Robison family of Westchester campaign to free their two cousins) and offered commitment to ending the plight of the Podrabinek brothers.

June 1978

Cosigned letter with Rep. Bingham to Secretary Brezhnev regarding plight of Kyrill and Aleksandr Podrabinek.

Cosigned letter to Secretary Brezhnev with Rep. Waxman protesting arrest and detention of Vladmir Slepak and urging the Secretary to grant him an exit visa.

Initiated in conjunction with Rep. Downey letter to Ambassador Dobrynin expressing profound concern for Dr. Iosef Begun and urging the fulfillment of all his rights as guaranteed by the Helsinki Final Act.

Met with Vice President Mondale as a part of a small group of Congressional leaders on Middle East Affairs to advise the Vice President on his peace mission to the Mideast.

Cosponsored legislation with Rep. Dornan to exclude any known terrorist or terrorist organization from entering the United States, especially the Palestine Liberation Organization and other related restrictions.

July 1978

Sent letter to President Carter and Secretary of State Cyrus Vance expressing distress over absence of U.S. objection to the Palestine Liberation Organization's "Information Office" in Washington, D.C.

Cosigned letter with Rep. Kildee to Ambassador Dobrynin expressing concern for the health of Igor V. Ogurtsov.

Joined Rep. Steers in introducing resolution urging the Soviet Government to grant emigration visas to Isaac Zlotver.

Cosigned letter to Secretary Brezhnev with Rep. Blanchard requesting that Viktors Kalnins be allowed to emigrate immediately.

Cosponsored resolution with Rep. Tsongas condemning Soviet Union for its actions against Ida Nudel and other Soviet dissidents.

Cosponsored legislation with Reps. Green, Biaggi, Kemp and Bingham to call attention to the case of Dr. Semyon Gluzman.

Called upon colleagues in the House of Representatives to recognize the plight of the peoples of the Baltic Nations during Captive Nations Week in a statement appearing in the *Congressional Record*.

Called upon his colleagues in a statement appearing in the *Congressional Record* to vigorously support Senate Concurrent Resolution 95 which expresses the sense of the Congress that the trials of the dissidents are of deep concern to the American people and may impose obstacles to the future building of cooperation between the two countries.

Introduced in the House of Representatives a Joint Resolution prohibiting trade and cultural exchanges between the U.S. and the Soviet Union until Anatoly Shcharansky and Aleksandr Ginsburg are set free and the Soviet Union otherwise meets its obligations under the Helsinki Final Act.

Made a statement appearing in the *Congressional Record* calling upon colleagues in the House of Representatives to support the Joint Resolution prohibiting trade and cultural exchanges until the above noted conditions are met

Submitted testimony before the Helsinki Monitoring Commission during hearings on the Soviet Union's compliance with the Helsinki Final Act and the trials of the dissidents.

Cosigned letted to Ambassador Dobrynin with Rep. Fenwick urging him to grant exit exist visas to the Mai-Seidel family.

Cosigned letter with Rep. Downey to Ambassador Dobrynin urging him to grant visas to the Mai-Seidel family.

Cosigned letter with Rep. Schroeder to Lord Killinin, President of the International Olympic Committee, expressing conviction that the Olympic Games ought to be transferred from Moscow if the Soviet Union continues its policies regarding dissidents.

Joined New York State Democratic Delegation in initiating letter to President Carter commending him for cancelling computer equipment sale to the Soviet news agency, for placing oil technology on the commodities control list, and urging him to limit future U.S.-Soviet trade, cultural, scientific and other relationships.

Met with representatives from the National Conference on Soviet Jewry to discuss positions on possible transfer of Olympic Games from Moscow.

August 1978

Worked with Leon Gildesgame and the White House to see that a sculpture of the "American Soldier at the Gate of the Dachau Concentration Camp" is donated to Israel as a tribute to those who survived the Holocaust.

Called upon colleagues in the House of Representatives in statement appearing in the Congressional Record to oppose vigorously any amendments to the Foreign Assistance Act which would adversely affect the balance in the Mideast and would undermine the security of Israel and our commitment to her.

Supported vehemently the amendment to the International Security Assistance Act of 1978 which expressed the sense of the Congress that the U.S. should be responsive to the defense requirements of Israel.

Cosigned letter with Rep. Green to Ambassador Dobrynin urging him to allow Kathleen Renck to visit Russia or to grant Konstantin Kutasov permission to leave the Soviet Union so that they may be married.

Cosigned letter with Rep. Edwards to Secretary Brezhnev urging him to grant exit visas to Lev Roitburd and family.

Cosigned letter with Rep. Drinan to U.N. Secretary General Waldheim urging him to speak out against convictions of Anatoly Scharansky, Aleksandr Ginsburg and others.

Cosigned letter with Rep. Brodhead to Ambassador Dobrynin urging him to grant exit visas to the Mai-Seidel family.

Sent letter to the Director of the Congressional Research Service along with the other members of the New York State Democratic Delegation which resulted in CRS initiating review of all U.S.-Soviet agreements and relationships to assess their results and efficacy.

Received personal letter Mrs. Avital Scharansky expressing her deep appreciation for "your personal commitment and involvement in behalf of my husband."

Sent letters to Secretary Brezhnev and Ambassador Dobrynin strongly objecting to the unwarranted second arrest of Dr. Josef Begun.

LEGISLATIVE ACTIONS AFFECTING ISRAEL DURING 95TH CONGRESS

Voted in favor of Export Administration Act which included anti-boycott provisions prohibiting compliance with secondary and tertiary boycott. Passed.

Voted in favor of International Security Assistance Act (foreign aid authorization bill) for fiscal year 1978 which included $1.785 billion in military and economic assistance to Israel. Passed.

Voted in favor of Foreign Assistance Appropriations Act (foreign aid appropriations bill) for fiscal year 1978 which included $1.805 billion in military and economic assistance for Israel. Passed.

Voted against Amendment by Rep. Clarence Miller (R–Ohio) to Foreign Assistance Appropriation Act for fiscal year 1978 stipulating 5% across-the-board reduction in the $8 billion bill, including the $1.805 billion for Israel. Passed.

Voted in favor Foreign Assistance Appropriations Conference Report for fiscal year 1978 which reinstated original aid levels for Israel. Passed.

Voted against Rep. Bauman (R–Md) amendment to International Development and Food Assistance Act for fiscal year 1979 stipulating a 5% across-the-board cut in the $3.7 billion authorization bill. The amendment cut $39 million from the $785 million economic assistance program for Israel. Passed.

Voted in favor of the International Development and Food Assistanace Act for fiscal year 1979 which included (at that time) $785 million in economic assistance for Israel. Passed.

Voted in favor of the International Security Assistance Act for fiscal year 1979 which included $1 billion in military assistance for Israel. Passed.

Voted in favor of the Rep. Derwinski amendment (R–Ill.) to Foreign Assistance Appropriations Act for fiscal year 1979 which eliminated $90 million economic support fund for Syria. Passed.

Voted in favor of the Foreign Assistance Appropriations Act for fiscal year 1979. Passed.●

ADMINISTRATION FAILURE ON EXPORT POLICY

● Mr. HEINZ. Mr. President, the staggering imbalance in our trade account, the resultant sharp decline in the value of the dollar abroad, and the negative impact, including higher inflation, these developments have had on our economy and the world economy have been well publicized. Yet, with American jobs and standards of living at stake, our political and economic influence abroad at stake, and the health of international trade and the world economy at stake, the administration has failed to face up to the trade crisis and take positive steps to overcome it. I would like to call to the attention of my colleagues a recent article from Government Executive entitled "Why Won't Government Face the Crisis" which addresses this matter and points out the bureaucratic inertia that has plagued the administration. I ask that it be printed in the RECORD.

The article follows:

[From Government Executive, Sept. 1978]

WHY WON'T GOVERNMENT FACE THE CRISIS?

(By C. W. Borklund)

Sometime in mid-September—with appropriate hoopla to attract reporters and TV cameras—President James Earl Carter will announce a first-time-ever, friends say, "National Export Policy," something he decided on in mid-August.

Whatever the contents, they will be what survives from a Presidential Task Force set of, reportedly, 14 recommendations on 15 typewritten pages, submitted last June—the result, in turn, of 15 separate Government Agencies with often conflicting views deciding what should be proposed. (And they, in turn, received mountains of material, centered around a dozen key points, from export-minded U.S. industry.)

Of the final outcome, says Frank Weil, Assistant Secretary of Commerce for Industry and Trade, "There's not enough in this program. It's skinny, but it's a start." He's hoping, "in the national interest," that strong-minded advocates of vastly increased U.S. export effort "are going to say, 'This glass is half-full;' not that 'It's half empty.'"

Whether that's the reaction from export advocates will depend, in part, on what Carter has to say. "One of the purposes of the Task Force exercise," says Stan Marcuss, Commerce Department senior Deputy Assistant Secretary for Industry and Trade, "was to tell the President this is a major problem. If he and Congress decide it deserves high priority, it will receive it. And once they decide that, some tradeoff decisions become a lot easier to make."

But what the Administration does, as opposed to what it says, is going to affect industry—and separate Government Agency—attitudes a lot more. Perceptions are, in fact, the key to the whole business—whether it's White House perceptions of the problem or Congressional ones or those of present and potential overseas corporate customers.

MISUSED TOOL

At present, in simplest terms, most people advising the President think "lackluster, indeed deteriorating, export marketing," says Marcuss, "is a significant part of today's (trade balance) deficit" leading, in turn, to a prod to inflation; a plummeting value of the dollar in world markets; a loss of U.S. jobs and decline in the American standard of living—but some of the most powerful White House advisors think it's a problem which will take care of itself.

In Congress, there is a general perception that the U.S. can affect other things in a very fundamental way through trade policy—in spite of the fact that the world landscape is coated with evidence that, if anything, withholding exports until a country "shows some movement" (a favorite State Department phrase) politically is rewarded with the opposite of what Congress or the political or military sides of the Executive was after.

And among potential U.S. industry customers around the world, the U.S. is rapidly gaining a reputation as an unreliable supplier, an image that's spreading everywhere. Recent example: the Australian government recently demanded, as part of its contract, that a U.S. electronics firm guarantee as part of its bid that it would obtain an irrevocable export license from the U.S. Government, a demand it obviously can't meet under present circumstances.

"I thought Australia was classed a friend," noted one industrialist sarcastically. Such apprehensions are welling up just about everyplace U.S. industry would like to sell something, especially since a large share of U.S. manufacturing exports are in what is generally classed as the high "technology" area.

One upshot probably, regardless of what Carter says in a few days, will be industry turning, as most of them have reluctantly concluded they must, anyway, to Congress. For one thing, said one company official, "We complain about Congress and Administrative imperception and it's all true. But the problem may be more structural.

"For 200 years, we haven't had to worry about these problems. Now we do. And there are forces at work in the country which may take a generation to restructure: Congressmen, for instance, who will win just as many votes saying, 'I did something to prevent regulations, preserve your job in the export market,' as they do now claiming, 'I'm in favor of environmental protection.'"

PUSH NEEDED

Weil has characterized the challenge of developing foreign markets as "a third frontier" (his first two being the settlement of the Western frontier and development of the huge domestic U.S. market.) His four-part program to conquer that frontier: "make exporting a high national priority, increase Federal incentives to export, remove unwarranted barrier to exports, and a commitment by business to exporting."

Adds Jim Thwaits, 3M Company President of International Operations, "Britain, Germany, Japan, to name just a few, all started with a lack of in-country self-sufficiency in raw materials. For generations, they have known that trade was essential to them as Nations."

Says another industrialist more succinctly, "In Europe, they stand around on street corners talking about trade the way we stand around on street corners talking about football games."

With bountiful raw materials in-country plus "the importation of skilled and hungry labor practically for free," says Thwaits, plus an effluent domestic market, "no wonder the U.S. became the premier world industrial power—especially when you add Yankee ingenuity and free enterprise to all those basic advantages."

But economically (not to mention politically and militarily), the U.S. is no longer self sufficient. According to Fred Bergsten, Treasury Assistant Secretary for International Affairs:

One out of every eight manufacturing jobs in the U.S. produces for export (industry says it's "one out of every five production jobs involved with exports");

One of every three U.S. corporate profit dollars comes from international activities;

"Exports now contribute more to our GNP (Gross National Product) than does private corporate investment;"

"One-fourth of our consumption of twelve of the 15 most important industrial raw materials is imported (industry says, overall, half their raw materials come from outside the country.)"

Another indicator: exports represented 12% of all agricultural, mining and manufactured goods produced in the U.S. in 1968; are double that today. Moreover, though exports accounted for only about 6.3% ($121 billion) of the GNP last year, exports of high-technology industries (chemicals, machinery, electrical equipment, transportation equipment, instruments) account for some two-thirds of total industrial exports.

That translates, for construction machinery producers, to 40% of their market, on average, coming from exports; 30% for aerospace firms; roughly a third for computer and word processing manufacturers. Sums up one industrialist, "When one considers the number of Government programs we have directed at specific. small parts of our economy or certain types of communities, it is incredible that the export sector, as a coherent bloc, is consistently ignored—is, in fact, hindered."

The result, say those same industries, is evident in the sudden sag in the U.S. balance of trade, a $31 billion deficit in 1977, according to Bergsten (though others claim it was "only" $26.7 billion) compared to a deficit of some $6 billion in 1976 and about a "plus" balance of about $4 billion in 1975 (the last largely as a result of U.S. recovery from a recession faster than most other world nations.)

CARTER'S OIL OBSESSION

With imports exceeding exports by $11.2 billion in the first quarter of 1978, Bergsten estimates the U.S. could hit an all-time low in 1978 exceeding the record set in 1977. Carter has claimed the root cause is an unchecked rise in oil imports; promised the Bonn Economic Summit meeting, that, according to the State Department, the U.S. will undertake "to have in place by the end of 1978 a comprehensive framework for reducing American dependence on imported oil by as much as 2.5 million barrels per day by 1985."

He also has used that oil import argument to push in Congress his proposal for a big jump in the Federal tax on auto "gas guzzlers." But, says Thwaits, "There's nothing wrong with importing $45 billion (last year's U.S. purchase) of oil—if you have the exports to pay for it."

Moreover, says FMC Chief Executive Robert Malott, "This country's worsening export posture has largely been obscured by the Administration's fixation with the so-called 'oil-caused trade deficit.' *The fact is,* (his emphasis) oil is *not* the primary culprit. More than half of last year's unprecedented trade deficit increase can be attributeed directly to the decline in U.S. manufacturing and agricultural trade.'

Japan and Germany, he points out, import nearly all their oil, "but somehow manage to post trade surpluses year in and year out." By contrast, U.S. market share of all manufactured-goods exports has dropped from 27.7% in 1958 to 19.8% in 1977, according to Thwaits.

Put another way, says the Machinery and Allied Products Institute, while high-technology exports have grown since 1965 more than twice as fast as in the previous decade (not discounted for inflation), all nonagricultural manufactured products have grown more than five times as fast in exports as prior to 1965.

"Evidently," they add, "the high-technology group has not expanded exports as much as is possible and in step with its performance in (domestic) economic areas since the mid-1960's." And those industries put the bulk of the blame on Government, partly for its attitude, largely for the mounting pile of "disincentives" to export that have built up over the years.

Of the "attitude," says George Plipp, head of the Industry advisory committee to the U.S. GATT (General Agreement on Tariffs and Trade) team in Geneva, "People who don't know anything about technology keep talking about our superiority. We who work and fight with it all the time aren't impressed with our alleged superiority at all."

Most export-conscious industrialists echo some variation of that theme. Overseas competitors, they say, including for third country sales, are tough; "have as much saleable technology as we do." and "even where it's not quite as good, it'll do the job and it frequently comes cheaper."

LASTING WOUNDS

In short, the myth circulating in some high Government circles that "If they can't buy from us, they won't buy at all" is highly questionable—as constantly rising high-technology exports from Japan and Europe attest. Nor do many of these policy setters, the comparatively new ones in the Executive branch and most older ones in Congress, realize, evidently, that this is not a light switch they can turn off if it doesn't work after a few years of trial.

Best examples that a sale, once lost, can mean a whole market lost for upwards of 20 years or more are in aviation and nuclear power for obvious customer long-term investment reasons. But the same holds, though to a lesser extent, for other high-technology products as well.

And, say industry critics, the general thrust of an accumulation of export deterrants has been to encourage an already "aggressive and formidable foreign production and sales force; force customers and competitors alike to develop, at terrible cost sometimes, their own technology. Government is, in effect, creating our own competition all over the world. We're losing our edge in our once-traditional area of dominance—advanced technology."

Adds Thwaits, "A lot of our problem is a lack of a national perception that to be successful overseas you have to deliver the same product factors as domestic success requires: cost, quality, service, product utility and reliability. You have got to be a reliable, predictable supplier."

Government interface with that, industry almost unanimously agrees, mucks it up. Says Ingersoll-Rand Chairman William Wearly, "Even a 'hands off' policy would be better than the Government's present negative actions affecting exports."

Texas Senator Lloyd Bentsen has noted: "Foreign economic policy in the U.S. is shaped not systematically, but almost by accident. It is a least common denominator, worked out, as some have so ably put, by a kind of guerrilla warfare among the Departments of State, Treasury, Agriculture, the Federal Reserve Board and a whole host of other branch Agencies."

Nor is it a "free lunch." Nuclear energy experts claim they've lost 14 projects, valued at $10 billion in exports (1977 dollars) over the past four years with Government "uncertainties and decision delays" responsible for all but one of the losses; estimate that $20 billion worth of business could be obtained by U.S. firms over the next five years—"if Government were in a position to support private industry export efforts with competitive financing." That also "presumes U.S. suppliers would be under no more stringent export regulations than foreign suppliers."

For much the same reasons, commercial airplane makers, whose share of world markets has fallen from about 95 percent down to 80 percent in recent years, according to the Aerospace Industries Association, "hopes it can still hold onto that 80 percent by 1985 in spite of Government regulations." And manufacturers of small-sized computers have begun to think hard about staying in the export market since they've discovered it's costing them some $10,000 in Government-imposed paperwork to get an export license for a $30–$40,000 system.

Only a few companies really have to export, those whose products for one reason or another (such as high research and development costs) require production volumes or market sizes even the U.S. can not accommodate; or those whose domestic position would be threatened by foreign competitors if they did not take the fight to them either in their home or in third-country markets.

And there are a handful of fortunate companies whose products enjoy unique price, quality, design or reputation values. "They enjoy exporting," said one industrialist, "and can, in most cases, override almost any Government obstacle to exporting—save perhaps lack of a required export license."

DIFFERENT SWARM

For most companies, however, it's a discretionary challenge, one they can face if it will produce additional profit or "safely neglect without mortal injury to the corporation." Sometime back, Commerce did a study—before exporting through the Government maze "was not nearly so difficult and capricious an outfit as it is now," says one industrialist.

Tracking mainly new exporters, they found that within a year or two, half of them had stopped exporting—not necessarily as a clean abrupt decision but often simply cutting back on number of contract bids put out, reverting to an agent (who also may handle 20 other companies) rather than having their own overseas people.

"It goes without saying," notes one industrialist, "that sending out fewer salesmen and quotations results in lower sales figures and employment levels." ●

CIVIL SERVICE REFORM ACT

● Mr. BAYH. Mr. President, I feel it important that I once again voice my support for S. 2640, the Civil Service Reform Act of 1978. I enthusiastically supported this legislation when it passed the Senate because I think it is important for us to find every way humanly possible to make our governmental service more efficient and effective. I think it is possible for us to build on the strengths and the dedication of the many hard working public servants, to award merit, and at the same time, remove those who have not performed well from public service.

I think that the administration as well as the Congress are to be commended for taking on this long overdue task. As you know, the Civil Service Commission was established with the passage of the Pendleton Act in 1883. Since that time, the total civilian work force in the Federal Government has increased from approximately 131,000 to almost 2.9 million people. I believe that this new legislation will improve the management and efficiency of the Federal work force, and make it more responsive to the American people.

Among the provisions that I feel are important are: Performance evaluation. Agencies would be required to develop performance standards and job descriptions and communicate them to their employees. Based on these guidelines, employees with unacceptable performance could be demoted, discharged, or reduced in grade. I would like to stress that this provision should not be viewed negatively. It should be looked upon as one way to improve performance and assure that all Government employees exert a maximum effort in whatever job they are doing.

A second provision that should go a long way toward improving senior level performance is the new senior executive service. The senior executive service would be made up of managers in GS-16 through GS-18 positions. Individuals appointed to career senior executive service positions would have to serve a 1-year probationary period before acquiring tenure. They could be removed at any time for "less than fully successful performance." If a career employee is removed from the senior executive service during the probationary period, he or she would be entitled to positions outside the senior executive service at GS-15 or equivalent and at a rate of pay equal to their previous position.

One other attractive incentive feature is the awards system. Individual agencies will be able to recommend appointees for meritorious executive and distinguished executive awards. Meritorious executive awards would consist of one-time cash payments of $2,500 which could not be made to more than 5 percent of the senior executive service appointees. The performance awards could be as high as 20 percent of an individual's salary and could be awarded to up to half of the senior executives in an agency. If the performance in that agency was extremely good. There will also be a merit pay system for all supervisory or management positions at grades GS-13 through GS-15. Merit pay raises would replace annual raises, but cost-of-living increases would continue.

Finally, in order to protect Federal employees from partisan politics, the act sets forth the merit system principles. It abolishes the Civil Service Commission, replacing it with a Merit Systems Protection Board (MSPB) to handle employee appeals and an Office for Personnel Management (OPM) for administration.

The MSPB would investigate and rule on alleged prohibited personnel practices; that is, violations of the merit system. The board would be bipartisan, composed by three members appointed by the President and confirmed by the Senate. Also, a special counsel would be appointed by the President and confirmed by the Senate, and would be independent of the board's supervision. Both the MSPB members and the special counsel would be appointed to 7 year terms and could only be removed by the President for misconduct, inefficiency, neglect of duty or malfeasance. The MSPB and the special counsel would be empowered to assure that partisan politics is eliminated from the civil service reform.

Mr. President, I am concerned about one feature of this bill and feel compelled to call it to the Senate's attention. The language in the Senate bill differs from the House version regarding the Equal Employment Opportunity Commission (EEOC) jurisdiction in the adjudication of discrimination cases. In the Senate version EEOC must share jurisdiction with the MSPB. It is necessary that the difference be closely examined in conference and that the House language be viewed as the better approach to this problem.

I point out that under the plan supported and originally submitted by the Carter administration, along with the majority of civil rights organizations, the discrimination complaints should be handled by the EEOC. I do not think that any Member of this body wants civil service reform to be viewed as an effort to short cut or lessen our efforts to wipe out the last vestiges of discrimination in public service.

In conclusion, let me say that if the Senate conferees will agree to accept the House language in regards to adjudication discrimination of cases, then this bill will go a long way toward achieving equity and fairness as well as improving the efficiency of our Federal Government.●

THE NEED FOR ANTIDUMPING REFORM

● Mr. HEINZ. Mr. President, I would like to bring to the attention of Senators testimony delivered yesterday by Robert H. Mundheim, General Counsel of the Treasury Department, before the Subcommittee on Trade of the House Ways and Means Committee.

The purpose of the hearing was oversight over the Antidumping Act of 1921, and the Treasury's administration of the increasing number of cases under the act. In his testimony Mr. Mundheim confirmed what many of us have known for some time—that the law is not working well and that Treasury is swamped with paperwork in trying to enforce it.

Mr. Mundheim offers some thoughtful explanations for the Treasury's problems, but of the greatest interest were his proposed solutions. As the author of the Trade Procedures Reform Act (S. 2317), I was particularly pleased to see that Mr. Mundheim adopted one of our ideas in his list of suggestions. He pointed out, quite accurately, that the present act is no deterrent to dumping because there is no effective penalty assessed against the importer upon a finding of dumping. Mr. Mundheim proposed to remedy this deficiency by requiring importers to deposit full estimated dumping duties at the time of entry, instead of posting a bond, the actual cost of which is only a fraction of its value. This proposal is very similar to what many of us sponsored in S. 2317. I commend Mr. Mundheim for his implicit endorsement of our approach—which represents, incidentally, considerable progress in Treasury Department thinking in the last 9 months—and hope that he might now see fit to support the other provisions of our bill.

Mr. President, I ask that Mr. Mundheim's statement be printed in the RECORD.

The statement follows:

Statement of the Honorable Robert H. Mundheim

Mr. Chairman, Commissioner Chasen and I welcome this opportunity to appear before this committee to discuss the Treasury Department experience with the assessment of duties pursuant to findings of dumping under the Antidumping Act. Both of us have now had a year of experience with the assessment procedures, and believe we have gained some insight into the strengths and weaknesses of the process. We would like to share some of that experience with you, focusing on the procedures through which the Act is now being administered and the implications that general trends in U.S. international trade and other factors may have for the future.

The major purpose of the Antidumping Act is to stop dumping by depriving those who dump of the competitive advantages that they are seeking. The most common of those competitive advantages are relatively short-run phenomena. A manufacturer may be attempting to establish or expand its share of a U.S. market, or it may be attempting to minimize short-run losses by selling products in the U.S. market below their full costs of production. A credible antidumping program must accordingly promise a relatively swift and sure neutralization of such efforts. The Antidumping Act accomplishes that goal by raising the importer's cost back to what it would have been without the dumping by imposing a special duty on the merchandise.

If the Antidumping Act is administered quickly and effectively, foreign manufacturers will see the futility of continued dumping and adjust their prices to eliminate margins. As a result, the amount of dumping duty assessed will be minimal.

Of course this relatively undramatic result takes some of the luster from an agency's enforcement effort. It is natural to measure success by the duties collected, rather than by the unknown amount of dumping deterred. If unresisted, such pressures lead an administrator to shift enforcement dollars toward those types of activities that yield more visible results and a measurable monetary return on expenditures.

On the other hand, if the antidumping duties are not collected promptly, the foreign manufacturer may believe that it can achieve the short-run objectives I have described. While it may have to contend with disgruntled importers at some later date when antidumping duties are assessed, that may seem a cheap price to pay for the substantial short-term advantages. Worse, if assessment and collection of duties continue to be long delayed, foreign manufacturers and importers may begin to entertain serious doubts about whether any duties will be collected at all.

While I do not think that our enforcement system has lost its creditability, I am compelled to report that we have much work to do to restore it to a high level. As this committee well knows, in one major case, involving television receivers from Japan, we are more than five years behind in assessing dumping duties, and more than six years in collecting them.

The problem is more severe than a review of individual case backlogs will reveal. The antidumping program is growing, and growing at an increasing rate. When the Trade Act of 1974 became effective, early in 1975, Customs was investigating, administering, or monitoring, approximately 75 cases. By July of 1978, that number was up to 129, an increase of 72 percent. The rate at which new cases are being filed has almost tripled since 1976, to over 40 per year (see annex). Customs is currently charged with maintaining ongoing lists of dumping duties on numerous grades, types, and models of products of each of 450 manufacturers. Every model revision and price change must be reflected on those lists.

Moreover, our assessment of the future of the Nation's international trade patterns leads us to believe that Customs' antidumping responsibilities are going to become more complex and demanding at a far faster rate than the growth of its case load indicates. For one thing, U.S. imports are shifting toward finished consumer products and technologically complex manufactured goods. Computation of dumping duties on such goods requires much more time and resources than did the calculation of dumping duties on the simpler goods that they are displacing. Consumer goods such as television receivers, commonly have myriad minor differences aimed at exploiting taste preferences within a particular market. Similarly, sophisticated equipment like large power transformers commonly differ in many respects simply because they are custom built from extremely complex arrangements of parts. At present, Customs adjusts for each of these cost and marketing differences, often down to the penny.

A second factor relates to the increasing importance of multinational business complexes in U.S. trade. Some increased workload results because these organizations engage in production techniques which include shipping unfinished goods among affiliates in different countries for further work. But the far more significant difficulty that the multi-national business complex presents stems from the frequent export of goods to the United States through one or more related U.S. importers. This requires that we accumulate and verify data through the more complicated procedures that must be used to avoid relying on prices that are not the result of arms'-length bargaining.

U.S. trade is also beginning to include products from countries with state-controlled economies. Under the provisions of section 205(c)(1) of the Antidumping Act, we are required to substitute data from companies in a free market country, which may have no interest in the matter, for the sales and cost information that we would normally obtain from the exporter.

A fourth factor in complicating Customs' task relates to the increasing reliance in dumping petitions on allegations that foreign manufacturers have been selling products below their costs of production. Under the provisions of section 205(b) of the Trade Act of 1974, we are required to exclude such sales from our determination of home market prices. The theoretical and computational problems involved in making "cost of production" determinations can be enormous. Customs is asked to accomplish this task across cultural barriers, for commodities such as carbon steel plate which comes in at least twelve gauges and sizes and is but one of a thousand varieties of steel produced by a manufacturer, which happens to produce many other products besides steel. I need not belabor the difficulty of finding the full cost of one such product, particularly when some of the manufacturers with which we deal do business in economies that lack the recordkeeping sophistication that we and a handful of our trading partners have developed.

In short, Customs' dumping duty assessment program is now beset with large and growing backlogs; faces an accelerating expansion in numbers of new cases; and faces larger and more complex problems within each case as a result of shifts in our trade patterns. In the light of that background, you will understand why elimination of the backlog and bringing the assessment program to a current status cannot be accomplished easily or quickly.

We have tried to find ways to deal with these problems. We responded to the allegations of massive dumping of steel in the United States by instituting a trigger price mechanism under the Antidumping Act. When we concluded that incomplete and unreliable data was delaying the Japanese television case, we moved toward alternative sources for the necessary information.

But in taking these innovative steps, we have discovered that we must take account of another increased burden: the virtual certainty that we will be forced to defend each new approach in litigation. You know that we were successful in defending the trigger price mechanism in the District Court. However, Court tests of our ideas divert substantial resources to battles that do not increase the number of master lists prepared or decrease the backlogs that we face.

I would now like to share with you a number of ideas that we are considering for improving our efforts. We have identified three important systemic problems in our current administration of the Act's provisions on assessment of duties, and we are moving to develop techniques for eliminating or controlling them.

First, our procedures are not well designed to motivate importers—and, through them, foreign manufacturers—to move promptly to comply with our requests for complete, reliable, and responsive information.

Second, we need to improve our methods for handling the increasing amounts of data that we are required to process as imports become individually more sophisticated and collectively more varied.

Third, we need to develop special duty assessment procedures to take realistic account of the fact that antidumping cases differ from the ordinary Customs' process. Our need for comparative economic data effectively injects the manufacturer as an additional participant in the antidumping assessment process, despite the fact that the interests of the manufacturer and the importer are generally aligned. The result, at the moment, is that these parties obtain two, redundant opportunities to submit evidence during the administrative process, and then a third opportunity when the importer exercises its right to a trial *de novo* in the Customs Court.

We have the authority to take a number of important steps toward correction of these problems. I would like to describe what we are doing, or planning to do, in each of those areas.

SECURING THE FULL COOPERATION OF THE IMPORTER AND THE FOREIGN MANUFACTURER

The first problem that I mentioned is the importers' and manufacturers' lack of incentive to move promptly to provide Customs with complete, reliable, and responsive information. We are now considering action on two fronts to revise our procedures so that those parties will perceive that it is in their own interest to cooperate fully.

First, it appears that a significant disincentive to prompt, willing cooperation today is the importer's ability to retain and make interest-free use of the potential duties during the pendency of the assessment process. Delay in assessment and collection reduces the effective cost for which the importer is ultimately liable.

We believe that we have the authority to remedy this situation, by requiring that the importer deposit estimated dumping duties on its merchandise at the time of entry. We are now preparing proposed regulations for public comment that would require that estimated dumping duties be deposited beginning when a finding of dumping is published. While we will not propose to require such deposits prior to that formal publication, or to foreclose equitable relief when exigent circumstances can be shown, the proposed regulations will otherwise cover all entering merchandise subject to a dumping finding.

This approach should reverse present incentives. Importers and manufacturers will want to submit information speedily. They will want to provide it in a format which facilitates Customs' analysis of it. In that way, they will speed the day when any overpayment of the duties can be returned.

The other way in which we propose to alter the current procedures to eliminate the incentives to delay is to establish and publicize a uniform administrative practice of resorting to the "best available information" when an importer or exporter fails to respond to our requests for data in a timely and complete fashion. That policy is currently articulated in our regulations, but is not enforced in practice with sufficient vigor to produce convincing results. Much of the difficulty involved in the television case, for example, related to late, incomplete, and defective submissions of information by the manufacturers.

We believe that this approach is fully justified, so long as fair response periods are set and Customs' questionnaires are reasonably clear and precise. The Commissioner intends to ensure that those standards are met.

Together, these revisions in our current practices should go some way to alleviate our problems with the manufacturers' and importers' responsiveness. We, in turn, plan to take measures, including staff realignment, to enable us to process that information promptly upon its receipt, determine the dumping duties owed, and make any necessary refunds or supplemental collections.

IMPROVING INFORMATION PROCESSING TECHNIQUES

The second problem that I identified relates to the growing amount of data that Customs is receiving as a result of changes in merchandise, and changes in marketing practices. In order to cope with these changes, we are evaluating whether we can improve our ability to use data selectively in two respects.

First, we are considering the feasibility of revising our practice of making dumping findings on a country-by-country basis, and then performing detailed dumping margin calculations on the merchandise of every manufacturer within that political unit. We have the authority to be more flexible, and we believe that dumping may be more efficiently attacked by a judicious exercise of that flexibility.

One way in which we can use that flexibility is to focus our resources on fewer manufacturers. This type of selectivity might be useful, for example, in the case of roller chain from Japan, in which Customs is maintaining master dumping duty lists on approximately 93 manufacturers and exporters, despite the fact that during the less-than-fair-value investigation, Customs determined that over 80 percent of the imports into the U.S. originated with only five of those companies.

There are several ways in which we could proceed with this approach. We already limit our investigation at the less-than-fair-value stage to the larger manufacturers (with the limitation that we cover manufacturers accounting for at least 60 percent of the exports to the U.S.). We might also narrow the scope of the dumping finding, focusing on those manufacturers that export the largest volumes of merchandise to the United States.

On the other hand, that appproach has limitations that we will have to consider rather carefully. Evasion, through resale in the home market, is one difficulty, because adding a company to the dumping finding would require completion of an entirely new investigation by both Treasury and the ITC. A similar problem would arise if an excluded manufacturer began to expand its U.S. market for other reasons.

These problems suggest the advisability of exploring another alternative: the development of a more sophisticated way of making and modifying our dumping findings. We may, for example, consider whether, in addition to modifying or revoking a finding to exclude a manufacturer, as our regulations now provide, we might conditionally suspend application of it to relatively insignificant exporters. That type of revision might provide us both the ability to concentrate our enforcement efforts where the problems lie, and the flexibility to monitor the rest of the manufacturers subject to a finding and move promptly to correct any problems.

The other way in which we are considering attempting to deal with the profusion of data that we are encountering relates to the calculation process itself. The direct consequence of increases in the complexity of both a product and the marketing system through which it moves is an increase in the number of adjustments we are asked to make. The report of the General Accounting Office that you have recently received documents some of the complexity and detail of the adjustments that Customs makes.

I am persuaded that the Antidumping Act will be far more effective if we can develop methods for fairly avoiding expenditure of resources on the numerous minute claims that are presented. This is a difficult area, however, because whether an adjustment is of significant size depends in large part on whether Customs requires that the manufacturer subdivide its claims and justify them in more detail.

One approach that we have been considering would involve the establishment of broad categories of adjustments, into which individual claims would be presumptively placed. Then, unless the claims within a general category reached some threshold size, we might disallow them.

Another approach would involve increased reliance upon techniques of sampling and averaging to avoid processing all of cerain classes of data. Customs does some of that now when it allocates advertising or warranty costs among products subject to a dumping finding. (There is no reason that a manufacturer's efforts to differentiate its products from others in order to appeal to consumer preferences should inexorably require further investigation and computation by the Customs Service.)

ELIMINATING REDUNDANT PROCEEDINGS

The third problem that I mentioned relates to the unique nature of the duty assessment process in the dumping area. Unlike the ordinary assessment, the amount of a dumping assessment depends on information about the home market activities of the manufacturer of the product—information that is known in detail only within that company. Before it can assess dumping duties, Customs must either obtain that information or develop appropriate substitute data.

The result of this process is that the manufacturer and the importer, who have both an identity of interest on the question of the amount of dumping duty owed and only a single source of relevant information between them, are now getting three separate chances to make their case on assessment. That is, they have three completely separate opportunities not only to argue the merits of their case, but also three opportunities to submit evidence. The first occurs when we ask the manufacturer for data and, perhaps inevitably, become involved in the process of defining our terms and arguing about relevance. The second occurs when the importer protests the assessment, and submits supporting evidence. The third occurs when the importer goes to the Customs Court to challenge our denial of its protest and submits evidence in a trial *de novo*.

We think that sensible administration counsels that we move as far as we can toward the concept of a single administrative proceeding, in which, absent persuasive evidence of excusable neglect or surprise, there is only one opportunity to submit evidence. Such a process would not only eliminate duplication of effort, it would also preclude tactical manipulation of the process through such actions as holding evidence in reserve in the hope that the resulting ambiguity may be resolved favorably to the importer.

We believe that the sensible way to move toward such a unitary system at this time is to press to have the information presented fully and completely at the first opportunity—when the information is being gathered for purposes of assessment. In support of this approach we may be able to move toward more systematic efforts to include the importer at that stage, coupled with tighter restrictions on what may be added to that body of information during the subsequent protest process.

Our suggestion relates to elimination of redundancies in the administrative process, and does not address the question of duplication of effort between the administrative system and the Customs Court. We would like to gather some experience with that approach before addressing the appropriate jurisdiction of the Customs Court.●

REASON FOR LONE VOTE AGAINST REHABILITATION ACT

Mr. PROXMIRE. Mr. President, earlier yesterday, I reluctantly cast my vote against final passage of S. 2600, the Rehabilitation Act amendments. The bill passed the Senate 82 to 1. I was the one.

I say "reluctantly" because this bill seeks to meet the pressing needs of one of the most important segments of our society, the handicapped. For far too long they have been the "forgotten Americans," whose disabilities made us uncomfortable and were, therefore, shunted into the background.

Mr. President, I can think of no group of Americans more worthy of our support.

These are Americans who are not asking for a handout. They are not asking for charity. They are asking for a chance to become productive and useful members of our society. And I think we owe them that opportunity.

Why then did I vote against final passage?

Essentially, because I was not convinced that this legislation represented the best vehicle for meeting these needs.

There are three specific concerns I had with this bill.

First, the authorization levels in this legislation are too high; the bill is attempting to move too fast.

The managers of the bill are to be congratulated for amending the bill on the floor to limit the reauthorization period to 3 years and reduce the funding levels by nearly $500 million. This was a step in the right direction and I salute them.

But the fact of the matter is that this bill is still approximately $200 million over the President's request, thereby inviting a Presidential veto which Mr. Carter has threatened. This would leave us in the worst possible situation—no bill at all.

Mr. President, the veto threat is not my only concern. That increased funding is for specific programs which are simply not well thought out.

Let me just cite one example.

There is a program known as "independent living projects"—a program designed to help the severely handicapped achieve self-care, communication, learning, mobility and eventually, gainful employment. There has been a successful experiment in Houston and the administration was encouraged enough by early reports to ask for $2 million in funds for a demonstration project.

What does this bill do? It does not merely add to the President's request. It sets up a full-blown $90 million State grant program, even before the concept has been adequately tested.

Does it aid the handicapped to turn every potentially useful new program into a massive new grant program?

I think not.

We need first to review these concepts with demonstration projects in order to be confident of their widespread applicability.

My second concern is the duplication that this bill entails.

As originally introduced, S. 2600 proposed the initiation of a new comprehensive services program for the severely handicapped, which would encompass and replace the existing developmental disabilities program. Senator RANDOLPH's rationale was that the development disabilities program was essentially a limited program, meeting a small number of problems, that could be phased out as we expand coverage under the comprehensive services program.

Needless to say, the supporters of developmental disabilities programs—and they are legion—protested this amalgamation. The Developmental Disabilities Council in Wisconsin—which has an excellent track record, I might note—shared these concerns.

But instead of resolving this dilemma, what did this bill do? It both extended the developmental disabilities program and created the new comprehensive services program.

We now have two programs instead of one.

In plain English that means two planning networks, two sets of State councils, two sets of advocacy groups, two bureaucratic delivery systems—attempting to meet the needs of essentially the same population group.

Does this help meet the needs of our handicapped citizens?

I think not.

Does this channel funds where they belong—in program delivery?

I think not.

It forces us to exceed the President's budget request with a large proportion of the add-on going to build duplicative new bureaucratic empires.

Third, this bill continues the trend toward proliferation of small categorical programs. This is an important point. One which I made several weeks ago in discussing the Elementary and Secondary Education bill.

Small categorical programs too often serve only one purpose: To placate specific constituencies, which lobby extremely hard for their cause. They do not give us the flexibility for shifting program funds where they are most needed.

The Department of Health, Education, and Welfare has strongly argued that the specific categorical programs listed in this bill, while meritorious, could all be handled more efficiently and effectively under the broad special projects authority that currently exists.

In closing, Mr. President, I simply want to repeat that this was not an easy vote to cast.

The committee and the Senate have labored mightily over this legislation but I am afraid its design is riddled like Swiss cheese and its implementation, as currently written, will be a nightmare of a Rube Goldberg design.

I only hope that the House and Senate conferees will take a good, hard look at this bill and make the necessary, radical changes, necessary so that it can achieve its true potential.●

THE GENOCIDE CONVENTION: WHY WAIT ANY LONGER?

Mr. PROXMIRE. Mr. President, in 1949 when the Genocide Convention was first submitted to the Senate, President Truman in his message of transmittal, made the following statement:

> By the leading part the United States has taken in the United Nations in producing an effective international legal instrument outlawing the world-shocking crime of genocide, we have established before the world our firm and clear policy toward that crime.

Mr. President, in 1949 that treaty was signed, and now 1978—almost 30 years later—genocide remains a real problem.

I as how firm and clear our policy really is. Flagrant violations of human rights continue throughout the world: in Nicaragua, Cambodia, Rhodesia, South Africa, and many other nations. Yet the Senate continues to delay.

What have we gained during this 30 year period?

What is it that we can expect to gain?

Not only is this delay undermining Presidential policy of promoting human rights, but it is also a continuing diplomatic embarrassment. How can we deplore genocidal atrocities without being labelled hypocrities? The simple answer is that we cannot.

By our inaction we are comforting our enemies and confusing our allies. Do we want to give perpetrators of human rights violations the opportunity to gloat over our indecision? I think not.

Mr. President, what could be more important to man than time, and the right to live? Through our failure over the last 30 years to ratify the Genocide Convention, we have wasted both.

Are we going to wait until history repeats itself? Can we afford that luxury?

I think not.

President Truman challenged the Senate to "establish before the world our firm and clear policy * * *" toward genocide. Is it not time to meet that challenge, by ratifying the Genocide Convention?

CAMBODIA

Mr. THURMOND. Mr. President, Lon Nol, the former leader of Cambodia, has visited Washington in an effort to persuade the Government and the Congress to take a greater interest in the terrible afflictions being imposed on the Cambodian people.

As the last Member of Congress to visit Cambodia before its fall to Communist forces, I will never forget the valiant struggle of these humble and gentle people. I visited their refugee camps on the outskirts of Phnom Penh and witnessed the tragedy that was falling on this nation.

Mr. President, I have communicated with President Carter to take a more active role in bringing to the attention of the world the annihilation of hundreds of thousands of Cambodian people. In my viewpoint, little has been done either by the Congress or the administration. If we have any concern at all for the human rights of people, then here is a country that could and should be helped.

I ask unanimous consent that an article entitled "Lon Nol Pleads for Cambodia Help" which appeared in the Washington Post, September 22, 1978, be printed in the RECORD at the conclusion of my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, I wish to also call the Senate's attention to an article which appeared in the Baltimore Sun, September 14, 1978, entitled "Hanoi Appears To Plan Invasion To Bring Down Cambodia Regime" and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

[From the Washington Post, Sept. 22, 1978]

LON NOL PLEADS FOR CAMBODIA HELP

(By Elizabeth Becker)

Lon Nol, the partially paralyzed former ruler of Cambodia, came to the lawns of his nation's deserted embassy here yesterday to ask for international support in evicting from the United Nations the current Cambodian communist leaders, whom he described as murderers.

It was the first public foray for the 64-year-old military commander, who has been living in seclusion at a plush home in the Honolulu suburbs since the communists defeated his army in 1975. His speech was faltering, broken at times by sobs, as he made what American officials described as a hopeless plea.

Barely able to hold the prepared speech in his one useful hand, Lon Nol asked "all nations, in the name of God and every group who has also been a victim of genocide—the Jews, the Armenians, the Irish and our brothers and sisters in the Third World—to help us."

Since the communist government of Democratic Kampucheat was established, an estimated 1 million people have been executed or have died of starvation because of the policies of the new regime.

Straying from his text, Lon Nol said he has not been able to sleep, since he is the man generally blamed for the communist victory. "Everyone has accused and condemned me for this," he said.

He still claims to be the only legitimate leader of the Cambodian people, a statement few U.S. officials are eager to accept. During his short visit here Lon Nol has found only one open ally in his campaign to challenge the U.N. credentials of Democratic Kampuchea and procure them for his deposed government, the Khmer Republic.

Rep. Robert K. Dornan (R-Calif.) appeared beside Lon Nol at his press conference, adding his pledge to "take steps . . . to take away the credentials of those barbarians who represent Cambodia."

Other officials found the presence of the former leader, whose side lost the war in spite of millions of dollars in U.S. aid, something of an embarrassment. Rep. Stephen J. Solarz (D-N.Y.) one of the most vocal opponents of the Cambodian communists in Congress, met with Lon Nol, but refused to be a part of his quest.

"I told him I did not want to appear indifferent to the tragedy of the Cambodian people, but there is the widespread feeling that the Khmer communists didn't win the war, his government lost it," Solarz said.

Sen. George McGovern (D-S.D.) also received a courtesy call from Lon Nol. Throughout the 15-minute meeting yesterday afternoon, McGovern only nodded as the Cambodian outlined his plans and thanked the senator for calling for military intervention against the communist regime.

Earlier this week a delegation of Lon Nol supporters visited the offices of U.S. Ambassador Andrew Young at the United Nations and were told that, despite American sympathies with the plight of the Cambodians, the United States could not sponsor an effort to take away the current regime's credentials.

Since Lon Nol overthrew Prince Norodom Sihanouk in a 1970 coup, the Cambodian seat at the United Nations has been challenged twice. In 1973 and 1974 Sihanouk, then titular leader of the communist government in exile, came close—once within two votes—to a successful challenge to the government of Lon Nol.

EXHIBIT 2

[From the Baltimore Sun, Sept. 14, 1978]

HANOI APPEARS TO PLAN INVASION TO BRING DOWN CAMBODIA REGIME

(By Michael Parks)

HONG KONG.—Vietnam appears to be preparing a major new offensive against Cambodia, hoping to bring down the present regime in Phnom Penh and deal a major blow to China in the process.

Hanoi is significantly strengthening its forces, now estimated at 120,000 men, in the border region, according to intelligence sources here, who note that this is at least 25 percent more than Vietnam had in December, when it launched its original invasion.

Two infantry divisions have been transferred recently from the north to the border area, according to new intelligence reports, and vast amounts of ammunition, fuel and other supplies are being stockpiled.

Vietnamese forces inside Cambodia, now numbering about 10,000, have been enlarging their enclave in what analysts see as a move to provide a forward base for the new offensive.

Vietnamese troops recently occupied the rubber plantation town of Krek, an important crossroads about 10 miles across the border. The Vietnamese enclave, about 10 to 15 miles deep, now stretches about 50 miles along the border northwest of Ho Chi Minh City (formerly Saigon).

Vietnam is likely to launch the offensive in about six weeks, when the monsoon rains end and Hanoi can deploy its armored units and air power fully, according to analysts here.

Despite bad flying weather, the Vietnamese Air Force, using both its American and Soviet-made fighter-bombers, continues to strike at Cambodian ground troops, keeping them dispersed and preventing any sizable counterattack on the Vietnamese units inside Cambodia.

The steady Vietnamese pressure has forced the Cambodian Army to move back to guerrilla tactics in many areas, according to intelligence reports. Despite heavy losses over the summer, it has remained essentially intact, sources here said, and reinforcements have been brought from western provinces to the front with Vietnam.

To put counter-pressure on Vietnam, Cambodian forces have increased their shelling of Vietnamese border villages and have stepped up their cross-border raids, according to reports from Hanoi. The Vietnamese Army newspaper Quan Doi Nhan said yesterday that civilian and military casualties had risen since the beginning of September.

The extensive recruitment, training and arming of Cambodian refugees, who are being formed into "patriotic forces" by Vietnam and sent back into Cambodia, has convinced most Western analysts that Hanoi intends to replace the current regime of Premier Pol Pot in Phnom Penh.

The coming Vietnamese offensive, they believe, is meant to invest what is essentially a political strategy with sufficient military momentum to insure its success.

The Phnom Penh regime is thought to be hated by most Cambodians because of its murderous purges; a number of Army units have mutinied already, and three anti-government plots have been reported among senior Army officers and political leaders.

A Cambodian Communist party worker, who led a group of more than 600 refugees into Vietnam last week, was reported by the official Vietnam news agency yesterday as saying that a growing number of anti-government guerrillas are now fighting the Army from jungle bases and are receiving increasing popular support.

Recent visitors to Hanoi have been told by Vietnamese authorities that the Pol Pot regime cannot survive much longer—"It will be swept away before the end of the year," one senior Vietnamese Communist party official said—and they have returned convinced of Vietnam's determination to replace it with a friendly government.

Such an effort will undoubtedly sharpen Vietnam's growing dispute with China, which recently promised Phnom Penh more assistance. For Peking, Cambodia is an important check on the expansion of Vietnamese—and Soviet—influence throughout Southeast Asia.

Hanoi and Moscow want to dominate the region, the official New China News Agency said in a commentary yesterday, but it said: "Socialist China constitutes a formidable barrier to the hegemonist pursuits of the Soviet Union in collusion with Vietnam."

Throughout the summer, China has rearmed and resupplied the 90,000-man Cambodian Army, just as the Soviet Union has sent Vietnam large quantities of new weapons and ammunition in a major sea and airlift. Cambodia has received light tanks, field artillery, antiaircraft guns, naval patrol boats and modern communications equipment, according to Western reports.

Several thousand Chinese advisers and technicians are now believed to be in Cambodia, many of them manning the new weapons. One Western estimate puts the total at more than 10,000, a huge increase from the few hundred there at the beginning of the year.

Vietnamese officials claim that North Koreans are also aiding the Cambodian forces, providing both pilots and field advisers. Such a large number of Chinese and Koreans manning sophisticated weapons might make the planned offensive too costly for the Vietnamese to pursue, according to some Western analysts.

HANDICAPPED PUPPETS

Mr. STAFFORD. Mr. President, yesterday the Senate gave its overwhelming approval to the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978.

That important piece of legislation is designed to continue and enhance the Federal Government's commitment to the goal of helping our Nation's handicapped men, women, and children to achieve their full potential in their lives.

But, one of the greatest barriers faced by all individuals with physcial and mental disabilities is a general misconception that a handicapped individual is unable to participate in most of the so-called normal activities enjoyed by their more fortunate fellow citizens.

This is not so, of course, for most of our less fortunate fellow citizens. But we have not been doing a very good job of educating our Nation on that point.

An exciting educational effort designed to demonstrate that handicapped individuals have much in common with their fellow citizens has been developed by an educator and a puppeteer, each from the Washington area.

Their show—featuring puppets with disabilities—has been made available to all of us. It will be held on Monday, September 25, at 3:30 p.m., in room 1202 of the Dirksen Senate Office Building.

I invite each of you and members of your staff, and friends—including youngsters—to attend this puppet show.

I think you will find it to be educational and fun, and important, as well, both to those of us who are more fortunate, as well as to those of our citizens who have disabilities.

Mr. President, I ask unanimous consent to have printed in the Record an article from the Washington Post that describes the puppet show that will be available to us on Monday—I repeat, at 3:30 p.m., in room 1202 of the Dirksen Senate Office Building.

There being no objection, the article was ordered to be printed in the Record, as follows:

"“Handicapped” Puppets “Tell It Like It Is”

(By Bob Levey)

Reynaldo Rodriguez cuts a stunning figure in his striped turtleneck, his blue hair—and his white cane. He is blind, yes, but he is quick to point out that he can read in Braille, feed himself, even play baseball with a special buzzer-equipped ball. "I can do lots of things," Reynaldo boasts.

So can Ellen Jane Pet. She is mentally retarded, and makes no bones about admitting it. Yet she holds down a full-time job in an animal hospital.

And what about freckle-faced Mark Riley? A cerebral palsy victim, he is confined to a wheelchair, can't move his arms or legs and sometimes has trouble eating and speaking. But Mark can play checkers like a champ.

The message, of course, is that the handicapped are valuable people. But when Reynaldo, Ellen, Mark and Company deliver that message, it tends to "take" more readily than it ordinarily might.

The reason is that they are puppets, part of a troupe of three-footers designed and operated by two Washington-area women—Barbara Aiello, a 31-year-old special educator and Ingrid Crepeau, a 29-year-old professional puppeteer.

For the last four months, they and their troupe have been strutting and mugging before schools and day camps—sending forth word via a variety of skits that being handicapped is a lot less awful than it might seem to "normal" people.

At times, the results have been remarkable. One little boy in Northern Virginia, a cerebral palsy victim, had not spoken in six months. But after seeing the puppet show, he began talking animatedly to Mark Riley about their mutual disorder. Another boy, whose older brother is mentally retarded, was able to admit it in front of his friends for the first time after the friends saw Ellen Jane Pet in action.

National exposure may not be far off, either. The producers of Captain Kangaroo, a children's television program, will audition the puppet show next week.

One reason the show attracted television's attention is that the puppets are gusty. The "normal" ones do not shy from questions that many people would not have the nerve to ask a handicapped person. In addition, audiences are encouraged to ask the puppets questions after each skit.

For instance, Mark Riley has a discussion with a "normal" puppet in one of Aiello's and Crepeau's skits. One of the playmate's first questions is how Mark uses a toilet. As he replies—"I use special handrails my family has installed in the bathroom"—audiences nod in a way that suggests they were wondering exactly that.

Questions from audiences tend to be just as direct. At a performance last week before an Arlington "play camp" audience of 6-year-olds, one little girl asked Mark: "How do you play or go to school or have any fun?"

Mark, whose voice is supplied by Aiello, replied: "I can play lots of things—marbles, Monopoly, checkers." Later, the 6-year-old questioner told a friend: "Those are the games I play most of the time, too. He isn't much different from me."

"Appreciation. That's the issue," said Aiello, who hopes to sell the puppet show to schools that want to show "normal" children what handicapped children are really like.

"What we try to show is the skill a handicapped person has to have to survive in this society."

But the message "normal" children draw from the show seems to be that they should be kind to the handicapped, in addition to counting their own blessings.

Tara Laster, 6, told a fellow member of last week's Arlington audience that a blind man lives on her block. "I'm nice to him, but everyone else isn't always," she said. "I like the show because maybe people (who see it) will be nice to blind people, too."

Maureen Mallet, 7, said she had been especially struck by Mandy, a deaf puppet who wears a hearing aid in each ear. "I wouldn't ever want to have to wear those," she said. "I'm glad I know about it (deafness) now."

Such reactions are, at least in part, the result of the show's tone. While the puppets treat handicaps seriously (Reynaldo admits he is "very mad sometimes" about being blind), they are still capable of wit (Mark calls his wheelchair "my cruiser").

According to Aiello, the biggest boosters of the show are parents of the handicapped. "They're the ones who know that, in this society, there are people we're taught not to look at," she said.

Other groups have been skeptical, Aiello acknowledged. "We've run into the feeling that there's no good way to handle (the portrayal of the handicapped)," she said. "People's reactions can be scary."

But they can also be revealing. Although Aiello and Crepeau stand in full view, audiences almost always direct their questions to the puppets. "That has to mean we're doing something right," Crepeau said.

Another indication that audiences accept the show's premise is the lack of self-conscious snickering. Although Ellen Jane Pet speaks in the slow, groping cadence of some retarded people, no one finds it funny. The same goes for Mark Riley and his lisp.

Aiello admits that no puppet show can overcome the "massive prejudice" society has against the handicapped. "But the kind of honesty we portray has had a very good effect," she said.

Just then, a group of 6-year-olds was proving her right. One by one, they were shaking Mark Riley's limp right hand.

THE AGRICULTURAL EXPORT TRADE EXPANSION ACT OF 1978

Mr. THURMOND. Mr. President, on September 8 the Senate passed S. 3447, the Agricultural Export Expansion Act of 1978. I supported S. 3447 and commend the Senate for taking this action to strengthen the U.S. economy through the expansion of agricultural exports.

Our trade deficit is running at record levels, nearly $24.4 billion in 1977, the overall trade balance is a deficit. Our agricultural exports have again kept us from running record deficits.

Mr. President, this bill seeks to improve the ability of U.S. agricultural exporters to compete in the world markets. Over the past few years, countries like Canada and Australia have aggressively pursued markets for their agricultural products. Their efforts have paid off and they have put the United States at a competitive disadvantage. S. 3447 is intended to overcome part of that disadvantageous position.

The legislation makes several improvements in our Commodity Credit Corporation credit sales program. First, it extends credit to 10 years for most U.S. exporters and extends to 3 years credit to the People's Republic of China. It permits U.S. exporters to put together deals on their own and then bring them to the U.S. Government for approval or rejection. It also upgrades agricultural "attachés" to the new position of "counselors" to improve their ability to promote U.S. agricultural exports abroad.

This legislation will be a great boost to our farmers, who produce the food and fiber that feeds and clothes not only Americans, but millions overseas. At the same time, it returns to the U.S. funds to shore up the dollar. I believe this measure is a good one and commend the Senate for approving it.

U.S. HELICOPTERS REPORTED USED TO MOVE COMMUNIST FIGHTERS INTO NICARAGUA

Mr. THURMOND. Mr. President, today I have received reports that U.S. helicopters owned by the Government of Panama are being used in Costa Rica to airlift Communist guerrillas into Nicaragua.

These helicopters were provided some time ago to the Government of Panama headed by General Omar Torrijos through the U.S. aid program. The dispatch of these helicopters for this purpose, although they are still under Panama's control and being flown by Panamanian pilots, is a violation of U.S. law.

This situation is somewhat similar to the situation on Cyprus where the military forces of Turkey used U.S. military equipment to land forces and occupy ground on Cyprus.

Mr. President, the dispatch of the helicopters to Costa Rica from Panama, is confirmed by news reports from Costa Rica. The press report states Panama is providing them to Costa Rica "for the purpose of expressing friendship with the Costa Rican people."

Mr. President, I call upon the U.S. Government and the Congress to investigate these reports to determine their accuracy. It is enough that our human rights policy in South America is driving away our friends and encouraging revolutionary groups such as the one which has brought Nicaragua to the point of near destruction. Now we may be witnessing not only moral support to these Communist-inspired guerrillas but support in the form of U.S. helicopters.

It has been further reported in the press that U.S. equipment abandoned in Vietnam has been and is being shipped to Cuba where it is being used by Cuban forces and distributed to guerrilla forces throughout South America. This is the same tactic the Communists have used decade after decade, most recently in Africa and Southeast Asia. To ignore these events now will certainly bring us greater troubles in the future.

Thus, an investigation to determine just what is taking place in Costa Rica and Nicaragua is essential to both the short-term and long-term interests of this country.

Mr. President, in closing I ask unanimous consent that a translation of a report in Spanish by Carlos Jimenez over the Costa Rican radio be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CENTRAL AMERICA—COSTA RICA: GOVERNMENT ACCEPTS VENEZUELAN, PANAMANIAN AIR SUPPORT

The Costa Rican Government has just accepted Venezuelan President Carlos Andres Perez's offer of a Venezuelan Air Force squadron to land in our territory on a good-will mission. This was announced by President Rodrigo Carazo.

This morning Carazo and Perez talked by telephone to reaffirm the ties of friendship and cooperation between the two countries, as stated in a communique just issued by the Costa Rican Government. The communique says that, as testimony to friendship and the spirit of cooperation, both presidents agreed that Venezuelan Foreign Minister Simon Alberto Consalvi would come to Costa Rica today for a visit that just ended a few minutes ago at the presidential residence. President Carazo discussed with Consalvi the latest developments connected with Nicaragua as well as the proposal submitted to the OAS in Washington.

The communique also says that, as proof of this spirit of cooperation and support, the Venenzuelan Government has offered to send an air force squadron to Costa Rica on a good-will mission. The squadron consists of two Canaberra bombers, two fighter-bombers and a C–123 transport.

Since ours is a law-abiding country, the executive branch has asked the Legislative Assembly for the corresponding permission for the air force squadron to land in our territory. Madrigal Nieto, president of the Legislative Assembly, and Interior Minister Juan Jose Echeverria Brealey, met at noon today to discuss legal aspects of the Venezuelan offer. Madrigal Nieto then submitted the government's request to the Legislative Assembly.

Venezuelan President Carlos Andres Perez sent a telegram to President Carazo asking our government's approval for the good-will mission to Costa Rica. President Carazo's answer was: With regard to your telegram today, I express our approval of a good-will mission by a Venezuelan Air Force squadron which will be received as guests due to the fraternal friendship that the people and Government of Costa Rica feel for your worthy country.

The Costa Rican Government also announced that four helicopters from the Panamanian Government are on their way to Costa Rica, also for the purpose of expressing friendship with the Costa Rican people. President Carazo and Panamanian Chief of Government General Torrijos have been in contact by telephone discussing matters of common interest. General Torrijos expressed his sympathy to the people and government of Costa Rica. President Carazo renewed his wish to strengthen even more our friendly ties with the Panamanian people.

This is, in summary, the communique just released by the presidential residence on Venezuelan and Panamanian aircraft which could be arriving here at any moment. Interior Minister Echeverria, when asked about Panamanian volunteers offering their services unconditionally to the Government of Costa Rica to prevent or repulse any attack against our sovereignty and airspace, said that any good-will mission was welcome by Costa Rica.

SENATOR RANDOLPH'S ROLE IN LEGISLATION FOR THE HANDICAPPED

Mr. ROBERT C. BYRD. Mr. President, since the Subcommittee on the Handicapped of the Human Resources Committee was created in 1972, my distinguished colleague, the senior Senator from West Virginia (Mr. RANDOLPH) has served as its chairman. Under his able leadership, the subcommittee has produced significant pieces of legislation advancing educational and employment opportunities for the handicapped.

In America today, there are approximately 35 million handicapped people; 10 million of these are considered severely handicapped. Of the severely handicapped, nearly 2.8 million are developmentally disabled. Many handicapped people are able and very willing to participate in the activities available to all of us, which we take so much for granted: the opportunities to work, to interact socially, to move about independently, to pursue recreational interests, to contribute productively to our society.

The primary objective of Federal assistance to the handicapped is to help them become more active citizens. Inherent in this is our national commitment to equal opportunity for all.

Yesterday, the Senate passed S. 2600, the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. This piece of legislation reflects long hours of effort committed to improving the living conditions of the handicapped. I take this opportunity to commend Senator RANDOLPH, and Senator STAFFORD, the subcommittee's ranking minority member, and all Members of the subcommittee for their endeavors.

The subcommittee held 18 days of hearings during the 95th Congress, reviewing the performance of existing programs for the handicapped. Over 200 witnesses testified. Careful consideration and analysis of rehabilitation programs for the handicapped and service programs for the developmentally disabled resulted in this bill being unanimously reported to the Senate by the Committee on Human Resources.

The basic purposes of Federal rehabilitation assistance are to improve the abilities of handicapped individuals to function independently and to advance their employment opportunities. This bill's passage amends and extends certain programs of the Rehabilitation Act of 1973 and establishes new programs designed to strengthen these objectives.

The bill establishes a program designed to promote development of independent living facilities which studies have shown to be vitally significant in preparing handicapped individuals for employment. It establishes a new program aimed at the delivery of comprehensive services to our most severely handicapped citizens who face multiple problems in contributing productively to our society.

In addition, the legislation provides telecommunications experience for handicapped citizens, opening up new career opportunities in the rapidly growing electronic industries. It authorizes the Secretary of HEW to make grants to States and public nonprofit organizations for initiating recreational programs for the handicapped. To the extent that handicapped individuals can participate in existing recreational programs, their capacity for mobility and for socialization is enhanced.

This measure recognizes that the quality of rehabilitation services are of lifelong importance to the handicapped individual. The bill establishes better cooperative arrangements for coordination of services under the Rehabilitation Act, the Education for the Handicapped Act, the Vocational Education Act, and other programs relating to the handicapped. It establishes procedural safeguards to provide a formal process to protect the rights of vocational rehabilitation participants.

In amending and extending certain programs of the Developmental Disabilities Services and Construction Act, the Subcommittee recognized that developmentally disabled Americans represent a unique group with distinct needs not shared by other handicapped people. In order to become more active citizens, the mentally retarded, autistic, and other developmentally disabled individuals require special care and services throughout most of their lives. The subcommittee plans to monitor these programs throughout their 3-year extension and to undertake changes which would make them more effective.

The legislation passed by the Senate yesterday cannot remove every obstacle faced by every handicapped American. However, it offers them new opportunities to function independently and to contribute to society. It is also significant that programs of this kind tend to break down unfortunate and uninformed capabilities of handicapped people.

Giving handicapped people an equal chance to productively contribute to our society is part of our national commitment to equal opportunities for all. I commend the endeavors in this area of Senator RANDOLPH, Senator STAFFORD, and all members of the subcommittee.

INSPECTOR AND AUDITOR GENERAL ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Calendar Order No. 993.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8588) to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act be cited as the "Inspector and Auditor General Act of 1978".

PURPOSE; ESTABLISHMENT

SEC. 2. In order to create independent and objective units—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration;

(2) to provide leadership and coordination and recommend policies for active designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

thereby is hereby established in each of such establishments an Officer of Inspector and Auditor General.

APPOINTMENT AND REMOVAL OF OFFICERS

SEC. 3. (a) There shall be at the head of each Office an Inspector and Auditor General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Inspector and Auditor General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, or be subject to supervision by, any other officer of such establishment. Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector and Auditor General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation.

(b) An Inspector and Auditor General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(c) For the purposes of section 7324 of title 5, United States Code, no Inspector and Auditor General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

DUTIES AND RESPONSIBILITIES

SEC. 4. (a) It shall be the duty and responsibility of each Inspector and Auditor General, with respect to the establishment within which his Office is established—

(1) to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment;

(2) to review existing and proposed legislation and regulations relating to programs and operations of such establishment and to make recommendations to the head of the establishment and to the Congress concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by such establishment or the prevention and detection of fraud and abuse in such programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(4) to recommend policies for, and to conduct, supervise, or coordinate relationships between such establishment and other Federal agencies, State and local governmental agencies and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by such establishment, or (B) the identification and prosecution of participants in such fraud or abuse; and

(5) to keep the head of such establishment and the Congress fully and currently informed by means of the reports required by section 5 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by such establishment, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(b) In carrying out the responsibilities specified in subsection (a)(1), each Inspector and Auditor General's audit function shall include, but is not limited to—

(1) examinations of financial transactions, accounts, and reports and reviews of compliance with applicable laws and regulations, including sufficient audit work to determine whether—

(A) the audited entity is maintaining effective control over revenues, expenditures, assets, and liabilities;

(B) the audited entity is properly accounting for resources, liabilities, and operations;

(C) the financial reports contain accurate, reliable, and useful financial data and are fairly presented; and

(D) the entity is complying with the requirements of applicable laws and regulations;

(2) a review of efficiency and economy to determine whether, in carrying out its responsibilities, the audited entity is giving due consideration to economical and efficient management, utilization, and conservation of its resources and to minimum expenditure of effort, including the specification of uneconomical practices or inefficiencies such as—

(A) procedures, whether officially prescribed or informally established, which are ineffective or more costly than justified;

(B) duplication of effort by employees or between organizational units;

(C) the performance of work which serves little or no useful purposes;

(D) inefficient or uneconomical use of equipment;

(E) overstaffing in relation to the amount of work to be done;

(F) faulty buying practices and accumulation of unneeded or excess quantities of property, materials, or supplies;

(G) inadequate cash management practices; and

(H) wasteful use of resources;

(3) a review of program results, including a consideration of—

(A) whether the program or activity is meeting the objectives established by the Congress or the establishment;

(B) whether the establishment has considered alternatives to achieve desired results at a lower cost;

(C) the relevance and validity of the criteria used by the audited entity to judge effectiveness in achieving program results;

(D) the appropriateness of the methods followed by the entity to evaluate effectiveness in achieving program results;

(E) the accuracy of the data accumulated; and

(F) the reliability of the results obtained.

(c) In carrying out the responsibilities specified in subsection (a)(1), each Inspector and Auditor General shall—

(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

(2) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

(d) In carrying out the duties and responsibilities established under this Act, each Inspector and Auditor General shall give particular regard to the activities of the Comptroller General of the United States with a view toward avoiding duplication and insuring effective coordination and cooperation.

(e) In carrying out the duties and responsibilities established under this Act, each Inspector and Auditor General shall report expeditiously to the Attorney General whenever the Inspector and Auditor General has reasonable grounds to believe there has been a violation of Federal criminal law.

REPORTS

SEC. 5. (a) Each Inspector and Auditor General shall, not later than April 30 and October 31 of each year, prepare semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of such establishment disclosed by such activities during the reporting period;

(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

(5) a summary of each report made to the head of the establishment under section 5(b)(2) during the reporting period; and

(6) a listing of each audit report completed by the Office during the reporting period.

(b) Semiannual reports of each Inspector and Auditor General shall be furnished to the head of the establishment involved not later than April 30 and October 31 of each year and shall be transmitted by such head to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the report, together with a report by the head of the establishment containing any comments such head deems appropriate.

(c) Within sixty days of the transmission of the semiannual reports of each Inspector and Auditor General to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.

(d) Each Inspector and Auditor General shall report immediately to the head of the establishment involved whenever the Inspector and Auditor General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment. The head of the establishment shall transmit any such report to the appropriate committees or subcommittees of Congress within seven calendar days, together with a report by the head of the establishment containing any comments such head deems appropriate.

AUTHORITY; ADMINISTRATION PROVISIONS

SEC. 6. (a) In addition to the authority otherwise provided by this Act, each Inspector and Auditor General, in carrying out the provisions of this Act, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector and Auditor General has responsibilities under this Act;

(2) to make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector and Auditor General, necessary or desirable;

(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(4) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided*, That procedures other than subpenas shall be used by the Inspector and Auditor General to obtain documents and information from Federal agencies;

(5) to have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(7) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code; and

(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

(b)(1) Upon request of an Inspector and Auditor General for information or assistance under subsection (a)(3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector and Auditor General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a)(1) or (a)(3) is, in the judgment of an Inspector and Auditor General, unreasonably refused or not provided, the Inspector and Auditor General shall report the cirmumstances to the head of the establishment involved without delay.

(c) Each head of an establishment shall provide the Office within such establishment with appropriate and adequate office space at central and field office locations of such establishment, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

EMPLOYEE COMPLAINTS

SEC. 7. (a) The Inspector and Auditor General may receive and investigate complaints or information from an employee of the establishment concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

(b) The Inspector and Auditor General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector and Auditor General determines such disclosure is unavoidable during the course of the investigation.

(c) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector and Auditor General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

SPECIAL PROVISIONS FOR THE DEPARTMENT OF DEFENSE

SEC. 8. (a) The head of any office, agency, or organization within the Department of Defense which conducts audits and investigations and are not otherwise transferred to the Office of Inspector and Auditor General of the Department of Defense by this Act shall, upon the request of the Inspector and Auditor General of the Department of Defense, provide any audit or investigative assistance which such Inspector and Auditor General determines to be necessary in order to carry out his responsibilities and to fulfill the purposes of this Act.

(b) The provisions of section 1385 of title 18, United States Code, shall not prohibit audits and investigations conducted by or under the direction of the Inspector and Auditor General of the Department of Defense to carry out the purposes of this Act.

(c) (1) If after review of the semiannual reports of the Inspector and Auditor General of the Department of Defense, the Secretary of Defense determines that—

(A) any such report contains specific information critical to the national security; and

(B) disclosure of such information would jeopardize the national security;

the Secretary of Defense may delete the specific information from the report prior to transmittal of such report to the Congress.

(2) If the Secretary of Defense deletes any information from a report of the Inspector and Auditor General of the Department of Defense under paragraph (1), the Secretary of Defense shall, within seven calendar days of the submission of such report to the Congress, provide the chairman and ranking minority members of the House and Senate Armed Services Committees with a general description of the nature of the information deleted.

TRANSFER OF FUNCTIONS

SEC. 9. (a) There shall be transferred—

(1) to the Office of Inspector and Auditor General—

(A) of the Department of Agriculture, the offices of that department refered to as the "Office of Investigation" and the "Office of Audit";

(B) of the Department of Commerce, the offices of that department referred to as the "Office of Audits" and the "Investigations and Inspections Staff" and that portion of the office referred to as the "Office of Investigations and Security" which has responsibility for investigation of alleged criminal violations and program abuse:

(C) of the Department of Defense, the offices of that department referred to as the "Defense Audit Service", the "Office of Inspector General in the Defense Logistics Agency", and that portion of the office referred to as the "Defense Investigative Service" which has responsibility for investigation of alleged criminal violations and program abuse;

(D) of the Department of Housing and Urban Development, the office of that department referred to as the "Office of Inspector General";

(E) of the Department of the Interior, the office of that department referred to as the "Office of Audit and Investigation";

(F) of the Department of Labor, the office of that department referred to as the Office of Special Investigations";

(G) of the Department of Transportation, the offices of that department referred to as the "Office of Investigations and Security" and the "Office of Audit" of the Department, the "Offices of Investigations and Security, Federal Aviation Administration", and "External Audit Divisions, Federal Aviation Administration", the "Office of Program Review and Investigation, Federal Highway Administration", and the "Office of Program Audit, Urban Mass Transportation Administration";

(H) of the Community Services Administration, the offices of that agency referred to as the "Inspections Division", the "External Audit Division", and the "Internal Audit Division";

(I) of the Environmental Protection Agency, the offices of that agency referred to as the "Office of Audit" and the "Security and Inspection Division";

(J) of the General Services Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations";

(K) of the National Aeronautics and Space Administration, the offices of that agency referred to as the "Management Audit Office" and the "Office of Inspections and Security";

(L) of the Small Business Administration, the office of that agency referred to as the "Office of Audits and Investigations"; and

(M) of the Veterans' Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations"; and

(2) such other offices or agencies, or functions, powers, or duties thereof, as the head of the establishment involved may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act,

except that there shall not be transferred to an Inspector and Auditor General under paragraph (2) program operating responsibilities.

(b) The personnel, assets, liabilities, contracts, property, records, and unexpected balances of appropriations, authorizations, allocations, and other funds employed held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a) are hereby transferred to the applicable Office of Inspector and Auditor General.

(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(d) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in an Office of Inspector and Auditor General to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

CONFORMING AND TECHNICAL AMENDMENTS

SEC. 10. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(122) Inspector General, Department of Health, Education, and Welfare.

"(123) Inspector and Auditor General, Department of Agriculture.

"(124) Inspector and Auditor General, Department of Housing and Urban Development.

"(125) Inspector and Auditor General, Department of Labor.

"(126) Inspector and Auditor General, Department of Transportation.

"(127) Inspector and Auditor General, Veterans' Administration.

"(128) Inspector and Auditor General, Department of Defense.".

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(144) Deputy Inspector General, Department of Health, Education, and Welfare.

"(145) Inspector and Auditor General, Department of Commerce.

"(146) Inspector and Auditor General, Department of the Interior.

"(147) Inspector and Auditor General, Community Services Administration.

"(148) Inspector and Auditor General, Environmental Protection Agency.

"(149) Inspector and Auditor General, General Services Administration.

"(150) Inspector and Auditor General, National Aeronautics and Space Administration.

"(151) Inspector and Auditor General, Small Business Administration.

(c) Section 202(e) of the Act of October 15, 1976 (Public Law 94–505, 42 U.S.C. 3522), is amended by striking out "section 6(a) (1)" and "section 6(a) (2)" and inserting in lieu thereof "section 206(a) (1)" and "section 206(a) (2)", respectively.

DEFINITIONS

SEC. 11. As used in this Act—

(1) the term "audit" means work done (A) to examine financial reports and to review compliance with applicable laws and regulations; (B) to review efficiency and economy of operations; and (C) to review effectiveness in the achievement of program results; and

(2) the term "investigation" means inquiries and examinations made to detect, or in response to allegations of, irregularities or violations of law, including misconduct, malfeasance, misfeasance, nonfeasance, fraud, or criminal activity on the part of any employee, person, or firm directly or indirectly connected with the establishment, or operations financed by the establishment;

(3) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Defense, Housing and Urban Development, the Interior, Labor, or Transportation or the Administrator of Community Services, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs, as the case may be;

(4) the term "establishment" means the Department of Agriculture, Commerce, Defense, Housing and Urban Development, the Interior, Labor, or Transportation or the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, or the Veterans' Administration, as the case may be;

(5) the term "Inspector General" means the Inspector General of an establishment;

(6) the term "Office" means the Office of Inspector and Auditor General of an establishment; and

(7) the term "Federal agency" means an agency as defined in section 552(e) of title 5 (including an establishment as defined in paragraph (2)), United States Code, but shall not be construed to include the General Accounting Office.

EFFECTIVE DATE

SEC. 12. The provisions of this Act and the amendments made by this Act shall take effect October 1, 1978.

Mr. EAGLETON. Mr. President, H.R. 8588, the Inspector General legislation, would establish offices of Inspector General in 12 executive departments and agencies to consolidate existing auditing and investigative resources to more effectively combat fraud, abuse, waste, and mismanagement in the programs and operations of those departments and agencies. Affected are the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration.

By amendment, I plan to include the Department of Defense. Presently, it has a myriad of different audit and investigative units. The amendment would create a task force to study the situation. Additionally, it would require the department to submit the same semiannual reports to Congress as the bill mandates for the other agencies.

The Senate acts today in the shadow of the unfolding scandal at GSA which some have already labeled as the most far-reaching case of fraud and corruption ever uncovered within a Government agency. Plainly, the GSA scandal underscores the need for this legislation and increases the likelihood of swift passage, but the impetus for this legislation long predated the recent revelations concerning GSA. The House voted its overwhelming support for H.R. 8588 on April 18. The Senate Committee on Governmental Affairs voted unanimously to report H.R. 8588 with some modifications on July 27. Moreover, H.R. 8588 builds on the earlier legislation enacted by Congress in 1976 to establish an Office of Inspector General in the Department of Health, Education, and Welfare and in 1977 to establish such an office in the new Department of Energy.

This legislation responds to the findings that fraud, abuse, and just plain waste in Federal programs and operations are reaching epidemic proportions. Undoubtedly the problem is not new; however, increased attention by the press and by Government officials has brought to light increasingly disturbing testimony of the magnitude of these problems.

The following examples are illustrative:

> A study done for the Agriculture Department estimated that 8 percent of the $5.5 billion spent in the food stamp program in fiscal year 1977 was erroneously spent—about $440 million. A 33 percent error rate was revealed in one 3-month study of the program in one State.
>
> As of last July, 344,000 borrowers had defaulted on their federally insured loans. The default rate was 12 percent, involving over half-a-billion dollars in unpaid principal and interest. While some of the failure to pay was undoubtedly due to financial hardship, many cases simply involved people who never intended to pay.
>
> In his first annual report, the Inspector General at HEW estimated that between $6.3 and $7.4 billion of HEW funds were misspent annually as a result of fraud, abuse and waste. This total represents about 5 percent of the $136 billion which HEW expends on federally funded programs each year. The report repeatedly emphasized that this figure was "at a minimum" and "a conservative estimate." In the medical program, the Inspector General estimated that 25 percent of the funds were misused.
>
> Finally, an official at GAO knowledgeable in this area recently estimated that fraud alone ranged from $12 to $15 billion annually and perhaps as high as $25 billion.

There is now unanimous agreement that the Federal Government has failed to make sufficient and effective efforts to prevent and detect fraud, abuse, waste, and mismanagement in our programs and expenditures. H.R. 8588 reflects the belief that the failure is due in large part to certain basic organizational deficiencies in the way executive agencies have approached their audit and investigative responsibilities. For this reason, statutory offices of Inspector General in the agencies covered in this bill should provide significant improvements in the economy, efficiency, and effectiveness of Federal operations and programs, and contribute to substantial savings of taxpayer dollars.

Looking at the present picture, the Committee on Governmental Affairs and its House counterpart found that a lack of audit and investigative resources has crippled the Federal effort to prevent and detect fraud, abuse, and waste in Federal expenditures. Audit and investigative efforts also lack independence. Frequently auditors and investigators find themselves reporting to the very officials whose programs they are supposedly reviewing. Cooperation between the agencies and the Justice Department necessary to deal with fraud and white-collar crime has been lacking.

The Inspector General concept, which can best be described as the consolidation of auditing and investigative responsibilities under a single high-level official reporting directly to the head of the establishment, responds to the major problems which have been identified in current Federal efforts to prevent and detect fraud and waste.

First, H.R. 8588 upgrades the position of audit and investigation in the agencies affected by placing responsibility for these functions in an individual with high visibility in the agency. Each Inspector General will be appointed by the President by and with the advice and consent of the Senate without regard to political affiliation, solely on the basis of integrity and ability in accounting, auditing, financial analysis, law, management analysis, public administration or investigations. Additionally, the Inspector General becomes the single focal point in each major agency for the effort to deal with fraud, abuse, and waste in agency operations and programs. This type of coordination and leadership inevitably strengthen the linkage between auditing and investigation and cooperation between the agency and the Department of Justice. H.R. 8588 can also lead to great improvements in auditing in the Federal agencies by imposing, for the first time, a statutory requirement that the agencies and their Inspectors General follow standards for auditing promulgated by the General Accounting Office.

Second, the Inspectors General will have a broad mandate. The responsibilities imposed by H.R. 8588 include:

First. Providing policy direction for the auditing and investigating activities of the agency;

Second. Reviewing existing and proposed legislation and regulations relating to programs and operations of the agency and making recommendations to the head of the agency and to Congress concerning the enforceability of such legislation and regulations;

Third. Supervising other activities for the purpose of promoting economy, efficiency and effectiveness in the administration of such programs, or preventing or detecting fraud and abuse in such programs;

Fourth. Coordinating relationships between the agency and other Federal agencies, State and local governmental agencies, and nongovernmental entities; and

Fifth. Keeping the head of the agency and Congress fully and currently informed concerning fraud and other serious problems in the operation of programs.

Third, and most important, the Inspectors General established by H.R. 8588 have the requisite independence to carry out their broad mandates effectively. Each Inspector General reports to, and is under the general supervision of the agency head. However, H.R. 8588 explicitly provides that even the head of the agency may not prohibit, prevent, or limit the Inspector General from undertaking and completing any audit and investigation which the Inspector General deems necessary, or from issuing any subpenas deemed necessary in the course of such audits and investigations. An Inspector General may be removed by the President, but the President must also communicate his reasons for doing so to the Congress. The Inspector General has a special reporting relationship to the Congress. Semiannual reports required from the Inspector General must be transmitted by the agency head without deletion or alteration, and the Inspector General is given the authority to have access to all records, reports, documents, or materials available to the agency relating to programs over which the Inspector General has responsibility, to make all investigations and reports relating to programs that he judges necessary, and to require by subpena the production of information, documents, and reports necessary in the performance of the functions of this act.

This independence is fundamental. There is a natural tendency for an agency administrator to be protective of the program that he or she administers. In some cases, frank recognition of waste, mismanagement, or wrongdoing reflects on the manager personally. Even if the manager is not implicated, revelations of wrongdoing, or waste may reflect adversely on the programs by undercutting public and congressional support. Under these circumstances, it is a fact of life that agency managers and supervisors in the executive branch do not always identify, or come forward with evidence of, failings in the programs they administer. For that reason, the responsibility for auditing and investigating must be assigned to individuals with clear independence whose responsibilities run directly to the agency head and ultimately to Congress. H.R. 8588 accomplishes this.

The potential that improvement will result from this legislation is not simply theoretical. From 1962 to 1974 the Office of Inspector General at the Department of Agriculture, created administratively, resulted in substantial improvements in audit and investigating in that Department. In response to scandals in Federal housing programs in the late 1960's, the Department of Housing and Urban Development also established an Office of Inspector General and committed substantial resources to the task of audit and investigation. Since that time, HUD has been credited generally with impressive progress in bringing fraud under control. The case of HEW, where Congress created the first statutory Inspector General, is also instructive. The Inspector General there has impressed many Members of Congress with his grasp of the problems in the Department, the progress that has been made, and the candor and independence which his performance has reflected.

Mr. President, I have several amendments to offer to the bill, which have been cleared on both sides of the aisle, but merit some description. Perhaps the most substantial of these amendments deals with the effect of this legislation on the Department of Defense. H.R. 8588, as passed by the House, did not include any reference to DOD. My Subcommittee on Governmental Efficiency recommended, and the full Committee on Governmental Affairs agreed, that the Defense Department would benefit from the kind of Inspector General contemplated by H.R. 8588. The committee recommended that a new Inspector General be established to consolidate existing audit and investigation functions on the civilian side of DOD. Because of the traditional autonomy of the services and the very real need of the service secretaries to have audit resources at their disposal, the committee's proposal did not embrace the audit, investigative, and inspection units of the services except to require those units to furnish assistance to the new Inspector General when such aid was requested.

The committee based its recommendation on the fact that there have been numerous reports of fraud and waste in Defense Department operations and that the failure to detect fraud and waste adequately could be traced to some of the same organizational defects plaguing the audit and investigative efforts of other major agencies. However, the Defense Department has argued that its unique mission and needs could not be accommodated by the statutory framework of H.R. 8588 and has proposed that before passing legislation altering the structure of the Department, the Congress should have the benefit of a careful, indepth study of the audit, inspection, and investigation activities of the Department. DOD has also argued that they commit substantial resources to the task of audit, investigation, and inspection, and contended that the Department could provide Congress and the public with the same type of candid, comprehensive reports on the activities of these units as the new inspectors general could.

I believe that the committee's proposal would have improved the audit and investigative efforts in the Department of Defense. However, because the proposal dealt only with the civilian side of DOD, it clearly represented only a partial solution. Given the size of the Pentagon and the complexity of its audit, investigative, and inspection operations, I believe that further careful study of the subject could be useful. As a practical matter I also recognize that the committee's proposal was controversial, and I regard the passage of this legislation and the creation of inspectors general for the 12 other agencies before the end of this Congress to be of paramount importance.

Therefore, through discussions with the Defense Department and the Armed Services Committee, a two-part agreement has been reached. Under this agreement, which would take its place as a new section 8 in H.R. 8588, the existing structure of the Defense Department remains intact. The new section 8 requires the Defense Department to make semiannual reports comparable to those which the other agencies covered must make under section 5 of H.R. 8588.

The reports would summarize the activities of the audit, investigative and inspection units of the Defense Department for the 6-month periods ending March 31 and September 30. The reports would be submitted within 60 days of the close of the reporting period and would include, but not be limited to: First, a description of significant instances or patterns of fraud, waste, or abuse disclosed by the audit, investigative, and inspection activities during the reporting period, and a description of recommendations for corrective action made with respect to such instances or patterns; second, a summary of matters referred for prosecution and of the results of such prosecutions; and third, a statistical summary by categories of subject matter of audit and inspection reports completed during the reporting period.

Within 60 days after the reports are transmitted, the Secretary of Defense would make copies of the reports available to the public upon request at a reasonable cost. However, if the Secretary concluded that compliance with the reporting or publication requirements would require inclusion of material that might constitute a threat to national security or disclose an intelligence function or activity, the Secretary could exclude the material from the report. If material was excluded in this way, the Secretary would have to provide the chairmen and ranking minority members of the appropriate committees with a general description of the nature of the material excluded.

The Secretary could delegate the responsibilities under this subsection. However, the delegation must be to an official within the Office of Secretary of Defense who is a presidential appointee confirmed by the Senate. In preparing those reports, any designee of the Secretary would have the same access to information held by the audit, investigative, and inspection components as the Secretary would.

The reports would continue through 1982, with the last report covering the 6-month period ending on September 30, 1982. However, the legislation requires the Secretary of Defense, not later than March 31, 1981, to submit proposed legislation establishing reporting procedures to effectuate the purpose of the act after 1982. By combining the "sunsetting" of the reporting requirement with the submission of proposed legislation by the Secretary, Congress insures that the reports will not continue ad infinitum without any assessment of their usefulness. This provision maximizes the chances that the reporting mechanism will be refined or revamped or harmonized as necessary with any future reorganization.

Representatives of the Defense Department have suggested this reporting arrangement, and I believe that the reporting requirement will serve the interests of both Congress and the Department of Defense. If the reports do provide information comparable to that provided by statutory inspectors general, they will undoubtedly be a valuable asset to Congress' oversight of the Defense Department. If the reports do not compare favorably to those furnished by the new Inspectors General or if the reports indicate that the audit and investigative units have failed to discover serious instances of fraud or waste which come to light through the work of GAO, the media, or oversight by Congress, these failures would strengthen the case for revamping audit, investigative, and inspection activities at the Defense Department.

At the same time, in a huge operation like the Pentagon, the flow of information from the line auditors, investigators, and inspectors to the service Secretaries and the Secretary of Defense can easily become erratic. Significant discoveries by an auditor or inspector may never come to the people with responsibility for running the Department and the services. The discipline imposed by a reporting requirement to Congress should help to upgrade this flow of information. Because of their accountability to Congress, the Secretary or the Secretary's designee will have a strong interest in insuring the information flow in the Department concerning findings of audit, investigation, and inspection is timely and complete.

Two features of this reporting requirement reflect the unique situation of the Defense Department. First, as in the version of H.R. 8588 reported by the committee, because the semiannual reports will become public, the Secretary retains the power to make certain deletions in the interest of national security. While the committee anticipates that the bulk of a report on the subjects of fraud and waste would not concern national security or classified matters, it is conceivable that some of the issues touched on in a presentation of the major activities concerning fraud and waste of the audit and inspection units of the Defense Department could involve sensitive security matters. For this reason, the Secretary has the authority to delete such information, with the responsibility of providing the chairmen and ranking minority members of the relevant committees with a general description of the nature of the matters deleted.

Additionally, although the reporting requirement imposed on the other agencies calls for a listing of each audit report completed by the Inspector General during the reporting period, given the thousands of reports produced each year by the audit and inspection units of the Department of Defense, we have required only a statistical summary by general categories of subject matter of the audit and inspection reports from DOD. A large percentage of the reports generated by the Defense Department are routine audit reports that would not be of significant interest to the Congress. It is expected that the interest of the committees receiving the reports will focus on those pertaining to fraud, waste, and abuse and those reports will be summarized in a manner similar to that in the departments and agencies that will have new inspectors general. As in the case of those departments and agencies, the Defense Department semiannual reports should be structured so as not to prejudice ongoing investigations or to infringe upon the rights of individuals.

As the second part of the agreement, the Secretary of Defense will establish a task force to study the operation of the audit, investigative, and inspection components in the Department of Defense which engage in the prevention and detection of fraud, waste, and abuse. The Secretary will appoint the members of that task force, including a director who is not an employee of the Department of Defense. The members of the task force and their staffs will have access to all information relevant to the study held by the audit, investigative, and inspection components, including reports prepared by those components, provided that, first, information or reports may be withheld if a component head determines that disclosure would compromise an active investigation of wrongdoing; second, the Inspectors General of the military departments may delete the names of individuals in a report if the Inspector General determines that inclusion of the names would affect the ability of the Inspector General to obtain information in future investigations and inspections; and third, classified information may be withheld unless the members and staff of the task force who have access to it have the appropriate clearances.

The task force is charged with preparing a comprehensive report that would include but not be limited to a description of the functions of the audit, investigative, and inspection components of the Department of Defense; and evaluation of whether these components are sufficiently independent to carry out their responsibilities; the relationship between these components and the Criminal Division of the Department of Justice; and recommendations for change in the organization or functions of these components that may be necessary to improve their effectiveness.

The task force will submit its final report to the Secretary of Defense and the Director of the Office of Management and Budget. The Secretary and Director may provide in the form of addenda any additional information they deem necessary. The Secretary will submit the report and addenda to Congress no later than April 1, 1980.

In reaching this agreement, I was concerned that the Congress would receive the report in time to take legislative action in 1980 if such action were called for. At the same time, because the issues to be studied are complex, we wanted to insure that the task force would have ample opportunity to do a full and complete study. While the April 1 date is somewhat later than I would have liked, the Defense Department has agreed to supply copies of the final report to the relevant committees of Congress at the same time that the report is submitted to the Secretary of Defense and the Director of OMB. The sole purpose of this preliminary submission would be to assist the committees in determining what legislative action might be necessary and the task force report would not, therefore, be made public until the Secretary and the Director have formally submitted the report and the addenda.

The section outlining the study also provides that matters concerning intelligence or counterintelligence activities of the Department of Defense that are within the province of the Inspector General for Defense Intelligence shall be excluded from the study of the task force. The Inspector General has departmentwide jurisdiction. For the most part, intligence and counter-intelligence activities are covered by Executive Order 12065 which mandates strong centralized inspection functions and these activities bear no relationship to the issues of fraud, abuse, and waste with which this legislation is concerned.

In sum, the semiannual reports and the task force study should provide compelling evidence of whether structural reform of DOD's audit, investigative, and inspecting units is necessary. In the interim, they should also contribute to improved congressional oversight and Defense Department operations.

H.R. 8588, as reported by the committee, made a number of substantial changes from the House-passed version of the bill. While the committee obviously believed that the changes adopted were desirable, in the interest of expediting consideration of this legislation, I am prepared to offer four amendments which would either eliminate provisions added by the committee to the House version or restore provisions deleted by the committee from the House version of H.R. 8588. In doing so, it is my hope and expectation that Representative BROOKS, chairman of the House Government Operations Committee, and Representative FOUNTAIN, chairman of the subcommittee which handled the legislation, will seek to accept the legislation as passed by the Senate, obviating the need for a conference.

The first amendment pertains to the title of the offices created. The House version of H.R. 8588 creates offices of "Inspector General." However, Comptroller Staats has strongly urged that the name of the office be changed to "Inspector and Auditor General" for the purpose of underscoring that sound internal auditing is essential to the functioning of the new offices. The committee version of the legislation followed the Comptroller General's suggestion.

This amendment would conform the title of the bill and the offices to the House approach. "Inspector General" is the title which has been used in administratively created units in HUD and Agriculture and in our statutorily created units in HEW and the Department of Energy. It has an established, well-understood meaning. Indeed, in practice, the Inspector General title is actually neutral with respect to the audit and investigative functions. It conveys rather a multiplicity of functions, including audit, investigation, inspection, review of legislation, and the formulation and coordination of all policies to promote efficiency and economy in Government and prevent and detect fraud, abuse, and waste. The change of name signals no reduction in my determination and the committee's that the audit function play an essential role in the work of the new Inspectors General. One hundred investigators operating on their own can accomplish comparatively little when dealing with multibillion dollar programs. One hundred investigators operating in connection with several hundred auditors can become a vital force to combat fraud, abuse, and waste in agency operations and programs, and to promote economy and efficiency generally.

The second amendment restores a provision which the committee deleted from the House version of H.R. 8588. The House-passed bill provided that each Office of Inspector General would have an Assistant Inspector General for Audit and a Assistant Inspector General for Investigation. The committee believed that while most Inspectors General would organize their offices with separate assistants in charge of audit and investigation, such a requirement should not be statutorily mandated. Both the House and Senate committees, however, agreed that the offices would operate more effectively if the separation between audit and investigation was statutorily delineated and I have no reluctance to adopt the House approach.

The third amendment concerns a deletion of language spelling out in detail what the Inspector General should be looking for in conducting his audit function. However, in section 4(c)(1) the committee has also added the important requirement that each Inspector General "comply with standards established by Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions." The detailed language concerning audit was taken largely from the audit standards of the Comptroller General. Consequently, the general requirement of section 4(c)(1) suffices to spell out the details of the Inspector General's audit responsibilities.

The fourth amendment deletes definitions of "audit" and "investigation" found in section 11 of the bill. Because of the reference to the Comptroller General's audit standards, it seems unnecessary to also define "audit." "Investigation" is a term with a generally well-understood meaning.

As noted above, I am hopeful that if

the Senate accepts these four amendments the House sponsors will urge the House to accept the other changes made in H.R. 8588 by the committee. These include:

First. A provision stating that "neither the head of the establishment nor the officer next in rank shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation" (section 3(a)). This requirement was implicit in the House bill but it assumed central importance to the function of the Inspector General and, therefore, the committee chose to make it explicit.

Second. A requirement that the President communicate the reasons for removing any Inspector General to both Houses of Congress (section 3(b)). This requirement appears in the legislation establishing the Offices of Inspector General for HEW and the Department of Energy.

Third. An explicit requirement that among the duties and responsibilities of the Inspector General is included the review of existing and proposed legislation and regulations relating to programs and operations of the agency, and the making of recommendations to the agency head and the Congress in semiannual reports concerning the impact of such legislation or regulations on economy and efficiency or the prevention and detection of fraud and abuse (section 4(a)(2)). This change also makes explicit responsibility that could have been construed from the Inspector General's broad mandate, but is important enough to deserve specific mention.

Fourth. The requirement noted above that each Inspector General comply with standards established by the Comptroller General for audits (section 4(c)(1)). Such a requirement spells out for the first time Congress belief that the Comptroller General's standards should be mandatory as opposed to simply advisory. This requirement should strengthen internal auditing by holding it to detailed, explicit standards, and making it more uniform from agency to agency.

As is now the case, such standards shall be developed in close cooperation with the Office of Management and Budget, and operating departments and agencies, and shall be implemented through executive branch directives.

Fifth. A requirement that an Inspector General must report immediately to the agency head involved when the Inspector General becomes aware of particularly serious flagrant problems or abuses and that the head of the agency shall transmit any such reports to the appropriate committee of Congress within 7 calendar days (section 5(d)).

Sixth. Deletion of the Privacy Act exemption for the Inspectors General. The House-passed legislation provided that to the extent the Inspector General could not obtain information under the other exemptions of the Privacy Act, such information would be available to the Inspector General "in the same manner and to the same extent it would be available to the Comptroller General" who has a special exemption from the Privacy Act. The committee concluded that the Inspectors General would not be hampered in their functions by the requirement that they follow the procedures of the Privacy Act.

Seventh. Deletion of the requirement for Presidentially appointed deputies in the five largest departments. The committee concluded that two Presidential appointees in an Inspector General's office was unnecessary. The statutory language and legislative history make it clear that the Inspector General will choose his own deputy.

Eighth. A new provision concerning employee complaints, making it clear that Inspectors General may receive and investigate employee complaints, that the Inspector General shall not, after receipt of a complaint, expose the identity of the employee unless the Inspector General determines that such disclosure is unavoidable, and that reprisals against employees for disclosing information to the Inspector General shall be prohibited unless the information was disclosed with knowledge that it was false or with willful regard of its truth or falsity.

Mr. President, H.R. 8588 is primarily a House initiative. Representatives FOUNTAIN and BROOKS and their staffs deserve great credit for their careful and painstaking work on this legislation. They can derive particular pleasure from the Senate's action today and the certainty that the President will sign H.R. 8588 into law in the next few weeks.

H.R. 8588 is no miracle cure to the problems of fraud, abuse, and waste in Federal programs and operations. A government as huge as ours will never be susceptible to perfect administration. Moreover, we cannot through legislation readily dispel the morally bankrupt notion that stealing from the Government is somehow "less bad" than stealing from an individual. But the public is entitled to know that the billions of dollars which go to fund Federal programs are administered vigilantly. H.R. 8588 can help to provide that assurance.

UP AMENDMENT NO. 1900

Mr. EAGLETON. Mr. President, I have a series of amendments to the bill. I send them to the desk, and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes a series of amendments, unprinted amendment numbered 1900.

Mr. EAGLETON. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with, and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 19, lines 11 and 12, strike out "the Department of Defense,".

On page 32, beginning with line 4, strike out through line 13 on page 33, and insert the following:

SEC. 8. (a)(1) The Secretary of Defense shall submit to the Congress semi-annual reports during the period ending October 1, 1982, summarizing the activities of the audit, investigative and inspection units of the Department of Defense. Such reports shall be submitted within sixty days of the close of the reporting periods ending March 31 and September 30 and shall include, but not be limited to—

(A) a description of significant instances or patterns of fraud, waste, or abuse disclosed by the audit, investigative, and inspection activities during the reporting period and a description of recommendations for corrective action made with respect to such instances or patterns;

(B) a summary of matters referred for prosecution and of the results of such prosecutions; and

(C) a statistical summary, by categories of subject matter, of audit and inspection reports completed during the reporting period.

(2) Within sixty days of the transmission of the semi-annual reports, the Secretary shall make copies of such reports available to the public upon request and at a reasonable cost.

(3) If the Secretary concludes that compliance with the reporting requirements in paragraphs (1) and (2) of this subsection would require inclusion of material that may constitute a threat to the national security or disclose an intelligence function or activity, the Secretary may exclude such material from the report. If material is excluded from a report under this subsection, the Secretary shall provide the chairmen and ranking minority members of the appropriate committees or subcommittees with a general description of the nature of the material excluded.

(4) The Secretary may delegate his responsibilities under paragraphs (1) through (3), provided that the delegation be to an official within the Office of the Secretary of Defense who is a Presidential appointee confirmed by the Senate. In preparing the reports, the designee of the Secretary shall have the same access to information held by the audit, investigative or inspection units as the Secretary would.

(5) In order to effectuate the purposes of this Act with respect to the Department of Defense, the Secretary of Defense shall submit, not later than March 31, 1981, proposed legislation to establish appropriate reporting procedures, for the period after October 1, 1982, concerning the audit, investigative and inspection activities of the Department of Defense.

(b)(1) The Secretary of Defense shall establish a task force to study the operation of the audit, investigative, and inspection components in the Department of Defense which engage in the prevention and detection of fraud, waste, and abuse. The Secretary shall appoint the Director and other members of the task force, provided that the Director shall be a person who is not an employee of the Department of Defense. The Director shall have the authority to hire such additional staff as is necessary to complete the study.

(2) The Director and members of the task force and, upon the request of a member or the Director, the staff of the task force shall have access to all information relevant to the study and held by the audit, investigative, and inspection components in the Department of Defense including reports prepared by such components, provided that—

(A) such information or reports may be withheld if a component head determines that disclosure would compromise an active investigation of wrong-doing; .

(B) the Inspectors General of the Military Departments may delete the names of individuals in a report prepared by them if the Inspector General determines that the inclusion of the names would affect the ability of the Inspector General to obtain information in future investigations and inspections; and

(C) no classified information shall be released to the task force unless the members and staff who will have access to the classified information have the appropriate clearances.

Upon the request of the Director, the Secretary of Defense and the Secretaries of the Military Departments shall assure that the task force has access to information as provided in this subsection.

(3) The task force shall prepare a comprehensive report that shall include, but not be limited to—

(A) a description of the functions of the audit, investigative and inspection components in the Department of Defense and the extent to which such components cooperate in their efforts to detect and prevent fraud, waste and abuse;

(B) an evaluation of whether such components are sufficiently independent to carry out their responsibilities;

(C) the relationship between such components and the Criminal Division of the Department of Justice; and

(D) recommendations for change in organization or functions that may be necessary to improve the effectiveness of such components.

(4) The task force shall submit its final report to the Secretary of Defense and the Director of the Office of Management and Budget. The Secretary and the Director of the Office of Management and Budget may, in the form of addenda to the report, provide any additional information that they deem necessary. The Secretary shall submit the report and the addenda to the Congress not later than April 1, 1980. The task force shall be disestablished sixty days following such submission.

(5) Any matter concerning the intelligence or counter-intelligence activities of the Department of Defense and assigned by regulation to the Inspector General for Defense Intelligence shall be excluded from the study to the task force.

On page 34, strike out lines 3 through 9.

On page 34, line 10, strike out "(D)" and insert "(C)".

On page 34, line 13, strike out "(E)" and insert "(D)".

On page 34, line 16, strike out "(F)" and insert "(E)".

On page 34, line 19, strike out "(G)" and insert "(F)".

On page 35, line 5, strike out "(H)" and insert "(G)".

On page 35, line 9, strike out "(I)" and insert "(H)".

On page 35, line 13, strike out "(J)" and insert "(I)".

On page 35, line 16, strike out "(K)" and insert "(J)".

On page 35, line 20, strike out "(L)" and insert "(K)".

On page 35, line 23, strike out "(M)" and insert "(L)".

On page 37, immediately after the period in line 23, insert closing quotation marks and an end period.

On page 37, strike out lines 24 and 25.

On page 39, line 16, strike out "Defense,".

On page 39, line 23, strike out "Defense,".

On pages 40 and 41, strike out the amendment to the title.

On page 22, beginning with line 25, strike out through line 8 on page 25.

On page 25, line 9, strike out "(C)" and insert "(b)".

On page 25, line 21, strike out "(d)" and insert "(c)".

On page 26, line 3, strike out "(e)" and insert "(d)".

On page 19, line 4, strike out "and Auditor".

On page 20, line 6, strike out "and Auditor".

On page 20, line 9, strike out "and Auditor".

On page 20, line 14, strike out "and Auditor".

On page 20, line 21, strike out "and Auditor".

On page 20, line 25, strike out "and Auditor".

On page 21, line 4, strike out "and Auditor".

On page 21, line 10, strike out "and Auditor".

On page 23, line 1, strike out "and Auditor".

On page 25, line 10, strike out "and Auditor".

On page 25, line 22, strike out "and Auditor".

On page 26, line 4, strike out "and Auditor".

On page 26, line 6, strike out "and Auditor".

On page 26, line 9, strike out "and Auditor".

On page 27, line 11, strike out "and Auditor".

On page 27, line 20, strike out "and Auditor".

On page 27, line 24, strike out "and Auditor".

On page 28, line 1, strike out "and Auditor".

On page 28, line 11, strike out "and Auditor".

On page 28, line 27, strike out "and Auditor".

On page 28, line 22, strike out "and Auditor".

On page 29, line 11, strike out "and Auditor".

On page 30, line 10, strike out "and Auditor".

On page 30, lines 15 and 16, strike out "and Auditor".

On page 30, line 20, strike out "and Auditor".

On page 30, line 21, strike out "and Auditor".

On page 31, line 8, strike out "and Auditor".

On page 31, line 15, strike out "and Auditor".

On page 31, line 18, strike out "and Auditor".

On page 31, beginning with the word "and" in line 25, strike out through the word "Auditor" in line 1 on page 32.

On page 32, line 8, strike out "and Auditor".

On page 32, line 10, strike out "and Auditor".

On page 32, line 12, strike out "and Auditor".

On page 32, lines 17 and 18, strike out "and Auditor".

On page 32, line 21, strike out "and Auditor".

On page 33, line 7, strike out "and Auditor".

On page 33, line 16, strike out "and Auditor".

On page 36, lines 7 and 8, strike out "and Auditor".

On page 36, line 16, strike out "and Auditor".

On page 37, line 3, strike out "and Auditor".

On page 37, line 14, strike out "and Auditor".

On page 37, line 16, strike out "and Auditor".

On page 37, line 18, strike out "and Auditor".

On page 37, line 20, strike out "and Auditor".

On page 37, line 22, strike out "and Auditor".

On page 37, line 24, strike out "and Auditor".

On page 38, line 6, strike out "and Auditor".

On page 38, line 8, strike out "and Auditor".

On page 38, line 10, strike out "and Auditor".

On page 38, line 12, strike out "and Auditor".

On page 38, line 14, strike out "and Auditor".

On page 38, line 16, strike out "and Auditor".

On page 38, line 18, strike out "and Auditor".

On page 40, line 9, strike out "and Auditor".

On page 21, between lines 7 and 8, insert the following:

(d) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the establishment, and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

On page 39, strike out lines 3 through 14.

On page 39, line 15, strike out "(3)" and insert "(1)".

On page 39, line 22, strike out "(4)" and insert "(2)".

On page 40, line 6, strike out "(5)" and insert "(3)".

On page 40, line 8, strike out "(6)" and insert "(4)".

On page 40, line 10, strike out "(7)" and insert "(5)".

On page 21, line 18–19, strike the words "to the head of the establishment and to the Congress" and insert in lieu thereof "in the semi-annual reports required by section 5(a)".

On page 27, line 7, strike out "section 5 (b)(2)" and insert "section 6(b)(2)".

On page 35, strike out "Office of Program Review and Investigations, Federal Highway Administration," on lines 1 through 3, and insert in lieu thereof "Investigations Division and the External Audit Division of the Office of Program Review and Investigation, Federal Highway Administration."

On page 35, line 3, strike out "Office of Program Audit," and insert in lieu thereof "Office of Program Audits,"

The **PRESIDING OFFICER.** Without objection, the amendments are agreed to en bloc.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment.

The **PRESIDING OFFICER.** Without objection, the committee amendment is agreed to.

The question is on the engrossment of the amendments and the third reading of the bill.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I thank the distinguished majority leader and the distinguished Senator from Utah.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Missouri.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following measures: Calendar Nos. 1126, 1127, 1128, and 1130.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

The resolution (S. Res. 561) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2, the Program Reauthorization and Evaluation Act of 1978. Such waiver is necessary because the bill authorizes the enactment of appropriations in fiscal year 1979 and the Committee on Rules and Administration did not report S. 2 until July 13 (legislative day, May 17), 1978. The Committee on Governmental Affairs reported S. 2 on July 1, 1977.

The Congressional Budget Office estimates that the cost of implementing the provisions of S. 2 which go into effect in fiscal year 1979 would be approximately $1,000,000, an amount so small that its consideration will not significantly affect the Federal budget. Because the requirements of S. 2 effective in fiscal year 1979 which were reported by the Committee on Rules and Administration are nearly identical to the provisions of S. 2 as reported by the Committee on Governmental Affairs the authorization for this activity clearly could have been contemplated to be part of the national budget to the extent that it has any significant fiscal impact.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOHN T. KNIGHT

The bill (H.R. 9071) to confer jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of John T. Knight, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LAWRENCE YOUNGMAN

The Senate proceeded to consider the bill (S. 2079) for the relief of Lawrence Youngman, which was reported from the Committee on the Judiciary with an amendment on page 2, line 12, as follows:

SEC. 3. Of the amount appropriated by this Act, $33,600 shall not be subject to Federal or State taxation. This amount reflects the current value of the land exclusive of rents and interest.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of money in the Treasury not otherwise appropriated, the sum of $47,250 to Lawrence Youngman, of Fort Peck Indian Reservation, Montana, that amount representing the present fair market value, and rents and interests since 1930, on three hundred and twenty acres of upland grazing land and forty acres of river bottom land on the Fork Peck Indian Reservation, Montana, which were not allotted to him under the allotment schedule of 1929 authorized by the Act of August 1, 1914 (38 Stat. 593), because of an erroneous administrative report stating that he had died as an infant. That payment is in full settlement of all claims against the United States for compensation for the loss of the allotment which occurred on January 13, 1930.

SEC. 2. No part of the amount appropriated by this Act in excess of 10 per centum thereof shall be paid, delivered to, or received by an agent or attorney on account of services rendered, in connection with this claim. Any person violating the provisions of this Act is guilty of a misdemeanor and may be fined in a sum not to exceed $1,000.

SEC. 3. Of the amount appropriated by this Act, $33,600 shall not be subject to Federal or State taxation. This amount reflects the current value of the land exclusive of rents and interest.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 551) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2995, was considered and agreed to, as follows:

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2995. Such waiver is necessary because the bill authorizes $60,000,000 for fiscal year 1979 and was reported after May 15, 1978. In addition, construction funds for an intercity bus terminal at Union Station are not available from any other source, to coincide with construction schedules that begin on January 1, 1979, on the visitor center and rail facility. The amendment to S. 2995, which in turn amends the Amtrak Improvement Act of 1974, provides for a $30,000,000 authorization in fiscal year 1979 for a model, intermodal demonstration facility, first contemplated 4 years ago when the Congress authorized the Secretary of Transportation to design, plan, and coordinate the construction of a model, intermodal transportation facility at Union Station.

When construction begins next year on the renovation of the main building, the transfer of rail facilities into the concourse, where bus ticketing and baggage facilities are to be found, and on the ramp and parking garage to the north of the main building, it is essential that work proceed simultaneously on the bus terminal facilities.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION—CONVENTION ON THE PROHIBITION OF MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES—REMOVAL OF INJUNCTION

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, signed at Geneva on May 18, 1977 (Executive K, 95th Congress, second session), transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time, that it be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message from the President is as follows:

To the Senate of the United States:

I am transmitting herewith, for the advice and consent of the Senate to ratification, the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, signed at Geneva on May 18, 1977.

The Convention is the result of extensive study, debate, and negotiation at the Conference of the Committee on Disarmament at Geneva and at the United Nations. It seeks to avert the dangers resulting from the hostile use of environmental modification techniques "having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party."

In 1973, growing awareness of the need for protecting our environment led to the adoption of Senate Resolution 71 which urged the Executive Branch to negotiate a treaty prohibiting environmental warfare. The United States and the Soviet Union, after three rounds of bilateral consultations, tabled identical draft texts of a multilateral convention at the Conference of the Committee on Disarmament in 1975. Negotiations on the basis of these text resulted in the document I am transmitting to you today.

I am also sending with the Convention four Understandings relating to Articles I, II, III and VII, respectively. These Understandings are not incorporated into the Convention. They are part of the negotiating record and were included in the report transmitted by the Conference or the Committee on Disarmament to the United Nations. The provisions of the Convention and the Understandings are described in detail in the accompanying report of the Department of State.

By prohibiting the hostile use of potentially disastrous environmental modification techniques, the Convention represents one more advance in the field of arms control to which my Administration is firmly committed. I recommend that the Senate give prompt consideration to the Convention, and advise and consent to its ratification.

JIMMY CARTER.

THE WHITE HOUSE, *September 22, 1978.*

E. C. "TOOK" GATHINGS BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 8812 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8812) to name a certain Federal building in Jonesburg, Arkansas, the "E. C. 'Took' Gathings Building."

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNIFORMED SERVICES SURVIVORS' BENEFITS AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3702.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3702) entitled "An Act to amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes", with the following amendment: In lieu of the matter proposed to be inserted by the amendment of the Senate, insert:

That this Act may be cited as the "Uniformed Services Survivors' Benefits Amendments of 1978".

TITLE I—ANNUITIES UNDER RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN

SEC. 101. (a) Section 1434 of title 10, United States Code, is amended—

(1) by striking out "or remarries" in subsection (a)(1) and inserting in lieu thereof "or, if the spouse remarries before age 60, when the spouse remarries";

(2) by striking out "or remarriage of that spouse" in subsection (a)(3) and inserting in lieu thereof "of that spouse or the remarriage of that spouse before age 60"; and

(3) by adding at the end thereof the following new subsection:

"(e) Whenever there is an increase in retired and retainer pay under section 1401a of this title, each annuity that is payable under this subchapter on the day before the effective date of that increase to a spouse or child of a member who died on or before March 20, 1974, shall be increased by the same percentage as the percentage of that increase, effective on the effective date of that increase.".

(b) No benefits shall accrue to any person by virtue of the amendments made by subsection (a) for any period prior to the first day of the first calendar month following the month in which this Act is enacted or October 1, 1978, whichever is later.

SEC. 102. Each annuity that is payable under subchapter I of chapter 73 of title 10, United States Code, on the day before the date of the enactment of this Act to a spouse or child of a member of the uniformed services who died on or before March 20, 1974, shall be increased effective as the first day of the first calendar month following the month in which this Act is enacted, or as of October 1, 1978, whichever is later, by the percentage increase in retired and retained pay under section 1401a of that title since September 21, 1972.

TITLE II—ANNUITIES UNDER SURVIVOR BENEFIT PLAN

DEFINITION OF BASE AMOUNT

SEC. 201. Section 1447(2) of title 10, United States Code, is amended to read as follows:

"(2) 'Base amount' means—

"(A) in the case of a person who dies after becoming entitled to retired or retainer pay, the amount of monthly retired or retainer pay to which the person—

"(i) was entitled when he became eligible for that pay; or

"(ii) later became entitled by being advanced on the retired list, performing active duty, or being transferred from the temporary disability retired list to the permanent disability retired list;

"(B) in the case of a person who would have become eligible for retired pay under chapter 67 of this title but for the fact that he died before becoming 60 years of age, the amount of monthly retired pay for which the person would have been eligible—

"(i) if he had been 60 years of age on the date of his death, for purposes of an annuity to become effective on the day after his death in accordance with a designation made under section 1448(e) of this title; or

"(ii) upon becoming 60 years of age (if he had lived to that age), for purposes of an annuity to become effective on the 60th anniversary of his birth in accordance with a designation made under section 1448(e) of this title; or

"(C) any amount which is less than the amount otherwise applicable under clause (A) or (B) with respect to an annuity provided under the Plan and which is designated by the person providing the annuity on or before (i) the first day for which he becomes eligible for retired or retainer pay, in the case of a person providing an annuity by virtue of eligibility under section 1448(a)(1)(A) of this title, or (ii) the end of the 90-day period beginning on the date on which he receives the notification required by section 1331(d) of this title that he has completed the years of service required for eligibility for retired pay under chapter 67 of this title, in the case of a person providing an annuity by virtue of eligibility under section 1448(a)(1)(B) of this title, but not less than $300;

as increased from time to time under section 1401a of this title.".

APPLICATION OF SURVIVOR BENEFIT PLAN

SEC. 202. (a) Subsection (a) of section 1448 of title 10, United States Code, is amended to read as follows:

"(a)(1) The program established by this subchapter shall be known as the Survivor Benefit Plan. The following persons are eligible to participate in the Plan:

(A) Persons entitled to retired or retainer pay.

(B) Persons who would be eligible for retired pay under chapter 67 of this title but for the fact that they are under 60 years of age.

(2) The Plan applies—

"(A) to a person who is eligible to participate in the Plan under paragraph (1)(A) and who is married or has a dependent child when he becomes entitled to retired or retainer pay, unless he elects not to participate in the Plan before the first day for which he is eligible for that pay; and

"(B) to a person who (i) is eligible to participate in the Plan under paragraph (1)(B), (ii) is married or has a dependent child when he is notified under section 1331(d) of this title that he has completed the years of service required for eligibility for retired pay under chapter 67 of this title, and (iii) elects to participate in the Plan (and makes a designation under subsection (e)) before the end of the 90-day period beginning on the date he receives such notification.

A person described in subclauses (i) and (ii) of clause (B) who does not elect to participate in the Plan before the end of the 90-day period referred to in such clause shall remain eligible, upon reaching 60 years of age and otherwise becoming entitled to retired pay, to participate in the Plan in accordance with eligibility under paragraph (1)(A).

"(3(A) If a person who is eligible under paragraph (1)(A) to participate in the Plan and who is married elects not to participate in the Plan at the maximum level, or elects to provide an annuity for a dependent child but not for his spouse, that person's spouse shall be notified of that election.

"(B) If a person who is eligible under paragraph (1)(B) to participate in the Plan and who is married does not elect to participate in the Plan at the maximum level, or elects to provide an annuity for a dependent child but not for his spouse, that person's spouse shall be notified of that action.

"(4)(A) An election under paragraph (2)(A) not to participate in the Plan is irrevocable if not revoked before the date on which the person first becomes entitled to retired or retainer pay.

"(B) An election under paragraph (2)(B) to participate in the Plan is irrevocable if not revoked before the end of the 90-day period referred to in such paragraph.

"(5) A person who is not married when he becomes eligible to participate in the Plan but who later marries or acquires a dependent child may elect to participate in the Plan, but his election must be written, signed by him, and received by the Secretary concerned within one year after he marries or acquires that dependent child. Such an election may not be revoked. His election is effective as of the first day of the first calendar month following the month in which his election is received by the Secretary concerned. In the case of a person providing an annuity by virtue of eligibility under paragraph (1)(B), such an election shall include a designation under subsection (e).".

(b) Subsection (b) of such section is amended—

(1) by striking out "entitled to retired or retainer pay" and inserting in lieu thereof "eligible to participate in the Plan"; and

(2) by adding at the end thereof the following new sentence: "In the case of a person providing an annuity under this subsection by virtue of eligibility under subsection (a)(1)(B), such an election shall include a designation under subsection (e).".

(c) Such section is further amended by adding at the end thereof the following new subsection:

"(e) In any case in which a person electing to participate in the Plan is required to make a designation under this subsection, the person making such election shall designate whether, in the event he dies before becoming 60 years of age, the annuity provided shall become effective on the day after the date of his death or on the 60th anniversary of his birth.".

PAYMENT OF ANNUITY

SEC. 203. Section 1450 of title 10, United States Code, is amended—

(1) by inserting "(or on such other day as he may provide under subsection (j))" in subsection (a) after "of this title applies" the first place it appears therein; and

(2) by adding at the end thereof the following new subsections:

"(j) An annuity elected by any person providing an annuity by virtue of elegibility under section 1448(a)(1)(B) of this title shall be effective in accordance with the designation made by such person under section 1448(e) of this title.

"(k) If a widow or widower whose annuity has been adjusted under subsection (c) subsequently loses entitlement to compensation under section 411(a) of title 38 because of the remarriage of such widow or widower, and if at the time of such remarriage such widow or widower is 60 years of age or more, the amount of the annuity of such widow or widower shall be readjusted, effective on the effective date of such loss of compensation, to the amount of the annuity which would be in effect with respect to such widow or widower if the adjustment under subsection (c) had never been made, but such readjustment may not be made until the widow or widower repays any amount refunded under subsection (e) by reason of the adjustment under subsection (c).".

AMOUNT OF ANNUITY

Sec. 204. (a) The first sentence of subsection (a) of section 1451 of title 10, United States Code, is amended to read as follows: "The monthly annuity payable to a widow, widower, or dependent child who is entitled under section 1450(a) of this title to an annuity shall be—

"(1) 55 percent of the base amount, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(A) of this title, or

"(2) a lesser percentage (determined by the Secretary of Defense in accordance with subsection (d)) of the base amount, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(B) of this title."

(b) The last sentence of subsection (a) of such section is amended to read as follows: "For the purpose of the preceding sentence, a widow or widower shall not be considered as entitled to a benefit under subchapter II of chapter 7 of title 42 to the extent that such benefit has been offset by deductions under section 403 of title 42 on account of work.".

(c) Subsection (b) of such section is amended to read as follows:

"(b) The monthly annuity payable under section 1450(a)(4) of this title shall be—

"(1) 55 percent of the retired or retainer pay of the person who elected to provide that annuity after the reduction in such pay in accordance with section 1452(c) of this title, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(..) of this title; or

"(2) a lesser percentage (determined by the Secretary of Defense in accordance with subsection (d)) of the retired pay of the person who elected to provide that annuity after the reduction in such pay in accordance with section 1452(c) of this title, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(B) of this title.

A person who provides an annuity which is determined in accordance with clause (2) and who dies before becoming 60 years of age and is otherwise entitled to retired pay shall be considered to have been entitled to retired pay, for the purpose of such clause, at the time of his death, and the retired pay of such person for the purpose of such clause shall be computed on the basis of the rates of basic pay in effect on the date on which the annuity is to become effective in accordance with the designation of such person under section 1448(e) of this title.".

(d) Such section is further amended by adding at the end thereof the following new subsection:

"(d) The percentage to be applied by the Secretary of Defense in determining the amount of an annuity under subsection (a)(2) or (b)(2) shall be 55 percent reduced by such amount as the Secretary shall by regulation prescribe, taking into consideration the age of the person electing to provide the annuity at the time of such election, the difference in age between such person and the beneficiary of the annuity, whether such person provided for the annuity to become effective (in the event he died before becoming 60 years of age) on the day after his death or on the 60th anniversary of his birth, appropriate group annuity tables, and such other factors as the Secretary considers relevant.".

REDUCTION IN RETIRED PAY

Sec. 205. (a) The first sentence of subsection (a) of section 1452 of title 10, United States Code, is amended by striking out "shall be reduced each month" and all that follows in such sentence and inserting in lieu thereof "shall be reduced each month—

"(1) by an amount equal to 2½ percent of the first $300 of the base amount plus 10 percent of the remainder of the base amount, if the person is providing an annuity by virtue of eligibility under section 1448(a)(1)(A) of this title; or

"(2) by an amount prescribed under regulations of the Secretary of Defense, if the person is providing an annuity by virtue of eligibility under section 1448(a)(1)(B).".

(b) Subsection (c) of such section is amended to read as follows:

"(c) The retired or retainer pay of a person who has elected to provide an annuity to a person designated by him under section 1450(a)(4) of this title shall be reduced—

"(1) in the case of a person providing the annuity by virtue of eligibility under section 1448(a)(1)(A) of this title, by 10 percent plus 5 percent for each full five years the individual designated is younger than that person; or

"(2) in the case of a person providing the annuity by virtue of eligibility under section 1448(a)(1)(B) of this title, by an amount prescribed under regulations of the Secretary of Defense.

However, the total reduction under clause (1) may not exceed 40 percent. The reduction in retired or retainer pay prescribed by this section shall continue during the lifetime of the person designated under section 1450(a)(4) of this title or until the person receiving retired or retainer pay changes his election under section 1450(f) of this title.".

NOTIFICATION

Sec. 206. Section 1331(d) of title 10, United States Code, is amended by adding at the end thereof the following new sentence: "Such notice shall include notification of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter 73 of this title and the effects of such elections.".

TECHNICAL AND CONFORMING AMENDMENTS

Sec. 207. (a) The first sentence of section 1449 of title 10, United States Code, is amended by striking out "the first sentence of subsection (a), or subsection (b)," and inserting in lieu thereof "subsection (a)(2) or (b)".

(b) Section 1450(d) of such title is amended by striking out "section 8339(i)" and inserting in lieu thereof "section 8339(j)".

(c) Section 1450(f) of such title is amended by striking out "the last three sentences of section 1448(a)" and inserting in lieu thereof "section 1448(a)(5)".

TRANSITION

Sec. 208. With respect to any individual who—

(1) would be eligible for retired pay under chapter 67 of title 10, United States Code, on the effective date of this title but for the fact that such individual is under 60 years of age; or

(2) receives, before the end of the nine-month period beginning on the effective date of this title, a notification that such individual has completed the years of service required for eligibility for such retired pay;

the 90-day period referred to in section 1447(2)(C) of title 10, United States Code (as amended by section 201 of this Act), and in sections 1448(a)(2) and 1448(a)(4)(B) of title 10, United States Code (as amended by section 202(a) of this Act), shall be considered to end at the end of the one-year period beginning on the effective date of this title.

MINIMUM INCOME FOR CERTAIN SURVIVORS

Sec. 209. Section 4 of the Act entitled "An Act to amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit Plan, and for other purposes", approved September 21, 1972 (10 U.S.C. 1448 note), is amended—

(1) by striking out "$2,100" in subsections (a)(3) and (b) and inserting in lieu thereof "$2,340"; and

(2) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection (c):

"(c) The amounts specified in subsections (a)(3) and (b) shall be increased by the Secretary concerned whenever there is an increase in the limitation on annual income for purposes of eligibility for benefits under section 541(b) of title 38, United States Code. Any such increase under the preceding sentence shall be in the same amount, and shall have the same effective date, as such increase in limitation on annual income.".

EFFECTIVE DATES

Sec. 210. (a) Except as provided in subsection (b), the provisions of this title and the amendments made by this title shall take effect on October 1, 1978, or on the date of the enactment of this Act, whichever is later, and shall apply to annuities payable by virtue of such amendments for months beginning on or after such date.

(b) The amendment made by section 206 shall apply to notifications under section 1331(d) of title 10, United States Code, after the date of the enactment of this Act.

TITLE III—MEDICAL AND DENTAL CARE

Sec. 301. Subsection (b) of section 1076 of title 10, United States Code, is amended to read as follows:

"(b) Under regulations to be prescribed jointly by the Secretary of Defense and the Secretary of Health, Education, and Welfare, a dependent of a member or former member—

"(1) who is, or (if deceased) was at the time of his death, entitled to retired or retainer pay or equivalent pay; or

"(2) who died before attaining age 60 and at the time of his death (A) would have been eligible for retired pay under chapter 67 of this title but for the fact that he was under 60 years of age, and (B) had elected to participate in the Survivor Benefit Plan established under subchapter II of chapter 73 of this title;

may, upon request, be given the medical and dental care prescribed by section 1077 of this title in facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff, except that a dependent of a member or former member described in clause (2) may not be given such medical or dental care until the date on which such member or former member would have attained age 60.".

Sec. 302. The amendment made by section 301 shall become effective on October 1, 1978, or on the date of the enactment of this Act, whichever is later.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

RECONSIDERATION OF H.R. 8200

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action of the Senate in tabling a motion to reconsider H.R. 8200, a bill to establish a uniform law on the subject of bankruptcies, the motion to reconsider, passage of the bill, third reading thereof, and agreeing to the Senate amendment in the nature of a substitute for the House language, be vitiated for the sole purposes of offering an amendment in the nature of a substitute, which is at the desk, deleting certain references to Federal taxes and those provisions that amend the Internal Revenue Code of 1954, and making necessary technical and conforming changes, and that the amendment be agreed to.

I further ask unanimous consent that the amendment in the nature of a substitute be agreed to, that H.R. 8200, as thus amended, be agreed to, and that a motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment follows:

UP AMENDMENT NO. 1901

Strike out all after the enacting clause and insert in lieu thereof substitute language.

FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11291.

The PRESIDING OFFICER laid before the Senate the folowing message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 11291) entitled "An Act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration", with the following amendment: In lieu of the matter proposed to be inserted by amendment, insert:

That (a) section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended—

(1) by striking out "except section 11 of this Act," and inserting in lieu thereof "except as otherwise specifically provided, with respect o the payment of claims, under section 11 of this Act,";

(2) by striking out "and" after "September 30, 1977,"; and

(3) by inserting immediately after "1978" the following: ", and not to exceed $24,352,000 for the fiscal year ending September 30, 1979".

(b) Section 16(b) of the Act of March 3, 1901 (15 U.S.C. 278(b)), is amended—

(1) by striking out "and" after "September 30, 1977,", and

(2) by inserting immediately after "1978" the following: ", and not to exceed $5,600,000 for the fiscal year ending September 30, 1979".

SEC. 2. (a)(1) Sections 3, 4, and 5 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2202–2204) are amended by striking out "National Fire Prevention and Control Administration" each place it appears and inserting in lieu thereof "United States Fire Administration".

(2) The heading of section 5 of such Act is amended by striking out "NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION" and inserting in lieu thereof "UNITED STATES FIRE ADMINISTRATION".

(b) Section 16(a) of the Act of March 3, 1901 (15 U.S.C. 278f(a)), is amended by striking out "National Fire Prevention and Control Administration" in the matter preceding paragraph (1) and inserting in lieu thereof "United States Fire Administration".

(c) Section 12(g) of the Act of February 14, 1903 (15 U.S.C. 1511), is amended by striking out "National Fire Prevention and Control Administration" and inserting in lieu thereof "United States Fire Administration".

SEC. 3. (a) The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by adding at the end thereof the following new section:

"FEDERAL PROGRAMS TO COMBAT ARSON

"SEC. 24. (a) The Administrator shall—

"(1) develop arson detection techniques to assist Federal agencies and States and local jurisdictions in improving arson prevention, detection, and control;

"(2) provide training and instructional materials in the skills and knowledge necessary to assist Federal, State, and local fire service and law enforcement personnel in arson prevention, detection, and control;

"(3) formulate methods for collection of arson data which would be compatible with methods of collection used for the uniform crime statistics of the Federal Bureau of Investigation;

"(4) develop and implement programs for improved collection of nationwide arson statistics within the National Fire Incident Reporting System at the National Fire Data Center;

"(5) develop programs for public education on the extent, causes, and prevention of arson; and

"(6) develop handbooks to assist Federal, State, and local fire service and law enforcement personnel in arson prevention and detection.

"(b)(1) The Administrator shall prepare and submit to Congress, not later than March 15, 1979, a report on ways in which the Federal Government may better assist the States and local jurisdictions in providing for more effective arson prevention, detection, and control. Such report shall include, but need not be limited to—

"(A)(i) an assessment of State and local capabilities in regard to arson investigation and detection; and

"(ii) an evaluation of the necessity for and the desirability of Federal supplementation of such State and local capabilities or other Federal assistance in arson detection;

"(B) a summary of Federal programs which seek to reduce arson;

"(C) an identification and analysis of existing Federal and State laws which may contribute to the incidence of arson;

"(D) recommendations for additional legislation or other programs, including rsearch programs, or policies which may be required to assist in reducing arson in the United States; and

"(E) an assessment, where practical, of the costs and benefits of those programs and activities cited in paragraphs (1) through (4) of subsection (a) or recommended by the Administration.

"(2) Of the funds authorized to be appropriated in section 17 of this Act, $100,000 shall be available in fiscal year 1979 for carrying out the purposes of paragraph (1) of this subsection.".

(b) Section 16(a)(1) of the Act of March 3, 1901 (15 U.S.C. 278f(a)(1)), as amended, is further amended by—

(1) striking out "and" at the end of clause (G) thereof;

(2) adding "and" at the end of clause (H) thereof: and

(3) adding at the end thereof the following:

"(I) methods, procedures, and equipment for arson prevention, detection, and investigation;".

SEC. 4. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), as amended by section 3 of this Act, is further amended by adding at the end thereof the following new section:

"ACADEMY SITE

"SEC. 25. (a) The Administrator is authorized to sell the former Marjorie Webster Junior College facility, located in Washington, D.C., which was previously purchased as the site for the Academy. In the event of the sale of such facility, the Administrator shall establish within the Administration an Academy Acquisition and Construction Account (hereinafter referred to as the 'Account'), and shall deposit into such Account only the proceeds from the sale of such facility. Following such deposit, the Administrator shall calculate the sum of both the funds deposited into the Account, and the total moneys which have been or may be appropriated for the acquisition, construction, and/or rehabilitation of a site for the Academy. If the Administrator finds that the total amount so calculated would exceed $9,000,000, the Administrator shall deduct from the Account the difference between this combined total and $9,000,000, and shall deposit such difference into the Treasury as miscellaneous receipts.

"(b) The Administrator is thereafter authorized and directed to retain and apply funds in the Account for the acquisition, construction, and/or rehabilitation of any site which may be selected, together with such other moneys as have been or may be appropriated for such purposes, except that the total authorized expenditure for such moneys shall not exceed $9,000,000. Such sums shall remain available until expended.".

● Mr. CANNON. Mr. President, H.R. 11291 is a bill to extend the authorizations of the Federal Fire Prevention and Control Act of 1974 through fiscal year 1979. These provisions have been developed after close cooperation and consultation between representatives of the Senate Committee on Commerce, Science, and Transportation and the House Science and Technology Committee.

This act provides $24,352,000 for the National Fire Prevention and Control Administration and $5,600,000 for the Center for Fire Research in the National Bureau of Standards. These levels, which are only a moderate increase over fiscal year 1978 authorization levels, I believe provide for adequate expansion of these extremely important Federal fire prevention and control activities.

This act further delineates and expands the arson prevention and control activities of these organizations. Arson is one of the fastest growing crimes in this country, and it is essential that the Federal Government take a more active role in assisting the States in combating the growing incidence of this crime. The act also calls for a study of ways in which the Federal Government may better assist the States and local jurisdictions in providing for effective arson prevention, detection, and control. The study will make an assessment of State and local capabilities in regard to arson investigation and detection, and carry out an evaluation of the desirability of Federal supplementation of such State and local capabilities. The study will also attempt to identify and analyze existing Federal and State laws which may contribute to the incidence of arson. Finally, the study calls for the National Fire Prevention and Control Administration to provide the

Congress with recommendations for additional legislation or other programs or policies which in their opinion would assist in reducing arson in the United States. I have assured my good friend and colleague, Senator Glenn, who has worked closely with the committee in regard to the arson issue, that the committee intends to continue to cooperate with him in regard to this critical issue.

Also, at the request of the Appropriations Committees as expressed in the conference report on the second supplemental appropriations, this act authorizes the sale of the Marjorie Webster Junior College site and utilization of such proceeds with certain limitations for "the acquisition, construction, and/or rehabilitation of any site which may be selected" as a site for the National Fire Academy. This act does not direct such sale, but provides sufficient flexibility to the administrator to choose the best possible site. The Commerce Committee, however, does not wish to preclude reconsideration of the Marjorie Webster Junior College as the possible site for the Academy. The committee, however, urges as expeditious action as possible by the National Fire Prevention and Control Administration in selecting a site and beginning to institute instruction or rehabilitation of this vital national facility.

Mr. President, the National Fire Prevention and Control Administration will be transferred from the Department of Commerce to a new organization to be known as the Federal Emergency Management Agency pursuant to Presidential Reorganization Plan No. 3. The National Fire Prevention and Control Administration thus is in a pivotal year of its existence. To assure a thorough oversight of this program at this critical time, the act provides for only a 1-year authorization.

The Commerce Committee hopes that this reorganization will strengthen the Federal fire prevention and control programs which have such an important lifesaving, injury preventing, and economic impact for this Nation. But I can assure my colleagues that these programs will receive a thorough reexamination by the Committee on Commerce, Science, and Transportation in the coming year.

Finally, this act would change the name of the National Fire Prevention and Control Administration to the U.S. Fire Administration.

Mr. President, I urge my colleagues' strong support of the legislation.●

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

MUSEUM OF AFRICAN ART

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2507.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2507) entitled "An Act to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes", do pass with the following amendment: Strike out all after the enacting clause, and insert:

Section 1. The Board of Regents of the Smithsonian Institution (hereinafter in this Act referred to as the "Board") is authorized to accept a deed or other instrument donating and transferring to the Smithsonian Institution, the land and improvements thereto, collections of works of art, and all other assets and property of the Museum of African Art.

Sec. 2. There is established in the Smithsonian Institution a bureau which shall be known as the "Museum of African Art" (hereinafter in this Act referred to as the "Museum"). The functions of such bureau shall be those authorized by section 3(a).

Sec. 3. (a) For the purpose of carrying out sections 1 and 2 of this Act, the Board may—

(1) purchase, accept, borrow, or otherwise acquire additional works of art or any other real or personal property for the Museum;

(2) preserve, maintain, restore, display, loan, transfer, store, or otherwise hold any property of whatsoever nature acquired pursuant to section 1 or paragraph (1) of this subsection;

(3) conduct programs of research and education; and

(4) subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, sell, exchange, or otherwise dispose of any property of whatsoever nature acquired pursuant to the provisions of this Act: *Provided,* That the proceeds from the sale of any property acquired pursuant to section 1 shall be designated for the benefit of the Museum.

(b) In carrying out the purposes of this Act, the Board shall consider the recommendations of the Commission established pursuant to section 4.

Sec. 4. (a) There is established a Commission for the Museum of African Art (hereinafter the "Commission") which shall provide advice and assistance to the Board concerning the operation and development of the Museum, its collections and programs.

(b) The Commission shall consist of fifteen members to be appointed by the Board. In addition, the Secretary and an Assistant Secretary of the Smithsonian Institution shall serve as ex officio members. The Board shall appoint to the first term on the Commission no less than ten members of the Board of Trustees of the Museum of African Art who are serving on the date of the enactment of this Act. Each initial member so appointed shall serve for a three-year term. Thereafter, in appointing member of the Commission the Board shall continue to include representatives of African descendants in the United States, collectors of African Art, and scholars in the fields of African art and culture.

(c) Members of the Commission shall be appointed to serve for a three-year term, except that after the appointment of the first term of the Commission as specified in subsection (b), the terms of office of members next appointed shall expire, as designated by the Board at the time of appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. Any member apopinted to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(d) A majority of the appointed members of the Commission shall constitute a quorum and any vacancy in the Commission shall not affect its power to function.

(e) Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(f) The Commission shall select officers, from among its members biennially and shall make bylaws to carry out its functions under this Act.

Sec. 5. The Board may appoint and fix the compensation and duties of the Director and such other officers and employees of the Museum as may be necessary for the efficient administration, operation, and maintenance of the Museum; the Director and two other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and all of the employees of the Museum who are serving on the date of the transfer authorized under section 1 shall be offered employment by the Smithsonian under its usual terms of employment and may be appointed without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5.

Sec. 6. (a) The faith of the United States is pledged that upon the completion of the acquisition in section 1, the United States will provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of works of art acquired by the Board, so the Museum shall at all times be properly maintained and works of art contained therein shall be exhibited regularly to the general public free of charge.

(b) There is authorized to be appropriated for the first fiscal year under this Act, the sum of $1,000,000 and such amounts as may be necessary for the succeeding fiscal years in order to carry out the provisions of this Act.

Sec. 7. Except for the provisions in sections 1 and 6 (b), the provisions of this Act shall take effect on the date of transfer of a deed or other instrument under the provisions of section 1.

● Mr. PELL. Mr. President, in April when the Senate Committee on Rules and Administration held a hearing on S. 2507 to authorize the Smithsonian Institution to acquire the Museum of African Art, I expressed my concern about the physical aspects of the Museum as it is now constituted. At that time I stated that—

> I do not believe that the combining of a number of row houses to form the museum meets the necessary museum and safety requirements . . . (nor is) it wise for the Smithsonian and the nation to subsidize the museum at its present location indefinitely.

The bill reported by the committee and approved by the Senate contained an amendment expressing the intent of Congress that the Museum be relocated as soon as possible and that within 2 years the Board of Regents of the Smithsonian Institution report to the Senate Rules Committee and the Committee on House Administration on plans to do so.

The other body has now approved S. 2507, but amended it, deleting the language of the amendment reported by the Rules Committee of the Senate with respect to location.

It is my understanding that the other body did consider this matter, but chose to leave such decisions to that Museum and the Institution.

Mr. President, as a unit of the Smithsonian, the Museum of African Art will obviously require a home consonant with its national status. The growth of its collections and of its public programs, as well as the attendant concerns of security and access for visitors, will inevitably lead to a larger and more convenient structure. The Secretary of the Smithsonian Institution, as well as the Director of the Museum of African Art, testified to this in our hearings and in those of the House.

Since the hearings, and recalling that 10 years elapsed between the time the Smithsonian secured the Patent Office Building and the public opening in that building of the National Collection of Fine Arts and the National Portrait Gallery, Secretary Ripley has informed me that the Smithsonian is already undertaking studies of possible future locations for the Museum of African Art. Also, he has assured me that reports will be made regularly to the Senate Rules Committee and the Committee on House Administration on this issue.

Mr. President, the advocates of the proposal that the Smithsonian take over the African Art Museum have been most helpful regarding the issue of the future location of the Museum and in promoting discussion of it by Museum and Smithsonian staffs, and those in the other body who share our concerns and responsibilities. I am satisfied that the requirement for a future move has been fully recognized, and that we can look forward confidently to working with the Smithsonian in insuring that the Museum of African Art will be appropriately and securely housed.

Given the activity now underway and the assurance of Secretary Ripley, I will now seek that the Senate accept S. 2507 as amended by the House to authorize the Smithsonian Institution to acquire the Museum of African Art.●

● Mr. ANDERSON. Mr. President, I am pleased to join with Senator PELL in urging final passage of S. 2507, to authorize the Smithsonian Institution to acquire the Museum of African Art.

I want to express my sincere appreciation to Senator PELL for his prompt, favorable consideration of the bill as chairman of the Senate Rules Committee. Senator PELL with his characteristic concern for the advancement of the arts has assured national recognition for the rich, proud heritage of African art through his strong support for this legislation.

Passage of the legislation is also a special tribute to our late colleague, Senator Hubert Humphrey, because of his commitment to the Museum's programs. Senator Humphrey served as the first chairman of the Museum's Board, and chaired its National Council for years. I introduced the bill in his place at his request, and I believe its adoption has added meaning in light of his sensitivity to the role of African culture in the American black experience.

Mr. President, the Museum's collection consists of over 7,000 objects of traditional African art, and its archives contain the donated films of the world-renowned Life photographer, Eliot Elisofan. In addition, the museum conducts a vigorous education program of university classes, educational TV, and symposia.

Acquisition of the Museum of African Art by the Smithsonian will add permanence and stability to the Museum's programs and recognize it as a national institution. Such stability will insure the donation of private collections valued at several million dollars. These collections, if received, will make Washington unquestionably the principal center in the world for the display and sutdy of African art, an important fact in view of this city's large diplomatic community, the high proportion of African students in its colleges and its 76 percent black population.

For the Smithsonian, acquisition will introduce African art, which represents one of the major art traditions, into programs already rich in European, American, and Near and Far Eastern art.

Filling this gap will add a new dimension to our national cultural life, and extend to millions of Americans a special gift of heritage and enrichment.●

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar beginning with the Judiciary.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The first nomination will be stated.

THE JUDICIARY

The assistant legislative clerk read the nomination of Theodore McMillen, of Missouri, to be U.S. circuit judge for the eighth circuit.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Patricia J. E. Boyle, of Michigan, to be U.S. district judge for the eastern district of Michigan and the nomination of Julian A. Cook, Jr., of Michigan, to be U.S. district judge for the eastern district of Michigan.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

The assistant legislative clerk read the nomination of Mariana R. Pfaelzer, of California, to be U.S. district judge for the central district of California.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Harold A. Baker, of Illinois, to be U.S. district judge for the eastern district of Illinois.

● Mr. STEVENSON. Mr. President, Harold Baker has demonstrated the vitality, temperament, intellect, and integrity to make an outstanding judge of the eastern district of Illinois.

He is an experienced and successful lawyer. Since his graduation from the University of Illinois College of Law in 1956, where he was awarded the Order of Coif, Harold Baker has been associated with the firm of Hatch & Baker in Champaign, Ill. The Illinois State Bar Association has found Mr. Baker to be exceptionally well qualified to serve on the Federal bench.

In addition to his active law practice, Harold Baker has for over 15 years been a lecturer on pleading and trial advocacy at the University of Illinois College of Law and at the National Institute of Trial Advocacy. His professional activities have included service as the senior counsel to the Presidential Commission on CIA Activities in the United States; chairman of the Illinois Supreme Court Committee on Pattern Jury Instructions; fellow of the American College of Trial Lawyers; and chairman of the Champaign County Legal Aid Society. He has also demonstrated a commitment to his community, serving as a member and then president of the Champaign Community School District Board of Education.

I am gratified that President Carter recognized the outstanding qualifications that Harold Baker possesses and that the Committee on the Judiciary has done likewise in reporting favorably on his nomination. I urge his confirmation by the Senate.●

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remainder of nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, they are considered and confirmed en bloc.

The nominations considered en bloc are as follows:

DEPARTMENT OF JUSTICE

Robert J. Cindrich, of Pennsylvania, to be U.S. attorney for the western district of Pennsylvania.

Andrew L. Metcalf, Jr., of Michigan, to be U.S. marshal for the western district of Michigan.

U.S. RAILWAY ASSOCIATION

W. K. Smith, of Minnesota, to be Chairman of the Board of the U.S. Railway Association.

Stanton P. Sender, of the District of Columbia, Nathaniel Welch, of Georgia, James E. Burke, of New Jersey, and Robert G. Flannery, of California, to be members of the Board of Directors of the U.S. Railway Association.

UNITED NATIONS

Andrew J. Young, of Georgia, James F. Leonard, Jr., of New York, Abraham A. Ribicoff, U.S. Senator from the State of Connecticut, James B. Pearson, U.S. Senator from the State of Kansas, and Set Charles Momjian, of Pennsylvania, to be representatives of the United States of America to the 33d session of the General Assembly of the United Nations.

Donald F. McHenry, of Illinois, Melissa F. Wells, of New York, Angelique O. Stahl, of Florida, John W. Hechinger, of the District of Columbia, and Richard W. Petree, of Virginia, to be alternate representatives of the United States of America to the 33d session of the General Assembly of the United States.

DEPARTMENT OF STATE

Marilyn Priscalla Johnson, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Toga.

Thomas R. Pickering, of New Jersey, to be an Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

Ambler Holmes Moss, Jr., of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Panama.

INTERNATIONAL MONETARY FUND

G. William Miller, of California, to be U.S. Alternate Governor of the International Monetary Fund for a term of 5 years.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD AND THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Coast Guard nominations beginning Gregory L. Oxley, to be lieutenant (jg.), and ending Jimmie G. Weibley, to be lieutenant (jg.), which nominations were received by the Senate and appeared in the Congressional Record on August 19, 1978.

National Oceanic and Atmospheric Administration nominations beginning Joseph C. Talbott, to be lieutenant (jg.), and ending James M. Sherwood, to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on September 6, 1978.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider the vote by which the nominations were confirmed en bloc.

The PRESIDING OFFICER. Without objection, the motion is in order.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 7:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, if no Senator seeks recognition after Mr. RANDOLPH is recognized, the Senate then stand in recess until the hour of 7:45 a.m. tomorrow morning under the order previously entered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from West Virginia (Mr. RANDOLPH).

REHABILITATION, COMPREHENSIVE SERVICES, AND DEVELOPMENTAL DISABILITIES AMENDMENTS OF 1978

Mr. RANDOLPH. Mr. President, I appreciate the courtesy of the majority leader and I say to him I will be in our State of West Virginia tomorrow and I will be doing what I hope will be productive work not only for myself but in a sense carrying a message from him to the people of our State. I thank the Senator very much.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. RANDOLPH. Mr. President, a few minutes ago in the Chamber the knowledgeable Senator from Wisconsin (Mr. PROXMIRE) made a statement that he was the only Member of this body who voted against the vocational rehabilitation measure which did pass the Senate yesterday afternon by a vote of 81 to 1.

Now I am not a carping critic of my colleague. He is my friend. I do not assume that role in discussing the convictions or the votes of any of the Members of this body. I only am differing with him now as I would have yesterday if he had spoken about his opposition then to the pending measure when it was here in the Chamber for debate and decision. Tonight he has said that the authorization for that bill was too high; was not well thought out, and perhaps might be subject to a veto by the President. The authorization is within the budget, and we will not talk further about it on the score of dollars.

Just a few minutes ago, I voted against a foreign aid bill of more than $9 billion. That is for programs overseas.

The amount of money for the program for helping the handicapped to help themselves, the severely disabled, those in need of our assistance in training and in education and productivity, all of those efforts were embodied in a program of 3 years at a total Federal cost in cooperation with the States of approximately $3.4 billion.

I think what I am saying is very correct. He mentions that the bill was not well thought out, in the debate I mentioned that I had conducted 18 days of intensive hearings. There were 201 witnesses who were heard. They counseled with the members of our Subcommittee on the Handicapped. We were helped by their testimony. Varying points of views were adopted, in part or in whole, in the bill which later from the subcommittee to the full committee was reported to the Senate.

So I do not think the authorization, as indicated by my friend from Wisconsin, was too high or not well thought out I believe that a Senator, if he believes in a bill should vote for the bill regardless of whether he thinks the President of the United States might veto the measure when it is placed on his desk. I feel that very strongly.

I am in good humor and, I hope, good purpose. The absence of the Senator would indicate that, perhaps, I had waited until now to make these remarks with him not present. Of course, that is not true. I had asked him to yield so that I might make these comments, but working under a limitation of time he was unable to provide me the opportunity. He would have done so had it been possible, and I am certain he will understand that we just have a difference of opinion here, and because of what was said by the only Member of this body who voted against the bill—and he certainly has every right to do exactly what he did, I am sure he is convinced that he did right.

We have differed on the matter, and because of what was spoken, I have made reply not only as just another Senator, but as a Senator with Senator STAFFORD handling the bill in the Senate, and also in my capacity as chairman of the Senate Subcommittee on the Handicapped.

RECESS UNTIL 7:45 A.M. TOMORROW

The PRESIDING OFFICER. Pursuant to the previous order the Senate will now stand in recess until the hour of 7:45 tomorrow morning.

Thereupon, at 7:01 p.m. the Senate recessed until Saturday, September 23, 1978, at 7:45 a.m.

NOMINATIONS

Executive nominations received by the Senate September 22, 1978:

DEPARTMENT OF STATE

Donald K. Petterson, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Somali Democratic Republic.

Goodwin Cooke, of Connecticut, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Empire.

The following-named person for appointment as a Foreign Service officer of class 3, a consular officer, and a secretary in the Diplomatic Service of the United States of America:

Jesse Walter Lewis, Jr., of the District of Columbia.

For promotion from a Foreign Service officer of class 6 to 5:

Donald Carter Hunter, of New Jersey.

For reappointment in the Foreign Service as a Foreign Service officer of class 5, a consular officer, and a secretary in the Diplomatic Service of the United States of America:

Ruth H. van Heuven, of Connecticut.

For appointment as Foreign Service officers of class 5, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Terrezene Brown, of California.
Dale W. Dover, of Virginia.

For appointment as Foreign Service officers of class 6, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Sharon Elaine Hunt, of Virginia.
Giovanni Palazzolo, of Georgia.
Patsy G. Stephens, of California.

For appointment as Foreign Service information officers of class 6, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Daniel McGaffie, of California.
Judith Michele Mudd, of Kentucky.

For appointment as Foreign Service information officers of class 7, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Douglas A. Davidson, of Ohio.
John P. Dwyer, of Connecticut.
Helmut Fischer, of California.
Wendy C. Forward, of California.
Lauren Beth Hale, of Connecticut.
Thomas James Johnston, of Maryland.
Nicolas Robertson, of California.
Vallerie J. Steenson, of California.
Mark Van Fleet, of Virginia.
James D. Welch, of Texas.

For appointment as Foreign Service information officers of class 8, consular officers, and secretaries in the Diplomatic Service of the United States of America:

David B. Monk, of Massachusetts.

Emi Lynn Yamauchi, of Illinois.

Foreign Service reserve officers to be consular officers of the United States of America:

Richard L. Duncan, of Wyoming.

James W. Goodsell, of Washington.

Thomas J. McCay, Jr., of Virginia.

Edgar L. Rojas, of California.

Foreign Service reserve officers to be consular officers and secretaries in the Diplomatic Service of the United States of America:

Everett D. Ayer, Jr., of Virginia.

Robert B. Baer, of Arizona.

Alton R. Baysden, of Virginia.

Leonard H. Belgard, of New Jersey.

John K. Berg, of Virginia.

Michael P. Bishton, of Maryland.

Kenneth R. Bogdan, of Virginia.

David L. Bowman, of Virginia.

Richard L. Branche, of California.

Paul W. Broadbent, of Ohio.

Bruce Gregory Brockhagen, of Virginia.

Robert Clayton Brown, of Virginia.

William E. Camp, of Maryland.

William J. Clair, of Virginia.

Walter C. d'Andrade, of Nevada.

Joseph A. Di Stefano, of Florida.

Frank C. Esquivel, of Virginia.

Daniel A. Gomez, of California.

Arthur L. Gordon, of Maryland.

Bernard E. Gross II, of Virginia.

Rhonda A. Gunkle. of California

John S. Habib, of California.

Todd D. Hagenah, of Virginia.

Victor H. Havlovick, of Virginia.

Walter M. Hughey, of California.

Eleanor Terry Inskeep, of Maryland.

Robert J. Korengold, of Maryland.

Robert C. Meehan, of Pennsylvania.

William A. Moffett III, of Virginia.

William L. Mosebey, Jr., of Virginia.

Geraldine L. Murray, of Virginia.

Antonio L. Neves, of Massachusetts.

Peter J. Obenauer, of New York.

Jonathan F. Randall, of Virginia.

George H. Raynor, of Maryland.

Douglas P. Ryan, of Virginia.

Celio F. Sandate, of Kansas.

Laurent M. St. Georges, of Maryland.

Bryant J. Salter, of Virginia.

Clifton J. Schaefer, of Virginia.

Jackson L. Sigler, of Virginia.

Richard M. Smylie, of Virginia.

William C. Wagner, Jr., of Maryland.

Foreign Service reserve officers who are candidates for appointment as junior Foreign Service officers to be consular officers and secretaries in the Diplomatic Service of the United States of America:

Winston Lewis Amselem, of the District of Columbia.

Peter K. Augustine, of Texas.

Kenneth E. Austin, of Virginia.

Lawrence Rea Baer, of California.

Perry Edwin Ball, of Georgia.

Marvin S. Brown, of Georgia.

Stephen G. Brundage, of Illinois.

William Marcellus Butler, of Maryland.

Dennis Franklin Carter, of Pennsylvania.

Guyle E. Cavin, of Texas.

Robert Francis Cekuta, of New York.

Joy F. Churchill, of Virginia.

Judy Wynne Cohen, of Georgia.

John Graham Collinge, of Arizona.

Edward K. H. Dong, of California.

Kenneth Alan Duncan, of Connecticut.

Ben Floyd Fairfax, of Virginia.

Robert Patrick John Finn, of New York.

Zandra I. Flemister, of Connecticut.

Corazon Sandoval Foley, of California.

Roger M. Freeman, Jr., of California.

Kenneth Jefferson Grasty, of Pennsylvania.

Charles Jamison Hall, of Michigan.

Douglas C. Hengel, of New York.

Leslie Robert Hickman, of the District of Columbia.

Kathryn Anne Holmberg, of Wyoming.

Alan Robert Kellogg, of Hawaii.

Douglas Barry Kent, of California.

Cornelis Mathias Keur, of Michigan.

Glenn Alden Knight, of North Carolina.

Olga Perez Koluvek, of Texas.

Steven Mark Lauterbach, of Ohio.

Frank G. Light, Jr., of Colorado.

Keith Loken, of California.

Roderick C. Mackler, of Virginia.

Joseph R. Manzanares, of Colorado.

Robert John Marro, of New Jersey.

Gail Dennise Thomas Mathieu, of New Jersey.

Christopher Emmet McCarthy, of the District of Columbia.

William Joseph McGlynn, Jr., of Virginia.

Michael Andrew Meigs, of Alabama.

Judith Meyer, of Connecticut.

Norman D. Milford, Jr., of Virginia.

Johnnie Mary Miller, of the District of Columbia.

Gillian Arlette Milovanovic, of Pennsylvania.

L. Evangeline Monroe, of New Mexico.

Tibor P. Nagy, Jr., of Virginia.

Thomas Hunter Ochiltree II. of the District of Columbia.

Olaf North Otto, of Virginia.

James Andrew Paige, of Ohio.

Lauren Peters, of Hawaii.

Francis Joseph Ricciardone, Jr., of New Hampshire.

Lawrence Kerr Robinson, of Maryland.

Joseph Lee Sala, of Pennsylvania.

John Waldemar Schulze, of Texas.

Dennis Edward Skocz of Florida.

Wilbert Smith, Jr., of Maryland.

Stanley Howard Specht, of the District of Columbia.

William A. Stanton, of North Carolina.

Doris Kathleen Stephens, of Arizona.

Sandra E. Taylor, of the District of Columbia.

James R. Van Laningham, of Arizona.

Edward H. Vázquez, of New Jersey.

Thomas J. White, of Pennsylvania.

Sharon Anderholm Wiener, of Ohio.

Nicholas M. Williams, of New York.

Ann Sanborn Yancey, of Oregon.

Julie Ann L. Zimmerman. of Michigan.

Foreign Service reserve officers to be secretaries in the Diplomatic Service of the United States of America:

Vincent M. Cannistraro, of Massachusetts.

Ainslie T. Embree, of New York.

Robert G. Morris, of Virginia.

David E. Thurman, of Virginia.

John L. Withers, of the District of Columbia.

Foreign Service staff officers to be consular officers of the United States of America:

Larry Corbett, of Nevada.

Charles E. Heise, of Oregon.

Kathleen T. Hinton, of Maryland.

Julia R. Reese, of Alabama.

I nominate Eric A. Kunsman, of Pennsylvania, for appointment as a Foreign Service officer of class 7, a consular officer, and a secretary in the Diplomatic Service of the United States of America, effective March 3, 1977.

The following-named Foreign Service officers for promotion in the Foreign Service to the classes indicated:

Foreign Service officers of class 1:

Anthony C. Albrecht, of Virginia.

Natale H. Bellocchi, of New York.

Robert R. Blackburn. Jr., of California.

Thomas D. Boyatt, of Ohio.

Peter S. Bridges, of Louisiana.

John W. DeWitt, of Florida.

John T. Doherty, of Maryland.

Charles C. Flowerree, of Virginia.

Charles S. Kennedy, Jr., of Virginia.

Barrington King, Jr., of Georgia.

Robert E. Lamb, of Georgia.

John Andrew Linehan. of Maryland.

Gifford D. Malone, of Florida.

John C. Monjo, of Maryland.

Roy C. Nelson, of California.

Thomas W. M. Smith, of Maine.

Peter Tarnoff, of New York.

Thomas M. Tracy, of Florida.

Joseph W. Twinam. of Tennessee.

Melissa F. Wells, of New York.

Foreign Service officers of class 2:

Sharon Erdkamp Ahmad, of California.

John D. Blacken, of Washington.

Parker W. Borg, of Minnesota.

M. Lyall Breckon, of the District of Columbia.

James Richard Cheek, of Arkansas.

Wiliam Clark, Jr., of the District of Columbia.

Wat T. Cluverius IV, of Maryland.

Edwin G. Corr, of Oklahoma.

Robert B. Duncan, of New Jersey.

Charles Edward Emmons, of California.

John P. Ferriter, of New York.

Samuel Edwin Fry, Jr., of New York.

Bryce McGregor Gerlach, of Virginia.

Theresa A. Healy, of New Hampshire.

Richard H. Howarth, of Pennsylvania.

Robert M. Immerman, of New York.

Jay K. Katzen, of New York.

Kenneth C. Keller, of the District of Columbia.

Katherine Lee Kemp, of California.

Lucien L. Kinsolving, of Virginia.

Larry E. Lane, of Texas.

Bert C. Moore, of Ohio.

Thomas M. T. Niles, of Kentucky.

J. Stapleton Roy, of Pennsylvania.

Richard C. Scissors, of Missouri.

Peter Semler, of Virginia.

Thomas W. Simons, Jr., of the District of Columbia.

Dudley G. Sipprelle, of California.

Arthur Jensen Smith, of Ohio.

Roscoe S. Suddarth, of Tennessee.

William L. Swing, of North Carolina.

W. Robert Warne, of California.

Robert E. Waska, of Texas.

Frank G. Wisner II, of the District of Columbia.

Donald R. Woodward, of California.

Foreign Service officers of class 3:

Laurence Desaix Anderson, Jr., of Mississippi.

Roy J. Apel, of California.

Kenneth H. Bailey, Jr., of New Jersey.

Raymond M. Bailey, of Ohio.

Charles R. Baquet III, of Louisiana.

Nicholas S. Baskey, Jr., of Ohio.

Don E. Bean, of Tennessee.

J. Peter Becker, of Florida.

Harry C. Blaney III, of Connecticut.

Edith Louise Bruce, of Illinois.

David H. Burns, of Massachusetts.

Robert K. Carr, of California.

Edward A. Casey, Jr., of New Jersey.

Louis N. Cavanaugh, Jr., of Pennsylvania.

Daniel H. Clare III, of New York.

John Eignus Clark, of Maryland.

Walter S. Clarke. of Maryland.

George W. F. Clift, of California.

Arthur B. Corte, of New York.

Michael A. Davila, of Texas.

Terrance M. Day, of Maryland.

Charles F. Dunbar, Jr., of the District of Columbia.

Vincent J. Farley, of New York.

David J. Fischer, of Texas.

Samuel C. Fromowitz, of Virginia.

Harrell Kennan Fuller, of New Mexico.

Charles A. Gillespie, Jr., of California.

Dennis C. Goodman, of Ohio.

Larry C. Grahl, of Ohio.

Marvin D. Green, of Wisconsin.

Richard J. Harrington. of California.

Edward F. Height, of California.

Jerome L. Hoganson, of Wisconsin.

Robert Onan Homme. of Minnesota.

Donald E. Huth, of California.

Richard H. Imus, of California.

D. Lowell Jones, of Mississippi.

Ralph T. Jones, of Maryland.

Philip S. Kaplan, of California.

Alphonse F. LaPorta, of New York.

Walter Clair Lenahan. of Washington.

Duane T. Linville, of Florida.

Edward W. Lollis II, of Indiana.

Walter A. Lundy, Jr., of Virginia.

David L. Mack, of Oregon.

Lois Jean Matteson, of Florida.

Donald Floyd McConville, of Minnesota.

James W. McGunnigle, of New York.

Joseph D. McLaughlin, of Kansas.

Michael A. G. Michaud, of Maryland.
Bradford W. Miller, Jr., of New York.
Richard H. Milton, of West Virginia.
Paul D. Molineaux, of the District of Columbia.
David T. Morrison, of Michigan.
James H. Morton, of Illinois.
Day Olin Mount, of Massachusetts.
Glenn A. Munro, of California.
Peter K. Murphy, of Massachusetts.
Walter M. Notheis, of California.
Edward R. O'Connor, of New York.
Robert F. Pfeiffer, of New York.
Homer R. Phelps, Jr., of New York.
Oscar A. Reynolds, of Texas.
Philip J. Rizik, of the District of Columbia.
Kenneth J. Robinson, of Florida.
Mary A. Ryan, of Texas.
P. Peter Sarros, of New York.
Eugene L. Scassa, of Pennsylvania.
Charles W. Schaller, of District of Columbia.
Erma Schumacher, of California.
Raymond G. H. Seitz, of Texas.
David H. Shinn, of Washington.
Dane F. Smith, Jr., of New Mexico.
Rufus Grant Smith, of New Jersey.
William E. Spruce, of Texas.
John Todd Stewart, of California.
Gerald M. Sutton, of California.
Peter Bird Swiers, of New York.
Dan J. Thal, of California.
Samuel B. Thomsen, of California.
William Henry Tienken, of Georgia.
Victor L. Tomseth, of Oregon.
Theresa A. Tull, of New Jersey.
John L. Washburn, of Maine.
Stephen B. Watkins, of Connecticut.
Douglas K. Watson, of California.
Philip C. Wilcox, Jr., of Colorado.
Theodore S. Wilkinson III, of Maryland.
Leonard F. Williams, of Wyoming.
Brooks Wrampelmeier, of Ohio.

Foreign Service officers of class 4:

Marshall P. Adair, of California.
Robert J. Bel, of California.
Randolph M. Bell, of Arkansas.
David Bloch, of New York.
Paul Carl Bofinger, of New York.
Richard Thomas Booth, of Florida.
Eric J. Boswell, of California.
Charles H. Brayshaw, of Colorado.
Kent N. Brown, of California.
Larry G. Butcher, of Virginia.
Ray L. Caldwell, of New Mexico.
William M. Campbell, of Oregon.
Johnnie Carson, of Illinois.
Marshall L. Casse III, of Georgia.
Kenneth W. Chard, of Colorado.
Victor D. Comras, of Florida.
William Harrison Courtney, of West Virginia.
Jeffrey Davidow, of Minnesota.
Ruth A. Davis, of California.
Dean Dizikes, of California.
Robert F. Dorr, of California.
Robert C. Felder, of Florida.
Royce J. Fichte, of Virginia.
Doyle E. Gentry, of Arkansas.
Lloyd R. George, of Virginia.
Albert L. Glad, of California.
Maurice N. Gralnek, of Illinois.
Ralph D. Griffin II, of New Hampshire.
David Crane Halsted, of Vermont.
Donna J. Hamilton, of Washington.
Donald K. Holm, of Florida.
Judith I. Hughes, of Utah.
Joseph S. Hulings III, of South Carolina.
William Albert Hyde, of Virginia.
David H. Jackson, of California.
Charles Bowman Jacobini, of Illinois.
A. Elizabeth Jones, of Maryland.
David Taylor Jones, of Pennsylvania.
Raymond C. Jorgenson, of North Dakota.
Allen L. Keiswetter, of Kansas.
William C. Kelly, Jr., of New Jersey.
Charles A. Kennedy, of California.
Patrick Francis Kennedy, of Illinois.
William F. Kingsbury, of Virginia.
William A. Kirby, Jr., of New Jersey.
Lynne Foldessy Lambert, of Pennsylvania.
John J. Leech, of Connecticut.
Wayne Stephen Leininger, of Florida.
John P. Leonard, of Connecticut.
John P. Lyle, of New York.
Michael M. Mahoney, of Massachusetts.
Gregory Lynn Mattson, of New Jersey.
Donald J. McConnell, of Ohio.
Frederick C. McEldowney, of Michigan.
Paul M. McGonagle, of Virginia.
Roger A. McGuire, of Ohio.
Richard M. Miles, of South Carolina.
George E. Moose, of Colorado.
Adriaen M. Morse, of Arkansas.
Eric David Newsom, of California.
John U. Nix, of Florida.
J. Michael O'Brien, of Pennsylvania.
Gordon Brent Olson, of Washington.
Mark Robert Parris, of Virginia.
Kenneth N. Peltier, of Texas.
Lauralee M. Peters, of Virginia.
Jonathan B. Rickert, of Connecticut.
David A. Roberts, of Pennsylvania.
Dennis A. Sandberg, of Minnesota.
Barbara Jane Schrage, of Wisconsin.
Gerald W. Scott, of Oklahoma.
Joseph Monroe Segars, of Pennsylvania.
Fredrick G. Shirley, of Kentucky.
Frederick Owen Shoup, of California.
Joseph C. Snyder III, of Connecticut.
Charles L. Stephan III, of Illinois.
Douglas K. Stevens, Jr., of Florida.
Joseph Gerard Sullivan, of Massachusetts.
Alma Lucille Thomas, of North Carolina.
Dan E. Turnquist, of Wyoming.
Robert E. Tynes, of Virginia.
George F. Ward, Jr., of New York.
Keith L. Wauchope, of New York.
Kaarn Jayne Weaver, of Ohio.
Richard L. Weeks, of New Hampshire.
Katherine M. White, of Arizona.
Russell M. Winge, of Minnesota.
Paul R. Wisgerhof, of Colorado.
Howard S. Witmer II, of Michigan.
John Stern Wolf, of Maryland.
Stephen W. Worrel, of Ohio.
Johnny Young, of Pennsylvania.

Foreign Service officers of class 5:

Clarke William Allard, of New Hampshire.
Michael G. Anderson, of Virginia.
Jeffrey A. Bader, of Florida.
Manuel Barrera, of Massachusetts.
David C. Bennett, of California.
Jonathan M. Bensky, of Virginia.
Ann R. Berry, of Kentucky.
Vittorio A. Brod, of New York.
Frank Dietrich Buchholz, of New York.
Bruce G. Burton, of New York.
John Davis Caswell, of Connecticut.
Michael A. Ceurvorst, of Iowa.
Richard A. Christenson, of Wisconsin.
Gwendolyn Coronway, of Pennsylvania.
Robert L. Craven, of California.
Arnold Jackson Croddy, Jr., of Maryland.
Patrick DelVecchio, of Virginia.
James Michael Derham, of the District of Columbia.
Michael Thomas Dixon, of New Jersey.
David Bryan Dlouhy, of Texas.
Peter D. Eicher, of Connecticut.
Earl A. Ferguson, of Virginia.
Richard V. Fisher, of Virginia.
Ralph Frank, of Washington.
Robert C. Frasure, of West Virginia.
Mary Lee K. Garrison, of New Jersey.
Stephen Michael Geis III, of Missouri.
Michael Geiner, of Missouri.
James M. Griffin, of Massachusetts.
Michael J. Guignard, of Maine.
Paul Hacker, of New York.
George Ernest Hamilton, of Texas.
Joseph E. Hayes, of California.
Donald S. Hays, of Virginia.
Ruth Miles Henderson, of California.
E. Mason Hendrickson, Jr., of Maryland.
Frederick Loren Henneke, of Texas.
Kang Shih Huang, of the District of Columbia.
William H. Itoh, of New Mexico.
Ronald Lewis Kates, of New Jersey.
Samuel A. Keller, of California.
Stephen H. Klemp, of Illinois.
Joseph C. Kramer, of Ohio.
Richard E. Kramer, of Massachusetts.
William A. Krug, Jr., of California.
Alfred M. Lehn, of Virginia.
Leonard Bruce Levine, of Maryland.
David C. Litt, of Virginia.
Judyt Landstein Mandel, of New York.
Marshall F. McCallie, of Virginia.
J. Diane Ballard McClellan, of California.
Brian Michael Patrick McNamara, of Connecticut.
Robert J. McSwain, of Florida.
Edmund F. McWilliams, Jr., of Rhode Island.
E. Wayne Merry, of the District of Columbia.
Michael J. Metrinko, of Pennsylvania.
Simeon L. Moats, of Pennsylvania.
Brian J. Mohler, of New York.
William Dale Montgomery, of the District of Columbia.
Charles H. Morris, Jr., of California.
Kenneth Leroy Norton, of California.
Sue Ford Patrick, of Florida.
Sue H. Patterson, of Virginia.
William Allen Pierce, of Georgia.
William Pinckney Pope, of Virginia.
Elizabeth Ann Powers, of Pennsylvania.
David R. Pozorski, of Illinois.
Steven R. Pruett, of Hawaii.
Joyce B. Rabens, of California.
Elizabeth Raspolic, of Arizona.
Charles E. Redman, of Indiana.
Margot Ellen Reiner, of New Jersey.
David Snyder Robins, of Washington.
Max Newton Robinson, of Washington.
William R. Rosner, of Ohio.
Richard Allan Roth, of Michigan.
Layton Ross Russell, of Ohio.
Eugene David Schmiel, of Pennsylvania.
Andrew Sciacchitano, of Illinois.
Neil Edward Silver, of Virginia.
Stephen R. Snow, of Tennessee.
Gregory Michael Suchan, of Ohio.
David S. Summers, of Ohio.
Thomas C. Tighe, of Florida.
Paul H. Tyson, of New Jersey.
Felix C. Vargas, Jr., of Washington.
Paul T. Walters, of Ohio.
Robin Lane White, of Virginia.
Kent M. Wiedemann, of California.
Robert A. Windsor, of Florida.
Anne Brevard Woods, of Arkansas.
John William Zerolis, of California.

Foreign Service officers of class six:

Martin Phillip Adams, of Florida.
Lewis R. Atherton, of the District of Columbia.
Robert O. Benson, of Maryland.
Brian J. Blood, of Virginia.
Thomas H. Bohrer, of California.
Deborah Anne Bolton, of Pennsylvania.
Philip A. Border, of Maryland.
Ralph L. Boyce, Jr., of Virginia.
Bruce Allan Brown, of New York.
Thomas A. Cadogan, of Maryland.
Charles Irvin Cohen, of Florida.
Lawrence Witten Coor, of Arizona.
William E. Craft, Jr., of Connecticut.
Jay L. Dehmlow, of Florida.
Gerald Michael Feierstein, of Pennsylvania.
Thomas C. Ferguson, of Michigan.
Brian M. Flora, of Florida.
Gregory T. Frost, of Iowa.
Thomas Patrick Furey, Jr., of Oregon.
J. Philippe Grégoire, of Virginia.
Sandra Jean Gust, of Wisconsin.
Ronald E. Hagen, of Indiana.
John Martin Hall, of California.
Wendy Marie Hansen, of New Mexico.
Richard T. Heffern, of California.
John W. Helm, of Tennessee.
David Ellis Henderson, of Illinois.
Richard Charles Hermann, of Iowa.
Arnold Horowitz, of Virginia.
Vicki J. Huddleston, of Arizona.
Larry Dean Huffman, of California.
Patricia Dawson Hughes, of California.
Mark L. Jacobs, of New York.
Susan S. Jacobs, of Michigan.
Kenneth R. Jernigan, Jr., of Tennessee.

Allan G. Jury, of Missouri.

Stephanie Smith Kinney, of Florida.

Louis J. Kochanek, of Missouri.

Marianne Matuzic Kunkel, of New York.

Eric A. Kunsman, of Pennsylvania.

Daniel Ray Lang, of Texas.

Daniel James Lawler, Jr., of New York.

Nancy Faye Lees, of Texas.

Michael Ben Libenson, of Pennsylvania.

James Robert Libera, of Connecticut.

Jean Anne Louis, of Michigan.

Steven R. Mann, of Pennsylvania.

Franklin Carl Marcus, of New York.

Nancy M. Mason, of the District of Columbia.

Cheryl A. McDonald, of California.

Stephen George McFarland, of Texas.

Robin Ritterhoff McKeon, of the District of Columbia.

Robert T. McMahan, Jr., of Ohio.

Patricia A. McMahon, of Maryland.

Edward Joseph Michal, of Nevada.

Wayne Edward Miele, of Florida.

James Brent Miller, of Utah.

Richard T. Miller, of Texas.

John A. Millin III, of Texas.

Alberto José Mora, of Florida.

James F. Moriarty, of Massachusetts.

Robert Allen Mosher, of Missouri.

Mayer Nudell, of California.

James A. Pierce, of New York.

Lawrence George Rossin, of California.

Daniel H. Sanders, Jr., of Kentucky.

Jerel Keith Sandvick, of California.

Robert A. Sarofeen, of Virginia.

Stuart J. D. Schwartzstein, of New Jersey.

Charles L. Skipper III, of Texas.

Earl Garren Smith, of Tennessee.

Adrienne M. Stefan, of Florida.

Curtis M. Stewart, of Colorado.

Richard J. J. Sullivan, Jr., of the District of Columbia.

David Dale Trechter, of California.

Lynn Joseph Turk, of Wisconsin.

Douglas G. Van Treeck, of Wisconsin.

Linda McIntosh Wauchope, of New York.

Daniel P. Weber, of Illinois.

Steven J. White, of Georgia.

Foreign Service officers of class 7:

Richard Warren Behrend, of Pennsylvania.

Donald E. Booth, of Massachusetts.

Raymond E. Clore, of California.

Samuel G. Coppersmith, of Pennsylvania.

Stephen J. Gallogly, of Rhode Island.

Richard A. Garrison, of Colorado.

Dennis K. Hays, of Virginia.

Frank Arthur Hofmann, of Oregon.

Patrick David Husar, of Ohio.

Michael Allen Jacobs, of California.

Frances F. Kjelleren, of New York.

Paul Conley Kline, of California.

Joan Clare Martin, of West Virginia.

Christopher William Murray, of New York.

Nancy J. Powell, of Iowa.

Glen David Preston, of Illinois.

Steven A. Saboe, of Minnesota.

James Curtis Struble, of California.

Elena Michele Thoren, of the District of Columbia.

Mark A. Tokola, of Washington.

Carl Frederick Troy, of Oregon.

Peter B. Vaden, of Virginia.

Richele Visner, of South Carolina.

Larry L. Woodruff, of Iowa.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 22, 1978:

DEPARTMENT OF JUSTICE

Robert J. Cindrich, of Pennsylvania, to U.S. marshall for the western district of Pennsylvania for the term of 4 years.

Andrew L. Metcalf, Jr., of Michigan, to be U.S. marshal for the western district of Michigan for the term of 4 years.

UNITED STATES RAILWAY ASSOCIATION

W. K. Smith, of Minnesota, to be Chairman of the Board of the U.S. Railway Association for a term of 6 years.

The following-named persons to be Members of the Board of Directors of the U.S. Railway Association for the terms indicated:

For the remainder of the term expiring July 8, 1980: Stanton P. Sender, of the District of Columbia.

For the term exoiring January 10, 1983: Nathaniel Welch of Georgia.

For terms expiring July 8, 1984: James E. Burke, of New Jersey; Robert G. Flannery, of California.

UNITED NATIONS

The following-named persons to be Representatives of the United States of America to the Thirty-third Session of the General Assembly of the United Nations:

Andrew J. Young, of Georgia.

James F. Leonard, Jr., of New York.

Abraham A. Ribicoff, U.S. Senator from the State of Connecticut.

James B. Pearson, U.S. Senator from the State of Kansas.

Set Charles Momjian, of Pennsylvania.

The following-named persons to be Alternate Representatives of the United States of America to the Thirty-third Session of the General Assembly of the United Nations:

Donald F. McHenry, of Illinois.

Melissa F. Wells, of New York.

Angelique O. Stahl, of Florida.

John W. Hechinger, of the District of Columbia.

Richard W. Petree, of Virginia.

DEPARTMENT OF STATE

Marilyn Pricilla Johnson, of New Hampshire, a Foreign Service information officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

Thomas R. Pickering, of New Jersey, a Foreign Service officer of the class of Career Minister, to be an Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

Ambler Holmes Moss, Jr., of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Panama.

INTERNATIONAL MONETARY FUND

G. William Miller, of California, to be U.S. Alternate Governor of the International Monetary Fund for a term of 5 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Theodore McMillian, of Missouri, to be U.S. circuit judge for the Eighth Circuit.

Patricia J. E. Boyle, of Michigan, to be U.S. district judge for the Eastern District of Michigan.

Julian A. Cook, Jr., of Michigan, to be U.S. district judge for the Eastern District of Michigan.

Mariana R. Pfaelzer, of California, to be U.S. district judge for the Central District of California.

Harold A. Baker, of Illinois, to be U.S. district judge for the Eastern District of Illinois.

IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

National Oceanic and Atmospheric Administration nominations beginning Joseph C. Talbott, to be lieutenant (j.g.), and ending James M. Sherwood, to be ensign, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 6, 1978.

IN THE COAST GUARD

Coast Guard nominations beginning Gregory L. Oxley, to be lieutenant (j.g.), and ending Jimmie G. Welbley, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 14, 1978.

HOUSE OF REPRESENTATIVES—*Friday, September 22, 1978*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. WRIGHT).

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Blessed is every one who fears the Lord, who walks in His ways! You shall eat the fruit of the labor of your hands; you shall be happy and it will be well with you.—Psalms 128: 1, 2.

Eternal Father of our spirits, as we begin the work of another day we humbly bow before You and sincerely seek Your presence as we face the tasks of these hours. With Your wisdom we would be made wise, in Your love we would be given new life, by Your strength we would be made strong, and through Your grace we would be given courage for the living of this day. Make clear to us the path of duty and help us to walk on it ever seeking the highest good of our beloved Republic.

Bless our families, our neighborhoods, our cities, our rural areas, our States, and our Nation. Keep us all on right and true paths that we may have peace at home, peace abroad, and peace in our own hearts: to the glory of Your holy name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the

House is requested, bills of the House of the following titles:

H.R. 10581. An act to provide for the distribution of certain judgment funds awarded by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation; and

H.R. 11092. An act to increase the authorization of appropriations under the Act of December 22, 1974 (88 Stat. 1712).

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 3189. An act to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes;

S. 3342. An act to name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake"; and

S. Con. Res. 106. Concurrent resolution authorizing the printing of five thousand additional copies of the eulogies to the late Senator Hubert H. Humphrey.

FEDERAL EMPLOYEES PART-TIME CAREER EMPLOYMENT ACT OF 1978

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10126) to amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service, with Senate amendments thereto, and concur in the Senate amendments with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Employees Part-Time Career Employment Act of 1978".

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) many individuals in our society possess great productive potential which goes unused because they cannot meet the requirements of a standard workweek; and

(2) part-time permanent employment—

(A) provides older individuals with a gradual transition into retirement;

(B) provides employment opportunities to handicapped individuals or others who require a reduced workweek;

(C) provides parents opportunities to balance family responsibilities with the need for additional income;

(D) benefits students who must finance their own education or vocational training;

(E) benefits the Government, as an employer, by increasing productivity and job satisfaction, while lowering turnover rates and absenteeism, offering management more flexibility in meeting work requirements, and filling shortages in various occupations; and

(F) benefits society by offering a needed alternative for those individuals who require or prefer shorter hours (despite the reduced income), thus increasing jobs available to reduce unemployment while retaining the skills of individuals who have training and experience.

(b) The purpose of this Act is to provide increased part-time career employment opportunities throughout the Federal Government.

PART-TIME CAREER EMPLOYMENT PROGRAM

SEC. 3. (a) Chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VIII—PART-TIME CAREER EMPLOYMENT OPPORTUNITIES

"§ 3391. Definitions

"For the purpose of this subchapter—

"(1) 'agency' means—

"(A) an Executive agency;

"(B) a military department;

"(C) an agency in the judicial branch;

"(D) the Library of Congress;

"(E) the Botanic Garden; and

"(F) the Office of the Architect of the Capitol; but does not include—

"(i) a Government controlled corporation;

"(ii) the Tennessee Valley Authority;

"(iii) the Alaska Railroad;

"(iv) the Virgin Island Corporation;

"(v) the Panama Canal Company;

"(vi) the Federal Bureau of Investigation, Department of Justice;

"(vii) the Central Intelligence Agency; and

"(viii) the National Security Agency, Department of Defense; and

"(2) 'part-time career employment' means part-time employment of 16 to 32 hours a week under a schedule consisting of an equal or varied number of hours per day, whether in a position which would be part-time without regard to this section or one established to allow job-sharing or comparable arrangements, but does not include employment on a temporary or intermittent basis.

"§ 3392. Establishment of part-time career employment programs

"(a)(1) In order to promote part-time career employment opportunities in all grade levels, the head of each agency, by regulation, shall establish and maintain a program for part-time career employment within such agency. Such regulations shall provide for—

"(A) the review of positions which, after such positions become vacant, may be filled on a part-time career employment basis (including the establishment of criteria to be used in identifying such positions);

"(B) procedures and criteria to be used in connection with establishing or converting positions for part-time career employment, subject to the limitations of section 3393 of this title;

"(C) annual goals for establishing or converting positions for part-time career employment, and a timetable setting forth interim and final deadlines for achieving such goals;

"(D) a continuing review and evaluation of the part-time career employment program established under such regulations; and

"(E) procedures for notifying the public of vacant part-time positions in such agency, utilizing facilities and funds otherwise available to such agency for the dissemination of information.

"(2) The head of each agency shall provide for communication between, and coordination of the activities of, the individuals within such agency whose responsibilities relate to the part-time career employment program established within that agency.

"(3) Regulations established under paragraph (1) of this subsection may provide for such exceptions as may be necessary to carry out the mission of the agency.

"(b)(1) The Civil Service Commission, by regulation, shall establish and maintain a program under which it shall, on the request of an agency, advise and assist such agency in the establishment and maintenance of its part-time career employment program under this subchapter.

"(2) The Commission shall conduct a research and demonstration program with respect to part-time career employment within the Federal Government. In particular, such program shall be directed to—

"(A) determining the extent to which part-time career employment may be used in filling positions which have not traditionally been open for such employment on any extensive basis, such as supervisory, managerial, and professional positions;

"(B) determining the extent to which job-sharing arrangements may be established for various occupations and positions; and

"(C) evaluating attitudes, benefits, costs, efficiency, and productivity associated with part-time career employment, as well as its previous sociological effects as a mode of employment.

"§ 3393. Limitations

"(a) An agency shall not abolish any position occupied by an employee in order to make the duties of such position available to be performed on a part-time career employment basis.

"(b) Any person who is employed on a full-time basis in an agency shall not be required to accept part-time employment as a condition of continued employment.

"§ 3394. Personnel ceilings

"In administering any personnel ceiling applicable to an agency (or unit therein), an employee employed by such agency on a part-time career employment basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours of such employee's regularly scheduled workweek. This section shall become effective on October 1, 1979.

"§ 3395. Nonapplicability

"(a) If, on the date of enactment of this subchapter, there is in effect with respect to positions within an agency a collective-bargaining agreement which establishes the number of hours of employment a week, then this subchapter shall not apply to those positions.

"(b) This subchapter shall not require part-time career employment in positions the rate of basic pay for which is fixed at a rate equal to or greater than the minimum rate fixed for GS-16 of the General Schedule.

"§ 3396. Regulations

"Before any regulation is prescribed under this subchapter, a copy of the proposed regulation shall be published in the Federal Register and an opportunity provided to interested parties to present written comment and, where practicable, oral comment. Initial regulations shall be prescribed not later than 180 days after the date of the enactment of this subchapter.

"§ 3397. Reports

"(a) Each agency shall prepare and transmit on a biannual basis a report to the Civil Service Commission on its activities under this subchapter, including—

"(1) details on such agency's progress in meeting part-time career employment goals established under section 3392 of this title; and

"(2) an explanation of any impediments experienced by such agency in meeting such goals or in otherwise carrying out the provisions of this subchapter, together with a statement of the measures taken to overcome such impediments.

"(b) The Commission shall include in its annual report under section 1308 of this title a statement of its activities under this subchapter, and a description and evaluation of the activities of agencies in carrying out the provisions of this subchapter.

"§ 3398. Employee organization representation

"If an employee organization has been accorded exclusive recognition with respect to a unit within an agency, then the employee organization shall be entitled to represent all employees within that unit employed on a part-time career employment basis.".

(b) Subpart B of the table of chapters of part III of the analysis of chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3385 the following:

"SUBCHAPTER VII—PART-TIME CAREER EMPLOYMENT OPPORTUNITIES

"Sec. .
"3391. Definitions.
"3392. Establishment of part-time career employment programs.
"3393. Limitations.
"3394. Personnel ceilings.
"3395. Nonapplicability.
"3396. Regulations.
"3397. Reports.
"3398. Employee organization representation.".

SEC. 4. (a) Section 8347(g) of title 5, United States Code, is amended by adding at the end thereof the following: "However, the Commission may not exclude any employee who occupies a position on a part-time career employment basis (as defined in section 3391(2) of this title).".

(b) Section 8716(b) of such title 5 is amended—

(1) by striking out of the second sentence "or part time";

(2) by striking out "or" at the end of clause (1);

(3) by striking out the period at the end of clause (2) and inserting in lieu thereof "; or"; and

(4) by adding at the end thereof the following:

"(3) an employee who is occupying a position on a part-time career employment basis (as defined in section 3391(2) of this title).".

(c)(1) Section 8913(b) of such title 5 is amended—

(A) by striking out "or" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following:

"(3) an employee who is occupying a position on a part-time career employment basis (as defined in section 3391(2) of this title).".

(2)(A) Section 8906(b) of such title 5 is amended—

(i) by striking out "paragraph (2)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(ii) by adding at the end thereof the following new paragraph:

"(3) In the case of an employee who is occupying a position on a part-time career employment basis (as defined in section 3391 (2) of this title), the biweekly Government contribution shall be equal to the percentage which bears the same ratio to the percentage determined under this subsection (without regard to this paragraph) as the average number of hours of such employee's regularly scheduled workweek bears to the average number of hours in the regularly scheduled workweek of an employee serving in a comparable position on a full-time career basis (as determined under regulations prescribed by the Commission)".

(B) The amendments made by subparagraph (A) shall not apply with respect to any employee serving in a position on a part-time career employment basis on the date of the enactment of this Act for such period as the employee continues to serve without a break in service in that or any other position on such part-time basis.

SEC. 5. Each report prepared by an agency under section 3397(a) of title 5, United States Code (as added by this Act), shall, to the extent practicable, indicate the extent to which part-time career employment opportunities have been extended by such agency during the period covered by such report to each group referred to in subparagraphs (A), (B), (C), and (D) of section 2(a)(2) of this Act.

Amend the title so as to read: "An Act to amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service.".

Mrs. SCHROEDER (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendments and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the House amendment to the Senate amendments.

The Clerk read as follows:

On page 7, line 10 of the Senate engrossed amendment strike out "October 1, 1979" and insert in lieu thereof "October 1, 1980".

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentlewoman from Colorado could explain to us what she is seeking to accomplish?

Mrs. SCHROEDER. Mr. Speaker, if the gentleman will yield, I would be delighted to explain.

This was the part-time bill that passed the House. The Senate agreed in essence with the part-time bill, except that they felt that the benefits should be prorated. The Senate position would save money so it is wise we concur with their amendment. I think it is a good idea.

If a person works half-time he or she will get half the benefit rather than a full benefit. We seem to think that is a good idea and are willing to agree to it without a conference.

Mr. BAUMAN. I thank the gentlewoman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentlewoman from Colorado?

There was no objection.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 816]

Alexander
Ambro
Ammerman
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
AuCoin
Barnard
Baucus
Beard, Tenn.
Bedell
Boland
Bolling
Bonior
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burke, Mass.
Burton, John
Caputo
Carney
Carr
Cavanaugh
Chappell
Chisholm
Cochran
Cohen
Collins, Ill.
Conable
Conyers
Corman
Cornwell
Cotter
Crane
Cunningham
de la Garza
Dellums
Dent
Dickinson
Diggs
Dingell
Dodd
Eckhardt
Edwards, Calif.
Edwards, Okla.
Erlenborn
Evans, Del.
Fascell
Fish
Flowers
Flynt
Ford, Mich.
Fowler
Fraser
Fuqua
Gammage
Garcia
Gephardt
Gibbons
Green
Hammerschmidt
Hansen
Harkin
Harrington
Harris
Harsha
Heckler
Holland
Ichord
Ireland
Kastenmeier
Kemp
Krueger
Lehman
McCloskey
McDade
McDonald
McKinney
Madigan
Marks
Marlenee
Martin
Meeds
Metcalfe
Milford
Miller, Calif.
Mitchell, N.Y.
Moffett
Montgomery
Moss
Mottl
Murphy, Ill.
Neal
Nix
Nolan
Oakar
Ottinger
Patterson
Pattison
Pepper
Pike
Pressler
Preyer
Quayle
Quie
Quillen
Railsback
Reuss
Rhodes
Richmond
Roberts
Rodino
Roncalio
Rose
Rudd
Runnels
Ruppe
Russo
Santini
Sarasin
Scheuer
Seiberling
Shipley
Shuster
Sikes
Skubitz
St Germain
Steiger
Stokes
Teague
Thone
Thornton
Trible
Tucker
Ullman
Van Deerlin
Vander Jagt
Vanik
Weaver
Wiggins
Winn
Wirth
Young, Alaska
Young, Tex.
Zeferetti

The SPEAKER pro tempore (Mr. FOLEY). On this rollcall 286 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

COMPREHENSIVE EMPLOYMENT AND TRAINING AMENDMENTS OF 1978

Mr. HAWKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12452) to extend and amend the Comprehensive Employment and Training Act of 1973, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HAWKINS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12452, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, August 9, 1978, the Clerk had read through line 2 on page 225.

Are there any further amendments to section 2?

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment to the amendment in the nature of a substitute offered by Mr. JEFFORDS: Strike out all of section 2 and insert:

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT REAUTHORIZATION

SEC. 2. The Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act, with the following table of contents, may be cited as the 'Comprehensive Employment and Training Act'.

"TABLE OF CONTENTS

"Sec. 1. Short title.
"Sec. 2. Statement of purpose.

"TITLE I—ADMINISTRATIVE PROVISIONS

"PART A—ORGANIZATIONAL PROVISIONS

"Sec. 101. Prime sponsors.
"Sec. 102. Authority of Secretary to provide services.
"Sec. 103. Comprehensive employment and training plan.
"Sec. 104. Review of plans and performance standards and goals.
"Sec. 105. Governor's coordination and special services plan.
"Sec. 106. Complaints and sanctions.
"Sec. 107. Judicial review.
"Sec. 108. Reallocation.
"Sec. 109. Prime sponsor's planning council.
"Sec. 110. State employment and training council.
"Sec. 111. Consultation.
"Sec. 112. Authorization of appropriations.
"Sec. 113. Evaluation studies.

"PART B—GENERAL PROVISIONS

"Sec. 121. Conditions applicable to all programs.
"Sec. 122. Special provisions.
"Sec. 123. Wages and allowances.
"Sec. 124. Labor standards.
"Sec. 125. Definitions.
"Sec. 126. Secretary's authority.
"Sec. 127. Reports.
"Sec. 128. Services and property.
"Sec. 129. Utilization of services and facilities.
"Sec. 130. Interstate agreements.
"Sec. 131. Prohibition against political activities.
"Sec. 132. Nondiscrimination.
"Sec. 133. Records, audits, and investigations.
"Sec. 134. Criminal provisions.
"Sec. 135. Bonding.

"PART C—AUDITS, INVESTIGATIONS, AND COMPLIANCE

"Sec. 151. Purpose; establishment.
"Sec. 152. Appointment of officers.
"Sec. 153. Duties and responsibilities.
"Sec. 154. Reports.
"Sec. 155. Authority; administration provisions.
"Sec. 156. Transfer of functions.
"Sec. 157. Definitions.
"Sec. 158. Office of Management Assistance.

"TITLE II—COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

"PART A—FINANCIAL ASSISTANCE PROVISIONS

"Sec. 201. Purpose of program.
"Sec. 202. Allocation of funds.
"Sec. 203. Conditions for receipt of financial assistance.
"Sec. 204. Supplemental vocational education assistance.

"PART B—SERVICES FOR THE ECONOMICALLY DISADVANTAGED

"Sec. 211. Description of program.
"Sec. 212. Limitations on use of funds.
"Sec. 213. Eligibility for participation.

"PART C—UPGRADING AND RETRAINING

"Sec. 221. Program authorized.

"TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

"PART A—SPECIAL NATIONAL PROGRAMS AND ACTIVITIES

"Sec. 301. Special programs and activities.
"Sec. 302. Native American employment and training programs.
"Sec. 303. Migrant and seasonal farmworker employment and training programs.
"Sec. 304. Programs for the handicapped.
"Sec. 305. Relocation assistance.
"Sec. 306. Veterans information and outreach.
"Sec. 307. Displaced homemaker employment assistance program.
"Sec. 308. Partnership programs.

"PART B—RESEARCH, TRAINING, AND EVALUATION

"Sec. 311. Research.
"Sec. 312. Labor market information and job bank program.
"Sec. 313. Evaluation.
"Sec. 314. Training and technical assistance.
"Sec. 315. National Occupational Information Coordinating Committee.

"TITLE IV—YOUTH PROGRAMS

"Sec. 400. Intent.
"Sec. 401. General provisions.

"PART A—YOUTH EMPLOYMENT DEMONSTRATION PROGRAMS

"Sec. 410. Statement of purpose.

"Subpart 1—Youth Incentive Entitlement Pilot Projects

"Sec. 411. Entitlement pilot projects authorized.
"Sec. 412. Employment guarantees.
"Sec. 413. Selecting prime sponsors.
"Sec. 414. Special provision.
"Sec. 415. Reports.

"Subpart 2—Youth Community Conservation and Improvement Projects

"Sec. 421. Statement of purpose.
"Sec. 422. Definitions.
"Sec. 423. Allocation of funds.
"Sec. 424. Community conservation and improvement youth employment projects.
"Sec. 425. Project applications.
"Sec. 426. Proposed agreements.
"Sec. 427. Approval of agreements.
"Sec. 428. Work limitation.

"Subpart 3—Youth Employment and Training Programs

"Sec. 431. Statement of purpose.
"Sec. 432. Programs authorized.
"Sec. 433. Allocation of funds.
"Sec. 434. Eligible applicants.
"Sec. 435. Eligible participants.
"Sec. 436. Conditions for receipt of financial assistance.
"Sec. 437. Review of plans by Secretary.
"Sec. 438. Secretary's discretionary projects.

"Subpart 4—General Provisions

"Sec. 441. Distribution of funds.
"Sec. 442. Wage provisions.
"Sec. 443. Special conditions.
"Sec. 444. Special provisions for subparts 2 and 3.
"Sec. 445. Academic credit, education credit, counseling and placement services, and basic skills development.
"Sec. 446. Disregarding earnings.
"Sec. 447. Relation to other provisions.

"PART B—JOB CORPS

"Sec. 450. Statement of purpose.
"Sec. 451. Establishment of the Job Corps.
"Sec. 452. Individuals eligible for the Job Corps.
"Sec. 453. Screening and selections of applicants—general provisions.
"Sec. 454. Screening and selection—special limitations.
"Sec. 455. Enrollment and assignment.
"Sec. 456. Job Corps Centers.
"Sec. 457. Program activities.
"Sec. 458. Allowances and support.
"Sec. 459. Standards of conduct.
"Sec. 460. Community participation.
"Sec. 461. Counseling and job placement.
"Sec. 462. Experimental and developmental projects.
"Sec. 463. Advisory boards and committees.
"Sec. 464. Participation of States.
"Sec. 465. Application of provisions of Federal law.
"Sec. 466. Special provisions.
"Sec. 467. General provisions.
"Sec. 468. Utilization of funds.

"PART C—SUMMER YOUTH PROGRAM

"Sec. 480. Establishment of program.
"Sec. 481. Prime sponsors.
"Sec. 482. Financial assistance.
"Sec. 483. Secretarial authority.

"TITLE V—NATIONAL COMMISSION FOR EMPLOYMENT AND TRAINING POLICY

"Sec. 501. Statement of purpose.
"Sec. 502. Commission established.
"Sec. 503. Functions of the Commission.
"Sec. 504. Reports.

"TITLE VI—PUBLIC SERVICE EMPLOYMENT PROGRAM

"Sec. 601. Statement of purpose.
"Sec. 602. Report on appropriations.
"Sec. 603. Financial assistance.
"Sec. 604. Allocation of funds.
"Sec. 605. Expenditure of funds.
"Sec. 606. Prime sponsors and program agents.
"Sec. 607. Eligibility.
"Sec. 608. Wage supplementation.
"Sec. 609. Utilization of funds.

"TITLE VII—PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

"Sec. 701. Statement of purpose.
"Sec. 702. Financial assistance.
"Sec. 703. Private industry councils.
"Sec. 704. Private sector program.
"Sec. 705. Program activities.
"Sec. 706. Report.

"TITLE VIII—YOUNG ADULT CONSERVATION CORPS

"Sec. 801. Statement of purpose.
"Sec. 802. Establishment of Young Adult Conservation Corps.
"Sec. 803. Selection of enrollees.
"Sec. 804. Activities of the Corps.
"Sec. 805. Conditions applicable to Corps enrollees.
"Sec. 806. State and local programs.
"Sec. 807. Secretarial reports.
"Sec. 808. Antidiscrimination.
"Sec. 809. Transfer of funds.

"STATEMENT OF PURPOSE

"SEC. 2. It is the purpose of this Act to provide job training and employment opportunities for economically disadvantaged persons, unemployed or underemployed persons which will result in an increase in their earned income, and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency by establishing a flexible, coordinated and decentralized system of Federal, State, and local programs. It is further the purpose of this Act to provide for the maximum feasible coordination of plans, programs, and activities under this Act with economic development, community development and related activities such as vocational education, vocational rehabilitation, self-employment training programs, and social service programs.

"PART A—ORGANIZATIONAL PROVISIONS

"PRIME SPONSORS

"SEC. 101. (a) The Secretary may make financial assistance available to a prime sponsor to enable it to carry out all or a substantial part of a comprehensive employment and training plan. A prime sponsor shall be—

"(1) a State;

"(2) a unit of general local government

which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available to the Secretary;

"(3) any consortium of units of general local government which includes any unit of general local government qualifying under paragraph (2) of this subsection;

"(4) any unit of general local government or any consortium of such units, without regard to population, which, in exceptional circumstances, and after consultation with appropriate State and local officials, is determined by the Secretary—

"(A) (i) to serve a substantial portion of a functioning labor market area, or (ii) to be a rural area having a high level of unemployment; and

"(B) to have demonstrated (i) that it has the capability for adequately carrying out programs under this Act, (ii) that there is a special need for services within the area to be served, and (iii) that it will carry out such programs and services in such area as effectively as any larger unit or general local government in which it is located or as the State;

"(5) a limited number of existing concentrated employment program grantees serving rural areas having a high level of unemployment which the Secretary determines have special capabilities for carrying out programs in such areas and are designated by the Secretary for that purpose; or

"(6) any unit of general local government previously designated as a prime sponsor under the provisions of this Act (as in effect prior to the effective date of the Comprehensive Employment and Training Amendments of 1978) which has demonstrated its effectiveness to serve the purposes of this Act, regardless of any subsequent population decline below one hundred thousand persons.

"(b) (1) A State shall not qualify as a prime sponsor for any geographical area within the jurisdiction of any prime sponsor described in paragraph (2), (3), (4), (5), or (6) of subsection (a) unless such prime sponsor has not submitted an approvable comprehensive employment and training plan for such area.

"(2) A larger unit of general local government shall not qualify as a prime sponsor with respect to the jurisdiction within its area of any smaller eligible unit of general local government unless such smaller unit has not submitted an approvable comprehensive employment and training plan for such area.

"(c) An applicant must submit to the Secretary a notice of intent to be a prime sponsor for a fiscal year by such date as the Secretary shall prescribe. The Secretary shall designate as prime sponsors any applicant submitting such a notice unless the Secretary determines that such applicant does not qualify under this section.

"(d) State prime sponsors shall make appropriate arrangements for appropriate area planning bodies to serve subareas within the State prime sponsor's area for the purpose of assisting in the effective planning and delivery of comprehensive employment and training programs in such subareas, in accordance with such regulations as the Secretary may prescribe.

"AUTHORITY OF SECRETARY TO PROVIDE SERVICES

Sec. 102. In any area for which no prime sponsor has been designated under section 101(c), or where the Secretary has taken an action under section 104 or section 106 which results in employment and training services not being provided in such area, the Secretary shall use funds allocated to such prime sponsor to make payments directly to public agencies or private nonprofit organizations as if the Secretary were the prime sponsor for that area.

"COMPREHENSIVE EMPLOYMENT AND TRAINING PLAN

"Sec. 103. (a) In order to receive financial assistance under this Act, a prime sponsor designated under section 101(c) shall submit to the Secretary a comprehensive employment and training plan. Such plan shall consist of a master plan and an annual plan. The master plan shall serve as the long-term charter under which the programs of such prime sponsor shall be operated. Such plan shall be sufficiently detailed to provide the Secretary and the prime sponsor with a thorough understanding of the economic conditions of the area and of the prime sponsor's long-term programmatic and administrative arrangements to ensure that each annual program is designed and implemented in a manner best suited to such conditions and in a manner consistent with the requirements of this Act. The formulation of such plan by the prime sponsor shall involve the active participation of the prime sponsor planning council, and such plan shall—

"(1) include (A) a detailed analysis of the area to be served, including geographic and demographic characteristics of significant segments of the population to be served (with data indicating the number of potential eligible participants and their income and employment status), and (B) a comprehensive labor market analysis and assessment of the economic conditions in the area, identifying the availability of employment and training in various public and private labor market sectors in such area and the potential for job growth in such sectors;

"(2) include a statement of the long-term goals of the prime sponsor for the improvement of such labor market and economic conditions;

"(3) include a description of the methods and institutional arrangements which will be used to involve community-based organizations in the development and implementation of the programs assisted under this Act;

"(4) include a description of the methods and arrangements which will be used to ensure the fullest possible utilization, consistent with the education and training needs identified in the plan, of public vocational education facilities and programs, and of other facilities of local education agencies in the provision of instruction in basic cognitive skills and in the development and implementation of programs assisted under this Act;

"(5) provide evidence that in the development of such plan there has been a continuing process of consultation with interested groups in the area not directly represented on the prime sponsor's planning council, including local advisory councils established under section 105(a) of the Vocational Education Act of 1963 and the private industry council established under section 703 of this Act, representatives of local education agencies, and representatives of postsecondary educational agencies;

"(6) include a detailed description of—

"(A) the prime sponsor's administrative arrangements and the procedures and criteria to be used (i) to select and supervise deliverers of service (including criteria for determining that a program has 'demonstrated effectiveness'), (ii) to evaluate and audit the operation of such programs, and (iii) to process complaints and grievances with respect to such programs;

"(B) the methods to be used to identify and place participants in such programs and the arrangements made with respect to providing such participants with job search assistance, counseling, and other services; and

"(C) the procedures for the selection of and the arrangements made with respect to consultation with the prime sponsor planning counsel;

"(7) include a description of arrangements to ensure that employment and training services, including the development of job opportunities, will be provided to those most in need of them, including low-income persons, handicapped persons, and persons of limited English-speaking ability, and that the need for continued funding of programs of demonstrated effectiveness is taken into account in serving such groups and persons;

(8) (A) provide a description of appropriate arrangements with community-based organizations serving the poverty community which are not represented on the prime sponsor planning council, and other special target groups, for their participation in the planning of programs included in the plan; (B) provide a description of the extent to which those services and facilities which are available, with or without reimbursement of the reasonable cost, from Federal, State, and local agencies are utilized by the prime sponsor, based upon a written evaluation of the local effectiveness of such existing services and facilities, including, but not limited to, the State employment service, State vocational education and vocational rehabilitation agencies, area skills centers, local educational agencies, postsecondary training and education institutions, and community action agencies, but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions, and organizations (such as private businesses, labor organizations, private employment agencies, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services or otherwise aid in reducing more quickly unemployment or current prospective labor shortages; (C) provide a description of arrangements for (i) the use of skills centers established under the authority of section 231 of the Manpower Development and Training Act of 1962, and (ii) the use of other public vocational education facilities in such area; (D) provide a description of arrangements to coordinate services for which financial assistance is provided under programs administered by the Secretary relating to employment and training and related services; and (E) provide a description of arrangements to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38, United States Code;

"(9) provide for and include a description of arrangements made to insure the participation of and consultation with local educational agencies, vocational education agencies, community-based organizations, Federal and State agencies, organized labor, business, and other institutions and organizations in the conduct of programs under this Act;

"(10) include a description of the methods for coordination between the prime sponsor and the local State employment security agencies and delineate the specific responsibilities of each in the delivery of employment and training services for participants funded under this Act and under the Wagner-Peyser Act, with the goal of maximizing the level of coordination between the prime sponsor and the local employment security agency and minimizing duplication;

"(11) include a description of the procedures concerning academic credit developed in conjunction with the appropriate local education agency or institution of higher education and approved by the appropriate State educational agency (including State agencies responsible for postsecondary education), or, where a prime sponsor's area includes more than one local education agency, developed in conjunction with, and approved by, the appropriate State educational agency;

"(12) include a description of procedures for the consideration of any changes in the plan required by this subsection or in the plan required under subsection (b), including review of such changes by the prime sponsor planning council;

"(13) include a description of recommendations of members of the prime sponsor's planning council which were not included in the plan, together with the reasons for rejecting them;

"(14) include a description of actions to ensure compliance with personnel procedures and collective bargaining agreements;

"(15) include a description of efforts to remove artificial barriers to employment;

"(16) include a description of procedures which will lead to skill development and job opportunities for participants in occupations traditionally limited to individuals of the opposite sex;

"(17) include a description of plans and activities to coordinate, strengthen, and expand employment and training activities under this Act with economic development activities in the private sector; and

"(18) include adequate assurances of compliance with this Act, regulations issued thereunder, and the comprehensive employment and training plan.

"(b) To receive funds for any fiscal year a prime sponsor shall submit an annual plan which shall include—

"(1) any significant changes from the information provided in the master plan;

"(2) (A) a description of the eligible population, including geographic and demographic characteristics of significant segments of such population;

"(B) a description of plans made to provide for the needs of persons who face particular disadvantages as identified in title III of this Act; and

"(C) a description of the procedures which will be used to promote the objectives of section 121(a)(4), including the hiring, licensing, and contracting activities of the political units, subgrantees, and contractors of such prime sponsor;

"(3) the prime sponsor's program and performance standards and goals for the program year, any changes in such program and performance standards and goals from those established for the preceding year and a summary of the results achieved with respect to such program standards and goals for prior years, and a description of any problems encountered in meeting the program and performance standards and goals for such preceding years;

"(4) the method for determining priorities for service under title II based on objective locally established criteria to assist the prime sponsor in assuring service to those most in need; such priorities shall be based on locally determined factors such as employment status, household status, level of employability development, handicap, veteran status, age, race, sex, or other criteria deemed viable by the prime sponsor;

"(5) the proposed budget for the program year, including a detailed summary of the expenditures made during the preceding year, results achieved, and changes made in the annual plan for the program year;

"(6) a list of the specific contracts from the previous year with those institutions providing training programs, including information on the rate of job placement for those who have completed such programs;

"(7) a summary of any evaluation conducted of the prime sponsor's programs during preceding program years and a description of any use made of such evaluation in the modification or alteration of the prime sponsor's program;

"(8) a description of an affirmative action program for outreach to and training, placement, and advancement of handicapped individuals in employment and training programs under this Act, including—

"(A) a description of the extent to which and the methods whereby the special needs of the handicapped are to be met; and

"(B) a description of the number of handicapped individuals who were served each of the preceding two years, the types of training or employment in which they were placed, and the number of such individuals who were moved into unsubsidized employment;

"(9) a description of the prime sponsor's intention to apply for and utilize funds provided under this Act which are not allocated by formula;

"(10) the wages or salaries to be paid persons employed in public service jobs under this Act and a comparison with the wages paid for similar public occupations by the same employer; and

"(11) a copy of all agreements made pursuant to section 203(a) of this Act.

"(c) The Secretary shall establish procedures for submittal, approval, and implementation of changes in the comprehensive employment and training plan, together with any reports required under this Act, not more than once each fiscal quarter.

"REVIEW OF PLANS AND PERFORMANCE STANDARDS AND GOALS

"SEC. 104. (a) The Secretary shall approve any comprehensive or annual employment and training plan only if it (1) meets the requirements of section 103; (2) has been submitted for comment (at least 45 days before it was submitted to the Secretary) to the Governor, the State employment and training council, the prime sponsor planning council, appropriate local units of general local government, and labor organizations in the area representing employees engaged in work similar to that proposed to be funded; and (3) has been made available to the chairperson of the appropriate committee in each House of the State legislature with primary responsibility for vocational training and job development programs and to the public (including appropriate community-based organizations). The Secretary shall not approve or disapprove any such plan solely on the basis of the proposed allocation of funds to be devoted to a particular program or activity, unless such allocation is required by this Act. The Secretary shall, prior to approval of any plan, require the inclusion in such plan of specific management and accounting procedures to assure adequate supervision and monitoring of the programs to be conducted pursuant to such plan, and shall require the adoption of specific procedures (such as accrual accounting procedures) where necessary for such purpose. Prior to approval of any plan, the Secretary shall review the success of any training program which is to be refunded and be satisfied that such program has achieved sufficient results in job placement to merit continuation. The Secretary can require modification of such funding where necessary. The Secretary shall, prior to approval of any plan, insure that the prime sponsor has demonstrated a recognizable and proven method of verifying eligibility of all recipients. The Secretary can require modification or the adoption of specific procedures where necessary for such purposes. The Secretary shall also develop recognizable penalties and inform the prime sponsors of such penalties to be applied upon a finding of the ineligibility of any recipient. In reviewing such plans, the Secretary shall insure that the plans adequately describe, and the prime sponsor demonstrates a thorough understanding of, labor market and economic conditions in the area served, that the plan is reasonably designed to respond to such conditions, that the administrative arrangements and procedures are adequate for the performance of the program and will insure that professional standards of management will be attained, and that the plans provide for adequate relationships with existing community efforts and maximize the use of existing resources.

"(b) The Secretary shall assess the adequacy of each prime sponsor's proposed performance standards and goals in accordance with criteria recognizing that performance will vary with local conditions. Review standards shall provide appropriate recognition of differences associated with the degree of disadvantage or handicap of the eligible population, as well as such factors as—

"(1) the local labor market conditions, including, but not limited to, the levels of employment and unemployment, and the current and projected labor market needs;

"(2) the economic base of the community, including, but not limited to, the growth or decline of industry within the community;

"(3) the distribution of available employment opportunities, by industry division, for persons residing within the prime sponsor's area; and

"(4) the differing needs of the eligible population which will vary the costs for services and which will require setting different performance standards depending on the disadvantage of the eligible population.

"(c) (1) The Secretary shall, not later than March 31 of the fiscal year preceding the fiscal year for which an annual plan is to take effect, establish a date for the submission of such annual plan. The Secretary shall make available to each prime sponsor a complete and final set of all applicable regulations and necessary application materials no later than May 15 of the fiscal year preceding the fiscal year for which such plan is to take effect. With respect to funds allocated under this Act on the basis of a formula, the Secretary shall also provide prime sponsors with a preliminary planning estimate based on the amounts available in the budget of the President or in the most recent concurrent budget resolution under the Congressional Budget Act applicable to such year. If for any reason the Secretary cannot provide a complete and final set of all applicable regulations and necessary application materials by such May 15 prior to the date established under the first sentence of this subsection, the Secretary shall extend the date for submittal of such plan to allow the prime sponsor to review such regulations and to complete such materials prior to submittal.

"(2) During the period of time between May 15 and the date for submittal of the plan, the Secretary shall not issue any regulations or guidelines or interpretations thereof that require any change in the prime sponsor's plan, which is a condition for the Secretary's approval or disapproval of the plan. If the Secretary deems that a plan change is required during this period, the Secretary shall allow at least one fiscal quarter for the prime sponsor to submit such change, except that the sponsor may at its own discretion submit the required change as part of its plan submittal under paragraph (1).

"(d) Any prime sponsor aggrieved by any determination made under subsection (a) shall submit notice to the Secretary of the grounds for its objection, and the Secretary shall, within 30 days after receipt of such notice, reverse, amend, or affirm such determination and provide notice thereof and an opportunity for a hearing to such prime sponsor.

"(e) To the extent necessary to provide for the orderly transition to the provisions of section 103 and this section the Secretary may waive any provisions of such sections which are inconsistent with the comparable provisions of this Act prior to the enactment of the Comprehensive Employment and Training Amendments of 1978 and allow prime sponsors to submit plans and applications for assistance consistent with such comparable provisions during the period beginning on the effective date of such Amendments and ending December 31, 1978.

"GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN

"Sec. 105. (a) Any State seeking financial assistance under this Act shall submit a Governor's coordination and special services plan to the Secretary.

"(b) Governor's coordination and special services activities shall consist of, but need not be limited to, the following:

"(1) coordinating all employment and training and related services provided by the State, by prime sponsors, and by other providers of such services within the State;

"(2) coordinating programs financed under the Wagner-Peyser Act and this Act, including assisting the negotiation of any agreements (including partnership arrangements described in section 308) between prime sponsors and State employment security agencies;

"(3) assuring that comprehensive employment and training plans do not unnecessarily result in the duplication of services;

"(4) assisting the Secretary in enforcing the requirements for Federal contractors and subcontractors to list all suitable employment openings with local offices of the State employment services agencies and to take affirmative action, as required in section 2012 (a) of title 38, United States Code.

"(5) assuring the promotion of prime sponsor planning that takes into account conditions prevailing in labor market areas covering more than one prime sponsor area, as well as related activities such as community development, economic development, vocational education, vocational rehabilitation, and social services;

"(6) exchanging information between States and prime sponsors with respect to State, interstate, and regional planning for economic development, human resource development, education, and other subjects relevant to employment and training planning;

"(7) developing and providing to prime sponsors information, on a State and local area basis, regarding economic, industrial, and labor market conditions;

"(8) making available to prime sponsors, with or without reimbursement and upon request, appropriate information and technical assistance to assist them in developing and implementing their programs;

"(9) carrying out special model training and employment programs and related services, which may include programs for offenders similar to programs described in section 301(c); and

"(10) providing financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas.

"(c) A Governor's coordination and special services plan shall be approved by the Secretary only if the Secretary determines that the plan satisfactorily implements subsection (b) of this section, and has been reviewed by the State employment and training council.

"COMPLAINTS AND SANCTIONS

"Sec. 106. (a) Each prime sponsor receiving financial assistance under the Act shall establish and maintain a grievance procedure, including provisions for hearings within 30 days after filing of a grievance, for handling complaints about the program arising from its participants, subgrantees, and contractors, and other interested persons. Hearings shall be conducted expeditiously and decisions shall be made not later than 60 days after the filing of the grievance involved. With the exception of grievances involved, or any criminal activity, filing of a grievance must be made within one year of the alleged occurrence.

"(b) Whenever the Secretary receives a complaint from any interested person or organization (which has exhausted the prime sponsor's grievance system established pursuant to subsection (a)) which alleges, or whenever the Secretary has reason to believe (because of an audit, report, on-site review, or otherwise) that a recipient of financial assistance under this Act is failing to comply with the requirements of this Act, the regulations under this Act, or the terms of the comprehensive employment and training plan, the Secretary shall investigate the matter. The Secretary shall conduct such investigation, and make the final determination required by the following sentence regarding the truth of the allegation or belief involved, not later than 120 days after receiving the complaint. If, after such investigation, the Secretary determines that there is substantial evidence to support such allegation or belief that such a recipient is failing to comply with such requirements, the Secretary shall, after due notice and opportunity for a hearing to such recipient, determine whether such allegation or belief is true.

"(c)(1) The Secretary may revoke all or any part of a prime sponsor's comprehensive employment and training plan and terminate in whole or in part financial assistance thereunder, provided that prior notice and opportunity for a hearing are given, if the Secretary concludes that the prime sponsor is—

"(A) maintaining a pattern or practice of discrimination in violation of section 121(a) (1) or 132, or otherwise failing to make opportunities available equitably among the significant segments of the population in the area it serves;

"(B) incurring unreasonable administrative costs in the conduct of activities and programs, as determined pursuant to the Secretary's regulations;

"(C) failing to give due consideration to continued funding of programs of demonstrated effectiveness; or

"(D) otherwise materially failing to carry out the purposes and provisions of this Act or the regulations promulgated under it, or materially failing to expend funds provided under this Act in accordance with this Act.

"(2) If the Secretary finds that a public service employment program is being conducted in violation of section 121 (e)(2), (e)(3), or (g)(1), the Secretary shall, after notice and opportunity for a hearing, revoke all or any part of that portion of the affected prime sponsor's comprehensive employment and training plan pertaining to such program and terminate financial assistance with respect to such portion.

"(d) In emergency situations, as determined by the Secretary, when it is necessary to protect the integrity of the funds or ensure the proper operation of the program, the Secretary may immediately terminate or suspend financial assistance in whole or in part, provided that prompt notice and opportunity for a subsequent hearing are given to the recipient. The Secretary shall not delegate any of the functions or authority specified in this subsection other than to an officer whose appointment was required to be made by and with the advice and consent of the Senate.

"(e) If the Secretary concludes that any recipient of funds under this Act is failing to comply with any provision of this Act or any regulations under this Act, the Secretary may terminate or suspend financial assistance in whole or in part or order such sanctions or corrective actions as are appropriate including, but not limited to, the repayment of misspent funds from funds other than funds under this Act, and the withholding of future funding, provided prior notice and an opportunity for a hearing are given to the recipient. Whenever the Secretary orders termination or suspension of a subgrantee or subcontractor, the Secretary may take whatever action is necessary, including direct legal action against the subgrantee or subcontractor (including operators under a non-financial agreement) or an order to the primary recipient that it take legal action to reclaim misspent funds or to otherwise protect the integrity of the funds or ensure the proper operation of the program.

"(f) If the Secretary concludes that any recipient under this Act (1) has discharged or in any other manner discriminated against a participant, or against any person in connection with the administration of the program, or against any person because such person has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding or investigation, or (2) has otherwise unlawfully denied to any person a benefit to which that person is entitled under the provisions of this Act or the Secretary's regulations, the Secretary may take such appropriate corrective action under this section as is necessary with respect to both the recipient and the person aggrieved.

"(g) The Secretary may withhold funds otherwise payable under this Act in order to recover any amounts expended in any fiscal year in violation of any provision of this Act, any regulation, or any term or condition of assistance under this Act.

"(h) Nothing in this section shall be deemed to reduce the responsibility and full liability of the prime sponsors and other recipients which receive funds directly from the Secretary.

"(i)(1) Except as otherwise provided in subsection (d), the Secretary shall not revoke a prime sponsor's plan, in whole or in part, nor institute corrective action or sanctions against a prime sponsor under this section or any other section under this Act, without first providing the prime sponsor with notice by the Secretary of his intended actions and the reasons upon which those intended actions are based, and also providing the prime sponsor—

"(A) with an opportunity to informally resolve those matters contained in the Secretary's notice; and

"(B) in the event that the prime sponsor and the Secretary cannot informally resolve any matter pursuant to clause (A), with a notice that (i) efforts to informally resolve matters contained in the Secretary's original notice have been unsuccessful; (ii) lists those matters upon which the parties continue to disagree; and (iii) informs the prime sponsor of any sanctions, corrective action, or any other alteration or modification of the prime sponsor's plan or program intended by the Secretary.

"(2) Within ten days of receipt of the Secretary's notice under paragraph (1)(B), the prime sponsor may request a hearing, but in no event shall the Secretary proceed under this Act without first fulfilling all the requirements under this subsection.

"JUDICIAL REVIEW

"Sec. 107. (a) If any prime sponsor is dissatisfied with the Secretary's final action with respect to the disapproval of its comprehensive employment and training plan under section 104 or if any recipient is dissatisfied with the Secretary's final action with respect to a sanction under section 106, such prime sponsor or recipient may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which the prime sponsor or recipient is located a petition for review of that action.

"(b) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may, in whole or in part, set aside the findings of the Secretary or remand the case to the Secretary in whole or in part to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the previous action, and shall certify to the court the record of the further proceedings.

"REALLOCATION

"SEC. 108. (a) The Secretary is authorized to reallocate any amount of any allocation under this Act to the extent that the Secretary determines that the recipient will not be able to use such amount within a reasonable period of time.

"(b)(1) Any allocations to a prime sponsor designated under section 101(c) may be reallocated only if the Secretary has provided thirty days advance notice to the prime sponsor, to the Governor, and to the general public. During such period comments may be submitted to the Secretary.

"(2) After considering any comments submitted during such period, the Secretary shall notify the Governor and the affected prime sponsor of any decision to reallocate funds, and shall publish such decision in the Federal Register.

"(3) In reallocating any such funds, the Secretary shall give priority first to other prime sponsor areas within the same State and then to prime sponsor areas within other States.

"PRIME SPONSOR'S PLANNING COUNCIL

"SEC. 109. (a) Each prime sponsor designated under section 101(c) shall establish a planning council.

"(b) Such council shall consist of members who are representative of the eligible population (including significant segments thereof), organized labor, employees who are not represented by organized labor, community-based organizations, the State employment service, veterans organizations, organizations of the elderly, vocational education agencies, other education and training agencies and institutions, business, and, where appropriate, agricultural employers and workers.

"(c) The prime sponsor shall appoint the members of the council and designate a nongovernmental member as chairperson.

"(d) The planning council shall meet no less than four times per year. The meetings shall be publicly announced, and, to the extent appropriate, open to and accessible to the general public.

"(e) The council shall participate in the development of, and submit recommendations regarding, the prime sponsors' comprehensive employment and training plan and the basic goals, policies, and procedures of the prime sponsor's programs and other employment and training programs in the prime sponsor's area; monitor, and provide for objective evaluations of, employment and training programs conducted in such area; and provide for continuing analyses of the need for employment, training, and related services in such area, including efforts to reduce and eliminate artificial barriers to employment. Any final decision with respect to such recommendations shall be made by the prime sponsor.

"STATE EMPLOYMENT AND TRAINING COUNCIL

"SEC. 110. (a)(1) Any State which desires to receive financial assistance under this Act shall establish a State employment and training council. Funding for the council shall be provided pursuant to section 202(c).

"(2) The council shall be appointed by the Governor, who may be chairperson of the council or may designate one nongovernmental member thereof to be chairperson.

"(3) The council shall be composed as follows:

"(A) one-third of the voting members of such council shall consist of—

"(i) representatives of units of general local government in the State, including such units or consortia thereof who are designated as prime sponsors, which representatives shall be nominated by the chief executive officers of units of general local government within the State;

"(ii) one representative of the State board of vocational education;

"(iii) one representative of the State advisory council on vocational education established pursuant to section 105 of the Vocational Education Act of 1963;

"(iv) one representative of the State employment security agency;

"(B) one-third of the voting members of such council shall consist of representatives of organized labor, business, agricultural employers and workers, community-based organizations, veterans organizations, and organizations of the elderly;

"(C) one-third of the voting members of such council shall consist of representatives of the eligible population (including significant segments thereof) and of the general public; and

"(D) such additional nonvoting ex officio members of such council as the Governor may designate to represent State agencies having a direct interest in overall employment and training and human resource utilization within the State.

"(4) The council shall meet at such times (but at least four times each year) and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

"(b) The council shall—

"(1) review continuously the operation of programs conducted by each prime sponsor, and the availability, responsiveness, and adequacy of State services, and make recommendations to the prime sponsors, to agencies providing employment and training services, to the Governor, and to the general public with respect to ways to improve the effectiveness of such programs or services;

"(2) make an annual report to the Governor which shall be a public document, and issue such other studies, reports, or documents as it deems advisable to assist prime sponsors or to otherwise help carry out the purposes of this Act;

"(3)(A) identify, in coordination with the State advisory council on vocational education, the employment and training and vocational education needs of the State and assess the extent to which employment, training, vocational education, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs: and (B) comment at least once annually on the reports of the State advisory council on vocational education, which comments shall be included in the annual report submitted by that council pursuant to section 105 of the Vocational Education Act of 1963;

"(4) review the comprehensive employment and training plans of prime sponsors pursuant to section 104, especially with respect to nonutilization or duplication of existing services; and

"(5) review plans of all State agencies providing employment, training, and related services, and provide comments and recommendations to the Governor, the State agencies, and the appropriate Federal agency on the relevancy and effectiveness of employment and training and related service delivery systems in the State.

"CONSULTATION

"SEC. 111. (a) The Secretary of Labor shall consult with the Secretary of Health, Education, and Welfare with respect to arrangements for services of a health, education, or welfare character under this Act, and the Secretary of Health, Education, and Welfare shall solicit the advice and comments of appropriate State agencies with respect to such health, education, and welfare services. Such services include, but are not limited to, basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.

"(b) The Secretary of Labor, in carrying out or supporting programs under this Act, shall consult, as appropriate, with the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, the Director of the Community Services Administration, the Administrator of Veterans Affairs, and such other officials as appropriate.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 112. (a)(1) Except as provided in paragraphs (3) through (6), there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years for carrying out the provisions of this Act, other than part A of title IV and title VII.

"(2) Except as provided in paragraphs (3) through (6), there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979, and for the succeeding fiscal year for carrying out the provisions of part A of title IV and title VII.

"(3) For the fiscal year ending September 30, 1979, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,000,000,000 for carrying out the provisions of title II;

"(B) $2,250,000,000 for carrying out the provisions of title IV;

"(C) the amount determined pursuant to section 602 for carrying out the provisions of title VI;

"(D) $500,000,000 for carrying out the provisions of title VII; and

"(E) $267,000,000 for carrying out the provisions of title VIII.

"(4) For the fiscal year ending September 30, 1980, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,290,000,000 for carrying out the provisions of title II;

"(B) $2,400,000,000 for carrying out the provisions of title IV;

"(C) the amount determined pursuant to section 602 for carrying out the provisions of title VI;

"(D) $525,000,000 for carrying out the provisions of title VII; and

"(E) $290,000,000 for carrying out the provisions of title VIII.

"(5) For the fiscal year ending September 30, 1981, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,583,000,000 for carrying out the provisions of title II; and

"(B) the amount determined pursuant to section 602 for carrying out the provisions of title VI;

"(6) For the fiscal year ending September 30, 1982, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,876,000,000 for carrying out the provisions of title II; and

"(B) the amount determined pursuant to section 602 for carrying out the provisions of title VI.

"(b) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds appropriated to carry out this Act, which are not obligated prior to the end of the fiscal year for which funds were appropriated, shall remain available for obligation during the succeeding fiscal year, and any funds obligated in any fiscal year may be expended during a period of two years from the date of obligation.

"(c) (1) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are first available for obligation.

"(2) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

"(d) Of the amount appropriated to carry out this Act for any fiscal year, the amount available for carrying out title III shall not exceed 20 per centum of the amount available for carrying out title II. From any amount made available for title III activities, the Secretary shall transfer an amount equal to not less than $3,000,000 nor more than $5,000,000 for any fiscal year to the National Occupational Information Coordinating Committee established pursuant to section 161(b) of the Vocational Education Act of 1963, for purposes described in section 315 of this Act.

"EVALUATION STUDIES

"SEC. 113. (a) From the amounts appropriated pursuant to section 112 for carrying out titles II and VI for each of the fiscal years ending on September 30, 1979, 1980, 1981, and 1982, the Secretary shall reserve not to exceed $5,000,000 for purposes of this section.

"(b) From the amounts available pursuant to subsection (a) the Secretary shall establish a program for the continuous and comprehensive study and evaluation, under contract, of recurrent and developing problems in achieving the purposes and goals of such programs. Such study shall be conducted on the basis of statistical and operational evaluation (and collection and organization) of data concerning programs under this Act. Such study and evaluation shall include—

"(1) a detailed analysis of the characteristics of participants in each of such programs;

"(2) development and use of definitions, standards, and tests (A) for revealing the extent and use of substitution (as prohibited by section 121(e)(2), (e)(3), and (g)(1)), (B) for analyzing the characteristics of the sponsors and participants likely to be involved, and (C) for analyzing trends or patterns of variation in the extent or type of substitution by type of program, duration of program operation, or other factors;

"(3) development and use of definitions, standards, and tests (A) for revealing the extent of transition to unsubsidized employment, (B) for analyzing the characteristics of the sponsors and participants likely to achieve such transition, and (C) for analyzing trends or patterns of variation by type of unsubsidized employment, post transition income and duration of employment, and degree to which post transition employment job skills and functions differ from those required in the position funded under this Act.

"(c) The study and evaluation program conducted under this section shall also include—

"(1) use of appropriate control groups of individuals eligible for, but not enrolled in, programs under this Act;

"(2) preenrollment studies of program participants; and

"(3) random sampling techniques, and organization of data by demographic characteristics.

"(d) The Secretary shall transmit to Congress annual reports on the study evaluation activities conducted under this section on October 1, of 1979 and 1980, shall transmit a final report thereon on October 1, 1981, and shall transmit a supplemental report on October 1, 1982. Each such report, in addition to presenting detailed findings and conclusions pursuant to subsections (b) and (c), shall analyze the data basis for such findings and conclusions in terms of net impact, statistical significance, and other measures of the reliability of such data. Reports required under this subsection shall, notwithstanding any other provision of law, be submitted without further clearance or approval from any other official.

"(e) The Secretary shall submit to the Congress, within ninety days after the date of enactment of this section, a plan for the study and evaluation program to be conducted under this section. Such plan shall be delivered to both Houses on the same day and to each House while it is in session. The Secretary shall not commence such program until the first day after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress. For purposes of this subsection—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

"PART B—GENERAL PROVISIONS

"CONDITIONS APPLICABLE TO ALL PROGRAMS

"SEC. 121. Except as otherwise provided, the following conditions are applicable to all programs under this Act:

"(a) (1) No person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

"(2) Participants shall not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

"(3) Every participant, prior to entering upon employment or training, shall be informed of that individual's rights and benefits in connection with such employment or training; acceptance of family planning services shall be voluntary on the part of the individual, and shall not be a prerequisite to eligibility for, or receipt of, any benefit under the program.

"(4) (A) Programs shall contribute, to the maximum extent feasible, to the elimination of artificial barriers to employment and occupational advancement.

"(B) Prime sponsors and their subgrantees and contractors shall analyze and reevaluate job descriptions to remove artificial barriers to the public service employment of participants, and, where necessary, revise, or assist in the revision of, qualification requirements, including civil service and licensing requirements and practices relating thereto.

"(5) Prime sponsors shall make efforts to remove architectural barriers to employment of the handicapped.

"(b) (1) (A) Only persons residing within the area qualifying for assistance shall be employed, and the public services provided by such jobs, to the extent feasible, shall be designed to benefit the residents of such area.

"(B) Employment and training opportunities for participants shall be made available by prime sponsors on an equitable basis in accordance with the purposes of this Act among significant segments of the eligible population giving consideration to the relative numbers of eligible persons in each such segment.

"(C) In the administration of programs under this Act, members of the eligible population to be served shall be provided maximum employment opportunities, including opportunities for further occupational training and career advancement. Prime sponsors shall make special efforts to recruit and hire qualified persons reflecting the significant demographic segments of the population residing in the area.

"(D) Special consideration in filling public service jobs shall be given to eligible persons who are the most severely disadvantaged in terms of their length of unemployment and their prospects for finding employment.

"(2) (A) Special consideration shall be given to unemployed persons who served in the Armed Forces in Indochina or Korea on or after August 5, 1964, in accordance with procedures established by the Secretary, and special emphasis shall be given to the development of jobs which will utilize, to the maximum extent feasible, the skills which such veterans acquired in connection with their military training and service.

"(B) Special efforts shall be made to acquaint such veterans with the employment and training available under this Act, and to coordinate efforts in behalf of such veterans with those activities authorized by chapter 41 of title 38, United States Code (relating to job counseling and employment services for veterans), and other similar activities carried out by other public agencies or organizations.

"(C) Prime sponsors shall provide such arrangements as may be appropriate to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38, United States Code.

"(c) (1) (A) (i) No wages shall be paid from funds under this Act to any participant for any week of public service employment under this Act in excess of seventy-eight weeks in any five-year period. For purposes of this division, no more than twenty-six weeks of public service employment financed in whole or in part under this Act prior to October 1, 1978, shall be considered as part of the seventy-eight weeks.

"(ii) The Secretary may waive the provisions of division (i) or of paragraph (2) (B) to provide a temporary extension of time for a limited number of persons who were originally hired in a public service employment program prior to April 1, 1978, and who continue to be so employed on September 30, 1979, in the case of a prime sponsor which the Secretary determines has faced unusually severe hardships in its efforts to transition public service employees into regular public or private employment not supported under this Act.

"(B) (i) Except as provided in division (ii), funds under this Act shall not be used to pay wages to any person employed in a public service job in any fiscal year under this Act at a rate in excess of $10,000 per year.

"(ii) Notwithstanding division (i) of this subparagraph, the Secretary may, with respect to any State—

"(I) in which the average wage (during the calendar year preceding the beginning of the applicable fiscal year) in employment covered under Federal or State unemployment compensation laws (without regard to any limitation on the amount of wages subject to contribution under such law) exceeds the national average wage in such employment by more than 50 per centum, and

"(II) in which employees of the Government receive allowances pursuant to section 5941 of title 5, United States Code,

waive the maximum which would otherwise apply to wages paid to persons employed in public service positions in such State and establish in lieu thereof, limitations consistent with the purposes of this Act and with the requirements of programs under this Act in such State.

"(C) In order to provide the number of public service job opportunities for which funds are made available under this Act, the Secretary shall issue appropriate standards to be maintained with respect to average federally supported wage rates for public service jobs on an area basis, on the basis of an index to be published annually by the Secretary, taking into account average wages in regular employment not supported under this Act in various areas, for the purpose of maintaining nationwide annual average federally supported wage rates in the fiscal year ending September 30, 1979, equivalent to $7,000 per public service jobholder (consistent with the maximum annual federally supported wage rate under subparagraph (B)) of this paragraph. Average wage rates established under such standards for public service jobs for each area shall be adjusted annually by the Secretary by a percentage equal to the change in average wages in regular employment not supported under this Act in such area.

"(D) Notwithstanding any eligibility limitation on public service employment in this Act, a person who on September 30, 1978, held a public service employment position under this Act may continue in such position subject to subparagraph (A) of this paragraph.

"(E)(i) Except as otherwise provided in section 608, no public service employment participant may be provided wages for any public service employment job from sources other than this Act.

"(ii) Notwithstanding division (i), any person in public service employment on September 30, 1978, receiving wages from sources other than this Act may continue to receive such wages.

"(2)(A) All persons participating in work experience under this Act shall receive wages, and all persons participating in training shall receive allowances, pursuant to section 123; except that, subject to section 212 (b), no wages or allowances shall be paid from funds under this Act to any participant for any week of institutional or classroom training, or for any week of work experience, in excess of one hundred and four weeks in any three-year period.

"(B) Subject to section 212(b), no individual shall participate in programs receiving financial assistance under this Act for longer than a total of thirty months in any five-year period. For purposes of this subparagraph, no period of participation prior to October 1, 1978, shall be included in the computation of such thirty months.

"(3)(A) Appropriate workers' compensation or equivalent protection shall be provided to all participants.

"(B) All persons employed in public service jobs under this title will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy. Nothing in this subparagraph or in paragraph (4) shall be deemed to require the enrollment of persons employed in public service jobs in retirement systems or plans for the purpose of providing retirement benefits based on age or service, or both.

"(4) Funds available for employment benefits under this Act may be used for contributions on behalf of participants enrolled in retirement systems or plans prior to January 1, 1979. With respect to participants other than those described in the preceding sentence, funds under this Act may, notwithstanding paragraph (3)(B), be used for contributions to retirement systems or plans (other than pursuant to the Social Security Act) only to the extent such contributions are used to provide benefits such as health and death and disability and are not used for retirement benefits based on age or service, or both.

"(d)(1) Conditions of employment and training shall be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant.

"(2) Appropriate health, safety and other standards for work and training shall be established and maintained.

"(3) Household support obligations shall be taken into account, and special consideration shall be given alternative working arrangements such as flexible hours of work, work-sharing arrangements, and part-time jobs, particularly for parents of young children and for other persons.

"(e)(1) The program shall result in an increase in employment and training opportunities over those opportunities which would otherwise be available.

"(2) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

"(3) No person shall be employed or job opening filled (A) when any other person not supported under this Act is on layoff from the same or any substantially equivalent job, or (B) when the employer has terminated the employment of any regular employee not supported under this Act or otherwise reduced its work force with the intention of filling the vacancy so created by employing a public service employee.

"(4) No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of persons currently employed in jobs not subsidized under this Act.

"(5) No public service jobs shall be substituted for existing federally assisted jobs.

"(6) No program shall impair existing contracts for services.

"(7) No funds shall be used to assist in relocating establishments, or parts thereof, from one area to another or locating new branches, subsidiaries, or affiliates unless the Secretary determines that such relocation or location will not result in an increase in unemployment in the area of original location or in any other area.

"(f)(1) All programs, to the maximum extent feasible, shall contribute to occupational development, upward mobility, development of new careers, and overcoming sex-stereotyping (including procedures which will lead to skill development and job opportunities for participants in occupations traditionally limited to the opposite sex).

"(2) No person shall be trained for an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation.

"(3) All programs shall be designed, to the maximum extent practicable consistent with every individual's fullest capabilities, to lead to employment opportunities enabling participants to increase their earned income and to become economically self-sufficient.

"(4) No person shall be referred for training unless there is a reasonable expectation of employment in the occupation for which such person is being trained. To the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector.

"(5) Programs of institutional training shall be designed for occupations in which skill shortages exist.

"(6) The Secretary, through State employment security agencies, shall inform unemployment compensation recipients, and other applicants for assistance from the employment security agency, of any available public service jobs for which they may be eligible.

"(g)(1)(A) No program shall substitute funds under this Act for other funds in connection with work that would otherwise be performed.

"(B) No funds for public service employment programs under this Act may be used to provide public services, through a private organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area served by the program.

"(C) Jobs shall be created that are in addition to those that would be funded in the absence of assistance under this Act.

"(D) Funds shall be used to supplement, and not to supplant, the level of funds that would otherwise be made available from non-Federal sources for the planning and administration of programs.

"(2) Programs shall use services and facilities available (with or without reimbursement) from Federal, State, and local agencies to the extent they are deemed effective by the prime sponsor.

"(3) Financial records relating to public service employment programs, and records of the names, addresses, positions, and salaries of all persons employed in public service jobs, shall be maintained and made available to the public.

"(h)(1) No nongovernmental individual, institution, or organization shall be paid funds provided under this Act to evaluate any program under this Act if such individual, institution, or organization is associated with that program as a consultant or technical advisor, or in any similar capacity.

"(2) No member of any council under this Act shall cast a vote on any matter which has a direct bearing on services to be provided by that member (or any organization which that member directly represents).

"(i) Small and minority-owned businesses shall be provided maximum reasonable opportunity to compete for contracts for supplies and services including, where appropriate, the use of set-asides.

"(j) Payments to employers organized for profit shall not exceed the difference between (1) the costs of recruiting, training, and supportive services, and the costs of low productivity (as defined by regulations of the Secretary) for participants and (2) the comparable costs incurred for those regularly employed.

"(k) Prime sponsors shall provide, where employment opportunities already exist or where there is a reasonable expectation of near-term expansion of such employment potential, employment and training opportunities in the development and use of solar, geothermal, hydroelectric, and other alternative energy technologies, and conservation, especially those clean, safe, renewable resources which may assist communities in resolving energy demand problems, thereby reducing their reliance on conventional nonrenewable fuels. For purposes of this section, solar energy sources has the meaning set forth in section 3 of the Solar Energy Research, Development and Demonstration Act of 1974.

"(l) No funds under this Act shall be used to aid the efforts of any labor organization to organize, to engage in collective bargaining, or to engage in any political activity. Without limiting the powers otherwise granted to the Secretary, funds found by the Secretary or by a court of law shall be refunded promptly to the United States Treasury.

"SPECIAL PROVISIONS

"SEC. 122. (a) No authority conferred by this Act shall be used to enter into arrangements for, or otherwise establish, any employment and training programs in the lower wage industries in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high.

"(b) The Secretary shall provide for the sharing of the comprehensive employment and training plan and other plans and proposals between the prime sponsors and other recipients of financial assistance in the prime sponsor's area under this Act in order to assure maximum feasible coordination of activities and programs within the area and to minimize duplication.

"(c)(1) Notwithstanding any other provisions of law, employment and training furnished under this Act in connection with weatherization projects may include work on projects for the near poor, including families having incomes which do not exceed 125 per centum of the poverty level as determined in accordance with the criteria established by the Director of the Office of Management and Budget, and projects approved by the Community Service Administration pursuant to section 222(a)(12) of the Economic Opportunity Act or the Department of Energy pursuant to title IV of the Energy Conservation and Production Act of 1976.

"(2) Projects permitted under this subsection shall be subject to the direction of an adequate number of supervisory personnel, who shall be adequately trained in skills needed to carry out the project and to instruct participants in skills needed to carry out a project.

"(d) All allocations under this Act shall be based on the latest available data and estimates satisfactory to the Secretary.

"(e) Where the Secretary determines that a Native American entity otherwise qualified under section 302(c)(1) is unable to apply for or use any financial assistance for which it may be eligible under this Act, the Secretary may assist such entity in applying for or using such financial assistance.

"(f) For purposes of eligibility for participation in a program under this Act, no person shall be considered as unemployed unless such person has been unemployed for at least seven consecutive days.

"(g)(1) All funds received under any title of this Act, which are allowed to be used for administrative costs under the provisions of the title under which they were received, may be pooled by the recipient so that they may be used to administer all programs under this Act, and may be used to plan for the administration of title VI programs without regard to present funding for such programs.

"(2) Nothing in section 121 or this section shall be deemed to authorize the Secretary to pre-approve the selection of legal counsel by a prime sponsor, but the Secretary shall assure that no funds available for administrative costs under any title of this Act are used by a prime sponsor for making payments on contracts for legal or other associated services unless substantively comparable services are not available from the Department of Labor (provided use of such services would not cause a conflict of interest within the Department of Labor) and the prime sponsor certifies that—

"(A) the payments are not unreasonable in relation to the fees charged by other contractors providing similar services, and in any event, do not exceed the rate of pay of GS-18; and

"(B) the services could not be competently provided through employees of the prime sponsor or other available State or local governmental employees.

"(3) Where a prime sponsor has incurred legal costs in litigation with the Department of Labor, and such costs are questioned in a Department audit, the allowability shall be determined in the office of the Assistant Secretary of Labor for Employment and Training.

"(h) The Secretary, by regulation, shall establish such standards and procedures for recipients of funds under this Act as are necessary to assure against program abuses including, but not limited to, nepotism; conflicts-of-interest; the charging of fees in connection with participation in the program; the improper commingling of funds under the Act with funds received from other sources; the failure to keep and maintain sufficient, auditable, or otherwise adequate records; kickbacks; political patronage; violations of applicable child labor laws; the use of funds for political, religious, antireligious, unionization, or antiunionization activities; the use of funds for lobbying local, State, or Federal legislators; and the use of funds for activities which are not directly related to the proper operation of the program.

"(i) Pursuant to regulations of the Secretary, income generated under any program may be retained by the recipient to continue to carry out the program, notwithstanding the expiration of financial assistance for that program.

"(j) Pursuant to regulations which the Secretary shall prescribe, each recipient of financial assistance under this Act shall make satisfactory provisions for determining and verifying whether individuals are eligible for participation in programs supported under this Act.

"(k) Every recipient which receives funds directly from the Secretary shall be responsible for the allocation of such funds and the eligibility of those enrolled in the program and shall have responsibility to take action against its subcontractors, subgrantees, and other recipients to eliminate abuse in their programs and to prevent any misuse of funds by such subcontractors, subgrantees, and other recipients. Prime sponsors may delegate the responsibility for determination of eligibility under reasonable safeguards, including provisions for reimbursement of cost incurred because of erroneous determinations made with insufficient care, provided that the Secretary has approved such an arrangement pursuant to the provisions of section 104(a).

"WAGES AND ALLOWANCES

"SEC. 123. Except as otherwise provided in this Act, the following allowances and wages shall apply to all activities financed under this Act:

"(a)(1) The Secretary shall establish a basic hourly allowance for an individual receiving training for which no wages are payable at a rate which, when added to the amounts of unemployment compensation, if any, received by the trainee, shall be no less than the hourly minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, or, if higher, under the applicable State or local minimum wage law.

"(2) Pursuant to regulations of the Secretary, the prime sponsor may increase, decrease, prorate, or waive the basic allowance.

"(3) A trainee receiving public assistance, or whose needs or income is taken into account in determining such public assistance payments to others, shall receive an incentive allowance for each hour spent in training at the rate of $30 per week. Such allowance shall be disregarded in determining the amount of public assistance payments under Federal or federally assisted public assistance programs.

"(4) A trainee shall receive no allowances for hours during which the trainee fails to participate without good cause.

"(b) A person in public service employment or similar employment shall be paid wages which shall not be less than the highest of (1) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, (2) the minimum wage under the applicable State or local minimum wage law, or (3) the prevailing rates of pay for persons employed in similar occupations by the same employer.

"(c) Persons in on-the-job training shall be compensated by the employer at such rates, including periodic increases, as may be deemed reasonable under regulations prescribed by the Secretary, considering such factors as industry, geographical region, skill requirements, and individual proficiency, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law.

"(d) Persons in work experience shall be paid wages not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law.

"LABOR STANDARDS

"SEC. 124. All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Davis-Bacon Act (40 U.S.C. 276a–276a–5). The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

"DEFINITIONS

"SEC. 125. As used in this Act—

"(1) The term 'academic credit' means education, training, or work experience applicable toward a secondary school diploma, a postsecondary degree, or an accredited certificate of completion, consistent with applicable State law, regulation, and policy and the requirements of an accredited educational agency or institution in a State.

"(2) The term 'area of substantial unemployment' means any area of sufficient size and scope to sustain a public service employment program and which has an average rate of unemployment of at least 6.5 per centum (A) for any three consecutive months within the preceding year for purposes of title II, or (B) for the most recent four quarters for purposes of title VI. Determinations of areas of substantial unemployment shall be made once each fiscal year by the Secretary.

"(3) The term 'artificial barriers to employment' refers to limitations in the hiring, firing, promotion, licensing, and other terms and conditions of employment which are not directly related to the individual's fitness or ability to perform the duties required by the employment position.

"(4) The term 'community-based organizations' means private nonprofit organizations which are representative of communities or significant segments of communities and which provide employment and training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto

Rican Forum, neighborhood organizations, community action agencies, community development corporations, rehabilitation facilities (as defined in section 7(10) of the Rehabilitation Act of 1973), union-related organizations, and employer-related nonprofit organizations).

"(5) The term 'Consumer Price Index' means the 'All Urban Consumer Index' as determined by the Secretary of Labor.

"(6) The term 'disabled veteran' means those veterans described in section 2011(1) of title 38, United States Code.

"(7) The term 'economically disadvantaged' means a person who (A) receives, or is a member of a family which' (i) receives cash welfare payments under a Federal, State, or local welfare program, or (ii) had a family income during the six-month period prior to application for the program which would have qualified such family for such cash welfare payments, subject to regulations of the Secretary; (B) has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program (exclusive of unemployment compensation and welfare payments) which, in relation to family size, was not in excess of the higher of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget or 70 per centum of the lower living standard income level; (C) is a foster child on behalf of whom State or local government payments are made; or (D) in cases permitted by regulations of the Secretary, is a handicapped individual living at home or is an individual who is institutionalized or receiving services in, or is a client of, a sheltered workshop, prison, hospital, or similar institution or in community care. Except for persons who would be eligible for assistance under title IX of the Older Americans Act, any person claimed as a dependent on another person's Federal income tax return under section 151(e) of the Internal Revenue Code of 1954 for the previous year shall be considered part of the person's family for the current year.

"(8) The term 'entry level' means the lowest position in any promotional line, as defined locally by collective-bargaining agreements, past practice, or applicable personnel rules.

"(9) The term 'Governor' means the chief executive of any State.

"(10) The term 'handicapped individual' means any individual who (A) has a physical or mental functional limitation or impairment which constitutes or results in an inability to perform any substantial gainful employment, and (B) can be reasonably expected to benefit, in terms of employability, from services provided pursuant to this Act.

"(11) The term 'Hawaiian native' means any individual any of whose ancestors were natives, prior to 1778, of the area which now consists of the Hawaiian Islands.

"(12) The term 'health care' includes, but is not limited to, preventive and clinical medical treatment, family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services, to the extent any such treatment or services are necessary to enable the recipient of employment and training services to obtain or retain employment.

"(13) The term 'institutions of higher education' and 'post-secondary institutions' means those institutions defined as institutions of higher education in section 1201(a) of the Higher Education Act of 1965.

"(14) The term 'local educational agencies' means those agencies so defined in section 195(10) of the Vocational Education Act of 1963.

"(15) The term 'low-income level' means $7,000 with respect to income in 1969, and for any later year means that amount which bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

"(16) The term 'lower living standard income level' means that income level (adjusted for regional and metropolitan and urban and rural differences and family size) determined annually by the Secretary based upon the most recent 'lower living family budget' issued by the Secretary.

"(17) The term 'offender' means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom employment and training services may be beneficial or who requires assistance in overcoming artificial barriers to employment stemming from a record of arrest or conviction.

"(18) The term 'project applicants' includes States and agencies thereof, units of general local government and agencies thereof or combinations or associations of such governmental units when the primary purpose of such combinations or associations is to assist such governmental units to provide public services, special purpose political subdivisions having the power to levy taxes and spend funds or serving such special purpose within an area served by one or more units of general local government, local educational agencies, institutions of higher education, community-based organizations, community development corporations, nonprofit groups and organizations serving Native Americans, and other private nonprofit organizations or institutions engaged in public service.

"(19) The term 'public assistance' means Federal, State, or local government cash payments for which eligibility is determined by a need or income test.

"(20) The term 'public service' includes, but is not limited to, work, including part-time work, in such fields as environmental quality, health care, education, child care, public safety, crime prevention and control, prisoner rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans outreach, and other fields of human betterment and community improvement.

"(21) The term 'recipient' means any person, organization, unit of government, corporation, or other entity receiving financial assistance under this Act whether directly from the Secretary, or through another recipient by subgrant, contract, subcontract, agreement, or otherwise.

"(22) The term 'Secretary' means the Secretary of Labor.

"(23) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Northern Marianas, American Samoa, and the Trust Territory of the Pacific Islands.

"(24) The term 'underemployed persons' means—

"(A) persons who are working part time but seeking full-time work;

"(B) persons who are working full time but receiving wages below the higher of either (i) the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget or (ii) 70 per centum of the lower living standard income level;

"(C) in cases permitted by regulations of the Secretary, persons who are institutionalized or receiving services in a sheltered workshop, prison, hospital, or similar institution, or in community care; or

"(D) adults who, or whose families receive, supplemental security income or money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act or would, as defined in regulations to be issued by the Secretary, be eligible for such payments but for the fact that both parents are present in the home (i) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work and (ii) who are either persons without jobs, or persons working in jobs providing insufficient income to support their families without welfare assistance.

"(25) The term 'unemployed persons' means persons who are without jobs and who want and are available for work, and shall, for purposes other than allocation formulas, include persons who are institutionalized or receiving services in a sheltered workshop, prison, hospital, or similar institution, or in community care. The determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed, but such criteria shall not be applied differently on account of a person's previous employment.

"(26) The term 'unit of general local government' means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

"(27) The term 'veterans outreach' means the veterans outreach services program carried out under subchapter IV of chapter 3 of title 38, United States Code, with full utilization of veterans receiving educational assistance or vocational rehabilitation under chapter 31 or 34 of such tile 38, and the services described in section 305 of this Act.

"SECRETARY'S AUTHORITY

"SEC. 126. (a) The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules, regulations, guidelines, and other published interpretations under this Act as he deems necessary. Rules, regulations, guidelines, and other published interpretations or orders may include adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. For purposes of chapter 5 of such title any condition or guideline for receipt of financial assistance shall be deemed a rule to which section 553 applies. All such rules, regulations, guidelines, and other published interpretations or orders under this Act shall be published in the Federal Register at least thirty days prior to their effective date. Copies of all such rules, regulations, guidelines, and other published interpretations or orders shall be transmitted to the appropriate committees of the Congress at the same time and shall contain with respect to each material provision of such rules, regulations, guidelines, and other published interpretations or orders, citations to the particular substantive section of law which is the basis therefor.

"(b) The Secretary may make such grants, contracts, or agreements, establish such procedures and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as deemed necessary to carry out the provisions of this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments.

"(c) Notwithstanding any other provision of this Act, no authority to enter into contracts under this Act shall be effective except to such an extent or in such an amount as are provided in advance in appropriations Acts.

"REPORTS

"SEC. 127. (a) The Secretary shall make such reports and recomendations to the President as the Secretary deems appropriate pertaining to employment and occupational requirements, resources, use, and training, and the President shall transmit to the Congress a report on the same topics not later than April 1 of each year. The first such report submited after the effective date of the Comprehensive Employment and Training Amendments of 1978 shall include recommendations with respect to necessary legislative or administrative changes required to simplify on-the-job training contracting procedures under title II.

"(b) The Secretary and the Secretary of Health, Education, and Welfare shall report to the Congress on the extent to which social services, community colleges, area vocational and technical schools and other vocational education agencies and institutions, and vocational rehabilitation agencies are being utilized to carry out training programs supported in whole or in part under this and related Acts; the extent to which administrative steps have been taken or are being taken to encourage the use of such facilities and institutions and agencies in the carrying out of the provisions of this Act; and any further legislation that may be required to assure effective coordination and utilization of such facilties and agencies to the end that all federally supported employment and training, vocational education, and vocational rehabilitation programs can more effectively accomplish the objective of providing employment and training opportunities to all persons needing such employment and training.

"(c) The Secretary shall transmit to the Congress, as a part of the report required by subsection (a), a detailed report setting forth the public service employment activities conducted under this Act and information on the extent to which (1) participants in such activities subsequently secure and retain public or private employment or participate in training or employability development programs, and (2) segments of the population of unemployed persons are provided public service opportunities. No later than March 1, 1980, the Secretary shall report to Congress proposals for the integration and consolidation of the programs established by part A of title IV and title VII with the program established by title II.

"(d) The Secretary shall transmit to the Congress, as a part of the report required by subsection (a), a detailed report on the evaluations and pilot and demonstration projects conducted with funds made available under this Act, including employment service/prime sponsor demonstration projects.

"(e) The Secretary shall, in consultation with the Director of the Office of Management and Budget, submit a report once each quarter to the Congress on efforts being taken to reduce paperwork and reporting and to comply with the requirements of the Federal Reports Act and management directives of the Office of Management and Budget.

"(f) The Secretary may require each prime sponsor to prepare, and make available to the public, periodic reports on its activities under the Act. Such reports shall contain such information as the Secretary may require.

"SERVICES AND PROPERTY

"SEC. 128. The Secretary is authorized, in carrying out functions and responsibilities under this Act, to accept, purchase, or lease in the name of the Department, and employ or dispose of in furtherance of the purposes of this Act, or any title thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and to accept voluntary and uncompensated services, nowithstanding the provisions of section 3679(b) of the Revised Statutes of the United States.

"UTILIZATION OF SERVICES AND FACILITIES

"SEC. 129. (a) In addition to such other authority as the Secretary may have, the Secretary is authorized, in the performance of functions under this Act, and to the extent permitted by law, to utilize the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and utilize the services and facilities of the agencies of any State or political subdivision of a State, with its consent.

"(b) The Secretary shall carry out responsibilities under this Act through the utilization, to the extent appropriate, of all resources for skill development available in industry, labor, public and private educational and training institutions, vocational rehabilitation agencies, and other State, Federal, and local agencies and other appropriate public and private organizations and facilities, with their consent.

"INTERSTATE AGREEMENTS

"SEC. 130. In the event that compliance with provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

"PROHIBITION AGAINST POLITICAL ACTIVITIES

"SEC. 131. (a) The Secretary shall not provide financial assistance for any program under this Act which involves political activities.

"(b) Neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

"NONDISCRIMINATION

"SEC. 132. (a) No person in the United States shall on the ground of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this Act.

"(b) Whenever the Secretary determines that a recipient of financial assistance has failed to comply with subsection (a) or an applicable regulation, the Secretary, in addition to exercising the powers and functions provided in section 106, is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (3) to take such other action as may be provided by law. In any case in which the Secretary receives a complaint from any interested person or organization under section 106 with respect to an alleged violation of subsection (a) of this section, the Secretary shall make the determination referred to in the preceding sentence no later than 120 days after receiving such complaint.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever the Attorney General has reason to believe that a recipient is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"(d) In addition to other remedies, the Secretary is authorized to enforce the provisions of subsection (a) dealing with discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief, in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such provisions of such subsection. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any program or activity receiving assistance under this Act.

"(e) No participant under this Act shall be discriminated against by reason of citizenship. Participation shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, and lawfully admitted refugees and parolees.

"(f)(1) The Secretary shall provide a focus for the employment and training of handicapped individuals under this Act, and shall review, on a periodic basis, the adequacy of outreach, training, placement, and advancement practices with respect to handicapped individuals by each prime sponsor pursuant to section 103(b)(7) and shall insure that the special needs of such individuals are being met.

"(2) The Secretary shall include in each annual report pursuant to section 127(a) a complete evaluation of the conduct of and achievements in outreach, training, placement, and advancement practices with respect to handicapped individuals by prime sponsors pursuant to section 103(b)(7), including a comparison of such practices and achievements with those of the two preceding years.

"RECORDS, AUDITS, AND INVESTIGATIONS

"SEC. 133. In order to assure that funds provided under this Act are used in accordance with its provisions—

"(a) Every recipient of funds under this Act shall make, keep, and preserve such records as the Secretary shall require with regard to each employee and each participant. Such records, including periodic reports, audits, and examinations, shall be preserved for such time as the Secretary establishes and shall be made available to the Secretary at such time and in such form, including periodic reports, audits, and examinations, as the Secretary may require by regulation or order.

"(b) The Secretary may investigate such facts, conditions, practices, or other matters the Secretary deems necessary to determine whether any recipient of funds or any official of such recipient has violated any provision of this Act or of the regulations. Such investigations may include, but need not be limited to, inspecting all records of the recipient (including making certified copies thereof), questioning employees, and entering any premises or onto any site in which any part of the recipient's program is conducted.

"(c) For the purpose of any hearing or investigation authorized under this Act, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49, relating to the attendance of witnesses and the production of books, papers, and documents) are made applicable to the Secretary of Labor.

"CRIMINAL PROVISIONS

"SEC. 134. (a) Chapter 31 of title 18, United States Code, is amended by striking out section 665 and inserting in lieu thereof the following:

" 'THEFT OR EMBEZZLEMENT FROM EMPLOYMENT AND TRAINING FUNDS: IMPROPER INDUCEMENT

" 'SEC. 665. (a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with any agency receiving financial assistance under the Comprehensive Employment and Training Act of 1973 embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to such Act shall be fined not more than

$10,000 or imprisoned for not more than two years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000, or imprisoned not more than one year, or both.

"'(b) Whoever, by threat of procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a grant or contract of assistance under the Comprehensive Employment and Training Act of 1973, induces any person to give up any money or thing of any value to any person (including such grantee agency) shall be fined not more than $1,000, or imprisoned not more than one year, or both.

"'FRAUD AND OBSTRUCTION IN EMPLOYMENT AND TRAINING PROGRAMS

"'SEC. 665a. (a) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry or to produce documentary evidence, if in his power to do so, in obedience to the subpena or lawful requirement of the Secretary of Labor, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $1,000 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

"'(b) Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under the Comprehensive Employment and Training Act of 1973, or who shall willfully make or cause to be made, any false entry in any account, record, or memorandum kept by any recipient of funds under such Act, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memorandums of all facts and transactions appertaining to the business of such recipients, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such recipient, or who shall willfully refuse to submit to the Secretary of Labor or to any of such Secretary's authorized agents, for the purpose of inspection and making copies, any documentary evidence of such recipient in such person's possession or within such person's control or who shall deny access to such Secretary or any of such Secretary's authorized agents who wish to examine, audit, inspect, or otherwise view the records, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000 or to imprisonment for not more than one year, or by both such fine and imprisonment.'

"(b) The analysis of chapter 31 is amended by adding at the end thereof the following new item:

"'665a. Fraud and obstruction in employment and training programs.'

"BONDING

"SEC. 135. Every officer, director, agent, or employee of a recipient of funds under this Act who handles funds or other property thereof shall be bonded to provide protection against loss by reason of acts of fraud or dishonesty on such person's part directly or through connivance with others. The Secretary shall establish the amount and other bonding requirements by regulation.

"PART C—AUDITS, INVESTIGATIONS, AND COMPLIANCE

"PURPOSE; ESTABLISHMENT

"SEC. 151. In order to create an independent and objective unit—

"(1) to conduct and supervise audits and investigations relating to programs and operations under this Act;

"(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy and efficiency in the administration of and (B) to prevent and detect fraud and abuse in, such programs and operations; and

"(3) to provide a means for keeping the Secretary and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

there is hereby established in the Office of the Secretary an Office of Audits, Investigations, and Compliance.

"APPOINTMENT OF OFFICERS

"SEC. 152. (a) There shall be at the head of the Office a Director who shall be appointed by the Secretary without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Director shall report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the officer next in rank below the Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

"(b) There shall also be in the Office, a Deputy Director appointed by the Secretary, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Deputy shall assist the Director in the administration of the Office and shall, during the absence or temporary incapacity of the Director, or during a vacancy in that office, act as Director.

"(c) For the purposes of section 7324 of title 5, United States Code, no Director or Deputy Director shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

"(d) The Director shall, in accordance with applicable laws and regulations governing the civil service—

"(1) appoint an Assistant Director for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations under this Act; and

"(2) appoint an Assistant Director for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

"DUTIES AND RESPONSIBILITIES

"SEC. 153. (a) It shall be the duty and responsibility of the Director, with respect to the programs and operations under this Act—

"(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to such programs and operations;

"(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed under this Act for the purposes of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, such programs and operations.

"(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, such programs and operations, or (B) the identification and prosecution of participants in such fraud or abuse; and

"(4) to keep the Secretary and the Congress informed, by means of the reports required by section 154 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of such programs and operations, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

"(b) In carrying out the responsibilities specified in subsection (a)(1), the Director shall have authority to establish standards for the use of outside auditors and to take other appropriate steps to insure the competence and independence of such auditors.

"(c) In carrying out the duties and responsibilities provided by this Act, the Director shall give particular regard to the activities of the Comptroller General of the United States with a view to avoiding duplication and insuring effective coordination and cooperation.

"(d) In carrying out the duties and responsibilities provided by this Act, the Director shall report expeditiously to the Secretary whenever the Director has reasonable grounds to believe there has been a violation of Federal criminal law.

"REPORTS

"SEC. 154. (a) The Director shall, not later than April 30 and October 31 of each year, prepare and submit to the Congress semiannual reports summarizing the activities of the Office during the immediately preceding 6-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

"(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations under this Act disclosed by such activities during the reporting period;

"(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

"(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

"(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

"(5) a summary of each report made to the Secretary under subsection (c) during the reporting period;

"(6) a summary of each report made to the Secretary under section 155(b)(2) during the reporting period; and

"(7) a listing of each audit and investigative report completed by the Office during the reporting period.

"(b) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and the Congress, or committees or subcommittees thereof, by the Director without further clearance or approval. The Director shall, insofar as feasible, provide copies of the reports required under subsection (a) to the Secretary thirty days in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

"(c) The Director shall report immediately to the Secretary whenever the Director becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations under this Act. The Deputy and Assistant Directors shall have particular responsibility for informing the Director of such problems, abuses, and deficiencies.

"AUTHORITY; ADMINISTRATION PROVISIONS

"SEC. 155. (a) In addition to the authority otherwise provided by this Act, the Director, in carrying out the provisions of this part, is authorized—

"(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to programs and operations under this Act;

"(2) to make such investigations and reports relating to the administration of such programs and operations as are, in the judgment of the Director, necessary or desirable;

"(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this part from any Federal, State, or local governmental agency or unit thereof;

"(4) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this part, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided*, That procedures other than subpenas shall be used by the Director to obtain documents and information from Federal agencies;

"(5) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this part;

"(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

"(7) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–18 of the General Schedule by section 5332 of title 5, United States Code;

"(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this part.

"(b)(1) Upon request of the Director for information or assistance under subsection (a)(3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to the Director or to an authorized designee, such information or assistance.

"(2) Whenever information or assistance requested under subsection (a)(1) or (a)(3) is, in the judgment of the Director unreasonably refused or not provided, the Director shall report the circumstances to the Secretary without delay.

"(3) In the event any record or other information requested by the Director under subsection (a)(1) or (a)(3) is not considered to be available under the provisions of section 552a(b) (1), (3), or (7) of title 5, United States Code, such record or information shall be available to the Director in the same manner and to the same extent it would be available to the Comptroller General.

"(c) The Secretary shall provide the Office with appropriate and adequate office space at central and field office locations of Department together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

"TRANSFER OF FUNCTIONS

"SEC. 156. (a) At such time as there is established within the Department of Labor an Office of Inspector General, the functions of the Office of Audits, Investigations, and Compliance, shall be transferred to and vested in the Inspector General.

"(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the Office shall be transferred to the Office of Inspector General at the time of any transfer under subsection (a).

"(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

"(d) Upon completion of the transfer pursuant to this section, the Office shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in the Office of Inspector General to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

"DEFINITIONS

"SEC. 157. As used in this part—

"(1) the term 'Director' means the Director of the Office;

"(2) the term 'Deputy' means the Deputy Director of the Office;

"(3) the term 'Office' means the Office of Audits, Investigations, and Compliance; and

"(4) the term 'Federal agency' means an agency as defined in section 552(e) of title 5, United States Code, but shall not be construed to include the General Accounting Office.

"OFFICE OF MANAGEMENT ASSISTANCE

"SEC. 158. The Secretary shall establish, in the office of the Secretary, an Office of Management Assistance and shall assign to such office such especially qualified accountants, management specialists, and other professionals as may be necessary and available to provide management assistance to any prime sponsor—

"(1) seeking the service of such office on its own initiative to assist it in overcoming problems in the management, operation, or supervision of any program or project under this Act;

"(2) identified, pursuant to a complaint investigation, internal audit, or audit or investigation conducted by the Office of Audits, Investigations, and Compliance, or by any entity to which are transferred the functions of such office, as not being in compliance with any important requirement of this Act, of regulations issued thereunder, or of the comprehensive employment and training plan.

Services provided under this section shall be on a reimburseable or nonreimbursable basis, as determined by the Secretary, and shall be allocated in a manner to assure equitable but effective distribution thereof. The Secretary shall periodically publish any proposals for corrective action made by the office which may be useful to other prime sponsors.

"TITLE II—COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

"PART A—FINANCIAL ASSISTANCE PROVISIONS

"PURPOSE OF PROGRAM

"SEC. 201. It is the purpose of this title to establish programs to provide comprehensive employment and training services throughout the Nation. Such programs shall include the development and creation of training, upgrading, retraining, education, and other services needed to enable individuals to secure and retain employment at their maximum capacities so as to increase their earned incomes.

"ALLOCATION OF FUNDS

"SEC. 202. (a)(1) From the amount available for purposes of this title—

"(A) 60 percentum of such amount shall be allocated in accordance with the provisions of paragraph (2); and

"(B) 30 per centum of such amount shall be allocated in accordance with the provisions of paragraph (3).

"(2)(A) Subject to the provisions of subparagraph (B)—

"(i) 50 per centum of the amount allocated under this paragraph shall be allocated on the basis of the amount allocated to the prime sponsor under this paragraph (or under the comparable provision of this Act prior to the effective date of the Comprehensive Employment and Training Amendments of 1978) in the fiscal year prior to the year for which the determination is made compared to the amount so allocated to all prime sponsors in that year;

"(ii) 37½ per centum of the amount allocated under this paragraph shall be allocated on the basis of the relative number of unemployed persons within jurisdiction of the prime sponsor as compared to such numbers in all such jurisdictions;

"(iii) 12½ per centum of the amount allocated under this paragraph shall be allocated on the basis of the relative number of adults in families with an annual income below the low-income level within the jurisdiction of the prime sponsor compared to such total numbers in all such jurisdictions; and

"(iv) not less than $2,000,000 shall be allocated among Guam the Virgin Islands, the Northern Merianas, American Samoa, and the Trust Territory of the Pacific Islands, in accordance with their respective needs.

"(B) No prime sponsor shall be allocated an amount which is in excess of 150 per centum of the amount received by the area served by that prime sponsor in the fiscal year immediately preceding the fiscal year for which the determination is made, except that, if the amount so allocated is less than 50 per centum of the amount to which such prime sponsor is entitled under subparagraph (A) in the fiscal year for which a determination was made, then such allocation shall be increased to 50 per centum of the amount of such entitlement.

"(3) The amount allocated under this paragraph shall be allocated among prime sponsors in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all such areas.

"(b) Three per centum of the funds available for this title shall be used only for supplemental vocational education assistance under section 204.

"(c) One-half of 1 per centum of the amount allocated under this title shall be available to the Secretary to be allocated in the same manner as provided under subsection (a) to States for the costs of the State employment and training council incurred in carrying out the provisions of section 110, except that no State shall receive an allocation of less than $50,000. If any State does not need the amount allocated under this subsection for any fiscal year, that amount shall be available for the Governor's coordination and special services under section 105.

"(d) Two per centum of the amounts available for this title shall be available to each Governor in the same proportion as that State's allocation under subsection (a) for the Governor's coordination and special services under section 105, and, where deemed necessary by the Governor, for additional support of State employment and training councils.

"(e)(1) Eighty-five per centum of the remainder of the funds shall be available in the Secretary's discretion to be distributed among prime sponsors (or where a prime sponsor's comprehensive employment and training plan has not been approved, an area served by the Secretary under the authority in section 102). The Secretary shall first utilize such funds to assure that each prime sponsor is provided with (A) an amount for any fiscal year beginning on or after October 1, 1979, equal to 90 percent of the funds allocated to the prime sponsor under subsection (a)(2) of this section for the preceding fiscal year, or (B) an amount for the fiscal year ending September 30, 1979, equal to 90 per centum of the sum of the funds available for expenditure during the fiscal year ending September 30, 1978, by such prime sponsor under sections 103 (a)(2), (f), and (g), and 202(a) (as in effect prior to the effective date of the Comprehensive Employment and Training Amendments of 1978). In utilizing such funds, the Secretary shall provide continued support for concentrated employment program grantees serving rural areas having high levels of unemployment, shall take into account the need for continued funding of programs of demonstrated effectiveness, and shall use such funds to encourage, after consultation with and receiving recommendations from the Governor of the appropriate State, voluntary consortia (formed under section 101(a)(3)) where the Secretary determines, pursuant to regulations, that such consortia demonstrate advantages in delivering employment and training services to substantial portions of functioning labor market areas.

"(2) Not more than 15 per centum of the remainder shall be allocated among the prime sponsors within the jurisdiction of those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual average rates of unemployment prior to, but not after, January 1, 1978, in proportion to the extent to which such prime sponsors allocations under subsection (a) are reduced as a result of termination of the use of such surveys. This provision shall be in effect until such time as the National Commission on Employment and Unemployment Statistics makes its report to Congress.

"(f) As soon as practicable after funds are appropriated to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the allocations made pursuant to this section.

"(g) Prime sponsors are authorized to use funds allocated under this title to support prime sponsor planning councils established pursuant to section 109.

"CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

"Sec. 203. (a) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless the prime sponsor submits a satisfactory comprehensive employment and training plan pursuant to section 103.

"(b) Not more than 4 per centum of each prime sponsor's allocation under section 202 (a) may be used for programs and activities under part C of this title.

"(c)(1) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless the prime sponsor provides assurances that (consistent with needs identified in the prime sponsor's plan submitted under section 103(a)) it shall make agreements with State or local educational agencies or postsecondary educational institutions for the conduct of employment and training programs, which programs may consist of—

"(A) vocational training designed to prepare individuals for employment;

"(B) instruction in basic cognitive skills necessary to obtain employment or pursue further education or training designed to prepare individuals for employment;

"(C) employment of persons in schools controlled by such agencies or in postsecondary institutions; and

"(D) such other employment and training activities as may be consistent with the purposes and provisions of this title.

"(2) Each such agreement entered into under this subsection shall describe in detail the employment opportunities and appropriate educational, training, or other services to be provided, and shall contain provisions to assure that funds utilized pursuant to the agreement will not supplant State or local funds expended for the same purpose.

"(3) In the event a prime sponsor is unable to reach agreements with the appropriate educational agencies or institutions, or in the event such agencies or institutions are dissatisfied with the utilization of their facilities proposed by the prime sponsor, either may request the Secretary to review such arrangements and the Secretary, after affording an opportunity for a hearing and taking into consideration such factors as he considers relevant, may take such action as he deems appropriate within 90 days after receiving such a request.

"SUPPLEMENTAL VOCATIONAL EDUCATION ASSISTANCE

"Sec. 204. (a) From the funds available to him for this section, the Secretary shall make grants to Governors to provide financial assistance, through State vocational education boards, to provide needed vocational education services in areas served by prime sponsors.

"(B) All of the sums available to carry out this section shall be allocated among the States in the manner provided for allocating funds under section 202(a).

"(c)(1) Funds available under this section shall be used only for providing vocational education and services to participants in programs under this title in accordance with an agreement between the State vocational education board and the prime sponsor.

"(2) The State vocational education board, prior to making any agreement with a prime sponsor as provided in paragraph (1), shall consult with and obtain the advice and comment of the designated representatives of the State agencies and councils which are required to be involved in the formulation of the five-year State plan for vocational education pursuant to section 107(a)(1) of the Vocational Education Act of 1963.

"Part B—Services for the Economically Disadvantaged

"DESCRIPTION OF PROGRAM

"Sec. 211. Comprehensive employment and training services may include, but need not be limited to, the following:

"(1) job search assistance, including orientation, counseling, and referral to appropriate employment training or other opportunities;

"(2) outreach to make persons aware of the availability of, and to encourage them to use, employment and training services;

"(3) assessment of the individual's needs, interests, and potential in the labor market;

"(4) education and institutional skill training to prepare persons to enter the labor market, or to qualify for more productive job opportunities and increased earnings;

"(5) on-the-job training, including small business self-employment training;

"(6) transitional entry-level public service employment opportunities or work experience;

"(7) payments or other inducements to public or private employers to expand job opportunities.

"(8) services to individuals to enable them to retain employment;

"(9) payment of allowances to persons in training for which they receive no remuneration, and payment of such allowances for transportation, subsistence, or other expenses incurred in training or employment;

"(10) supportive services, including necessary health care, child care, residential support, or assistance in securing bonds, needed to enable individuals to participate in employment and training;

"(11) development of labor market information;

"(12) job development and related activities such as job restructuring designed to make employment opportunities more responsive to the needs of economically disadvantaged persons;

"(13) displaced homemaker employment assistance programs as described in section 307;

"(14) training, employment opportunities, and related services conducted by community based organizations; and

"(15) any programs or activities authorized by part A of title III, title IV, and title VII of this Act.

"LIMITATIONS ON USE OF FUNDS

"Sec. 212. (a)(1) Except as provided in paragraph (2), no prime sponsor shall use more than—

"(A) 50 per centum of the funds allocated to it under such section for the fiscal year ending September 30, 1979, to pay wages for public service employment;

"(B) 50 per centum of the funds allocated to it under such section for the fiscal year ending September 30, 1981, to pay wages for benefits for such employment;

"(C) 45 per centum of the funds allocated to it under such section for the fiscal year ending September 30, 1981, to pay wages and benefits for such employment; and

"(D) 40 per centum of the funds allocated to it under such section for the fiscal year ending September 30, 1982, to pay wages and benefits for such employment.

"(2) Notwithstanding paragraph (1), the Secretary may, for any fiscal year referred to in paragraph (1)(B), (1)(C), or (1)(D), authorize a prime sponsor to expend for the purpose of providing additional public service jobs for residents of areas of substantial unemployment, an amount not to exceed the product of the percentage which unemployed residents of such areas constitute of all unemployed in the prime sponsor area multiplied by the difference between—

"(A) an amount determined by applying the limitation contained in paragraph (1) (A) to the funds allocated to such prime sponsor for such fiscal year; and

"(B) the amount determined by applying the applicable limitation under paragraph (1)(B), (1)(C), or (1)(D) to such funds.

"(b)(1) Public service employment under this part—

"(A) shall be designed to lead to unsubsidized employment;

"(B) shall be entry level;

"(C) shall be combined with training and supportive services if such training and services are reasonably available in the area; and

"(D) shall be available only to eligible participants who have not been employed for more than two hundred hours during the preceding ten weeks unless such employment is in connection with a program supported under this Act.

"(2) Work experience programs conducted under this part, except for in-school youth, shall—

"(A) be designed to lead to unsubsidized employment, and

"(B) be subject to the limitations on duration specified in section 121(c)(2), unless the prime sponsor's plan as approved by the Secretary states that the lack of alternative job opportunities in the area makes such progress and duration impractical.

"ELIGIBILITY FOR PARTICIPATION

"SEC. 213. A person shall be eligible to participate in a program receiving financial assistance under this part only if such person is economically disadvantaged and either unemployed, underemployed, or in school.

"PART C—UPGRADING AND RETRAINING

"PROGRAM AUTHORIZED

"SEC. 221. (a) Pursuant to regulations of the Secretary, prime sponsors may conduct occupational upgrading programs, including supportive services, through agreements with public and private employers for employees of such employers. Individuals eligible for such programs shall be those operating at less than their full skill potential, primarily those in entry level positions or positions with little normal advancement opportunities. In any program receiving financial assistance under this section—

"(1) the positions for which employees are being upgraded shall be positions not regularly available to entry level employees, and for which adequately trained persons are not available;

"(2) the selection of employees for upgrading shall be based upon potential and the lack of availability for advancement in a normal promotional line;

"(3) the education and skill training content of the upgrading program shall provide employees with a reasonable progression resulting in qualification for a recognized position of greater skill, responsibility, remuneration, or career advancement in the service of that employer;

"(4) the training period for upgrading shall be reasonable and consistent with periods customarily required for comparable training;

"(5) adequate personnel, attendance and progress records shall be maintained;

"(6) the program shall be designed, to the extent feasible, so that additional vacancies are created for new entry level employees;

"(7) the employees shall receive such wages, including periodic increases, as the Secretary deems reasonable, considering such factors as industry practice and individual proficiency, but at not less than the rate received before upgrading; and

"(8) successful completion shall be expected to result in employment with the employer in the occupation for which he or she has been upgraded and at not less than prevailing wages.

"(b)(1) Pursuant to regulations of the Secretary, prime sponsors may conduct retraining programs, including supporting services, directly or through agreements with public and private employers or other organizations or agencies.

"(2) Entry into retraining programs shall be only for individuals who have previously received a bona fide notice of impending layoff, and who are determined, pursuant to regulations of the Secretary, to have little opportunity to be reemployed in the same or equivalent occupation or skill level within the labor market area.

"(3) Retraining programs shall meet such standards as the Secretary shall establish by regulation.

"(c) If upgrading or retraining is for or from jobs covered by collective bargaining agreements, agreements with employers to carry out such programs shall have the concurrence of labor organizations representing employees in those jobs.

"TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

"PART A—SPECIAL NATIONAL PROGRAMS AND ACTIVITIES

"SPECIAL PROGRAMS AND ACTIVITIES

"SEC. 301. (a) The Secretary shall use funds available under this title to provide additional employment and training services as authorized under title II to segments of the population that are in particular need of such services, including youth, offenders, handicapped individuals, single parents, persons of limited English-speaking ability, older workers, and other persons who the Secretary determines have particular disadvantages in the labor market. The Secretary shall take into account the need for continued funding of programs of demonstrated effectiveness.

"(b) With respect to programs for persons of limited English-speaking ability under this Act, the Secretary shall establish appropriate procedures to ensure that participants are provided with employment and training and related assistance and supportive services (where feasible, at times designed to meet the needs of individuals unable to attend during normal working hours) designed to increase the employment and training opportunities for unemployed and underemployed persons of limited English-speaking ability, including (1) the teaching of occupational skills in the primary language of such persons for occupations which do not require a high proficiency in English, and (2) developing new employment opportunities for limited English-speaking persons and opportunities for promotion within existing employment situations for such persons, including programs for the dissemination of appropriate information, and job placement, and counseling assistance, and the conduct of training and employment programs, in the primary language of such persons, as well as programs designed to increase the English-speaking ability of such persons.

"(c) The Secretary shall make financial assistance available to conduct a program for offenders to provide employment, training, and related assistance and supportive services (including basic education, drug addiction or dependency rehabilitation, health care, and other services) which will enable them to secure and obtain meaningful employment. Emphasis shall be placed upon serving offenders in contact with the criminal justice system or recently released from criminal justice custody or supervision, providing services that will be comprehensive, and ensuring that recipients of funds will coordinate their activities with other providers of employment and training assistance. Grants may also be provided to the States or prime sponsors for the establishment of units for planning and evaluation of correctional employment and training assistance to offenders. To ensure the objectives of this subsection, the Secretary may, wherever feasible, provide for appropriate arrangements with employers and labor organizations, appropriate parole, probationary and judicial authorities, and for the utilization of training equipment comparable to that currently used for the job in which training is furnished. To support such programs the Secretary shall develop information concerning the special needs of offenders for such services, including special studies regarding the incidence of unemployment among offenders and the means of increasing employment opportunity for offenders. As part of the reporting requirements under section 127(a), the Secretary shall also conduct an annual survey of prime sponsors and States receiving assistance under this Act for the purpose of assessing the scope and implementation of offender programs.

"(d) The Secretary shall carry out fully and effectively his responsibilities for the assignment of assistant veterans employment representatives under section 2003 of title 38, United States Code, and the Secretary's other responsibilities under chapter 41 of such title and for the listing of all suitable employment openings with local offices of the State employment services by Federal contractors and subcontractors and providing for the affirmative action as required by section 2012(a) of such title.

"(e) The Secretary is also authorized to provide employment and training programs that—

"(1) are most appropriately administered from the national level, such as programs sponsored by public agencies or private organizations that conduct federally assisted activities in more than one State;

"(2) foster new or improved linkages between Federal, State, and local employment and training agencies and components of the private sector, such as the business community, organized labor, and community-based organizations;

"(3) provide continued support for programs of demonstrated effectiveness;

"(4) eliminate or reduce critical skill shortages in the Nation's labor force; or

"(5) serve those who become unemployed as a result of a large-scale loss of jobs in a locality, caused by such things as the closing of a facility, mass layoffs, or natural disasters.

"(f) Notwithstanding any other provisions of this Act, eligibility requirements for programs for workers age fifty-five and older, which were established under title X of the Public Works and Economic Development Act, and which thereafter have been funded under section 304 of this Act prior to the enactment of the Comprehensive Employment and Training Amendments of 1978, shall be those which applied when the programs were established under title X.

"(g) The Secretary shall establish a special program for the funding of local workshops for the training of youths and other individuals who wish to pursue careers as self-employed owners and managers of small businesses. Such workshops should provide instruction in management techniques, business communication skills, motivational training, special problems in business operation, advice concerning Federal and State regulations, preparation of financial statements and loan applications, recordkeeping, development of marketing techniques, and information on beneficial resources available within the community.

"(h) To the extent appropriate, programs financed under this part shall be coordinated with programs conducted by prime sponsors under this Act, and the Secretary shall notify such prime sponsors of the funding of an employment and training program under this part.

"NATIVE AMERICAN EMPLOYMENT AND TRAINING PROGRAMS

"SEC. 302. (a) The Congress finds that (1) serious unemployment and economic disadvantage exist among members of Indian, Alaskan Native, and Hawaiian Native communities; (2) there is a compelling need for the establishment of comprehensive employment and training programs for members of those communities; (3) such programs are essential to the reduction of economic disadvantage among individual members of such communities and to the advancement of economic and social development in such communities consistent with their goals and life styles.

"(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of those to be served by the provisions of this section, (1) such programs can best be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and individuals, and to other groups and individuals of Native American descent such as, but not limited to, the Lummis in Washington, the Menominees in Wisconsin, the Klamaths in Oregon, the Oklahoma Indians, the Passamaquoddys and Penobscots in Maine, and Eskimos and Aleuts in Alaska, and Hawaiian Natives; and (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this section.

"(c)(1) In carrying out responsibilities under this section, the Secretary shall, wherever possible, utilize Indian tribes, bands, or groups (including Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688)) having a governing body and such public and private nonprofit agencies as the Secretary determines will best serve Hawaiian Natives, for the provision of employment and training services under this section. To the extent the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive employment and training program, he shall require such tribe, band, or group to submit to him a comprehensive plan meeting the requirements of section 103.

"(2) In carrying out his responsibilities under this section the Secretary shall make arrangements with prime sponsors and organizations (meeting requirements prescribed by the Secretary) serving nonreservation Indians for programs and projects designed to meet the needs of such Indians for employment and training and related services.

"(d) Whenever the Secretary determines not to utilize Indian tribes, bands, or groups for the provision of employment and training services under this section, the Secretary shall, to the maximum extent feasible, enter into arrangements for the provision of such services with public or private nonprofit agencies which meet with the approval of the tribes, bands, or groups to be served.

"(e) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of Indian employment and training programs authorized under this Act.

"(f) Funds available for this section shall be expended for programs and activities consistent with the purposes of this part, including but not limited to such programs and activities carried out by eligible prime sponsors under other provisions of this Act.

"(g) For the purpose of carrying out this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 3 percent of the amount allocated pursuant to section 202(a).

"(h) No provision of this section shall abrogate in any way the trust responsibilities of the Federal Government to Indian bands or tribes.

"MIGRANT AND SEASONAL FARMWORKER EMPLOYMENT AND TRAINING PROGRAMS

"SEC. 303. (a) The Congress finds and declares that—

"(1) chronic seasonal unemployment and underemployment in the agricultural industry, substantially affected by recent advances in technology and mechanization, constitute a substantial portion of the Nation's rural employment and training problem and substantially affect the entire national economy; and

"(2) because of the special nature of certain farmworker employment and training problems such programs can best be administered at the national level.

"(b)(1) Funds available for this section shall be expended for programs and activities consistent with the purposes of this section, including but not limited to programs and activities carried out under other provisions of this Act.

"(2) In carrying out programs and activities under this section, the Secretary shall continue in operation any program which is in existence on the effective date of this paragraph and—

"(A) which is—

"(i) operated through the use of the facilities of any institution of higher education; and

"(ii) designed to assist migrant and seasonal farmworkers who are beyond the age of compulsory school attendance in the State in which the institution is located, through tutoring, counseling, and other similar assistance, in the completion of courses necessary to receive a high school diploma or its equivalent; or

"(B) which serves migrant and seasonal farmworkers who are enrolled on a full-time basis in the first academic year of an undergraduate program at any institution of higher education, and the dependents of migrant and seasonal farmworkers if such dependents are so enrolled, by—

"(i) aiding such individuals in carrying out the transition from secondary school to postsecondary school programs;

"(ii) generating motivation necessary for success in education beyond secondary school; and

"(iii) providing counseling, tutorial, and similar educational services designed to assist such individuals during their first academic year at such institution.

The Secretary shall continue the operation of any such program for so long as such program is consistent with the purposes of this section, as determined by the Secretary.

"(3) For the purpose of carrying out this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 2.6 percent of the amount allocated pursuant to section 202 (a). Of the funds reserved under this paragraph, such sums as may be necessary shall be used for the operation of the programs specified in subparagraph (A) and subparagraph (B) of paragraph (2).

"PROGRAMS FOR THE HANDICAPPED

"SEC. 304. (a)(1) The Congress finds and declares that due to the rapid implementation of programs to assist handicapped individuals mandated under the Education for All Handicapped Children Act and section 504 of the Rehabilitation Act of 1973, there is a need for people to provide the special supportive services and removed of architectural barriers required by these Acts.

"(2) The Congress further declares that the individuals to be served under this section represent a large percentage of the unemployed, and that these services will provide meaningful improvement of the lives of the handicapped individuals served.

"(b) The Secretary shall establish programs throughout the Nation which shall train personnel to work with and assist handicapped individuals. These programs may be in any areas of training or education which provide individuals with skills necessary to train or provide assistance to handicapped persons, including, but not limited to, interpreters for the deaf and aides in classrooms to assist in the education of the handicapped.

"(c) The Secretary shall take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of programs authorized under this section.

"RELOCATION ASSISTANCE

"SEC. 305. (a) The Secretary is authorized to provide special relocation assistance for unemployed persons who desire such assistance through agreements with States, prime sponsors, or public or private agencies under this section.

"(b)(1) Relocation assistance may be provided in the form of loans or grants, or both, subject to such standards as the Secretary establishes.

"(2) Relocation assistance shall be available only to involuntarily unemployed individuals who cannot reasonably be expected to secure full-time employment in the community in which they reside, and have bona fide offers of employment (other than temporary or seasonal employment).

"VETERANS INFORMATION AND OUTREACH

"SEC. 306. The Secretary, in consultation and cooperation with the Administrator of Veterans Affairs and the Secretary of Health, Education, and Welfare, shall provide for an outreach and public information program utilizing, to the maximum extent, the facilities of the Departments of Labor and Health, Education, and Welfare and the Veterans' Administration to exercise maximum efforts to develop jobs and job training opportunities for disabled and Vietnam-era veterans, and inform all such veterans about employment, job training, on-the-job training and educational opportunities under this Act, under title 38, United States Code, and other provisions of law; and inform prime sponsors, Federal contractors and subcontractors, Federal agencies, educational institutions, labor unions, and employers of their statutory responsibilities toward such veterans, and provide them with technical assistance in meeting those responsibilities.

"DISPLACED HOMEMAKER EMPLOYMENT ASSISTANCE PROGRAM

"SEC. 307. (a) The Secretary shall make available financial assistance to enable private nonprofit organizations and public agencies, including prime sponsors designated under section 101(c), to provide employment opportunities and appropriate training and supportive services to displaced homemakers. Such training and supportive services shall include, but need not be limited to—

"(1) job training, job readiness services, job counseling, job search, and job placement services;

"(2) outreach and information services, including information on available educational opportunities; and

"(3) referrals (through cooperative arrangements, to the maximum extent feasible) to health, financial management, legal, public assistance, and other appropriate supportive services in the community being served.

"(b) To the maximum extent feasible, activities supported under this section shall be coordinated with and supplement, but not supplant, activities supported under other titles of this Act and shall emphasize training and other employment related services for participants that are designed to enhance their employability and earnings. Programs shall concentrate on creating new jobs in the private sector for displaced homemakers in order to meet identified needs within the community.

"(c) To the maximum extent feasible, supervisory, technical, and administrative positions with the program shall be filled by displaced homemakers.

"(d) No funds available under this section shall be used for the purchase, construction, or major rehabilitation of facilities.

"(e) For the purposes of this section, the term 'displaced homemaker' means an individual who—

"(1) has been providing as a predominant activity unpaid services for family members for a substantial number of years;

"(2)(A) has been dependent on the income of another family member but is no longer supported by that income, (B) is receiving public assistance on account of dependent children in the home, or (C) is receiving spousal support; and

"(3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(f) For the purposes of carrying out this section, the Secretary shall reserve not more than 2 per centum of the funds made available to carry out this title.

"PARTNERSHIP PROGRAMS

"SEC. 308. (a) From funds available under this title the Secretary is authorized to promote the development of partnership arrangements between prime sponsors and employment security agencies. Such partnerships shall constitute a segment of an integrated and comprehensive intake, service and placement system and shall be designed to achieve an employability plan and comprehensive program of job preparation and job search assistance for all participants under this Act. Such partnerships may also include other related public and private nonprofit agencies and organizations, including community-based organizations.

"(b) Such partnerships may result in—

"(1) the creation of a joint-planning, administrative, and operational entity;

"(2) combining and colocation of staff; and

"(3) a joint data base and information system.

"(c) The Secretary is authorized to reimburse prime sponsors for costs associated with the implementation of a partnership and to provide incentives to ensure that employment security agencies may participate on an equitable basis.

"PART B—RESEARCH, TRAINING AND EVALUATION RESEARCH

"SEC. 311. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of employment and training research utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's employment and training problems. This program may include, but need not be limited to, studies, the findings of which may contribute to the formulation of employment and training programs; increased knowledge about labor market processes; reduction of unemployment and its relationships to price stability; promotion of more effective worker development, training, and utilization; improved national, regional and local means of measuring future labor demand and supply; enhancement of job opportunities; skill training to qualify employees for positions of greater skill, responsibility, and remuneration; meeting of worker shortages; easing of the transition from school to work, from income transfer payment dependency to employment, from one job to another, and from work to retirement; testing the usefulness of sheltered employment for the difficult to employ; opportunities and services for older persons who desire to enter or reenter the labor force; and for improvement of opportunities for employment and advancement through the reduction of discrimination and disadvantage arising from poverty, ignorance, or prejudice.

"(b) The Secretary shall establish a program of experimental, developmental, demonstration, and pilot projects, through grants to or contracts with public agencies or private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the employment and training problems; however, nothing in this subsection shall authorize the Secretary to carry out employment programs experimenting with subsidized wages in the private sector or wages less than those established by the Fair Labor Standards Act of 1938, for employment subject to that Act. In carrying out this subsection, the Secretary shall consult with such other agencies as may be appropriate. Where programs under this section require institutional training, appropriate arrangements for such training shall be agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare.

"(c) The Secretary is authorized to conduct supportive employment and training projects of an experimental and demonstration nature as part of, or coordinated with, experimental or demonstration programs of a similar nature that the Secretary has been conducting for unemployed persons with serious problems in the labor market, such as juvenile delinquents, mentally and emotionally handicapped individuals, alcoholics, ex-addicts, ex-offenders, and recipients of aid to families with dependent children, to enable them, through temporary, highly structured and supervised work experience, to make the transition to employment or self-employment. Such programs shall provide for skill training as required to effect such transition.

"(d) The Secretary is authorized to carry out a special program to demonstrate the efficacy of providing vouchers to economically disadvantaged persons who are unemployed or underemployed. Such vouchers shall entitle private employers who provide employment or training to such individuals to payment in amounts equal to the value of the voucher during periods when, and to the extent that, such persons are not fully productive, pursuant to regulations of the Secretary.

"(e) The Secretary is authorized to undertake research programs to (1) investigate the applicability of job-sharing, work-sharing and other flexible hours arrangements in various settings, and of the incentives and technical assistance required by employers to implement such alternative working arrangements; (2) investigate the extent to which job and wage classification systems undervalue certain skills and responsibilities on the basis of the sex of persons who usually hold the positions.

"(f) The Secretary shall conduct a variety of demonstration and experimental projects to test the best methods of assisting persons, who might otherwise rely on public assistance or other income assistance, to find nonfederally assisted employment in the private and public sectors, and to provide federally assisted work and training opportunities for any such persons who are unable to find nonfederally assisted work or training opportunities.

"(g) The Secretary is authorized to conduct demonstration programs and projects, which provide expanded guidance and counseling services to participants under this Act through community vocational resource centers established in economically distressed communities or areas pursuant to section 132(a)(7) of the Vocational Educational Amendments of 1976. Such programs shall provide State boards of vocational education, which establish such community vocational resource centers, with funding for up to 50 per centum of the cost of such projects. The Secretary may make such funds available to a State board of vocational education when such board reaches agreement with the prime sponsor to assist out-of-school individuals in reentering school at the secondary or postsecondary level, to take advantage of vocational skill training opportunities including cooperative education and work-study programs, and to be offered referral to other training programs, apprenticeship programs, and on-the-job training for which academic credit may be available. Projects shall include provisions for outreach to inform the economically disadvantaged of the assistance available through the community resource centers and to provide assurance that programs will be coordinated with other guidance and counseling activities of the prime sponsor, includinng activities under section 445(c), other in-school guidance and counseling programs in the area, State employment service offices, and the activities of the private industry councils established pursuant to title VII of this Act.

"(h) The Secretary shall conduct educational and assistance programs designed to eliminate artificial barriers to employment based upon race, sex, national origin, age, records of arrest or conviction, handicaps, marital status, or other criteria. To support such programs, information shall be developed identifying all such artificial barriers, the numbers of persons affected, the manner in which such barriers operate and how such barriers can best be eliminated. In complying with the requirements of this subsection, the Secretary shall consult with the Department of Health, Education, and Welfare, the United States Civil Rights Commission, and the Equal Employment Opportunity Commission.

"LABOR MARKET INFORMATION AND JOB BANK PROGRAM

"SEC. 312. (a) The Secretary shall develop a comprehensive system of labor market information on a national, State, local, or other appropriate basis, which shall be made publicly available in a timely fashion.

"(b) In addition to the monthly national unemployment statistics, the Secretary shall develop reliable methods. including the use of selected sample surveys, to produce more statistically accurate data on unemployment by State and local areas, and shall investigate alternative methods to produce more accurate data on underemployment and labor demand by State and local areas.

"(c) The Secretary shall develop data for an annual statistical measure of labor market related economic hardship in the Nation. Among the factors to be considered in developing such a measure are unemployment, labor force participation, involuntary parttime employment, and full-time employment at wages less than the poverty level.

"(d) The Secretary shall develop methods to establish and maintain more comprehensive household budget data at different levels of living, including a level of adequacy, to reflect the differences of household living costs in regions and localities, both urban and rural. The Secretary, in cooperation with the Secretary of Energy and the Secretary of Housing and Urban Development, shall develop methods to ascertain, and shall ascertain, annual energy development and conservation jobs impact data by type and scale of energy technologies used.

"(e) The Secretary shall set aside, out of sums available to the Department for any fiscal year including sums available for this title, an amount which the Secretary determines is necessary and appropriate to carry out the provisions of this section, and shall, no later than sixty days after such sums are appropriated and made available, notify the appropriate committees of the Congress of the amount so set aside and the basis for the determination of need and appropriateness.

"(f) The Secretary shall establish and carry out a nationwide computerized job bank and matching program (including the listing of all suitable employment openings with local offices of the State employment service agencies by Federal contractors and subcontractors and providing for the affirmative action (as required by section 2012(a) of title 38, United States Code) on a regional, State, and local basis, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available persons and job vacancies, providing an expeditious means of matching the qualifications of unemployed, underemployed, and economically disadvantaged persons with employer requirements and job opportunities, and referring and placing such persons in jobs.

"EVALUATION

"SEC. 313. (a) The Secretary shall provide for the continuing evaluation of all programs and activities conducted pursuant to this Act, including their cost-effectiveness in achieving the purposes of this Act, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by age, sex, race, and national origin, and the adequacy of the mechanism for the delivery of services. In conducting evaluations the Secretary shall compare the effectiveness of programs conducted by prime sponsors of the same class and of different classes, and shall compare the effectiveness of programs conducted by prime sponsors with similar programs carried out by the Secretary under the Act. The Secretary shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs.

"(b) The Secretary shall evaluate the effectiveness of programs authorized under this Act and part C of title IV of the Social Security Act with respect to the statutory goals and objectives, including increases in employment and earnings for participants, duration in training and employment situations, information on the post-enrollment labor market experience of program participants for at least a year following their termination from such programs, and comparable information on other employees or trainees of participating employers.

"(c) (1) The Secretary shall—

"(A) develop standard definitions of 'enrollments', 'completions', 'job placements', and 'training-related job placements' for classroom and on-the-job training programs funded under this Act;

"(B) establish procedures for the uniform reporting by prime sponsors of information on enrollments, completions, job placements, and training related placements by detailed occupational or training code for classroom and on-the-job training programs funded under this Act; and

"(C) make a report to the Congress not later than September 30, 1979, and annually thereafter, containing a summary of the information described in subparagraph (B) together with such analysis and recommendations as the Secretary deems advisable.

"(2) For the purposes of this subsection, the term 'detailed occupational or training code' shall mean any occupational or training code equivalent in detail to the Dictionary of Occupational Titles at the six-digit level.

"TRAINING AND TECHNICAL ASSISTANCE

"SEC. 314. The Secretary, in consultation with the Secretary of Health, Education, and Welfare, or other appropriate officials, shall provide directly or through grants, contracts, or other arrangements, appropriate preservice and inservice training for specialized, supportive, supervisory, or other personnel, and appropriate technical assistance with respect to programs under this Act.

"NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

"SEC. 315. (a) In carrying out its responsibilities under this Act and under section 161 of the Vocational Education Act, the National Occupational Information Coordinating Committee shall give special attention to the problems of unemployed youths. The Committee shall also carry out other activities consistent with the purposes of this title, including but not limited to the following:

"(1) assisting and encouraging local areas to adopt methods of translating national aggregate occupational outlook data into local terms;

"(2) assisting and encouraging the development of State occupational information systems, to be used in the maintenance of local job banks and job vacancy reports, accessible to local schools, and including pilot programs in the use of computers to facilitate such access;

"(3) in cooperation with State and local correctional agencies, encouraging programs of counseling and employment services for youth in correctional institutions;

"(4) providing technical assistance for programs of computer on-line terminals and other facilities to utilize and implement occupational and career outlook information and projections supplied by State employment service officers and to improve the match of youth career desires with available and anticipated labor demand;

"(5) in cooperation with State and local educational agencies, and other appropriate persons and organizations, encouraging programs to make available employment and career counseling to presecondary youths; and

"(6) providing technical assistance for programs designed to encourage public and private employers to list all available job opportunities for youths with the appropriate eligible applicant conducting occupational information and career counseling programs, local public employment services offices and to encourage cooperation and contact among such eligible applicants, employers, and offices.

"(b) All funds available to the National Occupational Information Coordinating Committee under this Act and under section 161 of the Vocational Education Act may be used by the Committee to carry out any of its functions and responsibilities authorized by law.

"TITLE IV—YOUTH PROGRAMS

"INTENT

"SEC. 400. It is the intent of this title to provide a broad range of coordinated employment and training programs for eligible youth in order to provide effectively for comprehensive employment and training services to improve their future employability and to explore and experiment with alternative methods for accomplishing such purposes.

"GENERAL PROVISIONS

"SEC. 401. (a) For purposes of parts B and C, the term 'eligible youth' means an economically disadvantaged youth who is (1) either unemployed, underemployed, or in school, and (2) either age 16 to 21 inclusive, or if authorized under regulations of the Secretary, age 14 to 15 inclusive. Nothing in this section shall be construed to prohibit the provision of day care for the children of eligible youths.

"(b) For the purposes of subpart 1 of part A, the term 'eligible youth' means a youth between the ages of 16 and 19 inclusive, the income of whose family is at or below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget.

"(c) Earnings and allowances received by any eligible youth under this title shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted program.

"PART A—YOUTH EMPLOYMENT DEMONSTRATION PROGRAMS

"STATEMENT OF PURPOSE

"SEC. 410. It is the purpose of this part to establish a variety of employment, training and demonstration programs to explore methods of dealing with the structural unemployment problems of the Nation's youth. The basic purpose of the demonstration programs shall be to test the relative efficiency of different ways of dealing with these problems in different local contexts, but this basic purpose shall not preclude the funding of programs dealing with the immediate difficulties faced by youths who are in need of, and unable to find, jobs. It is explicitly not the purpose of this part to provide make-work opportunities for unemployed youth; instead, it is the purpose to provide youth, and particularly economically disadvantaged youth, with opportunities to learn and earn that will lead to meaningful employment opportunities after they have completed the program.

"Subpart 1—Youth Incentive Entitlement Pilot Projects

"ENTITLEMENT PILOT PROJECTS AUTHORIZED

"SEC. 411. (a) The Secretary shall enter into arrangements with prime sponsors selected in accordance with the provisions of this subpart for the purpose of demonstrating the efficacy of guaranteeing otherwise unavailable part-time employment, or combination of part-time employment and training, for economically disadvantaged youth between the ages of sixteen and nineteen, inclusive, during the school year who resume or maintain attendance in secondary school for the purpose of acquiring a high school diploma or in a program which leads to a certificate of high school equivalency and full-time employment or part-time employment and training during the summer months to each such youth.

"(b) Each prime sponsor who applies for and is selected by the Secretary to carry out a pilot project under this subpart shall guarantee such employment to each such unemployed youth who resides within the area or a designated part thereof served by the prime sponsor and who applies to that prime sponsor for employment. The Secretary shall provide to each prime sponsor, from funds appropriated for carrying out this subpart, in combination with any funds made available by such prime sponsor according to an agreement made pursuant to section 413(a)(4)(F), the amount to which that prime sponsor is entitled under subsection (c).

"(c) Each prime sponsor shall be entitled to receive, for each youth who is provided employment by that prime sponsor, the costs associated with providing such employment. Such costs shall take into account funds made available by such prime sponsor under section 413(a)(4)(F).

"EMPLOYMENT GUARANTEES

"SEC. 412. Employment opportunities guaranteed under this subpart shall take the form of any one of the following or any combination thereof:

"(1) Part-time employment or training or combination thereof during the school year, not to exceed an average of twenty hours per week for each youth employed, and not to last less than six months nor more than nine, on projects operated by community-based organizations of demonstrated effectiveness which have a knowledge of the needs of disadvantaged youth; local educational agencies (as defined in section 801(f) of the Elementary and Secondary Education Act of 1965); institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965); nonprofit private organizations or institutions engaged in public service; nonprofit voluntary youth organizations; nonprofit private associations, such as labor organizations, educational associations, business, cultural, or other private associations; units of general local government; or special purpose political subdivisions either having the power to levy taxes and spend funds or serving such special purpose in two or more units of general local government.

"(2) Part-time employment on an individual basis in any of the institutions and under the same conditions provided for in clause (1).

"(3) Part-time employment on either a project or individual basis in any of the institutions and under the same conditions as provided in clause (1) which includes as part of the employment on-the-job or apprenticeship training.

"(4) Full-time employment during the summer months, not to exceed forty hours per week for each youth employed, and not to last less than eight weeks in any of the institutions described in clause (1) of this section.

"SELECTING PRIME SPONSORS

"SEC. 413. (a) In selecting prime sponsors to operate youth incentive entitlement projects, the Secretary shall—

"(1) select prime sponsors from areas with differing socioeconomic and regional circumstances such as differing unemployment rates, school dropout rates, urban and rural variations, size, and other such factors designed to test the efficacy of a youth job entitlement in a variety of differing locations and circumstances;

"(2) take into consideration the extent to which the prime sponsors devote funds made available under title II for the purpose of carrying out a youth incentive entitlement project or for supportive services;

"(3) take into consideration the extent to which new and different classifications, occupations, or restructured jobs are created for youth;

"(4) select only prime sponsors which submit proposals which include—

"(A) a description of the procedure to be utilized by the prime sponsor to publicize, consider, approve, audit, and monitor youth incentive projects or jobs funded by the prime sponsor under this part, including copies of proposed application materials, as well as examples of audit and client characteristics reports;

"(B) a statement of the estimated number of economically disadvantaged youth to be served by the prime sponsor, and assurances that only such disadvantaged youth will be served;

"(C) assurances that the provisions of sections 442 and 443 are met relating to wage provisions and special conditions;

"(D) assurances that the prime sponsor has consulted with public and private nonprofit educational agencies including vocational and postsecondary education institutions and other agencies which offer high school equivalency programs; public employers, including law enforcement and judicial agencies; labor organizations; voluntary youth groups; community-based organizations; organizations of demonstrated effectiveness with a special knowledge of the needs of such disadvantage youth; and with the private sector in the development of the plan, and assurances that arrangements are made with appropriate groups to assist the prime sponsor in carrying out the purposes of this subpart;

"(E) assurances that arrangements are made with the State employment security agencies to carry out the purposes of this subpart;

"(F) an agreement that title II funds planned for economically disadvantaged youth employment programs and funds available for the summer youth program under part C of this title for youth eligible under subsection (a) will be used in support of the project authorized under this subpart;

"(G) assurances that the employment of eligible youth meets the requirements of eligible activities under section 414;

"(H) assurances that participating youth shall not be employed more than an average of twenty hours per week during the school year and not more than forty hours per week during the summer;

"(I) assurances that a participating youth is not a relative of any person with responsibility for hiring a person to fill that job;

"(J) assurances that whenever employment involves additional on-the-job, institutional, or apprenticeship training provided by the employer, and if such training is not paid for in full or in part by the prime sponsor under any other program authorized under this Act, wages may be paid in accordance with the provisions of subsection (b) of section 14 of the Fair Labor Standards Act of 1938, and with the balance being applied to the cost of training;

"(K) assurances that arrangements have been made with the appropriate local education agency or with the institution offering a certified high school equivalency program that such youth is enrolled and meeting the minimum academic and attendance requirements of that school or education program and with employers that such youth meet the minimum work and attendance requirements of such employment and that any employment guarantee is conditioned on such enrollment; and

"(L) assurances that the prime sponsor will make available the data necessary for the Secretary to prepare the reports required by section 415.

"(b) In approving a prime sponsor to operate a youth incentive entitlement pilot project under this subpart the Secretary may also test the efficacy of any such project involving—

"(1) the use of a variety of subsidies to private for-profit employers, notwithstanding the provisions of sections 412 and 414(a), to encourage such employers to provide employment and training opportunities under this subpart, but no such subsidy shall exceed the net cost to the employer of the wages paid and training provided;

"(2) arrangements with unions to enable youth to enter into apprenticeship training as part of the employment provided under this subpart;

"(3) a variety of administrative mechanisms to facilitate the employment of youths under an entitlement arrangement;

"(4) the inclusion of economically disadvantaged youths between the ages of nineteen and twenty-five who have not received their high school diploma;

"(5) the inclusion of occupational and career counseling, outreach, career, exploration, and on-the-job training and apprenticeship as part of the employment entitlement; and

"(6) the inclusion of youth under the jurisdiction of the juvenile or criminal justice system with the approval of the appropriate authorities.

"SPECIAL PROVISIONS

"SEC. 414. (a) Employment and training under this subpart shall develop the participant's role as a meaningful member of the community, and may include, but is not limited to, employment and training in such fields as environmental quality, health care, education, self-employment, social services, public safety, crime prevention and control, transportation, recreation, neighborhood improvement, rural development, conservation, beautification, and community improvement projects.

"(b) No funds for employment under this subpart shall be used to provide public services through a nonprofit organization, association, or institution, or a nonprofit private institution of higher education, or any other applicant, which were previously provided by a political subdivision or local educational agency in the area served by the project of where the employment and training takes place, and no funds will be used under this subpart to provide such services through such an organization or institution which are customarily provided only by a political subdivision or local educational agency in the area served by such project or where the employment and training takes place.

"REPORTS

"SEC. 415. The Secretary shall report to the Congress not later than March 15, 1979, on his interim findings on the efficacy of a youth incentive entitlement. The Secretary shall submit another report not later than December 31, 1979, concerning the youth incentive entitlement projects authorized under this subpart. Included in such reports shall be findings with respect to—

"(1) the number of youths enrolled at the time of the report;

"(2) the cost of providing employment opportunities to such youths;

"(3) the degree to which such employment opportunities have caused out-of-school youths to return to school or others to remain in school;

"(4) the number of youths provided employment in relation to the total which might have been eligible;

"(5) the kinds of jobs provided such youths and a description of the employers—public and private—providing such employment;

"(6) the degree to which on-the-job or apprenticeship training has been offered as part of the employment;

"(7) the estimated cost of such a program if it were to be extended to all areas;

"(8) the effect such employment opportunities have had on reducing youth unemployment in the areas of the prime sponsors operating a project; and

"(9) the impact of job opportunities provided under the project on other job opportunities for youths in the area.

"Subpart 2—Youth Community Conservation and Improvement Projects

"STATEMENT OF PURPOSE

"SEC. 421. It is the purpose of this subpart to establish a program of community conservation and improvement projects to provide employment, work experience, skill training, and opportunities for community service to eligible youths, for a period not to exceed twelve months, supplementary to but not replacing opportunities available under title II of this Act.

"DEFINITIONS

"SEC. 422. As used in this subpart, the term—

"(1) 'eligible applicant' means any prime sponsor qualified under section 101 of this Act, sponsors of Native American programs qualified under section 302(c)(1) of this Act, and sponsors of migrant and seasonal farmworkers programs qualified under section 303 of this Act;

"(2) 'project applicant' shall have the same meaning as in section 125(18) of this Act;

"(3) 'eligible youths' means individuals who are unemployed and, at the time of entering employment under this subpart, are ages sixteen to nineteen, inclusive; and

"(4) 'community improvement projects' means projects providing work which would not otherwise be carried out, including, but not limited to, the rehabilitation or improvement of public facilities; neighborhood improvements; weatherization and basic repairs to low-income housing; energy conservation including solar energy techniques, especially those utilizing materials, and supplies available without cost; and conservation, maintenance, or restoration of natural resources on publicly held lands other than Federal lands.

"ALLOCATION OF FUNDS

"SEC. 423. (a) Funds available to carry out this subpart for any fiscal year shall be allocated in such a manner that not less than 75 per centum of such funds shall be allocated among the States on the basis of the relative number of unemployed persons within each State as compared to all States, except that not less than one-half of 1 per centum of such funds shall be allocated for projects under this subpart within any State and not less than one-half of 1 per centum of such funds shall be allocated in the aggregate for projects in Guam, the Virgin Islands, American Samoa, the Northern Marianas, and the Trust Territory of the Pacific Islands.

"(b) Of the funds available for this subpart 2 per centum shall be available for projects for Native American eligible youths, and 2 per centum shall be available for projects for eligible youths in migrant and seasonal farmworker families.

"(c) The remainder of the funds available for this subpart shall be allocated as the Secretary deems appropriate.

"COMMUNITY CONSERVATION AND IMPROVEMENT YOUTH EMPLOYMENT PROJECTS

"SEC. 424. The Secretary is authorized, in accordance with the provisions of this subpart, to enter into agreements with eligible applicants to pay the costs of community conservation and improvement youth employment projects to be carried out by project applicants employing eligible youths and appropriate supervisory personnel.

"PROJECT APPLICATIONS

"SEC. 425. (a) Project applicants shall submit applications for funding of projects under this subpart to the appropirate eligible applicant.

"(b) In accordance with regulations prescribed by the Secretary, each project application shall—

"(1) provide a description of the work to be accomplished by the project, the jobs to be filled, and the approximate duration for which eligible youths would be assigned to such jobs;

"(2) describe the wages or salaries to be paid individuals employed in jobs assisted under this subpart;

"(3) set forth assurances that there will be an adequate number of supervisory personnel on the project and that the supervisory personnel are adequately trained in skills needed to carry out the project and can instruct participating eligible youths in skills needed to carry out a project;

"(4) set forth assurances that any income generated by the project will be applied toward the cost of the project;

"(5) set forth assurances for acquiring such space, supplies, materials, and equipment as necessary, including reasonable payment for the purchase or rental thereof;

"(6) set forth assurances that, to the maximum extent feasible, projects carried out under this subpart shall be labor intensive; and

"(7) set forth such other assurance, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

"PROPOSED AGREEMENTS

"SEC. 426. (a)(1) Each eligible applicant desiring funds under this subpart shall submit a proposed agreement to the Secretary together with all project applications approved by the eligible applicant and all project applications approved by any program agent within the area served by the eligible applicant. With its transmittal of the proposed agreement, the eligible applicant shall provide descriptions of the project applications approved by the eligible applicant and by any program agent within the area served by the eligible applicant, accompanied by the recommendations of the eligible applicant concerning the relative priority attached to each project.

"(2) The functions of a program agent shall be as set forth in section 606(b)(2) of this Act.

"(b) The proposed agreement submitted by any eligible applicant shall—

"(1) describe the method of recruiting eligible youths, including a description of how such recruitment will be coordinated with plans under other provisions of this Act, including arrangements required by section 105 of this Act, and also including a description of arrangements with school systems, the public employment service (including school cooperative programs), and the courts of jurisdiction for status and youthful offenders;

"(2) provide a description of job training and skill development opportunities that will be made available to participating eligible youths, as well as a description of plans to coordinate the training and work experience with school-related programs, including the awarding of academic credit; and

"(3) set forth such other assurances as the Secretary may require to carry out the purposes of this subpart.

"(c)(1) In order for a project application submitted by a project applicant to be submitted to the Secretary by any eligible applicant, copies of such application shall have been submitted at the time of such application to the prime sponsor's planning council established under section 109 of this Act (or an appropriate planning organization in the case of sponsors of Native American programs under section 302 of this Act or migrant and seasonal farmworker programs under section 303 of this Act) for the purpose of affording such council and the youth council established under section 436 an opportunity to submit comments and recommendations with respect to that application to the eligible applicant. No member of any council (or organization) shall cast a vote on any matter in connection with a project in which that member, or any organization with which that member is associated, has a direct interest.

"(2) Consistent with procedures established by the eligible applicant in accordance with regulations which the Secretary shall prescribe, the eligible applicant shall not disapprove a project application submitted by a project applicant unless it has first considered any comments and recommendations made by the appropriate council (or organization) and unless it has provided such applicant and council (or organization) with a written statement of its reasons for such disapproval.

"APPROVAL OF AGREEMENTS

"SEC. 427. (a) The Secretary may approve or deny on an individual basis any of the project applications submitted with any proposed agreement.

"(b) No funds shall be made available to any eligible applicant except pursuant to an agreement entered into between the Secretary and the eligible applicant which provides assurances satisfactory to the Secretary that—

"(1) the standards set forth in subpart 4 of this part will be satisfied;

"(2) projects will be conducted in such manner as to permit eligible youths employed in the project who are in school to coordinate their jobs with classroom instruction and, to the extent feasible, to permit such eligible youths to receive credit from the appropriate educational agency, postsecondary institution, or particular school involved; and

"(3) meet such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

"WORK LIMITATION

"SEC. 428. No eligible youth shall be employed for more than twelve months in work financed under this subpart, except as prescribed by the Secretary.

"Subpart 3—Youth Employment and Training Programs

"STATEMENT OF PURPOSE

"SEC. 431. It is the purpose of this subpart to establish programs designed to make a significant long-term impact on the structural unemployment problems of youth, supplementary to but not replacing programs and activities available under title II of this Act, to enhance the job prospects and career opportunities of young persons, including employment, community service opportunities, and such training and supportive services as are necessary to enable participants to secure suitable and appropriate unsubsidized employment in the public and private sectors of the economy. To the maximum extent feasible, training and employment opportunities afforded under this subpart will be interrelated and mutually reinforcing so as to achieve the goal of enhancing the job prospects and career opportunities of youths served under this subpart.

"PROGRAMS AUTHORIZED

"SEC. 432. (a) The Secretary is authorized to provide financial assistance to enable eligible applicants to provide employment opportunities and appropriate training and supportive services for eligible participants including but not limited to—

"(1) useful work experience opportunities in a wide range of community betterment activities such as rehabilitation of public properties, assistance in the weatherization of homes occupied by low-income families, demonstrations of energy-conserving measures including solar energy techniques (especially those utilizing materials and supplies available without cost), park establishment and upgrading, neighborhood revitalization, conservation and improvements, and related activities;

"(2) productive employment and work experience in fields such as education, health care, neighborhood transportation services, crime prevention and control, environmental quality control (including integrated pest management activities), preservation of historic sites, and maintenance of visitor facilities;

"(3) appropriate training and services to support the purpose of this subpart, including but not limited to—

"(A) outreach, assessment, and orientation;

"(B) counseling, including occupational information and career counseling;

"(C) activities promoting education to work transition;

"(D) development of information concerning the labor market, and provision of occupational, educational, and training information;

"(E) services to youth to help them obtain and retain employment;

"(F) literacy training and bilingual training;

"(G) attainment of certificates of high school equivalency;

"(H) job sampling, including vocational exploration in the public and private sector;

"(I) institutional and on-the-job training, including development of basic skills and job skills;

"(J) transportation assistance;

"(K) child care and other necessary supportive services;

"(L) job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders or new job opportunities for youths, in order to improve work relationships between employers and youths;

"(M) community-based central intake and information services for youth;

"(N) job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible, and referral to employability development programs;

"(O) programs to overcome sex-sterotyping in job development and placement; and

"(P) programs and outreach mechanisms to increase the labor force participation rate among minorities and women.

"(b) In order to carry out this subpart, a Governor or a prime sponsor may enter into contracts with project applicants (as defined in section 125(18)) or employers organized for profit, but payments to such employers shall not exceed the amounts permitted under section 121(j), or may operate programs directly if, after consultation with community-based organizations and nonprofit groups, a Governor or prime sponsor determines that such direct operation will promote the purposes of this subpart.

"ALLOCATION OF FUNDS

"SEC. 433. (a) From the sums available for this subpart—

"(1) an amount equal to 75 per centum of such funds shall be made available to prime sponsors for programs authorized under section 432 of this Act;

"(2) an amount equal to 5 per centum of the amount available for this subpart shall be made available to Governors for special statewide youth services under subsection (c) of this section;

"(3) an amount equal to not less than 2 per centum of the amount available for this subpart shall be made available for employment and training programs for Native American eligible youths (deducting such amounts as are made available for such purposes under section 423(b) of this Act);

"(4) an amount equal to not less than 2 per centum of the amount available for this subpart shall be made available for employment and training programs for eligible youths in migrant and seasonal farmworker families (deducting such amounts as are made available for such purposes under section 423(b) of this Act); and

"(5) the remainder of the funds available for this subpart shall be available for the Secretary's discretionary projects authorized under section 438.

"(b)(1) Amounts available for each of the purposes set forth in paragraphs (1) and (2) of subsection (a) shall be allocated among the States in such a manner that—

"(A) 37.5 per centum thereof shall be allocated in accordance with the relative number of unemployed persons within each State as compared to the total number of such unemployed persons in all States;

"(B) 37.5 per centum thereof shall be allocated in accordance with the relative number of unemployed persons residing in areas of substantial unemployment (as defined in section 125(2)(A) of this Act) within each State as compared to the total number of unemployed persons residing in all such areas in all States; and

"(C) 25 per centum thereof shall be allocated in accordance with the relative number of persons in families with an annual income below the low-income level (as defined in section 125(15) of this Act) within each State as compared to the total number of such persons in all States.

"(2) In determining allocations under this subsection the Secretary shall use what the Secretary determines to be the best available data.

"(3) Amounts available to prime sponsors under paragraph (1) of subsection (a) of this section shall, out of the total amounts allocated to each State under such paragraph, be allocated by the Secretary among prime sponsors within each State, in accordance with the factors set forth in paragraph (1) of this subsection.

"(c) The amount available to the Governor of each State under paragraph (2) of subsection (a) of this section shall be used in accordance with a special statewide youth services plan, approved by the Secretary, for such purposes as—

"(1) providing financial assistance for employment and training opportunities for eligible youths who are under the supervision of the State;

"(2) providing labor market and occupational information to prime sponsors and local educational agencies, without reimbursement;

"(3) providing for the establishment of cooperative efforts between State and local institutions, including occupational and career guidance and counseling and placement services for in-school and out-of-school youth;

"(4) providing financial assistance for expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in concert with appropriate businesses and labor unions or State apprenticeship councils;

"(5) carrying out special model employment and training programs and related services between appropriate State agencies and prime sponsors in the State, or any combination of such prime sponsors, including subcontractors selected by prime sponsors, with particular emphasis on experimental job training within the private sector.

"(d)(1) Not less than 22 per centum of the amount allocated to each prime sponsor under paragraph (1) of subsection (a) of this section shall be used for programs under this subsection.

"(2) The amount available to each prime sponsor under paragraph (1) of this subsection shall be used for programs for in-school youth carried out pursuant to agreements between prime sponsors and local educational agencies. Each such agreement shall describe in detail the employment opportunities and appropriate training and supportive services which shall be provided to eligible participants who are enrolled or who agree to enroll in a full-time program leading to a secondary school diploma, a junior or community college degree, or a technical or trade school certificate of completion. Each such agreement shall contain provisions to assure that funds received pursuant to the agreement will not supplant State and local funds expended for the same purpose.

"(e) Programs receiving assistance under paragraph (1) of subsection (a) of this section shall give special consideration in carrying out programs authorized under section 432 of this Act, to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services, such as the Opportunities Industrialization Centers, the National Urban League, SER–Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, neighborhood organizations, community action agencies, union-related organizations, employer-related nonprofit organizations, and other similar organizations.

"ELIGIBLE APPLICANTS

"SEC. 434. Eligible applicants for purposes of this subpart, except section 438, are prime sponsors qualified under section 101 of this Act, sponsors of Native American programs qualified under section 302(c)(1) of this Act, and sponsors of migrant and seasonal farmworker programs qualified under section 303 of this Act.

"ELIGIBLE PARTICIPANTS

"SEC. 435. (a) Eligible participants for programs authorized under this subpart shall be persons who—

"(1)(A) are unemployed or are underemployed or are in school and are ages sixteen to twenty-one, inclusive; or (B) if authorized under such regulations as the Secretary may prescribe, are in school and are ages fourteen to fifteen, inclusive; and

"(2) are not members of households which have current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) at a rate exceeding 85 per centum of the lower living standard income level, except that, pursuant to regulations which the Secretary shall prescribe, persons who do not meet the requirements of this subparagraph but who are otherwise eligible under this subpart may participate in appropriate activities of the type authorized under paragraph (3) of section 432(a). Notwithstanding the provisions of this subsection, 10 per centum of the funds available for this subpart may be used for programs which include youths of all economic backgrounds to test the desirability of including youths of all economic backgrounds.

"(b) For purposes of this section, the term 'lower living standards income level' means that income level (adjusted for regional and metropolitan and urban and rural differences and family size) determined annually by the Secretary based upon the most recent 'lower living standard budget' issued by the Bureau of Labor Statistics of the Department of Labor.

"CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

"SEC. 436. (a) The Secretary shall not provide financial assistance to an eligible applicant for programs authorized under section 432 unless such eligible applicant provides assurances that the standards set forth in subpart 4 of this part will be met and unless such eligible applicant submits an application in such detail as the Secretary may prescribe. Each such application shall—

"(1) describe the program, projects or activities to be carried out with such assistance, together with a description of the relationship and coordination of services provided to eligible participants under this subpart for similar services offered by local educational agencies, postsecondary institutions, the public employment service, other youth programs, community-based organizations, businesses and labor organizations consistent with the requirements of sections 121 and 203 of this Act, and assurances that, to the maximum extent feasible, use will be made of any services that are available without reimbursement by the State employment service that will contribute to the achievement of the purposes of this subpart;

"(2) include assurances that the application will be coordinated to the maximum extent feasible, with the plans submitted under title II, but services to youth under that title shall not be reduced because of the availability of financial assistance under this subpart;

"(3) provide assurances, satisfactory to the Secretary, that in the implementation of programs under this subpart, there will be coordination, to the extent appropriate, with local educational agencies, postsecondary institutions, community-based organizations, businesses, labor organizations, job training programs, other youth programs, the apprenticeship system, and (with respect to the referral of prospective youth participants to the program) the public employment service system;

"(4) provide assurances satisfactory to the Secretary that allowances will be paid in accordance with the provisions of section 123 of this Act and such regulations as the Secretary may prescribe for this subpart;

"(5) provide assurances that the application will be reviewed by the appropriate prime sponsor planning council in accordance with the provisions of section 109;

"(6) provide assurances that a youth council will be established under the planning council of such eligible applicant (established under section 109 of this Act) in accordance with subsection (b) of this section;

"(7) provide assurances satisfactory to the Secretary that effective means will be provided through which youths participating in the projects, programs, and activities may acquire appropriate job skills and be given necessary basic education and training and that suitable arrangements will be established to document the competencies, including skills, education and training, derived by each participant from programs established under this subpart;

"(8) provide assurances that the eligible applicant will take appropriate steps to develop new job classifications, new occupations, and restructured jobs;

"(9) provide that the funds available under section 433(d) shall be used for programs authorized under section 432 for in-school youth who are eligible participants through arrangements to be carried out by a local educational agency or agencies or post-secondary educational institution or institutions; and

"(10) provide such other information and assurance as the Secretary may deem appropriate to carry out the purposes of this subpart.

"(b) Each youth council established by an eligible applicant shall be responsible for making recommendations to the planning council established under section 109 of this Act with respect to planning and review of activities conducted under this subpart and subpart 2. Each such youth council's membership shall include representation from the local educational agency, local vocational education advisory council, postsecondary educational institutions, business, unions, the public employment service, local government and nongovernment agencies and organizations which are involved in meeting the special needs of youths, the community served by such applicant, the prime sponsor, and youths themselves.

"(c) No program of work experience for in-school youth supported under this subpart shall be entered into unless an agreement has been made between the prime sponsor and a local educational agency or agencies, after review by the youth council established under subsection (b) of this section. Each such agreement shall—

"(1) set forth assurances that participating youths will be provided meaningful work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment or self-employment not subsidized under this in-school program;

"(2) be administered, under agreements with the prime sponsor, by a local educational agency or agencies or a postsecondary educational institution or institutions within the area served by the prime sponsor, and set forth assurances that such contracts have been reviewed by the youth council established under subsection (b) of this section;

"(3) set forth assurances that job information, counseling, guidance, and placement services will be made available to participating youths and that funds provided under this program will be available to, and utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

"(4) set forth assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youths;

"(5) set forth assurances that the eligible applicant will advise participating youths of the availability of other employment and training resources provided under this Act, and other resources available in the local community to assist such youths in obtaining employment or self-employment;

"(6) set forth assurances that youth participants will be chosen from among youths who are eligible participants who need work to remain in school, and shall be selected by the appropriate educational agency or institution, based on the certification for each participating youth by the school-based guidance counselor that the work experience provided is an appropriate component of the overall educational program of each youth.

"REVIEW OF PLANS BY SECRETARY

"SEC. 437. The provisions of sections 102, 104, and 107 of this Act shall apply to all programs and activities authorized under 432.

"SECRETARY'S DISCRETIONARY PROJECTS

"SEC. 438. (a) (1) The Secretary of Labor is authorized, either directly or by way of contract or other arrangement, with prime sponsors, public agencies and private organizations to carry out innovative and experimental programs to test new approaches for dealing with the unemployment problems of youth and to enable eligible participants to prepare for, enhance their prospects for, or secure employment in occupations through which they may reasonably be expected to advance to productive working lives. Such programs shall include, where appropriate, cooperative arrangements with educational agencies to provide special programs and services for eligible participants enrolled in secondary schools, postsecondary educational institutions and technical and trade schools, including job experience, counseling and guidance prior to the completion of secondary or postsecondary education and making available occupational, educational, and training information through statewide career information systems. When funds are provided for the development or implementation of statewide career information systems, the occupational data contained within such systems shall be subject to the approval of the appropriate State occupational information coordinating committee established pursuant to section 161(b)(2) of the Vocational Education Act of 1963.

"(2) In carrying out or supporting such programs, the Secretary of Labor shall consult, as appropriate, with the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, and the Director of the Community Services Administration.

"(3) Funds available under this section may be transferred to other Federal departments and agencies to carry out functions delegated to them pursuant to agreements with the Secretary.

"(b) The Secretary and prime sponsors, as the case may be, shall give special consideration in carrying out innovative and experimental programs assisted under this section to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services, such as the Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, neighborhood organizations, community action agencies, union-related organizations, employer-related nonprofit organizations, and other similar organizations.

"Subpart 4—General Provisions

"DISTRIBUTION OF FUNDS

"SEC. 441. Of the sums available for carrying out the provisions of this part—

"(1) 15 per centum shall be available for subpart 1;

"(2) 15 per centum shall be available for subpart 2; and

"(3) 70 per centum shall be available for subpart 3.

"WAGE PROVISIONS

"SEC. 442. Rates of pay under this part shall be no less than the higher of—

"(1) the minimum wage under section 6 (a)(1) of the Fair Labor Standards Act of 1938, but in the case of an individual who is fourteen or fifteen years old, the wage provided in accordance with the provisions of subsection (b) of section 14 of the Fair Labor Standards Act of 1938;

"(2) the State or local minimum wage for the most nearly comparable employment, but in the case of an individual who is fourteen or fifteen years old the wage provided in accordance with the applicable provisions of the applicable State or local minimum wage law; or

"(3) the prevailing rates of pay, if any, for occupations and job classifications of individuals employed by the same employer, except that—

"(A) whenever the prime sponsor has entered into an agreement with the employer and the labor organization representing employees engaged in similar work in the same area to pay less than the rates provided in this paragraph, youths may be paid the rates specified in such agreement;

"(B) whenever an existing job is reclassified or restructured, youths employed in such jobs shall be paid at rates not less than are provided under paragraph (1) or (2) of this section, but if a labor organization represents employees engaged in similar work in the same area, such youths shall be paid at rates specified in an agreement entered into by the appropriate prime sponsor, the employer, and the labor organization with respect to such reclassified or restructured jobs, and if no agreement is reached within thirty days after the initiation of the agreement procedure referred to in this subparagraph, the labor organization, prime sponsor, or employer may petition the Secretary of Labor who shall establish appropriate wages for the reclassified or restructured positions, taking into account wages paid by the same employer to persons engaged in similar work;

"(C) whenever a new or different job classification or occupation is established and there is no dispute with respect to such new or different job classification or occupation, youths to be employed in such jobs shall be paid at rates not less than are provided in paragraph (1) or (2) of this section, but if there is a dispute with respect to such new or different job classification or occupation, the Secretary of Labor shall, within thirty days after receipt of the notice of protest by the labor organization representing employees engaged in similar work in the same area, make a determination whether such job is a new or different job classification or occupation; and

"(D) in the case of projects to which the provision of the Davis-Bacon Act (or any Federal law containing labor standards in accordance with the Davis-Bacon Act) otherwise apply, the Secretary is authorized, for projects financed under subparts 2 and 3 of this part under $5,000, to prescribe rates of pay for youth participants which are not less than the applicable minimum wage but not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe the appropriate ratio of journeymen to such participating youths.

"SPECIAL CONDITIONS

"SEC. 443. (a) The Secretary shall provide financial assistance under this part only if he determines that the activities to be assisted meet the requirements of this section.

"(b) The Secretary shall determine that the activities assisted under this part—

"(1) will result in an increase in employment opportunities over those opportunities which would otherwise be available;

"(2) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits);

"(3) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

"(4) will not substitute jobs assisted under this part for existing federally assisted jobs;

"(5) will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area; and

"(6) will not be used to employ any person to fill a job opening created by the act of an employer in laying off or terminating employment of any regular employee, or otherwise reducing the regular work force not supported under this part, in anticipation of filing the vacancy so created by hiring a youth to be supported under this part.

"(c) The jobs in each promotional line will in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public services not subsidized under this Act and no job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective-bargaining agreements have been complied with.

"(d) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program for which an application is being developed for submission under this part, such organization shall be notified and shall be afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary.

"(e) Activities funded under this part shall meet such other standards as the Secretary may deem appropriate to carry out the purposes of this Act.

"(f) Funds under this part shall not be used to provide full-time employment opportunities (1) for any person who has not attained the age with respect to which the requirement of compulsory education ceases to apply under the laws of the State in which such individual resides, except (A) during periods when school is not in session, and (B) where employment is undertaken in cooperation with school-related programs awarding academic credit for the work experience, or (2) for any person who has not attained a high school degree or its equivalent if it is determined, in accordance with procedures established by the Secretary of Labor, that there is substantial evidence that such person left school in order to participate in any program under this part.

"SPECIAL PROVISIONS FOR SUBPARTS 2 AND 3

"SEC. 444. (a) Appropriate efforts shall be made to insure that youths participating in programs, projects, and activities under subparts 2 and 3 of this part shall be youths who are experiencing severe handicaps in obtaining employment, including but not limited to those who lack credentials (such as a high school diploma), those who require substantial basic and remedial skill development, those who are women and minorities, those who are veterans of military service, those who are offenders, those who are handicapped, those with dependents, or those who have otherwise demonstrated special need, as determined by the Secretary.

"(b) The Secretary is authorized to make such reallocation as the Secretary deems appropriate of any amount of any allocation under subparts 2 and 3 of this part to the extent that the Secretary determines that an eligible applicant will not be able to use such amount within a reasonable period of time. Any such amount may be reallocated only if the Secretary has provided thirty days' advance notice of the proposed reallocation to the eligible applicant and to the Governor of the State of the proposed reallocation, during which period of time the eligible applicant and the Governor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the Governor and affected eligible applicants of any decision to reallocate funds, and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

"(c) The provisions of section 121(g)(1)(D) of this Act shall apply to subparts 2 and 3 of this part.

"ACADEMIC CREDIT, EDUCATION CREDIT, COUNSELING AND PLACEMENT SERVICES, AND BASIC SKILLS DEVELOPMENT

"SEC. 445. (a) In carrying out this part, appropriate efforts shall be made to encourage the granting by the educational agency or school involved of academic credit to eligible participants who are in school.

"(b) The Secretary, in carrying out the purposes of this part, shall work with the Department of Health, Education, and Welfare to make suitable arrangements with appropriate State and local education officials whereby academic credit may be awarded, consistent with applicable State law, by educational institutions and agencies for competencies derived from work experience obtained through programs established under this title.

"(c) All activities assisted under this part, pursuant to such regulations as the Secretary shall prescribe, shall provide appropriate counseling and placement services designed to facilitate the transition of youth from participation in the project to (1) permanent jobs in the public or private sector, or (2) education or training programs.

"DISREGARDING EARNINGS

"SEC. 446. Earnings received by any youth under this part shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs.

"RELATION TO OTHER PROVISIONS

"SEC. 447. The provisions of title I of this Act shall apply to this part, except to the extent that any such provision may be inconsistent with the provisions of this part.

"PART B—JOB CORPS

"STATEMENT OF PURPOSE

"SEC. 450. This part establishes a Job Corps for economically disadvantaged young men and women, sets forth standards and procedures for selecting individuals as enrollees in the Job Corps, authorizes the establishment of residential and nonresidential centers in which enrollees will participate in intensive programs of education, vocational training, work experience, counseling and other activities, and prescribes various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps. The purpose of this part is to assist young persons who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsible, employable, and productive citizens; and to do so in a way that contributes, where feasible, to the development of National, State, and community resources, and to the development and dissemination of techniques for working with the disadvantaged that can be widely utilized by public and private institutions and agencies.

"ESTABLISHMENT OF THE JOB CORPS

"SEC. 451. There is established within the Department of Labor a 'Job Corps'.

"INDIVIDUALS ELIGIBLE FOR THE JOB CORPS

"SEC. 452. To become an enrollee in the Job Corps, a young man or women must be an eligible youth who—

"(1) requires additional education, training, or intensive counseling and related assistance in order to secure and hold meaningful employment, participate successfully in regular school work, qualify for other suitable training programs, or satisfy Armed Forces requirements;

"(2) is currently living in an environment so characterized by cultural deprivation, a disruptive homelife, or other disorienting conditions as to substantially impair prospects for successful participation in other programs providing needed training, education, or assistance;

"(3) is determined, after careful screening as provided for in sections 453 and 454 to have the present capabilities and aspirations needed to complete and secure the full benefit of the Job Corps and to be free of medical and behavioral problems so serious that the individual could not adjust to the standards of conduct, discipline, work, and training which the Job Corps involves; and

"(4) meets such other standards for enrollment as the Secretary may prescribe and agrees to comply with all applicable Job Corps rules and regulations.

"SCREENING AND SELECTION OF APPLICANTS—GENERAL PROVISIONS

"SEC. 453. (a) The Secretary shall prescribe specific standards and procedures for the screening and selection of applicants for the Job Corps. To the extent practicable, these rules shall be implemented through arrangements with agencies and organizations such as community action agencies, public employment offices, professional groups, labor organizations, and agencies and individuals having contact with youths over substantial periods of time and able to offer reliable information as to their needs and problems; and shall provide for necessary consultation with other individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers. The rules shall also provide for the interviewing of each applicant for the purpose of—

"(1) determining whether the applicant's educational and vocational needs can best be met through the Job Corps or an alternative program in the applicant's home community;

"(2) obtaining from the applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment; and

"(3) giving the applicant a full understanding of the Job Corps and what will be expected of an enrollee in the event of acceptance.

"(b) The Secretary shall make no payments to any individual or organization solely as compensation for referring the names of candidates for Job Corps.

"(c) The Secretary shall assure that Job Corps enrollees include an appropriate number of candidates selected from rural areas taking into account the proportions of eligible youth who reside in rural areas and the need to provide residential facilities for such youth.

"SCREENING AND SELECTION—SPECIAL LIMITATIONS

"Sec. 454. (a) No individual shall be selected as an enrollee unless there is reasonable expectation that the individual can participate successfully in group situations and activities, is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the center to which the individual might be assigned and surrounding communities, and unless the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe those rules.

"(b) No individual shall be denied a position in the Job Corps solely on the basis of that individual's contact with the criminal justice system.

"ENROLLMENT AND ASSIGNMENT

"Sec. 455. (a) No individual may be enrolled in the Job Corps for more than two years, except as the Secretary may authorize in special cases.

"(b) Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

"(c) After the Secretary has determined whether an enrollee is to be assigned to a Job Corps Center or a Job Corps Civilian Conservation Center, the enrollee shall be assigned to the center of the appropriate type which is closest to the enrollee's home, except that the Secretary may waive this requirement for good cause, including to insure an equitable opportunity for youth from various sections of the country to participate in the program, to prevent undue delays in assignment, to adequately meet the educational or other needs of an enrollee, and for efficiency and economy in the operation of the program.

"JOB CORPS CENTERS

"Sec. 456. (a) The Secretary may make agreements with Federal, State, or local agencies, including a State board or agency designated pursuant to section 104(a)(1) of the Vocational Education Act of 1963 which operates or wishes to develop area vocational education school facilities or residential vocational schools (or both) as authorized by such Act, or private organizations for the establishment and operation of Job Corps centers. Job Corps centers may be residential or nonresidential in character, or both, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with education, vocational training, work experience (either in direct program activities or through arrangements with employers), counseling, and other services appropriate to their needs. The centers shall include Civilian Conservation Centers, located primarily in rural areas, which shall provide, in addition to other training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest. The centers shall also include training centers located in either urban or rural areas which shall provide activities including training and other services for specific types of skilled or semi-skilled employment.

"(b) To the extent feasible, Job Corps centers shall offer education and vocational training opportunities, together with supportive services, on a nonresidential basis to participants in other programs under this Act. Such opportunities may be offered on a reimbursable basis or through such other arrangements as the Secretary may specify.

"PROGRAM ACTIVITIES

"Sec. 457. (a) Each Job Corps center shall provide enrollees with an intensive, well-organized and fully supervised program of education, vocational training, work experience, planned vocational and recreational activities, physical rehabilitation and development, and counseling. To the fullest extent feasible, the required program shall include activities to assist enrollees in choosing realistic career goals, coping with problems they may encounter in home communities, or in adjusting to new communities, and planning and managing daily affairs in a manner that will best contribute to long-term upward mobility. Center programs shall include required participation in center maintenance work to assist enrollees in increasing their sense of contribution, responsibility and discipline.

"(b) The Secretary may arrange for enrollee education and vocational training through local public or private educational agencies, vocational educational institutions, or technical institutes, whenever such institutions provide training substantially equivalent in cost and quality to that which the Secretary could provide through other means.

"(c) To the extent feasible, arrangements for education both on and off center shall provide opportunities for qualified enrollees to obtain the equivalent of a certificate of graduation from high school. The Secretary, with the concurrence of the Secretary of Health, Education, and Welfare, shall develop certificates to be issued to each enrollee who satisfactorily completes his or her service in the Job Corps and which will reflect the enrollee's level of educational attainment.

"ALLOWANCES AND SUPPORT

"Sec. 458. (a) The Secretary may provide enrollees with such personal, travel, and leave allowances, and such quarters, subsistence, transportation, equipment, clothing, recreational services, and other expenses as he may deem necessary or appropriate to their needs. Personal allowances shall be established at a rate not to exceed $60 per month during the first six months of an enrollee's participation in the program and not to exceed $100 per month thereafter, except that allowances in excess of $60 per month, but not exceeding $100 per month, may be provided from the beginning of an enrollee's participation if it is expected to be of less than six months' duration and the Secretary is authorized to pay personal allowances in excess of the rates specified herein in unusual circumstances as determined by him. Such allowances shall be graduated up to the maximum so as to encourage continued participation in the program, achievement and the best use by the enrollee of the funds so provided and shall be subject to reduction in appropriate cases as a disciplinary measure. To the degree reasonable, enrollees shall be required to meet or contribute to costs associated with their individual comfort and enjoyment from their personal allowances.

"(b) The Secretary shall prescribe specific rules governing the accrual of leave by enrollees. Except in the case of emergency, he shall in no event assume transportation costs connected with leave of any enrollee who has not completed at least six-months' service in the Job Corps.

"(c) The Secretary may provide each former enrollee upon termination, a readjustment allowance at a rate not to exceed $100 for each month of satisfactory participation in the Job Corps. No enrollee shall be entitled to a readjustment allowance, however, unless he has remained in the program at least ninety days, except in unusual circumstances as determined by the Secretary. The Secretary may, from time to time, advance to or on behalf of an enrollee such portions of his readjustment allowances as the Secretary deems necessary to meet extraordinary financial obligations incurred by that enrollee; and he may also, pursuant to rules or regulations, reduce the amount of an enrollee's readjustment allowance as a penalty for misconduct during participation in the Job Corps. In the event of an enrollee's death during his period of service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

"(d) Under such circumstances as the Secretary may determine, a portion of the readjustment allowance of an enrollee not exceeding $50 for each month of satisfactory service may be paid during the period of service of the enrollee directly to a spouse or child of an enrollee or to any other relative who draws substantial support from the enrollee, and any sum so paid shall be supplemented by the payment of an equal amount by the Secretary.

"STANDARDS OF CONDUCT

"Sec. 459. (a) Within Job Corps centers standards of conduct shall be provided and stringently enforced. If violations are committed by enrollees, dismissal from the Corps or transfers to other locations shall be made if it is determined that retention in the Corps, or in the particular center, will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

"(b) To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees including, but not limited to, dismissal from the Job Corps, subject to expeditious appeal to the Secretary.

"COMMUNITY PARTICIPATION

"Sec. 460. The Secretary shall encourage and cooperate in activities to establish a mutually beneficial relationship between Job Corps centers and nearby communities. These activities shall include the establishment of community advisory councils to provide a mechanism for joint discussion of common problems and for planning programs of mutual interest. Youth participation in advisory council affairs shall be encouraged and separate youth councils may be established composed of enrollees and young people from the communities. The Secretary shall assure that each center is operated with a view to achieving, so far as possible, objectives which shall include—

"(1) giving community officials appropriate advance notice of changes in center rules, procedures, or activities that may affect or be of interest to the community;

"(2) affording the community a meaningful voice in center affairs of direct concern to it, including policies governing the issuance and terms of passes to enrollees;

"(3) providing center officials with full and rapid access to relevant community groups and agencies, including law enforcement agencies and agencies which work with young people in the community;

"(4) encouraging the fullest practicable participation of enrollees in programs for community improvement or betterment, with appropriate advance consultation with business, labor, professional, and other interested community groups;

"(5) arranging recreational, athletic, or similar events in which enrollees and local residents may participate together;

"(6) providing community residents with opportunities to work with enrollees directly as part-time instructors, tutors, or advisers, either in the center or in the community;

"(7) developing, where feasible, job or career opportunities for enrollees in the community; and

"(8) promoting interchanges of information and techniques among, and cooperative projects involving, the center and community schools, educational institutions, agencies serving young people and recipients of funds under this Act.

"COUNSELING AND JOB PLACEMENT

"SEC. 461. (a) The Secretary shall counsel and test each enrollee at regular intervals to measure progress in educational and vocational programs.

"(b) The Secretary shall counsel and test enrollees prior to their scheduled terminations to determine their capabilities and shall make every effort to place them in jobs in the vocation for which they are trained or to assist them in attaining further training or education. In placing enrollees in jobs, the Secretary shall utilize the public employment service system to the fullest extent possible.

"(c) The Secretary shall determine the status and progress of trainees and make every effort to assure that their needs for further education, training, and counseling are met.

"(d) The Secretary shall arrange for the readjustment allowance to be paid to former enrollees (who have not already found employment) at the State employment service office nearest the home of any such former enrollee who is returning home, or at the nearest such office where the former enrollee has indicated an intent to reside. If the Secretary uses any other public agency or private organization in lieu of the public employment service system, the Secretary shall arrange for that organization or agency to pay the readjustment allowance.

"EXPERIMENTAL AND DEVELOPMENTAL PROJECTS

"SEC. 462. (a) The Secretary may undertake experimental, research, or demonstration projects to develop or test ways of better using facilities, encouraging a more rapid adjustment of enrollees to community life that will permit a reduction in their period of enrollment, reducing transportation and support costs, or otherwise promoting greater efficiency and effectiveness in the program. These projects shall include one or more projects providing youths with education, training, and other supportive services on a combined residential and nonresidential basis. The Secretary may undertake one or more pilot projects designed to involve youth who have a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other behavioral aberrations. Projects under this subsection shall be developed after appropriate consultation with other Federal or State agencies conducting similar or related programs or projects and with the prime sponsors in the communities where the projects will be carried out. They may be undertaken jointly with other Federal or federally assisted programs, and funds otherwise available for activities under those programs shall, with the consent of the head of any agency concerned, be available for projects under this section to the extent they include the same or substantially similar activities. The Secretary may waive any provision of this part which the Secretary finds would prevent the carrying out of elements of projects under this subsection essential to a determination of their feasibility and usefulness. The Secretary shall, in the annual report of the Secretary, report to the Congress concerning the actions taken under this section, including a full description of progress made in connection with combined residential and nonresidential projects.

"(b) In order to determine whether upgraded vocational education schools could eliminate or substantially reduce the school dropout problem, and to demonstrate how communities could make maximum use of existing educational and training facilities, the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, may enter into one or more agreements with State educational agencies to pay the cost of establishing and operating model community vocational education schools and skill centers.

"ADVISORY BOARDS AND COMMITTEES

"SEC. 463. The Secretary may make use of advisory committees in connection with the operation of the Job Corps, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

"PARTICIPATION OF THE STATES

"SEC. 464. (a) The Secretary shall take action to facilitate the effective participation of States in the Job Corps programs, including, but not limited to, consultation with appropriate State agencies on matters pertaining to the enforcement of applicable State laws, standards of enrollee conduct and discipline, the development of meaningful work experience and other activities for enrollees, and coordination with State-operated programs.

"(b) The Secretary may enter into agreements with States to assist in the operation or administration of State-operated programs which carry out the purpose of this part. The Secretary may, pursuant to regulations, pay part or all of the costs of such programs.

"(c) No Job Corps center or other similar facility designed to carry out the purpose of this part shall be established within a State unless a notice setting forth such proposed establishment has been submitted to the Governor, and the establishment has not been disapproved by the Governor within thirty days of such submission.

"(d) All property which would otherwise be under exclusive Federal legislative jurisdiction shall be under concurrent jurisdiction with the appropriate State and locality with respect to criminal law enforcement as long as a Job Corps center is operated on such property.

"APPLICATION OF PROVISIONS OF FEDERAL LAW

"SEC. 465. (a) Except as otherwise provided in this subsection and in section 8143(a) of title 5, United States Code, enrollees in the Job Corps shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

"(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.) enrollees shall be deemed employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

"(2) For purposes of subchapter I of chapter 81 of title 5 of the United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except as follows:

"(A) the term 'performance of duty' shall not include any act of an enrollee while absent from his or her assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from such post or duty) authorized by or under the direction and supervision of the Job Corps;

"(B) in computing compensation benefits for disability or death, the monthly pay of an enrollee shall be deemed that received under the entrance salary for a grade GS-2 employee, and sections 8113 (a) and (b) of title 5, United States Code, shall apply to enrollee; and

"(C) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee is terminated.

"(3) For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered employees of the Government.

"(b) Whenever the Secretary finds a claim for damages to persons or property resulting from the operation of the Job Corps to be a proper charge against the United States, and it is not cognizable under section 2672 of title 28, United States Code, the Secretary may adjust and settle it in an amount not exceeding $1,500.

"(c) Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade therein.

"SPECIAL PROVISIONS

"SEC. 466. (a) The Secretary shall immediately take steps to achieve an enrollment of 50 per centum women in the Job Corps consistent with (1) efficiency and economy in the operation of the program, (2) sound administrative practice, and (3) the socioeconomic, educational, and training needs of the population to be served.

"(b) The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of the Job Corps program shall become the property of the United States.

"(c) Transactions conducted by private for-profit contractors for Job Corps centers which they are operating on behalf of the Secretary shall not be considered as generating gross receipts.

"GENERAL PROVISIONS

"SEC. 467. The Secretary is authorized to—

"(1) disseminate, with regard to the provisions of section 4154 of title 39, United States Code, data and information in such forms as the Secretary shall deem appropriate, to public agencies, private organizations, and the general public;

"(2) collect or compromise all obligations to or held by the Secretary and all legal or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

"(3) expend funds made available for purposes of this part—

"(A) for printing and binding, in accordance with applicable law and regulation; and

"(B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary; but the Secretary shall not utilize the authority contained in this subparagraph—

"(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this part, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form or under the conditions in which it is needed; and

"(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of the Secretary's intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority.

"UTILIZATION OF FUNDS

"SEC. 468. Notwithstanding the limitations of title II and part C of this title, financial assistance under title II and part C of this title which is used for the Job Corps program, may be used in accordance with the provisions of this part.

"PART C—SUMMER YOUTH PROGRAM

"ESTABLISHMENT OF PROGRAM

"SEC. 480. (a) The Secretary shall provide financial assistance to prime sponsors to conduct programs for eligible youth during the summer months.

"(b) Programs shall provide eligible youth with useful work and sufficient basic education and institutional or on-the-job training to assist these youths to develop their maximum occupational potential and to obtain employment not subsidized under this Act.

"PRIME SPONSORS

"SEC. 481. Prime sponsors eligible for assistance under this part shall be prime sponsors designated under section 101(c) and Native American entities described in section 302(c)(1).

"FINANCIAL ASSISTANCE

"SEC. 482. (a) In order to receive financial assistance under this part, a prime sponsor shall submit to the Secretary an annual plan pursuant to section 103.

"(b) The funds appropriated for this part in any fiscal year shall be allocated according to the procedures set forth in subsection (c) except that the Secretary may reserve up to 5 percent of the appropriated funds to be used in the Secretary's discretion.

"(c)(1) In allocating funds under this part, the Secretary shall add to the new appropriation the total amount of summer funds unspent in the previous year's summer program.

"(2) Funds for prime sponsors designated under section 101(c) shall be allocated as follows:

"(A)(i) 50 percent of such funds shall be allocated on the basis of each prime sponsor's proportion of the funds allocated for the previous year's summer programs;

"(ii) 37½ per centum of the funds shall be allocated based on the ratio of the annual average number of unemployed persons in the prime sponsor's area to the total annual average number of unemployed persons in the United States;

"(iii) 12½ per centum of the funds shall be allocated based on the ratio of the number of adults in low-income families in the prime sponsor's area to the total number of adults in low income families in the United States; except that—

"(B) each prime sponsor shall receive an allocation which, when added to its unexpended allocation for the previous fiscal year, shall be at least equal to the amount available to it for its summer program in the previous fiscal year.

"(3) Funds for Native American entities described in section 302(c)(1) shall be allocated based on the ratio of the number of Native American youths 14 through 21 years of age inclusive in the eligible prime sponsor's area to the total number of Native American youth 14 through 21 years of age inclusive in all Native American entity areas, except that each Native American entity shall receive an amount of funds equal to the amount allocated to it in the previous fiscal year.

"(4) The total allocation to Guam, the Virgin Islands, American Samoa, Northern Marianas, and the Trust Territory of the Pacific Islands shall be equal to the same percentage of the funds allocated to Guam, the Virgin Islands, American Samoa, Northern Marianas, and the Trust Territory of the Pacific Islands under the previous year's summer program.

"SECRETARIAL AUTHORITY

"SEC. 483. Programs under this part shall meet such regulations, standards, and guidelines as the Secretary shall establish.

"TITLE V—NATIONAL COMMISSION FOR EMPLOYMENT AND TRAINING POLICY

"STATEMENT OF PURPOSE

"SEC. 501. The purpose of this title is to establish a National Commission for Employment and Training Policy which will have the responsibility for examining broad issues of development, coordination and administration of employment and training programs, and for advising the Secretary on national employment and training issues.

"COMMISSION ESTABLISHED

"SEC. 502. (a) There is established a National Commission for Employment and Training Policy (formerly known as the National Commission for Manpower Policy and hereinafter referred to as the 'Commission') which shall consist of twenty-seven members selected as follows—

"(1) The Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Defense, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Energy, the Secretary of Transportation, the Secretary of Housing and Urban Development, the Administrator of Veterans' Affairs, the Chairman of the Equal Employment Opportunity Commission, and the Director of the Community Services Administration; and

"(2) A representative of the National Advisory Council on Vocational Education created pursuant to section 162 of the Vocational Education Act of 1963; and

"(3) Fourteen members broadly representative of labor, industry, commerce, education (including vocational and technical education), veterans, State and local elected officials (including two Governors, two county officials, and two city officials who are currently serving in a prime sponsor area), community-based organizations, persons served by employment and training programs and of the general public appointed by the President for terms of two years beginning at the start of a fiscal year, except that (A) appointments to fill the unexpired portion of any term shall be for such portion only and (B) the terms, for which the first members are appointed, shall begin October 1, 1978, of which seven terms shall be for one year, and seven for two years.

"(b) The Commission shall meet not fewer than three times a year at the call of the Chairperson who shall be selected by the President and who shall be one of the 14 appointed public members.

"(c) The Chairperson (with the concurrence of the Commission) shall appoint a Director, who shall be chief executive officer of the Commission and shall perform such duties as are prescribed by the Chairperson. The Director may appoint, with the concurrence of the Chairperson and the Secretary of Labor, such clerical staff as are necessary. The Commission may utilize such staff from the Department of Labor, the Department of Health, Education, and Welfare, and such other Federal agencies as may be available to assist the Commission in carrying out its responsibilities.

"(d) The Commission may accept in the name of the Department of Labor and employ or dispose of gifts or bequests, to carry out its responsibilities under this title.

"(e) Members of the Commission who are not officers or employees of the Federal Government shall be paid compensation at a rate of up to the per diem equivalent to the rate for GS–18 when engaged in the work of the Commission, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

"FUNCTIONS OF THE COMMISSION

"SEC. 503. The Commission shall—

"(1) identify the employment and training goals and needs of the Nation and assess the extent to which employment and training, vocational education, institutional training, vocational rehabilitation, economic opportunity, and other programs under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

"(2) conduct such studies, hearings, research, or other activities as it deems necessary to enable it to formulate appropriate recommendations;

"(3) examine and evaluate the effectiveness of any federally assisted employment and training programs (including those assisted under this Act), with particular reference to the contributions of such programs to the achievement of objectives sought by the recommendations under clause (2) of this section;

"(4) examine and evaluate major Federal programs which are intended to (or potentially could) contribute to achieving major objectives of existing employment and training and related legislation or those set forth in the recommendations of the Commission and particularly the programs which are designed (or could be designed) to develop information and knowledge about employment and training problems through research and demonstration projects or to train personnel in fields (such as occupational counseling, guidance, and placement) which are vital to the success of employment and training programs;

"(5)(A) identify, after consultation with the National Advisory Council on Vocational Education, the employment and training and vocational education needs of the Nation and assess the extent to which employment training, vocational education, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment, at least once annually, on the reports of the National Advisory Council on Vocational Education which comments shall be included in one of the reports submitted by the National Commission pursuant to this title and in one of the reports submitted by the National Advisory Council on Vocational Education pursuant to section 162 of the Vocational Education Act of 1963; and

"(6) evaluate and continue to study and make recommendations to the Congress on the impact of energy shortages and new energy developments upon employment and training needs and include these findings and recommendations with respect thereto in the reports required by section 504.

"REPORTS

"SEC. 504. The Commission shall make at least annually a support of its findings and recommendations to the President and the Congress. The Commission may make such interim reports or recommendations to the Congress, the President, Secretary of Labor, or to the heads of other Federal departments and agencies, and in such form, as it may deem desirable.

"TITLE VI—PUBLIC SERVICE EMPLOYMENT PROGRAM

"STATEMENT OF PURPOSE

"SEC. 601. It is the purpose of this title to provide for temporary employment in public service employment during periods of high unemployment. It is the intent of Congress that such employment be provided during periods when the national rate of unemployment is in excess of 4 per centum and that the number of jobs funded shall be sufficient to provide jobs for 20 per centum of the unemployed in excess of 4 per centum of the labor force.

"REPORT ON APPROPRIATIONS

"SEC. 602. (a) On or before March 1 of each year, the President shall report to the Congress the amount that would need to be appropriated for the following fiscal year in order to achieve the level of public service employment specified in section 601. Such report shall contain the President's estimate of the unemployment rate for the following fiscal year, the number of unemployed that he estimates in excess of 4 per centum of the labor force, and the average man-year cost of each public service employment opportunity.

"(b) The President shall submit supplemental reports every three months thereafter containing any necessary revisions in the report required under subsection (a) due to changes in his estimates of unemployment or the cost of providing public service jobs under this title.

"(c) The Secretary shall, as soon as practicable after submission of the report required under subsection (a), inform each prime sponsor of its estimated allocation on the basis of the appropriation proposed in such report. Each prime sponsor's annual plan for using funds provided under this title shall contain provisions for an orderly transition from the number of jobs funded for the current year to the number of jobs which would be funded under such proposed appropriation.

"FINANCIAL ASSISTANCE

"SEC. 603. (a) In order to be eligible to receive financial assistance under this title for any fiscal year, a prime sponsor shall submit to the Secretary an annual plan pursuant to section 103.

"(b) Not more than 15 per centum of the funds allocated in accordance with the provisions of this title may be used for administrative and other allowable costs (such as supplies, materials, and equipment) incurred by the prime sponsor, program agents, project applicants or subgrants or contractors, in accordance with such regulations as the Secretary may prescribe.

"(c) In filling teaching positions in elementary and secondary schools with financial assistance under this title, each prime sponsor shall give special consideration to unemployed persons with previous teaching experience who are certified by the State in which that prime sponsor is located and who are otherwise eligible under the provisions of this title.

"ALLOCATION OF FUNDS

"SEC. 604. (a)(1) The Secretary shall reserve an amount equal to not less than 2 per centum of the amounts made available pursuant to section 602 for any fiscal year to enable Native American entities which are eligible entities under section 606 (a)(2) to carry out public service employment programs. Such funds shall be allocated by the Secretary in accordance with paragraph (3).

"(2) Not less than 90 per centum of the amounts made available pursuant to section 602 for any fiscal year shall be allocated among eligible prime sponsors by the Secretary in accordance with the provisions of paragraph (3).

"(3)(A) Fifty per centum of the amount allocated under this subsection shall be allocated among eligible prime sponsors in proportion to the relative number of unemployed persons who reside within the jurisdiction of each such prime sponsor as compared to the number of unemployed persons who reside in all the States.

"(B) Twenty-five per centum of the amount allocated under this subsection shall be allocated among eligible prime sponsors in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all areas of substantial unemployment.

"(C) Twenty-five per centum of the amount allocated under this subsection shall be allocated among eligible prime sponsors on the basis of the relative excess number of unemployed persons who reside within the jurisdiction of the eligible prime sponsor as compared to the total excess number of unemployed persons who reside within the jurisdiction of all eligible prime sponsors. For purposes of this subparagraph, the term 'excess number' means (i) the number of unemployed persons, residing in the jurisdiction of the eligible prime sponsor, in excess of 4½ per centum of the labor force residing in such jurisdiction or (ii) in the case of an eligible prime sponsor which is a State, the greater of the number determined under clause (i) or the number of unemployed persons in excess of 4½ per centum of the labor force in areas of substantial unemployment located in the jurisdiction of such eligible prime sponsor.

"(b)(1) Eighty-five per centum of the remainder of the amount made available pursuant to section 602 shall be available to the Secretary for financial assistance to prime sponsors as the Secretary deems appropriate, taking into account changes in rates of unemployment.

"(2) Whenever the Secretary allocates such funds through a formula, the Secretary shall, not later than thirty days prior to such allocation, publish the formula in the Federal Register for comment along with the rationale for the formula, and the proposed amount to be distributed to each prime sponsor. After consideration of comments received under the preceding sentence, the Secretary shall publish final allocations.

"(c) Not more than 15 per centum of the remainder shall be allocated among the prime sponsors within the jurisdiction of those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual average rates for unemployment prior to, but not after, January 1, 1978, in proportion to the extent to which such prime sponsors allocations under subsection (a) are reduced as a result of termination of the use of such surveys. This provision shall be in effect until such time as the National Commission on Employment and Unemployment Statistics makes its report to Congress.

"EXPENDITURE OF FUNDS

"SEC. 605. (a) Fifty per centum of the funds available to any prime sponsor under this title may be used only for employment in projects (carried out by project applicants) of a limited duration, not exceeding two years, established by the prime sponsor for each project. Employment that is not in such projects must be at entry level.

"(b) Each project applicant shall submit a project application to the appropriate program agent or prime sponsor. Such application shall contain such information as required by the Secretary's regulations.

"PRIME SPONSORS AND PROGRAM AGENTS

"SEC. 606. (a) The Secretary shall provide financial assistance under this title only to—

"(1) prime sponsors designated under section 101(c), and

"(2) Native American entities described in section 302(c)(1).

"(b)(1) Whenever a unit of general local government or combination of such units having a population of fifty thousand or more (but less than that necessary to qualify as a prime sponsor under section 101) is within a prime sponsor's area, the prime sponsor shall if such unit or units so desire, subgrant to such unit or units of general local government the functions of program agent with respect to the funds allocated to such prime sponsor on account of the area served by the program agent.

"(2) For purposes of this subsection, the functions of program agent include the administrative responsibility for developing, funding, overseeing, and monitoring programs within the area, but such functions shall be consistent with the annual plan, which shall be developed by the prime sponsor in cooperation with the program agent.

"(3) Whenever two or more units of general local government qualify as program agents with respect to the same area qualifying for assistance, the provisions of section 101(b)(2) shall be applicable.

"ELIGIBILITY

"SEC. 124. All laborers and mechanics employed in a position supported under this title shall be a person who has been unemployed for at least eight weeks and who is not a member of a household which has a current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) at a rate exceeding 100 per centum of the lower living standard income level. For purposes of this section, family income shall be determined on the basis of the income over the three-month period prior to application for participation.

"WAGE SUPPLEMENTATION

"SEC. 608. The wages of public service employees under this title may be supplemented by a prime sponsor from sources other than this Act subject to the following conditions:

"(1) the total amount of funds which may be used to provide such supplemented wages may not exceed a sum equal to 10 per centum of such prime sponsor's allocation under this title;

"(2) the number of such employees whose wages are supplemented shall not exceed—

"(A) 25 per centum to the total number of employees under this title in the fiscal year ending September 30, 1979;

"(B) 20 per centum of such total in the fiscal year ending September 30, 1980;

"(C) 15 per centum of such total in the fiscal years ending September 30, 1981 and September 30, 1982; and

"(3) no employee whose wage is supplemented under the authority of this section shall be paid at a rate in excess of the permissible maximum under section 121(c)(1)(B), except that such rate shall be adjusted upward, not to exceed 20 per centum, by the ratio that the annual average wages within the area served by the prime sponsor exceed the average of the total of such wages nationally in accordance with a wage adjustment index to be published annually by the Secretary.

"UTILIZATION OF FUNDS

"SEC. 609. Funds available under this title to a prime sponsor may be used, with respect to individuals qualifying for assistance under this title, for programs authorized under title II (other than public service employment), part A of title III, title IV, and title VII.

"TITLE VII—PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

"STATEMENT OF PURPOSE

"SEC. 701. It is the purpose of this title to demonstrate the effectiveness of a variety of approaches to increase the involvement of the business community, including small business and minority business enterprises, in employment and training activities under this Act, and to increase private sector employment opportunities for economically disadvantaged persons.

"FINANCIAL ASSISTANCE

"SEC. 702. (a) The Secretary shall provide financial assistance to each prime sponsor designated under section 101(c) which includes satisfactory provisions in its annual plan for title II activities for carrying out the purposes of this title. Funds made available for carrying out this title shall be allocated by the Secretary on an equitable basis among such prime sponsors, taking into account the factors used in allocating funds under title II.

"(b) The Secretary shall establish appropriate procedures to assure that the Department of Labor will review at the national level any proposal to make payments to private for-profit employers for any activities which are not covered by regulations under this Act.

"PRIVATE INDUSTRY COUNCILS

"SEC. 703. (a) Any prime sponsor receiving financial assistance under this title shall establish a private industry council. Such council shall consist of representatives from industry and the business community (including small business and minority business enterprises), organized labor, and educational institutions and may include representation from community-based organizations which have demonstrated their effectiveness in working with the private sector. In no event shall representatives of industry and business have less than a majority on the council, at least half of such industry and business representatives shall be representatives of small business. Such council may consist of an existing or a newly formed organization and may be established to cover two or more prime sponsor areas pursuant to arrangements between the prime sponsors for such areas and the council. For purposes of this subsection, the term 'small business' means any private, for profit enterprise employing five hundred or fewer employees.

"(b) Such council shall participate with the prime sponsor in the development and implementation of programs under this title. In carrying out its responsibilities, such council shall utilize, to the extent appropriate, community-based organizations, labor organizations, educational agencies and institutions, and economic development programs.

"(c) The Secretary shall not, by regulation or otherwise, require that any prime sponsor, in establishing such council, give a presumptive role to any particular organization.

"PRIVATE SECTOR PROGRAM

"SEC. 704. Each prime sponsor desiring to receive financial assistance under this title, as part of its plan for title II activities, shall describe its proposed private sector initiatives under this title and the integration of such initiatives with other training and placement activities under this Act. The description shall include an analysis of private sector job opportunities, including estimates by occupation, industry, and location utilizing information provided by the private industry council.

"PROGRAM ACTIVITIES

"SEC. 705. Prime sponsors receiving financial assistance under this title shall, consistent with section 702(b), carry out private sector initiatives to demonstrate the purposes of this title. Such activities shall augment private sector-related activities under title II, including arrangements for on-the-job training with private employers, and may include—

"(1) coordinating programs of jobs and training and education enabling individuals to work for a private employer while attending an education or training program;

"(2) developing a small business intern program to provide a practical training enabling youths and other individuals to work in small business firms to acquire first-hand knowledge and management experience about small business;

"(3) developing relationships between employment and training programs, educational institutions, and the private sector;

"(4) developing useful methods for collecting information about Federal Government procurement contracts with private employers, new and planned publicly supported projects such as public works, economic development and community development programs, transportation revitalization, alternative energy technology development, demonstration, and utilization projects, energy conservation projects, and rehabilitation of low-income housing as part of a community revitalization or stabilization effort, which provide work through private sector contractors;

"(5) developing and marketing model contracts designated to reduce the administrative burden on the employer and model contracts to meet the needs of specific occupations and industries;

"(6) coordinating programs under this title with other job development, placement, and employment and training activities carried out by public and private agencies;

"(7) providing on-the-job training subsidies on a declining ratio to wages over the period of training;

"(8) providing followup services with employees placed in private employment and employers who hire recipients of services under this Act;

"(9) encouraging employers to develop job skill requirement forecasts and to coordinate such forecasts with prime sponsors;

"(10) using direct contracts for training and employment programs with private for profit and private nonprofit organizations;

"(11) developing apprenticeship or comparable high-skill training programs for workers regardless of age in occupations where such programs do not exist presently in the area;

"(12) increasing opportunities for upgrading from entry level jobs by providing counseling and other services to employees and employers beyond initial training periods;

"(13) providing technical assistance to private employers to reduce the administrative burden of employment and training programs; and

"(14) disseminating information to private employers so that they may more fully utilize programs under this Act.

"REPORT

"SEC. 706. (a) The Secretary shall provide to the Congress by March 1, 1980, an evaluation of the activities conducted under this title accompanied by recommendations for legislation.

"(b) The Secretary shall disseminate among prime sponsors information concerning successful programs under this title.

"TITLE VIII—YOUNG ADULT CONSERVATION CORPS

"STATEMENT OF PURPOSE

"SEC. 801. It is the purpose of this title to establish a Young Adult Conservation Corps to provide employment and other benefits to youths who would not otherwise be currently productively employed, through a period of service during which they engage in useful conservation work and assist in completing other projects of a public nature on Federal and non-Federal public lands and waters.

"ESTABLISHMENT OF YOUNG ADULT CONSERVATION CORPS

"SEC. 802. To carry out the purposes of this title, there is hereby established a Young Adult Conservation Corps to carry out projects on Federal or non-Federal public lands or waters. The Secretary of Labor shall administer this title through interagency agreements with the Secretaries of the Interior and Agriculture. Pursuant to such interagency agreements, the Secretaries of the Interior and Agriculture shall have responsibility for the management of each Corps center, including determination of Corps members' work assignments, selection, training, discipline, and termination, and shall be responsible for an effective program at each center.

"SELECTION OF ENROLLEES

"SEC. 803. (a) Enrollees of the Corps shall be selected by the Secretaries of the Interior and Agriculture only from candidates referred by the Secretary of Labor.

"(b)(1) Membership in the Corps shall be limited to individuals who, at the time of enrollment—

"(A) are unemployed;

"(B) are between the ages 16 to 23 inclusive;

"(C) are citizens or lawfully permanent residents of the United States or lawfully admitted refugees or parolees; and

"(D) are capable, as determined by the Secretary of Labor, of carrying out the work of the Corps for the estimated duration of each such individual's enrollment.

"(2) Individuals who, at the time of enrollment, have attained age 16 but not attained age 19 and who have left school shall not be admitted to membership in the Corps unless they give adequate assurance, under criteria established by the Secretary of Labor, that they did not leave school for the purpose of enrolling in the Corps and obtaining employment under this title.

"(c) The Secretary of Labor shall make arrangements for obtaining referral of candidates for the Corps from the public employment service, prime sponsors designated under section 101 of this Act, sponsors of Native American programs designated under section 302 of this Act, sponsors of migrant and seasonal farmworkers programs under section 303 of this Act, the Secretaries of the Interior and Agriculture, and such other agencies and organizations as the Secretary may deem appropriate. The Secretary of Labor shall undertake to assure that an equitable proportion of candidates shall be referred from each State.

"(d) In referring candidates from each State in accordance with subsection (c), preference shall be given to youths residing in rural and urban areas within each such State having substantial unemployment including areas of substantial unemployment determined by the Secretary of Labor under section 125(2)(A) of this Act to have rates of unemployment equal to or in excess of 6.5 per centum.

"(e)(1) No individual may be enrolled in the Corps for a total period of more than twelve months, with such maximum period consisting of either one continuous twelve month period, or three or less periods which total twelve months, except that an individual who attains the maximum permissible enrollment age may continue in the Corps up to the twelve-month limit provided in this subsection only as long as the individual's enrollment is continuous after having attained the maximum age.

"(2) No individual shall be enrolled in the Corps if solely for purposes of membership for the normal period between school terms.

"ACTIVITIES OF THE CORPS

"SEC. 804. (a) Consistent with each interagency agreement, the Secretary of the Interior or Agriculture, as appropriate, in consultation with the Secretary of Labor shall determine the location of each residential and nonresidential Corps center. The Corps shall perform work projects in such fields as—

"(1) tree nursery operations, planting, pruning, thinning, and other silviculture measures;

"(2) wildlife habitat improvements and preservation;

"(3) range management improvements;

"(4) recreation development, rehabilitation, and maintenance;

"(5) fish habitat and culture measures;

"(6) forest insect and disease prevention and control;

"(7) road and trail maintenance and improvements;

"(8) general sanitation, cleanup, and maintenance;

"(9) erosion control and flood damage;

"(10) drought damage measures;

"(11) other natural disaster damage measures; and

"(12) integrated pest management, including activities to provide the producers of agricultural commodities with information about the appropriate amount of chemical pesticides which, when used in conjunction with nonchemical methods of pest control (A) will provide protection against a wide variety of pests, (B) will preserve to the greatest extent possible the quality of the environment, and (C) will be cost effective.

"(b)(1) The Secretary of the Interior and the Secretary of Agriculture shall undertake to assure that projects on which work is performed under this title are consistent with the Forest and Rangeland Renewal Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and such other standards relating to such projects as each Secretary shall prescribe consistent with other provisions of Federal law.

"(2) The Secretary of the Interior and the Secretary of Agriculture shall place individuals employed as Corps members into jobs which will diminish the backlog of relatively labor intensive projects which would otherwise be carried out if adequate funding were made available.

"(c) To the maximum extent practicable, projects shall—

"(1) be labor intensive;

"(2) be projects for which work plans could be readily developed;

"(3) be able to be initiated promptly;

"(4) be productive;

"(5) be likely to have a lasting impact both as to the work performed and the benefit to the youths participating;

"(6) provide work experience to participants in skill areas required for the projects;

"(7) if a residential program, be located, to the maximum extent consistent with the objectives of this title in areas where existing residential facilities for the Corps members are available; and

"(8) be similar to activities of persons employed in seasonal and part-time employment in agencies such as the National Park Service, United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Bureau of Outdoor Recreation, and Soil Conservation Service.

"(d)(1) The Secretary of the Interior and the Secretary of Agriculture, pursuant to agreements with the Secretary of Labor, may provide for such transportation, lodging, subsistence, medical treatment, and other services, supplies, equipment, and facilities as they may deem appropriate to carry out the purposes of this title. To minimize transportation costs. Corps members shall be assigned to projects as near to their homes as practicable.

"(2) Whenever economically feasible, existing but unoccupied or underutilized Federal, State, and local government facilities and equipment of all types shall, where appropriate, be utilized for the purposes of the Corps centers with the approval of the Federal agency, State, or local government involved.

"(e) The Secretary of Labor, in carrying out the purpose of this title shall work with the Department of Health, Education, and Welfare to make suitable arrangements whereby academic credit may be awarded by educational institutions and agencies for competencies derived from work experience obtained through programs established under this title.

"CONDITION APPLICABLE TO CORPS ENROLLEES

"SEC. 805. (a) Except as otherwise specifically provided in this subsection, Corps members shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

"(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), Corps members shall be deemed employees of the United States and any service performed by a person as a Corps member shall be deemed to be performed in the employ of the United States.

"(2) For purposes of subchapter 1 of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and provisions of that subchapter shall apply, except that the term 'performance of duty' shall not include any act of a Corps member while absent from the member's assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from such post of duty) authorized by or under the direction and supervision of the Secretary.

"(3) For purposes of chapter 171 of title 18 of the United States Code, relating to tort claims procedure, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee of the Government' as defined in section 2671 of title 28, United States Code, and provisions of that chapter shall apply.

"(4) For purposes of section 5911 of title 5 of the United States Code, relating to allowances for quarters, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in that section, and provisions of that section shall apply.

"(b) The Secretary of Labor shall, in consultation with the Secretaries of the Interior and Agriculture, establish standards for—

"(1) rates of pay which shall be at least at the wage required by section 6(a)(1) of the Fair Labor Standards Act of 1938;

"(2) reasonable hours and conditions of employment; and

"(3) safe and healthful working and living conditions.

"STATE AND LOCAL PROGRAMS

"SEC. 806. (a) Consistent with interagency agreements with the Secretary of Labor, the Secretaries of the Interior and Agriculture may make grants or enter into other agreements—

"(1) after consultation with the Governor, with any State agency or institution;

"(2) after consultation with appropriate State and local officials, with (A) any unit of general local government, or (B)(i) any public agency or organization, specifically including the Federal Extension Service and the cooperative extension service of any State with respect to projects described in section 804(a)(12), or (ii) any private nonprofit agency or organization which has been in existence for at least two years;

for the conduct under this title of any State or local component of the Corps or of any project on non-Federal lands or waters or any project involving work on both non-Federal and Federal lands and waters.

"(b) No grant or other agreement may be entered into under this section unless an application is submitted to the Secretary of the Interior or the Secretary of Agriculture, as the case may be, at such times as each such Secretary may prescribe. Each grant application shall contain assurances that individuals employed under the project for which the application is submitted—

"(1) meet the qualifications set forth in section 803(b);

"(2) shall be employed in accordance with section 805(b); and

"(3) shall be employed in activities that—

"(A) will result in an increase in employment opportunities over those opportunities which would otherwise be available,

"(B) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits),

"(C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed,

"(D) will not substitute jobs assisted under this title for existing federally assisted jobs, and

"(E) will not result in the hiring of any youth when any other person is on layoff from the same or any substantially equivalent job.

"(c) Thirty percent of the sums appropriated to carry out this title for any fiscal year shall be made available for grants under this section for such fiscal year and shall be made on the basis of total youth population within each State.

"SECRETARIAL REPORTS

"SEC. 807. The Secretary of Labor, the Secretary of the Interior, and the Secretary of Agriculture shall jointly prepare and submit to the President and to the Congress a report detailing the activities carried out under this title for each fiscal year. Such report shall be submitted not later than February 1 of each year following the date of enactment of this Act. The Secretaries shall include in such report such recommendations as they deem appropriate.

"ANTIDISCRIMINATION

"SEC. 808. The Corps shall be open to youth from all parts of the country of both sexes and youth of all social, economic, and racial classifications.

"TRANSFER OF FUNDS

"SEC. 809. Funds necessary to carry out their responsibilities under this title shall be made available to the Secretaries of the Interior and Agriculture in accord with interagency agreements between the Secretary of Labor and the Secretaries of the Interior and Agriculture.".

Mr. JEFFORDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. JEFFORDS. Mr. Chairman, this is an amendment in the nature of a substitute which I am offering to H.R. 12452 as reported. The amendment is to the entire bill. It is offered not only on my behalf but on behalf of the gentleman from Wisconsin (Mr. OBEY), who did extensive work on an amendment which passed this body, and also on behalf of the gentleman from Illinois (Mr. SIMON), and the gentleman from Connecticut (Mr. SARASIN), the ranking minority member on the Subcommittee on Employment Opportunities.

It was felt advisable to find common ground which could be firmly stood on when conference negotiations begin with the other body.

The substitute consists of the committee bill as reported and amended at the completion of the session on August 9, with five major compromise amendments and some additional noncontroversial amendments which I would like to describe in some detail to you. Also, the amendments which were agreed to on the floor are all included in this substitute, and include the following:

An amendment offered by Mr. Cornell, as amended, that requires the Secretary to revoke all of part of a prime sponsor's funds if a public service employment program is being conducted in violation of the provisions in the Act, and requires the prime sponsor to refund to the Treasury all funds found to have been expended. (407-1)

An amendment offered by Mr. Quie that permits the Secretary to make agreements for the establishment and operation of job corps centers with State boards or agencies operating vocational schools.

Sundry technical amendments offered by Mr. Hawkins.

An amendment offered by Mr. Erlenborn that prohibits use of CETA Funds for contributions to retirement plans after January 1, 1980. (254-148)

An amendment offered by Mr. Obey that requires the prime sponsor to reach a decision on complaints within 60 days, and requires the Secretary to reach a final determination on appeals within 120 days.

An amendment offered by Mr. Obey (with one compromise modification) that sets a limit of $12,000 for any CETA job in high wage areas and $10,000 in low wage areas, and sets the average wage level at $7,000, which can be adjusted annually by a percentage not to exceed the percentage change in the Consumer Price Index. (230-175)

An amendment offered by Mr. Young that waives the maximum limitation on wages in States where the average exceeds the national average wage by more than 50 percent.

My amendment to place a $3.2 billion ceiling on public service employment except during periods of critically high unemployment has been modified in the compromise, as I shall explain. However, the provision to emphasize youth employment by shifting authorizations from public service to youth programs and programs for private sector opportunities for the economically disadvantaged has been retained. (221-181)

An amendment offered by Mr. de la Garza, that requires the Secretary, before approving a plan, to determine that such plan includes specific management and accounting procedures to assure adequate supervision and monitoring of the programs to be conducted.

A technical amendment offered by Mr. Quie relating to the National Occupational Information Coordinating Committee.

An amendment offered by Mr. Maguire that provides standards for allowable expenditures by prime sponsors for legal or other associated services. (200-198)

An amendment offered by Mrs. Fenwick that requires the Secretary to insure that the prime sponsor's plan has a recognizable and proven method of verifying eligibility of recipients, and to require the Secretary to review the success of any training program to be refunded.

An amendment offered by Mr. Ashbrook that prohibits use of funds to aid the efforts of labor unions to engage in collective bargaining or to engage in any political activity.

The five major changes are as follows:

As you recall, the House passed an amendment sponsored by Congressman OBEY to require that the national average for PSE wages not exceed $7,000. The reason for the amendment was to: First, prevent PSE jobs from being used by local officials as a substitute for regular employment; second, to keep down the cost of the program; third, to create more jobs and serve more people, and fourth, to prevent PSE from competing unfairly with private sector employment. As passed, the provision did not allow for local indexing, but left any annual changes in the average up to the discretion of the Secretary, based on changes in the Consumer Price Index.

The substitute makes a slight modification in this amendment and now provides for an automatic adjustment in annual wages based on the change in local industrial wages. This assures that CETA is sensitive to local private sector wage conditions while at the same time maintaining the essential purpose of providing more jobs, for less money, to those most in need.

The second change is in regard to one of the authorization levels included in the first amendment I offered and the House accepted on August 9. As you recall, my amendment reduced funding for title VI PSE by approximately $1 billion, half of which was transferred to youth and private sector job and job training programs. The remaining $500 million was not spent and represents a savings to the taxpayers. This was accomplished by setting a ceiling of $3.2 billion on title VI when national unemployment dropped below 6.5 percent, and by increasing the authorization levels for title IV youth programs by $400 million and the title VII private sector initiative programs by $100 million.

The amendment clearly recognized the need to emphasize structural job training efforts over public service jobs, and to take into account the considerable statistical evidence that clearly establishes job training as a more effective solution to the problems of the unemployed than PSE. In 1977, title I—training—was only one and a half times larger than titles II and VI—PSE—combined. However, its termination rate was 2.5 times greater than the termination rate of title II and VI combined, and its positive placement record, or number of people who enter unsubsidized employment, was four times as great.

TRANSITION RATES, 1977

	Title I	Titles II and VI
Enrollment	1,415,600	945,800
Number terminated	1,048,400	422,200
Percent terminated	74	45
Number of positive placements	408,876	101,149
Percent of positive placements	39	24

Note: Title I is only 1½ times larger than titles II and VI combined. However, its termination rate is 2.5 times greater than the termination rate of titles II and VI combined, and its positive placement rate, or number of people who enter unsubsidized employment, is 4 times as great.

The amendment also recognized the needs of the great number of unemployed youth in this country. We spent almost four times as much money on public service employment as youth programs in 1977, and almost three times as much money on public service employment programs as youth programs in 1978, although half of the unemployed people in this country are under 24 years old. The July BLS estimates show that there are 6,193,000 unemployed people in this country. The number of unemployed teenagers—aged 16 to 19—is 1,538,000; the number of unemployed aged 20 to 24 is 1,477,000 for a total of 3,061,000, or about half our total unemployment. To spend three times as much, then, on PSE as youth programs in CETA, is ridiculous, especially when the PSE program's impact is questionable at best.

Although the number of youth served

in CETA increased from 1975 to 1977 by about 300,000 the percentage of youth served compared to the total enrollment in CETA has decreased steadily. The percentage of decrease from 1975 to 1977 was 11.5 percent, and can be attributed to the huge increase in the number of public service employment jobs in the program.

CETA PROGRAM EXPENDITURES: TRAINING VERSUS NONTRAINING

[In millions of dollars and percent distribution]

	1975 [1]		1976		1977		1978		1979 [2]	
	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent
PSE [4]	2,255	73.9	3,916	74.9	4,433	75.0	7,826.4	80.9	9,359.3	79.8
Training [5]	752	25.6	1,138	21.7	1,305.6	22.1	1,648.1	17.0	2,133.1	18.2
Unemployment rate		8.5		7.7		7.0		August 5.9	CBO projection: 1978—4th ¼: 5.5–6.1 percent. 1979—4th ¼: 5.2–6.0 percent.	
LM partic rate		61.2		61.6		62.3		(August) 63.1	BLS (projected): H—63.7 percent, M—63.1 percent, L—62.6 percent.	
Labor force	92,613,000		94,773,000		97,401,000		(August) 100,549,000		BLS (projected): H—102,800,000, M—101,900,000, L—101,600,000.	

[1] Fiscal year 1975 includes Manpower Dev. and Trng Act and Economic Opp. Act under CETA Section 3A.

[2] Administration estimate.

[3] Includes Private Sector Initiative.

[4] Includes work experience.

[5] Includes OJT and Classroom training.

Regarding my original amendment, the ceiling on PSE funding was to be lifted when unemployment as projected by the Secretary of Labor reached 6.5 percent or greater. Although it seemed reasonable to expand PSE only when unemployment reached critical proportions, it is reasonable to make the program countercyclical at a more reasonable rate. The ceiling is now based on the President's estimate of unemployment. A PSE job will be available to one out of every five individuals unemployed in excess of 4 percent unemployment, rather than to one in four individuals, as in the present bill. At the current rate of unemployment this is virtually the cost figure that I had originally envisioned, around $3.2 billion, rather than the $4.2 billion projected in the committee print.

In addition, by requiring the President, rather than the Secretary of Labor, to project the unemployment figure, we expect that it will be done in conjunction with the estimates provided in the President's economic report. This will insure that the projections are in keeping with the administration's overall economic projections.

The amendment, in effect, will continue to assure that a proper balance is struck between job training and public service employment, and between serving the needs of our largest labor market groups, that is, youth and those temporarily out of work due to recession.

The modification in my amendment regarding the authorization ceiling does not affect the creation of new youth and private sector opportunity jobs created by the $500 million shift also contained in my original amendment. There will still be an increase of 87,183 youth jobs and 22,878 private sector initiative jobs in CETA, or a new job slot total of 110,061. In addition, because more than one person can be served in each job during 1 year, the number of individuals served is even higher.

Under the youth programs, this funding shift will enable up to 285,612 more young people to participate in a CETA program. Up to 63,550 people will be able to participate in the title VII private sector opportunities program. A total of 349,162 new people will be able to be served by this funding shift. The reduction in PSE slots at the current unemployment rate is still roughly 100,000 as it would have been under my original amendment. Thus there will not be a decrease in job slots and in fact a slight increase is likely. Further, although $500 million less is spent, the net increase of people served is 138,878.

In addition to these improvements, the substitute contains several other provisions we had intended to offer, with some modifications.

The CHAIRMAN. The time of the gentleman from Vermont (Mr. JEFFORDS) had expired.

(By unanimous consent, Mr. JEFFORDS was allowed to proceed for 5 additional minutes.)

Mr. JEFFORDS. The first change is a gradual reduction in the percentage of funds allowable for PSE activities under the title II structural programs from 50 percent for wages to 40 percent for wages and benefits over a period of 4 years. In addition to the 50 percent which may be used for PSE wages, an additional 15 percent can be used for benefits, so that the total percentage is 65 percent. Therefore, the shift from PSE to training is approximately 25 percent of the funding for this title. The amendment allows a gradual change in emphasis from purely PSE type activities to more job training and PSE combined with job training.

There is a great imbalance in the CETA program between training and PSE. In 1975, 74 percent of all funds in CETA went into PSE and only 26 percent training programs. In 1976, 75 percent of all funds in CETA went into PSE and only 22 percent into training programs. The percentages in 1977 were the same as those in 1976. This year, 17 percent went into training, and 81 percent into PSE. In other words there has been a 7-percent increase in the percentage of funds in the bill spent on PSE from 1975 to 1978, and a 9-percent decrease in the percentage spent on training, although the unemployment rate has been steadily decreasing from 8.5 to 5.9 percent and the labor market participation rate has been increasing, both indicating a decreasing need for short-term public service employment.

NUMBER OF YOUTH SERVED IN CETA*

	1975	1976	1977	1978
CETA enrollment	[1] 2,274,919	[2] 3,719,439	[3] 3,286,641	[4] 1,951,428
Number of youth [5]	1,509,646	2,135,560	1,802,717	750,966
Percent youth	66.4	57.4	54.9	38.5

	1975	1976	1977	1978
MINUS SPEDY**				
CETA enrollment	1,564,655	2,898,500	2,472,182	
Number of youth	799,382	1,314,621	988,258	
Percent youth	51.1	45.4	40.0	

[1] Total enrolled in titles I, II, VI, SPEDY, migrants and Indians.

[2] Includes I, II, VI, SPEDY. No migrants and Indians. Includes data for 15 mo (transition one-fourth).

[3] See footnote 1.

[4] 1st half of 1978. Does not include SPEDY; no data yet. Does include 4 new youth programs in title IV, added with the economic stimulus package at the end of 1977.

*These are cumulative enrollment figures, which include all people enrolled in the program at the end of the fiscal year, plus new enrollees There is a great deal of overlap.

**SPEDY enrolls 800,000 to 1,000,000 people for 3 mo in the summer. This chart shows the extent that the other titles target youth.

This imbalance is also demonstrated by the relation between PSE and the unemployment rate. PSE was designed to respond to fluctuations in the economy, and should increase only when the unemployment rate is increasing. But the facts show that this has worked exactly backwards. In March 1975, the unemployment rate was 8.6 percent, and there were 242,000 PSE jobs. In March 1976, 1 year later, unemployment was 7.6 percent, a percentage point lower, but PSE had increased to 344,500. In September 1977, unemployment had decreased to 6.8 percent and PSE jumped to 532,900 slots. In March 1978, unemployment was 6.2 percent and PSE reached a high of 759,278 jobs. Now this number of PSE jobs is seen as a fixed level, which is relied upon heavily by many municipalities. I might add that PSE expenditures for October–June 1978 were $4.3 billion.

The essential goal of this amendment

is to assure that prime sponsors design programs with the most effective combination of training and employment to meet the needs of those lacking skills, and not to allow the structurally unemployed to fall prey to make-work jobs. The disruption in present services in this title will be minimal, as the shift is gradual and takes place over 4 years.

It should also be pointed out that the amendment recognizes the serious shortage of employment opportunities in areas of excessive unemployment, and allows a waiver, so that up to about 65 percent can be spent for PSE wages and benefits where unemployment exceeds 6.5 percent. It is intended that the Secretary will consider this waiver increasingly unnecessary as new training programs are developed that reduce the amount of unemployment in present areas of substantial unemployment. The amendment I had intended to offer called for a slightly larger reduction, but I believe this compromise clearly states our position in favor of job training over PSE.

Another addition is an amendment limiting participation in public service employment to 18 months in any 5-year period rather than the 18 months in any 3-year period now contained in the bill. This amendment, which conforms to the Senate version, will absolutely assure that CETA will be able to serve more unemployed individuals, will help prevent substitution and will restore public confidence in the program. Because the trigger in section 601 provides that only 1 person in 5 of the unemployed over 4 percent receive services under CETA, it is essential that as many people as possible have a chance to participate in the program. This is an equal opportunity amendment. The amendment will also prevent the recycling door of PSE/unemployment insurance/PSE, and will encourage individuals to actively seek alternative employment throughout their stay in the program.

Third, the substitute limits projects, a type of PSE in title VI, to a maximum duration of 2 years. The committee bill contains a limited duration provision, but specifies no maximum length of time. The purpose is to make sure that localities do not abuse the project concept, by simply labeling a regular city job a project. These jobs are intended to be created in addition to regular local employment and to provide services in addition to those already being carried out. This limit, which doubles the limit of 1 year in existing law, is stricter than the committee bill. It is a fair compromise and provides a reasonable time for a local project to complete its appointed task without becoming a permanent fixture of the local government.

Finally, let me describe the three noncontroversial provisions added with bipartisan support to this substitute. I developed a series of amendments which emphasize self-employment as a viable goal of a CETA training program. Under these amendments training programs will be added to the CETA program to assist those individuals who wish to pursue careers as self-employed small business owners to acquire the needed expertise in business management techniques, appropriate skills and the needed experience in the operation of a small business.

This new career option represents a fresh new approach to the retention problems that have plagued CETA in the past. I feel that self-employment training is a viable alternative for those who have a desire to learn and succeed but for whom no jobs are available.

These individuals with proper training could launch themselves into successful careers as owners and managers of their own low-cost businesses which would provide them with a regular income. These new business owners would provide employment for themselves and possibly others, thus providing an inexpensive low-cost noninflationary solution to our unemployment problems.

The success of even a few of these businesses could spark a grassroots economic revival beginning in our depressed rural and inner-city areas and gradually encompassing the community of our Nation.

The second provision changes an amendment I offered during committee markup of CETA to set up a program under title III to train aides to assist the handicapped. We know that there is a great need for people with skills such as being able to interpret for the deaf, read for the blind, or work as a classroom aide—necessary under Public Law 94-142—and consider it essential that this program be implemented and funded. We have, therefore, agreed to mandate the program, rather than leaving it to the discretion of the Secretary.

The last census estimated that there are nearly 12 million handicapped individuals in this country between the ages of 16 and 64. There are around 7.5 million unemployed, but employable handicapped individuals in this country. The two greatest barriers to the employment of the handicapped are the lack of qualified persons to provide special services, and the still prevalent and widespread occurrence of architectural barriers. These two problems represent the communication and physical barriers which restrict the employment of the handicapped, and in turn create attitudinal barriers in the minds of employers, who shy away from what they feel will be large costs with minimal returns.

There is a demonstrated need across the country for interpreters for the deaf, readers for the blind, classroom aides, and other special education services for the handicapped. A study to determine the need for interpreters shows that last year there was a need for 8,600 interpreters in this country, but that the total number of both certified and noncertified interpreters was only 3,300. Eleven States had either one or no interpreters who were certified. Other studies show that a similar situation exists in other special education fields.

The aim of this title III demonstration program is to train people to meet one of our national priorities, services for the handicapped, as well as to train people for existing jobs in the private sector. The widespread need for the services required under section 504 of the Vocational Rehabilitation Act and the Education for All Handicapped Children Act (P.L. 94-142) will provide unsubsidized employment after CETA training, as well as improved services to the handicapped people of this country. The additional services to the handicapped will also enable them to participate in gainful and meaningful employment.

The final addition to the compromise bill is an amendment developed by my distinguished colleague, Mr. QUIE, to require the Secretary to establish a program for the continuous study of the problems, goals, and achievements in CETA. Some of the aspects of CETA which will be studied are the characteristics of participants, the problem of substitution, and transition rates under the various programs. It is important for us to have reliable and objective measures of the problems and successes in CETA, so that we know better where improvements must be made and how to arrange our funding priorities.

In conclusion, I believe that the substitute bill offers a balanced proposal which better addresses the problems of youth, the structurally unemployed, and the need to provide meaningful work opportunities and training for unsubsidized employment. It contains wage provisions which do not disrupt private sector wage rates in local areas. In addition, the total program costs are significantly reduced, and yet more people will be served.

At this time, Mr. Chairman, I would like to commend my colleagues, Mr. QUIE, the ranking minority member of the Education and Labor Committee, and Mr. SARASIN, the ranking minority member of the Employment Opportunities Subcommittee, who were not able to be on the floor today. Both Mr. QUIE and Mr. SARASIN have contributed long hours and a great deal of energy to this complex legislation, and have played a central role in fashioning the many substantial improvements in the CETA legislation.

I would urge and ask the Members to support my amendment.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

Mr. Chairman, I would like to say that I join the gentleman in the well in cosponsoring this substitute amendment, because I do think it is a responsible and rational approach to this program. It does, as the gentleman indicated, retain the cap, which this House wisely put on, on the maximum salaries which can be paid out to CETA jobs to $12,000 rather than the $15,000 figure which was originally in the bill. It does keep the $7,000 average salary limit on CETA jobs, but it does provide a rational judgment for that as other wages in the country rise, and it does make a reasonable compromise in putting greater emphasis on training and up public service employment, which, I think, is a realistic recognition in a time of changing economic conditions.

Mr. Chairman, this substitute will not

satisfy those people, frankly, who would prefer to wreck the program, who feel that CETA under no circumstances is any good. It will not satisfy those—few people, I hope—who believe we do not need to respond to what some of the obvious problems have been in the CETA program over the last couple of years. But it does keep, I believe, the tightening aspect of the amendments already adopted by this House, and it makes further amendments, which is an attempt to recognize that people have an amazing ability at the local level to sometimes use this program for other than that intended by the Congress.

I would urge the support of the amendment. I do not intend to take any more time on this because I know everybody would like to be finished as soon as possible today.

Mr. JEFFORDS. I certainly agree with the gentleman.

Mr. PERKINS. Mr. Chairman, I rise in support of the substitute amendment.

Mr. Chairman, I think we should not forget that CETA, originally called MDTA, for 16 years and during the administration of five Presidents has been the only source of real hope for the unemployed and untrained. One of the last things that the late Speaker Sam Rayburn did was to approve the Manpower Development and Training Act in the fall of 1961. It did not pass the House until February 28, 1962, becoming law on March 15, 1962. We have trained millions of people under the Manpower Development and Training Act of 1962 and its extensions since that time. Many Americans owe their present successful employment to the skills acquired and the opportunities that have been made available since 1962 by this training and retraining program. In our understandable zeal to cut out mismanagement and waste we should not so cripple this program as to deny many deserving citizens the chance for training and gainful employment that this law provides. In all of our amendments and extensions of the program—in 1966, 1968, 1969, 1972, 1973, 1974, and 1976 we have kept the basic thrust of the program and improved it.

I personally feel that it has worked out well through the prime sponsors that we provided for in 1973. If we have a city of 100,000 population, they are in control of those manpower programs and the CETA program, lock, stock, and barrel. That includes all the training programs. If we have a city or a county as large as 50,000, they are given funds to operate with some supervision by the States. In the smaller units, the State operates the programs under what is known in the bill as the balance of the State programs.

The corruption that has been uncovered in these CETA programs should be promptly and effectively eliminated. The amendments to the law approved in the authorizing committee and in the substitute now under consideration go as far as humanely possible to insure that we will have a proper management and use of CETA funds.

So I do not think any of us can say that we are not all pulling together in trying to clean it up.

If you consider all of the aspects of the CETA program it has been, by and large, a great program, a good program, and the substitute, which we bring here, as has been explained by the gentleman from Vermont (Mr. JEFFORDS) and the gentleman from Wisconsin (Mr. OBEY) and many others, takes care of this salary situation that has been abused, yes, but we are cleaning those aspects up by this substitute.

The Jeffords substitute retains the basic provisions of H.R. 12452, as amended by the Committee of the Whole on August 9, with five changes:

First, the substitute retains the mandated national average wage of $7,000 which was provided in the Obey amendment, but allows this wage to be adjusted annually according to changes in the average wage in the prime sponsor's area.

Second, it retains the reduction in the number of title VI public service jobs and the shift in emphasis to youth programs and private sector initiative programs provided in the Jeffords amendment, but replaces the amendment's $3.2 billion ceiling on title VI with the statement that Congress intends to provide title VI public service jobs for 20 percent—rather than the committee bill's 25 percent—of the number unemployed in excess of 4 percent unemployment.

Third, it provides for a phase-down for public service employment in title II from 50 percent for PSE wages in fiscal year 1979 to 40 percent for PSE wages and benefits in fiscal year 1982. The substitute also provides for waivers to allow up to 50 percent PSE in high unemployment areas.

Fourth, it limits participation in any PSE program to 18 months in a 5-year period, rather than 18 months in a 3-year period as in the committee bill.

Finally, it provides that projects under title VI PSE may not exceed 2 years in duration. The committee bill contains no time limitation.

This substitute was worked out between the distinguished chairman of the Subcommittee on Employment Opportunities (Mr. HAWKINS) and the distinguished gentleman from Vermont (Mr. JEFFORDS).

I want to compliment both of them for developing this fair and equitable compromise, and I urge my colleagues to support the substitute.

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Ohio.

Mr. LUKEN. As to the temporary nature and the limit of the time that a CETA worker can be on the payroll on a CETA job under the substitute—and we are talking about temporary jobs or temporary work, there is that distinction.

Mr. PERKINS. Yes.

Mr. LUKEN. As was mentioned in the newspapers yesterday, under this substitute would the gentleman discuss that?

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. LUKEN, and by unanimous consent, Mr. PERKINS was allowed to proceed for 2 additional minutes.)

Mr. LUKEN. Is there a limit of 18 months for a CETA worker?

Mr. PERKINS. Let me say to the gentleman, if I recall the changes in the substitute, it provides for 18 months, with the provision where, under unusual circumstances, the time can be waived, the time limit. I think I am right.

Mr. HAWKINS. Mr. Chairman, if the gentleman will yield, under the compromise the time is fixed at 18 months in any 5-year period. Under the current law there is a project, 50 percent can be in projects for 1 year but the 50 percent can be unlimited. So that has tightened it up, I think, extremely.

Mr. LUKEN. If the gentleman will yield further, it is my understanding that this limitation exists under the present law.

Mr. PERKINS. It is 1 year under the present law, but it has been extended.

Mr. LUKEN. But under the proposed program under the substitute, is it not a fact that a CETA worker can only work a maximum of 18 months in any CETA project?

Mr. PERKINS. That is so unless there are unusual circumstances. That individual may need further training on that job, or it may not be a job into which he can be put, or there may not be any demand for this particular job for which this individual is qualified. There would have to be certain unusual circumstances.

The substitute provides that the time limit could be waived, with the idea of not displacing any other worker, but keeping this individual off relief until he may be put into some suitable occupation.

Mr. LUKEN. Does the chairman believe that the regulations which will be enacted will actually be limited to unusual circumstances?

Mr. PERKINS. I certainly do.

Mr. HAWKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment in the nature of a substitute.

Mr. Chairman, may I say that I think that it is unnecessary to discuss the substitute in detail. I think the gentleman from Vermont (Mr. JEFFORDS) has presented the issue fairly and sufficiently.

I would like to take this opportunity to commend him, the gentleman from Wisconsin (Mr. OBEY), the gentleman from Illinois (Mr. SIMON), and the gentleman from Connecticut (Mr. SARASIN), for their cooperation in presenting a substitute which is, I think, a good balance, and certainly one which is highly practical. I think that it reflects the strong desire of some of us who have gone through this fight to expand and to continue the Comprehensive Employment and Training Act because we have listened to the testimony and we have dealt with the various interest groups which have presented testimony before the subcommittee.

Those of us who are familiar with the

issues have attempted to deal with them in this balanced manner, and I think that the substitute does this.

Mr. Chairman, it may be that some of us may think that to some extent there is some inflexibility in the substitute; but I think that is outweighed by the overall merit of the substitute. I think we should keep in mind that the other body has already acted on the extension of the Comprehensive Employment and Training Act.

Therefore, Mr. Chairman, I think that in order to get the unity which is necessary to uphold the consensus of views in the House, it is necessary, that we not only support the substitute, but that we keep the substitute as intact as possible. I know that there will be those who feel that because of certain isolated instances of scandal, which seem to be reported almost daily—and it would seem that some newspapers are hooked not with the consideration of this issue as it is dealt with in the bill as presented, and certainly not with the Jeffords substitute, but with the current law—that have possibly not had the opportunity to even address the bill and what the bill itself attempts to do in order to correct these very abuses.

Mr. Chairman, I think the Jeffords substitute moves in the direction of more training for most every person who would come into contact with the program. I think that it gives us the flexibility to deal with countercyclical unemployment because it maintains the trigger mechanism which obviously protects us against a decline in unemployment as well as an increase in unemployment.

So I think in general that it does present a balanced program, and I hope that the House will maintain this balance by not amending it in such a way as to lose the flexibility and to lose, in our opinion, this valuable tool not only to fight unemployment, but to fight inflation.

During the time that this program has been in operation, the unemployment rate has been decreased from 7.4 to 5.9 percent, and I think this program has had a great amount to do with that reduction. I think, to think otherwise, and to attack the program because of some scandals which unfortunately have occurred, some abuses and some mismanagement, is to overlook the fact that this program has made a vital contribution to the economy of this Nation, and we should not tamper with it, I think, to the extent of destroying the balance which I think this, the Jeffords amendment, would restore to this program. I, therefore, hope that the House will overwhelmingly support the Jeffords substitute.

Mr. MOORE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to pose a question to the author of the amendment in the nature of a substitute. I say to the gentleman from Vermont (Mr. JEFFORDS)—and I certainly support his amendment in the nature of a substitute—that it appears to me that section 609 of the substitute is the exact same wording as section 609 of the bill; is that correct?

Mr. JEFFORDS. If the gentleman will yield, I believe it is the same language, yes.

Mr. MOORE. Is it fair to say, then, that the intent of section 609 of the amendment in the nature of a substitute is likewise the same as the intent of the bill?

Mr. JEFFORDS. Yes, the intent is the same.

Mr. MOORE. I thank the gentleman.

I would now like to pose a question to the chairman of the subcommittee, the gentleman from California (Mr. HAWKINS). In reading section 609, it is apparent to me that what is meant here is that the prime sponsor may switch the use of funds from the public service jobs into the manpower and job training categories under title II. I ask the chairman of the subcommittee if this is the committee's intent in the language in section 609.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I gladly yield to the gentleman from California.

Mr. HAWKINS. I thank the gentleman for yielding.

Yes; I think we made the point several times during the debate, and apparently it was overlooked, that while the amount of money which is now allocated to private sector initiatives seems to be limited, that under section 609 money can be switched to that title and, therefore, much more money could be made available to the private sector initiatives, assuming that experience indicates that it is succeeding and that much more money than what is now allocated is needed. Certainly it is the intent of the committee to monitor that program, and it is my own personal position that as much of the money as is absolutely needed by the private sector based on a demonstration under title VII and some of the other sections of the bill, that we would advocate making substantial amounts in addition to those now anticipated in this particular proposal.

Mr. MOORE. Is it also the intent of the committee that in section 609 the prime sponsor will be given the maximum discretion and assistance by the Secretary of Labor in the transferring of these funds, should a transfer be made?

Mr. HAWKINS. That is true. This would be completely up to the discretion of the prime sponsor.

Mr. MOORE. I thank the gentleman from California very much.

I would point out that in my own hometown of Baton Rouge, La., there has been an 87 percent successful placement record in a pilot job training program for women in their being given private sector jobs, starting off at a salary of $6 per hour. The program has been immensely successful, and my hometown would like to switch more of its funds from the public service jobs, which now will properly last only 18 months, into the training private job initiative area to teach someone a job skill that he will hold for the rest of his working life. So I very much support this position that the chairman of the subcommittee has taken in interpreting section 609.

In the past I have been informed that the Department of Labor has not looked with favor upon the prime sponsor having the power to make these changes. I think the colloquy we have just entered into makes it abundantly clear that it is the intent of the committee and the Congress that the prime sponsor does have this unfettered discretion and is urged to use it.

AMENDMENT OFFERED BY MR. FLIPPO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. FLIPPO. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. FLIPPO to the amendment in the nature of a substitute offered by Mr. JEFFORDS: On page 208, Line 24 of the substitute, strike 20 and insert 25.

Mr. FLIPPO. Mr. Chairman, I will be very brief. The purpose of this amendment is to return the bill to the condition that it was in prior to the Jeffords amendment that was adopted the other day.

I believe that the consideration of the committee was very thorough and very adequate. It is my opinion that the Jeffords amendment that was offered and adopted the other day was done so without adequate debate and consideration by some Members on the floor, by most Members on the floor, and the real effects of that amendment were not clearly known.

Believing that the original committee bill would best serve the needs of the CETA program, I am offering this amendment at this time to return us to that state.

Mr. HAWKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the amendment, obviously, would put us back to the original provision of the bill as it was amended by the amendment of the gentleman from Vermont (Mr. JEFFORDS) some weeks ago. As I think the House knows, I strongly opposed that amendment at that time and pointed out that the amendment would reduce the number of public service jobs at the local level. I thought that it was not justified, because economic conditions did not indicate that the current unemployment rate would continue or increase and that we should not, therefore, assume that the outlook was such that we could begin to reduce the program.

Unfortunately, or let us say in its wisdom, the House supported the Jeffords amendment that day.

As one who had to stand at the door and try to explain the problem as individuals who had not, perhaps, heard the debate came into the House, the mood was that because of the scandals and abuses, the mismanagement, that somehow we had to punish the individuals who depend upon this program.

I thought the committee was right then. I think the House has indicated that it did not support that position.

Unfortunately, the gentleman presenting the amendment was not persuaded by the argument which we presented that day, but subsequently has been persuaded.

We now have the substitute amendment before us. I think the attempt to undo the substitute, even though it goes against the grain of some of us is, I think, to untie what I believe to be a workable and balanced compromise. If we begin to do that, we will just simply reopen this debate. We will reopen all the issues in the bill itself.

Mr. Chairman, I hope that we will not support the amendment of the gentleman from Alabama, but that we will stick with the substitute. On that basis, I think we can make some adjustments as may be needed, based on the wisdom of both Houses in the conference committee.

It is, therefore, with great regret that I must oppose the amendment of the gentleman from Alabama (Mr. FLIPPO) and support the Jeffords substitute, which I hope will remain intact.

Mr. JEFFORDS. Mr. Chairman, I rise in opposition to the amendment.

I will be very brief. I would just like to point out that this amendment, in effect, strips the whole guts of the compromise, and strips my amendment out. It adds $1 billion to the bill in the PSE area, where this House clearly indicated they did not want that much money spent.

Mr. Chairman, that is all I am going to say.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I also want to make clear, I voted against the Jeffords amendment, but I now support it.

I urge that the amendment of the gentleman from Alabama (Mr. FLIPPO) be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. FLIPPO) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. JEFFORDS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FLIPPO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 1, noes 335, not voting 96, as follows:

[Roll No. 817]

AYES—1

Flippo

NOES—335

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
Badham
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Coleman
Collins, Tex.
Conte
Corcoran
Cornell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Delaney
Derrick
Derwinski
Devine
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frey
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
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Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
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Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
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Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
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McClory
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McCormack
McDonald
McEwen
McFall
McHugh
McKay
Maguire
Mahon
Mann
Markey
Marks
Marriott
Mathis
Mattox
Mazzoli
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Perkins
Pickle
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Shuster
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
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Steers
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Traxler
Treen
Tsongas
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—96

Alexander
Ammerman
Andrews, N.C.
Andrews, N. Dak.
Armstrong
AuCoin
Barnard
Beard, Tenn.
Boland
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burton, John
Caputo
Carney
Carr
Cavanaugh
Cochran
Cohen
Collins, Ill.
Conable
Conyers
Corman
Cornwell
Cotter
Crane
Cunningham
de la Garza
Dellums
Dent
Dickinson
Eckhardt
Erlenborn
Evans, Del.
Fascell
Flowers
Flynt
Ford, Mich.
Fraser
Fuqua
Gammage
Garcia
Gibbons
Green
Hansen
Harrington
Holland
Ichord
Kemp
Krueger
Leggett
McDade
McKinney
Madigan
Marlenee
Martin
Meeds
Metcalfe
Milford
Miller, Calif.
Mitchell, N.Y.
Moss
Mottl
Murphy, Ill.
Neal
Nix
Oakar
Patterson
Pattison
Pepper
Pettis
Pressler
Quie
Quillen
Railsback
Rhodes
Richmond
Rodino
Rudd
Ruppe
Sarasin
Shipley
Sikes
Steiger
Teague
Thone
Thornton
Trible
Tucker
Ullman
Weaver
Wiggins
Winn
Wirth
Young, Tex.
Zeferetti

Mr. FORSYTHE and Mr. GOLDWATER changed their vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Amendments offered by Mr. BUTLER to the amendment in the nature of a substitute offered by Mr. JEFFORDS.

Mr. BUTLER. Mr. Chairman, I offer amendments to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendments offered by Mr. BUTLER to the amendment in the nature of a substitute offered by Mr. JEFFORDS: Amend section 212 (a)(2) by adding at the end thereof the following new subparagraph:

"(E) shall contain, consistent with the provisions of subparagraph C, not less than eight hours of skill training during every forty hours of participation, unless the Secretary determines that a lesser number of hours is required for a particular skill."

Amend section 203 by adding the following new subsection:

"(d) In order to receive financial assistance under this title, the prime sponsor shall, in accordance with regulations prescribed by the Secretary which shall take into account local economic conditions, give preference to those subgrantees and contractors whose plans of operation will provide for the greatest percentage of positive placements of eligible participants. No prime sponsor shall award grants to a subgrantee or contracts to a contractor who has substantially failed (determined in accordance with regulations prescribed by the Secretary) to achieve the percentage of positive placement of participants in its plan for the preceding year. For the purpose of this subsection, positive placement shall mean placement into unsubsidized employment, other training, schooling or education not supported under this Act. The Secretary may allow the prime sponsor to wholly or partially waive the provisions of this subsection for any subgrantees or contractors whose plans of operation involve participants, such as the handicapped, who experience significant and unusual difficulty in achieving positive placement."

Amend section 122 (a) to read as follows:

"SEC. 122. (a) No authority conferred by this Act shall be used to enter into arrangements for, or otherwise establish, any employment and training programs in lower wage jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high. The Secretary shall implement the requirements of this subsection by an establishment-by-establishment analysis of the nature of the jobs offered in such programs."

Amend section 303(b)(2) by adding the following new subparagraph:

"(C) In awarding a grant or contract for services administered under this section, the Secretary shall not assign any preferential weighting factor to an application therefor by virtue of the fact that the applicant holds at the time of application a prior grant or contract to provide services under this section; nor shall the Secretary assign any negative weighting factor to an application by virtue of the fact that an applicant is an instrumentality of state government."

Mr. BUTLER (during the reading). Mr. Chairman I ask unanimous consent that the four amendments at the Clerk's desk, labeled Butler amendments A, B, C, and D, all of which the gentleman from Virginia has previously discussed with counsel for the minority and the majority, be considered en bloc, and that further reading of the amendments be dispensed with and that they be printed in the RECORD, with the understanding that an appropriate explanation will follow.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BUTLER. Mr. Chairman, Butler amendment A, which is on page 108 of the Jeffords substitute, would require that any individual in a title II program, spend at least 8 hours of a 40-hour week in some kind of job training, in areas where such training is available.

Butler amendment B, which is page 103 of the Jeffords substitute would require prime sponsors to give preference to those subgrantees who do the best job in moving participants into unsubsidized employment, more advanced training, or other positive placement.

Butler amendment C, which is on page 57 of the Jeffords substitute prevents the Department of Labor from automatically excluding any industry from involving CETA sponsored trainees which now occurs because the Department of Labor has ruled that certain industries, such as the apparel industry, are not suitable for CETA training programs.

Butler amendment D, which is on page 120 of the Jeffords substitute provides that in the awarding of contracts for services under the migrant and seasonal farmworkers programs, the Secretary shall not give preference to an application by virtue of the fact that the applicant holds a prior grant or contract to provide such services: nor shall the Secretary discriminate against an applicant which is an instrumentality of State government.

RE: BUTLER AMENDMENT A

One complaint with the CETA program is its failure to move enough clients into unsubsidized employment. One reason we have this problem is the lack of adequate classroom or formal training with the actual work experience. This is unique for public service employment because the agencies qualifying for the utilization of such employees do not generally create skills in great demand in the private sector.

I am shocked at the lack of attention given to job training in what is supposedly a structural employment program. Nearly 65 percent of the funds in title II are available for public service employment which has been notorious in its failure to provide individuals with needed job skills.

Butler amendment A would require in title II of the bill that any individual employed in a public service employment program spend at least 1 day a week in some form of job training, in areas where such training and supportive services are reasonably available. The amendment is not inflexible in that it recognizes certain job skills may not require 8 hours of training per week in order for the public service employee to develop a particular job skill. The amendment, therefore, permits the Secretary to make determinations with regard to the appropriate training time in such situations.

The amendment would simply assure that individuals who need skills are provided with an opportunity to gain adequate training. It would insure that local governments benefiting from the services of public service employees do not lose sight of their responsibilities to public service employees by ignoring the truly unskilled.

We cannot assume that local governments will not take advantage of public service employees, anymore than we can assume that they will insure adequate training for the unskilled. We cannot afford to take that chance, and must, therefore, mandate a significant amount of time in actual training (where available) for skill development specifically identified via the employing sector as needed and as usable by them.

If Butler amendment "A" is not accepted, local governments will be inclined not to carry out their end of the bargain by denying public service employees the opportunity to develop marketable skills in order to find permanent unsubsidized employment. This would be contrary to the intent of the program, and I urge adoption of this amendment.

RE: BUTLER AMENDMENT B

Butler amendment B is an amendment to title II. It is directed toward the problem arising from failure of the title II program to place as many employees as it should in the private sector. Butler amendment "B" would provide incentives for subgrantees and contractors to move CETA participants into positive placements, such as unsubsidized employment, other training, schooling, or education not supported under CETA.

The amendment would require prime sponsors to give preference to those subgrantees and contractors whose plans of operation provide for the greatest percentage of positive placements. The amendment is not so restrictive, however, so as not to allow flexibility with regard to economic conditions of the local area being served by the prime sponsor.

Further, the amendment requires that no prime sponsor shall award grants or contracts to those who have failed to achieve their goal of positive placements in its plan for the preceding year.

The amendment recognizes that certain subgrantees or contractors involve participants such as the handicapped served by sheltered workshops or other participants who are not as easily placed in unsubsidized employment or in other training or education programs. Therefore, the amendment contains a waiver provision which allows the prime sponsor to make exceptions for subgrantees or contractors whose plans of operation involve such participants and who experience significant and unusual difficulty in achieving positive placement.

Adoption of this amendment will clearly establish the purposes of CETA of providing individuals with skills to make them employable in the private labor market and will assure that prime sponsors and the Secretary of Labor use those organizations who do the best jobs in serving the needs of the unemployed.

RE: BUTLER AMENDMENT C

Butler amendment C would permit the use of CETA funds to train sewing machine operators. Section 704(a) of the Comprehensive Employment and Training Act of 1973 provides that:

> No authority conferred by this act shall be used to enter into arrangements for, or otherwise establish, any training programs in the lower wage industries in jobs where prior skills or training is typically not a prerequisite to hiring and where labor turnover is high. . . ."

Section 122(a) of the bill under consideration provides that:

> No authority conferred by this act shall be used to enter into arrangements for, or otherwise establish, any employment and training programs in the lower wage industries in jobs where prior skill or training is typically not a prerequisite to hiring and where labor is high.

In addition, U.S. Department of Labor regulations categorically prohibit the use of CETA funds for the training of sewing machine operators because of its judgment that such jobs can be characterized by low skill, high turnover, and low wages.

The purpose and effect of this amendment is to shift the burden of providing that CETA funds will not be used to train low skill, high turnover, and low wage employees from the entire industry to individual companies or employers.

This amendment would strike the words, "in the lower wage industries," and replace with the words, "lower wage jobs." It would also insert the following: "The Secretary shall implement the requirements of the subsection by an establishment-by-establishment analysis of the nature of the jobs offered in such program."

The Senate has approved a similar amendment in its version of the CETA bill.

The problem with reference to the existing law was called to my attention when an apparel industry in Roanoke, Va., was denied a CETA contract for an on-the-job training program for sewing machine operators. The Virginia Employment Commission approved the proposal because of the high demand for sewing machine operators, commenting to the prime sponsor that this contract was one of the best the Virginia Employment Commission had ever received.

I am told that the gentleman from

Pennsylvania (Mr. Flood) and the gentleman from New York (Mr. Fish) have had similar problems. If this amendment passes, the garment manufacturer in Roanoke will be eligible for CETA on-the-job training provided it can satisfy the Department of Labor that sewing machine operators are not low wage jobs not requiring prior skill in an area characterized by high turnover.

I believe they will be able to do so.

Both the Virginia Department of Labor and Industry and the Virginia Employment Commission verify that the garment industry is not paying the lowest level of earnings nor does it have the highest rate of turnover in Virginia. I am advised that the same holds true in other region III areas as well as the entire Nation.

The National Alliance of Businessmen recommend funding of such contracts because of the nationwide shortage of trained sewing machine operators.

Of course, the Department will have discretion to rule otherwise for these parts of the country.

Manufacturing techniques and wage scales vary from region to region. Sewing machine operation is a marketable skill in constant demand nationwide. Some garment manufacturers hire only experienced sewing machine operators.

This is an eminently fair amendment and will benefit my constituents in the manner intended by this act.

RE: BUTLER AMENDMENT D

Butler amendment D is being offered on behalf of myself and my distinguished colleague, J. Kenneth Robinson. It would amend section 303(b)(2) of the Comprehensive Employment and Training Act of 1973. It would prohibit the Secretary of Labor from assigning any preferential weighting factor to any grant or contract for services administered under this section to implement programs for migrant and seasonal farmworkers by virtue of the fact that the applicant holds at the time of application a prior grant or contract to provide services under this section. The Secretary shall also be prohibited from assigning any negative weighting factor to an application because an applicant is an instrumentality of State government.

The purpose and effect of this amendment is to provide equitable competition for CETA funding to operate a comprehensive training and supportive services program for migrant and seasonal workers.

This problem was brought to my attention by the Virginia Employment Commission which is under a great deal of pressure from the Department of Labor and a Federal court order to provide full services with validated results to the migrant and seasonal workers in Virginia. At the same time, no CETA funds are being channeled into the Virginia Employment Commission to provide for delivery of their service. I am advised that several other States are under similar constraints.

For the past several years, the Virginia Employment Commission has requested funding from the Department of Labor to implement programs for migrant and seasonal farmworkers funded under title III, section 303 of the Comprehensive Employment and Training Act.

The Department of Labor has consistently denied the Virginia Employment Commission's application. It has instead awarded the contract to a parallel, private organization, the Migrant and Seasonal Farmworkers Association who has no responsibility to report to the State government.

Department of Labor regulations governing section 303 grants assign a 50-percent preferential factor to those organizations who have performed in a certain area in the past. My amendment would eliminate this preferential. The Department of Labor will, of course, maintain its discretion in awarding migrant and seasonal farmworker grants. However, the decisionmaking process will not be weighted by a previous grant award, and will be based on the merits of the contents of each application.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I am happy to yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, the committee has seen these amendments, and we are willing to accept the amendments on this side.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, we also have reviewed the amendments; we think they are good amendments, and accept them on this side.

Mr. BUTLER. I thank the gentleman, Mr. Chairman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Virginia (Mr. Butler) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. Jeffords).

The amendments to the amendment in the nature of a substitute were agreed to.

AMENDMENT OFFERED BY MR. DUNCAN OF OREGON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. DUNCAN of Oregon. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Duncan of Oregon to the amendment in the nature of a substitute offered by Mr. Jeffords: In section 112, strike subsection (a)(3)(E) and insert in lieu thereof the following "$350,000,000 for carrying out the provisions of title VIII."

In section 112, strike subsection (a)(4)(E) and insert in lieu thereof the following "$400,000,000 for carrying out the provisions of title VIII."

Mr. DUNCAN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DUNCAN of Oregon. Mr. Chairman and members of the committee, this is an amendment to title VIII of the substitute, which is identical to title VIII of the bill as it came out of committee. It deals with the authorization. It deals with the Young Adult Conservation Corps, which is the modern-day version of the old YCC, which was one of President Roosevelt's most successful depression-fighting agencies.

This YACC program is one of the best parts, if not the best part, of this whole CETA bill. In my judgment, it is misplaced in the CETA bill and ought to be with the YCC; but regardless of that, it is working. There are corpsmen on board in every State of the Union. There are approximately, as I recall it, 22,000 corpsmen now working. They work under the direct supervision of the Departments of Agriculture, and the Interior; and so far, they are producing for the United States wealth which is equal to or in excess of the money which has been appropriated for their support.

In my State, Mr. Chairman, they are performing reforestation. They are piling brush to clear the tinder off the soil. They are repairing and overhauling camp grounds and picnic sites. Down in Texas and around the rest of the country they are performing valuable, useful work for which the Congress has been unable otherwise to provide funding.

In addition to that, we are taking these youngsters off the street and we are, in my judgment, contributing the most that we can to the reduction of urban crime.

This amendment would simply increase the authorization for this program next year by $83 million and in the following years by $110 million.

The HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from California.

Mr. HAWKINS. I thank the gentleman for yielding.

May we commend the gentleman from Oregon in the well (Mr. Duncan), as well as the gentleman from Minnesota (Mr. Quie), and the gentleman from Washington (Mr. Meeds), both of whom along with the gentleman in the well have, I think, done an excellent job in this very well conducted, well managed program, the Young Adult Conservation Corps. I think it is one of the finest programs that we have included under the CETA program. I certainly wish to indicate that we not only accept but we accept with great enthusiasm and approval the amendment of the gentleman from Oregon (Mr. Duncan).

Mr. DUNCAN of Oregon. I thank the gentleman.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

I, too, would like to commend the gentleman for his amendment. I believe that if there is any program in which we ought to expand authorization, it is this. It has been highly successful, working very well, and it will give more flexibility to the Committee on Appropriations to direct funds in that area. I commend this amendment, and we support it on this side.

Mr. DUNCAN of Oregon. I thank the gentleman.

I would like to say an additional word for the gentleman from Washington (Mr. Meeds), who was unavoidably detained elsewhere, that he and I have both worked very hard to get this through. We appreciate the efforts of the chairman. We think there are some areas in which it could be improved, but in the spirit of compromise on a Friday, we are not going to offer any further amendments.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

I would just like to commend the gentleman for his leadership in this program. It is an outstanding one and one which would receive enthusiasm by the people across this Nation. I think it holds great promise for the future, and I certainly support his amendment.

Mr. DUNCAN of Oregon. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I want to commend the gentleman for offering this amendment and say in my area this program is working well, too, and I think his amendment will improve it.

Mr. DUNCAN of Oregon. I thank the gentleman.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. Duncan) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. Jeffords).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. PURSELL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. PURSELL. Mr. Chairman, I offer a technical amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Pursell to the amendment in the nature of a substitute offered by Mr. Jeffords: Section 313(c)(2) of the Comprehensive Training and Employment Act, as amended by the substitute, is amended by striking out "Dictionary of Occupational Titles at the six-digit level" and inserting in lieu thereof "Standard Occupational Classification at the four-digit level".

Mr. PURSELL. Mr. Chairman, this is really what I consider a simple amendment to reduce the paperwork of the Federal agency, the State agency, and particularly local governments. I hope I have the concurrence of the prime sponsor for being able to expedite the paperwork. Experts on employment data collection have recommended this to us. This amendment up-dates the reference to occupational classification systems so that we utilize the system—the Standard Occupational Classification—now used by both Federal and State agencies. It will produce the necessary information without burdening local government with unnecessary detail. So I am offering it on behalf of both sides of the committee.

Accurate employment and training supply and demand data is absolutely essential to insure intelligent planning in CETA, vocational education, and related programs. In turn, informed planning means more effective provision of services to people at a lesser cost in tax dollars. Better information also reduce the potential for fraud and abuse in the program. So this is a very important part of this legislation.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from California.

Mr. HAWKINS. I thank the gentleman for yielding.

I wish to commend the gentleman from Michigan (Mr. Pursell) for offering this amendment which is technical in nature. But I would like to take the opportunity to commend the gentleman from Michigan (Mr. Pursell) for his work on the Subcommittee on Employment Opportunities. I think that he has been one of the outstanding new members of that subcommittee, and, in accepting this amendment we recognize his vigilance and the work which he has done not only in connection with his district and his State, but with the national situation with respect to employment opportunities.

Mr. PURSELL. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Pursell) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. Jeffords).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. BIAGGI TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. BIAGGI. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Biaggi to the amendment in the nature of a substitute offered by Mr. Jeffords: Page 12, line 8, after "handicapped persons," insert the following: "persons facing barriers to employment commonly experienced by older workers,".

Mr. BIAGGI. Mr. Chairman, I offer an amendment together with my colleague the gentleman from Florida (Mr. Pepper).

Mr. Chairman, my amendment could not be simpler. Section 103 of the bill requires a prime sponsor to set forth in its comprehensive plan a description of how it will serve those persons most in need of employment and training services. Three groups are singled out for mention among those most in need—low-income persons, handicapped persons, and persons of limited English-speaking ability.

My amendment would simply add older workers to that list.

Mr. Chairman, the record of prime sponsors in serving older persons in need of work is dismal. Although workers over age 55 comprise about 14 percent of the total work force, they hold only about 4 percent of CETA jobs. CETA training slots are even more elusive for older workers—only 2 percent of them are held by persons over 55.

And the need for employment and training is great among older people looking for work. They face unique barriers—skills that have become obsolete or no longer needed in their communities, changing physical capabilities, employer reluctance to hire older workers, financial barriers to joining the labor force, and lack of appropriate job opportunities.

And although unemployment among older workers is relatively low, once an older worker loses a job, he or she finds it much more difficult to find another. For example, an unemployed person over 65 will be out of work twice as long as someone between 25 to 44.

Under my amendment, no specific percentages of jobs or slots is reserved for older workers. In keeping with the philosophy of the bill brought to the floor by the extremely able gentleman from California (Mr. Hawkins), the prime sponsor would still have great flexibility about how to respond to the persons and groups most in need of help from CETA.

What the amendment would do, however, is to assure that the prime sponsor understands its specific duty with regard to older workers. I expect that a plan would typically include such services as outreach, assessment, and orientation to the local labor market and to occupational and training opportunities available in the community; community-based central intake and information services; counseling, placement assistance, and job placement; technical assistance to employers for establishing flexitime, job-sharing, and other innovative arrangements suited to the older worker; programs to overcome sex and age stereotyping in job placement and development; and coordinating services for older workers under this part with programs and services provided by senior centers and area and State agencies on aging.

Mr. Chairman, I fully understand the pressures placed on prime sponsors to respond to measures of performance that place potential older workers at a disadvantage. For example, if a local manager finds it hard to place older trainees in jobs because of private employers' prejudice against them, he will tend to give preference to younger persons in his own program to help his own placement success rate.

My amendment will help the prime sponsor focus on this aspect of its responsibilities, and those who evaluate prime sponsors' performances to give credit for positive steps in that direction.

Mr. Chairman, the Select Committee on Aging, on which I have the honor to serve, on poverty among the elderly. It is not a pleasant subject. Poverty among those over 65 is almost three times what you might expect from their share of the total population.

One of the surest, most humane and cost-effective ways to deal with poverty among older people is to let them earn a fair wage. Making CETA more responsive to their employment and training needs would go a long way in that direction.

Two other points, Mr. Chairman. First, I understand that the gentleman from California (Mr. Waxman) intends to offer sometime later today an amendment to make the "national programs" under title III of CETA more attuned to the unique needs of middle aged and older workers. Not only does my amendment not conflict with his, I believe it complements it nicely. I intend to support the Waxman amendment and hope it is adopted by the House.

Second, I cannot let this opportunity pass without extending my congratulations to the floor manager of the bill, the gentleman from California (Mr. Hawkins), who has brought before the House today another legislative proof of the thoughtfulness, skill and humanity he brings to his chairmanship. His commitment to aiding the disadvantaged—including the elderly, but certainly not limited to them—is an inspiration to all of us. H.R. 12452 is just another example of the leadership he has shown in addressing America's major social problems.

I sponsored language now included in the bill assuring that organizations representing the elderly would be represented on prime sponsor and State planning councils. This amendment is complementary.

Mr. Chairman, I urge the adoption of the amendment.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, the amendment is familiar to those of us on the subcommittee. We have discussed the amendment with the gentleman from Florida (Mr. Pepper), as well as the gentleman from New York (Mr. Biaggi).

We compliment them as members of the Select Committee on Aging on their contribution and accept the amendment.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I rise to associate myself with the gentleman's remarks and commend the gentleman on this amendment.

I know in my area there will be a readjustment of labor or a plant will close or be consolidated with another operation 40 or 50 miles away and many people at the end of their career are laid off. They have only one skill that is no longer marketable, because there is nothing close to them.

I think this is very badly needed for a person who has worked hard all his life, but for some reason wholly without their control they are unemployed. They have no place to go, because it is a young people's market. That is where the employers are looking and the older worker many times is left high and dry.

Mr. Chairman, I certainly commend the gentleman for the effort he has gone through in this amendment.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I am delighted to yield to my colleague on the committee, who is to be commended for his excellent work in the offering of the Jeffords substitute.

Mr. JEFFORDS. Mr. Chairman, I want to offer my support for the amendment and this side supports it.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, in the reading of the amendment, reference was made to line 8. Am I correct in assuming that that is where the gentleman intends to put the amendment?

Mr. BIAGGI. I have spoken to the Parliamentarian and to the counsel for the committee. On the original bill, it was page 13, line 7. Apparently under the Jeffords substitute, we find it on page 12, line 8.

Mr. HAWKINS. Mr. Chairman, it should be 18.

Mr. BIAGGI. Line 18?

Mr. HAWKINS. I suggest line 18 is the correct title.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for calling that to our attention.

Mr. HAWKINS. Mr. Chairman, I ask unanimous consent that the amendment read "line 18" in lieu of "line 8", which I think is the correct line where the amendment should go.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The amendment is modified, accordingly.

The question is on the amendment, offered by the gentleman from New York (Mr. Biaggi), as modified, to the amendment in the nature of a substitute offered by Mr. Jeffords.

The amendment, as modified, to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. LAGOMARSINO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE BY MR. JEFFORDS

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Lagomarsino to the amendment in the nature of a substitute offered by Mr. Jeffords: Insert at the end of section 303 of the Comprehensive Employment and Training Act as proposed in the amendment in the nature of a substitute the following:

"(c) In administering programs under this section, the Secretary shall consult with appropriate State and local officials and may enter into agreements with such officials to assist in the operation of such programs. In implementing this section the Secretary shall determine in consultation with appropriate State and local educational agencies, that no substantial duplication will exist."

Mr. LAGOMARSINO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman, I am introducing this amendment on my own behalf and on behalf of the gentleman from California (Mr. Sisk). This amendment is identical to an amendment I offered to the original bill. The chairman of the subcommittee and the ranking minority member had agreed to the amendment.

What the amendment does is to help solve a problem of duplication that has arisen in California where the Labor Department has entered into education-type grants to organizations such as the United Farm Workers that would, at least to some, seem to be a duplication of efforts on behalf of the State and local governments.

Mr. Chairman, this amendment would help to eliminate repetitive and wasteful spending by directing the Secretary of Labor to consult with appropriate State and local educational agencies in order to assure that no duplication exists.

Mr. SISK. Mr. Chairman, will my colleague yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, I simply want to commend my colleague, the gentleman from California (Mr. Lagomarsino), for offering this amendment. I think it is a worthwhile amendment. It is one that we have discussed with the subcommittee chairman. I simply want to commend the gentleman from California and say that as far as I know, we do have substantial support for this amendment.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I would like to say that we have reviewed the amendment. We think it is a good one, and we accept the amendment on this side.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, the gentleman is correct. This amendment is acceptable, and we commend the gentleman from California (Mr. Lagomarsino) for offering it. I think it clarifies a situation that needed further clarification.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Lagomarsino) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. Jeffords).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENTS OFFERED BY MR. MAGUIRE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. MAGUIRE. Mr. Chairman, I offer a group of four amendments to the amendment in the nature of a substitute which are at the desk, and I will ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. MAGUIRE to the amendment in the nature of a substitute offered by Mr. JEFFORDS: Insert in section 104(a)(3) after ["(including appropriate community based organizations),", the sentence:

"The Secretary may disapprove any portion of a plan if he finds that the use of funds for a particular sub-contract or sub-grant provided within that portion of the plan would be grossly inefficient or fail to carry out the purposes of the Act."

Insert in sec. 104(a)(3) after] "The Secretary shall not approve or disapprove any such plan" the clause "; in whole or in relevant part,".

Change section 155(c) to section 155(d), and immediately after section 155(b)(3) insert the following new subsection:

"(d)(1) Any objective programmatic performance data collected of prime sponsors by the Director whilch are used to rank or assess the performance of prime sponsors, a result of which would be to systematically provide an incentive or inducement to prime sponsors to fail to give special consideration, to the maximum extent possible, to eligible persons who are the most severely disadvantaged in terms of the length of unemployment and prospects for finding employment prior to program participation, shall be deemed undesirable performance indicators, except where such data pertains to programs not intended to serve primarily or exclusively the most severely disadvantaged.

"(2) The Director shall replace or eliminate the use of undesirable performance indicators as expeditiously as prompt development of adequate alternative management information techniques which do not suffer the defect of providing an incentive or inducement described under paragraph (1) permits. The Director shall report to Congress periodically on the progress of development and implementation efforts thereof.

At the end of section 106(g), add the following sentence: "In the event of any such withholding which results from fraud or abuse as determined by the Office of the Secretary, the Secretary may order the prime sponsor to conduct the program as specified in the applicable plan on the basis of funds other than funds under this Act and may enforce such order by appropriate civil action, unless the prime sponsor elects to terminate participation as a grantee under the Act."

Immediately after section 127(f) add the following new subsection:

"(g) The Secretary shall report to Congress, within one year of enactment of this Act, his recommendations for legislative changes designed to increase the representativeness and independence of the prime sponsor's planning councils, with special attention to the process for selecting council memberships.

Mr. MAGUIRE (during the reading). Mr. Chairman, these amendments have been circulated on both sides, I understand they are acceptable, and, therefore I ask unanimous consent that they be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. MAGUIRE. Mr. Chairman, I am offering four amendments designed to increase the efficiency and to tighten up the administration of the CETA program.

The desirability of these amendments has been amply demonstrated through evidence developed by the Manpower and Housing Oversight Subcommittee of the Government Operations Committee in a series of hearings on CETA chaired so ably by Congresswoman CARDISS COLLINS of Illinois.

My amendments do not in any respect restrict funding of the program, but rather encourage the efficient operation we so fervently want and taxpayers so desperately deserve. CETA is a 5-year-old experiment in new Federal relationships, a categorical program locally administered. Now it is time to learn from the past half decade and act accordingly. Passing the act with the tightened administrative provisions reported by Chairman HAWKINS' subcommittee together with my amendments are steps in that direction.

With respect to my first amendment, it is important to note that the preparation and approval of the prime sponsor's annual plan is critical to determining how Federal CETA moneys are spent. Presently, and under the reauthorization language, the Labor Department may not disapprove a plan in whole or in part on the basis of the proposed allocation of funds alone.

However, specific illustrations uncovered by the Manpower and Housing Subcommittee investigation show that DOL sometimes documents that a proposed subcontract or subgrant have little to do with training or increasing employment—the purposes of CETA. In at least some DOL regions, the Department has gone no further than criticizing the proposed expenditure, possibly out of the belief that the act's language prohibits more direct intervention. Yet Federal taxpayer interest in proper use of funds demands that there be a clear way for the Department to effectively prevent those expenditures most tenuously tied, or unrelated, to the act's purposes.

The first amendment therefore provides that the Secretary of Labor could disapprove an annual plan in whole or in relevant part upon finding that a proposed subcontract or subgrant "would be grossly inefficient or fail to carry out the purposes of the act." Prime sponsors, of course, would have administrative and judicial recourse if they feel aggrieved by such a DOL decision.

Concerning my second amendment, note that DOL presently requires prime sponsors to report certain performance data known as "performance indicators" on a quarterly basis. The reports form part of the basis of the annual assessment of the performance of each prime sponsor conducted by the Deptartment, and may serve to reward or encourage the performance measured by the indicators.

The subcommittee heard repeatedly, however, that certain performance indicators encourage "creaming"—the practice of selecting employment and training program participants who are not most severely disadvantaged or unemployed, and thus are more likely to be hired even without going through a CETA program. One such indicator measures the placement rate of CETA clients only 7 days after completing program participation. Possible indicators which are not biased in this manner would include those based on measuring earnings increases of former clients, rather than short-term job placements.

The second amendment would require the Secretary to develop indicators, or other management assessment tools which do not encourage "creaming" to replace those performance indicators which do, as rapidly as possible.

Now, let us turn to the third amendment.

Under the reauthorization bill, certain expedited remedies are available upon a finding of misapplication of Federal funds by a prime sponsor. Some misuse of funds may result from innocent errors, while others result from fraud or abuse. One remedy provided in the reauthorization bill is the withholding of future CETA funds to compensate Federal taxpayers for the previously misapplied money.

However, there is little if any effort in the bill to prevent prospective CETA clients from suffering a cutback in services to finance the withholding, even if such withholding is a consequence of fraud or abuse on the part of the prime sponsor. Clearly, the purpose of fund withholding is to reimburse Federal taxpayers, and not to punish the unemployed and disadvantaged who may become CETA clients. Prime sponsors, by definition, must have a capacity to raise revenue independent of grants provided by the act.

The third amendment therefore provides that the Secretary may order a prime sponsor to maintain the level of services called for in the annual plan in the event funds are withheld by DOL due to fraud or abuse as determined by the Office of the Secretary, unless the prime sponsor elects to terminate participation as a grantee under the act.

Finally, there is the fourth amendment.

The prime sponsor planning councils are the primary source of grassroots community involvement in the annual plan preparation process. The councils, however, are frequently rubberstamps of the prime sponsor. This problem is often made worse by the fact that the prime sponsor is entirely in charge of the selection of council members.

This amendment calls upon the Secretary to report to Congress within a year his recommendations for legislative changes designed to better assure the independence and representativeness of the planning councils.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I support these amendments. I would like to point out that these amendments should be supported by proponents of the bill as well as anyone opposed to it, because we do tighten the administrative procedures; and, as indicated by the gentleman from New Jersey, they add to the efficiency and the real purpose of the act.

Mr. Chairman, I also use this opportunity to remind the Members that when we last worked on this bill the gentleman had an amendment that had the same basic goals. It had what I thought was an unnecessarily close vote. It deserved a much stronger support at the time. It was one of the practical amendments to eliminate objections to this act.

Mr. Chairman, I want to commend the gentleman from New Jersey for his efforts.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for his comments.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the distinguished chairman.

Mr. HAWKINS. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from New Jersey is correct. These amendments do tighten up on the administration. They have been reviewed by the committee and we are willing to accept them.

Mr. Chairman, I want to commend the gentleman for offering them on the basis on which he has offered them, and also for his support of the act itself.

I would like to also respond to the gentleman from Illinois (Mr. Derwinski), whose remarks I think are very timely, and who also has done, I think, a remarkable job of offering these perfecting amendments which, I think, go in the direction of improving the program.

Mr. MAGUIRE. I thank the gentleman for his remarks.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I also want to commend the gentleman on his amendments. We have reviewed them, we think they are good amendments, and we support them on this side.

Mr. MAGUIRE. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey (Mr. Maguire) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. Jeffords).

The amendments to the amendment in the nature of a substitute were agreed to.

AMENDMENTS OFFERED BY MRS. FENWICK TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mrs. FENWICK. Mr. Chairman, I offer amendments to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendments offered by Mrs. Fenwick to the amendment in the nature of a substitute offered by Mr. Jeffords:

Page 203, line 25, strike out "twenty-seven" and insert in lieu thereof "fifteen".

Page 204, strike out line 1 and all that follows through line 9.

Page 204, line 10, strike out "(2)" and insert in lieu thereof "(1)".

Page 204, line 14, strike out "(3)" and insert in lieu thereof "(2)".

Page 204, line 22, strike out "two years" and insert in lieu thereof "one year".

Page 204, strike out line 23 and all that follows through page 205, line 2, and insert in lieu thereof "fiscal year.".

Page 208, line 14, insert after the period the following:

The Commission shall include in any report made under this section any minority or dissenting views submitted by any member of the Commission.

Mrs. FENWICK (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the Record, and, since they refer to the same thing and they are not difficult, that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. FENWICK. Mr. Chairman, these amendments make three changes in the provisions in title 5 concerning the Commission, and the changes are simple. These amendments would eliminate the official administration members of the Commission so that the number of people remains at 15 rather than 27. These amendments would reduce the length of the appointment of the Commission from 2 years to 1 year, and would enable the minority or dissenting views to be included in the report which is submitted to Congress.

I think all of us have been dismayed, Mr. Chairman, with the results of the work of the Commission. It is a worthy idea. Such a Commission should be the ally of Congress and the public in trying to make what changes in the legislation are necessary in order to avoid scandals with which the public had been besieged this year and in other years. I really think we should have minority views in the report. There might be, perhaps, some consumer representative, there might be some special representative of the public who would have minority views that would be of value to the Congress.

Mr. Chairman, I urge the adoption of the amendments.

Mr. HAWKINS. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, we have discussed these amendments several times with the gentlewoman from New Jersey, and I share with her the concerns she has expressed. We have not been completely satisfied at all times with the work of the Commission. We feel that these amendments will make the work of the Commission more objective and more independent, as it should be, and that the Commission will be a valuable ally of the Congress and of the Executive if it is independent and objective.

I believe that these amendments will accomplish that objective, and we are very pleased to accept the amendments. I commend the gentlewoman from New Jersey for offering them.

Mrs. FENWICK. I thank our distinguished chairman.

Mr. JEFFORDS. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I concur with the remarks of the committee chairman. We think it is an excellent improvement to make sure that information, not just from the administration, but from the outside and from people involved in Congress, can have better input into the procedures. I commend the gentlewoman for offering the amendments.

Mrs. FENWICK. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from New Jersey (Mrs. Fenwick) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. Jeffords).

The amendments to the amendment in the nature of a substitute were agreed to.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I shall only take a few minutes of the gentleman's time, however I would like to advise the House of the recent Senate action of August 25 regarding section 8 of S. 2570.

Senator Helms introduced an amendment to section 8 of S. 2570, which in essence deletes the provision regarding the advice and consent of the Senate.

Therefore, the Helms amendment leaves intact the newly created Assistant Secretary position—under section 8—but does delete the so-called grandfather clause in section 8. This clause would have allowed the person now holding the Deputy Under Secretary position for Legislation and Intergovernmental Affairs to assume the Assistant Secretary position without the advice and consent of the Senate.

I applaud this amendment which addresses some of the very concerns raised by OMB, however, I would like to further reiterate my strong intention to request that members of the Post Office and Civil Service Committee may have an opportunity to offer their expertise on this matter. As I indicated earlier the Subcommittee on Employee Ethics and Utilization, of which I am chairperson, has been engaged in the establishment of a policy and certain guidelines pertaining to the establishment of new executive level positions in the various agencies.

As you may know, the Department of Labor never even submitted their request to my subcommittee, and for that reason I again say to this House that it is my committee's intention to pursue their jurisdiction in the conference on CETA for the discussion on section 8. May I ask the gentleman from California (Mr. HAWKINS) if as he indicated in my colloquy with him on August 9 that he still has no objections to my request.

Mr. HAWKINS. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I would be delighted to yield.

Mr. HAWKINS. Mr. Chairman, I think that we have discussed the question on a previous occasion, and the answer is exactly the same. I think it goes to the question of a jurisdictional issue which is involved. We have indicated that while it may be true in specific instances where secretaries on certain issues that lie within the jurisdiction—let us say of the Committee on Education and Labor—that that would be quite distinguishable from the question which is now being raised as to a secretary in general, which is exactly the case, as I understand it.

This lies certainly within the jurisdiction of the Committee on Post Office and Civil Service and the jurisdiction of the subcommittee that the gentlewoman from Colorado heads. I can assure her that we will protect that jurisdiction as if it were our own, and that the original answer we gave several weeks ago is still the answer. We will use every effort to protect the jurisdiction of the subcommittee headed by the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the distinguished gentleman for his time, and appreciate his help on section 8.

In closing, I would like to also note for the record, that if an agreeable outcome on section 8 of the Senate bill is not agreed to that it is my further intention to pursue a separate vote on section 8 given that it is nongermane to the House bill.

May I thank the distinguished gentleman for his time.

Mr. BIAGGI. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I too have a question I would like to pose to the chairman of the committee for the record and for clarification.

Is it correct that the specialized definition of "institutions of higher education" and "postsecondary institutions" in section 125(13) is intended to apply only where those specific terms are used as such in the bill and does not in any way exclude the larger class of educational and vocational institutions, including proprietary business, trade, and technical schools from continuing in this bill to provide education and skill training under contract as they always have been doing in the MDTA and CETA program such as are referred to in sections 103(a)(8)(B) or 129(b) of title I and in other sections.

Mr. HAWKINS. Mr. Chairman, if the gentlewoman will yield, yes, the definition of "institutions of higher education" and "postsecondary institutions" in section 125(13) of the bill is intended to apply only to those terms where they are specifically used as such and do not apply to other types of educational and vocational schools referred to elsewhere in the measure.

Mr. BIAGGI. Mr. Chairman, I thank the gentlewoman for yielding.

AMENDMENT OFFERED BY MR. ASHBROOK TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. ASHBROOK. Mr. Chairman, I offer a amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK to the amendment in the nature of a substitute offered by Mr. JEFFORDS: Amend subsection (a) of section 107 to read as follows:

"If any prime sponsor is dissatisfied with the Secretary's final action with respect to the disapproval of its comprehensive employment and training plan under section 104, or if any recipient is dissatisfied with the Secretary's final action with respect to a sanction under section 106, or if any interested person is dissatisfied with or aggrieved by any final action of the Secretary authorized under section 106, such prime sponsor, recipient, or person may, within sixty days after notice of such action, file with the United States courts of appeals for the circuit in which the prime sponsor, recipient, or person resides or transacts business a petition for review of such action."

Mr. ASHBROOK. Mr. Chairman, the purpose of this amendment is to afford to interested persons a right of judicial review. Section 106 establishes an elaborate enforcement mechanism, including grievance procedures, and administrative complaints and sanctions.

Judicial review by Federal appeals courts is provided in section 107.

The problem is that not all persons who are afforded administrative remedies under section 106 are given the right of judicial review under section 107.

Section 106 broadly grants rights to participants, subgrantees, contractors, and "interested persons." However, under section 107, apparently only prime sponsors and dissatisfied recipients are entitled to judicial review. Only those classes are specified in the section.

This may have been merely an oversight drafting. In any event, fairness and equity certainly require that all interested persons be afforded the rights of judicial review.

Moreover, principles of due process would support this amendment.

Agencies, like trial courts, can commit errors and abuses in administration and adjudication. In fact, the potential for error in the administrative context is even greater. One need only recall the loose rules of evidence and the relative informality of procedures.

Also, the burgeoning backlog of cases pending in the various agencies—EEOC; Office of Workers' Compensation programs—poses special risks. The pressure to reduce that backlog can result in a cursory handling of complaints. It can result in the failure to give proper public notice or adequate opportunity for hearings. In addition, some complaints requiring urgent attention may get lost in the shuffle.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I will be very glad to yield to my friend the chairman, the gentleman from California (Mr. HAWKINS.)

Mr. HAWKINS. Mr. Chairman, certainly the intent is desirable. There needs, perhaps, be some clarification, however, on what tht gentleman means by "any interested person." Would the gentleman clarify that to some extent with reference to its application within the context of this measure? Do you mean any citizen, or any person who is a recipient or has any direct connection with the program in any way? Or do you mean it in the broadest possible sense; that is, any citizen?

Mr. ASHBROOK. Mr. Chairman, in response to the inquiry of the distinguished chairman of the committee, the gentleman from California (Mr. HAWKINS), let me say that I think it would be fair to say I do not mean it in the broadest possible extent. I am trying to bring into section 107 those persons, who are afforded rights in section 106. I anticipate groups like members of boards of education, members of city councils, members of community planning organizations. I do not think it would be fair to say "broad" with respect to everyone.

I think they should have a direct relation as envisioned in section 106. As I pointed out, the difficulty I see is what we refer to in section 106 as "interested persons" is severely limited in section 107 with respect to rights of appeal to the court of appeals. Therefore, I would say that one would have to be a recipient or have to be subgrantees or contractors, or interested persons.

Mr. HAWKINS. Mr. Chairman, I would like to call the gentleman's attention to page 26 where "interested person" is used in the substitute, but it says, "Any interested person or organization who has exhausted the prime sponsor's grievance system," which I think reflects the fact that there is a grievance system.

In this instance would the gentleman suggest that that person might take advantage of that grievance system as well as the remedy accorded under this amendment?

Mr. ASHBROOK. I would agree with my colleague. The only problem I see is when we jump to page 31, section 107 specifically refers only to "prime sponsor" and "recipient."

Therefore, it is sufficiently narrow that I think those rights which we are talking about do not go beyond the prime sponsor and the recipient. I do not really believe that that is what we had in mind.

I think the concern of the gentleman from California (Mr. HAWKINS) very well may be accurate. I do not think we want to go too broad on it, but I think it is too narrow in section 107.

Mr. HAWKINS. Mr. Chairman, on

that basis, I do agree with the gentleman. If this amendment does that, then I would certainly say that we can seek to proceed along the lines we have agreed to.

Mr. Chairman, I accept the amendment.

The **CHAIRMAN**. The time of the gentleman from Ohio (Mr. Ashbrook) has expired.

(On request of Mr. Simon and by unanimous consent, Mr. Ashbrook was allowed to proceed for 2 additional minutes.)

Mr. **SIMON**. Mr. Chairman, will the gentleman yield?

Mr. **ASHBROOK**. I yield to the gentleman from Illinois.

Mr. **SIMON**. Mr. Chairman, I have just one other point of clarification.

I have just glanced at the amendment. If the Secretary finds there is an abuse and he takes some kind of action to cut off a program or to assess some penalty or take some sanction, the appeal the gentleman from Ohio is talking about would in no way hold off that action of the Secretary, would it?

Mr. **ASHBROOK**. That would not be my intention. If the Secretary took some action relating to a sanction, the party would have the right to appeal under section 107, to go to the court of appeals.

Mr. **SIMON**. But in the meantime, the sanction is in effect; is that correct?

Mr. **ASHBROOK**. That would be my understanding. There would only be the appeal and the final order.

Mr. **SIMON**. I thank the gentleman.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Ohio (Mr. Ashbrook) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. Jeffords).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. CORNELL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. **CORNELL**. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Cornell to the amendment in the nature of a substitute offered by Mr. Jeffords: In section 101(a)(6) of the Comprehensive Employment and Training Act as proposed by the amendment of the gentleman from Vermont, strike out "which has demonstrated its effectiveness to serve the purposes of this Act," and insert in lieu thereof "which the Secretary has certified is effectively serving the purposes of this Act,".

Mr. **CORNELL**. Mr. Chairman, the amendment I offer is designed to clarify the language in the grandfather clause in this section of the bill.

The provision which I propose to amend provides that a CETA prime sponsor previously designated under the provisions of the original act and who has been operating a satisfactory employment and training program can continue to serve as a prime sponsor despite a decline in population below 100,000 persons as long as the program "has demonstrated its effectiveness to serve the purposes of the act."

Mr. Chairman, the language in the bill does not clearly state how the determination of effectiveness will be made or who is responsible for making that determination. My amendment would require that the Secretary of Labor must take the positive action of certifying that such a program is effective. In the absence of such a provision, it is indeed possible that a prime sponsor could continue to be automatically funded even though the program is actually ineffective, which would thereby result in wasting millions of taxpayers' dollars.

Mr. Chairman, my amendment would in no way change the original intent of this section. It is simply my hope that such clarifying language will better effectuate the purpose and the intent of this grandfather clause.

Mr. **HAWKINS**. The gentleman from Wisconsin (Mr. Cornell), a member of the committee, is, I believe, correct and I think his amendment does clarify a position that needs further clarification. We accept the amendment.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Wisconsin (Mr. Cornell) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. Jeffords).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. WAXMAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE BY MR. JEFFORDS

Mr. **WAXMAN**. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Waxman to the amendment in the nature of a substitute offered by Mr. Jeffords: Insert at the end of section 308 of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute offered by the gentleman from Vermont the following new section:

"PROJECTS FOR MIDDLE-AGED AND OLDER WORKERS

"Sec. 309. (a) The Secretary shall—

"(1) develop and establish employment and training policies and programs for middle-aged and older workers which will reflect appropriate consideration of these workers' importance in the labor force and lead to a more equitable share of employment and training resources for middle-aged and older workers.

"(2) develop and establish programs to assist workers over forty years of age in pursuing second careers, including, but not necessarily limited to, work experience, vocational education, public service employment, on-the-job training, occupational upgrading, and job search and placement; and

"(3) conduct research on the relationships between age and employment and insure that the findings of such research are widely disseminated in order to assist employers in both the public and the private sectors to better understand and utilize the capabilities of middle-aged and older workers.

"(b) in carrying out the provisions of subsection (a) the Secretary shall provide for appropriate arrangements to be made with prime sponsors, members of the business community (including small business), labor organizations, local educational agencies, and community-based organizations as defined in section 125(4) of this Act. Such arrangements may include, but need not be limited to—

"(1) an analysis of the local labor force on the basis of such factors as age, educational background, income, race, and sex, focusing particularly on comparative rates of labor force participation and of unemployment and underemployment among the various demographic groups studied.

"(2) an assessment of each participant's skills and work experience for purposes of formulating realistic second career objectives, including formal vocational testing instruments supplemented by such functional assessment methods and techniques to detect those skills and abilities of a participant as may be related to desired second career and occupational upgrading objectives;

"(3) second career and occupational upgrading counseling by individuals knowledgeable about the employment and training needs of middle-aged and older workers;

"(4) the establishment of second career objectives which will—

"(A) provide reasonable assurances to the participant that public and private sector demand exists for the skills developed in the second careers program; and

"(B) enable the participant to compete successfully in the job market; and

"(5) establishment of formal second careers training agreements, between participants and program sponsors, which—

"(A) set forth the career objectives of the participants and the steps required of each participant and prime sponsor to achieve these objectives;

"(B) will remain in force until its terms are fulfilled, or renegotiated or terminated according to such procedures as shall be prescribed by the Secretary; and

"(C) may be renegotiated or terminated, at any time, by the participant, or by the program sponsor for good cause.

"(c) The Secretary is hereby authorized to pay program sponsors reasonable training costs to participants in second careers programs to the extent necessary to achieve the objectives of such programs in accordance with regulations prescribed by the Secretary, but in no case shall such payment exceed the permissible maximum under section 121(c)(1)(B). Such costs may include reasonable tuition for participants engaged in technical or other institutional training and payments to program sponsors providing on-the-job training, provided that such payments are based on the actual number of hours of such training given to the second careers program participant. The Secretary is authorized to pay for equipment. materials, and such other costs necessary for a participant to achieve the objectives of his second careers program.

"(d) Programs assisted under this section may provide for participation in employment and training programs on a part-time or flexible-time basis.

"(e) Participants in programs authorized under this section shall be individuals over the age of forty who are unemployed, underemployed, or economically disadvantaged, who have a family income (exclusive of any income received under a Federal or State welfare or unemployment program) which is not in excess of 125 percent of the Bureau of Labor Statistics lower living income level.

"(f) For the purposes of carrying out this section , the Secretary shall reserve from funds available for this title not more than 10 percent of the amount allocated pursuant to section 202(a).

"(g) No provision of this section shall be construed as intending any diminution of the employment and training opportunities available to workers over 40 years of age under titles II, VI. and VII of this Act."

Conform the table of contents accordingly.

Mr. **WAXMAN** (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Chairman, major obstacles confront the older worker attempting to enter or remain in the labor force. Despite a multibillion dollar commitment toward combating high unemployment, CETA sponsored job programs have had little impact among older workers.

In fact, a report of the U.S. Commission on Civil Rights has cited CETA job programs for age discrimination. The report, issued last December, confirmed what older workers have long recognized—CETA prime sponsors place the highest priority on finding jobs for younger workers. My amendment would assist in reversing this bias by encouraging greater participation of middle and older age workers in CETA programs.

Too often, when we discuss the problems and needs of older Americans, we tend to think exclusively in terms of social and health programs. While these programs are essential to improving the quality of life of older Americans, these programs view older Americans as individuals in need of support who are otherwise unable to depend on their own resources.

Mr. Chairman, many older Americans can be productive and do not need nor desire large amounts of support. These individuals want to work, to be self-sufficient and continue contributing to society.

My amendment would provide incentives to the Secretary of Labor to develop employment and training programs for middle and older age workers. The amendment provides that the employment needs of workers over 40 be accorded special attention consistent with the purposes of CETA title III.

By adding section 309 to title III, opportunities would be available for appropriate local groups, as well as prime sponsors, to apply to the Secretary of Labor for funds to sponsor employment training programs for older workers. Title III is an appropriate vehicle for sponsoring such programs as it was specifically intended to aid special disadvantaged groups underserved by CETA title II programs.

I am pleased to say that the amendment will not require any additional funding authorization beyond that already provided for in the bill. The amendment is not a set aside program, but does provide the Secretary of Labor with authority to allocate up to 10 percent of title III funds for older worker programs.

CETA DISCRIMINATES AGAINST OLDER AMERICANS

Mr. Chairman, no group can more forcefully demonstrate employment discrimination in CETA programs than workers over 45. The age of participants in CETA title I, II, and VI programs reflect a disturbing trend. The older a person becomes, the less likely it is that he or she will become involved in an employment training program sponsored by the Federal Government. To illustrate this observation, I include the following age breakdown of CETA participants in the Record at this point.

PARTICIPATION IN CETA EMPLOYMENT PROGRAMS BY AGE

[In percent]

	Fiscal year—			
	1975	1976	1977	1st half 1978
Title I	100.0	100.0	100.0	100.0
Under 22	61.7	56.7	51.7	49.9
22 to 44	32.1	36.5	40.8	42.4
45 to 54	3.5	4.0	4.3	4.4
55 and over	2.6	2.8	3.1	3.3
Title II	100.0	100.0	100.0	100.0
Under 22	23.7	21.9	20.3	20.3
22 to 44	62.9	64.0	64.2	64.9
45 to 54	8.4	9.0	9.6	9.3
55 and over	5.0	5.1	5.9	5.6
Title VI	100.0	100.0	100.0	100.0
Under 22	21.4	22.0	20.3	20.4
22 to 44	64.8	64.1	64.9	65.6
45 to 54	9.1	8.7	9.2	8.6
55 and over	4.7	5.2	5.6	5.4

Source: Office of Administration and Management, Division of Information Analysis and Systems Development, U.S. Department of Labor.

Admittedly, older workers are more difficult to place in unsubsidized jobs than their younger counterparts. However, we must keep in mind that CETA was intended to provide job training and employment opportunities to economically disadvantaged, unemployed or underemployed persons irrespective of age.

Historically we know that CETA prime sponsors have focused their efforts primarily on those age groups most easily placed in unsubsidized employment—the younger worker. The age of CETA participants confirms this bias.

WHY PAY ATTENTION TO THE OLDER WORKER

Although much attention is correctly focused on the employment needs of younger workers, older workers represent a substantial portion of the unemployed population. Approximately 1.4 million Americans over the age of 40 are currently unemployed and actively seeking work. These older workers constitute over 20 percent of all unemployed Americans.

When these figures are combined with the category of "discouraged workers," the plight of the older worker becomes even more apparent. Discouraged workers represent a category of unemployed Americans who are no longer actively seeking work but who would accept a job immediately if one were available. In 1977 there were over a million such workers. Approximately 427,000 were over 40 and 272,000 were over 55. As this pattern has held constant over the years, it suggests a structural discrimination based on age against older workers seeking a job.

Admittedly, the rate of unemployment among older worker is lower than among younger age groups. But this statistic should not be misinterpreted to suggest that older workers have less need for employment and training assistance. Despite the low unemployment rate among older workers, their duration of unemployment is 30 to 70 percent longer than among younger age groups. In fact, men and women over 45 suffer durations of unemployment similar to that experienced by black teenagers.

The following Department of Labor chart illustrates the severity of long-term joblessness among older unemployed workers.

[Chart not printed in Record.]

These figures indicate that as long as the older worker remains employed he is in good shape. However, should he later lose his job due to downturns in the economy or the pressure of technological change, he will have a difficult time rejoining the labor force. Thus, the search for a new job is increasingly difficult as workers grow older.

CETA's age bias toward younger workers reinforces this trend.

NEED TO KEEP OLDER WORKERS IN THE LABOR FORCE

Enactment of the Age Discrimination in Employment Act Amendments of 1978 was a clear expression of congressional support for older workers remaining in the labor force. The new law abolishes mandatory retirement in the Federal service and increases the mandatory retirement age in the private sector from 65 to 70. Workers between 40 and 70, those who are protected against age discrimination under the new law, make up 40 percent of the U.S. labor force and 36 percent of the population.

Mr. Chairman, the fundamental purpose of this new law is to promote employment of persons based on their ability rather than age. I think we would be remiss in our commitment to the individual worth of older Americans if we did not make a conscientious effort to encourage older workers to stay in the labor force. Our expressed commitment to individual dignity, as embodied in the ADEA amendments, demands we regard the opportunity for a job as a basic human right.

President Carter echoed this concern in his January 1978 state of the Union message. The President stressed:

> Job opportunity—the chance to earn a decent living—is also a basic human right which we cannot and will not ignore.

Mr. Chairman, it is an inconsistent public policy which seeks to eliminate mandatory retirement but which fails to adopt policies to encourage older workers to stay in the labor force. The health of our economy demands we not frivolously waste the talents of our older workers. The middle and older age worker represents a vast resource of experience, talents and intuitions we dare not neglect.

As currently administered, CETA is not serving the employment needs of older Americans.

NEED TO AMEND CETA

In practice, CETA is clearly a youth oriented employment program. Yet by recognizing the unresponsiveness of CETA to the needs of older workers, one need not imply any lessening of our resolve to solve the employment problems of younger workers. Both groups deserve support as it is a cruel and inequitable employment policy which provides training to one group at the expense of another.

Age discrimination within CETA programs need not continue. Adoption of the older workers amendment to title III is a positive response to the serious deficiencies noted in the report of the U.S. Commission on Civil Rights.

I must caution, however, that this amendment is not a cure-all. It is not a substitute for ending age discrimination in CETA programs. Further, adoption of the amendment should not be construed by the administration as an alternative to existing employment services available to older Americans under title IX of the Older Americans Act.

The addition of section 309 to CETA title III is merely a supplement to existing programs. It is a much needed first-step toward redressing the Federal Government's past neglect of the employment needs of older Americans.

CONCLUSION

To fulfill our national commitment to end age discrimination, the Federal Government must address ways to make work possible for older persons who are out of the labor market involuntarily, employed at jobs which pay little or employed at jobs which are becoming technologically obsolete.

These individuals, older men and women, need to be placed back into the mainstream of American worklife. These workers do not want or need short-term, artificially created jobs which disappear when the funds run out. They simply want to work at jobs which they physically can do, which pay decent wages, and which provide them with a sense of being part of the working, contributing, taxpaying population.

If America is to face the challenge of an expanded economy, the need for utilizing the capabilities and skills of older Americans will grow. The time has come to champion a vibrant and fresh national policy toward employing the older worker. We need to adopt an aggressive and imaginative approach to using the skills of people in ways commensurate with their abilities.

To permit CETA's age bias to persist would not only be a shameful waste of a precious natural resource but a violation of the new rights Congress itself recognized in passing the Age Discrimination in Employment Act Amendment of 1978.

I strongly urge my colleague's support of the amendment.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from New York, Mr. GREEN.

Mr. GREEN. Mr. Chairman, I rise in support of the Waxman amendment to H.R. 12452, the Comprehensive Employment and Training Act Amendments of 1978.

As a cosponsor of the Second Careers Act (H.R. 12802), I am pleased that the House has the opportunity today to vote on this proposal to encourage the participation of middle and older age workers in CETA-sponsored programs. The Waxman amendment provides that workers over 40 who are unemployed, underemployed, or economically disadvantaged be given special attention under CETA title III.

The primary emphasis of most CETA programs has been to train and to employ our younger citizens. However, title III, "Special Federal Responsibilities," contains programs for persons who have a particular disadvantage in the labor market, including Native Americans, migrants and seasonal farmworkers, the handicapped, and displaced homemakers.

I think it is appropriate to include among these groups another disadvantaged segment of the population—our middle and older age citizens. When we passed the Age Discrimination in Employment Act amendments earlier this year, we acknowledged that older Americans have vital contributions to make to a productive work force. That legislation, now public law, abolished mandatory Federal retirement and raised the private sector retirement age from 65 to 70.

Now that the Federal Government has supported the aspirations of older persons who wish to remain actively employed, it is essential that it stand ready to help translate those hopes into reality. The amendment before us would make this possible by calling upon the Secretary of Labor to develop and establish programs to assist workers over 40 years of age in pursuing second careers.

I commend the gentleman from California (Mr. WAXMAN) for his efforts on behalf of older workers and urge my colleagues to vote in favor of this amendment.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the distinguished chairman of the subcommittee, the gentleman from California.

Mr. HAWKINS. I thank the gentleman for yielding.

The committee is familiar with the amendment, and we are willing to accept it. We commend the gentleman from California (Mr. WAXMAN) for the outstanding job that he has done in behalf of senior citizens. We think the amendment strengthens title III of the act and for that reason is acceptable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, by now it should be clear to all of us that the thrust of this year's CETA amendments is to reconstruct a less costly program which is more sensitive to the needs of the structurally unemployed and which will not be plagued by continued incidents of fraud and abuse. I think the gentleman from California and his committee deserve the deep thanks of the entire country for their heroic efforts to bring out a bill making this a more workable and efficient program while at the same time preserving this very important option for hundreds of thousands of citizens who need a lift out of the ranks of the unemployed.

I have just learned of one case of injustice and inconsistency in the CETA program in my district which the current bill does not address. The situation concerns an employee, working in a city in the 14th District of Ohio under the CETA title VI B program, who recently married, and whose new spouse reportedly earns in excess of $25,000 a year. When the employee was hired for the CETA slot 6 months ago, she met the title VI eligibility requirement that her annualized income for the previous 3 months not exceed $2,530. But her financial situation has clearly changd since marriage, with the family income now far in excess of the title VI income eligibility ceiling.

Yet, because there seems to be no requirement in the law or regulations that a subsequent review of a participant's eligibility be conducted, this employee may continue working under CETA while someone else suffering serious economic need goes without a job. We all know of people in our districts who narrowly miss qualifying for eligibility for CETA. And clearly, while these people might not be deemed to meet the act's low-income standard, they are relatively poor in contrast to the aforementioned case.

Allowing such a situation to go unaddressed runs counter to the thrust of this new CETA legislation. A program which contains restrictions so stiff that very frequently some of the neediest people will be turned away, yet which ignores the situations of sudden income increases simply cannot be justified as a program truly aimed at putting the neediest Americans to work.

I realize that such a problem may not exist in every local CETA program, or with any great frequency. But I also know that this situation is not unique. In addition to the possibility of increased income through marriage, what about the possibility of a CETA employee coming into a substantial inheritance, or winning the lottery or enjoying a spouse's hefty pay raise or new-found employment? I would guess that in most of these cases the increase in family income would only be marginal. But I think in cases where the increase is so substantial as to change the CETA employee's financial status dramatically, that employee's eligibility should be reviewed to determine whether the employee should be dropped from the program.

I know that there are certain problems with this suggestion. As we know from HEW's experience with the welfare program, recertification can be very expensive. Given the small number of times this problem is likely to come up in any one local CETA program, I doubt that a full-scale recertification or continuous review of eligibility by CETA prime sponsors would be cost-effective. To avoid the enormous cost, in terms of time and money, of a wholesale eligibility review of all CETA participants, the onus could instead be placed on the employee by putting him on notice when hired that he is to report to the prime sponsor any change in his financial status. Upon such notification of change by an employee, the prime sponsor could then conduct an individual review of that employee's eligibility to determine whether he should be allowed to continue participating in the project.

Certainly, additional factors should be considered by the prime sponsor in conducting this review so as not to jeopardize the very interests which the program itself is trying to further. Such factors would include whether the increase in income is substantial or only marginal, the cost of replacing the employee in terms of retraining, the amount of time remaining until automatic termination of the position, and the availability of a qualified replacement. Should it come to the attention of the prime sponsor that the employee has failed to report an income increase, that failure in itself could be considered sufficient justification for automatically dropping the employee from the CETA program.

Mr. Chairman, CETA is not an entitlement program. No one has a right to a public service job. Participation in CETA is based solely on low family income and unemployment. Therefore, those who create the program and those who manage the program have an obligation to ensure that the people who do get and keep CETA jobs are those most in need of a job as defined in the law.

Can the distinguished gentleman from California advise me what can be done to correct this type of situation?

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, we have had this case called to the attention of the subcommittee. We have reviewed the law. We have also consulted with the Department of Labor.

Mr. Chairman, there is currently discretion in CETA to apply more restrictive criteria at the local level than is required by statute. Therefore, it is possible now for a prime sponsor to set up strict criteria regarding employees' midemployment income increases, to review an employee's continued eligibility on that basis and, if necessary and desired, to terminate that employee's CETA employment. The only requirement is that the prime sponsor be consistent in applying these more restrictive standards. So the flexibility a prime sponsor needs to set up certain guidelines for dealing with this kind of situation already exists under current law.

However, prime sponsors may be reluctant to exercise this flexibility. They are faced with some practical problems which, in the absence of any law or regulation requiring or clearly authorizing them to set up their own income increase restrictions, make it extremely difficult for them sometimes to do so.

Therefore, I think it would be appropriate to make clear at this time, to both prime sponsors and the Department of Labor, that it is our intent in passing these CETA amendments that local agencies have the authority to require that a CETA employee whose family income increases during employment to an amount above the eligibility ceiling undergo a midemployment eligibility review as long as it is consistently applied and may, under certain circumstances, be dropped from the program.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman from California for this clarification. It has made it unnecessary for me to offer an amendment on this matter.

AMENDMENT OFFERED BY MR. WOLFF TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. WOLFF. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. WOLFF to the amendment in the nature of a substitute offered by Mr. JEFFORDS: After section 125 (27) of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute, add the following subsection:
>
> "(28) The term 'special consideration' as used in section 121(b)(A) means such employment, training, supportive services, technical assistance and training, support for community based veterans programs, and maintenance and expansion of private sector veterans employment and training initiatives and such other programs or initiatives as are necessary to serve the unique readjustment, rehabilitation and/or employment needs of veterans."

Mr. WOLFF (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. WOLFF. Mr. Chairman, I rise to offer an amendment to H.R. 12452, Comprehensive Employment and Training Act Amendments of 1973. My amendment is simple. It defines the term "special consideration" as it applies to veterans employment and training under CETA.

CETA veterans employment and training as well as supportive service and technical assistance and training must be structured to serve the unique employment, readjustment, or rehabilitation needs of veterans. The average disabled veteran is 35 years old. The Vietnam veteran is 32 years old, has a high school education, a wife and two children to support. The veterans employment aspirations, abilities, and needs are unique and often different than the services and opportunities normally accorded through CETA.

Veterans training and supportive service initiatives should be predicated upon models such as the HIRE II program which interfaces CETA training with Veterans' Administration benefits. Veterans employment and training programs should be accorded sufficient supportive services, fiscal resources, and technical assistance and training to facilitate effective job development, outreach, career and benefit counseling, and cooperative supportive service initiatives with the Veterans' Administration, to insure the veterans rehabilitation readjustment and employability.

Veterans employment and training initiatives administered under CETA should be done so in cooperation and consultation with the Veterans' Employment Service, the Employment Service, the Veterans' Administration, and Veterans Service and Self Help organizations. This will insure more comprehensive and effective programs for veterans, and substantively enhance supportive services and training benefits through utilization of these resources.

Maximum effort should be made to integrate CETA with Veterans' Administration on-the-job, apprenticeship and cooperative benefit programs authorized under section 1737 of title 38, United States Code. This interface will greatly enhance the potential for quality training and careers at higher skill levels—bringing CETA programs and resources within the employment aspirations and abilities of most veterans at far less cost than the maintenance of veterans in public service jobs. By coordinating CETA veterans employment and training initiatives with Veterans' Administration OJT—on-the-job training—apprenticeship and cooperative benefit programs will bring the Veterans' Administration and the State approving agencies into the training development and approval process. This will reduce the administrative burden on CETA prime sponsors. Prime sponsors who utilize existing VA-approved OJT program and approval mechanisms for veterans private sector initiatives should find that administrative functions such as supervision, management, fiscal and recordkeeping are substantially reduced because the State approving agency and the Veterans' Administration will assume a significant portion of these responsibilities. The prime sponsor should consider subcontracting with State approving agencies to develop and approve private sector job training programs for nonveterans.

While there should be a major shift from public service employment of veterans into private sector training, it is imperative that public service employment slots be made available for essential veterans helping veterans supportive service functions such as outreach, job development, personal adjustment and motivational counseling, veterans benefits and career development, guidance and employment assessment assistance. Prime sponsors should be encouraged to transfer public service employment slots to traditional service organizations and community based veterans services organizations for these functions as veterans are transitioned out of public service employment and into the private sector.

Public service employment slots should be made available to local employment service offices to sustain or expand the successful disabled veterans outreach project (DVOP).

In taking appropriate steps to serve veterans the Secretary and prime sponsors should consider the following:

First. Cooperative and contractual arrangements and programs between CETA prime sponsors and other agencies; programs or organizations to provide comprehensive education, training, employment—to include lateral entry and accelerated advancement—and outreach, job development, veterans benefit counseling and personal adjustment assistance for veterans.

Second. Programs utilizing split job work experience for eligible persons pursuing programs of instruction under chapters 31, 34, and 35 of title 38 United States Code. Such programs should be developed to insure maximum feasible utilization of veterans readjustment or rehabilitation benefits. To the maximum extent feasible such programs should be relevant to the program of instruction and career or vocational objective of the veteran.

Third. Cooperative programs utilizing supplemental funding under titles II, III, VI, and VII of CETA for eligible persons pursuing trade, technical, vocational of professional training under chapters 31 and 34 of title 38, United States Code.

Fourth. Programs to facilitate effective placement and entry into readjustment programs or employment by separating servicemen and women.

Fifth. Cooperative or contractual arrangements with veterans service organizations, particularly organizations composed of disabled veterans.

Sixth. Cooperative or contractual arrangements with the veterans cost of instruction program.

Seventh. Cooperative programs with national and local organizations of business and labor to facilitate comprehensive career planning and lateral entry and accelerated advancement.

Eighth. Cooperative or contractual programs with the veterans employment and training (VETS) program of the National League of Cities.

Ninth. Cooperative and contractual arrangements with community mental health centers and the Veterans' Administration to provide adjustment and motivational counseling and assistance.

Tenth. Programs of assistance to community-based veterans organizations and service delivery systems.

Eleventh. Such research, evaluation, training, planning, and supportive services and programs as are necessary and appropriate for the effective implementation of veterans employment programs and services, especially those authorized under CETA.

Mr. Chairman, I submit in the RECORD a white paper on veterans employment and training prepared by myself and the distinguished ranking minority member of the Veterans' Affairs Subcommittee on Education and Training, Mrs. HECKLER. This paper further elaborates upon the intent of my amendment and provides guidance for the Department of Labor in developing and implementing its employment and training responsibilities to veterans. These recommendations evolve out of hearings held by the Veterans' Affairs Committee during both sessions of the 95th Congress:

A CONGRESSIONAL WHITE PAPER: VETERANS EMPLOYMENT—ANALYSIS AND RECOMMENDATIONS

(Prepared by LESTER L. WOLFF and MARGARET M. HECKLER, Members of Congress)

Veterans' *unemployment* is primarily counter-cyclical rather than structural. Vietnam veterans' and disabled veterans' *underemployment* is both structural and counter-cyclical. In 1973 when veterans' unemployment reached its lowest level (4.9%), then President Nixon declared that "veterans' unemployment is no longer a national problem." The economic recession of 1975 brought veterans' unemployment to an all time high (10.5%). The average Vietnam veteran is now 31 years old. He has a wife and two children, and a high school education. The veteran is seeking a secure and meaningful career in the private sector commensurate with his peers who did not serve in the military.

Vietnam veterans are often the last hired and first fired. Many lack the training and skills necessary to acquire careers equal to their abilities and aspirations. A viable solution to the employment and training of the disabled and Vietnam veterans lies in the private sector, not in subsidized public service employment. Effective private sector career development, coupled with HIRE II training initiatives and interfaced with Veterans Administration Apprenticeship On-the-Job Training (OJT) and cooperative benefits should be the primary solution to the employment and training needs of the disabled and Vietnam veteran.

The substantial potential that lies in the HIRE II program may be lost because there is not sufficient technical assistance, training, and guidance to ensure effective implementation of the program. HIRE II funds can be spent as CETA title I OJT programs. However, CETA title I training opportunities are far below the employment capabilities and aspirations of the majority of the disabled and Vietnam veterans. To utilize the HIRE II program in the same manner as a CETA title I program would be a tragic disservice to veterans and the future of veterans employment initiatives. To realize the full potential of the HIRE II program, the maximum feasible effort should be made to interface HIRE II with Veterans Administration Apprenticeship, OJT, and cooperation benefits programs. To facilitate this objective, the Veterans Administration (VA) and the Veterans Employment Service (VES) must play an integral role in the development and implementation of the HIRE II training opportunities.

It appears that the VA and the VES are being denied the opportunity to utilize their full potential in ensuring the success of the HIRE II program. The Department of Labor (DOL) press release announcing the appointment of Mr. Weatherford as Acting Deputy Assistant Secretary for Veterans Employment (DASVE) states that, "a number of the Department's programs helping veterans, including the HIRE program, are not under his supervision." CETA prime sponsors have the ability to implement HIRE II as a CETA title I OJT program without the assistance of the Veterans Administration and the Veterans Employment Service.

However, the programs' real potential cannot be realized without the maximum contribution and cooperation of the agencies and organizations concerned with veterans employment. Since the HIRE II program is exclusively a veterans program, the talents and resources of the DOL and the nation's veterans employment specialists must be fully utilized in order to ensure its success.

To this end it is recommended:

(1) That the Veterans Employment Service and the Veterans Administration be given a major role in the technical assistance and training program to ensure that CETA prime sponsors, the Veterans Employment Service, veterans service organizations, and other organizations and individuals concerned with the development and implementation of HIRE II are fully aware of its provisions and how to effectively implement them;

(2) That specific goals be established for the interfacement of HIRE II with Veterans Administration OJT apprenticeship and training programs;

(3) That a HIRE II orientation guide be prepared to ensure effective interpretation and implementation of the HIRE program by all concerned; and

(4) That maximum effort be made to ensure the future of the HIRE II initiative once the initial funding is expended.

To improve employment services to veterans within current fiscal and manpower resources there must be a greater emphasis on qualitative services to disabled and Vietnam veterans, rather than quantitative increase in "compliance indicators" to all veterans. Without additional fiscal and manpower resources, any quantitative increase in the Employment Service indicator requirements would probably result in a qualitative decrease in services to many of the most needy disabled and Vietnam veterans. These veterans require the greatest individual attention in both counseling and job development. Current acquisition of employment through the employment service is often predicated upon the veteran being in the employment service office at the time the job opening is posted. Greater emphasis must be placed on counseling, skills assessment, and meaningful career development and training for disabled and Vietnam veterans. Employment Service offices must have the capability of promptly notifying veterans when an appropriate employment opportunity becomes available, and ensuring that the veteran is qualified, motivated, and prepared when referred to an employment opening. To this end it is recommended:

(1) That the Disabled Veterans Outreach Program (DVOP) be continued at current strength (2000) or expanded through a combination of Federal funding and State and local CETA contributions to sustain and expand DVOP initiatives. PSE slots could be allocated by prime sponsors to local employment service offices to fund DVOPs. The role of the DVOP should be expanded to include services not only to disabled veterans, but also to Vietnam and other veterans as deemed necessary and appropriate;

(2) That the counseling resources of the Veterans Administration be made available to the Employment Service to assist veterans with benefits, career planning, personal adjustment, and motivational problems, and possible cooperative outreach efforts with the VA; and

(3) That greater technical assistance, training, and support be accorded to local employment service offices and DVOPs to ensure that they are fully apprised of the resources available to them and can provide necessary employment services to veterans.

In a letter dated May 4, 1978 to Congressman Lester L. Wolff (D-NY), Secretary of Labor Ray Marshall stated that the "DASVE program" plan, or "Veterans Helping Veterans" program, has been carefully reviewed and a decision has been made to provide $10 million for a new veterans outreach and job development program, concentrating on target cities with high unemployment among veterans, particularly minority veterans. This program is still in the planning stage and will be announced in the near future."

The Department of Labor apparently wishes to reduce that amount to only $3 million. This amount is insufficient and represents only the funds necessary to sustain viable existing veterans outreach and supportive service programs. Many of these programs were assured that their funding would be assumed and their programs expanded by the Office of the Deputy Assistant Secretary for Veterans Employment, upon notification by Secretary Marshall and Assistant Secretary Green that a $10 million "Veterans Helping Veterans" program had been approved.

In a June 29 letter to President Carter, Rep. Margaret M. Heckler stated that "full and effective implementation of Vietnam veteran initiatives advanced by both yourself and the Congress must be supported by the Department of Labor's $10 million 'Veterans Helping Veterans' technical assistance and training programs, and by support for community-based veterans' self-help initiatives." Rep. Heckler noted that such funding will enable development of "workable new veterans job development, outreach, supportive service, and demonstration projects."

Such a community-based effort was mandated by Section 305 of P.L. 95-93 and was an integral element of the nation's readjustment efforts for veterans of World War II. It is recommended:

(1) That the "Veterans Helping Veterans" effort be funded on a case by case basis at the announced level of $10 million;

(2) That maximum effort be made to allocate CETA PSEs to viable "Veterans Helping Veterans" projects to fund their staffs;

(3) That a concerted technical assistance and training program be initiated as soon as possible to facilitate effective implementation of program initiatives. The success of veterans employment programs is to a far greater extent predicated upon the effective utilization, coordination, and interfacement of existing programs and resources than it is to the allocation of additional fiscal resources. One of the biggest problems facing the veteran is a lack of understanding of his needs, and how to target existing resources to address those needs; and

(4) That maximum use of community-based resources, traditional service organizations, and Veterans Administration resources be utilized in the implementation of the "Veterans Helping Veterans" program.

In a letter to Secretary of Labor Ray Marshall, Congressman Wolff expressed concern that the effectiveness of the Deputy Assistant Secretary of Labor for Veterans Employment was impeded by a lack of operational control over the programs within its jurisdiction as well as the permanent professional staff resources needed to implement those programs. While the Office of the DASVE was established by Congress over 18 months ago, it still has not been allocated professional staff positions by the Civil Service Commission. Currently the Veterans Employment Service is operating with only 10 of its 15 authorized professional staff members, the vacancies occurring at critical senior policy development and implementation levels.

In a June 27 letter to Labor Secretary Ray Marshall, Rep. Heckler called for the reestablishment of the position of director of the Veterans' Employment Service. She called for the appointment of a "highly qualified individual who is an aggressive veterans advocate, and one who has the confidence of the veterans community, to this important post. Mrs. Heckler noted that the abolition of the Director position has seriously affected the operation of the 200 VES personnel in the field. Rep. Heckler stated that reestablishing the position of director, and refocusing the strength of the Veterans Employment Service, would bring credibility to the operation of the VES among veterans organizations.

There appears to be an effort to curtail the statutory responsibilities of the DASVE and the Veterans Employment Service. The Department of Labor press release announcing the appointment of Acting Director of the DASVE Lawrence Weatherford states in part: "the Act specifies that the Deputy Assistant Secretary is the principle advisor to the Secretary [on] unemployment and training programs to the extent they affect veterans. A number of the Department's programs helping veterans, including the HIRE program, are not under his supervision."

The law states in fact that the DASVE "shall be the principle advisor to the Secretary of Labor with respect to the *formulation* and *implementation* of *all* policies and procedures . . . of the Department of Labor employment, unemployment, and training programs to the extent they affect veterans." The law further states, "to this end policies shall be promulgated and administered by a Deputy Assistant Secretary of Labor for Veterans Employment, through a Veterans Employment Service within the Department of Labor, so as to provide such veterans and persons the maximum employment and training opportunities through existing programs, coordination and merger of programs and implementation of new programs."

While the DASVE and the Veterans Employment Service should not be a separate employment and training delivery system within the Department of Labor, they must be utilized to their fullest capability to facilitate the effective formulation and implementation of programs administered by existing delivery systems to the extent they affect veterans. This working relationship can be readily established provided that the DASVE and the Veterans Employment Service are accorded their proper role within the Department of Labor. To this end it is recommended:

(1) That the Civil Service Commission authorize as soon as possible permanent staff positions for the Office of DASVE, and that highly qualified persons be appointed to such positions on a temporary basis until a new DASVE is chosen;

(2) That the position of Director of Veterans Employment Service be restored;

(3) That qualified persons from the VES field staff be detailed on a temporary basis to the national office to ensure effective program development and implementation until the professional staff vacancies in VES can be filled permanently;

(4) That the veterans employment specialists in the DASVE, VES, and the VA be utilized to their fullest extent to ensure the effective implementation of all DOL employment and training programs affecting veterans; and

(5) That a technical assistance and training program be initiated to ensure effective implementation of current and new veterans employment and training program initiatives.

Legislation (H.R. 13373) has been introduced by U.S. Representatives Heckler and Wolff which would extend the 10 year delimiting period for veterans to participate in Veterans Administration OJT, apprenticeship, and cooperative programs. Enactment of this legislation is critical if the Administration initiatives are to effectively address the needs of Vietnam combat veterans. The legislation falls within the parameters of the fiscal resources available to the Veterans Affairs Committee for new initiatives.

VETERAN UNEMPLOYMENT RISES

Veteran unemployment continued to rise during the month of August, following a similar rise during July. The two month rise not only brings veteran unemployment above that of their nonveteran peers in all categories, but erodes substantially all of the downturn of the previous six months.

The alarming rise since July brought upturns in each category in excess of 40% while nonveteran employment improved:

	May	July	August	Amount of increase	Percentage increase
Veteran:					
20 to 34	4.0	5.1	6.3	2.3	57.5
20 to 24	6.9	11.4	13.9	7.0	101.5
25 to 29	5.5	6.4	7.3	1.8	32.7
30 to 34	2.3	2.9	4.1	1.8	78.3
Male nonveteran:					
20 to 34	5.9	5.9	5.8	−.1	−1.7
20 to 24	7.7	8.4	8.1	.4	5.2
25 to 29	4.8	4.4	4.8	0	0
30 to 34	3.9	3.3	2.7	−1.2	−30.8

The final unemployment figures return veterans to their position during the fourth quarter of 1977, wiping out six months of apparent progress:

Veteran	Fourth quarter 1977	August 1978
20 to 34	6.5	6.3
20 to 24	13.9	13.9
25 to 29	6.4	7.3
30 to 34	4.5	4.1

In addition, it leaves veterans facing higher unemployment rates than their nonveteran peers:

Age group	Veteran	Nonveteran	Difference	Percent higher
20 to 34	6.3	5.8	0.5	8.6
20 to 24	13.9	8.1	5.8	71.6
25 to 29	7.3	4.8	2.5	52.1
30 to 34	4.1	2.7	1.4	51.8

Source: Statistics compiled by the Council of Vietnam Veterans from Bureau of Labor Statistics publications.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I am happy to yield to the chairman of the subcommittee.

Mr. HAWKINS. Mr. Chairman, the amendment has been presented to the committee. We have reviewed it, and we think it is a clarification of the current language and gives us clarification of a phrase that has long been used but has not been clearly understood. We are, therefore, willing to accept the amendment, and I wish to commend the gentleman from New York (Mr. WOLFF) for offering it.

Mr. WOLFF. Mr. Chairman, I thank the chairman of the subcommittee.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, we have also reviewed the amendment. We believe it is an excellent one, and we accept it on this side.

Mr. WOLFF. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WOLFF) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MS. HOLTZMAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN to the amendment in the nature of a substitute offered by Mr. JEFFORDS: Insert at the end of section 121 of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute offered by the gentleman from Vermont the following new subsection:

"(m) No funds provided under this Act shall be paid to any nongovernmental organization, association, firm or other entity for the conduct of any program or activity under this Act unless—

"(1) such organization, association, firm or other entity has a meritorious written plan which has been reviewed and evaluated by the prime sponsor or, where appropriate, the Secretary, according to standards promulgated by the Secretary and is found to meet the purposes and requirements of the Act; and

"(2) such organization, association, firm or other entity is selected on the basis of merit which shall mean at least that such organization, association, firm or other entity—

"(A) has the administrative capability to perform effectively under the program;

"(B) has submitted a written plan under subsection (1) that compares favorably to other plans; and

"(C) has not been seriously deficient in its conduct of or participation in any Department of Labor program in the past, or, is not a successor organization to one that was seriously deficient in the past, unless the Secretary in his discretion certifies after a clear, convincing and detailed showing, that the deficiencies will be eliminated and performances substantially improved; and

"(3) a comprehensive and independent monitoring program designed to insure compliance with the plan and this Act is in place in accordance with standards promulgated by the Secretary, which standards shall require adequate training of monitors and procedures for the prompt follow up of problems found during the monitoring process.

Ms. HOLTZMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. HOLTZMAN. Mr. Chairman, this amendment is simple in concept. It is designed to require that those organizations that receive money to train people in this country are selected for that purpose on the basis of merit.

Mr. Chairman, it would come as a surprise, I think, to most Americans that some of these organizations are selected for the very important task of training people for jobs not on the basis of merit but because they have received Federal training contracts before or because of political payoffs, laziness, or similar reasons.

This is what I discovered after investigating summer job training programs in New York in 1977. I then asked the General Accounting Office to verify my findings of gross mismanagement and abuse and the General Accounting Office concluded in a report just issued that the summer jobs program was being poorly run by both the Department of Labor and New York City. It found that organizations were selected to train youngsters not on the basis of any meritorious proposal that had been submitted and not on the basis of the quality of work they had done in the past, but despite the fact that they did not submit a proposal and despite the fact they had performed terribly in the past.

As a result, many youngsters were paid to sit around and do nothing. I think this kind of bad administration has to come to an end if we are going to have training programs that work.

What my amendment does is very simple. It says that an organization cannot be funded to train anyone unless it submits a proposal in writing which is meritorious and unless the proposal has been reviewed and evaluated.

Second, to be funded the organization must have administrative capability to run the program. Obviously, if important members of an organization are under indictment for defrauding the Federal Government in any program, the administrative capability of that organization to perform effectively and honestly is highly questionable. Unfortunately, administrative capability has not always been considered in the past and indeed, the Department of Labor continued to authorize millions of dollars in job training funds to a Brooklyn based organization even though top level officials of its affiliates were under investigation and numerous counts of defrauding the Federal Government. These persons were ultimately convicted. The Department of Labor could not under my amendment take such a cavalier approach to the spending of Federal dollars again.

My amendment also stipulates that an organization cannot be selected and funded if it was seriously deficient in its past performance in any Department of Labor program. This will mean, of course, that the Department of Labor will have to insure that the past performance of organizations is evaluated. Those organizations which did not do a good job could not be rewarded again with new contracts in the future.

Finally, my amendment calls for a comprehensive monitoring system to be in place before any organization can be funded. Comprehensive monitoring will assure that proper evaluations are made. Such monitoring will also insure that we do not continue to fund programs that provide no training or provide it in a very inadequate manner.

Mr. Chairman, I have discussed this amendment with members of the committee and with the very distinguished chairman of the subcommittee. I very much urge the adoption of the amendment.

Mr. HAWKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN), as presented, is acceptable in its intent and its thrust. We may have some reservation about the meaning of the word, "meritorious," in the amendment. However, we feel that this is something which will be subject to some discussion in conference, and we do reserve the right at that time to try to get a further clarification of it.

This is a judgment that has to be made. The meaning of the word is somewhat unclear to us, and I think that the opposition to the amendment is such that is does not justify rejecting the amendment.

On that basis, Mr. Chairman, we do accept the amendment.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

Mr. Chairman, I would be happy to give at least a partial explanation of what I mean by "meritorious."

We have had proposals submitted in the past which are so vague as not to give any indication as to what is to be done. These obviously are not meritorious.

We have also had proposals that are, on their face, impossible of accomplishment. These are not meritorious.

The term "meritorious" means a proposal that will work, that will accomplish the results that are intended by the act, that will provide training, that will do so in an effective and competent manner. It means a sound, intelligent, reasonable plan. That is what the word "meritorious" means. I would hope that the organization would submit such plans, because that is what I assume is the intent of this act.

Mr. HAWKINS. Mr. Chairman, it certainly is not my position to disagree with the intent and the clarification offered by the gentlewoman from New York. However, what is reasonable is subject to, obviously, great difference of opinion. We have also included in the proposal a more detailed application process, whereby much of what is being sought in this amendment must be detailed in that original plan, the master plan. It must also be included in an annual plan. We have made every attempt, I think, to go a long way toward doing exactly what this amendment attempts to do. I am not saying it is entirely duplicative. I am merely suggesting that there may be some further reason to look at the amendment, in view of what we have already done, and I am simply setting the record straight that we do reserve the right to meld this amendment into other sections of the bill, which I think will be highly acceptable to the gentlewoman's intent.

I agree with the gentlewoman's goal. We may disagree somewhat on the language. But we certainly are willing to accept the amendment.

Ms. HOLTZMAN. If the gentleman will yield further, I went through the bill very carefully, and I found no requirement that the organization which is funded must submit a written plan and that that plan has to be reviewed before that organization can receive money.

I know the prime sponsor, in some cases, must submit a plan, but the prime sponsor does not necessarily list every organization that is to receive money. That is a defect, I think.

I want to say that I commend the gentleman and the committee for their continuing efforts to assure that training programs produce worthwhile and important results. In many respects these programs have been effective; nonetheless, we should still make every effort to get even better results.

Mr. HAWKINS. The prime sponsor, may I say, is made, under the proposal, responsible for every subcontractor and every grantee. I think that responsibility must be assumed by the prime sponsor. However, I am not objecting to the amendment. I think it is in the right direction, and we accept it.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, we have the same reservations the gentleman does, but we will also be glad to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENTS OFFERED BY MR. JEFFORDS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer amendments to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendments offered by Mr. JEFFORDS to the amendment in the nature of a substitute offered by Mr. JEFFORDS:

In section 121(b)(1)(D) of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute, strike out "Special consideration" and insert in lieu thereof "Preference".

In section 125(7)(D) of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute, insert "or a handicapped individual who is 16 years of age or older" immediately after "Older Americans Act".

Insert at the end of section 121(c)(1)(A)(ii) the following: "or in the case of Native American entities who operate programs authorized under Section 302(c)(1) of this Act."

Mr. JEFFORDS. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. JEFFORDS. Mr. Chairman, the first amendment changes only two words in this bill, yet I believe it is a very important change. In section 121, "Conditions Applicable to All Programs," there is a requirement that "special consideration in filling public service employment jobs shall be given to eligible persons who are the most severely disadvantaged in terms of their length of unemployment and their prospects for finding employment."

Mr. Chairman, this is the whole point of CETA. My amendment replaces the words "special consideration," with "preference," thereby insuring that CETA helps those most in need first. Preference in filling PSE jobs shall be given to individuals with the most severe labor market handicaps.

This provision now conforms more closely with two other provisions in the CETA bill, and correctly expresses the strong intent of Congress. In section 103(a)(7), there is a requirement that the prime sponsor include in the master plan "a description of arrangements to insure that employment and training services, including the development of job opportunities, will be provided to those most in need of them, including low-income persons, handicapped persons, and persons of limited English-speaking ability, and that the need for continued funding of programs of demonstrated effectiveness is taken into account in serving such groups and persons." In section 103(b)(4), there is a requirement that the prime sponsor include in the annual plan "the method for determining priorities for service under title II based on objective locally established criteria to assist the prime sponsor in assuring service to those most in need; such priorities shall be based on locally determined factors such as employment status, household status, level of employability development, handicap, veteran status, age, race, sex, or other criteria deemed viable by the prime sponsor."

My amendment, therefore, conforms a major requirement in the bill which is applicable to all titles to two mandates in the bill which must be met by the prime sponsors.

Further, this will help to eliminate a persistent problem in PSE programs known as skimming or creaming, which occurs when the people best qualified and easiest to serve and place in jobs receive services under CETA, rather than those who are lower skilled and less educated. I would like to quote extensively from an August 1978 CBO report on the CETA reauthorization about several issues related to targeting CETA services on those in greatest need, to emphasize the importance of this issue:

CHAPTER IV. TARGETING CETA SERVICES ON THOSE IN NEED

Labor-market problems are concentrated among certain population groups: racial and ethnic minorities, youth, and those with low levels of education. During calendar year 1977, when the average national unemployment rate was 7.0 percent, the unemployment rate among nonwhites was 13.1 percent; among nonwhite youths, 16 to 19 years old, the rate was 37 percent for males and 40 percent for females. In March 1977, when the overall unemployment rate was 7.9 percent, the rate for those with less than eight years of schooling was 10 percent compared with 3 percent for college graduates.[1] Consequently, two major issues in the CETA reauthorization debate are the extent to which CETA should be targeted on those with the most severe labor-market problems, and whether targeting can be improved by changes in program eligibility rules.

The criteria that define eligibility for CETA services. Changes in eligibility rules result in changes in the size and characteristics of the eligible population and the size of the program needed to serve the eligible group. In general, nonentitlement programs such as CETA serve only a small fraction of the eligible population. If job slots are limited, program operators must choose among eligibles, and they may favor eligibles who are the least costly to serve or who offer the most potential for post-program success. This selection process is known as "skimming" or "creaming." Broad eligibility criteria may include substantial numbers of those needing services, but they also create large pools of eligibles and make skimming more feasible.

Designing clear and appropriate eligibility criteria is not a simple task. Some groups in need of CETA services may be fairly easy to identify, for example, youth between 16 and 23 years old. Other groups present special problems both conceptually and statistically. For example, what is the appropriate definition and measurement of economic disadvantage or "insufficiency"? Is it residence in a "distressed" area, membership in a disadvantaged social group, or some combination of these and other factors?

ELIGIBLES UNDER CURRENT CETA DEFINITIONS

The pre-CETA employment and training programs (with the exception of the Emergency Employment Act and the early Manpower Development and Training Act efforts) were aimed primarily at the "disadvantaged." Under CETA, less emphasis has been placed on serving the disadvantaged. Although the CETA eligibility criteria include the "economically disadvantaged," the term has been defined broadly to include individuals from low-income families, the underemployed, and recipients of cash welfare and unemployment insurance benefits. In recent years, legislative amendments have narrowed the definition of CETA eligibles, while some administrative regulations have had the opposite effect.[2]

Current CETA regulations define eligibles for the various programs and titles along many dimensions, including age, ethnicity, area of residence, unemployment experience, veteran status, and income. Although the attributes of eligibles will not always match those of patricipants, wide disparities between the characteristics of the two groups indicate that the program is not serving those it was intended to serve. (pp. 32–33)

TITLE VI ELIGIBLES

The Title VI eligible population is larger than that of any other single CETA program except Title I.[5] During March 1975, roughly 11.4 million individuals were nominally eligible for participation under Title VI, while approximately 227,000 years of service were provided under the combined Titles II and VI during fiscal year 1976.

The characteristics of Title VI eligibles indicate that those persons who are likely to have labor-market difficulties are eligible for the program, but the characteristics of participants indicate that they were not representative of the eligible population (Table 8). This could mean that a considerable amount of skimming has occurred in Title VI programs.

Title VI served far smaller proportions of females, nonwhites, the uneducated, and cash assistance recipients than were eligible.[6] Eligibles and participants had similar labor force experience: the proportion of unemployed and employed eligibles was roughly equal to the proportion of previously unemployed or employed participants. (pp. 36 and 38)

ENFORCING ELIGIBILITY REQUIREMENTS

In CETA and other nonentitlement programs, the final mix of program participants is determined by the program operators; the effectiveness of eligibility restrictions depends ultimately on their application and enforcement. While the likelihood of skimming—the selection of program participants from among the best qualified eligibles—can be reduced by legislation that limits the size of the eligible population, some degree of skimming may be unavoidable.

Footnotes at end of article.

On the other hand, selection of ineligibles can be limited only by more active program supervision. Compared with any current cash assistance program, errors made in allowing ineligible participants into CETA programs can produce relatively larger per-participant budget costs and inequities. Since CETA benefits (public service wages, training stipends, and the like) do not vary with need, errors in assessing eligibility result in large per-participant outlays (as much as $11,500 in the case of public service employment). Additionally, since CETA is not an entitlement program, each job or training slot filled by an ineligible individual reduces the number of slots available to eligibles.

A recent General Accounting Office (GAO) study of public service jobs indicates that approximately 10 percent of the

(CBO–5)

1,800 individuals working at sites surveyed 1,800 individuals working at sites surveyed by the Department of Labor many have been ineligible under current law.[16] If these error rates are indicative of the national situation, erroneous payments nationwide could approach $0.6 billion.[17]

According to the GAO report, the major cause of error in determining CETA eligibility was the reliance on participant-supplied information and the lack of standard verification procedures.[18] In addition, prime sponsors have little incentive for detailed eligibility screening because they are allowed 60 days, during which enrolees are working, to determine the eligibility of enrollees and there are no sanctions provided (such as requiring repayment of disbursements to ineligible individuals).[19]

FOOTNOTES

[1] U.S. Department of Labor, *Employment and Earnings, January 1978*, Tables 1 and 3; U.S. Department of Labor, *Educational Attainment of Workers, March 1977*, Special Labor Force Report 209. For discussions of the causes of these disparities see Congressional Budget Office, *Youth Unemployment: The Outlook and Some Policy Strategies* (1978), *Income Disparities Between Black and White Americans* (1977), and *The Unemployment of Nonwhite Americans: The Effects of Alternative Policies* (1976).

[2] P.L. 94–444. The Carter Administration, in regulations that became effective in fiscal year 1977, changed the definition of economically disadvantaged from poverty level income to poverty level or 70 percent of the Bureau of Labor Statistics lower living standard, whichever is higher. The effect was to increase the eligible population for some programs by as much as 25 percent.

* * * * *

[5] No attempt has been made to estimate the eligible population for Title II programs because available data do not permit the identification of Title II eligibles, who must reside in areas where unemployment rates are 6.5 percent or more for three consecutive months. Estimates made by the National Commission for Manpower Policy indicate that the size of the eligible population may be in the same range as for Title VI programs; National Commission for Manpower Policy, *Annual Report* (forthcoming), Chapter III.

[6] The data for participants are for the program prior to the introduction of targeting criteria in 1976.

* * * * *

[16] General Accounting Office, *Information on the Buildup in Public Service Jobs* (1978).

[17] Based on $8,900 expenditure per year of service, the national average cost in Title VI programs during fiscal year 1978. In 1976 approximately 5.3 percent of the 3.6 million AFDC families were found to be ineligible. Erroneous payments to this group may have approached $0.66 billion based in an average benefit of $3,488 per four-person family. Congressional Research Service, *Welfare Reform Background Paper* (1977), pp. 12 and 85.

[18] Most eligibility determinations were found to be based on certification rather than verification of statements through the use of other sources. General Accounting Office, *Information on the Buildup in Public Service Jobs*, pp. 21–33.

[19] In addition, many prime sponsors delegate responsibility for eligibility determination to state employment service offices, since this absolves them of legal responsibility for errors. For a discussion of Department of Labor enforcement deficiencies, see Carl E. Van Horn, "Implementing CETA: The Federal Role," *Policy Analysis* (1978), pp. 177–80.

Mr. Chairman, this amendment will conform section 121 to section 103, and will reduce the instances of skimming in title VI of CETA. It will emphasize the primary goal of CETA, to help those most in need of employment skills obtain permanent, unsubsidized employment in the private sector.

I urge my colleagues to accept this important amendment.

Mr. Chairman, the second amendment will insure that a handicapped individual who is claimed as a dependent on another person's Federal income tax return is not excluded from participation in CETA. It will provide that eligibility for CETA for a handicapped person 16 years of age or older will be determined by looking at that individual's own income, not his family's income. By exempting family income from being attributed as the handicapped person's income, this will prevent handicapped persons who have little or no personal income from being ineligible for CETA.

The bill already contains a parallel exemption for older Americans, so that only their individual income will be considered in CETA eligibility determination. Also, this amendment conforms the bill to the Senate version on this matter.

Many handicapped persons, presently eligible for employment and training services under title I of CETA, will be ineligible under the revised "Economically disadvantaged" eligibility criteria of title I of H.R. 12452. They do not meet the eligibility criteria of section 125(7) because they are unemployed, have no income and are unable to fully care for themselves. They are totally dependent on their parents for their daily support and are forced to live in their family's home. Despite their handicap and since they must live at home, many handicapped individuals would not be eligible under section (7) A, B, C, or D as presently written. Additionally, the parents usually claim the handicapped child as a dependent for Federal income tax purposes since they do pay for the support.

Mr. Chairman, we have already made great strides in the CETA program with regard to the handicapped. At the committee level, I offered amendments to do the following:

Clarify definition of "handicapped" by adding "who can be reasonably expected to benefit, in terms of employability from services provided pursuant to this act."

Clarify status of persons working in sheltered workshops who might qualify for CETA.

Add "rehabilitation facilities" to the list of community based organizations. This strengthens the tie of vocational rehabilitation with CETA, as community-based organizations are part of the decisionmaking process for CETA.

Add an affirmative action program to CETA, which requires that the prime sponsors include in the plan how they plan to serve handicapped people; also how many handicapped were served in each of the 2 previous years. The Secretary must report the same things to Congress for the entire program.

Training and Placement Services (TAPS) is a national job training placement program run by the Epilepsy Foundation of America (EFA) in six locations under a contract from the U.S. Department of Labor. During 1977 more than 600 young adults with epilepsy were placed in jobs throughout the program, and more than 1,000 signed up to receive services. Total enrollment is now near 1,600 with 933 placements.

The proposed eligibility definition for CETA would severely restrict TAPS operation. It is estimated that up to 70 percent of the clients would be affected if the proposed eligibility definition were enacted.

The Association of Rehabilitation Facilities also sponsors an on-the-job training project that places over 300 handicapped individuals annually. A substantial portion of these persons would also become ineligible for CETA title II services under the present language.

I urge my colleagues to adopt this amendment in order that many handicapped individuals currently eligible for CETA programs will continue to receive the benefits in order to acquire job skills and obtain permanent employment.

The purpose of the third amendment is to permit the Secretary to waive certain of the restrictions on length of participation for PSE participants in programs operated by Indian tribes and Native Alaskan organizations. In many remote rural areas served by such programs, the opportunities for unsubsidized private and public sector employment are limited, and the services being provided by PSE participants are vitally needed. Such services include the operation of economic development, education, health, and social service programs.

During the current fiscal year, 98 Indian tribes, intertribal consortia, and Native Alaskan organizations are operating CETA PSE programs under the authority of titles II and VI. According to DOL information, approximately 12,000 slots have been supported under these programs. Indian and Native Alaskan entities received $143.6 million in PSE funds under the formula distribution of the 18 months of title II and title VI moneys appropriated by the Economic Stimulus Act.

DOL data on the characteristics of Indian PSE participants, their duration of unemployment prior to enrollment in PSE, and their duration of participation in PSE is limited. However, discussions with many Indian CETA Directors indicate that the program has effectively reached the long-term unemployed and that turnover is relatively limited in many cases. Both factors are attributable to the almost total absence of private sector jobs in the isolated rural settings where many reservations are located.

Under section 121(c)(1)(A)(ii) of the committee bill, all prime sponsors operating PSE programs, including Indian tribes and Native Alaskan organizations, would be required to terminate PSE enrollees after they have participated for 78 weeks in a PSE program. The Secretary is given very limited power to waive these limitations.

This limitation is intended primarily to prevent prime sponsors from substituting CETA funds for local tax revenue in order to meet the payrolls of regular governmental employees. The substitution problem does not arise on Indian reservations. Since tributes have very limited sources of tribal income, there is simply no opportunity to shift workers from tribal payrolls to CETA PSE rolls. All PSE-funded projects and services represent a net addition to those otherwise available on reservations. Therefore, the main purpose of the limitation on duration of participation does not apply to Indian PSE programs.

The amendment would enable Indian PSE programs to retain the skills of key participants for a slightly longer period, giving more continuity to projects delivering important services. The result would be consistent with CETA objectives of meeting critical community needs while providing jobs, and not in any way diminish the effort to curb substitution.

It provides for a special determination by the Secretary of Labor before waivers can be granted. This is intended to insure against any abuse of the expanded waiver authority for Indian and Alaskan groups.

The amendment leaves intact the general requirement in section 121(c)(2)(B) that no participant can remain in any combination of CETA subsidized jobs for more than 2½ years in any 5-year period. This restricts the application of the waiver authority and preserves the general congressional intent to make the benefits of the program available to as many eligible participants as possible.

The Division of Indian and Native American programs within the Employment and Training Administration of DOL has indicated its support for a liberalized rule for Indian tribes on the duration of participation restrictions in the PSE provisions of the bill.

MEMORANDUM

For: Lamond Godwin.

From: Alexander S. MacNabb, Director, Division of Indian and Native American Programs.

Subject: Comments on Solicitor's Analysis of Major Differences in CETA Bills.

The Solicitor's report is deficient in that no part of it addresses section 302(c)(1), the Indian and Native American program.

Concerning major differences and preferability of bills for the Indian programs, S. 2570 does not allow the Secretary of Labor to assist Native American groups in applying for and using CETA funds. The other two bills are clearly more preferable on this important point.

Concerning PSE, H.R. 12452 is clearly preferable because it has more flexibility on the duration of PSE. However, even this is not good enough. We agree with the position of the Indian and Native American CETA Coalition (letters attached). In place of the restrictions in Sec. 121 of the various bills, it would be more advantageous to have a provision that PSE programs operated by section 302(c)(1) organizations be able to function in such a way as to effectively provide essential services not otherwise available on Indian reservations and in Native Alaskan communities.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Vermont (Mr. JEFFORDS) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendments to the amendment in the nature of a substitute were agreed to.

AMENDMENT OFFERED BY MR. CORNELL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. CORNELL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. CORNELL to the amendment in the nature of a substitute offered by Mr. JEFFORDS: Insert at the end of section 122(c) of the Comprehensive Employment and Training Act as proposed by the amendment of the gentleman from Vermont, the following new paragraph:

"(3) The Secretary shall facilitate and extend projects for work on the weatherization of low income housing titles II, III, IV, and VI of this Act so as to achieve the most efficient match of manpower funds to materials funds. The Secretary shall, in coordination with other appropriate agencies, provide technical assistance and otherwise encourage prime sponsors, serving areas where such projects would contribute to energy savings, to develop and continue weatherization projects as part of their programs under this Act to best prepare applicants for employment in energy related jobs in unsubsidized employment.

Mr. CORNELL. Mr. Chairman, this amendment is intended to further the use of available manpower under CETA for weatherization projects.

Although the committee has worked closely with the Department of Labor in an effort to increase activities of CETA workers in weatherization programs, I believe that this national priority can only be achieved by Congress demonstrating its strong support for such participation.

The Community Services Administration weatherization program has resulted in important reductions in energy consumption by the elderly and the poor. At the same time this program has created jobs leading to marketable skills and the opportunity for the development of new enterprises in the field of energy conservation. The Departments of Energy and Housing and Urban Development have played an active role in supplying the materials for the weatherization projects, but the continued success of this vital program is dependent upon the availability of CETA labor.

Unfortunately, there appears to be some reluctance on the part of many prime sponsors to provide the necessary manpower to continue these programs. According to CSA, 75 percent of the 1,000 local weatherization projects throughout the Nation were faced with a shutdown of operations due to loss of CETA manpower slots as of July 31, 1978. Although this problem may be due in part to the one-year project requirement under current law, specific statutory reference to weatherization projects, as my amendment provides, would assure that we would have sufficient manpower to match the available materials.

Weatherization programs have proven to be highly successful as CETA projects in terms of both training and future private sector employment opportunities. In my home State of Wisconsin, for example, where CETA labor has been used to carry out weatherization activities, 75 percent of CETA employees leaving the weatherization project do so because they have secured private employment. The phenomenal success rate for private sector employment after participation in local weatherization programs is directly related to the training provided and the skills acquired from participation in the weatherization program. I believe that the CETA program can continue to profit from such successful projects and I urge my colleagues to support this amendment.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. CORNELL. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I want to commend the gentleman on his amendment. Of course, my office has worked closely with his in bringing this amendment forward. I certainly think it is an excellent attempt to try to maximize utilization of our CETA funds to do something for a national priority.

I think it is an excellent amendment, and I wholeheartedly support it.

Mr. CORNELL. I thank the gentleman.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. CORNELL. I yield to the distinguished chairman, the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Chairman, I would like to join with the gentleman from Vermont (Mr. JEFFORDS) in accepting this amendment and to point out that the other body has already approved this amendment and has already given approval to this very worthy program. I think that by adopting the amendment in this House we give very strong support to the idea that this is the type of program that we want the CETA enrollee to engage in. I wish to commend the gentleman from Wisconsin (Mr. CORNELL) for offering the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. CORNELL) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. ASHBROOK. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK to the amendment in the nature of a substitute offered by Mr. JEFFORDS: Page 76, line 3, immediately after the period insert the following new subsection:

"(f) any evaluation report, or data, or information collected in preparation of such report submitted under this section or under any other provisions of this Act, or any contract which is made or information pursuant to such contract which is paid for or made with appropriated funds shall be made available upon request, within 4 days to the Chairman or ranking minority member of the Committee on Education and Labor of the House of Representatives and the Committee on Human Resources of the Senate."

Page 76, line 4, redesignate subsection "(f)" as "(g)".

(Mr. ASHBROOK asked and was given permission to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Chairman, I think this amendment speaks for itself. I suppose in this day of computers and great bureaucracies that it should not be necessary, but it does seem that it is always difficult to get reports. This amendment merely indicates that within 4 days, reports shall be made available, on request, to the chairman or the ranking minority member of either the House or Senate committees with responsibility and oversight over this program. I certainly urge my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. RISENHOOVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 12452 as amended by the Jeffords substitute. I believe the concept of comprehensive employment and training, through Federal legislation, is sound. This bill, the amendments of 1978, strengthen our CETA program and sharpen its impact.

Particularly, I am pleased with new latitude provided in title 1 which mandates State prime sponsors to effectively subcontract with sub-State planning districts for the planning and delivery of CETA programs.

During the past several months, I have worked with the administration and counseled with you, Mr. Chairman, in an effort to gain approval of a prime sponsorship application by the Eastern Oklahoma Manpower Consortium. It was composed of seven counties who are members of the Eastern Oklahoma Development District (EODD). This application was rejected on grounds that it failed to meet certain standards.

None of the 7 counties had a population of 100,000—although Muskogee County has 70,000 people—and the entire consortium had total population of 210,000. Also, apparently, the level of unemployment did not meet levels of "special circumstance," which are provided under current law. I strongly supported the consortium's application and regretted that the secretary rejected this local sponsorship.

In my view, local units of governments—such as planning districts and elected county officials—are best qualified to plan and administer CETA programs.

Am I correct, Mr. Chairman, in assuming that under this bill planning and administration of all CETA programs by substate planning districts will not only be possible—but will be defined by statute and regulations.

Mr. HAWKINS. That is correct.

Mr. RISENHOOVER. As I understand the version of this legislation as passed by the other body, there is a difference in the language.

Our bill states:

State prime sponsors shall make appropriate arrangements for appropriate area planning bodies to serve subareas within the State prime sponsor's area for the purpose of assisting in the effective planning and delivery of comprehensive employment and training programs in such subareas, in accordance with such regulations.

The other body's bill, S. 2570, this had been amended to provide that the State prime sponsors, "in coordination with units of general local government," shall make these arrangements with the substate planning districts.

Am I correct in assuming that this would specifically allow units, such as the Eastern Oklahoma Manpower Consortium, to function as the "subcontractor" in the planning and delivery of CETA program?

Mr. HAWKINS. That is my understanding.

Mr. RISENHOOVER. In that event, I strongly urge the conferees to yield to the other body on this particular amendment. And, again, I thank the distinguished gentlemen from California and the committee for the good work and fine program provided in H.R. 12452.

AMENDMENT OFFERED BY MR. GOLDWATER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. GOLDWATER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER to the amendment in the nature of a substitute offered by Mr. JEFFORDS: Insert the following new subsection at the end of section 121:

"(m) No funds under this chapter shall be used, directly or indirectly, to assist any person who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment."

Mr. GOLDWATER. Mr. Chairman, the purpose of my amendment is very simple. It is to prohibit the use of CETA funds to provide job training, language training, or other employment-related services to illegal aliens and aliens not admitted to this country as permanent residents.

I do not believe it is necessary to go into all the statistical evidence concerning the impact illegal aliens have on our job market: our public assistance programs; our educational programs, and a myriad of other social and economic areas.

And, while I do not have evidence that the use of CETA funds to benefit illegal aliens is a widespread problem, I would like to share a specific case which indicates to me the likelihood that the Department of Labor is not paying attention to the possibility.

I have before me a copy of a grant application which was subsequently approved by the Department of Labor. Based on the information contained in this application, the Department awarded $347,529 to a California group to increase the social, environmental, and language skills of 75 farmworkers.

Now, I am not going to make a big deal about the outrageous cost per pupil—although it is tempting to point out that what they are spending on an English class could pay a year's tuition for 75 students at Harvard.

I am also not going to linger over the fact that the Department handed out over $300,000 of hard-earned taxpayer's money to implement what is described in the application as a "nontraditional method of education" which includes something called "suggestology." Although I would suggest that this method is so nontraditional, the word "suggestology" does not appear in any reference book at the Library of Congress.

I am not even going to dwell on the glorious possibilities of their proposed purchase of two vans so farmworkers can take "field trips."

No, the portion of the application which is pertinent to my amendment appears in that section where the applicant describes whom they are going to recruit as students.

The prime sponsor lists three basic groups of potential beneficiaries and the first group listed is—and I quote:

Recent arrivals, new to the country who will possess no English skills.

In another section the application outlines what the English lessons will emphasize, and again I quote:

Students will be encouraged to talk about their home country * * *

Now, I realize that one could construe these phrases in a way that would make them perfectly innocent as regards illegal aliens, and I am not necessarily making any accusations.

But, if you were handing out large amounts of money and if your job was to insure that that money was spent to reduce U.S. unemployment statistics and even if you were only vaguely aware that large numbers of people were entering this country illegally and many of these aliens lived in the State of California, would you not ask for some clarification before you benignly handed over $350,000?

That seems like a logical thing to do. Right?

Well, my staff contacted the Department concerning the above quotes, and it would appear that no one in the Department found these quotes suspicious nor thought that this might be a questionable use of taxpayers' money.

I repeat: I am not making any allegations, but I do believe this indicates that it would be prudent for us to take a cautionary measure and specify in law that the folks downtown ought to be aware of this possible misuse of CETA funds. Certainly, it is not the intent of Congress to use CETA money to advance employment opportunities for people who are in this country illegally, and I would urge my colleagues to support this most elementary and necessary prohibition.

Mr. HAWKINS. Mr. Chairman, I move to strike the last word.

I am not opposed to the amendment. As a matter of fact, we will accept it. However, I call to the attention of the gentleman from California (Mr. Goldwater) that the amendment is duplicative of language already in the bill. Whether or not it is stronger or weaker I think may be open to some discussion. Reading from paragraph (e) of section 132 on page 80 of the committee print, participation is limited in the program:

> Participation shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, and lawfully admitted refugees and parolees.

In a positive way that obviously eliminates a class of individuals who would be prohibited from being served under the act, and I would suggest that if this amendment is accepted—and just for the sake of time we will do so because we think it is already included in the bill—it is going to be necessary eventually to attempt to consolidate some of these amendments which we happen to be accepting today merely because they do not add necessarily anything that is not already in the bill. So merely with that reservation on this side, we will accept the amendment.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield just for a clarification?

Mr. HAWKINS. I will be glad to yield to the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding.

I agree with the Chairman that the bill does address itself to those who are eligible for participation. However, I think looking at the history of the administration of the CETA funds, there are glaring examples where the Secretary has not looked at these applications as far as enforcement of those who are eligible or who are not eligible, and we have several examples of where in fact illegal aliens perhaps were recipients of these funds. Although the committee bill does address itself to the eligibility, there is no explicit prohibition against the use of these funds for illegal aliens. Therefore, that is the purpose of my amendment, to make it perfectly clear to the Secretary that these moneys are only to be used for those qualified as spelled out in the bill in subsection (e).

Mr. HAWKINS. As a further comment, the purpose of accepting it is merely to make clear that we do join with the gentleman in the intent in this legislation, to build the history, that we do intend for this to be adequately enforced, as the amendment suggests. I can assure the gentleman that we will work toward that end in seeing that the purpose of his amendment is thoroughly supported and that the enforcement of it is as rigid as he has suggested.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

I just want to say that although we do have some of those concerns, we believe that the amendment is a good one, and we support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Goldwater) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. Jeffords).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENTS OFFERED BY MR. MAGUIRE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. MAGUIRE. Mr. Chairman, I offer six amendments to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendments offered by Mr. Maguire to the amendment in the nature of a substitute offered by Mr. Jeffords: Insert at the end of section 106 of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute offered by the gentleman from Vermont the following new subsection:

"(j) In order to insure compliance with the provisions of this Act and regulations thereunder and to insure conduct of programs in a manner consistent with the purposes and objectives of this Act, the Secretary may require prime sponsors to participate in unified audit programs established by the Secretary to provide for the audit of both prime sponsors and their respective subgrantees and subcontractors. In any such case the Secretary may require the prime sponsor to pay, from funds under this Act available to it for administrative expenses, that portion of the unified audit expenses allocable to the audit of such subgrantees and subcontractors.

Insert at the end of section 152 of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute offered by the Gentleman from Vermont the following new subsection:

"(e) In carrying out the duties and responsibilities provided by this Act, the Director shall take such steps as may be necessary to insure that—

"(1) audits of each prime sponsor (A) are conducted at least once every two years, and (B) are conducted in a reasonably timely manner; and

"(2) that action taken on the basis of any such audit, including review and collection of unallowable expenditures, is completed in a timely manner after the completion of any such audit."

Insert at the end of section 155 of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute offered by the Gentleman from Vermont the following new subsection:

"(d) In addition to the sums otherwise authorized to be appropriated by this Act, there are authorized to be appropriated such sums as may be necessary to carry out the functions vested in the Office or the Director."

In section 154(a)(1) of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute offered by the Gentleman from Vermont, strike out the semicolon at the end thereof and insert in lieu thereof the following:

", including—

"(A) the amount and proportion of prime sponsor expenditures subjected to further review on the basis of regular audit activities during such period;

"(B) the amount and proportion of such expenditures which are disallowed on the basis of such further review during such period; and

"(C) the amount and proportion of disallowed expenditures which have been recovered by the Department during such period;

Mr. MAGUIRE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments to the amendment in the nature of a substitute be considered as read, printed in the Record, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

(Mr. MAGUIRE asked and was given permission to revise and extend his remarks.)

Mr. MAGUIRE. Mr. Chairman, on behalf of Congresswoman Collins, I am offering six amendments. Both Congressman Hawkins of the Employment Opportunity Subcommittee and Congressman Sarasin have agreed to these amendments. The six amendments will be offered en bloc.

Under Chairwoman Collins of Illinois' leadership the Manpower and Housing Subcommittee held 8 days of oversight hearings on the Comprehensive Employment and Training Act. Those hearings led Chairwoman Collins to the conclusion that we have to tighten the audit and evaluation systems now in place in the CETA system.

The present system of audits has several serious deficiencies. First, many required audits are not performed at all. Second, those audits which are done are not completed quick enough to detect and correct either fraud or poor performance. Third, because the audits of prime sponsors and of subcontractors are done by different auditors and at different times, they cannot be integrated to give an accurate picture of the spending of CETA money. Fourth, the Department of Labor reverses the great majority of questioned costs found by auditors. Fifth, the Department of Labor collects less than 15 percent of the disallowed costs.

The amendments attempt to correct each of the above problems. First, they will require the Department of Labor to audit prime sponsors biannually, review these audits quickly, and collect disallowed costs. Second, the amendments require a separate appropriation for the audit office so Congress will know how much money is being spent on audits. Third, the DOL will have to report to Congress the amount of questioned costs found by audits, the amount finally disallowed by the Department of Labor, and the amount of disallowed costs finally collected by the Department of Labor. Fourth, my amendments allow the Department of Labor to require the prime sponsor to participate in a unified audit. This means that the Department of Labor and the prime sponsor will use the same auditor to audit the prime sponsor and the subcontractors making complete and timely audits possible. The prime sponsor will have to pay only for that part of the audit that relates to subcontractors. Under the present system, prime sponsors must already pay for the audits of subcontractors. The Department of Labor will pay for that part of the audit which relates to the prime sponsor.

This system was tried in the Philadelphia prime sponsor with very favorable results. Both the Department of Labor and the prime sponsor were pleased with the operation of the unified audit system. The entire audit was performed at approximately one-third of the cost of what DOL and the prime sponsor would have paid had they engaged separate auditors. The audit is being done contemporaneously with the expenditure of money and will be completed only 3 months after the end of the grant. Other CETA audits take from 1 to 4 years after the grant has ended before they are completed. This is too late to prevent fraud or to amend poor programs before it is too late.

Many prime sponsors have requested to institute a unified audit system, but the audit office does not have adequate funds for the Department's share. The unified audit system would save time, money, and make the audits a useful tool of management and enforcement.

The fifth amendment will require prime sponsors to set up an internal monitoring unit to evaluate and check its own and its subcontractors' programs. Evaluation is now required by the act and the regulations, the amendment strengthens those provisions. The better prime sponsors now have such units with sufficient staff, authority, and independence to do their job. All prime sponsors should be required to have them. The General Accounting Office and the National Commission on Manpower Policy have both demonstrated the need for evaluation of CETA programs. Without evaluation there is no way of knowing whether CETA money is being spent for programs that work.

I turn now to the sixth amendment. Although it does not follow in nature from the five I have just described—it is of equal or greater importance. Chairman Collins' sixth amendment would include women in the list of persons who are at a disadvantage in the labor market as described in section 301(a). Youth, offenders, handicapped individuals, older workers, and persons of limited English-speaking ability are all eligible for employment and training services as described in this section. In my view—the need to include women in this list of disadvantaged groups is clear.

As of 1 year ago, 48.9 percent of women over age 16 were in the labor market swelling their ranks to 40.5 million as compared to 57.2 million men in the work force. In spite of the size of this group of workers, in 1976 women who worked year round earned, on the average, 60 percent of what male workers earned—according to the Department of Labor's own statistics.

Not only is a woman's paycheck unequal to a man's, she stands a greater chance of being unemployed. Unemployment has been higher for women than for men in 29 of the past 30 years.

Further, women have traditionally been excluded from apprenticeship programs that lead to high-paying skilled work. In 1976, out of 11 million skilled blue-collar workers—slightly more than 4 percent were women.

To take this description of the obstacles women face in obtaining meaningful employment one step further, minority women tend to work in the lower-paid occupations, because they do not have access to the training that would give them needed skills for white collar and professional jobs.

Webster's dictionary has several definitions of "disadvantaged"—one of which reads "lacking in basic resources (such as standard housing, educational facilities, and civil rights) necessary for an equal position in society."

CETA is the major vehicle that Congress has created for the purpose of assisting the disadvantaged in pulling themselves up the ladder of economic self-improvement. Not only does a job mean self-sufficiency, it also brings to its possessor dignity and the opportunity to step ahead of the life that you were born into. I ask that my colleagues join me in drawing to the attention of the Secretary of Labor, the intent of Congress that women be eligible for title III employment and training services. This "lack of basic resources"—as Webster defined it—can no longer be allowed to prevent women from making their full contribution to this country's work force.

Each man and woman in this Chamber this afternoon knows how crucial our job is to our family's survival and well-being and to our own sense of importance and self-worth. We cannot in good conscience deny to others the opportunity to obtain skills that will allow them to build their place in this world.

I urge adoption, on behalf of Chairman Collins, of all these amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey (Mr. Maguire) to the amendment in the nature of a substitute offered by Mr. Jeffords.

The amendments to the amendment in the nature of a substitute were agreed to.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. FORD of Michigan. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Ford of Michigan to the amendment in the nature of a substitute offered by Mr. Jeffords: On page 210, line 14, title VI, section 603(c), after the word "title," strike the period and add the following: "and such positions with local education agencies shall be filled through subcontracting with the appropriate local education agency."

Mr. FORD of Michigan. Mr. Chairman, this amendment is merely an addition to the language in the bill to clear up what has been a problem and could continue to be a problem in the assignment of personnel to perform functions in or around schools.

Very simply what it says is that if CETA positions are to be placed in a school setting that the prime sponsor will contract with the school district so that the school district becomes the employer and supervisor of that employee performing the work in the school.

Frankly, the teachers are concerned about having prime sponsors who are not school districts selecting personnel and putting them on a personnel system that does not match the teachers personnel systems and putting them in an extra position, in a classroom setting or some sort of educational activity.

So far as I know, there is no objection to this amendment from the managers on either side. I hope that it will be adopted.

This amendment addresses a serious problem in the CETA program—a problem which has appeared in many areas and has the potential of appearing in many more. Under the present CETA law, and under the proposed bill, a prime sponsor or his subgrantee may "outstation" public service employees to work in schools. Although the employee in this case works in the school, and under supervision of school officials, he is not legally an employee of the school. He is simply assigned by the prime sponsor or subgrantee to perform a job in the school. For many types of employee this may be an appropriate arrangement, but for teachers and teacher aides it is fraught with difficulties.

The practice of outstationing is a threat to educational standards in the schools. It provides a means by which teachers and teacher aides may be hired through other than the regular channels of employment. In this manner the established safeguards about proper training and certification of teachers and teacher aides may be skirted for the sake of short-term expediency. Such a process may have a serious cumulative effect of lowering standards in the schools.

The practice of outstationing may also create serious inequities in the salaries, hours, and working conditions of teachers or teacher aides. For example, two teachers who are similarly qualified for employment may receive very different salaries and fringe benefits for performing identical work. This situation arises, because technically they are not employed by the same agency—although they actually work in the same school. The two teachers may also be subject to markedly different rules about work schedules, health and safety requirements, and other important aspects of working conditions.

This circumstance of having teachers or teacher aides who are equally qualified and performing similar work be compensated according to a double standard creates intense employee dissatisfaction. It also threatens the stability of collective bargaining agreements that have been achieved, often with great difficulty, between school authorities and teacher organizations. It is a source of friction that our schools, which already have many difficult problems to face, would be better off without.

This amendment would provide a simple remedy to this problem without producing additional problems in CETA. It would not have a sweeping impact; it would not make fundamental changes in the CETA program. Only in the employment of teachers and teacher aides, and only under title VI of CETA, employment would have to be by means of a subcontract between the prime sponsor or his subgrantee and the school system. Teachers or teacher aides who are hired with CETA funds and those who are hired in the regular manner would have the same employer. Insofar as consistent with other provisions in the CETA law, teachers or teacher aides with similar qualifications and performing similar work would be treated in a like manner, and a serious inequity would be removed from the CETA program.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. FORD) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. ASHBROOK. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK to the amendment in the nature of a substitute offered by a Mr. JEFFORDS: At the end of Section 112, insert the following new subsection:

"(e) Notwithstanding any other provision of this section, no funds are authorized to be appropriated for the fiscal year ending September 30, 1979, for carrying out the provisions of this Act in excess of 80 per centum of the sum of the amounts made available for expenditures during the fiscal year ending September 30, 1978, for carrying out such provisions."

Mr. ASHBROOK. Mr. Chairman, the amendment I am offering would make a 20-percent reduction in the overall level of funding for the CETA program.

The cost of this program has gone sky high. In 1974, CETA was the recipient of $1.5 billion in outlays. Now only 4 years later outlays have jumped to a staggering $10 billion.

I strongly believe that $10 billion for this program is excessive. The House Budget Committee has also expressed doubts. By only a one-vote margin the committee turned back an effort to reduce funding for CETA by $2 billion.

Rather than cutting any specific area my amendment reduces the entire authorization by 20 percent. The Appropriations Committee would then decide the best distribution of these cuts.

It is apparent that CETA has more funds than it can handle. There has been report after report of abuse, waste, and outright fraud in the program. There seems to be a prevailing thought in this body that temporary economic stimulus funds should become permanent. The level of funding under economic stimulus went from $5.8 billion in 1977 to $9.5 billion in 1978 while unemployment was reducing. Almost $2 billion would be added in 1979 to $11.4 billion.

In New York City some CETA money is used to teach Islam rather than to provide jobs. In Oklahoma, relatives of politicians are reported to be on the CETA payroll. In Washington, D.C., CETA money has been used to build one of the Nation's largest city council staffs.

CETA money is also going to prospective ballerinas to attend ballet school and by feminists and gay rights groups to promote their political causes. The list could go on and on.

Let us not blow the lid off the U.S. Treasury. I urge adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) to the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Vermont (Mr. JEFFORDS), as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

Mr. BUTLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the full 5 minutes allotted to me, but I would like to have the attention of the managers of the bill to call to the attention of the Members an embarrassing situation which has developed in the State of Virginia and which was recently the subject of some comment in the press. One headline from the press that I would call to the Members' attention is this: "300 Jobless Sit in Motels in Apple-Picking Dispute."

What happened here was that there was a dispute between the apple pickers and the Department of Labor, and somehow we wound up with motels filled with Puerto Ricans who did not have any jobs, but who were being housed at the expense of CETA. This was quite an expensive project.

I would have offered an amendment on this subject, but it was not acceptable to counsel. I think we have been very cooperative today, and that is another reason why I did not offer the amendment.

But I would like to have the assurance of the managers of the bill, including the gentleman from California (Mr. HAWKINS), that this matter, which is obviously embarrassing to the program, will be the subject of some oversight review on the part of the subcommittee and will possibly be the subject of hearings.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield to me?

Mr. BUTLER. I am happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, because of my work for several years as the chairman of the Subcommittee on Agricultural Labor of this Committee on Education and Labor, I am very familiar with the circumstances that led to the outrageous circumstances the gentleman is describing over there in Virginia. I think it is an absolutely shameful example of some greedy people in the gentleman's State who unfortunately were making the taxpayers of the rest of the country pay for their greed.

We agree with the gentleman that CETA should not be paying for those workers, but if it were not for CETA, maybe someone over there would have to pay for them.

Mr. BUTLER. Mr. Chairman, I yielded to the gentleman because I thought he was going to respond to the question I had.

Is there a possibility that the gentleman may be somewhat in error in his interpretation, and is there a possibility that we can have an oversight hearing and determine if this happens that it does not happen again? I think it is something the record should show; not the CONGRESSIONAL RECORD, but a hearing record.

Mr. FORD of Michigan. If the gentleman will yield, I think the gentleman would get the answer if he checked with his own Virginia Department of Labor. They will tell the gentleman that this has been going on for years.

Mr. BUTLER. Then I have no assurance from the gentleman?

Mr. FORD of Michigan. There is going to be oversight as to what is happening with the apple pickers in Virginia.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from California.

Mr. HAWKINS. As chairman of the subcommittee, I think I can assure the gentleman that if he so requests, we can arrange a convenient time which would, I think, satisfy his request for a hearing. I think that it is of a nature that, inasmuch as it does involve CETA, it is a very controversial issue, certainly, not only respecting the district represented by the gentleman making the request, but I think the entire northeastern section of the country. We can assure him that we will conduct oversight and will, if he so desires, have a special hearing on the subject matter by the Subcommittee on Equal Employment Opportunities.

Mr. BUTLER. Mr. Chairman, I thank the gentleman very much.

I will not trespass further on the gentleman's time, except to say that my silence does not accept the characterization by the gentleman from Michigan of this situation.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

REPEALER

SEC. 3. Section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974, Public Law 94–563, is hereby repealed.

The CHAIRMAN. Are there amendments to section 3.

If not, the Clerk will read.

The Clerk read as follows:

EFFECTIVE DATE

SEC. 4. This Act shall take effect on October 1, 1978.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Ashbrook: Page 225, line 8, immediately after the period, insert a new section 5:
>
> "Sec. 5. Notwithstanding any other provision of this Act, not more than 30 per centum of the amount appropriated to carry out this Act shall be available for public service employment programs."

Mr. ASHBROOK. Mr. Chairman, my amendment would limit the use of funds for public service employment programs to 30 percent of the amount appropriated to carry out the act. This does not reduce overall spending but assures that a major share of the funds are devoted to training, employment development and other clearly more worthwhile and cost-efficient efforts.

This amendment merits your support. One of the most abused and least effective Federal programs now going is public service employment. By the end of the year almost $12.5 billion will have been channeled into public service employment in a time span of only 4 years. Despite the incredible level of expenditures, there is little to indicate that the program has been helpful in solving our unemployment problems.

Many of the PSE dollars replace local funds with Federal funds in a process known as substitution. The Federal money simply displaces State and local funds being used to provide the same public services. Consequently far fewer jobs are created by PSE than the anticipated number. In fact, no matter what studies you look at, they all indicate substantial substitution.

The PSE program has also failed miserably at moving people into meaningful and unsubsidized jobs in the private sector of our economy. Those subsidized tend to remain subsidized. Information from prime sponsors suggests a transition rate as low as 3 percent.

Nor has PSE helped those most in need. According to a Department of Labor report for fiscal year 1977, almost 80 percent of those employed in the program had a high school education or better, two-thirds were male and only 20 percent were nonwhite. Compare this with title I, where nearly one-half had not completed high school, one-half were female and more than 40 percent were nonwhite.

Simply put, PSE is a costly program that is not working. Congress should not continue to pour so many dollars into public service employment.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment. I hope the Members will reject this amendment. It would cut in half the total amount of funds available for PSE employment. This bill, with the Jeffords amendment which was adopted, is well within the congressional budget figure. It is below the President's budget request. There are still hardcore unemployed in this country notwithstanding the substantial gains we have made in reducing unemployment.

I think there is a misconception generally about the effectiveness of this program. Since its inception in 1973, 72 percent of all the people who have been employed in any kind of work by CETA have either gone on to private employment, unsubsidized employment, or they have gone on to additional training which has made them eligible for employment in the private sector. I think that is a remarkable record.

Through fiscal year 1977, last October 1, there were 1,200,000 Americans who graduated from these CETA programs and moved on to unsubsidized permanent employment in the Nation's economy, carrying their own weight and paying taxes along with the rest of us. That is a magnificent contribution. Another 1,400,000 moved on to additional training, and many of them have been prepared—most of them have been prepared—and have been placed by the private sector in jobs later on. So, I think we should be wise to satisfy ourselves with the prudent reductions that have already been made, and not insist upon an even more severe reduction which this amendment would require.

This amendment is not a surgeon's scalpel. This is a meat ax. This would cut all the moneys available for any public service employment absolutely in half. Surely we do not want to do a thing that drastic. Surely we should recognize that we have made significant and sufficient alterations in this program here on the House floor.

In spite of a few highly publicized irregularities, this program has worked effectively and well in most localities. It is a prudent program. It now is a well-balanced program. It meets the needs of the country. It is within the budget of the President and it is clearly within the budget resolution that this Congress has adopted. Therefore I think the role of responsibility for all of us is to substantiate what has been done, support the program as it now stand with the Jeffords amendment intact, and not make further ravages on the public service employment sector.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Ashbrook).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business. The pending business is the demand of the gentleman from Ohio (Mr. Ashbrook) for a recorded vote.

Does the gentleman from Ohio insist upon his demand for a recorded vote?

Mr. ASHBROOK. I do, Mr. Chairman.

A recorded vote was refused.

So the amendment was rejected.

Mr. QUIE. Mr. Chairman, last month when we began consideration of the CETA reauthorization legislation, I stood here and indicated my general support for the legislation, although I cited several areas which I saw as problems and I mentioned that amendments to those areas should be supported.

I am pleased that the substitute bill offered today addresses those problem areas and I urge my colleagues to support it. As noted in a letter circulated a week ago discussing the substitute, it retains the basic ideas of the Jeffords and Obey amendments adopted last month, includes all the other amendments approved on the floor at that time, and adds some significant new provisions. As with the commitee bill, the substitute represents the results of bipartisan discussion and cooperation, and it better addresses the problems of youth unemployment and structural unemployment.

Despite the improvements of this bill, we must recognize—and try to convey to our constituents—that CETA is not a panacea for all of our economic problems. Any Member of Congress who was not aware of it before has probably realized from constituent mail over the past several months that to many State and local governments see it as a cure-all, which it was not intended to be nor ever can be. However, the program as proposed in the substitute bill will, I believe, redirect our resources in ways which can make a difference.

The emphasis on training and on transition to private sector employment is a more realistic approach than the widespread use of PSE, which has occurred in the past without thought to transition. I support the substitute—it reflects great thought and effort, and no longer ignores the problems which we have known to exist but have watched silently for so long. I urge my colleagues to support the substitute.

● Mr. RODINO. Mr. Chairman, I urge my colleagues to oppose further amendments that would weaken H.R. 12452, the comprehensive employment and training amendments.

Our Nation suffers from a chronic unemployment problem, and, unfortunately, the economy of New Jersey is still depressed and experiencing one of the Nation's highest unemployment rates. The situation would be worse without the assistance of CETA programs which have proven their worth in the years since the legislation was enacted in 1973.

The amendments adopted earlier when the bill was before us have weakened the assistance authorized by the bill and additional cuts would have disastrous effects. Because New Jersey's average annual wage always exceeds that of the Nation, the amendment placing a limit of $12,000 for any CETA job is damaging to my State. In 1977, the average annual wage of individuals covered by unemployment insurance in New Jersey was $12,145, compared with a national average of $10,602. This means that in New Jersey it is more difficult to provide CETA participants with highly skilled jobs while maintaining an equal pay for equal work wage scale, as is intended under the legislation. In fact, it is estimated that this amendment will result in the loss of 1,362 jobs in my congressional district.

Also, in my district the amendment cutting $1 billion from title VI will mean loss of an estimated $12.9 million of the $54.3 million that would otherwise have been received. This will result in having 1,585 individuals out of work who otherwise would be gainfully employed under CETA programs.

It is especially distressing to realize that several programs will suffer staff cutbacks or will be eliminated entirely. These include programs for security in low-income housing and in parks, senior citizen housing, day-care centers, and homemaker services for the elderly.

Mr. Chairman, it is clear that the bill as already amended will have a debilitating effect on title VI programing and the entire CETA system. I strongly urge rejection of any further amendments that would cripple CETA throughout the Nation.●

● Mr. BUTLER. Mr. Chairman, I commend the gentleman for his amendment and would like to voice my support. I believe it important that we insure older workers that they will receive an appropriate level of services under the Comprehensive Employment and Training Act.

It was brought to my attention that in my congressional district older workers are not being served adequately in being trained and placed in employment. We need programs to help older workers remain in private employment in the face of societal pressures to retire. We need programs to allow those older persons who can and want to work to continue to do so. We need people to work with private employers and train workers in new work arrangements for the older workers.

It is likely that at the local prime sponsor level. Older worker programs may be given lower priority in the wake of pressure to meet priorities of the younger workers.

I agree with the gentleman's statement in the CONGRESSIONAL RECORD of August 7 in that although much attention is correctly focused on the employment needs of younger workers, older workers represent a substantial portion of the unemployed population.●

● Mr. YOUNG of Missouri. Mr. Chairman, I would like to express my support for H.R. 12452, the CETA amendments of 1978. The bill addresses many of the existing concerns and criticisms leveled at CETA programs, and strengthens a primary goal of Federal employment programs: to provide meaningful work experience and training that will lead to skilled jobs in the private sector.

The new title VII of this bill, the private sector initiatives program, is the logical outgrowth of the highly successful skill training improvement program, which was introduced by the Department of Labor in 1977.

The main objectives of the skill training improvement program (STIP) are: To identify specific job skills needed by local industry and businesses, and to train long-term unemployed and unskilled workers to meet these private sector employment needs.

St. Louis County, Mo., was one of 133 prime sponsors nationwide to receive a STIP grant. The county office of employment and training, working with the St. Louis Regional Commerce and Growth Association, developed a program to train 100 unemployed and unskilled workers in the areas of computer programing and technology, welding, machine operation and maintenance.

Training in these areas is preparing these workers for actual jobs in local industries and businesses.

The 1978 CETA amendments create a new title VII to continue these efforts to directly involve business and industry in meeting local employment needs.

I also support new provisions under title II of the CETA reauthorization legislation, that limit the length of public service jobs and require that these jobs provide training experience that will lead to unsubsidized employment.

The partnership established in this bill between Government and the private sector to achieve national employment goals deserves the strong support of all Members of Congress.●

● Mr. FRENZEL. Mr. Chairman, CETA has been a national scandal, but this bill makes great improvements. Since the original Jeffords amendment was passed, H.R. 12452, has become more attractive. The later Jeffords substitute and the amendments thereto made further improvements.

The requirements have been tightened. The salaries have been lowered. The priorities have been changed. It is not a great program yet, but it is one worthy of support.

The Ashbrook amendment to change the percentage use of funds from a preponderance of public service job to a preponderance of job training. The amendment is extreme but I will support it because training for real, permanent, career jobs in the private sector is so for superior to the make-believe, dead-end public service employment.

Without the Ashbrook amendment, H.R. 12452 still begins to reorient its priority from public service jobs to real job training and to jobs for youth. I wish we were moving to those jobs faster, but I will acknowledge the improvement with an affirmative vote.●

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 12452, the Comprehensive Employment and Training Act Amendments of 1978 (CETA), which will extend CETA for 4 years, through 1982. I believe this is one of the most important pieces of legislation that has come before the 95th Congress and I urge my colleagues to join me in supporting this bill that will continue to create training, jobs, income, and greater opportunity for many Americans.

CETA was approved by Congress in December 1973, to provide jobs and training to the Nation's economically disadvantaged population who for reasons of race, sex, education, and other social and economic reasons have found it difficult to find a job. It was enacted as a special revenue-sharing bill that consolidated a number of major employment training programs such as the Manpower Development and Training Act, the Economic Opportunity Act, and the Employment Training Act. Additionally, the original act created a shift in control over the manpower program from Federal to local officials, based on the reasoning that local governments know the needs of their people and could best provide follow-up services. When decentralization went into effect, prime sponsors became the local agents responsible for administering CETA programs.

When CETA was enacted in 1973, the unemployment rate was 4.5 percent. However, in 1975, this figure rose to 8.5 percent and in 1977, the unemployment rate remained high at 7 percent. But these figures do not reflect the inequitable distribution of unemployment among minorities. In 1977, the black unemployment rate was double the overall rate and averaged more than 14 percent. And for black youth, unemployment reached the astounding level of 40.3 percent. Despite some improvement in the economy in 1978, continued massive unemployment will give the Nation's employment and training programs added significance for the poor and unemployed.

Perhaps, the greatest reason for supporting this bill is that the CETA system has proven to be an effective fiscal policy tool that can move rapidly against the problem of unemployment. CETA training and jobs have enabled people to go to work and earn money. The program has brought about improvements in the number of jobs held by minority workers. Since May of 1977, CETA enrollment accounts for a 25 percent increase in total black employment. And in recent months the number of employed minority youth increased by about 11.5 percent. In 1978, the Labor Department expects CETA to help almost 4 million people—about 1.3 million with job training, another 1.1 million with public jobs, about 100,000 with various national employment programs, and about 1.3 million young people, a serious problem group having an overall unemployment rate of nearly 20 percent. In the future, CETA will affect the lives of about two-thirds of the 6.2 million people now out of work.

CETA legislation has also benefitted our cities. Cities continue to hold the majority of Americans, about 60 percent. And unfortunately, our cities hold the majority of the Nation's unemployed, about 71 percent. In 1977, about one-fifth of the Nation's jobless were out of work in the Nation's 30 largest cities. Social scientists have alleged that increases in such problems as street crimes are often directly and indirectly caused by the lack of jobs. Therefore, CETA, which has provided numbers of jobs to the unemployed, also serves as an important community service. Additionally, CETA is an effective economic tool since funds under this program can be used to provide trainees for economic development projects. Economic development funds provide the stimulus for new or expanding industries looking for new workers and local economic growth offers new employment opportunities to the structurally unemployed. Timely and imaginative use of CETA funds remain a necessity for the continued success of economic development efforts.

Though I support the CETA legislation, I must voice my opposition to proposed amendments to cut the number of public service jobs authorized by the bill: Public service jobs were provided specifically to lower the unemployment rates caused by the recession. Public service employment is a vital part of the Federal effort to reduce unemployment and has proven to be a flexible tool in recent years of high unemployment. These jobs should not be decreased. I also oppose any amendments which would lower the wage structure of CETA employees. It has been argued that indexing wages is inflationary. But it is my belief that indexing the average wage is essential to maintain a reasonable balance between the average wage and the cost of living. This provision would also affect the types of jobs available under the CETA program. CETA workers include managers and professionals. Continuation of such employment should be continued and encouraged. I do support, however, any amendment requiring the Secretary of Labor to revoke all or part of a prime sponsor's funds if a public service employment program is being conducted in violation of the provision of the act, and requiring the prime sponsor to refund to the Treasury all funds found to have been expended. I believe this amendment would improve and enhance the effectiveness of the CETA program and eliminate the problems of abuse, fraud, waste, and mismanagement.

Mr. Chairman, I believe we are just beginning to see the value to CETA. It has come a long way in 4 years. The program is now a part of President Carter's urban policy and will be a part of his plan to offer jobs to those on welfare. Additionally, CETA is to provide jobs under H.R. 50, the Full Employment and Balanced Growth Act of 1978.

I urge my colleagues to join me in supporting the extension of CETA for 4 more years. CETA is one of the most critical programs designed to ameliorate the problems of unemployment for both economically disadvantaged individuals and those temporarily out of work due to cyclical downturns in the national economy. This program should be reauthorized.

● Mrs. COLLINS of Illinois. Mr. Chairman, the House Government Operations Subcommittee on Manpower and Housing, which I chair, has traveled to Chicago today to conduct an important investigation into the effect of the Gautreaux decision on the availability of low- and middle-income housing in this city. Therefore, I am taking this opportunity to present my remarks in support of six important amendments to the Comprehensive Employment and Training Act (CETA) which I had intended to offer. Fortunately, the gentleman from New Jersey (Mr. MAGUIRE) has been kind enough to offer these amendments in my absence.

As chairwoman of the Subcommittee on Manpower and Housing, I recently held 8 days of oversight hearings on CETA. These hearings and investigations have led me to an important conclusion: The mechanisms for detecting and correcting poor performance and abuses on the part of prime sponsors and subgrantees are often woefully inadequate.

Of the six amendments which I had intended to offer, the primary one calls for each prime sponsor to establish an internal evaluation unit with sufficient authority, independence, and staffing to evaluate the performance of its own subgrantees and its own internal operations.

CETA is, by nature, a highly decentralized program in which prime sponsors make critical decisions on the clients to be served, the selection of delivery agents and the allocations of scarce resources among available alternatives. However, under the present legislation the oversight of CETA programs is vested in an overcentralized procedure consisting of 300 Federal representatives, appointed by the Department of Labor, who are somehow supposed to keep track of how well 450 prime sponsors and their 30,000 to 50,000 subgrantees are operating. These "Fedreps," as they are called, are on the whole to be commended for doing the very best job they can under very difficult circumstances. Realistically, however, it is simply unreasonable for us to expect a small battalion of conscientious troops to accomplish a task that would require an army of zealous warriors.

To assure that the monitoring unit does become a rubberstamp for the prime sponsor, my amendment requires that the Secretary of Labor determine, through the Federal representative, just how independent, authoritative and well-staffed the monitoring unit really is. This will make the Fedrep's job much more reasonable: instead of evaluating each particular program of the prime sponsor and its subgrantees, he or she will concentrate on the sponsor's own monitoring unit, passing judgment on its legitimacy and its effectiveness. If the work of the internal unit can be validated, we have much greater assurance that the prime sponsor is carrying out its programs competently. If, however, the Fedrep determines that the monitoring unit is not functioning properly, we have an immediate red flag and can take decisive action.

The next four amendments are intended to improve the present system used for auditing grant recipients and subgrantees. From my subcommittee's investigations it is clearly evident that the Department of Labor has not allocated sufficient money to perform audits of prime sponsors. Although the regulations stipulate that prime sponsors be audited at least every 2 years, the Department has told us that there are, right now—5 years after CETA became law—some 70-odd primes that have never been audited.

Bad enough as that sounds, it is not the whole problem. The audits that are done are not even started until 1 to 2 years after the CETA money has been spent. By the time Labor decides what to do about the questionable expenditures found by the auditors, another 2 years have passed. Finally, by the time the Department gets around to requiring the grantees to pay back the disallowed funds, 3 to 4 years have elapsed.

Under this procedure it is not difficult to see why according to a recent GAO study, approximately 15 percent of the questionable expenditures found by auditors were ever collected by DOL from prime sponsors. This same GAO study, based on a random sampling of DOL audits, found $165 million worth of questioned costs just sitting on the shelf at the Department.

To deal with these problems, my second amendment allows the Secretary to require main grantees and their subgrantees to participate in a unified audit. Under the present system different auditors perform the audits of the prime sponsors and its subgrantees at different times. This leaves DOL with the impossible task of reconciling these various audits so as to determine where the responsibility lies when questionable costs subsequently occur.

The obvious alternative to this inefficient procedure is to encourage simultaneous audits to be performed on both the prime sponsor and its subgrantees. In Philadelphia, where this system was recently put into effect, the result has so far been highly favorable with the audit to be completed within 3 months following the fiscal year and, much to my satisfaction, at one-third the cost that separate audits would have entailed.

Many prime sponsors, having become aware of the Philadelphia model, have requested to enter into the same kind of audit arrangement, where DOL pays for that portion of the audit which relates directly to the prime sponsors and the sponsor pays for the audit of its subgrantees. This second amendment will give the Department the authority to initiate such unified audits.

My third amendment, Mr. Chairman, requires that the Director of Audits, Investigation and Compliance at DOL allocate sufficient funds to audit prime sponsors at least once every 2 years, and that such audits be performed in a timely manner. The amendment also requires that once audits are complete, action be taken promptly to collect disallowed costs.

To perform this essential function, it is necessary that the Office of Audits, Investigation and Compliance, which is a new office established by this bill, have sufficient resources at its disposal. My fourth amendment, therefore, provides for a separate authorization for the Director of this office, to whom we are delegating these important oversight responsibilities.

It is, furthermore, critical that we not overlook the role of the Congress in our oversight capacity. The committee bill, as amended by the Jeffords substitute, requires in section 154(a) that DOL's audit division report to Congress with respect to significant problems, abuses, and deficiencies in the CETA system. As part of that report, my fifth amendment requires that the Office of Audits report to Congress the amount of costs questioned by auditors, the total costs disallowed by DOL's employment and training administration, and the aggregate of disallowed costs collected by DOL.

Mr. Chairman, this last group of four amendments—by streamlining the auditing and monitoring provisions of the CETA program—will not only curb abuses, but will stem the proliferation of Federal employees and paperwork and will thereby save the taxpayers' money, in more ways than one. These amendments seek to improve the CETA program by attacking the problems rather than the program.

I turn now to my sixth amendment. Although it does not follow in nature from the five I have just described—it is of equal or greater importance. My sixth amendment would include women in the list of persons who are at a disadvantage in the labor market as described in section 301(a). Youth, offenders, handicapped individuals, older workers, and persons of limited English-speaking ability are all eligible for employment and training services as described in this section. In my view—the need to include women in this list of disadvantaged groups is clear.

As of 1 year ago, 48.9 percent of women over age 16 were in the labor market swelling their ranks to 40.5 million as compared to 57.2 million men in the work force. In spite of the size of this group of workers, in 1976 women who worked year round earned, on the average, 60 percent of what male workers earned—according to the Department of Labor's own statistics.

Not only is a woman's paycheck unequal to a man's, she stands a greater chance of being unemployed. Unemployment has been higher for women than for men in 29 of the past 30 years.

Further, women have traditionally been excluded from apprenticeship programs that lead to high-paying skilled work. In 1976, out of 11 million skilled blue-collar workers—slightly more than 4 percent were women.

To take this description of the obstacles women face in obtaining meaningful employment one step further, minority women tend to work in the lower-paid occupations because they do not have access to the training that would give them needed skills for white-collar and professional jobs.

CETA is the major vehicle that Congress has created for the purpose of assisting the disadvantaged in pulling themselves up the ladder of economic self-improvement. Not only does a job mean self-sufficiency, it also brings dignity to its possessor. I ask that my colleagues join me in drawing to the attention of the Secretary of Labor, the intent of Congress that women be acknowledged as a special group that is eligible for title III employment and training services. Women must no longer be prevented from making their full contribution to this country's work force. We cannot in good conscience deny to others the opportunity to obtain skills that will allow them to build their place in this world.●

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. Wright) having assumed the chair, Mr. Natcher, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 12452) to extend and amend the Comprehensive Employment and Training Act of 1973, and for other purposes, pursuant to House Resolution 1294, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ASHBROOK. I am opposed to the bill, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Ashbrook moves to recommit the bill H.R. 12452 to the Committee on Education and Labor with instructions to report back the same forthwith with the following amendment: Page 225, line 8, immediately after the period, insert a new Section 5:

"Sec. 5. Notwithstanding any other provision of this Act, not more than 30 per centum of the amount appropriated to carry out this Act shall be available for public service employment programs."

The SPEAKER pro tempore. The gentleman from Ohio (Mr. Ashbrook) will be recognized for 5 minutes in support of his motion to recommit, and the gentleman from California (Mr. Hawkins) will be recognized for 5 minutes in opposition thereto.

The Chair recognizes the gentleman from Ohio (Mr. Ashbrook).

Mr. ASHBROOK. Mr. Speaker, I will not take the 5 minutes. I think the Members know what we are talking about. This is the amendment which would not cut $1 from the bill but would merely reduce the public service employment portion of the bill which right now would be roughly $9 billion out of $11 billion in 1979, reduce it by 30 percent. I hope the Members will support the motion to recommit.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

I rise in support of this bill to extend and amend the Comprehensive Employment Training Act of 1973. At the same time I wish to compliment the chairman, the gentleman from California (Mr. Hawkins) and the ranking Republican, the gentleman from Vermont (Mr. Jeffords) for pouring oil on troubled waters and bringing acceptable meaningful legislation to the House floor today.

Mr. Speaker, I rise on support of this bill to extend and amend the Comprehensive Employment and Training Act of 1973. During the debate on this bill we have studied closely the program's failures and it has had many. But I am concerned that in dramatizing the negative we will fail to learn from CETA's successes and it has had many successes as well.

The mayor of the city of Columbus, Ohio, Tom Moody, observed recently that we really only have three options in dealing with the Nation's hard-core unemployed. We can ignore their needs and do nothing to provide them with food or shelter. We can place them on perpetual welfare. Or we can attempt to give them meaningful, rewarding jobs.

To me the choice is clear. Our goal should not be the scrapping of a program that has promise but rather the implementation of that promise.

When CETA was created in 1973 its focus was on job training for the hard-core unemployed. It was an attempt to aid those with few skills and little hope. One of the early products of that program was the Columbus Public Schools Skill Center. Since its inception the center has placed 90 percent of its graduates in private sector employment. This is a success, repeated in many other cities, that we must build upon.

I do know that the program has made a significant contribution to employment and training in Columbus and Franklin County.

When faced with the midseventies recession Congress chose to restructure the CETA program greatly expanding public service jobs. These jobs have triggered much of the criticism of CETA. Without question the use of CETA funds by a few local sponsors deserved censure.

Here too, however, there were successes that we seem to be overlooking in this debate. The original intent of CETA was to aid the hardcore unemployed but the recession presented us with another group which could not find jobs—those with considerable skills who were caught in an economic squeeze through no fault of their own. Faced with this unemployment our option was to pay these individuals welfare benefits until the economy recovered or during that same period to use their skills to benefit the taxpayers who were supporting them.

In other words, we could pay them to work or not to work. Across the Nation local communities have derived substantial benefit from the labors of these individuals who have in turn derived additional job skills and satisfaction of having earned their support.

A 10-part investigative report in the Columbus Ohio Dispatch by Michael Curtin found this to be true in central Ohio. I want to commend Michael Curtin for an outstanding job of investigative reporting. He found there were shortcomings but they were significantly outweighed by the benefits.

I do not contend that this bill presents a complete solution to a very complicated set of problems which have afflicted CETA. It is, however, a reasoned step in the right direction. CETA has such great promise that I am convinced that it mandates our continuing efforts to perfect the program.

Today the American taxpayer is rightfully complaining about their taxes paying able-bodied welfare recipients to do nothing. CETA offers an answer to that complaint and an answer to those who, given a chance, earnestly want to work their way out of poverty.

Mr. ASHBROOK. Mr. Speaker, I yield back the remainder of my time.

Mr. HAWKINS. Mr. Speaker, in opposition to the motion to recommit with instructions, may we simply say that on a bipartisan basis we have worked out what I think most observers would say is a very well balanced and an excellent bill. I think it is one that we can support with great enthusiasm in the conference committee in upholding the House position.

I think that to recommit and to bring back a bill that may upset that balance would jeopardize the passage of this act, which is so critical to the recovery of this Nation.

Mr. Speaker, I hope that the Members will vote against the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

RECORDED VOTE

The vote was taken by electronic device; and there were—yeas 81, nays 252, not voting 99, as follows:

[Roll No. 818]

YEAS—81

Abdnor
Archer
Ashbrook
Badham
Bafalis
Bauman
Bennett
Brinkley
Brooks
Broyhill
Burgener
Burleson, Tex.
Butler
Clausen, Don H.
Clawson, Del
Cleveland
Coleman
Collins, Tex.
Corcoran
D'Amours
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dornan
Edwards, Okla.
English
Findley
Frenzel
Ginn
Glickman
Goldwater
Goodling
Grassley
Guyer
Hagedorn
Hall
Hammerschmidt
Holt
Hyde
Jenkins
Jones, Okla.
Kasten
Kelly
Kindness
Lagomarsino
Latta
Leach
Levitas
Lujan
McClory
McDonald
McKay
Marriott
Martin
Michel
Miller, Ohio
Myers, Gary
Myers, John
Nichols
O'Brien
Pickle
Pike
Quayle
Roberts
Robinson
Rousselot
Runnels
Satterfield
Schulze
Sebelius
Smith, Nebr.
Stangeland
Stockman
Stump
Symms
Taylor
Treen
Waggonner
Walker
Wylie

NAYS—252

Addabbo
Akaka
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brown, Mich.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clay
Conte
Cornell
Coughlin
Danielson
Davis
Delaney
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Fish
Fisher
Fithian
Flippo
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frey
Gaydos
Gephardt
Giaimo
Gilman
Gonzalez
Gore
Gradison
Green
Gudger
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Howard
Hubbard
Huckaby
Hughes
Ireland
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kildee
Kostmayer
Krebs
LaFalce
Lederer
Leggett
Lehman
Lent
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McCloskey
McCormack
McEwen
McFall
McHugh
Maguire
Mahon
Markey
Marks
Mathis
Mattox
Mazzoli
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Moss
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Nedzi
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Perkins
Pettis
Poage
Preyer
Price
Pritchard
Pursell
Rahall
Rangel
Regula
Reuss
Rinaldo
Risenhoover
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Shuster
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Spence
Staggers
Stanton
Stark
Steed
Steers
Stokes
Stratton
Studds
Thompson
Traxler
Tsongas
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walsh
Wampler
Waxman
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—99

Alexander
Ammerman
Andrews, N. Dak.
Armstrong
Barnard
Baucus
Beard, Tenn.
Boland
Broomfield
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burton, John
Caputo
Carney
Cavanaugh
Cochran
Cohen
Collins, Ill.
Conable
Conyers
Corman
Cornwell
Cotter
Crane
Cunningham
de la Garza
Dent
Dickinson
Duncan, Oreg.
Erlenborn
Evans, Del.
Fascell
Flowers
Flynt
Fraser
Fuqua
Gammage
Garcia
Gibbons
Hansen
Harrington
Holland
Horton
Ichord
Jacobs
Kemp
Keys
Krueger
Le Fante
McDade
McKinney
Madigan
Mann
Marlenee
Meeds
Metcalfe
Milford
Miller, Calif.
Mitchell, N.Y.
Montgomery
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Neal
Nix
Oakar
Patterson
Pattison
Pepper
Pressler
Quie
Quillen
Railsback
Rhodes
Richmond
Rodino
Rudd
Ruppe
Sarasin
Shipley
Sikes
Sisk
St Germain
Steiger
Teague
Thone
Thornton
Trible
Tucker
Ullman
Watkins
Weaver
Wiggins
Winn
Wirth
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. Corman with Mr. Andrews of North Carolina.
Mr. Zeferetti with Mr. Hansen.
Mr. Richmond with Mr. Pressler.
Mr. Carney with Mr. Quie.
Mr. Boland with Mr. Winn.
Mr. Montgomery with Mr. Cunningham.
Mr. Murphy of Illinois with Mr. Cohen.
Mr. Cotter with Mr. Broomfield.
Mr. John L. Burton with Mr. Horton.
Mr. Murphy of New York with Mr. Kemp.
Mr. St Germain with Mr. Quillen.
Mr. Sikes with Mr. Rudd.
Mr. Pepper with Mr. Marlenee.
Ms. Oakar with Mr. McDade.
Mr. Flynt with Mr. Thone.
Mr. Fuqua with Mr. Trible.
Mr. Gammage with Mr. McKinney.
Mr. Garcia with Mr. Moorhead of California.
Mr. Baucus with Mr. Wiggins.
Mr. Ammerman with Mr. Crane.
Mr. Alexander with Mr. Conable.
Mr. Brown of California with Mr. Thornton.
Mr. Cornwell with Mr. Steiger.
Mr. Dent with Mr. Sisk.
Mr. Fascell with Mr. Sarasin.
Mr. Krueger with Mr. Ruppe.
Mr. Mann with Mr. Railsback.
Mr. Meeds with Mr. Harrington.
Mr. Rodino with Mr. Cochran of Mississippi.
Mr. Shipley with Mr. Dickinson.
Mr. Metcalfe with Mr. Erlenborn.
Mr. Miller of California with Mr. Evans of Delaware.
Mr. Neal with Mr. Mottl.
Mr. Teague with Mr. Milford.
Mrs. Burke of California with Mr. Madigan.
Mr. Conyers with Mr. Brown of Ohio.
Mr. Barnard with Mr. Flowers.
Mr. Beard of Tennessee with Mr. Fraser.
Mrs. Collins of Illinois with Mr. Caputo.
Mr. de la Garza with Mr. Duncan of Oregon.
Mr. Cavanaugh with Mr. Ichord.
Mr. Jacobs with Mr. Gibbons.
Ms. Keys with Mr. Ullman.
Mr. Le Fante with Mr. Wirth.
Mr. Weaver with Mr. Watkins.
Mr. Tucker with Mr. Rhodes.
Mr. Pattison of New York with Mr. Nix.
Mr. Patterson of California with Mr. Holland.

Mrs. SMITH of Nebraska and Messrs.

FINDLEY, O'BRIEN, and DERWINSKI changed their vote from "nay" to "yea."

Mr. FOUNTAIN changed his vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JEFFORDS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device; and there were—yeas 284, nays 50, not voting 98, as follows:

[Roll No. 819]

YEAS—284

Addabbo
Akaka
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brown, Mich.
Buchanan
Burgener
Burke, Fla.
Burlison, Mo.
Burton, Phillip
Byron
Carr
Carter
Cederberg
Chisholm
Clausen, Don H.
Clay
Coleman
Conte
Corcoran
Cornell
Coughlin
D'Amours
Danielson
Davis
Dellums
Derrick
Derwinski
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frey
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Green
Gudger
Guyer
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Howard
Hubbard
Huckaby
Hughes
Hyde
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kildee
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McEwen
McFall
McHugh
Maguire
Mahon
Mann
Markey
Marks
Mathis
Mattox
Mazzoli
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Moss
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Perkins
Pettis
Pickle
Poage
Preyer
Price
Pritchard
Pursell
Rahall
Rangel
Regula
Reuss
Rinaldo
Risenhoover
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Stokes
Stratton
Studds
Thompson
Traxler
Treen
Tsongas
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walsh
Wampler
Waxman
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—50

Abdnor
Archer
Ashbrook
Badham
Bafalis
Bauman
Bennett
Brooks
Broyhill
Burleson, Tex.
Butler
Chappell
Clawson, Del
Cleveland
Collins, Tex.
Daniel, Dan
Daniel, R. W.
Delaney
Devine
Dornan
Edwards, Okla.
English
Goldwater
Grassley
Hagedorn
Hall
Holt
Ireland
Jones, Okla.
Kelly
Kindness
McDonald
McKay
Marriott
Martin
Myers, Gary
Pike
Quayle
Roberts
Robinson
Rousselot
Runnels
Satterfield
Shuster
Stockman
Stump
Symms
Taylor
Waggonner
Walker

NOT VOTING—98

Alexander
Ammerman
Andrews, N. Dak.
Armstrong
Barnard
Baucus
Beard, Tenn.
Boland
Broomfield
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burke, Mass.
Burton, John
Caputo
Carney
Cavanaugh
Cochran
Cohen
Collins, Ill.
Conable
Conyers
Corman
Cornwell
Cotter
Crane
Cunningham
de la Garza
Dent
Dickinson
Erlenborn
Evans, Del.
Fascell
Flowers
Flynt
Fraser
Fuqua
Gammage
Garcia
Gibbons
Hansen
Harrington
Holland
Horton
Ichord
Jacobs
Kemp
Keys
Krueger
Le Fante
McDade
McKinney
Madigan
Marlenee
Meeds
Metcalfe
Milford
Miller, Calif.
Mitchell, N.Y.
Montgomery
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Neal
Nix
Oakar
Patterson
Pattison
Pepper
Pressler
Quie
Quillen
Railsback
Rhodes
Richmond
Rodino
Rudd
Ruppe
Sarasin
Shipley
Sikes
Sisk
St Germain
Steiger
Teague
Thone
Thornton
Trible
Tucker
Ullman
Watkins
Weaver
Wiggins
Winn
Wirth
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. Corman with Mr. Andrews of North Carolina.

Mr. Richmond with Mr. Madigan.

Mr. Carney with Mr. Rudd.

Mr. Zeferetti with Mr. Sarasin.

Mr. Boland with Mr. Quie.

Mr. Cotter with Mr. Pressler.

Mr. Burke of Massachuetts with Mr. Railsback.

Mr. Rodino with Mr. Trible.

Mr. Sikes with Mr. Wiggins.

Mr. Neal with Mr. Milford.

Mr. Murphy of Illinois with Mr. McKinney.

Mr. Miller of California with Mr. McDade.

Mr. Wirth with Mr. Caputo.

Mr. Teague with Mr. Brown of Ohio.

Mr. Shipley with Mr. Hansen.

Mr. Jacobs with Mr. Holland.

Ms. Keys with Mr. Horton.

Mr. Barnard with Mr. Kemp.

Mr. Alexander with Mr. Marlenee.

Mr. Ammerman with Mr. Mitchell of New York.

Mr. John L. Burton with Mr. Winn.

Mr. Cornwell with Mr. Mottl.

Mr. Dent with Mr. Cunningham.

Mr. Fascell with Mr. Crane.

Mr. Murphy of New York with Mr. Conable.

Mr. Le Fante with Mr. Moorhead of California.

Mr. Ullman with Mr. Thone.

Mr. Pepper with Mr. Steiger.

Ms. Oakar with Mr. Ruppe.

Mr. Pattison of New York with Mr. Quillen.

Mr. Garcia with Mr. Harrington.

Mr. Gammage with Mr. Fraser.

Mr. Fuqua with Mr. Dickinson.

Mr. Flynt with Mr. Erlenborn.

Mrs. Burke of California with Mr. Evans of Illinois.

Mr. Brown of California with Mr. Conyers.

Mr. Metcalfe with Mr. Cohen.

Mr. Nix with Mr. Cochran of Mississippi.

Mr. Weaver with Mr. Broomfield.

Mr. Watkins with Mr. Gibbons.

Mr. de la Garza with Mr. Thornton.

Mr. Tucker with Mr. Sisk.

Mr. St Germain with Mr. Rhodes.

Mr. Patterson of California with Mr. Ichord.

Mr. Krueger with Mr. Beard of Tennessee.

Mr. Baucus with Mr. Cavanaugh.

Mrs. Collins of Illinois with Mr. Flowers.

Mr. Meeds with Mr. Montgomery.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill H.R. 12452, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING THE CLERK TO CORRECT SECTION NUMBERS, PUNCTUATION, CROSS-REFERENCES, AND TABLE OF CONTENTS IN ENGROSSMENT OF H.R. 12452

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendment to the bill the Clerk be authorized to correct section numbers, punctuation, cross-references, and the table of contents to reflect the actions of the House in amending the bill, H.R. 12452.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CETA AMENDMENTS

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from California?

There was no objection.

MOTION OFFERED BY MR. HAWKINS

Mr. HAWKINS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HAWKINS moves to strike all after the enacting clause of S. 2570 and to insert in lieu thereof the provisions of H.R. 12452, as passed, as follows:

That this Act may be cited as the "Comprehensive Employment and Training Amendments of 1978".

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT REAUTHORIZATION

SEC. 2. The Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act, with the following table of contents, may be cited as the 'Comprehensive Employment and Training Act'.

"TABLE OF CONTENTS

"Sec. 1. Short title.
"Sec. 2. Statement of purpose.

"TITLE I—ADMINISTRATIVE PROVISIONS

"PART A—ORGANIZATIONAL PROVISIONS

"Sec. 101. Prime sponsors.
"Sec. 102. Authority of Secretary to provide services.
"Sec. 103. Comprehensive employment and training plan.
"Sec. 104. Review of plans and performance standards and goals.
"Sec. 105. Governor's coordination and special services plan.
"Sec. 106. Complaints and sanctions.
"Sec. 107. Judicial review.
"Sec. 108. Reallocation.
"Sec. 109. Prime sponsor's planning council.
"Sec. 110. State employment and training council.
"Sec. 111. Consultation.
"Sec. 112. Authorization of appropriations.
"Sec. 113. Evaluation studies.

"PART B—GENERAL PROVISIONS

"Sec. 121. Conditions applicable to all programs.
"Sec. 122. Special provisions.
"Sec. 123. Wages and allowances.
"Sec. 124. Labor standards.
"Sec. 125. Definitions.
"Sec. 126. Secretary's authority.
"Sec. 127. Reports.
"Sec. 128. Services and property.
"Sec. 129. Utilization of services and facilities.
"Sec. 130. Interstate agreements.
"Sec. 131. Prohibition against political activities.
"Sec. 132. Nondiscrimination.
"Sec. 133. Records, audits, and investigations.
"Sec. 134. Criminal provisions.
"Sec. 135. Bonding.

"PART C—AUDITS, INVESTIGATIONS, AND COMPLIANCE

"Sec. 151. Purpose; establishment.
"Sec. 152. Appointment of officers.
"Sec. 153. Duties and responsibilities.
"Sec. 154. Reports.
"Sec. 155. Authority; administration provisions.
"Sec. 156. Transfer of functions.
"Sec. 157. Definitions.
"Sec. 158. Office of Management Assistance.

"TITLE II—COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

"PART A—FINANCIAL ASSISTANCE PROVISIONS

"Sec. 201. Purpose of program.
"Sec. 202. Allocation of funds.
"Sec. 203. Conditions for receipt of financial assistance.
"Sec. 204. Supplemental vocational education assistance.

"PART B—SERVICES FOR THE ECONOMICALLY DISADVANTAGED

"Sec. 211. Description of program.
"Sec. 212. Limitations on use of funds.
"Sec. 213. Eligibility for participation.

"PART C—UPGRADING AND RETRAINING

"Sec. 221. Program authorized.

"TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

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"STATEMENT OF PURPOSE

"SEC. 2. It is the purpose of this Act to provide job training and employment opportunities for economically disadvantaged persons, unemployed or underemployed persons which will result in an increase in their earned income, and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency by establishing a flexible, coordinated and decentralized system of Federal, State, and local programs. It is further the purpose of this Act to provide for the maximum feasible coordination of plans, programs, and activities under this Act with economic development, community development and related activities such as vocational education, vocational rehabilitaion, self-employment training programs, and social service programs.

"TITLE 1—ADMINISTRATIVE PROVISIONS

"PART A—ORGANIZATIONAL PROVISIONS

"PRIME SPONSORS

"SEC. 101. (a) The Secretary may make financial assistance available to a prime sponsor to enable it to carry out all or a substantial part of a comprehensive employment and training plan. A prime sponsor shall be—

"(1) a State;

"(2) a unit of general local government which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available to the Secretary;

"(3) any consortium of, units of general local government which includes any unit of general local government qualifying under paragraph (2) of this subsection;

"(4) any unit of general local government or any consortium of such units, without regard to population, which, in exceptional circumstances, and after consultation with appropriate State and local officials, is determined by the Secretary—

"(A) (i) to serve a substantial portion of a functioning labor market area, or (ii) to be a rural area having a high level of unemployment; and

"(B) to have demonstrated (i) that it has the capability for adequately carrying out programs under this Act, (ii) that there is a special need for services within the area to be served, and (iii) that it will carry out such programs and services in such area as effectively as any larger unit of general local government in which it is located or as the State;

"(5) a limited number of existing concentrated employment program grantees serving rural areas having a high level of unemployment which the Secretary determines have special capabilities for carrying out programs in such areas and are designated by the Secretary for that purpose; or

"(6) any unit of general local government previously designated as a prime sponsor under the provisions of this Act (as in effect prior to the effective date of the Comprehensive Employment and Training Amendments of 1978) which the Secretary has certified is effectively serving the purposes of this Act, regardless of any subsequent population decline below one hundred thousand persons.

"(b) (1) A State shall not qualify as a prime sponsor for any geographical area within the jurisdiction of any prime sponsor described in paragraph (2), (3), (4), (5), or (6) of subsection (a) unless such prime sponsor has not submitted an approvable comprehensive employment and training plan for such area.

"(2) A larger unit of general local government shall not qualify as a prime sponsor with respect to the jurisdiction within its area of any smaller eligible unit of general local government unless such smaller unit has not submitted an approvable comprehensive employment and training plan for such area.

"(c) An applicant must submit to the Secretary a notice of intent to be a prime sponsor for a fiscal year by such date as the Secretary shall prescribe. The Secretary shall designate as prime sponsors any applicant submitting such a notice unless the Secretary determines that such applicant does not qualify under this section.

"(d) State prime sponsors shall make appropriate arrangements for appropriate area planning bodies to serve subareas within the State prime sponsor's area for the purpose of assisting in the effective planning and delivery of comprehensive employment and training programs in such subareas, in accordance with such regulations as the Secretary may prescribe.

"AUTHORITY OF SECRETARY TO PROVIDE SERVICES

SEC. 102. In any area for which no prime sponsor has been designated under section 101(c), or where the Secretary has taken an action under section 104 or section 106 which results in employment and training services not being provided in such area, the Secretary shall use funds allocated to such prime sponsor to make payments directly to public agencies or private nonprofit organizations as if the Secretary were the prime sponsor for that area.

"COMPREHENSIVE EMPLOYMENT AND TRAINING PLAN

"SEC. 103. (a) In order to receive financial assistance under this Act, a prime sponsor designated under section 101(c) shall submit to the Secretary a comprehensive employment and training plan. Such plan shall consist of a master plan and an annual plan. The master plan shall serve as the long-term charter under which the programs of such prime sponsor shall be operated. Such plan shall be sufficiently detailed to provide the Secretary and the prime sponsor with a thorough undertsanding of the economic conditions of the area and of the prime sponsor's long-term programmatic and administrative arrangements to ensure that each annual program is designed and implemented in a manner best suited to such conditions and in a manner consistent with the requirements of this Act. The formulation of such plan by the prime sponsor shall involve the active participation of the prime sponsor planning council, and such plan shall—

"(1) include (A) a detailed analysis of the area to be served, including geographic and demographic characteristics of significant segments of the population to be served (with data indicating the number of potential eligible participants and their income and employment status), and (B) a comprehensive labor market analysis and assessment of the economic conditions in the area, identifying the availability of employment and training in various public and private labor market sectors in such area and the potential for job growth in such sectors;

"(2) include a statement of the long-term goals of the prime sponsor for the improvement of such labor market and economic conditions;

"(3) include a description of the methods and institutional arrangements which will be used to involve community-based organizations in the development and implementation of the programs assisted under this Act;

"(4) include a description of the methods and arrangements which will be used to ensure the fullest possible utilization, consistent with the education and training needs identified in the plan, of public vocational education facilities and programs, and of other facilities of local education agencies in the provision of instruction in basic cognitive skills and in the development and implementation of programs assisted under this Act;

"(5) provide evidence that in the development of such plan there has been a continuing process of consultation with interested groups in the area not directly represented on the prime sponsor's planning council, including local advisory councils established under section 105(a) of the Vocational Education Act of 1963 and the private industry council established under section 703 of this Act, representatives of local education agencies, and representatives of postsecondary educational agencies;

"(6) include a detailed description of—

"(A) the prime sponsor's administrative arrangements and the procedures and criteria to be used (i) to select and supervise deliveries of service (including criteria for determining that a program has 'demonstrated effectiveness'), (ii) to evaluate and audit the operation of such programs, and (iii) to process complaints and grievances with respect to such programs;

"(B) the methods to be used to identify and place participants in such programs and the arrangements made with respect to providing such participants with job search assistance, counseling, and other services; and

"(C) the procedures for the selection of and the arrangements made with respect to consultation with the prime sponsor planning council;

"(7) include a description of arrangements to ensure that employment and training services, including the development of job opportunities, will be provided to those most in need of them, including low-income persons, handicapped persons, persons facing barriers to employment commonly experienced by older workers, and persons of limited English-speaking ability, and that the need for continued funding of programs of demonstrated effectiveness is taken into account in serving such groups and persons;

(8) (A) provide a description of appropriate arrangements with community-based organizations serving the poverty community which are not represented on the prime sponsor planning council, and other special target groups, for their participation in the planning of programs included in the plan; (B) provide a description of the extent to which those services and facilities which are available, with or without reimbursement of the reasonable cost, from Federal, State, and local agencies are utilized by the prime sponsor, based upon a written evaluation of the local effectiveness of such existing services and facilities, including, but not limited to, the State employment service, State vocational education and vocational rehabilitation agencies, area skills centers, local educational agencies, postsecondary training and education institutions, and community action agencies, but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions, and organizations (such as private businesses, labor organizations, private employment agencies, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services, or otherwise aid in reducing more quickly unemployment or current prospective labor shortages; (C) provide a description of arrangements for (i) the use of skills centers established under *the authority of section 231 of the Manpower* Development and Training Act of 1962, and (ii) the use of other public vocational education facilities in such area; (D) provide a description of arrangements to coordinate services for which financial assistance is provided under programs administered by the Secretary relating to employment and training and related services; and (E) provide a description of arrangements to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38, United States Code;

"(9) provide for and include a description of arrangements made to insure the participation of and consultation with local educational agencies, vocational education agencies, community-based organizations, Federal and State agencies, organized labor, business, and other institutions and organizations in the conduct of programs under this Act;

"(10) include a description of the methods for coordination between the prime sponsor and the local State employment security agencies and delineate the specific responsibilities of each in the delivery of employment and training services for participants funded under this Act and under the Wagner-Peyser Act, with the goal of maximizing the level of coordination between the prime sponsor and the local employment security agency and minimizing duplication;

"(11) include a description of the procedures concerning academic credit developed in conjunction with the appropriate local education agency or institution of higher education and approved by the appropriate State educational agency (including State agencies responsible for postsecondary education), or, where a prime sponsor's area includes more than one local education agency, developed in conjunction with, and approved by, the appropriate State educational agency;

"(12) include a description of procedures for the consideration of any changes in the plan required by this subsection or in the plan required under subsection (b), including review of such changes by the prime sponsor planning council;

"(13) include a description of recommendations of members of the prime sponsor's planning council which were not included in the plan, together with the reasons for rejecting them;

"(14) include a description of actions to ensure compliance with personnel procedures and collective bargaining agreements;

"(15) include a description of efforts to remove artificial barriers to employment;

"(16) include a description of procedures which will lead to skill development and job opportunities for participants in occupations traditionally limited to individuals of the opposite sex;

"(17) include a description of plans and activities to coordinate, strengthen, and expand employment and training activities under this Act with economic development activities in the private sector; and

"(18) include adequate assurances of compliance with this Act, regulations issued thereunder, and the comprehensive employment and training plan, including adequate assurances that books of account on the expenditure of funds provided under this Act will be maintained in a manner sufficient to assure adequate supervision and monitoring.

"(b) To receive funds for any fiscal year a prime sponsor shall submit an annual plan which shall include—

"(1) any significant changes from the information provided in the master plan;

"(2)(A) a description of the eligible population, including geographic and demographic characteristics of significant segments of such population;

"(B) a description of plans made to provide for the needs of persons who face particular disadvantages as identified in title III of this Act; and

"(C) a description of the procedures which will be used to promote the objectives of section 121(a)(4), including the hiring, licensing, and contracting activities of the political units, subgrantees, and contractors of such prime sponsor;

"(3) the prime sponsor's program and performance standards and goals for the program year, any changes in such program and performance standards and goals from those established for the preceding year and a summary of the results achieved with respect to such program standards and goals for prior years, and a description of any problems encountered in meeting the program and performance standards and goals for such preceding years;

"(4) the method for determining priorities for service under title II based on objective locally established criteria to assist the prime sponsor in assuring service to those most in need; such priorities shall be based on locally determined factors such as employment status, household status, level of employability development, handicap, veteran status, age, race, sex, or other criteria deemed viable by the prime sponsor;

"(5) the proposed budget for the program year, including a detailed summary of the expenditures made during the preceding year, results achieved, and changes made in the annual plan for the program year;

"(6) a list of the specific contracts from the previous year with those institutions providing training programs, including information on the rate of job placement for those who have completed such programs;

"(7) a summary of any evaluation conducted of the prime sponsor's programs during preceding program years and a description of any use made of such evaluation in the modification or alteration of the prime sponsor's program;

"(8) a description of an affirmative action program for outreach to and training, placement, and advancement of handicapped individuals in employment and training programs under this Act, including—

"(A) a description of the extent to which and the methods whereby the special needs of the handicapped are to be met; and

"(B) a description of the number of handicapped individuals who were served each of the preceding two years, the types of training or employment in which they were placed, and the number of such individuals who were moved into unsubsidized employment;

"(9) a description of the prime sponsor's intention to apply for and utilize funds provided under this Act which are not allocated by formula;

"(10) the wages or salaries to be paid persons employed in public service jobs under this Act and a comparison with the wages paid for similar public occupations by the same employer; and

"(11) a copy of all agreements made pursuant to section 203(c) of this Act.

"(c) The Secretary shall establish procedures for submittal, approval, and implementation of changes in the comprehensive employment and training plan, together with any reports required under this Act, not more than once each fiscal quarter.

"REVIEW OF PLANS AND PERFORMANCE STANDARDS AND GOALS

"SEC. 104 (a) The Secretary shall approve any comprehensive or annual employment and training plan only if it (1) meets the requirements of section 103; (2) has been submitted for comment (at least 45 days before it was submitted to the Secretary) to the Governor, the State employment and training council, the prime sponsor planning council, appropriate local units of general local government, and labor organizations in the area representing employees engaged in work similar to that proposed to be funded; and (3) has been made available to the chairperson of the appropriate committee in each House of the State legislature with primary responsibility for vocational training and job development programs and to the public (including appropriate community-based organizations). The Secretary may disapprove any portion of a plan if he finds that the use of funds for a particular subcontract or subgrant provided within that portion of the plan would be grossly inefficient or fail to carry out the purposes of the Act. The Secretary shall not approve or disapprove any such plan, in whole or in relevant part, solely on the basis of the proposed allocation of funds to be devoted to a particular program or activity, unless such allocation is required by this Act. The Secretary shall, prior to approval of any plan, require the inclusion in such plan of specific management and accounting procedures to assure adequate supervision and monitoring of the programs to be conducted pursuant to such plan, and shall require the adoption of specific procedures (such as accrual accounting procedures) where necessary for such purpose. Prior to approval of any plan, the Secretary shall review the success of any training program which is to be refunded and be satisfied that such program has achieved sufficient results in job placement to merit continuation. The Secretary can require modification of such funding where necessary. The Secretary shall, prior to approval of any plan, insure that the prime sponsor has demonstrated a recognizable and proven method of verifying eligibility of all recipients. The Secretary can require modification or the adoption of specific procedures where necessary for such purposes. The Secretary shall also develop recognizable penalties and inform the prime sponsors of such penalties to be applied upon a finding of the ineligibility of any recipient. In reviewing such plans, the Secretary shall insure that the plans adequately describe, and the prime sponsor demonstrates a thorough understanding of, labor market and economic conditions in the area served, that the plan is reasonably designed to respond to such conditions, that the administrative arrangements and procedures are adequate for the performance of the program and will insure that professional standards of management will be attained, and that the plans provide for adequate relationships with existing community efforts and maximize the use of existing resources.

"(b) The Secretary shall assess the adequacy of each prime sponsor's proposed performance standards and goals in accordance with criteria recognizing that performance will vary with local conditions. Review standards shall provide appropriate recognition of differences associated with the degree of disadvantage or handicap of the eligible population, as well as such factors as—

"(1) the local labor market conditions, including, but not limited to, the levels of employment and unemployment, and the current and projected labor market needs;

"(2) the economic base of the community, including, but not limited to, the growth or decline of industry within the community;

"(3) the distribution of available employment opportunities, by industry division, for persons residing within the prime sponsor's area; and

"(4) the differing needs of the eligible population which will vary the costs for services and which will require setting different performance standards depending on the disadvantage of the eligible population.

"(c)(1) The Secretary shall, not later than March 31 of the fiscal year preceding the fiscal year for which an annual plan is to take effect, establish a date for the submission of such annual plan. The Secretary shall make available to each prime sponsor a complete and final set of all applicable regulations and necessary application materials no later than May 15 of the fiscal year preceding the fiscal year for which such plan is to take effect. With respect to funds allocated under this Act on the basis of a formula, the Secretary shall also provide prime sponsors with a preliminary planning estimate based on the amounts available in the budget of the President or in the most recent concurrent budget resolution under the Congressional Budget Act applicable to such year. If for any reason the Secretary cannot provide a complete and final set of all applicable regulations and necessary application materials by such May 15 prior to the date established under the first sentence of this subsection, the Secretary shall extend the date for submittal of such plan to allow the prime sponsor to review such regulations and to complete such materials prior to submittal.

"(2) During the period of time between May 15 and the date for submittal of the plan, the Secretary shall not issue any regulations or guidelines or interpretations thereof that require any change in the prime sponsor's plan, which is a condition for the Secretary approval or disapproval of the plan. If the Secretary deems that a plan change is required during this period, the Secretary shall allow at least one fiscal quarter for the prime sponsor to submit such change, except that the sponsor may at its own discretion submit the required change as part of its plan submittal under paragraph (1).

"(d) Any prime sponsor aggrieved by any

determination made under subsection (a) shall submit notice to the Secretary of the grounds for its objection, and the Secretary shall, within 30 days after receipt of such notice, reverse, amend, or affirm such determination and provide notice thereof and an opportunity for a hearing to such prime sponsor.

"(e) To the extent necessary to provide for the orderly transition to the provisions of section 103 and this section the Secretary may waive any provisions of such sections which are inconsistent with the comparable provisions of this Act prior to the enactment of the Comprehensive Employment and Training Amendments of 1978 and allow prime sponsors to submit plans and applications for assistance consistent with such comparable provisions during the period beginning on the effective date of such Amendments and ending December 31, 1978.

"GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN

"SEC. 105. (a) Any State seeking financial assistance under this Act shall submit a Governor's coordination and special services plan to the Secretary.

"(b) Governor's coordination and special services activities shall consist of, but need not be limited to, the following:

"(1) coordinating all employment and training and related services provided by the State, by prime sponsors, and by other providers of such services within the State;

"(2) coordinating programs financed under the Wagner-Peyser Act and this Act, including assisting in the negotiation of any agreements (including partnership arrangements described in section 308) between prime sponsors and State employment security agencies;

"(3) assuring that comprehensive employment and training plans do not unnecessarily result in the duplication of services;

"(4) assisting the Secretary in enforcing the requirements for Federal contractors and subcontractors to list all suitable employment openings with local offices of the State employment services agencies and to take affirmative action, as required in section 2012(a) of title 38, United States Code;

"(5) assuring the promotion of prime sponsor planning that takes into account conditions prevailing in labor market areas covering more than one prime sponsor area, as well as related activities such as community development, economic development, vocational education, vocational rehabilitation, and social services;

"(6) exchanging information between States and prime sponsors with respect to State, interstate, and regional planning for economic development, human resource development, education, and other subjects relevant to employment and training planning;

"(7) developing and providing to prime sponsors information, on a State and local area basis, regarding economic, industrial, and labor market conditions;

"(8) making available to prime sponsors, with or without reimbursement and upon request, appropriate information and technical assistance to assist them in developing and implementing their programs;

"(9) carrying out special model training and employment programs and related services, which may include programs for offenders similar to programs described in section 301(c); and

"(10) providing financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas.

"(c) A Governor's coordination and special services plan shall be approved by the Secretary only if the Secretary determines that the plan satisfactorily implements subsection (b) of this section, and has been reviewed by the State employment and training council.

"COMPLAINTS AND SANCTIONS

"SEC. 106. (a) Each prime sponsor receiving financial assistance under the Act shall establish and maintain a grievance procedure, including provisions for hearings within 30 days after filing of a grievance, for handling complaints about the program arising from its participants, subgrantees, and contractors, and other interested persons. Hearings shall be conducted expeditiously and decisions shall be made not later than 60 days after the filing of the grievance involved. With the exception of grievances alleging fraud or any criminal activity, filing of a grievance must be made within one year of the alleged occurrence.

"(b) Whenever the Secretary receives a complaint from any interested person or organization (which has exhausted the prime sponsor's grievance system established pursuant to subsection (a)) which alleges, or whenever the Secretary has reason to believe (because of an audit, report, on-site review, or otherwise) that a recipient of financial assistance under this Act is failing to comply with the requirements of this Act, the regulations under this Act, or the terms of the comprehensive employment and training plan, the Secretary shall investigate the matter. The Secretary shall conduct such investigation, and make the final determination required by the following sentence regarding the truth of the allegation or belief involved, not later than 120 days after receiving the complaint. If, after such investigation, the Secretary determines that there is substantial evidence to support such allegation or belief that such a recipient is failing to comply with such requirements, the Secretary shall, after due notice and opportunity for a hearing to such recipient, determine whether such allegation or belief is true.

"(c)(1) The Secretary may revoke all or any part of a prime sponsor's comprehensive employment and training plan and terminate in whole or in part financial assistance thereunder, provided that prior notice and opportunity for a hearing are given, if the Secretary concludes that the prime sponsor is—

"(A) maintaining a pattern or practice of discrimination in violation of section 121(a)(1) or 132, or otherwise failing to make opportunities available equitably among the significant segments of the population in the area it serves;

"(B) incurring unreasonable administrative costs in the conduct of activities and programs, as determined pursuant to the Secretary's regulations;

"(C) failing to give due consideration to continued funding of programs of demonstrated effectiveness; or

"(D) otherwise materially failing to carry out the purposes and provisions of this Act or the regulations promulgated under it, or materially failing to expend funds provided under this Act in accordance with this Act.

"(2) If the Secretary finds that a public service employment program is being conducted in violation of section 121 (e)(2), (e)(3), or (g)(1), the Secretary shall, after notice and opportunity for a hearing, revoke all or any part of that portion of the affected prime sponsor's comprehensive employment and training plan pertaining to such program, terminate financial assistance with respect to such portion, and shall require the prime sponsor to refund to the Department of the Treasury any and all funds found to have been expended in violation of such sections.

"(d) In emergency situations, as determined by the Secretary, when it is necessary to protect the integrity of the funds or ensure the proper operation of the program, the Secretary may immediately terminate or suspend financial assistance in whole or in part, provided that prompt notice and opportunity for a subsequent hearing are given to the recipient. The Secretary shall not delegate any of the functions or authority specified in this subsection other than to an officer whose appointment was required to be made by and with the advice and consent of the Senate.

"(e) If the Secretary concludes that any recipient of funds under this Act is failing to comply with any provision of this Act or any regulations under this Act, the Secretary may terminate or suspend financial assistance in whole or in part or order such sanctions or corrective actions as are appropriate including, but not limited to, the repayment of misspent funds from funds other than funds under this Act, and the withholding of future funding, provided prior notice and an opportunity for a hearing are given to the recipient. Whenever the Secretary orders termination or suspension of a subgrantee or subcontractor, the Secretary may take whatever action is necessary, including direct legal action against the subgrantee or subcontractor (including operators under a non-financial agreement) or an order to the primary recipient that it take legal action to reclaim misspent funds or to otherwise protect the integrity of the funds or ensure the proper operation of the program.

"(f) If the Secretary concludes that any recipient under this Act (1) has discharged or in any other manner discriminated against a participant, or against any person in connection with the administration of the program, or against any person because such person has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding or investigation, or (2) has otherwise unlawfully denied to any person a benefit to which that person is entitled under the provisions of this Act or the Secretary's regulations, the Secretary may take such appropriate corrective action under this section as is necessary with respect to both the recipient and the person aggrieved.

"(g) The Secretary may withhold funds otherwise payable under this Act in order to recover any amounts expended in any fiscal year in violation of any provision of this Act, any regulation, or any term or condition of assistance under this Act. In the event of any such withholding which results from fraud or abuse as determined by the Office of the Secretary, the Secretary may order the prime sponsor to conduct the program as specified in the applicable plan on the basis of funds other than funds under this Act and may enforce such order by appropriate civil action, unless the prime sponsor elects to terminate participation as a grantee under the Act.

"(h) Nothing in this section shall be deemed to reduce the responsibility and full liability of the prime sponsors and other recipients which receive funds directly from the Secretary.

"(i)(1) Except as otherwise provided in subsection (d), the Secretary shall not revoke a prime sponsor's plan, in whole or in part, nor institute corrective action or sanctions against a prime sponsor under this section or any other section under this Act, without first providing the prime sponsor with notice by the Secretary of his intended actions and the reasons upon which those intended actions are based, and also providing the prime sponsors—

"(A) with an opportunity to informally resolve those matters contained in the Secretary's notice; and

"(B) in the event that the prime sponsor and the Secretary cannot informally resolve any matter pursuant to clause (A), with a notice that (i) efforts to informally resolve matters contained in the Secretary's original notice have been unsuccessful; (ii) lists those matters upon which the parties continue to disagree; and (iii) informs the prime sponsors of any sanctions, corrective action, or any other alteration or modification of the prime sponsor's plan or program intended by the Secretary.

"(2) Within ten days of receipt of the Secretary's notice under paragraph (1)(B), the prime sponsor may request a hearing, but in no event shall the Secretary proceed under this Act without first fulfilling all the requirements under this subsection.

"(j) In order to insure compliance with the provisions of this Act and regulations thereunder and to insure conduct of programs in a manner consistent with the purposes and objectives of this Act, the Secretary may require prime sponsors to participate in unified audit programs established by the Secretary to provide for the audit of both prime sponsors and their respective subgrantees and subcontractors. In any such case the Secretary may require the prime sponsor to pay, from funds under this Act available to it for administrative expenses, that portion of the unified audit expenses allocable to the audit of such subgrantees and subcontractors.

"JUDICIAL REVIEW

"SEC. 107. If any prime sponsor is dissatisfied with the Secretary's final action with respect to the disapproval of its comprehensive employment and training plan under section 104, or if any recipient is dissatisfied with the Secretary's final action with respect to a sanction under section 106, or if any interested person is dissatisfied with or aggrieved by any final action of the Secretary authorized under section 106, such prime sponsor, recipient, or person may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which the prime sponsor, recipient, or person resides or transacts business a petition for review of such action.

"(b) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may, in whole or in part, set aside the findings of the Secretary or remand the case to the Secretary in whole or in part to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the previous action and shall certify to the court the record of the further proceedings.

"REALLOCATION

"SEC. 108. (a) The Secretary is authorized to reallocate any amount of any allocation under this Act to the extent that the Secretary determines that the recipient will not be able to use such amount within a reasonable period of time.

"(b)(1) Any allocations to a prime sponsor designated under section 101(c) may be reallocated only if the Secretary has provided thirty days advance notice to the prime sponsor, to the Governor, and to the general public. During such period comments may be submitted to the Secretary.

"(2) After considering any comments submitted during such period, the Secretary shall notify the Governor and the affected prime sponsor of any decision to reallocate funds, and shall publish such decision in the Federal Register.

"(3) In reallocating any such funds the Secretary shall give priority first to other prime sponsor areas within the same State and then to prime sponsor areas within other States.

"PRIME SPONSOR'S PLANNING COUNCIL

"SEC. 109. (a) Each prime sponsor designated under section 101(c) shall establish a planning council.

"(b) Such council shall consist of members who are representative of the eligible population (including significant segments thereof), organized labor, employees who are not represented by organized labor, community-based organizations, the State employment service, veterans organizations, organizations of the elderly, vocational education agencies, other education and training agencies and institutions, business, and, where appropriate agricultural employers and workers.

"(c) The prime sponsor shall appoint the members of the council and designate a nongovernmental member as chairperson.

"(d) The planning council shall meet no less than four times per year. The meetings shall be publicly announced, and, to the extent appropriate, open to and accessible to the general public.

"(e) The council shall particiapte in the development of, and submit recommendations regarding, the price sponsor's comprehensive employment and training plan and the basic goals, policies, and procedures of the prime sponsor's programs and other employment and training programs in the prime sponsor's area; monitor, and provide for objective evaluations of, employment and training programs conducted in such area; and provide for continuing analyses of the need for employment, training, and related services in such area, including efforts to reduce and eliminate artificial barriers to employment. Any final decision with respect to such recommendations shall be made by the prime sponsor.

"STATE EMPLOYMENT AND TRAINING COUNCIL

"SEC. 110. (a)(1) Any State which desires to receive financial assistance under this Act shall establish a State employment and training council. Funding for the council shall be provided pursuant to section 202 (c).

"(2) The council shall be appointed by the Governor, who may be chairperson of the council or may designate one nongovernmental member thereof to be chairperson.

"(3) The council shall be composed as follows:

"(A) one-third of the voting members of such council shall consist of—

"(i) representatives of units of general local government in the State, including such units or consortia thereof who are designated as prime sponsors, which representatives shall be nominated by the chief executive officers of units of general local government within the State;

"(ii) one representative of the State board of vocational education;

"(iii) one representative of the State advisory council on vocational education established pursuant to section 105 of the Vocational Education Act of 1963;

"(iv) one representative of the State employment security agency;

"(B) one-third of the voting members of such council shall consist of representatives of organized labor, business, agricultural employers and workers, community-based organizations, veterans organizations, and organizations of the elderly;

"(C) one-third of the voting members of such council shall consist of representatives of the eligible population (including significant segments thereof) and of the general public; and

"(D) such additional nonvoting ex officio members of such council as the Governor may designate to represent State agencies having a direct interest in overall employment and training and human resources utilization within the State.

"(4) The council shall meet at such times (but at least four times each year) and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

"(b) The council shall—

"(1) review continuously the operation of programs conducted by each prime sponsor, and the availability, responsiveness, and adequacy of State services, and make recommendations to the prime sponsors, to agencies providing employment and training services, to the Governor, and to the general public with respect to ways to improve the effectiveness of such programs or services;

"(2) make an annual report to the Governor which shall be a public document, and issue such other studies, reports, or documents as it deems advisable to assist prime sponsor or to otherwise help carry out the purposes of this Act;

"(3)(A) identify, in coordination with the State advisory council on vocational education, the employment and training and vocational education needs of the State and assess the extent to which employment, training, vocational education, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment at least once annually on the reports of the State advisory council on vocational education, which comments shall be included in the annual report submitted by that council pursuant to section 105 of the Vocational Education Act of 1963;

"(4) review the comprehensive employment and training plans of prime sponsors pursuant to section 104, especially with respect to nonutilization or duplication of existing services; and

"(5) review plans of all State agencies providing employment, training, and related services, and provide comments and recommendations to the Governor, the State agencies, and the appropriate Federal agency on the relevancy and effectiveness of employment and training and related service delivery systems in the State.

"CONSULTATION

"SEC. 111. (a) The Secretary of Labor shall consult with the Secretary of Health, Education, and Welfare with respect to arrangements for services of a health, education, or welfare character under this Act, and the Secretary of Health, Education, and Welfare shall solicit the advice and comments of appropriate State agencies with respect to such health, education, and welfare services. Such services include, but are not limited to, basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.

"(b) The Secretary of Labor, in carrying out or supporting programs under this Act, shall consult, as appropriate, with the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, the Director of the Community Services Administration, the Administrator of Veterans Affairs, and such other officials as appropriate.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 112. (a)(1) Except as provided in paragraphs (3) through (6), there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years for carrying out the provisions of this Act, other than part A of title IV and title VII.

"(2) Except as provided in paragraphs (3) through (6), there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979, and for the succeeding fiscal year for carrying out the provisions of part A of title IV and title VII.

"(3) For the fiscal year ending September 30, 1979, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,000,000,000 for carrying out the provisions of title II;

"(B) $2,250,000,000 for carrying out the provisions of title IV;

"(C) the amount determined pursuant to section 602 for carrying out the provisions of title VI;

"(D) $500,000,000 for carrying out the provisions of title VII; and

"(E) $350,000,000 for carrying out the provisions of title VIII.

"(4) For the fiscal year ending September 30, 1980, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,290,000,000 for carrying out the provisions of title II;

"(B) $2,400,000,000 for carrying out the provisions of title IV;

"(C) the amount determined pursuant to section 602 for carrying out the provisions of title VI;

"(D) $525,000,000 for carrying out the provisions of title VII; and

"(E) $400,000,000 for carrying out the provisions of title VIII.

"(5) For the fiscal year ending September 30, 1981, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,583,000,000 for carrying out the provisions of title II; and

"(B) the amount determined pursuant to section 602 for carrying out the provisions of title VI.

"(6) For the fiscal year ending September 30, 1982, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,876,000,000 for carrying out the provisions of title II; and

"(B) the amount determined pursuant to section 602 for carrying out the provisions of title VI.

"(b) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds appropriated to carry out this Act, which are not obligated prior to the end of the fiscal year for which such funds were appropriated, shall remain available for obligation during the succeeding fiscal year, and any funds obligated in any fiscal year may be expended during a period of two years from the date of obligation.

"(c)(1) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are first available for obligation.

"(2) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

"(d) Of the amount appropriated to carry out this Act for any fiscal year, the amount available for carrying out title III shall not exceed 20 per centum of the amount available for carrying out title II. From any amount made available for title III activities, the Secretary shall transfer an amount equal to not less than $3,000,000 nor more than $5,000,000 for any fiscal year to the National Occupational Information Coordinating Committee established pursuant to section 161(b) of the Vocational Education Act of 1963, for purposes described in section 315 of this Act.

EVALUATION STUDIES

SEC. 113. (a) From the amounts appropriated pursuant to section 112 for carrying out titles II and VI for each of the fiscal years ending on September 30, 1979, 1980, 1981, and 1982, the Secretary shall reserve not less than $5,000,000 for purposes of this section.

(b) From the amounts available pursuant to subsection (a) the Secretary shall establish a program for the continuous and comprehensive study and evaluation, under contract, of recurrent and developing problems in achieving the purposes and goals of such programs. Such study shall be conducted on the basis of statistical and operational evaluation (and collection and organization) of data concerning programs under this Act. Such study and evaluation shall include—

(1) a detailed analysis of the characteristics of participants in each of such programs;

(2) development and use of definitions, standards, and tests (A) for revealing the extent and use of substitution (as prohibited by section 121 (e)(2), (e)(3), and (g)(1)), (B) for analyzing the characteristics of the sponsors and participants likely to be involved, and (C) for analyzing trends or patterns of variation in the extent or type of substitution by type of program, duration of program operation, or other factors;

(3) development and use of definitions, standards, and tests (A) for revealing the extent of transition to unsubsidized employment, (B) for analyzing the characteristics of the sponsors and participants likely to achieve such transition, and (C) for analyzing trends or patterns of variation by type of unsubsidized employment, posttransition income and duration of employment, and degree to which posttransition employment job skills and functions differ from those required in the position funded under this Act.

(c) The study and evaluation program conducted under this section shall also include—

(1) use of appropriate control groups of individuals eligible for, but not enrolled in, programs under this Act;

(2) preenrollment studies of program participants; and

(3) random sampling techniques, and organization of data by demographic characteristics.

(d) The Secretary shall transmit to Congress annual reports on the study evaluation activities conducted under this section on October 1 of 1979 and 1980, shall transmit a final report thereon on October 1, 1981, and shall transmit a supplemental report on October 1, 1982. Each such report, in addition to presenting detailed findings and conclusions pursuant to subsections (b) and (c), shall analyze the data basis for such findings and conclusions in terms of net impact, statistical significance, and other measures of the reliability of such data. Reports required under this subsection shall, notwithstanding any other provision of law, be submitted without further clearance or approval from any other official.

(e) The Secretary shall submit to the Congress, within ninety days after the date of enactment of this section, a plan for the study and evaluation program to be conducted under this section. Such plan shall be delivered to both Houses on the same day and to each House while it is in session. The Secretary shall not commence such program until the first day after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress. For purposes of this subsection—

(1) continuity of session is broken only by an adjournament of Congress sine die; and

(2) the days on which either House is not in session because of an adjournament of more than three days to a day certain are excluded in the computation of the thirty-day period.

"PART B—GENERAL PROVISIONS

"CONDITIONS APPLICABLE TO ALL PROGRAMS

"SEC. 121. Except as otherwise provided, the following conditions are applicable to all programs under this Act.

"(a)(1) No person shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

"(2) Participants shall not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

"(3) Every participant, prior to entering upon employment or training, shall be informed of that individual's rights and benefits in connection with such employment or training; acceptance of family planning services shall be voluntary on the part of the individual, and shall not be a prerequisite to eligibility for, or receipt of, any benefit under the program.

"(4)(A) Programs shall contribute, to the maximum extent feasible, to the elimination of artificial barriers to employment and occupational advancement.

"(B) Prime sponsors and their subgrantees and contractors shall analyze and reevaluate job descriptions to remove artificial barriers to the public service employment of participants, and, where necessary, revise, or assist in the revision of, qualification requirements, including civil service and licensing requirements and practices relating thereto.

"(5) Prime sponsors shall make efforts to remove architectural barriers to employment of the handicapped.

"(b)(1)(A) Only persons residing within the area qualifying for assistance shall be employed and the public services provided by such jobs, to the extent feasible, shall be designed to benefit the residents of such area.

"(B) Employment and training opportunities for participants shall be made available by prime sponsors on an equitable basis in accordance with the purposes of this Act among significant segments of the eligible population giving consideration to the relative numbers of eligible persons in each such segment.

"(C) In the administration of programs under this Act, members of the eligible population to be served shall be provided maximum employment opportunities, including opportunities for further occupational training and career advancement. Prime sponsors shall make special efforts to recruit and hire qualified persons reflecting the significant demographic segments of the population residing in the area.

"(D) Preference in filling public serivce jobs shall be given to eligible persons who are the most severely disadvantaged in terms of their length of unemployment and their prospects for finding employment.

"(2)(A) Special consideration shall be given to unemployed persons who served in the Armed Forces in Indochina or Korea on or after August 5, 1964, in accordance with procedures established by the Secretary, and special emphasis shall be given to the development of jobs which will utilize, to the maximum extent feasible, the skills which such veterans acquired in connection with their military training and service.

"(B) Special efforts shall be made to acquaint such veterans with the employment and training available under this Act, and to coordinate efforts in behalf of such veterans with those activities authorized by chapter 41 of title 38, United States Code (relating to job counseling and employment services for veterans), and other similar activities carried out by other public agencies or organizations.

"(C) Prime sponsors shall provide such arrangements as may be appropriate to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38, United States Code.

"(c)(1)(A)(i) No wages shall be paid from funds under this Act to any participant for any week of public service employment under this Act in excess of seventy-eight weeks in any five-year period. For purposes of this division, no more than twenty-six weeks of public service employment financed in whole or in part under this Act prior to October 1, 1978, shall be considered as part of the seventy-eight weeks.

"(ii) The Secretary may waive the provisions of division (i) or of paragraph (2)(B) to provide a temporary extension of time for a limited number of persons who were originally hired in a public service employment program prior to April 1, 1978, and who continue to be so employed on September 30, 1979, in the case of a prime sponsor which the Secretary determines has faced unusually severe hardships in its efforts to transition public service employees into regular public or private employment not supported under this Act or in the case of Native American entities who operate programs authorized under section 302(c)(1) of this Act.

"(B)(i) Except as provided in division (ii), funds under this Act shall not be used to pay wages to any person employed in a public service job in any fiscal year under this Act at a rate in excess of $10,000 per year.

"(ii) Notwithstanding division (i) of this subparagraph, the Secretary may, with respect to any State—

"(I) in which the average wage (during the calendar year preceding the beginning of the applicable fiscal year) in employment covered under Federal or State unemployment compensation laws (without regard to any limitation on the amount of wages subject to contribution under such law) exceeds the national average wage in such employment by more than 50 per centum, and

"(II) in which employees of the Government receive allowances pursuant to section 5941 of title 5, United States Code,

waive the maximum which would otherwise apply to wages paid to persons employed in public service positions in such State and establish in lieu thereof, limitations consistent with the purposes of this Act and with the requirements of programs under this Act in such State.

"(C) In order to provide the number of public service job opportunities for which funds are made available under this Act, the Secretary shall issue appropriate standards to be maintained with respect to average federally supported wage rates for public service jobs on an area basis, on the basis of an index to be published annually by the Secretary, taking into account average wages in regular employment not supported under this Act in various areas, for the purpose of maintaining nationwide annual average federally supported wage rates in the fiscal year ending September 30, 1979, equivalent to $7,000 per public service jobholder (consistent with the maximum annual federally supported wage rate under subparagraph (B)) of this paragraph. Average wage rates established under such standards for public service jobs for each area shall be adjusted annually by the Secretary by a percentage equal to the change in average wages in regular employment not supported under this Act in such area.

"(D) Notwithstanding any eligibility limitation on public service employment in this Act, a person who on September 30, 1978, held a public service employment position under this Act may continue in such position subject to subparagraph (A) of this paragraph.

"(E)(i) Except as otherwise provided in section 608, no public service employment participant may be provided wages for any public service employment job from sources other than this Act.

"(ii) Notwithstanding division (i), any person in public service employment on September 30, 1978, receiving wages from sources other than this Act may continue to receive such wages.

"(2)(A) All persons participating in work experience under this Act shall receive wages, and all persons participating in training shall receive allowances, pursuant to section 123; except that, subject to section 212(b), no wages or allowances shall be paid from funds under this Act to any participant for any week of institutional or classroom training, or for any week of work experience, in excess of one hundred and four weeks in any three-year period.

"(B) Subject to section 212(b), no individual shall participate in programs receiving financial assistance under this Act for longer than a total of thirty months in any five-year period. For purposes of this subparagraph, no period of participation prior to October 1, 1978, shall be included in the computation of such thirty months.

"(3)(A) Appropriate workers' compensation or equivalent protection shall be provided to all participants.

"(B) All persons employed in public service jobs under this title will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy. Nothing in this subparagraph or in paragraph (4) shall be deemed to require the enrollment of persons employed in public service jobs in retirement systems or plans for the purpose of providing retirement benefits based on age or service, or both.

"(4) Funds available for employment benefits under this Act may be used for contributions on behalf of participants enrolled in retirement systems or plans prior to January 1, 1980. With respect to participants other than those described in the preceding sentence, funds under this Act may, notwithstanding paragraph (3)(B), be used for contributions to retirement systems or plans (other than pursuant to the Social Security Act) only to the extent such contributions are used to provide benefits such as health and death and disability and are not used for retirement benefits based on age or service, or both.

"(d)(1) Conditions of employment and training shall be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant.

"(2) Appropriate health, safety and other standards for work and training shall be established and maintained.

"(3) Household support obligations shall be taken into account, and special consideration shall be given alternative working arrangements such as flexible hours of work, work-sharing arrangements, and part-time jobs, particularly for parents of young children and for older persons.

"(e)(1) The program shall result in an increase in employment and training opportunities over those opportunities which would otherwise be available.

"(2) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

"(3) No person shall be employed or job opening filled (A) when any other person not supported under this Act is on layoff from the same or any substantially equivalent job, or (B) when the employer has terminated the employment of any regular employee not supported under this Act or otherwise reduced its workforce with the intention of filling the vacancy so created by employing a public service employee.

"(4) No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of persons currently employed in jobs not subsidized under this Act.

"(5) No public service jobs shall be substituted for existing federally assisted jobs.

"(6) No program shall impair existing contracts for services.

"(7) No funds shall be used to assist in relocating establishments, or parts thereof, from one area to another or locating new branches, subsidiaries, or affiliates unless the Secretary determines that such relocation or location will not result in an increase in unemployment in the area of original location or in any other area.

"(f)(1) All programs, to the maximum extent feasible, shall contribute to occupational development, upward mobility, development of new careers, and overcoming sex-stereotyping (including procedures which will lead to skill development and job opportunities for participants in occupations traditionally limited to the opposite sex).

"(2) No person shall be trained for an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation.

"(3) All programs shall be designed, to the maximum extent practicable, consistent with every individual's fullest capabilities, to lead to employment opportunities enabling participants to increase their earned income and to become economically self-sufficient.

"(4) No person shall be referred for training unless there is a reasonable expectation of employment in the occupation for which such person is being trained. To the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector.

"(5) Programs of institutional training shall be designed for occupations in which skill shortages exist.

"(6) The Secretary, through State employment security agencies, shall inform unemployment compensation recipients, and other applicants for assistance from the employment security agency, of any available public service jobs for which they may be eligible.

"(g)(1)(A) No program shall substitute funds under this Act for other funds in connection with work that would otherwise be performed.

"(B) No funds for public service employment programs under this Act may be used to provide public services, through a private organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area served by the program.

"(C) Jobs shall be created that are in addition to those that would be funded in the absence of assistance under this Act.

"(D) Funds shall be used to supplement, and not to supplant, the level of funds that would otherwise be made available from non-Federal sources for the planning and administration of programs.

"(2) Programs shall use services and facilities available (with or without reimbursement) from Federal, State, and local agencies to the extent they are deemed e by the prime sponsor.

"(3) Financial records relating to public service employment programs, and records of the names, addresses, positions, and salaries of all persons employed in public service jobs, shall be maintained and made available to the public.

"(h)(1) No nongovernmental individual, institution, or organization shall be paid funds provided under this Act to evaluate any program under this Act if such individual, institution, or organization is associated with that program as a consultant or technical advisor, or in any similar capacity.

"(2) No member of any council under this Act shall cast a vote on any matter which has a direct bearing on services to be provided by that member (or any organization which that member directly represents).

"(i) Small and minority-owned businesses shall be provided maximum reasonable opportunity to compete for contracts for supplies and services including, where appropriate, the use of set-asides.

"(j) Payments to employers organized for profit shall not exceed the difference between (1) the costs of recruiting, training, and supportive services, and the costs of low productivity (as defined by regulations of the Secretary) for participants and (2) the comparable costs incurred for those regularly employed.

"(k) Prime sponsors shall provide, where employment opportunities already exist or where there is a reasonable expectation of near-term expansion of such employment potential, employment and training opportunities in the development and use of solar, geothermal, hydroelectric, and other alternative energy technologies, and conservation, especially those clean, safe, renewable resources which may assist communities in resolving energy demand problems, thereby reducing thir reliance on conventional nonrenewable fuels. For purposes of this section, solar energy sources has the meaning set forth in section 3 of the Solar Energy Research, Development and Demonstration Act of 1974.

"(l) No funds under this Act shall be used to aid the efforts of any labor organization to organize, to engage in collective bargaining, or to engage in any political activity. Without limiting the powers otherwise granted to the Secretary, funds found by the Secretary or by a court of law to be in violation of this subsection shall be refunded promptly to the United States Treasury.

"(m) No funds provided under this Act shall be paid to any nongovernmental organization, association, firm or other entity for the conduct of any program or activity under this Act unless—

"(1) such organization, association, firm or other entity has a meritorious written plan which has been reviewed and evaluated by the prime sponsor or, where appropriate, the Secretary, according to standards promulgated by the Secretary and is found to meet the purposes and requirements of the Act; and

"(2) such organization, association, firm or other entity is selected on the basis of merit which shall mean at least that such organization, association, firm or other entity—

"(A) has the administrative capability to perform effectively under the program;

"(B) has submitted a written plan under section (1) that compares favorably to other plans; and

"(C) has not been seriously deficient in its conduct of or participation in any Department of Labor program in the past, or, is not a successor organization to one that was seriously deficient in the past, unless the Secretary in his discretion certifies after a clear, convincing and detailed showing, that the deficiencies will be eliminated and performances substantially improved; and

"(3) a comprehensive and independent monitoring program designed to insure compliance with the plan and this Act is in place in accordance with standards promulgated by the Secretary, which standards shall require adequate training of monitors and procedures for the prompt follow up of problems found during the monitoring process.

"(n) No funds under this Act shall be used, directly or indirectly, to assist any person who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment.

"(o) Each prime sponsor receiving funds under this Act shall establish an independent unit to monitor compliance with the requirements of this Act, the regulations issued thereunder, and the comprehensive employment and training plan. The Secretary shall annually assess the effectiveness of the units established pursuant to the preceding sentence, with particular regard to the adequacy of provisions made for funding, staffing, and insuring the independence and objectivity of monitoring practices and methods.

"SPECIAL PROVISIONS

"Sec. 122. (a) No authority conferred by this Act shall be used to enter into arrangements for, or otherwise establish, any employment and training programs in lower wage jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high. The Secretary shall implement the requirements of this subsection by an establishment-by-establishment analysis of the nature of the jobs offered in such programs.

"(b) The Secretary shall provide for the sharing of the comprehensive employment and training plan and other plans and proposals between the prime sponsors and other recipients of financial assistance in the prime sponsor's area under this Act in order to assure maximum feasible coordination of activities and programs within the area and to minimize duplication.

"(c)(1) Notwithstanding any other provisions of law, employment and training furnished under this Act in connection with weatherization projects may include work on projects for the near poor, including families having incomes which do not exceed 125 per centum of the poverty level as determined in accordance with the criteria established by the Director of the Office of Management and Budget, and projects approved by the Community Service Administration pursuant to section 222(a)(12) of the Economic Opportunity Act or the Department of Energy pursuant to title IV of the Energy Conservation and Production Act of 1976.

"(2) Projects permitted under this subsection shall be subject to the direction of an adequate number of supervisory personnel, who shall be adequately trained in skills needed to carry out the project and to instruct participants in skills needed to carry out a project.

"(3) The Secretary shall facilitate and extend projects for work on the weatherization of low income housing in titles II, III, IV and VI of this Act, so as to achieve the most efficient match of manpower funds to materials funds. The Secretary shall, in coordination with other appropriate agencies, provide technical assistance and otherwise encourage prime sponsors, serving areas where such projects would contribute to energy savings, to develop and continue weatherization projects as part of their programs under this Act to best prepare applicants for employment in energy related jobs in unsubsidized employment.

"(d) All allocations under this Act shall be based on the latest available data and estimates satisfactory to the Secretary.

"(e) Where the Secretary determines that a Native American entity otherwise qualified under section 302(c)(1) is unable to apply for or use any financial assistance for which it may be eligible under this Act, the Secretary may assist such entity in applying for or using such financial assistance.

"(f) For purposes of eligibility for participation in a program under this Act, no person shall be considered as unemployed unless such person has been unemployed for at least seven consecutive days.

"(g)(1) All funds received under any title of this Act, which are allowed to be used for administrative costs under the provisions of the title under which they were received, may be pooled by the recipient so that they may be used to administer all programs under this Act, and may be used to plan for the administration of title VI programs without regard to present funding for such programs.

"(2) Nothing in section 121 or this section shall be deemed to authorize the Secretary to preapprove the selection of legal counsel by a prime sponsor, but the Secretary shall assure that no funds available for administrative costs under any title of this Act are used by a prime sponsor for making payments on contracts for legal or other associated services unless substantively comparable services are not available from the Department of Labor (provided use of such services would not cause a conflict of interest within the Department of Labor) and the prime sponsor certifies that—

"(A) the payments are not unreasonable in relation to the fees charged by other contractors providing similar services, and in any event, do not exceed the rate of pay of GS–18; and

"(B) the services could not be competently provided through employees of the prime sponsor or other available State or local governmental employees.

"(3) Where a prime sponsor has incurred legal costs in litigation with the Department of Labor, and such costs are questioned in a Department audit, the allowability shall be determined in the office of the Assistant Secretary of Labor for Employment and Training.

"(h) The Secretary, by regulation, shall establish such standards and procedures for recipients of funds under this Act as are necessary to assure against program abuses including, but not limited to, nepotism; conflicts-of-interest; the charging of fees in connection with participation in the program; the improper commingling of funds under the Act with funds received from other sources; the failure to keep and maintain sufficient, audible, or otherwise adequate records; kickbacks; political patronage; violations of applicable child labor laws; the use of funds for political, religious, antireligious, unionization, or antiunionization activities; the use of funds for lobbying local, State, or Federal legislators; and the use of funds for activities which are not directly related to the proper operation of the program.

"(i) Pursuant to regulations of the Secretary, income generated under any program may be retained by the recipient to continue to carry out the program, notwithstanding the expiration of financial assistance for that program.

"(j) Pursuant to regulations which the Secretary shall prescribe, each recipient of financial assistance under this Act shall make satisfactory provisions for determining and verifying whether individuals are eligible for participation in programs supported under this Act.

"(k) Every recipient which receives funds directly from the Secretary shall be responsible for the allocation of such funds and the eligibility of those enrolled in the program and shall have responsibility to take action against its subcontractors, subgrantees, and other recipients to eliminate abuse in their programs and to prevent any misuse of funds by such subcontractors, subgrantees, and other recipients. Prime sponsors may delegate the responsibility for determination of eligibility under reasonable safeguards, including provisions for reimbursement of cost incurred because of erroneous determinations made with insufficient care, provided that the Secretary has approved such an arrangement pursuant to the provisons of section 104(a).

"WAGES AND ALLOWANCES

"Sec. 123. Except as otherwise provided in this Act, the following allowances and wages shall apply to all activities financed under this Act:

"(a)(1) The Secretary shall establish a basic hourly allowance for an individual receiving training for which no wages are payable at a rate which, when added to the amounts of unemployment compensation, if any, received by the trainee, shall be no less than the hourly minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, or, if higher, under the applicable State or local minimum wage law.

"(2) Pursuant to regulations of the Secretary, the prime sponsor may increase, decrease, prorate, or waive the basic allowance.

"(3) A trainee receiving public assistance, or whose needs or income is taken into account in determining such public assistance payments to others, shall receive an incentive allowance for each hour spent in training at the rate of $30 per week. Such allowance shall be disregarded in determining the amount of public assistance payments under Federal or federally assisted public assistance programs.

"(4) A trainee shall receive no allowances for hours during which the trainee fails to participate without good cause.

"(b) A person in public service employment or similar employment shall be paid wages which shall not be less than the highest of (1) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938. (2) the minimum wage under the applicable State or local minimum wage law, or (3) the prevailing rates of pay for persons employed in similar occupations by the same employer.

"(c) Persons in on-the-job training shall be compensated by the employer at such rates, including periodic increases, as may be deemed reasonable under regulations prescribed by the Secretary, considering such factors as industry, geographical region, skill requirements, and individual proficiency, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law.

"(d) Persons in work experience shall be paid wages not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law.

"LABOR STANDARDS

"SEC. 124. All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Davis-Bacon Act (40 U.S.C. 276a—276a-5). The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

"DEFINITIONS

"SEC. 125. As used in this Act—

"(1) The term 'academic credit' means education, training, or work experience applicable toward a secondary school diploma, a postsecondary degree, or an accredited certificate of completion, consistent with applicable State law, regulation, and policy and the requirements of an accredited educational agency or institution in a State.

"(2) The term 'area of substantial unemployment' means any area of sufficient size and scope to sustain a public service employment program and which has an average rate of unemployment of at least 6.5 per centum (A) for any three consecutive months within the preceding year for purposes of title II, or (B) for the most recent four quarters for purposes of title VI. Determinations of areas of substantial unemployment shall be made once each fiscal year by the Secretary.

"(3) The term 'artificial barriers to employment' refers to limitations in the hiring, firing, promotion, licensing, and other terms and conditions of employment which are not directly related to the individual's fitness or ability to perform the duties required by the employment position.

"(4) The term 'community-based organizations' means private nonprofit organizations which are representative of communities or significant segments of communities and which provide employment and training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, neighborhood organizations, community action agencies, community development corporations, rehabilitation facilities (as defined in section 7(10) of the Rehabilitation Act of 1973), union-related organizations, and employer-related nonprofit organizations).

"(5) The term 'Consumer Price Index' means the 'All Urban Consumer Index' as determined by the Secretary of Labor.

"(6) The term 'disabled veteran' means those veterans described in section 2011(1) of title 38, United States Code.

"(7) The term 'economically disadvantaged' means a person who (A) receives, or is a member of a family which (i) receives cash welfare payments under a Federal, State, or local welfare program, or (ii) had a family income during the six-month period prior to application for the program which would have qualified such family for such cash welfare payments, subject to regulations of the Secretary; (B) has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program (exclusive of unemployment compensation and welfare payments) which, in relation to family size, was not in excess of the higher of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget or 70 per centum of the lower living standard income level; (C) is a foster child on behalf of whom State or local government payments are made; or (D) in cases permitted by regulations of the Secretary, is a handicapped individual living at home or is an individual who is institutionalized or receiving services in, or is a client of, a sheltered workshop, prison, hospital, or similar institution or in community care. Except for persons who would be eligible for assistance under title IX of the Older Americans Act or a handicapped individual who is 16 years of age or older, any person claimed as a dependent on another person's Federal income tax return under section 151(e) of the Internal Revenue Code of 1954 for the previous year shall be considered part of the person's family for the current year.

"(8) The term 'entry level' means the lowest position in any promotional line, as defined locally by collective-bargaining agreements, past practice, or applicable personnel rules.

"(9) The term 'Governor' means the chief executive of any State.

"(10) The term 'handicapped individual' means any individual who (A) has a physical or mental functional limitation or impairment which constitutes or results in an inability to perform any substantial gainful employment, and (B) can be reasonably expected to benefit, in terms of employability, from services provided pursuant to this Act.

"(11) The term 'Hawaiian native' means any individual any of whose ancestors were natives, prior to 1778, of the area which now consists of the Hawaiian Islands.

"(12) The term 'health care' includes, but is not limited to, preventive and clinical medical treatment, family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services, to the extent any such treatment or services are necessary to enable the recipient of employment and training services to obtain or retain employment.

"(13) The term 'institutions of higher education' and 'post-secondary institutions' means those institutions defined as institutions of higher education in section 1201(a) of the Higher Education Act of 1965.

"(14) The term 'local educational agencies' means those agencies so defined in section 195(10) of the Vocational Education Act of 1963.

"(15) The term 'low-income level' means $7,000 with respect to income in 1969, and for any later year means that amount which bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

"(16) The term 'lower living standard income level' means that income level (adjusted for regional and metropolitan and urban and rural differences and family size) determined annually by the Secretary based upon the most recent 'lower living family budget' issued by the Secretary.

"(17) The term 'offender' means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom employment and training services may be beneficial or who requires assistance in overcoming artificial barriers to employment stemming from a record of arrest or conviction.

"(18) The term 'project applicants' includes States and agencies thereof, units of general local government and agencies thereof or combinations or associations of such governmental units when the primary purpose of such combinations or associations is to assist such governmental units to provide public services, special purpose political subdivisions having the power to levy taxes and spend funds or serving such special purpose within an area served by one or more units of general local government, local educational agencies, institutions of higher education, community-based organizations, community development corporations, nonprofit groups and organizations serving Native Americans, and other private nonprofit organizations or institutions engaged in public service.

"(19) The term 'public assistance' means Federal, State, or local government cash payments for which eligibility is determined by a need or income test.

"(20) The term 'public service' includes, but is not limited to, work, including part-time work, in such fields as environmental quality, health care, education, child care, public safety, crime prevention and control, prisoner rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans outreach, and other fields of human betterment and community improvement.

"(21) The term 'recipient' means any person, organization, unit of government, corporation, or other entity receiving financial assistance under this Act whether directly from the Secretary, or through another recipient by subgrant, contract, subcontract, agreement, or otherwise.

"(22) The term 'Secretary' means the Secretary of Labor.

"(23) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Northern Marianas, American Samoa, and the Trust Territory of the Pacific Islands.

"(24) The term 'underemployed persons' means—

"(A) persons who are working part time but seeking full-time work;

"(B) persons who are working full time but receiving wages below the higher of either (i) the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget or (ii) 70 per centum of the lower living standard income level;

"(C) in cases permitted by regulations of the Secretary, persons who are institutionalized or receiving services in a sheltered workshop, prison, hospital, or similar institution, or in community care; or

"(D) adults who, or whose families receive, supplemental security income or money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act or would, as defined in regulations to be issued by the Secretary, be eligible for such payments but for the fact that both parents are present in the home (i) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work and (ii) who are either persons without jobs, or persons working in jobs providing insufficient income to support their families without welfare assistance.

"(25) The term 'unemployed persons' means persons who are without jobs and who want and are available for work, and shall, for purposes other than allocation formulas, include persons who are institutionalized or receiving services in a sheltered workshop, prison, hospital, or similar institution, or in community care. The determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed, but such criteria shall not be applied differently on account of a person's previous employment.

"(26) The term 'unit of general local government' means any city, municipality, county, town, township. parish, village, or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

"(27) The term 'veterans outreach' means the veterans outreach services program carried out under subchapter IV of chapter 3 of title 38. United States Code, with full utilization of veterans receiving educational assistance or vocational rehabilitation under chapter 31 or 34 of such title 38, and the services described in section 305 of this Act.

"(28) The term 'special consideration' as used in Sec. 121(b)(A) means such employment, training, supportive services, technical assistance and training, support for community based veterans programs, and maintenance and expansion of private sector veterans employment and training initiatives and such other programs or initiatives as are necessary to serve the unique readjustment, rehabilitation, and/or employment needs of veterans.

"SECRETARY'S AUTHORITY

"SEC. 126. (a) The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules, regulations, guidelines, and other published interpretations under this Act as he deems necessary. Rules, regulations, guidelines, and other published interpretations or orders may include adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. For purposes of chapter 5 of such title any condition or guideline for receipt of financial assistance shall be deemed a rule to which section 553 applies. All such rules, regulations, guidelines, and other published interpretations or orders under this Act shall be published in the Federal Register at least thirty days prior to their effective date. Copies of all such rules, regulations, guidelines, and other published interpretations or orders shall be transmitted to the appropriate committees of the Congress at the same time and shall contain with respect to each material provision of such rules, regulations, guidelines, and other published interpretations or orders, citations to the particular substantive section of law which is the basis therefor.

"(b) The Secretary may make such grants, contracts, or agreements, establish such procedures and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as deemed necessary to carry out the provisions of this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments.

"(c) Notwithstanding any other provision of this Act, no authority to enter into contracts under this Act shall be effective except to such an extent or in such an amount as are provided in advance in appropriations Acts.

"REPORTS

"SEC. 127. (a) The Secretary shall make such reports and recommendations to the President as the Secretary deems appropriate pertaining to employment and occupational requirements, resources, use, and training, and the President shall transmit to the Congress a report on the same topics not later than April 1 of each year. The first such report submitted after the effective date of the Comprehensive Employment and Training Amendments of 1978 shall include recommendations with respect to necessary legislative or administrative changes required to simplify on-the-job training contracting procedures under title II.

"(b) The Secretary and the Secretary of Health, Education, and Welfare shall report to the Congress on the extent to which social services, community colleges, area vocational and technical schools and other vocational education agencies and institutions, and vocational rehabilitation agencies are being utilized to carry out training programs supported in whole or in part under this and related Acts; the extent to which administrative steps have been taken or are being taken to encourage the use of such facilities and institutions and agencies in the carrying out of the provisions of this Act; and any further legislation that may be required to assure effective coordination and utilization of such facilities and agencies to the end that all federally supported employment and training, vocational education, and vocational rehabilitation programs can more effectively accomplish the objective of providing employment and training opportunities to all persons needing such employment and training.

"(c) The Secretary shall transmit to the Congress, as a part of the report required by subsection (a), a detailed report setting forth the public service employment activities conducted under this Act and information on the extent to which (1) participants in such activities subsequently secure and retain public or private employment or participate in training or employability development programs, and (2) segments of the population of unemployed persons are provided public service opportunities. No later than March 1, 1980, the Secretary shall report to Congress proposals for the integration and consolidation of the programs established by part A of title IV and title VII with the program established by title II.

"(d) The Secretary shall transmit to the Congress, as a part of the report required by subsection (a), a detailed report on the evaluations and pilot and demonstration projects conducted with funds made available under this Act, including employment service/prime sponsor demonstration projects.

"(e) The Secretary shall, in consultation with the Director of the Office of Management and Budget, submit a report once each quarter to the Congress on efforts being taken to reduce paperwork and reporting and to comply with the requirements of the Federal Reports Act and management directives of the Office of Management and Budget.

"(f) any evaluation report, or data, or information collected in preparation of such report submitted under this section or under any other provisions of this Act, or any contract which is made or information pursuant to such contract which is paid for or made with appropriated funds shall be made available upon request, within 4 days to the Chairman or ranking minority member of the Committee on Education and Labor of the House of Representatives and the Committee on Human Resources of the Senate.

"(g) The Secretary may require each prime sponsor to prepare, and make available to the public, periodic reports on its activities under the Act. Such reports shall contain such information as the Secretary may require.

"(h) The Secretary shall report to Congress, within one year of enactment of this Act, his recommendations for legislative changes designed to increase the representativeness and independence of the prime sponsor's planning councils, with special attention to the process for selecting council memberships.

"SERVICES AND PROPERTY

"SEC. 128. The Secretary is authorized, in carrying out functions and responsibilities under this Act, to accept, purchase, or lease in the name of the Department, and employ or dispose of in furtherance of the purposes of this Act, or any title thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes of the United States.

"UTILIZATION OF SERVICES AND FACILITIES

"SEC. 129. (a) In addition to such other authority as the Secretary may have, the Secretary is authorized, in the performance of functions under this Act, and to the extent permitted by law, to utilize the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and utilize the services and facilities of the agencies of any State or political subdivision of a State, with its consent.

"(b) The Secretary shall carry out responsibilities under this Act through the utilization, to the extent appropriate, of all resources for skill development available in industry, labor, public and private educational and training institutions, vocational rehabilitation agencies, and other State, Federal, and local agencies and other appropriate public and private organizations and facilities, with their consent.

"INTERSTATE AGREEMENTS

"SEC. 130. In the event that compliance with provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

"PROHIBITION AGAINST POLITICAL ACTIVITIES

"SEC. 131. (a) The Secretary shall not provide financial assistance for any program under this Act which involves political activities.

"(b) Neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

"NONDISCRIMINATION

"SEC. 132. (a) No person in the United States shall on the ground of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this Act.

"(b) Whenever the Secretary determines that a recipient of financial assistance has failed to comply with subsection (a) or an applicable regulation, the Secretary, in addition to exercising the powers and functions provided in section 106, is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (3) to take such other action as may be provided by law. In any case in which the Secretary receives a complaint from any interested person or organization under section 106 with respect to an alleged violation of subsection (a) of this section, the Secretary shall make the determination referred to in the preceding sentence no later than 120 days after receiving such complaint.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever the Attorney General has reason to believe that a recipient is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"(d) In addition to other remedies, the Secretary is authorized to enforce the provisions of subsection (a) dealing with discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief, in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such provisions of such subsection. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any program or activity receiving assistance under this Act.

"(e) No participant under this Act shall be discriminated against by reason of citizenship. Participation shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, and lawfully admitted refugees and parolees.

"(f)(1) The Secretary shall provide a focus for the employment and training of handicapped individuals under this Act, and shall review, on a periodic basis, the adequacy of outreach, training, placement, and advancement practices with respect to handicapped individuals by each prime sponsor pursuant to section 103(b)(7) and shall insure that the special needs of such individuals are being met.

"(2) The Secretary shall include in each annual report pursuant to section 127(a) a complete evaluation of the conduct of and achievements in outreach, training, placement, and advancement practices with respect to handicapped individuals by prime sponsors pursuant to section 103(b)(7), including a comparison of such practices and achievements with those of the two preceding years.

"RECORDS, AUDITS, AND INVESTIGATIONS

"SEC. 133. In order to assure that funds provided under this Act are used in accordance with its provisions—

"(a) Every recipient of funds under this Act shall make, keep, and preserve such records as the Secretary shall require with regard to each employee and each participant. Such records, including periodic reports, audits, and examinations, shall be preserved for such time as the Secretary establishes and shall be made available to the Secretary at such time and in such form, including periodic reports, audits, and examinations as the Secretary may require by regulation or order.

"(b) The Secretary may investigate such facts, conditions, practices, or other matters the Secretary deems necessary to determine whether any recipient of funds or any official of such recipient has violated any provision of this Act or of the regulations. Such investigations may include, but need not be limited to, inspecting all records of the recipient (including making certified copies thereof), questioning employees, and entering any premises or onto any site in which any part of the recipient's program is conducted.

"(c) For the purpose of any hearing or investigation authorized under this Act, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49, relating to the attendance of witnesses and the production of books, papers, and documents) are made applicable to the Secretary of Labor.

"CRIMINAL PROVISIONS

"SEC. 134. (a) Chapter 31 of title 18, United States Code, is amended by striking out section 665 and inserting in lieu thereof the following:

" 'THEFT OR EMBEZZLEMENT FROM EMPLOYMENT AND TRAINING FUNDS: IMPROPER INDUCEMENT

" 'SEC. 665. (a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with any agency receiving financial assistance under the Comprehensive Employment and Training Act of 1973 embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to such Act shall be fined not more than $10,000 or imprisoned for not more than two years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000, or imprisoned not more than one year, or both.

" '(b) Whoever, by threat of procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a grant or contract of assistance under the Comprehensive Employment and Training Act of 1973, induces any persons to give up any money or thing of any value to any person (including such grantee agency) shall be fined not more than $1,000, or imprisoned not more than one year, or both.

" 'FRAUD AND OBSTRUCTION IN EMPLOYMENT AND TRAINING PROGRAMS

" 'SEC. 665a. (a) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry or to produce documentary evidence, if in his power to do so, in obedience to the subpena or lawful requirement of the Secretary of Labor, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $1,000 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

" '(b) Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under the Comprehensive Employment and Training Act of 1973, or who shall willfully make or cause to be made, any false entry in any account, record, or memorandum kept by any recipient of funds under such Act, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memorandums of all facts and transactions appertaining to the business of such recipients, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such recipient, or who shall willfully refuse to submit to the Secretary of Labor or to any of such Secretary's authorized agents, for the purpose of inspection and making copies, any documentary evidence of such recipient in such person's possession or within such person's control or who shall deny access to such Secretary or any of such Secretary's authorized agents who wish to examine, audit, inspect, or otherwise view the records, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000 or to imprisonment for not more than one year, or by both such fine and imprisonment.'

"(b) The analysis of chapter 31 is amended by adding at the end thereof the following new item:

" '665a. Fraud and obstruction in employment and training programs.'

"BONDING

"SEC. 135. Every officer, director, agent or employee of a recipient of funds under this Act who handles funds or other property thereof shall be bonded to provide protection against loss by reason of acts of fraud or dishonesty on such person's part directly or through connivance with others. The Secretary shall establish the amount and other bonding requirements by regulation.

"PART C—AUDITS, INVESTIGATIONS, AND COMPLIANCE

"PURPOSE; ESTABLISHMENT

"SEC. 151. In order to create an independent and objective unit—

"(1) to conduct and supervise audits and investigations relating to programs and operations under this Act;

"(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy and efficiency in the administration of and (B) to prevent and detect fraud and abuse in, such programs and operations; and

"(3) to provide a means for keeping the Secretary and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

there is hereby established in the Office of the Secretary an Office of Audits, Investigations, and Compliance.

"APPOINTMENT OF OFFICERS

"SEC. 152. (a) There shall be at the head of the Office a Director who shall be appointed by the Secretary without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Director shall report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the officer next in rank below the Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

"(b) There shall also be in the Office, a Deputy Director appointed by the Secretary, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law management analysis, public administration, or investigations. The Deputy shall assist the Director in the administration of the Office and shall, during the absence or temporary incapacity of the Director, or during a vacancy in that office, act as Director.

"(c) For the purposes of section 7324 of title 5, United States Code, no Director or

Deputy Director shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

"(d) The Director shall, in accordance with applicable laws and regulations governing the civil service—

"(1) appoint an Assistant Director for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations under this Act; and

"(2) appoint an Assistant Director for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

"(e) In carrying out the duties and responsibilities provided by this Act, the Director shall take such steps as may be necessary to insure that—

"(1) audits of each prime sponsor (A) are conducted at least once every two years, and (B) are conducted in a reasonably timely manner; and

"(2) that action taken on the basis of any such audit, including review and collection of unallowable expenditures, is completed in a timely manner after the completion of any such audit.

"DUTIES AND RESPONSIBILITIES

"SEC. 153. (a) It shall be the duty and responsibility of the Director, with respect to the programs and operations under this Act—

"(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to such programs and operations;

"(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed under this Act for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, such programs and operations;

"(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, such programs and operations, or (B) the identification and prosecution of participants in such fraud or abuse; and

"(4) to keep the Secretary and the Congress informed, by means of the reports required by section 154 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of such programs and operations, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

"(b) In carrying out the responsibilities specified in subsection (a)(1), the Director shall have authority to establish standards for the use of outside auditors and to take other appropriate steps to insure the competence and independence of such auditors.

"(c) In carrying out the duties and responsibilities provided by this Act, the Director shall give particular regard to the activities of the Comptroller General of the United States with a view to avoiding duplication and insuring effective coordination and cooperation.

"(d) In carrying out the duties and responsibilities provided by this Act, the Director shall report expeditiously to the Secretary whenever the Director has reasonable grounds to believe there has been a violation of Federal criminal law.

"REPORTS

"SEC. 154. (a) The Director shall, not later than April 30 and October 31 of each year, prepare and submit to the Congress semiannual reports summarizing the activities of the Office during the immediately preceding 6-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

"(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations under this Act disclosed by such activities during the reporting period, including—

"(A) the amount and proportion of prime sponsor expenditures subjected to further review on the basis of regular audit activities during such period;

"(B) the amount and proportion of such expenditures which are disallowed on the basis of such further review during such period; and

"(C) the amount and proportion of disallowed expenditures which have been recovered by the Department during such period;

"(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

"(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

"(4) a summary of matters referred to prosecutions and convictions which have resulted;

"(5) a summary of each report made to the Secretary under subsection (c) during the reporting period;

"(6) a summary of each report made to the Secretary under section 155(b)(2) during the reporting period; and

"(7) a listing of each audit and investigative report completed by the Office during the reporting period.

"(b) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and the Congress, or committees or subcommittees thereof, by the Director without further clearance or approval. The Director shall, insofar as feasible, provide copies of the reports required under subsection (a) to the Secretary thirty days in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

"(c) The Director shall report immediately to the Secretary whenever the Director becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations under this Act. The Deputy and Assistant Directors shall have particular responsibility for informing the Director of such problems, abuses, and deficiencies.

"AUTHORITY; ADMINISTRATION PROVISIONS

"SEC. 155. (a) In addition to the authority otherwise provided by this Act, the Director, in carrying out the provisions of this part, is authorized—

"(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to programs and operations under this Act;

"(2) to make such investigations and reports relating to the administration of such programs and operations as are, in the judgment of the Director, necessary or desirable;

"(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this part from any Federal, State, or local governmental agency or unit thereof;

"(4) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this part, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided*, That procedures other than subpenas shall be used by the Director to obtain documents and information from Federal agencies;

"(5) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this part;

"(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

"(7) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code;

"(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this part.

"(b)(1) Upon request of the Director for information or assistance under subsection (a)(3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to the Director or to an authorized designee, such information or assistance.

"(2) Whenever information or assistance requested under subsection (a)(1) or (a)(3) is, in the judgment of the Director unreasonably refused or not provided, the Director shall report the circumstances to the Secretary without delay.

"(3) In the event any record or other information requested by the Director under subsection (a)(1) or (a)(3) is not considered to be available under the provisions of section 552a(b) (1), (3), or (7) of title 5, United States Code, such record or information shall be available to the Director in the same manner and to the same extent it would be available to the Comptroller General.

"(c)(1) Any objective programmatic performance data collected of prime sponsors by the Director which are used to rank or assess the performance of prime sponsors, a result of which would be to systematically provide an incentive or inducement to prime sponsors to fail to give special consideration, to the maximum extent possible, to eligible persons who are the most severely disadvantaged in terms of the length of unemployment and prospects for finding employment prior to program participation, shall be deemed undesirable performance indicators, except where such data pertains to programs not intended to serve primarily or exclusively the most severely disadvantaged.

"(2) The Director shall replace or eliminate the use of undesirable performance indicators as expeditiously as prompt development of adequate alternative management information techniques which do not suffer the defect of providing an incentive or inducement described under paragraph (1) permits. The Director shall report to Congress periodically on the progress of development and implementation efforts thereof.

"(d) The Secretary shall provide the Office with appropriate and adequate office space at central and field office locations of Department together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

"(e) In addition to the sums otherwise authorized to be appropriated by this Act, there are authorized to be appropriated such sums as may be necessary to carry out the functions vested in the Office of the Director.

"TRANSFER OF FUNCTIONS

"SEC. 156. (a) At such time as there is established within the Department of Labor an Office of Inspector General, the functions of the Office of Audits, Investigations, and Compliance, shall be transferred to and vested in the Inspector General.

"(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the Office shall be transferred to the Office of Inspector General at the time of any transfer under subsection (a).

"(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

"(d) Upon completion of the transfer pursuant to this section, the Office shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in the Office of Inspector General to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

"DEFINITIONS

"SEC. 157. As used in this part—

"(1) the term 'Director' means the Director of the Office;

"(2) the term 'Deputy' means the Deputy Director of the Office;

"(3) the term 'Office' means the Office of Audits, Investigations, and Compliance; and

"(4) the term 'Federal agency' means an agency as defined in section 552(e) of title 5, United States Code, but shall not be construed to include the General Accounting Office.

"OFFICE OF MANAGEMENT ASSISTANCE

"SEC. 158. The Secretary shall establish, in the office of the Secretary, an Office of Management Assistance and shall assign to such office such especially qualified accountants, management specialists, and other professionals as may be necessary and available to provide management assistance to any prime sponsor—

"(1) seeking the service of such office on its own initiative to assist it in overcoming problems in the management, operation, or supervision of any program or project under this Act;

"(2) identified, pursuant to a complaint investigation, internal audit, or audit or investigation conducted by the Office of Audits, Investigations, and Compliance, or by any entity to which are transferred the functions of such office, as not being in compliance with any important requirement of this Act, of regulations issued thereunder, or of the comprehensive employment and training plan.

Services provided under this section shall be on a reimbursable or nonreimbursable basis, as determined by the Secretary, and shall be allocated in a manner to assure equitable but effective distribution thereof. The Secretary shall periodically publish any proposals for corrective action made by the office which may be useful to other prime sponsors.

"TITLE II—COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

"PART A—FINANCIAL ASSISTANCE PROVISIONS

"PURPOSE OF PROGRAM

"SEC. 201. It is the purpose of this title to establish programs to provide comprehensive employment and training services throughout the Nation. Such programs shall include the development and creation of training, upgrading, retraining, education, and other services needed to enable individuals to secure and retain employment at their maximum capacities so as to increase their earned incomes.

"ALLOCATION OF FUNDS

"SEC. 202. (a) (1) From the amount available for purposes of this title—

"(A) 60 per centum of such amount shall be allocated in accordance with the provisions of paragraph (2); and

"(B) 30 per centum of such amount shall be allocated in accordance with the provisions of paragraph (3).

"(2) (A) Subject to the provisions of subparagraph (B)—

"(i) 50 per centum of the amount allocated under this paragraph shall be allocated on the basis of the amount allocated to the prime sponsor under this paragraph (or under the comparable provision of this Act prior to the effective date of the Comprehensive Employment and Training Amendments of 1978) in the fiscal year prior to the year for which the determination is made compared to the amount so allocated to all prime sponsors in that year;

"(ii) 37½ per centum of the amount allocated under this paragraph shall be allocated on the basis of the relative number of unemployed persons within jurisdiction of the prime sponsor as compared to such numbers in all such jurisdictions;

(iii) 12½ per centum of the amount allocated under this paragraph shall be allocated on the basis of the relative number of adults in families with an annual income below the low-income level within the jurisdiction of the prime sponsor compared to such total numbers in all such jurisdictions; and

"(iv) not less than $2,000,000 shall be allocated among Guam, the Virgin Islands, the Northern Marianas, American Samoa, and the Trust Territory of the Pacific Islands, in accordance with their respective needs.

"(B) No prime sponsor shall be allocated an amount which is in excess of 150 per centum of the amount received by the area served by that prime sponsor in the fiscal year immediately preceding the fiscal year for which the determination is made, except that, if the amount so allocated is less than 50 per centum of the amount to which such prime sponsor is entitled under subparagraph (A) in the fiscal year for which a determination was made, then such allocation shall be increased to 50 per centum of the amount of such entitlement.

"(3) The amount allocated under this paragraph shall be allocated among prime sponsors in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all such areas.

"(b) Three per centum of the funds available for this title shall be used only for supplemental vocational education assistance under section 204.

"(c) One-half of 1 per centum of the amount allocated under this title shall be available to the Secretary to be allocated in the same manner as provided under subsection (a) to States for the costs of the State employment and training council incurred in carrying out the provisions of section 110, except that no State shall receive an allocation of less than $50,000. If any State does not need the amount allocated under this subsection for any fiscal year, that amount shall be available for the Governor's coordination and special services under section 105.

"(d) Two per centum of the amounts available for this title shall be available to each Governor in the same proportion as that State's allocation under subsection (a) for the Governor's coordination and special services under section 105, and, where deemed necessary by the Governor, for additional support of State employment and training councils.

"(e) (1) Eighty-five per centum of the remainder of the funds shall be available in the Secretary's discretion to be distributed among prime sponsors (or where a prime sponsor's comprehensive employment and training plan has not been approved, an area served by the Secretary under the authority in section 102). The Secretary shall first utilize such funds to assure that each prime sponsor is provided with (A) an amount for any fiscal year beginning on or after October 1, 1979, equal to 90 percent of the funds allocated to the prime sponsor under subsection (a) (2) of this section for the preceding fiscal year, or (B) an amount for the fiscal year ending September 20, 1979, equal to 90 per centum of the sum of the funds available for expenditure during the fiscal year ending September 30, 1978, by such prime sponsor under sections 103 (a) (2), (f), and (g), and 202(a) (as in effect prior to the effective date of the Comprehensive Employment and Training Amendments of 1978). In utilizing such funds, the Secretary shall provide continued support for concentrated employment program grantees serving rural areas having high levels of unemployment, shall take into account the need for continued funding of programs of demonstrated effectiveness, and shall use such funds to encourage, after consultation with and receiving recommendations from the Governor of the appropriate State, voluntary consortia (formed under section 101(a) (3)) where the Secretary determines, pursuant to regulations, that such consortia demonstrate advantages in delivering employment and training services to substantial portions of functioning labor market areas.

"(2) Not more than 15 per centum of the remainder shall be allocated among the prime sponsors within the jurisdiction of those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual average rates of unemployment prior to, but not after, January 1, 1978, in proportion to the extent to which such prime sponsors allocations under subsection (a) are reduced as a result of termination of the use of such surveys. This provision shall be in effect until such time as the National Commission on Employment and Unemployment Statistics makes its report to Congress.

"(f) As soon as practicable after funds are appropriated to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the allocations made pursuant to this section.

"(g) Prime sponsors are authorized to use funds allocated under this title to support prime sponsor planning councils established pursuant to section 109.

"CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

"SEC. 203. (a) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless the prime sponsor submits a satisfactory comprehensive employment and training plan pursuant to section 103.

"(b) Not more than 4 per centum of each prime sponsor's allocation under section 202 (a) may be used for programs and activities under part C of this title.

"(c) (1) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless the prime sponsor provides assurances that (consistent with needs identified in the prime sponsor's plan submitted under section 103(a)) it shall make agreements with State or local educational agencies or postsecondary educational institutions for the conduct of employment and training programs, which programs may consist of—

"(A) vocational training designed to prepare individuals for employment;

"(B) instruction in basic cognitive skills necessary to obtain employment or pursue further education or training designed to prepare individuals for employment;

"(C) employment of persons in schools controlled by such agencies or in postsecondary institutions; and

"(D) such other employment and training activities as may be consistent with the purposes and provisions of this title.

"(2) Each such agreement entered into under this subsection shall describe in detail the employment opportunities and appropriate educational, training, or other services to be provided, and shall contain provisions to assure that funds utilized pursuant to the agreement will not supplant State or local funds expended for the same purpose.

"(3) In the event a prime sponsor is unable to reach agreements with the appropriate educational agencies or institutions, or in the event such agencies or institutions are dissatisfied with the utilization of their facilities proposed by the prme sponsor, either may request the Secretary to review such arrangements and the Secretary, after affording an opportunity for a hearing and taking into consideration such factors as he considers relevant, may take such action as he deems appropriate within 90 days after receiving such a request.

"(d) In order to receive financial assistance under this title, the prime sponsor shall, in accordance with regulations prescribed by the Secretary which shall take into account local economic conditions, give preference to those subgrantees and contractors whose plans of operation will provide for the greatest percentage of positive placements of eligible participants. No prime sponsor shall award grants to a subgrantee or contracts to a contractor who has substantially failed (determined in accordance with regulations prescribed by the Secretary) to achieve the percentage of positive placement of participants in its plan for the preceding year. For the purpose of this subsection, positive placement shall mean placement into unsubsidized employment, other training, schooling or education not supported under this act. The Secretary may allow the prime sponsor to wholly or partially waive the provisions of this subsection for any subgrantees or contractors whose plans of operation involve participants, such as the handicapped, who experience significant and unusual difficulty in achieving positive placement.

"SUPPLEMENTAL VOCATIONAL EDUCATION ASSISTANCE

"SEC. 204. (a) From the funds available to him for this section, the Secretary shall make grants to Governors to provide financial assistance, through State vocational education boards, to provide needed vocational education services in areas served by prime sponsors.

"(b) All of the sums available to carry out this section shall be allocated among the States in the manner provided for allocating funds under section 202(a).

"(c) (1) Funds available under this section shall be used only for providing vocational education and services to participants in programs under this title in accordance with an agreement between the State vocational education board and the prime sponsor.

"(2) The State vocational education board, prior to making any agreement with a prime sponsor as provided in paragraph (1), shall consult with and obtain the advice and comment of the designated representatives of the State agencies and councils which are required to be involved in the formulation of the five-year State plan for vocational education pursuant to section 107(a) (1) of the Vocational Education Act of 1963.

"PART B—SERVICES FOR THE ECONOMICALLY DISADVANTAGED

"DESCRIPTION OF PROGRAM

"SEC. 211. Comprehensive employment and training services may include, but need not be limited to, the following:

"(1) job search assistance, including orientation, counseling, and referral to appropriate employment training or other opportunities;

"(2) outreach to make persons aware of the availability of, and to encourage them to use, employment and training services;

"(3) assessment of the individual's needs, interests, and potential in the labor market;

"(4) education and institutional skill training to prepare persons to enter the labor market, or to qualify for more productive job opportunities and increased earnings;

"(5) on-the-job training, including small business self-employment training;

"(6) transitional entry-level public employment opportunities or work experience;

"(7) payments or other inducements to public or private employers to expand job opportunities;

"(8) services to individuals to enable them to retain employment;

"(9) payment of allowances to persons in training for which they receive no remuneration, and payment of such allowances for transportation, subsistence, or other expenses incurred in training or employment;

"(10) supportive services, including necessary health care, child care, residential support, or assistance in securing bonds, needed to enable individuals to participate in employment and training;

"(11) development of labor market information;

"(12) job development and related activities such as job restructuring designed to make employment opportunities more responsive to the needs of economically disadvantaged person;

"(13) displaced homemaker employment assistance programs as described in section 307;

"(14) training, employment opportunities, and related services conducted by community based organizations; and

"(15) any programs or activities authorized by part A of title III, title IV, and title VII of this Act.

"LIMITATIONS ON USE OF FUNDS

"SEC. 212. (a) (1) Except as provided in paragraph (2), no prime sponsor shall use more than—

"(A) 50 per centum of the funds allocated to it under section 202(a) for the fiscal year ending September 30, 1979, to pay wages for public service employment;

"(B) 50 per centum of the funds allocated to it under such section for the fiscal year ending September 30, 1980, to pay wages and benefits for such employment;

"(C) 45 per centum of the funds allocated to it under such section for the fiscal year ending September 30, 1981, to pay wages and benefits for such employment; and

"(D) 40 per centum of the funds allocated to it under such section for the fiscal year ending September 30, 1982, to pay wages and benefits for such employment.

"(2) Notwithstanding paragraph (1), the Secretary may, for any fiscal year referred to in paragraph (1) (B), (1) (C), or (1) (D), authorize a prime sponsor to expend for the purpose of providing additional public service jobs for residents of areas of substantial unemployment, an amount not to exceed the product of the percentage which unemployed residents of such areas constitute of all unemployed in the prime sponsor area multiplied by the difference between—

"(A) an amount determined by applying the limitation contained in paragraph (1) (A) to the funds allocated to such prime sponsor for such fiscal year; and

"(B) the amount determined by applying the applicable limitation under paragraph (1) (B), (1) (C), or (1) (D) to such funds.

"(b) (1) Public service employment under this part—

"(A) shall be designed to lead to unsubsidized employment;

"(B) shall be entry level;

"(C) shall be combined with training and supportive services if such training and services are reasonably available in the area; and

"(D) shall be available only to eligible participants who have not been employed for more than two hundred hours during the preceding ten weeks unless such employment is in connection with a program supported under this Act.

"(E) shall contain, consistent with the provisions of subparagraph C, not less than eight hours of skill training during every forty hours of participation, unless the Secretary determines that a lesser number of hours is required for a particular skill.

"(2) Work experience programs conducted under this part, except for in-school youth, shall—

"(A) be designed to lead to unsubsidized employment, and

"(B) be subject to the limitations on duration specified in section 121(c) (2),

unless the prime sponsor's plan as approved by the Secretary states that the lack of alternative job opportunities in the area makes such progress and duration impractical.

"ELIGIBILITY FOR PARTICIPATION

"SEC. 213. A person shall be eligible to participate in a program receiving financial assistance under this part only if such person is economically disadvantaged and either unemployed, underemployed, or in school.

"PART C—UPGRADING AND RETRAINING

"PROGRAM AUTHORIZED

"SEC. 221. (a) Pursuant to regulations of the Secretary, prime sponsors may conduct occupational upgrading programs, including supportive services, through agreements with public and private employers for employees of such employers. Individuals eligible for such programs shall be those operating at less than their full skill potential, primarily those in entry level positions or positions with little normal advancement opportunities. In any program receiving financial assistance under this section—

"(1) the positions for which employees are being upgraded shall be positions not regularly available to entry level employees, and for which adequately trained persons are not available;

"(2) the selection of employees for upgrading shall be based upon potential and the lack of availability for advancement in a normal promotional line;

"(3) the education and skill training content of the upgrading program shall provide employees with a reasonable progression resulting in qualification for a recognized position of greater skill, responsibility, remuneration, or career advancement in the service of that employer;

"(4) the training period for upgrading shall be reasonable and consistent with periods customarily required for comparable training;

"(5) adequate personnel, attendance and progress records shall be maintained;

"(6) the program shall be designed, to the extent feasible, so that additional vacancies are created for new entry level employees;

"(7) the employees shall receive such wages, including periodic increases, as the Secretary deems reasonable, considering such factors as industry practice and individual proficiency, but at not less than the rate received before upgrading; and

"(8) successful completion shall be expected to result in employment with the employer in the occupation for which he or she has been upgraded and at not less than prevailing wages.

"(b)(1) Pursuant to regulations of the Secretary, prime sponsors may conduct retraining programs, including supporting services, directly or through agreements with public and private employers or other organizations or agencies.

"(2) Entry into retraining programs shall be only for individuals who have previously received a bona fide notice of impending layoff, and who are determined, pursuant to regulations of the Secretary, to have little opportunity to be reemployed in the same or equivalent occupation or skill level within the labor market area.

"(3) Retraining programs shall meet such standards as the Secretary shall establish by regulation.

"(c) If upgrading or retraining is for or from jobs covered by collective bargaining agreements, agreements with employers to carry out such programs shall have the concurrence of labor organizations representing employees in those jobs.

"TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

"Part A—Special National Programs and Activities

"SPECIAL PROGRAMS AND ACTIVITIES

"Sec. 301. (a) The Secretary shall use funds available under this title to provide additional employment and training services as authorized under title II to segments of the population that are in particular need of such services, including women, youth, offenders, handicapped individuals, single parents, persons of limited English-speaking ability, older workers, and other persons who the Secretary determines have particular disadvantages in the labor market. The Secretary shall take into account the need for continued funding of programs of demonstrated effectiveness.

"(b) With respect to programs for persons of limited English-speaking ability under this Act, the Secretary shall establish appropriate procedures to ensure that participants are provided with employment and training and related assistance and supportive services (where feasible, at times designed to meet the needs of individuals unable to attend during normal working hours) designed to increase the employment and training opportunities for unemployed and underemployed persons of limited English-speaking ability, including (1) the teaching of occupational skills in the primary language of such persons for occupations which do not require a high proficiency in English, and (2) developing new employment opportunities for limited English-speaking persons and opportunities of promotion within existing employment situations for such persons, including programs for the dissemination of appropriate information, and job placement, and counseling assistance, and the conduct of training and employment programs, in the primary language of such persons, as well as programs designed to increase the English-speaking ability of such persons.

"(c) The Secretary shall make financial assistance available to conduct a program for offenders to provide employment, training, and related assistance and supportive services (including basic education, drug addiction or dependency rehabilitation, health care, and other services) which will enable them to secure and obtain meaningful employment. Emphasis shall be placed upon serving offenders in contact with the criminal justice system or recently released from criminal justice custody or supervision, providing services that will be comprehensive, and ensuring that recipients of funds will coordinate their activities with other providers of employment and training assistance. Grants may also be provided to the States or prime sponsors for the establishment of units for planning and evaluation of correctional employment and training assistance to offenders. To ensure the objectives of this subsection, the Secretary may, wherever feasible, provide for appropriate arrangements with employers and labor organizations, appropriate parole, probationary and judicial authorities, and for the utilization of training equipment comparable to that currently used for the job in which training is furnished. To support such programs the Secretary shall develop information concerning the special needs of offenders for such services, including special studies regarding the incidence of unemployment among offenders and the means of increasing employment opportunity for offenders. As part of the reporting requirements under section 172(a), the Secretary shall also conduct an annual survey of prime sponsors and States receiving assistance under this Act for the purpose of assessing the scope and implementation of offender programs.

"(d) The Secretary shall carry out fully and effectively his responsibilities for the assignment of assistant veterans employment representatives under section 2003 of title 38, United States Code, and the Secretary's other responsibilities under chapter 41 of such title and for the listing of all suitable employment openings with local offices of the State employment services by Federal contractors and subcontractors and providing for the affirmative action as required by section 2012(a) of such title.

"(e) The Secretary is also authorized to provide employment and training programs that—

"(1) are most appropriately administered from the national level, such as programs sponsored by public agencies or private organizations that conduct federally assisted activities in more than one State;

"(2) foster new or improved linkages between Federal, State, and local employment and training agencies and components of the private sector, such as the business community, organized labor, and community-based organizations;

"(3) provide continued support for programs of demonstrated effectiveness;

"(4) eliminate or reduce critical skill shortages in the Nation's labor force; or

"(5) serve those who become unemployed as a result of a large-scale loss of jobs in a locality, caused by such things as the closing of a facility, mass layoffs, or natural disasters.

"(f) Notwithstanding any other provisions of this Act, eligibility requirements for programs for workers age fifty-five and older, which were established under title X of the Public Works and Economic Development Act, and which thereafter have been funded under section 304 of this Act prior to the enactment of the Comprehensive Employment and Training Amendments of 1978, shall be those which applied when the programs were established under title X.

"(g) The Secretary shall establish a special program for the funding of local workshops for the training of youths and other individuals who wish to pursue careers as self-employed owners and managers of small businesses. Such workshops should provide instruction in management techniques, business communications skills, motivational training, special problems in business operation, advice concerning Federal and State regulations, preparation of financial statements and loan applications, recordkeeping, development of marketing techniques, and information on beneficial resources available within the community.

"(h) To the extent appropriate, programs financed under this part shall be coordinated with programs conducted by prime sponsors under this Act, and the Secretary shall notify such prime sponsors of the funding of an employment and training program under this part.

"NATIVE AMERICAN EMPLOYMENT AND TRAINING PROGRAMS

"Sec. 302. (a) The Congress finds that (1) serious unemployment and economic disadvantage exist among members of Indian, Alaskan Native, and Hawaiian Native communities; (2) there is a compelling need for the establishment of comprehensive employment and training programs for members of those communities; (3) such programs are essential to the reduction of economic disadvantage among individual members of such communities and to the advancement of economic and social development in such communities consistent with their goals and life styles.

"(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of those to be served by the provisions of this section, (1) such programs can best be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and individuals, and to other groups and individuals of Native American descent such as, but not limited to, the Lummis in Washington, the Menominees in Wisconsin, the Klamaths in Oregon, the Oklahoma Indians, the Passamaquoddys and Penobscots in Maine, and Eskimos and Hawaiian Natives; and (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this section.

"(c)(1) In carrying out responsibilities under this section, the Secretary shall, wherever possible, utilize Indian tribes, bands, or groups (including Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688)) having a governing body and such public and private nonprofit agencies as the Secretary determines will best serve Hawaiian Natives, for the provision of employment and training services under this section. To the extent the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive employment and training program, he shall require such tribe, band, or group to submit to him a comprehensive plan meeting the requirements of section 103.

"(2) In carrying out his responsibilities under this section the Secretary shall make arrangements with prime sponsors and organizations (meeting requirements prescribed by the Secretary) serving nonreservation Indians for programs and projects designed to meet the needs of such Indians for employment and training and related services.

"(d) Whenever the Secretary determines not to utilize Indian tribes, bands, or groups for the provision of employment and training services under this section, the Secretary shall, to the maximum extent feasible, enter into arrangements for the provision of such services with public or private nonprofit agencies which meet with the approval of the tribes, bands, or groups to be served.

"(e) The Secretary is directed to take appropropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of Indian employment and training programs authorized under this Act.

"(f) Funds available for this section shall be expended for programs and activities consistent with the purposes of this part, including but not limited to such programs and activities carried out by eligible prime sponsors under other provisions of this Act.

"(g) For the purpose of carrying out this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 3 percent of the amount equal to not less than 3 percent of the amount allocated pursuant to section 202(a).

"(h) No provision of this section shall abrogate in any way the trust responsibilities of the Federal Government to Indian bands or tribes.

"MIGRANT AND SEASONAL FARMWORKER EMPLOYMENT AND TRAINING PROGRAMS

"SEC. 303. (a) The Congress finds and declares that—

"(1) chronic seasonal unemployment and underemployment in the agricultural industry, substantially affected by recent advances in technology and mechanization, constitute a substantial portion of the Nation's rural employment and training problem and substantially affect the entire national economy; and

"(2) because of the special nature of certain farmworker employment and training problems such programs can best be administered at the national level.

"(b)(1) Funds available for this section shall be expended for programs and activities consistent with the purposes of this section, including but not limited to programs and activities carried out under other provisions of this Act.

"(2) In carrying out programs and activities under this section, the Secretary shall continue in operation any program which is in existence on the effective date of this paragraph and—

"(A) which is—

"(i) operated through the use of the facilities of any institution of higher education; and

"(ii) designed to assist migrant and seasonal farmworkers who are beyond the age of compulsory school attendance in the State in which the institution is located, through tutoring, counseling, and other similar assistance, in the completion of courses necessary to receive a high school diploma or its equivalent; or

"(B) which serves migrant and seasonal farmworkers who are enrolled in a full-time basis in the first academic year of an undergraduate program at any institution of higher education, and the dependents of migrant and seasonal farmworkers if such dependents are so enrolled, by—

"(i) aiding such individuals in carrying out the transition from secondary school to postsecondary school programs;

"(ii) generating motivation necessary for success in education beyond secondary school; and

"(iii) providing counseling, tutorial, and similar educational services designed to assist such individuals during their first academic year at such institution.

The Secretary shall continue the operation of any such program for so long as such program is consistent with the purposes of this section, as determined by the Secretary.

"(C) In awarding a grant or contract for services administered under this section, the Secretary shall not assign any preferential weighting factor to an application therefor by virtue of the fact that the applicant holds at the time of application a prior grant or contract to provide services under this section; nor shall the Secretary assign any negative weighting factor to an application by virtue of the fact that an applicant is an instrumentality of State government.

"(3) For the purpose of carrying out this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 2.6 percent of the amount allocated pursuant to section 202(a). Of the funds reserved under this paragraph, such sums as may be necessary shall be used for the operation of the programs specified in subparagraph (A) and subparagraph (B) of paragraph (2).

"(c) In administering programs under this section, the Secretary shall consult with appropriate State and local officials and may enter into agreements with such officials to assist in the operation of such programs. In implementing this section the Secretary shall determine in consultation with appropriate State and local educational agencies, that no substantial duplication will exist.

"PROGRAMS FOR THE HANDICAPPED

"SEC. 304. (a)(1) The Congress finds and declares that due to the rapid implementation of programs to assist handicapped individuals mandated under the Education for All Handicapped Children Act and section 504 of the Rehabilitation Act of 1973, there is a need for people to provide the special supportive services and removal of architectural barriers required by these Acts.

"(2) The Congress further declares that the individuals to be served under this section represent a large percentage of the unemployed, and that these services will provide meaningful improvement of the lives of the handicapped individuals served.

"(b) The Secretary shall establish programs throughout the Nation which shall train personnel to work with and assist handicapped individuals. These programs may be in any areas of training or education which provide individuals with skills necessary to train or provide assistance to handicapped persons, including, but not limited to, interpreters for the deaf and aides in classrooms to assist in the education of the handicapped.

"(c) The Secretary shall take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of programs authorized under this section.

"RELOCATION ASSISTANCE

"SEC. 305. (a) The Secretary is authorized to provide special relocation assistance for unemployed persons who desire such assistance through agreements with States, prime sponsors, or public or private agencies under this section.

"(b)(1) Relocation assistance may be provided in the form of loans or grants, or both, subject to such standards as the Secretary establishes.

"(2) Relocation assistance shall be available only to involuntarily unemployed individuals who cannot reasonably be expected to secure full-time employment in the community in which they reside, and have bona fide offers of employment (other than temporary or seasonal employment).

"VETERANS INFORMATION AND OUTREACH

"SEC. 306. The Secretary, in consultation and cooperation with the Administrator of Veterans Affairs and the Secretary of Health, Education, and Welfare, shall provide for an outreach and public information program utilizing, to the maximum extent, the facilities of the Departments of Labor and Health, Education, and Welfare and the Veterans' Administration to exercise maximum efforts to develop jobs and job training opportunities for disabled and Vietnam-era veterans, and inform all such veterans about employment, job training, on-the-job training and educational opportunities under this Act, under title 38, United States Code, and other provisions of law; and inform prime sponsors, Federal contractors and subcontractors, Federal agencies, educational institutions, labor unions, and employers of their statutory responsibilities toward such veterans, and provide them with technical assistance in meeting those responsibilities.

"DISPLACED HOMEMAKER EMPLOYMENT ASSISTANCE PROGRAM

"SEC. 307. (a) The Secretary shall make available financial assistance to enable private nonprofit organizations and public agencies, including prime sponsors designated under section 101(c), to provide employment opportunities and appropriate training and supportive services to displaced homemakers. Such training and supportive services shall include, but need not be limited to—

"(1) job training, job readiness services, job counseling, job search, and job placement services;

"(2) outreach and information services, including information on available educational opportunities; and

"(3) referrals (through cooperative arrangments, to the maximum extent feasible) to health, financial management, legal, public assistance, and other appropriate supportive services in the community being served.

"(b) To the maximum extent feasible, activities supported under this section shall be coordinated with and supplement, but not supplant, activities supported under other titles of this Act and shall emphasize training and other employment related services for participants that are designed to enhance their employability and earnings. Programs shall concentrate on creating new jobs in the private sector for displaced homemakers in order to meet identified needs within the community.

"(c) To the maximum extent feasible, supervisory, technical, and administrative positions with the program shall be filled by displaced homemakers.

"(d) No funds available under this section shall be used for the purchase, construction, or major rehabilitation of facilities.

"(e) For the purposes of this section, the term 'displaced homemaker' means an individual who—

"(1) has been providing as a predominant activity unpaid services for family members for a substantial number of years;

"(2)(A) has been dependent on the income of another family member but is no longer supported by that income, (B) is receiving public assistance on account of dependent children in the home, or (C) is receiving spousal support; and

"(3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(f) For the purposes of carrying out this section, the Secretary shall reserve not more than 2 per centum of the funds made available to carry out this title.

"PARTNERSHIP PROGRAMS

"SEC. 308. (a) From funds available under this title the Secretary is authorized to promote the development of partnership arrangements between prime sponsors and employment security agencies. Such partnerships shall constitute a segment of an integrated and comprehensive intake, service and placement system and shall be designed to achieve an employability plan and comprehensive program of job preparation and job search assistance for all participants under this Act. Such partnerships may also include other related public and private nonprofit agencies and organizations, including community-based organizations.

"(b) Such partnerships may result in—

"(1) the creation of a joint-planning, administrative, and operational entity;

"(2) combining and colocation of staff; and

"(3) a joint data base and information system.

"(c) The Secretary is authorized to reimburse prime sponsors for costs associated with the implementation of a partnership and to provide incentives to ensure that employment security agencies may participate on an equitable basis.

"PROJECTS FOR MIDDLE-AGED AND OLDER WORKERS

"SEC. 309. (a) The Secretary shall—

"(1) develop and establish employment and training policies and programs for middle-aged and older workers which will reflect appropriate consideration of these workers' importance in the labor force and lead to a more equitable share of employment and training resources for middle-aged and older workers;

"(2) develop and establish programs to assist workers over forty years of age in pursuing second careers, including, but not necessarily limited to, work experience, vocational education, public service employment, on-the-job training, occupational upgrading, and job search and placement; and

"(3) conduct research on the relationships between age and employment and insure that the findings of such research are widely disseminated in order to assist employers in both the public and the private sectors better understand and utilize the capabilities of middle-aged and older workers.

"(b) in carrying out the provisions of subsection (a) the Secretary shall provide for appropriate arrangements to be made with prime sponsors, members of the business community (including small business), labor organizations, local educational agencies, and community-based organizations as defined in section 125(4) of this Act. Such arrangements may include, but need not be limited to—

"(1) an analysis of the local labor force on the basis of such factors as age, educational background, income, race, and sex, focusing particularly on comparative rates of labor force participation and of unemployment and underemployment among the various demographic groups studied;

"(2) an assessment of each participant's skills and work experience for purposes of formulating realistic second career objectives, including formal vocational testing instruments supplemented by such functional assessment methods and techniques to detect those skills and abilities of a participant as may be related to desired second career and occupational upgrading objectives;

"(3) second career and occupational upgrading counseling by individuals knowledgeable about the employment and training needs of middle-aged and older workers;

"(4) the establishment of second career objectives which will—

"(A) provide reasonable assurances to the participant that public and private sector demand exists for the skills developed in the second careers program; and

"(B) enable the participant to compete successfully in the job market; and

"(5) establishment of formal second careers training agreements, between participants and program sponsors, which—

"(A) set forth the career objectives of the participants and the steps required of each participant and prime sponsor to achieve these objectives;

"(B) will remain in force until its terms are fulfilled, or renegotiated or terminated according to such procedures as shall be prescribed by the Secretary; and

"(C) may be renegotiated or terminated, at any time, by the participant, or by the program sponsor for good cause.

"(c) The Secretary is hereby authorized to pay program sponsors reasonable training costs to participants in second careers programs to the extent necessary to achieve the objectives of such programs in accordance with regulations prescribed by the Secretary, but in no case shall such payment exceed the permissible maximum under section 121 (c)(1)(B). Such costs may include reasonable tuition for participants engaged in technical or other institutional training and payments to program sponsors providing on-the-job training, provided that such payments are based on the actual number of hours of such training given to the second careers program participant. The Secretary is authorized to pay for equipment, materials, and such other costs necessary for a participant to achieve the objectives of his second careers program.

"(d) Programs assisted under this section may provide for participation in employment and training programs on a part-time or flexible-time basis.

"(e) Participants in programs authorized under this section shall be individuals over the age of forty who are unemployed, underemployed, or economically disadvantaged, who have a family income (exclusive of any income received under a Federal or State welfare or unemployment program) which is not in excess of 125 percent of the Bureau of Labor Statistics lower living income level.

"(f) For the purposes of carrying out this section, the Secretary shall reserve from funds available for this title not more than 10 percent of the amount allocated pursuant to section 202(a).

"(g) No provision of this section shall be construed as intending any diminution of the employment and training opportunities available to workers over 40 years of age under titles II, VI, and VII of this Act.

"PART B—RESEARCH, TRAINING, AND EVALUATION

"RESEARCH

"SEC. 311. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of employment and training research utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's employment and training problems. This program may include, but need not be limited to, studies, the findings of which may contribute to the formulation of employment and training policy; development or improvement of employment and training programs; increased knowledge about labor market processes; reduction of unemployment and its relationships to price stability; promotion of more effective worker development, training, and utilization; improved national, regional and local means of measuring future labor demand and supply; enhancement of job opportunities; skill training to qualify employees for positions of greater skill, responsibility, and remuneration; meeting of worker shortages; easing of the transition from school to work, from income transfer payment dependency to employment, from one job to another, and from work to retirement; testing the usefulness of sheltered employment for the difficult to employ; opportunities and services for older persons who desire to enter or reenter the labor force; and for improvement of opportunities for employment and advancement through the reduction of discrimination and disadvantage arising from poverty, ignorance, or prejudice.

"(b) The Secretary shall establish a program of experimental, developmental, demonstrational, and polit projects, through grants to or contracts with public agencies or private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the employment and training problems; however, nothing in this subsection shall authorize the Secretary to carry out employment programs experimenting with subsidized wages in the private sector or wages less than those established by the Fair Labor Standards Act of 1938, for employment subject to that Act. In carrying out this subsection, the Secretary shall consult with such other agencies as may be appropriate. Where programs under this section require institutional training, appropriate arrangements for such training shall be agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare.

"(c) The Secretary is authorized to conduct supportive employment and training projects of an experimental and demonstration nature as part of, or coordinated with, experimental or demonstration programs of a similar nature that the Secretary has been conducting for unemployed persons with serious problems in the labor market, such as juvenile delinquents, mentally and emotionally handicapped individuals, alcoholics, ex-addicts, ex-offenders, and recipients of aid to families with dependent children, to enable them, through temporary, highly structured and supervised work experience, to make the transition to employment or self-employment. Such programs shall provide for skill training as required to effect such transition.

"(d) The Secretary is authorized to carry out a special program to demonstrate the efficacy of providing vouchers to economically disadvantaged persons who are unemployed or underemployed. Such vouchers shall entitle private employers who provide employment or training to such individuals to payment in amounts equal to the value of the voucher during periods when, and to the extent that, such persons are not fully productive, pursuant to regulations of the Secretary.

"(e) The Secretary is authorized to undertake research programs to (1) investigate the applicability of job-sharing, work-sharing and other flexible hours arrangements in various settings, and of the incentives and technical assistance required by employers to implement such alternative working arrangements; (2) investigate the extent to which job and wage classification systems undervalue certain skills and responsibilities on the basis of the sex of persons who usually hold the positions.

"(f) The Secretary shall conduct a variety of demonstration and experimental projects to test the best methods of assisting persons, who might otherwise rely on public assistance or other income assistance, to find nonfederally assisted employment in the private and public sectors, and to provide federally assisted work and training opportunities for any such persons who are unable to find nonfederally assisted work or training opportunities.

"(g) The Secretary is authorized to conduct demonstration programs and projects, which provide expanded guidance and counseling services to participants under this Act through community vocational resource centers established in economically distressed communities or areas pursuant to section 132 (a)(7) of the Vocational Educational Amendments of 1976. Such programs shall provide State boards of vocational education, which establish such community vocational resource centers, with funding for up to 50 per centum of the cost of such projects. The Secretary may make such funds available to a State board of vocational education when such board reaches agreement with the prime sponsor to assist out-of-school individuals in reentering school at the secondary or postsecondary level, to take advantage of vocational skill training opportunities including cooperative education and work-study programs, and to be offered referral to other training programs, apprenticeship programs, and on-the-job training for which academic credit may be available. Project shall include provisions for outreach to inform the economically disadvantaged of the assistance available through the community resource centers to provide assurances that programs will be coordinated with other guidance and counseloring activities of the prime sponsor, including activities under section 445(c), other in-school guidance and counseling programs in the area, State employment service offices, and the activities of the private industry councils established pursuant to title VII of this Act.

"(h) The Secretary shall conduct educational and assistance programs designed to eliminate artificial barriers to employment based upon race, sex, national origin, age, records of arrest or conviction, handicaps, marital status, or other criteria. To support such programs, information shall be developed identifying all such artificial barriers, the numbers of persons affected, the manner in which such barriers operate and how such barriers can best be eliminated. In complying with the requirements of this subsection, the Secretary shall consult with the Department of Health, Education, and Welfare, the United States Civil Rights Commission, and the Equal Employment Opportunity Commission.

"LABOR MARKET INFORMATION AND JOB BANK PROGRAM

"SEC. 312. (a) The Secretary shall develop a comprehensive system of labor market information on a national, State, local, or other appropriate basis, which shall be made publicly available in a timely fashion.

"(b) In addition to the monthly national unemployment statistics, the Secretary shall develop reliable methods, including the use of selected sample surveys, to produce more statistically accurate data on unemployment by State and local areas, and shall investigate alternative methods to produce more accurate data on underemployment and labor demand by State and local areas.

"(c) The Secretary shall develop data for an annual statistical measure of labor market related economic hardship in the Nation. Among the factors to be considered in developing such a measure are unemployment, labor force participation, involuntary part-time employment, and full-time employment at wages less than the poverty level.

"(d) The Secretary shall develop methods to establish and maintain more comprehensive household budget data at different levels of living, including a level of adequacy, to reflect the differences of household living costs in regions and localities, both urban and rural. The Secretary, in cooperation with the Secretary of Energy and the Secretary of Housing and Urban Development, shall develop methods to ascertain, and shall ascertain, annual energy development and conservation jobs impact data by type and scale of energy technologies used.

"(e) The Secretary shall set aside, out of sums available to the Department for any fiscal year including sums available for this title, an amount which the Secretary determines is necessary and appropriate to carry out the provisions of this section, and shall, no later than sixty days after such sums are appropriated and made available, notify the appropriate committees of the Congress of the amount so set aside and the basis for the determination of need and appropriateness.

"(f) The Secretary shall establish and carry out a nationwide computerized job bank and matching program (including the listing of all suitable employment openings with local offices of the State employment service agencies by Federal contractors and subcontractors and providing for the affirmative action as required by section 2012(a) of title 38, United States Code) on a regional, State, and local basis, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available persons and job vacancies, providing an expeditious means of matching the qualifications of unemployed, underemployed, and economically disadvantaged persons with employer requirements and job opportunities, and referring and placing such persons in jobs.

"EVALUATION

"SEC. 313. (a) The Secretary shall provide for the continuing evaluation of all programs and activities conducted pursuant to this Act, including their cost-effectiveness in achieving the purposes of this Act, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by age, sex, race, and national origin, and the adequacy of the mechanism for the delivery of services. In conducting evaluations the Secretary shall compare the effectiveness of programs conducted by prime sponsors of the same class and of different classes, and shall compare the effectiveness of programs conducted by prime sponsors with similar programs carried out by the Secretary under the Act. The Secretary shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs.

"(b) The Secretary shall evaluate the effectiveness of programs authorized under this Act and part C of title IV of the Social Security Act with respect to the statutory goals and objectives, including increases in employment and earnings for participants, duration in training and employment situations, information on the post-enrollment labor market experience of program participants for at least a year following their termination from such programs, and comparable information on other employees or trainees of participating employers.

"(c) (1) The Secretary shall—

"(A) develop standard definitions of 'enrollments', 'completions', 'job placements', and 'training-related job placements' for classroom and on-the-job training programs funded under this Act;

"(B) establish procedures for the uniform reporting by prime sponsors of information on enrollments, completions, job placements, and training related placements by detailed occupational or training code for classroom and on-the-job training programs funded under this Act; and

"(C) make a report to the Congress not later than September 30, 1979, and annually thereafter, containing a summary of the information described in subparagraph (B) together with such analysis and recommendations as the Secretary deems advisable.

"(2) For the purposes of this subsection, the term 'detailed occupational or training code' shall mean any occupational or training code equivalent in detail to the Standard Occupational Classification at the four-digit level.

"TRAINING AND TECHNICAL ASSISTANCE

"SEC. 314. The Secretary, in consultation with the Secretary of Health, Education, and Welfare, or other appropriate officials, shall provide directly or through grants, contracts, or other arrangements, appropriate preservice and inservice training for specialized, supportive, supervisory, or other personnel, and appropriate technical assistance with respect to programs under this Act.

"NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

"SEC. 315. (a) In carrying out its responsibilities under this Act and under section 161 of the Vocational Education Act, the National Occupational Information Coordinating Committee shall give special attention to the problems of unemployed youths. The Committee shall also carry out other activities consistent with the purposes of this title, including but not limited to the following:

"(1) assisting and encouraging local areas to adopt methods of translating national aggregate occupational outlook data into local terms;

"(2) assisting and encouraging the development of State occupational information systems, to be used in the maintenance of local job banks and job vacancy reports, accessible to local schools, and including pilot programs in the use of computers to facilitate such access;

"(3) in cooperation with State and local correctional agencies, encouraging programs of counseling and employment services for youth in correctional institutions;

"(4) providing technical assistance for programs of computer on-line terminals and other facilities to utilize and implement occupational and career outlook information and projections supplied by State employment service officers and to improve the match of youth career desires with available and anticipated labor demand;

"(5) in cooperation with State and local educational agencies, and other appropriate persons and organizations, encouraging programs to make available employment and career counseling to presecondary youths; and

"(6) providing technical assistance for programs designed to encourage public and private employers to list all available job opportunities for youths with the appropriate eligible applicant conducting occupational information and career counseling programs, local public employment services offices and to encourage cooperation and contact among such eligible applicants, employers, and offices.

"(b) All funds available to the National Occupational Information Coordinating Committee under this Act and under section 161 of the Vocational Education Act may be used by the Committee to carry out any of its functions and responsibilities authorized by law.

"TITLE IV—YOUTH PROGRAMS

"INTENT

"SEC. 400. It is the intent of this title to provide a broad range of coordinated employment and training programs for eligible youth in order to provide effectively for comprehensive employment and training services to improve their future employability and to explore and experiment with alternative methods for accomplishing such purposes.

"GENERAL PROVISIONS

"SEC. 401. (a) For purposes of parts B and C, the term 'eligible youth' means an economically disadvantaged youth who is (1) either unemployed, underemployed, or in school, and (2) either age 16 to 21 inclusive, or if authorized under regulations of the Secretary, age 14 to 15 inclusive. Nothing in this section shall be construed to prohibit the provision of day care for the children of eligible youths.

"(b) For the purposes of subpart 1 of part A, the term 'eligible youth' means a youth between the ages of 16 and 19 inclusive, the income of whose family is at or below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget.

"(c) Earnings and allowances received by any eligible youth under this title shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted program.

"PART A—YOUTH EMPLOYMENT DEMONSTRATION PROGRAMS

"STATEMENT OF PURPOSE

"SEC. 410. It is the purpose of this part to establish a variety of employment, training and demonstration programs to explore methods of dealing with the structural unemployment problems of the Nation's youth. The basic purpose of the demonstration programs shall be to test the relative efficacy of different ways of dealing with these problems in different local contexts, but this basic purpose shall not preclude the funding of programs dealing with the immediate difficulties faced by youths who are in need of, and unable to find, jobs. It is explicitly not the purpose of this part to provide make-work opportunities for unemployed youth; instead, it is the purpose to provide youth, and particularly economically disadvantaged youth, with opportunities to learn and earn that will lead to meaningful employment or self-employment opportunities after they have completed the program.

"Subpart 1—Youth Incentive Entitlement Pilot Projects

"ENTITLEMENT PILOT PROJECTS AUTHORIZED

"SEC. 411. (a) The Secretary shall enter into arrangements with prime sponsors selected in accordance with the provisions of this subpart for the purpose of demonstrating the efficacy of guaranteeing otherwise unavailable part-time employment, or combination of part-time employment and training for economically disadvantaged youth between the ages of sixteen and nineteen, inclusive, during the school year who resume or maintain attendance in secondary school for the purpose of acquiring a high school diploma or in a program which leads to a certificate of high school equivalency and full-time employment or part-time employment and training during the summer months to each such youth.

"(b) Each prime sponsor who applies for and is selected by the Secretary to carry out a pilot project under this subpart shall guarantee such employment to each such unemployed youth who resides within the area or a designated part thereof served by the prime sponsor and who applies to that prime sponsor for employment. The Secretary shall provide to each prime sponsor, from funds appropriated for carrying out this subpart, in combination with any funds made available by such prime sponsor according to an agreement made pursuant to section 413(a)(4)(F), the amount to which that prime sponsor is entitled under subsection (c).

"(c) Each prime sponsor shall be entitled to receive, for each youth who is provided employment by that prime sponsor, the costs associated with providing such employment. Such costs shall take into account funds made available by such prime sponsor under section 413(a)(4)(F).

"EMPLOYMENT GUARANTEES

"SEC. 412. Employment opportunities guaranteed under this subpart shall take the form of any one of the following or any combination thereof:

"(1) Part-time employment or training or combination thereof during the school year, not to exceed an average of twenty hours per week for each youth employed, and not to last less than six months nor more than nine, on projects operated by community-based organizations of demonstrated effectiveness which have a knowledge of the needs of disadvantaged youth; local educational agencies (as defined in section 801(f) of the Elementary and Secondary Education Act of 1965); institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965); nonprofit private organizations or institutions engaged in public service; nonprofit voluntary youth organizations; nonprofit private associations, such as labor organizations, educational associations, business, cultural, or other private associations; units of general local government; or special purpose political subdivisions either having the power to levy taxes and spend funds or serving such special purpose in two or more units of general local government.

"(2) Part-time employment on an individual basis in any of the institutions and under the same conditions provided for in clause (1).

"(3) Part-time employment on either a project or individual basis in any of the institutions and under the same conditions as provided in clause (1) which includes as part of the employment on-the-job or apprenticeship training.

"(4) Full-time employment during the summer months, not to exceed forty hours per week for each youth employed, and not to last less than eight weeks in any of the institutions described in clause (1) of this section.

"SELECTING PRIME SPONSORS

"SEC. 413. (a) In selecting prime sponsors to operate youth incentive entitlement projects, the Secretary shall—

"(1) select prime sponsors from areas with differing socioeconomic and regional circumstances such as differing unemployment rates, school dropout rates, urban and rural variations, size, and other such factors designed to test the efficacy of a youth job entitlement in a variety of differing locations and circumstances;

"(2) take into consideration the extent to which the prime sponsors devote funds made available under title II and part C of this title for the purpose of carrying out a youth incentive entitlement project or for supportive services;

"(3) take into consideration the extent to which new and different classifications, occupations, or restructured jobs are created for youth;

"(4) select only prime sponsors which submit proposals which include—

"(A) a description of the procedure to be utilized by the prime sponsor to publicize, consider, approve, audit, and monitor youth incentive projects or jobs funded by the prime sponsor under this part, including copies of proposed application materials, as well as examples of audit and client characteristics reports;

"(B) a statement of the estimated number of economically disadvantaged youth to be served by the prime sponsor, and assurances that only such disadvantaged youth will be served;

"(C) assurances that the provisions of sections 442 and 443 are met relating to wage provisions and special conditions;

"(D) assurances that the prime sponsor has consulted with public and private nonprofit educational agencies including vocational and postsecondary education institutions and other agencies which offer high school equivalency programs; public employers, including law enforcement and judicial agencies; labor organizations; voluntary youth groups; community-based organizations; organizations of demonstrated effectiveness with a special knowledge of the needs of such disadvantaged youth; and with the private sector in the development of the plan, and assurances that arrangements are made with appropriate groups to assist the prime sponsor in carrying out the purposes of this subpart;

"(E) assurances that arrangements are made with the State employment security agencies to carry out the purposes of this subpart;

"(F) an agreement that title II funds planned for economically disadvantaged youth employment programs and funds available for the summer youth program under part C of this title for youth eligible under subsection (a) will be used in support of the project authorized under this subpart;

"(G) assurances that the employment of eligible youth meets the requirements of eligible activities under section 414;

"(H) assurances that participating youth shall not be employed more than an average of twenty hours per week during the school year and not more than forty hours per week during the summer;

"(I) assurances that a participating youth is not a relative of any person with responsibility for hiring a person to fill that job;

"(J) assurances that whenever employment involves additional on-the-job, institutional, or apprenticeship training provided by the employer, and if such training is not paid for in full or in part by the prime sponsor under any other program authorized under this Act, wages may be paid in accordance with the provisions of subsection (b) of section 14 of the Fair Labor Standards Act of 1938, and with the balance being applied to the cost of training;

"(K) assurances that arrangements have been made with the appropriate local education agency or with the institution offering a certified high school equivalency program that such youth is enrolled and meeting the minimum academic and attendance requirements of that school or education program and with employers that such youth meet the minimum work and attendance requirements of such employment and that any employment guarantee is conditioned on such enrollment; and

"(L) assurances that the prime sponsor will make available the data necessary for the Secretary to prepare the reports required by section 415.

"(b) In approving a prime sponsor to operate a youth incentive entitlement pilot project under this subpart the Secretary may also test the efficacy of any such project involving—

"(1) the use of a variety of subsidies to private for-profit employers notwithstanding the provisions of sections 412 and 414(a), to encourage such employers to provide employment and training opportunities under this subpart, but no such subsidy shall exceed the net cost to the employer of the wages paid and training provided;

"(2) arrangements with unions to enable youth to enter into apprenticeship training as part of the employment provided under this subpart;

"(3) a variety of administrative mechanisms to facilitate the employment of youths under an entitlement arrangement;

"(4) the inclusion of economically disadvantaged youths between the ages of nineteen and twenty-five who have not received their high school diploma;

"(5) the inclusion of occupational and career counseling, outreach, career, exploration, and on-the-job training and apprenticeship as part of the employment entitlement; and

"(6) the inclusion of youth under the jurisdiction of the juvenile or criminal justice system with the approval of the appropriate authorities.

"SPECIAL PROVISIONS

"SEC. 414. (a) Employment and training under this subpart shall develop the participant's role as a meaningful member of the community, and may include, but is not limited to, employment and training in such fields as environmental quality, health care, education, self-employment, social services, public safety, crime prevention and control, transportation, recreation, neighbor improvement, rural development, conservation, beautification, and community improvement projects.

"(b) No funds for employment under this subpart shall be used to provide public services through a nonprofit organization, association, or institution, or a nonprofit private institution of higher education, or any other applicant, which were previously provided by a political subdivision or local educational agency in the area served by the project of where the employment and training takes place, and no funds will be used under this subpart to provide such services through such an organization or institution which are customarily provided only by a political subdivision or local educational agency in the area served by such project or where the employment and training takes place.

"REPORTS

"SEC. 415. The Secretary shall report to the Congress not later than March 15, 1979, on his interim findings on the efficacy of a youth incentive entitlement. The Secretary shall submit another report not later than December 31, 1979, concerning the youth incentive entitlement projects authorized under this subpart. Included in such reports shall be findings with respect to—

"(1) the number of youths enrolled at the time of the report;

"(2) the cost of providing employment opportunities to such youths;

"(3) the degree to which such employment opportunities have caused out-of-school youths to return to school or others to remain in school;

"(4) the number of youths provided employment in relation to the total which might have been eligible;

"(5) the kinds of jobs provided such youths and a description of the employers—public and private—providing such employment;

"(6) the degree to which on-the-job or apprenticeship training has been offered as part of the employment;

"(7) the estimated cost of such a program if it were to be extended to all areas;

"(8) the effect such employment opportunities have had on reducing youth unemployment in the areas of the prime sponsors operating a project; and

"(9) the impact of job opportunities provided under the project on other job opportunities for youths in the area.

"Subpart 2—Youth Community Conservation and Improvement Projects

"STATEMENT OF PURPOSE

"SEC. 421. It is the purpose of this subpart to establish a program of community conservation and improvement projects to provide employment, work experience, skill training, and opportunities for community service to eligible youths, for a period not to exceed twelve months, supplementary to but not replacing opportunities available under title II of this Act.

"DEFINITIONS

"SEC. 422. As used in this subpart, the term—

"(1) 'eligible applicant' means any prime sponsor qualified under section 101 of this Act, sponsors of Native American programs qualified under section 302(c)(1) of this Act, and sponsors of migrant and seasonal farmworkers programs qualified under section 303 of this Act;

"(2) 'project applicant' shall have the same meaning as in section 125(18) of this Act;

"(3) 'eligible youths' means individuals who are unemployed and, at the time of entering employment under this subpart, are ages sixteen to nineteen, inclusive; and

"(4) 'community improvement projects' means projects providing work which would not otherwise be carried out, including, but not limited to, the rehabilitation or improvement of public facilities; neighborhood improvements; weatherization and basic repairs to low-income housing; energy conservation including solar energy techniques, especially those utilizing materials and supplies available without cost; and conservation, maintenance, or restoration of natural resources on publicly held lands other than Federal lands.

"ALLOCATION OF FUNDS

"SEC. 423. (a) Funds available to carry out this subpart for any fiscal year shall be allocated in such a manner that not less than 75 per centum of such funds shall be allocated among the States on the basis of the relative number of unemployed persons within each State as compared to all States, except that not less than one-half of 1 per centum of such funds shall be allocated for projects under this subpart within any one State and not less than one-half of 1 per centum of such funds shall be allocated in the aggregate for projects in Guam, the Virgin Islands, American Samoa, the Northern Marianas, and the Trust Territory of the Pacific Islands.

"(b) Of the funds available for this subpart 2 per centum shall be available for projects for Native American eligible youths, and 2 per centum shall be available for projects for eligible youths in migrant and seasonal farmworker families.

"(c) The remainder of the funds available for this subpart shall be allocated as the Secretary deems appropriate.

"COMMUNITY CONSERVATION AND IMPROVEMENT YOUTH EMPLOYMENT PROJECTS

"SEC. 424. The Secretary is authorized, in accordance with the provisions of this subpart, to enter into agreements with eligible applicants to pay the costs of community conservation and improvement youth employment projects to be carried out by project applicants employing eligible youths and appropriate supervisory personnel.

"PROJECT APPLICATIONS

"SEC. 425. (a) Project applicants shall submit applications for funding of projects under this subpart to the appropriate eligible applicant.

"(b) In accordance with regulations prescribed by the Secretary, each project application shall—

"(1) provide a description of the work to be accomplished by the project, the jobs to be filled, and the approximate duration for which eligible youths would be assigned to such jobs;

"(2) describe the wages or salaries to be paid individuals employed in jobs assisted under this subpart;

"(3) set forth assurances that there will be an adequate number of supervisory personnel on the project and that the supervisory personnel are adequately trained in skills needed to carry out the project and can instruct participating eligible youths in skills needed to carry out a project;

"(4) set forth assurances that any income generated by the project will be applied toward the cost of the project;

"(5) set forth assurances for acquiring such space, supplies, materials, and equipment as necessary, including reasonable payment for the purchase or rental thereof;

"(6) set forth assurances that, to the maximum extent feasible, projects carried out under this subpart shall be labor intensive; and

"(7) set forth such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

"PROPOSED AGREEMENTS

"SEC. 426. (a)(1) Each eligible applicant desiring funds under this subpart shall submit a proposed agreement to the Secretary, together with all project applications approved by the eligible applicant and all project applications approved by any program agent within the area served by the eligible applicant. With its transmittal of the proposed agreement, the eligible applicant shall provide descriptions of the project applications approved by the eligible applicant and by any program agent within the area served by the eligible applicant, accompanied by the recommendations of the eligible applicant concerning the relative priority attached to each project.

"(2) The functions of a program agent shall be as set forth in section 606(b)(2) of this Act.

"(b) The proposed agreement submitted by any eligible applicant shall—

"(1) describe the method of recruiting eligible youths, including a description of how such recruitment will be coordinated with plans under other provisions of this Act, including arrangements required by section 105 of this Act, and also including a description of arrangements with school systems, the public employment service (including school cooperative programs), and the courts of jurisdiction for status and youthful offenders;

"(2) provide a description of job training and skill development opportunities that will be made available to participating eligible youths, as well as a description of plans to coordinate the training and work experience with school-related programs, including the awarding of academic credit; and

"(3) set forth such other assurances as the Secretary may require to carry out the purposes of this subpart.

"(c)(1) In order for a project application submitted by a project applicant to be submitted to the Secretary by any eligible applicant, copies of such application shall have been submitted at the time of such application to the prime sponsor's planning council established under section 109 of this Act (or an appropriate planning organization in the case of sponsors of Native American programs under section 302 of this Act or migrant and seasonal farmworker programs under section 303 of this Act) for the purpose of affording such council (and the youth council established under section 436 an opportunity to submit comments and recommendations with respect to that application to the eligible applicant. No member of any council (or organization) shall cast a vote on any matter in connection with a project in which that member, or any organization with which that member is associated, has a direct interest.

"(2) Consistent with procedures established by the eligible applicant in accordance with regulations which the Secretary shall prescribe, the eligible applicant shall not disapprove a project application submitted by a project applicant unless it has first considered any comments and recommendations made by the appropriate council (or organization) and unless it has provided such applicant and council (or organization) with a written statement of its reasons for such disapproval.

"APPROVAL OF AGREEMENTS

"SEC. 427. (a) The Secretary may approve or deny on an individual basis any of the project applications submitted with any proposed agreement.

"(b) No funds shall be made available to any eligible applicant except pursuant to an agreement entered into between the Secretary and the eligible applicant which provides assurances satisfactory to the Secretary that—

"(1) the standards set forth in subpart 4 of this part will be satisfied;

"(2) projects will be conducted in such manner as to permit eligible youths employed in the project who are in school to coordinate their jobs with classroom instruction and, to the extent feasible, to permit such eligible youths to receive credit from the appropriate educational agency, postsecondary institution, or particular school involved; and

"(3) meet such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

"WORK LIMITATION

"SEC. 428. No eligible youth shall be employed for more than twelve months in work financed under this subpart, except as prescribed by the Secretary.

"Subpart 3—Youth Employment and Training Programs

"STATEMENT OF PURPOSE

"SEC. 431. It is the purpose of this subpart to establish programs designed to make a significant long-term impact on the structural unemployment problems of youth, supplementary to but not replacing programs and activities available under title II of this Act, to enhance the job prospects and career opportunities of young persons, including employment, community service opportunities, and such training and supportive services as are necessary to enable participants to secure suitable and appropriate unsubsidized employment in the public and private sectors of the economy. To the maximum extent feasible, training and employment opportunities afforded under this subpart will be interrelated and mutually reinforcing so as to achieve the goal of enhancing the job prospects and career opportunities of youths served under this subpart.

"PROGRAMS AUTHORIZED

"SEC. 432. (a) The Secretary is authorized to provide financial assistance to enable eligible applicants to provide employment opportunities and appropriate training and supportive services for eligible participants including but not limited to—

"(1) useful work experience opportunities in a wide range of community betterment activities such as rehabilitation of public properties, assistance in the weatherization of homes occupied by low-income families, demonstrations of energy-conserving measures including solar energy techniques (especially those utilizing materials and supplies available without cost), park establishment and upgrading, neighborhood revitalization, conservation and improvements, and related activities;

"(2) productive employment and work experience in fields such as education, health care, neighborhood transportation services, crime prevention and control, environmental quality control (including integrated pest management activities), preservation of historic sites, and maintenance of visitor facilities;

"(3) appropriate training and services to support the purpose of this subpart, including but not limited to—

"(A) outreach, assessment, and orientation;

"(B) counseling, including occupational information and career counseling;

"(C) activities promoting education to work transition;

"(D) development of information concerning the labor market, and provision of occupational, educational, and training information;

"(E) services to youth to help them obtain and retain employment;

"(F) literacy training and bilingual training;

"(G) attainment of certificates of high school equivalency;

"(H) job sampling, including vocational exploration in the public and private sector;

"(I) institutional and on-the-job training, including development of basic skills and job skills;

"(J) transportation assistance;

"(K) child care and other necessary supportive services;

"(L) job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders or new job opportunities for youths, in order to improve work relationships between employers and youths;

"(M) community-based central intake and information services for youth;

"(N) job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible, and referral to employability development programs;

"(O) programs to overcome sex-stereotyping in job development and placement; and

"(P) programs and outreach mechanisms to increase the labor force participation rate among minorities and women.

"(b) In order to carry out this subpart, a Governor or a prime sponsor may enter into contracts with project applicants (as defined in section 125(18)) or employers organized for profit, but payments to such employers shall not exceed the amounts permitted under section 121(j), or may operate programs directly if, after consultation with community-based organizations and nonprofit groups, a Governor or prime sponsor determines that such direct operation will promote the purposes of this subpart.

"ALLOCATION OF FUNDS

"SEC. 433. (a) From the sums available for this subpart—

"(1) an amount equal to 75 per centum of such funds shall be made available to prime sponsors for programs authorized under section 432 of this Act;

"(2) an amount equal to 5 per centum of the amount available for this subpart shall be made available to Governors for special statewide youth services under subsection (c) of this section;

"(3) an amount equal to not less than 2 per centum of the amount available for this subpart shall be made available for employment and training programs for Native American eligible youths (deducting such amounts as are made available for such purposes under section 423(b) of this Act);

"(4) an amount equal tc not less than 2 per centum of the amount available for this subpart shall be made available for employment and training programs for eligible youths in migrant and seasonal farmworker families (deducting such amounts as are made available for such purposes under section 423(b) of this Act); and

"(5) the remainder of the funds available for this subpart shall be available for the Secretary's discretionary projects authorized under section 438.

"(b)(1) Amounts available for each of the purposes set forth in paragraphs (1) and (2) of subsection (a) shall be allocated among the States in such a manner that—

"(A) 37.5 per centum thereof shall be allocated in accordance with the relative number of unemployed persons within each State as compared to the total number of such unemployed persons in all States;

"(B) 37.5 per centum thereof shall be allocated in accordance with the relative number of unemployed persons residing in areas of substantial unemployment (as defined in section 125(2)(A) of this Act) within each State as compared to the total number of unemployed persons residing in all such areas in all States; and

"(C) 25 per centum thereof shall be allocated in accordance with the relative number of persons in families with an annual income below the low-income level (as defined in section 125(15) of this Act) within each State as compared to the total number of such persons in all States.

"(2) In determining allocations under this subsection the Secretary shall use what the Secretary determines to be the best available data.

"(3) Amounts available to prime sponsors under paragraph (1) of subsection (a) of this section shall, out of the total amounts allocated to each State under such paragraph, be allocated by the Secretary among prime sponsors within each State, in accordance with the factors set forth in paragraph (1) of this subsection.

"(c) The amount available to the Governor of each State under paragraph (2) of subsection (a) of this section shall be used in accordance with a special statewide youth services plan, approved by the Secretary, for such purposes as—

"(1) providing financial assistance for employment and training opportunities for eligible youths who are under the supervision of the State;

"(2) providing labor market and occupational information to prime sponsors and local educational agencies, without reimbursement;

"(3) providing for the establishment of cooperative efforts between State and local institutions, including occupational and career guidance and counseling and placement services for in-school and out-of-school youth;

"(4) providing financial assistance for expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in concert with appropriate businesses and labor unions or State apprenticeship councils;

"(5) carrying out special model employment and training programs and related services between appropriate State agencies and prime sponsors in the State, or any combination of such prime sponsors, including subcontractors selected by prime sponsors, with particular emphasis on experimental job training within the private sector.

"(d)(1) Not less than 22 per centum of the amount allocated to each prime sponsor under paragraph (1) of subsection (a) of this section shall be used for programs under this subsection.

"(2) The amount available to each prime sponsor under paragraph (1) of this subsection shall be used for programs for in-school youth carried out pursuant to agreements between prime sponsors and local educational agencies. Each such agreement shall describe in detail the employment opportunities and appropriate training and supportive services which shall be provided to eligible participants who are enrolled or who agree to enroll in a full-time program leading to a secondary school diploma, a junior or community college degree, or a technical or trade school certificate of completion. Each such agreement shall contain provisions to assure that funds received pursuant to the agreement will not supplant State or local funds expended for the same purpose.

"(e) Programs receiving assistance under paragraph (1) of subsection (a) of this section shall give special consideration in carrying out programs authorized under section 432 of this Act, to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services, such as the Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, neighborhood organizations, community action agencies, union-related organizations, employer-related nonprofit organizations, and other similar organizations.

"ELIGIBLE APPLICANTS

"SEC. 434. Eligible applicants for purposes of this subpart, except section 438, are prime sponsors qualified under section 101 of this Act, sponsors of Native American programs qualified under section 302(c)(1) of this Act, and sponsors of migrant and seasonal farmworker programs qualified under section 303 of this Act.

"ELIGIBLE PARTICIPANTS

"SEC. 435. (a) Eligible participants for programs authorized under this subpart shall be persons who—

"(1)(A) are unemployed or are underemployed or are in school and are ages sixteen to twenty-one, inclusive; or (B) if authorized under such regulations as the Secretary may prescribe, are in school and are ages fourteen to fifteen, inclusive; and

"(2) are not members of households which have current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) at a rate exceeding 85 per centum of the lower living standard income level, except that, pursuant to regulations which the Secretary shall prescribe, persons who do not meet the requirements of this subparagraph but who are otherwise eligible under this subpart may participate in appropriate activities of the type authorized under paragraph (3) of section 432(a). Notwithstanding the provisions of this subsection, 10 per centum of the funds available for this subpart may be used for programs which include youths of all economic backgrounds to test the desirability of including youths of all economic backgrounds.

"(b) For purposes of this section, the term 'lower living standard income level' means that income level (adjusted for regional and metropolitan and urban and rural differences and family size) determined annually by the Secretary based upon the most recent 'lower living standard budget' issued by the Bureau of Labor Statistics of the Department of Labor.

"CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

"Sec. 436. (a) The Secretary shall not provide financial assistance to an eligible applicant for programs authorized under section 432 unless such eligible applicant provides assurances that the standards set forth in subpart 4 of this part will be met and unless such eligible applicant submits an application in such detail as the Secretary may prescribe. Each such application shall—

"(1) describe the programs, projects or activities to be carried out with such assistance, together with a description of the relationship and coordination of services provided to eligible participants under this subpart for similar services offered by local educational agencies, postsecondary institutions, the public employment service, other youth programs, community-based organizations, businesses and labor organizations consistent with the requirements of sections 121 and 203 of this Act, and assurances that, to the maximum extent feasible, use will be made of any services that are available without reimbursement by the State employment service that will contribute to the achievement of the purposes of this subpart;

"(2) include assurances that the application will be coordinated to the maximum extent feasible, with the plans submitted under title II, but services to youth under that title shall not be reduced because of the availability of financial assistance under this subpart;

"(3) provide assurances, satisfactory to the Secretary, that in the implementation of programs under this subpart, there will be coordination, to the extent appropriate, with local educational agencies, postsecondary institutions, community-based organizations, businesses, labor organizations, job training programs, other youth programs, the apprenticeship system, and (with respect to the referral of prospective youth participants to the program) the public employment service system;

"(4) provide assurance satisfactory to the Secretary that allowances will be paid in accordance with the provisions of section 123 of this Act and such regulations as the Secretary may prescribe for this subpart;

"(5) provide assurances that the application will be reviewed by the appropriate prime sponsor planning council in accordance with the provisions of section 109;

"(6) provide assurances that a youth council will be established under the planning council of such eligible applicant (established under section 109 of this Act) in accordance with subsection (b) of this section;

"(7) provide assurances satisfactory to the Secretary that effective means will be provided through which youths participating in the projects, programs, and activities may acquire appropriate job skills and be given necessary basic education and training and that suitable arrangements will be established to document the competencies, including skills, education and training, derived by each participant from programs established under this subpart;

"(8) provide assurances that the eligible applicant will take appropriate steps to develop new job classifications, new occupations, and restructured jobs;

"(9) provide that the funds available under section 433(d) shall be used for programs authorized under section 432 for in-school youth who are eligible participants through arrangements to be carried out by a local educational agency or agencies or post-secondary educational institution or institutions; and

"(10) provide such other information and assurance as the Secretary may deem appropriate to carry out the purposes of this subpart.

"(b) Each youth council established by an eligible applicant shall be responsible for making recommendations to the planning council established under section 109 of this Act with respect to planning and review of activities conducted under this subpart and subpart 2. Each such youth council's membership shall include representation from the local educational agency, local vocational education advisory council, postsecondary educational institutions, business, unions, the public employment service, local government and nongovernment agencies and organizations which are involved in meeting the special needs of youths, the community served by such applicant, the prime sponsor, and youths themselves.

"(c) No program of work experience for in-school youth supported under this subpart shall be entered into unless an agreement has been made between the prime sponsor and a local educational agency or agencies, after review by the youth council established under subsection (b) of this section. Each such agreement shall—

"(1) set forth assurances that participating youths will be provided meaningful work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment or self-employment not subsidized under this in-school program;

"(2) be administered, under agreements with the prime sponsor, by a local educational agency or agencies or a postsecondary educational institution or institutions within the area served by the prime sponsor, and set forth assurances that such contracts have been reviewed by the youth council established under subsection (b) of this section;

"(3) set forth assurances that job information, counseling, guidance, and placement services will be made available to participating youths and that funds provided under this program will be available to, and utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

"(4) set forth assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youths;

"(5) set forth assurances that the eligible applicant will advise participating youths of the availability of other employment and training resources provided under this Act, and other resources available in the local community to assist such youths in obtaining employment or self-employment;

"(6) set forth assurances that youth participants will be chosen from among youths who are eligible participants who need work to remain in school, and shall be selected by the appropriate educational agency or institution, based on the certification for each participating youth by the school-based guidance counselor that the work experience provided is an appropriate component of the overall educational program of each youth.

"REVIEW OF PLANS BY SECRETARY

"Sec. 437. The provisions of sections 102, 104, and 107 of this Act shall apply to all programs and activities authorized under 432.

"SECRETARY'S DISCRETIONARY PROJECTS

"Sec. 438. (a) (1) The Secretary of Labor is authorized, either directly or by way of contract or other arrangement, with prime sponsors, public agencies and private organizations to carry out innovative and experimental programs to test new approaches for dealing with the unemployment problems of youth and to enable eligible participants to prepare for, enhance their prospects for, or secure employment in occupations through which they may reasonably be expected to advance to productive working lives. Such programs shall include, where appropriate, cooperative arrangements with educational agencies to provide special programs and services for eligible participants enrolled in secondary schools, postsecondary educational institutions and technical and trade schools, including job experience, counseling and guidance prior to the completion of secondary or postsecondary education and making available occupational, educational, and training information through statewide career information systems. When funds are provided for the development or implementation of statewide career information systems, the occupational data contained within such systems shall be subject to the approval of the appropriate State occupational information coordinating committee established pursuant to section 161(b) (2) of the Vocational Education Act of 1963.

"(2) In carrying out or supporting such programs, the Secretary of Labor shall consult, as appropriate, with the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, and the Director of the Community Services Administration.

"(3) Funds available under this section may be transferred to other Federal departments and agencies to carry out functions delegated to them pursuant to agreements with the Secretary.

"(b) The Secretary and prime sponsors, as the case may be, shall give special consideration in carrying out innovative and experimental programs assisted under this section to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services, such as the Opportunities Industrialization Centers, the National Urban League, SER–Jobs for Progress, United Ways of America, Mainstream, the National Puerto Rican Forum, neighborhood organizations, community action agencies, union-related organizations, employer-related nonprofit organizations, and other similar organizations.

"Subpart 4—General Provisions

"DISTRIBUTION OF FUNDS

"Sec. 441. Of the sums available for carrying out the provisions of this part—

"(1) 15 per centum shall be available for subpart 1;

"(2) 15 per centum shall be available for subpart 2; and

"(3) 70 per centum shall be available for subpart 3.

"WAGE PROVISIONS

"SEC. 442. Rates of pay under this part shall be no less than the higher of—

"(1) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, but in the case of an individual who is fourteen or fifteen years old, the wage provided in accordance with the provisions of subsection (b) of section 14 of the Fair Labor Standards Act of 1938;

"(2) the State or local minimum wage for the most nearly comparable employment, but in the case of an individual who is fourteen or fifteen years old the wage provided in accordance with the applicable provisions of the applicable State or local minimum wage law; or

"(3) the prevailing rates of pay, if any, for occupations and job classifications of individuals employed by the same employer, except that—

"(A) whenever the prime sponsor has entered into an agreement with the employer and the labor organization representing employees engaged in similar work in the same area to pay less than the rates provided in this paragraph, youths may be paid the rates specified in such agreement;

"(B) whenever an existing job is reclassified or restructured, youth employed in such jobs shall be paid at rates not less than are provided under pargaraph (1) or (2) of this section, but if a labor organization represents employees engaged in similar work in the same area, such youths shall be paid at rates specified in an agreement entered into by the appropriate prime sponsor, the employer, and the labor organization with respect to such reclassified or restructured jobs, and if no agreement is reached within thirty days after the initiation of the agreement procedure referred to in this subparagraph, the labor organization, prime sponsor, or employer may petition the Secretary of Labor who shall establish appropriate wages for the reclassified or restructured positions, taking into account wages paid by the same employer to persons engaged in similar work;

"(C) whenever a new or different job classification or occupation is established and there is no dispute with respect to such new or different job classification or occupation, youths to be employed in such jobs shall be paid at rates not less than are provided in paragraph (1) or (2) of this section, but if there is a dispute with respect to such new or different job classification, the Secretary of Labor shall, within thirty days after receipt of the notice of protest by the labor organization representing employees engaged in similar work in the same area, make a determination whether such jobs is a new or different job classification or occupation; and

"(D) in the case of projects to which the provision of the David-Bacon Act (or any Federal law containing labor standards in accordance with the Davis-Bacon Act) otherwise apply, the Secretary is authorized, for projects financed under subparts 2 and 3 of this part under $5,000, to prescribe rates of pay for youth participants which are not less than the applicable minimum wage but not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe the appropriate ratio of journeymen to such participating youths.

"SPECIAL CONDITIONS

"SEC. 443. (a) The Secretary shall provide financial assistance under this part only if he determines that the activities to be assisted meet the requirements of this section.

"(b) The Secretary shall determine that the activities assisted under this part—

"(1) will result in an increase in employment opportunities over those opportunities which would otherwise be available;

"(2) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits);

"(3) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

"(4) will not substitute jobs assisted under this part for existing federally assisted jobs;

"(5) will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area; and

"(6) will not be used to employ any person to fill a job opening created by the act of an employer in laying off or terminating employment of any regular employee, or otherwise reducing the regular work force not supported under this part, in anticipation of filling the vacancy so created by hiring a youth to be supported under this part.

"(c) The jobs in each promotional line will in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public services not subsidized under this Act and no job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective-bargaining agreements have been complied with.

"(d) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program for which an application is being developed for submission under this part, such organization shall be notified and shall be afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary.

"(e) Activities funded under this part shall meet such other standards as the Secretary may deem appropriate to carry out the purposes of this Act.

"(f) Funds under this part shall not be used to provide full-time employment opportunities (1) for any person who has not attained the age with respect to which the requirement of compulsory education ceases to apply under the laws of the State in which such individual resides, except (A) during periods when school is not in session, and (B) where employment is undertaken in cooperation with school-related programs awarding academic credit for the work experience, or (2) for any person who has not attained a high school degree or its equivalent if it is determined, in accordance with procedures established by the Secretary of Labor, that there is substantial evidence that such person left school in order to participate in any program under this part.

"SPECIAL PROVISIONS FOR SUBPARTS 2 AND 3

"SEC. 444. (a) Appropriate efforts shall be made to insure that youths participating in programs, projects, and activities under subpart 2 and 3 of this part shall be youths who are experiencing severe handicaps in obtaining employment, including but not limited to those who lack credentials (such as a high school diploma), those who require substantial basic and remedial skill development, those who are women and minorities, those who are veterans of military service, those who are offenders, those who are handicapped, those with dependents, or those who have otherwise demonstrated special need, as determined by the Secretary.

"(b) The Secretary is authorized to make such reallocation as the Secretary deems appropriate of any amount of any allocation under subparts 2 and 3 of this part to the extent that the Secretary determines that an eligible applicant will not be able to use such amount within a reasonable period of time. Any such amount may be reallocated only if the Secretary has provided thirty days' advance notice of the proposed reallocation to the eligible applicant and to the Governor of the State of the proposed reallocation, during which period of time the eligible applicant and the Governor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the Governor and affected eligible applicants of any decision to reallocate funds, and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

"(c) The provisions of section 121(g)(1)(D) of this Act shall apply to subparts 2 and 3 of this part.

"ACADEMIC CREDIT, EDUCATION CREDIT, COUNSELING AND PLACEMENT SERVICES, AND BASIC SKILLS DEVELOPMENT

"SEC. 445. (a) In carrying out this part, appropriate efforts shall be made to encourage the granting by the educational agency or school involved of academic credit to eligible participants who are in school.

"(b) The Secretary, in carrying out the purposes of this part, shall work with the Department of Health, Education, and Welfare to make suitable arrangements with appropriate State and local education officials whereby academic credit may be awarded, consistent with applicable State law, by educational institutions and agencies for competencies derived from work experience obtained through programs established under this title.

"(c) All activities assisted under this part, pursuant to such regulations as the Secretary shall prescribe, shall provide appropriate counseling and placement services designed to facilitate the transition of youth from participation in the project to (1) permanent jobs in the public or private sector, or (2) education or training programs.

"DISREGARDING EARNINGS

"SEC. 446. Earnings received by any youth under this part shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs.

"RELATION TO OTHER PROVISIONS

"SEC. 447. The provisions of title I of this Act shall apply to this part, except to the extent that any such provision may be inconsistent with the provisions of this part.

"PART B—JOB CORPS

"STATEMENT OF PURPOSE

"SEC. 450. This part establishes a Job Corps for economically disadvantaged young men and women, sets forth standards and procedures for selecting individuals as enrollees in the Job Corps, authorizes the establishment of residential and nonresidential centers in which enrollees will participate in intensive programs of education, vocational training, work experience, counseling and other activities, and prescribes various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps. The purpose of this part is to assist young persons who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsible, employable, and productive citizens; and to do so in a way that contributes, where feasible, to the development of National, State, and community resources, and to the development and dissemination of techniques for working with the disadvantaged that can be widely utilized by public and private institutions and agencies.

"ESTABLISHMENT OF THE JOB CORPS

"Sec. 451. There is established within the Department of Labor a 'Job Corps'.

"INDIVIDUALS ELIGIBLE FOR THE JOB CORPS

"Sec. 452. To become an enrollee in the Job Corps, a young man or woman must be an eligible youth who—

"(1) requires additional education, training, or intensive counseling and related assistance in order to secure and hold meaningful employment, participate successfully in regular school work, qualify for other suitable training programs, or satisfy Armed Forces requirements;

"(2) is currentlly living in an environment so characterized by cultural deprivation, a disruptive homelife, or other disorienting conditions as to substantially impair prospects for successful participation in other programs providing needed training, education, or assistance;

"(3) is determined, after careful screening as provided for in sections 453 and 454 to have the present capabilities and aspirations needed to complete and secure the full benefit of the Job Corps and to be free of medical and behavioral problems so serious that the individual could not adjust to the standards of conduct, discipline, work, and training which the Job Corps involves; and

"(4) meets such other standards for enrollment as the Secretary may prescribe and agrees to comply with all applicable Job Corps rules and regulations.

"SCREENING AND SELECTION OF APPLICANTS—GENERAL PROVISIONS

"Sec. 453. (a) The Secretary shall prescribe specific standards and procedures for the screening and selection of applicants for the Job Corps. To the extent practicable, these rules shall be implemented through arrangements with agencies and organizations such as community action agencies, public employment offices, professional groups, labor organizations, and agencies and individuals having contact with youths over substantial periods of time and able to offer reliable information as to their needs and problems; and shall provide for necessary consultation with other individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers. The rules shall also provide for the interviewing of each applicant for the purpose of—

"(1) determining whether the applicant's educational and vocational needs can best be met through the Job Corps or an alternative program in the applicant's home community;

"(2) obtaining from the applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment; and

"(3) giving the applicant a full understanding of the Job Corps and what will be expected of an enrollee in the event of acceptance.

"(b) The Secretary shall make no payments to any individual or organization solely as compensation for referring the names of candidates for Job Corps.

"(c) The Secretary shall assure that Job Corps enrollees include an appropriate number of candidates selected from rural areas, taking into account the proportions of eligible youth who reside in rural areas and the need to provide residential facilities for such youth.

"SCREENING AND SELECTION—SPECIAL LIMITATIONS

"Sec. 454. (a) No individual shall be selected as an enrollee unless there is reasonable expectation that the individual can participate successfully in group situations and activities, is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the center to which the individual might be assigned and surrounding communities, and unless the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe those rules.

"(b) No individual shall be denied a position in the Job Corps solely on the basis of that individual's contact with the criminal justice system.

"ENROLLMENT AND ASSIGNMENT

"Sec. 455. (a) No individual may be enrolled in the Job Corps for more than two years, except as the Secretary may authorize in special cases.

"(b) Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

"(c) After the Secretary has determined whether an enrollee is to be assigned to a Job Corps Center or a Job Corps Civilian Conservation Center, the enrollee shall be assigned to the center of the appropriate type which is closest to the enrollee's home, except that the Secretary may waive this requirement for good cause, including to insure an equitable opportunity for youth from various sections of the country to participate in the program, to prevent undue delays in assignment, to adequately meet the educational or other needs of an enrollee, and for efficiency and economy in the operation of the program.

"JOB CORPS CENTERS

"Sec. 456. (a) The Secretary may make agreements with Federal, State, or local agencies, including a State board or agency designated pursuant to section 104(a)(1) of the Vocational Education Act of 1963 which operates or wishes to develop area vocational education school facilities or residential vocational schools (or both) as authorized by such Act, or private organizations for the establishment and operation of Job Corps centers. Job Corps centers may be residential or nonresidential in character, or both, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with education, vocational training, work experience (either in direct program activities or through arrangements with employers), counseling and other services appropriate to their needs. The centers shall include Civilian Conservation Centers, located primarily in rural areas, which shall provide, in addition to other training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest. The centers shall also include training centers located in either urban or rural areas which shall provide activities including training and other services for specific types of skilled or semiskilled employment.

"(b) To the extent feasible, Job Corps centers shall offer education and vocational training opportunities, together with supportive services, on a nonresidential basis to participants in other programs under this Act. Such opportunities may be offered on a reimbursable basis or through such other arrangements as the Secretary may specify.

"PROGRAM ACTIVITIES

"Sec. 457. (a) Each Job Corps center shall provide enrollees with an intensive, well-organized and fully supervised program of education, vocational training, work experience, planned vocational and recreational activities, physical rehabilitation and development, and counseling. To the fullest extent feasible, the required program shall include activities to assist enrollees in choosing realistic career goals, coping with problems they may encounter in home communities, or in adjusting to new communities, and planning and managing daily affairs in a manner that will best contribute to long-term upward mobility. Center programs shall include required participation in center maintenance work to assist enrollees in increasing their sense of contribution, responsibility and discipline.

"(b) The Secretary may arrange for enrollee education and vocational training through local public or private educational agencies, vocational educational institutions, or technical institutes, wherever such institutions provide training substantially equivalent in cost and quality to that which the Secretary could provide through other means.

"(c) To the extent feasible, arrangements for education both on and off center shall provide opportunities for qualified enrollees to obtain the equivalent of a certificate of graduation from high school. The Secretary, with the concurrence of the Secretary of Health, Education, and Welfare, shall develop certificates to be issued to each enrollee who satisfactorily completes his or her service in the Job Corps and which will reflect the enrollee's level of educational attainment.

"ALLOWANCES AND SUPPORT

"Sec. 458. (a) The Secretary may provide enrollees with such personal, travel, and leave allowances, and such quarters, subsistence, transportation, equipment, clothing, recreational services, and other expenses as he may deem necessary or appropriate to their needs. Personal allowances shall be established at a rate not to exceed $60 per month during the first six months of an enrollee's participation in the program and not to exceed $100 per month thereafter, except that allowances in excess of $60 per month, but not exceeding $100 per month, may be provided from the beginning of an enrollee's participation if it is expected to be of less than six months' duration and the Secretary is authorized to pay personal allowances in excess of the rates specified herein in unusual circumstances as determined by him. Such allowances shall be graduated up to the maximum so as to encourage continued participation in the program, achievement and the best use by the enrollee of the funds so provided and shall be subject to reduction in appropriate cases as a disciplinary measure. To the degree reasonable, enrollees shall be required to meet or contribute to costs associated with their individual comfort and enjoyment from their personal allowances.

"(b) The Secretary shall prescribe specific rules governing the accrual of leave by enrollees. Except in the case of emergency, he shall in no event assume transportation costs connected with leave of any enrollee who has not completed at least six-months' service in the Job Corps.

"(c) The Secretary may provide each former enrollee upon termination, a readjustment allowance at a rate not to exceed $100 for each month of satisfactory participation in the Job Corps. No enrollee shall be entitled to a readjustment allowance, however, unless he has remained in the program at least ninety days, except in unusual circumstances as determined by the Secretary. The Secretary may, from time to time, advance to or on behalf of an enrollee such portions of his readjustment allowances as the Secretary deems necessary to meet extraordinary financial obligations incurred by that enrollee; and he may also, pursuant to rules or regulations, reduce the amount of an enrollee's readjustment allowance as a penalty for misconduct during participation in the Job Corps. In the event of an enrollee's death during his period of service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

"(d) Under such circumstances as the Secretary may determine, a portion of the readjustment allowance of an enrollee not exceeding $50 for each month of satisfactory service may be paid during the period of service of the enrollee directly to a spouse or child of an enrollee or to any other relative who draws substantial support from the enrollee, and any sum to be paid shall be supplemented by the payment of an equal amount by the Secretary.

"STANDARDS OF CONDUCT

"SEC. 459. (a) Within Job Corps centers standards of conduct shall be provided and stringently enforced. If violations are committed by enrollees, dismissal from the Corps or transfers to other locations shall be made if it is determined that retention in the Corps, or in the particular center, will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

"(b) To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees including, but not limited to, dismissal from the Job Corps, subject to expeditious appeal to the Secretary.

"COMMUNITY PARTICIPATION

"SEC. 460. The Secretary shall encourage and cooperate in activities to establish a mutually beneficial relationship between Job Corps centers and nearby communities. These activities shall include the establishment of community advisory councils to provide a mechanism for joint discussion of common problems and for planning programs of mutual interest. Youth participation in advisory council affairs shall be encouraged and separate youth councils may be established composed of enrollees and young people from the communities. The Secretary shall assure that each center is operated with a view to achieving, so far as possible, objectives which shall include—

"(1) giving community officials appropriate advance notice of changes in center rules, procedures, or activities that may affect or be of interest to the community;

"(2) affording the community a meaningful voice in center affairs of direct concern to it, including policies governing the issuance and terms of passes to enrollees;

"(3) providing center officials with full and rapid access to relevant community groups and agencies, including law enforcement agencies and agencies which work with young people in the community;

"(4) encouraging the fullest practicable participation of enrollees in programs for community improvement or betterment, with appropriate advance consultation with business, labor, professional, and other interested community groups;

"(5) arranging recreational, athletic, or similar events in which enrollees and local residents may participate together;

"(6) providing community residents with opportunities to work with enrollees directly as part-time instructors, tutors, or advisers, either in the center or in the community;

"(7) developing, where feasible, job or career opportunities for enrollees in the community; and

"(8) promoting interchanges of information and techniques among, and cooperative projects involving, the center and community schools, educational institutions, agencies serving young people and recipients of funds under this Act.

"COUNSELING AND JOB PLACEMENT

"SEC. 461. (a) The Secretary shall counsel and test each enrollee at regular intervals to measure progress in educational and vocational programs.

"(b) The Secretary shall counsel and test enrollees prior to their scheduled terminations to determine their capabilities and shall make every effort to place them in jobs in the vocation for which they are trained or to assist them in attaining further training or education. In placing enrollees in jobs, the Secretary shall utilize the public employment service system to the fullest extent possible.

"(c) The Secretary shall determine the status and progress of terminees and make every effort to assure that their needs for further education, training, and counseling are met.

"(d) The Secretary shall arrange for the readjustment allowance to be paid to former enrollees (who have not already found employment) at the State employment service office nearest the home of any such former enrollee who is returning home, or at the nearest such office where the former enrollee has indicated an intent to reside. If the Secretary uses any other public agency or private organization in lieu of the public employment service system, the Secretary shall arrange for that organization or agency to pay the readjustment allowance.

"EXPERIMENTAL AND DEVELOPMENTAL PROJECTS

"SEC. 462. (a) The Secretary may undertake experimental, research, or demonstration projects to develop or test ways of better using facilities, encouraging a more rapid adjustment of enrollees to community life that will permit a reduction in their period of enrollment, reducing transportation and support costs, or otherwise promoting greater efficiency and effectiveness in the program. These projects shall include one or more projects providing youths with education, training, and other supportive services on a combined residential and nonresidential basis. The Secretary may undertake one or more pilot projects designed to involve youth who have a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other behavioral aberrations. Projects under this subsection shall be developed after appropriate consultation with other Federal or State agencies conducting similar or related programs or projects and with the prime sponsors in the communities where the projects will be carried out. They may be undertaken jointly with other Federal or federally assisted programs, and funds otherwise available for activities under those programs shall, with the consent of the head of any agency concerned, be available for projects under this section to the extent they include the same or substantially similar activities. The Secretary may waive any provision of this part which the Secretary finds would prevent the carrying out of elements of projects under this subsection essential to a determination of their feasibility and usefulness. The Secretary shall, in the annual report of the Secretary, report to the Congress concerning the actions taken under this section, including a full description of progress made in connection with combined residential and nonresidential projects.

"(b) In order to determine whether upgraded vocational education schools could eliminate or substantially reduce the school dropout problem, and to demonstrate how communities could make maximum use of existing educational and training facilities, the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, may enter into one or more agreements with State educational agencies to pay the cost of establishing and operating model community vocational education schools and skill centers.

"ADVISORY BOARDS AND COMMITTEES

"SEC. 463. The Secretary may make use of advisory committees in connection with the operation of the Job Corps, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strenthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

"PARTICIPATION OF THE STATES

"SEC. 464. (a) The Secretary shall take action to facilitate the effective participation of States in the Job Corps programs, including, but not limited to, consultation with appfopriate State agencies on matters pertaining to the enforcement of applicable State laws, standards of enrollee conduct and discipline, the development of meaningful work experience and other activities for enrollees, and coordination with State-operated programs.

"(b) The Secretary may enter into agreements with States to assist in the operation or administration of State-operated programs which carry out the purpose of this part. The Secretary may, pursuant to regulations, pay part or all of the costs of such programs.

"(c) No Job Corps center or other similar facility designed carry out the purpose of this part shall be established within a State unless a notice setting forth such proposed establishment has been submitted to the Governor, and the establishment has not been disapproved by the Governor within thirty days of such submission.

"(d) All property which would otherwise be under exclusive Federal legislative jurisdiction shall be under concurrent jurisdiction with the appropriate State and locality with respect to criminal law enforcement as long as a Job Corps center is operated on such property.

"APPLICATION OF PROVISIONS OF FEDERAL LAW

"SEC. 465. (a) Except as otherwise provided in this subsection and in section 8143(a) of title 5, United States Code, enrollees in the Job Corps shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

"(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.) enrollees shall be deemed employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

"(2) For purposes of subchapter I of chapter 81 of title 5 of the United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except as follows:

"(A) the term 'performance of duty' shall not include any act of an enrollee while absent from his or her assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from such post or duty) authorized by or under the direction and supervision of the Job Corps;

"(B) in computing compensation benefits for disability or death, the monthly pay of an enrollee shall be deemed that received under the entrance salary for a grade GS–2 employee, and sections 8113 (a) and (b) of title 5, United States Code, shall apply to enrollees; and

"(C) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee is terminated.

"(3) For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered employees of the Government.

"(b) Whenever the Secretary finds a claim for damages to persons or property resulting from the operation of the Job Corps to be a proper charge against the United States, and it is not cognizable under section 2672 of title 28, United States Code, the Secretary may adjust and settle it in an amount not exceeding $1,500.

"(c) Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade therein.

"SPECIAL PROVISIONS

"Sec. 466. (a) The Secretary shall immediately take steps to achieve an enrollment of 50 per centum women in the Job Corps consistent with (1) efficiency and economy in the operation of the program, (2) sound administrative practice, and (3) the socioeconomic, educational, and training needs of the population to be served.

"(b) The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of the Job Corps program shall become the property of the United States.

"(c) Transactions conducted by private for-profit contractors for Job Corps centers which they are operating on behalf of the Secretary shall not be considered as generating gross receipts.

"GENERAL PROVISIONS

"Sec. 467. The Secretary is authorized to—

"(1) disseminate, with regard to the provisions of section 4154 of title 39, United States Code, data and information in such forms as the Secretary shall deem appropriate, to public agencies, private organizations, and the general public;

"(2) collect or compromise all obligations to or held by the Secretary and all legal or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

"(3) expend funds made available for purposes of this part—

"(A) for printing and binding, in accordance with applicable law and regulations; and

"(B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary; but the Secretary shall not utilize the authority contained in this subparagraph—

"(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this part, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form or under the conditions in which it is needed; and

"(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of the Secretary's intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority.

"UTILIZATION OF FUNDS

"Sec. 468. Notwithstanding the limitations of title II and part C of this title, financial assistance under title II and part C of this title which is used for the Job Corps program, may be used in accordance with the provisions of this part.

"PART C—SUMMER YOUTH PROGRAM

"ESTABLISHMENT OF PROGRAM

"Sec. 480. (a) The Secretary shall provide financial assistance to prime sponsors to conduct programs for eligible youth during the summer months.

"(b) Programs shall provide eligible youth with useful work and sufficient basic education and institutional or on-the-job training to assist these youths to develop their maximum occupational potential and to obtain employment not subsidized under this Act.

"PRIME SPONSORS

"Sec. 481. Prime sponsors eligible for assistance under this part shall be prime sponsors designated under section 101(c) and Native American entities described in section 302(c)(1).

"FINANCIAL ASSISTANCE

"Sec. 482. (a) In order to receive financial assistance under this part, a prime sponsor shall submit to the Secretary an annual plan pursuant to section 103.

"(b) The funds appropriated for this part in any fiscal year shall be allocated according to the procedures set forth in subsection (c) except that the Secretary may reserve up to 5 percent of the appropriated funds to be used in the Secretary's discretion.

"(c)(1) In allocating funds under this part, the Secretary shall add to the new appropriation the total amount of summer funds unspent in the previous year's summer program.

"(2) Funds for prime sponsors designated under section 101(c) shall be allocated as follows:

"(A)(i) 50 percent of such funds shall be allocated on the basis of each prime sponsor's proportion of the funds allocated for the previous year's summer programs;

"(ii) 37½ per centum of the funds shall be allocated based on the ratio of the annual average number of unemployed persons in the prime sponsor's area to the total annual average number of unemployed persons in the United States;

"(iii) 12½ per centum of the funds shall be allocated based on the ratio of the number of adults in low-income families in the prime sponsor's area to the total number of adults in low income families in the United States; except that—

"(B) each prime sponsor shall receive an allocation which, when added to its unexpended allocation for the previous fiscal year, shall be at least equal to the amount available to it for its summer program in the previous fiscal year.

"(3) Funds for Native American entities described in section 302(c)(1) shall be allocated based on the ratio of the number of Native American youths 14 through 21 years of age inclusive in the eligible prime sponsor's area to the total number of Native American youths 14 through 21 years of age inclusive in all Native American entity areas, except that each Native American entity shall receive an amount of funds equal to the amount allocated to it in the previous fiscal year.

"(4) The total allocation to Guam, the Virgin Islands, American Samoa, Northern Marianas, and the Trust Territory of the Pacific Islands shall be equal to the same percentage of the funds allocated to Guam, the Virgin Islands, American Samoa, Northern Marianas, and the Trust Territory of the Pacific Islands under the previous year's summer program.

"SECRETARIAL AUTHORITY

"Sec. 483. Programs under this part shall meet such regulations, standards, and guidelines as the Secretary shall establish.

"TITLE V—NATIONAL COMMISSION FOR EMPLOYMENT AND TRAINING POLICY

"STATEMENT OF PURPOSE

"Sec. 501. The purpose of this title is to establish a National Commission for Employment and Training Policy which will have the responsibility for examining broad issues of development, coordination and administration of employment and training programs, and for advising the Secretary on national employment and training issues.

"COMMISSION ESTABLISHED

"Sec. 502. (a) There is established a National Commission for Employment and Training Policy (formerly known as the National Commission for Manpower Policy and hereinafter referred to as the 'Commission') which shall consist of fifteen members selected as follows—

"(1) A representative of the National Advisory Council on Vocational Educaton created pursuant to section 162 of the Vocational Education Act of 1963; and

"(2) Fourteen members broadly representative of labor, industry, commerce, education (including vocational and technical education), veterans, State and local elected officials (including two Governors, two county officials, and two city officials who are currently serving in a prime sponsor area); community-based organizations, persons served by employment and training programs and of the general public appointed by the President for terms of two years beginning at the start of a fiscal year.

"(b) The Commission shall meet not fewer than three times a year at the call of the Chairperson who shall be selected by the President and who shall be one of the 14 appointed public members.

"(c) The Chairperson (with the concurrence of the Commission) shall appoint a Director, who shall be chief executive officer of the Commission and shall perform such duties as are prescribed by the Chairperson. The Director may appoint, with the concurrence of the Chairperson and the Secretary of Labor, such clerical staff as are necessary. The Commission may utilize such staff from the Department of Labor, the Department of Health, Education, and Welfare, and such other Federal agencies as may be available to assist the Commission in carrying out its responsibilities.

"(d) The Commission may accept in the name of the Department of Labor and employ or dispose of gifts or bequests to carry out its responsibilities under this title.

"(e) Members of the Commission who are not officers or employees of the Federal Government shall be paid compensation at a rate of up to the per diem equivalent to the rate for GS-18 when engaged in the work of the Commission, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

"FUNCTIONS OF THE COMMISSION

"Sec. 503. The Commission shall—

"(1) identify the employment and training goals and needs of the Nation and assess the extent to which employment and training, vocational education, institutional training, vocational rehabilitation, economic opportunity, and other programs under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

"(2) conduct such studies, hearings, research, or other activities as it deems necessary to enable it to formulate appropriate recommendations;

"(3) examine and evaluate the effectiveness of any federally assisted employment and training programs (including those assisted under this Act), with particular reference to the contributions of such programs to the achievement of objectives sought by the recommendations under clause (2) of this section;

"(4) examine and evaluate major Federal programs which are intended to (or potentially could) contribute to achieving major objectives of existing employment and training and related legislation or those set forth in the recommendations of the Commission and particularly the programs which are designed (or could be designed) to develop information and knowledge about employment and training problems through research and demonstration projects or to train personnel in fields (such as occupational counseling, guidance, and placement) which are vital to the success of employment and training programs;

"(5)(A) identify, after consultation with the National Advisory Council on Vocational Education, the employment and training and vocational education needs of the Nation and assess the extent to which employment training, vocational education, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment, at least once annually, on the reports of the National Advisory Council on Vocational Education which comments shall be included in one of the reports submitted by the National Commission pursuant to this title and in one of the reports submitted by the National Advisory Council on Vocational Education pursuant to section 162 of the Vocational Education Act of 1963; and

"(6) evaluate and continue to study and make recommendations to the Congress on the impact of energy shortages and new energy developments upon employment and training needs and include these findings and recommendations with respect thereto in the reports required by section 504.

"REPORTS

"SEC. 504. The Commission shall make at least annually a report of its findings and recommendations to the President and the Congress. The Commission may make such interim reports or recommendations to the Congress, the President, Secretary of Labor, or to the heads of other Federal departments and agencies, and in such form, as it may deem desirable. The Commission shall include in any report made under this section any minority or dissenting views submitted by any member of the Commission.

"TITLE VI—PUBLIC SERVICE EMPLOYMENT PROGRAM

"STATEMENT OF PURPOSE

"SEC. 601. It is the purpose of this title to provide for temporary employment in public service employment during periods of high unemployment. It is the intent of Congress that such employment be provided during periods when the national rate of unemployment is in excess of 4 per centum and that the number of jobs funded shall be sufficient to provide jobs for 20 per centum of the unemployed in excess of 4 per centum of the labor force.

"REPORT ON APPROPRIATIONS

"SEC. 602. (a) On or before March 1 of each year, the President shall report to the Congress the amount that would need to be appropriated for the following fiscal year in order to achieve the level of public service employment specified in section 601. Such report shall contain the President's estimate of the unemployment rate for the following fiscal year, the number of unemployed that he estimates in excess of 4 per centum of the labor force, and the average man-year cost of each public service employment opportunity.

"(b) The President shall submit supplemental reports every three months thereafter containing any necessary revisions in the report required under subsection (a) due to changes in his estimates of unemployment or the cost of providing public service jobs under this title.

"(c) The Secretary shall, as soon as practicable after submission of the report required under subsection (a), inform each prime sponsor of its estimated allocation on the basis of the appropriation proposed in such report. Each prime sponsor's annual plan for using funds provided under this title shall contain provisions for an orderly transition from the number of jobs funded for the current year to the number of jobs which would be funded under such proposed appropriation.

"FINANCIAL ASSISTANCE

"SEC. 603. (a) In order to be eligible to receive financial assistance under this title for any fiscal year, a prime sponsor shall submit to the Secretary an annual plan pursuant to section 103.

"(b) Not more than 15 per centum of the funds allocated in accordance with the provisions of this title may be used for administrative and other allowable costs (such as supplies, materials, and equipment) incurred by the prime sponsor, program agents, project applicants or subgrantees or contractors, in accordance with such regulations as the Secretary may prescribe.

"(c) In filling teaching positions in elementary and secondary schools with financial assistance under this title, each prime sponsor shall give special consideration to unemployed persons with previous teaching experience who are certified by the State in which that prime sponsor is located and who are otherwise eligible under the provisions of this title and such positions with local education agencies shall be filled through subcontracting with the appropriate local education agency.

"ALLOCATION OF FUNDS

"SEC. 604 (a)(1) The Secretary shall reserve an amount equal to not less than 2 per centum of the amounts made available pursuant to section 602 for any fiscal year to enable Native American entities which are eligible entities under section 606(a)(2) to carry out public service employment programs. Such funds shall be allocated by the Secretary in accordance with paragraph (3).

"(2) Not less than 90 per centum of the amounts made available pursuant to section 602 for any fiscal year shall be allocated among eligible prime sponsors by the Secretary in accordance with the provisions of paragraph (3).

"(3)(A) Fifty per centum of the amount allocated under this subsection shall be allocated among eligible prime sponsors in proportion to the relative number of unemployed persons who reside within the jurisdiction of each such prime sponsor as compared to the number of unemployed persons who reside in all the States.

"(B) Twenty-five per centum of the amount allocated under this subsection shall be allocated among eligible prime sponsors in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all areas of substantial unemployment.

"(C) Twenty-five per centum of the amount allocated under this subsection shall be allocated among eligible prime sponsors on the basis of the relative excess number of unemployed persons who reside within the jurisdiction of the eligible prime sponsor as compared to the total excess number of unemployed persons who reside within the jurisdiction of all eligible prime sponsors. For purposes of this subparagraph, the term 'excess number' means (i) the number of unemployed persons, residing in the jurisdiction of the eligible prime sponsor, in excess of 4½ per centum of the labor force residing in such jurisdiction or (ii) in the case of an eligible prime sponsor which is a State, the greater of the number determined under clause (i) or the number of unemployed persons in excess of 4½ per centum of the labor force in areas of substantial unemployment located in the jurisdiction of such eligible prime sponsor.

"(b)(1) Eighty-five per centum of the remainder of the amount made available pursuant to section 602 shall be available to the Secretary for financial assistance to prime sponsors as the Secretary deems appropriate, taking into account changes in rates of unemployment.

"(2) Whenever the Secretary allocates such funds through a formula, the Secretary shall, not later than thirty days prior to such allocation, publish the formula in the Federal Register for comment along with the rationale for the formula, and the proposed amount to be distributed to each prime sponsor. After consideration of comments received under the preceding sentence, the Secretary shall publish final allocations.

"(c) Not more than 15 per centum of the remainder shall be allocated among the prime sponsors within the jurisdiction of those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual average rates of unemployment prior to, but not after, January 1, 1978, in proportion to the extent to which such prime sponsors allocations under subsection (a) are reduced as a result of termination of the use of such surveys. This provision shall be in effect until such time as the National Commission on Employment and Unemployment Statistics makes its report to Congress.

"EXPENDITURE OF FUNDS

"SEC. 605. (a) Fifty per centum of the funds available to any prime sponsor under this title may be used only for employment in projects (carried out by project applicants) of a limited duration, not exceeding two years, established by the prime sponsor for each project. Employment that is not in such projects must be at entry level.

"(b) Each project applicant shall submit a project application to the appropriate program agent or prime sponsor. Such application shall contain information as required by the Secretary's regulations.

"PRIME SPONSOR AND PROGRAM AGENTS

"SEC. 606. (a) The Secreatray shall provide financial assistance under this title only to—

"(1) prime sponsors designated under section 101(c), and

"(2) Native American entities described in section 302(c)(1).

"(b)(1) Whenever a unit of general local government or combination of such units having a population of fifty thousand or more (but less than that necessary to qualify as a prime sponsor under section 101) is within a prime sponsor's area, the prime sponsor shall if such unit or units so desire, subgrant to such unit or units of general local government the functions of program agent with respect to the funds allocated to such prime sponsor on acount of the area served by the program agent.

"(2) For purposes of this subsection, the functions of program agent include the administrative responsibility for developing, funding, overseeing, and monitoring programs within the area, but such functions shall be consistent with the annual plan, which shall be developed by the prime sponsor in cooperation with the program agent.

"(3) Whenever two or more units of general local government qualify as program agents with respect to the same area qualifying for assistance, the provisions of section 101(b)(2) shall be applicable.

"ELIGIBILITY

"SEC. 607. An individual eligible to be employed in a position supported under this title shall be a person who has been unemployed for at least eight weeks and who is not a member of a household which has a current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) at a rate exceeding 100 per centum of the lower living standard income level. For purposes of this section, family income shall be determined on the basis of the income over the three-month period prior to application for participation.

"WAGE SUPPLEMENTATION

"Sec. 608. The wages of public service employees under this title may be supplemented by a prime sponsor from sources other than this Act subject to the following conditions:

"(1) the total amount of funds which may be used to provide such supplemented wages may not exceed a sum equal to 10 per centum of such prime sponsor's allocation under this title;

"(2) the number of such employees whose wages are supplemented shall not exceed—

"(A) 25 per centum to the total number of employees under this title in the fiscal year ending September 30, 1979;

"(B) 20 per centum of such total in the fiscal year ending September 30, 1980;

"(C) 15 per centum of such total in the fiscal years ending September 30, 1981 and September 30, 1982; and

"(3) no employee whose wage is supplemented under the authority of this section shall be paid at a rate in excess of the permissible maximum under section 121(c)(1)(B), except that such rate shall be adjusted upward, not to exceed 20 per centum, by the ratio that the annual average wages within the area served by the prime sponsor exceed the average of the total of such wages nationally in accordance with a wage adjustment index to be published annually by the Secretary.

"UTILIZATION OF FUNDS

"Sec. 609. Funds available under this title to a prime sponsor may be used, with respect to individuals qualifying for assistance under this title, for programs authorized under title II (other than public service employment), part A of title III, title IV, and title VII.

"TITLE VII—PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

"STATEMENT OF PURPOSE

"Sec. 701. It is the purpose of this title to demonstrate the effectiveness of a variety of approaches to increase the involvement of the business community, including small business and minority business enterprises, in employment and training activities under this Act, and to increase private sector employment opportunities for economically disadvantaged persons.

"FINANCIAL ASSISTANCE

"Sec. 702. (a) The Secretary shall provide financial assistance to each prime sponsor designated under section 101(c) which includes satisfactory provisions in its annual plan for title II activities for carrying out the purposes of this title. Funds made available for carrying out this title shall be allocated by the Secretary on an equitable basis among such prime sponsors, taking into account the factors used in allocating funds under title II.

"(b) The Secretary shall establish appropriate procedures to assure that the Department of Labor will review at the national level any proposal to make payments to private for-profit employers for any activities which are not covered by regulations under this Act.

"PRIVATE INDUSTRY COUNCILS

"Sec. 703. (a) Any prime sponsor receiving financial assistance under this title shall establish a private industry council. Such council shall consist of representatives from industry and the business community (including small business and minority business enterprises), organized labor, and educational institutions and may include representation from community-based organizations which have demonstrated their effectiveness in working with the private sector. In no event shall representatives of industry and business have less than a majority on the council, at least half of such industry and business representatives shall be representatives of small business. Such council may consist of an existing or a newly formed organization and may be established to cover two or more prime sponsor areas pursuant to arrangements between the prime sponsors for such areas and the council. For purposes of this subsection, the term 'small business' means any private, for profit enterprise employing five hundred or fewer employees.

"(b) Such council shall participate with the prime sponsor in the development and implementation of programs under this title. In carrying out its responsibilities, such council shall utilize, to the extent appropriate, community-based organizations, labor organizations, educational agencies and institutions, and economic development programs.

"(c) The Secretary shall not, by regulation or otherwise, require that any prime sponsor, in establishing such council, give a presumptive role to any particular organization.

"PRIVATE SECTOR PROGRAM

"Sec. 704. Each prime sponsor desiring to receive financial assistance under this title, as part of its plan for title II activities, shall describe its proposed private sector initiatives under this title and the integration of such initiatives with other training and placement activities under this Act. The description shall include an analysis of private sector job opportunities, including estimates by occupation, industry, and location utilizing information provided by the private industry council.

"PROGRAM ACTIVITIES

"Sec. 705. Prime sponsors receiving financial assistance under this title shall, consistent with section 702(b), carry out private sector initiatives to demonstrate the purposes of this title. Such activities shall augment private sector-related activities under title II, including arrangements for on-the-job training with private employers, and may include—

"(1) coordinating programs of jobs and training and education enabling individuals to work for a private employer while attending an education or training program;

"(2) developing a small business intern program to provide a practical training enabling youth and other individuals to work in small business firms to acquire first-hand knowledge and management experience about small business;

"(3) developing relationships between employment and training programs, educational institutions, and the private sector;

"(4) developing useful methods for collecting information about Federal Government procurement contracts with private employers, new and planned publicly supported projects such as pubic works, economic development and community development programs, transportation revitalization, alternative energy technology development, demonstration, and utilization projects, energy conservation projects, and rehabilitation of low income housing as part of a community revitalization or stabilization effort, which provide work through private sector contractors;

"(5) developing and marketing model contracts designed to reduce the administrative burden on the employer and model contracts to meet the needs of specific occupations and industires;

"(6) coordinating programs under this title with other job development, placement, and employment and training activities carried out by public and private agencies;

"(7) providing on-the-job training subsidies on a declining ratio to wages over the period of training;

"(8) providing followup services with employees placed in private employment and employers who hire recipients of services under this Act;

"(9) encouraging employers to develop job skill requirement forecasts and to coordinate such forecasts with prime sponsors;

"(10) using direct contracts for training and employment programs with private for profit and private nonprofit organizations;

"(11) developing apprenticeship or comparable high-skill training programs for workers regardless of age in occupations where such programs do not exist presently in the area;

"(12) increasing opportunities for upgrading from entry level jobs by providing counseling and other services to employees and employers beyond initial training periods;

"(13) providing technical assistance to private employers to reduce the administrative burden of employment and training programs; and

"(14) disseminating information to private employers so that they may more fully utilize programs under this Act.

"REPORT

"Sec. 706. (a) The Secretary shall provide to the Congress by March 1, 1980, an evaluation of the activities conducted under this title accompanied by recommendations for legislation.

"(b) The Secretary shall disseminate among prime sponsors information concerning successful programs under this title.

"TITLE VIII—YOUNG ADULT CONSERVATION CORPS

"STATEMENT OF PURPOSE

"Sec. 801. It is the purpose of this title to establish a Young Adult Conservation Corps to provide employment and other benefits to youths who would not otherwise be currently productively employed, through a period of service during which they engage in useful conservation work and assist in completing other projects of a public nature on Federal and non-Federal public lands and waters.

"ESTABLISHMENT OF YOUNG ADULT CONSERVATION CORPS

"Sec. 802. To carry out the purposes of this title, there is hereby established a Young Adult Conservation Corps to carry out projects on Federal or non-Federal public lands or waters. The Secretary of Labor shall administer this title through interagency agreements with the Secretaries of the Interior and Agriculture. Pursuant to such interagency agreements, the Secretaries of the Interior and Agriculture shall have responsibility for the management of each Corps center, including determination of Corps members' work assignments, selection, training, discipline, and termination, and shall be responsible for an effective program at each center.

"SELECTION OF ENROLLEES

"Sec. 803. (a) Enrollees of the Corps shall be selected by the Secretaries of the Interior and Agriculture only from candidates referred by the Secretary of Labor.

"(b)(1) Membership in the Corps shall be limited to individuals who, at the time of enrollment—

"(A) are unemployed;

"(B) are between the ages 16 to 23 inclusive;

"(C) are citizens or lawfully permanent residents of the United States or lawfully admitted refugees or parolees; and

"(D) are capable, as determined by the Secretary of Labor, of carrying out the work of the Corps for the estimated duration of each such individual's enrollment.

"(2) Individuals who, at the time of enrollment, have attained age 16 but not attained age 19 and who have left school shall not be admited to membership in the Corps unless they give adequate assurance, under criteria established by the Secretary of Labor, that they did not leave school for the purpose of enrolling in the Corps and obtaining employment under this title.

"(c) The Secretary of Labor shall make arrangements for obtaining referral of candidates for the Corps from the public employment service, prime sponsors designated under section 101 of this Act, sponsors of Native American programs designated under section 302 of this Act, sponsors of migrant and seasonal farmworker programs under section 303 of this Act, the Secretaries of the Interior and Agriculture, and such other agencies and organizations as the Secretary may deem appropriate. The Secretary of Labor shall undertake to assure that an equitable proportion of candidates shall be referred from each State.

"(d) In referring candidates from each State in accordance with subsection (c), perference shall be given to youths residing in rural and urban areas within each such State having substantial unemployment including areas of substantial unemployment determined by the Secretary of Labor under section 125(2)(A) of this Act to have rates of unemployment equal to or in excess of 6.5 per centum.

"(e)(1) No individual may be enrolled in the Corps for a total period of more than twelve months, with such maximum period consisting of either one continuous twelve month period, or three or less periods which total twelve months, except that an individual who attains the maximum permissible enrollment age may continue in the Corps up to the twelve-month limit provided in this subsection only as long as the individual's enrollment is continuous after having attained the maximum age.

"(2) No individual shall be enrolled in the Corps if solely for purposes of membership for the normal period between school terms.

"ACTIVITIES OF THE CORPS

"SEC. 804. (a) Consistent with each interagency agreement, the Secretary of the Interior or Agriculture, as appropriate, in consultation with the Secretary of Labor shall determine the location of each residential and nonresidential Corps center. The Corps shall perform work projects in such fields as—

"(1) tree nursery operations, planting, pruning, thinning, and other silviculture measures;

"(2) wildlife habitat improvements and preservation;

"(3) range management improvements;

"(4) recreation development, rehabilitation, and maintenance;

"(5) fish habitat and culture measures;

"(6) forest insect and disease prevention and control;

"(7) road and trail maintenance and improvements;

"(8) general sanitation, cleanup, and maintenance;

"(9) erosion control and flood damage;

"(10) drought damage measures;

"(11) other natural disaster damage measures; and

"(12) integrated pest management, including activities to provide the producers of agricultural commodities with information about the appropriate amount of chemical pesticides which, when used in conjunction with nonchemical methods of pest control (A) will provide protection against a wide variety of pests, (B) will preserve to the greatest extent possible the quality of the environment, and (C) will be cost effective.

"(b)(1) The Secretary of the Interior and the Secretary of Agriculture shall undertake to assure that projects on which work is performed under this title are consistent with the Forest and Rangeland Renewal Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and such other standards relating to such projects as each Secretary shall prescribe consistent with other provisions of Federal law.

"(2) The Secretary of the Interior and the Secretary of Agriculture shall place individuals employed as Corps members into jobs which will diminish the backlog of relatively labor intensive projects which would otherwise be carried out if adequate funding were made available.

"(c) To the maximum extent practicable, projects shall—

"(1) be labor intensive;

"(2) be projects for which work plans could be readily developed;

"(3) be able to be initiated promptly;

"(4) be productive;

"(5) be likely to have a lasting impact both as to the work performed and the benefit to the youths participating;

"(6) provide work experience to participants in skill areas required for the projects;

"(7) if a residential program, be located, to the maximum extent consistent with the objectives of this title in areas where existing residential facilities for the Corps members are available; and

"(8) be similar to activities of persons employed in seasonal and part-time employment in agencies such as the National Park Service, United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Bureau of Outdoor Recreation, and Soil Conservation Service.

"(d)(1) The Secretary of the Interior and the Secretary of Agriculture, pursuant to agreements with the Secretary of Labor, may provide for such transportation, lodging, subsistence, medical treatment, and other services, supplies, equipment, and facilities as they may deem appropriate to carry out the purposes of this title. To minimize transportation costs. Corps members shall be assigned to projects as near to their homes as practicable.

"(2) Whenever economically feasible, existing but unoccupied or underutilized Federal, State, and local government facilities and equipment of all types shall, where appropriate, be utilized for the purposes of the Corps centers with the appproval of the Federal agency, State, or local government involved.

"(e) The Secretary of Labor, in carrying out the purpose of this title shall work with the Department of Health, Education, and Welfare to make suitable arrangements whereby academic credit may be awarded by educational institutions and agencies for competencies derived from work experience obtained through programs established under this title.

"CONDITIONS APPLICABLE TO CORPS ENROLLEES

"SEC. 805. (a) Except as otherwise specifically provided in this subsection, Corps members shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

"(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), Corps members shall be deemed employees of the United States and any service performed by a person as a Corps member shall be deemed to be performed in the employ of the United States.

"(2) For purposes of subchapter 1 of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and provisions of that subchapter shall apply, except that the term 'performance of duty' shall not include any act of a Corps member while absent from the member's assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from such post of duty) authorized by or under the direction and supervision of the Secretary.

"(3) For purposes of chapter 171 of title 18 of the United States Code, relating to tort claims procedure, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee of the Government' as defined in section 2671 of title 28, United States Code, and provisions of that chapter shall apply.

"(4) For purposes of section 5911 of title 5 of the United States Code, relating to allowances for quarters, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in that section, and provision of that section shall apply.

"(b) The Secretary of Labor shall, in consultation with the Secretaries of the Interior and Agriculture, establish standards for—

"(1) rates of pay which shall be at least at the wage required by section 6(a)(1) of the Fair Labor Standards Act of 1938;

"(2) reasonable hours and conditions of employment; and

"(3) safe and healthful working and living conditions.

"STATE AND LOCAL PROGRAMS

"SEC. 806. (a) Consistent with interagency agreements with the Secretary of Labor, the Secretaries of the Interior and Agriculture may make grants or enter into other agreements—

"(1) after consultation with the Governor, with any State agency or institution;

"(2) after consultation with appropriate State and local officials, with (A) any unit of general local government, or (B)(i) any public agency or organization, specifically including the Federal Extension Service and the cooperative extension service of any State with respect to projects described in section 804(a)(12), or (ii) any private nonprofit agency or organization which has been in existence for at least two years;

for the conduct under this title of any State or local component of the Corps or of any project on non-Federal lands or waters or any project involving work on both non-Federal and Federal lands and waters.

"(b) No grant or other agreement may be entered into under this section unless an application is submitted to the Secretary of the Interior or the Secretary of Agriculture, as the case may be, at such time as each such Secretary may prescribe. Each grant application shall contain assurances that individuals employed under the project for which the application is submitted—

"(1) meet the qualifications set forth in section 803(b);

"(2) shall be employed in accordance with section 805(b); and

"(3) shall be employed in activities that—

"(A) will result in an increase in employment opportunities over those opportunities which would otherwise be available.

"(B) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits),

"(C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed.

"(D) will not substitute jobs assisted under this title for existing federally assisted jobs, and

"(E) will not result in the hiring of any youth when any other person is on layoff from the same or any substantially equivalent job.

"(c) Thirty percent of the sums appropriated to carry out this title for any fiscal year shall be made available for grants under this section for such fiscal year and shall be made on the basis of total youth population within each State.

"SECRETARIAL REPORTS

"SEC. 807. The Secretary of Labor, the Secretary of the Interior, and the Secretary of Agriculture shall jointly prepare and submit to the President and to the Congress a report detailing the activities carried out under this title for each fiscal year. Such report shall be submitted not later than February 1 of each year following the date of enactment of this Act. The Secretaries shall include in such report such recommendations as they deem appropriate.

"ANTIDISCRIMINATION

"SEC. 808. The Corps shall be open to youth from all parts of the country of both sexes and youth of all social, economic, and racial classifications.

"TRANSFER OF FUNDS

"SEC. 809. Funds necessary to carry out their responsibilities under this title shall be made available to the Secretaries of the Interior and Agriculture in accord with interagency agreements between the Secretary of Labor and the Secretaries of the Interior and Agriculture.".

REPEALER

SEC. 3. Section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974, Public Law 94-563, is hereby repealed.

EFFECTIVE DATE

SEC. 4. This Act shall take effect on October 1, 1978.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To extend and amend the Comprehensive Employment and Training Act of 1973, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 12452) was laid on the table.

APPOINTMENT OF CONFEREES

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill (S. 2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and, without objection, appoints the following conferees: Messrs. PERKINS, HAWKINS, DENT, BEARD of Rhode Island, MICHAEL O. MYERS, LE FANTE, WEISS, CLAY, CORRADA, QUIE, SARASIN, JEFFORDS, and PURSELL.

There was no objection.

GENERAL LEAVE

Mr. JEFFORDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 12452, the CETA amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Vermont?

There was no objection.

PERSONAL STATEMENT

Mr. BURKE of Massachusetts. Mr. Speaker, on the rollcall vote on H.R. 12452, I was delayed on my way over here to the House floor and missed it by 1 minute. Had I been present, I would have voted "yea." I ask unanimous consent that my statement appear in the permanent RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

HAPPY 78TH BIRTHDAY TO MR. MAHON

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ADDABBO. Mr. Speaker, at the turn of the century in 1900 on September 22 there was born to this country a great American. That great American we are proud, and I am proud, to have the privilege of serving with today, the dean of the House of Representatives, our own GEORGE MAHON, who now celebrates today his 78th birthday.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS CELEBRATES 75TH ANNIVERSARY

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEDERER. Mr. Speaker, on October 1, the International Brotherhood of Teamsters will celebrate the 75th anniversary of their labor organization. On behalf of myself and my colleagues, I wish to extend to them our hearty congratulations and our best wishes for the future.

The history of the Teamsters is a colorful one. Yet, throughout that history, one aspect has always been consistent: the union was there when its members needed it. You cannot say this about all organizations. But the Teamsters have always protected their membership and gone to bat for them as well as all working men and women.

The IBT began as a loose collection of union locals set up to protect the interests of those men who drove teams of horses. As the world changed, so did the teamsters. From small independent locals to a large national brotherhood; from horses and wagons to trucks; from drivers to a wide diversity of membership. In fact, the official name of the union is indicative of how diverse and widespread the membership is: The International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America.

I take special pride in the fact that I have been a card-carrying member of the Teamsters Union. I have always held a special place in my heart for them. Their charity is world renowned. The Teamsters have a scholarship program that is second to none.

America owes a great debt for highway and automobile safety programs which have been initiated by the Teamsters.

I know that my colleagues in the Congress join with me in saluting the International Brotherhood of Teamsters for their contributions to America and its working men and women over the past 75 years. We look forward to their contributions and growth in the American labor movement in the next 75 years.

HEARINGS ON WEST POINT AND IN ABSENTIA DISCHARGES

(Mr. WHITE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITE. Mr. Speaker, as chairman of the Armed Services Subcommittee on Military Personnel, I wish to announce that the subcommittee will hold a hearing on Tuesday, September 26, 1978, at 10 a.m., in room 2212, Rayburn House Office Building, to consider legislation involving the organization of the academic staff at West Point and the Department of Defense policy relative to in absentia discharges for deserters.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2391, COMMODITY EXCHANGE ACT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, September 22, 1978, to file a conference report on the Senate bill (S. 2391) to extend the Commodity Exchange Act, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORTS ON H.R. 13845, PERISHABLE AGRICULTURAL COMMODITIES ACT, AND H.R. 13989, AMENDING FOOD AND AGRICULTURAL ACT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight to file reports on the bill (H.R. 13845) to amend the Perishable Agricultural Commodities Act; and on the bill (H.R. 13989) to amend section 1445 (B) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION TO FILE A CONFERENCE REPORT ON H.R. 12255, COMPREHENSIVE OLDER AMERICANS ACT AMENDMENTS OF 1978

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 12255) Comprehensive Older Americans Act Amendments of 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

Mr. HOWARD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11733, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, September 21, 1978, title I had been considered as having been read and open to amendment at any point.

Are there any amendments to title I?

Mr. HOWARD. Madam Chairman, I move to strike the last word.

Madam Chairman, I yield to the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Madam Chairman, I thank the gentleman for yielding at this time.

Madam Chairman, first, I want to commend you and the distinguished Chairman of your full Committee on what I consider outstanding surface transportation legislation. The bill addresses all areas of surface transportation within your jurisdiction in a very comprehensive and timely fashion. I believe that you, your fellow committee members and your staff should be commended on an outstanding bill and an excellent report. Of course, certain of the bill's provisions affecting railroads lie within the jurisdiction of the Committee on Interstate and Foreign Commerce as acknowledged in the letter appearing on pages 71 to 72 of the report.

One of these matters over which our committees have joint jurisdiction is energy impacted rail highway crossings addressed by section 123 of the bill and discussed on page 24 of the report. In the report you mention two worthwhile projects brought to the attention of the committee, one of which is in Allentown, Pa.

I am particularly interested in confirming which project in Allentown, Pa., the report addresses, because Allentown lies within my district. Is not that project the proposed grade separation between a multitrack ConRail mainline and Basin Street in Allentown?

Mr. HOWARD. Yes. Some time ago, representatives of Lehigh County visited with our committee staff and explained the problem of trains, particularly long coal trains, interrupting traffic on Basin Street which is a major artery across the Lehigh Valley of Pennsylvania. In this case, immediate steps by the Federal Government should be taken to alleviate the traffic congestion by building a grade separation. It was projects such as these that heightened the committee's realization that this is a national problem closely related to our national energy goal of increased coal usage. We would expect the FHWA could begin immediate implementation of this section, particularly with respect to projects such as the Basin Street crossing.

Mr. ROONEY. I thank the distinguished gentleman for his explanation and for his support of this provision which is so important to both the railroad and highway systems, as well as our national energy goals.

Mr. TREEN. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Louisiana.

Mr. TREEN. Madam Chairman, I would like to commend the gentleman from New Jersey (Mr. HOWARD) and the gentleman from Pennsylvania (Mr. SHUSTER) for presenting the House with a fine piece of legislation.

I am particularly interested in section 122 authorizing the appropriation, out of the highway trust fund, of $50 million annually for the repair of public roads impacted by energy development.

I would like to ask my colleagues from the committee a question. Section 122 speaks of repairing public roads "which have incurred a substantial increase in use as a result of transportation activities to meet national energy requirements and will continue to incur such use for such purpose."

The roads in my congressional district are in terrible condition as a result of the transportation of heavy oil field equipment, drilling pipe and other supplies and materials. This equipment is used both onshore and on the Outer Continental Shelf for oil and gas exploration and production. The fabrication of the gigantic rigs for offshore use also results in highway use by extremely heavy trucks, which damage the highways built on the soft coastal soil.

Your report notes that highways are used for the transportation of essential energy commodities such as oil, natural gas, coal, and uranium. Most oil and gas is transported by pipeline, but the equipment to explore for and extract these minerals is carried over our Federal and State highways. I hope that the committee intended for States to be eligible for these special funds for the repair of roads heavily used in the transportation of equipment needed in each stage of mining these four important energy resources—oil, natural gas, coal, and uranium—whether or not the commodities are themselves transported over those highways.

Mr. HOWARD. Madam Chairman, I can assure the gentleman that the provision is intended to authorize the repair of highways in just such circumstances as the gentlemen describes, as well as those highways used for the transportation of those valuable energy resources. As the gentleman well knows, the committee put great emphasis on road maintenance in this bill. We were especially concerned about the deterioration of those roads that are vital for the transport of our scarce energy resources and the transportation of the equipment necessary for the extraction of those resources.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, I thank my colleague from Louisiana for raising this question. Other Members have asked similar questions before the bill came to the floor. The members of the committee were, indeed, concerned about repairing the highway damage from energy extraction equipment. The gentleman is from a State with a high level of energy activities and I would point out that the bill expressly provides for funds for roads incurring a substantial increase in the use of such roads as a result of energy activity now occurring and to occur in the future.

Mr. TREEN. Madam Chairman, I thank the gentlemen. I know I speak for the entire Louisiana delegation in thanking the committee for its foresight in including this provision, which is of importance to the achievement of our Nation's energy goals.

AMENDMENTS OFFERED BY MR. HARSHA

Mr. HARSHA. Madam Chairman, I offer two amendments dealing with the bridge replacement program, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. HARSHA: Page 111, line 21, strike out the period and insert in lieu thereof a comma and the following: "except that subsection (b) of section 502 of such Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151) shall not apply to any bridge constructed, reconstructed, or replaced, in whole or in part, with assistance under this title, if such bridge is over waters which are not subject to the ebb and flow of the tide, and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

Page 151, after line 10, insert the following:

ACCELERATION OF BRIDGE PROJECTS

SEC. 159. The Secretary of Transportation shall carry out a project to demonstrate the feasibility of reducing the time required from the time of a request for project approval through completion of construction of bridge projects required to replace unsafe bridges. Not to exceed $30,000,000 of the amount authorized for the fiscal year ending September 30, 1979, by section 202(6) of the Highway Safety Act of 1978 to be apportioned under section 144(e) of title 23, United States Code, shall be set aside before any such apportionment and shall be available for obligation to carry out this section in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code. Not later than six months after completion of such project, the Secretary of Transportation shall submit a report to Congress which includes, but is not limited to, a description of the methods used to reduce the time necessary for the completion of such bridge project, recommendations for applying such methods to other bridge projects, and any changes which may be necessary to existing laws to permit further reductions in the time necessary to complete bridge projects.

Mr. HARSHA (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HARSHA. Madam Chairman, the purpose of this amendment is to authorize a project to develop and demonstrate a comprehensive approach to accelerating bridge construction and reconstruction to the maximum extent possible.

This is a sound, practical, and timely proposal, in that we are about to launch a major attack on the backlog of unsafe bridges in this country. No one questions that. We now have $1.5 billion per year in this bill for that purpose. The administration's recommendations and the Senate figures are a good deal lower, so there is no telling what final level will come out of conference. But all concerned agree that a huge increase is essential, and I expect that one will be enacted into law.

Equally essential, in my view, is a major effort to cut through the redtape and delay holding up bridge construction, to get the projects going, get the benefits from the improvements out there, and get the most out of every construction dollar by speeding up the process and reducing the projects' exposure to inflation.

Therefore, my amendment authorizes $30 million for a demonstration project specifically and explicitly designed from the outset and carried out with acceleration of completion as its principal objective. I am confident that the project will yield experience broadly applicable across the board and lead to economies throughout the bridge program exceeding many times over the cost of the project.

The reduction in direct costs to the Federal, State, and local governments involved is only part of the picture. In addition, you have to take into account the benefits in terms of the bridge collapses forestalled, the reduction in loss of life and accidents involving injuries from high hazard bridges even in the absence of a collapse. Consider, too, the indirect economic benefits to communities whose economy is dampened by the lack of adequate bridge access, by congestion surrounding a bottleneck bridge or a load limitation curtailing its use, not to mention a community where a bridge closure is a long term economic catastrophe.

So now, when we are on the verge of a greatly expanded program, it is incumbent upon us in the Congress to make sure that the public gets the most out of it. The only question is, Can project time realistically be cut? Are the benefits of acceleration out there to be realized?

The answer lies partly in the interim results from a highway—as distinguished from bridge—acceleration project authorized in the 1976 Federal-Aid Highway Act. Application of innovative management and review procedures, including the critical path scheduling, has already cut 2 full years off the average time to complete the project. And that is largely before construction actually got underway.

It is obvious that those time savings results from acceleration of a specific project, not a management review in Washington or any other paper exercise. Those have been going on for years as we in the Congress have been pushing and prodding the Federal agencies responsible for construction programs to speed them up.

A bridge project can be more complex, and design techniques and approvals more of a bottleneck. Major bridges often cross large waterways, intensifying environmental implications and involving the Coast Guard and the Corps of Engineers when navigable waters are affected. If they are interstate bodies of water, two States and their agencies of government become involved. Thus, there is no question that there are valuable lessons for the entire bridge program to be learned from an intense and coordinated effort to accelerate a specific project throughout the process: Planning, design, environmental assessment, interagency clearances, and actual construction.

An excellent example of the type of project contemplated by the amendment—in terms of size, complexity, and urgency of need—is replacement of the U.S. Grant Bridge over the Ohio River between Portsmouth, Ohio, and South Shore, Ky. This essential facility, the only crossing of the Ohio River for 30 miles either way, was ordered closed in July of this year when a regularly scheduled rehabilitation project disclosed severe, previously unsuspected and recent deterioration in the suspension cables.

This was a catastrophic failure in terms of the economic hardship, though fortunately not in the sense of the tragedy which would have occurred had it collapsed. Its loss represents a severe blow to the southern Ohio and northern Kentucky trading area of 157,000 people, as indicated by the fact that in the spring of this year, the bridge carried 10,260 vehicles including 670 heavy commercial trucks daily. The Governors of both Ohio and Kentucky have proclaimed an emergency as a consequence of its closure.

I want to emphasize at this point, Mr. Chairman, that this closure cannot be attributed primarily to a lack of proper maintenance or a gradual, progressive deterioration which might have detected the problem and dealt with it. According to the State of Ohio, which recently assumed jurisdiction over the bridge, the problem stemmed from a phenomenon known as stress corrosion, aggravated by moisture corrosion which could not have been prevented.

This structure has been approved for rehabilitation as an emergency stopgap, which will not obviate the need for its replacement, which may take 8 to 10 years. And it will be replaced. The emergency on the basis of its economic impact assures that it will be high on the priority list of the States of Ohio and Kentucky. Moreover, it has been specifically named in the report accompanying H.R. 11733 as eligible for funding under the discretionary category established by the bill for large projects.

The anticipated lead time, however, is unacceptable in view of the hardship its closure has worked on the citizens and the economy of the area. Therefore, it appears suitable indeed that it be selected for this acceleration project, which is justified in its own right.

I urge the adoption of the amendment.

Madam Chairman, I would be happy to yield at this time to the chairman of the subcommittee if he desires.

Mr. HOWARD. Madam Chairman, I will wait for the gentleman from Ohio (Mr. HARSHA) to make an explanation of his second amendment, and then I will ask him to yield so we can discuss the amendments.

Mr. HARSHA. Madam Chairman, in that case I will proceed to a discussion of my second amendment.

Madam Chairman, in order for a State to replace or rehabilitate a highway bridge under the regular Federal-aid construction program or the Federal special bridge replacement program it must first obtain a bridge permit from the Coast Guard, acting for the Secretary of Transportation, if the Department has jurisdiction over the waterway involved. These permits are granted expeditiously when the bridge spans a currently navigable waterway, since currently navigable waterways are known, easily identifiable, and clearly under the Department's jurisdiction. However, for all waters which are not currently navigated, the Coast Guard must undertake a historical search to determine whether it has jurisdiction by virtue of past navigation or past susceptibility for navigation. This determination can be time consuming and often results in a finding of nonjurisdiction. Work on the project is delayed while the jurisdiction question is resolved.

States seeking to replace bridges under the special bridge replacement program have experienced delays of up to 2 years while the Coast Guard conducted a historical search to determine navigability.

Of the 1,275 waterway investigations conducted by the Coast Guard in the past 2 years to determine jurisdiction 452, or roughly one-third, resulted in a finding of navigability. For 823 bridges the search only indicated that no Coast Guard permit was required after all.

The amendment I have offered provides for expedited administrative handling of permits for bridges that are modified under the provisions of title 23, United States Code. The amendment does away with the necessity of obtaining a permit with respect to the location and plans of a proposed bridge from the Secretary of Transportation under section 502 of the General Bridge Act of 1946 or section 9 of the act of March 3, 1899, where a bridge is constructed, reconstructed, or replaced, with assistance under title 23, if the bridge is over waters which are not subject to the ebb and flow of the tide, and are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce. Where this test cannot be met permits will still be required.

This amendment would have no effect on existing environmental review processes. Where there is no title 23, United States Code, involvement, the amendment would not apply in any manner, and current procedures would be followed. For bridges modified with Federal aid under title 23, the Federal Highway Administration is currently the lead agency for environmental assessment and review under NEPA and other related statutes. The Coast Guard is one of several agencies consulted in the review process. Where a bridge permit is involved, the FHWA by agreement with the Coast Guard conducts the necessary environmental analysis. This analysis is adopted by the Coast Guard and the issuance of a permit by the Coast Guard does not include any additional environmental reviews. The historical navigability determination serves no functional use in the process, and its proposed deletion would have no effect on environmental review.

I urge the adoption of the amendment.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the chairman of the subcommittee.

Mr. HOWARD. Madam Chairman, I would like to say to the gentleman from Ohio (Mr. HARSHA), the ranking minority member of the committee, that these two amendments have been discussed since the full committee markup, and on this side we agree there is a necessity for the amendments and we accept them on this side.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, we have reviewed these amendments and find them not only useful but believe they are an excellent improvement to the bill, and I urge their adoption.

Mr. HARSHA. Madam Chairman, I thank both my colleagues for their support.

Madam Chairman, I would like the RECORD to show that in relation to the amendment dealing with the demonstration project for the bridge replacement program my good friend and esteemed colleague, the distinguished gentleman from Kentucky, Mr. CARL PERKINS, has worked very closely with me on this matter and has demonstrated great interest in it. The gentleman has been extremely helpful in our efforts.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. HARSHA).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF MISSOURI

Mr. YOUNG of Missouri. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Missouri: Page 132, after line 8, insert the following and renumber the succeeding sections accordingly:

BRIDGE DIVERSION STUDY

SEC. 135. The Secretary of Transportation shall make a full and complete investigation and study of the need for, and ways and means of accomplishing, diverting a portion of the traffic from the bridges on the Interstate System across the Mississippi River presently operating above designed capacity to other bridges in the vicinity of any such Interstate System bridge. The Secretary shall report to Congress not later than two years after the date of enactment of this section the results of such investigations and study together with recommendations for necessary legislation.

Mr. YOUNG of Missouri (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. YOUNG of Missouri. Madam Chairman, the purpose of this amendment is to address a serious bridge traffic problem that has been encountered in the St. Louis area and possibly other areas on the Mississippi River.

The amendment directs the Secretary of Transportation to study ways and means of diverting traffic from dangerously overused interstate highway bridges to other, existing bridges which could ease the traffic load. Within 2 years after the enactment of this bill, the Secretary is directed to report the results of this investigation to Congress, and to recommend solutions to the problem.

Madam Chairman, the St. Louis region is facing a serious problem with its traffic routes over the Mississippi River. The situation is well summarized in a telegram I received yesterday from the director of the Regional Commerce and Growth Association:

> Four off-system bridges face the prospect of being forced to close while the lone bridge on the interstate system is exceeding traffic volumes forecast for 1990.

The bridge across the Mississippi River at St. Louis which carries most of the traffic is the Poplar Street Bridge. It is a multilevel, toll-free bridge which serves as the river crossing for three interstate highways. It was opened just 11 years ago, yet it is already operating far beyond the traffic levels expected.

While the Poplar Street Bridge is overused, four underutilized, older bridges along the St. Louis waterfront have fallen into a state of disrepair and are encumbered by debt. They are the McKinley, MacArthur, Martin Luther King, and Eads Bridges—none of which are now on the Federal-aid system.

Madam Chairman, it is essential that a way be found to divert traffic off the Poplar Street Bridge and onto one or more of these underused bridges within the next few years. A task force sponsored by the St. Louis Regional Commerce and Growth Association has shown the pressing need for a detailed study of the situation before a major decision is made.

A detailed engineering assessment of each structure, including rehabilitation costs for adherence to Federal transportation and safety standards, and a determination of fiscal status are needed. The engineering assessment should include how traffic can be successfully diverted from the Poplar Street structure to the other structures through possible use of new ramps and access roads. The desirability of singular ownership of all structures should also be determined.

Because the four St. Louis area bridges in question are not State-owned, there is no guarantee that funds will be made available for this purpose by the States of Missouri and Illinois through the bridge replacement program. My amendment would direct the Department of Transportation to undertake this study to address a problem that could reach crisis proportions in the St. Louis area within a decade.

I think that my colleagues will understand the need for such an amendment, and I urge them to support it.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. YOUNG of Missouri. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

Madam Chairman, we have discussed this amendment. There is a specific problem concerning traffic in specific areas. This does call for a study and no action until completion of the study within 2 years, and it comes back to the Congress and no action will be taken until that time.

Mr. YOUNG of Missouri. That is right.

Mr. HOWARD. We accept the amendment.

Mr. YOUNG of Missouri. I appreciate the acceptance of the amendment by the gentleman.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. YOUNG of Missouri. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, we accept this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. YOUNG).

The amendment was agreed to.

Mr. DON H. CLAUSEN. Madam Chairman, I move to strike the last word, and I do so for the purpose of engaging in a colloquy with the gentleman from New Jersey (Mr. HOWARD). I do so on behalf of the chairman, the gentleman from California (Mr. JOHNSON) and myself.

Madam Chairman, it would be helpful if the gentleman from New Jersey can clarify for me the relationship between the language of subsection (1) and the committee's intent as expressed in the committee report.

Subsection (1) makes bridge authorities that use vehicle toll revenues to subsidize public transit eligible for discretionary funding under the bridge replacement program. I regard that as a commendable provision that should be passed. Given the Federal Government's policy to fund mass transit in order to reduce congestion, pollution, and energy consumption, the use of bridge tolls to assist transit is a creative policy that provides an additional local source of transit financing to complement the Federal Government's substantial investment. Bridges that are contributing to the support of a federally funded transit system, and which consequently have insufficient funds to carry out required bridge replacement work should be eligible for funding under the bridge replacement program.

The committee report states that major bridges, which cannot be financed from each State's limited apportionment, are intended to be financed from the Secretary's discretionary funds. The report also identifies a number of bridges which the committee intends to have priority eligibility for discretionary funding. One such designated bridge is the Golden Gate Bridge in California. The report then states that—

> It is the intent of the Committee that only bridges on the Federal Aid System . . . will be eligible for replacement in whole or in part under the discretionary program.

Now my problem is that the Golden Gate Bridge, which is made eligible under subsection (1), and which clearly is the type of major bridge intended to be financed from the discretionary funds, is not on the Federal aid system even though the approaches to the bridge from each direction are on the system.

Will the gentleman from New Jersey clarify for me the committee's intent on this matter?

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, the gentleman from California raises an important point which is in need of clarification. If a major, significantly important bridge is otherwise eligible under subsection (1), the committee intends that it be eligible for discretionary funds if it is directly connected to a road on the Federal aid system, even though the bridge itself may not be technically designated as on the Federal aid system. The committee intends a functional test to apply, rather than a technical one. In other words, if the Secretary finds that a major bridge is significantly important, and qualifies under subsection (1), it is intended that the bridge be eligible for discretionary funds even though the Federal Highway Administration has not technically designated it as on a Federal aid system. The functional test is that the bridge be directly connected to an onsystem road, and that bridge is in fact a critical link in the efficient operation of the Federal aid system. If those criteria are met, it is the committee's intent that the bridge be eligible for discretionary funds.

Mr. DON H. CLAUSEN. Thank you. That clarifies the interpretation of the language of the committee report.

AMENDMENTS OFFERED BY MR. KOSTMAYER

Mr. KOSTMAYER. Madam Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. Kostmayer: On page 105 strike out line 2 through line 11.

On page 105 strike out line 12 through line 24.

On pages 107 and 108 strike out section 117 in its entirety.

Mr. KOSTMAYER. Madam Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. HARSHA. Madam Chairman, reserving the right to object, what subject do these amendments deal with?

Mr. KOSTMAYER. The Highway Beautification Act of 1965.

Mr. HARSHA. Madam Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection.

Mr. KOSTMAYER. Madam Chairman, in 1965 the Congress enacted legislation known as the Highway Beautification Act. The purpose of that legislation was to facilitate the removal of billboards in the United States on Federal interstate and primary highways. To encourage that, the Congress provided a very generous system of cash compensation to the owners of billboards when they were removed. This legislation applied only to Federal interstate and primary highways. It did not apply to State roads or to other highways.

The Committee on Public Works and Transportation now has changed the Highway Beautification Act, I think altering it very dramatically for the worse, in that billboards which are taken down not as a result of the Federal law, but billboards which are removed as a result of a local ordinance, must be compensated in the same way, with a very generous cash system rather than under the current system of amortization.

Up until this time, local laws have approved compensation through the process of amortization under which the billboard is removed after a period of years. At the end of that time, the billboard comes down. The billboard owners have been justly compensated under current law which my amendments seek to preserve.

But, now the committee seeks to extend Federal compensation for signs removed not under the Beautification Act, but also as a result of local zoning or land use control. Secretary Adams of the Department of Transportation tells us that this will cost the Federal Government $1.3 billion. The reason for that is that the law sets the Federal share of compensation at 80 percent. As for the remaining 20 percent, the local municipalities simply cannot afford to compensate the billboard owners when those billboards are removed in the same manner that the Federal Government has been doing so. I think it is important for the members of the committee to understand that I am not opposed to compensating billboard owners when we remove their billboards under the Federal law.

Mr. PHILLIP BURTON. Madam Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Madam Chairman, I would initially like to commend the committee for what I think is a first-rate piece of legislation. It treats a number of longstanding problems, I think, with enormous skill.

I deeply regret—and it is not surprising in any major bill—that there can be one item on which there is disagreement. I would like to join with my colleague from Pennsylvania (Mr. Kostmayer) in urging that this one item be deleted.

The bill itself is very, very good. I respect the effort and concern of the committee members, but in this instance I fully support our colleague from Pennsylvania (Mr. Kostmayer), and urge support of his amendment.

Mr. KOSTMAYER. I thank the gentleman from California. And I add that my amendments are supported by the National Association of Counties, the National League of Cities, by the administration, by the States of New York, California, Pennsylvania Massachusetts, Vermont, and Maine, among others.

I further would tell the Members that if these amendments are not adopted and States fail to comply then it could cost them 10 percent of their Federal highway funds. That is not all this legislation does. It does two other things which I will explain in some detail.

The first is the hardship exemption. A State may apply to the Secretary of Transportation for an exemption. In other words, they may say, "These five counties of our State are a hardship area. May we have billboards in these five counties?"

The Secretary of the Treasury will render a decision allowing the States to have billboards in the hardship area, or not to have billboards in the hardship area. The committee has changed that. They have denied to the Secretary any discretion.

As soon as a State applies for a hardship exemption, the committee now says the Secretary of Transportation must grant it. What happens is the billboard companies want an exemption and they fill out the application and they take it to the State and the State puts it in a State envelope and sends it to the Department of Transportation, and now the Department of Transportation cannot say yes or no; they are required under the committee bill to say yes. The Secretary of Transportation is denied the discretion he has in current law.

The committee also has said a billboard may be erected outside the hardship area if it gives directions to a facility inside the hardship area. If a hardship area is in the extreme eastern part of Pennsylvania, the committee would allow a billboard in the opposite end of the State, in extreme Western Pennsylvania if it tells the traveling public about a facility in the eastern part of the State within a hardship area.

This is a plain and simple gutting of the Highway Beautification Act.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. Kostmayer) has expired.

(By unanimous consent, Mr. KOSTMAYER was allowed to proceed for 3 additional minutes.)

Mr. KOSTMAYER. Madam Chairman, this hardship exemption was passed in 1976. I think, and the Secretary of Transportation thinks it should have a little more time to see whether or not it works.

The committee seeks a third and final change. Current law allows what are called computer-controlled signs—what that means is they have flashing billboards whose messages change frequently—only on premise, that is on the property owned by the person. If a fellow owns a motel alongside the road, he can erect these flashing billboards on premise but he is restricted from other areas, from commercial areas and highways. The committee now allows electronic boards off premise. It is a very drastic altering of the current law.

The Secretary of Transportation wrote to me:

> The provisions of the 1978 bill would produce a profound change in the direction of the Highway Beautification Program and undermine efforts to control scenic life along our highways. We do not believe such a change is warranted or desirable.

Let me emphasize finally that this will involve the Federal Government in local land-use decisions. Up until now the Federal Government has compensated billboard owners only for billboards removed under Federal law. This bill will require the Federal Government to compensate billboards removed under local laws. If a historic district in the City of Baltimore decides to remove a board, they are able under current law to do so and compensate the billboard owner through the process of amortization. Under these changes the city of Baltimore would have to compensate in cash the owner of the billboard. Neither the city of Baltimore nor any city in this country can afford to meet those costs.

I ask the Members to keep the Federal Government out of local land-use decisions and let them make minimum standards for billboards on Federal highways, but not superimpose Federal requirements on local communities.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendments.

Madam Chairman, the provision in the committee bill is designed to clarify the compensation provisions of that statute and preclude action which is in opposition to the statutory scheme. The congressional intent underlying the Beautification Act was to assure the prompt removal of billboards along major highways and to prevent other new signs from being constructed in those areas. The statute was predicated on a policy of direct compensation to private individuals who owned the signs and the property on which they were erected in order to avert litigation and assure expeditious removal of billboards. This dual policy of sign removal and assured compensation was first reaffirmed shortly after the statute was enacted in an opinion of the Attorney General interpreting the statute. DOT policy reflected this view from 1966–76. The only Federal court decision on this issue likewise found such intent manifest in the statute. (On the State level, this issue has been decided by four State courts with two rendering decisions consistent with the Federal district court decision and two ruling that police power removal without compensation was consistent with the statute.)

Madam Chairman, I believe the crux of the issue is equity. This House, and the Congress as a whole, have repeatedly said that individual owners must be compensated for the taking of their property. The provision in the committee bill merely reaffirms what has always been the congressional intent.

Examine the legislative history. When the Congress was first considering the Beautification Act of 1965, the question of just compensation was one of the major issues. This matter was debated at length by the House Committee on Public Works. The committee, and ultimately the Congress, decided that just compensation should be paid, rather than removing signs by police power without payment. The requirement for payment was reinforced by enactment of the Federal Aid Act of 1974, when the Congress provided for payment of compensation for the removal of signs that were lawfully erected under State law after October 22, 1965, and before January 1, 1968, the so-called "hiatus period." The House Committee on Public Works, in its report on the 1974 legislation, said:

> * * * subsection (g) of section 131 would be amended to assure that just compensation will be paid for all signs required to be removed which were lawfully erected under State law. This amendment would eliminate the previous ambiguities by assuring that all lawfully erected signs will be treated alike.

The provisions of the bill do no more than clarify existing law and assure the continued orderly removal of signs consistent with the law. In this regard the provisions do not propose anything that is new. Rather, they are intended to strengthen and fully effectuate the Beautification Act's purposes. There are no loopholes by which new signs not already contemplated by the Beautification Act can be constructed. Moreover, only signs which are otherwise legally in place can be eligible for compensation. If the current ambiguity remains, local subdivisions inevitably will continue to circumvent the act and attempt to remove signs through the exercise of local police power without compensation. This will effectively bring the beautification program to a halt since attempts inconsistent with the Beautification Act will undoubtedly be challenged individually in the courts, jurisdiction by jurisdiction. This will lead to protracted delays in the removal of the billboards at issue in these suits and to the expenditure of considerable funds in litigation. Failure to support our position will not serve to further enhance the scenic environment for the purposes of the Beautification Act.

We should do what is fair, Madam Chairman. We should defeat the amendment.

Mr. SHUSTER. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in strong opposition to this amendment.

In 1965 the Committee on Public Works and Transportation reported it felt strongly:

> That in all economic fairness compensation must be paid to those individuals who will lose their signs.

And there has been example after example which has been referred to by the distinguished chairman of the subcommittee, the gentleman from New Jersey (Mr. HOWARD) where there have been those who have attempted to ignore the act's compensation requirements. We are talking about where, in many cases, little farmers, people in local areas, have land on which there is a sign and from it they receive very modest compensation, $60 a year, $120 a year. It does not seem like much, but to these little farmers and people in rural areas across America, this is meaningful.

Just to buy this amendment here today to make it easier to deny compensation to the many people, particularly throughout rural America, who own the land and who have relied on this modest income would be very unfair.

Lastly, the point should be made that study after study shows that the traveling public across this land wants signs. Certainly they do not want the glitter and glare which have been overkill as far as signs are concerned, but the American people need direction, particularly the traveling public; and they are looking for that by way of signs. We should not go too far and, in effect, undo the good work which has previously been done in highway beautification.

Madam Chairman, for those reasons, I strongly urge the defeat of this capricious amendment.

Mr. RISENHOOVER. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Oklahoma.

Mr. RISENHOOVER. Madam Chairman, I thank the gentleman for yielding.

I would like to associate myself with his remarks and with the remarks of the subcommittee chairman. I commend them on a very good job with section 116.

Madam Chairman, I respect my colleague from Pennsylvania but the realistic facts and impact necessitate the inclusion of section 116 in H.R. 11733.

As a matter of fact, the committee feels that the so-called integrity of outdoor advertising program is at stake, and thus the need for section 116.

Section 116 does not change the existing act. Let me assure you this is not the case. Section 116 is not new legislation. The law now reads section 131(g) "Just compensation shall be paid upon the removal of any outdoor advertising signs, displays, or device lawfully erected under state law."

Thus the 1965 act overlays the total spectrum of the interstate and primary system. As to effective control and compensation, the committee's purpose in enacting section 116 was to clarify the 1965 act, not extend or damage it.

DOT estimates over $1 billion as a cost to carry out the provisions of section 116. This, my friends, simply is not supported by the facts.

The actual costs to the taxpayer may well be less by enacting section 116. I make this statement based on my opinion that the current costs of litigation will be reduced, and proposed removals in commercial and industrial areas will not materialize as my colleague preassumes.

Remember, and some of my colleagues here today were here in 1965. This Act, "The Lady Bird Act" was passed by agreeing to the just compensation mandates, and further, the act was implemented as a controlling act through "effective control." It was not and I repeat, not a prohibitive act.

Will section 116 preempt local government? That issue was resolved by the Congress in 1965. The Congress then mandated each State to comply with the act or suffer a penalty of 10 percent of all highway funds.

I ask you, if the States complied, and they all did, then was not the congressional intent of the 1965 act known to all local governments? So, my friend and colleague from Pennsylvania may have misunderstood the history of this act.

Now, let us turn to the question of committee hearings. As a committee member, I have been close to the implementation of the act, and I believe that section 116 is absolutely the only method of informing those who administer this act that Congress did indeed mandate the payment of just compensation when signs were removed from the Interstate and primary highway system.

Finally I ask, my colleagues, in consideration of the deletion of this amendment, to remember that this great country, in its founding, through the 5th and the 14th amendments, assured the general public that the taking of private property would be compensated.

The Congress has spoken to this issue. Specifically, the Congress spoke to this issue and to the taking of signs in 1965 and again while enacting the Uniform Relocation Act. This Congress today would take a giant step backward to agree to the deletion of section 116, as our friend from Pennsylvania asks.

I urge you, in fairness and equity, to vote against the amendment to strike section 116.

Mr. BREAUX. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Louisiana.

Mr. BREAUX. Madam Chairman, I also rise in strong opposition to the gentleman's amendment.

I think the committee has done a good job. What we have arrived at is a compromise position which I think is working and has worked.

Again, Madam Chairman, I strongly oppose the gentleman's amendment.

Mr. DON H. CLAUSEN. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Madam Chairman, I rise in opposition to the amendment.

Having been a member of the Highway Beautification Commission, I think the gentleman from New Jersey (Mr. HOWARD) has certainly stated the case very well.

The matter of removing these nonconforming outdoor advertising signs on the basis of police power versus just compensation would not stand the test of scrutiny and time.

For all the reasons the gentleman from New Jersey stated, what we are attempting to do is to move in the direction of a transitional program whereby the informational and directional signs will give information to the traveling public, but at the same time, wherever there is the type of sign which is not in keeping with the landscape, certainly there has to be compensation. That is only fairness and equity.

Madam Chairman, I commend the gentleman for their opposition to the amendment.

Mr. SHUSTER. Madam Chairman, I thank the gentleman and I yield back the balance of my time.

Mr. HARSHA. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, let me point out that this matter has been going on in the Committee on Public Works and Transportation and in previous Congresses since way back when we enacted the so-called Bonus Act back in the late 1950's. Over the years we have tried to perfect the outdoor beautification provisions of the highway legislation. Congress after Congress, in its wisdom, has felt that just compensation should be paid to those property owners who had to remove signs which were lawfully erected.

Madam Chairman, that is what we are dealing with, signs which were lawfully erected. The bureaucrats downtown have urged the States to pay just compensation, in accordance with the law, for signs which are required to be taken down pursuant to this legislation. Those same bureaucrats, however, are down there trying to undermine the law by encouraging communities not to pay just compensation for the elimination of the signs which should be eliminated, although they were lawfully constructed.

Madam Chairman, this legislation is merely an attempt to make it abundantly clear that it is the intent of this Congress that just compensation shall be paid to those people who have to remove lawfully erected signs, but now find them nonconforming with the Federal regulations.

Let me correct one statement which the author of the amendment made, and that was that every community will have to pay just compensation for every sign constructed or erected all over the Nation, wherever the community may be. Nothing could be further from the truth. This legislation is intended to apply only to signs which are constructed in the vicinity of the Federal-aid highways which are part of the Interstate System and the primary system. Therefore, let us not be misled by feeling that some of the communities are going to have to pay just compensation for any sign which may exist regardless of where it goes. This legislation is intended to deal only with the primary system and the Interstate System, and it is an effort on the part of this Congress to restate what was unequivocally the intent of previous Congresses—that just compensation should be paid to these people who have to take down lawfully constructed signs.

Madam Chairman, we do not feel that people should be deprived of their property without due process of law, and that is what this boils down to.

Therefore, Madam Chairman, I urge the defeat of the amendment.

Mr. GOLDWATER. Madam Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding.

I think the gentleman has made a very persuasive argument. This is a matter of equity. Former Congresses have spoken on it. I think it was the intent of Congress that there be just compensation, and I would personally urge defeat of this amendment.

Mr. WALGREN. Madam Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Pennsylvania (Mr. KOSTMAYER).

Mr. KOSTMAYER. Madam Chairman, I want to correct two things which have been said here. The first is we are not interested in compensating the billboard owners. Nothing could be further from the truth.

The gentleman from Ohio (Mr. HARSHA) could not be more wrong. The committee bill extends compensation requirements beyond the Beautification Act. That is why the amendment is being offered. I believe that the billboard companies should be compensated. Should they be compensated through the cash system as the Federal Government does now, or should they be compensated through the process of amortization, which is the local prerogative. I think the Members should understand what my amendments do is to keep the law as it is now, not change it, but keep the law as it is now. It is the Committee on Public Works and Transportation which is attempting to change the law. No one is interested in denying compensation.

Second, regarding the electronic signs the gentleman made reference to. I discussed this with the gentleman. He wants the signs to be changed every 15 seconds. The gentleman does not regard that as a flashing sign. I think if a sign changes every 15 seconds, that is a flashing sign. The committee members contend that regarding compensation, they are only interested in making a clarification. The committee is making a very basic and fundamental change, and it is likely this change will stop the taking down of billboards. Why is the Secretary of Transportation in agreement with me? Why is the National League of Cities in agreement with me? Why is the National Association of Counties in agreement with me? Why is every environmental lobbyist in agreement with me? And why are the billboard lobbies on the side of the Committee on Public Works and Transportation?

The final thing I would say to the gentleman from Washington, Mr. DICKS, is that the Senator from Washington, Mr. JACKSON, has said that we ought to have hearings just because of the safety questions of these flashing signs. I will be happy to provide the Senate testimony in which the Senator from Washington said that.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. WALGREN. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

I would just say: Why are the counties and why are the cities opposed to just compensation which would be wiped out by this amendment? They are opposed because they would like to be able to order all the signs down and not pay any money, not even the 25 percent. So naturally if they are thinking only of their own pocketbooks and not of justice, they would be in favor of the amendment.

Mrs. FENWICK. Madam Chairman, will the gentleman yield?

Mr. WALGREN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Madam Chairman, I rise in support of this amendment. I think we have a good law and we ought to stick to it.

Mr. DICKS. Madam Chairman, will the gentleman yield?

Mr. WALGREN. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

I would just point out to my dear friend, the gentleman from Pennsylvania, that Senator JACKSON was an author of section 117. Obviously he has read and understands this because he knows that this is not a flashing sign. I think the gentleman does a disservice when he says that the signs that are under consideration in section 117 are flashing signs. They simply are not. If somebody is going to change the time every 15 seconds, it just seems to me that is not a flashing sign.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendments offered by the gentleman from Pennsylvania (Mr. KOSTMAYER).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KOSTMAYER. Madam Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

Madam Chairman, I withdraw my point of order that a quorum is not present.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 76, noes 199, not voting 157, as follows:

[Roll No. 820]

AYES—76

AuCoin
Beilenson
Bingham
Bonior
Brinkley
Brodhead
Burton, Phillip
Carr
Chisholm
Coughlin
D'Amours
Dellums
Dingell
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fenwick
Fisher
Ford, Tenn.
Frenzel
Gephardt
Giaimo
Gore
Gradison
Green
Hannaford
Harris
Holtzman
Kastenmeier
Kildee
Kostmayer
Leach
Lehman
Levitas
McClory
McCloskey
McKay
Markey
Mattox
Mikva
Ottinger
Panetta
Pickle
Pike
Pursell
Reuss
Roncalio
Rosenthal
Roybal
Ryan
Sawyer
Scheuer
Seiberling
Simon
Solarz
Spellman
Stark
Steers
Stockman
Stokes
Studds
Thompson
Tsongas
Udall
Vanik
Walgren
Waxman
Weiss
Whalen
Whitehurst
Wolff
Yates

NOES—199

Abdnor
Akaka
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Archer
Ashbrook
Badham
Bafalis
Baldus
Bauman
Benjamin
Bennett
Bevill
Boggs
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brooks
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Coleman
Collins, Tex.
Corcoran
Cornell
Daniel, Dan
Daniel, R. W.
Danielson
Delaney
Derwinski
Devine
Dicks
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Okla.
Emery
English
Evans, Ga.
Evans, Ind.
Fary
Fithian
Flippo
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frey
Gaydos
Ginn
Goldwater
Gonzalez
Goodling
Grassley
Guyer
Hall
Hamilton
Hammerschmidt
Hanley
Harsha
Hawkins
Heckler
Heftel
Hightower
Holt
Howard
Hubbard
Huckaby
Hughes
Hyde
Ireland
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Krebs
LaFalce
Lagomarsino
Lederer
Leggett
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
McCormack
McDonald
McFall
McHugh
Mahon
Marriott
Martin
Mathis
Mazzoli
Meyner
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Moore
Moorhead, Pa.
Moss
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nolan
Nowak
O'Brien
Patten
Perkins
Pettis
Poage
Preyer
Price
Pritchard
Quayle
Rahall
Rangel
Regula
Risenhoover
Roberts
Robinson
Roe
Rogers
Rooney
Rousselot
Runnels
Santini
Satterfield
Schulze
Sebelius
Sharp
Shuster
Skelton
Slack
Smith, Iowa
Snyder
Spence
Staggers
Stangeland
Steed
Stratton
Stump
Taylor
Treen
Van Deerlin
Vander Jagt
Volkmer
Waggonner
Walker
Walsh
Wampler
White
Whitley
Whitten
Wilson, Bob
Wilson, Tex.
Wright
Wylie
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—157

Addabbo
Alexander
Ammerman
Andrews, N. Dak.
Applegate
Armstrong
Ashley
Aspin
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Biaggi
Blanchard
Blouin
Boland
Broomfield
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burton, John
Butler
Caputo
Carney
Cavanaugh
Clay
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornwell
Cotter
Crane
Cunningham
Davis
de la Garza
Dent
Derrick
Dickinson
Diggs
Dodd
Edwards, Ala.
Eilberg
Erlenborn
Evans, Colo.
Evans, Del.
Fascell
Findley
Fish
Flood
Florio
Flowers
Flynt
Fraser
Fuqua
Gammage
Garcia
Gibbons
Gilman
Glickman
Gudger
Hagedorn
Hansen
Harkin
Harrington
Hefner
Hillis
Holland
Hollenbeck
Horton
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Colo.
Kemp
Keys
Kindness
Krueger
Latta
Le Fante
Lent
Lundine
McDade
McEwen
McKinney
Madigan
Maguire
Mann
Marks
Marlenee
Meeds
Metcalfe
Milford
Miller, Calif.
Mitchell, N.Y.
Moffett
Montgomery
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Neal
Nix
Oakar
Oberstar
Obey
Patterson
Pattison
Pease
Pepper
Pressler
Quie
Quillen
Railsback
Rhodes
Richmond
Rinaldo
Rodino
Rose
Rostenkowski
Rudd
Ruppe
Russo
Sarasin
Schroeder
Shipley
Sikes
Sisk
Skubitz
Smith, Nebr.
St Germain
Stanton
Steiger
Symms
Teague
Thone
Thornton
Traxler
Trible
Tucker
Ullman
Vento
Watkins
Weaver
Wiggins
Wilson, C. H.
Winn
Wirth
Wydler
Yatron
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Eilberg for, with Mr. Gammage against.

Mr. Moffett for, with Mr. Cornwell against.

Mr. Conyers for, with Mr. Murphy of Illinois against.

Mr. Mottl for, with Mr. Corman against.

Mr. Richmond for, with Mr. Rostenkowski against.

Mr. PURSELL and Mr. AuCOIN changed their vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

● Mr. CORRADA. Madam Chairman, I rise in support of H.R. 11733, the Surface Transportation Assistance Act of 1978. This bill represents a comprehensive yet flexible approach to our Nation's surface transportation needs, be they those of our defense urban centers or our spread out rural areas.

H.R. 11733 places welcome emphasis on highway safety and maintenance programs, both on and off the Federal system while maintaining a steady flow of funds into highway construction programs.

Liberalization of transfer of funds from one program to another in most noninterstate construction as well as increasing the Federal share in noninterstate and safety programs will create more flexibility and allow more State participation in many programs.

Expanded funding for items such as the bikeway program recognizes the growing importance of alternative modes of transportation in our energy conscious society.

I am acutely aware of the large margin by which the rate of deterioration of our nation's bridges is outstripping our current level of authorizations of $180 million/fiscal year for bridge replacement. In my home district of Puerto Rico there are 80 structurally deficient bridges and 365 functionally obsolete bridges on the Federal aid system. There are many other bridges both off and on the system in Puerto Rico which desperately require work. The current estimated cost of repairing, rehabilitating or replacing the bridges on the Federal aid system in Puerto Rico is $116,461,000. The figure for off-system bridges in Puerto Rico is $37,178,000.

In light of the fact that the present estimated cost of repairing or replacing our bridges is $23 million—$12.4 billion for on-Federal system bridges and $10.6 billion for off-federal system bridges—we should not doubt the propriety or the need for the $2 billion per fiscal year authorization level provided for in H.R. 11733. The need for a 90/10 matching billion for off-Federal system bridges—ratio, a more flexible use of funds criteria and an increased authorization level is a very pressing one.

Our congested urban centers have made inner city travel a slow and tedious matter. While continuing the mass transit operating assistance grants, H.R. 11733 also establishes a second tier of funding with an authorization level of $250 million. The chief beneficiaries of these "tier two" grants, specifically 85 percent of the funds, are the 33 urbanized areas that have populations of 750,000 or more. The remaining 15 percent will be distributed among the smaller urban centers.

Mr. HOWARD, chairman of the Subcommittee on Surface Transportation and Mr. SHUSTER, ranking minority member of the subcommittee deserve the highest commendation for their long and hard work on this bill. I believe H.R. 11733 represents the type of positive legislation we should strive to achieve in other areas.●

Mr. HOWARD. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT), having assumed the chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation H.R. 11733, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 12355, NUCLEAR REGULATORY COMMISSION AUTHORIZATION

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1610) on the resolution (H. Res. 1373) providing for consideration of the bill (H.R. 12355) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 12533, ESTABLISHING STANDARDS FOR ADOPTION OF INDIAN CHILDREN

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1611) on the resolution (H. Res. 1374) providing for consideration of the bill (H.R. 12533) to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR AMENDING RULE XXII OF THE RULES OF THE HOUSE TO REMOVE CERTAIN LIMITATIONS AND PROVIDE FOR CERTAIN ADDITIONS AND DELETIONS

Mr. BOLLING, from the Committee on Rules, reported a privileged report on the resolution (H. Res. 86, Rept. No. 95–1612), which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SELECT COMMITTEE ON ASSASSINATIONS TO SIT DURING PROCEEDINGS UNDER 5-MINUTE RULE NEXT WEEK

Mr. STOKES. Mr. Speaker, I ask unanimous consent that the Select Committee on Assassinations be permitted to sit during proceedings under the 5-minute rule throughout next week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, is this primarily hearings only?

Mr. STOKES. Hearings only, the taking of testimony of witnesses.

Mr. ROUSSELOT. The gentleman knows the schedule next week and since we have "nothing but major legislation now," this will not prevent members of the gentleman's committee from participating in this important legislative process?

Mr. STOKES. Mr. Speaker, if the gentleman will yield, to the degree that they will be able to try to carry on the business of the committee and at the same time participate in the proceedings of the House, they will certainly attempt to do both.

Mr. ROUSSELOT. I know the gentleman is anxious to complete his work. It has been promised he would complete it by the end of the year. By getting this consent, does that enhance his ability to clean it all up?

Mr. STOKES. I will say to the gentleman, we anticipate the conclusion of the hearings on the Kennedy investigation by the end of next week.

Mr. ROUSSELOT. I thank the gentleman for his information. That is good news.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio (Mr. STOKES)?

There was no objection.

CONFERENCE REPORT ON H.R. 9214, INTERNATIONAL MONETARY FUND SUPPLEMENTARY FINANCING FACILITY

Mr. HANNAFORD submitted the following conference report and statement on the bill (H.R. 9214) to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund:

CONFERENCE REPORT (H. REPT No. 95–1613)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9214) to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the Bretton Woods Agreements Act (22 U.S.C. 286—286k–2) is amended by adding at the end thereof the following new section:

"SEC. 28. (a) For the purpose of participation of the United States in the Supplementary Financing Facility (hereinafter referred to as the 'facility') established by the decision numbered 5508–(77/127) of the Executive Directors of the Fund, the Sectary of the Treasury is authorized to make resources available as provided in the decision numbered 5509–(77/127) of the Fund, in an amount not to exceed the equivalent of 1,450 million Special Drawing Rights.

"(b) The Secretary of the Treasury shall account, through the fund established by section 10 of the Gold Reserve Act of 1934 (31 U.S.C. 882a), for any adjustment in the value of monetary assets held by the United States in respect of United States participation in the facility.

"(c) Notwithstanding any other provision of this section, the authority of the Secretary to enter into agreements making resources available under this section shall be limited to such amounts as are appropriated in advance in appropriation Acts. Effective October 1, 1978, there are hereby authorized to be appropriated to the Secretary of the Treasury, without fiscal year limitation, such sums as are necessary to carry out subsection (a) of this section, but not to exceed an amount of dollars equivalent to 1,450 million Special Drawing Rights.".

Sec. 2. Section 3(d) of the Bretton Woods Agreements Act (22 U.S.C. 286a(d)) is redesignated as section 3(d)(1) and amended by adding at the end thereof the following new paragraphs:

"(2) The United States executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code. The United States alternate executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(3) The Secretary of the Treasury shall instruct the United States executive director of the Fund to present to the Fund's Executive Board a comprehensive set of proposals, consistent with maintaining high levels of competence of Fund personnel and consistent with the Articles of Agreement, with the objective of assuring that salaries and other compensation accorded Fund employees do not exceed those received by persons filling similar levels of responsibility within national government service or private industry. The Secretary shall report these proposals together with any measures adopted by the Fund's Executive Board to the Congress prior to February 1, 1979.".

Sec. 3. The Bretton Woods Agreements Act (22 U.S.C. 286—286k–2) is amended by adding at the end thereof the following new section:

"Sec. 29. The Secretary of the Treasury shall instruct the United States executive director to seek to assure that no decision by the International Monetary Fund on the use of the facility undermines or departs from United States policy regarding the comparability of treatment of public and private creditors in cases of debt rescheduling where official United States credits are involved.".

Sec. 4. The Bretton Woods Agreements Act (22 U.S.C. 286—286k–2) is amended by adding at the end thereof the following:

"Sec. 30. (a) The Secretary of the Treasury shall instruct the United States executive director on the Executive Board of the International Monetary Fund to initiate a wide consultation with the managing director of the Fund and other member country executive directors with regard to encouraging the staff of the Fund to formulate stabilization programs entered into pursuant to loans from the Supplementary Financing Facility which, to the maximum feasible extent, foster a broader base of productive investment and employment, especially in those productive activities which are designed to meet basic human needs.

"(b) In order to gain a better understanding of the social, political and economic impact of the Fund's stabilization programs entered into pursuant to loans from the Supplementary Financing Facility on borrowing countries, especially as it relates to the poor majority within those countries, the United States Governor of the Fund shall prepare and submit, not later than 180 days after the close of each calendar year, a report to the Congress. Such report shall evaluate, to the maximum extent feasible, with respect to countries to which loans are made by the Supplementary Financing Facility during each year, the effects of policies of those countries which result from the standby agreements on basic human needs in such countries.

"Sec. 31. The Secretary of the Treasury shall in consultation with the Secretary of State prepare and submit to the Congress an annual report on the status of internationally recognized human rights, as defined in section 116(a) of the Foreign Assistance Act of 1961, in each country which draws on funds made available under the Supplementary Financing Facility of the International Monetary Fund.".

Sec. 5. (a) The Congress finds that—

(1) the Government of Uganda, under the regime of General Idi Amin, has committed genocide against Ugandans;

(2) the United States maintains substantial trade with the Republic of Uganda; and

(3) the relationship of the United States with Uganda is unique and justifies an exceptional response by the United States to the actions of the Government of Uganda.

(b) It is the sense of the Congress that the Government of the United States should take steps to disassociate itself from any foreign government which engages in the international crime of genocide.

(c) Notwithstanding any other provision of law, after date of enactment of this section, no corporation, institution, group or individual may import, directly or indirectly, into the United States or its territories or possessions any article grown, produced, or manufactured in Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing a consistent pattern of gross violations of human rights.

(d) Section 4 of the Export Administration Act of 1969 is amended by adding at the end thereof the following:

"(m) No article, material, or supply, including technical data or other information, other than cereal grains and additional food products, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, may be exported to Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing a consistent pattern of gross violations of human rights.".

(e) The Congress directs the President to encourage and support international actions, including economic restrictions, to respond to conditions in the Republic of Uganda.

Sec. 6. The Secretary of the Treasury shall instruct the Executive Director of the United States to the International Monetary Fund to work in opposition to any extension of financial or technical assistance by the Supplemental Financing Facility or by any other agency or facility of such Fund to any country the government of which—

(1) permits entry into the territory of such country to any person who has committed an act of international terrorism, including any act of aircraft hijacking, or otherwise supports, encourages, or harbors such person; or .

(2) fails to take appropriate measures to prevent any such person from committing any such act outside the territory of such country.

Sec. 7. Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

And the Senate agree to the same.

Henry S. Reuss,
Steve Neal,
Mark W. Hannaford,
J. W. Stanton,
Henry J. Hyde,
Managers on the Part of the House.

John Sparkman,
Frank Church,
Paul Sarbanes,
Jacob K. Javits,
William Proxmire,
Adlai E. Stevenson,
Alan Cranston,
Edward W. Brooke,
H. John Heinz,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9214) to amend the Bretton Woods Agreements Act to authorize United States participation in the Supplementary Financing Facility of the International Monetary Fund, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

AUTHORIZATION OF APPROPRIATIONS

The House bill limited the authority of the Secretary of the Treasury to make resources available for the purpose of U.S. participation in the Supplementary Financing Facility (the "facility") of the International Monetary Fund (the "Fund") "to such an extent or in such amounts as are provided in advance in appropriations Acts", and authorized appropriation of such sums as necessary to carry out such participation, but not to exceed the dollar equivalent of 1,450 million Special Drawing Rights ("SDR"). The House bill provided that any change in the value of monetary assets held by the United States as a result of participation in the facility would be accounted for through the Fund established by section 10 of the Gold Reserve Act of 1934, the Exchange Stabilization Fund. The House bill did not specify an effective date for the authorization of appropriations.

The Senate amendment limited the Secretary's authority to make resources available to the Fund for the purpose of U.S. participation in the facility to an amount not to exceed the equivalent of 1,450 million SDR, and limited the Secretary's authority to enter into agreements to make such resources available to amounts appropriated in advance in appropriation Acts. The amendment authorized, effective October 1, 1978, appropriation to the Secretary of such sums as necessary to carry out participation in the facility, but not to exceed the dollar equivalent of 1,450 million SDR. The amendment also provided that any adjustment in monetary assets held by the U.S. pursuant to participation in the facility be accounted for through the Exchange Stabilization Fund.

The House receded to the Senate. The conferees noted that the identical provision in the House bill and the Senate amendment regarding accounting through the Exchange Stabilization Fund for adjustments in the value of monetary assets held by the U.S. in respect of participation in the facility was redundant in light of the authorization of appropriations provided elsewhere in the same section. Because the full extent of U.S. participation is authorized to be appropriated, and because U.S. participation cannot occur until such appropriation is made, the authority to account through the Exchange Stabilization Fund for adjustments in the value of monetary assets will not be used.

SALARIES OF THE U.S. EXECUTIVE DIRECTOR AND U.S. ALTERNATE EXECUTIVE DIRECTOR OF THE FUND AND OF OTHER FUND PERSONNEL

The House bill and the Senate amendment provided that the U.S. executive director of the Fund should not be compensated in excess of the rate provided for a person occupying a position at level IV of the Executive Schedule, and that the U.S. alternate executive director not be compensated in excess of the rate provided for a person occupying a position at level V of the Executive Schedule. The House bill and the Senate amendment also required the Secretary of the Treasury to instruct the U.S. Executive Director of the Fund to prepare a comprehensive set of proposals with the objective of assuring that salaries and other compensation afforded Fund employees do not exceed those afforded persons in comparable positions in national government service and private industry, and required the Secretary to report to the Congress on such proposals and any measures taken by the Fund.

The House receded to the Senate with respect to minor differences in wording between the House bill and the Senate amendment.

COMPARABILITY OF TREATMENT OF PUBLIC AND PRIVATE CREDITORS IN CASES OF DEBT RESCHEDULING

The House bill required the Secretary of the Treasury to instruct the U.S. executive director of the Fund to seek to assure that no Fund decision on use of the facility undermines U.S. policy regarding comparability of treatment of public and private creditors in cases of debt rescheduling where official U.S. credits are involved.

The Senate amendment contained no comparable provision.

The Senate receded to the House.

HUMAN NEEDS

The House bill required the Secretary of the Treasury to instruct the U.S. executive director of the Fund to: (a) consult with the Managing Director and other member country executive directors of the Fund to encourage Fund staff to formulate stabilization programs entered into pursuant to use of the facility which, to the maximum feasible extent, would foster activities designed to meet basic human needs, and (b) take all possible steps to see that facility transactions and economic programs developed in connection with the use of Fund resources contribute neither to deprivation of basic human needs nor violation of basic human rights, and to oppose all such transactions which would contribute to such deprivation or violations. The House bill further required the U.S. Governor of the Fund (the Secretary of the Treasury) to prepare and submit an annual report to the Congress, with respect to countries, using the facility, on the effects of policies of such countries resulting from economic stabilization programs entered into with the Fund in conjunction with use of the facility on the ability of the poor in such countries to obtain adequate food, shelter, clothing, public services, and productive employment.

The Senate amendment contained no comparable provision.

The Senate receded to the House with an amendment which deleted subsection (b) of the House provision and modified the reporting requirement to delete the list of specific items to be covered and directed that the report, to the maximum extent feasible, include the effect of such policies on basic human needs in countries using the facility.

HUMAN RIGHTS

The Senate amendment required the Secretary of the Treasury, in consultation with the Secretary of State to prepare and submit to the Congress an annual report on the observance of internationally recognized human rights in countries using the facility.

The House receded to the Senate with a modification changing the word "observance" to "status".

BAN ON TRADE WITH UGANDA

The Senate amendment stated that Congress finds that the Government of Uganda has committed genocide, and the United States, which has substantial trade with Uganda, is justified in making an exceptional response to the actions of the Government of Uganda. The Senate amendment stated the sense of the Congress that the U.S. Government should disassociate itself from any foreign government engaged in genocide. The Senate amendment prohibited all U.S. persons from importing into the U.S. any article grown, produced or manufactured in Uganda, and from exporting to Uganda anything other than cereal grains and food products, until the President determines and certifies to the Congress that the Government of Uganda is no longer committing a consistent pattern of gross violations of human rights.

Finally, the Senate amendment directed the President to encourage and support international actions, including economic restrictions, to respond to conditions in Uganda.

The House bill contained no comparable provision.

The House receded to the Senate.

TERRORISM

The Senate amendment directed the Secretary of the Treasury to instruct the U.S. executive director of the Fund to oppose any Fund financial or technical assistance to a country whose government permits any person who has committed an act of international terrorism to enter its territory, or otherwise aids any such act outside such country.

The House bill contained no comparable provision.

The House receded to the Senate with an amendment substituting the language "to work in opposition to" for the language "to oppose". The conferees believed the modified wording to be more consistent with the decision-making procedures of the Fund. The definition of the word terrorism will be that contained in the anti-terrorism legislation now pending before the Congress or as otherwise defined by law.

BALANCED FEDERAL BUDGET

The Senate amendment provided that Federal Government budget outlays shall not exceed its receipts beginning in fiscal year 1981.

The House bill contained no comparable provision.

The House receded to the Senate.

The conferees noted that this provision may be superseded by the actions of future Congresses.

This provision expresses the feeling of the Congress that the U.S. should have a balanced budget by 1981. But the conferees noted that, as pointed out by the Banking Committee, ". . . a balanced budget may be counter-productive at times; for example, during periods of recession, or in times of national emergency such as when there is a need for new and expanded military expenditures. The Banking Committee agreed that in times of national emergency, such as wars or other events, there may be good reasons for the balanced budget goal to be set aside temporarily."

IMF ASSISTANCE TO CAMBODIA AND UGANDA

The Senate amendment directed the President to instruct the U.S. executive director of the Fund to oppose any Fund financial or technical assistance to Democratic Kampuchea (Cambodia) or Uganda until the President determines and certifies to the Congress that the country in question is in compliance with internationally recognized human rights.

The House bill contained no comparable provision.

The Senate receded to the House.

Henry S. Reuss,
Steve Neal,
Mark W. Hannaford,
J. W. Stanton,
Henry J. Hyde,
Managers on the Part of the House.
John Sparkman,
Frank Church,
Paul Sarbanes,
Jacob K. Javits,
William Proxmire,
Adlai E. Stevenson,
Alan Cranston,
Edward W. Brooke,
H. John Heinz,
Managers on the Part of the Senate.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished minority whip the program for next week.

Mr. BRADEMAS. If my friend the distinguished minority whip will yield, on Monday, September 25, the House meets at noon. There are no bills on the District Calendar but there are 25 bills on suspensions.

Votes on those suspensions will be postponed until the end of all suspensions.

The suspensions are as follows:

1. H.R. 13688. Federal Information Centers Act.
2. H.R. 13767. Interagency Motor Vehicles Replacement Cost Authorization.
3. S. 1265. Amend Regulations for Records Transferred to GSA Custody.
4. H.R. 13356. Foreign Investments in Farmland Study.
5. H.R. 10584. Agriculture Trade Act.
6. H.R. 11870. Tourism Authorization.
7. H.R. 12162. Rail Public Counsel Authorization.
8. H.R. 12370. Health Services Amendments.
9. H.R. 13655. Health Maintenance Organization Amendments of 1978.
10. H.R. 12584. Health Services Research, Statistics and Technology.
11. H.J. Res. 923. International Petroleum Exposition.
12. H.R. 9486. Tin Buffer Stock Authorization.
13. H.R. 7749. Antarctic Conservation Act of 1978.

14. H.R. 13418. Small Business Act Amendments.
15. S. 1029. Smithsonian Museum Support Facilities Authorization.
16. H.R. 13597. Solar Collectors for RHOB.
17. H.R. 8533. Tax Status of Certain State-Sanctioned Bingos Operated by Tax-Exempt Organizations.
18. H.R. 13488. Foreign Earned Income Act of 1978.
19. H.R. 12352. Income Source Rule Regarding Certain Railroad Rolling Stock.
20. H.R. 12264. Wisconsin Wilderness Lands Designation.
21. H.R. 10661. Marine Protection Research and Sanctuaries Authorization.
22. H.R. 12603. Great Lakes Pilotage Act Amendments.
23. H.R. 11861. Navy-Maritime Advisory Board.
24. H.R. 13372. Migratory Bird Stamp Amendments.
25. H.R. 13392. Anadromous Fish Conservation Act Amendments.

On Tuesday, it is our intention to call up the Consent Calendar before we consider suspensions, and I shall later ask unanimous consent to do so.

The House will meet at 10 o'clock on Tuesday and there are nine bills under suspension. The suspensions are as follows:

1. S. 27. Prohibit Union Organization in Armed Forces.
2. H.R. 9158. Tribally Controlled Community Colleges.
3. H.R. 9333. Hydroelectric Powerplants Authorizations.
4. H.R. 13069. Prohibit Rate Discrimination by S. W. Power Administration.
5. H.R. 12347. Biomedical Research and Training Amendments.
6. H.R. 12728. Susan B. Anthony Dollar Coin.
7. H.R. 11002. Provide Resolution of Disputed Contracts Awarded by Exec. Agcs.
8. H.R. 12509. Immigration and Nationality Act Amendments.
9. S. 2727. Amateur Sports Act of 1978.

(Votes on suspensions will be postponed until end of all suspensions.)

Then, Mr. Speaker, following the 9 suspensions, the House will consider H.R. 12005, Justice Department authorizations, under an open rule with 1 hour of debate.

A conference report on H.R. 3816, Federal Trade Commission amendments.

A conference report on H.R. 13125, Agriculture appropriations, fiscal year 1979.

A conference report on H.R. 12934, State-Justice-Commerce appropriations, fiscal year 1979.

H.J. Res. 1139, continuing resolution for fiscal year 1979, and

H.R. 11733, Surface Transportation Assistance Act of 1978, complete consideration.

Then on Wednesday, Thursday and Friday, the House will meet at 10 o'clock a.m. on the following bills:

To complete consideration of H.R. 1, Ethics in Government Act.

H.R. 14042, Department of Defense authorizations, fiscal year 1979, under an open rule and 1 hour of debate.

S. 1613. Magistrate Act of 1977, under an open rule and 1 hour of debate.

H.R. 13059, Water Resources Development Act of 1978, under an open rule with 1 hour of debate.

H.R. 13471, Financial Institutions Regulatory Act of 1978, under an open rule, with 1 hour of debate.

H.R. 13750, Sugar Stabilization Act of 1978, under an open rule with 2 hours of debate.

H.R. 11545, Meat Import Act of 1978, under an open rule with 1 hour of debate.

H.R. 12355, Nuclear Regulatory Commission authorizations, under an open rule with 1 hour of debate.

H.R. 10909, Clinical Laboratory Improvement Act, under a modified open rule, with 1 hour of debate.

H.R. 11488, Public Health Services planning amendments, subject to a rule being granted.

H.R. 12511, Child Nutrition Amendments of 1978—that is the school lunch bill—subject to a rule being granted; and

Finally we will consider House Resolution 86, the bill to remove the limitation on cosponsors.

The House will adjourn at 3 p.m. on Friday and by 8 p.m. on all other days except Wednesday.

Conference reports may be brought up at any time and any further program will be announced later.

I thank my friend, the gentleman from Illinois (Mr. MICHEL) for yielding.

Mr. MICHEL. I notice that the House will meet at 10 a.m. on Wednesday, Thursday, and Friday. Is there any intention to request unanimous consent to also meet early on Tuesday?

Mr. BRADEMAS. The gentleman is correct, and I shall make that unanimous-consent request shortly.

Mr. MICHEL. Might I also inquire, noting that on this final version of "Tentative-10" that the bill for the volunteer services program is not included here, does that mean that it is definitely off for next week, then?

Mr. BRADEMAS. The gentleman is correct.

Mr. MICHEL. I believe those are all the questions we have.

PROVIDING FOR CONSIDERATION OF CONSENT CALENDAR ON TUESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under clause 4, rule XIII, the consent calendar rule, be transferred to Tuesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

HOUR OF MEETING ON TUESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday next, it adjourns to meet at 10 o'clock a.m. on Tuesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ADJOURNMENT TO MONDAY, SEPTEMBER 25, 1978

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 o'clock noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

GIVING THE DEVIL HIS DUE

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, as liberal experiments crash to earth, liberals divide into two groups. There are those who will keep pushing soft-on-crime policies no matter how many innocent people get hurt, and who will enforce busing long after it is an admitted failure. These are the leftist ideologues, who talk about "the people" all the time, but who could not care less what happens to real, flesh-and-blood human beings.

But while we conservatives owe it to our constituencies to decry the blind ideologues on the left, it is also important that we, as the saying goes, "give the Devil his due." That is, we should point out cases where committed liberals follow commonsense for the welfare of real people, even if it means they must overcome a lifetime liberal bias to do so. Not long ago I read a column by Roy Innis, head of the Congress of Racial Equality (CORE) into the CONGRESSIONAL RECORD. Mr. Innis, in defiance of the liberal establishment, came out in favor of tuition tax credits because he felt they would be best for real people.

I would like to read into the RECORD another column in which a lifelong liberal has taken the side of the people by defying liberal ideologues. William Raspberry, in his nationally syndicated column for September 18, faces the fact that nobody needs a practical, responsive school system as much as does the black community. It is just such a responsive, basic-skills-oriented school system that the liberal ideologues are fighting to avoid.

The National Education Association, for example, would like to stop the present trend toward testing high school seniors to be sure they can read and write effectively before giving them a diploma. Liberals call this kind of testing "racist" because they show blacks, on the average, doing worse than whites. I have never seen this piece of nonsense exposed more beautifully than it was by Mr. Raspberry. As he puts it:

> It is an interesting phenomenon. Let a black leader charge that the public school system in his state is providing a less adequate education for black children than for white, and the chorus of "amens" will be deafening.
>
> But let a statewide test demonstrate that black children are learning less, and someone is sure to charge that the test is biased, perhaps deliberately biased to make black kids look bad.

The real reason liberal educators want this testing to stop is because it invariably demonstrates, again and again, that the costly educational experimentation and bureaucratized education the National Education Association advocates are producing an astonishing number of functional illiterates. Liberal educators, in other words, excuse their incompetence by calling everyone who would expose it "racists." As a result, tens of thousands of black high school graduates must go out into the job market without the ability to read and calculate which is essential to getting and keeping a job. This is a high price to pay in order to prop up liberal orthodoxy, and Mr. Raspberry sees no reason for American children to have to pay it.

There will always be plenty of issues on which liberals and conservatives can legitimately disagree. But our childrens' education is far too important to be left to the ideologues. I congratulate Mr. Innis, Mr. Raspberry and others like them who refuse to countenance the sacrifice of our children's future on the altar of ideology.

The article follows:

Good Sense, Not Bias, In This Test

(By William Raspberry)

Beginning this year, North Carolina's high school seniors must demonstrate their competency in basic math and reading if they are to receive diplomas.

It is part of a growing trend toward competency examinations as a prerequisite for graduation. In North Carolina as in other states where the system has been adopted, it has sparked racial controversy.

As usual, the debate is caused by the fact that black students as a group are scoring lower than white students. And, as usual, some people are citing these disparate results as proof of testing bias.

It is an interesting phenomenon. Let a black leader charge that the public-school system in his state is providing a less adequate education for black children than for white, and the chorus of "amens" will be deafening.

But let a statewide test demonstrate that black children are learning less, and someone is sure to charge that the test is biased, perhaps deliberately biased to make black kids look bad.

Just over a week ago, an association of black Baptist churches in Wake County, N.C., passed a resolution condemning the state's testing program as "racially inspired." The Rev. W. B. Lewis, moderator of the Wake Baptist District Association and pastor of the First Cosmopolitan Baptist Church in Raleigh, said his association believes that the test is "designed to reduce the number of blacks entering the colleges of this state and country, and thereby consigning them to menial jobs."

The trouble with that statement (the Rev. Mr. Lewis will forgive me) is that he doesn't believe it.

As he told me in a telephone interview, he does not believe the testing program is inspired by any anti-black sentiment on the part of state officials. He also said that he sees no basis for charging racial bias in the test itself. After all, the questions are based on reading and math skills that an eighth-grade student ought to have.

According to Lewis, his association's resolutions committee revised the original resolution, making it stronger than he is comfortable with. As moderator of the association, he decided he ought to go along with the official statement.

"My main problem with the test is that it was introduced too abruptly," he told me. "I feel that this abruptness is unfair. There was no remedial preparation for those [seniors] who, through no fault of their own, have been deprived of a good education."

State school officials plan to administer the test to 7th, 9th and 11th graders, thus providing adequate notice as to which skills need to be sharpened before graduation.

Lewis' concern is that there was no such notice for those students already in 12th grade. He thinks it unfair that they should be stuck with a mere certificate of attendance, which will probably be unacceptable for college entrance and for many employment opportunities as well.

"The [low] test scores reflect not only the limitations of the students but the limitations of the teachers as well," he said. For that reason, he said, there ought to be provisions for monitoring the entire educational process, and in particular for monitoring what happens to students who fail the test initially.

As for the seniors who fail the test, he believes they ought to have the option of going to school for an extra semester or two, at public expense.

That doesn't strike me as a bad idea, at least during the first few years of the testing program. After all, a school system that has promoted students all the way to 12th grade must share in the responsibility when it turns out that they haven't learned the basic math and reading skills.

The most encouraging thing about the reaction, even of those who oppose the testing program, is that most of them see the poor test results as reflecting educational problems, not racial bias in the testing.

Given that attitude, and a certain amount of vigilance on the part of black parents, there is a good chance that something will be done to improve the quality of instruction. To me, that makes more sense than smashing the battery tester just because the car won't start.

NO TAXPAYER SUPPORTED LOANS TO THE PEOPLES REPUBLIC OF CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Vanik) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, it is my understanding that H.R. 10584, the proposed Agricultural Trade Act of 1978, may be brought up Monday under suspension of the rules. I have grave reservations about title IV of this bill which would permit the extension of credits from the Commodity Credit Corporation to sales of agricultural commodities to the People's Republic of China—PRC.

Title IV of this bill constitutes a fundamental change in our trade policy. It is an end run around the freedom of emigration requirement of the Trade Act of 1974. Is there need for the extension of taxpayer-financed credits to the PRC? Up to the present time, such credits have not been requested.

Is there any evidence to indicate there are no human rights problems in the PRC? We have no information on human rights. As far as we know, there is no visa form, nor is there an office where such a request could be filed. There are indications that millions may want to leave the PRC and are restrained against their will through a government policy which prevents emigration. Is there any basis for granting a human rights waiver to the PRC?

The language of title IV, the Findley amendment, provides a PRC preference to publicly financed grain sales to the PRC while specifically denying the eligibility of the Soviet Union, which commenced grain purchases earlier. There are inherent dangers in providing an unwarranted preference to PRC grain sales.

Up to the present time, the Peoples Republic of China has not requested commodity credit loans. Why should we force feed commodity credits where they are not required?

I hope that the House will vote down the motion to suspend the rules on this bill so that this matter may be considered in the normal legislative process.●

REDUCE GOVERNMENT SPENDING

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. MILLER of Ohio. Mr. Speaker, there has been much discussion on how the Congress should implement the 2- or 5-percent cuts specified in certain appropriations bills passed this year. We have seen with the public works appropriation bill this year, and with the foreign assistance appropriation bill last year, how these reductions on nonmandated items may be implemented by the conference committees.

The mechanism is simple enough. If the conferees want to retain the congressional prerogative to specify where cuts are to be made, they simply reduce funding amounts where they wish. There should be little complaint as long as the total dollar figure reflects the percent reduction mandated in the amendment. This was done recently in the fiscal year 1979 public works bill and it worked well.

However, the House and Senate conferees on the State, Justice, Commerce, Judiciary, and related agencies appropriation bill, H.R. 12934, have sent a bill back to the House which is, in effect, $150 million over the amount approved by this body last June 14.

Since my 2-percent reduction amendment was the only dollar amendment to this bill, and because many parts of the bill were stricken due to a lack of authorization and not considered here, House conferees had the responsibility to determine dollar figures consistent with the will of the Members of the House.

Unfortunately, this conference agreement is only $11 million under the bill recommended to the House, and is $150 million higher than the level established by the 2-percent reduction in a House vote.

Because this bill is so much larger than passed by the House, I intend to move to recommit the bill to the conference with instructions to reduce the total figure $150 million so that it conforms to the will of the House as expressed in the 2-percent reduction amendment.

Those who sincerely want to reduce Government spending should vote "aye." ●

CONFERENCE REPORT ON H.R. 12255

Mr. PERKINS submitted the following conference report and statement on the bill (H.R. 12255) to amend the Older Americans Act of 1965 to provide for improved programs for older persons. and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 95–1618)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1255) to amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That (a) this Act may be cited as the "Comprehensive Older Americans Act Amendments of 1978".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Older Americans Act of 1965.

TITLE I—AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

OBJECTIVES

SEC. 101. Section 101(8) is amended by inserting after "provide" the following: "a choice in supported living arrangements and".

ADMINISTRATION

SEC. 102. (a) (1) Section 202(a) is amended by redesignating clauses (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), and (16) as clauses (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), and (17), respectively, and by inserting after the dash the following new clause:

"(1) serve as the effective and visible advocate for the elderly within the Department of Health, Education, and Welfare and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review and commenting responsibilities over all Federal policies affecting the elderly;".

(2) Section 202 is amended by redesignating subsection (b), and all references thereto, as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) In order to strengthen the involvement of the Administration in the development of policy alternatives in long-term care and to insure that the development of community alternatives is given priority attention, the Commissioner shall—

"(1) develop planning linkages with health systems agencies designated under section 1515 of the Public Health Service Act (42 U.S.C. 3001–4);

"(2) participate in all departmental and interdepartmental activities which concern issues of institutional and noninstitutional long-term health care services development; and

"(3) review and comment on all departmental regulations and policies regarding community health and social service development for the elderly.".

(b) Section 203 is amended to read as follows:

"FEDERAL AGENCY CONSULTATION

"SEC. 203. (a) The Commissioner, in carrying out the purposes and provisions of this Act, shall advise, consult, and cooperate with the head of each Federal agency or department proposing or administering programs or services substantially related to the purposes of this Act, with respect to such programs or services. The head of each Federal agency or department proposing to establish programs and services substantially related to the purposes of this Act shall consult with the Commissioner prior to the establishment of such programs and services. The head of each Federal agency administering any program substantially related to the purpose of this Act, particularly administering any program set forth in subsection (b), shall, to achieve appropriate coordination, consult and cooperate with the Commissioner in carrying out such program.

"(b) For the purposes of subsection (a), programs related to the purpose of this Act shall include—

"(1) the Comprehensive Employment and Training Act of 1973,

"(2) title II of the Domestic Volunteer Service Act of 1973,

"(3) titles XVIII, XIX, and XX of the Social Security Act,

"(4) sections 231 and 232 of the National Housing Act,

"(5) the United States Housing Act of 1937,

"(6) section 202 of the Housing Act of 1959,

"(7) title I of the Housing and Community Development Act of 1974,

"(8) section 222(a) (8) of the Economic Opportunity Act of 1964,

"(9) the community schools program under the Elementary and Secondary Education Act of 1965, and

"(10) sections 3, 5, 9, and 16 of the Urban Mass Transportation Act of 1964.".

(c) Section 204(a) (1) is amended by inserting before the semicolon a comma and the following: "including information related to transportation services for older individuals offered by Federal, State, and local public agencies".

(d) Section 204(c) is amended to read as follows:

"(c) There arc authorized to be appropriated to carry out the provisions of this section, for fiscal years 1979, 1980, and 1981, such sums as may be necessary.".

(e) (1) Section 205(a) is amended by inserting "rural and urban" after "of" in the second sentence, and by adding at the end thereof the following new sentence: "No full-time officer or employee of the Federal Government may be appointed as a member of the Council.".

(2) Section 205(c) is amended by striking out the last sentence thereof.

(3) Section 205(e) is amended to read as follows:

"(e) The Council shall have staff personnel, appointed by the Chairman, to assist it in carrying out its activities. The head of each Federal department and agency shall make available to the Council such information and other assistance as it may require to carry out its "activities.".

(4) (A) Section 205(g) is amended to read as follows:

"(g) (1) The Council shall undertake a thorough evaluation and study of the programs conducted under this Act.

"(2) The study required in this subsection shall include—

"(A) an examination of the fundamental purposes of such programs, and the effectiveness of such programs in attaining such purposes;

"(B) an analysis of the means to identify accurately the elderly population in greatest need of such programs; and

"(C) an analysis of numbers and incidence of low-income and minority participants in such programs.

"(3) The study required under this subsection may include—

"(A) an exploration of alternative methods for allocating funds under such programs to States, State agencies on aging, and area agencies on aging in an equitable and efficient manner, which will accurately reflect current conditions and insure that such funds reach the areas of greatest current need and are effectively used for such areas;

"(B) an analysis of the need for area agencies on aging to provide direct services within the planning and service area; and

"(C) an analysis of the number of nonelderly handicapped in need of home delivered meal services.".

(B) Section 205 is amended by striking out subsections (h) and (i) and inserting in lieu thereof the following new subsection;

"(i) There are authorized to be appropriated to carry out the provisions of this section, for fiscal years 1979, 1980, and 1981, such sums as may be necessary.".

(f) Section 206 is amended by redesignating subsection (b) and subsection (c), and all references thereto, as subsection (c) and subsection (d), respectively, and by inserting after subsection (a) the following new subsection;

"(b) The Commissioner shall prepare and submit to the Congress not later than September 30, 1980 a report on the effectiveness of programs conducted under part B of title III relating to legal services and an analysis of the need for a separate program of legal services under this Act and of factors which may prohibit the funding of legal services under this Act without such a separate program, together with such recommendations, including recommendations for additional legislation, as the Commissioner deems appropriate.".

(g) (1) Section 207(c) is amended by inserting before the period a comma and the following: "and conduct, where appropriate, evaluations which compare the effectiveness of related programs in achieving common objectives".

(2) Section 207(d) is amended—

(A) by inserting after "summaries" the following: "and analyses";

(B) by striking out "be available" and inserting in lieu thereof "be transmitted"; and

(C) by inserting before "the public" the following: "be accessible to".

(h) (1) Section 211 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) No part of the costs of any project under any title of this Act may be treated as income or benefits to any eligible individual (other than any wage or salary to such individual) for the purpose of any other program or provision of Federal or State law".

(2) Section 211(a), as so redesignated in paragraph (1), is amended by inserting after "88 Stat. 1604)" the following: ", and of title V of the Act of October 15, 1977 (Public Law 95–134; 91 Stat. 1164),".

(i) Title II is amended by adding at the end thereof the following new sections:

"REDUCTION OF PAPERWORK

"SEC. 212. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Commissioner, in consultation with State agencies designated under section 305(a)(1), and other appropriate agencies and organizations, shall continually review and evaluate all requests by the Administration on Aging for information under this Act and take such action as may be necessary to reduce the paperwork required under this Act. The Commissioner shall request only such information as the Commissioner deems essential to carry out the purposes and provisions of this Act.

"CONTRACTING AND GRANT AUTHORITY

"Sec. 213. None of the provisions of this Act shall be construed to prevent a recipient of a grant or a contract from entering into an agreement, subject to the approval of the State agency, with a profitmaking organization, where such organization demonstrates clear superiority with respect to the quality of services covered by such contract to carry out the provisions of this Act and of the appropriate State plan.

"SURPLUS PROPERTY ELIGIBILITY

"Sec. 214. Any State or local government agency, and any nonprofit organization or institution, which receives funds appropriated for programs for older individuals under this Act, under title IV or title XX of the Social Security Act, or under the Economic Opportunity Act of 1964, shall be deemed eligible to receive for such programs, property which is declared surplus to the needs of the Federal Government in accordance with laws applicable to surplus property.".

GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

Sec. 103. (a)(1) The Congress finds that—

(A) approximately 3 percent of the eligible population is presently served under community services programs authorized under the Older Americans Act of 1965, 17 percent of whom are minority group members;

(B) approximately 1 percent of the eligible population is presently served by the nutrition program authorized under the Older Americans Act of 1965, 21 percent of whom are minority group members;

(C) there is program fragmentation at the national, State, and local levels which inhibits effective use of existing resources; and

(D) coordination and consolidation of services provided under the Older Americans Act of 1965 allowing greater local determination to assess the need for services will facilitate achieving the goals of the Older Americans Act of 1965.

(2) It is the purpose of the amendments made by subsection (b) to combine within a consolidated title, subject to the modifications imposed by the provisions and requirements of the amendments made by subsection (b), the programs authorized by title III, title V, and title VII of the Older Americans Act of 1965 in the fiscal year 1978, and funds appropriated to carry out such consolidated title shall be used solely for the purposes and for the assistance of the same types of programs authorized under the provisions of such titles.

(b) Title III is amended to read as follows:

"TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

"Part A—General Provisions

"PURPOSE; ADMINISTRATION

"Sec. 301. (a) It is the purpose of this title to encourage and assist State and local agencies to concentrate resources in order to develop greater capacity and foster the development of comprehensive and coordinated service systems to serve older individuals by entering into new cooperative arrangements in each State with State and local agencies, and with the providers of social services, including nutrition services and multipurpose senior centers, for the planning for the provision of, and for the provision of, social services, nutrition services, and multipurpose senior centers, in order to—

"(1) secure and maintain maximum independence and dignity in a home environment for older individuals capable of self care with appropriate supportive services;

"(2) remove individual and social barriers to economic and personal independence for older individuals; and

"(3) provide a continuum of care for the vulnerable elderly.

"(b)(1) In order to effectively carry out the purpose of this title, the Commissioner shall administer programs under this title through the Administration on Aging.

"(2) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Labor, the Community Services Administration, the Department of Housing and Urban Development, the Department of Transportation, and such other agencies and departments of the Federal Government as may be appropriate.

"DEFINITIONS

"Sec. 302. For the purpose of this title—

"(1) The term 'comprehensive and coordinated system' means a system for providing all necessary social services, including nutrition services, in a manner designed to—

"(A) facilitate accessibility to, and utilization of, all social services and nutrition services provided within the geographic area served by such system by any public or private agency or organization;

"(B) develop and make the most efficient use of social services and nutrition services in meeting the needs of older individuals; and

"(C) use available resources efficiently and with a minimum of duplication.

"(2) The term 'information and referral source' means a location where the State or any public or private agency or organization—

"(A) maintains current information with respect to the opportunities and services available to older individuals, and develops current lists of older individuals in need of services and opportunities; and

"(B) employs a specially trained staff to inform older individuals of the opportunities and services which are available, and to assist such individuals to take advantage of such opportunities and services.

"(3) The term 'long-term care facility' means any skilled nursing facility, as defined in section 1861(j) of the Social Security Act, any intermediate care facility, as defined in section 1905(c) of the Social Security Act, any nursing home, as defined in section 1908(e) of the Social Security Act, and any other similar adult care home.

"(4) The term 'legal services' means legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney), and includes counseling or representation by a nonlawyer where permitted by law, to older individuals with economic or social needs.

"(5) The term 'planning and service area' means an area specified by a State agency under section 305(a)(1)(E).

"(6) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

"(7) The term 'State agency' means the State agency designated by a State under section 305(a)(1).

"(8) The term 'unit of general purpose local government' means—

"(A) a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions; or

"(B) an Indian tribal organization.

"AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS

"Sec. 303. (a) There are authorized to be appropriated $300,000,000 for fiscal year 1979, $360,000,000 for fiscal year 1980, and $480,000,000 for fiscal year 1981 for the purpose of making grants under part B of this title (relating to social services).

"(b)(1) There are authorized to be appropriated $350,000,000 for fiscal year 1979, $375,000,000 for fiscal year 1980, and $400,000,000 for fiscal year 1981 for the purpose of making grants under subpart 1 of part C of this title (relating to congregate nutrition services).

"(2) There are authorized to be appropriated $80,000,000 for fiscal year 1979, $100,000,000 for fiscal year 1980 and $120,000,000 for fiscal year 1981 for the purpose of making grants under subpart 2 of part C of this title (relating to home delivered nutrition services).

"(c) Grants made under parts B and C of this title may be used for paying part of the cost of—

"(1) the administration of area plans by area agencies on aging designated under section 305(a)(2)(A), including the preparation of area plans on aging consistent with section 306 and the evaluation of activities carried out under such plans; and

"(2) the development of comprehensive and coordinated systems for social services, congregate and home delivered nutrition services, the development and operation of multipurpose senior centers, and the delivery of legal services.

"ALLOTMENT; FEDERAL SHARE

"Sec. 304. (a)(1) From the sums appropriated under parts B and C for fiscal years 1979, 1980, and 1981, each State shall be allotted an amount which bears the same ratio to such sums as the population aged 60 or older in such State bears to the population aged 60 or older in all States, except that (A) no State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made; (B) Guam, the Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made; (C) American Samoa and the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated for the fiscal year for which the determination is made; and (D) no State shall be allotted an amount less than the State received for fiscal year 1978. For the purpose of the exception contained in clause (A) only, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

"(2) The number of individuals aged 60 or older in any State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

"(b) Whenever the Commissioner determines that any amount allotted to a State under part B or C for a fiscal year under this section will not be used by such State for carrying out the purpose for which the allotment was made, he shall make such allotment available for carrying out such purpose to one or more other States to the extent he determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's allotment (as determined under subsection (a)) for such year, but shall remain available until the end of the succeeding fiscal year.

"(c) If the Commissioner finds that any State has failed to qualify under the State plan requirements of section 307, the Commissioner shall withhold the allotment of funds to such State referred to in subsection (a). The Commissioner shall disburse the funds so withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of such State submitting an approved plan under section 307, which includes an agreement that any such payment shall be matched in the proportion determined under subsection (d)(1)(B) for such State, by funds or in-kind resources from non-Federal sources.

"(d)(1) From any State's allotment under this section for any fiscal year—

"(A) such amount as the State agency determines, but not more than 8.5 percent thereof, shall be available for paying such percentage as the agency determines, but not more than 75 perecnt, of the cost of administration of area plans; and

"(B) the remainder of such allotment shall be available to such State only for paying such percentage as the State agency determines, but not more than 90 percent in fiscal years 1979 and 1980, and 85 percent in fiscal year 1981, at the cost of social services and nutrition services authorized under parts B and C provided in the State as part of a comprehensive and coordinated system in planning and service areas for which there is on area plan approved by the State agency.

"(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Commissioner may attribute fair market value to services and facilities contributed from non-Federal sources.

"ORGANIZATION

"SEC. 305. (a) In order for a State to be eligible to participate in programs of grants to States from allotments under this title—

"(1) the State shall, in accordance with regulations of the Commissioner, designate a State agency as the sole State agency to—

"(A) develop a State plan to be submitted to the Commissioner for approval under section 307;

"(B) administer the State plan within such State;

"(C) be primarily responsible for the coordination of all State activities related to the purposes of this Act;

"(D) serve as an effective and visible advocate for the elderly by reviewing and commenting upon all State plans, budgets, and policies which affect the elderly and providing technical assistance to any agency, organization, association, or individual representing the needs of the elderly; and

"(E) divide the State into distinct areas, in accordance with guidelines issued by the Commissioner, after considering the geographical distribution of individuals aged 60 and older in the State, the incidence of the need for social services, nutrition services, multipurpose senior centers, and legal services, the distribution of older individuals who have low incomes residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the State which were drawn for the planning or administration of social services programs, the location of units of general purpose local government within the State, and any other relevant factors; and

"(2) the State agency designated under clause (1) shall—

"(A) determine for which planning and service area an area plan will be developed, in accordance with section 306, and for each such area designate, after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging for such area;

"(B) provide assurances, satisfactory to the Commissioner, that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of social services or nutrition services, or individuals using multipurpose senior centers provided under such plan;

"(C) develop a formula, in accordance with guidelines issues by the Commissioner, for the distribution within the State of funds received under this title, taking into account, to the maximum extent feasible, the best available statistics on the geographical distribution of individuals aged 60 and older in the State, and publish such formula for review and comment;

"(D) submit its formula developed under subclause (C) to the Commissioner for review and comment; and

"(E) provide assurances that preference will be given to providing services to older individuals with the greatest economic or social needs and include proposed methods of carrying out the preference in the State plan.

"(b)(1) In carrying out the requirement of clause (1) of subsection (a), the State may designate as a planning and service area any unit of general purpose local government which has a population of 100,000 or more. In any case in which a unit of general purpose local government makes application to the State agency under the preceding sentence to de designated as a planning and service area, the State agency shall, upon request, provide an opportunity for a hearing to such unit of general purpose local government. A State may designate as a planning and service area under clause (1) of subsection (a), any region within the State recognized for purposes of areawide planning which includes one or more such units of general purpose local government when the State determines that the designation of such a regional planning and service area is necessary for, and will enhance, the effective administration of the programs authorized by this title. The State may include in any planning and service area designated under clause (1) of subsection (a) such additional areas adjacent to the unit of general purpose local government or regions so designated as the State determines to be necessary for, and will enhance the effective administration of the programs authorized by this title.

"(2) The State is encouraged in carrying out the requirement of clause (1) of subsection (a) to include the area covered by the appropriate economic development district involved in any planning and service area designated under such clause, and to include all portions of an Indian reservation within a single planning and service area, if feasible.

"(3) The chief executive officer of each State in which a planning and service area crosses State boundaries, or in which an interstate Indian reservation is located, may apply to the Commissioner to request redesignation as an interstate planning and service area comprising the entire metropolitan area or Indian reservation. If the Commissioner approves such an application, he shall adjust the State allotments of the areas within the planning and service area in which the interstate planning and service area is established to reflect the number of older individuals within the area who will be served by an interstate planning and service area not within the State.

"(4) Whenever a unit of general purpose local government, a region, a metropolitan area or an Indian reservation is denied designation under the provisions of clause (1) of subsection (a), such unit of general purpose local government, region, metropolitan area, or Indian reservation may appeal the decision of the State agency to the Commissioner. The Commissioner shall afford such unit, region, metropolitan area, or Indian reservation an opportunity for a hearing. In carrying out the provisions of this paragraph, the Commissioner may approve the decision of the State agency, disapprove the decision of the State agency and require the State agency to designate the unit, region, area, or Indian reservation appealing the decision as a planning and service area, or take such other action as the Commissioner deems appropriate.

"(c) An area agency on aging designated under subsection (a) shall be—

"(1) an established office of aging which is operating within a planning and service area designated under subsection (a);

"(2) any office or agency of a unit of general purpose local government, which is designated for the purpose of serving as an area agency by the chief elected official of such unit;

"(3) any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act on behalf of such combination for such purpose; or

"(4) any public or nonprofit private agency in a planning and service area which is under the supervision or direction for this purpose of the designated State agency and which can engage in the planning or provision of a broad range of social services, or nutrition services within such planning and service area;

and shall provide assurance, determined adequate by the State agency, that the area agency will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area. In designating an area agency on aging within the planning and service area or within any unit of general purpose local government designated as a planning and service area the State shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to carry out the area plan.

"AREA PLANS

"SEC. 306. (a) Each area agency on aging designated under section 305(a)(2)(A) shall, in order to be approved by the State agency, prepare and develop an area plan for a planning and service area for a 3-year period with such annual adjustments as may be necessary. Each such plan shall be based upon a uniform format for area plans within the State prepared in accordance with section 307(a)(1). Each such plan shall—

"(1) provide, through a comprehensive and coordinated system, for social services, nutrition services, and, where appropriate, for the establishment, maintenance, or construction of multipurpose senior centers, within the planning and service area covered by the plan, including determining the extent of need for social services, nutrition services, and multipurpose senior centers in such area (taking into consideration, among other things, the number of older individuals with low incomes residing in such area), evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of social services, nutrition services, or multipurpose senior centers in such area, for the provision of such services or centers to meet such need;

"(2) provide assurances that at least 50 percent of the amount allotted for part B to the planning and service area will be expended for the delivery of—

"(A) services associated with access to services (transportation, outreach, and information and referral);

"(B) in-home services (homemaker and home health aide, visiting and telephone reassurance, and chore maintenance); and

"(C) legal services;

and that some funds will be expended for each such category of services;

"(3) designate, where feasible, a focal point for comprehensive service delivery in each community to encourage the maximum collocation and coordination of services for older individuals, and give special consideration to designating multipurpose senior centers as such focal point;

"(4) provide for the establishment and maintenance of information and referral services in sufficient numbers to assure that all older individuals within the planning and service area covered by the plan will have reasonably convenient access to such services;

"(5)(A) provide assurances that preference will be given to providing services to older individuals with the greatest economic or social needs and include proposed methods of carrying out the preference in the area plan; and

"(B) assure the use of outreach efforts that will identify individuals eligible for assistance under this Act, with special emphasis on rural elderly, and inform such individuals of the availability of such assistance;

(6) provide that the area agency on aging will—

"(A) conduct periodic evaluations of activities carried out under the area plan;

"(B) furnish appropriate technical assistance to providers of social services, nutrition services, or multipurpose senior centers in the planning and service area covered by the area plan;

"(C) take into account in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under such plan;

"(D) serve as the advocate and focal point for the elderly within the community by monitoring, evaluating, and commenting upon all policies, programs, hearings, levies, and community actions which will affect the elderly;

"(E) where possible, enter into arrangements with organizations providing day care services for children so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children;

"(F) where possible, enter into arrangements with local educational agencies, institutions of higher education, and nonprofit private organizations, to use services provided for older individuals under the community schools program under the Elementary and Secondary Education Act of 1965;

"(G) establish an advisory council consisting of older individuals who are participants or who are eligible to participate in programs assisted under this Act, representatives of older individuals, local elected officials, and the general public, to advise continuously the area agency on all matters relating to the development of the area plan, the administration of the plan and operations conducted under the plan;

"(H) develop and publish methods by which priority of services is determined, particularly with respect to the delivery of services under clause (2); and

"(I) establish effective and efficient procedures for coordination between the programs assisted under this title and programs described in section 203(b).

"(b)(1) Each State, in approving area agency plans under this section, may, for fiscal years 1979 and 1980, waive any particular requirement relating to the delivery of services or the estblishment or operation of multipurpose senior centers which such agency cannot meet because of the consolidation authorized by the Comprehensive Older Americans Act Amendments of 1978, except that the State agency may grant such a waiver only if the area agency demonstrates to the State agency that it is taking steps to meet the requirements of this title, but in any event the State agency may not grant a waiver for any requirement of this Act in effect on September 30, 1978.

"(2) Each State, in approving area agency plans under this section, may waive the requirement described in clause (2) of subsection (a) for any category of services described in such clause if the area agency on aging demonstrates to the State agency that services being furnished for such category in the area are sufficient to meet the need for such services in such area. If the State agency grants a waiver under the preceding sentence with respect to any category, then the area agency shall expend under clause (2) of subsection (a) a percentage of the amount allotted for part B to the planning and service area, for the categories with respect to which such waiver does not apply, that is agreed upon by the State agency and the area agency.

"(c)(1) Subject to regulations prescribed by the Commissioner, an area agency on aging designated under section 305(a)(2)(A) or, in areas of a State where no such agency has been designated, the State agency, may enter into agreements with agencies administering programs under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act for the purpose of developing and implementing plans for meeting the common need for transportation services of individuals receiving benefits under such Acts and older individuals participating in programs authorized by this title.

"(2) In accordance with an agreement entered into under paragraph (1), funds appropriated under this title may be used to purchase transportation services for older individuals and may be pooled with funds made available for the provision of transportation services under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act.

"STATE PLANS

"SEC. 307. (a) Except as provided in section 309(a), each State, in order to be eligible for grants from its allotment under this title for any fiscal year, shall submit to the Commissioner a State plan for a 3-year period, with such annual revisions as are necessary, which meets such criteria as the Commissioner may by regulation prescribe. Each such plan shall—

"(1) contain assurances that the State plan will be based upon area plans developed by area agencies on aging within the State designated under section 305(a)(2)(A) and that the State will prepare and distribute a uniform format for use by area agencies in developing area plans under section 306:

"(2) provide that each area agency on aging designated under section 305(a)(2)(A) will develop and submit to the State agency for approval an area plan which complies with the provisions of section 306;

"(3)(A) provides that the State agency will evaluate the need for social services (including legal services), nutrition services, and multipurpose senior centers within the State and determine the extent to which existing public or private programs meet such need; and

"(B) provide assurances that the State agency will spend in each fiscal year, for services to older individuals residing in rural areas in the State assisted under this title, an amount equal to not less than 105 percent of the amount expended for such services (including amounts expended under title V and title VII) in fiscal year 1978:

"(4) provide for the use of such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient administration of the plan, and, where necessary, provide for the reorganization and reassignment of functions to assure such efficient administration;

"(5) provide that the State agency will afford an opportunity for a hearing upon request to any area agency on aging submitting a plan under this title, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan;

"(6) provide that the State agency will make such reports, in such form, and containing such information, as the Commissioner may require, and comply with such requirements as the Commissioner may impose to insure the correctness of such reports;

"(7) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract;

"(8) provide that the State agency will conduct periodic evaluations of activities and projects carried out under the State plan;

"(9) provide for establishing and maintaining information and referral services in sufficient numbers to assure that all older individuals in the State who are not furnished adequate information and referral services under section 306(a)(4) will have reasonably convenient access to such services;

"(10) provide that no social services, including nutrition services, will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such services by the State agency or an area agency on aging is necessary to assure an adequate supply of such services;

"(11) provide that subject to the requirements of merit employment systems of State and local governments, preference shall be given to individuals aged 60 or older for any staff positions (full time or part time) in State and area agencies for which such individuals qualify;

"(12) provide assurances that the State agency will—

"(A) establish and operate, either directly or by contract or other arrangement with any public agency or other appropriate private nonprofit organization which is not responsible for licensing or certifying long-term care services in the State or which is not an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals), a long-term care ombudsman program which will—

"(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to administrative action which may adversely affect the health, safety, welfare, and rights of such residents;

"(ii) monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in that State;

"(iii) provide information as appropriate to public agencies regarding the problems of older individuals residing in long-term care facilities;

"(iv) provide for training volunteers and promote the development of citizen organizations to participate in the ombudsman program; and

"(v) carry out such other activities as the Commissioner deems appropriate;

"(B) establish procedures for appropriate access by the ombudsman to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order;

"(C) establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the agency of the State responsible for licensing or certifying long-term care facilities in the State and to the Commissioner on a regular basis; and

"(D) establish procedures to assure that any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless—

"(i) such complainant or resident, or his legal representative, consents in writing to such disclosure; or

"(ii) such disclosure is required by court order;

"(13) provide with respect to nutrition services that—

"(A) each project providing nutrition services will be available to individuals aged 60 or older, and to their spouses:

"(B) each project will provide meals in a congregate setting, except that each such project may provide home-delivered meals based upon a determination of need made by the recipient of a grant or contract entered into under this title;

"(C) (i) each project will permit recipients of grants or contracts to charge participating individuals for meals furnished in accordance with guidelines established by the Commissioner, taking into considertion the income ranges of eligible individuals in local communities and other sources of income of the recipients of a grant on contract; and

"(ii) such charges will be used to increase the number of meals served by the project involved;

"(D) a site for such services and for comprehensive social services is furnished in as close proximity to the majority of eligible individuals' residences as feasible, with particular attention upon a multipurpose senior center, a school, a church, or other appropriate community facility, preferably within walking distance where possible, and where appropriate, transportation to such site is furnished or home-dellevered meals are furnished to eligible individuals who are home-bound;

"(E) each project will establish outreach activities which assure that the maximum number of eligible individuals may have an opportunity to participate;

"(F) each project may establish and administer the nutrition project with the advice of persons competent in the field of service in which the nutrition project is being provided, older individuals who will participatte in the program, and of persons who are knowledgeable with regard to the needs of older individuals;

"(G) each project will provide special menus, where feasible and appropriate, to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals;

"(H) each area agency will give consideration, where feasible, in the furnishing of home delivered meals to the use of organizations which (i) have demonstrated an ability to provide home-delivered meals efficiently and reasonably; and (ii) furnish assurances to the area agency that such an organization will maintain efforts to solicit voluntary support and that funds made available under this title to the organization will not be used to supplant funds from non-Federal sources; and

"(I) each State agency may, only for fiscal years 1979 and 1980, use not to exceed 20 percent of the amounts allotted under part C to the State for supportive services, including recreational activities, informational services, health and welfare counseling, and referral services, directly related to the delivery of congregate or home delivered meals, except that the Commissioner may approve an application from a State to use not to exceed 50 percent of its amount allotted under part C in areas with unusually high supportive services costs;

"(14) provide, with respect to the acquisition (in fee simple or by lease for 10 years or more), alteration, or renovation of existing facilities (or the construction of new facilities in any area in which there are no suitable structures available, as determined by the State agency, after full consideration of the recommendations made by area agencies, to be a focal point for the delivery of services assisted under this title) to serve as multipurpose senior centers,

"(A) the plan contains or is supported by reasonable assurances that (i) for not less than 10 years after acquisition, or not less than 20 years after the completion of construction, the facility will be used for the purpose for which it is to be acquired or constructed, unless for unusual circumstances the Commissioner waives the requirement of this division; (ii) sufficient funds will be available to meet the non-Federal share of the cost of acquisition or construction of the facility; (iii) sufficient funds will be available when acquisition or construction is completed, for effective use of the facility for the purpose for which it is being acquired or constructed; and (iv) the facility will not be used and is not intended to be used for sectarian instruction or as a place for religious worship;

"(B) the plan contains or is supported by reasonable assurances that, in the case of purchase or construction, there are no existing facilities in the community suitable for leasing as a multipurpose senior center;

"(C) the plans and specifications for the facility are in accordance with regulations relating to minimum standards of construction, promulgated with particular emphasis on securing compliance with the requirements of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

"(D) the plan contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the facility will be paid wages at rates not less than those prevailing for similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a–5; commonly known as the Davis-Bacon Act), and the Secretary of Labor shall have, with respect to the labor standards specified in this clause, the authority and functions set forth in reorganization plan numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c); and

"(E) the plan contains assurances that the State agency will consult with the Secretary of Housing and Urban Development with respect to the technical adequacy of any proposed alteration or renovation;

"(15) provide that with respect to legal services—

"(A) the plan contains assurances that area agencies on aging will (i) enter into contracts with providers of legal services which can demonstrate the experience or capacity to deliver legal services; (ii) include in any such contract provisions to assure that any recipient of funds under division (i) will be subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing membership of local governing boards) as determined appropriate by the Commissioner; and (iii) attempt to involve the private bar in legal services activities authorized under this title including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis;

"(B) the plan contains assurances that no legal services will be furnished unless the grantee—

"(i) is a recipient of funds under the Legal Services Corporation Act; or

"(ii) administers a program designed to provide legal services to all elderly individuals with social or economic need and has agreed to coordinate its services with existing Legal Services Corporation projects in the area in order to concentrate the use of funds provided under this title on individuals with the greatest such need but who are not eligible for legal assistance under the Legal Services Corporation Act;

and the area agency makes a finding after assessment, pursuant to standards for service promulgated by the Commissioner, that any grantee selected is the entity best able to provide the particular services;

"(C) the State agency will provide for the coordination of the furnishing of legal services to older individuals within the State, and provide advice and technical assistance in the provision of legal services to older individuals within the State and support the furnishing of training and technical assistance for legal services for older individuals; and

"(D) the plan contains assurances, to the extent practicable, that legal services furnished under the plan will be in addition to any legal services for older individuals being furnished with funds from sources other than this Act and that reasonable efforts will be made to maintain existing levels of legal services for older individuals; and

"(16) provide that the State agency, from funds allotted under section 304(a) for part B will use an amount equal to an amount not less than 1 percent of such allotment or $20,000, whichever is greater, for the purpose of carrying out the provisions of clause (12), except that (A) the requirement of this clause shall not apply in any fiscal year in which a State spends from State or local sources an amount equal to the amount required to be spent by this clause; and (B) the provisions of this clause shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

"(b) (1) The Commission shall approve any State plan which he finds fulfills the requirements of subsection (a).

"(2) The Commissioner, in approving any State plan under this section may, for the fiscal years 1979 and 1980, waive any particular requirement relating to the delivery of services or the establishment or operation of multipurpose senior centers which such State agency cannot meet because of the consolidation authorized by the Comprehensive Older Americans Act Amendments of 1978 or because meeting such requirement would reduce or jeopardize the quality of services under this Act, except that the Commissioner may grant such a waiver only if the State agency demonstrates that it is taking steps to meet the requirements of this title, but in any event the Commissioner may not grant a waiver for any requirement of this Act in effect on September 30, 1978. The Commissioner may not disapprove any State plan under paragraph (1) solely on the ground that a State requested a waiver under the preceding sentence.

"(3) The Commissioner, in approving any State plan under this section, may waive the requirement described in clause (3)(B) of subsection (a) if the State agency demonstrates to the Commissioner that the service needs of older individuals residing in rural areas in the State are being met, or that the number of older individuals residing in such rural areas is not sufficient to require the State agency to comply with the requirement described in clause (3)(B) of subsection (a).

"(c) The Commissioner shall not make a final determination disapproving any State plan, or any modification thereof, or make a final determination that a State is ineligible under section 305, without first affording the State reasonable notice and opportunity for a hearing.

"(d) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State agency, finds that—

"(1) the State is not eligible under section 305,

"(2) the State plan has been so changed that it no longer complies substantially with the provisions of subsection (a), or

"(3) in the administration of the plan there is a failure to comply substantially with any such provision of subsection (a),

the Commissioner shall notify such State agency that no further payments from its allotments under section 304 and section 308 will be made to the State (or in his discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments shall be made to such State from its allotments under section 304 and section 308 (or payments shall be limited to projects under or portions of the State plan not affected by such failure). The Commissioner shall, in accordance with regulations he shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency or political subdivision of such State submitting an approved plan in accordance with the provisions of section 307. Any such payment shall be matched in the proportions specified in section 304.

"(e)(1) A State which is dissatisfied with a final action of the Commisisoner under subsection (b), (c), or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within 30 days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commisisoner, or any officer designated by him for such purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner shall, within 30 days, file in the court the record of those further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(3) The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

"PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS

"SEC. 308 (a)(1) Amounts appropriated under section 303 may be used to make grants to States for paying such percentages as each State agency determines, but not more than 75 percent, of the cost of the administration of its State plans, including the preparation of the State plan, the evaluation of activities carried out under such plan, the collection of data and the carrying out of analyses related to the need for social services, nutrition services, and multipurpose senior centers within the State, and dissemination of information so obtained, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this Act, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of services assisted under this title.

"(2) Any sums received by a State under this section for part of the cost of the administration of its State plan which the State determines is not needed for such purpose may be used by the State to supplement the amount available under section 304(d)(1)(A) to cover part of the cost of the administration of area plans.

"(3) Any State which has designated a single planning and service area under section 305(a)(1)(E) covering all, or substantially all, of the older individuals in such State, as determined by the Commissioner, may elect to pay part of the costs of the administration of State and area plans either out of sums received under this section or out of sums made available for the administration of area plans under section 304(d)(1)(A), but shall not pay such costs out of sums received or allotted under both such sections.

"(b)(1) From the sums appropriated for any fiscal year under section 303 for carrying out the purposes of this section, each State shall be allotted an amount which bears the same ratio to such sums as the population aged 60 or older in such State bears to the population aged 60 or older in all States, except that (A) no State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made, or $300,000, whichever is greater; and (B) Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands shall be each allotted no less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made, or $75,000, whichever is greater. For the purpose of the exception contained in clause (A), the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

"(2)(A) Any State which desires to receive amounts, in addition to amounts allotted to such State under paragraph (1), to be used in the administration of its State plan in accordance with subsection (a) may transmit an application to the Commissioner in accordance with this paragraph. Any such application shall be transmitted in such form, and according to such procedures, as the Commissioner may require, except that such application may not be made as part of, or as an amendment to, the State plan.

"(B) The Commissioner may approve any application transmitted by a State under subparagraph (A) if the Commissioner determines, based upon a particularized showing of need, that—

"(i) the State will be unable to fully and effectively administer its State plan and to carry out programs and projects authorized by this title unless such additional amounts are made available by the Commissioner;

"(ii) the State is making full and effective use of its allotment under paragraph (1) and of the personnel of the State agency and area agencies designated under section 305(a)(2)(A) in the administration of its State plan in accordance with subsection (a); and

"(iii) the State agency and area agencies of such State designated under section 305 are carrying out, on a full-time basis, programs and activities which are in furtherance of the purposes of this Act.

"(C) The Commissioner may approve that portion of the amount requested by a State in its application under subparagraph (A) which he determines has been justified in such application.

"(D) Amounts which any State may receive in any fiscal year under this paragraph may not exceed three-fourths of 1 percent of the sum of the amounts allotted under section 304(a) to such State to carry out the State plan for such fiscal year.

"(E) No application by a State under subparagraph (A) shall be approved unless it contains assurances that no amounts received by the State under this paragraph will be used to hire any individual to fill a job opening created by the action of the State in laying off or terminating the employment of any regular employee not supported under this Act in anticipation of filling the vacancy so created by hiring an employee to be supported through use of amounts received under this paragraph.

"(3) Each State shall be entitled to an allotment under this section for any fiscal year in an amount which is not less than the amount of the allotment to which such State was entitled under paragraph (1) for the fiscal year ending June 30, 1975.

"(4) The number of individuals aged 60 or older in any State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

"(5) Notwithstanding any other provision of this title, with respect to funds received under section 303(b)(1) and (2), a State may elect in its plan under section 307(a)(13) regarding part C of this title, to transfer a portion of the funds appropriated between subpart 1 and subpart 2 of part C, for use as the State considers appropriate to meet the needs of the area served. The Commissioner shall approve any such transfer unless he determines that such transfer is not consistent with the purposes of this Act.

"(c) The amounts of any State's allotment under subsection (b) for any fiscal year which the Commissioner determines will not be required for that year for the purposes described in subsection (a)(1) shall be available to provide services under part B or part C, or both, in the State.

"PAYMENTS

"SEC. 309. (a) Payments of grants or contracts under this title may be made (after necessary adjustments resulting from previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine. From a State's allotment for a fiscal year which is available under section 308 the Commissioner may pay to a State which does not have a State plan approved under section 307 such amounts as he deems appropriate for the purpose of assisting such State in developing a State plan.

"(b)(1) For each fiscal year, not less than 25 percent of the non-Federal share of the total expenditures under the State plan which is required by section 304(d) shall be met from funds from State or local public sources.

"(2) Funds required to meet the non-Federal share required by section 304(d)(1)(B), in amounts exceeding the non-Federal share required prior to fiscal year 1981, shall be met from State sources.

"(c) A State's allotment under section 304 for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 307 are less than its expenditures from such sources for the preceding fiscal year.

"DISASTER RELIEF REIMBURSEMENTS

"Sec. 310. (a) (1) The Commissioner may provide reimbursements to any State, upon application for such reimbursement, for funds such State makes available to area agencies in such State for the delivery of social services during any major disaster declared by the President in accordance with the Disaster Relief Act of 1974.

"(2) Total payments to all States under paragraph (1) in any fiscal year shall not exceed 5 percent of the total amount appropriated and available for carrying out the purposes of section 421.

"(b) (1) At the beginning of each fiscal year the Commissioner shall set aside, for payment to States under subsection (a), an amount equal to 5 percent of the total amount appropriated and available for carrying out the purposes of section 421.

"(2) Amounts set aside under paragraph (1) which are not obligated by the end of the third quarter of any fiscal year shall be made available for carrying out the purposes of section 421.

"(c) Nothing in this section shall be construed to prohibit expenditures by States for disaster relief for older individuals in excess of amounts reimbursable under this section, by using funds made available to them under other sections of this Act or under other provisions of Federal or State law, or from private sources.

"AVAILABILITY OF SURPLUS COMMODITIES

"Sec. 311. (a) (1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

"(2) The Commodity Credit Corporation shall dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

"(3) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1) shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this title.

"(4) In donating commodities under this subsection, the Secretary of Agriculture shall maintain an annually programmed level of assistance of not less than 15 cents per meal during fiscal year 1976, 25 cents per meal during fiscal year 1977 and fiscal year 1978, and 30 cents per meal during the three succeeding fiscal years. The amount specified in this paragraph shall be adjusted on an annual basis for each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among the commodities delivered under this subsection, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the terms and conditions respecting the dothe terms and conditions respecting the donating of commodities under this subsection.

"(b) (1) During each of the fiscal years ending before October 1, 1981, the Secretary of Agriculture shall purchase high protein foods, meat, and meat alternates on the open market, at prices not in excess of market prices, out of funds appropriated under this section, as determined under paragraph (3), for distribution to recipients of grants or contracts to be used for providing nutrition services in accordance with the provisions of this title. High protein foods, meat, and meat alternates purchased by the Secretary of Agriculture under this subsection shall be grown and produced in the United States.

"(2) High protein foods, meat, and meat alternates donated under this subsection shall not be considered donated commodities for purposes of meeting the requirement of subsection (a) (4) with respect to the annually programmed level of assistance under subsection (a).

"(3) There are authorized to be appropriated such sums as may be necessary in order to carry out the program established by paragraph (1).

"(c) (1) Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this Act, elect to receive cash payments in lieu of donated foods for all or any portion of its project. In any case in which a State makes such an election, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution.

"(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

"(3) Nothing in this subsection shall be construed to authorize the Secretary of Agriculture to require any State to elect to receive cash payments under this subsection.

"MULTIPURPOSE SENIOR CENTERS: RECAPTURE OF PAYMENTS

"Sec. 312. If, within 10 years after acquisition, or within 20 years after the completion of construction, of any facility for which funds have been paid under this title—

"(1) the owner of the facility ceases to be a public or nonprofit private agency or organization; or

"(2) the facility ceases to be used for the purposes for which it was acquired (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"AUDIT

"Sec. 313. The Commissioner and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this title.

"PART B—SOCIAL SERVICES

"PROGRAM AUTHORIZED

"Sec. 321. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for any of the following social services:

"(1) health, continuing education, welfare, informational, recreational, homemaker, counseling, or referral services;

"(2) transportation services to facilitate access to social services or nutrition services, or both;

"(3) services designed to encourage and assist older individuals to use the facilities and services available to them;

"(4) services designed to assist older individuals to obtain adequate housing, including residential repair and renovation projects designed to enable older individuals to maintain their homes in conformity with minimum housing standards or to adapt homes to meet the needs of older individuals suffering from physical disabilities;

"(5) services designed to assist older individuals in avoiding institutionalization, including preinstitution evaluation and screening and home health services, homemaker services, shopping services, escort services, reader services, letter writing services, and other similar services designed to assist such individuals to continue living independently in a home environment;

"(6) services designed to provide legal services and other counseling services and assistance, including tax counseling and assistance and financial counseling, to older individuals;

"(7) services designed to enable older individuals to attain and maintain physical and mental well-being through programs of regular physical activity and exercise;

"(8) services designed to provide health screening to detect or prevent illness, or both, that occur most frequently in older individuals;

"(9) services designed to provide preretirement and second career counseling for older individuals;

"(10) services of an ombudsman at the State level to receive, investigate, and act on complaints by older individuals who are residents of long-term care facilities and to advocate the well-being of such individuals;

"(11) services which are designed to meet the unique needs of older individuals who are disabled; or

"(12) any other services;

if such services meet standards prescribed by the Commissioner and are necessary for the general welfare of older individuals.

"(b) (1) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the acquisition, alteration, or renovation of existing facilities, including mobile units, and, where appropriate, construction of facilities to serve as multipurpose senior centers which shall be community facilities for the organization and provision of a broad spectrum of services, including provision of health, social, nutritional, and educational services and provisions of facilities for recreational activities for older individuals.

"(2) Funds made available to a State under this part may be used, for the purpose of assisting in the operation of multipurpose senior centers, to meet all or part of the costs of compensating professional and technical personnel required for the operation of multipurpose senior centers.

"PART C—NUTRITION SERVICES

"Subpart 1—Congregate Nutrition Services

"PROGRAM AUTHORIZED

"Sec. 331. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects—

"(1) which, 5 or more days a week, provide at least one hot or other appropriate meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council;

"(2) which shall be provided in congregate settings; and

"(3) which may include nutrition education services and other appropriate nutrition services for older individuals.

"Subpart 2—Home Delivered Nutrition Services

"PROGRAM AUTHORIZED

"SEC. 336. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for older individuals which, 5 or more days a week, provide at least one home delivered hot, cold, frozen, dried, canned, or supplemental foods (with a satisfactory storage life) meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Services-National Research Council.

"CRITERIA

"SEC. 337. The Commissioner, in consultation with organizations of and for the aged, blind, and disabled, and with representatives from the American Dietetic Association, the Association of Areas Agencies on Aging, the National Association of Title VII Project Directors, the National Association of Meals Programs, Incorporated, and any other appropriate group, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 36. The criteria required by this section shall take into account the ability of established home delivered meals programs to continue such services without major alteration in the furnishing of such services.".

TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

SEC. 104. (a)(1) Section 401 is amended to read as follows:

"STATEMENT OF PURPOSE

"SEC. 401. (a) The purpose of this part is to develop and implement a national manpower policy for the field of aging. Such a policy shall reflect the present and future needs for training personnel, including personnel involved in advocacy and leadership, in all programs serving the elderly recognizing the unique health, transportation, and housing problems of the elderly, the continual growth of the elderly population of the United States, and the high incidence of disabilities within such population. The national manpower policy established under this part shall require that training programs shall give priority to training personnel responsible for carrying out projects relating to multipurpose senior centers under part B of title III and for carrying out programs under part C of title III.

"(b) The policy required by this title shall be developed and implemented by the Commissioner in cooperation with other departments and agencies of the Federal Government, including the Public Health Service, the Health Care Financing Administration, the Social Security Administration, the National Institutes of Health, and in particular the National Institute on Aging, the Administration for Public Services, the Rehabilitation Services Administration, the Veterans' Administration, the Department of Labor, the Department of Housing and Urban Development, and the Department of Transportation, State employment agencies, State and area agencies on aging, and other appropriate agencies.".

(2) Section 402 is amended to read as follows:

"APPRAISING PERSONNEL NEEDS IN THE FIELD OF AGING

"SEC. 402. (a) The Commissioner shall, at such times as he deems appropriate and in cooperation with representatives referred to in section 401(b), assess the Nation's existing and future personnel needs in the field of aging, including as part of such assessment, the needs for personnel in both institutional and non-institutional long-term care settings, and evaluate all programs, including institutional and non-institutional long-term care programs, serving the elderly at all levels of government recognizing the continual growth of the elderly population. The assessment required by this section shall be conducted in accordance with the national manpower policy developed under section 401.

"(b) The assessment required by this section shall be submitted biennially to the Congress. Each such report shall indicate the impact of the assessment on the national manpower policy and plans for the future.".

(3)(A) Section 403 is amended by striking out "The" and inserting in lieu thereof the following: "In accordance with the requirements set forth in the national manpower policy, the".

(B) Section 403(4) is amended by striking out "to the purposes of this Act" and inserting in lieu thereof "to the field of aging".

(4)(A) Section 404(a) is amended—

(i) by striking out "The" and inserting in lieu thereof the following: "In accordance with the requirements set forth in the national manpower policy, the"; and

(ii) by striking out "fields related to the purposes of this Act" and inserting in lieu thereof "the field of aging".

(B) Section 404(a)(1) is amended by striking out "purposes of this Act" and inserting in lieu thereof "field of aging".

(C) Section 404(a) is further amended by redesignating clauses (1), (2), (3), (4), (5), and (6) as clauses (2), (3), (4), (5), (6), and (7), respectively, and by inserting after the dash the following new clause:

"(1) to coordinate the training efforts of all programs serving the elderly at the Federal, State, and local levels recognizing the continual growth of the elderly population,".

(D) Section 404(a) is further amended by redesignating clauses (6) and (7), as so redesignated in subparagraph (C), as clauses (8) and (9), respectively, and by inserting after clause (5), as so redesignated in subparagraph (C) the following new clauses:

"(6) to assess future national personnel needs, including the need for training of advocates, with respect to the elderly with special emphasis on the needs of elderly minority group individuals and the need for the training of minority group individuals to meet such needs,

"(7) to assist in paying the costs, in whole or in part, of special courses of training designed to meet the needs of service providers in rural areas,".

(b)(1)(A) Section 411 is amended by inserting "(a)" after the section designation.

(B) Section 411(a), as so redesignated in subparagraph (A), is amended by striking out "The" and inserting in lieu thereof "To support research efforts related to the implementation of this Act together with areas of concern relating to the living conditions of the elderly, the".

(2) Section 411 is further amended by adding at the end thereof the following new subsections:

"(b) In accordance with the purposes of this part, the Commissioner shall make grants to any public agency or nonprofit private organization or institution and contracts with any agency, organization, or institution or with an individual for the purpose of—

"(1) conducting a study related to the problems experienced by State and area agencies on aging and other service providers in operating transportation services, with particular emphasis on the difficulties of continually rising insurance costs and restrictions being placed upon the operation of such services by insurance underwriters;

"(2) revising existing Federal transportation programs for older individuals to—

"(A) provide more coordinated and comprehensive services to such individuals;

"(B) eliminate unnecessary duplication among such programs;

"(C) eliminate disparities in eligibility requirements among Federal transportation programs for older persons; and

"(D) study the possibility of transferring to a single administrative unit the responsibility for the administration of all Federal transportation programs for older individuals; and

"(3) conducting a study related to the differences in unit costs, service delivery, and access between rural areas and urban areas for services assisted under this Act and the special needs of the elderly residing in rural "areas.

"(c) Upon completion of the studies described in subsection (b), but not later than 2 years after the date of the enactment of the Comprehensive Older Americans Act Amendments of 1978, the Commissioner shall submit to the Congress and make available through the National Information and Resource Clearing House for the Aging the results of the studies, together with such recommendations as he deems necessary.".

(3) Section 412 is hereby repealed.

(c)(1) Title IV is amended—

(A) by designating part C and part E as part D and part F, respectively;

(B) by redesignating sections 421, 431, and 432 as sections 441, 451, and 452, respectively; and

(C) by inserting after part B the following new parts:

"PART C—DISCRETIONARY PROJECTS AND PROGRAMS

"DEMONSTRATION PROJECTS

"SEC. 421. (a) The Commissioner may, after consultation with the State agency in the State involved, make grants to any public agency or nonprofit private organization or enter into contracts with any agency or organization within such State for paying part or all of the cost of developing or operating nationwide, statewide, regional, metropolitan area, county, city, or community model projects which will demonstrate methods to improve or expand social services or nutrition services or otherwise promote the well-being of older individuals. The Commissioner shall give special consideration to the funding of rural area agencies on aging to conduct model projects devoted to the special needs of the rural elderly. Such projects shall include alternative health care delivery systems, advocacy and outreach programs, and transportation services.

"(b) In making grants and contracts under this section, the Commissioner shall give special consideration to projects designed to—

"(1) assist in meeting the special housing needs of older individuals by—

"(A) providing financial assistance to such individuals, who own their own homes, necessary to enable them to make the repairs or renovations to their homes, which are necessary for them to meet minimum standards;

"(B) studying and demonstrating methods of adapting existing housing, or construction of new housing, to meet the needs of older individuals suffering from physical disabilities; and

"(C) demonstrating alternative methods of relieving older individuals of the burden of real property taxes on their homes;

"(2) provide continuing education to older individuals designed to enable them to lead more productive lives by broadening the educational, cultural, or social awareness of such older individuals, emphasizing, where possible, free tuition arrangements with colleges and universities;

"(3) provide preretirement education information, and relevant services (including the training of personnel to carry out such programs and the conducting of research with respect to the development and operation of such programs) to individuals planning retirement;

"(4) provide services to assist in meeting the particular needs of physically and mentally impaired older individuals, including special transportation and escort services, homemaker, home health and shopping services, reader services, letter writing services, and other services designed to assist such individuals in leading more independent lives;

"(5) meet the special needs of, and improve the delivery of services to, older individuals who are not receiving adequate services under other provisions of this Act, with emphasis on the needs of low-income, minority, Indian, and limited English-speaking individuals and the rural elderly;

"(6) assist older individuals to remain within their communities and out of institutions and to maintain their independent living, in their own residences or in a family living arrangement, by—

"(A) providing financial assistance for the establishment and operation of senior ambulatory care day centers (providing a planned schedule of health, therapeutic, education, nutrition, recreational, rehabilitation, and social services at least 24 hours per week, transportation arrangements at low or no cost for participants to and from the center, a mid-day meal, outreach and public information programs, and opportunities for maximum participation of senior participants and senior volunteers in the planning and operation of the center); and

"(B) maintaining or initiating arrangements (or providing reasonable assurances that such arrangements will be maintained or initiated) with any agency of the State involved which administers or supervises the administration of a State plan approved under titles XIX and XX of the Social Security Act, and with other appropriate social services agencies receiving, or reimbursed through, Federal financial assistance, for the payment of all or a part of the center's costs in providing services to eligible individuals;

"(7) meet the special needs of older individuals residing in rural areas; or

"(8) develop or improve methods of coordinating all available social services for the homebound elderly, blind, and disabled by establishing demonstration projects in 10 States, in accordance with subsection (c).

"(c)(1) The Commissioner shall consult with the Commissioner of the Rehabilitation Services Administration, the Commissioner of the Social Security Administration, and the Surgeon General of the Public Health Service, to develop procedures for—

"(A) identifying elderly, blind, and disabled individuals who need social services;

"(B) compiling a list in each community of all services available to the elderly, blind, and disabled; and

"(C) establishing an information and referral service within the appropriate community agency to—

"(i) inform those in need of the availability of such services; and

"(ii) coordinate the delivery of such services to the elderly, blind, and disabled.

The Commissioner shall establish procedures for administering demonstration projects under subsection (b)(8) no later than 6 months after the effective date of this subsection. The Commissioner shall report to the Congress with respect to the results and findings of the demonstration projects at the end of fiscal year 1979. In such report, the Commissioner shall make such recommendation, based upon the findings, as may be appropriate to improve the delivery of social services to such elderly, blind, and disabled individuals.

"(2)(A) There are authorized to be appropriated for fiscal years 1979, 1980, and 1981, such sums as may be necessary for the purpose of implementing the demonstration projects under subsection (b)(8).

"(B) For the purpose of carrying out this subsection there are authorized to be appropriated such sums as may be necessary for fiscal year 1979.

"SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE

"SEC. 422. (a)(1) The Commissioner may make grants to selected State agencies designated under section 305(a)(1), and, in consultation with State agencies, selected area agencies on aging designated under section 305(a)(2)(A), institutions of higher education, and other public agencies and private nonprofit organizations, associations, and groups to support the development of comprehensive, coordinated systems of community long-term care for older individuals, with special emphasis upon—

"(A) services designed to support alternatives to institutional living; and

"(B) the assessment of need, the development of a plan of care, and the referral of individuals, in the delivery of long-term care services, including non-institutional and institutional services, where appropriate.

"(2) A grant under this section may be made to pay part or all of the estimated cost of a program (including start-up cost) for a period of not more than 3 years, except that no funds may be used to pay for direct services which are eligible for reimbursement under title XVIII, title XIX, or title XX of the Social Security Act.

"(3) A grant made under this section shall be used for the development of programs which provides a full continuum of services. Such services may include—

"(A) adult day health;

"(B) monitoring and evaluation of service effectiveness;

"(C) supported living in public and private nonprofit housing;

"(D) family respite services;

"(E) preventive health services;

"(F) home health, homemaker, and other rehabilitative and maintenance in-home services;

"(G) geriatric health maintenance organizations; and

"(H) other services which the Commissioner determines are appropriate, which were previously unavailable to the individuals to be served and which, at a minimum, provide for identification and assessment of the long-term care needs of older individuals, referral of such individuals to the appropriate services, and follow-up and evaluation of the continued appropriateness of such services with provisions for re-referral as appropriate.

"(4) A grant under this section may be used to encourage the development of manpower training programs designed to further the purposes described in paragraph (3).

"(b)(1) In making grants to States under this section preference shall be given to applicants which demonstrate that—

"(A) adequate State standards have been developed to ensure the quality of services provided;

"(B) the State has made a commitment to carry out the program assisted under this section with the State agency responsible for the administration of title XIX of the Social Security Act or title XX of the Social Security Act, or both such agencies;

"(C) the State will develop plans to finance the comprehensive program assisted under this section; and

"(D) the State agency has a plan for statewide or designated regions of the State containing provisions designed to maximize access to older individuals for long-term care services.

"(2) In awarding grants to agencies and organizations under this section, preference shall be given to applicants that—

"(A) possess the capability to establish community-based long-term care programs; and

"(B) demonstrate that a need exists for the establishment of such programs in the area to be served.

"(3) Agencies and organizations assisted under this section shall establish procedures for evaluating the program assisted under this section, with respect to the benefits accruing to persons receiving assistance, the feasibility of the administrative model used for comprehensive coordination of services including coordination with other local programs, and the comparative costs and quality of services provided, and shall submit such evaluation to the Commissioner on a periodic basis.

"(c) The Secretary shall involve appropriate Federal departments and agencies in carrying out the provisions of this section in order to assure coordination at the Federal level and to avoid duplication and shall report to the Congress annually on the impact of grants made, on the experiences of grantees in meeting the requirements of this section, and on the comparative benefits and costs of project assisted under this section.

"(d) Sums appropriated to carry out this section shall, to the extent feasible, be used to support programs equitably distributed throughout the Nation between urban and rural areas.

"SPECIAL DEMONSTRATION PROJECTS ON LEGAL SERVICES FOR OLDER AMERICANS

"SEC. 423. (a) The Commissioner may make grants to and enter into contracts with public and private nonprofit agencies or organizations in order to—

"(1) support legal research, technical assistance, training, information dissemination, and other support activities to agencies, organizations, institutions, and private law firms that are providing, developing, or supporting pro bono or reduced-fee legal services to older individuals; and

"(2) support demonstration projects to expand or improve the delivery of legal services to older individuals with social or economic need.

"(b) Any grants or contracts entered into under subsection (a)(2) shall contain assurances that the requirements of section 307(a)(15) are met.

"(c) From the sums appropriated under section 451 for each fiscal year, not less than $5,000,000 shall be reserved to carry out the provisions of this section.

"NATIONAL IMPACT DEMONSTRATIONS

"SEC. 424. (a) The Commissioner may carry out directly or through grants or contracts—

"(1) innovation and development projects and activities of national significance which show promise of having substantial impact on the expansion or improvement of social services, nutrition services, or multipurpose senior centers or otherwise promoting the well-being of older individuals; and

"(2) dissemination of information activities related to such programs.

"(b) An amount not to exceed 15 percent of any sums appropriated under section 451 may be used for carrying out this section.

"UTILITY AND HOME HEATING COST DEMONSTRATION PROJECTS

"SEC. 425. The Secretary may, after consultation with the appropriate State agency designated under section 305(a)(1), make grants to pay for part or all of the costs of developing model projects which show promise of relieving older individuals of the excessive burdens of high utility service and home heating costs. Any such project shall give special consideration to projects under which a business concern engaged in providing home heating oil to the public, or a public utility, provides home heating oil or utility services to low-income older individuals at a cost which is substantially lower than providing home heating oil or utility services to other individuals.

"Part D—Mortgage Insurance and Interest Grants for Multipurpose Senior Centers

"MORTGAGE INSURANCE AUTHORIZED

"Sec. 431. (a) It is the purpose of this part to assist and encourage the provision of urgently needed facilities for programs for the elderly.

"(b) For the purpose of this part the terms 'mortgage', 'mortgagor', 'mortgagee', 'maturity date', and 'State' shall have the meanings respectively set forth in section 207 of the National Housing Act.

"(c) The Secretary of Health, Education, and Welfare is authorized to insure any mortgage (including advances on such mortgage during acquisition, alteration, renovation, or construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

"(d) In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers a new multipurpose senior center, including equipment to be used in its operation, subject to the following conditions:

"(1) The mortgage shall be executed by a mortgagor, approved by the Secretary, who demonstrates ability successfully to operate one or more programs for the elderly. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Multipurpose Senior Center Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

"(2) The mortgage shall involve a principal obligation in an amount not to exceed $250,000 and not to exceed 90 percent of the estimated replacement cost of the property or project, including equipment to be used in the operation of the multipurpose senior center, when the proposed improvements are completed and the equipment is installed.

"(3) The mortgage shall—

"(A) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe, and

"(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market.

"(4) The Secretary shall not insure any mortgage under this section unless he has determined that the center to be covered by the mortgage will be in compliance with minimum standards to be prescribed by the Secretary.

"(5) In the plans for such multipurpose senior center, due consideration shall be given to excellence or architecture and design, and to the inclusion of works of art (not representing more than 1 percent of the cost of the project).

"(c) The Secretary shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Multipurpose Senior Center Insurance Fund issued at par plus accrued interest. In the case of any mortgage such charge shall not be less than an amount equivalent to one-fourth of 1 percent per annum nor more than an amount equivalent to 1 percent per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge provided for in this subsection, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during acquisition, alteration, or renovation; but such charges for appraisal and inspection shall not aggregate more than 1 percent of the original principal face amount of the mortgage.

"(f) The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

"(g)(1) The Secretary shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act.

"(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Multipurpose Senior Center Insurance Fund, and all references in such provisions to 'Secretary' shall be deemed to refer to the Secretary of Health, Education, and Welfare.

"(h)(1) There is hereby created a Multipurpose Senior Center Insurance Fund which shall be used by the Secretary as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Multipurpose Senior Center Insurance Fund.

"(2) The general expenses of the operations of the Department of Health, Education, and Welfare relating to mortgages insured under this section may be charged to the Multipurpose Senior Center Insurance Fund.

"(3) Moneys in the Multipurpose Senior Center Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Multipurpose Senior Center Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

"(4) Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings as the assets of the fund, shall be credited to the Multipurpose Senior Center Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired or constructed in connection with mortgages insured under this section, shall be charged to such fund.

"(5) There are authorized to be appropriated to provide initial capital for the Multipurpose Senior Center Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary.

"ANNUAL INTEREST GRANTS

"Sec. 432. (a) To assist nonprofit private agencies to reduce the cost of borrowing from other sources for the acquisition, alteration, renovation, or construction of facilities for multipurpose senior centers, the Secretary may make annual interest grants to such agencies.

"(b) Annual interest grants under this section with respect to any facility shall be made over a fixed period not exceeding forty years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount not greater than the difference between (1) the average annual debt service which would be required to be paid, during the life of the loan, on the amount borrowed from other sources for the acquisition, alteration, renovation, or construction of such facilities, and (2) the average annual debt service which the institution would have been required to pay, during the life of the loan, with respect to such amounts if the applicable interest rate were 3 percent per annum, except that the amount on which such grant is based shall be approved by the Secretary.

"(c)(1) There are hereby authorized to be appropriated to the Secretary such sums as may be necessary for payment of annual interest grants in accordance with this section.

"(2) Contracts for annual interest grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts.

"(d) Not more than 12½ per centum of the funds provided for in this section for grants may be used within any one State.".

(2) The heading of title IV is amended to read as follows:

"TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS".

(d)(1) The first sentence of section 441, as so redesignated in subsection (c)(1), is amended by inserting before the period a comma and the following: "and gerontology centers of special emphasis (including health income maintenance, housing, service delivery and utilization, preretirement and retirement, and long-term care and alternatives)".

(2) Section 441(1)(A), as so redesignated in subsection (c)(1), is amended by inserting before the comma the following: "In accordance with the national manpower policy as described in section 401".

(3) Section 441 as so redesignated in subsection (c)(1), is amended by striking out "and" at the end of clause (2), by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon and "and", and by adding at the end thereof the following new clause:

"(4) provides for making biennial reports to the Commissioner summarizing the training, research, and special demonstration efforts of the centers which shall then be made available through the National Information and Resource Clearing House for the Aging, where appropriate.".

(e)(1) Section 451, as so redesignated in subsection (c)(1)(B), is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 451. (a) Except as otherwise specifically provided in this title, there are authorized to be appropriated to carry out the provisions of this title such sums as may be necessary for each fiscal year ending prior to October 1, 1981.

"(b) No funds appropriated under this section—

"(1) may be transferred to any office or other authority of the Department of Health, Education, and Welfare which is not directly responsible to the Commissioner; or

"(2) may be used for any research program or activity which is not specifically authorized by this title.".

(2) Section 452, as so redesignated in subsection (c)(1), is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) The Commissioner may make multicategorical grants or contracts under any or all sections of this title by making grants or contracts for the purpose of supporting extensive research and demonstration of particular areas of need.".

COMMUNITY SERVICE EMPLOYMENT

SEC. 105. (a) The Act is amended by redesignating title IX as title V, and by redesignating section 901 through section 908 as section 501 through section 508, respectively.

(b)(1) Section 502(b) is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary shall develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to prime sponsors, labor organizations, groups representing business and industry and workers as well as to individual employers, were appropriate.

"(4) The Secretary may enter into an agreement with the Administrator of the Environmental Protection Agency to establish a Senior Environmental Employment Corps.".

(2) Section 502, as so redesignated in subsection (a), is amended by adding at the end thereof the following new subsections:

"(d)(1) Whenever a national organization or other program sponsor conducts a project within a State such organization or program sponsor shall submit to the State agency on aging a description of such project to be conducted in the State, including the location of the project, 30 days prior to undertaking the project, for review and comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of programs under this title.

"(2) The Secretary shall review on his own initiative or at the request of any public or private nonprofit agency or organization, or an agency of the State government, the distribution of programs under this title within the State, including the distribution between urban and rural areas within the State. For each proposed reallocation of programs within a State, the Secretary shall give notice and opportunity for a hearing on the record by all interested individuals and make a written determination of his findings and decision.

"(e) The Secretary, in addition to any other authority contained in this title, may enter into agreements designed to assure the transition of individuals employed in public service jobs under this title to employment opportunities with private business concerns. The Secretary is authorized, from amounts reserved under section 506(a)(1)(B) in any fiscal year, may pay all of the costs of any agreement entered into under the provisions of this subsection.".

(c)(1) Section 503(a), as so redesignated in subsection (a), is amended by striking out "304" each place it appears therein and inserting in lieu thereof "305".

(3) Section 503, as so redesignated in subsection (a), is amended by adding at the end thereof the following new subsection:

"(f) In carrying out the provisions of this title, the Secretary may fund and expand projects concerning the Senior Environmental Employment Corps and energy conservation from sums appropriated under section 508 for such fiscal year.".

(d) Section 505, as so redesignated in subsection (a), is amended by adding at the end thereof the following new subsection:

"(c) In administering projects under this title concerning the Senior Environmental Employment Corps and energy conservation, the Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Energy and shall enter into an agreement with the Administrator and the Secretary of Energy to coordinate programs conducted by them with such projects.".

(e)(1) Section 506(a)(1), as so redesignated in subsection (a), is amended—

(A) by inserting "(A)" after "(1)" and by adding at the end thereof the following new subparagraph:

"(B) from sums appropriated under this title for each fiscal year after September 30, 1978, the Secretary shall reserve an amount not to exceed one per centum of the amount appropriated in excess of the amount appropriated for fiscal year 1978 for the purpose of entering into agreements under section 502(e), relating to improved transition to private employment.";

(B) by striking out "From" and inserting in lieu thereof "Subject to the provisions of paragraph (2), from"; and

(C) by striking out "the fiscal year ending June 30, 1975" and inserting in lieu thereof "fiscal year 1978".

(2) Section 506(a), as so redesignated in subsection (a), is amended by redesignating paragraph (2) and paragraph (3) as paragraph (3) and paragraph (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) For each fiscal year in which the sums appropriated under this title exceed the amount appropriated for fiscal year 1978, the Secretary shall reserve not more than 45 per centum of such excess amount for the purpose described in paragraph (1). The remainder of such excess shall be allotted pursuant to paragraph (3).".

(3) Section 506(a)(3), as so redesignated in subsection (a) and in paragraph (2), is amended by striking out "908" and inserting in lieu there of "508".

(f) Section 507(2), as so redesignated in subsection (a), is amended by inserting "(including any such individual whose income is not more than 125 per centum of the poverty guidelines established by the Bureau of Labor Statistics)" after "low income".

(a) Section 508, as so redesignated in subsection (a), is amended by striking out "and" the second place it appears therein, and by inserting before the period at the end thereof the following: ", $350,000,000 for the fiscal year ending September 30, 1979, $400,000,000 for the fiscal year ending September 30, 1980, and $450,000,000 for the fiscal year ending September 30, 1981".

GRANTS FOR INDIAN TRIBES

SEC. 106. The Act is amended by adding after title V the following new title:

"TITLE VI—GRANTS FOR INDIAN TRIBES

"STATEMENT OF PURPOSE

"SEC. 601. It is the purpose of this title to promote the delivery of social services, including nutritional services, for Indians that are comparable to services provided under title III.

"ELIGIBILITY

"SEC. 602. (a) A tribal organization of an Indian tribe is eligible for assistance under this title only if—

"(1) the tribal organization represents at least 75 individuals who have attained 60 years of age or older;

"(2) the tribal organization demonstrates the ability to deliver social services, including nutritional services; and

"(3) individuals to be served by the tribal organization will not receive for the year for which application under this title is made, services under this title III.

"(b) The terms 'Indian tribe' and 'tribal organization' for the purposes of this title are defined as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"GRANTS AUTHORIZED

"SEC. 603. The Commissioner may make grants to eligible tribal organizations to pay all of the costs for delivery of social services and nutritional services for Indians who are aged 60 and older.

"APPLICATIONS

"SEC. 604. (a) No grant may be made under this title unless the eligible tribal organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

"(1) provide that the eligible tribal organization will evaluate the need for social and nutritional services among older Indians to be represented by the tribal organization;

"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted:

"(3) provide that the tribal organization will make such reports in such form and containing such information, as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports;

"(4) provide that a nonprofit private organization selected by the tribal organization will conduct periodic evaluation of activities and projects carried out under the application:

"(5) establish objectives consistent with the purposes of this title toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the tribal organization proposes to overcome such obstacles:

"(6) provide for establishing and maintaining information and referral services to assure that older Indians to be served by the assistance made available under this title will have reasonably convenient access to such services;

"(7) provide a preference for Indians aged 60 and older for full- or part-time staff positions wherever feasible;

"(8) provide assurances that either directly or by way of grant or contract with appropriate entities nutritional services will be delivered to older Indians represented by the tribal organization substantially in compliance with the provisions of part C of title III;

"(9) certain assurances that the provisions of sections 307(a)(14)(A) (i) and (iii), 307(a)(14)(B), and 307(a)(14)(C) will be complied with whenever the application contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers;

"(10) provide assurances that either directly or by way of grant or contract with appropriate entities legal and ombudsman services will be made available to older Indians represented by the tribal organization substantially in compliance with the provisions of title III relating to the furnishing of similar services; and

"(11) provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract.

"(b) For the purpose of any application submitted under this title, the tribal organization may develop its own population statistics, with certification from the Bureau of Indian Affairs, in order to establish eligibility.

"(c) The Commissioner shall approve any application which complies with the provisions of subsection (a).

(d) Whenever the Commissioner approves an application under this title he shall withhold from the allotment of the appropriate State made under section 304 an amount attributable to the Indians to be served under the application who were also counted for the purpose of allotments under title III. The Commissioner shall reallot sums withheld under this subsection in accordance with the provisions of section 304(b).

"(e) Whenever the Commissioner determines not to approve an application submitted under subsection (a) he shall—

"(1) state his objections in writing to the tribal organization within 60 days after such decision;

"(2) provide to the extent practicable technical assistance to the tribal organization to overcome his stated objection; and

"(3) provide the tribal organization with a hearing, under such rules and regulations as he may prescribe.

"(f) Whenever the Commissioner approves an application of a tribal organization under this title, funds shall be awarded for not less than 12 months, during which time such tribal organization may not receive funds under title III.

"ADMINISTRATION

"SEC. 605. (a) In establishing regulations for the purpose of this title the Commissioner shall consult with the Secretary of the Interior.

"(b) The Commissioner shall prescribe final regulations for the administration of this title not later than 90 days after the date of the enactment of the Comprehensive Older Americans Act Amendments of 1978.

"SURPLUS EDUCATIONAL FACILITIES

"SEC. 606. (a) Notwithstanding any other provision of law, the Secretary of the Interior through the Bureau of Indian Affairs shall make available surplus Indian educational facilities to tribal organizations, and nonprofit organizations with tribal approval, for use as multipurpose senior centers. Such centers may be altered so as to provide extended care facilities, community center facilities, nutritional services, child care services, and other social services.

"(b) Each eligible tribal organization desiring to take advantage of such surplus facilities shall submit an application to the Secretary of the Interior at such time and in such manner, and containing or accompanied by such information, as the Secretary of the Interior determines to be necessary to carry out the provisions of this section.

"PAYMENTS

"SEC. 607. Payments may be made under this title (after necessary adjustments, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement in such installments and on such conditions, as the Commissioner may determine.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 608. (a) Except as provided in subsection (c), there are authorized to be appropriated such sums as may be necessary for fiscal years 1979, 1980, and 1981, to carry out the provisions of this title.

"(b) For any fiscal year in which less than $5,000,000 is appropriated under subsection (a) tribal organizations are authorized to receive assistance in accordance with the provisions of title III.

"(c) There are authorized to be appropriated such sums as may be necessary for fiscal years 1979, 1980, and 1981, to carry out the provisions of section 606.".

TITLE II—WHITE HOUSE CONFERENCE ON AGING

SHORT TITLE

SEC. 201. This title may be cited as the "1981 White House Conference on Aging Act".

FINDINGS AND POLICY

SEC. 202. (a) The Congress finds that—

(1) the number of individuals fifty-five years of age or older was approximately 43,000,000 in 1976, and will, by the end of this century, be over 57,000,000;

(2) nearly 5,200,000 individuals fifty-five years of age or older had incomes below the poverty level in 1976, as determined by the Federal Government;

(3) there is a great need to improve the economic well-being of older individuals;

(4) there is a great need to make comprehensive and quality health care more readily available to older individuals;

(5) there is a great need for expanding the availability of suitable and reasonable priced housing for older individuals, together with services needed for independent or semi-independent living;

(6) there is a great need for a more comprehensive and effective social service delivery system for older individuals;

(7) there is a great need for a more comprehensive long-term care policy responsive to the needs of older patients and their families;

(8) there is a great need to promote greater employment opportunities for middle-aged and older individuals who want or need to work;

(9) there is a great need to develop a national retirement policy that contributes to the fulfillment, dignity, and satisfaction of retirement years for older individuals;

(10) there is a great need for a national policy with respect to increasing, coordinating, and expediting biomedical and other appropriate research directed at determining the causes of the aging process; and

(11) false stereotypes about aging and process of aging are prevalent throughout the Nation and policies should be developed to overcome such stereotypes.

(b)(1). It is the policy of the Congress that the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenges and needs of older individuals, consistent with the objectives of this title.

(2) In developing programs for the aging pursuant to this title, emphasis should be placed upon the right and obligation of older individuals to free choice and self-help in planning their own futures.

AUTHORITY OF THE PRESIDENT AND SECRETARY; FINAL REPORT

SEC. 203. (a) The President may call a White House Conference on Aging in 1981 in order to develop recommendations for further research and action in the field of aging which will further the policies set forth in section 202. The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Commissioner on Aging and the Director of the National Institute on Aging, and the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(b) For the purpose of arriving at facts and recommendations concerning the utilization of skills experience, and energies and the improvement of the conditions of older individuals, the Conference shall bring together representatives of Federal, State, and local governments, professional and lay people who are working in the field of aging (including researchers on problems of the elderly and the process of aging), and representatives of the general public, including older individuals.

(c) A final report of the Conference, which shall include a statement of a comprehensive coherent national policy on aging together with recommendations for the implementation of the policy, shall be submitted to the President not later than 180 days following the date on which the Conference is adjourned. The findings and recommendations included in the report shall be immediately available to the public. The Secretary shall, within 90 days after submission of the report, transmit to the President and to the Congress his recommendations for administrative action and the legislation necessary to implement the recommendations contained in the report.

ADMINISTRATION

SEC. 204. (a) In administering this title the Secretary shall—

(1) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate in carrying out the provisions of this title;

(2) render all reasonable assistance, including financial assistance, to State agencies on the aging and to area agencies on aging, and to other appropriate organizations to enable them to organize and conduct conferences on aging prior to the Conference;

(3) prepare and make available background materials for the use of delegates to the Conference which he deems necessary, and prepare and distribute any such report of the Conference as may be necessary and appropriate; and

(4) engage such additional personnel as may be necessary to carry out the provisions of this title without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) In carrying out his functions under clause (2) of subsection (a) the Secretary shall assure that conferences will be so conducted as to assure broad participation of older individuals.

(c) In carrying out his responsibilities under this title the Secretary shall assure that current and adequate statistical data and other information on the well-being of older individuals in the United States are readily available, in advance of the Conference, to participants in the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to aging. In carrying out the requirements of this subsection the Secretary may make grants to, and enter into contracts with, public agenices and nonprofit private organizations.

ADVISORY COMMITTEES

SEC. 205. (a) The Secretary shall establish an advisory committee to the Conference which shall include representation from the Federal Council on Aging and other public agencies and private nonprofit organizations as appropriate. The Secretary shall establish such other committees, including technical committees, as may be necessary to assist in planning, conducting, and reviewing the

Conference. Each such committee shall be composed of professional and public members and shall include individuals from low-income families and from minority groups. A majority of the public members of each such committee shall be 55 years of age or older.

(b) Appointed members of any such committee (other than any officers or employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary but not to exceed the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons in Federal Government service employed intermittently.

DEFINITIONS

SEC. 206. For the purpose of this title—

(1) The term "area agency on aging" means the agency designated under section 305(a)(2)(A) of the Older Americans Act of 1965.

(2) The term "State agency on aging" means the agency designated under 305(a)(1) of the Older Americans Act of 1965.

(3) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(4) The term "Conference" means the White House Conference on Aging authorized in section 203(a).

(5) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 207. There are authorized to be appropriated such sums as may be necessary, for fiscal years 1979, 1980, and 1981, to carry out the provisions of this title.

TITLE III—STUDY OF RACIAL AND ETHNIC DISCRIMINATION IN PROGRAMS FOR OLDER AMERICANS

STUDY AUTHORIZED

SEC. 301. (a) The Commission on Civil Rights shall (1) undertake a comprehensive study of discrimination based on race or ethnic background in any federally-assisted programs and activities which affect older individuals; and (2) identify with particularity any such federally assisted program or activity in which evidence is found of individuals or organizations who are otherwise qualified being, on the basis of race or ethnic background, excluded from participation in, denied the benefits of, refused employment or contracts with, or subject to discrimination under, such program or activity.

(b) As part of the study required by this section, the Commission shall conduct public hearings to elicit the views of interested parties, including the heads of Federal departments and agencies, on issues relating to racial or ethnic discrimination in programs and activities affecting older individuals receiving Federal financial assistance, and particularly with respect to discrimination among potential participants in, or beneficiaries of, specific federally assisted programs.

ADMINISTRATIVE PROVISIONS

SEC. 302. (a)(1) The Commission may obtain, through grant or contract, analyses, research, and studies by independent experts of issues relating to racial and ethnic discrimination in aging programs and activities and publish the results thereof.

(2) For purposes of the study required by section 301, the Commission may accept and utilize the services of voluntary or uncompensated personnel, without regard to the provisions of section 105(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975(b)).

(b) The head of each Federal department or agency shall cooperate in all respects with the Commission with respect to the study required by section 301, and shall provide to the Commission such data, reports, and documents in connection with the subject matter of such study as the Commission may request.

REPORTS

SEC. 303. (a) Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit a report of its findings and its recommendations for any statutory changes and administrative action, including suggested general regulations, to the Congress and to the President. The Commission shall provide a copy of its report to the head of each Federal department or agency with respect to which the Commission makes findings or recommendations.

(b) Not later than 45 working days after receiving a copy of the report required by subsection (a), the head of each Federal department or agency with respect to which the Commission makes its recommendations or findings shall submit his comments and recommendations regarding such report to the President and to the appropriate committees of the Congress.

AUTHORIZATION OF APPROPRIATIONS

SEC. 304. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE IV—AMENDMENTS TO OTHER LAWS

AMENDMENTS TO AGE DISCRIMINATION ACT OF 1975

SEC. 401. (a) Section 302 of the Age Discrimination Act of 1975 is amended by striking out "unreasonable".

(b)(1) The last sentence of section 304(a)(4) of the Age Discrimination Act of 1975 is amended to read as follows: "Such regulations shall be consistent with the final general regulations issued by the Secretary, and shall not become effective until approved by the Secretary.".

(2) Section 304(a)(5) of the Age Discrimination Act of 1975 is amended by striking out "January 1, 1979" and inserting in lieu thereof "July 1, 1979".

(c) Section 305 of the Age Discrimination Act of 1975 is amended by striking out subsection (e) and inserting in lieu thereof the following new subsections:

"(e)(1) When any interested person brings an action in any United States district court for the district in which the defendant is found or transacts business to enjoin a violation of this Act by any program or activity receiving Federal financial assistance, such interested person shall give notice by registered mail not less than 30 days prior to the commencement of that action to the Secretary of Health, Education, and Welfare, the Attorney General of the United States, and the person against whom the action is directed. Such interested person may elect, by a demand for such relief in his complaint, to recover reasonable attorney's fees, in which case the court shall award the costs of suit, including a reasonable attorney's fee, to the prevailing plaintiff.

"(2) The notice referred to in paragraph (1) shall state the nature of the alleged violation, the relief to be requested, the court in which the action will be brought, and whether or not attorney's fees are being demanded in the event that the plaintiff prevails. No action described in paragraph (1) shall be brought (A) if at the time the action is brought the same alleged violation by the same defendant is the subject of a pending action in any court of the United States; or (B) if administrative remedies have not been exhausted.

"(f) With respect to actions brought for relief based on an alleged violation of the provisions of this title, administrative remedies shall be deemed exhausted upon the expiration of 180 days from the filing of an administrative complaint during which time the Federal department or agency makes no finding with regard to the complaint, or upon the day that the Federal department or agency issues a finding in favor of the recipient of financial assistance, whichever occurs first.".

(d) The Age Discrimination Act of 1975 is amended by redesignating section 308 as section 309, and by inserting after section 307 the following new section:

"REPORTS

"SEC. 308. (a) Not later than December 31 of each year (beginning in 1979), the head of each Federal department or agency shall submit to the Secretary of Health, Education, and Welfare a report (1) describing in detail the steps taken during the preceding fiscal year by such department or agency to carry out the provisions of section 303; and (2) containing specific data about program participants or beneficiaries, by age, sufficient to permit analysis of how well the department or agency is carrying out the provisions of section 303.

"(b) Not later than March 31 of each year (beginning in 1980), the Secretary of Health, Education, and Welfare shall compile the reports made pursuant to subsection (a) and shall submit them to the Congress, together with an evaluation of the performance of each department or agency with respect to carrying out the provisions of section 303.".

AMENDMENTS TO DOMESTIC VOLUNTEER SERVICE ACT OF 1973

SEC. 402. (a) Section 201 of the Domestic Volunteer Service Act of 1973 is amended—

(1) in subsections (a) and (c), by striking out "section 304(a)(1)" and inserting in lieu thereof "section 305(a)(1)" and by striking out "section 3024(a)(1)" and inserting in lieu thereof "section 3025(a)(1)";

(2) in subsection (c), by striking out "sixty" and inserting in lieu thereof "forty-five"; and

(3) by inserting at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, volunteer service under this part shall not be deemed employment for any purpose which the Director finds is not fully consistent with the provisions and in furtherance of the purpose of this part.".

(b) Section 211 of the Domestic Volunteer Service Act of 1973 is amended by adding at the end thereof the following new subsections:

"(e) The Director, in accordance with regulations he shall prescribe, may provide to persons serving as volunteers under this part, such allowances, stipends, and other support as he determines are necessary to carry out the purpose of this part. Any stipend or allowance provided under this subsection shall not be less than $2 per hour, except that (1) no increase in the stipend or allowance shall be made pursuant to this sentence unless the funds appropriated for carrying out this part are sufficient to maintain for the fiscal year in question a number of participants to serve under this part at least equal to the number of such participants serving during the preceding fiscal year, and (2) in the event that sufficient appropriations for any fiscal year are not available to increase any such stipend or allowance provided to $2 per hour, the Director shall increase the stipend or allowance to such amount as appropriations for such year permit consistent with clause (1) of this exception.

"(f) For the purposes of this part, the terms 'low-income person' and 'person of low income' means (1) any person whose income is not more than 125 percent of the poverty line set forth in section 625 of the Economic Opportunity Act of 1964, as amended (42

U.S.C. 2971d); and (2) any person considered a poor or low-income person under section 421(4) of this Act, with special consideration for participation in projects under this part provided to persons described in clause (2).

(c) Section 212(a) of the Domestic Volunteer Service Act of 1973 is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph:

"(2) (A) The Director shall award a grant or contract under this part for a project to be carried out over an area in a State more comprehensive than one community, to the State agency established or designated pursuant to section 305(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3025(a)(1)), unless (i) the State has not established or designated such an agency; or (ii) such agency has been afforded at least 45 days to (I) review the project application made by a prospective grantee or contractor other than such agency for a project to be carried out in such State; and (II) make recommendations thereon. In the event that such an established or designated State agency is not awarded the grant or contract, any application approved for a project in such State shall contain or be supported by satisfactory assurances that the project has been developed, and will, to the extent feasible, be conducted, in consultation with, or with the participation of, such agency.

"(B) The Director shall award a grant or contract under this part for a project to be carried out entirely in a community served by a community action agency, to such agency unless such agency and the State agency established or designated pursuant to section 305(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3025(a)(1)) have been afforded at least 45 days to (i) review the project application made by a prospective grantee or contractor other than either such agency for a project to be carried out in such community; and (ii) make recommendations thereon. In the event that such a community action agency or such an established or designated State agency is not awarded the grant or contract, any application approved for a project to be carried out entirely in such community shall contain or be supported by satisfactory assurances that the project has been developed, and will, to the extent feasible, be conducted, in consultation with, or with the participation of, such community action agency.".

(d) Section 502 of the Domestic Volunteer Service Act of 1973 is amended—

(1) in subsection (a), by striking out "and" after "September 30, 1976", and by inserting "$25,000,000 for the fiscal year ending September 30, 1979, $30,000,000 for the fiscal year ending September 30, 1980, and $35,000,000 for the fiscal year ending September 30, 1981," after "September 30, 1978,"; and

(2) in subsection (b)(2), by adding at the end thereof the following new sentence: "There are further authorized to be appropriated $55,000,000 for the fiscal year ending September 30, 1979, $62,500,000 for the fiscal year ending September 30, 1980, and $70,000,000 for the fiscal year ending September 30, 1981, for the purpose of carrying out programs under part B of such title.".

TITLE V—MISCELLANEOUS PROVISIONS

REPEALERS; EXISTING PROJECTS

SEC. 501. (a) Effective at the close of September 30, 1978, title V and title VII are repealed. The Commissioner on Aging may complete any project which was undertaken under either such title, or under title V, as so redesignated in section 105(a), before such date, and which is unfinished on such date, with funds obligated but unexpended on such date.

(b) Any project receiving funds under title VII of the Older Americans Act of 1965, as in effect on the day before the effective date of this Act, shall continue to receive funds under part C of title III of such Act, as amended by this Act, if such project meets the requirements and criteria established in such title III, as amended by this Act, except that a State, pursuant to regulations prescribed by the Commissioner on Aging, shall not discontinue the payment of such funds to a project unless such State, after a hearing (if requested by the person responsible for administering such project), determines that such project has not carried out activities supported by such funds with demonstrated effectiveness.

LIMITATIONS ON PAYMENTS

SEC. 502. No authorization of appropriations in this Act shall be effective for any fiscal year beginning before October 1, 1978. Notwithstanding any other provision of this Act, no payment under this Act, or authorization to make payments or to enter into contracts under this Act, shall be effective except to such extent, or in such amounts, as are provided in advance in appropriations Acts.

CONFORMING AND TECHNICAL AMENDMENTS

SEC. 503. (a)(1) Section 102(1) is amended by inserting ", other than for purposes of title V" before the period at the end thereof.

(2) Section 102 is amended by redesignating paragraph (4), the second place it appears therein, as paragraph (5), and by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively.

(b)(1) Section 201(a) is amended by striking out "VI and as otherwise specifically provided by the Older Americans Comprehensive Services Amendments of 1973" and inserting in lieu thereof "V".

(2) Section 202(a)(15), as so redesignated in section 102(b)(1), is amended by inserting after "Discrimination" the following: "in Employment".

(3) Section 205(d)(3) is amended by striking out "and" at the end thereof.

(4)(A) Sections 202, 204, and 205 are amended by striking out "older persons" each place it appears therein and inserting in lieu thereof "older individuals".

(B) Section 202(a)(12), as so redesignated in section 102(b)(1), is amended by striking out "such persons" and inserting in lieu thereof "such individuals".

(c)(1) Section 404(a)(6), as so redesignated in section 104(a)(4)(C), is amended by striking out "curricula" the second place it appears therein and inserting in lieu thereof "curriculum".

(2) Section 404(b) is amended by striking out "federally supported" and inserting in lieu thereof "federally-supported".

(3) Sections 404 and 411 are amended by striking out "older persons" each place it appears therein and inserting in lieu thereof "older individuals".

(d) Section 504(b), as so redesignated in section 105(a), is amended by striking out the comma after "contract" the second place it appears therein.

EFFECTIVE DATE

SEC. 504. This Act, and the amendments made by this Act, shall take effect at the close of September 30, 1978.

And the Senate agree to the same.

Carl D. Perkins,
John Brademas,
Edward P. Beard,
George Miller,
Dale E. Kildee,
Cec Heftel,
A. F. Hawkins,
Mario Biaggi,
Albert H. Quie,
James Jeffords,
Larry Pressler,
Managers on the Part of the House.

Harrison A. Williams, Jr.,
Tom Eagleton,
Edward Kennedy,
Alan Cranston,
John H. Chafee,
S. I. Hayakawa,
Jacob K. Javits,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12255) to amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

House Bill

The House bill entitled the Act "Comprehensive Older Americans Act Amendments of 1978".

Senate Amendment

The Senate amendment entitled the Act "Older Americans Act of 1978".

Conference Agreement

The Senate recedes.

AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

DECLARATION OF OBJECTIVES

House Bill

Section 101 of the House bill expanded the objectives of the Older Americans Act of 1965 (hereafter referred to as the "Act') by referencing a choice in supported living arrangements.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

ADMINISTRATION ON AGING

House Bill

Section 102 of the House bill amended section 201(a) of the Act to require the Commissioner on Aging to report directly to the Secretary of Health Education, and Welfare.

Senate Amendment

No provision.

Conference agreement

The House recedes from its position with assurance from the Secretary of Health, Education and Welfare that the position of the Commissioner will be maintained at a high level in the Department with full access to the Secretary. The conferees will closely monitor the visibility accorded the Commissioner and his ability to serve as a focal point for all programs for the aging from his present organization position.

FEDERAL AGENCY COOPERATION

House bill

Section 102(c) of the House bill amends Section 203 of the Act to require that programs within the Administration on Aging be coordinated with programs within the Department of Labor, ACTION, the Social Security Administration, the Department of Housing and Urban Development, the Community Services Administration, and the Department of Transportation.

Senate amendment

The Senate amendment is identical to the House bill, except that it clarifies that consultation and coordination are the responsibility of the Commissioner on Aging as well as other Federal agencies, and expands coordination to include the Medicare and Medicaid programs within the Social Security Administration.

Conference agreement

The House recedes.

THE NATIONAL INFORMATION AND RESOURCE CLEARINGHOUSE FOR THE AGING

1. Information on transportation services

House Bill

Section 102(d) of the House bill amended section 204(a)(1) of the Act to require the National Information and Resource Clearinghouse for the Aging to collect information on transportation services for older persons provided by Federal, State, and local public agencies.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

2. Authorization of appropriations

House Bill

Section 102(e) of the House bill amended section 204(c) of the Act to extend the authorization of appropriations for the National Information and Resource Clearinghouse for the Aging through fiscal year 1981.

Senate Bill

Section 101(d) of the Senate amendment amended section 204(c) of the Act to extend the authorization of appropriations for the Clearinghouse through fiscal year 1980.

Conference Agreement

The Senate recedes.

FEDERAL COUNCIL ON THE AGING

1. Rural and urban membership

House Bill

No provision.

Senate Amendment

Section 101(e) of the Senate amendment amended section 205(a) of the Act to emphasize rural and urban membership on the Federal Council on the Aging.

Conference Agreement

The House recedes.

2. Federal employees

House Bill

Section 102(f)(1) of the House bill amended section 205(a) of the Act to prohibit membership on the Council of any full-time officer or employee of the Federal Government.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

3. Ex officio members

House Bill

Section 102(f)(2) of the House bill amended section 205(c) of the Act to delete the requirement that the Secretary and the Commissioner be ex officio members of the Federal Council on the Aging.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

4. Staff

House Bill

Section 102(f)(3) of the House bill amended section 205(e) of the Act to authorize an independent staff for the Federal Council on the Aging, appointed by the Chairman of the Council.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes. The conferees wish to emphasize their intent that the staff for the Council be relatively small; that the staff be appointed by the Chairman only after consultation with the other members of the Council; and that the staff may or may not be selected from the Civil Service Register.

5. Evaluation and study of programs

House Bill

Section 102(f)(4)(A) of the House bill amended section 205(g) of the Act to require a special study by the Federal Council on the Aging of the manpower and program needs in noninstitutional long-term care. It further required that the Council conduct a study of all federal transportation programs serving the elderly, and the possibility of transferring these programs to a single administrative unit.

Senate Amendment

Section 101(f)(1) of the Senate amendment amended section 205(g) of the Act to require the Federal Council on the Aging to evaluate and study programs under the Act, including (1) the effectiveness of such programs; (2) identification of the elderly in greatest need of the program; (3) assessment of low income and minority participation; (4) exploration of alternative methods for distributing Older Americans Act funds; (5) analysis of the need for area agencies on aging to provide direct services; (6) analysis of the nonelderly handicapped in need of home-delivered meals and the numbers being served under part C; (7) analysis of the needs of the rural elderly; and (8) analysis of the need for a separate legal services program under the Act.

Conference Agreement

The conference agreement limits the scope of the study mandated to an examination of the fundamental purposes and effectiveness of programs under the Older Americans Act; and analysis of the means to identify those in greatest need of the programs; and an analysis of the numbers and incidence of low-income and minority elderly participating in the program. The conference agreement also authorizes the Council to study alternative methods for allocating funds under the Act; analyze the need for area agencies on aging to provide direct services; and analyze the number of nonelderly handicapped in need of home-delivered meal services.

AUTHORIZATION

House Bill

The House bill amended section 205 of the Act to authorize such sums as may be necessary to carry out the responsibilities of the Council for fiscal years 1979, 1980, and 1981.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

LEGAL SERVICES STUDY

House Bill

The House bill required the Commissioner to prepare and submit a report to Congress on the effectiveness of legal services demonstration programs and ombudsman, technical assistance, consultation, training, and uniform collection activities, including recommendations for additional legislation.

Senate Amendment

The Senate bill required the Federal Council on the Aging to analyze the need for a separate program of legal services under the Act and factors which may prohibit the funding of legal services without such a separate program.

Conference Agreement

The conference agreement requires the Commissioner to prepare and submit an analysis of the need for a separate program of legal services under this Act and factors which may prohibit legal services funding without such a separate program, including recommendations for additional legislation as appropriate.

EVALUATION

House Bill

The House bill amended section 207(c) of the Act to require publication of analyses of evaluative research, clarify that reports be submitted to Congress, and assure accessibility of reports to the public.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

TREATMENT OF WAGES AND SALARIES

House Bill

The House bill amended section 211 of the Act to provide that no wages or salaries under title V of the Act may be treated as income for eligibility for assistance under Medicaid, Social Services (title XX) or the United States Housing Act of 1937.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

TREATMENT OF PROGRAM COSTS AS INCOME

House Bill

No provision.

Senate Amendment

The Senate amendment provided that no part of the costs of any program under the Act, except wages or salaries, may be treated as income or benefits for the purpose of any other program or other provision of State or Federal law. The Senate amendment further provided that income and benefits under titles XVI, XVIII, XIX, and XX of the Social Security Act or under the Housing Act of 1937 shall not be counted against eligibility of any individual under title V of this Act.

Conference Agreement

The Senate recedes.

APPLICATION OF OTHER LAWS

House Bill

The House bill exempted the Act from the provisions of title V of Public Law 95–134, authorizing any department or agency which administers any grant program to the Insular Areas to transfer a program from one Federal agency or department to another Federal agency or department by mutual agreement reached between the agencies.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

REDUCTION OF PAPERWORK

House Bill

No provision.

Senate Amendment

The Senate amendment added a new section 212 to the Act requiring the Commissioner to review and evaluate all Administration on Aging requests for information and to reduce any unnecessary, duplicative, or disruptive demands for information that may presently be required.

Conference Agreement

The House recedes.

PROFITMAKING ORGANIZATIONS

House Bill

The House bill added a new section 212 to the Act to permit grant and contract recipients to enter into agreements with profitmaking organizations.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes to the House provision with an amendment restricting the authority to those profitmaking organizations whose applications demonstrate clear superiority with respect to the quality of services proposed under the contract. The conferees agree that the grant and contracting authority to profitmaking organizations is not to be extended to organizations making excessive profits.

SURPLUS PROPERTY

House Bill

The House bill added a new section 213 to the Act permitting programs under this Act, titles IV and XX of the Social Security Act, and the Economic Opportunity Act of 1964 to be eligible for Federal surplus property.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

PART A—GENERAL PROVISIONS

House Bill

No provision.

Senate Amendment

The Senate amendment amended title III of the Act to include a statement of findings regarding numbers of eligible elderly receiving services under the Act, the need for greater coordination of programs under the Act, and to include consolidation of titles III, V, and VII of the Act as a purpose of the Act.

Conference Agreement

The House recedes with an amendment making technical changes and placing the statement of findings and the statement of purpose with regard to consolidation in the Comprehensive Older Americans Act Amendments of 1978, rather than in the Older Americans Act of 1965, as amended.

PURPOSE

House Bill

The House bill restated the existing purposes of the Act.

Senate Amendment

The Senate amendment expanded the existing purposes of the Act by adding the provision of a continuum of care for the vulnerable elderly.

Conference Agreement

The House recedes.

AUTHORIZATIONS

House Bill

The House bill authorized funds to be appropriated as follows:

	Fiscal year 1979	Fiscal year 1980	Fiscal year 1981
Social services	$250,000,000	$300,000,000	$400,000,000
Congregate meals	350,000,000	375,000,000	400,000,000
Home-delivered meals	80,000,000	100,000,000	120,000,000
Multipurpose senior centers	80,000,000	100,000,000	120,000,000
Legal services	25,000,000	30,000,000	35,000,000
Ombudsman program	4,000,000	6,000,000	8,000,000

The House bill authorizes grants under Social Services, Nutrition Services, Multipurpose Senior Centers, and Legal Services to be used for part of the cost of preparation, administration, and evaluation of area plans, developing comprehensive services and planning, coordination, evaluation, and administration of State plans.

Senate Amendment

The Senate amendment authorizes appropriations for multipurpose senior centers, legal services, and ombudsman services within the social services authorization, and provides two separate nutrition authorizations as follows:

	Fiscal year 1979	Fiscal year 1980
Social services	$467,200,000	$527,200,000
Congregate meals	375,000,000	425,000,000
Home-delivered meals	100,000,000	120,000,000

Conference Agreement

The conference agreement authorizes appropriations as follows:

	Fiscal year 1979	Fiscal year 1980	Fiscal year 1981
Social services	$300,000,000	$360,000,000	$480,000,000
Congregate meals	350,000,000	375,000,000	400,000,000
Home-delivered meals	80,000,000	100,000,000	120,000,000

In deleting a separate authorization for multipurpose senior centers, legal services, and ombudsman programs, the managers note that additional authorizations for these purposes are provided under the social services authorization.

The conference agreement also deletes the House provision authorizing the use of social services funds for the administration of state plans, in that separate authority is provided elsewhere (section 308 of this bill).

PART B—SOCIAL SERVICES

SOCIAL SERVICES AUTHORIZATION

House Bill

The House bill authorized social services programs as part B. A definition of eligible services was contained in the general definitional section under section 302 of the Act.

Senate Amendment

The Senate amendment also authorized social services programs as part B, but included the description of eligible social services within this part. The listing of eligible services is compatible with the House definition but adds health screening and preretirement and second career counseling, and does not include services for the unique needs of disabled elderly as provided in the House definition.

Conference Agreement

The conference agreement retains the description of eligible social services within part B, adds health screening and preretirement and second career counseling as provided for in the Senate amendment and adds services for the unique needs of disabled elderly as contained in the House definition of social services. The conference agreement also authorizes any other services which meet standards prescribed by the Commissioner and are necessary for the general welfare.

NUTRITION PROGRAMS

House Bill

The House bill authorized two nutrition programs—one for congregate meals and one for home-delivered meals. The House bill authorized nutrition projects to make charges for meals to participating individuals and required that such charges will be used to increase the number of meals served. The House bill also requires that each project include recreational activities, informational, health and welfare counseling, and referral services, when such services are not otherwise available, and mandated that each project establish an advisory council. With respect to home-delivered meals, the House bill required the Commissioner on Aging, in consultation with specific organizations and groups, to develop minimum criteria for the furnishing of home-delivered meals, taking into consideration the ability of established meals-on-wheels groups.

The House bill further required that each nutrition project provide at least one hot or cold meal per day, at least 5 days a week, in a congregate setting which meets the minimum one-third daily recommended dietary allowance. With respect to home-delivered nutrition services, the House bill required that each project provide at least one home-delivered hot, cold, frozen, dried, canned, or supplemental foods meal per day which assures the minimum one-third daily recommended dietary allowance. Specific reference was made to meals-on-wheels projects in operation on the effective date of this section.

Senate Amendment

The Senate amendment contained similar authorizations for nutrition programs. It expands eligibility to home-bound, nonelderly handicapped for home-delivered meals, and expressly required a determination of need prior to delivery of home-delivered meals. With respect to meal charges, the Senate amendment requires the Commissioner to issue guidelines. It also required each project to establish outreach activities to assure maximum opportunity to participate in the program. Again, with respect to home-delivered meals, the Senate amendment required each area agency on aging to give consideration to groups of demonstrated ability which make assurances that they will maintain effort on voluntary contributions and which agree to accept Federal funds only for the costs of food. The Senate amendment included the present regulatory limitation of 20 percent of each State's nutrition allotment to be used for supportive services directly related to the nutrition program, and allows for a waiver of up to 50 percent in those States or territories which have unusually high supportive services costs.

The Senate amendment contained similar requirements to the House bill with respect to meal requirements, but required at least one hot, "or other appropriate" meal per day. In addition, the Senate amendment authorized the use of mobile units in nutrition projects, and nutrition education services as a part of the nutrition project.

Conference Agreement

The conference agreement requires that each nutrition project provide meals in a congregate setting, and that home-delivered meals be based on a determination of need. The conferees intend that every effort be made for participants to take part in a congregate setting unless homebound by reasons of illness, an incapacitating disability, or extreme transportation problems. The conferees expect the Administration to follow carefully the development of this new program and discourage its use unless necessary because of the aforementioned reasons. The conference agreement requires each project to establish outreach activities, requires the Commission to issue guidelines with respect to charges for meals, and requires the funds realized from meal charges to be used to increase the number of meals served. The agreement codifies the existing regulation with regard to a limitation of 20 percent of a State's nutrition allotment which may be used for recreational activities, informational, health and welfare counseling, and referral services, with a waiver of up to 50 percent in those states or territories with unusually high supportive services costs, for a two-year period. At the end of two years, nutrition projects will be fully integrated into the social services network and supportive services will be funded through the social services allotment.

With respect to home-delivered meals, the conference agreement requires area agencies on aging to give consideration to organizations of proven ability which assure maintenance of effort of voluntary support. The substitute deletes the requirement in the Senate amendment that such consideration be extended only to those organizations agreeing to accept Federal funds only for the cost of food. In doing so, the conferees emphasize that this deletion in no way requires organizations applying for funding under this provision to accept Federal funds for the full cost of providing home-delivered meals, but leaves such decisions to those applying for funds. Any organization wishing to limit its application to the cost of food is encouraged to do so, and such applications shall be given due consideration by the area agency on aging. All specific references to meals-on-wheels organizations are deleted, but the conferees do not intend such deletion to be interpreted to preclude such organizations from participating in programs under this part if they so desire.

The conference agreement does not require that each nutrition project establish a nutrition advisory council, but does specifically authorize such councils if a project wishes to establish one.

With respect to meal requirements, the conference agreement requires that each project provide at least one "hot, or other appropriate" meal per day. The conferees recognize that climatic conditions may make the serving of a hot meal undesirable. The use of the term "hot, or other appropriate" is intended to provide the necessary flexibility at the project level, while retaining emphasis on hot meals. In addition, the agreement retains authority for the provision of nutrition education services.

Finally, the conference agreement retains the provision in the House bill requiring area agencies on aging to continue funding existing nutrition projects if the projects meet the requirements and criteria established in title III. However, a State, pursuant to regulations prescribed by the Commissioner, shall not discontinue the payment of funds to any project unless the State determines that the nutrition project has not performed with demonstrated effectiveness. Prior to making such determination, the State is required to provide a hearing if requested by the person responsible for administering the nutrition program. The conferees intend that existing nutrition projects be continued in accordance with their current operation under the new administrative framework of the legislation as long as they meet the criteria and requirement of law and perform with demonstrated effectiveness.

MULTIPURPOSE SENIOR CENTERS

House Bill

The House bill contained a separate authorization for multipurpose senior centers, expanding the present authority to allow construction of centers, and the use of funds for staffing of centers and delivery of services within the center. The House bill required that centers shall be community facilities for the delivery of a broad spectrum of social services and nutrition services for the elderly. With respect to construction authority, the House bill vested authority to determine the need for construction in the area agency, subject to State agency approval. The House bill further required that a facility constructed with funds under the Act be used for that purpose for not less than 20 years after completion of construction.

Senate Amendment

The Senate amendment contained no separate authorization for multipurpose senior centers, including authority for such program within the social services authorization. With respect to construction authority, the Senate amendment vested authority in the State agency to determine where construction of centers is necessary. The Senate amendment also authorized the use of mobile senior centers.

Conference Agreement

The conference agreement deletes the separate authorization for multipurpose senior centers, authorizing such program under the broad social services description. In deleting the separate authority, the conferees emphasize the importance of multipurpose senior centers in developing a comprehensive social services network, and expect that area agencies will continue to place appropriate emphasis on their development and expansion. With respect to construction authority, the conference agreement vests authority in the State agency in determining the need for construction of centers, but requires that the State agency make such determination only after full consideration of the views of the area agency on aging. With respect to authorized use of funds, the conference agreement contains authority for mobile units and for staffing grants for centers. In deleting the authority for the delivery of services, the conferees agree that funds for services are available through the social services authorization and that centers should receive funding from this authority. To provide separate service delivery authority for centers might be construed as removing the program from the larger social services delivery network. The conference agreement contains the requirement that facilities constructed with funds under the Act be used for senior centers for not less than 20 years.

LEGAL SERVICES

House Bill

The House bill established a separate authorization for legal services programs, and required that each State agency develop and coordinate legal services, provide technical assistance, and support training activities for legal services for the elderly. The House bill required that the State plan assure that area agencies on aging will enter into contracts with recipients of Legal Services Corporation funds or with other nonprofit, private organizations and agencies with a demonstrated experience or capacity to deliver legal services to the elderly with the greatest economic or social need; that the plan assure that legal services will be furnished to elderly already receiving legal services pursuant to the Legal Services Corporation Act; and that the plan assure that legal services under the Older American Act of 1965 be in addition to legal services already being provided through other sources of funding.

Senate Amendment

The Senate amendment contained no separate authorization for legal services, including it as a priority service required in the area plan. The Senate amendment required that legal services programs under the Act be subject to the restrictions and regulations of the Legal Services Corporation Act (other than those governing eligibility and membership of local governing boards), and that the plan assure efforts to involve the private bar in legal services activities.

The Senate amendment further required that no legal services be furnished to those eligible for services under the Legal Services Corporation Act, unless the service provider is a Corporation grantee or unless there is no Corporation project in the area. In addition, the Senate amendment required that legal services provided under the Act be in addition to any legal services being provided from other sources.

Conference Agreement

The conference agreement adopts the Senate amendment with the following modification. Under the conference agreement, title III-funded legal services shall be provided either through a Legal Services Corporation recipient or through another recipient which agrees to coordinate its services with a Legal Services Corporation project in the area in order to concentrate on those with the greatest need who are not eligible for services under the Legal Services Corporation Act.

Concentration on the elderly with the greatest need should be effectuated through such means as location of offices, referral of ineligible applicants from Legal Services Corporation projects, development of expertise in certain areas of the law, or general guidelines which the project may post or give to an applicant providing information on the nature of the clientele usually served there and those eligible for services at the Legal Services Corporation project.

The conferees wish to emphasize that in carrying out its responsibility to concentrate on the elderly with the greatest need, no project shall, in any way, give a means test or asset test to any applicant; no applicant shall be questioned about his or her means or assets; and no applicant should be directed to seek services through a Legal Services Corporation project.

The conference agreement also modifies the Senate provision to provide that the area agency shall choose as the entity to provide legal services that entity which is best able to provide such services, according to standards promulgated by the Commissioner.

The conferees wish to emphasize that the legal services program provided for under the Act does not in any way relieve the Legal Services Corporation and its recipients from their duty to provide services to the elderly who are eligible under the Legal Services Corporation Act, particularly in view of the preference for serving the elderly under section 1007(a)(2)(C) of the Legal Services Corporation Act, as amended last year by the Legal Services Corporation Act Amendments of 1977 (Public Law 95–222).

OMBUDSMAN PROGRAM

House Bill

The House bill established a separate authorization for ombudsman programs, requiring that programs funded under that part meet specific criteria.

Senate Amendment

The Senate amendment reserved 1 percent, or $20,000, whichever is greater, of each State's social services allotment to establish and operate a long-term care ombudsman program.

Conference Agreement

The House recedes to the Senate provisions, with amendments requiring the State agency to establish procedures to assure the confidentiality of files maintained by the ombudsman program, and prohibiting associations of long-term care facilities (including any other residential facility for older individuals) from being designated to administer this program.

FORMULA

House Bill

The House bill retained the existing allotment formula based on a State's relative proportion of the population aged 60 and over.

Senate Amendment

The Senate amendment adopted a new interstate allotment formula requiring the State's relative proportion of the population aged 60 and over to be counted at 100 percent and the relative portion of the rural elderly to be counted at 150 percent, with a hold harmless provision that no State shall receive less than its FY 1978 allotment.

Conference Agreement

The conference agreement retains the existing interstate formula but adds a requirement that each State reserve from its allotment an additional 5 percent above that which such State is currently spending on services to rural areas to increase such services in rural areas. However, a waiver provision is authorized for those states which show that there are insufficient numbers of rural elderly to warrant such additional expenditures or needs of the rural elderly are already adequately being met. The conferees recognize that it is frequently more difficult—as well as more expensive—to deliver services for the rural elderly because of the low population density and larger geographical areas. The conferees believe that the conference agreement will provide needed funds to allow States to give special attention to the needs of the rural elderly.

REALLOTMENT

House Bill

No provision.

Senate Amendment

The Senate amendment permitted reallocated funds to remain available through the succeeding fiscal year for which the funds were appropriated.

Conference Agreement

The House recedes.

BY-PASS AUTHORITY

House Bill

The House bill authorized the Commissioner to contract with public or private agencies within a State if a State is determined ineligible under title III of the Act.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

AREA ADMINISTRATION AND MATCHING REQUIREMENTS

House Bill

The House bill set a ceiling of 8.5 percent of the State's allotment for administration of area plans, and allowed not more than 75–25 Federal/non-Federal matching ratio for the administration of area plans. The House bill continued the existing 90–10 Federal/non-Federal matching requirement for the delivery of social services in fiscal years 1979, 1980, and 1981.

Senate Amendment

The Senate amendment contained identical provisions with respect to administration of area plans, but increased the non-Federal match to 15 percent for funds for the delivery of social services in fiscal year 1980.

Conference Agreement

The House recedes to the Senate provision to increase the non-Federal match on social services funds to 15 percent, with an amendment to delay the effective date of the increase to fiscal year 1981.

IN-KIND CONTRIBUTIONS

House Bill

The House bill authorized the non-Federal matching requirement to be met either in kind or in cash.

Senate amendment

No comparable provisions.

Conference Substitute

The Senate recedes. The conferees emphasize that the in-kind contributions must be necessary to the program and that the value of the in-kind contribution must be reasonable and not exceed the fair market value of the services or facilities contributed. The conferees expect the Commissioner to develop guidelines with respect to reasonable value of in-kind contributions.

ORGANIZATION

House Bill

The House bill amended section 305 of the Act to require the consideration of the need for legal services when dividing the State into planning and service areas.

Senate Amendment

The Senate amendment required consideration of the number of older individuals who are members of minority groups in dividing the State into planning and service areas. The Senate amendment also required State agencies to take into account the number of older Americans who are members of minority groups in the development of an intrastate formula, and required that the intrastate formula be submitted to the Commissioner for review and comment. The Senate amendment further required State agencies to assure that preference is given to the elderly in greatest economic and social need; authorized a State to designate cities of 100,000 or more as planning and service areas, authorizing an appeal process for entities applying for such PSA designation; encouraged States to include all EDA districts and Indian reservations in a single PSA; and authorized interstate PSA's for Indian reservations and metropolitan areas.

Conference Agreement

The Senate recedes to the House provision. The Senate recedes from its provision that the number of minority elderly be given consideration in developing the formula and dividing the State into district areas. The House recedes to the Senate on the remaining provisions, with an amendment to require assurances that preference be given to those in greatest economic *or* social need. The conferees wish to make clear that inclusion of a preference for those with the greatest economic or social needs is not to be interpreted as a step towards requiring a means test for programs under the Act. There are many elderly who have great social need for the programs under the Act who are not economically deprived. The Act has traditionally been open to all older individuals in need of social and nutritional services, and remains so under these amendments.

AREA PLANS

House Bill

The House bill required each area agency to prepare and develop an area plan for the planning and service area for a 3-year period with necessary annual adjustments.

Senate Amendment

The Senate amendment provided for a 2-year planning cycle; required consideration of the number of minority elderly in providing comprehensive social services; and required area plans to be based on a uniform format prepared by the State.

Conference Agreement

The Senate recedes on its provisions requiring consideration of the number of minority elderly and the 2-year planning requirement. The House recedes with respect to the requirement that area plans be based on a uniform format prepared by the State.

PRIORITIES

1. Establishment of priority services

House Bill

The House bill authorized the Commissioner on Aging to establish priority services under title III.

Senate Amendment

The Senate amendment required that 50 percent of each area agency's social services allotment be expended on services associated with access; in-home services; and legal services.

Conference Agreement

The House recedes. Although multipurpose senior centers are not a designated priority, the conferees emphasize the importance of centers and expect that area agencies will continue to fund centers at the very least at the present level, particularly in light of the expanded authority for construction and staffing contained in the Act.

2. Focal point for service delivery

House Bill

No provision.

Senate Amendment

The Senate amendment required each area agency to designate a focal point for service delivery, with special consideration to be given to multipurpose senior centers.

Conference Agreement

The House recedes with an amendment that such designation of a focal point be made "where feasible".

3. Preference

House Bill

No provision.

Senate Amendment

The Senate amendment required that area plans give preference to elderly with the greatest economic and social needs.

Conference Agreement

The House recedes with an amendment substituting "economic *or* social needs". The conferees wish to emphasize again that inclusion of a preference for those with the greatest economic or social needs is not to be interpreted as a step towards requiring a means test for programs under the Act. There are many elderly who have great social need for the programs under the Act who are not economically deprived. The Act has traditionally been open to all older individuals in need of social and nutritional services, and remains so under these amendments.

4. Outreach

House Bill

The House bill required area agencies to make assurances that they will conduct outreach activities.

Senate Amendment

The Senate amendment required area plans to provide that the State agency will establish outreach activities for rural elderly.

Conference Agreement

The Senate recedes with an amendment to require that special emphasis be placed on outreach activities for the rural elderly.

5. Information and referral

House Bill

The House bill required area plans to provide sufficient information and referral services for all elderly in the planning and service area.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

6. Activities by area agencies

House Bill

The House bill contained requirements that area plans assure that area agencies will perform certain activities.

Senate Amendment

The Senate amendment contained identical requirements, with three additional requirements: (1) developing and publishing methods by which area agencies develop social service priorities; (2) establishing coordination of programs under the Act with other Federal programs serving the elderly; and (3) coordinating services to the elderly under the Community Schools and Comprehensive Community Education Act of 1978.

Conference Agreement

The House recedes with a technical amendment to correct the reference to the Community Schools and Comprehensive Community Education Act of 1978.

WAIVER AUTHORITY

7. Two-year area plan requirement

House Bill

No provision.

Senate Amendment

The Senate amendment authorized States to waive for two years requirements of area agency plans which cannot be met as a result of consolidation of titles III, V and VII.

Conference agreement

The House recedes with an amendment clarifying that the waiver authority shall not extend to requirements under the existing Act. The conferees intend that this waiver be granted only in those circumstances in which it is demonstrated that progress toward consolidation is being made.

8. Fifty-percent priority targeting

House Bill

No provision.

Senate Amendment

The Senate amendment also provided waiver authority with respect to the 50 percent priority targeting requirement if an area agency can demonstrate that the area agency is meeting one or more categories of need.

Conference Agreement

The House recedes with an amendment clarifying that the need for a category or categories of services may be being met by resources other than those of the area agency, and establishing a procedure by which the State and area agency can agree to reduce the amount of funds required to be spent on the priority services.

For example, the need for in-home services may already be met through title XX social services funds. The area agency could apply for a waiver under this section, demonstrating that the need for in-home services is already being met, and requesting that the 50 percent targeting requirement be reduced to a percentage reflecting the deletion of this priority category. The State agency could then determine that the in-home services needs are indeed being adequately met within that planning and service area and could agree that a reduced percentage of the area agency's allocation shall be targeted to the two remaining priority categories.

The conferees intend that this waiver be granted only in those circumstances in which it is demonstrated that progress toward consolidation is being made.

INTERAGENCY AGREEMENTS WITH RESPECT TO TRANSPORTATION SERVICES

House Bill

The House bill authorized area agencies on aging to enter into agreements with other agencies administering programs under the Rehabilitation Act and the Social Security Act to develop and implement coordinated transportation services.

Senate Amendment

The Senate amendment contained a similar provision to the House bill except that it required that regulations implementing this subsection be prescribed by the Secretary of Health, Education, and Welfare; and included agencies administering certain provisions of the Social Security Act as eligible for such cooperative agreements.

Conference Agreement

The Senate recedes with an amendment that specifically requires regulations be prescribed by the Commissioner on Aging.

STATE PLANS

House Bill

The House bill required each State to submit a three-year State plan which shall (1) require evaluation of the need for social services, nutrition services, multipurpose senior centers, and legal services and ombudsman services; (2) provide proper administrative procedures; (3) provide for necessary reporting; (4) provide necessary fiscal control and fund accounting procedures; (5) provide for periodic evaluations; (6) provide or submission of area plans; (7) provide for sufficient information and referral sources; and (8) provide that direct services will not be provided by the State or area agency except as a last resort.

Senate Amendment

The Senate amendment contained the same requirements as the House bill, with the exception of the length of the planning cycle, and an additional three requirements: (1) that the State plan be based on area plans; (2) that the State agency afford a hearing to any area agency submitting a plan, to any service provided under the plan, or to any applicant to provide services; and (3) that preference in staff hiring be given to individuals aged 60 or over. The Senate amendment required a two-year planning cycle.

Conference Agreement

The Senate recedes as to the length of the planning cycle. The House recedes as to the additional requirements of the State plan. The conference agreement requires the evaluation of need for legal services, but deletes the requirement for ombudsman services.

STATE PLAN WAIVER

House Bill

No provision.

Senate Amendment

The Senate amendment authorized the Commissioner to waive State plan requirements resulting from consolidation under the Act or in those cases where compliance would reduce or jeopardize the quality of services.

Conference Agreement

The conference agreement authorizes a waiver along the lines of the Senate amendment, but with clarification that the waiver authority shall not extend to requirements under the existing Act that such waiver provision is extended to fiscal years 1979 and 1980 only. The conferees intend that this waiver be granted only in those circumstances in which it is demonstrated that progress toward consolidation is being made.

STATE ADMINISTRATION

House Bill

The House bill authorized the State agency to use not more than 7 percent of its title III allotment for State administration with a minimum of $300,000 for each State and $87,500 for each territory.

Senate Amendment

The Senate amendment provided a minimum of $275,000 for each State and $75,000 for each territory for State administration.

Conference Agreement

The conference agreement deletes the 7 percent set-aside authority, provides a minimum of $300,000 for States, and $75,000 for territories for State administrative funds.

TRANSFER OF NUTRITION FUNDS

House Bill

The House bill permitted States to transfer funds between the congregate meal allocation and the home delivered meal allocation as they deem appropriate.

Senate Amendment

The Senate amendment authorized States to transfer funds allocated for congregate meals to funds allocated for home delivered meals.

Conference Agreement

The Senate recedes.

REALLOTMENT PROVISION

House Bill

No provision.

Senate Amendment

The Senate amendment contained a reallotment provision for unused State administrative funds, allowing the Commissioner to reallot such unused funds to other States.

Conference Agreement

The House recedes with an amendment requiring that unused State administrative funds be used to provide social services within that State.

PAYMENTS

House Bill

The House bill restated existing law requiring that 25 percent of the non-Federal share for the delivery of social services be met from State or local public sources.

Senate Amendment

The Senate amendment contained an identical provision, but expanded it to require that the increased non-Federal matching ratio required in fiscal year 1981 be met from state sources.

Conference Agreement

The House recedes with an amendment to delay the effective date to fiscal year 1981.

DISASTER RELIEF REIMBURSEMENTS

House Bill

The House bill required the Commissioner to reimburse States for funds made available to area agencies for the delivery of social services during any major disaster declared under the Disaster Relief Act of 1974, up to 5 percent of the State's social services allotment. The Commissioner was required to withhold funds appropriated for model projects for this purpose.

Senate Amendment

The Senate amendment contained similar provisions to the House bill, but made the disaster relief payments permissive rather than mandatory.

Conference Agreement

The Senate recedes to the House provision with an amendment requiring that 5 percent of the funds appropriated for model projects be reserved for making disaster relief payments, and making such payments discretionary with the Commissioner.

AVAILABILITY OF SURPLUS COMMODITIES

House Bill

The House bill restated existing surplus commodity authority, raising the minimum payment level to 30 cents in fiscal years 1978 and 1979, and 35 cents in fiscal years 1980 and 1981. The House bill also restated existing authority with respect to the purchase of high protein foods, meat and meat alternates extending the authority through fiscal year 1981, and with respect to cash payments in lieu of commodities, specifically providing that there is no requirement that any State elect to receive cash payments.

Senate Amendment

The Senate amendment also restated existing surplus commodity authority, authorizing a minmum level of assistance per meal of 25 cents in fiscal year 1978 and 30 cents in fiscal years 1979 and 1980. In addition the Senate amendment required the Secretary of Agriculture to issue regulations clarifying the use of food stamps under this title.

Conference Agreement

The conference agreement adopts the Senate minimum level of payments, expanding the authorization to include fiscal year 1981; the House authority for high protein commodities, and the House provision clarifying that no provision of this title requires a State to elect to receive cash in lieu of commodities.

MULTIPURPOSE SENIOR CENTER: RECAPTURE OF PAYMENTS

House Bill

The House bill restated existing law with respect to recapture of payments with the following modifications: (1) extended to 20 years the period for which a facility constructed with funds under this title must be used for its original purposes; and (2) broadened the existing term "purchase" to "acquisition."

Senate Amendment

The Senate amendment restated existing law.

Conference Agreement

The Senate recedes.

TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

DESIGNATION OF TITLE

House Bill

The House bill titled this section "Training, Research, and Discretionary Projects and Programs".

Senate Amendment

The Senate amendment titled this section "Training, Research, and Secretarial Programs".

Conference Agreement

The Senate recedes.

STATEMENT OF PURPOSE

House Bill

The House bill stated the purpose of title IV of the Act to develop and implement a national manpower policy for the field of aging, with specific reference to the unique health, transportation, and housing problems of the elderly, and the high incidence of disabilities within the elderly population. The House bill further required that training programs give priority to training personnel responsible for nutrition and multipurpose senior center programs.

Senate Amendment

The Senate amendment contained a more narrow statement of purpose, with specific reference to the need for personnel involved in advocacy and leadership on behalf of older Americans.

Conference Agreement

The Senate recedes with an amendment to include the reference to personnel involved in advocacy and leadership roles.

The conferees are concerned that the problem of lack of staff, or inadequately trained staff in aging programs, already clearly identified as a problem, will be further exacerbated by the increasing numbers of elderly. It is imperative that this new manpower policy be developed in all Federal programs, and that it be implemented through the various training activities currently supported by the departments and agencies, as well as through new programs where necessary. The conferees also emphasize that these training activities should include special attention to the needs of minority older persons.

DEVELOPMENT OF THE NATIONAL MANPOWER POLICY

House Bill

The House bill required that the national manpower policy be developed and implemented by the Commissioner on Aging in cooperation with other departments and agencies of the Federal Government, State employment agencies or State and area agencies on aging and other appropriate agencies.

Senate Amendment

The Senate amendment contained an identical provision, except that specific reference is made to the National Institute on Aging.

Conference Agreement

The conference agreement incorporates the reference to the National Institute on Aging. The conferees are concerned that the problem of lack of staff, or inadequately trained staff in aging programs, already clearly identified as a problem, will be further exacerbated by the increasing numbers of elderly. It is imperative that this new manpower policy be developed in all Federal programs, and that it be implemented through the various training activities currently supported by the departments and agencies, as well as through new programs where necessary. The conferees also emphasize that these training activities should include special attention to the needs of minority older persons.

APPRAISING PERSONNEL NEEDS IN THE FIELD OF AGING

House Bill

The House bill modified existing law with regard to appraising personnel needs in the field of aging to require that the assessment required be conducted in accordance with the national manpower policy, and to require that a report on the assessment be submitted every six months to the Congress.

Senate Amendment

The Senate amendment contained similar modifications, but makes specific reference to institutional and non-institutional long-term care programs. The Senate amendment required a report on the assessment to be submitted to the Congress every two years.

Conference Agreement

The House recedes.

ATTRACTING QUALIFIED PERSONS TO THE FIELD OF AGING

House Bill

The House bill made minor modifications to existing law to reference the national manpower policy.

Senate Amendment

The Senate amendment repealed the existing authority as a separate subsection, incorporating its provisions as a subsection of section 404.

Conference Agreement

The Senate recedes.

STUDIES

House Bill

The House bill authorized the Commissioner to make grants and contracts for the purpose of studying (1) problems in operating transportation services; (2) the impact of programs under the Act and other programs in meeting the long-term needs of the elderly; (3) the differences in costs, services delivery and access between rural and urban areas, and the special needs of the rural elderly. The House bill also amended section 205 of the Act, the Federal Council on the Aging authority, to require the Council to undertake a study of all federal transportation programs serving the elderly and the possibility of transferring these programs to a single administrative unit.

Senate Amendment

The Senate amendment mandated an analysis by the Federal Council on the Aging of the special needs of rural elderly.

Conference Agreement

The conference agreement requires the Commissioner to make grants and contracts for the following purposes: (1) conducting a study relating to the problems of state and area agencies and other service providers in operating transportation services; (2) revising existing federal transportation programs to provide more coordinated and comprehensive services, eliminate duplication in programs, eliminate disparities in eligibility requirements under these programs, and study the possibility of transferring all federal transportation programs to a single administrative unit; and (3) conducting a study on the differences in costs, service delivery and access between rural and urban areas and the special needs of the rural elderly.

TRAINING PROGRAMS

House Bill

The House bill included a new purpose in the training program authority to coordinate the training efforts of all programs serving the elderly at all levels.

Senate Amendment

The Senate amendment included two new authorities, to assess the personnel needs with special emphasis on the needs of aged minority group individuals and the training of minority personnel, and to assist in supporting training courses to meet the special needs of providers in rural areas.

Conference Agreement

The conference agreement adopts provisions of both the House bill and the Senate amendment.

MODEL PROJECTS

House Bill

The House bill restated existing authority with respect to model projects; added authority for nationwide projects; deleted authority for ombudsman demonstration projects; added new authority to establish comprehensive service systems, in at least two States, for the rural elderly; and established projects coordinating social services for the homebound elderly, blind, and disabled in ten States. The House bill also required the Commissioner to consult with the Commissioner of the Rehabilitation Services Administration, the Commissioner of the Social Security Administration, and representatives of the Public Health Services to develop procedures for identifying the elderly, blind, and disabled in need of social services; develop a list of services available to the elderly, blind, and disabled in each community; and establish an information and referral service within an appropriate community agency to inform those in need of the availability of services and to coordinate the delivery of services.

Senate Amendment

The Senate amendment restated the existing authority for ombudsman demonstration projects, and added new authority to meet the special needs of the rural elderly, and to assist older individuals to remain within their community through independent living arrangements. The Senate bill also expanded the basic model project authority by directing that the Commissioner on Aging give special consideration to the funding of rural area agencies on aging to conduct model projects devoted to the special needs of the rural elderly.

Conference Agreement

The Senate recedes on the ombudsman model project authority, and the provisions of the House bill relating to projects coordinating social services for the homebound elderly, blind, and disabled, with a technical amendment to require consultation with the Surgeon General of the Public Health Service. The House recedes to the Senate provision with regard to model projects devoted to the special needs of the rural elderly.

COMMUNITY LONG-TERM CARE MODEL PROJECTS

House Bill

The House bill authorized the Commissioner to make grants to State agencies, area agencies and other public and private nonprofit organizations, associations, and groups to support the development of comprehensive, coordinated systems of community long-term care for older persons. The House bill gave preference to applicants that demonstrate development of State standards, a State commitment to carry out this program in conjunction with agencies administering title XIX and XX of the Social Security Act, and a commitment to State financing of the project. The House bill required the Secretary to involve appropriate Federal agencies and departments in carrying out these projects to assure coordination of implementation of this provision at the Federal level. The House bill authorized such sums for this section.

Senate Amendment

The Senate amendment contained similar community long-term care model project authority, but required that grants to area agencies on aging be made in consultation with the State agency, authorized grants to institutions of higher education, and emphasized follow-up and evaluation services for rereferral. The Senate amendment also required all grantees under this section to establish evaluation procedures, and required evaluation of the quality of services as well as the cost, and that the evaluation be submitted to the Commissioner on a periodic basis. The Senate amendment required similar coordination of administration of this authority with other appropriate Federal agencies and departments, but vested such authority with the Commissioner. The Senate amendment authorized $10 million for fiscal year 1979, and $15 million for fiscal year 1980.

Conference Agreement

The conference agreement is as follows: The Commissioner is authorized to make grants to State agencies, area agencies (in consultation with State agencies), institutions of higher education, and other public agencies and private nonprofit organizations, associations, and groups to develop comprehensive, coordinated systems of community long-term care. The agreement combines provisions of the House bill and the Senate amendment with regard to emphasis on services designed to support alternatives to institutional living, assessment of need, development of a plan of care, and referral of individuals. The agreement further combines the preference provisions of the House bill as they relate to applications from a State, and the Senate amendment preference provisions as they relate to other applicants.

With respect to the evaluation procedures, the agreement adopts the provisions of the Senate amendment. With respect to the coordination provisions, the agreement adopts the provisions of the House bill. The agreement authorizes such sums, and includes the Senate amendment on equitable distribution of funds between urban and rural areas.

LEGAL SERVICES DEMONSTRATION PROJECTS

House Bill

The House bill authorized the Commissioner to reserve $2 million or 20% of the separate legal services authorization to make grants and contracts to research centers to support research, technical assistance, training, litigation, and support to agencies, organizations, institutions, private firms, and bar associations, to develop and support legal services; and to support demonstration projects in legal services for the elderly.

Senate Amendment

The Senate amendment authorized special demonstration projects on legal services for older Americans to support legal research, technical assistance, training, information dissemination, and demonstration projects to expand or improve the delivery of legal services to elderly individuals. The Senate amendment reserved $5 million of the model project authorization for this purpose.

Conference Agreement

The House recedes.

NATIONAL IMPACT DEMONSTRATIONS

House Bill

No provision.

Senate Amendment

The Senate amendment authorized the Commissioner to reserve not more than 15 percent of the model project appropriation to develop projects of national significance.

Conference Agreement

The House recedes.

UTILITY AND HOME HEATING COST DEMONSTRATION PROJECTS

House Bill

No provision.

Senate Amendment

The Senate amendment authorizes the Secretary to establish model projects which show promise of relieving older Americans of the burdens of high utility service and home heating costs, requiring special consideration be given to business concerns engaged in providing home heating oil or to public utilities providing home heating oil or utility services at a reduced rate to low-income older Americans.

Conference Agreement

The House recedes.

MORTGAGE INSURANCE AND INTEREST GRANTS FOR MULTIPURPOSE SENIOR CENTERS

House Bill

The House bill retained existing authority for mortgage insurance, placing it in section 313 of the Act. The House bill expanded the existing authority to authorize insurance of any mortgage for construction of a multipurpose senior center consistent with construction authority contained elsewhere in the Act.

Senate Amendment

The Senate amendment contained an identical provision, but established this authority in a new part D.

Conference Agreement

The conference agreement establishes the authority for a new part E.

MULTIDISCIPLINARY CENTERS OF GERONTOLOGY

House Bill

The House bill broadened existing eligibility for grants for gerontology centers to include centers of special emphasis. In addition, the House bill amended the existing training authority to assure its accord with the national manpower policy, and to require all grantees to provide biannual reports which are to be made available through the Clearinghouse where appropriate.

Senate Amendment

The Senate amendment contained no comparable provisions.

Conference Agreement

The Senate recedes, with a technical amendment.

AUTHORIZATIONS

House Bill

The House bill authorized "such sums" for title IV through fiscal year 1981. The House bill also provided that no funds appropriated for title IV may be transferred to any office within HEW which is not directly responsible to the Commissioner, and that no such funds may be used for any research program not specifically authorized under title IV. The House bill also amended section 442 to authorize the Commissioner to make multicategorical grants or contracts for extensive research and demonstration projects.

Senate Amendment

The Senate amendment authorized such sums through fiscal year 1980.

Conference Agreement

The Senate recedes.

TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

House Bill

The House bill generally adopted the existing provisions of the title IX program, redesignating the title as title V. The following changes from existing provisions were made: (1) raised the income eligibility criterion from the poverty index to 125 percent of the poverty index; (2) updated the hold-harmless level for national contractors from June 30, 1975 to June 30, 1978, to reflect the fiscal year 1978 funding level for national contractors; (3) authorized the Secretary of Labor, after consulting with the Administrator of the Environmental Protection Agency and the Secretary of Energy to create parttime employment relating to environmental improvement and energy conservation for persons aged 55 and over who meet the income limitation criteria; and (4) authorized $400 million, $450 million, and $500 million for fiscal years 1979, 1980, and 1981, respectively.

Senate Amendment

The Senate amendment also adopted the existing provisions of the title IX program with some modifications as follows: (1) authorized the Secretary to establish a Senior Environmental Employment Corps; (2) authorized the Secretary to develop innovative job opportunities through work sharing and other experimental methods to CETA prime sponsors, labor organizations, and business and industry; (3) increased the non-Federal matching share to 15 percent in fiscal year 1980, and expanded existing waiver authority to include areas designated by the Secretary as high unemployment areas; (4) included a new requirement that national organizations conducting a project within a State submit a description of the project to the State agency on aging 30 days prior to the project's starting date; (5) authorized the Secretary on his own initiative or by request to review intrastate distribution of title V funds; (6) authorized the Secretary to enter into agreements to assure transition of public service jobs to the private sector, limiting such authority to not more than 1 percent of the funds appropriated above the 1978 appropriation level; (7) required special consideration of minority owned or operated national organizations within the special consideration contained in existing law for national organizations; and (8) authorized $300 million for fiscal year 1979, $400 million for fiscal year 1980.

Conference Agreement

The conference agreement includes the following: (1) adopts the House provisions with respect to environmental improvement and energy conservation projects with specific reference to Senior Environmental Employment Corps; (2) adopts the Senate provisions with respect to innovative job opportunities through work sharing and other experimental work methods; (3) adopts the Senate provisions requiring national contractors to submit a description of any project to be conducted within a State to the State agency on aging 30 days prior to the starting date of the project; (4) adopts the Senate provision requiring the Secretary on his own initiative or by request to review intrastate distribution of title V funds; (5) adopts the Senate provision authorizing the Secretary to enter into agreements to assure transition of public service jobs under this title to the private sector; (6) adopts the House provision raising the income eligibility criterion to 125 percent of the povery index; (7) adopts the House provision updating the hold harmless level for national contractors to June 30, 1978, with an amendment which requires the Secretary to reserve 55 percent of any amount appropriated which exceeds the fiscal year 1978 appropriations level for allotment to the States; and (8) authorizes $350 million for fiscal year 1979, $400 million for fiscal year 1980, and $450 million for fiscal year 1981.

TITLE VI—GRANTS FOR INDIAN TRIBES

House Bill

The House bill established a new section 315 authorizing the Commissioner to make grants to eligible tribal organizations to pay costs relating to the delivery of social services, nutritional services, legal services, and ombudsman services to Indians who are aged 60 or over. With respect to criteria for applications under this section, the House bill restricted evaluation to a nonprofit organization selected by the tribal organization. The House bill authorized such sums for the purposes of this section for fiscal years 1979, 1980, and 1981.

Senate Amendment

The Senate amendment established a new, separate title VI for grants for Indian tribes to promote the delivery of comprehensive social services, including nutritional services. The Senate bill authorized grants to Indians who are aged 55 or over. The Senate bill required grant applications to assure evaluation by the tribal organization or some other nonprofit private organization, authorized the tribal organization to develop its own population statistics, with certification from the Bureau of Indian Affairs. The Senate amendments further required that a tribal organization receiving funds under this title receive a grant for not less than one year during which time title III social services funds shall not also be awarded to provide services to the tribal organization. The Senate amendment authorized the use of surplus Indian educational facilities to be used as multipurpose senior centers with application to be made to the Secretary of the Interior. The Senate amendment authorized $25 million for fiscal year 1979 and $30 million for fiscal year 1980, with a trigger provision that this title will not become operative until the appropriation reaches $5 million.

Conference Agreement

The conference agreement adopts the Senate provision of a separate title for grants for Indian tribes and the House provision regarding the age of eligible Indians. The agreement also adopts the House provision restricting evaluation activities to a nonprofit organization selected by the tribal organization, and making specific reference to inclusion of legal services and ombudsman services. The agreement adopts the Senate provisions relating to development of population statistics; the Senate provision requiring grants under this title to be for not less than one year; and the authorization for the use of surplus Indian educational facilities to be used as multipurpose senior centers. The agreement adopts the House provision authorizing such sums for three fiscal years, but retains the Senate requirement that $5 million must be appropriated before the title is operative. The conferees do not intend that tribal organizations applying under this title be required to meet all the requirements under section 307 of the Act.

House Bill

No provision.

Senate Amendment

The Senate amendment required a GAO study of the relationship of programs under the Act with other Federal programs providing substantial services to the elderly, the administrative costs associated with programs under the Act, and the extent to which programs under the Act affect the ability of other Federal programs to meet the needs of older Americans, and the Secretary of HEW to prepare and submit a report on the action necessary at the Federal and State levels to integrate planning and services under this Act and title XX of the Social Security Act.

Conference Agreement

The Senate recedes. The conferees agree that such studies should be conducted, and will request such studies from GAO by letter.

DOMESTIC VOLUNTEER SERVICE ACT PROGRAMS

Provisions extending the authorizations of appropriations for the Older American Volunteer Programs authorized by title II of the Domestic Volunteer Service Act of 1973 and amending various provisions in that title are contained in the Senate-passed bill, S. 2617, the proposed "Domestic Volunteer Service Act Amendments of 1978", rather than in the Senate-passed "Older Americans Act of 1978". In this section of the Joint Explanatory Statement, S. 2617, as passed by the Senate will be referred to as the Senate ACTION amendment.

1. RSVP

House Bill

The House bill amended section 201(c) of the Domestic Volunteer Service Act of 1973, the RSVP authority, by reducing from 60 to 45 days the time which is given to State agencies on aging to comment on proposed RSVP programs. The House bill futher added a new subsection (d) to section 201 of the Act to make clear that RSVP volunteers are not employees for any purpose which the Director of the ACTION Agency finds not to be fully consistent with the provisions and in furtherance of the purpose of the Act.

Senate Amendment

The Senate ACTION amendment contained identical provisions.

Conference Agreement

The conference agreement contains these two provisions.

2. Foster Grandparent and Senior Companion programs

A. Stipends and Allowances

House Bill

The House bill added a new subsection (e) to section 211 of the Domestic Volunteer Service Act of 1973 to mandate an increase in the Foster Grandparent/Senior Companion stipend to $2.00 per hour (from the present level, not specified in the law, of $1.60 per hour) with provision for adjustment annually after January 31, 1979, to reflect changes in the Consumer Price Index.

Senate ACTION Amendment

The Senate ACTION amendment had no comparable provision, although the authorizations of appropriations are at a level sufficient to accommodate raises in the stipend for fiscal years 1979, 1980, and 1981.

Conference Agreement

The Senate recedes with amendments (1) striking the tie-in to the Consumer Price Index, and (2) conditioning the effectiveness of the amendment mandating a $2.00 per hour stipend (in a way similar to those enacted in Public Law 94-130 for the VISTA and Peace Corps stipends) upon enactment of appropriations sufficient to maintain not less than the level of participants serving in the Foster Grandparent/Senior Companion program during the prior fiscal year and providing further that, in the event that sufficient appropriations are not provided to increase the stipend or allowance to $2.00 per hour, the Director shall increase the stipend or allowance to the extent that the appropriations permit consistent with the first condition.

B. Near-Poor Participation

House Bill

The House bill added a new subsection (f) to section 211 of the Domestic Volunteer Service Act of 1973 to extend the eligibility for participation in the Foster Grandparent/Senior Companion Programs to individuals with an income not greater than 125 percent of the poverty level.

Senate ACTION Amendment

The Senate ACTION amendment contained no comparable provision.

Conference Agreement

The Senate recedes with amendments providing special consideration for participation in Foster Grandparent and Senior Companion projects to persons whose income levels are at or below the poverty line as defined in section 421(4) of the Act, and making technical changes.

The conferees wish to make clear that the income eligibility provisions in this amendment do not apply to participants in the RSVP program, nor do the conferees believe it would be appropriate to apply any means test for volunteers participating in the RSVP program. The conferees believe there are many volunteers who have a need to participate in the program who are not economically deprived.

C. Grant Preferences and Reviews

House Bill

The House bill amended section 212(a) of the Domestic Volunteer Service Act of 1973 (the Foster Grandparent and Senior Companion Program authority)—providing that grants or contracts shall be awarded to State agencies on aging and community action agencies in certain specified situations unless there are no such agencies or unless such agencies have had 45 days to examine and make recommendations on other such project application—by providing that, in order to be approved, applications from other than these two agencies must contain satisfactory assurances that those applications have been developed and will, as appropriate, be carried out in consultation with these two agencies.

Senate ACTION Amendment

The Senate ACTION amendment contained identical provisions.

Conference Agreement

The conference agreement contains these provisions, with minor technical corrections.

D. Length and Amounts of Authorization of Appropriations

House Bill

The House bill amended section 502 of the Domestic Volunteer Service Act of 1973 to authorize appropriations as follows:

	Fiscal year 1979
RSVP	$25,000,000
Foster grandparent/senior companion	55,000,000

Senate ACTION Amendment

The Senate ACTION amendment amended the same section to authorize appropriations as follows:

	Fiscal year 1979	Fiscal year 1980	Fiscal year 1981
RSVP	$25,000,000	$30,000,000	$35,000,000
Foster grandparent/senior companion	55,000,000	62,500,000	70,000,000

Conference Agreement

The conference agreement adopts the Senate authorizations in view of the understanding of the conferees that the Committees in both Houses will conduct regular oversight on all facets of the ACTION Agency's administration of the Older American Volunteer Programs, with special scrutiny of the fiscal year 1980 budget request and subsequent budget requests, in order to assess the extent of the ACTION Agency's commitment to these programs, and, if such commitment is found wanting, recommend legislative action to transfer these programs to the Administration on Aging.

WHITE HOUSE CONFERENCE ON AGING

House Bill

The House bill authorized a White House Conference on Aging in 1981 in order to develop recommendations for further research and action in the field of aging which will further the policies of the Act. The Conference was to be developed and conducted under the direction of the Secretary of Health, Education, and Welfare in cooperation with the Commissioner on Aging, the Federal Council on Aging, and other appropriate departments and agencies. The Secretary was required to (1) request cooperation and assistance from other Federal agencies; (2) render assistance to State and area agencies on aging and other appropriate organizations in connection with organizing conferences on aging prior to the national conference; (3) prepare and distribute background materials for use by delegates to the Conference; and (4) hire necessary personnel. The Secretary was required to establish an advisory committee to the Conference with representation from the Federal Council on the Aging and other public and private nonprofit agencies and organizations. "Such sums" were authorized for three fiscal years for the White House Conference.

Senate Amendment

The Senate amendment differed from the House bill in the following manner: (1) included a finding as to the need for a national policy on biomedical research directed at determining the causes of the aging process; (2) directed the Conference to be planned and conducted in cooperation with the Director of the National Institute on Aging, rather than the Federal Council on the Aging; and (3) included a reference to researchers in the field of aging in the provision regarding bringing together individuals working in the field of aging.

Conference Agreement

The conference substitute adopts the provision of the House bill requiring representation from the Federal Council on the Aging on the Advisory Committee, and the Senate amendment including the need for a national policy of biomedical research as a finding, the role of the Director of the National Institute on Aging in the planning and development of the Conference, and the inclusion of researchers in the field of aging in those to be brought together for the purpose of arriving at facts and recommendations.

STUDY OF RACIAL AND ETHNIC DISCRIMINATION IN PROGRAMS FOR OLDER AMERICANS

House Bill

The House bill required the Commission on Civil Rights to (1) undertake a study of discrimination on racial or ethnic background in any federally assisted program which affects older individuals; and (2) identify any such program in which evidence of discrimination is found. The Commission was required to conduct hearings to elicit the views of interested parties in connection with carrying out this study.

Senate Amendment

The Senate amendment contained identical provisions.

Conference Agreement

The conference agreement contains these provisions. The conferees note that the Report of the U.S. Commission on Civil Rights on Age Discrimination, released in January 1978, stated in its findings that "members of minority groups, women, and handicapped individuals are often victims of compounded discrimination based on age, sex, race, national origin and handicap." While the Age Discrimination study provided the Congress and the general public limited information regarding discrimination based on race and ethnic background, the conferees believe that the study did not go far enough in documenting this compound discrimination, nor did the study make any recommendations as to how best to correct this intolerable situation. Therefore, the conference agreement requires the U.S. Commission on Civil Rights to undertake a comprehensive study of discrimination based on race or ethnic background in any Federal program, which affects older persons, patterned after the study the Commission recently completed on age discrimination.

AMENDMENTS TO THE AGE DISCRIMINATION ACT OF 1975

House Bill

The House bill amended the Age Discrimination Act of 1975 by specifically providing for a private right of action for violations of the Act, authorizing an alternative remedy in the event that any recipient of Federal assistance is found in violation of the Act, and deleting the word "unreasonable" from the statement of purpose of the Act, amended the existing exceptions to the prohibition to allow age distinctions only where it is specifically directed or provided by the terms of a Federal statute or it is designed to remove barriers to participation in a program or activity by persons of a particular age, amended section 304(a)(4) to require that regulations issued by other departments and agencies be approved by the Secretary prior to taking effect, and required new reporting requirements for all agency heads for the purpose of determining if the agency is in compliance with the Age Discrimination Act of 1975.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes to the House provisions with the exception of the amendment to the exceptions in existing law. The conference agreement also makes certain modifications, including a new requirement that all administrative remedies be exhausted prior to any action being brought for relief based on an alleged violation of the provisions of the Age Discrimination Act.

LIMITATIONS ON PAYMENTS

House Bill

The House bill provided that (1) no authorization of appropriations in the Act, as amended by the House bill, would be effective for any fiscal year beginning before October 1, 1978; and (2) no payments or authorizations under the House bill could be effective except to such extent, or in such amounts, as are provided in advance in appropriations Acts.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

EFFECTIVE DATE

House Bill

The House bill provided that this legislation would take effect on October 1, 1978.

Senate Amendment

No provision.

Conference Agreement.

The Senate recedes.

Carl D. Perkins,
John Brademas,
Edward P. Beard,
George Miller,
Dale E. Kildee,
Cec Heftel,
A. F. Hawkins,
Mario Biaggi,
Albert H. Quie,
James Jeffords,
Larry Pressler,
Managers on the Part of the House.

Harrison A. Williams, Jr.,
Tom Eagleton,
Edward Kennedy,
Alan Cranston,
John H. Chafee,
S. I. Hayakawa,
Jacob K. Javits,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Corman (at the request of Mr. Wright), for today, on account of official business.

Ms. Oakar (at the request of Mr. Wright), for today, on account of participation in hearings of National Commission on Unemployment Compensation.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Miller of Ohio) and to revise and extend his remarks and include extraneous matter:)

Mr. Goldwater, for 5 minutes, today.

(The following Members (at the request of Mr. Huckaby) to revise and extend their remarks and include extraneous material):

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BINGHAM, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MILLER of Ohio) and to include extraneous matter:)

Mr. LAGOMARSINO.

Mr. CONTE.

Mr. BOB WILSON.

Mr. DERWINSKI.

Mr. SCHULZE.

Mr. GRASSLEY.

Mr. TAYLOR.

Mr. MCCLOSKEY in two instances.

Mr. SEBELIUS.

Mr. LENT in three instances.

Mr. O'BRIEN.

Mr. DORNAN in two instances.

Mr. ASHBROOK in two instances.

(The following Members (at the request of Mr. HUCKABY) and to include extraneous matter:)

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. JOHN L. BURTON in two instances.

Mr. WON PAT.

Mr. YOUNG of Missouri.

Mr. WRIGHT.

Mr. MCDONALD in five instances.

Mr. MAZZOLI in two instances.

Mr. STARK in two instances.

Mr. CONYERS.

Mr. VENTO.

Mr. SKELTON.

Mr. BRECKINRIDGE in two instances.

Mr. KASTENMEIER.

SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 3342. An act to name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake"; to the Committee on Public Works and Transportation; and

S. Con. Res. 106. Concurrent resolution authorizing the printing of five thousand additional copies of the eulogies to the late Senator Hubert H. Humphrey; to the Committee on House Administration.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 21, 1978, present to the President, for his approval, bills of the House of the following title:

H.R. 8149. To provide customs procedural reform, and for other purposes;

H.R. 11401. To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; and

H.R. 12935. Making appropriations for the legislative branch for the fiscal year ending September 30, 1979, and for other purposes.

ADJOURNMENT

Mr. HUCKABY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 12 minutes p.m.), under its previous order, the House adjourned until Monday, September 25, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5014. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of the omission of a clause authorizing the examination of records by the Comptroller General in two contracts with Oficinas Gerais de Material Aeronautico, an agency of the Government of Portugal, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

5015. A letter from the Secretary of Commerce, transmitting the annual report on the Department's activities under the Marine Mammal Protection Act of 1972, covering the year ended March 31, 1978, pursuant to section 103(f) of the act; to the Committee on Merchant Marine and Fisheries.

5016. A letter from the Comptroller General of the United States, transmitting a report on efforts to improve the North American Air Defense Command's information processing system (LCD–78–117, September 21, 1978); jointly, to the Committees on Government Operations, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 8696. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of an individual who receives a retroactive determination of eligibility for disability compensation from the Veterans' Administration; with amendment (Rept. No. 95–1607). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 8533. A bill to amend the Internal Revenue Code of 1954 to clarify the exemption from political organization taxable income for proceeds from bingo and related games; with amendment (Rept. No. 95–1608). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 13092. A bill to amend the Internal Revenue Code of 1954 to extend the optional small tax case procedures to additional taxpayers, and to make certain changes relating to the authority of commissioners of the Tax Court (Rept. No. 95–1609). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 1373. Resolution providing for the consideration of H.R. 12355. A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes (Rept. No. 95–1610). Referred to the House Calendar.

Mrs. CHISHOLM: Committee on Rules. House Resolution 1374. Resolution providing for the consideration of H.R. 12533. A bill to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes. (Rept. No. 95–1611). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 86. Resolution amending rule XXII of the Rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution, and to provide for the addition and deletion of names of Members as sponsors after the introduction of a bill, memorial, or resolution; with amendment (Report No. 95–1612). Referred to the House Calendar.

Mr. HANNAFORD: Committee of Conference. Conference report on H.R. 9214 (Rept. No. 95–1613). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 13221. A bill to extend the boundaries of the Toiyable National Forest in Nevada, and for other purposes; with amendment (Rept. No. 95–1614). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL. Committee on Interior and Insular Affairs. H.R. 14026. A bill to provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the village of Kake, Alaska, and for other purposes (Rept. No. 95–1615). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 13972. A bill to designate the Great Bear Wilderness, Flathead National Forest and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forest, State of Montana; with amendment (Rept. No. 95–1616). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee of conference. Conference report on H.R. 12255 (Rept. No. 95–1618). Ordered to be printed.

Mr. FOLEY: Committee on Agriculture. H.R. 13989. A bill to amend section 1445(b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research (Rept. No. 95–1619). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 13845. A bill to amend the Perishable Agricultural Commodities Act; with amendment (Rept. No. 95–1620). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 10600. A bill for the relief of Thomas Joseph Hunter and Rose Hunter (Rept. No. 95–1617). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LUNDINE:

H.R. 14153. A bill to direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey U.S. mineral interests in the parcel to New York State; to the Committee on Agriculture.

By Mr. MOLLOHAN:

H.R. 14154. A bill to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws; to the Committee on the Judiciary.

By Mr. SMITH of Iowa (for himself and Mr. CONTE):

H.R. 14155. A bill to change the method and procedure of selling all meat commodities; to provide for licensing and regulating of market price reporting services; to insure proper market basis for sales and thereby prevent manipulation of prices in meat trading (selling) and the creation of a Meat Industry Standards Board to implement these objectives; to research the establishment of a centralized national market system; to the Committee on Agriculture.

H.R. 14156. A bill relating to the loading and unloading in the transportation of perishables and exempt commodities, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. GONZALEZ (for himself. Mr. GARCIA, Mr. LAFALCE, Mr. CORRADA Mr. RAHALL, Mr. FRENZEL, Mr. LEDERER, Mr. CONTE, Mr. KEMP, Mr. DOWNEY, Mr. PICKLE, Mr. KAZEN, Mr. GAMMAGE, Mr. SIKES, Mr. MONTGOMERY, Mr. OTTINGER, Mr. MCFALL, Ms. KEYS, Mr. DE LA GARZA, Mr. GUYER, Mr. PEPPER, Mr. RYAN, and Mr. VENTO):

H. Res. 1375. Resolution to recognize the contribution of Bernardo de Galvez to the independence of the United States; to the Committee on Post Office and Civil Service.

By Mr. HANNAFORD:

H. Res. 1376. Resolution urging that the Senate adopt a provision for the one-time exclusion from income of $100,000 of gain from the sale of a principal residence; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FRENZEL:

H.R. 14157. A bill for the relief of Anthony McCartney; to the Committee on the Judiciary.

By Mrs. PETTIS:

H.R. 14158. A bill for the relief of Teresa Miramontes Yglesias; to the Committee on the Judiciary.

PETITIONS ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

540. By the SPEAKER: Petition of the 13th Constitutional Convention of the AFL-CIO, Washington, D.C., relative to the proposed establishment of a separate Department of Education; to the Committee on Government Operations.

541. Also, petition of the Constitutional Convention of Hawaii of 1978, Honolulu, relative to adoption of Senate Joint Resolution 4, establishing a Hawaiian Native Claims Settlement Study Commission; to the Committee on Interior and Insular Affairs.

542. Also petition of the American Bar Association, Chicago, Ill., relative to creation of additional Federal judgeships; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1

By Mr. LEACH:

(Amendments to amendment in the nature of a substitute.)

—page 30, after line 14, insert the following new section:

SPECIAL REPORTS TO CONGRESS

SEC. 204. (a) Concurrently with the transmittal of any nomination of any Presidential nominee subject to this title under section 201(b), the Director shall transmit a report containing the information required under subsection (b) of this section to the Committee on Post Office and Civil Service of the House of Representatives, the Committees on Armed Services of the House of Representatives and the Senate, the Committee on Governmental Affairs of the Senate, and such other committees of the Congress as may have appropriate jurisdiction.

(b) The following shall be included in any report required to be submitted by subsection (a) of this section:

(1) A copy of the report required by such nominee under section 201(b), together with a written statement by the Director as to whether or not, in the opinion of the Director, the nominee is in compliance with applicable laws and regulations.

(2) A written statement by the Director, by the reporting individual, and by the head of any agency with respect to which, during the period covered by the report under section 201(b), the reporting individual (or any relative of the reporting individual or any entity with which the reporting individual is affiliated)—

(A) had, or sought to obtain, contractual or other business or financial relations with such agency, or

(B) conducted operations or activities which are regulated by such agency,

as to whether or not, to their knowledge, the reporting individual, any relative of the reporting individual, or any other financial entity with which the reporting individual is affiliated was a party to any criminal, civil, or administrative proceeding which would relate to the matters for which the nominee would be responsible in the position to which nominated (as determined by the Director by regulation).

(3) If the existence of any criminal, civil, or administrative proceeding is reported under paragraph (2), a description of the nature of such proceeding and its outcome and the factors on which such outcome was based.

(c) For purposes of this section:

(1) "civil, criminal, or administrative proceeding" means—

(A) any civil or criminal proceeding to which the United States or any State is a party;

(B) any administrative proceeding by the United States or any State denying any benefit on the basis of any act or omission by the person who is the subject of such proceeding or which restricts, by consent, the activities of the person who is the subject of such action; and

(C) any investigation of a type which normally precedes any action described in subparagraph (A) or

(B) of this paragraph; and

(2) an individual shall be considered to be affiliated with any entity if such individual, or any relative of such individual, has a substantial interest in such entity or held any position in such entity which is required to be reported under this title.

Page 30, line 16, strike out "204" and insert "205" in lieu thereof.

Page 31, line 12, strike out "205" and insert "206" in lieu thereof.

Page 32, line 3, strike out "204(a)" and insert "205(a)" in lieu thereof.

Page 34, line 15, strike out "206" and insert "207" in lieu thereof

Page 35, line 2, strike out "207" and insert "208" in lieu thereof.

Page 35, line 20, strike out "208" and insert "209" in lieu thereof.

Page 36, line 2, strike out "209" and insert "210" in lieu thereof.

—Page 61, after line 19, insert the following new section:

SPECIAL REPORTS TO CONGRESS

SEC. 304. (a) Concurrently with the transmittal of any nomination of any Presidential nominee subject to this title under section 301(b), the Committee shall transmit a report containing the information required under subsection (b) of this section to the Committees on the Judiciary of the House of Representatives and of the Senate, and such other committees of the Congress as may have appropriate jurisdiction.

(b) The following shall be included in any report required to be submitted by subsection (a) of this section:

(1) A copy of the report required by such nominee under section 301(b), together with a written statement by the Committee as to whether or not, in the opinion of the Committee, the nominee is in compliance with applicable laws and regulations.

(2) Written statements by the Committee, by the reporting individual, and by the head of any agency with respect to which, during the period covered by the report under section 301(b), the reporting individual (or any relative of the reporting individual or any entity with which the reporting individual is affiliated)—

(A) had, or sought to obtain, contractual or other business or financial relations with such agency, or

(B) conducted operations or activities which are regulated by such agency,

as to whether or not, to their knowledge, the reporting individual, any relative of the reporting individual, or any other financial entity with which the reporting individual is affiliated was a party to any criminal, civil, or administrative proceeding which would relate to the matters for which the nominee would be responsible in the position to which nominated (as determined by the Committee by regulation).

(3) If the existence of any criminal, civil, or administrative proceeding is reported under paragraph (2), a description of the nature of such proceeding and its outcome and the factors on which such outcome was based.

(c) For purposes of this section:

(1) "civil, criminal, or administrative proceeding" means—

(A) any civil or criminal proceeding to which the United States or any State is a party;

(B) any administrative proceeding by the United States or any State denying any benefit on the basis of any act or omission by the person who is the subject of such proceeding or which restricts, by consent, the activities of the person who is the subject of such action; and

(C) any investigation of a type which normally precedes any action described in subparagraph (A) or (B) of this paragraph; and

(2) an individual shall be considered to be affiliated with an entity if such individual, or any relative of such individual, has a subsantial interest in such entity or held any position in such entity which is required to be reported under this title.

Page 61, line 21, strike out "304" and insert "305" in lieu thereof.

Page 62, line 11, strike out "305" and insert "306" in lieu thereof.

Page 64, line 13, strike out "306" and insert "307" in lieu thereof.

Page 65, line 4, strike out "307" and insert "308" in lieu thereof.

Page 66, line 2, strike out "308" and insert "309" in lieu thereof.

Page 66, line 6, strike out "309" and insert "310" in lieu thereof.

H.R. 11733

By Mr. WEISS:

—Page 108, after line 3, insert the following and renumber accordingly:

"Sec. 118. The first three sentences of section 138 of title 23, United States Code, are amended to read as follows: "It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, historic sites, and the navigable waters of the United States. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, Agriculture, and Army, the Administrator of the Environmental Protection Agency, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed and to maintain the navigable waters of the United States. After the effective date of the Federal-Aid Highway Act of 1968 in the case of land, and after the date of enactment of the Surface Transportation Act of 1978 in the case of the navigable waters of the United States, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from a historic site of national, State, or local significance as so determined by such officials, or which requires dredging and filling of navigable waters of the United States, unless (1) there is no feasible and prudent alternative to the use of such land or the dredging and filling of such navigable waters, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, historic site, navigable waters resulting from such use or such dredging and filling. After the date of enactment of The Surface Transportation Act of 1978, the Secretary shall not enter into any obligation on behalf of the Federal Government to pay any sum with respect to any such program or project (including any such program or project approved before such date of enactment) unless such program or project is consistent with the provisions of this section and will be carried out in a manner consistent with the provisions of this section. Any determination made under this section that the project or program is consistent or inconsistent shall be published in the Federal Register with a complete explanation for the reasons thereof.

EXTENSIONS OF REMARKS

JEROME I. SCHARFMAN, ASSISTANT CITY MANAGER OF TORRANCE TO RETIRE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. ANDERSON of California. Mr. Speaker, through the years, the demands placed on local governments has grown tremendously. Nowhere is this more evident than in my home State of California where great population immigration has produced instant cities. Next week, the city of Torrance will honor its present Assistant City Manager, Jerome I. Scharfman, an individual whose innovative manner and leadership in the field of financial management allowed this city to meet a challenge and serve a rapidly expanding community responsively and effectively.

Jerome is not a native Californian. He was born in Brooklyn, N.Y., on June 25, 1918, where he graduated from Erasmus Hall High School during the great depression. He worked his way through school at night, majoring in mathematics at Brooklyn College. While in New York, he worked for the Brooklyn State Hospital for the Insane, and the New York City Health and Welfare Departments.

His college and work careers were interrupted by duty in the Army. Four years of active service included such diverse assignments as teaching meteorology, and serving as Divisional Inspector General.

Following his discharge from the Army in 1946, he moved with his family to Burbank, Calif. and continued his education at the University of California at Los Angeles. In 1947 he became employed with the city of Burbank as an accountant clerk.

In the following years, Jerome came to the forefront of those who recognized the growing need to professionalize finance operations in city halls. His career advanced when he was hired by Daly City, Calif., where he established its first finance department. His successes there earned him a position with the city of Torrance and there again he established that city's first-ever finance department.

His excellent performance and achievements in finance have won him wide recognition. While with the city of Torrance, he received a Certificate of Conformance from the International Municipal Finance Officer Association and in 1960 became the first person in California to be awarded a certificate as a certified public accountant based solely upon municipal auditing experience.

Top management at the city of Torrance recognized that Jerome's talents where broader than financial management expertise. The degree in public administration which he had earned earlier from the University of Southern California and the experience he gained during his public service career in New York helped him earn his current position of assistant city manager.

Despite his busy schedule working on behalf of the city, Jerome dedicated much time on behalf of community work. He is past president of the Torrance Rotary Club, and trustee of the Sam Levy Chapter of the City of Hope.

Such have been the landmarks in the outstanding career of Jerome I. Scharfman. It is with little wonder that his friends and associates are joining next week to pay him tribute.

My wife, Lee, and I certainly want to join them in acclaiming Jerome's accomplishment-filled career. With those friends and associates, we also want to wish that his retirement years will be blessed with good health; the warmth of memories; the deep satisfaction of knowing his has been an outstanding career; and the stimulation of new challenges which may lie in the future. We would also like to express our best wishes to his lovely wife, Diane; and their two sons.●

A SALUTE TO THE LIBERATORS OF LOS BANOS

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. TAYLOR. Mr. Speaker, a constituent of mine, Mrs. Norma Sanders Baker, recently completed a visit to Manila where she and her family were held prisoners by the Japanese during World War II. They were interned at the University of the Philippines College of Agriculture in Los Banos.

Mrs. Baker has requested that I include in the Congressional Record an account of the rescue of her family and more than 2,000 other internees, by the Luzon guerrillas and the American 11th Airborne Division.

I am proud to include the account of this brilliantly coordinated rescue at this point.

The article follows:

A Salute to the Liberators of Los Banos

February 23, 1945 was a historic occasion for some 2,100 civilian internees, interned at the UP College of Agriculture Campus in Los Baños, Laguna outside of the City of Manila. In a 7:00 A.M. attack with combined forces of Filipino troops and United States troops a perfectly timed and coodinated mission was launched and accomplished that liberated and evacuated all civilian internees without the loss of life of a single civilian internee.

The group of released internees included men, women and children of eight nationalities, the majority of which were United States citizens. In addition there were British, Australians, Canadians, Dutch, Poles, Norwegians, Italians and others.

Through deliberate planning, including infiltration of the internee's camp by Filipino guerillas prior to the liberation, a master plan was developed and was executed with extraordinary precision and timing.

The internees were on the verge of starvation, some having been prisoners for over three years. The particular morning of their liberation held another fate, unknown to most of them; their scheduled execution at

7:00 A.M. Moments before 7:00 A.M. the Filipino guerillas, identified as the 45th Hunters Regiment under Lieutenant Colonel Guerrero in coordination with the Hukbalahaps under Colonel Pedro Billegas, the Chinese 48th Guerrillas under Colonel Ong and the Anderson Guerillas under Captain Vera Gesmundo along with the 511th Parachute Infantry of the 11th Airborne Division (USA) and the 672nd Amphibious Tractor Battalion simultaneously attacked the prison compound located at the UP College of Agriculture Campus in Los Baños Laguna, by land and by air. The results of the operation were positive and perfect. All civilian internees were successfully rescued from their capitors, behind enemy lines, and taken to safety.

Left permanently behind in the UP College of Agriculture Campus at Los Baños Laguna were two of The Hunters—Sergeant Antanacio Castillo and Private Bonifacio Salamatin. Their bodies now lie beside the UP College of Agriculture Chapel where memorial services are held each February 23.

By entry of this brief bit of information in the Congressional Record, I hope that it will serve as a small token of my appreciation to The Hunters who participated in my liberation and especially to Sergeant Castillo and Private Salamatin. I join with all my Filipino liberators, including Major Nicanor Liwagon, in commorating this historic date of February 23.

Norma Saunders Baker (*USA*).●

BUSING AUTHORITY DECLARES WHOLE PROGRAM A FAILURE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. ASHBROOK. Mr. Speaker, we are all aware that busing is a scandal and a disaster. Now the researcher whose work was used to justify that program has torn away the last shred of justification for it. James S. Coleman, author of the Coleman Report of 1966, concluded in that report that so-called "racial balance" programs would improve black school performance. It was Dr. Coleman's report and his testimony in Federal courts which was used to put busing over as a national policy. Now Coleman admits he was mistaken. According to a Washington Post article of September 18, "Coleman said he now believes that his (pro-busing) view was 'incorrect' and 'wishful thinking' ".

I have inserted the Washington Post article below, so that there can be no question of the completeness of Dr. Coleman's rejection of his original pro-busing argument.

It required considerable intellectual honesty and moral courage for Dr. Coleman to admit the failure of a program for which he is largely resvonsible. I call upon the liberal Democratic leadership of this House to show similar honesty and courage, and to allow the Membership to vote on proposals, such as my own H.R. 153 and H.R. 154 and the Mottl amendment proposal, which would end the busing disaster once and for all.

The article follows:

[From the Washington Post, Sept. 18, 1978]

Integration Benefits Discounted

(By Lawrence Feinberg)

Sociologist James S. Coleman, whose massive study in the mid-1960s has been widely used to support school desegregation, now says it is a "mistaken belief" that black students learn better in integrated classrooms.

During the past decade, Coleman said, research throughout the country has shown that "it is not the case that school desegregation, as it has been carried out in American schools, generally brings achievement benefits to disadvantaged (black) children."

In some situations, Coleman said, desegregation has brought slight gains in black achievement, but in many others there has been no change or a slight loss.

Even though he had argued a decade ago that "integration would bring about achievement benefits," Coleman said, "It has not worked out this way in many of the school desegregation cases since that research. . . .

"Thus, what once appeared to be fact is now known to be fiction," Coleman said.

Coleman, a professor of sociology of the University of Chicago, presented his new conclusions in a paper in April. He repeated them in an interview this weekend.

"Desegregation has turned out to be much more complicated than any of us ever realized," Coleman said. "There appear to be beneficial effects for some black kids, those who are better students, and harmful effects for blacks who are poorer students. It all seems to balance out, which is quite the reverse of the implications of my own research" in the mid-1960s.

Coleman's 1966 report, called "Equality of Educational Opportunity," was authorized by Congress in the 1964 Civil Rights Act and sponsored by the U.S. Office of Education. It still is the most extensive piece of educational research ever conducted, involving tests and surveys of about 600,000 students and 60,000 teachers in 4,000 schools around the country.

Its most widely noted conclusions were that the social class composition of a school had more impact on student achievement than either resources or teaching methods, and that lower-class black children scored somewhat higher on standardized tests in schools with a middle-class white majority than they did in schools where all the children were poor and black.

Coleman stressed that the achievement gain occurred not because of skin color but because of the middle-class backround and "educational resources" that many white children bring from home.

After his report, Coleman expressed his views widely, not only in scholarly articles but also in testimony before congressional committee and in school desegregation cases, in courts.

Among these was Julius Hobson's suit against the Washington school system. Coleman testified in Hobson's behalf and was cited by U.S. Judge J. Skelly Wright to support the court's finding that "Negro students educational achievement improves when they transfer into white or integrated educational institutions."

Coleman said he now believes that this view is "incorrect . . . wishful thinking."

In the interview, Coleman said the difference between his conclusions a decade ago and the results of desegregation since then reflects two main factors—a difference in the way desegregation has been carried out, and the availability of new research.

When he collected his data in 1965, Coleman said, nearly all the black children attending integrated schools in the South were well-motivated volunteers under "open enrollment" plans. In the North almost all integration had occurred in neighborhood schools where blacks and whites lived nearby.

Since then, Coleman noted, many school districts have been desegregated through mandatory busing programs, ordered by courts or state agencies, that bring children together from wide areas.

"Much of it has been accompanied by the kinds of things that don't foster achievement," Coleman said. "Often there's been some degree of turmoil and lower standards, with white teachers being afraid to apply the same standards to black students and therefore not teaching them as well."

Coleman said his 1966 report was based on data collected at one time, with conclusions drawn by comparing youngsters in schools with different proportions of black and white students.

Since then, he said, researchers have been able to follow children for several years after they switched to desegregated schools. Although Coleman has not been directly involved in any of this research, he said a review of over 100 desegregation studies in cities around the country—from Boston to Berkeley—shows "no overall gains."

"Some of the most carefully studied cases, such as in Pasadena and Riverside, Calif.," Coleman said, "show either no achievement effects or else losses."

In the South some gains by blacks have been reported by the National Assessment of Educational Progress, but Coleman said these occurred in both segregated and integrated classrooms. He said these gains probably are the result of "the broader impact of desegregation in the South . . . it drew a lot of attention to schools that used to be the worst in the nation," rather than a direct result of blacks and whites being taught together.

Before going to the University of Chicago in 1973, Coleman taught at Johns Hopkins University in Baltimore. He took part in civil rights demonstrations there, and was arrested in one of them.

He said he still strongly opposes legal segregation and strongly favors integrated schools. But he said mandatory busing in many cities has been "counter-productive" because it has been followed by an extensive loss of white students.

Coleman also rejects "the belief that an all-black school is inherently bad."

"That has a curiously racist flavor," Coleman said, "which I can't accept. There have been, and there are, all-black schools that are excellent schools by any standard."

"What is essential," he said, "is that if a child is in an all-black school, it should be because . . . his parents want him to be there, not because it is the only school he has a reasonable chance to attend."

Coleman said he thinks the best ways of increasing school integration now would be to encourage voluntary transfer between city and suburban schools or to offer vouchers allowing parents to pick any school for their children but providing more funds for integrated schools.

"We ought to take measures so we can become a more integrated society," Coleman said, "but we ought to be clear that integrated education does not depend on maintaining romantic notions that are not true."●

STATEMENT ON AMERICAN MUSHROOM INDUSTRY

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. SCHULZE. Mr. Speaker, once again I must warn you of the impending dissolution of the American mushroom industry. This once viable industry is being systematically buried under tons of imported mushrooms pouring in from Taiwan.

Five years ago, Mr. Speaker, the International Trade Commission alerted the President that the American mushroom industry was threatened by imports and that some form of relief was necessary.

Last year the situation became critical. The International Trade Commission recognized that serious injury was being caused by foreign imports, and recommended a tariff rate quota of 48 million pounds of imported mushrooms. Unfortunately, the President chose not to institute the recommended tariff and relied, instead, on voluntary restraints by Taiwan and Korea to avoid future disruptive impacts on the U.S. market.

Voluntary restraint has proven to be a total failure. The sixth quarterly ITC report shows that the ratio of imports to consumption from April to June 1978, jumped to 54 percent as compared to 39 percent for the same 3 months of 1977.

To save this industry, the American Mushroom Institute has urged the special trade representative to consult with the Governments of Taiwan and Korea to end this disruption of our industry, by negotiating an orderly market agreement under section 204 of the Agricultural Act of 1956.

The common market has always relied upon voluntary agreements between member nations. However, once an agreement has been broken, the offender is cut off, and importation of that product is denied.

Needless to say, voluntary agreements are kept in the Common Market. America must be prepared to back its words with action. This would be an excellent place to start.●

INSTITUTE FOR POLICY STUDIES' MARXIST U.S. POLITICAL PROGRAM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. McDONALD. Mr. Speaker, because of its potential to expand the power and influence of its parent, the Institute for Policy Studies (IPS), an internationally active Marxist think-tank whose members have included leaders of revolutionary terrorist organizations, Castroites, assorted freelance revolutionaries and at least one KGB agent, Orlando Letelier, probably the most important of its on-going projects is the National Conference on Alternative State and Local Public Policies (NCASLPP), which held its 4th annual conference in Minneapolis-St. Paul, July 13–16, 1978.

Participants in the 4th NCASLPP national conference ranged from former organizers of U.S. support for the Vietnamese Communists such as Fred Branfman, Ira Arlook and Tom Hayden; through former SDS activists now involved in the grassroots Marxist "communities movement" such as Michael Ansara, Heather Booth, Harry Boyte, Bert DeLeeuw and Wade Rathke; to Federal and local officials including Msgr. Geno Baroni, Assistant Secretary of Housing and Urban Development; ACTION Director Sam Brown; and Energy Department official Tina Hobson. Many local officials attended, with a surprisingly strong representation from the New York City Council.

A recent article in the Information Digest, a newsletter on U.S. political and social movements, provided the following report on the NCASLPP which doubtless my colleagues will find of interest:

IPS ALTERNATIVE PUBLIC POLICIES

NCASLPP had its first public conference in June 1975, in Madison, Wis., hosted by Mayor Paul Soglin, a veteran activist with the pro-Cuban segment of the New Left, and organized by Lee Webb, then a professor of public policy at Goddard College in Vermont and now a full-time salaried IPS staff member (a position termed by IPS as a "resident fellow") and an "associate fellow" of the IPS-controlled Foundation for National Progress of San Francisco.

Operating from IPS's headquarters at 1901 Q Street, NW, Washington, D.C. 20009 (202/234–9382), the NCASLPP is self-described as "a national organization of 'populist' and 'activist' public officials and others in state, county, city and town government throughout the country." The organization has said:

"Politically, we are seeking for political and programmatic ways that the questions of maldistribution of power and wealth in America can be addressed by activist state and local political movements. While we are interested in responding to the requests of public officials for information on alternative legislation in such 'non-controversial' areas such as utility regulation, election reform, and educational financing reform, we are particularly interested in initiatives involving the control of capital, tax restructuring and the control of governmental institutions themselves.

"We are particularly interested in legislation to establish publicly-owned or cooperatively-owned banks, insurance corporations, construction companies, utilities and telephone companies, and productive enterprises of all types."

Financed initially and for the most part through the IPS budget, the NCASLPP has received earmarked foundation grants, such as a $15,000 grant from the Shalan Foundation of San Francisco in September 1977. It should be noted that the Shalan Foundation is currently heavily committed to funding NCASLPP-related organizations active in the so-called "communities movement." These have included most recently the Arkansas Institute for Social Justice of the Association of Community Organizations for Reform Now (ACORN) ($20,000); the Environmental Action Foundation ($10,000); the New School of Democratic Management (via the IPS's Foundation for National Progress) ($15,000); and the Federation for Economic Democracy via the Funding and Educational Development Organization to finance "feasibility studies for worker acquisition of enterprises." Contributions to many "communities movement" projects such as Oregon Fair Share ($10,000) were via the Youth Project.

The NCASLPP has outlined two major goals:

1. To learn of and study the concrete programs and policies of local governments, and in some cases national governments in other countries, in areas such as banking, public ownership, land and tax policy, housing, transportation, decentralization, natural resources and other areas. The best ideas and proposals would then be publicized through our publications, our conferences, and our National Clearinghouse for discussion and introduction by local and state public officials in the United States.

2. To learn and study the character of political organization of radical and progressive parties at the local level in other countries to offer experiences, examples, and models to state and local activists in the United States who want to build issue oriented local political organizations."

NCASLPP's Fourth Annual Conference brought together a reported 520 anti-Vietnam and civil rights activists of the 1960s and early 1970s at Concordia College, a Lutheran seminary in St. Paul, MN. Conference organizers viewed the meeting as in many ways an expansion or continuation of momentum developed at the 1977 Democratic Agenda conference in Washington, DC, sponsored by the Democratic Socialist Organizing Committee (DSOC) in which IPS was heavily involved. The Democratic Agenda consensus was that whatever is wrong, "big business" is responsible, a view which has attracted the leadership of several activist unions such as the International Association of Machinists (IAM); the Sadlowski faction of the United Steelworkers (USWA); the United Auto Workers (UAW); and American Federation of State, County and Municipal Employees (AFSCME).

The conference was organized to focus support for state and local programs that its organizers view as "democratic, decentralized, redistributive" and which "challenge corporate priorities." Such programs have included support for state or local government owned banks, public control of pension funds, alternation of tax laws to discourage the housing speculation in which moderate income families have moved into renovated city housing "driving out poor minority people," and plans for solar energy development.

Tax reform for the NCASLPP did not mean the sort of cut in local government service programs typified by California's Proposition 13 initiative cutting property taxes. James Farmer, a director of the Coalition of American Public Employees (CAPE), saw that sort of service cut as an attack on the poor. NCASLPP organizers hope to take advantage of growing grass roots opposition to the size, complexity and waste of the federal bureaucracy by calling for "decentralization" meaning that states and cities should take over administration of programs and regulatory agencies which would continue to grow in size. As Lee Webb said, NCASLPP encourages the states and cities to take over from Washington control of economic development and the redistribution of income and wealth.

Others were more direct. Detroit Marxist city councilman Ken Cockrel, who received considerable campaign support from members of the "Eurocommunist" oriented New American Movement (NAM), told a 7/16/78 plenary meeting, "If we're really interested in shifting the tax burden, then we are really interested in abolishing the concept of private property."

Wisconsin State Representative Midge Miller saw the main target of any tax alteration plans as "big business" and viewed this area as a fertile field for gaining mass support among disenchanted taxpayers. North Dakota Tax Commissioner Bryon Dorgan thought that NCASLPP could make use of the "misguided tax rebellions" such as Proposition 13 despite an initial "hardship for the poor and working class." He said the voters had to be made to see the "things that government does" for them, such as "take care of them when they're old and sick, fight fires, take care of them when they're unemployed. When it becomes clear they're dismantling a system that they want, then they have to find out how to pay for it and ask who pays. The working people will come to the conclusion that people should be taxed on their ability to pay." Miller and many NCASLPP activists expressed the fear that Proposition 13 indicated a "right-wing resurgence" and charged that they had "stolen" populist imagery and techniques from the left, such as the very voter initiative process.

Gar Alperovitz of the National Center for Economic Alternatives (formerly the Exploratory Project on Economic Alternatives) suggested that the really critical issue was inflation to which the tax-revolt movement was a reaction.

One result of the DSOC Democratic Agenda conference in 1977 was that there is increasing union participation in the NCASLPP. The slate of workshop participants and leaders shows Bill Dodds, political director, UAW; Paul Goldberg, AFSCME area director, Minneapolis; Barbara Shailor, IAM; Dorothy Haener, UAW Women's Department; Sal Alverez, United Farmworkers Union; David Foster, USWA Local 7623, Minneapolis; and Carl Wagner, AFSCME political coordinator.

On the morning of 7/15/78, Tom Hayden and Gar Alperovitz joined in attacking Lee Webb and the NCASLPP organizers for their reluctance to form a national political movement and over-emphasis on community organizing. They provided a broad overview of the current "crisis of capitalism" nationally and globally. Alperovitz predicted that U.S. business was returning to cyclical pattern of slow economic growth broken by "massive periodic jolts." Both agreed that the traditional two-party approach was obsolete because apathy, disillusionment, disengagement, frustration and cynicism had caused "disintegration" of the U.S. center. Hayden complained, "we need an organized national movement if we are up against international bandits like Exxon. They're organized on an international basis." Hayden also encouraged a challenge to the re-election effort of President Carter, but received little encouragement.

The NCASLPP organizers are convinced that their coalition of community organizations, single issue groups, environmentalists and labor is only in its initial stages and that an effort to transform it into an official national political party is premature. NCASLPP expects to build its membership and participation methodically adding new issue-oriented groups as they arise and working to hold on to and expand their influence with existing members.

Despite the quarrels of the NCASLPP leadership, most see the middle Americans as torn between reaction and reform. They fear that conservative organizations may draw increasing strength as a result, but believe that the politically naive disenchanted members of the U.S. can be drawn into campaigns for decentralized socialism under anti-corporate slogans. The holdup for NCASLPP is their belief that too soon to move toward formulating the appropriate ideology or national political organization.

Under the direction of Lee Webb, NCASLPP is reluctant to risk their gains so far. Lee Webb, a graduate of Andover and Boston University (1963) was the Students for a Democratic Society (SDS) national secretary from 1963 to 1964. A veteran of the SDS Economic Research and Action Project (ERAP) and the Chicago-based Jobs or Income Now (JOIN) project, Webb, along with Tom Hayden and Rennie Davis, helped organize the National Mobilization Committee (NMC) which effectively disrupted the 1968 Democratic National Convention with a 5-day riot in Chicago.

Subsequently, Webb was an editor of Ramparts magazine and the Washington, D.C. "bureau chief" for the Guardian, a Marxist-Leninist weekly which acts as a publicist for Soviet, Cuban and Chinese-backed terrorist movements, with its chief foreign correspondent being an identified KGB agent, Wilfred Burchett. Following a visit to Cuba in 1970, Webb contributed an article to the San Jose Maverick entitled "Cubans Police Themselves." Webb's article explained that under Cuban "socialism," Cubans maintained order and solved neighborhood problems "so well that police are rarely seen on Cuban streets." What Webb was in fact referring to is the Cuban secret police apparatus of informers and agents organized on a block-by-block basis known as the Committee for the Defense of the Revolution (CDR). The CDR's overt and covert activities range from breakup domestic disputes to political spying.

Despite his personal approval of the CDR system, on his return to the U.S., Webb became an "expert" on "police repression" here, appearing at the October 1972, People's Coalition for Peace and Justice "People's Tribunal" in Washington, D.C. In 1976, Webb sought IPS funding to subsidize the travel and orientation of local and state public officials to Cuba. The delegation would "initiate contacts of American local public officials with Cuba, particularly concentrating on structure and function of local government. Matanzas would be a key site for the visit. Jim Rowan, Assistant to the Mayor of Madison, Wisconsin, and son-in-law of George McGovern, received an initial inquiry from the Cubans about the National Conference and an expression (of interest) in a possible delegation." Webb is NCASLPP executive director.

A new feature of the NCASLPP conference was the introduction of the "stop the arms face" and disarmament campaign via calls to transfer the defense budget to "fund human needs." This aspect was under the direction of IPS director Robert Borosage and Brewster Rhoads of the Coalition for a New Foreign and Military Policy (CNFMP).

Workshop topics included Public Use of Public Pension Funds; Pension Funds and Endowments: Disinvesting from South Africa (Richard Parker, Cary Lowe, John Harrington); Organized Labor: Maximizing the Progressive Impact on State and Local Politics (Paul Goldberg, Tom Bates, Bill Dodds); Owning the City: Public Control of Land (Ruth Messinger, Steve Costa, Bob Schur); Criteria for Evaluation of Public Investments (Sam Brown, John Harrington, Jim Vitarello); and Consumer and Urban Food Policies (Cathy Lerza, Darel Grothaus, Gibby Edwards, Carlotta Collette).

Additional workshops ranged from Community Organizing: Basis for a New Political Strategy? (Harry Boyte, Greg Akill, Mike Ansara, Bert DeLeeuw, Loni Hancock, Wade Rathke); Neighborhood Capacity Building (Geno Baroni, Tom Beer, Margaret McNeill); and Statewide Political Organizations (Derek Shearer, Marjorie Phyfe, Bonnie Ladin, Bob Schaeffer) to Meeting the Conservative Attack on Human Rights (Midge Miller, Karen Clark, Allan Spear); Sources of Non-government Funding for Public Projects (William Bondurant, Art Himmelman, Paul Schaeffer); Carter's Urban Program: Progressive Options for Communities; Innovative State Energy Policies; Jobs and Energy (Fred Branfman); and CETA, UDAG and Block Grants: Alternative Strategies for Local Control of Federal Resoures (Jim Rowen, John Alschuler, Ken Stokes).

Mr. Speaker, beause of the number of inquiries about the the NCASLPP I have had from other Members, I am attaching as an appendix to this report the list of scheduled participants in the 1978 national conference. They included:

Bruno Aijala, president, Minnesota Senior Federation.

John Alschuler, asst. city manager, Hartford, CT; chm, Conference steering com.

Ira Arlook, director, Ohio Public Interest Campaign.

Gar Alperovitz, co-director, National Center for Economic Alternatives.

Michael Ansara, Massachusetts Fair Share.

Sal Alvarez, United Farmworkers Union.

Greg Akili, NIA, San Diego.

Carol Baldwin.

Martha Ballou, Center for Urban Encounter, MN.

Msgr. Geno Baroni, Assistant Secretary, HUD.

Gerraldo Barranco, Los Angeles.

Tom Bates, California State Assembly.

Ann Beaudry, NCASLPP associate director.

Barbara Beeler, Policy Training Center, Cambridge, MA.

Tom Beer, Center for Self-Reliance, Minneapolis, MN.

Pat Bellinger, Ah-bi-no-gee Center, MN.

Sharon Black-Keefer, former employee of Commerce Dept. Office of Telecommunication.

Unita Blackwell, Mayor, Mayersville, MS.

William Bondurant, Mary Reynolds Babcosk Foundation.

Heather Booth, Midwest Academy.

Robert Borosage, IPS.

Lew Bowers, American Center for Quality of Working Life.

Fred Branfman, California Public Policy Center.

Sam Brown, director, ACTION.

Tom Borrop, Community Video, San Diego.

Carol Bellamy, president, New York City Council.

Elmer A. Benson, former U.S. Senator and Mn. Governor.

Harry Boyte, Democratic Socialist Organizing Committee.

Sam Campbell, Daufuskie Island Food Co-ops, Beaufort, SC.

Nicholas Carbone, Hartford City Council, CT.

Barry Casselman, Many Corners Newspapers, Minneapolis.

Karen Clark, Lesbian Feminist Organizing Committee.

Tom Cochran, executive director, U.S. Conference of Mayors.

Ken Cockrel, Detroit City Council.

Judy Corrao, Minneapolis City Council, majority leader.

Steve Costa, director, Trust for Public Land.

Brian Coyle, West Bank Tenants Union, Minneapolis.

Earl Craig, dir., Urban Coalition, Minneapolis; member, Dem. Nat'l Committee.

Day Creamer, Women Employed, Chicago.

George Crocker, Lowry, MN.

Carlotta Collette, Food and Land Resource Center, MN.

Beldon Daniels, Massachusetts Task Force on Capital Formation, Harvard.

Mary Davidoff, Honeywell Project, MN.

Bert DeLeeuw, Movement for Economic Justice.

Mike Dieden, Campaign for Economic Democracy.

Bill Dodds, UAW Potitical Director, DC.

Evan Doss, Claiborne County Tax Assessor, MS.

Byron Dorgan, North Dakota Tax Commissioner.

Jack Doyle, Environmental Policy Center.

Mark Drucker, professor Southern Illinois University.

Gibby Edwards, NCASLPP Agriculture Project.

Steven Endean, St. Paul Citizens for Human Rights.

Tommy Espinoza, pres., Chicanos por la Causa, Phoenix, AZ.

James Farmer, CAPE.

Larry Farmer, dir., Mississippi Action for Community Education.

Ellen Feingold, director, Office of Civil Rights, Dept. of Transportation.

Jim Flug, dir., Energy Action, DC.

Nat Forbes, Farmer Labor Association, MN.

David Foster, USWA Local 7623.

Barney Frank, Massachusetts State Assembly.

Michael Freedberg, NCASLPP.

Diane Fuchs, Tax Reform Research Group.

Isao Fugimoto, National Center for Appropriate Technology, Montana.

Shanti Fry, Cambridge Food Cooperative.

Sidney Gardner, Hartford City Council.

Joe Gasper, Metropolitan Council, Minneapolis.

Paul Goldberg, Minneapolis Area director, AFSCME.

Jack Gordon, Florida State Senate.

Leif Grina, MN. Recipients Alliance.

Darel Grothaus, dir., Dept. of Community Development, Seattle.

Cynthia Guyer, NCASLPP Agriculture Project.

Dorothy Haetner, UAW.

Loni Hancock, ACTION Regional Director; Berkeley City Council.

John Harrington, California Senate Committee on Investments.

Michael Harrington, DSOC.

Tom Hayden.

Don Hazen, community boards liaison, Office of Manhattan (NYC) Borough Pres.

Mary Jane Heinen, Association for Appropriate Technology, MN.

Art Himmelman, Minnesota Foundation.

Tina Hobson, dir., Office of Consumer Affairs, Dept. of Energy, DC.

Nell Holly, Mn. Coalition for Welfare Reform.

Bill Houle, Indian Reservation Business Commission.

Koryne Horbal, Democratic Farmer-Labor Party, MN.

Ed Jeffords, Ozark Institute.

Phyllis Kahn, Minnesota State Representative.

Roger Kahn, dir., Colorado Coalition for Full Employment.

Lloyd Kaplan, Div., of Housing and Urban Renewal, NYC.

Ron Katteny, Colorado Energy Office.

Ed Kelly, Ohio Public Interest Campaign.

Dennis Koehler, West Palm Beach City Council.

Karen Kollias, HUD, Office of Neighborhood Development.

Steve Kulczucki, assistant director, KTCA-TV.

Bob Kuttner, director, National Commission on Neighborhoods.

Bonnie Ladin, Campaign for Economic Democracy, CA.

George Latimer, Mayor, St. Paul.

Todd Lefko, Metropolitan Council, St. Paul.

Eileen Lee, Operation Open City, NYC.

Catherine Lerza, coordinator, National Family Farm Coalition, and long associated with IPS.

Cary Lowe, California Public Policy Center.

John McGough, Criminal Justice Program, Metropolitan Council, MN.

Pat McGuigan, Technical Development Corp., Boston.

Margaret McNeill, pres., Assoc. of Neighborhood Housing Developers, NYC.

Ruth Messinger, New York City Council.

Midge Miller, Wisconsin State Representative.

David Mixner, New A.G.E., Los Angeles, CA.

Bill Mitchell, Mayor, Crested Butte, CO; Nat'l Conf. of State Legislatures.

Libby Moroff, Suburban Action Institute, New York, NY.

Alice Murphy, St. Paul Mayor's Office.

Alfredo Navarro, dir., Nat'l Rural Development & Finance Corp.

Jack Nichol, Director of Economic Development, Cleveland.

Karen Nussbaum, Nat'l Working Women's Organizing Project.

Bill Ojala, lawyer, Aurora, MS.

Nancy Olkon, Hennepin County Commissioner.

David Olson, New School for Democratic Management, San Francisco.

Karen Paget, ACTION Regional Director.

Richard Parker, Foundation for National Progress.

Marjorie Phyfe, Democratic Agenda/DSOC.

Theodore James Pinnock, Tuskeegee Institute, AL.

Michael Pirsch, Local 21, Hotel, Motel and Restaurant Employees, Rochester, MN.

John Poupart, Native American activist, South Minneapolis.

Greg Pratt, University-Community Video, Minneapolis.

Michele Radosevich, Wisconsin State Senator.

Wade Rathke, chief organizer, ACORN, Little Rock, AR.

Brewster Rhoads, CNFMP, DC.

Pat Roach, Dayton City Council.

Dr. Ronald Ronchi, Ohio Quality of Working Life Project.

Jim Rosapepe, public policy consultant, Washington, DC.

Jonathan Rowe, Deputy Ex. Dir., Multistate Tax Commission, DC.

Jim Rowen, assistant to Mayor Paul Soglin, Madison, WI.

Don Rothenberg, California Food Policy Project.

Ramon Rueda, People's Development Corporation, NYC.

Pat Lewis Sackrey, Mass., Task Force on Food and Agriculture.

Carmen Sanchez, aide, New York City Council.

Juanita Satterlee, MN. Public Service Commission.

Bob Schaeffer, legis. aide, Mass. State Senate.

Paul Schaeffer, New World Foundation.

Jim Scheibel, aide, St. Paul City Council.

Ron Schiffman, NYC Community Development Coalition.

Robert Schur, former ex. dir., Ass'n of Neighborhood Housing Developers.

Rick Scott, chairman, Democratic Farmer-Labor Party, MN.

Barbara Shailor, International Association of Machinists.

Peter Shapiro, New Jersey State Representative.

Hiram Shaw, National Center for Appropriate Technology, Montana.

Laurie Shields, Alliance for Displaced Homemakers, Oakland, CA.

Prof. David Smith, Boston, University.

Sue Smoller, Cable TV Officer, Madison, WI.

Frank Snowden, Metropolitan Transit Commissioner, MN.

Allan Spear, Minnesota State Senator.

Ken Stokes, Alderman, New Haven, CT.

Tom Tatum, National League of Cities.

Tamsin Taylor, Public Pension Fund Analyst, Berkeley, CA.

Bennie Thompson, Mayor, Bolton, MS.

Alice Tripp, Belgrade, MN.

Jane Trichter, New York City Council.

Jim Vitarello, National Commission on Neighborhoods.

Carl Wager, AFSCME Political Coordinator.

Charles Weaver, Metropolitan Council, Anoka, MN.

Lee Webb, NCASLPP executive director.

Jim Wright, New School for Democratic Management, San Francisco.

Barbara Weinschenker, Center for Local Self-Reliance, MN.

Lois Yellowthunder, League of Women Voters.

Jim Youngdale.

Bill Zimmerman, dir., LOUDSPEAKER, Campaign Communications Services, Los Angeles.

Jeff Zinsmeyer, Center for Community Change, DC.●

FIFTIETH ANNIVERSARY FOR FIRST BAPTIST CHURCH, SAN ANSELMO, CALIF.

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. JOHN L. BURTON. The first Baptist Church of San Anselmo, California, is celebrating its 50th anniversary of service to Marin County residents. Its modest beginnings can be traced to services first held in 1928 in the home of Mrs. J. G. Vickery under the leadership of Rev. A. J. Collins and later, in the homes and club quarters of the Women's Improvement Club of Marin County.

In December 1930, the church's first building, an unpretentious structure of plain stucco, was dedicated and the new baptistry first used to baptize Mrs. Joseph Miller.

Since then, the church as expanded its membership, moved to Sir Francis Drake Boulevard in San Anselmo and assisted in the establishment of the Mill Valley First Baptist Church and the Bethel Baptist Church. It has also sponsored an Iranian family and a Vietnamese refugee family, and both are now self-supporting and living in the San Francisco Bay area.

The work and contributions of the congregation of the First Baptist Church have been great assets to the community. The church is to be highly commended for its 50 years of outstanding service and inspiration.●

SENATE—*Saturday, September 23, 1978*

The Senate met at 7:45 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. DeConcini).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Lord God, we dare not go into this day without asking Thy blessing, for in Thee we live and move and have our being. We are not given years to live; only one moment at a time is all we have. Then grant us grace to live each day worthily. Forgive us for squandering precious moments, for wasting irretrievable opportunities, for deliberate acts of procrastination, and for chronic tardiness. Give us wisdom to lengthen our brief life by intensity of living, to fill swift moving hours with great deeds. Store our minds with Thy truth, our hearts with Thy love, that we may be calm in a crisis, strong under stress, triumphant in the storm, ever guided by the Inner Light which never fails.

We pray in the name of Thy Son our Lord. Amen.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Rhode Island (Mr. Chafee) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Rhode Island.

Mr. CHAFEE. I might observe, Mr. President, that we are abiding by the admonition of the Chaplain not to squander precious moments, as we meet at this early hour.

A NATIONAL EXPORT POLICY

Mr. CHAFEE. Mr. President, I understand that next week the President will announce the administration's commitment to a national export policy. In my judgment, this commitment is long overdue. But more will be required, Mr. President, than bold rhetoric.

If this Government cares about exports, it will have to reverse some of its existing policies and some of its existing attitudes and will have to work for the passage of imaginative legislation in this area. Let us briefly examine the problem.

Last year the United States imported $31 billion more in goods and products than it exported—a $31 billion deficit.

Now, many have bemoaned this situation, but then have blithely explained it away as due to our oil imports and the high prices OPEC is charging.

Mr. President, this is a very handy crutch, but it fails to recognize that every industrial nation in the world that is a competitor of ours, except Great Britain, imports a far greater percentage of its oil than we do. We import, in the United States, 40 percent of our petroleum requirements, and produce 60 percent domestically—mind you, at a far less expensive price than our imports. On the other hand, Japan, West Germany, Sweden, Switzerland—you name any of our competitors, and every one of them imports nearly 100 percent of its oil requirements. So our competitors are far worse off in oil imports than we are

Obviously we want to do all we can to reduce our oil imports; but while the administration focuses its verbiage in that direction, a more serious trend is developing in our manufactured goods sector.

Look at the figures. In 1976, we had a $12 billion surplus in manufactured goods exports. In 1977, that surplus in manufactured goods exports, as opposed to manufactured goods imports, dropped to $3 billion, and it is currently running at an annual rate of a $12 billion deficit—a change, mind you, from a $12 billion surplus to a $12 billion deficit in only 2 years.

In the last 3 years, our exports in manufactured goods have not expanded in real terms, while our competitors have been achieving a growth rate of 5 percent per year.

It is no secret, Mr. President, and I think you are aware of this, that we are being saved to a very great extent in our balance-of-payments situation, to the extent that we are being saved at all, by our farmers, who exported $24 billion worth of goods in 1977.

Why do we care about this situation involving manufactured goods exports and imports and the trade deficit? We care, because jobs of Americans are involved, literally millions of jobs. What can we do about this? The solution does not lie in higher tariffs. That is self-defeating and has ramifications that are extremely serious to the future of this country and indeed to the world. So let us not go the route of higher tariffs. There are other and better solutions.

First, I would suggest the adoption of a tax policy that encourages investment in the most modern productive machinery so that our factories can compete in price and volume with foreign firms. What are some of the techniques that can be used in this tax policy? More rapid depreciation, accelerated depreciation, for our equipment; a greater investment tax credit; reduction in the corporate tax rate; reduction in the capital gains levy. All of these are steps which would encourage the investment of American dollars in better machinery and equipment.

We can begin by offering business improved financing terms and increasing the awareness of market opportunities overseas. Restrictive licensing procedures should be abolished, and the entire licensing process streamlined. A workable export tax incentive should be developed as an alternative to the Domestic International Sales Corporation, the DISC, if indeed, the DISC should be abolished.

I must say, I have great concern over the President coming forward in his so-called tax reforms and recommending the abolishment of the DISC.

Special low-cost loans could be made available to companies entering the export market for the first time. Some form of Government assistance should be made available to help companies develop overseas markets.

We know that ample opportunity exists for overseas sales. Some estimates place the potential export market in the Middle East alone over the next few years at over $100 billion. We know that thousands of jobs would result from further expansion of exports, and we know that the governments of our major trading competitors are moving aggressively to secure the business in areas where the United States is not competitive.

Mr. President, I have directed my remarks to concerning what action the Government can take and, indeed, Government action is required. But, I do believe that our own firms, our own Americans, be they in commerce or industry, have to be more aggressive in the overseas markets. Some of this indeed, I believe, falls from the fact that they are not aware of the opportunities which exist, and then, of course, some that are aware of the opportunities are not aggressive enough.

In my own State in an attempt to promote a greater awareness of export opportunities for Rhode Island manufacturers, we are scheduling special seminars in Providence aimed at exploring how and where to enter the export market. In the months ahead we plan to do additional work in this field. I encourage my colleagues in the Senate to make similar efforts with their own manufacturers.

This is an area, Mr. President, that should be of great concern to this Nation of ours.

We are aware of what is happening in the area of oil imports, but the decline in our manufactured goods exports and the increases in the manufactured goods imports from foreign nations should be of far greater concern than it recently has been to this Nation of ours. Action can be taken both at the Government level and by the individual manufacturer. I encourage steps to be taken in this direction.

I thank the majority leader and the minority leader for allowing me this time.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand adjourned for 2 seconds.

Mr. BAKER. Mr. President, reserving the right to object, I do not have a calendar. Will somebody hand me a calendar?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following an adjournment of the Senate, no resolutions or motions come over under the rule, following the next adjournment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object for 1 second.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the previous unanimous-consent requests temporarily.

The ACTING PRESIDENT pro tempore. Both unanimous-consent requests are withdrawn.

PRIVILEGE OF THE FLOOR—HOUSE CONCURRENT RESOLUTION 633

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. MUSKIE, I ask unanimous consent that the following members of the Budget Committee staff be allowed to remain on the floor during the consideration of House Concurrent Resolution 683 and all votes thereon. They are as follows:

John McEvoy, Sid Brown, Karen Williams, Van Ooms, Dan Twomey, George Merrill, Rodger Schlickeisen, Ira Tannenbaum, Bob Sneed, Charles Flickner, Don Campbell, Barbara Levering, Anne Lockwood, Lewis Shuster, Rick Brandon, Tony Carnevale, and Al From.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the following minority staff personnel be authorized the privileges of the floor during the consideration of the second concurrent budget resolution: Bob Boyd, Charlie McQuillen, Bob Fulton, Gail Shelp, and Bill Stringer.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 8 a.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 8:01 a.m., when called to order by the Acting President pro tempore (Mr. DECONCINI).

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 2 seconds.

Mr. BAKER. Mr. President, reserving the right to object, I shall not object. I thank the majority leader for previously withholding his request for adjournment. There are certain procedural steps that are automatically invoked with adjournment that affect substantive rights and it was necessary for me to check, as I have now checked, with certain Senators on this side to make sure that they do not feel their rights are prejudiced. They do not. I have no objection.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, at 8:01 a.m. on Saturday, September 23, 1978, the Senate adjourned for 2 seconds.

AFTER ADJOURNMENT

SATURDAY, SEPTEMBER 23, 1978

The Senate met at 8:01:02 a.m., pursuant to adjournment, and was called to order by the Acting President pro tempore (Mr. DECONCINI).

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to exceed beyond 3 minutes and that no resolutions or motions come over under the rule.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. Is there morning business?

ORDER OF PROCEDURE TODAY

Mr. ROBERT C. BYRD. Mr. President, the Senate today will dispose of the House message on the second concurrent resolution. Then it will go to the countercyclical bill. I understand that there may be at least two amendments—we know of one—on which there is a 1-hour limitation. There is a 30-minute limitation on all other amendments. So I anticipate that there will be at least four rollcall votes, possibly more, depending upon the number of amendments. I do not anticipate that the Senate will be in late today, but it will depend upon the number of amendments.

Senators should be well informed by now that from here on out, there will be Saturday sessions and there will be long daily sessions, with rollcall votes daily to come at any time during the day. So I hope that Senators will adjust their schedules accordingly. We are rapidly nearing the end of the calendar year, with only 3 months remaining. Christmas will occur just 3 months from Monday and there is also a national election, so we do not have a great deal of time left in which to do our work. I am sorry that we have to have Saturday sessions, but I see no alternative.

Mr. President, I yield the floor.

Mr. BAKER. Mr. President, I assure the majority leader that Members on this side are fully prepared now for Saturday sessions—not with much enthusiasm, but with a certain resignation.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXTENSION OF THE EQUAL RIGHTS AMENDMENT

The ACTING PRESIDENT pro tempore. The Senate having adjourned, House Joint Resolution 638 will now have its second reading.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 638) extending the deadline for the ratification of the equal rights amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask that any further proceedings on this measure be dispensed with.

The ACTING PRESIDENT pro tempore. Objection having been heard to further proceedings, the matter will go over to the Calendar.

SECOND CONCURRENT BUDGET RESOLUTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 683.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

In lieu of the matter proposed by the said amendment, insert:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $448,700,000,000 and the amount by which the aggregate level of Federal revenues should be decreased is $21,900,000,000;

(2) the appropriate level of total new budget authority is $555,650,000,000;

(3) the appropriate level of total budget outlays is $487,500,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $38,800,000,000; and

(5) the appropriate level of the public debt is $836,000,000,000 and the amount by which the temporary statutory limit on such debt should accordingly be increased is $38,000,000,000.

Sec. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) new budget authority, $127,000,000,000;

(B) Outlays, $112,400,000,000.

(2) International Affairs (150):

(A) New budget authority, $12,600,000,000;

(B) Outlays, $7,100,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $5,200,000,000;

(B) Outlays, $5,000,000,000.

(4) Energy (270):

(A) New budget authority, $8,700,000,000;

(B) Outlays, $8,100,000,000.

(5) Natural Resources and Environment (300):

(A) New budget authority, $13,300,000,000;

(B) Outlays, $11,500,000,000.

(6) Agriculture (350):

(A) New budget authority, $9,200,000,000;

(B) Outlays, $7,500,000,000.

(7) Commerce and Housing Credit (370):

(A) New budget authority, $5,500,000,000;

(B) Outlays, $2,800,000,000.

(8) Transportation (400):

(A) New budget authority, $19,500,000,000;

(B) Outlays, $17,300,000,000.

(9) Community and Regional Development (450):

(A) New budget authority, $8,900,000,000;

(B) Outlays, $9,600,000,000.

(10) Education, Training, Employment, and Social Services (500):

(A) New budget authority, $32,900,000,000;

(B) Outlays, $30,300,000,000.

(11) Health (550):

(A) New budget authority, $52,000,000,000;

(B) Outlays, $48,100,000,000.

(12) Income Security (600):

(A) New budget authority, $191,800,000,000;

(B) Outlays, $159,300,000,000.

(13) Veterans Benefits and Services (700):

(A) New budget authority, $21,050,000,000;

(B) Outlays, $20,700,000,000.

(14) Administration of Justice (750):

(A) New budget authority, $4,300,000,000;

(B) Outlays, $4,200,000,000.

(15) General Government (800):

(A) New budget authority, $4,100,000,000;

(B) Outlays, $4,000,000,000.

(16) General Purpose Fiscal Assistance (850):

(A) New budget authority, $8,800,000,000;

(B) Outlays, $8,800,000,000.

(17) Interest (900):

(A) New budget authority, $48,000,000,000;

(B) Outlays, $48,000,000,000.

(18) Allowances (920):

(A) New budget authority, $800,000,000;

(B) Outlays, $800,000,000.

(19) Undistributed Offsetting Receipts (950):

(A) New budget authority, —$18,000,000,000;

(B) Outlays, —$18,000,000,000.

EXTENSION OF EQUAL RIGHTS AMENDMENT

Mr. BAKER. Mr. President, I heard the Chair say a moment ago that pursuant to an objection—I take it under the rules—putting the measure directly on the calendar. It is my recollection that the transaction by the distinguished majority leader asked unanimous consent.

Mr. ROBERT C. BYRD. No; I did not say "I ask unanimous consent." I said "I ask," which is the same as an objection.

Mr. BAKER. I wanted to be sure that

it is not on the basis of an objection from me but rather at the suggestion of the majority leader that the matter has to go to the calendar.

The ACTING PRESIDENT pro tempore. Pursuant to the precedents under rule XIV, where there is objection to further proceedings after second reading of a bill or joint resolution it goes to the calendar.

Mr. BAKER. I thank the Chair and I thank the majority leader. I simply wanted the RECORD to be clear. The matter has been brought up as a result of a 2-second adjournment, after full consultation on this side of the aisle, to make sure there was no objection to that proceeding; and, as a result of that adjournment and the suggestion of the majority leader, the matter has now gone to the calendar in the ordinary course of business.

The ACTING PRESIDENT pro tempore. That is the situation.

Mr. BAKER. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, let me say for the RECORD that I discussed this matter with the distinguished minority leader before I proceeded to set in motion the mechanism by which the ERA resolution went to the calendar.

He understood that I was going to move to adjourn and that a motion to adjourn would trigger the mechanism for the ERA extension would go to the calendar; and that, once morning business had been concluded the ERA resolution would automatically be read the second time. It requires an objection to further proceedings to then get the ERA measure on the calendar. This is what has happened, for the RECORD.

Mr. BAKER. Mr. President, the majority leader is, of course, correct. We did discuss the matter and it was agreeable on that basis. The purpose of my previous reservation was to make clear that, first, after the first request for a 2-second adjournment and my reservation of rights, the majority leader and I did discuss this matter.

I did consult with Members on this side to ascertain their points of view and to protect their interests. I indicated we would not have an objection to the adjournment. The distinguished majority leader did then adjourn, and it was on his suggestion that no further proceedings be had on the ERA extension, and thus pursuant to the rules it goes to the calendar.

I just wanted to make sure no one in reading this misunderstood how the matter got on the calendar in the first instance.

Mr. ROBERT C. BYRD. Mr. President, so that the RECORD will be preeminently clear: If there had been objection to the unanimous-consent request to adjourn, I would have moved to adjourn. That would have been a nondebatable motion and adjournment could have been achieved by motion.

Furthermore, let no one reading the RECORD misinterpret my objection to any further proceedings. The only way that this measure could be put directly on the calendar under rule XIV is by an objection to further proceedings at this stage. This does not mean that I object to taking up the ERA extension. Nor does it mean that I am opposed to an extension of the time for ratification of the ERA.

It is merely the parliamentary technique that I had to follow in order to get the measure on the calendar and in a position to be possibly called up for Senate debate at a future date.

As to the extension itself, I have some unresolved questions regarding the wisdom of setting a precedent. On this, I have an open mind, and I have stated so many times publicly in my Saturday news conferences in weeks past.

But I want the RECORD to be clear that my objection to further proceedings was required in order to finalize the action of getting the measure on the calendar.

Mr. BAKER. Mr. President, I thank the majority leader. That is entirely accurate and consistent with my understanding of the situation.

By the same token, I would point out for the RECORD that in this proceeding we have not dealt with the substance of this matter and, as a matter of fact, I will oppose the extension of ERA by simple majority vote, not because I oppose ERA, but because I have serious constitutional doubts. The majority leader is aware of that point of view.

But the reasons for my caution this morning do not relate to the substance of that debate but, rather, to the protection of the rights of Senators on this side of the aisle in respect to those matters that may occur as a result of the adjournment which has now transpired.

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader has raised the question of a two-thirds requirement for approval of an extention of the period for ratification of ERA. I take it, from what he has stated, that he feels that a simple majority would not be sufficient, constitutionally, to assure the approval of the extension.

That matter is, of course, subject to debate, and certainly would be debated, as there are opinions on both sides. Some believe a two-thirds vote would be required, as I take it the distinguished minority leader does. Others believe only a majority vote would be required.

But the best way to determine, to be sure, the best way to be sure that an amendment or motion to that effect would be debated and acted on would be for opponents of the ERA extension to enter into a time agreement with the proponents. This would assure that a vote would occur on an amendment dealing with rescission and also on the matter of requiring a simple majority or a two-thirds vote.

If the cloture route should be followed and if cloture should be invoked, then no nongermane amendments—such as the rescission amendment which appears to be nongermane—would be in order.

That being the case, it would seem to me that the opponents of ERA would not have an opportunity to call up a rescission amendment.

So I am saying this to say that I hope that in order to do two things: First, to save the time of the Senate; and second, to give the opponents of ERA—and I am not putting myself in either class, proponent or opponent, at this moment, although I did vote for ERA on its passage in the Senate—I am simply saying that those who are already in the category of the opposition by virtue of their own choice, which I respect, could best assure that they would have a crack at a rescission amendment if they would enter into a time agreement. I hope that they will consider this and, hopefully, help to get a time agreement.

It is my understanding the proponents are willing to enter into a time agreement and are looking to give the opponents, as part of that time agreement, an opportunity to vote on the rescission amendment and also agree on a time to vote on the question as to whether a two-thirds vote or a simple majority is required to extend the ratification.

Mr. BAKER. Mr. President, I shall not take much longer. I see the distinguished Senator from Maine waiting here with great anticipation to proceed with the second budget resolution, which I think is a monumental accomplishment by him and the Senator from Oklahoma (Mr. BELLMON) and the entire committee on the congressional budget.

I do want to say, first, I, too, supported the ERA amendment when it was submitted to the Senate.

As a matter of fact, not only did I support it, I offered an amendment to it, an amendment authorizing voluntary prayer in public schools.

But the point of the matter is that I understand the requirements that the majority leader feels to expedite the business of the Senate. He understands, I am sure, the strong feelings on this subject on both sides of the aisle.

He has indicated, as I understand it, that he felt that an objection would not be made to proceeding with the consideration, say, or a time limit on a rescission amendment, if, in fact, the ERA extension were before the Senate; is that correct?

Mr. ROBERT C. BYRD. I believe that if no time agreement is reached, and if cloture were to be invoked, that a rescission amendment would not be germane and, therefore, would be ruled out of order; this would deny the opponents of ERA, or the proponents of the rescission amendment an opportunity to vote thereon after cloture.

I am confident, based on what they have told me, that the proponents of ERA are willing to enter into a time agreement, thus avoiding any possible filibuster and a cloture effort. In that time agreement they would be willing to provide that a rescission amendment be voted on.

Mr. BAKER. I thank the majority leader.

Mr. ROBERT C. BYRD. On that basis, I hope a time agreement can be reached, so as to give those opposed to the ERA amendment—as I say, at this moment, I am not in either category, but I will be in one or the other, I have an open mind now—but it would give those who are opposed to ERA and those who support the rescission amendment—and I am sure there are some who are opposed to ERA but who, if a rescission amendment could be adopted, probably would support ERA—but it would give them assurance that they would have a crack at their amendment.

Mr. BAKER. I thank the majority leader.

I notice that his formulation of the reply was that he did not anticipate an objection from the proponents of ERA. Of course, the opponents are on both sides of the aisle. I was trying to see if it was the majority leader's best judgment that an objection would not be made on his side of the aisle to a time limitation on a rescission amendment.

Mr. ROBERT C. BYRD. To a time limitation on a rescission amendment? I cannot say that there would be no objection on this side of the aisle. I am simply saying that the proponents, as I understand it, would be willing to provide a time agreement allowing the opponents to call up such a rescission amendment.

Mr. BAKER. I thank the majority leader.

I might say that there is no misapprehension—and I have told the majority leader this previously—that I have a serious question as to whether a time agreement can be arrived at. I will submit it to my colleagues on both sides.

In this issue, on the question of whether or not a rescission amendment may be germane, the majority leader may be right, subject to a ruling of the Chair.

On the question of the two-thirds vote, as the majority leader knows better than any other Member in this Chamber, because he is the premier and No. 1 expert, now living, on the procedure in this body, there are more ways than one to skin a cat.

I suspect that, at some point or other, perhaps even at the last moment, after the Chair has announced the number of Senators voting each way, there might be just a flicker of opportunity to decide whether or not the policy of the Senate was to extend by majority or two-thirds.

I have been an attentive student of procedural instruction by the majority leader. I may not know much, but I think there is a way to present that issue to the Senate.

Mr. ROBERT C. BYRD. Mr. President, I would like to see that issue presented to the Senate, and I will state my position on that issue right now.

I do not think that a two-thirds or "super majority" is required to extend the time for ratification of ERA. This is a procedural matter; it is a detail; it is not part of the substance of the constitutional amendment itself.

Therefore, no matter how the vote comes and when it comes, if it comes, I will welcome that vote, if indeed the ERA extension can be called up. I take the position that only a simple majority is required to adopt this extension.

Mr. BAKER. Mr. President, I will take the other position—that is, that any tinkering with this amendment should be done with the same procedural dignity by which the amendment itself was first adopted, and thus the issue will be joined.

Mr. ROBERT C. BYRD. I thank my friend.

SECOND CONGRESSIONAL BUDGET RESOLUTION, 1979

Mr. MUSKIE. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. A message from the House on House Concurrent Resolution 683 is before the Senate.

Mr. MUSKIE. I thank the Chair.

Mr. President, I ask unanimous consent that Tom Dougherty, of Senator GLENN's staff, and Tom Dine and Rick Brandon, of the Budget Committee staff, have the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, this second budget resolution had been scheduled for 8 o'clock this morning, and we have been engaged in a discussion of other important issues, without the appearance of other Senators who conceivably might be interested in the second budget resolution.

The ACTING PRESIDENT pro tempore. The Chair is most attentive.

Mr. MUSKIE. In any case, it does not appear that amendments or objections to the resolution are likely at this point. Nevertheless, I think it is important to lay out the record of this second budget resolution, because it is an important record and will have great importance in imposing restraints and in giving guidance to our spending decisions as we move through the months ahead with respect to the fiscal year which begins on October 1, 1978.

Mr. President, the second budget resolution for fiscal year 1979, now before the Senate for final action, takes a major step toward balancing the budget.

It contains a 36-percent reduction in the deficit the President proposed last January. It reduces by 24 percent the deficit contained in the first budget resolution of last spring.

Some of the reduced deficit results from lower-than-expected costs in existing programs. But a large share of the reduction results from deliberate congressional action to cut back on new programs.

Mr. President, we can be proud of this congressional budget. It gives us real reason to hope that we can balance the budget earlier than the 1983 target established in the budget process.

The reductions in spending Congress has made show that the budget process does work. I hesitate to think how high a deficit we would have if we did not have the congressional budget process.

The budget process is far from perfect.

It contains loopholes which must be closed.

But it is clearly our best hope for reaching a balanced budget and setting reasonable priorities within such a budget.

As usual, this conference substitute between the two Houses does not resolve all individual program decisions within the budget. To do so would usurp the role of other standing committees. Reaching agreement on such line-item decisions in a budget resolution conference would be nearly impossible, because of the vastly different views about individual programs in each House.

Instead, we agree on the overall totals for each major budget priority. Then all legislation passed by the Congress must fit within them.

One specific multibillion dollar spending program did prove to be a major roadblock to the agreement, however.

The House budget resolution contemplated spending of $2 billion a year for new public works programs.

The Senate budget resolution contained more than $40 billion in traditional public works, but none for the new program. The Senate believes such a new program would be inflationary and unnecessary in our maturing economic expansion.

Although we supported such programs during the recession, we did so with the expressed view that they should be phased out as the economy recovers. New public works programs would perpetuate in inflationary boom times these programs designed to deal with recession.

This conference deadlock on this issue kept us from meeting the September 15 deadline for the conference report.

The deadlock did not delay the legislative process.

And the deadlock was resolved in a way which makes enactment of a new public works program very unlikely.

The Senate, for example, went on record last week in a 3 to 1 vote against such spending.

The Senate did so when it instructed its conferees, by a vote of 63 to 21, to stand firm against such a program.

Now, Mr. President, let me describe the parliamentary situation on this conference report.

Our conference with the House found it could make economies in the budget which actually reduced the spending totals passed by either House.

Under the rules of the House and Senate, such agreements require the conference report to be submitted in technical disagreement.

The disagreement is not over substance. It results from the parliamentary technicality that a conference report must remain within the range established by the separate action of the two Houses.

Thus, where numbers agreed to in a conference are below or above that range, the conference must report in technical disagreement even if no real issue is involved.

We have frequently reported budget resolution conferences in such technical disagreement when we reduced spending and the deficit.

We do so here, where we have reduced the deficit so greatly.

In these cases the conference actually does produce an agreement on a budget resolution, called the conference substitute.

And we have done so in this case. It is fully described in the statement of managers accompanying the conference report.

I ask unanimous consent that relevant portions of this statement of managers be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. So, when the Senate votes today we will first vote to accept the conference report in technical disagreement.

A second vote will then occur on whether to accept the actual budget agreed to by the conferees and spelled out in the statement of managers. That vote will conclude congressional action on this budget resolution.

Other than this two-step procedure, this consideration of the second budget resolution will proceed as if the conference report had been reported without any technical disagreement.

MAJOR FEATURES OF THE CONFERENCE SUBSTITUTE

Now, Mr. President, let me review the major features of this congressional budget.

This budget contains the following binding totals for fiscal year 1979:

It contains revenues estimated at $448.7 billion, about $1 billion higher than estimated in the first resolution last spring.

It contains budget authority of $555.65 billion, $2 billion less than passed by the Senate, $5 billion less than passed by the House. This conference budget authority figure is $13 billion less than proposed by the first budget resolution.

This budget contains outlays of $487.5 billion, $2 billion less than passed by either House and $11 billion less than proposed by the first resolution.

The deficit is $1 billion lower than passed by either House, and $12 billion lower than the first resolution.

The public debt contemplated by the resolution is $836 billion, $2 billion lower than passed by either House and $13 billion lower than we contemplated in the first resolution.

Mr. President, I ask unanimous consent that a table illustrating the differences between the House and Senate resolutions for fiscal year 1979 and the conference result be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SECOND CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1979

[In billions of dollars]

Function	Senate	House	Conference agreement
050—National Defense:			
Budget authority	127.0	127.013	127.0
Outlays	112.5	112.403	112.4
150—International affairs:			
Budget authority	12.6	12.365	12.6
Outlays	7.2	7.119	7.1
250—General science, space, and technology:			
Budget authority	5.2	5.146	5.2
Outlays	5.0	4.991	5.0
270—Energy:			
Budget authority	8.9	9.601	8.7
Outlays	8.9	8.684	8.1
300—Natural Resources and Environment:			
Budget authority	13.6	12.963	13.3
Outlays	11.7	11.380	11.5
350—Agriculture:			
Budget authority	12.2	12.225	9.2
Outlays	7.2	7.628	7.5
370—Commerce and housing credit:			
Budget authority	5.5	5.551	5.5
Outlays	2.8	2.814	2.8
400—Transportation:			
Budget authority	19.5	19.451	19.5
Outlays	17.5	17.063	17.3
450—Community and regional development:			
Budget authority	8.9	10.327	8.9
Outlays	9.6	9.474	9.6
500—Education, training, employment, and social services:			
Budget authority	31.5	33.887	32.9
Outlays	30.2	31.111	30.3
550—Health:			
Budget authority	51.9	52.158	52.0
Outlays	48.6	49.298	48.1
600—Income security:			
Budget authority	191.5	192.139	191.8
Outlays	159.6	159.650	159.3
700—Veterans benefits and services:			
Budget authority	20.9	21.251	21.05
Outlays	20.4	20.913	20.7
750—Administration of justice:			
Budget authority	4.3	4.163	4.3
Outlays	4.2	4.173	4.2
800—General government:			
Budget authority	4.1	4.098	4.1
Outlays	4.0	4.035	4.0
850—General purpose fiscal assistance:			
Budget authority	8.8	8.931	8.8
Outlays	8.8	8.959	8.8
900—Interest:			
Budget authority	48.1	48.000	48.0
Outlays	48.1	48.001	48.0
920—Allowances:			
Budget authority	.5	−1.087	.8
Outlays	.5	−.743	.8
950—Undistributed offsetting receipts:			
Budget authority	−17.3	−17.163	−18.0
Outlays	−17.3	−17.163	−18.0
Revenues	447.2	450.000	448.7
Budget authority	557.7	561.019	555.65
Outlays	489.5	489.790	487.5
Deficit	42.3	39.790	38.8
Public debt	839.5	838.100	836.0

Mr. MUSKIE. Mr. President, I also ask unanimous consent that a table showing the spending totals by major mission within each function be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

REVENUES

Mr. MUSKIE. Mr. President, the tax reduction assumed in the conference substitute is sufficient to offset the higher tax burdens in 1979 which will result from inflation and social security tax increases.

The Senate resolution provided for Federal revenues of $447.2 billion, and to achieve that level, provided that revenues be decreased on a net basis by $23.4 billion. The House resolution provided for revenues of $450 billion with a net decrease for legislation of $19.9 billion.

To reconcile the difference in the size of the two tax reductions, the conferees agreed to cut the level of Senate tax reductions by $1.5 billion, or approximately 43 percent, of the $3.5 billion difference.

However, as I will explain shortly, this increase in the revenue floor reflects a technical revenue estimating adjustment. It does not reflect any change in the fiscal policy adopted by the Senate in its second resolution.

The revenue level agreed to by the conference assumes an extension through fiscal year 1979 of temporary tax reductions of $8.2 billion and additional tax reductions in fiscal year 1979 of $13.7 billion.

This $13.7 billion reduction reflects an assumption of $12.5 billion for general income tax reductions and an allowance of $1.2 billion for structural tax law changes.

The $12.5 billion of general tax reductions is the reestimated fiscal year 1979 impact of the tax policy adopted in the Senate version of the budget resolution. For the full calendar year 1979, these tax cuts will amount to $19.4 billion.

The Senate-passed second resolution revenue floor had been based upon the assumption that a $19.4 billion general tax reduction would reduce revenue collections by $14 billion in fiscal year 1979. Subsequently, CBO and the Joint Committee on Taxation both adopted a new convention for estimating the portion of a calendar year tax reduction attributable to the same fiscal year. The fiscal year impact is limited to the first 9 months or the last 3 of any calendar year.

This new methodology had been used to calculate the impact of the House-passed tax bill. It had also been incorporated in the budget resolution approved by the House.

Applying this new methodology to the tax policy assumed in the Senate resolution reduces the fiscal year 1979 cost of a $19.4 billion full-year tax cut from $14 billion to $12.5 billion.

Accepting this $12.5 billion estimate does not change the tax policy of the Senate second resolution.

The assumption of a $19.4 billion calendar year general tax reduction remains unchanged. In fact, if the Senate conferees had not agreed to this new estimate, the Senate could have approved a 1979 tax reduction several billion dollars higher on an annual basis than was anticipated in the Senate resolution.

In total, the conference substitute allows for the same $21 to $22 billion overall level of calendar year 1979 tax reductions assumed by the Senate resolution. These reductions include $19.4 billion in general reductions plus the $1.6 to $2.6 billion for structural tax changes.

NATIONAL DEFENSE AND INTERNATIONAL AFFAIRS

Now, let me review some of the major spending decisions reflected in the conference substitute.

For national defense, the conference substitute provides the same amounts as the Senate resolution except for a $100 million downward outlay reestimate.

These totals fully provide for the current congressional action on major defense bills and possible later requirements in the defense function.

These possible later requirements include the defense appropriation bill and the October Government pay raise for the Department of Defense.

The ceilings established in the conference substitute provide for needed modernization of our strategic and tactical forces and improvements in combat readiness.

In the international affairs function, the conference substitute provides the budget authority total adopted by the Senate, with outlays $100 million below the Senate level, due to a reestimate.

These totals reflect congressional action to restrain year-to-year growth in foreign economic development assistance programs. They also provide fully for the United States share of the International Monetary Fund's Witteveen Facility.

NATURAL RESOURCES

For natural resources programs, the downward conference adjustments to the Senate resolution primarily reflect congressional action which occurred after the Senate resolution was reported. They also include some CBO reestimates.

In the general science, space, and technology function, the conference accepted the Senate-passed levels, which reflect conference agreements on the major appropriations for the function.

The energy function reflects a CBO and GAO review of progress on the strategic petroleum reserve. As a result of that review, CBO has reduced its outlay estimate for that program by $600 million.

A $200 million reduction in budget authority compared to the Senate resolution reflects the decreased likelihood we will need any budget authority for the strategic petroleum reserve beyond what is contained in the Senate-passed interior appropriation bill.

In the natural resources and environment function, the conference substitute reflects adjustments made in appropriation bills and a decreased allowance for supplemental appropriations, based on the latest estimate of requirements for such programs as the oil spill pollution liability fund and the nonpoint source pollution program.

The conference substitute reduces the Senate-passed budget authority level for the agriculture function by $3 billion, reflecting the latest estimate of the amounts of new authority needed by the Commodity Credit Corporation to operate current programs. The conference substitute also includes an allowance for legislative initiatives, such as agricultural export credit legislation and the international grain reserve bill.

Neither the budget authority nor the outlay allowance would accommodate any significant new initiatives beyond these two already proposed programs. The Senate-passed outlay level for agriculture was increased to allow for the grain reserve.

COMMERCE AND COMMUNITY DEVELOPMENT

In the commerce and housing credit function, the conferees accepted the Senate-passed ceilings. They provide sufficient funding to accommodate the current level of program activity.

The conference substitute will continue Federal support to insure an adequate supply of mortgage credit.

The conference substitute assumes continued appropriations to the Postal Service in line with current law. It assumes that the Small Business Administration will place more emphasis on the use of loan guarantees in fiscal year 1979.

In the transportation function, the conference substitute provides budget authority identical to the Senate-passed resolution. Outlays are $200 million below the Senate figures.

The outlay reduction reflects lower assumptions about the rate of spending for highway programs. The conference substitute is adequate to increase Federal support for transportation activities substantially. It will accommodate the Senate version of all major bills reported, including the pending highway and air legislation.

The figures agreed to will not accommodate the extravagant funding increases proposed in transportation legislation pending before the House.

In the community and regional development function, the conferees agreed on the Senate ceilings of $8.9 billion in budget authority and $9.6 billion in outlays. However, the House and Senate conferees differ significantly in their interpretations of these ceilings.

I want to make clear the nature of the differing interpretations of the conference substitute.

The community and regional development ceilings agreed to by the conferees are equal to those which passed the Senate. In accordance with the Senate's continuing interpretation of these ceilings, there is no room for a new public works program.

The Senate believes that further Federal stimulus of the already booming construction industry would be wasteful and inflationary.

In fact, last week, the Senate reaffirmed that judgment by a vote of 63 to 21 to instruct the Senate conferees to oppose any new public works program in this budget.

On the important issue of disaster assistance, the Senate ceilings were carefully chosen to reflect CBO's best estimate of the cost of disaster assistance in fiscal year 1979. These estimates assume that farmers will continue to be eligible for SBA disaster loans, that SBA interest rates will revert to the Government's average cost of capital, and that disasters will be declared at about the average level experienced in recent years.

In contrast, the House conferees assume that Congress will enact new legislation to reform Federal disaster assistance programs in time to achieve substantial savings in fiscal year 1979. They therefore maintain that the Senate ceilings agreed to by the conferees can accommodate up to $700 million for such a new public works spending program.

Mr. President, I believe most Senators are convinced that reforms in the SBA disaster loan program are absolutely necessary to bring Federal spending under control and to prevent the waste of tax dollars by assuring such assistance goes only to those in real need.

Senator BELLMON and I have pressed for these reforms, and we intend to continue working for them.

The President also has made a reasonable proposal for achieving needed reform.

GENERAL GOVERNMENT

In the General Government function, the conference substitute will accommodate current levels of program activity for the legislative and executive branches, increased IRS activity, and small growth in administrative law reform.

For general purpose fiscal assistance the conference substitute will allow funding of most programs at current levels. It will also contain room for a supplementary fiscal assistance program.

HUMAN RESOURCES

For human resources programs, the conference substitute retains most of the basic policies assumed in the Senate resolution.

Among these policies are funding increases for several existing programs. These programs include handicapped education, health services, child nutrition, veterans' compensation and pension programs, and an expansion of the earned income tax credit.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MUSKIE. Yes; I would be happy to yield.

Mr. PROXMIRE. First, I commend the distinguished Senator from Maine on what I think is a remarkable job. I do not think anybody in the Senate felt it would be possible to come in with this kind of a remarkable reduction below the estimates in January. I think where the accomplishment is particularly impressive is with respect to budget authority because these are the programs we are going to have to have outlays for in future years.

As I understand it, while much of the outlay is because of reestimates, and part of the budget authority is because of reestimates, in this case so far as budget authority is concerned, most of it, $12 billion of the $13.5 billion roughly, is a matter of actual substantive program reductions; is that correct?

Mr. MUSKIE. The Senator is correct. To give a figure which pinpoints the excellent point which the Senator is making, the budget authority number in this resolution is $13.5 billion below the President's January budget estimate.

Mr. PROXMIRE. I think that is a most reassuring achievement. I think people in this country realize that inflation is a serious problem. There are many causes of inflation. Government spending is only one, but it is an important part of it.

I notice that one of the most unfortunate developments in recent months has been that for the first time since they have been taking polls on consumers' expectations, we now have a situation in which most people feel the future will be less attractive, less favorable, and less promising, than in the past. I think that is largely because of their perceptions about inflation. What the Senator is working on here is to develop a budget situation which will begin to bring Federal spending under control, begin to reduce the increase in Federal spending so that that pressure on prices will be reduced in the one area where we, as a country, can consciously move to reduce it.

Mr. MUSKIE. The Senator is correct.

There is another point which, to my great dissatisfaction, is not sufficiently articulated, and not taken into account by economists, and that is the effect of inflationary expectations upon inflation.

I think if people begin to expect inflation they govern their own behavior accordingly, and thus tend to contribute to inflationary pressure.

For instance, labor is looking for new contracts. If they expect inflation to continue at a given rate or a higher rate, then there are intensified pressures for higher settlements.

Or the average citizen, expecting inflation to continue, may well expedite his spending and contribute to demand for particular products. I know I have been doing that in the last couple of years—spending for things that I might otherwise have delayed, because of the conviction that later they would be more costly.

So I think trying to reduce action based upon inflationary expectations was very much a part of our year-long preoccupation with this budget. In other words, we felt that if we could demonstrate to the country that we are determined to reduce the potential inflationary impact of the Federal budget, then expectations of inflation might be reduced, and the inflationary impact of those expectations might be reduced.

Mr. PROXMIRE. I hate to keep pointing this out, but as the Senator may know I have tried to reduce the budget outlays by $25 billion. That would seem impossible, by any amendment I might offer, but the amazing thing is that the recommendation of the Senate and the Congress now is to go at least halfway, and that is an amazing achievement.

Mr. MUSKIE. May I say on that point that I do not think there is a real difference between the objectives of the Senator from Wisconsin and mine. I think the budget process gives us the means for moving in the direction that the Senator proposes. I have no objection to the proposing of such an amendment, but by doing it this way we do it on a selective basis that reflects priorities and perhaps adds to the willingness of Members of Congress to reduce appropriations, because they understand that priorities are given appropriate consideration.

I am delighted that the result we came up with reassures the Senator.

Mr. PROXMIRE. Well, it reassures me, but I am going to have to vote no on this resolution, although I am sure the Senator from Maine understands, because I do have impossible dreams, and I just hope that somehow we can get down even lower than we are.

But I commend the Senator from Maine and the Senator from Oklahoma for doing such a magnificent job here, far better than I expected they could do.

Mr. MUSKIE. Well, I do not object to pressure from that end, and I appreciate the Senator's suggestions.

To continue my statement:

For education, training, employment, and social services, budget authority and outlays are higher than the Senate-passed levels by $1.4 billion and $100 million, respectively.

Funding is assumed for the President's proposals for education concentration grants and a private sector employment initiative.

The most significant departure from the policies of the Senate resolution is an assumption about funding for the middle-income tuition assistance program.

The Senate resolution assumed no funding for this program. The House assumed funding of $1.5 billion.

The conference substitute assumes appropriations of $1 billion for this purpose, but the conference substitute also states clearly that the Congress must choose between the tuition tax credit and spending programs now under consideration.

We cannot afford both.

The conference substitute also includes small increases over the Senate levels in other education programs and in the CETA program.

As noted in the conference report, the conferees continue to encourage increased targeting of employment programs on the structurally unemployed as the most efficient and least inflationary way to fight unemployment. The ceilings for this function assume a phase-down, beginning in fiscal year 1979, of CETA countercyclical jobs due to the expected continuing improvement of the economy.

In the health function, the conference substitute ceilings are $100 million higher in budget authority and $500 million lower in outlays than the Senate-passed levels.

These ceilings assume that the hospital industry's voluntary efforts will continue to reduce costs in fiscal year 1979. The conferees agree that the present rate of inflation in health care costs is unacceptable. They urge the hospital industry to pursue vigorously its efforts to control that inflation.

The conference substitute also anticipates that the Department of Health, Education, and Welfare will make significant progress in reducing fraud, waste, and abuse in health programs.

In the income security function, the conference substitute is $300 million above the Senate level in budget authority and $300 million below the Senate total in outlays.

The rise in budget authority reflects the HUD-independent agencies appropriations conference agreement for assisted housing.

The lower outlay total reflects anticipated savings from the reduction of waste, fraud and abuse in programs under the jurisdiction of the Department of Health, Education, and Welfare.

For veterans benefits and services, the conference substitute increased the Senate total for budget authority by $150 million, and increased the Senate total for outlays by $300 million. These increases will accommodate the HUD-independent agencies appropriations conference agreement for veterans programs.

INTEREST, ALLOWANCES AND OFFSETTING RECEIPTS

For interest, the conference substitute provides budget authority and outlays of $48 billion, which is $100 million below the Senate resolution, based on the reduction in the deficit achieved in this conference.

For allowances, the conference substitute provides budget authority and outlays of $800 million. This amount is sufficient to cover the October 1978 pay raise for Federal employees of civilian agencies.

The conference substitute distributes to the appropriate functions savings assumed in the Senate and House resolutions for across-the-board cuts in appropriation bills.

For undisturbed offsetting receipts, the conference substitute provides budget authority and outlays of $18 billion, which is $700 million below the Senate resolution.

The conference substitute assumes that either enactment of legislation or administrative action will result in higher Outer Continental Shelf leasing bids, which will increase such receipts compared to the Senate-passed level.

FISCAL POLICY

Mr. President, the spending and tax policies in this budget will sustain the current economic expansion into its fifth year.

With this budget, we can assume an economic growth rate of 3.9 percent, some further reduction in the unemployment rate, and moderation of inflation.

I ask that a table summarizing these economic assumptions be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ECONOMIC ASSUMPTIONS

[Calendar years; dollar amounts in billions]

	1978	1979
Gross national product:		
Current dollars	$2,092	$2,313
Constant (1972) dollars	1,385	1,438
Incomes:		
Personal income	1,698	1,882
Wages and salaries	1,107	1,228
Corporate profits	186	200
Unemployment rate:		
Calendar year average	5.9	5.7
Fourth quarter	5.8	5.6
Consumer Price Index (percent change; year over year)	6.9	6.7
Interest rate, 3-mo Treasury bills (monthly average)	6.8	7.4

Mr. MUSKIE. The reductions in spending and the deficit achieved in this budget are necessary in light of recent developments in the economy. Unemployment has fallen more rapidly than had been expected earlier this year, decreasing the need for an expansionary Federal budget. At the same time, inflation has accelerated to a rate more rapid than had been anticipated, making a reduction in the level of budgetary stimulus the only prudent course.

This budget also provides for tax reductions to offset the tax increases in 1979 from social security tax increases and inflation.

INFLATION

Americans properly view inflation as the Nation's most pressing problem.

That comes as no surprise.

Inflation for the year has been running at close to a 10 percent annual rate.

This pace of inflation is intolerable.

To reduce it, we must follow moderate fiscal and monetary policies.

Extreme measures would produce extreme results. We cannot abruptly throw millions of Americans out of work through impulsive budget slashes.

We cannot try to cure unemployment in the present economy with higher Federal spending and even more inflation.

We can use fiscal policy to moderate and reduce inflation. We must continue to decrease the deficit as the economy approaches capacity.

Progress toward full employment and lower inflation can be achieved through consistent Federal policies designed to avoid the boom-and-bust cycle of too much spending followed by excessive restraint.

We must also adopt so-called structural policies designed to create employment opportunities for the disadvantaged and to increase productivity and investment.

The conference substitute reduces the budget deficit. It also contains recommendations against specific action which increase prices and the inflation rate in particular sectors.

The conference substitute recognizes, for example, an urgent need to curb the rapid inflation in medical care costs.

It recommends lower outlays in the health function to reflect Federal and private efforts to reduce health cost inflation.

The conference substitute also recognizes the need for the Federal Government to set an example of wage restraint by limiting Federal pay increases this fall.

The conference substitute also encourages "targeted" public service jobs which emphasize employment and training for unskilled workers, young people, and welfare recipients—the so-called structurally unemployed.

These structurally unemployed programs help reduce the longer run tradeoff between inflation and unemployment.

Such structural unemployment policies will provide additional jobs without putting new pressures on wage rates. They will help us achieve highest rates of employment without accelerating inflation.

JOBS

Nearly 6 million American workers remain out of jobs in spite of the drop in the unemployment rate to 5.9 percent in August. Indeed, the fact we must accept this nearly 6-percent unemployment rate as an achievement, as well as a challenge, indicates how far we have come, yet how far we still have to go to recover from the recession.

The conference substitute provides for steady job gains in 1979. Employment should increase by over 1.8 million jobs during 1979, reducing the unemployment rate to 5.6 percent by the end of that year.

This means a reduction of over 3 full points in the unemployment rate and creation of about 12 million jobs since the economic recovery began in early 1975.

We cannot rest on these employment gains.

We must preserve those gains by maintaining steady economic growth.

At the same time, we must also strengthen our commitment to reducing structural unemployment.

A BALANCED BUDGET

The deficit reduction achieved in this budget represents real progress toward a balanced budget.

It is more than $12 billion lower than the current year's deficit.

The budget deficit was $66.4 billion just 3 years ago. The deficit was 4.1 percent of the GNP that year.

The deficit in this new budget resolution represents only 1.7 percent of GNP, less than half the 1976 figure.

The 5-year budget projections of this budget indicate that continued moderate economic growth led by a strong private economy will bring the Federal budget to balance by 1983.

We would, of course, prefer to balance the budget before then.

We will try.

It is possible that exceptional economic growth in the private sector will allow us to balance the budget before 1983.

But the time it will take to reach budgetary balance depends critically on both the strength of the private sector and on congressional control over the budget.

So while these projections indicate a balanced budget in 1983, they do not suggest that we can simply pass a law which will somehow magically create a balanced budget in that or any other year.

This last point is particularly important. The two budget goals I hear mentioned again and again in this body and in my own State of Maine are budgetary balance and lower taxes.

We all wholeheartedly support these goals.

But too often the rhetoric and the simple solutions that receive so much attention are not the answers to our budget problems.

The fact is that "balance the budget" amendments added to bills on the floor will not bring us either a balanced budget or lower taxes.

Nor are "across-the-board" spending cuts an effective substitute for deliberate and careful weighing of national priorities.

Neither of these approaches can effectively control Federal spending.

But Federal spending must be held down if we hope to balance the budget and reduce taxes in the years ahead.

I urge all Senators to keep that vital fact in mind as they vote on spending legislation. Budget balance will only be achieved bill by bill and vote by vote.

Not by panacea or wishes enacted into law.

The budget reflects the dividends of spending restraint.

Under this budget, the share of Federal outlays in GNP will fall from 22 percent in fiscal year 1978 to 21.6 percent in fiscal year 1979.

The budget deficit will fall from 2.5 percent of GNP in 1978 to 1.7 percent in 1979.

Most important, this spending constraint will allow Congress to reduce the deficit in the coming fiscal year and at the same time provide American taxpayers with significant tax reductions.

THE DOLLAR

Mr. President, finally I want to discuss the relationship between this conference substitute and the value of the dollar. Continued confidence in the dollar is essential to both domestic and international economic stability.

A loss of confidence not only produces financial instability in the exchange markets, but also forces more restrictive monetary policies, higher interest rates, and higher unemployment upon us at home.

The recent decline in the dollar is not justified by underlying economic differences between America and our trading partners. It is in large part due to a weakening of confidence—confidence that this Nation can control Government spending, control inflation, control the budget deficit, and control its appetite for imported energy.

These reductions in spending and the deficit in this budget are designed to convince the American public and the international community that the Congress is serious about reducing spending, reducing the deficit, and bringing the budget under firm control.

The moderate and prudent fiscal policy provided by these reductions shows that we are serious about restraining inflation and can resist inflationary spending.

This is the congressional budget. It is also the Federal budget.

And it is intended to be a clear signal we can bring spending under control.

Exhibit 1

Economic Assumptions

The fiscal policy contained in the conference substitute is designed to maintain the economic expansion and further reduce unemployment without adding to inflationary pressures. The reduction in the deficit from $50.9 billion in the first budget resolution to $38.8 billion in the conference substitute will improve economic confidence both at home and abroad. The economic assumptions underlying the revenue and spending ceilings contained in the conference report are as follows:

[Calendar years; dollar amounts in billions]

	1978	1979
Gross national product:		
Current dollars	$2,092	$2,313
Constant (1972) dollars	1,385	1,438
Incomes:		
Personal income	1,698	1,882
Wages and salaries	1,107	1,228
Corporate profits	186	200
Unemployment rate:		
Calendar year average	5.9	5.7
4th quarter	5.8	5.6
Consumer Price Index (percent change; year over year)	6.9	6.7
Interest rate, 3-mo Treasury bills (monthly average)	6.8	7.4

Budget Aggregates

REVENUES

The House resolution provided for Federal revenues of $450 billion, and to achieve that level, provided that revenues be decreased on a net basis by $19.9 billion. The Senate amendment provided for revenues of $447.2 billion with a net decrease of $23.4 billion.

The conference substitute provides for Federal revenues of $448.7 billion, and to achieve that level, it provides that revenues should be decreased on a net basis by $21.9

billion. This revenue level assumes extension through fiscal year 1979 of temporary income tax rate reductions of $8.2 billion and additional tax reductions in fiscal year 1979 of $13.7 billion.

The conferees agree that all general income tax rate reductions become effective not earlier than January 1, 1979.

The conferees believe enactment of both a tuition tax credit and a college tuition assistance spending program would be inefficient and duplicative. The Congress should choose between these two proposals.

BUDGET AUTHORITY

The House resolution provided new budget authority of $561.019 billion. The Senate amendment provided for new budget authority of $557.7 billion.

The conference substitute provides for new budget authority of $555.65 billion.

OUTLAYS

The House resolution provided for outlays of $489.790 billion. The Senate amendment provided for outlays of $489.5 billion.

DEFICIT

The House resolution provided for a deficit of $39.790 billion. The Senate amendment provided for a deficit of $42.3 billion.

The conference substitute provides for a deficit of $38.8 billion.

PUBLIC DEBT

The House resolution provided for a public debt level of $838.100 billion. The Senate amendment provided for a public debt level of $839.5 billion.

The conference substitute provides for a public debt level of $836 billion.

Functional Categories

050: NATIONAL DEFENSE

The House resolution provided budget authority of $127.013 billion and outlays of $112.403 billion The Senate amendment provided budget authority of $127 billion and outlays of $112.5 billion.

The conference substitute provides budget authority of $127 billion and outlays of $112.4 billion.

150: INTERNATIONAL AFFAIRS

The House resolution provided budget authority of $12.365 billion and outlays of $7.119 billion. The Senate amendment provided budget authority of $12.6 billion and outlays of $7.2 billion .

The conference substitute provides budget authority of $12.6 billion and outlays of $7.1 billion.

250: GENERAL SCIENCE, SPACE AND TECHNOLOGY

The House resolution provided budget authority of $5.146 billion and outlays of $4.991 billion. The Senate amendment provided budget authority of $5.2 billion and outlays of $5.0 billion.

The conference substitute provides budget authority of $5.2 billion and outlays of $5.0 billion.

270: ENERGY

The House resolution provided budget authority of $9.601 billion and outlays of $8.684 billion. The Senate amendment provided budget authority of $8.9 billion and outlays of $8.9 billion.

The conference substitute provides budget authority of $8.7 billion and outlays of $8.1 billion.

The conference substitute reflects a $1.1 billion reduction in budget authority from the House resolution for the Strategic Petroleum Reserve, reflecting fiscal year 1979 needs of the program, rather than full-funding of the first 500 million barrels in the reserve. The conferees note that the full-funding approach is one means of promoting early disclosure of total program costs, improved management and long-term savings for major construction and procurement programs. The action taken on this approach to this particular program is not intended to prejudice its application to appropriate programs, which both committees will be reviewing in the context of the budget resolution for fiscal year 1980.

Also, the conference substitute incorporates a technical reestimate, provided by the Congressional Budget Office, reducing estimated outlays in the strategic petroleum reserve program by $0.6 billion.

300: NATURAL RESOURCES AND ENVIRONMENT

The House resolution provided budget authority of $12.963 billion and outlays of $11.380 billion. The Senate amendment provided budget authority of $13.6 billion and outlays of $11.7 billion.

The conference substitute provides budget authority of $13.3 billion and outlays of $11.5 billion.

350: AGRICULTURE

The House resolution provided budget authority of $12.225 billion and outlays of $7.628 billion. The Senate amendment provided budget authority of $12.2 billion and outlays of $7.2 billion.

The conference substitute provides budget authority of $9.2 billion and outlays of $7.5 billion. The reduction in budget authority from the Senate and House levels reflects the conferees' estimate of the amount of new borrowing or contract authority required to carry out Commodity Credit Corporation programs.

370: COMMERCE AND HOUSING CREDIT

The House resolution provided budget authority of $5.551 billion and outlays of $2.814 billion. The Senate amendment provided budget authority of $5.5 billion and outlays of $2.8 billion.

The conference substitute provides budget authority of $5.5 billion and outlays of $2.8 billion.

400: TRANSPORTATION

The House resolution provided budget authority of $19.451 billion and outlays of $17.063 billion. The Senate amendment provided budget authority of $19.5 billion and outlays of $17.5 billion.

The conference substitute provides budget authority of $19.5 billion and outlays of $17.3 billion.

450: COMMUNITY AND REGIONAL DEVELOPMENT

The House resolution provided budget authority of $10.327 billion and outlays of $9.474 billion. The Senate amendment provided budget authority of $8.9 billion and outlays of $9.6 billion.

The conference substitute provides budget authority of $8.9 billion and outlays of $9.6 billion.

The House conferees assume that within these amounts $0.7 billion in budget authority is available for public works.

The Senate conferees assume the amounts agreed to are necessary to fund existing legislation.

500: EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES

The House resolution provided budget authority of $33.887 billion and outlays of $31.111 billion. The Senate amendment provided budget authority of $31.5 billion and outlays of $30.2 billion.

The conference substitute provides budget authority of $32.9 billion and outlays of $30.3 billion.

The conferees believe enactment of both a tuition tax credit and a college tuition assistance spending program would be inefficient and duplicative. The Congress should choose between these two proposals.

The conference substitute continues the first resolution assumption of a significant shift in emphasis in CETA resources to provide employment and training services targeted to the structurally unemployed. In view of improvement in the overall employment situation, the conferees recognize the reduced need for public service jobs for the temporarily unemployed. The conferees, therefore, assume a phase-down in the number of such countercyclical public service jobs and increased emphasis on private sector initiatives and programs to serve youth, who continue to suffer high unemployment. This shift should result in significantly increased savings in public assistance costs under Function 600.

These totals include a reduction in outlays of $0.1 billion which the conferees expect to result from efforts by the Department of Health, Education, and Welfare to eliminate waste, fraud, and abuse.

550: HEALTH

The House resolution provided budget authority of $52.158 billion and outlays of $49.-298 billion. The Senate amendment provided budget authority of $51.9 billion and outlays of $48.6 billion.

The conference substitute provides budget authority of $52.0 billion and outlays of $48.1 billion.

These totals include reductions in outlays of $0.7 billion which the conferees expect to result from the voluntary efforts of hospitals to constrain cost increases and $0.6 billion from efforts by the Department of Health, Education, and Welfare to eliminate waste, fraud, and abuse.

600: INCOME SECURITY

The House resolution provided $192.139 billion in budget authority and $159.650 billion in outlays. The Senate amendment provided $191.5 billion in budget authority and $159.6 billion in outlays.

The conference substitute provides $191.8 billion in budget authority and $159.3 billion in outlays. These totals include reductions in outlays of $0.3 billion which the conferees expect to result from efforts by the Department of Health, Education, and Welfare to reduce waste, fraud, and abuse.

700: VETERANS BENEFITS AND SERVICES

The House resolution provided budget authority of $21.251 billion and outlays of $20.913 billion. The Senate amendment provided budget authority of $20.9 billion and outlays of $20.4 billion.

The conference substitute provides budget authority of $21.05 billion and outlays of $20.7 billion.

750: ADMINISTRATION OF JUSTICE

The House resolution provided budget authority of $4.163 billion and outlays of $4.173 billion. The Senate amendment provided budget authority of $4.3 billion and outlays of $4.2 billion.

The conference substitute provides budget authority of $4.3 billion and outlays of $4.2 billion.

800: GENERAL GOVERNMENT

The House resolution provided budget authority of $4.098 billion and outlays of $4.035 billion. The Senate amendment provided budget authority of $4.1 billion and outlays of $4 billion.

The conference substitute provides budget authority of $4.1 billion and outlays of $4 billion.

850: GENERAL PURPOSE FISCAL ASSISTANCE

The House resolution provided budget authority of $8.931 billion and outlays of $8.959 billion. The Senate amendment provided budget authority of $8.8 billion and outlays of $8.8 billion.

The conference substitute provides budget authority of $8.8 billion and outlays of $8.8 billion.

900: INTEREST

The House resolution provided budget authority of $48.000 billion and outlays of $48.001 billion. The Senate amendment provided budget authority of $48.1 billion and outlays of $48.1 billion.

The conference substitute provides budget authority of $48.0 billion and outlays of $48.0 billion.

920: ALLOWANCES

The House resolution provided budget authority of −$1.087 billion and outlays of −$0.743 billion. The Senate amendment provided budget authority of $0.5 billion and outlays of $0.5 billion.

The conference substitute provides budget authority of $0.8 billion and outlays of $0.8 billion. The conference substitute distributes to the appropriate functions savings assumed in the House and Senate resolutions as a result of across-the-board cuts and efforts to eliminate waste, fraud, and abuse in programs administered by the Department of Health, Education, and Welfare.

950: UNDISTRIBUTED OFFSETTING RECEIPTS

The House resolution provided budget authority of −$17.163 billion and outlays of −$17.163 billion. The Senate amendment provided budget authority of −$17.3 billion and outlays of −$17.3 billion.

The conference substitute provides budget authority of −$18.0 billion and outlays of −$18.0 billion.

EXHIBIT 2

AMOUNTS IN H. CON. RES. 683, SECOND BUDGET RESOLUTION FOR FISCAL YEAR 1979, BY FUNCTION AND MISSION

[In billions of dollars]

	Budget authority	Outlays
Function 050—National defense:		
Mission 1: Strategic warfare forces	13.7	12.8
Mission 2: Tactical warfare forces	77.8	67.1
Mission 3: Defensewide forces and support	22.3	19.7
Mission 4: Other national defense programs	13.2	12.8
Total, function 050	127.0	112.4
Function 150—International affairs:		
Mission 1: Foreign economic assistance and financial programs	8.8	5.2
Mission 2: Foreign military assistance and sales	2.3	.5
Mission 3: Other international affairs programs	1.5	1.4
Total, function 150	12.6	7.1
Function 250—General science, space, and technology:		
Mission 1: Science	1.4	1.3
Mission 2: Civilian space program	3.8	3.8
Total, function 250	5.2	5.0
Function 270—Energy:		
Mission 1: Energy supply	3.7	4.7
Mission 2: Energy conservation	1.1	.5
Mission 3: Emergency energy preparedness	3.0	2.2
Mission 4: Other energy programs	.8	.8
Total, function 270	8.7	8.1
Function 300—Natural resources and environment:		
Mission 1: Water resources	3.6	3.5
Mission 2: Conservation and land management	2.2	1.9
Mission 3: Recreational resources	1.9	1.6
Mission 4: Pollution control and abatement	5.5	4.4
Mission 5: Other natural resources and environment programs	.1	.1
Total, function 300	13.3	11.5
Function 350—Agriculture:		
Mission 1: Farm income stabilization	7.9	6.3
Mission 2: Agriculture research and services	1.4	1.2
Total, function 350	9.2	7.5
Function 370— Commerce and housing credit:		
Mission 1: Mortgage credit and thrift insurance	2.2	−.3
Mission 2: Postal Service	1.8	1.8
Mission 3: Other commerce and housing credit programs	1.6	1.3
Total, function 370	5.5	2.8
Function 400— Transportation:		
Mission 1: Highways	8.5	7.1
Mission 2: Railroads	2.3	2.2
Mission 3: Mass transit	2.8	2.6
Mission 4: Air transportation	3.8	3.4
Mission 5: Water and other transportation	2.1	2.0
Total, function 400	19.5	17.3
Function 450—Community and regional development:		
Mission 1: Community development	5.2	4.0
Mission 2: Area and regional development	2.6	3.7
Mission 3: Disaster relief and insurance	1.2	1.8
Total, function 450	8.9	9.6
Function 500—Education, training, employment, and social services:		
Mission 1: Elementary, secondary, and vocational education	7.8	6.4
Mission 2: Higher education	5.5	4.2
Mission 3: Research and General Education aids	1.4	1.2
Mission 4: Training and employment	11.6	12.1
Mission 5: Other labor services	.5	.5
Mission 6: Social services	6.1	5.9
Total, function 500	32.9	30.3
Function 550—Health:		
Mission 1: Health care services	47.1	43.5
Mission 2: Health research	3.1	3.0
Mission 3: Education and training of the health care work force	.8	.8
Mission 4: Consumer and occupational health and safety	.9	.9
Total, function 550	52.0	48.1
Function 600—Income security:		
Mission 1: General retirement and disability insurance	106.9	108.8
Mission 2: Federal employee retirement and disability	20.3	12.1
Mission 3: Unemployment compensation	15.4	10.4
Mission 4: Public assistance	19.6	19.7
Mission 5: Nutrition programs	3.8	3.8
Mission 6: Housing assistance	25.3	4.4
Mission 7: Other income security programs	.5	.2
Total function 600	191.8	159.3
Function 700— Veterans benefits and services:		
Mission 1: Income security for veterans	11.8	11.4
Mission 2: Veterans education, training, and rehabilitation	2.6	2.8
Mission 3: Hospital and medical care for veterans	6.1	5.9
Mission 4: Other veterans benefits and services	.6	.6
Total function 700	21.05	20.7
Function 750— Administration of justice:		
Mission 1: Federal law enforcement activities	2.1	2.1
Mission 2: Criminal justice assistance	.7	.7
Mission: Other administration of justice programs	1.5	1.4
Total, function 750	4.3	4.2
Function 800—General government:		
Mission 1: Legislative functions	.9	.9
Mission 2: Other general government programs	3.2	3.1
Total function 800	4.1	4.0
Function 850—General purpose fiscal assistance:		
Mission 1: General revenue sharing	6.9	6.9
Mission 2: Other general purpose fiscal assistance programs	2.0	2.0
Total, function 850	8.8	8.8
Function 900—Interest:		
Mission 1: Interest on the public debt	54.4	54.4
Mission 2: Other interest	−6.4	−6.4
Total, function 900	48.0	48.0
Function 920—Allowances: Mission 1: Civilian agency pay raises (total)	.8	.8
Function 950—Undistributed offsetting receipts:		
Mission 1: Rents and royalties on the Outer Continental Shelf (OCS receipts)	−3.3	−3.3
Mission 2: Employer share, employee retirement	−5.4	−5.4
Mission 3: Interest received by trust funds	−9.3	−9.3
Total, function 950	−18.0	−18.0
Total, budget	555.65	487.5

Note: Details may not add to totals due to rounding.

Mr. MUSKIE. Mr. President, I ask unanimous consent to have printed in the RECORD the statement of my good friend from Oklahoma (Mr. BELLMON), my staunch supporter in this vital effort, following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF MR. BELLMON

During the past 4 months since the passage of the first concurrent budget resolution fiscal year 1979, the Senate has successfully balanced conflicting goals and adhered to the fiscal constraints which were established at that time. Two weeks ago, the Senate voted overwhelmingly in favor of the second congressional budget resolution, and with the presentation of this conference report, we in the committee approach completion of a fourth budgetary cycle. It now becomes the responsibility of the Senate, and Congress as a whole, aided by the Budget Committees, to adhere to the ceilings established under this resolution.

The economic objectives and priorities in the conference report reflect the general agreement by both Houses that inflation is a critically important problem. Both Houses also agreed, however that some tax reduction is required in fiscal year 1979 to counteract the fiscal drag effects arising from increased social security taxes and inflation-induced increases in personal taxes as a result of our progressive tax system. This fiscal stimulus is needed in order to preserve the extraordinary employment gains achieved thus far during the current economic expansion.

However, the Senate entered the conference disagreeing with their colleagues in the House as to the best means for achieving this stimulus. The Senate has consistently supported a two part policy—(a) a tax cut in 1979 at least equal to expected tax increases and (b) highly targeted funding in CETA and other job creation and training programs. In contrast, the House has preferred a lesser tax cut, permitting more budgetary latitude for additional funding of employment and education programs.

The conference agreement reflects the Senate position on tax policy and some accommodation to the House position on middle-income tuition assistance and very modest adjustments in employment and education programs in function 500. For example, the increase in the revenue floor from $447.2 to $448.7 billion is the result of changes in estimating techniques and not changes in policy, and provides for the full $19.4 billion in annualized tax reductions contained in the second resolution for the coming fiscal year.

While the conferees increased budget authority for middle-income tuition assistance by $1 billion with the understanding contained in the language of the report that middle-income tuition assistance and a tuition tax credit would not both be accommodated in the fiscal year 1979 budget, the conferees succeeded in reducing aggregate budget authority from both the Senate and the House position by over $2 billion—or to a total authority for fiscal 1979 of $555.65 billion. The reduction in BA includes a large reduction in agriculture CCC borrowing authority and lesser adjustments in energy, natural resources, and offsetting receipts.

The total budget authority contained in the conference report is $18 billion below that requested by the President in his January budget message.

Aggregate outlays also are $2.0 billion below the Senate level set in the second resolution. The reduction in aggregate outlays was due to downward reestimates of energy and reductions in spending for natural resources and transportation.

As a result of these changes, fiscal year 1979 deficit is $38.8 billion or $3.5 billion below the estimate contained in the Senate version of the second resolution. I would note that this deficit figure is over $20 billion below the President's deficit as stated in his January budget report—in fact, the $38.8 billion deficit for fiscal year 1979 approximates the President's January estimates for the fiscal year 1980 deficit. We may have gained 1 full year on our road to a balanced budget.

The focus of disagreement between the Senate and the House has been the inclusion of an additional $2.0 billion in the budget for a new and expanded public works program. I am pleased that these funds are not in the conference result and I would like to congratulate Senator MUSKIE for his determination and leadership on this issue. While labor intensive public works was initially conceived to be a highly targeted program to assist the structurally unemployed, in its current form, it constitutes an expansion of countercyclical public works and clearly represents a high cost analog of the existing CETA program. For these reasons and because of the already rapid growth in construction spending which argues against additional stimulus at this time, our second concurrent resolution calls for more stringent targeting of CETA funding on the structurally unemployed and a new $400 million per year private sector initiative rather than the labor intensive public works alternative. The conference report contains additional funds for the private sector initiative and youth employment programs. The total funds allocated to the structural unemployment problem in the conference agreement amounts to $7.3 billion.

Thus, we return to the Senate from conference with the Senate position both on focus and on funding unaltered. Labor intensive public works issue is a clear example of how new programs are created which ultimately gain their own spending constituencies and absorb an ever increasing share of Federal resources. I am certain that Senator MUSKIE joins with me in expressing appreciation to the Senate for its support when this issue was brought to the floor for instruction.

The conferees' task was a difficult one and I am encouraged by their willingness to resolve their differences on the basis of substantive judgments to the benefit of both Houses. The fiscal year 1979 budget achieves our many and varied objectives with a balance between stimulus and restraint which, I believe, assures the continuation of the current expansion without aggravating our already acuate inflation problem.

Moreover, with its further reduced deficit, the fiscal year 1979 budget demonstrates clearly the ability of the Congress to execute its responsibilities with fiscal discipline. Such discipline is important not only because of citizen pressure for tax and spending limitation initiatives, but also because of the increasingly critical appraisal of U.S. economic policy in foreign exchange markets. Since January, the dollar has declined 7 percent relative to the French franc; 15 percent relative to the German mark; 21 percent to both the Swiss franc and the Japanese yen. Clearly, the cause of this adjustment is more complex than the preference of the Congress for one fiscal policy in contrast to another. However, to the extent that the dollars' decline is the result of past fiscal policy choices and the inflationary bias these policies may suggest, the fiscal year 1979 budget should serve to restore foreign confidence in the economic policy judgment of the Congress and, ultimately, contribute to a more stable dollar.

My colleagues in the Senate have supported the Budget Act and the budgetary process. With their cooperation, we have moved one more step toward balancing the budget by 1982 or earlier. But, we have a difficult road ahead. Prolonging the expansion, restraining inflation, and balancing the budget are our most important long-term considerations. They are not competing objectives, they are mutually dependent. A recession, which could be easily induced by a rise in the inflation rate, would delay a balanced budget indefinitely and create disturbing fiscal stress. The fiscal year 1979 budget and its $38.8 billion deficit, which is a full $21.8 billion below the fiscal year 1979 deficit projected by the President last January responds effectively to these long-term considerations. I urge the Senate to accept the conference report.

In my final remarks, I would like to reiterate my continued support of tax reduction as an effective fiscal policy tool and my desire that a multiyear tax reduction approach be combined with multiyear outlay projections which are an important part of the budget process. Multiyear projections of program expenditures help us to evaluate the longer term fiscal commitment we are making by our current decisions—and the corresponding constraint on our ability to achieve a balanced budget. Multiyear tax reductions would enable us to compare these commitments to our expected revenue flow, not only in light of economic expectations, but also mindful of our fiscal responsibility to those who pay the taxes.

In the context of this responsibility, we recognize that significant money could be saved by a reduction in what has recently become the much publicized fraud and abuse in Government agencies and programs. Fraud and abuse, however, is not part of the budget and is virtually impossible to be redressed through the budget process. We would hope that the relevant authorizing and appropriations committees as well as the agencies under their jurisdiction would work with us in this regard.

I would like to extend my personal appreciation to the conferees for their willingness to expedite the less controversial issues, to articulate their differences on the more controversial issues with a spirit of personal detachment, and to strive for compromise. We on the Budget Committee and in the Senate, owe a great debt to Senator MUSKIE for his initiative and leadership through these early years of the budget process and, to the extent that the American people now have confidence in the budgetary discipline of the Congress and the legislative process, they also are indebted to the guidance of my distinguished colleague from Maine.

Mr. MUSKIE. Mr. President, I am now prepared to respond to questions in the time remaining.

Mr. CHAFEE. Mr. President, I would like to join in commendation of the Senator from Maine and the Senator from Oklahoma for what they have accomplished. I want to offer my support for the second concurrent budget resolution which my able colleagues, Senator MUSKIE, chairman of the Budget Committee, and Senator BELLMON, ranking minority member, have successfully brought through a difficult conference. In the course of the Budget Committee's efforts, both in the Senate and in conference, Senators MUSKIE and BELLMON have labored hard to reduce the deficit, combat inflation, and provide additional flexibility so that taxes can be cut.

One vexing issue which faced our Budget Committee involves a matter which has been pending before our Environment and Public Works Committee's Subcommittee on Regional and Community Development; namely, the Labor Intensive Public Works bill, introduced as part of the Carter administrations urban policy. I serve on this subcommittee. In my opinion and in the opinion of nearly all the minority members of the full committee, this new $3 billion program is not justified by the condition of our economy. And I might add that $3 billion is a low estimate, since the House has proposed a bill authorizing $6 billion over 2 years for labor-intensive public works and local public works. Mr. President, we still have $2 billion left to spend on round 2 of the local public works.

Furthermore, since the bill was introduced last June, it has undergone changes, recommended and sanctioned by the administration, which undermine the rationale offered for the program. The most attractive argument for this new expensive program, in my opinion, was that it would be targeted to those long-term unemployed in our communities, the people who have not seen the fruit of a general economic recovery. But on closer examination of the bill and all the changes it was going through, one could see that that target population was not going to receive substantial benefits. The revised administration bill provides only half the employment opportunities originally proposed for the long-term unemployed. And the labor-intensive features which make the program different from the 1976 and 1977 local public works programs, have been compromised away.

Mr. President, the number one problem facing this country today is inflation. We are trying desperately to balance the budget. The Senate recognized this by the support we gave to the Budget Committee on the vote for the Senate budget resolution that came to the floor. When Senator Muskie and Senator Bellmon came to us last week to show continued support, we voted 3 to 1 to hold the line on new public works spending and to instruct the Senate Budget Committee to continue their efforts to provide no funds for this program in fiscal year 1979.

Why do I bring all this up? Because, in providing budget authority for community and regional development programs, the conferees still disagree on the precise programs that will be funded in this functional category. Apparently the House believes that there is leeway to make $700 million available for public works, while the Senate conferees assume that the amounts agreed to are necessary to fund existing legislation. Specifically, the Senate anticipates that disaster assistance will account for this $700 million and then some, leaving no room for new public works.

Mr. President, I know something about natural disasters and the disaster relief programs of the Federal Government. My own State of Rhode Island suffered a disaster last winter, a blizzard, which brought forth great need for assistance to our crippled State. Experience suggests that we are being prudent in anticipating that these funds will be needed in other locations during the coming year.

In short, Mr. President, I support the Senate's position in this matter of no new additional spending for public works. Under present inflationary conditions, it is unthinkable. I believe the second concurrent resolution on the Federal budget should not be interpreted in any other way.

I would like to comment that, as I understand, the budget deficit for fiscal 1978 is $51 billion, and under this proposal it would be less than $40 billion; namely, $39.8 billion for fiscal 1979, is that correct?

Mr. MUSKIE. $38.8 billion.

Mr. CHAFEE. $38.8 billion, excuse me. So there is a drop of more than $12 billion, because the $38.8 billion is on a bigger budget; so the reduction, percentagewise, is even greater than the figures would represent. It is not just a $12 billion drop, which is very, very significant, but percentagewise it is even a more sizable drop.

Mr. MUSKIE. The Senator is correct.

Mr. CHAFEE. There is only one question I would have here. Do I correctly understand that as you went into the conference, the Senate version on the second concurrent resolution reflected a $42.3 billion deficit, and the House version was $39.8 billion, and then the conference, by pushing from both sides, came up with $38.8 billion? I have always looked on us as the leaders in tightfisted efforts over here, and I was rather discouraged to see that the House went in with a lower version than we did. Was there some sleight of hand artist there? Was their figure of $39.8 billion going into the conference a legitimate one, compared to our $42.3 billion, or are they more tightfisted than we are?

Mr. MUSKIE. No; the difference is a difference in the size of the tax cut. Actually, on the outlay side, we were below the House going into conference. We were also well below the House on budget authority. What we did was to calculate properly the fiscal year impact of the tax cut. We did not change the fiscal policy assumptions which we assumed in the first concurrent budget resolution or the Senate second budget resolution. We simply corrected the fiscal year impact of the full calendar year cut, and that correction was the result of a new methodology for estimating the fiscal year impact of the calendar year tax cut on which CBO, the Joint Committee on Taxation, and the Treasury are now agreed.

So this conference report, on the spending side, reflects solid reductions in budget authority and in outlays. I hope the Senator will be reassured about that.

Mr. CHAFEE. I thank the Senator very much.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. MUSKIE. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I came in a little earlier, first to congratulate the Senator from Maine and the Senator from Oklahoma on their very fine work. I have always sought to support the work of the Budget Committee, on which I originally served and found it a very rewarding experience. I very deeply appreciate the slight contraction of the deficit; it is extremely helpful in the world, and that is where my particular expertise is fixed.

I would like to say to the Senator, because I have noted particularly the public debt figure—which is slightly down, and I think that is important—for next year it is off, I see, by 2.1 percent, and down to $836 billion, that I think it would be very useful if a much closer relationship could be developed between the Budget Committee and the Joint Economic Committee, for this reason: No business just publishes its liabilities or its expenditures, or its cash flow, which is all we are doing. Every business publishes its assets and its liabilities. I realize that would include contingent liabilities or guarantees, on which, by the way, we have had extremely good luck.

But when I see anomalies like the one we went through yesterday over the Witteveen Facility, where we are making a bank deposit and it is charged as an expenditure, and we have a big row about it on the theory that it is an expenditure, it makes a mockery of our judgment. We would never have gone into this Witteveen Facility as an expenditure. It also makes fools of these agencies that think they are operating on a businesslike basis. As far as we are concerned, we are giving away the money, though you might as well charge off what you are depositing in a bank.

Therefore, it seems to me it might be wise, in the Budget Committee's reports, to take into account the operations of the country, to reflect that, sure, while we are in debt $836 billion, we are worth three or four or five times that, even charging contingent liabilities. I hope the Senator will think about that very seriously, because, now that the Budget Committee has matured as an agency of Congress, I think it would be extremely helpful if a balanced policy could be presented by the Budget Committee, too.

Mr. MUSKIE. The Senator makes a good point. The Federal budget includes both operating costs and capital investment.

Mr. JAVITS. Yes.

Mr. MUSKIE. The last time I looked at it, I think that capital investment amounted to some $80 billion in the budget; and what other budget in the world would put capital investment items, that have long life, in the so-called operating budget? That is a frustration.

I am not inclined to change the budget resolution itself, but I think we should focus on it, as the Senator suggests, in our reports.

Some of this information can be found in the President's budget if you look through it long enough. But what the Senator is asking for is a more visible display in our own reports which will reflect the differences between actual operating costs and investments.

Mr. JAVITS. And something about the asset side. All of that does not need to change the budget resolution. The Senator can do it in the way he brings the budget in here to reflect those facts. I hope the Senator will seriously consider that.

Mr. MUSKIE. We will look into it.

Mr. BAKER. Mr. President, I commend the Senator from Maine and the Senator from Oklahoma for their good work in this matter. I think they have done an outstanding job concerning the growing importance of the Budget Committee to the work of the Senate.

Mr. President, I ask unanimous consent that a compilation of budget outlays, revenues, and deficits, according to the administration proposal, the first concurrent budget resolution, the Senate second concurrent budget resolution, and other matters, may be printed in the Record at this point.

There being no objection, the table was

ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1979 BUDGETS

	President's version submitted in Jan. 1978	1st Con. Res. May 1978	Senate version of 2d Con. Res.	House version of 2d Con. Res.	Conference result, 2d Con. Res.
Budget authority	569.1	568.85	557.7	561.0	555.65
Outlays	501.0	498.8	489.5	489.8	487.5
Revenue	440.5	447.9	447.2	450.0	448.70
Deficit	−60.5	−50.9	−42.3	−39.8	−38.8

	Conference result over/under President	Conference result over/under 1st Con. Res.	Conference result over/under Senate version, 2d Con. Res.
Budget authority	−13.4	−13.2	−2.05
Outlay	−13.5	−11.3	−2.0
Deficit	−21.7	−12.1	−3.5

● Mr. HARRY F. BYRD, JR. Mr. President, I would ask the floor manager, Mr. MUSKIE, if he could provide me with some information with regard to "Federal funds deficit" as a result of this conference substitute?

COMPOSITION OF THE DEFICIT

Mr. MUSKIE. In response to the Senator's inquiry, I have asked the Budget Committee staff to prepare a table showing the budget surplus or deficit over a 40-year period, from 1940 through 1979. I submit this table for the RECORD at the conclusion of these remarks.

This table shows both the unified budget surplus or deficit—the total figure we are accustomed to dealing with in budget resolutions—and the separate surplus or deficit attributable to operations of the Federal funds and the trust funds.

The table shows each surplus or deficit both in current dollars—that is, the figures that actually show up in the budget—and in constant 1972 dollars. The constant dollar figures make year-to-year comparisons more meaningful.

Let me emphasize that I believe the best measure of the fiscal impact of the Federal budget is the unified budget deficit, which takes into account all revenues and spending by the Government.

If one is interested in economic impact, it does not matter whether a tax dollar is deposited in a trust fund or in the general fund of the Treasury. Likewise, it does not matter whether a dollar spent is paid out of a trust fund or out of a Federal fund appropriation. In the first instance, the Government has taken a dollar out of the economy; in the second, it has put a dollar back. The economy is indifferent to internal Government bookkeeping, and primarily responds to the difference between how much the Government takes out of the economy and how much it puts into the economy.

The table follows:

BUDGET SURPLUS OR DEFICIT (−) BY FUND GROUP

[In billions of dollars]

Fiscal year—	Current dollars: Federal funds	Current dollars: Trust funds	Current dollars: Unified budget	Constant (1972) dollars[1]: Federal funds	Constant (1972) dollars[1]: Trust funds	Constant (1972) dollars[1]: Unified budget
1940	−4.2	1.1	−3.1	−17.9	4.8	−13.1
1941	−6.5	1.5	−5.0	−26.5	6.2	−20.3
1942	−22.8	2.0	−20.8	−78.7	7.0	−71.7
1943	−58.0	3.1	−54.9	−184.3	9.8	−174.5
1944	−51.3	4.3	−47.0	−163.9	18.6	−150.3
1945	−52.9	5.4	−47.5	−172.7	17.7	−155.0
1946	−19.8	3.9	−15.9	−64.6	12.8	−51.8
1947	.5	3.4	3.9	1.3	9.4	10.6
1948	9.0	3.0	12.0	24.0	7.9	31.8
1949	−1.9	2.5	.6	−4.5	5.9	1.5
1950	−3.1	−.1	−3.1	−7.3	−.1	−7.4
1951	2.4	3.7	6.1	5.5	8.2	13.8
1952	−5.0	3.5	−1.5	−10.2	7.1	−3.1
1953	−10.0	3.4	−6.5	−19.7	6.8	−13.0
1954	−3.1	2.0	−1.2	−6.2	3.9	−2.3
1955	−4.2	1.2	−3.0	−8.3	2.3	−6.0
1956	1.4	2.6	4.1	2.7	5.0	7.7
1957	1.6	1.7	3.2	2.8	3.0	5.8
1958	−3.2	.2	−2.9	−5.5	.4	−5.1
1959	−11.3	−1.6	−12.9	−18.8	−2.7	−21.5
1960	0.8	−0.5	0.3	1.3	−0.8	−0.4
1961	−4.2	.8	−3.4	−6.7	1.2	−5.5
1962	−6.9	−.2	−7.1	−19.0	−.4	−11.3
1963	−6.6	1.8	−4.8	−10.1	2.8	−7.3
1964	−8.6	2.6	−5.9	−12.8	3.9	−8.9
1965	−3.9	2.3	−1.6	−5.7	3.3	−2.3
1966	−5.1	1.3	−3.8	−7.1	1.8	−5.3
1967	−14.9	6.2	−8.7	−20.0	8.4	−11.7
1968	−28.4	3.2	−25.2	−36.4	4.1	−32.3
1969	−5.5	8.7	3.2	−6.6	10.5	3.9
1970	−13.1	10.3	−2.8	−14.8	11.6	−3.2
1971	−29.9	6.8	−23.0	−31.5	7.2	−24.3
1972	−29.3	5.9	−23.4	−29.3	5.9	−23.4
1973	−25.6	10.7	−14.8	−24.2	10.1	−14.0
1974	−18.7	14.0	−4.7	−16.1	12.1	−4.0
1975	−52.5	7.4	−45.1	−40.8	5.8	−35.0
1976	−68.9	2.4	−66.4	−50.1	1.8	−48.3
1977	−54.5	9.5	−45.0	−36.9	6.4	−30.5
1978 estimate	−62.7	11.8	−50.9	−39.6	7.5	−32.1
1979 estimate	−53.5	14.7	−38.8	−31.5	8.7	−22.8

[1] Surplus or deficit multiplied by the OMB "budget deflator," which is calculated by dividing constant dollar outlays by current dollar outlays. ●

● Mr. BIDEN. Mr. President, I want to join in supporting the greatly reduced budget for fiscal year 1979 that is before the Senate today.

First, Mr. President, I would like to congratulate the chairman of the Budget Committee, Senator MUSKIE, for his tenacity in conference with the House. It was his refusal to concede to a large new spending program—backed by a vote of the Senate—that made the deficit as low as it is. I would also thank the distinguished ranking minority member, Senator BELLMON, for his continuing fight to keep the budget down.

No budget is ever satisfactory in every regard. This one is no exception as far as I am concerned. But it is nonetheless a remarkable achievement. The deficit is reduced $21.7 billion below the President's original estimate of $60.5 billion. Thus, the new deficit figure is $38.8 billion. This represents a major effort on the part of Congress, working through the congressional budget process, to reduce the Federal deficit. It also represents a recognition on the part of Congress of the role that deficit spending plays in feeding inflation.

In terms of overall spending, this final congressional budget reduces outlays by over $45 billion below the original requests of the legislative committees. Spending is $13.5 billion below the President's original request.

Budget authority is the factor that drives future year spending. Much of the budget authority approved in one year will actually be spent in future years, impacting on the deficit in those years. This resolution reduces budget authority by $13.4 billion below the President's request.

This is most important because next year, and the year after, are the years that will present the real challenge to the congressional budget process. The OMB midsession review of the budget showed potential spending in the next 2 fiscal years approaching a $100 billion increase. This is simply not tolerable, especially in the inflationary climate in which we are living. We simply must find ways to bring the budget into balance in these next 2 years. We cannot do that with such large spending increases. I know that the Senate Budget Committee, under Senator MUSKIE, will face up to the challenge. I would add parenthetically that I hope the chairman has sunset legislation on the books to help in the task of restraining Federal spending. I know he shares that view with me.

I mentioned that no one is ever completely satisfied with a budget. My main concern about this one is that the revenue figure is a little tight to provide the kind of tax cut that the American people need. However, it will allow a much larger cut than that already adopted by the House of Representatives. I am sure that we can fashion a tax bill that will stay within this budget and yet provide for a major tax cut.

While I believe next year will be the big test for fiscal restraint, we have certainly made significant strides in holding back on Government spending in this resolution and I support it.●

Mr. DANFORTH. Will the Senator yield for a unanimous-consent request?

Mr. MUSKIE. I yield.

Mr. DANFORTH. Mr. President, I ask unanimous consent that Ed Twilly of Senator THURMOND's staff be granted the privileges of the floor during the consideration of the pending concurrent resolution.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I make the same request for Mimi Feller, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, if there are no other Senators who wish to ask questions or make observations, as indicated earlier, two motions are in order to deal with the fact that we bring back a conference report in technical disagreement.

As a first motion, Mr. President, I move that the conference report be agreed to.

The PRESIDING OFFICER. Does the Senator submit the conference report?

SECOND CONGRESSIONAL BUDGET RESOLUTION, 1979—CONFERENCE REPORT

Mr. MUSKIE. Yes.

Mr. President, I submit a report of the committee of conference on House Congressional Resolution 683 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 683) revising the congressional budget for the U.S. Government for the fiscal year 1979, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 20, 1978.)

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

Mr. MUSKIE. Mr. President, I now move that the Senate concur in the House amendment to the Senate amendment to House Concurrent Resolution 683, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that this be a 20-minute rollcall vote with the warning bell to sound after the first 12½ minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that Mike Chaoukas, of my staff, be granted the privileges of the floor for the entire day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I make the same request for Howard Shuman, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

Mr. JACKSON. Mr. President, I ask unanimous consent that Mike Harvey, General Counsel for the Energy Committee, be granted the privileges of the floor for the entire day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I make the same request for Joe DeGenoa of my staff.

Mr. DECONCINI. Mr. President, I make the same request for Romano Romani, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Regular order, Mr. President. The time of 9 o'clock has arrived.

Mr. HATCH. Mr. President, I ask unanimous consent that Paul Haddow, of Senator RIEGLE's staff, be granted the privileges of the floor for the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I ask unanimous consent that Allen Moore, of my staff, be granted the privileges of the floor during the proceedings of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), and the Senator from North Dakota (Mr. BURDICK) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. DOMENICI), and the Senator from South Carolina (Mr. THURMOND) would each vote "nay."

The result was announced—yeas 47, nays 7, as follows:

[Rollcall Vote No. 397 Leg.]

YEAS—47

Baker
Bayh
Bentsen
Biden
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Clark
Culver
Dole
Durkin
Eagleton
Ford
Glenn
Hart
Hatfield, Paul G.
Hollings
Humphrey
Inouye
Jackson
Javits
Johnston
Leahy
Lugar
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Riegle
Sarbanes
Schmitt
Schweiker
Stone
Williams
Young
Zorinsky

NAYS—7

Byrd, Harry F., Jr.
Danforth
DeConcini
Garn
Hatch
Hatfield, Mark O.
Proxmire

NOT VOTING—46

Abourezk
Allen
Anderson
Bartlett
Bellmon
Brooke
Bumpers
Burdick
Case
Cranston
Curtis
Domenici
Eastland
Goldwater
Gravel
Griffin
Hansen
Haskell
Hathaway
Hayakawa
Heinz
Helms
Hodges
Huddleston
Kennedy
Laxalt
Long
McClure
McGovern
McIntyre
Percy
Randolph
Ribicoff
Roth
Sasser
Scott
Sparkman
Stafford
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tower
Wallop
Weicker

So the motion was agreed to.

(Later in the day the following proceedings occurred:)

Mr. MUSKIE. Mr. President, I ask

unanimous consent that it be in order to make a motion to reconsider the vote by which the resolution was agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Conclusion of later proceedings.)

● Mr. MUSKIE. Mr. President, again I wish to express my deep appreciation to the ranking member of the Budget Committee, Mr. BELLMON, who is necessarily absent today. His support and leadership have been essential to the success of the budget process.

I also wish to thank the staff of the Budget Committee for their excellent work on the second budget resolution. We have come to expect the highest caliber of professionalism from them and they are always equal to the task.

I would especially like to commend John McEvoy, Sid Brown, Van Ooms, George Merill, Dan Twomey, Tom Dine, Rodger Schlickeisen, and Ira Tannenbaum for their diligent work for the committee.●

BUDGET ACT WAIVER

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 553.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 553) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 2852.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The resolution (S. Res. 553) was considered and agreed to, as follows:

Resolved, That (a) pursuant to section 402(c) of the Congressional Budget Act of 1974, section 402(a) of such Act shall not apply with respect to the consideration in the Senate of the bill (H.R. 2852) to amend the Internal Revenue Code of 1954 to provide that refunds of the taxes on gasoline and special fuels shall be made to aerial applicators in certain cases; and

(b) That waiver of this section is necessary in order to enable the Senate to consider legislation which will extend and modify the program of antirecession fiscal assistance established by the Public Works Employment Act of 1976; and further

(c) That it was infeasible to complete action on this legislation within the usual time limits prescribed by this section because of the uncertain legislative status of the program in the House and because this program is so particularly related to economic conditions as to make it highly desirable to delay action beyond the usual deadline in order to obtain as accurate a view of present economic trends as possible.

ANTIRECESSION AND SUPPLEMENTARY FISCAL ASSISTANCE FOR STATE AND LOCAL GOVERNMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 2852, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2852) to amend the Internal Revenue Code of 1954 to provide that refunds of the taxes on gasoline and special fuels shall be made to aerial applicators in certain cases.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. This Act may be cited as the "Intergovernmental Antirecession and Supplementary Fiscal Assistance Amendments of 1978.".

SEC. 2. Section 201 of the Public Works Employment Act of 1976 (42 U.S.C. 6721) is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and ", and by adding at the end thereof the following new paragraph:

"(8) that both an antirecession fiscal assistance program and a supplementary antirecession fiscal assistance program which aid States and local governments requiring fiscal relief constitute essential elements of a sound Federal fiscal policy.".

SEC. 3. The Public Works Employment Act of 1976 (42 U.S.C. 6721 et seq.) is amended by inserting after section 201 the following:

"Subtitle A—Antirecession Fiscal Assistance".

SEC. 4. (a) Section 202(b) of the Public Works Employment Act of 1976 (42 U.S.C. 6722(b)) is amended—

(1) by striking out "subsections (a) and (d) and inserting in lieu thereof "subsection (c)";

(2) by striking out "five" and inserting in lieu thereof "13";

(3) by inserting "the sum of" after "under this title";

(4) by striking out "plus" at the end of paragraph (1), and by striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma and the word "and"; and

(5) by adding at the end thereof the following new paragraph:

"(3) such sums as may be necessary to carry out the provisions of section 206".

(b) Section 202(c) of such Act (42 U.S.C. 6722 (c)) is amended—

(1) by striking out "five" and inserting in lieu thereof "8"; and

(2) by striking out "July 1, 1977" and inserting in lieu thereof "October 1, 1978".

(c) Section 202(d) (42 U.S.C. 6722(d)) of such Act is amended to read as follows:

"(d) SUSPENSION OF ASSISTANCE.—

"(1) SUSPENSION.—If the average rate of unemployment for the United States is less than 6 percent for each of 2 consecutive quarters, so amount may be paid under this subtitle for the fourth calendar quarter of the 4 calendar-quarter period which began with the first of such 2 calendar quarters, or for any subsequent calendar quarter.

"(2) TERMINATION OF SUSPENSION.—Notwithstanding paragraph (1) of this subsection, amounts may be paid under this subtitle for calendar quarters beginning after any calendar quarter for which the average rate of unemployment for the United States equals or exceeds 6 percent until such time as paragraph (1) may require another suspension of payments.".

SEC. 5. Section 203(c) of the Public Works Employment Act of 1976 (42 U.S.C. 6723(c) (1)) is amended—

(1) by striking out "The Secretary" in paragraph (1) and inserting in lieu thereof the following: "Except as provided in section 206(b), the Secretary", and

(2) redesignating paragraph (4) as (5) and by inserting after paragraph (3) the following new paragraph:

"(4) STATISTICAL METHODOLOGY FOR UNEMPLOYMENT RATES.—Notwithstanding any provision of paragraph (3) to the contrary, in the case of a unit of local government which encompasses, or is within, a standard metropolitan statistical area or central city for which current population surveys were used to determine annual unemployment rates before January 1, 1978, the Secretary of Labor shall determine or assign the unemployment rates for such government calculated by the current population survey methodology used prior to January 1, 1978, if such rates are higher than rates determined or assigned by the Secretary of Labor for that government without applying the current population survey methodology."

SEC. 6. Section 205 of the Public Work Employment Act of 1976 (42 U.S.C. 6725) is amended by striking out paragraph (6) and by redesignating paragraphs (7) and (8) as (6) and (7). Title II of such Act is amended by striking out section 209 (42 U.S.C. 6729).

SEC. 7. Title II of the Public Works Employment Act of 1976 is amended by inserting after section 205 the following new section:

"ADJUSTMENTS FOR PAYMENTS

"SEC. 206. Adjustments.—

"(a) IN GENERAL.—Payments under this subtitle and subtitle B may be made with necessary adjustments on account of overpayments or underpayments.

"(b) CHANGES IN METHODOLOGY.—

"(1) SUPPLEMENTAL ALLOCATIONS FOR REDUCTIONS ATTRIBUTABLE TO CHANGE IN METHODOLOGY.—For any quarterly payment allocated pursuant to section 202, 203, 231, or 232 in which a local government's allocation would be reduced as a result of the termination of the use of current population survey data on an annual average basis to calculate the local unemployment rate as determined or assigned by the Secretary of Labor, the Secretary shall adjust the allocation made pursuant to this subtitle and subtitle B sufficiently to assure that such allocations are not less than the amount that otherwise would have been allocated to such local government under the unemployment rates calculated by the current population survey methodology used before January 1, 1978.

"(2) LUMP SUM SUPPLEMENTAL PAYMENTS FOR PREVIOUS UNDERPAYMENT.—For any previous quarterly payment allocated pursuant to sections 202 and 203 in which a local government's allocation has been reduced as a result of the termination of the use of current population survey data on an annual average basis to calculate the local unemployment rate as determined or assigned by the Secretary of Labor, the Secretary shall make a lump sum supplemental payment such that the total prior allocations made pursuant to this subtitle are not less than the amount that otherwise could have been allocated to such local government under the unemployment rates calculated by the current population survey methodology used before January 1, 1978.

"(3) SUPPLEMENTAL PAYMENTS LIMITED TO UNITS OF GOVERNMENT WITHIN STANDARD METROPOLITAN STATISTICAL AREAS AND CENTRAL CITIES.—No funds shall be made available under paragraph (1) or (2) to any unit of government which does not encompass, or is not within, a standard metropolitan statistical area or central city for which current population survey methodology was used to determine annual unemployment rates before January 1, 1978.".

Sec. 8. (a) Section 210 of the Public Works Employment Act of 1976 (42 U.S.C. 6730) is amended by striking out subsections (b) and (c), and by inserting in lieu thereof the following:

"(b) Suspension of Payments for Low Unemployment.—

"(1) Suspension.—No amount shall be paid to any State or local government under the provisions of this section for any calendar quarter if the average rate of unemployment within the jurisdiction of such State or local government during the second most recent calendar quarter which ended before the beginning of such calendar quarter did not exceed 4.5 percent.

"(2) Termination of suspension.—Amounts may be paid under this subtitle to any State or local government for which payments were suspended under paragraph (1) beginning with any calendar quarter following such suspension which follows a calendar quarter for which the average rate of unemployment within the jurisdiction of the State or local government exceeds 4.5 percent, until such time as paragraph (1) may require another suspension of payments.".

(b) Payments made under title II of the Public Works Employment Act of 1976 for the calendar quarter beginning October 1, 1978, shall be made as soon as possible after September 30, 1978, but in no event later than November 30, 1978.

Sec. 9. Section 215 of the Public Works Employment Act of 1976 (42 U.S.C. 6735) is amended to read as follows:

"DATA PROVISION RESPONSIBILITIES

Sec. 215. The Secretary of Labor shall provide information and other necessary data and shall determine and assign unemployment rates necessary for the administration of this title. Such information, data, and rates shall be provided for each State and local government, and shall be made available to the Secretary to assist him in carrying out the provisions of this title. The Secretary of Labor shall also advise the Secretary as to the availability and reliability of relevant information and data.".

Sec. 10. Section 216 of the Public Works Employment Act of 1976 (42 U.S.C. 6736) is amended—

(1) by striking out "five" in subsection (a) and inserting in lieu thereof "13",

(2) by striking out "amount" in subsection (a) and inserting in lieu thereof "amounts",

(3) by striking out "section 202(b)" in subsection (a) and inserting in lieu thereof "sections 202(b) and 231(c)", and

(4) by striking out "209," in subsection (b)(3)(c).

Sec. 11. Title II of the Public Works Employment Act of 1976 is amended by inserting after section 216 the following:

"Subtitle B—Supplemental Fiscal Assistance

"FINANCIAL ASSISTANCE AUTHORIZED

"Sec. 231. (a) In General.—Whenever the average rate of unemployment for the United States equals or exceeds 5 percent and payments under subtitle A of this title are suspended under section 202(d), the Secretary shall, in accordance with the provisions of this subtitle, make payments to State and local governments with unemployment rates above 4.5 percent.

"(b) Payments to Recipient Governments.—The Secretary shall pay, not later than 5 days after the beginning of each calendar quarter for which payments are authorized under subsection (a), to each State and local government which has filed a statement of assurances under section 205, an amount equal to the amount allocated to such government under section 232.

"(c) Authorization of Appropriations.—There are authorized to be appropriated for each of the first 8 calendar quarters beginning after September 30, 1978, $125,000,000, plus such additional amounts as may be necessary to carry out the provisions of this subtitle and section 206(b)(1), for the purpose of making payments to State and local governments under this subtitle.

"(d) Suspension of Assistance.—

"(1) Suspension.—If payments are being made under subtitle A or the average rate of unemployment for the United States is below 5 percent during a calendar quarter, no amount may be paid under this subtitle for the third calendar quarter of the 3 calendar-quarter period which begins with such calendar quarter, or for any subsequent calendar quarter.

"(2) Termination of suspension.—Amounts may be paid under this subtitle for any calendar quarter beginning after a calendar quarter for which payments are suspended under paragraph (1) and for which the average rate of unemployment for the United States equals or exceeds 5 percent but is less than 6 percent.

"ALLOCATION OF SUPPLEMENTARY AMOUNTS

"Sec. 232. (a) Reservations for Eligible States and Units of Local Government.—

"(1) State government amounts.—The Secretary shall reserve one-third of the amounts appropriated pursuant to authorization under section 231 for each calendar quarter for the purpose of making payments to eligible State governments under subsection (b) of this section.

"(2) Local government amounts.—The Secretary shall reserve two-thirds of such amounts for the purpose of making payments to eligible units of local government under subsection (c) of this section.

"(3) Definitions.—For purposes of this subtitle, each term used in this section which is defined or described in paragraph (3) of subsection (b) or (c) of section 203 shall have the meaning given to it in that paragraph.

"(b) Allocations to State Governments.—

"(1) In general.—The Secretary shall allocate from amounts reserved under subsection (a)(1) an amount for the purpose of making payments to each State government equal to the total amount reserved under subsection (a)(1) multiplied by the applicable State percentage.

"(2) Applicable state percentage.—For purposes of this subsection, the applicable State percentage is equal to the percentage resulting from the division of the product of—

"(A) the State excess unemployment percentage, multiplied by

"(B) the State revenue sharing amount, by the sum of such products for all the States.

"(c) Allocations to Local Governments.—

"(1) In general.—The Secretary shall allocate from amounts reserved under subsection (a)(2) an amount for the purpose of making a payment to each local government, equal to the sum of—

"(A) the total amount reserved under subsection (a)(2) for the calendar quarter multiplied by the applicable local government percentage, and

"(B) any supplemental allocation under section 206.

"(2) Applicable local government percentage.—For purposes of this subsection, the local government percentage is equal to the percentage resulting from the division of the product of—

"(A) the local excess unemployment percentage, multplied by

"(B) the local revenue sharing amount, by the sum of such products for all local governments.

"(3) Special limitation.—If the amount which would be allocated for a calendar quarter to any unit of local government under this subsection is less than $100, then no amount shall be allocated for such unit of local government under this subsection for such quarter.

"(4) Supplementary antirecession fiscal assistance payment not in excess of $10,000 to be combined with general revenue sharing payment.—If the amount of any payment to be made under this subtitle to a unit of local government is not more than $10,000 for a calendar quarter, the Secretary shall combine the amount of such payment with the amount of any payment to be made to such unit under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.), and shall make a single payment to such unit at the time payments are made under that Act. Whenever the Secretary makes a single, combined payment to a unit of local government under this paragraph, he shall notify the unit as to which portion of the payment is allocable to amounts payable under this subtitle and which portion is allocable to amounts payable under that Act.

"(d) Supplemental Allocation.—

"(1) In general.—Subject to the limitations of section 233(a) the amount allocated to a State government under subsection (b), and the amount allocated to a local government under subsection (c), as adjusted pursuant to section 206, shall be increased to an amount equal to such government's revenue sharing multiple multiplied by the amount allocated to it under such subsection.

"(2) Revenue sharing multiple.—A government's revenue sharing multiple is the quotient of the State area revenue sharing allocation applicable to such government divided by its State area antirecession allocation. For purposes of paragraph (1), if such quotient is less than 1, then it shall be considered to be 1; if it is more than 2, then it shall be considered to be 2.

"(3) State area revenue sharing allocation.—For each calendar quarter for which payments are to be made under this subtitle, the Secretary shall determine a State area revenue sharing allocation for each of the 50 States. Such allocations shall be the amount computed for each State area pursuant to section 106 of the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1225), for the most recently completed entitlement period (as defined in section 141(b) of that Act (31 U.S.C. 1262(b))), multiplied by the quotient of $125,000,000 divided by such revenue sharing allocations for all State and local governments in such entitlement period.

"(4) State area antirecession allocation.—For each calendar quarter for which payments are to be made under this subtitle, the Secretary shall determine a State area antirecession allocation for every State. Such allocations shall be computed by adding the amount allocated under subsection (b) to a State government to the amounts allocated under subsection (c), as adjusted pursuant to section 206, to each local government within the jurisdiction of that State.

"(e) Suspension of Payments for Low Unemployment.—

"(1) Suspension.—No amount shall be paid to any State or unit of local government under the provisions of this section for any calendar quarter if the average rate of unemployment within the jurisdiction of such State or local government during the second most recent calendar quarter which ended before the beginning of such calendar quarter was equal to or less than 4.5 percent.

"(2) Termination of suspension.—Notwithstanding paragraph (1), amounts may be paid under this subtitle to any State or local government for which payments were suspended under paragraph (1) beginning with any calendar quarter following such suspension which follows a calendar quarter for which the average rate of unemployment within the jurisdiction of the State or local government exceeds 4.5 percent.

"LIMITATION OF PAYMENTS

"SEC. 233. (a) STATE GOVERNMENTS.—No State government shall receive a payment for any calendar quarter under this subtitle which exceeds the amount of the payment such State government received under subtitle A of this title for the most recent calendar quarter for which payments were made under subtitle A.

"(b) REALLOCATION.—The Secretary shall reallocate any amounts withheld from payment under subsection (a) to units of local government in accordance with the provisions of section 232(c).

"APPLICATION OF CERTAIN SUBTITLE A PROVISIONS TO THIS SUBTITLE

"SEC. 234. The provisions of sections 204, 205, 206, 207, 208, 211, 212, 213, 214, 215, and 216 shall apply to funds authorized under this subtitle.".

The PRESIDING OFFICER. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled between the Senator from Maine (Mr. HATHAWAY) and the Senator from Nebraska (Mr. CURTIS), with 30 minutes on any amendment, except an amendment to be offered by the Senator from Missouri (Mr. DANFORTH) on which there shall be 1 hour, and with 15 minutes on any debatable motion, appeal, or point of order.

The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

Mr. MUSKIE. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Al Fromm of the Government Affair's staff be granted privilege of the floor during consideration and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I ask unanimous consent that Ned Massey of Senator RANDOLPH's staff be granted privilege of the floor during consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, the same request for John Hamm and Chris Brewster of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, the same request for Bob Kabel and David Gogol.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that Del Goode of my staff be granted privilege of the floor during discussion and debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, the same request for Steven Beck of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Alan Bennett be granted the privileges of the floor during consideration of the countercyclical matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I make the same request for Martin Katz, Mike Hodin, Dr. Chester Finn, and Elliott Abrams of my staff and Bill Morris of the Committee on Finance staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I make the same request for Mike Naeve and Jack Albertine of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I speak this morning in behalf of the antirecession and supplementary fiscal assistance program as reported from the Finance Committee.

The bill, as reported, addresses three difficult problems: The lingering effects of the 1975 recession, the deepest recession in the modern history of the United States; the question of an equitable distribution of benefits in a program that is phasing down; and, finally, the problems of fiscal responsibility with respect to present economic conditions.

The recession has ended, in the large statistical terms that we think of as macroeconomic. It has not at all ended in many of the cities and more isolated counties of this country.

Baltimore has an unemployment rate of 11.9 percent; Buffalo, 11.2 percent; Detroit, 12.5 percent; Newark, 12.7 percent; Philadelphia, 10.4 percent; St Louis, 11.6 percent.

These are unemployment rates which are representative of a certain kind of large, older, industrial city in this country. They commence to be an aspect of the economy generally.

The jolt of the 1975 recession is not over. It certainly is not over in the cities. We can say that it is not over and will not be over for a generation in my city of New York, which, under the impact of that recession, moved into insolvency and to the edge of bankruptcy. I fear the consequences of this will be with us for another generation, and possibly longer.

In this respect, and in response to this situation, the President proposed to extend the countercyclical revenue-sharing program another 2 years. The total proposed expenditure, however, is considerably lower than past funding and it will go down still further if unemployment continues to decline. Yet, it will rise if we find ourselves, as is now the case, at the end of 13 quarters of expansion, moving into a situation of rising unemployment.

The expenditures, Mr. President, can be described with some precision. In 1977, this program provided $1.6 billion to State and local governments.

In 1978, the present fiscal year, it provides $1.4 billion.

The bill before us estimates an expenditure in the coming fiscal year, 1979, of $600 million, an expenditure hardly more than one-third of a year ago.

I do not think I will trouble the Senate to go into the details of the two-tier program, save as any Senator may wish to inquire.

Secretary Blumenthal has sent each of us a letter, with an accompanying fact sheet, which sets forth very plainly what the arrangements are: that the program will be in effect at the levels I described, insofar as we have a national unemployment rate above 6 percent.

These funds will be distributed to 18,000 State and local governments, the great majority of which will be areas which have a high rate of unemployment, more than 6 percent.

We should not get used to the idea that St. Louis might have an unemployment rate of 11.6 percent or Philadelphia of 10.4 percent. These are rates that bespeak social dislocation. I suppose we can get used to anything. But we have not yet reached the point where we have decided that if enough people are well off in this country, it does not matter about those people and those places that are not well off at all.

The program is sensitive to fluctuation: at 6 percent, the present program goes in, when, for two quarters, unemployment drops below 6 percent but is above 5 percent, title II of the program goes into effect; and there you have a lesser distribution, a small distribution, but nonetheless one that is designed to go to the places of greatest need. Finally, if the unemployment rate should fall below 5 percent for 2 quarters, the program does not operate.

I should like to make a final comment on where we are with respect to those ratios and to suggest that if this bill is enacted, as I hope it will be, it having been reported very favorably from the Senate Committee on Finance, this program will be in effect.

In the second quarter of 1978, the last quarter for which we have an unemployment rate, the unemployment rate had dropped to 5.9 percent. In July, on the other hand, the monthly rate went to 6.2 percent; August, back to 5.9 percent. If I may make a quick calculation, the unemployment rate, if I am not mistaken, would have to be about 5.9 percent in order for the third quarter to be below 6 percent and the program to be in that second tier, title II.

Of course, we cannot yet know what the September rate is. But, it is not likely to go down that much. I think there is no indication that it will, so we are likely to stay in the first tier for the first two quarters of the coming year. The point is that we have a flexible and responsive approach here which, whatever the outcome of the movement of unemployment, will have a responsibly appropriate response.

Mr. President, I think the Senators are here this morning to talk of the details of this matter and not to have the subject orated. For them, this has to do with a mounting capacity in this country to fashion flexible responses to changing economic situations and to acknowledge that the national levels of economic activity often can disguise serious problems, principally in the older major cities of the country, but not in any sense exclusively.

There are some 18,000 units of State and local government which will receive moneys under this program. The money is needed, even if considerably less than in the last 2 years. But the need for it, I think, has been attested to by the facts, by the President's proposal, and by the response of the Committee on Finance.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. The Senator gave some troubling statistics about unemployment in New York, St. Louis, Philadelphia, and other cities. Will the Senator inform the Senate whether those are SMSA statistics or for the inner city?

Mr. MOYNIHAN. I believe they are SMSA statistics.

Mr. PROXMIRE. In other words, they are for the entire metropolitan area of New York?

Mr. MOYNIHAN. I did not give one for New York.

Mr. PROXMIRE. The Senator gave 12 and a fraction for New York. I think it was the highest.

Mr. MOYNIHAN. Newark. It is an unaccustomed early hour for the Senator.

Mr. PROXMIRE. The Senator's figures are very troublesome. I think they certainly constitute a basic argument for the bill. But what concerns me is that we have had a situation in this country in which we have had the greatest increase in jobs in any 18-month period in the history of the country. We have something like 6 million additional jobs.

Mr. MOYNIHAN. The Senator is entirely right.

Mr. PROXMIRE. As the Senator knows, we have had a dramatic recovery so far as employment is concerned, although there still is troublesome unemployment, particularly in the areas the Senator has underlined.

What I am concerned about, however, is the validity of some of these statistics. We have had testimony before the Joint Economic Committee for 7 years on unemployment statistics.

And the statisticians are very guarded and careful when they give us the figures that are more than nationwide, particularly when they are confined to a city and particularly a city as limited as Newark, and I know Newark has serious problems.

Will the Senator consider the possibility that some of this can be explained by what has been described as the other economy, the off-the-book economy?

An article in Fortune this month argues that about 10 percent of the gross national product and maybe as much as 12 or 15 percent of the jobs, because they are lower paid jobs, are what they call off the books. That is, a carpenter will work and get laid off and while he is getting unemployment compensation will take another job. So he will not interfere with his unemployment compensation he will be paid off the book on that. That is just not confined to a few construction workers. It is very common in many, many elements of our economy, and there are literally hundreds of thousands of jobs, Fortune alleges several million jobs that are covered in this particular way, and it is particularly common in depressed areas where many people work in the subterranean economy, that is, an illegal economy, gambling, prostitution, numbers, drugs, and this kind of thing.

The reason I raise this issue is because I think the raw statistics may not tell a very clear story of what the actual employment situation is, and I wonder if the Senator could help me with that.

Mr. MOYNIHAN. The Senator wishes to be able to help his friend from Wisconsin more than he will be able to do. This is an area in which I have had some experience. I served for a period in President Kennedy's and President Johnson's administrations as Assistant Secretary of Labor in the Bureau of Labor Statistics. As such I had nominal supervision of the Bureau.

I am familiar with those problems. Even then the question of "off-the-book" economy was something that worried statisticians, and the better they are, the less certain they are of their numbers.

Just as an example, it took us until 1963 to realize that we may not have counted about 15 percent of the male population of the major cities in the 1960 census.

In a place like New York City, or parts of Texas, for example, there are large numbers of illegal aliens who work off the book. The case is such that some of the major trade unions in this country have commenced to say, Well, whether they are here legally or illegally, they are working, and we ought to try to organize them.

There is a curious relationship of people who are illegally here but who nonetheless acquire benefits under social welfare programs.

I wish to give you, Senator PROXMIRE, a specific answer. In the main, I think they do not misrepresent the situation. We have had an extraordinary increase in employment, such that by 1978, employment as a proportion of the working age population had reached a record high of 58.9 percent.

Mr. PROXMIRE. That is a tremendously vital statistic if people look at it.

Mr. MOYNIHAN. That is right. It is a vital statistic.

Mr. PROXMIRE. When one recognizes more people are working now than at any other time in our history, the height of any boom, even, as a matter of fact, and as I understand it, more people are working now than were working in proportion to the population in World War II.

Mr. MOYNIHAN. Ever.

Mr. PROXMIRE. Ever, at any time.

Mr. MOYNIHAN. Yes.

I think it is reflected mainly in young women coming into the work force. This is most important. From about 1890, the ratio of those working to the population as a whole was one of the key indicators to which economists referred. No matter what happened, it seemed, war, famine, pestilence, prosperity, boom, bust, 56.3 percent of the population was in the work force.

From a time when no women worked, until the time when many women worked, from the time when young people went in the factories at age 9, to a time when no one could go to factories until they had a master's degree, this kind of an extraordinary mix in the population, 56.3 percent was the proportion of the work force, as if there were some law. Then in the last 10 years it began to break up. We now have 58.9 percent, not just in the work force, but working.

Mr. PROXMIRE. Working.

Mr. MOYNIHAN. Working now. At the same time, there are huge chunks of this country that have been passed by.

In my city of New York, which I know best, between 1969 and 1975 about 400,000 jobs disappeared south of 59th Street on the island of Manhattan. I think there are 12 States in the Union that do not have a work force that size. In the Newarks, the Buffaloes, one will see similar losses. And the population drop is mostly of the people who leave—retired people tend to be a fixed number—but mostly they are people who leave looking for work because the jobs have left them behind.

Now, if the Senator will bear with me, and he is always very patient with these explanations, the problem we have in a political economy is that we have not found an equilibrating function to bring the price of Government back into a competitive condition which would serve to clear the market when one gets out of equilibrium. One ought to think of government as something that is sold and paid for—there is a price for it. How much money does it cost to provide government? One can figure the cost by adding up the taxes paid and amounts borrowed and divide that by the population. One finds the government in New York State, for example, costs twice as much per capita as government in Texas, and they get more or less the same government; they get policemen, and they get school teachers.

Now, what happens when the price gets really out of line with the capacity to pay for it, or even when the capacity to pay for it drops by the number of people working in the area paying taxes? That number drops sharply, and the cost of government becomes greater than the resources of government. What do you do?

Theoretically, you cut your costs, but in the real world those costs tend to be very inelastic, partly because of things that cost the most. When you begin to have a declining economy, you tend to raise certain kinds of costs. You raise welfare costs, and you raise your general costs of looking after people who are not doing well. And there is then a situation where places that most need to reduce their expenditures, or have the most difficulty maintaining them, are at least able to do so.

That is what this bill is about. It is a small bill. It is not a bill that will have a very large place in the history of the political economy of the 20th century. It is a measure proposed by the President. The proposal for next year will be one-third the expenditure for last year, and yet it is not as much as we had hoped for, not at all what the President hoped for. But it is what seems fiscally prudent and politically feasible.

Mr. PROXMIRE. I have one final question on this that concerns me particularly. The Senator has made, I think, a very powerful and effective argument for targeting the money we have because he has emphasized that this unemployment is particularly serious in some cities. Therefore, it would seem to this Senator it would be wise to take the limited amount of money available and to direct it at those cities where unemployment is very, very high. Here we have a situation whereas the Senator agrees we have had a tremendous improvement in employment, the greatest ever in the history of this country, more people working in proportion to the population than ever, but we still have some pockets of very serious unemployment. Therefore, why should not the bill target specifically and directly as possible the limited money available into areas where we have 8 percent, 10 percent, 12 percent unemployment and not provide, as I understand the bill does, for cities that have relatively favorable situations, in fact some that have less unemployment than the average of the Nation as a whole?

Mr. MOYNIHAN. The Senator raises an altogether appropriate point and raises it with characteristic vigor. The only response I have to offer, sir, is that this is not as targeted as it might be. On the other hand, it is also more targeted than it might be.

It is one of those outcomes of the altogether legitimate political process. There was a case for making this available to as many jurisdictions as could legitimately claim to need it. Some need it more than others. I think the Senator would agree that the statistics are impressive. More than 93 percent of the assistance under both phases of the program will go to governments with more than 6 percent unemployment, and more than 65 percent will go to governmental jurisdictions with more than 8 percent unemployment, 8 percent being at the dislocated edge of these things.

Mr. PROXMIRE. Why should not all the money go to areas that have serious unemployment? I cannot understand how you can provide any money under this kind of a bill for cities that have unemployment that is less than the national average. The national average now is less than 6 percent, 5.9 percent.

Mr. MOYNIHAN. Seven percent would fall under that average.

Mr. PROXMIRE. Yet money is provided in the bill for cities that have less unemployment than that.

Mr. MOYNIHAN. We would estimate that only 7 percent of these moneys go to jurisdictions which are not defined as most needing them. Given the difficulties of figuring a national formula, this is not bad.

Mr. PROXMIRE. The greatest concern of all is this money is not specifically designated for unemployment, as I understand it. It can be used for other purposes.

Mr. MOYNIHAN. It is general purpose revenue.

Mr. PROXMIRE. So it does not put people specifically to work.

Mr. MOYNIHAN. No, to the contrary. I was making the point about how you provide for the costs of Government in a situation where your resources have dropped off sharply because of unemployment.

Mr. PROXMIRE. It enables you to pay a higher salary to someone who would not get it.

Mr. MOYNIHAN. I do not think that is the fact or the experience in most of these places. Salaries are barely keeping up with inflation.

But, may I make a point as one of the persons who sponsored this legislation in the Finance Committee, that we heard from members of the committee who could grant that their State did not have the huge problems of unemployment that other States had and would not fare well under this program, but who made the legitimate claim that what the macroeconomic condition of the State concealed were situations of real difficulty within the State and within some of those cities, in the same way that the macroeconomic condition of the Nation conceals situations in some of the States.

I see my friend, the Senator from Texas, is on the floor, and I hope he will not mind my recalling that he made the point, and I am sure he would not mind my repeating it. You can look to a standard metropolitan area, such as Houston, and find it to be in the best of economic health. Yet one finds communities within Houston that are very much in need. This program tries to respond to that reality.

Mr. DANFORTH. Mr. President, will the Senator yield on that point?

Mr. MOYNIHAN. I am happy to yield.

Mr. DANFORTH. I would like to ask a question on that point. How is that relevant to anything? I mean, the point of countercyclical revenue-sharing, as I understand it, is to help governments, not to help pockets, or blocs, or subcommunities, but to help governmental units which have their tax bases eroded by virtue of a recession or particularly high rates of unemployment in that political subdivision. So that theoretically—and just giving you a hypothetical case—supposing you had a large city with a very, very affluent population and with a very healthy tax base, and yet within that community is a relatively small pocket of admittedly high unemployment. The fact that you have 90 or 95 percent of the community with a healthy tax base is sufficient to sustain the governmental operations of that municipality and, therefore, it would seem to me to make unnecessary any countercyclical revenue-sharing.

Mr. MOYNIHAN. I see the Senator from Texas is on the floor, and I yield to him.

Mr. BENTSEN. I would like to join in this debate. First, you do not have a very affluent population with a high income base. That does not happen to be the case. I, for one, felt these problems should not just continue on. When we put a program in to try to take care of a situation in the country and we put a 6-percent factor in it, I felt that when the Nation's unemployment dropped below 6 percent we ought to end the program, and that was my view.

But if you are going to continue the program then I think the formula ought to give some consideration to the working poor, and that is what we have in the South. We have a much greater percentage of the working poor than the rest of the Nation has, and that is given some consideration in the general revenue formula. You are talking about a 93-percent allocation on purely the question of high unemployment, but this is a modest amount, a modicum, to take care of the situation of the working poor.

Mr. DANFORTH. The Senator from New York has the floor?

Mr. MOYNIHAN. I have the floor, but I will be happy to yield the floor to the Senator from Missouri.

Mr. DANFORTH. I do not think the working poor in this program have anything to do with it.

Mr. BENTSEN. That is where you and I have a difference.

Mr. DANFORTH. This is not a welfare type program which is aimed at providing assistance to individuals. If that were the case, if it were a program designed to funnel money to people, then the Senator from Texas might have a point. But what this program is designed to do is to help municipalities, help counties, to help States, State governments, to conduct the operation of their governments.

So, whether or not there are working poor within a community seem to me to be irrelevant. What is relevant is whether or not the tax base of the political subdivision as a whole is a healthy tax base.

Mr. BENTSEN. Well, it may be that the Senator was not listening, because I made that point earlier. I think the tax base is eroded when you have a very substantial working poor group in the area, because you do not have the taxes to collect from them which you might have otherwise when you have a great many working poor in a city.

When I talk about a pocket of unemployed, I am not talking about a small pocket that the Senator alluded to. I am talking about a very substantial part of the city that has that type of situation in the Fifth Ward of Houston, which is a city that is the fifth largest city in the Nation, but which has that kind of a situation of a very low-income base that they are having a very difficult time taking care of.

So we talked about some assistance. We are not talking about a lot.

Mr. DANFORTH. If the Senator from New York will yield further, Mr. President, I believe it is the case that Houston over the last few years has a very healthy surplus in its own revenues.

Mr. BENTSEN. The city of Houston has also had a totally inadequate mass transportation system, and has not had some of the other things they should have had, and they are now taking out their surplus in trying to do some of the things for their citizens that, frankly, I think they should have done a long time ago; and they are having trouble in trying to do that.

Mr. MOYNIHAN. I wonder if I could make the point that it seems to me that the Senator from Texas, in the long and extensive discussions we had on this measure in the Finance Committee, has certainly made it plain to the Senator from New York that there is a question of scale here. When you talk about Texas, you talk about a big place—a fact of which residents of Texas are not loathe to remind us.

As you talk about Houston, you talk about a huge conglomerate of communities and activities, and the area to which the Senator alludes is not small; it would be a large city in most parts of the world.

Its needs are legitimate; they are no different from the needs of Newark, but they happen to be encapsulated in another area.

I wish I could say we have made provision for them in this bill. We have made very little provision; but we do not deny their existence, because they are real. The Senator from Texas has shown forbearance in this matter. If I may say so, that is not always his characteristic.

Mr. BENTSEN. I think I thank the Senator from New York.

Mr. MOYNIHAN. Where the interests of his State are concerned.

Mr. BENTSEN. I wish to give an example, on this matter of Houston. My friend from Missouri feels very strongly on this issue, and I normally respect his judgment very much, but when he talks about the great affluence of the people of Houston, in this area of Houston that I was talking about, which is a very major area, we have 31 percent of the households below the poverty level. Ten percent of all the families are 50 percent below the poverty level. Unemployment is well over the national average, according to the latest figures.

Then we get into the problem—the Senator from Wisconsin raises with regard to how fuzzy some of the numbers get. In the Joint Economic Committee, we have the problem of statisticians trying to tell us what is happening over the country. That is particularly true in south Texas, when you get into the rural area, and what is happening to those people down there, and the incredible amount of poverty down there. With deference to the Senator from Mississippi, whose constituents are often cited as having the lowest per capita income in the United States, that is not true. The lowest per capita income in the United States is in south Texas. But we have trouble getting into that, and understanding it, with the numbers given to us.

We are trying to find some modicum of assistance in this regard, if we are going to keep this program going. Not a lot; we are talking about 7 percent, out of the 100 percent allocated, to give some consideration to the working poor.

Mr. MOYNIHAN. The Senator from Florida has risen. I am happy to yield to him.

Mr. CHAFEE. I would like the floor, when the Senator from New York has concluded.

Mr. MOYNIHAN. Mr. President, I yield the floor.

UP AMENDMENT NO. 1902

(Purpose: To strike section 11)

Mr. CHILES. Mr. President, I send to the desk a brief amendment.

The PRESIDING OFFICER. The amendment will be stated.

Mr. CHILES. Which I feel will save the taxpayers of this country around $2.5 billion over the next 5 years.

The PRESIDING OFFICER. The Senator will please permit the clerk to report the amendment.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself and Mr. STONE, proposes an unprinted amendment numbered 1902:

On page 11, beginning with line 2, strike out all through the end of page 18.

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from Florida.

Mr. STONE. Mr. President, this amendment simply eliminates the entire subtitle B, supplementary fiscal assistance to State and local governments. My amendment would leave the antirecessionary part of the bill alive and on the books to assist in any future recession.

I supported the original antirecession fiscal assistance bill to help local governments which were faced with decreasing revenues and increasing costs due to the recession. But if we are to maintain credibility for temporary job-creating programs in the future years, we are just going to have to resist the temptation to extend those programs and keep extending them indefinitely.

I think we can see that extension in every area. As we see this country come out of the recession it is now in, we are having the creation of additional programs in public works, and continuing, now, in the soft public works. We are seeing it in every area that we originally set a program to deal with the recession; now the move is on to continue or extend each if those programs.

Two arguments, I think, are made by the supporters of the bill as it came out of the committee.

The first argument is that the supplemental title B is the price that we have to pay to keep the recession assistance alive, to keep it going. When I look at the hard facts and figures, I have to conclude it is too high a price. If, in the 2 years authorized by the bill, according to the Congressional Budget Office, only $375 million of a total of $1.1 billion would be spent for the antirecession title, or title A, that is only 33 percent, and when we look at the 5-year picture we are applying to the rest of the budget—and we are going into a 5-year budget look in planning, now—this bill looks even worse.

It is unlikely, if we start this kind of general revenue assistance provided in title B, that we will be able to stop it after 2 years. We are now seeing that we cannot stop the other programs, nor the basic program of countercyclical assistance. If, therefore, we expect that we would continue to spend $600 million a year for title B in 1981, 1982, and 1983, in that case antirecession assistance would amount to only 13 percent of a total of $2.9 billion.

By adopting my amendment, the Senate can thus spend the $375 million justified by economic conditions, and save the remaining $2.5 billion, and that seems to me to be a lot better bargain for the taxpayers.

The second argument made for keeping title B is that it is part of the President's program to aid chronically distressed urban areas. The trouble is that special, highly targeted programs never seem to make it through the Congress. The Finance Committee put in a dual formula that gives every government its share according to either its unemployment rate or its general revenue sharing allocation, whichever is greater. The net result is new general revenue sharing, with everyone getting a little piece of the cake. In fact, this would be about a 9-percent increase in general revenue sharing, or a 2-percent real growth of inflation. I do not see any way that we can justify that kind of increase under current economic conditions.

Mr. President, I do not think it can be said that we have been stingy with State and local governments. The budget resolution that we just passed will provide $82 billion of outlays for aid to State and local governments in 1979. My amendment will not significantly alter that amount. Federal aid will increase by almost $6 billion, or 7.7 percent, over this year's level. It will have increased by $14 billion, or 21 percent, since 1977. And then, if you look at the 4 years, the 4-year figure since the 1975 prerecession level, we have added $33 billion, or 66 percent, to the total of State revenue levels. That is from $50 billion to $83 billion in 4 years. It seems to me there is little wonder why there is a taxpayers' revolt going on.

If I were a mayor or a Governor, I would love to see $2.5 billion more coming down the pike that I could spend without having to raise the taxes to pay for it.

I guess that is why Federal aid now pays for over 25 percent of State and local government spending.

We should stand back a moment and realize what more general revenue assistance does. The taxpayers are saying they do not want to pay more State and local taxes for local services. The committee bill would respond by saying, "OK, we will take the money from the Federal Treasury and give it to your local government."

We have a $39 billion deficit for next year. So the local taxpayer is going to pay for these services through more Federal deficit dollars that are going to add to his inflation, which is the thing driving him crazy today by the inflationary spiral. I think the American public wants tax relief but they do not want that tax relief through bigger and bigger deficits.

They want to see us cut back on spending—cut back, not add to it.

Mr. President, the Senate has gone on record for a balanced budget by 1981.

Mr. PROXMIRE. Will the Senator yield?

Mr. CHILES. I yield.

Mr. PROXMIRE. Is it not true that part B goes into effect if unemployment drops below 6 percent but not less than 5 percent in two consecutive quarters?

Mr. CHILES. That is correct.

Mr. PROXMIRE. Is it not true also that some $125 million will be distributed plus such amounts as are needed to hold cities harmless due to differences in the calculation of unemployment statistics?

Mr. CHILES. That figure would be $125 million for each quarter, plus such amount as would be necessary.

Mr. PROXMIRE. Is it not true that the formula provides the funds go to cities with unemployment in excess of 4.5 percent?

Mr. CHILES. Yes. As long as they have 4.5 or in excess.

Mr. PROXMIRE. Four and a half is well below the national average, which is 5.9 percent at the present time, is that right?

Mr. CHILES. I think that is correct.

Mr. PROXMIRE. Is it not true that the funds need not be used directly to alleviate unemployment but can be used for any purpose that general revenue-sharing funds can be used for, which means virtually everything?

Mr. CHILES. The cities and local governments are free to use that money for anything that they can use revenue sharing for.

Mr. PROXMIRE. So, No. 1, it is not targeted toward unemployment specifically. No. 2, it is made available to cities that have less than the national average unemployment.

Mr. CHILES. I think the Senator is correct. I think that is one of the arguments I have had with it. It really sort of amounts to a sweetener of general revenue sharing. Granted that the larger part of the sweetener goes to the bigger cities, and then a small kicker was added to sort of take care of some of the other cities, some 18,000 local governments, cities and local governments, altogether would qualify for a piece. That is 18,000 out of a total of 39,000. So about half would get something.

Mr. PROXMIRE. The effect of the Senator's amendment would be to target the money to cities that need it and it would be to eliminate the money for the cities where they have a problem, as all cities do, but not the overwhelming problem that this bill was originally intended to work on.

Mr. CHILES. The effect of the amendment would be to try to keep the program of countercyclical assistance on the books. As long as we had unemployment in excess of 6 percent, then it would come into play. It is to say to the American people, "We passed a stimulant program necessary because we had to do something to go out and try to create jobs, to try to stimulate the economy in a time that we are in a recession. We are going to keep our word. For one time we are not going to continue a program forever once that high unemployment ceases."

That is what I think is the thrust of the amendment.

Mr. CANNON. Will the Senator yield on that point?

Mr. CHILES. I yield.

Mr. CANNON. It seems to me that the Senator has made a very good point here when he expresses himself that this should be directed toward improving unemployment conditions. I just want to point out that in some of the eligible entities in my State these are some of the amounts that they receive, and I fail to understand how amounts of money like this could be used to stimulate employment: One recipient, $425; another recipient, $364; another recipient, $179; another recipient, $616; another recipient. $600; another recipient, $450.

For the life of me, I fail to see how figures like that could be used by an eligible entity in an attempt to stimulate employment. I think the Senator has made a very, very good point. Furthermore. I doubt that even these entities would be eligible now because unemployment has improved a little in my State. But when you are looking at an unemployment level of 4.5 percent and saying, "Your unemployment level is 4.6," and you can get figures like this, it seems to me something is wrong with the direction in which we are going.

Mr. CHILES. I would agree. I do not see how we could find a high priority national purpose for a program that is going to add more to general revenue-sharing when the eocnomy is returning to high employment and when the State and local sectors are running a surplus of over $30 billion a year. We are running a deficit of $39 billion a year.

Do you know what most of the States are doing with their surplus, Mr. President? They are investing that in Treasury bills. Do you know where those Treasury bills come from? We are selling those Treasury bills to finance our deficit. So they are buying those Treasury bills with their surplus so we can finance our deficit to give them more money that they can buy more Treasury bills to finance our deficit. You can run that for a long, long time if you want to. For the State and local governments, you might say that would be a form of perpetual motion, but I do not think that perpetual motion will continue forever.

Mr. DANFORTH. Will the Senator yield?

Mr. CHILES. I yield.

Mr. DANFORTH. It is my understanding that under subtitle A if unemployment is 6 percent, the total amount available under this program is $125 million per quarter. Under subtitle B the total amount available is $125 million a quarter plus the amounts necessary to pay political subdivisions if they elect to receive money under the general revenue-sharing formula as opposed to the countercyclical program. Therefore, it is my understanding that if unemployment drops from 6 percent to 5.9 percent, the amount of money available under the countercyclical revenue-sharing program increases.

I wonder if the Senator from Florida would view this as a countercyclical revenue-sharing program or a procyclical revenue-sharing program.

Mr. CHILES. I cannot quite get my mind over whether it is counter or reverse counter or pro, but I think the Senator makes a very good point.

Mr. MOYNIHAN. Will the Senator yield?

Mr. CHILES. I yield.

Mr. MOYNIHAN. Mr. President, let me respond to the Senator from Florida, and in the course of doing that respond also to my good friend from Nevada.

First of all, on the points the Senator from Nevada makes, this is not an employment stimulation program. This is a program to provide general purpose revenue to jurisdictions, cities and counties, whose resources are lower than their needs because of the high levels of unemployment which this country has experienced generally, and which it experiences in specific places, to very pronounced degrees.

We are getting used to 5.9 percent unemployment. In a moment's reminiscence, I was Assistant Secretary of Labor in 1963 when President Kennedy first sent up a proposal which had, as a target, 4.5 percent as an interim target. That was in his first economic report.

There was outrage in many parts of the country, and certainly in the Department of Labor, that anybody should think 4.5 percent unemployment was acceptable. We got the President to state it as an interim target. We are now beginning to think if we drop below 6 percent there has been some achievement.

In any event, this is designed to provide revenue, not to create jobs. If there are places in Nevada which do not get a great deal, I think that is possibly because they are not very large. Clark County has received over $2.5 million from this program since it began and Las Vegas, over $1 million. And, of course, there are places in New York State that have not gotten much under this program, because they are not very large.

I should like to make a point to the Senator from Florida. He spoke about the taxpayers' revolt and he made an important point about using Federal resources to deal with expenditures. He is right. And, that is the point. This is not an expenditure we are providing. We are providing Federal funds to pay for government services in areas which otherwise would have to raise taxes to pay for them. It is an altogether appropriate response for the Federal Government at a time when there are so many jurisdictions where the capacity to pay has run out or the degree of tax burden is extraordinary.

And there are differences in range. I know for example, that the difference of the incidence of taxation in this country is extraordinary. The cost of government per capita in New York State is twice what it is in Texas and, in some parts of Texas, it will be three times what it is in other parts of Texas.

I might point out that one of the real effects of this is a bill to cut property taxes.

Mr. DANFORTH. Will the Senator yield?

Mr. MOYNIHAN. I shall certainly yield, but not before I have an opportunity to say to the Senator from Missouri—and I see the Senator from Indiana on hand also—that this is a bill to cut property taxes.

I am happy to yield.

Mr. DANFORTH. I should like to ask the Senator from New York if he has considered, in making that assertion, that in 1977, non-Federal governmental units—State and local governments—had an aggregate surplus of $29.6 billion, and the non-Federal governmental units have had an aggregate surplus in each of the last 10 years. Therefore, obviously, if a non-Federal governmental unit—a city or county—has a surplus in its revenue such as the $5 billion that California had or the $5 million that the city of Houston, Tex., had, it would not necessarily have to raise local property taxes to pay for the surplus.

Mr. MOYNIHAN. The Senator is correct, and the circumstance—which he knows very well, and I appreciate debating with him on these matters, because he does know so much about it—is that there is not a uniform situation. The situation is complex indeed. The bulk of this money will be going to jurisdictions which are on the edge of insolvency and have been so for the last 5 years, places which have not recovered from the economic shift that took place in the course of the largest recession, deepest recession, we have had since the 1930s.

In the course of that recession, there were huge shifts in production facilities from some parts of the country to others. It has been a common feature of those changes. But it leaves behind stranded cities and stranded people, and the President of the United States has asked that we respond.

The Senator from Florida raises a perfectly legitimate concern, when he cautions against this becoming a fixture of our Federal assistance programs. But there is a trigger built into this legislation, which will keep it from becoming permanent. This is legislation that will not be in effect if we are at levels of unemployment which, not 10 years ago, we thought to be very high indeed, 4.5 percent.

Mr. CHILES. Mr. President, I wonder if we might get the yeas and nays while we have enough Senators?

Mr. MOYNIHAN. I am happy to do that.

Mr. CHILES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Does the Senator wish to call up his amendment?

Mr. CHILES. Yes.

Mr. MUSKIE. Mr. President, I should like to take just a minute or two, if I may. I suppose, as much as anyone, I am responsible for the establishment of the countercyclical program. That is why I have followed its establishment, its development, and its evolution with great interest.

Part A of the pending bill continues the countercyclical program as it was originally established. I am delighted that part A is before us and I hope that the Senate will support it, because I think it is important to have the principle on the books.

I am concerned about part B. Senator CHILES has given some of the reasons for my concern as well as his own. Nevertheless, I am reluctant to see part B eliminated altogether. It is a fact, and I am satisfied by the data which has come to my attention, that, even after the national trigger shuts off part A, there are cities in distress which continue to need some kind of assistance which part A provides when there is national unemployment of 6 percent or higher. So I much prefer the Danforth amendment, which corrects some of the mistakes which I think the Committee on Finance wrote into part B.

It would establish a trigger for local assistance at 6 percent for both A and B. It would eliminate the revenue sharing bonus in part B which was written into the concept by the Committee on Finance, which I think reduces the targeting, and which has been the subject of much of the discussion here this morning. And it would reduce the cost of part B.

As the bill now stands, more money would flow at 5 percent unemployment under part B than would flow at 6 percent unemployment under part A. So part B does need reform, in my judgment. The Danforth amendment proposes such reform, and I would support it.

My difficulty with Senator CHILES' amendment is that it would eliminate all assistance for cities in real distress after part A has turned off as a result of the working of the trigger. For those reasons, I find that I cannot support the Chiles amendment but that I can support and will support the Danforth amendment.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Maine for making clear what I regret to have to say about the amendment of the Senator from Florida, which is that it kills the bill. We are going to have a vote on the bill as soon as we vote on the Senator's amendment. Thereafter, if, as I do hope the Senator's amendment is not successful, then we shall hear from Senator DANFORTH a proposal which has great merit. If it did not, it would not have the support of the Senator from Maine. On the other hand, it does not have enough merit to have persuaded the Senate Committee on Finance.

Mr. CHILES. It has greater merit than it had earlier this morning.

Mr. MOYNIHAN. It may have. Such is the purpose of informed discussion of issues such as has taken place.

If the Senator is ready to put the question——

Mr. CHILES. I am ready. But I just have one word. The Senator from New York characterizes the Chiles amendment as killing the bill.

If you believe in countercyclical revenue assistance as designed by the Senator from Maine, as passed by this Senate, and as has been operating in a time that we were in a recession, then a vote for the Chiles amendment is a vote to continue that progress. If you want to change it to a completely different program, then you might want to vote against the amendment. But in no way does it kill the program as we have known it.

Mr. MOYNIHAN. The Senator is correct in what he says. But it does, in effect, kill the second stage which we are shifting into as we move away from that great recession. But, well-informed, and perfectly well-intentioned persons can differ over the wisdom of this part of the program.

Mr. MOYNIHAN. I yield back the remainder of my time.

Mr. CHILES. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to UP amendment No. 1902 of the Senator from Florida. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the

The PRESIDING OFFICER. Do Senators yield back their time?

Senator from North Dakota (Mr. BURDICK), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF) is on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Michigan (Mr. GRIFFIN).

If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Michigan would vote "nay."

The result was announced—yeas 22, nays 30, as follows:

[Rollcall Vote No. 398 Leg.]

YEAS—22

Bentsen
Biden
Byrd, Harry F., Jr.
Cannon
Chiles
Church
Danforth
Ford
Garn
Hart
Hatch
Hollings
Johnston
Lugar
Morgan
Nunn
Packwood
Pearson
Proxmire
Schmitt
Schweiker
Stone

NAYS—30

Baker
Bayh
Byrd, Robert C.
Chafee
Clark
Culver
DeConcini
Dole
Durkin
Eagleton
Glenn
Hatfield, Mark O.
Hatfield, Paul G.
Humphrey
Inouye
Jackson
Javits
Magnuson
Mathias

Matsunaga
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Pell
Riegle
Sarbanes
Williams
Zorinsky

NOT VOTING—48

Abourezk
Allen
Anderson
Bartlett
Bellmon
Brooke
Bumpers
Burdick
Case
Cranston
Curtis
Domenici
Eastland
Goldwater
Gravel
Griffin
Hansen
Haskell
Hathaway
Hayakawa
Heinz
Helms
Hodges
Huddleston
Kennedy
Laxalt
Leahy
Long
McClure
McGovern
McIntyre
Percy
Randolph
Ribicoff
Roth
Sasser
Scott
Sparkman
Stafford
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tower
Wallop
Weicker
Young

So the amendment (UP No. 1902) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The point is well made. The Senate will be in order. Senators will take their seats.

Mr. DANFORTH. Mr. President, the amendment which I will call up as soon as some drafting changes are accomplished is the one on which there is a 1-hour time agreement. The purpose of this amendment is to better target countercyclical revenue sharing.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. DANFORTH. I yield to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Missouri.

I ask unanimous consent that Jeff Petrich and Harris Miller, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Mr. Tom Cator, of Mrs. HUMPHREY's staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, we have not yet gotten the Chamber in order.

The PRESIDING OFFICER. The Senator from New York is correct. The Senate will please be in order. Those wishing to carry on conversations please retire to the cloakroom.

The Senator from Missouri.

Mr. DANFORTH. Mr. President, this amendment, which I will offer, does not go so far as the amendment which was offered by the Senator from Florida which we just voted on, but it does, I think, bring a little bit of rationality in the countercyclical revenue-sharing program by better targeting it to those communities with high rates of unemployment and, therefore, with tax bases which have been eroded.

The amendment which I will offer will significantly reduce the cost of the countercyclical revenue-sharing program. It will reduce it by approximately $310 million over the next 2 years.

The amendment will eliminate from eligibility all local governments with unemployment of 6 percent or less. As opposed to the current law which has a local trigger of 4½ percent, this would provide an unemployment trigger locally of 6 percent.

It would eliminate from the present bill the general revenue-sharing element of the funding formula that is under the present bill, and subtitle B communities are given the option of computing their benefits on the basis of the countercyclical revenue-sharing revenue or the general revenue-sharing formula whichever is best for them.

This would eliminate that option, which would be a substantial cost saving, and all benefits would be computed under the countercyclical revenue-sharing formula which is the existing formula in the law today.

It would eliminate State governments from eligibility under subtitle B of the program, that is, when unemployment nationally is below 6 percent State governments would not receive anything. However, it would maintain State governments as participants in the program when unemployment nationally is over 6 percent, and under subtitle B it would reduce the size of the program quarterly from $125 million a quarter, as is the case under the bill now, to $85 million quarterly, and it would hold harmless all cities over 6 percent under both subtitles A or B so that they would not be receiving any less under the program.

Mr. President, I first became interested in this program a couple months ago when I visited Cape Girardeau, Mo., and I happened to be talking to a friend of mine who is the county collector of Cape Girardeau whose name is Harold Wills Kuehle. He told me when I saw him, "We just received our $3,000 check."

Cape Girardeau County is a county of about 50,000 people. He said:

> We just received our $3,000 check. We don't know what to do with the $3,000. So we sent away for a booklet to tell us what to do about it.

I then called, when I got back to Washington, Mr. Kuehle's wife, who works for the State for the county auditor's office, and I put my secretary on the other extension of the telephone and got her to take down word-for-word what Mrs. Peggy Kuehle told me on the telephone. It is a very short story, and I wish to read it to the Senate. This is what Mrs. Kuehle said about Cape Girardeau County:

> The check came to the Treasurer's office of the county. They had no idea what the money was for, so they brought it to the auditor's office and asked what it was for and what they should do with it. We were not sure. It was anti-recession money. We had never received it before.
>
> So Mr. Mackey who is the auditor called the officer who was on the check. He did not know about it either, and said he would check on it and get back to him.
>
> We were not sure that we were supposed to have it.
>
> A call came from Washington saying we were supposed to have it, because according to their figures, it was determined that Cape Girardeau County's unemployment rate had gone up and we were entitled to it. We had never received any before.
>
> Washington said that they would send the regulations that went along with the spending of this money because it was different from revenue sharing.
>
> Cape Girardeau County has not spent the money yet because they do not know how to spend it. They have not made a decision of what to do with it because there are so many regulations. We got a kick out of it.
>
> The regulations said something like it could not be put into construction or capital improvements, anything consumable, or that could change its shape. It would be a new accounting, and so forth.
>
> It said something like it could be used for bonuses and salary increases. We were all for that, but the county court would not allow that.
>
> The regulations all said that it had to be spent in six months. You know, with a thing like this, if you do not do it just right, you have all kinds of complications.

Mr. President, I think the theory of this program at the outset of countercyclical revenue sharing was a good theory. It was to assist governments that had their tax bases eroded in periods of high unemployment.

But when you have a local trigger that is down to 4½ percent, which is below what the Council on Economic Advisers says is full employment, then you really do not have countercyclical revenue sharing at all. You have a kind of a grab bag approach. You have sort of a shotgun method of spreading money around the country.

So Cape Girardeau County, with a population of 50,000 people, receives a check for $3,000, or Madison County, Mo., I believe received a check for $164.

Senator CANNON read a list of the checks that were received by communities in his State, and the State of Missouri is very similar to that.

For example, Memphis, Mo., received a check for $345; Valley Park, $303; a town, Arcadia, Mo., received a check for $164.

That is really no real help, Mr. President, and the whole purpose of this amendment is to bring a little rationality into the program to try to target the program more effectively at those communities that really do have needs; namely, those with unemployment of over 6 percent, and to try to create a system where the money is not just spread around on sort of a willy-nilly basis as is the case with the present program.

Mr. PROXMIRE. Mr. President, will the Senator from Missouri yield?

Mr. DANFORTH. I yield.

Mr. PROXMIRE. I congratulate the Senator on this amendment. I think it is a thoroughly rational, sensible, and logical amendment. I hope the Senate will adopt it, because what the Senator is doing, as I understand it, is to say if we are going to continue to have a program that is going to help cities in distress it should do that. It should do that. It should not just be an addition to revenue sharing.

As I understand it, he does four things:

No. 1, he eliminates the eligibility for all governments that have unemployment of less than 6 percent.

Mr. DANFORTH. That is correct.

Mr. PROXMIRE. I cannot understand, anyone would argue against that at least as a national policy. I can see if I were a mayor in a city that had unemployment of less than 6 percent I would not agree with it. But as a matter of national policy that makes sense.

No. 2, it would eliminate the general revenue-sharing element from the funding formula so it would restore in current law estimated savings of $22 million in fiscal year 1978. I think it is more than that now. The Senator redrafted his amendment to provide for a greater saving than he indicated in the sheet he passed around. Is that not right?

Mr. DANFORTH. That is correct. For 2 years it would be a saving of about $310 million, which would be $62 million in fiscal year 1979 and $248 million in fiscal year 1980.

Mr. PROXMIRE. So the Senator's amendment would have the effect of reducing assistance as unemployment declines rather than the reverse which is the way the bill is in its present form.

Mr. DANFORTH. That is correct.

Mr. PROXMIRE. So it would become a countercyclical program, not a counter-countercyclical program.

Mr. DANFORTH. That is correct. Instead of having the amount of funds available for distribution under the program increased as unemployment goes down, which would be the reverse logic, the amount of funds under the program would be reduced as unemployment goes down.

Mr. PROXMIRE. I thank the Senator.

Mr. MOYNIHAN. Mr. President, may I say that not for the first time has the Senator from Missouri risen in this Chamber and pointed to the difficulties which are presented by the kinds of legitimate compromises which are made in the course of trying to fashion a national program of this kind. We have tried to craft a national program that will establish uniform provisions in situations with a great lack of uniformity.

It is an essential fact that this program is designed to make some provision for the difficulties of States and localities which have high levels of unemployment.

The Senator from Missouri's proposal is to eliminate those governments which have unemployment rates under 6 percent.

The Senator might want to hear that I am disposed to accept his amendment, but I do not accept the idea that 5.5-percent unemployment is an acceptable low level that precludes any public exertion; nor does he assert it. For 15 years we have been having this kind of national debate over acceptable unemployment levels, and each year I see the level of unemployment creep upward, to a point which is thought to be normal and moderate and even agreeable.

The Senator's amendment would reduce the impact of this bill. The President wanted more. President Carter wanted more than this provides. Yet the essential purpose of this legislation persists and, if anything, is to some extent clarified. We lose something, 2,900 jurisdictions lose what they would get. We must understand this. In the sense that 2,900 jurisdictions lose something, every State loses as well. The program will be diminished. I think it is significantly cut back. But it is, if I am not mistaken, consistent with the mood of the Senate today, and in the circumstances I feel the appropriate thing to do is to respond to the mood of the Senate.

I see the Senator from Texas has taken the floor.

Mr. BENTSEN. I think the Senator made some good points in the debate. I, for one, am ready to accede to his amendment, if the manager so desires.

Mr. MOYNIHAN. That is very generous and a very characteristic response of the Senator from Texas.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to my senior colleague.

Mr. JAVITS. I, too, am pleased that the Senator will take this amendment. It is not only because of the mood of the Senate, but because of the mood of the country. We come here from a big city, as I do, New York, which, as well as our State, has many requirements, not demands. We are in really very, very grave trouble. Therefore, when it is possible to fashion something which can help us and, at the same time, represents general economy to the total expenditure of the United States, even if it is not the optimum—and I agree with you, Senator MOYNIHAN, that it is not the optimum—it is a very wise and statesmanlike course for us to take.

I think we need so much. The difficulty of the great cities is so enormous in the problems they have, especially with us and many other cities, with the demographic problems, the shifts in population, that we should use our own best brains to minimize the cost, indeed, to emphasize more and more guarantees and borrowing and other ways in which actual expenditures will not be taxed, regardless of the archaic bookkeeping we do in our Federal Government respecting expenditures, which is ridiculous and crazy but, nonetheless, the fact that we have to live with it.

So I would like to join Senator MOYNIHAN in thanking Senator DANFORTH and in appreciating the thoughtfulness which dictated cutting this particular program exactly to fit what was the pressing need, and I am delighted that he is accepting it. I thank the Senator very much.

Mr. MOYNIHAN. It is characteristically generous of my senior colleague in response, and I thank him.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the Senator from Maine.

Mr. MUSKIE. I think the Danforth amendment is pretty well understood by the Senate as a whole, as represented by the previous vote. The previous vote indicates that the Senate is receptive to the form as represented by the Danforth amendment. As I indicated earlier, I said I would accept it, and I see no reason to further belabor the point.

Mr. MOYNIHAN. I will belabor the point for only a little. When the Senator from Maine indicated he was for the Danforth amendment, it suggested to the Senator from New York that he had better be for it as well.

Mr. MUSKIE. I had no doubt about the position of the Senator from New York at any time.

Mr. MOYNIHAN. Mr. President, the amendment is not pending. Does the Senator from Missouri wish to move his amendment?

UP AMENDMENT NO. 1903

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. DURKIN). The clerk will report.

Th eassistant lgeislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 1903.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 8, beginning with line 22, strike all through line 2, page 9, and insert the following:

SEC. 8. (a) Section 21 of the Public Works Employment Act of 1976 (42 U.S.C. 6730) is amended by striking out subsections (a), (b), and (c), and inserting in lieu thereof the following:

"(a) IN GENERAL.—From the amount allocated under section 203, the Secretary shall pay not later than five days after the beginning of each quarter to each State or local government which has filed a statement of assurances under section 205, and for which the State or local unemployment rate exceeds 6 percent, an amount equal to the amount allocated to such State or local government under section 203.

On page 9, line 11, strike "4.5" and insert in lieu thereof "6";

On page 9, line 18, strike "4.5" and insert in lieu thereof "6";

On page 11, beginning with line 14, strike all through line 20 and insert in lieu thereof:

"(b) PAYMENTS TO RECIPIENT GOVERNMENTS.—The Secretary shall pay, not later than 5 days after the beginning of each calendar quarter for which payments are authorized under subsection (a), to each local government which has filed a statement of assurances under section 205, and for which the local unemployment rate exceeds 6 percent, an amount equal to the amount allocated to such government under section 232.

On page 11, line 13, strike "4.5" and insert in lieu thereof "6";

On page 11, line 24, strike "$125,000,000" and insert in lieu thereof "$100,000,000";

On page 12, line 1, strike "this subtitle and";

On page 15, beginning with line 20, strike all through and including line 9, page 17;

On page 17, line 10, strike "(e)" and insert in lieu thereof "(d)";

On page 17, line 18, strike "4.5" and insert in lieu thereof "6";

On page 18, line 2, strike "4.5" and insert in lieu thereof "6".

On page 3, line 23, strike "State and".

On page 11, line 12, strike "State and".

On page 11, line 17, strike "State and".

On page 12, beginning with line 19, strike all through line 2 on page 13.

On page 13, line 3, renumber paragraph (2) as (1).

On page 13, line 7, renumber paragraph (3) as (2).

On page 13 beginning with line 12, strike all through line 2 on page 14.

On page 14, line 3, reletter section (c) as (b).

On page 17, line 10, reletter (d) as (c).

On page 17, line 13, strike "State or".

On page 17, line 16, strike "State or".

On page 17, line 21, strike "State or".

On page 18, line 1 and 2, strike "State or".

On page 18, beginning with line 4, strike through line 13.

On page 18, line 16, redesignate section 234 as 233.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the amendment be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I am prepared to state that we will accept this amendment as proposed by the Senator from Missouri.

The PRESIDING OFFICER. Do both Senators yield back the remainder of their time?

Mr. DANFORTH. First of all, I would like to thank Senator MOYNIHAN, Senator MUSKIE, Senator JAVITS, and Senator BENTSEN for their cooperation and for their indulgence during the consideration of this matter. I believe the result is one that is really in the best interests of the country, because it does cut costs where costs can be cut. It does bring some rationality, hopefully, into a program which people were beginning to really scoff at, and it does provide real assistance to those communities most in need about which I know Senator MOYNIHAN feels so strongly, as well as Senator BENTSEN.

Therefore, I very much appreciate their cooperation.

I yield back the remainder of my time.

Mr. MOYNIHAN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I ask unanimous consent that such technical and conforming changes in the terms of this amendment as may be necessary may be made.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there be no further amendments——

Mr. MOYNIHAN. The Senator from Indiana is seeking the floor.

UP AMENDMENT NO. 1904

(Purpose: To restrict funding in certain instances until unemployment rises to 7 percent)

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. LUGAR) proposes an unprinted amendment numbered 1904:

On page 5, line 7, strike "6" and insert in lieu thereof "7".

On page 5, line 18, strike "6" and insert in lieu thereof "7".

On page 11, line 9, strike "5" and insert in lieu thereof "7".

On page 12, line 7, strike "5" and insert in lieu thereof "7".

On page 12, line 17, strike "equals or exceeds 5 percent but is less than 6 percent" and insert in lieu thereof "is not less than 7 percent".

Mr. LUGAR. Mr. President, the purpose of this amendment is to use 7 percent as the trigger mechanism to begin the flow of funds for the operation of either part A or part B of this bill. I will not take the time of Senators to detail all of the reasons why parts A and B are good or bad. I would simply say that it appears to me that there is some consensus in this body that there ought to be a backup in terms of antirecession, and this my amendment provides for by suggesting that if unemployment in the country rises to 7 percent, at that point part A and part B would be operative; but it also makes the important point that when we are moving away from recession into recovery—and by most definitions the United States of America has been in a recovery for 2 or 3 or perhaps more years from the depth of the recession; we moved from roughly 8 percent unemployment through the 7-percent mechanism that my amendment would call for, to less than 6 percent presently, but we have fluttered back and forth around 6 percent for some time—the rationale of this legislation originally was that national unemployment, in and of itself, creates problems in cities, and that because of a general downturn that no community could alleviate all by itself, there was a national obligation to try to put some undergirding under cities that would be peculiarly disadvantaged by a national recession as opposed to a lack of local initiative, lack of strength of local government, or what have you.

I accept that premise, and the point of my amendment is not to suggest, as the House of Representatives may have suggested, that we ought to scrap the whole idea. In fact, in a "Dear Colleague" letter which many of us have received, Representatives L. H. FOUNTAIN and JACK BROOKS have said that if there was ever a time to wind up programs, this is it, that we are out of the recession and we have moved now to a fairly strong point.

I do not buy that idea. I think it is fully conceivable that in the next 2 years—and that is what this bill covers—we could come into very grave circumstances in the economy of the country, and unemployment might rise once again.

If so, and if it rises to 7 percent, parts A and B are operative. But likewise, Mr. President, for the moment the gist of my amendment is to say that no funds would be spent under parts A or B until unemployment in the country rises to 7 percent, and we are clearly into another recession.

I say this as a friend of cities. It is not my suggestion that cities be disadvantaged just for the sake of it. But, Mr. President, there is no credibility whatever in this program unless it is truly based on the thought that a national recession causes peculiar problems in cities, that it is not simply a failure of local leadership.

Second, Mr. President, politically the bill has been constructed in such a way that the cities to be advantaged include most cities of America. A case can be made, as the distinguished Senator from New York has made it earlier, that a national urban policy must focus on those situations of structural unemployment and structural decline. A good number of people, and the President of the United States is one of them, have tried to focus on that issue this year. But this is a very expensive attempt to do that, if that is the purpose and rationale of the bill, and it finally is unacceptable by people of commonsense, who say this is not purely antirecessionary aid, it is not purely a replacement of revenue; it becomes simply a boondoggle that continues on and on forever, and discredits most urban situations and urban policies that we may have, if we are not more precise in our targeting and our intent.

Admittedly, even if we put the trigger at 7 percent, as I am suggesting, criticism can be made that the program is far too broad-based, that it is still an expensive program, but there is some rationale at that point in terms of genuine national hardship triggering difficulties at the local level.

Therefore it seems to me, Mr. President, that our entire effort here will have a great deal more credibility if we do not spend money when we are in recovery, if we trigger the spending when we are in recession, and if we tie, in fact, to a point—and I have selected 7 percent, because it is sort of midway in the range of unemployment rates that we have had during this period of recession and recovery recently. It is tied in with some features of changes in unemployment statistics, which may now reflect many more women, many more young people; maybe all Americans are seeking work in larger numbers, and the work population bulges as more women and young people seek jobs at that point.

There is good basis for saying that 7 percent hits the market where it ought to, and in this manner, we not only are fiscally responsible, but I think we will have more taste in the Nation for this program as a whole.

Mr. President, I reserve the remainder of my time.

Mr. MOYNIHAN. I yield to the Senator from Michigan (Mr. RIEGLE).

Mr. RIEGLE. Mr. President, I ask unanimous consent that Stephanie Smith of my staff be accorded the privilege of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. MOYNIHAN. Yes.

Mr. HARRY F. BYRD, JR. I ask unanimous consent that Edward Beck of my staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, considering the hour and the long and useful debates and divisions which we have had on this matter, it seems to me that there is not a great deal for me to offer to the cogent points of the Senator from Indiana, who has distinguished himself in this body as an authority, as indeed he is, on urban affairs. As important, he has shown compassion in these matters, a combination not always found in this field.

The problem is that the Senator's proposal in effect eliminates the President's program. It keeps it as a triggering mechanism awaiting another deep recession. Seven percent unemployment, to me, is a deep recession. It was the sharpest we have had since the 1930's.

I might make the point that a 6-percent unemployment rate nationally conceals 14, 15, and 16 percent unemployment rates in certain jurisdictions. The Senator from Missouri has insured that this is to be concentrated on areas which, by any standard, have heavy unemployment.

We are getting used to jurisdictions with rates of unemployment at 10 percent, 12 percent, and more. In the circumstances, it seems to me the question before the Senate now is, do we want this program to be in effect in fiscal 1979 or do we not? It conceivably could come into effect under the Senator's proposal, but God help us if it does. It would mean we will have gone back to that level of unemployment the Senator from Indiana suggests.

We know the issue. It has been clearly put. If the Senator wishes the yeas and nays, as I think he probably does——

Mr. LUGAR. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. LUGAR. Mr. President, I would reply briefly that the points made by the Senator from New York are well-taken, and I would respond in this way: Clearly the gist of my amendment does prevent spending, whether it be under the President's plan or anyone else's. It would appear to me that that is a highly desirable thing to do at this point. I see no brief to be made, as a matter of fact, for spending money for the sake of it, nor do most Members of this body; and clearly the rationale for spending money comes only if there is in fact national distress and national unemployment that has, in and of itself, triggered this difficulty in cities.

Second, Mr. President, the correlation between national unemployment or even local unemployment and the merits of receiving revenues is not all that clearly established. It is not the purpose of this debate to go into all of the ties that there are between difficulties in urban areas and unemployment, and there are some strong correlations.

Clearly, there are some strong correlations. But it is also a fact, Mr. President, that regardless of what the national unemployment might be, there will be substantial economic distress in some urban areas and that will have to be met in an entirely different fashion, if it is to be effected.

Mr. President, I am prepared to yield back the remainder of my time and proceed to a vote on the issue. I do hope that Members will move with me to make sure the trigger mechanism is 7 percent, that this is truly an antirecession program and not extended revenue sharing, that we will save the money presently that need not be spent, in my judgment, and which could clearly be saved if my amendment is adopted

Mr. DANFORTH. Will the Senator yield 1 minute?

Mr. MOYNIHAN. I am happy to.

Mr. DANFORTH. I am going to vote against the amendment offered by Senator LUGAR. I think obviously the effect of the amendment would be to terminate the whole program, since what the whole bill amounts to is simply a 2-year extension of countercyclical revenue sharing.

It is my view that the bill as it now stands is sufficiently targeted and narrow enough in scope as to be a good program and it should not be terminated.

Mr. MOYNIHAN. Mr. President, I sum up our position by saying the amendment of the Senator from Indiana turns an antirecession measure into an antidepression measure. We would have to get to a horrendous state of economic dislocation before his proposed unemployment rate would trigger the program into effect.

Mr. President, I yield back the remainder of my time.

Mr. LUGAR. I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, I move to table the pending amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. MOYNIHAN. Does the Senator wish the yeas and nays? I believe they were ordered.

Mr. LUGAR. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment but not on the motion to table.

Mr. LUGAR. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion to table the amendment of the Senators from Indiana. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. McCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 40, nays 12, as follows:

[Rollcall Vote No. 399 Leg.]

YEAS—40

Baker
Bayh
Bentsen
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Culver
Danforth
DeConcini
Durkin
Eagleton
Ford
Glenn
Hart
Hatfield,
 Mark O.
Hatfield,
 Paul G.
Humphrey
Inouye
Jackson
Javits
Johnston
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pearson
Pell
Riegle
Sarbanes
Stone
Williams
Zorinsky

NAYS—12

Biden
Byrd,
 Harry F., Jr.
Chafee
Dole
Garn
Hatch
Hollings
Lugar
Packwood
Proxmire
Schmitt
Schweiker

NOT VOTING—48

Abourezk
Allen
Anderson
Bartlett
Bellmon
Brooke
Bumpers
Burdick
Case
Cranston
Curtis
Domenici
Eastland
Goldwater
Gravel
Griffin
Hansen
Haskell
Hathaway
Hayakawa
Heinz
Helms
Hodges
Huddleston
Kennedy
Laxalt
Leahy
Long
McClure
McGovern
McIntyre
Percy
Randolph
Ribicoff
Roth
Sasser
Scott
Sparkman
Stafford
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tower
Wallop
Weicker
Young

So the motion to lay on the table UP amendment No. 1904 was agreed to.

UP AMENDMENT NO. 1905

Mr. MOYNIHAN. Mr. President, the Senator from Missouri has what is, in effect, a perfecting amendment.

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 1905.

On page 11, line 24, strike "$100,000,000" and insert in lieu thereof "$85,000,000";

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me briefly?

Mr. DANFORTH. I yield.

Mr. ROBERT C. BYRD. Mr. President, I urge Senators not to leave. We are approaching third reading and passage shortly and I expect a rollcall vote on passage. I urge Senators to stay around.

Mr. DANFORTH. Mr. President, this is technically an amendment to the bill and I ask unanimous consent that it be in order.

Mr. MOYNIHAN. Mr. President, I support the Senator from Missouri in that respect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, this does nothing more than correct an inadvertent error in my original amendment that has already been agreed to. I have checked it out with the manager of the bill.

Mr. MOYNIHAN. Mr. President, the record will show that the Senator from Missouri meant the figure to be $85 million.

It was the intention of the Senator to accept this amendment. I move to accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MOYNIHAN. I yield back the remainder of my time.

Mr. DANFORTH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (UP No. 1905) was agreed to.

Mr. MOYNIHAN. Mr. President, I have here a statement of Senator WILLIAM D. HATHAWAY, who is the distinguished chairman of the subcommittee of the Finance Committee which managed this legislation and developed it, and which helped bring about this important victory for the President's urban policy.

I ask unanimous consent that his statement be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR HATHAWAY

SUPPLEMENTAL FISCAL ASSISTANCE

I urge my colleagues to act quickly and favorably on H.R. 2852, Antirecession Fiscal Assistance.

In 1976, the Congress in recognition of the state of the economy, passed the Public Works Employment Act, which provided for fiscal assistance to state and local governments which experienced severe budgetary strains during the economic downturn.

This important bill extends antirecession assistance and establishes a supplementary fiscal assistance program for State and local governments which continue to have high unemployment. I believe it is important that Federal fiscal assistance be targeted to those State and local governments which are most distressed as measured by the rates of unemployment prevailing within their jurisdictions.

I further believe that the program of countercyclical and supplementary fiscal assistance constitutes an essential element of sound Federal fiscal policy.

Furthermore, the bill has amended the funding provisions of the antirecession program in recognition of the need for continued assistance to State and local governments that have not fully participated in the national economic recovery by providing supplementary fiscal relief when national unemployment rates are below 6 percent. This bill aso retains the general administrative provisions of the existing program.

Generally, under the Finance Committee bill, the antirecession assistance and supplementary fiscal assistance programs are authorized for an additional 2 years, until September 30, 1980. The amount of funds to be distributed will be determined quarterly based on the most recently available unemployment data. The amount of funds to be authorized will depend upon whether subtitle A, the antirecession program, or subtitle B, the supplementary fiscal assistance program, is in effect. When the average rate of unemployment for the United States equals or exceeds 6 percent, subtitle A will be in effect and $125 million, plus an additional $30 million for each one-tenth of 1 percent by which that rate of unemployment exceeds 6 percent, will be distributed quarterly.

When the national unemployment rate has been less than 6 percent for two consecutive calendar quarters but exceeds 5 percent, the supplementary fiscal assistance program will be in effect and $125 million will be distributed during each calendar quarter, plus additional funds to allow State and local governments within a State area which would receive a larger allocation if the same amount of funds were distributed under the general revenue-sharing allocation formula, to receive up to twice the amount of funds they would otherwise receive under the program's distribution formula.

Additional funds will be distributed under both subtitles to allow local governments whose rates of unemployment would be higher if calculated using current population survey data to receive funds based on such higher rates. The total funds authorized during the 2-year extension may not exceed $2.25 billion.

The distribution of funds during periods when Subtitle A is in effect will continue to be based on the antirecession formula which refers to the degree by which each State and local government unemployment rate exceeds 4.5 percent.

When the national rate of unemployment has been less than 6 percent for two consecutive calendar quarters but exceeds 5 percent, the committee has determined to continue funding the program and to preserve the basic pattern of distribution based on State and local government rates of unemployment in excess of 4.5 percent, but to incorporate certain important modifications. No State government will be entitled to receive more supplementary fiscal assistance funds than it received during the last calendar quarter during which subtitle A (antirecession assistance) was in effect. Under Title II a comparison will be made between total funds which would be distributed to a State area if the same amount of money were distributed nationally using the general revenue-sharing formula and the total funds which would be distributed to such area under the antirecession allocation formula. For State areas which would receive more funds under the general revenue-sharing formula funds will be distributed to the State government and each local government within the State in an amount equal to its antirecession allocation multiplied by the ratio of the amount the State area would have received under the general revenue-sharing formula divided by the amount it would receive under the countercyclical formula, provided that the multiple may in no case exceed two.

Furthermore the bill retains most of the administrative provisions of the current law including provisions relating to the use of payments, nondiscrimination and labor standards. Special reports, which have been found to create an excessive paperwork burden for recipients, and program studies and recommendations are eliminated.

Despite the national economic recovery since the antirecession program was first adopted, many State and local governments continue to require fiscal relief. If the antirecession program were to terminate as the current law provides, when the national rate of unemployment falls to 6 percent, these State and local governments would suffer fiscal hardships which in some cases would be severe. Accordingly, the committee has determined that a supplementary fiscal assistance program is a necessary element of sound Federal fiscal policy.

I strongly urge the Senate to enact this important legislation.

Many local governments including those of Maine are financially hardpressed. Fiscal assistance is necessary in many areas—but it should be targeted to relief. I believe this bill is responsible and vitally needed. I trust the Senate will agree to expeditiously act on this vital measure.

● Mr. NELSON. Mr. President, S. 2852, the Intergovernmental Anti-Recession and Supplementary Fiscal Assistance Amendments of 1978 contain two provisions which I authored and the Finance Committee accepted. These provisions are designed to prevent any reductions in the allocations made to local governments as a result of changes made by the Bureau of Labor Statistics in the methodology used to calculate unemployment data, as well as to compensate local governments for reductions in their quarterly payments that already have occurred.

In January 1978 new procedures were initiated by the Bureau of Labor Statistics (BLS) for estimating unemployment and labor statistics. These changes were undertaken to improve the accuracy of labor market statistics, statistics which are used to allocate antirecession assistance, CETA funding, and many other forms of Federal assistance to State and local governments. However, due to this new BLS methodology a substantial decline in unemployment rates has occurred in some of the 28 standard metropolitan statistical areas and 9 central cities whose unemployment rates were calculated in a different manner as a result of the BLS methodological change. The decline in unemployment rates in many of these areas did not occur as a result of any economic changes in the area, but is instead a result of the change in the methodology used to calculate unemployment rates.

This change in the methodology used to calculate unemployment rates resulted in the decline of the unemployment rate for the city of Milwaukee, Wis., for example, from 8.9 to 5 percent—a 45-percent decrease in Milwaukee's rate of unemployment. The unemployment rate for Milwaukee County dropped from 6.9 to 4.6 percent. This statistical change meant a loss of tens of thousands of dollars for both the city and Milwaukee County.

The Bureau of Labor Statistics has stated that the new methodology is not statistically more accurate than the former methodology for the standard metropolitan statistical areas (SMSA) or central cities affected. Whether or not the old methodology for SMSA's and central cities is more accurate than the new methodology, the net effect of the methodology changes is channeling of Federal financial assistance away from many hard-pressed urban areas, whose fiscal and social problems have increased in recent months.

The bill the Senate is now considering will insure that units of local government are not adversely affected by a change in the methodology used to determine unemployment rates. The bill requires the Secretary to provide adjustment payments to local governments that have had or would have any fiscal assistance allocations reduced as a result of a change in the methodology used to calculate the local unemployment rate as determined or assigned by the Secretary of Labor. An authorization for such sums as are necessary to provide these adjustment payments is also provided for in the bill.

HISTORY

Prior to 1972 State employment security agencies, under the direction of the Department of Labor, had the responsibility of preparing estimates of unemployment for States and metropolitan areas. The estimating system was called the 70-step handbook procedure. This procedure relied primarily on unemployment insurance claims data by place-of-work, supplemented by estimates for persons not covered by unemployment insurance. Estimates for counties and cities within labor market areas were derived by applying fixed proportions of unemployment and employment from the 1970 census of the population (census share method). For example, if a county within a five-county metropolitan area had a 20-percent share of the total unemployment of the metropolitan area in 1970 and a 30-percent share of the area's total employment, these shares were used to describe the current estimates of employment and unemployment for the county.

Reliance solely on the 70-step method among the States and metropolitan areas remained in effect until the responsibility for preparation of this data was transferred to the Bureau of Labor Statistics (BLS) in 1972. At that time, BLS investigated the 70-step method and found that the following factors contributed to the collection of inaccurate and incomparable data:

Fifty different state unemployment insurance laws, involving a variety of eligibility and disqualification criteria, hindered data comparisons among states.

Uninsured estimates were measured by educated guesses of the population uncovered by unemployment insurance.

1970 census information was too outdated to use in determining current statistical relationships.

By applying fixed proportions to determine county/city estimates in metropolitan areas, an assumption was made that changes in the employment situation are shared equally by population distribution.

70-step method estimates of labor force and unemplovment statistics by state did not coincide with Current Population Survey (CPS) state estimates.

These factors, as well as the passage of the Comprehensive Employment and Training Act (CETA) in 1973, which required the use of unemployment data to allocate financial assistance among labor areas, prompted BLS to introduce the following major modifications to the estimating system:

An adjustment of place-of-work estimates to place-of-residence (a concept used by the CPS and mandated by CETA).

Adjustment of unemployment insurance estimates to annual average CPS state controls through the use of an annual benchmarking procedure. This procedure involved adjusting those estimates derived from the 70-step method to the previous year's CPS control; then these statistics are again revised retrospectively at year's end when current CPS data becomes available. Annual CPS controls were introduced in three stages from 1973 to 1976 in all 50 states, 30 SMSA's, and 11 central cities.

Emphasis was placed on the improvement of unemployment insurance data by: counting claimants by county of residence instead of where they file; eliminating duplicate counting of claims because of different processing or reporting procedures; and counting only those claimants who were without earnings during the survey week.

These changes in estimating labor force and unemployment statistics were an improvement over the former statistical methods to the extent that Federal allocations were being distributed on an annual basis. However, because of the severe recession of 1974–76, several laws such as CETA, the Public Works and Economic Development Act, the Public Works Employment Act, and the Antirecession Assistance Act, were either amended or new legislation was enacted providing for emergency allocations to State and local governments, based in part on quarterly or monthly local area unemployment statistics data.

In view of the increased reliance on local area unemployment statistics BLS has undertaken further changes in the methodology to be used to calculate labor market statistics.

NEW METHODOLOGY

As of January 1, 1978, the Bureau of Labor Statistics changed its methodology for gathering labor market statistics. These statistics are to be prepared in the following manner:

For the 10 largest states (New York, California, Illinois, Ohio, New Jersey, Pennsylvania, Michigan, Texas, Massachusetts, and Florida) and two large areas (New York City and the Los Angeles-Long Beach SMSA) labor force and unemployment statistics are to be based directly on monthly CPS data. These states and areas are large enough to support reliable monthly CPS estimates. No further revision in unemployment rates is required because actual CPS data can be used directly each month.

For the remaining 40 states, labor force and unemployment statistics must be prepared by linking the 70-step method estimates to the most recent six-month average CPS extrapolator and revised retrospectively at year's end. BLS predicts that the annual average revision rate will be reduced by 5 percent as a result of using this six-month moving average.

For all labor market areas, the estimates for the number of employed and unemployed will be computed by the 70-Step Handbook procedure, which utilizes unemployment insurance data.

In allocating the number of employed among counties within each labor market area, the estimates will be based on current estimates of population by county instead of the census share method.

In allocating the number of unemployed among counties within each labor market area, estimates will be based upon unemployment claims for the "experienced" unemployed (those who have applied for unemployment) and by the Census Share method for those who are "unexperienced" unemployed (those who do not have a recent attachment to the labor force).

In allocating the number of employed and unemployed to cities within all labor market areas, the Census Share method will be used. This applies to those cities (except New York and Los Angeles) which previously used annual CPS data in the preparation of their labor market and unemployment data.

SUMMARY

Because 28 SMSA's in which CPS data has been used to adjust the 70-step method estimates are no longer adjusted to the CPS annual average extrapolator, current labor market and unemployment estimates in these areas using the "new" methodology are not as accurate as the methodology used prior to January 1, 1978. The estimates in the nine cities within the SMSA's which formerly used CPS data to determine their share of the employed and unemployed within the SMSA, and which now use the census share method are not as accurate. And unemployment rates for counties within the SMSA's may be artificially reduced as a result of no longer "benchmarking" to the CPS annual SMSA average.

The result of the new changes has been this reduction, in most of the 28 SMSA's and 9 central cities, of unemployment rates. The lower unemployment rates in these areas has lowered Federal expenditures for programs designed to serve these very areas.

There is agreement among all interested parties that the process for estimating labor market statistics is in need of improvement. However, when Federal funding is so closely linked with an area's unemployment rate, any reduction of that rate merely through a change of statistical methodology must be carefully weighed.

The National Commission on Unemployment Statistics is authorized to assess the current procedures and methods used in the collection and analysis of labor market statistics. The Commission is to submit a report to the President and the Congress by September 1979. The Commission has been holding public hearings in furtherance of their responsibilities and investigating many of the issues raised by the new BLS methodology.

The Nelson amendments embodied in S. 2852 will insure that local governments are not adversely affected by a reduction in unemployment rates which is directly caused by a change in the methodology used to calculate unemployment rates. During the time the National Commission on Unemployment Statistics is evaluating various methodologies for calculating unemployment, no local government should have their antirecession fiscal assistance reduced because of a methodological change in the calculation of unemployment. This bill will insure that such a reduction does not occur. And, it will provide for a one-time lump sum payment to local governments who have had their countercyclical revenue-sharing payments reduced in the past two quarters because of methodological changes in the unemployment rates.●

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read the third time.

The bill was read a third time.

Mr. MOYNIHAN. Mr. President, I move the adoption of the bill.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. MORGAN). The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered.

Mr. HARRY F. BYRD, JR. Mr. President, would the Chair state the issue upon which the Senate will now be voting?

The PRESIDING OFFICER. The Senate will be voting on final passage of H.R. 2852.

Mr. HARRY F. BYRD, JR. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. Is that a part of that gasoline tax proposal? Did I hear the clerk read——

Mr. MOYNIHAN. This measure has eliminated the aviation fuel excise tax measure from House bill to which it is now attached.

Mr. President, I yield back the remainder of my time.

Mr. BAKER. Mr. President, I yield back the remainder of the time on behalf of the manager on this side.

The PRESIDING OFFICER. All time having been yielded back, the question is, Shall the bill pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE); the Senator from West Virginia (Mr. RANDOLPH), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Minnesota (Mr. ANDERSON) would each vote "yea."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. McCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. GRIFFIN) would vote "yea."

On this vote, the Senator from New Mexico (Mr. DOMENICI) is paired with the Senator from South Carolina (Mr. THURMOND).

If present and voting, the Senator from New Mexico would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 44, nays 8, as follows:

[Rollcall Vote No. 400 Leg.]

YEAS—44

Baker
Bayh
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Clark
Culver
Danforth
DeConcini
Dole
Eagleton
Ford
Garn
Glenn
Hart
Hatch
Hatfield, Mark O.
Hatfield, Paul G.
Humphrey
Inouye
Jackson
Javits
Johnston
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Packwood
Pearson
Pell
Riegle
Sarbanes
Schmitt
Schweiker
Stone
Williams
Zorinsky

NAYS—8

Bentsen
Biden
Byrd, Harry F., Jr.
Durkin
Hollings
Lugar
Nunn
Proxmire

NOT VOTING—48

Abourezk
Allen
Anderson
Bartlett
Bellmon
Brooke
Bumpers
Burdick
Case
Cranston
Curtis
Domenici
Eastland
Goldwater
Gravel
Griffin
Hansen
Haskell
Hathaway
Hayakawa
Heinz
Helms
Hodges
Huddleston
Kennedy
Laxalt
Leahy
Long
McClure
McGovern
McIntyre
Percy
Randolph
Ribicoff
Roth
Sasser
Scott
Sparkman
Stafford
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tower
Wallop
Weicker
Young

So the bill (H.R. 2852) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An act to amend title II of the Public Works Employment Act of 1976 to extend the antirecession provisions of that act, and to establish a supplementary antirecession fiscal assistance program for State and local governments suffering severe unemployment.

(The following proceedings subsequently occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action today taken with respect to the tabling of the motion to reconsider H.R. 2852, and the final vote on that measure, and the vote on the motion to advance the bill to third reading be vitiated; that the Senator from Missouri be allowed to offer amendments en bloc to make certain technical and clerical corrections; that they be agreed to en bloc; that the bill again be advanced to third reading, passed, and the motion to reconsider again laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Will the distinguished Senator state whether this matter has been cleared with certain Senators?

Mr. DANFORTH. I thank the majority leader. Mr. President, during the course of putting together this amendment this morning, certain technical and clerical defects in the bill became apparent which were not caught at the time that the bill was passed. My staff has spoken with the staff of the Finance Committee, Senator MUSKIE's staff, and Senator MOYNIHAN's staff to explain in detail precisely what the problems were with the bill as passed, and to clear up each of the corrections which have now been sent to the desk, and I very much appreciate the assistance of the majority and minority leaders in this matter, and their people.

The PRESIDING OFFICER. Without objection, the motion of the majority leader is agreed to, and it is not necessary to report the amendment.

The amendment is as follows:

UP AMENDMENT NO. 1909

On page 8, beginning with line 22, strike all through line 2, page 9, and insert the following:

SEC. 8. (a) Section 210 of the Public Works Employment Act of 1976 (42 U.S.C. 6730) is amended by striking out subsections (a), (b), and (c), and inserting in lieu thereof the following:

"(a) IN GENERAL.—From the amount allocated for State and local governments under section 203, the Secretary shall pay not later than five days after the beginning of each quarter to each state and to each local government which has filed a statement of assurances under section 205, and for which the state or local unemployment rate exceeds 6 percent, an amount equal to the amount allocated to such state or local government under section 203.

On page 9, line 11, strike "4.5" and insert in lieu thereof "6";

On page 9, line 18, strike "4.5" and insert in lieu thereof "6";

On page 11, beginning with line 14, strike all through line 20 and insert in lieu thereof:

"(b) PAYMENTS TO RECIPIENT GOVERNMENTS.—The Secretary shall pay, not later than 5 days after the beginning of each calendar quarter for which payments are authorized under subsection (a), to each local government which has filed a statement of assurances under section 205, and for which the local unemployment rate exceeds 6 percent, an amount equal to the amount allocated to such government under section 232.

On page 14, line 5, strike "reserved under subsection (a)(2)" and insert in lieu thereof "appropriated pursuant to authorization under section 231 for each calendar quarter";

On page 14, lines 8 and 9, strike "reserved under subsection (a)(2)" and insert in lieu thereof: "appropriated pursuant to authorization under section 231";

On page 11, line 13, strike "4.5" and insert in lieu thereof "6";

On page 11, line 24, strike "$125,000,000" and insert in lieu thereof "$85,000,000";

On page 12, line 1, strike "this subtitle and";

On page 15, beginning with line 20, strike all through and including line 9, page 17;

On page 17, line 18, strike "4.5" and insert in lieu thereof "6";

On page 18, line 2, strike "4.5" and insert in lieu thereof "6";

On page 3, line 23, strike "State and local";

On page 11, line 12, strike "State and";

On page 12, line 3, strike "State and";

On page 12, beginning with line 20, strike all after "Sec. 232. (a)" through "(3)" on page 13, line 7;

On page 13, beginning with line 12, strike all through line 2 on page 14;

On page 14, line 3, redesignate section (c) as (b);

On page 17, line 10, redesignate (e) as (c);

On page 17, line 13, strike "State or";

On page 17, line 16, strike "State or";

On page 17, line 21, strike "State or";

On page 18, lines 1 and 2, strike "State or";

On page 18, beginning with line 3, strike all through line 13; and

On page 18, line 16, redesignate section 234 as 233.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if an amendment to the title of the bill is required, that such be included in the overall agreement propounded in my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The title amendment is as follows:

Amend the title so as to read: "An Act to amend title II of the Public Works Employment Act of 1976 to extend the antirecession provisions of that act, and to establish a supplementary antirecession fiscal assistance program for local governments suffering severe unemployment.".

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Missouri for his diligence and his perspicacity in clearing up this matter today and in contacting the Senators whom he has mentioned, and I congratulate him on the work he has done. I thank the minority leader also for his patience and understanding, and I want to thank Mr. MOYNIHAN and Mr. MUSKIE also, in their absence, and their staffs, for their efforts.

(Conclusion of earlier proceedings.)

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 2852.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

ORDER OF PROCEDURE

(The following proceedings occurred prior to passage of H.R. 2852.)

Mr. CANNON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, I would like to announce to my colleagues three separate items we intend to take up right after this. I do not intend to ask for a rollcall on any of them, but one of them is the Local Rail Services Act of 1978; and two, the conference report on the Amtrak Improvement Act of 1978; and three, on the Visitors' Center at Union Station.

I personally do not intend to ask for a rollcall, but those three items will be coming up.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. CANNON. Yes.

Mr. ROBERT C. BYRD. Is it the intention of any Senator to demand a yea-and-nay vote on either of those measures?

If it is not, then I would suggest Senators may rely on this being the last rollcall.

Mr. JAVITS. I did not hear the measures.

Mr. CANNON. The Local Rail Services Act of 1978, the conference report on the Amtrak Improvement Act of 1978, and the Union Station Visitors' Center authorization.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator from New York that the rail services assistance program and the implementation of the Railroad Regulatory Reform Act dealing with the National Visitors' Center have both been cleared for passage by unanimous consent.

Mr. JAVITS. What was done about the railroad, Northern New York, we debated on one of those bills, the Boston and Maine, is that figure in those reports?

Mr. CANNON. No.

Mr. ROBERT C. BYRD. I am sorry, I misstated.

Mr. CANNON. That railroad problem is a different bill.

Mr. ROBERT C. BYRD. I misstated with reference to the Visitors' Center, that has not been cleared for action by unanimous consent.

Mr. BAKER. Mr. President, if the majority leader will yield——

Mr. ROBERT C. BYRD. So does anyone want a rollcall vote on either of those measures?

Mr. BAKER. Does the majority leader intend to proceed to Calendar No. 1095?

Mr. ROBERT C. BYRD. I wanted to. Mr. CANNON asked we proceed with it, thinking it might not be a rollcall vote.

Mr. BAKER. We have an objection noted on our calendar to Calendar No. 1095 by a Senator at this moment not present on the floor. If unanimous consent is asked to proceed to it, I am afraid I would have to object on his behalf.

Mr. ROBERT C. BYRD. Very well.

Would it be agreeable with everyone—I understand Calendar Order 1082 has been cleared for passage by unanimous consent, am I correct on that?

Mr. BAKER. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Our calendar is clear on that, if it is agreeable to one Member, and I see him on the floor and I see no objection, so we have no objection to proceeding to Calendar 1082.

Mr. ROBERT C. BYRD. Does anyone wish to make a statement on this? I will dispose of it quickly.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 1082 for not to exceed 1 minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

Calendar Order 1082, S. 2981, a bill to amend the Department of Transportation Act as it relates to the local rail service assistance program.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request. I think we better get on with the rollcall vote on final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I ask unanimous consent that Bob Miller of my staff be granted privilege of the floor for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Conclusion of earlier proceedings.)

LOCAL RAIL SERVICE ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1082.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2981) to amend the Department of Transportation Act as it relates to the local rail service assistance program, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I rise only to advise the majority leader, as I have previously done privately, that this item is cleared on our calendar, and we have no objection to proceeding to its immediate consideration and its passage.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Local Rail Services Act of 1978".

DECLARATION OF POLICY

SEC. 2. It is declared to be the policy of Congress in this Act that the Government shall assist in the provision of adequate transportation service to shippers and communities now served by light density lines. Federal funds shall be used to assist transportation services where such assistance provides economic benefits to the affected communities without placing a financial drain on the carriers providing that service.

Congress believes, however, that the parties benefiting from a Federal investment on a light density line must act to preserve the benefits of the Federal investment. Accordingly, Congress expects the States and local communities, shippers, and all elements of the railroad industry to commit themselves to long-term solutions which will enable the continued provision of adequate transportation service after the completion of the federally assisted projects.

EXPANSION OF ASSISTANCE

SEC. 3. Section 5(f) of the Department of Transportation Act (hereinafter referred to as the "DOT Act") (49 U.S.C. 1654(f)) is amended—

(1) by striking "purchasing a line of railroad or other rail properties" in paragraph (2) and inserting in lieu thereof "acquiring, by purchase, lease or in such other manner as the State considers appropriate, a line of railroad or other rail properties or any interest therein";

(2) by striking "and" immediately after the semicolon in paragraph (3);

(3) by striking the period at the end of paragaph (4) and inserting in lieu thereof a semicolon; and

(4) by adding the following new paragraphs at the end thereof:

"(5) the cost of constructing rail- or rail-related facilities (including new connections between two or more existing lines of railroad, intermodal freight terminals, and sidings), for the purpose of improving the quality and efficiency of local rail freight service; and

"(6) the cost of developing, administering, and evaluating innovative experimental programs that are designed to improve the quality and efficiency of service on lines of railroad eligible for assistance under this section and which involve cooperative action between State and local communities and railroad industry representatives or shippers.".

COST SHARING

SEC. 4. Section (5)(g) of the DOT Act (49 U.S.C. 1654(g)) is amended to read as follows:

"(g) The Federal share of the costs of any rail service assistance program for any fiscal year is 80 percent. The State share of the costs may be provided in cash or through the following benefits, to the extent the benefit would not otherwise be provided: (1) forgiveness of taxes imposed on a common carrier by railroad or on its properties; (2) the provision by the State or by any person or entity on behalf of a State, for use in its rail service assistance program, of realty or tangible personal property of the kind necessary for the safe and efficient operation of rail freight service by the State; or (3) the cash equivalent of State salaries for State public employees working in the State rail service assistance program, but not including overhead and general administrative cost. If a State provides more than 20 percent of the cost of its rail service assistance program during any fiscal year, the amount in excess of the 20 percent contribution shall be applied toward the State's share of the costs of its program for subsequent fiscal years.".

FORMULA ALLOCATION

SEC. 5. Section 5(h) of the DOT Act (49 U.S.C. 1654(h)) is amended to read as follows:

"(h)(1) For the period October 1, 1978, through September 30, 1979, each State which is, pursuant to subsection (j) of this section, eligible to receive rail service assistance is entitled to an amount equal to the total amount authorized and appropriated for such purposes, multiplied by a fraction whose numerator is the rail mileage in such State which is eligible for rail service assistance under this subsection and whose denominator is the rail mileage in all of the States which are eligible for rail service assistance under this subsection. Notwithstanding the provisions of the preceding sentence, the entitlement of each State shall not be less than 1 percent of the funds appropriated. For purposes of this subsection, rail mileage shall be measured by the Secretary, in consultation with the Interstate Commerce Commission. For the purpose of calculating the formula under this subsection, the rail mileage which is eligible shall be that for which the Commission has found that (A) the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to such project; or (B) the line of railroad or related project was eligible for assistance under title IV of the Regional Rail Reorganization Act of 1973; and such line or related projects has not previously been the subject of Federal rail service assistance under this section for more than 5 fiscal years.

"(2) Effective October 1, 1979, every State which is eligible to receive rail service assistance pursuant to subsection (j) of this section is entitled annually to a sum from available funds as determined pursuant to this subsection. Available funds are funds appropriated for rail service assistance for that fiscal year and any funds to be reallocated for that fiscal year in accordance with this paragraph. Subject to the limitations contained in paragraph (3) of this subsection, the Secretary shall calculate each State's entitlement as follows:

"(A) two-thirds of the available funds multiplied by a fraction whose numerator is the sum of the rail mileage in the State which, in accordance with section 1a(5)(a) of the Interstate Commerce Act (49 U.S.C. 1a(5)(a)), is either 'potentially subject to abandonment' or with respect to which a carrier plans to submit, but has not yet submitted, an application for a certificate of abandonment or discontinuance; and whose denominator equals the total of such rail mileage in all the States; and

"(B) one-third of available funds remaining after completion of the calculations under paragraph (1)(A) of this subsection multiplied by a fraction whose numerator equals the rail mileage in the State for which the Interstate Commerce Commission, within 2 years prior to the first day of the fiscal year for which funds are allocated or reallocated under this section, has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the rail mileage, and including, until September 30, 1981, (1) the rail mileage which was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) and (2) all rail mileage in the State which has, prior to October 1, 1978, been included for formula allocation purposes under this section; and whose denominator equals the total rail mileage in all the States eligible for rail assistance under this section for which the Interstate Commerce Commission has made such a finding and including, until September 30, 1981, (1) the rail mileage in all the States which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) and (2) the rail mileage in all the States which had been, prior to the enactment of this amendment, included for formula allocation purposes under this section. For purposes of the calculation directed by this paragraph, no rail mileage shall be included more than once in either the numerator or the denominator.

Notwithstanding the provisions of this subsection, each State is entitled to receive pursuant to this subsection not less than 1 percent of the total appropriation under subsection (q) of this section for that fiscal year.

"(3) For purposes of paragraphs (1) and (2) of this subsection, rail mileage shall be measured by the Secretary as of the first day of each fiscal year. Entitlement funds are available to a State during the fiscal year for which the funds are appropriated. In accordance with the formula stated in this subsection, the Secretary shall reallocate to each State eligible to receive rail service assistance under subsection (j) of this section a share of any entitlement funds which have not been the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were appropriated. Reallocated funds are available to the State for the same purpose and for the same time period as an original allocation and are subject to reallocation if not made the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were reallocated. Funds appropriated in fiscal year 1978 and prior years which are not the subject of a grant agreement when this bill becomes effective will remain available to the States during fiscal year 1979.".

PLANNING ASSISTANCE

SEC. 6. Section 5(i) of the DOT Act (49 U.S.C. 1654(k)) is amended to read as

"(k)(1) On August 1 of each year, each Interstate Commerce Act, shall prepare, whichever is greater, of its annual entitlement under subsection (h) of this section to meet the cost of establishing, implement-freight or less per mile during the prior required by subsection (j) of this section.".

PROJECT ELIGIBILITY

SEC. 7. Section 5(k) of the DOT Act (49 U.S.C. 1654(k)) is amended to read as follows:

"(k)(1) On August 1 of each year, each carrier by railroad subject to part I of the Interstate Commerce Act, shall prepare, update, and submit to the Secretary a listing of those rail lines which, based on a level of usage, carried 5 million gross tons of freight or less per mile during the prior year.

"(2) A project is eligible for financial assistance under paragraph (1) of subsection (f) of this section only if—

"(A)(i) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or (ii) the line of railroad or related project was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762); and

"(B) the line of railroad or related project has not previously received financial assistance under paragraph (1) of subsection (f) of this section for more than 36 months: *Provided, however,* That a line of railroad or related project which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45

U.S.C. 762) or under this section prior to October 1, 1978, is eligible only until September 30, 1981.

"(3) A project is eligible for financial assistance under paragraph (2) of subsection (f) of this section only if—

"(A) (i) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad related to the project; or (ii) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United States Railway Association under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717); or (iii) the line of railroad related to the project was eligible to be acquired under section 402(c)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(3)). A line of railroad or related project which was eligible for financial assistance under such section 402 or under this section prior to October 1, 1978, is eligible only until September 30, 1981; and

"(B) the Secretary finds that the project satisfies benefit/cost criteria developed by the Secretary under subsection (o) of this section.

"(4) A project is eligible for financial assistance under paragraphs (3) and (5) of subsection (f) of this section only if—

"(A) the line of railroad related to the project is contained in the most recent submission under paragraph (1) of this subsection, and the project has been approved by the affected railroad; and

"(B) the Secretary finds that the project satisfies benefit/cost criteria developed by the Secretary under subsection (o) of this section.

"(5) A project is eligible for financial assistance under paragraph (4) of subsection (f) of this section only if—

"(A) (i) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or (ii) the line of railroad or related project was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762): *Provided*, That a line of railroad or related project which was eligible for assistance under this section or such section 402 prior to October 1, 1978, shall remain eligible for financial assistance only until September 30, 1981; and

"(B) the Secretary finds that the project satisfies benefit/cost criteria developed by the Secretary under subsection (o) of this section.

"(6) A project is eligible for financial assistance under paragraph (6) of subsection (f) of this section only if—

"(A) there is a reasonable likelihood that it will improve the quality and efficiency of local rail freight service by increasing operating efficiency, reducing the cross subsidization of unprofitable portions of a system by profitable portions of a system, or increasing productivity of workers; and

"(B) the cooperative action project shall not exceed 18 months in duration.".

TECHNICAL AMENDMENTS

SEC. 8. (a) (1) Section 5(o) of the DOT Act (49 U.S.C. 1654(o)) is redesignated as section 5(q).

(2) The first sentence of subsection (m) (1) of section 5 of the DOT Act (49 U.S.C. 1654(m)(1)) is amended by striking "(o)" and inserting in lieu thereof "(q)".

(b) The third sentence of subsection (q) of section 5 of the DOT Act, as redesignated by subsection (a) of this section, is amended to read as follows: "In addition, any appropriated sums remaining after the repeal of section 402 of the Regional Rail Reorganization Act of 1973 and of section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 are authorized to remain available to the Secretary for purposes of subsections (f) through (q) of this section.".

(c) Section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1653a) is repealed.

BENEFIT-COST CRITERIA

SEC. 9. Section 5 of the DOT Act (49 U.S.C. 1654) is further amended by adding after subsection (n) thereof a new subsection (o) as follows:

"(o) The Secretary, in cooperation with representatives chosen by the States, shall, within 60 calendar days of the effective date of this subsection, promulgate regulations establishing criteria to be used by the Secretary to determine the ratio of benefits to costs of proposed projects eligible for assistance under paragraphs (2) through (5) of subsection (k) of this section. During the period prior to the Secretary's promulgation of such a methodology, the Secretary shall continue to fund projects on a case-by-case basis where he has determined, based upon analysis performed and documented by the States, that the public benefits associated with the project outweigh the public costs of that project.".

REHABILITATION ASSISTANCE

SEC. 10. Section 5 of the DOT Act (49 U.S.C. 1654) is further amended by adding after subsection (o), as added by section 9 of this Act, a new subsection (p) as follows:

"(p) A State shall use financial assistance provided under paragraph (3) of subsection (f) of this section as follows:

"(1) The funds shall be used to rehabilitate or improve rail properties in order to improve local rail freight service within the State.

"(2) The State, in its discretion, shall grant or loan funds to the owner of rail properties or operator of rail service related to the project.

"(3) The State shall determine the financial terms and conditions of a grant or loan.

"(4) The State shall place the Federal share of repaid funds in an interest-bearing account or, with the approval of the Secretary, permit any borrower to place such funds, for the benefit and use of the State, in a bank which has been designated by the Secretary of the Treasury, in accordance with section 265 of title 12, United States Code. The State shall use such funds and all accumulated interest to make further loans or grants under paragraph (3) of subsection (f) of this section in the same manner and under the same conditions as if they were originally granted to the Secretary. The State may at any time pay to the Secretary the Federal share of any unused funds and accumulated interest. After the termination of a State's participation in the local rail service assistance program established by this section, it shall pay the Federal share of any unused funds and accumulated interest to the Secretary.".

COMBINATION OF ENTITLEMENTS

SEC. 11. Section 5 of the DOT Act (49 U.S.C. 1654) is further amended by adding after subsection (q) as redesignated by section 8 of this Act, a new section (r) as follows:

"(r) Two or more States that are eligible for local rail assistance under this section may, subject to agreement between or among them, combine their respective Federal entitlements under subsection (h) of this section in order to approve rail properties within their respective States or regions. Such combination of entitlements, where not violative of State law, shall be permitted, except that—

"(A) combined funds may be expended only for purposes listed in this section; and

"(B) combined funds that are expended in one State subject to the agreement entered into by the involved States, and which exceed what that State could have expended absent any agreement, must be found by the Secretary to provide benefits to eligible rail services within one or more of the other States which is party to the agreement.".

AMENDMENTS TO THE INTERSTATE COMMERCE ACT

SEC. 12. (a) Section 1(14) of the Interstate Commerce Act (49 U.S.C. 1(14)) is amended—

(1) by designating subsection (b) thereof as subsection (c); and

(2) by adding a new subsection (b), as follows:

"(b) The Commission may, after hearing and upon finding that the expense involved will not impair the railroad's ability to perform service, order a railroad subject to this part to provide itself with safe and adequate facilities and equipment.".

(b) Section 1a(4) of the Interstate Commerce Act (49 U.S.C. 1a(4)) is amended by adding at the end thereof the following new sentence: "The terms and conditions referred to in subdivision (b) of this paragraph may include a direction, where the Commission finds it to be in the public interest to do so, awarding trackage rights to another common carrier by railroad or to a State, or a political subdivision thereof, over all or any portion of the lines of the applicant's railroad, solely for the purpose of moving equipment and crews in nonrevenue service between any lines operated by such other carrier, State, or political subdivision. In making such determination, the Commission shall consider the views of any State or other party directly affected by such abandonment or discontinuance and shall fix just and reasonable compensation, in accordance with section 3(5) of this part, for such trackage rights.".

EFFECTIVE DATE

SEC. 13. This Act shall take effect on October 1, 1978.

Mr. CANNON. Mr. President, the bill that is now before us, S. 2981, amends the Department of Transportation Act as it relates to the local rail services assistance program to correct several key deficiencies which have been identified in the existing branch line rehabilitation and service continuation program.

As a result of low rates of return and the reluctance of private capital to invest in the rail industry, reduced capital construction and deferred maintenance are normal preludes to the abandonment of light density railroad. While some branch line service has become nonessential over the years, a substantial amount of this service remains crucial to numerous shippers who have no other cost efficient means available to transport their commodities. In addition, as branch line track conditions and service deteriorates, other shippers either relocate their business or divert to other more reliable modes of transportation, resulting in higher cost and disruption in local and regional economies. I believe a one-time infusion of rehabilitation assistance into some of these lines could reverse the deterioration cycle, reviving a line which could provide good service to the shipper and a viable contribution to the railroad.

However, Mr. President, under current law funds presently are only provided to States for those lines authorized for abandonment by the final system plan or for which the ICC has determined the public convenience and necessity no longer require operation. Consequently, lines which may serve no valid transportation purpose and which should no longer be in the rail system are being maintained with Federal funds.

In addition, operating subsidy assistance which was intended to be short term and transitional in nature is being viewed by some States as long term and developmental. Service on lines which, from an economic standpoint, would have been discontinued after a brief period is being supported. In some cases, such lines are even being rehabilitated under the program. Many States are therefore using scarce resources to attempt to restore these worst and least needed lines to financial viability. However, rehabilitation costs for many of these lines are excessive due to years of deferred maintenance. The potential for returning these lines to profitability is exceedingly slim or nonexistent.

As a result of these conditions, Federal funds are being spent under current law to attempt to salvage the worst lines in the railroad system, at high cost, and with little, if any, potential for success. At the same time, more important and valuable lines owned by the railroads continue to deteriorate for lack of private investment because the return on such an investment is too low to attract private capital. State representatives testifying on this bill expressed their belief that providing one-time assistance to a marginally profitable line, perhaps through rehabilitation, represents more rational planning than permanently subsidizing an unprofitable line which has been authorized for abandonment.

Mr. President, the Committee on Commerce, Science, and Transportation agrees with the State rail representatives that the public interest would be better served by a program which directs assistance to the more valuable branch lines before they have degenerated to a point of abandonment and while they are still owned and operated by private enterprises. High railroad capital investment thresholds are typical, particularly, in States with extensive branch line mileage and problems. As a consequence, there are a considerable number of lines which, though not presently candidates for abandonment, will be in the future unless rehabilitation assistance is provided at least in part by a nonrail source.

Therefore, Mr. President, the bill now before this body has as its centerpiece the establishment of a preabandonment assistance authority. Under this bill States may make grants or loans for rehabilitation of certain lines before they have been abandoned. This assistance would be directed by the States to those private sector branch lines which are in need of rehabilitation and for which such rehabilitation would have a positive return on investment but at a lower level than is acceptable to railroads.

Mr. President, I believe that this approach to the problems of low density branch lines, which expands the universe of lines eligible for rehabilitation assistance to include any line which carried 5 million gross tons or less freight per year, is a significant improvement over the current law and gives the States greater flexibility to address their transportation needs and to make key decisions on resource allocation. While the legislation we are considering today will not resolve the Nation's rail dilemma, the establishment of a permanent local rail service assistance program, based upon a program of preabandonment assistance, should refine and provide considerable benefit to the overall rail revitalization effort initiated by the 4R Act of 1976.

Mr. President, I strongly recommend this bill to my colleagues and respectfully urge their approval at this time.

Mr. FORD. Mr. President, I ask unanimous consent that Martha Maloney, of my staff, be accorded the privilege of the floor during discussion and vote on S. 2981.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. CULVER. Mr. President, as a cosponsor, I am pleased the Senate is considering S. 2981, the Local Rail Services Act of 1978, today. This bill provides small towns and rural communities relief from the often devastating economic and social consequences of wholesale branch line abandonment.

With over 7,200 miles of track within its borders, Iowa is vitally dependent upon an efficient and cost-effective rail system. Yet, during the last several years, rail service has deteriorated throughout the Midwest. Many railroads lack the capital necessary to keep their track in sound condition. The "go slow" orders that result from deferred maintenance create car shortages and delays which impose severe burdens on farmers, shippers, and consumers. Some lines have deteriorated so much that elimination of service is the only feasible course of action. In Iowa, over 570 miles of track have been abandoned in the last 5 years and another 270 miles have been considered for abandonment. Many of these branch lines can be made efficient and self-sustaining if rehabilitation assistance is available.

Mr. President, in testimony before the Senate Commerce Surface Transportation Subcommittee last June, I stated that the original language of S. 2981 would prevent some potentially viable branch lines from receiving Federal assistance. Under the 1976 Railroad Revitalization and Regulatory Reform Act, Federal assistance can be provided for category 3 lines that have gone through the Interstate Commerce Commission's abandonment process. S. 2981 would have extended aid to category 1 and category 2 lines that are candidates for abandonment in the future. While the concept of rehabilitating lines that would otherwise face abandonment is sound, the record suggests that lines that have deteriorated to the point of abandonment are often not good candidates for upgrading.

As an alternative, I suggested that we needed an identification system analogous to that used in battlefield medical care stations known as "triage." Such a system would not provide aid to the truly hopeless cases and not squander scarce Federal dollars on the prosperous tracks which do not need assistance, but direct aid where it would do the most good: lines which are ailing but which, with assistance, could make vital economic and social contributions to the communities they serve.

Eligibility for Federal assistance should not be based on abandonment status. Instead, eligibility should be extended to all branch lines—so-called class A and class B light density lines carrying up to 5 million gross tons a year—that can demonstrate potential economic viability and performance of essential services. Federal rehabilitation funds could then be expended on branch lines that—while not actual or potential candidates for abandonment require capital to significantly improve their performance.

The success of Iowa's nationally acclaimed State branch line assistance program illustrates the soundness of basing eligibility upon the potential performance of the line. Iowa's program bases assistance on such factors as the cost of upgrading and using a branch line versus shipping by other modes of transportation and the social and economic consequences of abandoning track. Lines that have a good cost/benefit ratio and provide essential services become candidates for assistance. During the 3 years this program has been in existence, the percentage of grain shipped over 700 miles of rehabilitated track has increased by 29 percent and shippers have saved over $3 million annually.

Mr. President, the Senate Commerce Committee subsequently amended S. 2981 to make all class A and class B branch lines that meet the cost/benefit criteria established under the bill eligible for Federal rehabilitation assistance. This expanded eligibility will greatly benefit the Midwestern States. Iowa alone has some 1,200 miles of branch line track that, while not subject to abandonment, are prime candidates for rehabilitation. S. 2981 will permit many of these lines to be upgraded before they become functionally useless.

Mr. President, two midwestern railroads—the Rock Island and the Milwaukee Road—have declared bankruptcy and several others are in marginal financial health. Further whole abandonment of track will only exacerbate the already severe import that eliminating service has upon the transportation requirements of communities in my State. Under the amended S. 2981, Iowa will receive over $4.3 million to upgrade its critically needed branch lines next year. These funds will help minimize the potentially devastating consequences of abandonment in our rural areas.

Mr. President, S. 2981 reaffirms the commitment to improving branch lines that began with the 4R Act. I strongly support this bill and urge its passage.

Thank you, Mr. President.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Nevada yield so that I might propound an inquiry to him?

Mr. CANNON. Certainly.

Mr. HARRY F. BYRD, JR. I was advised by the Virginia State Department of Transportation that under the Senate local rail services bill as originally drawn it would be difficult, if not impossible, to complete the ongoing rail rehabilitation on the Delmarva Peninsula. In the bill before the Senate now has consideration been given to onging rehabilitation projects such as the improvements on the line serving the Delaware, Maryland, and Virginia Peninsula?

Mr. CANNON. Mr. President, first, I am not familiar with that particular line myself, but I would say that this bill provides, makes provision for, rehabilitation of lines before they have once become abandoned. So it does not authorize proceeding in that fashion.

Insofar as that particular line is concerned, the allocation is made on a State basis. Virginia will receive less money than it received last year. However, all States will participate, and the amount of money actually put into the particular line will be solely up to the State, so the State officials will have to decide how much of the allocation they put into the line.

Under the present $67 million in the bill for this year, Virginia gets $670,000 as its share, and it would then be up to the State to allocate that money for rehabilitation of whatever lines they determine to rehabilitate.

Mr. HARRY F. BYRD, JR. Is there a time limitation on when the rehabilitation money can be used?

Mr. CANNON. Was the question, Is there a time limit? This appropriation extends through fiscal year 1979. The present formula goes for all of next year, and the original act was to expire in 1981.

Mr. HARRY F. BYRD, JR. I would point out that a considerable investment already has been made in the Delmarva rail improvements, and should this be abandoned all of this money will have been wasted and the rail service vital to three States could be lost.

As I understand it, the Senate bill calls for two-thirds of the funds to preabandonment lines, and preabandonment does not include Delmarva. This formula, as I understand it, goes into effect in 1980.

Mr. CANNON. The Senator is correct on that. As far as I know, that line is not included. But all of the moneys are not directed toward the preabandonment lines. That is the method of making the allocation. That allocation is made to the States, and it is solely up to the State as to whether this line will or will not be continued.

Furthermore, there is a provision in the bill that permits more than one State to join together in a cooperative arrangement, which sounds to me like this is a line that goes into two or more States.

Mr. HARRY F. BYRD, JR. Three States are interested in this.

Mr. SARBANES. Mr. President, will the Senator yield on that point?

Mr. HARRY F. BYRD, JR. I yield.

Mr. SARBANES. I share the concerns of the Senator from Virginia. We have this line which serves the Delaware, Virginia, and Maryland peninsula, which serves three States.

One other thing I am concerned with, and I believe it is covered in the bill. We need the authority so that an allocation to the State for rail rehabilitation can be used by that State not only within their own boundaries but within the boundaries of another State when it serves the joint purpose.

For instance, suppose Delaware is prepared to transfer some of its allocation to Virginia to maintain the functioning of that total rail system. The work would take place in Virginia, although it benefits not only Virginia, but Maryland and Delaware. We have an interrelated system there, and it is very important to us that we be able to use these moneys in coordination with one another, and maintain the entire system. If the Virginia part of the system does not work, it impacts negatively on both Maryland and Delaware. Is that permitted under the legislation?

Mr. CANNON. It is permitted under the legislation. The legislation was specifically amended so as to permit that kind of cooperation where the line is located in more than one State, so that the States can cooperate and pool their money together for the rehabilitation efforts on a line that is of particular benefit to more than one State.

Mr. SARBANES. That would meet one of our concerns. We still have the concern of the Senator from Virginia about whether this line enters into the allocation.

Mr. CANNON. All I could say is that the line is eligible, but it is up to the States to make the allocation. We provide the money for it.

The $67 million is authorized to be furnished for this purpose of rehabilitation of lines, lines that either have been discontinued or are about to be discontinued; but it is up to the respective States to say; it is not up to us to say how much of that amount should be allocated for a particular State project.

Mr. HARRY F. BYRD, JR. Certain funds will be allocated under the pending legislation?

Mr. CANNON. Under the pending legislation, but not for a particular line.

Mr. HARRY F. BYRD, JR. But not for a particular line. The States——

Mr. CANNON. The allocation would be made to the States, and any funds that are made available to a State may be used for any particular purpose, in their judgment.

I have pointed out that Virginia, for example, under the formula that is authorized, would receive $670,000 of the $67 million. Maryland would receive $797,470.45 of the $67 million.

Mr. HARRY F. BYRD, JR. Would Delaware be involved also?

Mr. CANNON. And Delaware would receive $670,000, the same amount as Virginia.

Mr. HARRY F. BYRD, JR. And under the legislation, the three States would be permitted to comingle whatever funds the State agencies decide should go into this project?

Mr. CANNON. The Senator is precisely correct.

Mr. SARBANES. I thank the Senator from Nevada.

Mr. HARRY F. BYRD, JR. I thank the Senator from Nevada.

UP AMENDMENT NO. 1906

(Purpose: To provide authority for railroads to furnish safe and adequate car service)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an unprinted amendment numbered 1906.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, strike all from line 23 through line 3 on page 34, and insert in lieu thereof the following:

"(b) The Commission may, upon petition and after a hearing on the record, and upon finding that a carrier by railroad subject to this part has materially failed to furnish safe and adequate car service as required by subsection 1(11), require such railroad to provide itself with such facilities or equipment as may be reasonably necessary to meet such obligation, provided the evidence of record establishes, and the Commission affirmatively finds, that

"(1) The provision of such facilities or equipment will not materially and adversely affect the railroad's ability to otherwise provide safe and adequate transportation services;

"(2) The expenditure required for such facilities or equipment, including a return which equals or exceeds the railroad's current cost of capital, will be recovered; and

"(3) The provision of such facilities or equipment will not impair the railroad's ability to attract adequate capital.".

Mr. FORD. Mr. President, this is a substitute for the committee amendment which I offered and was reported on August 25. Since the committee's consideration of this legislation, I have further refined and clarified its language.

The content—and intent—of the substitute sets forth specific criteria which was not included in the original amendment. In addition, Mr. President, it now contains a safeguard to assure that no railroad is driven to bankruptcy as a result of the additional enforcement power vested in the Interstate Commerce Commission.

Let me offer a brief explanation as to why I feel that the Senate should adopt this amendment. I want to bring to the Senate's attention a situation in the eastern part of my State which involves either the inability or refusal of a major railroad line—which incidentally has a service monopoly in the area—to deliver adequate service to coalfield shippers. In my opinion, the lackadaisical attitude of the L. & N. could not only threaten the economic stability of one of my State's most important industries—coal production—but could also pose a serious impediment to this Nation's energy goals.

For the past several months, I, along with other members of my State's congressional delegation and the Interstate Commerce Commission, have tried to alleviate this most serious situation. Yesterday—some 6 months after this situation was first brought to the ICC's attention—the Commission favorably approved an emergency service order to require the parent railroad to supply the L. & N. with 100 locomotives.

While I hope that the ICC's action is

neither too little nor too late, steps must be taken to give the Commission sufficient authority to assure that similar situations are not permitted to fester for such a long time before resolution.

What we had here in this instance was a classic example of a major railroad turning its back on its public obligations, choosing to sacrifice service for profits. Meanwhile, due to limitations within the existing law, the Federal agency charged with regulating this railroad was handcuffed in ability to respond to the shippers' claim of inadequate service.

It became readily apparent to me that corrective action was in order.

The legal remedies provided by this amendment should give the ICC the necessary power to require a negligent railroad to provide safe and adequate service. But, most important to me, the amendment will provide the necessary public forum for shippers to bring a situation of inadequate service to the attention of the ICC.

It should not take the combined efforts of two Senators, two Congressmen, the Governor, and a former Governor to bring about a public hearing before the ICC.

But, in the case of the Eastern Kentucky coalfield situation, it did.

If this amendment is approved, there is little chance of a similar situation recurring in the future.

I strongly urge that my colleagues approve this substitute amendment.

Mr. DANFORTH. Mr. President, the amendment offered by Senator Ford is acceptable.

Mr. DURKIN. Mr. President, will the Senator from Kentucky yield for a question?

Mr. FORD. I would be delighted to yield for a question.

Mr. DURKIN. It is my understanding, and I would like to make it clear for the record, that the Senator's amendment is broad enough so that if ConRail has half the cars in the country bottled up on the east coast, as has happened in the past, the ICC has the authority to step in and move those cars.

Mr. FORD. The Senator from New Hampshire is absolutely correct.

What this basically does—the shippers have not had the opportunity for a forum before the Commission. What this does then is to give them this opportunity to come before the Commission. It gives the Commission the authority to say to that railroad, "Move your cars." This is basically what it amounts to. The ICC has not had that authority. Under this we give it, but we have some safeguards, too.

It does not allow the Commission to be punitive as it relates to the railroads. It sets out in the amendment certain provisions for guidelines as they relate to the economic position of that railroad.

Mr. DURKIN. I commend the Senator from Kentucky because I think this language is needed.

Mr. FORD. I appreciate the compliment of the Senator from New Hampshire and I appreciate his support.

Mr. President, I have no further statements and I am prepared to move the amendment unless anyone has a question.

Mr. CANNON. Mr. President, the committee understands that this amendment clarifies the additional authority that will be granted to the Interstate Commerce Commission and assures that no railroad will be driven to bankruptcy as a result of this additional enforcement authority.

The committee supports this substitute amendment and would emphasize that it is not aimed at the many well-managed and service-oriented railroads throughout the Nation—only those which, despite the inherent responsibilities to provide adequate common carrier responsibilities are recalcitrant in their performance of these services.

The committee joins the Senator from Kentucky in urging the approval of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

Mr. DURKIN. I would ask the Senator from Nevada if the subcommittee has examined the 1981 expiration date for the subsidy program in light of the favorable experience many States have had with the program?

Mr. CANNON. We have, and we know of the Senator's interest in the likelihood of the possible extension of this program. Our bill does not automatically terminate the program, but the authorization does expire and if the program is to be continued, a new authorization would be required.

Mr. DURKIN. So I would understand the situation to be that those lines that are making good progress under this program would have a better chance to qualify for subsidies than others that have not picked up as much freight volume.

Mr. CANNON. If the program is to be extended, those lines that have responded well would obviously receive highest consideration. And I might also say that this factor—how well the lines in the program are responding—would be important to an overall consideration of whether the Congress would choose to extend the program. Obviously, if success is being achieved the case for extension would be more persuasive.

Mr. DURKIN. It is also my understanding that the limitation on operating subsidies provided in this bill does not indicate that it is the intention of the Senate to bring an end to the branch line program—or to indicate that the program itself is designed to destroy the subsidized branch lines, but simply reflects the fact that the authorization for funds only extends through fiscal 1981.

Mr. CANNON. That is correct.

Mr. DURKIN. I thank the distinguished chairman of the committee (Mr. Cannon), and I also thank Senator Long for their efforts in working out something which was a very real problem for the people of New Hampshire, in my area of the country. We did not get all we wanted, but we did better than we originally expected, and I appreciate the efforts of Senator Cannon and Senator Long and Senator Ford in trying to work this out.

Mr. President, I am happy to have that understanding with my distinguished colleague. The reason I have been so concerned about this provision goes to the very purposes for which Federal subsidies were provided to decaying branch lines in the first place. These subsidies, modest in amount and purpose, were designed to give the States the wherewithal so that they could reverse the dismal spiral of deterioration and neglect which had decimated rail service in large parts of the country, especially in the Northeast.

In many cases the subsidies have been successful in stabilizing service and preserving the economic base of the regions which are served. But the neglect of a quarter century cannot always be repaired in 3 or even 5 years.

Mr. President, the dismal downward spiral of the railroad industry has affected my region particularly harshly. We in New England have seen at first hand the economic catastrophe that comes from inept railroad operations. And today we face a situation where the survival of many companies—and perhaps the economic health of the entire region—balances precariously on the survival of a few railroads. New Hampshire and New England must have a balanced transportation system built around a revitalized rail network.

But we are not alone in facing this problem. As the distinguished senior Senator from South Dakota recently observed, the problems of the Eastern railroads threaten the health of all railroads, and the difficulties faced in the East may be faced by all in a few years.

In the face of these difficult problems, however a few rail lines have shown that aggressive marketing and good business sense can turn the situation around. The Providence and Worcester line in Southern New England is an outstanding example of how good management and hard work can take a derelict line and turn it into a profitable operation. Similarly the State-run branch lines, which were uniformly so bad off as to be the first candidates for abandonment by the railroads, have begun to show the prospect of profitability. As I said before, for many of these lines there will be a long hard road ahead before they can break even.

Mr. President, the last thing we need to do is to cut these projects off at the knees just as they are struggling to their feet.

For this reason, I welcome the expression of interest that my distinguished colleagues have made today. I hope and expect that we can take a careful look at this problem in its most general sense—not as a railroad problem solely but as an economic development problem that has fundamental implications. I will do all that I can to foster this reexamination in future years and to continue the comeback of these once-proud, neglected lines and the areas they serve.

Once again, I want to thank my distinguished colleague, the senior Senator from Louisiana, who chairs the Surface Transportation Subcommittee so ably, for his comments and for working closely with me on this important measure.

UP AMENDMENT NO. 1907

(Purpose: Amend the Regional Rail Reorganization Act with respect to commuter service)

Mr. CANNON. Mr. President, I have three amendments that I send to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an unprinted amendment numbered 1907.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, insert the following immediately after line 19:

"AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

"SEC. 13. Section 304(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) is amended—

"(1) by—

"(A) striking the comma at the end of paragraph (4)(B), and inserting in lieu thereof "; or" and

"(B) adding the following new subparagraph after paragraph (4)(B):

"(C) offers a rail service continuation payment, pursuant to subsection (c)(2)(A) of this section and regulations issued by the Office pursuant to section 205(d)(5) of this Act, for the operation or rail passenger service provided under an agreement or lease pursuant to section 303(b)(2) of this title or subsection (c)(2)(B) of this section where such offer is made for the continuation of the service beyond the period required by such agreement or lease: *Provided,* That such services shall not be eligible for assistance under section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2)), as amended; "; and

(2) by adding at the end thereof the following new paragraphs:

"(7) If a State (or a local or regional transportation authority) in the region offers to provide payment for the provision of additional rail passenger service (as hereinafter defined), the Corporation shall undertake to provide such service pursuant to this subsection (including the discontinuance provisions of paragraph (2) hereof.) An offer to provide payment for the provision of additional rail passenger service shall be made in accordance with subsection (c)(2)(A) of this section and under regulations issued by the Office pursuant to section 205(d)(5) of this Act, and shall be designed to avoid any additional costs to the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. The State (or local or regional transportation authority) shall demonstrate that it has acquired, leased, or otherwise obtained access to all rail properties other than those designated for conveyance to the National Railroad Passenger Corporation pursuant to sections 206(c)(1)(C) and 206(c)(1)(D) of this Act and to the Corporation pursuant to section 303(b)(1) of this title necessary to provide the additional rail passenger service and that it has completed, or will complete prior to the inception of the additional rail service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services, including rail freight service and to assure that the additional service will not detract from the level and quality of existing rail passenger and freight service. As used in this subsection, "additional rail passenger service" shall mean rail passenger service (other than rail passenger service provided pursuant to the provisions of paragraphs (2) and (4) of this subsection) including extended or expanded service and modified routings, which is to be provided over rail properties conveyed to the Corporation pursuant to section 303(b)(1) of this title, or over (A) rail properties contiguous thereto conveyed to the National Railroad Passenger Corporation pursuant to this Act or (B) any other rail properties contiguous thereto to which a State (or local or regional transportation authority) has obtained access. Any provision of this paragraph to the contrary notwithstanding, the Corporation shall not be required to operate additional rail passenger service over rail properties leased or acquired from or owned or leased by a profitable railroad in the region.

"(8) The Secretary, in consultation with the Association, shall undertake a study to determine the best means of compensating the Corporation for liabilities which it may incur for damages to persons or property resulting from the operation of rail passenger service required to be operated pursuant to this subsection, or section 303(b)(2) of this title which are not underwritten by private insurance carriers or are not indemnified by a State (or local or regional transportation authority). The study shall identify the nature of the risk to the Corporation, the probable degree of uninsurability of such risks, the desirability and feasibility of various indemnification programs including subsidy offers made pursuant to this section, self-insurance through a passenger tax or other mechanism or government indemnification for such liabilities. Within one year of the date of enactment of this paragraph, the Secretary shall prepare a report with appropriate recommendations and shall submit the report to Congress. Such report shall specify the most appropriate means of indemnifying the Corporation for such liabilities in a manner which shall prevent the cross-subsidization of passenger services with revenues from freight services operated by the Corporation.".

On page 34, line 21, strike "13" and insert in lieu thereof "14".

Mr. CANNON. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. These are amendments which the committee is offering on behalf of Senator WILLIAMS.

ConRail and the Department of Transportation have reviewed the amendments and they are agreeable to them. They are designed to clarify and improve the commuter rail program operated by ConRail and subsidized by State and local transportation authorities in the Northeast.

Mr. FORD. Mr. President, as a point of explanation, is this on local rail service?

Mr. CANNON. Yes.

Mr. President, these amendments are designed to clarify and improve the commuter rail program operated by ConRail and subsidized by State and local transportation authorities in the Northeast.

These amendments:

First, assure that ConRail will continue to provide commuter rail service, which it currently provides under preconveyance contracts, as long as a State or local commuter authority offers a subsidy adequate to cover the cost of the service, as determined by the Rail Services Planning Office;

Second, require ConRail to provide modified or additional commuter service if a State or local commuter authority offers an adequate subsidy; and

Third, require the Department of Transportation to study and recommend to Congress a means of indemnifying ConRail for uninsurable losses it may incur in the operation of commuter rail service.

By law, ConRail must provide rail passenger service when a subsidy is offered. Subsidies provided to ConRail by State and local governments for the operation of commuter service include the cost of insuring ConRail against losses due to accidents. However, ConRail has been unable to obtain insurance for certain losses—those below $2 million and those over $50 million per occurrence. Some States, on the other hand, argue that they are prohibited by law from guaranteeing the payment of unpredictable losses. This leaves ConRail unprotected against uninsurable losses. To resolve this dilemma, this amendment would direct the Secretary of Transportation, in consultation with the association, to conduct a study to determine the best means of compensating ConRail for any uninsurable losses which it might incur as a result of being forced to provide commuter services under subsidy.

Mr. President, I urge the adoption of the amendments.

The PRESIDING OFFICER. The question is on agreeing, en bloc, to the amendments of the Senator from Nevada.

The amendments, en bloc (UP No. 1907) were agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. Are there further amendments to be proposed?

Mr. MELCHER. Yes, Mr. President, there is an amendment. We are drafting it as rapidly as possible. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

THE COMPARATIVE COSTS OF THE NEWPORT NEWS AND PHILADELPHIA NAVAL REHABILITATION FACILITIES

Mr. HARRY F. BYRD, JR. Mr. President, yesterday the General Accounting Office submitted to me and to Representative TRIBLE of Virginia a report analyzing the difference in cost between using the Newport News Shipbuilding & Drydock Co. and the Philadelphia Naval Yard in the carrier rehabilitation program.

I had asked the General Accounting Office to analyze in detail as to which yard could handle the carrier overhaul in the most economical way from the point of view of the American taxpayer. I think it is very important, Mr. President, that in all of our Government programs——

The PRESIDING OFFICER. Will the Senator suspend for a moment, until we obtain order in the Chamber? This is an important subject; the Senator is entitled to be heard. The staff will please clear the aisles, and Senators will take their seats.

The Senator from Virginia may proceed.

Mr. HARRY F. BYRD, JR. It is very important that in all our programs the administrators utilize the facilities and contracts which can best protect the tax dollars of the working people.

The General Accounting Office, after going into this matter very exhaustively, submitted to me a comprehensive report which said that the Navy might have to pay an extra $119 million to get an aircraft carrier overhauled in Philadelphia as compared to having that same aircraft carrier overhauled in the shipyard at Newport News, Va.

That is a tremendous sum of money.

The Navy, in the ship rehabilitation program, plans to overhaul four aircraft carriers. As a result of that report from the General Accounting Office, and after studying it with some care, I sent the following telegram to the Secretary of the Navy, which I wish to read to the Senate. It is addressed to the Honorable W. Graham Claytor, Secretary of the Navy, Department of the Navy, the Pentagon, Washington, D.C.:

> The General Accounting Office today reported that a saving to the Government of between $102 and $119 million can be achieved by assignment of the aircraft carrier *Saratoga* to Newport News Shipbuilding and Dry Dock Co. for work under the service life extension program.
>
> At a time when inflation is our most critical domestic problem, and the Federal Government is running huge deficits, it is vital that the Defense Department set an example of prudence and economy in its operations.
>
> In the light of the GAO finding, I cannot conceive that the Secretary of the Navy, in whom I have great confidence, will fail to take advantage of the saving to the taxpayers throughout the country available through assignment of the *Saratoga* to Newport News.

This is signed HARRY F. BYRD, JR., U.S. Senator.

Mr. President, in the Baltimore Sun today is a comprehensive, and I think excellent, report on the General Accounting Office report to the Congress. The article in today's Baltimore Sun was written by Charles W. Corddry, who is a member of the Washington bureau of the Sun. Mr. Corddry did an excellent job in taking a very difficult, complex, and comprehensive report and putting it into words which make clear the findings from that GAO study.

Mr. President, I ask unanimous consent that the Baltimore Sun article of today be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CARRIER OVERHAUL COST HELD UNDERESTIMATED

(By Charles W. Corddry)

WASHINGTON.—A report to Congress said yesterday the Navy might have to pay an extra $119.2 million to get an aircraft carrier overhauled in Philadelphia, as planned by the administration, instead of in a private shipyard at Newport News, Virginia.

Prepared by the General Accounting Office, the analysis was viewed as a source of political embarrassment for Vice President Mondale, who announced in April the selection of the government's Philadelphia Naval Shipyard to overhaul and modernize the carrier Saratoga.

It was rare for a Vice President, instead of the Navy alone, to make such an announcement. But Mr. Mondale was anxious to counteract the effects in Philadelphia of a broken campaign promise to keep open that city's Frankford Army Arsenal. He happily said the carrier work would create "more than 2,600 new jobs."

Now Mr. Mondale's second undertaking regarding defense work for the city could backfire. The GAO, a congressional watchdog agency, called on the Navy to reassess the Saratoga decision and determine whether it "can still be justified" in light of new cost and other data.

Navy officials had no formal reaction but let it be known informally they already are considering whether to shift the Saratoga work to the Newport News Shipbuilding and Dry Dock Company.

A spokesman for Mr. Mondale said he had not seen the GAO report yet and had no comment. The issue is "up to the Navy to decide now," the spokesman said, and it would be "improper [for Mr. Mondale] to be involved in it."

The GAO report, faulting the Navy for "inconsistencies and errors" in cost analysis, was made public by Senator Harry F. Byrd, Jr. (Ind., Va.) and Representative Paul S. Trible, Jr. (R., Va.).

They requested the independent study after a "superficial" Navy analysis indicated that it would cost only $15 million to $30 million more to do the work in Philadelphia and that other advantages made such a course worthwhile.

The net effect of the Navy's errors, the GAO said, was that the service "understated the estimated costs at Philadelphia and overstated them at Newport News."

The accounting office's revised estimate showed that the work would cost $472.1 million at Newport News, $561 million at Philadelphia if certain legislative "reforms" are made to slow the rise in federal blue-collar pay, and $577.3 million at Philadelphia if the pay changes are not made.

The cost spread between the two cities thus could be $88.9 million to $105.2 million. The GAO said another $14 million should be added to cover the government's cost of retirement systems in effect for federal workers in the Philadelphia yard. The total "saving" from sending the Saratoga to Newport News therefore could run to $119.2 million.

This shows how "wasteful" it would be not to give the Virginia company the work, Senator Byrd said, calling it "regrettable that this work assignment has become entangled in national politics." That was a reference to Mr. Mondale's interest in the matter.

Mr. Trible, whose district includes Newport News, noted the maximum cost difference cited by the GAO was four times that estimated by the Navy. On the basis of GAO estimates, he said, the Navy could buy a nuclear-powered attack submarine with the money it would save by having Newport News modify the Saratoga and three other carriers for which similar overhaul is planned.

The Navy essentially intends to rebuild the four super-carriers in order to add 15 years to their normal 30-year service life.

The GAO noted the Navy orginally considered only two options—sending the first ship to Newport News and the next three to Philadelphia or sending all four to Philadelphia.

The second alternative won, at least last April, on grounds that there were production and management advantages in doing work in series at one yard, that Philadelphia met the basic criteria and that Newport News would be occupied with construction of a new aircraft carrier. Ironically, that was the carrier that President Carter scuttled when he vetoed the defense authorization bill.

The GAO could have accepted those considerations, it said, if the cost differences were not so large and if it had now become apparent that Newport News may be able to handle all four ships.

The GAO said the Navy kept estimated Philadelphia costs down by planning to use 1,174 Saratoga crew members as part of the work force—a practice frowned on by Congress—and then by computing their pay at 1977 rates, though the work would be done between late 1980 and early 1983. Another Navy error was to calculate a profit for the Philadelphia yard, though a government yard would get none, and double profit for Newport News. Certain other costs, such as hiring and training, were not calculated at all, the GAO said.

Mr. PROXMIRE. Mr. President, if the Senator from Montana has an amendment to offer, I will defer to him, of course, so that we can finish this bill. If he does not, I have something else to speak on briefly. I will leave it to the Senator from Montana.

Mr. MELCHER. The Senator from Wisconsin may proceed.

Mr. PROXMIRE. Mr. President, I will not take long. I will be happy to desist whenever the Senator from Montana is ready.

SEPTEMBER GOLDEN FLEECE AWARD GOES TO OFFICE OF EDUCATION

Mr. PROXMIRE. Mr. President, I am giving my Golden Fleece of the Month Award for September to the Office of Education for spending $40,375 in an attempt to give 35 of its ambitious or unhappy bureaucrats a new lease on their career lives. By paying over $1,100 for each participant to take what it called a "creative career and life planning" course during working hours, the Office of Education found a way to help its employees on the way up or on the way out while letting the taxpayers down.

While I believe overburdened citizens should not have to shell out tax dollars for such purposes at all, ironically the same course with the same instructors could have been taken on employees' own time for $475, or a total cost of $23,750 less.

Among the things the students faced or were told to do in their 3½-hour sessions on each of 10 days were:

First, to take a holistic rather than an atomistic approach to life;

Second, to write a 50- to 200-page autobiography;

Third, to analyze their hobbies;

Fourth, to keep their eye on the "divine radar"; that is, the enjoyable moments or periods of their lives;

Fifth, to figure out, in Walter Mitty fashion, how they would give away $10 million (Do Federal bureaucrats really need a course to tell them how to do that?);

Sixth, to reconstruct and write a diary

of their entire lives in which they "boast a lot"; and

Seventh, to conduct an onsite personal survey of a community in the general area of where they live during which they talk to people according to a well thought-out plan which leaves room for "improvisation, serendipity, and the chance encounter." (Let's hear it for the chance encounter.)

My argument is not with the private firm which gave the course, the talented authors of the official textbooks, or the private citizens who want to take the course and pay for it out of their own pockets. My objection is to the Government shelling out the money and picking up the tab.

The announcement of the Office of Education about the course stated that the "problem solving approach to goal identification" would be used "to help employees determine their goals in life and make changes in their environment, lifestyle, careers, and direction which will aid them in gaining satisfaction both on-the-job and in their personal life."

My only advice to those who approved spending taxpayers' money for the course is the old adage, "Physician, heal thyself." After this display of questionable judgment, they may wish to consider most seriously the issue of changing careers themselves, or, as the course textbooks put it, to do a "functional analysis of your transferable skills."

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GLADIATORS, KNIGHTS, AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, on Monday, September 18, under the auspices of the United Nations, a special seminar convened in Geneva on national and local institutions for the promotion and protection of human rights. This seminar is being held, in part, to commemorate the 30th anniversary of the U.N. adoption of the Universal Declaration of Human Rights.

Mr. President, this document—the Universal Declaration of Human Rights is an extremely important declaration.

What exactly does it do?

It is an effort to establish a comprehensive common standard of human rights covering civil, political, economic, and social rights. It is very similar to our Declaration of Independence in the ideals it expresses.

This declaration, however, was not meant to stand alone. It was meant to be followed by a series of specific human rights treaties dealing with such topics as racial discrimination, political rights of women, abolition of slavery, and genocide, among others. Unfortunately, only two of these treaties—the treaties on the political rights of women and the abolition of slavery have been ratified by the Senate.

Not a record to be proud of, that is for sure. But that is the precise reason why this seminar is of such importance. It is part of the U.N.'s ongoing effort to keep the problems of human rights in the forefront of world debate.

Thirty-two countries plus a host of other intergovernmental organizations and interested special agencies are meeting for a dozen days to exchange ideas and experiences gained in their struggle for human rights. The basic goal, according to the U.N. office in Geneva, is "to encourage greater awareness in matters relating to human rights and fundamental freedoms."

As the senior Senator from Wisconsin, I particularly want to commend the Secretary of State for his outstanding choice of Mr. Bruno Bitker as the U.S. representative to this seminar. Mr. Bitker, a fellow Wisconsinite, has, since 1947, been one of the most outspoken, intelligent, and rational advocates of human rights. He has testified before the Senate Foreign Relations Committee many times, recently in May 1977 as chairman of the American Bar Association's Committee on International Human Rights. At that time, as in the past, he strongly urged ratification of the Genocide Convention.

Mr. Bitker has devoted his life to the fight for human rights. His reason, in his own words:

> Political entities are not eternal; like man-made structures, they can crumble with the passage of time. But ideals and ideas never die. What is recognized through the Universal Declaration of Human Rights are those principles which are basic and essential to man's well being. It is in the support of these rights and in the dignity of every individual that I have directed my thoughts and my energies over the years.

Mr. President, by the Senate's failure to ratify the necessary treaties which support the Universal Declaration, our eloquent and devoted Representative, Mr. Bitker, is left a gladiator without his sword—a knight without his armor.

Mr. President, for almost 30 years we have failed to ratify the Genocide Convention and other human rights treaties. It is high time that our Representatives be given the wherewithal to carry out their missions. Outstanding individuals such as Bruno Bitker deserve the full backing of this body in their efforts.

And I can think of no better tool than prompt action on ratifying the important human rights treaties now pending before us, beginning with the Genocide Convention.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JOHNSTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMTRAK IMPROVEMENT ACT OF 1978—CONFERENCE REPORT

Mr. CANNON. Mr. President, I submit a report of the committee of conference on S. 3040 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3040) to amend the Rail Passenger Service Act to extend the authorizations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 11, 1978.)

Mr. CANNON. Mr. President, the conference report on S. 3040, the Amtrak Improvement Act of 1978, provides authorization for appropriations for Amtrak for fiscal year 1979, a review and reevaluation of the Amtrak route system by the Department of Transportation, and numerous other provisions designed to improve Amtrak operations. The Senate first considered S. 3040 on May 10, 1978, and approved a total authorization for Amtrak of $655 million for fiscal year 1979, as well as directing the Department of Transportation to immediately review and reevaluate the Amtrak route system. The House of Representatives, in disagreeing with the Senate provisions, raised the authorization level to $755 million, amended the route reexamination process, and included numerous other provisions relating to specific problem areas of Amtrak operations. On August 11, 1978, the House and Senate conferees met and worked out the differences on the two versions of S. 3040. All of the members of the committee of conference approved and signed the conference report on S. 3040.

The House has already approved the conference report by an overwhelming margin and I strongly recommend to my colleagues that they do likewise. This legislation represents a major attempt on the part of Congress to carefully review Amtrak's performance to date, and determine what type of route system should be implemented for the future. For too long, Congress has approved Amtrak's operating budget without careful consideration of the cost factors involved and the overall benefits achieved by the system. Amtrak's operating subsidy has grown from a meager $22 million in fiscal year 1971 to a whopping $530 million in fiscal year 1978. The Federal Government cannot, as a matter of policy, continue to fund these enormous operating deficits. The time has come to reverse these rising deficits and the vehicle for change is contained in S. 3040.

The conference report reflects the concern of the House and Senate conferees that we must provide both for Amtrak's short-term financial needs as well as the long-term rationalization of Amtrak operations. In essence, the conferees agreed to provide necessary support for Amtrak for the coming fiscal year while setting into motion numerous changes that will have far-reaching effects on Amtrak and the role of the Federal Government in subsidizing rail passenger operations. I should like briefly to describe some of the major provisions of the legislation.

Section 2 of the conference report provides authorizations in the amount of $600 million for operating expenses, $130 million for capital expenditures, and $25 million for loan guarantees. These figures are identical to those contained in the House version of S. 3040 and represent a substantial increase from the levels approved by the Senate on May 10.

Though I do not believe the Federal Government should continually subsidize the ever-increasing operating deficits of Amtrak, I believe there are extenuating circumstances that necessitate these high authorization levels for fiscal year 1979. As my colleagues are aware, the Department of Transportation is conducting a detailed analysis and review of Amtrak operations in order to recommend to the Congress a more efficient and rational route system for Amtrak. With final approval of the new route system due sometime during the summer of 1979, I believe it would be counterproductive to withhold necessary funds for the smooth transition from the old to the new route system at that time. We should not doom the new system before it gets a chance to succeed. The higher authorization level takes into account the uncertainty over the final date of approval of the new system, as well as transition costs of the new system.

In supporting this higher authorization level, I want to stress to my colleagues that I have not abandoned my belief that the Amtrak subsidy must be reduced. I will not support funding in the future for Amtrak that does not reflect an awareness on the part of Amtrak management that these escalating subsidies must be reversed. I should also like to state to my colleagues that a reduction in the Amtrak subsidy does not automatically result in a loss of passenger service. I have no argument with Amtrak running trains wherever there is a possibility of increasing ridership with sound operating and marketing practices. I do, however, believe that these train passengers must pay a greater share of the actual cost of providing the service.

In line with this conviction, I insisted that language be inserted into the conference report stating that Amtrak fares must be altered to reflect. more appropriately, the true cost of providing passenger services. We cannot allow Amtrak to charge unreasonably low fares for the sole purpose of creating an artificial level of demand for rail service.

Section 4 of the conference report, and the section which I believe is the most important for the long-term future of Amtrak, relates to the Department of Transportation's reexamination of the Amtrak route system and operations. The overall outline of the route reexamination process is as follows: First, development and submission to the Congress of preliminary recommendations by the Department of Transportation; second, hearings conducted by the Rail Service Planning Office on the preliminary recommendations; third, submission by the Secretary to the Congress of final recommendations and subsequent approval of those recommendations by the Congress; and fourth, implementation of the new route system. The conference report establishes a procedure for final approval of the recommended route plan that, while granting adequate time for congressional study and review, does not place unnecessary political roadblocks in front of the plan. Upon submission of the Department's final recommendations to the Congress on December 31, 1978, the Congress will be given a period of 90 calendar days of continous session in which to adopt a resolution of disapproval. If neither House adopts such a resolution, the final recommendations will be considered approved at the end of the 90-day period. This procedure parallels the procedure set forth in the Regional Rail Reorganization Act of 1973 for development and adoption of the final system plan.

In closing, I urge my colleagues to accept the conference report on S. 3040 because I believe it provides a mechanism by which Amtrak can reverse the trend of its operating subsidies. The conference report represents a compromise between the short-term financial needs of Amtrak and the long-term role that rail passenger service should play in our Nation's transportation system. Under this legislation, the Department of Transportation has a mandate to rationalize the Amtrak route system in order to help reduce unnecessary and unproductive train routes. Even more importantly, we have sent a clear message to Amtrak management that states, in no uncertain terms, that the Congress will no longer continue to haphazardly fund unproductive passenger operations that the American public does not want and cannot afford to subsidize.

This legislation represents a first step in the overall rationalization of our Nation's transportation resources. It does not provide any quick or easy solutions to the problems facing Amtrak. It will, however, focus attention on the need to carefully review the role that Amtrak should play with respect to our Nation's other forms of passenger transportation, and how the benefits of rail passenger service can be achieved within reasonable funding requirements.

Finally, I thank the members of the conference committee and in particular, Senator Russell B. Long and Senator John C. Danforth, the chairman and ranking minority member respectively, of the Surface Transportation Subcommittee, for their interest and dedication in working out this compromise. Without their interest and clear understanding of the issues, a compromise on S. 3040 would have been made immeasurably more difficult.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

LOCAL RAIL SERVICE ACT OF 1978

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. S. 2981 is open to further amendment.

Mr. CANNON. Mr. President, I understand that the Senator from Montana has an amendment that he will try to work up. I understand what his problem is. I wish to explain to him that I do not think he can do what he would like to do.

First, he is concerned about the Milwaukee Railroad, which has been in bankruptcy. It is very unfortunate, but it is not the only railroad in the country that is in bankruptcy.

There is a suggestion being talked about that certain moneys ought to be set aside over and above the moneys now authorized for that railroad or for railroads in bankruptcy in general. First, I should like to point out that any move to amend the amount now would be subject to a point of order, as it is not within the amount of the budget resolution. There is no room in the resolution for a new authorization of additional money.

Second, I point out that under the Emergency Rail Service Act, Congress authorized $160 million in a revolving fund for assistance to bankrupt railroads. That is required to be paid back as they make money in their current operations. At the present time, there is over $50 million available in that fund from repayments of loans to bankrupt railroads which would be available under the act for the Milwaukee and any other bankrupt railroads to make application for funds to assist them.

Third, I should like to point out that they are eligible under title V for loan guarantees under section 511 if they wish to proceed in that fashion.

Last, I point out that the Milwaukee has not suffered serious traffic diversion since it went into bankruptcy.

For all of those reasons, I oppose any amendment that would attempt to earmark any funds for any particular bankrupt railroad. I would oppose and call a point of order if any move is made to increase the authorization, in that it is not within the budgeted amount. I suggest to the people who support the Milwaukee that the Milwaukee ought to apply under the provisions of the Emergency Rail Services Act for a loan or for assistance if that is what they need.

Mr. DURKIN. Will the Senator yield?

Mr. CANNON. Yes; I yield.

Mr. DURKIN. I share the chairman's concern. I also share the concern of my friend from Montana. I point out that the coal conversion bill that has cleared the Senate and will undoubtedly clear Congress this year and will be signed into law by the President, does amend the purpose clause in title V and does provide funds for rehabilitation for an additional $100 million authorization and loan guarantee provision for the repair and rehabilitation of rail lines to haul coal.

Inasmuch as the Delaware and Hudson is very, very important to us in northern New England and inasmuch as the Boston and Maine is already in chapter 77 trusteeship, and is of vital importance to my people in New Hampshire and also the entire New England region, if there were any amendment at this time that would divert or preempt funds that could go to the Boston and Maine or go to the D. & H. I should have to, as graciously but as vigorously as possible, resist at this time.

I do give my assurance to the Senator from Montana that I am concerned with rails, very concerned, and I shall be glad to work with him and see if there is some way that we can solve his problem without impacting so adversely on northern New England and, for that matter, the entire New England-Northeast region.

Mr. MELCHER. Mr. President, the sympathy of my colleague on the Committee on Commerce is very much appreciated, but I have to point out, that the Milwaukee Railroad, a transcontinental railroad, that extends from Chicago to the west coast, in its present state of bankruptcy poses a tremendous hazard for the continuation of adequate railroad service in the United States.

I find, listening to the people that work on the Milwaukee and the people that are served by the Milwaukee, that they are extremely frustrated by the fact that in dealing with this insolvent railroad, it is tough enough to find out when and what railroad management and the bankruptcy judge are ever going to do to help. When you get a railroad in bankruptcy and you are dealing with a railroad that is intent only on salvaging a portion of that line and leaving a lot of us in the West high and dry, and you are working with a bankruptcy judge whose experience is remote from the conditions that we live in in the West—people are demanding that we get something done. I am going to offer an amendment that will simply pay some attention to the Milwaukee problem that exists here and now.

It could be assumed, I suppose, that the Milwaukee, in bankruptcy, would be working diligently, somehow, to pull itself together and keep on operating a railroad in our western States. Well, forget that assumption. That is not a valid assumption. If you look back a few years ago, about the fourth or fifth time that the Northern Pacific and the Great Northern filed a railroad merger application, those of us who opposed that merger stated that if you allow three healthy railroads to merge (the Great Northern Pacific and the Burlington), that they would have the Milwaukee between them and it would be like crushing a walnut with a nut crasher.

It has taken a few years for that to happen to the Milwaukee. They are being crushed out of existence.

The freight is going to the Burlington Northern. The freight comes off the Milwaukee because the merged line is much bigger serving more points

There are hundreds of miles of mainline track of the Milwaukee which needs repair for the very explicit reason that they have got bad orders on them. They have 10-mile-an-hour orders, 20-mile-an-hour orders, 30-mile-an-hour orders, and when you are in that condition and bankrupt you are never going to come out of it without outside capital. Economically the Milwaukee can only recover by hauling more freight at normal speeds. They cannot do that without track repair.

So I want to assist the bankruptcy judge to be able to work out some system where we keep service going on the Milwaukee line. The key to that is improvement of the roadbed and the track and get rid of those bad orders.

UP AMENDMENT NO. 1908

Mr. President, I worked out an amendment here. I hope it is acceptable to the committee. I offer it on behalf of myself and my colleague from Montana (Mr. Paul G. Hatfield). I send it to the desk and ask for its immediate consideration. Its effect is to require prompt consideration by the Federal Railroad Administration for Emergency Railroad Service loans for the Milwaukee. The funds are available for roadbed and track improvement and this is a true emergency.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Montana (Mr. Melcher) for himself and Mr. Paul Hatfield, proposes an unprinted amendment numbered 1908: Add a new section at end of bill:
>
> The Federal Railroad Administration is required to promptly review the condition of the Chicago, Milwaukee, and St. Paul Railroad and to consider assisting the railroad in loans for roadbed and track improvement.

Mr. CANNON. Mr. President, I think that is an amendment that the committee could accept. We certainly are very much concerned about the plight of all of these bankrupt railroads, as well as the plight of some that are near bankrupt.

This does require the Federal Railway Association to immediately examine their plight and to consider assistance to them for those purposes, which certainly are proper purposes.

It may be that, as the Senator says, by assisting them under the authority of the act, which they have $50 million available for at the present time, they could upgrade their tracks and roadbeds to the point where a number of these slow orders could be removed, and it might become a viable, successful railroad once again.

Mr. DURKIN. Will the Senator yield for a question?

Mr. CANNON. Yes.

Mr. DURKIN. I want to commend the Senators from Montana for their diligence and concern with a very real problem in their area.

As I understand the amendment, the FRA will give consideration, but there is nothing express or implied in the amendment that would require the appropriate agencies to give any degree of priority. This amendment just gets their attention.

Mr. CANNON. They would be required to immediately examine the problem, and it is certain to get their attention, as the Senator says, and then make a determination, but to consider giving them assistance for those purposes.

Mr. DURKIN. Without any priority.

Mr. CANNON. They would not have any priority. We could not give them any priority over any other bankrupt railroad.

Mr. DURKIN. Right.

I thank the chairman and the Senators from Montana.

Mr. DANFORTH. Will the Senator yield for a question?

Mr. CANNON. Yes.

Mr. DANFORTH. Following the question of Senator Durkin, I just want to make it clear that this does not in any sense state the preference of the Congress for one bankrupt railroad as opposed to other bankrupt railroads.

It is my understanding that there are now some five bankrupt railroads in the country. While I am sure all of us are concerned about the plight of the Milwaukee railroad, or any of the other four bankrupt railroads, and we would hope the Secretary of Transportation would be attentive to the problems of all bankrupt railroads, in no sense do we state any kind of a preference on the part of the Congress or any kind of a desire that the Secretary will favor one railroad over the others.

Mr. CANNON. Mr. President, I say to my colleague, first, I think there are only three bankrupt railroads, rather than five, as he stated, at the present time. There is one, the D. & H., which may be added to that group shortly, I am not sure.

But this is not intended to establish any preference at all. They are all entitled to assistance, if they can be assisted, under the Emergency Rail Services Act. That is why we passed it.

We made that money available on a revolving basis so when money comes back in it is eligible and available for just this type assistance to railroads that are bankrupt.

I believe about $50 million of this money came back from assistance that had been made available to the Penn Central. That is why we have $50 million in the fund now, and we will have more money coming back that will be in the revolving fund, available to assist these bankrupt railroads under this emergency act.

Mr. DANFORTH. It is my understanding that under the law the Secretary of Transportation has the discretion to determine how the money in this revolving fund can most effectively be spent, and that we do not intend in any way to impinge upon that discretion.

Mr. CANNON. The Senator is correct.

It is for the Secretary and his advisers to make that determination under the tests. There are certain tests that must be met in the act, unless those were to be waived by law, but if the railroad meets those tests, then it is up to them to make the determination.

Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

So the amendment (UP No. 1908) was agreed to.

BRANCH LINE ASSISTANCE

● Mr. **CLARK**. Mr. President, I would like to take this opportunity to offer my comments in support of this bill. I was an original cosponsor of this legislation when it was introduced in April, and I am pleased that it has reached the floor of the Senate so expeditiously. I would like to commend the committee for its very prompt and thorough action.

This bill represents a significant step toward addressing the problem of branch line abandonments, a problem that can have devastating effects on many communities and the rail system as a whole.

In my home State of Iowa and the rest of the Midwest, for example, adequate rail service is the lifeblood of many smaller agricultural communities. Abandonments of the branch lines which serve these towns can have disastrous effects for everyone there. Furthermore, an adequate branch line network is essential to the health of the rail system as a whole because goods which enter the flow of commerce on branch lines will remain in the rail system, traveling long distances over the carrier's profitable main lines.

Mr. President, S. 2981, the bill now before us, significantly broadens the Federal branch line assistance program to make it an effective tool in addressing the serious problem of rail abandonments.

As you may know, the rail service program was developed to provide Federal assistance to the States to help ameliorate the effects of rail abandonments. But as it currently operates, the program works counter to the States' interest, by not allowing them the most effective use of the limited amount of Federal dollars they receive. Currently, States can only use Federal funds under this program to repair those tracks which the Interstate Commerce Commission (the ICC) has already cleared for abandonment, that is, lines which have already been determined to be "losers." Ineligible for assistance is that class of lines not yet bad enough to be abandoned, but that will deteriorate beyond repair unless we do something about them now.

Frankly, such an arrangement just does not make sense. We tell the States they must put their Federal funds into losers, instead of letting them put this money into lines which have a good chance of being saved.

Mr. President, the bill now before us changes all that. It gives States the flexibility they need to use Federal rail assistance funds on those branch line improvements they feel would be most productive. It accomplishes this by making eligible for assistance all lines carrying less than 5 million gross tons annually, the so-called class A and B branch lines.

Mr. President, if I can digress just 1 minute, I think I can demonstrate how effective a branch line assistance program can be. As you may know, Iowa is universally recognized to have one of the most progressive and professional transportation departments in the Nation. The Iowa Department of Transportation has experimented with its own branch line assistance program, carefully selecting those rehabilitation projects from which it felt the most benefits could be derived. Its experience demonstrates what can be accomplished if the States are permitted the necessary flexibility to put funds into the optimum projects.

In an unprecedented arrangement, the State, local communities, shippers, and carriers have joined in financing the repair of over 453 miles of branch lines in Iowa and are working on repairing an additional 265 miles. All told, $21.5 million have been invested in these improvements, with the State contributing 51 percent of the costs, shippers contributing 35 percent and carriers 14 percent.

The gains from these improvements have been phenomenal. The percentage of grain shipped by rail increased by 29 percent after the lines were upgraded. The annual savings to shippers using these lines has been 1.8 cents per bushel. This represents annual savings of $3 million in transportation costs for the 170 million bushels of grain that move on these upgraded lines.

The savings result from the fact that the upgraded lines can carry heavier loads at greater speeds. These lines can now handle 100-ton hopper cars at 25 miles per hour, permitting carriers to more than double their operating speeds. An added benefit is the sharp decrease in derailments experienced by carriers over the improved track.

Mr. President, Iowa could accomplish even more with the funds available to it under the local rail service assistance program. But the results will not be nearly as impressive if the State is not permitted the utmost flexibility in selecting the best possible candidates for rehabilitation.

The Iowa Department of Transportation has already identified 30 additional lines—1,200 miles of track—whose rehabilitation would yield significant economic benefits. But none of these lines would be eligible for Federal assistance under the current criteria. All would be eligible under the bill currently before us.

One further point, Mr. President, I believe passage of this bill is crucial to the success of the Federal Railway Administration's efforts to strengthen the midwestern rail network. As chairman of the Senate Agriculture Committee's Rural Development Subcommittee, I have been carefully following the Federal Railway Administration's efforts to develop some realistic solution to the midwestern rail crisis. The hope is that if we act now, we can avoid the kind of irreversible deterioration in the system that led to the establishment of ConRail in the Northeast. Undoubtedly, one solution to the Midwest's problems will be the abandonment of lines which everyone—shippers, railroads, local communities, State planners—believes are nonessential. The tough problem will be what to do about the essential light density lines which are deteriorating and are therefore less profitable, but which the railroads simply cannot afford to repair given their current financial straits.

These are the lines for which Federal assistance is necessary. And it is for this reason that I believe the changes we are proposing are necessary if we are going to engage in a meaningful search for solutions under section 401. State and Federal transportation planners need the kind of flexibility that expanding the rail service assistance program will bring.

I urge the passage of this bill.●

Mr. **CANNON**. Third reading.

The **PRESIDING OFFICER**. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The **PRESIDING OFFICER**. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2981

An Act to amend the Department of Transportation Act as it relates to the local rail services assistance program, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Local Rail Services Act of 1978".

DECLARATION OF POLICY

SEC. 2. It is declared to be the policy of Congress in this Act that the Government shall assist in the provision of adequate transportation service to shippers and communities now served by light density lines. Federal funds shall be used to assist transportation services where such assistance provides economic benefits to the affected communities without placing a financial drain on the carriers providing that service.

Congress believes, however, that the parties benefiting from a Federal investment on a light density line must act to preserve the benefits of the Federal investment. Accordingly, Congress expects the States and local communities, shippers, and all elements of the railroad industry to commit themselves to long-term solutions which will enable the continued provision of adequate transportation service after the completion of the federally assisted projects.

EXPANSION OF ASSISTANCE

SEC. 3. Section 5(f) of the Department of Transportation Act (hereinafter referred to as the "DOT Act") (49 U.S.C. 1654(f)) is amended—

(1) by striking "purchasing a line of rail road or other rail properties" in paragraph (2) and inserting in lieu thereof "acquiring, by purchase, lease or in such other manner as the State considers appropriate, a line of railroad or other rail properties or any interest therein";

(2) by striking "and" immediately after the semicolon in paragraph (3);

(3) by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(4) by adding the following new paragraphs at the end thereof:

"(5) the cost of constructing rail- or rail-related facilities (including new connections between two or more existing lines of railroad, intermodal freight terminals, and sidings), for the purpose of improving the quality and efficiency of local rail freight service; and

"(6) the cost of developing, administering, and evaluating innovative experimental programs that are designed to improve the quality and efficiency of service on lines of railroad eligible for assistance under this section and which involve cooperative action between State and local communities and railroad industry representatives or shippers.".

COST SHARING

SEC. 4. Section (5)(g) of the DOT Act (49 U.S.C. 1654(g)) is amended to read as follows:

"(g) The Federal share of the costs of any rail service assistance program for any fiscal year is 80 percent. The State share of the costs may be provided in cash or through the following benefits, to the extent the benefit would not otherwise be provided: (1) forgiveness of taxes imposed on a common carrier by railroad or on its properties; (2) the provision by the State or by any person or entity on behalf of a State, for use in its rail service assistance program, of realty or tangible personal property of the kind necessary for the safe and efficient operation of rail freight service by the State; or (3) the cash equivalent of State salaries for State public employees working in the State rail service assistance program, but not including overhead and general administrative cost. If a State provides more than 20 percent of the cost of its rail service assistance program during any fiscal year, the amount in excess of the 20 percent contribution shall be applied toward the State's share of the costs of its program for subsequent fiscal years.".

FORMULA ALLOCATION

SEC. 5. Section 5(h) of the DOT Act (49 U.S.C. 1654(h)) is amended to read as follows:

"(h)(1) For the period October 1, 1978, through September 30, 1979, each State which is, pursuant to subsection (j) of this section, eligible to receive rail service assistance is entitled to an amount equal to the total amount authorized and appropriated for such purposes, multiplied by a fraction whose numerator is the rail mileage in such State which is eligible for rail service assistance under this subsection and whose denominator is the rail mileage in all of the States which are eligible for rail service assistance under this subsection. Notwithstanding the provisions of the preceding sentence, the entitlement of each State shall not be less than 1 percent of the funds appropriated. For purposes of this subsection, rail mileage shall be measured by the Secretary, in consultation with the Interstate Commerce Commission. For the purpose of calculating the formula under this subsection, the rail mileage which is eligible shall be that for which the Commission has found that (A) the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to such project; or (B) the line of railroad or related project was eligible for assistance under title IV of the Regional Rail Reorganization Act of 1973; and such line or related projects has not previously been the subject of Federal rail service assistance under this section for more than 5 fiscal years.

"(2) Effective October 1, 1979, every State which is eligible to receive rail service assistance pursuant to subsection (j) of this section is entitled annually to a sum from available funds as determined pursuant to this subsection. Available funds are funds appropriated for rail service assistance for that fiscal year and any funds to be reallocated for that fiscal year in accordance with this paragraph. Subject to the limitations contained in paragraph (3) of this subsection, the Secretary shall calculate each State's entitlement as follows:

"(A) two-thirds of the available funds multiplied by a fraction whose numerator is the sum of the rail mileage in the State which, in accordance with section 1a(5)(a) of the Interstate Commerce Act (49 U.S.C. 1a(5)(a)), is either 'potentially subject to abandonment' or with respect to which a carrier plans to submit, but has not yet submitted, an application for a certificate of abandonment or discontinuance; and whose denominator equals the total of such rail mileage in all the States; and

"(B) one-third of available funds remaining after completion of the calculations under paragraph (1)(A) of this subsection multiplied by a fraction whose numerator equals the rail mileage in the State for which the Interstate Commerce Commission, within 2 years prior to the first day of the fiscal year for which funds are allocated or reallocated under this section, has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the rail mileage, and including, until September 30, 1981, (1) the rail mileage which was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) and (2) all rail mileage in the State which has, prior to October 1, 1978, been included for formula allocation purposes under this section; and whose denominator equals the total rail mileage in all the States eligible for rail service assistance under this section for which the Interstate Commerce Commission has made such a finding and including, until September 30, 1981, (1) the rail mileage in all the States which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) and (2) the rail mileage in all the States which had been, prior to the enactment of this amendment, included for formula allocation purposes under this section. For purposes of the calculation directed by this paragraph, no rail mileage shall be included more than once in either the numerator or the denominator.

Notwithstanding the provisions of this subsection, each State is entitled to receive pursuant to this subsection not less than 1 percent of the total appropriation under subsection (q) of this section for that fiscal year.

"(3) For purposes of paragraphs (1) and (2) of this subsection, rail mileage shall be measured by the Secretary as of the first day of each fiscal year. Entitlement funds are available to a State during the fiscal year for which the funds are appropriated. In accordance with the formula stated in this subsection, the Secretary shall reallocate to each State eligible to receive rail service assistance under subsection (j) of this section a share of any entitlement funds which have not been the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were appropriated. Reallocated funds are available to the State for the same purpose and for the same time period as an original allocation and are subject to reallocation if not made the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were reallocated. Funds appropriated in fiscal year 1978 and prior years which are not the subject of a grant agreement when this bill becomes effective will remain available to the States during fiscal year 1979.".

PLANNING ASSISTANCE

SEC. 6. Section 5(i) of the DOT Act (49 U.S.C. 1654(i)) is amended to read as follows:

"(i) During each fiscal year, a State may expend not to exceed $100,000, or 5 percent, whichever is greater, of its annual entitlement under subsection (h) of this section to meet the cost of establishing, implementing, revising, and updating the State rail plan required by subsection (j) of this section.".

PROJECT ELIGIBILITY

SEC. 7. Section 5(k) of the DOT Act (49 U.S.C. 1654(k)) is amended to read as follows:

"(k)(1) On August 1 of each year, each carrier by railroad subject to part I of the Interstate Commerce Act, shall prepare, update, and submit to the Secretary a listing of those rail lines which, based on a level of usage, carried 5 million gross tons of freight or less per mile during the prior year.

"(2) A project is eligible for financial assistance under paragraph (1) of subsection (f) of this section only if—

"(A)(i) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or (ii) the line of railroad or related project was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762); and

"(B) the line of railroad or related project has not previously received financial assistance under paragraph (1) of subsection (f) of this section for more than 36 months: *Provided, however,* That a line of railroad or related project which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) or under this section prior to October 1, 1978, is eligible only until September 30, 1981.

"(3) A project is eligible for financial assistance under paragraph (2) of subsection (f) of this section only if—

"(A)(i) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad related to the project; or (ii) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United States Railway Association under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717); or (iii) the line of railroad related to the project was eligible to be acquired under section 402(c) (3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(3)). A line of railroad or related project which was eligible for financial assistance under such section 402 or under this section prior to October 1, 1978, is eligible only until September 30, 1981; and

"(B) the Secretary finds that the project satisfies benefit/cost criteria developed by the Secretary under subsection (o) of this section.

"(4) A project is eligible for financial assistance under paragraphs (3) and (5) of subsection (f) of this section only if—

"(A) the line of railroad related to the project is contained in the most recent submission under paragraph (1) of this subsection, and the project has been approved by the affected railroad; and

"(B) the Secretary finds that the project satisfies benefit/cost criteria developed by the Secretary under subsection (o) of this section.

"(5) A project is eligible for financial assistance under paragraph (4) of subsection (f) of this section only if—

"(A)(i) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or (ii) the line of railroad or related project was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762): *Provided,* That a line of railroad or related project which was eligible for assistance under this section or such section 402 prior to October 1, 1978, shall remain eligible for financial assistance only until September 30, 1981; and

"(B) the Secretary finds that the project satisfies benefit/cost criteria developed by the Secretary under subsection (o) of this section.

"(6) A project is eligible for financial assistance under paragraph (6) of subsection (f) of this section only if—

"(A) there is a reasonable likelihood that it will improve the quality and efficiency of local rail freight service by increasing operating efficiency, reducing the cross subsidization of unprofitable portions of a system by profitable portions of a system or increasing productivity of workers; and

"(B) the cooperative action project shall not exceed 18 months in duration.".

TECHNICAL AMENDMENTS

SEC. 8. (a)(1) Section 5(o) of the DOT Act (49 U.S.C. 1654(o)) is redesignated as section 5(q).

(2) The first sentence of subsection (m) (1) of section 5 of the DOT Act (49 U.S.C. 1654(m)(1)) is amended by striking "(o)" and inserting in lieu thereof "(q)".

(b) The third sentence of subsection (q) of section 5 of the DOT Act, as redesignated by subsection (a) of this section, is amended to read as follows: "In addition, any appropriated sums remaining after the repeal of section 402 of the Regional Rail Reorganization Act of 1973 and of section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 are authorized to remain available to the Secretary for purposes of subsections (f) through (g) of this section.".

(c) Section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1653a) is repealed.

BENEFIT-COST CRITERIA

SEC. 9. Section 5 of the DOT Act (49 U.S.C. 1654) is further amended by adding after subsection (n) thereof a new subsection (o) as follows:

"(o) The Secretary, in cooperation with representatives chosen by the States, shall, within 60 calendar days of the effective date of this subsection, promulgate regulations establishing criteria to be used by the Secretary to determine the ratio of benefits to costs of proposed projects eligible for assistance under paragraphs (2) through (5) of subsection (k) of this section. During the period prior to the Secretary's promulgation of such a methodology, the Secretary shall continue to fund projects on a case-by-case basis where he has determined, based upon analysis performed and documented by the States, that the public benefits associated with the project outweigh the public costs of the project.".

REHABILITATION ASSISTANCE

SEC. 10. Section 5 of the DOT Act (49 U.S.C. 1654) is further amended by adding after subsection (o), as added by section 9 of this Act, a new subsection (p) as follows:

"(p) A State shall use financial assistance provided under paragraph (3) of subsection (f) of this section as follows:

(1) The funds shall be used to rehabilitate or improve rail properties in order to improve local rail freight service within the State.

"(2) The State, in its discretion, shall grant or loan funds to the owner of rail properties or operator of rail service related to the project.

"(3) The State shall determine the financial terms and conditions of a grant or loan.

"(4) The State shall place the Federal share of repaid funds in an interest-bearing account or, with the approval of the Secretary, permit any borrower to place such funds, for the benefit and use of the State, in a bank which has been designated by the Secretary of the Treasury, in accordance with section 265 of title 12, United States Code. The State shall use such funds and all accumulated interests to make further loans or grants under paragraph (3) of subsection (f) of this section in the same manner and under the same conditions as if they were originally granted to the Secretary. The State may at any time pay to the Secretary the Federal share of any unused funds and accumulated interest. After the termination of a State's participation in the local rail service assistance program established by this section, it shall pay the Federal share of any unused funds and accumulated interest to the Secretary.".

COMBINATION OF ENTITLEMENTS

SEC. 11. Section 5 of the DOT Act (49 U.S.C. 1654) is further amended by adding after subsection (q) as redesignated by section 8 of this Act, a new section (r) as follows:

"(r) Two or more States that are eligible for local rail assistance under this section may, subject to agreement between or among them, combine their respective Federal entitlements under subsection (h) of this section in order to improve rail properties within their respective States or regions. Such combination of entitlements, where not violative of State law, shall be permitted, except that—

"(A) combined funds may be expended only for purposes listed in this section; and

"(B) combined funds that are expended in one State subject to the agreement entered into by the involved States, and which exceed what that State could have expended absent any agreement, must be found by the Secretary to provide benefits to eligible rail services within one or more of the other States which is party to the agreement.".

AMENDMENTS TO THE INTERSTATE COMMERCE ACT

SEC. 12. (a) Section 1(14) of the Interstate Commerce Act (49 U.S.C. 1(14)) is amended—

(1) by designating subsection (b) thereof as subsection (c); and

(2) by adding a new subsection (b), as follows:

"(b) The Commission may, upon petition and after a hearing on the record, and upon finding that a carrier by railroad subject to this part has materially failed to furnish safe and adequate car service as required by subsection 1(11), require such railroad to provide itself with such facilities or equipment as may be reasonably necessary to meet such obligation, provided the evidence of record establishes, and the Commission affirmatively finds, that

"(1) The provision of such facilities or equipment will not materially and adversely affect the railroad's ability to otherwise provide safe and adequate transportation services;

"(2) The expenditure required for such facilities or equipment, including a return which equals or exceeds the railroad's current cost of capital, will be recovered; and

"(3) The provision of such facilities or equipment will not impair the railroad's ability to attract adequate capital.".

(b) Section 1a(4) of the Interstate Commerce Act (49 U.S.C. 1a(4)) is amended by adding at the end thereof the following new sentence: "The terms and conditions referred to in subdivision (b) of this paragraph may include a direction, where the Commission finds it to be in the public interest to do so, awarding trackage rights to another common carrier by railroad or to a State, or a political subdivision thereof, over all or any portion of the lines of the applicant's railroad, solely for the purpose of moving equipment and crews in nonrevenue service between any lines operated by such other carrier, State, or political subdivision. In making such determination, the Commission shall consider the views of any State or other party directly affected by such abandonment or discontinuance and shall fix just and reasonable compensation, in accordance with section 3(5) of this part, for such trackage rights.".

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 13. Section 304(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744 (e)) is amended—

(1) by—

(A) striking the comma at the end of paragraph (4)(B), and inserting in lieu thereof "; or"; and

(B) adding the following new subparagraph after paragraph (4)(B):

"(C) offers a rail service continuation payment, pursuant to subsection (c)(2)(A) of this section and regulations issued by the Office pursuant to section 205(d)(5) of this Act, for the operation of rail passenger service provided under an agreement or lease pursuant to section 303(b)(2) of this title or subsection (c)(2)(B) of this section where such offer is made for the continuation of the service beyond the period required by such agreement or lease: *Provided*, That such services shall not be eligible for assistance under section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2)), as amended."; and

(2) by adding at the end thereof the following new paragraphs:

"(7) If a State (or a local or regional transportation authority) in the region offers to provide payment for the provision of additional rail passenger service (as hereinafter defined), the Corporation shall undertake to provide such service pursuant to this subsection (including the discontinuance provisions of paragraph (2) hereof). An offer to provide payment for the provision of additional rail passenger service shall be made in accordance with subsection (c)(2)(A) of this section and under regulations issued by the Office pursuant to section 205(d)(5) of this Act, and shall be designed to avoid any additional costs to the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. The State (or local or regional transportation authority) shall demonstrate that it has acquired, leased, or otherwise obtained access to all rail properties other than those designated for conveyance to the National Railroad Passenger Corporation pursuant to sections 206(c)(1)(C) and 206(c)(1)(D) of this Act and to the Corporation pursuant to section 303(b)(1) of this title necessary to provide the additional rail passenger service and that it has completed, or will complete prior to the inception of the additional rail service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services, including rail freight service and to assure that the additional service will not detract from the level and quality of existing rail passenger and freight service. As used in this subsection, "additional rail passenger service" shall mean rail passenger service (other than rail passenger service provided pursuant to the provisions of paragraphs (2) and (4) of this subsection) including extended or expanded service and modified routings, which is to be provided over rail properties conveyed to the Corporation pursuant to section 303(b)(1) of this title, or over (A) rail properties contiguous thereto conveyed to the National Railroad Passenger Corporation pursuant to this Act or (B) any other rail properties contiguous thereto to which a State (or local or regional transportation authority) has obtained access. Any provision of this paragraph to the contrary notwithstanding, the Corporation shall not be required to operate additional rail passenger service over rail properties leased or acquired from or owned or leased by a profitable railroad in the region.

"(8) The Secretary, in consultation with the Association, shall undertake a study to determine the best means of compensating the Corporation for liabilities which it may incur for damages to persons or property resulting from the operation of rail passenger service required to be operated pursuant to this subsection, or section 303(b)(2) of this title which are not underwritten by private insurance carriers or are not indemnified by a State (or local or regional transportation authority). The study shall identify the nature of the risk to the Corporation, the probable degree of uninsurability of such risks, the desirability and feasibility of various indemnification programs including subsidy offers made pursuant to this section, self insurance through a passenger tax or other mechanism or government indemnification for such liabilities. Within one year of the date of enactment of this paragraph, the Secretary shall prepare a report with appropriate recommendations and shall submit the report to Congress. Such report shall specify the most appropriate means of indemnifying the Corporation for such liabilities in a manner which shall prevent the cross-subsidization of passenger services with revenues from freight services operated by the Corporation.".

CHICAGO, MILWAUKEE, AND ST. PAUL RAILROAD, REVIEW OF

Sec. 14. The Federal Railroad Administration is required to promptly review the condition of the Chicago, Milwaukee, and St. Paul Railroad and to consider assisting the railroad in loans for roadbed and track improvement.

EFFECTIVE DATE

Sec. 14. This Act shall take effect on October 1, 1978.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Has the Senator from Nevada completed?

Mr. CANNON. Yes.

Mr. FORD. Mr. President, normally at the end of a bill such as this, and other pieces of legislation, those of us rise to compliment our colleagues. I do not want this one to seem a routine statement as to the complimentary remarks I am about to make.

I want to thank the distinguished Senator from Missouri (Mr. Danforth) for his knowledge that he displayed here today on this piece of legislation. I am pleased with his questions of the chairman and his cooperation. I want to thank him for that.

Mr. President, I want to compliment the chairman of the Commerce, Science, and Transportation Committee, the Senator from Nevada, for his patience and being always willing to sit down and try to work out problems with other colleagues.

I think that was evident on the floor today as he worked with the distinguished Senators from Montana.

I would like to thank Senator Cannon on my behalf for the time he has given me and the help he has given me in order that I might serve my colleagues better.

I want it in the Record to let others know how much I appreciate his help.

Mr. DURKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. I am not going to be long. I just want to join in the support and join in the remarks of my colleague (Mr. Ford) on all the work the chairman and the ranking member have done, and the Senators from Montana, on this very important piece of legislation.

Mr. CANNON. Mr. President, I thank my colleagues for their very kind remarks. I appreciate very much the help they have given me.

Mr. ROBERT C. BYRD. Mr. President, I, too, compliment the distinguished Senator from Nevada (Mr. Cannon) and the distinguished Senator from Missouri (Mr. Danforth) on the leadership they have provided in connection with this matter, the skill with which they have handled it, and the speed with which they have dispatched it. I congratulate them.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I thank the majority leader for his remarks. On my own behalf, I commend the managers of this bill on both sides of the aisle for proceeding expeditiously and to bring us to this point late this Saturday afternoon.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements therein limited to 5 minutes each, and that the period be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

OLDER AMERICANS ACT AMENDMENTS—CONFERENCE REPORT

Mr. EAGLETON, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12255) to amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes (95–1236).

By Mr. CHURCH, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 567. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 10587. Referred to the Committee on the Budget.

By Mr. CHURCH, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

H.R. 10587. An act to improve the range conditions of public grazing lands (95–1237).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SCHMITT:

S. 3521. A bill to amend title II of the Social Security Act to provide for annual reporting, to the employees and self-employed individuals concerned, of the amounts of the social security tax contributions made or imposed with respect to their wages and self-employment income and of the amounts of the wages and self-employment income for which they have been credited; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHMITT:

S. 3521. A bill to amend title II of the Social Security Act to provide for annual reporting, to the employees and self-employed individuals concerned, of the amounts of the social security tax contributions made or imposed with respect to their wages and self-employment income and of the amounts of the wages and self-employment income for which they have been credited; to the Committee on Finance.

THE SOCIAL SECURITY REPORTING ACT

● Mr. SCHMITT. Mr. President, I am introducing legislation today entitled the Social Security Reporting Act, which is designed to provide participants in the social security system with basic information on the status of their accounts with the Nation's retirement system. Currently, participants in social security do not receive any reports from the Social Security Administration. Social security taxes are deducted from the individual's salary, and the individual receives a W–2 form, which in the most general sense might be considered as a receipt, but there is no systematic accounting of contributions to the system either on an annual or a long-term basis.

This bill would provide each individual paying social security taxes with an annual report giving the following information:

First. The amount of taxes paid by the individual and his employer in the current year;

Second. The cumulative total taxes paid by the individual and his or her employer(s) over the individual's lifetime;

Third. The amount of total surplus or deficit in the social security trust funds; and

Fourth. A telephone number and address where individuals can gain additional information on the status of their account.

The social security system is the largest retirement program in the Nation and in the world. Over 100 million individuals are currently participating in the system, of whom approximately 34 million are dependent on social security payments for their welfare. It is highly appropriate for the Social Security Administration to provide basic information on the status of contributions to the millions of Americans who are involved in this system.

It is interesting to note that Congress has imposed extensive reporting requirements on private pension plans with the passage of the Employee Retirement Income Security Act of 1974 (ERISA). Under that act, the following information must be furnished to pension plan participants by the plan sponsor:

First. A copy of the summary plan description;

Second. A summary of any material modifications in the plan's terms and any change in certain information;

Third. A copy of the summary annual report; and

Fourth. An updated summary plan description.

These requirements amount to a very substantial body of information. If a pension plan sponsor should provide wrong or incomplete information, or if he should omit certain information, it can lead to antifraud remedies and civil penalties.

In light of the numerous reporting requirements which Congress has mandated for private pension plan administrators under ERISA, it is surprising to many to note that Congress has not mandated similar reporting requirements for the Social Security Administration. In fact, the Social Security Administration is not required to furnish individuals any information at all on an automatic basis. Although over 90 percent of all workers in this country—over 100 million persons—are covered under the social security program, and most of them are compelled to be so covered, Congress has not directed the Social Security Administration to furnish program participants with any of the information that is required of private pension plans around the country. This differing treatment is not only indefensible, but it is also contrary to the rationale for ERISA's strict reporting requirements in the first place. The ERISA Act itself reads:

> It is hereby declared to be the policy of this Act to protect . . . the interests of participants in employee benefit plans and their beneficiaries by requiring the disclosure and reporting to participants and beneficiaries of financial and other information with respect thereto. . . .

Insofar as almost all employee benefit plan participants are also covered under the social security program, and most of these persons will depend upon social security benefits for the greater portion of their total retirement income, does it make sense to mandate full disclosure for the private programs, but not for the public program? If Congress has determined that it is sound public policy to require private employers to furnish complete descriptions of their pension plan of their plan's financial condition, is it not also sound public policy to extend such disclosure requirements to the Nation's largest retirement income program as well?

The Social Security Act is one of the most complicated pieces of legislation in existence today. Yet it is also the framework for the largest retirement, disability, and survivors insurance program in our country. Virtually everyone in America is affected by the program in one way or another. Unfortunately, the level of public understanding relating to the program is frightfully poor. Rumors are rampant concerning the system's financial and benefit structures. Often, one gets conflicting information from different social security offices concerning the law's provisions. It seems as if no one, even the experts, can explain the program's operations in layman's terms.

Given the size of the social security program, it is not surprising to note that social security wage information is occasionally reported, transcribed, or filed incorrectly. None of us knows for sure whether our social security records are correct or not unless we write to the Social Security Administration and request a copy of our statement of earnings. Even then, the only information sent, after several months' wait, is the yearly record of earnings that have been credited to our account, the number of quarters of coverage required for eligibility, and the number of quarters of coverage earned to date. Nowhere are we even told what a quarter of coverage is, let alone how much money we have actually contributed to the system, how much our employer has contributed to the system, where that money is at the present time, how much effective interest—if any—our contributions earn, what our estimated benefit amount will be when we retire, how much of our contributions go toward program administration, and so forth.

The people of America deserve to know more about their social security program. It should not be incumbent upon each and every person covered under the program to write to the Social Security Administration on a yearly basis to make sure that the Government has correctly credited their account with the right amount of earnings for that year. Congress should mandate that all persons be sent a copy of their earnings record each year so that they would know how much money they and their employer have contributed to the program since their participation began and what earnings have been credited to their account for eligibility and benefit purposes. Congress should also mandate that all participants in the social security program be provided with general descriptive information concerning the program so that they understand its workings and are informed about what type of retirement security they are "purchasing" with their contributions.

While we recognize that instituting reporting requirements for the Social Security Administration will entail additional sums of money for program administration, we feel that such money will be well spent. Congress recognized the need for adequate disclosure in retirement income plans when it took the first step in 1974 by requiring private pension plan administrators to furnish plan participants with certain information so that they will be better informed about their future retirement protection from those plans. The next step must now be taken so that individuals can get "the whole picture." This can only be done in information similar to that furnished to persons covered under private employee benefit plans is provided to persons covered under the social security program.

I urge favorable consideration of this bill and ask unanimous consent that it be printed in full in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS OF FACT AND STATEMENT OF PURPOSE

Section 1. (a) The Congress hereby finds and declares that—

(1) while extensive reporting requirements have been placed on private pension plans in the Employee Retirement Income Security Act of 1974, participants in the social security system are not furnished reports with respect to their and their employers' contributions to that system; and

(2) there is widespread concern, among individuals covered under the social security system or receiving benefits thereunder, as to long-term safety and stability of the system and as to the ability of the personnel administering the system to effectively monitor the more than 100 million accounts for persons currently engaged in work covered under social security.

(b) Therefore, in order to—

(1) assure that an accurate record is kept of (A) the wages and self-employment income of each individual whose work is covered under the social security system and (B) the amount of the social security taxes which have been imposed and paid on or with respect to the wages and self-employment income of each such individual; and

(2) increase the confidence of the public in the safety and stability of the social security system,

it is the purpose of this Act to provide for annual reporting, to the employees and self-employed individuals concerned, of the amounts of the wages and self-employment income for which they have been credited and of the amounts of the social security tax contributions imposed and paid with respect to their wages and self-employment income.

AMENDMENTS TO TITLE II OF THE SOCIAL SECURITY ACT

Sec. 2. (a) Section 205(c)(2) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(D)(i) On the basis of information obtained by or submitted to the Secretary, he shall at the earliest practicable date after the close of each calendar year (commencing with the first calendar year which ends after the date of enactment of this subparagraph), but in no event later than July 1 of the next succeeding calendar year, certify to each individual who for that calendar year has received wages or self-employment income which is subject to the tax imposed by sections 3101 and 3111 or section 1401 of the Internal Revenue Code of 1954, the following information, which shall be presented in a clear and understandable form:

"(I) the individual's social security account number;

"(II) the individual's birth date;

"(III) the total amount of wages for which the individual has been credited for the calendar year, and the portions of that total paid by each employer to the individual for the year;

"(IV) the total amount of the taxes imposed (and the total amount actually collected) on the individual's wages for the year by section 3101 of such Code, with these totals being broken down to show (a) the amount of taxes paid (and the amount actually collected) for old-age, survivors, and disability insurance under subsection (a) of such section 3101, (b) the amount of taxes imposed (and the amount actually collected) for hospital insurance under subsection (b) of such section 3101, and (c) the portions of these totals which were imposed with respect to wages paid by each employer of the individual for the year;

"(V) the total amount of the taxes imposed (and the total amount actually collected) on the individual's wages for the year by section 3111 of such Code, with these totals being broken down to show (a) the amount of taxes paid (and the amount actually collected) for old-age, survivors, and disability insurance under subsection (a) of such section 3111, (b) the amount of taxes imposed (and the amount actually collected) for hospital insurance under subsection (b) of such section 3111, and (c) the portions of these totals which were imposed with respect to wages paid by each employer of the individual for the year;

"(VI) the total amount of the wages and the total amount of self-employment income for which the individual has been credited for the year and all preceding years and the total of the taxes imposed (and of the taxes actually collected) under such section 1401, such sections 3101 and 3111, and corresponding provisions of prior law, with respect to the total amounts of wages and self-employment income, with these totals being broken down to show for each year the data required to be shown in clauses IV and V;

"(VII) the total amount of self-employment income for which the individual is credited for his most recent taxable year which ends with the close of (or during) the year;

"(VIII) the amounts paid into, the amounts paid out of, and the amount of the surplus or deficit in, the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund for the latest fiscal year for which that information is available, and the projected surplus or deficit in such Trust Funds for the next ensuing five fiscal years, based upon the most recent reports of the Boards of Trustees of such Trust Funds; and

"(IX) a telephone number and address to which questions regarding the individual's accounts can be directed.".

"(ii) The Secretary of the Treasury shall cooperate with and assist the Secretary in carrying out the provisions of this subparagraph by furnishing to the Secretary on a regular basis any relevant records or information which he has or is able to obtain regarding the amount of the taxes imposed (and the amount of taxes collected) on or with respect to the self-employment income of any individual under section 1401 of the Internal Revenue Code of 1954, sections 3101 and 3111 of such Code, corresponding provisions of prior law, or with respect to payments made by a State with respect to service performed by an individual who is employed in a position covered under an agreement entered into by the State under section 218.

"(iii) For purposes of the data required to be furnished by the Secretary under clause (i), payments made by a State pursuant to an agreement entered into under section 218 with respect to service of an individual performed in a position covered by the agreement and amounts of remuneration with respect to which the payments are made shall be regarded, respectively, as taxes imposed and paid pursuant to sections 3101 and 3111 of the Internal Revenue Code of 1954 and as wages of the individual which are subject to those taxes.

"(iv) Any individual (or the survivor of any individual) who is authorized, upon request, to receive information pertaining to the individual's wages and self-employment income record under subparagraph (A) shall, upon request, be furnished the information with respect to the individual and his employment record which is required to be furnished under clause (i) to individuals to whom that clause applies.

"(v) There are authorized to be appropriated to the Trust Funds, from time to time, such sums as the Secretary determines would place the Trust Funds in the position which they would have been in if the preceding provisions of this subparagraph had not been enacted.".●

ADDITIONAL COSPONSORS

S. 2929

At the request of Mr. Hatch, the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 2929, the taxpayer's bill of rights.

AMENDMENT NO. 3241

At the request of Mr. Ford, the Senator from North Carolina (Mr. Morgan) and the Senator from Michigan (Mr. Riegle) were added as cosponsors of amendment No. 3241, intended to be proposed to S. 3229, the Postal Service Amendments Act of 1978.

AMENDMENTS SUBMITTED FOR PRINTING

MEDICAID AND MEDICARE REIMBURSEMENT REFORM ACT—S. 1470

AMENDMENTS NOS. 3629 THROUGH 3632

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HATCH submitted four amendments intended to be proposed by him to the bill (S. 1470) to provide for the reform of the administrative and reimbursement procedures currently employed under the medicare and medicaid programs and for other purposes.

● Mr. HATCH. Mr. President, I am today introducing four amendments to the proposed Medicaid and Medicare Reimbursement Reform Act, legislation which rumor suggests will be considered by the full Senate during the coming week. I intend my amendments to be applicable to S. 1470 or to the medicare-medicaid amendment to the House passed tariff measure, H.R. 5285; whichever bill comes up first.

I will be presenting a full analysis of my proposals if and when the parent bill is considered on the floor. As a preliminary explanation, however, I note that two of my amendments either clarify the effective date of or delay entirely the cost reimbursement provisions of the act. These provisions establish the date by which the Secretary as required by the bill, must determine average per diem hospital payments which will apply to all American hospitals. Regardless of the merits of this unusual grant of authority to the Secretary of HEW, as proposed in the bill, my amendments simply require that a more reasonable period of time be provided in which deadlines become less menacing and more reasonable for everyone involved.

The third of my four amendments requires that a failure to comply with a court order for child support by any Federal employee shall be grounds for that employee's discharge from Federal employment. At present, incredible as this appears, no authority exists under current law to reprimand or discharge a Federal employee who deliberately fails to meet a legal obligation to provide for child support. In the private sector, it is very seldom that a company or firm would not take some action against an employee who is also an absent father unwilling to care for his children. Certainly there is no reason why employees in the public sector should be exempt. There is no reason why the sanction of a reprimand, or even a discharge if there is a repeated failure to comply with a child support court order, should not be available to the Federal Government.

Finally, I have proposed an amendment which deletes the provision relating to the reasonable charge for physicians' services. Limiting physicians' fees in the arbitrary and unrealistic way this legislation does will in the long run run serve neither the cause of hospital cost containment, nor the quality of health care. The bill without my perfecting amendment would have a particularly deleterious effect on the practice of medicine in many urban areas where the fees are arbitrarily capped below what they should be according to the given State cost formula. Physicians' fee reimbursement under medicare has always been determined on the basis of a "reasonable charge system," and it was a promise made to physicians at the inception of the program. Since the time many of us have encouraged a program of voluntary hospital cost containment, these particular physicians' charges have been decreasing in scale and cost. To reward these efforts at economizing by "strongarming" physicians in the way this legislation does is unfair, and my amendment would return the composition of the fees section of section 7 to the original intent of the medicare legislation as first conceived and enacted.

If my brief description of the amendments I offer to the medicare-medicaid administrative reimbusement legislation suggest to you that I have many problems with the bill as it has been written, then please know that you are on target. As it presently stands, the bill would have many unfortunate consequences for patients and doctors alike. I know that I am not the only Member of this distinguished Chamber feeling this way, and I certainly hope that we do not bring up this measure for a final vote before we have a healthy and extensive debate. I, for one, intend to actively participate in such a debate. If ever there was a bill for which we ought to diagnose 40 "CC's" of deliberation and debate, this is it.

Mr. President, I ask unanimous consent that the text of my amendments be printed in the Record.

There being no objection, the amendments were ordered to be printed in the Record, as follows:

Amendment No. 3629

Strike out beginning on page 27, line 12, through page 31, line 2.

Redesignate sections 8 through 35 as sections 7 through 34, respectively.

Amendment No. 3630

At the end of the bill add the following new section:

FAILURE OF FEDERAL EMPLOYEE TO PROVIDE COURT ORDERED CHILD SUPPORT

Sec. 47. (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"FAILURE OF FEDERAL EMPLOYEE TO PROVIDE CHILD SUPPORT

"SEC. 463. Notwithstanding any other provision of the law, the failure of an employee of the United States or the District of Columbia (or any agency, subdivision, or instrumentality thereof) to provide child support (as defined in section 462(b)) for which such employee has a legal obligation, shall be grounds for a reprimand of such employee, and if such failure continues for an unreasonable period of time after such a reprimand, shall be grounds for the removal from employment."

AMENDMENT No. 3631

On page 5, line 10, strike out "1979" and insert in lieu thereof "1980".

On page 7, line 3, strike out "1979" and insert in lieu thereof "1980".

On page 7, line 23, after "payment" insert ", for any accounting year beginning on or after July 1, 1980,".

AMENDMENT No. 3632

On page 7, line 23, after "payment" insert ", for any accounting year beginning on or after July , 1979,".●

CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS—S. 1393

AMENDMENTS NOS. 3633 THROUGH 3635

(Ordered to be printed and lie on the table.)

Mr. MORGAN submitted three amendments intended to be proposed by him to the bill (S. 1393) to authorize actions by the Attorney General to redress deprivations of constitutional and other federally protected rights of institutionalized persons.

CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS—H.R. 9400

AMENDMENTS NOS. 3636 THROUGH 3644

(Ordered to be printed and lie on the table.)

Mr. MORGAN submitted nine amendments intended to be proposed by him to the bill (H.R. 9400) to authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution or laws of the United States.

SENATE RESOLUTION 567—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. CHURCH, from the Committee on Energy and Natural Resources, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 567

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of ————————. Such waiver is necessary because the bill would authorize expenditures of $15,000,000 in addition to the range management budget of the Bureau of Land Management for fiscal year 1979. The program's likely budgetary effect would be to raise the range management budget item of the BLM by $10,000,000 in fiscal year 1979. The committee's 1979 fiscal year report to the Committee on the Budget submitted in March 1978, (Pub. No. 95–95) stated that S. 2475, the companion legislation to H.R. 10587, would likely pass. That report outlined the likely budgetary impact through fiscal year 1983 that would result from enactment of the legislation. H.R. 10587 did not pass the House until July 10, 1978. Committee consideration of the legislation was deferred because of the committee's consideration of other priority legislation, including the Alaska National Interest Lands Act, the ("d-2" lands bill) and continuing consideration of the National Energy Act which required a substantial amount of the committees attention.

ADDITIONAL STATEMENTS

BLACKBOARD TYRANNY

● Mr. HATCH. Mr. President, while the tax revolt which sweeps the Nation today continues, and more and more Americans become politically active, there is yet another movement which is beginning to gain strength. This new revolt is powered by those parents who are concerned about the quality of education which their children are receiving. This movement, and the nature of the educational programs which have aroused it, are the subject of an important new book. The study is Connaught Coyne Marshner's "Blackboard Tyranny," published by Arlington House and containing a foreword by Congressman ROBERT K. DORNAN.

Mrs. Marshner, a former teacher and mother of two, finds that many parents across the Nation are becoming perturbed by the substandard and nontraditional nature of the education which is being given to many students in the American public schools. Among the major concerns she cites are a lack of discipline and study requirements, and teachers who are both unprepared in the subject matter and unconcerned about their pupils' mastery of content. She also finds that parents are upset about social promotion policies which disrupt intellectual progress, subjective grading systems which do not prepare the child for a world of objective standards, and a general trend toward "faddism" which has banished the basic "3 R's" from the classroom. The results of these deficiencies, as extensive testing has revealed, are that the graduates of American public schools are below their proper age level in reading ability, and occasionally even illiterate; they are below par in mathematical computational skills, exhibit a poor attitude toward learning and society in general, and are often unqualified to assume useful roles in a modern, technologically oriented culture.

Mrs. Marshner documents as well the factors which have hurt the students. One of these is what she characterizes as self-serving teachers unions and associations which often seem more interested in their members' salaries and job security than in the welfare of the students. An example of this is the United Federation of Teachers, whose past strikes over financial considerations have taken children out of the classroom for extended periods of time.

The book also describes how governmental intervention with actions of noneducational intent have interfered with the learning process. Such acts include the busing of students, the banning of prayers in school, and the imposition of specific textbooks which may offend regional customs and morality, as occurred in the Kanawha County, W. Va. case which came to national attention in 1974. In these instances governmental decisions, at local and national levels, have caused such furor and raised such concern among parents over the welfare of their sons and daughters that the learning process in the schools was greatly hindered.

The author's answer to this dissatisfaction is for parents to come together to change the situation. As she states, "parents are an interest group, just as much as longshoremen or firemen," and working together they could wield just as much power. Accordingly, the latter chapters of the book are a guide to the formation of parents' groups and to how these can be used to influence policy. Detailed information is given on how to write a newsletter, set up a table of organization, and approach the mass media and public officials with cogent and coherent arguments.

I hope that parents all over the country will read "Blackboard Tyranny." Not only will they then perceive the depth of the problem, but they will have a much needed manual for action. The book is one of the tools which will allow parents to mobilize in order to rectify a situation that is rendering our next generation unskilled, unlearned, and unproductive, and again develop schools aimed toward knowledge instead of behavior modification. Only such a sound educational system will provide the leaders and solid citizens which America will need for a promising and strong future.

Proposition 13 has shown one thing clearly: that voters are prepared to take matters in their own hands when they become convinced that the Government is unresponsive to their needs. The position of the average American on the type of education which he wants for his children is clear. I hope that in debating pertinent legislation the Congress will take heed of his concerns rather than let this become one more issue increasing our citizens' alienation from their Government and moving them to take matters into their own hands.●

MUSEUM OF AFRICAN ART

● Mr. MORGAN. As a Regent of the Smithsonian Institution, as well as a cosponsor of S. 2507, the bill authorizing the Smithsonian to acquire the Museum of African Art, I would like to take this opportunity to commend the distinguished senior Senator from Rhode Island for his extraordinary effort on behalf of this legislation. His lifelong interest in and experience with museums has provided him with unique perspectives on their problems and their possibilities, and served him extraordinarily well in this instance.

After examining various aspects and elements of this legislation in his capacity as chairman of the Committee on Rules and Administration, the distinguished Senator raised the question of an appropriate home for the museum and helped to focus a continuing discussion of that issue. It is he who initially recognized that as a unit within the Smithsonian Institution and a musem of national stature, the Museum of African Art would ultimately require a home more adequate than its quarters near the Capitol.

As a direct result of his concern the staff of the Smithsonian has already undertaken efforts to explore new locations for the Museum of African Art closer to the center of the Institution's existing operations on the mall. Several potential sites have been visited and their long-term possibilities are currently being explored. By letter to the chairman of our Committee on Rules and Administration, the Secretary of the Smithsonian, S. Dillon Ripley, has advised of these efforts and made a commitment to report regularly to the Congress on activity to relocate the Museum in consonance with the growth of its collections programs. My own associations with the Smithsonian have provided ample evidence that this effort will continue to be one of high priority, and I look forward to working toward the goal the Senator has so admirably set for us.

Again, may I express to him my personal appreciation and that of the Institution for his knowledge and foresight. I share his view that given the efforts already underway and the commitments that have been made, it seems appropriate to accept the amendments to S. 2507 made by the other body, and to forward this legislation to the President for his approval.●

THE GREAT FREDERICK FAIR

● Mr. MATHIAS. Mr. President, for more than a century high standards for agriculture and animal husbandry have been set by the farmers who bring their crops and livestock to the Frederick Fair. Each year a desire for excellence stimulates Maryland's farmers to attempt to best the records of previous years in both quality and quantity. The results of the skill and work can be measured at Frederick, Md., when the Great Frederick Fair is opened.

Today's Baltimore Sun reports on this year's fair and I ask that the article be printed in the RECORD.

(See exhibit 1.)

If the Senate pursues its work diligently today so that we can all leave the Capitol at a reasonable hour, I urge all Senators to spend the afternoon at the Great Frederick Fair.

EXHIBIT 1

SMOOTH-SHOULDERED BEAUTIES PARADE PAST JUDGES AT FREDERICK COUNTY FAIR

(By Robert Ruby)

FREDERICK.—The beauty queens were strutting their stuff yesterday at the Frederick County Fair, showing off trim, smooth shoulders, pleasantly full chests and what connoisseurs of good looks know to be good legs.

First came the dairy cows, then lumbering beef cattle, hens and cocks and finally grunting swine.

"You look for something stylish," said 17-year old Mike Moore, of Mount Airy, Md., looking over the passing parade. "You have to sort of imagine what they're going to look like later."

So it went for the 116th year at Maryland's oldest county fair and the one with probably the best known livestock shows. Before it ends tonight, fair officials expect more than 120,000 persons to come to the 64-acre fairgrounds.

More than most other fairs, the Frederick event retains a country flavor. Church and volunteer groups run many of the concessions. The year's prize-winning pumpkins and jams are prominently displayed in one of the seven exhibition buildings, all of them devoted to agriculture and crafts.

The Moore youth was one of more than 50 high school students from five counties trying to match their rankings of animals with choices made by adult advisers.

There were ribbons and plaques for the students consistently picking out the best members of a herd, as well as a chance to compete later in state, regional and national contests sponsored by the Future Farmers of America.

Young Moore, a senior at Damascus High School in Montgomery county, was only practicing for a regional meet. "A good judge can pick out the best animal in five minutes," said the youth, wearing blue jeans, a blue work shirt and a blue Peterbilt cap. In dairy cattle, he looks for widely spaced ribs, an udder that is high and wide in the rear and tightly drawn in front and a smoothness in the shoulders.

In judges' eyes, swine are little different. "You want to see some smoothness through the shoulders and trim jowls," said Edward Mayne, an agriculture teacher at Boonsboro High School in Washington county. "The rear half of the pig is the most important half, because that's where the ham is."

Adding to the barnyard chorus were more than 100 roosters and hens, noisily carrying on in a building nearby. Around the ferris wheels and games of chance that formed the midway, it was so crowded that it was difficult to walk.

Frederick county schools and offices were closed for the fair yesterday, making the lines even longer for rides like the Super Loop. For $1, the very brave could be strapped into a cage-like train that ran along a vertical track to leave them about 60 feet in the air and upside-down.●

JOINT STATEMENT BY MR. CLARK AND MR. CULVER ON TUITION TAX CREDITS

● Mr. CLARK. Mr. President, this is a joint statement of myself and Senator CULVER on tuition tax credits.

In recent weeks, we have been asked why we did not support the tuition tax credit bill in the Senate this year, since we had indicated support for such legislation in 1972.

We would like to take this opportunity to explain the reason.

In 1972, and before that, we felt that tuition tax credits offered a reasonable approach to the problem of helping offset the financial burden which many parents face in sending their children to nonpublic schools. We recognized then—and we recognize now—the vital contribution that nonpublic schools make to American education.

However, in 1973, the U.S. Supreme Court ruled in the Nyquist case that a New York State tuition reimbursement and tax credit plan was unconstitutional—and in our view, and the view of many others, that ruling has set a constitutional roadblock in front of Federal tuition tax credit efforts.

We feel that none of the tuition tax credit plans offered since the Nyquist decision—including the one that came before the Senate this August—is free of the same constitutional problems, and we therefore have not been able, in conscience, to support them.

We are well aware that some of our colleagues feel that we should go ahead and implement a tuition tax credit plan and leave it to the Supreme Court to rule on its constitutionality.

We would agree with that if we had a plan that seemed to have a reasonable chance of meeting the Court's constitutional requirements—a plan which offered real hope of being viable.

As Members of Congress, we have a responsibility to make that kind of judgment. Indeed, our oath of office requires us to uphold the Constitution, and we therefore have a sworn obligation to weigh the constitutionality of the measures that come before us.

And the plan that came before us in August had not met preliminary constitutional tests. The Justice Department's Office of Legal Counsel, in a March 16, 1978, memorandum, and the American Law Division of the Congressional Research Service, in a February 2, 1978, memorandum, had both concluded that this legislation suffered from the same constitutional problems as the Nyquist case plan and would be ruled unconstitutional by the Supreme Court.

We felt there was no real way we could support this legislation in good conscience under these circumstances.

We felt that it would be counterproductive to the cause of nonpublic schools to support legislation that would almost certainly fail to meet a constitutional test.

This does not mean that we have not worked to ease the financial burdens of parents with children attending church-supported nonpublic schools. We have.

In the absence of a viable tuition tax credit plan, we have instead supported expansion of the kinds of Federal assistance which the Supreme Court has ruled nonpublic schools can receive. This is assistance which directly benefits students, such as school nutrition programs, and title I programs of the Elementary and Secondary Education Act, which help students learn basic education skills.

This year, for example, the Senate increased ESEA title I funding for the next fiscal year and we supported that legislation. Approximately $315 million of the funds in this bill are earmarked for nonpublic schools.

Federal assistance like this makes a definite contribution toward holding down tuition costs in nonpublic schools by helping pay operating costs.

In fact, the Federal Government currently provides significantly more money for nonpublic elementary and secondary schools than most people realize. In fiscal year 1978, for example, according to the Congressional Budget Office, nonpublic elementary and secondary schools received $87 per student from all Federal sources, while public schools received $165.

Such aid has stood the test of constitutionality and this would appear to us the appropriate direction to take in providing equitable Federal assistance to nonpublic schools.

A few final words need to be said regarding the tuition tax credit bill considered by the Senate this year.

Constitutional problems aside, there is no question that this legislation contains several major inequities.

The way it is structured, for example, most of its assistance goes to wealthier families, instead of the lower income families who need assistance the most. A full 80 percent of its benefits would go to families with incomes of $20,000 or more. Only 20 percent would go to families earning less than $20,000.

The bill also provides substantial tax breaks to wealthy families who send their children to elite nonchurch-related prep schools, which hardly seems appropriate.

And it also provides substantial tax breaks to families who send their children to nonchurch-related private schools simply to avoid integration. Catholic schools have led the way in opposing people who are trying to use nonpublic schools to perpetuate racism, and certainly the Federal Government should not support these people either.

These, then, are our reasons for voting as we did on the tuition tax credit bill that came before the Senate this year. We fully realize the importance of this issue to our constituents, but we acted as we thought we had to act—responsibly and in good conscience. And we hope that this discussion will help you to understand our thinking.

EXTENDING RATIFICATION FOR ERA

● Mr. GARN. Mr. President, the resolution to extend the ratification deadline for the equal rights amendment, House Joint Resolution 638, may come before the Senate during the next few weeks. If it does come to the floor, I trust our colleagues will cast votes based on informed conviction, not political pressure. I know there is plenty of political pressure; I hope there is enough informed conviction.

As we might expect, there are several sides to this issue, and each side claims and will continue to claim that it has this "informed conviction" on its side. I am trying to be open to various views and conclusions and to continually inform my own convictions. I am compelled to report, however, that the more I learn the more I am convinced that House Joint Resolution 638, as presently constituted, is unfair and probably unconstitutional. Therefore, I am continuing to press for two amendments to promote fairplay and constitutional integrity: The first amendment would express the right of States to change their minds and the second amendment would require the resolution to pass by a two-thirds vote. As I have said many times, if these two amendments are agreed to I will vote for the resolution, although I will continue to have grave doubts about its constitutionality and wisdom.

In an effort to share with our colleagues some of the information that I have found particularly useful, I periodically insert material into the CONGRESSIONAL RECORD. Today, I am inserting an exerpt from an article that was coauthored by one of this century's most brilliant and renowned constitutional scholars, Edward S. Corwin. The excerpt is taken from "The Constitutional Law of Constitutional Amendment," 26 Notre Dame Lawyer 185 (winter, 1951), which was coauthored by Mary Louise Ramsey.

The exerpt that will appear in the RECORD begins on page 201 of the Corwin-Ramsey article, but before inserting it I would like to remind this body of some of the accomplishments of the late Professor Corwin.

Perhaps we are most often reminded of Professor Corwin's work by a volume that is probably in the office of every Member of Congress, the Constitution of the United States, Annotated. This indispensable reference work was edited by Professor Corwin for the 1952 edition, and his "Introduction to the 1953 Edition" still appears in today's editions. Corwin taught and lectured at this country's most prestigious universities, including Princeton, Yale, Harvard, Johns Hopkins, Boston University, and Claremont College. His books include "The Doctrine of Judicial Review," "The Constitution and What It Means Today," "Court Over Constitution," "The President: Office and Powers," and "Total War and the Constitution." This country lost a great scholar, and a man who loved the Constitution, when Professor Corwin died in 1963.

I ask to have a portion of the Corwin-Ramsey article printed in the RECORD.

The excerpt follows:

Does a state legislature exhaust its power to act on an amendment by the adoption of a resolution accepting or rejecting it? In *Coleman* v. *Miller*, Chief Justice Hughes reviewed the events leading up to the proclamation that the Fourteenth Amendment had been ratified and concluded that "the political departments of the Government dealt with the effect both of previous rejection and of attempted withdrawal and determined that both were ineffectual in the presence of an actual ratification".[53] This proposition rests upon a concurrent resolution adopted by Congress in 1868, declaring the Fourteenth Amendment operative as a part of the Constitution. That resolution included in the list of states which had ratified the Amendment the names of three—Louisiana, North Carolina and South Carolina—which first rejected and later ratified the proposal, and of two—New Jersey and Ohio—which had attempted to withdraw their earlier ratifications.[54]

Upon closer examination this legislative precedent is found to be less conclusive than the opinion of the Chief Justice indicated. There was another, quite distinct, issue involved in the dispute as to whether the Fourteenth Amendment had been duly ratified; namely, whether the seceding states should be counted in ascertaining the number of states necessary for ratification. On January 11, 1868, before any state had attempted to change its mind, either by ratifying after rejection, or by retracting its previous consent, Senator Sumner of Massachusetts introduced a joint resolution which recited that twenty-two states had ratified the Fourteenth Amendment and declared that it was to all intents and purposes a part of the Constitution.[55] A similar resolution was offered in the House of Representatives by Representative Bingham on January 13th.[56] Two days later, the Ohio Legislature voted to revoke its assent which previously had been certified to the Secretary of State. On January 31st, Sumner expressed the opinion that the attempted withdrawal of Ohio's ratification was ineffective. After stating that the "assent of the State once given is final," he went on to say that the action of Ohio was a nullity because the Amendment was already a part of the Constitution. He declared:[57]

"This amendment was originally proposed by a vote of two thirds of Congress, composed of the representatives of the loyal States. It has now been ratified by the Legislatures of three fourths of the loyal States, being the same States which originally proposed it, through their representatives in Congress. The States that are competent to propose a constitutional amendment are competent to adopt it. Both things have been done. The required majority in Congress have proposed it; the required majority of States have adopted it. Therefore I say this resolution of the Legislature of Ohio is *brutum fulmen*—impotent as words without force."

In a brief exchange with Sumner, Reverdy Johnson of Maryland voiced the tentative impression that assent could be withdrawn at any time before ratification was complete. Said he:[58]

". . . supposing the amendment not to have been adopted . . . my impression is that they can withdraw; . . . I look upon what the States do preliminary to a decision of a majority which, when made, makes the amendment proposed a part of the Constitution as a mere promise or undertaking that each will assent when the others are ready to assent, but that the day after the assent is given, or at any period subsequent to the giving of the assent, if the State assenting thinks that it has made a mistake, and that the Constitution should not be amended in the way proposed, it may withdraw its assent."

In the Senate, the Ohio resolutions were referred to the Committee on the Judiciary, which also had Sumner's original motion under consideration.[59] No further action was taken by that House until July 9th, when it called upon the Secretary of State for a list of the states which had ratified the amendment.[60] By that time the New Jersey Legislature also had voted to revoke its ratification and six additional states, including Louisiana, North Carolina and South Carolina, had ratified. On July 18th, Sherman introduced a new resolution declaring the amendment effective; this also was referred to the Committee on the Judiciary,[61] which was discharged from consideration thereof on July 20th.[62] The following day, after being changed to a concurrent resolution, it was approved in the Senate without debate and without a recorded vote. It was rushed to the House of Representatives which promptly concurred, also without debate, but by a yea-and-nay vote.[63] In this resolution, the 29 states named as having given their assent, including the five which had changed their minds, were referred to as "being three fourths *and more* of the several States of the Union."[64]

Inasmuch as Congress did not take this action until additional ratifications had been certified, it is plausible to infer that a majority did not support the view of Sumner and Bingham that the Amendment had become effective before the further ratifications or attempted withdrawals were made. The resolution adopted was not, however, inconsistent with their thesis. It also can be supported by Johnson's tentative opinion that a state's assent could be revoked at any time before ratification was complete. In the absence of committee reports or recorded debate, it is impossible to find in this legislative history an endorsement of either of the two

Footnotes at end of article.

theories advanced for declaring the amendment adopted.

In any event, the inclusion in this list of Louisiana, North Carolina and South Carolina is not decisive as to the effect of a rejection by a legislature which is admittedly competent to act on a constitutional amendment. At the time they expressed their dissent, these states were treated by Congress as being still in a state of rebellion; they were required to adopt new constitutions and to ratify the pending amendment before they could obtain readmission to the Union.[65]

That the resolution declaring the adoption of the Fourteenth Amendment was not regarded as a determination of the effect either of rejection or withdrawal was demonstrated by events attending the adoption of the Fifteenth Amendment. Again, Ohio reversed itself, this time by approving the Amendment after first voting against it,[66] while New York repudiated its earlier assent.[67] In discussing these developments on the floor of the Senate, Roscoe Conkling of New York took the position that a ratification was irrevocable but that a rejection had no legal effect whatsoever.[68] Davis of Kentucky argued that a vote by a state legislature either to reject or to ratify was final and conclusive.[69] Significantly, neither mentioned the adoption of the Fourteenth Amendment or the resolution of Congress declaring it to be in effect.

Not until two additional states had ratified, thus making it unimportant whether New York and Ohio were counted, did the Secretary of State proclaim the adoption of the amendment. His proclamation listed these two states among those which had ratified, but it also recited without comment that the New York Legislature had passed resolutions "claiming to withdraw" its ratification. Ohio's previous rejection was not mentioned.[70] Prior to the issuance of this proclamation, a resolution similar to that adopted with reference to the Fourteenth Amendment had been introduced in the Senate to confirm the Fifteenth, but it never came to a vote.[71] Without qualification, it named New York and Ohio as having ratified the latter Amendment.

The persistence of sharp disagreement as to the correct interpretation of Article V is reflected in the unsuccessful effort made at this time to pass a bill declaring that any attempted revocation of a State's consent to an amendment should be treated as null and void. The House approved such a measure,[72] which, however, died on the Senate Calendar after being reported adversely by the Judiciary Committee.[73] Earlier in the session the upper House had voted to postpone indefinitely a joint resolution of similar tenor.[74]

Looking to the merits of the issue, there appears to be nothing in the language or policy of Article V to preclude ratification at any time, irrespective of prior disapproval. The Constitution speaks only of ratification by the states; there is no reason why an unfavorable vote by one legislature should bar contrary action by its successors. The teaching of *Dillon* v. *Gloss* that ratification should "reflect the will of the people in all sections at relatively the same period . . ." lends support to the view that later retraction should also be taken into account. Likewise, if change of public sentiment is relevant, the formal action of a state withdrawing its prior consent is pertinent. What weight should be given this relevant fact would, however, be for Congress to determine.

FOOTNOTES

[53] Coleman v. Miller, 307 U.S. 433 at 449 (1939).

[54] 15 Stat. 709 (1868).

[55] Cong. Globe, 40th Cong., 2d Sess. 453 (1868).

[56] *Id.* at 475.

[57] *Id.* at 877.

[58] *Id.* at 878.

[59] *Id.* at 453, 878.

[60] *Id.* at 3857.

[61] *Id.* at 4197.

[62] *Id.* at 4230.

[63] *Id.* 4296.

[64] *Id.* at 4266. Emphasis supplied.

[65] 15 Stat. 2 (1867); 15 Stat. 73 (1868).

[66] Cong. Globe, 41st Cong., 2d Sess. 110 (1869); *Id.* at 918 (1870).

[67] Cong. Globe, 41st Cong., 2d Sess. 377 (1870).

[68] *Id.* at 1477.

[69] *Id.* at 1479. Both Conkling and Davis argued from the premise that ratification by a state legislature had the same effect as would ratification by a convention in case that method were chosen by Congress. Both assumed that ratification by a convention would be final. Davis made the further assumption that rejection by a convention would exhaust the power of a state to act on an amendment. Conkling did not meet this issue squarely.

[70] Cong. Globe, 41st Cong., 2d Sess. 2290 (1870).

[71] *Id.* at 1444, 2738, 3142.

[72] *Id.* at 5356.

[73] Cong. Globe, 41st Cong., 3d Sess. 1381 (1871).

[74] Cong. Globe, 41st Cong., 2d Sess. 28 (1869); *Id. at* 3971 (1870).●

WHAT ABOUT THE CHILDREN OF OUR MILITARY PERSONNEL?

● **Mr. SCHMITT.** Mr. President, if the Senate again considers the bill which would create a separate Department of Education, S. 991, I will offer an amendment to delete the transfer of the overseas schools for dependent children from the Department of Defense. This issue is a serious one and one which has received very little attention in the Senate.

The Department of Defense overseas dependents' schools were created in 1946 to provide elementary and secondary education for children of military personnel stationed outside the continental United States and Puerto Rico. At the present time there are 267 such schools with about 135,000 students. These schools depend on the military for numerous support services such as supplies, food services, school buses, transportation of personnel, warehousing, and so many other services.

More importantly, Mr. President, these schools serve the children of our military personnel. They meet the special needs of these children. It is not difficult to understand that children who are uprooted every 2 or 3 years and transplanted to a military base in another country would have special needs and require special consideration. Is it asking too much, Mr. President, for the United States to meet these special needs? Is it asking too much to give the children of our men and women in uniform a little special attention for the sacrifices which they are making?

There is no justification to remove this school system from the jurisdiction of the Department of Defense which has successfully administered these schools, other than attempting to justify the creation of a new bureaucracy called the Department of Education. This is, I believe, the bottom line of this transfer. We have forgotten what is best for the children. We have become obsessed with the creation of a new and an unneeded Department. To justify this Department we are attemping to transfer anything and everyone that we can. Let us look at the record.

This new Department of Education will mean more money, more personnel, and more regulation and paperwork. The transfer of the Department of Defense overseas dependents' schools will serve to increase the personnel of the new Department of Education. Let me quote from the dissenting views of Representative Leo J. Ryan in the House report on the Department of Education Organization Act:

> It is more personnel. The Department (of Education) would be increased by 9,200 people from the Department of Defense alone, just to run the overseas dependent schools. That means that over 50 percent of the personnel of the new Department of Education will be operating the first national school system! Why? Over 42 new super-grade positions would be created to administer what advocates of the change are quick to point out is "just a reorganization."

Mr. President, it is clear to this Senator that the transfer of the overseas schools for dependent children is important only to justify the creation of a new Department of Education in numbers of personnel and amount of appropriations. In addition, there will always be the temptation to use this "national school system" for experimentation in teaching methods for application to the Nation as a whole at some time in the future. I must object to allowing even the possibility that these 135,000 students will be used for bureaucratic experimentation to satisfy the whims of special educational interests rather than the desires of parents.

Mr. President, too little attention has been focused on this issue and on the issue of a separate Department of Education. One does not create Federal departments, especially in an area traditionally reserved to State and local authorities, lightly. Yet that is what we are doing. One should not jeopardize a successful program, in this case the overseas schools, for the sake of justifying some other dubious action, the creation of the Department of Education.

Mr. President, 11 members of the House Committee on Government Operations—Republicans and Democrats, liberals and conservatives—filed report on the House bill to create a Department of Education. They strongly objected to the proposed transfer of this school system to the proposed Department of Education. I ask that these additional views be printed in the Record.

The additional views follow:

ADDITIONAL VIEWS OF HON. JOHN N. ERLENBORN, HON. BENJAMIN S. ROSENTHAL, HON. JOHN CONYERS, JR., HON. CLARENCE J. BROWN, HON. PAUL N. MCCLOSKEY, JR., HON. GARRY BROWN, HON. CHARLES THONE, HON. TOM CORCORAN, HON. THOMAS N. KINDNESS, HON. ARLAN STANGELAND, AND HON. JOHN E. (JACK) CUNNINGHAM

We have particular objections to inclusion within a Department of Education of the operations and functions of Department of Defense overseas dependent schools. We concur in this conclusion with our colleague, John Erlenborn, ranking minority member of the subcommittee of the Committee on Education and Labor which has jurisdiction over Defense schools, and a cosponsor of House approved legislation which would provide Defense schools with a statutory basis.

By way of background, there are 267 overseas dependents' schools with an enrollment of 135,000, approximately 10,000 personnel, and a proposed fiscal 1979 budget of $350 million. This is comparable to the 11th largest school system in the U.S. The Office of Management and Budget reports that 77 percent of enrollment is concentrated in the European area (extending to the Persian Gulf), 20 percent in the Pacific, and 3 percent in the Atlantic.

Why do we oppose this transfer? For basically two reasons. First, the overseas schools are interwoven with the military communities abroad. Second, we do not believe a Department of Education should directly operate schools.

As to our first objection, there exists a strong relationship between DOD schools and the military. Primarily, military dependents attend these schools. It makes no sense to transfer authority over the education of these children to a Department with little or no interest in the welfare of military communities. Perhaps we should also permit the Agriculture Department to operate the House dining room because of its knowledge of food production, or include the Foreign Service within the Department because its purpose, after all, is education.

DOD schools depend on the Defense Department for a variety of services: personnel functions, warehousing, transportation of personnel and supplies maintenance, food services, and school buses. The cost of duplicating these services would be prohibitive. Cooperative agreements are possible, of course, but the administrative hurdles would be enormous. Who would arbitrate disputes between the Secretaries of Defense and Education? Should we have the Office of the President decide who is responsible for school lunch facilities in England or bus service in Okinawa? Rufus E. Miles, Jr., long an advocate of a Department of Education and familiar professionally with the DOD schools, recommended against including them, citing problems of logistical support:

"The Department of Defense has a system in being that is operated overseas where the logistical support is adjunct to its other logistic support of bases and personnel. A Department of Education would have no such logistic support, nor any other advantage that would make it wise to consider transferring the operation to a Department of Education. The costs would rise because of the need to duplicate such a support system. Again, the arguments against the operation of any schools by a Department of Education should, alone, be decisive."

Dr. Anthony Cardinale, Director, Dependents' Education, added:

"The logistical support system necessary to maintain the worldwide dependents' education program is now provided by the base commander through the military departments. To remove the budgetmaking process and budget decisions from the military department and the Department of Defense places both in an inoperative position."

Significantly, the Office of Management and Budget in initially recommending against the transfer, said:

"Problems of coordinating logistical and housekeeping support for the schools would be increased. The schools now rely completely on the military for logistical and housekeeping support. It is the most readily available and seems to be the most efficient and economic source of such support. If the schools were transferred to the Department of Education, the acquisition of these kinds of support from the military would become cumbersome and bureaucratic, and the schools would suffer as a result. A transfer would in effect be recreating, at least in part, an excessively layered structure, which is the very thing DOD is attempting to eliminate. This could require an excessive amount of time of officials in higher reaches of both departments and produce adverse effects on the attainment of goals."

Our second objection is our belief that a Department of Education should not directly operate schools. With respect to DOD schools, we would have immediately what we fear most about a Department of Education—a Federal school board. The problems of running schools on a day-to-day basis and administering national policy are incompatible. Setting criteria for grant wards is far different from setting bus routes and enforcing attendance. Centralized direction in Washington would abrogate existing responsibility now resident in base commanders in the same way that we fear local and State control over schools will be diminished.

It is entirely possible—if not unquestionably probable—that the spanking-new Department of Education would view DOD dependents as laboratory mice, encouraging, if not mandating, certain teaching practices abroad with the intention of encouraging, if not mandating, what is viewed as its successes throughout the country.

Indeed, OMB saw this possibility as an argument against the transfer:

"There is some concern that transfer would lead to intrusion in the educational programs of the schools. The schools might be viewed as an opportunity to experiment by many education staff. At least at the outset, there could be an irrepressible urge to observe, study, and tinker with the programs of the schools."

The casualties of experimentation would be the 135,000 overseas dependent studies. Consistency in curriculum and educational programs is important to any child but is particularly necessary within the context of overseas schools, where the normal tour of duty is 3 years, entailing a change in overseas schools or from overseas to a stateside school every 3 years.

Those of us who have followed the fortunes of the overseas schools know that they have been subject to some trying times within the past few years. Although those problems have been mostly resolved, the implementation of a transfer to a new agency would unquestionably threaten the educational program and ensure that more attention would be paid to bureaucratic problems than to the needs of children. The welfare and morale of our armed forces demands that we reject this proposed transfer.

For these reasons, we are convinced the transfer of DOD overseas dependent schools to the Department of Education would be an unfortunate and unnecessary mistake.

John N. Erlenborn, Benjamin S. Rosenthal, John Conyers, Jr., Clarence J. Brown, Paul N. McCloskey, Jr., Garry Brown, Charles Thone, Tom Corcoran, Thomas N. Kindness, Arlan Stangeland, Jack Cunningham●

ERA: NO TIME LIMIT ON EQUALITY FOR MEN AND WOMEN

● Mr. BAYH. Mr. President, on Friday, August 4, 1978, testimony, which "urges Congress to provide an additional 7-year period for the ratification of the equal rights amendment, as mandated by the proposed legislation, Senate Joint Resolution 134, was presented on behalf of the American Federation of Labor and Congress of Industrial Organizations before a hearing of the Subcommittee on the Constitution.

Several similar endorsements to extend the ratification period of the ERA have also been received by the subcommittee.

Each testimony submitted is a demonstration that the proposed constitutional amendment which proposes "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex" remains a profound issue with the American public and is emphatically supported by numerous groups of American citizens representative of various walks of life.

Many of these same constituents equally express their concerned opposition to any legislative action which would allow States, who have already adopted the ERA, to rescind their previous acceptance of the proposed constitutional amendment, on the basis that rescission is an entirely separate issue and it has never before been recognized by the Congress of the United States.

Therefore, Mr. President, I ask that the testimonies and attachments presented by the AFL–CIO, United Automobile, Aerospace, and Agriculture Implement Workers of America, Communications Workers of America, American Federation of Government Employees, National Association of Counties, National League of Cities, League of Women Voters, National Advisory Committee for Women, Women's Equity Action League, Council for Women's Rights, and the National Association of Women Business Owners, be printed in the Record.

The material follows:

Extending the Deadline for the Ratification of the Equal Rights Amendment

(Statement of George Meany, president, American Federation of Labor and Congress of Industrial Organizations on S.J. Res. 134, Aug. 4, 1978)

On behalf of the American Federation of Labor and Congress of Industrial Organizations, I would like to express our appreciation of this opportunity to present our views on S.J. Res. 134 which would extend the deadline for ratification of the Equal Rights Amendment. The AFL–CIO supports S.J. Res. 134 and urges Congress to provide for an additional seven-year period for ratification of the Amendment when the original seven-year period expires March 1979.

The AFL–CIO at its Twelfth Constitutional Convention held in Los Angeles, California in December 1977, unanimously reaffirmed its support of the Equal Rights Amendment and called upon its state federations and affiliated unions to redouble their efforts to secure its ratification by the states. The Convention laid out an active program of information, education, and cooperative effort with other groups supporting the Equal Rights Amendment to obtain the necessary ratifications to put the Amendment into effect.

As is well known, thirty-five states have ratified the Equal Rights Amendment; only three additional ratifications are needed. Those three have proved difficult to obtain largely because of a vicious campaign against it by such right-wing groups as the STOP ERA Movement of Phyllis Schafly, the John Birch Society and the Conservative Caucus. Misinformation, emotional rhetoric and distortion have been used wildly and recklessly to influence state legislators to oppose or hold back on ratification of the Equal Rights Amendment. These groups have even succeeded in obtaining votes to rescind earlier ratifications in three states, even though the constitutionality of these recission votes is questionable.

But while the campaign against ratification of the Equal Rights Amendment has achieved some measure of success, the campaign for it has also had its substantial successes quite apart from the thirty-five States' ratifications thus far achieved. Sixteen States have adopted Equal Rights Amendments of their own. Some States have revised their entire state legal code to conform to the Equal Rights Amendment. Title VII of the Civil Rights Act of 1964 and the Equal Pay Act of 1963, have been extended to cover public employees and many other previously unprotected groups. Changes providing for equal treatment of men and women have been made in the Social Security Act and others are contemplated. The educational opportunities and credit rights of women have been strengthened.

These succeses have made it imperative that the campaign for ratification of the Equal Rights Amendment shall be allowed to continue. Balanced against the negative efforts of the opposition to prevent ratification they suggest that the seven-year period which the Congress provided for when it adopted the Amendment was not long enough. It did not allow the necessary broad favorable consensus to develop in the face of the campaign of misrepresentation and distortion waged against it. With three states yet required for ratification, additional time would seem reasonable and required.

The AFL–CIO Executive Council considered this problem at its meeting in February 1978, and adopted a statement calling upon Congress to grant an extension of time for the Equal Rights Amendment to be ratified. This statement pointed out that ratification of the Amendment "is of crucial importance to millions of American women, especially working women," since it would "insure once and for all recognition by the American people that equality under the law is a basic freedom which cannot, and must not, be abrogated because of one's sex." The "majority of women" who favor ratification, the the statement urged, "should have sufficient opportunity to present the facts to the public and state legislators." "It would be a travesty of democratic process," the AFL–CIO Executive Council concluded, "to permit the slanderous campaign waged by right-wing extremists to block this recognition of the fundamental rights in our society."

We are aware of the arguments that have been made against extending the period for ratification of the Equal Rights Amendment. They are, we believe, without foundation. If Congress can fix a time limit for ratification of an amendment, it seems to us, it can extend that limit if it believes additional time is needed for the public to understand the issues involved in the proposed amendment.

There is no issue here of changing rules in the middle of the game. The consideration and adoption of a constitutional amendment is not a game. It is a serious business, affecting the basic rights of millions of our citizens. The people should have the time they need to render a mature and informed judgment on it; they should not be rushed by vicious campaigns that distort the basic issues, nor should they be overwhelmed by the millions of dollars that have been poured into the effort to stop ratification of the Equal Rights Amendment.

Adoption of S.J. Res. 134 by the Congress would signal the continuing concern of the legislative branch of the government that the movement for equal rights for all is not to be halted. If additional time is needed for ratification of the Equal Rights Amendment, we see no reason why it should not be provided. Nor do we see any reason to believe that provision of additional time will necessarily result in relaxation of efforts to complete ratification within the original seven-year period.

Assurance that "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex" is a basic requirement of modern-day living. It should be made part of our basic law as soon as possible; if not before March 22, 1979, when the present seven-year ratification period expires, as early in the additional seven-year period S.J. Res. 134 provides for as possible.

The AFL–CIO supports approval of S.J. Res. 134 and urges favorable action on it by the Subcommittee, the full Senate Judiciary Committee and the Congress.

PSSU,
September 8, 1978.

MEMBER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: The Pennsylvania Social Services Union, Local 668, SEIU, AFL–CIO, is a statewide union local in Pennsylvania representing 12,000 workers in jobs performing social and rehabilitation work, and equal rights protection. An inherent ideal of our members, both in the work they do and in their own lives, is the belief in equal rights and equal representation for all United States citizens.

It is the elected representatives of these members who have passed ERA resolutions, have been actively pursuing passage of the ERA through letter-writing campaigns, lobbying in Washington, and participating in ERA demonstrations, and who are continuing to press for the ERA extension.

We believe the ERA to be a human rights issue which affects *all* Americans—men, women and children—economically, socially and politically. We believe to support ERA and ERA extension legislation is an admission that the inequality which has existed between the sexes should not continue, and that more than half of our citizens are not second class citizens because they are women.

We believe that you feel we are all equal, as well.

With these thoughts in mind, we hope that you will support ERA extension legislation with your vote in the Senate. Only if there is an extension can ERA *be* ratified, only if ERA *is* ratified will there be equal protection for all regardless of sex.

Our 12,000 workers in Pennsylvania *urge* you to vote in favor of ERA extension, not with crippling amendments, but simply for the additional time needed to secure passage in three additional states.

We also ask that you commit yourself to voting for cloture, should a filibuster be attempted on this important human rights issue. The ERA extension won a strong victory in the House of Representatives, we hope our U.S. Senators will not misrepresent the views of the same constituents.

Please vote yes on extension, and yes on cloture to end a filibuster on the issue.

Thank you for taking the time to consider our views, and the feelings of the 12,000 citizens we represent.

Sincerely yours,

JANE PERKINS,
Secretary/Treasurer.
ANDREW L. STERN,
President.

SEPTEMBER 19, 1978.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: The American Federation of State, County and Municipal Employees, AFL–CIO urges your support of the resolution to extend the deadline for ratification of the ERA as it passed the House without any crippling amendments.

The need for the equal rights amendment is still as appropriate today as when it passed the Senate by a vote of 84 to 8 and the House by a vote of 354 to 23 in 1972. Even a cursory examination of the current political, legal and economic situations illustrates the issue's vitality and timeliness.

Since a deadline for ratification is not contained in the amendment itself, Congress certainly has the power to extend the time limit and should do so. We strongly urge you to support the extension, and in the event of a fillibuster attempt, we urge you to vote to cut off debate so that this critical and fundamental legislation may be decided.

There can be no time limit on equality. A vote for the extension is a vote for human rights. Once again, we urge you to support the extension, without any amendments.

Sincerely,

WILLIAM B. WELSH,
Executive Director for Governmental Affairs, American Federation of State, County and Municipal Employees.

SEPTEMBER 1, 1978.

DEAR SENATOR: The UAW supports most emphatically the proposed extension of the time period for ratification of the Equal Rights Amendment, and urges you not only to support the extension but to indicate now to the Senate leadership your willingness to vote for cloture when the extension legislation is considered.

Were it not for the insidious campaign of mistruths that has been waged against the ERA, it would not be necessary to seek the ratification extension. Indeed, if the American people had the opportunity to learn what ERA really is—a simple yet crucial step toward human rights—without the phony issues of co-ed toilets and the like, we are confident ratification by 38 states would come quickly.

Unfortunately, the issue has been clouded by the nature of the anti-ERA campaign, and the approach of ratification deadline argues for the proposed extension. There is nothing in the Constitution, nor in almost 200 years of history surrounding Constitutional amendments, to suggest that the Congress may not, by majority vote, change the deadline for ratification of a proposed Constitutional amendment.

In addition, the nation that has been advanced that states be permitted to rescind ratification of a proposed Constitutional amendment has no foundation in Constitutional history. To permit states to rescind ratification resolutions would be to mock the ratification process and create turmoil during the ratification procedure for this and other proposed amendments.

The UAW urges you to state promptly your support for cloture so the Senate may act on this issue, your opposition to permitting states to rescind their ratification and, of course, your support of the extension of the deadline for ratification of the ERA.

Thank you.

Sincerely,

HOWARD G. PASTER,
Legislative Director.

AUGUST 8, 1978.

Hon. BIRCH BAYH,
Chairman, Subcommittee on the Constitution, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Communications Workers of America (CWA) takes this opportunity to again assure you of our support for S.J. Res. 134, which would extend the deadline for ratification of the Equal Rights Amendment for an additional seven years.

CWA, with more than half of its membership made up of women, was one of the first labor unions to come out in support of the ERA. We have fought in every state of the union for its ratification. And most recently, we have adopted a policy prohibiting any national meeting of our union in a non-ERA ratified state.

At our recent Annual Convention held in June of this year in San Francisco, we reaffirmed our support for the ERA. Attached is a copy of that resolution, which we hope you will make part of your hearing record on S.J. Res. 134.

Sincerely yours,

GLENN E. WATTS,
President.

RESOLUTION 40A-78-2—EQUAL RIGHTS AMENDMENT

Our 34th Annual Convention in 1972 soundly endorsed the ratification of the Equal Rights Amendment, becoming one of the early major groups supporting the necessary drive for approval by at least 38 State Legislatures, so the Amendment can become part of the United States Constitution.

On a nationwide basis, we have worked with many other groups to secure State ratification. As of today, 35 States—3 short of the minimum—have ratified. The deadline set by the Congress was 7 years beginning on March 22, 1972, when the final action was taken on Capitol Hill.

In February 1978, the Executive Board of the Communications Workers of America acted to exert this Union's maximum economic pressure on the 15 States which have failed to ratify the Equal Rights Amendment. The Board motion stated:

"MOVED: That CWA Conventions be held in states that ratified the Equal Rights Amendment to the Constitution of the United States of America, and that the President of CWA give due consideration to the ratification situation as other meetings of CWA are planned."

The 15 "holdout" States are Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Louisiana, Mississippi, Missouri, Nevada, North Carolina, Oklahoma, South Carolina, Virginia and Utah.

In reviewing the targeted States, we have the votes but strong opposition from leaders of the Legislatures in some States. In others, we must await the hoped-for replacement of key "anti" members after the 1980 elections. We must now realistically anticipate the expiration of the 7-year ratification period. Legislation to extend the ratification period is now pending in the Congress.

Opponents of the Equal Rights Amendment are trafficking nationally in the myth that the 7-year period for ratification by the States is some kind of holy writ. The facts are that of the 27 Amendments, only 5—the 18th, 20th, 21st, 22nd and the 27th "Equal Rights" Amendment currently pending—had time limits of a uniform 7 years set for ratification.

Opponents contend that the present moves to extend the ratification period amount to "tampering" with the Constitution. Article V of the Constitution; the amendment article, sets no time limit for ratification. Some opponents believe the pending extension legislation would set a "frivolous precedent" by setting "new rules to the game." We believe Equal Rights cannot be associated with the term "frivolous."

Resolved: That this 40th Annual Convention of the Communications Workers of America join with the AFL-CIO and other groups in support of the extension legislation; be it also

Resolved: That CWA, its Districts and Locals continue the educational campaign to cause major groups to shift meetings out of the 15 unratified States, so the clearest possible message—the economic one—may shine through.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, SEPTEMBER 1978—EQUAL RIGHTS AMENDMENT

AFGE will reaffirm its support for the ERA and support passage of legislation to extend the deadline for ratificaion of the amendment. In supporting the economic boycott of States that have failed to ratify ERA, the union will not hold national conventions in such States during any extension for ratification granted by Congress.

SEPTEMBER 11, 1978.

Hon. BIRCH BAYH,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BAYH: The National Association of Counties (NACo), which represents 1725 counties in the United States, has publicly supported the ratification of the Equal Rights Amendment since July 1974. We support the ERA extension as a necessary step in the ratification effort.

NACo urges your support for the extension and opposes any crippling amendments such as rescission. In the event of a filibuster attempt, we urge you to vote for cloture.

We welcome your support for the passage of this important human rights issue that affects every American citizen economically, socially, and politically.

Sincerely,

BERNARD F. HILLENBRAND,
Executive Director.

AUGUST 4, 1978.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The National League of Cities strongly urges you to approve the extension of the deadline for state ratification votes on the Equal Rights Amendment. The Board of Directors of the National League of Cities reaffirmed its support for the ERA at its July 14-15 meeting, and agreed that the issue was too important to be put to rest next March.

City officials are committed to the principle of equal treatment of women and are convinced that the ERA is needed if that principle is to be guaranteed in practice. If NLC can be of any assistance in accomplishing this goal, please let me know.

Sincerely,

ALAN BEALS,
Executive Director.

MEMORANDUM

SEPTEMBER 19, 1978.

To Members of the United States Senate.

From Ruth J. Hinerfeld, President; Nancy Neuman, Action Chair.

Re extension of the Equal Rights Amendment Ratification.

The foremost goal of the members of the League of Women Voters of the United States is ratification of the Equal Rights Amendment. Our members in all fifty states, Puerto Rico, the Virgin Islands and the District of Columbia have pledged their time and efforts towards securing ratification. Just this past year we have raised over $1 million to be spent towards the goal.

In line with our support for ratification efforts is our support for the proposal to extend the time limit for ratification. The debate on the ERA is as lively today as it was the day Congress passed the resolution in 1972. Congress must not cut off this crucial dialogue around the country.

We urge you to vote "yes" on the bill, H.J. Res. 638, as passed by the House of Representatives, to extend the limit for ratification. In addition, we ask that you vote "yes" on cloture on the first round so that the issue may receive a vote in the Senate this session.

We strongly oppose and urge you to oppose any attempts to add language to the bill authorizing rescission. Constitutional scholars have testified before the House and Senate this year that to make a decision about rescission at this time would be "premature, misleading and not binding on a future Congress." The rescission issue should be decided by the Congress in session at the time thirty-eight states have ratified.

SEPTEMBER 19, 1978.

Hon. JAMES O. EASTLAND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EASTLAND: On March 22, 1972 the United States Senate voted 84 to 8 to approve the Equal Rights Amendment to the Constitution. For that historic action, we thank you.

By its overwhelming vote, the Senate showed its commitment to justice and equal rights, responsibilities and opportunities for American women, as well as its recognition of the need to end the pervasive legal discrimination against women that still persists.

This is also the commitment of the National Advisory Committee for Women, which includes representatives of major women's organizations and constituencies in our nation.

In the six and a half years since Congress approved the Equal Rights Amendment, 35 of the 38 required states have voted to ratify the Amendment. Three-fourths of the American population live in those states, and in a number of the remaining non-ratifying states, polls reveal majority support for the Amendment. Nationally, polls have shown repeatedly that a majority of Americans favor the ERA. The Amendment also has the support of the Administration, the Democratic and Republican Parties and more than 200 national organizations, representing a cross-section of Americans.

Clearly, the ERA remains a timely national issue of concern and importance to the American people. It is within sight of final ratification. Yet, because of state legislative time schedules and political realities, it is almost certain that favorable votes in three additional, states cannot be achieved by the original March 22, 1979 deadline set by Congress in its joint resolution approving the ERA.

Most state legislatures have adjourned for the remainder of this year. It is unlikely that legislatures convening in 1979 will have sufficient time to consider and act on the Amendment in the very short period before the existing deadline. Moreover, time is required for the democratic electoral process to make its influence felt in changing the anti-ERA position of some state legislators or the composition of some legislatures. It is a shocking fact that in the past year, ratification of ERA was blocked in three states by the votes of a total of only 20 legislators.

With just a handful of votes remaining as an obstacle to inclusion of fundamental human rights for women in our Constitution, it is imperative that Congress act to provide the additional time needed to carry out the mandate of the American people for equality of women.

The National Advisory Committee for Women, therefore, favors speedy Senate passage of a resolution, already enacted in the House, to extend the ratification period beyond the March 22, 1979 deadline, without provision for rescission by the states, without requirement of more than a simple majority of Senators present and voting, and without delaying tactics threatened by a few Senators.

Because the National Advisory Committee just recently held its first organizing meeting, it takes this opportunity to inform members of the Senate of its position. Further, the Committee has encouraged the President to continue his dedicated efforts on behalf of the Equal Rights Amendment.

If the Senate fails to approve the extension resolution, the issue will not go away. Instead, the entire ratification process will begin anew, taking up the valuable time of the Senate and House, the state legislatures and the electorate for an avoidable repetitive exercise.

More important, failure of the Senate to provide the practical means for ratification of the ERA within the next few years will be widely interpreted as a reversal of the Senate's stand in favor of equal rights for women. It will be seen nationally and internationally as a rejection of the most basic of human rights for more than half the population of the United States.

The Senate has a major responsibility to help overcome two centuries of neglect and discrimination directed against women. The National Plan of Action adopted at the Congressionally-mandated National Women's Conference last year shows a lengthy agenda of issues affecting women that awaits consideration and action.

At the heart of that agenda is the Equal Rights Amendment. Its ratification is needed to provide a clearcut and permanent Constitutional basis for action to end discrimination against women. The U.S. Supreme Court has consistently refused to treat sex discrimination as inherently suspect under the 5th and 14th Amendments to the Constitution. In 1977, the U.S. Civil Rights Commission found more than 800 gender-based references in the U.S. Federal Code. In 1978, the same Commission reported that women have made little progress in approaching economic equity with men.

Although some gains in eliminating sex bias have been made in Federal and state laws, much discriminatory legislation remains on the books. A case-by-case approach is costly and time consuming and fosters polarization. A clear national mandate is essential to equity, and that is what the ERA would permanently engrave in our Constitution.

In favoring extension of the ERA ratification period without crippling amendment, the National Advisory Committee for Women is convinced of the constitutionality and necessity for such action. We refer you to the legal arguments set forth in the Senate and House hearings, in Justice Department memoranda, and in statements by such leading Constitutional authorities as Professors Jerome A. Barron (George Washington University), Paul Brest (Stanford University), Norman Dorsen (New York University), Thomas Emerson (Yale University), Ruth Bader Ginsburg (Columbia University), Kenneth L. Karst (University of California) and Laurence Tribe (Harvard University).

To summarize the main legal arguments:

The seven-year limitation on ratification is a procedural not a substantive matter. Article V of the U.S. Constitution sets forth no specific time limit within which ratification by three-fourths of the several states must take place. The first seventeen Amendments and the 19th Amendment were ratified without any time limit imposed on the process. The seven-year limitation, a purely arbitrary time limit, is not part of the Equal Rights Amendment adopted by the ratifying states even though discussed in debate or included in the proposing language. It was included in the 18th and subsequent amendments introduced to insure the viability and relevance of such amendments. The ERA is clearly viable, relevant and contemporaneous, as much so as if it were to be ratified in 10 years as in seven years.

There is no language in Article V of the Constitution that allows for rescission. Article V provides only for the positive act of ratification. All legal and historical precedents are against permitting rescinding a ratification vote. Congress disallowed rescission in connection with the 14th, 15th and 19th Amendments and the U.S. Supreme Court upheld Congressional authority to do so in its opinion in *Coleman* v. *Miller* (1937). The weight of opinion of Constitutional authorities is that rescission votes would not be binding on the ratification process.

A simple majority vote in each House is sufficient to extend the ratification period under Article V. The Constitution is explicit in describing those situations in which a two-thirds vote is required; in all other cases, a simple majority suffices. When an amendment to the Constitution is proposed, a two-thirds vote is needed. Extension (or removal) of the time limit requires only a simple majority vote. This interpretation of Article V has been consistently followed by Congress since the Constitution was adopted.

In sum, constitutional authorities agree that: the language of Article V itself, the Supreme Court decisions interpreting that article, the Congressional precedents, and the procedural nature of the time limitation, which is set forth in the preambular portion of the Joint Resolution proposing the Equal Rights Amendment rather than the proposed amendment itself, all indicate that Congress can extend the ratification period by a joint resolution approved by majority vote of the members of each House of Congress present and voting.

We deeply appreciate your giving time to consideration of views of the National Advisory Committee for Women on this enormously important national issue.

Sincerely,

Carmen Delgado Votaw,
Bella S. Abzug, *Cochair*.

September 14, 1978.

Dear Senator: Women's Equity Action League urges you to VOTE YES on the proposal to extend the time limit for ratification of the Equal Rights Amendment, in the form passed by the House of Representatives. The ERA is the most important human rights issue since the 14th Amendment and the women's suffrage 19th Amendment.

It is essential that this profound issue be placed upon the Senate calendar, and voted upon by the Senate. VOTE YES FOR CLOTURE ON THE FIRST ROUND to end a filibuster and ensure a vote on the extension resolution.

VOTE NO ON ANY RESCISSION AMENDMENT. Rescission is an entirely separate and distinct issue. Rescission is not authorized in the Constitution and has never been recognized by Congress before.

Extension of the time limit is a procedural matter which requires only a majority of Congress. VOTE NO ON THE AMENDMENT TO REQUIRE A ⅔ VOTE.

A vote for the extension is a vote for equal rights. There can be no arbitrary time limit on equality.

Sincerely,

Cristine Candela,
National President.

September 16, 1978.

Dear Senator: The membership of Council for Women's Rights (CWR) has requested that I contact you about H.J. Res. 638. the extension of the time for ratification of the Equal Rights Amendment, which the House of Representatives recently passed by a substantial majority.

When the Equal Rights Amendment was originally introduced in 1923, it had no time limit for ratification. The seven year limit was attached (despite our protests) to appease Senator Sam Ervin and Congressman Emanuel Cellers.

You will be asked to vote on four crucial issues.

1. A filibuster has been promised. This would be disastrous not only to the cause of women's equality but to the Senate itself. There is little time to finish other critical business in this session. We ask that you vote yes for cloture.

2. H.J. Res. 638 requires only a simple majority vote. It is not a constitutional amendment, but a change in the preamble of the resolution that sent the Equal Rights Amendment to the states, and it does not require a two-thirds vote. Please vote no on any action to require a two-thirds majority.

3. Although there has been much debate about allowing rescission if the extension is granted, this is clearly not a valid issue. Only the Congress sitting when the 38th state ratifies can vote on this matter. We ask that you vote no on any rescission amendment.

4. Finally, you will be asked to vote on the extension itself. The Constitution leaves the question of timeliness to the discretion of Congress. The Equal Rights Amendment is an issue that is viable and that deserves further time for debate. In one state legislature, it has never been released from committee and never debated on the floor. We believe that this violates the constitutional process. It is a matter of grave concern that a handful of legislators in any state can so easily block the passage of this critical amendment. Please vote yes on the extension of time for ratification of the Equal Rights Amendment.

In 1972, a majority of the Senate voiced a strong commitment to equal rights and justice for women. Your votes on the above issues will reassure women across the country that you are genuinely concerned about the fact that women still do not have the protections that the Constitution grants to male citizens at birth.

Sincerely,

Barbara Evans Crawford.

Dear Senator: The National Association of Women Business Owners strongly supports your affirmative vote on H.J. Res. 638, extending the time limit on passage of the Equal Rights Amendment. We feel this bill is vital to all women in business and the only real, viable way to assure their entrance into the mainstream of both government and private business.

When this bill reaches the floor, we urge you to vote Yes on the Equal Rights Extension; Yes for cloture to end the filibuster threatened by the opponents of the bill; No on the amendment requiring ⅔ vote (Yes, on majority vote) and No, on the rescission amendment.

The National Association of Women Business Owners views this issue as one of human rights. There is no other way to look at it. While arguments both for and against the extension amendment have reached passionate proportions, The Equal Rights Amendment stands for the equality that so many Americans have been denied for too long.

We are counting on your support.

Sincerely,

Carol J. Raykowski,
Director.●

NATURAL GAS PRICING

● Mr. NELSON. Mr. President, almost 18 months ago as part of a comprehensive energy program, President Carter proposed a reasonable compromise to resolve the 40-year controversy over natural gas pricing.

The President's natural gas recommendation consisted of three basic proposals. First, a reform and simplification of the massive amount of bureaucratic redtape that is involved in setting natural gas prices.

Second, an extension of Federal price controls and mandatory allocations to the intrastate market.

Third, the establishment of one national price for new natural gas. The price of new discoveries would be calculated at the Btu equivalent of new domestic oil, approximately $1.75 per Mcf in April 1977. The costs of inflation would then be passed through to the consumer on a regular basis. This carefully balanced approach provided adequate protection to the consumer and adequate economic incentives to the producer.

President Carter's natural gas program contained one common theme, one fundamental principle that must be contained in each and every piece of energy legislation enacted by the Congress, the concept of equitable burden sharing, of spreading the necessary hardships as evenly as possible across the Nation. The administration's original natural gas program allowed adequate economic incentives for industry. Prices would certainly go up under the White House plan; however, the consumer in exchange for higher prices, would receive gas from the intrastate market; the consumer would be protected by a price ceiling; and the consumer would know that in times of national shortage each and every sector of the economy and of the Nation would be treated exactly alike.

The House of Representatives passed this plan but the Senate, on October 4, 1977, rejected the administration's legislation by four votes on a rollcall vote of 50 to 46. The Senate then adopted a bill to totally deregulate the price of natural gas over a 7-year period.

H.R. 5289, the natural gas conference report that the Senate has before it today, is an attempt to reconcile two irreconcilable positions. It is a hodgepodge of complex and detailed language that comprises a legislative program which totally rejects the President's original recommendations.

First, H.R. 5289 does not simplify the natural gas regulatory process. The conference report complicates and muddies an already difficult situation. At least 300 new Federal bureaucrats and $10 million would be needed to enforce the conference report and the possibility exists that an additional 500 Federal employees, a total of 800 people, may be needed to implement this new language.

Second, for all practical purposes this bill does not regulate the intrastate natural gas system. The four States that produce over 90 percent of the Nation's gas will continue to be exempt from regulation.

Third, rather than placing a price ceiling on the cost of new natural gas as advocated by the President, H.R. 5289 imposes a pricing mechanism that actually sets a floor for the pricing of new natural gas. Under this bill, the price of natural gas will double by 1985. Producers will earn tens of billions of dollars, yet consumers may only receive between 3.5 and 5 percent more gas than would normally be expected to come on line if this bill becomes law. Moreover, while interstate consumers will share the burdens of the increased prices, they will not share any of the gas from the intrastate system in times of shortage.

ECONOMIC INCENTIVES

Proponents of the legislation argue that still higher natural gas prices are necessary to encourage additional exploration and development. This argument is not supported by the facts and is refuted by administration economics and energy experts.

Since 1970, the price, the controlled price of natural gas, has increased 1,608 percent. Exploration has increased significantly because of these higher prices. For example, drilling is up 130 percent since 1972. All available rigs are at work. Almost 12 trillion cubic feet of gas were discovered last year alone, 58 percent more than the previous year, the highest level of new discoveries since 1968.

The current price for controlled gas of $1.54 per Mcf is very generous. It is designed to allow at least a 15-percent rate of return on invested capital after taxes. The average rate of return for business is 10 percent with heavy manufacturing averaging 8.5 percent. Profits throughout the industry are at the highest levels in history.

Additional incentives from the consumer's pocketbook are not needed.

It seems to me, however, that the question of pricing is of secondary importance to the basic issue of fairness. The American public would pay higher prices for natural gas if they were sure they were not being gouged by the industry. They would pay the higher prices if they were sure that all sectors of the economy and all sections of the Nation were sharing equally in the costs and benefits of the program.

EQUITABLE BURDEN SHARING

If in the spirit of moving together to solve a common problem, consumers and consuming States agree to pay higher prices for natural gas, what then are producers and producing States willing to concede to the consuming public? Nothing.

The mandatory allocation provisions of the conference report discriminates against interstate industries and residential consumers of natural gas. If we are faced with a severe winter, and there are shortages of natural gas in one or two regions of the country, H.R. 5289 stipulates that only States like Wisconsin, States that receive gas via interstate pipelines, will be forced to send their gas to the worst hit areas. The intrastate system will not have to do one thing to help ease the Nation's burden if the conference report becomes law.

Furthermore, the conference report provides that only interstate pipelines will have to establish a priority allocation program in anticipation of shortages. In other words, Wisconsin and other consuming States will have to decide which industries and factories are closed and how many people are laid off in order to stretch the available supply of natural gas. While jobs are lost and businesses are closed, producing States that compete with Wisconsin for jobs and business, States served by intrastate gas may, under the terms of the conference report, continue to burn natural gas as a boiler fuel while at the same time large supplies are capped and unused in the four major producing States.

Finally, H.R. 5289 imposes a mandatory incremental pricing program, a pricing mechanism designed to "cushion" the impact of higher prices on residential customers by increasing costs to industrial users of natural gas. Once again, only the interstate market will be affected.

The bill provides that the cost of interstate industrial gas would be equal to the Btu equivalent of No. 2 fuel oil. Wisconsin Public Service chairman, Charles Cicchetti, states that this will force industries in Wisconsin off gas and on to cheaper imported No. 6 fuel oil. This effect is directly contrary to the purposes of the administration's natural gas pricing provision as described by Deputy Secretary of Energy, John O'Leary in testimony to the Senate Energy Committee. Mr. O'Leary states in the clearest possible terms that the administration does not want the price of natural gas to industrial consumers to approximate or exceed the Btu equivalent of oil.

The administration does not want industries curtailing the use of natural gas if they will only increase the use of foreign oil. Regrettably, this is precisely the impact the incremental pricing provisions will have on industrial States like Wisconsin. Moreover, rather than "cushioning" the impact on residential consumers, the incremental pricing provisions of the conference report will have a severe impact on consumers. As industrial users switch from gas to oil in order to maintain their rate base and pay their fixed costs, the publicly regulated utilities will have no choice but to seek increases in its rates from its remaining residential and commercial customers.

The administration has even advocated enactment of this conference committee report on conservation grounds. It argues that the increased prices will reduce consumption by as much as 1.5 million barrels of oil per day. The increased prices will come in two forms: through the incremental pricing mechanism, and through the higher wellhead price set by the bill which is estimated to be near $3.86 per Mcf in 1985. The estimated energy savings are no more than crude guesses. What the administration has failed to realize is that this law will have to be implemented in each and every State of the Nation. And, the program contained within this legislation contradicts the energy conservation program the States are required to adopt under the Federal Energy Conservation Policy Act.

For example, Wisconsin, since it is a consuming State, a State served by an interstate pipeline, will have to enact the incremental pricing provisions of the conference report. As noted above, the Chairman of the Public Service Commission indicates that this will force industry off gas and onto oil. More importantly, it poses the Governor and the energy office in Wisconsin with a serious dilemma. Under existing statutes, Wisconsin, like every other State, must adopt a State energy conservation plan.

Wisconsin has, according to the Department of Energy, designed and implemented the best State energy conservation plan in the Nation. This plan is tailored to the State's specific needs and based upon the type of industry and type of energy available to Wisconsin. According to the Public Service Commission, energy use in Wisconsin is now 20 percent below the national per capita conservation figure. In fact, Wisconsin's energy plan exceeds the federally mandated energy savings by a factor of two.

Now the administration proposes to impose a natural gas policy that contradicts its own goals and principles, a policy that will wreak considerable havoc with the Wisconsin program. If the natural gas conference report becomes law, business and industry in Wisconsin will be needlessly and recklessly jeopardized. A State which has accepted the challenge and has done the best job will be penalized for doing the right thing.

THE DOLLAR ABROAD

The administration has one more argument for the bill, an argument that on the surface is quite appealing—"the whole world is watching argument."

The administration characterizes this bill as a test of national resolve, as a personal challenge to the President's ability to lead. They argue that the strength of the dollar abroad is linked to enactment of this bill.

The dollar's serious problems in relationship to the Japanese yen and the Swiss and West German mark have little to do with the price a homeowner in Oshkosh, Eau Claire, or Milwaukee pays for natural gas. The basic weakness of the dollar abroad is tied to our serious inflation problem here at home. The additional price of gas that is mandated by the conference report, a price that is higher than proposed by either the President, the Senate or the House, will only add to our domestic inflation problem. Therefore, the position of the dollar will be further weakened by this bill. This legislation will hurt, not help the dollar abroad.

Furthermore, if this bill is rejected it will not, contrary to the pronouncements in the press, have a major impact on American foreign policy. Who are we fooling?

Proponents of this legislation argue that the Senate must adopt the natural gas conference report to illustrate to the world that America is willing to take whatever action is necessary to solve a very serious energy problem. This is indeed a noble statement, a statement that no one can argue with. We must enact a comprehensive national energy program to reduce our imports; to expand domestic production of oil and gas, to develop the technology to cleanly use our abundant resources of coal; to harness the limitless power of the Sun. However, this natural gas conference report is not a critical component of that plan.

Practically every proponent concedes that this is not a good bill. Senator BUMPERS, a supporter of the compromise, said on the floor "I do not take a great deal of pride in this bill . . ." Proponents agree that perhaps, perhaps 5 percent more gas will be produced, but the Senate must ask itself 5 percent at what price?

WHAT CONGRESS SHOULD PASS

In April 1977, President Carter submitted a carefully designed program to the Congress, a program to pay a generous return on invested capital for industry to encourage exploration and development, a program designed to curb the inflationary spiral, and a program designed to assure equal treatment of all States and each and every sector of the economy.

The administration's plan called for the saving of 4.5 million barrels of oil per day by 1985. That assessment, however, is challenged by the economists in the Congressional Budget Office. After a careful review the Budget Office estimates that the administration's proposals would only save approximately 3.6 million barrels per day. There has been a wide range of estimates but they generally fall into the 4 million barrel a day range.

Over the last 16 months each House of the Congress has passed legislation that saves 90 percent of the President's goal. There is general agreement on all the other components of the President's plan with the exception of the crude oil equalization tax. Congress should move quickly to pass the remaining parts of the President's package: the coal conversion bill, the energy conservation bill, and the electric utility reform bill. The crude oil tax should not be enacted. It made little sense and saved little oil, only 200,000–400,000 barrels per day.

In any event, one thing is certain. Under the natural gas conference report prices will double by 1985 and only 3.5 to 5 percent more gas will be produced. This is just too high a price to pay for such a small amount of new supply. The impact on the consumer and on the economy is just too great.

The Senate should reject this natural gas bill; it is not an important component of a national energy program. The Congress should complete action on the three remaining conference reports. It is this package of legislation that constitutes a major addition to the national energy plan the Congress has been adopting since 1974.

SUMMATION

The facts we must use to form an educated judgment, to make a critically important decision just do not exist. Each interest group, each lobby has its own charts, its own facts, and its own figures. Each and every estimate differs from every other estimate. And, perhaps, most importantly, the Administration simply has not made a convincing argument for the bill.

No one argues that this conference report is a sound piece of legislation. In fact, it is a very bad bill. It is far from the principles and policies endorsed by the White House last April. It bears little resemblance to the bill that I voted for almost 16 months ago.

Nevertheless, the proponents argue "Let us pass this conference report now and come back next year to correct any mistakes." The House passed the administration's bill. The Senate by four votes defeated this sound approach and adopted a deregulation concept. The debate in the Senate these last few weeks has informed and educated Members and the public. We know we do not face an immediate shortage; rather, we have a national surplus of gas. We know that a doubling of prices will only produce 3.5 to 5 percent more gas over the next 7 years. We know much more now about the natural gas issue than we did a few months ago. And we know that we do not have to act on natural gas pricing this year—it is not an important component of a national energy plan. It will not save energy and it will add very little new gas at an unacceptable cost.

There will be changes made in the Senate this November. The chances are very good that the 18 or so changes in the Senate will make it possible to design and pass a sound measure early next year when the 96th Congress convenes.

Since we are not faced with an immediate problem, since the bill will not save any energy, since the legislation will only produce a very small, an insignificant amount of new gas, the Senate, in my judgment, should defeat the conference report and the President should resubmit his original legislation when the 96th Congress gets underway early next January.

We should all share the burdens and the benefits of a national energy program. Without this theme embodied in the law, no comprehensive and tough national energy effort will ever be implemented.

The conference report asssures the Nation of higher prices but only promises minimal new supplies of natural gas. The costs are to be shared by everyone but the benefits will be enjoyed by a relative few. No bill, to paraphrase Presidential Press Secretary Jody Powell, would be better than this bill.

The least that can be said is that under the current regulatory scheme if certain emergency powers are restored to the President, all States and the Nation will be no worse off this winter than we are today. This cannot be said if the conference report on the natural gas bill becomes law.

Mr. President, I submit for the RECORD two tables to be printed in the RECORD. Table I shows the dramatic increase in natural gas prices over the last 20 years.

Year:	Price (cents per mcf)
1955–64	14–17
1965 (area rate)	16.5
1973	25
1974 (national rate)	42
1975	52
1976	$1.42
1977	$1.57

Table II illustrates the rate of discovery and net production of drilling from 1950–77:

TABLE II.—*Natural gas production compared to discoveries, revisions, and extensions of proven gas reserves, 1950–75 (tcf.)*

Year	Discoveries, revisions, extensions	Net production
1950	12.0	6.9
1951	16.0	7.9
1952	14.3	8.6
1953	20.3	9.2
1954	9.5	9.4
1955	21.9	10.1
1956	24.7	10.8
1957	20.0	11.4
1958	18.9	11.4
1959	20.6	12.4
1960	13.9	13.0
1961	17.2	13.4
1962	19.5	13.6
1963	18.2	14.5
1964	20.3	15.3
1965	21.3	16.3
1966	20.2	17.5
1967	21.8	18.4
1968	13.7	19.4

Table II.—*Natural gas production compared to discoveries, revisions, and extensions of proven gas reserves, 1950–75 (tcf.)*—Cont.

Year	Discoveries, revisions, extensions	Net production
1969	8.4	20.7
1970	*37.2	22.0
1971	9.8	22.1
1972	9.6	22.5
1973	6.8	22.6
1974	8.7	21.3
1975	10.5	19.7
1976	7.5	19.5
1977	11.9	19.45

*Includes Alaska.

Source: AGA Gas Facts, Table 4, reprinted from JEC Study, p. 14. ●

CORRECTION OF COMMITTEE REPORT NO. 95-1196

● Mr. PELL. Mr. President, I wish to correct for the Record a typographical error which occurred in Committee Report No. 95-1196 on the Disease Prevention and Health Promotion Act of 1978. On page 53 of the committee report, in section IIIA(3) the final sentence should have read, "The Conference required by Section 305 would involve about 500 participants." ●

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I understand that everything on the Executive Calendar with respect to nominations, beginning with "New Reports," has been cleared for action on both sides. If that be the case, I ask unanimous consent that the Senate go into executive session for that purpose.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—I advise the majority leader that he is correct, as usual, and that these nominations are cleared on our calendar as well, being nominations for the U.S. Air Force, U.S. Army, and nominations placed on the Secretary's desk.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

(All nominations considered and confirmed today are printed at the conclusion of the Senate proceedings.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider the vote by which the nominations were confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

SPECIAL ORDER FOR MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized under the standing order, Mr. Schmitt be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDER FOR TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday, after the two leaders have been recognized under the standing order, Mr. Morgan be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:45 A.M. ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I hope that on Monday the Senate can proceed to the consideration of either Calendar No. 1038, S. 1185, the parimutuel wagering bill, or Calendar No. 1040, Labor-HEW appropriations, or both, within the constraints of the time agreement that has been entered into on the natural gas conference report. At this point, I cannot say which of these measures will be called up on Monday, but I am stating for the Record the likelihood that one or both will be called up.

There may be other measures cleared for action on Monday. I anticipate rollcall votes on Monday.

RECESS UNTIL 9:45 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:45 a.m. on Monday.

The motion was agreed to; and at 1:34 p.m. the Senate recessed until Monday, September 25, 1978, at 9:45 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, September 23, 1978:

In the Air Force

Lt. Gen. Bryan M. Shotts, U.S. Air Force (age 55), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

In the Army

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. John Franklin Forrest, 356-16-9650, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Julius Wesley Becton, Jr., 197-14-1624, U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. David Ewing Ott, 439-56-8523, (age 55), Army of the United States (major general, U.S. Army).

The following-named officers to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Rolland Valentine Heiser, 336-14-6250 (age 53) Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. James Madison Lee, 246-20-1593, Army of the United States (brigadier general, U.S. Army).

In the Marine Corps

Lt. Gen. Leslie E. Brown, U.S. Marine Corps (age 58), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

The following-named officer under the provisions of title 10, United States Code, section 5232, to be assigned to a position of importance and responsibility designated by the President, in grade as follows:

To be lieutenant general

Maj. Gen. Adolph G. Schwenk, 007 14 5005, U.S. Marine Corps.

IN THE AIR FORCE

Air Force nominations beginning John G. Abizaid, to be lieutenant colonel, and ending Robert A. Poksay, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 6, 1978.

Air Force nominations beginning James B. Alford, to be lieutenant colonel, and ending George E. Stavros, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 6, 1978.

Air Force nominations beginning John C. Aarni, Jr., to be major, and ending Ronald W. Turner, to be major, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 6, 1978.

Air Force nominations beginning George G. Aitken, to be captain, and ending James L. Wilson, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 6, 1978.

IN THE NAVY

Navy nominations beginning Harold S. Blinka, to be lieutenant (j.g.), and ending Paul R. Woodley, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 6, 1978.

Navy nominations beginning Patricia A. Daly, to be ensign, and ending Mark A. Walker, to be ensign, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 6 1978.

EXTENSIONS OF REMARKS

HOW WE OFFICIALLY LOST BRAZIL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. McDONALD. Mr. Speaker, the Carter administration "human rights" policy has turned out to be rather selective. We roar at our friends and whisper accusations at the Communist nations. In fact, we even ignore human rights violations in Communist China entirely. This policy has failed. An area of most spectacular failure has been South America. There, we have succeeded in alienating Argentina, Brazil, and Chile, the so-called ABC powers and the most powerful countries on that continent. In South America we have evidenced great concern for Marxist-oriented agitators, which must have the Politbureau in the Kremlin rolling on the floor with laughter over the spectacle of the stupidity and the duplicity of the "leaders" of the West. The same policy is having similar results in Asia and Africa as the Carter administration expresses minimal opposition to Soviet adventures on both continents.

Government Executive magazine for September 1978 details the story of how "human rights" policy cost us the friendship of Brazil. It is a sad story when we recall that Brazil sent troops to help us fight in Italy during World War II and let us have bases in her land during the same war. The list of American allies and friends is growing shorter in the world. Therefore, I commend this article to the attention of my colleagues. The article follows:

U.S. INTERNATIONAL TRADE—HOW WE OFFICIALLY LOST BRAZIL

(By Stephen G. Saltzman)

On September 19th, the Joint Brazilian-U.S. Military Commission will close, victim of mindless United States policies and bureaucratic ineptness.

Brazil's decision to cancel this bilateral agreement after nearly four decades marks the low point of official Brazil-U.S. relations which had been rotting for years but which were finally brought down by the Carter Administration's amateurish tinkering in the affairs of others. The demise of our military cooperation with Brazil is not critical—its shape and substance had become archaic and needed change. But this event flags problems that run deeper.

There is almost no government to government exchange between Brazil and the U.S. today. And an adversary relationship, several years of age, shows no signs of slowing.

Our long friendship with Brazil withstood decades of U.S. gaffes, unqualified ambassadors, and empty sloganeering (see Alliance for Progress, etc.). While there have been many exceptions, U.S. officials in the backwaters of their careers have found their way to Rio de Janeiro and more recently to Brasilia in a seemingly endless procession of mediocrity. We have thrown Brazil only an occasional sop in the years since World War II as our policy makers have looked instead to areas they deemed to merit higher priority.

Enough finally become enough, however. Only the stature and importance of the U.S. itself saved our recently replaced ambassador from being declared persona non grata by an antagonistic Brazilian government during the last years of his accreditation there.

The road back will be rocky and it will be slow. It will have to proceed from an understanding of what destroyed an easy-going friendship in the first place.

LITTLE ACORNS

There has always been a segment of Brazilian officialdom that was anti-U.S. But for Brazil there were so many plusses to continued good relations that this element remained quashed despite years of what can only be described as back of the hand treatment by American policy and its architects. So the sore was adequately festered and ready to run pus when the case of Frederick Morris surfaced in 1974. This American citizen, who was or posed to be a pastor in Brazil's troubled northeastern city of Recife, was arrested by Brazilian authorities and allegedly tortured during his interrogation, a matter which the U.S. press has aired thoroughly.

The Brazilians still believe Morris was a CIA agent but, in any case, the facts remain that he intruded himself into Brazilian political affairs and he associated with known subversives while being a guest of Brazil. What the Brazilians resented most about this affair was the way it was blown out of scale by two U.S. officials. This earned for these two officials and for U.S. policy in Brazil the undying enmity of two Brazilian officials who ultimately played key roles in worsening official Brazil-U.S. relationships.

The U.S. consul in Recife at the time of the Morris case Richard Brown. Brown leapt to Morris' defense with near-messianic fervor, publicly accusing Brazilian officials of atrocities. This brought him under attack by Brazilian officials and by the Brazilian press.

Most professional diplomats would consider that the official point had been adequately made and would move quietly to drain the matter of its news value. John Crimmins, our ambassador, instead came on scene with vociferous and impassioned defense of Morris and of his consul. These acts, with their bad press, infuriated a close advisor of President Geisel, Brazilian General Moacyr Barcellos Potyguara, who was performing as Commander of the Recife-based 4th Army.

They also infuriated Ambassador Antonio Azevedo da Silveira, Brazil's Minister of Foreign Relations. Both felt they had been talked down to, that they had been exposed to unnecessary public view, and that the U.S. representatives had bungled the matter. Crimmins, who was replaced this Spring by Robert Sayre, will not be remembered kindly in Brazil after his six long years of acrimonious comment, stiff-neckedness, and icy manner which, after the Morris affair, appeared to be intentional expressions of U.S. attitudes.

SWIFT CONTRADICTION

Henry Kissinger finally was persuaded to look south toward damaged relations and, in 1976, visited Brazil for some fence mending. This visit resulted in an agreement between the two countries to consult each other on all important economic and political issues involving both countries and their relations with the rest of the world. It was good, soothing syrup. Singling out Brazil for such special treatment seemed to be the right touch. It seemed, for a brief time, that government to government relations would return to be as harmonious as ongoing unofficial economic, professional, technological, and cultural relations, which were thriving.

Almost on top of Kissinger's visit and as one of his first acts in office, President Jimmy Carter sent Vice President Walter Mondale off to West Germany in a blaze of self-serving publicity to try to pressure that country into reneging on its agreement to provide nuclear power technology to Brazil. He did this without any notice to Brazil, the freshly-consummated Kissinger agreement notwithstanding. He also dispatched Deputy Secretary of State Warren Christopher to Brazil, again with trumpets and fanfare, to pressure the Brazilians out of their deal with West Germany. Carter was going ot deliver on a campaign promise to stop nuclear proliferation, damn the torpedoes.

Brazil's reaction was swift, spontaneous and unanimous. The press exploded in pro-

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

test against Carter's tampering with Brazil's internal affairs. In unprecedented actions, cities and citizens from every corner of the country sent messages to President Geisel pledging total support for any counter action he might take against Carter or the U.S. It is difficult to overstate the magnitude of this issue in Brazil, however overblown it may seem to us. It continues to receive some front page treatment a year and a half later.

The nature of Brazil's outrage has many components.

ICING THE CAKE

Of course there is the matter of the Kissinger agreement; clearly, there is no basis of credibility for any near- or middle-term Brazilian-U.S. agreements after this one was ignored so arrogantly. There is also the fact that Brazil has worked for years as the leader in developing nuclear non-proliferation cooperation among Latin countries and is a signatory to such a pact—an accomplishment to which Brazilians point with pride. Also, the agreement with West Germany to provide nuclear powerplant technology and hardware contains strong safeguards against misuse of the technology and its products. And then there is the matter of meddling in the internal affairs of a proud and vibrant sovereign power.

In the midst of all this, along came two more Americans, alleged priests, again in Recife, charging that they were tortured in a Brazilian prison. Once again, Foreign Minister Silveira desired to keep this matter at a quiet state level and once again John Crimmins blew it out of scale with excessive publicity. It has never been determined if Thomas Capuano and "Reverend" Lawrence Rosebaugh were indeed pirests, but it didn't advance the cause of our friendship when Rosalynn Carter went out of her way to journey to Recife to pose with these two questionable characters in photographs which got worldwide distribution. One would have thought the point had already been made. What else were we trying to prove?

By this time, Ambassador Silveira, not known for a placid nature, was feverish. In an unrelated routine action, General Potyguara had been transferred to Brasilia to serve as Chief of the Armed Forces General Staff, the rough equivalent of our Joint Chiefs. His rankling anti-U.S. attitude was evident in his public and private statements. Our Brazilian mission watches such matters closely. The flag had to be up. It had to be red. And it had to be waving furiously. Our ambassador presumably did not sense a need for delicacy at this time, as we shall see.

Back in the U.S., Congress had been debating very publicly the question of using foreign assistance to pressure recipient governments into human relations postures acceptable to Jimmy Carter. One result of that debate was that the Secretary of State was henceforth required to report to the Congress on the human rights records of any country proposed for assistance.

Thus, beginning in Fiscal Year 1978, the Security Assistance Program was to be published in two volumes, one being the Program and the other being Reports on Human Rights Practices. The latter document categorized various governments according to Amnesty International's notions of being "free," "partly free," "not free," and so on. By late February of 1977, advanced reports concerning certain countries began to filter into Congressional offices, and from those sieves to the press. Word got out that this internal U.S. working paper contained recommendations to cut programs in countries such as Argentina, Uruguay, Chile, and Guatemala. Brazil, which in fact had been categorized "partly free," was cleared for continued assistance. Although the actual report was not in their hands, U.S. officials in Brazil were planning to go ahead on a normal basis with Brazilian security assistance.

The Argentine government, in an angry advance initiative, informed the U.S. that it would accept no assistance of any kind that was based on an attempt to mold internal policy, a position that was widely applauded by the Argentine people.

ROUTINE EXPLOSION

At this juncture, State sent to its missions courtesy copies of the human rights reports with approval to release them to host governments in advance of public release. Despite the obvious tension in Brazil and the example of the popularity of the Argentine's action against this new U.S. policy, John Crimmins decided to send this advance copy of State's report to Ambassador Silveira. He sent it over in a routine delivery by messenger.

Silveira had been spoiling for a fight since the West German affair but he didn't have the correct vehicle. Crimmins, who should have known better, provided the vehicle. The advance copy was fired back the next morning, unstudied, and accompanied by a strong note rejecting out of hand any foreign intrusion into Brazil's internal affairs. It mattered not to Silveira that Brazil's assistance package was virtually intact for FY '78. Crimmins' timing, and method, couldn't have been worse. It was only a question of time before the military assistance pact—important furniture in the showcase of official cooperation—would end.

President Geisel asked his confidante General Potyguara to recommend the future course of Brazilian-U.S. military cooperation. Behind the scene, U.S. and Brazilian officers at the working level struggled to produce a set of options that would preserve some form of continued cooperation, which they felt to be of mutual interest. In September, 1977, two days before he retired from active duty, General Potyguara took his revenge. He disregarded his staff's softer recommendations and recommended instead that Brazil unilaterally cancel the pact. President Geisel accepted his old friend's suggestion and gave the Americans a year to wind down and leave.

If you were a fly on Carter's wall you would probably know that the only reason Crimmins was not relieved immediately was to avoid the appearance of reprobation, even though Carter could claim that Crimmins was overdue for reassignment anyway. His replacement, Sayre, is finding the Brazilians to be cold and distrustful. Part of the press views him as a CIA agent and speaks often of "Crimmins' boys" whom it says are still "running things in the American embassy."

It doesn't help much that our government puts on its human rights hat when and as it becomes convenient to do so. In Uruguay, for instance, it became common for Amerian officials to be pinned down with questions about his inconsistency. "Why," they would be asked, "do you assist a country like Iran, where human life hangs constantly in the balance, and yet you continue to try to force us to conform to your ideas of how we should act?" These questions became so frequent, and so embarrassing, that an official line was given U.S. representatives in Uruguay and some other countries. Tell them, the line went, that Iran is of great importance to the United States and that your country is not of great importance to us. You can't fault this as not being straightforward. And it is perhaps time we were honest about this ancient axiom. Jimmy Carter's human rights crusade may or may not advance humankind's lot, but it is safe to say that it has earned him and the United States some bad lumps in Latin America.●

HOW BALTIC STATES TORMENT RUSSIA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. DERWINSKI. Mr. Speaker, over the years, I have placed major emphasis on the tragedy of the Soviet-conquered Baltic States, Estonia, Latvia, and Lithuania. However, special importance must be given to the strong determination of the people of these nations to continue to resist, "Russification."

In the current issue of U.S. News & World Report (September 25), Robin Knight, that magazine's Moscow bureau chief, makes a similar point; namely, that the people of the Baltic States have managed to maintain their nationalistic spirit despite Soviet oppression. I wish to insert his article at this point:

HOW BALTIC STATES TORMENT RUSSIA

(The Kremlin's carrot-and-stick policies to Russify three nationalistic republics aren't paying off. Balts still stubbornly resist integration.)

VILNA.—Persistent unrest in Estonia, Latvia and Lithuania underscores Moscow's inability to destroy grass-roots nationalism there even after centuries of Russian domination of the area.

Violent upheaval is not in the cards. Over the years, most of the Balts have grudgingly learned to live with Russian rule—and relish their new prosperity.

Yet spontaneous anti-Russian outbursts repeatedly emphasize how peoples of the three states oppose any and all attempts to erase their national identities in the campaign to create a single "Soviet man."

Not even harsh Moscow-imposed measures and an effort to turn the Baltic region into the Soviet Union's most economically advanced area have been successful in pruning Estonia, Latvia and Lithuania from their ancient roots. Instead, there has been a resurgence of anti-Russian feelings and a very stubborn burgeoning of Baltic nationalism.

For all this antipathy, Russian control of the Baltic states is longstanding, dating back to 1710 in Estonia and Latvia and 1795 in Lithuania. Moscow's suzerainty was broken only during the 22-year period between 1918 and 1940 when all three lands enjoyed a precarious independence and in 1941–44 when Germany overran the region.

None of the states returned happily to the Russian fold after World War II, especially Lithuania, where armed resistance continued until 1955.

Encouraging the dream of some Balts that they may someday achieve independence is the continued refusal of the U.S. and other NATO nations to legally accept Russian authority over the Baltic states. This stems from the 1945 Yalta Conference when Joseph Stalin rejected plebiscites that would have allowed the republics to determine their own futures. Representatives from the prewar governments still enjoy diplomatic accreditation in the U.S.

Anti-Soviet incidents occur more regularly in the Baltic states than any other part of the Soviet Union, where national groups—notably Georgians and Armenians—have forcefully asserted their claims to maintain their religious, linguistic and ethnic traditions.

A year ago, for instance, a pop-music festival at Liepaja, a Latvian coastal resort, ended with youths running through the town shouting, "Freedom, freedom." Months earlier, a similar incident occurred in an Estonian city.

Lithuania, however, is the most nationalistic of the three states; even the smallest excuse is sufficient to touch off an incident. Success of the Vilna soccer team in the national championships last fall sparked demonstrations by thousands of Lithuanians who rampaged through the capital shouting anti-Soviet and nationalist slogans. Autos reportedly were overturned, police cars set afire, windows smashed and Soviet propaganda banners torn down.

SEETHING IRE

Mass protest is common in Lithuania. On several occasions in the 1970s, thousands signed petitions complaining of religious persecution. More *samizdat*—underground publications—emerge from Lithuania than anywhere else in the U.S.S.R. The study of the national heritage has become so popular with the young that it is now said to be supervised by the KGB, the Soviet secret police.

One consequence of this widespread unrest is that dissidents in Lithuania have very little room for maneuver. Surveillance of their activities is continuous. Viktoras Petkus, leader of a group monitoring Moscow's human-rights record in Lithuania, received a 15-year sentence in July. Other activists have been exiled, stripped of citizenship or fired from their jobs.

To ordinary Russians, the Baltic states are "the West." Hundreds of thousands flock here each summer to enjoy what they conceive to be bourgeois pleasures. This similarity to Western nations lies at the heart of the area's discontent over Moscow's rule.

In Riga, capital of Latvia, cathedrals, discotheques and Italian-style coffee bars project a flavor quite distinct from that in Russia. In the ancient Estonian capital of Tallinn, the houses, cobbled sidewalks and wrought-iron signs recall historic links with Germany.

Vilna, once center of a feudal kingdom, is the most "Western" Soviet city. Its long-haired teen-agers in jeans and Scandinavian-made T-shirts would look at home in Western Europe or America. Women are stylishly dressed, and homes and gardens reflect more careful maintenance than is usual in Russia.

A GLIMPSE OUTSIDE

Estonia may be the only place in the Soviet Union where Western TV can be seen. With a $50 attachment sold in state stores, viewers can receive transmissions from Finland, often including such U.S. programs as "Cannon" and "Columbo."

The average Balt has an ironic, half-mocking attitude toward the Russians. Officially, the Moscow connection is justified for the economic progress it has brought since 1944. Privately, feelings are different. One *samizdat* puts it like this: "Love and friendship between Lithuanians and Russians? It's the friendship and love between a lamb and a wolf."

It is in Lithuania that the Kremlin concentrates its effort to weaken the enduring strength of the Roman Catholic Church. Despite repression, officials concede that 40 percent of Lithuania's 3.4 million population are regular churchgoers. Priests say the real figure is nearer 60 percent. In a territory no larger than West Virginia, more than 500 parishes still function.

In Vilna, the Immaculate Conception Church regularly atracts 8,000 worshipers each Sunday. The Dawn Gates Chapel is crowded with people of all ages on any day of the week.

Moscow worries that a link between the church and opponents of the regime could develop into mass resistance to Communist rule. The fears may be exaggerated, yet they are perceptibly more real than a decade ago—due almost entirely to heavy-handed attitudes on religion by authorities.

In schools, it's not uncommon for 8 and 9-year-olds to be forced to attend lectures on atheism. Three quarters of the seminaries are closed.

Catholic resistance to such pressures is marked by the huge number of religious petitions addressed to Soviet and world leaders. One petition protesting persecution in Lithuania attracted more than 17,000 signatures. Several included not only signatures, but addresses and telephone numbers.

Faced with wide-based unrest, Moscow has adopted carrot-and-stick policies. On one hand, the Kremlin seeks to Russify the Baltic states. On the other, substantial economic assistance has been poured into the area.

In 1940, just 8 percent of the Estonian population, 10 percent of the Latvian and 2 percent of all Lithuanians were Russian. Today, the respective figures are 25, 30 and 9 percent. Most of the new Russian residents live in the cities and have taken factory and administrative jobs.

The Kremlin also has made strenuous efforts to force the Russian language on the Balts. It is a compulsory subject in schools, and television programs are heavily weighted in its favor. Nevertheless, most Lithuanians, even high officials, speak Russian only in the presence of Russians.

IRON HAND

The Baltic states are kept under tight political control by Moscow. Key posts in the Communist Parity and party organizations are held by Russians or by Balts who grew up in Russia and who returned home only in the wake of the Red Army.

Real trouble in the region has been warded off over the past 30 years only by massive Soviet investments that have transformed the Baltic economy and given the people the highest living standards in the U.S.S.R.

Estonia shows the best resutls, with the highest per capita production in the Soviet Union. Three percent of the Soviets' overall industrial output is generated by an Estonian labor force comprising only half of 1 percent of the U.S.S.R.'s total workers.

Lithuania has moved from agricultural backwater to the dynamo of Soviet light industry. Wage levels are well above the national average. In restaurants, it's not uncommon to see female shop assistants at lunch sharing bottles of champagne selling for $8 each. Car ownership is rising rapidly. Diets, as in Estonia and Latvia, are markedly better than in Russia, with more meat and less potatoes and bread.

A few small groups in the Baltic states still advocate independence from the Soviet Union. But for most of the region's 7 million people, prosperity—at least for now—outweighs the drawbacks of Kremlin control.

Nevertheless, defiant Baltic nationalism is viewed with concern in Moscow. The Kremlin's failure to eliminate anti-Russian fervor there could bode ill for Communist ambitions to draw all of the Soviet Union's 17 major ethnic groups into a single mold.

AFTER DECADES, A FLOW OF WESTERN TOURISTS

TRAKAI, LITHUANIA.—One plus from U.S.-Soviet détente has been an increase in the number of Western tourists, including Lithuanian Americans, permitted to visit the Baltic states.

Estimated to number 1.6 million—about half the population of present-day Soviet Lithuania—most Lithuanian Americans arrived in the U.S. immediately before World War II or soon after. Many still have relatives in the Soviet Union.

For decades, Moscow refused to allow more than a handful to return each year. But this policy has been relaxed, and about 2,000 now visit their homeland each year, including such spots as this ancient capital of Lithuania. Many are permitted to stay with relatives—but only in one of the six towns that are currently open to foreigners.

FEW HOTELS

Soviet officials concede that many more Lithuanian expatriates would return were it not for a chronic lack of hotel rooms. In Vilna, for instance, only four small hotels are open to foreigners. Another 700-room hotel has been under construction for 15 years but is not likely to open before the early 1980s.

Several American travel agents are offering special Baltic tours. One costs $1,250, lasts 15 days, and includes visits to all three Baltic capitals—Vilna, Riga and Tallinn.

But obtaining a visa to visit the Soviet Union remains a chancy business—particularly if an applicant has relatives living here or has a local-sounding name.

One West German travel agent say his firm made 850 applications for visas to visit the Baltic states in 1977. Only 214 were accepted.

Soviet officials insist, however, that "genuine" foreign tourists and visitors wishing to be reunited with relatives have nothing to worry about. But they must agree to visit only the few cities open to foreign travelers and to scrupulously observe the many restrictions on photography and tour arrangements.●

SCHOOL TEACHER'S OPINION OF A CABINET-LEVEL DEPARTMENT OF EDUCATION

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. McCLOSKEY. Mr. Speaker, with respect to the proposed Federal Cabinet-level Department of Education, I would like to call the attention of our colleagues to a recent letter I received from a school teacher in my own congressional district:

DEAR CONGRESSMAN McCLOSKEY: In reply to your letter of September 5th, may I say how strongly I oppose a Cabinet-level Department of Education. I agree with you that educational responsibility lies at the local level.

As a school teacher, I've had experience in schools with both State and Federal aid programs, and know personally that these support programs are not as effective as they're intended to be. The rationale behind these assistance programs is often excellent, but by the time the actual funds and materials reach the school, there's often little left to affect the children's education.

It seems with every new program there's a tremendous amount of paperwork, accountability, recordkeeping, etc. Again, the rationale is understandable, but *someone* has to do the paperwork so some, or *much*, of the funds go for filling out papers.

In California we've lost, incredibly, in relinquishing control of local schools, due to Proposition 13. The people don't realize yet what they've sacrificed. *Please* do all you can to help things from getting any worse. Every additional control agent proportionately decreases the level of education we're able to provide at the local level.

Sincerely,

VIVIAN EFTING,
Teacher, First Grade,
Bubb School, Mountain View, Calif.●

A TRIBUTE TO NICHOLAS J. RAIA

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. LENT. Mr. Speaker, on September 29, 1978, the Cardinal Mercier General Assembly, fourth degree, Knights of Columbus, Ninth New York District, is honoring an old and good friend of mine, Nicholas J. Raia, of Massapequa, N.Y. I would like to join with the members of the Cardinal Mercier Assembly, and with Nick's many, many friends in paying him tribute as he concludes his service as the faithful navigator of the assembly.

In supervising the activities of the more than 2,000 members of the Cardinal Mercier Assembly, Nick Raia has demonstrated those outstanding qualities of persuasive leadership, unstinting personal effort, and devotion to church and country which have carried him to the top ranks of leadership in the fourth degree of the Knights of Columbus.

Nick Raia has been a member of the Knights of Columbus for more than two decades. All through those years Nick has been generous in offering his time, his talents, and his energy to further the charitable, fraternal, patriotic, and religious goals embodied in the Knights of Columbus fraternal order. Whatever the task that needed doing, Nick was there with his infectious smile to offer his capable assistance. Whether it was taking charge of arrangements for the Fourth of July parades, as chairman of the charity ball, or in the many offices he held in the memorare council and then the Cardinal Mercier Assembly, Nick always demonstrated determination to get the job done, and done the right way, which marks the outstanding leader.

Few have given as much of their time to church activities as has Nick Raia. Few have done as much to help strengthen support for the ideals and principles which have made our Nation the most envied in the world.

And we have sorely needed such devotion and dedication in past years. It had become all too popular for Americans to scoff at those of us who honor and respect our Nation and those great principles of freedom, justice, and opportunity on which it was built. The cynics and the doomsayers were filling the land with their cries of despair.

Now, that dark picture is brightening. We are seeing a new surge of pride in our Nation, its history and its accomplishments. We are witnessing a new wave of faith in our country's ideals; a new dedication to those great principles on which, under God, it was founded.

And in no small part, this great change has come about because of the tireless devotion of leaders like Nick Raia, made possible through organizations like the fourth degree of the Knights of Columbus, which strive unceasingly to strengthen love of country and responsible citizenship. In the near century since its founding, the Knights of Columbus fraternal order has grown to become a vital force in our Nation, in helping preserve our spiritual, and moral heritage. Our Nation owes a debt of gratitude to such organizations.

So, too, does our Nation owe a debt of gratitude to dedicated citizens like Nick Raia who give so much of their lives to help preserve and strengthen our spirit of patriotism.

It is most fitting, therefore, that we join in paying tribute to Nick Raia. His accomplishments during his years of dedicated service to the Knights of Columbus, capped by his outstanding record as faithful navigator of the Cardinal Mercier Assembly, deserve the highest commendation. His record of achievement will serve as a model for those who follow for a job well done.

I extend my heartiest congratulations to Nick, for a job well done. And my warmest best wishes for the future to Nick, his lovely wife Rosalie, and to his children Frank and Dina.●

EXCESSIVE PUBLIC WORKS SPENDING

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. CONTE. Mr. Speaker, my strong opposition to this year's public works appropriations bill and its pork-barrel boondoggles is well known.

The following article provides some insight into the political and economic realities of these wasteful and often environmentally harmful projects and offers a regional perspective on the bill's overall impact:

EXCESSIVE FEDERAL SPENDING

(By Michael J. McManus)

WASHINGTON.—The President is expected to veto a public works bill in the next week or so, with directions to the Congress that it should remove $1.8 billion worth of "expensive, pork barrel projects that we do not need."

Members of Congress from the Northeast and Midwest should take the lead in sustaining the President's veto, for most projects the President wants deleted are for water projects that are uneconomic and/or environmentally unsound. And most would stimulate further growth in the Sunbelt at our expense.

In fact, seven of the projects, costing more than $600 million were supposed to have been dropped forever, in a compromise worked out last year between the White House and the Congress, after he sought to kill 18 water projects that encourage population growth in arid areas with federal subsidies.

Curiously, when an amendment was offered on the House floor to reinstate those cuts by Rep. Robert Edgar, D-Penn., 80 Northeast and Midwest voted for the Sunbelt pork barrel projects, resulting in a defeat of the Edgar Amendment by a 142–234 vote.

Furthermore, the figures used by the Congress in estimating the costs of these projects assume that the federal government can borrow money at 3.25 percent interest or less, when the current borrowing rate is really about 8 percent. That simple figure alone means that cost of all of the deleted projects is higher than the most optimistic estimate of benefits.

How did such a bill ever get approved?

It is a tale of politics at its worst: back-scratching deals made by members of Congress, trading boondoggle for boondoggle, acting in defiance of alleged interest in economies of government, coupled with the bungling of the administration which produced its list of acceptable projects only after Congressional committees had already acted to balloon up the water project costs by $1.8 billion.

It is also a story of misplaced priorities by Northern Congressional leaders, including some with presidential aspirations: Reps. Jack Kemp, R-N.Y., Philip Crane, R-Ill.

One can understand why Sunbelt congressmen stick together on this bill. Not one dollar of TVA investments or of the $7.8 billion spent by the Bureau of Reclamation has benefitted the North, and only 9 percent of the Army Corps of Engineers' proposed water construction budget will be spent in the 16 states from Maine to Minnesota.

For example, federally subsidized power in the Southeast wholesales for six-tenths of a penny. But it wholesales to Boston Electric for 4.35 cents, to Cleveland Electric for 4 cents and 2 cents to Duquesne Power in Pittsburgh. No wonder energy-intensive industry has moved south.

And federally subsidized water is often cheaper in the arid West than in the Northeast where water is plentiful but unsubsidized. A thousand cubic feet of water costs $5.90 in Tucson and as little as $2.10 in Salt Lake, but $18.90 in New Haven, $13.38 in Philadelphia, $6.90 in Boston and $7.50 in Detroit.

Since 1970, the federally irrigated Southwest and West has attracted two million residents from our region.

Why, then, did 80 northern congressmen vote in favor of a bill that added $600 million worth of projects that had been rejected plus 27 new starts costing $1.2 billion more than was recommended by the President?

"In any bill, there are going to be some projects better than others," said Jack Kemp. "I can't line-item veto what I don't like."

I responded, "That's not so in this case since the Edgar amendment gave you a chance of voting down seven wasteful projects while not affecting a project in your district."

Rep. Frank Horton, R-N.Y., cochairman of the Northeast-Midwest Congressional Coalition, said one reason he accepted the committee's judgment rather than the President's was his belief the President may have been threatening a veto "for PR reasons." He had seen how a dam in Rochester had prevented a flood during Hurricane Agnes. "Furthermore, I don't think our region ought to arbitrarily oppose another region's projects, particularly when there's going to be a very delicate problem down the road, when our region wants to get money to rebuild its sewers. It could cost several billion dollars in Chicago alone."

He has a point. Newark operates with century-old wooden sewers and Boston loses half of its water through leaks.

But it is going to take a lot of figuring to justify a total replacement of the sewer systems of old cities. Should the Northeast and Midwest accept pigs in a poke from the Sunbelt so we can hustle them for our own costly dreams?

This observer says no. I'd rather see our region rally around the President's thoughtful water policy which provides the first carefully considered set of ground rules upon which the economic and environmental tradeoffs of all federally funded water projects are openly proposed, debated, and decided upon without the log-rolling and chicanery that characterizes the current system.●

INTERVIEW WITH DR. STEVEN TANNENBAUM

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● **Mr. GRASSLEY.** Mr. Speaker, as we all know there has been a lot of confusion and uncertainty regarding the use of nitrites as a preservative since the release of a study by the U.S. Department of Agriculture and the Food and Drug Administration carried out under contract with Dr. Paul Newberne at Massachusetts Institute of Technology. Many scientists familiar with this type of research have provided valuable comment about this project. One such individual is Dr. Steven Tannenbaum who is professor of Food Chemistry at Massachusetts Institute of Technology. On August 16 Mr. John McGown of WMT-stations in Cedar Rapids, Iowa interviewed Dr. Tannenbaum. Following is the text of Mr. McGown's interview with Dr. Tannenbaum:

INTERVIEW WITH DR. STEVEN TANNENBAUM

This is John McGown reporting from WMT-Stations. We are interviewing a gentleman by the name of Dr. Steven Tannenbaum, Professor of Food Chemistry at Massachusetts Institute of Technology. We were put into contact with Dr. Tannenbaum by the Consumer Alert Council of Stamford, Connecticut.

What's involved here is the research report that received headlines and news coverage through the networks this past weekend involving nitrites in food—nitrites in tests with rats, actually. We have Dr. Tannenbaum on now and I would like to ask him a question about what he thought when he picked up the Saturday paper and first read the headline about the MIT test that the government was reporting.

TANNENBAUM. Well, I guess I was a little bit in a state of shock, because I had been somewhat familiar with the work that was going on. It was not going on in my laboratory. It was going on in one of my colleague's laboratory, but, I felt that there was a distinct air of overreaction on the part of the government, given the nature of the conclusions in the report.

MCGOWN. They talked about that this might suggest that the Delaney Clause should be invoked. What is your answer to that? Do you think that we have enough evidence at this point that the Delaney Amendment could be invoked, and try to do the samething they tried to do with saccharin, or do you think more data is needed?

TANNENBAUM. Well, you have a very complex situation here. We're—nitrite has been tested many times in several different countries under a variety of conditions. And, up until now no one had ever demonstrated that nitrite itself caused tumors under any circumstances in the rat or other test animals. One which already has a very high incidence of lymphomas and probably caused by a virus. And, as I understand it, it's traditional in testing of this type to not use an animal that has a natural high rate of tumors because it's difficult to interpret what a small increase means above what you would find in a control group. So, when you come down to the question of whether or not the Delaney Clause should be invoked, I think that now you're talking about a definition of terms which would be in the hands of lawyers, because I don't know whether the words in the Delaney Clause "induce cancer" apply in this particular case.

MCGOWN. The Delaney Clause, I think, is very specific that if it causes cancer at any level in humans or animals it has to be invoked, so, there is probably very little choice. The question now becomes as to whether the data are sufficient in scope and statistically significant, and that type of thing. One thing that I noticed was that they used the Sprague-Dawley rats, where the Canadians in their studies used the Wistar rats. You were mentioning that there is a difference in their susceptibility to contracting cancer, of the different ones. Is that maybe why there is a difference between the Canadian test with cooked bacon with nitrite in it and this one which was done with feeding nitrite to rats?

TANNENBAUM. There are several tests aside from the Canadian tests. There is one that was done in Germany with BG rats and there was one done in Holland with a different strain of rats, and the thing that's unique about this strain is that it apparently carries this virus which causes lymphomas, whereas, the other rats did not carry anything like that. And, the conclusion of Dr. Newberne, who was the investigator who conducted the study, is that this is not an initiator of cancer, but in fact is something which may modify the carcinogenic process—the kind of substance called the promoter, which is a substance which cannot in itself cause cancer, but which can modify something else which causes cancer. So, one has to ask, then, whether given the fact that so many other negative studies have been done in similar species of rats, what the significance of the study is in the strain of rats that already has induced in it the kind of cancer that one finds from the test substance, namely nitrite.

MCGOWN. I want to ask you something related to this. I noticed that it was 8.4 percent of the two control groups that contracted lymphomas, whereas, it was 12.5 percent of the nitrite-receiving groups that did. Isn't that 8.4 percent an extremely high level for any control group?

TANNENBAUM. Extremely high, is the word for it. I mean, it's almost unheard of, except in a rat that's specifically susceptible to this sort of tumor. That's my point. I think that this tends to color the nature of the results with regard to their interpretation. I mean, it's an experiment which bears, I think, repeating under the conditions where the animals don't naturally have this high rate of lymphomas.

MCGOWN. I agree with you that the test probably needs to be repeated. One of the things that worried us the most is the way the news media handled it—because it received national attention with headlines, like "Nitrite Causes Cancer"—"Nitrite May Cause Cancer"—and there wasn't a newspaper in the United States, I guess, that didn't carry it either Saturday or Sunday, and there wasn't a network show that didn't have it on at least a couple of nights. This worries us as to why this happens. If you can show a negative, the news media seems to hop right in on it. If the MIT study had shown that nitrite didn't cause cancer do you think it would have gotten as much attention from the national news media?

TANNENBAUM. I'm sure it wouldn't. I think that an additional factor in this case is that it is the way the people in government associated with the release of the data, particularly Carol Foreman, handled the release. It's my understanding that it was released only to the news media and that no one else had a copy of it until several days later, and I think a lot of the way the headline writing came out had to do with the way the document was worded, particularly in the first paragraph. I think that if you would have read the articles and read past the headlines down to the second and third paragraphs, it came out reading quite a bit differently. Even though, with respect to where the nitrite comes from, I think that the government statement shows a clear bias against nitrite from the very start.

MCGOWN. I agree with you. I've read the test, the report of the test in the news release and the stories in the newspapers. I think that with each step it grew in magnitude. The test points out some things. They carefully say things, like "The data are only suggestive" and "the biological significance of nitrite associate lesions of the lymphoreticular system is unclear," and things like this—carefully wording it, like a scientist would. Then, the news release, which I have read, seemed to go further, and the newspaper stories seemed to even go further than that. I think that this is one of the great problems we encounter with this type of thing. Don't you agree?

TANNENBAUM. I think thats' equally true for foreign affairs as it is for food additives. That's a problem of newspaper headline writing. I think it's something I don't have much to comment on.

MCGOWN. I noticed in the wire stories that came in today that USDA and FDA have turned this over to the Justice Department, and asked if the Food Laws will allow the agencies to begin a phase in of a ban on nitrite. So, now we've moved from the scientific circles, to the bureaucratic circles, to the legal circles.

TANNENBAUM. Well, I think that that's where the final battle always takes place. I mean, there is a set of laws which governs the legislation of food additives, and the interpretation of those laws usually falls into the hands of the lawyers. And, I think it's how they ultimately will interpret the meaning of some of those words, like "induce," that I think will influence the outcome. But, I think, also, that a big problem is that the law itself doesn't allow the agencies to make value judgments on the use of an additive, for example, in comparison to the risk that would be entailed if one did not use the additive.

MCGOWN. This is the same thing that occurs, I think with the antibiotic situation that's going on with the FDA and Dr. Kennedy. We have to relate risk to benefit, but the law does not allow the government to relate these two things. This is probably why there is going to have to be some action from Congress to change the Delaney Clause to bring this around to where it should be.

TANNENBAUM. Well, that's right. And, in this particular case, I mean, the risk is botulism, which I think carries with it a very serious risk of death, so that one is dealing with a very specific benefit that would result in the shortening of life, so that I think this is a case that is quite different than many of the others and I think the government has to take into consideration the risks in this particular case.

MCGOWN. I noticed in Food Chemical News toward the end of last year, that you had reported on some work with nitrites, and you pointed out if nitrite in bacon were to be banned there could be up to 1,000 more cases of botulism a year. Now we're talking about taking nitrite out of hot dogs, bacon, luncheon meats, country cured hams and many other things. Obviously this risk of botulism will grow in magnitude beyond the estimated 1,000 cases—right?

TANNENBAUM. I think that the amount of risk is going to be gigantic, and I think that the cost to society is going to be gigantic because there isn't going to be any way for the commercial channels to handle this meat. You have a tremendous volume of meat that's been handled in a certain fashion and now all of a sudden the government is going to turn around and say that you can't handle it that way. You have thousands of meat processing plants. I mean, I just don't understand. What are they talking about? They'll be putting people out of work. It just doesn't make any sense, at all, except in the context that there's a political goal in mind here. And, I mean, certainly I don't see a rational health or economic goal in the kind of decision-making process that's being carried out here.

McGowN. Dr. Tannenbaum, I appreciate you giving us so much of your time. I realize you're on vacation and we appreciate the Consumer Alert Council putting us in contact with you.

We've been talking to Dr. Steven Tannenbaum, Professor of Food Chemistry at Massachusetts Institute of Technology, and this is John McGown reporting from WMT-Stations.●

SOUTH AFRICA WRONG ON NAMIBIA

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. WON PAT. Mr. Speaker, South Africa is wrong in deciding to reject the United Nation's proposal to give Namibia independence.

I was appalled yesterday to read of South Africa's decision to go ahead with its own plans for elections in the colony of Namibia. The attitude of the South African government is not going to bring about independence for the hard pressed residents of Namibia; rather, I and many others who are familiar with the problems in that part of the world are convinced that South Africa is courting a long and disastrous war with the Southtwest Africa People's Organization (SWAPO).

The United Nation's Security Council reached agreement on its long debated Namiba proposal on July 27 of this year. The United States is a partner to this document which spells out clear guidelines for putting an end to South Africa's rule of Namibia which dates back to a World War One League of Nations Mandate. The U.N. revoked that mandate years ago and it has taken great effort to put forth a workable plan for Namibian independence.

It must be noted that the U.N. is not the only world group to approve the Namibia Proposal. It recently received the full support of the Inter-Parliamentary Conference in Bonn, Germany. As one of the American Representatives to the IPU meeting, I was privileged to serve on all phases of the Committee on Non Self-Governing Territories and Ethnic Questions which drafted and later approved a resolution which urged "the continuation of most strenuous efforts towards the complete elimination of colonialism in the world." This historic resolution, which was later adopted by the entire conference, urged South Africa to take the same steps in Namibia as are contained in the U.N. resolution.

It was the goal of the hundreds of international legislators representing more than 75 countries at the conference that our efforts, combined with those of many others, would encourage South Africa to follow a moderate course of action in the matter of Namibia.

We did not ask South Africa to take any steps which could endanger its security. By its own official comments, the Pretoria government has signalled its intentions of giving the residents of Namibia a greater degree of selfgovernment. But the major difference between South Africa's proposal to hold elections by the end of this year in Namibia and that of the resolution adopted by the United Nations and the Inter-Parliamentary Conference is the question of maintaining South African troops in Namibia.

We have asked Pretoria to remove its armed forces from Namibia; it has obviously chosen not to do so. The consequences of South Africa's decision to retain full military control is bound to foster continued armed violence in Southern Africa.

Mr. Speaker, it is just this sort of situation we at the Conference attempted to avoid. On behalf of the American delegation and officials from Australia, the Federal Republic of Germany, the United Kingdom, and New Zealand, I rose again and again to seek support for removal of language in our resolution which would approve the use of armed struggle by emerging nations to achieve selfdetermination.

My statement read in part that "we fully support the principle of full democracy in South Africa, but we seek peaceful solutions and note that violence only begets violence." The efforts of the American delegation were defeated, largely at the behest of Third World nations. Perhaps they understood better than we that South Africa will never give up Namibia except by force. This unfortunate viewpoint is held by the distinguished foreign correspondent, Mr. David B. Ottaway, who wrote in the September 21, 1978 Post that South Africa's rejection of the U.N. plan is "bound to provoke greater Soviet and Cuban involvement in the South African administered territory."

Closely echoing his views are Zambian President Kenneth Kaunda and Angolan President Agostinho Neto, both of whom supported the U.N. plan and both of whom are going to be hard pressed to support SWAPO actions against South African forces without Namibia.

It would seem that no sooner have we done our level best to produce peace in the Middle East than the dire threat of war breaks out in Southern Africa. It is my observation that man can achieve anything he wishes to achieve—even peace. But it would seem that not all wish peace. For those who seem bent on maintaining a hold over a country to which they have no legal rights, I would urge that they first stop and listen to the voices of their neighbors and friends who want to put a stop to colonialism and war. The opportunity is there. They and we must accept it or face the unthinkable consequences.

Thank you.

AN UNSUNG HERO RETIRES

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. WRIGHT. Mr. Speaker, one of the true unsung heroes of our time will be leaving the Air Force next Friday after 35 years of service, and I do not want this event to pass without notice.

The unsung hero of whom I speak is Lt. Gen. John Peter Flynn.

If I tell you that he is the Inspector General of the Air Force, that probably would not mean much.

If I tell you that he has served in three wars and received numerous decorations, including the Air Force Cross, the Distinguished Service Medal with oak leaf cluster, the Silver Star, the Legion of Merit with 2 oak leaf clusters, the Distinguished Flying Cross with 6 oak leaf clusters, the Bronze Star Medal with V device, the Air Medal with 14 oak leaf clusters, the Purple Heart with oak leaf cluster and many more, that might not mean too much either.

But if I told you that General Flynn was the officer principally responsible for maintaining the morale of American prisoners of war in Vietnam for over 5 years, you might begin to get the measure of this remarkable man.

Jack Flynn began his military career as an aviation cadet in February 1943. He graduated the next year and served during the remainder of World War II flying F-51 fighter aircraft.

In that war, the Korean war, and Vietnam war he proceeded to log more than 4,500 flying hours. During the Korean war he flew F-80's. During the Vietnam conflict he flew F-105's. He also served in various responsible positions with fighter units in the United States, Japan, and Europe.

The ultimate test of his courage, strength and devotion to country, however, came during the Vietnam conflict. In August of 1967 he joined the 388th Tactical Fighter Wing in Thailand as vice commander. On October 25 of that year while flying a combat mission over Hanoi he was shot down and taken prisoner—the highest ranking allied prisoner of war held by the North Vietnamese.

For more than 5 years, until the American prisoners of war were released in March, 1973, Jack Flynn had the awesome task of providing leadership and direction to men living under the worst imaginable conditions.

In spite of the persistent efforts of his captors to prevent any unity among the prisoners, Jack Flynn organized and led the Fourth Allied Prisoner of War Wing, an organization which allowed the men to help each other survive.

It was his devotion to his country and his refusal to shirk his responsibilities to his fellow Americans, in spite of severe personal hardships, that mark General Flynn as an American hero second to none.

Under circumstances which would have overwhelmed most of us, General Flynn set an example for his followers which instilled in them a desire to return home with honor—which they did.

Few of us who watched the airplanes land and the first of these former prisoners salute the American flag on deplaning will forget the pride we felt in these brave countrymen. That this moment could occur, that these men could return with such spirit and such a sense of honor—all this was made possible largely through the integrity, the courage, and the greatness of soul that characterize Jack Flynn.

This is the legacy that he leaves behind as he retires from the Air Force. Few men have given so much for their country short of life itself. Of course, he will be missed, but his memory will remain alive throughout the Air Force, for he is a living legend.

In paying tribute to General Flynn, I would not be telling the whole story if I did not mention Mary Margaret Flynn, the wonderful lady who provided support and understanding throughout his career, especially during those long years of confinement in North Vietnam; it was a great comfort to Jack to know that his wife could be depended upon to manage things at home. Her steadfast courage and sensitivity serve as an example of all the quiet contributions made by the family members of our service men and women.

Jack and Mary Margaret are about to put these years of active service behind them and to begin yet another phase of their lives. I know their many friends in the Air Force and the Congress join me in the hope that the best years of their lives are still to come.●

TRIBUTE TO MRS. TERRY BLAKE

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. JOHN L. BURTON. Mr. Speaker, on Sunday, September 10, the first National Grandparents Day was celebrated as a result of a special resolution passed by Congress and the President in August.

As one of the cosponsors of the measure, I know that a lot of credit should go to many different people who helped to make this tribute to grandparents possible, but a California grandmother deserves a few extra words of praise for her years of campaigning for a grandparents day.

Mrs. Terry Blake, a former actress and current resident of Los Angeles, has been working for a grandparents day since 1955. She claims she is the first in the field to advocate a grandparents day and has geen pushing for this observance during the past 23 years.

Mrs. Blake has been a grandmother 10 times and has spent several thousand dollars trying to get a resolution passed. She has campaigned across the country three times and in 1955, she brought her crusade to Washington, D.C., with a petition containing 4,000 signatures in the hopes of seeing President Eisenhower about a grandparents day. Although she did not see the President then, her efforts have now paid off in helping to launch a National Grandparents Day.●

SUSPENSION SEASON FEVER IS HERE AGAIN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. DORNAN. Mr. Speaker, we are in the season again when there is a tendency to push through a variety of controversial measures under the suspension procedure. This procedure denies Members of the House an adequate opportunity to analyze, debate, and amend significant bills.

Recently, a major piece of health legislation, the Health Planning and Resources Development Act, H.R. 11488, was brought up under suspension and failed to pass. Members of Congress need to be alert if an attempt is made to bring up another major health measure which is even more controversial—the Health Services Amendments of 1978 (H.R. 12370). This measure needs to be fully debated and discussed on the House floor rather than rushed through under the suspension procedure.

H.R. 12370 contains funding for the controversial title X family planning grants. Despite clear prohibitions in the law that Federal money should not go to promote abortion as a method of family planning, title X provides funds for planned parenthood and other groups which promote abortion and controversial publications, films, et cetera, which undermine generally accepted standards and values about sex and sexual conduct. The granting of Federal funds to private agencies which promote abortion is a misuse of Federal funds and needs to be thoroughly reviewed by Members of the House. We need to be better aware of how the funds of the taxpayers are being used.

We should be aware that the excessive level of funding in title X will make more money available to some of the most controversial programs. (See report of the Committee on Interstate and Foreign Commerce on H.R. 12370, section 5, family planning, page 49.) This measure should not be rushed through on suspension. If it comes up under suspension, I urge you to vote against the bill so that the full membership of the House will have the benefit of a thorough debate and examination of the programs contained in H.R. 12370, the Health Services Amendments of 1978.

Several Members of Congress were planning to offer corrective amendment to title X, in order to bring the program back in line with the original act passed in 1970. We were aware that the Interstate and Foreign Commerce Committee had asked for an open rule, and we were relying upon that in our deliberations. So that everyone may better understand the serious objections conveyed to us from around the country, I will briefly outline some of the abuses under title X:

FUNDING OF ABORTION SERVICES

Section 1008 of title X states:

> None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.

Known as the Dingell amendment, this provision has never been removed from the law. Our esteemed colleague, Mr. PAUL ROGERS, in health services program hearings on H.R. 2954 and H.R. 2955 held on February 19, 1975 has also stated in a response to the U.S. Coalition for Life, Export, Pa. (page 260):

> That the law is very clear as to the design and content of programs funded under Title X of the Public Health Service Act. None of the funds appropriated under Title X may be used in programs where abortion is a method of family planning. This provision would not merely prohibit the use of such funds for the performance of abortions but would prohibit the support of any program in which abortion counseling or abortion referral services are offered.

In spite of these excellent efforts of Mr. ROGERS and others, HEW, Planned Parenthood, and others have chosen to ignore the clear intent of the law. Clear documentation has been prepared by Mr. Chuck Donovan, of the National Right to Life Committee, that at least 117 hospitals and clinics where "abortion is a method of family planning," are receiving title X family planning grant moneys. They are in 33 States and the District of Columbia. Virtually every Member here is affected by this situation.

Furthermore, the Office of General council for Health Services Administration of HEW has told me that:

HEALTH SERVICES ADMINISTRATION,
Rockville, Md., September 1, 1978.

Hon. ROBERT K. DORNAN,
House of Representatives,
Cannon Office Building, Washington, D.C.:

I regret the delay in providing the requested definition of "program" as used in Section 1008 of Title X, PHS Act. Since the definition is extracted from an opinion on a case issued by the Office of the General Counsel (OGC) dated April 10, 1973, I asked that the OGC clear it since it is taken out of context.

"Section 1008 of the PHS Act provides: 'None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.' "

"We do not believe that the word 'program', as used in Section 1008, was intended to be so comprehensive as to include any and all family planning activities carried on by an applicant for Title X funds. For example, we do not believe that a hospital offering abortions for family planning purposes, consonant with State law, would be disqualified from receiving Title X funds for the operation of a separate family planning program which utilized only preventive family planning methods.

"On the other hand . . . it is recognized that in some situations, the abortion element in a program of family planning services may bulk so large and be so intimately related to all aspects of the program as to make it difficult, if not impossible to separate the eligible and non-eligible items of cost. In such a case, we think a grant for the project would be legally questionable.

"In other words, a mere technical allocation of funds, attributing Federal dollars to non-abortion activities and other dollars to abortion activities, in what is otherwise a discrete project for providing abortion services, would not, in our opinion, be a legally supportable avoidance of the Section 1008 prohibition.

"In our opinion, the activities (abortion and non-abortion) must be so separated as to constitute separate programs (projects). As we have already indicated, our conclusion does not require separate grantees or even a separate health facility. However, neither do we think that separate booking entries alone will satisfy the spirit of the law."

Sincerely yours,

ELSIE SULLIVAN,
Assistant for Information and Education, Office for Family Planning.

As if that were not bad enough, I have a quote from Senator PACKWOOD, supplied me by Paul Marx, OSB., from Collegeville, Minn., showing how title X grantees can get around the prohibition on abortion. It is taken from Father Marx's book, "The Death Peddlers." He says:

GETTING AROUND THE TYDINGS ACT

Addressing himself to the law passed last year at the end of the congressional session, known as the Tydings Family Planning and Population Act, which had allocated $382 million for fiscal 1971-73 for family-planning services and population-research activities, Packwood proclaimed himself "abhorred" that it had excluded money for abortion. He gave detailed suggestions for bypassing that prohibition:

If a national grant were made to Chicago's Planned Parenthood, for example, they could use the money for other purposes and expenses, while using their current monies to promote abortion. This would give every Congressman a way out if challenged by a constituent: he could say he voted against abortion.

Packwood surely had done his homework:

Various health acts funnel money that can be used for abortion purposes. The Public Health Service Act likewise grants to states various monies, the purpose of which is to be decided by the states. For these various acts the federal government can grant money to the states with liberal abortion laws to be used to implement abortion programs.

So, in asking for an amendment to the title, we do nothing more than ask what Congress had already thought was the case. And that hardly is a radical move.

I urge that Members listen carefully on Monday to the debate on H.R. 12370. There are a number of rather tasteless films and booklets being promoted with public money. We are the guardians of the purse. And our constituents will hold us accountable for our actions. This is supposed to be an open society. Well, then, let us have open discussion on these controversial measures, and stand up and be counted.●

THE SEARCH FOR ALTERNATE SOURCES OF ENERGY

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. McCLOSKEY. Mr. Speaker, our reliance on foreign oil imports represents an increasing threat to our national security.

It is time Congress faced up to that threat.

Since the Arab oil embargo of late 1973, we alone of the major industrial nations have increased our reliance on Arab oil. We have been slow in developing alternative solutions of energy that will be reasonable in price and safe to use.

One possibility that could offer a major part of the solution is the extraction of oil from coal. In this regard, the respected journalist, Mr. Harlan Trott, formerly with the Christian Science Monitor, has recently written a very perceptive and challenging article. I insert that article in the RECORD for the information of our colleagues:

SURPRISE! WE CAN MAKE OIL FROM COAL CHEAPER THAN THE OIL WELLS CAN PUMP IT OUT

(By Harlan Trott)

In this time of brownouts and shortened work-weeks called the energy crisis, it may cheer you to know that we can make oil from coal cheaper than oil wells can produce it.

A Government scientist named Lewis Karrick had a lot to do with improving the basic process.

Federal energy officials have been suppressing it for 50 years. They blandly deny this, claiming only the inventor can suppress his patents.

By "suppress" we mean, according to Webster: "to keep from public knowledge—to refrain from divulging."

The Karrick process involves low-temperature carbonization (LTC) of coal. This means heating coal at from 680 to 1380 degrees F., in the absence of air to prevent combustion, so as to distill out all the oil and gas.

When you treat a ton of coal by LTC, you get back about a barrel of oil; 3,000 cubic feet of rich fuel gas; and 1,500 pounds of smokeless solid fuel. But if you harness the process to an integrated energy plant, using the off-peak steam, the same ton of coal can produce 100 kilowatt-hours of electricity besides.

The Karrick process would combine a carbonizer, a refinery, a city gas works and a central electric station so as to produce oil, gas, smokeless fuel and electricity under the same roof at the same time.

If an LTC plant produced more smokeless fuel than it and the community could consume at the moment, you could convert the surplus to water gas. And the water gas can be converted into four barrels of oil by the (Fischer) synthesis process.

Geologists tell us there are enough latent heat units (B.T.U.s) in America's coal reserves to last us for a couple of millennia, give or take a few centuries. The LPC process is all it would take to dispel the monopoly myth that we must depend on Arabian princes to regulate our thermostats until world petroleum prices have broached some unspecified hole in the sky where it would pay us to begin using it.

The energy crisis is really only an information crisis.

The cartel is blocking LTC with help from Washington and Wall Street. These three monopoly powers—Big Oil, Big Bureaucracy, Big Banking—oppose LTC because an integrated LTC energy industry would be amendable to private enterprise initiative.

Congress is doling out millions to the energy giants to experiment on variations of Frederick Bergius' coal-to-gasoline (hydrogenation) process. Standard Oil of New Jersey (now Exxon) paid $35 million for it in 1930.

The government even built a $10-million 30,000 barrel-a-day pilot plant with it. But the Secretary of the Interior scrapped it in 1953 saying it was useless to keep "trying to get more than a quart of water in a quart jar."

Exxon's Bergius process is so massive and complex it cannot be made to stand on its own financial feet. The cartel insists the taxpayers must prop it up for them with a subsidy program "comparable to the U.S. Merchant Ship Subsidy Act." This means fuel bills and taxes will go up.

Big Oil's Wall Street spokesman is H. C. Bailey, vice president at Kidder, Peabody where he is "responsible in corporate finance for petroleum." Big Banking's scheme for subsidizing oil from coal is defined in the Nov., Dec. 1973 Defense Transportation Journal.

Bailey concedes "only the largest corporations" are sophisticated or experienced enough in the promotion of massive debt to manage an open-ended pork barrel of this inflationary magnitude. Our federal energy officials endorse Bailey's concept.

Even though the Government has no viable alternative to its suppressed Karrick process, the Interior Department is calling for an "Apollo-size" oil-from-coal program.

Last September the cartel tried to ram a Ford-backed bill through the House without debate. The measure would have provided up to $4 billion in government loan guarantees to begin building synthetic-fuels plants that aren't on paper. The House voted 193 to 192 against buying something less even than a pig in a poke.

There is nothing "miraculous" about LTC nor did Karrick invent it.

Before 1860, more than 50 plants were extracting oil and gas from coal. Boston had five LTC plants producing oil and gas for heat and light; and axle grease and paraffin for candles. But in 1873, "too much" cheap petroleum had forced the last coal-oil plant to shut down.

Free enterprise made oil from coal before the rise of the Rockefeller dynasty, and it could revive the art, especially with crude oil selling around $12 a barrel. The prospect terrifies the cartel. A small rural co-op can make and distribute electricity. A big farmers co-op can refine and transport petroleum products. A New England town can make its own gas, its own electricity. This has been going on for years. Scores of them still do. So why can't a big city or a small village—or a Federal TVA—combine all these steps with LTC of coal under the same roof?

The fact that they can is backed by Karrick and his federal coworkers, and eight years of pilot grant tests at the University of Utah.

Every year we consume over a half a billion tons of coal. This means we destroy 400 million barrels of oil a year; and 1.4 trillion cubic feet of rich fuel gas, plus billions of dollars worth of coal chemicals used in making fertilizers and plastics.

Energy officials continue to shrug off this staggering waste. They are the ones who know, but aren't telling the public what LTC is all about. Meanwhile all this enormous energy wealth goes up the flue in the form of smoke, soot and sulfuric fumes—all for want of a national fuels conservation and development policy.

There isn't the slightest question about the economic feasibility of the so-called Karrick process. Our Government admits it. Listen to this colloquy between a senator and the Government's top synthetic fuels adviser.

"Senator Murdock: The statement by Mr. Karrick, I will read the statement and then see what you have to say about this: 'Therefore, these coals, where there is a market for the smokeless fuels and the gas, can produce oil cheaper on an average, cheaper than the average cost at the well of petroleum in the western part of the United States!'

"Dr. Fieldner: I think that is a fair statement, if you can get a market for the solid products. That is the main product. They will obtain from this coal from 20 to 35 gallons of tar oil as a byproduct." (*Hearings*, on U.S. Senate Res. 53, Oct. 1942, p. 1546.)

Simply labeling LTC coal oil a "by-product" is all it takes to exclude it from our federal R&D program. If our energy officials ran out of gas on the desert, would they spurn a gallon of LTC gasoline because it was a "byproduct?" Would the engine balk? Germany fueled its wartime Luftwaffe on oil from coal. Japan bunkered her battleships with LTC oil from Manchuria shale. Did Hitler or Tojo object?

After commercial-scale test runs on Appalachian coal in 1947, Karrick told the Ohio Society of Professional Engineers it is feasible to produce oil from coal in the Hocking Valley for $5.00 a barrel. The going market price for the upgraded coal byproducts—gas, electricity, smokeless fuel and phenols—would let you give away the oil and still net a fair return.

Today this startling economic claim for Karrick's oil-from-coal method is being demonstrated on a commercial scale in England.

The Rexco Company is using the very process our Bureau of Mines developed with our tax dollars and then discarded. Rexco owns and runs five LTC plants producing smokeless fuel for industrial and domestic users in Britain's official clean air zones.

"It is a very efficient plant," according to Rodney Coltart, "carbonizing 1,000 tons per day, 75 per cent of which is recovered as high grade smokeless fuel for industrial and home use."

This San Francisco mechanical engineer visited Rexco's Snibston plant at Coalville in Leicestershire, England, in October 1974. He was taken on an all-day tour of the plant with John Brown, director; M. J. Platts, manager; and Robert Ingliam, chief engineer.

Coltart's written report to president C. D. Allen of the Natural Resources Corp. explains: "They have to meet rigid standards on their product set up by the Government." What Coltart didn't say was that the Government is in the smokeless fuel business, too. It's a competitor of Rexco's. Only the Government's works aren't as efficient. Perhaps that's why Rexco has to operate with one hand tied behind its back. Listen.

"The original plant contemplated six retorts in line but only five were installed since the Coal Board limits their coal allocations." In other words, Rexco is bucking a state monopoly!

The Snibston plant makes 750 tons of smokeless fuel a day. At the same time the retorts produce three million cubic feet of fuel gas, and around 650 to 700 barrels of tar oil. The Coltart report states: No smoke or odors are discernible. If the tars and phenols were processed and sold, the revenue derived would pay off the cost of the entire plant in about two years, according to the Rexco people.

"The conveying and processing part of the plant involves the services of three men and a supervisor per shift. All were easily trained from scratch. Adding a few more retorts in line would not require any additional personnel."

Secretary of Commerce Herbert Hoover (the Bureau of Mines was then in Commerce) made Karrick—not the Bureau—custodian of the Government's pioneer oil-from-coal research data. Hoover advised Karrick to file patents—as scientists in the Department of Agriculture had been doing—rendering the broadest public service with them, and give the Government full credit.

Sixteen patents were issued to Karrick outright. One was held jointly with Douglas Gould, who was destined to have an outstanding career as a petroleum chemist with a major oil company. One, covering underground distillation and gasification of coal and oil shales, was held jointly with his brother Col. Samuel N. Karrick, builder of the underground works on Corregidor. All of the Karrick patents have expired, either before or after his death in 1962.

If Karrick's process was any good, you say, Standard Oil would have bought him out! Actually, Old John D. tried.

In 1929, Standard Oil officials assisted in drawing up a charter for a subsidiary tentatively titled Oil & Gas Development Company. They tendered Karrick the position of vice president, chief engineer and one-third of the stock.

In exchange, Karrick was to turn over his patents and supporting data.

That offer followed months of talks between Karrick and a patent broker named Leo Ranney. Ranney was officed a few doors down a corridor from Col. Robert Hayes, at 26 Broadway. Hayes was Standard's chief counsel. Standard (N.J.) is now known as Exxon.

STANDARD OIL (EXXON) TRIED TO BUY KARRICK PATENTS IN 1930

In March 1930, Ranney wrote Standard Oil officials for advice on handling Karrick's three blanket patent applications on the underground gasification of coal. "As you know, your patent attorneys and technologists have investigated these processes since December," Ranney reminded them. "Mr. Howard [President of Esso (N.J.)] has called to my attention that there is a vast amount of work ahead in connection with hydrogenation and that there would be probable delay in the development of the gasification processes by Standard alone . . . He has asked whether I would feel disposed to fully protect Standard in any event (which, of course, goes without saying) . . ."

Ranney added that the inventions have been explained to the technologists of the Insull group, Cities Service, Columbia, United Gas Improvement, Allied Chemical and Consolidation Coal, "all of whom are interested and some of whom are waiting for me to tell them how large an interest they may secure and for how much. The reason for this rather hurried letter is that I have a telegram from the assistant to Mr. Insull that he and their engineers will be in New York on April second to see whether some sort of deal can be made.

"Considering that Standard and Consolidation are close together, I have talked the processes over several times with Mr. Barrington, and at the last conference he wondered whether the whole underground gasification business might not be a matter that Mr. Rockefeller himself would like to father to benefit both his coal and oil interests . . ."

The next day Karrick wrote Ranney: "I see no fault with the letter to President Clark of the Standard Oil Development Company of March 21, a draft of which you handed me yesterday, it being understood that it refers to our processes for the underground gasification of coal, as per our agreement of November 1, 1929. Also that Standard interests have no rights or equity at the present time in these processes."

The same day, Standard bid for Karrick's process, the New York Times reported. So, Jersey had purchased patent rights to Frederick Bergius' process for hydrogenation of coal directly to gasoline, from I. G. Farben in Germany. Thus the cartel was on the verge of controlling two contrasting and controversial methods of making oil from coal—hydrogenation and LTC.

One of the flimsier sophistries advanced by the Bureau of Mines is that the LTC process is a last-gap effort to reinstate the family coal shovel. The Bureau contends that to produce oil and gas in any appreciable amounts, LTC would "glut the country with mountains of char." Not so. Listen:

"Congressman Barrett: Would you produce at the same time considerable amounts of gas with your process?

"Karrick: The Rocky Mountain coals, as far north as Rock Springs, Wyoming, in Colorado and Utah, all yield from 30 to 45 gallons of oil per ton. They vary within the same seams. You get from 2,000 to 2,700 cubic feet of gas out of it, but we learned to heat only until just the last trace of oil is out. Then it can't be made to smoke under any conditions. It burns with a clear, very long, clear, blue flame. The gas yield can be varied. The more gas you drive out of this smokeless fuel, the lower the B.T.U. of the gas; so you can boost it up to 6,000 cubic feet to 800 B.T.U. gas per ton of coal processed.

"Then it was demonstrated that all of the solid smokeless fuel could be made into water gas. In that case you get about 40,000 cubic feet of 300 to 350 B.T.U. gas from a ton of processed coal. And out of that you could make four barrels of oil by the [Fischer] synthesis process.

"The thing to do is to distill the oil out of the coal, while making a smokeless fuel and high B.T.U. gas. In a national crisis you could quickly go to converting this reactive, solid smokeles fuel into oil . . . Those who have been using this smokeless fuel [i.e., industries and electric power plants] will then go to burning raw coal for the duration of the emergency. That is the way we think the national fuels economy ought to be handled." . . . (Hearings, H.R. 7330, May 12, 1950, p. 136, Emphasis added.)

As soon as Karrick and his coworkers proved they could make oil from coal cheaper than oil wells, the Government stopped work on the oil-rich coals in the Rocky Mountains. Karrick was transferred to the Bureau's Pittsburgh station where experts from the oil, steel and chemical giants, and their faculty friends at Carnegie Tech, could "assist" in the Government's work. The cartel's assistance has been largely of a mortuarial nature ever since.

A storm broke out in the early 1950s over the relative merits of the Bergius and Karrick techniques. The Bureau put out so much wrong information about both processes that Dr. Eugene Ayres was brought into the Government arena to untangle the information mishmash in private. Ayres was Director of Research at Gulf Oil, the ablest fuels economist on the cartel's prestigious Paley Commission. Ayres left the Bureau's "30 coal experts" with these blunt conclusions:

Bergius is too costly in terms of dollars and coal.

About half the thermal value of coal is destroyed.

The process requires much precious water.

Bergius Hydrogenation need not be used to any large extent in the future because:

Simple, continuous LTC techniques exist, such as the Bureau of Mines developed, in which moderate yields of oil are accompanied by major yields of smokeless fuel.

The oil can be converted to liquid fuels while the smokeless fuel is an excellent fuel for steam boilers.

The Karrick method—including the conversion of the oil to motor fuel—destroys only 25 per cent of the thermal value—half as much as Bergius method.

LTC is an interesting process because of the ratio of national demands for liquid fuels for electric power and other essential coal uses is not very far away now [1952] from the ratio of yields from LTC, and is expected to balance before 1980 because demand for electric power is growing faster than demand for liquid fuel.

Welding together the petroleum, gas, coal and electric power industries to form an integrated energy industry is plausible for several reasons.

The cheapest liquid fuel from coal will come when coal is processed by LTC for both liquid fuel and electric power.

This should also give the cheapest electricity.

The private sector can handle the job without subsidy, but not in competition with those who skim off the oil from coal and sell the residual smokeless fuel to power plants.

Federal antitrust lawyers advised Karrick not to sign up with Standard Oil, believing the cartel intended to bury him until (a) his patents covering the underground distillation and gasification of coal had all expired; (b) the country had run out of natural gas, at which time pipelines crossing the country's big coal fields would all have been paid for; and (c) the cartel would then be ready to pump gas from Karrick's underground gasification process into the hungry gas lines.

Instead, Karrick was advised to go back to Utah and teach students at the university how to produce four clean energy products from coal at the same time under the same roof; and show the people of Salt Lake City how their city-owned LTC multienergy plant could erase the state capital's bad name as the smoky "Pittsburgh of the Rockies."

A Karrick plant was built at the university large enough to be classed as a pilot plant. Here are some of the findings combed from these submitted by candidates for bachelor's and master's degrees in arts and sciences during Karrick's eight-year tenure as director of coal products research:

The gasoline obtained from Utah coal is equal in quality to any of the tetraethyl gasolines.

Yields by volume of about 25 percent of gasoline, 19 percent kerosene and 20 percent good quality fuel oil may be obtained from coal.

The smokeless fuel when burned in an open grate or in boilers delivers 20 to 25 percent more heat than the raw coal.

As a complementary product in the process of distilling coal, electrical energy can be produced at a minimum cost.

In a Karrick plant with 1,000 tons of daily coal capacity there would be sufficient steam generated to develop 100,000 kilowatt-hours of electrical power with no extra cost (except for capital investment of electrical equipment) other than the loss of temperatures of the steam passing through the turbines.

Marketing of these products in most cases will be competitive with other products of coal and petroleum, according to Clarence Schmutz, candidate for master of arts.

This coal gas should deliver more heat than natural gas, per heat unit contained, because of the greater amount of combined carbon and less dilution of the combustion gases with water vapor.

The gasoline, fuel oil and other oil products would be a small part of the volume of petroleum products now imported into the State, and therefore, should find a ready and enthusiastic market.

A 30-ton plant and oil refinery will show a profit over and above all operating and capital costs. And the products will sell at present prices for like products.

A large commercial plant treating 1,000 tons of coal per day or more will be able to effect many economies in investment and operating costs.

The process steam cost would be very low since this steam would be derived from the offpeak boiler capacity, or steam bled from turbines, in central electric stations. Fuel for raising steam and superheating would likewise be reduced in cost.

The chief criticisms voiced are: (1) that a commercial-sized plant based on the principles worked out by Mr. L. C. Karrick and his associates in the Government service will not succeed because of mechanical troubles, reference of a plausible nature having been made to failures of other plants that treated other coals with other processes under other conditions; and (2) that the markets for the coal products described in this thesis are limited, and therefore, such a venture is economically unsound.

No difficulties whatsoever were encountered with the successful mechanical operation of the plant used for this investigation. No changes in the design of the plant were necessary for it to work smoothly.

A commercial-sized plant of a few units should be built and operated as a "ward" of a public-spirited body in Utah. The Utah Research Foundation was initiated by Mr. Karrick for the endowment of the University of Utah and to bring other public benefits.

This should be the logical organization to father this movement.

When such a plant has operated for a reasonable period it will then be time for those who oppose such development to present facts and figures, if any, in support of the claim that such enterprise is not economically feasible, according to George Carter, candidate for master of science, and S. Clark Jacobsen, coworker and coinvestigator in the engineering research contained in this thesis.

Jacobsen won the Mechanical Engineering Honor for the "best undergraduate thesis of the year" awarded by the American Society of Mechanical Engineers, Utah Chapter. The Carter-Jacobsen thesis was summarized in a number of scientific and industrial journals.

Carter's point—about suspending criticism until a process has been fairly tested under commercial conditions—is well taken.

The Rexco plant in Leicestershire, England, is such a plant.

Karrick was a prime mover in the early development of Rexco's basic N.T.U. retorts. More recent proof that LTC is a powerful engine for the creation of wealth is found in the fact Rexco has completed drawings of a plant that will process 1,000,000 tons of coal a year. The blueprints were ordered by a client in Denmark intending to import coal from Poland to process into smokeless fuel for markets in Sweden.●

ASSISTANCE FOR AMATEUR ATHLETES

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. KASTENMEIER. Mr. Speaker, this body will soon be considering legislation which will mean more to amateur athletes in this country and to this Nation's participation in future games than any action taken by Congress in recent history. The Amateur Sports Act of 1978 (S. 2727), which passed the other body without a dissenting vote in May, was favorably reported to the House by the Judiciary Committee this week. With the passage of this act, every amateur athlete—from world class competitors to the weekend jogger—can look forward to better organized and more developed sports programs in this country.

This act presents the best opportunity which has existed in over 50 years to effectively reorganize our amateur sports programs. As a longtime observer of the amateur sports scene and an enthusiastic supporter of this legislation. I know that this is an encouraging prospect for all of America's athletes. This has been confirmed by conversations I have had with several outstanding amateur athletes from my home State.

Over the years, Wisconsin has been fortunate to have several of its amateur athletes represent the United States at the Olympic games and other international athletic competitions. One of these is Dan Immerfall, an Olympic medal winner in speedskating in 1976, who, in a conversation with me, underscored the importance athletes place in the passage of the Amateur Sports Act.

As we all know, the privilege to represent our country in the Olympic games requires a proficiency of skill which can be only acquired after long and grueling training, often at considerable personal expense to the athlete and his or her family. In some cases, the financial hardship is enormous.

An important means of providing some financial relief to our athletes is to make available adequate training facilities which are geographically near and financially affordable. The financial assistance provided in the Amateur Sports Act will help provide this opportunity for more amateur athletes.

At the present time, the U.S. Olympic Committee is underwriting the full cost of operation and maintenance of two regional training centers—one in Squaw Valley, Calif., and another in Colorado Springs, Colo. Within the past 14 months, over 9,000 young athletes have used these facilities. The USOC envisions the establishment of several of these centers across the geographical limits of the United States, as well as establishing supplementary training programs at selected educational institutions where facilities and coaching expertise exist.

Since a large part of the financial hardships to amateur athletes comes from the cost of travel to athletic training facilities which often are hundreds of miles from their home, the advantage of several regional training centers which provide room and board to the athlete upon arrival is obvious. The operational cost of these training centers requires a substantial financial commitment by the U.S. Olympic Committee. Without the Federal financial assistance provided for in the Amateur Sports Act, the USOC has indicated it is questionable that it can continue to make this opportunity available to the athletic youth of this Nation.

It should be noted, however, that the USOC intends to use these funds to administer and operate these training facilities, not for construction. Construction of a training center is a multimillion-dollar venture and is currently financed by private donations. It is anticipated that once the concept of training centers becomes better known, private funds can be developed for future operational costs.

This is only one example of how the Amateur Sports Act will benefit our Nation's youth. The programs which this bill will mandate will provide many more opportunities for amateur athletes to develop their skills and fulfill the dream many of them have of representing our country in the Olympic games.

As the views of Wisconsin's Dan Immerfall are representative of many of the amateur athletes who support this bill, I submit an interview with Mr. Immerfall published in the Wisconsin State Journal on September 9, 1978, be printed in the Record at this point:

[From the Wisconsin State Journal, Sept. 9, 1978]

Opportunity To Help Finance U.S. Olympians Is Now

Madison's Dan Immerfall is a most dedicated athlete, whose exploits have become known world-wide.

The thrill of his lifetime came in winning a speedskating medal at the Winter Olympic Games in 1976, and he has hopes of doing well in the 1980 Games at Lake Placid, N.Y.

Now, the University of Wisconsin music major is supporting a cause that would keep that opportunity flourishing for other potential Olympians.

Immerfall estimates that it takes approximately $8,000 to $10,000 a year of his own money to participate in speedskating competition in this country and around the world.

Speedskaters have to travel almost daily between homes and the olympic-sized West Allis rink to practice. Doing a great deal of traveling seems to be the case with so many amateur athletes. And they generally pay travel expenses out of their own pockets. It's a decision to either personally finance their goals, or give up.

So, when assistance is proposed by both houses of Congress, which coincides with the strict rules of amateur status, it looms as a golden opportunity to athletes.

"Athletes of all sports need something like this," said Immerfall. "It is so important to the development of our Olympic potential."

It is surprising that the United States has done so well in Olympic competition. So many other countries are subsidized by their governments in varying degrees, but U.S. participation has existed virtually through contributions alone.

That's why Immerfall and his fellow Olympians were so enthused over proposed legislation in May.

The bill (H.R. 12626) not only would eventually lead to an athletes' bill of rights for future settlement of disputes between sports organizations, but would call for a one-time federal authorization of $30 million to the United States Olympic Committee (USOC). Those funds would be disbursed over a four-year period to help promote a well-developed sports program and to develop new and additional training programs in support of the Olympic effort.

Part of the appropriation was to be used for expansion of programs in sports medicine and testing at the regional training centers at Squaw Valley and Colorado Springs, but not for development of training centers, which generate funds separately.

Immerfall claims the nation's amateur sports programs may now be in danger of losing that authorization.

A companion bill to the current House of Representatives bill was enacted by the Senate in May without a single dissenting vote. But on Aug. 16 the Subcommittee on Administrative Law and Governmental Relations of the House Judiciary Committee delegated authority for federal financing of the $30 million.

The Judiciary Committee is soon to consider the subcommittee report.

The USOC claims that "in removing the authority it was apparent that subcommittee members did not realize that funding was essential to implemention of other provisions of the legislation."

"I believe, as the USOC does, that the action does not reflect sentiments of people concerned with amateur sports," said Immerfall.

To reinstate that funding, Immerfall said, "you must make your feelings known to your congressman.

"Every athlete with Olympic potential may lose a golden opportunity to obtain what is within our grasp if we can muster public support," Immerfall said.

He feels that if amateur sports are to continue to flourish it is vital that legislation to keep that $30 million in the bill be enacted during the current session of Congress which adjourns in October.

If legislation is not enacted it will then become open for debate and the whole process must begin again with the new Congress, and that could result in years of lost time with no guarantee that re-introduced legislation will ever see the light of day.

Perhaps not everyone, even followers of Olympic sports, feels as strong about this "lost opportunity," but Immerfall does, and he urges action.●

NEED TO CONSOLIDATE GRANT PROGRAMS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. LAGOMARSINO. Mr. Speaker, on August 17 my colleague, Don Clausen, and I introduced a resolution calling for a study of the Federal categorical grants system with an eye toward consolidation. This legislation grew out of our service on the California delegation task force on proposition 13, when it became clear to us that the numerous restrictions and matching requirements of Federal grant programs are hindering the rational allocation of local funds following the passage of proposition 13.

At our request, the General Accounting Office provided a report on the effect of these requirements, in which the GAO agreed that consolidation of grant programs would lead to more effective and efficient programs and lessen the distortion of local priorities which occurs under the present system.

At the risk of embarrassing my colleague, I would like to insert in the Record an editorial from the Santa Rosa, Calif., Press Democrat, a paper in his district, commenting on this issue. The editorial reads as follows:

[From the Press Democrat, Sept. 20, 1978]

Cutting Down on Paperwork

One of the disturbing trends in government in recent years has been the growth of federal grant programs.

Today more than 52 federal agencies administer 975 federal grant programs. These grants go to state and local governments. With each grant comes "strings"—rules set up by the federal government regarding the use of grant funds. Naturally, this leads to more paperwork and an expenditure of public tax monies for administration of each funded program.

Now two California Congressmen, Don Clausen of the Redwood Empire and Bob Lagomarsino of Ojia, have introduced legislation which would provide for consolidation of grant programs to save money, reduce paperwork, and give local government agencies more control of the tax dollars.

The two Californians asked the U.S. General Accounting Office for its opinion on consolidation of the grant programs. The GAO said that millions of dollars could be saved if the grants programs would be consolidated into four or five general areas. This would give local governments more decision-making power over the grant money.

The GAO also pointed out another obvious fault of the federal grant programs as now operated. That is that the federal government, by waving the carrot of grant money for specified programs, induces state and local governments to take up "programmatic ventures they otherwise might not have funded."

That has been one of our biggest gripes about the federal (and sometimes state) grant programs. They induce, nay, almost compel, local governments to take up certain programs, and then gradually reduce the funding. This leaves local governments stuck with federal programs while their revenue base is being reduced. This is especially true since the passage of Proposition 13.

The passage of Proposition 13 is what caused Congressman Clausen to ask GAO advice on the grant programs. He is a member of a special task force from the California Congressional delegation assigned the duty to determine the impact of Proposition 13 and its "message" to legislators.

We commend Congressman Clausen for sponsoring legislation to consolidate federal grants, and urge Congress to approve such legislation in the interest of getting the federal government off the backs and out of the pocketbooks of U.S. taxpayers.●

TRIBUTE TO CONGRESSMAN MO UDALL'S LEADERSHIP

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. LEHMAN. Mr. Speaker, as a member of the Post Office and Civil Service Committee, it was my privilege to follow the genuinely unself-serving legislative leadership of Congressman Mo Udall as he guided the civil service reform bill to final passage.

This was a delicate and often agonizing process. Mo Udall used his considerable prestige and unique legislative skills to work through and around the roadblocks of special interest and pressure groups to produce legislation that will benefit the common good.

The following is an article from the Washington Post of September 20. It describes in greater detail the many obstacles met and overcome by Mo Udall as he led the battle for civil service reform.

Udall's Delicate Coalition Pushed Through Civil Service Bill

(By Kathy Sawyer)

In the double glow of television lights and victory last Wednesday, just after the House had given overwhelming approval to President Carter's landmark civil service overhaul legislation, Rep. Morris K. Udall spoke briefly on the phone with the President at Camp David.

As the lanky Arizonan listened, his face crinkled in a tired smile. The President had said "something about who might have been elected president in 1976," Udall said later.

It was Carter's acknowledgement of the irony that the man who had made this widely heralded triumph possible was his former adversary in the '76 campaign, who had only reluctantly bowed to the president's personal request last spring that he take charge of this bill, a top domestic priority for Carter.

If Udall had declined that dubious honor, parties on all sides agree, the Civil Service Reform Act of 1978 would now be in the dusty grave so many had predicted for it all along. Instead it is in the hands of House-Senate conferees, meeting today and next week to resolve the conflicts between the two versions, before what is expected to be smooth final passage.

"The single most important factor in that bill's success has been Mo Udall's unbelievable integrity, and the fact that he kept on pushing," said one lobyist, summing up the sentiments expressed by many.

Udall had himself taken up interest in the issue of government reform. Also, more importantly, the Arizonan was viewed as the only member of the Post Office and Civil Service Committee, which had jurisdiction over the bill, who could serve as a trusted mediator among the disparate elements that had threatened to sink the bill.

Udall is credited, among other things, with putting together, through arduous negotiation, the crucial compromise on a labor-management section of the bill—the issue that more than any other had threatened to kill the bill.

The "unsung hero" in this saga, Udall said, is Rep. William Ford (D-Mich.) who played a "quiet but critically important role" in that particular struggle.

It was Ford, a staunch supporter of labor, who fought from the beginning against a labor package, favored by the administration, that would satisfy the Republicans but would divide Democrats and would have the administration "running over" the federal employee unions, Udall said.

It was Ford's eventual approval of a compromise on the scope of bargaining to be given federal employee unions, plus his efforts to persuade other labor supporters to join him, that led to what Udall termed "that remarkable spectacle" last week of conservative Republicans, led by Rep. John Erlenborn (R-Ill.), and liberal Democrats, led by Ford and Rep. William Clay (D-Mo.), joining in a 380-to-0 House approval of the labor package.

"The bill would have sunk if Ford and Clay and organized labor had decided to go after it," Udall said. "As it is, they (labor) are coming out with substantial gains."

Ford called his feat "nothing fancy. It's the way the system is supposed to work around here."

He criticized the administration for some early misjudgments, such as not consulting properly with unions and their allies, baiting federal workers by emphasizing the need to get rid of incompetents, and the like. He said he foresaw a resulting backlash "which would make it difficult for members to support the bill, especially Democrats."

"We urged that the new powers the bill would give to managers be balanced off with fair play for employees," he said. "But it took some time to convince the administration that we were serious, and not just trying to spoil the president's bill."

Some other sources on the committee still grumble about "bumbling" and a lack of political savvy in White House dealings with them. Last spring, for instance, just as Carter was gearing up to woo the committee on this bill, a top administration official went campaigning for the opponent of the committee chairman, Robert N. C. Nix, who was subsequently defeated.

Even Udall, who has praised administration efforts, this week went so far as to say "there was a certain naivete in the beginning" on the part of the Carter team.

However, he said that Civil Service Commission Chairman Alan K. Campbell "is extremely bright and learned quickly." Campbell has led a White House task force in pushing the president's plan on all fronts, including a massive nationwide public relations effort.

"I was naive," Campbell said yesterday, "but I got over it."

In the area of labor-management issues, he said the administration's early recommendations were the result of an intense dispute within the administration on how much to give the unions. This left the Carter forces "little room for bargaining and maneuvering."

As the bill progressed through one crisis after another, Udall said, the president kept in close touch with him. "But he also told me 'you're the quarterback' and gave me rather compelte authority" to make decisions, including some not so pleasing to the administration.

For example, with time running short on the congressional calendar Udal made a "battlefield decision not to fight an amendment offered in committee by Rep. Gladys Noon Spellman (D-Md.) that had been vigorously opposed by the administration. The amendment limited Carter's new Senior Executive Service, a key part of his plan, to an initial experimental phase before it can expand throughout the government. That change is one of the major differences to be reconciled in conference.

It was partly because of what Udall called the "vicious crosscurrents in the committee" that he resisted the president's urging last spring that he become the bill's shepherd. Not only was he busy with major projects of his own, but he had "considerable doubts at the time that we could pull it off at all," Udall said this week.

But the president had appealed "to my patriotism and my friendship," Udall said. "I'm an old Hubert Humphrey Democrat—a sucker for that kind of appeal."●

MORE STUDY NEEDED

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. SKELTON. Mr. Speaker, Missouri pork producers are deeply concerned about the possible Federal response to a recent study by the Massachusetts Institute of Technology which "suggests" that nitrites cause cancer in laboratory animals. As a resident of the leading pork producing county in Missouri, I fully understand this concern. These pork producers see this as another in a long list of actions coming out of Washington which have brought confusion and uncertainty to their industry, and seriously threatened its future stability.

Mr. Speaker, if ever a situation called for a risk-benefit approach to Federal regulation, this is it. In the MIT study, a cancer-prone rat species, fed a high dose of sodium nitrite, showed a slightly higher incident of lymphomas—cancer—than when not fed sodium nitrite. The author of the MIT study has summarized his own results as "somewhat less than convincing," and has called for more studies in other species of test animals. Moreover, an examination of the MIT study by the highly respected College of Agriculture of Iowa State University concluded that because of inappropriate statistical methods used and the lack of important data, the MIT report does not clearly establish carcinogenic activity by nitrite itself.

Balanced against this, Mr. Speaker, is the well documented evidence of the benefits of nitrites. Nitrites have been used in meat products for hundreds of years. They are essential in preventing the development of the deadly botulinum toxin and other food poisons. They retard spoilage and impart flavor and color to cured meat products. Nitrite preservatives are used in 66 percent of the total pork produced in the United States. The pork producing industry would suffer disastrous economic consequences if nitrites could no longer be used. In addition, consumers would suffer increased prices because of the high cost of currently available alternative preservation systems.

Mr. Speaker, any action to ban or phase out nitrites at this time would be precipitous. Regulatory agencies must base their decisions on unequivocal, sound, repeatable scientific information. We do not have this kind of information on nitrites at this time. When it becomes available, then the benefits of nitrite usage must be balanced against whatever risks are determined to be present.

This is why, Mr. Speaker, that I am cosponsoring legislation which would prohibit a ban on the use of nitrites as a food preservative unless there is evidence which proves beyond a reasonable doubt that nitrites as a food preservative have a significant carcinogenic effect on humans, or unless an economically feasible substitute preservative which will protect the public against botulism and other food poisoning becomes available. This is the reasonable way to proceed, Mr. Speaker, and I urge all my colleagues in the House to join in support of this approach.●

SUPPORT FOR WIRETAP BILL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. MAZZOLI. Mr. Speaker, today, the House Judiciary Committee authorized the appointment of conferees on the H.R. 7308, Foreign Intelligence Surveillance Act of 1978. This step now clears this important bill for conference, and I hope, swift passage into law.

As the following September 21, 1978, editorial from the Louisville Courier Journal points out, H.R. 7308 is a carefully balanced measure.

In committee markup and on the floor last week, every effort was made to reconcile the competing interests of national security and individual privacy. I believe that we were largely successful in our efforts.

I hope that my colleagues will take a moment to read this thoughtful editorial.

CONGRESSIONAL GOOD SENSE ON WIRETAPPING

Congress is near the end of a long search for the right sort of controls on government wiretaps in the foreign intelligence field. That's tribute to Capital Hill persistence in the face of the unusual coalition that emerged during House debate.

The House, like the Senate last April, voted this month to extend to "foreign" wiretaps the requirement already imposed on the domestic variety—that agents first obtain federal court warrants. The leading foes of this change were former federal agents who repeatedly waved the "national security" banner.

Admittedly, this view was tempered by a wish to clarify the legal status of intelligence agents, a situation clouded by such events as the indictment of a New York City FBI supervisor in an illegal mail-opening campaign. But mostly the ex-agents argued that the necessity of first obtaining warrants before tapping the conversations of suspected spies, saboteurs and terrorists would delay critical investigations. They said it would be better to rely on implied presidential powers, asserted by successive administrations and recognized in court, to order wiretaps in the national interest.

Also opposing the House and Senate bill during the three-year legislative struggle were many liberals who believe any wiretapping to be an encroachment on the precious right of privacy. But a majority took a view between these two extremes. It concluded that more had to be done to curb intelligence abuses, such as those unearthed during Watergate. Probes turned up evidence of such abuses as taps on the phones of White House aides, harassment of opposition candidates (under both Lyndon Johnson and Richard Nixon), and the use of wiretap information to divide legitimate dissent organizations.

Among those leading this centrist coalition in the House were Morgan Murphy of Illinois and Romano Mazzoli of Kentucky. Their opposition largely came from Republicans and Southern Democrats who tried to gut the bill by asserting that existing executive orders on wiretaps would assure sufficient restraint.

The reply to this argument, as Representative Mazzoli observed, is that the absence of a law would give a future president the opportunity to discard the present administrative restrictions on eavesdropping. Thus, the best safeguard for citizens' rights would be passage of checks and balances that not even a future Richard Nixon could alter.

Similarly, in rebutting the argument that the mill would hamper investigations, its sponsors noted that emergency wiretaps would be allowed, so long as judicial approval was obtained within 24 hours.

The sponsors also accepted the suggestion of Robert McClory of Illinois, leader of the opposition, that agencies be exempted from obtaining warrants to intercept communications between two parties who were not U.S. citizens or resident aliens.

Another important provision of the bill is a requirement that the judge issuing a warrant for foreign-intelligence wiretapping be shown evidence of criminal activities, not merely suspicions that might mask political motivation. This, too, was opposed by Representative McClory. He contended that judges are not competent to properly assess intelligence-gathering needs. But the House, in a 429–128 vote, rightly rejected this argument.

The McClory coalition did manage to eliminate a proposal, approved earlier by the Senate, that the Chief Justice name special judges to hear warrant requests and monitor legal wiretaps. The Senate-House conference should restore this special panel, whose members would have time to develop expertise. Their knowledge would be an additional safeguard against promiscuous issuance of warrants.

As Congress heads down the home stretch, this delicate compromise should win a place high on the priority lists of the Carter administration and Capitol Hill leadership. The political abuses of the past could be a problem in the future unless a well-balanced wiretap act is adopted.●

THE DANGEROUS ARMS RACE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. EDWARDS of California. Mr. Speaker, I want to comment to my colleagues the recent comments of Mr. Tokuma Utsunomiya, a member of the House of Representatives in Japan, regarding an issue of great importance to our country and the international community—the defense needs of Japan. Mr. Utsunomiya is a valued friend with great foresight. I think his unique perspective on this issue will be of great benefit to the Members and the American public in assessing our future policies toward our ally, Japan:

[From the June 6, 1978, issue of the Economist, Japan]

THE DANGEROUS ARMS RACE

(By Tokuma Utsunomiya)

I cannot but feel deep anguish when I think of the future of Japan to see the recent rampancy of unthinking expressions of hawkish ideas and statements around us. There is the danger of Japanese politics being swept along in one direction before the people of Japan can engage in adequate discussion. I have written the following article in order to resist and block this trend.

I do not believe that Japan has abandoned its right to individual self-defence in its Constitution and I believe it would be better if Japan's self-defence capabilities were made more disciplined, stronger and more effective under the ultimate control of the National Diet.

However, I feel that the arguments in favor of strengthening Japan's self-defence and rearming Japan, which have been voiced in the past and are being voiced today, contain certain dangers. These arguments are based on the excessive trust in armed might that prevailed in pre-war Japan and on a subservience to the Cold War policies of the United States. Moreover, those who put forth these arguments are persons who have not been able to rid themselves of the habit of placing military affairs and administrative processes before politics.

As a matter of fact, the Japanese politics, which permitted the great destruction of Japan's natural environment evident around us today for the sake of economic growth, are capable of seeking the expansion of Japan's self-defence capabilities not for the sake of the Japanese people but for the benefit of corporations and as a means of stimulating the economy. Indeed, we cannot deny the fact that just such extremely dangerous trends are evident in the arguments calling for Japan to lift its ban on the export of arms and in expressions of hopes of a war breaking out in the near future.

However, this does not mean I am denying Japan's right to expand its self-defence capabilities in keeping with needs and for the sake of the Japanese people, provided this expansion is carried out under proper political control. Japan's "peace" Constitution and its three non-nuclear principles (not to possess, produce and import nuclear arms) are the products of the wisdom of Japan's post-war politics. To indiscriminately abandon or overthrow our "peace" Constitution and the three non-nuclear principles is tantamount to permitting ultra-rightist totalitarianism, in all its stupidity, to destroy Japan once again.

Japanese politics should hold high Japan's "peace" Constitution and its three non-nuclear principles, not as a sop to Japan's pacifist opposition parties or to domestic public opinion, but to all countries of the world and should strongly advocate in the United Nations and in other international forums the abolition of nuclear arms and large-scale disarmament.

To do so would be to provide a grand vision to the Japanese people and, at the same time, would be in keeping with Japan's vital national interests. Japan, with its dense population crammed into a small space and with its advanced industrialization, is extremely vulnerable to destructive nuclear weapons from both the air and the sea.

The range of today's nuclear weapons is very great. They can be aimed from anywhere at a given target with great accuracy. Of all parts of the world, the areas in which a single nuclear missile can wreck the greatest destruction possible are the Tokyo-Yokohama, the Osaka-Kobe and the North Kyushu districts in Japan. Further, Japan's economy depends on marine transportation and, in the case of oil alone, Japan imports close to 300 million tons from abroad in tankers. If a large-scale attack were launched against Japan's commercial sea lanes, we must expect immediate paralysis of Japan's economy and its national livelihood. Even if the Japanese people may not be aware of this fact, foreign military experts know this all too well.

Japan, by its very geophysical structure, does not have today the ability to wage a war. It can only repel small-scale armed attacks.

If Japanese politics were foolish enough to drag Japan a large-scale war, the first and probably the last fight the Japanese people can engage in would be the struggle of doctors and nurses to accommodate and care for countless young and old and male and female non-combattants. For this reason, "hawkish" patriots should not exist in Japan in the first place. If any such patriots are to be found, they would either be mad men or the mouthpieces of foreign countries.

Peace is as necessary as the sun for Japan. For this reason, Japan must work to create internationally an atmosphere of peace and to make the peace-keeping structure of the United Nations into a powerful organ. For this, it would be in Japan's greatest national interest to call actively for the abolition of nuclear arms and for general disarmament.

However, the world reality today is one in which the arms buildup and the play at soldiery have spread to such an extent that arguments for disarmament and peace seem only a conceptual game.

Both in the USSR and in the United States the military technocracy has become extremely strong and, although the defeat of the United States in the Vietnam War appeared to have set back the industrial-military complex, it has already staged a come-back. In the midst of the opposition to President Carter's Panama Canal agreement and his plans to withdraw troops from South Korea, there has become noticeable a joining together of the forces of the industrial-military complex and right-wing organizations.

The world-wide struggle for hegemony between the two superpowers, the United States and the USSR, has become critical and both nations now possess nuclear arms in quantities several times greater than that needed to completely destroy all living things on the face of this earth. An arms race between the two nations still continues—an arms race centered on nuclear weapons and fraught with the danger of the product of the highest wisdom of human civilization being used in the most foolish manner.

The military budget of the USSR in fiscal 1977 was $127,000 million, according to figures announced by China. This added to the military budget of the United States means that close to $300,000 million was spent during the past fiscal year for military purposes. The U.S. budget for fiscal 1977 lists military expenditures of $101,500 million. This represents an increase of $11,000 million over fiscal 1976. Besides military expenditures, there are disbursements for pensions to military personnel, space development and foreign intelligence activities. This forms the basis for the estimate of the close to $300,000 million in military and military-related spending of the United States and the USSR in fiscal 1977.

This enormous sum is one-third of the total value of world trade and three times the total value of U.S. trade in 1975. It means that vast economic energies are being kept out of economic circulation and prevented from enriching human lives.

In the case of Socialist societies, it is clear that a 20 percent increase in military expenditures means a 20 percent decrease in the real incomes of their peoples. However, in capitalist societies, it is said that increases in military expenditures stimulate the economy and result in an increase in real incomes.

It is certain that in present-day Japan, at a time when one-third of the nation's steel production capacity and over 50 per cent of Japan's shipbuilding capacity remain idle, orders for arms would save the plight of iron and steel and shipbuilding companies and would enable them to return profits. However, for the people as a whole, it would mean an increase in their tax burden and a drop in their real incomes.

Generally speaking, if we lived in an age today in which we did not have to worry about the finite nature of resources and industrial sites, arms orders, incapable of contributing on their own to the improvement of the lives of the people, would, nonetheless, stimulate the expansion of production facilities, would have so-called "spinoff effects", would trigger a business boom and would have the effect of increasing the real incomes of the people.

However, at present, the military spending and arms exports of both the USSR and the United States and the vast military expenditures of other countries in the world are sucking the life-blood of the world's economy and the expansion of production aimed at supplementing this loss of economic blood is being limited by shortages of resources and industrial sites and is not contributing to the improvement of economic conditions and to the increasing of real incomes.

Rather, military spending brings about stagflation, or recession accompanied by high commodity prices, and brings about a weakening of the economies and an impoverishment of the lives of the people of the countries involved.

In short, the reason why so-called modern economic sciences appear impotent is because they cannot clearly point out the fact that under the present arms race economic growth brings in its train severe pollution and the wasteful dissipation of resources and the fact economic growth under these conditions cannot contribute to the welfare of mankind.

BALANCE(S) OF POWER SERIES

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, the Intentions Series now focuses upon the role which managerial power in the Soviet defense sector plays in various policy decisions affecting U.S./Soviet relations. In "Defense Industrialists in the U.S.S.R.," Karl F. Spielmann describes the functions of the defense industrialists in Soviet society and analyzes their potential influence in defense and foreign policies of the Soviet Union. The author emphasizes two key areas in which they are most likely to play an important role: the Strategic Arms Limitation Talks (SALT) and the effort to improve the Soviet economy through the acquisition of Western technology.

"Defense Industrialists in the U.S.S.R." first appeared in Problems of Communism, September–October 1976.

The first part of Mr. Spielmann's article follows:

DEFENSE INDUSTRIALISTS IN THE USSR

(By Karl F. Spielmann)

At this stage in the evolution of Soviet society, the defense industrialists of the USSR have considerable stakes in the decisions which that country's leaders have to make in two major areas. As managers of traditionally the most privileged segment of the Soviet economy, the defense industrialists cannot help but be concerned with the decisions confronting the leadership how best to cope with the ills of the flagging civilian economy. As the armors of the Soviet State, they also have an obviously large stake in the leadership's decisions on how best to build upon the Soviet Union's newly acquired status as a strategic equal of the United States.

The defense industrialists have reason to sense both opportunities and challenges in these not unrelated sets of decisions. New vigor for the economy as a whole would obviously be welcomed by them. However, as the regime casts about for economic cures, they are doubtless attentive to the potential threat of encroachments on their longstanding privileges. Similarly, the defense industrialists have reason to anticipate a rich and varied menu of defense programs from a regime appreciative of their recent achievements and tempted to exploit the USSR's new strategic status for foreign-policy gains. Yet, at this point in the arms "race," some of the dishes on this menu might not be too appealing. If the Soviet Union should have to place increasing emphasis on technologically adventurous weapons systems to keep pace with (or try to outpace) the United States, the defense industrialists could find themselves subject to disturbing pressures to modify tried and true organizational arrangements and practices in their sector.

It follows from the preceding statements that the defense industrialists are vitally concerned with decisions affecting the future course of the Soviet regime's current policy of détente toward the West. The regime's decisions regarding the strategic arms limitations talks (SALT) and its effort to secure doses of Western technology to nurse the Soviet economy are most prominently involved. It is thus a matter of more than passing interest to Western policymakers trying to divine the nature and depth of the USSR's commitment to détente whether the defense industrialists are in a position to translate these concerns into an impact on policy and what this impact might be.

SOVIET MILITARY-INDUSTRIAL COMPLEXITIES

To suggest that the question of managerial power in the Soviet defense section—i.e., of the degree to which managers and administrators in this sector can or do influence national policy—may now have a particular relevance to pressing policy decisions affecting Soviet-US relations does not mean that one should have high hopes of satisfactorily resolving it. Over the years, the Soviet defense industrialists have received much less scholarly attention in the West than either their military customers or their managerial counterparts in the Soviet civilian economy. The reason for this lies in the extraordinary dearth of available information on the operations of the Soviet defense industries, which has caused Western scholars, by and large, to heed the counsels of prudence and adopt a policy of benign neglect toward the defense industrialists. Such an attitude, however, carries certain risks of its own. For one may then be tempted to make judgments about the defense industrialists on the basis of one of two alternative assumptions: either (1) that the attitudes and interests of the defense industrials, as managers, coincide with those of Soviet industrial managers in general; or (2) that the defense industrialists, who are simultaneously members of the Soviet military establishment, fully share the interests and attitudes of the professional military. Neither of these assumptions, however, has been definitely established. As a consequence, the scholar faces a difficult choice: either he can go ahead and focus specifically on the defense industrialists as a particular group, in the face of admittedly incomplete evidence; or he can continue to make inferences about their attitudes and policy impact on the basis of the unproven assumptions just described. In the author's view, there are good grounds for choosing the former course.

For while the territory of the defense industrialists may be difficult to chart, it is not to be regarded as totally alien. Without succumbing to the illusion that methodological niceties can somehow make up for a lack of evidence, one can draw some useful guidance from other analytical settings in broaching the issue of managerial power in the Soviet defense sector. Since this article represents only a first step in trying to focus attention on the defense industrialists, it will not attempt a detailed discussion of the utility and disutility of applying concepts from related analyses. However, where particularly appropriate in the discussion, the apparent relevance of various approaches which have been utilized in other areas will be noted. The three principal sources that might be tapped to shed light on the defense industrialists' situation—provided that in doing so one does not lose sight of the peculiarities of these industrialists—are: (1) recent evaluations of US foreign-policy and weapons-system decision-making; [1](2) studies of industrial decision-making in the Soviet civilian sector; [2] and (3) analyses of the Soviet defense research and development (R&D) process.[3]

THE WORLD OF THE DEFENSE INDUSTRIALISTS

The limited nature of the evidence available on the question of managerial power in the defense sector is readily apparent from a survey of the most significant published information on the defense industrialists' domain. As analysts who have grappled with the problem are painfully aware, it is difficult to calculate the magnitude of the overall annual Soviet defense budget,[4] much less arrive at a reliable estimate of the budget share for each of the Soviet defense-industrial ministries. It is generally agreed, however, that the defense-industrial ministries are privileged in respect of both the volume and quality of their share in certain key resources, such as R&D inputs (both manpower and equipment), and that, also in contrast to the civilian economy, they tend to utilize these resources more efficiently.[5] Finally, while there is very little direct information on enterprise-level operations in the defense-industrial bailiwick, one can at least tentatively derive some inferences about the

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attitudes, roles, and relations of personnel at this level from what is known about: (a) the R&D process and its relations to production; (b) enterprise-level activities of the military customer; and, most important, (c) the basic structure and responsibilities of the defense-industrial ministries.

The most important defense industrialists are the heads of the individual defense-industrial ministries. There are currently eight defense-industrial ministries as well as at least four "quasi"-defense-industrial ministries (contributing to Soviet defense production) that have been identified. The ministries in the former category, together with their current ministers (in parentheses) and basic production responsibilities, are as follows:

Ministry of the Defense Industry (S. A. Zverev)— artillery, tanks, armored vehicles, small arms, fuses, primers, propellants, explosives, and possibly tactical guided missiles;

Ministry of the Aviation Industry (P. V. Dement'yev)—aircraft, aircraft parts, and probably aerodynamic missiles;

Ministry of the Shipbuilding Industry (B. Ye. Butoma*)—naval vessels of all sorts;

Ministry of the Electronics Industry (A. I. Shokin)—electronic components and parts (subassemblies rather than finished electronic equipment);

Ministry of the Radio Industry (P. S. Pleshakov)—electronic systems, including radio and communications equipment, navigation aids, radars and computers;

Ministry of General Machine-building (S. A. Afanas'yev)—strategic ballistic missiles and space vehicles;

Ministry of Medium Machine-building (Ye. P. Slavskiy)—nuclear devices and warheads;

Ministry of Machine-building (V. V. Bakhirev)—possibly some portions of ballistic missiles and space vehicles or a portion of the Ministry of the Defense Industry's responsibilities.[6]

The category of "quasi"-defense-industrial ministries includes those of Tractor and Agricultural Machine-building; the Chemical Industry; the Automobile Industry; and Instrument-making, Automation and Control Systems.[7]

A notable feature of the defense-industrial sector is the durability of its administrators. All of the current defense-industrial ministers have spent long years in this field of work in various capacities, rising typically from enterprise-management posts to deputy minister and then minister. Moreover, most have long tenure in their ministerial posts. Apart from P. S. Pleshakov, who only assumed the post of Minister of the Radio Industry in 1974 upon the demise of V. D. Kalmykov, V. V. Bakhirev is the most "junior" minister, with 8 years of experience as head of the Ministry of Machine-building (*i.e.*, ever since its creation). S. A. Afanas'yev has been a minister for 11 years, and S. A. Zverev for 13 years. Among the "senior" ministers, P. V. Dement'yev has headed the Ministry of the Aviation Industry for 23 years; B. Ye Butoma * and Ye. P. Slavskiy have led their ministries for almost 19 years; and A. I. Shokin has headed the Ministry of the Electronics Industry since its founding 15 years ago. V. D. Kalmykov, had been minister of the Radio Industry for over 20 years at the time of his death in 1974.

The basic lack of turnover in the ranks of the top defense industrialists probably attests at least in part to the Soviet political leadership's general confidence in their capabilities as administrators. Since several of them have weathered two successive leaderships, the top defense industrialists' grip on their posts may also testify to considerable political acumen on their parts—either in picking the winning side on key issues that have divided the leadership over the years or in wisely maintaining a low profile when it was politically expedient to do so. Except for P. S. Pleshakov, all of the current defense-industrial ministers are full members of the party Central Committee,[8] but none has gained entry to the Politburo. This contrasts with the situation in the early 1950's, for example, when defense-industry ministerial posts were occupied by Politburo members M. G. Pervukhin and M. Z. Saburov. (Since then, only D. F. Ustinov, whose unique role we shall consider presently, has risen from the ranks of top defense-industrial administrators to membership on the Politburo).

Not only has the durability in office of the top defense industrialists provided an important element of continuity in this vital sector; it has also apparently helped to sustain a network of personal relationships that may be significant in reinforcing a community of defense-industrial "interests."[9] These relationships are not limited to long-term personal contacts among the defense-industrial ministers themselves but also extend to the ministers' working relationships with the principal overseers of the sector. D. F. Ustinov, who was the party's chief watchdog over defense industry until his recent promotion to the post of Minister of Defense, and L. V. Smirnov, the Chairman of the Military-Industrial Commission (*Voyenno-Promyshlennaya Kommissiya*—VPK),[10] both previously served as Minister of the Defense Industry and no doubt have had a longstanding personal acquaintance with the current defense-industrial ministers as well as with one another.

Notwithstanding the long tenure of the key defense-industrial administrators, there have been several organizational changes within the sector since it first attained separate existence almost 40 years ago.[11] While some of these changes no doubt have been reflections of broader organizational shake-ups in the Soviet bureaucratic structure,[12] some changes probably also have taken place to meet specific needs arising out of the exploitation of new areas of military technology. The creation in 1961 of the State Committee for Electronics Technology (which in 1965 became the Ministry of the Electronics Industry) probably falls into this category. The establishment of the Ministry of General Machine-building in 1965 presumably was also prompted by evolving military requirements. (It is curious, however, that creation of this separate ministry to administer missile R&D and production came only some five years after the Soviets saw fit, in late 1959, to create a separate service in the military to accommodate the ICBM—the Strategic Rocket Forces.) Since the establishment of the Ministry of General Machine-building, only one new ministry has been added—i.e., the Ministry of Machine-building (in 1968).

In addition to these organizational accommodations to technological change, the defense sector in general has apparently benefited from other practices to keep the gap between R&D and production—which has been a source of particular concern in the civilian sector in recent years [13]—from yawning wide. Besides special supervisory efforts by the top leadership directed to this end, this seems to be basically a consequence of efforts by the individual ministries to attain and retain under their own authority the necessary R&D and production resources to turn out weapons systems; the clout given to individual designers in both the R&D and production processes; and the attention given to special experimental plants which construct weapons-systems prototypes.[14] It is noteworthy, however, that the defense-industrial ministries were apparently among the first to adopt the new system of economic accountability called for under the 1965 economic reform.[15] (Indeed, in 1964, S. A. Afanas'yev—soon to become Minister of General Machine-building—explicitly endorsed the need for economic reform based on the Liberman proposals.[16]) That the leadership saw fit to extend the reform to the defense sector suggests that the sector may not be altogether free of the ills besetting the civilian economy—which the reform in part was supposed to help remedy. If the presumed goals of the regime as evidenced on the civilian side are any guide, the intent would have been, among others, to improve production efficiency in the defense sector and in particular to encourage the defense managers to be more receptive to technological innovation.[17]

A final aspect of the defense-industrial setup that bears mention also illustrates that the dividing line between civilian and defense industries may not be as sharp as it at first appears. While it is impossible to arrive at any trustworthy calculation, the civilian production commitments of the defense-industrial ministries seem to be considerable. This is quite evident if one takes into account, for example, that the production of all civilian aircraft in the USSR falls under the Ministry of the Aviation Industry in the defense-industrial sector. Brezhnev himself told the 24th CPSU Congress in March 1971 that 42 percent of the defense-industrial ministries' efforts went into production for the civilian sector.[18] Soon thereafter, P. V. Dement'yev, Minister of Aviation Industry and, S. A. Zverev, Minister of Defense Industry, both published articles bolstering Brezhnev's claim.[19] The latter cited an impressive array of civilian products produced by defense-industrial plants—ranging from oil-drilling equipment to the Moskvich automobile.

DEFENSE PRODUCERS AND THE MILITARY

The foregoing survey of various aspects of the Soviet defense-industrial establishment provides only a rough starting point for assessing managerial power in this sector. It is necessary to fit these elements into a more sharply-focused picture of the defense industrialists' relationship with their military customers as well as with the Soviet political leadership.

While the nature and impact of managerial power in the Soviet defense-industrial sector must ultimately hinge on the relationship between the defense industrialists and the political leadership, these matters cannot be properly evaluated without first taking a look at the relationship between the industrialists and their most important customers, the Soviet military. In broad terms, one might reasonably take for granted a basic commonality of interests between those who produce Soviet weapons systems and those who use them. To the extent it could be shown that such a commonality of interests exists and can be translated into pressure on the Soviet leadership to pursue defense (and foreign) policies which it would not otherwise adopt, one would have a classical example of the operation of a military-industrial complex in the Soviet setting. There are, however, significant nuances and distinctions in the Soviet case that may limit the validity of this military-industrial "model" in analyzing the policymaking process in the USSR.

First, the model oversimplifies matters for the reason that, notwithstanding the aggregative role which the Ministry of Defense may play for the military, in reality the defense-industrial/military relationship is one between a collection of producers on one side and a collection of customers on the other. The eight defense-industrial ministers turn out weapons systems for five different military services. Accordingly the Ministry of General Machine-buidling, for example, can be expected in the main to have a greater interest in the fate of weapons systems for the Strategic Rocket Forces than in those desired, say, by the Ground Forces. Similarly, the Ministry of Shipbuilding would obviously have a

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greater stake in the Navy's programs than in the programs of the other services. Consequently, just as there may be categories of decisions which find the defense-industrialists as a whole and the military as a whole in agreement, so there may also be categories of decisions in which certain military services and certain defense-industrial ministries "ally" themselves against other services and defense-industrial ministries.

It is necessary to go beyond even these distinctions. While particular defense-industrial ministries may have service customers that are basically more important for them than other service customers, the range of production responsibilities of these ministries indicates that their ties with their principal customers are by no means exclusive. For example, the Ministry of the Radio Industry would doubtless have a high stake in supplying the radar systems which the Air Defense Forces (Protivo-Vozdushnaya Oborona—PVO) desire but it would also have an obvious stake in the production of radars for the Air Force and Navy. Likewise, the Ministry of the Aviation Industry would presumably have a major interest in production for the Air Forces, but it would also have a stake in meeting the needs of Naval Aviation and the PVO.

As a consequence of the breadth of the defense-industrial ministries' production responsibilities, identification of basic alliances between services and specific defense industries can on occasion prove difficult. To take a hypothetical case, the Long-Range Air Force (LRA) plumps for a new bomber which top officials in the Ministry of Defense (or in the Politburo) view as feasible only if plans for a new fighter-interceptor desired by the PVO are scrubbed. In this situation, can the Minister of the Aviation Industry, P.V. Dement'yev, be reliably identified as a backer of the LRA case? Or should he be regarded as a PVO ally?

In this context, it is also worth noting that the various armed services under the Ministry of Defense cannot do much shopping around to get their desired weapons systems produced. While it is undoubtedly true that on the whole the Ministry of Defense enjoys considerable market power as the only substantial customer for new weapons in the USSR,[20] the bargaining leverage of the defense-industrial ministries is hardly inconsequential. The PVO after all *has* to deal with the Ministry of the Radio Industry to get the radars it wants; the Air Forces *have* to deal with the Ministry of the Aviation Industry to secure aircraft, and so on. This sort of dependency does not, of course, justify the conclusion that these defense-industrial ministries would be likely to affront a major service customer. It does suggest, however, that even when a defense-industrial ministry does not have to choose between competing proposals of two different services as in the case described above, it may still be less committed to a new weapons system than the particular service which is promoting it.

In light of these considerations, it would appear to be among personnel operating *below* the ministerial level in the defense-industrial ministries that one is likely to find the greatest congruence of interests with those of service proponents of particular weapons systems.[21] Here the role and attitudes of weapons-system designers are probably of key importance in the Soviet military-industrial equation. Memoir material [22] and recent analyses based on that material indicate that on occasion weapons-system designers themselves have taken the initiative in proposing new weapons systems (sometimes seeking the backing of top political leaders) to the military customers. Such indications, plus the fact that extensive competition may occur among design shops before a choice of weapons system for production is made,[23] would suggest that individual designers may have considerably higher stakes in particular weapons decisions than do the top defense industrialists. In a design competition for a new aircraft for the PVO, for example, what would be a loss to a designer would not be a comparable loss to his minister—since the winning design would be produced in the ministry in any event.[24]

Besides these incentive considerations, intensity of interest in decisions on particular weapons systems may also be affected by the quality of communications between service proponents of the systems concerned and the design shops in the defense-industrial ministries which would develop these systems. Memoir material indicates that these contacts may be highly developed and effective. Evidently, personnel with appropriate technical qualifications are assigned by the military services to monitor weapons efforts in the defense-industrial ministries.[25] One might infer from the technical expertise required of these military monitors to perform competently, as well as from their basic responsibilities,[26] that they are likely to be quite specialized and, in consequence, to be associated with technical organizations located in particular services.[27] If this is the case, they would seem well suited to act as a channel for transmitting particular weapons-system ideas from their respective military services to individual designers, as well as conveying the designers' ideas to their service superiors.[28]

To what extent such opportunities for the development and communication of common weapons-system "interests" at the lower levels of the defense-industrial ministries and in the services affect managerial authority in the defense sector is difficult to say. It seems likely that the monitoring activities of the military personnel and the clout that has been ascribed to designers in the production process would, at the very least, heavily impinge on the authority of managers at the enterprise level.

At the upper levels of the managerial hierachy—*i.e.*, among the defense-industrial ministers and deputy ministers—the situation may be much more complicated. These individuals may be in a position to block ideas for new weapons systems put forward by the most concerned individuals in their respective spheres, or alternatively to advance them further—*e.g.*, to a hearing by political and military decision-makers at the highest levels.[29] The receptivity of the defense-industrial ministers (and deputy ministers) to such new ideas is likely to depend in part on the sorts of distinctions between military and defense-industrial "interests" adduced earlier. In addition, much might depend on the top defense industrials' view of the degree of technological adventurism involved in a proposed weapons system.

Without ascribing to military personnel and designers unbridled enthusiasm for forcing the pace of military technology, there are reasons for believing that they would be more inclined to promote technologically adventurous ideas than would the top defense industrialists. To be sure, analyses which have underscored the large role of designers in the Soviet weapons-acquisition process have stressed the basically conservative approach of the designers over the years—which has resulted in the relatively simple but reliable weapons systems said to have characterized much of the Soviet arsenal in the past.[30] However, even if we grant this to be an accurate description of the situation in Soviet weapons development in the past,[31] the designers may be less conservative today, even if not as inclined as military service personnel to see technologically adventurous weapons systems developed and produced. The element of competition is likely to continue to induce a relatively greater cautiousness on the part of designers, but in light of the considerable personal stake a designer may have in weapons "contracts" with a particular service, he may not be in the best position to fend off technologically adventurous proposals advanced by that service (especially if the service insists that keeping pace with U.S. weapons programs requires that such proposals be carried out). It is also possible that an increase in the predisposition of the Soviet military services to accept technologically adventurous ideas might tend to induce individual designers to push similar ideas of their own.

On the other hand, such ideas may well encounter their least enthusiastic reception among the top defense industrialists. This perspective does not necessarily reflect a conservatism resulting from old age and long tenure in the same posts. (Resort to actuarial tables to identify who stands where on Soviet policy matters is, in any event, a questionable analytical device.[32]) A far more important reason for the top defense industrialists' wary attitude is their concern that pushing the pace of military technology might lead to infringements on their individual domains and/or complication of their management responsibilities. They have before them a number of examples of organizational changes in the not too distant past which were certainly prompted in part by the need to keep pace with advancing military technology and which resulted in losses of resources by older ministries to newly-created ones. The Ministries of the Electronics Industry, General Machine-building, and Machine-building, which were established in the 1960's, were after all hardly created out of whole cloth.[33]

The top defense industrialists may also be uneasy that acceptance of technologically adventurous weapons systems may entangle them in new dependencies, even if they manage to avoid large-scale reorganizations. An increasing need to turn to the Academy of Sciences, for example, rather than to rely heavily on in-house R&D resources would seem to be a likely prospect. A greater dependence on other defense-industrial ministries for subsystems and components for ever more complicated and advanced weapons systems is another possibility that might add to the individual management burdens of the top defense industrialists. A final prospect that might also be less than welcome is the possible assumption by the political leadership of a greater and more direct role in managing operations in the defense-industrial sector. This role is already considerable, but the increased problems of coordination among the defense-industrial ministries and between them and outside institutions (such as the Academy of Sciences) that would result from commitment to a more technologically adventurous policy of weapons development could make the hand of the political leadership weigh even more heavily on the defense-industrial managers.

None of this is to suggest, of course, that the top defense industrialists are predisposed to treat every indication of determined technological advance in weapons systems like the plague. Nor is it to suggest that they would necessarily have the power, even if they had the desire, to block those who wished to push the pace. After all, reorganizations have been successfully imposed on the defense-industrial sector in the past; and there are indications that, even in a simpler age, top weapons designers like A. S. Yakovlev and S. P. Korolëv were able to gain access to the top leadership to push through their ideas, whatever the wishes of their immediate superiors. Rather it is to emphasize that, although the Soviet military and the defense industrialists are in many respects natural allies, it is also necessary to appreciate the elements of heterogeneity that enter into the relations between them—elements that could make for a less than solid military-industrial front as particular policy decisions arise for the Soviet political leadership to consider.

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As indicated earlier, the priority status which the Soviet leadership, as a whole, has accorded to the defense effort over the years has probably accounted for the relatively greater economic privileges the defense industrialists have enjoyed in comparison to their counterparts in the civilian sector. This status has also brought a heavy measure of direct involvement in, and close scrutiny of, weapons development and production efforts by the top political leadership. This applies not only to special crash defense (and space) programs that may have been undertaken from time to time, but also to the "normal" operations of the defense-industrial sector. Let us therefore look at the relationship between this sector and its political overseers.

FOOTNOTES

[*] After this article went to press, the author learned that Butoma had died on July 11, 1976. He was replaced by M. Yegorov, his principal deputy since 1958. Yegorov is neither a candidate nor a full member of the Central Committee.—Eds.

[1] See, for example, Graham Allison, "Conceptual Models and the Cuban Missile Crisis," in Morton H. Halperin and Arnold Kanter, Eds., *Readings in American Foreign Policy: A Bureaucratic Perspective,* Boston, Little, Brown and Co., 1973; James R. Kurth, "Aerospace Production Lines and American Defense Spending," in Steven Rosen, Ed., *Testing the Theory of the Military-Industrial Complex,* Lexington, Mass., Lexington Books, 1973; and Merton J. Peck and Frederic M. Sherer, *The Weapons Acquisition Process: An Economic Analysis,* Cambridge, Mass., Harvard University Press, 1962.

[2] The following excellent efforts deserve particular mention: Jerry F. Hough, *The Soviet Prefects: The Local Party Organs in Industrial Decision-Making,* Cambridge, Mass., Harvard University Press, 1969; David Granick, *Soviet Metal-Fabricating and Economic Development,* Madison University of Wisconsin Press, 1967; Barry M. Richman, *Soviet Management With Significant American Comparisons,* Englewood Cliffs, NJ, Prentice-Hall, 1965; Joseph Berliner, *Factory and Manager in the USSR,* Cambridge, Mass., Harvard University Press, 1957, and *The Innovation Decision in Soviet Industry,* Cambridge, Mass., MIT Press, 1976; and Jeremy R. Azrael, *Managerial Power and Soviet Politics,* Cambridge, Mass., Harvard University Press, 1966.

[3] See, for example, Arthur Alexander, *R & D in Soviet Aviation,* Santa Monica, Calif., The Rand Corporation, 1970, and *Weapons Acquisition in the Soviet Union, the United States, and France,* Santa Monica, Calif., The Rand Corporation, 1973; also Nancy Nimitz, *The Structure of Soviet Outlays on R&D in 1960 and 1968,* Santa Monica, Calif., The Rand Corporation, 1974.

[4] See the useful discussion of this problem in Herbert Block, "Value and Burden of Soviet Defense," in US Congress, Joint Economic Committee, *Soviet Economic Prospects for the Seventies,* Washington, DC, US Government Printing Office, 1973, pp. 175–204.

[5] See, for example, Organization for Economic Cooperation and Development (OECD), *Science Policy in the USSR,* Paris, 1969, p. 435. For a persuasive dissent from the general view that the defense sector received the lion's share of total Soviet R&D outlays in the 1960's, see Nimitz, *op. cit.* in seeking to explain the superior performance of the sector in contrast to the civilian economy, Nimitz emphasizes the efficiency factor.

[6] Unless otherwise indicated, the description of these ministries and their ministers are drawn from: Andrew Sheran, "Structure and Organization of Defense-Related Industries," in Congress, Joint Economic Committee, *Economic Performance and the Military Burden in the Soviet Union,* Washington, DC, US Government Printing Office, 1970; Institute for the Study of the USSR, *Prominent Personalities in the USSR,* Metuchen, NJ, Scarecrow Press, 1968; Institute for the Study of the USSR, *Officials of the Soviet Union, 1917–1967,* Metuchen, NJ, Scarecrow Press, 1967; CIA Reference Aid, *Directory of Soviet Officials, Vol. 1: National Organizations,* Washington, DC, November 1973; and CIA Research Aid, *Evolution of the Central Administrative Structure of the USSR, 1917–1972,* Washington, DC, August 1972.

[7] See Vernon V. Aspaturian, "The Soviet Military-Industrial Complex: Does It Exist?" in Rosen, *op. cit.,* p. 217.

[8] Pleshakov only attained the rank of candidate member of the CC at the recent 25th CPSU Congress. [The new Minister of Shipbuilding has no Central Committee status at present—see editors' note above.]

[9] Graham Allison's analyses of US decision-making (see, *e.g., loc cit.*) suggest the importance of the personality factor in a bureaucratic setting. Emphasizing the significance of personal ties, personal bargaining skills, etc., Allison differentiates a bureaucratic-politics model of decision-making from the organizational-process model. Whereas the latter relies on organization charts and standard operating procedures of organizations to establish pertinent policy differences and pressures, the former is based on the premise that the personality factor is likely to modify such conclusions because people heading organizations may, for example, have stronger or weaker ties to particularly powerful individuals and have different bargaining skills. Given the long tenures of the Soviet defense-industrial ministers, it seems likely that the latter considerations would have an impact on managerial power in the Soviet defense sector.

[10] Smirnov was identified in this post by Raymond Garthoff in "SALT and the Soviet Military," *Problems of Communism* (Washington, DC), January-February 1975, p. 29. The likely role of the Commission is discussed below.

[11] The early years of this evolution are described in Marshal M. V. Zakharov, "On the Eve of World War II; May 1938-September 1939," *Novaya i noveyshaya istoriya,* (Moscow), No. 5, October 1970.

[12] For an illuminating analysis of the defense industries' relations with the Soviet economy as a whole, and particularly of their reflection of the evolution of that economy over the years, see David Holloway, "Technology and Political Decision in Soviet Armaments Policy," *Journal of Peace Research* (Boston), No. 4, 1974, pp. 257–79.

[13] Of the many Western discussions of Soviet efforts to come to grips with the problem, the most comprehensive is Joseph Berliner's recent *The Innovation Decision* . . . , cited in fn. 2.

[14] See Alexander, *Weapons Acquisition* . . ., pp. 4–5. Other analyses have argued, explicitly or implicitly, that superior performance of the Soviet defense sector has been due in part to the use of modern management techniques—e.g., Soviet versions of program evaluation and review techniques (PERT) and critical-path methods (CPM). Since, on the basis of Western experience, we know these techniques to be particularly suited to weapons efforts and since the Soviets show signs of trying to "transfer" such techniques to the civilian sector, it is tempting to assume that they have been widely and effectively used in the Soviet defense sector in the past. Available evidence would seem to warrant the conclusion that these techniques have at least been used selectively or on a trial basis in the defense industries. However, the extent of use and the degree to which it has positively affected performance remain very much open questions.

For discussion of the Soviet effort to transfer defense management practices to the civilian sector, see Robert W. Campbell, "Management Spillovers from the Soviet Space and Military Programmes," *Soviet Studies* (Glasgow), April 1972, and Paul Cocks, "Science Policy and Soviet Decision-Making: PPB Comes to the Kremlin," a paper prepared for the 1975 annual meeting of the American Political Science Association.

[15] David Holloway, *Technology, Management, and the Soviet Military Establishment,* Adelphi Paper No. 76, London, International Institute for Strategic Studies, 1971, p. 6. Holloway argues that the defense industries may have been encouraged by the profitability performance criterion (inherent in the reform) in a manner not originally intended by the reformers—i.e., to try to resist innovation. While there is scant firm evidence to this effect, K. N. Rudnev, Minister of Instrument-making, Automation, and Control Systems recently gave a strong hint that the primary interest at least of the top defense industrialists in the new principles of economic accountability may be basically to preserve or enhance their prerogatives (e.g., vis-a-vis the central economic authorities), with questions of production efficiency and innovation taking second place. As he put it, "Why aren't these principles being extended to other branches? Aren't our economic agencies being overly cautious here where the relevant concern is to increase the economic rights of the (branch) ministries?" See Izvestiya (Moscow), Dec. 10, 1975.

[16] See *Sheren, loc. cit.,* p. 130.

[17] Holloway, "Technology and Political Decision . . . ," p. 268.

[18] Foreign Broadcast Information Service (hereafter—FBIC), *Daily Report: Soviet Union* (Washington, D.C.), No. 62, Supplement 17, March 31, 1971, p. 3.

[19] *Izvestiya,* May 22 and July 1, 1971, respectively.

[20] See, for example, Nimitz, *op. cit.,* pp. 43–45.

[21] This is not to assume that a particular service would necessarily have a monolithic weapons "interest." Indeed, differences among branches of a service may be on occasion quite virulent with respect to weapons-system priorities—such as between artillery and armor partisans in the Ground Forces; Frontal Aviation and LRA advocates in the Air Forces; and fighter-interceptor and SAM proponents in the PVO.

[22] See, for example, A. S. Yakovlev, *Tsel' zhizni: zapiski aviakonstruktora* (The Goal of Life: Notes of an Aircraft Designer), Moscow, Politizdat, 1966.

[23] According to Alexander, success or failure in such competition means state prizes and awards for the winner and, in extreme cases perhaps, dissolution of the design bureau headed by the loser. See *Weapons Acquisition* . . . , p. 10

[24] As noted above, there is another kind of competition in which designers might also have more direct stakes than the head of their ministry, e.g., in a decision whether to build a new bomber or a new fighter-interceptor. Such a "competition" would put design shops within the Ministry of the Aviation Industry (as well as the two services involved) at loggerheads. Which designer the minister would be likely to back is no more clear than which service interest he would promote. Similarly, to refine the analysis further, there could also be instances in which weapons-system choices involve branches of the same service and a single defense-industrial ministry. A choice between a new tank and a new artillery piece, for example would find design shops within the Ministry of the Defense industry at odds as well as artillery and armor partisans in the Ground Forces. Which system Minister Zverev would back would be an open question, but his commitment to one or the other options would seem likely to be less intense than that of any other of the above-named principals.

[25] See, for example, B. L. Vennikov, "From the Notes of People's Commissar for Armaments," *Voyenno-istoricheskiy zhurnal* (Moscow), No. 2, 1962, pp. 79–86, and Sheren, *loc. cit.*, p. 126.

[26] Sheren asserts that "a major function of the team (of military monitors) is to maintain quality control at each step in the production process and to insure that the product meets prescribed specifications." *Loc. cit.*

[27] The existence of such technical organizations has been noted, for example, in the case of the Air Forces and Ground Forces. See Raymond Garthoff, "Soviet Air Power: Organization and Staff Work," in Asher, Lee, Ed., *The Soviet Air and Rocket Forces*, New York, Praeger, 1959, p. 181, and John Milsom, *Russian Tanks*, 1900–1970, Harrisburg, Pa., Stackpole, 1971, p. 80.

[28] The production responsibilities of the military monitors and the involvement of the designers in monitoring the production process (see Alexander, *Weapons Acquisition* . . ., p. 4) would at the least give military monitors and designers a basis for sustained contact.

[29] As will be noted below, there are a number of formal bodies that bring top military, defense-industrial, and political leaders together. Within the military domain *per se*, service backers of new weapons ideas would no doubt have to contend with ministry-level organs and personalities concerned with defense R&D and production. General N. V. Ogarkov, First Deputy Chief of the General Staff, General-Colonel N. N. Alekseyev of the Engineering-Technical Service, and General-Lieutenant K. A. Trusov (all of whom have "represented" the Soviet military at SALT) are probably among the key officials to be dealt with at this level. If top defense industrialists should try to block new programs proposed by designers, the "channel" from service backers of the programs to top Ministry of Defense officials such as these may afford the proponents a means to try to overcome such resistance. However, support at the top level of the Ministry of Defense for ideas that had won the backing of a particular service would not necessarily be automatic either. See Garthoff, "Salt and the Soviet Military," *loc. cit.*, pp. 28–29.

[30] See Alexander, *Weapons Acquisition* . . ., pp. 8–11.

[31] There is already some questioning of this image of past Soviet weapons programs and of the consequent burden they have represented for the Soviet economy. Since roughly the mid-1960's, this image may have been appropriate for much, but certainly not all, of the Soviet arsenal. As one analyst has written, "This presumption of relatively unsophisticated weaponry may no longer be justified. Recent analyses indicate that the major Soviet land armaments and tactical aircraft introduced since 1965 are substantially more complex than the weapons they have replaced. There are some cases in which the increased complexity and associated increase in capability entail lower dollar costs. But in most cases the unit-production costs for the present generation of Soviet land arms are substantially higher than for older equipment performing similar missions." See Andrew W. Marshall, "Estimating Soviet Defense Spending," *Survival* (London), March–April 1966, p. 77.

[32] Moreover, some of the defense-industrial ministers are not that old—Afanas'yev, for example is only in his late 50's.

[33] It is possible that deputy ministers in existing ministries could have a different perspective on the matter. Judging from past practice, the creation of new ministries could increase their chances of attaining ministerial rank. Shokin, for example, was First Deputy Chairman of the State Committee of the Radio Industry before becoming Chairman of the new State Committee for Electronics Technology in 1961. (This body became the Ministry of the Electronics Industry, with Shokin as Minister, in 1965.) *Prominent Personalities in the USSR*, p. 569. Similarly Bakhirev was Deputy Minister of the Defense industry before moving to head up the new Ministry of Machine-building in 1968. Sheren, *loc. cit.*, p. 131.

[34] The Academy would seem to be a natural source of new expertise. However, the extent of its past contribution to the defense effort is difficult to assess. It may be noted that Alexander's analyses (see fn. 3) stress reliance on in-house ministerial resources as a factor that has facilitated efficient weapons development and production. As a further corrective to the tempting assumption that the Academy's contribution in the past has been extensive, we have the observation that "in 1942, the . . . Academy was able to accept only 22 of the 175 research projects proposed to it by the People's Commissariat of Defense." See OECD, *op. cit.*, p. 198.

[35] Since some of the defense-industrial ministries appear to be mainly subsystems producers (e.g., the Ministry of the Electronics Industry), there is clearly some interdependence in the production of particular weapons systems, even if the effort has apparently been to minimize it. Alexander has noted, for example, that "of the thousands of components going into aircraft, 90 to 95 percent are produced in the aviation ministry itself." *Weapons Acquisition* . . ., p. 2.

[36] This list of concerns is not meant to exhaust the factors that would affect the perspectives of the defense industrialists. These concerns may be reinforced for, alternatively, mitigated to some extent) by pricing policies and other economic measures that might be adopted concurrently with an effort to push technologically adventurous weapons programs. For a discussion of the relevance of such economic incentive considerations to technological innovation in the defense sector, see Holloway, "Technology and Political Decision . . .," *loc. cit.*

[37] See Yakovlev, *op. cit.*, and L. Vladimirov, *The Russian Space Bluff*, New York, Dial Press, 1973, p. 56.●

LEGISLATION TO ABOLISH COMPULSORY OVERTIME AND SHORTEN THE STANDARD WORKWEEK

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. CONYERS. Mr. Speaker, a great many different approaches to solving unemployment will have to be tried in the future. Structural unemployment requires a focused and targeted response—vocational education and job training; further removal of barriers to equal employment opportunity; the industrial and commercial redevelopment of inner-city communities. Cyclical unemployment will require innovative programs of job sharing and spreading existing work among the greatest number of workers. Legislation I introduced last March 22—H.R. 11784, that amends the Fair Labor Standards Act—mainly addresses the issue of spreading work.

The provisions of the fair labor standards amendments (H.R. 11784) are the following:

Raises the statutory premium for work in excess of 40 hours from time and a half to double the regular hourly rate;

Requires employers to obtain the consent of employees for overtime;

Reduces in stages the standard workweek from 40 to 37½ hours after 2 years of enactment and to 35 hours after 4 years;

Keeps in force for their duration existing collective-bargaining agreements.

This legislation will be reintroduced in the 96th Congress and I am hopeful that hearings on it will be held.

Last April 11 I had the honor of participating in the First National All-Unions' Conference To Shorten the Work Week, which was held in Dearborn, Mich.; 700 labor leaders represeting more than 800,000 workers in 25 international unions attended. That conference resolved overwhelmingly to launch a national campaign to abolish compulsory overtime and reduce the workweek. Since then, the All Unions Committee To Shorten the Work Week has established an impressive nationwide public education campaign, collected tens of thousands of signatures in support of the legislation, and won endorsements from a number of leading local and State labor coalitions. Among the labor groups that have endorsed the legislation I introduced are:

New York Central Labor Council; Alameda County, Calif., Labor Council; Iowa State Federal of Labor (AFL–CIO); Indiana State Federation of Labor (AFL–CIO); Illinois State Federation of Labor (AFL–CIO); New York State Federation of Labor (AFL–CIO); United Electrical Workers; International Typographical Union; Graphic Arts International Union; Retail Clerks International Union; United Furniture Workers; District 31 Labor Council of the Steelworkers Union; District 12 of the Amalgamated Meatcutters Union; and the Communications Workers of America who have endorsed the ban on compulsory overtime.

The All-Unions Committee to Shorten the Work Week has also set up active regional committees in Chicago, Cleveland, San Francisco/Oakland, Pittsburgh, and Birmingham, Ala.

A recent pamphlet published by the All-Unions Committee explains the background of, and reasons for, shorter workweek legislation, and I commend it to the attention of my colleagues.

The pamphlet on abolishing compulsory overtime and reducing the workweek follows:

Enact H.R. 11784: Shorter Hours Create More Jobs

At the end of World War II the official rate of unemployment was somewhere in the neighborhood of two percent. In the years since, it has wavered up and down until it stood at six percent in April 1978.

When April's six percent rate of unemployment is transferred into human terms, it means that approximately 5½ million people were out of work.

Actual unemployment was much higher than that. If those who have been dropped from the unemployment rolls because they have given up looking for work and those who are forced to work part time because they can't find full time jobs were added in, nearly 7½ million workers were without jobs in April and the actual unemployment rate was about 8.2 percent.

An eight percent unemployment rate means that one out of every twelve workers in the United States is without a job. But, bad as that is, things are even worse for women, Black and young workers.

Thus, the labor movement faces a new challenge: To create jobs at union wages and conditions for all who need and want them.

Jobs must be created for those who are presently out of work. More jobs are required for those young workers who enter the workforce every year. And even more jobs must be found each year for those workers who will be displaced by new technology. To provide these jobs—to meet this challenge—will require the creation of more than 110,000 jobs every week.

Historically, organized labor has fought for shorter hours as the best means of creating jobs and reducing unemployment. Our labor movement was born in the battle for shorter hours. It grew to maturity in the campaigns that reduced the work week by 35 percent in the first 40 years of the twentieth century.

THE HIDDEN COSTS OF UNEMPLOYMENT

The social costs of unemployment were revealed by the Joint Economic Committee of the U.S. Congress. It found that between 1970 and 1975 every one percent increase in the official rate of unemployment resulted in even larger increases in mental illness, alcoholism, suicide, murder and crime.

4.1 percent more suicides.

3.4 percent more admissions to state prisons.

5.7 percent more admissions to mental hospitals.

5.7 percent more homicides.

2.0 percent more deaths from cirrhosis of the liver.

But, for all intents and purposes, the movement for shorter hours has lain dormant for the last 40 years. Despite paid holidays, paid vacations and early retirement programs, neither the work week nor the number of unemployed have been reduced. And worse yet, the eight-hour day, 40-hour week is being undermined by a concerted campaign of forced overtime.

In April, U.S. Labor Department figures showed that just over 36 million workers were working 40 hours a week and slightly more than 22 million workers worked longer than that.

If the work week of these 58 million-plus workers was reduced by one hour, that alone would create jobs for about 1,500,000 workers working a 39-hour week. If the work week were cut to 35 hours for everybody, then there would be 8,750,000 jobs.

Needed: 5,800,000 new jobs per year.—

None of the existing government proposals will come close to meeting these needs.

1,800,000 number of young workers entering workforce each year.

2,400,000 number of workers displaced by new technology each year.

1,600,000 number of new jobs needed each year to re-employ those presently unemployed within 4 years.

5,800,000 total number of new jobs needed each year to provide jobs for all who need and want them within 4 years or 110,000 jobs per week.

WHAT IS TO BE DONE

A national campaign to enact H.R. 11784 with its provisions for a 35-hour week, double time for overtime and a ban on forced overtime, is a place to begin. The All Unions Committee to Shorten the Work Week calls upon every union member and every labor leader, without regard to craft, industry or affiliation, to join this effort.

The All Unions Committee to Shorten the Work Week worked very closely with Mr. Conyers in preparing H.R. 11784. Its basic provisions were endorsed by the 1977 AFL–CIO Convention. Now the Committee is working to organize a national campaign to win enactment of this legislation.

But, as we have learned from the struggle to get Congress to pass the Hawkins-Humphrey Bill, it's a long way between the introduction of a bill and enactment of a law. In the final analysis, it all boils down to who has the ability to put the most pressure on Congress. You can help in this effort by:

(1) Getting your local and international union to endorse H.R. 11784.

(2) Getting your local union and central labor body to participate in a petition campaign in support of H.R. 11784. (Petitions may be ordered from the All Unions Committee to Shorten the Work Week, 4300 Michigan Avenue, Detroit, MI 48210.)

(3) Organizing delegations of union leaders and members to meet with Members of Congress in order to get additional sponsors of H.R. 11784. (Congress will be in recess during the first two weeks of July and again during the last two weeks of August. That's a good time to arrange these meetings.)

"Our's is a program of positive action and this organization is working to bring together all unions without regard to industry, craft or union affiliation. It is not our intention to tell any union how they should work to reduce the hours of labor for their members nor is it our intention for this organization to become involved in inner-union politics." Frank Runnels, Key Note Address, First National All Unions Committee to Shorten the Work Week, Dearborn, Michigan, April 11, 1978.

For further information, call or write:

All Unions Committee to Shorten the Work Week, 4300 Michigan Avenue, Detroit, Michigan 48210, Frank Runnels, President (313) 897–8850.●

CALIFORNIA'S FESTIVAL OF THE ARTS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. BOB WILSON. Mr. Speaker, for the past few years my wife Shirley and I have been privileged to attend the annual festival of the arts in Laguna Beach, Calif.

This is one of the most unique pageants in the world and deserves the attention of my colleagues and others.

I ask unanimous consent to include as a portion of my remarks an article by Douglas Reeve "From Fence-Board to Fame: The Story of Southern California's Festival of Arts."

The article follows:

FROM FENCE-BOARD TO FAME: THE STORY OF SOUTHERN CALIFORNIA'S FESTIVAL OF ARTS

(By Douglas Reeve)

We'll never know for sure, of course, but if the United States had not experienced the economic depression of the 30's the little seaside community of Laguna Beach, California might not have become the setting for its uniquely famous and firmly established Festival of Arts, to which people annually beat a path in their hundreds of thousands.

At any rate, conditions were as bleak in Laguna as anywhere else back in 1932, and the residents of the tiny colony were acutely aware of the fact that a near-perfect climate and an unusually beautiful coastline were simply not enough to make life complete. Painfully lacking was something rather more down-to-earth; specifically the wherewithal to pay for such things as food and rent.

Happily, someone came up with an idea: to hold an outdoor exhibit of the artists' work in some conspicuous spot that would assure maximum exposure and thus maximize the likelihood of stimulating sales, even at giveaway prices. Someone else came up with a title: Festival of Arts.

On El Paseo Street, an area was roped off with canvas and boards and the beginning of a now great cultural institution of California took its first breath of life—and hope. The festive spirit that entered into the open-air affair helped dispel thoughts of the dire and dismal economic conditions of the times.

It was a colorful celebration. Entertainment (including music and dancing) was sometimes planned, but often was spontaneous. Mainly, of course, there were the paintings. They hung from the limbs and trunks of eucalyptus trees; they were nailed to, or propped up against, fences; they were supported by makeshift easels. Anything and everything was done to create a gala atmosphere.

Somewhat to the surprise of the exhibitors and others, the event was a slambang success. People not only paused to look; they also bought. They did even more than that: they spread the word, and out-of-towners soon began pouring into Laguna to see the art display. Many headed for home with paintings they had liked enough to buy.

Clearly, the Festival was worth repeating; so the following year, 1933, Laguna's artists again staged a public display of their work—with one or two changes: for example, they set up booths and gave the event a touch of elegant atmosphere by charging 10 cents admission.

Success again crowned the occasion. It looked, in fact, as though something had begun that might develop into a really big annual event. Little did the organizers realize how big!

Also in that second year, something special was added: the presentation of living pictures—recreations of great works of art with living models and called "The Spirit of the Masters Pageant." The show was unique; still is, in fact, because, according to many globetrotting visitors from foreign countries, there is nothing to equal Laguna's famous pageant, which in 1935 was given its present more streamlined name, "Pageant of the Masters."

The early Thirties certainly marked the beginning of what is now Laguna's biggest and brightest annual event: the Festival of Arts and Pageant of the Masters, nowadays presented for seven weeks each summer on some six acres of land acquired by the City in 1941.

On display are paintings, sculptures, ceramics, jewelry and many other creations by artists and craftsmen of the area. A marionette show has become a traditional part of the Festival as has a junior art gallery which features 150 works by Orange County schoolchildren (kindergarten through high school) selected from some 3000 submitted.

The many display panels and booths on the grounds are by no means static; many are manned by the artists concerned—and those artists are often to be seen working on new creations, discussing their work with visitors and doing what their predecessors did back in 1932: exchanging their products for what it takes to buy food and pay rent.

Nightly at 8:30, the center of gravity shifts to the adjacent 2662-seat Irvine Bowl, where the Pageant of the Masters is presented to capacity audiences. In addition to the recreation of paintings, living-model reproduction of sculptures and other artifacts are featured not only on the stage, but also on the dramatic wooded hillsides that flank it.

A theatrical phenomenon, the Pageant is always completely sold out for its entire season months before it opens.

Statistics rarely fail to impress those who inquire about the Festival. Literally hundreds of persons are needed to pose for the various works in the Pageant, and hundreds are miraculously available—strictly on a volunteer basis.

In addition to cast members, many backstage workers are needed to help with costumes, makeup, "props" and countless other details that have to click. Most of them, too, are volunteers.

Since that trees-and-fences beginning, Laguna's Festival has missed only four years: those during World War II. Now a non-profit corporation with about 3600 members, it is headed by a nine-person board of directors and staffed by a few paid professionals.

Among the 300,000 visitors who converge on the Festival annually are State Department guests, who are routed through Laguna to attend the one-of-a-kind event; also senators, congressmen, famous movie and television personalities—VIP's from all walks of life, in fact so magnetic is the show.

On Sunday afternoons, Festivalgoers enjoy a sparkling free extra: dancing on the green by members of Laguna's noted Ballet Pacifica. A daily attraction is the first rate marionette show by Tony Urbano housed in a cozy 232-seat theatre.

In the past ten years, the organization has paid the City over one and a quarter million dollars in rent; and spent some $800,000 in capital improvements that became the property of the City. Cultural contributions have amounted to over $300,000 and another $208,000 has been distributed in the form of scholarship awards to young people to help further their education in their chosen fields.

Altogether, the Festival of Arts has helped support the community, culturally and artistically, to the tune of two and a half million dollars in just the past decade alone.

However, money isn't really the name of the game—important though it is to the exhibitors individually and the Festival as an organization. Instead, what really counts is the good it does to many, and in so many ways.

As an "immediate experience," it provides wholesome, varied, thoroughly enjoyable hours in a beautiful setting. It stimulates interest in art, crafts and the performing arts. It provides a colorful breathing spell in a glorious park—and perhaps that sums up the over-all delight of Laguna's big annual event, constituting as it does a sort of spiritual oasis that everyone who attends quickly recognizes as just what we all need: a change from the everyday world, and a chance to see and enjoy people and things at their very best.●

MICHAEL HARRINGTON PATHFINDER

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● **Mr. STARK.** Mr. Speaker, yesterday's Wall Street Journal had a fine portrait on a rare and courageous colleague, I commend it to the attention of the whole House.

The article on Mike Harrington entitled "A Congressman Takes His Leave" describes well the emptiness, the frustration, even the bitterness, that many of us, regardless of party, all too often feel as "politicians" within the House of Representatives.

Some of us, I for one, are sticking it out a little longer. Mike's departure will make the House yet a lonelier place in the next year and the years afterward. We will miss his honesty, his integrity, his indignation. We wish him well.

The article follows:

[From the Wall Street Journal, Sept. 21, 1978]

A Congressman Takes His Leave

(By Dennis Farney)

Washington.—In his own words, Mike Harrington ran for the House of Representatives in 1969 already suspecting the "irrelevance" of that proud institution—and is leaving the House in 1978 "confirmed in that belief."

Right off, this should tell you something about Rep. Michael J. Harrington, a 42-year-old Massachusetts Democrat who represents the North Shore above Boston. He's a maverick, an iconoclast. (Not to be confused with another maverick of the same name who is leader of the U.S. Socialist Party). Congressman Harrington is also wary, brooding, hot-tempered and thoughtful. And although his voting record is certified 100 percent liberal by the Americans for Democratic Action, he's neither a conventional liberal nor a conventional member of the House.

This is what makes Mike Harrington's thoughts upon retirement, his deep misgivings about current trends in liberal thought and what he sees as built-in pressures toward timidity and mediocrity in Congress, so provocative.

He thinks, for example, that history will be far kinder to Richard Nixon than are most observers today. "Look, I never liked the guy," he says, "but at least his policies took chances, tried to alter things fundamentally." He thinks the government needs more, not fewer, men like Bert Lance—"agreeable villains" who, for all their ethical blemishes, have vigor and drive and try to get things done. He thinks liberals have run out of ideas and are offering "warmed-over New Dealism."

But most of all, he thinks Congress may be fundamentally flawed, fundamentally incapable of making broad policy decisions or of shaping any vision for the nation. He thinks the 535 members of Congress practice "collective avoidance"—immersing themselves in trivia and routine, while ducking the truly important questions.

"I'm not sure we really want to participate," he says.

HIS VIEWS MERIT ATTENTION

Mike Harrington's views are so at odds with the usual flood of self-congratulatory rhetoric coming out of Congress—and out of such high-minded organizations as Common Cause, the self-styled citizens lobby—that they merit attention, if only as a kind of dissenting opinion to the conventional wisdom of the day. We are living, after all, in a period of "congressional government" and White House eclipse; and in a period, too, when post-watergate "reforms" have changed not only the way that Congress does business but the very type of individual likely to be elected to Congress.

Mike Harrington suspects that, in each case, the pendulum has swung over too far.

This reporter talked with Representative Harrington on one moderately hectic weekday recently—the kind of day, filled with many votes and much debate on essentially minor issues, that lends support to his contention that Congress, for all its frenetic activity, is essentially adrift and ducking the truly important questions.

"I'm optimistic by nature," he began. "I believe problems can be solved. But I'm not sanguine at this point that we even know what the problems are.

"We've got a lot of guys in Congress now who have mastered those techniques that will keep them in office. But how many can offer you a coherent sense of the whole? How many would even try? I'd like you to give me five names."

A new kind of Representative is rising to power in the House today, and the new breed bothers Rep. Harrington. These Representatives, particularly the "Watergate Class" of 1974, seem more concerned about means than about ends. They're more interested in cleaning up "the process" than with the actual decisions the process is supposed to reach. They're clean and they're open, but they're also gray and uninspired—"managers," not innovators.

To Mike Harrington, the rise of this new breed is bound up with the rise of Common Cause, itself preoccupied with reforming "the process." He suspects the result is to deprive government of the sprinkling of "agreeable villains" it needs.

"Take Pert Lance, for example," he says. "I would bet you that the citizens of Calhoun, Ga., would say that Bert Lance and his bank have enriched their lives, made them better—regardless of whether or not he's also done things that outrage the Securities and Exchange Commission, the press and other commentators on the mores of the times.

"Now, would I ideally like to have a Bert Lance who'd met every test of probity along the way? Sure. But I'll take a Bert Lance, with all his imperfections, to the pale naysayers we abound in."

A buzzer sounds in the Congressman's office, summoning him to another rollcall vote. The House has had about 700 rollcall votes so far this year—a few of them truly important, most of them forgettable, many of them demanded by what he says are "eight or 10 guys who want to rollcall everything in sight."

He walks down a dim, echoing passageway, merging with a stream of other Congressmen also on their way to the House chamber. The question before them is whether to designate 927,550 acres in Montana's Glacier National Park as "wilderness."

Few of the hurrying lawmakers have actually followed the debate on the question. So, as they file into the House chamber, the principal proponents and opponents of the measure are waiting at the door, flashing thumbs-up and thumbs-down signals, slapping backs and whispering hurried exhortations. The arriving Representatives then make their choices, which are instantly registered on a big electronic scoreboard overhead.

The whole process, with its hectic almost mechanistic quality, rather resembles an assembly line in Detroit.

This isn't what Mike Harrington had in mind when he first ran for Congress in a special election in 1969. He believes Congressmen should be thoughtful "pathfinders," addressing and shaping the great issues that determine the nation's course. He ran as an antiwar candidate, and as a reformer who would challenge the House's then-autocratic ways of doing business.

Named to the hawkish Armed Services Committee, he had so many shouting matches with committee members that, in 1973, he switched to the Foreign Affairs Committee. There, outraged by U.S. support for a repressive dictatorship in Chile—and by misleading testimony on that support by Henry Kissinger and others—he leaked classified information on the Chilean situation to The New York Times. A colleague then moved to have him censured. Mr. Harrington never denied leaking the information—indeed, he regards calling attention to Chile as his proudest congressional accomplishment—but the censure motion was finally dismissed on a technicality.

Today, while Mike Harrington remains as fiercely opposed as ever to propping up dictatorships abroad, his views have changed subtly in some other areas. There are ironies in these changes and, with the Glacier park vote behind him, he explores them over the background clink of silverware in the House restaurant.

He now feels that moves to democratize the legislative process haven't noticeably improved the quality of legislation. What's more important, he says, is getting good legislators—thoughtful individuals, visionaries, risk-takers. This leads him to a certain grudging nostalgia for his old foe, Henry Kissinger.

"I thought it was fun to match wits with Mel Laird or Henry Kissinger, to watch those guys scheme and plot," he says. "At least they came in with initiatives, ideas you could quarrel with.

A VIEW OF RICHARD NIXON

"Nixon's initiative to China, for example. I think Nixon is going to be much more warmly evaluated historically than he is now. Look, I never liked the guy. But put him alongside the guys in government now—where are the guys willing to make a decision, take a chance, try to alter things fundamentally?

"We can respond to Proposition 13, for example, by finessing it—offering 40,000 amendments and 5% across-the-board cuts. But the Proposition 13 raises fundamental questions; it indicates hostility toward the political process and its relevance. I don't see us responding to those kinds of questions.

"I've always said Jerry Ford was brighter before he came to Congress than he was by the time he got to the White House in 1974—only because the mindset required to survive in Congress is debilitating. It says, 'Let somebody else take the risks, let somebody else initiate things, just react.' Ford's congressional experience debilitated him."

Last June, in the midst of a tough primary race for reelection, Mike Harrington decided to get out. He could have won that race, he says; the real reason for his decision, he explained at the time, was something else: "A widening gap between my sense of what is important about being in Congress, and what the public and press seem to think is important."

"I did what I said I'd do, which was to try to be a pathfinder," the Congressman says of his career. Shortly afterward the harsh buzzer sounds again, and Mike Harrington leaves the restaurant for another rollcall vote.

The issue this time is whether to add 4,400 acres to the Hells Canyon National Recreation Area. At the door to the House chamber, the proponents and opponents are waiting for him, flashing their thumbs-up and thumbs-down.●

IRANIAN TERRORISTS IN THE UNITED STATES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. McDONALD. Mr. Speaker, even as a loose federation of Marxist revolutionary and Islamic extremist terrorist groups continue to spearhead a drive to overthrow the Government of Iran and its leader, Shah Mohammed Reza Pahlavi, their support groups in this country have been carrying out a multifaceted attack, attempting to isolate Iran from the United States. The tactics include virulent anti-Shah propaganda, economic warfare, and terroristic street violence. New evidence indicates that members of certain internationally active Iranian terrorist groups with ties to the West German Baader-Meinhof gang are residing in the United States, and that international terrorist acts may be planned.

An anti-Iran "people's hearing" propaganda circus is planned for Raleigh, N.C., on September 30, 1978. The event is being organized by the American Friends Service Committee (AFSC), an organization that calls for "thorough going revolution" in this country while upholding the use of terrorist violence by Soviet-supported terrorist organizations—the Vietcong, Pathet Lao, and Palestine Liberation Organization, for example. AFSC intends to put pressure on the North Carolina Ports Authority, which administers the State-owned Port of Wilmington through which arms are exported to Iran, not to renew its Iranian contract that expires on October 31.

The AFSC has announced two principal speakers at its anti-Iran affair, Michael Klare and Reza Baraheni. Baraheni, a writer, is most active as cochairman of a Trotskyite Communist front called the Committee for Artistic and Intellectual Freedom in Iran (CAIFI).

My colleagues will recall my October 1, 1976, report documenting CAIFI's origins as a front set up by the Socialist Workers Party (SWP), the U.S. section of the Fourth International that is engaged in terrorism in Europe, Latin America, and the Middle East. CAIFI was formed from a SWP effort during 1972–73 to prevent the deportation of Babak Zahraie, an Iranian citizen and SWP member who led at that time a small faction in the Iranian Students Association, U.S.A., the American branch of an internationally active revolutionary student organization. Zahraie was not deported, because he had married a U.S. citizen, also a member of the SWP, while attending the University of Washington.

The Zahraie effort led to formation of CAIFI, whose first campaign was for the release of Baraheni, who was jailed by Iranian authorities for 3 months in the fall of 1973.

The SWP has used CAIFI, whose offices in room 414, 853 Broadway, New York, N.Y. 10003, form part of the suite occupied by the SWP's New York City headquarters, to organize the Sattar League, the Iranian section of the Fourth International. With Baraheni and Zahraie among its leaders, the Sattar League remains primarily an overseas student movement organizing support for revolutionaries inside Iran.

CAIFI held a press conference on Capitol Hill on September 13, 1978, that was reported as follows in the SWP newspaper, the Militant:

> Speakers at the press conference demanded an end to martial law in Iran, freedom for all those arrested in the recent upsurge, and safety for * * * Iranian dissidents being hunted down by the shah.
>
> Speaking along with Baraheni were Babak Zahraie, CAIFI national field secretary; former U.S. Attorney General Ramsey Clark; and U.S. Representatives Fortney Stark and Tom Harkin.
>
> Zahraie described the casualties in the shah's bloodbath grim facts grossly misreported by the American press. In Teheran alone, Zahraie reported, one cemetery received 3,897 bodies on the second day after martial law was decreed.

Since the U.S. press has tended to over-report casualty figures during the rioting in Iran, Zahraie's claims to such amazing precision about the numbers of burials at one cemetery, numbers patently erroneous, indicate that the ancient "big lie" technique is being used. This was confirmed when Zahraie asserted that those involved in the rioting and terrorism "are clamoring for freedom and democracy." The Marxists are trying to impose the customary Communist dictatorship and their Islamic Savonarola allies want to impose a repressive therocracy.

The second principal speaker at the AFSC's planned anti-Iran event in Raleigh, is Michael T. Klare, a "red-diaper baby" and "counter-counterinsurgency" research specialist for the Castroite left, has long been associated with the North American Congress on Latin America (NACLA), which not only collects all available public information on defense contractors and the U.S. military and police; multinational corporations; U.S. industry and business and political leaders, but which also operates a network of clandestine radical contacts within the U.S. Government. Klare has also worked with a similar group run by the AFSC, National Action/Research on the Military-Industrial Complex (NARMIC).

Klare has had intimate associations with the subversive organs of Cuba and the Soviet Union. For example, he has been published by Tricontinental magazine, the publication of the Cuban front for exportation of revolution, the Organization of Solidarity with the Peoples of Africa Asia and Latin America (OSPAAL); and he has played a prominent role in conferences of the Soviet-controlled World Peace Council that operates under the direction of the KGB and the Soviet Communist Party Central Committee's International Department.

Klare has been a frequent traveler to Cuba where he is reported to lecture to some rather select seminars at the University of Havana on topics such as U.S. arms sales policies and the "hardware" of U.S. counterinsurgency planning. Klare, who left a post at Princeton in order to work full time as director of the Institute for Policy Studies/Transnational Institute (IPS/TNI) Project on Militarism and Disarmament with a salary of $18,000 underwritten by the Field Foundation, appears to do some of his "research" in Havana, somewhat in the manner of Philip Agee. For example, late last fall, Klare went to Cuba for an extended period. Within days of his return, he had a lengthy, highly detailed article published in U.S. newspapers on the overseas financial operations of a U.S.-owned company that manufactures the sort of light aircraft flown by private citizens, but which in an emergency could be used for observation purposes against terrorist insurgents in rural areas. Klare's article contained various information not available from public sources.

The Institute for Policy Studies and its foreign affairs project, the Transnational Institute (TNI), of which Chilean KGB agent, Orlando Letelier, was a leader, is also involved in coordinating anti-Iran compaigns in Western Europe. Klare's British counterpart, IPS/TNI fellow Fred Halliday, delivered an analysis of Iran's economy and its areas of vulnerability to organized pressure tactics at an International Symposium on Iran held in Brussels, Belgium, May 6–7, 1978.

IPS/TNI, which also has on its staff leaders of the Trotskyite terrorist Fourth International that is headquartered in Brussels, was joined in the meeting by representatives from the Communist Party of France, Communist Party of Belgium, the British Labour Party, the British Tobacco Workers Union, the Committee Against Repression in Iran of London (CARI), the French Association for Friendship and Solidarity with the People of Iran (AFASPI) of Paris, the West German Iran Committee, and two Belgian solidarity groups.

The groups decided that the anti-Iran campaign in Western Europe should concentrate on generating propaganda publicizing allegations of human rights violations and on trying to stop the export of weapons to Iran by organizing a boycott by trade unions involved in the exporting process.

The close parallels between the United States and European anti-Iran campaigns are obvious.

UNITED STATES-IRAN TERROR LINK

On July 16, 1978, U.S. customs officials detained Kristina Katharina Berster, 27, a fugitive suspected member of a West German Marxist terrorist network, when she entered the United States using a stolen Iranian passport. Berster, accompanied by two men and a woman, entered the United States near Burlington, Vt. Berster's companians were Iranians resident in the United States who were using their own genuine documents to reenter this country. Press reports of an FBI investigation note that it is believed that members of the Organization of People's Fedayee Guerrillas (OIPEG), an Iranian Marxist terrorist group with close ties to Cuba and the Palestine Liberation Organization, helped Berster enter this country.

Berster is known to have been a member of the Socialist Patients Collective in Heidelberg, a group which dissolved into the Red Army Fraction or Baader-Meinhof gang. In 1971, Berster was detained for 7 months in "investigative custody" as a suspect in a terrorist bombing conspiracy before being released. She has been a fugitive since 1973 when she was indicted for bombing conspiracy, involvement in counterfeiting identity documents, and membership in a criminal organization.

On July 27, Berster was indicted by a Federal grand jury on seven counts and held on $500,000 bail. Her defense team is headed by William Kunstler, a member of the National Lawyers Guild (NLG) and attorney with the Center for Constitutional Rights. The NLG, which is the U.S. section of the Soviet front for lawyers, the International Association of Democratic Lawyers, had two observers present at the trials of Baader-Meinhof gang members, some of whom were lawyers, in 1977. Those two observers, William Schaap and Ellen Ray, recently took prominent roles in the denunciation of the CIA staged by the Cuban DGI in Havana during the 10th World Youth Festival and are working closely with Philip Agee in coordinating attacks on the U.S. intelligence community. It will further be recalled that William Kunstler, William Schaap, Peter Weiss, and former U.S. Attorney General Ramsey Clark, a CCR cooperating attorney, attempted to join the Baader-Meinhof defense team, but were denied permission by West Germain authorities.

Berster was using a passport belonging to Shahrzad S. Nobari that was one of several passports stolen from the Iranian consulate in Geneva in June 1976, during a sit-in by members of the Iranian Students Association (ISA) which has its international headquarters in West Germany. Significantly, Berster was able to provide U.S. customs officials with details about Miss Nobari's family and life, such as the fact that her father owned an export company in Hamburg, during the time she was trying to convince them her passport was genuine.

Particularly significant is the fact that another Iranian passport stolen during the same Geneva demonstration by the ISA was being used by Baader-Meinhof terrorist Brigette Folkerts when she was arrested in May of this year at Orly Airport in Paris. Folkerts arrest led to the arrests in Yugoslavia of four top Baader-Meinhof terrorists intimately connected with the Carlos Group. Apparently the international network of Palestinian and West German terrorists has been using Communist Yugoslavia as a secure safety zone. The Yugoslavian Communist regime, which under Tito has some independence from Moscow in its internal policies, has backed the U.S.S.R.'s policy regarding terrorist national liberation movements consistently. Tito has not permitted the four terrorists to be extradited by West Germany, and is demanding that various anti-Tito Croatians be exchanged for the Baader-Meinhof fugitives.

A number of investigators believe that the arrest of Kristina Berster and the Federal investigation into her OIPFG comrades in this country may have forestalled a terrorist attack that would have coincided with the 25th anniversary of the Shah's overthrow of the pro-Soviet Mossadegh regime.

Published press reports of the investigation also state that the leaders of the several factions of the Iranian Student Association are under investigation to determine the extent of infiltration by terrorists from the OIPFG, Maoist Revolutionary Organization of Tudeh (ROT), and the Organization of the Mojahedin of the Peoples of Iran (OMPI), which its supporters say has "tried to combine the Islamic revolutionary spirit with the Marxist method of analysis and class outlook."

ISA RIOT IN LOS ANGELES

Whether or not plans for international terrorism in the United States have been disrupted by Federal investigation, the Iranian revolutionaries in this country have continued their established record for mass violence in the streets of American cities.

Continuing to use tactics exhibited during rioting in November 1977 here in Washington, D.C., and in early 1978, in Chicago, members of the Iranian Students Association (ISA) climaxed a week of small demonstrations outside the offices of the Los Angeles Times with a march by more than 500 masked militants that erupted into a club-swinging melee with police that ended in the arrest of nearly 200 demonstrators and injuries to 9 police officers and nearly 40 rioters.

Using leaked press accounts of Presidential Review Memorandum No. 10 to indicate why Iran is the priority target for revolutionary destabilization in the Middle East at present, the ISA in the United States (ISAUS), a member of the Confederation of Iranian Students (National Union) (CIANU), said in its newsletter, Resistance, published from P.O. Box A3575, Chicago, Ill. 60690, that a special 100,000-member U.S. rapid reaction strike force specialized in desert fighting was being trained.

According to the ISA, in the event of "limited contingencies" or "local war," with U.S. support Iran might act as a regional surrogate against:

> All liberation movements, all democratic and revolutionary struggles of the peoples of the Persian Gulf region * * * where the economic investments of U.S. corporations and/or the strategic war plans of the imperialists are being directly challenged by struggles of the people in that area for their freedom and independence.

With one of the chief stated aims of the ISA being to forestall any possibility of U.S. intervention in support of the Government of Iran, some 500 ISA militants gathered on September 1, 1978, at noon outside the Federal Building in Los Angeles to protest claimed "impending military intervention of the United States in Iran."

Marching without a permit and led by organizers using bullhorns, the masked militants, accompanied by small contingents of supporters from U.S. revolutionary groups including the Trotskyite Revolutionary Socialist League (RSL) and Revolutionary Communist Party (RCP), became increasingly disorderly as they marched through streets and sidewalks to Times-Herald Square. Traffic was blocked and pedestrians were pushed into the street.

Three of the demonstrators set effigies of the Shah and Hitler afire on the sidewalk outside the Times building.

The ISA had been picketing the Los Angeles Times for a week complaining of "falsification" of reports in disturbances in Iran, particularly of reports on the movie theater fire in the oil port city of Abadan that killed more than 375 men. During the weeks of violence preceding the burning of the movie theater, Islamic extremists following a radical Iranian religious leader, Khomeini, exiled in Soviet-alined Iraq, had burned 29 movie theaters and dozens of restaurants and other entertainment facilities. Khomeini, who has circulated cassette tape recordings to his Iranian followers urging them to use terrorism and violence to topple the Shah's government, has refused to condemn the Abadan theater massacre. His ISA supporters in Los Angeles said their demonstration against the Los Angeles Times was to deny the fire was set by Islamic extremists and to publicize their wild claim that the Shah of Iran himself had had the Abadan theater burned.

With few police officers in evidence so far on their march, the ISA leaders clearly expected to be able to continue to march at will, masked and using sound equipment, through the streets of Los Angeles, disrupting traffic, and intimidating peaceful citizens.

At this point Lt. Larry Welch ordered a police line of some 50 helmeted officers set up across the street to block the march. An arrest team was sent to make selected arrests of individuals who had been observed violating a wide range of laws and ordinances by blocking traffic, burning effigies, and using sound equipment without a permit. In response, the Iranian militant group, still numbering over 350 persons, began to throw bolts and other hardware and to shout, spit, and brandish their clubs at police.

As the arrest team moved to make its sixth arrest, a group of 30 ISA members attacked police with sticks, fists, and kicks. To facilitate these arrests, the police line separated the two groups and concentrated attention on the 30 cadre fighters. However, the larger ISA group was led in chanting by a militant carrying a camera who proceeded to give a distinctive signal to the group, motioning downwards with his hands five times. There was a second of silence, and then the larger group charged forward into the police line.

Although the ISA members used clubs and sticks 4 feet and longer, the well-trained Los Angeles police, using their clubs alone, were able to subdue the rioters within 5 minutes, and have 171 rioters lying face down in orderly rows in the street, their hands secured behind their backs with plastic handcuffs.

A mobile booking station, designed for mass arrest situations, was set up on the sidewalk where those arrested could be fingerprinted and photographed. Charges ranged from riot and inciting to riot, assault with a deadly weapon on a police officer, and arson to blocking sidewalks and noise.

As could be expected, after the arrests lawyers Richard "Dick" Eiden and John Michael Lee of the Los Angeles chapter of the National Lawyers Guild which took up the defense of the ISA rioters made assorted allegations of "brutality" against the Los Angeles police. One of the Los Angeles City Councilmen, Zev Yaroslavsky, also complained of what he viewed as use of "excessive force" by police, but he did not gain the support of other city officials. The week after the riot, the Los Angeles City Council passed a new resolution outlawing the use of heavy wooden sticks for posters and banners in parades. The new law was signed by Mayor Bradley immediately.

Since the September 1 riot and mass arrest situation, the ISA has held a number of small demonstrations in Los Angeles in which they, and their U.S. supporters, have brought small children to carry banners and act as shields between the militants and the police.

The "peaceful" tactics will continue only as long as the police authorities demonstrate by a sufficient show of strength on the street that violations of human and civil rights of Americans will not be tolerated. The ISA's violent proclivities have attracted a number of U.S. groups who would like to pick up on revolutionary street fighting, a tactic that the Weathermen used in preparing their group to become underground urban terrorists.

The Maoist Revolutionary Communist Party (RCP), although weakened by a split, works with ISA chapters in a number of cities. The more orthodox, pro-Peking Communist Party, Marxist-Leninist (CPML) is on good terms with the ISA factions that support the Revolutionary Organization of Tudeh terrorists. And the Revolutionary Socialist League (RSL), which although Trotskyite in ideology has been cooperating in street riots against KKK and Nazi groups with the Progressive Labor Party (PLP), distributed the following statement at the September 1 ISA riot. Under the slogan, "To Stop the Cops—Organize Self-Defense," RSL said:

> To defeat police terror once and for all, workers and other oppressed people must be organized, armed, and prepared to fight back. The Watts Rebellion of 1965 and the Chicano Moratorium Rebellion of 1970 showed the need for armed workers defense groups to resist cop attacks.
>
> In addition, we need a revolutionary party based in the working class to give leadership to the overall struggle. The Revolutionary Socialist League is trying to build this kind of workers' party to fight both the capitalist bosses and their police goons.
>
> We are fighting for a government of revolutionary workers, which will wipe out groups like the LAPD, and replace them with an armed workers' militia—a powerful army of all the oppressed. The capitalist police cannot be made less brutal." They must be smashed, and never allowed to rise again.

TERRORIST INVOLVEMENT IN THE ISA

The involvement of the Iranian Student Association's factions in terrorism both in Iran and elsewhere is open and easily documented from ISA publications. For example, early in 1977, the ISA of New York City, operating from P.O. Box 1639, New York, N.Y. 10001, issued a pamphlet. Iran, which provided biographical data on ISA members who had been killed or arrested while leading terrorist groups in Iran. Recent leaflets and pamphlets, such as a December 1977 leaflet by the ISAUS chapters in Los Angeles and College Park, Md., state their support for the "anti-imperialist, democratic struggle": That been given "new momentum by the beginning of armed struggle in Iran waged by the Organization of Iranian People's Fedayee Guerrillas (OIPEG) and the Organization of Mojahedin of the People of Iran (OMPI)."

Another faction, the Union of Iranian Students in the U.S. (UISUS), with headquarters at P.O. Box 744, Berkeley, Calif. 94701, wrote in its June 1978 newsletter, "Iran in Struggle," that—

> O.M.P.I. is the best reflection of the revolutionary camp for its uncompromising struggle against any liberal and conciliatory demands.

UISUS opposes the "united front" call for restoration of the old Iranian constitution supported by the pro-Soviet Communist Tudeh ("masses") Party, and the National Front factions descended from Mossadeq's movement. UISUS states:

> * * * the Union of Iranian Students in the United States, in its second nationwide conference (January 1978), decided to direct all its energy and forces to serve the democratic program of the Organization of Mojahedin of the People of Iran (O.M.P.I.), and decided to propagate the democratic tasks of the O.M.P.I. in the student movement abroad.
>
> The democratic program of O.M.P.I. (which centers around (1) defining the revolutionary classes * * *; (2) calling for the overthrow of the Shah's fascist regime, the puppet of U.S. imperialism, through the organized violence of the masses; and (3) the need for the establishment of (a) People's Revolutionary Democratic Republic which will represent the interests of the revolutionary classes) is presently the political platform of U.I.S.U.S.

In demonstrations in this country, the Organization of Iranian Moslem Students (OIMS) and Young Muslims Organization (YMO) have both marched behind banners calling for terrorist "armed struggle" in Iran and bearing placards praising various terrorists and revolutionaries. The main ISA grouping, ISAUS, P.O. Box 4002, Berkeley, Calif. 94704, describes itself as "an open, democratic and anti-imperialist organization." ISAUS says it "works to mobilize international public opinion in support of the just stuggle of the Iranian people for liberation."

ISAUS demonstrations have featured large banners bearing the distinctive globe and AK-47 logo of the OIPFG terrorists. These banners were carried during the Los Angeles riot, as was a banner proclaiming, "Victory to the Armed Struggle In Iran." It is noted that one segment of the OIPFG terrorists has joined with the pro-Soviet Communist Tudeh Party. In a 1977 pamphlet, "Iran: The Struggle Within," published by the Support Committee for the Iranian People's Struggle, P.O. Box 671, New York, N.Y. 10011, which has an introduction by Palestinian terrorist leader George Habash, the preface states that the OIPFG's first "armed action" took place on February 8, 1971, at Siahkal, a village in the woods of northern Iran. OIPFG has concentrated on urban terrorist actions. The Support Committee's preface continues:

> Contrary to similar warfare in Latin America and elsewhere, *the movement in Iran started on a strictly ideological basis, from the beginning aiming toward the formation of a communist party,* OIPFG has been and continues to be a Marxist organization and considers itself the nucleus of a communist party in Iran. (Emphasis in the original)

The pro-Soviet Tudeh Party and its youth arm, the Organization of Democratic Youth and Students in Iran (ODYSI) have their main strength in Western Europe, not in Iran. However, during 1977, radical sources report that Tudeh Party members began publishing a newspaper in Tehran called Nuyid, and that it is continuing its efforts to subvert Iranian unions by having its members and sympathizers gain positions of leadership and influence. Tudeh is reportedly working with the Union of National Front Forces composed of nonreligious former followers of Mossadeq, a group that is viewed in some U.S. circles as the Iranian "Third Force."

In the United States, the members and supporters of the Tudeh Party and ODYSI are working with the Communist Party, U.S.A. (CPUSA) and its youth group, the Young Workers Liberation League (YWLL), particularly around the YWLL's "front" newspaper, The People's Herald, and the U.S. section of the World Peace Council.

The intimate relationships between the Iranian Student Association factions and the Palestinian terrorist organizations, particularly with the PFLP and the "Carlos group," have become even more ominous this week with statements from both official PLO spokesmen and from George Habash that the United States will now be the main target for their terrorist attacks in retaliation for the Middle East summit peace agreements between Egypt and Israel.

Abd al-Muhsin Abu Mayzar, the official spokesman for the PLO Executive Committee, released a statement on Wednesday, September 20, threatened:

> The continuation of the conspiratorial U.S. policy against the Palestinian people and the Arab nation will undoubtedly cost the United States and those who participate in its policy dearly, * * *

He continued:

> The Palestine revolution, which has many weapons, some of which have not been used so far, reaffirms its determination to use all weapons capable of foiling any conspiracy against the Arab cause. * * *

Following a meeting in Damascus, also on September 20, of the leaders of the "Front of Steadfastness and Confrontation" composed of both the main PLO grouping under Yassir Arafat and the Rejectionist Front led by George Habash. Habash told U.S. television interviewers that the terrorists "will do all we can to make America's present leadership pay the price for what it is doing" in the Middle East.

Activation of its Iranian terrorist allies in the United States to carry out a campaign of violence and assassination is a real possibility. Deportation of militants who have been involved in violence in this country would be a help in preventing such violence.

ARREST LIST OF IRANIAN RIOTERS IN LOS ANGELES

When considering the activities of an active terrorist support organization like the ISA, it is important to determine who its leaders and activist members are. Those so committed to revolution that they are willing to battle police should not be permitted to remain in this country. I am suggesting to the Director of the Immigration and Naturalization Service that appropriate deportation procedures be taken in these cases.

The list follows:

NAME AND DATE OF BIRTH

Ryan, Mayme, June 6, 1958.
Moeeni, Ebrahim, May 20, 1948.
Majd, Jamshid, March 2, 1954.
Manoo, Yassamane, July 3, 1954.
Hossian, Nhie, May 20, 1953.
Gholanhossien, Habibzader, August 2, 1959.
Jaffari, Ali, October 21, 1940.
Fayazmanesh, Sasan, May 10, 1950.
Jalali, Seyed, September 31, 1958.
Sabbagh, Ali, May 17, 1942.
Kavousi, Mohammad, December 14, 1950.
Akbar, Jamalizade, August 28, 1959.
Akhlaghi, Mohamed, January 25, 1947.
Darhrabadi, Majid I., March 19, 1960.
Saadatian, Mahmood M., January 17, 1948.
Heshmati, Behzad, March 21, 1960.
Jamnesaau, Mhra, December 12, 1954.
Vazi, Flora, February 20, 1958.
Kageibi, Sholeu, March 5, 1958.
Ghods, Hahra, November 5, 1951.
Khossqussi, Gita, July 20, 1959.
Afatialab, Khdejih, February 2, 1953.
Mohal, Miho, February 26, 1959.
Lala, Opooram, January 21, 1952.
Magide, Ashia, September 23, 1951.
Jonaear, Eitty, April 25, 1956.
Honeile, Noosa, September 18, 1959.
Rahbar, Narces, January 9, 1942.
Shlian, Mouilla, June 1, 1965.
Moosavi, Sadichen, December 7, 1958.
Barati, Mina, July 31, 1959.
Voustan, Kereshte, December 18, 1955.
Kashachi, Pary, January 9, 1955.
Mahmoudi, Mihoo, March 22, 1960.
Hezar, Massriem, September 27, 1949.
Biganpaur, Hooriyen, January 1, 1960.
Bazzal, Mitra, January 7, 1958.
Zangeneh, Zohiceh, Age 20.
Sangera, Martha, May 5, 1925.
Saidian, Shahin, Age 24.
Hamedany, Zohreh, Age 20.
Thrani, Lodan, 1955, Age 23.
Mirkhani, Majid, December 24, 1953.
Asmon, Alimohmed, June 5, 1951.
Cepahri, Mohammed, January 24, 1955.
Orad, Ali, 51, Age 27.
Omidvar, Ahad, October 24, 1948.
Afshar, Bijan, January 10, 1953.
Hamidi, Vahid, March 8, 1956.
Sadaghiani, Aipal, 48, Age 30.
Asgari, Afsin, August 28, 1955.
Omrani, Gholam Rela.
Faham, Zia.
Tirani, Sepa, January 18, 1948.
Behroozi, Farhad, May 15, 1953.
Sadeghizaden, Mehrdad, July 10, 1956.
Kardevani, Hashem, February 10, 1947.
Royan, Amir, January 11, 1951.
Rezai, Reza, July 2, 1956.
Sattari, Rasule, March 27, 1957.
Vioghadden, Kaivan Kanany, September 6, 1959.
Bathi, Fried, December 5, 1951.
Alavi, Seyed Hossein, March 21, 1956.
Ravanshid, Ejmail Farhang, November 10, 1946
Mehrtak, Mohamad, October 20, 1945.
Bahadori, Majid, March 21, 1959.
Mehrasa, Abbas, December 18, 1956.
Mahmoody, Nhood, April 11, 1952.
Ahmadi, Mohammad Reza, October 23, 1949.
Eftekhari, Mohammad, March 5, 1953.
Moradi, Mehrdad Haji, January 1, 1960.
Barati, Ismail, September 15, 1953.
Safaei, Abdali, March 22, 1949.
Mojadeh, Chericv, June 2, 1951.
Omrani, Heidar Ali, December 13, 1954.
Mojadeh, Ali, March 20, 1952.
Gholmai, Nassar, September 15, 1954.
Arjmandi, Manouchehr, April 25, 1948.
Monazsam, Jafar M., February 9, 1954.
Rad, Farzin, January 2, 1955.
Bazzal, Iraj, February 3, 1956.
Gharaghani, Manouchehr, February 24, 1954.
Darashti, Saeed, July 25, 1951.
Shafaei, Mostafa, February 22, 1958.
Ghader, Changiz R., November 1, 1957.
S legt, Kharazi, December 30, 1950.
Hamidi, Farid, December 19, 1958.
Mobarz, Kam, January 21, 1955.
Bakhtiariha, Mostara, March 30, 1942.
Soltani, Abolfazl, March 9, 1951.
Bazargon, Mohammad, December 26, 1952.
Tehraui, Au Bavafayle, April 18, 1954.
Marnani, Ali, May 11, 1953.
Irani, Taher, April 6, 1957.
Baba-Ahmadi, Atta M., January 21, 1951.
Râhimi, Reza, September 9, 1951.
Balali, Mehrdad, October 5, 1955.
Yanzaden, Morteza K., April 1, 1955.
Almasi, Asmail, December 9, 1955.
Balali, Mahmood, August 6, 1958.
Tavakoli, Asguar, December 5, 1958.
Mohtashemi, Mehdi, October 11, 1959.
Kazemi, Samad.
Moshen, Abbasi, July 11, 1951.
Ve'szadeh, Massoud, December 3, 1949.
Massoom, Rasoul, Sherlat, December 5, 1947.
Fakhimi, Mahmood Reza, November 25, 1955.
Lavassaui, Kavian, July 10, 1952.
Karimi, Farzad, June 3, 1960.
Nadershahi, Shereh, October 8, 1952.
Rimeznzadeih, Mahammod, February 20, 1948.
Tehrani, Siavash Fallah, December 7, 1947.
Molavi, Mohamad Reza, June 15, 1956.
Mashouri, Abbas, September 2, 1953.
Fathi, Behrooz, 1953.
Majd, Homayoon, February 9, 1953.
Madgmoli, Jaddavd, March 20, 1953.
Abdoulani, Abdolriza F., March 21, 1953.
Hooshye, Yousei N., December 27, 1957.
Kouchehbagh, Hassan, March, 1959.
Borzeshi, Mohamad Zare, May 20, 1950.
Vanky, Abbas, January 14, 1952.
Phadhi, Ahmer, August 27, 1957.
Nematollah, Au Mohmmad, July 10, 1946.
Samu, Saled Rahamat, March 14, 1946.
Haery, Hossein, April 28, 1952.
Khon, Abollas, February 25, 1951.
Najafabadi, Davood J., September 3, 1957.
Kashavarz, Mohammed Nabi, February 15, 1946.
Saabet, Ahmad, June 20, 1950.
Mambar, Prasad, December 29, 1951.
Muhammad, Farnad Malek, April 3, 1959.
Rezale, Bahram, January 20, 1952.
Naeinyi, Manouchehr, April 10, 1952.
Azizi, Omid, May 21, 1948.
Mahmoudi, Mehran, May 10, 1950.
Techrani, Parvin, January 7, 1946.
Vaziri, Kamran, July 30, 1956.
Sohola, Sarch, January 1, 1960.
Seyfollan, Naghani, September 14, 1952.
Jalian, Farkhondeh, December 22, 1952.
Matin, Asgari Afsaneh, December 12, 1956.
Afainesh, Hossen, March 26, 1942.
Reza, Mohammad, October 8, 1961.
Hosseinzaden, Farnaz, December 6, 1961.
Noozan, Ali, January 24, 1961.
(AKA Nowrorzian, Faribarg)
Baratimarnani, Masout, March 8, 1962.
Pechrakmanesh, Pirouz, February 18, 1961.
Djafari, Shahin, October 13, 1960.
Mahmodi, Mahmood, September 16, 1962.
Mehdi, Jafari-Najafabad, October 6, 1960.
Ahamedi, Zahra.
(AKA Heshnati, Ghareh)
Kak, Vand J., July 30, 1953.
(AKA Aham, Bakhsh)
Monazzan, Safei, age 43.
Serajha, Mina, May 4, 1961.
Rahbari, Bizhan, December 25, 1962.
Soufi, Baram Samil, May 17, 1948.
Shakery, Ali Mohammad, March 21, 1948.
Smalia, Zidia, June 18, 1946.
Najafi, Nader T., November 20, 1947.
Jammessam, Siavosh, May 21, 1959.
Firooz, Afiattalab, May 26, 1949.
Tagharobi, Khosrow, March 11, 1952.
Kharazmi, Davood, September 27, 1952.
Saderi, Hosein, December, 1949.
Zia, Abdemanati, December 22, 1941.
Nikhbaht-Hanadani, Fayar, July 13, 1953.
Afshar, Hani, July 9, 1948.

Foroohar, Manzar, May 15, 1948.
Fajhar, Mehdi, January 7, 1943.
Fardi, Mohammed, December 25, 1950.●

NEW HOPE FOR PEACE IN THE MIDDLE EAST

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. BONKER. Mr. Speaker, the recent Camp David agreement offers renewed hope for resolving the many issues that divide Israel and her Arab neighbors in the Middle East. Whether the time has arrived when a peaceful settlement is acceptable to all parties, only time and events can tell.

Occasionally, I write a column on foreign policy for the Washington State Teamsters and would like to have this latest piece printed in the CONGRESSIONAL RECORD.

NEW HOPE FOR PEACE IN THE MIDDLE EAST

It was an historic moment.

Indeed it was a rare moment as Congress convened in joint session to receive the President who had just concluded the peace agreement between Egypt and Israel.

Joint sessions are not uncommon. Usually it is a state of the union message, or there are emergency sessions, such as the times when Lyndon Johnson and Gerald Ford unexpectedly assumed the Presidency, and on occasion the President will use a joint session to address an issue like the energy crisis. These sessions are generally partisan and the topics are rarely pleasant.

But this was different. There was high expectation, even euphoria. Perhaps even relief. Speaker O'Neill said that not since Winston Churchill appeared had there been such enthusiasm.

We in Congress know the most persistent, insoluable problem in the world is the Middle East. Nothing compares with it. Every President in three decades and countless world leaders have wrestled with it. Kissinger devoted his diplomatic skills and billions of U.S. dollars to the cause without success. Now, suddenly there is an electrifying feeling in official Washington that if it can establish peace in that beleaguered area, anything is possible.

At one time the Middle East was a clear-cut issue for U.S. policy makers. Our fervent support of Israel was unquestioned. Having the Russians in Egypt also made it a convenient East-West issue. That is no longer the case. Anwar Sadat replaced Nasser's pro-Communist policies, and has since gained respect and commendable support in the United States. The 1973 war brought an oil embargo which dramatized our heavy dependence on Arab oil. Recently we sold sophisticated weaponry to Egypt and Saudi Arabia for the first time, placing the United States in the awkward position of giving arms to all sides in that hostile area.

All of a sudden, the Middle East seemed hopelessly complicated. Jimmy Carter has been carrying this awesome burden ever since he entered the White House. Now, after twelve intense days at Camp David, he proudly announced to Congress and the world that after thirty years of bitter conflict, peace has finally come to Egypt and Israel.

This week new hope emerged in the closing hours of the Camp David meeting. The three leaders held a dramatic press conference at the White House. Then a briefing of congressional leaders the following morning, and that evening the President addressed Congress and the diplomatic corps. The next day, our committee on International Relations met separately with Sadat and Begin. These two courageous leaders then returned home to report to their own public.

Is it really possible that peace has finally come for two peoples whose common history is one of hatred and hostility? Is it possible that two leaders whose earlier careers were marked with intense radicalism can now accept and trust one another?

Some might also ask whether an American-sponsored settlement that does not include new or higher levels of assistance to all sides is possible? (Indeed, Carter said the only U.S. commitment was his personal pledge to visit Egypt and Israel sometime soon).

There are also the imponderable pitfalls. What will happen if moderate Arab states like Jordan and Saudi Arabia refuse to go along? What if the Israeli Knesset fails to ratify the portion that deals with settlements in the Sinai? Certainly the PLO and radical Arab states will be violently opposed—one wonders what action they will contemplate to destroy the agreement? Much rests with these two great leaders themselves, both of whom are vulnerable—Begin because of failing health and Sadat because he is a walking target for Palestinian terrorists.

Indeed, it is something of a miracle we even have a "framework" for peace. Anyone close to events in the Middle East appreciates the delicacy of the agreement and can quickly predict the threats and challenges that lie ahead. But instead there is a mood of optimism. The agreement must succeed for the alternative is unthinkable.

Fortunately, the leaders involved are all strong and courageous men. They are not mere politicians playing to the emotions of their constituencies or jockeying around for power and prestige. They are devout men who are genuinely committed to peace. They all have a vital stake in the outcome of Camp David.●

BALANCE(S) OF POWER SERIES

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, since the manner in which foreign relations are conducted by a given country has effect on the success or failure of its foreign policies, a significant element in the strategic balance, as is being elaborated in this series, the quality of the diplomacy used by the United States and the Soviet Union.

In the past, superior authority and professionalism of American diplomacy has been considered to result in greater effectiveness than the stereo-typical brusque and single-minded efforts by the Soviets. As the following article by Helmut Sonnenfeldt suggests, however, the Soviet Union is emerging from its previous isolation to compete squarely with the United States in the use of its economic and military resources to strengthen its diplomatic effectiveness. Entitled "Russia, America and Détente," the following article shows that although the United States is attempting to draw the Soviet Union more into the constraints of the international system, the development of Soviet diplomacy will challenge the United States as an increasingly effective instrument of Soviet goals.

This article first appeared in Foreign Affairs, January 1978 and is partially reproduced below:

Possession of military power does not necessarily determine how, and how effectively, that power is used. External powers, notably the United States, have had little ability to influence the growth of Soviet military power. Nor are they likely to have anything but a modest direct influence in this respect in the future. But they must and can be concerned with the uses to which that power is put. For the United States, broadly speaking, the purposes of policy toward the Soviet Union must be, on the one hand, to prevent injury to American interests and, on the other, to avoid open warfare. Policy must operate within these limits.

The question with which American statecraft must cope is how to maximize the restraints upon the uses of Soviet power. Part of the answer, as already indicated, is to seek to maintain a military balance, where possible in direct or indirect association with others who share our interest in restraining the uses of Soviet power and the potentially detrimental effects of its existence. This raises complex problems in addition to those alluded to earlier about the size and types of forces we must maintain and acquire over the rest of the century and beyond. Without addressing details here, the general point should be made that military deterrence requires forces that are generally thought to be usable for defined ends should fighting break out with the U.S.S.R. or its clients. To the extent this can be done, it is likely to place restraints on direct and indirect Soviet use of force, because it serves to impose upon Soviet decision-makers substantial uncertainties regarding the outcome.

But the problem does not end or begin with military measures alone. The Soviet Union, both as a polity and as an actor on the world stage, has developed unevently. The international environment in which its power has developed and can be used is itself in a state of dynamic evolution. Military power does not translate automatically into influence and even less into control. Even in regions where Soviet military power goes essentially unchallenged, such as Eastern Europe, the Soviet Union has not been able to control or prevent developments which sap Soviet hegemony or, at any rate, undermine the kind of uniformity which Soviet rulers used to consider essential to their own well-being and security.

Elsewhere, in more distant areas, where the projection of Soviet power at one time appeared to confer upon Russia a potentially dominant influence, indigenous and external factors have diluted it or, in some instances, even reduced it to the vanishing point. This is not a law of nature and cannot be relied on to work automatically, specially if the United States itself is uncertain about the Soviet role it prefers to see in these regions. But the history of the last 20 years or so of Soviet "imperial" penetration into distant regions does provide a useful corrective to earlier fears—and Soviet expectations—that Soviet influence once established will become dominant and can only rise.

Among the reasons for the spotty Soviet record is that the Soviet mentality does not adapt easily to the nationalism and peculiarities of other peoples; Soviet ideology and institutions have not proved to be readily applicable or even appealing in other places and societies; Soviet political support is equivocal and frequently self-serving; and Soviet contributions to social and economic development are often inept, inappropriate and irrational, reflecting, as they do, Soviet society itself. For all the Soviet efforts during the last 20 or more years, it is the Western industrialized nations, and the international institutions they have been instrumental in erecting, which have played the greater external role in the development of the new nations around the world. All these factors have limited or even counteracted the effects of Soviet military power in advancing Soviet influence.

One is tempted to conclude from the history of the postwar period, which includes also the increasing diversity within the international communist movement itself, that socialism—Soviet-style—in one country, once a temporary expedient, has in fact become a hallmark of our era. Whether it will remain so will depend, in part, on the evolution of Soviet society itself, on the people who run it after the present generation leaves the scene, and on whether Soviet military power will continue to be balanced so that it cannot become so overwhelming in some place or region as to enable the U.S.S.R. to determine the course of events there for a substantial period of time.

IV

Meanwhile, the steady though uneven expansion of Soviet external influence has been accompanied by, and has indeed contributed to, the gradual emergence of the U.S.S.R. from its isolation. This is most notably the case in the area of economics. Burdened as it is with enormous and constantly rising military expenditures as well as by ponderous and over-centralized bureaucratic controls and a rigid social structure, the Soviet economy has been unable with its own resources to provide for the broad modernization of Soviet life. While impressive, by the indices of the 1950s, the Soviet economy lags well behind other industrial countries in technical sophistication and productivity. Trade with the outside world has long been used to fill gaps that the Soviet economy itself could not fill. But the volume and diversity of this trade have steadily increased in recent years; the methods have evolved from barter or straight cash deals to more complex commercial arrangements, including considerable reliance on foreign credits. These latter have now risen to some $40 billion for the Soviet block COMECON countries as a whole; Soviet hard-currency indebtedness is in the neighborhood of ten billion dollars. A substantial volume of economic activity in the U.S.S.R. and other Eastern countries must now be devoted to earning hard currency to finance imports and to service mounting indebtedness.

Brezhnev and other Soviet leaders have affirmed Soviet interest in an international division of labor, though they certainly have not meant by this any total Soviet reliance on certain external sources of supply. Indeed, in their foreign economic policies the Soviets have sought to minimize extended foreign reliance by trying to get foreigners to build up within the U.S.S.R. economic and technical capabilities which the Soviet Union is unable or unwilling to create with its own resources and skills. The Soviets no doubt continue to hanker for some form of autarky even if, for a time, they are prepared to accept something called a division of labor. But there is no reason why the external world needs to accept this Soviet preference. It is true that a systematic long-term policy by the industrialized nations to maximize Soviet economic reliance on the outside world would encounter formidable difficulties. In particular, Western political and economic systems do not readily lend themselves to long-term economic policy-making of any sort, but this is especially so since the long-term management of economic relations with the U.S.S.R. would require large-scale and sustained government involvement. The difficulties in coordinating the policies of several of the principal industrial countries are even greater, despite the fact that these nations should have the incentive to do so since they are linked to each other by security alliances and numerous other institutional arrangements as well as common interests and broad values.

Despite the difficulties, there is scope for an economic strategy that uses Soviet needs to draw the U.S.S.R. into the disciplines of international economic life. The United States, for example, although unable to use periodic Soviet need for grain for specific political purposes, e.g., to affect Soviet conduct in a crisis, did prove able to negotiate an agreement that imposes more orderly practices on Soviet behavior in this field. The 1975 grain agreement requires the Soviets to consult the U.S. government before it can purchase agricultural products above eight million tons a year,[2] it requires the Soviets to purchase a minimum quantity of six million tons of certain specified products from the United States each year even when they would not otherwise do so because of a satisfactory harvest; and it places upon the U.S.S.R. obligations to permit U.S. vessels to ship the products Russia buys.

In the future, it should not be impossible to reinstitute Soviet eligibility for U.S. government export-financing facilities and thereby to influence the flow of credits and the degree to which the Soviet Union balances the reliance on credits with the use of exports to finance its imports. In general, it would be desirable to encourage the U.S.S.R. to pay for more of its imports with exports and to reduce the share of credits in financing imports. If the issue of tariff discrimination were at some point separated by the United States from issues of Soviet emigration policy, to which it is now linked, the Soviet Union might have incentives to devote more high quality resources to exports. Soviet economic planning and priorities could thus become somewhat more susceptible to external demands. Moreover, it would be both desirable and feasible for Western nations to evolve harmonized concepts in these respects, with the goal of reducing the autarkic nature of Soviet economic decision-making and complicating Soviet resource choices.

Soviet economic connections with the outside world seem, in any case, destined to become more extensive and complex. Already, the Soviets are not immune to currency fluctuations and inflationary trends beyond their own borders. Their planners and hard-currency managers must take account of them, and Soviet economic officials have an obvious stake in operating in foreign markets to minimize injury to Soviet financial interests. Western governments should consult and work with one another to ensure that the U.S.S.R. operates responsibly in the international financial community and that individual Western lending institutions do not become excessively exposed vis-à-vis the East.

Over the somewhat longer run, the Soviets may get caught up in international energy shortages and price rises. Russia's own resources, while large, will evidently become increasingly expensive to recover, and international dealings in the energy field on a growing scale may well become part of Soviet economic life. Planning should be undertaken sooner rather than later for the time when the Soviets may become large-scale petroleum buyers in international markets. There may be similar needs and opportunities with respect to other commodities. The needs of Moscow's East European allies in these areas may provide useful leverage to help induce Soviet interest in more orderly international arrangements.

Many other fields of actual or potential Soviet involvement in the international system can be cited.

For some years now, the Soviets have sensed the need to participate in international efforts to curb the spread of nuclear weapon manufacturing capacities around the world. Indeed, because most potential nuclear weapons states are not friends of the U.S.S.R., Moscow seems to have sensed the need for restrictive actions even before some Western nations. So far, the Soviets seem to have imposed fewer limitations on their domestic nuclear power development than the United States. The future of the breeder reactor and the "plutonium economy" is uncertain as the United States debates its merits, and other Western nations experience domestic opposition toward these and other kinds of nuclear power facilities which may make the pursuit of coherent nuclear energy policies difficult if not impossible for some years to come. It remains to be seen to what extent these problems, including that of waste disposal, spill over into the U.S.S.R. At any rate, however, Soviet export policies are becoming part of an international regime in this area, and the utility of Soviet nuclear exports for political purposes, by "underselling" Western suppliers, is now probably minimal.

The regime of the world's oceans is another area where the Soviet Union is compelled to participate in international discipline if it does not wish to deny itself the benefits of the available resources. Similarly, the U.S.S.R. should not expect to be able to operate in outer space without submitting to legal and other constraints developed by the international community. Incentives also exist for Soviet participation in international arrangements to curb environmental pollution. The international civil aviation regime is still another example.

V

In these and other ways, the Soviet Union has slowly and often grudgingly accepted foreign constraints on its freedom of action. Will these constraints also affect the way in which the U.S.S.R. pursues its geopolitical interests and ideological ambitions through the use of its military power? The answer depends in part on the extent to which external powers see international politics as composed of interrelated parts. But there can be no definitive answer because the processes whereby the U.S.S.R. is becoming more involved in the international system are frequently only in an early stage and far from fully understood. And even when adequately appreciated, it is not always simple to utilize them for broader political purposes; nor is it obvious how to do so. Moreover, the cost of depriving the Soviet Union of some of the benefits of international interaction may fall not only upon the Soviets. We have, for example, seen how American farmers were opposed to our own government's using possible embargoes on grain exports in order to exert political pressures on the U.S.S.R. Western bankers may well fear the effects of massive defaults by their Eastern clients if economic relationships become hostage to political vicissitudes.

Yet these are issues that have to be faced. The growing needs of the Soviet Union for access to the assets and products of the West should be satisfied to the extent that Moscow conducts itself with restraint internationally. It is probably not workable to deny a particular benefit or break a specific contract in an effort to affect Soviet conduct in a crisis. But given the interactions that have already evolved, a strategy should be possible whereby these evolving mutual reliances can over time moderate any disposition to let competition drift into crises of such intensity that they will inevitably tear the fabric of interconnections. But, to repeat, such a strategy can work only if the military risks for particular Soviet geopolitical excursions continue to be kept high.

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[2] According to press reports, the Soviets may have found a way to circumvent this consulting requirement in signing contracts to buy grain to make up shortfalls in the 1977 harvest. While the purchases involved will apparently be from American sources and thus benefit American farmers in a surplus period, it would be desirable to correct any loophole in the 1975 agreement.

VI

There is a further and perhaps even more controversial and contingent set of factors that needs to be put in the balance. Inflation, environmental pollution and the other issues alluded to above are not the only external forces that fail to respect national or ideological boundaries. Soviet society, in part because of the broadening and intensification of Soviet external relations in the 1970s, is no longer hermetically sealed off from the outside. Blue jeans, rock music, literature and pop art are but a few, and probably the least significant, of the foreign habits and activities that have begun to affect Soviet life.

More significant, there probably would never have been major Jewish emigration pressures in 1971–72 if there had been no leap forward in the Soviet Union's relationship with the United States. There probably never would have been any Soviet response—however reluctant and sporadic—to the demands of foreign constituencies of some sections of Soviet society leaders had not begun—however hesitatingly—to calculate their interests in terms of their reputation abroad. It is worth noting that even after the Jackson Amendment was enacted and the Soviets angrily rejected their trade agreement with the United States, Jewish emigration continued at over 12,000 a year and individual "hard-core" cases continued to be acted on favorably. As we have learned this past year, Soviet toleration of these kinds of external intrusion is not unlimited, and foreign powers, to be effective in influencing Soviet practices, must calibrate their strategies and tactics with some care. But the principle has been clearly established that the state of human rights within a country is now a matter of legitimate international concern.

The Jewish population is not the only minority in a state composed of minorities. Thus, in the case of ethnic Germans wishing to leave, the Soviets have also been prepared to respond to outside pressures and inducements. Who is to say how foreign constituencies may someday manifest their interest in the condition of the Soviet Union's large and growing Muslim population? And who is to say how the long-suffering Soviet consumer may some day find his frustrations adopted as a cause abroad? Will Soviet youth be forever kept on an intellectual starvation diet compared to their counterparts in other industrial societies?

These lines of speculation should not be pushed too far. The Soviet system is traditionally repressive. Its aristocracy has a vigorous sense of survival in the face of real or imagined threats to its monopolistic hold on power. It possesses a vast panoply of instruments of power to contain unwanted intrusions.

Yet, the Soviet Union can never return to the isolation cell to which Stalin condemned it to make his brand of socialism in one country a reality at home and virtual impossibility abroad. That isolation is now past history, though there is probably little the Soviets can do for years to come to make themselves "beautiful Russians" around the world. By the same token, the costs and risks of using power for political ends, and the impediments to doing so, are amply present in the world at large. And the world at large, in all its variety, increasingly stretches its influences into domains hitherto controlled by the Soviet rulers.

VII

We have thus entered an era in which the United States and the external world generally can seek increasingly to draw the Soviet Union into the constraints and disciplines but also the advantages of the international system. To do so requires conscious strategies and policies. Passive reliance on historical trends will not suffice. Much progress was made during the 1970s, building on some progress before that, to devise "rules of conduct" for the restrained uses of power. The American-Soviet understandings arrived at during the three summit conferences of the early 1970s, the Helsinki Final Act, and numerous similar understandings between the U.S.S.R. and various Western nations such as France and Germany, have probably gone as far as negotiated documents can go in laying down ground rules for competition. None of these understandings are, however, self-enforcing in the sense that they will be adhered to simply because they have been put on paper. Nor can they be instantly or systematically implemented except where very precise obligations are involved, as in arms control agreements. Many of the understandings, such as the Joint Statement of Principles of 1972, the Agreement on Prevention of Nuclear War of 1973 and the Helsinki Final Act provide standards and goals rather than enforceable commitments to specific, unambiguous modes of behavior.

The Soviets have undoubtedly contravened some of the principles, and they probably consider that we and others have also contravened them. Notions about eschewing efforts at obtaining "unilateral advantage," in particular, are difficult to nail down in the shifting sands of international alignments and in circumstances where the successor states of the old colonial empires continue to be embroiled in territorial and other conflicts and seek external support for their causes. The effects of Soviet, or American, efforts to gain "unilateral advantage" are often unpredictable. The United States has not resisted, and sometimes has sought, opportunities to diminish Soviet influence in places where it had previously flourished—for example, in the Middle East—though this has not always resulted in corresponding American gains.

The Soviets for their part were quite prepared to seek a new role for themselves in southern Africa when the decisions of the U.S. Congress made the risks of doing so seem manageable while the benefits of not doing so were not evident. Their use of Cuban proxy troops—though in fact the Cubans probably pursued objectives of their own as well—opened disturbing vistas of new forms of Soviet expansion.

But it also drew the United States and other Western powers more actively into the affairs of southern Africa. The Soviets were not uninvolved in the outbreak of the 1973 October War and the oil embargo, though their role was less active and direct than critics of the policies of the last Administration would have had us believe. But whatever the precise Soviet role, the outcome did nothing to impede, and actually speeded up, the decline of Soviet influence in parts of the Middle East.

Rules of conduct and other formal arrangements to limit the intensity and dangers of competition must thus be buttressed by other policies, furthering the trends discussed above, to reduce over time incentives to adventurism and to strengthen the incentives for restraint and greater interrelatedness.

This necessarily involves arrangements from which the U.S.S.R. can draw benefits, be it in the form of economic relationships or in its ambition to be accepted as a power with global interests. For Americans, this side of the equation has been a difficult one to accept and has given rise to the notion of détente as being a "one-way street." But it is almost certain that disappointments about expected benefits from détente have also led the Soviet Union to question whether or not the costs—in terms of external intrusion, limitations on Soviet freedom of action, reductions in hard-won foreign influence, restiveness in Eastern Europe, diversity among communist parties, continued high levels of American military preparedness, the unpredictability of American conduct and many other equivocal trends from the Soviet standpoint—are worth paying.

Many observers have stressed that U.S.-Soviet relations can no longer be seen as operating independently of other major trends in international politics, even if in military terms the relationship remains largely bipolar. As noted at the outset, it is often suggested that we should rid ourselves of our fixation with the Soviet Union. The time has come, says one commentator, when "at least for a while, the best way to conduct U.S.-Soviet relations may be to reduce the intensity of the relationship, to cool it."[3] The new Administration, like virtually all its predecessors, entered office with the hope that it could reduce the preoccupation with the Soviet relationship in order to concentrate on "world order politics" and global "architecture."

Yet Soviet military power continues to grow and Soviet involvements in world affairs, whatever the fluctuations, remain on the rise. World order politics which fail to envisage the inclusion of the U.S.S.R. in the disciplines, constraints, and advantages of the international system would hardly be consonant with the facts of the age. Despite its hopes, the new Administration has found itself heavily engaged with the U.S.S.R. and seems to devote as much energy to that relationship as to any other, if not more. It may be that, as President Carter said at Notre Dame, "* * * the threat of conflict with the U.S.S.R. has become less intensive even though the competition has become more extensive." But the distinctions are not always obvious. And there can be no assurance that an intensification of conflict could not rapidly return.

Thus, given the pervasiveness of U.S.-Soviet interactions, geographically and functionally, our policies toward the U.S.S.R. are likely to remain the most active and far-flung among our external policies. Certainly, because of the military aspect, they will continue to place the largest single external demand upon our resources and the federal budget. And however much we may seek to "de-link" issues in given instances, we will not be able to avoid the essential interrelationship between them. Nor should we. Efforts to regulate military competition by negotiation and agreement will not stand alone as an island in a sea of crises or virulent antagonisms. On the contrary, though it is likely to be limited in impact on military programs, the effectiveness of SALT and other negotiations will depend heavily on the rest of the relationship. Similar points can be made about virtually every major facet of U.S.-Soviet negotiations. Above all, it is unlikely that the incidence and intensity of crises, whatever our diplomatic skill and other restraints, can long be held to moderate levels unless there is in operation a whole range of constraints and incentives that give each side a stake in restraint.

What is involved is, of course, a long-term evolution which requires constant attention and effort and which will see many occasions that will defy clear characterization as to whether they represent progress, retrogression, success, failure or "irreversibility." There is no joy in ambiguity, especially for Americans. But that is precisely what will mark our relations with the Soviet Union for a long time to come. We will probably never stop arguing over whether we actually have a détente that, in the President's words, constitutes "progress toward peace." That will have to be a judgment of history.●

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[3] Seyom Brown, "A Cooling-Off Period for U.S.-Soviet Relations." *Foreign Policy*, Fall, 1977, p. 21.

EAST ROCKAWAY, N.Y.—HOST OF LONG ISLAND'S NAUTICAL FESTIVAL

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1978

● Mr. LENT. Mr. Speaker, I would like to bring to the attention of my colleagues the fact that the month of September 1978 has been proclaimed by New York's Governor as "Long Island Nautical Festival Month." This is a most important and historic event. It is a celebration of the pride and glory of industrious Long Island and our marvelous maritime heritage. The focal point of this year's inaugural festival is the *Unicorn*, one of the most beautiful sailing ships in the world, which is scheduling a series of port calls on Long Island's north and south shores during this month.

During the period of September 26–October 1, 1978, the *Unicorn* will make a port of call at East Rockaway on the south shore of Long Island, my home village. The East Rockaway Cultural Arts Council is the sponsoring organization, and our theme is "East Rockaway, a cultural expression of the Long Island Nautical Festival."

When the *Unicorn*, a two-masted brig, 136 feet in length, 81 feet high, and carrying 5,000 square-feet of sail, arrives at the port of East Rockaway, with Capt. Samuel Gehring at the helm, it will be welcomed to Bay County Park dock by East Rockaway's mayor, Ted Reinhard and the village's board of trustees, together with officials of the Cultural Arts Council led by cochairmen Mrs. Rosalie Monaco and Mrs. Emma Tolmach, and the chairman of the East Rockaway Grist Mill Museum Committee, Mrs. Mildred Roemer.

The *Unicorn*, called the most beautiful sailing ship in the world, was a star of OP SAIL '76, and was seen on television as the slave ships in the series "Roots." It will be open to the public for inspection and photography during its stay at Bay County Park. Music, entertainment, lectures and a photo contest are planned for this great nautical event. School groups are encouraged and welcome to visit the *Unicorn*.

The visit of the great ship *Unicorn* will provide not only a spectacle of beauty and excitement, but also an unforgettable learning experience. The *Unicorn* is an authentic handcrafted brig, a two-masted ship with square sails on both masts. This was the most popular rig in the presteamship era. The brig *Unicorn* sailed as the last square-rigged vessel to carry cargo in the Western Hemisphere. It is hoped that the *Unicorn* will visit Long Island each September as the exciting focal point of the monthlong celebration of the marvelous maritime and waterfront opportunities and benefits Long Island offers its residents and its visitors.

As the star of the Long Island Nautical Festival, the *Unicorn* serves as a sea-born time machine, taking us back to the days of our forefathers who lived much closer to nature than we. In beautiful ships of wood and sail—like the *Unicorn*—they braved the vast and mighty oceans where unpredictable wave, wind, and storm brought constant challenge, and required constant study of the natural forces arrayed against the sailor. In those days, East Rockaway was an important port of call for the sailing vessels. And East Rockaway villagers contributed much to the early vitality of Long Island, and knew the excitement of the hustle and bustle of a busy seaport. Thus the *Unicorn* serves as a reminder of our generation of the spirit and atmosphere which prevailed through much of Long Island's and East Rockaway's history.

That is why, Mr. Speaker, I am proud, indeed, that my own village is playing such a vital part in this nautical festival. During the 6 days the *Unicorn* will be docked at Bay County Park, the village is planning a number of special events, including a concert by the Hofstra University Jazz Repertory Company, a performance by the Hempstead Colonial Dancers; special nautical exhibits at the East Rockaway Public Library; special hours at the Grist Mill Museum, and a number of receptions honoring Luis E. Bejarano, Lynbrook, and Frank O. Braynard, Sea Cliff—founders of the Long Island Nautical Festival.

I would like to offer my heartiest congratulations to all those who have assisted in making this exciting festival possible, especially Mayor Ted Reinhard; the village board of trustees; village clerk Bill Overs; the East Rockaway Cultural Arts Council and its cochairmen, Mrs. Rosalie Monaco and Mrs. Emma Tolmach; the East Rockaway Grist Mill Museum Committee, and its chairman, Mrs. Mildred Roemer; the Hewlett Point Yacht Club; the Woodmere Bay Yacht Club; and the many volunteers who have contributed so much of their time to this worthwhile project.

And, of course, a special salute to the founders of the Long Island Nautical Festival, Luis Bejarano, Lynbrook, and Frank O. Braynard, Sea Cliff. Their vision, dedication, and just plain hard work turned a magnificent dream into a brilliant reality. The Long Island Nautical Festival demonstrates to the entire Nation the magnificent attractions of our favored land. We Long Islanders know and appreciate the benefits of our rich and verdant land, our beautiful beaches, and some of the greatest fishing and sailing waters to be found anywhere in the world. Now, through the Long Island Nautical Festival, others have an opportunity to experience these bountiful blessings which have been afforded us.

Mr. Speaker, I wish all of my colleagues to join us on Long Island in this monthlong nautical salute to the maritime wonders to be found on Long Island. As a lifelong resident of this fortunate island, I can tell you in all earnestness, it is a most wondrous land.●

HOUSE OF REPRESENTATIVES—*Monday, September 25, 1978*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
September 25, 1978.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Reverend James David Ford, Chaplain, U.S. Military Academy, West Point, N.Y., offered the following prayer:

Let us pray:

Almighty God, Creator and Sustainer of the world, how excellent is Thy name in all the Earth.

We give Thee praise for the abundant mercies that Thou hast shown to Thy people in days past, and for the promise of hope for the days ahead. We thank Thee that when we have fallen, Thou hast lifted us up, when we have been weary, we have been given strength, when we have been afraid, we have received courage, when the concerns of life have seemed to overwhelm, we have received faith in the promise of a new and better day.

Bless us now as we face our tasks and cause us to be responsible stewards in service to Thee and to our country. In the name of the Lord, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 8812. An act to name a certain Federal building in Jonesboro, Arkansas, the "E. C. 'Took' Gathings Building"; and

H.R. 9071. An act to confer jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claim of John T. Knight.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 683) entitled "A concurrent resolution revising the congressional budget for the United States Government for the fiscal year 1979;" and that the Senate agreed to the House amendment to the Senate amendment to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3040) entitled "An act to amend the Rail Passenger Service Act to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 2507. An act to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to bills of the House of the following titles:

H.R. 3702. An act to amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes; and

H.R. 11291. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the U.S. Fire Administration.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 8588. An act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes;

H.R. 12467. An act to amend the Rehabilitation Act of 1973 to extend certain programs established in such act to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes; and

H.R. 12931. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12467) entitled "An act to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Randolph, Mr. Williams, Mr. Eagleton, Mr. Kennedy, Mr. Cranston, Mr. Hathaway, Mr. Javits, Mr. Stafford, Mr. Hatch, and Mr. Schweiker to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12931) entitled "An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Inouye, Mr. Proxmire, Mr. Chiles, Mr. Johnston, Mr. Leahy, Mr. DeConcini, Mr. Magnuson, Mr. Schweiker, Mr. Brooke, Mr. Mark O. Hatfield, Mr. Mathias, and Mr. Young to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2079. An act for the relief of Lawrence Youngman; and

S. 2981. An act to amend the Department of Transportation Act as it relates to the local rail services assistance program, and for other purposes.

TRIBUTE TO THE LATE JIM DOYLE GROGAN

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUBBARD. Mr. Speaker, it is with both sadness and pride that I speak today in the House of Representatives regarding the late Jim Doyle Grogan.

Jim Grogan died September 22 at the age of 70 at Benton Hospital, Benton, Ark. His funeral is being held at this very moment as it began at 11 a.m. central daylight time at Ashby Funeral Home, Benton, Ark.

Though recently a resident of Sardis, Ark., Jim Grogan and his family lived for many years in the congressional district I represent in the Kentucky communities of Marion, Earlington, Madisonville, and Grand Rivers. He served as a mine foreman for Badgett Coal Corp. of Madisonville. He was a deacon and an active member in the Baptist Church in the communities where he resided.

Although Jim Grogan never held any public office or made headlines with unusual accomplishments, he was a hardworking, dedicated American citizen. Jim Grogan always stood up for what he believed was right for his country. Through his calm words of wisdom he enlightened this Member of Congress and others who hold public offices with his confident, well-reasoned point of view.

As a personal friend of Jim Grogan's, I express my sympathy to his lovely wife, Lula Mae, his daughters, Mrs. Walter "Atha Jim" Dickenson of Lexington, Ky., Mrs. Kyle Truett "Tina Gale" Hubbard of Louisville, Ky., and two grandchildren, Marc Alan Dickenson and Kyle Hubbard, Jr.

I knew the man for whom this tribute is given mostly through my close relationship with him as the father-in-law of my only brother, Kyle Hubbard. Our considering 25 bills in an unusually busy schedule today caused the family to urge me to be here now rather than attend the funeral.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

APPOINTMENT OF CONFEREES ON H.R. 10173, VETERANS' AND SURVIVORS' PENSION IMPROVEMENT ACT

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10173) to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? The Chair hears none, and, without objection, appoints the following conferees: Messrs. Roberts, Teague, Montgomery, Brinkley, Hefner, Edgar, Hall, Hammerschmidt, Wylie, and Guyer.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 12605, PUBLIC TELECOMMUNICATIONS FINANCING ACT OF 1978

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12605) to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and, without objection, appoints the following conferees: Messrs. STAGGERS, VAN DEERLIN, MURPHY of New York, CARNEY, WIRTH, RUSSO, MARKEY, LUKEN, and GORE, Ms. MIKULSKI, and Messrs. WAXMAN, DEVINE, FREY, MOORE, MOORHEAD of California, and MARKS.

FEDERAL INFORMATION CENTERS ACT

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13688) to authorize the permanent establishment of a system of Federal Information Centers, as amended.

The Clerk read as follows:

H.R. 13688

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Information Centers Act".

SEC. 2. (a) Title I of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end thereof the following new section:

"FEDERAL INFORMATION CENTERS

"SEC. 112. (a) The Administrator is authorized to establish within the General Services Administration a nationwide network of Federal information centers for the purpose of providing the public with information about the programs and procedures of the Federal Government and for other appropriate and related purposes.

"(b) The Administrator is authorized to prescribe such rules and regulations as may be necessary to the functioning of the Federal information centers.

"(c) There is hereby authorized to be appropriated $7,000,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for each succeeding fiscal year for carrying out the purposes of this section.".

(b)(1) The table of contents of the Federal Property and Administrative Services Act of 1949 is amended by inserting immediately after the item pertaining to section 109 the following new items:

"Sec. 110. Federal telecommunications fund.
"Sec. 111. Automatic data processing equipment.
"Sec. 112. Federal information centers.".

(2) Title I of the Federal Property and Administrative Services Act is further amended by inserting immediately before section 110 the following heading:

"FEDERAL TELECOMMUNICATION FUND".

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 821]

Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Armstrong
Aspin
AuCoin
Beard, R.I.
Beard, Tenn.
Biaggi
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brinkley
Burke, Calif.
Burton, John
Butler
Byron
Caputo
Carr
Cederberg
Chappell
Chisholm
Clay
Cleveland
Cochran
Cohen
Coleman
Conyers
Cotter
D'Amours
Davis
de la Garza
Dellums
Dent
Dickinson
Diggs
Dingell
Dodd
Downey
Eckhardt
Edwards, Ala.
Edwards, Okla.
Eilberg
Evans, Ga.
Fish
Fithian
Flood
Flowers
Ford, Tenn.
Gammage
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Goldwater
Gonzalez
Goodling
Gradison
Hanley
Hansen
Harkin
Harrington
Harris
Heckler
Heftel
Hightower
Howard
Huckaby
Hyde
Jones, Tenn.
Krueger
LaFalce
Leggett
Lehman
Luken
McClory
McCormack
McDonald
McHugh
McKay
McKinney
Marks
Meeds
Meyner
Milford
Miller, Calif.
Moakley
Moffett
Moorhead, Pa.
Moss
Murphy, Ill.
Nolan
Oakar
Obey
Patterson
Pepper
Pike
Pressler
Pursell
Quie
Railsback
Risenhoover
Rodino
Roe
Roncalio
Rosenthal
Rostenkowski
Rousselot
Rudd
Ruppe
Russo
Santini
Sarasin
Scheuer
Seiberling
Shipley
Shuster
Skubitz
Smith, Nebr.
Solarz
St Germain
Stark
Steed
Stokes
Teague
Thompson
Thone
Traxler
Tsongas
Tucker
Van Deerlin
Walgren
Wampler
Whitten
Wiggins
Wilson, C. H.
Wolff
Wydler
Young, Mo.
Young, Tex.
Zeferetti

The SPEAKER pro tempore (Mr. NATCHER). On this rollcall 282 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FEDERAL INFORMATION CENTERS ACT

The SPEAKER pro tempore (Mr. NATCHER). The gentleman from Texas (Mr. BROOKS) will be recognized for 20 minutes and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill will expand and give full statutory authority to the Federal information center program, which is designed to provide a central information office in each metropolitan area where citizens can learn about programs, job opportunities and other activities of the Federal Government.

The program was started on a pilot basis by President Johnson in 1966 and has grown until there are now centers in 38 major cities, which are lined by toll-free telephone lines to 40 other cities. But about half of our citizens still do not have this service available, and H.R. 13688 is intended to provide the additional centers that will serve them.

The program is now funded on a cost-sharing basis by 17 Federal agencies, with the General Services Administration operating the centers. For the current fiscal year the total cost of the centers is $40 million.

The bill would give the Administrator of General Services specific and permanent authority to establish and regulate the centers. It authorizes an appropriation of $7 million for fiscal year 1980. It was approved unanimously by our committee and I urge the House to pass it today.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. Speaker, I rise in support of H.R. 13688, a bill to authorize the permanent establishment of a system of Federal information centers. When I was chairman of the Federal Commission on Paperwork, I heard many complaints from citizens disgusted with being referred to many different telephone numbers to have one simple question answered.

This bill makes it possible for every U.S. citizen to pick up the phone, dial a number and find out in one call exactly where to get the information they seek. I believe the permanent establishment of the centers will help to improve public perception of the Federal Government and provide a much needed service.

Thirty-eight information centers have been in operation for several years, and they have been a tremendous success. The centers are efficiently run and staffed with competent, cheerful personnel, and the reaction from the public has been excellent.

Mr. Speaker, I urge my colleagues to approve H.R. 13688. I yield back the balance of my time.

Mr. BAUMAN. Mr. Speaker, I have no further requests for time.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the subcommittee, the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Speaker, H.R. 13688 would give permanent authorization to the Administrator of General Services to establish and regulate the nationwide system of Federal information centers. The Committee on Government Operations approved the bill unanimously, with minor technical amendments.

These centers are sources that individual citizens may use for information about the Federal Government. There are now 38 cities across the country with a center. Forty-seven other cities have toll-free tielines to the nearest center. Half our population has access to a center by walk-in or by telephone call with no extra charge. More than 8 million inquiries were handled in 1977.

For members of the public, the center is a point of initial contact for almost any kind of information about the Federal establishment. When the citizen wonders where to turn about a problem or question, the first stop can be one of the centers. There, trained people can cut through complexity and red tape and either give the inquirer the answer directly, obtain it and relay it back, or let the inquirer know of the right office and the right person in an agency that can handle the inquiry.

The first center was started in Atlanta, Ga., back in 1966. It was at the suggestion of President Johnson. The system has expanded over the years as the Congress has provided funds to GSA and 16 other agencies that contribute to GSA for the centers' support.

Enactment of H.R. 13688 would give formal program status to the Federal information centers. It would also carry specific authorization to appropriate funds to GSA. The program's current annual budget is about $4 million. For fiscal year 1980, Congress would be authorized to appropriate up to $7,000,000. This would allow some expansion into important regions not now covered.

Mr. Speaker, this bill has strong bipartisan support. It is in line with one of the recommendations that evolved last year from studies of the Commission on Federal Paperwork.

The Senate unanimously approved a virtually identical bill, S. 3259, on September 12.

The Government Activities and Transportation Subcommittee conducted 2 full days of hearings on the Federal information center program. Members or staff have personally inspected seven centers. I can say that almost every one of the information specialists at these centers is highly qualified in knowledge and personality to perform this unique task. There is almost no limit to the range of questions that a citizen will present to a specialist. In most cases, the inquirer gets the needed help. Each specialist is a human bridge across the gap between the individual and a huge, complex, seemingly impersonal National Government.

I hope that my colleagues will support this valuable, in fact vital, program through passage of this legislation.

Mr. BROOKS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. Brooks) that the House suspend the rules and pass the bill H.R. 13688, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to authorize the permanent establishment of a system of Federal information centers.".

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3259) to authorize the permanent establishment of a system of Federal Information Centers, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3259

An act to authorize the permanent establishment of a system of Federal Information Centers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Information Centers Act".

Sec. 2. (a) Title I of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end thereof the following new section:

"FEDERATION INFORMATION CENTERS

"Sec. 112. (a) The Administrator is authorized to establish within the General Services Administration a nationwide network of Federal information centers for the purpose of providing the public with information about the programs and procedures of the Federal Government and for other appropriate and related purposes.

"(b) The Administrator is authorized to prescribe such rules and regulations as may be necessary to the functioning of the Federal information centers.

"(c) There is hereby authorized to be appropriated $7,000,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for each succeeding fiscal year for carrying out the purposes of this section.".

(b) The table of contents of the Federal Property and Administrative Services Act of 1949 is amended by inserting immediately after the item pertaining to section 111 the following new item:

"Sec. 112. Federal information centers.".

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Brooks moves to strike out all after the enacting clause of S. 3259 and to insert in lieu thereof the provisions of H.R. 13688, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize the permanent establishment of a system of Federal information centers.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13688) was laid on the table.

INTERAGENCY MOTOR VEHICLES REPLACEMENT COST AUTHORIZATION

Mr. JOHN L. BURTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13767) to amend the Federal Property and Administrative Services Act of 1949 to permit the recovery of replacement cost of motor vehicles and other related equipment supplies.

The Clerk read as follows:

H.R. 13767

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 211(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 491 (d)) is amended to read as follows:

"(d)(1) The General Supply Fund provided for in section 109 shall be available for use by or under the direction and control of the Administrator for paying all elements of cost (including the purchase or rental price of motor vehicles and other related equipment and supplies) incident to the establishment, maintenance, and operation (including servicing and storage) of motor vehicle pools or systems for the transportation of property or passengers, and to the furnishing of such motor vehicles and equipment and related services pursuant to subsection (b).

"(2) Payments by requisitioning agencies so served shall be at prices fixed by the Administrator at levels which will recover, so far as practicable, all such elements of cost, and may, in the Administrator's discretion, include increments for the estimated replacement cost of such motor vehicles, equipment, and supplies. Such increments may, notwithstanding section 109(e) of this Act, be retained as part of the capital of the General Supply Fund, but shall be available only for replacement of such motor vehicles, equipment, and supplies. The purchase price, plus such increments for the estimated replacement cost, of such motor vehicles and equipment shall be recovered only through charges for the cost of amortization. Such costs shall be determined in accordance with the accrual accounting method; and financial reports shall be prepared on the basis of such accounting.".

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. I demand a second, Mr. Speaker.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. John L. Burton) will be recognized for 20 minutes, and the gentleman from New York (Mr. Horton) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. John L. Burton).

Mr. JOHN L. BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Government Operations has unanimously reported without amendment H.R. 13767. This amends the Federal Property and Administrative Services Act of 1949 to permit recovery of replacement cost of vehicles in the Interagency Motor Pool System.

The General Services Administration operates the Interagency Motor Pool System pursuant to the requirements of section 211 of the Federal Property Act. The fleet has approximately 85,000 sedans, trucks, and other vehicles used to support Federal agencies. Vehicles are assigned or dispatched from 100 motor pools nationwide.

The Government saves money through GSA's operation of this fleet. GSA motor pool vehicles are used to the greatest extent feasible. Vehicles retained in the fleet are limited to the number required to provide the needed service. Cars are rotated from high-mileage assignments to low-mileage assignments. Such full vehicle utilization helps reduce the need to acquire additional vehicles. During the past several years, GSA has bought only compact and subcompact sedans. This accords with the Energy Policy and Conservation Act as well.

Agencies that obtain vehicles from the fleet pay a mileage rate for variable costs like fuel and maintenance, and also a flat monthly rate for fixed costs like depreciation and overhead. However, under the Federal Property Act's current provisions, GSA can recover depreciation assessments solely on the basis of original acquisition cost.

Rapid increases in vehicle costs have meant that the depreciation assessment based on original cost has not yielded the funds needed to replace average or high-mileage vehicles systematically. In 1972, GSA paid, on the average, $2,835 per vehicle. By 1977, that price was $4,144.

H.R. 13767 is a technical amendment that authorizes GSA to include increments for the estimated replacement cost of its vehicles. The new method of pricing would be phased in over 5 years to minimize the budgetary impact on user agencies. For fiscal year 1980, the increase in charges will be about 10 percent. Successive yearly increases as more vehicles in the fleet come under replacement cost pricing will level off after the 5 years.

This is a noncontroversial amendment recommended by the Administrator of General Services and supported by the General Accounting Office.

The Congressional Budget Office has advised that on the basis of its review no net cost to the Government would be incurred as a result of enactment of H.R. 13767.

In summary, this bill would permit GSA to retire high-maintenance, fuel-inefficient, older vehicles from the fleet regularly and systematically. It will help GSA operate the motor pool system in a business-like way and on a self-sustaining basis through charges to user agencies.

Mr. Speaker, I urge my colleagues to join the Committee on Government Operations which reported the bill, in support of this much-needed legislation.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the distinguished chairman of the full committee, the gentleman from Texas (Mr. BROOKS).

● Mr. BROOKS. Mr. Speaker, the purpose of H.R. 13767 is to allow the General Services Administration to recover the cost of replacing vehicles in the governmentwide motor pool through the charges it sets for users of the vehicles. At present, GSA must base its depreciation assessments to users on the original cost of acquisition of the vehicles.

That worked all right until the economy went into the current inflationary spiral. Now a car that cost the Government an average of $2,835 in 1972 has to be replaced by a car costing an average of $4,140. And GSA will be buying about 18,000 cars next year. This bill proposes a more rational approach to vehicle replacement which will permit GSA to retire older, less efficient vehicles from its fleet on a systematic and fiscally sound basis.

In order to ease the impact of the new pricing system on the user agencies it will be phased in over a 5-year period. The Congressional Budget Office estimates that it will result in no net cost to the Government. This legislation will simply apply good accounting procedures to the management of the Government's motor pool investment.●

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 13767, a bill to amend the Federal Property and Administrative Services Act of 1949. As my distinguished colleague from California mentioned, the bill enjoyed unanimous approval of the House Government Operations Committee.

As the Federal Property Act is now written, there is no provision to permit the recovery of vehicle replacement cost through charges to customer agencies. Approval of the bill before us will result in a more efficient, economical motor pool operation.

I urge my colleagues to approve H.R. 13767, and yield back the balance of my time.

Mr. JOHN L. BURTON. Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. JOHN L. BURTON) that the House suspend the rules and pass the bill, H.R. 13767.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AMEND REGULATIONS FOR RECORDS TRANSFERRED TO GSA CUSTODY

Mr. PREYER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1265) to amend chapter 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services.

The Clerk read as follows:

S. 1265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 21 of title 44, United States Code, is amended as follows:

(a) In section 2103 delete the words "fifty years" in subsection (2) and substitute in lieu thereof the words "thirty years".

(b) Section 2104 of title 44, United States Code, is amended—

(1) by inserting "(a)" immediately before "The Administrator";

(A) by striking out the third and fourth sentences therein and inserting in lieu thereof the following "Except as provided in subsection (b) of this section, when the head of a Federal agency states, in writing, restrictions that appear to him to be necessary or desirable in the public interest with respect to the use or examination of records being considered for transfer from his custody to the Administrator of General Services, the Administrator shall, if he concurs, and in consultation with the Archivist of the United States, impose such restrictions on the records so transferred, and may not relax or remove such restrictions without the written concurrence of the head of the agency from which the material was transferred, or of his successor in function, if any. In the event that a Federal agency is terminated and there is no successor in function, the Administrator is authorized to relax, remove, or impose restrictions on such agency's records when he determines that such action is in the public interest. Statutory and other restrictions referred to in this subsection shall remain in force until the records have been in existence for thirty years unless the Administrator of General Services by order, having consulted with the Archivist and the head of the transferring Federal agency or his successor in function, determines, with respect to specific bodies of records, that for reasons consistent with standards established in relevant statutory law, such restrictions shall remain in force for a longer period,"; and

(3) by adding at the end thereof the following new subsection:

"(b) With regard to the census and survey records of the Bureau of the Census containing data identifying individuals enumerated in population censuses, any release pursuant to this section of such identifying information contained in such records shall be made by the Administrator of General Services pursuant to the specifications and agreements set forth in the exchange of correspondence on or about the date of October 10, 1952, between the Director of the Bureau of the Census and the Archivist of the United States, together with all amendments thereto, now or hereafter entered into between the Director of the Bureau of the Census and the Archivist of the United States. Such amendments, if any, shall be published in the Register.".

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLOSKEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. PREYER) will be recognized for 20 minutes, and the gentleman from California (Mr. McCLOSKEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina, Mr. PREYER.

Mr. PREYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of S. 1265 is to revise current law regarding the transfer from the Departments to the National Archives of historically significant documents.

This legislation was requested by the National Archives. It passed the Senate without difficulty in April. After being considered by the Government Information and Individual Rights Subcommittee, which I chair, the full Government Operations Committee approved the measure unanimously by voice vote.

No additional cost to the Government will be incurred as a result of this bill's enactment. That is the finding of the Congressional Budget Office, and is concurred in by the committee.

The bill is very straightforward. It amends chapter 21 of title 44 and eases the transfer of historically important records to the Archives.

Under existing law, the Archivist must wait 50 years before he can require that an agency send records to the Archives for preservation. The bill reduces that period to 30 years.

Second, in cases where an agency official transfers records to the Archives prior to the 30-year point, the agency official cannot impose access restrictions on those records without concurrence of the Administrator of General Services, in consultation with the Archivist. Currently, the Archivist must accept these restrictions without recourse.

Third, it reduces from 50 to 30 years the period during which these agency-imposed access restrictions must remain in force. For documents over 30 years old, the Archivist, as he does now, may continue access controls he deems appropriate.

Fourth, in cases where an agency has gone out of existence, with no successor, it permits the Administrator to adjust these access restrictions in the public interest.

Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. PREYER. I yield to the chairman of the full committee, the gentleman from Texas (Mr. BROOKS).

● Mr. BROOKS. Mr. Speaker, this bill revises the law regulating the transfer of documents from Federal agencies to the National Archives for historical preservation. At present agencies can retain possession of their records for 50 years. They can also place restrictions on access to them that the Archivist has no authority to remove until the documents are 50 years old.

S. 1265 reduces from 50 years to 30 years the age of documents that the Administrator of General Services can require to be transferred to the Archives. It also requires the concurrence of the Administrator, in consultation with the Archivist, in any restrictions placed by an agency on access to documents. It also reduces from 50 years to 30 years the period during which restrictions on access must remain in force.

Despite the 50-year limit in current law on keeping records closed, it is the policy of the Archivist to protect personally identifiable records for as long as 75 years. Under an agreement between the Archives and the Bureau of the Census, census records are closed for 72 years. That policy and that agreement are not changed by this bill. In fact, the bill provides specifically that the agreement with the Census Bureau cannot be changed without the concurrence of both parties.

The bill was unanimously approved by the Committee on Government Operations and should be passed today.●

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join with the chairman of the subcommittee in recommending approval of this legislation.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

● Mr. HORTON. Mr. Speaker, I join in support of this legislation which reduces the number of years an agency may maintain records prior to transferring them to the Archives from 50 years to 30 years.

The bill also gives the administrator of GSA additional discretion regarding records to be transferred.

Hopefully, this legislation will result in less unnecessary paper being retained throughout the Government.

Mr. Speaker, I support approval of this legislation.●

Mr. PREYER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. PREYER) that the House suspend the rules and pass the Senate bill, S. 1265.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

AGRICULTURE TRADE ACT

Mr. FOLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10584) to strengthen the economy of the United States through increased sales abroad of American farm products, as amended.

The Clerk read as follows:

H.R. 10584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Agricultural Trade Act of 1978".

TITLE I—AGRICULTURAL COUNSELORS

SEC. 101. Title VI of the Agricultural Act of 1954 is amended—

(1) by amending the title to read "TITLE VI—FOREIGN MARKET DEVELOPMENT";

(2) by inserting immediately before section 601 the subtitle designated "SUBTITLE A—GENERAL";

(3) by inserting immediately before section 602 the subtitle designation "SUBTITLE B—AGRICULTURAL COUNSELORS AND ATTACHES";

(4) in section 602(a), by striking out "this title" and inserting in lieu thereof "subtitle A";

(5) in sections 602(b), 602(e), 604(a), 604(b), and 605, by striking out "this title" and inserting in lieu thereof "the subtitle";

(6) in section 602(b), by (A) striking out "Attache" and inserting in lieu thereof "Counselor, Agricultural Attache,", and (B) adding at the end thereof the following new sentence: "An Agricultural Counselor shall be appointed in any country—

"(1) to which a substantial number of governments with which the United States competes directly for agricultural markets in such country assign agricultural representatives with the diplomatic status of counselor or its equivalent; or

(2) in which—

"(A) the potential is great for long-term expansion of a market for United States agricultural commodities, and

"(B) competition with other countries for existing and potential agricultural markets is extremely intense."; and

(7) in section 604, by adding at the end thereof the following new subsection:

"(c) Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to officers and employees appointed and assigned to a post abroad under this subtitle in the performance of the functions of such officers and employees. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities made so available.".

TITLE II—ESTABLISHMENT OF UNITED STATES AGRICULTURAL TRADE OFFICES

SEC. 201. Title VI of the Agricultural Act of 1954 is amended—

(1) by inserting immediately before section 606 the subtitle designation "SUBTITLE D—REGULATIONS AND AUTHORIZATION FOR APPROPRIATIONS"; and

(2) by adding immediately after section 605 the following new subtitle:

"SUBTITLE C—UNITED STATES AGRICULTURAL TRADE OFFICES

"SEC. 605A. (a) The Secretary of Agriculture shall establish abroad not less than six and not more than sixteen United States Agricultural Trade Offices at locations where the Secretary, with the concurrence of the Secretary of State, determines that such establishment could contribute significantly to the development, maintenance, and expansion of international markets for United States agricultural commodities.

"(b) Each United States Agricultural Trade Office shall be administered by a United States Agricultural Trade Officer who by reason of training and experience is exceptionally qualified to carry out the purposes of this title. Such Officer shall be appointed by the Secretary of Agriculture and may be an Agricultural Counselor or Attache appointed under subtitle B of this title.

"(c) Each Agricultural Trade Office may be appointed without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may be paid without regard to the positions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that (1) no Agricultural Trade Officer may be paid basic pay at a rate in excess of the maximum annual rate of basic pay then payable for GS–17 of the General Schedule under section 5332 of such title, and (2) no such Officer may be paid at a rate in excess of the highest rate paid to an Agricultural Counselor or Attache, as the case may be, who is appointed under subtitle B to the country in which such Officer is to serve.

"(d) Each Agricultural Trade Officer shall be responsible for the exercise of the functions of the United States Agricultural Trade Office, and shall have the authority to direct and supervise all personnel and activities thereof.

"(e) In order to carry out the functions of the United States Agricultural Trade Office, the Secretary of Agriculture may appoint such other personnel as he determines to be necessary and may, with the concurrence of the Secretary of State, assign such personnel abroad and employ local nationals for necessary professional and clerical help.

"(f) No employee of the United States Agricultural Trade Office while serving in such position may engage in any business, vocation, or other employment or have other interests which are inconsistent with his official responsibilities.

"(g) Upon the request of the Secretary of Agriculture, the Secretary of State shall request the host country to provide to Agricultural Trade Officers and personnel of United States Agricultural Trade Offices diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

"(h) Each Agricultural Trade Officer shall, through the Agricultural Counselor or Attaché appointed under subtitle B who is attached to the United States Diplomatic Mission in each country in which the United States Agricultural Trade Office administered by such Officer exercises its functions, keep the Chief of each such Mission fully and currently informed with respect to all activities and operations of such Office.

"SEC. 605B. In addition to such other functions as the Secretary of Agriculture, in consultation with the Secretary of State, may designate, the functions of each United States Agricultural Trade Office shall be to—

"(1) increase the effectiveness of United States agricultural export promotion efforts, provide services and facilities for foreign buyers and trade representatives, and coordinate market development activities sponsored by the Department of Agriculture;

"(2) initiate programs to achieve the export marketing goals approved by the Department of Agriculture;

"(3) maintain facilities for use by nonresident cooperators, private trade groups, and other individuals engaged in the import and export of United States agricultural commodities where the use of such facilities would aid in the conduct of market development activities, and cooperate, to the maximum extent practicable, with such cooperators, groups, and individuals to expand the level of United States agricultural exports;

"(4) develop and maintain a current listing of trade, government, and other contracts for each commodity area and make available such listing to persons with a bona fide interest in exporting or importing United States agricultural commodities;

"(5) originate and provide assistance for exhibits, sales teams, and other functions for the promotion of United States agricultural commodities;

"(6) supervise project agreements with United States cooperators, and coordinate the activities of the United States Agricultural Trade Office with those of the cooperators; and

"(7) publicize the services offered by the United States Agricultural Trade Office through advertisements in trade journals or by other appropriate means.

"Sec. 605C. Each United States Agricultural Trade Office shall carry out its functions pursuant to section 605B in the country where the United States Agricultural Trade Office is located and in such other countries as the Secretary of Agriculture, in consultation with the Secretary of State, may prescribe in order to carry out the purposes of this subtitle.

"Sec. 605D. Upon the request of the Secretary of Agriculture, the Secretary of State may use the authorities contained in the Foreign Service Buildings Act, 1926, to acquire sites and buildings, including living quarters, for the purpose of establishing United States Agricultural Trade Offices.

"Sec. 605E. United States Agricultural Trade Offices should be centrally located in order to facilitate foreign trade contracts and foreign trade reliance on such Offices for assistance in marketing activities.

"Sec. 605F. Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to a United States Agricultural Trade Office in the performance of its functions. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities made so available.

"Sec. 605G. Any Agricultural Trade Officer and either the Agricultural Counselor or Attache assigned to a country, as the case may be, may, under regulations prescribed by the Secretary of Agriculture, be entitled to receive a representation allowance in an amount determined by considering (1) the extent to which such Agricultural Trade Officer, Counselor, or Attache can effectively utilize such funds to further the purposes of this title, (2) travel and entertainment expenses customary in the private trade for persons of comparable rank and salary, and (3) customs and practices in the country where such Agricultural Trade Officer, Counselor, or Attache is assigned.

"Sec. 605H. The provisions of section 604 (a) of this title shall apply with respect to personnel appointed and assigned under this subtitle.".

TITLE III—INTERMEDIATE COMMERCIAL CREDIT

Sec. 301. Section 4 of the Food for Peace Act of 1966 (89 Stat. 1538; 7 U.S.C. 1707a) is amended—

(1) by inserting "(a)" immediately after "Sec. 4.";

(2) by striking out the second sentence thereof; and

(3) by adding at the end thereof the following new subsections:

"(b) Export sales of agricultural commodities out of Commodity Credit Corporation and private stocks on credit terms in excess of three years, but not more than ten years, may be financed by the Commodity Credit Corporation. Such credit may be extended only for—

"(1) the sale to a foreign country of grain necessary to establish or maintain a reserve stock of such grain pursuant to obligations of such country under any international grain agreement; or

"(2) the sale of breeding livestock, including the cost of export freight.

"(c) The Secretary of Agriculture shall, before any extension of credit under subsection (b) is approved, consult with the Secretary of State concerning such extension.".

TITLE IV—TRADE WITH NONMARKET ECONOMY COUNTRIES

Sec. 401. Subject to the provisions of section 402, notwithstanding any other provision of law denying nonmarket economy countries eligibility to participate in programs of the Government of the United States, any such country may be eligible to participate in any program carried out by the Commodity Credit Corporation (other than under the Agricultural Trade Development and Assistance Act of 1954) under which credit, credit guarantees, or investment guarantees, not to exceed three years, are extended, directly or indirectly.

Sec. 402. The Commodity Credit Corporation may not extend any credit, credit guarantee, or investment guarantee to any country, as provided in section 401, for the purchase of any agricultural commodity during a calendar year—

(1) unless such country purchases during such calendar year a quantity of such commodity which exceeds the average annual quantity of such commodity purchased by such country during the three-calendar-year period of 1975–1977; and

(2) unless the Corporation receives reasonable assurances from such country of repayment by the country in accordance with the terms under which such credit, credit guarantee, or investment guarantee is extended. Such credit, credit guarantee, or investment guarantee may be extended only with respect to the excess referred to in paragraph (1).

Sec. 403. No country within the meaning of section 103(d)(1) of the Agriculture Trade Development and Assistance Act of 1954 shall be eligible to participate in any program referred to in section 401.

TITLE V—REORGANIZATION

Sec. 501. It is the policy of the Congress to emphasize the importance of commodity programs and international affairs and to upgrade these functions in the administrative structure of the executive branch.

Sec. 502. (a) There is hereby established in the Department of Agriculture the position of Under Secretary of Agriculture for International Affairs and Commodity Programs to be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Agriculture for International Affairs and Commodity Programs is authorized to exercise the functions and perform the duties related to foreign agriculture and to agriculture stabilization and conservation (described in 7 CFR 2.21 (1977)) and shall perform such other duties as may be required by law or prescribed by the Secretary of Agriculture.

(b) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof a new paragraph (67) as follows:

"(67) Under Secretary of Agriculture for International Affairs and Commodity Programs.".

(c) The position of Assistant Secretary of Agriculture for International Affairs and Commodity Programs is hereby abolished.

Sec. 503. The provisions of this title shall take effect on October 1, 1978.

TITLE IV—GENERAL PROVISIONS

Sec. 601. (a) The Secretary of Agriculture shall implement the provisions of this Act as expeditiously as possible consistent with the efficient and effective administration of the programs established under this Act and their integration with related foreign agricultural programs.

(b) The Secretary may issue such regulations as may be necessary to carry out the provisions of this Act.

Sec. 602. The Secretary of Agriculture shall submit to the Congress each year a report providing a comprehensive statement of the activities and accomplishments of the Department of Agriculture, including specifically those of the United States Agricultural Trade Offices, in developing, maintaining, and expanding foreign markets for United States agricultural commodities.

Sec. 603. The Secretary of Agriculture shall appoint an interagency task force within the Department of Agriculture for the purpose of analyzing the effectiveness of the export sales reporting provisions of section 812 of the Agricultural Act of 1970. The Secretary shall submit, not later than January 3, 1979, a report of the findings of the task force, including legislative recommendations for improving such reporting, provisions, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

Sec. 604. Within six months following the enactment of this section, the Secretary of Agriculture shall submit to the Congress a report detailing the impact on American agriculture of title IV of the Trade Act of 1974, including a recommendation as to whether the provisions of such title should be repealed or amended.

Sec. 605. Nothing in this Act shall be construed to diminish the authority of the Secretary of State or any Chief of a United States Diplomatic Mission, under any other provision of law.

The SPEAKER pro tempore. Is a second demanded?

Mr. DERWINSKI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. FOLEY) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10584, as amended, legislation designed to strengthen the economy of the United States through increased sales abroad of farm commodities produced in the United States.

H.R. 10584 was referred jointly to the House Committee on Agriculture and the Committee on International Relations. Both committees reported slightly different versions of this legislation. The principal sponsors, however, have agreed on a compromise version which is before the House today. The bill presented to the Members today is the legislation reported by the House Committee on International Relations with a few technical changes which I will describe.

Specifically, H.R. 10584 upgrades the title of Agricultural Attache to that of Agriculture Counselor at certain locations abroad. Under the compromise measure appointments would be made by the Secretary of Agriculture with the concurrence of the Secretary of State in any country to which a substantial number of governments with which the United States competes directly for agricultural markets in such country assign agricultural representatives with the diplomatic status of counselor or its equivalent; or in which:. First, the potential is great for long-term expansion of a market for U.S. agricultural commodities, and second, competition with other countries for existing and potential agricultural markets is extremely intense.

The legislation also provides for the establishment abroad of not more than 16 agricultural trade offices. An amendment is provided to the bill as reported by the International Relations Committee to require a minimum of six of such offices to be established overseas by the Secretary of Agriculture with the concurrence of the Secretary of State. Agricultural trade offices would be established at locations where they would contribute significantly to the development, maintenance, and expansion of international markets for U.S. agricultural commodities and be regionally based serving more than one country. They would have as their primary function increasing the effectiveness of agricultural export promotion efforts, provide services and facilities for foreign buyers and trade representatives and coordinate market activities sponsored by the Department of Agriculture.

Another important aspect of the legislation would be to provide for an intermediate commercial credit program whereby the Commodity Credit Corporation would extend credit on repayment terms in excess of 3 years, but not more than 10 years to finance the export of breeding livestock, including the shipping costs of such livestock. Because of the 5- to 8-year period required to make a profit on livestock, the short-term credit program of up to 3 years does not lend itself for financing the export of breeding livestock. There is a large potential for sales of such livestock abroad. By using the intermediate commercial credit program, American livestock producers should realize a larger market for their animals.

Another function of the intermediate credit program is to finance the sale to foreign countries of grain necessary for foreign countries to establish or maintain reserve stocks pursuant to obligations of such countries under an international agreement. There is not such agreement currently in existence but if one should be agreed to this provision should afford the basis of expanding exports of U.S. commodities.

The amendment before the House deletes from the measure reported by the International Relations Committee a provision which specifically makes the Cargo Preference Act inapplicable to intermediate credit sales.

Another important provision of H.R. 10584 relates to trade with nonmarket economy countries. The measure before the House would enable certain nonmarket economy countries to participate in the short-term credit programs of CCC, namely the program under which CCC finances the sale of agriculture commodities on credit terms of up to 3 years. As a prerequisite each participating country must purchase during the calendar year a quantity at least equal to the quantity purchased during the 3-year period 1975–77. The principal beneficiary would be the People's Republic of China which is interested in such sales and represents a substantial potential market. Nonmarket economy countries have been ineligible for this program unless they have been accorded most-favored-nation trade status. The bill before the House would not apply to the Soviet Union or countries against which the United States maintains trade embargoes.

Another provision of H.R. 10584 is to provide for the position of Assistant Secretary for International Affairs and Commodity Programs to be upgraded to the level of Under Secretary and the salary level upgraded to level III of the Executive Schedule. Such a change is needed to upgrade the position to the same level as his counterparts in the Department of State and Department of the Treasury, with whom the Assistant Secretary must now work on a 1 to 1 basis without the benefit of equal rank.

In the past the provision relating to the Agricultural Counselor and Agricultural Trade Office was opposed by the Department of State. The sponsors of the legislation on the House Committee on Agriculture have joined with the International Relations Committee in agreeing to provide for the Secretary of State to participate with the Secretary of Agriculture in the establishment of these positions abroad so that he might cooperate in meeting the objectives of the legislation and insuring that they are consistent with U.S. foreign policy. It is expected, however, that the Department of State will participate enthusiastically in meeting the objective of this legislation and not permit any institutional bias to frustrate the program by the exercise of any veto power. The Committee on Agriculture will be monitoring the program closely to assure that this does not occur.

Mr. Speaker, this legislation is particularly important at this time. This week I am advised that the administration is announcing its commitment to a national export policy. The United States today is dependent on a high level of agricultural exports to sustain a healthy national economy and to maintain profitable market prices for the American farmer. A high level of agricultural exports constitutes one of the most important factors toward achieving a favorable balance of payments and is especially necessary in the face of rising costs for imported petroleum products and other imported articles.

The agricultural net balance of payments in recent years has been in excess of $10 billion per year. The United States is today the world's largest agricultural exporter with exports in 1977 of about $24 billion. Agricultural exports may reach $26 billion in 1978 with a net agricultural balance of about $12 billion. American farmers export to foreign markets over half of their wheat and soybeans, about 40 percent of their rice and cotton, and about 25 percent of their feed grains and tobacco.

U.S. agricultural exports represent the production from about 100 million acres of American farmland and are the difference between a profit and a loss for most American farmers. This level of exports does not, however, meet the full potential offered by current U.S. agricultural capacity. H.R. 10584, as amended, should contribute significantly to the realization of this potential.

Farm exports bolster the national economy in other ways as well. They sustain in excess of one million jobs in the United States. The income to farmers from exports allows them to spend annually an average of about $2.5 billion for tractors, $1.2 billion for automobiles and trucks for farm business use, and $5.2 billion for other machinery and equipment.

Agricultural exports also have a major effect on the budget of the United States by providing market outlets for what would otherwise be price depressing surplus commodities. The farmers of the Nation producing feed grains, rice, cotton, and wheat are provided price protection by the Federal Government. If prices should fall below target prices established for these commodities the Department of Agriculture is obligated under the Food and Agriculture Act of 1977, to make direct payments to producers.

At the present time, the United States has a surplus carryover over a billion bushels of wheat, about 1.7 billion bushels of feed grains, and about 5 million bales of cotton. A record crop of corn and sizable surplus of soybeans is also expected. Increased agricultural exports will reduce these surpluses and improve market prices.

While the United States has conducted a rather extensive market development program in the past, an analysis shows that the program has been less than that actually needed.

In summary, H.R. 10584, as amended, represents a positive step in expanding the Department of Agriculture's foreign market development efforts. It is the committee's view that the results of this legislation should more than offset any costs incurred and contribute significantly to a strong national economy.

Mr. Speaker, I urge the Members to join me in support of this legislation.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Speaker, I would like to congratulate the distinguished chairman of the Committee on Agriculture for bringing this legislation forward and particularly for deleting the one provison that would have overlooked a very important cargo preference program of the Congress, and that, of course, is the cargo preference provision that was eliminated.

Public Law 664, the cargo preference law, generally provides that whenever the United States shall advance funds or credits in connection with the furnishing of commodities, at least 50 percent of the gross tonnage of such commodities shall be transported in privately owned U.S.-flag vessels. Public Law 664 was enacted in the same year as the Trade Assistance Act of 1954 and is one of the basic statutes that provide the United States with the Merchant Marine required for our national security and required by the world's greatest trading nation.

I certainly hope that the chairman and the other conferees will insist on maintaining our position in their conference with the Senate, because the Senate version, of course, in its present form does not speak to the question of cargo preference. As I said I hope the House conferees will insist on our position in connection with the maintenance of Public Law 664 cargo preference. The General Accounting Office, incidentally, supports the purpose of cargo preference in Government-generated cargoes, and so stated in a recent report on cargo preference.

Mr. Speaker, once again I thank the gentleman from Washington (Mr. Foley) for effecting this deletion.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the chairman of the Committee on International Relations, the gentleman from Wisconsin (Mr. Zablocki).

Mr. ZABLOCKI. Mr. Speaker, I rise in support of H.R. 10584, a bill to assist the sales abroad of U.S. agricultural commodities. At the outset I take this opportunity to commend and congratulate our colleague the distinguished chairman of the House Agriculture Committee for his leadership and efforts in bringing the legislation for consideration. The House International Relations and House Agriculture Committees held extensive hearings on this legislation and are recommending a good bill.

The bill would upgrade some U.S. agricultural representatives to the rank of "counselor" and create up to 16 agricultural trade offices in locations abroad where they will help maintain, develop, or expand U.S. trade markets. The bill also expands credits for purchases of U.S. agricultural products by providing intermediate credits—up to 10 years—for export sales of breeding livestock and purchases of wheat to fulfill obligations under an international grain reserve agreement. It also extends normal Commodity Credit Corporation credits—up to 3 years—to nonmarket economies not now receiving such credits.

I would like to expand on this latter point, as there has been confusion as to the extent and purpose of the provision. Title IV of the bill would extend to nonmarket countries not now eligible to participate in programs of the U.S. Government; for example, Commodity Credit Corporation programs, CCC credits if the country purchases a greater quantity than the annual average of its purchases during the 3-year period 1975–77—the credits would be available only for the excess—and if there are reasonable assurances that the country will repay the credits. However, this provision does not apply to any country falling under section 103(d)(1) of Public Law 480, which applies to "any country or area dominated or controlled by a foreign government or organization controlling a world Communist movement." This provision has been interpreted only as applying to the Soviet Union.

So, the extension of CCC credits and the conditions of title IV of the bill would not apply to those countries already receiving or eligible to receive CCC credits—Poland, Yugoslavia, Romania, and Hungary. Credits would not be extended to the Soviet Union or to countries against which the U.S. maintains a trade embargo, such as Cuba, Vietnam, Cambodia, and North Korea. The extension of credits under certain circumstances would be available to countries such as China, East Germany, Czechoslovakia, and Bulgaria.

I urge Members to support this legislation.

Mr. FOLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. Vanik).

Mr. VANIK. Mr. Speaker, I am opposed to the provisions of title IV of H.R. 10584, the Agricultural Trade Act of 1978. I oppose this title and ask my colleagues to vote down the motion to suspend the rules and pass this bill because that section provides for taxpayers supported commodity credits to the People's Republic of China. They have not asked for these credits. This section is an end run around the human rights provisions of the Trade Act of 1974.

Title IV provides that Commodity Credit Corporation credits may be extended in a limited fashion to nonmarket economy countries notwithstanding any other provisions of law.

Before the CCC is authorized to extend credits under this provision, the country must agree to purchase, in cash, a quantity of agricultural commodities equal in value to the average annual value of all such commodities purchased during the period 1975–77. Purchases in excess of that quantity would be eligible for CCC credits for periods of less than 3 years if assurances are given to the Corporation that repayment will be made in accordance with the terms of the loan.

Section 403 prohibits the application of these provisions to any country within the meaning of section 103(d)(1) of the Agricultural Trade Development and Assistance Act of 1954. Section 103(d)(1) excludes "any country or area dominated or controlled by a foreign government or organization controlling a world Communist movement." The report of the Committee on International Relations states that the language of section 103(d)(1) applies only to the Soviet Union. Thus, the Soviet Union would be the only state trading company ineligible to receive CCC credits under title IV of this bill. I will say more regarding this particular provision in a moment. First, I would like to state my general reasons for opposition to the bill.

My opposition arises from the fact that this provision provides for an extension of CCC credits without meeting the requirements of section 402 of the Trade Act of 1974 (Public Law 93–618), thus marking a fundamental change in our trade policy. As you may recall, this provision of the Trade Act prohibits the extension of most-favored-nation treatment to the products of a nonmarket economy country and bars such country's participation in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, unless the President receives certain assurances regarding freedom of emigration. Thus, under section 402 of the Trade Act, nonmarket economies are denied CCC credits until the statutory requirements of section 402 are met.

As you are also aware, the Trade Act of 1974 is solely within the jurisdiction of the Committee on Ways and Means and that Committee has not considered any proposal to make nonmarket economy countries eligible for CCC credits outside the framework of the Jackson-Vanik amendment.

Now, referring back to section 403 of the bill which purports to prohibit the Soviet Union from receiving CCC credits, I must, with all due respect to the able members of the International Relations Committee, strongly disagree with the interpretation they give to section 103(d)(1). The language refers to any country dominated or controlled by a foreign government which controls the world Communist movement. No one can seriously claim that the Soviet Union is dominated or controlled by a foreign government. Perhaps the Committee intended to refer to section 103(J) which excludes governments controlling a world Communist movement. But they did not do so. A clear reading of the language of section 403 would permit the Soviet Union to receive CCC credits.

Furthermore, even if the Soviet Union were excluded, I have grave reservations as to the wisdom of using the People's Republic of China as a negotiating wedge vis-a-vis the Soviet Union.

With regard to the People's Republic, which clearly may receive CCC credits under this bill, we have no information as to its record on human rights. As far as we know, there is no visa form nor, indeed, any overall emigration policy. There are indications that millions may want to leave the People's Republic and are restrained against their will through a government policy which prevents emigration. Between January and August of 1977, it is estimated that 5,000 residents of the People's Republic of China entered Hong Kong illegally, 2,000 were returned. Many drowned in the effort.

With regard to the granting of a trade preference to the People's Republic as opposed to the U.S.S.R., I think it should be recognized that despite the notorious refusenik cases, the U.S.S.R. has permitted a 22 percent increase in immigration over last year. We have no reported cases of any emigration permitted from the People's Republic of China. By providing credits to the PRC which doesn't even have an emigration system, we are taking a slap at the Soviets, who are letting out additional emigrants. This action may backfire, causing the Soviets to abandon their growing quiet flow of emigration.

I therefore urge my colleagues to vote against H.R. 10584.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out the gentleman from Ohio (Mr. VANIK) sent out a "Dear Colleague" letter which reached everyone Friday, and realizing that when we return like this on Monday morning it is hard to focus on a major issue. I do wish all Members would study his "Dear Colleague" letter and support him in his suggestion that we reject the motion to suspend the rules. In all modesty I must admit I also sent out a "Dear Colleague" letter which was plagarized from the gentleman from Ohio (Mr. VANIK).

This is a major subject not on which normally is handled under a suspension in that we expect controversy and a rule should have been granted and regular procedure should have been followed. I will have more to say later, Mr. Speaker.

At this time I yield 5 minutes to the gentleman from Kansas (Mr. SEBELIUS).

Mr. SEBELIUS. Mr. Speaker, we members of the Agriculture Committee have come before you during this Congress several times to seek improved farm price supports and modernized Farmers Home Administration loan programs. The Food and Agriculture Act of 1977 and the Emergency Farm Act of 1978 continued our market-oriented farm policy. Over the long term, nearly everyone will agree that a market-oriented farm policy is preferable to Government payments and controls. But you cannot have a market-oriented farm policy without a market. And the most vital market to grain farmers is the export market.

U.S. wheat and feedgrain farmers must look to the export market for a significant portion of their income at the current level of production today. That is why I rise in strong support of H.R. 10584.

The virtues of agricultural exports on our economy should be widely understood by this body, but I would like to mention a few points. Farm exports account for more than 1 million jobs in the United States and make a significant contribution to farm income. If U.S. Department of Agriculture projections prove true, U.S. agricultural exports in fiscal year 1978, which ends on Saturday, should total more than $26 billion, thanks to overseas demand for our wheat, feedgrain, and soybeans.

Given the fact that U.S. agricultural imports are expected to remain at last year's $13.4 billion, the U.S. agricultural trade surplus is expected to reach a new high of almost $13 billion. This good news, however, must be put into perspective. Just 5 years ago $13 billion was enough to pay for oil imports and give us a favorable balance of trade. Now, it falls far short of maintaining that ideal situation. Last year's agricultural exports exceeded imports by $10.6 billion, but still the United States experienced a catastrophic balance of trade deficit of $27 billion. This year, another gargantuan trade deficit is expected. That is why we must seek to maximize farm exports.

Mr. Speaker, we all know that the dollar has taken a beating in the currency markets and the prospects for record corn, rice, and soybeans harvests, and the largest wheat stockpile in 15 years are driving U.S. grain prices down. Given the excellent grain harvests in other major grain exporting countries the United States must offer the tools to be as competitive as possible. The USDA's Foreign Agricultural Service says that the world supply of wheat and coarse grains this year may be 12 million tons over last year and will probably hit a new record of 1.126 billion metric tons, thanks to big crops in the United States, Canada, and the Soviet Union. Given this massive stockpile, the United States must offer the tools to be as competitive as possible in selling U.S. farm products. Let us sell it, not smell it.

In this competitive environment, it is essential that we be more competitive in the two areas of market development and the extension of Commodity Credit Corporation credit. Overseas market development and market intelligence activities through U.S. Embassies and trade offices are vital if the United States is to maintain its share of the world markets. And expanded CCC export financing will be an important boost to wheat and corn exports, which benefit the most from CCC export credit. In fiscal year 1977, those two commodities accounted for 58 percent of the total value of the agricultural commodities financed.

Mr. Speaker, I am pleased that some of the leaders in the Carter administration have finally awakened to the need for expanding our export markets. Ambassador Robert Strauss, our Special Trade Representative at the ongoing multilateral trade negotiations, has said that the solution to our trade deficit is not reduced imports but rather expanded exports. And, this morning's Washington Post contains a front page article stating that President Carter, as part of the first phase of an anti-inflation effort, has agreed to a beefed-up export promotion program that will require Federal agencies, especially those dealing with foreign policy, safety and the environment, to "consider the consequences" on exports before they promulgate regulations. This is most heartening news, because there have been cases where grain exports have been withheld because of human rights considerations. H.R. 10584 would augment the Carter administration's push for greater exports.

Mr. Speaker, in conclusion, I want to pay tribute to the hard work of our colleague from Illinois (Mr. FINDLEY). He is a member of both committees and served as a mediator in working out a good bill. The American farmer is indebted to him for his efforts, and on behalf of the farmers of Kansas I just want to say thanks to him.

Mr. Speaker, I urge my distinguished colleagues to support this very important bill.

I urge Members to support this bill at this time. It is needed and very much so.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I thank the gentleman for his warm words.

I want to mention for the benefit of Members and others who may not have been aware of this fact, that this committee reported this bill out with the title IV in it regarding the CCC credit to nonmarket countries and the vote was 39 to 1, and the International Relations Committee reported the bill out without any dissenting vote. It was unanimous by voice vote.

Judging by some comments made a few moments ago, one would think this was a foreign aid bill, as if we were granting something of great value in a grant to another country. It is not that at all. It is an aid to the American economy, pure and simple, enabling our traders to have several additional tools with which to compete effectively for the expansion of trade in foreign markets.

It should not be construed as an aid to a foreign government. There is no aid whatever in it. It is purely on a commercial basis.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, has the People's Republic of China requested the commodity credits that are provided and authorized in this bill?

Mr. FINDLEY. Mr. Speaker, if the gentleman will yield further to me, China traditionally does not like to go into debt; but it has made it very clear in the discussions we have had with their leaders that they recognize a bargain when they see it. If they are offered credit by Canada or by another country and other terms are relatively equal, they will certainly jump at the opportunity to have what they call extended payments. It is very clear that this would be a distinct advantage to the American trader in dealing with foreign countries, including the People's Republic of China, in order to expand markets and gain more foreign exchange, which we so desperately need to keep the dollar afloat.

Mr. VANIK. If the gentleman will yield further, Mr. Speaker, how do we gain foreign exchange by selling things on a credit basis. There is a risk that we may not be repaid.

Mr. SEBELIUS. If the gentleman from Ohio will allow me to answer, Mr. Speaker, we loan this money from the CCC. That is the credit we extend. They pay it back every month with interest. It is more than what we pay to the U.S. Treasury; and therefore, it is an extension of credit that actually helps our balance of payments. The money is going to come from them. They are going to get wheat or other commodities which we have to sell in business in competition with the Australians and the Argentinians, for example.

Mr. FINDLEY. If the gentleman will yield further, Mr. Speaker, I wanted to take note of the fact that in the other body, the co-author of what is known very widely as the Jackson-Vanik amendment voted for this legislation, which had a similar provision in it dealing with the extension of short term commercial credit to the People's Republic of China.

Mr. DERWINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Speaker, I rise in support of H.R. 10584.

During the week when the President was announcing his much-awaited "export package," I find it fitting that the House is considering the Agricultural Trade Act of 1978, a bill designed to strengthen the economy of the United States through increased sales abroad of American farm products.

The major thrust of this legislation is to upgrade U.S. agricultural representation abroad and expand our agricultural promotional facilities in foreign markets. At a time when U.S. agricultural exports make such a vital contribution to the health of our national economy, this legislation assumes a special importance. At a time when some of our major exporting competitors are intensifying their marketing efforts, the steps required by this bill are a tangible measure of a more aggressive U.S. policy.

I particularly want to commend the efforts of Congressman PAUL FINDLEY of Illinois who worked tirelessly on this bill, shuffling his Agriculture and International Relation Committee hats when the need arose, and helping to structure a compromise behind which both committees could stand.

Mr. Speaker, I urge my colleagues to adopt H.R. 10584 whose passage will provide an important tool in our efforts to stem the declining value of our dollar abroad.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, is my distinguished colleague, the gentleman from Ohio (Mr. WHALEN), prepared to say that the score on human rights is better in the People's Republic of China than it is in the Union of Soviet Socialist Republics? This bill is written to provide for the sale of grain to the People's Republic of China through commodity credits. What about the human rights provisions of the Trade Act of 1974.

What is there about the progress of human rights in the Peoples Republic of China which the gentleman has discovered that would lead us to believe that we should give a preference to the People's Republic of China?

Mr. WHALEN. I am afraid the gentleman is posing that question to the wrong individual because I opposed the Vanik-Jackson amendment. I think its application in this instance also would be wrong.

Mr. Speaker, I yield back the balance of my time.

Mr. FOLEY. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Subcommittee on International Economic Policy and Trade, the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, we had hearings in this bill on our subcommittee; and thanks, I would say, largely to the very vigorous efforts of the gentleman from Illinois (Mr. FINDLEY), we were glad to report out the bill. It was further recommended to the House by the Committee on International Relations, by voice vote. The Members will notice that in our committee report there are no dissenting views.

I gather, Mr. Speaker, that the gentleman from Illinois (Mr. DERWINSKI) is now opposed to the bill; but he did not raise any question about the bill when it was considered in committee.

Let me speak briefly to the issue raised by our good friend, the gentleman from Ohio (Mr. VANIK), for whom I have the highest regard.

First, I do think there is a difference between China and the Soviet Union. We know that the real objective of the passage of the Jackson-Vanik amendment was to obtain a change in the Soviet Union's policy on emigration largely, although not exclusively, in response to the great unhappiness in the American Jewish community over the restrictions on emigration of the Jewish community in the Soviet Union. We were hopeful—we still are, and I was and am very much in favor of the Jackson-Vanik amendment—that that amendment would produce some healthy change in the Soviet Union's policies in this regard. We have no comparable objective so far as the People's Republic of China is concerned. We are not hoping to achieve a change there by any economic measures that we take, so the situation is different.

Our committee has no intention of trying to defend the human rights record of the People's Republic of China. What we are recognizing is that there is a great need in our own country in increasing exports. The gentleman from Ohio has asked whether the People's Republic has asked for this bill. But that is irrelevant. We know our farmers have asked for this bill, and it is to them that we are responding. We are not responding to the People's Republic of China.

I would like to add that no objections whatever have been raised to this legislation on the part of those Jewish organizations that fought so hard for the Jackson-Vanik amendment.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

Certainly, in thinking about human rights the gentleman must understand that the language of the Trade Act did not spell out or limit America's human right concerns. It is applicable to those people who suffer anywhere in the world because their rights were being violated. I think the language is addressed to humanity. It is addressed to the rest of the world.

Mr. BINGHAM. If I may reclaim my time from my friend, I will say this, that the language was not addressed to all violators of human rights. It did not, for example, use the language of the Harkin amendment. It was not addressed to countries such as Chile or other countries. It was aimed at the Soviet Union.

Let me say further, Mr. Speaker, the legislation before us is a modest proposal to help improve our ability to market U.S. agricultural products abroad consistent with our foreign policy. Agriculture is one of our "strong suits" in international trade. At a time like the present, when the dollar is weak and growing weaker, and when we are experiencing large deficits in international trade, we should be playing to our strong suit in order to set our accounts in order. This bill would, I believe, demonstrate our willingness to be more aggressive in world markets, and would be helpful both to our farmers and to our economy.

I would like to stress a couple of things about this bill. First, there are no new costs here. This is not a costly new program. It is simply a reorientation of the existing CCC program, within the existing CCC budget, to put a little more emphasis on exports. It is a congressional adjustment of the current program, rather than any massive new attack on foreign markets.

I am glad to say that the International Relations Committee was instrumental in giving this legislation such an emphasis, and the Agriculture Committee endorses this approach. The International Relations Committee, for example, resisted, along with the administration, a much broader "intermediate credit" program proposed in earlier bills—a program which would have been costly and disruptive to our foreign economic relations in many respects. The "intermediate credit" program in this bill as presented to the House is a very limited one—limited to the immediate need to provide more reasonable financing for the export of breeding livestock and the costs of shipping those livestock. This should make us more competitive in an area of agricultural exports with about $25-million a year without setting off a broad credit war with other nations which would be counterproductive to our entire foreign economic policy and trade relations.

It would also make intermediate credit available for grain pursuant to international emergency reserve agreements. But that looks to the future. There are presently no such agreements. So this is only an incentive. It would have no immediate use.

I can also assure the House that this legislation, and the program revisions it contains, take full account both of our foreign policy and the orderly administration of U.S. personnel abroad. In various places throughout the bill, we made certain to make clear the lines of authority with respect to the State Department and the Department of Agriculture in order that the activities authorized can be implemented effectively and without disruption to our missions abroad which have many other responsibilities in addition to agricultural trade promotion.

Finally, Mr. Speaker, let me point out to Members who might be concerned that this legislation might lead to agricultural shortages in this country, as happened at one point in the past, that we now have a system of short supply controls which should alleviate that problem. Hopefully, those controls will not have to be used. If they are used with respect to agricultural products, they can be vetoed by Congress. The point is, however, that they are in place. Therefore, any increased agricultural export promotion that we would do under this bill should not result in agricultural shortages.

To summarize, Mr. Speaker, I believe this is a moderate and balanced bill from both an economic and foreign policy viewpoint. It makes needed adjustments in existing programs and policies without overkill. I urge its adoption.

PETE ROSE

Mr. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Ohio for the purpose of a unanimous-consent request.

(By unanimous consent, Mr. LUKEN was allowed to speak out of order.)

Mr. LUKEN. Mr. Speaker, I appreciate the fact that the House has given its unanimous consent to take just 1 minute or at the most 2 minutes of the time of the House.

I rise today to salute a man whose accomplishments on the baseball diamond amount to more than most records in National League baseball history. I am talking about my friend and fellow Cincinnatian and constituent, Pete Rose. In his illustrious career for the Cincinnati Reds Pete Rose has set more than records. He has set a rare example for the Nation and particularly for the young people.

Pete has a slogan that "Hustle makes it happen." Hustle is the synonym for Pete Rose. The truth of that thought is more evident in that for 2 months during this summer Pete Rose fought off the odds of pressure in the daily challenge of baseball by setting a National League mark for hitting safely in 44 consecutive games.

Pete, as I said, is my constituent in Cincinnati. We are proud of him. We are proud of the fact that he has made this record and that he is the kind of example of an individual who is blessed with not only athletic physical endowments, but well beyond the measure of those endowments he has made it happen. We are proud that he is here today. We invite the Members of the House to the Rayburn Room immediately following these proceedings to meet with Pete Rose.

Mr. GRADISON. Mr. Speaker, will the gentleman yield?

Mr. LUKEN. I gladly yield to my colleague from the First District, also from Cincinnati, the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. I thank the gentleman for yielding.

I certainly want to associate myself with his very appropriate remarks. It is perfectly true that Pete Rose lives in the Second District represented by the gentleman from Ohio (Mr. LUKEN), but he plays baseball at Riverfront Stadium in my district. Therefore, I can share in the great accomplishments of Pete Rose not only with my colleague, the gentleman from Ohio, but also with all of those who are interested in the future of professional sports and recognize the outstanding example which Pete Rose has set. This is an example which, in my opinion, has done a great deal to call attention to our national pastime.

It has helped to encourage the interest of people, young and old, in this great sport. So as we pay tribute to Pete Rose for his accomplishments, we are recognizing as well not only what he has done in his own right, but what he has done for baseball.

Mr. Speaker, I thank the gentleman for yielding and hope that some of our colleagues, if their schedules will permit, will join us in the Rayburn Room later.

● Mr. VAN DEERLIN. Mr. Speaker, it is a distinct pleasure to join in this tribute to Pete Rose, a great athlete who has set an example on and off the playing field.

He is highly popular in San Diego as he is in the other National League cities. Few players empathize so well with the fans. This past summer, in San Diego—my home city, Pete helped dedicate a new Little League field named for a young player who died of cancer, and later joined Padres star Dave Winfield in hosting a party for thousands of youngsters. It is a hallmark of the man, and his quality, that he does this sort of thing away from home.

For Pete Rose, baseball is far more than just a game; it is a way of life. His exemplary behavior, his legendary hustle and zeal, have helped to fuel the great renaissance which baseball enjoys today.

When Pete was on his 44-game hitting streak, he filled ball parks all across the country. It is no coincidence that big league baseball last week set a new all-time attendance mark, well over 38 million people for the season.

Baseball is regaining its position as our national pastime, and Pete Rose comes as close as anyone to being our national player.●

● Mr. MILLER of Ohio. Mr. Speaker, it is an honor to join my House colleagues today in this tribute to one of the finest baseball players—and gentlemen—to have ever played the game: Pete Rose of the Cincinnati Reds.

For 16 seasons the Reds' third baseman has personified the best in baseball. He has been the definition of hustle, hard work, and unselfish enthusiasm that has made the Reds a contender every year. He has already earned a place in baseball history by hitting safely in 44 consecutive games this season. That mark—which erased a National League record which had stood for more than 30 years—will stand at least until next year, when Pete begins his assault on Joe DiMaggio's major league hitting standard of 56 straight games. We all wish him well, and we would like Pete to know that we will be pulling for him each and every time he approaches the plate next year.

In a day and age when heroes are hard to find and cynicism appears vogue, it is nice to know that we can still point to Pete Rose as the shining example of the rewards one can earn with desire, irrepressible spirit, and dedication. It is nice to know that Pete Rose personifies the best in baseball. and, consequently, the best in this country.

Having lunch with Pete Rose in the Speaker's dining room and getting to chat with this idol of thousands of baseball fans throughout Ohio and across the Nation was especially meaningful to me since Pete's name has been a household word at the Miller residence for years. I distinctly recall the days my mother would follow the fortunes of the Reds as they worked through their schedule and I know that of all the players on the team, Pete Rose was a Miller favorite.

Having the chance, at last, to meet the gentleman who meant so much to all of us was an honor and a pleasure that I will long remember.

I applaud his achievements and I congratulate Pete on another outstanding year and wish him only the best in the seasons ahead.●

● Mr. DON H. CLAUSEN. Mr. Speaker, I feel privileged to join with my colleagues in recognizing the unique contribution which Pete Rose has made to baseball. He has done so much over the years as a team player and as an individual performer. His sparkling play at third base, combined with consistent as well as spectacular clutch hitting were highly instrumental in the Cincinnati Reds being frequent winners of the World Series.

I personally feel a special kinship to Pete Rose, because his 16 years with the Reds have spanned the same time frame as my 16 years with the Minority Team in the annual Congressional Baseball Classic. However, in order not to embarass my colleagues on the other side of the aisle, I will make no mention of won-lost records.

In all candor, I must confess that, being a loyal and enthusiastic supporter of the San Francisco Giants, I was not pulling for the Reds, especially this year when the Giants did so much to rekindle baseball excitement in the bay area.

However, the exploits of a man who hits safely in 44 consecutive games, and who has reached the 3,000 career hit mark must be recognized. Pete Rose singlehandedly captivated the interest, attention, and enthusiasm of the sports world, and generated a great deal of excitement on his drive to 44 consecutive games. It is quite appropriate that this record should be reached by a man of great athletic ability, but also a man whose play has always been characterized by hustle, determination, strong desire to win, and confidence in his teammates and in himself.

I join with my colleagues in wishing Pete Rose continued success and look forward to following his accomplishments for the next several years.●

● Mr. MICHEL. Mr. Speaker, when Bob Hope was honored by the House I did something special in his honor: I sang.

Today, in paving tribute to Pete Rose I will do something that many of my colleagues think is even more praiseworthy: I won't sing.

Let me just say that although Washington does not have a baseball team, I can attest to the fact that it has its heavy hitters, as mugging victims like myself know all too well.

So I say to Pete Rose, as a slugee to a slugger: May all the ground balls you hit take crazy hops; may the sun always be shining in the eyes of opposing outfielders; may your line drives go where they ain't; may your bunts drop dead just where they should—and may all the umpires see things through your eyes.

And, when you retire, may you donate the secret of your hustle to the Postal Service.●

● Mr. CONTE. Mr. Speaker, as the manager, coach, and captain of the Republican congressional baseball team—a team which has devastated its opponents by compiling an .824 winning percentage over the past 17 years—I feel compelled to pay tribute today to Pete Rose.

Having developed and directed great players like JOHN ROUSSELOT, DON CLAUSEN and BOB MICHEL, I recognize outstanding talent when I see it—and I certainly see it in Pete Rose. Why, I have even said several times that Pete is good enough to play for the Red Sox; and I was saying that back in July and August—before Boston gave that New York team a chance to catch up.

Mr. Speaker, if the House rules permitted me to address someone in the gallery, I would extend an invitation to Pete Rose today. I would say: "Pete, you are a proven winner. You have got hustle and drive. The all-star balloting his demonstrated that you are a proven vote getter. And even the press says nice things about you. You should get into politics and run for Congress.

"And if you should choose to run as a Republican, I can assure you that I could find a spot for you on my team—not as a starter right away, of course, but we could probably use you as a utility man until the skill of our other stars rubbed off on you."

Of course, Pete would probably turn down my invitation. The jump from baseball to Congress would probably be too much for him. A great baseball player like Pete would not fit in up here. He is never caught off base. He has no energy problem. He advances on wild pitches; he doesn't campaign on them. He catches foul balls; he doesn't send them to the floor for a vote. And he hits screwballs; he does not vote for their bills.

But, seriously, Pete, we love you where you are. You are the embodiment of the American spirit of competitiveness, drive, and determination. You are admired and respected by all Americans, and, more importantly, you are a source of inspiration to our younger generation.

Thank you.●

● Mr. FUQUA. Mr. Speaker, almost everyone today that knows anything about professional baseball is aware of the remarkable record amassed by Pete Rose.

There have been many great sports figures which have made their mark, but Pete Rose is special.

For the tribute being paid here in this Chamber today is not just for a great and gifted player who holds down the keystone corner for the Cincinnati Reds.

But it is for a great man of outstanding character whose keystone of success has been anchored with unswerving dedication, hard work, unselfish team spirit, desire, and hustle.

The number of young lives he has influenced with his spirit and exceptional sportsmanship can never be enumerated, and his contributions to baseball will long be remembered.

We pay tribute here today not only to a truly American baseball hero. But perhaps more significantly, we also honor a truly outstanding American who the Nation admires and respects.●

● Mr. SNYDER. Mr. Speaker, I would just like to make sure my colleagues know that although the Reds bear the name Cincinnati, they have an awful lot of dedicated fans across the river in Kentucky.

And over the years—while Pete Rose has been erecting records for numbers of hits and for hits in a record number of consecutive games—he has always been a big hit with his fans in the Fourth District of Kentucky.

Of course, as my colleagues have already made quite clear, Pete's contribution goes beyond any regional loyalty. He is a national sports figure. He belongs to the whole Nation. His contagious enthusiasm for the game—not as a job or as a paycheck—but out of sheer competitive spirit is refreshing and has made the all American sport more exciting and more enjoyable for all Americans.

Another contribution Pete Rose has made to professional sports—possibly his greatest contribution—is his daily proof that a professional athlete can be a gentleman, and a team player as well as a superstar. He has proven that sportsmanship can be accommodated by professional sports—and he has done more to revive this quality than any other athlete around.

Since it is difficult to show these all-star qualities in the record books—it is altogether fitting that we honor him for them here. He is the man who made "hustle" famous before John Travolta took disco lessons—he has revived sportsmanship and competitive spirit. And he is a pretty good baseball player to boot.

The record books will show that he collected a lot of hits—this resolution will show that while he was doing so he also collected a lot of respect.

I support the resolution honoring this outstanding athlete wholeheartedly.●

● Mr. DERWINSKI. Mr. Speaker, while I realize that the Members are very properly and enthusiastically honoring Pete Rose, I must point out that my one negative thought on this great ballplayer is that he has not been a member of the Chicago Cubs. If he had been, the Cubs would have been a dominant force the last 16 years and the Cincinnati Reds would not have fared as well.

Pete Rose has been an outstanding baseball player and has already earned a position in baseball history that will certainly qualify him for a place in the Baseball Hall of Fame when he retires.

By his aggressive play and determination, he has been a great inspiration to young Americans, Little Leaguers, and baseball's entire fandom.

I am pleased to cosponsor the resolution in honor of Pete Rose.●

● Mr. ROUSSELOT. Mr. Speaker, a special thanks should be given to my colleagues, Mr. LUKEN and Mr. GRADISON for allowing us this opportunity to honor and pay tribute to a man who has not only reach the highest level of greatness in the game of baseball, but who has inspired us all with his sportsmanship, unselfishness, enthusiasm, and determination.

Pete Rose has carved his name in the record books many times during his illustrious career. He has been MVP—Most Valuable Player—and Rookie of the Year; he has played in four World Series and 11 All-Star Games; he has led the league in hitting three times; he batted over .300 for nine consecutive seasons. On May 5, 1978, Pete Rose got his 3,000th hit. And, perhaps his most exciting achievement in baseball was his recent streak of hitting safely in 44 consecutive games, which kept us all on the edge of our seats. Pete Rose is a great man who has earned a place in history.

We, in Congress, should follow Pete's example and go about our duties with as much enthusiasm and extra effort as he gave to his. They don't call Pete Rose "Charlie Hustle" without good reason. He is the kind of player who dives after fly balls, slides headfirst into base, and runs to first base when he draws a walk. He always gives a 110-percent effort to the game. Pete Rose has earned the respect of his teammates, his opponents, baseball fans, and the American public.

Pete Rose is admired by people at all levels, all over the world, and he should be commended for the fine example that he has set for the young people of our Nation.

I would like to join with my colleagues in expressing our deepest appreciation to Pete Rose, not only his talent and ability in the game of baseball, but for his spirit, his attitude, his accomplishments and his sportsmanship both on and off the field.●

● Mr. RUSSO. Mr. Speaker, it is with a great sense of pleasure and pride that I participate in this tribute to Cincinnati Reds great Pete Rose.

I take part in these activities freely admitting my parochial interest in the fortunes of the White Sox and Cubs. Moreover, I know full well that Pete Rose has no doubt taken an extra base on many a Cub outfielder, or sent a Cub pitcher to an early shower. But none of this matters. Like Babe Ruth and Walter Johnson, or, in our own time, Willie Mays and Mickey Mantle, Pete Rose transcends hometown loyalties. He belongs to every baseball fan.

In his 15 years with the Reds, Pete Rose has compiled a batting record that will guarantee his entry into baseball's Hall of Fame. His .311 lifetime batting average, buttressed by nine 200 hit seasons, was capped this year by a 44-game hitting streak. This collection of impressive statistics will not be forgotten by many fans. But Pete Rose's contribution to baseball cannot be measured by just detailing his record. It can only be fully calculated by taking into consideration his style of play, which has been characterized by unrelenting drive and an unsurpassed enthusiasm for the game of baseball that has rightly entitled him to wear the nickname "Charley Hustle."

Pete Rose has played major league baseball now since 1963, and he has reached an age where many ballplayers have already quite the game or are contemplating retirement. I would just remind Pete that in the American League we have the designated hitter rule, and that the White Sox could always use a .300 hitter. Seriously, though, Pete, I hope you will find a way to cheat Father Time, and that someday I can pick up my morning paper to read that you have just collected hit number 5,000.●

Mr. LUKEN. Mr. Speaker, there are many other Members who have requested time, but we do not want to impose further on the time of the House in the legislative schedule.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of Pete Rose.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Without objection, the time consumed by the gentleman from Ohio (Mr. LUKEN) and the gentleman from Ohio (Mr. GRADISON) will not be taken out of the time of the gentleman from Washington (Mr. FOLEY).

There was no objection.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Illinois (Mr. DERWINSKI).

PARLIAMENTARY INQUIRY

Mr. DERWINSKI. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DERWINSKI. Mr. Speaker, when will other Members have time to honor the Los Angeles Dodgers, who defeated the Cincinnati Reds in their conference.

The SPEAKER pro tempore. The Chair will state to the gentleman, that is not a parliamentary inquiry.

The Chair recognizes the gentleman from Illinois (Mr. DERWINSKI).

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I wonder if the gentleman would permit me to say a few words. As the manager and captain of the winningest Republican baseball team, I would like to say a few words in behalf of Pete Rose.

Mr. DERWINSKI. If the gentleman is supporting the gentleman from Ohio (Mr. VANIK), the gentleman can do that; otherwise the gentleman will have to get it from the gentlemen from Ohio (Messrs. LUKEN and GRADISON); they are for Pete Rose.

Mr. CONTE. Mr. Speaker, I ask unanimous consent to proceed for 1 minute out of order.

The SPEAKER pro tempore. The Chair will state the time is controlled by the gentleman from Washington (Mr. FOLEY) and the gentleman from Illinois (Mr. DERWINSKI).

The Chair recognizes the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, earlier in this Congress, on February 21, 1978, I was appointed as chairman of the Republican Task Force on the Agricultural Emergency. We spent some months studying what could be done to help agriculture. As a result, we introduced on March 13, 1978 a comprehensive bill (H.R. 11463) that among its provisions contained in its title I almost the exact same provisions as are in the Agricultural Trade Act of 1978, H.R. 10584. We introduced our bill as a result of that task force work and before the Committee on Agriculture or the Committee on International Relations produced this bill we have before us today.

Mr. Speaker, I rise in very strong support of this bill, because in studying the problems of agriculture, the only real and permanent solution to ever get us away from the problems of commodity prices fixed by the Government, allocation of who can grow what, when, where, and how much, increase farm income and get away from payments coming out of the Treasury, is to expand the sale of agricultural products in the free market, which is principally overseas.

Our Government has done precious little in the past to help promote the sale of agricultural products overseas, even though agricultural products is the one bright star we have in foreign trade. It is our largest group of exports.

This bill is probably the most significant piece of agricultural legislation geared toward coming to a permanent solution of agriculture that we will ever see, and it accomplishes this by getting us into the free market approach of selling more of our goods overseas. All others in the past are designed to have the Government support the farmer rather than giving him the opportunity, as this bill does, to support himself. This is what the farmers want.

There is only one shortcoming in this bill, and I wish it were not being considered under suspension of the rules so I would have been given the opportunity to offer an amendment to do something which we did in our task force bill which could correct this shortcoming. We need to create a Deputy Special Trade Representative within the Special Trade Representative's Office for agriculture.

We now have two such deputive people, but neither of them deal with agriculture. Although agriculture is the biggest single item we have in foreign trade, it has no real specialist in a high position in the Special Trade Representative's Office. I feel that if we had a deputy special trade representative for agriculture, we would do a better job than even this bill is going to be able to do in promoting the trade of agricultural products overseas.

So, Mr. Speaker, I commend this bill to the Members as offering a true lasting solution for agriculture and enabling us to sell more agricultural products overseas to anybody who has the money to buy them. In that way the entire economy of this Nation will prosper, and it will get us away from the payment programs we all dislike and that the farmers dislike even more than any one of us.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to compliment the gentleman from Louisiana (Mr. MOORE) on his remarks and for his leadership in this bill. I agree completely that the way to solve our agricultural products problem is by expanding our exports with other countries.

Mr. Speaker, the effort we invest in developing overseas markets for American agricultural products will be repaid many times if the experience of other exporting nations is a guide. By upgrading and emphasizing the duties of agricultural attachés and trade officers, we will be putting ourselves on the same footing with our competitors in the world market. The result of increased exports will be twofold: first, we will be lowering our balance-of-payments deficit; second, we will be preserving our valuable capacity for agricultural production with such crops as citrus and others which take years to develop.

Mr. Chairman, this bill provides us with a unique opportunity to trade our agricultural abundance for needed energy, while promoting world trade and ties which foster peace. We can no longer afford to isolate ourselves from this market, and we cannot wait for people to knock on our doors. Experience has shown that there is no substitute for having the right man on the spot at the right time. I urge an aye vote for this bill.

Mr. DERWINSKI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, I rise in support of H.R. 10584, the Agricultural Trade Act of 1978. I strongly support any action we can take in the Congress to enhance and increase the foreign sales of American farm products. It is imperative that farmers benefit from any increase in foreign sales. Our farm sector of the economy is the most efficient and maintains the highest productivity of any sector of our economy. Expanded agricultural exports are necessary if the agricultural sector is to continue to grow and prosper.

I am a cosponsor of H.R. 10584, the Agricultural Trade Act of 1978. This legislation contains several provisions which will help expand our agricultural exports and benefit our agricultural sector and help our balance-of-payments problem. This legislation will upgrade the title of our Agricultural Attaché to the title of Agricultural Counselor. This would signal to other countries that we are placing additional importance on agriculture, an importance it deserves. This legislation also directs the Secretary of Agriculture to establish abroad not less than 6 and not more than 25 U.S. Agricultural Trade Offices. In addition, the Agricultural Trade Act provides for export sales of agricultural commodities from Commodity Credit Corporation and private stocks on credit terms in excess of 3 years, but not more than 10 years. The position of Assistant Secretary of Agriculture for International Affairs and commodity programs would be upgraded to Under Secretary of Agriculture.

Mr. Speaker, as I have said earlier, I strongly support any action we can take to enhance and increase the foreign sales of American farm products. I do not want to see farmers penalized by an American export system which does not take every opportunity to maximize the foreign sales of our high quality products.

However, I also want to insure that farmers and producers have the same opportunity to benefit from foreign sales as do multinational grain exporting firms—some of whom are not managed by U.S. citizens and have little or no concern for fostering the interests of this country or its citizens—and speculators on grain exchanges.

Many of the farmers in my home State of Iowa and other farmers who have visited Washington in the last year do not believe that they are getting enough information about export sales or that they are getting such information early enough to permit them to take advantage of the price enhancing effects of such sales before they move their own farm products to market.

Accordingly, I look forward to the timely receipt of the Department of Agriculture's report concerning export sales reporting which is directed to be submitted in section 604 of this bill. In the meantime, I intend to monitor the progress of this study and the actions taken by the task force established by section 604.

In order to provide farmers and producers with better and more up-to-date information on foreign purchases such as the Russian grain purchases in the summer and fall of 1977, I offered, and the Subcommittee on Department Investigations, Oversight, and Research adopted, an amendment to this bill which I believe improved and certainly increased the comprehensiveness of grain export sales reporting. That amendment was opposed by the U.S. Department of Agriculture.

In the full committee a substitute amendment offered by Mr. POAGE of Texas—now section 604—deleted my amendment to section 812 of the Agricultural Act of 1970, as amended, and substituted therefor a provision which directs the Department to conduct a study of the effectiveness of export sales reporting and submit its findings to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry by January 3, 1979.

The Department representatives indicated their willingness to accept this amendment, but I must confess that I do not hold out much hope, first, that the information and recommendations will be forthcoming on January 3, 1979, and, second, that the recommendations will contain much, if anything, in the way of increasing the effectiveness of the export sales reporting system.

My appraisal of the Department's position on this matter is that of "can't do." Objections were raised by the Department to my amendments which were similar to those it raised in 1973 when section 812 was first adopted. It sometimes appears to me that millions of dollars are spent each year providing statistics in the Department of Agriculture for everyone except farmers. Many people feel that the information which is available and of great interest to farmers is often so general or of such questionable accuracy as to be ineffective.

In the summer of 1977, USDA estimates of Russian grain production were quite high. Yet, when Premier Brezhnev of Russia stated in October 1977, that Russian grain production was off substantially, the Department accepted his production figures virtually without question.

Meanwhile, before Brezhnev announced the Russian grain production shortfall, Russia had apparently made substantial commitments to purchase grain; and, therefore, while the announcement had some effect in raising grain prices, many farmers had already sold their grain based on earlier USDA grain production figures for Russia. The USDA export sales reporting system—not to mention its foreign crop reporting system—was so ineffective it did not alert the Department—and thus producers—to the massive Russian sale that was taking place.

Our export sales reporting may be effective enough to help multinational grain exporting firms or ineffective enough for such firms to circumvent sales reporting requirements, but it is not working effectively enough to satisfy most farmers or meet their needs. It appears to me that we should either have an effective export sales reporting system or admit that what we have is ineffective.

In the full committee markup of this bill, I was willing to accept the Poage amendment to study this subject, but I offered an amendment thereto which would have also permitted the Secretary to expand on export sales reporting if he considered that a massive or substantial purchase was about to take place which could have a significant effect on the domestic price or the supply of a commodity. That amendment reads as follows:

AMENDMENT TO THE POAGE AMENDMENT: OFFERED BY MR. GRASSLEY

The Poage amendment is amended by inserting the following at the end thereof:

> And, by adding a new section 505 to read as follows:
>
> "SEC. 505. Section 812 of the Agricultural Act of 1970, as amended, is amended by adding at the end thereof—
>
> "Notwithstanding the foregoing, the Secretary of Agriculture may require, at such times and under such circumstances and pursuant to such rules and regulations as he deems appropriate, where he has reason to believe a substantial export sale may be about to occur which could have a significant effect on the domestic price or the supply of such commodity, a report, on a weekly basis, containing the following information regarding any commitment, entered into or modified in any manner during the reporting period, which may result in the export sale of any such commodity produced in the United States: (a) type, class, and quantity of the commodity which may be exported from the United States, (b) the marketing year of shipment, (c) intermediate and ultimate destinations, if known, (d) the identity of the buyer, and the buyer's relationship, if any, to the exporter: *Provided,* That any commitment which does not identify a country other than the United States as the source of the commodity to be sold may result in the export of such commodity from the United States and must be reported: *Provided, further,* That as used in this section: (1) the term 'exporter' means any United States person who, as part of his normal business or otherwise, enters into any commitment for the export sale of an agricultural commodity; (2) the term 'person' includes any individual, partnership, corporation, or other form of association; (3) the term 'United States person' means any United States resident or national, any domestic concern (including any permanent domestic establishment of any foreign concern), and foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled by such domestic concern, and any foreign agent of any such domestic concern in a transaction for the export sale of an agricultural commodity; and (4) the term 'control' (including the term 'controlled by') means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise: *Provided, further,* That it shall be the responsibility of a domestic concern to ensure that the reports required of its foreign subsidiaries, affiliates and agents are filed."

It was my position that the Secretary should have this additional authority—a shotgun behind the door, as it were—to expand on export sales reporting even while USDA is studying the subject. I wanted to protect the farmers in the event another massive foreign purchase takes place in the near future.

This amendment, as was true of the earlier one, followed recommendations made by the U.S. General Accounting Office to improve on export sales reporting. The amendment did not envisage export licensing regulatory authority. However, the Department also opposed this discretionary authority; and, the amendment failed of adoption.

The position of the Department as stated in a letter addressed to me in early June 1978, appears to question the value of any export sales reporting (and in the process makes some questionable assertions):

> One point which was not covered in our testimony occurs to us belatedly in regard to your feeling that farmers were victimized this spring [sic] through inadequacies of the reporting system. We should have noted that it is of course quite impossible for private firms to sell the massive quantities of grains customarily purchased by the Soviet Union without price protection in some form—either hedges in our futures market or cash wheat purchases from U.S. sellers. Indeed, had they done so this year while wheat prices rose more than a dollar a bushel from their August lows, they surely would have been bankrupted. The hedging, *regardless of its form or timing, immediately is reflected in U.S. domestic wheat market prices*—the same market upon which our farmers must sell. Thus, at the time of a Russian purchase, or most immediately thereafter, the farmer would benefit from its price effect whether the sale was reported or not. The Reporting System itself can hardly anticipate the buyer's intention; only the best of demand analysis can service this purpose. (Emphasis supplied.)

I regret that the same administration which was so eager to open up meat imports is so disinterested in implementing an export reporting system which would allow farmers and producers to take full advantage of price increases associated with massive grain purchases by foreign countries. The present policies of the administration in both of the areas are not in the best interests of American farmers. Perhaps these decisions are part of an overall "cheap food" policy which seems to have been adopted by this administration.

Mr. Speaker, in summary although I agree and support the main provisions of this legislation, I wanted my colleagues to be aware of concerns on the export reporting system currently used in the U.S. Department of Agriculture and I will continue to work to see that farmers have the best and most information possible on which to make their marketing decisions.

Mr. DERWINSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Mr. Speaker, one aspect of this bill that needs to be kept firmly in mind is that it provides optional authority to the administration. It does not bind the administration in respect to title IV, which has been the subject of some discussion here this afternoon. It permits the Secretary to expand short-term credits; it does not require that he extend short-term credits.

This applies not just to the People's Republic of China. It applies to three other countries—Czechoslovakia, Bulgaria, and the German Democratic Republic. These are the only four countries to which the extension of optional authority would apply.

Someone mentioned the problem of textile agreements with the People's Republic of China, that there needs to be some negotiation in that field. This legislation will give the Secretary, the administration, that is, greater authority with which to deal, to bargain with the People's Republic of China. It may well be it could be a very crucial item in the negotiations that will be forthcoming.

I want to make it very clear that the President of the United States will sign this bill. He is a great champion of human rights. I salute him for this and for many other accomplishments, and I would not want anyone to have the impression that he is turned off by this legislation, that in any way it does or does not touch the human rights issue. He has made it very plain that he will sign the bill if it does reach his desk.

Finally, I want to mention the strong endorsement made to this legislation by the Nation's largest and, I think, most influential farm organization, the American Farm Bureau Federation, and I want to read from a letter of John C. Datt, Director, Washington Office, American Farm Bureau Federation. It refers to the noncommercial CCC export financing which is authorized in this bill.

The letter reads as follows:

American Farm Bureau Federation,
Washington, D.C., September 22, 1978.

Hon. Paul Findley,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman Findley: The Agricultural Trade Act of 1978, H.R. 10584, is scheduled for House floor action on Monday afternoon, September 25.

The Senate, by a vote of 65 to 1, recently passed similar legislation which authorizes "intermediate" CCC export credits, upgrades senior agricultural attache positions to increase their effectiveness, directs the establishment of agricultural trade offices in strategic overseas market areas, and permits the Secretary of Agriculture to provide noncommercial CCC export financing to nonmarket countries for agricultural export sales above a 1975–77 base period.

The latter provision would help U.S. exporters to meet foreign competition for sales to countries such as the People's Republic of China and should remain a part of H.R. 10584.

The Agricultural Trade Act of 1978 has bipartisan support, as was indicated by the recent Senate vote. All of the provisions now in H.R. 10584 are urgently needed to improve farm income, cut government farm program costs, and improve the U.S. balance-of-trade position by stimulating farm exports. American farmers export over half of their wheat and soybeans, about 20 percent of their rice and cotton, and about 25 percent of their feed grains and tobacco. Given present large supplies of most farm products, it is only through increased marketings overseas that U.S. farmers can achieve satisfactory farm prices and incomes.

The American Farm Bureau Federation urges you to support the passage of H.R. 10584 when it comes up for floor action next Monday, September 25. There is no piece of pending legislation which can do more than the Agricultural Trade Act of 1978 to help American farmers in the marketing of their abundant supplies of grain and other commodities.

Sincerely,

John C. Datt,
Director, Washington Office.

We are all aware that we have an all-time record corn crop coming in of 6½ billion bushels. We have an enormous holding of wheat. The committee report, on page 7, states that if the effect of this Trade Act should raise the price of corn, wheat, and cotton by just 10 cents, this would relieve the taxpayers of an outlay of over $1 billion.

Viewed from any standpoint, the taxpayers' standpoint, the standpoint of farmers, the standpoint of all Americans who have a stake in a strong dollar, this bill deserves our strong support.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

Mr. Speaker, the gentleman, in his earlier statement, said that in all of his conversations with the representatives of the People's Republic of China they told him they wanted this bill. Can the gentleman point to any written document in which the People's Republic of China indicates they want these credits?

Mr. FINDLEY. I am sure the gentleman has enough experience to recognize that no nation is going to say on the record that it wants something until there is fairly good assurance that that will be forthcoming, and that certainly applies to the People's Republic of China.

The Agricultural Trade Act of 1978 (H.R. 10584) comes at a particularly critical time in which the Congress of the United States can demonstrate its leadership in responding to the needs of the people.

It is, as you will note, the express objective of this bill "to strengthen the economy of the United States through increased sales abroad of American farm products."

This bill would help accomplish this objective in several areas:

One. It would provide for intermediate credits under the Commodity Credit Corporation export credit sales program. This would help to stimulate long-term market development and to respond to competitive credit arrangements.

Two. It would provide for the establishment of agricultural trade offices in strategic foreign market areas and would upgrade senior agricultural attaché positions to increase their effectiveness.

Three. It would also provide for nonconcessional credit of not more than 3 years to nonmarket economy countries, most importantly the People's Republic of China.

As you may know, this latter provision has been challenged as an attempt to "make an end run" around the Jackson-Vanik amendment to the Trade Act of 1974. That amendment was aimed primarily at the Soviet Union. Because of the strict limitations on its use, the proposed title IV dealing with trade with nonmarket economy countries will have its most important impact on facilitating trade with the People's Republic of China. The Soviet Union already purchases large quantities of our agricultural products.

Our agricultural trade with the People's Republic of China already has assumed important dimensions. We have been aggressively nursing agricultural trade with the PRC, in competition with other nations who view the PRC as a longstanding customer. I was privileged to lead an Illinois agricultural trade mission to the PRC this year and I can assure you that the interest in buying farm products from us is very real.

In fact, already this year the People's Republic of China has purchased more than half a billion dollars' worth of agricultural products from the United States. It has contracted to purchase 2½ million metric tons of wheat with a value of $340 million. It has purchased 586,000 bales of cotton with a value of $167 million. They have purchased 44,000 metric tons of soybean oil for $26 million and they have purchased 19,000 metric tons of inedible tallow for $9 million.

Apparently, the Carter administration also views the PRC as a potentially valuable customer since the Secretary of Agriculture soon will be heading a trade delegation there.

May I remind my colleagues that our agricultural trade with other nations represents the only consistently bright spot in our rather dismal balance of trade position.

By providing CCC credits to the Chinese and other nonmarket countries, we can expect to gain important new markets which should greatly improve our balance-of-payments position.

Mr. DERWINSKI. Mr. Speaker, I yield 1½ minutes to the gentleman from Georgia (Mr. Jenkins).

Mr. JENKINS. Mr. Speaker, for years, the textile and apparel industry of the United States has been asking that the People's Republic of China (PRC) be brought under a bilateral quota program, as called for in the multifiber arrangement.

For years, we have been promised by the executive branch that they were working on this problem and that it would be achieved—someday.

Still, the PRC is outside of the quota program and it is becoming a serious threat to domestic textile and apparel workers. In the year between August 1977 and July 1978, we have imported some 168.7 million square yards equivalents from the PRC. This compares to only 98 million square yards in the period August 1976 through July 1977. This is an increase in imports of over 72 percent in 1 year. If we do not achieve a bilateral agreement with the PRC soon, their level of exports to the United States will be at an injurious level—and then when they do sign a bilateral, they will be guaranteed the right to continue to export at high and injurious levels. The American industry needs a quota as soon as possible.

It will be argued that the provision in this bill simply gives the administration the option to extend CCC credits and that the administration can use this authority as a carrot to get the PRC to sign up in a bilateral. The textile industry has been given these kinds of assurances before—but they never seem to be carried out. For example, the American work glove industry has almost been destroyed in recent years, primarily by a surge of imports from the PRC. PRC imports increased 700 percent in 1976 alone, and now control 29 percent of our market. Yet when the industry tried to get help from the International Trade Commission to stop the flood of imports, the administration this past winter asked them to withhold their complaint for diplomatic reasons. The textile industry always seems to come second to the latest "diplomatic" deal with the PRC. Frankly, I do not think we can trust their assurances.

I think we should get a commitment from the administration or the PRC in writing that the most serious trade issue we have with the Chinese, the future of our 2.3 million textile and apparel workers, will be dealt with through an appropriate bilateral agreement.

We should not be extending any trade advantages to the PRC until we are given reciprocal advantages. The passage of this legislation today with this provision gives up one of the few levers we have for achieving textile trade cooperation with the PRC.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, the Agricultural Trade Act of 1978, H.R. 10584, has the potential of vastly improving farm income, cutting the costs of Government farm programs and improving our balance of payments by stimulating greater exportation of U.S. farm products.

As a member of the newly appointed California Delegation's Ad Hoc Committee on Exports and one whose congressional district contains a large farming community, I have seen firsthand the need for this legislation and the benefits it will provide to our farmers.

I strongly support the expeditious manner in which this legislation is being presented and I intend to support it.

California with its many specialty crops will benefit greatly from this legislation. California apples, prunes, walnuts, pears, and other fruits have a large potential export market which we have only begun to tap. As exports prove more profitable, U.S. farmers and farm cooperatives will be encouraged to establish their own offices abroad in addition to the work which will be done by the new Agricultural Trade Offices.

This legislation allows us to place the emphasis where it is needed, in the area of on-the-ground market development.

The new Agricultural Trade Offices will be staffed with people familiar with agricultural marketing and trade and experts in the task of finding new markets. The offices will serve as vital links between U.S. farmers and potential purchasers of U.S. commodities. They will conduct educational programs to increase foreign acceptance and demand for U.S. farm products while at the same time working with our farmers in developing effective export operations.

The United States could learn an important lesson from Germany, Japan, and other countries which have exceptionally aggressive export programs and very highly qualified and skilled representatives working here in the United States finding markets for their goods. If we are going to compete with these countries, we must get out into the international markets with a substantially more aggressive approach.

The United States today does proportionately less to promote its exports than any other major exporting nation. This legislation goes a long way toward filling this void by expanding the authority and the efforts of the U.S. Department of Agriculture's Foreign Agricultural Service.

The Secretary of Agriculture is directed to establish not less than 6 and not more than 25 U.S. Agricultural Trade Offices whose responsibility will be to increase the effectiveness of agricultural export promotion efforts, provide services and facilities for foreign buyers, trade representatives, and others engaged in the import and export of U.S. agricultural commodities and generally coordinate market development activities of the U.S. Department of Agriculture.

In the past, our representatives abroad have been given too little recognition, insufficient funds, and staffing and a multitude of other duties which left little time or resources to be devoted to developing a more meaningful agricultural export program.

In addition to simply promoting U.S. farm products abroad, a need exists for us to assist other nations in financing the purchase of U.S. goods. Title III of the bill creates a new intermediate commercial export credit program. At the present time, we have short-term and long-term credit programs but a wide gap exists between the two. Under this new program, the Department of Agriculture can extend Commodity Credit Corporation credits to foreign countries at nonconcessional terms for periods of between 3 and 10 years. This provision is important to our overall effort to expand U.S. exports on a strictly commercial basis.

Because of strict limitations on its use, this provision is not expected to benefit the Soviet Union nor encourage them to use the program to purchase larger amounts of wheat or other agricultural products.

The United States is already the largest agricultural exporter in the world with an agricultural net balance of payments in excess of $10 billion per year. Enactment of this legislation will make possible an even higher level of farm exports which will even further assist us in establishing a favorable balance of payments.

By opening up new markets for our surplus farm commodities we will also reduce our dependence on price supports which will reduce Government involvement and costs to the taxpayer.

H.R. 10584 has the strong support of the American Farm Bureau recognized as the largest farm organization in the United States. With their endorsement, I can unequivocably commit myself to support of this total effort.

I urge my colleagues to join in supporting this important piece of legislation.

Mr. DERWINSKI. Mr. Speaker, the gentleman from Ohio (Mr. VANIK) makes an excellent case for not suspending the rules on this measure (H.R. 10584). I, too, cannot see how we can allow title IV to go through in its present form.

Offering the People's Republic of China (PRC) the opportunity to acquire publicly financed credit extensions from the Commodity Credit Corporation for the purchase of agricultural commodities is simply unwarranted. Title IV not only flouts the freedom of emigration requirement of the 1974 Trade Act, but it also flies in the face of the President's human rights campaign.

How can we justify giving special trading privileges to a nation that owns one of the most deplorable human rights record in the world? Apologists for the regime contend that since there are not any Sakharovs on the mainland, the Chinese Communist system must be more humane than its Soviet counterpart. All this means is that the Chinese so far have managed to run such an effective system of control and repression that no discussion on human rights has succeeded in surfacing in the public arena.

Even the Chinese Communist leaders themselves admit to denying human rights to millions of their citizens. In an interview last year with New York Times columnist William Safire, a Chinese Foreign Ministry official acknowledged that 5 percent of Communist China's population are denied human rights. That works out to more than 40 million Chinese the ruling hierarchy readily admits are being deprived of human rights in prisons or "reeducation" camps.

In lights of these compelling facts plus indications that millions more have been frustrated in their efforts to leave the PRC by a government antiemigration policy, Congress would be irresponsible if it granted the PRC the undeserved trade preferences called for in this legislation.

I am hopeful that you have reached the same conclusion and will, therefore, back the gentleman from Ohio in his effort to defeat this motion to suspend the rule. Such a denial will guarantee us the opportunity to address the matter in a deliberative manner.

Mr. Speaker, I would like to point out that those of us who are objecting to the bill at this time under the present form are not opposed to the entire legislation. We are opposed to title IV. And I make this point, because I see in attendance here the entire Committee on Agriculture, and I want them to know that they have written a very, very fine bill, except for title IV.

In answer to the earlier comment of the gentleman from New York (Mr. Bingham), the reason I did not oppose this measure in our committee was that I assumed it would be brought to the floor under a rule where amendments would be in order. Basically, this is good legislation. But the gentleman from Ohio has asked us to remove any inconsistencies it will create in the foreign policy application of the agricultural program. And if we pass this bill in its present form, we will create a major inconsistency in the application of the human rights principle in the sale of agricultural products.

One other thing I would like to point out is that there is a great deal of comment in the press so far as use of a China card is concerned.

It is a very, very delicate balancing act that is now going on in foreign affairs, and this subject should not be treated on the floor of the House under this 40-minute suspension of the rules procedure. It is far too complex, it is far too important, and it is far too major in its potential impact.

So I would suggest that, as the Members very often do, they follow the statesmanlike leadership of the gentleman from Ohio (Mr. Vanik), vote down the motion to suspend the rules, and then bring this bill back to the floor as soon as possible with a rule. We could then clear up all the questions and differences of opinion on title IV, and then the legislation could move on expeditiously.

Mr. Speaker, I yield back the balance of my time.

Mr. FOLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Missouri. (Mr. Skelton).

Mr. SKELTON. Mr. Speaker, it was encouraging to learn that President Carter has agreed on a beefed-up export promotion program as a means to trim our trade deficit, strengthen the dollar, and help in the fight against inflation.

Today, the House will have the opportunity to help another segment of our economy in the export market when we consider H.R. 10584, the Agriculture Trade Act. This bill would improve farm income, cut Government farm program costs, and improve the U.S. balance-of-trade position by stimulating farm exports. With large supplies of most farm products, it is only through increased marketings overseas that U.S. farmers can achieve satisfactory farm prices and incomes. I urge all my colleagues to support this legislation, and to support the President's export promotion program in all possible ways.

Mr. FOLEY. Mr. Speaker, I yield 30 seconds to the gentleman from Kansas (Mr. Glickman).

Mr. GLICKMAN. Mr. Speaker, I rise in support of the bill.

During the time we have to devote on this, I commend my colleagues to read the supplemental views of the gentleman from Illinois, Congressman Findley, because they state the case very directly.

Agricultural exports are a trump card to a strong international economy. China is one of the last remaining markets open to us in the world, and I think this legislation is going to keep in balance our foreign trade deficit and our strong farm economy.

I urge a "yes" vote on the bill.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. Mathis), one of the two principal sponsors of this legislation.

Mr. MATHIS, Mr. Speaker, I want to applaud the administration's decision to launch a major export expansion drive, the details of which are being announced today by President Carter. The provisions of H.R. 10584, the Agricultural Trade Act of 1978, are fully consistent with the administration's export objectives, and I hope the House will overwhelmingly approve this bill as the other body has already done.

When Congressman Poage and I originally introduced the Agricultural Trade Act on January 19 of this year, the United States was suffering from a record trade deficit, escalating inflation, and a rapidly falling dollar in the exchange markets. Since that time, the situation has steadily deteriorated, and the lack of confidence in the dollar is being reflected in today's record high price for gold as investors all over the world abandon the dollar for what they believe are more secure investments.

Mr. Speaker, H.R. 10584 has received the almost unanimous support of America's farmers and agribusiness leaders, who believe renewed efforts to boost farm exports will pay for itself in the form of stable farm prices at higher levels, reduced Government deficiency payments to farmers, and in general, a stronger domestic economy in the United States.

I know that farmers in my own State of Georgia have for many years felt that there were new markets to be found, and that industry and government should cooperate in building these markets.

With a limited budget, staff and resources the Foreign Agriculture Service of the Department of Agriculture has done an outstanding job, especially under its current Administrator, Thomas R. Hughes, in promoting U.S. farm products overseas. To its credit, the FAS has not attempted to substitute itself for private industry in its market development activities. All of the major commodity groups—and many of the specialized crops—must commit their own funds to export objectives before the FAS will provide financial assistance. I personally feel that private enterprise must remain responsible for its own sales promotions, whether at home or abroad. The Agricultural Trade Act of 1978 would not shift that responsibility.

Unfortunately, the budget of FAS has, in real terms, been declining for several years. This bill does not, of course, provide new appropriations to FAS, but it will give the Department of Agriculture new and more effective tools to make the best of its existing appropriations for market development activities. I might add that the House has already included in the agriculture appropriations bill sufficient funds to implement the essential provisions of the Agricultural Trade Act of 1978.

Mr. Speaker, as an original sponsor, with Mr. Poage, of this legislation, I do not hold it out to be the ultimate answer to low farm prices, the trade deficit, or the sluggish U.S. economy. However, as part of an overall strategy by Congress and the administration to solve these economic problems, I think it can play a key role. The establishment of Agricultural Trade Offices overseas would play a significant role in further boosting record U.S. farm exports.

Although foreign countries have for many years been a major outlet for U.S. farm products, export sales still pose special difficulties for many crops and firms, as has been the case with many nonfarm commodities. Giant industrial firms, unlike individual farmers, are obviously much better equipped to engage in the intricacies of international trade. The trade office concept offers a better way for smaller trading firms, farm cooperatives, farm commodity groups, and even individual farmers to familiarize themselves with particular export markets in order to compete with other exporting countries. In many countries around the world without a domestic market comparable to the United States, trading on the world market has been relatively routine.

The U.S. Department of Agriculture is recognized as the world's foremost authority on the worldwide supply and demand situation for agricultural commodities, due in no small part to the work of the U.S. agricultural attachés stationed at American embassies all over the world. For many years these officials, who have been essential to making the United States the world's principal supplier of food overseas, have been denied any promotion in the embassy hierarchy, regardless of merit, achievement, or the importance of the market represented by the country where they were stationed. This bill would correct this longstanding inequity by upgrading the attachés to the status of counselor, at least in the major markets. Such a promotion will assist these officials in carrying out their responsibilities in the title-conscious diplomatic world, and enhance the role of U.S. agriculture in the international markets.

The provision of the bill to establish a new credit facility, while limited in scope, will provide new opporunities for the export of breeding stock and grain under certain circumstances. The President has called for $500 million in new funding for the Export-Import Bank, in addition to increased funding already voted by the House this year for the export of industrial commodities. It is incongruous that we are not providing equal assistance to finance agricultural exports. The credit facility provided in this bill will be at least a step toward providing for equal treatment of agricultural commodities and a forthright way to offset the advantages of a variety of hidden export subsidies now being used by many exporting countries.

The bill also upgrades the position of Assistant Secretary of Agriculture for International Affairs and Commodity Programs to an Under Secretary position. The purpose of this is to reflect the traditional importance of the functions within the Department of Agriculture and to place USDA's international affairs responsibilities on a level equal to that in the State and Treasury Departments, both of which have Under Secretaries with major responsibilities in the international area. The Department of Agriculture has no Under Secretary position at the present time as other departments do.

Mr. Speaker, the enactment of this bill today will not only provide a practical method for dealing with our economic problems but will also serve as an important symbol of the Nation's commitment to maintaining farm income at a reasonable level. I urge the House to support this timely legislation to increase sales abroad of U.S. farm products.

Mr. Speaker, I yield back the balance of my time.

Mr. FOLEY. Mr. Speaker, I yield the remaining time to the distinguished vice chairman of the Committee on Agriculture and one of the principal original cosponsors of this legislation, the gentleman from Texas (Mr. POAGE).

Mr. POAGE. Mr. Speaker, I support H.R. 10584, the Agriculture Trade Act of 1978, as being the most reasonable and practical approach to a serious question. It seems to me that this whole problem boils down to the question of whether we are going to try to do anything to move our agriculture products. Maybe I should put it—are we going to let our agriculture production program become an asset, or are we going to let it become a burden? Clearly, the American farmer has the ability to produce substantially more food and fiber than our present population will consume. If properly used, that ability can be worth a great deal to all Americans. If properly used, that ability becomes a burden on the American taxpayer. This bill attempts to apply some commonsense to the question.

As I see it, we have three choices. We can let the prices go so low that farmers cannot continue to produce. This will, of course, be followed by bankruptcy, the shifting of productive citizens onto relief rolls, and concentration of farmlands in large hands, with an ultimate substantial increase in the cost of living for all consumers. Admittedly this is a bad solution.

Of course, we can and to some extent are now paying farmers to take land out of production, thereby reducing the total world supply of food, thus assisting farmers who need help. In my judgment this is a somewhat better approach, but it places an undesirable burden upon American taxpayers.

The third or more ideal solution is to produce all we can and sell it into the world markets. That is what this bill attempts to do. Of course, we all recognize that this bill alone will not give us perfection; but it moves along ways in the right direction. It does what all of us try to do in our own private business. It seeks to get as much as possible for goods that we own and which the world needs. It uses the principle of sales promotion, which private business has always used.

Of all of the substantial exporters of agriculture products in the world, the United States spends the smallest percentage of the value of its production in promoting sales abroad. Australia spends 11 times as much as we do in proportion to the amount of goods each nation sells. New Zealand spends eight times and Denmark seven times as much. The merchant who makes no effort to sell his goods, is soon going out of business. The nation, which makes no greater effort than we have to sell agriculture products is soon going to be a residual supplier, and that is exactly what is happening in the United States. We are supplying agriculture products only after all other producers have sold all they could. Then the people of the world come to us, and we supply a small part of their needs at extremely low prices or just give the food and fiber away.

Agriculture is the one bright spot in our American foreign trade balance. Agriculture exports have increased from $8,200,000,000 in 1972 to over $24 billion 5 years later in 1977 and are expected to exceed $26 billion this year. No other segment of our economy is doing so much to help balance our foreign trade. If we can increase agriculture exports at the same percentage during the next 5 years, we will have gone a long way toward paying for the imported oil which has created such a drain on the value of our dollar.

I am well aware of the criticism that has been heaped on this bill. The critics all say if it were brought in under an open rule, they could offer amendments that would improve the bill. I am sure they could. I think I could. The bill is not perfect. I have been here a good many years, and I have seen very few perfect bills comes before us. Every Member of this House knows, that as a practical matter, to send this bill to the Rules Committee and try to bring it before the House under an open rule means to kill it at this stage of the session. We need the bill now. Are we going to let our disagreement with some minor details deny us the tremendous good that this bill can do?

Mr. Speaker, this is a good bill. It is a commonsense bill. It is a sound business bill. It is not a "give away." Let us move ahead with our efforts to expand agriculture exports in the future. Everybody, who has commented on the bill, seems to think that it can help. It seems to me that it just makes plain, commonsense for us to pass this bill and to pass it now.

● Mr. ALEXANDER. Mr. Chairman, to have a healthy and profitable economic future our Nation's farmers must be able to sell their products for export because domestic market demand does not consume all, or in many cases, even half of our crops.

As a sponsor of this legislation, I wholeheartedly endorse the establishment of an intermediate credit program to be administered by the Commodity Credit Corporation to help improve our export sales. This bill will allow CCC to extend credit for 3 to 10 years under the Food for Peace Act for foreign purchases of breeding livestock and grain for emergency reserves.

In addition, this legislation extends CCC credits for up to 3 years, under certain stipulations, to nonmarket economy countries, who do not now have access to the food for peace program.

The establishment of agricultural trade offices outside the normal diplomatic channels is long overdue, as is an upgrading of the status of the agricultural attaché.

It is obvious that our competitors in world trade are beating us to the punch. We must become more aggressive in our approach to the developemnt of export markets for our agricultural commodities.

Mr. Speaker, I was pleased to successfully push for an additional $2 million in the budget of the Foreign Agricultural Service for export market development, when the House Agricultural Appropriations Subcommittee, of which I am a member, considered fiscal year 1979 appropriations. That funding will help to accomplish the objectives of this legislation.

As one who earnestly believes that the future of American agriculture depends on the timely development and expansion of sound, commercial export markets for our food and fiber, I urge my colleagues to support this legislation.●

● Mr. JEFFORDS. Mr. Speaker, I rise in support of suspension of the rules for consideration of H.R. 10584, the Agricultural Trade Act of 1978.

There are many excellent provisions in this act which should improve our agricultural trade stature worldwide. Title III—Intermediate Commercial Credit—includes one such provision which will allow our livestock industry to greatly increase its trade efforts abroad. This provision will allow our foreign customers to develop a single line of credit through Commodity Credit Corporation to cover both the purchase price of the animal and the cost of transportation. Previously, for example, a customer has been able to finance through

CCC only the purchase price of the animal and would then need to arrange for a second line of credit in his own country to cover the transportation of these animals many times representing up to 55 percent of the purchase price of the livestock. One of our Vermont business representatives recently returned from Romania and Hungary with a clear message of excitement and support for this development.

Another important provision provided for in H.R. 10584 is the long overdue upgrading of the Agricultural Attaché to that of Agricultural Counselors. This will allow for better communications with our Ambassador as well as putting this man on equal status with his counterparts around the world.

I strongly urge my colleagues to support this bill. It may not be perfect but any way we look at it—agricultural trade is what keeps this country's balance of trade afloat. Hopefully, any imperfections such as cargo preference and trade with nonmarket economy countries can be perfected during conference.●

● Mr. MANN. Mr. Speaker, the main objective of H.R. 10584—to promote U.S. agricultural exports, thus providing needed relief for our farmers and contributing to a favorable balance of payments—is laudable. But the vehicle by which this objective is being sought is fatally flawed.

H.R. 10584 contains a provision which would extend CCC credits to the People's Republic of China, in direct contravention of the 1974 Trade Act. Since the PRC has not even requested such credits, it is unlikely that this move will significanty affect our agricutural export volume. But the very fact Congress is considering extending a major trade advantage to the People's Republic of China has serious implication for the textile/apparel/fiber industry, the largest employer of labor in manufacturing in this country.

I am informed that the United States has instituted preliminary discussions with the People's Republic of China on establishing a quota-setting textile treaty. Not surprisingly, since textiles are a big foreign currency earner for China, our negotiators have met with some resistance. Nevertheless, an official response is expected before the end of the year. The urgency of completing an agreement with the PRC is underscored by Office of Special Trade Representative estimates that imports of textile goods from uncontrolled countries are up 80 percent this year. Significantly, the major textile exporting nation with which we do not have a quota agreement is the People's Republic of China.

That the Congress would consider in this sensitive framework extending CCC credits to the People's Republic of China is incredible.

For years, Mr. Speaker, the Infomal House Textile Committee, predecessor the current textile caucus, has urged the executive branch to immediately negotiate a textile treaty with the People's Republic of China. In 1975 in my capacity as chairman of the Informal Committee, I wrote to then Secretary of State Kissinger expressing concern that our future relations with the People's Republic would not be such as to endanger the health of the domestic textile industry, and urging that the problem be confronted before Chinese expectations rise too high or U.S. damage is too deep. Later that year, I was joined by 130 House Members in expressing the same concern to the President. In 1976, 229 Members—a majority of the House—endorsed a resolution calling for early conclusion of a Bilateral Textile Agreement with the PRC, "the major remaining uncontrolled low-wage supplier of textiles and apparel to the United States."

It is ludicrous that this House, which has again and again gone on record as supporting the retention of American jobs that are threatened by foreign imports, should choose this time to grant a major trade concession to the People's Republic. The Chinese are lukewarm, to say the least, about restraining their textile exports but diplomatic pressure, which the administration seems willing to put to bear, might just succeed this time in achieving a bilateral treaty that will ease the pressure on our beleaguered textile industry and its 2.3 million employees. It might just succeed, Mr. Speaker, if Congress helps instead of hinders the effort.

I therefore urge defeat of H.R. 10584, the Agriculture Trade Act, under suspension of the rules. If the bill is brought up under regular procedure and we can amend this objectionable provision out of it, I would happily and strongly support the legislation.●

● Mr. EVANS of Georgia. Mr. Speaker, I would like to take this opportunity to voice my total support for H.R. 10584, the Agricultural Trade Act of 1978, and I also commend the Committee on Agriculture for the thorough and expedient manner in which they have developed this bill.

There are only a few general areas in which the U.S. exports help to offset part of our increasing trade deficit, and agricultural exports is one of them. In recent years this balance has been on the plus side, in excess of $10 billion annually. This has been accomplished without having many agricultural attachés "selling" American agricultural commodities abroad on a full-time basis. Besides upgrading the agricultural attaché to agricultural counselor, this bill would create U.S. agricultural trade offices abroad whose sole purpose it would be to expand our markets in the increasing competitive field of international selling of agricultural commodities. The legislation would also create an intermediate credit program bridging the gap between the Public Law 480 program and the short-term financing available in the Commodity Credit Corporation program.

Not only will passage of this bill be tremendously helpful economically to the American farmer, but its far-reaching economic impact will create or increase jobs in the large agribusiness area. These areas touched by the agricultural economy are too numerous to list, but include almost the entire economic spectrum from manufacturers to retailers from banking to transportation.

Mr. Speaker, I urge my colleagues to support the passage of H.R. 10584 and am hopeful this legislation will be enacted into law as quickly as possible.●

● Mr. ASHBROOK. Mr. Speaker, although I support efforts to increase sales abroad of American farm products, title IV of this bill is totally unacceptable. Since an amendment to remove this highly unwarranted provision is not in order, I strongly urge defeat of the bill.

Title IV would undermine the Jackson-Vanik amendment which prohibits the granting of U.S. Government credits to countries that do not permit free emigration. This amendment, which has primarily aimed at the Soviet Government's refusal to allow Soviet Jews to emigrate, also affects nations such as the People's Republic of China and Eastern European countries such as Bulgaria, East Germany, and Czechoslovakia. Title IV would allow the Commodity Credit Corporation to extend credits to any of these countries.

Adoption of such a change would be a serious mistake. We would be abandoning our professed concern for human rights in these Communist regimes.

We would also be sending the wrong message to the U.S.S.R. The Soviet Government has gone out of its way to crush dissidents within the country. Now is absolutely the wrong time to diminish our commitment to human rights and our support for Jewish and other activists and dissidents inside the Soviet Union.

The sponsor of title IV asserts that this provision will have its most important impact on facilitating trade with the People's Republic of China. Frankly, I cannot understand why the People's Republic of China should be awarded such special treatment. Communist China, after all, is one of the most brutal and repressive regimes in the world today.

It was a mistake to include title IV in the legislation before us today. I urge defeat of the bill under suspension so that we can eliminate this unwise provision.●

● Mr. BEDELL. Mr. Speaker, I rise in support of H.R. 10584.

Mr. Speaker, today we are going to be asked to decide on the merits of H.R. 10584, the Agricultural Trade Expansion Act of 1978. Despite the fact that the bill is being considered under suspension of the rules and is therefore not subject to amendment, it is of extreme importance to all Americans, not just the agricultural sector.

I think that it is significant that today the President publicly announced his intentions with regard to the improvement of the U.S. export effort. It is no secret that the United States has been suffering the effects of a record negative trade balance for some months now and the economic pressures that it has engendered have rippled throughout our domestic economy. I wholeheartedly agree with the President that some positive steps must be taken to reverse this alarming trend.

Just a few statistics help to tell the tale. In 1977, total U.S. imports amounted to a record $143.5 billion, a 25-percent increase over the 1976 total. U.S. exports for 1977 totaled $118.2 billion, or only a 6-percent gain over the 1976 levels. In the final analysis, the total U.S. trade deficit for 1977 was about $26 billion. And, the outlook for this year is no better.

There was one bright spot on this otherwise dismal report card, however, and that was the performance of U.S. agricultural exports. In 1977, our agricultural exports were over $24 billion, another record. In recent years, the agricultural net balance of payments has exceeded $10 billion. Trade experts shudder to think what sort of dire economic straits the United States would be in today without the cushion that has been provided by the agricultural export side of the balance sheet.

There is an added benefit that accrues from this type of healthy agricultural export activity. Obviously, the individual American farmer benefits a great deal from the additional outlets that the export markets provide—it is estimated that U.S. agricultural exports represent the production from about 100 million acres of American farmland. In addition, it is clear that the American taxpayer benefits from the additional demand for American grain production that the export markets represent, particularly when viewed from the perspective of the substantial government outlays that would be due to farmers if the grain was not sold overseas. It is estimated that, for instance, for every cent per bushel deficiency payment to eligible corn producers, the Federal Government is out $54 million. Thus, the cost savings to the taxpayer is substantial and it is clear that, if there ever was a cost effective Government program, export promotion of agricultural commodities is it.

The legislation that we have before us today is badly needed and long overdue. In real terms, official agricultural export promotional efforts have declined in the past several years. In fiscal year 1970, USDA outlays for market development totaled $16.8 million, while in 1977 they reached $21.4 million. After adjusting for inflation, however, the 1977 outlays were equivalent to only $13.6 million, a net decline in real terms. Our market promotion efforts amount to only one-tenth of 1 percent of our total agricultural exports, while other leading competitors—including Australia with a 1.1-percent effort and New Zealand with 0.89 percent—invest far more. This record is unacceptable, and, whether it be due to complacency or benign neglect, it should be improved. We can no longer afford to allow ourselves to lag so far behind the rest of the world's agrcultural exporters in creating and preserving export markets.

Mr. Chairman, opposition has been voiced to this legislation on the grounds that the title IV extension of credits to nonmarket economies is unacceptable. While there are a variety of possible responses to such criticism, it seems to me that two points are of special significance. First, it should be noted that the language is worded in such a way that no credits will be extended to an eligible nonmarket economy unless that country has agreed to purchase a quantity that exceeds the average annual quantity purchased in the 3-year period 1975 to 1977. And, the credit will be only for that additional amount. Second, we should not lose sight of the fact that, frequently, the extension of economc credits and the expansion of trade with countries with whom our relations may have been less than friendly can have the effect of softening their postions and greatly contribute to a more accommodating international atmosphere.

The Agricultural Trade Expansion Act of 1978 has been closely scrutinized by both the House Agriculture and International Relations Committees, and I believe that its tight construction reflects the conscientious deliberation given it by members and staff. By upgrading the status of agricultural attachés abroad to that of counselors and establishing from 6 to 16 trade promotion offices in countries where major market activity occurs, the United States will not only acknowledge the crucial importance of agricultural exports to the domestic economy, it will also operationalize that recognition in a way that will be sure to result in tangible economic gains.

The time is right for this piece of legislation, Mr. Chairman, and I strongly urge all of my colleagues to support the Agricultural Trade Expansion Act as an expression of their interest in keeping U.S. agriculture, and the dollar, strong.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. Foley) that the House suspend the rules and pass the bill H.R. 10584, as amended.

The question was taken.

Mr. VANIK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

TOURISM AUTHORIZATION

Mr. ROONEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11870) to amend the act of July 19, 1940, to authorize additional appropriations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 11870

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act of July 19, 1940 (16 U.S.C. 18d), is amended by striking out "and" immediately after "1977," and by inserting immediately before the period at the end thereof the following: ", and $1,008,000 for the fiscal year ending September 30, 1979".

SEC. 2. Section 3 of the International Travel Act of 1961 (22 U.S.C. 2123) is amended by adding at the end thereof the following new subsection:

"(e) (1) Any branch office of the United States Travel Service which is established under subsection (a) (4) of this section shall be open to the public for purposes of providing information regarding travel and tourism in the United States.

"(2) In determining the foreign countries in which to establish a branch office of the United States Travel Service, the Secretary shall give primary consideration to the extent to which such office would contribute to regional economic development in the United States through increased tourism.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SKUBITZ. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. Rooney) and the gentleman from Kansas (Mr. Skubitz) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. Rooney).

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the reported bill amends section 5 of the act of July 19, 1940 to authorize an appropriation of $1,008,000 to carry out the domestic travel programs administered by the U.S. Travel Service (USTS) within the Department of Commerce. The bill also amends section 3 of the International Travel Act of 1961 to provide increased public access to foreign branch offices established by USTS and to give some guidance to USTS in determining which countries should have foreign branch offices.

The Subcommittee on Transportation and Commerce has viewed its duties of oversight into the activities of USTS as being of great importance. Most recently, the committee received a presentation of the National Tourism Policy Study conducted by Arthur D. Little, Inc., which study was cosponsored by the committee and the Senate Commerce Committee.

The overwhelming conclusions of the study was that tourism-related activities on the part of the Federal Government are in a State of confusion, are uncoordinated, and are to a great extent, contradictory. Of the some 27 Federal agency programs with a high impact on tourism and travel, all but two assigned a low to moderate priority to tourism matters. Many did not even believe that they were significantly involved in tourism and travel—among these were the National Park Service, the Civil Aeronautics Board, the Army Corps of Engineers, the Federal Energy Administration, and the IRS.

This is an alarming State of affairs, since we are talking about a $115 billion a year industry which supports 4 million jobs. By one count, all 50 States consider tourism to be one of the top three industries in the State.

What turns this into a crisis situation is that Federal Government policies being chosen or carried out every day seriously impact on tourism, travel and related recreational activities in many and varied ways. I can assure you that our colleagues in the Senate share the committee's concern.

The committee debated this funding matter and concluded that it would irreparably cripple USTS activities if funding were not continued to support ongoing and valuable projects. But the funding will be probationary in a sense: We will conduct a vigorous assessment of USTS activities and the A. D. Little Study in the next Congress, and will hopefully present to the Congress a new approach to be taken by the Federal Government toward tourism.

It is true that the House did not see fit to include the funds here authorized in the Commerce Department's appropriation this year. This, no doubt, can be traced to the lack of the prerequisite authorization and possible to some Members' dissatisfaction with the direction USTS is currently taking. However, the committee feels that this authorization is necessary; and it pledges to continue aggressive oversight into USTS.

Other provisions of this bill, adopted unanimously after their suggestion by Congressman SKUBITZ, would require that any overseas branch offices of USTS be kept open to the public and would require USTS, in establishing further such branch offices, to give primary consideration to the extent to which such offices would contribute to regional economic development in the United States through increased tourism. I am sure my distinguished colleague will expand on these provisions as they are a product of his fine labors and deal with a matter dear to his heart.

I urge passage of H.R. 11870.

Mr. Speaker, I reserve the balance of my time.

Mr. SKUBITZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11870 authorizing appropriations to encourage travel and tourism within the United States.

This appropriation of $1,008,000 for next fiscal year is essentially level funding for an agency which is under review by the Subcommittee on Transportation and Commerce. While I, and many of the other members of the Subcommittee on Transportation and Commerce, desire extensive changes within the organization and scope of activities of this agency, it is essential that the agency be able to carry out its program for domestic travel encouragement until such time as we have provided it with a new set of directives.

This bill also contains a small but vital amendment to the International Travel Act of 1961 (22 U.S.C. 21–23). This amendment for the first time not only recognizes the importance to domestic tourism of maintaining branches of the U.S. Travel Service overseas, but also mandates that these offices remain open to the general public. I cannot stress how essential it is, if foreign visitors are to be attracted to the United States, that they be able to have free access to a national body which is completely unbiased by the trade and yet dedicated to the promotion of tourism to the United States.

In the words of one travel expert:

> The United States Travel Service, compared to the activities of other tourism seeking countries, likens the poverty-stricken corner grocer's store as related to a modern supermarket.

This is, indeed, a sad state of affairs and one which we must remedy.

The continuing difficulties which this agency has encountered and the present chaotic state of affairs in Federal tourism promotion activities can only be attributed to the failure of Congress to convey to the administration, both past and present, the vital importance of a national tourism agency in the development and elaboration of what is fast becoming our second major export. Every State in the Union benefits from tourism, even my home State of Kansas benefits to the tune of $3.5 billion a year. It is essential that State and local efforts be coordinated at the Federal level by an agency which can draw on the expertise of personnel long familiar with the needs of the travel industry and the fickleness of the traveling public.

There are some 129 Federal agencies having some direct or indirect impact on tourism. Is it not time that these efforts be centralized or at least coordinated by a viable domestic tourism program?

The U.S. Travel Service, until such time as we have redefined its mandate, will use these funds to help maximize the attainable potential of the domestic travel industry.

Mr. ROONEY. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. I thank the gentleman for yielding.

I would like to take this opportunity particularly to commend the gentleman from Kansas, Mr. SKUBITZ, for the outstanding cooperation he has given the committee on this legislation. I know that he has traveled abroad and he has visited many USTS offices, especially in London. He has found a need for a foreign office in London which I understand the State Department now is trying to close; and he may prevent that. I feel that USTS ought to have overseas offices, if they are going to sell America abroad.

I know that many of my colleagues are going to say that this is just more Federal involvement. But every State in the Union, the 50 States, all have some kind of a contribution that they make to expand tourism in their particular State.

I want again to commend the gentleman and thank him for his wholehearted support of this legislation.

Mr. SKUBITZ. I want to thank my colleague. May I say further that on our visit to investigate tourism policies abroad, we found out that in many instances—most instances—the fact that the USTS is not operating properly is because of the Congress and the poor mandate that Congress gave the Department of Commerce.

I found that the Commerce Department by the policy that it established in the past, closed their office overseas in the sense that it told them not to permit the general public to come in and ask about tourism. Fortunately, by our visits over there we at least took down the signs that prohibited people from inquiring and opened up the doors.

What we are trying to do is to keep this program working, keep it going until we can work out a common strategy that will encourage tourism to the United States.

For heaven's sake, with the deficit we have in this country we need tourism and the potential that tourism offers to the United States. The United States today is the cheapest country in the world to visit and has more goods to offer cheaper than any place else in the world.

Mr. Speaker, I hope this committee will accept the bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I rise in opposition to this bill.

Mr. Speaker, many of us returned this morning to our offices and as we read our mail we hear from the people back home and they are always telling us the same thing. America has too much Government, too much red tape and there is something wrong with the Congress in not reducing it.

Well, here is a chance that we can do something. It is a pleasure to tell you that here today we can do something positively. Here is one bill we can relate to. Many of us have been cosponsors of sunset bills. Congress does not need sunset bills. All we need to do every time one of these unneeded Government agencies comes to the floor is to say, "This is the end of the line for you. Your office is closed."

Today we have the opportunity to move on this particular agency. This is not a big item. It is only $1 million, which is chicken feed to big spenders; but here is the principle of the thing. Here is one agency we do not need.

If I can, I would like to outline a few things about tourism, because tourism is very important to America. It is so important that we ought to get the Government out of it, because if we leave Government in tourism we will ruin one of the finest industries we have in free enterprise today.

It is said that tourism is the third largest industry and some say it might be the second largest industry, and it will be if the Government will stay out of it. I was amazed to see how large tourism is. The distinguished gentleman from Pennsylvania said his figures which he had at that time included $115 billion in revenue. Actually, I have heard tourism might include $105 billion; but I imagine the gentleman's figures are right. They are probably current. It is a $115 billion industry and approximately 5 million people are involved in it. We all agree it is the third largest industry in this country. We want to check and see what Government agencies have done with all these services. We have had surveys made and generally they report the fact that USTS does not fulfill its mission. It has been weak and ineffective. That is my conclusion, too.

I want to tell you about the analysis conducted by Arthur D. Little, Inc. for the U.S. Travel Service. I was amazed to find out how many people and agencies were involved. That is one of our problems. We have too many people going out and duplicating the same functions. They found there were 89 programs in 10 executive departments and 36 independent agencies.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Speaker, the only error in what the gentleman has said in this: They found agencies that were involved in recreation, not in tourism, for one thing; and second, when they found them, they said this is recreation or this is tourism.

Let me give you an example. We had the Arthur D. Little Co. before us. I told them I thought we were wasting money and there was some that was taken under false pretenses fort he job they had done.

Let me give the Members an example of what I mean. They talked about the National Park Service, and yet the National Park Service was set up with the objective of encouraging the use of public parks, although today it actually tries to discourage that use.

They talked about the Bureau of Outdoor Recreation as being an area of controlling outdoor recreation, and every member of this committee knows that the real purpose of the objective that we established when we set up the Bureau of Outdoor Recreation was to help little communities and other communites develop areas and take on recreational development within their areas in order to invite other people from other areas into it.

They talked about the Corps of Engineers. They talked about the things they are doing, and yet everyone of us in this body knows the objective of the Corps of Engineers has been to build dams to hold back flood waters.

Yet what we are trying to do and what the chairman of this subcommittee and I have been trying to do is to try to give guidance to the travel agency on what the objectives should be and how they should try to coordinate. We have not, and this body has not, made any effort to take anything away from anybody.

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. Collins) has expired.

Mr. SKUBITZ. Mr. Speaker, I yield 3 additional minutes to the gentleman from Texas (Mr. Collins), and I ask the gentleman to yield further to me.

Mr. COLLINS of Texas. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Speaker, what we are trying to do is to get an agency established that will give to the tourist agency the authority to coordinate these programs and to give guidance not to them but to the people over the country as to where these things are that they should go and see.

Mr. Speaker, I thank the gentleman for yielding.

Mr. COLLINS of Texas. Mr. Speaker, I think the gentleman from Kansas has raised two or three good points. He said that many Federal agencies have tried to make it plain that they do not have anything to do with tourism. I want to commend those agencies that have made it clear they do not want to have anything to do with this confused program.

I would like to add to that the fact that we would be taking a step forward if we would get the rest of these Federal agencies out of the picture.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield again?

Mr. COLLINS of Texas. I will be glad to yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Speaker, what the gentleman fails to say is that this is what the Arthur D. Little Co. is saying, that we have had these agencies to do these things and they are not doing those things. That is why we are trying to develop the program.

Mr. COLLINS of Texas. Mr. Speaker, I agree with that statement. The fact is that they are not doing anything that is worthwhile. They are listed on some of our worksheets, but when we try to go to the Government to try to work out guidelines, we find that the same thing is true here that is ruining this country; we have these bureaucrats writing and defining these fool guidelines.

Recreational activity is tourism. In other words, if I take a vacation and my family goes up to Yellowstone Park, I consider that tourism. But I do not need the Federal Government to print a brochure to give me and send me up there.

When we got through this they had other studies—and we have had plenty of these surveys—and they reported there were four basic industries or bureaus that said they were involved: The U.S. Travel Service, the Bureau of the Census, the Federal Highway Association, and Amtrak.

Let us just take two of these agencies. What does the Census Bureau need to get into this for and pump this up and "gunk" it up?

Let us take Amtrak. We talked about that Amtrak outfit last week. Amtrak is the most inefficient passenger operation in the world. They take in $260 million, and then they expect us to give them a $600 million a year subsidy. We do not need Amtrak giving anybody advice.

Mr. SKUBITZ. Mr. Speaker, if the gentleman will yield further, that is exactly why I said the Arthur D. Little Co. is taking money under false pretenses. Amtrak has nothing to do with it, and yet they singled them out as an agency developing tourism throughout the country. I explained that to them when the Little Co. appeared before us.

Mr. COLLINS of Texas. Mr. Speaker, I judge that when we go through all these different agencies we will find they are not contributing anything, and I am inclined to agree completely with the gentleman on that. I do not believe that any of these Federal agencies, including this tourism group itself, is contributing anything.

Private enterprise can do more without Federal intervention than it can if we have a bunch of bureaucrats sitting around an office printing a few travel brochures. We need to get back to the system that made this country great, and that system is to have just plain average people out there in private travel agencies around the country, working, arranging, managing, and doing these things essential to travel.

Mr. ROONEY. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I will be glad to yield to the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Speaker, the American Society of Travel Agents has endorsed this bill.

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. Collins) has again expired.

Mr. ROONEY. Mr. Speaker, I yield 1 additional minute to the gentleman from Texas (Mr. Collins).

Mr. SKUBITZ. Mr. Speaker, if the gentleman needs more time, I yield 3 additional minutes to the gentleman from Texas (Mr. Collins).

Mr. ROONEY. Mr. Speaker, will the gentleman yield further?

Mr. COLLINS of Texas. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Speaker, as I say, associations of travel agents and private enterprise have endorsed this legislation.

We have talked about Government involvement: When one goes to a foreign country, there is a minister of tourism that comes out to greet the delegations. They think it is so valuable in those countries that they have spokesmen for tourism at the Secretary level. Yet, here we are asking for $1,008,000 to administer our Federal Government's involvement—to complement the States and to complement private industry. That is all we are asking.

Mr. COLLINS of Texas. Mr. Speaker, as the gentleman from Pennsylvania (Mr. Rooney) knows, the biggest factor that is today going to help tourism is the unfortunate aspect of our dollar as far as international trade is concerned. It exists because of the fact that we have a cheap dollar. We are today bringing the Germans and the Japanese over here to travel. It is going to be because of a minister of travel that we are going to be able to do that. Yens and marks buy more, in the United States today.

Even when we did not have a cheap dollar, they were coming over here, and they were not coming because of all these bureaucrats running around. I have never seen anything the bureaucrats have accomplished in the way of motivating travel.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding, and I want to say that that is the very point and the very reason why the gentleman from Pennsylvania and myself favor this legislation—to keep it going, so that we can get the gospel and the story abroad.

I was in Germany and met with the head of the tourism agency over there. He was the one who pointed out that the

United States is not doing a job of selling the United States to European tourists. He pointed out that, "You have the cheapest rates today to travel, your hotel rooms are cheaper, your food is cheaper, your travel is cheaper, your goods are cheaper, and yet you are not doing anything about it." That is the reason that we need a coordinated system on a Government basis, so that we can compete government to government. People against Government is not going to get the job done.

Mr. COLLINS of Texas. The gentleman from Kansas is talking about all of the foreign advice. I thought this bill applied to domestic travel.

Mr. SKUBITZ. There is a provision in here, as the gentleman knows, that deals with carrying on foreign tourism.

Mr. COLLINS of Texas. I will ask the gentleman from Pennsylvania (Mr. ROONEY), is this a domestic travel bill or a foreign travel bill?

Mr. ROONEY. If the gentleman will yield, this a domestic travel bill.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Speaker, what is the $1,008,000 used for? People? I suppose that is not fair to ask that.

Mr. ROONEY. Mr. Speaker, if the gentleman will yield, I will be very happy to answer the gentleman's question.

The sum of $450,000 is to be used for research and surveys; $485,000 is to be used for promotion and education; and $73,000 is to be used for administration.

The gentleman from California and the gentleman from Texas are very conservative Members of this body.

Mr. ROUSSELOT. I hope so.

Mr. ROONEY. And I do not think $73,000 for administration of this bill is a lot of money.

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. COLLINS) has expired.

Mr. SKUBITZ. Mr. Speaker, I yield 2 additional minutes to the gentleman from Texas.

Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

Mr. Speaker, I will direct the attention of my colleague, the gentleman from Pennsylvania (Mr. ROONEY), that it deals with domestic tourism, but section II was added to this bill—it was my amendment—which carries this on to keep open our international program.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Speaker, how much did the gentleman from Pennsylvania (Mr. ROONEY) say the research and survey was?

Mr. ROONEY. If the gentleman will yield, research and surveys, $450,000.

Mr. ROUSSELOT. What kind of surveys do they take?

Mr. ROONEY. If the gentleman will yield, they take surveys designed to measure changes in travel volume and spending in order to better promote domestic tourism.

Mr. ROUSSELOT. When the gentleman says "surveys," who does the survey? Does the gentleman mean that we find out whether the travel is done by boat or airplane?

Mr. ROONEY. If the gentleman will yield, USTS surveys many areas of travel and promotion of travel. This is done by the Department, and I think it is very efficiently and effectively done. I do not think $450,000 is a lot of money to carry on this program.

Mr. ROUSSELOT. I think it is a lot of money if we do not know what the survey is done on and how the survey is used.

Mr. ROONEY. Well, how are surveys used?

Mr. ROUSSELOT. I am not talking about a political survey. I am talking about this survey. Why do we need to spend all that survey money on domestic travel?

Mr. ROONEY. It is used just as a political survey is used—where you need the help, where the money should be spent, why the State should be involved, why the independent tourist agency should be involved. That is how the surveys are used.

In the area of promotion of domestic travel, USTS has issued its limited funds to contract out such things as media coverage and publications designed to reach as many Americans as possible. There are also training activities to provide approximately 500 State and local tourism officials with greater expertise in the area of promotion of tourism. I don't think $485,000 is too much money for these activities.

This bill generally calls for level funding and allows USTS merely to continue its operations and fulfill existing contracts and programs.

Mr. COLLINS of Texas. Mr. Speaker, I would say, in conclusion, that I appreciate the fairness with which we have been given an opportunity to express opposition to this bill. We can really cast a vote for the people back home, we can cast a vote for less government, we can cast a vote for sunset, if we vote no to this provision today.

Once again, through the legislative process, Congress is moving to undermine the free enterprise system. Tourism has grown with the promotion of free enterprise. Yet everywhere a person may go he will soon encounter the permeative influence of the Government.

This pervasiveness of Federal involvement of tourism related activities has been steadily growing. In 1970, an inventory conducted by Arthur D. Little, Inc., for the U.S. Travel Service listed 89 programs in 10 executive departments and 47 programs in 36 independent agencies which made a contribution to the development of travel, tourism, and recreation in the United States. In 1973, the National Tourism Resources Review Commission described 115 programs in over 50 Federal agencies that were "directly related to tourism-recreation." In 1976, as part of the first phase of the national tourism policy study, 97 programs representative of the Federal involvement in tourism were reviewed. Now I learn that Arthur D. Little, Inc., has conducted a so-called second phase (ascertainment phase) of the national tourism policy study, and identified 31 key Federal agencies involved in activities that in some way significantly affect the industry. These 35 programs, we are told, were selected for assessment from the more than 100 tourism-related programs identified in the first phase of the national tourism policy study—the choice being "limited to 35 programs in order to permit more searching and detailed assessment of programs exemplifying the Federal Government's current involvement in tourism."

It is interesting to note that Messrs. Arthur D. Little's prime conclusion emerging from the Federal agency assessments was "the widespread lack of understanding among Federal officials of the degree of their agencies' current involvement in and/or impacts on tourism and travel." In fact, apparently only four agencies interviewed recognized any involvement with the travel industry. These four included the U.S. Travel Service, the Bureau of the Census, the Federal Highway Administration, and Amtrak. It is even more interesting to note that Messrs. Arthur D. Little discovered that the four agencies which were most vocal in their denial of their involvement or impact on tourism and travel activities were the National Park Service, the Civil Aeronautics Board, the U.S. Army Corps of Engineers, the Federal Energy Administration, and the Internal Revenue Service. The report goes on to conclude that Federal efforts are inefficient, duplicative, overlapping, lacking in cohesion, and in general, demonstrating a lack of awareness of the social and economic importance of tourism.

In 1977, this country had 18,609,794 visitors; a 6.2-percent increase over 1976. This resulted in receipts of over $7 billion of which transportation's share was over $1 billion. These figures reflect only receipts from foreign visitors. In 1976, the latest figures available for domestic travel expenditures, $14 billion were spent on public transportation, $23 billion on automobile transportation, almost $13 billion on lodging, and $36 billion on food. Together with entertainment and recreation and incidental purchases this represents a total of $108.257 billion just for "tourism." Clearly an indication of a very healthy state of affairs. My own State, Texas, ranks fourth nationally in travel expenditure, travel generated business, receipts, and travel generated payroll, and third nationally in travel generated employment. We have achieved this without Federal aid and with a minimum of Federal regulation. Is it Congress intent to create an agency to implement a national tourism and recreation policy as the principal federal instrument for promotion, development, planning, and research related to tourism recreation and heritage resource preservation? Quite evidently we are not satisfied with regulating, legislating, and regimenting our lives from womb to tomb. Now we are funding an agency which is trying to tell us how, when, and where to play. Independent thought, and pioneer spirit, obviously ill serves those who wish for a nation of sheep who will not resent being fleeced.

America does not need a Federal tourism agency. A healthy private sector tourism industry does not need Federal intervention or Federal aid in teaching them how to run their business, how to manage hotels, how to fly airlines, or how to run donkey-rides at a State fair.

I would like to conclude by quoting from Messrs. Arthur D. Little's National Tourism Policy Study—Final report.

> While many of the inherent conflicts in values of effects of tourism activities will not disappear, it is also true that the tourism and travel industry has frequently failed to evaluate itself, to understand and attack the more deep-seated problems arising out of tourism and travel activities, and to build lasting bridges of communication and cooperation with other interests in the nation. This has been particularly the case for tourism and outdoor recreation interests. To the extent that those in both the public and private sectors of the tourism and travel industry can successfully address these problems, much tourism and travel attitudinal or image problem may eventually disappear.

A Federal agency will only perpetuate the tourism and travel industries' attitudinal and image problems. They certainly will not disappear as if by magic because we choose to continue USTS or to create a new billion dollar agency. Only free enterprise and competition has made a strong tourism industry. Only free enterprise and competition can and will further strengthen this industry. It is unfortunate that it is always the weak and the inefficient who seek to shield their lack of competitiveness behind the obfuscation of Federal bureaucracy.

We have to much government in America today. We have too much bureaucracy in Washington. We need more Sunset votes on terminating agencies. I ask you to join me in terminating through no authorization the U.S. Travel Service's domestic tourism program.

H.R. 11870

● Mr. STAGGERS. Mr. Speaker, I rise in support of H.R. 11870. This bill authorizes $1,008,000 for fiscal year 1979 for the domestic travel encouragement program administered by the U.S. travel service in the Department of Commerce. The bill also directs the Secretary of Commerce to give primary consideration to U.S. regional economic development in establishing foreign office of the United States and requires that those offices be open to the public to provide information about tourism opportunities in this country.

Mr. Speaker, tourism is a vital segment of the national economy, generating $105 billion in revenues annually and employing 5 million people. It is one of the three largest industries in more than 40 States. The Federal effort to promote tourism has been disjointed and ineffective and is negligible in comparison to that of many foreign countries, which reap substantial benefits through dynamic tourism promotion.

Fundamental changes in national tourism policy are expected in the next Congress. The committee expects to hold extensive hearings on this issue and develop the framework for a cohesive Federal effort. In the interim, H.R. 11870 represents essentially level funding and is in conformity with the President's budget. Funds are earmarked in approximately equal amounts for domestic tourism development and research and analysis. The Administration supports the bill, and I urge its passage.●

● Mr. SANTINI. Mr. Speaker, I am pleased to rise in support of the bill now before us—H.R. 11870 or the U.S. Travel Promotion Act.

Since coming to the Congress in 1974, I have worked to acquaint my fellow colleagues, the bureaucracy, and society at large with the importance of tourism as a major industry. Gross sales from tourism last year exceeded $100 billion, making it the second largest retail business in the country. One particular advantage of tourism is that it employs many of the less skilled workers of this Nation, those who if not working in this industry would be classified by economists as "structurally unemployed." The industry is also the last bastion of the independent entrepreneur who is willing to risk his life savings to reach for the American dream of owning one's own business. Ninety-nine percent of the firms in this industry are considered small business.

By the very weight of the economic factors involved, this industry must be considered critical to the Nation's economic well-being. This bill is important because the $1,008,000 will be going for continuation of the programs by the United States Travel Service which are designed to stimulate tourism here in the country. Also steps will be taken under the bill to stimulate foreign interest in travel here.

Recently, the House and Senate Commerce Committees sponsored a study done by the A. D. Little Co. which dramatically portrayed the impact that tourism has on the American economic scene. With the cooperation of Mr. ROONEY and the Subcommittee on Transportation and Commerce, we will be holding major hearings next session to best determine how to implement the results and recommendations of the study for the benefit of everyone involved.

Gentlemen, tourism is an industry that can no longer be treated like a forgotten stepchild. The efforts of the USTS to better acquaint our own citizens, as well as the citizens of foreign countries, with what American travel has to offer must be supported. I urge my fellow colleagues to vote a resounding "yes" on this important legislation.●

Mr. ROONEY. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY) that the House suspend the rules and pass the bill H.R. 11870, as amended.

The question was taken.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

RAIL PUBLIC COUNSEL AUTHORIZATION

Mr. ROONEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12162) to amend the Interstate Commerce Act to authorize additional appropriations for the Office of Rail Public Counsel, as amended.

The Clerk read as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 27(6) of the Interstate Commerce Act (49 U.S.C. 26b(6)) is amended—
>
> (1) by striking out "and" immediately after "1977"; and
>
> (2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $2,200,000 for the fiscal year ending September 30, 1979".

The SPEAKER pro tempore. Is a second demanded?

Mr. SKUBITZ. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. ROONEY) will be recognized for 20 minutes and the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 12162, under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ROONEY. H.R. 12162 authorizes $2.2 million for the Office of Rail Public Counsel for fiscal year 1979. The 4–R Act of 1976 established the Office of Rail Public Counsel as a continuous public interest advocate to represent affected communities and users of rail service in railroad proceedings before the Interstate Commerce Commission.

The office is an outgrowth of the public counsel function previously performed by the Rail Services Planning Office of the Commission. The 4–R Act of 1976 provided $2 million for the operation of the Office of Rail Public Counsel for fiscal year 1977. Since the President did not appoint a Director until late last year, those funds were not expended. The President's budget for fiscal year 1979 again provides $800,000 for the Office of Rail Public Counsel. This budget, however, was prepared by the ICC. When the Public Counsel was appointed, he was informed he could resubmit a budget to OMB. As a consequence, the office requested $2.4 million for its fiscal year 1979 operations.

The rail public counsel has begun to develop his program this year. For instance, the office played a major role in representing rail passengers and communities in the Amtrak route reexamination hearings this summer. Because of the number of pending rail merger and abandonment cases before the ICC, it is expected that the office will play a major role in representing railroad users and communities threatened with the curtailment of railroad service. Because the office is still in its' organizational stages, the committee decided that the $2.2 million figure would afford the office an adequate budget for the coming year. The administration supports this amount.

The office has recently provided a very useful function in railroad proceedings other than abandonment proceedings. For instance, the office intervened in the recent application of one Western railroad seeking deregulation of rates on traffic lost to unregulated motor carrier. In its intervention, the office urged the Commission to expedite consideration of the railroad's petition rather than engaging in a long expanded proceeding.

As the office is developing, I believe it is proving a record of fair and productive contributions to Commission proceedings. I urge the Members' support for the bill.

Mr. SKUBITZ. Mr. Speaker, I yield 10 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I do not mean to be the only one speaking in opposition. I find when we spend money around Congress, everyone stands on his feet because basically we are a generous group, we are a kind-hearted group, we are kind to our constituents, and we like to spend our taxpayers' money, but when one stands in opposition to spending he finds he stands alone.

As we march on, I want to review another bill that we would also do well to provide the sunset provisions. Just think what we could do for this country today as each of these bills comes up for suspension if we just bury them one after another, because as late as it is in this session we might just be able to end them once and for all.

What a step forward that would be for America if we can just get rid of about half of this Government we have here in Washington.

Mr. Speaker, I opposed this authorization of funds for the Office of Rail Public Counsel for the following reasons. I have listed in my minority views the report which has been sent out to all the Members.

Mr. Speaker, let me just cite the five important reasons.

The first one is that the Office of Rail Public Counsel basically is not needed.

Second, the Office undermines the public concerns of existing agencies. It just increases the cost of Government for the taxpayers.

Mr. Speaker, I would like to repeat that one. Every time we spend money, we are spending money which the country has to borrow, and it means more taxes for the taxpayer.

My next point is that the Office harasses one mode of transportation.

Then, finally, the Office will perpetuate excess railroad capacity, thereby pushing more railroads into bankruptcy.

Mr. Speaker, we could study this issue step by step, but I will not have time for that. I do hope that before the Members vote on this bill—and I will call for a vote on this bill—that the Members will study this Office to see if it is really needed.

Mr. Speaker, basically, the matter just boils down to this: This is a duplication. We already have the Department of Tranportation down here. We have the Department of Justice to provide counsel. We have everybody we need in Government lawyers. In fact, many people think that we have too many lawyers in Washington.

What we have done is that we have set up a separate group known as the Office of Rail Public Counsel, and their job is to intercede and to just provide additional ways of suing. Mr. Speaker, I could stop at this point and talk for 10 minutes on whether America is suing too much.

Let me talk about the Office of Rail Public Counsel since I have raised five objections to it.

The Office of Rail Public Counsel was created as part of the so-called 4-R Act of 1976. That act, for the most part, was designed to help railroads. This particular provision was added to that act even though it does not purport to help railroads.

Mr. Speaker, I want to repeat that. We tried to help the railroads, but we can call this the "loser" section.

The Rail Public Counsel Office was given broad powers to intervene in all actions before the Interstate Commerce Commission. They can bring the Interstate Commerce Commission to court whenever the Office of Public Counsel believed that they knew what the public interest was better than other bureaucrats. ICC is composed of appointed officials whose duty is to protect the public interest against private railroad interests. If he did not think the ICC was doing the right thing, Counsel could come in and intervene.

Since its creation, this agency has been given the responsibility to protect the public interest, at which point we have a lawyer who checks them to see if ICC has done the proper thing.

Mr. Speaker, if the Commission is not doing its job, we should reform the Interstate Commerce Commission rather than create another agency as a watchdog.

That is the whole crux of this matter. Do we need this agency?

The fact is that it took two Presidents nearly 2 years to send the first nominee for Rail Public Counsel to the Senate for confirmation. That seems to be pretty illustrative of the fact that others may share my belief that there is no need for the Office of Rail Public Counsel.

Mr. Speaker, do the Members understand what this is? We have the Interstate Commerce Commission which represents the public. It is our Federal agency. It is a long-entrenched agency. Most people have considered it a very valuable agency; but now Congress has appointed what is called the Office of Rail Public Counsel, which has as its main objective the job of watching the ICC and to sue them when that office thinks there is any occasion for the suit.

Mr. Speaker, the Interstate Commerce Commission is responsible for regulating common carriers. This special counsel is dead weight.

I oppose the authorization of any funds for the Office of Rail Public Counsel because of the following reasons:

First. The Office of Rail Public Counsel is not needed.

Second. The Office undermines the public interest concerns of existing agencies.

Third. The Office increases the cost of government for the taxpayers.

Fourth. The Office harasses one mode of transportation.

Fifth. The Office will perpetuate excess railroad capacity thereby pushing more railroads into bankruptcy.

THE OFFICE OF RAIL PUBLIC COUNSEL IS NOT NEEDED

The Office of Rail Public Counsel was created as part of the so-called 4-R Act of 1976. That act for the most part was designed to help railroads. This particular provision was added to that act even though it does not purport to help railroads. The Office was given broad powers to intervene in all actions before the Interstate Commerce Commission and to even bring the Interstate Commerce Commission to court whenever the omnipotent Public Counsel believed that he knew what the public interest was better than other bureaucrats and appointed officials who are supposed to be protecting the public interest. The Interstate Commerce Commission was established to protect the public interest against private railroad interests. Since its creation, that agency has been given the responsibility to protect the public interest when it comes to any surface transportation by common carriage. If the Commission is not doing its job, we should reform the Commission rather than create another agency as a watchdog.

The fact that it took two Presidents nearly 2 years to send the first nominee for Rail Public Counsel to the Senate for confirmation is illustrative of the fact that others share my belief that there is no need for an Office of Rail Public Counsel.

THE OFFICE UNDERMINES THE PUBLIC INTEREST CONCERNS OF EXISTING AGENCIES

The Interstate Commerce Commission is given the responsibility for regulating rail common carriers, motor common carriers, certain common carriers by water, and oil pipelines. The Interstate Commerce Act is replete with provisions to assure that rates charged are "just and reasonable." There are also a number of provisions in the Interstate Commerce Act to prohibit discriminatory practices and predatory pricing. These provisions of law use the structure of the Commission itself to require hearings and adjudication, pricing and business practices of common carriers in order to protect the public interest.

To create and fund an Office of Rail Public Counsel simply means that the Commission is being relieved of its responsibility to act in the public good. I can think of no surer way to drive the Commission into the clutches of the vested interests that it regulates than to relieve it of its responsibility to protect the public interest by creating a public counsel to act as a one-armed Marshal Dillon for the public interest. Every ICC Commissioner and every bureaucrat working in the Commission should be governed by a principle which elevates the public interest above any private interest or vested interest.

THE OFFICE INCREASES THE COST OF GOVERNMENT FOR THE TAXPAYERS

The Office of Rail Public Counsel increases the cost of government to the taxpayer in two ways. First of all, this bill authorizes $2.2 million which is a complete waste of funds if one accepts the fact that the Commission itself is supposed to be serving the public interest. Second, creation of the Office of Rail Public Counsel sets into motion another impediment to fair and efficient government processes. If, for no other reason than to justify his existence, the Public Counsel will intervene in case after case after case. Such intervention will slow down the Commission as it attempts to resolve hundreds of issues in a manner which is fair and just for the public.

In creating this separate Office of Rail Public Counsel, Congress has invited a slower process and greater regulatory lag.

THE OFFICE HARASSES ONE MODE OF TRANSPORTATION

At the time of the 4–R Act the Commission had announced plans to establish its own Office of Public Counsel to intervene in all matters coming before the Commission. This committee, because of its limited jurisdiction, was able to write into legislation an Office of Public Counsel which dealt only with railroad matters. During the last 2 years, other committees of the Congress have had an opportunity to consider whether or not trucks, barges, and pipelines should be given the same treatment. There has not been any movement by any Committee of Congress to extend the Public Counsel concept to either trucks, buses, barges, or pipelines. Those committees have presumably come to the conclusion that a so-called Public Counsel for these areas would be a waste of money. I wholeheartedly agree and believe that our committee should remove the harassment we have added to the railroad industry by not funding the Office of Rail Public Counsel.

It is ironic that, on the one hand, the 4–R Act attempted to simplify procedures before the Commission while on the other hand it created an Office of Rail Public Counsel to provide another sparring partner for railroad lawyers. Litigation for litigation's sake no more serves the public interest than would repeal of all laws regulating railroads.

THE OFFICE WILL PERPETUATE EXCESS RAILROAD CAPACITY, THEREBY PUSHING MORE RAILROADS INTO BANKRUPTCY

Advocates of the Office of Rail Public Counsel point to railroad abandonments as the primary area for Public Counsel intervention on behalf of communities throughout the country. Presumably, these advocates would freeze into place every railroad track in America, even though every expert in the field agrees that the industry is suffering from excess capacity.

Last year, the railroad industry had its worst year since the depression year of 1932. That industry will continue to have bad years as long as it is shackled by government regulation and unnecessary government harassment. The rate of return on investment in the railroad industry is 1.2 percent. Institutions such as the Office of Rail Public Counsel will drive that rate of return even lower. If we in Congress are not careful, we shall end up with one giant government-run railroad in the country.

Some may want the super Amtrak instead of the private railroad systems we have. I, for one, would like to see the private railroad system given a chance to survive government interference. The Office of Rail Public Counsel is a step in the wrong direction.

I urge the rejection of this authorization so that we can correct our mistakes of the past by letting the Office of Rail Public Counsel fade away before it becomes an unbearable threat to the survival of the rail industry.

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. COLLINS) has expired.

Mr. SKUBITZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Office of Rail Public Counsel was created as part of the Railroad Revitalization and Regulatory Reform Act of 1976. During our consideration of that bill, I opposed the creation of a separate and special Office of Public Counsel applicable for railroad matters alone. I believed then, as I do now, that if such an office had any merit in fact, it should be able to handle all matters coming before the Interstate Commerce Commission.

Since the Interstate and Foreign Commerce Committee does not have jurisdiction over matters relating to motor carriers, aviation, or barges, the Public Counsel concept was limited to railroads. It is interesting to note that nearly 3 years have passed since the enactment of the Rail Public Counsel legislation and no committee of Congress has seen fit to extend the principle to other modes of transportation. It continues to baffle me as to why such a device seems appropriate for matters relating to railroads, but does not seem appropriate in other areas. Nevertheless, once the law was enacted, I became a supporter of prompt implementation of the concept.

I wish that I could tell this body that the Office of Rail Public Counsel had been active and had done a good job for the last several years. I cannot do so because the President failed to send a nominee for the job of Public Counsel to the Senate for confirmation until late last fall. Finally, a Rail Public Counsel has been named and has begun the process of setting up the Office.

In spite of the delay in implementing the legislation, I am of the opinion that an opportunity should be given for the Office to have a chance to work. It is clearly the law of the land that there shall be an Office of Rail Public Counsel. Unless and until we repeal that law, I believe that we have an obligation to fund that Office at a reasonable level. H.R. 12162 authorizes an appropriation of $2.2 million for fiscal year 1979. That figure is the figure submitted by the administration as the amount necessary to run the Office for fiscal year 1979.

I support passage of this bill and express the hope that the Office will become active so that Congress in its wisdom can judge whether or not the principle should be extended to other modes of transportation. On the other hand, Congress at a future date may decide that the Interstate Commerce Commission itself is sufficient protection for the public interest and will repeal the authorization for a special Office of Rail Public Counsel.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. I thank the gentleman for yielding.

Could the gentleman tell me what most of this Office of Rail Public Counsel's lawsuits are about?

Mr. SKUBITZ. Most of their cases, as I recall, have to do with safety matters, the operation of the railroads, mergers, rates, and any number of items where the public interest is involved in rail policy.

Mr. COLLINS of Texas. As I understand it, I thought it had to do with the railroads having a desire to eliminate dead tracks that were no longer being used, and to eliminate completely the maintenance and the operation of unused tracks so that they could concentrate on the main railroad tracks.

Mr. SKUBITZ. That is one thing it would look into. Railroad abandonments and whether or not rails should be torn up or whether they should be set aside for future use.

Mr. COLLINS of Texas. I want to ask the gentleman if the railroad is using the track only once a week, would the gentleman be inclined to agree with a railroad that petitioned, should be allowed to abandon that track?

Mr. SKUBITZ. It might be for some little Texas town, like it applies in Kansas sometimes, where a train goes into town maybe twice a week to pick up grain, or some other product that the track should be saved. The question is, What would happen to that community if you tore the track completely up? Maybe on the other hand the track can be used, or the right-of-way, for some other purpose.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

Did I understand the gentleman to say he did not vote for this when it came up in the original legislation?

Mr. SKUBITZ. What I said was that I opposed the Office of Rail Public Counsel in its inception in the committee and on the floor.

Mr. ROUSSELOT. What has gotten so good about it to change the gentleman's mind?

Mr. SKUBITZ. Nothing except our colleagues on the floor voted for the thing and provided for the office, so I assume what we ought to be doing is providing funds for the office so that it can operate.

Mr. ROUSSELOT. But the reasons that the gentleman opposed the formation of an Office of Rail Public Council are still good?

Mr. SKUBITZ. What is that?

Mr. ROUSSELOT. The reasons the gentleman opposed it originally are still good except that it is just getting a little more expensive?

Mr. SKUBITZ. Well, no, not more expensive. This is the first time we have authorized some real money for it.

What bothers me is why should we have one for railroads and not one for airlines or for motor carriers. Originally, the Commerce Committee had jurisdiction over railroads, airlines, and motor carriers. We do not have any more. It does seem to me however, that we have an obligation and a duty to provide money for something that has been established by law, at least until proven it is not needed.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Speaker, let me ask the gentleman from Kansas, they have lawyers in the Transportation Department. They have lawyers in the Justice Department. Why do we need a separate Office of Rail Council and why not let the staff of Justice also handle this work?

Mr. SKUBITZ. That is a good question. That is one we took up and the Congress voted me down. It is on the statute books. Since a majority of this body by an overwhelming vote said that I was wrong, then I support it.

Mr. COLLINS of Texas. Mr. Speaker, if the gentleman will yield further, many times we vote by overwhelming votes for something which in our later judgment we find was a mistake. Today we have an opportunity to rectify this mistake and introduce a sunset provision for it.

Mr. ROONEY. Mr. Speaker, I have no further requests for time.

Mr. SKUBITZ. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY) that the House suspend the rules and pass the bill H.R. 12162, as amended.

The question was taken; and on a division (demanded by Mr. COLLINS of Texas) there were—yeas 9, nays 12.

Mr. SKUBITZ. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

HEALTH MAINTENANCE ORGANIZATION AMENDMENTS OF 1978

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13655) to amend the Public Health Service Act to revise and extend the program of assistance under that act for health maintenance organizations, as amended.

The Clerk read as follows:

H.R. 13655

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE, REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Maintenance Organization Amendments of 1978".

(b) Whenever in this Act (other than in section 13) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

EXTENSION OF PROGRAM

SEC. 2. (a) Section 1304(j) is amended (1) by striking out "may be made through September 30, 1978;", and (2) by striking out "1979" and inserting in lieu thereof "1981".

(b) Section 1305(d) is amended by striking out "1980" and inserting in lieu thereof "1981".

(c) Section 1309(a) is amended (1) by striking out "and" after "1977," and (2) by striking out the semicolon and all that follows in that section and inserting in lieu thereof the following: "$63,000,000 for the fiscal year ending September 30, 1980, and $63,000,000 for the fiscal year ending September 30, 1981."

REQUIREMENTS FOR THE PROVISION OF SERVICES

SEC. 3. (a) Section 1301(b)(1) is amended by adding at the end the following: "The requirements of this paragraph respecting the basic health services payment shall not apply to the provision of basic health services to a member for an illness or inquiry for which the member is entitled to benefits under a workmen's compensation law or an insurance policy but only to the extent such benefits apply to such services. For the provision of such services for an illness or injury for which a member is entitled to benefits under such a law, the health maintenance organization may, if authorized by such law, charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law, the insurance carrier, employer, or other entity which under such law is to pay for the provision of such services or, to the extent that such member has been paid under such law for such services, such member. For the provision of such services for an illness or injury for which a member is entitled to benefits under an insurance policy, a health maintenance organization may charge or authorize the provider of such services to charge the insurance carrier under such policy or, to the extent that such member has been paid under such policy for such services, such member.".

(b)(1) The second sentence of section 1301(b)(3) is amended by striking out "thirty-six month" and inserting in lieu thereof "forty-eight month".

(2) Section 1301(b)(3) is amended by striking out the fourth sentence and inserting in lieu thereof the following: "A health maintenance organization may not enter into contracts with physicians (other than physicians who are members of the staff of the organization) or with entities other than medical groups or individual practice associations for the services of physicians if the amounts to be paid under such contracts for the provision of basic and supplemental health services—

"(A) in the first four fiscal years of the organization beginning after the month in which the organization becomes a qualified health maintenance organization (within the meaning of section 1310(d)) exceed 50 per centum of the total amount to be paid by the organization in such fiscal year for the provision of basic and supplemental health services by physicians, and

"(B) in the fifth and succeeding fiscal years of the organization beginning after such month exceed (i) 15 per centum of the total amount to be paid by the organization in such fiscal year for the provision of such services by physicians, or (ii) in the case of a health maintenance organization which principally serves a rural area, 30 per centum of such total amount.

The limitations prescribed by the preceding sentence do not apply to contracts for the provision of basic and supplemental health services through an entity which but for the requirements of section 1302(4)(C)(i) would be a medical group for purposes of this title.".

(3) The first sentence of section 1301(b)(3) is amended by striking out "(A)" and "(B)".

(c) The last sentence of section 1301(b)(4) is amended by inserting before the period a comma and the following: "except that a member shall not be reimbursed for any service provided other than through the organization because the member intentionally left the area served by the organization for the purpose of securing such service".

(b) Section 1301(b) is amended by adding at the end the following new paragraph:

"(5) To the extent that a major disaster, war, riot, civil insurrection, or any other event not reasonably within the control of a health maintenance organization (as determined under regulations of the Secretary) results in the facilities, personnel, or financial resources of a health maintenance organization not being available to provide or arrange for the provision of a basic or supplemental health service in accordance with the requirements of paragraphs (1) through (4) of this subsection, such requirements only require the organization to make a good-faith effort to provide or arrange for the provision of such service within such limitation on its facilities, personnel, or resources."

(e) Section 1302(1) is amended by inserting before the second sentence the following: "Such term does not include a health service which the Secretary, upon application of a health maintenance organization, determines is unusual and infrequently provided and not necessary for the protection of individual health. The Secretary shall publish in the Federal Register each determination made by him under the preceding sentence."

ORGANIZATION REQUIREMENTS

SEC. 4. (a) Section 1301(b) is amended (1) by inserting "except in the case of basic health services provided a member who is a full-time student (as defined by the Secretary) at an accredited institution of higher education," after "(C)" in paragraph (1), and (2) by inserting "unless the supplemental health services payment is for a supplemental health service provided a member who is a full-time student (as defined by the Secretary), at an accredited institution of higher education," after "community rating system" in the second sentence of paragraph (2).

(b) Section 1301(c)(1) is amended (1) by inserting "(A)" after "(1)", and (2) by inserting before the semicolon a comma and the following: "and (B) have administrative and managerial arrangements and capabilities satisfactory to the Secretary".

(c) Section 1301(c)(3) is amended (1) by inserting "(A)" after "(3)", and (2) by inserting before the semicolon a comma and the following: "and (B) carry out [its] enrollment of members who are entitled to medical assistance under a State plan approved under title XIX of the Social Security Act in accordance with procedures approved under regulations promulgated by the Secretary".

(d) Section 1301(c)(6) is amended (1) by striking out "(6)" and inserting in lieu thereof "(6)(A) in the case of a private health maintenance organization,", (2) by redesignating clauses (A) and (B) as subclauses (i) and (ii), respectively, and (3) by inserting before the semicolon a comma and the following: "and (B) in the case of a public health maintenance organization, have an advisory board to the policymaking body of the public entity which operates the organization which board meets the requirements of clause (A) of this paragraph and to which may be delegated policymaking authority for the organization".

FEASIBILITY SURVEYS AND INITIAL DEVELOPMENT

SEC. 5. (a) Section 1306(b)(2) is amended by inserting "in the case of an application for assistance under section 1304, 1305, or 1305A," before "he determines".

(b)(1) The first sentence of section 1304 (b)(3) is amended by striking out "in the one-year period beginning on" and inserting in lieu thereof "incurred in a period not to exceed three years from".

(2) The second sentence of such section is repealed.

(c)(1) Subparagraph (A) of section 1304 (f)(2) is amended to read as follows:

"(A) $1,000,000 in the case of a project for the establishment of a health maintenance organization or $600,000 in the case of a project for the significant expansion of the membership of or areas served by a health maintenance organization, or".

(2) The first sentence of section 1304(b) (2) is amended by striking out "includes" and inserting in lieu thereof "means the establishment of a health maintenance organization or the".

(d) The amendments made by this section shall only be effective for fiscal years beginning on or after October 1, 1978.

COSTS OF OPERATION

SEC. 6. (a) Section 1305(a) is amended by striking out "operating costs" each place it occurs and inserting in lieu thereof "costs of operation".

(b) The second sentence of section 1305 (b)(1) is amended by striking out "any fiscal year" and inserting in lieu thereof "any twelve-month period".

(c) Section 1305(b)(1) is amended (1) by striking out "$2,500,000" and inserting in lieu thereof "$4,000,000", and (2) by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000".

(d) The title of section 1305 is amended by striking out "OPERATION COSTS" and inserting in lieu thereof "COSTS OF OPERATION".

(e) The amendments made by this section shall only be effective for fiscal years beginning on or after October 1, 1978.

PAYROLL DEDUCTIONS FOR HEALTH BENEFITS

SEC. 7. Section 1310(c) is amended by adding at the end the following: "Each employer which provides payroll deductions as a means of paying empolyees' contributions for health benefits or which provides a health benefits plan to which an employee contribution is not required and which is required by subsection (a) to offer his employees the option of membership in a qualified health maintenance organization shall, upon request of an employee who exercises such option, arrange for the employee's contribution for such membership to be paid through payroll deductions.".

FUNDING UNDER OTHER AUTHORITIES FOR THE PROVISION OF HEALTH SERVICES ON A PREPAID BASIS

SEC. 8. Section 1313 is amended by adding after and below paragraph (4) the following:

"The preceding sentence does not prohibit the use of funds appropriated under section 319 or 330 of this Act for grants to an entity, other than a health maintenance organization, for the planning and development of health services to be provided on a prepaid basis or for the provision of health services on a prepaid basis.".

LOANS AND LOAN GUARANTEES FOR ACQUISITION AND CONSTRUCTION OF AMBULATORY HEALTH CARE FACILITIES

SEC. 9. (a) Title XIII is amended by inserting after section 1305 the following new section:

"LOANS AND LOAN GUARANTEES FOR ACQUISITION AND CONSTRUCTION OF AMBULATORY HEALTH CARE FACILITIES

"SEC. 1305A. (a) The Secretary may—

"(1) make loans, from the fund established under section 1308(e), to public and nonprofit private health maintenance organizations for projects for the acquisition or construction of ambulatory health care facilities and for the acquisition of equipment for facilities acquired or constructed under a loan made under this paragraph; and

"(2) guarantee to—

"(A) non-Federal lenders for their loans to nonprofit private health maintenance organizations for projects described in paragraph (1) and to private health maintenance organizations for such projects which will serve medically underserved populations, and

"(B) the Federal Financing Bank for its loans to nonprofit private health maintenance organizations for projects described in paragraph (1) and to private health maintenance organizations for such projects which will serve medically underserved populations,

the payment of principal and interest on such loans.

"(b)(1) Except as provided in paragraph (2), the aggregate amount of principal of loans made or guaranteed, or both, under subsection (a) for a health maintenance organization may not exceed $2,500,000.

"(2) The cumulative total of the principal of the loans outstanding at any time which have been directly made or with respect to which guarantees have been issued under subsection (a) may not exceed such limitations as may be specified in appropriations Acts.

"(3) The authority of the Secretary to make loans under subsection (a) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(c) For purposes of this section—

"(1) the term 'ambulatory health care facility' means a health care facility for the provision of diagnostic, treatment, and prevention services to ambulatory patients; and

"(2) the term 'construction' means the (A) construction of new facilities, (B) alteration, expansion, remodeling, replacement, and renovation of existing facilities, (C) cost of offsite improvements in connection with an activity described in clause (A) or (B), and (D) cost of the acquisition of land in connection with an activity described in clause (A), (B), or (C).".

(b)(1) Section 1308 is amended by adding at the end the following new subsection:

"(f) The Secretary may take such action as he deems appropriate to protect the interest of the United States in the event of a default on a loan made or guaranteed under this title, including taking possession of, holding, and using real property pledged as security for such a loan or loan guarantee.".

(2)(A) Subsection (d) of section 1308 is amended (i) by inserting before the period in the first sentence of paragraph (1) the following: "and to take the action authorized by subsection (f)", and (ii) by inserting after "under this title" in the first sentence of paragraph (2) the following: "and to take the action authorized by subsection (f)".

(B) The first sentence of subsection (e) of section 1308 is amended by inserting before the period the following: "and to take the action authorized by subsection (f)".

TRAINING AND TECHNICAL ASSISTANCE

SEC. 10. (a) Title XIII is amended by adding at the end thereof the following new section:

"TRAINING AND TECHNICAL ASSISTANCE"

"SEC. 1317. (a)(1) The Secretary shall establish a National Health Maintenance Organization Intern Program (hereinafter in this section referred to as the 'Program') for the purpose of providing training to individuals to become administrators and medical directors of health maintenance organizations or to assume other managerial positions with health maintenance organizations. Under the Program the Secretary may directly provide internships for such training and may make grants to or enter into contracts with health maintenance organizations and other entities to provide such internships.

"(2) No internship may be provided by the Secretary and no grant may be made or contract entered into by the Secretary for the provision of internships unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be in such form and contain such information, and be submitted to the Secretary in such manner, as the Secretary shall prescribe. Section 1306 does not apply to an application submitted under this section.

"(3) Internships under the Program shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the recipients of the internships as the Secretary deems necessary. An internship made to an individual for training at a health maintenance organization or any other entity shall also provide for payments to be made to the organization or other entity for the cost of support services (including the cost of salaries, supplies, equipment, and related items) provided such individual by such organization or other entity. The amount of any such payments to any organization or other entity shall be determined by the Secretary and shall bear a direct relationship to the reasonable costs of organization or other entity for establishing and maintaining its training programs.

"(4) Payments under grants under the Program may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(b) The Secretary shall provide (directly, through contracts, or both) technical assistance to (1) entities engaged in surveys or other activities to determine the feasibility of developing and operating or expanding the operation of a health maintenance organization, (2) entities engaged in the planning for the initial development of health maintenance organizations, (3) entities engaged in the initial development of health maintenance organizations, and (4) health maintenance organizations in connection with their operation.

"(c) The authority of the Secretary to enter into contracts under subsections (a) and (b) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

(b) Section 1309(a) is amended by striking out "and 1304(b)" and inserting in lieu thereof "1304(b), and 1317".

(c) The amendments made by this section shall only be effective for fiscal years beginning on or after October 1, 1979.

ADMINISTRATION OF PROGRAM

Sec. 11. (a) Subsection (h) of section 1310 is amended to read as follows:

"(h) The administration of the duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a qualified health maintenance organization within the meaning of subsection (d), shall be integrated with the administration of section 1312.".

(b) Section 1312(c) is repealed.

DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION

Sec. 12. (a) Section 1310(d) is amended (1) by inserting "(1)" after "(d)", (2) by redesignating clauses (1) and (2) as clauses (A) and (B) respectively, (3) by inserting before the comma at the end of clause (A) (as so redesignated) the following: "and will meet the requirements of paragraphs (2), (3), and (4) of the subsection; (4) by inserting before the period at the end of the following: "and will meet the requirements of paragraphs (2), (3), and (4) of this subsection", and (5) by adding at the end the following:

"(2) Each health maintenance organization shall, in accordance with regulations promulgated by the Secretary—

"(A) provide the information required to be reported under section 1124 of the Social Security Act by disclosing entities, and

"(B) supply the information required to be supplied under section 1902(a)(38) of such Act.

"(3)(A) Each health maintenance organization shall file with the Secretary, at such times as the Secretary shall prescribe, such information as the Secretary may require—

"(i) to demonstrate that the health maintenance organization has a fiscally sound operation, and

"(ii) respecting—

"(I) any sale, exchange, or leasing of any property between the organization and a party in interest,

"(II) any furnishing by the organization of services to a party in interest and any furnishing of services to the organization by a party in interest, and

"(III) any lending of money or other extension of credit between the organization and a party in interest.

"(B) Each health maintenance organization shall provide the Secretary with assurances satisfactory to the Secretary that the terms of each transaction between the health maintenance organization and a party in interest will be at least as favorable to the health maintenance organization as if the transaction was between the health maintenance organization and a person who is not a party in interest.

"(C) For purposes of subparagraphs (A) and (B), the term 'party in interest' means with respect to a health maintenance organization providing information under such subparagraph—

"(i) a person with an ownership or control interest (as defined in section 1124(a)(3) of the Social Security Act) in the health maintenance organization,

"(ii) a managing employee (as defined in section 1126(b) of such Act) of the organization,

"(iii) any entity with respect to which an individual described in clause (i) or (ii) is a person with an ownership or control interest (as so defined) or a managing employee (as so defined), and

"(iv) any member of the immediate family of an individual who is a person described in clause (i) or (ii).

"(4) Each health maintenance organization shall make available to its members the information reported by the organization pursuant to paragraphs (2) and (3).

"(5) The Secretary shall include in the annual report required by section 1315 a summary of evaluations made by the Secretary of information provided under paragraphs (2) and (3) and a description of any action taken as a result of such evaluations.".

(b) Paragraph (5) of section 1306(b) is amended to read as follows:

"(5) in the case of an application which is made for a health maintenance organization, contains or is supported by assurances satisfactory to the Secretary that the organization will comply with the requirements of paragraphs (2), (3), and (4) of section 1310(d);".

(c) Section 1312(a) is amended (1) by striking out "or" at the end of paragraph (2), (2) by inserting "or" at the end of paragraph (3), and (3) by adding after paragraph (3) the following:

"(4) fails to meet the requirements of paragraph (2), (3), or (4) of section 1310(d) or to act in accordance with assurances provided under paragraph (3)(B) of such section,".

AMENDMENTS TO THE SOCIAL SECURITY ACT

Sec. 13. (a)(1) Section 1902(a)(4) of the Social Security Act is amended (A) by striking out "and" at the end of clause (A), and (B) by inserting before the semicolon a comma and the following: "and (C) that each State or local officer or employee who is responsible for the expenditure of substantial amounts of funds under the State plan, each individual who formerly was such an officer or employee, and each partner of such an officer or employee shall be prohibited from committing any act, in relation to any activity under the plan, the commission of which, in connection with any activity concerning the United States Government, by an officer or employee of the United States Government, an individual who was such an officer or employee, or a partner of such an officer or employee is prohibited by section 207 or 208 of title 18, United States Code".

(2)(A) Except as provided in subparagraph (B), the amendments made by paragraph (1) shall take effect one hundred and eighty days after the date of the enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the requirement added by the amendments made by paragraph (1), such amendments shall not apply with respect to such State plan before ninety days after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(b) Section 1122 of the Social Security Act is amended—

(1) by striking out "or health maintenance organization" each place it occurs,

(2) by striking out "or health maintenance organizations" each place it occurs, and

(3) by striking out "or organization, or of any facility of such organization," in subsection (d)(2).

(c) Section 1903(m)(1)(B) of the Social Security Act is amended by striking out "shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions".

EMPLOYEE HEALTH BENEFITS PLANS

Sec. 14. (a) Section 1310(d)(1) (as amended by section 12) is amended by (1) striking out "and" at the end of clause (A), and (2) by inserting before the period at the end a comma and the following: "and (C) an entity described in paragraph (6)(B) of this subsection which has (i) received a waiver under such paragraph from the requirements of paragraph (6) of section 1301(c), and (ii) has provided assurances satisfactory to the Secretary that it provides basic and supplemental health services to its members in the manner prescribed by section 1301(b), that it is operated in the manner prescribed by section 1301(c), that, except with respect to the requirements of paragraph (6) of section 1301(c), it is organized in the manner prescribed by section 1301(c), and that it will meet the requirements of paragraphs (2), (3), and (4) of this subsection".

(b) Section 1310(d) (as amended by section 12) is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) For purposes of paragraph (1) of this subsection, the Secretary may, upon application, grant a waiver to an entity described in subparagraph (B) from the requirements of section 1301(c)(6) upon such terms and conditions as the Secretary may determine are appropriate if the entity (i) provided, before the expiration of one hundred and eighty days after the date of the enactment of this paragraph, notice to the Secretary of its intent to apply to be a qualified health maintenance organization, and (ii) made such an application before the expiration of eighteen months after such date of enactment. A waiver granted to an entity under this subparagraph shall be granted on the condition that if, after the date the waiver is granted, the entity expands its service area, the waiver shall terminate upon the date the entity so expands such area. If a waiver granted an entity is terminated because of the expansion of its service area, the entity may apply to the Secretary for another waiver under this subparagraph for the entity with its service area as so expanded. No grant, contract, loan or loan guarantee may be made under this title for an entity granted a waiver under this subparagraph.

"(B) An entity eligible to apply for a waiver under subparagraph (A) is a health maintenance organization (as defined in regulations promulgated under section 1122 of the Social Security Act as in effect on the day before the date of enactment of this paragraph) (i) which is operated (but not as a separate legal entity) either by a commercial insurance carrier or a nonprofit carrier which provides hospital service benefits or medical or surgical benefits, or both, (ii) which has an advisory board to the policymaking body of such carrier which board meets the requirements of section 1301(c)(6)(A) and to which may be delegated policymaking authority for the organization, (iii) with respect to which Federal financial assistance has not been provided under this Act, and (iv) which on January 1, 1974, was engaged in providing basic health care services (as defined in regulations promulgated under such section 1122 as so in effect) to the organization's members."

(c) 1310(b) is amended by adding at the end the following: "The Secretary, as a condition to approving as a qualified health maintenance organization for an area for purposes of this section an entity which is described in subsection (d)(1)(C) and which provides basic and supplemental health services in a manner described in paragraph (1) or (2) of this subsection, may require the health benefits plan of each employer subject to subsection (a) which has at least 25 employees residing in such area to include in such plan at least two qualified health maintenance organizations which provide such services in such area in such manner when at least two such organizations are willing to be included in such plan.".

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 13655, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 13655, the "Health Maintenance Organization Amendments of 1978," is designed to strengthen and extend Federal assistance for the establishment and operation of health maintenance organizations.

As my colleagues know well, one of the most pressing problems facing the Nation today is the rapid rise in the cost of health care. I am pleased to report to you that health maintenance organizations are showing us that because their incentives to provide health services are different from the fee for service system, they can dramatically reduce the cost of care. HMO's are required to provide a variety of services for a fixed prepaid amount; so the economic incentives for an HMO are to maintain the health of their members and to avoid costly and unnecessary treatment.

The initial tract record of HMO's is encouraging. Recent studies indicate that they can achieve overall cost savings from 10 to 40 percent. This has been achieved primarily through the HMO's ability to reduce its use of inpatient care. HMO's have used only 488 hospital days per thousand people per year compared to a national average of over 1,000 days under the traditional fee for service system. In addition, the Federal Trade Commission has reported that HMO's stimulate competition in the health care marketplace which results in reduced costs and increased benefits. Thus, HMO's are showing us that they can provide quality health services and at the same time work toward reducing health care costs.

Mr. Speaker, the goal of the HMO program is authorized by the committee is twofold. First, the program encourages the continued development of health maintenance organizations so that more consumers will have a choice between an organized system for providing care and the fee for service system. Second, it assures that all HMO's which are qualified by the Federal Government are providing the required services in a manner prescribed by law.

H.R. 13655 as amended makes the following changes in title XIII.

First. It would extend the authorizations of appropriations for making grants and contracts to support entities desiring to become HMO's and HMO's for 2 fiscal years; $63 million would be authorized in both fiscal year 1980 and fiscal year 1981.

Second. The requirements related to an HMO's provision of services would be modified. The HMO would be allowed to collect payments from a workmen's compensation or insurance program for services covered by those programs. The restrictions on an HMO's ability to contract for physicians' services would be reduced during the HMO's first 4 years. An HMO would not be required to assume financial responsibility for services provided by another organization if the member intentionally left the area served by the HMO. Provisions would be added to modify the requirements that HMO's provide basic health services in the case of a disaster or similar occurrence or in the case where a service is unusual or infrequently performed and not necessary to protect the health of the individual.

Third. It would modify certain HMO organizational requirements including allowing an HMO to experience rate student members, requiring an HMO to have certain administrative and managerial arrangements and capabilities, authorizing the secretary to establish rules for the enrollment of medicaid beneficiaries, and modifying the policymaking body requirements for public HMO's.

Fourth. The authority for grants and loan guarantees for initial development would be amended to allow an HMO to be eligible for its establishment and up to $600,000 to support each significant expansion of membership or areas served; and amend the authority for grant support for HMO feasibility studies to allow grants regardless of the financial position of the applicant.

Fifth. It would expand the loan and loan guarantee support that may be provided to an HMO for its initial costs of operation from $2.5 to $4 million or, in any 1 year from $1 million to $2 million; and extend authority for this loan and loan guarantee support through September 30, 1981.

Sixth. Each employer which provides payroll deductions as a means of paying employees contributions for health benefits or which provides employees a health benefits plan would be required to payroll deduct the employees' contributions to the HMO upon the request of the employee.

Seventh. It would allow funds under section 319, "Migrant Health" and section 330, "Community Health Centers," of the Public Health Service Act to be used for grants for the planning and development of health services to be provided on a prepaid basis, or for the provision of health services on a prepaid basis.

Eighth. A program of loan and loan guarantee support for the acquisition and construction of ambulatory health care facilities would be established. Support would be limited to $2.5 million.

Ninth. It would establish a program of technical assistance and a national health maintenance organization intern program for the purpose of training individuals to become administrators and medical directors of HMO's.

Tenth. The requirement that the qualification and compliance function be located in the office of the Assistant Secretary for Health would be deleted.

Eleventh. It would require that all qualified HMO's must provide the Secretary with ownership information and with related information to demonstrate that the HMO is fiscally sound and to allow for the examination of transactions between the HMO and a party in interest.

Twelfth. It would extend to State and local officers or employees who are responsible for the expenditure of substantial amounts of medicaid funds the conflict-of-interest provisions which apply to Federal officers or employees.

Thirteenth. The capital expenditures review provisions of the Social Security Act (section 1122) would be amended to provide that HMO's be covered equally with other health care institutions.

Fourteenth. Finally, it would authorize the Secretary to waive the policymaking body composition requirements of title XIII for certain HMO's which are part of an insurance company or Blue Cross plan and were in operation as of January 1, 1974, eligible HMO's would have 1½ years to apply for qualification under the amendment. The Secretary may impose such terms and conditions on the HMO as he deems appropriate; and in areas served by an HMO which receives a waiver the employers may be required to offer two HMO's of the same type as that HMO which received the waiver.

The "Health Maintenance Organization Amendments of 1978" is well fashioned legislation. It balances the need to encourage and promote the development of health maintenance organizations, so that our citizens will have a choice between pre-paid health care and the traditional fee for service system; the need to provide financial support only to those applicants with the greatest potential of becoming self-sufficient HMO's; and the need to assure that qualified HMO's will remain in compliance with the requirements of title XIII.

Mr. Speaker, I again want to commend Dr. CARTER for his cooperation in bringing this legislation to the floor. Dr. CARTER's support as a physician and a Member is indicative of the importance of the legislation.

I urge all Members to join me in voting for H.R. 13655.

Mr. CARTER. Mr. Speaker, I yield 10 minutes to the distinguished gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, as we enter into the final days of this congressional term, we have many bills coming to the floor that America really does not need. But because of the fact that we have the time to legislate, we finally get around to these bills, and we bring them in on a day such as today when we have 25 bills scheduled on the calendar.

This organization known as the Health Maintenance Organization is in a health field that is relatively new. It goes under the name of HMO. Everything in Washington has initials, and this is HMO.

My objection to the continuance of this program is based on the experience of the General Accounting Office. Our GAO has been studying for quite awhile the results of these HMO's, and their general impression was that the Government should not be exposed to additional financial risk until HEW demonstrates that it can effectively monitor HMO's financial performance. That sums it up pretty well.

Can HEW handle these HMO's? Can they handle them competently for us? Until they can, let us not go forward and expand their HMO activities.

I will quote a specific statement from what a Senate subcommittee said:

> The Federal program has not, and is not, adequately organized and staffed to regulate HMO's so as to assure the public of the quality medical review and fiscal integrity expected of Federally certified HMO's.
>
> Loans totaling more than $2 million to two Federally qualified HMO's in Florida and Oregon are in trouble and the Federal Government may not get its money back.

Mr. Speaker, what they are doing here, as I understand it, under this legislation is this: By this legislation we are going to make it possible to provide up to $4 million of loans or loan guarantees to any HMO.

At the present time, they can loan up to $2.5 million. But so many times in Washington, when we are looking for a solution, we throw money at it. If we are not making a success with $2.5 million, it does not mean we are going to make any more success to throw $4 million at it.

Let us review this whole situation of HMO. Let us just take a few test situations instead of expanding it. We do not need to go to Hawaii. The distinguished chairman used Hawaii as an example. It looks like the further away we go, the better we can choose a particular illustration of someone who has the board. Right now HMO's are not a handful and see a record of success across the board. Right now HMOs are not a success. HEW is much too big. Everyone knows that today 50 cents out of every dollar of our budget is going to HEW. They already have more money than they can handle efficiently. They are now doing an audit, to see if they cannot get the country back on a hard HEW financial basis. One good place to help HEW out would be with this bill. Let us recommit it to the committee so that we will come out with a sounder version.

The Health Maintenance Organization Act of 1973 authorized a program to help develop new HMO's and expand existing ones by providing financial assistance through grants, contracts, and loans. By the end of 1977, a total of 172 organizations had received a total of $131.3 million in loans and grants. Of those, 80 which received a total of $8.5 million have either abandoned plans to begin business operations or have been determined not to be feasible organizations.

The Federal HMO program has been subjected to repeated criticism by the General Accounting Office (GAO). The most recent report was dated June 30, 1978, and was an evaluation of 14 federally qualified HMO's (by the end of 1977 there were 51 qualified HMO's). The GAO found that some of the HMO's may not meet the act's financial soundness requirement. Only 3 of the 14 have a good chance of achieving financial independence within their first 5 years of operation after qualification. On the other hand, five have a fair chance and six have a poor chance.

The GAO recommended that Congress defer action on proposals to increase total loans available to individual HMO's until HEW demonstrates that it can effectively administer the existing loan program.

HEW observed that draft loan policies have been developed, that guidelines to administer the program more effectively and uniformly will be issued shortly, and additional personnel have been added to the loan branch. Nevertheless, GAO was unimpressed and continued to believe that the Government should not be exposed to additional financial risk until HEW demonstrates that it can effectively monitor HMO's financial performance. (P. 62 of GAO Report.)

The Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs issued a report on April 20, 1978, that was highly critical of the Federal HMO program. Among its observations were the following:

> The Federal program has not, and is not, adequately organized and staffed to regulate HMO's so as to assure the public of the quality medical review and fiscal integrity expected of Federally certified HMO's. (p. 41)
>
> Loans totaling more than $2 million to two Federally qualified HMO's in Florida and Oregon are in trouble and the Federal Government may not get its money back. (p. 43)
>
> William McLeod, Director of the HMO Qualification and Compliance Office said that he felt "a moratorium was in order so that we could get our house in order to address many of these (problems), plus give us a chance to revise our application review process and work out the existing backlog." (p. 44)
>
> Dr. William Munier, Director of the HEW Office of Quality Standards, stated that the "present situation can best be summarized as in imminent disaster * * * [and] * * * is the logical product of devoting nearly all resources on the immediate problems of qualifications and neglecting the qualified HMO's." (p. 45)

In light of the above disquieting observations, what does the committee propose to do with respect to financial assistance to HMO's? Why increase it, of course. Section 6 of H.R. 13655 amends section 1305 of the Public Health Service Act to expand the support that may be provided to an HMO for its initial costs of operation to an aggregate amount of $4 million of loans or loan guarantees (with a $2 million limit in any 1 year). Further, such support could now include capital costs such as acquiring equipment. By contrast, under existing law an HMO is limited to $2.5 million (with a $1 million limit in any 1 year).

Also, under section 9 a new section would be added to the law to provide up to $2.5 million in loans and loan guarantees to an HMO for the acquisition and construction of ambulatory health care facilities.

These expanded authorities are completely unwarranted in view of HEW's track record with respect to the existing HMO program.

Restraint should also have been placed on the total authorizations for the program which are to be increased from $50 million to some $63 million for each of fiscal years 1980 and 1981. Indeed, we should have delayed such future authorizations pending vigorous oversight by our committee and substantial improvement by HEW.

Finally, it was reported in the August 7, 1978 Washington Report on Medicine and Health that HEW is looking deeper into potential problem HMO's and is finding material that, according to an internal memorandum, is "very serious and requires fast action on our part." They include some projects with loan advance problems, those "way behind in enrollments and revenues," and others that "have been having trouble almost from the start." All of this has a familiar, but deplorable, ring.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, H.R. 13655, revises and extends authorities under title 13 of the Public Health Service Act for the support of prepaid health plans known as health mainenance organizations. It provides authorizations of $63 million in each of fiscal years 1980 and 1981 for that purpose, I believe that this is a reasonable bill which strengthens and improves the health maintenance organization program.

To me, the most significant improvement is that the committee has taken steps to insure that the management of these organizations will be of the highest caliber. In that regard, we have written into the law that those who apply for Federal HMO support must have the ability necessary to study, plan, develop and administer an HMO. The bill also provides for an HMO management training program and requires HEW to increase the level of technical assistance to these organizations.

In an effort to avoid abuses which have unfortunately occurred in the past, the bill also requires HMO's to meet financial reporting requirements similar to those included in the medicare-medicaid fraud and abuse amendments approved last year. The bill provides the Secretary with the authority to regulate the sales practices of HMO's as well.

It is certainly true that problems have occurred in this program in the past. Information developed by a Senate Investigations Committee and by the General Accounting Office underline the serious nature of problems associated with HMO's. There have been efforts by "fast-buck artists" to enrich themselves at the expense of the HMO program. There have been fraudulent claims made by HMO operators in order to enroll new HMO members. There is evidence that HEW has been lax in its monitoring of HMO's, particularly in regard to the loan program and in assuring that HMO's are in compliance with the HMO laws. The existence of these problems has been given a great deal of credence by the Committee and many of the provisions of this bill are designed to deal with the problems identified.

I think it important to take note that HEW has assigned more personnel to the loan and compliance programs and has developed a new compliance monitoring system. I believe that it is extremely important that HEW continue to develop and refine these efforts to insure that funds appropriated for this beneficial program are not wasted through mismanagement. I also believe that it is incumbent upon the Congress to continue our monitoring efforts in this regard and I would note that the Subcommittee on Health and the Environment has specifically requested the its scrutiny of the HMO program. In General Accounting Office to continue conclusion, I believe that this bill represents a reasonable response to the problems of the HMO program and that the bill will go a long way to insure that the program is prudently managed. For these reasons, I would urge favorable consideration of H.R. 13655.

Thank you, Mr. Speaker.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. WAXMAN), a distinguished and constructive member of the subcommittee.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Speaker, I, too, support this legislation. I think it is a worthwhile product of our subcommittee's deliberation. I think it ought to be approved by the Members of the House and enacted into law this year. It is important, I think, in order for us to help the development of an alternative delivery system for health care in this country. The HMO, health maintenance organization, holds a great deal of promise, particularly as we look forward to some kind of a health insurance program and ways of holding down costs.

I rise, also, to seek clarification from the floor manager of this bill, the gentleman from Florida (Mr. ROGERS), concerning certain insurance companies and Blue Cross/Blue Shield plans which will be permitted by the health maintenance organization amendments to keep their organizational structure and governing body intact in spite of their not meeting the specifications of current legislation. Specifically, am I correct in understanding that no such entity which operates an HMO that has come into existence subsequent to January 1, 1974, will be eligible to be granted a waiver under the conditions of section 14 of this legislation?

Mr. ROGERS. The gentleman is correct in that understanding.

Mr. WAXMAN. It is my understanding that these waivers will be granted for a service area which is described in the HMO's application. If at any later time the HMO intends to expand its service area, will it have to apply for a waiver for that new service area?

Mr. ROGERS. Yes. It will. That is stated correctly.

Mr. WAXMAN. Mr. Speaker, the Subcommittee on Oversight and Investigations, chaired by the gentleman from California Congressman Moss, held extensive hearings into the domination of Blue Shield plan boards by medical societies. They were concerned that Blue Shield, by virtue of this type of interlocking arrangements, was severely limiting the potential for competition in the health care industry—hence being a major source of rapidly rising health care costs.

I would like to know whether, in allowing this waiver provision, we will be requesting that the Department of Health, Education, and Welfare take competition into account in granting such waivers under section 14?

Mr. ROGERS. As I am sure the gentleman is aware, we have all been cognizant of the work done by the Subcommittee on Oversight and Investigations regarding the lack of competition in the health care field. Congress intends that HEW, in promulgating regulations, take competition into account and consider the penetration of a given market by the local Blue Cross/Blue Shield plans. A waiver should not be granted if the Secretary determines that competition will be diminished.

Mr. WAXMAN. And if HEW, in examining a proposed change in service area, determines that the Blue Cross/Blue Shield plan had a large penetration area in its own, then that would be a factor that would lead to strong questioning of any HMO expansion by the Blue Cross/Blue Shield plan?

Mr. ROGERS. That is correct.

Mr. WAXMAN. As the gentleman is aware, the Moss subcommittee was particularly worried about situations such as they found in Cincinnati, Ohio, where it became apparent that the Blue Shield plan owned by the Ohio State Medical Association first tried to impede and now controls the HMO in that city, according to the subcommittee report. I assume that this kind of situation would be looked at very closely by HEW if that plan ever intended to expand its service area.

Mr. ROGERS. That would certainly be our committee's intent.

Mr. WAXMAN. I thank the gentleman for these clarifications.

Again I reiterate my support for this legislation before us. This one section did raise questions, and I am satisfied those questions have been answered satisfactorily.

Mr. ROGERS. Mr. Speaker, I have no further requests for time.

Mr. CARTER. Mr. Speaker, I had granted the gentleman from Texas (Mr. COLLINS) 10 minutes and he had reserved a portion of the time.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I want to sum up some key sections of the report we have where the General Accounting Office reviewed the HMO's and was interested in the financial soundness and how the HMO financial strength met the Government requirements. They studied 14 of these HMO's. They found only three have a good chance of financial independence. They had five in the middle, and they had six that have a very poor chance of financial success. And that means the odds, according to the General Accounting Office were 2 to 1 with the fact that HMO's were more likely to fail than succeed.

The other group I want to go back and quote is the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs. The report they issued on April 20, 1978 is important, and I would like to quote from two specific gentlemen who are financial authorities on HMO's.

The first is William McLeod, Director of the HMO Qualification and Compliance Office who said:

> * * * a moratorium was in order so that we could get our house in order to address many of these [problems], plus give us a chance to revise our application review process and work out the existing backlog.

I also want to commend Mr. McLeod. He is working hard, he is proud, he is a career civil servant who wants health care to succeed. He is not interested in how big HMO's are. He is interested in quality of health care.

I also want to quote from Dr. William Munier, Director of the HEW Office of Quality Standards, who stated:

> * * * present situation can best be summarized as an imminent disaster * * * [and] * * * is the logical product of devoting nearly all resources on the immediate problems of qualifications and neglecting the qualified HMO's.

What we should do in Congress is delay future authorizations. What we ought to do is to have more oversight. We ought to study HMO's, and based on constructive improvements we would be in a position to let HMO's go ahead and expand; but at this time we should not consider any type of expansion.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding.

I am sure that the gentleman knows that the other body has passed the bill with only one vote against it. Senator NUNN, who wrote the report the gentleman is talking about, strongly supported the bill, with more funds in the Senate bill than in the House bill.

Therefore, I think that pretty much answers the gentleman's concerns.

Mr. COLLINS of Texas. It would not be my position to comment upon the judgment of the other body. However, many times as we have reviewed their record of voting, where only one or two voted against a particular bill, I recall a bill called ERISA as to which they voted unanimously, and now they regret that one.

I remember also that we spent a great deal of time talking here about electronic surveillance; and I think we had 100 House Members who voted against it. As I recall it, only one Senator did. The Senate votes very quickly. I am proud that in our body we tend to deliberate and study bills in greater depth.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentleman for yielding.

I would like to comment on what the gentleman said.

I have followed the development of the HMO programs for some time. Of course, I appreciate the support of the gentleman from Kentucky (Mr. CARTER) for the programs; but I share the concerns that my friend, the gentleman from Texas (Mr. COLLINS), is bringing to the floor today because there is a very definite tendency to take the prepayment of health care idea, which has some very good aspects to it, and to treat it as a panacea for whatever health problems we may have.

Mr. Speaker, the truth is that it does not work that way. The truth is that the Kaiser-Permanente program which is so commonly referred to as the ideal situation, is not quite so ideal at all. The Kaiser-Permanente results are quite mixed. There are some Kaiser-Permanente facets which work well. Some of them work quite badly.

Furthermore, Mr. Speaker, some of the people who have addressed themselves to the Kaiser-Permanente system have been outspoken in their concerns, such as Dr. Garfield.

There has been much concern about what has developed in this rush to embrace the idea of prepayment clinics as the be-all-and-end-all in coming up with the right kind of health care system.

While I would not want to preclude the development of prepayment health care in this country, I think there may be a viable and realistic alternative, and a good one. I think we have to be very cautious in embracing and tossing dollars into the idea of building all these HMOs.

Mr. Speaker, I think the gentleman's word of caution is very well put, and I intend to join him in voting against this bill.

Mr. COLLINS of Texas. Mr. Speaker, I appreciate the very sound comments of the gentleman from Oklahoma (Mr. EDWARDS).

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to my good friend, the gentleman from Texas (Mr. COLLINS), I say that really there has been no great rush toward the HMO concept. There has been some difficulty, which we will frankly admit. However, we have taken steps in the committee to see that the management of these organizations will be of the highest caliber. That is in the form of an amendment.

In that regard, we have written into the law that those who are applying for Federal HMO support must have the ability necessary to study, plan, develop, and administer an HMO. This was written into the law this year, I would say to my good friend, the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Speaker, I would like to ask the gentleman from Kentucky about the group which the GAO has checked, finding that 6 out of 14, a little less than half, had a very poor chance of succeeding, is of any significance here?

Was not the original bill passed on the premise that HMO's were adequately equipped and that they had the ability to do the job? We did not originally set the HMO's up to promote failures, did we?

Mr. CARTER. Actually, the program started as an experimental program, in a sense. Not too much money was appropriated for it, I would say to the distinguished gentleman from Texas. In fact, only $22.1 million was appropriated last year for this program. The program was introduced as an alternative to the present health care delivery system. We were seeking a better way to administer health care, a way which would be competitive with other ways so that we could reduce the price to the patient.

Mr. COLLINS of Texas. I know the doctor, the gentleman from Kentucky (Mr. CARTER) knows medical matters much better than I do, but why have they increased grants from $2.5 million to $4 million as a limit in these days when President Carter has asked us to be austere down here in the Congress?

Mr. CARTER. For the simple reason that we have had a great deal of inflation, as the gentleman knows, over the years, and the costs of medical services and equipment have gone up tremendously. I would say that we have decreased the authorization for fiscal year 1979. Of course, I do not know what the appropriation level will be—but again the appropriation was only $22.1 million last year.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I am pleased to yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

I think the gentleman might be interested in knowing that the administration asked for an increase in the limit on loans to support HMO's costs of operation to $5 million, but the committee cut that down, so I am sure the gentleman will be pleased that the committee is trying to be responsible.

Mr. CARTER. Mr. Speaker, I certainly agree.

Mr. COLLINS of Texas. If the gentleman will yield further, the gentleman knows America talks about inflation a lot, and heaven knows I believe in health. I spent all of my life in the life insurance business, and I wish everybody could live forever, but inflation is the No. 1 problem in this country. I am disappointed to learn that the adimnistration asked for $5 million and disappointed that the committee recommended $4 million. Inflation is due to Congress spending too much money. The folks back home tell us we are spending too much money, we are borrowing too much money, and we are running too big a deficit. With this big jump in this bill, this is another step toward increased inflation, more deficit financing, and more taxes.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

I just want to say, of course, if the gentleman does not look at anything which a program accomplishes, every program that passes here can have that result. But when we can effect cost savings, keep people out of the hospital, and reduce the cost care for people, we are fighting inflation. And, I must add, we are fighting inflation in the most rapidly rising sector in the economy. The HMO program is designed with incentives to keep costs down. It is one program where we have good statistics on that show us that without question.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I am happy to yield to the distinguished gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding. If the gentleman actually looks at the facts and he studies HMO's accomplishments, he will find, for example, that HMO's show 49 percent less hospital days per thousand than the national average, and 30 percent lower than Blue Cross. He will find that in medicaid, medicaid enrollees of HMO's cost the medicaid program 37 percent less than the equivalent fee for service. He will find that at this time of terrible inflation in which, as the Chairman has so properly pointed out, health costs and hospital costs specifically have gone up many times faster than other kinds of costs in our society, that even during that period, HMO premiums went up much less rapidly than those of Blue Cross. So if the gentleman from Texas (Mr. COLLINS)—and I know he is very committed and very sincere on this point—is interested in tackling the inflation problem in the health care field, this is the kind of initiative that is required.

I might also say that the gentleman from Oklahoma (Mr. EDWARDS) was talking earlier about being very cautious about the application of the prepaid concept. The fact of the matter is that we do in this country, not just in Kaiser Permanente but elsewhere, make this process work to deliver better care to more people for less money, and that surely we can take some of those principles and apply them more widely.

Mr. CARTER. I thank the distinguished gentleman from New Jersey for his very meaningful comments.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to my friend, the gentleman from Texas.

Mr. COLLINS. I thank the gentleman for yielding.

We are talking in terms of rhetoric. What we should do is talk in terms of the facts of the GAO experience. They checked 14 of these HMO's and said that 6 of them—I read what the gentleman said and heard what the gentleman said in generalities, but they checked and audited 14 HMO's and said 6 of them were headed toward financial disaster. I do not know of any category of business where half of them are headed toward financial disaster. That is a terrible experience record. Any way we measure it, we have got to evaluate it by what we call in business the bottom line, and the bottom line is that they are operating on an insecure, overspending, losing basis.

Mr. COLLINS of Texas. HMO's today simply are not on a sound financial operating basis. Those are the facts.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Speaker, the gentleman from Texas would agree that the facts I cited are facts, not rhetoric. They are, in fact, the facts. It is very important to look at those facts.

The gentleman has referred to some difficulties the HMO's have had. I regret those, but the fact is we had a law for a number of years which made it very difficult for HMO's to form and survive. What we are trying to do here is provide legislation that will allow them to be formed and survive and provide decent health care at lower cost.

Mr. CARTER. Mr. Speaker, I thank the gentleman from New Jersey and again commend the gentleman on what the gentleman has said. He is exactly right.

Now, to read exactly what the distinguished gentleman from Texas said about the HMO's, "Of the 14, 3 HMO's have a good chance to achieve financial independence; 5 have a fair chance and 6 have a poor chance."

Mr. Speaker, we have done something about this very thing by insuring that people who are more able financially and have a greater capability in this field are granted funds to develop HMO's.

Mr. Speaker, I want to thank my good friend, the gentleman from Texas, for all the good things the gentleman said today. The gentleman really is a great and good man.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has expired.

Mr. ROGERS. Mr. Speaker, I yield 1 additional minute to the gentleman from Kentucky (Mr. Carter).

Mr. CARTER. Mr. Speaker, the gentleman from Texas believes in the brotherhood of man, the fatherhood of God, the neighborhood of Dallas and 10 percent interest.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California (Mr. Brown).

Mr. BROWN of California. Mr. Speaker, we may be belaboring this point, which I hope I do not do; but I have had some experience with HMO's. There are efforts in my own district to proceed with the development of HMO's for the purpose of improving the health care delivery system in our area.

I can assure the gentleman from Texas, whose concern with inflation I share very much, that if I did not personally feel that these initiatives had the strong possibility of bringing the health care field under control, I would not be supporting this legislation.

One of the flaws in our present system of delivering health care services has been that there are not adequate controls on inflation. The distinguished members of the Committee on Interstate and Foreign Commerce have wrestled with this program of cost containment. I am sure they have found it extremely difficult to bring about control of hospital and medical services costs. The reason it is so difficult is in part because of our system of paying for medical care today on the basis of the illnesses that occur, not on the basis of maintaining health. It is that principle of maintaining health which is embodied in the health maintenance organizations. In so doing, if they are able through preventive measures, through environmental measures, or through other measures to prevent the incidence of disease and poor health, they will be able to reduce the demand on these very expensive technological services in the hospitals, the very expensive professional services of doctors. In this way we can truly bring under control the skyrocketing health costs which are going to plague us interminably if we do not take this action now.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for these comments.

Mr. Speaker, I would just like to conclude by saying that our studies have shown that the initial track record of HMO's is really encouraging. Recent studies indicate that we can achieve an overall savings of from 10 to 40 percent. That is significant to America and it is significant to each person who has to pay a health bill.

● Mr. STAGGERS. Mr. Speaker, I rise in support of legislation developed by the subcommittee which would extend the Federal program supporting health maintenance organizations. HMO's have proven their value to the health of the American public. As the subcommittee chairman, Mr. Rogers, has pointed out, HMO's are achieving significant cost savings while providing quality health services. The strong support of HMO's by labor and industry attests to these achievements and indicates the potential of HMO's to reduce the heavy burden of health care costs.

Mr. Speaker, in 1976 Americans spent nearly $140 billion on health care. That is $640 for each American or more than $2,500 for a family of four. Health care in total increased to more than $1 out of every $12 of our gross national product and by 1980, according to Government estimates, the figures will exceed $1 out of every $10.

If we are to effectively deal with the problem of rising health care costs, we must alter the structure of the present health care delivery system so that consumers and providers have incentives to control health care costs. Such incentives are basic to the operation of health maintenance organizations.

The legislation before us provides for the extension of and needed changes in the HMO program. It promotes the further development of HMO's, but it also includes provisions to help insure that federally assisted HMO's will become financially self-sufficient and that any fraud or abuse by HMO's will be detected. The HMO program and this legislation deserve the support of all Members. I strongly urge all Members to join me in voting for H.R. 13655.●

● Mr. PEPPER. Mr. Speaker, I support the bill before the House, H.R. 13655, the Health Maintenance Organization Amendments of 1978. Once again, our distinguished and valued colleague, Mr. Rogers, and the other members of the Subcommittee on Health and the Environment deserve our thanks and praise for a job well done. This is a sound bill, and it should be passed.

By extending the authorization periods for feasibility, planning and development grants, and increasing the authorized amounts for grants and loans under the program, we will create a financial climate which makes it possible for developing HMO's to gain sound footing in the medical marketplace. The new provision, which makes available up to $600,000 to support each significant expansion of membership or areas served will benefit both HMO's and potential beneficiaries.

On October 27 of last year, I introduced H.R. 9788, legislation to promote the systematic development of HMO's and to enable them to better serve the poor and the elderly people of this country. I am pleased to note that the committee saw fit to include H.R. 13655, a provision similar to my own, for the establishment of a loan program to help support the acquisition or construction of ambulatory care facilities. My own bill would also establish a grant program to cover part of the construction costs for facilities for ambulatory services for HMO enrollees who live in medically underserved areas. While H.R. 13655 does not specifically include this provision, it does authorize the Secretary to make loans to public and nonprofit private HMO's and to guarantee loans by non-Federal lenders and the Federal Financing Bank to private and nonprofit private HMO's for projects which serve medically underserved populations. The bill goes another step to make available loans and loan guarantees for the acquisition of equipment for facilities acquired or constructed under this section. Moreover, it expands current support for initial costs of operation, raising to $4 million the aggregate amount in loans or loan guarantees for this purpose and amending existing law to include capital costs, including the acquisition of equipment.

Efficient management of prepaid health plans is not an uncomplicated proposition, and I am most pleased that the bill before us includes authorization for a national health maintenance organization intern program to train individuals to become administrators and medical directors of HMO's. I note with pleasure the inclusion of the term "medical directors," as this reflects the view I expressed to the subcommittee that physicians who are likely to become involved in HMO management should be eligible for this training program. The bill further strengthens the HMO law to require that HMO's have certain administrative and managerial arrangements and capabilities.

Other provisions are worthy of note. H.R. 13655 would require that employers which provide payroll deductions as a means of paying employees' contributions for health benefits or which provide employees a health benefits plan make payroll deductions of the employee's contribution to the HMO at the request of the employee. Further, the bill would allow an HMO to offer services to full-time students at an accredited institution of higher education at an "experience rate," rather than on a community rating system.

The bill amends the HMO law to allow funds under the migrant health and community health centers programs of the Public Health Service Act to be used for grants to migrant and community health centers which are not HMO's for the planning and development of health services to be provided on a prepaid basis or for the provision of health services on a prepaid basis.

Mr. Speaker, the inclusion of provisions to avoid any potential for fraud or abuse is commendable. I support stringent reporting and disclosure requirements such as those included in this bill and believe they will compliment our ongoing efforts to discourage any who would take unfair advantage of Federal programs designed to expedite HMO growth. The bill not only provides requirements for disclosure of ownership and related information, but also requires that this information be made available to members of the HMO. The ownership information is identical to the requirements imposed under Public Law 95-142, the medicare-medicaid anti-fraud and abuse amendments enacted last year.

Additional provisions included by the committee will further strengthen the integrity of the program. The bill includes a requirement that State and local officers or employees who are responsible for the expenditure of substantial amounts of medicaid funds be subject to the conflict-of-interest provisions which apply to Federal officers or employees. Moreover, the bill requires HMO's to carry out enrollment of title XIX recipients under procedures developed by the Secretary in regulations. This provision is designed to address and put a stop to abuses in the marketing of HMO's which have been brought to light. This requirement should be well received by those who wish to prevent repitition of abuses which were reported by the Permanent Subcommittee on Investigations of the Senate Governmental Affairs Committee.

While this bill does a great deal to promote the responsible growth and development of health maintenance organizations, much remains to be done to make HMO enrollment available to all our citizens. I am distressed that the bill includes no provisions designed specifically to encourage enrollment by the elderly and the poor in HMO's.

Mr. Speaker, HMO enrollment should be widely available to all Americans. The most tragic victims of our health care crisis are those who have no health insurance or only very little coverage. As is so often the case, this means the poor and the elderly. HMO's offer comprehensive and cost-effective medical benefits. We can and must assure the elderly and the poor of unfettered access to them.

Provisions included in my bill, H.R. 9788, would address this issue. First, current law requires that at least one-half of HMO membership be non-medicare or medicaid. This denies HMO membership to many medicare and medicaid eligibles and may well impede HMO growth in areas which are heavily populated by the poor or the elderly. My bill would grant the Secretary statutory authority to waive this requirement where an HMO proposes to serve an area where there is a high concentration of elderly or poor citizens and where the HMO could not adequately serve the population of that area under the current requirements.

Second, right to participation in HMO's should be guaranteed for medicaid recipients. At this time, only 17 States contract with HMO's. My legislation would remedy this unfair exclusion of medicaid eligibles by requiring States to offer the option of membership in qualified HMO's with a negotiated prepaid risk contract.

Finally, Mr. Speaker, we must take steps to encourage HMO's to enroll medicare beneficiaries. On May 2, 1978, I conducted a hearing by the Subcommittee on Health and Long-Term Care of the Select Committee on Aging, both of which it is my privilege to chair, in which we examined the benefits to the elderly of HMO enrollment. Witnesses at the hearing were Hale Champion, Under Secretary of Health, Education and Welfare; Nelson Cruikshank, Counsellor to the President on Aging and Chairman of the Federal Council on Aging; Daniel G. Harwitz, M.D., president of the American Health Plan, Inc., in North Miami Beach, Fla.; Herman A. Schwartz, M.D., Department of Internal Medicine, the Permanente Medical Group (Kaiser) and director of the Cancer Home Care Program, San Francisco Medical Center; and Milton I. Roemer, M.D., professor, School of Public Health at the University of California at Los Angeles.

The advantages were clearly demonstrated: The potential for out-of-pocket cost savings; improved access to a wide range of services, such as home health care and prescription drugs; and assured availability of preventive and maintenance care, free of bureaucracy and burdensome paperwork.

My bill seeks to expand enrollment of the elderly by bringing medicare reimbursement of HMO's into line with prevailing practices by allowing the Secretary to negotiate a prospective per capita reimbursement rate for medicare beneficiaries.

Under my proposal, an HMO would be paid on a prospective basis 95 percent of the cost of rendering the part A and B services in the community. In addition to the obvious 5 percent saving to the Government, the HMO would be required to use its savings to reduce premium rates charged to medicare enrollees or to provide additional benefits, such as expanded home health care, day care, and other services which can help to prevent the institutionalization of older citizens. This proposal would reward HMO's for their efficiency and, at the same time, allow them to provide a wider range of services to medicare enrollees. It can reduce, to a great extent, the out-of-pocket costs to the medicare member and encourage the enrollment of more medicare beneficiaries. This proposal offers one approach to encouraging medicare enrollments. It is my sincere hope that this or another acceptable approach will be taken to open HMO's to participation by medicare beneficiaries. I stand ready to assist the Department and legislative committees with jurisdiction in the development of provisions aimed at encouraging medicare enrollment.

Both my subcommittee and the full Select Committee on Aging have as the highest priority the expansion of noninstitutional services for care of the elderly. Our current medical programs, medicare and medicaid, promote an institutional bias which is both callous and costly. The care a patient receives under medicare is determined less on the basis of what is needed than on the basis of what will be reimbursed. And those services which are reimbursed deny the most pressing need of the vast majority of older citizens—care for chronic illness and health maintenance.

The current medicare program denies coverage for preventive health care. It is in the area of prevention and maintenance that HMO's can provide such enormous assistance to the elderly.

In my own district, we have seen evidence of the success of this concept. Cuban refugees to our shores brought with them the tradition of "Centros Beneficos," which started out as institutions providing both inpatient and outpatient health care and later expanded to include recreational and educational activities, as well. The "Centros" were the forerunners of the modern HMO.

We are all aware of the advantages of HMO enrollment. The poor and the elderly of this Nation should be invited to participate fully in the development of an alternative health care delivery system which can reap such great benefits for all our citizens. I will continue to work in the 96th Congress to see that they are guaranteed a place in HMO growth and development.●

Mr. ROGERS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 13655, as amended.

The question was taken.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

HEALTH SERVICES RESEARCH STATISTICS AND TECHNOLOGY

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12584) to amend the Public Health Service Act to revise and extend the authorities under that act relating to health services research and health statistics and to establish a national center for health care technology, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE, REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Services Research, Health Statistics, and Health Care Technology Act of 1978".

(b) Whenever in this Act (other than in sections 11 and 12) an amendment or repeal is expressed in terms of an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

EXTENSION OF AUTHORIZATIONS

SEC. 2. (a) Section 308(i) (1) is amended—

(1) in the first sentence (A) by striking out "and" after "1976,", and (B) by inserting before the period a comma and the following: "$36,000,000 for the fiscal year ending September 30, 1979, $44,000,000 for the fiscal year ending September 30, 1980, and $49,000,000 for the fiscal year ending September 30, 1981"; and

(2) by striking out the second sentence and inserting in lieu thereof the following: "At least 20 per centum of the amount appropriated under the preceding sentence for any fiscal year or $6,000,000, whichever is less, shall be available only for health services research evaluation and demonstration activities directly undertaken by the Center. There are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1979, $4,000,000 for the fiscal year ending September 30, 1980, and $4,000,000 for the fiscal year ending September 30, 1981, for health services research training under section 304(b) (1) (B).".

(b) Section 308(i) (2) is amended (1) by striking out "and" after "1976,", (2) by inserting before the period a comma and the following: "$60,000,000 for the fiscal year ending September 30, 1979, $75,000,000 for the fiscal year ending September 30, 1980, and $80,000,000 for the fiscal year ending September 30, 1981", (3) by adding at the end the following: "Of the amount appropriated under the preceding sentence for any fiscal year, at least $1,000,000 in the fiscal year ending September 30, 1979, $2,000,000 in the fiscal year ending September 30, 1980, and $2,000,000 in the fiscal year ending September 30, 1981, shall be available only for health statistics training in epidemiology and biostatistics under section 304(b) (1) (B).".

(c) Section 308(i) is amended by adding after paragraph (2) the following new paragraph:

"(3) The authority of the Secretary to enter into contracts under sections 304, 305, and 306 shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

GENERAL AUTHORITY

SEC. 3. (a) Subsection (a) (2) of section 304 is amended (1) by striking out "and" at the end of subparagraph (C), (2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and (3) by adding at the end the following new subparagraph:

"(E) health care costs, increases in such costs, and the reasons for such increases.".

(b) Subsection (b) (1) (B) of such section is amended by inserting after "training" the following: "through the National Center for Health Services Research and the National Center for Health Statistics".

(c) The second sentence of subsection (c) of such section is amended to read as follows: "Coordination of the health services research, evaluation, demonstration, and health statistical activities authorized by this Act shall be carried out through the National Center for Health Services Research and the National Center for Health Statistics.".

NATIONAL CENTER FOR HEALTH SERVICES RESEARCH

SEC. 4. (a) Subsection (b) of section 305 is amended—

(1) by striking out "may undertake and support" and inserting in lieu thereof "shall undertake and support"; and

(2) by striking out "construction," in paragraph (3).

(b) Subsection (e) of section 305 is redesignated as subsection (f) and the following new subsection is inserted after subsection (d):

"(e) No application for a grant or contract for health services research under a law administered by the Secretary may be approved before the Center and the Health Care Financing Administration (or its successor) have given a reasonable opportunity to review the application for technical competence.".

NATIONAL CENTER FOR HEALTH STATISTICS

SEC. 5. (a) Subsection (b) of section 306 is amended (1) by striking out "may", (2) by inserting "shall" after "(1)" and after "(2)", (3) by striking out "and" at the end of paragraph (1), (4) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and (5) by adding after paragraph (2) the following:

"(3) may collect, furnish, tabulate, and analyze statistics, and prepare studies, on matters referred to in paragraph (1) upon request of public and nonprofit private entities under arrangements under which the entities will pay the cost of the service provided.

Amounts appropriated to the Secretary from payments made under arrangements made under paragraph (3) shall be available to the Secretary for obligation until expended.".

(b) (1) Subsection (e) of section 306 is amended to read as follows:

"(e) (1) The Secretary shall by regulation establish standardized means for the collection of health information and statistics under laws administered by the Secretary.

"(2) For the purpose of producing comparable and uniform health information and statistics, there is established the Cooperative Health Statistics System. The Secretary, acting through the Center, shall—

"(A) coordinate the activities of Federal agencies involved in the design and implementation of the System;

"(B) undertake and support (by grant or contract) research, development, demonstrations, and evaluations respecting the System;

"(C) make grants to and enter into contracts with State and local health agencies to assist them in meeting the costs of data collection carried out under the System; and

"(D) review the statistical activities of the Department of Health, Education, and Welfare to assure that they are consistent with the System.

States participating in the System shall designate a State agency to administer or be responsible for the administration of the statistical activities within the State under the System. The Secretary, acting through the Center, shall prescribe the types of organization systems (including consortia of entities which use health information and statistics and entities which produce health information and statistics) for statistical activities which may be used by States participating in the System.".

(2) Paragraph (4) (D) of subsection (i) of section 306 is amended by inserting before the semicolon the following: ", with respect to the Cooperative Health Statistics System established under subsection (e) (2), and with respect to the standardized means for the collection of health information and statistics to be established by the Secretary under subsection (e) (1)".

(c) The first sentence of subsection (f) of section 306 is amended by inserting ", acting through the Center," after "the Secretary".

(d) Paragraph (2) (A) of subsection (i) of section 306 is amended by inserting "health planning," after "health statistics,".

(e) Section 306 is amended by redesignating subsection (i) as subsection (k) and by inserting after subsection (h) the following new subsection:

"(i) The Center may provide to public and nonprofit private entities engaged in health planning activities technical assistance in the effective use in such activities of statistics collected or compiled by the Center.".

(f) Section 306 is amended by adding after subsection (i) (added by subsection (e) of this section) the following:

"(j) (1) (A) The Secretary, acting through the Center, shall by regulation establish, not later than two years after the date of the enactment of this subsection, guidelines for the collection, compilation, analysis, publication, and distribution of statistics and information necessary for determining the effects of conditions of employment and indoor and outdoor environmental conditions on the public health. Guidelines established under this subsection shall not (i) authorize or require the disclosure of any matter described in section 552(b) (6) of title 5, United States Code, and (ii) authorize or require the disclosure of any statistics or other information which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b) (4) of such section. The guidelines shall be reviewed and, if appropriate, revised at least every three years after the date they are initially established. Guidelines shall take effect on the date of the promulgation of the regulation establishing or revising the guidelines or such later date as may be specified in the guidelines.

"(B) The guidelines shall be designed—

"(i) to improve coordination of environmental and health studies, statistics, and information, and to prevent overlap and unnecessary duplication with respect to such studies, statistics, and information;

"(ii) to assure that such studies, statistics, and information will be available to executive departments responsible for the administration of laws relating to the protection of the public health and safety or the environment;

"(iii) to encourage the more effective use by executive departments of such studies, statistics, and information;

"(iv) to improve the statistical validity and reliability of such studies, statistics, and information; and

"(v) to assure greater responsiveness by the Department of Health, Education, and Welfare and other executive departments in meeting informational and analytical needs for determining the effects of employment and indoor and outdoor environmental conditions on public health.

"(C) In establishing and revising guidelines under subparagraph (A) the Secretary shall consult with and take into consideration any recommendations of the Task Force on Environmental Cancer and Heart and Lung Disease, the Administrator of the

Environmental Protection Agency, the Secretary of Labor, the Consumer Product Safety Commission, the United States National Committee on Vital and Health Statistics, and the National Academy of Sciences through its Institute of Medicine.

"(D) For purposes of this subsection, the term 'guidelines' means the guidelines, either as initially established or as thereafter revised, in effect under this subsection.

"(2) The Center shall serve as a clearinghouse for statistics and information with respect to which guidelines have been establishd under paragraph (1) and shall assist executive departments in obtaining such statistics and information for purposes of administering laws under their jurisdiction relating to environmental health protection or the safety and health of employees.

"(3)(A) Each executive department shall comply with the substantive and procedural requirements of the guidelines.

"(B) The President shall by Executive order require each excutive department to comply with requests, made in accordance with the guidelines, by the Secretary, the Administrator of the Environmental Protection Agency, the Consumer Product Safety Commissions, or the Secretary of Labor for statistics and information.

"(C) The President may by Executive order exempt any executive department from compliance with a requirement of the guidelines respecting specific statistics or other information if the President determines that the exemption is necessary in the interest of national security.

"(4) In carrying out his duties under this subsection, the Secretary, acting through the Center, shall, insofar as practicable, provide for coordination of his activities with those of other Federal agencies and interagency task forces relating to the collection, analysis, publication, or distribution of statistics and information necessary for determining the effects of conditions of employment and indoor and outdoor environmental conditions on the public health."

(g) The first sentence of subsection (d) of section 308 is amended by inserting after "unless authorized" the following: "by guidelines in effect under section 306(j) or".

STUDY OF COSTS OF DISEASES AND ADVERSE EFFECTS WHICH ARE ENVIRONMENTALLY RELATED

Sec. 6. (a) Section 304 is amended by adding at the end the following:

"(d)(1) The Secretary and the National Academy of Sciences (hereinafter in this subsection referred to as the 'Academy') shall, jointly and in cooperation with the Administrator of the Environmental Protection Agency, the Secretary of Labor, the Consumer Product Safety Commission, the Council of Economic Advisers, the Council on Wage and Price Stability, the Council on Environmental Quality, and other entities of the Federal Government which the Secretary determines have the expertise in the subject of the study prescribed by this paragraph, conduct, with funds appropriated under section 308(i)(1), an ongoing study of the present and projected future health costs of pollution and other environmental conditions resulting from human activity (including human activity in any place in the indoor or outdoor environment, including places of employment and residence). In conducting the study, the Secretary and the Academy shall, to the extent feasible—

"(A) identify the pollution (and the pollutants responsible for the pollution) and other environmental conditions which are, or may reasonably be anticipated to be, responsible for causing, contributing to, increasing susceptibility to, or aggravating human diseases and adverse effects on humans;

"(B) identify each such disease and adverse human effect and specifically determine whether cancer, birth defects, genetic damage, emphysema, asthma, bronchitis, and other respiratory diseases, heart disease, stroke, and mental illness and impairment are such a disease or effect;

"(C) identify (on a national, regional, or other geographic basis) the source or sources of such pollutants and conditions and estimate the portion of each pollutant and the extent of each condition which can be traced to a specific type of source;

"(D) ascertain (i) the extent to which the pollutants and conditions identified under subparagraph (A) are, or may reasonably be anticipated to be, responsible, individually or collectively, for causing, contributing to, increasing susceptibility to, or aggravating the diseases and effects identified under subparagraph (B), and (ii) the effect upon the incidence or severity of specific diseases and effects of individual or collective, as appropriate, incremental reductions in the pollutants and changes in such conditions; and

"(E) quantify (i) the present and projected future health costs of the diseases and effects identified under subparagraph (B), and (ii) the reduction in health costs which would result from each incremental reduction and change referred to in subparagraph (D)(ii).

"(2) The Secretary shall enter into appropriate arrangements with the Academy under which the Secretary shall be responsible for expenses incurred by the Academy in connection with the study prescribed by paragraph (1).

"(3) The first report on the study prescribed by paragraph (1) shall be made to the Congress by the Secretary and the Academy not later than eighteen months after the date of the enactment of this subsection. Subsequent reports on the study shall be made by the Secretary and the Academy every two years after the date the first report is submitted. Each report shall include (A) such recommendations for legislation as the Secretary determines appropriate, and (B) a description of any administrative action proposed to be taken by the Secretary, the Administrator of the Environmental Protection Agency, the Secretary of Labor, and the Consumer Product Safety Commission to reduce the costs which have been quantified under paragraph (1)(E)(i). In conducting the study, the Secretary and the Academy shall seek assistance from public and private health financing entities in securing the data needed for the study.

"(4) For purposes of paragraph (1), the term 'health costs of pollution and other environmental conditions' means the costs of human diseases and other adverse effects on humans which pollution and other environmental conditions are, or may reasonably be anticipated to be, responsible for causing, contributing to, increasing susceptibility to, or aggravating, including the costs of preventing such diseases and effects, the costs of the treatment, cure, convalescence, and rehabilitation of persons afflicted by such diseases, costs reasonably attributable to pain and suffering from such diseases and effects, loss of income and future earnings resulting from such diseases and effects, adverse effects on productivity (and thus increases in production costs and consumer prices) resulting from such diseases and effects, loss of tax revenues resulting from such decreases in earnings and productivity, costs to the welfare and unemployment compensation systems and the programs of health benefits under titles XVIII and XIX of the Social Security Act resulting from such diseases and effects, the overall increases in costs throughout the economy resulting from such diseases and effects, and other related direct and indirect costs.".

TASK FORCE ON ENVIRONMENTAL CANCER AND HEART AND LUNG DISEASE

Sec. 7. (a) The Directors of the National Center for Health Statistics and the Center for Disease Control (or the successor to such entity) shall serve as members of the Task Force on Environmental Cancer and Heart and Lung Disease established under section 402 of Public Law 95–95.

(b) The Task Force referred to in subsection (a) shall, effective October 1, 1978, conduct a study to identify the need for and recommend guidelines for the collection, compilation, analysis, publication, and distribution of statistics and information necessary for determining (1) the extent to which conditions of employment and indoor and outdoor environmental conditions may reasonably be anticipated to cause, contribute to, aggravate, or increase susceptibility to cancer or heart or lung diseases, and (2) the other effects on the public health which may reasonably be anticipated to result from such conditions. Within eighteen months of the date of the enactment of this subsection, the Task Force shall complete the study prescribed by this subsection and report the results of the study to the Congress, the Administrator of the Environmental Protection Agency, the Secretary of Health, Education, and Welfare, the Secretary of Labor, and the Consumer Product Safety Commission.

NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY; HEALTH CARE TECHNOLOGY ADVISORY COMMITTEE

Sec. 8. (a) Section 309 is amended—

(1) by amending the section heading to read as follows:

"HEALTH CONFERENCES AND HEALTH EDUCATION INFORMATION";

(2) by inserting "(a)" before "A conference"; and

(3) by striking out "309" and inserting in lieu thereof "310".

(b) Section 310 is amended—

(1) by striking out the section heading; and

(2) by striking out "Sec. 310." and inserting in lieu thereof "(b)".

(c) Part A of title III is amended by adding after section 308 the following new section:

"NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY; HEALTH CARE TECHNOLOGY ADVISORY COMMITTEE

"Sec. 309. (a) There is established in the Department of Health, Education, and Welfare the National Center for Health Care Technology (hereinafter in this section referred to as the 'Center') which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs).

"(b)(1)(A) The Secretary, acting through the Center, shall undertake and support (by grant or contract) comprehensive assessments of health care technology. Such assessments shall take into account the safety, effectiveness, and cost effectiveness of, and the social, ethical, and economic impact of health care technologies. In determining if the assessment of a particular health care technology should be given priority, emphasis shall be placed on—

"(i) the actual or potential risks and the actual or potential benefits to patients associated with the use of the technology,

"(ii) the actual or potential cost of the technology,

"(iii) the actual or potential rate of its use, and

"(iv) the stage of development of the technology.

"(B) The Secretary may by grant or contract assist public and private nonprofit entities in meeting the costs of planning, establishing, and operating centers to assess health care technology.

"(C) Any grant or contract under this paragraph, the direct cost of which will exceed $35,000, may be made or entered into only after appropriate review for scientific merit by peer review groups composed of experts in the relevant fields and only after the Health Care Technology Advisory Committee has had an opportunity to review the project with respect to which the grant or contract is to be made.

"(2) The Secretary, acting through the Center, shall undertake and support (by grant or contract) research in, and demonstrations and evaluations of—

"(A) the factors that affect the use of health care technologies in the United States; and

"(B) methods for disseminating information on health care technologies to health professionals.

"(3) The Center shall make recommendations to the Secretary respecting health care technology issues in the administration of the laws under the Secretary's jurisdiction, including recommendations with respect to reimbursements under titles XVIII and XIX of the Social Security Act.

"(c)(1) Not later than December 1, 1979, and December 1 of each succeeding year, the Secretary shall report to Congress, a comprehensive description of the activities of the Center under subsection (b) during the preceding fiscal year.

"(2) Not later than two years after the date of the enactment of the Health Services Research, Health Statistics, and Health Care Technology Act of 1978, the Secretary shall submit a report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Human Resources of the Senate—

"(A) describing the various types of activities undertaken and supported under subsection (b)(1) for the assessment of health care technology,

"(B) describing the recommendations made under subsection (b)(3) and the action taken with respect to such recommendations, and

"(C) describing any additional authority or organizational changes which the Secretary determines are required to more effectively carry out the functions prescribed by subsection (b).

The Office of Management and Budget may review the report required by this paragraph before its submission to the Committee on Interstate and Foreign Commerce and the Committee on Human Resources, but the Office may not revise such report or delay its submission beyond the date prescribed for its submission and may submit to Congress its comments respecting the report.

"(d)(1) No grant or contract may be made under this section unless an application therefor has been submitted to the the Secretary in such manner, and containing such information, as the Secretary may by regulation prescribe.

"(2) Payments of any grant or under any contract under this section may be made in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may prescribe.

"(e)(1) There is established the Health Care Technology Advisory Committee (hereinafter in this subsection referred to as the 'Committee') to advise the Secretary and the Director of the Center with respect to the performance of the functions prescribed by subsection (b), including the establishment of priorities for the assessments to be undertaken or supported under paragraph (1) of such subsection.

"(2) The Committee shall consist of—

"(A) the Director of the National Institutes of Health, the Chief Medical Officer of the Veterans' Administration, the Assistant Secretary for Health and Environment of the Department of Defense, the Chairman of the National Professional Standards Review Council, the Chairman of the National Council on Health Planning and Development (established under section 1503), the Director of the Office of Science and Technology Policy, the Commissioner of the Food and Drug Administration (or the successor to such entity), the Director of the Center for Disease Control (or the successor to such entity), and the head of the Health Care Financing Administration (or the successor to such entity) who (or their designees) shall be ex officio members, and

"(B) sixteen members appointed by the Secretary. The Secretary shall make his initial appointments to the Committee within one hundred and twenty days of the date of the enactment of this section. Seven of the appointed members shall be selected from individuals who are distinguished in the fields of medicine, engineering, or science (including social science). Of such seven members, at least two shall be physicians and two shall be selected from representatives of business entities engaged in the development or production of health care technology. Two of the appointed members shall be selected from individuals who are hospital administrators, two of the appointed members shall be selected from individuals who are distinguished in the field of economics, two of the appointed members shall be selected from individuals who are distinguished in the field of law, one of the appointed members shall be selected from individuals who are distinguished in the field of ethics, and two of the appointed members shall be selected from members of the general public who represent the interests of consumers of health care.

"(3)(A) Each appointed member of the Committee shall be appointed for a term of four years, except that—

"(i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(ii) of the members first appointed after the date of the enactment of this section, four shall be appointed for a term of four years, four shall be appointed for a term of three years, four shall be appointed for a term of two years, and four shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

"(B) Members of the Committee who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Committee compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(4) The Committee shall annually elect one of its appointed members to serve as Chairman until the next election.

"(5) The Committee shall meet at the call of the Chairman, but not less often than four times a year.

"(6) Section 14 of the Federal Advisory Act shall not apply with respect to the duration of the Committee.

"(e) There are authorized to be appropriated to carry out this section $15,000,000 for the fiscal year ending September 30, 1979, $25,000,000 for the fiscal year ending September 30, 1980, and $35,000,000 for the fiscal year ending September 30, 1981. Not less than 20 per centum of the amount appropriated for the fiscal year ending September 30, 1981, shall be obligated for assessments directly undertaken by the Secretary under subsection (b)(1). The authority of the Secretary to enter into contracts under subsection (b) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

STUDY

SEC. 9. (a) The United States Committee on Vital and Health Statistics (established by section 306 of the Public Health Service Act), shall, effective October 1, 1978, conduct a study of the issues respecting and the recommendations for establishing a Federal system—

(1) to facilitate studies of the effects of hazardous substances on humans, and

(2) to assist, in a manner designed to avoid invasion of personal privacy, Federal, State, and other entities in locating individuals who have been or may have been exposed to hazardous substances to determine the effect on their health of such exposure and to assist them in obtaining appropriate medical care and treatment.

In conducting such study, the Committee shall consult with the Administrator of the Environmental Protection Agency, the Director of the National Cancer Institute, the Council on Environmental Quality, the Director of the National Institute on Environmental Health Sciences, the Director of the National Institute for Occupational Safety and Health, the Secretary of Labor, and the head of the Occupational Safety and Health Administration, and the Committee may consult with any other public and private entity which it determines has expertise in any matter to be considered in the study.

(b) Not later than one year after the date of enactment of this Act, the Committee shall complete the study required by subsection (a) and report to the Congress the results of the study and any recommendations for legislation or administrative action.

SEC. 10 (a) Subsection (g) of section 208 is amended (1) by striking out "one hundred and fifty-five" and inserting in lieu thereof "one hundred and seventy-nine", (2) by striking out "and not less than" and inserting in lieu thereof ", not less than", and (3) by inserting after "alcoholism," the following: "not less than ten shall be for the National Center for Health Services Research, not less than twelve shall be for the National Center for Health Statistics, and not less than seven shall be for the National Center for Health Care Technology,".

(b) Section 453 is amended by adding at the end the following: "The Secretary through the Institute, may, effective October 1, 1978, and without regard to section 405, carry out a program of grants for public and nonprofit private vision research facilities.".

(c)(1) The second sentence of subsection (a) of section 705 is amended to read as follows: "Such records shall include records which fully disclose (A) the amount and disposition by such entity of the funds paid to it under such grant, loan, loan guarantee, interest subsidy, or contract, (B) the total cost of the project or undertaking for which such grant, loan, loan guarantee, interest subsidy, or contract is made, (C) the amount of that portion of the cost of the project or undertaking received by or allocated to such entity from other sources, and (D) such other records as will facilitate an audit conducted in accordance with generally accepted auditing standards.".

(2) Subsection (b) of section 705 is amended to read as follows:

"(b) Each entity which received a grant or entered into a contract under this title shall provide for a biennial financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant or contract and such other funds received by or allocated to the project or undertaking for which such grant or contract was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with such requirements concerning the individual or agency which conducts the audit, and such standards applicable to the performance of the audit, as the Secretary may by regulation provide. A report of each such audit shall be filed with the Secretary at such time and in such manner as he may require.".

(d) Section 771(d) is amended by adding at the end the following:

"(5) The Secretary may waive (in whole or in part) application to a school of dentistry of the requirement of any paragraph of this subsection if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (approved for such purpose by the Commissioner of Education) that compliance by such school with such requirement will prevent it from maintaining its accreditation.".

HEALTH PROFESSIONS REPORTS AND PROGRAMS

Sec. 11. (a) Section 708(d) is amended (1) by striking out "not later than September 1 of each year", and (2) by inserting at the end the following: "Such report shall be submitted biennially, and the first such report shall be due not later than October 1, 1979.".

(b) Section 709(b) is amended by striking out "January 1, 1979" and inserting in lieu thereof "February 1, 1980".

(c) Section 751(i) is amended by striking out "December" and inserting in lieu thereof "March".

(d) Section 771(b)(2)(B) is amended by striking out "45 days after the date for which the determination is made" and inserting in lieu thereof "the first December 31 occurring after the date for which the determination is made".

(e) Section 782(c) is amended by striking out "September 30, 1979" and insertng in lieu thereof "March 1, 1980".

(f) Section 788(b)(6) is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 1, 1979".

(g) Section 793(c) is amended (1) by striking out "annually" and inserting in lieu thereof "biennially", and (2) by striking out "December 1, 1978" and inserting in lieu thereof "October 1, 1979".

(h) Section 951(b) of the Nurse Training Act of 1975 is amended by striking out "Not later than February 1, 1977, and February 1 of each succeeding year" and insertng in lieu thereof "Not later than October 1, 1979, and October 1 of each odd-numbered year thereafter".

(i)(1) Section 702(d) of the Health Professions Educational Assistance Act of 1976 is amended by striking out "not later than two years after the date of enactment of this Act" and inserting in lieu thereof "not later than October 1, 1979".

(2) Section 903(a)(2) of the Health Professions Educational Assistance Act of 1976 is amended by striking out "January 1, 1979" and inserting in lieu thereof "April 1, 1979".

(j) Section 772(e) of the Public Health Service Act is amended by inserting before the period a comma and the following: "except that a student who, for other than academic reasons, withdraws from a year class before the end of an academic year or does not complete an academic year shall not be considered as having been enrolled in a year class in that academic year".

MISCELLANEOUS

Sec. 12. (a)(1) Section 111(h) (42 U.S.C. 7411) of the Act of July 14, 1955, as amended by Public Law 95-95, is amended by adding the following at the end thereof:

"(5) Any design, equipment, work practice, or operational standard, or any combination thereof, described in this subsection shall be treated as a standard of performance for purposes of the provisions of this Act (other than the provisions subsection (a) and this subsection).".

(2) Subsections (d)(1)(A) and (g)(4)(B) of such section are each amended by striking out "under subsection (b)" and inserting in lieu thereof "under this section".

(3) Subsection (j) of such section is amended by striking out "subsection (b) of" in paragraphs (1)(A) and (2)(A) thereof.

(b) Section 112(e) of such Act (42 U.S.C. 7412) is amended by adding the following at the end thereof:

"(5) Any design, equipment, work practice, or operational standard, or any combination thereof, described in this subsection shall be treated as an emission standard for purposes of the provisions of this Act (other than the provisions of this subsection)."

(c) Section 117(c)(3) of such Act (42 U.S.C. 7417) is amended by striking out "(b)(1)(B)" in each place it appears.

(d) Section 317(a)(1) of such Act (42 U.S.C. 7617) is amended by striking out "(b)".

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. Rogers) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. Carter) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. Rogers).

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill H.R. 12584, under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 12584, the Health Services Research, Health Statistics and Health Care Technology Amendments of 1978, has five principal purposes: First, to extend for 3 years the authorizations for the National Center for Health Services Research and make minor changes in its statutory authority; Second, to extend for 3 years the authorizations for the National Center for Health Statistics, and afford the center significant new responsibility for the collection of statistics which determine the effects of environmental conditions on the public health in order to provide an improved informational and statistical basis for environmental health decision-making; Third, to provide for a study of costs of diseases and conditions which are environmentally related; fourth, to establish under the Assistant Secretary of HEW for Health a new Center for Health Care Technology charged with assessment of health care technology and making recommendations to the Secretary respecting health care technology issues in the administration of laws under HEW's jurisdiction, including recommendations respecting reimbursement, and Fifth, require the U.S. Committee on Vital and Health Statistics to conduct a study of the need for establishlishing a Federal system to facilitate studies of the effects of hazardous substances on humans and to assist persons exposed to hazardous substances in obtaining appropriate medical care and treatment.

The bill also amends the supergrade authorities of the Public Health Service Act, authorizes the construction of vision research facilities, and contains minor substantive amendments to the existing health manpower and nurse training authorities.

In addition, Mr. Speaker, the legislation before this body includes certain technical and minor substantive amendments designed to conform the legislation to provisions of the Budget Act; remove potential conflict between the two existing centers and programs authorized to be carried out by the Health Care Financing Administration; change the composition of the advisory committee to the National Center for Health Care Technology. In addition, the proposed legislation includes an amendment intended to remove ambiguity about the status and enforceability of non-numerical emission control requirements under the Clean Air Act.

Mr. Speaker, this legislation does not deal directly with the provision of health care to the American people. Instead, it fosters programs designed to afford Government and the public a better understanding of the status of the Nation's health, research into policy options designed to improve that status, and research into the effectiveness and cost of technological innovation in health.

With my colleagues' indulgence, I will provide a rather lengthy explanation of the background leading to the development of the centers and other activities fostered by H.R. 12584.

NATIONAL CENTER FOR HEALTH SERVICES RESEARCH

During the last two decades, the field of health services research has emerged from fragmented, earlier disciplinary research in the various health service areas into a single discipline which studies major health care organizational problems by drawing on a wide range of disciplines. Support for this emerging area of scientific discipline was initially disbursed through several different agencies of the U.S. Public Health Service. Growing public and governmental awareness of the need for increased understanding of the workings of our health system led to recommendations by the White House Conference on Health in 1965 and by President Johnson, in his message to Congress on health and education in February 1967, for the formation of a national center for such research. Section 304 of the Partnership of Health Amendments of 1967, Public Law 90-174, provided authority for such a national center and led to its initial formation in 1968.

The initial efforts of the National Center for Health Services Research

(NCHSR) largely involved grant support of research proposed by investigators in the field. Much research of great value, particularly on physician assistant programs, experimental medical care review organizations, and computerized medical information systems, was conducted under such grants during the late 1960's and early 1970's.

1974 hearings on the Center revealed that there existed no overall coherent program establishing research priorities to guide the grant making process. In addition, it was determined that the Center housed a wholly inadequate intramural research effort.

Thus, the Congress rewrote the Center's legislative authority in the Health Services Research, Health Statistics and Medical Libraries Act of 1974, Public Law 93-353. Through this revised authority the NCHSR was mandated to develop a research program in the planning, organization, distribution, financing, quality and use of health services; the training, supply and distribution of health manpower; and the design, construction, organization and costs of health facilities and equipment. In addition, the 1974 legislation required that at least 25 percent of the Center's research effort was to be undertaken intramurally in an effort to insure an in-house research capacity which had been lacking in the previous grant and contract monitoring approach of the NCHSR. The Center was also authorized to support training programs for health services researchers and mandated to assist at least six independent health services research and information needs.

In 1976, the legislative authority was expanded to authorize the establishment of an independent Health Services Policy Analysis Center, to focus on the development and evaluation of national policies with respect to health services.

During the past 4 years, substantial strides have been made in the development of a more coherent research program. Priorities for health services research have been explicitly defined and include inflation and productivity, health manpower, emergency medical services, health care and the disadvantaged, health insurance plans, quality of care, planning and regulation methods, and long-term care. Particular research problems which have been or are being addressed in accordance with these priorities, include catastrophic insurance benefits, the implications of technological innovation on hospital costs, the relationship between institutional characteristics and surgical mortality, and the economic implications of an innovative medical information system. Seven independent centers are conducting valuable research on such diverse topics as the financial viability of National Health Service Corps sites, the effectiveness of prospective reimbursement of hospitals in containing costs, and issues surrounding foreign medical graduates.

Legislative authority for the National Center for Health Services Research lapses at the end of fiscal year 1978.

H.R. 12584 extends the Center's authority for 3 years, and makes minor substantive changes in its statutory mission. Authorizations of $36 million, $44 million, and $49 million are provided for activities of the Center for fiscal years 1979, 1980, and 1981.

NATIONAL CENTER FOR HEALTH STATISTICS

The collection, publication, and analysis of vital and health statistics is one of the oldest health functions of the Federal Government, having begun at least as early as 1878. The principal organization within the Government responsible for health statistics is the National Center for Health Statistics which is authorized under sections 304, 306, and 307 of the Public Health Service Act. The National Center is actively involved in the study, development, and maintenance of general purpose health statistical systems and a wide range of specific programs and activities to document and generate statistics on illness, accidental injuries, disability, natality, mortality, marriage, divorce, health facilities, health manpower, and the medical, dental, nursing, and other health services received by the people in the United States. These data form the basis for establishing priorities with respect to health and medical care problems and afford a means for evaluating the success or failure of programs designed to respond to these problems.

The principal legislative authorities for the National Center for Health Statistics were revised and extended in 1974 by Public Law 93-353. That legislation formally established the Center and provided it with specific authority to develop the Cooperative Health Statistics System (CHSS). This cooperative system is designed to provide the framework for a coalition among national, State, and local governments for the collection of health statistics. Data users at each level of government are asked what health statistics they need, with what frequency and reliability, and then these needs are met by collecting the data in question at whatever level of government is most capable of such collection. As it is now envisioned, when the cooperative system is fully operational, it will include components on vital statistics, health manpower, health facilities, health services, ambulatory care, and long-term care. The National Center for Health Statistics has the responsibility for providing the national leadership needed to develop and implement such a system, for assuring the quality and comparability of data collected by the various States and localities, and for entering into contracts with States in order to provide the Federal share of supporting the cost of demonstrating and implementing the system. Further support for this system has been provided by the committee through its requirement that statistical activities undertaken under the authority of the National Health Planning and Research Development Act of 1974, be coordinated with CHSS.

In recent years there have been increasing calls for improvement of the data base for decisionmaking on controlling manmade environmental pollution. Specifically, there have been repeated expressions of concern about the need to better understand and quantify the relationship between environmental contaminants and effects on public health. These expressions of concern have been forthcoming from business groups, State and local governments, environmental groups, the National Academy of Sciences, as well as a variety of Federal Government agencies, including HEW, EPA, and CEQ.

In order to determine whether present environmental regulations require too much control, too little control, or control of the wrong contaminants, an improved information base is needed. Moreover, a variety of Federal agencies are now engaged in environmental health effects research or have statistical information which would be useful for such research. Thus, there is an increasing need for coordination of such research. There is also a need for mechanisms to assure the availability of relevant information to the agencies which need it to improve environmental health decisionmaking.

Legislative authority for the National Center for Health Statistics lapses at the end of fiscal year 1978. H.R. 12584 extends the authority for the Center for 3 years, formalizes the CHSS system, and directs the National Center for Health Statistics to issue guidelines which would be responsive to the need for more and better information on the effects of environmental pollution on the public health. In addition, the bill increases the membership of the Task Force on Environmental Cancer and Heart and Lung Disease to include the Directors of the National Center and the Center for Disease Control, and directs the task force to assist the center in its new environmentally related responsibilities by recommending guidelines for its consideration.

Authorizations of $60 million, $75 million, and $80 million are provided for activities of the Center for fiscal years 1979, 1980, and 1981.

STUDY OF COSTS OF DISEASES AND CONDITIONS WHICH ARE ENVIRONMENTALLY RELATED

The rapid rise in health care costs has caused increased awareness of the need to contain cost increases. This in turn has led to greater emphasis on the development and implementation of a comprehensive disease prevention strategy. One element of such a strategy must be prevention of environmental and occupational contamination-related disease.

Unfortunately, relatively little work has been done to identify and quantify the costs—direct and indirect—associated with health effects produced by environmental and occupational exposures. Thus, in order to better gauge the impact of environmental pollution on the Nation's economy, including the health care financing system, H.R. 12584 mandates a broad based study of the costs of environmentally-related disease. Such a study should also be useful for the environmental regulatory decisionmaking process.

Mr. Speaker, a recent paper entitled, "Social and Economic Implications of Cancer in the United States" deserves special mention, because in almost all respects it reflects the intention and concerns of the committee. The paper is written by Dorothy P. Rice, Director of the National Center for Health Statistics, and Thomas Hodgson. Mrs. Rice is one of this Nation's foremost experts in evaluating the costs of disease. This paper was presented to the Expert Committe on Cancer Statistics of the World Health Organization in June.

First, the paper makes clear that a proper study of the costs of disease requires quantification of the "social" as well as "economic" costs. The paper also makes clear that persons exposed to social costs include more than the disease victim: they also include, among others, family, friends, co-workers and persons giving care to the victim. Mrs. Rice's paper notes that completely adequate methodologies and measures to quantify social costs "remain to be developed."

Nonetheless, the paper does identify some of the "social" costs of disease and indicates that a "misallocation of resources * * * may occur when only economic costs are considered." The committee agrees with this view and intends that these "social" costs be quantified to the maximum extent feasible. Those conducting the study will have to use the best methods and measures available, while at the same time attempting to improve these approaches. For although it is necessary, it is not sufficient merely to identify the "social" costs of disease and the factors contributing to the deterioration of the quality of life. These must be expressed in monetary terms to begin to appreciate, if not accurately determine, the total costs of disease.

Second, Mrs. Rice notes that a discount rate should be applied in determining the costs of diseases which will become manifest in the future. The committee would agree with this concept, subject to two conditions. The discount rate should be adjusted for expected changes in productivity. Also consideration must be given to the expected future increases in the costs of diagnosis, treatment, rehabilitation and, other costs—direct and indirect.

Third, the paper notes:

> Marketplace earnings underestimate the loss resulting from illness of women, and the value of household work must be added to earnings.

The committee agrees with this view and with the paper's conclusion that the proper measure of the direct economic cost of illness to homemakers is "the cost of replacing the—homemaker's—duties with person-hours from the labor force."

Fourth, the paper notes:

> It is now generally agreed among economists that consumption should not be deducted.

The committee agrees that deduction of consumption is inappropriate. It would be a peculiar result, indeed, to conclude that there are cost benefits from early death of retired citizens because they are no longer producing economic goods or services and are consuming goods and services. The committee did not intend the analysis to be conducted with such a "net" approach to the value of human life or health.

Fifth, Mrs. Rice's paper indicates that in calculating direct economic costs of disease, the "'human capital' approach" is used, "because it views an employed person as producing a stream of output over the years that is valued at the individual's earnings." This is an approach about which the committee has considerable qualms. Surely an individual's value includes what he produces, but just as surely his value to himself, his family, and society is greater than that.

Furthermore, as the paper itself notes, this approach has the inappropriate result that "men are more highly valued than women, whites more than blacks, and the middle aged more than the young or the elderly." Nor is it sufficient merely to identify and realize the limitations of the "human capital" approach while continuing to use it, because it "provides valuable information based upon reliable statistics." Some adjustment factor must be employed to account for the value of the healthy individual to himself, to his family, and to society apart from the value of his economic production and to take account of the fact that one's "earnings may not reflect one's ability to produce." Whether this adjustment uses the "willingness to pay" approach or some other factor is a difficulty with which those conducting the study will be required to grapple.

Sixth, Mrs. Rice's paper indicates the difficulty of projecting future costs of disease. The committee recognizes that these difficulties are real and serious. Once again, however, we must make our best efforts to project these costs in order to know whether present pollution control expenditures are justified.

Finally, it is necessary to reemphasize a point made in the committee report. The study is intended to be useful to help policymakers in administrative agencies and the Congress. But this study should not be construed as requiring any specific regulatory decision to be based on cost/benefit analysis. In fact, the study should not be viewed as amending or altering any statutory basis for standard setting or enforcement. It is merely an informational tool which may be used to the extent to which other substantive laws allow.

A second area of committee concern relates to the effort to control inflation. In this connection, I want to call attention to, and express my strong support for, the statements contained at pages 20 to 21 of the committee report (H. Rept., No. 95–1190).

Clearly, in the committee's view—a view I share—the Council on Wage and Price Stability and the Council of Economic Advisors have a legitimate and important role to play in helping to assess the potential inflationary impact of government regulations. It is surely appropriate for these groups to suggest improvements in proposed regulations to carry out the law in the most cost-effective way. But the committee was concerned about two main aspects of these agencies' performance to date. And I have a third concern which deserves mention.

First, it is evident that inadequate efforts to prevent environmentally related disease may be just as inflationary as overzealous pollution control requirements. As Mrs. Rice's paper found, the current direct and indirect costs of cancer mortality are almost $43,000 per death. In 1975 over 370,000 people died from cancer alone. Moreover, with the costs of medical care rising much more rapidly than the annual inflation rate, these costs will undoubtedly increase markedly in the future unless adequate steps are taken now to prevent cancer.

Thus, the committee expressed its deep concern that—

> The Council on Wage and Price Stability (COWPS), which is charged with the statutory duty to consider such costs, has largely failed to calculate or estimate in dollar terms the benefits to society of control of environmental contaminants.

As the committee report further explains:

> Without such an analysis, cost savings in less effective pollution control measures may actually result in substantial cost increases in health and other social systems.

I share that concern and have written to the General Accounting Office asking for a review of COWPS' performance in this respect and advice as to whether COWPS is meeting its statutory responsibility in this respect.

Second, the committee report expresses concern that inadequate legal anlaysis by COWPS may lead to the suggestion of alternatives to pollution control regulations which are outside the regulatory agency's statutory authority. As the committee report points out:

> Since they cannot lawfully be implemented, such suggestions may not be regarded as adequate measures to protect the public health. As importantly, since they cannot lawfully be implemented, the suggestions do little to prevent inflation.

I strongly urge COWPS and the Council on Economic Advisors to undertake careful analysis of their proposals to assure their legality.

Finally, I have a third concern regarding COWPS and CEA's actions on environmental and occupational regulations. The rulemaking process established by Congress in the basic authorizing legislation and in the Administrative Procedures Act is intended not only to establish ground rules for public participation. These ground rules are intended to apply to the Government as well. Thus, during the Nixon administration I strongly took issue with the actions of OMB in trying invisibly to influence EPA and OSHA rules before they were proposed or after the end of the public comment period. Recent actions by COWPS and CEA give me cause for similar concern. Surely, the public has a right to know what these agencies' proposals are and how they are affecting the ultimate rules. COWPS and CEA comments should be part of the rulemaking record to which the public may have access and respond.

I commend President Carter for his refusal to endorse CEA's attempt, after the close of—and in circumvention of—the rulemaking process, to prevent OSHA from issuing its regulations to protect textile workers from occupationally related "brown lung" disease. I believe the law requires CEA and COWPS to play by the same rules as other participants in the rulemaking process.

HEALTH CARE TECHNOLOGY

Less than 20 years ago, the rapid stream of scientific advances and technological innovations was viewed as the quintessence of the good life. Today, while science and technology are still widely regarded as the foundations for societal advance, there is increasing concern about the unanticipated social costs of various technological achievements. Unquestionably, insufficient research has been devoted to assessing the risks, costs, and benefits of such emerging technologies as fetal heart monitoring, ultrasound, computed tomographic scanners, and coronary artery bypass surgery prior to their becoming widely available.

One of the best examples of the need to more carefully evaluate medical technology involves the use of mammography, of X-raying of the breast for cancer. In the early 1970's, there was an all-but-unanimous policy decision on the part of physicians to use mammography routinely on all women, even those under 50. The decision to use mammography was based on the fears and hopes of women regarding breast cancer, the economic incentives of the manufacturers, and the lack of information at the fingertips of Government officials responsible for cancer control. The attitude was, "We have an instrument, let's use it." Actual technology assessment led to the opposite policy—not to use mammography routinely on women under 50 because of the risks associated with large doses of X-rays. However, thousands of machines were bought, and millions of dollars spent, before the ultimate costs and benefits were known.

Presently, the role of the Department of HEW in assessing health care technology is fragmented and insufficient. For this reason, H.R. 12584 proposes the establishment of a Center for Health Care Technology. The new Center's Director would be supervised by the Assistant Secretary for Health—as are the National Centers for Health Services Research and Health Statistics—and would conduct and support assessments of health care technology, and make recommendations to the Secretary with respect to health care technology issues, including recommendations with respect to reimbursement policy.

STUDY OF EFFECTS OF HAZARDOUS SUBSTANCES

During hearings on the effects of radiation on humans conducted earlier this year, it became apparent that no simple means exists to track down workers exposed to hazardous substances. This lack of data hinders epidemiological studies of the effects of hazardous agents in the environment and makes it all but impossible to insure that workers are advised of potential hazards and afforded appropriate medical care.

Clearly, attention must be given to the need for establishment of a national data bank for the collection of information on the effects of hazardous substances on humans. In addition, such issues as the potentially high cost of a data bank and the right to privacy must be carefully evaluated. Thus, H.R. 12584 requires the U.S. Committee on Vital and Health Statistics to conduct a study of the issues surrounding the establishment of a Federal system to facilitate studies of the effects of hazardous substances on humans and to assist in the location of individuals exposed to such substances in order to determine and to assist them in obtaining medical care.

TECHNICAL AND MINOR SUBSTANTIVE AMENDMENTS

Mr. Speaker, in close consultation with the minority the bill before this body contains some technical and minor substantive amendments to health authorities affected by this legislation and other laws under the jurisdiction of the Subcommittee on Health and the Environment.

First, the bill contains technical amendments bringing it into conformity with the Budget Control and Impoundment Act of 1974, and a technical amendment to health manpower legislation.

Second, the proposed legislation more closely defines the role of the National Center for Health Services Research, the National Center for Health Statistics and the Health Care Financing Administration with respect to health services research and statistical activities conducted by HEW. Under amendments proposed in the legislation, all health services research and statistical activities conducted under the Public Health Services Act are to be conducted through the National Center for Health Services Research and the National Center for Health Statistics. Research, statistical, and data collection activities under the authority of the Social Security Act would continue to be performed by the Health Care Financing Administration. Coordination of the activities of these entities of HEW is to be accomplished by the Secretary.

Third, Mr. Speaker, the proposed legislation includes technical amendments intended to remove ambiguity about the status and enforceability of nonnumerical emission control requirements under title I of the Clean Air Act. These ambiguities were called to the Congress attention by the U.S. Supreme Court's decision in *Adamo Wrecking Company* v. *U.S.*, ——— U.S. ———, 98 S. Ct. 566 (1978).

These technical amendments make clear that both numerical and nonnumerical emission control requirements promulgated under section 111 or 112 of the act are enforceable by the Environmental Protection Agency under section 113 of the act. Non-numerical standards are essentially to be treated like numerical standards for all purposes of the act. The amendments, however, are not to be regarded as having retroactive effect. Thus, civil or criminal enforcement action under section 113 would be authorized for violations of non-numerical emission control requirements under section 111 or 112 of the act, only if such violations occur more than 60 days after enactment of these technical amendments.

It is expected that, as a result of these technical amendments, EPA would not be required to go through the formality of reproposing or repromulgating nonnumerical emission control requirements which were promulgated prior to the date of enactment of these technical amendments. On the date of enactment of these technical amendments, these non-numerical requirements should be deemed promulgated. They would be effective and enforceable 60 days thereafter.

This delayed effective date is necessary in order to provide adequate notice to all affected parties. It is not intended to preclude judical review of the previously promulgated requirements. In keeping with the intention of existing law, review of such previously promulgated requirements in the U.S. Court of Appeals for the District of Columbia should be permitted if a petition for review is filed within 60 days after date of enactment of these technical amendments. Of course, the 1977 amendments preclude the argument that only numerical emission control requirements are authorized under section 111 or 112 of the act.

Finally, Mr. Speaker, in response to a number of questions raised by Mr. SATTERFIELD, the proposed legislation includes an amendment which has his support and which clarifies and adds to some of the provisions of the study of the costs of diseases and conditions which are environmentally related. The basic intention of this section as expressed in the committee report is not changed. But these amendments should increase the scope and usefulness of the study. The proposed revisions are designed to insure that the study produces information which will be relevent to policy issues which Congress is likely to deal with in the future.

The steps which are to be followed in carrying out the study are identified with greater specificity; and, in addition to estimates of the aggregate costs of environmentally related diseases and adverse effects, the study is to include, to the extent feasible, information which will allow the calculation of the costs of specific pollutants. The study will also attempt to identify the types of sources of various pollutants and environmental conditions and the extent to which each type of source contributes to the level of the pollutant or condition in the environment, using available information to the maximum extent feasible.

One other change in section 6 provides that the study is to be jointly conducted by the Secretary of HEW and the National Academy of Sciences in cooperation with the other listed agencies. This change is designed to insure that the study will have the highest degree of scientific credibility and will be able to draw upon the resources of both the public sector and the academic community to the maximum possible extent.

Mr. Speaker, H.R. 12584 has the potential to vastly improve the quality, accessibility, and cost effectiveness of our existing health care delivery system and, thus, to enhance the health status of the American people. It deserves the support of every Member of this body.

I urge its adoption.

Mr. CARTER. Mr. Speaker, I yield 10 minutes to my good friend, the distinguished gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I rise for many reasons in opposition to this bill.

It is very difficult to rise in opposition to health, and particularly to health research, because we want to do all we can in this country in the way of health research to improve everyone's living conditions not only for today but for tomorrow.

But when you check the outstanding results of what our medical associates have done in this country today, if you check to see what the hospitals and what the doctors have done, there is not any phase of modern history which compares. There is no other industry which compares with what has been achieved in health. That is the success story of private medicine. What we are doing with this bill is, we are starting another agency. I doubt if there is any Member in this Chamber who would stand up and defend the concept that we add another agency. If there is one thing we do not need, it is another agency, and we need it least of all in HEW.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Florida.

Mr. ROGERS. The gentleman may not be aware of it, but an Office of Health Care Technology already exists in HEW. What we are doing in this legislation is bringing it under the control of the Congress, where we can see what they are doing, holding their authorizations to what they can spend, and getting control of it. This is the first time I have seen the gentleman oppose an action like that.

Mr. COLLINS of Texas. I would turn completely loose of it. In other words, I would go a step beyond the chairman of the committee. I would cease having it report to us and place it in some other operation. The idea of bringing everything back to the Congress is the worst thing we can do.

Mr. ROGERS. Is the gentleman saying now he is going to let HEW just do anything without congressional authorization? I do not think the gentleman is really taking that position.

Mr. COLLINS of Texas. No.

Mr. ROGERS. We are bringing this under the control of Congress. We are telling them they cannot spend beyond our authorization, and giving them direction as to what this Congress wants to be done.

Mr. COLLINS of Texas. If we keep expanding these agency problems we are going to bankrupt the country. My idea is that every time we review a problem the answer is to spend more money. This very bill states spend more money.

Mr. ROGERS. What we are doing is saying that we are not going to let HEW run away and do anything they want. We will hold them to what we want and we will measure their performance. I would hope the gentleman would help us do that.

Mr. COLLINS of Texas. May I say to the gentleman from Florida, who speaks so eloquently and dynamically on this subject, that we are authorizing in this bill $113 million for 1979, $148 million for 1980, $168 million for 1981, for a total of $429 million. And as I see it, this authorization builds up to 138 percent increase. Now, is that right? Is this, overall, a big increase, when, in 1981, we have an 81.7 percent increase? There is a further 137 percent increase, a 170 percent increase. All my figures show spending increases, increases, increases. How do we get control of the budget if we are just spending money like a drunken sailor on Saturday night?

Mr. ROGERS. We are not doing that. The gentleman may want to do that. But this committee is going to be strict. We are going to hold them to these limits. This is an authorization bill. We are saying, "You cannot go above it." There are certain costs. Inflation is going up. As the gentleman, I am sure, is concerned, we want to improve the statistical basis of environmental health standards and do a study to quantify the costs of environmentally related disease. This bill will help us do that. Industry wants that, and the American people want that. We need improved knowledge to assure an adequate disease prevention program.

Mr. COLLINS of Texas. The people of Texas and the people of Florida want this Government to get off their back and quit spending so much money. How can we justify an increase of 80 percent, 137 percent, all of these big increases? How can the gentleman say we are getting control if we are just spending more and more money?

Mr. ROGERS. If the gentleman will permit me, what we are doing is supporting health services research, directing that studies be done on environmental health and the costs of environmentally induced disease. In this way we can get on top of our ever increasing health care costs.

Mr. COLLINS of Texas. I will tell the gentleman something about a school system I saw compared last week. Here in Washington, D.C., where they only had one merit scholar, I looked to see if money would solve it. They spend something like $2,400 per pupil in Washington, D.C., and in two little towns in my area, Farmers Branch and Carrolton, they spend an average of $1,400 per pupil. It costs $2,400 to educate a child in Washington, D.C., and $1,400 in Farmers Branch and Carrolton in Texas. They had 5 merit scholars in Farmers Branch. Washington has 10 times more students, but spending more money only gave them one merit scholar.

Money does not cure anything. There is no substitute for brains.

Mr. ROGERS. I agree with the gentleman on that. Money is not going to solve everything. But, certainly using our brains, this is what this bill tries to do. It would improve our system of health statistics and health research, so we can use our brains to see how we can best hold down the costs of health care. This is exactly what the gentleman wants.

Mr. COLLINS of Texas. The gentleman held extensive conferences and these are important. What do we get by having the Government go off on these environmental impact studies? If ever there is a wild goose chase, it is to get off on an environmental impact study which can go on indefinitely. And that is what is covered under section 6 of this bill.

Mr. ROGERS. This bill has nothing to do with environmental impact studies.

Mr. COLLINS of Texas. What does this section do?

Mr ROGERS. The bill mandates a coordinated program of research on the effects of the work, home and outside environment on health. In this way we can get the necessary facts on what environmental factors contribute to disease and how the costs associated with environmentally-related disease can be reduced. The gentleman ought to support this bill strongly.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Speaker, let me try to amplify some of the points the gentleman from Florida made, with some added specifics.

Medical technology, one of the major items in this bill, added between $8 million and $12 million to our Nation's hospital bill between 1966 and 1976, one decade. We simply have not evaluated whether we have gotten commensurate improvement to the American people. That is an enormous cost and we ought to know when we apply technologies what we get in return, if we are to be cost effective. Some of the things we found we had to undo or stop doing later because they were terribly costly and in fact were not helpful and were sometimes harmful to people.

On the statistics program, does the gentleman know now in HEW today there are 282 separate programs which have responsibility for the collection of health statistics? What we are trying to do here is to take seriously the recommendations of the Federal Paperwork Commission, and they estimate this Nation could save $200 million, almost the equivalent of the proposed budget of the Center for Health Statistics over the next 2 years, if we eliminate that kind of duplication. That is what this bill tries to do.

On the environmental cost of disease, the costs of environmental-induced disease are enormous and staggering. One out of four people in this country is going to get cancer. That costs between $7 and $10 billion in health care and work loss and what-have-you.

If we can make some kind of rational judgments on the basis of good statistics and not just be wildly spending, then we will do what the gentleman wants.

I thank the gentleman for his generosity in yielding the time.

The original structure of this bill would have set up a whole separate institute. We decided, in deference to the gentleman's point of view, that sort of thing would not be useful, so therefore we are establishing no new bureaucracy, we are establishing no new institution, and we are establishing no new agency. All of this will be done in a gradual, rational fashion.

Mr. COLLINS of Texas. Let me say this first about cancer. People are going to die from one thing and another. People are going to die from something. Normally they say death and taxes are sure things. But now we can add another certainty—more and more paperwork. We do not need these elaborate environmental studies to come up with statements we already know.

What we did not know was what this bill would cost us. This represents an increase over 1978 authorizations for the fiscal year 1979, 1980, and 1981 of 81.7 percent, 137.9 percent, and 170 percent, respectively.

I keep getting back to the fundamentals. We are just spending and spending and spending.

We briefly would like to accentuate our dissatisfaction with several aspects of H.R. 12584, the Health Services Research, Health Statistics, and Health Care Technology Act of 1978.

One prominent point of disagreement which can readily be appreciated relates to the unrealistic budgetary posture which this bill strikes. Not content with dramatically increasing previous authorities, the committee also endorsed two new line items.

Specifically, H.R. 12584 authorizes $113 million for fiscal year 1979, $148 million for fisacl year 1980, and $168 million for fiscal year 1981, or a total of $429 million (see attached table). By contrast, the fiscal year 1978 authorization was $62.2 million and the fiscal year 1978 appropriation was $69 million. The fiscal year 1979 budget request was $74 million.

With respect to existing authorities, the bill represents an increase of the fiscal year 1978 authorization for health statistics in fiscal year 1979, fiscal year 1980, and fiscal year 1981 by 78.6 percent, 123.2 percent and 138.1 percent, respectively. As compared to the fiscal year 1978 authorization the Health Services Research authorizations would be increased for fiscal year 1979, fiscal year 1980, and fiscal year 1981 by 25.9 percent, 53.8 percent, and 71.3 percent, respectively. Counting the two new line items the bill represents an increase over fiscal year 1978 authorizations for fiscal year 1979, fiscal year 1980, and fiscal year 1981 of 81.7 percent, 137.9 percent, and 170 percent, respectively.

That the House is growing weary of catering to HEW's insatiable appetite is evidenced by sentiment forcefully expressed during recent consideration of House Concurrent Resolution 559, the first concurrent resolution on the Budget—fiscal year 1979. No doubt, appreciation of HEW's vast capacity for mismanagement was heightened by reference to a pertinent report by the Inspector General of HEW. That report set forth findings that at a minimum the extent of fraud, waste, and abuse in key HEW programs in fiscal year 1977 was $6.3 billion to $7.4 billion.

Section 8 of the bill establishes a new entity within HEW, the National Center for Health Care Technology. This new Center would undertake and support (by grant or contract) comprehensive assessments of health care technology. Such assessments, after consideration of the views of a Health Care Technology Advisory Committee, must take into account the safety, effectiveness, and cost effectiveness of, and the social, ethical, and economic impact of health care technologies. The Center must make recommendations to the Secretary of HEW respecting health care technology issues, including reimbursement under medicare and medicaid.

It is clear that this new Center would inaugurate the establishment of a system whereby the Government, acting through its reimbursement procedures and various laws such as the National Health Planning and Resource Development Act of 1974 (Public Law 93-641), could potentially dictate the comparative efficacy, utilization, and supply of health care technology in this country.

Section 6 of the bill sets forth the platform for HEW's propaganda response to the increased public perception that frequently certain environmental controls are not cost effective. The Secretary of HEW, in cooperation with certain enumerated Federal entities, and such other Federal organizations determined by HEW to have sufficient expertise in the pertinent subject matter, shall conduct an ongoing study of the present and projected future costs of diseases and conditions which are environmentally related.

Not, mind you, "to the extent" to which they are environmentally related. After all, cause and effect could be troublesome in this area and would dilute the intended emotional impact of the study. This apologia will be inflicted upon the Congress within 18 months of enactment and every 2 years thereafter. Naturally, the study is supposed to spawn the usual gaggle of legislative recommendations and administration actions.

If Members want to see a classic example of obfuscation and overbreadth, they need only peruse the definition in section 6 for diseases and conditions which are environmentally related. The murky language includes, among other things, diseases and conditions "which may reasonably be anticipated to result, in part or whole, from exposure to contaminants or other hazards in the work, home, or other indoor environment or in the ambient environment.

The Federal Government, through its numerous entities is constantly beavering away at churning out reports on different aspects of environmental dangers to health. This additional study, to the extent that it is anything more than a compendium, is unnecessary and wasteful.

Lastly, section 5 of the bill, among other things, gives the Secretary authority to establish, through the National Center for Health Statistics, guidelines for the collection, compilation, analysis, publication, and distribution of statistics and information necessary for determining the effects of conditions of employment and indoor and outdoor environmental conditions on the public health. Further, the Center for Health Statistics will serve as a clearinghouse for statistics and information under the suzerainty of the Secretary of HEW. Each executive department must comply with the substantive and procedural requirements of the guidelines, and the President by Executive order must require executive branch compliance with requests for statistics and information (though there is a possible waiver for national security). Of course, there are the usual exemptions from disclosure (but not from collection and compilation) for certain trade secret and other confiential information which, once gathered, will have to await discreet selective leaking by interested parties. Perhaps the other Federal entities will welcome this new czardom for the Secretary of HEW, but we doubt it.

In sum, the bill contains extravagant authorizations and some unwarranted new programs.

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. Collins) has again expired.

Mr. CARTER. Mr. Speaker, I yield 1 additional minute to the distinguished gentleman from Texas.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I just want to say that after listening to this debate and to the comments of the gentleman from Texas (Mr. Collins), New Jersey (Mr. Maguire), and Florida (Mr. Rogers), I am thoroughly confused about what to do with reference to this matter because I do think it is a very good idea that we develop some environmental statistics.

The gentleman from Florida (Mr. Rogers) says that we do not have any. It makes me wonder whether the gentleman from Florida would support a moratorium on all of these environmental impact statements and environmental regulations which we keep imposing, because there is some claim that they are doing harm, while the gentleman from Florida says that we do not know.

I have one more comment, Mr. Speaker. I was very much interested in what the gentleman from New Jersey (Mr. Maguire) said in making his point that we need to develop statistics so we will know what the environmental effect these things are having on people's health. He said we need these statistics to show what the environmental impact is on people's health.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

I would like to say to the gentleman from Oklahoma (Mr. Edwards) that what is intended by the legislation is a determination of the actual and projected costs of environmentally caused diseases. For instance, we constantly are told how much compliance with environmental controls costs, but no one can tell us definitively what the benefits to health are. We need to know the direct and indirect costs of environmentally related disease.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

I would respond to my distinguished friend, the gentleman from Oklahoma (Mr. Edwards), in this manner: No environmental impact statement is required or even thought of.

What we are doing is trying to find out what factors in the environment cause disease. We know that in certain areas certain diseases are more common, and we are trying to find out why. We study the water, the air, and other factors which might cause these particular diseases. It is not an environmental impact statement. It is merely relating the occurrence of disease to factors in the air, in the water, or in the food, whatever might cause those diseases.

Mr. Speaker, there are other parts of this bill which are also very good.

I think the Center for Technology is one of the best. Actually, we are expressing congressional concern about the problem of undue proliferation of certain exotic inventions. One is called the computerized axial tomographer, by means of which X-rays are taken—and they are very worthwhile—and transmitted to a computer. In this fashion pictures can be seen, and small lesions can be defined, where before they could not be found.

However, because of this equipment's ability to find these lesions, every hospital, or almost every hospital, in the country has wanted one. The cost ranges from $400,000 to $600,000. Since all the hospitals want to try to purchase one—and since many have succeeded—the result is increased health care costs.

What we are trying to do here is find ways to reduce the cost, and for the same identical reasons as set forth by the gentleman from Texas. We are trying to cut costs down. We are trying to save dollars.

Another technological advance which we are studying is called fetal heart monitoring. By means of this equipment we can tell the character of the heart beat of a fetus while in the uterus, particularly during labor. We can discern whether the fetus is in distress, and if necessary, do a caesarean section.

It has been found, however, by Dr. Wennberg, I believe, at Dartmouth College, that if we use the fetal monitor consistently and often, the number of caesarean sections increases. In fact, the rate more than doubles without a convincing concurrent increase in the likelihood of survival of the fetus.

Studies of these new technologies can save money for us, and that is why I want the Members to support this bill. We are for saving money, and that is what this Center for Technology, I will say to my good friend, is all about. Come on, jump on the bandwagon and help us save a little money. Support this legislation.

Mr. Speaker, in regard to health statistics, I will talk for just a minute. This is one area in which we perhaps can find more and do more to find the cause of cancer than in any other way. All of us want to find what in the atmosphere, or in water, or in our physical environment, or food might be the cause of cancer. If it is exhaust fumes from cars, or the concentration of fumes from mills, we want to know that, and this statistical reporting will enable us to do so.

I wholeheartedly support this legislation, and I encourage all of my friends, particularly my good friend, the gentleman from Texas, to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from California (Mr. Brown).

Mr. BROWN of California. Mr. Speaker, I rise in support of H.R. 12584. I will make just a few comments, and I want to address them to the question raised by the gentleman from Texas (Mr. Collins) because it is my honest belief that unless we can provide an answer, a satisfactory answer to this question that he raises on how we can save money if we are spending more money, we should not approve this legislation.

There are areas in which I believe we can make the case that the expenditure of a reasonable amount of funds will enable us to save vastly larger amounts of funds, and I think this legislation is one of those cases. I would like to cite just two examples which I am sure most Members of Congress are familiar with as to the potential benefit of an improved system of national health data and health statistics. One of these I think that bears on this point is our experience with black lung disease, which is costing this country literally billions of dollars as a result of the exposure of generations of a large segment of our working force to the hazards of working in coal mines. The fact of the matter is that we were not aware of the fact that we were killing and disabling these hundreds of thousands of miners because we did not have an adequate system of tracing the health of these miners over the years and detecting the incidence of the disease, the course of the disease, the mortality from the disease, and, of course, ultimately we had to face up to this. We could not avoid it, and we were faced with tremendous liability problems arising from that.

It is my contention that an adequate system of tracing the course of this one disease would have saved this Nation and the taxpayers many times over the cost of this legislation.

A similar and more recent example is our experience with the disease caused by asbestos fibers in the lung. I have had come into my office over the past 10 years individuals who had worked in an environment where they were exposed to asbestos and who felt that there was something wrong, that there was some responsibility that had not been met by either the industry or the governmental agency. As I think most of us know, the Navy has been one of the agencies which because of its work in shipyards has been the locale for a very large amount of this disease. There was no willingness on the part of the Navy and probably no ability to relate this growing incidence of this generally fatal disease to the kind of work that was going on in the shipyards.

There was no adequate collection of the data here as with black lung disease, that would have helped us to give an early warning of the hazards of engaging in this occupation.

As a matter of fact, out of an understandable desire to protect the taxpayer, the Navy, in my experience with some of these cases, would frequently refuse to disclose the data that they had with regard to how many people were afflicted with this disease and what the health conditions of the individual workers were. This precipitated lawsuits in which I was asked to intervene as a Member of Congress.

It is my experience that the availability of a ready set of indexes which would measure at the onset, incidence and seriousness of this particular affliction, would again have saved the Nation tremendous sums of money. Because we now have recognized the liability of the U.S. Government in this area and are saying let us find all this information, let us make it available and let us accept the responsibility. Again, it is going to cost us hundreds of millions of dollars.

I think any action, such as contained in this legislation, aimed at improving our capability to deal with these things before they become catastrophes, is going to reduce the liability of the American people and save money, but is going to reduce the liability of the U.S. Government by hundreds of millions of dollars or even billions of dollars in the future and save us money in the long run.

In accordance with our subcommittee jurisdiction over environmental research we have looked into activities of the Environmental Protection Agency, the Department of Energy, the National Institutes of Health, the National Oceanic and Atmospheric Administration and other Government agencies. We have held hearings on sulphate pollution in the atmosphere, on water quality, on waste management, on environmental monitoring, on the environmental implications of the President's new energy plan and on the effects of chronic exposure to low level pollutants in the environment to name only some of our areas of interest. I give this long list, because I have been impressed that over and over again in these hearings the need for data was mentioned as a critical limiting factor. Especially critical was the need for health data. Passage and implementation of this legislation will result in greatly improved information on the health of our citizens and on the causes of any illness or disease with which they might be afflicted. Because of this, I strongly urge passage of this bill.

I want to point out that this is not a newly emerging need. Congressman Rogers and I have both been aware of the problems in this area for some time. For example, in April 1976 we held joint hearings looking into problems in EPA health effects research which were at least in part exacerbated by the lack of unambiguous health information. Our cooperative efforts have continued—most recently we jointly sponsored a conference on health and the environment (August 15, 1978).

Therefore, based on the testimony of numerous witnesses before my subcommittee and based upon several joint efforts with Mr. Rogers' subcommittee, I can assure all Members that this legislation is addressing a critical need. I know that we are all acutely aware of the problems that can be caused by EPA and OSHA regulations. Typically these problems arise because the regulations in one way or another demand installation of expensive, complicated protective equipment. Either equipment to protect workers from direct exposure or equipment to protect the atmosphere from emissions (thereby reducing indirect exposure). The costs of installing such protective equipment are plain for all to see, but of course, the costs of not installing it are diffuse and dim. We simply do not have enough health statistics—enough information on diseases or their causes—to know for certain the health costs of not installing such protective equipment. Better health information can have at least two distinct benefits. First, it can make abundantly clear the need for regulations thus sparing the kinds of energy-sapping confrontations that have so often accompanied promulgation of health and safety regulations in the past several years, and, second, it can enable us to target those regulations to control only what needs to be controlled instead of taking a shotgun approach.

Now I would like to make a few comments about specific sections of the bill.

Section 5 of the bill contains provisions to improve and regularize the collection of health statistics. For example, it would require the National Center for Health Statistics to establish standardized methods for the collection of health information and statistics. Another important part of this section authorizes the Center to provide to agencies engaged in health planning activities technical assistance in the effective use of statistics. I want to point this out, because it is of little value to have perfect data unless the users know how to take advantage of it. Finally, subsection 5(e) amends existing legislation to direct the Center to establish guidelines for the collection, analysis, and distribution of statistics and information on the relationship between environmental exposures and public health.

The need to improve and regularize the collection of health statistics is documented in this quotation from a National Research Council report on environmental monitoring. That report states, in part:

> The OSHA/BLS annual "Survey of Occupational Injuries and Illness" is not however adequate to determine incidence rates, relate exposures to illness or identify harmful substances or hazardous industries. First, only obvious and acute reactions are recorded. The data do not provide for an assessment of chronic, long term effects. Second, the categories of occupational disease developed by OSHA and BLS are confusing and not adequately informative. Illnesses are aggregated into coarse categories and 20–25 percent of all diseases reported are categorized as "other." Third, statistics on exposure data and causal agents are not collected although the law requires employers to record such data for certain substances. Fourth, only numbers of cases, not incidence rates, are reported. A reported increase in the number of cases of a disease in a particular industry may only be a result of a larger number of workers in the industry. Suitable estimates of the work and population by detailed occupation and type of exposure are lacking. So, for example, an incidence rate of an illness of workers exposed to a particular pollutant may not be determined. Finally, illnesses not yet known to have occupational causes can hardly be reported as occupational.

Epidemiological studies are very important to determine causes of environmental diseases. Yet they are very difficult to carry out for reasons quoted to our subcommittee in a statement by the American Physiological Society:

> Routinely collected data such as hospital records are notoriously lacking information required for a particular epidemiological purpose. The format is seldom suitable and the quality of information contained varies greatly with the individual who makes the record and coincident occupational and environmental data seldom appear. Data obtained in systematic comprehensive examinations are more uniform but still lack much of the particular information required for a specific survey. Even the $1 million perspective survey carried out by the American Cancer Society turns out to be recording insufficient data in some respects. The unreliability of death certificates is only too well known.

This statement clearly documents the need for improved and regularized health statistics.

Section 6 of the bill provides for a study and a report to Congress on the costs of diseases which are environmentally related. The report is to include recommendations for legislative actions needed and a description of administrative actions proposed to be taken by the Secretary of HEW, the Administrator of EPA, the Secretary of Labor, or the Consumer Product Safety Commission to reduce such costs. I believe that such a study and report would be especially valuable to the Congress as it deliberates various environmental and occupational safety matters that come before us.

Concerning the problem with costs of environmental disease, Dr. David Rall testified before our subcommittee that—

> . . . there are no truly reliable estimates of the costs associated with environmental pollution. However, it is clear that they are staggering both in human and economic terms. Literally millions of people are affected by environmental pollution. Workers in a broad range of occupations are adversely affected by occupational exposures resulting in serious disability or death. In addition, we are constantly learning that many environmental exposures we previously thought were limited to the occupational setting are in fact affecting the general population.

Section 8 of the bill has to do with health care technology. It establishes within HEW a new National Center for Health Care Technology and requires the Center to undertake assessments of health care technology. All of us are aware of the significant impact that technology has had in the field of health care. It shows up most dramatically perhaps in certain cases in which we are able to maintain signs of life in a patient who only a few years ago would have been given up. Health care technology has also dramatically increased costs. So we know that there have been tremendous impacts and yet as far as I know these impacts have not been systematically studied and there is no systematic approach to assessing the possible impact of new technology. As a member of the Technology Assessment Board I am very aware of the importance of trying to foresee what the unintended impacts of a technology might be. For these reasons, I particularly commend Chairman ROGERS for adopting this language in the bill and again urge its passage.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for these comments that are right to the point and are certainly true and highly in support of this legislation.

Mr. Speaker, I yield such time as he may consume to my distinguished colleague on the committee, the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, I want to call attention particularly to the comments of the distinguished ranking minority member of the subcommittee, who is himself a physician and very learned in the matter of medical technologies.

I think we all agreed on the subcommittee that it is terribly important that we bridge the gap between, on the one hand, the very excellent research that we do and, on the other hand, our treatment of specific patients. That gap, briefly stated, is that we have not really evaluated the technologies. We have not really looked at how they ought best to be applied and we have not consistently selected the best alternatives in therapies or technologies or their applications.

The gentleman from Kentucky (Mr. CARTER) mentioned cat scanners and fetal heart monitors. We have questions about the utility and the healthfulness of whole-body scans and head scans. We have difficulty with mammography. There are questions about radical mastectomy, for example, and the issue of flow blood analysis and associated laboratory test costs, renal dialysis, coronary bypass surgery, organ transplants, joint replacements, and so forth.

I can remember the days when as a child I went in to buy a pair of shoes and I got my feet X-rayed. We now know that is not only not cost effective, it is positively hazardous; but we did that kind of thing for a long time. There are many other examples of where analysis of medical technologies would have been extremely beneficial.

The legislation before us establishes a new center, within the Office of the Assistant Secretary for Health, to assess health care technologies. It is also of critical importance to provide support for the National Center for Health Services Research and the National Center for Health Statistics.

As a nation, we are devoting an ever larger percentage of our gross national product to health care. Health care expenditures in 1977 were $162 billion—the Nation's third largest industry. At an annual rate of inflation of 12 percent, they are expected to reach $320 billion by 1983.

In the near future, Congress and the American people will be confronted with serious questions concerning what the nature of our national health insurance plan should be. Many questions have been raised and, as we know, most remain unanswered. I would like to enumerate a few basic policy issues which must be addressed:

First. Who should be covered?

Second. What should the extent of coverage be?

Third. What kind of national health insurance can we as a nation afford?

Fourth. How can we insure that all Americans receive quality care at a price they can afford?

It may come as a surprise to my colleagues to learn that the NCHSR and the NCHS are the agencies responsible for providing much of the data which we will rely on in formulating a national health insurance plan. They are the agencies which will tell us—and have previously informed us as to—the state of the our Nation's health, the incidence of disease in various populations, what areas are medically underserved, and so forth. They are agencies which need, and are deserving of, strong support from the Congress.

I would like to explore with my colleagues some of the activities of NCHSR and NCHS to demonstrate the importance of these agencies and to emphasize the significance of their findings.

WHAT IS HEALTH SERVICES RESEARCH?

It is a discipline which is primarily concerned with the organization, financing, utilization, regulation, and outcome of health services. Particular research problems which are currently being addressed by NCHSR include catastrophic insurance benefits, the implication of technological innovations on hospital costs, cost savings resulting from shared services and mergers among hospitals, and I could continue.

WHAT RESEARCH HAS NCHSR PERFORMED WHICH IS RELEVANT TO POLICY PROBLEMS?

Research and development work at NCHSR laid the groundwork for the Professional Standards Review Organizations and the Cooperative Health Statistics System.

Research supported by NCHSR in health manpower provided much of the support for the pioneering work in the development of nurse practitioners and physicians assistants; it has provided vital information to the Congress with respect to foreign medical graduates during the deliberations on the Health Professions Educational Assistance Act of 1976, and it is improving our understanding of the factors affecting geographic and specialty distribution.

And this was accomplished despite a budget which fell in real dollars from $58 million in 1973 to $24 million in 1977, and internal turmoil which plagued the agency as a result of constant reorganizations and diminishing funds.

WHY ARE HEALTH STATISTICS IMPORTANT?

Health statistics are the Nation's window on its own health. The collection, analysis, and dissemination of health statistics is one of the oldest health functions of the Federal Government dating back to the turn of the century.

The National Center for Health Statistics conducts health surveys and monitoring activities which have kept us informed about such crucial matters as the relative burdens of various diseases in our country, the Nation's infant mortality rate, the frequency with which we see our doctors and use hospital beds, and the level of expenditures on these and other health-related resources.

Health statistics are important to local, State, and Federal health officials in assessing the supply, distribution, and organization of our health resources. Effective health planning can be greatly enhanced through the availability of health statistics such as data on the health status of a population.

I would like to mention another of the activities of the NCHS which is of particular interest to me—the development of mortality atlases produced by the National Cancer Institute from data originally collected by NCHS. I learned from the Atlas of Cancer Mortality that my State of New Jersey has the highest incidence of cancer among white males in the country. We are now learning more about the impact of environmental and occupational carcinogens in contributing to disease. The work of NCHS in developing these maps is vitally important to our understanding of this problem.

In addition, as a result of an amendment which I introduced and which was adopted by the Subcommittee on Health and the Environment, a division of NCHS will conduct a study of the feasibility of establishing a national data base which is essential to epidemiological studies correlating the exposure to hazardous substances to disease in humans. We must also find ways to locate individuals exposed to such substances and to assist them in obtaining medical treatment, if necessary.

My distinguished chairman, Mr. ROGERS should be applauded for considerably enhancing the authoriy of NCHS, under this legislation, with respect to the collection and analysis of information regarding the effects of environmental conditions on public health. I hope that this data will assist us in developing a comprehensive disease prevention strategy.

H.R. 12584 also provides that NCHS will be the lead agency for the collection of health information and statistics under laws administered by HEW. There are currently 282 separate programs in HEW alone which have responsibility for the collection of health statistics. These separate efforts are frequently duplicative of one another and represent an unnecessary expenditure of our tax dollar. The Federal Paperwork Commission has estimated that the Nation would save $200 million—almost the equivalent of the proposed budget for NCHS over the next 3 years—if this overlap and duplication were eliminated at the Federal level.

I hope that this legislation will result in a coordinated, standardized and more efficient system for collecting and analyzing health statistics.

Finally Mr. Speaker, let me return to why I view the creation of the Center for Health Care Technology as a vitally important component of this legislation.

We have traditionally provided a tremendous amount of support for our Nation's biomedical research activities and our research capability is second to none. And yet we have no mechanism to insure that the knowledge and techniques developed by the basic sciences community will be applied promptly and appropriately to the diagnosis, treatment, and prevention of disease.

Another critical problem is to insure that advances in the conquest of disease are used correctly. There is an emerging consensus that we have adopted many technologies with little knowledge as to their health benefits, clinical risks, cost effectiveness. We must be careful that the products of health research are not transferred too rapidly to the bedside without and prior assessment of their implication on the cost and quality of care. It has been estimated that one-half of the annual increase in the cost of a day of hospital care can be attributed to the use of more technology in medical practice. That means that between 1966 and 1976, expenditures for medical technology added between $8 and $12 billion to our Nation hospital bill. We simply have not had the capability to evaluate whether there has been a commensurate improvement in the health of the American people.

This legislation would establish, within the Office of Assistant Secretary for Health, a National Center for Health Care Technology to undertake and support comprehensive assessments of health care technology. These assessments are to take into account the safety, effectiveness and cost effectiveness of, and the social and economic impact of health care technologies. In addition, the center is required to make recommendations to the Secretary respecting assessments of health care technologies and their implications for reimbursement policy.

I hope that this will be an interdisciplinary effort and that the center will receive the cooperation of individuals from medicine, science, engineering, members of industry, hospital administrators, ethicists, lawyers, and the public.

Mr. ROGERS. Mr. Speaker, I think it might be interesting to the Members to know that the Washington business groups here on health, which are affiliated with Business Roundtable, made up of representatives of business here, are supportive of this legislation. They say it will help them find answers that are needed on how to operate.

Mr. MAGUIRE. Mr. Speaker, if the gentleman will yield further, the important thing about the medical technology issue is that we do not want to experiment on people without protecting them, yet we have applied all kinds of therapies and technologies without really evaluating them first. Also, in applying these, we want to apply the best alternatives, not in a haphazard and, therefore, frequently a costly way, but in an efficient way that will provide the maximum of health care at acceptable cost.

● Mr. SCHEUER. Mr. Speaker, I rise in support of H.R. 12584.

The Subcommittee on Domestic and International Scientific Planning, Analysis, and Cooperation has been studying for some time how the tools and techniques of medical science could be better used, so as to cut costs and—at the same time—improve the quality of health care.

We have heard again and again from many expert witnesses that, despite the general high quality of medical care in this country—billions of dollars are still spent in curative measures that are ineffective or of uncertain value. The debates and publicity and controversy over the relative merits of coronary bypass surgery or over the potential waste of an excessive number or the excessive use of "CAT" scanners are only a token sample of a much larger body of concern over procedures and devices that could be wasting our health dollars. Many procedures—like gastric freezing for ulcers—have been widely adopted—using sophisticated equipment manufactured for the purpose—and then abandoned when enough information and enough damage has accumulated.

My subcommittee has been interested in how this kind of information can be obtained much earlier, before new devices or procedures become entrenched. What doctors have repeatedly told us suggests that the single most valuable tool they could presently ask for would be more complete information on the effectiveness of their procedures. What is needed is a way of keeping score and evaluating practices—of finding out who is doing what to whom, and what the outcomes are.

Computer technology is ideal for this, and a few research hospitals are beginning to use it for this purpose. A very small number are trying to standardize systems that will allow them to pool and share their data. But these efforts are miniscule and can get lost in the various other ways computers can be put to use—some of which are much less likely to reduce the cost of medical care than others.

Another way to affect the cost of health care dramatically would be to improve on disease prevention. To track the causes and spread of disease, and to discover the links to possible causes in the environment, ponderous amounts of information must be collected and manipulated. Computerized systems will be a virtual necessity for progress in that area.

It would appear, from what you have said, Mr. Speaker, that computer science provides an outstandingly clear example of the general need at HEW for assessing emerging new technologies. If there were an Office of Health Care Technology—as proposed in H.R. 12584—one would expect that it would fairly soon get around to assessing and evaluating computers in health care. And if they did that, it seems safe to presume that they would conclude that some uses for computers could be of immense importance while others would not. One would expect that they, too, would conclude that, if we do not direct computers to their best uses in medicine and public health, we will be losing a great opportunity to save billions of dollars presently spent on unproven medical techniques and on the care of unnecessary diseases.

Mr. Speaker, H.R. 12584 will assure assessment by an Office of Health Care Technology in order to provide direction to HEW support of selected technologies and contribute to better coordination among the several relevant HEW agencies, of research, development, evaluation, or reimbursement activities affecting such technologies. Such assessment clearly needs and deserves legislative direction.●

● Mr. STAGGERS. Mr. Speaker, I rise in support of the bill, H.R. 12584, the Health Services Research, Health Statistics, and Health Care Technology Act of 1978.

This important legislation would continue and strengthen the authorities supporting the excellent programs in health services research and health statistics of the Department of Health, Education, and Welfare. Through these programs we are deciphering the intricate maze of our existing health care system and are, thus, better able to make informed decisions as to what the Federal priorities should be in the area of health.

Under the proposed legislation, a new National Center for Health Care Technology would be established to begin the task of evaluating both new and existing health care technology, including the risks and benefits to patients associated with the use of a particular technology, its costs, the rate of its use, and the state of development of the technology. In light of the rapidly increasing cost of health care, in large measure a result of the proliferation and overuse of sophisticated new technology, it is essential that we begin to look more carefully at what we are buying. This center is a good beginning.

Finally, H.R. 12584 would specifically authorize the Secretary of Health, Education, and Welfare to carry out a program of grants for the construction and support of public and nonprofit private vision research facilities. It is my hope that under such a program research into vision problems will be facilitated and that advances in vision research can be more rapidly translated into better patient care.

Mr. Speaker, the Health Care Research, Health Statistics, and Health Care Technology Act of 1978 is important legislation that will benefit all Americans. I commend it to my colleagues and urge its adoption.●

Mr. ROGERS. Mr. Speaker, I have no further requests for time.

Mr. CARTER. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 12584, as amended.

The question was taken.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

HEALTH SERVICES AMENDMENTS

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12370) to amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Services Amendments of 1978".

(b) Whenever in this Act (other than in sections 6, 7, and 9) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

HEALTH INCENTIVE GRANTS FOR COMPREHENSIVE PUBLIC HEALTH SERVICES

SEC. 2. (a)(1) Section 314(d)(7)(A) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "and $103,500,000 for the fiscal year ending September 30, 1979".

(2) Section 314(d)(7)(B) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "and $25,000,000 for the fiscal year ending September 30, 1979".

(b)(1) The Congress finds and declares that—

(A) individual health status can be effectively and economically improved through an adequate investment in community public health programs and services;

(B) the Federal Government and the States and their communities share in the financial responsibility for funding public health programs;

(C) the Federal contribution to funds for public health programs should serve as an incentive to an additional investment by State and local governments;

(D) existing categorical programs of Federal financial assistance to combat specific public health problems should be supplemented by a national program of stable generic support for such public health activities as the prevention and control of environmental health hazards, prevention and control of diseases, prevention and control of health problems of particularly vulnerable population groups, and development and regulation of health care facilities and health services delivery systems; and

(E) the States and their communities, not the Federal Government, should have primary responsibility for identifying and measuring the impact of public health problems and the allocation of resources for their amelioration.

(2) Effective October 1, 1979, section 314(d) is amended to read as follows:

"COMPREHENSIVE PUBLIC HEALTH SERVICES

"(d)(1) The Secretary shall make grants to State health authorities to assist in meeting the costs of providing comprehensive public health services.

"(2) No grant may be made under paragraph (1) to the State health authority of any State unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require, and shall contain or be supported by assurances satisfactory to the Secretary that—

"(A) the comprehensive public health services which will be provided within the State with funds under a grant under paragraph (1) will be provided in accordance with the State health plan in effect under section 1524(c);

"(B) funds received under grants under paragraph (1) will—

"(i) be used to supplement the level of non-Federal funds that would otherwise be made available for the comprehensive public health services for which the grant funds are provided, and

"(ii) not be used to supplant such non-Federal funds,

except that the Secretary may in exceptional circumstances waive clause (i) or (ii) or both clauses;

"(C) the State health authority for which the application is submitted will—

"(i) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds received under grants under paragraph (1);

"(ii) from time to time, as prescribed by the Secretary, report to the Secretary (through a uniform national reporting system and by such categories as the Secretary may prescribe) a description of the comprehensive public health services provided in the State in the fiscal year for which the grant applied for is made and the amount and source of funds expended in that fiscal year and in the preceding fiscal year for the provision of each such category of services; and

"(iii) make such other reports (in such form and containing such information as the Secretary may prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports; and

"(D) the State health authority for which the application is submitted will have in effect a method satisfactory to the Secretary which will assure equitable distribution of funds under grants under paragraph (1) among State and local public health entities within the State which have made expenditures which may be used under paragraph (4) to compute the amount of such grants and which method provides that within the limit of the amount of funds received by the State health authority under such grants—

"(i) each local public health entity which makes such expenditures shall receive from such funds in the fiscal year for which grants are made an amount which is equal to the lesser of—

"(I) the product of the total amount of such expenditurse in such fiscal year and the applicable grant computation percentage, or

"(II) the product of $1.50 and the population of the area served by such entity (as such population and area may be determined pursuant to guidelines established by the Secretary); and

"(ii) amounts which a local public health entity would receive under clause (i)(I) which are in excess of the applicable amount computed under clause (i)(II) shall be distributed for comprehensive public health services within communities which have the greatest need for such services as determined by the State health authority pursuant to guidelines established by the Secretary.

For purposes of subparagraph (D)(i)(I), the term 'applicable grant computation percentage' means the percentage applicable under paragraph (4)(A)(i)(II) to the computation of the amount of a grant under paragraph (1).

"(3)(A) The Secretary shall review annually the activities undertaken by each State health authority with an approved application under this subsection to determine if the authority complied with the assurances provided with the application. The Secretary may not approve an application submitted under paragraph (2) if the Secretary determines—

"(i) that the State health authority for which the application was submitted did not comply with assurances provided with a prior application under paragraph (2), and

"(ii) that he cannot be assured that the authority will comply with the assurances provided with the application under consideration.

"(B) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State health authority of a State, finds that, with respect to funds paid to the authority under a grant under paragraph (1), there is a failure to comply with assurances provided under paragraph (2) with respect to the receipt of such grant, the Secretary shall notify the authority that further payments will not be made to it under such grant (or in his discretion that further payments will not be made to it from such grant for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such authority from such grant or shall limit payment under such grant to activities in which there is no such failure.

"(4)(A) The total amount of grants received by a State health authority under paragraph (1) in any fiscal year shall be the greater of the amount determined under clause (i) or (ii) as follows:

"(i) The total amount of grants to a State health authority in a fiscal year shall be the lesser of—

"(I) the product of $1.50 and the population of the State served by such authority, or

"(II) in the case of the fiscal year ending September 30, 1980, 10 percent of the amount of State and local expenditures for comprehensive public health services within the State in the State's fiscal year which ended on or before July 1, 1979, in the case of the fiscal year ending September 30, 1981, 15 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1980, and in the case of the fiscal year ending September 30, 1982, 20 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1981.

"(ii) The total amount of grants to a State health authority in a fiscal year may not be less than the greater of—

"(I) the total amount of grants received by such authority under paragraph (1) for the fiscal year ending September 30, 1979, or

"(II) the product of $1 and the population of the State served by such authority.

Notwithstanding clause (ii), if for any fiscal year the amount appropriated for that fiscal year under paragraph (6) is less than the amount needed to make grants in that fiscal year in accordance with such clause to all State health authorities with approved applications, the total amount of grants in that fiscal year for a State health authority shall not be less than an amount which bears the same ratio to the amounts determined for such authority in accordance with such clause as the amount appropriated under such paragraph bears to the amount needed to make grants in accordance with such clause in such fiscal year to all State health authorities with approved applications.

"(B) The Secretary, at the request of a State health authority, may reduce the amount of the grants to it under paragraph (1), by—

"(i) the fair market value of any supplies (including vaccines and other prevention agents) or equipment furnished the State health authority, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State health authority and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of the State health authority and for the purpose of carrying out a program with respect to which its grant under paragraph (1) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State health authority.

"(C) For purposes of subparagraphs (A)(i)(II), the term 'State and local expenditures for comprehensive public health services' means expenditures by State and local public health authorities for public health services designated by the Secretary, but excludes expenditures by such authorities—

"(i) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or

"(ii) for operating inpatient care facilities, construction, or mental health programs.

"(D) For purposes of subparagraph (A) and paragraph (2)(D), populations shall be determined on the basis of the latest figures available from the Department of Commerce.

"(5) The Secretary may make payments under grants under paragraph (1) on the basis of such estimates and in such installments as appropriate with adjustments for any previous overpayments or underpayments.

"(6)(A) For the purpose of making grants under this subsection there are authorized to be appropriated $250,000,000 for the fiscal year ending September 30, 1980, $275,000,000 for the fiscal year ending September 30, 1981, and $300,000,000 for the fiscal year ending September 30, 1982.

"(B) Of the amount appropriated under subparagraph (A) for any fiscal year, the Secretary shall obligate not more than $1,000,000 for the uniform national health program reporting system referred to in paragraph (2)(C)(ii).

"(7) Regulations (including substantive amendments to regulations) under this subsection shall be promulgated by the Secretary after consultation with a conference of State health authorities. The Secretary shall consult with such conference prior to the publication of proposals for such regulations or amendments.".

DISEASE CONTROL PROGRAMS

SEC. 3. (a) Subsection (d)(1) of section 317 is amended by the striking out "public and nonprofit private entities" and inserting in lieu thereof "State health authorities, health authorities of political subdivisions of States, other public entities, and nonprofit private entities".

(b)(1) Subsection (g)(1)(A) of such section is amended by inserting before ", there are authorized" the following "and for the purpose of grants under such subsection for the fiscal year ending September 30, 1979, for disease control programs to immunize individuals against influenza".

(2) Subsection (g)(1)(B) of such section is amended by striking out "for disease control programs for diseases borne by rodents" and inserting in lieu thereof "for rodent control programs".

(c)(1) Subsection (g)(1)(A) of such section is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$51,000,000 for the fiscal year ending September 30, 1979, $40,250,000 for the fiscal year ending September 30, 1980, and $46,280,000 for the fiscal year ending September 30, 1981".

(2) Subsection (g)(1)(B) of such section is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: $15,000,000 for the fiscal year ending September 30, 1979,

$17,300,000 for the fiscal year ending September 30, 1980, and $19,900,000 for the fiscal year ending September 30, 1981".

(3) Subsection (g)(1)(C) of such section is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$5,800,000, for the fiscal year ending September 30, 1979, $6,700,000 for the fiscal year ending September 30, 1980, and $7,700,000 for the fiscal year ending September 30, 1981".

PREVENTION AND CONTROL OF VENEREAL DISEASES

SEC. 4. (a)(1) Subsection (f) of section 318 is repealed and subsections (g) and (h) of such section are redesignated as subsections (f) and (g), respectively.

(2) Subsection (g)(2) of section 317 is amended by striking out "Except as provided in section 318, no funds" and inserting in lieu thereof "No funds."

(b)(1) Subsection (d)(1) of section 318 is amended by inserting after "(1)" the following: "For the purpose of making grants under subsections (b) and (c) there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1979, $53,000,000 for the fiscal year ending September 30, 1980, and $62,000,000 for the fiscal year ending September 30, 1981. For grants under subsection (b) in any fiscal year, the Secretary shall obligate not less than 5 per centum of the amount appropriated for such fiscal year under the preceding sentence."

(2) Subsection (b) of such section is amended by striking out "(1)" and paragraph (2).

(3) Subsection (c) is amended (A) by striking out paragraph (2), (B) by striking out "(1)", and (C) by redesignating subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) as paragraphs (1), (2), (3), (4), and (5), respectively.

FAMILY PLANNING

SEC. 5. (a) Section 1001(a) is amended by striking out "family planning methods (including natural family planning methods)" and inserting in lieu thereof "family planning methods and services (including natural family planning methods, infertility services, and services for adolescents)".

(b)(1) Section 1001(c) is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$200,000,000 for the fiscal year ending September 30, 1979; $230,000,000 for the fiscal year ending September 30, 1980; and $264,500,000 for the fiscal year ending September 30, 1981".

(2) Section 1003(b) is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$3,100,000 for the fiscal year ending September 30, 1979; $3,600,000 for the fiscal year ending September 30, 1980; and $4,100,000 for fiscal year ending September 30, 1981".

(3) Section 1004(b)(1) is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a comma and the following: "$105,000.000 for the fiscal year ending September 30, 1979, $120,800,000 for the fiscal year ending September 30, 1980, and $138,900.000 for the fiscal year ending September 30, 1981".

(4) Section 1005(b) is amended (A) by striking out "and" after "1977.", and (B) by inserting before the period a semicolon and the following "$700,000 for the fiscal year ending September 30, 1979; $805,000 for the fiscal year ending September 30, 1980; and $926,000 for the fiscal year ending September 30, 1981".

GENETIC DISEASES, HEMOPHILA PROGRAMS, AND SUDDEN INFANT DEATH SYNDROME

SEC. 6. (a) Section 402 of the Health Research and Health Services Amendments of 1976 is amended by striking out "including" and inserting in lieu thereof "such as".

(b) The first sentence of section 1104(a) is amended by striking out "such information" and inserting in lieu thereof "such information (including assurances for an evaluation whether performed by the applicant or by the Secretary)".

(c)(1) Part A of title XI is amended by adding after section 1106 the following new section:

"APPLIED TECHNOLOGY

"SEC. 1107. The Secretary, acting through an identifiable administrative unit, shall—

"(1) conduct epidemiological assessments and surveillance of genetic diseases to define the scope and extent of such diseases and the need for programs for the diagnosis, treatment, and control of such diseases, screening for such diseases, and the counseling of persons with such diseases;

"(2) on the basis of the amendment and surveillance described in paragraph (1), develop for use by the States programs which combine in an effective manner diagnosis, treatment, and control of such diseases, screening for such diseases, and counseling of persons with such diseases; and

"(3) on the basis of the assessments and surveillance decribed in paragraph (1), provide technical assistance to States to implement the programs developed under paragraph (2) and train appropriate personnel for such programs.

In carrying out this section, the Secretary may, from funds appropriated under section 1101(b), make grants to or contracts with public or nonprofit private entities (including grants and contracts for demonstration projects).".

(2) Section 1101(b) is amended by inserting "and section 1107" after "this section".

(d)(1) Section 1101(b) is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$20,000,000 for the fiscal year ending September 30, 1979, $23,000,000 for the fiscal year ending September 30, 1980, and $26,500,000 for the fiscal year ending September 30, 1981".

(2) Section 1121(b)(5) is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$3,500,000 for the fiscal year ending September 30, 1979, $4,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981".

(3) Section 1131(f) is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$3,500,000 for the fiscal year ending September 30, 1979, $4,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981".

(4) Section 1132(e) is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$2,500,000 for the fiscal year ending September 30, 1979, $3,000,000 for the fiscal year ending September 30, 1980, and $3,500,000 for the fiscal year ending September 30, 1981".

HOME HEALTH SERVICES

SEC. 7. (a) Part A of title III is amended by inserting after section 311 the following new section:

"HOME HEALTH SERVICES

"SEC. 312. (a)(1) For the purpose of demonstrating the establishment and initial operation of home health agencies (as defined in section 1861(o) of the Social Security Act) which will provide home health services (as defined in section 1861(m) of the Social Security Act) in areas in which such services are not otherwise available, the Secretary may, in accordance with the provisions of this section, make grants to public and nonprofit private entities to meet the initial costs of establishing and operating such agencies and expanding the services available through existing agencies, and to meet the costs of compensating professional and paraprofessional personnel during the initial operation of such agencies or the expansion of services of existing agencies.

"(2) In making grants under this subsection, the Secretary shall consider the relative needs of the several States for home health services and preference shall be given to areas within a State in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or both.

"(3) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulation prescribe.

"(4) Payments under grants under this subsection may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(5) There are authorized to be appropriated for grants under this subsection $14,000,000 for the fiscal year ending September 30, 1979, $16,100,000 for the fiscal year ending September 30, 1980, and $18,500,000 for the fiscal year ending September 30, 1981.

"(b)(1) The Secretary may make grants to public and nonprofit private entities to assist them in demonstrating the training of professional and paraprofessional personnel to provide home health services (as defined in section 1861(m) of the Social Security Act).

"(2) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulation prescribe.

"(3) Payments under grants under this subsection may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(4) There are authorized to be appropriated for grants under this subsection $2,000,000 for the fiscal year ending September 30, 1979, $2,500,000 for the fiscal year ending September 30, 1980, and $3,000,000 for the fiscal year ending September 3, 1981.".

(b) Effective October 1, 1978, section 602 of Public Law 94–63 is repealed.

HYPERTENSION PROGRAMS

SEC. 8. (a) Part A of title III is amended by adding after section 312 (added by section 7 of this Act) the following new section:

"HYPERTENSION PROGRAMS

"SEC. 313 (a) The Secretary may make grants to State health authorities to assist them in meeting the costs of providing programs for screening for, and the detection, diagnosis, prevention, and control (including referral for treatment) of, hypertension.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

"(1) a complete description of the type and extent of the program which is to be provided by or through the applicant with a grant under subsection (a);

"(2) assurances satisfactory to the Secretary that the program to be provided under the grant applied for will be provided in accordance with the State health plan in effect under section 1524(c);

"(3) assurances satisfactory to the Secretary that the applicant will make such reports respecting the program as the Secretary may require; and

"(4) such other information as the Secretary may by regulation prescribe.

"(c) The Secretary shall determine the

amount of any grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(d)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of grants under subsection (a) that are pertinent to such grants.

"(e) The Secretary may provide technical assistance to State health authorities in connection with the operation of their hypertension programs.

"(f) The Secretary shall submit annually to the Congress a report (1) on the extent of the problems presented by hypertension, and (2) on the effectiveness of the activities assisted under grants under subsection (a).

"(g) There are authorized to be appropriated for grants under subsection (a) $28,800,000 for fiscal year ending September 30, 1980, $33,000,000 for the fiscal year ending September 30, 1981, and $38,000,000 for the fiscal year ending September 30, 1982."

(b) Section 317(f) is amended by strking out "hypertension,".

LEAD-BASED PAINT POISONING PREVENTION PROGRAMS

SEC. 9. (a) Part A of title III is amended by adding after section 314 the following new section:

"LEAD-BASED PAINT POISONING PREVENTION PROGRAMS

"SEC. 315. (a)(1) The Secretary may make grants to agencies of units of general local governments and to private nonprofit entities to assist them in meeting the costs of providing lead-based paint poisoning prevention programs.

"(2) For purposes of this section—

"(A) the term 'lead-based paint poisoning prevention program' means any program which provides for—

"(i) educational programs intended to communicate to parents, educators, and local health officials the health danger and prevalance of lead-based paint poisoning among children.

"(ii) the development and carrying out of intensive community testing programs designed to detect incidents of lead-based paint poisoning among community residents and to insure prompt medical treatment for such afflicted individuals;

"(iii) the development and carrying out of intensive followup programs to insure that identified cases of lead-based paint poisoning are protected against further exposure to lead-based paints in their living environment;

"(iv) the establishment of centralized laboratory facilities for analyzing biological and environmental lead specimens; and

"(v) any other actions which will reduce or eliminate lead-based paint poisoning; and

"(B) the term 'units of general local government' means (i) any city, county, township, town, borough, parish, village, or other general purpose political subdvision of a State, (ii) any combination of units of general local government in one or more States, (iii) an Indian tribe, and (iv) with respect to lead-based paint poisoning elimination activities, in their urban areas, the territories and possessions of the United States.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

"(1) a complete description of the type and extent of the lead-based paint poisoning prevention program which is to be provided by or through the applicant with a grant under subsection (a);

"(2) assurances satisfactory to the Secretary that the program to be provided under the grant applied for will be provided in accordance with the State health plan in effect under section 1524(c);

"(3) assurances satisfactory to the Secretary that the applicant will make such reports respecting the program as the Secretary may require; and

"(4) such other information as the Secretary may by regulation prescribe.

"(c) The Secretary shall determine the amount of a grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(d)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of grants under subsection (a) that are pertinent to such grants.

"(e) The Secretary may provide technical assistance to recipients of grants under subsection (a) in connection with the operation of their lead-based paint poisoning prevention programs.

"(f) The Secretary shall submit annually to the Congress a report (1) on the extent of the problems presented by lead-based paint, and (2) on the effectiveness of the programs assisted under grants under subsection (a).

"(g) There are authorized to be appropriated for grants under subsection (a) $14,000,000 for the fiscal year ending September 30, 1979, $16,100,000 for the fiscal year ending September 30, 1980, and $18,500,000 for the fiscal year ending September 30, 1981.".

(b) Effective October 1, 1979, titles I and II and sections 504 and 505 of the Lead-Based Paint Poisoning Prevention Act are repealed, and section 506 of such Act is redesignated as section 504.

EFFECT OF LEAD ON CHILD DEVELOPMENT

SEC. 10. The Secretary of Health, Education, and Welfare shall conduct a study to determine the long-term effect on child development of various levels of lead in blood. The Secretary shall report the results of such study to the Congress together with recommendations for such legislation as the Secretary determines is appropriate.

EMERGENCY MEDICAL SERVICES SYSTEMS

SEC. 11. (a) Section 1203(c) is amended (1) effective June 30, 1975, by striking out the first sentence of paragraph (2), (2) by striking out paragraph (3), and (3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) Effective June 30, 1975, the first sentence of section 1204(b)(1) is repealed.

(c) Subparagraph (B) of section 1206 (b)(1) is amended to read as follows:

"(B) No applicant may receive more than a total of five grants, contracts, or grants and contracts under this part, except that in determining the number of grants and contracts which an applicant received under this part, the Secretary shall not include any grant or contract received under section 1202(b)(1) or 1205.".

(d)(1) Section 1207(a)(1) is amended by striking out "sections 1203 and 1204" and inserting in lieu thereof "sections 1202, 1203, and 1204".

(2) Section 1207(a)(5) is amended by striking out "for the succeeding fiscal year" and inserting in lieu thereof "for each of the two succeeding fiscal years".

SELECT PANEL FOR THE PROMOTION OF CHILD HEALTH

SEC. 12. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall establish within the Office of the Secretary a Select Panel for the Promotion of Child Health (hereinafter in this section referred to as the "panel").

(b)(1) The panel, after reviewing all the significant medical, scientific, behavorial, and epidemiological studies concerning the promotion of child health and the prevention of childhood diseases and concerning the efficacy and efficiency of child health programs, shall—

(A) formulate specific goals with respect to the promotion of the health status of children and expectant mothers in the United States;

(B) develop a comprehensive national plan for achieving these goals and otherwise promoting the health of children in the United States; and

(C) transmit to the Secretary, to the Committee on Interstate and Foreign Commerce of the House of Representatives, and to the Committee on Human Resources of the Senate, not later than eighteen months after the date of the enactment of this Act, a report detailing the comprehensive national plan it has developed and recommendations for such administrative, legislative, and other actions as it deems appropriate to implement this plan and to otherwise promote the health of children in the United States.

(2) The panel shall include in its comprehensive national plan (developed under paragraph (1)(B)) recommendations with respect to—

(A) the appropriate type and quantity of preventive health care and other health services needed by children in general and by particular types of children at risk;

(B) the appropriate methods (and providers) for delivering and financing the delivery of such services;

(C) the appropriate methods for coordinating and consolidating, within an agency and between agencies, the administration of child health promotion programs;

(D) the need for research into the delivery of such services and the promotion of child health;

(E) the appropriate methods for instructing children and parents in methods of maintaining their health;

(F) the encouragement of innovative programs to promote child health;

(G) the appropriate methods (including demonstration programs) for applying research findings to delivery of health services to children and otherwise to promoting the health of children;

(H) the appropriate relationship between child health promotion programs and health planning organizations;

(I) the appropriate support of training of health personnel for child health promotion programs; and

(J) the appropriate technical assistance to States to implement child health promotion programs.

(c) (1) The panel shall be composed of the Assistant Secretary for Health and the Assistant Secretary for Planning and Evaluation, who shall serve as ex officio members, and of fifteen other members who shall be appointed by the Secretary not later than sixty days after the date of the enactment of this Act. Among members of the panel appointed by the Secretary, the Secretary shall appoint not less than three, nor more than five, individuals employed by the Department of Health, Education, and Welfare, and shall appoint representatives from the scientific, medical, allied health, mental health, preventive health, public health, and education professions, as well as consumers and representatives from State and local health agencies.

(2) The Secretary shall designate, at the time of appointment of members of the panel, one member to serve as chairperson and another to serve as vice chairperson of the panel.

(3) Members of the panel shall serve for the life of the panel and the Secretary shall appoint individuals to fill vacancies on the panel as they may arise.

(4) On and after October 1, 1978, each member of the panel (who is not a full-time officer or employee of the United States) shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the panel. All the members of the panel shall be allowed, while away from their homes or regular places of business in the performance of service for the panel, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) (1) Upon the request of the panel, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the panel to assist the panel in carrying out its functions.

(2) The Secretary shall provide the panel with such administrative services and facilities as may be required to carry out its functions.

(e) (1) The panel may, for purposes of carrying out its functions, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and appoint such advisory committees as it may deem advisable.

(2) The panel may secure directly from any department or agency of the United States information necessary to carry out its functions. Upon request of the chairperson of the panel, the head of each such department or agency shall, to the extent permitted by law, furnish the information and otherwise cooperate with the panel.

(f) The panel shall cease to exist ninety days after the date of submittal of the report described in subsection (b) (1) (C).

(g) There is authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1979, to carry out this section. Sums appropriated under this subsection shall remain available for expenditure until the date the panel ceases to exist.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **CARTER**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Florida (Mr. ROGERS) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

GENERAL LEAVE

Mr. **ROGERS**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 12370, under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. **ROGERS**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before us today is H.R. 12370, the Health Services Amendments of 1978. This bill would amend the Public Health Service Act and related laws to revise and extend programs of financial assistance for the delivery of several important public health services, and create for the purpose of an 18-month study, a Select Panel for the Promotion of Child Health.

Mr. Chairman, this bill contains revisions and extensions of several public health services programs authorized by the Congress in the past and has the overwhelming support of the Committee on Interstate and Foreign Commerce.

Briefly, the Health Services Amendments revise and extend expiring authorities for grants to States for comprehensive public health services; hypertension programs; disease control programs, including immunization, venereal diseases, rodent control and lead-based paint poisoning prevention; family planning programs; genetic disease programs; sudden infant death syndrome programs; hemophilia programs; and home health care projects. In addition, amendments are made to the emergency medical services programs which will allow all authorities under that program to be considered for renewal simultaneously next year.

I know there are Members concerned by the fact that this bill is to be considered under a suspension of the rules. I would point out to my colleagues that it was not my original intent to bring this bill to the floor under suspension. A hearing on this bill has been requested before the Rules Committee since May 25, shortly after this measure was reported from committee. Unfortunately the tremendous volume of legislation pending before the Rules Committee has precluded consideration of this bill. Now, with the large number of rules already granted and pending floor action, it appears that the only practical approach is to bring this measure to the floor under suspension. With the short time remaining in this Congress, and the significant differences between the House and Senate versions of the health services amendments—which must be reconciled—expeditious action by the House is crucial if we are to continue, in a responsible fashion, the more than 20 program authorities addressed by this legislation.

I am also aware that there are those who seek to convince my colleagues that the simple extension of the voluntary family planning program constitutes a pro-abortion vote. Nothing could be further from the truth. In fact, a vote for this bill is a vote against abortion. Title X is the only national program which will actually prevent the condition which could lead to a request for abortion.

Since its initial enactment in 1970, the title X program has contained the following prohibition:

> "SEC. 1008. None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning."

The conferees on that legislation wisely stated:

> "It is, and has been, the intent of both Houses that funds authorized under this legislation be used only to support preventive family planning services, population research, infertility services, and other related medical, informational, and educational activities. The conferees have adopted the language contained in section 1008, which prohibits the use of such funds for abortion, in order to make clear this intent. The legislation does not and is not intended to interfere with or limit programs conducted in accordance with State or local laws and regulations which are supported by funds other than those authorized under this legislation."

This is still the case today. There is no evidence that a single abortion has been performed with title X funds.

We must not lose sight of the fact that this bill also addresses many other vital public health programs in addition to the voluntary programs of family planning, and that it has the support of literally hundreds of organizations including the American Colleges of Preventive Medicine, Pediatrics, and Obstetricians and Gynecologists; the National Foundation; the Association of Schools of Public Health; the American Public Health Association; the city, county, and the State Health Officials; and the Governors and State legislatures, among others.

In general, Mr. Speaker, this proposal contains 3-year extensions for the specific service programs I have already outlined. The significant revisions included in this bill are:

First. The replacement of the old 314 (d) program of grants to States for comprehensive public health services with a program of health incentive grants. This new program is designed to continue the progress achieved under 314(d), and to provide an incentive to State and local governments to increase their own support of public health programing.

Second. A change from a formula grant program for hypertension to a project grant program which will provide for greater accountability of the use of hypertension funds;

Third. The establishment of an applied technology program for genetic diseases which will include: First, disease surveillance; second, epidemiologic assessment to define the scope and extent of genetic diseases and the need for specific programs; third, provide assistance in program management techniques; and fourth, laboratory technology;

Fourth. Increases in authorization levels especially for family planning services and research, in part to meet the needs of adolescents and of those couples with infertility problems;

Fifth. A 1-year authorization for a program of voluntary high-risk influenza immunization; and

Sixth. The establishment, for an 18-month study, of a Select Panel for the Promotion of Child Health.

Mr. Speaker, more specifically, section 2 of H.R. 12370 extends the current 314 (d) program for 1 year, and then replaces it with a new program, the health incentive grant.

Since fiscal year 1970, $90 million has been appropriated each year in support of State and local health programs under section 314(d). Congressional support for public health services under section 314 (d) has been based upon a positive record of performance by the States. Because of the continuing need to support vital public health programing at a realistic level of funding, and in an attempt to encourage greater State and local government participation in meeting community health needs, H.R. 12370 would extend the existing authority for the 314(d) program for 1 year, and then replace this "entitlement" formula program with a new approach, termed the "Health Incentive Grant."

Beginning in fiscal year 1980, States would receive a minimum of $1 per capita to assist them in meeting the costs of providing comprehensive public health services. States would be eligible to receive up to a maximum of $1.50 per capita to assist in providing such services. The actual grant award to any State (between $1 and $1.50 per capita) would be determined by the amount of direct State and local support for public health programs in that State.

For formula grants to States for comprehensive public health services, H.R. 12370 would authorize $103.5 million for fiscal year 1979. For formula grants to States for hypertension programs, H.R. 12370 would authorize $25 million for fiscal year 1979. For health incentive grants to States for comprehensive public health services, H.R. 12370 would authorize $250 million for fiscal year 1980; $275 million for fiscal year 1981; and $300 million for fiscal year 1982.

Section 3 of H.R. 12370 would extend, essentially unchanged, programs of childhood immunization, rodent control, and general diseases control authority for 3 fiscal years. In addition, a new program of voluntary high risk influenza immunization is authorized for 1 fiscal year. For immunization programs, H.R. 12370 would authorize $51 million for fiscal year 1979 (including the influenza program); $40.25 million for fiscal year 1980; and $46.28 million for fiscal year 1981.

For rodent control, H.R. 12370 would authorize $15 million for fiscal year 1979; $17.3 million for 1980; and $19.9 million for fiscal year 1981. For other disease control activities, H.R. 12370 would authorize $5.8 million for fiscal year 1979; $6.7 million for fiscal year 1980; and $7.7 million for fiscal year 1981.

Section 4 of H.R. 12370 would renew, for 3 fiscal years, programs for the control of venereal diseases. Two existing authorities (1) VD demonstration, clinical research and training, and (2) VD surveillance and casework would be combined as a single authority VD control. In addition, H.R. 12370 would repeal an existing provision of the Public Health Service Act which would allow the Secretary to use up to 50 percent of the appropriated venereal disease control funds for other disease control purposes. For venereal disease control, H.R. 12370 would authorize $45 million for fiscal year 1979; $53 million for fiscal year 1980; and $62 million for fiscal year 1981.

Section 5 of H.R. 12370 would provide a simple 3-year extension for programs of family planning service, research, training, and information and education materials. Increases have been proposed in authorization levels specifically to address the unique problems of sexually active young adults, the estimated 3.5 million low-income women who still have no access to programs of voluntary family planning services, and to assist those individuals and couples with problems of infertility and sterility. H.R. 12370 would authorize for family planning services $200 million for fiscal year 1979; $230 million for fiscal year 1980; and $264.5 million for fiscal year 1981. The bill would authorize for family planning training $3.1 million for fiscal year 1979; $3.6 million for fiscal year 1980; and $4.1 million for fiscal year 1981. The proposal would authorize for family planning information and education materials $0.7 million for fiscal year 1979; $0.805 million for fiscal year 1980 and $0.926 million for fiscal year 1981. Finally, it would authorize for family planning research $105 million for fiscal year 1979; $120.8 million for fiscal year 1980; and $138.9 million for fiscal year 1981.

Section 6 of H.R. 12370 would extend for 3 years programs of genetic diseases, hemophilia, and sudden infant death syndrome. Sudden infant death syndrome programs, blood separation centers, and hemophilia programs would be extended without substantive change. H.R. 12370 would authorize for programs of sudden infant death syndrome $3.5 million for fiscal year 1979, $4 million for fiscal year 1980, and $5 million for fiscal year 1981. The bill would authorize for hemophilia programs $3.5 million for fiscal year 1979, $4 million for fiscal year 1980, and $5 million for fiscal year 1981. The proposal would authorize for blood separation centers $2.5 million for fiscal year 1979, $3 million for fiscal year 1980, and $3.5 million for fiscal year 1981.

As indicated earlier, H.R. 12370 would amend the genetic diseases program authority to require the Secretary to establish an applied technology program which would include first, disease surveillance and second, epidemiologic assessment to define the scope and extent of genetic diseases and the need for specific programs, and assistance in third, program management techniques and fourth, laboratory technology. H.R. 12370 would authorize for genetic diseases $20 million for fiscal year 1979; $23 million for fiscal year 1980; and $26.5 million for fiscal year 1981.

Section 7 of H.R. 12370 would incorporate the existing home health services program into the Public Health Service Act and extend that program, without change, for 3 years. The bill would authorize for initial operations and expanded services costs for home health services $14 million for fiscal year 1979; $16.1 million for fiscal year 1980; and $18.5 million for fiscal year 1981. It would also authorize for training of professional and paraprofessional personnel to provide home health services $2 million for fiscal year 1979; $2.5 million for fiscal year 1980; and $3 million for fiscal year 1981.

Section 8 of H.R. 12370 would replace the existing program of formula grants for hypertension control programs with a project grant program beginning in fiscal year 1980. This change will provide for greater accountability of hypertension funds, and provide more significant and uniform program data than has been available in the past. H.R. 12370 would authorize for hypertension programs $28.8 million for fiscal year 1980; $33 million for fiscal year 1981; and $38 million for fiscal year 1982.

Section 9 of H.R. 12370 would transfer titles I and II of the Lead-based Paint Poisoning Prevention Act to the Public Health Service Act and extend, without substantive change, programs of lead-based paint poisoning prevention for 3 years. For programs of lead-based paint poisoning prevention, H.R. 12370 would authorize $14 million for fiscal year 1979; $16.1 million for fiscal year 1980; and $18.5 million for fiscal year 1981.

Section 10 of H.R. 12370 would require the Secretary of HEW to conduct a long-term study of the effects of various blood lead levels on child development. No specific funds are authorized for this purpose.

Section 11 of H.R. 12370 incorporates a series of amendments to the existing emergency medical services amendments to allow all authorities in that program to expire and be considered simultaneously for renewal early in the 96th Congress.

Section 12 of H.R. 12370 would require the Secretary of Health, Education, and Welfare to establish within his office a Select Panel for the Promotion of Child Health. That panel would be charged with: First, formulating specific goals with respect to the health status of children and expectant mothers in the United States; second, developing a comprehensive National plan for achieving these goals and otherwise promoting the health of children in the United States; and third, making a report within 18 months to the Secretary and the Congress detailing a comprehensive National plan with its recommendations for legislation, and other actions it deems appropriate to implement this plan.

The panel would be authorized for a 18-month program life and H.R. 12370 would authorize $1 million for its operations.

Mr. Speaker, H.R. 12370 is important legislation. The programs supported by the provisions of this bill are of critical importance to the health and welfare of all Americans. The majority of the health services programs extended by this legislation are designed to prevent illness (such as immunization) to allow informed decisionmaking about one's own health status (such as hypertension programs or venereal disease control) before far more costly secondary or tertiary care may be needed. The cost benefit ratios of such services are clear. H.R. 12370 offers a significant opportunity to lower the economic and social costs of disease as well as to lower the incidence of the specific diseases addressed.

Mr. Speaker, this is a measure which deserves the support of every Member of this body, and I urge its adoption.

Mr. CARTER. Mr. Speaker, I yield 10 minutes to the distinguished gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, today we have had some most informative discussion on the floor. As we discussed the health research, it was most encouraging to know that we are going to receive excellent health in the future as a result of this health research. By putting all of these millions and millions of dollars into research we are going to solve the health problems for America.

What amazes me is, really, after Congress comes through with this tremendous dollar increase in the research bill, right on top of that, we drop this bill here, which says that we are going to increase spending expenditures by 53 percent, 105 percent, and 133 percent. This is the question that America is going to ask: Why is it that we need to spend so much money for all of these health services, because the research has solved all of it?

I was interested to learn as my distinguished friend, the gentleman from Florida, quoted all of the groups, the scholars, and medical people, all over this country, who think so highly of this spending bill. But I want to tell the gentleman about a group that does not get so excited about it, and it is known as the taxpayers of America. This also includes the housewives of America who are getting mighty tired of inflation.

I want to remind the Members of another thing. When we speak of each other on the floor of the House, we speak in such outstanding terms. We always speak about the "distinguished gentleman." But I will tell the Members that when we go home and the people at home speak of a Congressman, they speak in very simple language, and they do not think we are all that intellectual and distinguished. They think we are a bunch of dunderheads, a bunch of free spenders who do not have a brain in our head.

We have a bill here that is just a spend, spend, spend bill. I want to go through and quote specifically what we have here and the way we constructed this legislation.

We did a mumbo-jumbo deal, where we show the pea under one of the little acorns, and we swirl it around and we come up and we will never find the pea. We started with the original bill, H.R. 10553, and the committee divided it into two bills. When it first came up on the floor I was also confused. I could not understand where we had been or how we got there. I knew we had come up with a bigger dollar total, and sure enough we did. We started out with one bill, and by the time we got through we increased total spending by $1.2 billion by taking one bill and dividing it into two bills. Here the bill H.R. 12370 is one of the bills, and is named the Health Service Amendments of 1978.

What is amazing is that here we are today, passing under a suspension without allowing amendment, a bill which involves $2.7 billion, in 40 minutes sending it through Congress like a greased pig. This bill authorizes $2.7 billion. This bill provides an authorization for fiscal year 1979 of $614 million. Then spending begins to roll. In fiscal year 1980, we will spend $819 million; by 1981 we will spend $932 million. We even provide authorization for 1982 of $338 million. Those figures are not all comprehensive. The committee also wanted to start getting some of these other programs under way for hypertension and health incentives.

I can well understand why we will be on hypertension, because by that time the American people will understand the taxes that they have on their backs. We had a bill, an authorization bill, H.R. 12370, authorizing $2.704 billion. By contrast, for fiscal year 1978, the authorization was only $484 million, and the appropriation was 81 percent of that, or $399 million. Hence this fiscal year, 1979, 1980, and 1981 authorizations are increased approximately 25 percent, 67 percent, and 90 percent greater than the fiscal year 1978 authorization.

Further, the fiscal year 1979, fiscal year 1980, and fiscal year 1981 authorizations exceed the fiscal year 1978 appropriation by 54 percent, 105 percent, and 133 percent, respectively.

In other words, looking ahead to the time when we get to really spending, this bill authorizes by 3 years from now that we can spend 133 percent more than we are spending right now. All of this money in spite of this research bill which we just passed here a few minutes ago, which is going to research and solve all the health problems of America.

We cannot solve everything by money. I do not need anybody to tell me not to drink whisky and not to smoke cigarettes. I do not drink whisky and I do not smoke cigarettes, but I may well die from a heart attack, because we are going to worry all Americans to death. This helps create one of the biggest worry plans in America. As congressional spending leads to higher inflation and higher taxes.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, among other provisions, what this bill will do is grant money to States for comprehensive public health services and provide funds for family planning to try to prevent this abortion problem for America. Particularly the gentleman said he is concerned about heart attacks. The program in here for hypertension would do something about that. Most Americans who have hypertension do not know it, and they do not know that if they go to their doctor and get examined and find out they have it, something can be done about it.

I am sure the gentleman would like to know that as a result of this outgoing hypertension program, the death rate in America from heart attack has dropped and dropped, and from hypertension, specifically, the death rate has dropped 34 percent. That is 34 percent. That is the type of program that is in here. This is what will happen, and I know the gentleman and I respect his viewpoint and I know his concerns.

Mr. COLLINS of Texas. The question I ask the gentleman—and I did not even know the hypertension program had existed in the past.

Mr. ROGERS. That is why I would be glad to talk with the gentleman, and I think if he will look at this bill carefully he will support this legislation. The hypertension program has been in operation since 1975, and this is a continuation of that program.

Mr. COLLINS of Texas. My printed committee report shows that the bill starts spending of $28 million next year.

Mr. ROGERS. No. This is an ongoing program. All of these programs are ongoing. We are trying to do a job for what I think the gentleman really wants, which is to reduce disease and save costs for the taxpayers.

Mr. COLLINS of Texas. Mr. Speaker, let me tell the gentleman that I do not jog. I like to walk really fast. I walk a whole lot. I know as a fact that if one gets fat, that is no good, so I am lean.

If we observe a few fundamentals in life about health, stay lean, exercise regularly, do not drink whisky, and do not smoke cigarettes. Why do we need a bunch of Government bureaucrats putting out a lot of worthless propaganda? What does their statement in repetition of known facts have to do with making health any better?

Mr. ROGERS. Having heard the gentleman speak many times, I think he may have stress.

Mr. COLLINS of Texas. I think I do, and Congress debates leave me frustrated.

Mr. ROGERS. I think that even walking does not solve problems of stress, so we are trying to help him there, too.

Mr. Speaker, the gentleman's heart is right; if he will just get his vote right, that is what we need.

Mr. COLLINS of Texas. Mr. Speaker, I appreciate the big heart of the gentleman from Florida.

Mr. CARTER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I support this legislation, H.R. 12370, the Health Services Amendments of 1978.

Mr. Speaker, the purpose of this legislation is to improve the health of all the people of this country: Every citizen, every boy, every girl, every young man, every young woman, and every older citizen. By doing this, we feel that we will save a great deal of money.

For instance, Mr. Speaker, this legislation we have provides serum for the prevention of polio and other communicable diseases. How much money have we saved by using this serum over the years?

If we look at the record, we had only one case of polio last year. The year before there were perhaps 22, because of an outbreak at that time. Immunizations have increased during the past year, and we hope to eradicate this disease some time in the future.

In terms of cost, Mr. Speaker, it costs thousands of dollars for each patient who gets polio. We are saving that money for our good friend, the gentleman from Texas (Mr. Collins) and for the other other citizens of the United States as well as our good housewives. We are saving money for them with the programs authorized in this legislation.

Of course, our efforts in the prevention of typhoid have been quite successful since typhoid is a disease which is almost gone. This very program which we are supporting here today has made that possible. Diphtheria, whooping cough, tetanus, all of them are almost conquered. Think of how much money we are saving. We are preventing the expenditure of money incidental to the occurrence of these diseases throughout our country.

Yes, I say to my friend, the gentleman from Texas, we are on the taxpayers' side. We are preventing illness, and we want everyone to help us in this endeavor.

Now, Members of the House, let us consider the family planning portion of this legislation. When this bill came into being, and I was an original sponsor, if I remember correctly, the distinguished chairman of the committee and I were called down to the well of the House. We were asked by the Speaker of the House at that time—John McCormack—whether any of the funds in this bill were to be appropriated for abortions. We both told him no.

Mr. Speaker, section 1008 of the family planning law states, "None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning."

I hope that answers that question once and for all.

Mr. Speaker, we have 600,000 children in this country at the present time who are victims of lead poisoning or have some symptoms of it. Examinations of their blood reveal that they do have an excessive amount of lead in their systems. As a result of this poisoning, some thousands of them have cerebral sclerosis; and, in many cases, they have become paralyzed as a result of this poisoning.

The legislation here would provide funds for programs to detect and treat incidents of lead-based paint poisoning, and to provide educational programs on this problem. By doing this, Mr. Speaker, in the future we will prevent serious cerebral injury to these children who have become charges of our cities and our communities throughout the country at a cost of thousands of dollars. And again here, I will say to my friend, the gentleman from Texas (Mr. Collins), we are saving the taxpayers money. This bill should be extremely helpful to them.

Regarding genetic diseases, through examinations of youngsters we can find out if they have a tendency toward Tay-Sachs disease, toward sickle cell anemia, Cooley's anemia, cystic fibrosis, hemophilia, and Huntington's chorea and then we can advise these people when they grow up and are of marriageable age what their risks are regarding that disease. By providing them with factual information about their genetic disease, we feel that couples will be more aware of the future health risks of any offspring they may have.

Mr. Speaker, we have 23 million people in this country who have hypertension. A few years ago we developed a program for detecting these people who have hypertension, and we have found that it goes through all ages from young to old. Through medication of these 23 million people we have been able to control hypertension in 8 million—8 million—of those people, and we have diminished the number of strokes 20 percent and heart attacks 10 percent. How much, I will ask my friend, does that save the taxpayers of this great country of ours? Millions of dollars. So I ask my good friend, the gentleman from Texas, who is a humane man, for goodness sake, "Gentleman Jim," jump on the bandwagon with us and help us save this country money and vote for this legislation.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California, Mr. Dornan.

Mr. DORAN. Mr. Speaker, a number of us in the House had expected to have H.R. 12370 considered under an open rule as requested by the Interstate and Foreign Commerce Committee. Unfortunately this is not the case. Policy flaws have crept into the Federal birth control program in spite of the best efforts of Congressmen Rogers and Carter and others who have sought to keep this program in line with the law as passed by Congress.

I do not think anyone here is interested in attacking the concept of voluntary family planning. However, there are a number of objectionable elements that surface in the application of this legislation.

There are many fine sections of this bill with which I have no quarrel. And I expect that this measure will be considered in a manner that promotes the best use of public funds. In order that we may carry out our duty to our constituents, I urge my colleagues that we vote no on H.R. 12370, so that some corrective amendments may be offered that are in the spirit of fairness, and that promote pro-life, pro-family values.

To begin with, there is the question of abortion.

H.R. 12370 contains funding for the controversial title X family-planning grants. Despite clear prohibitions in the HEW that Federal money should not go to promote abortion as a method of family planning, title X provides funds for planned parenthood and other groups which promote abortion and controversial publications, films, et cetera, which undermine generally accepted standards and values about sex and sexual conduct. The granting of Federal funds to private agencies which promote abortion is a misuse of Federal funds and needs to be thoroughly reviewed by Members of the House. We need to be better aware of how the funds of the taxpayers are being used.

FUNDING OF ABORTION SERVICES

Section 1008 of title X states:

> None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.

Known as the Dingell amendment, this provision has never been removed from the law. Our esteemed colleague, Mr. Paul Rogers, in health services program hearings on H.R. 2954 and H.R. 2955 held on February 19, 1975, has also stated in a response to the U.S. Coalition for Life, Export, Pa. (page 260):

> That the law is very clear as to the design and content of programs funded under Title X of the Public Health Service Act. None of the funds appropriated under Title X may be used in programs where abortion is a method of family planning. This provision would not merely prohibit the use of such funds for the performance of abortions but would prohibit the support of any program in which abortion counseling or abortion referral services are offered.

In spite of these excellent efforts of Mr. Rogers and others, HEW, Planned Parenthood, and others have chosen to ignore the clear intent of the law. Clear documentation has been prepared by Mr. Chuck Donovan of the National Right to Life Committee, that at least 117 hospitals and clinics where "abortion is a method of family planning," are receiving title X family-planning grant moneys. They are in 33 States and the District of Columbia. Virtually every Member here is affected by this situation.

Furthermore, the Office of General Council for Health Services Administration of HEW has told me that:

HEALTH SERVICES ADMINISTRATION,
Rockville, Md., September 1, 1978.

Hon. ROBERT K. DORNAN,
House of Representatives,
Cannon Office Building, Washington, D.C.:

I regret the delay in providing the requested definition of "program" as used in Section 1008 of Title X, PHS Act. Since the definition is extracted from an opinion on a case issued by the Office of the General Counsel (OGC) dated April 10, 1978, I asked that the OGC clear it since it is taken out of context.

"Section 1008 of the PHS Act provides: 'None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.'"

"We do not believe that the word 'program', as used in Section 1008, was intended to be so comprehensive as to include any and all family planning activities carried on by an applicant for Title X funds. For example, we do not believe that a hospital offering abortions for family planning purposes, consonant with State law, would be disqualified from receiving Title X funds for the operation of a separate family planning program which utilized only preventive family planning methods.

"On the other hand . . . it is recognized that in some situations, the abortion element in a program of family planning services may be bulk so large and be so intimately related to all aspects of the program as to make it difficult, if not impossible to separate the eligible and non-eligible items of cost. In such a case, we think a grant for the project would be legally questionable.

"In other words, a mere technical allocation of funds, attributing Federal dollars to non-abortion activities and other dollars to abortion activities, in what is otherwise a discrete project for providing abortion services, would not, in our opinion, be a legally supportable avoidance of the Section 1008 prohibition.

"In our opinion, the activities (abortion and non-abortion) must be so separated as to constitute separate programs (projects). As we have already indicated, our conclusion does not require separate grantees or even a separate health facility. However, neither do we think that separate booking entries alone will satisfy the spirit of the law."

Sincerely yours,

ELSIE SULLIVAN,
Assistant for Information and Education, Office for Family Planning.

As if that were not bad enough, I have a quote from Senator PACKWOOD, supplied me by Paul Marx, OSB, from Collegeville, Minn., showing how title X grantees can get around the prohibition on abortion. It is taken from Father Marx's book, "The Death Peddlers." He says:

GETTING AROUND THE TYDINGS ACT

Addressing himself to the law passed last year at the end of the congressional session, known as the Tydings Family Planning and Population Act, which had allocated $382 million for fiscal 1971–73 for family-planning services and population-research activities, Packwood proclaimed himself "abhorred" that it had excluded money for abortion. He gave detailed suggestions for bypassing that prohibition:

If a national grant were made to Chicago's Planned Parenthood, for example, they could use the money for other purposes and expenses, while using their current monies to promote abortion. This would give every Congressman a way out if challenged by a constituent: he could say he voted against abortion.

Packwood surely had done his homework:

Various health acts funnel money that can be used for abortion purposes. The Public Health Service Act likewise grants to states various monies, the purpose of which is to be decided by the states. For these various acts the federal government can grant money to the states with liberal abortion laws to be used to implement abortion programs.

So, in asking for an amendment to the title, we do nothing more than ask what Congress had already thought was the case. And that hardly is a radical move.

Because of these abuses, my amendment to H.R. 12370, which I hope to offer under an open rule reads:

Amendment to H.R. 12370, as reported: page 15, insert after line 17 the following:

(C) Section 1008 is amended by adding at the end the following: "No grant or contract authorized by this Title may be made or entered into with an entity which directly or indirectly provides abortion services, abortion counseling, or abortion referral services."

[From Family Planning Perspectives, Vol. 8, No. 1, January/February 1976]

PREGNANCY COUNSELING AND ABORTION REFERRAL FOR PATIENTS IN FEDERALLY FUNDED FAMILY PLANNING PROGRAMS

(By Jeannie I. Rosoff)

Family planning programs often see patients who have medical or social problems that are unrelated to fertility regulation or that require interventions beyond the program's capabilities. Both professional standards and the regulations governing federally funded family planning projects require that such patients be apprised of their condition, counseled as to alternatives and referred to an appropriate resource for care. Organized family planning programs funded under Title X of the Public Health Service Act and Title V of the Social Security Act, nevertheless, may feel constrained from making abortion referrals because of the prohibition in the Title X law and Title V appropriation against use of federal funds to pay for abortion as a family planning method. However, program guidelines for Title X have just been issued which should resolve the ambiguities that have arisen around interpretation of this prohibition. Indeed, a close examination of the relevant laws, the legislative history of the prohibition and subsequent congressional action on abortion indicates that Congress never had any intention of restricting pregnancy counseling or abortion referral services. Moreover, the failure to offer such services, when called for, is probably a violation of federal regulations as well as professional standards and principles.

Family planning programs are financed largely under Title X and, to a much smaller extent, Title V. The federal regulations governing Title X state that "the project will not provide abortions as a method of family planning."[1] They require, however, that "provision [be made] for medical services related to family planning . . . and [for] necessary referral to other medical facilities when medically indicated," and that there also be made available "social services related to family planning, including counseling, referral to and from other agencies [and] coordination and use of referral arrangements with other providers of health care services."[2] The new DHEW guidelines interpreting these regulations add that family planning medical services "should be part of a comprehensive medical care plan where patients served by a family planning project may receive education, advice and referral for the screening, detection, prevention or treatment of a variety of conditions with the objective of achieving and maintaining a state of good health, particularly with regard to reproduction."[3] The guidelines provide, for example, that patients be given a full explanation of the benefits and problems associated with all of the various contraceptive methods.[4]

Special attention is given to the medical management of patients who are or may be pregnant. Among lab tests which must be provided at the initial visit is a "pregnancy test, if indicated."[5] The interview following the medical examination should "give pregnancy counseling, when appropriate, . . . [and] make appropriate referrals for any needed services [including pregnancy-related services] not furnished through the facility."[6] Thus, if an IUD patient is diagnosed as pregnant, the IUD should normally be removed. If it is not, the patient should be advised that there is an increased risk of an infected, spontaneous abortion during the pregnancy, and "the patient and her physician should discuss whether it is best to terminate or to continue the pregnancy. . . . *Whatever the decision regarding the pregnancy, she must have close medical supervision* [emphasis added]."[7] The guidelines also provide for counseling of patients who wish to discontinue their contraceptive method in order to become pregnant. The counseling should emphasize the need for "early and continuing care during pregnancy, with referral to sources giving prenatal care."[8]

Under Title D, DHEW approval of each state's "program of projects" is conditioned upon assurance that the program has made "arrangements for the provision of services to those persons who have received diagnostic tests but are not eligible for treatment services under the program of projects," and that arrangements exist for the "coordination of health care and services provided under the program with, and the utilization of other health and welfare resources."[9]

Quite apart from the federal regulations and guidelines governing these programs, professional ethics and standards require that patients be counseled and referred to other sources of care or assistance when needed and available. Indeed, the *Principles of Medical Ethics* of the American Medical Association state: "A physician should seek consultation [referral] upon request; in doubtful or difficult cases; or whenever it appears that the quality of medical service may be enhanced thereby."[10] Failure to make appropriate referrals could, under certain conditions, provide the basis for malpractice action. In the case of projects funded under Title V and Title X, failure to comply with the governing DHEW regulations could disqualify the program from receiving federal support.

The determination and management of pregnancy are among the most common conditions necessitating counseling and referral that are encountered by family planning programs. Pregnancy requires medical monitoring in all circumstances, and medical intervention and treatment if and when problems arise. It is generally agreed that medical care should be provided as early as possible in pregnancy, either to ensure optimum conditions for the woman and her fetus throughout the gestational period or, alternatively, to terminate the pregnancy in the early weeks when the risks to the woman are fewest. Family planning project personnel have had no difficulty in counseling and referring for prenatal care those patients who are pregnant and desire to continue their pregnancies to term. In projects that are funded in whole or in part by Title X or Title V funds, however, some professional staff have felt constrained from providing abortion counseling and referral services for those patients who want them. These constraints have resulted in part from the perceived ambiguity of the law, and in part from the varying informal interpretations provided by DHEW personnel in different geographical areas at different times, especially in the absence of any guidelines. Although the new guidelines should clarify any ambiguities about interpretation of the law, it may nevertheless be worthwhile to review the relevant legislative history to forestall future misinterpretation or misrepresentation.

Section 1008 of Title X was adopted as part of the original Title X legislation[11] and subsequently was extended to Title V in legislation dealing with appropriations.[12] It reads: "None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning."

The Family Planning Services and Population Research Act, which was to become Title X of the Public Health Service Act, was introduced on May 8, 1969 as S. 2108 by Sen. Joseph D. Tydings (D.-Md.) and sponsored by 23 of his colleagues. Its Declaration of Purpose provided that the Act was to "assist in making comprehensive family planning services readily available to all persons desir-

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Footnotes at end of article.

ing such services." The Act's preamble estimated that "over five million American women are denied access to modern, effective, medically safe family planning services due to financial need." Similar estimates of need for family planning were quoted subsequently by President Nixon,[13] by the Secretary of DHEW [14] and by numerous witnesses at both Senate and House hearings.[15]

All of these estimates were based on studies sponsored by the Office of Economic Opportunity detailing need and unmet need for subsidized family planning services in the United States. The studies defined family planning as "any medical means by which conception is prevented or postponed" [16] and a family planning service as a "physician's examination and prescription of a contraceptive method for postponing or preventing conception." [17] In the course of the Senate's consideration of the legislation, it was never suggested that the definition of family planning be extended to include abortion. The issue did not arise during three days of hearings held by the Senate Labor and Public Welfare Committee's Subcommittee on Health, or during the bill's 'mark-up' in the full committee. The bill (S. 1708) was unanimously adopted by the full Senate on July 14, 1970.

The potential use of federal funds for abortion did not arise as an issue in the House hearings until several unscheduled witnesses appeared before the Subcommittee on Health of the Committee on Interstate and Foreign Commerce. Typical was the warning of one of these witnesses that population planners "consider [not only] abortion as a method of birth control—and so abortion would be included under family planning services—but also so-called contraceptive drugs and devices as the pill and the uterine device [which] are in fact abortifacients." [18] Another of these witnesses predicted that as the result of such "perverse legislation," we could expect that "fornication, adultery, sex perversion, sterilization, voiding of marriage statutes, abortion on demand, euthanasia and infanticide . . . [would rapidly become] the law of the land." [19] The senior sponsor of the family planning legislation in the House, Rep. Tim Lee Carter (R.-Ky.), tried to reassure the witnesses: "I believe that a lot of your reasoning is based on fear, and we want to tell you that we don't want to do those things, so many of those things which you mentioned." [20] The bill was reported out of the subcommittee without an antiabortion proviso.

The U.S. Catholic Conference, which up to that point had taken no formal position on the bill, expressed concern about the "weaknesses" of the legislation but offered no forceful opposition. Apparently anticipating its adoption, the Conference representative indicated, however, that it is "the responsibility of this [Interstate and Foreign Commerce] Committee to clearly write into the legislation a prohibition on abortion as a method of contraception." [21] When an amendment to this effect was introduced in closed session of the committee by Rep. John D. Dingell (D.-Mich.), it was adopted and reported as part of the committee's 'clean bill' (H.R. 19318). The committee's report on the Family Planning Services and Population Research Act of 1970 mentioned the Dingell amendment as one of two substantive amendments to the legislation, but provided no details as to the committee's intent or justification for passing it. It only cited "one [amendment] prohibiting funds appropriated under the legislation from being used in programs where abortion is a method of family planning." [22]

During floor consideration of the bill on November 16, 1970, Dingell stated his reasons for proposing the amendment, citing the "fundamental difference between prevention of conception and the destruction of human life," the need to "curb the notion that abortion on demand is a legitimate measure to regulate population size," and concern for the health impact of "abortion on demand" and for the "rights of the unborn." [23] When stating the committee's views, as distinct from his own, he said that with " 'the prohibition of abortion' amendment—Title X, Section 1008—the committee members clearly intend that abortion is not to be encouraged or promoted." [24] Dingell said, moreover, that "abortion as a substitute or as a back-up for contraceptive methods can reduce the effectiveness of family planning programs," and suggested "that if the poor and uneducated—to whom this legislation is primarily directed—are offered the possibility of abortion along with family planning assistance, they will more readily turn to abortion." [25] Of the three congressmen who spoke in opposition to the legislation (21 spoke in favor, including Dingell), only one referred to Section 1008, expressing concern that abortion might *not* be interpreted to include "those contraceptive methods [such as prostaglandins] which destroy the fetus very soon after conception." [26]

Priority attention to contraceptive services appeared to be what Congress, in fact, had in mind when it adopted Section 1008. The report of the Committee of Conference states:

"It is and has been the intent of both Houses that the funds authorized under this legislation be used only to support preventive family planning services, population research, infertility services and other related medical, informational and educational activities. The Conferees have adopted the language contained in Section 1008, which prohibits the use of such funds for abortion, in order to make clear this intent. The legislation does not and is not intended to interfere with or limit programs conducted in accordance with state or local laws and regulations which are supported by funds other than those under this legislation." [27]

While the wording of Section 1008 is ambiguous in certain respects and raises questions of statutory interpretation and constitutionality, the purpose of this review is only to assess its implications for the provision of abortion counseling and referral services in programs funded under Title V and Title X. This assessment will focus only on statutory interpretations, although it is evident that any interpretation that restricts abortion counseling and referral under Section 1008 will also be open to constitutional challenge under the free speech provisions of the First Amendment and the due process and equal protection clauses of the Fourteenth Amendment.

The legislative history (the body of congressional hearings and communications, committee actions and reports, and floor debates and motions that detail the reasoning and intent of Congress in enacting legislation) is, as we have noted, extremely skimpy for Section 1008 as a whole; it is also totally devoid of references to referral and counseling services. The language of the conference report, the most significant expression of congressional intent in this connection, uses the word *abortion* to denote a medical intervention to terminate or assist in the termination of a pregnancy. Moreover, the specific mention in the report of "other related medical, informational and educational activities" is certainly broad enough to encompass all counseling and referral activities that are routine or appropriate or required by commonly accepted professional standards. It would appear, therefore, that any ambiguity in the interpretation of Section 1008 in regard to counseling and referral activities derives not so much from the record and the legislative history, as from political perceptions about the controversial nature of abortion. Indeed, the legislative history on abortion since 1970 is clear as to the appropriate statutory interpretation of Section 1008's applicability to abortion counseling and referral.

Although Congress did not address the abortion issue in any way between 1970 and 1973, since then it has considered, and *rejected*, a number of proposals intended to prohibit the use of all [28] or certain [29] federal funds for all abortions,[30] some abortions,[31] abortifacient drugs and devices,[32] and research on abortion techniques or abortifacients.[33] In six instances, it has also considered, and *rejected*, moves to ban the use of federal funds for abortion referral services, for facilitation of services such as transportation, and for the encouragement or promotion of abortion. Four of these proposals would have directly affected Title X and Title V programs (the major funding sources for subsidized U.S. family planning clinic services). One proposal would have banned the use of all federal funds (foreign and domestic, including all DHEW funds) for "abortion referral services" or "for the purposes of transportation to abortion clinics"; the other three would have imposed a ban on "promotion" or "encouragement" of abortion that would have applied to all DHEW funds. Furthermore, an antiabortion amendment adopted as part of the Foreign Assistance Act of 1973 does not include the ban on "promotion of the practice of abortion"—as did the original proposal advanced by Sen. Jesse A. Helms (R.-N.C.). Rather, it closely parallels Section 1008 in prohibiting the use of foreign assistance funds only for the performance of abortion as a method of family planning." [34]

Although little debate on antiabortion proposals has taken place and legislative reports on the subject have been very brief, an insight into the congressional reasoning behind the rejection of proposals dealing with the "encouragement of abortion" is provided by Sen. William Hathaway (D.-Maine), in remarks made during the debate of an amendment which would have banned the use of Social Security funds (most significantly, under Titles V, XIX and XX) to "pay for [and] encourage the performance of abortions." Hathaway argued that the amendment's vagueness could have resulted in the prohibition of clearly acceptable activities. He said:

"Nowhere in the amendment is the term 'encourage' defined. Where this amendment to become law, it would be very difficult for those administering the Social Security program to determine what constitutes 'encouragement.' For example, would referral of a woman to a doctor for pregnancy counseling constitute 'encouragement'? Might not a simple pregnancy test—which would certainly lead some patients to seek abortions—be viewed as an act of indirect 'encouragement'? [35] "

No one argued to the contrary, and the amendment was rejected decisively.

There is apparently no basis, in light of the legislative history of Section 1008, for believing that the prohibition of Title X funds for "abortion as a method of family planning" was intended to include a prohibition of the use of such funds for abortion counseling and referral. In context, Dingell's remarks are certainly compatible with the report of the Committee of Conference, which states the unambiguous intent of Congress to encourage, through Title X, the practice of contraceotion instead of the practice of abortion. There is nothing to indicate that Congress intended to place any restrictions on the "related medical, informational and educational activities" which are mentioned in the report and which, presumably, are to be conducted in accordance with the normal professional standards and programmatic responsibilities for patient care and follow-up.

In fact, it is apparent that Congress does not believe that the language of the Family Planning Services and Population Research Act proviso prohibits abortion refer-

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Footnotes at end of article.

rals or counseling, or even promotion or encouragement of abortion, since subsequent to 1970, there have been numerous attempts—all of them unsuccessful—to add such language to various appropriations statutes. While congressional reasoning rejecting these proposals is not explicit, it is reasonable to assume, along with Hathaway, that Congress has chosen to stay away—even in the case of such "charged" words as "encourage" or "promote"—from any formulation which could lend itself to restrictive limitations on legitimate professional activities related to pregnancy and its alternative treatments.

In issuing its new program guidelines for family planning projects funded under Title X, DHEW offers a careful, neutral approach to the handling of pregnancy and pregnancy-related services, which is consistent with accepted medical standards and professional responsibilities, and with the intent of the congressional framers of the Title X legislation.

FOOTNOTES

[1] 42 CFR 59.5 (a) (9).

[2] 42 CFR 59.5 (d) (e) and (j).

[3] Bureau of Community Health Services, DHEW, *Program Guidelines for Project Grants for Family Planning Services Under Section 1001, the Public Health Service Act,* Rockville, Md., Jan. 1976, p. 1.

[4] Ibid., p. 11.

[5] Ibid., p. 13.

[6] Ibid., p. 17.

[7] Ibid., pp. 16, 19.

[8] Ibid., p. 20.

[9] 42 CFR 51a 130 (b) (8) and (9).

[10] American Medical Association, *Principles of Medical Ethics: Opinions and Reports of the Judicial Council,* Chicago, 1971, pp. 51–52.

[11] P.L. 91–572, Dec. 24, 1970.

[12] P.L. 92–80, Aug. 10, 1971 (see: Committee on Appropriations, U.S. House of Representatives, 91st Congress, "Departments of Labor and Health, Education and Welfare, and Related Agencies Appropriations Bill, 1972," Report No. 92–374, July 22, 1971, p. 15).

[13] R. M. Nixon, "Message from the President of the United States Relative to Population Growth," Washington, D.C., July 21, 1969.

[14] C. C. Black, letter submitted to Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, 91st Congress, and published in *Family Planning and Population Research, 1970: Hearings Before the Subcommittee on Health of the Committee on Labor and Public Welfare,* U.S. Government Printing Office, Washington, D.C. (GPO), Dec. 9, 1970. p. 136.

[15] Sen. J. D. Tydings, G. D. London, M.D., and Sen. A. Cranston, testimony before Subcommittee on Health, in *Family Planning and Population Research . . .,* Dec. 9, 1970, op. cit., pp. 26, 80 and 181; and Rep. S. N. Friedel, Rep. H. W. Robinson, Rep. J. H. Scheuer and A. F. Guttmacher, M.D., testimony before Subcommittee on Public Health and Welfare, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, 91st Congress, and published in *Family Planning Services: Hearings Before the Subcommittee on Public Health and Welfare of the Committee on Interstate and Foreign Commerce,* GPO, Aug. 3–4, 1970, pp. 57, 61, 201 and 282.

[16] Office of Economic Opportunity, *Need for Subsidized Family Planning Services: United States, Each State and County, 1968,* GPO, 1969, p. 240.

[17] Ibid., p. 5.

[18] Mrs. D. R. Mogilka, Chairman, Reverence for Life of America, testimony before Subcommittee on Public Health and Welfare, in *Family Planning Services . . .,* Aug. 3–4, 1970, op. cit., p. 240.

[19] Mrs. A. Emmons, in *Family Planning Services . . .* Aug. 3–4, 1970, op. cit., pp. 296–297.

[20] Rep. T. L. Carter, in *Family Planning Services . . .,* Aug. 3–4, 1970, op. cit., p. 245.

[21] Rev. J. T. McHugh, in *Family Planning Services . . .,* Aug. 3–4, 1970, op. cit., p. 355.

[22] Committee on Interstate and Foreign Commerce, U.S. House of Representatives, 91st Congress, "Family Planning Services and Population Research Act of 1970," Report No. 91–1472, Sept. 26, 1970, p. 11.

[23] Rep. J. D. Dingell, *Congressional Record,* Nov. 16, 1970, pp. 37375–37378.

[24] Ibid., p. 37375.

[25] Ibid., pp. 37375–37376.

[26] Rep. J. Schmitz, *Congressional Record,* Nov. 16, 1970, pp. 37373–37374.

[27] Committee of Conference, U.S. House of Representatives, 91st Congress, "Family Planning Services and Population Research Act of 1970," Report No. 91–1667, Dec. 3, 1970, pp. 8–9.

[28] Amendment offered by Sen. J. A. Helms to Military Procurement Act, *Congressional Record,* June 11, 1974, p. 18730.

[29] Amendments offered by Rep. L. J. Hogan and Sen. D. F. Bartlett to Legal Services Corporation Act (P.L. 93–355, July 25, 1974), *Congressional Record,* June 21, 1973, p. 20752, and Jan. 30, 1974, p. 1383, by Sen. Helms to Foreign Assistance Act of 1973 (P.L. 93–189, Dec. 17, 1973), *Congressional Record,* Oct. 2, 1973, p. 32529; by Sen. J. L. Buckley to Social Security Act of 1973, *Congressional* Record, Nov. 28, 1973, p. 38961; by Rep. H. Froehlich to Community Services Act of 1974, *Congressional Record,* May 29, 1974, p. 16753; by Rep. A. D. Roncallo to DHEW-Labor Appropriations Bill for FY 1975, *Congressional Record,* June 28, 1974, p. 21694; by Sen. Bartlett to DHEW-Labor Appropriations Bill for FY 1975, *Congressional Record,* Sept. 17, 1974, p. 31458; by Sen. Buckley to Social Security Act of 1974, *Congressional Record,* Dec. 6, 1974, p. 39996; by Sen. Bartlett to Special Health Revenue Sharing Act of 1975, *Congressional Record,* June 5, 1975, pp. 17218–17219; by Rep. R. E. Bauman to DHEW-Labor Appropriations Bill for FY 1976, *Congressional Record,* June 25, 1975, pp. 20863–20864; and by Sen. Helms to International and Food Assistance Act of 1975, *Congressional Record,* Nov. 3, 1975, p. 34730.

[30] Amendments offered by Sen. Buckley, 1973, op. cit.; Rep. Froehlich, 1974, op. cit.; Sen. Helms, 1974, op. cit.; Rep. Roncallo, 1974, op. cit.; and Rep. Bauman, 1975, op. cit.

[31] Amendments offered by Sen. Bartlett, 1974, op. cit.; Sen. Buckley, 1974, op. cit.; and Sen. Bartlett, 1975, op. cit.

[32] Amendment offered by Rep. Roncallo, 1974, op. cit.

[33] Amendments offered by Rep. Bauman, 1975, op. cit.; and Sen. Helms, 1975, op. cit.

[34] P.L. 93–189, Dec. 17, 1973.

[35] W. Hathaway, *Congressional Record,* April 30, 1975, p. 9808.

NEED FOR ALTERNATIVE TO ABORTION AMENDMENTS

One of the major purposes of title X as indicated by the 1970 Senate and House hearings on the Family Planning and Population Control Act of 1970 was to eliminate the circumstances that lead to abortion. There are two groups in this country that have been denied the organization's assistance under title X because they do not counsel or refer for abortion or contraceptive services. They are the groups that promote natural family planning and the alternative to abortion centers.

There are, I believe, over 900 such centers across these United States in all 435 congressional districts.

Regulations promulgated by HEW have, to date, discouraged single service organizations that provide only natural family planning as a means of child spacing from applying for title X grants and contracts. In addition, organizations which deal exclusively with providing alternatives to abortion for pregnant women have been effectively cut out of title X programs because of regulations which require referral for abortion, or abortive counseling under the heading of "pregnancy counseling."

I do not believe the current HEW interpretation of the Family Planning and Population Control Act reflects the original intent of Congress toward groups seeking to assist pregnant women through a stressful pregnancy.

A number of Federal laws take into account the particular philosophical, ethical or even ecological values of certain groups. One need only to recall that smoking is forbidden in some public buildings and sections of airplanes—all with the sanction of law. Chaplains are provided to servicemen/women along with facilities for workshop—all under Federal law.

Where then is the harm to the public good if the beneficial services performed by 'alternative to abortion' groups and sole source family planning programs, are permitted to receive title X funding without prior restraint—save that of prudential spending?

Alternatives to abortion groups are quite effective at mobilizing community resources. If they could spend more time assisting pregnant women to carry their pregnancy to term, rather than holding "bake-sales," then couples would not have to wait 3, 4, and 5 years to adopt children. This would also diminish the ugly black market baby trade which the unscrupulous perpetuate on anxious, childless couples which are seeking to find adoptable children.

The current HEW misinterpretation of regulations makes the organizations that developed natural family planning programs "take a back seat on the bus" when it comes to sharing in the public funding. The effectiveness of natural family planning is equivalent to the "pill" without all of the side effects. Why should HEW penalize and discriminate against sole sources NFP providers because of their ecological and ethical values?

In this year of proposition 13 we should give heed to cost effectiveness. Dr. Herbert Ratner, an Oak Park, Ill., public health physician, stated during the famous Senate "pill hearings" of 1970 that:

> The huge amount of iatrogenic disease caused by the pill and the numerous medical examinations and laboratory tests required in order to monitor the patient against the potential inroads of the pill on the woman's health, raises the question whether the medical care system of the United States can carry this burden. Pill complications are making excessive inroads on limited medical personnel and facilities. The cost of medical care in this country is becoming astronomical. Is our nation really in a position to absorb the additional costs brought about by a careless and indulgent use of the pill, without doing grave injustices to the more important medical needs of our country?

Therefore, I hope to offer the following as amendments to H.R. 12370 when and if we have the open rule as originally anticipated:

Page 15, insert after line 17 the following: (C) section 1001 (a) is amended by inserting "(1)" after "operation of", and (2) by inserting before the period a comma and the following: "or (2) projects which provide counseling respecting the alternatives to abortion."

Amendment to H.R. 12370 as recorded page 15, insert after line 17 the following: (C) Section 1006 is amended by adding at the end the following new subsection: "(d) The Secretary may not deny an application for a grant or contract under this Title on the basis that the applicant does not provide abortion services, sterilization, or counseling respecting contraception."

These amendments do not eliminate contraception; it simply means that there are agencies that should qualify for funds and should not have to provide certain services in order to receive Federal funding (i.e. Birthright, NFP Center, Alternatives to Abortion, Inc., etc.). These amendments would protect these agencies from any undue coercion of their ethical or ecological values.

[4110-84]

Department of Health, Education, and Welfare

Public Health Service

[42 CFR Part 59]

GRANTS FOR FAMILY PLANNING SERVICES

Proposed Rulemaking

Agency. Public Health Service, HEW.

Action. Notice of Proposed Rulemaking.

Summary. The Assistant Secretary for Health proposes changes in the regulation governing the award and administration of grants for family planning services. The proposed regulation, in fulfillment of statutory amendments, requires projects to offer natural family planning methods; raises the income levels below which individuals may receive services without charge; and assures local and regional entities that have been consolidated into larger projects, a voice in the decisionmaking of the consolidated grantee.

Date. Comments must be received by November 3, 1978.

Addresses. Written comments, preferably in triplicate, should be sent to the Director, Division of Policy Development, Bureau of Community Health Services, Health Services Administration, Room 6-17, 5600 Fishers Lane, Rockville, Md. 20857. All comments received in timely response to this notice will be considered and will be available for public inspection and copying at the above address on weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Further information contact: Mr. Samuel Taylor, Public Health Advisor, Office for Family Planning, Bureau of Community Health Services, Room 7-49, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-2430.

Supplementary information: This Notice sets forth proposals for implementing the amendments to title X of the Public Health Service Act (42 U.S.C. 300 et seq.) for the administration of grants for family planning services. The statute, as amended, requires the Secretary to issue regulations to implement these amendments. On April 11, 1977, the Secretary published a Notice of Intent to issue proposed rules and invited public comments. Summaries of the substantive comments received in response to that Notice and proposed changes to the regulation are set forth below.

1. Pub. L. 94-63 amended section 1001(a) of the Public Health Service Act (42 U.S.C. 300) to require that the range of family planning methods offered by family planning projects include natural family planning methods.

Sixty-six comments were received regarding natural family planning services under title X of the Act. Most of the comments urged that the regulation be amended to permit direct grant assistance to organizations which offer only natural family planning methods. This suggestion was rejected as contrary to the statute.

The statutory amendment states that family planning projects "shall offer a broad range of acceptable and effective family planning methods (including natural family planning methods)." The amendment reinforces the original requirement in the Family Planning Services and Population Research Act of 1970 that each project offer comprehensive family planning services. Therefore, grants cannot be made to entities which propose to offer only one method or a limited scope of methods, regardless of whether the single method is natural family planning or a particular intervention type.

Furthermore, there are other amendments which need to be offered, and they deal with the areas of overall cost of the programs, and the incredible federally funded pornography that has surfaced in health services administration publications and title X grantees.

The following brief history of title X is provided through the assistance of Mr. Chuck Donovan, of the National Right to Life Committee, Inc.

"In 1970, the U.S. Senate passed a new addition to the Public Health Service Act, Title X, or 'Population Research and Voluntary Family Planning Programs,' popularly termed the 'Tydings Acts.' As passed by the full Congress, Title X authorized expenditure of funds escalating from $33 million in fiscal year 1971 to $115.5 million in fiscal 1975. Funds were to be used for formula grants to states for family planning services, training grants and contracts, research in 'family planning and population,' and informational and educational materials.

"Secs. 1006-1009 of Title X establish regulations governing awarding of contracts, voluntary participation in programming, a prohibition of abortion (Sec. 1008) and filing of a 'five-year plan' for family planning and population services and their implementation in each fiscal year.

"The original Title X authorization expired on June 30, 1975. Despite the Five-year format of Title X programming, funds were authorized on a single-year basis for fiscal 1976 and again for fiscal 1977 in amounts of $176 million and $182.5 million, respectively.

"In the spring of 1977, the U.S. House of Representatives held hearings on Title X programming without making a multi-year commitment to revision or expansion of funding. It was at approximately the same time that President Carter announced the availability of an additional $35 million in fiscal 1978 for 'alternatives to abortion' programs in local communities. Concurrently, with the publication of 11 Million Teenagers, 'What Can Be Done About the Epidemic of Adolescent Pregnancy in the United States' by the Alan Guttmacher Institute, the Planned Parenthood Federation of America, a major Title X recipient, urged HEW and Congress to institute a "Teenage Pregnancy Initiative' through Title X and other federal programs.

"New hearings on Title X were convened in late April 1978, in the U.S. House by Rep. Paul Rogers (D, Fla.) Chair of the Subcommittee on Health and Environment of the Committee on Interstate and Foreign Commerce. Similar hearings were conducted in the Senate Human Resources Committee chaired by Alan Cranston (D, Cal.).

"The Rogers Committee reported favorably to the House of Representatives on Title X expansion, on May 15, 1978. By this action, H.R. 12370, the 'Health Service Amendments of 1978,' was born. Although H.R. 12370 includes more than Title X, its relevant sections are those which authorize funding of $308.8 million in 1979, $355.2 million in 1980 and $408.4 million in 1981. In addition, H.R. 12370 amends Sec. 1001 (a) of Title X to include 'services for adolescents,' in response to the HEW-Planned Parenthood promotion of a 'Teenage Pregnancy Initiative.'

"It is in response to this rapid increase in funding an extension of new services to adolescents (who account for over one-third of abortions in the United States) that Sen. Helms' S. 2546 and the Dornan amendments have been offered to provide alternatives to abortion not currently funded by Title X or any related federal program.

"It remains to be shown how Title X funds impact significantly on the abortion issue. As noted above, Sec. 1008 of Title X, as passed in 1970, prohibits the use of funds 'in programs where abortion is a method of family planning.'

"Despite this prohibition, several methods of promoting, educating and referring for abortion have been developed under Title X programming and/or assisted under the regulations provided by DHEW governing eligibility for and expenditure of Title X grants and contracts, above and beyond the effect federal funding generally has on the availability of private contributions or support for abortion services.

"In June, 1977, DHEW issued a document entitled 'Program Guidelines for Project Grants for Family Planning Services under Section 1001, Public Health Service Act.' The guidelines address 'selected portions of the regulations for project grants for family planning services,' and are divided into Title X 'requirements' and 'recommendations.'

It is here that the divergence of Congressional requirements and HEW recommendations regarding abortion ('pregnancy termination') in Title X programs takes place. DHEW 'program Guidelines' recommend that:

Patients who are pregnant and have received DES (Diethylstilbestrol) should be warned of the potential hazard (including vaginal adenosis and vaginal cancer) to any female offspring, and advised of the option of pregnancy termination.

and

If the IUD is not removed (subsequent to a determination of pregnancy), the patient should know there is an increased risk of infected abortion occurring when pregnancy is allowed to continue. The patient and her physician should discuss whether it is best to terminate or to continue the pregnancy.

"While DHEW guidelines recommend the provision of abortion counseling and referral in these two specific instances for Title X grantees, the integral nature of Title X funding for expansion of abortion referral and programs 'where abortion is a method of family planning' is fully recognized by the consortium of organizations responsible for the project paper 'Planned Births, the Future of the Family and the Quality of American Life.' The project paper, subtitled 'Towards a Comprehensive National Policy and Program' and published in June, 1977, was initiated by several agencies including the National Executive Directors Council of Planned Parenthood and Zero Population Growth.

"Preparation of the paper was accomplished by organizations actively involved in the implementation of Title X programs, and therefore represents an experienced in-service account of new initiatives via federal funding, and especially Title X, as envisioned by the providers themselves.

"The 32-page paper states at P. 17: 'Title X (of the PHSA) is most suitable for development of new programs aimed at the critical remaining problems of unregulated fertility.'

"Table 1, p. 18-19, of 'Planned Births' outlines a 'Proposed 1979-1981 Program for Improving Fertility Regulation,' under which increased Title X authorizations and appropriations are uniformly and invariably lined with increased efforts at pregnancy detection and referral and with expansion of abortion facilities and abortion utilization.

"Under 'Objective—New Initiatives—Reduce need for abortion,' the 'Program Strategies' are to utilize as 'Potential Delivery Systems' both 'abortion clinics' and 'abortion provider hospitals' to 'add contraceptive services to abortion facilities not now providing them' and to 'develop targeted family planning information program for abortion facilities.' The required legislative action, as stated by 'Planned Births . . .' is to 'increase PHSA Title X authorization and appropriation to cover costs of adding contraceptive services in abortion facilities.

"Under 'New Initiative: Reduce incidence of second trimester abortions,' all four recommended 'Principal interventions' stress provision of abortion services, including 'increased information on health importance of earlier, rather than later, abortions,' 'pregnancy testing, counseling and referral services,' 'increased information on availability of early abortion,' and 'equitable access to early abortion services.' 'Program strategies' are specifically to 'encourage free-standing clinics to provide ambulatory abortion services' (in areas where other abortion facilities are scarce) and to 'add information program through all delivery agencies.'

"The 'second-trimester abortion' initiative is to be funded by an increase in 'authorizations and appropriations for PHSA Titles X and III and SSA Title V to cover additional pregnancy detection/referral and information programs in all available agencies.'

"It would be difficult to imagine any language more clearly expressing the intention to utilize expansion of Title X, PHSA, authorizations and appropriations to establish and to extend 'programs where abortion is used as a method of family plannings.' It should be noted that at no time is it suggested in the project paper that utilization of Title X funds for such a purpose must be approved by amendments to current Title X legislation.

"That HEW recommendations with regard to abortion referral under Title X are positive in two instances despite explicit congressionally approved language to the contrary expresses succinctly the variant readings that may have suggested to the authors of 'Planned Births . . .' that Title X can safely be used to provide linkage with and promotion of new abortion facilities without revision of Title X's current language."

Some Speculations on the Future of Marriage and Fertility

(By Charles F. Westoff)

Twenty-six of the world's 33 industrialized countries—including the United States—are currently experiencing extremely low fertility, and some are rapidly approaching zero population growth. In at least five (Austria, Britain, East and West Germany and Luxembourg), there are already more deaths than births. If we project current trends,[1] these five countries are likely to be joined in about 1980 by Belgium, Denmark, Czechoslovakia, Hungary, Norway and Sweden. By 1990, negative population growth should also occur in Bulgaria, Finland, Greece, Italy and Switzerland; by 2000, France and the Netherlands should be added to the list. The populations of the remaining countries in Europe should begin to decline in subsequent decades. Collectively, the population of Europe and the Soviet Union should begin to decline around the year 2000. Deaths should outstrip births in the United States by about 2020, when the population should reach about 250 million.

This projected decline implies a total fertility rate of 1.5 births per woman over her reproductive lifetime. Although such low fertility has never existed for an actual cohort of women (the lowest on record is 1.8 for women born in 1907 in England and Wales), an argument can be made that because of the development of modern contraceptive technology and the increasing availability of legal abortion, such a low level is quite possible over sustained periods of time.

The question of obvious policy significance is what really will happen in the future. Fertility in the United States is already very low. The birthrate is 15.3 per 1,000 population, and the death rate is 8.8. The total fertility rate is below 1.9 birth per woman (projected from current rates to a lifetime total). Were it not for a net legal immigration of about 400,000 per year, the growth rate would be 6.5 per 1,000 population. With immigration included it is about 8.5 per 1,000 population. Even with continued immigration at that volume, such below-replacement fertility means that the population will stop growing in about 50 years at about 250 million and will then begin to decline. If the current rate continues, a total of 245 million in the year 2000 may be expected, a far cry from the 300 million anticipated by the President in a message to Congress only eight years ago. But such projections assume the continuation of this rate of fertility.

Is fertility likely to rise or decline? The honest answer is that nobody knows; only more or less plausible speculations can be advanced. Back in the late 1930s, there was also a very low fertility level, and some expressions of apprehension about the prospect of impending decline were heard. Such concerns disappeared rapidly with the war and the ensuing baby boom. How do we know that another baby boom is not in store? Not long ago, some demographers were talking about a second baby boom, a kind of echo effect of the first one. They believed that a large number of babies could be expected as the products of the first baby boom reached the age of parenthood.[2] This has not yet occurred because the extremely low fertility rates have outweighed the increase in the numbers of young people.

Predictions of another baby boom have come —as well from some economist-demographers who believe that as the children born during the recent years of declining birthrates come of age and enter the labor force, they will enjoy a competitive advantage and brighter prospects because of their smaller numbers.[3] They are, therefore, expected to marry earlier and have more children because their incomes will be relatively higher and their futures more promising. The empirical evidence for this hypothesis is essentially the relationship observed between previous increases in the number of births over time and declining cohort fertility. The small cohorts of the 1930s experienced high fertility in the 1950s, whereas those born during the baby boom of the 1950s are experiencing low fertility in the 1970s. If the cycle is repeated, those born in the 1970s will produce another baby boom toward the end of the century.

Although attractive because of its theoretical grounding, this method of forecasting leads to an expectation of cyclical patterns for which there are only two historical examples. What is more, no similar evidence has yet been adduced for other countries. Even for the United States, this theory ignores what appears to be a massive postponement of marriage. A steady decline since 1960 in the proportion of women marrying at ages 20–24 may be the unrecognized beginning of a radical change in the family as we know it. Even more important, perhaps, the theory does not take into account the changing status and role of women in our society. The assumption that the future increase in the demand for labor which will result from smaller cohorts entering the labor force will automatically translate into higher fertility ignores the very real changes in women's attitudes toward work (the supply of labor includes female labor also), marriage and childbearing.

There is also a seemingly irreversible change: The technology of fertility control has improved tremendously in the past 15 years and is widely diffused throughout the population. Virtually all American married couples use contraception if they are not pregnant, trying to get pregnant, or sterile. Among those currently using contraception in 1975, three out of four had either been sterilized or were using the pill or the IUD.[4] Abortion is now widely available, and further technological developments in fertility control (e.g., to enable the predetermination of sex of offspring) are on the horizon. We are fast approaching the perfect contraceptive society in which unwanted births will become nonexistent, although teenage childbearing will still be a major social problem.

Another sustained baby boom does not seem likely when such social changes are taken into account. But what fertility can we expect? For one thing, annual fertility rates should become more volatile, more responsive to short-term fluctuations in the economy. Perfect control of fertility does not imply that couples will want no more than one or two children; in theory, they could just as easily opt for twice that number. But larger family size in the future does not seem likely. The historical trends all point in the downward direction. The one exception, the baby boom, was not created by a return to the large families of the 19th century, but by a movement away from spinsterhood, childless marriage and the one-child family, and by a bunching together of births at early ages. Only a minor part of the baby boom can be attributed to increases in the proportions having three or more births. The decline in births that occurred in the 1960s was almost entirely due to a decrease in the number of unplanned births.[5] The accelerated decline since 1970 no doubt continues this trend but includes a reduction in the number of planned births as well. Some observers argue that the low fertility of recent years reflects primarily the postponement of births and that the postponed births will be made up in the next few years.[6] The decline in total expected family size (the number of children that women in surveys say they expect to have) does not substantiate this view. There has been some postponement, and modest increases in fertility during 1977 suggest that some of this postponement is now being made up. However, there is now increasing evidence to support the view that "later means fewer," and low fertility at one level or another seems here to stay.

MARRIAGE AND THE FAMILY

If we look closely at current social trends and their demographic outcomes, we see signs that the institution of marriage may be changing in still new ways that will cause fertility to decline to new lows. The theory that the historical demographic transition will terminate in a magical balance of births and deaths at low levels may be more aesthetic than realistic. The current evidence from the United States, and from two Scandinavian countries that historically seem to be in the avant-garde of social change in the developed world, reveals a significant constellation of social and demographic changes:

Marriage. Radical changes in marriage patterns are both cause and consequence of declining fertility. In the United States, the proportion not married by ages 20–24 increased from 28 percent in 1960 to 43 percent by 1976.[7] In Denmark, this figure rose between 1970 and 1975 from 44 to 59 percent.[8] In Sweden, the number of marriages declined by 30 percent between 1966 and 1975.[9]

Cohabitation. It is estimated that in the United States, nearly one million unmarried couples were living together in 1976—about

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two percent of all couples living together. This proportion will undoubtedly increase.[10] In Denmark, about one-quarter of all women 18–25 are living with a man to whom they are not married. The number of such relationships increased by half between 1974 and 1976, from 200,000 to 300,000 couples.[11] In Sweden recently, about 12 percent of all couples living together (ages 16–17) were not married.[12] The intriguing question is whether we are witnessing a postponement of marriage with an institutionalization of trial marriage or a more basic change that will eventually alter the institution itself.

Divorce. It is abundantly clear from our very high divorce rate that the traditional concept of one partner forever has disappeared for growing segments of our society. A recent estimate indicates that one-third of all U.S. children will spend a significant amount of time with a divorced or separated parent.[13]

Remarriage. Since such a high proportion of divorced persons remarry, there seems little reason to think of divorce as a reflection on the institution of marriage itself. But we also see signs of change here. In the United States, the remarriage rate, which has steadily increased over recent decades, has started to decline. (In Sweden, it has declined by about 50 percent since 1965.) A higher proportion of second marriages now seem headed for divorce. Cohabitation is not limited to the young premarital state; one is increasingly aware of middle-aged and even older divorced persons living together without the formality of marriage. There are more and more "nonfamily" households consisting of individuals either living alone or sharing quarters with one or more unrelated persons. Such nonfamily households accounted for nearly one-half of the entire increase in the number of households between 1970 and 1976.[14]

Illegitimacy. In the United States there was a record high proportion of out-of-wedlock births (14.2 percent of all births) in 1975.[15] In Denmark, the proportion of births out of wedlock doubled in a decade—to 18.8 percent in 1974;[16] in Sweden, the number tripled, so that out-of-wedlock births now comprise about one-third of all births.[17]

One could argue that all of these changes simply means that formal marriage in the sense of a legal contract is just going out of style, at least in the early stages of "coupling," and that the rate of living together in monogamous unions is basically not changing. Indeed, research in Denmark suggests that cohabitation is for some an institutionalization of experimental or trial marriage. In a sample survey of unmarried Danish couples, about one-third said that they regarded living together as a period of experimentation, and about one-seventh indicated that it was economically advantageous; but one-quarter simply rejected the idea of the necessity of the legal formality.[18] At any rate, it seems reasonable to infer that such informal arrangements will hardly contribute to increasing fertility and that there will probably be less stability in the early (more fertile) years of marriage than in past generations. As an observer of the Danish scene concludes, these changes "make marriage a less 'weighty' commitment than formerly."[19]

WOMEN'S STATUS

All of these trends that seem to be depressing reproduction, separating sex from reproduction, and weakening the permanence of marriage are tied in one way or another to the growing economic independence of women as well as to the diminishing influence of religion in our lives. There has been a substantial increase in the proportion of women employed outside the home. The proportion of U.S. women in the prime childbearing years (20–34) who are working has increased from less than two-fifths in 1960 to about three-fifths in 1976; and it is projected to reach about two-thirds by 1990.[20] The International Labor Organization projects that three-fifths of European women of reproductive age will be participating in the labor force by the year 2000.[21]

There is a considerable body of research literature on the relationship between fertility and women's work. Much of it is ambiguous about the casual sequences involved and there are certainly institutional childcare arrangements that facilitate a mother's working. Nevertheless, there is little doubt that women's work and fertility are negatively related on the whole, and that the future will probably see increasing proportions working.

The increasing equality of the sexes, however, still has a long way to go in the economic sphere. Although educational differences between the sexes have greatly diminished and more and more women are working, there is still a wide gap in economic status between men and women. Women are concentrated disproportionately in less remunerative jobs and are paid less in the same jobs. Among year-round full-time U.S. workers who received income in 1975, the earnings of women 20–44 years of age were 61 percent of those of men.[22] (Significantly, that ratio remains unchanged at different levels of education.)

Nonetheless, the future trend of women's economic status seems fairly clear. Increasing proportions of women will have the option of financial independence although genuine economic equality is probably generations away. (Indeed, such equality may never materialize, although it may be approximated to some significant degree.) But imagine the consequences for marriage and fertility of a society in which men and women are economically equal and independent!

The institution of marriage will lose yet another part of its sociological foundation. For centuries, men have exchanged some of the financial rewards, social status and security associated with their employment and income for the sexual, companionate and maternal services of women. This is hardly a romantic view of the relationship, but it does go a long way toward explaining the universality and historical persistence of marriage. But consider a social system in which just as many women as men are engineers, bank presidents, corporation executives, doctors, lawyers and salespersons. What exactly will be the motivation of women to enter the legal partnership of marriage? Sex and companionship are certainly available without the commitment implied by marriage. Given the ease of divorce and the growing acceptability of simply living together, does it not seem probable that traditional forms of marriage will diminish even further than they have already?

One of the remaining sociological rationales for marriage is the bearing and raising of children, but with the retreat from parenthood that seems to be in process, even this age-old function seems shaky. If current first-order birthrates were to continue, about 30 percent of women would never have any children, an unprecedented but not totally implausible development. There is now evidence that childlessness within marriage is increasing. The proportions of ever-married women aged 25–29 who had not yet given birth increased from 12 percent in 1965 to 22 percent by 1976.[23] Moreover, if the large increase in out-of-wedlock births that has occurred in Sweden in recent years as a consequence of unmarried couples' living together is any indication of a diminishing taboo on having children out of wedlock, then even this function of marriage may be weakening. It seems significant that in the United States in 1975, the greatest increase in out-of-wedlock births occurred among white women 20–29 years old. At the same time, the birthrate reached a new low.[24]

Thus, demographic trends, more particularly the decline of fertility, can be regarded as both a cause and a consequence of changes in the family. The decline of childbearing can be construed as freeing women for economic equality with men, which in turn makes marriage and childbearing less of an automatic social response. The future seems less and less compatible with long-term traditional marriage.

FUTURE GROWTH

If this is a reasonable interpretation of the evidence and if this diagnosis is even approximately correct, then fertility in the United States and other developed countries seems destined to fall to very low levels, probably below replacement. Several countries such as France and some East European nations already seem very uncomfortable with this trend. How, then, is society going to sustain the level of reproduction necessary to replace one generation with the next? Such questions are not new; they were raised more than 40 years ago during the depths of the Depression, when birthrates had fallen sharply and an impending decline in population was projected. At that time there was speculation by at least one serious sociologist that society would develop develop professional breeders, that reproduction would become the specialized function of a category of women who would be paid for their childbearing services.[25] The products of such specialists would be raised in special child-care institutions in the absence of conventional family arrangements.

This all has a ring of science fiction about it, and, of course. World War II and the subsequent scramble to the suburbs, universal marriage and the baby boom made the whole speculation seem ludicrous in retrospect. Yet, given current trends, it is not difficult to visualize a society in which perhaps one-third of women never have any children, which would mean that the remaining two-thirds would have to reproduce at an average rate of three births per woman to maintain replacement. Under such circumstances, there is little doubt that some types of financial incentives to encourage childbearing will have to be implemented, as they already have been, in mild form, in many European countries. And my guess is that there will have to be considerable public investment in underwriting such incentive systems. There is no clear evidence that the trivial baby bonuses, maternity care benefits and various employment benefits that have been legislated in European countries have had any appreciable impact on the birthrate. It is difficult to imagine well-paid women with little interest in childbearing being attracted by a few hundred dollars' worth of miscellaneous benefits. There may very well have to be a serious investment in child-care institutions and a willingness to subsidize reproduction on a large scale.

There is an alternative to subsidizing reproduction in order to meet the consequences of negative natural increase, and that is immigration. Assuming that our economy can remain strong enough to attract immigrants, the desired rate of population increase could be achieved through the manipulation of immigration quotas, a practice not unknown in our past. Since the supply of potential immigrants to the United States typically exceeds existing quotas, the qualifications for immigration could be set fairly high to bring in persons with training in skills in short supply in our economy. This concept already exists in our immigration law. From the economic point of view, such a practice would be highly rewarding, since the capital costs of education and training would have been borne by other countries. From the social point of view, however, to depend entirely on importing

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our population deficit would have many of the problems that we associate with the assimilation of immigrants in our past: e.g., different customs and languages, additional minority group problems, and hostility of many native citizens (50 percent of the public in 1971 thought that immigration should be reduced[26]). It is instructive that other countries confronted with such questions have opted primarily for programs to raise the fertility of their native populations. The recent labor migrations in Europe, and the resulting difficulty of accommodating large numbers of foreign workers in countries with labor shortages have been an experience that the receiving countries are not likely to forget if it comes to the more basic question of supplementing population growth.

Also, is seems unlikely that the current volume of illegal migration (whatever its magnitude may actually be) will be permitted to continue indefinitely, and in any event, it could hardly be rationalized as a substitute for native fertility.

Thus, immigration does not seem a basic long-term solution if the rate of natural increase falls and remains radically below replacement. If current fertility rates were to continue beyond the time zero population growth was reached, our net legal immigration volume would have to be about doubled in order to avoid population decline.

This whole discussion is predicated on the assumption that governments will not look kindly on negative population growth or, for that matter, even a sustained period of below-replacement fertility prior to zero population growth. It is obvious that negative population growth cannot be sustained indefinitely although some of our citizens appear not to be averse to returning to a population about half our current size, which was the level experienced around 1920. We know very little about the short-run consequences of negative population growth, the long-run consequences are clear.

CONCLUSIONS

So what does it all add up to? Americans are having fewer children than ever before, and there do not seem to be any forces in view that will reverse this trend. Better contraception is available and is being used, and abortion is more or less available. The demographic result is a declining rate of population growth and an expectation that zero population growth may be reached in 50 years if not sooner. Estimates for a total population as low as 250 million are now in vogue. The age composition will change significantly with an increase in the proportions of individuals of working age and aged 65 and older, and with a decrease in youth.

In general, as we have explained elsewhere, the social, economic, environmental and political consquences of these demographic changes seem desirable.[27] There are some concerns about the implications of an older population, but sooner or later such change is inevitable as population growth slows. At any rate, the reduction of growth means less pressure on the environment and resources and an opportunity to invest economic growth in improving the quality of life. From the standpoint of the economy, there will be more workers and fewer dependents, and per capita income will be higher. From the standpoint of government, there will be an opportunity to invest public resources in better education and to improve the level of government services generally.

The future of marriage and the family is less clear. The divorce rate continues at a high level, the marriage rate is low, and there seems to be a massive postponement of marriage in the making. Increasingly, young men and women are living together without the added commitment of marriage; illegitimacy rates will probably continue to increase. Whether increasing proportions will never marry or will just marry at a later age is unknown. Although it seems ironic, if not ludicrous—in view of our concerns about growth of only a few years ago—to be thinking about the possible need in the near future to maintain replacement fertility, there are reasons to believe that some subsidization of reproduction may eventually become necessary. The problem has already arisen in more than one European country, and the social trends apparent in the United States today all seem to point in that direction.

FOOTNOTES

[1] J. Bourgeois-Pichat, "The Economic and Social Implications of Demographic Trends in Europe up to and Beyond 2000," *Population Bulletin of the United Nations*, No. 8-1976, 1977, p. 34.

[2] W. Brass, "Perspectives in Population Prediction: Illustrated by the Statistics of England and Wales," *Journal of the Royal Statistical Society*, 137:532, 1974; R. A. Easterlin, "The American Baby Boom in Historical Perspective," National Bureau of Economic Research, New York, 1962; R. Lee, "Demographic Forecasting and the Easterlin Hypothesis," *Population and Development Review*, 2:459, 1976. See also N. Keyfitz, "On Future Population," *Journal of the American Statistical Association*, 67:361, 1972, who suggests a great amount of variability around replacement.

[3] R. Lee, 1976, op. cit.

[4] C. F. Westoff and E. F. Jones, "Contraception and Sterilization in the United States, 1965–1975," *Family Planning Perspectives*, 9:153, 1977.

[5] C. F. Westoff, "The Decline of Unplanned Births in the United States," *Science*, 191:38, 1976.

[6] J. Sklar and B. Berkov, "The American Birth Rate: Evidence of a Coming Rise," *Science*, 189:693, 1975.

[7] P. C. Glick, "Social Change and the American Family," in National Conference on Social Welfare, *Social Welfare Forum, 1977*, Columbia University Press, New York, 1978.

[8] L. Roussel, "Démographie et Mode de Vie Conjugale au Danemark," *Population*, 32:339, 1977.

[9] F. Prioux-Marchal, "Le Marriage en Suede," *Population*, 29:824, 1974; and J. Bourgeois-Pichat, 1977, op. cit., p. 64.

[10] P. C. Glick, 1977, op. cit.

[11] L. Roussel, 1977, op. cit.

[12] F. Prioux-Marchal, 1974, op. cit.

[13] P. C. Glick, 1978, op. cit.

[14] Ibid.

[15] National Center for Health Statistics. DHEW (NCHS), "Advance Report: Final Natality Statistic, 1975," *Monthly Vital Statistics Report*, Vol. 24, No. 10, Supplement 1976.

[16] L. Roussel, 1977, op. cit.

[17] F. Prioux-Marchal, 1974, op. cit.

[18] L. Roussel, 1977, op. cit.

[19] Ibid.

[20] U.S. Bureau of Labor Statistics, "New Labor Force Projections to 1990," *Special Labor Force Reports*, report no. 197, Washington, D.C., 1976.

[21] Estimated from graphic figures in J. Bourgeois-Pichat, 1977, op. cit., p. 70.

[22] Calculated from U.S. Bureau of the Census, "Characteristics of the Population below the Poverty Level: 1975," *Current Population Reports*, Series P–60, No. 106, 1977.

[23] U.S. Bureau of the Census, "Fertility of American Women: June 1976," *Current Population Reports*. Series P–20. No. 308, 1977, Table 19.

[24] NCHS, 1976, op. cit.

[25] K. Davis, "Reproductive Institutions and the Pressure for Population," *The Sociological Review*, 29:289, 1937.

[26] D. M. Wolman, "Findings of the Commission's National Public Opinion Survey," in Commission on Population Growth and the American Future, *Aspects of Population Growth Policy*, R. Parke, Jr., and C. F. Westoff, eds., Vol. VI of Commission Research Reports, U.S. Government Printing Office, Washington, D.C. (GPO) 1972, p. 491.

[27] The Commission on Population Growth and the American Future, *Population and the American Future*, GPO, stock no. 5258—0002, 1972.

Mr. CARTER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Speaker, I rise in support of H.R. 12370, the health services amendments. In particular, I wish to express my support for section 5, the family planning provisions of the bill.

This legislation will make improvements in, and extend for 3 years, one of the Government's most successful programs. Since the Family Planning Services and Population Research Act (title X of the Public Health Services Act) was first enacted in 1970, many individuals in the low- and moderate-income brackets have received family planning services which had not been available to them before. It has been estimated that because these services have been available more than a million unwanted or ill-timed pregnancies have been averted. Many of these pregnancies would have occurred in circumstances where they would have had most serious social consequences. Thus, Federal family planning efforts help avert large welfare costs which otherwise would result from unwanted pregnancies.

Section 5 specifically addresses several areas of family planning which has received inadequate attention in the past. Most importantly, this section emphasizes family planning services for adolescents. Although current title X programs have reached many teenagers, it is estimated that about 1 million adolescent girls become pregnant every year. H.R. 12370 provides additional counseling services oriented toward teenagers, so that they will know the potential consequences of their sexual activity. This provision should not be construed as condoning adolescent sexual activity. Rather, it deals with reality and simply attempts to provide young people with the information necessary to avoid pregnancy.

Some who oppose abortion have expressed opposition to the family planning provisions of this measure. I, too, am opposed to abortion. I have always believed that life begins at conception, and that the taking of life by any means—by abortion, euthanasia, or any other method—is wrong. Because I oppose abortions, I believe that it is imperative that alternatives to abortion be offered to young women. We cannot decrie abortions and at the same time fail to provide counseling and other services which will prevent unwanted pregnancies. Thus, we who oppose abortion bear an even greater obligation to support these programs which prevent the pregnancies which cause women to seek abortions.

For these reasons, Mr. Speaker, I urge my colleagues to vote affirmatively for H.R. 12370.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from Michigan (Mr. Dingell), who is a member of the full committee and has done an excellent job in oversight and on the influence of the program and is very concerned about it.

Mr. DINGELL. Mr. Speaker, I rise for the purpose of discussion with the chairman of the Health and Environment Subcommittee, the Honorable Paul Rogers, my colleague and friend on the House Interstate and Foreign Commerce Committee. We have previously addressed the point I am about to make and we are in agreement.

My remarks are on behalf of my colleagues, the Honorable John E. Moss, the Honorable Albert Gore, and the Honorable Henry Waxman, of our committee, who have shared with me the serious concerns regarding flu immunization programs and the safeguards we deem mandatory and essential to the safety of the public under the immunization program that the legislation before us now, H.R. 12370, the Health Service Amendments of 1978, authorizes for fiscal year 1979.

Under section 3 of the bill, disease control program, there is authorized $16 million for the fiscal year 1979 flu immunization program.

It is to this flu immunization program that my remarks are addressed. I am sure our colleagues will recall that we previously, on the supplemental appropriations bill for fiscal year 1978, secured on August 17, 1978, agreement on the House floor from the Honorable Daniel Flood, chairman of the House Appropriations Subcommittee on Labor, Health, Education, and Welfare, that certain public health safeguards and warnings I requested from the Secretary of Health, Education, and Welfare, the Honorable Joseph Califano, be a part of the legislative history in connection with the fiscal year 1978, $8.2 million, program.

At that time, in a letter to me, August 16, Secretary Califano committed HEW to these safeguards for the public. It is our intention today to secure concurrence by the chairman of the Health and Environment Subcommittee, Mr. Rogers, that these safeguards shall be a part of the congressional intent on this bill, H.R. 12370.

These public health safeguards in essence, as agreed to by Secretary Califano, include HEW's determination and reporting to Congress that the flu vaccine to be administered is effective and safe, and has undergone clinical trial. The safeguards include that the Secretary has properly informed the States, and the States, in turn, the public, about the information of the flu vaccine program which includes warnings about possible side effects. These safeguards additionally include numerous reports by HEW to the Congress regarding the results of the fiscal year 1978 and 1979 flu immunization program.

I enclose for the Record at this point the August 16, 1978, letter from Secretary Califano to me which enumerates HEW's commitment to these safeguards, and the additional letter dated today, September 25, 1978, from Secretary Califano noting HEW's further commitment to the safeguards for the fiscal year 1979 flu program along with the Secretary's report to me, which I am enclosing, that the requirements of our intent have been and will be met. I additionally enclose from the Secretary the information statement, warning and consent form, provided to recipients of the flu vaccine.

With the concurrence of Chairman Rogers and my colleagues in the House, I ask that this information be included in the legislative discussion on the Health Services Amendments of 1978:

Washington, D.C.,
August 16, 1978.

Hon. John Dingell,
House of Representatives,
Washington, D.C.

Dear John: In response to several concerns that have been raised about the supplemental appropriation for the influenza immunization program, I want to assure you that Fiscal Year 1978 funds for this program will not be expended by HEW after the end of FY 1978. In addition, this program will not be carried out until the following requirements have been satisfied:

(1) We have determined—and we will provide that determination to the Congress—that the vaccines to be used have been proven safe and effective by extensive clinical trials;

(2) We have proved full and complete warning to the public and to the States of the potential risks of side effects by providing an informed consent form to the States for distribution to those receiving immunization (a copy of this form will be provided to the Congress);

(3) We have identified the potential risks of injury involved in the program and listed those in the informed consent form;

(4) We will promptly report to the Congress on side effects recorded in the program and will make necessary recommendations to the States to protect the public health;

(5) We will report to the Congress every 60 days on the progress of the program, including reports from the States on the number of individuals immunized, the benefits the States estimate have been realized from the program, and State reports on any serious side effects, that are the result of immunizations provided by the program;

(6) We will report to the Congress on June 30, 1979—which is approximately 60 days after the close of the flu season—on the program's experience. At that time we will also make recommendations with respect to the future needs of influenza immunization and provide to the Congress any reports compiled on the safety and effectiveness of the vaccine and other experience during the 1978–79 program.

Let me finally stress that liability of the Federal government under our proposed program is wholly and totally different from that under the swine flu program. The Federal government is not assuming blanket liability as it did under the swine flu program. Rather, we have proposed that the issue of liability be handled on a State-by-State basis under State law—the same way liability is handled under our very successful childhood immunization program. There is little possibility that the Federal government could face a financial obligation similar to the one that arose in the swine flu program.

As far as State liability is concerned, under the childhood immunization program preliminary checks indicate that only two lawsuits are pending as far as we know against States under that program.

I hope this responds to your concerns.

Sincerely,

Joseph A. Califano, Jr.

Washington, D.C.,
September 25, 1978.

Hon. John D. Dingell,
House of Representatives,
Washington, D.C.

Dear John: In my letter of August 16 (enclosed), which was placed in the record during the debate on the FY 1978 Second Supplemental Appropriations Bill, I assured the Congress that several requirements would be satisfied before HEW's influenza immunization program was carried out.

I am writing today to report that these requirements have been met:

(1) Safety and effectiveness of vaccine:

The clinical trials conducted in 1978 are among the most extensive ever undertaken. Based on this data, experts from the Public Health Service's advisory committees have devised vaccine formulations and recommendations for use of the vaccine for persons from six months of age to twelve years and for persons thirteen years of age and older. The Recommendations for the use of vaccine appeared in the August 11 and September 15 issues of the Center for Disease Control's Morbidity and Mortality Weekly Report. Copies are enclosed.

In addition, I convened a conference in Washington on July 26 which brought together influenza and immunology experts from around the country to consider our proposed immunization program and the preliminary findings of the Department's technical advisory committees. That conference concluded that the vaccine trials had demonstrated that currently recommended dosage of this year's vaccine induced significant levels of antibodies in approximately 70–90 percent of the participants aged thirteen and above. Moreover, the conference concluded that side reactions with the recommended dosages were not satistically more frequent than those observed in control subjects who received a saline placebo. That conference also arrived at a consensus that the recommendations of the Department's technical advisory committee on dosage and on use were appropriate.

Based on the findings of both the July 26 conference and the recommendations of HEW's advisory committees, the Department has concluded that this year's flu vaccine is safe and effective against the three strains of influenza which have recently caused disease in the United States.

Based upon the clinical trial data, the July 26 conference also concluded that the immediate side effects of the 1978–79 influenza vaccine are expected to be mild and infrequent in persons of any age group or health status. Again, based on the July 26 conference and the reports of the advisory committees, the Department has concluded that the benefits of influenza immunization—particularly for the high-risk population groups for which flu shots have been recommended—far outweigh any potential risks.

(2) Full and complete information:

I enclose a copy of the information statement (consent form) which the States will provide to those receiving immunization in public programs. It summarizes the risks and benefits of vaccination based on the 1978 clinical trials and other data which have been accumulated in recent years.

(3) Identification of recent risks:

The enclosed information statement identifies and lists the potential risks of injury involved.

(4) (5) (6) Reporting requirements:

In my letter of August 16, 1978, I assured the Congress that three reporting requirements would be met during the coming flu season. We have established those reporting systems. We will provide the first report to Congress on the progress of the program on December 31, 1978. Our report will include information from the States on the number of individuals immunized, on the benefits the States estimate have been realized from the program, and on any serious side effects that are the result of immunizations provided by the programs.

We are proceeding to provide funds to the States to operate programs that will provide influenza immunization shots to those persons most likely to suffer serious complications if they become sick with influenza. In most cases, we anticipate that these shots will be made available to persons who seek them but who have not been able to afford protection in the past.

We will keep you informed of the progress of this important public health program.

Sincerely,

JOSEPH A. CALIFANO, Jr.

IMPORTANT INFORMATION ABOUT INFLUENZA AND INFLUENZA VACCINE, 1978–79

What is influenza ("flu")? It is an illness caused by influenza viruses. It generally affects people of all ages. Typically, people with influenza have fever, chills, headache, cough, and muscle aches and may be sick for several days to a week or so. Most people recover fully. A small proportion of cases are particularly severe, and patients may develop pneumonia or other complications. In some past epidemics, about one case out of every thousand was fatal. The risk of complications and death from influenza is highest for people with chronic health problems like diabetes; diseases of the heart, lungs, or kidneys; severe anemia; or chronic illness (or medications) which lower the body's resistance to infection. It is also high for older persons generally—particularly those about 65 years old or older.

Influenza viruses frequently undergo changes in their chemical makeup. These changes make it possible to catch influenza even though immunity (antibodies) may have been developed against previous strains of influenza. Thus, having had influenza or influenza vaccine in past years may not prevent getting influenza again.

Although influenza epidemics are unpredictable, some influenza occurs each year. In very large epidemics as much as ⅕ of the population have become sick and thousands have died.

Influenza vaccine: Influenza vaccine is composed of killed influenza viruses and is given by injection. The influenza vaccine to be distributed in the fall of 1978 has been updated to offer protection against three influenza strains which recently caused disease (A/USSR, A/Texas, B/Hong Kong). One shot should produce protective levels of antibody against these three strains in 68 to 89 percent of adults 26 years of age or older. Two shots about 1 month apart are necessary to achieve the same level of antibodies in people 6 months through 25 years of age. Influenza vaccine does not provide protection against other viral illnesses such as the common cold.

Who should get influenza vaccine? Because influenza is usually mild and most people recover fully, routine vaccination of healthy children and adults is not usually emphasized. However, people of any age with the chronic conditions described in the first paragraph, and the elderly, should consider vaccination each year because they are at a greater risk of complications or death if they catch influenza.

Possible side effects from the vaccine: The 1978–79 vaccine has been tested in more than 2,000 volunteers. There were no side effects from the vaccine in most people, although some had a sore arm for 2-4 days. Less than 4 percent of the people developed fever, chills, headaches, or muscle aches during the first 48 hours after vaccination. As is true with any vaccine or drug, there is a possibility that allergic or other more serious reactions or even death could occur.

Mr. Speaker, I now yield to my distinguished friend, the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I know of the gentleman's interest in assuring the best possible immunization program; all of us share his interest. Also, I certainly concur with the safeguards desired by my distinguished colleague, the gentleman from Michigan (Mr. DINGELL), and wish to note that the Secretary of HEW has agreed to these safeguards as well.

Mr. DINGELL. Mr. Speaker, I thank my distinguished friend, the gentleman from Florida (Mr. ROGERS), and I yield back the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. BEILENSON).

Mr. BEILENSON. Mr. Speaker, I rise to urge my colleagues to support H.R. 12370, the Health Services Amendments of 1978.

There are many valuable preventive health programs in this bill which deserve reauthorization, but my remarks are directed to one program in which I have a particular interest—the reauthorization of title X of the Public Health Service Act, the major support for family planning services and population research in this country.

I have had the opportunity of serving, along with our colleague, Mr. MCCLOSKEY of California, as cochairman of a task force on domestic family planning problems—one of four task forces of the House Select Committee on Population.

Our task force carefully considered this title X program which is now before us for reauthorization—during 3 weeks of hearings on domestic fertility and contraception held last February and March—and among our findings were the following which are subscribed to by the members of the full select committee:

First. The national family planning program is comprised of about 5,000 clinics in every section of the country. More than half of all clinic sites are operated by State and local health departments; the rest are affiliated with churches, universities, and other nonprofit organizations. They currently provide contraceptive services, including natural family planning methods, to about 4.8 million women, the great majority of whom are low income. Clinics also provide infertility screening and referral, and many other valuable medical services.

Second. The family planning program is one of the most successful health programs we have. Experts estimate that since its inception in 1970 over 1 million unwanted and mistimed pregnancies have been averted. This has spared many individuals the health and social disadvantages that sometimes accompany unwanted pregnancy, and saved the Federal Government an estimated $1.1 billion in unnecessary health and welfare costs.

Third. The program is one of the leading providers of preventive health services to women of childbearing age, and the leading provider of such services to adolescents.

Fourth. With its proven effectiveness in reducing the incidence of unwanted pregnancy, the family planning program is a most significant factor in any strategy to avoid abortion.

Fifth. Title X is not only the major source of support for family planning, it is also more flexible and responsive to HEW guidelines than other Federal programs involved in this area.

Sixth. However, despite the program's substantial success, there remains a pressing unmet need: About 3 million low-income women and an additional 2 million adolescents are at risk of unwanted pregnancy and are unable to obtain contraceptive services on their own. The major reason for this is the inadequate level of funding that the program has received in recent years. The increased funding provided for in this bill will make family planning and contraceptive services available to an additional 500,000 low-income women and an additional 350,000 sexually active teenagers.

Seventh. Title X is the chief hope for many of the Nation's 1 million infertile couples. The increased funding in this bill will make it possible—for the first time—offer counseling and services to couples unable to have the children they want, as well as to provide research money to study the problem of infertility.

Eighth. Finally, as the major source of funding for the Center for Population Research, title X has supported much of the best demographic and medical work done in this country. This research has proved invaluable as a guide for Federal health and family planning policy. Because of financial constraints, the program has up to now been very narrowly focused. Increased funding will allow the Center to take up crucial work in the areas of migration, analysis of the leading causes of death, infertility, and reproductive biology.

We are convinced that this demonstrably successful and cost-effective program is essential if the Nation wishes to avoid the human tragedy that so often accompanies unwanted pregnancy and infertility, lessen the recourse to abortion, and provide the high quality population research that is increasingly necessary to effective Federal policy.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the distinguished minority leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I must say that I support many of the objectives of the legislation, but I note that the bill was reported out on May 15 and since it aggregates some $2.7 billion, I wonder why it was not brought up under the normal procedure whereby we would have more than 40 minutes for debate and have the opportunity to offer amendments.

I note that the authorizing level for 1979 is 25 percent above 1978, the funding level is 54 percent above what we appropriated in 1978, and it becomes progressively worse for 1980 and 1981. I think it is a little unconscionable for us to take up a $2.7 billion bill allowing only 40 minutes of debate.

Mr. Speaker, would the chairman of the subcommittee be good enough to respond?

Mr. ROGERS. Mr. Speaker, I certainly would have been willing to bring this bill up under a rule. The leadership simply could not schedule it because they had other legislation scheduled.

We have been ready since May to move with this bill.

But this bill is important. It provides a continuation of programs; it is not something new. The Members are familiar with the programs, and the leadership felt it could be handled in this way, even though it is a major bill. I might add in answer to the gentleman that I would have preferred to bring the bill up in a different fashion, but the leadership asked that we bring it up in this way.

Mr. MICHEL. Take a program like the venereal disease program for example, on which I can remember offering an amendment for just a $1 million increase umpteen years ago when no one was willing to even discuss the subject on this floor. I see no change in the program, and the statistics show we are not doing as well as we should. Look at the rat control program for another. It still goes on as a pilot project, a continuation of what we have done for years. Some of us would like to say, "Can't we change the program a little bit and put more emphasis on this or that approach that promises better results?"

Mr. ROGERS. The gentleman knows that his own committee is also going into some of those questions. The programs addressed by this legislation have prevented 1,098,000 unwanted pregnancies. They have reduced syphilis. Hypertension has been reduced 34 percent. I can give the gentleman the facts and figures, and I am sure he will go into that in the appropriation bill. I would hope the gentleman will support the bill because of the shortness of time. We would not have brought it up under suspension otherwise.

Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Massachusetts (Mr. Drinan).

Mr. DRINAN. Mr. Speaker, on behalf of the gentleman from Florida (Mr. Pepper), the distinguished chairman of the Select Committee on Aging, a committee on which I serve, I am authorized to say that the gentleman from Florida (Mr. Pepper) is enthusiastically in favor of this legislation.

Mr. Speaker, I rise in support of H.R. 12370, the health services amendments of 1978. As a member of the Subcommittee on Health of the House Aging Committee I am particularly interested in two programs supported through this legislation: the demonstration grants for the expansion of home health agencies and for training of personnel to work in these agencies, and the program aimed at the detection, diagnosis, and prevention of hypertension.

Just last week we approved the medicare amendments which will remove some of the burdensome restrictions in the medicare program that prevent many older citizens from access to home health services. However, even with expanded coverage, many older citizens will still be unable to partake of this service because the areas in which they reside are not served by a certified home health agency. There are still 700 counties in the United States which do not have a single home health agency.

Authorizations included in this legislation will take us a further step toward the goal of making home health care available to all older Americans who need this service.

Over the years the Federal Government unwittingly has adopted a costly institutional bias toward the elderly. Our well-intentioned programs such as medicare and medicaid have served to encourage the displacement of older citizens from their homes to nursing facilities when such care may not be necessary. Modest estimates are that one-fourth of those in nursing homes could have remained in their homes had certain services been available to them.

The GAO report commissioned by the Committee on Aging to look at home health services concluded that "Until older people become greatly or extremely impaired, the cost of nursing home care exceeds the cost of home care." H.R. 12370 in rectifying the shortage of home health agencies may well serve to save the taxpayers money through the wise departure from a reliance on unnecessary institutionalization in our health program for the elderly.

Equally as useful in moving us toward an emphasis on preventive health services in our health programs is the provision of this legislation which expands the hypertension treatment program. The marked increase in the diagnosis and treatment of hypertension which inflicts an estimated 27 million Americans is directly attributable to Federal support for diagnosis and treatment of this disease which remains a major risk factor for both heart attack and stroke.

The National Center for Health Statistics has reported that over a 2-year period, the death rate from hypertension declined some 21 percent: Deaths from hypertensive heart and renal disease declined 14 percent and stroke-related deaths declined some 9.6 percent.

Last year the Committee on Aging conducted a hearing to determine the extent of hypertension among the elderly. It was reported that 8 to 9 million persons over age 65 have high blood pressure. The consequences, if hypertension is left untreated, are devastating. High blood pressure is the major cause of stroke, which kills over 200,000 Americans each year. It contributes to some 1,250,000 heart attacks and some 650,000 heart attack deaths each year.

The cost in dollars for treatment when no early efforts were made to control the disease is in the billions but is nothing compared with the cost in human suffering for both the afflicted and their families. It makes sense to direct funds at early diagnosis and treatment. The cost of screening for high blood pressure and treatment are minor in comparison with the price we pay for not attending to this condition in its early stages. Moreover, science and medical technology have in recent years brought about important developments in hypertension therapy, if the condition is detected. We have the ability to attack this serious national health program and should move forward in making that benefit available to the millions of our citizens who need it. H.R. 12370 moves us in that direction and I urge its adoption.

Mr. ROGERS. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. Volkmer).

Mr. VOLKMER. Mr. Speaker, I, too, wish to commend the gentleman from Florida and the gentleman from Kentucky for the work they have done. But I, too, have reservations about this bill being on suspension. I personally have an area that I disagree with, and I feel an amendment would be in order to correct maybe a deficiency; but under the suspension of the rules I have no right to offer that amendment. There are others who I believe would like to do likewise.

As has been previously stated, this bill contains over $2 billion authorization. I believe that the program under the present way we have it will continue to operate even if this bill is not passed at this time, even after October 1. There is a continuing resolution, and the programs will continue on. The programs are not going to suffer.

I believe we should have the freedom in the House to express our will, and we cannot do it under suspension. We should have a rule which would fully allow us to debate this bill.

Mr. ROGERS. Mr. Speaker, I yield 1 minute to my distinguished colleague, the gentleman from New York (Mr. Scheuer), a member of the subcommittee who is vitally interested in these programs.

Mr. SCHEUER. Mr. Speaker, I wish to congratulate my colleague, the gentleman from Florida (Mr. Rogers), chairman of the committee, and the very distinguished ranking minority member, the gentleman from Kentucky (Mr. Carter) for their constructive, and creative work in forming this bill.

We have worked very hard to make sure that this would not be a controversial bill. We have gone to great lengths in the committee and in the Select Committee on Population, which I chair, to anticipate that the views and the needs of those who care about natural methods of family planning are totally included.

We think it is terribly important in every aspect of our national family planning effort, both as to education and services, that natural methods of family planning be an integral part of the education and services program. We believe that the provisions assuring couples their desired family size are totally supportive with concerns for the health of mothers, the health of kids, and the health of future generations of America.

Therefore I rise in support of this bill.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from Pennsylvania (Mr. WALGREN), who is a member of the subcommittee.

Mr. WALGREN. Mr. Speaker, I would simply like to say the majority and the minority side of the Subcommittee on Health, on which I serve, are almost unanimous in feeling the need to support these kinds of efforts. I realize the difficulty we all have with Government budgets and the idea that we want to be cutting back, but the health area is one of the areas where that criticism is least valid; the increase in expenditures and the increasing effort made on the Federal level has delivered more benefit to the people in the health area than in almost any area of government involved.

I urge support of this bill.

Mr. ROGERS. Mr. Speaker, I just want to remind Members that this bill contains 20 authorizations for programs which are currently providing health services. Members are familiar with them. The American people depend on them.

I urge the passage of this bill.

● Mr. PEPPER. Mr. Speaker, I strongly support the legislation which is before this body, the Health Services Amendments of 1978, H.R. 12370.

This is a sound bill, and my distinguished colleague and friend, Mr. ROGERS, who has so capably and admirably led the Subcommittee on Health and the Environment of the Interstate and Foreign Commerce Committee, once again deserves our thanks for a job well done. It is with great sadness that we face the next Congress without his steadfast leadership. He will be greatly missed by his colleagues in the Congress and by the American people, whose health and well-being have been matters of deep concern to him for these many years.

The bill before us proposes to make some changes in the administration of health services programs under the Public Health Service Act, and it extends a number of programs which have proved so worthwhile in the past. While many of these warrant careful and favorable consideration, I am especially pleased that the bill includes increased support in two areas of special concern: the program of demonstration grants for the establishment or expansion of home health agencies and for the training of personnel to work in these agencies, and the program which is aimed at the detention, diagnosis, and prevention of hypertension.

The Health Revenue Sharing and Health Services Act of 1975, Public Law 94–63, authorized a program of demonstration grants for the establishment and operation of home health service agencies and the expansion of existing agencies.

Moreover, it authorized demonstration grants for the training of professional and paraprofessional personnel and the provision of home health care. While we have been deeply involved in an effort to remove some of the burdensome restrictions which prevent so many elderly citizens from receiving home health care, we are acutely aware that, even with expanded benefits, many of our citizens will not have access to these services because the area in which they reside is not served by a certified home health agency.

Through establishment of this program, the Congress sought to overcome this deficiency and to promote the establishment of agencies in areas which are underserved or not served at all. During its first 2 years of operation, 92 counties have been able to use funds made available under this program to create their first home care agencies. This is a remarkable achievement. Nevertheless, there are currently almost 700 counties in the United States which do not have a single home health agency, and it is this problem which we have sought to rectify through the use of funds made available under this program.

Authorizations included in H.R. 12370 represent steady forward progress toward our goal of making home health care available to all Americans who need this service. In fiscal year 1977, the first year in which the program was operational, the Congress authorized an expenditure of $12 million, $8 million for grants to establish agencies, and $4 million for the training of personnel.

Unfortunately, however, the appropriation for that same fiscal year fell far short of the authorized level, and only $3 million was made available. Last year, the House voted by an overwhelming margin of 322 to 69 for an amendment I offered with my distinguished colleagues on the Aging Committee and others from the Health Subcommittee, to restore to the 1977 level the fiscal 1978 authorization. The appropriation for fiscal 1978 was double the amount of the previous fiscal year, and $6 million was made available—$5 million for grants and $1 million for training.

During consideration of this legislation by the Health Subcommittee, it was my privilege to testify, along with Mr. COHEN, the distinguished ranking minority member of the Health and Long-Term Care Subcommittee, which it also is my privilige to chair, in support of substantial increased authorizations for this program for the upcoming fiscal year. We urged that the committee better its original intentions with regard to the authorizations for this program and increase the amount authorized from the $7 million originally proposed to $14 million. In addition, we recommended a 3-year extension of the program rather than the 1-year extension which had been proposed.

I am deeply gratified that the committee did indeed see fit to increase the authorization for this program by a substantial amount. The bill before us includes a 3-year authorization for this program under section 312(A)(5), section 312(B)(4) and make available $14 million for fiscal year 1979, $16.1 million for fiscal year 1980, and $18.5 million for fiscal year 1981 for demonstration grants to establish or expand home health agencies, and $2 million for fiscal 1979, $2.5 million for fiscal 1980 and $3 million for fiscal year 1981 for training of personnel in home health care.

In my judgment, the committee has acted with great wisdom and foresight in order to rectify the shortage of home health agencies and to make it possible for public and private nonprofit agencies to obtain the necessary funds to gain sound footing and to make home health services available to a wider number of Americans.

A second provision of this bill warrants special attention, Mr. Speaker, as it would provide substantial expansion of the hypertension program currently authorized under section 314(d) of the Public Health Service Act. Originally authorized in 1975, under Public Law 94–63, the hypertension programs have reaped considerable success. The National Center for Health Statistics has reported that over a 2-year period, the death rate from hypertension declined some 21 percent; deaths from hypertensive heart and renal disease declined 14 percent and stroke deaths declined some 9.6 percent. This is telling evidence of the success of this program, despite only modest funding.

The bill before us, H.R. 12370, would significantly expand the funding which has been available, increasing from the $11 million which was appropriated in fiscal year 1978 to $25 million for fiscal year 1979, continuing under the formula approached. Beginning in fiscal year 1980, and in the 2 subsequent years, the bill would authorize the establishment of a new section 313, under which hypertension programs would be administered on a project grants approach.

This new program would be administered somewhat differently, therefore, Mr. Speaker, as States would now be required to submit applications stating the manner in which hypertension funds would be used, how they would be distributed based on need and adequacy of programs proposed, and would provide for an improved accounting mechanism of the effectiveness of funds appropriated for hypertension programs.

I am particularly gratified that the committee has chosen to expand somewhat the allowable activities of these hypertension programs. Current law provides for the screening, detection, diagnosis, prevention, and referral for treatment of hypertension. But we have become increasingly aware that one of the greatest outstanding problems with regard to hypertension in the United States is the inability of many persons to obtain necessary treatment in order to keep this condition under control.

Last year, the Subcommittee on Health and Long-Term Care conducted a hearing to examine the extent of hypertension among the elderly. We were shocked to find that 23 million persons or 18 percent of the adults in the United States have hypertension. It is even more prevalent among older persons. The National Center for Health Statistics estimates that 8 to 9 million persons over 65 nave high blood pressure. Its consequences, if not treated, can be devastating. High blood pressure is the major cause of stroke, which kills over 200,000 Americans each year. It contributes to some 1,250,000 heart attacks and some 650,000 heart attack deaths each year.

In recent years medical technology has brought about important developments in hypertension therapy, if it is detected. What constitutes a joyous medical development—namely the ability to effectively treat a serious condition which can be responsible for devastating consequences—can also be a enormous frustration as well. If we have the ability to attack a serious national health problem and if any of our people lack access to this treatment, then we cannot claim full success.

Moreover, taken in hard, cost-effective terms, treatment of hypertension before it gets out of hand could save the Federal Government billions of dollars in disability benefits and medicare payments. The relatively minor cost of screening for high blood pressure and the very modest cost of treatment is far below the cost of treating the serious consequences which result without early detection and treatment.

Thus, the hypertension screening program is a critical one but the level of funding has been sadly inadequate. In fiscal 1978, we provided only $11 million. I testified before the Health and the Environment Subcommittee with regard also to this aspect of the pending bill, and at that time proposed an authorization of $20 million for this program for fiscal year 1979. I am deeply pleased that the subcommittee saw fit to go even a step further by appropriating $25 million for this program for fiscal year 1979 and $28.8 million in fiscal year 1980, $33 million in fiscal year 1981, and $38 million in fiscal year 1982.

I am also gratified that the subcommittee saw fit to include among the allowable activities of these hypertension programs some provision for control of hypertension as well. While the committee has indicated that funds should be spent for treatment only in the most extraordinary circumstances, and when persons in need of treatment are not able to afford the necessary treatment, these funds be authorized for this purpose. But I believe that the subcommittee has taken a large step in the right direction by acknowledging the need for making treatment available to hypertensives who otherwise might be forced to face the severe consequences of this condition.

It is my hope, Mr. Speaker, that the Congress will look favorably on proposals such as my bill, H.R. 9433, which would provide medicare coverage for preventive services furnished in the screening, testing, diagnosis, and treatment of individuals for hypertension.

Once again, I wish to express strong support for the Health Services Amendments of 1978. I believe it is worthy of the support of my colleagues.●

● Mr. FRENZEL. Mr. Speaker, last week, I was obliged to vote against a health centers bill that authorized many worthwhile programs I support. The problem then was that the increases in authorizations were enormous. I did not believe then, and I do not today, that we should vote for huge authorizations under the suspension process.

That health centers bill has an authorization of about $2 billion. Today we have several more health bills, including H.R. 12370, health services amendments, which have no business being on the suspension calendar. H.R. 12370 carries an authorization of nearly $3 billion.

That amount, and the double digit increases in the programs authorized, should be subjected to the scrutiny of full House debate, and to the test of the unrestricted House amendment process.

The suspension process should be limited to noncontroversial bills or to those which authorize a small amount of money which does not represent a large increase over previous years. For these reasons, I will again today be obliged to vote against health bills whose purposes I support like H.R. 12370.●

● Mr. OBERSTAR. Mr. Speaker, it is with considerable reluctance that I must vote against passage of the Health Services Amendments of 1978—reluctance because I support most of the provisions of the bill and certainly the general thrust, which is to improve the quality and delivery of health care in America.

However, I find it extraordinary, to say the least, that the House is confined to a simple up or down vote on a measure that is as far-reaching and complex as its $2.7 billion price tag would suggest. At the very least, it seems to me the House should have more time than the mere 40 minutes allowed under the Suspension Calendar procedure to consider so vast a bill.

Furthermore, the House should give more extensive consideration to controversial provisions, such as the title X Family Planning Services section, in order to resolve ambiguities such as those concerning abortion.

While the bill does provide for a wide range of family health services, it is, to say the least, incomplete in this area. This measure should be considered on the Union Calendar under a rule which allows for more extensive general debate and for amendments. I think this legislation affords the House a unique opportunity to carefully consider a wide range of pregnancy-related programs that offer opportunities to have unborn human life rather than destroy it. Yet, under this abbreviated and highly restricted floor procedure, we are unable to consider such proposals.

A vote against H.R. 12370 should, therefore, be construed not as a judgment on the substance of this legislation, but rather as an indictment of the procedure under which the bill is considered on the floor. A "no" vote on a close rule—that is, as a vote to open up the floor procedure for a more careful and extensive consideration, including the opportunity to offer amendments.●

● Mr. STAGGERS. Mr. Speaker, I wholeheartedly endorse this legislation because it provides support for the continuation of vitally needed preventive health service programs.

The major programs of H.R. 12370 have been approved by Congress before, and they deserve our continued support. They have proved to be successful.

The health services programs extended by this legislation are designed to prevent illness, to allow informed decision making about one's own health status, and to provide early diagnosis and treatment before far more costly care may be needed. Clearly the advantages of such a preventive approach are apparent.

I urge all Members to join me in supporting this important legislation.●

● Mr. GILMAN. Mr. Speaker, I am rising in support of H.R. 12370, the Health Services Amendments of 1978. Included in these amendments are several important provisions relating to the well-being of our Nation's citizens, among them, the genetic disease program, immunizations, venereal disease prevention and control, family planning, and increased resources for child health. Funds for these programs are authorized for 3 years, and the increases in these funds are significantly raised from those of last year.

Mr. Speaker, we are not spending enough and are not giving enough attention to our Nation's health programs. Research and implemntation of disease control are not luxuries—they are desperately needed and needed now. Education about the benefits of sound family planning, and the preponderance of birth defects can insure that our citizens are healthy and have a fulfilling future ahead of them. Let us seek to provide our citizens with as much information, as much quality health care and as much of a commitment to the improvement of health care as is possible.

I urge my colleagues to support this legislation, and to work toward the improvement of health care across the Nation. Implementation of these amendments will prove to be beneficial to our entire Nation.

● Mr. BEILENSON. Mr. Speaker, the need for increased authorization of support for family planning services under title X of the Public Health Services Act was considered in detail by the Select Committee on Population. I am including an adaptation of relevant portions of a forthcoming report of the select committee to place before the House the information gathered by the Select Committee on Population that is pertinent to today's debate about the future of title X.

Most contraceptive services in the United States are delivered through physicians in private practice—usually obstetrician/gynecologists—or subsidized family planning clinics. Among the more significant characteristics of the family planning clinic system is the involvement of the Federal Government which, under a variety of statutory mandates, currently meets about 80 percent of the costs of the system.

Prior to extensive Federal financial support, the provision of prescription contraceptives—the pill, IUD, and diaphragm—was limited to private physicians and a relatively small number of nonprofit clinics, chiefly planned parenthood affiliates. Today's highly developed network of about 5,000 clinics—mostly under the aegis of State health departments and serving more than 4 million women in a majority of U.S. counties—is impressive, especially in view of the fact that Federal support has been available for barely a decade.

The policy issues that surrounded the inauguration of Federal support are now much less salient than they once were. In the late 1960's opponents of Federal support argued that women, especially lower income women who would constitute an important target group, wanted all of the children to whom they were giving birth. In retrospect, it is clear that these objections were largely unfounded. By the 1960's there had already developed a clear convergence toward effective contraceptive practice and smaller family-size goals among the different racial, religious, and income groups in American history. The family planning program, which expanded by about a third annually between 1970 and 1974, filled the needs of large numbers of American couples and has been responsible in substantial part for the marked decline in unwanted fertility over the last decade.

Despite the success of the Federal family planning program, however, many important policy and programmatic issues remain for congressional consideration. Since 1973, appropriations for family planning have been increased much more slowly than previously. Furthermore. the system has been plagued by administrative and bureaucratic problems.

Jurisdiction over Federal family planning support is split among the Office of Family Planning in the Department of Health, Education, and Welfare's (DHEW) Bureau of Community Health Services in the Health Services Administration (HSA) and other agencies of DHEW that also administer formula-grant programs containing a mandate for family planning. In addition, the medicaid reimbursement program is responsible for a substantial proportion of contraceptive services delivered to low-income women. As a result, effective coordination of funding and programs has been lacking.

Many experts assert that present strategies for providing family planning services frequently create obstacles for women, notably rural women and teenagers, who desire to obtain such services. In any event, an estimated one-third of all low-income women in need and one-half of the teenagers in need presently are unable or unwilling to take advantage of the kind of services now available in their present locations.

Because Federal data gathering has focused largely on institutional providers of health services, there is a general lack of information on all medical services provided by private physicians, including family planning services. Much more is known about clinic activities, however.

Apparently, private physicians deliver at least 50 percent of domestic contraceptive services. In 1976, 61 percent of these physicians were obstetrician/gynecologists and 28 percent were general practitioners. In that year, 83 percent of their patients were white, almost all were women, and a majority were at least 25 years of age. In comparison to clinic patients, private physicians serve an older, more racially homogeneous, and perhaps more affluent clientele.

It is difficult to construct a more detailed profile of private physicians' clientele or to determine how this profile may have changed over time. Apparently, fewer women go to private doctors in rural areas where general shortages of physicians complicate the delivery of health care services. Counseling, patient follow-up and related services appear to be less common and less effective in physicians' offices than they are in clinics.

A significant policy consideration is whether the Federal Government should seek to expand access to contraceptive services offered by private physicians for low-income women and teenagers. Aside from the fact that physicians are scarce in rural counties, two other barriers to extending private services are frequently mentioned: The cost and a general lack of interest in providing contraceptive services on the part of many private physicians.

Although cost is clearly a barrier to involving private physicians in providing family planning services to many urban as well as rural women and teenagers, there is little agreement on the magnitude of this problem and on the proper role of Government in alleviating it. Medicaid has already changed the pattern of health services utilization for many low-income persons. Improvements in third-party reimbursement schedules under medicaid or a future national health insurance program might reduce some of the financial barriers to the involvement of private physicians in providing contraceptive services to low-income urban and rural women and to the young.

Jeannie Rosoff, vice president of the Alan Guttmacher Institute, told the select committee:

> In our society, people do not go to clinics when they can get a doctor. The reason for going to a clinic may be solely financial. In other cases—especially with teenagers—it may be that they are afraid that if they go to a private physician, the private physician is either going to tell the parents or kick them out of the office.

A 1972 study by Morton Silver indicated that a significant proportion of the doctors interviewed either expressed a punitive attitude toward women who had experienced several out-of-wedlock births or suggested that poor or uneducated women were unable to use oral contraceptives effectively.

Whatever the underlying reasons and extent to which private physicians are either unable or unwilling to provide contraceptive services, Alan Guttmacher Institute studies indicate that private physicians serve about half of all low- and marginal-income women as well as 50 percent of all teenagers. As a position paper from the institute stated in 1977:

> In the last decade, U.S. physicians have adopted increasingly positive attitudes toward contraception and sterilization, and their (own) role in service delivery.

In any event, further research is crucial to understanding the role private physicians can and should play in providing contraceptive services. The following questions, among others, deserve consideration:

What proportion of services is provided by private physicians compared to subsidized clinics.

What kinds of contraceptive services do private physicians provide and at what cost?

What is the socioeconomic and demographic profile of their clientele?

What are the attitudes of private physicians toward family planning service delivery?

What proportion of medicaid reimbursement for contraceptive services currently goes to doctors in private practice?

Is the level of payments under medicaid for contraceptive services adequate to encourage physicians to accept medicaid patients?

What are some of the barriers to more extensive provision of services to low-income women who rely on medicaid or private health insurance.

There are approximately 5,000 clinics in the United States, either freestanding or part of more comprehensive health care facilities, usually maternal and child health centers. Most of these family planning clinics are staffed by physicians who work there only part time and other health professionals who dispense prescription contraceptives—oral contraceptives, IUD's, and diaphragms—to women following the so-called medical model of service provision. In 1977, 69 percent of the clinics participating in the National Reporting System for Family Planning Services reported contraceptive care as their primary purpose, while 21 percent were referred to as comprehensive care institutions, and the remainder were specialized in areas of medicine other than family planning.

Like private physicians, family planning clinics are concentrated in the Nation's metropolitan areas, leaving a substantial unmet rural need. A majority of those clinics are operated by State or local health departments in conjunction with hospitals. About 7 percent of all clinics are nonprofit Planned Parenthood affiliates.

Medical services provided by clinics were summarized for the select committee by Ms. Rosoff:

> A major function of the organized program has been to introduce effective methods of contraception—the pill, IUD and sterilization—to many low-income women and to teenagers of all socioeconomic groups. Prior to clinic enrollment, about half of new patients in 1976 had used no method or had used the less effective methods. After clinic enrollment, three-quarters chose the most effective methods. . . . Organized programs are also important sources of preventive care for women of childbearing years. They receive pelvic examination, breast examination, Pap smears and VD tests, among other types of screening.

Almost all clinics provide the most effective methods—pills and IUD's—and at least 80 percent provide barrier methods—diaphragms and condoms. In 1975, 60 percent of clinics provided counseling on the periodic abstinence methods—or natural methods of family planning—and 5.6 percent of all clinics reported prescribing injectable contraceptives such as Depo-Provera, a drug which has had nonapproval status for contraceptive purposes since a Food and Drug Administration decision on March 7, 1978.

Recently, periodic abstinence methods of family planning—otherwise known as natural family planning—have been receiving more attention from contraceptive service providers and from the Department of HEW. However, critics of Federal involvement argue that the typical clinic setting is not an appropriate environment for teaching this method because of the time involved in counseling. Furthermore, these critics accused the Federal Government of withholding funds from organizations which do provide comprehensive counseling for periodic abstinence because many of these organizations will not refer clients for abortions.

In point of fact, however, family planning clinics that do not offer abortion services or do not refer for abortions are quite eligible for Federal family planning funds provided they offer either comprehensive family planning services or formally refer clients to other organizations that do provide such services. An organization that provides only periodic abstinence methods is in fact eligible for Federal support if it simply routinely refers patients who desire other methods of contraception to organizations that provide them.

In the past year the Federal Government has substantially increased its efforts in the area of the periodic abstinence methods of family planning. Current activities within DHEW include research on the efficacy of various periodic abstinence approaches, methods for the improvement of the delivery of services, and the development of a teaching curriculum for periodic abstinence.

However, demand for these methods by American couples is still relatively low, as is interest among researchers in developing more effective techniques. Monsignor Horan, of Maternity Services, Inc. of northeastern Pennsylvania, estimates that only 5 percent of his organization's patient population desire and are candidates for periodic abstinence methods.

Only one-fifth of the 5,000 clinics provide sterilization, the most popular method of all couples married 10 years or more. Although many sterilizations are performed by private physicians, clinics constitute an important source of access to this method for low-income Americans who have had all the children they desire. DHEW officials testified that, although no figures are available regarding the demand for subsidized sterilization, approximately 100,000 were performed in 1976 with Federal funds, 23,000 in title X clinics and an additional 77,000 paid for through medicaid.

Family planning clinics also provide infertility services. About 1 million couples in this country are not able to have the children they want. If it is Government policy to help individuals attain the number and spacing of children that they voluntarily choose, then Federal aid in the area of infertility treatment to enhance wanted fertility, is a necessary complement to federally subsidized contraceptive services.

Dr. Mildred Jefferson, president of the National Right to Life Organization, expressed this view in testimony before the select committee:

> As long as Government is interfering so far as to destroy fertility, certainly they should provide funds to alleviate infertility. . . . Let me say that I don't think that it is a proper function of Government to be interfering in the first place, but since they are already doing it, I would prefer that they would involve themselves on the other side as well, instead of just on the side of creating sterility.

Only half of all clinics report infertility counseling among their services, however, and only a quarter offer infertility screening. Virtually none of the clinics provided the expensive treatment required for cure.

Most clinics also offer a variety of other services. Virtually all—97 percent—clinics offer counseling about contraception, but only 65 percent provide "classroom sex education." About 85 percent of clinics report that they refer patients to other agencies for related medical or social services. Although title X mandates community involvement on the part of its grantees, such services as community outreach, transportation to and from the clinic, and babysitting are seldom among the additional services provided by the clinics.

Family planning clinics served about 4.1 million women in 1976, of whom 3.6 million belonged to families with incomes less than twice the poverty level. About 1.2 million of all these women were teenagers. About 2.3 million adult women and teenagers obtained contraceptive services from private doctors in that year.

The overwhelming majority of those served by subsidized family planning clinics are women, of whom about three-quarters come from families with incomes below 150 percent of the Federal poverty line: the target group for family planning programs. This situation, which has remained fairly constant over the years, indicates the success of the clinics in reaching their target group. About 60 percent of women served are white, and between 25 and 30 percent are black. At least 20 percent of the clientele receive public assistance. Most of the women are from metropolitan areas, reflecting the location of the clinics themselves.

Since the inception of the program in the late 1960's, the composition of the clinic patient population has shifted toward younger women with fewer children, indicating that the program has become particularly effective in reaching women at the outset of their reproductive years. Now that clinics have been able to attain a sizable caseload from among the target population, it is important to assess their impact on reproductive behavior.

Most studies have concluded that the Federal family planning effort has indeed been responsible for significant fertility reduction. However, evaluators have been hampered by a reliance on Census Bureau and other national data not specifically designed for evaluation purposes and by the difficulty of accounting for the effects of other Government programs or social changes which may have contributed to fertility decline. Dr. Jack Reynolds, a noted expert on the evaluation of social programs, explained this problem:

> We really don't have enough data even to determine whether or not the people who are being served at the present time are actually being served effectively enough so that their fertility is being reduced. What we have are data that tell us that a certain number of people are going to these clinics, but we don't know what happens after that.
>
> We think that the programs are effective. I believe that they are. But if I were put up against the wall and told to defend this claim based on our evaluation of the family planning program, I couldn't. We just don't know. And I think that this is a major area that the government has to get into if we are going to make any of these social action programs effective—not just family planning.

Phillips Cutwright and the late Frederick Jaffe, authors of one of the most extensive attempts to chart the effectiveness of the program sought to determine the savings that have accrued to the Federal Government in public assistance, health and social services for low-income Americans during 1970–75. On the basis of their estimate that the family planning program helped prevent more than a million unplanned births during this period, Jaffe and Cutwright claimed that the program expenditures of $584 million saved the Federal Government alone $1.1 billion in short-run expenditures—a benefit of $1.80 for every dollar spent on family planning. They noted this is one of the most favorable cost-benefit ratios of any Federal program.

Efforts to evaluate the success of the national program will not only be useful in understanding the past; but the comparison of different ways of delivering contraceptive services also will contribute much to the further improvement of program accessibility and acceptability, and thus to program coverage and cost-effectiveness.

Despite the successes described above, the Federal family planning program has been reaching only about two-thirds of the teenagers and low-income women estimated to be in need. "Women in need," or the number of women who want but cannot reach or afford contraceptive services by themselves, often is computed by means of a formula devised by Joy Dryfoos of the Alan Guttmacher Institute. Dr. Dryfoos has attempted to estimate "effective demand" for organized services by determining the number of women of reproductive age—aged 15 to 44—and then subtracting the number of sexually inactive of subfecund women as well as those pregnant or trying to become pregnant. Because the calculations are derived from national demographic survey data, estimates of need are valid only at the national level. Local surveys must be undertaken to supply statistics for individual areas or populations.

The "market" for organized services currently ranges up to 12.2 million women and teenagers, depending on the income criterion used to define the target population. Title X—Public Health Service Act—clinics are required to give priority to women with incomes below 150 percent of the poverty line—6.2 million women. Title XX of the Social Security Act adds 3 million low-income teenagers to this priority group. Planned Parenthood has urged that others, 3 million marginal income adult women, be made part of this group as well. The 3 million women with marginal incomes represent the difference between the estimates presented in testimony by Ms. Rosoff of Planned Parenthood and Dr. Joyce Lashof of DHEW.

After making an estimate of need, it is possible to calculate the extent to which this need is being met. Even if need is considered in terms of only those groups of women specifically mentioned in Federal law—low-income women and sexually active teenagers—it is clear that substantial unmet need persists despite the successes of the family planning program. Additional title X funds will contribute greatly to helping to meet this unmet need.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 12370, as amended.

The question was taken.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII, and the prior anouncement of the Chair, further proceedings on this motion will be postponed.

INTERNATIONAL PETROLEUM EXPOSITION

Mr. BINGHAM. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 154) authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from September 10, 1979, through September 13, 1979.

The Clerk read as follows:

S.J. RES. 154

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to invite by proclamation, or in such other manner as he may deem proper, the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from September 10, 1979, through September 13, 1979, for the purpose of exhibiting machinery, equipment, supplies, and other products used in the production and marketing of oil and gas, and bringing together buyers and sellers for the promotion of foreign and domestic trade and commerce in such products.

The SPEAKER pro tempore. Is a second demanded?

Mr. WHALEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending Senate joint resolution (S.J. Res. 154).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. BINGHAM) and the gentleman from Ohio (Mr. WHALEN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Joint Resolution 154, which has been passed by the Senate, is identical to House Joint Resolution 923, which was favorably reported by the Committee on International Relations without dissent. To simplify matters, I propose that the House adopt the Senate resolution, which will avoid the necessity of any further action by either House.

Mr. Speaker, very briefly, the International Petroleum Exposition is held in Tulsa every 3 years, and is attended by thousands of participants from throughout the United States and many foreign countries. This resolution essentially authorizes the President to place the imprimatur of the U.S. Government on the exposition by formally inviting the States of the Union and foreign nations to attend.

The resolution would not require action by the President, nor is it necessary for such action. It would merely place the Congress on record as requesting the President to take such action as he may deem proper with respect to the exposition. The House passed a similar resolution in 1975. I know of no opposition to the resolution.

As we all know, the United States is the world leader in oil technology. It would seem appropriate for our government to endorse this exposition, which will attract buyers from all over the world and hopefully stimulate exports which will help our balance of payments.

I urge the adoption of the resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS. Mr. Speaker, I thank the gentleman from New York (Mr. BINGHAM) for yielding.

Mr. Speaker, Congressman JIM JONES from Tulsa, Okla., and my colleagues from Oklahoma ask our fellow Members to support House Joint Resolution 923. This bill would authorize the President to invite the various States of the Union and all foreign countries to attend and participate in the International Petroleum Exposition to be held in Tulsa, Okla., in 1979.

The exposition will be celebrating its 56th anniversary as the largest worldwide energy exposition dealing with the recovery of onshore supplies of petroleum. In 1976, the date of the last show, Tulsa played host to over 37,000 exhibitors and participants from every State of the Union and 63 foreign countries.

The 1979 show promises to be bigger and better. Special emphasis will be placed on technology designed to promote "enhanced recovery techniques." I believe this to be a highly appropriate theme considering the increased cost of energy supplies and the needs of the United States to develop its own domestic energy supplies rather than depend on sometimes unstable foreign sources.

Mr. Speaker, the entire Oklahoma congressional delegation is sponsoring this legislation. The IPE is a nonprofit exposition held solely for the education and benefit of those who are charged with the task of producing the energy that fuels our economy and our lives. This exposition brings together under one roof men and women of varied backgrounds and nationalities in order to learn and receive exposure to the latest technical advances in oilfield equipment. I hope that my colleagues will support this legislation.

I would also like to thank my colleagues, the gentleman from New York (Mr. BINGHAM) and the gentleman from Wisconsin (Mr. ZABLOCKI) for their help and assistance in bringing this legislation before the full House of Representatives. At a time when fast-breaking developments in the Middle East signal a renewed chance to achieve peace in this area, House Joint Resolution 923 is not of the most pressing international importance. It is, however, important to the success of the International Petroleum Exposition, and I thank the chairmen for their assistance in bringing this up for consideration.

Mr. WHALEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of Senate Joint Resolution 154, which is identical to House Joint Resolution 923, which was reported by the Committee on International Relations to the full House.

The purpose of the joint resolution is to authorize and request the President to invite the States of the Union and foreign governments to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from September 10 through September 13, 1979.

The resolution would neither require action by the President, nor is it necessary for such action, but merely requests him to take such action as he may deem proper.

I urge my colleagues to join me in approving this resolution.

● Mr. JONES of Oklahoma. Mr. Speaker, I ask my colleagues to support Senate Joint Resolution 154. This bill would authorize the President to invite the various States of the Union and all foreign countries to attend and participate in the International Petroleum Exposition to be held in Tulsa, Okla., in 1979.

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Mr. BINGHAM. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM) that the House suspend the rules and pass the Senate joint resolution (S.J. Res. 154).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 923) was laid on the table.

TIN BUFFER STOCK AUTHORIZATION

Mr. BINGHAM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9486) to authorize a contribution by the United States to the tin buffer stock established under the Fifth International Tin Agreement, as amended.

The Clerk read as follows:

H.R. 9486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President, on behalf of the United States, is authorized to contribute, with or without monetary compensation, up to five thousand long tons of tin metal to the Tin Buffer Stock established under the Fifth International Tin Agreement at such time as the prevailing international market price for tin falls within the floor and ceiling prices established under the Agreement.

SEC. 2. Notwithstanding any other provision of law, the Administrator of General Services is authorized to transfer to the International Tin Council without reimbursement such amount of tin metal not exceeding five thousand long tons as may be directed by the President for the purpose set forth in section 1: *Provided,* That such amount has been determined to be excess pursuant to section 2 of the Strategic and Critical Materials Stock Piling Act and that the United States contribution to the Tin Buffer Stock shall not prevent unilateral disposals of tin by the United States from the national stockpile.

SEC. 3. Any proceeds accruing to the United States as a result of liquidation of the Tin Buffer Stock or prior refund of the United States contribution to the Tin Buffer Stock shall be treated in the same manner as proceeds from the disposition of materials determined to be excess pursuant to section 2 of the Strategic and Critical Materials Stock Piling Act.

SEC. 4. Any amount of tin metal accruing to the United States as a result of liquidation of the Tin Buffer Stock or prior refund of the United States contribution to the Tin Buffer Stock shall be incorporated in the national stockpile and supplemental stockpile to the extent required to meet the objective for tin metal determined pursuant to section 2 of the Strategic and Critical Materials Stock Piling Act. Any tin metal not so incorporated shall be treated in the same manner as materials determined to be excess pursuant to section 2 of such Act.

SEC. 5. The President shall transmit to the Congress at the beginning of each fiscal year a written report detailing the activities of the Tin Buffer Stock, and such other pertinent information on its administration as will enable the Congress to evaluate the participation of the United States in the Fifth International Tin Agreement.

SEC. 6. The President shall transmit to the Congress, at least sixty days prior to any transfer or sale of tin metal by the United States as a participant in the Fifth International Tin Agreement, a report projecting the impact of such action on the economy of the United States and on the economic and political development of the major tin exporting nations.

SEC. 7. (a) The Administrator of General Services is hereby authorized to dispose of, by negotiation or otherwise, approximately thirty thousand long tons of tin now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h–1) and the supplemental stockpile established pursuant to section 104(b) of the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 456, as amended by 73 Stat. 607).

(b) The disposition authorized by subsection (a) may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act, except that the time and method of such disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

SEC. 8. Section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) is amended to read as follows:

"SEC. 9. (a) There is established in the Treasury of the United States a separate fund to be known as the Strategic and Critical Materials Procurement Fund (hereinafter in this section referred to as the 'fund'). All moneys received after the date of the enactment of this section on account of sales of materials under this Act shall be covered into the fund.

"(b) (1) Moneys covered into the fund shall be available, when appropriated therefor, only for the procurement, transportation, maintenance, rotation, storage, refining, or processing of materials under this Act.

"(2) Any moneys covered into the fund which are appropriated shall remain available, without fiscal year limitation, for the purposes for which they are appropriated until they are expended.

"(c) The Administrator of General Services shall submit a report to the Congress not later than the first day of January of each year on the financial condition and the results of the operation of the fund during the preceding fiscal year and on its expected condition and operation during the current fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.".

The SPEAKER pro tempore. Is a second demanded?

Mr. WHALEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 9486, presently under consideration.

The SPEAKER pro tempore. Is there objective to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. BINGHAM) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. WHALEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would authorize a contribution by the United States of up to 5,000 tons of tin to the International Buffer Stock for the purpose of stabilizing world tin prices. It would also authorize additional tin disposals from our strategic stockpile surplus, as recommended by the Committee on Armed Services. The Armed Services Committee further included language from a House-passed bill authorizing the establishment of a special stockpile fund. Also included are two amendments recommended by the Committee on Banking, Finance, and Urban Affairs. Thus, the bill before the Members is recommended by three committees of the House, and it is supported by the administration, by consumer organizations, and by the U.S. canning industry.

Mr. Speaker, the committee supports the Armed Services Committee proposals. We include with some reservations a Banking Committee proposal prohibiting a U.S. contribution to the International Tin Buffer Stock until the price falls within the established price range.

Mr. Speaker, the United States became a signatory of the Fifth International Tin Agreement in 1976, under the Ford administration, because we recognized our own interest in stable world market conditions—as the world's largest tin consumer. We also recognized the legitimate concerns of tin producers, many of whom rely heavily on export earnings from tin sales. Since then it has become clear, however, that the buffer stock set up by the tin agreement to promote this market stability is just not large enough to operate with total effectiveness. At this time the buffer stock needs tin, and the United States is in the unique position of having tremendous surplus reserves in its own strategic stockpiles. Accordingly, the Secretary of State announced in May 1977 that the United States would make a voluntary, pro rata, reimbursable contribution of up to 5,000 tons of tin to the international tin buffer stock, subject to congressional approval.

The administration attaches great importance to this legislation, both for its economic merit and foreign policy significance to our extensive negotiations with developing countries on commodity issues. As I have said, it is also strongly supported by consumer groups and the American canning industry, a major user of imported tin.

A pro rata U.S. contribution of 5,000 tons is in our interests. It would be a hedge against inflation. Every 10-cent increase in tin prices costs the U.S. consumers $4.4 million. It would replenish the international buffer stock—at a time when world prices are fluctuating at record high levels and the buffer stock's tin supplies are exhausted. Our initiative would also encourage other consumers to add their share to the buffer stock reserves. Japan, in fact, agreed to contribute to the buffer stock immediately following Secretary Vance's announcement last year. At the same time, this contribution would strengthen our bargaining position within the tin agreement to encourage expanded production.

Passage of this legislation would also have less tangible foreign policy benefits. We have now reached a critical juncture in the so-called "North/South Dialog." Developing countries are looking to the United States for leadership in the commodity trade area where we clearly share their concerns as a major producer and consumer of numerous commodities. The tin agreement has many features which we would like to see in other price stabilization schemes—such as an international buffer stock and joint producer/consumer control of all decisions. A U.S. contribution to the international buffer stock would not prejudice our case-by-case approach to commodity negotiations. It would however, lend much-needed credibility to our negotiations on other commodity issues.

Mr. Chairman, I do not claim that this legislation is a panacea for tin market instability; nor that price stabilization can be easily achieved. But, at no cost to the taxpayer, we can take a step in the right direction. Historically, the tin buffer stocks have not had sufficient resources to operate effectively in the market. H.R. 9486 will help change that.

Mr. Speaker, I yield at this time such time as he may desire to the gentleman from West Virginia (Mr. MOLLOHAN).

Mr. MOLLOHAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 9486, as amended. I would like to explain what the amendments approved by the House Armed Services Committee will do.

The committee amendments would add a new section 7, which would authorize the disposal of 30,000 long tons of tin from the national strategic stockpile. This disposal—which is supported by the administration—is in addition to the 5,000 long tons which the bill would authorize to be transferred to the tin buffer stock.

The tin inventory now in the national stockpile amounts to about 200,000 long tons. The goal established by President Carter for a 3-year mobilization period is 32,000 long tons. Therefore, the national stockpile contains 168,000 long tons of tin which are far in excess of our projected wartime needs.

The final amendment, a new section 8, recommended by the Armed Services Committee, would establish a special fund within the Treasury known as the strategic and critical materials procurement fund. This amendment serves to carry out the only purpose of the Strategic and Critical Materials Stockpiling Act: That is to insure that there is an adequate supply of materials for the security of the United States in a time of national emergency. The new section 8 would require that all moneys received from future sales of materials from the national stockpile, including the sales authorized by the bill now under consideration, be placed in the special fund. The moneys in the fund would be available only when appropriated for the procurement of strategic and critical materials for the national stockpile and for the maintenance of the stockpile.

The Committee on Armed Services believes that this amendment will do three things:

First, it will encourage the maintenance of a balanced stockpile.

Second, it will discourage the manipulation of the stockpile for purposes other than those intended by law.

Third, it will improve the management of the stockpile.

This provision was contained in H.R. 4895 which was passed by the House in March of 1977 by a rollcall vote of 373 to 24, but that bill has not yet been acted on by the Senate.

Mr. Speaker, I urge the adoption of H.R. 9486 as amended.

Mr. BINGHAM. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise in support of H.R. 9486, to authorize a contribution of excess tin in our national strategic stockpile to the buffer stock of the International Tin Agreement. Your Subcommittee on Economic Stabilization of the Banking Committee considered this bill, under sequential referral, because of our central role under the rules of the House in the Nation's inflation problems. It became clear last year early in the new administration that the United States would take a more sympathetic view of commodity agreements, covering internationally traded raw products, and it is imperative that these agreements operate in the interest of consumers, including above all U.S. consumers, and not only the producing countries.

We were assured last year by the administration that the U.S. inflation problem would be uppermost in consideration of international commodity agreements. Fred Bergsten, the Assistant Secretary of the Treasury for International Affairs, told the Subcommittee on Economic Stabilization that, and I quote:

> Our primary purpose in pursuing these agreements is to reduce the risk of inflationary pressures in the United States.

The Banking Committee examined the bill before us in that light.

The world tin market, Mr. Speaker, has been characterized by tight supply and high prices for several years. The International Tin Agreement has not been able to keep the price within the upper limit established, and raised from time to time, by the Tin Council. I do not pretend that the modest contribution of U.S. tin to the buffer stock of something under 5,000 tons—the original purpose of this bill—will by itself solve the world's tin problem. But I do think it will help to make the international agreement work better, with some hope of succeeding in the future where it has failed in the past.

Probably more important to tin prices in the near future is the provision in this bill authorizing a unilateral sale of an additional 30,000 tons of excess tin from our stockpile. The Banking Committee strongly supports that amendment, which was added by the Committee on Armed Services. Our aim is a more moderate world price for tin, which is used in food containers, solder and other products. The rise since 1975 in the price of tin, which we do not produce, is costing American final users about $120 million a year.

I urge support of this bill, because it should help make this particular commodity agreement perform better in the interest of consumers of tin, and we are the largest. It implies no general commitment to commodity agreements, each of which must be examined on its own merits.

Mr. WHALEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 9486 with amendments.

This bill, which was initiated by the administration and approved by three House committee—International Relations, Armed Services, and Banking, Finance and Urban Affairs—would authorize a contribution by the United States of up to 5,000 tons of tin to the International Tin Council, the representative body which administers the International Tin Agreement.

The purpose of such a contribution is to involve the United States in financing the international tin buffer stock set up to reduce tin price fluctuations for the benefit of both producers and consumers. Since 1975, tin prices have risen to record high levels which the current buffer stock has not effectively dampened. If the U.S. contribution is sold by the Tin Council as is expected, the proceeds from that sale would revert to the United States in 1981 on expiration of the tin agreement.

This bill has both clear anti-inflationary benefits as well as important foreign policy advantages. This contribution would make the U.S. case-by-case approach to international commodity negotiations more credible, helping to convince producer and consumer countries alike that we are sincere in our desire to help moderate price fluctuations.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. BINGHAM. Mr. Speaker, I yield 2 minutes to the chairman of the full committee, the honorable gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I rise in support of H.R. 9486, as reported by the Committee on International Relations.

The United States has historically been wary of international commodity agreements. We have tended to view them as producer agreements aimed at raising prices and therefore as being counterproductive to the interests of consumers. The experience of 1973–74—spiraling commodity prices due to insufficient supply—has made us look twice at commodity agreements, and we have learned that they do not necessarily have to be just producer agreements. We have come to realize that commodity agreements can be producer/consumer accords that are designed to protect the interests of both—to prevent prices from going below production costs and above a reasonable cost plus profit level. Stemming inflation has been one of the primary purposes of Government policy over the past several years, and a properly constructed commodity agreement can serve that purpose.

Although the International Tin Agreement has not been particularly successful in the past in preventing high tin prices, the fault lies not in the design of the agreement but in the insufficiency of resources—the inadequacy of the buffer stock. The purpose of the U.S. voluntary contribution is to help overcome this problem, both through the contribution itself and through the example it sets for other consumer nations to contribute to the buffer stock.

This legislation has been reviewed by three committees—the Committee on International Relations, the Committee on Armed Services, and the Committee on Banking, Finance, and Urban Affairs. All three committees agree on the importance on U.S. participation in and contribution to the International Tin Agreement, and I urge the Members to support this legislation which is clearly in the U.S. economic interest.

Mr. BINGHAM. Mr. Speaker, I have no further requests for time.

Mr. WHALEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 9486, a bill to authorize the U.S. contribution to the international tin buffer stock.

During the consideration of this bill by the Committee on International Relations, I raised what I consider to be an important point about the need for Congress to closely monitor the full ramifications of our actions. As a tin consuming nation, we need to be informed of the projected effects of this legislation on our own domestic economy. As a world leader, we should also be aware of the effects that such actions will have on the political and economic development of the tin exporting nations.

In the committee, I offered and had adopted, an amendment to enable the Congress to review in advance the impact of our contribution to the Fifth International Tin Agreement, thereby helping to determine its projected effects on our policies at home and abroad.

The fluctuation in tin prices can have a serious impact on both the economic and political life of tin producing countries. In many cases, the major exporters are developing nations who rely on tin as a major export. The rise and fall of world tin prices have deep implications for their development. Even minor fluctuation in some cases can have more impact than the total aid provided by our bilateral assistance. Such economic setbacks can seriously retard their ability to develop democratic traditions.

It has been alleged, that past disposals of tin from our large stockpiles have not been "orderly", and have had dire consequences for some of those countries.

In order to clarify the intent of the Congress under this legislation with regard to any possible negative effect on the tin exporting developing nations, I would like to direct a question to the sponsor of this legislation, the gentleman from New York (Mr. BINGHAM).

My question of the gentleman is: What assurances can you provide that the disposals of tin under this legislation will be "orderly" and will not have negative consequences for developing nations that are heavily dependent on tin exports such as Bolivia?

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I will be glad to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, first let me say that I sympathize with the gentleman's concerns. As the gentleman knows, I have been personally associated with our development aid program for more than 30 years, in one capacity or another, and I would not want to take any action in this or any other legislation that would counteract the benefits that accrue to developing nations from the aid program. The gentleman is quite correct in pointing out that commodity prices are critical to the economies of many developing nations. The whole purpose of this bill is to minimize such fluctuations in the interest of both producers and consumers.

Under the Fifth International Tin Agreement itself, the producing nations, as the gentleman knows, are part of the International Tin Council. Therefore, any use of the U.S. tin contribution to the buffer stock would be in accordance with the rules of that organization protecting the interests of the producer countries.

Now with regard to the 30,000 tons that this bill proposes be disposed directly from our stockpiles, that of course we can and should control very carefully and release in as orderly a fashion as possible.

It would be inadvisable, however, for us to go as far as announcing in advance that we are going to release tin in equal monthly installments over a particular period of time, as some producer countries apparently would like. Such predictability would permit speculators, or even the producing countries themselves, to take countermeasures that would nullify any beneficial price-stabilizing effects of our disposals. There simply must be some variation and unpredictability in the rate of our disposals in order to effect prices.

Now I would say to the gentleman that we are committed to considering producer country interests before any direct tin disposals. Such concern is explicitly mandated in the Strategic and Critical Materials Stockpiling Act and in article 43 of the tin agreement itself. H.R. 9486 also reiterates this commitment to avoid producer market disruptions. And I have received assurances from State that any GSA disposal plan will be adjusted to take into account revised estimates of the current production shortage.

The United States is also firmly committed to bilateral and multilateral consultations with producing countries about the rate of GSA disposals. I understand that in the past, even when GSA has not had much authority to dispose of tin, these consultations have taken place at least annually and more frequently upon producer country request. I am assured that we will continue and, in all likelihood, intensify such consultations when this legislation is enacted. In addition to the required consultations, the State Department has repeated to the ITC and President Carter has personally told the Bolivians of our intention to enter close consultations on the legislation we are now considering.

The State Department also chairs the interagency committee that makes the day-to-day disposal decisions, and I am informed that the other members of the committee rarely if ever fail to follow State Department recommendations.

I would say to the gentleman that it is the view of the committee and the clear intent of this legislation that these direct consultations with producer nations should continue and perhaps occur more frequently. The purpose should be generally to minimize the economic and political disruptions that disposals might cause to producer countries, and specifically to minimize month-to-month variations in the rate of U.S. disposal. We cannot, however, go so far as to eliminate such variations entirely. To do so would jeopardize the price-stabilizing effects of these disposals. What we can and must do, and what the committee clearly endorses and intends, is that we consult in detail with producing nations frequently and regularly. On the basis of that bilateral and multilateral consultation we should dispose of tin with minimum variation in the rate of that disposal over time consistent with the goal of stabilizing market conditions.

Mr. Speaker, I see that my friend, the gentleman from West Virginia (Mr. MOLLOHAN), indicates his concurrence in this statement.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his concise and informative response and wish to commend him for his diligent work and leadership in bringing this measure to the floor. I fully support H.R. 9486 and urge my colleagues to vote in favor of its passage.

Mr. WHALEN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I remember a few years ago when I sat in here and we discussed silver. I was no authority on silver, and I am not an authority on tin. However, several points come to my mind.

The first one is that the Bible teaches us that we ought to put something aside in the warehouse—in the Bible they call it the "storehouse"—because we are going to have days when we will need these reserves.

When we introduce these programs to reduce our reserves and take material out of our storehouse, that always shakes me up.

The second thing is that I have never seen us achieve great success in the United States in any of our international market relationships. It usually falls upon the United States to assume all the burden, and the other countries take all the advantages.

I am reminded of a story and an experience that we have had in our own family. Every family has somebody that they always look back to, somebody who had a lot of commonsense and who was a real, positive individual.

Well, I had a great grandfather who came back to Texas in 1865, and he had lost the war and he had lost his right arm, and he was a farmer. All he had was a few acres, and he was going to try to make out on the farm with seven little girls. It was not much of a farm, at that. He had to really work. But he was a smart man, because he taught my mother and my grandmother—and I have remembered the same thing—he said, "Always watch the public. They are always wrong." What he would do is, when people said the price of cotton was going down very low, he would buy. And when the general public said we are going to have a big year on cotton, he would not plant cotton that year. He switched to corn where there was no oversupply. And when he died, with seven little girls and a poor farm, with only one arm, he had made a big success of the farm. I have always followed his advice, and I think he was right.

"Do not follow the public, they are always wrong." Since I have come to Congress I have learned a new one. Just watch Congress, and they are usually wrong. When it comes to economics.

I do not know anything about silver. At one time we talked about selling silver reserves, but we did not. And the more they kept talking about selling silver, I thought, "This is the most stupid thing in the world." I said it would cost the United States more to replace silver in future years. The more they talked about selling silver, the more I was convinced the United States should hold. Then we were talking about dumping silver. Today it is tin. You can put it down in your little brown book that 5 years from now, if the United States needs to buy more tin, we are going to probably end up paying twice as much to put it back in the warehouse. There is not any advantage in the world for us to reduce the storage reserves of American commodity reserves.

Mr. WHALEN. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. McKINNEY).

Mr. McKINNEY. Mr. Speaker, I would like to add to my prepared remarks by assuring my good colleague, the gentleman from Texas, who just spoke, that I think the McKinney amendment which was passed in the Committee on Banking and Currency may answer some of his problems by eliminating the sale of this tin within the market that is prescribed by the agreement.

Mr. Speaker, the Banking Committee sought sequential referral of H.R. 9486 which authorizes a U.S. contribution of tin to the Tin Buffer Stock because of our concern for the impact such action might have on the domestic price level and subsequently on our fight against inflation

This bill as amended by the three committees is evidence that the United States can take action in conjunction with other countries to stabilize price fluctuations of international commodities. From an economic perspective the Economic Stabilization Subcommittee would like to see the price ceiling established under the Fifth International Tin Agreement strongly defended against upward pressures.

I believe that the Armed Services Committee amendment which authorizes the sale of excess tin from the GSA stockpile and the Banking Committee amendment which I sponsored authorizing our contribution to the buffer stock once the market price is within the band set under the agreement emphasize our determination to fight inflation in all markets. By exerting this direct influence on tin prices this legislation makes good economic sense.

It was not the intention of the Banking Committee to create any administrative problems for the State Department through our amendments nor do we believe any difficulties should develop. Quite simply, the President is authorized to make our contribution when the international market price for tin is at, or below, the ceiling set by the agreement.

I hope that the availability of our contribution coupled with the sales from the GSA stockpile will offset the demand for tin and keep tin prices from climbing. In my opinion, this is one of the main purposes for the existence of a buffer stock. History has not shown our experience as a participant in such agreements to be very successful. I, and many of my colleagues on the Banking Committee, have supported H.R. 9486 as amended because we think that this commodity agreement can now function as intended. Under these terms our contribution to the Buffer Stock is in the U.S. international interest both economically and as a matter of foreign policy. I urge my colleagues to support this legislation.

Mr. BINGHAM. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would just like to try to reassure my friend, the gentleman from Texas, about the operations of the strategic stockpiles. This is an area where we really have been doing pretty well. First of all, in this legislation we are talking about an authorization to dispose of 30,000 tons. We currently have 200,000 tons in the stockpile, of which 168,000 has been declared to be excess to our strategic needs. But particularly on the matter of price that the gentleman raised, it should be of interest that the average cost of tin in the stockpile was slightly over $1, and the current price is $6. So we have done pretty well on the deal.

Mr. WHALEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. BOB WILSON), the ranking minority member on the Committee on Armed Services.

Mr. BOB WILSON. Mr. Speaker, I rise in support of H.R. 9486 as amended.

The bill was referred sequentially to the Armed Services Committee because it involves the disposal of tin from the national stockpile. Such disposals are required to be authorized by law, and are within the jurisdiction of the Armed Services Committee.

While our primary purpose was to act on the disposal of tin from the stockpile, I also support the contribution to the tin buffer stock established by the Fifth International Tin Agreement. Unless this authorization is passed, the United States will not be in a position to fulfill a treaty commitment.

In my view, the amendments made by the Armed Services Committee to H.R. 9486 have improved the original bill. By authorizing disposal of an additional 30,000 tons of tin, unneeded in the strategic stockpile, the Government will obtain funds to buy materials in which the stockpile has a shortage. The GSA estimates that $360 million should be received in the sale of this surplus tin.

I strongly support the amendment recommended by the Armed Services Committee which would establish a strategic and critical materials procurement fund. When this amendment is enacted, we will have for the first time a fund from to finance acquistions for the national stockpile. I want to commend the gentleman from Florida for his authorship of the amendment. It will greatly enhance the management of the national stockpile by removing any temptation by members of the executive branch to use the stockpile for unintended purposes.

The House approved a similar provision last year in passing H.R. 4895 by a vote of 373 to 24. Since that bill has not been acted on by the other body, it is, in my estimation, wise to include such a provision in this bill so that the receipts from the sale of the tin will go into the special procurement fund.

Mr. Speaker, H.R. 9486, as reported by the Committees on International Relations, Armed Services, and Banking, Finance and Urban Affairs, is in the national interest and should be passed.

● Mr. BENNETT. Mr. Speaker, the bill under consideration today, H.R. 9486, as amended, authorizes a contribution of up to 5,000 long tons of tin by the United States from the national and supplemental stockpile to the international tin buffer stock, and also authorizes the disposal of an additional surplus of 30,000 long tons of tin to be disposed of by the General Services Administration (GSA). In addition, the bill would provide, as the House has previously approved, the establishment of a special strategic and critical materials procurement fund. Revenues realized from the sale of excess stockpile materials would be placed in this fund. These moneys would then be used to acquire materials in the future for the stockpile, subject to the normal congressional appropriations process.

Administration witnesses testified that the quantity of material authorized for disposal by this bill is clearly in excess of our defense requirements and would not be required to support the industrial base of the United States. The committee was also assured that the best available data on defense and civilian requirements were used in determining the stockpile goal, including supply levels, transportation losses, and the substitution of nonstrategic materials. The committee also received assurance that in planning the levels of strategic and critical materials which should be held in the stockpile, the most severe crisis situation, encompassing a 3-year period, was used.

Based upon these assurances, the committee supports the disposal which this bill would authorize. We currently have in the inventory approximately 200,659 long tons of tin and the goal or requirement for national defense purposes for a 3-year period is 32,499 long tons, leaving a total excess of 168,160 long tons. In view of this large surplus and since there was a tin disposal bill pending in the committee, this bill was amended to authorize GSA to dispose of 30,000 additional tons of tin over and above the 5,000 authorized to be transferred to the buffer stock.

As the Members of this House know, past administrations have misused the stockpiles in budgetary situations. When things looked bad in the budget, there was a tendency to rush in and ask Congress to dispose of some materials in the stockpile, apparently to make the budget look good and not for any legitimate defense stockpiling purpose. If the Senate does not act on H.R. 4895 and the revolving fund is not put in H.R. 9486, we would be losing approximately $360 million that should go into the special fund to purchase materials needed to update our strategic stockpile.

Mr. Speaker, I urge the Members to support this bill and approve its passage.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM) that the House suspend the rules and pass the bill H.R. 9486, as amended.

The question was taken.

Mr. COLLINS of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII and the prior announcement of the Chair, further proceedings on this motion will be postponed.

The point of order is considered withdrawn.

ANTARCTIC CONSERVATION ACT OF 1977

Mr. LEGGETT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7749) to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora of the Antarctic Treaty, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7749

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antarctic Conservation Act of 1978".

Sec. 2. Findings and Purpose.

(a) Findings.—The Congress finds that—

(1) the Antarctic Treaty and the Agreed Measures for the Conservation of Antarctic Fauna and Flora, adopted at the Third Antarctic Treaty Consultative Meeting, have established a firm foundation for the continuation of international cooperation and the freedom of scientific investigation in Antarctica; and

(2) the study of Antarctic fauna and flora, their adaptation to their rigorous environment, and their interrelationships with that environment has special scientific importance for all mankind.

(b) Purpose.—The purpose of this Act is to provide for the conservation and protection of the fauna and flora of Antarctica, and of the ecosystem upon which such fauna and flora depend, consistent with the Antarctic Treaty, the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and Recommendation VIII–3 of the Eighth Antarctic Treaty Consultative Meeting.

Sec. 3. Definitions.

For purposes of this Act—

(1) The term "Agreed Measures" means the Agreed Measures for the Conservation of Antarctic Fauna and Flora.

(A) as recommended to the Consultative Parties for approval at the Third Antarctic Treaty Consultative Meeting; and

(B) as amended from time to time in accordance with Article IX(1) of the Treaty.

(2) The term "Antarctica" means the area south of 60 degrees south latitude.

(3) The term "collect" means to cut, sever, or move, or to attempt to engage in any such conduct.

(4) The term "Director" means the Director of the National Science Foundation or an officer or employee of the Foundation designated by the Director.

(5) The term "foreign person" means—

(A) any individual who is a citizen or national of a foreign nation,

(B) any corporation, partnership, trust, association, or other legal entity existing or organized under the laws of any foreign nation, and

(C) any department, agency, or other instrumentality of any foreign nation and any officer, employee, or agent of any such instrumentality.

(6) The term "native bird" means any member, at any stage of its life cycle (including eggs), of any species of the class Aves which is designated a a native species by the Director under section 6(b)(1), and includes any part of any such member.

(7) The term "native mammal" means any member, at any stage of its life cycle, of any species of the class Mammalia, other than any species regulated by the International Whaling Commission, which is designated as a native species by the Director under section 6(b)(1), and includes any part of such member.

(8) The term "native plant" means any member of any species of plant at any stage of its life cycle (including seeds) which is designated as such by the Director under section 6(b)(1), and includes any part of any such member.

(9) The term "pollutant" means any substance designated as such by the Director under section 6(b)(6).

(10) The term "site of special scientific interest" means any area designated as such by the Director under section 6(b)(3).

(11) The term "specially protected area" means any area designated as such by the Director under section 6(b)(4).

(12) The term "specially protected species" means any species of native mammal or native bird designated as such by the Director under section 6(b)(5).

(13) The term "take" means to harass, molest, harm, pursue, hunt, shoot, wound, kill, trap, or capture, or to attempt to engage in any such conduct.

(14) The term "Treaty" means the Antarctic Treaty signed in Washington, D.C. on December 1, 1959.

(15) The term "United States" means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands, including the Government of the Northern Mariana Islands.

(16) The term "United States citizen" means—

(A) any individual who is a citizen or national of the United States;

(B) any corporation, partnership, trust, association, or other legal entity existing or organized under the laws of any of the United States; and

(C) any department, agency, or other instrumentality of the Federal Government or of any State, and any officer, employee, or agent of any such instrumentality.

Sec. 4. Prohibited Acts.

(a) In General.—It is unlawful—

(1) for any United States citizen, unless authorized by regulation prescribed under this Act or a permit issued under section 5—

(A) to take within Antarctica any native mammal or native bird,

(B) to collect within any specially protected area any native plant,

(C) to introduce into Antarctic any animal or plant that is not indigenous to Antarctica,

(D) to enter any specially protected area or site of special scientific interest, or

(E) to discharge, or otherwise to dispose of, any pollutant within Antarctica;

(2) for any United States citizen wherever located, or any foreign person while within the United States, unless authorized by regulation prescribed under this Act or a permit issued under section 5—

(A) to possess, sell, offer for sale, deliver, receive, carry, transport, or ship by any means whatsoever, or

(B) to import into the United States, to export from the United States, or to attempt to so import or export,

any native mammal or native bird taken in Antarctica or any native plant collected in any specially protected area;

(3) for any United States citizen wherever located, or any foreign person while within the United States, to violate any regulation prescribed under this Act; or

(4) for any person, whether or not a United States citizen, to violate any term or condition of any permit issued under section 5.

No act described in paragraphs (1) through (4) shall be unlawful if committed, under emergency circumstances, to prevent the loss of human life.

(b) Exception.—Subsection (a) shall not apply to—

(1) any native mammal, native bird, or native plant which is held in captivity on the date of the enactment of this Act; or

(2) any offspring of any such mammal, bird, or plant.

With respect to any act prohibited by subsection (a) which occurs after the 180th day after such date of enactment, there shall be a rebuttable presumption that the native mammal, native bird, or native plant involved in such act was not held in captivity on such date or was not an offspring referred to in paragraph (2).

Sec. 5. Permits.

(a) In General.—The Director may issue permits which authorize acts otherwise prohibited by section 4(a).

(b) Applications for Permits.—(1) Applications for permits under this section shall be made in such manner and form, and shall contain such information, as the Director shall by regulation prescribe.

(2) The Director shall publish notice in the Federal Register of each application which is made for a permit under this section. The notice shall invite the submission by interested parties, within 30 days after the date of publication of the notice, of written data, comments, or views with respect to the application. Information received by the Director as a part of any application shall be available to the public as a matter of public record.

(c) Action by Appropriate Secretaries on Certain Point Applications.—(1) If the Director receives an application for a permit under this section requesting authority to undertake any action with respect to—

(A) any native mammal which is a marine mammal within the meaning of section 3(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362 (5));

(B) any native mammal, native bird, or native plant which is an endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

(C) any native bird which is protected under the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.); the Director shall submit a copy of the application to the Secretary of Commerce or to the Secretary of the Interior, as appropriate (hereinafter in this subsection referred to respectively as the "appropriate Secretary").

(2) After receiving a copy of any application from the Director under paragraph (1) the appropriate Secretary shall promptly determine, and notify the Director, whether or not any action proposed in the application also requires a permit or other authorization under any law administered by the appropriate Secretary.

(3) If the appropriate Secretary notifies the Director that any action proposed in the application requires a permit or other authorization under any law administered by the appropriate Secretary, the Director may not issue a permit under this section with respect to such action unless such other required permit or authorization is issued by the appropriate Secretary and a copy thereof is submitted to the Director. The issuance of any permit or other authorization by the appropriate Secretary for the carrying out of any action with respect to any native mammal, native bird, or native plant shall not be deemed to entitle the applicant concerned to the issuance by the Director of a permit under this section.

(d) Issuance of Permits.—As soon as practicable after receiving any application for a permit under this section, or, in the case of any application to which subsection (c) applies, as soon as practicable after the applicable requirements of such subsection are complied with, the Director shall issue, or deny the issuance of, the permit. Within 10 days after the date of the issuance or denial of a permit under this subsection, the Director shall publish notice of the issuance or denial in the Federal Register.

(e) Terms and Conditions of Permits.—(1) Each permit issued under this section shall—

(A) if applicable, specify—

(i) the number and species of native mammals, native birds, or native plants to which the permit applies,

(ii) if any such mammal or bird is authorized to be taken, transported, carried, or shipped, the manner (which manner must be determined by the Director to be humane) in which such action must be accomplished and the area in which such takening must occur, and

(iii) if any such plants is authorized to be collected, the location and manner in which it must be collected;

(B) the period during which the permit is valid; and

(C) such other terms and conditions as the Director deems necessary and appropriate to ensure that any act authorized under the permit is carried out in a manner consistent with the purpose of this Act, the criteria set forth in paragraph (2), if applicable, and the regulations prescribed under this Act.

(2) The terms and conditions imposed by the Director in any permit issued under this section that authorizes any of the following acts shall be consistent with the following criteria:

(A) Permits authorizing the taking within Antarctica (other than within any specially protected area) of any native mammal or native bird (other than a specially protected species of any such mammal or bird)—

(i) may be issued only for the purpose of providing—

(I) specimens for scientific study or scientific information, or

(II) specimens for museums, zoological gardens, or other educational or cultural institutions or uses; and

(ii) shall ensure, as far as possible, that—

(I) no more native mammals and native birds are taken in any year than can normally be replaced by net natural reproduction in the following breeding season, and

(II) the variety of species and the balance of the natural ecological systems within Antarctica are maintained.

(B) Permits authorizing the taking of specially protected species may be issued only if—

(i) there is a compelling scientific purpose for such taking; and

(ii) the actions allowed under any such permit will not jeopardize any existing natural ecological system, or the survival, of such species.

(C) Permits authorizing the entry into any specially protected area—

(i) may be issued only if—

(I) there is a compelling scientific purpose for such entry which cannot be served elsewhere, and

(II) the actions allowed under any such permit will not jeopardize the natural ecological system existing in such area; and

(ii) shall not allow the operation of any surface vehicle within such area.

(D) Permits authorizing the entry into any site of special scientific interest shall be consistent with the management plan prescribed under section 6(b)(3) for such site.

(e) Judicial Review.—Any applicant for a permit may obtain judicial review of the terms and conditions of any permit issued by the Director under this section or of the refusal of the Director to issue such a permit. Such review, which shall be pursuant to chapter 7 of title 5, United States Code, may be initiated by filing a petition for review in the United States district court for the district wherein the applicant for a permit resides, or has his principal place of business, or in the United States District Court for the District of Columbia, within 60 days after the date on which such permit is issued or denied.

(f)(1) Modification, Suspension, and Revocation.—The Director may modify, suspend. or revoke, in whole or part, any permit issue i under this section—

(A, in order to make the permit consistent with any change made, after the date of issuance of the permit, to any regulation prescribed under section 6;

(B) if there is any change in conditions which makes the permit inconsistent with the purpose of this Act; or

(C) in any case in which there has been any violation of any term or condition of the permit, any regulation prescribed under this Act, or any provision of this Act.

(2) Whenever the Director proposes any modification, suspension, or revocation of a permit under this subsection, the permittee shall be afforded opportunity, after due notice, for a hearing by the Director with respect to such proposed modification, suspension, or revocation. If a hearing is requested, the action proposed by the Director shall not take effect before a decision is issued by him after the hearing, unless the proposed action is taken by the Director to meet an emergency situation. Any action taken by the Director after such a hearing is subject to judicial review on the same basis as is provided for with respect to permit applications under subsection (e).

(3) Notice of the modification, suspension, or revocation of any permit by the Director shall be published in the Federal Register within 10 days from the date of the Director's decision.

(g) Permit Fees.—The Director may establish and charge fees for processing applications for permits under this section. The amount of such fees shall be commensurate with the administrative costs incurred by the Director in undertaking such processing.

Sec. 6. Regulations.

(a) In General.— The Director, after consultation with the Secretary of State and other appropriate Federal officials, shall prescribe such regulations as are necessary and appropriate to implement the provisions of this Act.

(b) Specific Regulations.—The regulations required to be prescribed under subsection (a) shall include, but shall not be limited to, regulations which—

(1) designate, as native species—

(A) each species of the class Aves,

(B) each species of the class Mammalia, and

(C) each species of plant,

which is indigenous to Antarctica or occurs in Antarctica through natural agencies of dispersal;

(2) specify those actions which must, and those actions which must not, be taken within Antarctica in order to protect, in accordance with the applicable provisions of the Agreed Measures, members of each native species designated under paragraph (1);

(3) identify, as a site of special scientific interest, each area approved by the United States in accordance with Recommendation VIII-3 of the Eighth Antarctic Treaty Consultative Meeting as having unique value for scientific investigation and needing protection from interference, and prescribe a management plan for such site which is consistent with any management plan approved by the United States for such site in accordance with such Recommendation;

(4) identify, as a specially protected area, each area designated for special protection under the Agreed Measures because of its outstanding scientific or ecological interest;

(5) designate, as a specially protected species, any native species of mammal or bird which is approved by the United States for special protection under the Agreed Measures;

(6) designate as a pollutant any substance which the Director finds liable, if the substance is introduced into Antarctica, to create hazards to human health, to harm living resources or marine life, to damage amenities, or to interfere with other legitimate uses of Antarctica;

(7) specify those actions which must, and those actions which must not, be taken in order to prevent or control the discharge or other disposal of pollutants, from any source within Antarctica;

(8) designate those animals and plants, not indigenous to Antarctica, which either may, or may not, be introduced into Antarctica, and specify those control measures which must be observed with respect to any such animals or plants which are allowed to be so introduced;

(9) specify the emergency circumstances with respect to which the exclusion set forth in the last sentence of section 4(a) applies; and

(10) set forth the form, content, and manner of filing, if applicable, of all notices, reports, declarations, or other documentation which may be required incident to the carrying out of any act for which a permit is required under section 5.

Sec. 7. Notification of Travel to Antarctica.

The Secretary of State shall prescribe such regulations as may be necessary and appropriate to implement, with respect to United States citizens, paragraph 5 of Article VII of the Treaty pertaining to the filing of advance notifications of expeditions to, and within, Antarctica. For purposes of this section, the term "United States citizen" shall include any foreign person who organizes within the United States any expedition which will proceed to Antarctica from the United States.

Sec. 8. Civil Penalties.

(a) Assessment of Penalties.—Any person who is found by the Director, after notice and opportunity for a hearing in accordance with subsection (b), to have committed any act prohibited by section 4(a) or to have violated any regulation prescribed under section 7 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $5,000 for each violation unless the prohibited act was knowingly committed, in which case the amount of the civil penalty shall not exceed $10,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of any civil penalty shall be assessed by the Director by written notice. Any civil penalty assessed under this subsection may be remitted or mitigated by the Director.

(b) Hearing.—Hearings for the assessment of civil penalties under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code. For the purposes of conducting any such hearing, the Director may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Director or to appear and produce documents before the Director, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Review.—Upon the failure of any person against whom a civil penalty is assessed under subsection (a) to pay such penalty, the Director may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action on the record made before the Director and shall sustain the decision of the Director if it is supported by substantial evidence on the record considered as a whole.

(d) Penalties Under Other Laws.—The assessment of a civil penalty under subsection (a) for any act shall not be deemed to preclude the assessment of a civil penalty for such act under any other law, including, but not limited to, the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and the Migratory Bird Treaty Act.

Sec. 9. Criminal Offenses.

(a) Offenses.—A person is guilty of an offense if he willfully commits any act prohibited by section 4(a).

(b) Punishment.—Any offense described in subsection (a) is punishable by a fine of $10,000, or imprisonment for not more than one year, or both.

(c) Offenses Under Other Laws.—A conviction under subsection (a) for any act shall not be deemed to preclude a conviction for such act under any other law, including, but not limited to, the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and the Migratory Bird Treaty Act.

Sec. 10. Enforcement.

(a) Responsibility.—The provisions of this Act and of any regulation prescribed, or permit issued, under this Act shall be enforced by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, and the Secretary of the department in which the Coast Guard is operating. The Director and such Secretaries may utilize by agreement, on a reimbursable basis or otherwise, the personnel, services, and facilities of any other Federal agency or any State agency in the performance of such duties.

(b) Powers of Authorized Officers.—Any officer who is authorized (by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with the Director or any such Secretary under subsection (a)) to enforce the provisions of this Act and of any regulation or permit issued under this Act may—

(1) secure, execute, and serve any order, warrant, subpena, or other process, which is issued under the authority of the United States;

(2) search without warrant any person, place, or conveyance where there is reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 4(a);

(3) seize without warrant any evidentiary item where there is reasonable grounds to believe that a person has committed or is attempting to commit any such act;

(4) offer and pay rewards for services or information which may lead to the apprehension of violators of such provisions;

(5) make inquiries, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter which is related to the enforcement of such provisions;

(6) detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation into, or exportation from, the United States; and

(7) make an arrest with or without a warrant with respect to any act prohibited by section 4(a) if such officer has reasonable grounds to believe that the person to be arrested is committing such act in his presence or view, or has committed such act.

(c) Seizure.—Any property or item seized pursuant to subsection (b) shall be held by any person authorized by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, or the Secretary of the department in which the Coast Guard is operating pending the disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such property or item; except that such authorized person may, in lieu of holding such property or item, permit the owner or consignee thereof to post a bond or other satisfactory surety.

(d) Forfeiture.—(1) Any animal or plant with respect to which an act prohibited by section 4(a) is committed shall be subject to forfeiture to the United States.

(2) All guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used in the commission of any act prohibited by section 4(a) shall be subject to forfeiture to the United States.

(3) Upon the forfeiture to the United States of any property or item described in paragraph (1) or (2), or upon the abandonment or waiver of any claim to any such property or item, it shall be disposed of by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, or the Secretary of the department in which the Coast Guard is operating, as the case may be, in such a manner, consistent with the purposes of the Act, as may be prescribed by regulation; except that no native mammal, native bird, or native plant may be disposed of by sale to the public.

(e) Application of Custom Laws.—All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provision of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Customs Service may, for the purposes of this Act, also be exercised or performed by the Director, the Secretary of Commerce, the Secretary of the Interior, or the Secretary of the department in which the Coast Guard is operating, or by such persons as each may designate.

(f) REGULATIONS.—The Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, and the Secretary of the department in which the Coast Guard is operating may prescribe such regulations as may be appropriate to enforce the provisions of this Act and of any regulation prescribed or permit issued under this Act, and charge reasonable fees for the expenses of the United States incurred in carrying out inspections and in transferring, boarding, handling, or storing native mammals, native birds, native plants, animals and plants not indigenous to Antarctica, and other evidentiary items seized or forfeited under this Act.

SEC. 11. JURISDICTION OF COURTS

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act or of any regulation prescribed, or permit issued, under this Act.

SEC. 12. FEDERAL AGENCY COOPERATION

Each Federal department or agency whose activities affect Antarctica shall utilize, to the maximum extent practicable, its authorities in furtherance of the purposes of this Act, and shall cooperate with the Director in carrying out the purposes of this Act.

SEC. 13. RELATIONSHIP TO EXISTING TREATIES

Nothing in this Act shall be construed as contravening or superseding the provisions of any international treaty, convention, or agreement, if such treaty, convention, or agreement is in force with respect to the United States on the date of the enactment of this Act, or of any statute which implements any such treaty, convention, or agreement.

The SPEAKER pro tempore. Is a second demanded?

Mr. FORSYTHE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. LEGGETT) will be recognized for 20 minutes and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7749 is a bill which would enable fulfillment of the obligations of the United States as a member of the Antarctic Treaty.

The 13 nations including the United States who together constitute the Antarctic Treaty consultative parties have adopted the collective responsibility through the treaty to insure that the Antarctic region is used exclusively for peaceful purposes. Protection of the unique ecological character of Antarctica is a part of this responsibility.

In fulfillment of the need to protect the ecological character of Antarctica the consultative parties to the treaty adopted a detailed set of proposed actions which were called the agreed measures for the conservation of Antarctic flora and fauna. These measures were adopted at a meeting of the treaty parties in 1964, just 3 years after the treaty itself became effective. During the ensuing 14 years the agreed measures have been formally adopted by all but three of the Antarctic Treaty consultative parties; Australia, Japan, and the United States.

H.R. 7749 constitutes the necessary legislation for formal adoption of the Agreed Measures by the United States and provides statutory authority to enforce compliance of U.S. citizens with the terms of the Agreed Measures.

In accordance with the Agreed Measures H.R. 7749 would regulate certain activities of any U.S. citizen in Antarctica. These acts would include taking of any native mammal or bird within Antarctica, collection of any native plant within designated specially protected areas, introduction of any animal or plant to Antarctic which is not indigenous, discharge or disposal of any pollutant within Antarctica, and entry into any specially protected area or site of special scientific interest. Such acts would be unlawful unless specifically authorized by a regulation adopted or a permit issued pursuant to this act.

The Director of the National Science Foundation, the agency with primary responsibility for U.S. activities in Antarctica, is directed to issue regulations and establish a permit system to implement the necessary controls on the covered activities of U.S. citizens.

The system of regulations would designate species native to Antarctica, specify those actions necessary for the protection of each designated species, designate as a pollutant any substances which would create human health hazards or harm to marine or terrestrial living resources, specify action necessary to prevent or control discharge of such pollutants, and designate nonindigenous species which may, or may not be introduced to Antarctica. In addition the regulations would identify specially protected areas and designate any specially protected species which are approved for such status under the agreed measures. Regulations would also identify sites of special scientific interest which have unique value for scientific investigation and needing protection for interference. Such areas would be those approved by the United States in accordance with recommendation VIII-3 of the eighth Antarctic Treaty consultative meeting held in 1976 and a management plan would be established for each.

The permit system that would be established under H.R. 7749 would authorize taking species, and entry into specially protected areas or areas of scientific interest only under certain specified circumstances. Native mammals or birds could be taken by permit for scientific study or for public display, education, or cultural institutions only if they are not specially protected species and only outside of the specially protected areas. The numbers of such mammals or birds taken must be sufficiently small that they can be replaced by natural reproduction within a year and that the balance of the ecosystem is maintained.

Permits for the taking of specially protected species may be issued only if there is a compelling scientific reason and if the ecosystem or species survival will not be jeopardized.

Permits authorizing entry into specially protected areas may be issued only for compelling scientific purposes which cannot be carried out elsewhere and if entry will not jeopardize the ecosystem. In addition such permits must not authorize the operation of surface vehicles in the specially protected areas.

Sites of special scientific interests may only be entered with a permit issued if the activity in question is consistent with the management plan for that site established in accordance with recommendation VIII-3.

The effect of the various provisions of H.R. 7749 which I have described will be to insure that the United States and our citizens fulfill our international obligations to protect the unique Antarctic ecosystem, to preserve selected unique regions of Antarctica in true wilderness condition, and to insure that the many unique untouched sites in Antarctica that are of immense scientific interest and importance are not subjected to influences which may destroy their usefulness.

Mr. Speaker, I yield such time as he may consume to the chairman of the full committee, the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, the gentleman from California (Mr. LEGGETT) is handling the bill here for us on the floor. I want to congratulate him and the chairman of the Committee on Science and Technology for moving this bill expeditiously.

Mr. Speaker, H.R. 7749 the Antarctic Conservation Act of 1978 encompasses a series of actions which will insure the protection of the unique ecological characteristics of the Antarctic Continent and its surrounding ocean.

Antarctica, the continent lying concentrically about the South Pole has an area of 5.5 million square miles, 98 percent of which is covered by a massive sheet of ice. The weather conditions in Antarctica are extremely severe. Winds at the coast sometimes exceed 200 miles per hour, annual precipitation in most areas is less than 3 inches, making much of the continent drier than some tropical deserts.

Despite these conditions and of course the extreme cold, Antarctica contains a unique and important variety of plants and animals. More than 700 species of plants including algae, fungi, lichens, and mosses provide the sparse vegetation upon which over 200 species of invertebrates and other simple terrestrial organisms depend for food. These organisms are of unique importance to science as their ability to survive under the extreme conditions has set them aside genetically from species found in more northerly regions.

Antarctic marine life is as abundant as its terrestrial life is sparse. The waters around Antarctica are nutrient rich and support vast quantities of phytoplankton and marine animals. A small shrimp like crustacean, krill, is found in vast quantities and provides food for many species of fish, squid, seals, penguins, sea birds, whales and other marine animals. Although all of these species are ocean oriented many of them are dependent upon the Antarctic Continent for their survival. Penguins, seals and many sea birds use the Antarctic Continent and ice shelves for breeding purposes. Few coastal areas of Antarctica lack rookeries and in some areas the nesting birds or penguins totally cover all of the available ice-free land during the breeding season.

The marine and terrestrial species which inhabit Antarctica are almost totally unaffected by activities of man at the present time because of their remoteness from civilization and the extreme climatic conditions. These same climatic conditions, however, make these plants and animals extremely sensitive to mans' influence. The terrestrial ecosystems of Antarctica is indeed fragile and easily damaged, while the extreme cold insures that recovery from ecological damage would be slow. For example, oil pollution in Antarctica would have even more severe consequences than elsewhere in the world, as the time taken for the oil to naturally degrade would be considerably longer due to the low temperatures.

In addition to its value in ecological terms Antarctica has proven to be an ideal research laboratory for many scientific studies including climatology, and the study of atmospheric pollutant transport. Many of these studies are enhanced by the remoteness of the continent, and its freedom from man's influence particularly its freedom from pollution.

The unique character of Antarctica was recognized many years ago, but became much better understood during the International Geographical Year (IGY) of 1957–58 when the first detailed international scientific research was completed in the area. Shortly after the IGY 12 nations including the United States negotiated the Antarctic Treaty which provides that the sea south of 60 degree south latitude will be used for peaceful purposes, and open to access for scientific research. The treaty set aside the question of who exercises sovereignty over Antarctica and the 12 consultative parties all of whom had significant research activities in Antarctica agreed to join together in exercising collective responsibility for investigations of Antarctica and for its protection. In 1964 as part of this responsibility the Antarctic Treaty parties established the "Agreed Measures for the Conservation of Flora and Fauna," a comprehensive set of proposals for conserving the unique biology of Antarctica. These measures included provisions to regulate the taking of species from the continent to prevent introduction of alien competing species, and to set aside specially protected areas as ecological preserves.

In 1976 the Antarctic Treaty parties adopted a further set of proposals under recommendation VIII–3 of their eighth consultative meeting, which established a number of sites of special scientific interest and management plans to insure that their scientific value was not lost because of adverse human activity.

The National Science Foundation, which has primary responsibility for U.S. activities in Antarctica, has adopted the terms of the agreed measures and recommendations VIII–3 as interim guidelines. However, at this time no statutory authority exists for the National Science Foundation to insure that U.S. citizens comply with these guidelines.

Since the agreed measures were adopted 14 years ago only 3 of the consultative parties to the Antarctic Treaty have not formally adopted its provisions, Japan, Australia, and the United States. Public interest and activity in Antarctica is increasing rapidly. Tourism is bringing ever-increasing activity to the continent as is the increasing interest in exploitation of the extensive natural resources believed to be found in Antarctica.

It is time for us to act now to insure the conservation of the plants and animals of Antarctica. H.R. 7749 provides the opportunity for such action and will serve as a strong statement of this Nation's intentions to live up to its responsibilities pursuant to the Antactic Treaty to insure the protection of Antarctica from the ravages of uncontrolled human activity.

H.R. 7749 was unanimously reported out by both committees of the House to which it was referred, Merchant Marine and Fisheries, and Science and Technology. The two committees reported out identical bills with the exception that the Merchant Marine Committee bill authorized such funds as were necessary for the National Science Foundation to implement the permit program. The Science and Technology Committee determined that the National Science Foundation already has sufficient funds to cover their costs under existing authorizations. The Science and Technology Committee, therefore deleted the authorization clause when reporting the bill out. The Merchant Marine and Fisheries Committee accepted this deletion and H.R. 7749 as reported would, therefore, require no additional costs. Mr. Speaker, I commend this bill to my colleagues as an important and worthy piece of legislation and I give it my full support.

Mr. LEGGETT. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Brown).

Mr. BROWN of California. Mr. Speaker, I rise in support of H.R. 7749, a bill to implement the Agreed Measures for the conservation of Antarctic Fauna and Flora of the Antarctic Treaty. This bill represents another example of the cooperative efforts of two committees, the Merchant Marine and Fisheries Committee and the Committee on Science and Technology, in developing legislation directed toward areas with mutual interest. I would like to commend the chairman of the full Merchant Marine Committee, Mr. Murphy, and the chairman of the Subcommittee, Mr. Leggett, in their successful efforts in developing this legislation, which embodies a framework for the conservation and protection of the animals and plants in Antarctica and of the ecosystems on which they depend.

This legislation represents the fulfillment of a commitment on the part of the United States which was made in 1964 after the United States itself recommended measures to preserve and protect the plants and animals in Antarctica. It is somewhat ironic, I suppose, that these Agreed Measures were implemented by 10 of the 13 member nations of the Antarctic Treaty before the United States acted. This bill would provide the appropriate domestic statutory framework for implementing those recommendations made back in 1964.

The National Science Foundation has operated as the managing agency for the United States by implementing the measures recommended in 1964 as voluntary guidelines. Although legislation was not thought necessary previously, the amount of U.S. activities and interest in Antarctica has increased over the last several years. Moreover, in this regard it should be noted that there is a growing international interest in exploiting what people believe to be significant natural resources in Antarctica.

Mr. Speaker, I believe that this legislation is a necessary and long overdue step in the United States meeting its international obligations to protect one of the last great yet unexploited frontiers of our planet. It is necessary and appropriate that we act in a judicious and responsible manner.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the chairmen of both the Committee on Science and Technology and our Committee on Merchant Marine and Fisheries, and my colleague, the ranking member of the Science and Technology Subcommittee that has handled this legislation. I think it is very worthy legislation.

Mr. Speaker, the Antarctic Continent is distant, isolated, and still poorly known. However, it has yielded as one of its principal values a wealth of scientific information. It represents a vast, unique laboratory still virtually unmodified by human activity. As such, it provides a source of scientific and critically important information about the natural systems and processes on which we depend. The Antarctic region plays a vital role in global marine and atmospheric circulation, and the biological productivity of much of the southern oceans derives from the biologically rich Antarctic waters.

The known living resources of the Antarctic are rich and varied. Single colonies of more than 1 million penguins are not unusual, and it is estimated that there may be up to 30 million crabeater seals in the Antarctic. The great whales which once plied the world's oceans in great numbers are today found in substantial numbers only in Antarctica. Kril, small shrimp-like crustaceans, have received much attention in the popular press, and for good reason. This animal may exist in harvestable numbers comparable to, or greater than, the combined annual total catch of the rest of the world fisheries.

If the integrity of the Antarctic ecosystems is maintained, we can continue to receive both knowledge and resources for future generations. By acting now to implement the agreed measures for the conservation of Antarctic fauna and flora, we are preserving these future opportunities. Although Antarctica's environmental problems are few and not yet to the point of crisis, we know that Antarctica is a fragile environment. Increases in human use through tourism and scientific activity can impact both the species and habitats of Antarctica.

The legislation before us today provides protection for the Antarctic environment and establishes methods to implement these protections for the most critical parts of the Antarctic environment.

Approval of the agreed measures by the United States, which would take place upon enactment of H.R. 7749, would be significant evidence of the continuing U.S. interest in the Antarctic environment. Enactment of H.R. 7749 would replace the informal administrative procedures by which the United States has, since 1964, observed the agreed measures as interim guidelines. These informal procedures sufficed as long as most Americans visiting Antarctica were members of U.S. scientific expeditions. With increased activity in Antarctica, however, legislation with appropriate enforcement provisions is needed to enable the U.S. Government to fully implement the agreed measures.

In his environmental message of May 23, 1977, the President assigned great importance to continued U.S. leadership and international cooperation in the Antarctic. He emphasized the need to maintain the environmental integrity of the Antarctic, which influences the condition and stability of the Earth's oceans and atmosphere. The passage of H.R. 7749 would insure protection of the Antarctic environment and would convey to the world community a continuing interest in the preservation of this unique ecosystem. For these reasons, Mr. Speaker, I urge the adoption of H.R. 7749.

Mr. Speaker, I now yield to my colleague, the ranking member of the Science and Technology Subcommittee, the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I rise in support of H.R. 7749. This legislation takes a long overdue step toward implementing a set of agreed measures which were adopted in 1964 to protect the animals and plants in Antarctica in accordance with the treaty.

Despite its severe environment, Antarctica contains a unique and important variety of plants and animals. On the continent itself a variety of primitive soils provide nutrients to sparse vegetation consisting mostly of algae, fungi, lichens, and mosses. These 700 species of plants provide food for over 200 species of invertebrates and other simple terrestrial organisms. Antarctic marine life, on the other hand, is much more abundant.

In 1964, certain recommended measures to preserve and protect the plants and animals in Antarctica, which were recommended by the United States, were agreed to by the member countries. These so-called agreed measures for the conservation of Antarctica flora and fauna would limit the taking of native species of plants and animals, control the introduction of non-native species into Antarctica, regulate the disposal of pollutants in Antarctica, and provide for the protection of certain areas in Antarctica. These agreed measures have been implemented by: South Africa (1964), Argentina (1965), Norway (1965), the Soviet Union (1965), the United Kingdom (1968), Chile (1970), New Zealand (1971), France (1972), Poland (1977), and Belgium (1978). Only Australia, Japan, and the United States have not yet formally adopted these measures.

This legislation is intended to provide the necessary domestic framework for implementing these agreed measures. To accomplish this purpose, the legislation directs the Director of the National Science Foundation to establish a permit and regulatory system to control the taking of plants and animals native to Antarctica, the introduction of nonnative species into Antarctica, the disposal of pollutants in Antarctica, and the activities of U.S. citizens in certain areas of Antarctica.

Finally, I would point out to my colleagues that this bill does not contain an authorization for the reason that the National Science Foundation has indicated that they have sufficient authority to implement the provisions of this bill.

Mr. Speaker, I urge the adoption of H.R. 7749.

Mr. LEGGETT. Mr. Speaker, I have no other requests for time, and I yield back the remainder of my time.

Mr. FORSYTHE. Mr. Speaker, I have no other requests for time and I yield back the remainder of my time.

Mr. PICKLE. Mr. Speaker, this has to be one of the best bargains ever laid before the House of Representatives. If we can, for the small sums estimated in this bill, preserve the integrity of the continent of Antarctica, we have done ourselves a good deal. The preservation of Antarctica would be worth 10, even 100 or more, times the amounts laid out in this measure.

In 1974 I had the high honor of representing the House Science Committee at the dedication of a new research center at the American base there. At the base and on an excursion to the South Pole itself, I saw firsthand what a glorious and pristine land that is.

But Antarctica is more than a vast and beautiful expanse of snow and ice. She is a living, breathing laboratory. She is a place out of this world and yet very much in this world, and she has already begun to reveal many secrets about the history of our planet and about how nature operates.

Antarctica shows nature at her boldest. Yet Antarctica has a very fragile system. Everything there must be done with extra caution if we are to preserve this valuable area. I hope that we will pass this measure and that this effort will help to preserve the gifts that that land is ready to give us.

Antarctica—the Snow White Queen of all the Nations—needs our tender and delicate care so we can preserve this last of our frontiers.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. LEGGETT) that the House suspend the rules and pass the bill, H.R. 7749, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read "A bill to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEGGETT. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill H.R. 7749, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 11318, AMENDING THE SMALL BUSINESS ACT AND SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11318) to amend the Small Business Act and the Small Business Investment Act of 1958, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa? The Chair hears none, and, without objection, appoints the following conferees:

Messrs. ADDABBO, SMITH of Iowa, ST GERMAIN, STEED, CORMAN, RICHMOND, NOLAN, GONZALEZ, FOWLER, MCDADE, CONTE, KASTEN, and Mrs. FENWICK.

There was no objection.

SMALL BUSINESS ACT AMENDMENTS

Mr. SMITH of Iowa. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13418) to amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes.

The Clerk read as follows:

H.R. 13418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 101. Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended by striking subparagraph (1)(B) and inserting in lieu thereof the following subparagraphs:

"(B) To establish, conduct, and publicize, and to recruit, select, and train volunteers for (and to enter into contracts, grants, or cooperative agreements therefor), volunteer programs, including a Service Corps of Retired Executives (SCORE) and an Active Corps of Executives (ACE) for the purposes of section 8(b)(1)(A) of this Act; and to facilitate the implementation of such volunteer programs the Administration may maintain at its headquarters and pay the expenses of a team of volunteers subject to such conditions and limitations as the Administration deems appropriate: *Provided*, That any such payments made pursuant to this subparagraph shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(C) To allow any individual or group of persons participating with it in furtherance of the purposes of subparagraphs (A) and (B) to use the Administration's office facilities and related material and services as the Administration deems appropriate, including clerical and stenographic services:

"(i) such volunteers, while carrying out activities under section 8(b)(1) of this Act shall be deemed Federal employees for the purposes of the Federal tort claims provisions in title 28, United States Code; and for the purposes of subchapter I of chapter 81 of title 5, United States Code (relative to compensation to Federal employees for work injuries) shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except that in computing compensation benefits for disability or death, the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS-11 employee;

"(ii) the Administrator is authorized to reimburse such volunteers for all necessary out-of-pocket expenses incident to their provision of services under this Act, or in connection with attendance at meetings sponsored by the Administration, or for the cost of malpractice insurance, as the Administrator shall determine, in accordance with regulations which he or she shall prescribe, and, while they are carrying out such activities away from their homes or regular places of business, for travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for individuals serving without pay; and

"(iii) such volunteers shall in no way provide services to a client of such Administration with a delinquent loan outstanding, except upon a specific request signed by such client for assistance in connection with such matter.

"(D) Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to section 8(b)(1) of this Act shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, disability, retirement, public assistance, or similar benefit payments, or minimum wage laws.

"(E) Notwithstanding any other provision of law and pursuant to regulations which the Administrator shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings arising directly out of the performance of activities pursuant to section 8(b)(1) of this Act, as amended (15 U.S.C. 637(b)(1)) to which volunteers have been made parties.

"(F) In carrying out its functions under section 8(b)(1) of this Act, the Administration is authorized to accept, in the name of the Administration, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible, or intangible, received by gift, devise, bequest, or otherwise; and, further, to accept gratuitous services and facilities.".

Sec. 102. (a) Title III of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5031 et seq.), is hereby repealed.

(b) Section 503 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5083), is hereby repealed.

Sec. 103. Section 5(c) of the Small Business Act (15 U.S.C. 634(c)), is amended by striking the last sentence and inserting in lieu thereof the following: "Any individual so employed may be compensated at a rate not in excess of the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, including traveltime, and, which such individual is away from his or her home or regular place of business, he or she may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code.".

Sec. 104. Section 7(k)(4) of the Small Business Act (15 U.S.C. 636(k)(4)), is amended by striking out "$100 per diem" and inserting in lieu thereof "the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code".

Sec. 105. This Act shall be effective October 1, 1979.

The SPEAKER pro tempore. Is a second demanded?

Mr. CONTE. I demand a second, Mr. Speaker.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. Smith) will be recognized for 20 minutes, and the gentleman from Massachusetts (Mr. Conte) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. Smith).

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill, H.R. 13418.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. SMITH of Iowa. Mr. Speaker, in 1975 the President transferred back to SBA all functions of the ACTION Agency under the Domestic Volunteer Service Act of 1973 which relate to Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE). Since that Executive order, SBA has assumed all powers and duties which relate to the SCORE/ACE program, but the governing legislation remains in the Domestic Volunteer Service Act even though the ACTION agency is no longer associated in any way with the program.

Mr. Speaker, this bill was requested by the administration. It was favorably considered by the Small Business Committee and unanimously ordered favorably reported. I urge all Members to support this measure.

Mr. Speaker, I rise in support of H.R. 13418 and urge the immediate passage of this bill.

PURPOSE

Mr. Speaker, the purposes of this bill are very simple and noncontroversial. It would insert in the Small Business Act provisions of the Domestic Volunteer Service Act of 1973 which govern the operation of SBA's volunteer counseling programs, SCORE (Service Corps of Retired Executives) and ACE (Active Corps of Executives). Also, the bill would:

First. Provide that if a volunteer is injured or killed when performing services for SBA, he or she would receive workman's compensation at the same level as a Federal employee in grade GS-11. This compensation would be payable only for death or injuries received "on the job" and would be under the terms, and conditions established by Federal law;

Second. Clarify SBA's authority to provide clerical and stenographic services to these volunteers and authorize their reimbursement for the cost of malpractice insurance, publicize the availability of these programs, and maintain a team of volunteers at headquarters to assist in the administration of these programs;

Third. Authorize SBA to accept and use gifts, devises or bequests for the program;

Fourth. Authorize SBA to compensate experts and consultants at the same rates at which other Federal Departments and Agencies may do so, currently $183 per day; and

Fifth. Authorize SBA to reimburse its employees for subsistence at the same rates as employees of most other Federal agencies are reimbursed, currently between $35 per day and $50 per day depending upon the cost of living at the travel site.

Other Federal agencies which utilize volunteers provide them Workers' Compensation benefits. For example, Peace Corps leaders are compensated at GS-7; and Veterans' Administration volunteers are compensated at levels between GS-2 and GS-15, depending upon the level of their expertise. Although the administration requested compensation of SBA volunteers at a GS-14 level, the committee believes that, based upon the level afforded by other Government agencies to volunteers, compensation at a GS-11 level is more desirable and appropriate. The compensation would be payable only for death or injuries sustained "on the job" and would be under the terms and conditions established by Federal law. These benefits would include "scheduled awards" for loss of limbs, medical and rehabilitation expenses; total disability payments ranging between $12,160 and $13,694 per year; partial disability payments depending upon the extent of the injury; and a survivor annuity of between $9,192 and $13,694 per year.

SBA EXPERTS—BACKGROUND

The Small Business Act contains two separate provisions authorizing SBA to employ experts and consultants. If these individuals are employed solely in relation to SBA's economic opportunity programs, the maximum pay is $100 per day and travel or subsistence expenses range between $35 and $50 per day depending on location; if such individuals are employed to assist with other small business matters, the maximum pay is $50 per day plus $15 per day for travel or subsistence expenses. Most other Federal agencies and departments compensate experts and consultants under general United States Code provisions which now set Governmentwide standards (the daily equivalent of the salary of a GS-18 employee or currently $183 per day and provide travel or subsistence allowances between $35 per day and $50 per day, depending upon the cost of living at travel site). The committee believes that SBA should be given similar authority.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. CONTE asked and was given permission to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, the bill before us enjoys the strong bipartisan support of the Small Business Committee, the small business community, and the retired and active volunteers who will be affected and protected by it.

This bill resulted from proposals submitted by the SBA Administrator, Vernon Weaver, with the full blessings of the Carter administration. I can assure my colleagues that it is also consistent with past proposals developed by the Republican administrations.

The proposals incorporated in this bill were introduced by Chairman NEAL SMITH and myself last June. The clean bill reported from the full committee and before us today was ordered reported by a unanimous vote of 23 to 0; and, as anyone can see from the list of cosponsors, it has the full and active support of Republican as well as Democratic members of the committee.

Of all the programs which are administered by the Small Business Administration, there are none so free of controversy, so valued, and so appreciated as the SCORE—Service Corps of Retired Executives—and ACE—Active Corps of Executives—programs.

These programs have always been a function of the Small Business Administration—and one of its most effective means of delivering management assistance. From their inception they have demonstrated a responsiveness to the commitments spelled out in the Small Business Act, to the responsibilities vested in the Small Business Administration, and to the needs of the small business community. Yet, through past oversight, they have been authorized under the Domestic Volunteer Service Act, rather than the Small Business Act. This bill corrects that oversight.

Without exception, the members of the Small Business Committee recognize that SCORE and ACE have played and are playing a vital role in assisting America's small business men and women. On a volunteer basis, the retired and active participants are making their business expertise and experience available to those who are trying to follow in their footsteps.

Mr. Speaker, your Small Business Committee wants to insure that their role remains vital and that it is expanded wherever and whenever necessary. We want to insure that these good people receive the resources, the encouragement, and the protection they need. For this reason, we want to place these programs under the Small Business Act where they belong—where they can benefit on a continuing basis from our primary legislative and oversight jurisdiction.

While the lack of financial resources undoubtedly leads to many of our small business failures, the lack of adequate management assistance is equally important, if not more so. Who are the people best equipped to furnish useful management assistance? Obviously, they are the people who have built, and are building, a proven record of success in the business world. And does it not make sense, rather than throw money at the problem, to encourage these people to volunteer their services on behalf of their fellow Americans?

To date, Congress has failed in only two ways to give these volunteers the encouragement due. It has allowed them to become misplaced in the jurisdictional boundaries of the legislative process; and it has failed to provide them with workmen's compensation to cover injuries incurred in the course of their service. This bill corrects these two oversights.

This bill corrects one other oversight not related to the SCORE/ACE program. The Small Business Administration, like other agencies and departments, is authorized to retain experts and consultants. Other agencies and departments pay such employees at rates authorized in title V of the United States Code, but the SBA authorized rates are set in section 5 of the Small Business Act. While title V of the code has been adjusted over the years to account for inflation, the Small Business Acts' authorized rates have not been changed since 1955. This bill corrects the oversight—and prevents a recurrence—by authorizing SBA to pay the rates set forth for all other agencies in title V.

This bill gives SBA employees and volunteers no more than is afforded by other Federal agencies; it merely brings them up to par. The cost of correcting the inequities will be minimal. The total cost of this bill—for this and the next 5 fiscal years—will be less than $700,000.

It is a small bill but an important one, and I hope it will be passed unanimously by this House and the other body.

Thank you.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 13418.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SMITHSONIAN MUSEUM SUPPORT FACILITIES AUTHORIZATION

Mr. MINETA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1029) to authorize the Smithsonian Institution to construct museum support facilities, as amended.

The Clerk read as follows:

S. 1029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled "An Act to authorize the Smithsonian Institution to plan museum support facilities", approved September 19, 1975 (Public Law 94-98), is amended by inserting ", and to construct," after "to prepare plans for".

(b) The first section of such Act is further amended by adding at the end thereof the following new sentence: "No appropriation shall be made to construct the facilities authorized by this Act until the Committee on Public Works and Transportation of the House of Representatives by resolution, approves the final plans and specifications of such facilities.".

(c) Effective October 1, 1979, section 3 of such Act is amended to read as follows:

"SEC. 3. There is authorized to be appropriated to the Smithsonian Institution $21,500,000 to carry out the purposes of this Act. Any portion of the sums appropriated for such purposes may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.".

The SPEAKER pro tempore. Is a second demanded?

Mr. WALSH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. MINETA) will be recognized for 20 minutes, and the gentleman from New York (Mr. WALSH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. JOHNSON of California. Mr. Speaker, will the gentleman yield?

Mr. MINETA. Mr. Speaker, I yield to the distinguished chairman of the full committee, the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I would like to commend the chairman of the Subcommittee on Public Buildings and Grounds, Mr. MINETA, and the ranking minority member of the subcommittee, Mr. WALSH, for their hard work on this legislation.

I am pleased to join them in support of S. 1029 to authorize the regents of the Smithsonian Institution to construct museum support facilities on federally owned land within the Washington metropolitan area at a cost not to exceed $21.5 million.

The principal purposes of the facility would be to house and care for the national collections, provide for museum support and maintenance services, permit increased public utilization of the museum buildings on the Mall, and allow the Smithsonian to initiate a program of training for museum conservators.

In 1846 Congress established the Smithsonian Institution to administer the trust obligations of the United States—for the increase and diffusion of knowledge among men. In carrying out this mandate the Institution is, among other things, responsible for the development, preservation, study, exhibition, and interpretation of the national collections. The collections which the Smithsonian preserves and documents are examples of man's culture and creativity, and the diversity of the planet. As more of the natural world is destroyed, as civilizations change, and as habitable space decreases, museums such as the Smithsonian's have increasing responsibilities for preserving the material documentation of man's history. During hearings before the committee, officials of the Smithsonian testified to the growth of natural science collections. Today, they overflow into corridors and stairwells of the Natural History Building. Curators and visiting scientists work in cramped and poorly ventilated areas surrounded by collections. Approximately 40,000 square feet of space designed for exhibits are closed to the public and occupied by collections and laboratories.

The Museum of Natural History now has an annual visitation of 5 million, and without additional space for public use, it is expected that within 1 or 2 years, restrictions would have to be placed on the number of visitors during the peak summer months.

In the past, it was possible to construct new museum buildings on the Mall and to expand existing ones. However, only one complete building site remains on the Mall, and the committee believes that should be preserved for direct public use. Accordingly, sufficient land has now been acquired at the Suitland Federal Center, Silver Hill, Md., adjacent to a 21-acre tract currently used for the preservation and restoration activities of the National Air and Space Museum, for construction of the museum support center.

Mr. Speaker, I urge enactment of S. 1029 in order to allow the Smithsonian to meet the most pressing needs and assist in its responsibilities for the development, conservation, and use of the national collections.

Mr. MINETA. Mr. Speaker, S. 1029 would authorize the Regents of the Smithsonian Institution to construct a museum support facility on federally owned land in the Washington metropolitan area and provide for appropriations of $21.5 million.

The purpose of this structure is to permit the Institution to meet its responsibilities to house, preserve, and make available for scholarly research the millions of items which comprise the collections under its care. This building would also allow the expansion of public exhibit space available within the National Museum of Natural History and to undertake a training program for museum conservators.

Mr. Speaker, for more than a decade the Smithsonian has studied its needs and refined the scope of this project. Pursuant to Public Law 94–98, which provided the Regents of the Smithsonian with authority to prepare plans for museum support facilities to be located in the Washington metropolitan area, $325,000 was appropriated in fiscal year 1978 to initiate architectural and engineering design. The balance of planning funds, estimated at $575,000 are included in the fiscal year 1979 appropriations bill which is now in conference. Construction, equipment, and other funds necessary to complete the project are estimated at $20,600,000. In this regard, the Congressional Budget Office letter in the report is inaccurate and the committee has received a revised version which show funds will not be available until fiscal year 1980.

The Smithsonian Institution's existing facilities in the Washington area are National Mall. In fulfilling its legislated responsibility for the "increase and diffusion of knowledge among men" the Institution has for 132 years collected physical information about our world, before and since the coming of mankind. This is, of necessity, a continuing activity. The collections which the Smithsonian preserves, authenticates, restores, studies, and exhibits comprise the greatest record in the world of man's culture and creativity, and the diversity of our planet. The selective growth of the collections is an essential part of the Smithsonian's mission and existing collections are reviewed on a continuing basis. The Smithsonian's collections now include well over 70 million objects and specimens, of which only 5 percent are on display. The Smithsonian currently is burdened with storing most of its collections in its various museums, however, bulky items, primarily those for the National Air and Space Museum, are stored on a 21-acre site in Silver Hill, Md.

Collections maintenance and preservation is the fundamental purpose of the Support Center and reflects the priority need to reclaim in the Museum of Natural History exhibits space, attics, hallways, basements, and laboratory spaces now encumbered with specimens and objects that are poorly and hazardously housed and frequently inaccessible. The construction of the Support Center will provide space for development of conservation programs to protect, restore, and preserve paintings, sculptures, paper, bones, and all the other materials represented in the collections; and to assist museums in other parts of the country in solving their conservation problems through new techniques and training for conservators. Further, construction of the Support Center will allow for the relocation of collections and release approximately 40,000 square feet of prime space, thereby greatly enhancing the museum's ability to present exhibits to an increasing audience which now numbers over 4.5 million a year. Other benefits include the freeing of space on the Mall for education and research activities, and provision for better overall care of the national collections. Second only to collection housing requirements is the need to provide a strong research and study program.

The location of the proposed Museum Support Center is adjacent to an existing Smithsonian facility, 6½ miles from the Smithsonian Institution building in Silver Hill, Md. The two units will share a number of operational services such as security, maintenance, and transportation.

Mr. Speaker, the responsibility for preserving the material documentation of man's history is a serious one indeed. The committee is impressed by the Smithsonian's judicious execution of that responsibility and by the thorough analysis it has pursued in arriving at a reasoned response to the current pressing needs of the national collections. Because of the irreplaceable nature of these collections, the committee wishes to insure that the proposed structure will indeed be used for its original and intended purposes. Therefore, the legislation prohibits the provision of appropriations until such time as it has had an opportunity to review the plans and specifications and approve them by resolution. The committee would expect to receive the same firm architectural drawings and materials specifications that will be submitted to the various boards and commissions in the Washington metropolitan area for their review and approval.

The committee is also concerned about the accelerating rate of inflation in the construction industry, and encourages the Smithsonian to proceed as expeditiously as possible so that approvals and appropriations may be forthcoming in a timely manner and that the structure may be completed within its current budget estimates and schedule. The Smithsonian's record of completing the National Air and Space Museum ahead of schedule and under budget is one to be commended and, indeed, repeated.

Mr. Speaker, time has increased rather than mitigated the dimensions of the Smithsonian's requirements for the national collections. I urge my colleagues to join in supporting S. 1029 which offers an effective means of meeting those requirements and preserving the precious objects of our heritage for future generations.

Mr. WALSH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for 132 years the collections of the Smithsonian have served as a treasure of learning and enjoyment to millions of Amercans and foreign visitors. And, these exhibits will be held in trust for succeeding generations to come.

Of the 75 million items the Smithsonian holds, less than 5 percent are on exhibit at any one time. They are, for the most part, unique and irreplaceable items.

S. 1029, approved by the other body on May 9, 1978, and subsequently approved, as amended, by the Committee on Public Works and Transportation, would authorize construction of the museum support center at a cost of $21.5 million.

This structure would be designed primarily to meet the needs of managing the collections and related research activities of the National Museum of Natural History. It would contain a filtration system to remove dust and airborne pollutants; and a climate control system—which is essential for the effective conservation of museum objects and specimens.

Construction of this facility will permit the return to the public use some 40,000 square feet of prime mall space that now houses collection and research activities in the National Museum of Natural History, relieve crowed conditions in the museum and make collections fully accessible in the new structure; enhance research activities; provide more effective protection for objects and specimens; and reduce rental space by approximately $200,000 annually.

The Committee on Public Works and Transportation, along with the other body, agree that the construction of this center is of vital importance.

The funds directing the detailed planning have already been appropriated. Cooper's and Lybrand, an independent architectual and engineering firm have made a preliminary study and it appears that this project will not cost more than the $21.5 million requested. As a control mechanism, the Public Works and Transportation Committee amends S. 1029, whereby the final design and specifications along with the costs associated with the design, will be presented to the committee before funds are actually appropriated.

Mr. Speaker, and Members of the House, I ask your support in passing this worthwhile legislation.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. WALSH. I yield to the gentleman from Washington (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. I thank the gentleman for yielding.

Mr. Speaker, I think it is laudatory that Congress is going to continue the Smithsonian Institution. I would hope, however, that in the planning that is done, there will be a proper niche that is made for the endangered species, the taxpayer, so that we will have a full preservation of the entire history of this country.

Mr. WALSH. I thank the gentleman for his comments.

Mr. Speaker, I know of no opposition to the legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, S. 1029 was referred originally to the Committee on House Administration and rereferred to the Committee on Public Works and Transportation. The Committee on House Administration was unanimous in favor of the bill, and the committee, insofar as I am aware, does support the amendment adopted by the Committee on Public Works and Transportation. I hope the bill will be promptly passed.

Mr. WALSH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. MINETA) that the House suspend the rules and pass the Senate bill, S. 1029, as amended.

The question was taken and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill S. 1029, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SOLAR COLLECTORS FOR RHOB

Mr. MINETA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13597) to authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex Numbered 2, and for other purposes, as amended.

The Clerk read as follows:

H.R. 13597

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Architect of the Capitol, under the direction of the House Office Building Commission, shall install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and of House Office Building Annex Numbered 2.

(b) In carrying out this Act, the Architect of the Capitol, under the direction of the House Office Building Commission, is authorized to (1) procure such personal and other services as may be necessary to carry out this Act, and (2) provide for such structural and other changes in the Rayburn House Office Building and House Office Building Annex Numbered 2, such changes in or additions to their appurtenant facilities, such connections to existing facilities or utilities, and such equipment and apparatus, as may be necessary to carry out this Act.

SEC. 2. The Architect of the Capitol shall submit to the House Public Works and Transportation Committee final engineering and design drawings and final cost estimates for the project authorized under this Act, before soliciting bids to carry out the project. After the submission of such information, the Architect of the Capitol shall not solicit bids to carry out the project authorized under this Act until thirty legislative days of such submission.

SEC. 3. There is hereby authorized to be appropriated not to exceed $3,000,000 to carry out this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. WALSH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. MINETA) will be recognized for 20 minutes, and the gentleman from New York (Mr. WALSH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. JOHNSON), the distinguished chairman of the Committee on Public Works and Transportation.

Mr. JOHNSON of California. Mr. Speaker, I would like to commend my distinguished colleague, the chairman of our Subcommittee on Public Buildings and Grounds, Mr. MINETA, and the ranking minority member of the subcommittee, Mr. WALSH, for their fine work on this legislation.

H.R. 13597 would authorize the Architect of the Capitol, under the direction of the House Office Building Commission, to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex No. 2 at a cost not to exceed $3 million. However, prior to soliciting bids to carry out the project, the Architect of the Capitol is directed to submit to the House Public Works and Transportation Committee final engineering and design drawings and final cost estimates for our review. This provision in the legislation will give needed authority to the committee to properly preserve the role of the committee in the construction phase of this project.

Mr. Speaker, the Congress has taken the lead more than once in providing funding for a national effort to improve our alternative energy possibilities. This project is particularly noteworthy since we will be applying solar energy on existing buildings. The Congress and the country should not wait to use solar energy in new buildings only. If we can, by our actions, encourage the placing of solar energy on existing buildings, we can help speed up the use and impact of this inexhaustible energy source.

Further, the solar systems proposed to be installed on the Rayburn House Office Building Annex No. 2 are two very different systems. It is proposed that the Rayburn Building would have a flat plate collector system which is stationary, and House Office Building Annex No. 2 would have concentrating collectors that track the Sun. These two very different systems definitely enhance the value of the project since it is proposed that the experience and information gained will be made available to the public.

Mr. Speaker, it is anticipated the proposed solar collectors would repay their installation costs and begin to reap concrete savings within a reasonable time. The Architect of the Capitol stated that the collectors would save over $4.5 million in utility costs for these two structures within the first 20 years even assuming only moderate increases in current fuel costs. Therefore, since the buildings have a life expectancy of far more than 20 years, this is a useful and cost-effective step.

I urge enactment of H.R. 13597 which will serve a useful purpose in reducing our dependence on fossil fuels.

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 13597 would authorize the Architect of the Capitol, under the direction of the House Office Building Commission, to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex No. 2 at a cost not to exceed $3 million.

Pursuant to House Resolution 322, adopted by the U.S. House of Representatives on May 17, 1977, the Architect of the Capitol transmitted to the Congress on April 28, 1978, a report entitled "Study and Report on the Feasibility of the Use of Solar Energy for the House Office Buildings." The Architect of the Capitol testified before the committee on the contents of the report and recommended that flat plate solar collectors, not visible from the grounds be installed on the Rayburn Building. The system is estimated to provide 46.1 percent of the annual energy required for domestic water heating, winter preheat of outdoor air supplied to the induction heating system, and summer reheat. The cost of the installation is estimated to be $1,186,400, and is estimated to be repaid in reduced energy costs in 15.7 years when maintenance and repair costs are taken into account. Energy savings in the first year are expected to be $32,193 and are projected to total $2,227,000 over 20 years.

The Architect of the Capitol also supported the report recommendation that a concentrating solar collector system be installed on the House Office Building Annex No. 2. The building is in an ideal location to expose the solar collectors to high visibility from the expressway on the south and from other buildings on Capitol Hill to the north and east. It also has a very large structurally strong flat roof that makes it ideal for the addition of a large number of solar collectors. The solar system recommended by the report would provide 24.3 percent of the annual energy required for domestic water heating, heating for building radiation, and partial building air conditioning. The House computer center is located in this building and there is a need for partial cooling year-round. The cost of the installation is estimated to be $1,223,800 and is estimated to be repaid in reduced energy costs in 15.8 years when maintenance and repair costs are taken into account. Energy savings in the first year are expected to be $33,854 and are projected to total $2,341,700 over 20 years.

I would like to point out that a study was made of the Longworth and Cannon House Office Buildings as well, but these buildings do not have enough proper roof space with sufficient structural strength to make the use of solar collectors economically viable given the current state of solar technology.

This legislation, therefore, does not expect too much, and it does not expect too little. It is carefully thought out, and it is prudent and cost effective.

The Architect of the Capitol stated that it may be necessary to deviate from the detailed recommendations of the report as final design considerations may require. Accordingly, the committee has requested that the Architect of the Capitol furnish the House Public Works and Transportation Committee monthly status reports on the implementation of the project. In addition, the Architect of the Capitol is directed to submit to the House Public Works and Transportation Committee final engineering and design drawings and final cost estimates for the project soliciting bids to carry out the project.

Mr. Speaker, passage of H.R. 13597 will demonstrate Congress intent in its own environment to conserve energy. It will also allow an opportunity to demonstrate to the rest of the world that our U.S. Government, and Congress in particular, is wholeheartedly behind solar energy as an alternative energy source. Further, the experience and information gained from enactment and implementation of this legislation can be transferred to the private sector thereby furthering our goal of developing and promoting alternative sources of energy.

I urge enactment of H.R. 13597.

Mr. WALSH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Public Works and Transportation reported H.R. 13597, as amended, authorizing the Architect of the Capitol, under the direction of the House Office Building Commission, to install solar collectors at the Rayburn House Office Building and House Office Building Annex No. 2. The Architect is authorized to: First, hire consultants in case a need arises due to unique installation problems; and second, to provide structural and/or other changes that may be necessary.

Solar technology may be the answer to our country's energy shortage arising from increased demand for energy. As was pointed out in our recent energy study, unless effective measures are taken to reduce the rate of growth for the demand of energy, the United States will become increasingly dependent on the world oil market, and increasingly vulnerable in seeking foreign oil supplies.

If we are to lessen this country's reliance on foreign and domestic fuels, we should begin by moving forward in the installation of these systems and set a precedence for others to follow.

The committee amended the bill in order that the Congress may have more control in preventing cost overruns. The amendment directs the Architect to submit final engineering and design drawings, along with the related costs to the committee for approval, before soliciting bids.

I wish to commend Mr. JOHNSON of California, chairman of the full Committee on Public Works, Mr. MINETA, chairman of the Subcommittee on Public Buildings and Grounds, for the splendid work they did in directing the Architect to conduct the feasibility study and for their careful examination and evaluation of the many aspects involved in this project.

Mr. Speaker, I ask the House to support the passage of this legislation that will indeed have a meaningful impact on future generations.

I think this is one of the main answers to our energy problems of the future.

Mr. Speaker, I reserve the balance of my time.

Mr. MINETA. Mr. Speaker, I yield five minutes to the gentleman from Texas (Mr. PICKLE), who was the author of the original resolution bringing this study to our attention. It is through his leadership that we have come this far on making solar a Federal example of leadership in the field of energy.

Mr. PICKLE. Mr. Speaker, I commend Mr. MINETA and my able colleagues on the Public Works Committee for moving ahead with this project.

At the beginning of this Congress, I introduced legislation for a feasibility study to determine if solar energy could be used in a beneficial and cost-effective manner on any of the House office buildings.

This measure passed the House May 17, 1977, by a 368-to-29 vote and in April of this year the Architect of the Capitol submitted to the Speaker of the House the completed study.

The study shows that we can install solar energy, that we can save the taxpayers money by doing so, and that we can install this equipment without harming the architectural integrity of the Capitol complex.

The legislation before us today authorizes that the work recommended by the study be carried out. Again, it proceeds in a cautious manner. Solar energy is clearly feasible and its basic technology is well known. But caution never hurts, and the authorization orders that the Public Works Committee will have 30 days to look over the final design and engineering drawings and cost estimates before any bids are let for actual construction.

Some 80 Members of the House cosponsored the original feasibility study, and I would like to express my appreciation for their early support of this effort. Those Members are:

H. Res. 322, February 23, 1977: Mr. Pickle, Mr. Ottinger, Mr. Rose, Mr. McCormack, Mr. Ambro, Mr. Baucus, Mr. Bedell, Mr. Brown of California, Mr. Drinan, Mr. Harrington, Mr. Jeffords, Mr. Moakley, Mr. Mottl, Mr. Richmond, Mr. Long of Maryland, Mr. Oberstar, Mr. McKinney.

H. Res. 461, March 31, 1977: Mr. Pickle, Mr. Akaka, Mr. AuCoin, Mr. Badillo, Mr. Beard of Rhode Island, Mr. Beilenson, Mr. Blanchard, Mr. Bonior, Mr. Carr, Mr. Cleveland, Mrs. Collins of Illinois, Mr. D'Amours, Mr. Danielson, Mr. Dellums, Mr. Dicks, Mr. Downey, Mr. Edgar, Mr. Edwards of California, Mr. Florio, Mr. Ford of Michigan, Mr. Gaydos, Mr. Gephardt, Mr. Gore, Mr. Hannaford, Mr. Harkin.

H. Res. 462: Mr. Pickle, Mr. Harris, Mr. Hollenbeck, Mr. Howard, Mr. Hughes, Mr. Hyde, Mrs. Keys, Mr. Kildee, Mr. LaFalce, Ms. Mikulski, Mr. Mikva, Mr. Moffett, Mr. Murphy of Pennsylvania, Mr. Neal, Mr. Nolan, Mr. Patterson of California, Mr. Pepper, Mr. Pease, Mr. Pressler, Mr. Pursell, Mr. Risenhoover, Mr. Rodino, Mr. Roe, Mr. St Germain, Mr. Scheuer.

H. Res. 463: Mr. Pickle, Mr. Seiberling, Mr. Tsongas, Mr. Udall, Mr. Van Deerlin, Mr. Walgren, Mr. Waxman, Mr. Weaver, Mr. Weiss, Mr. Charles H. Wilson of California, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Won Pat.

H. Res. 520, April 26, 1977: Mr. Pickle, Mr. Carney, Ms. Holtzman.

I also have been pleased to enjoy the support of the ad hoc solar coalition throughout this effort.

The bill recommends that $3 million be authorized to install solar collectors on the Rayburn House Office Building and on House Office Building Annex No. 2. This is a lot of solar collectors—but then these are large buildings and the study estimates the collectors will actually save over $4.5 million in utility bills in the first 20 years of operation.

We have to keep in mind the extremely long-term use of the buildings in question. We are saving a substantial amount of money in a reasonably short time—and we will be saving even more over the full life of these buildings.

In addition we will be taking a positive step for alternative energy sources. Experts disagree about when, where, how, and at what cost we will face a fossil fuel shortage. But they all agree that between now and the early years of the next century, we need to be developing alternative energy sources.

The study upon which this authorization is based indicated that over 50 percent of the domestic water heating, 13 percent of the building heating, and 34 percent of the air-conditioning needs (which are year round, because of the computer center) of House Office Building Annex No. 2 could be supplied with solar energy. The study showed that over 48 percent of the domestic water heating, 33 percent of the winter preheating and 79 percent of the summer reheating (an internal process of the air conditioning) need of the Rayburn House Office Building could be supplied through the use of solar collectors.

The collectors on HOBA No. 2 would be visible; but those on the Rayburn Building will not be visible from the ground, preserving the present architectural lines of the Capitol complex.

Study was also made of the Cannon and Longworth Buildings, but unfortunately, these buildings do not have sufficient suitable roof area to make the effort worthwhile with present technology. We will have to wait a while for new advances before we can tackle these buildings.

Solar energy has two great pitfalls. People either expect too much of it, or they expect too little. The legislation before us today strikes a proper balance. It is progressive but cautious. It is well thought out, prudent, and cost effective.

The Congress has taken the lead more than once in providing funding for a national effort to provide alternative energy. But as the Good Book says in James 1:22, "Be ye doers of the word and not hearers only"; and that is what we can do here. If every Congressman can go home and say, "We use solar energy in our office buildings in Washington," it will speak louder than a thousand grant and loan programs—and at a very small cost which will be repaid to the taxpayer in a short time.

So, again, I thank the chairman and the members of the Public Works Committee, and all the Members of the House who have supported this project. I urge its speedy passage today.

FACT SHEET: FEASIBILITY STUDY OF USE OF SOLAR ENERGY FOR THE HOUSE OFFICE BUILDINGS

The Architect of Capitol has recommended:

I. House Office Building Annex No. 2: Installation of solar energy equipment to provide domestic water heating year-round, partial building heating during the winter season, and partial cooling year-round. (The House Computer Center is located in this building and there is, therefore, a need for year-round cooling.)

Estimated Cost: $1,223,800 (to which must be added 20 percent for engineering design fees and contingent and administrative costs).

Utility Cost Savings: $33,854 during first year, $2,341,700 over a 20 year period.

Estimated Energy Savings:

	Annual requirement Btu x 10^6	Solar energy savings Btu x 10^6	Percent of load
Domestic water heating	1,944.3	990.1	50.9
Building heating	8,647.0	1,126.0	13.0
Building air conditioning	4,440.0	1,541.6	34.7
Total annual	15,031.3	3,657.7	24.3

II. Rayburn House Office Building: Installation of solar collectors for domestic water heating year-round, for partial building heating during winter, and for reheating during the summer cooling season. These collectors would not be visible from the ground.

Estimated Cost: $1,186,400 (to which must be added 20% for engineering design fees, contingencies, and administrative costs).

Utility Cost Savings: $32,193 in first year, $2,227,700 over 20 year period.

Estimated Energy Savings:

	Annual requirement Btu x 10^6	Solar energy savings Btu x 10^6	Percent of load
Domestic water heating	2,592.0	1,254.8	48.4
Winter preheat	4,529.0	1,535.3	33.9
Summer reheat	1,479.4	1,171.7	79.2
Total annual	8,600.4	3,961.8	46.1

Mr. WALSH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion of the gentleman from California (Mr. MINETA) that the House suspend the rules and pass the bill H.R. 13597, as amended.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 13597, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TAX STATUS OF CERTAIN STATE-SANCTIONED BINGOS OPERATED BY TAX-EXEMPT ORGANIZATIONS

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8533) to amend the Internal Revenue Code of 1954 to clarify the exemption from political organization taxable income for proceeds from bingo and related games, as amended.

The Clerk read as follows:

H.R. 8533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 513 of the Internal Revenue Code of 1954 (defining unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN BINGO GAMES.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include any trade or business which consists of conducting bingo games.

"(2) BINGO GAME DEFINED.—For purposes of paragraph (1), the term 'bingo game' means any game of bingo—

"(A) of a type in which usually—

"(i) the wagers are placed,

"(ii) the winners are determined, and

"(iii) the distribution of prizes or other property is made,

in the presence of all persons placing wagers in such game,

"(B) the conducting of which is not an activity ordinarily carried out on a commercial basis, and

"(C) the conducting of which does not violate any State or local law."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

SEC. 2. (a) Paragraph (3) of section 527(c) of the Internal Revenue Code of 1954 (defining exempt function income) is amended by striking out "or" at the end of subparagraph (B), by adding "or" at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

"(D) proceeds from the conducting of any bingo game (as defined in section 513(f)(2)),".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1974.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 8533, as approved by the Ways and Means Committee, provides that, with certain limitations, most tax-exempt organizations and political organizations will be exempt from income taxation on the proceeds of bingo games, regardless of whether these games are regularly carried on with paid labor.

Under present law, most organizations which are generally exempt from Federal income taxes are subject to tax on unrelated business taxable income. However, an exception is provided for activities in which substantially all of the work is performed without compensation. Two recent cases have held that tax-exempt organizations are subject to unrelated business income tax on the proceeds of bingo games regularly carried on by the organizations with paid labor even though the organizations involved were not in competition with for-profit businesses. Also, political organizations are subject to tax on all income other than exempt function income.

Under the laws of many States, charitable organizations and, in some instances, other nonprofit organizations are allowed to conduct bingo games to raise funds for their exempt purposes. Most States which allow bingo games to be carried on do not permit for-profit organizations to conduct these games.

In general, the unrelated business income tax was imposed to prevent tax-exempt organizations from having an unfair competitive advantage over taxable businesses. In situations where for-profit organizations are not carrying on the same activity, this basic rationale does not apply. Similarly, in States where political organizations are allowed to conduct bingo games and they do not compete with for-profit organizations, it appears inappropriate to subject the proceeds of these games to tax.

The bill, which the Treasury Department does not oppose, provides that tax-exempt organizations and political organizations are not subject to income taxation on the proceeds of certain bingo games in situations where State or local law permits such games to be carried on by nonprofit organizations and these organizations do not compete with taxable entities. This exception applies to bingo games even though they are regularly carried on and are carried on with paid workers. The bill applies only to bingo games of the type in which usually the wagers are placed, the winners are determined, and the prizes are distributed in the presence of all persons placing wagers in the game.

The provisions of the bill relating to tax-exempt organizations apply to taxable years beginning after December 31, 1969. The provisions of the bill relating to political organizations apply to taxable years beginning after December 31, 1974—the effective date of the code rules for the taxation of political organizations. These retroactive effective dates are provided because many organizations have been operating as if income from bingo games was not subject to tax and have, in many cases, spent all of the proceeds of these games for their exempt purposes.

It is estimated that this bill will reduce budget receipts by $15 million in fiscal years 1979 and 1980 and slightly more than that in later years, without allowing for the forgiveness of back tax collections for prior years. Back taxes liabilities forgiven by the bill would amount to about $50 million. However, these amounts forgiven have not been allocated to specific years, because the timing of collections under present law would be uncertain.

Mr. Speaker, I urge that H.R. 8533 be adopted.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 8533, a bill relating to the tax treatment of income from certain bingo games.

The need for such a bill was first brought to my attention by the veterans' organizations of my State who were facing the termination of their youth athletic programs because of conflict between United States and local State laws.

H.R. 8533 addresses the issue of bingo games sponsored by tax-exempt organizations and political organizations. Under current law such organizations may be liable for tax on their bingo games. This is because such activity may be interpreted as not substantially related to the organization's exempt function. When such a determination is made, the bingo income is subject to tax as unrelated business income.

H.R. 8533 provides that tax-exempt organizations and political organizations are not subject to income taxation on bingo game profits in situations where State or local law permits such games and where these games are not operated in competition with profitmaking organizations.

The bill makes it clear that it is permissible to sponsor regularly bingo games and to use paid workers. In my State, "paid" workers are those who only accept minimum expense payments for their efforts. This provision is in response to recent court action which taxed bingo games which were carried on by paid workers instead of by volunteers.

Despite the modest changes in the bill, it does not alter the overall principles applicable to tax-exempt organizations. Tax-exempt organizations are not supposed to be engaged in business activities unrelated to their exempt function. It is not enough to say that an organization needs funds to operate in order to justify commercial activity. The changes contained in this legislation merely update the tax law to conform to the benign fund raising activities of many churches, veterans groups, volunteer fire departments, and so forth. However, the bingo games must continue to be incidental to the exempt functions of the organization. If the operation of bingo games is an organization's primary activity, then the proceeds will be taxable.

The final safeguards in the bill are the requirements that the bingo game be in compliance with State or local law and that the games sponsored by the tax-exempt organization not be in competition with legitimate nonexempt organizations' bingo games. The latter provision is to insure that tax-exempt organizations are not given an unfair competitive advantage over commercial bingo operators.

I want to give special mention to the gentleman from Michigan (Mr. TRAXLER) whose bill relating to political organizations was consolidated with bills sponsored by myself and Mr. BRODHEAD. His work on this bill was persistent and effective. Without his efforts, there would be no bill this year.

Mr. Speaker, H.R. 8533 is a bill which permits churches, charitable organizations, and political organizations to continue a commonplace fund raising activity without adverse tax consequences. I urge its passage.

Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Speaker, I wish to extend my deep appreciation to the chairman of the full committee, the gentleman from Oregon (Mr. ULLMAN), to the chairman of the subcommittee, the gentleman from Louisiana (Mr. WAGGONNER), and my good colleague, the gentleman from Minnesota (Mr. FRENZEL), in whose State the appellate court decision was rendered. The gentleman from Minnesota (Mr. FRENZEL) has done great service for my veterans and other nonprofit civic organizations in Michigan. I am most appreciative of the time he has taken to make this bill a reality.

Mr. Speaker, I yield back the remainder of my time.

Mr. ULLMAN. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, I have no further requests for time and yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 8533, as amended.

The question was taken; and (two-thirds having voted in favor thereof, the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read "A bill to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax."

A motion to reconsider was laid on the table.

FOREIGN EARNED INCOME ACT OF 1978

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13488) to amend the Internal Revenue Code of 1954 with respect to the tax treatment of earned income of U.S. citizens and resident aliens from sources outside the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 13488

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) **SHORT TITLE.**—This Act may be cited as the "Foreign Earned Income Act of 1978".

(b) **AMENDMENT OF 1954 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. EARNED INCOME FROM SOURCES OUTSIDE THE UNITED STATES.

(a) **SECTION 911 EXCLUSION.**—Subsection (a) of section 911 (relating to earned income from sources without the United States) is amended to read as follows:

"(a) **GENERAL RULE.**—The following items shall not be included in gross income and shall be exempted from taxation under this subtitle:

"(1) **BONA FIDE RESIDENT OF QUALIFIED FOREIGN COUNTRY.**—In the case of an individual who is a citizen of the United States and who establishes to the satisfaction of the Secretary that he has been a bona fide resident of a qualified foreign country or countries for an uninterrupted period which includes an entire taxable year, amounts received from sources within qualified foreign countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such uninterrupted period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

"(2) **PRESENCE IN QUALIFIED FOREIGN COUNTRY FOR 17 MONTHS.**—In the case of an individual who is a citizen or resident of the United States and who during any period of 18 consecutive months is present in a qualified foreign country or countries during at least 510 full days in such period, amounts received from sources within qualified foreign countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such 18-month period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

An individual shall not be allowed, as a deduction from his gross income, any deductions properly allocable to or chargeable against amounts excluded from gross income under this subsection, other than the deductions allowed by sections 217 (relating to moving expenses) and 913 (relating to deduction for certain expenses of living abroad)."

(b) **LIMITATIONS ON ACCOUNT OF EXCLUSION.**—Paragraph (1) of section 911(c) (relating to special rules) is amended to read as follows:

"(1) **LIMITATIONS AMOUNT OF EXCLUSION.**—The amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of—

"(A) except as provided in subparagraph (B), $20,000, or

"(B) $25,000 in the case of an individual who qualifies under subsection (a)(1), but only with respect to that portion of such taxable year occurring after such individual has been a bona fide resident of a qualified foreign country or countries for an uninterrupted period of 3 consecutive years."

(c) **DEFINITION OF QUALIFIED FOREIGN COUNTRY.**—

(1) **IN GENERAL.**—Section 911 is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following new subsection:

"(d) **QUALIFIED FOREIGN COUNTRY DEFINED.**—

"(1) **IN GENERAL.**—For purposes of this section, the term 'qualified foreign country' means any foreign country which is not listed below.

"Andorra, Austria, Belgium, Canada, Denmark, Finland, France, Germany (Federal Republic), Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, United Kingdom.

"(2) **OVERSEAS POSSESSIONS, ETC., MAY BE TREATED AS SEPARATE COUNTRY.**—For purposes of this section, the Secretary may by regulations provide that an overseas territory, department, province, or possession may be treated as a separate country.

"(3) **PRESENCE ON CERTAIN NORTH SEA EQUIPMENT TREATED AS PRESENCE IN A QUALIFIED FOREIGN COUNTRY.**—For purposes of this section—

"(A) **PRESENCE.**—Presence for any full day on equipment for exploring or exploiting natural resources from the seabed and subsoil of the submarine areas of the North Sea shall be treated as presence in a qualified foreign country (and the individual shall be treated as satisfying the requirements of subsection (a)(2) with respect to such day) if—

"(i) the individual's principal place of work is such equipment, and

"(ii) such day falls within a period for which the individual would satisfy the requirements of subsection (a)(2) if presence in any foreign country constituted presence in a qualified foreign country.

"(B) **INCOME.**—Income which is attributable to services performed on equipment described in subparagraph (A) shall be treated as income received from sources within a qualified foreign country."

(2) **CONFORMING AMENDMENT.**—Subsection (f) of section 911 (relating to cross references) is redesignated as subsection (e).

(d) **REMOVAL OF REQUIREMENT AS TO PLACE OF RECEIPT.**—Paragraph (8) of section 911(c) (relating to requirement as to place of receipt) is hereby repealed.

(e) **CLERICAL AMENDMENTS.**—

(1) The section heading for section 911 is amended to read as follows:

"**SEC. 911. INCOME EARNED IN QUALIFIED FOREIGN COUNTRIES.**"

(2) The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 911 and inserting in lieu thereof the following:

"Sec. 911. Income earned in qualified foreign countries."

(3) The heading of subpart B of part III of subchapter N of chapter 1 is amended by striking out "Citizens" and inserting in lieu thereof "Citizens or Residents".

(4) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out "citizens" in the item relating to subpart B and inserting in lieu thereof "citizens or residents".

(5) Sections 43(c)(1)(B), 1302(b)(2)(A)(i), 1304(b), 1402(a)(8), 6012(c), and 6091(b)(1)(B)(iii) are each amended by striking out "relating to earned income from sources without the United States" and inserting in lieu thereof "relating to income earned in qualified foreign countries".

SEC. 3. DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

(a) **ALLOWANCE OF DEDUCTION.**—Subpart B of part III of subchapter N of chapter 1 (relating to earned income of citizens and residents of United States) is amended by adding at the end thereof the following new section:

"Sec. 913. Deduction for Certain Expenses of Living Abroad.

"(a) Allowance of Deduction.—In the case of an individual who is a citizen or resident of the United States and whose tax home is in a foreign country for any portion of the taxable year, there shall be allowed as a deduction the sum of the following amounts for such portion of the taxable year:

"(1) The qualified cost-of-living differential.

"(2) The qualified housing expenses.

"(3) The qualified schooling expenses.

"(4) The qualified home leave travel expenses.

"(b) Deduction Not To Exceed Net Foreign Source Earned Income.—

"(1) In general.—The deduction allowed by subsection (a) to any individual for the taxable year shall not exceed—

"(A) such individual's earned income from sources outside the United States for the portion of the taxable year in which such individual's tax home is in a foreign country, reduced by

"(B) the sum of—

"(i) the amount excluded from gross income for the taxable year under section 911,

"(ii) any earned income referred to in subparagraph (A) which is excluded from gross income under section 119, and

"(iii) the allocable deductions.

"(2) Allocable deductions defined.—For purposes of paragraph (1)(B)(iii), the term 'allocable deductions' means the deductions properly allocable to or chargeable against the earned income referred to in paragraph (1)(A), other than—

"(A) that portion of the deductions so allocable or chargeable which is disallowed by the last sentence of section 911(a), and

"(B) the deduction allowed by this section.

"(c) Qualified Cost-of-Living Differential.—

"(1) In general.—For purposes of this section, the term 'qualified cost-of-living differential' means a reasonable amount determined under tables (or under another method) prescribed by the Secretary establishing the amount (if any) by which the general cost of living in the foreign place in which the individual's tax home is located exceeds the general cost of living for the metropolitan area in the continental United States (excluding Alaska) having the highest general cost of living. The tables (or other method) so prescribed shall be revised at least once during each calendar year.

"(2) Special rules.—For purposes of paragraph (1)—

"(A) Computation on daily basis.—The differential shall be computed on a daily basis for the period during which the individual's tax home is in a foreign country.

"(B) Differential to be based on daily living expenses.—An individual's cost-of-living differential shall be determined by reference to reasonable daily living expenses (excluding housing and schooling expenses).

"(C) Differential may vary with family composition and with individual's income category.—The differential prescribed for any foreign place may vary depending on—

"(i) the composition of the family (spouse and dependents) residing with the individual (or at a qualified second household), and

"(ii) the income category of the individual.

"(D) State department's index to be taken into account.—The Secretary, in determining the qualified cost-of-living differential for any foreign place, may take into account the Department of State's Local Index of Living Costs Abroad as it relates to such place.

"(E) No differential for periods during which individual is eligible under section 119.—Except as provided in subsection (g)(1)(A)(ii), an individual shall not be entitled to any qualified cost-of-living differential for any period for which such individual's meals and lodging are excluded from gross income under section 119.

"(d) Qualified Housing Expenses.—

"(1) In general.—For purposes of this section, the term 'qualified housing expenses' means the excess of—

"(A) the individual's housing expenses, over

"(B) the individual's base housing amount.

"(2) Housing expenses.

"(A) In general.—For purposes of paragraph (1), the term 'housing expenses' means the reasonable expenses paid or incurred during the taxable year by or on behalf of the individual for housing for the individual (and, if they reside with him, for his spouse and dependents) in a foreign country. Such term—

"(i) except as provided in clause (ii), includes expenses attributable to the housing (such as utilities and insurance), and

"(ii) does not include interest and taxes of the kind deductible under section 163 or 164 or any amount allowable as a deduction under section 216(a).

"(B) Portion which is lavish or extravagant not allowed.—For purposes of subparagraph (A), housing expenses shall not be treated as reasonable to the extent such expenses are lavish or extravagant under the circumstances.

"(3) Base housing amount.—For purposes of paragraph (1)—

"(A) ⅙ of base compensations for qualified pension plan purposes.—

"(i) In general.—Except as provided in subparagraphs (B) and (C), the term 'base housing amount' means ⅙ of the individual's base compensation.

"(ii) Definition of base compensation.—For purposes of clause (i), the term 'base compensation' has the meaning given to such term under any qualified plan of deferred compensation within the meaning of section 401 in which the individual participates (or would be eligible to participate but for his failure to satisfy any applicable age or service requirements under such plan).

"(B) Determination based on earned income.—If an individual's base housing amount cannot be determined under the method prescribed in subparagraph (A), the term 'base housing amount' means 10 per cent of the excess of—

"(i) the individual's earned income (reduced by the deductions properly allocable to or chargeable against such earned income (other than the deduction allowed by this section)), over

"(ii) the sum of—

"(I) the housing expenses taken into account under paragraph (1)(A) of this subsection.

"(II) the qualified cost-of-living differential,

"(III) the qualified schooling expenses, and

"(IV) the qualified home leave travel expenses.

"(C) Base housing amount to be zero in certain cases.—If, because of adverse living conditions, or for the convenience of his employer, the individual maintains a household for his spouse and dependents at a place other than his tax home which is in addition to the household he maintains at his tax home, the base housing amount for the household maintained at his tax home shall be zero.

"(4) Periods taken into account.—

"(A) In general.—The expenses taken into account under this subsection shall be only those which are attributable to housing during periods for which—

"(i) the individual's tax home is in a foreign country, and

"(ii) except as provided in subsection (g)(1)(B)(iii), the value of the individual's housing is not excluded under section 119.

"(B) Determination of base housing amount.—The base housing amount shall be determined for the periods referred to in subparagraph (A) (as modified by subsection (g)(1)(B)(iii)).

"(5) Only one house per period.—If, but for this paragraph, housing expenses for any individual would be taken into account under paragraph (2) of subsection (a) with respect to more than one abode for any period, only housing expenses with respect to that abode which bears the closest relationship to the individual's tax home shall be taken into account under such paragraph (2) for such period.

"(e) Qualified Schooling Expenses.—

"(1) In general.—For purposes of this section, the term 'qualified schooling expenses' means the reasonable schooling expenses paid or incurred by or on behalf of the individual during the taxable year for the education of each dependent of the individual at the elementary or secondary level. For purposes of the preceding sentence, the elementary or secondary level means education which is the equivalent of education from the kindergarten through the 12th grade in a United States-type school.

"(2) Expenses included.—For purposes of paragraph (1), the term 'schooling expenses' means the cost of tuition, fees, books, and local transportation and of other expenses required by the school. Except as provided in paragraph (3), such term does not include expenses of room and board or expenses of transportation other than local transportation.

"(3) Room, board, and travel allowed in certain cases.—If an adequate United States-type school is not available within a reasonable commuting distance of the individual's tax home, the expenses of room and board of the dependent and the expenses of the transportation of the dependent each school year between such tax home and the location of the school shall be treated as schooling expenses.

"(4) Determination of reasonable expenses.—If—

"(A) there is an adequate United States-type school available within a reasonable commuting distance of the individual's tax home, and

"(B) the dependent attends a school other than the school referred to in subparagraph (A),

then the amount taken into account under paragraph (2) shall not exceed the aggregate amount which would be charged for the period by the school referred to in subparagraph (A).

"(5) Period taken into account.—An amount shall be taken into account as a qualified schooling expense only if it is attributable to education for a period during which the individual's tax home is in a foreign country.

"(f) Qualified Home Leave Travel Expenses.—

"(1) In general.—For purposes of this section, the term 'qualified home leave travel expenses' means the reasonable amounts paid or incurred by or on behalf of an individual for the transportation of such individual, his spouse, and each dependent from the location of the individual's tax home outside the United States to a place in the United States and return.

"(2) One trip per 12-month period abroad.—Amounts may be taken into account under paragraph (4) of subsection (a) only with respect to one round trip per person for each continuous period of 12 months for which the individual's tax home is in a foreign country.

"(g) Special Rules Where Individual Maintains Separate Household for Spouse and Dependents Because of Adverse Living Conditions at Tax Home.—

"(1) In general.—For any period during which an individual maintains a qualified second household—

"(A) Qualified cost-of-living differential.—

"(i) Allowance determined by reference to location of qualified second household.—Paragraph (1) of subsection (c) shall be applied by substituting 'the qualified second household' for 'the individual's tax home'.

"(ii) Disregard of section 119 rule.—Subparagraph (E) of subsection (c) (2) shall not apply with respect to the spouse and dependents.

"(B) Qualified housing expenses.—

"(i) Expenses with respect to qualified second household taken into account.—For purposes of subsection (d), the expenses for housing of an individual's spouse and dependents at the qualified second household shall be treated as housing expenses if they would meet the requirements of subsection (d) (2) if the individual resided at such household.

"(ii) Separate application of subsection (d).—Subsection (d) shall be applied separately with respect to the housing expenses for the qualified second household; except that, in determining the base housing amount, the housing expenses (if any) of the individual for housing at his tax home shall also be taken into account under subsection (d) (3) (B) (ii).

(iii) Certain rules not to apply.—Paragraphs (4) (A) (ii) and (5) of subsection (d) shall not apply with respect to housing expenses for the qualified second household.

"(C) Requirement that spouse and dependents reside with individual for purpose of schooling and home leave.—

"(i) In general.—The requirement of subsection (h) (3) that the dependent or spouse of the individual (as the case may be) reside with the individual at his tax home shall be treated as met if such spouse or dependent resides at the qualified second household.

"(ii) Substitution of household for tax home.—In any case where clause (i) applies, paragraphs (3) and (4) of subsection (e). and paragraph (1) of subsection (f), shall be applied with respect to amounts paid or incurred for the spouse or dependent by substituting the location of the qualified second household for the individual's tax home.

"(2) Definition of qualified second household.—For purposes of this section, the term 'qualified second household' means any household maintained in a foreign country by an individual for the spouse and dependents of such individual at a place other than the tax home of such individual because of adverse living conditions at the individual's tax home.

"(h) Other Definitions and Special Rules.—

"(1) Definitions.—For purposes of this section—

"(A) Earned Income.—The term 'earned income' has the meaning given to such term by section 911(b) (determined with the rules set forth in paragraphs (2), (3), (4), and (5) of section 911(c)), except that such term does not include amounts paid by the United States or any agency thereof.

"(B) Tax home.—The term 'tax home' means, with respect to any individual, such individual's home for purposes of section 162(a) (2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States.

"(C) Residence at tax home.—A household or residence shall be treated as at the tax home of an individual if such household or residence is within a reasonable commuting distance of such tax home.

"(D) Adverse living conditions.—The term 'adverse living conditions' means living conditions which are dangerous, unhealthful, or otherwise adverse.

"(E) United states.—The term 'United States', when used in a geographical sense, includes the possessions of the United States and the areas set forth in paragraph (1) of section 638 and so much of paragraph (2) of section 638 as relates to the possessions of the United States.

"(2) Limitation to coach or economy fare.—The amount taken into account under this section for any transportation by air shall not exceed the lowest coach or economy rate at the time of such transportation charged by a commercial airline for such transportation during the calendar month in which such transportation is furnished. If there is no such coach or economy rate or if the individual is required to use first-class transportation because of a physical impairment, the preceding sentence shall be applied by substituting 'first-class' for 'coach or economy.'

"(3) Requirement that spouse and dependents reside with individual for purposes of schooling and home leave.—Except as provided in subsection (g) (1) (C) (i), amounts may be taken into account under subsection (e) with respect to any dependent of the individual, and under subsection (f) with respect to the individual's spouse or any dependent of the individual, only for the period that such spouse or dependent (as the case may be) resides with the individual at his tax home.

"(i) Certain Double Benefits Disallowed.—An individual shall not be allowed—

"(1) as a deduction (other than the deduction under section 151),

"(2) as an exclusion (other than the exclusion under section 911), or

"(3) as a credit under section 44A (relating to household and dependent care services),

any amount to the extent that such amount is taken into account under subsection (c), (d), (e), or (f).

"(j) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing rules.—

"(1) for cases where a husband and wife each have earned income from sources outside the United States, and

"(2) for married individuals filing separate returns."

(b) Deduction Allowed in Determining Adjusted Gross Income.—Section 62 (relating to definition of adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

(14) Deduction for Certain Expenses of Living Abroad.—The deduction allowed by section 913."

(c) Clerical Amendment.—The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following:

"Sec. 913. Deduction for certain expenses of living abroad."

Sec 4. Moving Expenses.

(a) Special Rules for Foreign Moves.—Section 217 (relating to moving expenses) is amended by redesignating subsection (h) as subsection (j) and by inserting after subsection (g) the following new subsections:

"(h) Special Rules for Foreign Moves.—

"(1) Increase in limitation.—In the case of a foreign move—

"(A) subsection (b) (1) (D) shall be applied by substituting '90 consecutive days' for '30 consecutive days',

"(B) subsection (b) (3) (A) shall be applied by substituting '$4,500' for '$1,500' and by subsituting '$6,000' for '$3,000', and

"(C) subsection (b) (3) (B) shall be applied as if the last sentence of such subsection read as follows: 'In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting "$2,250" for "$4.500", and by substituting "$3,000 for "$6,000".'

(2) Allowances of certain storage fees.—In the case of a foreign move, for purposes of this section, the moving expenses described in subsection (d) (1) (A) include the reasonable expenses—

"(A) of moving household goods and personal effects to and from storage, and

"(B) of storing such goods and effects for part or all of the period during which the new place of work continues to be the taxpayer's principal place of work.

"(3) Foreign move.—For purposes of this subsection, the term 'foreign move' means the commencement of work by the taxpayer at a new principal place of work located outside the United States.

"(4) United States defined.—For purposes of this subsection and subsection (i), the term 'United States' includes the possessions of the United States.

"(i) Allowance of Deductions in Case of Retirees or Decedents Who Were Working Abroad.—

"(1) In general.—In the case of any qualified retiree moving expenses or qualified survivor moving expenses—

"(A) this section (other than subsection (h)) shall be applied with respect to such expenses as if they were incurred in connection with the commencement of work by the taxpayer as an employee at a new principal place of work located within the United States, and

"(B) the limitations of subsection (c) (2) shall not apply.

"(2) Qualified retiree moving expenses.—For purposes of paragraph (1), the term 'qualified retiree moving expenses' means any moving expenses—

"(A) which are incurred by an individual whose former principal place of work and former residence were outside the United States, and

"(B) which are incurred for a move to a new residence in the United States in connection with the bona fide retirement of the individual.

"(3) Qualified survivors moving expenses.—For purposes of paragraph (1), the term 'qualified survivor moving expenses' means moving expenses—

"(A) which are paid or incurred by the spouse or any dependent of any decedent who (as of the time of his death) had a principal place of work outside the United States, and

"(B) which are incurred for a move which begins within 6 months after the death of such decedent and which is to a residence in the United States from a former residence outside the United States which (as of the time of the decedent's death) was the residence of such decedent and the individual paying or incurring the expense."

Sec. 5. Meals or Lodging Furnished to Employees Under Certain Conditions.

(a) General Rule.—Section 119 (relating to meals or lodging furnished for the convenience of the employer) is amended—

(1) by striking out "furnished to him by his employer for the convenience of the employer" and inserting in lieu thereof "furnished to him, his spouse, or any of his dependents by or on behalf of his employer for the convenience of the employer", and

(2) by striking out "There shall" and inserting in lieu thereof "(a) Meals and Lodging Furnished to Employee, His Spouse, and His Dependents, Pursuant to Employment.—There shall".

(b) Special Rule for Foreign Meals or Lodging.—Section 119 is amended by adding at the end thereof the following new subsection:

"(b) Foreign Meals or Lodging.—

"(1) In General.—The value of meals or lodging furnished to an employee, his spouse, and dependents at a location outside the United States by or on behalf of his employer shall be excluded from gross income of an employee if either—

"(A) the requirements of section (a) are satisfied, or

"(B) such meals or lodging are camp-style meals or lodging, as defined in paragraph (2).

"(2) Camp-style meals and lodging defined.—For purposes of this subsection—

"(A) Meals.—Meals shall be considered camp-style meals if—

"(i) such meals are furnished in a common eating area which normally serves 10 or more employees and is not available to the public, and

"(ii) the employee is furnished lodging the value of which is excludible from gross income under this section.

"(B) Lodging.—Lodging shall be considered camp-style lodging if the requirements of any of the following clauses are met:

"(i) 2 or more unrelated employees are required by the employer to share the same living quarters.

"(ii) The lodging is furnished in common area not available to the public which common area normally accommodates 10 or more employees.

"(iii) In the case of housing located in a qualified foreign country (as defined in section 911(d))—

"(I) the housing is assigned on the basis of family size or other nonincome, nonjob description basis,

"(II) the employer assigns housing in the immediate geographic area to 100 or more employees who are United States citizens or residents, and

"(III) the employee lives in housing occupied solely by employees (and their families) of the employer.

"(3) United states defined.—For purposes of this subsection, the term 'United States' includes the possessions of the United States."

Sec. 6. Suspension of Running of the Period Under Section 1034 for Purchasing a New Principal Residence.

Section 1034 (relating to sale or exchange of residence) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Individual Whose Tax Home Is Outside the United States.—The running of any period of time specified in subsection (a) or (c) (other than the 18 months referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) has a tax home (as defined in section 913(h)(1)(B)) outside the United States after the date of the sale of the old residence; except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence."

Sec. 7. Miscellaneous Amendments.

(a) Wage Withholding.—Subsection (a) of section 3401 (defining wages) is amended by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; or" and by adding at the end thereof the following new paragraph:

"(18) to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 913 (relating to deduction for certain expenses of living abroad)."

(b) Place for Filing Returns.—Clause (iii) of section 6091(b)(1)(B) (relating to place for filing tax returns) is amended by inserting "section 913 (relating to deduction for certain expenses of living abroad)," before "section 931".

(c) Authority To Require Information Concerning Section 912 Allowances.—Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Authority To Require Information Concerning Section 912 Allowances.—The Secretary may by regulations require any individual who receives allowances which are excluded from gross income under section 912 for any taxable year to include on his return of the taxes imposed by subtitle A for such taxable year such information with respect to the amount and type of such allowances as the Secretary determines to be appropriate."

Sec. 8. Reports by Secretary.

(a) General Rule.—As soon as practicable after the close of the calendar year 1979 and after the close of each second calendar year thereafter, the Secretary of the Treasury shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth with respect to the preceding 2 calendar years—

(1) the number, country of residence, and other pertinent characteristics of persons claiming the benefits of sections 911, 912, and 913 of the Internal Revenue Code of 1954,

(2) the revenue cost and economic effects of the provisions of such sections 911, 912, and 913, and

(3) a detailed description of the manner in which the provisions of such sections 911, 912, and 913 have been administered during the preceding 2 calendar years.

(b) Information From Federal Agencies.—Each agency of the Federal Government which pays allowances excludable from gross income under section 912 of such Code shall furnish to the Secretary of the Treasury such information as he determines to be necessary to carry out his responsibility under subsection (a).

Sec. 9. Effective Dates.

(a) General Rule.—Except as provided in subsection (b), the amendments made by this Act shall apply to taxable years beginning after December 31, 1977.

(b) Wage Withholding.—The amendment made by section 7(a) shall apply to remuneration paid after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. Ullman) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. Frenzel) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. Ullman).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 13488, the Foreign Earned Income Act of 1978, substantially revises the taxation of Americans working abroad. The bill establishes a new system of deductions for certain excess foreign living costs which are designed to place Americans working abroad in a position more comparable to Americans working in the United States. The bill provides additional exclusions in certain situations as an incentive for Americans to work abroad. The Ways and Means Committee feels that the presence of Americans working abroad is important to the U.S. economy, particularly the exports sector, and that the changes made by the bill are necessary to enable Americans and their employers to compete effectively with foreign nationals for jobs abroad.

For Americans working in foreign countries other than Canada or those in Western Europe, the bill increases the flat annual exclusion from tax of income earned abroad to its levels prior to the Tax Reform Act of 1976. However, no exclusion would be allowed to taxpayers in Canada or Western Europe.

In addition, the bill makes several changes applicable to Americans who live and work in any foreign country, including Canada and Western Europe. First, the bill establishes a new system of deductions for excess cost-of-living, housing, schooling, and annual home leave expenses. Second, it exempts employees who live in camps abroad from tax on the full value of meals and lodging provided by their employers. Third, it liberalizes certain limitations on the deduction for the expenses of moving to a new job location in the case of foreign moves. Finally, for taxpayers who sell their houses and move abroad, the bill extends to 4 years the period during which they can defer tax on the gain by purchasing a new house.

These provisions would be effective for taxable years beginning in 1978. The House has already passed H.R. 9251, which would extend through 1977 the law in effect prior to the Tax Reform Act of 1976. The Senate has also passed H.R. 9251, but with an amendment. Like this bill, the amendment would substantially revise, beginning in 1978, the tax treatment of Americans working abroad. Conference on H.R. 9251 has been delayed pending the action by the House on this bill.

The Committee on Ways and Means estimates that H.R. 13488 will reduce revenues by $458 million in fiscal year 1979; $466 million in fiscal year 1980; $505 million in fiscal year 1981, $549 million in fiscal year 1982; and $552 million in fiscal year 1983.

Mr. Speaker, I urge the adoption of H.R. 13488.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 13488 which liberalizes the taxation of foreign earned income of U.S. taxpayers.

The bill reflects the Ways and Means Committee's decisions that: First, the changes made by the Tax Reform Act of 1976 concerning the taxation of U.S. citizens employed abroad (Code section 911) were too restrictive; and second, additional tax incentives are needed to maintain U.S. competitiveness in foreign markets.

Initially the committee decided that the effective date of the 1976 act's section 911 amendments should be delayed. However, after the passage of H.R. 9251 earlier this year, which delayed the amendment's effective date for 1 year, it became clear that new permanent foreign earned income rules were necessary. H.R. 13488 establishes these rules which may be summarized as follows:

First. The foreign earned income exclusion is restored to its pre-1976 Reform Act levels of $20,000 or $25,000. However, the exclusion does not apply to wages earned in Canada and Western Europe.

Second. U.S. taxpayers employed abroad, including those in Canada and Western Europe, are allowed a deduction for certain foreign living costs. Specifically the deduction is allowed for certain housing, schooling, and home leave travel expenses, as well as for a cost-of-living differential.

Third. The moving expense deduction and the exclusion for gain on the sale of your principal residence are liberalized in the case of foreign employment.

Fourth. The exclusion for employer furnished meals and lodging is liberalized in the case of domestic and foreign employment.

In my judgment the denial of the earned income exclusion to wages earned in Western Europe is not sound tax policy and will have an adverse effect on U.S. business in these highly competitive areas, especially in the recruitment of competent and highly qualified individuals. This will make it more difficult to sell and service U.S.-made products in Western Europe which will not help to correct our currently unfavorable trade situation.

H.R. 13488 differs in several respects from its Senate counterpart, perhaps the most significant difference being that H.R. 13488 contains a foreign earned income exclusion while the Senate bill does not. Despite my objections that it is not strong enough, our limited earned income exclusion must be retained. I strongly urge our conferees to support it, as well as the other provisions of the bill.

In summary, H.R. 13488 allows U.S. taxpayers employed abroad to be more equitably taxed while maintaining the competitiveness of U.S. business in foreign countries and I urge its immediate passage.

Unless we provide better incentives for Americans to work abroad, the present exodus of U.S. citizens from foreign ports will continue. When American nationals are replaced by foreign nationals who in most cases pay no income taxes at all to their home countries, those foreign nationals are less likely to specify American goods and services on their projects.

Worse, American firms under present circumstances, have to charge a huge premium over foreign competitors on construction projects which require American supervisors and foremen. Under the current tax structure, American contractors either must lose the jobs or hire foreign supervisors.

If we are serious of expanding exports—and we should remember an export expansion program will be announced tomorrow at the White House—we must pass H.R. 13488.

This is a bill which deserves the unanimous support of this House, and I hope it will get that support.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ULLMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Speaker, I rise in strong opposition to H.R. 13488, the Foreign Earned Income Act of 1978. This is highly controversial, multibillion dollar legislation which has no business being placed on the Suspension Calendar. We should reject it on procedural grounds alone.

I can think of no other instance where the House has considered a $500 million annual expenditure without providing opportunity for amendment. In fact, seven members of the Ways and Means Committee prefer legislation passed by the Senate, which would cost the taxpayers hundreds of millions of dollars less per year while achieving the same objectives as the House bill. The Senate language would grant generous tax deductions for "excess" housing, food, medical, and education expenses incurred by Americans working abroad, while eliminating the duplicative $20,000 exclusion.

This bill is opposed by the administration, and by every major tax reform group in Washington. It is opposed by a sizable minority of the Ways and Means Committee which seeks to amend it. It is prohibitively expensive, yet under suspension we are not even allowed to consider less costly alternatives.

Senator PROXMIRE characterized this bill as a "flagrant tax loophole" in testimony before the Ways and Means Committee, and rightly so. It would confer upon 150,000 privileged Americans tax breaks larger than most families earn in an entire year.

I urge defeat of H.R. 13488 under suspension, Mr. Speaker, so that the House can properly consider this bill under an open rule with complete opportunity for amendment.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. LONG).

Mr. LONG of Louisiana. Mr. Speaker, I request permission to revise and extend my remarks.

Today we are considering H.R. 13488, the Foreign Earned Income Act of 1978, a bill that promises to lift an unfair burden of taxation from many Americans working overseas. It will make a contribution to our flagging export performance at the same time.

This is not one of those bills, Mr. Speaker, that is destined to capture headlines around the country. The sums involved do not mount up to the multibillion dollar level that seems to capture national attention. But, it is a well-crafted legislative response to changes in the law that threatened the well-being of thousands of overseas Americans.

The Foreign Earned Income Act also represents one of the final legislative initiatives of Louisiana's JOE WAGGONNER. It is typical of JOE's willingness to take on the tough, often technical isssues, and hammer out thoughtful compromise. As you know, Mr. Speaker, after the current session, JOE WAGGONNER will be stepping into a much deserved retirement. Too often the careful work of men like JOE WAGGONNER goes unnoticed, unreported, and unappreciated. I did not want it to happen this time.

Let me give you an idea of some of the complexities JOE had to wrestle with in designing the Foreign Earned Income Act. The story starts in the period before 1976 when the overseas earnings of Americans living abroad got a number of special tax breaks. Depending on how long you lived and worked in another country, up to $25,000 of earned income was simply not subject to U.S. taxation. More important, allowances for housing, education, and other expenses were generally not treated as income. I say more important because, in many instances, even a rough approximation to American conditions involved a great deal of extra expense.

In 1976, the Congress lowered the maximum exclusion to $15,000. At the same time, the tax court gave Treasury the rights to tax those extra allowances that were designed to offset high costs of matching an American standard of living in many parts of the world. The two tax changes threatened U.S. exports and added up to a potential tax nightmare for large numbers of overseas Americans.

Mr. Speaker, as cochairman of the Joint Economic Committee's Subcommittee on International Economics, I recently visited New Orleans to chair a hearing on U.S. export policy. We heard a great deal about taxes on Americans working abroad, and what that will mean for U.S. exports.

Our witnesses emphasized the importance of services in our international accounts—engineers and construction contractors are active around the world. Their past success has eased the pressure on the dollar when we import more than we export. But, higher taxes for these men overseas will mean higher costs to the firm or maybe no overseas business at all.

Let me cite one example that was reported previously in the press. An engineer working overseas with a base salary of $27,000 also received a substantial number of special allowances designed to keep his standard of living close to what he had at home. Under the new rules, the tax on his total income would be about $20,000—leaving him the choice of accepting a minimal after-tax income, abandoning an American lifestyle, or returning home. Of course, the engineer's firm or company could absorb the cost. But, if they did, they might no longer be able to compete for major service contracts.

Our witnesses also stressed the advantage of having an overseas American in the right spot at the right time. An American purchasing agent looks toward the United States to fill his orders. When U.S. tax policies make it less expensive to hire a European or other foreign national, the orders may well go elsewhere. The result in each case is the same—lost business for the United States, lost business at a time when we are struggling to boost our exports to match a sharp increase in our imports.

Mr. Speaker, the administration and the Senate have already proposed alternatives that would allow deductions for many of the excess costs of living abroad. Something must be done to ease the situation of the overseas Americans and insure our ability to compete in emerging export markets. The Foreign Earned Income Act of 1978 is even more carefully crafted to balance the economic interests of individual Americans working abroad and the national economy. The act would restore the pre-1976 provisions for excluding income earned while working overseas. However, the exclusion not apply to either Western Europe or Canada, parts of the world where living standards are already comparable to our own. Within Western Europe a special exception would be made for money earned while actually working on a North Sea oil rig—another area of prime national interest.

Under the Foreign Earned Income Act, special deductions would be allowed for additional cost of living, housing, education, and home travel expenses. Certain moving expenses could also be deducted. The overseas American would have up to 4 years to reinvest the proceeds from the sale of his house without incurring capital gains tax liability. Members of the U.S. Armed Forces already benefit from the 4-year limit.

Mr. Speaker, the Foreign Earned Income Act of 1978 reflects the hard work and the handiwork of Louisiana's own JOE WAGGONNER and his many able colleagues on the Ways and Means Committee. The bill goes a long way to restoring fairness in the treatment of overseas Americans and helps maintain the U.S. position in important export markets. With some justice, we could refer to the bill as the "Equity and Export Act of 1978." Mr. Speaker, I urge its prompt passage and early implementation.

Mr. ULLMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Speaker, the Tax Reform Act of 1976 made a serious mistake that jeopardizes the competitiveness of American firms in world markets. This mistake contributed to a 1978 trade deficit that surpassed the unprecedented 1977 deficit of $29 billion. My goal, as an original author of H.R. 13488, is to correct this error before the 1979 trade deficit surpasses the dubious record of 1978.

Prior to the 1976 Reform Act, U.S. citizens could annually exclude up to $20,000 of income earned abroad if they were bona fide foreign residents. This wise rule acknowledged that Americans working overseas need a larger salary to maintain the same standard of living. Equity requires that taxpayers in comparable circumstances bear equivalent tax burdens.

Americans overseas face a variety of costs in excess of what they would pay to live in America. Housing, education, home travel, and the general cost of living are all more expensive.

As a generalization, housing costs overseas usually exceed such costs in the United States by a wide margin. The U.S. Government's "Annual Housing Survey" for 1974, for example, showed that the average American at home spends less than 20 percent of his income on housing. Americans overseas, on the other hand, frequently have to spend 75 percent of their incomes on housing. At the extreme, three-bedroom houses in the Middle East rent from $16,000 to $29,000 per year. The comparable figure in Nigeria approaches $40,000 per year.

As to education, many Americans overseas must send their children to expensive private schools simply because adequate public schools do not exist. School costs for only one child may range from $4,500 to $7,000 per year.

Americans overseas desire to and should return home periodically. The cost of such travel home, of course, varies with the location of the overseas assignment. As an example, however, it costs about $6,400 for a family of four to make the round trip home from Iran.

In the context of my remarks, the "cost of living" refers to all expenses overseas other than housing, education, and taxes. It, therefore, covers such items as food, clothing, other goods, and services, et cetera. Typically, the cost of living overseas exceeds such costs in the United States. The cost of living in such cities as Paris and Frankfurt, for example, exceeds that of Washington, D.C., by approximately 50 percent.

The American worker abroad must meet these expenses somehow. In most instances, these extraordinary costs—to the extent they exceed the cost of comparable items in the United States—are borne by the employer in the form of allowances paid to the overseas employee. These allowances are not intended to create an economic advantage for the overseas worker, but merely to keep him in substantially the same economic circumstances as if he had remained in the United States. Equity demands that he bear proportionally no greater tax burden than the worker who enjoys equivalent benefits by staying at home.

The Tax Reform Act of 1976, however, upset this carefully balanced equity by reducing the earned income exclusion to $15,000 a year. The 1976 changes to section 911 more than doubled the tax liability of Americans working outside our borders. This doubling cost dearly—not only in terms of lost equity, but also in terms of undermining the competitiveness of American firms in the world market.

American companies simply cannot underbid foreign businesses which are not taxed on income earned abroad. The United States is one of the few countries to tax the worldwide income of its citizens. Untaxed foreigners can settle for smaller wages. Therefore, they can consistently underbid our U.S. firms. With the U.S. trade deficit pathetically rising, we simply cannot afford to artificially increase the cost of United States labor by taxation. United States businesses must be placed on an equal footing with its foreign competitors.

Without passage of this relief, skilled American craftsmen abroad will be forced to return home, thus displacing many others currently at work within the United States. Moreover, lost business opportunities abroad can cost jobs in domestic industries that supply building materials and products for overseas enterprises.

I am proud to be an original author of H.R. 13488. This legislation corrects the 1976 mistake. It realistically offsets the problems caused by extraordinary foreign living expenses and provides an incentive for American business to expand abroad. This expansion generates further demand for American products and services, which in turn, stimulates more employment and production at home. By simply returning to the pre-1976 income exclusion—which in all fairness should be increased to account for inflation—we can move toward these goals.

Tax equity demands this bill. United States economic growth demands this bill. I respectfully urge my colleagues to be sensitive to these demands.

Mr. PICKLE. Mr. Speaker, I rise in support of H.R. 13488, the Foreign Earned Income Act, that would restore the flat exclusion for income earned by Americans working abroad to its levels prior to the Tax Reform Act of 1976, although the exclusion would only be allowed in areas other than Canada and Western Europe. In addition, deductions would be allowed in all foreign countries for excess foreign cost of living, housing, education, and annual home leave costs.

I opposed the changes made in the 1976 Tax Reform Act when they were first proposed on the ground that we would be hurting our U.S. citizens who work abroad and placing our industries at a competitive disadvantage in securing contracts abroad. The arguments I made then are even more valid today when the United States is suffering a tremendous balance-of-trade deficit. The GAO report, "Impact on Trade of Changes in Taxation of U.S. Citizens Employed Overseas" (1978), estimated that the 1976 act changes would result in the loss of 3,000 jobs annually in 1978, rising to 15,000 in 1982. They also estimated that the U.S. gross national product would be decreased annually by $160 million in 1978 and by $430 million in 1982. We are tremendously affected by foreign trade; while the whole figure may be small in comparison to domestic sales, that amount contributes to make the whole industry profitable. Further, when we replace U.S. citizens working overseas, we also lose the advantage we have in those citizens requesting American products with which they are familiar. This can have a tremendous impact on heavy machinery and other sales where we are extremely competitive with other countries.

I urge support of this bill that will help us improve our trading position.

● Mr. JONES of Oklahoma. Mr. Speaker, I rise in support of H.R. 13488. I hope that the House of Representatives will pass this bill so that we can work out our differences with the other body and put to rest this long-lingering controversy regarding the tax treatment of Americans working abroad.

For too long, the status and tax treatment of overseas citizens of the United States has been in limbo. The difficulties arose during our consideration of the Tax Reform Act of 1976, when we amended section 911 of that act. This section cut back drastically on the tax deductions and exemptions provided to Americans who live and work in foreign countries. At that time, we were concerned with closing tax loopholes and many Members felt that the pre-1976 Tax Reform Act treatment of overseas citizens was such a loophole. Candidly, Mr. Speaker, I did not support the 1976 Tax bill. I had several reasons for opposing it. First, I thought it was too complicated in many respects to be workable. I felt that in our zeal to produce tax equity we had trampled on another goal we should be striving for; namely, tax simplification.

I believe my opposition to the 1976 bill on the grounds of complication was vindicated last year when the Ways and Means Committee reported out a technical corrections bill that would explain and correct many of the more glaring difficulties with the 1976 bill. Unfortunately, that technical corrections legislation has still not become law, because of a substantive dispute over one of the sections of the 1976 act.

My second reason for opposing the 1976 tax bill stemmed from a feeling that we really did not have all the facts regarding some of the actions we decided to take that year. I believe that the passage of section 911, as a part of that tax bill, fell into that category. We acted hastily, Mr. Speaker, and I think most Members realize this now.

Section 911 reduced the earned income exclusion for Americans working abroad from $20,000 to $15,000. It made other changes to the tax code which put Americans working abroad at a competitive disadvantage with foreign workers.

The repercussions of our actions in 1976 were immediately felt. In 1975–76, the United States' worldwide share of construction and engineering contracts overseas was approximately 15 percent, according to industry sources. In 1977–78, this share had dropped to 10.3 percent. This reduction occurred despite the fact that the 1977 Tax Reduction and Simplification Act had stayed the effective date of section 911 until 1977. In October of 1977, the House passed a bill which I authored, H.R. 9251, the Tax Treatment Extension Act, which further delayed the imposition of section 911 until 1978.

These delays, while preventing an even more drastic decline in the competitive position of Americans abroad, have not provided any certainty in this tax area. Consequently, American presence overseas has continued to decline. We now have an opportunity to correct the damage done in the 1976 Tax Reform Act once and for all. I hope the House will take this opportunity, so we will not be facing repeated extensions and delays of a provision which never had any usefulness to outlive.

H.R. 13488 is very close to the bill which I originally placed before the Ways and Means Committee in May of this year. We have worked to improve the bill so that it meets the objections of those concerned with loophole closing while preserving tax equity for those citizens of the United States who choose to go overseas and work. I emphasize the word "work," because most Americans who are being hurt by section 911 are not the "mink-swathed expatriates" referred to by some Members of the other body. They are construction workers and engineers in the Mideastern countries, working 12 to 14 hours a day in less-than-ideal conditions. They are petroleum specialists and roughnecks who work on the windswept drilling platforms in the North Sea. These are the people the committee bill is designed to provide relief to, and these are the people who deserve such relief.

The bill would restore the tax exclusion rates back to where they were prior to the passage of the 1976 Tax Reform Act. In addition, the bill would provide foreign cost-of-living deductions for housing, educational expenses, home leave, moving expenses, and meals and lodging when furnished by the employer. These provisions would insure that Americans remain competitive in overseas markets.

In order to insure that relief is provided to those who really deserve it, the bill prevents taxpayers living in Canada or Western Europe from obtaining the flat exclusion. This should allay the fears of those who believe we are aiding wealthy Americans in the gambling casinos of Monaco. At the same time, the Northern European prohibition does not extend to the North Sea, where many Oklahomans currently work in oil and gas operations.

Mr. Speaker, this bill meets the requirements of tax reform and tax equity. It will insure that Americans abroad can remain on their jobs. It will aid our balance-of-payments problem. It deserves our support.●

● Mr. MATTOX. Mr. Speaker, I rise today in support of H.R. 13488, the Foreign Earned Income Act.

All across this Nation, there is talk of "taxpayers' revolt," and this movement gets its driving force from the working people who are tired of high taxes and high inflation eating away at their income.

But if tax relief is to be provided to those within our boundaries, it must also be provided to those expatriated Americans who are not here to defend their cause.

The Tax Reform Act of 1976 exacted a heavy toll from Americans who chose to work overseas. The amount of money they could earn and exclude from U.S. income taxes was reduced to $15,000. Foreign income taxes paid on that excluded amount could no longer be deducted from U.S. taxes. And income above the $15,000 level would be taxed at a higher tax bracket.

The Foreign Earned Income Act is designed to correct these other inequities and give those Americans working overseas the tax relief they need.

-Opponents of this bill are trying to picture it as a boondoggle for the rich; a kind of tax shelter for those living it up in exotic foreign capitals. The truth of the matter is, this bill is designed to help thousands of working people around the world, blue collar and white collar alike. And excluded under this bill are persons working in Canada and Western Europe, so we are not giving unfair breaks to those living in Paris or Montreal.

These overseas workers need this tax relief. They will still be taxed for income over $20,000, and would still be liable for foreign taxes. Given the high prices for food and accommodations overseas, the generally sparse living arrangements, and the fact that these workers are not able to enjoy the many amenities and services their tax dollars provide, I support this legislation and hope that it is enacted into law soon.●

Mr. ULLMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 13488, as amended.

The question was taken.

Mr. DRINAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. DRINAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

INCOME SOURCE RULE REGARDING CERTAIN RAILROAD ROLLING STOCK

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 12352, to amend the Internal Revenue Code of 1954 to provide that income from certain railroad rolling stock shall be treated as income from sources within the United States, as amended.

The Clerk read as follows:

H.R. 12352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCOME FROM CERTAIN RAILROAD ROLLING STOCK TREATED AS INCOME FROM SOURCES WITHIN THE UNITED STATES.

Section 861 of the Internal Revenue Code of 1954 (relating to income from sources within the United States) is amended by adding at the end thereof the following new subsection:

(f) INCOME FROM CERTAIN RAILROAD ROLL-

ING STOCK TREATED AS INCOME FROM SOURCES WITHIN THE UNITED STATES.—

"(1) GENERAL RULE.—For purposes of subsection (a) and section 862(a), if

"(A) a taxpayer leases railroad rolling stock which is section 38 property (or would be section 38 property but for section 48(a) (5) to a United States person, and

"(B) the use under such lease is expected to be used within the United States,

all amounts includible in gross income by the taxpayer with respect to such railroad rolling stock (including gain from sale or other disposition of such railroad rolling stock) shall be treated as income from sources within the United States. The requirements of subparagraph (B) of the preceding sentence shall be treated as satisfied if the only expected use outside the United States is use by a person (whether or not a United States person) in Canada or Mexico on a temporary basis which is not expected to exceed a total of 90 days in any taxable year.

"(2) PARAGRAPH (1) NOT TO APPLY WHERE LESSOR IS A MEMBER OF CONTROLLED GROUP WHICH INCLUDES A RAILROAD.—Paragraph (1) shall not apply to a lease between 2 members of the same controlled group of corporations (as defined in section 1563) if any member of such group is a domestic common carrier by railroad or a switching or terminal company referred to in subparagraph (B) of section 184(d) (1).

"(3) DENIAL OF FOREIGN TAX CREDIT.—No credit shall be allowed under section 901 for any payments to foreign countries with respect to any amount received by the taxpayer with respect to railroad rolling stock which is subject to paragraph (1)."

SEC. 2. EFFECTIVE DATES.

(a) IN GENERAL.—The amendment made by section 1 shall apply to all railroad rolling stock placed in service with respect to the taxpayer after the date of the enactment of this Act.

(b) ELECTION TO EXTEND SECTION 861(f) TO RAILROAD ROLLING STOCK PLACED IN SERVICE BEFORE DATE OF ENACTMENT.—

(1) IN GENERAL.—At the election of the taxpayer, the amendment made by section 1 shall also supply, for taxable years beginning after the date of the enactment of this Act, to all railroad rolling stock placed in service with respect to the taxpayer on or before such date of enactment. Such an election may not be revoked except with the consent of the Secretary of the Treasury or his delegate.

(2) MANNER AND TIME OF ELECTION AND REVOCATION.—An election under paragraph (1), and any revocation of such an election, shall be made in such manner and at such time as the Secretary of the Treasury or his delegate may by regulations prescribe.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, H.R. 12352, would make a minor modification in the tax rules relating to the source of income or loss from the rental of railroad rolling stock in order to resolve problems which have arisen under present law in the case of rolling stock which is used in Canada or Mexico on a temporary basis.

Under present law, a lessor of railroad rolling stock may lose foreign tax credits if the lease produces a tax loss for the year and the cars are used outside the United States. Some lessors have required railroads which lease the cars from them to agree to indemnify them for these adverse tax consequences. The potential liability under these indemnity agreements has deterred the railroads from allowing the lease-financed rolling stock to be used outside the United States and therefore has resulted in inefficient utilization and routing of the rolling stock.

The bill provides that the income or loss from the rental of railroad rolling stock placed in service after the date of enactment is to be U.S. source income or loss if the rolling stock is not used outside the United States except on a temporary basis not expected to exceed 90 days. At the election of the lessor, the bill also applies to railroad rolling stock placed in service on or before the date of enactment. This modification of the source rules for income and loss from the rental of rolling stock would prevent the potential loss of lessors' foreign tax credits and would permit lessees to be more flexible in their utilization of the rolling stock outside the United States.

The bill will not result in any significant revenue loss. It is not controversial and is not opposed by the Treasury Department.

Mr. Speaker, I urge the adoption of H.R. 12352.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12352 concerning the taxation of income and losses from the leasing of certain railroad rolling stock.

Currently, when leased railroad rolling stock is used predominately in the United States and the balance of the time in Canada or Mexico, the code's technical source rules produce a tax result that is not entirely consistent with the transaction's economic results. In some cases this has discouraged commerce between the United States, Canada, and Mexico.

H.R. 12352 allows income or losses from the rental of railroad cars that are "predominately used" in the United States to be treated as United States "sourced." To limit the bill's benefits, H.R. 12352 does not apply to lease transactions between corporations that are members of the same affiliated group. In addition a foreign tax credit is not allowed with respect to amounts that benefit from the bill's provisions.

The Revenue Act of 1971 allowed lessors of certain ships and aircraft an election that achieved the same result as the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ULLMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 12352, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three bills just considered and which were reported out of the Committee on Ways and Means.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

WISCONSIN WILDERNESS LANDS DESIGNATION

Mr. WEAVER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12264) to designate certain lands in the State of Wisconsin as wilderness.

The Clerk read as follows:

H.R. 12264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the purposes of the Wilderness Act (78 Stat. 891), the following lands as generally depicted on maps appropriately referenced, dated March 1978, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, are hereby designated as Wilderness and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Nicolet National Forest, Wisconsin, which comprise approximately five thousand eight hundred and eighty-six acres are generally depicted on a map entitled "Blackjack Springs Wilderness Area—Proposed"; and

(2) certain lands in the Nicolet National Forest, Wisconsin, which comprise approximately seven thousand three hundred and fifteen acres and are generally depicted on a map entitled "Whisker Lake Wilderness Area—Proposed".

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Blackjack Springs Wilderness and Whisker Lake Wilderness with the Senate Committee on Energy and National Resources and the House Committee on Interior and Insular Affairs, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such map and description may be made.

SEC. 3. The Blackjack Springs Wilderness and Whisker Lake Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as Wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. WEAVER) will be recognized for 20 minutes, and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 12264 which designates the 5,886-acre Blackjack Springs and 7,315-acre Whisker Lakes roadless areas in Wisconsin's Nicolet National Forest as components of the National Wilderness Preservation System. The Nicolet National Forest currently has no designated wilderness, and the Whisker Lakes and Blackjack Springs proposals comprise only 2 percent of the federally owned lands in the Forest. These two small areas are of importance in that they provide an opportunity to add diversity to the Wilderness System in an area which currently has little designated wilderness. Whereas most existing units of the Wilderness System are located in the Western United States and are far away from Eastern metropolitan centers, Whisker Lakes and Blackjack Springs are within a weekend's drive of Minneapolis-St. Paul, Duluth, Green Bay, Milwaukee, and even Chicago.

In the Lake States, as elsewhere in the Nation, the demand for wilderness-oriented recreation has increased dramatically in recent years. Both Whisker Lakes and Blackjack Springs meet this demand, and are popular for canoeing, cross-country skiing, hiking, swimming, and camping—especially since access to these recreational values is facilitated by numerous fringing roads and nearby Forest Service campgrounds.

Both areas are presently included in the Forest Service's national RARE II review of potential wilderness areas in the national forest system, and the Lakes States draft RARE II environmental statement indicates that they will likely be recommended for wilderness upon completion of RARE II in December of this year. While some have suggested that congressional consideration of the areas be delayed until completion of RARE II, little, except for an increased workload in the Interior Committee next year, would be accomplished by such a delay. This is true, because the wilderness values of both areas have been exhaustively studied by the Forest Service and the public for over 5 years, and the boundaries of H.R. 12264 were carefully drawn by the Forest Service earlier this year. As such, the Interior Committee felt that abundant information is available to proceed with enactment of H.R. 12264 at this time.

It should further be noted that wilderness designation of Whisker Lakes and Blackjack Springs will have a minimal conflict with other resource uses. The areas contain less than 5 percent of the 56.1 million board foot annual potential timber yield of the Nicolet National Forest, and the timber is not needed to sustain existing harvest levels, or those projected for the foreseeable future. While there may be some potential for zinc and copper in Blackjack Springs, the mineral rights are privately owned and, therefore, would carry with them the right to access, if and when exploration and development is ever initiated. Whisker Lakes has no known mineral potential. The prohibition of off road vehicles in these two small areas should likewise have a negligible impact given the areas' rugged topography, dense vegetation, and availability of the remaining 98 percent of the Nicolet National Forest which will remain open to mechanized recreation.

For these reasons, I urge my colleagues' strong support of H.R. 12264.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the minority is in support of this legislation.

Mr. Speaker, I have no requests for time and I yield back the balance of my time.

Mr. WEAVER. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. CORNELL).

Mr. CORNELL. Mr. Speaker, 14 years after the passage of the Wilderness Act, there are only two designated wilderness areas in the entire State of Wisconsin: A few small islands in Lake Michigan, and Rainbow Lake in the northern part of the State, far from major population centers. The bill before us today, H.R. 12264, which I had the honor of introducing, would designate two small portions of the Nicolet National Forest in northeastern Wisconsin as wilderness areas. Blackjack Springs, consisting of 5,886 acres, and Whisker Lakes, comprising 7,315 acres, have been recognized as among the finest natural highlights of the Wisconsin national forests. Both, I am pleased to say, are located in the Eighth Congressional District which I have the honor of representing in this Chamber.

The total acreage of these proposed wilderness areas represents but 2 percent of the 652,000 federally owned acres of the Nicolet National Forest. Almost all the land in both areas is already under Federal ownership as a part of the Nicolet National Forest, thus creating little need for Federal funds for land acquisition. Neither area produces significant amounts of timber, so wilderness designation would not affect the timber production of the Nicolet Forest, nor would the designation affect the timber revenue or Federal payments in lieu of taxes for the areas in which they are located.

When Congress enacted the Wilderness Act of 1964, it declared that there should be areas set aside where nature can take its course and go undisturbed by man. The Eastern Wilderness Act of 1975 further declared it to be national policy that portions of the eastern American forests be identified and preserved as wilderness areas. We have millions of acres of national forest lands where multiple uses are permitted, including logging, motorized recreational use, and resort development. This legislation proposes that we add two areas, modest in size but rich in beauty, to the National Wilderness Preservation System in order to allow citizens the unique pleasure gained only in an area left undeveloped, unaltered, unmanaged, and disturbed only by man's temporary presence.

I ask, Mr. Speaker, that the Members of this House give their approval to H.R. 12264 so that the people of my State and district can more fully share in the benefits of the great American Wilderness Preservation System, and so that the system itself can benefit from the inclusion of two outstanding additions.

● Mr. REUSS. Mr. Speaker, as a member of the Wisconsin delegation, I am especially pleased to join my colleague, Mr. CORNELL, in proposing this legislation to designate Blackjack Springs and Whisker Lakes as wilderness areas. Throughout our State and region, including my district in Milwaukee, there is a rising interest in enjoying outdoor recreation. The Nicolet National Forest, comprising over 600,000 acres of Wisconsin timberland, offers recreational opportunities for thousands of visitors, as well as supplying timber for the Nation's expanding needs. Nowhere in the Nicolet Forest, however, can our citizens be assured of partaking in the unique experience of a wilderness area, where nature is left undisturbed and man himself is but a visitor. This legislation proposes two small areas where such an experience is possible.

Both of these areas have unusual scenic and natural attributes, and contain wilderness qualities far in excess of the general character of the Nicolet National Forest. Both are also unusual in the degree to which Federal ownership exists in a solid block, so that wilderness can be designated with only a very minor amount of acquisitions of private lands. Indeed, both have been recognized by the Forest Service, which has for some years managed the core portions of each area as de facto wilderness, prohibiting, to the extent possible, uses that conflict with preservation of wilderness values.

Mr. Speaker, the desire to preserve some of earth's blessings to hand down to future generations to cherish and enjoy has always been strong in Wisconsin, and it is strong among my constituents in Milwaukee's Fifth District. I ask that my colleagues join in supporting the passage of H.R. 12264.●

● Mr. BALDUS. Mr. Speaker, I was pleased to join my colleague from Wisconsin in sponsoring this bill, and I am pleased to join my distinguished friend in urging passage of it today. The State of Wisconsin is fortunate in having two large and beautiful national forests—the Chequamegon National Forest and the Nicolet National Forest. Despite the thousands of acres of Wisconsin forest devoted to multiple use—lumbering, snowmobiling, camping, motorboating, and so forth—there are only two small wilderness areas in our State, one of them being a few rocky islands in Lake Michigan. The great Nicolet National Forest, covering a large part of eastern Wisconsin, contains no wilderness areas at all.

Passage of this bill will preserve two small areas of unique beauty in the Nicolet Forest for the enjoyment of everyone. The wilderness designation would not affect timber production in this area in any significant way, but would allow thousands of visitors the chance to enjoy the wilderness experience. Blackjack Springs and Whisker Lakes are conveniently accessible to the large population areas of our region, such as Milwaukee, Chicago, Minneapolis, Green Bay, and Madison. I know that many of my constituents in western Wisconsin will take advantage of the quiet solitude and pristine beauty of these two lakes.

Mr. Speaker, given the limitations of our time, I will keep my remarks short. I ask my colleagues in this Chamber to join the Wisconsin delegation in supporting H.R. 12264 to designate two small wilderness areas in our State. Thank you.●

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill H.R. 12264.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **WEAVER**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 12264, just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

MARINE PROTECTION RESEARCH AND SANCTUARIES AUTHORIZATION

Mr. **MURPHY** of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10661) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal years 1979 and 1980, as amended.

The Clerk read as follows:

H.R. 10661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended—

(1) by striking out "and" immediately after "fiscal year 1977," and

(2) by adding immediately after "fiscal year 1978," the following: "not to exceed $6,800,000 for fiscal year 1979, and not to exceed $7,800,000 for fiscal year 1980,".

SEC. 2. (a) Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1411–1421) is further amended by adding at the end thereof the following new section:

"SEC. 113. (a) The Administrator shall—

"(1) conduct research, investigations, experiments, training, demonstrations, surveys, and studies for the purpose of—

"(A) determining means of minimizing or ending, as soon as possible after the date of the enactment of this section, the dumping into ocean waters or waters described in section 101(b) of material which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities, and

"(B) developing disposal methods as alternatives to the dumping described in subparagraph (a); and

"(2) encourage, cooperate with, promote the coordination of, and render financial and other assistance to appropriate public authorities, agencies, and institutions (whether Federal, State, interstate, or local) and appropriate private agencies, institutions, and individuals in the conduct of research and other activities described in paragraph (1).

"(b) Nothing in this section shall be construed to affect in any way the December 31, 1981, termination date, established in section 4 of the Act of November 4, 1977 (Public Law 95–153), for the ocean dumping of sewage sludge.".

(b) Title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441–1444) is amended by striking out section 203.

SEC. 3. Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is amended—

(1) by striking out "and" immediately after "fiscal year 1977,", and

(2) by striking out "fiscal year 1978." and inserting in lieu thereof the following: "fiscal year 1978, not to exceed $7,500,000 for fiscal year 1979, and not to exceed $9,000,000 for fiscal year 1980.".

SEC. 4. Section 301 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431) is amended by adding at the end thereof a new sentence to read as follows: "The term 'State', when used in this title, means any of the several States or any territory or possession of the United States which has a popularly elected Governor.".

SEC. 5. Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432) is amended—

(1) by striking out "or a specified portion thereof," and all that follows thereafter in subsection (b) and inserting in lieu thereof the following: "or any of its terms described in subsection (f)(1), are unacceptable to his State, in which case those terms certified as unacceptable will not be effective in the affected State waters until the Governor withdraws his certification of unacceptability. If the Governor does so certify, the Secretary may withdraw the designation."; and

(2) by amending subsection (f) to read as follows:

"(f)(1) The terms of the designation shall include the geographic area included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, or esthetic value; and the types of activities that will be subject to regulation by the Secretary in order to protect those characteristics. The terms of the designation may be modified only by the same procedures through which an original designation is made.

"(2) The Secretary, after consultation with other interested Federal and State agencies, shall issue necessary and reasonable regulations to implement the terms of the designation and control the activities described in it, except that all permits, licenses, and other authorizations issued pursuant to any other authority shall be valid unless such regulations otherwise provide.

"(3) The Secretary shall conduct such research, surveillance, and enforcement activities as are necessary and reasonable to carry out the purposes of this title.

"(4) The Secretary may, whenever appropriate, utilize by agreement the personnel, services and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a nonreimbursable basis in carrying out his responsibilities under this title.".

SEC. 6. Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434) is amended—

(1) by striking out "and" immediately after "fiscal year 1977,"; and

(2) by adding immediately after "fiscal year 1978" the following: ", not to exceed $2,000,000 for fiscal year 1979, and not to exceed $3,000,000 for fiscal year 1980".

SEC. 7. Section 4 of Public Law 95–153 (91 Stat. 1255) is amended—

(1) by amending subsection (a)—

(A) by inserting "and industrial waste" immediately after "sewage sludge",

(B) by striking out "Public Law 92–532" and inserting in lieu thereof "the Marine Protection, Research, and Sanctuaries Act of 1972", and

(C) by striking out "the Marine Protection, Research, and Sanctuaries" and inserting in lieu thereof "such"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b)(1) The term 'sewage sludge' means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities.

"(2) The term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities.".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **PRITCHARD**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from New York (Mr. MURPHY) and the gentleman from Washington (Mr. PRITCHARD) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. **MURPHY** of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10661, a bill to extend the authorization of and provide necessary amendments to the Marine Protection, Research and Sanctuaries Act of 1972. This statute is commonly referred to as the Ocean Dumping Act.

H.R. 10661 is a compromise bill that is offered jointly by the Merchant Marine and Fisheries Committee and the Committee on Science and Technology.

Essentially, this legislation establishes the regulatory program of the Environmental Protection Agency (EPA) to administer the ocean dumping permit program.

It also authorizes certain types of research by the National Oceanic and Atmospheric Administration (NOAA) in the area of ocean pollution and land-based disposal programs.

Finally, the act establishes the marine sanctuaries program under NOAA to protect certain fragile areas in the ocean and to balance competing demands on the limited resources there.

It is essential that we pass this legislation now because the existing authorization will end in less than a week. The Merchant Marine and Fisheries Committee has long had a strong interest in the dumping of materials in the ocean. This has become a critical problem in recent years and in the first session of the 95th Congress we took a significant step to terminate the dumping of sewage sludge in the oceans by the end of 1981. The bill before us today would complete this protective process by banning industrial waste by that date.

I would like tc take this opportunity to briefly discuss the reasons for the original legislation and the bill we are considering today.

Sometimes, we take an action designed to solve a problem in one area and, frequently and unintentionally, create other problems. Specifically, to assist municipalities in cleaning up our Nation's waters, the Congress passed the Federal Water Pollution Control Act (FWPCA) which has been reasonably successful in achieving its goal.

However, progress in the creation and operation of water treatment facilities has resulted in enormous quantities of sludge: Over 5 million dry tons per year, projected to reach 60 million tons by the year 1990. Consequently, moving toward a solution of cleaning up our water has lead to the problem of disposal of the resulting sewage sludge.

"Sludge management"—a phrase coined in the last few years—is estimated to cost our Nation's cities over $900 million per year. Cities and counties dispose of the sludge in a variety of ways. EPA estimates that nationwide some 15 percent of all municipal sludge is dumped in the ocean.

Of this amount, well over 70 percent is dumped in the New York Bight Area. This has created two major concerns: One, that the sludge is seriously degrading the marine environment and two, that it may very well be creeping toward land and affecting our coastal resources.

The result of this concern led to the Ocean Dumping Act in 1972, the statutory termination date of 1981 for the end to sludge dumping, and H.R. 10661 which makes some necessary amendments to the act and extends its authorization.

It should be pointed out that the 1981 termination date has created particular problems for my city. But, New York is meeting the challenge. The city recently held a public hearing on a new sludge management study which is designed to provide a short-term response to the termination date for ocean dumping and long-term research and development into a permanent sludge management system. The time is short for municipalities to respond to the congressional mandate, and the cost may be significant—however, the city has given every indication of its responsiveness to the problem and its acceptance of the national interest decisions by the Congress.

I urge my colleagues to support H.R. 10661 as a necessary extension of authorization for this important ocean dumping and marine sanctuaries program.

The details of the bill will be discussed by the chairman of the Oceanography Subcommittee, the distinguished gentleman from Louisiana, (Mr. BREAUX), and I yield to the gentleman for that purpose.

Mr. BREAUX. I thank the chairman of the full committee for yielding and for his generous comments.

Mr. Speaker, the bill under consideration, H.R. 10661, is a compromise bill offered jointly by the Merchant Marine and Fisheries and Science and Technology Committees. The bill would extend the authorization and amend the Marine Protection, Research and Sanctuaries Act of 1972.

The Marine Protection, Research and Sanctuaries Act, commonly known as the Ocean Dumping Act, was exclusively reported out of the Merchant Marine and Fisheries Committee in 1971. The act has three titles. Title I authorizes the Environmental Protection Agency to administer the ocean dumping permit program.

Since the enactment of the Ocean Dumping Act, the ocean dumping of municipal sewage sludge, industrial wastes, and other materials has been brought under some regulation by EPA.

Last session, the Congress passed H.R. 4297 which set into law a mandatory deadline of December 31, 1981, for the termination of the dumping of sewage sludge which is harmful to the marine environment. The bill before us today will complete the circle and include in the 1981 deadline elimination of the dumping of industrial wastes which are harmful to the marine environment.

The Merchant Marine and Fisheries Committee recognizes the need to assist many of the generators of municipal sewage sludge who have additionally used the ocean as a solution to their disposal problems. Many of the cities that will have to phase out dumping by the end of 1981 do not have an easy solution to the immense quantities of sewage sludge that need disposal. These vast quantities of sludge are a result of the successful construction and use of sewage treatment plants—the generators of sewage sludge—following enactment of the Federal Water Pollution Control Act.

H.R. 10661 would amend the Ocean Dumping Act to transfer the authority to conduct research for the development of land-based disposal alternatives from the National Oceanic and Atmospheric Administration to the Environmental Protection Agency. NOAA has never been able to successfully implement the land-based disposal research program. On the other hand, EPA has been conducting this type of research under other statutory authority, in particular the Federal Water Pollution Control Act. H.R. 10661 authorizes the appropriation of an additional $2 million in fiscal year 1979 and an additional $3 million in fiscal year 1980 for EPA to carry out the responsibilities transferred from NOAA.

Earlier this session, the Congress passed a bill, S. 1617, which has since been signed into law. S. 1617 will provide for the much needed coordination of Federal ocean pollution research. Under the act, NOAA is designated as the lead Federal agency for planning the entire Federal ocean pollution research effort. A major part of NOAA's role involves the implementation of its remaining authority under title II of the Ocean Dumping Act.

H.R. 10661 will provide for the authorization of the necessary funds to enable NOAA to conduct the type of research that will help government decisionmakers to understand what effect man's activities in the oceans will have on the marine environment. It should be noted that the authorizations in title II are in addition to and supplement authorizations contained in the recently enacted National Ocean Pollution Research Act of 1978 (Public Law 95-273).

Only with this information and analysis can we hope to make rational decisions in our efforts to effectively manage our precious marine resources.

Finally, H.R. 10661 will help assure that title III of the Ocean Dumping Act—the marine sanctuaries program—will be used in a manner originally intended by Congress. The bill would amend the Act to require the Secretary to clearly identify what interests a sanctuary is being established to protect and what area and activities would be subject to regulation. The bill would also amend the act to provide that all licenses, permits and other authorizations predating the sanctuary designation would remain in effect unless sanctuary regulations otherwise provided.

In addition, H.R. 10661 will provide for the authorization of up to $2 million in fiscal year 1979 and $3 million in fiscal year 1980 to carry out the purposes of the marine sanctuaries program.

There could be an important role to be played by marine sanctuaries off our coasts, but only if they are consistent with the myriad of other national interest considerations, including fishing, marine transportation, and energy and mineral resources extraction. Before a marine sanctuary can be established it must be determined that the sanctuary is clearly in the overall national interest. During the next Congress, our committee intends to examine in depth the operation of the marine sanctuary program to determine whether further amendments to the act will be required to assure that this test is met.

I am aware of Senate consideration of a measure which would remove the criterion, "esthetic purposes," from title III of the act. Whatever the outcome of that effort, it is my view that the legislative history of the original act clearly shows that esthetics, alone, is not a sufficient basis for creation of a marine sanctuary.

I urge your support for passage of this bill to allow these programs to continue at this time.

Mr. PRITCHARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10661, the authorization bill for the Marine Protection, Research and Sanctuaries Act for fiscal years 1979 and 1980. The authorization for title I of the Ocean Dumping Act would be increased from $4.8 million to $6.8 million for fiscal year 1979 and from $5.8 million to $7.8 million for fiscal year 1980. Title I specifies how ocean dumping shall be regulated and directs the EPA to establish a permitting program. Also, the committee moved what was formerly a responsibility under title II into title I, which gives the responsibility to EPA for research into alternative land-based methods for waste disposal. It was felt that EPA had established considerable expertise in the types of land-based disposal programs necessary to be implemented as the ocean disposal alternative is gradually removed.

The authorization level for title II of the Ocean Dumping Act is established at $7 million for fiscal year 1979 and $9 million for fiscal year 1980. These funds would enable NOAA to increase their research effort which involves primarily research into the harmful effect of ocean dumping. This type of research is extremely important if we are to begin to assemble the types of information necessary to make sound economic judgment as to where and when ocean disposal of sewage wastes can occur safely in the marine environment. The approaches we have often taken in the past in terms of simply allowing ocean dumping to occur as a cheap means to waste disposal or flatly prohibiting ocean dumping because of some concerns that it may be doing substantial damage to the marine environment have not been based on sufficient information about the actual level of harm to the marine environment. In the future we need to develop more precise information about where we can continue the practice of ocean dumping so as not to bring about unnecessary expenditures for land disposal methods.

On the other hand, in areas such as the New York Bight, it is essential that we curb the practice of ocean dumping because the physical conditions of this area of the marine environment are such that ocean dumping can be extremely harmful. As we approach the 1981 deadline for ocean dumping, this country and many of its municipalities will face many critical decisions regarding economic and environmental tradeoffs between ocean disposal and alternative land-based disposal methods. It is essential that we develop a sound information base to make these important decisions. Title II will allow NOAA to begin to assemble this kind of environmental and economic information.

Title III of the Marine Protection, Research and Sanctuaries Act is amended to provide for authorization levels of $2 million for fiscal year 1979 and $3 million for fiscal year 1980. This program was first funded in 1978 at a level of $500,000. The reach of the marine sanctuaries title is very broad at this time and in the next Congress, the Subcommittee on Oceanography will be holding further hearings and possibly amending this statute. Many different groups have many different perceptions as to how the marine sanctuaries program should be developed, and it is important that Congress observe carefully the implementation of this statute. In the President's environmental message of 1978, there was a strong emphasis placed on the importance of the development of the marine sanctuaries program in this country. There are certain areas in the marine environment which, due to pressures for development, will require substantial efforts in planning, conservation, and management. Therefore, Mr. Speaker, I strongly support this authorization bill, H.R. 10661.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr FORSYTHE).

Mr. FORSYTHE. Mr. Speaker. I rise in support of H.R. 10661, the authorization bill for what is commonly referred to as "The Ocean Dumping Act." This act establishes regulatory authority over the dumping of certain types of material in U.S. waters, and expressly prohibits the dumping of harmful materials in the marine environment.

Title I of this act gives the Environmental Protection Agency primary regulatory authority regarding the establishment of permit categories for ocean dumping, the designation of sites and times of dumping and finally, and perhaps most important, the assessment and development of alternative methods for waste disposal other than dispersal in the marine environment. Currently, there are a number of nonocean dumping waste disposal alternatives available, but the implementation of these technologies by municipalities and industry has moved at an extremely slow pace. This bill would provide for an increase in title I authorization from $4.8 million to $6.8 million for fiscal year 1979 and from $5.8 million to $7.8 million for fiscal year 1980.

Title II directs the Department of Commerce through NOAA to provide ocean pollution research and monitoring support for the ocean dumping program. This includes research pertaining to the long term harmful effects of ocean dumping and other man-induced changes on the marine environment. The title II authorization is being increased from $6.5 million to $7 million for fiscal year 1979 and $9 for fiscal year 1980.

Finally, title III of the act establishes a marine sanctuaries program, which is administered by the National Oceanic and Atmospheric Administration which provides for the protection and regulation of activities in certain specified areas of the ocean. Although the act has been in effect since 1972, the only existing marine sanctuaries include the Monitor and Key Largo sites. President Carter in his environmental message of last year noted the importance of the marine sanctuaries program and urged a major increase in the number of sanctuary sites. Therefore, we have increased the authorization level from $500,000 to $2 million for fiscal year 1979 and $3 million for fiscal year 1980 in order to accelerate the marine sanctuary designation process.

I would also like to add, Mr. Speaker, that we face an important period in the next few years in our efforts to phaseout ocean dumping. The EPA, in a recent letter to my colleague, Congressman WYDLER, indicated that its enforcement strategy in the region concerning its compliance schedule designed to meet the December 1981, deadline, is to strictly enforce permit conditions and to meet specific milestones to meet that phaseout deadline. Mr. Thomas Jorling also asserts that EPA will make full use of all administrative and legal remedies if these milestones are not met. I strongly support Mr. Jorling in his efforts, and I am pleased to hear that he will do all he can to meet the 1981 deadline.

Nevertheless, if there appears to be any slippage in the implementation of this deadline, I think that it is imperative that we look for alternative methods of phasing out ocean dumping. Last year, I introduced H.R. 5851, which would have established a penalty fee system, which would have been assessed to ocean dumpers. based on the volume of their ocean disposal. This would have led to a rapid and efficient phasing out of most ocean dumping. It was argued at the time, however, that EPA had sufficient administrative authority to meet the phaseout deadline, and I support EPA in exercising this authority.

In addition, I would also like to clarify the intent of an amendment which I offered in committee which would define and distinguish between sewage sludge and industrial waste. This amendment, however, was clearly not intended to include ocean outfalls, which are regulated under an entirely different authority, namely the Federal Water Pollution and Control Act. This amendment only applies to the transport and dumping of harmful pollutants at sea.

Mr. Speaker, for too long we have used the ocean environment as a convenient and cheap means of waste disposal even though we are still uncertain, from a scientific standpoint, as to what level of harm may result in the long term from such ocean dumping. I feel that this legislation, and a strong effort by the administration in implementing its objectives, will eventually result in the cessation of harmful ocean dumping. Therefore, Mr. Speaker, I strongly support the passage of H.R. 10661.

Mr. PRITCHARD. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, as a cosponsor of H.R. 10661, I rise in strong support of the Marine Protection, Research and Sanctuaries Act.

This legislation includes funding for Federal efforts to find alternatives to ocean dumping of waste and for various marine sanctuaries programs.

Additionally, this legislation includes an amendment offered by my good friend and colleague, Mr. FORSYTHE, to require the termination of ocean dumping of all harmful industrial wastes on or before December 31, 1981.

As the House knows, last year's bill included an amendment, which I strongly supported, which had the effect of banning the dumping of harmful sewage sludge by 1981. I am pleased to see that the committee has extended this phaseout requirement to harmful industrial wastes as well.

In 1977, 1,843,800 tons of industrial wastes were dumped in the ocean of which 1,783,600 or nearly 97 percent was dumped in the Atlantic Ocean. Although this level is a substantial reduction from the over 5 million tons which were dumped in 1973, industrial wastes still pose a serious problem to the ocean environment. The ocean is not a garbage pit. We must stop the continuing abuse of the marine ecosystem. The Merchant Marine and Fisheries Committee, by placing a date certain in the law for both sewage sludge and industrial wastes, has taken a giant step forward in our efforts to clean up the oceans.

As a Representative of a State with precious natural resources, and one which depends on the ocean for recreation, scenic beauty and tourism, I strongly urge the House to give its overwhelming support to this measure.

Mr. PRITCHARD. Mr. Speaker, I have no further requests for time.

Mr. MURPHY of New York. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Science and Technology Subcommittee, the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, this bill shows how well committees of this House can work together. I, and members of my subcommittee, share the same deep and abiding concern of the gentleman from New York (Mr. MURPHY) and the gentleman from Louisiana (Mr. BREAUX) and the members of their committee over the adverse environmental effects of ocean dumping.

Our committee held hearings and determined that both the Environmental Protection Agency and the National Oceanic and Atmospheric Administration are turning more and more frequently to the authorizations contained within the Marine Protection, Research and Sanctuaries Act. We believe this to be a healthy step. In the past too many environmental efforts have been fragmented and thus diluted. The oceans are seen by many as the last great unconquered frontier and we believe that it is essential that all possible steps be taken to mitigate the damage caused by "the heavy hand of man upon the waves."

H.R. 10661 was reported by a unanimous vote of the Committee on Science and Technology on May 2, 1978. One week later, on May 10, the Committee on Merchant Marine and Fisheries reported a slightly amended version of the same legislation. Today, in the spirit of friendly cooperation and coordination, we are offering a joint committee amendment in the nature of a committee substitute which incorporates the best of both versions.

As proposed by our committee the bill extends the funding authorization for the Marine Protection, Research and Sanctuaries Act as follows:

[In millions]

Program	Fiscal 1979	Fiscal 1980
Title I, EPA regulatory activities to establish and operate the ocean dumping permit program	$6.8	$7.8
Title II, research activities of NOAA on the fates and effects of ocean dumping	7.5	9.0
Title III, establishment and operation of the marine sanctuaries program within NOAA	2.0	3.0

The bill also transfers title II authority to conduct research and development of alternative land-based methods of waste disposal from NOAA to the EPA. In addition, the bill amends Public Law 95–153, which requires the termination of harmful ocean dumping of sewage sludge by December 31, 1981, to specifically include the ending of ocean dumping of "industrial wastes."

I would note that the gentleman from New York (Mr. WYDLER) who serves as the ranking minority member of the Committee on Science and Technology has shown a special interest in this legislation and through his efforts our committee adopted an amendment to provide for a special $500,000 authorization in title II of the bill which will serve as "flow-through" funding for the EPA region II office to conduct urban wastewater runoff research pertaining to the New York Bight project.

Mr. Speaker, this bill will authorize $16.3 million for fiscal year 1979 and $19.8 million for fiscal year 1980. The bill has received the support of the administration and should be enacted.

Finally, Mr. Speaker, I would like to commend the members of my subcommittee for their diligence in the consideration of this legislation, particularly the gentleman from Pennsylvania (Mr. WALKER) who serves as the ranking minority member, and who has been a substantial contributor to the work of our subcommittee in this Congress. It is a particular pleasure to bring legislation before the House which bears the stamp of two committees and be able to say that each committee has made significant improvements on the original proposal and that both committees mutually support the work of the other. Mr. Speaker, I urge the passage of the bill.

Mr. MURPHY of New York. Mr. Speaker, it is a privilege for me to yield such time as he may consume to the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I rise to give my support to H.R. 10661. This bill would authorize continuation of funding for a piece of legislation which has proven to be one of the most important initiatives taken by the Congress in recent years to maintain and improve the quality of our coastal ocean, and protect its immensely valuable living resources.

For many years the ocean was considered to be a convenient dumping ground for the vast quantities of solid and semisolid wastes that are generated by our cities and industry. Trash and garbage, sewage sludge, dredged material and chemical wastes were all dumped almost indiscriminately into the waters off our shores.

In 1972 the Marine Protection, Research and Sanctuaries Act was passed. This act aimed at stopping harmful ocean dumping and setting up marine sanctuaries in especially valuable and delicate coastal areas which would thus be protected from all adverse activities of man.

I would be the first to acknowledge that the program got off to a very slow start. However, during the last 3 or 4 years progress has been made in cleaning up ocean dumping. Much of the toxic chemical and industrial dumping has already been phased out and the Environmental Protection Agency has ruled that all sewage sludge dumping will be halted by the end of 1981. Indeed the Congress has mandated such a deadline by the amendments to the Marine Protection, Research and Sanctuaries Act that we passed just last year.

H.R. 10661 would insure that the progress we have made in eliminating ocean dumping does not falter. Two significant amendments to this end are made by H.R. 10661 in the Marine Protection, Research and Sanctuaries Act. The first amendment would include harmful chemical wastes under the December 31, 1981 deadline for ending ocean dumping. Much of the chemical waste dumping that has previously taken place in the ocean has already been phased out. Land based alternative disposal methods exist for the remaining chemicals dumped; mostly titanium process acid wastes. H.R. 10661 by setting a statutory deadline will insure that the industries concerned will expeditiously implement the necessary land based alternatives. H.R. 10661 also amends the Marine Protection, Research and Sanctuaries Act to transfer from the National Oceanic and Atmospheric Administration to the Environmental Protection Agency the responsibility for conducting research into land based alternatives to ocean dumping.

This transfer will accelerate research into such alternatives as the Environmental Protection Agency has a great deal of experience and competence in such matters, whereas the National Oceanic and Atmospheric Administration has no traditional base in the area. Research into land based alternatives to ocean dumping is especially important for sewage sludge which promises a large number of valuable uses when optimum technology for its conversion to useful products can be developed. The proposed authorizations in H.R. 10661 under title I of the act are increased to provide the Environmental Protection Agency with the means to establish a viable program for development of land based sewage sludge disposal methods.

Authorizations for marine research and monitoring of the effects of ocean dumping are also increased by H.R. 10661. Despite the fact that sewage sludge and chemical waste dumping are soon to be phased out, these increases are needed because the vast majority of the material dumped in the ocean is dredged material. Land based alternatives for dredged material disposal are known but would be phenomenally expensive and environmentally destructive if more than a fraction of the dredged material were so disposed of. It is imperative, therefore, that extensive research should be performed on ocean dumping of dredged material to determine where and under what conditions it can be carried out in the most environmentally sound manner.

H.R. 10661 makes a number of minor but important changes in the process that must be observed in order to designate marine sanctuaries. The effect of these changes will be to accelerate the process of designation by making it clear at an early stage which activities would be regulated in the proposed sanctuary, and facilitating cooperation between a State and the Federal Government where a sanctuary includes State waters. These changes and the authorization of funds at a reasonable level will hopefully lead to the designation of a number of marine sanctuaries during the next several years. Only two such sanctuaries have, to date, been designated, a dismal record considering the marine sanctuaries program is as important to the preservation of our national heritage in the oceans as the national park and wilderness systems are on the land.

● **Mr. WALKER.** Mr. Speaker, I rise in support of the Marine Protection, Research, and Sanctuaries Act reauthorization. This legislation, which is more commonly known as the Ocean Dumping Act, established a stringent program of ocean dumping permits, authorized significant research and development in the area of marine environmental problems, and established the authority to designate areas as marine sanctuaries.

During the course of hearings held by our committee on this bill we were pleased to learn that both the National Oceanic and Atmospheric Administration and the Environmental Protection Agency are turning more and more to the authorities contained in this legislation for the marine research programs which they both conduct. In the past our committee has been critical of the lack of coordination and cooperation in the management of much environmental R. & D. We see great potential for significant improvement of the overall research effort as the research becomes centered under common legislative authority. This will also allow us to conduct our oversight activities in a far more systematic manner.

Mr. Speaker, the committee substitute which is being offered today combines the best points of both the efforts of the Committee on Merchant Marine and Fisheries and the Committee on Science and Technology. I am particularly pleased that we are able to bring the bill to the floor with the amendment which was offered in our Committee on Science and Technology by the very able and distinguished gentleman from New York, Mr. WYDLER, who serves as our ranking minority member. The Wydler amendment provides authorization for an additional $500,000 for the National Oceanic and Atmospheric Administration in the next fiscal year to provide funds to be passed through NOAA to the EPA Region II office to do specific research on the problems of urban storm water runoff and the effects of the pollutants that are thus carried into the New York Bight. The gentleman from New York is most knowledgeable in this area and has been a leader in the Congress on assuring that the pollution problems which have plagued the Long Island shore are investigated, understood, and thus brought to an end.

As the ranking minority member of the Subcommittee on the Environment and the Atmosphere I would also like to express my appreciation to the gentleman from New Jersey (Mr. FORSYTHE) who brought to our committee the great depth of knowledge he amassed serving with the Merchant Marine and Fisheries Committee. His expertise in the area of ocean dumping has been a great help to our committee. I would also like to express my thanks to the gentleman from California (Mr. BROWN) who serves as the chairman of our subcommittee. His unfailing courtesy to all members of the committee is deeply appreciated. Under his leadership our subcommittee has been able to accomplish a substantial amount of work during this Congress.

Mr. Speaker, in conclusion let me just urge all of our colleagues to join me in support of this important legislation.●

Mr. MURPHY of New York. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 10661, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The title was amended so as to read: "A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal years 1979 and 1980, and for other purposes.".

A motion to reconsider was laid on the table.

GREAT LAKES PILOTAGE ACT AMENDMENTS

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12603) to amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for U.S. registered pilots on the Great Lakes, as amended.

The Clerk read as follows:

H.R. 12603

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Great Lakes Pilotage Act of 1960 (74 Stat. 259; 46 U.S.C. 216) is hereby amended as follows:

(1) by deleting section 2(b) and inserting in lieu thereof the following:

"(b) 'Secretary' means the Secretary of Transportation."

(2) by deleting section 2(c) and inserting in lieu thereof the following:

"(c) 'United States registered pilot' means a person, other than a member of the regular complement of a vessel, who holds a license authorizing navigation on the Great Lakes and suitably endorsed for pilotage on routes specified therein, issued under the authority of the provisions of title 52 of the Revised Statutes, and who is registered by the Secretary under the provisions of section 4 of this Act.";

(3) by deleting in section 2(d) the words "a master's certificate or equivalent" and inserting in lieu thereof "an appropriate";

(4) by deleting in section 2(e) the words "head of the Department in which the Coast Guard is operating under regulations issued by him", and inserting in lieu thereof the word "Secretary";

(5) by deleting section 4(a) and inserting in lieu thereof the following:

"SEC. 4. (a) The registration of United States pilots shall be carried out by the Secretary under such regulations as to qualifications, terms, and conditions which will assure adequate and efficient pilotage service, provide for equitable participation of United States registered pilots with Canadian registered pilots in the pilotage of vessels to which this Act applies, and provide fair and reasonable opportunity for registration. Each applicant must, as a prerequisite, be the holder of a license, as a master, mate, or pilot, issued under the authority of the provisions of title 52 of the Revised Statutes, and have acquired at least twenty-four months licensed service or comparable experience on vessels or integrated tugs and tows, of four thousand gross tons or over, operating on the Great Lakes or oceans. Those applicants qualifying with ocean service must have obtained at least six months of licensed service or comparable experience on the Great Lakes. The Secretary may require such experience and training, in addition to the minimum required by this subsection, as he considers necessary. In addition, each applicant shall agree that, if appointed as a United States registered pilot, he will be available for service when required and shall comply with this Act and all applicable regulations issued by the Secretary pursuant to this Act.".

(6) by deleting in section 7(a) the words "for each violation for which sum the vessel shall be liable and may be seized and pro-

ceeded against by way of libel in any district court of the United States having jurisdiction thereof." in the first sentence, and inserting in lieu thereof "for each violation.";

(7) by deleting in section 7(a) the last sentence which reads "This subsection shall be enforced by the head of the Department in which the Coast Guard is operating.";

(8) by deleting in section 7(b) the last sentence which reads "This subsection shall be enforced by the head of the Department in which the Coast Guard is operating.";

(9) by deleting in section 7(c) the last sentence which reads "The provisions of this subsection shall be enforced by the Secretary, who may, upon application therefor, remit or mitigate the penalty provided for herein, upon such terms as he, in his discretion, shall think proper.";

(10) by adding a new section 7(d) which reads:

"(d) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated any part of the Act or a regulation issued hereunder shall be liable to the United States for the penalties as enumerated in this Act. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability, to pay, and such other matters as justice may require. The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.";

(11) by adding a new section 7(e) which reads:

"(e) Any vessel subject to the provisions of this Act, which is used in violation of this Act or any regulation issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to this Act and may be proceeded against in the United States district court for any district in which such vessel may be found.";

(12) by deleting in section 8(a) the words "with the concurrence of the head of the Department in which the Coast Guard is operating, or his designee,".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **McCLOSKEY**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from California (Mr. MCCLOSKEY) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from New York (Mr. MURPHY).

Mr. **MURPHY** of New York. Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker, I recommend passage of H.R. 12603, as requested by the Committee on Merchant Marine and Fisheries.

The bill would amend the Great Lakes Pilotage Act of 1960 removing the prerequisite requirement for an unlimited tonnage master's license. This is expected to relieve the present and future shortage of qualified personnel who might be available as applicants for registration as a U.S. registered pilot. It provides clarifying amendatory language which conforms with the intent of the 1966 Reorganization Act which transferred all pilotage functions, powers, and duties from the Secretary of Commerce to the Secretary of Transportation. The bill also revises the language with respect to the assessment of civil penalties to make it consistent with recent statutory enactments which more adequately describe the procedures to be followed.

The authority for the registration of personnel as U.S. registered pilots for the Great Lakes originated in 1960 with the opening of the St. Lawrence Seaway. This authority is part of a comprehensive enactment which provides for the establishment of numerous procedures and requirements for the pilotage of foreign vessels, as well as U.S. vessels registered in the foreign trade, while such vessels are navigating any of the five Great Lakes, their connecting and tributary waters.

When the St. Lawrence Seaway was opened to navigation, there was considerable concern over the increase in ocean-going vessel traffic, its potential threat to safe navigation, and the need for providing pilots knowledgeable in local navigating rules and familiar with the restricted waters of the Great Lakes. Therefore, in 1960, the act included a rather prerequisite requirement for registration as a pilot by requiring an unlimited tonnage master's license. It now appears that the unavailability of such masters is not only adversely affecting the safety of navigation but is precipitating excessive operating costs and reducing revenues.

I would like to defer further comment to the Honorable MARIO BIAGGI who as chairman of the Subcommittee on Coast Guard and Navigation was instrumental in expediting action of this very much needed legislation.

Before doing so I would like to indicate that this bill enjoys widespread support from many economic and maritime safety related interests on the Great Lakes and from within the administration. I believe it is worthy of each Member's support and I urge its passage.

Mr. Speaker, at this point I yield such time as he may consume to the chairman of the Subcommittee on the Coast Guard and Navigation, the gentleman from New York (Mr. BIAGGI) for further explanation.

Mr. **BIAGGI**. Mr. Speaker, I also urge the support of the House in passing H.R. 12603, a bill to amend the Great Lakes Pilotage Act of 1960, to provide some relief from the restrictive qualification standards for U.S. registered pilots on the Great Lakes.

This legislation is urgently needed in order to relieve the present and future shortage of experienced and highly qualified seafarers who desire to be applicants for registration as a U.S. registered pilot. It is not an attempt to lessen requirements for such registration. Prior experience and considerable familiarity with Great Lakes waters and shiphandling skills will continue to be a prerequisite for registration. The congressional concern over the safety of navigation on the Great Lakes and the need for skillful and experienced pilots to handle ocean-going vessels, foreign and domestic, as envisioned by the framers of the Great Lakes Pilotage Act of 1960, remains paramount.

During the course of hearings before the subcommittee on Coast Guard and Navigation, there was considerable testimony which made it clear that it was necessary to remove the unlimited tonnage master's license requirement, to permit a wider number of highly qualified licensed officers to apply. Lack of pilots has already affected the safety of navigation by extending the working hours of the available pilots and the need to reemploy older pilots who are in retirement or semiretirement. At the present time, there is simply an insufficient number of fully-trained, full-time pilots available to provide the services which are required.

Further, not only is safety hampered, but the delays in sailing due to the unavailability of pilots are creating excessive vessel operating costs and the loss of revenue. Stevedores and terminal operators are gravely concerned with the timely movement of ocean-going vessels from dock to dock and from port to port within the Great Lakes system, therefore, their frustrations, occasioned by these delays, has been, and continues to be, a real problem.

In 1960, the pool of personnel who possessed an unlimited master's license was considered sufficient. Since then, a number of events have occurred which has made the recruiting of pilots very difficult. First, the pool of available masters has been reduced, due to the reduction in the number of U.S. vessels. Second, there has been a reluctance to change well-established careers based solely on the financial remuneration and the attendant working conditions, which some consider inferior to steady employment with a company or a union. Finally, there has been an inadequate and nonresponsive apprenticeship program, primarily due to the lack of funding for such a program in the scheduling of fees.

This legislation removes the unlimited tonnage master's license requirement, establishes a minimum floor of experience as a prerequisite to qualifying as a U.S. registered pilot, and allows the Secretary of Transportation to require additional experience as he considers necessary. The bill would require an applicant to have at least 24 months of licensed officer service in the deck department or comparable experience on vessels of 4,000 gross tons or over operating in Great Lakes or ocean service. This service, plus any additional requirements the Secretary might impose, should continue to assure competent and qualified applicants.

In addition, the bill provides clarifying language to the basic 1960 act, to conform with the intent of a 1966 reorganization act when all functions, powers, and duties of the Secretary of Commerce—relating to Great Lakes pilotage—were transferred to the Secretary of Transportation.

Finally, the language with respect to the assessment of civil penalties has been revised to make it consistent with recent statutory provisions which more adequately describe such procedures without making any substantive changes.

Mr. Speaker, it is my opinion that this bill will accommodate the urgent needs of those who are vitally concerned with the safety and economic viability of our Great Lakes. All testimony, statements and letters from various pilot organizations, from terminal interests, from the users of the Great Lakes waterways systems, and from the administration have supported this legislation. It remains noncontroversial, noncomplex and enjoys bipartisan support.

I, therefore, urge all Members to support the passage of H.R. 12603 as reported by the Committee on Merchant Marine and Fisheries.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am glad to confirm the fact that there has been bipartisan support for this bill, and I ask for its support.

Mr. Speaker, I yield back the balance of my time.

● Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 12603, of which I am pleased to be a cosponsor. I urge its passage by the House.

I wish to commend my colleague the gentleman from Michigan (Mr. RUPPE), the author of this bill, for his efforts to correct what has become a very serious problem for the Great Lakes. Mr. Speaker, there is a growing shortage of qualified registered pilots on the Great Lakes today.

The present requirement that an applicant for registration as a pilot must hold an unlimited master's license has severely restricted the number of applicants.

Consequently, the average age of the 70 U.S. registered pilots on the Lakes is 55, and the average age of the temporary pilots—semiretired or retired—on special duty is nearly 70.

The requirement for an unlimited master's license is dissuading younger licensed officers from applying for registration as pilots.

The reason is that once a master has attained that position, he is reluctant to lose union or company seniority to exchange a well-established career for service as a pilot, even though he may find Great Lakes pilotage a challenging opportunity.

H.R. 12603 offers us the opportunity to meet the present and the future needs of Great Lakes, America's fourth seacoast.

Our Coast Guard and Navigation Subcommittee held extensive hearings on H.R. 12603. These hearings indicated the requirement for an unlimited master's license does not increase navigation safety.

It discourages new pilot applicants and has contributed to the pilotage shortage which is both a safety hazard as well as a time-consuming and costly impediment to shipping.

H.R. 12603 establishes reasonable standards for the registration of pilots. It would permit any licensed deck officer with a master, mate or pilot's license to apply for registration as a Great Lakes pilot.

The bill, however, imposes a minimum floor of at least 24 months license and deck service on vessels of at least 4,000 tons.

With the extension of the navigation season on the Great Lakes, it may in fact be possible for this requirement to be met in the course of 2 years service on the Lakes.

Any applicant would also have to meet standards imposed by the Coast Guard for pilots.

This legislation will insure greater navigation safety on the Great Lakes. We are not attempting to lower standards for Great Lakes pilots. We are not cutting corners. What we are doing is developing standards which better meet the needs and the realities of Great Lakes pilotage.●

● Mr. RUPPE. Mr. Speaker, I urge passage of H.R. 12603 which I sponsored and which would amend the Great Lakes Pilotage Act of 1960 to relieve an unreasonably restrictive requirement that an applicant for papers as a U.S. registered pilot on the Great Lakes be the holder of an unlimited master's license. Licensed deck officer or first-class pilot status, including authorization for navigation on the lakes and graded for specified routes in accordance with experience, are still prerequisites. Aspirant or applicant "U.S. registered pilots" must also satisfy minimum specified Great Lakes service or experience requirements and such additional experience or training requirements as the Secretary of Transportation may deem necessary.

Thus, a sincere effort has been made to insure the continued availability of a skilled pool of qualified and federally mandated "U.S. registered" pilots to guide the movements of both foreign and registered U.S. oceangoing vessels within the confines of our Nation's fifth sea the pilotage system for which begins at Montreal's entrance to the St. Lawrence Seaway, extends for a distance of some 1,340 miles to the head of Lake Superior at Duluth, Minn., and serves the ports dotting an 8.300-mile shoreline. A larger manpower pool of younger and lower ranking but highly skilled shiphandlers, from both Great Lakes and ocean service, will now have access to additional career advancement opportunities—and safety of navigation essential to the preservation of life, property, and the environment will be enhanced.

I assure you that the current shortage of pilots, in a system that is peculiar to this country, grows more acute daily. The remedies provided by this bill meet a vital need and our colleagues in the Senate, I am assured, are prepared to move expeditiously during this section of the Congress once the House has acted favorably.

I urge passage of this bill and thank the chairman and my colleagues on the Merchant Marine and Fisheries Committee for having recognized and responded to the need it addresses.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 12603, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NAVY-MARITIME ADVISORY BOARD

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11861) to establish a Navy-Maritime Advisory Board, as amended.

The Clerk read as follows:

H.R. 11861

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 210 of the Merchant Marine Act, 1936, (46 U.S.C. 1120) is amended by adding a new paragraph at the end thereof to read as follows:

"In carrying out their responsibilities under this section the Secretary of Commerce and the Secretary of the Navy shall meet at least quarterly with representatives of the shipbuilding industry, the United States-flag liner operators, and the United States-flag tanker and bulk vessel operators, and shall submit a comprehensive report annually to the President and to the Congress of their activities and recommendations. These meetings shall be open to the public unless national security otherwise requires.".

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLOSKEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from California (Mr. McCLOSKEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11861, as amended.

The purpose of this legislation is to formalize and insure the cooperative relationship between the Secretary of Commerce and the Secretary of the Navy as required by section 210 of the Merchant Marine Act, 1936.

This Nation has historically relied on its merchant fleet to support our naval and military forces in time of emergency, and the merchant marine has always responded admirably to the call. Unfortunately, in the days immediately following World War I the absence of any policy directed at the national security needs of the country caused a severe imbalance between the military and naval need for support and the availability of ships and personnel.

In 1936, the Congress, at the initiation of President Franklin D. Roosevelt, enacted the Merchant Marine Act which sets forth this Nation's merchant marine policy which is to have a merchant marine:

First, sufficient to carry its domestic waterborne commerce and a substantial portion of the waterborne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of such domestic and foreign waterborne commerce at all times;

Second, capable of serving as a naval and military auxiliary in time of war or national emergency;

Third, owned and operated under the U.S. flag by citizens of the United States insofar as may be practicable;

Fourth, composed of the best equipped, safest and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel; and

Fifth, supplemented by efficient facilities for shipbuilding and ship repair.

In order to assure achievement of this policy of creating an adequate and well balanced merchant fleet which is capable of serving in a naval auxiliary as well as in a military sea-lift capacity, the Congress, in section 210 of the Merchant Marine Act, 1936, directed the Secretary of Commerce to study, perfect, and adopt a long-range program for that purpose. To reflect the defense and other needs of the Nation, the Secretary is directed to cooperate closely with the Navy Department. This has not occurred.

The Secretaries of Commerce and the Navy have not met with respect to their responsibilities under the act. Even with the subsidized ship construction program which resulted from enactment of the 1936 act, lack of coordination between commercial vessel operators and the Navy prevented prompt and efficient utilization of the merchant marine's support capacity when we entered World War II. It is this lack of coordination, lack of program development, and lack of consideration for what constitutes an adequate and well balanced fleet that necessitates this legislation.

We carry overall, as of this date, 4.6 percent of our foreign commerce in U.S.-flag ships. In the liquid bulk trade, we carry 3.4 percent and our dry bulk fleet has all but disappeared, carrying less than 2 percent of our foreign commerce in that cargo category. Were it not for the U.S.-flag liner fleet, which carries some 30 percent of our liner cargo in the foreign commerce, we would fall far short of the 4.5 percent of our foreign commerce in all categories. In addition, over 70 strategic commodities necessary to support our industrial enterprises must be imported. Russia has only one such commodity that must be imported. Such a situation calls for positive action in strengthening our U.S.-flag merchant marine and along with it, our total seapower.

The merchant marine needs to receive some direction if it is to be a viable military auxiliary, as mandated by the Merchant Marine Act of 1936. Much of this could come from the Navy. The merchant marine cannot develop capabilities of national defense value unless criteria are first established. Closer coordination between the Navy and the commercial sector to foster a viable merchant could enhance the readiness of the Navy's fleet support capability.

The bill simply amends section 210 of the Merchant Marine Act, 1936, to require the Secretaries of Commerce and the Navy to meet, at least quarterly, hold public meetings, consistent with national security requirements, consult with representatives of the shipbuilding industry, U.S.-flag liner operators and U.S.-flag tanker and bulk vessel operators, and submit an annual report of their activities and recommendations to the President and the Congress. This method of assuring compliance with the national merchant marine policy does not create an advisory committee within the meaning of the Federal Advisory Committee Act but does allow for the exchange of factual information between and among those who are and would be most intimately involved in the development and operation of a merchant fleet capable of serving as a naval and military auxiliary in time of war or national emergency.

Mr. Speaker, this legislation is vital to the continued security of this Nation, and I would certainly urge all my colleagues to join us in its passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I think this legislation is critically needed. I think that it is the first step. I believe that Commerce and the Navy ought to be meeting more often than quarterly. We had recently Admiral Kidd, chief of the 2d Fleet, before our committee, and the picture that he painted with respect to our ability to carry on conventional warfare was diabolic. He indicated that we needed more. He indicated that he wanted to be more involved with our merchant marine capability. He pointed up some of the critical deficiencies in respect to our current posture. I think we ought to heed his remarks.

Mr. Speaker, I rise in support of H.R. 11861. The picture I present to you today is a dismal one and in some respects downright frightening. As of today, the U.S. merchant marine is far from adequate to meet its maritime and sealift responsibilities.

On Wednesday morning, September 20, 1978, Adm. Isaac C. Kidd, Supreme Commander of all allied forces in the Atlantic area testified before the House Merchant Marine and Fisheries Committee that the U.S. merchant marine was far below the strength required to support the American Army now in Europe.

Admiral Kidd is the foremost expert in America, indeed, in the entire world, on the readiness of American forces in NATO to sustain combat in the event of a Soviet attack on NATO. His message is that it cannot be done with the Navy and merchant marine we now have.

Admiral Kidd said flatly that the United States has half the Navy it needs to protect shipping in support of a NATO war, half the Navy we need to protect the flow of critical fuel and raw material supplies from the Middle East and other sources in the Indian Ocean. He said that of the 3,000 to 6,000 merchant ships required to support a NATO war, only 10 percent are U.S. flag. When asked how the United States would get the additional ships it needs to supply American armies overseas, augment the Navy and maintain the inflow of critical materials, he said it would take time. He stressed that we do not have time, that the Navy and merchant marine must be ready at the outset of a major emergency.

Admiral Kidd reminded his listeners that the U.S. merchant marine is far below the strength required by law; that the Soviet Navy and merchant marine buildup is thorough and massive; that former Soviet Premier Khrushchev's promise to bury us by building a merchant marine and carrying America's foreign trade is well on the way to being fulfilled.

I believe all our colleagues and, indeed, every American should understand the point of my remarks. The United States at this moment has close to a half-million men and women, sons and daughters of American citizens, stationed in Europe presumably ready to fight. As of today, the U.S. forces in NATO can give a good account of themselves for a few days, or perhaps weeks. But then what happens to them? We must be concerned about sending Americans overseas without sufficient naval forces and transport to keep them supplied, and if necessary to bring them home. I hope all my colleagues will join us in supporting H.R. 11861 which will provide for cooperation among those who are responsible for planning for and developing the adequate and well-balanced fleet mandated by law and essential to our national security.

Mr. MURPHY of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I rise in support of H.R. 11861 and concur with the comments made by the esteemed gentleman from New York.

This bill has as its purpose a very simple objective: To strengthen communications between the Departments of Commerce and Navy in order to achieve an adequate and well-balanced merchant fleet. This issue, as it pertains to the commercial and defensive posture of this Nation, cannot be overstated.

Our merchant fleet has, throughout our history, played a vital role in preserving access to those world markets necessary to our continued prosperity.

Further, when reviewing its role during times of crisis, the importance of the merchant marine becomes more glaringly apparent. As recently as the Korean and Vietnam conflicts, upwards of 95 percent of all materials transported to the U.S. and allied forces were delivered by merchant shipping. In the event of a future national crisis, our ability to protect our Nation's security and the security of millions of people in the allied nations who depend on the United States for their survival will be dependent on our ability to quickly and efficiently transport necessary materials to our Armed Forces.

Alarmingly, as our merchant fleet dwindles, the Soviet merchant fleet is growing exponentially, having more than doubled over the past 20 years. Consider these facts:

The entire U.S. merchant fleet is composed of 577 vessels, many of which are over 20 years old.

The entire U.S.S.R. merchant fleet is composed of 2,517 vessels.

It is not difficult to assess the frightening implications of these figures. When considering present allied capabilities in the event of a national crisis, Adm. Issac C. Kidd, Commander in Chief, Atlantic Fleet and Supreme Allied Commander, Atlantic, in recent testimony before the House Committee on Merchant Marine and Fisheries, predicted that—

> (Losses of Allied merchant ships) would be horrendous. The reason that I am quite sure they would be horrendous is because we have only experience to fall back on . . . and they were horrendous in World War II.

Admiral Kidd went on to say:

> Could it be that severe again? I am prepared for it, if we had to go to war this afternoon. The fact is, things could be extremely difficult in the opening stages . . . because the Soviet navy is of a character well conceived . . . We are looking at a very sobering sea bag of potential in the hands of the Soviet navy; in a nutshell, (the USSR) is trying harder than we are . . . this is not good news.

In light of the admiral's remarks, it is vital that we take those steps necessary to insure that we will have an adequate and well-balanced merchant fleet.

For the economic well-being of our country during times of peace, and the survival of our country during the times of conflict, it is imperative that the Navy and Commerce Departments work together in an effort to achieve a genuine partnership in sea operations. H.R. 11861, by formalizing the relationship between the Secretaries of these two departments, would serve as a constructive means to that end. Therefore, I sincerely urge its passage here today.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11861, a bill to amend the Merchant Marine Act, 1936, to direct the Secretary of Commerce to cooperate with the Secretary of the Navy and the maritime industry to establish an adequate and well-balanced fleet to meet our national defense and national security goals.

As the chairman of our committee pointed out over a year ago, the lack of cooperation between the Navy and the Maritime Administration has been a national disgrace.

This bill requires the Secretary of Commerce and the Secretary of the Navy to meet quarterly, in public meetings, with representatives of the U.S. maritime industry. The purpose of these meetings is to receive information regarding the capabilities and operations of the merchant marine. This information will be used by the Secretaries to prepare an annual report, also required by the bill, regarding the ability of the merchant marine to meet the goals of the Merchant Marine Act, 1936. Those goals, set out in section 101 of the act, include the maintenance of a merchant marine capable of serving as a naval and military auxiliary in time of war or national emergency supplemented by efficient facilities for shipbuilding and ship repair.

These meetings and the preparation of the annual report are necessary to allow the Secretary of Commerce to carry out her responsibilities under section 210 of the 1936 act. That section provides:

> It shall be the duty of the Secretary of Commerce to make a survey of the American merchant marine, as it now exists, to determine what additions and replacements are required to carry forward the national policy declared in section 101 of this Act, and the Secretary of Commerce is directed to study, perfect, and adopt a long-range program for replacements and additions to the American merchant marine so that as soon as practicable the following objectives may be accomplished:
>
> First, the creation of an adequate and well-balanced merchant fleet, including vessels of all types, to provide shipping service essential for maintaining the flow of the foreign commerce of the United States, the vessels in such fleet to be so designed as to be readily and quickly convertible into transport and supply vessels in a time of national emergency. In planning the development of such a fleet the Secretary of Commerce is directed to cooperate closely with the Navy Department as to national defense needs and the possible speedy adaptation of the merchant fleet to national defense requirements . . .
>
> Fourth, the creation and maintenance of efficient shipyards and repair capacity in the United States with adequate numbers of skilled personnel to provide an adequate mobilization base.

The bill does not change the basic responsibilities and duties of the Secretary of Commerce. However, it does require that the Secretary take certain steps to insure that these responsibilities are carried out. The committee's hearings on the bill confirmed several findings made by the GAO last year that the Secretary was not meeting her section 210 mandate. Specifically, the committee learned that the Secretary was not meeting with the Secretary of the Navy and representatives of the maritime industry—the very individuals who are responsible for meeting the goals established by the 1936 act—and had not formulated the comprehensive plan required by section 210.

In a recent study, dated August 30, 1978, entitled "The Navy Should Reconsider Plans to Acquire New Fleet Oilers and Ocean Tugs," GAO severely criticized the failure of the Navy to consider the capabilities of the private sector and stated that "millions could be saved" if such coordination was accomplished. One of the conclusions of that study held that—

> Use of commercial assets in wartime is anticipated by the Navy, but the capability required has not been evaluated.

It also concluded that—

> Closer coordination between the Navy and the commercial sector to foster a viable merchant marine could enhance the readiness of the Navy's fleet support capability.

Finally, recognizing that the Secretaries of the Navy and the Department of Commerce were not coordinating their activities, the study recommended that the Secretary of the Navy be directed to—

> In coordination with MARAD and commercial operators, identify areas in merchant marine fleets that could improve national defense value and enhance overall readiness.

Therefore, the committee concluded that it was necessary to require meetings between all interested parties and to require an annual report of their activities as they relate to the Secretary's section 210 responsibility.

H.R. 11861 will accomplish this without establishing a new bureaucratic organization. The committee was particularly concerned with achieving the goals of the 1936 act without imposing any burdensome or costly requirement on the Secretary of Commerce or the Secretary of the Navy. Therefore, the bill was carefully drafted to avoid the requirements of the Federal Advisory Committee Act.

I believe this bill will result in the development of a merchant marine which will better meet the national policy as set out in the 1936 act and will do so without additional bureaucracies or costs. Therefore, I would like to respectfully urge my colleagues to join me in supporting this measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 11861, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Merchant Marine Act, 1936, to direct the Secretary of Commerce to cooperate with the Secretary of the Navy and the maritime industry in establishing an adequate and well-balanced fleet.".

A motion to reconsider was laid on the table.

MIGRATORY BIRD STAMP AMENDMENTS

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13372) to increase the price of migratory-bird hunting and conservation stamps and to suspend the hunting of migratory birds in any State in which there has been a failure to approve an acquisition of wetlands, as amended.

The Clerk read as follows:

H.R. 13372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of the first section of the Act of March 16, 1934, commonly known as the Duck Stamp Act (16 U.S.C. 718a), is amended by striking out "sixteen" and inserting in lieu thereof "fourteen".

(b) Section 2 of such Act of March 16, 1934 (16 U.S.C. 718b) is amended—

(1) by inserting "(a)" immediately before the first word thereof;

(2) by striking out "For each such stamp sold under the provisions of this section" in the third sentence and inserting in lieu thereof "Except as provided in subsection (b), for each stamp sold under the provisions of this section for any hunting year"; and

(3) by adding at the end thereof the following new subsection:

"(b) The Postal Service shall collect $7.50 for each stamp sold under the provisions of this section for any hunting year if the Secretary of the Interior determines, at any time before February 1 of the calendar year in which such hunting year begins, that all sums in the migratory bird conservation fund attributable to—

"(1) amounts appropriated pursuant to the Act for the fiscal year ending in the immediately preceding calendar year; and

"(2) the sale of stamps under this section during such fiscal year

have been obligated for expenditure. For purposes of this section, the term 'hunting year' means the 12-month period beginning on July 1 of any such year.".

SEC. 2. (a) Section 4 of the Migratory Bird Conservation Act (16 U.S.C. 715c) is amended to read as follows:

"SEC. 4. The Secretary of the Interior may not recommend any area for purchase or rental under the terms of this Act unless the Secretary of the Interior—

"(1) has determined that such area is necessary for the conservation of migratory birds; and

"(2) has consulted with the county or other unit of local government in which such area is located and with the Governor of the State concerned or the appropriate State agency.".

(b) Section 7 of such Act (16 U.S.C. 715f) is repealed.

SEC. 3. The last sentence of section 3 of the Act entitled "An Act to promote the conservation of migratory waterfowl by the acquisition of wetlands and other essential waterfowl habitat, and for other purposes", approved October 4, 1961 (16 U.S.C. 715k–5), is amended by inserting immediately before the period the following: "; except that such approval is not required when the transaction is a voluntary one between a willing seller and the Secretary of the Interior".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **FORSYTHE**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. **MURPHY** of New York. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, the Migratory Bird Hunting and Conservation Act—commonly known as the Duck Stamp Act—was enacted in 1934. It prohibits any person 16 years of age or older from taking any migratory waterfowl unless he has in his possession at the time of such taking, a valid duck stamp. The act set the price of the duck stamp at $1 in 1934; today the price is $5. The funds received from the sale of such stamps are placed in the Migratory Bird Conservation Fund and are used by the Secretary of the Interior for the acquisition of migratory bird refuge lands and waterfowl production areas.

To assist in acquiring lands for migratory waterfowl, in 1961 the Congress passed the Wetlands Loan Act. This act authorized $105 million in loans to be made to the Migratory Bird Conservation Fund. In 1976, the total amount of loans to be authorized was increased to $200 million. The loans are required to be repaid beginning in 1983 by returning to the U.S. Treasury 75 percent of all duck stamp receipts.

In the early 1960's the U.S. Fish and Wildlife Service made a study of the habitat in the United States that was desirable for migratory birds and determined at that time that there was approximately 10 million acres of unprotected wetlands available for such purposes. Of that 10 million acres, the Service has proposed that approximately 1.95 million acres should be acquired as prime migratory bird habitat, the cost of which has been estimated to be about $400 million.

The need for H.R. 13372 arises from the fact that approximately 350,000 acres per year of these lands are being drained for development purposes, the price of such lands is rapidly rising, and there is remaining in the wetlands loan account only $83 million.

To assist in raising these additional funds, H.R. 13372 would do two things:

First, it would decrease, from 16 to 14 years, the minimum age of a person required to possess a valid duck stamp when hunting for migratory waterfowl. Second, it would increase the price of the duck stamp from $5 to $7.50 whenever the Secretary of the Interior determines that all sums in the Mitgratory Bird Conservation Fund in the previous fiscal year have been obligated for migratory bird habitat acquisition. It is estimated that an additional $5 million will be raised from these two changes in the law.

Mr. Speaker, H.R. 13372 is designed to get at one additional problem. The Migratory Bird Conservation Act prohibits the use of moneys from the Migratory Bird Conservation Fund for the acquisition of lands for migratory birds unless the acquisition thereof has been approved by the Governor of the State—or the appropriate State agency—concerned. In recent years, there has been an effort on the part of some Governors to block the acquisition of several large tracts of prime waterfowl habitat. To overcome this problem, H.R. 13372 would condition the Governor's veto authority to provide that whenever the use of moneys between the fund involves a transaction between a willing seller and the Secretary of the Interior, then the transaction would be allowed to go forward.

In its report on the legislation, the Merchant Marine and Fisheries Committee made it clear that it does not feel that this unwarranted obstacle to the goal of the Department of the Interior to acquire this vitally needed habitat should be allowed to continue. It further pointed out that retention of the Governor's veto provision, even though conditioned, still gives a State protection from eminent domain since such a proceeding could not be brought without the Governor's approval of the State concerned.

Mr. Speaker, I think this legislation is vitally needed if we expect to acquire these vitally needed lands before they are diverted to other uses and I urge its prompt passage.

Mr. Speaker, I am happy to yield at this point to the distinguished chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, Mr. LEGGETT, for further discussion of the bill.

Mr. **LEGGETT**. Mr. Speaker, I rise in strong support of H.R. 13372.

As was just pointed out by Chairman MURPHY, valuable habitat for migratory birds is rapidly being diverted to other uses. There is an urgent need to raise additional funds with which to acquire this habitat if we expect to see these lands placed in some sort of a protective status for the benefit of our valuable migratory bird resources.

Mr. Speaker, to assist in raising these funds, the legislation would authorize an increase in the price of the duck stamp from its present price of $5 to $7.50 and it would decrease, from 16 to 14 years, the minimum age of a person required to possess a valid duck stamp when hunting for migratory waterfowl.

Mr. Speaker, these changes in existing law are expected to bring in an additional $5 to $6 million per year. These additional funds—plus the $12 million per year that has been raised in the past from duck stamp sales and the loans from the Wetlands Loan Act—hopefully will allow the Fish and Wildlife Service to accomplish its goal of acquiring the remaining 1.95 million acres of prime habitat it has identified for acquisition.

Mr. Speaker, H.R. 13372 is designed to overcome another problem that has developed in recent years. This problem concerns the use of the Governor's veto authorized in existing law. Under existing law, moneys from the Migratory Bird Conservation Fund cannot be used to acquire lands for migratory waterfowl unless the acquisition thereof has been approved by the Governor of the State concerned or the appropriate State agency. Last year the Governors of the States of North Dakota and Texas took actions that resulted in large acreages of valuable habitat from being acquired in those States by the Secretary of the Interior.

H.R. 13371, a similar bill to H.R. 13372, contained a provision that was designed to overcome this problem. That bill would provide for the repeal of the Governor's veto authority provision in existing law. However, that provision was rewritten and as contained in H.R. 13372, as reported, it would retain the Governor's veto authority but actually remove it when a willing seller, having been offered a fair price, wishes to sell his land. We think this is consistent with the Constitution and, as rewritten, is fair to all concerned.

Mr. Speaker, I would like to point out that H.R. 13372, as reported, would continue the Governor's authority to veto condemnation acquisitions where land is attempted to be taken from an unwilling seller. We think the retention of this provision of present law makes it more than fair to the Governors since this constraint, I am told, is not imposed on highway, flood control, or irrigation project acquisitions. Furthermore, it should be pointed out that this condemnation authority has never been used except to clear titles in a friendly procedure on which there is mutual agreement between the seller and buyer.

Mr. Speaker, I think H.R. 13372, as reported by the committee, is a vital piece of conservation legislation and I urge its prompt passage.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 13372, the Duck Stamp Act amendment, which would provide more funds for the acqusition of wetlands for migratory waterfowl.

The importance of protecting migratory birds was recognized early in the 20th century when we signed a treaty with Great Britain on behalf of Canada in 1916 which obligated our Government to care for migratory birds while they are in the United States or its possessions. Subsequent treaties with Mexico in 1936 and with Japan in 1972 provided similar protection.

Understanding that the protection of migratory birds included providing for habitat, Congress authorized limited funds for a systematic Federal program of wildlife refuge acquisition in 1929. However, this failed to assure a continuing availability of necessary funds to implement the acquisition program and it was necessary to establish a revenue base that was independent of the appropriations process. The resulting legislation was the Migratory Bird Hunting Stamp Act of 1934 which provided for a special Migratory Bird Conservation Fund to be used exclusively for wildlife conservation purposes. This fund is comprised of the proceeds from the sale of Federal migratory bird hunting stamps, otherwise known as duck stamps, and funds appropriated under the Wetlands Loan Act.

Today there are only about 10 million acres of wetlands left throughout the country which are available for acquisition and of that amount, the Fish and Wildlife Service has identified about 2 million acres which should be acquired as prime migratory bird habitat.

There has been a steady decline in the acquisition of prime migratory bird habitat since 1965 due to the steady increase in the price of land. In 1977 the Fish and Wildlife Service paid an average of $275 per acre for refuge land, $288 per acre for waterfowl production areas, and $128 per acre for waterfowl production easements. These amounts are over double that paid for the same land during fiscal years 1962 through 1977.

In spite of the fact that the Fish and Wildlife Service has been obligating all of the moneys available each year from the migratory bird conservation fund for habitat acquisition, the increasing land prices and the constant draining of wetlands at a rate of about 350,000 acres per year for developmental purposes make less and less land available for the migratory bird program.

Mr. Speaker, migratory waterfowl need their critical feeding, nesting, and wintering habitat in order to survive. Once these important areas are gone, it will be nearly impossible to replace them.

I urge my colleagues to join me in supporting the Duck Stamp Act amendments. This bill will provide the additional funds necessary for habitat acquisition by allowing the Secretary of the Interior to increase the price of duck stamps to $7.50 and by lowering the age of persons required to possess a duck stamp to 14 years. I feel that this legislation is needed if we are to enjoy the benefits of migratory bird populations in years to come.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MURPHY of New York. Mr. Speaker, I yield such time as he may consume to the distinguished author of the legislation, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, the bill now under consideration is noncontroversial but necessary legislation. It would allow the Secretary of Interior to increase the price of a migratory bird hunting and conservation stamp—commonly known as "duck stamps"—from $5 to $7.50 and would change the age requirements for the purchase of these stamps from 16 to 14 years of age. I consider the legislation to be highly important in the long-range interests of conserving the wetland resources of this Nation—a resource which is being threatened by contamination and drainage at an alarming rate.

The Fish and Wildlife Service has estimated that there are approximately 10 million acres of unprotected wetlands throughout the Nation which are being drained at a rate of 350,000 acres per year for developmental purposes. Despite the large amount of unprotected migratory bird habitat, the amount of wetlands protected has declined steadily since 1965, when 254,000 acres were acquired. By 1977 this figure had dropped to approximately 74,000 acres despite the fact that the Fish and Wildlife Service had been obligating all of the moneys available each year from the migratory bird conservation fund for habitat acquisition. Due to steadily rising land prices, the amount in this fund, which is comprised of moneys appropriated each fiscal year pursuant to the Wetlands Loan Act and receipts from the sale of duck stamps, is inadequate. During the fiscal year 1978, it is estimated that approximately $20.7 million will be available in the fund for wetlands acquisition. Yet, the revenues made available from these two sources will not be enough to acquire the necessary acreage of wetlands. If more wetlands are not acquired, they will most certainly be lost. To a large degree, these wetlands serve as a critical habitat to migratory waterfowl for breeding, wintering, and production. Wetlands also aid in flood control and help to remove pollutants from the air and water. In fact, two-thirds of the economic value of the U.S. commercial fish and shellfish production is dependent upon wetland-based food chains. It is obviously a vital resource. But while it takes an estimated 4,000 years for marshlands to grow to their normal teeming productivity, man can destroy them in 1 day.

It is therefore imperative that wetlands be afforded maximum protection. And Congress has made great strides in enacting legislation to accomplish this goal. Nevertheless, skyrocketing land values of wetlands resources now necessitates a readjustment in revenue producing mechanisms. I believe by allowing the Secretary to make slight adjustments in the price and age requirements for purchasing duck stamps will accomplish this goal.

The Fish and Wildlife Service estimates that increasing the price of the duck stamp from $5 to $7.50 will result in an increase of approximately 27 percent in duck stamp receipts with only an expected decrease of 10 to 20 percent in overall stamp sales. The percentage loss in sales would be smaller than the percentage increase in sales revenues. The aggregate impact of the increase would be additional revenues for purchasing wetland resources. In dollar terms, this would result in estimated gross receipts of $14.5 million during fiscal year 1979, an increase of $3.1 million (27 percent) over fiscal year 1978.

In recent years, there has been an effort in a few States—at the local level—to block the Federal acquisition of prime migratory waterfowl habitat. This is accomplished by pressuring the Governor of the State in which the proposed acquisition is located into exercising his veto over the Federal acquisition of the wetland habitat. This has occurred on several occasions—in the States of North Dakota and Texas—where a willing transaction between a seller and the Department of the Interior has been outrightly vetoed by the Governor. I do not feel that the acquisition of this most critical resource should be blocked or hindered by the political whim and whimsy of a State official—particularly in the case of a willing transaction. Therefore, this legislation contains a provision which would prohibit a Governor from exercising his veto power in situations where a willing transaction is clearly the case.

I urge my colleagues to favorably consider this legislation. It is favored by conservationists and hunters alike. It is a bill which will accomplish the objective of helping to conserve a resource important to us all.

● Mr. CONTE. Mr. Speaker, I rise in support of H.R. 13372, the migratory bird stamp amendments. This measure mandates a 50-percent increase in the price of duck stamps, lowers from 16 to 14 the minimum age at which such duck stamps are required, and slightly modifies the procedure for Federal acquisition of wetlands for migratory waterfowl in order to streamline the process. As an avid hunter, an ardent conservationist, and as one of two House Members to serve on the Migratory Bird Conservation Commission, which administers the proceeds from the duck stamp sales, I give this bill my wholehearted support.

A little background might be in order at this point. Since 1934, possession of a valid duck stamp has been required for the hunting of migratory waterfowl. The proceeds from the sale of these stamps, less administrative costs, are placed in a Migratory Bird Conservation Fund, which is used to acquire refuge lands and waterfowl production areas. To supplement this effort, Congress passed the Wetlands Loan Act of 1961, which, as amended in 1976, authorized a $200 million loan for a wetlands acquisition program for migratory waterfowl. The acquisition authority under that measure extends until September 30, 1983, when repayment of the loan will begin by returning 75 percent of annual receipts from duck stamp sales to the Treasury.

These funds have financed major wetlands acquisitions by the Federal Government, saving these areas from development and preserving them as refuges and breeding areas for migratory birds. The fund comprised of Wetlands Loan Act moneys and duck stamp receipts currently has a balance of some $83 million, but the Fish and Wildlife Service proposal to acquire nearly 2 million acres of prime migratory bird habitat is estimated to cost significantly more than that. This gap between available funds and anticipated acquisition costs has widened alarmingly with the steep increase in rural land values and this has led to a steady slowdown in wetlands acquisition.

One of the major purposes of the bill before you today is to close that gap somewhat. It effectively authorizes an increase in the price of duck stamps from $5 to $7.50. The $5 price has been in effect since 1972, so this increase is not out of keeping with overall price increases during the last 6 years. A seasonal $7.50 price tag on such an enjoyable pursuit is certainly a good value—it is becoming almost impossible to attend a 3-hour pro football or hockey game for anything less than that. Our statistical analysts at the Fish and Wildlife Service predict a 27-percent increase in duck stamp receipts, despite the fact that a few hunters may be deterred by the price increase and sit the season out.

This bill lowers the minimum age at which duck stamps are required from 16 to 14, a change which is expected to boost revenues by an additional $1.1 million annually. This provision extends coverage to a majority of the 300,000 hunters of migratory waterfowl who are under 16. I realize that any age division is necessarily arbitrary, but this 14-year-old cutoff is calculated to separate the more serious teenage hunters from the real youngsters who are merely taken along by their fathers to learn the fundamentals of hunting. Thus, this provision increases revenues without discouraging these worthwhile educational trips.

An additional section of this bill amends the 1961 Wetlands Loan Act to prevent a Governor from vetoing Federal acquisition of areas within his State when the transaction involved is a voluntary one between a willing seller and the Secretary of the Interior. Approval by the Governor would still be required in condemnation cases. This streamlining modification was added in response to two recent instances of States blocking acquisition of migratory bird habitats from willing sellers—in one case by a gubernatorial veto and in the other by a State law requiring an affirmative recommendation from the county board of commissioners. State and county authorities should not be permitted to delay and obstruct this program and its purchases when the seller is willing.

I urge your approval of this sound and noncontroversial bill, the kind of measure properly considered under suspension of the rules and one which merits your support.

Thank you.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill (H.R. 13372), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and local authorities before migratory bird areas are recommended for purchase or rental, and for other purposes.".

A motion to reconsider was laid on the table.

ANADROMOUS FISH CONSERVATION ACT AMENDMENTS

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13392) to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn, as amended.

The Clerk read as follows:

H.R. 13392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Anadromous Fish Conservation Act, as amended (16 U.S.C. 757a–f), is amended by inserting immediately after the words "Great Lakes", wherever they appear therein, the words "and Lake Champlain".

The SPEAKER pro tempore. Is a second demanded?

Mr. FORSYTHE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

(Mr. MURPHY of New York asked and was given permission to revise and extend his remarks.)

Mr. Speaker, the 1965 Anadromous Fish Conservation Act authorizes the Secretaries of the Interior and Commerce to enter into cooperative agreements with the States for the purpose of conserving, developing and enhancing the anadromous fishery resources of the Nation and the fish in the Great Lakes that ascend streams to spawn. Approved projects are carried out with the States on a 50–50 matching fund basis, except when two or more States are involved in a common project, in which case, the Federal share is two-thirds of the cost of such project.

The present funding authorization under the act does not expire until the end of fiscal year 1979. The act authorizes to be appropriated $20 million per year to the Secretaries of the Interior and Commerce for carrying out the purposes of the act.

Mr. Speaker, the Anadromous Fish Conservation Act has been interpreted by both the Secretaries of the Interior and Commerce to cover Lake Champlain, since sea-run Atlantic salmon were once found in Lake Champlain and, by strict definition, they are considered to be anadromous. However, the need for this legislation arises from the fact that Lake Champlain contains a number of species of fish that ascend streams to spawn—such as rainbow smelt, walleye, northern pike, and bass—and these species of fish in Lake Champlain are not covered by the act.

Mr. Speaker, since 1973 much work has gone into the development of a master plan for the development of a salmonid sport fishery in Lake Champlain. This plan was developed by the New York Division of Fish and Wildlife, the Vermont Department of Fish and Game, and the U.S. Fish and Wildlife Service. A working draft of this plan was published in January of this year.

The fishery to be developed pursuant to this plan would supplement the sport fishery already existing in the Lake. However, the efforts to develop this sport fishery in the past have been impeded because of inadequate funding, insufficient research, and a lack of program and facilities for expanding this fishery. Although Lake Champlain is the tenth largest freshwater lake in the United States, the States bordering it are not eligible to receive Federal financial assistance for the lake under the act because only fish in the Great Lakes that ascend streams to spawn are covered by the act.

The legislation before the House for consideration at this time, H.R. 13392, would amend the Anadromous Fish Conservation Act to put Lake Champlain on a par with the Great Lakes, thereby allowing the States bordering Lake Champlain to receive matching funds on a dollar-for-dollar basis for carrying out conservation, development, and enhancement programs for fish in Lake Champlain that ascend streams to spawn.

Passage of this legislation would make it possible for this Federal-State development plan to be carried out in Lake Champlain. By 1985 it is anticipated that, if the plan is carried out, it would provide for the establishment of: a lake trout fishery which will annually provide 45,000 additional man-days of fishing with an approximate yield of 18,000 trout; a land-locked Atlantic salmon fishery which will annually provide 41,000 additional man-days of fishing with an approximate yield of 12,200 salmon; a "steelhead" rainbow trout fishery which will annually provide at least 31,000 additional man-days of fishing with an approximate yield of 6,100 trout; and a rainbow smelt fishery which will annually provide at least 25,000 man-days of fishing with an approximate yield of 100,000 pounds.

Mr. Speaker, it has been determined that once a sport fishery is well established, Lake Champlain will provide a year round sport fishery on the lake and a seasonal coldwater sport fishery in certain adjoining streams, thereby providing thousands of days of recreational fishing for New York and Vermont fishermen and for many other fishermen from various States throughout the country.

Mr. Speaker, after the committee reported H.R. 13392, it was brought to my attention that section 1 of the bill was no longer needed and should be eliminated from the bill since its purposes were in the process of being accomplished.

Section 1 of the bill, as reported, would require the Secretaries of the Interior and Commerce to limit or prohibit commercial fishing for anadromous fish on lands or waters in a State under their respective jurisdictions whenever a State for conservation purposes prohibits or limits commercial fishing for anadromous species within such State.

Therefore, with the concurrence of Mr. LEGGETT, chairman of the subcommittee that handled the legislation, Mr. FORSYTHE, the ranking minority member of the subcommittee, Mr. McCLOSKEY, the author of the language of section 1, and Mr. JEFFORDS, the author of the bill, section 1 of the bill, as reported, has been eliminated and the remaining language of the bill would only do one thing—it would extend the coverage of the Anadromous Fish Conservation Act to include Lake Champlain. A similar bill to this effect, S. 415, has already passed the Senate.

Mr. Speaker, I fully support the legislation and I urge its prompt passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LEGGETT) for a further explanation of the legislation.

Mr. LEGGETT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of H.R. 13392.

This legislation was unanimously reported by the Subcommittee on Fisheries and Wildlife Conservation and the Environment and by our Full Committee on Merchant Marine and Fisheries, and it has the strong support of the States of New York and Vermont.

Mr. Speaker, the bill, as amended, which is before the House today for consideration, would do only one thing—it would amend the Anadromous Fish Conservation Act to extend its coverage to include Lake Champlain.

Lake Champlain is one of the 10 largest freshwater lakes in the United States and it has many species of fish in it that ascend streams to spawn.

However, the act in its present form only covers anadromous fish and fish in the Great Lakes that ascend streams to spawn. Since Lake Champlain is not one of the Great Lakes, passage of this legislation would permit the conservation, development, and enhancement of fish that ascend streams to spawn in Lake Champlain.

Mr. Speaker, I hasten to point out that passage of H.R. 13392 would result in no additional cost to the Federal Government for fiscal year 1979. However, should the sport fishery development plan prepared by the States of New York and Vermont and the U.S. Fish and Wildlife Service be carried out in future years it could result in a cost to the Federal Government of about $5 million, but this cost could easily be absorbed under the act's present $20 million level of authorization since only about $6 million is presently being appropriated under this authorization.

Mr. Speaker, I would like to briefly comment on why the language of section 2 was eliminated from the bill after it was reported by the Committee on Merchant Marine and Fisheries.

The Klamath and Trinity Rivers in northern California have long been famous as being among the best salmon and steelhead trout streams in the world. Commercial fishing for these species on the Klamath and Trinity Rivers has been prohibited by the State of California since 1933. In the last several years, however, approximately 100 native Americans in the area have fished commercially for salmon with gill nets. In 1977 and 1978 the Department of the Interior proposed regulations governing the fishing by the recognized tribes of the Hoopa Valley Indian Reservation which encompasses large portions of the two rivers. These regulations permitted commercial fishing by Indians despite the 1933 California law to the contrary, and despite the concerns of the California Department of Fish and Game and the U.S. Fish and Wildlife Service that the salmon runs on these streams had been severely depleted. The Department has taken the position that the Indians of the reservation have reserved rights to fish commercially.

Mr. Speaker, H.R. 13392 was ordered reported by the committee on August 8. On August 31, the Secretary of the Interior announced the creation of a five-member observer team to monitor enforcement of strict regulations, imposed earlier that week by the California Department of Fish and Game and the Department of the Interior. These regulations called for a ban on all fishing for fall chinook salmon and steelhead trout below the Highway 101 bridge and for a severe curtailment of such fishing above the bridge. Since that time Secretary Andrus has personally visited the area to observe first hand the situation and to insure strict and fair enforcement of the closure.

Mr. Speaker, the language of section 2 was intended to accomplish exactly what these strict regulations have accomplished—a closure of these two rivers to commercial fishing.

In view of the recent actions taken by the California Department of Fish and Game and the Department of the Interior, I agreed with my colleagues that I would be willing to eliminate the language of section 2 from the bill. This action has been taken. However, I would like to make it clear that in eliminating this language it in no way lessens my concern over this matter and that I expect these two agencies to continue to apply strict prohibition measures until the desired size of the runs and the necessary escapement levels of chinook salmon and steelhead trout on the Klamath and Trinity Rivers have been obtained.

Mr. Speaker, I think H.R. 13392 is a good bill and I urge its prompt passage.

Mr. Speaker, I commend the gentleman from Vermont (Mr. JEFFORDS) for pioneering this important legislation and in seeing that it was brought before the committee.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, would like to express my support of H.R. 13392, which would amend the Anadromous Fish Conservation Act to include Lake Champlain.

The Anadromous Fish Conservation Act of 1956 provides for the conservation, development, and enhancement of the anadromous fishery resources of the Nation, as well as the fish in the Great Lakes that ascend streams to spawn. In order to carry out this purpose, the act authorizes the Secretary of the Interior or Commerce to enter into cooperative agreements with the participating States in order that the necessary actions can be taken on a cost-sharing basis. Such actions include investigations, engineering, and biological surveys, research, stream clearance, construction, maintenance, and operation of hatcheries and devices and structures for improving movement, feeding, and spawning conditions.

Presently, only certain coastal waters and the waters of the Great Lakes are eligible for these programs. By including Lake Champlain under the coverage of the act, the States of Vermont and New York would become eligible for Federal financial assistance for those fish in the lake that ascend streams to spawn.

Lake Champlain is the 10th largest freshwater lake in the country but cannot receive Federal financial assistance because its anadromous fish populations are landlocked. As my distinguished colleague from Vermont, JIM JEFFORDS, testified before our subcommittee, there have been ongoing programs since 1973 to develop a salmonid fishery in Lake Champlain but the work has been slow because of inadequate funding, insufficient basic research on the lake, and the lack of programs and facilities for beginning and then managing an expanded fishery. He pointed out that if the funds were available to implement the plan for a salmonid fishery, thousands of anglers in the Northeast United States would benefit.

Mr. Speaker, the Anadromous Fish Conservation Act has proven to be successful. There are presently 29 non-Federal participants in the program and the expenditure of about $25 million since the act was passed in 1965 has resulted in an economic benefit of approximately $441 million to the States.

I want to urge my colleagues to join me in supporting H.R. 13392 in order that Lake Champlain can also enjoy the benefits under the act.

Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I would like to express my appreciation to the chairman of the Merchant Marine Committee, Mr. MURPHY. The subcommittee chairman, Mr. LEGGETT, has my sincere thanks for his efforts in bringing this legislation to the floor. Also I thank the ranking member Mr. FORSYTHE, and I have a special thanks for the cooperation of my good friend from California, Mr. McCLOSKEY. I would also like to acknowledge the able assistance of my friend and colleague, BOB McEWEN of New York, in developing this bill.

This bill is relatively simple; it would amend the Anadromous Fish Conservation Act to include Lake Champlain as one of the Great Lakes for the purposes of the act. This would clarify that the States bordering the lake—New York and Vermont—are eligible to participate in the cooperative agreement and assistance programs provided through the original 1965 law.

I believe the need for this legislation is clear. Lake Champlain is the 10th largest freshwater lake in the United States. Being both interstate and international, 62 percent of its 456-square-mile surface area is within Vermont, 35 percent in New York, and 3 percent in Quebec Province. It has an over 8,000-square-mile basin which drains north via the Richelieu River through Canada, with almost 450,000 people living in the basin. The lake is widely used for water based recreation of all types and with completion of the Interstate Highway System, the basin has become easily accessible to the major metropolitan areas of the Northeast.

However, the record of Government neglect of Lake Champlain, especially at the Federal level, is clear. Historically, no major Federal studies have been made on the lake. Lake Champlain was excluded from the Anadromous Fish Conservation Act of 1965 and also from the Coastal Zone Management Act of 1972. Sea grant moneys likewise are not available. The widely publicized and intensive Federal efforts over the past few years to study, refurbish, and manage the Great Lakes totally excluded Lake Champlain. Consequently, substantial Federal moneys have not been available in the past nor are they now available to learn of the processes of the lake upon which the formulation of sound, rational management decisions depend.

Lake Champlain's proximity to the major population centers of the Northeast and the tremendous potential which exists for developing its fishery resources, particularly for salmonid fishery, makes it an excellent addition to those bodies of water currently eligible under the act. Since the Anadromous Fish Conservation Act was passed in 1965 over $24.6 million has been expended through the 29 States participating in the program. This expenditure has resulted in an economic benefit to those States of approximately $440 million. This has clearly been a sound investment.

Since 1973 the States of New York and Vermont, in cooperation with the U.S. Fish and Wildlife Service, have been working on a master plan for the development of a salmonid sport fishery in Lake Champlain to supplement the sport fishery already existing in the lake for rainbow smelt, walleye, northern pike, bass and bullhead. These excellent efforts, however, have been impeded because of inadequate funding, insufficient basic research, and a lack of programs and facilities for establishing and maintaining and expanded sport fishery.

Through this master plan it was estimated that the lake has the potential to yield a sustained annual sport fishing harvest of about 820,000 pounds of fish. Of that total yield, it is estimated that up to 30 percent, or about 175,000 pounds, would come from a newly established salmonid sport fishery. This would result in 100,000 additional man-days of recreation annually.

The estimated cost in the next 15 years of establishing and maintaining a salmonid sport fishery in Lake Champlain would be approximately $336,000 per year. The benefit-cost ratio would be about 3 to 1 during the initial years of the program.

Once a salmonid fishery is well established, the lake will provide a year round sport fishery in the lake and seasonal coldwater sport fishery in certain adjoining streams. Enactment of this measure would greatly enhance implementation of the cooperating agencies' salmonid fishery plan, and provide the essential impetus needed for a full realization of that master plan to the benefit of thousands of people throughout the Northeast.

This is clearly a necessary piece of legislation, and I hope my colleagues will join in support of it.

Mr. Speaker, I particularly want to thank the chairman, the gentleman from California (Mr. LEGGETT) for helping. I am also appreciative of the efforts of the gentleman from California (Mr. McCLOSKEY), and the gentleman from New Jersey (Mr. FORSYTHE).

Mr. Speaker, I yield back the remainder of my time.

Mr. LEGGETT. Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. FORSYTHE. Mr. Speaker, I have no further requests for time and yield back the remainder of my time.

● Mr. DON H. CLAUSEN. Mr. Speaker, the Anadromous Fish Conservation Act of 1965 has proven to be an extremely worthwhile and beneficial law which has provided a vehicle for States and other non-Federal interests to work with the Federal Government in developing cooperative agreements for the conservation and enhancement of anadromous fish.

I strongly support the amendment of this law to include Lake Champlain as one of the Great Lakes eligible to participate in this program.

Specifically, this measure permits the States bordering the lake (New York and Vermont) to apply for Federal financial assistance from the Department of the Interior and the Department of Commerce to help them in developing better management plans for the conservation of their anadromous fish resources.

As one of the original sponsors of the act, I am pleased that we continue to broaden and expand our ability to foster these most delicate of fish whose unique lifespan is spent both in fresh water streams and in the ocean.

I urge my colleagues to give this measure their full support.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 13392, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from further consideration of the Senate bill (S. 415) to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 415

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Anadromous Fish Conservation Act, as amended (16 U.S.C. 757a–f), is amended by inserting immediately after the words "Great Lakes", wherever they appear therein, the words "or Lake Champlain".

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike all after the enacting clause of the Senate bill S. 415, and to insert in lieu thereof the provisions of H.R. 13392, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed.

The title was amended so as to read: "A bill to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13392) was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the five bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON S. 3067, CIVIL RIGHTS COMMISSION ACT OF 1978

Mr. EDWARDS of California submitted the following conference report and statement on the bill (S. 3067) to extend the Commission on Civil Rights for 3 years, to authorize appropriations for the Commission, to effect certain changes to comply with other changes in the law, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95–1626)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3067) to extend the Commission on Civil Rights for 3 years, to authorize appropriations for the Commission, to effect certain changes to comply with other changes in the law, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Civil Rights Commission Act of 1978".

SEC. 2. (a) Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975(a)) is amended by striking out "section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b–2; 60 Stat. 808)," and inserting in lieu thereof the following: "section 5703 of title 5 of the United States Code.".

(b) Section 103(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975(b)) is amended by striking out "the provisions of the Travel Expenses Act of 1949, as amended (5 U.S.C. 835–42; 63 Stat. 166)" and inserting in lieu thereof the following: "subchapter I of chapter 57 of title 5 of the United States Code".

SEC. 3. (a) Section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c) is amended—

(1) in each of subsections (a)(1) and (a)(2), by inserting "age, handicap," after "sex,";

(2) in each of subsections (a)(3) and (a)(4), by inserting ", age, handicap," after "sex";

(3) in subsection (a)(2) by inserting "discrimination or" before "a denial";

(4) in each of subsections (a)(3) and (a)(4), by inserting "discrimination or" before "denials";

(5) by redesignating paragraph (6) of subsection (a) as subsection (b);

(6) by redesignating subsections (b) and (c) as (c) and (d), respectively; and

(7) by adding at the end the following:

"(e) As used in this section, the term 'handicap' means, with respect to an individual, a circumstance that would make that individual a handicapped individual as defined in the second sentence of section 7(6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6)).

"(f) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to appraise, or to study and collect information about, laws and policies of the Federal Government, or any other governmental authority in the United States, with respect to abortion.".

(b) Subsection (b) (which is redesignated as subsection (c) by this Act) of section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c(b)) is amended by striking out "fiscal year 1978" and inserting in lieu thereof "the fiscal year ending September 30, 1983".

SEC. 4. Section 105(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(a)) is amended by striking out "and who shall receive compensation at a rate, to be fixed by the President, not in excess of $22,500 a year".

SEC. 5. Section 105(c) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(c)) is amended—

(1) by inserting after "within States" the following: "as it deems advisable, but the Commission shall constitute at least one advisory committee within each State"; and

(2) by striking out "and may consult" and inserting in lieu thereof the following: ". The Commission may consult".

SEC. 6. Section 105(d) of the Civil Rights Act of 1957 (42 U.S.C. 1975(d)) is amended by striking out "sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99)" and inserting in lieu thereof the following: "sections 203, 205, 207, 208, and 209 of title 18 of the United States Code".

SEC. 7. Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act for the fiscal year ending September 30, 1979.".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill.

DON EDWARDS,
JOHN SEIBERLING,
ROBERT F. DRINAN,
HAROLD L. VOLKMER,
M. CALDWELL BUTLER,
ROBERT MCCLORY,
Managers on the Part of the House.

BIRCH BAYH,
EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
CHARLES MCC. MATHIAS, Jr.,
ORRIN G. HATCH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 3067, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

EXTENSION

The Senate bill extends the life of the Commission for 3 years.

The House amendment provides for a 5-year extension.

The managers agree the Commission's life should be extended for 5 years. This will permit the Commission to continue work within its current jurisdiction and also allow the Commission to begin its review of age and handicap discrimination as mandated by this bill.

STATE ADVISORY COMMITTEES

Both the Senate bill and the House amendment make mandatory the continued existence of the Commission's State Advisory Committees. In addition, the Senate bill would allow the Commission to establish more than one such volunteer committee, now currently authorized, if the Commission deems it advisable.

The language adopted by the managers provides the greatest flexibility to the Commission to assure the continuation of at least one committee in each jurisdiction, where currently authorized, and to permit the creation of additional committees where necessary.

AUTHORIZATION

The Senate bill authorizes the appropriations of sums necessary to carry out the provisions of the Act for the fiscal year ending September 30, 1979.

The House amendment authorizes fixed amounts for the 1979 and 1980 fiscal years.

The managers adopt a 1-year authorization and agree the oversight Committees in both Houses will exercise effective reviews of the Commission's work to provide proper guidance to the Appropriations Committees in their deliberations.

LOBBYING

The Senate bill contains no such provision.

The House amendment prohibits the Commission from lobbying the Congress or the State and local governing bodies.

The managers agree that the Commission is not now nor has it ever been authorized to lobby and is confident that appropriate administrative and or criminal remedies are available to prevent such abuses.

ABORTION

The Senate bill contains no such provision.

The managers recognize that although this issue is clearly within the Commission's current jurisdiction the Congress does have the power to limit the Commission's review of this area. The majority of the managers reluctantly acquiesced to this limitation.

TECHNICAL AMENDMENTS

The managers agreed to various technical amendments to the bill.

DON EDWARDS,
JOHN SEIBERLING,
ROBERT F. DRINAN,
HAROLD L. VOLKMER,
M. CALDWELL BUTLER,
ROBERT MCCLORY,
Managers on the Part of the House.

BIRCH BAYH,
EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
CHARLES MCC. MATHIAS, Jr.,
ORRIN G. HATCH,
Managers on the Part of the Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 10584, H.R. 11870, H.R. 12162, H.R. 13655, H.R. 12584, H.R. 12370, H.R. 9486, H.R. 13597, and H.R. 13488.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

AGRICULTURE TRADE ACT

The **SPEAKER** pro tempore. The unfinished business is the question of suspending the rules and passsing the bill H.R. 10584, as amended.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question on the motion offered by the gentleman from Washington (Mr. FOLEY) to suspend the rules and pass the bill H.R. 10584, as amended.

The question was taken.

Mr. VANIK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 325, nays 62, not voting 45, as follows:

[Roll No. 822]

YEAS—325

Abdnor
Addabbo
Akaka
Alexander
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clay
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Dellums
Devine
Dickinson
Dicks
Dingell
Dodd
Dornan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flippo
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holt
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Livingston
Lloyd, Calif.
Long, La.
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikva
Milford
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Rogers
Rooney
Rose
Rostenkowski
Roybal
Runnels
Russo
Ryan
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki

NAYS—62

Archer
Ashbrook
Badham
Benjamin
Broyhill
Buchanan
Clawson, Del
Cleveland
Collins, Tex.
Crane
Cunningham
D'Amours
Davis
Delaney
Dent
Derrick
Derwinski
Downey
Drinan
Emery
Evans, Ga.
Fenwick
Forsythe
Garcia
Gaydos
Gilman
Hansen
Holland
Hollenbeck
Holtzman
Ichord
Jenkins
Kostmayer
Lent
Levitas
Lloyd, Tenn.
Long, Md.
Lott
McDonald
Mann
Mikulski
Minish
Moorhead, Calif.
Motti
Myers, Gary
Neal
Nix
Richmond
Roe
Rosenthal
Rousselot
Scheuer
Seiberling
Solarz
Spence
Vanik
Waxman
Wilson, C. H.
Wolff
Wydler
Yates
Zeferetti

NOT VOTING—45

Ammerman
Anderson, Calif.
Anderson, Ill.
Applegate
Armstrong
AuCoin
Baucus
Bolling
Bonker
Brodhead
Burke, Calif.
Burton, John
Caputo
Chisholm
Cochran
Cohen
Diggs
Eckhardt
Eilberg
Flood
Flowers
Gammage
Harrington
Jones, Okla.
Krueger
McClory
Meeds
Miller, Calif.
Moss
Oakar
Pepper
Pressler
Quie
Risenhoover
Rodino
Roncalio
Rudd
Ruppe
Sarasin
Shipley
Teague
Thompson
Thone
Wirth
Wright

The Clerk announced the following pairs:

On this vote:

Mrs. Chisholm and Mr. Gammage for, with Mr. Eilberg against.

Mr. Thompson and Mr. Wirth for, with Mr. Risenhoover against.

Until further notice:

Mr. Flood with Mr. Cochran of Mississippi.
Mr. Ammerman with Mr. McClory.
Mr. Baucus with Mr. Quie.
Mr. Krueger with Mr. Ruppe.
Mrs. Burke of California with Mr. Thone.
Mr. Pepper with Mr. Eckhardt.
Mr. Diggs with Mr. Harrington.
Mr. Shipley with Mr. Sarasin.
Mr. Teague with Mr. Cohen.
Mr. Wright with Mr. Pressler.
Mr. John L. Burton with Mr. Anderson of Illinois.
Mr. Applegate with Mr. Caputo.
Mr. Anderson of California with Mr. Flowers.
Mr. Brodhead with Mr. Rudd.
Mr. Miller of California with Mr. Roncalio.
Ms. Oakar with Mr. Moss.
Mr. Bonker with Mr. AuCoin.
Mr. Rodino with Mr. Meeds.

Messrs. EVANS of Indiana, CARNEY, TUCKER, and KASTEN changed their vote from "nay" to "yea."

Messrs. LONG of Maryland, LENT, and HANSEN changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3447) to strengthen the economy of the United States through increased sales abroad of American agricultural products, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Export Trade Expansion Act of 1978".

DECLARATION OF POLICY AND PURPOSE

SEC. 2. It is hereby declared to be the policy of Congress, in order to raise farm income, create a more favorable balance of trade for the United States, and promote the general economic welfare, that the United States Government, in concert with private enterprise, engage in a systematic program to expand international markets for United States agricultural commodities. It is the purpose of this Act to provide the means for the development and implementation of such program.

DEFINITION

SEC. 3. The term "agricultural commodity" as used in this Act shall include any agricultural commodity or product thereof.

TITLE I—INTERMEDIATE CREDIT

SEC. 101. Section 4 of the Food for Peace Act of 1966 is amended to read as follows:

"SEC. 4. (a) Commercial export sales of agricultural commodities out of private stocks on credit terms of not to exceed three years may be financed by the Commodity Credit Corporation under its export credit sales program.

"(b)(1) Export sales of agricultural commodities out of Commodity Credit Corporation and private stocks on credit terms in excess of three years, but not more than ten years, may be financed by the Commodity Credit Corporation.

"(2) No export sale may be financed under this subsection unless the Secretary of Agriculture determines that the sale will—

"(A) develop, expand, or maintain the importing nation as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities without displacing normal commercial sales; or

"(B) otherwise improve the capability of the importing nation to purchase and use, on a long-term basis, United States agricultural commodities.

"(3) Intermediate financing under this subsection shall be available for any use consistent with the provisions of paragraph (2) of this subsection, including, but not limited to, the following uses:

"(A) to establish reserve stocks consistent with international commodity agreements or other stock building plans acceptable to the United States;

"(B) the export sale of breeding animals (including, but not limited to, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations;

"(C) where determined feasible, for the establishment of facilities in the importing nation to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities (either through direct financing or the use of local currency generated from the sale and import of United States agricultural commodities to finance all or part of such facilities); and

"(D) to meet credit competition for agricultural export sales.

"(4) Intermediate financing under this subsection may not be used to encourage credit competition, or for the purpose of foreign aid or debt rescheduling.

"(5) The terms of credit for export sales financed under this subsection shall include the following terms:

"(A) repayment shall be in dollars with interest at a rate equal, as nearly as practicable, to the rate charged by the Commodity Credit Corporation for financing under the Corporation's short-term export credit sales program; and

"(B) the Secretary may, if the Secretary deems such action appropriate to protect the interest of the United States require an initial payment from the purchaser at the time of sale or shipment of the agricultural commodity.

"(6)(A) The Secretary shall obtain commitments from purchasers that will prevent resale or transshipment to other nations, or use for other domestic purposes, of agricultural commodities purchased with financing provided under this subsection.

"(B) In financing export sales under this subsection for the establishment of reserve stocks, the Secretary shall obtain commitments from the purchasers that will prevent the domestic sale or distribution of such stocks, except in a manner consistent with an international reserve agreement governing the agricultural commodity involved that has been adopted with the advice and consent of the United States Senate, whether or not the purchasing nation has adopted the agreement. If no such international agreement exists, the Secretary shall obtain commitments from the purchaser that agricultural commodities purchased for the establishment of reserve stocks with financing provided under this subsection will not be sold or distributed domestically, except as needed for emergency relief required by a crop shortfall or other natural disaster.

"(C) If the Secretary finds that a purchaser has failed to comply with commitments made under this paragraph, the full amount outstanding under financing arrangements entered into by the purchaser under this subsection shall become immediately due and payable and no further credits or credit guarantees shall be available to the purchaser from any agency of the Department of Agriculture until payment in full of the amount due has been made.

"(7)(A) Agreements to finance export sales of agricultural commodities entered into under this subsection, except agreements to finance export sales for the establishment of reserve stocks, shall be subject to such other terms and conditions as the Secretary may deem necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

"(B) Agreements to finance export sales of agricultural commodities under this subsection for the establishment of reserve stocks shall be subject to such other terms and conditions as the Secretary may deem necessary and appropriate. No such agreement, however, may become effective or be carried out until the expiration of thirty days following the date on which a detailed summary of such agreement or proposal is transmitted by the Secretary to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session.

"(8) The provisions of the cargo preference laws shall not apply to export sales financed under this subsection.

"(9) The authority provided under this subsection shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

"(c) There are hereby authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation annually for its costs for the programs established under this section.

"(d) The term 'agricultural commodity' as used in this section shall include any agricultural commodity or product thereof.".

TITLE II—COMMODITY CREDIT CORPORATION FINANCING OF DEFERRED PAYMENT SALES; CREDIT SALES TO THE PEOPLE'S REPUBLIC OF CHINA

COMMODITY CREDIT CORPORATION FINANCING OF DEFERRED PAYMENT SALES

SEC. 201. (a) To develop new market opportunities for the sale of United States agricultural commodities and to maintain and expand existing foreign markets for such commodities, the Secretary of Agriculture shall provide Commodity Credit Corporation financing to exporters of such commodities who wish to extend deferred payment terms to buyers in other nations in order to meet sales competition from other nations or to make additional export sales. Except as otherwise provided in section 202 of this title, financing under this section shall be available only with respect to sales to those nations that are eligible for financing under the short-term export credit sales program conducted by the Commodity Credit Corporation.

(b) Exporters who are willing to sell United States agricultural commodities to foreign buyers on deferred payment terms of not to exceed three years and who must extend such deferred payment terms in order to meet sales competition from other nations, or to make additional export sales, may apply to the Commodity Credit Corporation for financing such sales. Upon approval of the applicant's export sales plan by the Commodity Credit Corporation, and upon proof of export in accordance with the approved plan, the Corporation shall provide the necessary financing.

(c) Repayment to the Commodity Credit Corporation shall be made in dollars by the exporter in accordance with the terms and at interest rates contained in the approved export sales plan. Interest rates on such financing shall be no higher than those charged for financing under the short-term export credit sales program conducted by the Commodity Credit Corporation.

(d) The Secretary may, if the Secretary deems such action appropriate to protect the interests of the United States, require a performance guarantee from the exporter at the time of the sale.

(e) Financing agreements with exporters entered into under this section shall be subject to such other terms and conditions as the Secretary may deem necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

(f) The authority provided under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

CREDIT SALES TO THE PEOPLE'S REPUBLIC OF CHINA

SEC. 202. Notwithstanding any other provision of law, in order to develop new, and expand existing, markets for United States agricultural commodities, the Commodity Credit Corporation may provide financing for commercial sales of agricultural commodities out of private stocks on terms of not to exceed three years to the People's Republic credit sales program conducted by the Commodity Credit Corporation, and (2) the deferred payment program for exporters established under section 201 of this Act.

TITLE III—AGRICULTURAL COUNSELORS

FINDINGS

SEC. 301. Congress finds that the officials of the United States Department of Agriculture attached to the diplomatic missions of the United States play an important role in developing, maintaining, and expanding markets for United States agricultural commodities and that their position and responsibilities should be at a level commensurate with the magnitude and importance of the objectives they are assigned to accomplish.

AMENDMENTS TO THE AGRICULTURAL ACT OF 1954

Sec. 302. Title VI of the Act of August 28, 1954 (68 Stat. 908–910, as amended; 7 U.S.C. 1761–1768), is amended by—

(1) amending the title designation to read:

"TITLE VI—FOREIGN MARKET DEVELOPMENT";

(2) inserting immediately before section 601 the subtitle designation:

"Subtitle A—Agricultural Counselors and Agricultural Attachés";

(3) in section 601, striking out "agricultural products" wherever that phrase appears therein and inserting in lieu thereof "agricultural commodities", and striking out "said products" and inserting in lieu thereof "such commodities";

(4) in sections 602(a), 602(e), 604, and 605, striking "this title" wherever that phrase appears therein and inserting in lieu thereof "this subtitle";

(5) amending section 602(b) to read as follows:

"(b) Officers or employees assigned or appointed to posts abroad under this subtitle shall have the designation of Agricultural Counselor, Agricultural Attaché, or such other titles or designations that shall be agreed to by the Secretary of State and the Secretary of Agriculture, and shall be accorded the same rank and privileges as those of other counselors or attachés in embassies: *Provided*, That the senior Department of Agriculture representative in each of the major foreign agricultural posts, as determined by the Secretary of Agriculture after consultation with the Secretary of State, but in no case less than sixteen such representatives, shall have the title of Agricultural Counselor: *Provided further*, That not less than sixteen such representatives shall be designated as Agricultural Counselors within three years after the date of enactment of the Agricultural Export Trade Expansion Act of 1978.";

(6) adding immediately after section 602 a new section 602A as follows:

"Sec. 602A. (a) To effectuate review of the worldwide supply, demand, and price of agricultural commodities and to promote understanding of problems involved in selling United States agricultural commodities to other nations, each officer or employee appointed and assigned to a post abroad under this subtitle shall annually submit a report, through the Chief of the United States Diplomatic Mission for the nation to which the officer or employee is assigned, to the Secretary of State and Secretary of Agriculture (who shall transmit such report to the chairmen of the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry) detailing the agricultural situation in the nation or area to which the officer or employee is assigned, and including the following information:

"(1) a summary of the supply, demand, and prices of each major agricultural commodity in the nation or area, in order to discover long- and short-term trends in such supply, demand, and prices;

"(2) present and projected imports and exports of agricultural commodities for the nation or area;

"(3) unusual patterns, changes, or distortions, such as those caused by governmental intervention, in the trade and consumption of agricultural commodities in the nation or area;

"(4) trade barriers in the nation or area affecting United States imports;

"(5) governmental and other impediments to domestic food production in the nation or area; and

"(6) other matters that the Secretary of Agriculture considers appropriate in carrying out this section.

"(b) The information in this report shall be compiled periodically on a nation-by-nation basis (or on an area basis where appropriate), organized in a format suitable for a general audience with an interest in foreign agriculture, and made available at a reasonable price to the public."; and

(7) adding at the end of section 604 a new subsection (c) as follows:

"(c) Upon request by the Secretary of Agriculture, each Federal department and agency shall make its services, personnel, and facilities available to the greatest extent within its capability to the officers and employees appointed and assigned to posts abroad under this subtitle in the performance of their functions. The Secretary of Agriculture may reimburse or advance funds to Federal departments and agencies for the services, personnel, and facilities that are made available.".

TITLE IV—ESTABLISHMENT OF UNITED STATES AGRICULTURAL TRADE OFFICES

Sec. 401. (a) Congress finds that United States Government assistance in developing foreign markets for agricultural commodities is declining in real terms and in relation to total agricultural exports, that other major agricultural exporting nations are opening new markets through aggressive market development programs larger in scope than those of the United States, and that the economic strength of United States agriculture depends on developing, maintaining, and expanding international markets for United States agricultural commodities.

(b) It is hereby declared to be the policy of Congress that foreign market development programs be periodically reviewed for their cost effectiveness and that no new demands be made on the United States Treasury unless it can be shown that the benefits from such increased spending will be reasonable in relation to the costs to the United States taxpayer.

ESTABLISHMENT OF UNITED STATES AGRICULTURAL TRADE OFFICES

Sec. 402. Title VI of the Act of August 28, 1954 (68 Stat. 908–910, as amended; 7 U.S.C. 1761–1768), is further amended by—

(1) by adding immediately after section 605 the following new subtitle designation and sections:

"Subtitle B—United States Agricultural Trade Offices

"Sec. 605A. (a) For the purpose of developing, maintaining, and expanding international markets for United States agricultural commodities, the Secretary of Agriculture, after consultation with the Secretary of State, shall establish not less than six nor more than twenty-five United States Agricultural Trade Offices in other nations.

"(b) Each United States Agricultural Trade Office shall be directed and administered by an Agricultural Trade Officer who shall be a person who by reason of training, experience, and attainments is qualified to carry out the purposes of this subtitle.

"(c) Each Agricultural Trade Officer may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no Agricultural Trade Officer may be paid basic pay at a rate in excess of the maximum annual rate of basic pay payable for GS–17 of the General Schedule contained in section 5332 of title 5.

"(d) Each Agricultural Trade Officer shall perform such functions and duties, and have such powers relating to foreign market development, as may be delegated from time to time by the Secretary of Agriculture, after consultation with the Secretary of State, and shall report directly to the Agricultural Counselor or other senior representative of the Secretary of Agriculture in the nation or nations of concern or to such other person as the Secretary of Agriculture may designate.

"(e) Each Agricultural Trade Officer shall be responsible for the exercise of the powers and the discharge of the duties of the United States Agricultural Trade Office to which the Officer is assigned and shall have the authority to direct and supervise all personnel and activities thereof, subject to approval by the Agricultural Counselor or other senior representative of the Secretary of Agriculture in the nation or nations of concern and guidance from the Administrator of the Foreign Agricultural Service.

"(f) The Secretary of Agriculture may appoint, after consultation with the Secretary of State, such other personnel as the Secretary determines to be necessary, and may employ local nationals for the professional and clerical help necessary, to carry out the duties of the United States Agricultural Trade Offices.

"(g) No employee of any United States Agricultural Trade Office may engage in any business, vocation, or other employment, or have other interests, that are inconsistent with official responsibilities.

"(h) Upon the request of the Secretary of Agriculture, the Secretary of State shall regularly and officially attach Agricultural Trade Officers and personnel of United States Agricultural Trade Offices to the diplomatic missions of the United States in the nations in which such officers or personnel are to be assigned by the Secretary of Agriculture, and shall request for Agricultural Trade Officers and other Office personnel, and agricultural officers and employees stationed at United States diplomatic missions, diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

"Sec. 605B. Subject to approval and guidance from the Administrator of the Foreign Agricultural Service and the Agricultural Counselor or other senior representative of the Secretary of Agriculture in the nation or nations of concern, the functions of each United States Agricultural Trade Office shall be to—

"(1) increase the effectiveness of agricultural export promotion efforts through consolidation of activities, providing services and facilities for foreign buyers and United States trade representatives, and coordination of market development activities sponsored by the Department of Agriculture;

"(2) establish goals by nation or region and agricultural commodity for developing, expending, and maintaining markets for United States agricultural commodities;

"(3) initiate programs to achieve the export marketing goals approved by the Department of Agriculture;

"(4) maintain facilities for use by nonresident cooperators private trade groups, and other individuals engaged in the import and export of United States agricultural commodities where the use of such facilities will aid in the conduct of market development activities;

"(5) develop and maintain a current listing of trade, government, and other appropriate organizations for each agricultural commodity area and make such listing available to persons with a bona fide interest in exporting or importing United States agricultural commodities;

"(6) originate and provide assistance for exhibits, sales teams, and other functions for the promotion of United States agricultural commodities;

"(7) under the direction of the General Sales Manager, provide practical assistance for the use of the programs under the Agricultural Trade Development and Assistance Act of 1954, the export credit sales program, the export incentives program, and related programs of the United States Government where use of such programs will serve as a market development tool for United States agriculture;

"(8) supervise project agreements with United States cooperators, coordinate the activities of the United States Agricultural Trade Office with those of the cooperators. and submit annual recommendations to the Administrator of the Foreign Agricultural Service on the efficacy of cooperator programs, including statements as to whether project agreements should be extended, amended, canceled, or allowed to expire;

"(9) publicize the services offered by the United States Agricultural Trade Office through advertisements in trade journals or by other appropriate means; and

"(10) perform such other functions as the Secretary determines necessary and proper for achieving the purpose of this subtitle.

"Sec. 605C. (a) In addition to the United States Agricultural Trade Offices to be established under section 605A of this subtitle, the Secretary of Agriculture may establish one such office in the United States if the Secretary determines that doing so would achieve the purpose of this subtitle.

"(b) Subject to exceptions made by the Secretary consistent with the purpose of this subtitle, any domestic United States Agricultural Trade Office shall operate under the same provisions of law applicable to any such office in another nation.

"Sec. 605D. Nothing in this subtitle shall be construed to diminish the authority of the officers and employees of the Department of Agriculture appointed and assigned to posts abroad under subtitle A of this title.

"Sec. 605E. In establishing the United States Agricutural Trade Offices, the Secretary of Agriculture, after consultation with the Secretary of State, may rent or lease (for periods of less than ten years) such offices, buildings, grounds, and living quarters as the Secretary of Agriculture may deem necessary, make payments therefor in advance and maintain, improve, repair, and furnish water and utilities for such properties.

"Sec. 605F. United States Agricultural Trade Offices shall be centrally located in the cities of assignment to facilitate foreign trade meetings and foreign trade reliance on such offices for assistance in marketing activities, but shall not be colocated with a United States embassy.

"Sec. 605G. Upon request by the Secretary of Agriculture, each Federal department and agency shall make its services, personnel, and facilities available to the greatest extent within its capability to the United States Agricultural Trade Offices in the performance of their functions. The Secretary of Agriculture may reimburse or advance funds to Federal departments and agencies for the services, personnel, and facilities that are made available.";

(2) redesignating section 606 as section 606A and inserting immediately after new section 605G, as added by this Act, the following subtitle designation and new section 606:

"Subtitle C—Representation Allowances, Regulations, General Provisions, and Authorization for Appropriations

"Sec. 606. United States Agricultural Trade Officers, and officers and employees of the Department of Agriculture appointed and assigned to posts abroad under subtitle A of this title shall, under regulations prescribed by the Secretary of Agriculture, be entitled to a representation allowance in an amount determined by (1) the extent to which an Agricultural Trade Officer, or officer or employee, can effectively use such funds to further the purposes of this title and (2) the extent to which it is at a level commensurate with representational and promotional efforts by other major agricultural exporting nations competing in markets assigned to the Agricultural Trade Officer, or officer or employee.";

(3) redesignating sections 602(d), 602(f), and 603 as sections 606B, 606C, and 606D, respectively, and inserting the redesignated sections immediately after section 606A of this title, as redesignated by this section;

(4) in section 606C, as redesignated, striking out "subsection" wherever that word appears therein and inserting in lieu thereof "section";

(5) redesignating section 602(e) as 602(d); and

(6) adding at the end thereof a new section 609 as follows:

"Sec. 609. The term 'agricultural commodity' as used in this title shall include any agricultural commodity or product thereof.".

TITLE V—GENERAL PROVISIONS

IMPLEMENTATION OF THIS ACT; REGULATIONS

Sec. 501. (a) The Secretary of Agriculture shall implement this Act as expeditiously as possible consistent with the efficient and effective administration of the programs established under this Act and their integration with related foreign agricultural programs.

(b) The Secretary may issue such regulations as may be necessary to implement the provisions of this Act.

AVAILABILITY OF APPROPRIATED FUNDS

Sec. 502. Appropriations made available to carry out foreign agriculture related functions within the Department of Agriculture shall be available to implement the provisions of this Act.

PROHIBITION AGAINST DISCRIMINATION

Sec. 503. No person shall on the ground of sex, age, race, color, religion, handicap, or national origin be excluded from participation in, denied the benefits of, or subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this Act.

ANNUAL REPORT

Sec. 504. The Secretary of Agriculture shall transmit to Congress each year a report that shall include a comprehensive statement of the activities and accomplishments of the Department of Agriculture in developing, maintaining, and expanding foreign markets for United States agricultural commodities during the preceding year.

EFFECTIVE DATE

Sec. 505. The provisions of this Act shall become effective October 1, 1978.

TITLE VI—EXPORTATION OF FARM COMMODITIES

Sec. 601. The Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof a new section 413 as follows:

"Sec. 413. (a) In order more adequately to meet the food requirements of hungry and malnourished people in the developing countries while at the same time providing additional export outlets for American farmers. a minimum aggregate quantity of seven million metric tons of United States farm commodities shall be exported under titles I, II, and III of this Act during each of the following fiscal years: fiscal year 1979, fiscal year 1980, fiscal year 1981, and fiscal year 1982. This aggregate quantity requirement shall not affect the title II minimum quantities required under section 201(b) of this Act, since those minimums shall be a part of the total minimum requirement for all titles.

"(b) The export of an aggregate quantity of seven million metric tons for each such fiscal year under titles I, II, and III shall be mandatory unless (1) export supplies are not available as determined under section 401(a) of this Act, or (2) food needs of developing countries do not merit such quantity as gauged by (A) a lack of request for food assistance by the developing countries, or (B) a determination by the Food and Agriculture Organization of the United Nations that unfilled food requirements of the developing nations are less than seven million metric tons during such fiscal year.

"(c) Should less than the minimum quantities required by this section be exported because of the above criteria, the President shall report to the appropriate committees of Congress the specific reasons for such shortfall.".

MOTION OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FOLEY moves to strike out all after the enacting clause of S. 3447 and to insert in lieu thereof the provisions of H.R. 10584, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The Senate bill was ordered to be read "A bill to strengthen the economy of the United States through increased sales abroad of American farm products."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 10584) was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 10584, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

TOURISM AUTHORIZATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 11870, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. Rooney) that the House suspend the rules and pass the bill H.R. 11870, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 289, nays 96, not voting 47, as follows:

[Roll No. 823]

YEAS—289

Abdnor
Addabbo
Akaka
Alexander
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Bafalis
Baldus
Barnard
Beard, R.I.
Bedell
Beilenson
Biaggi
Bingham
Blanchard
Blouin
Boland
Bonior
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clausen, Don H.
Clay
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski

Dickinson
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Calif.
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Ginn
Gonzalez
Gradison
Green
Gudger
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Horton
Howard
Huckaby
Hughes
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jordan
Kastenmeier
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Le Fante
Lederer
Leggett
Lehman
Levitas
Livingston
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mann
Markey
Marks
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Mikulski
Mikva
Milford
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Sawyer
Schulze
Sebelius
Seiberling
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Stokes
Stratton
Studds
Taylor
Thornton
Traxler
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Waggonner
Walsh
Wampler
Watkins
Waxman
Weiss
Whalen
White
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—96

Archer
Ashbrook
Badham
Bauman
Beard, Tenn.
Benjamin
Bennett
Bevill
Brown, Ohio
Burleson, Tex.
Cavanaugh
Clawson, Del
Cleveland
Collins, Tex.
Conable
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Devine
Dornan
Early
Edwards, Okla.
Emery
Evans, Ga.
Evans, Ind.
Flippo
Forsythe
Fowler
Frey
Gephardt
Gilman
Glickman
Goldwater
Goodling
Gore
Grassley
Hall
Hansen
Harris
Hillis
Hollenbeck
Holt
Holtzman
Hubbard
Ichord
Jones, Tenn.
Kasten
Kazen
Kelly
Lagomarsino
Latta
Leach
Lent
Lloyd, Tenn.
McDonald
Mahon
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Moorhead, Calif.
Mottl
Myers, Gary
Myers, John
Nichols
Panetta
Quayle
Rahall
Rousselot
Runnels
Satterfield
Schroeder
Sharp
Shuster
Skelton
Spellman
Steiger
Stockman
Stump
Symms
Treen
Vento
Walgren
Walker
Weaver
Whitehurst
Wiggins
Winn
Wydler
Wylie
Yates
Young, Alaska

NOT VOTING—47

Ammerman
Anderson, Calif.
Anderson, Ill.
Applegate
Armstrong
AuCoin
Baucus
Boggs
Bolling
Bonker
Brodhead
Burke, Calif.
Burton, John
Caputo
Chisholm
Cochran
Cohen
Diggs
Eckhardt
Eilberg
Flood
Flowers
Gammage
Harrington
Jones, Okla.
Krueger
McClory
Meeds
Miller, Calif.
Moss
Oakar
Pepper
Pressler
Quie
Risenhoover
Rodino
Roncalio
Rudd
Ruppe
Sarasin
Scheuer
Shipley
Teague
Thompson
Thone
Wirth
Wright

The Clerk announced the following pairs:

Mr. Rodino with Mr. Anderson of Illinois.

Mrs. Boggs with Mr. Cohen.

Mr. John L. Burton with Mr. Caputo.

Mrs. Chisholm with Mr. Cochran of Mississippi.

Mr. Miller of California with Mr. Pressler.

Mr. Pepper with Mr. Thone.

Mr. Teague with Mr. Sarasin.

Mr. Thompson with Mr. Ruppe.

Mr. Eilberg with Mr. Rudd.

Mr. Flood with Mr. Quie.

Mr. Applegate with Mr. Diggs.

Mr. Anderson of California with Mr. Eckhardt.

Mr. Ammerman with Mr. McClory.

Ms. Oakar with Mr. Harrington.

Mr. Krueger with Mr. Scheuer.

Mr. Jones of Oklahoma with Mr. Shipley.

Mr. Gammage with Mr. Flowers.

Mr. Bauman with Mr. Bonker.

Mr. Brodhead with Mrs. Burke of California.

Mr. Meeds with Mr. Risenhoover.

Mr. Moss with Mr. AuCoin.

Mr. Wirth with Mr. Wright.

Mr. MARRIOTT changed his vote from "yea" to "nav."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RAIL PUBLIC COUNSEL AUTHORIZATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 12162, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY) that the House suspend the rules and pass the bill H.R. 12162, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 188, nays 196, not voting 48, as follows:

[Roll No. 824]

YEAS—188

Addabbo
Akaka
Alexander
Andrews, N. Dak.
Annunzio
Aspin
Baldus
Beard, R.I.
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Brademas
Breckinridge
Brodhead
Brown, Calif.
Brown, Mich.
Brown, Ohio
Burke, Fla.
Burke, Mass.
Burton, Phillip
Carney
Carr
Carter
Clay
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cornwell
D'Amours
Danielson
Davis
Dellums
Derrick
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Calif.
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fisher
Fithian
Florio
Ford, Mich.
Ford, Tenn.
Fraser
Garcia
Giaimo
Gonzalez
Gore
Green
Hamilton
Harkin
Harris
Hawkins
Heckler
Hollenbeck
Holtzman
Howard
Hubbard
Hughes
Jacobs
Jeffords
Johnson, Calif.
Jones, Tenn.
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
LaFalce
Lederer
Le Fante
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, Md.
Lundine
McDade
McFall
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Metcalfe
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Pickle
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Reuss
Rhodes
Richmond
Rinaldo
Roe
Rooney
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Scheuer
Schroeder
Seiberling
Sharp
Simon
Sisk
Skubitz
Solarz
St Germain
Staggers
Stanton
Stark
Steers
Stokes
Studds
Thornton
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Walsh
Wampler
Waxman
Weiss
Whalen
Wilson, Bob
Wolff
Yates
Yatron
Young, Alaska
Zablocki
Zeferetti

NAYS—196

Abdnor
Ambro
Andrews, N.C.
Archer
Ashbrook
Ashley
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bedell
Bennett
Bevill
Blouin
Bowen
Breaux
Brinkley
Brooks
Broomfield
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Cotter
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
de la Garza
Delaney
Dent
Derwinski
Devine
Dickinson
Dornan
Duncan, Oreg.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Ga.
Fenwick
Findley
Flippo
Flynt
Foley
Forsythe
Fountain
Fowler
Frenzel
Frey
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Goldwater
Goodling
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hammerschmidt
Hanley
Hannaford
Hansen
Harsha
Hefner
Heftel
Hightower
Hillis
Holland
Holt
Horton
Huckaby
Hyde
Ichord
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Kasten
Kazen
Kelly
Kemp
Kindness
Krebs
Lagomarsino
Latta
Leach
Livingston
Lloyd, Tenn.
Long, La.
Lott
Lujan
Luken
McCloskey
McCormack
McDonald
McEwen
McKay
Mahon
Mann
Marriott
Martin
Mathis
Mattox
Mazzoli
Michel
Milford
Miller, Ohio
Montgomery

Moore
Moorhead, Calif.
Mottl
Myers, John
Neal
Nichols
Panetta
Perkins
Pettis
Pike
Poage
Pritchard
Quayle
Regula
Roberts
Robinson
Rogers
Rose
Rousselot
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Sikes
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
Stangeland
Steed
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Treen
Trible
Vander Jagt
Volkmer
Waggonner
Walgren
Walker
Watkins
Weaver
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Winn
Wydler
Wylie
Young, Fla.
Young, Mo.
Young, Tex.

NOT VOTING—48

Ammerman
Anderson, Calif.
Anderson, Ill.
Applegate
Armstrong
AuCoin
Baucus
Bolling
Bonker
Burke, Calif.
Burton, John
Caputo
Chisholm
Cochran
Cohen
Diggs
Eckhardt
Eilberg
Fish
Flood
Flowers
Gammage
Harrington
Ireland
Jones, Okla.
Krueger
McClory
Meeds
Miller, Calif.
Moss
Murphy, N.Y.
Oakar
Pepper
Pressler
Quie
Risenhoover
Rodino
Roncalio
Rudd
Ruppe
Sarasin
Shipley
Teague
Thompson
Thone
Wilson, Tex.
Wirth
Wright

The Clerk announced the following pairs:

On this vote:

Mrs. Chisholm and Mr. Eilberg for, with Mr. Gammage against.

Mr. Wirth and Mr. Flood for, with Mr. McClory against.

Mrs. Burke of California and Mr. Ammerman for, with Mr. Cochran of Mississippi against.

Mr. Baucus and Mr. Krueger for, with Mr. Quie against.

Mr. Pepper and Mr. Murphy of New York for, with Mr. Ruppe against.

Mr. Shipley and Mr. Thompson for, with Mr. Teague against.

Mr. Rodino and Mr. Applegate for, with Mr. Thone against.

Until further notice:

Mr. Anderson of California with Mr. Anderson of Illinois.

Mr. Wright with Mr. Caputo.

Mr. Miller of California with Mr. Fish.

Ms. Oakar with Mr. Sarasin.

Mr. Diggs with Mr. Rudd.

Mr. John L. Burton with Mr. Pressler.

Mr. AuCoin with Mr. Cohen.

Mr. Eckhardt with Mr. Bonker.

Mr. Flowers with Mr. Harrington.

Mr. Jones of Oklahoma with Mr. Charles Wilson of Texas.

Mr. Meeds with Mr. Roncalio.

Mr. Moss with Mr. Ireland.

Mr. CAVANAUGH, Mr. HEFNER, and Mrs. LLOYD of Tennessee changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

HEALTH MAINTENANCE ORGANIZATION AMENDMENTS OF 1978

The **SPEAKER** pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 13655, as amended.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 13655, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 327, nays 60, not voting 45, as follows:

[Roll No. 825]

YEAS—327

Addabbo
Akaka
Alexander
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Bafalis
Baldus
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clay
Cleveland
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Leach
Lederer
Le Fante
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mann
Markey
Marks
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Russo
Ryan
Santini
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Thornton
Traxler
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—60

Abdnor
Archer
Ashbrook
Badham
Barnard
Bauman
Bennett
Bowen
Burleson, Tex.
Clawson, Del
Coleman
Collins, Tex.
Crane
Daniel, Dan
Daniel, R. W.
Devine
Dornan
Edwards, Okla.
Erlenborn
Evans, Ga.
Flynt
Forsythe
Goldwater
Hagedorn
Hall
Hammerschmidt
Hansen
Holt
Hyde
Ichord
Johnson, Colo.
Kelly
Latta
Livingston
Lott
McDonald
Mahon
Marlenee
Milford
Miller, Ohio
Montgomery
Mottl
Myers, Gary
Myers, John
Poage
Roberts
Robinson
Rousselot
Satterfield
Sebelius
Shuster
Sikes
Stanton
Stump
Symms
Taylor
Treen
Volkmer
Waggonner
Whitten

NOT VOTING—45

Ammerman
Anderson, Calif.
Anderson, Ill.
Applegate
Armstrong
AuCoin
Baucus
Bolling
Bonker
Burke, Calif.
Burton, John
Caputo
Chisholm
Cochran
Cohen
Diggs
Eckhardt
Eilberg
Flood
Flowers
Gammage
Harrington
Ireland
Jones, Okla.
Krueger
McClory
Meeds
Miller, Calif.
Moss
Oakar
Pepper
Pressler
Quie
Risenhoover
Rodino
Roncalio
Rudd
Ruppe
Sarasin
Shipley
Teague
Thompson
Thone
Wirth
Wright

The Clerk announced the following pairs:

Mr. Rodino with Mr. Anderson of Illinois.

Mr. Thompson with Mr. Caputo.

Ms. Oakar with Mr. Cochran of Mississippi.

Mrs. Chisholm with Mr. McClory.

Mr. Baucus with Mr. Ruppe.

Mr. Ammerman with Mr. Quie.

Mr. Eilberg with Mr. Pressler.

Mr. Eckhardt with Mr. Roncalio.

Mr. Shipley with Mr. Sarasin.

Mr. Jones of Oklahoma with Mr. Harrington.

Mr. John. L. Burton with Mr. Flowers.

Mr. Applegate with Mr. Bonker.

Mr. Anderson of California with Mr. Cohen.

Mr. Gammage with Mr. Teague.

Mr. Wirth with Mr. Thone.

Mr. Wright with Mr. Diggs.

Mr. AuCoin with Mrs. Burke of California.

Mr. Flood with Mr. Ireland.

Mr. Krueger with Mr. Miller of California.

Mr. Meeds with Mr. Moss.

Mr. Pepper with Mr. Risenhoover.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 2534) to revise and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

S. 2534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Health Maintenance Organization Act Amendments of 1978".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS

SEC. 2. (a) Section 1301(b)(3) is amended to read as follows:

"(3) The services of physicians which are provided as basic health services shall be provided through physicians or health professionals who are members of the staff of the health maintenance organization, through a medical group (or groups), through an individual practice association (or associations), through physicians or health professionals who have contracted with the health maintenance organization for the provision of such services, or through any combination of such staff, medical group (or groups), individual practice association (or associations), or physicians or health professionals under contract with the organization, except that this paragraph shall not apply in the case of (A) physician services which the organization determines in conformity with regulations of the Secretary, are unusual or infrequently used, or (B) any physician service provided a member of the health maintenance organization other than by such a physician because of an emergency which made it medically necessary that the service be provided to the member before he could have it provided by such a physician. A health maintenance organization may also, during the thirty-six-month period beginning with the month following the month in which the organization becomes a qualified health maintenance organization (within the meaning of section 1310(d)), provide physician services through an entity which but for the requirement of section 1302(4)(C)(i) would be a medical group for the purposes of this title. After the expiration of such period, the organization may provide physician services through such an entity only if authorized by the Secretary in accordance with regulations which take into consideration the unusual circumstances of such entity. A health maintenance organization may not, in any of its fiscal years after the end of its fourth fiscal year of its operation, enter into contracts with physicians other than members of staff, medical groups, or individual practice associations if the amounts paid under such contracts for basic and supplemental health services provided by physicians exceed 15 per centum of the total estimated amount to be paid in such fiscal year by the health maintenance organization to physicians for the provision of basic and supplemental health services by physicians, or, if the health maintenance organization principally serves a rural area, 30 per centum of such amount, except that this sentence does not apply to the entering into of contracts for the purchase of physician services through an entity which but for the requirements of section 1302(4)(C)(i) would be a medical group for the purposes of this title. Contracts between a health maintenance organization and health professionals for the provision of basic and supplemental health services shall include such provisions as the Secretary may require (including provisions requiring appropriate continuing education). For purposes of this paragraph, the term 'health professional' means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health services as the Secretary may by regulation designate.".

(b) The second sentence of section 1301(b)(4) is amended to read as follows: "A member of a health maintenance organization shall be reimbursed by the organization for his expenses in securing emergency health services other than through the organization if it was medically necessary that the services be provided before he could secure them through the organization.".

(c) Section 1301(c) is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) provide the Secretary with assurances satisfactory to him that no membership enrollment shall occur at an individual's place of residence.".

The Clerk read the Senate bill, as follows:

DEVELOPMENT GRANTS AND INITIAL OPERATING LOANS

SEC. 3. (a) Section 1304(f)(2)(A) is amended to read as follows:

"(A) $1,000,000 through September 30, 1979 and $2,000,000 thereafter, or".

Section 1305(b)(1) is amended by—

(1) striking "$2,500,000" and substituting "$2,500,000 (or $5,000,000 if the Secretary makes a written determination that such loans or loan guarantees are necessary to preserve the fiscally sound operation of the health maintenance organization and to protect against the risk of insolvency of the health maintenance organization and within 30 days of the making of such loans or loan guarantees furnishes the Human Resources Committee of the Senate and the Interstate and foreign Commerce Committee of the House and Representatives with written notification and reasons thereof and a copy of such written determination and the reasons therefor) through September 30, 1979, and $5,000,000 thereafter"; and

(2) striking "$1,000,000" and substituting "$1,000,000 (or $2,000,000 if the Secretary makes a written determination that such disbursements are necessary to preserve the fiscally sound operation of the health maintenance organization and protect against the risk of insolvency of the health maintenance organization and within 30 days of such disbursement furnishes the Human Resources Committee of the Senate and the Interstate and Foreign Commerce Committee of the House of Representatives with written notification thereof and a copy of such written determination and the reasons therefor) through September 30, 1979, and $2,000,000 thereafter".

AMBULATORY CARE FACILITIES

SEC. 4. (a)(1) Section 1305(a) is amended by striking "and" after paragraph (2); striking the period at the end of paragraph (3) and substituting a semicolon, and adding at the end thereof the following new paragraph:

"(4) beginning October 1, 1978, make loans to, and guarantee to non-Federal lenders payment of principal of and interest on loans made to—

"(A) public or nonprofit private entities which have submitted and had approved an application for assistance under section 1304 in accordance with regulations promulgated by the Secretary, or

"(B) public or nonprofit private health maintenance organizations which have demonstrated to the Secretary the capability of maintaining continued fiscal soundness in accordance with the requirements of section 1301(c)(1), or

"(C) other private health maintenance organizations (which have submitted and had approved an application for assistance under this subsection in accordance with regulations of the Secretary and which have demonstrated to the Secretary the capability of maintaining continued fiscal soundness in accordance with the requirements of section 1301(c)(1)) but only if the health maintenance organization will serve a medically underserved population,

to assist them in meeting the costs of equipping, constructing, acquiring, or renovating ambulatory care facilities.".

(2) Section 1305(a) is further amended by striking "operating costs" in paragraphs (1), (2), and (3) and substituting in each case "costs of operation".

(b) Section 1305(b) is amended by inserting after "under this section" each time it appears "(other than paragraph (4) of subsection (a))".

(c) The section heading for section 1305 is amended to read as follows:

"LOANS AND LOAN GUARANTEES FOR INITIAL COSTS OF OPERATION AND AMBULATORY CARE FACILITIES"

(d) Section 1305(d) is amended by striking "1980" and substituting "1981".

BENEFITS REQUIRED

SEC. 5. The material in section 1301(b) preceding paragraph (1) is amended by striking "other than those prescribed by or under this title" and substituting "(other than limitations and exclusions approved by the Secretary with respect to services the health maintenance organization is unable to deliver due to natural disasters, war, or insurrection; with respect to financial liability for care for illness, injury, or conditions covered by a workmen's compensation statute; or with respect to unusual and infrequent medical services or procedures not necessary to protect the health of the member; and other than a limitation otherwise prescribed by or under this title)".

EMPLOYEES' DEDUCTIONS FOR HEALTH BENEFIT PLANS

SEC. 6. (a) Section 1310 is amended by adding at the end thereof the following new subsection:

"(i) Each employer, with a demonstrated capability to provide payroll deductions for health benefits, which is required by subsection (a) to offer to his employees the option of membership in a qualified health maintenance organization shall, with the consent of the employee who exercises such option, arrange for the employee contribution for such membership to be deducted from such employee's wages and salaries and forwarded on his behalf to the qualified health maintenance organization.".

(b) Section 1310(b)(1) is amended to read as follows:

"(1) one or more of such organizations provides physician services through physicians who are members of the staff of the organization or a medical group (or groups), and".

(c) Section 1310(b)(2) is amended to read as follows:

"(2) one or more of such organizations provides physician services through (A) an individual practice association (or associations), or (B) a combination of such association (or associations), medical group or groups, staff, and individual nonstaff physicians under contract with the organization, then of the qualified health maintenance organizations included in a health benefits plan of such employer pursuant to subsection (a) at least one shall be an organization which provides basic health services as described in clause (1) and at least one shall be an organization which provides basic health services as described in clause (2).".

CONTINUING DEVELOPMENT

SEC. 7. (a) Section 1304(b)(2) is amended by inserting "improvement of services, or" after "subsection includes".

(b) Section 1304 is further amended by adding at the end thereof the following new subsections:

"(l)(1) A grant or loan guarantee made under this section for the improvement of services may be made only to an entity which demonstrates the capability of maintaining continued fiscal soundness in accordance with the requirements of section 1301 (c)(1).

"(2) Grants or loan guarantees made to a single entity under this section for the improvement of services may not in the aggregate exceed an amount equal to the maximum sums which the applicant would have been eligible to receive under section 1303 and this section less any amounts actually received under such section. The provisions of paragraph (3) of subsection (b) shall not apply to a grant made for the improvement of services.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. Section 1309(a) is amended by—

(1) striking "and" after "1977," the first time it appears; and

(2) striking everything after "1978" and substituting the following: ", $35,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980, and $70,000,000 for the fiscal year ending September 30, 1981.".

TRAINING FOR HEALTH MAINTENANCE ORGANIZATION ADMINISTRATORS

SEC. 9. Title XIII is amended by adding at the end thereof the following new section:

"MANAGERIAL TRAINING

"SEC. 1317. (a) The Secretary shall establish a National Health Maintenance Organization Intern Program (hereinafter referred to as the 'Program') for the purpose of training qualified health maintenance organization administrators and other managerial personnel.

"(b) Payments for internships or for the costs of internships administered under this section may be awarded by the Secretary either—

"(1) to individuals whose application for such position has been approved by the Secretary; or

"(2) to a health maintenance organization or other entity which has submitted and had approved an application for a grant under this section.

"(c) Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments to health maintenance organizations or other entities may be used only for the costs of such internships, and payments under this section with respect to any internship shall be limited to such amounts as the Secretary finds necessary to cover the cost incurred by the health maintenance organizations or other entity under this section.

"(d) Payments to individuals receiving training under this section shall not exceed the sum of $2,000 per month per individual, excluding relocation costs, nor shall the term of such payments exceed twelve months.

"(e) There are authorized to be appropriated for the purposes of this section $2,000,000 for the fiscal year ending September 30, 1979, $2,000,000 for the fiscal year ending September 30, 1980, $3,000,000 for the fiscal year ending September 30, 1981, $4,000,000 for the fiscal year ending September 30, 1982, and $4,000,000 for the fiscal year ending September 30, 1983.".

FINANCIAL DISCLOSURE

SEC. 10. Title XIII as amended by this Act is further amended by adding at the end thereof the following new section:

"FINANCIAL DISCLOSURE

"SEC. 1318. (a) Each health maintenance organization shall file annually with the Secretary financial information in such form as the Secretary may require (which in the case of an organization which is related to the health maintenance organization by common ownership or control, shall be a consolidated financial statement), which shall include:

"(1) Such information as the Secretary may require, demonstrating that the health maintenance organization has a fiscally sound operation.

"(2) A description of transactions, as specified by the Secretary, between the health maintenance organization and a party in interest. Such transactions shall include—

"(A) any sale or exchange, or leasing of any property between the health maintenance organization and a party in interest;

"(B) any furnishing for consideration of goods, services (including management services, but excluding health services provided to members by staff, medical group (or groups), individual practice association (or associations), or any combination thereof), or facilities between the health maintenance organization and a party in interest; and

"(C) any lending of money or other extension of credit between a health maintenance organization and a party in interest.

"(b) For the purposes of this section the term 'party in interest' means:

"(1) any director, officer, employee, partner, person who is directly or indirectly the beneficial owner of more than 5 per centum of the equity, or person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 per centum of the assets (and in the case of a health maintenance organization organized as a nonprofit corporation, an incorporator or member of such corporation under the applicable State corporation law) of the health maintenance organization;

"(2) any entity in which any director, officer, employee, partner, person who is directly or indirectly the beneficial owner of more than 5 per centum of the equity, or person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 per centum of the assets (and in the case of a health maintenance organization organized as a nonprofit membership corporation, an incorporator or member of such corporation under the applicable State corporation law) of the health maintenance organization:

"(A) is an officer or director;

"(B) is a partner (if such entity is organized as a partnership);

"(C) has directly or indirectly a beneficial interest of more than 5 per centum of the equity; or

"(D) has a mortgage, deed of trust, note, or other interest valuing more than 5 per centum of the assets of such entity;

"(3) any person directly or indirectly controlling, controlled by, or under common control with the health maintenance organization.

"(c) Each health maintenance organization shall make the contents of the annual statement described in subsection (a) available to its enrollees upon reasonable request.

"(d) The Secretary shall, as he deems necessary, conduct an evaluation of transactions reported to the Secretary under subsection (a)(2) for the purpose of determining their adverse impact, if any, on the fiscal soundness and reasonableness of charges of the health maintenance organization with respect to which they transpired. The Secretary shall evaluate the reported transactions of not less than five, or if there are more than twenty health maintenance organizations reporting such transactions, not less than one-fourth of the health maintenance organizations reporting any such transactions under subsection (a)(2).

"(e) The Secretary shall file an annual report with the Congress on the operation of this section. Such report shall include—

"(1) an enumeration of standards and norms utilized to make the evaluations required under subsection (d);

"(2) an assessment of the degree of conformity or nonconformity of each health maintenance organization evaluated by the Secretary under subsection (d) with such standards and norms;

"(3) what action, if any, the Secretary considers necessary under section 1312 with respect to health maintenance organizations evaluated under subsection (d).

"(f) Nothing in this section shall be construed to confer upon the Secretary any authority to approve or disapprove the rates charged by any health maintenance organization.

"(g) Any health maintenance organization failing to file with the Secretary the annual financial statement required in subsection (a) shall be ineligible for any Federal assistance under this title until such time as such statement is received by the Secretary and shall not be a qualified health maintenance organization for purposes of section 1310.

"(h) Whoever knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any statement filed pursuant to this section shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

PROGRAM ADMINISTRATION

SEC. 11. (a)(1) Section 1306(b)(2) is repealed.

(2) Paragraphs (3), (4), (5), (6), (7), and (8) of section 1306(b) are redesignated as paragraphs (2), (3), (4), (5), (6), and (7), respectively.

(b) Section 1307 is amended by adding the following new subsection at the end thereof;

"(f) Beginning October 1, 1978, the Secretary may make grants to public or nonprofit private entities and enter into contracts with private entities for activities to assist in the provision of technical assistance to projects and health maintenance organizations, and in making determinations within the meaning of sections 1308, 1310, and 1312 of the Act. Any contracts entered into pursuant to the provisions of this section shall be limited to amounts provided in appropriation Acts.".

(c) Subsection (h) of section 1310 is repealed.

(d) Subsection (c) of section 1312 is repealed.

PROGRAM MANAGEMENT EVALUATION

SEC. 12. Section 1314 is amended by adding at the end thereof the following new subsection:

"(d) The Comptroller General shall evaluate the adequacy and effectiveness of the policies and procedures of the Secretary of Health, Education, and Welfare for the management of the grant and loan programs established by this title and the adequacy of the amounts of assistance available under such programs and shall report to the Congress the results of such evaluation not later than May 1, 1979.".

AMENDMENT OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rogers: Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE, REFERENCE TO ACT

Section 1. (a) This Act may be cited as the "Health Maintenance Organization Amendments of 1978".

(b) Whenever in this Act (other than in section 13) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

EXTENSION OF PROGRAM

Sec. 2. (a) Section 1304(j) is amended (1) by striking out "may be made through September 30, 1978;", and (2) by striking out "1979" and inserting in lieu thereof "1981".

(b) Section 1305(d) is amended by striking out "1980" and inserting in lieu thereof "1981".

(c) Section 1309(a) is amended (1) by striking out "and" after "1977," and (2) by striking out the semicolon and all that follows in that section and inserting in lieu thereof the following: "$63,000,000 for the fiscal year ending September 30, 1980, and $63,000,000 for the fiscal year ending September 30, 1981."

REQUIREMENTS FOR THE PROVISION OF SERVICES

Sec. 3. (a) Section 1301(b)(1) is amended by adding at the end the following: "The requirements of this paragraph respecting the basic health services payment shall not apply to the provision of basic health services to a member for an illness or injury for which the member is entitled to benefits under a workmen's compensation law or an insurance policy but only to the extent such benefits apply to such services. For the provision of such services for an illness or injury for which a member is entitled to benefits under such a law, the health maintenance organization may, if authorized by such law, charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law, the insurance carrier, employer, or other entity which under such law is to pay for the provision of such services or, to the extent that such member has been paid under such law for such services, such member. For the provision of such services for an illness or injury for which a member is entitled to benefits under an insurance policy, a health maintenance organization may charge or authorize the provider of such services to charge the insurance carrier under such policy or, to the extent that such member has been paid under such policy for such services, such member.".

(b)(1) The second sentence of section 1301(b)(3) is amended by striking out "thirty-six month" and inserting in lieu thereof "forty-eight month".

(2) Section 1301(b)(3) is amended by striking out the fourth sentence and inserting in lieu thereof the following: "A health maintenance organization may not enter into contracts with physicians (other than physicians who are members of the staff of the organization) or with entities other than medical groups or individual practice associations for the services of physicians if the amounts to be paid under such contracts for the provision of basic and supplemental health services—

"(A) in the first four fiscal years of the organization beginning after the month in which the organization becomes a qualified health maintenance organization (within the meaning of section 1310(d)) exceed 50 per centum of the total amount to be paid by the organization in such fiscal year for the provision of basic and supplemental health services by physicians, and

"(B) in the fifth and succeeding fiscal years of the organization beginning after such month exceed (i) 15 per centum of the total amount to be paid by the organization in such fiscal year for the provision of such services by physicians, or (ii) in the case of a health maintenance organization which principally serves a rural area, 30 per centum of such total amount.

The limitations prescribed by the preceding sentence do not apply to contracts for the provision of basic and supplemental health services through an entity which but for the requirements of section 1302(4)(C)(i) would be a medical group for purposes of this title.".

(3) The first sentence of section 1301(b)(3) is amended by striking out "(A)" and "(B)".

(c) The last sentence of section 1301(b)(4) is amended by inserting before the period a comma and the following: "except that a member shall not be reimbursed for any service provided other than through the organization because the member intentionally left the area served by the organization for the purpose of securing such service".

(d) Section 1301(b) is amended by adding at the end the following new paragraph:

"(5) To the extent that a major disaster, war, riot, civil insurrection, or any other event not reasonably within the control of a health maintenance organization (as determined under regulations of the Secretary) results in the facilities, personnel, or financial resources of a health maintenance organization not being available to provide or arrange for the provision of a basic or supplemental health service in accordance with the requirements of paragraphs (1) through (4) of this subsection, such requirements only require the organization to make a good-faith effort to provide or arrange for the provision of such service within such limitation on its facilities, personnel, or resources."

(e) Section 1302(1) is amended by inserting before the second sentence the following: "Such term does not include a health service which the Secretary, upon application of a health maintenance organization, determines is unusual and infrequently provided and not necessary for the protection of individual health. The Secretary shall publish in the Federal Register each determination made by him under the preceding sentence."

ORGANIZATION REQUIREMENTS

Sec. 4. (a) Section 1301(b) is amended (1) by inserting "except in the case of basic health services provided a member who is a full-time student (as defined by the Secretary) at an accredited institution of higher education," after "(C)" in paragraph (1), and (2) by inserting "unless the supplemental health services payment is for a supplemental health service provided a member who is a full-time student (as defined by the Secretary) at an accredited institution of higher education," after "community rating system" in the second sentence of paragraph (2).

(b) Section 1301(c)(1) is amended (1) by inserting "(A)" after "(1)", and (2) by inserting before the semicolon a comma and the following: "and (B) have administrative and managerial arrangements and capabilities satisfactory to the Secretary".

(c) Section 1301(c)(3) is amended (1) by inserting "(A)" after "(3)", and (2) by inserting before the semicolon a comma and the following: "and (B) carry out enrollment of members who are entitled to medical assistance under a State plan approved under title XIX of the Social Security Act in accordance with procedures approved under regulations promulgated by the Secretary".

(d) Section 1301(c)(6) is amended (1) by striking out "(6)" and inserting in lieu thereof "(6)(A) in the case of a private health maintenance organization,", (2) by redesignating clauses (A) and (B) as subclauses (i) and (ii), respectively, and (3) by inserting before the semicolon a comma and the following: "and (B) in the case of a public health maintenance organization, have an advisory board to the policymaking body of the public entity which operates the organization which board meets the requirements of clause (A) of this paragraph and to which may be delegated policymaking authority for the organization".

FEASIBILITY SURVEYS AND INITIAL DEVELOPMENT

Sec. 5. (a) Section 1306(b)(2) is amended by inserting "in the case of an application for assistance under section 1304, 1305, or 1305A," before "he determines".

(b)(1) The first sentence of section 1304(b)(3) is amended by striking out "in the one-year period beginning on" and inserting in lieu thereof "incurred in a period not to exceed three years from".

(2) The second sentence of such section is repealed.

(c)(1) Subparagraph (A) of section 1304(f)(2) is amended to read as follows:

"(A) $1,000,000 in the case of a project for the establishment of a health maintenance organization or $600,000 in the case of a project for the significant expansion of the membership of or areas served by a health maintenance organization, or".

(2) The first sentence of section 1304(b)(2) is amended by striking out "includes" and inserting in lieu thereof "means the establishment of a health maintenance organization or the".

(d) The amendments made by this section shall only be effective for fiscal years beginning on or after October 1, 1978.

COSTS OF OPERATION

Sec. 6. (a) Section 1305(a) is amended by striking out "operating costs" each place it occurs and inserting in lieu thereof "costs of operation".

(b) The second sentence of section 1305(b)(1) is amended by striking out "any fiscal year" and inserting in lieu thereof "any twelve-month period".

(c) Section 1305(b)(1) is amended (1) by striking out "$2,500,000" and inserting in lieu thereof "$4,000,000", and (2) by striking out "$1,000.000" and inserting in lieu thereof "$2,000,000".

(d) The title of section 1305 is amended by striking out "OPERATION COSTS" and inserting in lieu thereof "COSTS OF OPERATION".

(e) The amendments made by this section shall only be effective for fiscal years beginning on or after October 1, 1978.

PAYROLL DEDUCTIONS FOR HEALTH BENEFITS

Sec. 7. Section 1310(c) is amended by adding at the end the following: "Each employer which provides payroll deductions as a means of paying employees' contributions for health benefits or which provides a health benefits plan to which an employee contribution is not required and which is required by subsection (a) to offer his employees the option of membership in a qualified health maintenance organization shall, upon request of an employee who exercises such option, arrange for the employee's contribution for such membership to be paid through payroll deductions.".

FUNDING UNDER OTHER AUTHORITIES FOR THE PROVISION OF HEALTH SERVICES ON A PREPAID BASIS

Sec. 8. Section 1313 is amended by adding after and below paragraph (4) the following: "The preceding sentence does not prohibit the use of funds appropriated under sections 19 or 330 of this Act for grants to an entity, other than a health maintenance organization, for the planning and development of health services to be provided on a prepaid basis or for the provision of health services on a prepaid basis.".

LOANS AND LOAN GUARANTEES FOR ACQUISITION AND CONSTRUCTION OF AMBULATORY HEALTH CARE FACILITIES

SEC. 9. (a) Title XIII is amended by inserting after section 1305 the following new section:

"LOANS AND LOAN GUARANTEES FOR ACQUISITION AND CONSTRUCTION OF AMBULATORY HEALTH CARE FACILITIES

"SEC. 1305A. (a) The Secretary may—

"(1) make loans, from the fund established under section 1308(e), to public and nonprofit private health maintenance organizations for projects for the acquisition or construction of ambulatory health care facilities and for the acquisition of equipment for facilities acquired or constructed under a loan made under this paragraph; and

"(2) guarantee to—

"(A) non-Federal lenders for their loans to nonprofit private health maintenance organizations for projects described in paragraph (1) and to private health maintenance organizations for such projects which will serve medically underserved populations, and

"(B) the Federal Financing Bank for its loans to nonprofit private health maintenance organizations for projects described in paragraph (1) and to private health maintenance organizations for such projects which will serve medically underserved populations, the payment of principal and interest on such loans.

"(b)(1) Except as provided in paragraph (2), the aggregate amount of principal of loans made or guaranteed, or both, under subsection (a) for a health maintenance organization may not exceed $2,500,000.

"(2) The cumulative total of the principal of the loans outstanding at any time which have been directly made or with respect to which guarantees have been issued under subsection (a) may not exceed such limitations as may be specified in appropriation Acts.

"(3) The authority of the Secretary to make loans under subsection (a) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(c) For purposes of this section—

"(1) the term 'ambulatory health care facility' means a health care facility for the provision of diagnostic, treatment, and prevention services to ambulatory patients; and

"(2) the term 'construction' means the (A) construction of new facilities, (B) alteration, expansion, remodeling, replacement, and renovation of existing facilities, (C) cost of offsite improvements in connection with an activity described in clause (A) or (B), and (D) cost of the acquisition of land in connection with an activity described in clause (A), (B), or (C).".

(b)(1) Section 1308 is amended by adding at the end the following new subsection:

"(f) The Secretary may take such action as he deems appropriate to protect the interest of the United States in the event of a default on a loan made or guaranteed under this title, including taking possession of, holding, and using real property pledged as security for such a loan or loan guarantee.".

(2)(A) Subsection (d) of section 1308 is amended (i) by inserting before the period in the first sentence of paragraph (1) the following: "and to take the action authorized by subsection (f)", and (ii) by inserting after "under this title" in the first sentence of paragraph (2) the following: "and to take the action authorized by subsection (f)".

(B) The first sentence of subsection (e) of section 1308 is amended by inserting before the period the following: "and to take the action authorized by subsection (f)".

TRAINING AND TECHNICAL ASSISTANCE

SEC. 10. (a) Title XIII is amended by adding at the end thereof the following new section:

"TRAINING AND TECHNICAL ASSISTANCE

"SEC. 1317. (a)(1) The Secretary shall establish a National Health Maintenance Organization Intern Program (hereinafter in this subsection referred to as the 'Program') for the purpose of providing training to individuals to become administrators and medical directors of health maintenance organizations or to assume other managerial positions with health maintenance organizations. Under the Program the Secretary may directly provide internships for such training and may make grants to or enter into contracts with health maintenance organizations and other entities to provide such internships.

"(2) No internship may be provided by the Secretary and no grant may be made or contract entered into by the Secretary for the provision of internships unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be in such form and contain such information, and be submitted to the Secretary in such manner, as the Secretary shall prescribe. Section 1306 does not apply to an application submitted under this section.

"(3) Internships under the Program shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the recipients of the internships as the Secretary deems necessary. An internship made to an individual for training at a health maintenance organization or any other entity shall also provide for payments to be made to the organization or other entity for the cost of support services (including the cost of salaries, supplies, equipment, and related items) provided such individual by such organization or other entity. The amount of any such payments to any organization or other entity shall be determined by the Secretary and shall bear a direct relationship to the reasonable costs of the organization or other entity for establishing and maintaining its training programs.

"(4) Payments under grants under the Program may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(b) The Secretary shall provide (directly, through contracts, or both) technical assistance to (1) entities engaged in surveys or other activities to determine the feasibility of developing and operating or expanding the operation of a health maintenance organization, (2) entities engaged in the planning for the initial development of health maintenance organizations, (3) entities engaged in the initial development of health maintenance organizations, and (4) health maintenance organizations in connection with their operation.".

"(c) The authority of the Secretary to enter into contracts under subsections (a) and (b) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

(b) Section 1309(a) is amended by striking out "and 1304(b)" and inserting in lieu thereof "1304(b), and 1317".

(c) The amendments made by this section shall only be effective for fiscal years beginning on or after October 1, 1979.

ADMINISTRATION OF PROGRAM

SEC. 11. (a) Subsection (h) of section 1310 is amended to read as follows:

"(h) The administration of the duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a qualified health maintenance organization within the meaning of subsection (d), shall be integrated with the administration of section 1312.".

(b) Section 1312(c) is repealed.

DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION

SEC. 12. (a) Section 1310(d) is amended (1) by inserting "(1)" after "(d)", (2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively, (3) by inserting before the comma at the end of clause (A) (as so redesignated) the following: "and will meet the requirements of paragraphs (2), (3), and (4) of this subsection", (4) by inserting before the period at the end the following: "and will meet the requirements of paragraphs (2), (3), and (4) of this subsection", and (5) by adding at the end the following:

"(2) Each health maintenance organization shall, in accordance with regulations promulgated by the Secretary—

"(A) provide the information required to be reported under section 1124 of the Social Security Act by disclosing entities, and

"(B) supply the information required to be supplied under section 1902(a)(38) of such Act.

"(3)(A) Each health maintenance organization shall file with the Secretary, at such times as the Secretary shall prescribe, such information as the Secretary may require—

"(i) to demonstrate that the health maintenance organization has a fiscally sound operation, and

"(ii) respecting—

"(I) any sale, exchange, or leasing of any property between the organization and a party in interest,

"(II) any furnishing by the organization of services to a party in interest and any furnishing of services to the organization by a party in interest, and

"(III) any lending of money or other extension of credit between the organization and a party in interest.

"(B) Each health maintenance organization shall provide the Secretary with assurances satisfactory to the Secretary that the terms of each transaction between the health mainenance organization and a party in interest will be at least as favorable to the health maintenance organization as a party transaction was between the health maintenance organization and a person who is not a party in interest.

"(C) For purposes of subparagraphs (A) and (B), the term 'party in interest' means with respect to a health maintenance organization providing information under such subparagraph—

"(i) a person with an ownership or control interest (as defined in section 1124(a)(3) of the Social Security Act) in the health maintenance organization,

"(ii) a managing employee (as defined in section 1126(b) of such Act) of the organization,

"(iii) any entity with respect to which an individual described in clause (i) or (ii) is a person with an ownership or control interest (as so defined) or a managing employee (as so defined), and

"(iv) any member of the immediate family of an individual who is a person described in clause (i) or (ii).

"(4) Each health maintenance organization shall make available to its members the information reported by the organization pursuant to paragraphs (2) and (3).

"(5) The Secretary shall include in the annual report required by section 1315 a summary of evaluations made by the Secretary of information provided under paragraphs (2) and (3) and a description of any action taken as a result of such evaluations.".

(b) Paragraph (5) of section 1306(b) is amended to read as follows:

"(5) in the case of an application which is made for a health maintenance organization, contains or is supported by assurances satisfactory to the Secretary that the organization will comply with the requirements of paragraphs (2), (3), and (4) of section 1310(d);".

(c) Section 1312(a) is amended (1) by striking out "or at the end of paragraph (2), (2) by inserting "or" at the end of paragraph (3), and (3) by adding after paragraph (3) the following:

"(4) fails to meet the requirements of paragraph (2), (3), or (4) of section 1310(d) or to act in accordance with assurances provided under paragraph (3)(B) of such section,".

AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 13. (a)(1) Section 1902(a)(4) of the Social Security Act is amended (A) by striking out "and" at the end of clause (A), and (B) by inserting before the semicolon a comma and the following: "and (C) that each State or local officer or employee who is responsible for the expenditure of substantial amounts of funds under the State plan, each individual who formerly was such an officer or employee, and each partner of such an officer or employee shall be prohibited from committing any act, in relation to any activity under the plan, the commission of which, in connection with any activity concerning the United States Government, by an officer or employee of the United States Government, an individual who was such an officer or employee, or a partner of such an officer or employee is prohibited by section 207 or 208 of title 18, United States Code".

(2)(A) Except as provided in subparagraph (B), the amendments made by paragraph (1) shall take effect one hundred and eighty days after the date of the enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the requirement added by the amendments made by paragraph (1), such amendments shall not apply with respect to such State plan before ninety days after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(b) Section 1122 of the Social Security Act is amended—

(1) by striking out "or health maintenance organization" each place it occurs,

(2) by striking out "or health maintenance organizations" each place it occurs, and

(3) by striking out "or organization, or of any facility of such organization," in subsection (d)(2).

(c) Section 1903(m)(1)(B) of the Social Security Act is amended by striking out "shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions".

EMPLOYEE HEALTH BENEFITS PLANS

SEC. 14. (a) Section 1310(d)(1) (as amended by section 12) is amended by (1) striking out "and" at the end of clause (A), and (2) by inserting before the period at the end a comma and the following: "and (C) an entity described in paragraph (6)(B) of this subsection which has (i) received a waiver under such paragraph from the requirements of paragraph (6) of section 1301 (c), and (ii) has provided assurances satisfactory to the Secretary that it provides basic and supplemental health services to its members in the manner prescribed by section 1301(b), that it is operated in the manner prescribed by section 1301(c), that, except with respect to the requirements of paragraph (6) of section 1301(c), it is organized in the manner prescribed by section 1301(c), and that it will meet the requirements of paragraphs (2), (3), and (4) of this subsection".

(b) Section 1310(d) (as amended by section 12) is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) For purposes of paragraph (1) of this subsection, the Secretary may, upon application, grant a waiver to an entity described in subparagraph (B) from the requirements of section 1301(c)(6) upon such terms and conditions as the Seretary may determine are appropriate if the entity (i) provided, before the expiration of one hundred and eighty days after the date of the enactment of this paragraph, notice to the Secretary of its intent to apply to be a qualified health maintenance organization, and (ii) made such an application before the expiration of eighteen months after such date of enactment. A waiver granted to an entity under this subparagraph shall be granted on the condition that if, after the date the waiver is granted, the entity expands its service area, the waiver shall terminate upon the date the entity so expands such area. If a waiver granted an entity is terminated because of the expansion of its service area, the entity may apply to the Secretary for another waiver under this subparagraph for the entity with its service area as so expanded. No grant, contract, loan, or loan guarantee may be made under this title for an entity granted a waiver under this subparagraph.

"(B) An entity eligible to apply for a waiver under subparagraph (A) is a health maintenance organization (as defined in regulations promulgated under section 1122 of the Social Security Act as in effect on the day before the date of enactment of this paragraph) (i) which is operated (but not as a separate legal entity) either by a commercial insurance carrier or a nonprofit carrier which provides hospital service benefits or medical or surgical benefits, or both, (ii) which has an advisory board to the policymaking body of such carrier which board meets the requirements of section 1301(c)(6)(A) and to which may be delegated policymaking authority for the organization, (iii) with respect to which Federal financial assistance has not been provided under this Act, and (iv) which on January 1, 1974, was engaged in providing basic health care services (as defined in regulations promulgated under such section 1122 as so in effect) to the organization's members."

(c) Section 1310(b) is amended by adding at the end the following: "The Secretary, as a condition to approving as a qualified health maintenance organization for an area for purposes of this section an entity which is described in subsection (d)(1)(C) and which provides basic and supplemental health services in a manner described in paragraph (1) or (2) of this subsection, may require the health benefits plan of each employer subject to subsection (a) which has at least 25 employees residing in such area to include in such plan at least two qualified health maintenance organizations which provide such services in such area in such manner when at least two such organizations are willing to be included in such plan.".

ONE-YEAR EXTENSION

SEC. 15. (a) Section 1304(j) is amended by striking out "1978" and inserting in lieu thereof "1979".

(b) Section 1309(a) is amended (1) by striking out "ending September 30, 1979" and inserting in lieu thereof "ending September 30, 1980", (2) by striking out "and" after "1977,", and (3) by inserting ", and $25,000,000 for the fiscal year ending September 30, 1979" after "1978".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, would the gentleman explain this?

Mr. ROGERS. Mr. Speaker, if the gentleman will yield, this amendment is simply taking H.R. 13655, which we just passed, and section 106 of H.R. 12460, which was passed just the other day, and substitutes it for the Senate bill.

Section 106 was in the other bill, which was a 1-year extension because we thought that had been passed earlier—and it was passed earlier—and we are simply putting all of the authorization for the HMO for the 3 years together on the Senate bill as passed by the House.

Mr. ROUSSELOT. Further reserving the right to object. Mr. Speaker, I appreciate the gentleman's assurance that there is nothing else in it which we have not already passed; that is, a whole new section is inserted in this bill; is that correct?

Mr. ROGERS. If the gentleman will yield, it is only section 106 of the bill which we have already passed, which was a 1-year extension for 1979 of the HMO bill. The bill we just passed was for 1980 and 1981. We are simply combining this into a 3-year extension, so we substituted that language for the Senate bill so as to have it all together.

That is all it does, and I can give the gentleman assurances that that is true in every respect.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida that the amendment be considered as read and printed in the RECORD?

There was no objection.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Public Health Service Act to revise and extend the program of assistance under that Act for health maintenance organizations.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13655) was laid on the table.

HEALTH SERVICES RESEARCH, STATISTICS, AND TECHNOLOGY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 12584, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 12584, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 306, nays 77, not voting 49, as follows:

[Roll No. 826]

YEAS—306

Addabbo
Akaka
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badham
Bafalis
Baldus
Beard, R.I.
Bedell
Beilenson
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield

Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clay
Cleveland
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Daniel, R. W.
Danielson
de la Garza
Delaney
Dellums
Dent
Dickinson
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erlenborn
Fary
Fascell
Findley
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fraser
Frenzel
Frey
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gore
Gradison
Green
Gudger
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland

Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hyde
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Keys
Kildee
Kindness
Kostmayer
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
Lundine
McCormack
McDade
McFall
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Martin
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Perkins
Pettis
Pickle
Preyer
Price
Pritchard

Pursell
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stanton
Stark
Steed
Steers
Steiger
Stokes
Stratton
Studds
Taylor
Thornton
Traxler
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walker
Walsh
Wampler
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—77

Abdnor
Archer
Ashbrook
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Blouin

Burleson, Tex.
Burlison, Mo.
Clawson, Del
Collins, Tex.
Conable
Crane
Cunningham
D'Amours
Daniel, Dan

Davis
Derrick
Derwinski
Devine
Duncan, Oreg.
Edwards, Okla.
English
Ertel
Evans, Del.

Evans, Ga.
Evans, Ind.
Fenwick
Fithian
Flynt
Fountain
Glickman
Goldwater
Goodling
Grassley
Hall
Hansen
Harsha
Holt
Hughes
Ichord
Jenkins

Jenrette
Kasten
Kelly
Krebs
Lott
McDonald
McEwen
McKay
Mahon
Mann
Marriott
Mathis
Milford
Montgomery
Mottl
Myers, Gary
O'Brien

Panetta
Pease
Pike
Poage
Quayle
Roberts
Rousselot
Runnels
Stangeland
Stockman
Stump
Symms
Treen
Volkmer
Waggonner
Watkins

NOT VOTING—49

Alexander
Ammerman
Anderson, Calif.
Anderson, Ill.
Applegate
Armstrong
AuCoin
Baucus
Bolling
Bonker
Burke, Calif.
Burton, John
Caputo
Chisholm
Cochran
Cohen

Diggs
Eckhardt
Eilberg
Evans, Colo.
Fish
Flood
Flowers
Gammage
Harrington
Ireland
Jones, Okla.
Krueger
McClory
McCloskey
Meeds
Miller, Calif.
Moss

Oakar
Pepper
Pressler
Quie
Risenhoover
Rodino
Roncalio
Rudd
Ruppe
Sarasin
Shipley
Teague
Thompson
Thone
Wirth
Wright

The Clerk announced the following pairs:

On this vote:

Mr. Eilberg and Mr. Krueger for, with Mr. Gammage against.

Mr. Rodino and Mrs. Chisholm for, with Mr. Teague against.

Until further notice:

Mr. Thompson with Mr. Anderson of Illinois.

Mr. Ammerman with Mr. Fish.

Mr. Baucus with Mr. McClory.

Mr. John L. Burton with Mr. Sarasin.

Mr. Jones of Oklahoma with Mr. Ruppe.

Mr. Miller of California with Mr. Rudd.

Ms. Oakar with Mr. Evans of Colorado.

Mr. Wright with Mr. Bonker.

Mr. Wirth with Mr. Caputo.

Mr. Pepper with Mr. McCloskey.

Mr. Flood with Mr. Pressler.

Mr. Applegate with Mr. Cochran of Mississippi.

Mr. AuCoin with Mr. Flowers.

Mrs. Burke of California with Mr. Eckhardt.

Mr. Diggs with Mr. Moss.

Mr. Meeds with Mr. Thone.

Mr. Anderson of California with Mr. Cohen.

Mr. Alexander with Mr. Harrington.

Mr. Ireland with Mr. Risenhoover.

Mr. Shipley with Mr. Roncalio.

Mr. VOLKMER and Mr. STUMP changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2466) to amend the Public Health Service Act to extend and revise the assistance programs for health services research and health statistics; to establish the Office of Health Technology, and for other purposes, a similar bill to H.R. 12584 just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Services Research, Health Statistics and Medical Technology Act of 1978".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 101. (a) The heading to section 304 is amended to read as follows:

"GENERAL AUTHORITY RESPECTING HEALTH STATISTICS, HEALTH SERVICES, MEDICAL TECHNOLOGY RESEARCH EVALUATIONS, AND DEMONSTRATIONS".

(b) (1) Section 304 (a) is amended to read as follows:

"(1) The Secretary, acting through the National Center for Health Services Research, the National Center for Health Statistics, and the Office of Health Technology, shall conduct and support research, demonstrations, evaluations, and statistical and epidemiological activities for the purpose of improving the effectiveness, efficiency, and quality of health services in the United States.

"(2) In carrying out paragraph (1), the Secretary shall give appropriate emphasis to research, demonstrations, evaluations, and statistical and epidemiological activities respecting—

"(A) the accessibility, acceptability, planning, organization, distribution, utilization, and financing of systems for the delivery of health care,

"(B) alternative methods for measuring and evaluating the quality of systems for the delivery of health care,

"(C) the collection, analysis, and dissemination of health related statistics,

"(D) alternative methods to improve and promote health statistical and epidemiological activities,

"(E) the safety, efficacy, effectiveness, cost effectiveness, and social, economic, and ethical impacts of medical technologies,

"(F) alternative methods for disseminating knowledge concerning health and health related activities,

"(G) the special health problems of low income and minority groups and the elderly to insure that these problems are assessed on a periodic regular basis, and

"(H) the prevention of illness, disability, and premature deaths in the United States.

"(3) The Secretary shall (through National Research Service Awards) undertake and support manpower training programs to provide for an expanded and continuing supply of individuals qualified to perform the research, evaluation, and demonstration projects set forth in sections 305, 306, and 306A.".

(2) Section 304(b)(1) is amended by (1) inserting ", when appropriate," before "enter into contracts" and (2) inserting a period after "entities and individuals" and striking all that follows.

(3) Section 304(b)(3) is amended by adding at the end thereof the following new sentence: "In addition, the Director of the National Center for Health Services Research and the Director of the National Center for Health Statistics, in order to assist each of them in carrying out the functions set forth in sections 305 and 306 respectively, and without regard to any other provision of

this Act, are each authorized to obtain the services of not more than fifteen experts or consultants who have appropriate scientific or professional qualifications.".

(4) Section 304(c) is amended to read as follows:

"(c) The Secretary shall coordinate all research, evaluation, demonstration, and statistical and epidemiological activities referred to in subsection (a) undertaken and supported through units of the Department of Health, Education, and Welfare. To the maximum extent feasible, such coordination shall be carried out through the National Center for Health Services Research, the National Center for Health Statistics, and the Office of Health Technology.".

SEC. 102. (a) Section 305(b) is amended by—

(1) striking "technology," in paragraph (1);

(2) striking "and" after "manpower;" in paragraph (2);

(3) striking the period in paragraph (3) and inserting in lieu thereof ", and"; and

(4) adding at the end thereof the following new paragraph:

"(4) the uses of computer science in health services delivery and medical information systems.".

SEC. 103. (a) Section 306(b) is amended by—

(1) striking "; and" after "dissolution" in paragraph (1)(H) and inserting in lieu thereof a period;

(2) adding at the end thereof the following new paragraph:

"(3) undertake and support (by grant or contract or both) epidemiological research, demonstrations, and evaluations on the matters referred to in paragraph (1).".

(b) Section 306(c) is amended by—

(1) inserting "and epidemiological" after "statistical" each place it occurs; and

(2) striking "Labor and Public Welfare" and inserting in lieu thereof "Human Resources".

(c) Section 306(e) is amended by—

(1) inserting "to be known as the Cooperative Health Statistics System" after "levels" in paragraph (1), and

(2) striking "such cooperative system" each place it occurs and inserting in lieu thereof "such System".

(d) Section 306(1)(1) is amended by striking "United States".

(e) Section 306 is amended by adding at the end thereof the following new subsection:

"(j) In carrying out the requirements of section 304(c) and paragraph (2) of subsection (e), the Secretary shall coordinate health statistical and epidemiological activities of the Department of Health, Education, and Welfare by—

"(1) developing in consultation with the National Committee on Vital and Health Statistics, promulgating by regulations, and maintaining the minimum sets of data needed on a continuing basis to fulfill the collection requirements of subsection (b) (1),

"(2) after consultation with the National Committee on Vital and Health Statistics, establishing, by regulation, standards to assure the quality of health statistical and epidemiological data collection, processing, and analysis,

"(3) reviewing periodically all existing health statistical data collections of the Department that were previously approved pursuant to the Federal Reports Act of 1942 to determine whether such collections conform with the minimum sets of data and the standards promulgated pursuant to paragraphs (1) and (2). If any such collections are found not to be in conformance, the Secretary shall take the necessary action to assure that any future collections (effective ninety days after the review) are in conformance,

"(4) reviewing all proposed health statistical data collections of the Department that require approval pursuant to the Federal Reports Act of 1942 to determine whether such proposed collections conform with the minimum sets of data and the standards promulgated pursuant to paragraphs (1) and (2). If any such proposed collections are found not to be in conformance, the Secretary shall take the necessary action to bring them into conformance before such proposed collections are initiated.".

SEC. 104. Title III is amended by adding after section 306 the following new heading and section:

"OFFICE OF HEALTH TECHNOLOGY

"SEC. 306A. (a) There is established in the Department of Health, Education, and Welfare the Office of Health Technology (hereinafter in this section referred to as the 'Office') which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs).

"(b) The Secretary, acting through the Office, shall—

"(1) establish, in consultation with the Council for the Evaluation of Medical Technology, priorities for research, demonstrations, and evaluations of medical technologies as prescribed by paragraph (2)(A). In establishing such priorities, particular emphasis should be placed on—

"(A) the actual or potential risks and the actual or potential benefits to patients associated with the use of medical technology.

"(B) per use and/or aggregate cost of the medical technology,

"(C) the rate of utilization of the medical technology, and

"(D) the stage of development of the medical technology; and

"(2) undertake and support (by grant or contract or both) research, demonstrations, and evaluation concerning—

"(A) the safety, efficacy, effectiveness, cost effectiveness, and social, ethical, and economic impacts of particular medical technologies;

"(B) the factors that affect the utilization of medical technologies throughout the United States;

"(C) alternative methods for disseminating information on medical technologies to health professionals;

"(D) alternative methods for measuring the quality of health services; and

"(E) the effectiveness, administration, and enforcement of quality assurance programs.

"(c) To assist in carrying out this section, the Secretary, acting through the Office, shall cooperate and consult with the National Institutes of Health, the Veterans' Administration and any other interested Federal departments or agencies and with State and local health departments and agencies.

"(d)(1) The Secretary, acting through the Office, shall, by grants or contracts, or both, assist public and/or private nonprofit entities in meeting the costs of planning and establishing new centers, and operating existing and new centers for multidisciplinary research, evaluations, and demonstrations respecting the matters referred to in paragraph (2) of subsection (b). To the extent practicable, the Secretary shall take such actions, in accordance with the requirements of this subsection and section 308, to assure that three such centers shall be operational by September 1, 1981.

"(2) (A) No grant or contract may be made under this subsection for planning and establishing a center unless the Secretary, acting through the Office, determines that when it is operational it will meet the requirements listed in subparagraph (B), and no payment shall be made under a grant or contract for operation of a center unless the center meets such requirements.

"(B) Each center shall meet the following requirements:

"(i) there shall be a full-time director of the center who possesses a demonstrated capacity for sustained productivity and leadership in research, demonstrations, and evaluations respecting the matters referred to in paragraph (2) of subsection (b), and there shall be such additional professional staff as may be appropriate;

"(ii) the staff of the center shall have expertise in the various disciplines needed to conduct multidisciplinary research, evaluations and demonstrations respecting the matters referred to in paragraph (2) of subsection (b);

"(iii) the center shall be located within an established academic or research institution with departments and resources appropriate to the programs of the center; and

"(iv) each center shall meet such additional requirements as the Secretary may by regulation prescribe.

"(e)(1) There is established in the Office a National Council for the Evaluation of Medical Technology (hereinafter in this subsection referred to as the 'Council') to be composed as follows:

"(A) The Surgeon General, the Director of the National Institutes of Health, the Chief Medical Director of the Veterans' Administration, the Assistant Secretary of Defense for Health Affairs, the Chairman of the National Professional Standards Review Council (or their designees), and three other employees of the Department of Health, Education, and Welfare (or their designees) appointed by the Secretary, shall be ex officio members of the Council.

"(B) Eighteen members appointed by the Secretary. Six of the appointed members shall be selected from among leading medical or scientific authorities; two of the appointed members shall be practicing physicians; two of the appointed members shall be practicing hospital administrators; two of the appointed members shall be selected from members of the general public who are leaders in the field of economics; two of the appointed members shall be selected from members of the general public who are leaders in the field of law; and four of the appointed members shall be selected from outstanding members of the general public who, based on their interests, disciplines, and/or expertise, would be appropriate members of the Council.

"(2)(A) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(ii) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

"(B) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(C) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime; and all members while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(3) The Council shall annually elect one of its appointed members to serve as Chairman until the next election.

"(4) The Director of the Office shall (1) designate a member of the staff of the Office to act as Executive Secretary of the Council, and (2) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

"(5) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"(6) The Council is authorized to—

"(A) advise, consult with, and make recommendations to the Secretary and the Director of the Office with respect to carrying out the provisions of this section;

"(B) after consultation with appropriate public and private entities, advise the Secretary concerning the safety, efficacy, effectiveness, cost effectiveness and the social and economic impacts of particular medical technologies;

"(C) after consultation with appropriate public and private entities, develop, when appropriate and to the extent practicable, exemplary standards, norms, and criteria concerning the utilization of particular medical technologies;

"(D) publish, make available and disseminate, through the National Library of Medicine, promptly in understandable form and as widely as possible, but, at a minimum, to each of the National Institutes of Health, to the Food and Drug Administration, to the Indian Health Service and the Bureau of Medical Services of the United States Public Health Service, to all health systems agencies, to all Professional Standards Review Organizations, to all medical schools, professional associations, State and local departments of public health, and to the Department of Medicine and Surgery of the Veterans' Administration and the Assistant Secretary of Defense for Health Affairs, the standards, norms, and criteria developed pursuant to paragraph (C); and

"(E) review and approve any grant that the Office proposes to make and any contract the Office proposes to enter pursuant to this section if such grant or contract is in an amount exceeding $35,000 of direct costs.

"(f) For purposes of this section, medical technology means any discrete and identifiable medical or surgical regimen or modality used to diagnose or treat illness, prevent disease, or maintain patient well-being.".

Sec. 105. (a) The heading to section 308 is amended by inserting "306A," after "306,".

(b) Section 308(a)(1)(B) is amended by (1) striking "and" after "research" and inserting in lieu thereof "," and (2) inserting "and the evaluation of medical technology" after "statistics".

(c) Section 308(b)(1) is amended by inserting "306A," after "306".

(d) Section 308(d) is amended by (1) inserting "306A," before "or 307" and (2) by inserting "or epidemiological" after "statistical" in paragraph (1).

(e) Section 308(e) is amended by inserting "306A," after "306" each place in occurs.

(f) Section 308(f) is amended by striking "or 306" and inserting in lieu thereof "306, or 306A".

(g) Section 308(g)(2) is amended by striking "and 306" and inserting in lieu thereof "306, and 306A".

(h) Section 308(h)(1) is amended by striking "or 306" each place it occurs and inserting in lieu thereof "306 or 306A".

(i) Section 308(i)(1) is amended by—

(1) striking "and" after "1976," and inserting ", $32,600,000 for the fiscal year ending September 30, 1979, $35,000,000 for the fiscal year ending September 30, 1980, and $40,000,000 for the fiscal year ending September 30, 1981" after "1978" in the first sentence thereof.

(2) amending the second sentence thereof to read as follows: "Of the funds appropriated under this paragraph for any fiscal year, at least 15 per centum of such funds or $6,000,000, whichever is less, shall be available only for health services research, evaluation, and demonstration activities directly undertaken by the National Center for Health Services Research and at least 5 per centum of such funds or $1,000,000, whichever is less, shall be available only for dissemination activities directly undertaken by the Center.".

(j) Section 308(i)(2) is amended by—

(1) inserting "and epidemiological" after "statistical",

(2) striking "and" after "1976," and inserting ", $43,400,000 for the fiscal year ending September 30, 1979, $47,000,000 for the fiscal year ending September 30, 1980, and $50,000,000 for the fiscal year ending September 30, 1981" after "1978", and

(3) inserting at the end thereof the following new sentence: "Of the funds appropriated under this paragraph for any fiscal year commencing after September 30, 1978, at least 15 per centum of such funds shall be available only for health statistical and epidemiological activities directly undertaken by the National Center for Health Statistics.".

(k) Section 308(i) is amended by adding at the end thereof the following new paragraph:

"(3) For medical technology research, evaluation, and demonstration activities undertaken or supported under section 304 or 306A, there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1979, $25,000,000 for the fiscal year ending September 30, 1980, and $30,000,000 for the fiscal year ending September 30, 1981. Of the funds appropriated under this paragraph for any fiscal year commencing after September 30, 1980, at least 15 per centum of such funds shall be available only for medical technology research, evaluation, and demonstration activities directly undertaken by the Office of Health Technology.".

Sec. 106. Section 472(a)(1)(A) is amended by—

(1) striking "and" after "private institutions," in clause (iii);

(2) redesignating clause (iv) as clause (vii); and

(3) inserting after clause (iii) the following:

"(iv) research at the National Center for Health Services Research, the National Center for Health Statistics, and/or the Office of Health Technology,

"(v) training at such Centers and Office to undertake such research,

"(vi) research on the matters set forth in section 304(a)(2) at public institutions and at nonprofit private institutions, and".

Sec. 107. Part K of title III is repealed in its entirety.

Sec. 108. Title IV is amended by adding at the end thereof the following new section:

"Sec. 477. The Director of the National Institutes of Health shall make available annually to the Office of Health Technology and the Council for the Evaluation of Medical Technology a list of all technologies (as defined in section 306A(g)) of which he is aware that are under development and that appear likely to be used in medical practice in the near future.".

Sec. 109. The Secretary, acting through the National Center for Health Services Research, shall arrange for the conduct of a study to evaluate the impact upon the utilization of health services by and the health status of members of the United Mine Workers and their dependents as a result of changes in the United Mine Workers' collective-bargaining agreements of March 1978, that require copayments for health services. Such study and a report thereon shall be completed and submitted to the Secretary, the Committee on Human Resources, the Committee on Appropriations, and the Committee on Finance of the Senate, and the Committee on Ways and Means, the Committee on Appropriations, and the Committee on Interstate and Foreign Commerce of the House of Representatives no later than thirty months after the date of enactment of this section. Not more than $1,000,000 of the sums authorized to be appropriated for health services research, evaluation and demonstration activities by section 308(i)(1) of the Public Health Service Act shall be made available for such study.

Sec. 110 (a) The Secretary, in cooperation with the Secretary of Labor and the Administrator of the Environmental Protection Agency, shall develop a plan for the collection and coordination of statistical and epidemiological data on the effects of the environment on health. Such plan shall include, but not be limited to, a review of the data now available on health effects, deficiencies in such data, and methods by which existing data deficiencies can be corrected. The plan shall be submitted to Congress not later than October 1, 1979.

(b) In carrying out the provisions of subsection (a), the Secretary, the Secretary of Labor, and the Administrator of the Environmental Protection Agency shall consult with the Committee on Human Resources and other appropriate committees of the Senate and the Committee on Interstate and Foreign Commerce and other appropriate committees of the House of Representatives.

Sec. 111. (a) The Assistant Secretary for Health, acting through the Office of Health Technology, shall have the responsibility (1) for developing the policies of the Department of Health, Education, and Welfare with respect to the rights to inventions of its employees, grantees, and contractors, subject to applicable laws and regulations; (2) for issuing invention and patent administration policies and procedures, (3) for administering the receipt of and processing invention reports by employees, grantees, and contractors, of the department and maintaining records and documents incident to patent and invention administration; (4) for making determinations of rights in inventions and patents involving inventions of employees, grantees, and contractors of the Department; and (5) for making determinations with respect to applications for licenses under patent applications and patents owned by the United States, as represented, and for accepting licenses issued to the United States as represented by the Department.

(b) All functions of the Office of General Counsel relating to patent administration and administration of invention reports by employees, contractors and grantees of the Department are transferred to the Office of Health Technology: *Provided, however*, That all legal services and functions, relating to patents inventions by employees, grantees, and contractors of the Department shall remain in the Office of General Counsel.

MOTION OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Rogers moves to strike out all after the enacting clause of the Senate bill S. 2466 and to insert in lieu thereof the provisions of H.R. 12584 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, and was read the third time and passed.

The title was amended so as to read:

"To amend the Public Health Service Act to revise and extend the authorities under that act relating to health services research and health statistics and to establish a National Center for Health Care Technology, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 12584) was laid on the table.

House Resolution 1302 was laid on the table.

HEALTH SERVICES AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 12370, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 12370, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 193, nays 193, not voting 46, as follows:

[Roll No. 827]

YEAS—193

Addabbo
Akaka
Andrews, N. Dak.
Ashley
Aspin
Barnard
Bedell
Beilenson
Bevill
Bingham
Blanchard
Boggs
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burton, Phillip
Carney
Carr
Carter
Clausen, Don H.
Clay
Cleveland
Coleman
Collins, Ill.
Conyers
Corman
Cornwell
Coughlin
D'Amours
Daniel, Dan
Danielson
Davis
de la Garza
Dellums
Derrick
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Erlenborn
Evans, Del.
Fascell
Fenwick
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Fraser
Fuqua
Garcia
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Green
Hamilton
Hammerschmidt
Hannaford
Harkin
Harris
Hawkins
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Jacobs
Jeffords
Jenrette
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Kostmayer
Krebs
LaFalce
Le Fante
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Lundine
McCloskey
McCormack
McFall
McHugh
Madigan
Maguire
Markey
Marlenee
Mathis
Mattox
Metcalfe
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nichols
Nix
Nolan
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pickle
Preyer
Pritchard
Pursell
Quillen
Rahall
Rangel
Reuss
Richmond
Rogers
Rosenthal
Roybal
Ryan
Scheuer
Schroeder
Seiberling
Sharp
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stark
Steers
Stokes
Studds
Thornton
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Walgren
Wampler
Waxman
Weaver
Weiss
Whalen
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Yates
Young, Alaska

NAYS—193

Abdnor
Ambro
Andrews, N.C.
Annunzio
Archer
Ashbrook
Badham
Bafalis
Baldus
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Biaggi
Blouin
Boland
Bonior
Breaux
Broomfield
Brown, Mich.
Broyhill
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Cavanaugh
Cederberg
Chappell
Clawson, Del
Collins, Tex.
Conable
Conte
Corcoran
Cornell
Cotter
Crane
Cunningham
Daniel, R. W.
Delaney
Dent
Derwinski
Devine
Dickinson
Dornan
Edgar
Edwards, Okla.
Emery
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Findley
Fish
Fithian
Flynt
Forsythe
Fountain
Frenzel
Frey
Gaydos
Gephardt
Goldwater
Goodling
Grassley
Gudger
Guyer
Hagedorn
Hall
Hanley
Hansen
Harsha
Heckler
Hefner
Heftel
Holt
Hubbard
Huckaby
Hughes
Hyde
Ichord
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Kasten
Kelly
Kemp
Kildee
Kindness
Lagomarsino
Latta
Leach
Lederer
Lent
Livingston
Lott
Luken
McDade
McDonald
McEwen
McKay
McKinney
Mahon
Mann
Marks
Marriott
Martin
Mazzoli
Michel
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nowak
O'Brien
Oberstar
Pease
Perkins
Pettis
Pike
Poage
Price
Quayle
Railsback
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rooney
Rose
Rostenkowski
Rousselot
Runnels
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Sikes
Skelton
Smith, Nebr.
Snyder
St Germain
Stangeland
Stanton
Steed
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Traxler
Treen
Trible
Vander Jagt
Vento
Volkmer
Waggonner
Walker
Walsh
Watkins
White
Whitehurst
Whitley
Whitten
Wiggins
Winn
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—46

Alexander
Ammerman
Anderson, Calif.
Anderson, Ill.
Applegate
Armstrong
AuCoin
Baucus
Bolling
Bonker
Burke, Calif.
Burton, John
Caputo
Chisholm
Cochran
Cohen
Diggs
Eckhardt
Eilberg
Evans, Colo.
Flood
Flowers
Gammage
Harrington
Ireland
Jones, Okla.
Krueger
McClory
Meeds
Miller, Calif.
Moss
Oakar
Pepper
Pressler
Quie
Rodino
Roncalio
Rudd
Ruppe
Sarasin
Shipley
Teague
Thompson
Thone
Wirth
Wright

The Clerk announced the following pairs:

On this vote:

Mr. Gammage and Mr. Baucus for, with Mr. Flood against.

Mr. Rodino and Mr. Thompson for, with Mr. Eilberg against.

Mr. Shipley and Mr. Krueger for, with Mr. Teague against.

Mrs. Burke of California and Mr. Wirth for, with Mr. McClory against.

Mrs. Chisholm and Mr. Miller of California for, with Mr. Rudd against.

Mr. Pepper and Mr. Diggs for, with Mr. Thone against.

Until further notice:

Mr. Ammerman with Mr. Anderson of Illinois.

Mr. Ireland with Mr. Caputo.

Mr. Wright with Mr. Flowers.

Mr. Applegate with Mr. Harrington.

Mr. Alexander with Mr. Cochran of Mississippi.

Mr. Bonker with Mr. Cohen.

Mr. Eckhardt with Mr. Sarasin.

Mr. Evans of Colorado with Mr. Ruppe.

Mr. Meeds with Mr. Quie.

Ms. Oakar with Mr. Jones of Oklahoma.

Mr. Roncalio with Mr. Pressler.

Mr. Moss with Mr. Anderson of California.

Mr. John L. Burton with Mr. AuCoin.

Mrs. FENWICK changed her vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

TIN BUFFER STOCK AUTHORIZATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 9486, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM) that the House suspend the rules and pass the bill H.R. 9486, as amended.

The question was taken.

RECORDED VOTE

Mr. COLLINS of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 308, noes 75, not voting 49, as follows:

[Roll No. 828]

AYES—308

Abdnor
Addabbo
Akaka
Ambro
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Baldus
Barnard
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Cavanaugh
Cederberg
Chappell
Clay
Cleveland
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Dickinson
Dicks
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fraser
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Glickman
Goodling
Gradison
Green
Guyer
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Kildee

Kindness
Kostmayer
Krebs
LaFalce
Le Fante
Lederer
Leggett
Lehman
Lent
Livingston
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McCloskey
McCormack
McEwen
McFall
McHugh
McKinney
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Mikulski
Mikva
Milford
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pike
Poage
Preyer
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Sikes
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
St Germain
Staggers
Stanton
Stark
Steed
Steers
Steiger
Stokes
Studds
Stump
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walsh
Wampler
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wydler
Wylie
Yates
Yatron
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOES—75

Andrews, N.C.
Archer
Ashbrook
Badham
Bauman
Beard, Tenn.
Brown, Mich.
Brown, Ohio
Broyhill
Carter
Clausen, Don H.
Clawson, Del
Collins, Tex.
Crane
Daniel, R. W.
Derwinski
Devine
Dingell
Dornan
Edwards, Okla.
English
Evans, Ga.
Fountain
Frey
Ginn
Goldwater
Gonzalez
Gore
Grassley
Gudger
Hammer-schmidt
Hansen
Hefner
Kelly
Kemp
Lagomarsino
Latta
Leach
Levitas
Lloyd, Tenn.
McDade
McDonald
McKay
Madigan
Maguire
Martin
Michel
Moorhead, Calif.
Mottl
Myers, John
Neal
Pickle
Pursell
Quayle
Risenhoover
Roberts
Rousselot
Runnels
Satterfield
Sawyer
Schulze
Shuster
Sisk
Snyder
Stangeland
Stockman
Stratton
Symms
Taylor
Thornton
Tucker
Walker
Watkins
Young, Alaska
Young, Fla.

NOT VOTING—49

Alexander
Ammerman
Anderson, Calif.
Anderson, Ill.
Applegate
Armstrong
AuCoin
Bafalis
Baucus
Bolling
Bonker
Burke, Calif.
Burton, John
Caputo
Chisholm
Cochran
Cohen
Diggs
Eckhardt
Eilberg
Evans, Colo.
Flood
Flowers
Gammage
Harrington
Ireland
Jones, Okla.
Krueger
McClory
Meeds
Miller, Calif.
Miller, Ohio
Moss
Oakar
Pepper
Pressler
Quie
Rodino
Roncalio
Rudd
Ruppe
Sarasin
Shipley
Teague
Thompson
Thone
Trible
Wirth
Wright

The Clerk announced the following pairs:

Mr. Rodino with Mr. Anderson of Illinois.
Mr. Thompson with Mr. McClory.
Mrs. Chisholm with Mr. Miller of Ohio.
Ms. Oakar with Mr. Caputo.
Mr. Gammage with Mr. Cochran of Mississippi.
Mr. AuCoin with Mr. Trible.
Mr. Baucus with Mr. Sarasin.
Mr. Anderson of California with Mr. Quie.
Mr. Ammerman with Mr. Pressler.
Mr. Eilberg with Mr. Cohen.
Mr. Pepper with Mr. Rudd.
Mr. Shipley with Mr. Ruppe.
Mr. Teague with Mr. Bafalis.
Mr. Wirth with Mr. Alexander.
Mr. Wright with Mr. Harrington.
Mr. Miller of California with Mr. Flowers.
Mr. Applegate with Mr. Bonker.
Mr. John L. Burton with Mr. Ireland.
Mrs. Burke of California with Mr. Evans of Colorado.
Mr. Jones of Oklahoma with Mr. Eckhardt.
Mr. Meeds with Mr. Diggs.
Mr. Flood with Mr. Krueger.
Mr. Moss with Mr. Roncalio.

Mr. TUCKER changed his vote from "aye" to "no."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement, and for other purposes.".

A motion to reconsider was laid on the table.

House resolution 1287 was laid on the table.

SOLAR COLLECTORS FOR RHOB

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 13597, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. MINETA) that the House suspend the rules and pass the bill H.R. 13597, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 332, nays 48, answered "present" 1, not voting 51, as follows:

[Roll No. 829]

YEAS—332

Abdnor
Addabbo
Akaka
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashley
Aspin
Badham
Bafalis
Baldus
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clay
Cleveland
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cornwell
Cotter
Coughlin
Daniel, Dan
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Devine
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Ertel
Evans, Del.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Le Fante
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McCloskey
McDade
McFall
McHugh
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Runnels
Russo
Ryan
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stark
Steers
Steiger
Stokes
Stratton
Studds
Taylor
Thornton
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walgren
Walsh
Wampler
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—48

Ashbrook
Barnard
Bauman
Brinkley
Butler
Clawson, Del
Collins, Tex.
Conable
Cornell
Crane
Cunningham
D'Amours
Daniel, R. W.
Derwinski
Dickinson
Edwards, Okla.
English
Erlenborn
Evans, Ga.
Evans, Ind.
Flippo
Gephardt
Goodling
Hansen
Hightower
Jacobs
Jenkins
Kelly
Latta
Leach
McDonald
McEwen
McKay
Milford
Quayle
Regula
Risenhoover
Satterfield
Skubitz
Stanton
Steed
Stockman
Stump
Symms
Treen
Watkins
Whitten
Young, Alaska

ANSWERED "PRESENT"—1

McCormack

NOT VOTING—51

Alexander
Ammerman
Anderson, Calif.
Anderson, Ill.
Applegate

Armstrong
AuCoin
Baucus
Bolling
Bonker
Burke, Calif.
Burton, John
Caputo
Chisholm
Cochran
Cohen
Diggs
Eckhardt
Eilberg
Evans, Colo.
Flood
Flowers
Gammage
Harrington
Ireland
Jones, Okla.
Kemp
Krueger
McClory
Meeds
Meyner
Miller, Calif.
Moss
Oakar
Pepper
Pressler
Quie
Rodino
Roncalio
Rudd
Ruppe
Sarasin
Shipley
Sisk
Teague
Thompson
Thone
Trible
Walker
Wirth
Wright

The Clerk announced the following pairs:

Mr. Rodino with Mr. Pressler.
Mr. Thompson with Mr. Quie.
Mrs. Chisholm with Mr. Sarasin.
Mr. Baucus with Mr. Trible.
Mr. AuCoin with Mr. McClory.
Mr. John L. Burton with Mr. Kemp.
Mr. Gammage with Mr. Cochran of Mississippi.
Mr. Pepper with Mr. Walker.
Mr. Shipley with Mr. Ruppe.
Mr. Flood with Mr. Cohen.
Mrs. Meyner with Mr. Harrington.
Mr. Miller of California with Mr. Flowers.
Ms. Oakar with Mr. Caputo.
Mr. Ammerman with Mr. Anderson of Illinois.
Mr. Eilberg with Mr. Sisk.
Mr. Teague with Mr. Ireland.
Mr. Wirth with Mr. Eckhardt.
Mr. Krueger with Mr. Evans of Colorado.
Mr. Alexander with Mr. Meeds.
Mr. Anderson of California with Mr. Moss.
Mr. Bonker with Mr. Wright.
Mrs. Burke of California with Mr. Thone.
Mr. Applegate with Mr. Jones of Oklahoma.
Mr. Diggs with Mr. Roncalio.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FOREIGN EARNED INCOME ACT OF 1978

The **SPEAKER** pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 13488, as amended.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 13488, as amended.

The question was taken.

RECORDED VOTE

Mr. DRINAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 282, noes 94, not voting 56, as follows:

[Roll No. 830]

AYES—282

Abdnor
Addabbo
Akaka
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
Badham
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Biaggi
Bingham
Blanchard
Blouin
Boggs
Bowen
Brademas
Breaux
Breckinridge
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Butler
Byron
Carter
Cavanaugh
Cederberg
Clausen, Don H.
Clawson, Del
Cleveland
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Delaney
Dent
Derwinski
Devine
Dickinson
Dicks
Dodd
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fenwick
Findley
Fish
Flippo
Florio
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frey
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hannaford
Hansen
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hubbard
Huckaby
Hyde
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Kindness
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKinney
Madigan
Mahon
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Michel
Milford
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Neal
Nichols
Nowak
O'Brien
Patten
Pattison
Pease
Perkins
Pettis
Pickle
Poage
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rooney
Rose
Rostenkowski
Rousselot
Runnels
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Shuster
Sikes
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Spence
Stangeland
Steed
Steers
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Thornton
Traxler
Treen
Tucker
Udall
Ullman
Vander Jagt
Vanik
Waggonner
Walgren
Walsh
Wampler
Watkins
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOES—94

Aspin
Bedell
Beilenson
Benjamin
Bennett
Boland
Bonior
Brinkley
Brodhead
Burlison, Mo.
Burton, Phillip
Carney
Carr
Chappell
Clay
Conyers
Cornell
Cornwell
D'Amours
Davis
Dellums
Derrick
Dingell
Drinan
Early
Edgar
Edwards, Calif.
Emery
Evans, Ind.
Fisher
Fithian
Ford, Tenn.
Fraser
Garcia
Gore
Hanley
Harkin
Hawkins
Holtzman
Hughes
Ichord
Jacobs
Jenrette
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
LaFalce
Lujan
McKay
Maguire
Markey
Mikulski
Mikva
Mitchell, Md.
Moffett
Moorhead, Pa.
Mottl
Natcher
Nedzi
Nix
Nolan
Oberstar
Obey
Ottinger
Panetta
Patterson
Pike
Rahall
Rangel
Reuss
Richmond
Rosenthal
Roybal
Schroeder
Sharp
Simon
Snyder
Solarz
Spellman
St Germain
Staggers
Stark
Stokes
Studds
Tsongas
Van Deerlin
Vento
Volkmer
Waxman
Weaver
Weiss
Yates

NOT VOTING—56

Alexander
Ammerman
Anderson, Calif.
Anderson, Ill.
Applegate
Armstrong
AuCoin
Baucus
Bevill
Bolling
Bonker
Burke, Calif.
Burton, John
Caputo
Chisholm
Cochran
Cohen
Corman
Diggs
Eckhardt
Eilberg
Evans, Colo.
Flood
Flowers
Gammage
Harrington
Ireland
Jones, Okla.
Kemp
Krueger
McClory
Meeds
Meyner
Miller, Calif.
Moss
Oakar
Pepper
Pressler
Quie
Rodino
Rogers
Roncalio
Rudd
Ruppe
Sarasin
Shipley
Sisk
Stanton
Teague
Thompson
Thone
Trible
Walker
Winn
Wirth
Wright

The Clerk announced the following pairs:

On this vote:

Mr. Rodino and Mr. Gammage for, with Mr. Eilberg against.

Mr. Wirth and Mrs. Burke of California for, with Mr. Flood against.

Mr. Krueger and Mr. Teague for, with Mr. Baucus against.

Mr. Thompson and Mr. Pepper for, with Mrs. Chisholm against.

Until further notice:

Mr. Ammerman with Mr. Anderson of Illinois.
Mr. Bevill with Mr. Caputo.
Mr. Applegate with Mr. Rudd.
Mr. Anderson of California with Mr. Ruppe.
Mr. Jones of Oklahoma with Mr. Stanton.
Mrs. Meyner with Mr. Thone.
Ms. Oakar with Mr. McClory.
Mr. John L. Burton with Mr. Cohen.
Mr. AuCoin with Mr. Walker.
Mr. Ireland with Mr. Cochran of Mississippi.
Mr. Shipley with Mr. Kemp.
Mr. Wright with Mr. Winn.
Mr. Meeds with Mr. Quie.
Mr. Miller of California with Mr. Pressler.
Mr. Moss with Mr. Trible.
Mr. Alexander with Mr. Sisk.
Mr. Corman with Mr. Eckhardt.
Mr. Diggs with Mr. Evans of Colorado.
Mr. Bonker with Mr. Harrington.
Mr. Rogers with Mr. Sarasin.
Mr. Flowers with Mr. Roncalio.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TAX TREATMENT EXTENSION ACT

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H.R. 9251 relating to extensions of time for the existing tax treatment of certain items, with Senate amendments thereto, disagree to the Senate amendments numbered 1, 2, 4, 5, 6, 7, and 8 and to the Senate amendment to the title, and agree to the Senate amendment No. 3 with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 5, strike out "1977" and insert "1978".

Page 1, line 8, strike out "April 30, 1978," and insert "May 1, 1978,".

Page 2, strike out all after line 15, over to and including line 3 on page 3 and insert:

(a) Allowance of Deduction for Certain Additional Foreign Living Costs.—

(1) In general.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as 222 and by inserting after section 220 the following new section:

"Sec. 221. Additional Foreign Living Costs.

"(a) General Rule.—There is allowed as a deduction to a citizen of the United States (other than an individual to whom section 911 applies)—

"(1) who establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

"(2) who, during any period of 18 consecutive months, is present in a foreign country or countries during at least 510 full days in such period;

the amount determined under subsection (c) for the taxable year.

"(b) Deduction Not To Exceed Net Foreign-Source Earned Income.—The amount of the deduction allowed by subsection (a) for the taxable year shall not exceed—

"(1) the earned income of the taxpayer for the taxable year from sources without the United States attributable to services performed during the period to which reference is made in paragraph (1) or (2), whichever is applicable, of subsection (a),

reduced by—

"(2) the sum of the deductions to which reference is made in section 62 (relating to definition of adjusted gross income), other than the deduction to which reference is made in paragraph (14) of that section, allocable to that earned income.

"(c) Determination of Amount.—

"(1) General rule.—The amount of the deduction allowed by subsection (a) for the taxable year is an amount equal to the sum of the taxpayer's cost-of-living, housing, and education expense amounts for the taxable year.

"(2) Cost-of-living expense amount.—The term 'cost-of-living expense amount' means the smaller of—

"(A) the amount paid to, or on behalf of, an individual by his employer for the amount by which the costs of living (exclusive of housing and education expenses) in the foreign place in which that individual is resident or present exceeds the costs of living (exclusive of such expenses) in the United States; or

"(B) the amount set forth in the typical cost-of-living expense amount table prescribed for the taxable year by the Secretary under subsection (d)(1) applicable to the foreign place in which that individual is resident or present.

"(3) Housing expense amount.—For purposes of this section—

"(A) General rule.—The term 'housing expense amount' means the amount by which an individual's actual housing expense for the taxable year (as determined under subparagraph (B)) exceeds the individual's base housing amount for the taxable year (as determined under subparagraph (C)).

"(B) Actual housing expense.—The term 'actual housing expense' means the amount paid or incurred by, or on behalf of, an individual for the taxable year for United States-style housing (including utilities) in a foreign place in which he is resident or present, but only to the extent the housing is not lavish or extravagant under the circumstances and the amount is reasonably comparable to the costs of typical United States-style housing in that place.

"(C) Base housing amount.—The term 'base housing amount' means an amount equal to 20 percent of—

"(i) an individual's earned income for the taxable year,

reduced by—

"(ii) the sum of the individual's—

"(I) actual housing expense,

"(II) cost-of-living expense amount,

"(III) education expense amount, and

"(IV) deductions referred to in section 62 (other than in paragraph (14) of that section) allocable to earned income for the taxable year.

"(D) Housing expense amount not to exceed employer reimbursement for housing.—The amount determined under subparagraph (A) for the taxable year may not exceed the amount paid to or on behalf of the individual for the taxable year by his employer as compensation for the cost of housing in the foreign place in which the individual is resident or present.

"(4) Education expense amount.—The term 'education expense amount' means the smallest of—

"(A) the amount paid to, or on behalf of, an individual by his employer for the taxable year for school fees,

"(B) the sum of amounts paid or incurred by, or on behalf of, the individual for the taxable year for school fees, or

"(C) the amount set forth in the typical education expense amount table prescribed for the taxable year by the Secretary under subsection (d)(2) applicable to the foreign place in which that individual is resident or present.

"(d) Tables.—The Secretary shall prescribe and revise annually—

"(1) Typical cost-of-living expense amount table.—A table setting forth the amount by which the costs of living (exclusive of education and housing expenses) in foreign places exceed the costs of living (exclusive of such expenses) in the United States. The table shall set forth amounts for families of different sizes and shall reflect the costs of living of a family whose income is equal to the salary of an employee of the United States who is compensated at a rate equal to the annual rate paid for step 1 of grade GS–12.

"(2) Typical education expense amount table.—A table setting forth, for various foreign places, the reasonable amount of school fees at adequate United States-type schools which are generally available to United States citizens. The table shall also set forth an amount for foreign places not listed showing an average of school fees for such schools based on a representative sample of adequate United States-type schools located outside the United States. The table shall set forth such amounts on a per student basis.

"(3) Average cost-of-living, housing, and education expense amount tables.—Tables setting forth, for each category of expense described in paragraphs (2), (3), and (4) of subsection (c), and for various foreign places, average amounts claimed by individuals claiming the deduction allowed by this section with respect to each such category (other than individuals described in subsection (e) (1) and (2)) for taxable years ending with or within the most recently ended calendar year for which data is available. The average cost-of-living table shall set forth such amounts for families of different sizes; the average education expense amount table shall set forth such amounts on a per student basis.

"(e) Special Rules.—For purposes of this section—

"(1) Self-employed individuals and employees of foreign corporations.—In the case of a self-employed individual (within the meaning of section 217(f)(1)), and in the case of an individual who is an employee of a person not engaged in a trade or business within the United States, not a United States person, not a controlled foreign corporation (within the meaning of section 957), and not under common control with a trade or business which is, or which is controlled by, a United States person—

"(A) the amount taken into account for purposes of subsection (c)(2) (relating to cost-of-living expense amount) shall be the amount set forth in the average cost-of-living expense amount table prescribed for the taxable year by the Secretary under subsection (d)(3) for the foreign place in which the individual is resident or present;

"(B) the amount taken into account for purposes of subsection (c)(3) (relating to housing expense amount) shall be the smaller of—

"(i) the amount set forth in the average housing expense amount table prescribed by the Secretary for the taxable year under subsection (d)(3) for the foreign place in which the individual is resident or present, or

"(ii) the amount which would be determined under paragraph (3) of subsection (c) without regard to subparagraph (D) thereof; and

"(C) the amount taken into account for purposes of subsection (c)(4) (relating to education expense amount) shall be the smaller of—

"(i) the amount set forth in the average education expense amount table prescribed for the taxable year by the Secretary under subsection (d)(3) for the foreign place in which the individual is resident or present, or

"(ii) the sum of the amounts paid or incurred by, or on behalf of, the individual for school fees for the taxable year.

"(2) Employees of charitable organizations; employefs furnished lodging; employees in camps.—

"(A) General rule.—In the case of an individual who performs qualified charitable services during the taxable year, an individual to whom lodging is furnished the value of which would be excludable from gross income under section 119 if he did not elect not to have the provisions of such section apply, or an individual who, because of his employment, resides in a camp (as defined by the Secretary by regulations)—

"(i) the amount taken into account for purposes of subsection (c)(2) (relating to cost-of-living expense amount) shall be the amount set forth in the average cost-of-living expense amount table prescribed for the taxable year by the Secretary under subsection (d)(3) for the foreign place in which the individual is resident or present;

"(ii) the amount taken into account for purposes of subsection (c)(3) (relating to housing expense amount) shall be the amount set forth in the average housing expense amount table prescribed for the taxable year by the Secretary under subsection (d)(3) for the foreign place in which the individual is resident or present; and

"(iii) the amount taken into account for purposes of subsection (c)(4) (relating to education expense amount) shall be the smaller of—

"(I) the amount set forth in the average education expense amount table prescribed for the taxable year by the Secretary under subsection (d)(3) for the foreign place in which the individual is resident or present, or

"(II) the sum of the amounts paid or

incurred by, or on behalf of, the individual for school fees for the taxable year.

"(B) QUALIFIED CHARITABLE SERVICES.—For purposes of this paragraph, the term 'qualified charitable services' means services performed by an employee outside the United States for an organization described in section 170(c)(2).

"(C) CAMP.—An individual will not be considered to reside in a camp because of his employment unless the camp constitutes lodging—

"(i) the value of which would be excludable from the gross income of the individual under section 119 (determined without regard to whether such lodging is on the business premises of the employer and determined without regard to any election made by the individual under section 119 to have that section not apply), and

"(ii) which is located, as near as practicable, in the vicinity of the employer's business premises or the place at which such individual renders services.

"(3) APPLICATION WITH SECTION 119.—The deduction allowed by subsection (a) shall not be allowed to an individual who is entitled under section 119 to exclude from gross income the value of meals or lodging furnished to him by his employer outside the United States unless he elects not to exclude the value of such meals or lodging from gross income for the taxable year.

"(4) EMPLOYER CERTIFICATION REQUIREMENTS.—For purposes of this section—

"(A) an amount shall be treated as paid by an employer as a cost-of-living expense amount, a housing expense amount, or an education expense amount only if such amount is paid in addition to regular compensation (which is not less than reasonable compensation in the United States for similar services), and is certified by the employer as paid specifically for such purpose,

"(B) an amount shall be treated as paid by an employer as a housing expense amount only if the employer certifies that—

"(i) such amount does not exceed what the employer regards as the reasonable cost of housing in the foreign place in which that individual is resident or present, and

"(ii) the amount paid to the employee for such purpose is not substantially in excess of amounts paid by the employer (or, if not applicable, by other employers to the extent information is available to the employer) to other employees performing similar services, or with the same responsibilities, in the same area, and

"(C) no amount shall be taken into account under paragraph (2), (3), or (4) of subsection (c) as paid by an employer if the employer fails to make the required certification applicable to such paragraph.

"(5) REGULATIONS.—The Secretary shall prescribe, by regulation—

"(A) procedures for employer ceritfication of amounts,

"(B) rules for situations in which the employer furnishes goods and services (including housing) at less than fair market value,

"(C) rules for the application of this section to taxpayers who have earned income described in paragraph (1) of subsection (b) (relating to foreign-source earned income) for only a portion of the taxable year, and

"(D) rules covering changes in employment, familial status, or location during the taxable year.

"(6) DOUBLE TAX BENEFITS DISALLOWED.—An individual shall not be allowed, as a deduction or exclusion under anv other provision of this chapter (other than under section 151), any amount to the extent that the item to which such amount is attributable is properly allocable to, or chargeable against, amounts taken into account for purposes of subsection (a).

"(7) IN-KIND PAYMENTS.—Gross income of an employee includes the amount by which the fair market value of goods or services (including housing) furnished by the employer exceeds the amount paid or incurred by the employee for such goods or services.

"(8) AVERAGE COST-OF-LIVING, HOUSING, AND EDUCATION EXPENSE AMOUNT TABLES NOT TO BE USED FOR TAXABLE YEARS BEGINNING BEFORE 1980.—In the case of an individual to whom paragraph (1) or (2) applies, for taxable years beginning before January 1, 1980—

"(A) the amount taken into account for purposes of subsection (c)(2) (relating to cost-of-living expense amount) shall be the amount set forth in the typical cost-of-living expense table prescribed for the taxable year under subsection (d) applicable to the foreign place in which that individual is resident or present,

"(B) the amount taken into account for purposes of subsection (c)(3) (relating to housing expense amount) shall be an amount determined under a typical housing expense amount table prescribed by the Secretary for purposes of this subparagraph, after consultation with the Secretary of State, setting forth the amount by which the costs of typical United States-style housing (including utilities) in various foreign places exceed the costs of such housing (including utilities) in the United States.

"(C) the amount taken into account for purposes of subsection (c)(4) (relating to education expense amount) shall be determined without reference to the average education expense amount table prescribed by the Secretary, and

"(D) an individual described in paragraph (2) shall be treated as if he were described in paragraph (1) rather than (2).

"(f) DEFINITIONS.—For purposes of this section—

"(1) EARNED INCOME.—The term 'earned income' means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of his share of the net profits of such trade or business, shall be considered as earned income. The term 'earned income' does not include any amount—

"(A) received as a pension or annuity, or

"(B) included in gross income by reason of section 402(b) (relating to taxability of beneficiary of nonexempt trust), section 403(c) (relating to taxability of beneficiary under a nonexempt annuity), or section 403(d) (relating to taxability of beneficiary under certain forfeitable contracts purchased by exempt organizations).

"(2) SCHOOL FEES.—

"(A) The term 'school fees' means tuition, books, and local transportation for the primary (including kindergarten but not nursery school) and secondary education of any dependent of the taxpayer with respect to whom the taxpayer is allowed an exemption under section 151(e), at adequate United States-type schools outside the United States where such dependent is a full-time student. Except as provided in subparagraph (B), such term does not include the cost of private lessons (other than remedial academic lessons), room, board, or other transportation.

"(B) If there is no United States-type school within a reasonable daily commuting distance from the locality in which the taxpayer or his spouse is resident or present, the term 'school fees' includes amounts paid or incurred for the dependent's room and board while attending school outside the United States as a full-time student.

"(3) ATTRIBUTION TO YEAR IN WHICH SERVICES ARE PERFORMED.—Earned income received shall be considered received in the taxable year in which the services to which the earned income is attributable are performed.

"(4) TREATMENT OF COMMUNITY INCOME.—With respect to amounts received from services performed by a husband or wife which are community income under community property laws applicable to such income, the aggregate amount taken into account shall be the amount which would be taken into account if such amounts did not constitute community income.

"(5) TEST OF BONA FIDE RESIDENCE.—An individual who has earned income from sources within a foreign country shall not be treated as a bona fide resident of that country if—

"(A) the individual makes a statement to the authorities of that country that he is not a resident of that country, and

"(B) he is not held subject, as a resident of that country, to the income tax imposed by that country with respect to that earned income.".

(2) DEDUCTIONS ALLOWED IN DETERMINING ADJUSTED GROSS INCOME.—Section 62 of such Code (relating to definition of adjusted gross income) is amended by adding after paragraph (13) the following paragraph:

"(14) CERTAIN FOREIGN-SOURCE INCOME RELATED EXPENSES.—The deduction allowed by section 221.".

(3) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the last item and by inserting in lieu thereof the following:

"Sec. 221. Additional foreign living costs.
"Sec. 222. Cross references.".

(b) AMENDMENTS RELATING TO SECTIONS 911 AND 119.—

(1) DELAY IN EFFECTIVE DATE FOR TAX REFORM ACT OF 1976 CHANGES.—Subsection (d) of section 1011 of the Tax Reform Act of 1976 is amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1977". If, for any taxable year beginning in 1977—

(A) an individual is entitled to the benefits of section 911 of the Internal Revenue Code of 1954, and

(B) such individual chooses to take to any extent the benefits of section 901 of such Code,

then such individual shall be treated for such taxable year as an individual for whom an unused zero bracket amount computation is provided by section 63(e) of such Code.

(2) REPEAL OF SECTION 911.—Subpart B of part III of subparagraph N of chapter 1 of such Code is amended by striking out section 911 and by redesignating section 912 as section 911.

(3) TECHNICAL AND CONFORMING CHANGES.—

(A) Section 37(e)(8)(B) of such Code (relating to earned income) is amended by striking out "section 911(b)" and inserting in lieu thereof "section 221(f)(1)".

(B) Section 43(c)(1)(B) of such Code (relating to eligible individual) is amended to read as follows:

"(B) is not entitled to a deduction under section 221 (relating to certain foreign source income related expenses) or to exclude any amount from gross income under section 931 (relating to income from sources within the possessions of the United States).".

(C) Section 63(e)(2) of such Code (relating to computation of unused zero bracket amount) is amended by striking out "section 911(b)" and inserting in lieu thereof "section 221(f)(1)".

(D) Section 119 of such Code (relating to meals or lodging furnished for the convenience of the employer) is amended—

(i) by striking out "There shall be excluded" and inserting in lieu thereof the following: "(a) In General.—There shall be excluded", and

(ii) by adding at the end thereof the following new subsection:

"(b) Section Not To Apply.—An individual entitled to the benefits of this section for a taxable year may elect, in such manner and at such time as shall be prescribed by the Secretary, not to have the provisions of this section apply for the taxable year.".

(E) Section 220(b)(7) of such Code (relating to employed spouses) is amended by striking out "determined without regard to section 911)".

(F) Section 403(b)(3) of such Code (relating to includable compensation) is amended by striking out "and 911".

(G) Section 410(b)(2)(C) of such Code (relating to exclusion of certain employees) is amended by striking out "(within the meaning of section 911(b))" and inserting in lieu thereof "(within the meaning of section 221(f)(1))".

(H) Section 415(b)(3) of such Code (relating to exclusion of certain employees) is amended by striking out "(within the meaning of section 401(c)(2) but determined without regard to any exclusion under section 911)" and inserting in lieu thereof the following: "within the meaning of section 401(c)(2))".

(I) Section 879(a)(1) of such Code (relating to earned income) is amended by striking out "(within the meaning of section 911 (b))," and inserting in lieu thereof the following: "(within the meaning of section 221(f)(1)),".

(J) Section 1302(b)(2)(A)(i) of such Code (relating to base period income) is amended by striking out "section 911 (relating to earned income from sources without the United States) and".

(K) Section 1303(c)(2) of such Code (relating to exceptions for individuals receiving support from others) is amended by striking out "(within the meaning of section 911 (b))" and inserting in lieu thereof the following: "(within the meaning of section 221(f)(1))".

(L) Section 1304(b) of such Code (relating to certain provisions inapplicable) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(M) Section 1348(b)(1)(A) of such Code (relating to personal service income) is amended by striking out "section 911(b)" and inserting in lieu thereof "section 221 (f)(1)".

(N) Section 1402(a)(8) of such Code (relating to net earnings from self-employment) is amended by striking out "section 911 (relating to earned income from sources without the United States)".

(O) Section 3401(a)(8) of such Code (relating to wages) is amended by striking out so much of such section as precedes subparagraph (B) and by inserting in lieu thereof the following:

"(8)(A) for services for an employer (other than the United States or any agency thereof) performed in a foreign country or in a possession of the United States by such citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country or possession of the United States to withhold income tax upon such remuneration, or".

(P) Section 3402(m)(2)(A) of such Code (relating to estimated itemized deductions) is amended by inserting "or (14)" after "paragraph (13)".

(Q) Section 6012(c) of such Code (relating to certain income earned abroad or from sale of residence) is amended—

(i) by striking out "Earned Abroad or" in the caption thereof, and

(ii) by striking out "and without regard to the exclusion provided for in section 911 (relating to earned income from sources without the United States)".

(R) Section 6091(b)(1)(B)(iii) of such Code (relating to place for filing returns or other documents) is amended by striking out "section 911 (relating to earned income from sources without the United States)," and inserting in lieu thereof the following: "section 221 (relating to certain foreign source income related expenses),".

(4) Clerical Amendment.—The table of sections for subpart B of part III of subchapter N of chapter 1 of such Code is amended by striking out the items relating to sections 911 and 912 and by inserting in lieu thereof the following:

"Sec. 911. Exemption for certain allowances.".

(c) Effective Dates.—The amendments made by subsection (a) and by paragraphs (2), (3), and (4) of subsection (b) shall apply with respect to taxable years beginning after December 31, 1977.

Page 3, strike out all after line 14, over to and including line 3 on page 4.

Page 4, strike out lines 4 to 15, inclusive.

Page 4, line 16, strike out "Sec. 8." and insert "Sec. 6.".

Page 5, after line 2, insert:

Sec. 7. State Legislators' Travel Expenses Away From Home.

Subsections (a) and (d) of section 604 of the Tax Reform Act of 1976 (as amended by section 307 of the Tax Reduction and Simplification Act of 1977) are each amended by striking out "January 1, 1977," and inserting in lieu thereof "January 1, 1978,".

Page 5, after line 2, insert:

Sec. 8. National Service Research Awards.

(a) General Rule.—Any amount paid to, or on behalf of, an individual from appropriated funds as a national research service award under section 472 of the Public Health Service Act shall be treated as a scholarship or fellowship grant under section 117 of the Internal Revenue Code of 1954.

(b) Effective Date.—The provisions of subsection (a) shall apply with respect to amounts received during calendar years 1974 through 1979.

Amend the title so as to read: "An Act relating to extensions of time for the existing tax treatment of certain items and to change the tax treatment of income earned abroad by United States citizens.".

The Clerk read the House amendments to the Senate Amendment No. 3.

Restore the matter proposed to be striken by Senate Amendment No. 3 and in lieu of proposed to be inserted by the Senate amendment, on page 5 of the House bill after line 2 insert as follows:

Sec. 201. Short Title, Etc.

(a) Short Title.—This title may be cited as the "Foreign Earned Income Act of 1978".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Sec. 202. Earned Income From Sources Outside the United States.

(a) Section 911 Exclusion.—Subsection (a) of section 911 (relating to earned income from sources without the United States) is amended to read as follows:

"(a) General Rule.—The following items shall not be included in gross income and shall be exempt from taxation under this subtitle:

"(1) Bona fide resident of qualified foreign country.—In the case of an individual who is a citizen of the United States and who establishes to the satisfaction of the Secretary that he has been a bona fide resident of a qualified foreign country or countries for an uninterrupted period which includes an entire taxable year, amounts received from sources within qualified foreign countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such uninterrupted period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

"(2) Presence in qualified foreign country for 17 months.—In the case of an individual who is a citizen or resident of the United States and who during any period of 18 consecutive months is present in a qualified foreign country or countries during at least 510 full days in such period, amounts received from sources within qualified foreign countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such 18-month period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

An individual shall not be allowed, as a deduction from his gross income, any deductions properly allocable to or chargeable against amounts excluded from gross income under this subsection, other than the deductions allowed by sections 217 (relating to moving expenses) and 913 (relating to deduction for certain expenses of living abroad)."

(b) Limitations on Amount of Exclusion.—Paragraph (1) of section 911(c) (relating to special rules) is amended to read as follows:

"(1) Limitations on amount of exclusion.—The amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of—

"(A) except as provided in subparagraph (B), $20,000, or

"(B) $25,000 in the case of an individual who qualifies under subsection (a)(1), but only with respect to that portion of such taxable year occurring after such individual has been a bona fide resident of a qualified foreign country or countries for an uninterrupted period of 3 consecutive years."

(c) Definition of Qualified Foreign Country.—

(1) In general.—Section 911 is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following new subsection:

"(d) Qualified Foreign Country Defined.—

"(1) In general.—For purposes of this section, the term 'qualified foreign country' means any foreign country which is not listed below:

"Andorra, Austria, Belgium, Canada, Denmark, Finland, France, Germany (Federal Republic), Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, United Kingdom.

"(2) Overseas possessions, etc., may be treated as separate country.—For purposes of this section, the Secretary may by regulations provide that an overseas territory, department, province, or possession may be treated as a separate country.

"(3) Presence on certain North Sea equipment treated as presence in a qualified foreign country.—For purposes of this section—

"(A) Presence.—Presence for any full day on equipment for exploring or exploiting natural resources from the seabed and subsoil of the submarine areas of the North Sea shall be treated as presence in a qualified foreign country (and the individual shall be treated as satisfying the requirements of subsection (a)(2) with respect to such day) if—

"(i) the individual's principal place of work is such equipment, and

"(ii) such day falls within a period for which the individual would satisfy the requirements of subsection (a)(2) if presence in any foreign country constituted presence in a qualified foreign country.

"(B) Income.—Income which is attributable to services performed on equipment described in subparagraph (A) shall be treated as income received from sources within a qualified foreign country."

(2) Conforming amendment.—Subsection (f) of section 911 (relating to cross references) is redesignated as subsection (e).

(d) Removal of Requirement as to Place of Receipt.—Paragraph (8) of section 911(c) (relating to requirement as to place of receipt) is hereby repealed.

(e) Clerical Amendments.—

(1) The section heading for section 911 is amended to read as follows:

"SEC. 911. INCOME EARNED IN QUALIFIED FOREIGN COUNTRIES."

(2) The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 911 and inserting in lieu thereof the following:

"Sec. 911. Income earned in qualified foreign countries."

(3) The heading of subpart B of part III of subchapter N of chapter 1 is amended by striking out "Citizens" and inserting in lieu thereof "Citizens or Residents".

(4) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out "citizens" in the item relating to subpart B and inserting in lieu thereof "citizens or residents".

(5) Sections 43(c)(1)(B), 1302(b)(2)(A)(i), 1304(b), 1402(a)(8), 6012(c), and 6091(b)(1)(B)(iii) are each amended by striking out "relating to earned income from sources without the United States" and inserting in lieu thereof "relating to income earned in qualified foreign countries".

"SEC. 203. DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

(a) Allowance of Deduction.—Subpart B of part III of subchapter N of chapter 1 (relating to earned income of citizens and residents of United States) is amended by adding at the end thereof the following new section:

"SEC. 913. DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

"(a) Allowance of Deduction.—In the case of an individual who is a citizen or resident of the United States and whose tax home is in a foreign country for any portion of the taxable year, there shall be allowed as a deduction the sum of the following amounts for such portion of the taxable year:

"(1) The qualified cost-of-living differential.

"(2) The qualified housing expenses.

"(3) The qualified schooling expenses.

"(4) The qualified home leave travel expenses.

"(b) Deduction Not Exceed Net Foreign Source Earned Income.—

"(1) In general.—The deduction allowed by subsection (a) to any individual for the taxable year shall not exceed—

"(A) such individual's earned income from sources outside the United States for the portion of the taxable year in which such individual's tax home is in a foreign country, reduced by

"(B) the sum of—

"(i) the amount excluded from gross income for the taxable year under section 911,

"(ii) any earned income referred to in subparagraph (A) which is excluded from gross income under section 119, and

"(iii) the allocable deductions.

"(2) Allocable deductions defined.—For purposes of paragraph (1)(B)(iii), the term 'allocable deductions' means the deductions properly allocable to or chargeable against the earned income referred to in paragraph (1)(A), other than—

"(A) that portion of the deductions so allocable or chargeable which is disallowed by the last sentence of section 911(a), and

"(b) the deduction allowed by this section.

"(c) Qualified Cost-of-Living Differential.—

"(1) In general.—For purposes of this section, the term 'qualified cost-of-living differential' means a reasonable amount determined under tables (or under another method) prescribed by the Secretary establishing the amount (if any) by which the general cost of living in the foreign place in which the individual's tax home is located exceeds the general cost of living for the metropolitan area in the continental United States (excluding Alaska) having the highest general cost of living. The tables (or other method) so prescribed shall be revised at least once during each calendar year.

"(2) Special rules.——For purposes of paragraph (1)—

"(A) Computation on daily basis.—The differential shall be computed on a daily basis for the period during which the individual's tax home is in a foreign country.

"(B) Differential to be based on daily living expenses.—An individual's cost-of-living differential shall be determined by reference to reasonable daily living expenses (excluding housing and schooling expenses).

"(C) Differential may vary with family composition and with individual's income category.—The differential prescribed for any foreign place may vary depending on—

"(i) the composition of the family (spouse and dependents) residing with the individual (or at a qualified second household), and

"(ii) the income category of the individual.

"(D) State department's index to be taken into account.—The Secretary, in determining the qualified cost-of-living differential for any foreign place, may take into account the Department of State's Local Index of Living Costs Aboard as it relates to such place.

"(E) No differential for periods during which individual is eligible under section 119.—Except as provided in subsection (g)(1)(A)(ii), an individual shall not be entitled to any qualified cost-of-living differential for any period for which such individual's meals and lodging are excluded from gross income under section 119.

"(d) Qualified Housing Expenses.—

"(1) In general.—For purposes of this section, the term 'qualified housing expenses' means the excess of—

"(A) the individual's housing expenses, over

"(B) the individual's base housing amount.

"(2) Housing expenses.—

"(A) In general.—For purposes of paragraph (1), the term 'housing expenses' means the reasonable expenses paid or incurred during the taxable year by or on behalf of the individual for housing for the individual (and, if they reside with him, for his spouse and dependents) in a foreign country. Such term—

"(i) except as provided in clause (ii), includes expenses attributable to the housing (such as utilities and insurance), and

"(ii) does not include interest and taxes of the kind deductible under section 163 or 164 or any amount allowable as a deduction under section 216(a).

"(B) Portion which is lavish or extravagant not allowed.—For purposes of subparagraph (A), housing expenses shall not be treated as reasonable to the extent such expenses are lavish or extravagant under the circumstances.

"(3) Base housing amount.—For purposes of paragraph (1)—

"(A) ⅙ of base compensation for qualified pension plan purposes.—

"(i) In general.—Except as provided in subparagraphs (B) and (C), the term 'base housing amount' means ⅙ of the individual's base compensation.

"(ii) Definition of base compensation.—For purposes of clause (i), the term 'base compensation' has the meaning given to such term under any qualified plan of deferred compensation within the meaning of section 401 in which the individual participates (or would be eligible to participate but for his failure to satisfy any applicable age or service requirements under such plan).

"(B) Determination based on earned income. — If an individual's base housing amount cannot be determined under the method prescribed in subparagraph (A), the term 'base housing amount' means 10 per cent of the excess of—

"(i) the individual's earned income (reduced by the deductions properly allocable to or chargeable against such earned income (other than the deduction allowed by this section)), over

"(ii) the sum of—

"(I) the housing expenses taken into account under paragraph (1)(A) of this subsection,

"(II) the qualified cost-of-living differential,

"(III) the qualified schooling expenses, and

"(IV) the qualified home leave travel expenses.

"(C) Base housing amount to be zero in certain cases.—If, because of adverse living conditions, or for the convenience of his employer, the individual maintains a household for his spouse and dependents at a place other than his tax home which is in addition to the household he maintains at his tax home, the base housing amount for the household maintained at his tax home shall be zero.

"(4) Periods taken into account.—

"(A) In general.—The expenses taken into account under this subsection shall be only those which are attributable to housing during periods for which—

"(i) the individual's tax home is in a foreign country, and

"(ii) except as provided in subsection (g)(1)(B)(iii), the value of individual's housing is not excluded under section 119.

"(B) Determination of base housing amount.—The base housing amount shall be determined for the periods referred to in subparagraph (A) (as modified by subsection (g)(1)(B)(iii)).

"(5) Only one house per period.—If, but for this paragraph, housing expenses for any individual would be taken into account under paragraph (2) of subsection (a) with respect to more than one abode for any period, only housing expenses with respect to that abode which bears the closest relationship to the individual's tax home shall be taken into account under such paragraph (2) for such period.

"(e) Qualified Schooling Expenses.—

"(1) In general.—For purposes of this section, the term 'qualified schooling expenses' means the reasonable schooling expenses paid or incurred by or on behalf of the individual during the taxable year for the education of each dependent of the individual at the elementary or secondary level. For purposes of the preceding sentence, the elementary or secondary level means education which is the equivalent of education from the kindergarten through the 12th grade in a United States-type school.

"(2) Expenses included.—For purposes of paragraph (1), the term 'schooling expenses' means the cost of tuition fees, books, and local transportation and of other expenses required by the school. Except as provided in paragraph (3), such term does not include expenses of room and board or expenses of transportation other than local transportation.

"(3) Room, board, and travel allowed in certain cases.—If an adequate United States-type school is not available within a reasonable commuting distance of the individual's tax home, the expenses of room and board of the dependent and the expenses of the transportation of the dependent each school year between such tax home and the location of the school shall be treated as schooling expenses.

"(4) Determination of reasonable expenses.—If—

"(A) there is an adequate United States-type school available within a reasonable commuting distance of the individual's tax home, and

"(B) the dependent attends a school other than the school referred to in subparagraph (A),

then the amount taken into account under paragraph (2) shall not exceed the aggregate amount which would be charged for the period by the school referred to in subparagraph (A).

"(5) Period taken into account.—An amount shall be taken into account as a qualified schooling expense only if it is attributable to education for a period during which the individual's tax home is in a foreign country.

"(f) Qualified Home Leave Travel Expenses.—

"(1) In general.—For purposes of this section, the term 'qualified home leave travel expenses' means the reasonable amounts paid or incurred by or on behalf of an individual for the transportation of such individual, his spouse, and each dependent from the location of the individual's tax home outside the United States to a place in the United States and return.

"(2) One trip per 12-month period abroad.—Amounts may be taken into account under paragraph (4) of subsection (a) only with respect to one round trip per person for each continuous period of 12 months for which the individual's tax home is in a foreign country.

"(g) Special Rules Where Individual Maintains Separate Household for Spouse and Dependents Because of Adverse Living Conditions at Tax Home.—

"(1) In general.—For any period during which an individual maintains a qualified second household—

"(A) Qualified cost-of-living differential.—

"(i) Allowance determined by reference to location of qualified second household.—Paragraph (1) of subsection (c) shall be applied by substituting 'the qualified second household' for 'the individual's tax home'.

"(ii) Disregard of section 119 rule.—Subparagraph (E) of subsection (c)(2) shall not apply with respect to the spouse and dependents.

"(B) Qualified housing expenses.—

"(i) Expenses with respect to qualified second household taken into account.—For purposes of subsection (d), the expenses for housing of an individual's spouse and dependents at the qualified second household shall be treated as housing expenses if they would meet the requirements of subsection (d)(2) if the individual resided at such household.

"(ii) Separate application of subsection (d).—Subsection (d) shall be applied separately with respect to the housing expenses for the qualified second household; except that, in determining the base housing amount, the housing expenses (if any) of the individual for housing at his tax home shall also be taken into account under subsection (d)(3)(B)(ii).

"(iii) Certain rules not to apply.—Paragraphs (4)(A)(ii) and (5) of subsection (d) shall not apply with respect to housing expenses for the qualified second household.

"(C) Requirement that spouse and dependents reside with individual for purposes of schooling and home leave.—

"(i) In general.—The requirement of subsection (h)(3) that the dependent or spouse of the individual (as the case may be) reside with the individual at his tax home shall be treated as met if such spouse or dependent resides at the qualified second household.

"(ii) Substitution of household for tax home.—In any case where clause (i) applies, paragraphs (3) and (4) of subsection (e), and paragraph (1) of subsection (f), shall be applied with respect to amounts paid or incurred for the spouse or dependent by substituting the location of the qualified second household for the individual's tax home.

"(2) Definition of qualified second household.—For purposes of this section, the term 'qualified second household' means any household maintained in a foreign country by an individual for the spouse and dependents of such individual at a place other than the tax home of such individual because of adverse living conditions at the individual's tax home.

"(h) Other Definitions and Special Rules.—

"(1) Definitions.—For purposes of this section—

"(A) Earned income.—The term 'earned income' has the meaning given to such term by section 911(b) (determined with the rules set forth in paragraphs (2), (3), (4), and (5) of section 911(c)), except that such term does not include amounts paid by the United States or any agency thereof.

"(B) Tax home.—The term 'tax home' means, with respect to any individual, such individual's home for purposes of section 162(a)(2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States.

"(C) Residence at tax home.—A household or residence shall be treated as at the tax home of an individual if such household or residence is within a reasonable commuting distance of such tax home.

"(D) Adverse living conditions.—The term 'adverse living conditions' means living conditions which are dangerous, unhealthful, or otherwise adverse.

"(E) United States.—The term 'United States', when used in a geographical sense, includes the possessions of the United States and the areas set forth in paragraph (1) of section 638 and so much of paragraph (2) of section 638 as relates to the possessions of the United States.

"(2) Limitation to coach or economy fare.—The amount taken into account under this section for any transportation by air shall not exceed the lowest coach or economy rate at the time of such transportation charged by a commercial airline for such transportation during the calendar month in which such transportation is furnished. If there is no such coach or economy rate or if the individual is required to use first-class transportation because of a physical impairment, the preceding sentence shall be applied by substituting 'first-class' for 'coach or economy'.

"(3) Requirement that spouse and dependents reside with individual for purposes of schooling and home leave.—Except as provided in subsection (g)(1)(C)(i), amounts may be taken into account under subsection (e) with respect to any dependent of the individual, and under subsection (f) with respect to the individual's spouse or any dependent of the individual, only for the period that such spouse or dependent (as the case may be) resides with the individual at his tax home.

"(i) Certain Double Benefits Disallowed.—An individual shall not be allowed—

"(1) as a deduction (other than the deduction under section 151),

"(2) as an exclusion (other than the exclusion under section 911), or

"(3) as a credit under section 44A (relating to household and dependent care services),

any amount to the extent that such amount is taken into account under subsection (c), (d), (e), or (f).

"(j) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing rules.—

"(1) for cases where a husband and wife each have earned income from sources outside the United States, and

"(2) for married individuals filing separate returns."

(b) Deduction Allowed in Determining Adjusted Gross Income.—Section 62 (relating to definition of adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) Deduction for certain expenses of living abroad.—The deduction allowed by section 913."

(c) Clerical Amendment.—The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following:

"Sec. 913. Deduction for certain expenses of living abroad."

Sec. 204. Moving Expenses.

(a) Special Rules for Foreign Moves.—Section 217 (relating to moving expenses) is amended by redesignating subsection (h) as subsection (j) and by inserting after subsection (g) the following new subsections:

"(h) Special Rules for Foreign Moves.—

"(1) Increase in limitations.—In the case of a foreign move—

"(A) subsection (b)(1)(D) shall be applied by substituting '90 consecutive days' for '30 consecutive days',

"(B) subsection (b)(3)(A) shall be applied by substituting '$4,500' for '$1,500' and by substituting '$6,000' for '$3,000', and

"(C) subsection (b)(3)(B) shall be applied as if the last sentence of such subsection read as follows: 'In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting "$2,250" for "$4,500", and by substituting "$3,000" for "$6,000".'

"(2) Allowance of certain storage fees.—In the case of a foreign move, for purposes of this section, the moving expenses described in subsection (b)(1)(A) include the reasonable expenses—

"(A) of moving household goods and personal effects to and from storage, and

"(B) of storing such goods and effects for part or all of the period during which the new place of work continues to be the taxpayer's principal place of work.

"(3) Foreign move.—For purposes of this subsection, the term 'foreign move' means the commencement of work by the taxpayer at a new principal place of work located outside the United States.

"(4) United states defined.—For purposes of this subsection and subsection (i), the term 'United States' includes the possessions of the United States.

"(i) Allowance of Deductions in Case of Retirees or Decedents Who Were Working Abroad.—

"(1) In general.—In the case of any qualified retiree moving expenses or qualified survivor moving expenses—

"(A) this section (other than subsection (h)) shall be applied with respect to such expenses as if they were incurred in connection with the commencement of work by the taxpayer as an employee at a new principal place of work located within the United States, and

"(B) the limitations of subsection (c)(2) shall not apply.

"(2) Qualified retiree moving expenses.—For purposes of paragraph (1), the term 'qualified retiree moving expenses' means any moving expenses—

"(A) which are incurred by an individual whose former principal place of work and former residence were outside the United States, and

"(B) which are incurred for a move to a new residence in the United States in connection with the bona fide retirement of the individual.

"(3) Qualified survivor moving expenses.—For purposes of paragraph (1), the term 'qualified survivor moving expenses' means moving expenses—

"(A) which are paid or incurred by the spouse or any dependent of any decedent who (as of the time of his death) had a principal place of work outside the United States, and

"(B) which are incurred for a move which begins within 6 months after the death of such decedent and which is to a residence in the United States from a former residence outside the United States which (as of the time of the decedent's death) was the residence of such decedent and the individual paying or incurring the expense."

Sec. 205. Meals or Lodging Furnished to Employees Under Certain Conditions.

(a) General Rule.—Section 119 (relating to meals or lodging furnished for the convenience of the employer) is amended—

(1) by striking out "furnished to him by his employer for the convenience of the employer" and inserting in lieu thereof "furnished to him, his spouse, or any of his dependents by or on behalf of his employer for the convenience of the employer", and

(2) by striking out "There shall" and inserting in lieu thereof "(a) Meals and Lodging Furnished to Employee, His Spouse, and His Dependents, Pursuant to Employment.—There shall".

(b) Special Rule for Foreign Meals or Lodging.—Section 119 is amended by adding at the end thereof the following new subsection:

"(b) Foreign Meals or Lodging.—

"(1) In general.—The value of meals or lodging furnished to an employee, his spouse, and dependents at a location outside the United States by or on behalf of his employer shall be excluded from gross income of an employee if either—

"(A) the requirements of subsection (a) are satisfied, or

"(B) such meals or lodging are camp-style meals or lodging, as defined in paragraph (2).

"(2) Camp-style meals and lodging defined.—For purposes of this subsection—

"(A) Meals.—Meals shall be considered camp-style meals if—

"(i) such meals are furnished in a common eating area which normally serves 10 or more employees and is not available to the public, and

"(ii) the employee is furnished lodging the value of which is excludable from gross income under this section.

"(B) Lodging.—Lodging shall be considered camp-style lodging if the requirements of any of the following clauses are met:

"(i) 2 or more unrelated employees are required by the employer to share the same living quarters.

"(ii) The lodging is furnished in a common area not available to the public which common area normally accommodates 10 or more employees.

"(iii) In the case of housing located in a qualified foreign country (as defined in section 911(d))—

"(I) the housing is assigned on the basis of family size or other nonincome, nonjob description basis,

"(II) the employer assigns housing in the immediate geographic area to 100 or more employees who are United States citizens or residents, and

"(III) the employee lives in housing occupied solely by employees (and their families) of the employer.

"(3) United states defined.—For the purposes of this subsection, the term 'United States' includes the possessions of the United States."

Sec. 206. Supension of Running of the Period Under Section 1034 for Purchasing a New Principal Residence.

Section 1034 (relating to sale or exchange of residence) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Individual Whose Tax Home Is Outside the United States.—The running of any period of time specified in subsection (a) or (c) (other than the 18 months referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) has a tax home (as defined in section 913(h)(1)(B)) outside the United States after the date of the sale of the old residence; except that any such period of time as to suspended shall not extend beyond the date 4 years after the date of the sale of the old residence."

Sec. 207. Miscellaneous Amendments.

(a) Wage Witholding.—Subsection (a) of section 3401 (defining wages) is amended by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; or" and by adding at the end thereof the following new paragraph:

"(18 to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 913 (relating to deduction for certain expenses of living abroad)."

(b) Place for Filing Returns.—Clause (iii) of section 6091(b)(1)(B) (relating to place for filing tax returns) is amended by inserting "section 913 (relating to deduction for certain expenses of living abroad)," before "section 931".

(c) Authority To Require Information Concerning Section 912 Allowances.—Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Authority To Require Information Concerning Section 912 Allowances.—The Secretary may by regulations require any individual who receives allowances which are excluded from gross income under section 912 for any taxable year to include on his return of the taxes imposed by subtitle A for such taxable year such information with respect to the amount and type of such allowances as the Secretary determines to be appropriate."

Sec. 208. Reports by Secretary.

(a) General Rule.—As soon as practicable after the close of the calendar year 1979 and after the close of each second calendar year thereafter, the Secretary of the Treasury shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth with respect to the preceding 2 calendar years—

(1) the number, country of residence, and other pertinent characteristics of persons claiming the benefits of sections 911, 912, and 913 of the Internal Revenue Code of 1954,

(2) the revenue cost and economic effects of the provisions of such sections 911, 912, and 913, and

(3) a detailed description of the manner in which the provisions of such sections 911, 912, and 913 have been administered during the preceding 2 calendar years.

(b) Information From Federal Agencies.—Each agency of the Federal Government which pays allowances excludable from gross income under section 912 of such Code shall furnish to the Secretary of the Treasury such information as he determines to be necessary to carry out his responsibility under subsection (a).

Sec. 209. Effective Dates.

(a) General Rule.—Except as provided in subsection (b), the amendments made by this title shall apply to taxable years beginning after December 31, 1977.

(b) Wage Withholding.—The amendment made by section 207(a) shall apply to remuneration paid after the date of the enactment of this Act.

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendment No. 3 be considered as read and printed in the Record.

The **SPEAKER**. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. ULLMAN. Mr. Speaker, the Foreign Earned Income Act of 1978, H.R. 13488, passed by the House today, would substantially revise the tax treatment of Americans working abroad for 1978 and later years. Another bill, the Tax Treatment Extension Act, H.R. 9251, also deals with this question. H.R. 9251 last year was passed by the House and this year, after several amendments, by the Senate. H.R. 9251 would extend through 1977 the law in effect prior to the Tax Reform Act of 1976. In addition, one of the Senate amendments to H.R. 9251 would, like H.R. 13488, substantially revise the taxation of Americans working abroad for 1978 and later years. Because of this Senate amendment, H.R. 9251 has been held at the Speaker's table pending action by the House on this same matter in H.R. 13488.

By this unanimous consent request, the provisions of H.R. 13488 on the taxation of Americans working abroad in 1978 and later years, which the House has just passed, would be substituted for the Senate amendment to H.R. 9251 on that question. This would permit a conference between the House and Senate on H.R. 9251 in which both the House provisions and the Senate provisions concerning the treatment for future years of Americans working abroad would be within the scope of conference. This would expedite the resolution of this problem and, in addition, the treatment of these taxpayers for the 1977 tax year.

The **SPEAKER**. Is there objection to the first request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 9251, TAX TREATMENT EXTENSION ACT

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the House insist on—

First, its disagreement to the Senate amendments numbered 1, 2, 4, 5, 6, 7, and 8 to the bill H.R. 9251 and to the Senate amendment to the title of the bill, and

Second, its amendments to the Senate amendment numbered 3 to the bill H.R. 9251.

And request a conference with the Senate thereon.

The SPEAKER. Is there objection to the gentleman from Oregon? The Chair hears none, and appoints the following conferees: Messrs. ULLMAN, ROSTENKOWSKI, VANIK, BURLESON of Texas, CORMAN, CONABLE, and FRENZEL.

H. Res. 1346 was laid on the table.

CONFERENCE REPORT ON S. 2391, EXTENDING COMMODITY EXCHANGE ACT

Mr. FOLEY submitted the following conference report and statement on the Senate bill (S. 2391) to extend the Commodity Exchange Act, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95–1628)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2391) to extend the Commodity Exchange Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: That this Act may be cited as the "Futures Trading Act of 1978".

COMPOSITION AND FUNCTIONS OF COMMISSION; CONFLICT OF INTEREST; LIAISON WITH OTHER AGENCIES; CONFORMING AND TECHNICAL AMENDMENTS

SEC. 2. Section 2(a) of the Commodity Exchange Act is amended by—

(1) striking out in the third sentence of paragraph (1) (7 U.S.C. 2) "section 217 of the Commodity Futures Trading Commission Act of 1974" and inserting in lieu thereof "section 19 of this Act";

(2) inserting "(A)" immediately after the designation of paragraph (2) (7 U.S.C. 4a (a));

(3) striking out in the second sentence of paragraph (2) "a Chairman and four other Commissioners" and inserting in lieu thereof "five Commissioners";

(4) striking out in the last sentence of paragraph (2) "(A)" and "(B) and inserting in lieu thereof "(i)" and "(ii)", respectively;

(5) adding at the end of paragraph (2) a new subparagraph (B) as follows:

"(B) The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman, who shall serve as Chairman at the pleasure of the President. An individual may be appointed as Chairman at the same time that person is appointed as a Commissioner. The Chairman shall be the chief administrative officer of the Commission and shall preside at hearings before the Commission. At any time, the President may appoint, by and with the advice and consent of the Senate, a different Chairman, and the Commissioner previously appointed as Chairman may complete that Commissioner's term as a Commissioner.";

(6) striking out in paragraph (5) (7 U.S.C. 4a(d)) ", by and with the advice and consent of the Senate,";

(7) inserting in paragraph (6)(A) (7 U.S.C. 4a(e)(1)) after "use and expenditures of funds," the following: "according to budget categories, plans, programs, and priorities established and approved by the Commission,";

(8) striking out in paragraph (6)(B) (7 U.S.C. 4a(e)(2)) "of the Commission" and inserting in lieu thereof ", plans, priorities, and budgets approved by the Commission";

(9) inserting "(A)" immediately after the designation of paragraph (7) (7 U.S.C. 4a (f));

(10) adding at the end of paragraph (7) a new subparagraph (B) as follows:

"(B) No Commissioner or employée of the Commission classified as a GS–16 or higher in a position excepted from the competitive service by reason of being of a confidential or policymaking character shall, for a period of one year beginning on the last day of service as such Commissioner or employee—

"(i) make any appearance before the Commission, or

"(ii) make any written or oral communication to the Commission, or any Commissioner or employee of the Commission, on behalf of any person (other than the United States) on any particular matter that is before the Commission,

if such last day of service is more than four months after the date of enactment of this subparagraph. The restrictions in this subparagraph shall not apply to an appearance or response under a subpena issued by the Commission, or any matter of an exclusively personal and individual nature.";

(11) inserting "(A)" immediately after the designation of paragraph (8) (7 U.S.C. 4a(g));

(12) striking out in the first sentence of paragraph (8) "establish a separate office within the Department of Agriculture to be staffed with employees of the Commission for the purpose of maintaining" and inserting in lieu thereof "maintain";

(13) adding at the end of paragraph (8) a new subparagraph (B) as follows:

"(B)(i) The Commission shall maintain communications with the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission for the purpose of keeping such agencies fully informed of Commission activities that relate to the responsibilities of those agencies, for the purpose of seeking the views of those agencies on such activities, and for considering the relationships between the volume and nature of investment and trading in contracts of sale of a commodity for future delivery and in securities and financial instruments under the jurisdiction of such agencies.

"(ii) When a board of trade applies for designation as a contract market involving transactions for future delivery of any security issued or guaranteed by the United States or any agency thereof, the Commission shall promptly deliver a copy of such application to the Department of the Treasury and the Board of Governors of the Federal Reserve System. The Commission may not designate a board of trade as a contract market based on such application until forty-five days after the date the Commission delivers the application to such agencies or until the Commission receives comments from each of such agencies on the application, whichever period is shorter. Any comments received by the Commission from such agenices shall be included as part of the public record of the Commission's designation proceeding. In designating, or refusing, suspending, or revoking the designation of a board of trade as a contract market involving transactions for future delivery referred to in this clause or in considering possible emergency action under section 8a(9) of this Act with respect to such transactions, the Commission shall take into consideration all comments it receives from the Department of the Treasury and the Board of Governors of the Federal Reserve System and shall consider the effect that any such designation, suspension, revocation, or emergency action may have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for government securities.

"(iii) The provisions of this subparagraph shall not create any rights, liabilities, or obligatons upon which actions may be brought against the Commission.";

(14) striking out in paragraph (9)(A) (7 U.S.C. 4a(h)(1)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(15) striking out in paragraph (9)(B)(7 U.S.C. 4a(h)(2)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry".

OPTIONS TRANSACTIONS; TECHNICAL AMENDMENTS

SEC. 3. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1) striking out in the last sentence of subsection (a) "not have been disapproved" and inserting in lieu thereof "have been approved";

(2) striking out in subsection (b) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(3) by adding at the end thereof new subsections (c), (d), and (e) as follows:

"(c) Notwithstanding the provisions of subsection (b) of this section, no person may, after the enactment of the Futures Trading Act of 1978, offer to enter into, enter into, or confirm the execution of any commodity option transaction involving any commodity regulated under this Act but not specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, until (1) the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry documentation of its ability to regulate successfully such transactions, including a copy of the Commission's proposed rules and regulations, and (2) the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal. The Commission is not precluded from transmitting, at any time, documentation relating to its ability to regulate such transactions regarding individual commodities, classes of commodities, or regulation of such transactions on specific boards of trade. Nothing in this subsection shall affect any rights or obligations arising out of any transactions subject to the provisions of this subsection entered into, or the execution of which was confirmed, prior to October 1, 1978: *Provided*, That this prohibition shall not apply to any transaction expressly permitted under rules or regulations prescribed by the Commission, before or after the date of enactment of the Futures Trading Act of 1978, to be offered to be entered into, entered into, or confirmed, in which the purchaser is a producer, processor, commercial user of, or a merchant handling, the commodity involved in the transaction, or the products or byproducts thereof.

"(d) Notwithstanding the provisions of subsection (c) of this section—

"(1) any person domiciled in the United States who on May 1, 1978, was in the business of granting an option on a physical commodity and was in the business of buying, selling, producing, or otherwise using that commodity, may continue to grant or issue options on that commodity in accordance with Commission regulations in effect on August 17, 1978, until thirty days after the effective date of regulations issued by the Commission under clause (2) of this subsection: *Provided*, That if such person files an application for registration under the regulations issued under clause (2) of this subsection within thirty days after the effective date of such regulations, that person may continue to grant or issue options pending a final determination by the Commission on the application; and

"(2) the Commission shall issue regulations that permit grantors and futures commission merchants to offer to enter into, enter into, or confirm the execution of, any commodity option transaction on a physical commodity subject to the provisions of subsection (b) of this section if—

"(A) the grantor is a person domiciled in the United States who—

"(i) is in the business of buying, selling, producing, or otherwise using the underlying commodity;

"(ii) at all times has a net worth of at least $5,000,000 certified annually by an independent public accountant using generally accepted accounting principles;

"(iii) notifies the Commission and every futures commission merchant offering the grantor's option if the grantor knows or has reason to believe that the grantor's net worth has fallen below $5,000,000;

"(iv) segregates daily, exclusively for the benefit of purchasers, money, exempted securities (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal to an amount by which the value of each transaction exceeds the amount received or to be received by the grantor for such transaction;

"(v) provides an identification number for each transaction; and

"(vi) provides confirmation of all orders for such transactions executed, including the execution price and a transaction identification number;

"B) the futures commission merchant is a person who—

"(i) has evidence that the grantor meets the requirements specified in subclause (A) of this clause;

"(ii) treats and deals with all money, securities, or property received from its customers as payment of the purchase price in connection with such transactions, as belonging to such customers until the expiration of the term of the option, or, if the customer exercises the option, until all rights of the customer under the commodity option transaction have been fulfilled;

"(iii) records each transaction in its customer's name by the transaction identification number provided by the grantor;

"(iv) provides a disclosure statement to its customers, under regulations of the Commission, that discloses, among other things, all costs, including any markups or commissions involved in such transaction; and

"(C) the grantor and futures commission merchant comply with any additional uniform and reasonable terms and conditions the Commission may prescribe, including registration with the Commission.

The Commission may permit persons not domiciled in the United States to grant options under this subsection under such additional rules, regulations, and orders as the Commission may adopt to provide protection to purchasers that are substantially the equivalent of those applicable to grantors domiciled in the United States. The Commission may terminate the right of any person to grant, offer, or sell options under this subsection only after a hearing, including a finding that the continuation of such right is contrary to the public interest: *Provided*, That pending the completion of such termination proceedings, the Commission may suspend the right to grant, offer, or sell options of any person whose activities in the Commission's judgment present a substantial risk to the public interest.

"(e) The Commission may adopt rules and regulations, after public notice and opportunity for a hearing on the record, prohibiting the granting, issuance, or sale of options permitted under subsection (d) of this section if the Commission determines that such options are contrary to the public interest.".

CUSTOMER FUNDS AND PROPERTY

SEC. 4. Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended by inserting in paragraph (2) after "*Provided further,*" the following: "That in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, such money, securities, and property of the customers of such futures commission merchant may be commingled and deposited as provided in this section with any other money, securities, and property received by such futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: *Provided further,*".

REGISTRATION OF FUTURES COMMISSION MERCHANTS AND FLOOR BROKERS

SEC. 5. Section 4f(1) of the Commodity Exchange Act (7 U.S.C. 6f(1)) is amended by striking out in the third sentence "All registrations shall expire on the 31st day of December of the year for which issued" and inserting in lieu thereof the following: "Each registration shall expire on December 31 of the year for which issued or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe".

TECHNICAL AMENDMENT

SEC. 6. Section 4g(3) of the Commodity Exchange Act (7 U.S.C. 6g(3)) is amended by striking out "Brokers" and inserting in lieu thereof "Floor brokers".

REGISTRATION OF ASSOCIATED PERSONS; AUTHORIZATION FOR REGISTRATION OF ASSOCIATED PERSONS BY A REGISTERED FUTURES ASSOCIATION

SEC. 7. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended by—

(1) amending the last sentence of subsection (2) to read as follows: "Such registration shall expire two years after the effective date thereof or at such other time, not less than one year from the date of issuance thereof, as the Commission may by rule, regulation, or order prescribe and shall be renewed upon application therefor, unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 6(b) of this Act: *Provided*, That upon initial registration, unless the Commission otherwise prescribes by rule, regulation, or order, the effective period of such registration shall be not more than two years nor less than one year from the effective date thereof."; and

(2) adding at the end thereof a new subsection (3) as follows:

"(3) The Commission may authorize a registered futures association to perform any portion of the registration functions under this section, in accordance with rules approved by the Commission, and subject to the provisions of this Act applicable to registrations granted by the Commission.".

REGISTRATION OF COMMODITY TRADING ADVISORS

SEC. 8. Section 4m of the Commodity Exchange Act (7 U.S.C. 6m) is amended by adding at the end thereof a new sentence as follows: "The provisions of this section shall not apply to any commodity trading advisor who is a (1) dealer, processor, broker, or seller in cash market transactions of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974 (or products thereof) or (2) nonprofit, voluntary membership, general farm organization, who provides advice on the sale or purchase of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Act of 1974; if the advice by the person described in clause (1) or (2) of this sentence as a commodity trading advisor is solely incidental to the conduct of that person's business: *Provided*, That such person shall be subject to proceedings under section 14 of this Act.".

REGISTRATION OF COMMODITY TRAINING ADVISORS AND COMMODITY POOL OPERATORS

SEC. 9. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by—

(1) striking out subsection (2) and redesignating subsections (3), (4), (5), (6), and (7) as subsections (2), (3), (4), (5), and (6), respectively;

(2) striking out in subsection (2), as redesignated by clause (1) of this section, "All registrations" and inserting in lieu thereof "Each registration"; and

(3) inserting in subsection (2), as redesignated by clause (1) of this section, after "year," the following: "or at such other time, not less than one year from the effective date thereof, as the Commission may by rule, regulation, or order prescribe,".

PROHIBITION ON FRAUDULENT TRANSACTIONS BY COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

SEC. 10. Section 4o(1) of the Commodity Exchange Act (7 U.S.C. 6o(1)) is amended by striking out "registered under this Act".

ARBITRATION BY REGISTERED FUTURES ASSOCIATION

SEC. 11. Section 5a(11) of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended by inserting after "otherwise" the following: "(such as by delegation to a registered futures association having rules providing for such procedures)".

PROCESS FOR APPROVAL OF BYLAWS, RULES, REGULATIONS, AND RESOLUTIONS OF CONTRACT MARKETS

SEC. 12. Section 5a(12) of the Commodity Exchange Act (7 U.S.C. 7a(12)) is amended by—

(1) inserting in the second sentence after "receipt" the following: "(or within 60 days of their receipt if the Commission determines them to be of major economic significance)"; and

(2) inserting after the first sentence three new sentences as follows: "At least thirty days before approving any such bylaws, rules, regulations, and resolutions of major economic significance, as determined by the Commission, the Commission shall publish in the Federal Register such bylaws, rules, regulations, and resolutions. The Commission shall give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such bylaws, rules, regulations, or resolutions are of major economic significance shall be final and not subject to judicial review.".

HEARING ON THE RECORD FOR REFUSAL, SUSPENSION, OR REVOCATION OF CONTRACT MARKET DESIGNATION; COMMISSION SUBPENA POWER

SEC. 13. Section 6 of the Commodity Exchange Act is amended by—

(1) inserting in the second sentence "on the record" after "a hearing" (7 U.S.C. 8);

(2) inserting in the second sentence of paragraph (a) "on the record" after "hearing (7 U.S.C. 8); and

(3) striking out the third sentence of paragraph (b) (7 U.S.C. 15) and inserting in lieu thereof the following: "For the purpose of securing effective enforcement of the provisions of this Act and for the purpose of any investigation or proceeding under this Act, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing. In case of contumacy by, or refusal to obey a subpena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which the investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found.".

HEARING ON THE RECORD FOR CEASE AND DESIST ORDERS AND IMPOSITION OF CIVIL PENALTY

SEC. 14. Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended by inserting in the first sentence "on the record" after "hearing".

JURISDICTION OF THE STATES

SEC. 15. The Commodity Exchange Act is amended by adding after section 6c a new section 6d as follows:

"SEC. 6d. (1) Whenever it shall appear to the attorney general of any State, the administrator of the securities laws of any State, or such other official as a State may designate, that the interests of the residents of that State have been, are being, or may be threatened or adversely affected because any person (other than a contract market, clearinghouse, or floor broker) has engaged in, is engaging or is about to engaged in, any act or practice constituting a violation of any provision of this Act or any rule, regulation, or order of the Commission thereunder, the State may bring a suit in equity or an action at law on behalf of its residents to enjoin such act or practice, to enforce compliance with this Act, or any rule, regulation, or order of the Commission thereunder, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

"(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia, shall have jurisdiction of all suits in equity and actions at law brought under this section to enforce any liability or duty created by this Act or any rule, regulation, or order of the Commission thereunder, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this Act or any rule, regulation, or order of the Commission thereunder, including the requirement that the defendant take such action as is necessary to remove the danger of violation of this Act or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) Immediately upon instituting any such suit or action, the State shall serve written notice thereof upon the Commission and provide the Commission with a copy of its complaint, and the Commission shall have the right to (A) intervene in the suit or action and, upon doing so, shall be heard on all matters arising therein, and (B) file petitions for appeal.

"(4) Any suit or action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

"(5) For purposes of bringing any suit or action under this section, nothing in this Act shall prevent the attorney general, the administrator of the State securities laws, or other duly authorized State officials from exercising the powers conferred on them by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) For purposes of this section, 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

"(7) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal antifraud statute of such State.".

DISCLOSURE TO THE PUBLIC OF TRADERS AND THEIR POSITIONS ON BOARDS OF TRADE

SEC. 16. Section 8 of the Commodity Exchange Act (7 U.S.C. 12, 12–1, 12–2, and 12–3) is amended to read as follows:

"SEC. 8. (a) For the efficient execution of the provisions of this Act, and in order to provide information for the use of Congress, the Commission may make such investigations as it deems necessary to ascertain the facts regarding the operations of boards of trade and other persons subject to the provisions of this Act. The Commission may publish from time to time the results of any such investigation and such general statistical information gathered therefrom as it deems of interest to the public: *Provided*, That except as otherwise specifically authorized in this Act, the Commission may not publish data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.

"(b) The Commission may disclose publicly any data or information that would separately disclose the market positions, business transactions, trade secrets, or names of customers of any person when such disclosure is made in connection with a congressional proceeding, or in an administrative or judicial proceeding brought under this Act.

"(c) The Commission may make or issue such reports as it deems necessary, or such opinions or orders as may be required under other provisions of law, relative to the conduct of any board of trade or to the transactions of any person found guilty of violating the provisions of this Act or the rules, regulations, or orders of the Commission thereunder in proceedings brought under section 6 of this Act. In any such report or opinion, the Commission may set forth the facts as to any actual transaction or any information referred to in subsection (b) of this section, if such facts or information have previously been disclosed publicly in connection with a congressional proceeding, or in an administrative or judicial proceeding brought under this Act.

"(d) The Commission, upon its own initiative or in cooperation with existing governmental agencies, shall investigate the marketing conditions of commodities and commodity products and byproducts, including supply and demand for these commodities, cost to the consumer, and handling and transportation charges. It shall also compile and furnish to producers, consumers, and distributors, by means of regular or special reports, or by such other methods as it deems most effective, information respecting the commodity markets, together with information on supply, demand, prices, and other conditions in this and other countries that affect the markets.

"(e) The Commission may disclose and make public, where such information has previously been disclosed publicly in accordance with the provisions of this section, the names and addresses of all traders on the boards of trade on the commodity markets with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of commodities purchased or sold by each such trader. Upon the request of any committee of either House of Congress, acting within the scope of its jurisdiction, the Commission shall furnish to such committee the names and addresses of all traders on such boards of trade with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of any commodity purchased or sold by each such trader. Upon the request of any department or agency of the Executive Branch of the Government of the United States, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this Act. However, any information furnished under this subsection to any Federal department or agency shall not be disclosed by such department or agency except in any action or proceeding under the laws of the United States to which it, the Commission, or the United States is a party.

"(f) The Commission shall submit to Congress a written report within one hundred and twenty days after the end of each fiscal year detailing the operations of the Commission during such fiscal year. The Commission shall include in such report such information, data, and legislative recommendations as it deems advisable with respect to the administration of this Act and its powers and functions under this Act.

"(g) The Comptroller General of the United States shall conduct reviews and audits of the Commission and make reports thereon. For the purpose of conducting such reviews and audits, the Comptroller General shall be furnished such information regarding the powers, duties, organizations, transactions, operations, and activities of the Commission as the Comptroller General may require and the Comptroller General and the duly authorized representatives of the Comptroller General shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of the Commission, except that in reports the Comptroller General shall not include data and information that would separately disclose the business transactions of any person and trade secrets or names of customers, although such data shall be provided upon request by any committee of either House of Congress acting within the scope of its jurisdiction.".

FINGERPRINTING OF APPLICANTS FOR REGISTRATION; LIMITATION ON PUBLICATION OF CERTAIN INFORMATION

Sec. 17. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) inserting in paragraph (1) after "by the Commission" the following: ", which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing"; and

(2) striking out in paragraph (6) "and to publish".

DISCLOSURE OF RESULTS OF EXCHANGE DISCIPLINARY PROCEEDINGS

Sec. 18. Section 8c(1)(B) of the Commodity Exchange Act (7 U.S.C. 12c(1)(B)) is amended by amending the last sentence to read as follows: "An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action taken or the penalty imposed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined, or denied access, and to the Commission.".

CRIMINAL PENALTIES

Sec. 19. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by—

(1) striking out in subsection (a) "$100,000" and inserting in lieu tehreof "$500,000"; and inserting immediately after the first sentence of subsection (a) the following: "Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution.";

(2) striking out in subsection (b) "$100,000" and inserting in lieu thereof "$500,000"; and inserting before the period at the end of subsection (b) the following: ", or knowingly to violate the provisions of section 4, section 4b, section 4c(b) through section 4c(e), section 4h, section 4o(1), or section 19 of this Act, or knowingly to make any false or misleading statement of a material fact in any registration application or report filed with the Commission, or knowingly to omit in any application or report any material fact that is required to be stated therein. Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution";

(3) amending subsection (c) to read as follows:

"(c) Except as provided in subsections (a), (b), (d), and (e) of this section, it shall be a misdemeanor punishable by a fine of not more than $100,000 or imprisonment for not more than one year, or both, together with the costs of prosecution, for any person to violate any provisions of section 4a, section 4c(a), section 4d, section 4e, section 4i, section 4k, section 4m, section 4o(2), or section 8b, or to fail to evidence any contract mentioned in section 4 of this Act by a record in writing as therein required.";

(4) striking out in subsection (d) "$10,000" and inserting in lieu thereof "$100,000"; and

(5) striking out in subsection (e) $10,000" and inserting in lieu thereof "$100,000".

AUTHORIZATION FOR APPROPRIATIONS

Sec. 20. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for each of the fiscal years during the period beginning October 1, 1978, and ending September 30, 1982.".

REPARATIONS PROCEEDINGS

Sec. 21. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) striking out in subsection (a) "registered" and inserting in lieu thereof "who is registered or required to be registered";

(2) striking out in subsection (b) "$2,500" and inserting in lieu thereof "$5,000"; and

(3) striking out in subsection (c) "$2,500" wherever it appears and inserting in lieu thereof $5,000".

REGISTERED FUTURES ASSOCIATION

Sec. 22. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by—

(1) striking out in subsection (b)(3)(B) "(7 U.S.C. 9)";

(2) striking out in subsection (b)(10) "$5,000" and inserting in lieu thereof "$15,000";

(3) striking out in subsection (l) "title" each time that word appears and inserting in lieu thereof "Act"; and

(4) redesignating subsection (m) as subsection (n), and inserting after subsection (l) a new subsection (m) as follows:

"(m) Notwithstanding any other provision of law, the Commission may approve rules of future associations that, directly or indirectly, require persons eligible for membership in such associations to become members of at least one such association, upon a determination by the Commission that such rules are necessary or appropriate to achieve the purposes and objectives of this Act.".

LEVERAGE TRANSACTIONS

Sec. 23. The Commodity Exchange Act is amended by adding at the end thereof a new section 19 as follows:

"Sec. 19. (a) No person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974 under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the safe function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

"(b) No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, under a standardized contract described in subsection (a) of this section, contrary to any rule, regulation, or order of the Commission designed to ensure the financial solvency of the transaction or prevent manipulation or fraud: *Provided,* That such rule, regulation, or order may be made only after notice and opportunity for hearing.

"(c) The Commission may prohibit or regulate any transactions, under a standardized contract described in subsection (a) of this section, involving any other commodities under such terms and conditions as the Commission shall initially prescribe by October 1, 1979: *Provided,* That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *Provided further,* That the Commission may set different terms and conditions for such transactions involving different commodities.

"(d) If the Commission determines that any transaction under subsections (b) and (c) of this section is a contract for future delivery within the meaning of this Act, such transaction shall be regulated in accordance with the applicable provisions of this Act.".

REPEAL OF LEVERAGE TRANSACTION PROVISION IN THE 1974 ACT

Sec. 24. Section 217 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a) is hereby repealed.

USE IMMUNITY

Sec. 25. Section 6001 of part V of this title 18 of the United States Code (18 U.S.C. 6001) is amended by inserting after "Civil Aeronautics Board," the following: "the Commodity Futures Trading Commission,".

PLAN FOR USER FEES

Sec. 26. Notwithstanding any other provision of law, the Commodity Futures Trading Commission may develop and implement a plan to charge and collect reasonable fees to cover the estimated cost of regulating transactions under the jurisdiction of the Commission. However, prior to implementing such a plan, the Commission shall report its intention to do so to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. The Commission shall include in its report the feasibility and desirability of collecting such fees. Any plan developed under this section shall not be implemented until approved by the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. Fees collected under any plan approved under this section shall be deposited in the Treasury of the United States as miscellaneous receipts.

POTATO FUTURES STUDY

Sec. 27. Within one year of the effective date of this Act, the Secretary of Agriculture shall—

(1) conduct a comprehensive study of the marketing of Irish potatoes and of the making and trading of contracts of sale for the future delivery of Irish potatoes; including rules and regulations pertaining to such trading issued by the Commodity Futures Trading Commission or any contract market designated by the Commission; and

(2) submit to each House of Congress a detailed report on the results of such study.

The report shall also include any proposals the Secretary may have concerning any legislation needed to implement such recommendations and concerning any modifications and rules and regulations need to improve regulation of such contracts by the Commisison or any contract market designated by the Commission.

EFFECTIVE DATE

Sec. 28. Except as otherwise provided in this Act, the provisions of this Act shall become effective October 1, 1978.

And the House agree to the same.

Thomas S. Foley,
Ed Jones,
W. R. Poage,
E de la Garza,
Frederick W. Richmond,
Alvin Baldus,
Berkley Bedell,
Glenn English,
Leon E. Panetta,
Tom Harkin,
Floyd J. Fithian,
Dan Glickman,
George E. Brown, Jr.,
William C. Wampler,
Edward R. Madigan,
James M Jeffords,
Richard Kelly,
E. Thomas Coleman,
Ron Marlenee

Managers on the Part of the House.

Herman E. Talmadge,
Walter D. Huddleston,
Dick Clark,
Richard Stone,
Patrick J. Leahy,
Robert Dole,
Henry Bellmon,
Richard G. Lugar,

Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2391) to extend the Commodity Exchange Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report. The differences between the Senate bill and the House amendment and the substitute agreed to in conference are noted in the following outline, except for conforming, clarifying, and technical changes:

(1) DEFINITION OF "COMMODITY TRADING ADVISOR" (SEC. 8)*

The *House* amendment excludes from the definition of "commodity trading advisor" (a) dealers, processors, brokers, and sellers of cash commodities and products thereof, and (b) nonprofit, voluntary membership, general farm organizations that provide advice on the sale and purchase of cash commodities.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision with modifications (a) exempting the persons covered by the *House* provision from the registration requirement contained in section 4m of the Commodity Exchange Act and related recordkeeping and reporting requirements *but* not the other provisions of the Act, and (b) exempting only such persons who give advice relating to agricultural commodities in cash market transactions.

(2) FUNCTIONS OF THE CHAIRMAN (SECS. 2(7) AND 2(8))

A. The *House* amendment provides that the use and expenditure of Commodity Futures Trading Commission funds, over which the Chairman has control, will be according to budget categories, plans, programs, and priorities established and approved by the Commission.

The *Senate* bill contains no comparable provision.

B. The *House* amendment provides that the Chairman—in carrying out the executive and administrative functions of the Commission—will be governed by *plans, priorities, and budgets approved by the Commission*, in addition to the general policies of the Commission as provided in existing law.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provisions.

(3) PROHIBITIONS ON ACTIVITIES OF COMMISSION PERSONNEL (SEC. 2(10))

A. The *Senate* bill prohibits any Commissioner or Commission employee classified as a GS-15 or higher, for 1 year from his or her last day of service at the Commission from (i) making any appearance before the Commission, or (ii) communicating with the Commission, any Commissioner, or Commission employee, on behalf of any person (other than the United States) or any particular matter before the Commission. These prohibitions do not apply to any appearance or response under a Commission-issued subpena or matters of an exclusively personal and individual nature.

The *House* amendment contains the same prohibitions as the *Senate* bill but makes them applicable to any Commissioner or Commission employee classified as a GS-16 or higher *and* in a position excepted from the competitive service by reason of being a confidential or policymaking character (Schedule C appointees).

B. The *House* amendment provides that the prohibitions will not become effective until 4 months after the date of enactment of this provision.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provisions.

(4) LIAISON WITH OTHER AGENCIES (SEC. 2(13))

A. The *House* amendment requires the Commission to maintain communications with the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission (i) to keep them fully informed of Commission activities related to their responsibilities; (ii) to consider the relationship between the volume and nature of investment and trading in futures, compared to securities and financial instruments under their jurisdiction; and (iii) to obtain their views on those activities.

The *Senate* bill contains no comparable provision.

B. The *House* amendment provides that if a board of trade applies for designation as a contract market for contracts for future delivery of securities issued or guaranteed by the United States or any agency thereof, the Commission must promptly deliver a copy of the application to the Department of the Treasury and the Federal Reserve Board. The Commission is prohibited from approving any such application until the Commission receives the views of these agencies, or until 45 days after delivery of the application to these agencies, whichever is sooner. Any comments received from these agencies must be included in the public record, and their views must be considered by the Commission in approving, refusing, suspending, or revoking such designations or in taking any emergency action affecting such designated contract markets. The Commission is also required to consider the effect of designation, suspension, revocation, or emergency action on the debt financing requirements of the United States and the continued efficiency and integrity of the underlying market for government securities.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provisions with a modification providing that these provisions will not create any rights, liabilities, or obligations upon which actions may be brought against the Commission.

(5) OPTION TRANSACTIONS (SEC. 3)

A. The *Senate* bill prohibits commodity option transactions until (i) the Commission transmits evidence to the congressional agriculture committees of its ability to regulate successfully these transactions, and (ii) *30* days of continuous session of Congress following transmission of the justification statement by the Commission elapse.

The *House* amendment prohibits commodity option transactions until the Commission (i) issues rules or regulations on commodity option transactions after notice and opportunity for a hearing, (ii) transmits to the congressional agriculture committees a copy of the rule or regulation, and (iii) *10* calendar days of continuous session elapse *without either House adopting a resolution disapproving the proposed rule or regulation*.

B. The *Senate* bill provides an exception from the commodity option prohibition where *both parties to the transaction* are either a producer, processor, or commercial user of, or a merchant handling, the commodity on which the option is written, or the products or byproducts thereof, and they enter into the transaction solely for the purposes of their business as such.

The *House* amendment exempts from the commodity option prohibition transactions by *a* producer, processor, or commercial user of, or a merchant handling, the commodity on which the option is written, or the products or byproducts thereof, if expressly permitted by commission rules or regulations issued before or after the date of enactment of the bill, with no requirement that the purchaser of the option be a commercial entity.

C. The *Senate* bill exempts from the prohibition contained in the bill and from any Commission imposed prohibition under section 4c(b) of the Act dealer-granted commodity options if the grantor and the futures commission merchant offering the option satisfy the following requirements. The grantor of the option must: (i) be in the business of buying, selling, producing, or otherwise using the commodity on which the option is written; (ii) continuously maintain a minimum net worth of $10 million, certified annually by an independent public accountant using generally accepted accounting principles; (iii) segregate daily exclusively for the benefit of purchasers, money, government securities, commercial paper, or unencumbered warehouse receipts equal to the purchaser's profit; (iv) provide identification for each option granted; and (v) provide confirmations for all orders for options, including the execution price and transaction identification number. The futures commission merchant must have evidence that the grantor satisfies these requirements at all times in order lawfully to offer or sell options written by that grantor. The futures commission by that grantor. The futures commission merchant is required to (i) treat and deal with money, government securities, commercial paper, or unencumbered warehouse receipts—equal in value to all funds received from its customers as the option's purchase price—to be held as security for performance of the option until its expiration or liquidation; (ii) record each option in the customer's name by the identification number furnished by the grantor; and (iii) provide a disclosure statement to customers, under *Commission* regulations, disclosing all costs, including any markups or commissions in the transaction.

The *House* amendment authorizes the Commission *to permit any person domiciled in the United States—who on May 1, 1978*, was in the business of granting an option on a physical commodity and was in the business of buying, selling, producing, or otherwise using that commodity—to continue to grant or issue options on that commodity for a period not to exceed 9 months. Any such permission may be terminated only after a hearing, including a finding that the continuation of the permission is contrary to the public interest. Pending completion of the termination proceedings, the Commission may suspend, as to any person whose activities present a substantial risk to the public interest, in the Commission's judgment, that person's right to offer and sell options.

D. The *House* amendment provides that the Commission, if it chooses to grant exceptions to the ban on dealer options trading, may do so without regard to the requirements of the Administrative Procedure Act and other provisions of the Commodity Exchange Act, except that such exceptions cannot become effective until the Commission transmits to the congressional agriculture committees a copy of the rule or regulation and 10 calendar days of continuous session elapse without either House adopting a resolution disapproving the proposed rule or regulation.

The *Senate* bill contains no comparable provision.

E. The *Senate* bill provides that the new provisions on commodity option transactions will be effective through September 30, 1984.

The *House* amendment contains no comparable provision.

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*The section references are references to the *Conference* substitute.

The *Conference* substitute—

(a) prohibits commodity options transactions, except "trade" options, until (i) the Commission transmits evidence to the congressional agriculture committees of its ability to regulate these transactions, including a copy of the Commission's proposed regulations, and (ii) 30 days of continuous session of Congress elapse following the transmission of the justification statement;

(b) allows any person domiciled in the United States—who on May 1, 1978, was in the business of granting an option on a physical commodity and was in the business of buying, selling, producing, or otherwise using that commodity—to continue to grant such options under Commission regulations (in effect on August 17, 1978) until 30 days following the effective date of Commission regulations issued under the bill;

(c) requires the Commission to issue regulations concerning the granting and offering of options on physical commodities, that would include as minimum requirements that—

(i) the grantor of the option must (A) be a person domiciled in the United States; (B) be in the business of buying, selling, producing, or otherwise using the commodity on which the option is written; (C) continuously maintain a minimum net worth of $5 million, certified annually by an independent public accountant using generally accepted accounting principles; (D) notify the Commission and each futures commission merchant offering the grantor's options if the grantor knows or has reason to believe the grantor's net worth has fallen below $5 million; (E) segregate daily exclusively for the benefit of purchasers, money, government securities, commercial paper, or unencumbered warehouse receipts equal to the purchaser's profit; (F) provide identification for each option granted; and (G) provide confirmations for all orders for options, including the execution price and transaction identification number; and

(ii) the futures commission merchant must have evidence that the grantor satisfies these requirements at all times in order lawfully to offer or sell options written by that grantor and must—

(A) treat and deal with all money, securities, or property received from his customers as payment of the purchase price of the option as belonging to such customer until the expiration of the option or, if the customer exercises the option, until all rights of the customer under the transaction have been fulfilled; (B) record each option in the customer's name by the identification number furnished by the grantor; and (C) provide a disclosure statement to customers, under Commission regulations, disclosing all costs, including any markups or commissions in the transaction;

(d) allows the Commission to permit persons not domiciled in the United States to grant options in this country on physical commodities under requirements substantially equivalent to those applicable to domestic options grantors;

(e) requires the Commission to hold a hearing before terminating a person's right to grant, offer, or sell options on physical commodities, including a finding that the continuation of the right is contrary to the public interest, but allows the Commission to suspend that right pending a hearing if the Commission determines that such person's activities present a substantial risk to the public interest; and

(f) allows the Commission to prohibit all or any commodity options transaction on a physical commodity after notice and opportunity for a hearing on the record, if it determines that such options are contrary to the public interest.

The Conferees believe that the Commission should expeditiously proceed with plans to implement exchange trading of commodity options consistent with the provisions of the bill. To that end, the Commission should issue the necessary regulations, process applications from exchange and other market participants for any necessary approvals, and take such other steps as may be necessary to assure that options will, in fact, be traded on domestic exchanges, to the extent possible with existing Commission resources.

(6) CUSTOMERS FUNDS AND PROPERTY

The *Senate* bill provides that, notwithstanding any other provision of law, no futures commission merchant, or the trustee or receiver of a futures commission merchant, shall assert any rights with respect to segregated customer moneys, securities, property, or accounts held by the futures commission merchant, or the trustee or receiver of the futures commission merchant, *if* such assertion of right would prohibit, delay, or condition transfers of such moneys, securities, property, or customer accounts to another futures commission merchant *and* such transfers are required under the rules, bylaws, or regulations of any contact market or clearinghouse organization of a contract market of which such futures commission merchant is a member, or under the rules and regulations of the Commission.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

The manner in which to treat transfers of segregated customer funds of a bankrupt futures commission merchant is dealt with in the Bankruptcy Reform Act of 1978, which has been passed by the House and the Senate. The following letter from Congressman Don Edwards, Chairman, Subcommittee on Civil and Constitutional Rights, House Committee on the Judiciary, was before the *Conferees:*

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 17, 1978.

Hon. HERMAN E. TALMADGE,
Russell Office Building,
Washington, D.C.

DEAR HERMAN: It is my understanding that the House and Senate are currently engaged in conference over S. 2391 as passed by the Senate and the House Amendment thereto, which extends and amends the Commodity Exchange Act.

My concern involves section 3 of S. 2391, and the Senate provision which amends section 4(d) of the Commodity Exchange Act (7 U.S.C. 6d) by relieving a trustee in bankruptcy from asserting any rights over customer accounts held by a broker or clearinghouse, which has filed for bankruptcy.

The House and Senate currently have pending H.R. 8200, passed by the House of Representatives on February 8, 1978, and S. 2266, reported from the Senate Committee on the Judiciary early last month, which establish a uniform law on the subject of bankruptcies. These bills are the result of seven years of work by the Congress.

With respect to S. 2391, both bankruptcy bills carry a similar provision to section 3, which can be found in chapter VII, subchapter IV, section 734(b) of both bills. The major difference between S. 2391 and the bankruptcy bills, is that while both bills wish to provide assurances of adequate protection to customer accounts, the CFTC bill violates basic bankruptcy theory, in providing uncontrollable transfer authority, outside the jurisdiction of the bankruptcy court. The House and Senate bankruptcy bills, recognizing the need for an ability to transfer customer accounts from a pending bankruptcy estate, permits five days after the filing of the petitions for bankruptcy for the purpose of unavoidable transfer authority. This provides controllable exemption in this specific instance.

Our work on this major bankruptcy revision has convinced me that federal bankruptcy law belongs in one title of the U.S. Code. It is my belief that Congress, this year, will enact this major revision, and along with it a workable and adequate solution to the problems which section 3(2) of S. 2391 attempts to rectify.

I urge the Senate conferees to recede from the provision discussed, in favor of H.R. 8200/S. 2266.

Sincerely,

DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights, House Committee on the Judiciary.

(7) AUTHORIZATION FOR REGISTRATION OF ASSOCIATED PERSONS BY A REGISTERED FUTURES ASSOCIATION (SEC. 7(2))

The *Senate* bill permits the Commission to authorize a registered futures association to perform registration functions with respect to associated persons, subject to the provisions of the Act applicable to registrations granted by the Commission.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with a modification providing that the Commission may authorize a registered futures association to perform any part of the registration functions with respect to associated persons.

(8) REGISTRATION OF COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS (SEC. 9(1))

The *Senate* bill removes the requirement that the registration of any commodity trading advisor or commodity pool operator will become effective 30 days after the Commission's receipt of a registration application (unless denied as provided elsewhere in the Act).

The *House* amendment extends the period after which the registration will become effective from 30 days to 6 months.

The *Conference* substitute adopts the *Senate* provision.

(9) ARBITRATION (SEC. 11)

The *Senate* bill removes the requirement for contract markets to provide fair and equitable procedures through arbitration or otherwise for settlement of customer claims and grievances *if* such procedures are available under the rules of a registered futures association.

The *House* amendment would maintain the responsibility of the contract market for the conduct of an arbitration process, but that responsibility could be delegated to a registered futures association having rules providing for such procedures.

The *Conference* substitute adopts the *House* provision.

(10) PROCESS FOR APPROVAL OF BYLAWS, RULES, REGULATIONS, AND RESOLUTIONS OF CONTRACT MARKETS (SEC. 12)

The *House* amendment—

(A) requires the Commission to publish in the Federal Register, at least 30 days prior to Commission approval, any proposed changes in contract market bylaws, rules, regulations, and resolutions of economic significance, in order to afford interested persons an opportunity to comment on the proposed changes; and

(B) allows the Commission *60 days, after receipt of the proposed changes,* to approve the changes, unless it notifies the contract market that the proposed changes are a violation of the Act or the Commission's regulations and an opportunity for a hearing is provided. [Under existing law, the Commission is to approve proposed changes within 30 days of their receipt unless it notifies the contract market that the proposed changes are a violation of the Act or the Commission's regulations and an opportunity for a hearing is provided.]

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision with modifications providing that (a) the publication requirement in the Federal Register shall apply only to proposed changes of "major" economic significance, as determined by the Commission; (b) the Commission's determination as to whether the proposed changes are of major economic significance shall be final and not subject to judicial review; and (c) existing law shall apply to changes that are not published in the Federal Register.

The *Conferees* recognize that unusual delay on the part of the Commission in acting on proposed contract market rules impairs the ability of contract markets properly to discharge their self-regulatory responsibilities. Therefore, the Committee expects the Commission to act expeditiously and not delay action on contract market rules as a matter of routine.

(11) JURISDICTION OF THE STATES (SEC. 15)

Both the *Senate* bill and the *House* amendment create statutory standing for the States to bring civil actions in Federal district courts for violations of any provision of the Commodity Exchange Act, including any statutory requirements applicable to leverage transactions, or any rule, regulation, or order of the Commission thereunder.

A. The *Senate* bill explicitly authorizes the States to obtain either injunctions or damages, or both, or other and further appropriate relief in actions brought under this section.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

B. The *Senate* bill explicitly grants jurisdiction to the United States district courts to issue writs of mandamus, or orders affording like relief, and to require the defendant to take such action as is necessary to remove the danger of violation of the Act or any Commission rule, regulation, or order thereunder.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

C. The *Senate* bill provides that, upon a proper showing, a permanent or temporary injunction or restraining order will be granted without bond.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

D. The *Senate* bill contains explicit venue and service of process provisions specifying where actions under this section may be brought, and where process may be served, which lay venue in more locations than would be possible under otherwise applicable law and permit nationwide service of process.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

E. The *Senate* bill requires a State to serve written notice on the Commission that it has brought the action and provide the Commission with a copy of the complaint.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

F. The *House* amendment entitles the Commission to intervene as a matter of right in any action brought by a State under this section.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

G. The *Senate* bill exempts *contract markets and floor brokers* from civil actions brought by the States.

The *House* amendment exempts from civil actions brought by the States violations of the Act by *designated contract markets or boards of trade licensed by the Commission, and violations committed or alleged to be committed by the organization clearing transactions thereon (clearinghouse)*.

The *Conference* substitute adopts the *House* and *Senate* provisions with necessary conforming changes.

H. The *Senate* bill provides that for purposes of bringing any suit or action, nothing in the Commodity Exchange Act will prevent the attorney general, State securities administrator, or other authorized State officials from exercising their powers under State law to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

I. The *Senate* bill defines "State", for the purposes of this section, as being any State of the United States, the District of Columbia, or any territory or possession of the United States.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

J. The *House* amendment explicitly authorizes the States to investigate and prosecute violations of State criminal statutes. [The *House* committee report states that this provision applies to State criminal statutes of general application.]

The *Senate* bill contains no comparable provision.

The *Conference* substitute provides that nothing contained in the new section on State jurisdiction shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal antifraud statute of such State.

(12) LIMITATIONS ON DISCLOSURE TO THE PUBLIC NAMES AND POSITIONS OF TRADERS ON BOARDS OF TRADE (SEC. 16)

A. The *House* amendment prohibits the Commission from publicly disclosing or publishing or including in any report any data or information that, with respect to particular traders, discloses their market position, business transactions, trade secrets, or customer names, until such data or information has been disclosed publicly in a Commission administrative proceeding, a judicial proceeding, or a congressional proceeding.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision with clarifying modifications.

B. The *Senate* bill deletes the requirement that the Commission make public the information it has available on traders on boards of trade and their positions when such information is furnished to a congressional committee.

The *House* amendment contains the same provision as the *Senate* bill, but also imposes a requirement that such information be provided to a congressional committee on a confidential basis.

The *Conference* substitute adopts the *Senate* provisions.

(13) POTATO FUTURES STUDY (SEC. 27)

The *House* amendment requires the Comptroller General to conduct, within 1 year after enactment of the bill, a study of potato marketing and potato futures trading, including Commission and exchange rules and regulations governing such trading. The results of the study, and any recommendations for legislative or regulatory changes that the Comptroller General may wish to make, would be submitted to Congress.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision, but provides that the study be conducted by the Secretary of Agriculture.

(14) DISCLOSURE OF RESULTS OF EXCHANGE DISCIPLINARY PROCEEDINGS (SEC. 18)

The *Senate* bill requires each exchange to make public its findings and reasons for the action in proceedings to discipline or deny membership to any person, including the action taken or the penalty imposed, but not the evidence for the action, except to the person subject to the action and to the Commission. This restriction on the disclosure of evidence does not apply to criminal investigations or proceedings.

The *House* amendment continues existing law under which the notice and reasons shall be kept confidential except to the person subject to the action and to the Commission.

The *Conference* substitute adopts the *Senate* provision with a modification deleting the language that would only allow the disclosure of the evidence in such proceedings in criminal investigations and proceedings (in addition to the person subject to the action and the Commission). The evidence could thus be released in either civil or criminal proceedings.

(15) CRIMINAL PENALTIES (SEC. 19)

A. The *Senate* bill makes it a *felony* to violate the provisions of the Act relating to engaging in (i) wash sales, fictitious transactions, and prohibited commodity option transactions; and (ii) leverage transactions under new section 19 added by the *Senate* bill.

The House amendment continues existing law making it a *misdemeanor* to violate the provisions of the Act relating to engaging in (i) wash sales, fictitious transactions, and prohibited commodity option transactions, and (ii) leverage transactions under section 217 of the Commodity Futures Trading Commission Act of 1974.

The *Conference* substitute makes it a felony knowingly to violate the provisions of the Act relating to engaging in prohibited commodity option transactions and leverage transactions.

B. The *House* amendment imposes a scienter requirements of "knowingly" for violations of the Act relating to the following (which are made felonies under both the *Senate* bill and the *House amendment*): (i) the requirement that futures transactions be executed only on or subject to the rules of designated contract markets; (ii) cheating, defrauding, making false reports or records, deceiving and bucketing in connection with futures transactions; (iii) perpetration of any fraud or deceit by commodity trading advisors or commodity pool operators; (iv) the requirement that futures transactions be executed only by or through a member of a designated contract market; and (v) making false representations respecting registration of a contract market member as a futures commission merchant.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

C. The *Senate* bill makes it a felony to make any false or misleading statement of a material fact in any registration application or report filed with the Commission.

The *House* amendment contains the same provision, but imposes a scienter requirement of "knowingly".

The *Conference* substitute adopts the *House* provision.

D. The *Senate* bill also makes it a felony to omit in any registration application or report filed with the Commission any material fact that is required to be stated therein.

The *House* amendment contains no comparable provision.

The *Conference* substitute makes it a felony knowingly to omit in any registration application or report filed with the Commission any material fact that is required to be stated therein.

E. The *House* amendment increases from $100,000 to $500,000 the maximum fine for felonies under the Act (sections 9 (a) and (b)) committed by organizations.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

F. The *Senate* bill increases from $10,000 to $100,000 the maximum fine for felonies commited by Commissioners, employees, or agents of the Commission.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(16) AUTHORIZATIONS FOR APPROPRIATIONS (SEC. 20)

The *Senate* bill authorizes appropriations for *6* additional years (fiscal years 1979 through 1984) for the operation of the Commission.

The *House* amendment authorizes appropriations for *3* additional years (fiscal years 1979 through 1981) for the operation of the Commission.

The *Conference* substitute authorizes appropriations for 4 additional years (fiscal years 1979 through 1982) for the operation of the Commission.

(17) REPARATIONS (SEC. 21(2) AND 21(3))

A. The Senate bill provides that in reparation cases where the damages claimed do not exceed $5,000, a hearing would be held, limited to the basic or novel aspects of the case.

The *House* amendment provides that in reparation cases where the damages claimed do not exceed $5,000, a hearing is not required.

The *Conference* substitute adopts the *House* provision.

B. The *Senate* bill allows, with the Commission's approval, a futures association registered under section 17 of the Act to conduct proceedings under which aggrieved parties may obtain an adjudication of their claims against futures commission merchants, floor brokers, associated persons, commodity trading advisors, or commodity pool operators who are or who are required to be registered under the Act and who are association members. The association's jurisdiction under this provision would cover claims for any violation of any provision of the Act and any rule, regulation, or order of the Commission thereunder. The same provisions of the Act applicable to enforcement of a reparations award, by the Commission, court review of a Commission reparations award, and suspension of registration for failure to comply with a Commission reparations order, would be made applicable to similar decisions by the association.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(18) ARBITRATION PROCEEDINGS BY A REGISTERED FUTURES ASSOCIATION (SEC. 22(2))

The *Senate* bill increases from $5,000 to $15,000 the upper limit on claims eligible for a registered futures association's arbitration proceedings.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(19) REGISTERED FUTURES ASSOCIATION (SEC. 22(4))

The *Senate* bill allows the Commission to approve rules of a futures association *or of a contract market* that would require all persons eligible for membership *in the association* to become members of the futures association in which they were eligible for membership, if the Commission decides that such rules are necessary or appropriate to achieve the objectives of the Act.

The *House* amendment contains the same provisions but (a) does not extend the provision to a contract market, and (b) allows Commission approval of rules or regulations that require persons eligible for membership in such associations to become members of *at least one such association*.

The *Conference* substitute adopts the *House* provision.

(20) LEVERAGE TRANSACTIONS (SEC. 23)

A. The *Senate* bill makes it unlawful for any person to offer to enter into, enter into, or confirm the execution of a leverage transaction, or any contract, account, arrangement, scheme, or device that the Commission determines serves the same purpose as a leverage contract, or is marketed or managed in substantially the same manner as a leverage contract, for the delivery of agricultural commodities specifically set forth in section 2(a) of the Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974.

The *House* amendment contains no comparable provision.

B. The *Senate* bill authorizes the Commission to prohibit or regulate leverage transactions involving any other commodity or commodities under such terms as the Commission shall initially prescribe by October 1, 1979. The Commission may set different terms and conditions for leverage transactions involving different commodities.

The *House* amendment continues existing law and thus makes no change in section 217 of the Commodity Futures Trading Commission Act of 1974. Section 217 of the 1974 Act makes it unlawful for any person to engage in leverage transactions involving gold bullion, silver bullion, bulk gold coins, or bulk silver coins contrary to Commission regulations designed to ensure the financial solvency of the transactions or prevent manipulation or fraud. Section 217 also provides that if the Commission determines that any such transaction is a contract for future delivery within the meaning of the Commodity Exchange Act, the transaction shall be regulated in accordance with the provisions of that Act.

The *Conference* substitute combines the provisions of the *Senate* bill and section 217 of the Commodity Futures Trading Act of 1974 into a new section 19 of the Commodity Exchange Act. The new section—

(1) prohibits leverage transactions involving agricultural commodities enumerated in section 2(a) of the Commodity Exchange Act prior to 1974;

(2) requires the Commission to regulate leverage transaction (as defined in the *Senate* bill) involving gold or silver bullion or bulk coins;

(3) authorizes the Commission to prohibit or regulate leverage transactions involving all other commodities by October 1, 1979; and

(4) authorizes the Commission to regulate any leverage transaction as a futures contract if it determines the transaction to be a contract for future delivery under the Commodity Exchange Act.

It is the intent of the *Conferees* that the Commission act expeditiously upon enactment of the *Conference* substitute to regulate under new section 19(b) of the Act leverage transactions in gold or silver bullion or bulk coins under appropriate regulatory standards to ensure the financial solvency of such transactions and prevent manipulation or fraud.

In this regard, the Commission's authority to determine that any gold or silver leverage contract is a contract for future delivery and to treat that transaction as such is not to be casually exercised as a substitute for the regulation of that leverage contract.

On September 8, 1978, after the deliberations of the *Conferees* were completed, Gary L. Seevers, Vice-Chairman of the Commodity Futures Trading Commission, sent a letter to Chairman Talmadge and Chairman Foley informing them of the Commission's intention to publish a September 5, 1978, memorandum of its Office of General Counsel ("Determination pursuant to Section 217 of the Commodity Futures Trading Commission Act whether any leverage transactions are contracts for future delivery within the meaning of the Commodity Exchange Act") for public comment in the Federal Register. That memorandum recommends that the Commission determine that leverage contracts in gold and silver, which are currently being offered to the public, are in fact contracts for future delivery and should be regulated as such. The *Conferees* did not contemplate, based on prior representations by the Commission, that the Commission would classify all gold and silver leverage contracts as contracts for future delivery Therefore, the *Conferees* expect that the Commission will not take final action on the recommendation contained in the memorandum until the Committee on Agriculture, Nutrition, and Forestry of the Senate and the House Committee on Agriculture have an opportunity to receive testimony on this issue.

(21) FORWARD CONTRACTS

The *Senate* bill requires the Commission to monitor forward contracts on domestic agricultural commodities and maintain records on defaults on these contracts for the 6-year period beginning October 1, 1978, and ending September 30, 1984. The Commission will include in its annual report to Congress information on its forward contract monitoring activities together with any observations, recommendations, or comments on these contracts and the regulation of those transactions or the need for legislation in this area. Not to exceed $75,000 of the sums appropriated annually to carry out the Act may be used to monitor forward contracts.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision. Chairman Foley and Chairman Talmadge have written a joint letter on behalf of the Conferees to the Secretary of Agriculture requesting him to conduct a study of forward contracting in agricultural commodities.

(22) EXPORT SALES REPORTING

The *House* amendment requires exporters, within 48 hours of the sale of any commodity (except onions) for export, to inform the Commission of (a) the date of the sale, (b) the name and full identity of the commodity sold, (c) the quantity of the commodity sold, (d) the name of the purchaser and the destination of the commodity, (e) the sale price, and (f) such other information as the Commission may require. The information will be available by public announcement on the first workinf day followinb its receipt and remain available for public inspection for a reasonable time thereafter. The Commission is required to issue regulations to assure that such information will be disclosed simultaneously to the public and to protect against any person or firm gaining from premature disclosure.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* provision. The *Conferees* note that the Department of Agriculture currently has an export sales reporting program for agricultural commodities under section 812 of the Agricultural Act of 1970. The Department has been concerned with possible deficiencies in the current system. On August 1, 1978, Secretary Bergland issued a memorandum establishing an advisory committee on export sales reporting. The Committee is to review the present reporting requirements and make recommendations to strengthen and improve the reporting system. The Secretary's memorandum reads as follows:

U.S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., August 1, 1978.

SECRETARY'S MEMORANDUM NO. 1952—ADVISORY COMMITTEE ON EXPORT SALES REPORTING

A major function of the Department is to keep American farmers, traders and the general public informed of the world supply/demand situation affecting the availability of U.S. agricultural commodities.

Section 812 of the Agricultural Act of 1970, as amended, establishes mandatory reporting requirements for U.S. exporters of designated agricultural commodities. Summary information obtained under this reporting system is furnished to the general public on a daily and weekly basis.

To assure that the reporting system is providing accurate and timely data on export contracting, there is hereby established the Advisory Committee on Export Sales Reporting. This Committee, which will include representatives from the various segments of the production and marketing system and the general public, will review the present reporting requirements and make recommendations to strengthen and improve the effectiveness of the monitoring capability. As such, it has been determined that establishment of this Committee is in the public interest and that it will serve an essential function.

The Committee will be composed of approximately ten members appointed by the Secretary representing the farm community, the export trade, the Federal Government, the university sector, the general public and other interested areas. To the extent practicable minorities and women will be represented on the Committee.

The Committee will report to the Secretary through the Assistant Secretary for International Affairs and Commodity Programs, who will also serve as the Chairman. The Vice Chairman shall be the Acting Chairman, World Food and Agricultural Outlook and Situation Board and the General Sales Manager will serve as the Executive Secretary.

The Committee shall meet during the next year at the call of the Chairman. The Committee shall meet approximately ten times at semi-monthly intervals. Staff support for the Committee will be provided by the Office of the General Sales Manager.

The amount of Federal funds which will be used to support directly or indirectly the operation of the advisory committee is $18,000. The dollar value of the time and expenses which will be incurred by Federal agencies and employees in assisting the operation of the advisory committee is $12,000.

The travel expenses, including per diem and subsistence which will be incurred by advisory committee members and Department employees in attending meetings of the advisory committee including travel performed in support of the advisory committee's operation is $30,000. Expenses which will be paid by sources outside the government including but not limited to those paid by the advisory committee members or their employers, corporations, organizations, associations or labor organizations are $28,000.

Total estimated cost is $88,000 including 0.6 man years of staff support. The estimates shown include all private and public funds to be spent by or on behalf of the Committee.

The term of the Committee is one year from the date of this Memorandum. This Memorandum also serves as the charter for the Committee.

BOB BERGLAND,
Secretary of Agriculture.

(23) USE IMMUNITY (SEC. 25)

The *Senate* bill amends title 18 of the United States Code to enable the Commodity Futures Trading Commission to grant "use immunity" to witnesses appearing before the Commission.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision

(24) NATIONAL COMMISSION ON THE EFFECTS OF FUTURES MARKETS ON FARM INCOME

The *Senate* bill establishes a National Commission on the Effects of Futures Markets on Farm Income, comprised of 9 members, at least 4 members of which shall be agricultural producers. The new commission would—

(a) study and appraise (i) the relationships between the prices established on futures markets and the cash prices of the commodities; (ii) the concentration and magnitude of trading by foreign individuals, corporations, or governments on United States futures markets; (iii) the actions necessary to stimulate greater use of futures markets by American farmers (if advisable); (iv) the reasons for the differentials in the prices farmers receive for their crops and the futures prices for the same commodity; (v) the effect of increasing the number of delivery points under a futures contract on the prices received by producers of that commodity; and (vi) the need for changes, if any, in the Commodity Exchange Act or the regulations thereunder;

(b) make its final report of its findings, conclusions, and legislative recommendations to the President and Congress by October 1, 1981, and cease to exist not later than 90 days thereafter; and

(c) have an authorization for appropriations of $1,000,000 for each year of its existence.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(25) PLAN FOR USER FEES (SEC. 26)

The *Senate* bill authorizes the Commission to develop and implement a plan to charge and collect reasonable fees ("user fees") to cover the cost of regulating transactions under its jurisdiction. Prior to implementing the plan, the Commission would be required to report its intention to do so to the congressional agriculture committees, including the feasibility and advisability of collecting the fees, and both committees would have to approve the plan.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with a modification providing that any user fees collected would be paid into the Treasury and disbursed only in accordance with the appropriations process.

THOMAS S. FOLEY,
ED JONES
W. R. POAGE,
E. DE LA GARZA
FREDERICK W. RICHMOND
ALVIN BALDUS,
BERKLEY BEDELL,
GLENN ENGLISH,
LEON E. PANETTA,
TOM HARKIN,
FLOYD J. FITHIAN,
DAN GLICKMAN,
GEORGE E. BROWN, Jr.,
WILLIAM C. WAMPLER,
EDWARD R. MADIGAN,
JAMES M. JEFFORDS,
RICHARD KELLY,
E. THOMAS COLEMAN,
RON MARLENEE,
Managers on the Part of the House.

HERMAN E. TALMADGE,
WALTER D. HUDDLESTON,
DICK CLARK,
RICHARD STONE,
PATRICK J. LEAHY,
ROBERT DOLE,
HENRY BELLMON,
RICHARD G. LUGAR,
Managers on the Part of the Senate.

STANDING BEAR LAKE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 3342) to name a lake which has been completed as part of the Papillion Greek basin project as the Standing Bear Lake, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3342

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the lake known as the Military Lake, which has been completed on site 16 (as described in House Document Numbered 349, Ninetieth Congress) of such Papillion Creek basin project, shall hereafter be known and designated as the "Standing Bear Lake". Any reference in any law, map, regulation, document, record, or other paper of the United States shall be held to be a reference to the Standing Bear Lake.

(b) The lake known as the Irvington Lake, which has been completed on site 11 (as described in House Document Numbered 349, Ninetieth Congress) of the Papillion Creek basin project authorized under the heading Missouri River basin in section 203 of the Flood Control Act of 1970 (82 Stat. 743), shall as of September 10, 1982, be known and designated as the "Glenn Cunningham Lake". Any reference in any law, map, regulation, document, record, or other paper of the United States to such lake shall be held to be a reference to the Glenn Cunningham Lake after September 10, 1982.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF CONFEREE AND APPOINTMENT OF CONFEREE ON H.R. 9251, TAX TREATMENT EXTENSION ACT OF 1971

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the gentleman from Texas (Mr. BURLESON) be removed as a conferee from the conference committee just appointed, and that the Speaker be authorized to appoint another conferee to fill the vacancy.

The SPEAKER. The gentleman from Texas (Mr. BURLESON) has requested to be removed from the conference committee that was just appointed, and, without objection, the gentleman is removed and the gentleman from Louisiana (Mr. WAGGONNER) is appointed as a conferee in his place.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, do I understand that the request was just to add a conferee?

The SPEAKER. The request was to replace a conferee.

Mr. BAUMAN. I thank the Chair, and I withdraw my reservation of objection.

The SPEAKER. Without objection, the gentleman from Texas (Mr. BURLESON) is removed as a conferee and the gentleman from Louisiana (Mr. WAGGONNER) is appointed as a conferee in his place.

There was no objection.

HEW SECRETARY AND HIS WAR AGAINST SMOKING

(Mr. HARSHA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARSHA. Mr. Speaker, the Secretary of HEW does not like tobacco. With the zeal of a reformed sinner, this Cabinet member, who was a three-pack-a-day smoker, wants to wipe out all visible signs of his past habit. He has placed his vast bureaucracy in the vanguard of the "War Against Smoking." He is personally leading the attack. Needless to say, he has reaped a great deal of press coverage.

The President of the United States, on the other hand, has received far less attention. The President's view that further Government activity against tobacco is neither necessary nor proper has gone relatively unnoticed by the press. Certainly the HEW Secretary seems not to be listening. As a result, many people are beginning to wonder who is in charge of the U.S. policy as it applies to tobacco.

Fortunately, the Congress has been reacting and the Secretary shows signs of paying some attention. He has lowered the vigor of his attack on tobacco. He no longer, he says, wants to stamp out tobacco—all he wants to do is to save the children from taking up the practice. No one could quarrel with that aim except to question how much time, effort and taxpayers' money should be devoted to letting the Federal Government take over a matter that is better left up to parents.

Nevertheless, I would urge the Members of Congress to remain on the alert. For despite the Secretary's present soft sell, his battle plans against tobacco are a grave threat.

Last year, he assembled a task force of scores of HEW employees and ordered them to brainstorm his pet project. They worked about 1 month and came up with about 3 dozen ways to make life difficult for millions of Americans.

For most people—like farmers—whose livelihood depends upon tobacco, the HEW program of prohibitionist schemes adds up to a blueprint for economic disaster.

It might strike tobacco farmers as ironic that in the guise of health, a member of the President's Cabinet would lead them into the welfare system.

It might strike others as equally ironic that an appointee of the man who campaigned against Federal overregulation would entertain notions of repression, prohibition, and behavior control in order to create a tobaccoless America.

Let me remind you that some of his pet projects, like time bombs, are still ticking.

For example:

He is agitating the Government and large corporations to restrict smoking in Government buildings, private offices, businesses and factories.

He is urging Government to pass laws restricting the rights of citizens to smoke in public places.

He is motivating the Food and Drug Administration to look into the feasibility of placing warnings against smoking on prescription drug packages. Already the FDA is warning women who use oral contraceptives about smoking.

He is directing his scientists who deal with OSHA matters to involve smoking as a workplace hazard.

In all, he is extending his personal phobia into all areas where Government can twist peoples' arms. He is contemplating an unnecessary and damaging intrusion of the Government into the lives and customs of individuals as well as the relationship between businesses and their customers. Enforcement would actually damage the health and safety of the people it purports to protect by diverting resources from higher priority activities and by breeding disrespect for laws and their enforcement when it is less than vigorously enforced. Hypocrisy with regard to Government would further denigrate the public's respect for Government, and the civil servant who must carry out Government regulations. The attention given tobacco smoking and smokers in comparison with the attention given the use of marihuana and other illegal drugs constitutes selective enforcement and discrimination raises serious questions of misplaced zeal.

I wonder if Secretary Califano has read the newspapers recently? Especially the news from California?

The intrusive nature of Government, at every level, poking its nose into virtually every aspect of our lives, has grown, not lessened over the last few years. It is a reaction to big government acting like "Big Brother" which we saw recently in the overwhelming passage of proposition 13 in California. People, quite frankly, have had it up to here with big government and its big costs.

Since Mr. Califano's war is not needed to satisfy any governmental responsibility to protect the public's health or safety, I can only assume that it is prohibitionist in nature, growing from that dangerous and insidious campaign to eliminate tobacco smoking by making it as inconvenient as possible to smoke, by making the custom of smoking "socially unacceptable" and therefore making "second-class" citizens of smokers.

He is turning to compulsion. He is seeking to affect smoking by indirection and inconvenience. He is catering to the selfish interests of those who are annoyed by someone who uses tobacco. He is trying to make outcasts of smokers. And he will fail.

If prohibition in this country taught us anything it is that it is futile, costly and counterproductive for Government to attempt to legislate personal behavior simply because some of our society disapprove of it.

The Secretary of HEW will be proved in time to be as wrong about tobacco smoking as he is wrong about the tobacco support program. No greater misconception has been allowed to persist than the common garden variety criticism of this excellent program that benefits not only farmers but the rest of the public as well. I sometimes wonder why the Department of Agriculture doesn't devote some attention to setting the record straight through a public information campaign. They put out bushels of booklets on just about every subject under the Sun but treat the truth about the tobacco support program as a deep, dark secret to be kept from the taxpaying public. I would like to set the record straight with a few facts.

Some people say that the Government's tobacco price support system is a subsidy for the cigarette manufacturing industry. The charge is incorrect. Cigarette manufacturers receive absolutely no money from the tobacco price support system.

The term "subsidy" is a semantic trap. What happens is that in exchange for Government quotas on how much they can grow, farmers are guaranteed that the tobacco sold through the auction system will not fall below the price determined by the Government.

One result is to reduce the amount of tobacco grown in any one year. In good times farmers overplant. They glut the market, the price falls and it puts farmers in the hole. With the marketing quota system, a determination is made as to how much is needed. This is reduced to poundage per farm, controlling the amount grown.

If there were no Government program, then there would be no restrictions and possibly, at least for awhile, a lot more tobacco would be grown. Buyers would have a buyers' market.

Another charge is that this program costs the taxpayer a great deal of money. That, too, is inaccurate. Up until the present—the program was inaugurated in 1933—its cost has been $57 million, which amortized to $1.3 million a year for 44 years. Compare that to the $6 billion which is collected annually by Federal, State and local governments in local excise taxes.

One of the reasons that it has cost so little is that tobacco received by the Government is resold. The Government, through cooperatives, receives tobacco on the auction market, redries it, and stores it. Any buyer who buys also pays the storage charge and the interest on the money loaned to the cooperatives. Thus the Government is paid back with interest.

This tobacco is purchased not only by U.S. manufacturers, but by those from throughout the world. Incidentally, the U.S. exports about a billion dollars worth of tobacco each year. With U.S. balance of payments going so badly because of oil import, tobacco sales are an important favorable factor.

Probably the most emotional issue in America is tobacco and its products. Critics think the Government, through this program, is in effect promoting the use of tobacco. They think if they can destroy the support system, they can eventually eliminate tobacco. However, they may, if they succeed, achieve an effect counterproductive to their objective.

It is time for Congress to insist that the American public be provided with some commonsense information about tobacco and tobacco smoking in all of its many aspects. The record shows that Congress is the best purveyor of factual information. I commend all of those Members who are carrying out this factual function. I urge other Members who have not yet joined us to get on board. On the issue of tobacco, as on any other issue confronting the American people, there is no substitute for the whole truth. Once the people have the facts, I am ready to rely on their judgment. It is not a question of knowing what is right. And Congress deserves a good deal of credit for providing the public with the other side of the tobacco controversy. In this highly emotional controversy, neither the public nor the legislators can know what is right unless they can be informed about both sides of the issue.

A PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentleman from Connecticut (Mr. McKinney) is recognized for 10 minutes.

● Mr. McKINNEY. Mr. Speaker, imported products have hurt Connecticut's Fourth Congressional District and imported flu germs have attacked its Congressman. Due to illness, I was unable to be present for votes which took place during House sessions September 12, 13, 14, and 15. Had I been well enough to attend, I would have voted as follows:

Description and McKinney Vote

September 13

Rollcall No. 762. Resolve into Committee, "yes."

Rollcall No. 63. Prohibit FEC union with a PAC (166–217 (no).

Rollcall No. 764. Substitute for Civil Service labor/management section (381–0) (yes).

Rollcall No. 765. Impose earnings limitation on certain GS levels (134–254) (no).

Rollcall No. 766. Hanley amendment to strike veterans preference changes (327–70) (yes).

Rollcall No. 767. Final passage of Civil Service Reform legislation (385–10) (yes).

Rollcall No. 768. Previous question on the rule to accompany aircraft noise bill (199–193) (yes).

Rollcall No. 769. Adopt the rule (236–155) (yes).

Rollcall No. 770. Quorum.

Rollcall No. 771. Require noise map (127–246) (no).

Rollcall No. 772. Funds for Airport development (213–147) (no).

September 14

RC773. Approve the journal.

RC774. Ways and Means substitute for tax provisions (226–133) (yes).

RC775. Motion to recommit the bill (170–227) (no).

RC776. Final passage of Aircraft Noise bill (272–123) (yes).

RC777. Conference report on public works and energy funding (319–71) (yes).

RC778. Motion to instruct conferees on IMF bill (286–91) (no).

RC779. Resolution to disapprove Energy Preparedness Reorganization Plan (40–327) (no).

RC780. Rule to accompany Airline Deregulation bill (344–1) (yes).

RC781. Resolve into Committee (300–8) (yes).

September 15

RC782. Approved the journal.

RC783. Conference report on Water Resources Development Act (304–22) (yes).

RC784. Resolution to summon Hancho Kim (319–2) (yes).

RC785.—Rule to accompany Surface Transportation Act (318–4) (yes).

RC786. Resolve into Committee (303–6) (yes).

Due to commitments in the 4th Congressional District not as changeable as the House schedule, I was unable to be present for votes taken during House sessions September 21 and 22. Had I been present, I would have voted as follows:

September 21

RC814. Final passage of Airline Deregulation bill (363–8) (yes).

RC815. Giaimo amendment to require Highway Trust Fund authorizations to reflect anticipated receipts (111–238) (yes).

September 22

RC816. Quorum.

RC817. Flippo amendment to Jeffords substitute to add $1 billion PS jobs (1–335) (no).

RC818. Ashbrook motion to recommit, 81–252) (no).

RC819. Final passage of CETA reauthorization and amendments (284–50) (yes).

RC820. Amendment to strike Highway Beautification Act changes (76–199) (yes).●

NEW EXPORT POLICY A WISE MOVE

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. Goldwater) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, I look forward to the White House briefing tomorrow afternoon on the administration's new plan to expand our exports. This is a much-needed move on the part of the United States. In terms of its budgetary impact, the effects will be modest, but it certainly is an important part of our, so far, inadequate efforts to turn the tide on inflation.

I believe, too, this administration has, at least, recognized its inconsistent record on the human rights issue. I've spoken out on this before, and I am glad to see that there will be some lessening of the economic consequences of placing an embargo on sales of American manufactured goods to nations with a questionable human rights policy.

In my own congressional district, an important industry faces the cancellation of a contact with Argentina because our State Department is not satisfied with that country's policy on human rights. I will be the first to agree that much needs to be done there to deal with the most unpleasant situation, of which more needs to be known. But I do not see why jobs in my district must be lost, why the local economy must suffer, when other nations with a comparable human rights record are receiving favorable treatment from the United States in the area of international commerce. Why should we give competing industries in other countries a carte blanche market for products which we have traditionally sold?

The success of the administration's new export policy will address the serious problem of our balance-of-trade deficits. Presently we are importing $30 billion more a year than we are shipping abroad. Of course, this has significantly weakened the dollar on world exchange markets.

Granted, we are placing less of a priority on a number of matters which this administration has regarded with greater urgency—human rights, environmental concerns, consumer issues, and so on. But considering the grave nature of our economic posture right now, this decision by the Carter team makes good sense. We need not ignore human rights, the environment, and the consumer, but until we can put our fiscal house in order, the new approach to our export policy is a wise move.●

A PRESIDENTIAL MESSAGE TO THE WORLD COMMUNITY AND TO CONGRESS

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. LaFalce) is recognized for 5 minutes.

● Mr. LaFALCE. Mr. Speaker, at 3:30 this afternoon, President Carter addressed the joint annual meeting of the Board of Governors of the International Monetary Fund and the World Bank Group.

He delivered a strong message to the world community that his administration seriously intends to grapple with important economic problems which this Nation confronts. He delivered an equally strong message to the Congress that these are important problems with which the administration and the Congress must deal.

The three problems which the President emphasized were inflation, oil imports, and exports. For the first time, the President has pledged to develop a long-term program to expand American exports, which will meaningfully reduce our staggering trade deficit. I look forward to tomorrow's announcement concerning the details of the program, because this is one of the most serious economic problems in the world's economy. I am pleased that the President has declared that the administration will take new steps in the battle against inflation, because the present rate of inflation is intolerable. The President also stated that he will continue to make every effort to curtail U.S. imports of oil, because those imports are exacerbating that trade deficit.

I believe that Congress must do its part in finding solutions to these problems. This week alone, Congress is working on the conference report for the Witteveen Facility which will strengthen the International Monetary Fund's ability to deal with international financial disorders. This Wednesday, the Senate is finally expected to vote on the conference report for the long-delayed energy bill. While the Congress considers these important bills, the eyes of the world will be particularly on Congress, since the world's economic leaders are here in Washington, D.C.

I believe that the world community will comprehend the seriousness of the President's message. I believe that the Congress must also do so, because we cannot afford to let the President, this country, and the world down. Too much is at stake.

I am enclosing a copy of the President's address for my colleagues' information:

ADDRESS BY THE PRESIDENT OF THE UNITED STATES BEFORE THE 1978 JOINT ANNUAL MEETING OF THE BOARD OF GOVERNORS OF THE FUND AND BANK

Mr. Chairman, Managing-Director deLarosiere, President McNamara, Governors of the Fund and Bank, and distinguished visitors. On behalf of the American people I want to welcome you once again to Washington for your thirty-third annual meeting.

We meet as a group dedicated to the cause of international cooperation.

In the political field, you and I share the belief that cooperation can lead to peace. We have learned that lesson once again very recently. I know that you will join me in saluting the statesmanship and courage of President Anwar Sadat and Prime Minister Menachim Begin.

In the economic field, too, cooperation brings large benefits. Three decades of the Fund's and Bank's existence have brought progress and a better life for the world's people.

Like you, I want to build on that record—to achieve still further economic cooperation.

Since your meeting here last year, our countries—acting together—have made tangible progress on world economic problems. The issues that remain are difficult; but they are not insoluble.

You are the world's economic leaders. The task before you is to consolidate past gains and then to push ahead—in ways that will foster economic growth in both developing and industrial nations. Our goal is to achieve progress for all peoples.

The basic strategy has been agreed. In Mexico City at the IMF Interim Committee agreement was reached on the general directions that economic policy should take. Progress has been made. The outlook for improvement is good. We must not falter.

A contribution to this strategy is needed from every country represented here. In this effort the United States has a major responsibility. Two months ago, at Bonn, I made specific promises to our major trading partners about the actions that my country would take to this end: I pledged that the United States would fight inflation, reduce oil imports, and expand exports. Let there be no doubt about how seriously I take these pledges. Taken together, they encompass the most urgent priorities of my Administration—and the ones I am most firmly determined to fulfill. I have come here today to underline that determination and describe the next steps we will take.

I will soon announce the first phase of a long-term program to *expand American exports*. Removing disincentives to exports and encouraging exports are over-riding tasks for my Administration.

I have intensified my efforts to obtain legislation that will curtail U.S. imports of oil. The U.S. Senate is scheduled to vote the day after tomorrow on the key bill. I am confident that the Senate will do its duty to our nation by approving this bill. I hope to have a complete package of energy legislation enacted before the Congress adjourns.

I intend very shortly to announce a series of important and specific new measures to strengthen our fight against inflation. These next steps will not be the end of our effort. Every nation represented in this room understands how difficult the struggle against inflation is and what sustained commitment it demands. My Administration will continue that struggle on a wide variety of fronts until we succeed. There will be obstacles and objections from special interest groups along the way. But I will not shrink from the hard decisions and persistent effort that are needed.

I am determined to maintain a sound dollar. This is of primary importance to us, as it is to you. We recognize that our currency plays an international role, and we accept the responsibilities that this involves.

Other countries are acting to meet their responsibilities to the system, consistent with the directions set by the IMF's Interim Committee in Mexico and as pledged at the Bonn Summit. The United States will do the same. Through programs such as I have described, we will achieve the strong U.S. economy and non-inflationary U.S. growth that must underlie a sound dollar and a stable international monetary system.

The outlook for progress is good. Our current acccount position will improve significantly next year. The United States will remain an open, vigorous economy and an attractive place to invest.

Other steps are also required to achieve the economic progress we all seek. In these steps, the IMF and the World Bank have a vital role to play. These two institutions are the core and symbol of the international economic order that was built after World War II. They have shown a high capacity to adapt to new needs. Strengthening and enlarging them is a prime goal of U.S. policy.

The United States is firmly committed to a strong International Monetary Fund, exercising effective surveillance over the system and with adequate resources to meet official financing needs. The United States will support an increase in IMF quotas and a new allocation of Special Drawing Rights. I am pleased that legislative consideration of U.S. participation in the Supplementary Financing Facility is nearing completion. I expect final action to be taken shortly.

I trust that our European friends will fashion the proposed European monetary arrangements in a way that will also strengthen the international monetary system and the central role of the IMF—and that will facilitate growth, trade, and investment. Current European efforts to these ends are a logical step toward the greater European integration the United States has long supported.

We also support proposals to enlarge the resources of the World Bank and its soft-loan affiliate, the International Development Association, as pledged at the Bonn Summit. Expanded help to developing countries contributes to a healthy world economy and to world peace. Last week the U.S. Senate passed, as the House of Representatives had earlier, the largest appropriation for both multilateral and bilateral aid in our history. I will seek next year the further increases that are needed, as part of a growing international effort to eliminate the worst aspects of human poverty.

The U.S. Governor for the Fund and Bank, Secretary of the Treasury Mike Blumenthal, will outline our policies in more detail when he addresses your session tomorrow.

You are gathered in Washington to address formidable challenges in both the monetary and development fields. The future of all peoples, in both developing and developed countries, depends upon the outcome. I reiterate my nation's commitment to the common effort that is required.

I am confident this effort will succeed.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Ammerman (at the request of Mr. Wright), for this week, on account of hospitalization.

Ms. Oakar (at the request of Mr. Wright), for today, on account of participation in hearings of the National Commission on Unemployment Compensation.

Mr. Young of Missouri (at the request of Mr. Wright), for today, on account of official business.

Mr. Risenhoover (at the request of Mr. Wright), for September 25 and 26, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Gary A. Myers) and to revise and extend their remarks and include extraneous matter:)

Mr. Gilman, for 1 hour, on September 28.

Mr. McKinney, for 10 minutes, today.

Mr. Goldwater, for 5 minutes today.

(The following Members (at the request of Mr. Akaka) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Panetta, for 5 minutes, today.

Mr. LaFalce, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Gary A. Myers) and to include extraneous matter:)

Mr. Brown of Ohio.

Mr. Archer in two instances.

Mr. Anderson of Illinois.

Mr. Dornan.

Mr. Madigan.

Mr. Edwards of Alabama.

Mr. Ashbrook in two instances.

(The following Members (at the request of Mr. Akaka) and to include extraneous matter:)

Mr. Annunzio in six instances.

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Brown of California in 10 instances.

Mr. Eilberg.

Mr. Fowler.

Mr. Russo.

Mr. Van Deerlin.

Mr. Rogers in five instances.

Mr. Pepper.

Ms. Keys.

Mr. Blouin.

Mr. Stokes in two instances.

Mr. LaFalce.

Mr. McDonald in two instances.

Mr. Vanik in three instances.

Mr. Ryan in two instances.

Mr. Akaka.

Mr. Oberstar.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2079. An act for the relief of Lawrence Youngman; to the Committee on the Judiciary.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3702. An act to amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes;

H.R. 8449. An act for the relief of Lourdes Marie Hudson;

H.R. 8812. An act to name a certain Federal building in Jonesboro, Ark., the "E. C. 'Took' Gathings Building";

H.R. 9071. An act to confer jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of John T. Knight;

H.R. 11291. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the U.S. Fire Administration;

H.R. 11567. An act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979 and 1980, and for other purposes;

H.R. 12222. An act to amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes.

H.R. 12443. An act to amend section 201(a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy;

H.R. 12508. An act to amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children;

H.R. 12598. An act to authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes;

H.R. 12841. An act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes;

H.R. 12936. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes;

H.J. Res. 1007. Joint resolution authorizing and requesting the President to proclaim the 7-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week"; and

H.J. Res. 1088. Joint resolution providing financial assistance for the city of New York.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enroll bills and a joint resolution of the Senate of the following titles:

S. 2507. An act to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes;

S. 3040. An act to amend the Rail Passenger Service Act to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes; and

S.J. Res. 133. Joint resolution to authorize and request the President to issue a proclamation designating September 24, 1978, as "National Good Neighbor Day."

ADJOURNMENT

Mr. AKAKA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 45 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, September 26, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5017. A letter from the Comptroller General of the United States, transmitting a report on the General Accounting Office's plans for implementing the language in the Legislative Branch Appropriations Act for fiscal year 1979 making all funds appropriated for the House of Representatives subject to audit by the Comptroller General; to the Committee on Appropriations.

5018. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to approve the sale of a certain naval vessel, and for other purposes; to the Committee on Armed Services.

5019. A letter from the Administrator of General Services, transmitting the stockpile report for the period October 1977–March 1978, pursuant to section 4 of the Strategic and Critical Materials Stock Piling Act; to the Committee on Armed Services.

5020. A letter from the Secretary of the Treasury, transmitting his annual report on the antirecession fiscal assistance program for calendar year 1977 pursuant to section 213 of the Public Works Employment Act of 1976, as amended; to the Committee on Government Operations.

5021. A letter from the Assistant Attorney General for Legislative Affairs, transmitting comments on H.R. 12533, the proposed "Indian Child Welfare Act of 1978"; to the Committee on Interior and Insular Affairs.

5022. A letter from the Executive Director, Advisory Council on Historic Preservation, transmitting notice of a delay in the preparation of the Council's report on the effects of surface mining activities on natural and historical landmarks, required by section 9(b) of Public Law 94-429; to the Committee on Interior and Insular Affairs.

5023. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Ambassadors-designate Richard W. Petree and John G. Dean, and by members of their families, pursuant to section 6 to Public Law 93-126; to the Committee on International Relations.

5024. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Marshall W. Wiley, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

5025. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's fifth semiannual report on the impact on competition and on small business of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program, pursuant to section 252(i) of the Energy Policy and Conservation Act; to the Committee on Interstate and Foreign Commerce.

5026. A letter from the Under Secretary of Defense (Research and Engineering), transmitting a report on Defense Department procurement from small and other business firms during the months October 1977–January 1978, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

5027. A letter from the Under Secretary of Defense (Research and Engineering), transmitting a report on Defense Department procurement from small and other business firms during the months October 1977–March 1978, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

5028. A letter from the Comptroller General of the United States, transmitting a report on the management of sewage sludge (CED-78-152, September 25, 1978); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TEAGUE: Committee on Science and Technology. H.R. 12631. A bill to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes; with amendment (Rept. No. 95-1177, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee on International Relations.

Report on allocation of budget totals under the second concurrent resolution on the budget for fiscal year 1979 (Rept. No. 95-1621). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 12592. A bill to amend section 4941 of the Internal Revenue Code of 1954; with amendment (Rept. No. 95-1622). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 9893. A bill to amend the Internal Revenue Code of 1954 to increase the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; with amendment (Rept. 95-1623). Referred to the

Committee on the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 12532. A bill to amend the Internal Revenue Code of 1954 to provide that the use of the zero-bracket amount will not reduce the benefits of income averaging (Rept. No. 95-1624). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 14104. A bill to authorize appropriations to carry out the Endangered Species Act of 1973 through fiscal year 1981, and for other purposes; with amendment (Report No. 95-1625). Referred to the Committee of the Whole House on the State of the Union.

Mr. EDWARDS of California: Committee of conference. Conference report on S. 3067 (Rept. No. 95-1626). Ordered to be printed.

Mr. DANIELSON: Committee on the Judiciary. S. 2727. An act to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for U.S. amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes; with amendment (Rept. No. 95-1627). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee of conference. Conference report on S. 2391 (Rept. No. 95-1628). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RANGEL (for himself, Mr. Jones of Oklahoma, Ms. Keys, Mr. Holland, Mr. Gephardt, Mr. Crane, and Mr. Bafalis):

H.R. 14159. A bill relating to the interim treatment of controversies involving whether certain individuals are employees for purposes of the employment taxes; to the Committee on Ways and Means.

By Mr. BLANCHARD (for himself, Mr. Ammerman, Mr. Anderson of California, Mr. AuCoin, Mr. Bedell; Mr. Brodhead, Mr. Burke of Florida, Mr. Carney, Mr. Carr, Mr. Cleveland, Mr. Cohen, Mrs. Collins of Illinois, Mr. Corcoran of Illinois, Mr. D'Amours, Mr. Dellums, Mr. Dodd, Mr. Edgar, Mr. Emery, Mr. Evans of Delaware, Mr. Fuqua, Mr. Gilman, Mr. Goodling, Mr. Gore, Mr. Hawkins, and Mr. Holland):

H.R. 14160. A bill to require authorization of new budget authority for Government programs at least every 10 years, to provide for review of Government programs every 10 years, and for other purposes; jointly, to the Committees on Rules, and Government Operations.

By Mr. BLANCHARD (for himself, Mr. Hughes, Mr. Jacobs, Mr. Jenrette, Mr. Lagomarsino, Mr. Levitas, Mrs. Lloyd of Tennessee, Mr. Luken, Mr. Maguire, Mr. Mazzoli, Mr. Miller of California, Mr. Murphy of Pennsylvania, Mr. Neal, Mr. Nedzi, Mr. Ottinger, Mr. Panetta, Mr. Pattison of New York, Mr. Pease, Mr. Pepper, Mr. Pritchard, Mr. Rinaldo, Mr. Santini, Mrs. Schroeder, Mr. Seiberling, and Mrs. Spellman):

H.R. 14161. A bill to require authorization of new budget authority for Government programs at least every 10 years, to provide for review of Government programs every 10 years, and for other purposes; jointly, to the Committees on Rules, and Government Operations.

By Mr. BLANCHARD (for himself, Mr. Steers, Mr. Stokes, Mr. Traxler, Mr. Walgren, Mr. Walsh, Mr. Waxman, Mr. Whitehurst, Mr. Whitley, Mr. Yatron, Mr. Zeferetti, Mr. Le Fante, Mr. Forsythe, Mr. Markey, Mr. Florio, Mr. Robert W. Daniel, Jr., Mr. Madigan, Mr. Burgener, Mr. Stangeland, Mr. Quayle, Mr. Wampler, Mr. Steed, Mr. Montgomery, Mr. Wolff, and Mr. Kildee):

H.R. 14162. A bill to require authorization of new budget authority for Government programs at least every 10 years, to provide for review of Government programs every 10 years, and for other purposes; jointly, to the Committees on Rules, and Government Operations.

By Mr. BLANCHARD (for himself, Mr. Price, Mr. Lundine, Mr. Udall, Mr. Leach, Mr. McCloskey, Mr. Guyer, Mr. Flowers, Mr. Rooney, Mr. Andrews of North Dakota, Mr. Conyers, Mr. Badham, Mr. Butler, Mr. Howard, Mr. Huckaby, Mr. Ryan, Mr. Gammage, Mr. Cavanaugh, Mr. Snyder, and Mr. Lehman):

H.R. 14163. A bill to require authorization of new budget authority for Government programs at least every 10 years, to provide for review of Government programs every 10 years, and for other purposes; jointly, to the Committees on Rules, and Government Operations.

By Mr. BONIOR (for himself, Mr. Murtha, Mr. Aspin, Mr. Cavanaugh, Mr. Cornwell, Mr. Dodd, Mr. Ertel, Mr. Gore, Mr. Harkin, Mr. Jones of Oklahoma, Mr. LaFalce, Mr. Panetta, and Mr. Pressler):

H.R. 14164. A bill to provide expanded readjustment benefits for Vietnam-era veterans by promoting employment of such veterans through tax credits and job vouchers, by providing increased funding and improved programs for health and psychological care for such veterans, by improving education assistance under the GI bill for such veterans, and for other purposes; jointly, to the Committees on Veterans' Affairs, and Ways and Means.

By Mr. BROWN of Ohio:

H.R. 14165. A bill to establish a procedure to reduce by a goal of 25 percent over a 5-year period the costs of compliance with rules and regulations of Federal executive departments and independent agencies; jointly, to the Committees on Government Operations, and Rules.

H.R. 14166. A bill to reduce duplicative and conflicting Federal, State, and local rules or regulations, and for other purposes; jointly, to the Committees on Government Operations, and Rules.

By Mr. CARTER (for himself, Mr. Skubitz, Mr. Bevill, Mr. Pickle, Mr. Whitehurst, Mr. Edwards of Alabama, Mr. Buchanan, Mr. Flippo, Mr. Thornton, Mr. Frenzel, Mr. Dickinson, Mr. Hyde, Mr. Barnard, Mr. Flowers, Mr. Rooney, Mr. Brooks, Mr. Coughlin, Mr. Gammage, Mr. Archer, Mr. Lederer, Mr. Mazzoli, Mr. Blouin, and Mr. Simon):

H.R. 14167. A bill to amend title XVIII of the Social Security Act with respect to reimbursement of physicians' services in teaching hospitals; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. FISHER:

H.J. Res. 1144. Joint resolution designating October 4, 1978, as "CB Radio Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. NEAL (for himself and Mr. Stanton):

H.J. Res. 1145. Joint resolution to amend section 8 of the Export-Import Bank Act of 1945; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ULLMAN:

H. Res. 1377. Resolution providing for the consideration of the Senate amendments to H.R. 112; to the Committee on Rules.

By Mr. FRASER:

H. Res. 1378. Resolution relative to the preservation and restoration of Rhodes Tavern, located in Washington, D.C.; to the Committee on Interior and Insular Affairs.

By Mr. MOAKLEY (for himself; Mr. Gonzalez, Mr. Stokes, and Mr. Murphy of Illinois):

H. Res. 1379. Resolution to establish a Select Committee on Arson; to the Committee on Rules.

By Mrs. SCHROEDER:

H. Res. 1380. Resolution to implement clause 9 of rule XLIII and clause 6(a)(3)(A) of rule XI of the Rules of the House of Representatives, relating to employment practices; jointly, to the Committees on House Administration, and Rules.

MEMORIALS

Under clause 4 of rule XXII.

483. The SPEAKER presented a memorial of the Legislature of the Trust Territory of the Pacific Islands, relative to Micronesian war damage claims; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PRITCHARD:

H.R. 14168. A bill for the relief of Pang chong Ae; to the Committee on the Judiciary.

H.R. 14169. A bill for the relief of Sun Cha Cho Walker; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 4 of rule XXII.
tions and papers were laid on the Clerk's desk and referred as follows:

543. By the SPEAKER: Petition of the county legislature, Suffolk County, N.Y., relative to the proposed elimination of the designation of Nassau and Suffolk Counties as a Standard Metropolitan Statistical Area; to the Committee on Post Office and Civil Service.

544. Also, petition of the city council, Parma Heights, Ohio, relative to reduction of social security benefits for spouses and surviving spouses receiving public pension; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 12005

By Mr. CONYERS:

Page 4, lines 4 and 5, strike out "$362,662,000" and insert in lieu thereof "$360,062,000".

Page 7, line 1, before the period insert the following: ", except that none of the sums authorized to be appropriated by this Act for the activities of the Federal Prison System shall be used for planning, acquisition of site, or construction of a prison on the West Coast of the United States".

Page 4, lines 4 and 5, strike out "$362.662,000" and insert in lieu thereof "$344,062,000".

Page 6, lines 21 and 22, strike out "planning, acquisition of sites and construction of new facilities and".

Page 7, line 1, after the period insert the following: "None of the sums authorized to be appropriated by this Act for the activities of the Federal Prison System shall be used for planning, acquisition of sites, or construction of new facilities.".

SENATE—*Monday, September 25, 1978*

(Legislative day of Saturday, September 23, 1978)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father-God, who has safely brought us to the beginning of another week, keep us close to Thee that we fail not in the great work given to this body by the people of this Nation. Keep our vision high, our spirits sensitive, and our minds alert as we move from issue to issue. Keep our hearts trustful, our faith simple and childlike, free from cynicism and fear that the gates of the kingdom be not barred against us. Match us to our solemn responsibilities and when evening comes may we be worthy of the "well done" accolade of the Master Workman, in whose blessed name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 25, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

The ACTING PRESIDENT pro tempore. Without objection, the Journal of the proceedings will be approved to date.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the order previously entered, the Senator from New Mexico (Mr. SCHMITT) will be recognized for not to exceed 15 minutes.

ENERGY PROBLEMS

Mr. SCHMITT. Mr. President, the uncertainties and the seriousness of our energy situation are clearly upon us. There are many illustrative examples of these uncertainties, and also examples of how at times we think we have solved our problem and then we find that we really have not.

One such example of a solution that is yet to be a solution has been well illustrated by a recent article in the August 18, 1978, issue of Science magazine, entitled, "Pipeline Problems Exacerbate West Coast Oil Surplus."

This article outlines in some detail, which I think my colleagues will find of interest, the complexities that now face us in getting the particular type of oil being produced in Prudhoe Bay, not necessarily through the pipeline but from the pipeline to someplace where it can be used.

Part of the problem, of course, has to do with chemical characteristics of that particular type of crude oil, which is commonly known as sour crude; that is oil which is rich in sulfur. There is a limited capacity on the west coast to refine this crude and, therefore, before we will be able to fully utilize the capacity of the Alaskan pipeline and the resources which attach, we are going to have to figure out ways to get that sour crude to refineries in middle America in a variety of locations.

The issue has been complicated by the present inability of the United States, because of congressional action, to trade the sour crude of Alaska via Japan for crude oil from the Middle East, which could be brought to the United States through more normal channels. The Nation must move to reduce its dependence on imports of crude oil and refined oil products. However, in the short term, it must also learn to be flexible in how we make use of our own resources. In this particular case, a trading mechanism, an exchange mechanism, with Japan and Middle Eastern suppliers certainly appears to be appropriate, but the administration must move rapidly to determine the best long-term solution, because anything that depends on supplies from abroad only makes our difficulties worse.

Mr. President, I ask unanimous consent that the article from Science, entitled "Pipeline Problems Exacerbate West Coast Oil Surplus," be printed in the RECORD at this point.

(Mr. HATHAWAY assumed the chair.)

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PIPELINE PROBLEMS EXACERBATE WEST COAST OIL SURPLUS

Seven or eight years ago when development of the supergiant oil field on the Alaskan North Slope was getting under way, the oil industry seemed to think there was only one really major hurdle standing in the way of getting the oil to market. That was the problem of overcoming the opposition of national environmental groups and obtaining final federal approval for the Trans Alaska Pipeline System (TAPS). TAPS would move the North Slope crude from Prudhoe Bay to a terminal at Valdez, on the south coast of Alaska, and from there tankers would carry it to refiners on the West Coast or abroad.

But even though TAPS was approved by Congress, itself in 1973 and was subsequently built, other obstacles to the marketing of the Alaskan crude have appeared since the oil first began to flow through the pipeline about a year ago. Namely there has been the so-called West Coast "oil glut" and stiff local or state resistance to proposals to establish pipelines that could carry the surplus North Slope crude to markets in the Midwest or the northern tier of states stretching from Montana to Michigan.

Both of the major North Slope producers, the Atlantic Richfield Company (ARCO) and the Standard Oil Company of Ohio (Sohio), have put forward pipeline proposals that have run into powerful opposition arising principally from fears of oil spills or aggravated air pollution from tanker operations. ARCO already has been forced to abandon its plan to deliver crude to the northern tier states by means of the existing 744-mile-long Trans Mountain Pipeline between Puget Sound and Edmonton, Alberta, which ties in with the continental network of pipeline systems.

This pipeline actually was built to move Alberta crude west to Puget Sound and Vancouver, but most of its capacity has been unused since Canada began phasing out oil exports to the United States. What ARCO was proposing was to increase tanker traffic from Valdez to its Puget Sound terminal at Cherry Point (which was to be expanded), then use the pipeline in a reverse-flow mode to move oil to the east instead of west.

For people in the Seattle area salmon fishing and boating are very much a part of the good life, and any talk of increased tanker traffic inside Puget Sound seems to induce nightmares and arouse political protest. In this case, the ARCO proposal barely got on the wing before it was shot down, and this despite the fact that it had the warm support of Dixy Lee Ray, governor of Washington.

Whether or not Sohio will have better luck with its long pending proposal to establish a 1027-mile Pactex pipeline from Long Beach, California, to Midland, Texas, is still very much an open question. The Carter Administration supports the project, and even the California Air Resources Board (ARB) now looks upon it benignly. But the necessary state air quality and land use permits are still not in hand, and, even if they are soon issued, construction will continue to be delayed so long as a lawsuit that has been brought against the project remains pending before the California Supreme Court. Still worse from Sohio's point of view, the project could conceivably be killed politically this November. for it is now a virtual certainty that the citizens of the city of Long Beach will be voting on a ballot proposition to cancel Sohio's lease with the city for the land on which the oil terminal and storage facilities would be built. The opposition has turned mainly on fears of air pollution from the stacks of the supertankers that would be visiting the port of Long Beach and from the transfer and storage of the oil, plus aesthetic objections to the siting of storage tanks along the waterfront.

If the oil industry and its overseers in the Nixon Administration had been right in their public predictions at the time of the TAPS debate, there would have been no oil glut on the West Coast and hence no need to move crude from there to the northern tier and the Midwest. During the congressional debate in 1973 over whether TAPS should receive the go ahead, the industry was contending that all of the North Slope oil would be absorbed by the West Coast market.

Environmental groups, on the other hand, argued that oil would be in over-supply on the West Coast, and cited in particular a study[*] by resource economist Charles J. Cicchetti to make their point. They urged that the TAPS proposal be abandoned in favor of a trans-Canada alternative that could provide a single right-of-way for oil and natural gas pipelines from Alaska to an assured market in the Midwest.

For the environmentalists, this economic argument was topping on the cake; in their view the trans-Canada alternative offered compelling environmental advantages, one of which was that it would be an all-overland route involving no tanker traffic and no risk of oil spills in such sensitive and confined waters as those of Puget Sound. The environmentalists suggested, and apparently accurately, that the only reason the oil companies themselves were not worried about a possible West Coast oil glut was that, should this occur, they could expect to reap big profits through exchanges with the Japanese.

Now that the prophesied oil surplus has indeed come to pass, environmentalists are saying "I told you so," while the oil industry contends that the surplus has resulted from events and circumstances (such as the Arab embargo, the precipitous rise in oil prices, and the reduced growth of consumption) which could not have been foreseen. In any case, North Slope crude is flowing to Valdez at the rate of 1.14 million barrels a day, approximately double the volume West Coast refiners can absorb, or at least are willing to absorb.

What has happened is that the Alaskan crude, which is "sour" or high in sulfur content, has displaced the sour crude that West Coast refiners used to import from abroad, principally from Saudi Arabia, Iran, and South America. But it has not displaced the "sweet" or low-sulfur crude which the refiners have been importing (mostly from Indonesia) at the rate of about 600,000 barrels a day.

Why this is so is not easy to explain fully, for the answer involves a variety of complicated circumstances and considerations, such as the inability of certain refineries to "run" much sour crude for lack of desulfurization equipment, the profitability (or relative lack thereof) of the product mix obtainable from such crude, and the fact that high sulfur residual fuel oil cannot be burned in utility boilers under California's stringent air quality regulations. In any event, the Alaskan crude that is in excess of West Coast needs (the surplus is now running at about 550,000 barrels a day) must—in the absence of pipelines—be moved to the Gulf Coast by tanker. And this involves an awkward and costly transfer of the oil at Panama from large tankers to smaller ones that can go through the canal.

The problem could be solved of course by going to the solution the oil companies may have had in mind all along: exporting the surplus to Japan in exchange for Middle Eastern oil delivered to Atlantic and Gulf ports. But it looks as though this is not going to happen.

The TAPS legislation of 1973 provided that no such exchanges were to be allowed without a presidential finding that they would be in the national interest. Then, last year, Congress tightened this provision by making even those exchanges that might be sanctioned by the President subject to disapproval by either the House or the Senate. Although the Carter Administration was interested for a time in allowing exchanges as a stop-gap solution for the oil surplus, it apparently has backed away from this remedy. Attitudes could change, but before the government resorts to exchanges with Japan the surplus on the West Coast may have to reach extreme proportions.

Yet, unless one or more pipelines are built within the next several years, the surplus could in fact became an awful glut by anyone's definition. TAPS is now operating at only a bit more than half of its ultimate capacity of 2 million barrels a day, so the flow of oil from Valdez may increase markedly. Also, new production from the outer continental shelf off California and Alaska could eventually be substantial, as could increased flows of California oil from the Elk Hills naval petroleum reserve and from the application of tertiary recovery methods to other fields.

If construction of a pipeline to move some of the surplus crude eastward does not begin before long, it will not be for a lack of interested applicants. A remarkable variety of proposals has been put on the table. Besides the Sohio and the ARCO projects, there are four other pipeline proposals, not to mention proposals to move Alaskan crude to eastern or northern tier markets by such unusual means as unit trains or icebreaking tankers plying the hazardous Northwest Passage across the Canadian arctic. The pipeline proposals include:

One by a Guatemalan company (supported by several American engineering and construction firms) for a 227-mile trans-Guatemala pipeline. But promoters of the project thus far have not come forward with evidence of having any real hope of either an assured throughput of oil or adequate financing.

A proposal by Foothills Pipe Lines Ltd. of Calgary, Alberta, to build what under one option would be an all overland Alcan pipeline of 1500 miles that would in part at least share a common corridor with the pipeline already approved to transport Alaskan natural gas. This proposal is little known and little mentioned.

A proposal by a number of substantial Canadian and American oil and pipeline companies, including Sohio and Ashland Oil Canada, to build a 753-mile pipeline from Kitimat, a small British Columbia port situated 650 miles north of Seattle at the head of a long fjord, to Edmonton. If this proposal is not dead, it is at least moribund. The report issued last February by the commissioner assigned by the Canadian government to conduct a special inquiry concluded that Canada does not now need such an oil port and pipeline. The commissioner indicated, moreover, that even if the project were needed the justification for it should be gravely examined in light of the risk of oil spills.

Finally, there is the proposal by the Northern Tier Pipeline Company of Montana, and, apart from the Sohio project, it now seems to be the one with the chance of getting somewhere. Although none of the major oil companies are behind the project at this point, the U.S. Steel Company is a participant in it; furthermore, refiners across the northern tier who have in the past counted on Canadian oil must now look to some other crude supply, and North Slope crude may be their best bet. The Northern Tier project calls for construction of a deepwater terminal for supertankers at Port Angeles, some 15 to 20 miles west of Puget Sound on the Strait of Juan de Fuca. From there, the pipeline would extend 1550 miles to Clearbrook, Minnesota. It would not cross Puget Sound but would go around the sound's south end, then swing north toward Seattle before crossing the Cascade Mountains and continuing eastward through the northern tier.

This project, which would have a design capacity of up to 1.2 million barrels a day, has gained enough political support and momentum to be quite seriously regarded. Senator John Melcher of Montana, a resourceful legislator who is determined for his region to have an assured supply of oil is strongly behind it, as are a number of other political, business, and labor leaders across the Great Northern Plains and the upper Midwest. Furthermore, the project may have received a substantial political boost last winter when the House and Senate conferees working on the National Energy Act (which is still not law) agreed to have the Department of Energy (DOE) study alternative ways of meeting the need for new oil delivery systems, with particular attention to be given the needs of the northern tier states.

The conferees also called for expedited federal permitting procedures once the President has decided, on the basis of the DOE study, which project or projects should go forward. But, unlike the situation that existed with respect to TAPS, the major hangups facing the Northern Tier proposal and other pipeline projects have as much or more to do with state and local permits as they do with federal approvals.

In the state of Washington, the Northern Tier project has now become the focus of a paradoxical political situation. On the one hand, this proposal represents a big increase in tanker traffic in state coastal waters, and few people want that. Indeed, many of the citizens of Port Angeles and Clallam County, where the oil terminal would be built, are up in arms.

But, on the other hand, some environmental groups such as the Coalition Against Oil Pollution (which draws most of its members from the Seattle area) see in the project their best and perhaps only chance to eliminate most of the existing tanker traffic from inside Puget Sound. This traffic, which serves four refineries at or to the north of Anacortes on the east side of the sound, increased dramatically after the Canadian government cut off the flow of Alberta crude that was coming to the refineries through the Trans Mountain Pipeline. Yet, if linked to the Northern Tier Pipeline by means of a spur, the refineries would no longer have to be served by tankers. It is precisely this possibility that the environmentalists have seized upon.

During his last years as governor, Dan Evans, who since leaving office in early 1977 has been president of the Evergreen State College in Olympia, also became persuaded that the Northern Tier project, if built with a spur to the refineries, could be made to serve the state's interests as well as the nation's. The state coastal zone management plan prepared late in his administration gave explicit support to the "concept of a single, major crude petroleum receiving and transfer facility at or west of Port Angeles."

But Governor Ray, Evans' successor, took office with quite a different set of perceptions and predilections with respect to tanker traffic and pipelines. She was, and is, convinced that fears as to the consequences of an oil spill in Puget Sound have been much exaggerated. A marine biologist herself, she believed—contrary to the thinking of many of her former colleagues at the University of Washington—that such a spill would be by no means catastrophic.

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[*] "Alaskan Oil: Alternative Routes and Routes and Markets," published by the Johns Hopkins University Press for Resources for the Future.

In keeping with this sanguine view, she chose to support the ARCO proposal to establish a major oil port on the sound and adapt the Trans Mountain Pipeline for the eastward movement of Alaskan crude. To that end, she proposed to strike from the coastal management plan the statement of policy against such a project; she also expressed disagreement with the law passed by the Washington legislature in 1975 prohibiting tankers of greater than 125,000 deadweight tons from entering the sound.

The legislature, disturbed at these attitudes on the part of the new governor, moved to kill the ARCO project, but good. It passed a bill restating, in flat statutory terms, the prohibition against major oil transfer facilities on Puget Sound. Ray vetoed this measure, but soon found herself outflanked. The state legislators and environmentalists prevailed upon Senator Warren Magnuson (D-Wash.), one of the powers-that-be on Capitol Hill, to push through an amendment to the Marine Mammal Protection Act which does precisely what the legislature had sought to do. For this, Ray called Magnuson a "dictator."

Both the governor and the senator are now saying somewhat the same thing about the possibility of oil transfer facilities anywhere in state coastal waters. Such facilities, they say, would serve no state need and are unwanted. But the governor in particular has indicated that, if President Carter declares such a facility to be in the national interest, this would carry great weight with her. If the President does in fact decide the Northern Tier project is needed, it will be up to the governor herself to grant or withold state permission to build the facility once she gets a recommendation from the Energy Facilities Site Evaluation Council.

The circumstances in which the Sohio project at Long Beach now finds itself will illustrate how important—and volatile—local opinion can be in deciding the ultimate outcome of even an oil port and pipeline proposal that enjoys support at the highest political levels, including the White House. If this project fails to survive the forthcoming municipal referendum, the project could be dead. For Sohio, this would be the bitterest kind of setback, for there is no doubt that the company has, however, slowly and reluctantly, made concession after concession to meet the demands of the California Air Resources Board (ARB).

Both the ARB and the U.S. Environmental Protection Agency apply a rigorous "trade-off" policy in cases where a new industrial facility is to be established in a region such as southern California which does not meet ambient air quality standards. What this means is that, besides providing assurances that its own emissions will be kept within prescribed levels, the company seeking an ARB permit must also agree to more than offset those emissions by providing the wherewithal to allow another industrial entity in the region to lower its own emissions below the levels permitted.

Sohio has agreed to a trade-off package that will cost the company up to $82 million. The Southern California Edison Company alone will receive some $60 to 65 million to install a sulfur dioxide scrubber at an oil-fired electric generating plant near Long Beach. Also, Sohio will pay for a "de-nox" unit (for removal of nitrogen oxides) to be installed at this plant and for equipment to allow three large dry-cleaning establishments to reduce their emissions of hydrocarbons.

On the strength of these commitments to improved air quality, Sohio is hoping that the citizens of Long Beach will be persuaded that their interest will be best served by allowing the Pactex project to go ahead. But, as matters stand, what the voters will do is said to be anybody's guess.

As must now be all too clear to the North Slope producers and the rest of the oil industry, the comfortable assumption of several years ago that all would be well once TAPS was built was dead wrong. Indeed, with the benefit of hindsight, some oil industry people may be thinking in their heart of hearts that they could have spared themselves a lot of misery by agreeing to move the North Slope oil across Canada to the Midwest rather than insisting on landing it on the West Coast.

Mr. SCHMITT. Mr. President, also related to this general issue of energy and our dependence on foreign supplies of fossil fuels at the present time is the issue of the economics of another energy source; namely, nuclear power. The claims and counterclaims notwithstanding as to the economics of nuclear power, it appears that it cannot be argued that, to some degree, we are going to be dependent on its availability.

The users of electricity in the Midwest during this recent winter and the coal strike that came with that winter found that their only reliable source of power for many, many weeks was that coming from a variety of nuclear plants in the Midwest. A recent article, again from Science magazine, that compares the economics of nuclear power and coal-generated power is, I believe, "must" reading for individuals who wish further to understand this very complex issue. The article was printed in the August 18, 1978, issue of Science, and is entitled "Economics of Nuclear Power," written by A. D. Rossin and T. A. Rieck. Although there are major economic differences and many other differences between nuclear- and coal-powered generating plants, the conclusion reached in this article as a result of the Commonwealth Edicon Co.'s experience with both types of power in a very broad scale, is that both coal and nuclear power must be available in the foreseeable future. I think that is a rational conclusion. It is not an ideal conclusion from the perspective of anyone, whether environmentalist or developer, but it appears to be the only conclusion that is warranted by the present facts. It comes down to a question not only of operating risks, but also one of supply of both coal and nuclear fuel.

Again, this article, entitled "Economics of Nuclear Power," is an important article for all students of this problem. I hope that all the 100 Senators, by this time, have become students of the energy problem in general and of the nuclear power problem specifically.

Mr. President, I ask unanimous consent that that article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ECONOMICS OF NUCLEAR POWER

(By A. D. Rossin and T. A. Rieck)

In 1977 nuclear power plants produced about 12 percent of the nation's electric power. This was 20 years after the first almost-commercial-size unit began operating (*1*), 17 years after the first privately financed nuclear plants went into service (*2*), and 8 years after the first large units went on line (*3*). Since 1973 the increase in nuclear energy production has been rapid, averaging 30 percent per year from 1973 to 1977. In 1977 nuclear energy production increased 29.5 percent over 1976, while total electric energy production in the United States increased only about 5 percent.

This article deals with only one aspect of nuclear power: the economics. The industry states that despite problems, delays, and cost increases, nuclear plants saved U.S. consumers well over $1 billion each year in 1975, 1976, and 1977. Nuclear critics claim either that the savings are artificial, or that they will not be there in the future, or that they are irrelevant for various reasons. Some argue that the costs have not all been internalized or that vast hidden subsidies exist.

We believe that documented evidence is publicly available with which to sort out these arguments. In this article we examine the performance of nuclear power in the United States to date by evaluating its economic record relative to that of alternative sources of electricity, with particular reference to nuclear and coal-fired plants in the Commonwealth Edison Company (CECo) generating system. We also evaluate the available electric energy supply options for the late 1980's and discuss what the critics consider hidden costs or subsidies.

ENERGY SUPPLY OPTIONS FOR UTILITIES

Utilities must choose between supply options that are technologically feasible, meet environmental criteria, are economically competitive, and for which the fuel supply is reasonably ensured over the expected life of the facility. Today the only available options that meet this test for new plants are nuclear and coal.

A few utilities may have particular options that are not generally available. Some hydroelectric sites may still be capable of development, but the estimates of lead time and the licensing uncertainties exceed those for nuclear plants. In addition, water has other uses, so regulatory bodies as well as the whims of nature control its availability. Apart from this, a few systems have geothermal sources and can use them for base load.

Solar-generated electricity—when, if, and to the extent that it can be furnished to utility systems—will be on a "when available" basis. Because of its high capital cost and zero fuel cost, solar energy, like hydropower, would be used whenever possible. To take advantage of intermittent solar electricity will require a reliable electric system with a larger reserve than systems have today. Until reliable and inexpensive batteries or other energy storage systems are developed, solar energy will be available only during the day, the time when demand peaks, and thus will replace peaking capacity and not base load capacity. Utilities will welcome the contribution solar can make to the extent that it can meet reliability and economic requirements.

Since the year-round load factors of most electric power systems are in the range 50 to 70 percent, a mix of various types of generating capacity (base load, cycling, and peaking) is required to optimize system economics. Nuclear often proves to be the more economical base load option, but coal may be better for cycling or peaking duty. Thus, every new plant must be fit logically into an existing generating system. Moreover, the advantage of having a mix of fuels is obvious: the eggs are not all in one basket. This offers some protection against monopoly pricing, strikes, embargoes, and weather effects.

As an example, to meet its load patterns reliably and economically, CECo's system planners suggest that a maximum of 50 to 60 percent nuclear is appropriate for our system. The optimum will be different for other utility systems.

Utility management decisions are subject to approval by state regulatory commissions, Environmental Protection Agency (EPA) regulations, a myriad of permit requirements, and the Nuclear Regulatory Commission (NRC) licensing process, complete with public hearings and full National Environmental Policy Act (NEPA) cost-benefit presentations. Utilities are obligated by their charters not only to supply reliable electric service to all customers in the region they serve but also to do it at reasonable rates, both for the short run and the long run. As a result, both utilities and regulators are interested in the economics.

ECONOMIC PERFORMANCE OF NUCLEAR AND COAL IN COMMONWEALTH EDISON

Commonwealth Edison Company has six large nuclear and six large coal-fired units in operation, in addition to some 22 smaller coal- and oil-fired units and one smaller nuclear unit. This provides an opportunity to compare the economics and reliability of the different units under one corporate management and in a single geographic region, northern Illinois and the Chicago metropolitan area.

Table 1 is a list of CECo's 12 large nuclear and coal-fired units, their age, size, type, and actual construction cost. The performance of an individual unit is important, but it must be kept in mind that the utility's financial success depends on the combined economic performance of all the units in its generating system. One index of performance is the capacity factor, the ratio of the energy produced by a generating unit in a stated period of time to the theoretical maximum energy it could produce if it ran at its net capability 100 percent of that time. It pays to achieve high capacity factors on base load units, but system reliability and overall economics are the real figures of merit for consumers, stockholders, and regulators alike.

Table 2 shows the actual 1977 generation costs at the bus-bar (the cost of delivering energy to the transmission system at the generating station bus-bar) for CECo's large coal and nuclear units. The costs are divided into three parts: fuel, operation and maintenace, and carrying charges. Carrying charges include depreciation (including the accumulation of a reserve for interim cleaning and end-of-life decommissioning), return on investment (both interest on borrowed money and return on equity), property taxes, insurance, and income taxes.

For 1977 CECo's total nuclear bus-bar generating cost was 13.3 mills per kilowatt-hour, which was lower than the system average cost of generation with coal (24.1 mills/kWh), the average cost of generation from our six newest and largest coal-fired units (20.9 mills/kWh), or the average cost of generation from Powerton units 5 and 6, our two newest and largest coal-fired units (21.3 mills/kWh).

Comparisons with Powerton 5 and 6 are perhaps the most meaningful because if we had not built our six big nuclear units, we would probably have had to install six additional coal-fired units of the 800-MWe. (megawatt electric) class, similar to those two Powerton units. However, Powerton 5 and 6 burn only high-sulfur Illinois coal and do not have stack-gas scrubbers to remove sulfur dioxide. By 1 July 1979, in order to comply with emission control standards for existing plants, we must either install stack-gas scrubbers on these units or convert to low-sulfur coal. The use of low-sulfur coal, determined to be least expensive alternative, would increase the Powerton bus-bar costs by about 6.3 mill/kWh to a total of about 27.6 mills/kWh, more than double the total nuclear cost.

During 1977 these six large nuclear units (plus the 207-MWe Dresden unit 1) provided 26.6 billion kWh to the CECo system. This was equal to 41.8 percent of our total net electric generation for the full year. Had this energy been provided by units similar to our six large coal units rather than our nuclear units, our increased costs would have amounted to about $200 million (26.6 billion kWh at an increased cost of 7.6 mills/kWh) (*4*). And if all of these uints were required to burn low-sulfur western coal instead of high-sulfur Illinois coal, the differential would increase by about 3.9 mills to 11.5 mills/kWh, or over $300 million for the 26.6 billion kWh. Since the revenue we collected in 1977 was $2.1 billion, these savings amount to 10 to 15 percent in our customers' bills.

COSTS OF ALTERNATIVE FUELS

As shown in Table 2, the fuel cost amounts for the greatest portion of the overall differential between the total generating costs with nuclear and coal. In this section we discuss the actual 1977 fuel costs in greater detail.

1) *Nuclear*. Nuclear fuel cost CECo 3.5 mills/kWh in 1977, of which 1.0 mills/kWh was included to cover the maximum estimated future costs of the back end of the nuclear fuel cycle (the cost associated with the disposition of discharged or "spent" nuclear fuel). We do not know exactly what the disposition of discharged or "spent" numate is for the case in which we are not allowed to reprocess and recycle our spent fuel, but have to pay the government the highest figure we have heard discussed as a one-time fee for government storage and disposal ($250 per kilogram of uranium). If we were to temporarily store the spent fuel ourselves and then pay the government only for ultimate disposal of the unreprocessed spent fuel, the cost would only be about 0.5 mill/kWh, the amount we are now accumulating for this cost through book depreciation on the fuel. Either of these alternatives appears to us to be very costly and unattractive in the long run compared to reprocessing.

TABLE 1.—COMMONWEALTH EDISON'S LARGE GENERATING UNITS

Unit	Inservice date	Net capability [1] (MWe)	Type [2]	Construction cost ($/kWe)
Coal:				
Joliet 7	Apr. 9, 1965	537	Western	113
Joliet 8	Mar. 21, 1966	537	do	113
Kincaid 1	June 7, 1967	606	Illinois	118
Kincaid 2	June 10, 1968	606	do	118
Powerton 5	Sept. 30, 1972	850	do	231
Powerton 6	Dec. 19, 1975	850	do	218
Nuclear:				
Dresden 2	Aug. 11, 1970	794	BWR	147
Dresden 3	Oct. 30, 1971	794	BWR	147
Quad Cities 1	Aug. 16, 1972	[3] 789	BWR	165
Quad Cities 2	Oct. 24, 1972	[3] 789	BWR	165
Zion 1	Oct. 2, 1973	[4] 1,040	PWR	280
Zion 2	Sept 19, 1974	[4] 1,040	PWR	280

[1] Net capability is the maximum dependable rating of the unit, that is what utility expects it can get from the unit. This may be limited by design, license, or environmental condition.

[2] For coal units Illinois refers to high-sulfur Illinois coal and Western refers to low-sulfure Colorado, Montana, and Wyoming coal. For nuclear units, BWR refers to boiling water reactor and PWR to pressurized water reactor.

[3] The Iowa-Illinois Gas and Electric Co. owns 25 percent of these units.

[4] These units were limited by the NRC to approximately 850 MWe prior to June 25, 1976.

TABLE 2.—COMMONWEALTH EDISON'S 1977 BUS-BAR GENERATING COSTS [1]

Generating unit group	Cost (mills per kilowatt-hour of net generation): Fuel	Other production, operetion, and maintenance	Carrying charges [2]	Total
Nuclear:				
System average	3.5	2.2	7.6	13.3
Six big units	3.5	2.1	7.5	13.1
Coal:				
System average	12.1	3.0	9.0	24.1
Six big units	10.1	2.4	8.4	20.9
Powerton 5 and 6	7.7	2.1	11.5	21.3

[1] All data shown are taken directly from the company's books for 1977, except as follows: 1.3 mills is added to the nuclear fuel expense on the books to reflect the estimated cost of carrying charges on nuclear fuel in the reactor (0.8 mill), plus an additional allowance of 0.5 mill for the net cost of ultimate disposition of spent fuel. The per-books data already include about 0.5 mill for spent fuel disposition. The coal fuel expense figures per books were increased by 0.6, 0.5 and 0.4 mills/kWh, respectively, to reflect the estimated carrying charges for maintaining a 90-day coal stockpile.

[2] Carrying charges were computed by applying a 20-percent annual fixed charge rate to the gross plant investment in the generating units in question and dividing by the number of kilowatt-hours generated (net) by such units in 1977.

TABLE 3.—PERFORMANCE OF NUCLEAR AND LARGE (≥ 400 MWe) COAL-FIRED UNITS FROM A DATA COMPILATION BY EDISON ELECTRIC INSTITUTE (8).

Year	Number of units: Coal	Number of units: Nuclear [1]	Availability [2] percent: Coal	Availability percent: Nuclear	Capacity factor percent: Coal	Capacity factor percent: Nuclear
1970	51	9	75	85	59	73
1971	64	11	77	79	61	57
1972	80	11	73	77	60	63
1973	93	22	77	78	62	65
1974	108	42	72	68	56	54
1975	117	49	74	70	58	59
1976	123	53	73	68	59	58
Average [3]			74	72	59	59

[1] The EEI data base includes 5 nuclear units smaller than 400 MWe which could not be excluded from this comparison.

[2] Availability is the fraction of time the unit was available for service to produce any power at all, whether it was used or not.

[3] Weighted by number of unit years.

2) *Coal*. High-sulfur Illinois coal cost us m.8 mills/kWh in 1977, averaged over all units that burned it. Low-sulfur western coal averaged 14.1 mills/kWh. About half of the cost of western coal represents transportation from Montana and Wyoming. Over most of the 1200-mile trip the coal is transported by highly efficient 100-car unit trains powered by several diesel locomotives (*5*).

3) *Oil*. Number 6 heavy oil is burned at two generating stations that provide cycling service, one (606 MWe) that was converted from coal in 1970, the other (1010 MWe now and to be enlarged) built because the licensing process for LaSalle County Nuclear Station was extended by more than 3 years; the intervention hinged on question of land use. In 1977 that oil, most of which was imported, cost us 29.6 mills/kWh, more than double the total bus-bar cost at our nuclear stations.

In some parts of the United States coal burning has been limited by air pollution regulations, and many utilities have been forced to convert large coal units to burn oil or gas. With oil prices now in the range $10 to $15 a barrel and natural gas in limited supply, these units have fuel costs in the range 20 to 25 mills/kWh. Even ignoring the associated operating, maintenance, and plant carrying charges, this fuel cost alone is significantly greater than the total bus-bar cost of 13.3 mills/kWh for CECo's nuclear units in 1977.

4) *Peaker oil.* Number 2 diesel oil is burned by some 104 modified aircraft jet turbines (about 18 MWe each) that are used for peaking and emergency power. This fuel, which has been and may in the future be in short supply for electric generation, cost 48 mills/kWh in 1977. Although it is economical to be able to run these peaking units when we need them, we try to keep their operation to a minimum. In 1977 these units had an average capacity factor of 8.1 percent.

5) *Natural gas.* Natural gas is still sold at regulated prices; a typical price in 1977 gave a cost of about 22.7 mills/kWh for fuel alone when gas was substituted for coal in a steam-electric unit. We have reduced the use of gas for electric generation to a minimum, below 1 percent in 1977. It is now used mostly to light various large coal-burning boilers and to stabilize the flame pattern at reduced power levels in large pulverized coal boilers.

Effect of inflation. The bus-bar cost advantage for our existing nuclear units compared with our coal units will grow in the future with inflation. This is because operating, maintenance, and fuel costs will continue to rise with inflation, but the increase will be greater for the coal units. Meanwhile, carrying charges on plant investment, which has already been expended, essentially do not change.

For example, if the operating, maintenance, and fuel costs shown in Table 2 were to double (which would occur in 12 years with the current 6 percent per year inflation rate), the bus-bar cost would increase by 5.6 mills for our six large nuclear units and 12.5 mills for our six large coal units. That would increase the nuclear advantage from 37 percent (7.8 mills) to 44 percent (14.7 mills).

OPERATING PERFORMANCE: NUCLEAR AND COAL

Some nuclear critics, on the basis of projections of past operating data, have claimed that future nuclear plants will have low capacity factors, while future coal plants will have very high capacity factors (6). Such claims lead to the further conclusion that coal plants will have lower bus-bar costs. We disagree with both the projections and the claims.

Although much has been made of the capacity factors of nuclear and coal-fired plants, it must be remembered that the capacity factor is only one input into the economics of power plants. The actual bus-bar cost is the most important basis for comparing single units (7). A low bus-bar cost may be achievable with a high capacity factor and high construction cost, or with a low capacity factor and low construction cost, and most plant designs fall somewhere between these extremes. It is misleading to project capacity factors of future units from historical unit performance alone without evaluating changes that have taken place in plant design based on the operating experience that is gained from year to year.

Comparison of data on coal and nuclear units is complicated for a number of reasons. Many coal plants switched to gas or oil and back again to coal. Units have been uprated, modernized, or derated. Switches from high- to low-sulfur coal have meant reduced capacity ratings, as have additions of stack gas scrubbers and cooling towers. A unit can have a long outage or major overhaul that gives it a very low capacity factor one year and then perform admirably several years in succession. Thus, there is a good deal of scatter in individual unit data above and below annual averages. Large generating stations are built to run for 30 years or more, and care must be used in evaluating annual data because extreme values can have exaggerated effects on annual averages.

Although the coal data base is complex, the Edison Electric Institute (EEI) has compiled 10-year data (8) on some 100 coal units larger than 400 MWe which are sufficient for reasonable comparison. In Table 3 we compare the EEI data over the period 1970 through 1976 for large coal-fired units with all available data for nuclear units. The comparison shows that the availability and capacity factor averages for large coal and nuclear plants are in the same range.

One of the issues in debate is whether future large units will have lower capacity factors than smaller ones, and what significance that would have if it proved to be the case. The record shows, however, that the performance of large units is not much below that of smaller ones. A close look at low capacity factors of large units reveals either that there are unique problems not related to unit size or that the units in question are relatively new and have not matured (9, 10). In fact, since the large units are the newer ones, simple statistical analyses (10) fail to differentiate between newness and size (11, 12).

TABLE 4.—CAPACITY FACTORS OF NUCLEAR UNITS LARGER THAN 1000 MWE IN 1976 AND 1977 FROM A NUCLEAR REGULATORY COMMISSION REPORT (24).

Name	Net design capability (MWe)	Commercial service date	Capacity factor [1] (percent) 1976	Capacity factor [1] (percent) 1977
Brown Ferry 1	1,065	Aug. 1, 1974	13.9	54.1
Browns Ferry 2	1,065	Mar. 1, 1975	16.8	66.7
Browns Ferry 3	1,065	Mar. 1, 1977		74.8
Cook 1	1,054	Aug. 27, 1975	73.5	51.8
Peach Bottom 2	1,065	July 5, 1975	59.5	33.1
Peach Bottom 3	1,065	Dec. 23, 1974	64.7	51.2
Salem 1	1,090	June 30, 1977		42.5
Trojan	1,130	May 20, 1976	27.3	65.6
Zion 1	1,040	Dec. 31, 1973	[2] 52.1	55.3
Zion 2	1,040	Sept. 17, 1974	[2] 50.8	68.9
Average [3]			45.8	57.9

[1] These are annual capacity factors for full months since entering commercial service.

[2] The Zion units were limited by the NRC to approximately 850 MWe net prior to June 25, 1976. The 1976 capacity factors based on the allowable NRC net rating would have been 75.1 percent and 55.6 percent for Zion 1 and 2, respectively. Based on the allowable ratings, the 1976 average for all units above 1000 MWe would have increaesd to 47.1 percent.

[3] Weighted by number of full months of commercial service.

TABLE 5.—YEARLY AVAILABILITY AND CAPACITY FACTORS OF CECO'S LARGE NUCLEAR AND COAL PLANTS [1]

Year	Large nuclear [2] Number of units	Large nuclear [2] Availability (percent)	Large nuclear [2] Capacity factor (percent)	Large coal Number of units	Large coal Availability (percent)	Large coal Capacity factor (percent)
1970	1	60.6	31.5	4	77.0	58.1
1971	2	61.8	39.5	4	71.7	53.7
1972	4	68.6	61.1	5	71.0	55.5
1973	5	77.4	66.3	5	69.2	54.3
1974	6	59.5	51.1	5	72.6	58.0
1975	6	64.4	50.7	5	67.5	53.5
1976	6	71.5	57.3	6	60.0	44.7
1977	6	79.9	60.7	6	66.5	46.2
Average		70.0	56.3		68.6	52.2

[1] Availability and capacity factors were calculated beginning with the first full month after the inservice date, weighted by the number of inservice months and net capabilities.

[2] The values for Zion 1 and 2 are based on net capabilities of 851 and 852 MWe, respectively, prior to June 25, 1976 and 1,040 MWe thereafter.

At the end of 1977 there were ten nuclear units with capacity ratings larger then 1000 MWe. Table 4 lists these units and their capacity factors in 1976 and 1977. The sizable difference between the average capacity factors for 1976 and 1977 is largely due to the long shutdown of Browns Ferry units 1 and 2 because of fire, an event having nothing to do with unit size.

The average annual availability and capacity factors of CECo's large nuclear and coal units since 1970, given in Table 5, show how such units perform relative to each other in a single utility system. Although there are year-to-year variations, there is no significant difference in performance between the nuclear and coal units on the average.

The variations in performance shown in Table 5 were due to a number of problems. The CECo boiling-water reactors had poor years in 1974 and 1975. Sparger replacements and inspection and repair of cracked recirculation bypass and core spray piping, in addition to the traditional run of operating difficulties, ate into their performance. The Zion station also has a unique history. Zion 1 was declared commercial at the end of 1973 and, in addition to first-year problems, required a 17-week shutdown to rebuild the electric generator. Zion 2 was declared commercial on 17 September 1974 after similar reworking of the generator. The Zion units were the first pressurized water reactors of the 1000-MWe class to go into operation. Thus they provided some learning experience for CECo (which has four more similar units under construction) as well as for the entire nuclear industry. Since they were the first 1000-MWe pressurized water reactors to go into service, the NRC restricted their licenses to 85 percent until the first refueling, a conservative and costly approach, but one that was agreed to by all parties.

The coal units were not without their own problems. The Kincaid units were plagued by boiler tube, air heater, and turbine problems. The new Powerton units had periods of good performance, but their availability suffered from a main transformer failure, a turbine feed-pump failure, boiler chemical cleaning problems, as well as unique coal-handling problems brought on by a severe winter, such as coal frozen on conveyor belts, in railroad cars, and in barges on the river.

EFFECT OF CAPACITY FACTOR ON ECONOMICS

Although nuclear and coal units should not be compared on the basis of capacity factors alone, a comparison of generating costs at different capacity factors is enlightening.

The curves in Fig. 1 show the bus-bar cost of CECo's six large nuclear and six large coal units as a function of capacity factor (the actual 1977 bus-bar costs are indicated with circles). These curves were developed from the information presented in Table 2. To a first approximation, the fuel cost and about half of the other costs (mostly operating and maintenance) do not vary with capacity factor. The plant carrying charges, however, are spread over the total kilowatt-hours. Therefore, the higher the capacity factor, the less it costs to generate each kilowatt-hour.

From the curves in Fig. 1 it can be concluded that if nuclear and coal units are expected to have about the same capacity factor, the nuclear units will have an economic advantage over the coal units. If they are expected to have different capacity factors, the coal units will be more economical only if they have significantly greater capacity factors than the nuclear unit. However, these curves are somewhat misleading for predicting future costs because the coal units were installed earlier than the nuclear units and because of new air-quality regulations. To make a valid comparison of the generation costs the carrying charges on the coal-fired units should be increased by approximately 15 percent, reflecting the fact that they were installed about 3 years earlier on the average than the nuclear units and that the effect of inflation on construction cost over those years amounted to about 15 percent.

Table 6—*Estimated construction costs per kilowatt for nuclear and coal base load units in CECo's Northern Illinois area, in 1977 dollars*

*Plant type and cost**	*($/kWe)*
Nuclear (two 1200-MWe units)	692
Coal with scrubbers (two 550-MWe units)	638
Coal without scrubbers (two 575-MWe units)	484

*Reflects a 7 percent annual allowance for funds used during construction.

Of the coal-fired units in this group. Joliet 7 and 8 burn low-sulfur western coal exclusively; Powerton and Kincaid (a mine-mouth station with no rail or barge access) use high-sulfur Illinois coal exclusively. As we mentioned earlier, the average generation costs for these six units would have been 3.9 mills/kWh higher in 1977 if they had all burned western coal, which now appears to be our least expensive alternative for complying with the latest emission control standards.

FUTURE PLANT AND ENERGY COSTS

Although nuclear power has been the most economical choice for CECo in the recent past, changing regulations, construction costs, and fuel costs require a new evaluation for future decisions. We recently made such an evaluation for new nuclear or coal units for service in the late 1980's (*13*).

Our most recent construction cost estimates (made in early 1978 and expressed in 1977 dollars) for nuclear and coal base load units in CECo's Northern Illinois service area are shown in Table 6. The estimated construction cost of a nuclear generating plant comprising two 1200-MWe nuclear units is $692 a kilowatt. That of a coal-fired generating plant consisting of four 550-MWe coal-fired units equipped with flue-gas scrubbers is $638 a kilowatt. [The estimated cost for a coal-fired unit not equipped with flue-gas scrubbers is $484 per kilowatt (*14*), but that is not considered a viable option today because of emission control standards for new powerplants]

These cost estimates (except for the coal plant without scrubbers) were made assuming compliance with the latest government regulations related to environmental, health, and safety matters. They include a cost allowance for funds used during construction based on a 7-percent annual rate. Because of inflation and the lead time of 10 years or more, the installed cost for a plant going in service in the late 1980's will be almost double these estimates.

Estimated carrying charges on plant investment can be calculated for nuclear and coal-fired plants by applying a 20 percent annual fixed charge rate to the estimated construction costs and assuming a 60-percent capacity factor for both nuclear and coal. We consider a 20 percent annual fixed charge rate appropriate for making investment and replacement decisions. It is purposely on the high side, reflecting today's overall capital shortages and financing difficulties. This penalizes the nuclear alternative, with its higher capital cost, to some degree.

Based on 1977 dollars, the carrying charges per kilowatt-hour on plant investment would be 26 mills for nuclear, 24 mills for coal with scrubbers, and 18 mills for coal without scrubbers, Fuel charges are derived from the assumed long-run replacement costs presented in Table 7.

Table 8 shows the estimated total bus-bar generating costs for these future plant options. Oil is included for illustration only (*15*). The comparative bus-bar costs per kilowatt-hour for Northern Illinois are 35 mills for nuclear, 42 mills for high-sulfur coal, 43 mills for low-sulfur coal with scrubbers, and 42 mills for oil, giving a nuclear advantage over the latter three options of 17, 19, and 17 percent, respectively. The nonviable low-sulfur coal case without scrubbers turned out to break even with nuclear.

How important are these differences? A 1200-MWe nuclear unit operating at a capacity factor of 60 percent saves $6.3 million per year for each mill per kilowatt-hour differential in its favor. Therefore, since nuclear has an advantage of 7 mills/kWh over the cheapest coal option, high-sulfur coal, our customers would be saved about $44 million a year for each such nuclear unit installed.

SUBSIDIES AND HIDDEN COSTS

It has been stated that nuclear power is subsidized and that its apparent cost advantage has been made possible only by federal subsidies and covers certain hidden costs. However, the figures do not show that nuclear manufacturers or utilities are the beneficiaries of government subsidies.

1) *Enrichment*. The major area of government involvement is enrichment. According to the latest published financial statements, the U.S. government had a net income of $110 million from its enrichment operations in the fiscal year ending 30 June 1976. This was a rate of return of 13 percent (*16*), which might be compared with the 9.3 percent the Illinois Commerce Commission allows CECo on its invested capital. In addition, the government collected $50 million for depreciation of plants originally built for weapons material production, which it would not have recovered if commercial nuclear power had not been developed. Furthermore, although carrying charges on the enrichment plants, which were built years ago, should have remained constant, the price of enrichment services has nearly trebled since 1967 and is predicted to go higher (*17*). To quote Gordon Corey, vice-chairman of CECo, "If this is a subsidy, it is different from any other kind of subsidy I know" (*17*).

2) *Waste disposal*. There are uncertainties about waste disposal today, largely as a result of delays in government demonstration projects and the Administration's policy of deferring reprocessing. The 0.5 mill/kWh we charge on our books should be sufficient to provide for all disposal costs by the time final disposition is made of all nuclear fuel on hand, including spent fuel. In any event, the fuel cycle services the government provides will be billed to the utilities without subsidy, like the enrichment services. Even if this estimate turns out to be 100 percent low, its impact on overall generation costs will not be enough to change the competitive position of nuclear power compared with coal.

3) *Decommissioning*. It is estimated that the cost of decommissioning a nuclear plant will be between $20 million and $40 million 30 or 40 years after start-up, depending on the criteria that are ultimately adopted (*18*). (Feasibility is not really in question; there are several options, with different price tags, from which to choose.) This translates into a cost of about 0.2 mil/kWh, and substantially less than this after present value discounting. We are providing for these costs through depreciation provisions, which are charged to expense and accumulated in the depreciation reserve over the useful life of the facility. This is a matter that state regulatory commissions and accounting experts will debate, but in any case it will have a very small impact on utility rates or the viability of nuclear power.

TABLE 7.—FUEL COST ASSUMPTIONS (1977 DOLLARS)

Assumptions	Cost (mills/kWh)
Nuclear fuel: [1]	
Yellow cake, $40 per pound	3.5
Uranium for conversion to UF6, $2.75 per pound	.1
Enrichment (0.20 percent tails assay), $75 per SWU [2]	1.8
Fabrication, $110 per kilogram of uranium	.7
Net salvage [3]	1.0
Total	7.1
Fossil fuel: [4]	
High-sulfur coal, $1.20 per million Btu, with scrubber	13
Low-sulfur coal, $1.40 per million Btu, with scrubber	16
Number 6 oil, $2.50 per million Btu, without scrubber	26

[1] Burnup is assumed to be 33,000 megawatt-days per ton for pressurized water reactors and 29,000 megawatt-days per ton for boiling-water reactors.

[2] SWU, separative work unit, as defined by the Department of Energy.

[3] We assumed a net salvage cost (cost associated with the ultimate disposition of discharged or spent nuclear fuel) of 1 mill/kWh.

[4] Cost delivered in the Chicago area, including estimated carrying charges for maintaining a 90-day fuel inventory.

TABLE 8.—ESTIMATED TOTAL BUS-BAR GENERATING COSTS FOR FUTURE PLANTS, IN 1977 DOLLARS

Plant type	Cost (mills/kWh)				Nuclear advantage	
	Fuel	Operation and maintenance	Carrying charges	Total	(Mills/kWh)	Percent
Nuclear	7	2	26	35		
High-sulfur coal with scrubbers	13	5	24	42	7	17
Low-sulfur coal:						
Without scrubbers [1]	[2] 15	2	18	35	0	0
With scrubbers	16	3	24	43	8	19
Oil without scrubbers	26	1	15	42	7	17

[1] Not viable under existing emission control standards.

[2] Higher fuel cost in scrubber case is for additional fuel to make up for inefficiencies in the scrubber operation.

4) *Nuclear insurance*. Price-Anderson indemnity (*19*) deserves more discussion than this space permits. However, there have been no claims against the government to date, and the utilities have been receiving rebates against premiums they pay to private insurance pools. Even if there were no Price-Anderson indemnity, it would not affect our decision to go forward with nuclear power. However, it would almost certainly delay licensing. Antinuclear interveners have stated that, if there were no limit on liability, any utility or vendor could be challenged about his ability to cover an improbable btu potentially exorbitant set of claims. The constitutionality of the Price-Anderson Act was reaffirmed by the Supreme Court (June 1978). It should be noted that similar limits on liability exist for airlines and ships, as well as for the government

and its suppliers of swine flu vaccine, for example. The issue is the limit itself, not the premiums.

5) *Research and development*. The United States has invested more than $9 billion in R & D on nuclear power. About one-third of this, or $3 billion, was applied to light-water reactor development, safety, fuel cycle, and supporting work (the other $6 billion was applied to advanced nuclear power concepts including breeder reactors and to general research on materials, radiation effects, applied mechanics, instrumentation, and so on). The capital investment in the 64 nuclear units that were on line at the end of 1977 was about $20 billion and that in plants now under construction is about $75 billion. Commonwealth Edison's nuclear construction budget from 1978 through 1984 is $4.0 billion.

Considering the $6 billion (oil equivalent) value of nuclear-generated energy in 1977, the $3 billion spent over the last 30 years may be the best investment in R & D the United States has ever made. In addition, the savings in cost of generating electric energy compared to the available coal and oil alternatives has returned the $3 billion and more since the oil embargo.

CAPITAL COSTS AND PROFITS

A popular charge against nuclear power is that, regardless of favorable lifetime economics, so much capital is required to build nuclear plants that not enough is left for other investments, as in industry, housing, education, or welfare. At first glance this argument might appear plausible, because individual utilities have been forced to postpone projects for lack of capital. But the availability of capital to any single company depends on its earnings and financial soundness.

In 1977, the United States sent $40 billion out of the country to pay for oil and the amount is expected to increase in the future. In view of this, it is difficult to see how one can honestly charge that investment of a fraction of this amount in nuclear plants, and but a fraction of that in nuclear research, is the reason that capital for other investments is in short supply.

Investment in new power plants will not continue unless there is reason to believe that people and industry will need the electricity. The existence of power plants is not enough to ensure a growing economy (witness Britain in the last decade until North Sea oil and gas cut its export of capital). But failure to build capacity will ensure energy shortages in the future.

The issue of capital is even weaker in view of the data in Table 6, which show that the capital costs of a coal plant are only 8 percent lower than those of a nuclear plant. Finally, Forbes and Turnage (*20*) have calculated that even a low-growth scenario, the "soft path" proposed by Lovins (*21*), would require three times as much capital to produce the same amount of energy as conventional nuclear and coal-fired power plants.

A popular charge against utilities is that they are willing to pay higher costs because they can pass them on to their customers. It is a fact that sooner or later the costs of the electric energy delivered will be charged to the people who are served; there is no other source of revenue. If the costs to utilities rise, the communities suffer; people must pay a larger fraction of their income for utilities, leaving less for spending locally, for enjoying life, and for savings; industry and new developments are attracted elsewhere, putting more pressure on local tax bases. When utilities increase their rates, the customers do not like it. When the increase is not enough for the utility to meet its costs, it must defer spending on things that are essential. The costs of these deferrals ultimately come home to the customers, and experience shows they are generally later but greater.

Utilities do not have a financial incentive to invest in new plants today. Interest costs are at an all-time high; new borrowing increases the average cost of the corporation's debt. Because of inflation, new plants of any type will generate at higher cost than existing units. The days when a utility could build a new plant, increase its rate base, and reduce its overall generation costs have been gone for more than a decade. To the extent that conservation can reduce future demand, utilities will postpone their next commitment.

The real concern of the public today should be that utilities are under-investing for future plant needs. Delay in investing in base load plants carries two serious risks: (i) if capacity is short, supply will have to be made up by burning more oil and gas and (ii) if future capacity appears inadequate, industrial investments will be made elsewhere or not at all, and the jobs and economic benefits they would have brought will be lost (*22*).

CONCLUSIONS

Because the cost picture for nuclear power has looked so favorable compared to that for alternative energy sources, it has become tempting to accept cost increments in all kinds of areas rather than risk long delays to argue points of technical judgment. It is widely recognized that nuclear plants are overdesigned from seismic and safety standpoints. Efforts to achieve standardization in the hope of shortening the licensing process have meant increased costs. Backfits have been extremely expensive. Regulatory delays, and indeed the long period required for NEPA, site, and safety review, have meant absorbing huge costs in interest charges and replacement power. Adding increments cannot go on indefinitely. The technology could someday be priced out of the market. We believe the loser in that event would be the American people.

The present nuclear cost advantage will probably continue. But even if nuclear power were to have a slight cost disadvantage, it would be essential for diversity of supply to guard against the depletion of domestic oil and gas and the debilitating effect of huge oil imports, and to compete with coal in order to keep all fuel prices from skyrocketing further (*23*). In fact, for diversity of supply or for geographic and system planning reasons, a utility might choose the option that appears to have the higher bus-bar cost if the differential is small, should it appear possible that the choice might result in lower long-term costs to its customers.

In our opinion, if projected bus-bar costs differ by as little as 20 percent, there is an essential role for both technologies, coal and nuclear. There is simply too much uncertainty to claim that any projections will be wholly accurate over the next 40 years. Furthermore, uranium and plutonium have virtually no other use than for energy. This is not true for oil, coal, and gas, which have important nonenergy uses for plastics, chemicals, and other purposes.

Therefore in making generating plant decisions, CECo is unwilling to choose sole dependence on either coal or nuclear generation on the basis of a 20 percent cost advantage either way. As of 1978 CECo has six nuclear units of the 1100-MWe class under construction. We project that in the mid-1980's about 60 to 65 percent of our generation will be nuclear, about 30 percent will be coal, and the remainder will be oil. Generating unit commitments for the foreseeable future will be nuclear and coal. We believe that any policy that precludes or restricts either technology would be unwise for the United States as a whole.

REFERENCES

1. Shippingport, Pa. (90 MWe).

2. Dresden 1, Morris, Ill. (200 MWe); Indian Point, Peekskill, N.Y. [265 MWe (now shut down)]; and Yankee Rowe, Rowe, Mass., 175 MWe.

3. Nine Mile Point, Oswega, N.Y. (610 MWe), and Oyster Creek, Toms River, N.J. (650 MWe).

4. Utilities that have fuel adjustment clauses in their rates pass on fuel cost increases (above a stipulated level) directly to their customers and thus make no profit on that portion of the rate. Nuclear fuel is generally not covered by such clauses. As part of the regular rate structure, it can only be increased in regular rate-making proceedings.

5. A typical unit train is 100 cars long, each car carrying about 90 tons of coal. Edison's coal-burning plants keep 32 such trains in operation, each making weekly round trips. It takes 10,000 to 20,000 gallons of diesel fuel per round trip, depending on route and weather conditions. A simple calculation reveals that haulage requires about 500,000 barrels of oil per year.

6. For example, see C. Komanoff, *Power Plant Performance* (Council on Economic Priorities, New York, 1976).

7. A. D. Rossin, *Economics and Reliability of Light Water Reactors* (American Nuclear Society, LaGrange, Ill., 1976).

8. *Report on Equipment Availability for the Ten-Year Period 1967–1976* (EEI No. 77-64, Edison Electric Institute, New York, 1977).

9. M. E. Lapides, *Power Eng.* 80, 52 (October 1977).

10. ——, *Nuclear Unit Productivity Analysis, 1976 Update* (EPRI NP–559–SR Electric Power Research Institute, Palo Alto, Calif., 1977).

11. *The Edison Electric Institute's Comments and Critique of the Council on Economic Priorities Report* Power Plant Performance *and Its Later Update* (Edison Electric Institute, New York, July 1977).

12. L. J. Perl, *Review and Critique of the CEP Study* Power Plant Performance (National Economic Research Associates, Washington, D.C., 1977).

13. In 1972, CECo filed load projections showing an average peak load growth of 7.6 percent per year through 1982 and 7.1 percent per year thereafter (Byron Station Environmental Report, docket numbers STN 50-454 and 50–455, docketed 20 September 1973). Minimal load growth occurred in 1974 and 1975. The load projections now being used by CECo estimate load growth at 5.3 percent per year from 1978 to 1982 and about 5.0 percent per year thereafter. The reduction is due to a combination of slower economic growth and increased energy conservation. The new peak load projection for 1982 is 17.720 MWe, compared to 24,350 MWe in the 1972 forecast. Since a 5.0 percent growth rate after 1982 still calls for about 900 MWe of new capacity annually (plus replacement of obsolete plants, if any). CECo still expects to add a large nuclear unit almost each year in the late 1980's. It is important to note that the entire increase in U.S. electricity use from 1976 to 1977 was 4.9 percent and the peak load was up 6.5 percent (press release, Edison Electric Institute, New York, 11 January 1978).

14. Although it is not a viable option for new capacity under the National Energy Plan, the estimated cost for an oil-fired station without flue gas scrubbers is about $400 per kilowatt. We have limited station size for coal and oil to approximately 1100 MWe to comply with the Clean Air Act amendments of 1977, using available emission control technology. Two 550-MWe units were considered rather than a single 1000-MWe unit because we have not had experience with fossil units in the 1000-MWe class.

15. It has been the policy of the government to discourage the use of oil and gas for the production of electricity. The Department of Energy has the authority to demand conversion of oil- or gas-fired units to coal. In view of this and the obvious risks in

further reliance on oil, utilities do not consider oil a viable alternative.

16. *Uranium Enrichment Services Activity Financial Statements* (ERDA 77-27 UC-2, Energy Research and Development Administration, Washington, D.C., March 1977).

17. G. R. Corey, testimony before the Environment, Energy, and Natural Resources Subcommittee of the Committee on Government Operations, U.S. House of Representatives, 88th Congress, 1st session, 19 September 1977.

18. *An Engineering Evaluation of Nuclear Power Reactor Decommissioning Alternatives* (AIF/NESP-009, Atomic Industrial Forum, Washington, D.C., 1976).

19. The Price-Anderson Act requires nuclear plant operators to obtain as much liability and property damage insurance as the private insurance industry is willing to offer, and beyond that provides government indemnity, increasing from $560 million originally to $1 billion by 1987, which is also paid for by premiums from the utilities (no government subsidy is involved). As private industry is willing to provide more, the government share will be phased out. Price-Anderson puts an upper limit on the liability of a utility for accident claims. Elimination of this upper limit would leave an open-ended potential liability on a corporation's books.

20. I. A. Forbes and J. C. Turnage, *Exclusive Paths and Difficult Choices* (Energy Research Group, Framingham, Mass., 1978).

21. A. B. Lovins, *Foreign Affairs* 55, 65 (October 1976).

22. Press release, National Association for the Advancement of Colored People, Washington, D.C., February 1978.

23. Nuclear generation in the United States in 1977 was 240 billion kWh. This was equivalent to 125 million tons of coal or 430 million barrels of residual oil.

24. *Operating Unit Status Report* (NUREG 0020, Nuclear Regulatory Commission, Washington, D.C., April 1974 to February 1978).

Mr. SCHMITT. Mr. President, Theodore J. Nagel, writing in the September 15 issue of Science magazine, an article entitled "Operating a Major Electric Utility Today," describes many of the more general questions facing the U.S. electrical power industry. The question, will there be sufficient electrical power for short- and long-term futures, is clearly without an answer at this point. Mr. Nagel defines very, very clearly and, I think, extremely well the various questions that must be answered before we can come to an answer to the broader question. Congress and the administration, most of all, must remove the bottlenecks to the use of presently available technology or very rapidly accelerate our efforts to find generally acceptable paths around those bottlenecks, particularly toward alternative energy sources.

Mr. Nagel cites as the principal difficulties and uncertainties the following items: The general power needs that the country will have over the next several decades; the problems of facility siting, whether nuclear, coal, or other energy sources; the regulatory delays in construction lead times that are now upon us, commonly amounting to more than 10 years, the general question of environment and the cost-benefit analysis of how we protect the environment, at the same time providing electrical power; what will be the primary fuel supplies in various locations; and, finally, how all of this will be financed. I would add to this only the very profound question of what we are going to do with nuclear waste. Are we going to bury it or are we going to utilize it as a resource? And when are we going to accelerate research and development in a variety of areas related to nuclear power generation, most specifically in the development of higher efficiency conversion systems, both for existing technology, such as nuclear and coal, oil- and gas-fired plants; and also for a more modern technology, such as the fuel cell?

(Mrs. HUMPHREY assumed the chair.)

Mr. SCHMITT. Madam President, I ask unanimous consent that the article entitled "Operating a Major Electric Utility Today" be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

OPERATING A MAJOR ELECTRIC UTILITY TODAY

(By Theodore J. Nagel)

The availability of a continuous and uninterrupted electric power supply is regarded by most people in our society as a necessity, if not, indeed, a fundamental right. The consumer's perception is based on the fact that he alone determines the use of electric power to meet some want.

Dependence on electric service permeates our daily lives. Electricity is vital not only to power much of our industrial equipment but also to automate its control. It is critical in the home, on the farm, in the store, in our transportation and communication systems, and indeed in all aspects of our complex, industrialized society. In many instances, other energy sources cannot be used without electricity. A prime example is the oil- or gas-fired furnace in our homes. Thus, any major interruption of electricity's supply will inevitably raise public concern regarding both the technological advance of the nation's power systems and the competence of their managers.

In any consideration of an electric utility's ability to provide a continuous and uninterrupted supply of electric power, it is necessary to keep in mind the unique nature of electricity, a uniqueness frequently lost in public discussions even within the scientific community and most often ignored in political debate concerning energy. This uniqueness is marked by the twin facts that electricity, by and large, cannot be stored and yet must be instantaneously available in the quantities demanded by the consumer whenever and wherever he needs it. Every other industry in our society can schedule its service and exert substantial control over the use of its product. This is true even for service industries such as transportation and communication. The transportation industry can limit the number of passengers on its conveyances, and the communications industry can prevent overloads by a busy signal. For electric power, however, the consumer controls the consumption of the product by a simple flip of the switch. Hence, the capability to serve—to make certain the switch turns on the light—must be planned years in advance. Overloading facilities has dire consequences for the quality of service to the consumer and threatens the very integrity of the power system itself. These stringent requirements are made increasingly difficult by the uncertainties now confronting the industry.

HISTORICAL OVERVIEW

The electric power industry in the United States has evolved during the more than 90 years of its existence from small isolated generating plants supplying local communities over low-tension distribution systems to today's highly complex interconnected and interdependent groupings of power suppliers. Figure 1 traces this growth in terms of both the demand for electricity and the size of ratings of the principal power supply facilities.

It was during the latter half of this 90-year period that the benefits of availability and reduced cost of electric service became major factors in its use. Fifty years ago or so, electricity was still a luxury; it was not available in many of our rural areas; its cost was greater even than today's inflated level. It was only during the period when interconnection among separate power suppliers became practical that the objectives of increased availability and reduced price were realized.

The difficult technical problems of interconnectional operation began to be solved in the decades of the 1920's and 1930's, with improvements made ever since. These early problems included confronting the need to develop equipment and procedures to assure accurate control of frequency—a vital aspect of stable interconnected operation—and to share load-regulating responsibility among all entities composing the network. Gradual expansion of interconnections has resulted in today's vast networks that extend over much of the United States and portions of Canada.

The growth in the size of power supply companies and their ability to interconnect permitted the industry to reduce the cost of electric service by exploiting inherent economies of scale as well as potential technological efficiencies in both generation and transmission. This trend continued until the 1970's, when unprecedented inflation in capital and fuel costs turned the cost curve upward.

THE FUNDAMENTAL FRAMEWORK

The fundamental framework of the power supply industry may be said to comprise financial, regulatory, technological, and institutional considerations.

Electric utilities are without doubt the most capital-intensive of all economic enterprises. The power industry today requires approximately $5 of investment per dollar of annual revenue. This is in sharp contrast to most manufacturing industries, which require $1 or less of investment per dollar of annual revenue. In addition to the high cost of facilities is the need to raise much of the investment in the marketplace. Thus, the power industry is inherently sensitive to the cost of money. It is also sensitive to the cost of the primary fuels used in the generation (conversion) process. Historically, the cost of operation—mainly that of fuel—represented approximately 50 percent of the annualized cost of electricity produced and delivered to the generating plant's terminals. The percentage is even higher today.

Another characteristic of the power industry is that it is among the most highly regulated activities in our economic system. By its very nature, it may be described as a natural monopoly; the cost of duplicate facilities by competing suppliers would be economically disastrous. Hence, regulation is a necessary substitute for competition. Regulation is largely state-oriented with respect to adequacy and cost of service to the retail consumer, with wholesale rates and interstate power transactions regulated by the federal government.

Supplying power is a highly technological process. A typical power system comprises a number of separate generating plants, each containing several generating units, with transformers stepping up to high-voltage buses. These generating plants, in turn, are tied together by a network of high-voltage transmission lines to substations where the power is stepped down to lower voltages for supply to local load areas through subtransmission and distribution networks.

Each component of equipment and each facility of a power system are themselves complex. For example, a generating unit may have a capacity well in excess of 1 million kilowatts and be capable of supplying a moderate-sized city of as many as 1 million inhabitants. It consists of many elements: fuel handling facilities, a steam boiler operating at extremely high temperatures [1000°F (538°C)] and pressures [3500 pounds per square inch (238 atmospheres)], a turbine generator weighing in excess of 500,000 pounds (226,800 kilograms) and rotating at up to 3600 revolutions per minute, and numerous complex controls. Generating plants usually use computer dispatching and control. Power systems—assemblies of plants, transmission lines, substations, and distribution facilities—are largely automated, with heavy use of modern computer and informational technology.

From an institutional standpoint, the power industry is pluralistic, consisting of some 3400 investor-owned, cooperatively owned, municipally owned, state-owned, and federally owned entities. This composition largely reflects the industry's historical origins, together with changes brought about by the need to meet specific national needs. The bulk of power generation and delivery (about 80 percent) is concentrated among the 100 largest systems. Approximately 75 percent of all electric energy produced in this country comes from the investor-owned segment of the industry, with certain large federal, state, and municipal entities accounting for much of the remainder.

ELECTRIC POWER SUPPLY IN THE UNITED STATES TODAY

The advent of interconnections has made power suppliers interdependent. This has resulted in the creation of three major networks in this country. These networks cover (i) the combined eastern two-thirds of the country (including interconnected portions of the Canadian provinces) extending from the Atlantic Coast to the Rocky Mountains, (ii) the state of Texas, and (iii) the vast western section of the nation. By way of comparison, the combined generation of the eastern network alone, amounting to some 380,000 megawatts, is many times that of individual major European nations. The Texan and western networks are capable of generating about 35,000 and 92,000 MW, respectively, in all instances, the territorial spread of these networks is many times that of most other industrialized countries. Yet in each instance, the utilities of each of the three networks are continuously synchronized with each other. Power is dispatched among the various systems composing each of the networks in order to achieve both economy and reliability.

The value of such large aggregations of utilities in networks is evident from the fact that at the instant a generating unit or plant is disconnected from the network, the great bulk of instantaneous support to carry the system's deficiency in generation comes from the inertial energy stored in the combined rotating masses of all generating plants in the network. While such an incident is accompanied by a slight temporary decline in the frequency of the network, the limiting factor in continued reliability of service is, generally, the capability of transmission facilities to sustain the resulting shift in power flows. Here it is important to recognize that the flows of power on individual elements of an interconnected network are generally uncontrolled and distributed in accordance with the physical characteristics (impedances) of the circuit elements. Trouble can of course arise when these elements become overloaded and are disconnected by protective relays. In such a case uncontrolled power failures (cascading and islanding) of certain portions of the network can occur.

The role of interconnections in network performance is often alluded to in assessing a disturbance or emergency. Unfortunately, misconception abounds. Narrowly defined, an interconnection constitutes a transmission tie between two corporately separate electric utility entities. Once established, however, such an interconnection often loses its special significance operationally. While constituting—for purposes of power transaction—one of perhaps several metering points between systems, an interconnection becomes, operationally, simply another transmission link in an already complex network. As for its usefulness in times of emergency, an interconnection is of benefit only if it ties into internal transmission facilities of commensurate capability.

The purpose of interconnections is to expand the scope of the individual power systems so as to enhance both reliability and economy of power supply. In terms of reliability, interconnections provide assistance during generation outages, assist in distributing excessive generation at times of major load outages, and provide support in times of transmission outages.

In economic terms, interconnections allow the full exploitation of economies of scale in both generation and transmission. Savings can thus be realized without compromising reliability, through the sharing of risk. Interconnections also allow the interchange of power to reduce generation costs among utilities to the benefit of the consumer.

During the past 15 years or so, the electric utility industry has recognized that still further coordination in the planning and operation of power systems was required. This need, which became evident with the vast spread of interconnections and the rapid growth of extra-high-voltage transmission was emphasized by the Northeast blackout of 1965. As a result, the electric utility industry formed voluntary regional reliability councils, of which there are now nine. These councils, in turn, make up the National Electric Reliability Council (NERC), covering the entire United States and portions of Canada.

The reliability councils provide a mechanism to ensure the coordination of the system planning and operation of all bulk electric power supply facilities in North America. They provide a means for interchanging large amounts of vital utility data both within and among neighboring councils and, through simulation studies, determining the anticipated behavior of the entire interconnected net work. Such computer simulations are carried out regionally, interregionally, and nationally. National simulations are carried out under NERC auspices. In addition, each of the reliability councils reports annually to the appropriate federal authorities its detailed plans and anticipated status over the succeeding 10-year period.

POWER SYSTEM PLANNING AND OPERATION

The planning and operation of a major electric utility, while basically technological in nature, combine both engineering and art. Engineering aspects include the complex technology of its components, that is, its generating plants, transformers, transmission lines, circuit interrupters, relays, and controls. Mathematical techniques, supplemented by modern computational aids, provide the tools to design and analyze the behavior of such equipment, both separately and in combination.

The art in power system planning arises largely in the synthesis of equipment components into power systems. Although much theoretical work has been done toward the digital programming of system synthesis, the human mind—with its capabilities of imagination and creativity, bolstered by knowledge and judgment—remains the critical element in overall power system design. This is also true of system operation, wherein final decisions, especially in times of emergency, depend on human intervention despite all informational aids and computational assistance.

Economics is, of course, fundamental to the planning process. Costs enter into most, if not all, trade-off decisions in both planning and operating an electric utility.

Electric utility planning in the not-too-distant past (perhaps 10 years ago) was largely a matter of optimization among several alternatives. A utility first determined the probable future need for the supply of kilowatts of demand and kilowatt-hours of energy and then, through digital computer simulation, determined its ability to meet such demand throughout its service area under an array of assumed contingencies. Finally, it chose among several alternatives the program for additional facilities that optimally met the need. On the basis of such a program, it proceeded to build the requisite facilities with few, if any, constraints on its action. In system operation, there was always a reasonable expectation that facilities then under construction would be completed on schedule. One could thus reasonably foresee the system of the future and judge its adequacy to meet the expected demands.

Today, however, all this has changed. The planning and operating of electric utility systems must be carried out in an atmosphere of ever-increasing uncertainty: uncertainty as to the future demand for electricity; uncertainty that the necessary facilities to meet such demand will, in fact, be constructed; and uncertainty that, if constructed, such facilities could be operated. The challenge in managing a power system today lies, therefore, in retaining flexibility and options in order to meet an unknown future.

DAY-TO-DAY POWER SYSTEM OPERATION

The day-to-day operation of a power system is directed and controlled from a dispatch and control center. This figure shows at the far right a portion of a display board indicating in a dynamic or real-time mode the status of all high-voltage circuit breakers and transmission lines. The rest of the wall display includes meters showing the conditions of power flow on all interconnections and generating plants. The central console provides the man-machine interface permitting direct control of generating plants and, depending on the nature of the service area, certain power delivery facilities. The console also provides the central means of communication to all power plants and neighboring system control centers. The communication facilities in use for displaying system conditions and for controlling facilities are generally of three types: carrier communication over the system's own power delivery facilities, dedicated telephone circuits, and microwave channels. The latter are often part of the power system's own communication facilities.

In turn, each such dispatch and control center is linked to its contiguous neighbors through communication channels in order to ensure coordination in operation. Such coordination is carried out under an array of contractual arrangements, which include such conditions as emergency assistance in times of power deficiencies, economy trading to ensure the most economical supply of power at all times, coordinated maintenance of major facilities, as well as short-term and long-term power purchases and sales.

The coordination among contiguous power systems goes on continuously in that power system dispatchers remain in constant contact with each other. The fact that generating plants are subject to both preplanned maintenance outages as well as unexpected equipment failures is rarely known to the consumer of electric energy because such a deficiency on one system is made up by emergency support from other systems. It is only at times of an extreme disturbance, due to a series of unexpected events, that a major interruption to the consumer occurs.

A classic example of day-to-day, hour-to-hour coordination among power systems making up the eastern network of the United States was demonstrated during the recent coal strike. In this instance during one 30-day period, more than 3 billion kilowatt-hours of electric power was imported into the east-central region of the United States from neighboring regions. This was done without overloading any of the major power supply facilities within the interconnected network and without an interruption to the overall power supply in the region.

PRESENT DIFFICULTIES AND UNCERTAINTIES

It is pertinent to examine the nature of the problems now facing the power industry, particularly with regard to those difficulties which have become pervasive during the past several years. Uncertainty is the very essence of the problems facing utility management today. Problems areas[1] can be categorized as (i) power needs, (ii) facility siting, (iii) regulatory delays and construction lead times, (iv) environmental constraints, (v) primary fuel supply, and (vi) financing.

Power needs. The need for power is basic to every utility judgment. Without an increase in demand for electricity in the future, there would be no need (other than for the long-term replacement of facilities) to construct new facilities. The question of the need for power gives rise to the bulk of the remaining issues; it is fundamental in every environmental impact statement (EIS). In utility parlance it is called "load forecasting."

Since the Arab oil embargo of 1973 and the growing recognition of an energy crisis, there has been widespread discussion regarding growth versus no growth in energy demands. Both sides of the debate have held forth from positions of increasing polarization. The no-growth advocates see the societal costs of continued growth as outweighing the benefits. They see growth as limited by both resources and environmental problems. They regard continued growth as having an adverse effect on the quality of life. The advocates of growth see no reason for a decline in the quality of life because of rising levels of energy consumption. They see the benefits of growth, in terms of employment and improvements for the underprivileged in our society, as outweighing the costs. A moderate view realizes that much of the argument is one of value judgments, which, in a free society, should be made by each individual. Those who take this position believe that proper judgments can be made on what particular forms of growth should be encouraged or deterred. They believe that if our society is to endure, some measure of growth is essential.

The utility industry stands astride this growth-no-growth issue. It has been accused of lacking sophistication in load projection, of extropolating past trends toward exponential growth in the demand for electricity, and of projecting a continued doubling in load every 10 years. In fact, many utilities today use well-articulated econometric models and other analytical tools in their load forecasting (with judgments of possible future trends without historical precedent). In their formulation these models attempt to consider the rising costs of electricity and its price elasticity,[2] the effect of conservation, and the availability and substitutability of primary fuels, such as oil and gas.

At present, the power industry has estimated an increase in the demand for electricity of about 5.2 percent per year, compounded annually over the next 10-year period. This compares to a projection of 4.4 percent, compounded cumulatively, in President Carter's National Energy Plan of April 1977. Regardless of the precise growth rate, both figures clearly indicate the need for additional power production and power supply facilities if the nation's demand for electric power is to be met.

Facility siting. Facility siting is a second major constraint facing utility managements today in their attempts to ensure a supply of electric power. Power plants have certain basic physical requirements in siting. Among these are sufficient land, with an accompanying buffer zone if possible; an adequate cooling-water supply for condensing the steam moved through the turbine; an adequate means of rail or water transportation for fuel in a fossil-fired plant and for equipment in all types of plants; and a location that can be integrated reasonably well into the transmission system moving the power from the production source to the consumption centers. These requisites greatly limit the availability of plant sites suitable for development.

All major generating plants are of the condensing type, with a closed cycle. That is, after the high-temperature, high-pressure steam is passed through the turbine, it is injected into a condenser where the remainng heat is removed and the steam converted to water. This not only provides the greatest overall conversion efficiency by recovering the maximum energy in the steam, but also retains the bulk of the highly purified and treated boiler feed-water for reuse. Purity of such water—freedom from contaminating minerals—is essential to limit chemical corrosion of the boiler tubes.

The power industry has striven over the past several decades to reach the theoretical maximum efficiency of the Carnot cycle, the thermal cycle used in all major thermal power plants. New methods of energy conversion, which may allow further increases in conversion efficiency, are being investigated. These include the fluidized bed and magnetohydrodynamics. The former depends for maximum efficiency on a combined-cycle concept in which the hot gases from the furnace drive a gas turbine directly and, in addition, create steam to operate a conventional turbine. The latter depends on the creation of an ionized plasma, which takes the place of a rotating electric field and produces direct-current electricity in the process. However, neither these nor any of the more exotic methods of producing electricity will be available as major sources during the next critical decade.

Public opposition—largely on environmental grounds—is another factor with which utilities must contend in siting plants.

The constraints on nuclear power plant siting are, of course, much more stringent and of a more complex nature than constraints on fossil-fired plants. The elaborate requirements of the Nuclear Regulatory Commission have changed and grown in complexity over the years. The crucial problem in this instance is not so much the need to meet a given set of requirements as the uncertainty regarding changing criteria and future standards for plant location and design. In addition, of course, there is a strong body of organized opposition to nuclear generation.

Opposition to facility siting also applies to transmission lines, an opposition based largely on esthetic grounds. Recently, however, in the case of extra-high-voltage lines, arguments have been raised regarding transmission's adverse health effects. Credible scientific data to support the arguments regarding the effects of ozone and electric fields on health are lacking. By contrast, considerable accumulated experience, international as well as national, supports the case that there are no adverse effects on health. Nevertheless, the industry has renewed its research effort in this area through the Electric Power Research Institute, an industry-sponsored research organization.

In the final analysis, whatever the motivations for opposing facility siting, it is the power industry that faces the problem of providing the facilities required to meet some measure of load growth.

Regulatory delays and construction lead times. Regulatory delays and resulting increased construction lead times are major threats to a reliable and adequate future power supply. The regulatory process, with its many opportunities for intervention and public hearings, has now made it necessary to commit fossil generating plants as long as 8 to 10 years in advance of need, with a minimum lead time of 6 years. Nuclear plant lead times for regulatory approvals and construction are now a minimum of 10 years and in several instances have reached as long as 14 years. Major transmission lines now require lead times of 6 to 8 years; in the past, such construction required only 2 to 4 years.

The introduction of the EIS adds a minimum of 2 years (not counting any time required for intervention and public hearings) to all construction lead times. In the case of nuclear plants this period is greatly extended, of course, by other regulatory requirements. Many states, in addition, have passed laws requiring certificates not only of public need but also of environmental compatibility for power plants and high-voltage transmission lines before construction can begin. These laws, in most instances, require public hearings. In my experience, there have been several instances of delays of 3 years or more in constructing needed 765,000-volt transmission facilities in the state of Virginia. In some instances, the need has been recognized and acknowledged by the regulatory body, but the delay has resulted from environmental opposition by several groups of protesters opposing each other. In one particular case, a badly needed transmission line has been delayed for more than 6 years.

The question of how the facility could be so badly needed if the public is still being served, even without the line, can be answered from a basic tenet in system planning: the planner must plan for an anticipated load level and a set of potential contingencies. Until the anticipated load level is reached and the set of potential contingencies occurs, the service to customers will not suffer even without the line. From this standpoint it is fortunate, perhaps, that load growth has been slowed during the recent past, largely as a consequence of a severe economic recession following an oil crisis. But what happens if load growth should once again accelerate? What would happen if the set of potential contingencies or facility outages were to occur? When this happens, the usual result is called a blackout, and a scapegoat is sought. Rarely is the past record of opposition to and constraint on the construction of facilities set forth.

Finally, the system operator, operating the system in an incomplete or abnormal state, is often able to avoid interruptions through expeditious measures and a reliance on interconnections. But what happens when the insufficiency becomes widespread and the operator's resources run out?

Public concern and involvement in the siting process is essential in a free society. In a complex, industrialized (but orderly) society, however, complex issues require the application of specialized knowledge by those trained and experienced. In other words, a specialized technical activity such as power system planning cannot be carried out in an open forum or in the atmosphere of a town hall. This means that the entire intervention process needs to be circumscribed by certain rules, so that its duration and

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scope are limited and the issues raised are relevant to the matter at hand. The alternative can be nothing less than confusion and chaos.

Environment. Few areas of constraint on the electric utility industry in providing the necessary power supply facilities have reached such levels of uncertainty and confusion as has the case of the environment. Here, the outstanding example is in air quality.

We all recognize the need to arrest continued degradation of the atmosphere and to improve its quality. The argument is not against establishing objectives for air-quality improvement but toward the lack of substantiating scientific evidence that goes into the current setting of standards; the absence of any cost-benefit analyses in the establishment of such standards; the indifference exhibited by the environmental regulators to the vastly rising financial investment to secure that last bit of incremental gain in air-quality improvement; and, perhaps most important, the continually changing standards for the emission of various effluents. Although some change in standards is inevitable during the development of a new and untried process, rapid and unanticipated change in such standards in an area of complex technology and high investment makes rational planning impossible. Certainly, establishing periods and levels of consolidation in air-quality achievement, with standards based on solid data supported by cost-benefit analyses and in line with technological development, is far more reasonable.

Current air-quality requirements have created not only great uncertainty in the planning of new electrical generation but have also created the need for huge capital investments in a difficult time of inflating costs. This is particularly serious in an industry which is the most capital-intensive in our economy.

Heat released in water during the electric energy conversion process has been defined by law as a pollutant. Hence, the industry has resorted increasingly to constructing cooling towers, within which the heat extracted from the exhaust steam by the condenser is dissipated to the atmosphere. This is in contrast to once-through cooling, in which the heat from the exhaust steam is extracted within the condenser by passing through water from a natural cooling body, such as a river or lake. Although cooling towers provide an alternative approach to once-through cooling and avoid the emission of heat directly into the cooling-water body,* they are not without their own environmental impacts. These take the from of an esthetic intrusion on the landcape and, in certain instances, an icing hazard created by the drift of their plumes of moisture. The ultimate development of dry cooling towers (large radiators), from which the heat is released directly to the atmosphere, is fraught with greatly increased inefficiencies, huge physicial size, and very high costs.

Primary fuel supply.[3] Electricity depends for its production on the use of primary energy sources, such as coal, oil, gas, uranium, and the kinetic energy of falling water. Electricity is a secondary source of energy that currently consumes about 29 percent of the nation's overall energy production. A dependable and assured primary fuel supply is therefore vital to the future production of electricity.

The fuel supply to generating plants is one of the greatest uncertainties confronting utility management today. Coalfired generation during 1976 supplied about 47 percent of the nation's electricity and is expected to maintain this commanding lead for the next decade. Coal's absolute contribution is expected to rise from 481 million tons (4.4×10^{11} kg) in 1977 (65 percent of all coal used in the United States) to 879 million tons (8.0×10^{11} kg) by 1986. While seemingly in line with the Carter Administration's energy objectives for the use of coal, the near doubling of coal requirements within this 10-year span creates an insoluble problem of coal supply without immediate and extensive action to expand the western coal fields. In light of the issues confronting the development of western coal, this expansion seems to be impossible at this time. Hence, a great uncertainty arises as to the future coal supply for utility needs, which is further escalated by air-quailty considerations.

The role of oil in generating electricity is expected to decrease slightly from a 1977 figure of 17 percent to 15 percent by 1986. In absolute quantities, however, utility consumption of oil is expected to rise from 631 million barrels in 1977 (about 9 percent of overall petroleum product use) to 878 million barrels in 1987. The bulk of this increase will occur by 1982 as a result of the replacement of natural gas by oil as a boiler fuel. The power industry is well aware, however, of the need to reduce its dependence on oil as a primary fuel. (The last base-load oil-burning unit, previously committed on the basis of air-quality needs, is scheduled for service in 1983.)

Air-quality regulations during the past several years have resulted in the compulsory conversion of certain existing generating units from coal to oil. At present, there are federal attempts to convert many of these same units back to coal.[4] However, the same air-quality regulations that made them convert to oil in the first instance, together with the unavailability of suitable coal supplies, the absence of coal handling and storage facilities at the plant sites, and excessively high costs, prevent the reconversion of many of these units. This is a further example of the uncertain, chaotic situation created by changing goals on the part of governmental authorities.

The use of natural gas as a boiler fuel is expected to diminish from 12 percent of overall power generation in 1976 to 3 percent by 1986. President Carter's 1977 National Energy Plan calls for the complete phasing out of gas as a boiler fuel by 1990. The power industry is aware of the need to cease using natural gas as a boiler fuel. In fact, the last gas-fired unit came into service in 1977. Some conversion to oil, the only feasible alternative fuel for gas-fired units, has already occurred at substantial cost, at a loss in unit capability, and at decreased unit availability due to the fouling of restricted boiler surfaces.

A fourth source of primary energy supply for power generation is nuclear power. Nuclear generating plants supplied 13 percent of all electricity produced in 1977. This figure is projected by industry sources to grow to 28 percent by 1986—a difficult, if not unrealistic, goal in light of the issues facing nuclear generation. The projected growth in nuclear generation would be equal to a fourfold increase in absolute quantities during the 10-year period and is premised on having about 164,000 MW of nuclear generating capacity by 1986. This contrasts with some 39,000 MW at the end of 1976. The vastly extended lead times resulting from lengthy licensing procedures, the Administration's ambivalence toward nuclear power, and the hiatus in commitment toward the breeder reactor for longer-term needs and for reprocessing spent fuel have added immeasurably to the power industry's uncertainty as to the type, degree, and source of its future primary energy needs.

Water power, the only remaining primary energy source for electric power generation, provided 11 percent of electricity production in 1976 and is expected to decline to about 7 percent in 1986. This is primarily the result of a general lack of suitable sites and the rising opposition to the environmental consequences of hydroelectric installations.

Financing. A final but substantial problem facing utility managements today is financial. This involves both the capital and operating aspects of utilities.

Ten years ago, the investment per kilowatt in conventional power plant capacity dropped to as low as $100 to $110. For such a plant committed today and to be brought into service in the early to mid-1980's, the investment is well in excess of $500 to $600 per kilowatt. The reasons for this severe increase in the captial cost of facilities are the substantial increases in labor rates, the escalated costs of equipment and construction materials, and the accumulation of capital charges during the construction period because of increased delays. The financial problem is additionally aggravated by the need for high current investment in pollution-control facilities.

The annual fixed costs to the utility are affected by both the rising capital cost of facilities and the recent increase in the cost of capital itself. The latter is particularly important in view of the fact that more of the utility's capital funds are now raised in the capital markets than in the recent past. Interest rates have experienced significant increases in recent years. These effects have had a compounding impact on the annual fixed costs of facilities.

In addition to the sharp rise in capital and interest costs, the power industry has been plagued by major increases in fuel costs. For example, coal, which for many years cost the American Electric Power Service Corporation 18 to 20 cents per million British thermal units of heat value, has more than sextupled in price, all in the brief span of 7 to 8 years.

Hence, an industry that, for many years, was able to reduce the price of its product through technological improvement and thus counter the effects of past inflation has recently experienced the need for rapid and successive increases in rates for its service. Technological improvement is no longer sufficient to counter inflationtary effects, certainly not in an industry so highly dependent on capital investment.

These steep increases in the cost of electric service have inevitably caused concern and opposition on the part of the consumer and have created difficulties for the regulatory commission, which must approve all requests for changes in electric rates. Unfortunately, many regulatory bodies have yielded to political expediency and have delayed, substantially reduced, or denied utility requests for rate relief.

The net result of insufficient and tardy rate relief has led to the delay of facilities and will lead to a gradual degradation in the quality of service to the consumer. It is perhaps unfortunate that this degradation in quality of service has a relatively long "time constant." While we may warn of impending disaster in power supply, the outward evidence is slow in materializing. However, when it comes, it will be a long time—at least equivalent to construction lead time of 10 years and more—before substantial improvements in power supply can be effected.

DANGERS OF THE FUTURE

The array of problems and uncertainties confronting the power industry, although possibly relatively short term in scope, will have long-term effects. These effects will reveal themselves as a gradual attrition in generation reserve levels and a reduction in transmission capabilities.

Generation reserve levels are that portion of installed capacity in power plants over and above the aggregate demands of all consumers. It is not excess capacity but, rather, capacity that is needed and used to provide for scheduled maintenance outages

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and overhauls of the highly complex equipment of power plants. It is also required to provide against the emergency outages and partial curtailments resulting from temporary equipment failure or malfunction. Similarly, transmission reserves are needed to provide against the inevitable occasional outages, either preventive or forced, of transmission facilities.

The lack of generation reserves sufficient to meet the needs of the power system and its consumers will inevitably lead to the need to curtail service to the consumer during peak-load periods. Initially such curtailments will be infrequent and dependent on the availability of generating capacity; such curtailments will increase in frequency and duration with time.

The lack of sufficient transmission capability to meet all foreseeable contingencies, in the first instance, will lead to temporary blackouts as transmission lines are removed by their protective devices to guard against overload damage. As the problem deepens, however, programmed interruptions will be necessary to avoid the risk of widespread uncontrolled power failures.

With this in the offing, it behooves all power systems to prepare curtailment programs and strategies. Such programs will require state regulatory approval since they involve both voluntary and compulsory steps for reduction in electric energy consumption, to be followed ultimately by actual consumer interruption.

In light of the inevitable impact of these uncertainties on service to the consumer, the question can be asked whether the utilities have the technology and managerial will to cope with future large-scale deficiencies in generation and transmission facilities. On a day-to-day basis the answer is yes.

Telecommunications, computer hardware and software developments, and information processing have reached the point at which the technology for determining system status on a continuous basis ("state estimation" in utility parlance) has been or is being installed at numerous control centers. System simulation techniques likewise permit off-line and on-line assessments to be made. Automatic load-shedding, triggered by the declining frequency of an overloaded system, has been universally installed to cope with sudden emergencies.

The design and control of power systems in the past have been predicated on the existence of adequate generation and transmission. As a result, system operation has been highly automated, and manual load-shedding on power systems as a means of balancing load and generation is often impossible. This problem does not require large-scale new technology but, rather, the expenditure of large sums of money for supervisory control facilities to give the operator of the system the ability to disconnect consumer load.

Grappling with the social issues of interrupted service to the consumer, which has been anathema to past utility managements, whose prime objective was satisfactory service, will perhaps be even more difficult. However, the preservation of the power system to ensure service to the most consumers is of overriding concern. Hence, after everything possible is done to provide the necessary facilities to meet consumer demands, utility managements need to face the ultimate decision of controlled interruption of load.

CONCLUSIONS

Electric power deficiencies can only result in interrupted service to the consumer. Curtailing electric service is the only technological response available to the power industry. Such curtailment will have serious impacts on the socioeconomic structure of this nation. As such, they should be regarded as only short-term responses to a long-term problem.

The long-term solution to power deficiencies requires the building of the requisite power supply facilities. If a prolonged period of an energy-limited economy with all its adverse consequences is to be avoided, action must be taken immediately by the government, with full power-industry cooperation, to alleviate the severe constraints to the construction of required facilities.

FOOTNOTES

[1] *Seventh Annual Review of Overall Reliability and Adequacy of the North American Bulk Power Systems* (National Electric Reliability Council, Princeton, 1977).

[2] In economics, price elasticity defines the change in demand for a product as the result of an incremental change in price.

[3] *Fossil and Nuclear Fuel for Electric Generation—Requirements and Constraints* (National Electric Reliability Council, Princeton, 1977).

[4] Only generating plants originally designed for oil or coal as alternative fuels can be converted.

Mr. SCHMITT. Madam President, I yield the floor to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from New Mexico.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, with statements therein limited to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSCRIPT OF INTERVIEW OF SENATOR ROBERT C. BYRD ON RADIO-TELEVISION PROGRAM "ISSUES AND ANSWERS"

Mr. ROBERT C. BYRD. Mr. President, on September 10, 1978, I appeared on the ABC News Radio and Television program "Issues and Answers," and was interviewed by Bob Clark and Don Farmer of ABC News.

I ask unanimous consent that the stenographic transcript of the program be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

TRANSCRIPT

Mr. Clark. Our guest is the Majority Leader of the Senate, Robert Byrd. Senator Byrd, welcome to Issues and Answers.

It seems likely that whatever is going on this week at Camp David, the United States is moving toward a deeper involvement in the Middle East and in the efforts to achieve an enduring peace there.

Would Congress, in your view, support President Carter in any move to guarantee Middle East peace, whether through a defense treaty with Israel, or through some commitment of an American military presence in the area?

Senator Byrd. I think it would really be premature to speculate on this question.

Mr. Clark. Has the President or anyone in the Administration communicated with you in any way about such matters, about how Congress would react to any proposal that the President made?

Senator Byrd. No.

Mr. Clark. You are totally out of contact with the President at this stage?

Senator Byrd. Absolutely.

Mr. Clark. You have no views whatsoever about whether Congress would look favorably on a bilateral treaty to guarantee Israel's defense?

Senator Byrd. There has been some discussion peripherally about this, but I think it is entirely speculation up to this point. I don't think that I ought to comment on it.

Mr. Farmer. Senator, what about the consequences of Camp David in terms of possible failure to reach some headline-making, major breakthroughs? I am thinking in terms of the political fall-out at home for the President and also much more importantly I suppose, in terms of Middle East peace.

Senator Byrd. There are some risks involved, but there were greater risks involved in not doing anything. I think the President is to be complimented on his role in taking the bold approach that he did, trying to get these individuals together. Because it is only in this way that the impasse could possibly be broken.

I think we ought to keep our expectations along the modest level. I believe there may be some progress, but I am sure that substantial differences have to be overcome.

The important thing is that both Mr. Sadat and Mr. Begin be flexible, and that they both realize that this is an historic opportunity to deal with and possibly move toward a solution to one of the most difficult and dangerous problems facing the world today.

Mr. Farmer. What in your opinion, Senator, would represent some progress, as you expect.

Senator Byrd. I wouldn't want to speculate in this regard. I have very modest expectations concerning the outcome, but I hope it will indicate a positive movement forward. The President is doing his best. I think he should be given credit for this. Just to move forward in an impasse in the moment which probably represents the best opportunity in the past thirty years for some movement is to play a significant role, and I give the President great credit for his courage in this regard.

Mr. Clark. Well, Senator, you say you have very modest expectations. I wonder if we can at least get your definition of what modest expectations are.

For instance, if the only progress at the conference was an agreement that talks would be continued at the ministerial level, would that be satisfactory to you?

Senator Byrd. I am in no position to say what would be satisfactory to me. I just hope that both parties will be flexible, will be willing to give, because it is going to take some give on both sides. I would like to see some progress made in this meeting, or else the thing may go backwards. It is at least a positive effort to keep the thing on the forward movement.

I would rather have modest expectations and see something come out that is encouraging than to have expectations that would not materialize.

Mr. Clark. Well, do you have any thoughts at all about what you would regard as something that is encouraging?

Senator Byrd. No, I wouldn't want to speculate in this regard because it might promote expectations that are not realistic.

Mr. Farmer. What about the risk, sir? You said there are some risks involved. What are the risks involved?

Senator Byrd. The risks involved are that the meeting will end up with no progress whatsoever. But there were even greater risks in not going forward with the effort, and that is why I say it is the only thing to do, and even though there are risks involved, the alternative was worse.

Mr. Clark. Those risks, of course, Senator Byrd, are related to President Carter's low standing in the polls and to his rather desperate need to increase his popularity with the American people.

Your counterpart in the House, Speaker Tip O'Neill, said this week that Democrats who tried to disassociate themselves from the President because of his weakness in the polls are making a terrible mistake. Do you generally agree with that?

Senator Byrd. I have two or three things to say about that. In the first place, I don't pay too much attention to polls at this stage. If it were the night before the election in 1980 and the President were at the same level in the polls, I would be concerned, but that is a long way off. In the meantime, I think we ought to take a good look at the record, and it is the record of accomplishment, and that is the problem with polls. They don't focus on the real record of accomplishment and cooperation between the President and the Congress.

His is a good record of accomplishment.

Now, thirdly, I think the people are going to base their judgment in the Senate and congressional elections on the candidacies, for the most part. It is not going to be on the President's current rating in the polls; it is going to be on the basis of the candidates, what they see in the candidates, and as they look at the record of this Congress, which is good—the productive record has been an effective Congress—I think that kind of record is going to enhance the opportunities of incumbents, especially Democrats, to win, so I feel that the candidates will stand on their own, and the people will make their judgments based on the merits of the candidates——

Mr. Clark. Isn't that the point, as you question the President's record, or as we question the President's record, Senator, that the candidates have to stand on their own or feel they have to. Most Democratic candidates are putting as much distance as possible between themselves and President Carter.

Senator Byrd. Well, that is how we are running in this election or any other election. I would stand on my own record. That is what I expect to be re-elected on when I am running. Stand on my own record. I don't run on somebody else's coattail, and I would think that the people are going to make their judgment based on candidate-X and his record and the record of the Congress, which he has helped to make.

Mr. Farmer. Putting aside just for the moment the elections that are ongoing, the campaign ongoing now, the polls that I have seen—in fact, it was an ABC-Harris poll—showed that Congress, for the first time in the history of the Lou Harris Poll had a higher rating on the President, although the Congress' rating was two-to-one negative. The President's is even worse than that.

If the people, as you said, are not looking at the productivity of the Congress or at the President's accomplishments, what are they looking at to produce this kind of negativism, do you think?

Senator Byrd. I don't know precisely. They may be looking at a number of things. The general image of the Congress. Many people in Congress run against Congress, which, in my judgment, may be at this time good for a particular individual in his district, but I think it is wrong to run against the Congress.

There is the image of one or two or three instances in which an individual Congressman has cast a reflection on the whole Congress. But I think we ought to look at the positive side, the record. This has been an effective Congress. It has dealt with the economy; it passed a tax cut; it passed an economic stimulus package. It put youths to work. It created public works jobs. It passed legislation creating a Department of Energy.

It passed the President's legislation giving him authority to restructure the government It shored up the Social Security financing system, which required courage. It passed a minimum wage bill. It came to grips with the first comprehensive national energy policy that has ever been suggested to the Congress, and it is moving. It is to the point now of enacting that, so if you look at the whole record, you will find that this Congress has faced up to the tough issues: lifting the Turkish arms embargo; the Middle East arms sales; the Panama Canal treaty; faced up to the tough issues and acted on them, and on that record I would say it is a plus record.

Mr. Farmer. Apparently the public is not getting that message.

Senator Byrd. I hope they got it just now, and they ought to get it more and more from Members of Congress and from the press. Rather than focusing on the minor, the little things, and carping on little issues, some of which ought to be, of course, mentioned, but I think the record is what counts, and it is a record of productivity, effectiveness, courage and backbone.

Mr. Clark. Senator, without quarreling with this list of accomplishments that you have just cited—and certainly there are many Republicans and quite a few Democrats out on the campaign trail who are quarreling with those accomplishments—you did say that Congress is about to pass an energy package. That is widely regarded in the United States, as abroad, as the greatest failure of this Democratic-led Congress. Now, what happens if you don't pass an energy bill?

Senator Byrd. I don't agree with that at all, that it is the greatest failure. I think it is going to be a great accomplishment.

In the very beginning, 17 months ago, I said this would be a ballgame that would be going into extra innings, and it is in extra innings now, and never have I once conceded that it is going to be a failure. While everyone else has erected tombstones, I have said it is going to pass, and it is at that point of passing, and I am increasingly optimistic that it will pass in the next few days.

Mr. Clark. Senator, other Democratic leaders of the Senate say there is still a large uncommitted bloc out there. What makes you suddenly so optimistic about passage?

Senator Byrd. I agree that there is still a large uncommitted bloc but, based on my own personal contacts with more than 70 Senators, and knowing the identity of those Senators who are out there in that uncommitted bloc and their leanings, I am increasingly optimistic that we are going to pass this bill.

Mr. Clark. There is, Senator, just to pursue this one step, Howard Baker, the Minority Leader in the Senate, who is regarded as a very significant fellow in this final debate over the energy bill, and he is opposed to the bill. The question is, how aggressively he is going to fight it. Do you know something we don't know that he has mellowed his position? Where does the optimism come from?

Senator Byrd. I have not had any contact with Mr. Baker since he announced his position as being against this bill, but I am not talking about the aggressiveness of those who may be opposing the bill. I am thinking of the aggressiveness of those of us who support it and the confidence in that bill and the merits of that bill and the case that we have. This is why I believe that we are going to face up to our responsibility and pass the bill.

Mr. Clark. You seem to be saying you have got the votes to win. Is that what you really mean?

Senator Byrd. I am saying that I am increasingly optimistic that the votes will be there when the roll is called.

Mr. Clark. But they are not quite there yet?

Senator Byrd. I agree that neither side at the moment has a majority.

Mr. Farmer. Senator, it has been what, about 17 months now since the energy plan was put forward by the President?

Senator Byrd. Yes.

Mr. Farmer. It has been ten months or more since the conferees have been debating the natural gas part of the bill?

Senator Byrd. Yes.

Mr. Farmer. When are we going to get a vote?

Senator Byrd. That is a good question and in the meantime the massive imports of oil and gas have continued and with a detrimental effect on the dollar and erosion of purchasing power which could better be used to provide jobs at home.

Now, I understand that the opponents of the bill are going to offer a recommittal motion on Wednesday. I have sought to get a time agreement.

Mr. Farmer. Excuse me. That is a motion which would in effect kill the bill?

Senator Byrd. In my judgment, practically speaking, it would kill the bill. I mean, even if it could be reported back.

In my judgment it is a mere pretense at national long-term policy, and it cuts out the long-term policy that is included in this bill and it would provide only a mechanism that would be brought into effect if and when another unreasonably cold winter, like that of January, 1977, were to occur.

Any mechanism that has to be brought into effect only by an extraordinarily cold winter in my judgment provides the nation with no long-term energy policy. I would hope that the motion to recommit would fail. I believe it will fail, and then I would hope that the opponents would be willing to have an up or down vote on this measure.

Mr. Farmer. Has it been obstructionist, the opposition?

Senator Byrd. I don't like to use that word at the moment. There has been a very prolonged and bitter filibuster last fall in connection with this particular bill. I think it has been debated long enough. This is a complex and long and complicated conference report and it requires a reasonable time for debate, and I am willing to see it have a reasonable time for debate. But, when that reasonable time has expired, I think that the Senate ought to vote up or down and show the American people that it can rise above sectional, regional, parochial, provincial interests and act in the national interest.

I would hope that within a week or ten days the Senate could reach a final decision up or down on the conference floor.

Mr. Farmer. Your audience, the President's audience, is also the world audience. You and the President, Dr. Schlesinger and others, have pointed out, have said that failure to enact this piece of legislation could very well damage America's economic status in the world, could further erode the value of the dollar.

My question is this: Aren't you raising the stakes so high, Senator, on this bill, you and your colleagues, and the people who agree with you, that if it should fail in the Senate, that you and the President and everyone else on this side of the issue would then in fact be partly to blame for the further-erosion of the dollar and lack of confidence in the economy?

Senator Byrd. No, No.

When I was in Europe in July, the primary question on the minds of Chancellor Schmidt of Germany, Prime Minister Callaghan of England and other leaders in European countries was, what is America going to do about its energy problem and when.

Now, one significant piece of evidence that favorable action on this bill will help to stabilise the dollar and will give the world confidence that America is really willing and has a self-discipline to act to deal with its economic problems, its inflation problem and its energy problem, occurred only this past week in the House of Representatives. When a proposal to restrict the President's ability to deal with oil imports was rejected, the dollar rose. So, I don't think there is any question but that the world is looking at what the United States Senate is going to do, and it will have a decided impact on the value of the dollar.

It is not the total answer to the dollar's ills, but it will give the perception to the world that the United States does have the determination, the will power and the self-discipline to act and to deal with its most dangerous, most important problem facing it today, the energy problem, which underlies inflation, underlies the economy, underlies international security.

Mr. Clark. Senator, the President did win another big victory in the House this week when the House upheld his veto of the defense spending bill that included a $2 billion nuclear aircraft carrier. Is that, in your view, going to embolden the President to veto more bills—and he is worried about a number up here, so-called budget-busting bills——

Senator Byrd. Could I get back to the natural gas issue or do you plan to get back to that?

Mr. Clark. Please say whatever else you wanted.

Senator Byrd. I want to say just a little bit about this conference report. This conference report is a compromise. It involves an issue that has been around for forty years, since the Natural Gas Act was enacted in 1938. It is an issue which two presidents have vetoed; President Eisenhower and President Truman vetoed bills dealing in one way or another with natural gas regulation. It is a very divisive issue. It is regional, it is parochial, it is provincial, it is emotional, it is long-standing. The forces in the Senate are pretty evenly divided, so all we can possibly come up with is a compromise, and when one has a compromise it is something that nobody is completely satisfied with but it is the best that we can get and it is the best that we are going to get. And what it will do is this: It helps the producer by providing incentives for production; it gives him certainty as to prices; it moves in the direction of phased deregulation.

Mr. Clark. Senator, I think we have to give thought to giving a little time to opponents of the bill and we will try to speak for them. We are raising the questions that they would raise.

Senator Byrd. I understand, but let me say this about the consumer: It provides him with an uninterruptible supply at reasonable prices. So it does something for both, and it is a compromise and it is the best we will get and I think we have to take it.

Mr. Clark. Of course, you say it provides the consumer with an uninterruptible supply at reasonable prices. The liberals argue with that. They say in effect it would be a ripoff of the consumer; that it is a far departure from the bill that President Carter originally——

Senator Byrd. Well, those are code words and, of course there are some Senators—and I respect them—who don't want any bill at all. They would rather see the status quo, which is terrible, and those who think if this bill is defeated they will get something better later had better think twice.

Mr. Farmer. But, sir, there are a producing state senators and consumer advocate senators, senators who are known for that, who have joined in this very unusual coalition against the bill; both sides.

Senator Byrd. Exactly. There are producing state senators and there are consumer advocates who have also joined in supporting the bill. So you have a split here on both sides. You have producers and consumers supporting the bill; you have some opposing it.

Mr. Clark. If we can get back to the House victory for the President this week when the House upheld his veto of the defense spending bill, is that going to cause the President to adopt the get-tough attitude with Congress, an attitude he has been unsuccessful so far in adopting, and veto more bills?

Senator Byrd. Well, I don't see it in that veto. I think the President has the duty and responsibility to veto any bill under the Constitution that he feels is unwise legislation.

This President has vetoed five bills in 20 months. Mr. Ford vetoed 46 bills in 20 months. Mr. Kennedy and Mr. Johnson each vetoed 11 bills in 20 months. This is a record of cooperation between Mr. Carter and Congress rather than confrontation.

Mr. Clark. You were quoted in today's papers as saying it would be a horrible mistake for President Carter to go off on a veto binge at this stage. Would it be a horrible mistake if he vetoed the public works bill or tuition tax credits or the tax cutting bill if it doesn't satisfy his concept of what it would do to the budget?

Senator Byrd. Let's say it this way: I said it would be a horrible mistake for the President to veto bills just to manifest a "get tough" attitude. That would be counterproductive, and the President knows that, I am sure.

As to the specific bills, again I say he should veto any bill which in his conscience, and based on his judgment after all the facts are laid out, he thinks is a bad bill. Congress has the option to override and we will act accordingly.

Mr. Farmer. Senator, will you support the efforts by some of your Republican colleagues for a Senate resolution which will have a special independent prosecutor appointed to look into the scandal at the Government Services Administration?

Senator Byrd. You know I have seen this same effort to appoint a special prosecutor on the part of the same senators in many instances.

Mr. Farmer. And it often fails?

Senator Byrd. Three or four times. Everything that comes up, there ought to be a special prosecutor in the judgment of some people.

This is a vestigial remnant of the Watergate mentality. After all, the government should be able to investigate itself. It has the means and it can do it fairly and effectively. And it is doing it in this case. We have the General Services Administration with a special counsel, Mr. Vincent Alto, who is doing a good job at this. The administrator, Mr. Solomon, an exemplary job. So here is the agency itself moving to correct these things.

Also, the Justice Department, which is the law enforcement agency of this government, is moving forward. There are two grand juries looking into the matter. There is a subcommittee of the Senate that is looking into it. So it is being ably and effectively investigated, the government is investigating, the government is asking for indictments and I understand that there are going to be fifty or more soon, and the government will prosecute, so I think it is premature to talk about a special prosecutor.

Mr. Clark. If I may just note, we are just about out of time, but we had all of the elements you mentioned; we had the Justice Department investigating, and internal investigations and so on in Watergate and it still turned out it took a special prosecutor to break loose the facts in that case.

Couldn't the same thing be true in the General Services Administration scandal?

Senator Byrd. You are talking about a case that is as different from this situation as day is from night.

Mr. Clark. I am not sure the Republicans would agree with you on that.

Senator Byrd. Well——

Mr. Clark. Doesn't it put the pressure on Democratic leadership——

Senator Byrd. No.

Mr. Clark. —to show that they are going to be just as tough?

Senator Byrd. No. No. It puts the pressure on the Justice Department, the General Services Administration, to act effectively, fairly and expeditiously and this is being done, and the President has indicated his interest in the matter by talking with Mr. Solomon and by appointing Mr. Kirbo as special adviser.

Mr. Clark. Senator, I am sorry, we are out of time. Thank you for being our guest on Issues and Answers.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION AND WELFARE APPROPRIATIONS, 1979

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Senate proceed to the consideration of the Labor-HEW appropriation bill, Calendar Order No. 1040, H.R. 12929.

Mr. SCHMITT. Madam President, reserving the right to object, and I shall not object, I ask the majority leader if this has been cleared on our side?

Mr. ROBERT C. BYRD. Yes, it has been cleared. I would move to proceed to it at this stage of the Senate session even if there were an objection, but it has been cleared.

MR. SCHMITT. I thank the majority leader. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12929) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments as follows:

On page 2, line 7, after the comma, insert "of benefits and payments as authorized by title II of Public Law 95-250,";

On page 3, line 1, after "year" insert a semicolon and the following:

Provided further, That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments

On page 4, line 22, strike "$59,354,000" and insert "$59,954,000";

On page 7, line 9, strike "$167,474,000" and insert "$174,974,000";

On page 7, line 24, strike "which does not maintain a temporary labor camp";

On page 8, line 11, strike "$123,500,000" and insert "$127,500,000";

On page 10, line 21, strike "$681,092,000" and insert "$711,834,000, including 9,413 full-time permanent positions";

On page 10, line 23, strike "$1,400,000" and insert "$2,000,000";

On page 11, line 24, strike "$159,060,000" and insert "$166.289.000. including 3,982 full-time permanent positions";

On page 12, line 10, strike "$889,192,000" insert "$925,000,000, including 2,076 full-time permanent positions";

On page 12, line 16, after "$485,584,000" insert a comma and "including 791 full-time permanent positions";

On page 12, line 21, strike "$63,841,000" and insert "$60,000,000, including 287 full-time permanent positions";

On page 13, line 1, after "$287,869,000" insert a comma and "including 642 full-time permanent positions";

On page 13, line 8, strike "$188,910,000" and insert "$225,000,000, including 567 full-time permanent positions";

On page 13, line 14, after "$183,198,000" insert a comma and "including 651 full-time permanent positions";

On page 13, line 19, strike "$225,092,000" and insert "$230,000,000, including 180 full-time permanent positions";

On page 13, line 25, strike "$119,005,000" and insert "109,605,000, including 400 full-time permanent positions";

On page 14, line 3, strike "$54,526,000" and insert "$49,500,000, including 263 full-time permanent positions";

On page 14, line 9, after "$100,549,000" insert a comma and "including 191 full-time permanent positions";

On page 14, line 15, strike "$73,227,000" and insert "$70,000,000, including 401 full-time permanent positions";

On page 14, line 20, strike "$152.899.000" and insert "$153,899,000, including 80 full-time permanent positions";

On page 15, line 6, strike "$8,789,000" and insert "$8,989,000";

On page 15, line 14, strike "$31,887,000" and insert "$35,000,000, including 505 full-time permanent positions";

On page 15, line 23, after "$19,673,000" insert a comma and "including 4,770 full-time permanent positions and";

On page 16, line 11, strike "$730,022,000" and insert "$752,022,000";

On page 17, line 1, strike "$463,012,000" and insert "$439,131,000, including 1,300 full-time permanent positions";

On page 17, line 3, strike "for loan guarantees and interest subsidies under Part B of title VII";

On page 18, line 16, strike "$52,518,000" and insert "$55,417,000, including 1,921 full-time permanent positions";

On page 19, line 25, strike "$11,515,000,000" and insert "$11,250,000,000";

On page 20, line 20, after "of that year" insert a colon and the following:

Provided, That the funds appropriated for carrying out title XIX of the Social Security Act for fiscal year 1978 shall remain available for obligation and expenditure during fiscal year 1979: *Provided further*, That no payment shall be made from this appropriation for State or local expenditures made prior to september 30, 1977, unless such payment is for an expenditure which, on or before September 30, 1978, or 90 days after enactment of this bill, whichever occurs later, is duly recorded in the records of the single State agency responsible for the administration of the State plan and reported to the Secretary or unless such payment has been administratively determined to be of an exceptional and unavoidable nature

On page 21, line 15, strike "$7,756,913.000" and insert "$7,762,913,000";

On page 21, line 21, strike $101,612,000" and insert "$106,612,000";

On page 22, line 24, strike "$3,077,570,000" and insert "$2,888,595,000";

On page 23, line 3, strike "$3,448,870,000" and insert "$3.255,345,000";

On page 23, line 8, strike "$3,077,570,000" and insert "$2,888,595,000";

On page 23, line 9, strike "$190,000,000" and insert "$193,000,000";

On page 23, line 13, strike "$7,400,000" and insert "$4,400,000";

On page 23, line 21, strike "$823,400,000" and insert "$769,100,000";

On page 23, line 23, strike "$747,900,000" and insert "$696,600,000";

On page 24, line 1, after "Act" insert a colon and the following:

Provided, That the total amount paid with respect to entitlements under section 3 of that title shall not exceed the amount paid under that section in fiscal year 1978, and any reductions required thereby shall be derived by proportionately reducing the payments applied for by all local educational agencies under that section

On page 24, line 9, strike "$33,000,000" and insert "$30,000,000";

On page 25, line 3, strike "$327,000,000" and insert "$352,700,000";

On page 25, line 12, strike "$971,825,000" and insert "$981,450,000";

On page 25, line 13, strike "$15,000,000" and insert "$20,000,000";

On page 25, line 20, after "amended" insert "(except part B, subpart 2)";

On page 25, line 21, strike "$766,007,000" and insert "$787,456,000";

On page 25, line 22, strike "of which $29,557,000 for Part B subpart 2 of the Vocational Education Act shall remain available until expended";

On page 26, line 3, after "herein" insert a colon and the following:

Provided further, That not to exceed $112,317,000 shall be for carrying out part a, subpart 3 of the Vocational Education Act.

On page 26, line 7, strike "$3,373,100,000" and insert "$2,140,600,000";

On page 26, line 8, strike "$86,750,000" and insert "$76,750,000";

On page 26, line 9, strike "$520,000,000" and insert "$600,000,000";

On page 26, line 12, strike "$4,675,750,000" and insert "$3,513,250,000";

On page 26, line 13, strike "$4,651,350,000" and insert "$3,486,350,000";

On page 26, line 15, after "Provided," insert the following:

That such funds may be expended notwithstanding the provisions of section 1208(a) (2) of the Higher Education Act: *Provided further*,

On page 27, line 7, after the semicolon, insert "section 421 of the General Education Provisions Act;";

On page 27, line 11, strike "$390,000,000" and insert "$394,000,000: *Provided*, That funds contained in Public Law 95–205 for carrying out section 525 of the Education Amendments of 1976 shall remain available for obligation until September 30, 1980";

On page 27, line 21, strike "$257,975,000" and insert "$274,975,000";

On page 27, line 22, strike "$175,000,000" and insert "$185,000,000";

On page 28, line 8, strike "$133,535,000" and insert "$131,911,000, of which not to exceed $1,840,000 shall be for carrying out section 403 of the Special Projects Act";

On page 28, beginning with line 11, strike through and including line 20;

On page 28, line 24, after "$126,830,000" insert a colon and the following:

Provided, That during the current fiscal year up to $10,000,000 in collections on Federally insured defaulted loans may be transferred to the Salaries and Expenses account for the payment of related collection activities.

On page 29, line 7, strike "$725,814,000" and insert "$714,314,000";

On page 30, beginning with line 8, strike through and including line 18;

On page 30, line 23, strike "$97,500,000" and insert "$90,071,000";

On page 31, line 4, strike $39,363,000" and insert "$37,603,000";

On page 32, line 15, after "Treasury" insert a colon and the following:

Provided further, That the funds appropriated for title XVI of the Social Security Act for fiscal year 1978 shall remain available for obligation and expenditure during fiscal year 1979

On page 33, line 11, after "year" insert a colon and the following:

Provided, That the funds appropriated for carrying out title IV of the Social Security Act for fiscal year 1978 shall remain available for obligation and expenditure during fiscal year 1979: *Provided further*, That no payment shall be made from this application for State or local expenditures made prior to September 30, 1977, unless such payment is for an expenditure which, on or before September 30, 1978, or 90 days after enactment of this bill, whichever occurs later, is duly recorded in the records of the single State agency responsible for the administration of the State plan and reported to the Secretary or unless such payment has been administratively determined to be of an exceptional and unavoidable nature

On page 34, line 7, strike "$147,500,000" and insert "$155,300,000";

On page 34, line 9, strike "$2,234,587,000" and insert "$2,251,587,000";

On page 35, beginning with line 15, insert the following:

Gallaudet College, Howard University, the National Technical Institute for the Deaf, and the American Printing House for the Blind are authorized to make purchases through the General Services Administration.

On page 37, line 9, after "year" insert a colon and the following:

Provided, That no payment shall be made from this appropriation for State or local expenditures made prior to September 30, 1977, unless such payment is for an expenditure which, on or before September 30, 1978, or 90 days after enactment of this bill, whichever occurs later, is duly recorded in the records of the single State agency responsible for the administration of the State plan and reported to the Secretary or unless such payment has been administratively determined to be of an exceptional and unavoidable nature; *Provided further*, That the funds appropriated for carrying out title XX of the Social Security Act for fiscal year 1978 shall remain available for obligation and expenditure during fiscal year 1979

On page 38, beginning with line 9, strike through and including line 19;

On page 38, line 23, strike "$72,156,000" and insert "$71,156,000";

On page 39, line 12, strike "$128,813,000" and insert "$128,026,000";

On page 39, line 15, after "therein" insert a colon and the following:

Provided, That funds, appropriated under this head in Public Law 92–240 for compensating the State of Washington for expenses related to the Tacoma Indian Hospital, shall remain available until expended.

On page 39, line 23, strike "$25,000,000" and insert "$27,000,000";

On page 44, beginning with lines 25, strike through and including page 45, line 3, and insert in lieu thereof the following:

Sec. 210. None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or where medically necessary, or for rape or incest victims. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

On page 45, beginning with line 15, insert the following:

Sec. 212. Funds appropriated under this title may not be used to pay compensation of experts or consultants (other than full-time employees) or organizations thereof, or to procure by contract the services of experts or consultants or organizations thereof, in excess of $194,000,000 during fiscal year 1979.

For the purposes of this section, consultant costs are defined by chapter 815 of the General Administration Manual of the Department of Health, Education, and Welfare.

On page 46, line 25, strike "$648,000" and insert "$638,000";

On page 51, beginning with line 15, insert the following:

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient or agent acting for such recipient to engage in any activity designed to influence legislation or appropriations pending before the Congress.

On page 52, beginning with line 17, strike through and including page 53, line 9.

Mr. ROBERT C. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the distinguished Senator from Wisconsin (Mr. Proxmire) be permitted to speak briefly out of order, notwithstanding the Pastore rule.

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Wisconsin.

GENOCIDE CONVENTION: MORE THAN JUST OUR CONCERN

Mr. PROXMIRE. Madam President, I thank the distinguished majority leader very much. I shall take only a minute or two.

Madam President, I have been continually heartened by the widespread support that the Genocide Convention has received across the country. Numerous civic, religious, professional, and political organizations have endorsed this treaty from coast to coast. Newspaper editorial support has been strong as well, from the New York Times to numerous small weeklies.

Madam President, I am very proud of my association with the Yale University from which I graduated a few years ago. Yale has the oldest college daily. It has a number of very distinguished men who have served as chairmen of the Yale News, including Potter Stewart, who is, of course, an Associate Justice of the Supreme Court, and Sargent Shriver, whom we all know as a distinguished statesman.

I am happy to say that they have had a column warmly supporting the Genocide Convention.

This column is written by David Lempert. David Lempert was an intern in my office this past summer.

I am particularly delighted to report that my alma mater's campus paper, the Yale Daily News, has just run that column on the editorial page in support of Senate ratification of the Genocide Convention. Written by senior, David Lempert, the column decries our refusal to raitfy this treaty as—

> An embarrassment in foreign policy. It has been a signal of hypocrisy in our policy of human rights. It has been a sign of our unwillingness to take the role of moral leader. Overall, failure to ratify the treaty has been a blot on our Nation's history.

I could not have said it better.

Mr. President, my hat is off to the editors of the Yale Daily News for recognizing the importance of Mr. Lempert's column.

But as an old Eli, I fully recognize that this type of forward thinking by the Daily is to be expected.

Madam President, I ask unanimous consent that David Lempert's column from the September 21 issue of the Yale Daily News be printed in full in the Record. It is a column that spells out the reason why the Genocide Convention should be adopted by the Senate.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Yale Daily News, Sept. 21, 1978]

(By David Lempert)

Putting an End to Mass Murder

Nearly 40 years ago, a Yale graduate student named Raphael Lemkin invented a new word to describe an act familiar throughout the world.

The word, now known to almost everyone, is "genocide," defined by the United Nations as the "intent to destroy in whole or in part an ethnical, racial or religious group."

In simpler terms, it is mass murder. The slaughter of six million Jews in Nazi Germany, the wanton destruction of nearly two million Armenians in Turkey at the turn of the century, and the murder of thousands of Christians in ancient Rome are some of the most striking and horrifying examples of this barbarous act.

The question what to do about stopping genocide has now come to world attention again in the face of mass murder in Cambodia. Nearly two million have already been slaughtered in that nation.

A number of individuals have already expressed their concern with this tragedy. One of the most vocal has been Senator George McGovern who has suggested some sort of international action to stop the killing.

Unfortunately, Senator McGovern has faced much criticism for his moral concern. But it is even harder to face the fact that the United States has refused to sign one of the most simple international agreements condemning genocide.

Back in 1949, in the wake of the Nazi holocaust, a number of nations agreed that it was time to join in the condemnation of genocide.

Under international law, genocide became a crime against humanity. Eighty-three nations are now a party to the United Nations Convention for the Prevention and Punishment of the Crime of Genocide.

Yet, for 29 years, the United States, a nation traditionally committed to the principles of human rights and moral leadership in foreign policy and a leader in drafting the genocide treaty has refused to accede to this small but significant agreement.

The major obstacle has been the United States Senate. Despite pleas by Wisconsin Senator William Proxmire, a Yale Graduate, and New York Senator Jacob Javits, the Senate has continued to fall short of the two-thirds majority needed for ratification.

Nearly every day for the past eleven years, Proxmire has spoken out on the treaty. But he is not the only voice in favor.

Numerous Senate colleagues and every President since Truman, Republican or Democrat, have supported the agreement. So has nearly every major interest group and Secretary of State. The Senate Foreign Relations Committee has backed the treaty four times.

The opposition, a number of Southern Senators and a few interest groups such as Liberty Lobby, has stood in the way of United States support for this fundamental document.

Opposition to the treaty has ranged from arguments that it is too week to fears that it endangers the freedoms of United States citizens and commits the United States to take military action against foreign governments.

When the treaty was first brought before the Senate, some legal experts claimed that it was too vague.

Southerners feared that individuals would be tried for actions which deprived blacks of their civil rights.

Others warned that American citizens would be subject to extradition and trial before international tribunals.

In fact, the articles of the convention are clear on these subjects. Fears about the treaty are unfounded.

One of the earliest opponents of the treaty, the American Bar Asociation, recently reversed its position and came out in favor of the agreement after reexamining these issues.

During the years that the Senate has delayed, millions have died—in Nigeria, Equatorian Guinea, Uganda, and now in Cambodia—all victims of genocide.

True, United States support of the treaty may not have been enough to prevent any of these deaths.

But our refusal to sign has only been an embarrassment in foreign policy. It has been a signal of hypocrisy in our policy of human rights. It has been a sign of our unwillingness to take the role of moral leader.

Overall, failure to sign the treaty has been a blot on our nation's history.

As Senator Proxmire has asked, "Must we be in the last nation to sign this treaty?"

Mr. PROXMIRE. Madam President, I thank the distinguished majority leader, and I yield.

Mr. ROBERT C. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1979

The Senate continued with the consideration of H.R. 12929.

Mr. MAGNUSON. Madam President, is the pending order of business before the Senate H.R. 12929?

The PRESIDING OFFICER. The Senator is correct.

Mr. MAGNUSON. Madam President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill, as thus amended, be considered as original text for purposes of further amendment and that no points of order be considered to be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Madam President, at this point and in order to facilitate the study of the committee recommendations by Members of the Senate, their

staffs, and others, I ask unanimous consent to have printed in the RECORD a table reflecting all of the figures in the bill.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1979

[Amounts in dollars]

Item	1977 appropriation	1978 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
						1978 appropriation	Budget estimate	House allowanc
TITLE I—DEPARTMENT OF LABOR								
EMPLOYMENT AND TRAINING ADMINISTRATION								
Program administration:								
Planning, evaluation, and research	5, 256, 000	5, 715, 000	5, 639, 000	***	***			
Comprehensive employment development	38, 442, 000	49, 103, 000	47, 556, 000	***	***			
Trust funds	(2, 409, 000)	(2, 428, 000)	(2, 333, 000)	***	***			
Apprenticeship services	12, 989, 000	13, 856, 000	14, 067, 000	***	***			
U.S. employment service	708, 000	708, 000	803, 000	***	***			
Trust funds	(14, 738, 000)	(15, 161, 000)	(17, 044, 000)	**	***			
Unemployment insurance service	1, 341, 000	1, 621, 000	1 620, 000	***	***			
Trust funds	(10, 037, 000)	(10, 890, 000)	(10, 313, 000)	***	***			
Investigation and compliance	751, 000	870, 000	1, 042, 000	***	***			
Trust funds	(1, 139, 000)	(1, 131, 000)	(1, 368, 000)	***	***			
Executive direction and management	16, 725, 000	18, 959, 000	19, 711, 000	***	***			
Trust funds	(3, 911, 000)	(4, 024, 000)	(4, 180, 000)	***	***			
Subtotal, program administration	108, 456, 000	124, 466, 000	125, 676, 000	***	***			
Federal funds	76, 222, 000	99, 832, 000	90, 438, 000	***	***			
Trust funds	(32, 234, 000)	(33, 634, 000)	(35, 238, 000)	***	***			
Employment and training assistance (CETA):								
General manpower training (title I)	1, 880, 000, 000	1, 880, 000, 000	2, 026, 000, 000	***	***			
National projects (title III):								
Training	558, 360, 000	343, 060, 000	415, 122, 000	***	***			
Program support	42, 370, 000	44, 870, 000	43, 910, 000	***	***			
Subtotal	600, 730, 000	387, 930, 000	459, 032, 000	***	***			
Special youth programs (titles III and VIII):								
Young adult conservation corps	233, 333, 000		216, 900, 000	***	***			
Youth incentive entitlement pilot projects	115, 000, 000		107, 100, 000	***	***			
Youth employment and training programs	536, 667, 000		499, 796, 000	***	***			
Youth community conservation and improvement program	115, 000, 000		107, 100, 000	***	***			
Subtotal, special youth programs	1, 000, 000, 000		930, 896, 000	***	***			
Summer youth employment program	595, 000, 000	756, 000, 000	740, 200, 000	***	***			
Job Corps (title IV)	247, 100, 000	417, 000, 000	296, 000, 000	***	***			
Private sector initiative			400, 000, 000	***	***			
Subtotal, employment and training assistance	4, 322, 830, 000	3, 440, 930, 000	4, 852, 828, 000	***	***			
Temporary employment assistance (CETA II and IV)	8, 387, 000, 000		5, 955, 286, 000	***	***			
Community services employment for older Americans	150, 000, 000	190, 400, 000	228, 450, 000	***	***			
Federal unemployment benefits and allowances:								
Payments to former Federal personnel	440, 000, 000	560, 000, 000	660, 000, 000	660, 000, 000	660, 000, 000	+100, 000, 000		
Trade adjustment assistance	120, 000, 000	240, 000, 000	190, 000, 000	190, 000, 000	190, 000, 000	−50, 000, 000		
Unemployment assistance and payments under other Federal unemployment programs	300, 000, 000	400, 000, 000	100, 000, 000	100, 000, 000	−300, 000, 000	−100, 000, 000		
Subtotal, FUBA	860, 000, 000	1, 200, 000, 000	950, 000, 000	950, 000, 000	950, 000, 000	−250, 000, 000		
Grants to States for unemployment insurance and employment services:								
Unemployment Insurance Service	(697, 000, 000)	(771, 100, 000)	(804, 655, 000)	(813, 055, 000)	(813, 055, 000)	(+41, 955, 000)	(+8, 400, 000)	
Employment Services:								
Federal funds	89, 100, 000	53, 600, 000	21, 600, 000	21, 600, 000	21, 600, 000	−32, 000, 000		
Trust funds	(475, 900, 000)	(583, 500, 000)	(646, 400, 000)	(646, 400, 000)	(646, 400, 000)	(+62, 900, 000)		
Subtotal, Employment Services	565, 000, 000	637, 100, 000	668, 000, 000	668, 000, 000	668, 000, 000	+30, 900, 000		
Contingency fund	(239, 800, 000)	(174, 400, 000)	(223, 545, 000)	(234, 145, 000)	(234, 145, 000)	(+59, 745, 000)	(+1, 600, 000)	
Subtotal, grants to States	1, 501, 800, 000	1, 582, 600, 000	1, 705, 200, 000	1, 715, 200, 000	1, 715, 200, 000	+132, 600, 000	+10, 000, 000	
Federal funds	89, 100, 000	53, 600, 000	21, 600, 000	21, 600, 003	21, 600, 000	−32, 000, 000		
Trust funds	(1, 412, 700, 000)	(1, 529, 000, 000)	(1, 683, 600, 000)	(1, 693, 600, 000)	(1, 693, 600, 000)	(+164, 600, 000)	(+10, 000, 000)	
Advances to unemployment trust fund and other funds	5, 000, 000, 000		200, 000, 000	200, 000, 000	200, 000, 000	+200, 000, 000		
Subtotal, Employment and Training Administration	7, 361, 800, 000	2, 782, 600, 000	2, 855, 200, 000	2, 865, 200, 000	2, 865, 200, 000	+82, 600, 000	+10, 000, 000	
Federal funds	5, 949, 100, 000	1, 253, 600, 000	1, 171, 600, 000	1, 171, 600, 000	1, 717, 600, 000	−82, 000, 000		
Trust funds	(1, 412, 700, 000)	(1, 529, 000, 000)	(1, 683, 600, 000)	(1, 603, 600, 000)	(1, 693, 600, 000)	(164, 600, 000)	(+10, 000, 000)	
Unauthorized, not considered	(12, 968, 286, 000)	(3, 755, 796, 000)	(11, 162, 240, 000)	***	***			
Federal funds	(12, 936, 052, 000)	(3, 722, 162, 000)	(11, 127, 002, 000)	***	***			
Trust funds	(32, 234, 000)	(33, 634, 000)	(35, 238, 000)	***	***			
LABOR-MANAGEMENT SERVICES ADMINISTRATION								
Salaries and expenses:								
Labor-management relations policy and service	3, 208, 000	3, 280, 000	3, 910, 000	3, 310, 000	3, 910, 000	+630, 000		+600, 000
Labor-management standards enforcement	14, 430, 000	15, 026, 000	16, 418, 000	16, 418, 000	16, 418, 000	+1, 392, 000		
Veterans reemployment rights	2, 682, 000	2, 772, 000	2, 417, 000	2, 417, 000	2, 417, 000	−355, 000		
Federal labor-management relations	5, 034, 000	5, 897, 000	6, 017, 000	6, 017, 000	6, 017, 000	+120, 000		
Employee benefits security	21, 841, 000	25, 309, 000	26, 873, 000	26, 873, 000	26, 873, 000	+1, 564, 000		
Executive direction, management and support	3, 559, 000	5, 064, 000	4, 319, 000	4, 319, 000	4, 319, 000	−745, 000		
Subtotal, LMSA	50, 754, 000	57, 348, 000	59, 954, 000	59, 354, 000	59, 954, 000	+2, 606, 000		+600, 000
EMPLOYMENT STANDARDS ADMINISTRATION								
Salaries and expenses:								
Improving and protecting wages	43, 722, 000	53, 410, 000	62, 367, 000	62, 367, 000	62, 367, 000	+8, 957, 000		
Elimination of discrimination in employment	15, 472, 000	17, 111, 000	15, 064, 000	15, 064, 000	15, 064, 000	−2, 047, 000		
Workers' compensation	27, 516, 000	36, 237, 000	29, 259, 000	29, 529, 000	29, 529, 000	−6, 708, 000		
Trust funds	(260, 000)	(265, 000)	(320, 000)	(320, 000)	(320, 000)	(+55, 000)		
Program development and administration	12, 282, 000	13, 209, 000	13, 484, 000	13, 484, 000	13, 484, 000	+275, 000		
Subtotal, salaries and expenses	99, 252, 000	120, 232, 000	120, 764, 000	120, 764, 000	120, 754, 000	+532, 000		
Federal funds	98, 992, 000	119, 967, 000	120, 444, 000	120, 444, 000	120, 444, 000	+447, 000		
Trust funds	(260, 000)	(265, 000)	(320, 000)	(320, 000)	(320, 000)	(+55, 000)		

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1979—Continued

[Amounts in dollars]

						Increase (+) or decrease (–) compared with—		
Item	1977 appropriation	1978 appropriation	Budget estimate	House allowance	Committee recommendation	1978 appropriation	Budget estimate	House allowance
TITLE I—DEPARTMENT OF LABOR—Continued								
EMPLOYMENT STANDARDS ADMINISTRATION—Continued								
Special benefits:								
Federal employees compensation act benefits	307, 407, 000	292, 325, 000	228, 137, 000	228, 137, 000	228, 137, 000	–64, 188, 000		
Disabled coal miners benefits	27, 100, 000	24, 300, 000				–24, 300, 000		
Longshore and harbor workers' benefits	2, 442, 000	2, 735, 000	3, 063, 000	3, 063, 000	3, 063, 000	+328, 000		
Subtotal, special benefits	336, 949, 000	319, 360, 000	231, 200, 000	231, 200, 000	231, 200, 000	–88, 160, 000		
Black lung disability trust fund:								
Benefit payments		162, 700, 000	389, 400, 000	389, 400, 000	389, 400, 000	+226, 700, 000		
Employment Standards Administration, salaries and expenses		17, 819, 000	24, 555, 000	24, 555, 000	24, 555, 000	+6, 736, 000		
Department Management, salaries and expenses		1, 170, 000	8, 310, 000	8, 310, 000	8, 310, 000	+7, 140, 000		
Subtotal, Black Lung Disability Trust Fund		181, 689, 000	422, 265, 000	422, 265, 000	422, 265, 000	+240, 576, 000		
Subtotal, Employment Standards Administration	436, 210, 000	621, 281, 000	774, 229, 000	774, 229, 000	774, 229, 000	+152, 948, 000		
Federal fund	435, 941, 000	621, 016, 000	773, 909, 000	773, 909, 000	773, 909, 000	+152, 893, 000		
Trust funds	(260, 000)	(265, 000)	(230, 000)	(320, 000)	(320, 000)	(+55, 000)		
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION								
Salaries and expenses:								
Safety and health standards	8, 338, 000	8, 833, 000	9, 287, 000	9, 835, 000	9, 835, 000	+1, 002, 000	+548, 000	
Compliance:								
Federal inspections	57, 616, 000	62, 651, 000	66, 742, 000	70, 089, 000	77, 589, 000	+14, 938, 000	+10, 847, 000	+7, 500, 000
State programs	35, 605, 000	34, 015, 000	42, 500, 000	42, 500, 000	42, 500, 000	+8, 395, 000		
Education, consultation, and information	18, 897, 000	22, 047, 00	20, 710, 000	31, 404, 000	31, 044, 000	+9, 357, 000	+694, 000	
Safety and health statistics	6, 206, 000	6, 347, 000	6, 433, 000	6, 488, 000	6, 488, 000	+141, 000	+55, 000	
Executive direction and administration	3, 671, 000	5, 087, 000	7, 058, 000	7, 158, 000	7, 158, 000	+2, 071, 000	+100, 000	
Subtotal, OSHA	130, 333, 000	139, 070, 000	162, 730, 000	167, 474, 000	174, 974, 000	+35, 904, 000	+12, 244, 000	+7, 500, 000
MINE SAFETY AND HEALTH ADMINISTRATION								
Salaries and expenses:								
Enforcement:								
(a) Coal	53, 545, 000	51, 126, 000	55, 968, 000	55, 968, 000	55, 968, 000	+4, 842, 000		
(b) Metal/nonmetal	17, 395, 000	19, 207, 000	27, 492, 000	27, 492, 000	24, 492, 000	+8, 285, 000		
(c) State grants		4, 000, 000	4, 000, 000	4, 000, 000	8, 000, 000	+4, 000, 000	+4, 000, 000	+4, 000, 000
(d) Standards development			3, 193, 000	3, 193, 000	3, 193, 000	+3, 193, 000		
Assessments		3, 543, 000	6, 207, 000	6, 207, 000	6, 207, 000	+2, 673, 000		
Education and training	7, 288, 000	6, 024, 000	6, 404, 000	6, 404, 000	6, 404, 000	+200, 000		
Technical support	14, 428, 000	16, 252, 000	17, 531, 000	17, 531, 000	17, 531, 000	+1, 279, 000		
Program administration	2, 188, 000	2, 531, 000	2, 705, 000	2, 705, 000	2, 705, 000	+174, 000		
Subtotal, Mine Safety and Health Administration	94, 844, 000	102, 854, 000	123, 500, 000	123, 500, 000	127, 500, 000	+24, 646, 000	+4, 000, 000	+4, 000, 000
BUREAU OF LABOR STATISTICS								
Salaries and expenses:								
Labor force statistics	27, 878, 000	33, 780, 000	36, 471, 000	36, 471, 000	36, 471, 000	+2, 691, 000		
Prices and cost of living	15, 310, 000	20, 839, 000	30, 717, 000	30, 717, 000	30, 717, 000	–9, 878, 000		
Wages and industrial relations	11, 573, 000	12, 759, 000	13, 826, 000	13, 628, 000	13, 628, 000	+869, 000	–198, 000	
Productivity and technology	2, 789, 000	3, 087, 000	3, 185, 000	3, 185, 000	3, 185, 000	+98, 000		
Economic growth	694, 000	766, 000	780, 000	780, 000	780, 000	+14, 000		
Executive direction and stafl services	10, 157, 000	10, 799, 000	9, 971, 000	9, 971, 000	9, 971, 000	–828, 000		
Revision of the consumer price index	7, 216, 000	3, 685, 000				–3, 685, 000		
Subtotal, Bureau of Labor Statistics	75, 617, 000	85, 715, 000	94, 950, 000	94, 752, 000	94, 752, 000	+9, 037, 000	–198, 000	
DEPARTMENTAL MANAGEMENT								
Salaries and expenses:								
Executive direction	8, 439, 000	10, 131, 000	11, 800, 000	9, 580, 000	9, 580, 000	–551, 000	–1, 500, 000	
Legal services	19, 616, 000	23, 266, 000	27, 606, 000	27, 606, 000	27, 606, 000	+4, 340, 000		
Trust funds	(177, 000)	(182, 000	(188, 000)	(188, 000)	(188, 000)	(+6, 000)		
International labor affairs	5, 093, 000	7, 497, 000	9, 123, 000	9, 123, 000	9, 123, 000	+1, 626, 000		
Administration and management	14, 516, 000	17, 642, 000	20, 783, 000	20, 783, 000	20, 783, 000	+3, 141, 000		
Trust funds	(820, 000)	(1, 097, 000)	(1, 211, 000)	(1, 211, 000)	(1, 211, 000)	(+114, 000)		
Adjudication	3, 464, 000	4, 628, 000	3, 805, 000	3, 805, 000	3, 805, 000	–823, 000		
Trust funds	(315, 000)	(328, 000)	(418, 000)	(418, 000)	(418, 000	(+90, 000)		
Promoting employment of the handicapped	1, 446, 000	1, 505, 000	1, 616, 000	1, 616, 000	1, 616, 000	+111, 000		
Women's Bureau			2, 525, 000	2, 525, 000	2, 525, 000	+2, 525, 000		
Minimum Wage Study Commission			1, 209, 000	1, 209, 000	2, 209, 000	+1, 209, 000		
Subtotal, salaries and expenses	53, 886, 000	66, 276, 000	79, 564, 000	78, 064, 000	78, 064, 000	+11, 788, 000	–1, 500, 000	
Federal funds	52, 574, 000	64, 669, 000	77, 747, 000	76, 247, 000	76, 247, 000	+11, 578, 000	–1, 500, 000	
Trust funds	(1, 312, 000)	(1, 607, 000)	(1, 817, 000)	(1, 817, 000)	(1, 817, 000)	(+210, 000)		
Special foreign currency program	70, 000	70, 000	200, 000	70, 000	70, 000		–130, 000	
Subtotal, departmental management	53, 956, 000	66, 346, 000	79, 764, 000	78, 134, 000	78, 134, 000	+11, 788, 000	–1, 630, 000	
Federal funds	52, 644, 000	64, 739, 000	77, 947, 000	76, 317, 000	76, 317, 000	+11, 578, 000	–1, 630, 000	
Trust funds	(1, 312, 000)	(1, 607, 000)	(1, 817, 000)	(1, 817, 000)	(1, 817, 000)	(+210, 000)		
Total, Labor Department	8, 203, 505, 000	3, 855, 214, 000	4, 150, 327, 000	4, 162, 643, 000	4, 174, 743, 000	+319, 529, 000	+24, 416, 000	+12, 100, 000
Federal Funds	6, 789, 233, 000	2, 324, 342, 000	2, 464, 590, 000	2, 466, 906, 000	2, 479, 006, 000	+154, 664, 000	+14, 416, 000	+12, 100, 000
Trust funds	(1, 414, 272, 000)	(1, 530, 872, 000)	(1, 685, 737, 000)	(1, 695, 737, 000)	(1, 695, 737, 000)	(+164, 865, 000)	(+10, 000, 000)	
Total, unauthorized, not considered	(12, 968, 286, 000)	(3, 755, 796, 000)	(11, 162, 240, 000)	***	***			
Federal funds	(12, 936, 052, 000)	(3, 722, 162, 000)	(11, 127, 022, 000)	***	***			
Trust funds	(32, 234, 000)	(33, 634, 000)	(35, 238, 000)	***	***			

Item	1977 appropriation	1978 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— '1978 appropriation	Budget estimate	House allowance
TITLE II—DEPARTMENT OF HEALTH, EDUCATION AND WELFARE								
HEALTH SERVICES ADMINISTRATION								
Community health services:								
Community health centers	230, 148, 000	15, 000, 000	15, 000, 000	15, 000, 000	18, 000, 000	+3, 000, 000	+3, 000, 000	+3, 000, 000
Unauthorized, not considered		247, 000, 000	286, 000, 000	***	***			
Comprehensive health grants to States:								
Basic grants	90, 000, 000	90, 000, 000	90, 000, 000	***	***			
Advance for 1980			90, 000, 000	***	***			
Hypertension	9, 000, 000	11, 000, 000	11, 000, 000	***	***			
Advance for 1980			11, 000, 000	***	***			
Subtotal	99, 000, 000	101, 000, 000	202, 000, 000	***	***			
Maternal and child health:								
Grants to States	315, 000, 000	332, 500, 000	345, 500, 000	345, 500, 000	345, 500, 000	+13, 000, 000		
Advance for 1980			345, 500, 000	***	***			
Sudden infant death information dissemination	1, 716, 000	2, 802, 000	2, 802, 000	***	***			
Research and training	28, 708, 000	29, 354, 000	29, 354, 000	30, 354, 000	34, 000, 000	+4, 646, 000	+4, 646, 000	+3, 646, 000
Subtotal, maternal and child health	343, 708, 000	361, 854, 000	374, 854, 000	375, 854, 000	379, 500, 000	+17, 646, 000	+4, 646, 000	+3, 646, 000
Unauthorized, not considered	(1, 716, 000)	(2, 802, 000)	(348, 302, 000)	***	***			
Genetic information and counseling		4. 000, 000	4. 000, 000	***	***			
Family planning	113, 615, 000	135, 000, 000	145, 000, 000	***	***			
Migrant health	30, 000, 000	34, 500, 000	34, 500, 000	***	***			
National Health Service Corps	24, 451, 000	42, 565, 000	57, 000, 000	57, 000, 000	57, 000, 000	+14, 435, 000		
Unauthorized, not considered			5, 947, 000	***	***			
NHSC, private practice grants				1, 000, 000				−1, 000, 000
Hemophilia treatment centers	3, 000. 000	3, 000, 000	3, 000, 000	***	***			
Home health services	3, 000, 000	6, 000, 000	6, 000, 000	***	***			
Program support	22, 734, 000	26, 134, 000	29, 263, 000	29, 863, 000	29, 863, 000	+3, 729, 000	+600, 000	
Subtotal, Community health	621, 041, 000	445, 553, 000	476, 117, 000	478, 717, 000	484, 363, 000	+38, 810, 000	+8, 246, 000	+5, 646, 000
Unauthorized, not considered	(250, 331, 000)	(553, 302, 000)	(1, 034, 749, 000)	***	***			
Health care services and systems:								
Patient care and spec. health services:								
Hospitals and clinics	130, 293, 000	176, 602, 000	152, 504, 000	152, 504, 000	177, 000, 000	+398, 000	+24, 496, 000	+24, 496, 000
Federal employee health	629, 000	680, 000	686, 000	686, 000	686, 000	+6, 000		
Construction and modernization		15, 000, 000				−15, 000, 000		
Payment to Hawaii	1, 200, 000	1, 400, 000	1, 400, 000	1, 400, 000	2, 000, 000	+600, 000	+600, 000	+600, 000
Subtotal	132, 122, 000	193, 682, 000	154, 590, 000	154, 590, 000	179, 686, 000	+13, 996, 000	+25, 096, 000	+25, 096, 000
Emergency medical services	40, 125, 000	33, 700, 000	33, 700, 000	33, 700, 000	33, 700, 000			
Unauthorized, not considered		8, 925, 000	8, 925, 000	***	***			
Program support	5, 873, 000	6, 264, 000	6, 759, 000	7, 059, 000	7, 059, 000	+795, 000	+300, 000	
Subtotal, health care services and systems	178, 120, 000	233, 646, 000	195, 049, 000	195, 349, 000	220, 445, 000	−13, 201, 000	+25, 396, 000	+25, 096, 000
Unauthorized, not considered		(8, 925, 000)	(8, 925, 000)	***	***			
Program management	4, 766, 000	6, 424, 000	7, 026, 000	7, 026, 000	7, 026, 000	+602, 000		
Subtotal, health services	803, 927, 000	685, 623, 000	678, 192, 000	681, 092, 000	711, 834, 000	+26, 211, 000	+33, 642, 000	+30, 742, 000
Unauthorized, not considered	(250, 331, 000)	(542, 227, 000)	(1, 043, 674, 000)	***	***			
CENTER FOR DISEASE CONTROL								
Disease control:								
Project grants:								
Venereal disease	25, 000, 000	32, 000, 000	32, 000, 000	***	***			
Immunization	17, 000, 000	23, 000, 000	35, 000, 000	***	***			
Rat control	13, 000, 000	13, 000, 000	13, 000, 000	***	***			
Lead-based paint poisoning prevention	8, 500, 000	10, 250, 000	10, 250, 000	***	***			
Disease surveillance	53, 607, 000	56, 042, 000	59, 711, 000	60, 211, 000	65, 000, 000	+8, 958, 000	+5, 289, 000	+4, 789, 000
Laboratory improvements	15, 803, 000	18, 697, 000	18, 956, 000	18, 956, 000	18, 956, 000	+259, 000		
Health education	4, 564, 000	4, 580, 000	12, 560, 000	12, 560, 000	15, 000, 000	+10, 420, 000	+2, 440, 000	+2, 440, 000
Occupational safety and health:								
Research:								
Grants	41, 835, 000	3, 900, 000	3, 900, 000	6, 400, 000	6, 400, 000	+2, 500, 000	+2, 500, 000	
Intramural program		40, 497, 000	41, 114, 000	41, 114, 000	41, 114, 000	+617, 000		
Training	5, 661, 000	8, 355, 000	8, 399, 000	10, 799, 000	10, 799, 000	+2, 444, 000	+2, 400, 000	
Program support	3, 273, 000	3, 513, 000	3, 681, 000	3, 681, 000	3, 681, 000	+158, 000		
Subtotal	50, 769, 000	56, 265, 000	57, 094, 000	61, 994, 000	61, 994, 000	+5, 729, 000	+4, 900, 000	
Buildings and facilities			1, 912, 000	1, 912, 000	1, 912, 000	+1, 912, 000		
Program management	3, 037, 000	3, 366, 000	3, 427, 000	3, 427, 000	3, 427, 000	+61, 000		
Subtotal, preventive health	127, 780, 000	138, 950, 000	153, 660, 000	159, 060, 000	166, 289, 000	+27, 339, 000	+12, 629, 000	+7, 229, 000
Unauthorized, not considered	(63, 500, 000)	(78, 250, 000)	(90, 250, 000)	***	***			
NATIONAL INSTITUTES OF HEALTH								
National Cancer Institute	814, 245, 000	852, 384, 000	858, 392, 000	889, 192, 000	925, 000, 000	+72, 616, 000	+66, 608, 000	+35, 808, 000
Unauthorized, not considered (Sec. 472)		19, 886, 000	20, 410, 000	***	***			
National Heart, Lung and Blood Institute	396, 835, 000	425, 221, 000	432, 184, 000	485, 584, 000	485, 584, 000	+60, 363, 000	+53, 400, 000	
Unauthorized, not considered (Sec. 472)		22, 705, 000	22, 152, 000	***	***			
National Institute of Dental Research	55, 482, 000	57, 520, 000	57, 841, 000	63, 841, 000	60, 000, 000	+2, 480, 000	+2, 159, 000	−3, 841, 000
Unauthorized, not considered (Sec. 472)		4, 198, 000	4, 198, 000	***	***			
National Institute of Arthritis, Metabolism, and Digestive Diseases	219, 394, 000	243, 469, 000	249, 369, 000	287, 869, 000	287, 869, 000	+44, 400, 000	+38, 500, 000	
Unauthorized. not considered (Sec. 472)		16, 777, 000	17, 877, 000	***	***			
National Institute of Neurological and Communicative Disorders and Stroke	155, 318, 000	171, 092, 000	173, 610, 000	188, 910, 000	225, 000, 000	+53, 908, 000	+51, 390, 000	+36, 090, 000
Unauthorized, not considered (Sec. 472)		7, 322, 000	7, 322, 000	***	***			
National Institute of Allergy and Infectious Diseases	140, 826, 000	155, 103, 000	159, 798, 000	183, 198, 000	183, 198, 000	+28, 095, 000	+23, 400, 000	
Unauthorized, not considered (Sec. 472)		7, 223, 000	7, 004, 000	***	***			
National Institute of General Medical Sciences	204, 866, 000	196, 343, 000	185, 092, 000	225, 092, 000	230, 000, 000	+33, 657, 000	+44, 908, 000	+4, 908, 000
Unauthorized, not considered (Sec 472)		34, 364, 000	49, 320, 000	***	***			
National Institute of Child Health and Human Development	145, 403, 000	91, 249, 000	108, 855, 000	119, 005, 000	109, 605, 000	+18, 356, 000	+750, 000	−9, 400, 000
Unauthorized, not considered (Sec. 472, title X)		75, [illegible]31, 000	90, 076, 000	***	***			
National Institute on Aging	29, 545, 000	34, 896, 000	35, 926, 000	54, 526, 000	49, 500, 000	+14, 604, 000	+13, 574, 000	−5, 026, 000
Unauthorized, not considered (Sec. 472)		2, 390, 000	1, 984, 000	***	***			
National Eye Institute	63, 538, 000	80, 749, 000	82, 449, 000	100, 549, 000	100, 549, 000	+19, 800, 000	+18, 100, 000	
Unauthorized, not considered (Sec 472)		4, 643, 000	3, 579, 000	***	***			
National Institute of Environmental Health Sciences	51, 031, 000	58, 715, 000	63, 927, 000	73, 227, 000	70, 000, 000	+11, 285, 000	+6, 073, 000	−3, 227, 000
Unauthorized, not considered (Sec. 472)		5, 485, 000	5, 320, 000	***	***			

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES AND AMOUNTS RECOMMEND IN THE BILL FOR FISCAL YEAR 1979—Continued

[Amounts in dollars]

Item	1977 appropriation	1978 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
						1978 appropriation	Budget estimate	House allowance
TITLE II—DEPARTMENT OF HEALTH, EDUCATION AND WELFARE—Continued								
NATIONAL INSTITUTES OF HEALTH—Continued								
Research resources	137, 451, 000	144, 539, 000	148, 499, 000	152, 899, 000	153, 899, 000	+9, 360, 000	+5, 400, 000	+1, 000, 000
Unauthorized, not considered (Sec. 472)		515, 000	550, 000	***	***			
John E. Fogarty International Center	7, 969, 000	8, 465, 000	8, 489, 000	8, 789, 000	8, 989, 000	+524, 000	+500, 000	+200, 000
Subtotal, biomedical research	2, 422, 2[illegible]3, 000	2, 519, 745, 000	2, 564, 431, 000	2, 83*, 681, 000	2, 889, 193, 000	+369, 448, 000	+324, 762, 000	+56, 512, 000
Subtotal, unauthorized, not considered		(200, 639, 000)	(230, 192, 000)	***	***			
National Library of Medicine	35, 127, 000	29, 546, 000	31, 787, 000	31, 887, 000	35, 000, 000	+5, 454, 000	+3, 213, 000	+3, 113, 000
Unauthorized, not considered		(7, 987, 000)	(7, 987, 000)	***	***			
Office of the Director	16, 906, 000	18, 894, 000	19, 373, 000	19, 673, 000	19, 673, 000	+779, 000	+300, 000	
Buildings and facilities	67, 400, 000	65, 650 000	30, 950, 000	67, 950, 000	67, 950, 000	+2, 300, 000	+37, 000, 000	
Subtotal, National Institute of Health	2, 541, 696, 000	2, 633, 835, 000	2, 646, 541, 000	2, 952, 191, 000	3, 011, 816, 000	+377, 981, 000	+365, 275, 000	+59, 625, 000
Subtotal, unauthorized, not considered	(208, 626, 000)	(238, 179, 000)	***	***				
ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION								
General mental health:								
Research	104, 008, 000	107 591, 000	129, 371, 000	123, 371, 000	129, 371, 000	+21, 780, 000		+6, 000, 000
Unauthorized, not considered (Rape Center)		4, 436, 000	6, 000, 000	***	***			
Training	85, 400, 000	68, 263, 000	68, 263, 000	69, 263, 000	79, 263, 000	+11, 000, 000	+11, 000, 000	+10, 000, 000
Unauthorized, not considered (Sec. 472)		16, 137, 000	18, 691, 000	***	***			
Community programs:								
Community support	6, 050, 000	7, 600, 000	7, 600, 000	7, 600, 000	7, 600, 000			
Operations:								
First year	30, 401, 000	30, 489, 000		***	***			
Continuation:								
Grants initiated under new law	23, 453, 000	64, 628, 000	104, 694, 000	104, 694, 000	104, 694, 000	+40, 066, 000		
Converted staffing grants	23, 338, 000	62, 105, 000	104, 450, 000	104, 450, 000	104, 450, 000	+42, 345, 000		
Conversion	19, 657, 000	19, 372, 000	24, 366, 000	***	***			
Consultation and education	7, 795, 000	8, 245, 000	7, 438, 000	***	***			
Financial distress	6, 950, 000	5, 488, 000	2, 220, 000	***	***			
Continuations under old law:								
Staffing	98, 955, 000	58, 115, 000	23, 596, 000	23, 596, 000	23, 596, 000	−34, 519, 000		
Child mental health	20, 825, 000	20, 599, 000	17, 319, 000	17, 319, 000	17, 319, 000	−3, 280, 000		
Subtotal, Community programs	172, 621, 000	213, 047, 000	257, 659, 000	257, 659, 000	257, 659, 000	+44, 612, 0[illegible]		
Program support	28, 502, 000	29, 817, 000	31, 173, 000	31, 173, 000	31, 173, 000	+1, 356, 000		
Subtotal, mental health	390, 531, 000	418, 718, 000	486, 466, 000	481, 466, 000	497, 466, 000	+78, 748, 000	+11, 000, 000	+16, 000, 000
Subtotal, unauthorized, not considered	(64, 803, 000)	(84, 167, 000)	(58, 715, 000)	***	***			
Drug abuse:								
Research	34, 000, 000	34, 139, 000	45, 930, 000	39, 930, 000	45, 930, 000	+11, 791, 000		+6, 000, 000
Training	10, 000, 000	9, 379, 000	9, 379, 000	9, 379, 000	9, 379, 000			
Unauthorized, not considered (Sec. 472)		621, 000	784, 000	***	***			
Community programs:								
Project grants and contracts	159, 500, 000	161, 000, 000	161, 000, 000	***	***			
Grants to States	40, 000, 000	40, 000, 000	40, 000, 000	***	***			
Program support	16, 538, 000	16, 960, 000	18, 178, 000	18, 178, 000	18, 178, 000	+1, 218, 000		
Subtotal, Drug abuse	60, 538, 000	60, 478, 000	73, 487, 000	67, 487, 000	73, 487, 000	+13, 009, 000		+6, 000, 000
Unauthorized, not considered	(199, 500, 000)	(201, 621, 000)	(201, 784, 000)	***	***			
Alcoholism:								
Research	14, 808, 000	16, 199, 000	21, 197, 000	22, 197, 000	22, 197, 000	+5, 998, 000	+1, 000, 000	
Training	7, 200, 000	5, 052, 000	5, 052, 000	5, 052, 000	5, 052, 000			
Unauthorized, not considered (Sec. 472)		2, 148, 000	2, 350, 000	***	***			
Community programs:								
Project grants and contracts	73, 008, 000	78, 706, 000	78, 706, 000	78, 706, 000	78, 706, 000			
Grants to States	56, 800, 000	56, 800, 000	56, 800, 000	56, 800, 000	56, 800, 000			
Program support	9, 440, 000	9, 731, 000	10, 202, 000	10, 202, 000	10, 202, 000	+471, 000		
Subtotal, Alcoholism	161, 256, 000	166, 488, 000	171, 957, 000	172, 957, 000	172, 957, 000	+6, 469, 000	+1, 000, 000	
Unauthorized, not considered		(2, 148, 000)	(2, 350, 000)	***	***			
Buildings and facilities		350, 000				−350, 000		
Program management	7, 124, 000	7, 730, 000	8, 112, 000	8, 112, 000	8, 112, 000	+382, 000		
Subtotal, alcohol, drug abuse and mental health	619, 449, 000	653, 764, 000	740, 022, 000	730, 022, 000	752, 022, 000	+98, 258, 000	+12, 000, 000	+22, 000, 000
Saint Elizabeths Hospital	69, 258, 000	74, 171, 000	75, 824, 000	75, 824, 000	75, 824, 000	+1, 653, 000		
Construction and renovation (SEH)		2, 010, 000				−2, 010, 000		
Subtotal, ADAMHA	688, 707, 000	729, 945, 000	815, 846, 000	805, 846, 000	827, 846, 000	+97, 901, 000	+12, 000, 000	+22, 000, 000
Unauthorized, not considered	(264, 303, 000)	(287, 936, 000)	(262, 849, 000)	***	***			
HEALTH RESOURCES ADMINISTRATION								
Health planning and resources development:								
Health planning:								
Local agencies	97, 000, 000	107, 000, 000	115, 400, 000	***	***			
State agencies	24, 500, 000	29, 500, 000	30, 000, 000	***	***			
Planning methods/centers	6, 500, 000	6, 500, 000	6, 900, 000	***	***			
Subtotal, unauthorized, not considered	(128, 000, 000)	(143, 000, 000)	(152, 300, 000)	***	***			
Special medical facilities	9, 000, 000	2, 750, 000				−2, 750, 000		
Program support	10, 763, 000	11, 474, 000	11, 882, 000	11, 882, 000	11, 882, 000	+408, 000		
Subtotal, Planning and resources	19, 763, 000	14, 224, 000	11, 882, 000	11, 882, 000	11, 882, 000	−2, 342, 000		
Unauthorized, not considered	(128, 000, 000)	(143, 000, 000)	(152, 300, 000)	***	***			
Health professions education:								
Health professions institutional assistance:								
Capitation grants	119, 100, 000	144, 000, 000	87, 300, 000	147, 100, 000	125, 000, 000	−19, 000, 000	+37, 700, 000	−22, 100, 000
(MOD)	(101, 100, 000)	(120, 100, 000)	(81, 400, 000)	(120, 100, 000)	(102, 100, 000)	(−18, 000, 000)	(+20, 700, 000)	(−18, 000, 000)
(VOPP)	(18, 000, 000)	(18, 000, 000)		(18, 000, 000)	(15, 300, 000)	(−2, 700, 000)	(+15, 300, 000)	(−2, 700, 000)

Item	1977 appropriation	1978 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
						1978 appropriation	Budget estimate	House allowance
Public health		(5, 900, 000)	(5, 900, 000)	(9, 000, 000)	(7, 600, 000)	(+1, 700, 000)	(+1, 700, 000)	(−1, 400, 000)
Start-up assistance	3, 326, 000	2, 000, 000	1, 100, 000	5, 000, 000	5, 000, 000	+3, 000, 000	+3, 900, 000	
Financial distress	3, 500, 000	3, 000, 000	2, 000, 000	5, 000, 000	2, 000, 000	−1, 000, 000		−3, 000, 000
Subtotal, Institutional	125, 926, 000	149, 000, 000	90, 400, 000	157, 100, 000	132, 000, 000	−17, 000, 000	+41, 600, 000	−25, 100, 000
Health professions student assistance:								
Loans	24, 000, 000	20, 000, 000		10, 000, 000	10, 000, 000	−10, 000, 000	+10, 000, 000	
Loan repayments	2, 000, 000	1, 500, 000	1, 500, 000	1, 500, 000	1, 500, 000			
National health service scholarships	40, 000, 000	60, 000, 000	60, 000, 000	75, 000, 000	75, 000, 000	+15, 000, 000	+15, 000, 000	
Exceptional need scholarships	1, 400, 000	5, 000, 000	5, 000, 000	9, 000, 000	5, 000, 000			−4, 000, 000
Subtotal, student assistance	67, 400, 000	86, 500, 000	66, 500, 000	95, 500, 000	91, 500, 000	+5, 000, 000	+25, 000, 000	−4, 000, 000
Health professions special educational assistance:								
Family med. residencies and training	39, 000, 000	45, 000, 000	45, 000, 000	45, 000, 000	45, 000, 000			
Primary care residencies and training	15, 000, 000	15, 000, 000	16, 000, 000	17, 500, 000	17, 500, 000	+2, 500, 000	+1, 500, 000	
Interdisciplinary training	20, 200, 000	3, 500, 000	1, 781, 000	4, 281, 000	10, 000, 000	+6, 500, 000	+8, 219, 000	+5, 719, 000
Physicians/dental extenders	10, 500, 000	9, 100, 000	9, 100, 000	9, 100, 000	9, 100, 000			
Area health education centers	14, 000, 000	17, 000, 000	18, 000, 000	18, 000, 000	20, 000, 000	+3, 000, 000	+2, 000, 000	+2, 000, 000
Disadvantaged assistance	10, 000, 000	15, 000, 000	17, 000, 000	19, 000, 000	19, 000, 000	+4, 000, 000	+2, 000, 000	
Foreign medical graduates	1, 000, 000	2, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000	−1, 000, 000		
Emergency medical training	6, 000, 000	6, 000, 000		6, 000, 000	6, 000, 000		+6, 000, 000	
National Advisory Committee on Graduate Medical Education	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000			
Supply and distribution reports	1, 000, 000	1, 000, 000	5, 400, 000	5, 400, 000		−1, 000, 000	−5, 400, 000	−5, 400, 000
Subtotal, Special programs	117, 700, 000	114, 600, 000	114, 281, 000	126, 281, 000	128, 600, 000	+14, 000, 000	+14, 319, 000	+2, 319, 000
Health teaching facilities:								
Grants	26, 000, 000	8, 500, 000				−8, 500, 000		
Interest subsidies		2, 000, 000	3, 000, 000	3, 000, 000	3, 000, 000	+1, 000, 000		
Dental health education	8, 000, 000	6, 000, 000	4, 000, 000	4, 000, 000	4, 000, 000	−2, 000, 000		
Nursing institutional assistance:								
Capitation grants	40, 000, 000	30, 000, 000		***	***			
Advanced nurse training	9, 000, 000	12, 000, 000		***	***			
Nurse practitioner training	9, 000, 000	13, 000, 000	13, 000, 000	***	***			
Special projects	15, 000, 000	15, 000, 000	7, 500, 000	***	***			
Unauthorized, not considered	(73, 000, 000)	(70, 000, 000)	(20, 500, 000)	***	***			
Nursing student assistance:								
Loans	22, 500, 000	22, 500, 000		***	***			
Scholarships	6, 500, 000	9, 000, 000		***	***			
Traineeships	13, 000, 000	13, 000, 000		***	***			
Loan repayment	3, 000, 000	1, 500, 000		***	***			
Fellowships	1, 000, 000	1, 000, 000		***	***			
Subtotal, unauthorized, not considered								
Nursing research	5, 000, 000	5, 000, 000		5, 000, 000	5, 000, 000		+5, 000, 000	
Subtotal, Nursing programs	5, 000, 000	5, 000, 000		5, 000, 000	5, 000, 000		+5, 000, 000	
Unauthorized, not considered	(119, 000, 000)	(117, 000, 000)	(20, 500, 000)	***	***			
Allied health	24, 000, 000	19, 500, 000	7, 900, 000	13, 000, 000	13, 000, 000	−6, 500, 000	+5, 100, 000	
Public health:								
Special projects and health administration	11, 400, 000	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000			
Public health traineeships	9, 120, 000	7, 000, 000	1, 100, 000	5, 100, 000	7, 000, 000		+5, 900, 000	+1, 900, 000
Health administration graduate programs		3, 000, 000	1, 500, 000	3, 000, 000	3, 000, 000		+1, 500, 000	
Health administration traineeships		1, 500, 000	1, 000, 000	1, 000, 000	2, 000, 000	+500, 000	+1, 000, 000	+1, 000, 000
Subtotal, public health	20, 520, 000	16, 500, 000	8, 600, 000	14, 100, 000	17, 000, 000	+500, 000	+8, 400, 000	+2, 900, 000
Program support	18, 304, 000	19, 624, 000	19, 908, 000	19, 908, 000	19, 908, 000	+284, 000		
Subtotal, health manpower	412, 850, 000	427, 224, 000	314, 589, 000	437, 889, 000	414, 008, 000	−13, 216, 000	+99, 419, 000	−23, 881, 000
Unauthorized, not considered	(119, 000, 000)	(117, 000, 000)	(20, 500, 000)	***	***			
Program management	11, 535, 000	12, 910, 000	13, 241, 000	13, 241, 000	13, 241, 000	+331, 000		
Subtotal, Health Resources	444, 148, 000	454, 358, 000	339, 712, 000	463, 012, 000	439, 131, 000	−15, 227, 000	+99, 419, 000	−23, 881, 000
Unauthorized, not considered	(247, 000, 000)	(260, 000, 000)	(172, 800, 000)	***	***			
Payments of sales insufficiencies	4, 000, 000	2, 592, 000	2, 412, 000	2, 412, 000	2, 412, 000	−180, 000		
Medical facilities guarantee and loan fund	31, 000, 000	41, 000, 000	42, 000, 000	42, 000, 000	42, 000, 000	+1, 000, 000		
Subtotal, Health Resources Administration	479, 148, 000	497, 950, 000	384, 124, 000	507, 424, 000	483, 543, 000	−14, 407, 000	+99, 419, 000	−23, 881, 000
Unauthorized, not considered	(247, 000, 000)	(260, 000, 000)	(172, 800, 000)	***	***			
ASSISTANT SECRETARY FOR HEALTH								
Program operations:								
Health statistics:								
National health surveys and analysis	18, 679, 000	23, 255, 000	23, 432, 000	***	***			
Cooperative health statistics	9, 674, 000	11, 923, 000	16, 759, 000	***	***			
Program support	2, 689, 000	2, 893, 000	3, 246, 000	3, 246, 000	3, 246, 000	+353, 000		
Subtotal	2, 689, 000	2, 893, 000	3, 246, 000	3, 246, 000	3, 246, 000	+353, 000		
Subtotal, unauthorized, not considered	(28, 353, 000)	(35, 178, 000)	(40, 191, 000)	***	***			
Health services research:								
Research	24, 039, 000	26, 169, 000	23, 812, 000	***	***			
Program support	6, 732, 000	7, 110, 000	7, 248, 000	7, 248, 000	7, 248, 000	+138, 000		
Subtotal	6, 732, 000	7, 110, 000	7, 248, 000	7, 248, 000	7, 248, 000	+138, 000		
Health maintenance organizations:								
Grants and contracts	18, 100, 000	14, 650, 000	10, 060, 000	10, 060, 000	10, 060, 000	−4, 590, 000		
Unauthorized, not considered (feasibility)		6, 450, 000	15, 850, 000	***	***			
Program support	4, 777, 000	5, 062, 000	6, 297, 000	6, 297, 000	6, 297, 000	+1, 235, 000		
Subtotal	22, 877, 000	19, 712, 000	16, 357, 000	16, 357, 000	16, 357, 000	−3, 355, 000		
Unauthorized, not considered		(6, 450, 000)	(15, 850, 000)	***	***			
Special health programs:								
Health information and promotion	199, 000	1, 716, 000	1, 415, 000	1, 415, 000	6, 000, 000	+4, 284, 000	+4, 585, 000	+4, 585, 000
Physical fitness and sports	800, 000	818, 000	818, 000	1, 018, 000	1, 018, 000	+200, 000	+200, 000	
Health practices assessment	673, 000	786, 000	786, 000	786, 000		−786, 000	−786, 000	−786, 000
Special initiatives	858, 000	900, 000	900, 000	900, 000		−900, 000	−900, 000	−900, 000
Subtotal	2, 530, 000	4, 220, 000	3, 919, 000	4, 119, 000	7, 018, 000	+2, 798, 000	+3, 099, 000	+2, 899, 000
Subtotal, Public Health Service operations	34, 828, 000	33, 935, 000	30, 770, 000	30, 970, 000	33, 869, 000	−66, 000	+3, 099, 000	+2, 899, 000
Unauthorized, not considered	(52, 392, 000)	(67, 797, 000)	(79, 853, 000)	***	***			

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1979—Continued

[Amounts in dollars]

Item	1977 appropriation	1978 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (-) compared with— 1978 appropriation	Budget estimate	House allowance
TITLE II—DEPARTMENT OF HEALTH, EDUCATION AND WELFARE—Continued								
ASSISTANT SECRETARY FOR HEALTH—Continued								
Public Health Service management:								
Regional management	5,061,000	5,222,000	5,313,000	5,313,000	5,313,000	+91,000		
Program direction and support services	14,901,000	15,916,000	16,235,000	16,235,000	16,235,000	+319,000		
Less trust fund transfer	-90,000	-90,000				+90,000		
Subtotal, Public Health Service management	19,872,000	21,048,000	21,548,000	21,548,000	21,548,000	+500,000		
Subtotal, Assistant Secretary for Health	54,700,000	54,983,000	52,318,000	52,518,000	55,417,000	+434,000	+3,099,000	+2,899,000
Unauthorized, not considered	(52,392,000)	(67,797,000)	(79,853,000)	***	***			
Retirement pay and medical benefits for commissioned officers	52,352,000	56,948,000	65,083,000	65,083,000	65,083,000	+8,135,000		
Scientific activities overseas	1,500,000	11,387,000	11,387,000	11,387,000	11,387,000			
Total, health	4,749,810,000	4,809,621,000	4,807,151,000	5,234,601,000	5,333,215,000	+523,594,000	+526,064,000	+98,614,000
Unauthorized, not considered	(877,526,000)	(1,444,836,000)	(1,887,605,000)	***	***			
HEALTH CARE FINANCING ADMINISTRATION								
Grants to States for medicaid:								
Medical vendor payments	9,696,965,000	10,124,000,000	10,929,000,000	10,841,000,000	10,576,000,000	+452,000,000	-353,000,000	-265,000,000
State and local administration	496,228,000	575,000,000	675,000,000	674,000,000	674,000,000	+99,000,000		
Subtotal	10,193,193,000	10,699,000,000	11,603,000,000	11,515,000,000	11,250,000,000	+551,000,000	-353,000,000	-265,000,000
Payments to health care trust funds:								
Military service credit (HI)	141,000,000	143,000,000	141,000,000	141,000,000	141,000,000	-2,000,000		
Supplemental medical insurance	5,053,000,000	6,383,000,000	6,853,064,000	6,853,064,000	6,853,064,000	+470,064,000		
Hospital insurance for uninsured	803,000,000	687,941,000	733,849,000	733,849,000	733,849,000	+45,908,000		
Professional standards review organizations (PSRO activities for medicaid)	16,000,000	29,000,000	36,000,000	29,000,000	35,000,000	+6,000,000	-1,000,000	+6,000,000
Subtotal	6,013,000,000	7,242,941,000	7,763,913,000	7,756,913,000	7,762,913,000	+519,972,000	-1,000,000	+6,000,000
Quality care management, research and administration:								
Professional Standards Review Organization	54,230,000	64,866,000	82,720,000	64,866,000	64,866,000		-17,854,000	
Less trust fund transfer	-35,934,000	-34,934,000	-39,932,000	-34,934,000	-34,934,000		+4,989,000	
Subtotal, PSRO. Federal funds	18,296,000	29,932,000	42,797,000	29,932,000	29,932,000		-12,865,000	
Research, demonstration and evaluation programs	10,367,000	27,120,000	31,833,000	27,500,000	32,500,000	+5,380,000	+667,000	+5,000,000
Less trust fund transfer		-13,378,000	-18,091,000	-13,750,000	-13,750,000	-372,000	+4,341,000	
Subtotal, research, Federal funds	10,367,000	13,742,000	13,742,000	13,750,000	18,750,000	+5,008,000	+5,008,000	+5,000,000
Administrative costs	667,047,000	705,578,000	813,345,000	812,145,000	812,145,000	+106,567,000	-1,200,000	
Less trust fund transfer	-623,268,000	-656,323,000	-754,815,000	-754,214,000	-754,215,000	-97,892,000	+600,000	
Subtotal, administrative costs, Federal	43,779,000	49,255,000	58,530,000	57,930,000	57,930,000	+8,675,000	-600,000	
Subtotal, quality care management, research, and Administration:								
Federal funds	72,442,000	92,920,000	115,069,000	101,612,000	106,612,000	+13,683,000	-8,457,000	+5,000,000
Trust funds	(659,202,000)	(704,635,000)	(812,829,000)	(802,899,000)	(802,899,000)	(+98,264,000)	(-9,930,000)	
Subtotal, Health Care Financing Administration: New budget (obligational) authority	16,278,635,000	18,034,870,000	19,481,982,000	19,373,525,000	19,119,525,000	+1,084,655,000	-362,457,000	-254,000,000
OFFICE OF EDUCATION—EDUCATION DIVISION ELEMENTARY AND SECONDARY EDUCATION								
Grants for disadvantaged children (title I):								
Grants to local educational agencies	1,951,948,000	2,372,760,000	2,587,661,000	2,686,661,000	2,500,000,000	+127,240,000	-87,661,000	-186,661,000
State agency programs	297,172,000	322,500,000	344,500,000	344,500,000	344,500,000	+22,000,000		
State administration	23,630,000	27,490,000	30,515,000	31,515,000	29,639,000	+2,149,000	-876,000	-1,876,000
Evaluation and studies	12,250,000	12,250,000	16,144,000	16,144,000	15,706,000	+3,456,000	-438,000	-438,000
Subtotal	2,285,000,000	2,735,000,000	2,978,820,000	3,078,820,000	2,889,845,000	+154,845,000	-88,975,000	-188,975,000
Support and innovation grants:								
Basic grants	184,522,000	190,000,000	190,000,000	190,000,000	193,000,000	+3,000,000	+3,000,000	+3,000,000
Hold harmless	9,311,000	7,400,000	7,400,000	7,400,000	4,400,000	-3,000,000	-3,000,000	-3,000,000
Subtotal	193,833,000	197,400,000	197,400,000	197,400,000	197,400,000			
Bilingual education:								
Grants to school districts	74,300,000	81,000,000	81,000,000	89,000,000	85,000,000	+4,000,000	+4,000,000	-4,000,000
Training grants:								
Inservice training	11,425,000	12,975,000	12,975,000	13,350,000	12,975,000			-375,000
Other	18,275,000	24,000,000	28,000,000	29,625,000	28,000,000	+4,000,000		-1,625,000
Subtotal	29,700,000	36,975,000	40,975,000	42,975,000	40,975,000	+4,000,000		-2,000,000
Materials	7,000,000	10,000,000	10,000,000	10,000,000	10,000,000			
Grants to State agencies	3,900,000	4,375,000	4,375,000	4,875,000	4,875,000	+500,000	+500,000	
Advisory council	100,000	150,000	150,000	150,000	150,000			
Information clearinghouse	167,000	500,000	1,000,000	1,000,000	500,000		-500,000	-500,000
Model replication and studies		2,000,000	12,500,000	2,000,000	2,000,000		-10,500,000	
Subtotal, Bilingual education	115,167,000	135,000,000	150,000,000	150,000,000	143,500,000	+8,500,000	-6,500,000	-6,500,000
Right to Read	26,000,000	27,000,000	27,000,000	27,000,000	27,000,000			
Follow Through	59,000,000	59,000,000	35,000,000	***	***			
Drug abuse education	2,000,000	2,000,000	2,000,000	***	***			
Environmental education	3,500,000	3,500,000	3,5000,00	***	***			
Educational bradcasting facilities	15,000,000	19,000,000	1,000,000	***	***			
Ellender fellowships	750,000	750,000		750,000	1,000,000	+250,000	+1,000,000	+250,000
Ethnic heritage studies	2,300,000	2,300,000		2,300,000	1,000,000	-1,300,000	+1,000,000	-1,300,000
Subtotal, Elem, and secondary education	2,623,050,000	3,097,450,000	3,353,220,000	3,456,270,000	3,259,745,000	+162,295,000	+93,475,000	-196,525,000
Unauthorized, not considered	(79,500,000)	(83,500,000)	(41,500,000)	***	***			

Item	1977 appropriation	1978 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (—) compared with—		
						1978 appropriation	Budget estimate	House allowance
SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS								
Maintenance and operations:								
Payments for "A" children	289, 000, 000	300, 000, 000	337, 000, 000	337, 000, 0000	300, 000, 000		−37, 000, 000	−37, 000, 000
Payments for "B" children	334, 000, 000	357, 000, 000	374, 300, 000	374, 300, 000	357, 000, 000		−17, 300, 000	−17, 300, 000
Special provisions	15, 350, 000	16, 600, 000	16, 600, 000	16, 600, 000	16, 600, 000			
Payments to other Federal agencies	52, 500, 000	57, 700, 000	63, 500, 000	63, 500, 000	63, 500, 000	+5, 800, 000		
Hold harmless	72, 150, 000	38, 700, 000	20, 000, 000	20, 000, 000	20, 000, 000	−18, 700, 000		
Subtotal	763, 000, 000	770, 000, 000	811, 400, 000	811, 400, 000	757, 100, 000	−12, 900, 000	−54, 300, 000	−54, 300, 000
Construction	25, 000, 000	30, 000, 000	33, 000, 000	33, 000, 000	30, 000, 000		−3, 000, 000	−3, 000, 000
Disaster assistance	7, 033, 000		12, 000, 000	12, 000, 000	12, 000, 000	+12, 000, 000		
Subtotal	795, 033, 000	800, 000, 000	856, 400, 000	856, 400, 000	799, 100, 000	−900, 000	−57, 300, 000	−57, 300, 000
EMERGENCY SCHOOL AID								
National competition projects:								
Bilingual education projects	8, 600, 000	8, 600, 000	8, 600, 000	8, 600, 000	8, 600, 000			
Educational television	6, 450, 000	6, 450, 000	6, 450, 000	6, 450, 000	6, 450, 000			
Special programs and projects	45, 750, 000	76, 250, 000	65, 000, 000	62, 000, 000	75, 000, 000	−1, 250, 000	+10, 000, 000	+13, 000, 000
Evaluation	2, 150, 000	2, 150, 000	2, 900, 000	2, 900, 000	2, 900, 000	+750, 000		
Magnet schools	7, 500, 000	20, 000, 000	20, 000, 000	20, 000, 000	30, 000, 000	+10, 000, 000	+10, 000, 000	+10, 000, 000
State apportioned projects:								
Pilot programs	32, 250, 000	32, 250, 000	32, 250, 000	32, 250, 000	32, 250, 000			
Grants to nonprofit organizations	17, 200, 000	17, 200, 000	17, 200, 000	17, 200, 000	17, 200, 000			
General grants to school districts	137, 600, 000	137, 600, 000	137, 600, 000	137, 600, 000	137, 600, 000			
Subtotal, ESA projects	257, 500, 000	300, 500, 000	290, 000, 000	287, 000, 000	310, 000, 000	+9, 500, 000	+20, 000, 000	+23, 000, 000
Civil rights training and advisory services	34, 700, 000	34, 700, 000	42, 700, 000	40, 000, 000	42, 700, 000	+8, 000, 000		+2, 700, 000
Subtotal, emergency school aid	292, 200, 000	335, 200, 000	332, 700, 000	327, 000, 000	352, 700, 000	+17, 500, 000	+20, 000, 000	+25, 700, 000
EDUCATION FOR THE HANDICAPPED								
State assistance:								
State grant program	245, 000, 000	465, 000, 000	804, 000, 000	804, 000, 000	804, 000, 000	+339, 000, 000		
Deaf-blind centers	16, 000, 000	16, 000, 000	16, 000, 000	16, 000, 000	16, 000, 000			
Preschool incentive grants	12, 500, 000	15, 000, 000	15, 000, 000	15, 000, 000	20, 000, 000	+5, 000, 000	+5, 000, 000	+5, 000, 000
Subtotal, State assistance	273, 500, 000	496, 000, 000	835, 000, 000	835, 000, 000	840, 000, 000	+344, 000, 000	+5, 000, 000	+5, 000, 000
Special population programs:								
Severely handicapped projects	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000			
Early childhood education	22, 000, 000	22, 000, 000	22, 000, 000	22, 000, 000	22, 000, 000			
Subtotal, special population programs	27, 000, 000	27, 000, 000	27, 000, 000	27, 000, 000	27, 000, 000			
Regional vocational, adult, and postsecondary programs	2, 000, 000	2, 400, 000	2, 400, 000	2, 400, 000	2, 400, 000			
Innovation and development	11, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000			
Media and resource services:								
Media services and captioned films	19, 000, 000	19, 000, 000	19, 000, 000	19, 000, 000	19, 000, 000			
Regional resource centers	9, 750, 000	9, 750, 000	9, 750, 000	9, 750, 000	9, 750, 000			
Recruitment and information	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000			
Subtotal, media and resource services	29, 750, 000	29, 750, 000	29, 750, 000	29, 750, 000	29, 750, 000			
Special education manpower development	45, 375, 000	45, 375, 000	55, 375, 000	55, 375, 000	60, 000, 000	+14, 625, 000	+4, 625, 000	+4, 625, 000
Special studies	1, 735, 000	2, 300, 000	2, 300, 000	2, 300, 000	2, 300, 000			
Subtotal, education for the handicapped	390, 360, 000	622, 825, 000	971, 825, 000	971, 825, 000	981, 450, 000	+358, 625, 000	+9, 625, 000	+9, 625, 000
OCCUPATIONAL, VOCATIONAL, AND ADULT EDUCATION								
Vocational education:								
Grants to States for vocational education:								
Basic grants	412, 719, 000	430, 266, 000	430, 266, 000	449, 226, 000	500, 266, 000	+70, 000, 000	+70, 000, 000	+51, 000, 000
Program improvement supportive services	103, 180, 000	107, 567, 000	107, 567, 000	112, 317, 000	112, 317, 000	+4, 750, 000	+4, 750, 000	
Programs for students with special needs	20, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000			
Consumer and homemaking education	40, 994, 000	40, 994, 000	33, 994, 000	40, 994, 000	46, 000, 000	+5, 006, 000	+12, 006, 000	+5, 006, 000
State advisory councils	5, 066, 000	5, 066, 000	5, 066, 000	6, 073, 000	6, 073, 000	+1, 007, 000	+1, 007, 000	
State planning				5, 000, 000				−5, 000, 000
Subtotal, State grants	581, 959, 000	603, 893, 000	596, 893, 000	633, 650, 000	684, 656, 000	+80, 763, 000	+87, 763, 000	+51, 006, 000
Programs of national significance	27, 153, 000	28, 307, 000	28, 307, 000	29, 557, 000		−28, 307, 000	−28, 307, 000	−29, 557, 000
Bilingual vocational training	2, 800, 000	2, 800, 000	2, 800, 000	2, 800, 000	2, 800, 000			
Subtotal, Vocational education 78–79	611, 912, 000	635, 000, 000	628, 000, 000	666, 007, 000	687, 456, 000	+52, 456, 000	+59, 456, 000	+21, 449, 000
Adult education	90, 750, 000	90, 750, 000	90, 750, 000	100, 000, 000	100, 000, 000	+9, 250, 000	+9, 250, 000	
Subtotal, occupational, vocational, and adult education	702, 662, 000	725, 750, 000	718, 750, 000	766, 007, 000	787, 456, 000	+61, 706, 000	+68, 706, 000	+21, 449, 000
STUDENT ASSISTANCE								
Basic educational opportunity grants:								
Grants	1, 673, 000, 000	2, 140, 000, 000	3, 130, 600, 000	3, 363, 600, 000	2, 140, 600, 000	+600, 000	−990, 000, 000	−1, 223, 000, 000
Administration	19, 200, 000	20, 000, 000	26, 900, 000	25, 900, 000	26, 900, 000	+6, 900, 000		
Institutional allowances			9, 500, 000	9, 500, 000			−9, 500, 000	−9, 500, 000
Subtotal	1, 692, 200, 000	2, 160, 000, 000	3, 167, 000, 000	3, 400, 000, 000	2, 167, 500, 000	+7, 500, 000	−999, 500, 000	−1, 232, 500, 000
Supplemental educational opportunity grants	250, 093, 000	270, 093, 000	270, 093, 000	340, 100, 000	340, 100, 000	+70, 007, 000	+70, 007, 000	
Work-study	390, 000, 000	435, 000, 000	600, 000, 000	520, 000, 000	600, 000, 000	+165, 000, 000		+80, 000, 000
Direct loans:								
Federal capital contributions	310, 500, 000	310, 500, 000	286, 000, 000	310, 500, 000	310, 500, 000		+24, 500, 000	
Teacher cancellations	11, 920, 000	15, 160, 000	18, 400, 000	18, 400, 000	18, 400, 000	+3, 240, 000		
Subtotal	322, 420, 000	325, 660, 000	304, 400, 000	328, 900, 000	328, 900, 000	+3, 240, 000	+24, 500, 000	
Incentive grants for State scholarships	60, 000, 000	63, 750, 000	76, 750, 000	86, 750, 000	76, 750, 000	+13, 000, 000		−10, 000, 000
Subtotal, Student assistance	2, 714, 713, 000	3, 254, 503, 000	4, 418, 243, 000	4, 675, 750, 000	3, 513, 250, 000	+258, 747, 000	−904, 993, 000	−1, 162, 500, 000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1979—Continued

[Amounts in dollars]

						Increase (+) or decrease (–) compared with—		
Item	1977 appropriation	1978 appropriation	Budget estimate	House allowance	Committee recommendation	1978 appropriation	Budget estimate	House allowance
HIGHER AND CONTINUING EDUCATION								
Special programs for the disadvantaged (TRIO)	85, 000, 000	115, 000, 000	115, 000, 000	140, 000, 000	140, 000, 000	+25, 000, 000	+25, 000, 000	
Educational information centers		2, 000, 000		3, 000, 000	3, 000, 000	+1, 000, 000	+3, 000, 000	
Institutional assistance:								
Strengthening developing institutions	110, 000, 000	120, 000, 000	120, 000, 000	120, 000, 000	120, 000, 000			
Language training and area studies	17, 650, 000	18, 000, 000	18, 000, 000	20, 000, 000	20, 000, 000	+2, 000, 000	+2, 000, 000	
University community services	14, 125, 000	18, 000, 000		18, 000, 000	14, 000, 000	–4, 000, 000	+14, 000, 000	–4, 000, 000
State postsecondary education commission	3, 500, 000	3, 500, 000		3, 500, 000	3, 500, 000		+3, 500, 000	
Veterans cost of instruction	23, 750, 000	23, 750, 000	19, 000, 000	19, 000, 000	19, 000, 000	–4, 750, 000		
Cooperative education	12, 250, 000	15, 000, 000	4, 000, 000	10, 000, 000	20, 000, 000	+5, 000, 000	+16, 000, 000	+10, 000, 000
Construction—annual interest grants		4, 000, 000	29, 000, 000	29, 000, 000	29, 000, 000	+25, 000, 000		
Construction grants			50, 000, 000				–50, 000, 000	
Continuing education demonstration centers				500, 000	500, 000	+500, 000	+500, 000	
Subtotal, Institutional assistance	181, 275, 000	202, 250, 000	240, 000, 000	220, 000, 000	226, 000, 000	+23, 750, 000	–14, 000, 000	+6, 000 000
Personnel development:								
Graduate professional opportunities		3, 250, 000	8, 000, 000	8, 000, 000	8, 000, 000	+4, 750, 000		
Legal training for disadvantaged (CLEO)	750, 000	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000			
Public service fellowships	4, 000, 000	4, 000, 000		4, 000, 000	4, 000, 000		+4, 000, 000	
Mining fellowships	4, 500, 000	4, 500, 000		4, 500, 000	4, 500, 000		+4, 500, 000	
Law school clinical experience		1, 000, 000		2, 000, 000		–1, 000, 000		–2, 000, 000
Subtotal, Personnel development	9, 250, 000	13, 750, 000	9, 000, 000	19, 500, 000	17, 500, 000	+3, 750, 000	+8, 500, 000	–2, 000, 000
Wayne Morse Chair on Law and Politics		500, 000				–500, 000		
Hubert H. Humphrey Institute and Dirksen Center			7, 500, 000	7, 500, 000	7, 500, 000	+7, 500, 000		
Subtotal, higher and continuing education	275, 525, 000	333, 500, 000	371, 500, 000	390, 000, 000	394, 000, 000	+60, 500, 000	+22, 500, 000	+4, 000, 000
LIBRARY RESOURCES								
Public libraries	60, 237, 000	60, 237, 000	60, 237, 000	65, 000, 000	70, 000, 000	+9, 763, 000	+9, 763, 000	+5, 000, 000
School libraries and instructional resources	154, 497, 000	167, 600, 000	167, 600, 000	175, 000, 000	185, 000, 000	+17, 400, 000	+17, 400, 000	+10, 000, 000
College library resources	9, 975, 000	9, 975, 000		9, 975, 000	9, 975, 000		+9, 975, 000	
Research libraries		5, 000, 000	5, 000, 000	5, 000, 000	7, 000, 000	+2, 000, 000	+2, 000, 000	2, 000, 000
Training and demonstration	3, 000, 000	3, 000, 000		3, 000, 000	3, 000, 000		+3, 000, 000	
Undergraduate instructional equipment	7, 500, 000	7, 500, 000				–7, 500, 000		
Subtotal, library resources	235, 209, 000	253, 312, 000	232, 837, 000	257, 975, 000	274, 975, 000	+21, 663, 000	+42, 138, 000	+17, 000, 000
SPECIAL PROJECTS AND TRAINING								
Special projects:								
Metric education projects	2, 090, 000	2, 090, 000	2, 090, 000	1, 840, 000	1, 840, 000	–250, 000	–250, 000	")"
Gifted and talented children	2, 560, 000	2, 560, 000	2, 560, 000	2, 560, 000	5, 000, 000	+2, 440, 000	+2, 440, 000	+2, 440, 000
Community schools	3, 553, 000	3, 553, 000	5, 791, 000	5, 000, 000	3, 553, 000		–2, 238, 000	–1, 447, 000
Career education	10, 135, 000	10, 135, 000	10, 135, 000	35, 000, 000	30, 000, 000	+19, 865, 000	+19, 865, 000	–5, 000, 000
Consumer education	3, 135, 000	4, 068, 000	3, 135, 000	3, 135, 000	4, 068, 000		+933, 000	+933, 000
Women's educational equity	7, 270, 000	9, 085, 000	9, 000, 000	9, 000, 000	9, 000, 000	+915, 000		
Arts in education program	1, 750, 000	2, 000, 000	2, 000, 000	2, 500, 000	3, 000, 000	+1, 000, 000	+1, 000, 000	+500, 000
Dissemination	10, 000, 000	10, 000, 000	10, 000, 000	11, 000, 000	14, 000, 000	+4, 000, 000	+4, 000, 000	+3, 000, 000
Educational TV programing	7, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000	7, 000, 000	+2, 000, 000	+2, 000, 000	+2, 000, 000
Urban school initiative			3, 738, 000		2, 200, 000	+2, 200, 000	–1, 538, 000	+2, 200, 000
Subtotal	47, 493, 000	47, 491, 000	53, 449, 000	75, 035, 000	79, 661, 000	+32, 170, 000	+26, 212, 000	+4, 626, 000
Educational personnel training:								
Teacher Corps	37, 500, 000	37, 500, 000	37, 500, 000	37, 500, 000	37, 500, 000			
Teacher centers		8, 250, 000	10, 250, 000	15, 000, 000	10, 250, 000	+2, 000, 000		–4, 750, 000
Planning and evaluation	7, 085, 000	7, 085, 000	7, 085, 000	6, 000, 000	4, 500, 000	–2, 585, 000	–2, 585, 000	–1, 500, 000
Information clearinghouse	333, 000	333, 000				–333, 000		
Subtotal, special projects and training	92, 411, 000	100, 659, 000	108, 284, 000	133, 535, 000	131, 911, 000	+31, 252, 000	+23, 627, 000	–1, 624, 000
Guaranteed student loan program:								
Interest subsidies	334, 354, 000	121, 781, 000	532, 313, 000	532, 313, 000	520, 813, 000	+399, 032, 000	–11, 500, 000	–11, 500, 000
Unauthorized, not considered			(70, 000, 000)	***	***			
Student loan insurance fund	32, 312, 000	144, 443, 000	193, 501, 000	193, 501, 000	193, 501, 000	+49, 058, 000		
Authority to borrow (SLIF)		40, 000, 000	25, 000, 000	25, 000, 000	25, 000, 000	–15, 000, 000		
Subtotal, guaranteed student loan program	366, 666, 000	306, 224, 000	750, 814, 000	750, 814, 000	739, 314, 000	43, 090, 000	–11, 500, 000	–11, 500, 000
Unauthorized, not considered			(70, 000, 000)	***	**			
Health profession graduate student loan insurance fund:								
Student loan insurance			1, 500, 000	1, 500, 000			–1, 500, 000	–1, 500, 000
Authority to borrow			5, 000, 000	5, 000, 000			–5, 000, 000	–5, 000, 000
Total			6, 500, 000	6, 500, 000			–6, 500, 000	–6, 500, 000
Higher education facilities loan and insurance fund	1, 847, 000	1, 847, 000	2, 204, 000	2, 204, 000	2, 204, 000	+357, 000		
Educational activities overseas:								
Special foreign currency program	2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000		–2, 000, 000	–2, 000, 000	–2, 000, 000
Salaries and expenses:								
Advisory committees	2, 341, 000	2, 321, 000	2, 321, 000	2, 321, 000	2, 321, 000			
Program administration	101, 543, 000	115, 637, 000	124, 845, 000	124, 509, 000	124, 509, 000	+8, 872, 000	–336, 000	
Subtotal, salaries and expenses	103, 884, 000	117, 958, 000	127, 166, 000	126, 830, 000	12, 830, 000	+8, 872, 000	–336, 000	
Subtotal, Office of Education	8, 595, 560, 000	9, 951, 228, 000	12, 252, 443, 000	12, 723, 110, 000	11, 362, 935, 000	+1, 411, 707, 000	–889, 508, 000	–1, 360, 175, 000
Unauthorized, not considered	(79, 500, 000)	(83, 500, 000)	(111, 500, 000)	***	***			
NATIONAL INSTITUTE OF EDUCATION								
Research and development	58, 300, 000	76, 600, 000	86, 400, 000	83, 900, 000	76, 600, 000		–9, 800, 000	–7, 300, 000
Program administration	12, 085, 000	13, 471, 000	13, 600, 000	13, 600, 000	13, 471, 000		–129, 000	–129, 000
Subtotal, National Institute of Education	70, 385, 000	90, 071, 000	100, 000, 000	97, 500, 000	90, 071, 000		–9, 929, 000	–7, 429, 000
ASSISTANT SECRETARY FOR EDUCATION								
Improvement of post-secondary education	11, 500, 000	12, 000, 000	14, 500, 000	13, 000, 000	13, 000, 000	+1, 000, 000	–1, 500, 000	
Lifelong learning			5, 000, 000				–5, 000, 000	
National Center for Educational Statistics	13, 120, 000	13, 940, 000	15, 940, 000	15, 700, 000	13, 940, 000		–2, 000, 000	–1, 760, 000
Salaries and expenses	9, 062, 000	10, 373, 000	10, 817, 000	10, 663, 000	10, 663, 000	+290, 000	–154, 000	
Subtotal, Assistant Secretary for Education	33, 682, 000	36, 313, 000	46, 257, 000	39, 363, 000	37, 603, 000	+1, 290, 000	–8, 654, 000	–1, 760, 000
Total, Education Division	8, 699, 627, 000	10, 077, 612, 000	12, 398, 700, 000	12, 859, 973, 000	11, 490, 609, 000	+1, 412, 997, 000	–908, 091, 000	–1, 369, 364, 000
Unauthorized, not considered	(79, 500, 000)	(83, 500, 000)	(111, 500, 000)	***	***			

Item	1977 appropriation	1978 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (—) compared with—		
						1978 appropriation	Budget estimate	House allowance
SOCIAL SECURITY ADMINISTRATION								
Federal Funds								
Payments to the social security trust fund	716, 902, 000	741, 203, 000	760, 774, 000	760, 774, 000	760, 774, 000	+19, 571, 000		
Special benefits for disabled coal miners	961, 965, 000	967, 623, 000	1, 016, 608, 000	1, 016, 608, 000	1, 016, 608, 000	+48, 985, 000		
Supplemental security income program:								
Benefit payments	4, 635, 539, 000	4, 491, 223, 000	4, 821, 618, 000	4, 821, 618, 000	4, 821, 618, 000	+330, 395, 000		
Hold harmless	39, 381, 000	45, 000, 000	45, 000, 000	45, 000, 000	45, 000, 000			
Vocational rehabilitation services	45, 981, 000	82, 978, 000	86, 148, 000	86, 148, 000	86, 148, 000	+3, 170, 000		
Administration	525, 538, 000	538, 999, 000	568, 968, 000	568, 968, 000	568, 968, 000	+29, 969, 000		
Federal fiscal liability	33, 900, 000	91, 800, 000	36, 120, 000	36, 120, 000	36, 120, 000	—55, 680, 000		
Subtotal	5, 280, 339, 000	5, 250, 000, 000	5, 557, 854, 000	5, 557, 854, 000	5, 557, 854, 000	+307, 854, 000		
Assistance payments programs:								
Maintenance assistance:								
AFDC benefit payments	5, 577, 145, 000	5, 628, 150, 000	6, 064, 000, 000	5, 908, 000, 000	5, 908, 000, 000	+279, 850, 000	—156, 000, 000	
Adult categories	—3, 940, 000	4, 000, 000	4, 000, 000	4, 000, 000	4, 000, 000			
Emergency assistance	30, 954, 000	33, 000, 000	34, 000, 000	34, 000, 000	34, 000, 000	+1, 000, 000		
State and local administration and training	617, 633, 000	638, 000, 000	670, 000, 000	670, 000, 000	670, 000, 000	+32, 000, 000		
Repatriation	878, 000	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000			
Fiscal relief to States/localities								
Subtotal, maintenance	6, 222, 670, 000	6, 304, 150, 000	6, 773, 000, 000	6, 617, 000, 000	6, 617, 000, 000	+312, 850, 000	—156, 000, 000	
Child support enforcement:								
Collections	—139, 561, 000	—210, 000, 000	—237, 000, 000	—237, 000, 000	—237, 000, 000	—27, 000, 000		
State and local administration	185, 509, 000	230, 000, 000	250, 000, 000	250, 000, 000	250, 000, 000	+20, 000, 000		
Subtotal, child support	45, 948, 000	20, 000, 000	13, 000, 000	13, 000, 000	13, 000, 000	—7, 000, 000		
Research and evaluation	3, 104, 000	3, 003, 000	5, 000, 000	3, 000, 000	3, 000, 000	—3, 000	—2, 000, 000	
Administrative expenses	21, 665, 000	27, 471, 000	32, 056, 000	30, 000, 000	30, 000, 000	+2, 529, 000	—2, 056, 000	
Subtotal, assistance payments	6, 293, 387, 000	6, 354, 624, 000	6, 823, 056, 000	6, 663, 000, 000	6, 663, 000, 000	+308, 376, 000	—160, 056, 000	
Refugee assistance:								
Cuban refugees	80, 511, 000	71, 950, 000	52, 000, 000	52, 000, 000	59, 800, 000	—12, 150, 000	+7, 800, 000	+7, 800, 000
Indochinese refugees	51, 489, 000	124, 000, 000	95, 500, 000	95, 500, 000	95, 500, 000	—28, 500, 000		
Subtotal	132, 000, 000	195, 950, 000	147, 500, 000	147, 500, 000	155, 300, 000	—40, 650, 000	+7, 800, 000	+7, 800, 000
Limitation on salaries and expenses, trust funds	(2, 046, 255, 000)	(2, 117, 661, 000)	(2, 279, 842, 000)	(2, 234, 587, 000)	(2, 251, 587, 000)	(+133, 926, 000)	(—28, 255, 000)	(+17, 000, 000)
Subtotal, Social Security Administration:								
Federal funds	13, 384, 593, 000	13, 509, 400, 000	14, 305, 792, 000	14, 145, 736, 000	14, 153, 536, 000	+644, 136, 000	—152, 256, 000	+7, 800, 000
Trust fund limitation	(2, 046, 255, 000)	(2, 117, 661, 000)	(2, 279, 842, 000)	(2, 234, 587, 000)	(2, 251, 587, 000)	(+133, 926, 000)	(—28, 255, 000)	(+17, 000, 000)
SPECIAL INSTITUTIONS								
American Printing House for the Blind	3, 012, 000	3, 498, 000	3, 906, 000	3, 906, 000	3, 906, 000	+408, 000		
National Technical Institute for the Deaf: Academic program	12, 675, 000	14, 630, 000	16, 625, 000	16, 625, 000	16, 625, 000	+1, 995, 000		
Gallaudet College:								
Academic program	15, 610, 000	17, 510, 000	20, 208, 000	20, 208, 000	20, 208, 000	+2, 698, 000		
Model Secondary School for the Deaf	7, 343, 000	8, 343, 000	9, 217, 000	9, 217, 000	9, 217, 000	+874, 000		
Kendall Demonstration Elementary School	3, 270, 000	3, 907, 000	4, 303, 000	4, 303, 000	4, 303, 000	+396, 000		
Construction	15, 575, 000	16, 216, 000	11, 105, 000	11, 105, 000	11, 105, 000	—5, 111, 000		
Subtotal, Gallaudet College	41, 798, 000	45, 976, 000	44, 833, 000	44, 833, 000	44, 833, 000	—1, 143, 000		
Howard University:								
Academic program	63, 487, 000	73, 087, 000	81, 287, 000	81, 287, 000	81, 287, 000	+8, 200, 000		
Howard University Hospital	22, 106, 000	22, 106, 000	22, 106, 000	22, 106, 000	22, 106, 000			
Construction	2, 500, 000	3, 925, 000	10, 000, 000	10, 000, 000	10, 000, 000	+6, 075, 000		
Subtotal, Howard University	88, 093, 000	99, 118, 000	113, 393, 000	113, 393, 000	113, 393, 000	+14, 275, 000		
Subtotal, special institutions	145, 578, 000	163, 222, 000	178, 757, 000	178, 757, 000	178, 757, 000	+15, 535, 000		
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT								
Grants to States for Social and Child Welfare Services								
Grants to States for social services	2, 259, 726, 000	2, 188, 620, 000	2, 450, 000, 000	2, 450, 000, 000	2, 450, 000, 000	+261, 380, 000		
Child day care services	155, 709, 000	200, 000, 000		• • •	• • •			
State and local training	45, 751, 000	63, 530, 000	71, 552, 000	71, 552, 000	71, 552, 000	+8, 022, 000		
Child welfare services	56, 500, 000	56, 500, 000	56, 500, 000	56, 500, 000	56, 500, 000			
Subtotal	2, 361, 977, 000	2, 308, 650, 000	2, 578, 052, 000	2, 578, 052, 000	2, 578, 052, 000	+269, 402, 000		
HUMAN DEVELOPMENT SERVICES								
Child development:								
Head Start	475, 000, 000	625, 000, 000	680, 000, 000	•••	•••			
Research, demonstration, and evaluation	15, 700, 000	15, 700, 000	19, 000, 000	•••	•••			
Child abuse	18, 928, 000	18, 928, 000	21, 228, 000	•••	•••			
Runaway youth	8, 000, 000	11, 000, 000	11, 000, 000	•••	•••			
Subtotal, child development	517, 628, 000	670, 628, 000	731, 228, 000	•••	•••			
Aging programs:								
Community services (title III):								
State agency activities	17, 000, 000	19, 000, 000	19, 000, 000	•••	•••			
Advance for 1980			19, 000, 000	•••	•••			
Area planning and social services	122, 000, 000	153, 000, 000	153, 000, 000	•••	•••			
Advance for 1980			153, 000, 000	•••	•••			
Model projects	14, 700, 000	15, 000, 000	15, 000, 000	•••	•••			
Subtotal, Community Services	153, 700, 000	187, 000, 000	359, 000, 000	•••	•••			
Nutrition (title VIII)	203, 525, 000	250, 000, 000	287, 000, 000	•••	•••			
Advance for 1980			287, 000, 000	•••	•••			
Research, demonstration, and manpower (title IV):								
Research	8, 500, 000	8, 500, 000	8, 500, 000	•••	•••			
Training	14, 200, 000	17, 000, 000	17, 000, 000	•••	•••			
Multidisciplinary centers on gerontology	3, 800, 000	3, 800, 000	3, 800, 000	•••	•••			
Subtotal, R. D. and manpower	26, 500, 000	29, 300, 000	29, 300, 000	•••	•••			

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1979—Continued

[Amounts in dollars]

Item	1977 appropriation	1978 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1978 appropriation	Budget estimate	House allowance
Federal Council on Aging	575,000	450,000	450,000	***	***			
Multipurpose senior center (title V)	20,000,000	40,000,000	40,000,000	***	***			
Advance for 1980			40,000,000	***	***			
National clearinghouse		2,000,000	2,000,000	***	***			
Subtotal, aging programs	404,300,000	508,750,000	1,044,750,000	***	***			
Advance for 1980	(404,300,000)	(508,750,000)	(1,044,750,000)	***	***			
Rehabilitation service and facilities:								
Basic State grants	740,309,000	760,472,000	785,457,000	***	***			
Advance for 1980			785,000,000	***	***			
Innovation and expansion	18,000,000	18,000,000	19,800,000	***	***			
Service projects:								
Deaf-blind center	2,100,000	2,500,000	2,500,000	***	***			
Special projects	14,650,000	17,328,000	17,430,000	***	***			
Training and facilities grants:								
Training services	5,000,000	5,000,000	5,000,000	***	***			
Facility improvements	2,400,000	2,400,000	2,400,000	***	***			
Evaluation	2,500,000	2,500,000	2,500,000	***	***			
Subtotal, service projects	26,650,000	29,728,000	29,830,000	***	***			
Research	29,000,000	31,500,000	31,500,000	***	***			
Training	30,500,000	30,500,000	45,228,000	***	***			
Subtotal	844,459,000	870,200,000	1,696,815,000	***	***			
Advance for 1980	(844,459,000)	(870,200,000)	(1,696,815,000)	***	***			
Grants for the developmentally disabled:								
State grants	30,058,000	33,058,000	49,880,000	***	***			
Service grants	19,617,000	19,567,000	5,557,000	***	***			
University affiliated facilities	5,250,000	6,500,000	6,500,000	***	***			
Subtotal	54,925,000	59,125,000	61,937,000	***	***			
Public service:								
Research	2,955,000	2,955,000	2,975,000	***	***			
Child welfare training	8,150,000	8,150,000	9,000,000	***	***			
Subtotal, public service	11,105,000	11,105,000	11,975,000	***	***			
Special program for Native Americans	33,000,000	33,000,000	33,800,000	***	***			
White House Conference on Families		3,000,000		***	***			
Salaries and expenses	62,619,000	66,451,000	68,445,000	***	***			
Less: Trust fund transfer	−600,000	−600,000	−600,000	***	***			
Subtotal, human development services, unauthorized. not considered	1,927,436,000	2,221,659,000	3,648,350,000	***	***			
Work incentives:								
Grants to States	356,995,000	351,995,000	351,995,000	371,724,000	371,724,000	+19,729,000	+19,729,000	
Program direction and evaluation	13,005,000	13,005,000	13,276,000	13,276,000	13,276,000	+27,000		
Subtotal	370,000,000	365,000,000	365,271,000	385,000,000	385,000,000	+20,000,000	+19,729,000	
Research and training activities overseas			3,490,000	3,000,000			−3,490,000	−3,000,000
Subtotal, human development	2,731,977,000	2,673,650,000	2,946,813,000	2,966,052,000	2,963,952,000	+289,402,000	+16,239,000	−3,000,000
Unauthorized, not considered	(2,083,745,000)	(2,422,259,000)	(3,648,950,000)	***	***			
DEPARTMENT MANAGEMENT								
Office for Civil Rights	28,987,000	33,596,000	73,356,000	73,356,000	72,356,000	+38,760,000	−1,000,000	−1,000,000
Less: Trust fund transfer	−919,000	−514,000	−1,200,000	−1,200,000	−1,200,000	−686,000		
Subtotal, Office of Civil Rights, Federal funds	28,068,000	33,082,000	72,156,000	72,156,000	71,156,000	+38,074,000	−1,000,000	−1,000,000
General department management:								
Department direction	50,467,000	62,059,000	60,341,000	60,203,000	60,203,000	−1,856,000	−138,000	
Department operations	65,993,000	72,270,000	75,500,000	75,500,000	74,713,000	+2,443,000	−787,000	−787,000
Less: Trust fund transfer	−5,767,000	−27,883,000	−6,890,000	−6,890,000	−6,890,000	+20,993,000		
Subtotal, general department management	110,693,000	106,446,000	128,951,000	128,813,000	128,026,000	+21,580,000	−925,000	−787,000
Office of the Inspector General	27,165,000	31,285,000	40,311,000	40,311,000	40,311,000	+9,026,000		
Less: Trust fund transfer	−3,429,000	−4,555,000	−4,705,000	−4,705,000	−4,705,000	−150,000		
Subtotal, Inspector General, Federal funds	23,736,000	26,730,000	35,606,000	35,606,000	35,606,000	+8,876,000		
Policy research	19,949,000	29,949,000	27,000,000	25,000,000	27,000,000	−2,949,000		+2,000,000
Subtotal, department management	182,446,000	196,207,000	263,713,000	261,575,000	261,788,000	+65,581,000	−1,925,000	+213,000
Total, Health, Education, and Welfare:								
Federal funds	46,172,666,000	49,464,582,000	54,382,908,000	55,020,219,000	53,501,382,000	+4,036,800,000	−881,526,000	−1,518,837,000
Trust funds	(2,715,662,000)	(2,855,338,000)	(3,105,466,000)	(3,050,281,000)	(3,067,281,000)	(+211,943,000)	(−38,185,000)	(+17,000,000)
Total, unauthorized, not considered	(3,040,771,000)	(3,950,595,000)	(5,648,055,000)	***	***			
Federal funds	(3,040,171,000)	(3,949,995,000)	(5,647,455,000)	***	***			
Trust funds	(600,000)	(600,000)	(600,000)	***	***			
TITLE III—RELATED AGENCIES								
ACTION (domestic programs):								
Volunteers in Service to America (VISTA)	23,000,000	25,350,000	36,941,000	***	***			
Service learning programs	5,500,000	5,500,000	605,000	***	***			
Older American volunteer programs:								
Foster grandparents program	34,000,000	34,900,000	35,400,000	***	***			
Senior companion program	3,800,000	7,000,000	7,140,000	***	***			
Retired senior volunteer program	19,000,000	20,100,000	20,100,000	***	***			
Subtotal, older volunteers	56,800,000	62,000,000	62,640,000	***	***			
Special volunteer programs	2,500,000	2,500,000	10,693,000	***	***			
Program support	21,310,000	22,921,000	24,807,000	***	***			
Subtotal, ACTION	109,110,000	118,271,000	135,686,000	***	***			
Community Services Administration:								
Community action operations:								
Local initiative	330,000,000	369,000,000	381,000,000	***	***			
Senior opportunities and service	10,000,000	10,000,000	10,500,000	***	***			
State economic opportunity offices	12,000,000	12,000,000	7,500,000	***	***			
Community food and nutrition	27,500,000	30,000,000	22,000,000	***	***			
Emergency energy conservation services	110,000,000	65,000,000	10,000,000	***	***			
Crisis intervention program (energy)	200,000,000	200,000,000		***	***			
National youth sports program	6,000,000	6,000,000	6,000,000	***	***			
Summer youth recreation and transportation	17,000,000	17,000,000	17,000,000	***	***			

Item	1977 appropriation	1978 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (—) compared with—		
						1978 appropriation	Budget estimate	House allowance
Training and technical assistance		1, 000, 000	3, 000, 000	***	***			
Migrant program	1, 000, 000	1, 000, 000	1, 000, 000	***	***			
Subtotal, community action	713, 500, 000	711, 000, 000	458, 000, 000	***	***			
Demonstrations:								
Rural housing	5, 000, 000	6, 000, 000	6, 000, 000	***	***			
Other			12, 400, 000	***	***			
Community economic development	48, 170, 000	48, 170, 000	25, 800, 000	***	***			
Evaluation		1, 000, 000	3, 100, 000	***	***			
Program administration	27, 883, 000	31, 883, 000	32, 700, 000	***	***			
Subtotal, Community Services Administration	794, 553, 000	798, 053, 000	538, 000, 000	***	***			
Corporation for Public Broadcasting:								
Fiscal year 1978 (advanced in fiscal year 1977)	107, 150, 000			***	***			
Fiscal year 1980 (advanced in fiscal year 1978)		152, 000, 000		***	***			
Fiscal year 1981 (current request)			172, 000, 000	***	***			
Subtotal, Corporation for Public Broadcasting								
Unauthorized, not considered	(107, 150, 000)	(152, 000, 000)	(172, 000, 000)	***	***			
Federal Mediation and Conciliation Service	21, 177, 000	22, 465, 000	22, 686, 000	22, 686, 000	22, 686, 000	+221, 000		
Federal Mine Safety and Health Review Commission			4, 776, 000	4, 776, 000	4, 776, 000	+4, 776, 000		
National Commission on Libraries and Information Science	4, 008, 000	607, 000	683, 000	648, 000	683, 000	+76, 000		+35, 000
National Labor Relations Board	80, 908, 000	92, 508, 000	100, 467, 000	100, 467, 000	100, 467, 000	+7, 959, 000		
National Mediation Board	3, 660, 000	3, 913, 000	3, 969, 000	3, 969, 000	3, 969, 000	+56, 000		
Occupational Safety and Health Review Commission	6, 607, 000	7, 150, 000	7, 658, 000	7, 658, 000	7, 658, 000	+508, 000		
Railroad Retirement Board:								
Payment to railroad retirement trust funds	250, 000, 000	250, 000, 000	313, 000, 000	313, 000, 000	313, 000, 000	+63, 000, 000		
Regional rail transportation protective account	65, 000, 000	93, 500, 000	25, 000, 000	25, 000, 000	25, 000, 000	—68, 500, 000		
Limitation on salaries and expenses	(33, 723, 000)	(33, 282, 000)	(34, 317, 000)	(34, 317, 000)	(34, 317, 000)	(+1, 035, 000)		
Soldier's and Airmen's Home (trust fund appropriation): Operation and maintenance	16, 099, 000	16, 356, 000	16, 939, 000	16, 939, 000	16, 939, 000	+583, 000		
Subtotal, related agencies	481, 182, 000	519, 781, 000	539, 495, 000	529, 460, 000	529, 495, 000	+9, 714, 000		+35, 000
Federal funds	447, 459, 000	486, 499, 000	495, 178, 000	495, 143, 000	495, 187, 000	+8, 679, 000		+35, 000
Trust funds	(33, 723, 000)	(33, 282, 000)	(34, 317, 000)	(34, 317, 000)	(34, 317, 000)	(+1, 035, 000)		
Unauthorized, not considered, Federal funds	(1, 010, 813, 000)	(1, 068, 324, 000)	(845, 686, 000)	***	***			
RECAPITULATION								
Title I—Department of Labor:								
Federal funds	6, 789, 233, 000	2, 324, 342, 000	2, 464, 590, 000	2, 466, 906, 000	2, 479, 006, 000	+154, 664, 000	+14, 416, 000	+12, 100, 000
Trust funds	1, 414, 272, 000	1, 530, 872, 000	1, 685, 737, 000	1, 695, 737, 000	1, 695, 737, 000	+164, 865, 000	+10, 000, 000	
Unauthorized, not considered:								
Federal funds	(12, 936, 052, 000)	(3, 722, 162, 000)	(11, 127, 002, 000)	***	***			
Trust funds	(32, 234, 000)	(33, 634, 000)	(35, 238, 000)	***	***			
Title II—Department of Health, Education, and Welfare:								
Federal funds	46, 172, 666, 000	49, 464, 582, 000	54, 382, 908, 000	55, 020, 219, 000	53, 500, 482, 000	+4, 035, 900, 000	—882, 426, 000	—1, 519, 737, 000
Trust funds	2, 715, 662, 000	2, 855, 338, 000	3, 105, 466, 000	3, 050, 281, 000	3, 067, 281, 000	+211, 943, 000	—38, 185, 000	+17, 000, 000
Unauthorized, not considered:								
Federal funds	(3, 040, 171, 000)	(3, 949, 995, 000)	(5, 647, 455, 000)	***	***			
Trust funds	(600, 000)	(600, 000)	(600, 000)					
Title III—Related agencies:								
Federal funds	447, 459, 000	486, 499, 000	495, 178, 000	495, 143, 000	495, 178, 000	+8, 679, 000		+35, 000
Trust funds	33, 723, 000	33, 282, 000	34, 317, 000	34, 317, 000	34, 317, 000	+1, 035, 000		
Unauthorized, not considered Federal funds	(1, 010, 813, 000)	(1, 068, 324, 000)	(845, 686, 000)	***	***			
Grand total, all titles:								
Federal funds	53, 409, 358, 000	52, 275, 423, 000	57, 342, 676, 000	57, 982, 268, 000	56, 474, 666, 000	+4, 199, 243, 000	—868, 010, 000	—1, 507, 602, 000
Trust funds	(4, 163, 657, 000)	(4, 419, 492, 000)	(4, 825, 520, 000)	(4, 780, 335, 000)	(4, 797, 335, 000)	(+377, 843, 000)	(—28, 185, 000)	(+17, 000, 000)
Unauthorized, not considered:								
Federal funds	(16, 987, 036, 000)	(8, 740, 481, 000)	(17, 620, 143, 000)	***	***			
Trust funds	(32, 834, 000)	(34, 234, 000)	(35, 838, 000)	***	***			
Less 2-percent reduction				—397, 166, 000				+397, 166, 000
Grand total, all titles including 2-percent reduction: Federal funds	53, 409, 358, 000	52, 275, 423, 000	57, 342, 676, 000	57, 585, 102, 000	56, 474, 666, 000	+4, 199, 243, 000	—868, 010, 000	—1, 110, 436, 000
Fraud abuse and waste				—1, 000, 000, 000	—1, 000, 000, 000	—1, 000, 000, 000	—1, 000, 000, 000	
Grand total, all titles:								
Federal funds	53, 409, 358, 000	52, 275, 423, 000	57, 342, 676, 000	56, 585, 102, 000	55, 474, 666, 000	+3, 199, 243, 000	—1, 868, 010, 000	—1, 110, 436, 000
Trust funds	(4, 163, 657, 000)	(4, 419, 492, 000)	(4, 825, 520, 000)	(4, 780, 335, 000)	(4, 797, 335, 000)	(+377, 843, 000)	(—28, 185, 000)	(+17, 000, 000)
Unauthorized, not considered;								
Federal funds	(16, 987, 036, 000)	(8, 740, 481, 000)	(17, 620, 143, 000)	***	***			
Trust funds	(32, 834, 000)	(34, 234, 000)	(35, 838, 000)	***	***			
By function:								
Function 500—Education, training, employment, and social services	12, 054, 042, 000	13, 415, 346, 000	16, 020, 470, 000	16, 498, 519, 000	15, 133, 290, 000	+1, 717, 944, 000	—887, 180, 000	—1, 365, 229 000
Function 550—Health	21, 202, 613, 000	23, 030, 914, 000	24, 527, 555, 000	24, 847, 945, 000	24, 690, 059, 000	+1, 659, 145, 000	+162, 504, 000	—157, 886, 000
Function 600—Income security	20, 050, 920, 000	15, 717, 074, 000	16, 638, 814, 000	16, 476, 620, 000	16, 485, 633, 000	+768, 559, 000	—153, 181, 000	+9, 013, 000
Function 700—Veterans benefits and services	16, 099, 000	16, 356, 000	16, 939, 000	16, 939, 000	16, 939, 000	+583, 000		
Function 750—Administration of justice	28, 068, 000	33, 082, 000	72, 156, 000	72, 156, 000	71, 156, 000	+38, 074, 000	—1, 000, 000	—1, 000, 000
Total, all functions (Federal funds)	53, 351, 742, 000	52, 212, 772, 000	57, 275, 934, 000	57, 912, 179, 000	56, 397, 077, 000	+4, 184, 305, 000	—878, 857, 000	—1, 515, 102, 000
By function, unauthorized, not considered:								
Function 500—Education, training, employment, and social services	15, 909, 510, 000	7, 095, 645, 000	15, 732, 538, 000					
Function 550—Health	877, 526, 000	1, 444, 836, 000	1, 887, 605, 000					
Function 600—Income security	200, 000, 000	200, 000, 000						
Function 700—Veterans benefits and services								
Function 750—Administration of justice								
Total, unauthorized, not considered (Federal funds)	16, 987, 036, 000	8, 740, 481, 000	17, 620, 143, 000					

Mr. MAGNUSON. Madam President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I am going to begin my opening statement on the bill. The distinguished Senator from Massachusetts is here someplace, but I am sure he will not mind if I begin, because it is a long, big, complex bill, and time is of the essence, of course.

Madam President, following months of committee hearings and over 600 witnesses, the Appropriations Committee is recommending a Labor-HEW appropriations bill $1.1 billion below the House-passed version and $868 million below the President's budget.

We felt we had an obligation to the taxpayers to go over each and every program in this complex bill and trim back wherever we could while still providing essential services. This alone took 23 hours and eight sessions in subcommittee and another 9 hours in full committee after we had heard all of the 600 witnesses and, I must say, that all members of the committee on both sides of the aisle were very helpful and paid a great deal of attention to this bill, for which we are all grateful.

The $56.5 billion total recommended is 4 percent below the President's budget and 6 percent below the House. This does not even count the $1 billion reduction in fraud and abuse that is required by both the House and Senate versions of the bill. We have achieved these savings without resorting to arbitrary across-the-board reductions.

Counting trust funds, as well as items not considered due to lack of authorizing legislation, the 1979 budget requests totals $220 billion—an increase of $32 billion over 1978 appropriations. $17 billion is not yet authorized—nearly half of the health programs.

Of course, that should be deducted from the $32 billion because it is not a part of this bill.

While I feel we have done a good job controlling direct appropriations, legislation creating enormous uncontrollable spending programs, I think, and I am sure many members of our committee think, is simply getting out of hand. All Members of Congress must watch the uncontrollable programs much more carefully. We must also step up our efforts to eliminate so-called backdoor and mandatory spending.

Now, Madam President, I want to highlight just a few key aspects of the bill. The Senator from Massachusetts and I, of course, would be willing to answer any questions of any Members on any specific parts of the bill. But to go over every single line item in this bill would take a long, long time.

In the Labor Department we strengthened fraud control and eligibility review activities in the unemployment insurance program. This, of course, is costing the Government and the taxpayers a great deal of money. It has gone down a little bit, and we hope it will continually go down, but it is still an item that bothers all of us in the committee because it is money coming out of the Treasury and nothing going in, but it must be paid.

What we did in these review activities was an action which we think will save at least $40 to $50 million in the first year at least, probably more.

We have provided further for a full year's funding of significantly expanded benefits for black lung victims. The bill also provides the resources necessary to carry out more thorough mine safety and enforcement activities.

On an item that provokes some controversy in the Senate and in the House, the OSHA items, we thought it wise to add 300 more compliance officers. These are not officers who are going to be associated with individual businesses or small businesses or things of that kind, but they are primarily—and we have the assurance down there—going to be industrial health specialists directed that they inspect only the large businesses and, particularly, hazardous industries.

This is long overdue, and we thought that was justifiable. We did not add a great deal to the regular inspectors that go around individual businesses, and rightly so.

For health our hands were tied somewhat. Forty-three percent of all the health programs have not been authorized. This included nearly all the service—community—and training programs.

The committee has pretty well lived up to the agreement that we are not going to appropriate money that is not authorized. Unless a program is authorized, we have no guidelines. Once in a while there is a rare emergency where we do it subject to authorization, but those are few and far between.

Public Health Service hospitals were given a boost of $24 million. This may seem like a lot, but when you spread it around to eight of them in the country, it is not a great deal of money. It simply brings them back to last year's funding level, and we continue to believe that these hospitals can become and are becoming models for community action in health care.

National health insurance may also need a testing ground, and these hospitals would serve pretty much of a pilot operation for that purpose.

The National Health Service Corps is again expanded. This program is paying real dividends. It reaches now 425 medically underserved areas and about 1.6 million people.

For the National Institutes of Health $3 billion was recommended. Biomedical research, of course, is a great tool for prevention. Genetic diseases, cancer, diabetes, heart, kidney ailments, and arthritis got particular attention.

We are making some progress. For 2 straight years, Madam President, heart and stroke deaths have declined substantially, and we are also finding better treatment methods in other disease areas as well.

Some think we move too fast in NIH. I think that is an unwarranted criticism. The total spent for biomedical research is less than 4 percent of our total Nation's health costs, less than 4 percent. We think that is a very, very sound investment. The return has been and will continue to be high.

Contrast that with the 40 percent spent on hospital costs, and an additional 30 percent of health costs spent on professional fees, and you have some comparison on whether or not this amount, this 4 percent, is too high. I personally think it is too low, but the committee did arrive at that figure.

Much has been said about cost containment these days, as I just mentioned. NIH research is perhaps the very best cost containment tool we have.

It is so easy when talking about so many bills—and billions of dollars—to forget that it is people in this bill that we are concerned with—and it is very difficult to put a price tag on that.

In addition, the lives saved—the quality of life that is improved—this result of biomedical research is truly beyond any measure.

EDUCATION

The committee recommendations for education would provide assistance to students who are in need of special assistance—the educationally disadvantaged, the handicapped and the low income. Funds would also provide assistance for vocational education, voluntary school desegregation, and libraries.

The $11.5 billion included in the bill for education programs would provide assistance to 6.3 million educationally disadvantaged students in elementary and secondary schools, 3.7 million handicapped students, and 24 million vocational education students.

The committee allowance will provide for $6.1 million grants and loans to assist low- and middle-income students with their education in college and vocational schools.

Now, with all this it is significant to note that the Federal Government seems to be blamed all the time for all kinds of SNAFU's in education programs, and we do have some. But education is still a local matter. It still belongs to the people that run it, to the school boards, and the people that run education locally. Because with all we are doing, we are only providing 7.9 percent—that is our best figure—of the total cost of education in this country. That is all.

Some think we should provide more Federal aid to education, but that is all we do. Even with that the amount is substantial, and you have to have some handle on it, to see that it is spent right.

But there is, I think, too much criticism going on about the Federal Government in education, when 93 percent of the money spent for education is local, and the policies involved in the expenditure of that money belong to the local school districts or the States and the counties. That is not quite true in higher education; we are more involved in that, with students and the basic educational opportunity grants, what we call BEOG grants, than we are in elementary and secondary schools.

Of special note in education is impact aid. The committee is recommending that funding for this program should be maintained at its 1978 level. The committee believes that the rapid growth of this program should be controlled. It is getting out of hand. If it is not, we will soon be spending over $1 billion a year for impact aid.

In the last decade, the impact aid program has been expanded far beyond the initial concept. It has grown like topsy and unless the Congress takes steps to control that growth, I believe there will be a backlash and impact aid will topple altogether. I do not like to see that happen, because such aid is necessary.

Our recommendation takes a small step toward better control, and would give the highest priority to those students in school districts where Federal activities do impose a real hardship on local taxpayers.

WELFARE

The major reason why this bill is so high—and it is not high, comparatively speaking—is that it includes so-called "entitlement programs" for needy aged and disabled adults and children of very low-income families. These programs—and they are entitlements; the Appropriations Committee cannot do much about them. We can have some oversight as to how they are spent, but the funds to run them have to be appropriated. These programs have grown from $19 to $35 billion in only 5 years.

The committee bill includes $14 billion for income assistance to the neediest people in our society—women and children without other means of support and our impoverished aged and disabled citizens.

Now, I understand that the Finance Committee has undertaken a review of that program at present. It may be we will want to take a longer look at that program, and that will come up during consideration of the first supplemental next session.

The committee reduced the medicaid program by $265 million due to the surplus of unspent funds in fiscal year 1978. There is no sense in appropriating this money over again. Last year we cut nearly $2 billion in welfare funds, which HEW says was right on target. This year, we think the President's estimates are much more accurate. But there is $265 million that should be trimmed from the fiscal year 1979 amount.

CONCLUSION

Those are some of the highlights of the bill. There are literally scores of other items in this bill relating not so much to labor as to heath, education, and welfare. But I think, in conclusion, Madam President, we have been as generous as possible on all these programs. Sometimes we are accused of being too generous. But they are programs that we think meet the human needs of the people of the United States, and this country, I think, needs to do that, and can afford to do it.

But we are cutting the overall amounts; and we did, I think, an excellent job in this most sensitive field of HEW in cutting the bill, as I mentioned in the beginning, down to the bare bones. As I stated earlier, this bill is 4 percent below the President's budget.

Usually an HEW bill is on in which we—I do not think we have ever been too generous about it. Some people think we have. Some administrations have. The Senator from Massachusetts and I, I think, have been vetoed four or five times on these bills. We did override the vetoes a couple of times, but this is a very sensitive bill. It deals with people. And we want the bill to stand on its own feet.

We did not follow the procedure that has sometimes been followed in the Appropriations Committee, which the Senator from Massachusetts and I have objected to strenuously, where, when we find they have cut something, let us say from the Defense appropriation *x* amount, $2 or $3 billion, then some Senators say, "Oh, then we can put that over here." We put a stop to that; the programs have got to stand on their own feet, both Defence and HEW.

As I say, we have been, I think, very careful to look at these items with a fine-toothed comb. There are over 1,800 in this bill alone that impact directly upon the lives of every American.

At the same time, we have made cuts where program needs are not adequately justified—where effectiveness and efficiency have not been proven. In a great big program such as this, we can have a lot of that. There is a lot of inefficiency and lack of effectiveness.

Once again, I want to suggest to all those who have a particular interest in any of these programs that each one is going to have to stand on its own feet, live up to its expectations and goals, and truly merit continued funding or it is going to be cut.

The final point I would like to stress is more and more we are witnessing a dramatic change in the balance of our Federal system. Overall, we had to consider this. On the one hand State and local governments are in the black. I think every State in the Union is in the black because of Federal aid. The Federal Government is picking up local tabs. We are being asked more and more and more to pick up local tabs for everything State and local governments can think of.

I am sure, Madam President, that our Founding Fathers never thought we were going to be in the local sewer business, but we are. Name it—street lights, roads, helping the local police departments, the many types of aid bills, and all of the other bills that come along, and revenue sharing. This amounts to almost $126 billion in our budget.

Someplace we have to take a look at that trend, and we will have to tell the local people to pick up more of the tabs for those things which are really local. Of course, we are responsible for some of them. We have passed certain bills—when I mentioned sewer, water, or air—placing responsibility on the local government to live up to certain standards and I guess we have some responsibility to help them in doing that. That is where the budget problem is.

Then we had to look at many other things in the budget which might have some impact on what we thought was a reasonable approach to what we could do for human needs in this country.

The trend, of course, concerns us. Sometimes we must realize that if we cut the receipts coming into the Government we must have more local responsibility to pick up the tabs. That is what will happen. If the receipts can be greater, that will help out.

So we were faced with the overall thing that we would do—to help reach a balanced Federal budget. Deficits are not very good. They set a bad example. They require the Federal Government to go out and borrow money, dipping into the private sector for available money, making it more scarce. That, in turn, causes the interest rates to rise because there is less money available. Interest rates are one of the villains of inflation.

We are doing what we can to eliminate deficits.

Of course, we do keep books in a very unusual way, Madam President. We would drive a CPA up the wall the way we keep books.

We go down now on September 30, literally, and we look in the Federal till at midnight, theoretically. If there are some IOU's in there, that is a deficit. If there is some money in there, that is a surplus and we can close the till and go about our business. That is the way we keep our books.

In the Federal budget, the best figure I can get is that there are $64 billion in there of loans listed as expenditures. Of course, we have to borrow the money to make the loans. If you are running a business and if you have a good loan, you do not list it as a debit but as a credit, and asset. This business of balancing the Federal budget depends on the way you sometimes look at the books. The Senator from Massachusetts and I do not want to create something which would give the impression that we are for deficits, because we are not. I will say that we did one of the best jobs in all of the years I have been on the Appropriations Committee. We did the best job in the Labor-HEW that has ever been done to help balance the budget, to cut down our deficits, and help our citizens with their high taxes. I compliment all the members of the subcommittee for the many hours they put in on this bill.

Madam President, this is a good, sound bill and I strongly believe it merits support of my colleagues in the Senate. We have a lot of things to iron out with the House yet, but I think we can do those rather quickly in light of the tight budget deadlines we have upon us.

I understand the Senator from Massachusetts wants to speak.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Madam President, I join with my chairman, Senator MAGNUSON, in recommending that the Senate adopt the fiscal 1979 Labor-HEW appropriations bill as reported by the Senate Appropriations Committee.

The bill we are recommending totals $56,474,666,000. This is $1,110,436,000 under the House allowance and $868,010,000 under the President's requests for fiscal 1979. We have deferred funding for $17 billion in programs which expire September 30 and for which new authorizing legislation has not been enacted.

It is unusual for our committee to talk about a Labor-HEW bill that is below the levels of both the House and of the President. In the Senate we are accustomed to citing the fact that our Labor-HEW bills are generous because of the Senate's special sensitivity to programs to aid the poor, the sick, the undereducated and those otherwise disadvantaged.

But this year we have encountered some special circumstances that have worked to hold down the amounts we could agree to. The current rampant inflation, the administration's hold-the-line approach to appropriations for Federal social programs and the chilling effects of proposition 13 all have had their impact.

As a result we have developed a bill that provides for some new initiatives and expansions but which basically will just maintain the status quo in most health, education, and other social programs.

In some areas, such as cancer research, we will be worse off because we have not provided enough to cover continuation of the 1978 level of activity in addition to providing for inflation.

We always must be prudent with the taxpayer's dollar, but we must never forget that we are dealing with lives as well as with dollars. In many instances those lives have been torn apart by joblessness, by illness and disease, by poverty, and even by discrimination.

I believe Congress has made a strong commitment to helping the less fortunate of our society and it is through the Labor-HEW bill that we try to fulfill this commitment. Our resolve to extend a helping hand to the needy and the impaired must not weaken and I am hopeful that over the longer run this will be the case.

Let me list some of the actions taken by our committee in the fiscal 1979 Labor-HEW bill:

LABOR

Our committee provided $4.1 billion in both Federal and trust funds for Department of Labor programs, but deferred funding for some $11.1 billion in CETA and other manpower programs because of the lack of new authorizing legislation for fiscal year 1979.

The committee provides a total of $174.9 million for the Occupational Safety and Health Administration, OSHA. This is an increase of $7.5 million over the House. The added funds will provide OSHA with some 400 additional compliance officers and support personnel to expand the agency's ability to check for health and safety violations dangerous to workers. Even with this increase in the compliance staff, OSHA still will reach only about 3 percent of the Nation's businesses covered by the occupational safety and health law.

We also allow $12.5 million to provide onsite consultation services for employers concerned about health and safety problems in their places of work.

Our committee restored $600,000 and 28 positions deleted by the House for continuing the construction industry coordinating committee in Chicago and establishing similar committees in other cities, possibly including Boston. I believe such committees serve a useful purpose in reducing unemployment and modifying Government practices that have raised the cost of public construction.

HEALTH

Our committee provides a total of $5.3 billion for the health programs administered by the Department of Health, Education, and Welfare. Our committee did not consider $1.8 billion in health programs for which authorization expires next month. In many cases, these authorizations still have not been renewed.

Following are some of the actions taken by the committee in the health area:

We provide $177 million—an increase of $24.4 million over the House and the President—to maintain comprehensive health and medical services for beneficiaries of the Public Health Service hospitals, including our own in Boston.

We provide $925 million for cancer research. While this is $35.8 million above the House allowance, it is $25 million less than our subcommittee recommendation. The National Cancer Institute advises that it will require some $950 million in fiscal 1979 to provide for continuing the 1978 level of competing and noncompeting research grant awards and for covering the impact of inflation.

Finding a cure for cancer is essential in itself, but the economic impact should not be ignored. For example, the National Cancer Institute reports that a drug regimen developed by NCI several years ago and now accepted throughout the world is alone responsible for curing 2,000 Hodgkin's disease patients each year just in the United States. NCI conservatively estimates that, over the remainder of their working lives, each group of 2,000 cured patients will add $600 million to the gross national product and some $120 million to the Nation's tax revenue.

Multiply this estimate by the prospects for progress against other cancers and one can easily see that the dollar savings would be astronomical. The Federal cancer research program thus can be justified as a sound investment and not as a drain on Government funds.

The economic costs of cancer currently are estimated at between $25 billion and $30 billion each year. It seems to me to be simple commonsense to me to spend less than $1 billion a year to try to save up to $30 billion a year. This is another and important side to the issue of fiscal prudence.

In addition to the psychological factor that is involved, think of the numbers of women who live in constant fear of cancer attacking them each and every year. Of course, it is not limited only to women; it includes men and children as well. All are living in fear of cancer attacking them. So, psychologically, the impact is great.

In other areas our committee provides $485 million for the National Heart, Lung, and Blood Institute, the same level as the House. At this level the Institute will not be able to fund new program initiatives to deal with hypertension, adult acute respiratory failure, and conservation of blood supplies. It also will not be able to cover all of the contracts for which commitments already have been made.

We provide $287.8 million for the National Institute of Arthritis, Metabolism, and Digestive Diseases, again the same level as the House. I regret we were not successful in committee in attempting to add $20 million to deal with diabetes, the No. 3 killer of Americans, and also to deal with arthritis, cystic fibrosis, and other fatal diseases.

However, I am pleased that we were able to provide $225 million for the National Institute of Neurological and Communicative Disorders and Stroke. The $36 million increase above the House will enable the Institute to begin implementing the recommendations of the Commissions on Huntington's Disease and Epilepsy. We now have a chance to do something significant in the field of epilepsy and I urge the Institute to give epilepsy research at least equal treatment with its work on Huntington's disease.

In addition, I was pleased we were able to maintain the $100 million allowance provided by the House for the National Eye Institute. This is $18.1 million above the administration's hold-the-line request.

Our bill also provides $37 million to build a new research laboratory facility for the National Institute of Child Health and Human Development. NICHD is the only one of 11 national health Institutes that does not have its own principal intramural research facility. It is badly in need of additional space.

I also am glad that we provide an extra $1 million to maintain our valuable primate research centers at their 1978 level and that we have provided an additional $1.9 million to hold public health traineeships at least at their 1978 level of $7 million.

For mental health research, our committee restored $6 million cut by the House and provided an additional $10 million to bolster training in the mental health field. Our committee's actions were prompted by the report of the President's Commission on Mental Health which focused on unmet needs in both areas.

However, I deeply regret the committee decision to cut capitation for medical and health professions schools by $22.1 million below the House level. A recent General Accounting Office report points out that capitation "has played an important role in medical education." At present, HEW says that scholarship and loan programs can cover only about 10 percent of the need. We all know that the alternative to reduced capitation is unacceptably higher college tuition.

EDUCATION

For education programs, the committee provides a total of $11.4 billion, nearly $1.4 billion less than the House level and more than $900 million below the budget request. Much of this reduction comes from college student assistance because of the committee's decision not to fund aid to middle-income students until we know the outcome of the legislation covering tuition tax credits. Substantial cuts were made in other education programs as well.

For elementary and secondary education, we provide a total of $3.2 billion, of which $2.9 billion is for title I compensatory education services to disadvantaged children. The title I level is about $189 million less than the House amount and will allow school districts to serve only about half of the 11 million eligible title I children. I believe this cut was made purely for budgetary reasons. Funding for bilingual education programs was reduced by $6.5 million, providing a total of $143.5 million. The cut resulted from questions about the effectiveness of the program.

However, Madam Chairman, I want to point out that we have more and more bilingual persons or single-language persons in our country today. There are more and more Hispanics in the United States today, who are unable to speak English, which means that they are restricted in the number of jobs that they find available to them. If they are not able to work or to find jobs, being limited to those few businesses which are owned by Hispanics themselves, or where Spanish can be used and English is not necessary, you will find that many of these Hispanics end up on welfare and in the poverty cycle, which is, really, more costly to the Federal Government in the long run.

I think we have to look again at bilingual education, to improve the effectiveness of that program. If it needs strengthening, it should be strengthened. I want to make a strong plea for continuation of bilingual education, enabling Hispanics, particularly, to enjoy the dignity and the necessity, Madam President, of a job.

For the impact aid program, the committee provides $799.1 million, a cut of $57.3 million from the budget request and House allowance. Although I sympathize with the need to revise the impact aid program, I differ with the manner in which this decrease was made. One-half of the cut will come from payments for the so-called A children—whose parents live and work on Federal property—and whose presence impacts most heavily on local school districts. I believe that revisions in the impact aid program can be better accomplished by making changes in the basic legislation, rather than by making cuts in appropriations.

For emergency school aid, the committee recommends $352.7 million, an increase of $25.7 million over the amount provided by the House. The committee provides an additional $10 million to expand the promising magnet schools program through which school districts are developing innovative ways of promoting school desegregation. The committee also adds $13 million for targeted aid to assist more of our large cities which are expected to begin implementing new voluntary and court-ordered desegregation plans next year.

For education programs for handicapped children, the committee provides a total of $81.4 million, only $9.6 million more than the House allowance, for school year 1979-80. I had hoped the committee would agree with my proposal to expand the key State grant program, since the amount in the bill is sufficient to fund only a little more than half the amount to which Congress committed itself in the authorizing legislation. I withdrew my amendment on the chairman's indication that he will not only be sympathetic, as he is, but also a "strong supporter," as he is, of a supplemental appropriation if one is required to cover future needs of the program. I am pleased to report that the committee did provide an additional $5 million for incentive grants to increase services to preschool handicapped children. It also agreed to my amendment to increase the level for teacher training by $4.6 million, to a total of $60 million, to help alleviate the shortage of trained handicapped education specialists.

The committee also increased funding for occupational, vocational and adult education by a total of $21.4 million over the House amount. The new total is $787 million which will substantially increase State grants for both vocational education and adult education. And the committee also recommends a substantial increase in funding for libraries, to provide more adequate support for both public and school libraries to meet increasing costs of books and materials.

The committee recommends a total of $3.5 billion for college student assistance, $1.1 billion less than the House and $900 million below the budget request. We provide $2.1 billion for basic opportunity grants—the BOG's program—which will permit awards of up to $1,800 to 2.2 million low-income students. But we recommend no additional BOG's funds for middle-income students. Until we know the outcome of the effort to provide tuition tax credits for middle-income families, we cannot determine whether such additional student aid is called for.

I am pleased that the committee did provide increases over last year in supplemental educational opportunity grants and work-study, and maintained the direct loan program at its current level.

In cooperative education, the committee agreed to increase the program from $10 to $20 million. This action is consistent with a recent congressional study which found the program highly effective and deserving of expansion. I also am pleased that the committee increased funding for the National Diffusion Network which helps make research results more readily available in the classroom and helps to avoid duplicative research.

WELFARE AND OTHER PROGRAMS

For the Social Security Administration, which includes public assistance and SSI, our committee accepted the House figure with the exception of the Cuban refugee assistance program. Here we once again have added funds to continue the 18-year-old refugee program and prevent the phaseout mandated by Congress last year. Including the additional $7.8 million for Cuban refugees, the total for Social Security Administration programs comes to $14.1 billion.

The committee provides a total of $2.9 billion for human development programs, but deferred action on another $3.6 billion in budget requests for lack of authorizing legislation. The amount we provide includes $2.5 billion for social services and $385 million for the work incentives program.

For the Office of Civil Rights, the committee recommends $71 million, a $1 million reduction from the House level. The reduced amount reflects a more reasonable schedule for hiring 449 new staff provided to reduce the backlog of discrimination complaints and to undertake a technical assistance program to help institutions comply with new Federal regulations on handicapped access to public buildings.

We deferred consideration of the budget requests for the ACTION agency and the Community Services Administration, due again to a lack of completed authorizing legislation. For the other related agencies we provided the same amounts as the House, with the exception of the National Commission on Libraries, for which we restored a small cut made by the House.

GENERAL PROVISIONS

Regarding general provisions in the bill, I am in disagreement with the committee action retaining the Eagleton-Biden antibusing language, which I consider unconstitutional. I shall move to strike it during the course of consideration of this bill.

However, I am pleased the committee agreed to my motion to strike the House's antiaffirmative action provision known as the Walker amendment. The Walker amendment, designated to prevent HEW from using numerical requirements to remedy discrimination, contradicts the recent Supreme Court Bakke decision which accepts race as a factor in overcoming discrimination. We struck Walker from our bill last year and we should do so again this year.

The committee also struck the House antiabortion language. That language provides an exception only for the life of the mother. The substitute provision I offered—and which was accepted—makes exception for the life of the mother, for cases of medical necessity and for victims of rape or incest. Our language is far more humane and far more realistic than that of the House. It leaves the decision as to whether a woman should have an abortion where it belongs—in the hands of the woman and her doctor.

Madam President, while I believe our Labor-HEW bill could be more generous in certain areas, it apparently is the best we can get at this time and I recommend its adoption.

At the same time, I commend my distinguished chairman (Mr. MAGNUSON) who has spent such a long time, so many hours, day, and night, on this bill and other members of the committee who have joined with the chairman and with me in holding hearings on various aspects of the bill.

I certainly want to commend the distinguished staff member, Terry Lierman, the distinguished minority staff member, Gar Kaganowich, and all the other members of the staff, without whom, of course, we could not possibly have taken on such a task as the biggest, now the largest, appropriations bill in the U.S. Congress.

Of course, we still have far to go. We hope we can get some time limitations on this bill.

As the chairman has often said, we

have been handicapped by matters on this bill that do not belong on this bill. This is an appropriations bill, and no matter what ruling has come from the Chair, and I do not disagree with the rulings from the Chair, members have taken advantage of this to put everything on this bill they possibly can. It has become the bill for all the very emotional, very difficult authorizing legslation, which authorizing committees do not want to come to grips with, and hence, has been placed in this appropriations bill. That means this appropriations bill takes longer and longer each year to discuss, debate, and pass.

I am hopeful my colleagues, in their consderation, will understand that this year, more than at any other time, we do have an important piece of legslation, an appropriations bill, and that, if they must bring these amendments up, they do so with short time limitations.

Madam President, there is one very urgent matter and congressional directive which I must call to the attention of the Department of Health, Education, and Welfare, and I think it is best to do so at this time as we take up their appropriations bill.

The Family Planning Services and Population Research Act of 1970 established an Office of Population Affairs in HEW, to be headed by a Deputy Assistant Secretary for Population. This office was created to direct and coordinate all Government family planning research and service programs and related women's health and population issues and programs. No office, or program, established by Congress within HEW fills a more important need.

Yet the very clear and urgent congressional mandate establishing this office has been neglected, if not ignored, by HEW's failure to provide direction and staffing adequate to fulfill the functions defined by Congress.

Encouragingly, there is now a new Deputy Assistant Secretary of Population Affairs, Irvin Cushner, appointed last July 3. But HEW has demonstrated continued reluctance to adequately staff the office. The fiscal 1979 budget requested funds for eight postions, as part of a request for new health initiatives. to staff the office. However, these positions are not new, for they are already funded in the current year. Thus, the additional funds requested are not needed to support the eight positions and the Senate Appropriations Committee accordingly has not agreed to the request for the additional funds.

I wish to point out most emphatically, however, that the decision not to provide the additional funds does not signal any change in the congressional mandate establishing a strong Office of Population Affairs. For this office can and must be staffed without additional funds. I would point out that the Assistant Secretary for Health alone has 200 positions presently available. The personnel needs of the Office of Population Affairs can easily be allocated from that large pool.

Clearly, funds adequate for staffing of the office have been provided in the fiscal 1979 bill, and clearly Congress intends that adequate staffing of the office be a top priority of the Department. I thus strongly urge departmental compliance with the congressional intent regarding the importance of this office.

Madam President, I mentioned the staff directors, Mr. Lierman and Mr. Kaganowich, and I hope to include in the RECORD the names of the other staff members who worked so hard on this bill, because this bill could use the time of Senator MAGNUSON and Senator BROOKE and all the members of the Labor-HEW Subcommittee and all the members of the Appropriations Committee on this one bill alone. They include Jim Painter, Sam Hunt, Jim Sourwine, Jim Moran, and our secretaries, Olga Trollinger, Kay Humphrey, and Norma Lewis.

I certainly wish to pay respect not only to Senator MAGNUSON who now serves as not only the chairman of this important subcommittee, but chairman of the full Appropriations Committee, and to my distinguished minority leader on the full committee, Senator YOUNG, who has given his every assistance and certainly has been with us on many, many occasions, working in the best interests of this important piece of legislation.

Finally, Madam President, I ask unanimous consent that the following professional staff be accorded the privilege of the floor during consideration of this legislation and for votes during consideration of this legislation.

Maria Falcone, of Senator LUGAR's staff, Polly Galt and David Winston, of Senator SCHWEIKER's staff; Michael Shorr, of Senator JAVITS' staff; Peter Goldfarb and Tim Keeney, of Senator WEICKER's staff; Ralph Neas and Barbara Harris, of Senator BROOKE's staff; Jill Porter of Senator MATHIAS' staff; and Marlyne Lipfret, of Senator CASE's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Madam President, will the Senator yield?

Mr. BROOKE. I am pleased to yield.

Mr. MAGNUSON. I have a similar request from Senator WILLIAMS, and I ask unanimous consent that the following Human Resources Committee staff members be accorded the privilege of the floor during consideration of H.R. 12929, the Labor-HEW appropriations: Franklin Zweig, Martin Jensen, Darryl Anderson, Mike Forscey, Mike Goldberg, and Gerald Lindrew.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. How many does the Senator have there?

Mr. BROOKE. I have about nine.

Mr. MAGNUSON. I have five. So that is 14 from that staff.

I do not wish to be too critical, and I am glad to have the staff of the Human Resources Committee here while we discuss this appropriations bill.

But I do wish sometimes that they would pass some legislation involving some of this legislation that is causing us so much trouble on this bill. Maybe they could devote their time to that and get that done. But anyway, it is not done up to now and they have been very helpful to us in correlating. But I just hope that the committees can pass some of this legislation so we are not loaded down with 15 or 20 pieces of language that should have been decided by a legislative committee. That is what the problem with this bill is.

But anyway we are glad to have all nine of them here. If there are some more they can all show up.

Mr. BROOKE. I thank the Senator.

Mr. President, I ask unanimous consent that Ernie Garcia, Sheila Burke, and Mary Wheat, of Senator DOLE's staff be accorded the privilege of the floor during the consideration of H.R. 12929, the Labor-HEW appropriations bill.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, there are no Senators here except the Senator from Massachusetts, myself, the occupant of the chair, and the distinguished lady from Minnesota. We could proceed with this bill with no further amendment and go about our business. But I guess there are some to be proposed. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I understand the Senator from Ohio has a matter he would like to discuss with us.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that Marc Asch and Roger Berliner be granted the privileges of the floor during the discussion of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, on September 20, I joined Senator RANDOLPH, widely recognized as the Senate's most forceful and distinguished proponent of vocational education, in writing to the distinguished chairman of the Appropriations Committee to point out that the committee's decision to eliminate funding for the programs of national significance authorized by title II of the Vocational Education Act of 1976 would create serious problems for our national effort to upgrade vocational education. The House Appropriations Committee has approved over $29.5 million for the program in fiscal year 1979.

My own State of Ohio is fortunate to have an outstanding example of the kinds of valuable programs that have been supported by these funds. The National Center for Research in Vocational Education, based at the Ohio State University, has provided vitally needed services to vocational education programs across the entire Nation. It is a clearinghouse for new research, new curricular developments, and innovations in vocational education programing. The center saves money for State and local vocational education programs in every State of the Union by permitting them to avoid unnecessary duplication in research, and it improves the quality of education offered to our young people by rapidly disseminating the latest information to teachers and school administrators.

In fact, Mr. President, in its report on the Vocational Education Amendments of 1976, the House Committee on Education and Labor formally commended Ohio State for the excellence of its vocational research program.

I am proud that Ohio State University—my alma mater—is a model for the Nation in the vocational education field. But I am also concerned that the future of this outstanding resource may be endangered should the Congress fail to appropriate the Federal share of the funds that the national center and other programs like it require if they are to operate effectively.

Mr. President, this center, and the other important programs funded under title II, urgently need the support provided by the House version of this bill. It is my hope that the Senate conferees will take the valuable contributions made by these programs into consideration when they take up this difference between the Senate and House versions of the bill.

Mr. MAGNUSON. Mr. President, I am familiar with the center in Ohio, and they do an excellent job. They have helped many other States, as the Senator points out. It is sort of a pilot operation looking into things.

I have always urged and recommended more money for vocational education over the years, but sometimes we cannot get all we want.

The House version of the bill will be given every consideration in the conference. In such areas as the Senator is talking about, it would be helpful if we saw that we had enough not to crimp them, not to slow them up. I assure the Senator his interest is very helpful.

Mr. METZENBAUM. I appreciate the consideration and the indicated effort of helpfulness of the distinguished Senator from Washington, who certainly serves this body extremely well.

I do want to emphasize to him that my feeling, strong feeling, is that in the field of vocational education we have a great opportunity to take many of our young people off the streets of America and provide them some useful opportunity to make a living in our economy.

I hope, therefore, that we will find a way to provide the necessary funds for these programs. I appreciate the consideration extended by the Senator from Washington.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, we have 3 weeks to go until the hoped for sine die adjournment. That means 18 days, including Saturdays. I would urge that the cloakrooms ask the Senators who have amendments to the pending measure to come over and call up those amendments. The managers of the bill and the chairman and ranking member, Messrs. MAGNUSON and BROOKE, respectively, have been on the floor since early today. The problem is that Senators who have been reported to have amendments are not getting over to call them up.

The Chair has an obligation that if no Senator seeks recognition to put the question on the bill itself. I would hope the Senators would avail themselves of this splendid opportunity, when there is not much competition for calling up amendments, to get over here and call up their amendments. We cannot afford to spend too many days on this bill, because there are other important bills also: The defense appropriation bill and the defense authorization bill ahead of that, for example. I would urge Senators to come over, call up their amendments, and get them acted upon. I think it is quite unfair to the manager of the bill (Mr. MAGNUSON) and the ranking member (Mr. BROOKE) to have them sit over here hour after hour and wait on Senators to call up their amendments.

I marvel at their patience and equanimity. I congratulate them on both.

Mr. President, I hope the word gets out.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I ask unanimous consent that Carl Anderson, of Senator HELMS' staff, be accorded the privilege of the floor during debate and vote on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. I ask unanimous consent that James Lockemy, of Senator THURMOND's staff, Barry Kinsev, of the Budget Committee, and Dick Woods and Douglas Jackson, of Senator BELLMON's staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, how many is that now?

Mr. BROOKE. About 23.

Mr. MAGNUSON. Twenty-three staff and no Senators.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and we will get some Senators. This will be a live quorum. The Senators are going to have to understand that we are in business on Monday mornings now and that rollcalls may occur.

The PRESIDING OFFICER. Without objection, the clerk will call the roll. The quorum will be live.

The second assistant legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 12 Leg.]

Brooke
Byrd, Robert C.
Ford
Garn
Magnuson
Weicker

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CLARK), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from North Carolina (Mr. MORGAN), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Maryland (Mr. SARBANES), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. CURTIS. I announce that the Senator from Tennesseee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from North Carolina (Mr. HELMS), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 70, nays 2, as follows:

[Rollcall Vote No. 401 Leg.]

YEAS—70

Bartlett
Bayh
Bellmon
Bentsen
Biden
Brooke
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Culver
Curtis
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Ford
Garn
Glenn
Gravel
Hansen
Hart
Hatch
Hatfield, Mark O.
Hatfield, Paul G.
Hathaway
Hayakawa
Heinz
Hodges
Hollings
Humphrey
Jackson
Johnston
Kennedy
Laxalt
Leahy
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pearson
Proxmire
Randolph
Ribicoff
Riegle
Roth
Sasser
Schmitt
Schweiker
Scott
Stafford
Stennis
Stone
Talmadge
Wallop
Williams
Young
Zorinsky

NAYS—2

McClure
Weicker

NOT VOTING—28

Abourezk
Allen
Anderson
Baker
Burdick
Chafee
Clark
Cranston
Eastland
Goldwater
Griffin
Haskell
Helms
Huddleston
Inouye
Javits
Long
McIntyre
Morgan
Nunn
Pell
Percy
Sarbanes
Sparkman
Stevens
Stevenson
Thurmond
Tower

So the motion was agreed to.

The **PRESIDING OFFICER** (Mr. ZORINSKY). With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Several Senators addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Washington.

Mr. MAGNUSON. Mr. President, the Senator from Massachusetts and I have been here since 9:30 a.m.

This is a very important bill. There have been a lot of suggested amendments. There is a lot of language in the bill that the Senate wants to discuss.

We have been sitting here for 2½ hours and have not been able to find a Senator in the Chamber. We had 27 staff people allowed to come in but no Senators. There were 27 of them, and here are 2 more. Now that makes 29 staff members but no Senators.

So we decided to have a live quorum.

Now what I suggest is if Senators have some amendments to this bill that they be ready to present them. Otherwise, if they are not, the Senator from Massachusetts and I are going to call for third reading and pass the bill.

Mr. HOLLINGS. Mr. President, will th Senator yield?

Mr. MAGNUSON. I have done it. Every one has. I have been guilty of it. They want to wait with their amendments until the end. It is an Alphonse and Gaston proposition that goes on.

Now get your amendments ready, and we will vote them up or down or move to table them, or we will discuss them and then we can get on with this bill.

Mr. BROOKE. Mr. President, will the Senator yield a moment?

Mr. MAGNUSON. I yield.

Mr. BROOKE. I was wondering since we have so many Senators in the Chamber if we could get some understanding of what time they will need on their amendments. If we cannot get time agreements, at least we can get some sequence as to how these amendments will be presented so Senators can have the best use of their time.

I know the Senator from Kansas has an amendment. How long will that take?

Mr. DOLE. Mr. President, I can present this amendment and insert the colloquy in about 30 seconds, and that will take care of this one amendment.

Mr. HOLLINGS. I have clarifying language that will take 15 seconds.

Mr. BROOKE. The Senator from Ohio?

Mr. GLENN. Mr. President, I have a colloquy that should not take but 3 or 4 minutes.

Mr. MAGNUSON. I yield to the Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator. Mr. President, I wish to clarify the meaning of the report language on page 113 concerning planning and evaluation activities in the Office of Education.

Specifically, I hope it is not the intention to limit the authority provided to the Secretary by section 416 of the General Education Provisions Act to allocate funds to the Assistant Secretary for planning and evaluation.

Rather, the language appears to hold the Secretary more accountable to this committee and the Congress by reporting annually on the use of these funds. I think the chairman and the other members of the committee will agree that some of these reports are useful, but unless we know they exist, they are of no help at all. I believe HEW should include this information in its justification material on a regular basis.

As the chairman knows, some of the evaluation reports that have been generated have provided critical help to Congress as well as to the Department. Work which has been of value has included:

An analysis of options for reform of impact aid;

Cost estimates for the BOG's program;

Estimates of the impact of proposed revisions in the title I formula; and

Cost and impact data on tuition tax credits.

Is my understanding of the report language correct?

Mr. MAGNUSON. The report language is correct, and I hope the Secretary will see fit to carry it out.

Mr. HOLLINGS. I thank our distinguished chairman.

UP AMENDMENT NO. 1910

(Purpose: To earmark certain funds relating to the National Cancer Institute)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The legislative clerk read as follows:

> The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1910:
>
> On page 12, line 11, strike the period and insert the following: ", of which $20,000,000 shall be available for nutrition research directed toward preventing cancer and $10,000,000 shall be available for nutritional research with regard to therapeutic initiatives.".

Mr. DOLE. Mr. President, the Senator from Kansas intends to withdraw this amendment after we have had an opportunity to discuss the issue.

The **PRESIDING OFFICER**. Will the Senator from Kansas suspend for just a moment. The Senate is not in order. Will the Senators please give their attention to our colleague who is presenting an amendment.

Mr. DOLE. Mr. President, I thank my distinguished colleague.

I would just add that this amendment is cosponsored by Senators McGOVERN, BELLMON, KENNEDY, and LEAHY.

It is our intention by offering this amendment and introducing the colloquy with the distinguished chairman in the Record at this point to emphasize and underscore the need for more research in the area of diet and nutrition and its relationship to cancer.

Mr. President, we are all frighteningly aware of the toll cancer has taken in this country. Since 1971, when the "war on cancer" began, there have been 4.7 million new cancer victims and 2.6 million deaths. Cancer is presently second only to heart disease as a cause of death, taking over 350,000 lives each year.

ROLE OF NCI

The scientific community has spent years and millions of dolars looking for answers. The National Cancer Institute which is responsible for leading this charge participates in basc research activities, public and professional education programs, treatment programs and maintains cancer centers throughout the nation. Without question, the work of NCI has provided us with an increasing body of knowledge regarding cancer from which we can work. Innovative treatment protocols, which include the exciting use of new drugs, more highly developed and specialized surgical procedures, and the selective use of radiation therapy have given us much hope for the future.

But Mr. President, the one area where perhaps the most good can be done, where perhaps the most people can be reached, has been long ignored. In the past and even now, the focus of the NCI has been on cure and treatment, rather than on cause and prevention.

NEED FOR FOCUS ON PREVENTION

Mr. President, the need for continued growth in the areas of cure and treatment are clear but so is the need for research into the causes and ways to prevent cancer. Our national research community, led by the national institutes of health, and more specifically the National Cancer Institute, are irresponsible in their dogged search for "cures" and their failure to place an appropriate percentage of research money, effort and time on less spectacular preventive measures.

NUTRITION RESEARCH

In particular, there is no one area that has more potential for providing us answers about cancer and how to prevent it than that of the role of diet and nutrition. Medical detectives are slowly unraveling the tangled interconnections that link the diet to the various diseases of civilization. Scientific research has found that 40 percent of the cancers in men and 60 percent in women are nutrition-related. For instance, although considered rare elsewhere, bowel cancer is one of the most common malignancies found in the developed nations. In the United Kingdom and the United States, it is second only to lung cancer as a source of cancer deaths.

HISTORY OF DIET, NUTRITION AND CANCER PROGRAM

As one result of such limited research to date, in 1974, the Congress mandated that a diet, nutrition and cancer program (DNCP) be established at the National Cancer Institute. The advisory committee to the DNSP, appointed in 1975, immediately identified the program's priorities and recommended that workshops be convened to formulate research projects for each priority. During 1975 and 1976 some 30 programs and workshops were held in which over 200 scientists participated. As a result of the meetings and discussions, the need for research into the relationship between cancer and diet became even more evident.

In fact, as my distinguished colleague, Senator MAGNUSON, will recall, his own committee included in their report on the fiscal year 1977 Labor/HEW appropriations a recommendation that "an amount up to $15 million should be made available for this important and growing program." However, the funds assigned to the diet, nutrition and cancer program during 1976 were less than $3.5 million; 1977 saw funding levels equally low. In fact, diet, nutrition and cancer program funding has only averaged $4 million a year.

PROBLEMS WITH FUNDING

Concomitantly, there has been no growth in nutrition research elsewhere in the NCI. Current estimates place total support for nutrition research at NCI somewhere between $5 and $15 million. This is a mere 1 percent of the total NCI budget. A budget, Mr. President, which has grown at a rate of approximately $200 million annually since fiscal year 1975. In fact, next year the recommended appropriation is $925 million, almost $1 billion.

But we can only assume, based on history, that nutrition research will see little of this added funding. For although we have heard repeatedly from top level officials at the National Institute of Health that research efforts directed at diet and cancer are necessary, little has been done.

It is for this reason that I, joined by my colleagues, Senators MCGOVERN, BELLMON, LEAHY, PERCY, and KENNEDY, wrote to Senator MAGNUSON, the distinguished chairman of the Senate Appropriations Committee, earlier this year and requested that $30 million of the total NCI fiscal year 1979 appropriation be designated as a line item for nutrition research, of which $20 million should go to research directed toward preventing cancer, and $10 million to therapeutic research initiatives, particularly hyperalimentation of cancer patients. While the committee did not earmark the funds, considerable mention of the need for nutrition research was made in the final report on the Labor/HEW appropriations bill pending before us today. I thank my distinguished colleague, Senator MAGNUSON, for his attention to this subject.

But NCI has ignored such direction and suggestions. It is time, Mr. President, for NCI to stop thinking that diet is simply a question of home economics and start investigating these important questions.

It is our hope that through this discussion on the need for a focus on nutrition that we will make clear to those at NCI that the Congress and the American people will wait no longer, that the time for nutrition research has come.

Mr. MAGNUSON. The committee has placed a great deal of emphasis and high priority on nutrition programs within this bill.

In fact, several new ones have been established. A great deal more cooperation between the Department of Agriculture and HEW on nutrition programs is beginning.

Throughout the committee report the high priority which we have placed on nutrition programs is clear. There is language in the beginning of the report encompassing all nutrition programs.

There is language in the beginning of the NIH section establishing a nutrition initiative for each Institute and there is particularly important language relating to the Cancer Institute which directs cancer to significantly increase their efforts in the area of nutrition.

There is no need to earmark nutrition funds—we agree totally and it is in the report to back it up.

Mr. BROOKE. Mr. President, will the Senator yield? I would just like to join with the distinguished Senator from Kansas in what he has said, and to commend him for introducing his amendment. I am really somewhat sorry he has to withdraw it. I understand the reason why he is withdrawing it, but I hope it will buttress the conferees on the Senate side when they go to conference with the House of Representatives.

We have $925 million in the Senate bill, as the Senator from Kansas very well knows. That will hardly do the job. The National Cancer Institute said $950 million is a barebones minimum.

I was concerned, as the Senator from Kansas knows, in trying to get the Senate figure up to at least $950 million. So when we go to conference with the House, I hope the Senate will stand firm at $925 million. I think the Senator from Kansas, by introducing his amendment, will certainly buttress that.

I know the Senator from Indiana feels very strongly. He still might have an amendment to increase the amount. But it is important that at a minimum we hold this amount. We are making progress in our attack on cancer and trying hopefully to find some cures. We made great progress, and we certainly cannot afford to falter now even with this proposition 13 running rampant through the country. We are talking about dollars here, but more importantly we are talking about people and lives here in this appropriation bill, so I want to commend the Senator from Kansas for having introduced his amendment. I support the concept and the theory of it. As I said, I am sorry, but I can tell him at least for one member of that conference we will fight hard to keep that $925 million as a bare bones minimum in the congressional bill ultimately when it comes out.

Mr. DOLE. I thank my distinguished colleague. I understand the objection to earmarking. But, as the distinguished Senator from South Dakota and others on the floor know, it just seems that our suggestions are ignored by those in authority at NCI. I hope by offering this amendment, which, of course, I will withdraw as a result of my agreement with the floor leaders, we will make some impression on the NCI to spend a little more of the funds on nutrition research and whether or not there is any relationship between diet and cancer.

I yield to my distinguished chairman, Senator MCGOVERN.

Mr. MCGOVERN. Mr. President, I appreciate the Senator's yielding to me. I think what the Senator has done here today is to underscore an unsatisfactory allocation of cancer research funds.

Our committee and other committees here in the Congress have established the fact that about 50 percent of the cancer in this country is related to diet, yet only 1 percent of the cancer research budget is directed to establishing the relationship between dietary factors and cancer. So there is obviously a misallocation of funds in the National Cancer Institute, a mistaken sense of where the funding ought to go.

I regret the necessity for this amendment being withdrawn, but I hope the import of it will not be lost either on the Congress or on the people running the National Cancer Institute.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MCGOVERN. The Senator from Kansas has the floor.

Mr. DOLE. I yield.

Mr. BROOKE. I just want to point out the strong language used in the committee report on this question of nutrition. I certainly agree with the distinguished Senator from South Dakota. The report states:

> At the same time, the Committee wishes to stress its concern over the failure of the Institute to put greater emphasis on diet and nutrition as potentially significant links with cancer. In 1976, NCI testified before the Senate Select Committee on Nutrition and Human Needs that 40 percent of the cancers in men and 60 percent in women are nutrition-related. Although the Appropriations Committee subsequently recommended a substantial funding increase for the diet-nutrition program, the Institute has not complied. The Committee is most displeased with this and directs NCI to significantly increase its budget for nutrition research, particularly with respect to preventing cancer and utilizing hyperalimentation in the treatment of cancer.

I just want to show the distinguished Senators from Kansas and South Dakota, who have done so much in the field of nutrition, that the committee was mindful of their concern, as this strong language indicates.

Mr. MCGOVERN. It is reassuring that the language is there. It remains to be seen, now, whether the Cancer Institute will actually make the allocation of funds that that language calls for. If it does not, it seems to me the Senate has no recourse but either to put some kind of ceiling on the budget, or else reallocate funds for that purpose.

Mr. DOLE. Mr. President, I am ready to withdraw the amendment.

Mr. BAYH. Mr. President, before he does that, will the Senator yield to me?

Mr. DOLE. I withhold that. I yield first to the Senator from Delaware for a unanimous consent request.

Mr. BIDEN. Mr. President, I ask unanimous consent that Bill Parshall, Paul Laudicina, and Gerry Doherty of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, is is so ordered.

Mr. LUGAR. I make the same request on behalf of Maria Falcone of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. That makes it 35.

Mr. WILLIAMS. And a similar request, to make it 37, for floor privileges for Steve Paradise and Scott Ginsberg of the Human Resources Committee staff.

Mr. MAGNUSON. Senator MUSKIE wants Jim Case and Charlie Jacobs of his staff and Senator EAGLETON wants Marcia McCord; that is 40.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Steve Paradise and Scott Ginsberg were a part of that list.

Mr. DOLE. I am happy to yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I would like to comment on the amendment of the distinguished Senator from Kansas, but before doing so, I ask unanimous consent that Pat Coleman of Senator HUMPHREY'S staff and Abby Reed and Barbara Dixon of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Is that 42? That is 42, now.

Mr. BAYH. I thought it was 75.

Mr. MAGNUSON. It is 45.

Mr. BAYH. Mr. President, I want to salute my good friend, the distinguished Senator from Kansas (Mr. DOLE), and also the Senator from South Dakota (Mr. MCGOVERN) for alerting the country and the Senate to the problems of nutrition and cancer. But I think it would be wrong if someone did not offer a word of caution here.

It seems to me that cancer, as well as other diseases, are not going to be solved by simple one-channel solutions. Cancer is a very complex mechanism; whether it is a virus, a bacteria, a hereditary abnormality, a shortcoming of nutrition, or the disastrous working conditions of an environment. All of these things combine together to create a disease known as cancer, that is, in essence, several dozen different diseases.

We are not going to resolve that problem just by saying we are going to eat better, just as we are not going to resolve it solely by responding to the very accurate assessment in the newspapers here a week or two ago that pointed out that about 20 or 25 percent of cancer is caused by conditions that exist in the workplace.

What we have to do, it seems to me, is zero in on all these things. We have to deal with nutrition, we have to deal with the environment, but while we are doing that, let us not belittle the work that has been done by the National Cancer Institute to find ways to keep people alive who have been subjected to cancer today, and who will be subjected to it in the next 20 or 30 or 40 years.

If you look at the track record, it is not one in which there have been no successes. For childhood lymphatic leukemia, the remission rate is now 95 percent, compared to about half or less of children who would survive that disease just a very few years ago. Hodgkin's disease—I was just talking with a very prominent personality whose name we would all recognize, but whose privacy we should respect. Their son contracted Hodgkin's disease. Because of what the National Cancer Institute has done, the doctors, scientists, and researchers, that child has an excellent chance of surviving. Just a few years ago, that would not have been the case. So it is with Wilm's tumors; so it is with a lot of other forms of cancer, just because of the money we have spent.

I happen to have been the author of the amendment that raised the amount in subcommittee up to $950 million, because I think we can well afford to spend that, not only on nutrition, environment, but funding original research projects to find the answers to why so many people get killed by cancer, our second largest killer.

That amount was cut down to $925 million in the full committee, which I deeply regret. But I think it is important for us to understand that we need to move forth in a number of areas, to have an all-out assault, and that perhaps our vision is not as broad as it should be. Just changing our diet, or changing the place we work, alone, without finding answers to some of the major problems that are going to kill people, before we try effectively to solve the problems of nutrition would not be an appropriate route for us to follow.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I do not like to inject myself into this discussion, because the Senator from Kansas and I have a colloquy in writing which has been submitted to the Senate. I appreciate the Senator from Kansas withdrawing his amendment, and I appreciate what the Senator from Indiana has had to say also.

I have a deep interest in this matter. I do not like to repeat it, but I established the National Cancer Institute in 1948, in the first bill I had passed in Congress.

At that time, bearing out what the Senator from Indiana had to say, four out of five people who got cancer—and as the Senator has pointed out, there are scores of types of cancer—at that time four out of five who had cancer just died, and we forgot about them.

We have it down, now, to two and a half out of five. If we could encourage some kind of mandatory Pap test for most women in the United States who, for some reason, do not do it, we would get it down, they tell me, to almost two out of five. That is some progress.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. MAGNUSON. You cannot, as the Senator said, zero in on one particular thing; you have to make it overall, and not rest until we have taken a good, overall look at it.

Our only point was that the National Cancer Institute should follow this practice, and we just said we did not need to spell it out for that particular purpose in the bill.

Mr. BAYH. That was my point. As the Senator knows, the most significant habit Americans have that results in them contracting cancer, in fact the one habit we have as a society that is most detrimental to us, is smoking. We are not going to snap our fingers and pass Federal laws to solve that problem, but we have made a start. I want to salute HEW for emphasizing this. We have begun an educational process so that we can reach children in kindergarten and grade school to teach adequate health habits, primary among which is not to smoke.

Yet I have been advised that perhaps one of our colleagues is prepared to move to strike that antismoking or health education material from the bill. I would hope we would be alerted to that proposal, because you are not going to pass a law and get people to stop smoking, but we ought to at least make all the information available to the children of this country as to what kind of habit they are getting into, and what are the side effects, in the forms of cancer, heart disease, arteriosclerosis, and other health problems.

Mr. MAGNUSON. As we used to say in committee, you cannot stop people from poisoning themselves and taking poison, but at least you can label it and tell them it is poison; and we have some responsibility in regard to that.

The Senator is right about it.

Mr. BROOKE. By request of the distinguished Senator from Kansas, I ask unanimous consent that his amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I promised to yield to the Senator from Ohio.

Mr. GLENN. Mr. President, I had originally intended to introduce an amendment on this subject, but I have been given reason to believe that perhaps a colloquy will do just as well.

The Education Amendments of 1976 revised the vocational education legislation. Two major emphases of the new legislation were: First, increased planning and leadership at Federal and State levels, and second, more focus at the local level on special needs of handicapped, disadvantaged and bilingual students. The programs of national significance were established to respond to the new requirements. Specifically the following had to be set up: a federally administered program of research, demonstration, curriculum development training to upgrade and improve vocational education programs, development of tested products, conducting demonstration, providing leadership training and dissemination information to State and local leaders in vocational education.

The funding for the programs of national significance was provided for in the education amendments under the Commissioner of the Bureau of Occupational and Adult Education discrectionary fund—5 percent set aside of the total authorization for vocational education.

The money for the National Center for Research in Vocational Education is funded under the programs of national significance. It is mandated by the education amendments for a 5-year period.

The Center is in the second year of its contract and supported by $4.5 million in Federal funds. If the funding is terminated the Office of Education estimates that nearly $10 million of previous investments would be lost. The Center employs approximately 360 people.

It is my understanding that during subcommittee markup adequate information was not immediately available as to how these funds are to be used, and that consequently the subcommittee did not appropriate funds for this item, even though the House has approved $29.5 million for these programs and the authorizing legislation mandates a 5 percent set-aside from the general funds appropriated for vocational education will go to it.

I am very concerned about the possible termination of funding because a number of fine programs are funded through this line item.

The National Center for Research in Vocational Education at the Ohio State University would receive approximately $4.5 million from this line item. I am told that besides the activities directly benefiting from these funds, this amount would act as a "magnet," as a catalyst, for another $4–$5 million from other sources.

The center at OSU has a long history of involvement in vocational education. After more than 10 years of operation this center was selected in 1976 as the National Center for Research in Vocational Education and is recognized for their expertise.

The House in its report on the bill specifically mentioned and highly commended the work at the center at Ohio State University.

It has acted as a catalyst to many other organizations, in addition, regarding the policies that are put forward, their projects, and preparation of individuals for careers in both the private and public sector. They have focused on providing new information and new systems, development of new evaluation programs, particularly as applied to the handicapped and migrant workers and those in some of our prisons who have needed help so that they do not get back in prison again.

By providing these services on a national level this national center helps eliminate unnecessary duplication of services among the States.

Another area of their activity that has been particularly good is they have developed probably the most usable occupational supply and demand data system. They are applying their research to curriculum development and programs in particular to retrain general edutors who are in surplus to become vocational teachers who are in short supply in these specialty areas.

Mr. President, I urge the floor managers of the bill to recede to the House in this regard. I do not think we need an amendment to this effect because these programs have been particularly good. I think they should be continued, and particularly when we are concerned about the effectiveness, the advantages and disadvantages of CETA funding, and talking about what new occupations may be available for people to retrain into and provide working lives in new areas where they are being displaced from an older industry. This type of occupational supply and demand data is particularly valuable. I would urge the floor managers of the bill to approve this funding for this particular line item and hope that they could recede to the House wishes in this regard.

Mr. MAGNUSON. Mr. President, I discussed this matter with the Senator from Ohio earlier today here on the floor. I am familiar with the work they do out there. It is very good. We will do what we can in conference to see if we can recognize it and the best way we can. Of course, there are other places, too, but this has been a very good operation and has saved us a lot of money. I think they have transported some of their expertise and experiments to other States. This is very important and I will do what I can.

Mr. GLENN. I thank the distinguished floor manager.

Mr. President, I ask unanimous consent that a letter I wrote to the chairman be printed in the RECORD as part of my statement today.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., August 8, 1978.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Appropriations,
Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: It has recently come to my attention that during its recent markup for education programs the Subcommittee on Labor, Health, Education, and Welfare of the Senate Appropriations Committee did not appropriate any funds for the Programs of National Significance authorized by P.L. 94–482 which revises and extends the Vocational Education Act of 1965.

It is my understanding that during Subcommittee markup adequate information was not immediately available as to how these funds are to be used, and that consequently the Subcommittee did not appropriate funds for this item, even though the House has approved $29.5 million for these programs and the authorizing legislation mandates a 5-percent setaside from the general funds appropriated for vocational education.

I am very concerned about the possible termination of funding because a number of fine programs are funded through this line item. I would like to discuss one program in particular about which I am concerned and briefly outline other programs affected.

The National Center for Research in Vocational Education at the Ohio State University would receive approximately $4.5 million from this line item. I am told that besides the activities directly benefiting from these funds, this amount would act as a "magnet" for another $4–5 million from other sources.

The Center at OSU has a long history of involvement in vocational education. After more than 10 years of operation this center was selected in 1976 as the National Center for Research in Vocational Education after authorizing legislation (P.L. 94–482) specifically required the funding of such a national center. Although the legislation required that the national center be selected on a competitive basis, the House in its report on the bill specifically mentioned and highly commended the work at the Center at Ohio State University.

The overall goal of the Center is to aid other organizations, institutions, and agencies through the development of programs and projects in the orientation, preparation and progression of individuals in careers in both the private and public sector. Currently its immediate goals are to focus on providing equal access to women and minorities in nontraditional occupations, develop systems and tools for comprehensive planning, develop evaluation mechanisms, provide technical assistance to practitioners, and adapt vocational education programs for special needs populations such as the handicapped, migrant workers, and the incarcerated. By providing these services on a national level, the National Center helps eliminate unnecessary duplication of services among the states.

Other activities funded out of this line item include the National Occupational Information Coordinating Committee which provides an important useable occupational supply and demand data system, programs of applied research, curriculum development, and programs to retrain general educators who are in surplus to become vocational education teachers who are in short supply now.

The above information indicates the importance of the programs funded through the line item for Programs of National Significance. I strongly urge you and other Senators on the Senate Appropriations Committee to fund these programs at the level approved by the House, thus allowing these important activities to continue.

Sincerely,

JOHN GLENN,
U.S. Senator.

Mr. GLENN. I thank the distinguished floor manager.

Mr. MAGNUSON. I yield to the Senator from Wisconsin.

UP AMENDMENT NO. 1911

(Purpose: To provide funds for the National Commission on Social Security)

Mr. NELSON. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes an unprinted amendment numbered 1911.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, after line 24, insert the following:

NATIONAL COMMISSION ON SOCIAL SECURITY

For carrying out the purposes of the National Commission on Social Security established pursuant to section 361 of Public Law 95–216, $500,000 to remain available until expended.

Mr. NELSON. Mr. President, this amendment would provide for $500,000 in funding for the National Commission on Social Security for its activities during 1979. This Commission was created in the Social Security Act which was passed last year, directing the Commission to make a 2-year study of social security funding, and other aspects of it, and then to report back to the Congress 2 years after its members were appointed. This funding is necessary for the Commission to begin and continue its work during fiscal 1979.

This amendment has the full support of the President. A letter from James T. McIntyre, Jr., Director of the Office of

Management and Budget, supporting the amendment was sent to me on September 20, 1978.

The National Commission on Social Security was established by an amendment which originated in the House of Representatives and which was enacted in December 1977 as part of the Social Security Financing Amendments of 1977.

The National Commission on Social Security is independent from the executive branch and is composed of nine members—five appointed by the President, two by the Speaker, and two by the President pro tem of the Senate. Thus far, the Speaker has appointed two members, one Commission member has been appointed by the Senate, and the President will be submitting five nominations to the Commission to the Senate for its advice and consent in the next few days. The Commission is required to submit interim reports and to issue a final report 2 years after a majority of its members are appointed.

The duty and function of the Commission to conduct a continuing study, investigation, and review of the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act and the health insurance programs established by title XVIII of such act.

Such study, investigation, and review of such programs shall include—but not be limited to:

The fiscal status of the trust funds established for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

The scope of coverage, the adequacy of benefits including the measurement of an adequate retirement income, and the conditions of qualification for benefits provided by such programs including the application of the retirement income test to unearned as well as earned income;

The impact of such programs on, and their relation to, public assistance programs, other governmental retirement and annuity programs, medical service delivery systems, and national employment practices;

Any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs) which affect substantial numbers of individuals who are insured or otherwise eligible for benefits under such programs, including inequities and inequalities arising out of marital status, sex, or similar classifications or categories;

Possible alternatives to the current Federal programs or particular aspects thereof, including not limited to a phasing out of the payroll tax with the financing of such programs being accomplished in some other manner (including general revenue funding and the retirement bond), the establishment of a system providing for mandatory participation in any or all of the Federal programs, the integration of such current Federal programs with private retirement programs, and the establishment of a system permitting covered individuals a choice of public or private programs or both;

The need to develop a special Consumer Price Index for the elderly, including the financial impact that such an index would have on the costs of the programs established under the Social Security Act; and

Methods for effectively implementing the recommendations of the Commission.

In order to provide an effective opportunity for the general public to participate fully in the study, investigation, and review under this section, the Commission, in conducting such study, investigation, and review, is authorized to hold public hearings in as many different geographical areas of the country as possible. The residents of each area where such a hearing is to be held are to be given reasonable advance notice of the hearings and an adequate opportunity to appear and express their views on the matters under consideration.

Mr. President, this amendment to fund the activities of the Commission during the first part of fiscal year 1979 is necessary at this time so that the Commission can begin its work as soon as a majority of the authorized members to the Commission are officially appointed and approved by the Senate. It is anticipated that such a majority of members will be approved by the end of this session of Congress.

The sum of money being requested will allow the Commission to begin its important and vital work as soon as possible. This request is consistent with the "such sums as may be necessary" authorization of appropriations provided in the authorizing legislation.

Within 4 months after a majority of the authorized membership is appointed, the Commission is to submit to the President and the Congress—as required by Public Law 95-216, section 361(c)(3)—a special report describing the Commission's plans for conducting the study, investigation, and review of the social security programs. Assuming that a majority of the members are appointed by the end of October, this amendment will provide the necessary funds so that the first interim report to the President and the Congress is prepared by the end of next February.

Because the Commission is independent from the executive branch, it would be inappropriate for it to receive its funding from the Social Security Administration, or the Department of Health, Education, and Welfare. That is why this amendment is being offered.

It is anticipated that the $500,000 sought by this amendment for the Social Security Commission will provide sufficient funding at least through the first quarter of fiscal year 1979. Additional funding for the Commission during fiscal years 1979, 1980, and 1981 will have to be considered at a later time, perhaps when a supplemental appropriations bill is taken up early next year.

Mr. President, last year Congress recognized the need for a high-level blue-ribbon panel of experts to study the social security programs. That need has not diminished. Indeed, the American public and many Members of Congress time and again have expressed their support for a complete review of the social security programs. As a matter of fact, many people—Members of Congress and others—believe that such a study is now underway. This amendment will provide for a modest amount of funding for this important task. I urge its adoption.

Mr. President, I ask unanimous consent that a letter from Mr. James T. McIntyre, Jr., Director of the Executive Office of the President, Office of Management and Budget, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 20, 1978.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: I am pleased to write on behalf of the Administration in support of your proposed amendment to the Labor and HEW appropriations bill, which would provide $500,000 in initial funding for the National Commission on Social Security.

Congress called for the creation of this Commission in the Social Security Act Amendments of 1977, giving it a broad mandate to examine as many of the long term problems of the social security system as possible within its intended two year life. Among many others, those problems include the scope of coverage and adequacy of benefits, the relationship of the system to private retirement plans, and inequities that may exist under current administrative practices. In view of this mandate from Congress, it would be unfortunate to delay further the start of the Commission's important work by awaiting a full appropriation next session.

An appropriation now will allow the Commission to assemble a staff, begin the process of extensive public consultation envisioned by Congress, define its work plan, and prepare a detailed budget. The authorization is for "such sums as may be necessary." We plan to seek full funding for the Commission as part of the first supplemental budget proposal next year.

Sincerely,

JAMES T. MCINTYRE, JR.,
Director.

Mr. MAGNUSON. Mr. President, the Senator from Wisconsin is correct. I think this was pretty much of an oversight in the committee. We just did not take a look at it. Actually, the Senator from Wisconsin could just as well have asked for $1 million, since it was mandated. In the interest of holding down the amount in this bill, he has asked for $500,000. The Director of the Office of Management and Budget said that they planned to seek full funding for the Commission as part of their first supplemental proposal next year. So that will help. In the meantime, this will keep them going.

Mr. NELSON. That is correct.

Mr. MAGNUSON. I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, here we are once again. Does anybody have any amendment?

Mr. President, I suggest the absence

of a quorum. I am going to ask for a live quorum if we cannot get Senators here with their amendments.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, it appears to be very difficult to get amendments called up at the present time. I suggest that a half-hour recess perhaps will expedite matters, in the long run.

So I ask unanimous consent that the Senate stand in recess until 1:30 p.m. today.

There being no objection, the Senate, at 12:55 p.m., recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HODGES).

ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, what is the meeting hour set for tomorrow's convening?

The PRESIDING OFFICER. Nine a.m.

Mr. ROBERT C. BYRD. Are there any special orders for the recognition of Senators?

The PRESIDING OFFICER. There is one special order for Senator MORGAN from North Carolina.

Mr. ROBERT C. BYRD. I understand there is another order going to be requested.

ORDER FOR RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. I, therefore, ask unanimous consent that when the Senate completes its business today it stand in recess until 8:30 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. WEDNESDAY, THURSDAY, FRIDAY, SATURDAY, AND NEXT MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, Wednesday, Thursday, Friday and Saturday it stand in recess, respectively, until the hour of 9 a.m. on Wednesday, Thursday, Friday, Saturday, and Monday.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1979

The Senate continued with the consideration of the bill.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, in title IV, general provisions of H.R. 12929, there is a provision which states that, "no payment shall be made from this appropriation for State or local expenditures made prior to September 30, 1977, unless such payment is for an expenditure which, on or before September 30, 1978, or 90 days after the enactment of this bill whichever occurs later, is duly recorded in the records of the single State agency responsible for administration of the State plan and reported to the Secretary or unless such payment has been administratively determined to be of an exceptional and unavoidable nature."

Mr. President, I agree with the intent of this language which is to insure that claims are submited in a reasonable time. This is essential if we are to improve the quality of administration of public assistance programs and reduce fraud and abuse. Because of some unique problems involving procedures for processing claims for medicaid, however, it is essential that we clarify the intent of this language.

In Oklahoma, hospitals are reimbursed on a prospective basis for claims under title XIX. At the end of the hospital's fiscal year, a retroactive adjustment is made on the basis of the hospital's actual costs. In fact, the fiscal year is not closed until the medicaid State agency receives the medicare audit findings which may take 2 or 3 years. Would the provisions in this bill prohibit such retroactive adjustments?

Mr. MAGNUSON. No. Since these claims would have been recorded in the records of the single State medicaid agency and reported to HEW.

Mr. BELLMON. Under Oklahoma law, all warrants and vouchers are cancelled by statute upon the expiration of 1 year from the date of issue. If a warrant is not processed, the medicaid agency reimburses the Federal Government its share of the expenditure. In such cases, would this provision prohibit Federal sharing in claims that are "re-filed," that is, a request is made to reissue the original warrant?

Mr. MAGNUSON. No. Such claims would be processed under this language.

Mr. BELLMON. A portion of any claim under medicaid may be denied and subsequently appealed. In such cases, payment may well be delayed in a hearing process or litigation for a year or more. Would the language in this bill preclude payment of such claims?

Mr. MAGNUSON. No; because such claims have already been reported to HEW.

Mr. BELLMON. Finally, medicare is after the payor of last resort and may not pay claims until the recipient has exhausted all other alternatives. This may involve situations such as automobile accidents in which liability is established only after prolonged litigation. What impact would the language in this bill have on claims in these situations?

Mr. MAGNUSON. The language would allow payment if the claim were submitted timely from the date liability was established by the courts. In other words, the claim would be a current one based on the date of the court ordered payment, not the date the original cause of action arose. This would be true not only for medicaid, but also for any court ordered payments in programs subject to the limitation.

Mr. BELLMON. Where a particular Social Security Act program is being audited by HEW and an underclaim is discovered, may this be offset against any overclaim also discovered?

Mr. MAGNUSON. The Secretary retains authority under this new provision to make exceptions to the time limits for unavoidable and exceptional circumstances and this would clearly be one of those occasions.

UP AMENDMENT NO. 1912

(Purpose: to increase the anti-waste reduction from $1 billion to $2 billion)

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, Jr.) for himself and Mr. HELMS, proposes an unprinted amendment numbered 1912:

On page 40, line 5, strike "$1,000,000,000" and insert in lieu thereof "$2,000,000,000."

Mr. HARRY F. BYRD, JR. Mr. President, the amendment I have submitted would change the funds to be appropriated in the area where there has been substantial waste, fraud and abuse in HEW programs. The Appropriations Committee aproved a House-passed figure of $1 billion. My amendment would make the reduction $2 billion.

On April 3 of this year, the Inspector General of the Department of Health, Education, and Welfare submitted a report stating that between $6.3 and $7.4 billion had been unnecessarily or improperly spent during 1977.

Subsequently, Secretary Califano stated that the original report of the Inspector General was in error—that the actual amount of misspending by HEW was $6 billion.

The issue of misspent funds at HEW aroused considerable public attention. Probably as a result of this, the House of Representatives included in its version of the Labor-HEW appropriations bill a reduction of $1 billion, mandating that the saving be achieved through elimination of waste identified by the Inspector General.

The Senate Appropriations Committee has included that reduction in its version of the bill, the measure now before us.

I think that the action of the House and of the Senate committee represents a step in the right direction.

But let us ask ourselves this question: Will the people of the United States be and of the Senate committee represents a step in the right direction.

But let us ask ourselves this question: Will the people of the United States be satisfied to learn that after a year of effort, HEW will have succeeded in reducing waste, fraud, and abuse by just 16.6 percent?

That is what would result from the application of the provision of the bill before us, approved by the House and by the Senate Appropriations Committee.

Is a one-sixth reduction in HEW waste satisfactory in the year of the taxpayer revolt, the year of proposition 13?

Is it satisfactory in a year when revelations of fraud and abuse have spread far beyond HEW—notably to the huge General Services Administration?

Is it satisfactory with inflation in the double-digit range, and with economists saying that the underlying inflation rate is about 7 to 8 percent?

Is it satisfactory with the Government running a deficit of nearly $50 billion this year, and anticipating a further deficit of $39 billion in the year ahead?

I think the answer to all these questions is "No".

I believe that deeper reduction, a more strenuous effort to get rid of waste, fraud, and abuse is called for at this time—indeed, will be demanded by the people of this country.

Therefore, I have submitted an amendment to the pending bill which would double the antiwaste reduction from $1 billion to $2 billion. Even at this rate, only one-third of the misspending at the huge Department of HEW would be eliminated.

I think we in the Congress will have a hard enough time defending toleration of so low a reduction figure as one-third—let alone the ultrapermissive ness of a mere one-sixth reduction.

But if we press ahead with diligence, and if HEW does a conscientious job of putting its house in order, I think the people will understand that reform takes time.

So if we approve a cut of $2 billion, mandating that the reduction be achieved by elimination of wasteful spending as identified by the Inspector General, then I think we can say that a good faith effort is being made to protect the hard-earned tax dollars of the American people.

I urge the adoption of my amendment.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD the cover page from the report of the Inspector General of HEW, dated March 3, 1978.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

[From Department of HEW, Office of Inspector General, Annual Report]

AN INVENTORY OF "BEST ESTIMATES" OF FRAUD, ABUSE, AND WASTE IN HEW PROGRAMS

A wealth of information has resulted from Congressional hearings, GAO audits, HEW audits, quality control surveys, and other studies dealing with problems of fraud, abuse, and waste in HEW programs. Some of these span many years and reveal chronic failures to take corrective action. Others reveal dramatic progress in reducing losses due to errors and ineligibility rates. But no summary or analysis of these findings has ever been compiled. Hence, it was decided to compile an inventory of the "best available estimates" we could locate.

It must be stressed that this summary is no more than an initial inventory. It is not an independent study, although we believe the data are reasonable estimates. Because the sources are not complete, the inventory is not complete. Despite these limitations, it is the best perspective that has yet been assembled. In our view, it portrays a conservative measure of the extent of fraud, abuse, and waste in key HEW programs, and their causes.

It must also be acknowledged that it is virtually impossible to distinguish sharply between fraud, abuse, and waste, since frequently one problem involves all three. For purposes of rough definition, we have adopted the following:

Fraud is defined as the obtaining of something of value, unlawfully, through willful misrepresentation.

Abuse covers a wide variety of excessive services or program violations, and improper practices not involving prosecutable fraud.

Waste is the incurring of unnecessary costs as a result of deficient practices, systems or controls.

As summarized below, this inventory of best estimates reveals that for programs involving Federal outlays in FY 1977 of $136.1 billion, the incidence of fraud, abuse and waste—at a minimum—ranged between $6.3 and $7.4 billion (Exhibit 1).

Mr. MAGNUSON. Mr. President, there has been a great deal said about the report of the Inspector General.

Generally, the estimates on misspent dollars in this area range from $1 billion or $2 billion up to $20 billion. It could be anywhere in between.

All I wanted to point out is that very little, would be in the so-called fraud area. That is not a minor part of the thing, but as a percentage it is the lowest amount.

The abuse and the waste is another story, and inefficiency and things of that kind by the management, and information from the State levels is sometimes very bad. There is the problem of curbing the doctors and the hospital administrators who control the amount and type of health care that is actually delivered. Then, it is pointed out, when you do find a fraud case you should immediately prosecute it, because that is a lesson to other people.

It could easily go up to the $2 billion figure, with all those three items, when you have a bill that involves $220 billion, which we have now. Yes; with $220 billion, you could go up to at least the amount suggested by the Senator from Virginia, and I think our committee is just as concerned about this as anyone.

We took the House amount, because they had looked at it a little closer than we did before we got the bill. I am perfectly willing, if the Senator from Massachusetts is, to accept the amendment, with the proviso that we do get at these three ways to achieve the objectives suggested by the Senator from Virginia. It could be less, or it could be more; we just do not know. The amendment takes nothing, no money from the bill, but it is a figure which establishes a goal which I think is well within reason.

I yield to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, I would just like to point out to my distinguished friend from Virginia that even before we take out the $1 billion for fraud and abuse, we are below the budget estimates by $868 million, and below the House amount by $1,110,436,000. So we have been trying to do some of what the distinguished Senator from Virginia is attempting to do by his amendment.

But I would agree with the distinguished chairman, and be willing to accept the recommendation of the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from Massachusetts and the distinguished Senator from Washington.

Let me read exactly what the amendment would provide. On page 40, section 201, it states:

> Notwithstanding any other provision in this Act, the total amount of budget authority provided in this Act for the Department of Health, Education, and Welfare is hereby reduced in the amount of $1 billion.

The amendment now pending before the Senate would increase the amount, so as to make the bill read:

> Is hereby reduced in the amount of $2 billion.

I move the adoption of the amendment.

● Mr. ROTH. Mr. President, I applaud the effort made by the Senator from Virginia to reduce the fraud and mismanagement which plague the programs administered by the Department of Health, Education, and Welfare. His amendment would force the Department to reduce by $2 billion the estimated 5.5 to 6.5 billion taxpayer dollars lost each year through the inefficient administration of HEW programs.

We must begin to reduce the tremendous and appalling waste which occurs in all Federal programs. The American people have lost confidence in the Federal Government's ability to wisely manage program expenditures and it is up to the Congress to see that the losses are brought under control. As members of the "SOB" task force, my colleagues and I have made several successful efforts over the past few weeks to cut back on inefficient or wasteful expenditures by offering "efficiency cuts" to various appropriations bills. Senator BYRD's amendment will help force more efficient management in HEW and I salute him for the effort he has made.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, the Senator from Louisiana has an amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

UP AMENDMENT NO. 1913

(Purpose: To prohibit the use of funds for the purposes of enforcing certain OSHA regulations relating to cotton)

Mr. JOHNSTON. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 1913:
>
> On page 53, insert the following between lines 9 and 10:

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 53, insert the following between lines 9 and 10:
>
> SEC. 410. None of the funds appropriated under this Act may be obligated or expended in connection with the enforcement of regulations relating to the occupational exposure to cotton dust issued pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970.

Mr. JOHNSTON. Mr. President, I hope the distinguished chairman of the committee will look favorably on the amendment which I have just offered. It involves a stupendous cost to the taxpayers of this country, and would have a tremendous effect on inflation.

What my amendment would do, Mr. President, would be to suspend the operation of the OSHA rules with respect to cotton dust for this year.

I yield to my friend from Kentucky for a unanimous-consent request.

Mr. FORD. Mr. President, I ask unanimous consent that James Fleming and Martha Moloney of my office may have the privilege of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. The same request for Laura Hudson of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the amendment would suspend, by depriving HEW or OSHA of money to implement them, the cotton dust standards for this year.

In 1968, the Secretary of Labor adopted standards on cotton dust which provide for 1,000 micrograms per cubic meter of cotton lint, setting that as the top limit that can be present in the air in textile mills or other cotton processing areas. OSHA proposes this year, and indeed in September of this year, that standards will go into effect which will drastically reduce those standards to 200 micrograms in textile mills, to 700 micrograms in flashing and weaving installations, and to 500 micrograms in all other situations.

Mr. President, these are very stringent rules. If I may tell my colleagues, and particularly the chairman of the committee, these rules, if adopted, enacted, and implemented by OSHA, will cause inflation to increase by three-fourths of 1 percent. Let me repeat that, Mr. President. According to Barry Bosworth, who is the Chairman of the Commission on Wage and Price Stability, these OSHA regulations will cause an increase in inflation generally by three-fourths of 1 percent.

Or, to put it another way, the cost of cotton will increase by about 17 cents a pound. Cotton presently sells for around 44 cents a pound. These regulations will cause an increase in the cost of cotton of 17 cents a pound, or, to put it still another way, the cost of complying with these OSHA regulations, according to the industry, would be somewhere between $1.8 and $2.6 billion.

In other words, to implement these OSHA regulations is going to cost that much to industry: $2.6 billion on the high side, or, to take OSHA's estimate, $656 million, or, to take OSHA's contractor's estimate, $900 million. Or, to take a study by Washngton University, $1.02 billion.

Mr. President, we are dealing with, not inconsequential sums, but sums that are sufficient to spell almost the doom of American cotton farmers and the American textile business. There are presently, according to SBA, 3,355 small companies which are directly impacted by this amendment. It impacts indirectly on 13,000 small businesses. There are 90,000 farms that grow cotton which will be directly impacted—a total of 160,247 jobs involved in cotton farming.

They produce $2.3 billion in revenues.

So, Mr. President, we have here an issue which is of the most primary importance in this country in terms of the health of the cotton industry, from the farmer through the mill. In terms of the cost to the consumer, it would raise that cost of cotton by 17 cents, actually, for a pound of cotton, which now costs 44 cents, and it would mean great difficulty for the whole industry in this country.

This regulation is being noticed, I might add, Mr. President, abroad. I have an article, which I ask unanimous consent to be printed in the RECORD at this point, from the Daily News Record. I will quote one paragraph. This is dated September 11, 1978, under the dateline of Hong Kong. According to a top export official with Hong Kong Fabrics, he says:

> If U.S. manufacturers don't comply with the new standard, which is seven and one-half times more stringent than West Germany's," said T. K. An, chairman of Windsor Industrial Corporation, the resulting cotton fabrics shortage "will open up export opportunities to the U.S. no matter what happens to the general economy."

In other words, to invoke this OSHA rule, 7½ times more strict than that of West Germany, is going to mean the demise of jobs in this country and the export of those jobs to Hong Kong and other cotton-producing areas.

It is also going to mean the shutting down of many, many plants in this country, Mr. President.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES COTTON DUST REGS LIKED—IN HONG KONG

HONG KONG.—The new and strict cotton dust standards for U.S. textile manufacturers could be a blessing for Hong Kong fabric exporters, a top export official here said.

If U.S. manufacturers don't comply with the new standard, which is seven and one-half times more stringent than West Germany's" said T. K. An, chairman of Windsor Industrial Corporation, the resulting cotton fabric shortage "will open up export opportunities to the U.S. no matter what happens to the general economy."

In a far-ranging comment on Windsor's successful business year, which ended in March, An made a number of observations about the U.S. market.

The plummeting dollar means "prospects for U.S. textile exports have improved tremendously"—an opportunity that trade figures show hasn't been seized by U.S. exporters. "While the U.S. industry struggles to modernize, Far Eastern exporters who are fashion conscious and quick responding, should find a good market for their goods in the United States," An said.

"Textile imports by the U.S. have had their dampening effect on inflation," said An, who is chairman of the Hong Kong Trade Development Council, an organization dedicated to promoting the colony's exports.

Despite the large volume of apparel imports to the U.S., An pointed out, retail price increases in the U.S. are less than half the over-all rise in consumer prices this year.

The Windsor Group certainly has contributed its share to the flow of exports to the U.S. market. Profits for the 12 months ending in March for the Hong Kong textile giant were up 12 per cent to a record $11.2 million, and even better when one-time profits from property sales were included. Windsor subsidiaries are some of the industry's top producers of fabrics, yarn, knitwear and other garments, including Oriental Pacific, Macao & Miami Knitters, Soco Textiles, the Winner Co. and Oceanic Cotton Mill.

Certainly not all of Hong Kong's textile firms have enjoyed a year like Windsor's, but the changes from 1977 generally reflect patterns in the industry. Sales for yarn, fabrics and finishing dropped 10 per cent, while garments took up the slack on total turnover of almost $200 million, up about 2 per cent from 1977.

An doesn't expect completely smooth sailing ahead because Hong Kong, as always, is "very much dependent on the economic growth of its major trading partners." But Windsor, like a number of other companies seeking to weather the textile slump, is moving ahead—$3.4 million worth of new machinery purchased last year and another $4.3 million on tap for 1978–79.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that an article from Southern Textile News dated August 2 of this year be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OSHA's NEW DUST STANDARD CITED IN REEVES PLANT CLOSING

GREENVILLE, S.C.—OSHA's new dust standards, joining other expensive federal government rip-off regulations, have helped to claim their first local victims—one textile plant, 136 jobs and a large payroll, the latter already previously reduced by economic adversities.

Reeves Bros., for many years a leading textile manufacturing operator in the Spartanburg-Greenville area, is phasing out its Mills Mill No. 1 plant here with final closing scheduled by August's end.

Robert M. Hicklin of Spartanburg, Reeves' executive vice president, recently detailed these closing causes:

"Due to the age of the plant, market conditions in the carded cotton yarn market and projected expenditures necessary to meet the new OSHA dust standards and other government regulations, it is no longer economically practical for Reeves to continue the operation."

A substantial number of worried industrymen view the plant's demise as possibly the beginning of a trend which could cause other

> mill closings, chiefly because of the great cost of buying and installing equipment for complying with the cotton dust directive.
>
> In some segments of management, reports on outlook are not encouraging, as stockholders and executives strive to keep mills operating profitably and jobs safe, under the impact of numerous regulations.
>
> A mid-August update shows that Greenville area alone has lost eight plants by closings during the last 18 months.
>
> Resulting job losses are totaled at more than 2,000.
>
> Meanwhile, textile industrymen predict that the stricter cotton dust control standard will ultimately cost mills close to $3 billion for coming into compliance.
>
> "I said this would happen", Robert S. Small, president of American Textile Manufacturers Institute and chairman of Dan River Inc., said. "Mills Mill just happens to be the first."
>
> Reeves continues operation of its Mills Mill No. 2 at Woodruff in Spartanburg County but is now entirely out of the Greenville County textile industry picture.

Mr. JOHNSTON. That article points out that in the Spartanburg-Greenville area eight plants have been closed in the last 18 months with resulting job losses of over 2,000. It points out another textile plant with 136 jobs is ready to go under if this is implemented this year.

In other words, what we are talking about, Mr. President, is a cost to the industry of $8.6 million; a cost to the consumer of three-quarters of 1 percent in terms of inflation, and thousands and thousands of U.S. jobs that are going to be lost.

Mr. President, if that is absolutely necessary, perhaps we have to bite the bullet in this country and do it, but I would submit to this Senate, Mr. President, it is not necessary. Let me please explain why.

First of all, there are alternatives available to this OSHA rule. For example, the industry itself says that it will totally protect health by putting in a standard of 1 micrograms per cubic meter in weave rooms and 0.5 micrograms per meter in textile mills. The industry has invested millions of dollars in research in this area of byssinosis and its cause and effect with respect to cotton dust.

The Council on Wage and Price Stability, which is strongly opposing this OSHA rule, states that the better alternative would be to put in what we call performance standards. In other words, performance standards would measure the amount of cotton dust inhaled or ingested by the worker and put a limit on that similar to the limit of OSHA, but would let industry decide how to meet that standard.

What does this mean in practical terms? It means, according to the Council on Wage and Price Stability, that there are better alternatives than the redesign of all this machinery. One of the better alternatives is the use of respirators, these masks that workers would be able to wear.

According to the Council on Wage and Price Stability, that one simple ability which is just as effective with health, that is, the ability to use respirators, would itself save $125 million to cotton textile mills.

I might also point out, Mr. President, that this matter, according to people in the industry, is technologically impossible to comply with. The new kinds of machinery simply will not work, according to some in the textile industry.

For example, concerning meeting 0.2 milligrams per cubic meter standards in its mill, according to one chief executive officer:

> Experience to date would indicate that it is impossible to maintain that 0.2 milligram level on a day-in-day-out basis. The hearing record contains testimony from leading filtration experts stating that this level is not achievable with current technology in spinning rooms operating on 100 percent cotton.

Mr. President, there are alternatives to invoking this Draconian rule of OSHA. This rule of OSHA is going to do tremendous damage to the economy of this country. It is going to cost billions of dollars. It is going to make inflation rage. Three-quarters of 1 percent from one OSHA rule is an incredible amount of inflation.

Mr. President, this rule of OSHA is being invoked industrywide, not just in textile mills but also in cottonseed oil operations and warehouses. This is a classical example of the old maxim, "If it ain't broke, don't fix it." There has never been a recorded, diagnosed case of byssinosis from a worker in a cottonseed mill or in a warehouse. Yet we are invoking this rule in both of those work places. Indeed, the incidence of lung disease from workers in cottonseed mills and in warehouses is no higher than that in the general population. Yet at a cost of hundreds of millions of dollars OSHA says:

> Well, we better put the rule into operation in warehouses and in cottonseed mills as well.

Mr. President, there is now a study going on by the National Institute of Occupational Safety and Health which is scheduled for completion in the early 1960's.

That study, definitive and multidisciplined in nature, will tell us the answer with much more precision than OSHA has been able to do from this rule. It will give us a better solution. In the meantime, Mr. President, we ought to recall these particular regulations, leaving in place the current standards from the Secretary of Labor—leave those standards in place—and in the meantime adopt an alternative like the Council on Wage and Price Stability recommends. They recommend a performance standard. Then let us take a look at this when the definitive study by NIOSH is complete in early 1980. It will save, Mr. President, according to Barry Bosworth, three-fourths of 1 percent generally in inflation.

Mr. President, as one who has just finished a campaign and who has looked at national polls on this question of inflation, there is no issue as hot, no issue of as much concern to the average American today, than inflation. You ask, "What causes inflation?" Well, this is the kind of thing that causes inflation, three-fourths of 1 percent according to the Council on Wage and Price Stability, Mr. Bosworth. No one has denied that figure. Here with this quiet little action of OSHA we are going to cause three-fourths of 1 percent increase in that inflation rate unless we do something about it here on the floor of the Senate.

Mr. President, my amendment would do that. It would suspend this rule but leave in place the current standards for the Secretary of Labor.

Mr. President, I hope the distinguished chairman of the full committee will look favorably upon this amendment.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield to the distinguished Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have joined as a cosponsor of the amendment of the Senator from Louisiana, and it has not been without considerable thought as to the implications of these OSHA regulations, medically, environmentally, and economically.

I can tell Senators that in my State I have never seen as many normally sensible, objective men climb the wall as I have seen since these proposals first came out.

We are one of the top four cotton-producing States in the Nation. Naturally, I have a parochial interest—I am not denying that. I can tell Senators that the rest of the country is going to suffer, not to the same degree as Arkansas, but it is still going to suffer from the inflationary impact that is bound to follow the implementation of these regulations.

One of the interesting things to me—which I have been told by the people in the cotton council and other interested parties across the country, and the point was made by the distinguished Senator from Louisiana—is that these rules cannot be met. It is not technically possible for the industry to meet these OSHA standards.

How, in the name of all that is good and holy, can we ask an industry as big and as broad-based and as integrated as this industry—for that matter how can you ask any industry—to comply with something when compliance is impossible?

In my State, we have seven cottonseed oil mills, and the prediction is that at least five of them will have to close. They are small businesses.

We have one cotton compress in Dumas, Ark., which is a very small operation. They say they cannot comply with these regulations for less than $500,000 in annual medical surveillance costs; $500,000 a year in a small cotton compress, because they are required to give every employee in that compress a medical examination before he goes to work and additional examinations throughout the work year. Our cotton gins must meet similar medical surveillance requirements, and the normal work period of each employee there is only 1½ weeks a year.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. BUMPERS. I am happy to yield.

Mr. BROOKE. I certainly agree with everything that the distinguished Senator from Louisiana said when he offered this amendment.

Of course, the No. 1 issue in the country today is inflation. Everyone is concerned about inflation. But this amendment, it seems to me, goes directly at what the distinguished chairman of this committee has been saying: That this matter has not been heard by the Appropriations Committee at all. We have held no hearings on this amendment. We do not know what the real impact of it would be.

The Senator from Arkansas, for whom I have the greatest respect and admiration, is a member of our full committee. From what I see here, if this amendment were accepted, even next year the cotton gin industry would only be required to inform workers of the dangers and have workers fill out a questionnaire.

Is this really going to have the effect that the Senator from Arkansas thinks it is going to have? Is it really going to have that kind of inflationary impact? What will be the effect upon the workers?

As I understand it, the distinguished chairman of the Human Resources Committee, who is here, has announced that his committee will commence new OSHA hearings on October 3 of this year. The complex issue of cotton dust standards, it seems to me, should be addressed by that authorizing committee and not as legislation on an appropriations bill.

The Senator is asking us to accept this amendment, and it might be a very good amendment. I do not know. I do not know that much about the cotton gin industry. I know what the Senator from Louisiana has said, and I respect what he has to say. Certainly, the Senator from Arkansas is knowledgeable about the industry. But here we are, on an appropriations bill, on a matter on which we have had absolutely no hearings, and we are being asked to take action. No matter how it is written, this still is legislation on an appropriations bill.

Perhaps the Senator from Arkansas has the answer to that. Does he really believe that this is the place for this amendment? That is the point I really raise.

Mr. BUMPERS. The Senator makes a very valid point. I know the Senator knows of my great respect and admiration for his ability and his concern.

My point—and I suspect that the Senator from Louisiana will join me in this—is that this may be our last shot. By the time the authorizing committee gets around to considering this matter, a lot of damage is going to be done.

I do not like legislating on appropriations bills any more than the Senator from Massachusetts does. I deplore it. I do it occasionally when I feel my people are going to suffer, and suffer soon, if I do not do it. This is such a case.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. JOHNSTON. Mr. President, this is a very difficult situation with respect to legislating on an appropriations bill. Technically, it is not legislating on an appropriations bill. It is a limitation simply on the expenditure of money.

I will tell Senators why we are doing it at this time, in this way. The rule was not promulgated until June. Admittedly, the Senator from Texas (Mr. TOWER) introduced a measure in the Health and Human Resources Subcommittee on this matter. He is running for office; I have been running for office. Hearings are scheduled for October. The matter should be heard fully and completely by a committee. There simply is not time. It is as simple as that.

What we are trying to do is to forestall this rule from going into effect now, to give us time to look at it completely and in depth. It simply was not promulgated until June, and we have not had time.

So I hope the Senate will look at this a little differently and give us the time to hold those hearings and take a look at it next year.

Mr. BROOKE. Should we legislate in a vacuum? What would be the impact if we did wait? What would be the problem, as the Senator from Louisiana and the Senate from Arkansas see it, if we waited for the Human Resources Committee to hold its hearing, which I understand is to be October 3?

Mr. JOHNSTON. The rule goes into effect on September 4 of this year. In other words, the rule is in effect right now, and it has not been complied with fully.

All we want to do is to preserve the status quo. Under the status quo, we are operating under a rule that the Secretary of Labor promulgated in 1968. In other words, we will keep the present standards in operation. All we will do is forestall the more stringent standards from coming into operation in the meantime and save a lot of dollars and save three-quarters of a point on inflation.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield to the Senator from New Jersey.

Mr. WILLIAMS. Not at this time, but soon, I should like to relate the long, long procedure that has been followed in coming to a standard in this cotton dust situation.

It started in 1972, and then it was stalled. We are all familiar with the reasons for no action then on standards. It has come on now to the point where, after voluminous hearings and study and opinion and changes in the proposal, we have a standard promulgated under the regular procedures.

However, I would like to comment on the point that we must do something now to stop this standard from becoming effective. Under the regular procedures, after the standard finally was issued, 23 appeals were made. through the regular procedure, through the judicial review procedures under the act, and they are now pending in 4 circuits. I believe that next week the motion to stay this standard will be heard in the fourth circuit. That is the regular procedure. To use this action of legislating on an appropriation bill will simply deny the orderly procedures provided under law.

That is for now. Later, I shall address myself to the reasons that the Department and OSHA promulgated a standard.

We had a hearing last week—and I am sure the Senators from South Carolina will talk about this, too. We had people from North Carolina and South Carolina who suffer from this disease come to us and tell us of their plight. Some Senators have introduced proposed legislation to deal with the harm that follows this disease and to provide compensation to its victims.

We have proposed legislation for brown lung compensation, just as we had legislation to provide compensation for black lung in coal mining. Here we have a procedure that will try to bring a healthier work place, and if we let it go into effect, we will be saved from the most inflationary response of all, a major compensation law for the victims of this disease.

These standards are designed to assure a healthy work place and eliminate the necessity for a compensation bill of those dimensions. It seems to me that the issues raised here have been raised in court and court is the place for it at this time, not on this appropriation bill brought to us so ably by the Senators from Washington and Massachusetts.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. WILLIAMS. Yes.

Mr. JOHNSTON. The Senator is correct, of course, that the matter is at court. But in court, they simply decide the legality of this issue. My argument today has nothing to do with the legality of whether OSHA followed the rules in promulgating these regulations. My argument has to do with the wisdom of promulgating these regulations at this time, or whether Congress ought to make a value judgment—not a legal judgment, but a value judgment—that there is a better, alternative way to protect people against the hazards of cotton dust.

The Council on Wage and Price Stability says that there is a better alternative. They say that performance standards—the wearing of masks in some instances, the medical examination in other instances—is a better way.

All I am saying is that we ought to make that value judgment to defer this decision at this time. The Wage and Price Council says we ought to, the industry says $2.6 billion, the Council on Wage and Price Stability says three-quarters of 1 percent on inflation—three quarters of 1 percent on inflation generally. Mr. President, that is cause to delay this matter.

Mr. MAGNUSON. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. MAGNUSON. Did they testify to that? Where does that figure come from?

Mr. BUMPERS. If I could answer on behalf of the Senator from Louisiana, I think this figure was determined after the authorizing committee bill had been passed. I do not think they had an opportunity to testify to that, because the figure had not been arrived at then.

Mr. MAGNUSON. Is there official testimony to this effect?

Mr. JOHNSTON. Mr. President, that is from an article in the New York Times on June 14.

Mr. MAGNUSON. Oh, a newspaper article?

Mr. JOHNSTON. Yes, in 1978.

Mr. MAGNUSON. And who says that, Bosworth?

Mr. JOHNSTON. "Barry P. Bosworth, Director of the Council on Wage and Price Stability, and others in the Government, believe that the cost of regulation could have an inflationary impact of as much as three-quarters of a percentage point this year."

Mr. MAGNUSON. Is he quoted?

Mr. JOHNSTON. I just read the pertinent sentence.

Mr. MAGNUSON. Some reporter said he believes that. Did he actually say that?

Mr. JOHNSTON. This is an article by Philip Shabecoff.

Mr. President, I ask unanimous consent that this be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 14, 1978]

REGULATION BY THE U.S.: ITS COSTS VS. ITS BENEFITS

(By Philip Shabecoff)

WASHINGTON.—Of all the tactics of President Carter's emerging war on inflation, none has been more hotly debated thus far than the plan to curb governmental regulation in order to help cut the costs of doing business. Last week, intense infighting among high-ranking Administration officials over proposed regulations to protect workers from brown lung disease caused by cotton dust spilled over into the President's Oval Office.

Both sides in the debate agreed that an adequate standard was needed to limit worker exposure to cotton dust. But Charles L. Schultze, chairman of the Council of Economic Advisers, and other officials concerned with inflation urged that controls be phased in over a long period and that employers be given a choice of methods to achieve the goal, including respirators for workers, in order to cut costs and minimize its inflationary impact.

But Secretary of Labor Ray Marshall and others insisted that only the installation of machines to extract dust from the air the workers breathe would do the job of protection.

PRESIDENT CLARIFIED POSITION

Labor Department officials thought they had won the fight after the meeting with the President. But Mr. Carter phoned Mr. Marshall again last Saturday to clarify his position, and the end result is likely to emerge as less than fully satisfactory to the Labor Department, according to Administration officials.

The use of respirators and other approaches will be allowed while the engineering controls are being phased in over a period of up to four years. In some cases alternatives may be allowed permanently.

The cotton dust melee is probably only the first skirmish in a running battle between regulators and inflation fighters in the Carter Administration. Regulations dealing with occupational safety and health, the environment, consumer protection and a variety of other matters are scheduled to come under careful scrutiny to determine if they are inflationary and, if so, how they may be modified.

At the heart of the debate is the fundamental question of how the economic costs and inflationary impact of regulation are to be weighed against the economic and social benefits, such as healthier workers and cleaner air and water.

Right now, however, neither the Government nor anyone else really knows with anything approaching precision just what the economic impact of regulation is. Murray Weidenbaum, an economist at Washington University in St. Louis, estimated that the cost of compliance with regulations by private industry, plus the administrative costs to the Government, would be $102 billion in the current fiscal year. Barry P. Bosworth, director of the Council on Wage and Price Stability, and others in the Government, believe that the cost of regulation could have an inflationary impact of as much as three-quarters of a percentage point this year.

NO MEASURE OF BENEFITS

But Mr. Bosworth and others concede that there has been no measure of the social benefits of the regulations, such as lower health costs or less missed work time, and how they might affect the inflation rate.

Many of those who support strong, strictly enforced regulations, such as Dr. Sidney Wolfe, director of the Public Citizens' Health Research Group, argue there is no way to measure the value of human life and that the cost-benefit ratio in regulation that deals with health and safety is irrelevant.

But Arthur M. Okun, an economist at the Brookings Institution, said that there were "inescapable tradeoffs" involved in the costs of regulating business to protect workers or the environment or consumers. Implicit decisions about the value of human life and health are made all the time in allocating economic resources, he noted. "We don't finance free cancer checkups for everybody every three months. The 55-mile-an-hour speed limit has lowered the highway death rate, but we are not lowering it to 45 or 35."

Mr. Bosworth insisted, however, that the real issue was not whether the Government should regulate business to protect workers and the environment but how it could be done in the most efficient and cost-effective manner.

REAL ISSUE IS THE MEANS

"The real issue is the means to get to where we all agree we should be," he said. "Now we focus on design standards. We not only tell business where to go but also the specific means they must adopt to get there. The other way is to tell them what the goal is and say, 'You find the best way to get there.' "

If industry is given the freedom to reach the goals in its own way, and given incentives to do so, the aims of regulation could be achieved more economically and with innovations that could often make the methods more effective than those now mandated by the Government, Mr. Bosworth asserted. The use of new, efficient and relatively inexpensive personal respirators in control exposure to cotton dust is an example he said.

Jack Carlson, chief economist for the Chamber of Commerce of the United States, said that "command and control" regulation such as prescribing specific machinery to solve a problem like cotton dust, shows an "ignorance of how the market works." He insisted that industry would achieve the goals of regulation much more efficiently and readily if it were given a system of incentives.

But Dr. Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, said that what business considered most efficient often did not do the job of protecting workers. The respirators urged to reach the cotton dust standard would not prevent brown lung disease according to most authorities in the field of industrial hygiene, she said.

NEED SEEN TO BE SPECIFIC

Dr. Bingham said that she was not against flexibility and allowing employers to choose the best methods of protecting workers but that in some cases it was necessary to be specific. And the workers could not be given the burden of protecting themselves in the workplace, she added.

As for the inflationary impact of regulations, Dr. Bingham commented that "my ignorance of economics is comparable to the ignorance of the Council of Wage and Price Stability and the Council of Economic Advisers of industrial safety and health." She added that the Occupational Health and Safety Law mandated the protection of workers and said nothing about inflation.

Some commentators, in fact, have criticized the effort of Mr. Schultze and others to seek changes in the proposed cotton dust standard, with the President's backing, as illegal intervention in the regulatory process. It is an issue that raises questions about the President's constitutional powers.

ENERGY AND FOOD COSTS CITED

Other commentators, such as Gus Speth of the Council of Environmental Quality, contend that the major causes of inflation lie elsewhere, such as in energy and food costs, and not in regulations to clean the air or keep workers healthy.

But the economic impact of regulation is quite obviously an issue that President Carter intends to come to grips with. His Administration is now looking into the possibility of instituting a "regulatory budget." Such an approach would bring the Federal regulatory process "into the economic policy framework" according to Jerry J. Jasinowski, Assistant Secretary of Commerce for Policy. It would, he said, allow the impact of regulation to be assessed and priorities for regulation to be established.

"Now we are spending $100 billion a year on regulation and we have not set any priorities," he added.

(Mr. McGOVERN assumed the chair).

Mr. MAGNUSON. I do not question what the Senators from Louisiana and Arkansas are trying to do, but I do question that the regulations, which do not even take effect until next year, as I understand it, would add that much to inflation. I just cannot believe that is a correct figure until I see an actual quote from the Council on Wage and Price Stability.

Mr. WILLIAMS. Could I add that, certainly, when this standard was announced, the President's Economic Adviser Mr. Schultze did not say that. He joined the Secretary of Labor when the standard was announced. If there was someone who had an opinion over there rejecting that figure, it certainly is not the conclusion of the President and his economic advisers. That is certain.

Mr. BUMPERS. Let me say, Mr. President——

Mr. MAGNUSON. I think that, of course, the committee can send this fellow a letter and ask him if that is what he meant and get it back in time, before we have a conference. That can be easily done. But I doubt—I have been sitting up in the Committee on the Budget for a long time now, listening to all these economists, every one of them, from Burns to Heller to Greenspan to somebody else. They all seem to agree that when it comes to a Federal deficit, a deficit, which I do not approve of—I think we ought to do as much as we can to stop it—they all agree that the same figure would add one-tenth of 1 percent to inflation. I cannot quite understand this three-fourths.

I suppose it would add some. I do not suggest that it would not. But I doubt if it would add three-quarters of a percent. I can be wrong; I am no economist.

Mr. BUMPERS. Let me say to both the chairman of the Appropriations Committee and the chairman of the Committee on Human Resources that I know when you stand up, as the Senator from Louisiana and I are doing this afternoon, to challenge these kinds of regulations, these OSHA standards, that in same quarters, we would be accused of being in favor of byssinosis. That is just like saying if you vote against the proposal of the Senator from Indiana to increase the cancer research appropriation you are for cancer, There is $925 million in it, and he wanted another $25 million. My inclination was to vote "no" and that does not mean that I am for cancer. It means that I am not at all sure that the researchers in this country could wisely use that much more money.

Let me tell what is involved in this that affects the whole country, besides the possibility of the three-quarters of 1 percent increase in inflation, which, as far as I am concerned, would almost be grounds enough. But OSHA admits that the only proof they have that these dust particles in the air are causing byssinosis is in the textile industry itself.

I am not challenging that. I do not know if they are right or wrong. I do not have any testimony or technical or medical information at my disposal to challenge that. But I will tell you what I can challenge. I invite the Senators to listen to what OSHA itself says. OSHA stated that in drawing up the regulations, it was forced—"to draw conclusions from data which do not totally lend themselves to specifying a safe exposure for each operation."

What does that mean? That means that they are setting up standards for gins, oil mills, cotton warehouses, classing offices, compressors, waste-processing plants, and God knows how many other cotton-related industries on which they are saying they do not have any reason to infer that byssinosis is a problem in those businesses.

What is the effect of that on a State like mine? Well, let me tell you what it is: There are 8,000 businesses in my State—8,000—centered around the cotton industry, and only two—only two—are textile plants. We have 309 gins, we have 35 warehouses, we have 38 merchants, we have those two textile mills, we have seven oil plants and 7,585 cotton farms. Every one of them must comply with these regulations and OSHA says they do not have an ounce of proof that anybody has gotten byssinosis from working around those operations.

If you want to know something else the American people are tired of, it is this kind of stuff. They are not just sick of inflation. They are going to be sick to death of all the work they are going to have to do, all the recordkeeping they are going to have to do, all the medical teams they are going to have to bring in to carry out these uncalled for OSHA standards. Medical teams are in short supply in my State. You cannot just call a doctor any hour of the day because they are not available.

I expect when we have a rollcall on this amendment, the Senators will start coming through that door and down that aisle and they are going to go to the chairman, who will say, "This is a bad amendment, too all-encompassing."

Mr. MAGNUSON. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. MAGNUSON. I never said anything of the kind.

Mr. BUMPERS. I am not suggesting that the Senator has.

Mr. MAGNUSON. I was not going to advise anybody on this amendment. I merely asked where the Senator got the figure on the inflationary impact. I have not said that to anyone.

Mr. BUMPERS. I hope the Senator will not, because I would like for us to have a fair shot on this amendment. I see it as a very critical thing for my State.

Mr. MAGNUSON. One of the reasons I would be against it, I am thinking right now, is because, again, it is legislation on an appropriations bill.

Mr. BUMPERS. I understand that. I respect the Senator, and the Senator knows that I sat in that Appropriations Committee with him.

Mr. MAGNUSON. I think the regulations have gone too far after listening to the Senator.

Mr. JOHNSTON. If the Senator will yield, I hope that will be an endorsement by the able committee chairman of this amendment because, really, all we are trying to do is delay this matter to give them time for the experts to study it, the experts in the National Institute of Occupational Safety and Health.

Mr. BROOKE. What happens in the interim period?

Mr. JOHNSTON. In the interim, we have regulations now existing promulgated by the Department of Labor.

Mr. BROOKE. The Secretary came out recently in a speech in which he indicated that cancer today, 20 percent of cancer is what he said, in the United States is work-related. That is up from 1 percent to 5 percent, which we have been hearing for a long period of time.

So there is a relationship between these working conditions and the incidence of cancer.

Mr. MAGNUSON. The amount of people we added to OSHA is directed to devote themselves to that particular subject.

Mr. BROOKE. Yes.

Then the Senator is asking us to act upon something on which the chairman of the Committees on Human Resources says he is going to have hearings on October 3. We just do not know yet what those hearings will produce.

The Senator is saying he will not give us time. How much time will he give if they have come up with this regulation? I think this is why the chairman challenges the figure the Senator gave and asked for the authority, but not because of questioning the authority. But the Secretary of Labor promulgated these regulations. We did not do it. He did. Why would he do so, knowing what the inflationary impact would be, unless one of two things, he either thought inflationary impact was less than it is, or he thought the inflationary impact was de minimus compared to the health of the workers at this time.

Mr. BUMPERS. May I ask a rhetorical question?

Mr. BROOKE. Surely.

Mr. BUMPERS. If the Senator accepts what I said a moment ago at face value—that there are for example, in my State 309 cotton gins, 35 warehouses, 38 merchants, 7 oil plants, and 7,585 cotton farms, and that where there is not one scintilla of evidence that there has ever been a case of byssinosis caused from cotton dust particles in any of those operations—would the Senator agree with me that it would be unfair to implement these regulations, to put those people to literally hundreds of millions of dollars of cost in capital equipment, to prevent a "hazard" which OSHA cannot prove exists?

Mr. BROOKE. Personally, based on what the Senator said, I would agree with him. But I ask the Senator this further, what does he think was the basis of the Secretary's promulgation of these regulations, if that data was available to the Secretary?

Mr. BUMPERS. The Senator asks me why the Secretary put out certain regulations. I cannot answer that, and my constituents get angry when I cannot answer it.

Mr. BROOKE. It puts us, in the legislative branch of Government, in a somewhat embarrassing position. We have to rely on the agencies. They have the data and they promulgate the legislation. Then we say, "We don't believe you. We don't believe this is the case. We believe the case is somewhat other than that and you should not have promulgated those regulations. You are wrong."

We are substituting our judgment for theirs on an issue on which we have not had hearings. That is what troubles me.

Mr. BUMPERS. Let me make two points and then I will yield the floor.

I want to reiterate, we have OSHA's word for it that they are forcing, literally, forcing thousands of businesses across this country to spend millions and millions of dollars to come into compliance with their regulations when they do not have any evidence there is a problem.

As a matter of fact, they say their conclusions do not totally lend themselves to specifying a safe exposure for each operation, which is to say that they do not have any evidence that there is a problem.

But, finally, I want to say that OSHA's going to force a lot of innocent people out of business through no fault of their own. They will be forced out of business not because anybody got that disease around their place of business, but because of uncalled for and technologically unfeasible standards. A lot of people will be forced to buy synthetics because the price of cotton will rise. People do not want to buy synthetics. The trend has been toward cotton in the last 2 years. We will revert back to synthetics because OSHA will make it impossible for the cotton farmers and everybody on down the line to stay in business. We are talking about investments in a prodigious sum of capital equipment so that these businesses may comply with the new dust standards.

Mr. BROOKE. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. BROOKE. None of those things the Senator has just enumerated would I like to see occur. I would not like to see the cotton industry put on its knees by these regulations, or overregulations, or regulations that do not need to be promulgated at all.

I certainly have great sympathy for what American industry is up against at the present time. These are very difficult days, no question about it. To come along with unreasonable, unworkable regulations, to make it unbearable, so industry cannot operate, to put literally thousands of people out of business is certainly something I know this Congress does not want to do.

Now, what do the Senator from Arkansas and the Senator from Louisiana, the proposers of this amendment, think we ought to do under these circumstances, bearing in mind that the Senator from Arkansas is a member of the committee himself, that we have had absolutely no hearings, that we have to rely, to a certain extent, upon what the Secretary tells us, and the fact that these regulations have been promulgated? We have present on the Senate floor the chairman of the Human Resources Committee. He is going to hold hearings October 3. What can we do in that interim period? What would the Senator suggest we do in that interim period short of passing the Senator from Louisiana's amendment as it has been proposed to us?

Mr. BUMPERS. I am not suggesting the Senator sever his amendments. But I am saying that the only place the Secretary has any justification for these standards at this moment is in the textile industry itself.

Second, if we are going to hold hearings, I would like to see that postponed, because I think the hearings would reveal that the textile industry's medical safety standards, the environmental safety standards they are trying to impose here, could be done at one-tenth the cost of OSHA's new regulations.

Now, as I say, it does not make any difference whether we agree with them or not—I am talking about the textile industry—it does not make any difference how badly they want to comply.

The information I have is that it is not technologically possible for them to comply.

I do not know of a State in the Union, with the possible exception of South Carolina, that has more textile mills than the distinguished Senator from Massachusetts has in his State. I bet those people up there will tell the Senator in spades that they cannot comply with these regulations. There is no technical way for them to do it.

Mr. BROOKE. There was no amendment on the House bill, is that correct?

Mr. BUMPERS. I cannot answer that. I do not know the answer to that.

Mr. WILLIAMS. On this question of hearings which we are going to have next week, we had hearings in June on occupational diseases. This is an area that associates with byssinosis, the particular occupational disease.

The hearing was there. All of the industry knew about it and none of the industry appeared at the June hearings.

I hope they will come in, if they have a case to make in this regard, next week.

I will say that when any part of the cotton industry has a problem with this standard and can make a solid case that it should not be applied to them, the Secretary has suspended the application of the standard, as the Secretary has done in various aspects of the industry using cotton.

I know the Cotton Batting Institute appeared before the Secretary. The standard has been stayed on the case they made. The same with Textile Fibers and By-products—that association of manufacturers that came to the Secretary. The standard was stayed for that segment of the industry too.

As I said before, court cases on motion have requested a stay, and they have had their day in court.

Mr. BROOKE. In addition to the court, what the Senator is saying is that there is an aministrative remedy to this problem which is left under authority of the Secretary himself. Is that not correct?

Mr. WILLIAMS. Yes, and it has been used. From the point of the industry this has been an effective course because for some segments of the industry the standard has been stayed.

Mr. BROOKE. What has that not been an answer to the problem that the Senator from Louisiana raises? Why cannot the Secretary, on this data, make a judgment call and stay the rules which he has promulgated until such time as hearings have been held by the Senator's committee and action has been taken by Congress? Is it not in the House bill, as I understand it, and when I say not in the House bill, I mean the amendment of the Senator from Louisiana is not in the House bill, so we would be going into conference with an amendment of the Senator from Louisiana if we adopted this and the House of Representatives would have to recede. So we have some problems here. Why cannot the Secretary stay this if, in fact, the Secretary finds that it warrants a stay of these regulations?

Mr. WILLIAMS. That is exactly what the Secretary has done in situations that have been brought to him. So he has that authority.

Mr. BROOKE. Do we have any information from the Secretary as to this particular amendment of the Senator from Louisiana? Do we have any statement from the Secretary of HEW?

Mr. WILLIAMS. I have none. I do not know whether this has been submitted.

Mr. MAGNUSON. We have not, because the amendment was just called to my attention this morning.

Mr. WILLIAMS. It has not been submitted to the Secretary; therefore, he has had no opportunity to comment.

Mr. MAGNUSON. Why do we not follow the suggestion of the Senator from Massachusetts?

Mr. JOHNSTON. The Senator from Massachusetts is suggesting that——

Mr. MAGNUSON. We asked the Secretary to stay this matter, on his accord, which he has done.

Mr. BROOKE. To stay this. He has the authority.

Mr. MAGNUSON. Until we get all the hearings.

Mr. BROOKE. It is my understanding; from what the distinguished Senator from New Jersey, the chairman of the Human Resources Committee, has just stated, that the Secretary has the authority to stay the implementation of these regulations. If the facts presented today are as the Senator indicated—not only the inflationary impact, but the really serious, burdensome problems to the cotton industry—why can we not then ask the Secretary to stay implementation until such time as the Human Resources Committee has had a hearing on this matter if he finds that to be the fact?

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. WILLIAMS. I would not hold out any opportunity that a legislative hearing next week will approach the definitive hearings that was held by the Department. We are not prepared to sit there to receive and to evaluate all of the scientific material that is over there at the Department, I will have to say. They have what impresses me as a room full of hearing material, over 100,000 pages of material, and a great deal of it, I am sure, of a scientific nature. We will not be as obviously as definitive in our hearings as that.

I was just saying that there is an administrative procedure that is available to the Secretary to stay a standard when it is shown to him that there is reason to, as it has been shown in some of the manufacturing processes that use cotton. The cotton mattress business, for example, went in for their own reasons, and I do not know what they are and what the basis of their application was, and the standard with respect to cotton mattresses was stayed. I can only say that there is an administrative procedure.

Our legislative hearing is on the broader policy questions of how we are going to deal with occupational safety and health hazards through OSHA. It will not be finely tuned to how much cotton dust the standard should permit in any of the hundreds of operations that have been described by the Senator from Arkansas particularly.

Mr. JOHNSTON. If I may reply to the suggestion of my friend from Massachusetts, really what he is suggesting is very much, I think, what we are suggesting, and that is that we would like to stay these rules until the legislative committee has time to study them. Frankly, to just stay them until the October hearings—I mean we are at the end of the session now—I do not think that would be the time we are talking about. I understand that the committee would not itself be able to come in and substitute a certain amount of micrograms, but what they could do is make a valued judgment as to whether we should, for example, let the National Academy of Science complete its study. They now have $100,000 to review those 105,000 pages of testimony. It is whether we should await that or whether we should let the National Academy of Science complete its studies. In other words, there are those kinds of valued judgments. If we could maybe set a time certain to delay it for a time certain, to pick a figure until, say, July 1 of next year, which should give time for the committee to hold the hearings, just delay the effective date until that time, if that is what the Senator is suggesting.

Mr. WILLIAMS. There is another reason I learned. I am doubtful how much help we can lend to this. The Cotton Council told us that while these court cases are pending they are not inclined to even appear at our hearing. I am not inclined to subpena them on this one next week, if they feel that their positions, which they feel strongly, are presented adequately in 23 appeals, to four circuit courts and a motion to stay that is to be heard next week. They are in a judicial tribunal in many places and many ways. They would rather not be in the legislative tribunal at the same time.

Mr. BUMPERS. Mr. President, I gather from the substance or the agenda of the planned hearings next week, as the Senator said, that the Human Resources Committee is not going to get into a definitive study of this particular problem. They are dealing with a whole range of industrial diseases or diseases from industry, et cetera. Is that correct?

Mr. WILLIAMS. And more. Basically, in response to all the concern that has been expressed about OSHA here in the Senate through this year, we have scheduled these hearings. This hearing is to let people who have problems with the administration of OSHA come to us and explain them so that we will know them in that forum. We feel that the committee provides a better forum for the study and deliberation necessary than here in the Chamber on the Appropriations bill. In that forum we will know the impact of OSHA on the operations on business, and we will be able to receive the information and have adequate time to deal with the real problems through the amending process. We cannot effectively do that in the Chamber.

Mr. BROOKE. Mr. President, if the Senator will yield, I wish to make clear what I was suggesting to the distinguished Senator from Louisiana. I understand the nature of the hearings and I am glad that the distinguished chairman of the Resources Committee has explained the nature of the hearing. I understand that. But what I am trying to do is, because the Senator from Louisiana and the Senator from Arkansas have both made such strong and very compelling arguments about the inflationary impact and about the very serious burden that will be placed upon a very important industry in our country, that we resort to the administrative procedure available to the Secretary of Labor, rather than resorting to legislation on this appropriations bill.

Obviously, we cannot do that in legislation. What I am suggesting is that we have conference report language to that effect——

Mr. JOHNSTON. Mr. President, if the Senator would yield, I am advised——

Mr. BROOKE. Which may call for a waiver or a delay upon these specific regulations until such time as there have been proper hearings on this important subject and/or until such time as the courts have acted upon it.

The courts are acting upon it, as we understand now, in four different circuits, is that correct?

Mr. JOHNSTON. May I respond to that?

Mr. BROOKE. Yes.

Mr. JOHNSTON. I understand the Secretary of Labor has denied a request for a stay in every area except the batting industry where they have stayed the regulations with respect to the batting industry, but they have denied the request with respect to other segments of the industry.

So simply to have report language, I am not even sure it could be accomplished. In other words, once they deny the stay I think that could be final. Perhaps someone knows about the rules better than I, but that may be final.

All we are asking for is time for the committee to take a look at it. This is a most serious decision. According to OSHA it will cost $600 million. According to the industry it will cost between $1.8 billion and $2.6 billion. It is a big enough decision so that this Congress, at least through its committee, ought to have time to take a look at it.

I am not insisting that we kill these rules for all time, but I do think we ought to have time to take a look at it in this Congress. That is really what the amendment is designed to do.

Mr. BROOKE. If we acted on the Senator's amendment it, in effect, would kill these regulations for the 95th Congress and this matter will not be taken up until the 96th Congress; is that not correct?

Mr. JOHNSTON. Until the next calendar year.

Mr. BROOKE. Next calendar year. We obviously could not get to it this year because even the hearing by the Human Resources Committee would not begin until October 3 and, as I understand it, there is a possibility that the Congress might adjourn sine die on October 14. So we would be talking about the next Congress that would have to act upon it.

Mr. JOHNSTON. That is correct.

Mr. BROOKE. In the meantime these regulations would have to be repealed by the proper administrative procedure left to the Secretary of Labor.

Mr. JOHNSTON. Let me say, of course, in the next Congress you could request a supplemental early on so that this is not the last bite at the apple. It is toward the end of the year, and we are talking about a delay that need be no more than a few months.

Mr. BROOKE. In their newsletter OSHA says this:

> The Occupational Safety and Health Administration has suspended the application of the new cotton dust standard for certain cotton waste processing industries and employers who are purchasers and users of cotton batting including mattress, upholstered furniture and automotive assembling industries, the U.S. Department of Labor announced today. The September 4 effective date for all other industries covered by the standard remains unchanged.

That is dated Friday, September 1, 1978. Is the Senator from Louisiana aware of that?

Mr. JOHNSTON. Yes. That was the one I was just referring to where they have suspended the regulation with respect to the cotton batting.

Mr. BROOKE. I though you limited it to bagging. This seems broader in its content than the Senator——

Mr. JOHNSTON. Cotton batting.

Mr. BROOKE. Is that the same suspension to which the Senator referred?

Mr. JOHNSTON. Yes, the same issued release that the Senator has.

Mr. MAGNUSON. I might say to the Senator from Louisiana I would think I would be fairly accurate in stating that we will have our first supplemental, say, by the first couple of weeks in April.

Mr. WILLIAMS. May I ask the Senator to yield, Mr. President? You get the impression here that the standard will require a great change to be made by industry, immediately. Do you get that impression, could I ask the Senator from Louisiana?

Mr. JOHNSTON. Well, industry is given 4 years within which to comply. But the decisions on compliance impact this year. I mean, Barry Bosworth, as quoted in that article in the New York Times or as referred to in the article in the New York Times, says it would have a three-quarters of a percent impact on inflation this year.

Maybe that figure is wrong, but the point is that decisions, expenditures, must be made this year.

Mr. WILLIAMS. Well, that is the point. Expenditures do not have to be made this year. This rule provides for a stretchout over many years, and I can see under the regulation as I read it that not anything necessarily need be spent within this year. So those inflation figures are really not related to this standard, this regulation.

Mr. HODGES. Mr. President, will the Senator yield at that point?

Mr. WILLIAMS. Yes.

Mr. HODGES. If they are willing to spread it out over 4 years, would it not indicate to the distinguished Senator from New Jersey that the problem is not nearly so serious immediately as they have implied, and if it were they would have immediately done something about it?

Mr. WILLIAMS. The problem is there.

Many years ago with respect to the problem of coal dust, we by legislation established the permissable coal dust limits. It was not a matter of departmental standards. They were legislated standards. It was done here on the floor because we would not permit the time for regulations, because we were in a crisis in coal dust.

We did through legislation exactly what is being done here. But the lead-in time in this cotton dust standard is rot because there is no serious health problem. It is based on a practical consideration. We cannot expect all of the changes that are necessary to be made immediately. The hardware is not there; the machinery, the equipment, and, indeed, the money is not there to make an immediate change. So the delay is not because of the extent of the health problem. It is the practical, hard-headed decision of how long will it take practically to get what is necessary to comply with standard. It is not the extent of the disease. Believe me, that disease is there and is a problem. We know that a quantity of cotton dust which is inhaled will cause this disease. They know that a quantity of cotton dust inhaled will attack the respiratory system and will make it so very difficult for people just to living, let alone to work.

Mr. BROOKE. Mr. President, will the Senator yield? I think I still have the floor. If I may pursue this a little further, the same information which was released from the Occupational Safety and Health Administration that I read, dated Friday, September 1, would indicate to me that OSHA is trying to do everything it possibly can in addition to the suspension so far as the batting is concerned. It says:

> In addition, OSHA is requesting public comment on a health hazard evaluation of mattress plant workers conducted by the National Institute for Occupational Safety and Health (NIOSH). Both the suspension and request for comments are included in a Federal Register notice published today.
>
> OSHA has suspended application of the cotton dust standard for these industries in response to a request for an administrative stay of the standard from the National Cotton Batting Institute and the Textile Fibers and By-Products Association. This request brought to OSHA's attention for the first time a draft report of a NIOSH health hazard evaluation of Stearns and Foster mattress workers. After preliminary review of this report, OSHA has determined that the study warrants further review.

In other words, I think the whole tenor of OSHA action is that they are willing to do everything they possibly can to help the industry through this period without, at the same time, risking the life and the health of the workers.

If that is true, I cannot see why then the Senator from Louisiana would want to press his amendment at this time.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum—I withhold that.

Mr. BROOKE. If the Senator will withhold that, as I understand, OSHA has given the industry 4 years in which to come up with the engineering and other corrective actions to improve this situation. And during that interim period, as I understand it, they have got to supply the workers with respirators at the industry's cost. Now that does not seem to me to be a requirement that would be as disastrous to the industry as the Senator from Louisiana has indicated. Is there more that the Senator feels would have to be done by the industry which they find to be overburdensome during this period?

Mr. JOHNSTON. Mr. President, if the Senator will yield, the respirators are not allowed as an alternative. In other words, OSHA has specified not only the dust standards but also specified the technological means by which those standards must be met, which is one of the very big quarrels we have, which is what the Council On Wage And Price Stability quarreled with us about.

They say that what you ought to do is have performance standards, that is, you ought to specify a level of dust that can be ingested, but allow the industry to pick their own methods; and, if the industry wants to use respirators, let them use respirators. Using respirators would save $125 million in itself, just that one change.

So that is the kind of value judgment we have involved here. We are not just dealing with a question of whether you ought to lower the standards, but a question of what technology ought to be employed to meet those standards. That is why we say we need that.

The final rules were just published in June, and went into effect in September. It is true that they have time within which to comply, but it is not the kind of thing that you comply with overnight. You have to place your orders for the machinery, you have to find your means of financing the machinery, you have to wait for it to be manufactured and delivered and installed and financed. That takes a long time.

Mr. BROOKE. But wherever the regulations would impose an overburden on the industry, it seems to me that there is an attitude that exists at OSHA to do everything they possibly can to help the industry—short of sacrificing, of course, the health and safety of the workers, which is their responsibility. We have not always found that, to be sure, but in recent years I believe OSHA has tried to be reasonable.

Mr. JOHNSTON. If the Senator will yield, we have not found universal acceptance of OSHA's reasonableness around this country. I can tell you that if there is one agency which is under fire in this country because of its unreasonableness, it is OSHA. I can cite plenty of examples of that, and I know the Senator has heard them as well. I hope they are coming around to being more reasonable.

Mr. BROOKE. I think the Senator from Louisiana would agree that had we had this discussion 2 years ago, it would have been quite different. There has been some improvement in OSHA.

Mr. JOHNSTON. And the reason there has been some improvement is because of what we have done on this floor in holding their feet to the fire.

Mr. BROOKE. I quite agree.

Mr. JOHNSTON. We are not saying, "Throw this all out." We are not saying, "Cancel all this ruling." All we are saying is delay it, because the scope of the economic impact of this rule is really monumental. It is much bigger than a few cotton farmers, much bigger that a few textile mills. It affects every consumer in this country. It affects, in my State alone, thousands upon thousands of jobs in the cotton industry, the warehouse industry, cottonseed oil—all of these different industries that are impacted by cotton.

Mr. BUMPERS. Mr. President, if the Senator will permit me, I know the Senator from Massachusetts is extremely sensitive to the possibility that we are about to inflict some serious injustices and in equities on people who have no ability to defend themselves except through the ability of Senators on this floor to recognize and understand and try to alleviate their plight.

Even if you do not accept what the Senator from Louisiana has stated, even if you assume that these businesses will be able to comply without economic disaster, the next question is, is it fair? Is it fair to impose this kind of standard on that much of the cotton industry, a big, sizable portion of it, a big majority of it, with no evidence, conclusive or otherwise, that it is going to solve a problem? Because nobody knows if the problem exists, and OSHA admits it.

It occurs to me that to ask a delay until OSHA can come and say definitely, "We are doing this to save people's health and keep them from getting byssinosis," it seems to me, is a very minor request. When OSHA is telling us, "We do not know there is a problem outside the textile industry itself," how can we stand here and impose hundreds of millions of dollars of costs on the textile industry and the American people, through inflationary impact, when we do not know that we are solving one thing.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. BUMPERS. Yes.

Mr. BROOKE. As I said earlier, the Senator from Arkansas and the Senator from Louisiana have made a very strong case as far as the Senator from Massachusetts is concerned. I have not discussed this with the chairman as yet, but it seems to me that what you fear most in what the impact will be pending these regulations, which apparently have just gone into effect, prior to sometime when we can act upon them.

If we could establish a date certain, agree that we would suspend these regulations until a date certain, say, April 1 of 1979, that would, in effect, give the committee an opportunity to move. It would be in the next calendar year, in the next Congress, and it would also be in time for the supplemental. We would have time to act.

Mr. BUMPERS. Will the Senator yield at that point?

Mr. MAGNUSON. Mr. President, I would suggest that we make that May 1. The reason I do is that sometimes a supplemental is uncertain as to when it comes up, and the date. I think that I would suggest to the Senator from Massachusets and the Senator from New Jersey that we do this, and make the date May 1.

Mr. BROOKE. Rather than April?

Mr. MAGNUSON. Rather than April, let us make it May 1.

Mr. BROOKE. That would give you more time for——

Mr. MAGNUSON. To be sure we had the supplemental.

Mr. BUMPERS. I have prepared a perfecting amendment, Mr. President, with a date of June 1. The Senator from Massachusetts has suggested April 1; so May 1 is a fine compromise, it seems to me; and I promise the chairman of the committee that if the Cotton Council will not come in, I will promise you we will have a wealth of fine testimony for your committee, at such time as you will set the hearings.

Mr. JOHNSTON. Mr. President, I wonder if it could be implicit in this May 1 compromise that we could have report language detailing the changes which we have brought out, and requesting that the Secretary of Labor further study this matter prior to having these rules finally promulgated.

Mr. MAGNUSON. I will say to the Senator from Louisiana that we have the reports all made up on this bill, but we do have a conference report, and I will suggest to the House conferees that in the conference report, which is for the two bodies, we have the language suggested.

Mr. JOHNSTON. Yes; to have that language in the conference report would, I think, achieve the objective.

Mr. MAGNUSON. You give us some suggestions, and then we will talk to our counterparts in the House, and you folks talk to them, too, and we will put that in the conference report language.

Mr. JOHNSTON. Very well. Mr. President, prior to offering the perfecting amendment, I would like to ask unanimous consent that the names of the following Senators be added as cosponsors, if they are not now listed: Senators Hodges, Bumpers, Sasser, Baker, Eastland, Bentsen, Tower, Bartlett, Danforth, and Long.

Mr. FORD. Please add the name of the Senator from Kentucky.

Mr. JOHNSTON. And the Senator from Kentucky (Mr. Ford).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, at this time I send to the deck the perfecting amendment just referred to. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the perfecting amendment simply adds these words "prior to May 1, 1979" if agreed to.

Mr. HODGES. Mr. President, as a cosponsor of this perfecting amendment, I have a statement.

Mr. President, I am pleased to join with my distinguished colleague, the junior Senator from Louisiana, in offering this amendment. The amendment is to prohibit the use of funds by OSHA in fiscal year 1979 to enforce the cotton dust regulations published in June of this year.

The problem which this amendment addresses is most complex. No one can question the need to protect the health of the American worker. And it is clear that a problem does exist. Yet, however, OSHA has once again come up with a cure that is worse than the disease. Indeed, OSHA's proposed regulations may harm the very workers the regulations seek to protect.

I do not make these comments lightly. This issue deserves far more attention than it has yet received. For regulations such as these draw squarely into conflict the equally desirable goals of protecting the health of workers and of stopping the relentless inflation which saps the strength of our Nation.

I will address briefly the final regulations which threaten the existence of the entire cotton industry. They became effective for most segments of the industry on September 4, 1978. The proposed standards establish permissible exposure limits to lint-free respirable cotton dust, averaged over an 8-hour shift, of 200 micrograms per cubic meter for yarn manufacturing, 750 micrograms per cubic meter for textile slashing and weaving operations, and 500 micrograms per cubic meter for all other processes in the cotton industry. Excluded from the standards to a degree are cotton gins, which are subject to recordkeeping, surveillance, and medical examination requirements but are not subject to a mandatory dust standard.

My distinguished colleague from Louisianna has described these regulations with an example which bears repeating: the 200 micrograms per cubic meter of this standard required for your manufacturing is equivalent to two grains of table salt per cubic meter. The technology to produce such dust-free air does not yet exist.

These standards will deeply affect the economy and fiscal prospects of my State of Arkansas. No one, especially OSHA, knows what the ultimate effect of such regulations will be. I would like to speak briefly, however, to the existing state of the cotton industry in Arkansas.

Arkansas is one of the top four cotton-producing States in the Nation. The production and processing of this fiber generates more than $471 million in business activity each year. Arkansas derives tax revenues from sales and income associated with cotton in excess of $26 million annually. There are over 8,000 businesses in Arkansas centered around cotton—including farms, gins, cottonseed oil mills, warehouses, textile mills, and raw cotton merchandising firms. Taken together, these cotton businesses provide jobs for over 20,500 Arkansans. And it must be remembered that Arkansas is not an industrial State. Cotton provides a means of livelihood that is absolutely essential to the economic well-being of our State.

These statistics are duplicated on a national scale. Cotton supports over 94,000 businesses nationwide, employing over 535,000 people. Nationwide, the business of producing and processing cotton generates $16,772,977,000 in annual revenue, which translates further to over $900 million in State tax revenue in various cotton-producing States. Cotton is an important segment of the Nation's agricultural economy.

It is against the background portrayed by these statistics that I question the wisdom and viability of the standards proposed by OHSA. In particular, I question the validity of extending the proposed regulations beyond the textile industry segment of the industry into the nontextile sectors of the industry. Mr. President, the plain facts are these: There is, as yet, no clear and decisive scientific evidence that a medical problem regarding brown lung disease exists in these segments of the industry.

Mr. President, the need for an industrywide standard has not yet been shown. OSHA's sister agency, the National Institute of Occupational Safety and Health currently has research underway to determine if a direct risk exists in nontextile sectors of the economy. OSHA apparently decided that since a problem existed in one segment of the industry, it must exist in all sectors of the industry. Not only is such reasoning specious, it is misguided and destructive. OSHA's own statement in the preamble to the regulations is illuminating—OSHA admits that it was "forced to draw conclusions from data which do not totally lend themselves to specifying a safe exposure for each operation."

The facts are there. Each segment of the cotton industry is different from any other sector of the industry. Not only are the techniques and purposes of each sector different, but the type of cotton dust produced by these different operations differ widely.

It is clear, Mr. President, that there simply has not been enough research done to establish the relationship between cotton dust exposure and disease in the textile industry and the cotton dust exposure and disease, if any, in other sectors of the industry. Indeed, the protocol of the ongoing NIOSH study makes the following statement regarding studies documenting the need for the OSHA regulations regarding the textile industry:

> All of the above studies have analyzed byssinosis prevalence in the primary cotton textile industry. Even within this industry the studies have focused primarily on preparation areas where dust levels have been higher and so has byssinosis prevalence. Hence, the recommendations for safe levels of cotton dust apply to these areas of the cotton industry in particular.
>
> There are, however, other workers, both within the textile industry itself, and in other segments of the cotton industry who may be reposed to a quantitatively different dust and for whom the recommended levels are not really appropriate.

Mr. President, OSHA has attempted to cover apples, oranges, pears, and grapes with a regulation applicable solely to apples. The mattress and bedding industries provide an excellent example. This industry primarily takes coarse grade cotton and cotton lint and processes it by "garnetting" into felt pads for domestic upholstery and bedding manufacturers. Allthough not much is known about the effects of cotton dust in this process, one thing is absolutely clear: NIOSH states, again in its protocol regarding its ongoing research in this area, that—

> Dust generated is of a markedly different cotton fiber and trash content than raw cotton in the textile industry, and again the standard derived from the textile industry may not be appropriate. . . . Quantitative assessment of the toxicity of the dust in the industry is necessary if national standards are to be set.

NIOSH makes essentially the same statement regarding the cottonseed oil mill regulations. There are 86 cottonseed oil mills all located in the cotton belt of the United States, employing between 4,500 and 4,000 workers. NIOSH estimates that only 35 percent of these workers have jobs in which they are exposed to cotton dust. These jobs include seed receiving, seed sampling, seed feeding, seed cleaning, delinting, and hulling and separating. NIOSH states the following:

> In the delinting process high levels of cotton and trash dust are created. . . . [studies indicate] the dose response relationship was very different from the textile industry report. There is potential toxic exposure in this industry, and some determination of the relative toxicity of the dust is necessary to determine a reasonably safe level.

Mr. President, I could go on. But the facts are there. No one knows what causes byssinosis. We do not know whether it is fungal, bacterial, pesticidal, chemical, or caused by cotton particles or fiber. We do know that it exists. But we do not know why since some workers are affected and others are not. We do not even know who or why will be at risk. If exposed to the disease, only a very few of the Members of this body would be susceptible. The majority would be untouched.

Yet, Mr. President, OSHA has acted as though it knows everything about the interaction of cotton dust and workers in every segment of the industry. The simple fact is that OSHA does not. We are engaged in some guesswork here, Mr. President, and the stakes are too high for the over-regulation to continue.

Moreover, this issue is not industry profits versus worker health. If the proposed regulations are allowed to continue, workers will suffer. They will lose their jobs, because the capital cost of meeting such regulations will drive many mills, warehouses, and gins out of business. The National Cottonseed Products Association estimates that the capital costs to cottonseed oil plants will average $900,000 per plant for a total industry capital investment of $75 and a $26.7 million annual operating cost. There are presently 83 oil mills in the United States. A study conducted by Texas A.&M. estimates that as many as 80 percent of these mills will be forced to close under the new regulations.

Perhaps these dire predictions will not come to pass. Yet these regulations would hinder the healthiest industry in America. The cotton industry is not. While not in deep distress, the cotton industry of the Nation is at an economic crossroads. Farmers cannot receive enough from the sale of new cotton to cover their costs of production.

Our textile mills face ever-increasing competition from foreign manufacturers. And the domestic cotton industry is threatened by manmade fibers such as polyester. Any disruption in the present system would have great impact. And these regulations may add as much as $0.30 to the price of a pound of cotton, and may cost from $1.8 to $2.6 billion in industrywide capital costs. Estimated annual expenditures range from $550 to $800 million.

Mr. President, the cotton industry simply does not have that kind of money. I realize that one may not place a price on worker health. Yet we do not need to hit gnats with a sledge hammer. Workers may be protected without jeopardizing thousands of American jobs by implementing an inflationary and costly dust standard.

Moreover, any loss of ground in the cotton industry will impact upon the other sectors of our agricultural economy. There is in my State almost a direct relationship between cotton and soybeans and rice. When farmers cannot make money growing cotton, they replace their cotton acreage with soybeans or rice. And the converse is true—soybeans yield to cotton when soybeans are down.

Therefore, if these regulations force textile mills to switch from cotton to manmade fibers, then our farmers will be deprived of their markets. We do not sell much cotton overseas. At present we are not cost competitive with foreign producers, and almost 80 percent of Arkansas cotton is sold domestically. There will be no place for domestic cotton to go, and farmers will have to get out of cotton production and produce something else.

That would be a disaster, Mr. President. We already produce far more soybeans and rice than we can sell at a profit. Farmers are going broke, selling in markets that do not allow them to recover their cost of production. The last thing we need is an incentive for cotton producers to join the ranks of those who grow soybeans, rice, and other crops. A further depression of our agricultural economy will result.

Mr. President, we are not in an all-or-nothing situation. What this amendment seeks to do is delay implementation of these standards for a year to allow the research of NIOSH and other agencies to go forward. Research is proceeding from many sources. USDA is spending approximately $1.5 million on cotton dust research. The industry itself has a current budget of $1.6 million allocated to research, and in 1971–76 spent more than $5 million on such research. And it must be stated, Mr. President, that alternatives do exist which will protect the health of our workers without costing them their jobs.

I urge my colleagues to support this attempt to return sanity to the regulatory functions of the Federal Government.

I also would like to thank the chairman of the committee and other Senators that are going to conduct, in effect, a diagnosis of the problem in the cotton industry instead of an autopsy, as I suspected we were doing before.

The PRESIDING OFFICER. Does the Senator from Louisiana request to modify his amendment? The Senator has a right to do so.

Mr. JOHNSTON. Yes; I would like to modify the amendment as suggested.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified is as follows:

> On page 53, insert the following between lines 9 and 10:
>
> SEC. 410. None of the funds appropriated under this Act may be obligated or expended in connection with the enforcement of regulations relating to the occupational exposure to cotton dust issued pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970, prior to May 1, 1979.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. WILLIAMS. Mr. President, I am strongly opposed to this amendment to prohibit the enforcement of the OSHA cotton dust standard. This amendment is harmful to thousands upon thousands of workers in the cotton and textile industry—it is harmful to the industry itself. More important, this amendment represents a dangerous threat to our entire administrative and judicial system.

Mr. President, OSHA's cotton dust standard has had a long and a sordid history. It was the subject of political abuse in the Nixon administration. It took 4 years after enactment of the Occupational Safety and Health Act until a criteria document was finally forwarded to OSHA by the National Institute for Occupational Safety and Health in 1974. OSHA delayed another 2 years before it finally proposed a standard in December 1976.

The standard, when it was finally proposed, was the subject of painstaking, even excruciating scrutiny. OSHA's public hearing on the cotton dust standard lasted for weeks. During the course of that hearing, a record exceeding 105,000 pages was amassed.

It took OSHA more than a year after the hearing ended to assess and evaluate the extensive hearing record. And even then, OSHA's final standard proposal was subject to careful scrutiny by the highest officers of the administration, including the President himself, before it was finally issued.

After issuance, the standard was immediately challenged, in accordance with the procedures established by the act itself in at least four judicial circuits. The fourth circuit, in Richmond, has already scheduled a hearing on a motion to stay the effective date of the standard.

While all of this delay and legal maneuvering has been going on, thousands of workers exposed to cotton dust have been suffering and dying, because of our Nation's inability to control exposure to cotton dust—even though the link between cotton dust exposure and respiratory disease has been recognized for over a century.

Mr. President, there is little dispute among the medical and scientific experts that exposure to cotton dust causes byssinosis, a progressive and debilitating respiratory disease which slowly and painfully robs its victims of the ability to breathe. There is little doubt that this disease can be prevented if the amount of cotton dust which workers breathe is controlled.

OSHA's final cotton dust standard is considerably pared down from the initial proposal. While the initial proposal called for exposure limits of 0.2 milligrams per cubic meter (mg/m3) throughout the cotton industry, the final OSHA standards retains the 0.2 mg/m3 level for the yarn production segment of the industry where the risk of byssinosis is the greatest, and calls for an exposure level of 0.5 mg/m3 for nontextile processing, 0.75 mg/m3 for cotton weaving, and has no minimum threshold level for cotton ginning. In addition, the final OSHA standard permits those employers who cannot comply immediately a period of years to come into compliance.

There is no doubt that OSHA followed the statutory procedures for promulgating the cotton dust standard. A proposed standard was published in the Federal Register. An elaborate and lengthy public hearing was held, during which all parties with an interest were afforded the opportunity to present their views. Then, OSHA prepared an economic impact analysis. The public record and the economic impact analysis were subject to scrutiny at the highest levels of the executive branch. The question raised at that time was whether there was not some more economical method of controlling cotton dust exposure. The answer to this question, by the top White House economic advisers, was that the methods required by the standard were economically feasible and as a result, the standard was issued. The standard was published, and there have been 23 petitions for judicial review in at least four circuits. There is currently pending, a petition to stay the enforcement of the standard. All of this has been done in strict accordance with the statutory procedures.

Now the Senator from Louisiana would have us short circuit this statutory mechanism. The Senator does not care that the OSHA standard is based on months of public hearing and more than 100,000 pages of testimony. The Senator does not care that the standard was reviewed carefully by the White House before promulgation after 4 years of careful deliberation by OSHA. The Senator does not care that there is a carefully laid out procedure for judicial review, which is being used in 23 separate judicial challenges of the cotton dust standard.

The Senator has decided that the cotton dust standard is not worthy of enforcement. The Senator from Louisiana would have the Senate second guess the best scientific and medical judgment of the Department of Health, Education, and Welfare and the Department of Labor. He would have us second guess the economic judgments made bv the top administration inflation fighters. The Senator would have us prejudge the decisions which the statutes entrust to the U.S. Courts of Appeals, the second highest court of our land.

Mr. President, we cannot in good conscience do this. We do not have the medical and scientific data in front of us. We do not have the 105,000 page hearing record in front of us. We do not have the briefs of the parties in front of us. We cannot make this decision which affects the health and the lives of thousands of workers on the scant information we do have in front of us.

But more important, Mr. President, we should not make this decision. The Congress entrusted this very technical matter to the administrators of the act and to the courts. We have established a procedure in the statute which gives all parties with an interest the opportunity to make their case. We cannot second-guess the administration and the courts even before the verdict is in. We cannot now superimpose our judgment on that of the experts, without creating chaos. To do so now would be to put an end to our entire regulatory scheme.

There is no new evidence which cannot be considered by the courts, the courts which are right this moment determining whether the OSHA cotton dust standard is consistent with the act's requirements; the courts which are at this very moment determining whether the enforcement and implementation of the standard should be delayed.

The Senate is not the forum for that determination. The courts are the proper forum. The courts are available, and the courts are being used.

Mr. President, this amendment should be defeated.

I ask unanimous consent that Stuart Sharpiro and Chris Burch of Senator KENNEDY's staff, be granted the privileges of the floor during this debate, and from Senator MORGAN's staff Mr. Tom Polgar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. And Mr. Jeff Lewis, from Senator DOMENICI's staff, and Don Zimmerman from Senator JAVITS' staff.

Mr. MAGNUSON. Reserving the right to object, I have not added it up, but it is close to 50. It was 45 or 47 at the last count. I welcome them all here, but how will Senators get into the Chamber if this keeps up?

Mr. WILLIAMS. When the OSHA amendments are over, my staff will be leaving.

Mr. MAGNUSON. I wish everybody would do that. I hope the Senate Rules Committee will change that rule next year. I do not mean to prohibit people from coming on the floor, but it seems to me that Senators who want their staffs on the floor could leave the names outside instead of interrupting every debate we have. Forty-five of these take about 1 minute apiece and that is almost 1 hour of our time. They could put a slot out here and everybody would know. But they should enter near the rear of the Chamber and come around.

The PRESIDING OFFICER. Without objection, the request of the Senator from New Jersey is so ordered.

● Mr. BENTSEN. Mr. President, I rise in support of this amendment which I am pleased to cosponsor.

I, too, am concerned about the safety of America's working people. I believe my voting record in the Senate will clearly show that I have consistently supported efforts of this body to promote safer working conditions in our farms and factories. I will continue to support those measures which are required to achieve that end.

But the cotton dust standards recently promulgated by OSHA are the wrong rules, at the wrong time. They are economically and technologically unfeasible today.

You have heard the estimates of the industrywide cost of compliance—a staggering $1.8 to 2.6 billion—annualized costs from $550 to $800 million. And you have heard it emphasized that these are nonproductive, and thus highly inflationary costs.

But let me emphasize to my colleagues that these costs must be borne primarily in those States where the cotton industry is located. While consumers across our Nation will share uniformly in the increased costs of textiles, the terrible burden of this standard will be regional in nature.

The State of Texas, for example, will be especially hard hit. Income from cotton plays a vital role in Texas' economy.

The production and processing of this natural fiber generates more than $2 billion in the State's business activity each year. Multiply this figure by the $2.50 to $3 which the Federal Government estimates is created by every dollar of cotton industry revenue, and it is easy to see why cotton's continued progress is so vital to the Lone Star State.

Cotton contributes vitally needed tax dollars to help keep State programs and services rolling. Tax revenues derived from sales and income associated with cotton exceed $66.2 million annually.

More than 27,500 businesses in Texas are centered around cotton. These include farms, gins, cottonseed oil mills, warehouses, raw cotton merchandising firms, and textile mills. Together, these cotton businesses provide jobs for 69,448 Texans.

Significantly, the great preponderance of these jobs are in farming, and in those areas of processing closely associated with the production level. There are relatively few textile mills located in the State—at last count, only 17 mills employing just 3,000 persons. By comparison, there are 66,448 workers whose livelihood depends on the farm, the gins, cottonseed oil mills, warehouses, and cotton trade. Bear in mind, gentleman, that the general consensus of medical and scientific evidence to date clearly shows no greater incidence of respiratory disease among workers in these job classifications than in the total population.

Nevertheless, OSHA has included all these sectors in its sweeping standards, admitting there are no medical studies that give a basis for establishing a dust level. Cotton producers—who are not covered directly by the standards—may pay the greatest price if they are implemented. Textile mill management must decide whether to spend vast sums for dust abatement equipment, move their operations offshore to avoid compliance costs, substitute manmade fibers for cotton, or shut down operations. Each alternative will seriously impact on cotton's markets and price. In each case, cotton producers will be the ultimate loser.

Clearly, gentlemen, the standards were poorly conceived. They are nonproductive, highly inflationary, economically unreasonable, and are not based on sound medical evidence. Even worse, they are technologically impossible to meet in some work areas.

I hope you will vote with me to delay their implementation for the next fiscal year.●

● Mr. TALMADGE. Mr. President, OSHA has handed down what it appears to believe is the solution to the cotton dust problem. Again, however, we are confronted with another example of Federal regulators rushing in to lay down standards and requirements before all the facts are clearly established, and before the impact of new regulations has been fully taken into account. I certainly support safety standards in the workplace. The goal of protecting our American work force from unhealthy working conditions is, of course, a vital one. As

I have said, time and time again, however, a "commonsense" approach must be used in the promulgation of OSHA standards.

The new OSHA cotton dust standards do not reflect this needed commonsenses approach. Rather, these new standards are economically and technologically infeasible and threaten the very livelihood of the cotton industry. The cost of compliance with these new standards is estimated to be $1.8 to $2.6 billion and will add greatly to the inflation which is already plaguing our national economy. An estimated 17 to 24 cents per pound would be added to the cost of making cotton fabrics, increasing costs to consumers, and giving a substantial competitive edge to foreign-produced cotton textiles. As a result textile imports would increase dramatically, worsening our balance-of-trade deficits and forcing businesses to close with the effect of exporting American jobs.

In my judgment, the proper approach is additional research. The cotton industry recognized this fact when it formed the industrywide cotton dust committee, and research to find the agent which causes byssinosis has been greatly expanded.

Cotton producers during 1971–76 put more than $5 million of their own funds into research on cotton dust. Currently producers have budgeted $1.5 million on this research. USDA's research on cotton dust has grown from zero in 1972 to a current program of $1.5 million.

In addition, the textile sector of the industry has invested in research, dust control equipment, and medical surveillance of workers. I understand one textile company has spent $30 million on dust suppression equipment alone.

Under OSHA's rules, washed cotton is exempt from the standards. A crash research program to explore the economic and technical possibilities of washed cotton has been launched by USDA, and by Cotton Inc., which uses grower funds.

These research efforts must of necessity require active participation by textile mills to be successful. However, mills now are faced with decisions of tremendous expenditures for dust abatement equipment called for under OSHA's rules. They must commit themselves soon and place orders if their equipment is to be delivered in time for installation before the compliance date.

In my opinion, this and other research projects can provide a far less costly solution to the cotton dust problem. I support the Johnston amendment, because it will provide the time needed for research to uncover answers everyone can live with.●

Mr. JOHNSTON. I thank the distinguished Senator from Washington and the distinguished Senator from Massachusetts for their assistance. I ask for consideration of the amendment at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana, as modified.

The amendment, as modified, was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1914

(Purpose: To reduce appropriation for Health Information and Promotion in the Office of Assistant Secretary for Health)

Mr. FORD. Mr. President, I have spoken to the manager of the bill and the ranking minority Member about an amendment which I will introduce shortly.

Mr. President, this amendment will delete some dollars from the appropriations request of the Assistant Secretary for Health.

Mr. President, this will reduce by some $4,485,000 the funds that have been put into this office for public relations, such as pamphlets, movies, things of that nature, as it relates to smoking and health.

Mr. President, my amendment does not in any way alter the health and smoking items such as the Center for Disease Control, the National Cancer Institute, the National Heart, Lung, and Blood Institute, and the Institute for Environmental Health and Sciences. None of the research as it relates to smoking is touched.

I understand, and will support. S. 3116 when it comes to the floor this week. This is the bill by the distinguished Senator from Massachusetts (Mr. KENNEDY) and others. There will be some $232 million in that piece of legislation which will expand the program for local health programs, which include youth education and smoking.

Mr. President, I am concerned about the apparent overkill, that we are giving so much money to the Department of HEW they will not be able to spend it. They are not putting the money into research, as I would have hoped for. They are actually putting $1,415,000 into this budget which was not there before. This is the amount recommended by the President. It is an amount recommended by OMB, and it is also the amount that was placed in the legislation by the House.

Our amendment leaves the $1,415,000 in the budget.

With that explanation, Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an unprinted amendment numbered 1914.

On page 18, line 17, amend "$55,417,000" to read "$50,832,000" and strike the "." period at the end of line 17 and inserting the following:

"*Provided*, That not more than $1,415,000 shall be used for health information and promotion under the special health programs."

Mr. FORD. Mr. President, I explained my position prior to proposing the amendment. I would be very pleased to answer any questions from any of my colleagues as they relate to this amendment. I hope the committee will accept it.

Mr. MAGNUSON. Mr. President, there are two or three Senators who wish to speak on, or ask questions about the amendment, but they are not in the Chamber at this time. Once again we have no Senators here. I will suggest the absence of a quorum.

Mr. FORD. Before that, it is a little exasperating when you are told to be here at 1:30 and the amendment comes up at 3 o'clock, and when the amendment comes up at 3 o'clock there is nobody to fuss with. You and I do not want to fuss about it.

Mr. MAGNUSON. I can suggest a live quorum.

Mr. FORD. No, I do not want to do that.

Mr. MAGNUSON. The Senator from Massachusetts will be here in a moment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I desire to make a statement on the natural gas conference report, which I understand does have priority and would be in order. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BARTLETT. Before I do that, I ask unanimous consent that Messrs. Mike Roush and Edward King, of my staff, be accorded the privelege of the floor during consideration of the Labor-HEW appropriations bill, and all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The Senate resumed consideration of the conference report.

Mr. BARTLETT. Mr. President, one of the problems with attempting to debate or discuss the provisions of the natural gas conference report is that it is so complicated and finely balanced that any particular statement made by the proponents of the bill, attempting to state what is in the bill or what it would do, is quite frequently not correct.

Within the limits of debate on the floor, it is difficult for the corrections to catch up with the original misstatement.

I would like to take this opportunity to mention a few of these errors that have been made in the past, as well as to point out a number of unnoticed provisions which affect quite strongly some of the statements being made in support of the bill.

I begin by noting that on August 25, the distinguished majority leader had printed in the RECORD a summary of the bill's provisions. Although I am sure the leader had available to him the most distinguished experts of the administration and of the drafters of the bill, that summary contains at least four significant errors in barely half a page, 27956 of the RECORD. I should like to correct the summary in those regards, so that Senators may have a more accurate understanding of the provisions of the bill. I note that I attribute no particular motive to these errors, in that there seems to be no consistent pattern to them, and that any particular error may make the bill more congenial to one group while less congenial to another.

First, section V(a) of the summary states that new onshore production wells "completed at less than 5,000 feet depth" receive a price midway between the new gas price and the previous trend line. This is true only for intrastate wells. Gas from interstate wells under those conditions receives a much lower price. This is set forth in section 103(b)(2) of the conference report, and is another example of the continuing distinctions between gas in the interstate market now—that is, gas which is committed or dedicated—and gas which is not.

Point 2. Section V(b) states that in order to receive the new onshore production well price, wells must be "at least one spacing pattern away from old wells," in addition to being outside an existing proration unit. In fact, as section 103(c) shows, there is no such requirement. While the language in the summary would appear to be similar to the normal definition of an extension well, the bill's language allows the new onshore production well price for what would normally be considered development wells, in addition to extension wells.

Point 3. Section IX(b) of the summary states that intrastate rollovers above $1 in price receive the new gas price ceiling. This is also incorrect. Section 106(b)(1) clearly shows that such contracts are frozen at their current price plus inflation. This points up one of the major inequities of this bill; that is, it essentially confiscates property of existing producers, a policy which is certainly going to make any producer nervous about trusting the "assurances" contained in this bill.

Point 4. Section X of the summary states that there is authority to allocate gas from "coal convertible" industries that use gas. In fact, this section relates to allocation from boiler fuel users that can burn oil, or any other alternative to gas, as specified in section 137 of the Senate bill on utility rate reform. This is a far broader category.

In a similar vein, I note Senator JACKSON, in a recent statement in the RECORD, quoted an analysis by the Independent Gas Producers Committee. As I indicated on Friday, it is primarily independent in that it is independent of the opinions of the vast majority of gas producers save its chairman, who has a particular interest in deep wells. But in any event, the manager of the bill quoted this group as summarizing the provisions within a paragraph or so to show their simplicity.

The statement is as follows:

> The definitions of each category are clear cut and should not be difficult to apply. New discoveries and new reservoirs qualify for the new gas price. A special incentive development price is available for bona fide reservoir extensions. Stripper wells qualify for a higher ceiling price and high cost gas is deregulated in one year. Flowing gas prices are not affected until existing contracts expire.

And then the chairman stated: "That is it."

Indeed that is it. The problem is that most of it is wrong. It begins by stating that new discoveries and new reservoirs qualify for the new gas price. It is true that new onshore reservoirs do, but many discoveries that are certainly new do not. The producer may well discover gas which no one knew was there before and which increases our inventory of known gas reserves. But if it is gas which turns out to be in communication with an existing reservoir, he will not get the new gas price.

The special incentive price is described as being available for "bona fide reservoir extension." This is an error in the opposite direction, as the actual rule is more lenient. At one time in the discussions, the quoted rule was suggested, but the final definition allows any well which produces from a separate proration unit to get the development incentive price. This certainly includes many wells that would be considered to be "development" wells, and even in some cases wells that would be "in-fill" wells.

Next, the statement states that high cost gas is deregulated in 1 year. This is not exactly correct, and, in fact, an amendment to state exactly this was specifically defeated by the Senate conferees. Instead, high cost gas is deregulated only when the first incremental pricing rule goes into effect. FERC's administrative delays and legal maneuvers could stretch this period considerably. The bill attempts to put some pitfalls in the way of judicial delays, but our experience with the courts in their interpretation of their own powers certainly makes it far from clear that this deregulation would occur within 1 year.

Finally, the last statement, that flowing gas prices are not affected until existing contracts expire, is wrong in two respects. In the interstate market, flowing gas ceiling prices are automatically increased by 10 to 15 percent upon enactment of this bill, and are given continual future increases to adjust for inflation, which are not granted under current law.

On the other hand, in the intrastate market, flowing gas prices under existing contracts are controlled and limited by the new gas ceiling price and also by restrictions on the operation of indefinite price escalator clauses after 1985.

Another example of the difficulties the proponents have in stating accurately the contents of the bill arose in the opening discussion. The chairman first attempted to show what a good deregulation bill this was by asserting that offshore new gas finds, such as in the Baltimore Canyon area where exploration is just now beginning, would be deregulated. He subsequently was forced to concede that such gas is not deregulated for nonprice purposes. As Senator HANSEN later clearly showed, that is not correct either. Both price and nonprice regulation for such promising areas as the Baltimore Canyon continues on and on forever.

Similarly, in informal dicsussions on the floor it has been asserted that stripper wells are deregulated. This is true only to the extent that such wells are otherwise new wells and would be deregulated anyway. Their character as stripper wells, as shown under section 121, does not get them deregulated in any way. And since the vast majority of all stripper wells are wells now in existence, there would be very little deregulation caused by that section.

I say again that I am not attributing any particular malice to these errors and the others that I will point out as I go along. The bill is so complex and so technical, and there are so many places where the compromise was specifically designed with exceptions and caveats and intricacies, that it is extremely easy to overlook the exception which nullifies the basic principle. In addition, there is the inevitable tendency to put the bill in the best light possible and to focus on the alleged broad principles without taking careful account of the actual language of the bill.

I am not sure I can make the same dispensation on behalf of the administration's spokesmen who in their arguments and lobbying for the bill will apparently say virtually anything they believe will be necessary to acquire a particular vote.

The distinguished Senator from Arkansas has several times stated that one of the evils of the status quo in natural gas regulation is that a very large portion of the supposedly controlled interstate gas is actually going at unregulated prices. Monday he specifically indicated that "40 percent of the remainder in the interstate pipelines is being approved under emergency sales contracts which are now legal;" and from this he concludes that with the 42 percent or so of natural gas that is in the uncontrolled intrastate market, more than 66 percent of all the gas in the country is deregulated.

While I might wish that this were so, I think the record should be set straight. The letter by Chairman Curtis of the FERC to Chairman JACKSON of our committee specifically indicates at page 6 that only 2.6 percent of all gas flowing in the interstate market is in unregulated emergency sales, and even this number was for the period of the fourth quarter of 1976 and the first two quarters of 1977 when emergency sales were at a peak under both the emergency natural gas act and the regular natural gas act.

The 40-percent figure the Senator should be referring to is the portion of all new dedications that were emergency sales during a particular time in the past when regular dedications were very low because of the unrealistic FERC 50-cent price. In terms of total volume, as Chairman Curtis points out from the FERC records, only a very small proportion of the total gas flowing in interstate systems is pursuant to emergency sales.

I would like to note another one of these general rules and exceptions cases that seems to me to quite instructive. In colloquy on Tuesday, September 12, between the Senator from Kentucky (Mr. FORD) and the distinguished Senator from South Carolina (Mr. HOLLINGS), the Senator from South Carolina was arguing, quite cogently, that this bill could easily encourage gas withholding. I might note that to a certain degree I would agree with that argument.

This bill has vast complexity, and there is uncertainty as to whether deregulation will really occur in 1985. Secretary Schlesinger has called this bill "light at the end of the tunnel" rather than deregulation. I wonder if that term will have the same meaning for the Energy Department as it did for the Defense Department during his tenure? In any event, there is going to be a strong temptation for producers who can do so to wait until 1985 to develop new gas reserves to see whether deregulation is really going to stick or not. The Senator from Kentucky attacked this argument, stating:

> You cannot withhold and get the new gas price. It is subject to a price penalty. The distinguished Chairman of the Conference Committee, Mr. Staggers, from West Virginia, said this was one thing that must be in the conference bill or he would never approve it. He got what he wanted. We said it was wrong to withhold natural gas.

Now it is true that in the bill you will find a section labeled "withheld gas exclusion," and we have certainly been told that this will prevent any gas withholding. But when you actually read the section, which is section 102(c) (1) (iii) (I) and (II), you will find significant limitations on it. First, in order to be considered withheld gas under this bill, the gas must be produced from an old well, which is defined as a well drilled before February 19, 1977. That is now more than 18 months in the past; any withholding from any well drilled after that date is not covered. And any withholding in the sense simply of refusal to develop known or suspected gas reserves, which is by far the most likely situation, is not covered.

I would also note the further exception in sub-sub-sub-paragraph II that there is no penalty for withholding if suitable pipeline facilities were not in place on April 20, 1977. So again, the main principle is as the Senator from Kentucky announces it, but the actual practical application is that people may withhold all they choose and will suffer a price penalty only in very unusual and special circumstances relating to the past, not the future.

Another of the many problems and discrepancies in the explanation of this bill arises in connection with the question of incremental pricing. On Thursday, September 14, there was a colloquy concerning incremental pricing which indicated that intrastate pipelines would not be required to undergo incremental pricing. As recorded on page 29412 of the RECORD, the specific question was asked, "Even in those cases where an intrastate pipeline obtains part of its gas supply from an interstate pipeline, incremental pricing is not required on the intrastate pipeline. Am I correct?" The response by the chairman of the Energy Committee was:

> Incremental pricing . . . is to be limited to interstate pipelines and to local distribution companies, as defined, which are served by interstate pipelines.

The problem, however, is that the definitions contained in section 2 of the act are at least somewhat at variance with common speech on these matters. An intrastate pipeline is defined in section 2(16) as a person engaged in natural gas transportation and not subject to the jurisdiction of the commission "other than any such pipeline which is not subject to the jurisdiction of the commission solely by reason of section 1(c) of the Natural Gas Act." That latter exception includes what are known as Hinshaw pipelines, that is to say companies which receive their gas at or near the border of a State and then transport or distribute it solely within the State. A very large number of what are commonly thought of as intrastate pipelines are such Hinshaw pipelines and thus fall into the category of local distribution companies for incremental pricing purposes.

Under section 205(a), local distribution companies are subject to passing through to their customers any surcharge there may be on gas "indirectly delivered by any interstate pipeline to incrementally priced industrial facilities." In other words, if gas is received from an interstate pipeline, incremental pricing will be required by that local distribution company. In addition, section 204(c) (4) states:

> In any case in which a local distribution company directly incurs any first sale acquisition cost subject to the pass-through requirements of this Title under Section 203. * * *. Such local distribution company shall, with respect to the natural gas involved, be treated for purposes of this Title as if it were an interstate pipeline.

In other words, any local distribution company, which includes many companies that would normally be considered intrastate pipelines, would be subject to incremental pricing on the direct purchases of gas that it makes. It, therefore, seems that the assurances given by the chairman of the Energy Committee, that such pricing will not apply to systems that obtain part of their supply from interstate sources, are not correct, and further that local distribution companies may also be affected if they develop their own supplies.

(Mr. HODGES assumed the chair.)

Mr. BARTLETT. Mr. President, this entire bill and the discussion of it reminds me of the old song about the Hawaiian hula, that "Every little movement has a meaning all its own." As we shall continue to show, virtually any assurance which you think you receive under this bill is contradicted elsewhere in the bill.

My purpose in showing these errors is to emphasize the extreme complexity and contradictions that exist in the bill itself, and I would be the first to say that I think there are very few if any Senators or others who fully understand all the provisions of this natural gas conference report.

I think that putting it into effect would be perhaps one of the most complicated tasks that any bureaucracy or any department ever had.

In that regard, it has been stated by some of the opponents of the natural gas conference report that, either the State regulatory bodies would have great difficulty in administering their share of the regulation, or they would have neither the money nor the interest to perform the administration assigned to them in this legislation.

I am going to introduce separately the letter from Governor Bennett of Kansas to Commissioner Don Smith of the Federal Energy Regulatory Commission in which the Governor of Kansas, as Chairman of the Interstate Oil Compact Commission, is merely bringing to the attention of the FERC, information that many of the State regulatory bodies are not interested in administering this act.

They point out that they have not been recompensed for the cost.

He points out also the large number of hearings that would be required and the burden this would impose.

So, I think what we are seeing here is not State regulatory bodies acting on their own and with their own laws and framework of operations, but rather a Federal takeover of the intrastate system in its entirety for the 7 years of controls, and then a continuation of some of that in the nonpricing areas afterward, with the possibility after 6 months of reinstating all controls.

I have been distressed by those who talk about it being worth 7 years of controls to have phased deregulation later, because this is quite misleading. According to the Department of Energy's own figures, at the present time 46 percent of the gas produced in this country is not regulated. At such time as this conference report will become law, all gas would be regulated, and this would continue for 7 years. I am speaking of price regulation.

After 7 years when deregulation—or phased deregulation, as many people call it—would occur, only 37 percent of the gas produced in this country would be unregulated.

So the point I am making, which is very distressing to me, is that, according to the Department of Energy, there will be less gas unregulated after 7 years of price controls than is unregulated today.

So the 7 years of controls does not gain us any deregulation; it loses it, and the gas that is unregulated after the 7 years, of course, is not necessarily the gas that is unregulated today. Today the unregulated gas almost entirely is that gas which is in the intrastate market.

So, Mr. President, I offered these corrections in the interest of just showing the complexity of the legislation that is before us, the difficulty of interpreting it by people who are very knowledgeable. I can certainly say that I am one other person who has on occasion made statements about this legislation that may not have been entirely correct. So I do not think there was anything at all in the misstatements that were made, other than being illustrative of the complexity of the legislation that is involved. It should be brought to the attention of every Senator, because I think this legislation is such a monstrosity that it cannot be administered. It cannot really become the law of the land and be fairly implemented.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD: Mr. President, I have discussed a possible time agreement with Mr. MAGNUSON and Mr. BROOKE on the Labor-HEW appropriation bill, and it would be as follows: 3 hours on the bill, equally divided between Mr. BROOKE and Mr. MAGNUSON; 2 hours on an amendment by Mr. SCHWEIKER; 2 hours on an amendment by Mr. BROOKE which would strike the language on busing; 2 hours on an amendment by Mr. MATHIAS dealing with impact aid; and ½ hour on any other amendment; 20 minutes on any debatable motion, appeal or point of order, if such is submitted to the Senate for its decision; and that the agreement with respect to the control and division of time be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, reserving the right to object——

Mr. FORD. Mr. President, reserving the right to object, will the distinguished majority leader amend his unanimous-consent request to say other than pending amendments?

Mr. ROBERT C. BYRD. Yes; other than pending amendments.

The PRESIDING OFFICER. The Senator from Utah reserves the right to object.

Mr. HATCH. Mr. President, reserving the right to object, unfortunately I have to object. The distinguished Senator from North Carolina called me Saturday and asked me on his behalf to do it because he has undergone an operation and is trying to get back this week, to not agree to any time limits on the Labor-HEW appropriation bill. I personally do not have any problem at the present time.

Mr. BARTLETT. Mr. President, will the Senator from Utah withhold his objection?

The PRESIDING OFFICER. The Senator from Oklahoma reserves the right to object?

Mr. BARTLETT. I reserve the right to object, and I hope I shall not object.

Will the distinguished majority leader also include an amendment from myself for a 2-hour time limit equally divided? The amendment is an OSHA amendment.

Mr. ROBERT C. BYRD. I would include that amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I will have to object for the distinguished Senator from North Carolina (Mr. HELMS) since I told him that I would. I will, in addition to that, try to get hold of Mr. HELMS to see if there is any way we can expedite this matter, and I will report back to the distinguished majority leader.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Very well, I would appreciate it if the distinguished Senator from Utah would do that this afternoon.

Mr. HATCH. I will do that. I will certainly do so at the earliest possible moment.

Mr. MAGNUSON. Mr. President, will the Senator from Utah yield? We have had some discussion with Senator HELMS' staff people and, as the Senator pointed out, he was not going to take too much time on the amendments he had, and so I hope we can do it. I would like to finish this bill tonight, if I can.

Mr. HATCH. I do not think you will be able to do it tonight. I will certainly try to get in touch with Senator HELMS. I understand he has some 30 amendments to this bill. I do not know whether he intends to call them all up.

Mr. MAGNUSON. He had a list of 23 amendments and I think he had decided not to do that. If he has any I want him to have sufficient time.

Mr. HATCH. I will certainly try to find out.

Mr. ROBERT C. BYRD. I certainly thank the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Montana.

Mr. PAUL G. HATFIELD. Mr. President, I ask unanimous consent that Tim Hart of my staff be given privileges of the floor during the remainder of the debate on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 9214

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a 10-minute time limitation on the conference report on the IMF that Mr. CHURCH is about to call up, the time to be equally divided between Mr. JAVITS and Mr. CHURCH.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Mr. President, reserving the right to object, and I will not object—10 minutes on the conference report and then we go back to HEW?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

INTERNATIONAL MONETARY FUND SUPPLEMENTARY FINANCING FACILITY—CONFERENCE REPORT

Mr. CHURCH. Mr. President, I submit a report of the committee of conference on H.R. 9214 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The second assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9214) to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 22, 1978.)

Mr. CHURCH. Mr. President, the conference report and accompanying statement provide a detailed explanation of the recommendations of the Committee of Conference. At this time, I will highlight briefly the most important provisions of the conference report.

This legislation would authorize U.S. participation in the supplementary financing facility of the International Monetary Fund and authorize to be appropriated a dollar amount equivalent to 1.45 billion SDR's, approximately $1.9 billion, as the U.S. contribution to the facility. This U.S. contribution, when combined with contributions by other industrial countries and by members of OPEC, would provide approximately $10.7 billion in additional financial resources to the IMF. I should point out that this is the first time the oil exporting countries have agreed to share equally the burden of providing financial assistance to nations in balance-of-payments trouble. OPEC will be putting up 50 percent of the money for this facility and the industrial countries will provide the other 50 percent.

These funds will be used by the IMF to provide medium-term balance-of-payments financing to countries facing serious balance-of-payments difficulties. Since the oil price explosion of 1973, both industrial and developing countries have suffered major dislocations in their balance of payments. As a consequence, there has been an enormous demand for the fund's resources and a crying need for a facility which can provide financial support for a longer period of time than the regular IMF programs. The so-called Witteveen Facility will not only replenish the IMF's resources, but will also allow for an extended adjustment period in borrowing countries—thereby easing economic and political strains that may result from strong economic austerity measures.

In response to the concern expressed in both Houses of the Congress that policies adopted to meet the conditions and requirements laid down by the IMF may create undue hardship for the poorest people in borrowing countries, the conferees agreed to a modified version of the House-passed human needs language. The compromise provision requires the U.S. Executive Director to consult with the Managing Director and member country Directors of the Fund to encourage formulation of economic stabilization programs designed to meet basic human needs, and to report on the effect of such programs on basic human needs in borrowing countries. A Senate amendment requiring the Secretary of the Treasury to submit to the Congress an annual report on the observance of

In recognition of the fact that the uniquely inhumane nature of the present Government of Uganda justifies exceptional action on the part of the United States, the conferees agreed to adopt a Senate amendment declaring a total trade embargo on Uganda. The conferees also accepted a Senate amendment discouraging use of the facility and other Fund resources by countries who harbor terrorists. In order to make the provision consistent with the decision-making procedures of the Fund, the U.S. Executive Director is required to work in opposition to such use of Fund resources, rather than to flatly oppose it. The conferees also adopted the Senate's amendment calling for a balanced budget by 1981, which was passed overwhelmingly by the Senate.

I urge my colleagues to adopt this conference report and legislation.

The other nations participating in this facility have already pledged their contributions. It would be most appropriate for the U.S. Congress to proceed with swift passage of this important bill so that the United States may join them in time for the IMF annual meeting, which is being held here in Washington this week.

I am glad to yield now to the distinguished Senator from New York (Mr. Javits).

Mr. JAVITS. I rise to endorse the statement of the senior Senator from Idaho and urge my colleagues to adopt the conference report which will authorize close to $1.9 billion for the U.S. contribution to the Witteveen Facility of the International Monetary Fund.

It is particularly significant that we are considering final action on the authorization for the Facility this week when the world's finance ministers are meeting here in Washington at the annual meeting of the World Bank and the International Monetary Fund to review this past year's events and make decisions that will have long-term effects on the health of the international economy.

The final bill represents what I believe to be a working compromise between the desire of the Congress to insure the furtherance of human rights and the meeting of basic human needs in many countries and the need to keep the International Monetary Fund true to its course. While economic factors must be the primary criteria on which the U.S. Executive Director will make his decisions on the various stabilization programs, nevertheless, he must be particularly sensitive to the overall level of human rights in the recipient countries and to the noneconomic criteria that we feel are so important.

With respect to Senator Byrd's amendment calling for a balanced budget beginning in 1981, I reiterate what I said on the floor at the time of the appointment of the conferees and at the conference. This amendment is an expression of an aspiration by the Congress and cannot be a mandate that no matter what the economic conditions will be between now and 1981 we must have a balanced budget. Any subsequent enactment of the Congress directly relating to budgetary questions will, of course, be directly relevant to the import of this amendment.

Although I deeply regret the long delay in congressional consideration of the Facility—it is more than a year since the administration made its request for the authorization—nevertheless, we have acted favorably on the Facility. I urge my colleagues, both here in the Senate and in the other body, to approve quickly the appropriation of more than $1.8 billion for the U.S. contribution to the Facility.

With the Facility in place, the world's finance ministers will be able to focus on the more compelling problems facing the international monetary system: The need for a further restructuring of the system in order to relieve the pressure on the dollar as well as to provide greater resources to the developing countries.

Finally, Mr. President, this Facility represents a great cooperative effort. I think the Witteveen Facility has great possibilities for improving markets for the Free World, and for helping to stabilize monetary conditions, which are in a very dangerous position, although a great deal more needs to be done to shore up the system. I compliment Senator Church and Representative Reuss on the leadership which they displayed in the conference, which helped us bring about this agreement.

Mr. CHURCH. I thank the Senator very much. I again emphasize the essential role which the Senator from New York has played from the beginning in connection with this legislation.

I yield now to the able Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the able Senator from Idaho. Mr. President, may I ask how much time remains?

The PRESIDING OFFICER (Mr. Bayh). Two minutes to the Senator from New York.

Mr. HARRY F. BYRD, JR. I ask unanimous consent that the Senator from Virginia may have 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. First, I want to thank the conferees for supporting the Senate amendment which mandates a balanced budget by 1981.

Agreement by the Senate and House conferees on legislation to require a balanced budget by 1981 is a clear call for fiscal responsibility.

Now the full Senate is about to act, and no doubt the House will follow suit shortly.

Unless President Carter vetoes this legislation, he will have an obligation to submit a balanced budget to the Congress for 1981. The President in his campaign promised a balanced budget by 1981. Now the House and Senate are on the record.

The Senate approved my amendment by a vote of 58 to 28 on July 31. The House, by a vote of 286 to 91, instructed its conferees to accept the amendment, on a motion by Representative Charles Grassley of Iowa. This came on September 14.

Assuming that the President signs the bill, a balanced budget will be the effective law of the land for the year beginning on October 1, 1980—2 years from now.

I anticipate that many efforts will be made to set aside, ignore or evade this balanced budget requirement.

So be it.

It will be on the record, and it is of tremendous significance.

I believe the action in Congress shows that the people are aroused against Government extravagance, and the message is getting through to Washington.

I offered a proposal identical to my July 31, 1978, amendment in March, 1974, and was defeated by 52 to 35 in the Senate.

The change in the vote from then until now reflects the effect on public opinion of continued high inflation and revelations of waste, fraud, and abouse in government programs.

The public is demanding fiscal responsibility.

I yield back the remainder of my time.

● Mr. STEVENSON. Mr. President, I urge my colleagues to support the conference report on H.R. 9214. The conferees accepted nearly all the provisions adopted by the Senate but not included in the House bill, including those related to a balanced Federal budget, trade with Uganda, terrorism and human rights. Also included in the bill are House provisions concerning comparability of treatment of public and private credits in debt rescheduling and consideration of basic human needs in IMF decisions. I believe the bill as reported from the conference committee is fair to both bodies.

U.S. approval of the facility is long overdue. Every other country was ready to participate a year ago. Congress has tied up approval of U.S. participation for more than a year.

The facility is sorely needed. The Fund's resources are not adequate to meet the large needs of many countries struggling to correct structural balance of payments problems. The facility is insurance against a wave of protectionism, defaults and general economic recession. U.S. participation, constituting only 17 percent of the total facility, is all that is needed to put the facility in operation, assuring all member countries that the Fund's resources will be available in adequate amounts and on appropriate terms as needs arise. Approval of U.S. participation in the supplemental financing facility is a vital step toward stabilizing the international monetary system.●

The PRESIDING OFFICER (Mr. Paul G. Hatfield). The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the conference report was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1979

The Senate continued with the conback on the HEW appropriation?

The PRESIDING OFFICER. The question recurs on H.R. 12929.

UP AMENDMENT NO. 1915

(Purpose: To modify time limitation on public assistance claims by excepting from such limitation claims relating to state audit activities)

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. MAGNUSON. Mr. President, there is an amendment pending.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Kentucky.

Mr. MAGNUSON. I ask unanimous consent that that amendment be temporarily laid aside.

Mr. JAVITS. I ask unanimous consent that the other amendment be temporarily set aside.

Mr. FORD. Mr. President, reserving the right to object, what is the time agreement?

Mr. JAVITS. Just 2 minutes.

Mr. FORD. I have no objection.

Mr. JAVITS. I was just going to specify the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

> The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 1915:
>
> On page 21, line 9; and on page 33, line 24, change the period to a comma, and insert immediately thereafter the following: "or for audit exceptions relating to bona fide state audit activities."; and on page 37, line 18, change the colon to a comma, and insert immediately thereafter the following: "or for audit exceptions relating to bona fide state audit activities:"

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I thank the Senator.

Mr. President, this amendment relates to a problem of my own State of New York, and I understand it is a problem also in other States, which is simply a question of permitting, where a State reaudits claims for expenditures in the welfare field, that the limitation contained in the bill within which those claims may be made may have an additional exception, to allow for that kind of bona fide reaudit by the State. I hope it is agreeable to the managers of the bill.

Mr. MAGNUSON. Mr. President, I think this is a workable solution to a serious problem. If the Senator from Massachusetts agrees, I am willing to accept the amendment.

Mr. BROOKE. Mr. President, not only New York, but Massachusetts, California, and Illinois, to mention a few, are concerned that they will not be able to get reimbursed for claims made in substitution for prior year claims, due to audit requirements. The amendment is certainly acceptable to me, and I commend the Senator from New York for proposing this amendment.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 1915) of the Senator from New York.

The amendment was agreed to.

Mr. MAGNUSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. I thank my colleagues.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Kentucky.

Mr. JAVITS. I express my gratitude to both my colleagues.

UP AMENDMENT NO. 1914

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Kentucky.

Mr. FORD. Mr. President, I understood the reason my amendment was set aside was that some of my colleagues wanted to talk on the amendment. I am willing to do that and have been prepared for some time. Otherwise, if it is acceptable, I would like to go ahead.

Mr. President, it seems as if the distinguished floor managers of this bill have had a problem all day trying to get Senators here. I am here trying to get my amendment accepted, and I cannot find enough time to get it done.

Mr. BROOKE. Mr. President, if the distinguished Senator from Kentucky will yield, I have looked over this amendment.

What we did, as I recall, was that in the bill before us there was $1.4 million, as I remember it, in the House bill, for health education programs. They included not only smoking but all health education programs. It is a rather paltry sum, Mr. President, for health education. When we are talking about the high cost of health in this country today, rather than talking about hospital cost containment and all the expensive costs of health care, the need for a national health insurance plan, we ought to be talking about and spending more money for preventive health efforts including educating young people as to what the dangers are so far as their health is concerned. I think it is pretty basic that if you have a healthy child you are more apt to have a healthy adult.

We added $4.5 million on the Senate side because we felt that there was a great need for smoking education programs. That would take it up, I believe, to a total of $6 million.

The program is geared to children. There is no question that lung cancer due to smoking is the No. 1 cancer killer in this country. In addition, this amount probably will be reduced further when we get to conference because the House has only $1.4 million where we have $6 million. Obviously, we are going to have to compromise.

As the Senator from Kentucky well knows, what usually happens, though, it should not always happen and I would hope it would not happen in many cases is there is a compromise between the House and the Senate. So we probably will not end up with the Senate figure of $6 million.

In addition to that, this is a very strong preventive health program.

Mr. President, I remember as a child in elementary school there was a teacher who took a cigarette, inhaled from it, and then blew on a white handkerchief. The nicotine left a brown stain on that white handkerchief. The teacher said, "Every time you inhale a cigarette, this is what happens to your lungs."

There were about 50 children in my class. I do not know what the impact was upon those 50 children, but I do know what impact it had upon me. I have never smoked a cigarette in my life, or smoked anything else, merely because of that teacher's influence upon me, showing me what the danger was to my health.

That is health education in its basic, simplest form. I daresay that in elementary schools across this country today we do not even have anything as simple or as elementary as that. So a lot of these kids are growing up, not only teenagers but preteenagers, who are beginning to smoke, who think it is important to smoke, who because of their peers believe it is good to smoke, and it gives them security to smoke. They end up from preteenage on caught by a habit which is detrimental to their health. Now we know that 40 percent of lung cancer is related to smoking.

I ask most respectfully to my distinguished colleague from Kentucky, for whom I have great respect, with the small, infinitesimal amount of money appropriated by the House, namely the $1.4 million for the whole country, for all health education to prevent problems in health, including but not limited to smoking—how far does he really think that amount of money would go towards preventing health hazards for people in this country?

The answer is obvious. We could use $1.4 million right here in the Nation's Capital, much less what could be used in a State as large as New York, California, or in the State of Washington.

So when we added the $4.5 million, we were not adding very much money at all. We were just barely trying to give them some kind of a program that would be the beginning of preventive health education for young people in the United States of America.

Therefore, as much as I personally would like to accept the Senator's amendment, and I cannot say what my distinguished chairman would do, I, for one, feel that we ought to be doing more in this field. I think it is cost effective to do more, but I think it is also more humane to do more. Therefore, I say rather than to be decreasing the amount, I would like to see us increase the amount for health education for young people in this country.

Mr. FORD. Will the Senator yield?

Mr. BROOKE. Yes.

Mr. FORD. The Senator makes a very strange argument against my amendment. He starts out talking about the $1.4

million for all health education and then the Senate committee goes to $6 million. But that is not correct. On page 81, the paragraph under special health education programs, you put all this money into smoking, $5 million.

Mr. BROOKE. That is correct.

Mr. FORD. Then the Senator has cut back. The Senator has reduced all other health-related educational programs. The Senator has cut back $415,000, at least. Now the Senator is only leaving about $1 million for education in all other health-related operations. The Senator is saying this is all on smoking.

The educational program that the Senator has here is public relations. Every PR house in New York, Washington, Boston, and Los Angeles will be in here trying to pick up a $5 million pamphlet contract, a TV contract. Why not take this money and put it where it belongs, in research?

I am not opposed to children, but let me tell the Senator what the Senate is getting ready to do. We have a bill coming out which the distinguished Senator from Massachusetts is promoting, S. 3116, directed to what the Senator wants this directed to, education of children in smoke-related problems, youth education in smoking. There is $232 million over the last budget in the Kennedy bill, which is coming before the Senate.

It seems to me that everywhere we look the Senator is trying to pick up something. He says he is trying to help the total education program for health problems in this country, but he is actually reducing it.

Mr. BROOKE. Let us not kid ourselves. I am not trying to take anything away from my senior colleague from Massachusetts.

Mr. FORD. You are taking away something from the health education program.

Mr. BROOKE. But when the Senator talks about $232 million, he is talking authorization, not appropriations. We are beginning to think that the authorizing committees are the dreamers and the appropriations committees are the realists. We are talking about how much money we are actually going to spend. The Senator knows we will not spend $232 million.

Mr. FORD. Over a 3-year period of time.

Mr. BROOKE. It is a long way to go before this appropriations committee votes that kind of money, particularly today with inflation being what it is and the mood of the country to cut back. We know we will not get that kind of money. We even have trouble with an increase from $1.4 million to $6 million, which is an increase of $4.585 million.

That is an increase from both the President's request and the House allowance of $5 million.

Mr. FORD. No, sir, let me point out, the committee reduced the $1,514,000, than added 5 to it. So it really reduced what the President requested and OMB and the House put it in their language.

Mr. BROOKE. Five million dollars of this amount has been provided by the committee to be used for the smoking and health programs.

Actually, most of the program is smoking related. That is why we wanted to increase it. That was intentionally done, because that is where the real danger is. The real problem to these young people comes from smoking. The Senator would not deny that.

Mr. FORD. Then why not put it under children? This does not say a thing about children. This does not relate this to children in any way. The Senator is arguing children. We have legislation which tobacco States have agreed to. They want to help you. They are going to push the bill through. You are going to get millions of dollars. Yet, the committee wants to say here we are going to give Mr. Califano a blank check for $5 million, which the Senator is saying is toward kids. Yet it does not say anywhere in here that it is limited to children.

Mr. BAYH. Will the Senator yield?

Mr. BROOKE. Yes, I am pleased to yield.

Mr. BAYH. I think what the Senator from Kentucky said is partially accurate. The administration did ask for $1.4 million. The committee then, in response to my offering a $9 million smoking education amendment, agreed to take $5 million from smoking, but, because we were dissatisfied with the way the other programs were being administered, took $400,000 out. So we still have a million dollars in there for the other programs and we have $5 million in there for smoking.

If the Senator from Kentucky is concerned about this being some sort of boondoggle in which we got out here and just throw money up in the air, I, for one, would be glad to join with him and my other colleagues in trying to provide the kind of language necessary to give instructions to the Secretary that this education would be directed at those groups in such a manner that it would have the greatest effect on stopping smoking.

Mr. FORD. Will the Senator yield at that point?

Mr. BAYH. I am glad to yield.

Mr. FORD. This is exactly what I have agreed to do. I am in agreement with an educational program for children and youth; I would even go so far as to say elementary and secondary education.

What they are doing here, the Senator agrees with me on what my statement was as it relates to what happened in the Appropriations Committee. I would be more than willing to come up with a program. But then, I want to say to the Senators, and particularly my good friend from Indiana, that the educational program designed to do exactly what the Senator from Indiana is talking about and the Senator from Massachusetts is talking about, will be on this floor, probably this week.

I do not believe a tobacco State Senator is going to oppose this program to educate youth as it relates to smoking. I just think what they have done is eliminate the ability, in a great many respects, of the Department to educate the general public as it relates to other health-related problems.

Mr. BROOKE. Will the Senator yield?

Mr. FORD. Yes.

Mr. BROOKE. I hope the Senator has read the committee report. I think the committee report is very descriptive, very telling.

Mr. FORD. I have read it all.

Mr. BROOKE. It is very descriptive of what the intention of this committee was. I think it is a well-written report. The staff says this, and this was adopted, of course, by the committee:

> Activities to be funded by this increase include demonstration prevention programs in schools; model community prevention programs involving industry, labor, schools, health facilities, health professionals, and voluntary organizations; establishment of training centers for teachers; development of public information programs; and conducting basic evaluations to measure the impact of these community programs. Attention should also be placed on providing effective educational materials on smoking and health to groups that are showing an increase in smoking such as women, preteens and minorities. It is the expectation of the Committee that the smoking and health program will coordinate its activities throughout the Department and that the Committee will be regularly informed on all aspects of the smoking and health program.

That certainly seems to me to be all-inclusive with respect to children.

Mr. FORD. It is about as broad a program as you can get. It does not zero in on anybody.

Mr. BROOKE. The Senator cannot deny that children are covered here. He also cannot deny that $5.4 million could not begin to do a program of health education for children or anybody else in the country.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. BROOKE. Yes, I am pleased to yield.

Mr. BAYH. If the Senator will permit me, I should be glad to do so at his sufferance or on my own, but I would like to share some very personal thoughts about what we are trying to accomplish.

In my judgment, this is only a drop in the bucket. The solution may well be in the comprehensive program that the Senator from Kentucky is referring to. However, here we are at the tail end of a session. We do not know whether there is going to be any bill or not. I hope there is. But in the meantime, let us put $5 million into this area of education as far as smoking is concerned.

Mr. BROOKE. I ask the Senator, what do we have to lose?

Mr. BAYH. We have absolutely nothing to lose except a lot of lives if we do not go ahead and do something about this No. 1 presentable health problem that is confronting us.

I just look down at the figures here. We are talking in this bill about spending over $3 billion in the National Institutes of Health. We are talking about $925 million for the National Cancer Institute. I want it to be $1 billion and got $950 million. Then the wisdom of the whole committee cut that back to $925 million. We are spending $485 million for heart and lung. And every study we have seen shows that one habit that we have as Americans, that does more to make it necessary to invest the kind of money to try to find out why people are being killed or how we cure people that are ill, is smoking.

Rather than spend all of this money to try to cure people after they are ill, does it not make sense to spend a few dollars to try to break that habit or try to prohibit people from taking up that habit in the first place?

I happen to beleive it is a lot easier to educate people on the basic dangers involved in starting the habit of smoking than it is to go out and try to convince people to stop. Unless you have had to stop, which I have not, you do not really understand how difficult that is.

Rather than quibble back and forth as to whether we are going to try to get people to stop or not, it seems to me the emphasis of this program ought to be toward directing young people, boys and girls, young men and women, not to take up smoking in the first place. We seem to have been shooting maybe 4 or 5 years behind the age group that is most affected. We find in the surveys on teenage girls that most of them start smoking at the age of 13 or 14. It does not do much good to start educating them in high school.

I say to my friend from Kentucky, this is what the thrust of this amendment is designed to do: Get that money into that educational system so we can say, "Do not take up this habit that is causing millions of Americans to die."

I talked about the dollars. The dollars, frankly, are not nearly so important to me as the number of people that are dying. Today, we have more than 100,000 of our citizens that have lung cancer. The studies show that, this year, there will be 98,000 more who will be stricken by lung cancer and 89,000 Americans will die from lung cancer. That is 244 a day. Eighty percent of lung cancer is caused by cigarette smoking. Forty percent of all male cancer, as the Senator from Massachusetts pointed out, is directly attributable to this habit of smoking.

It seems to me, if we are going to be ladling out billions of dollars to save people's lives if they are sick, we ought to be willing to spend a few million to try to create the environment and the conditions that would cause boys and girls not to take up the habit in the first place.

Several Senators addressed the Chair.

Mr. BAYH. I yield. I am operating at the Senator's sufferance.

Mr. BROOKE. Mr. President, if I may, I think I have the floor. The Senator from Kentucky has the amendment, but I think the Senator from Massachusetts took the floor.

Mr. FORD. I will yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, the distinguished chairman of this committee really is a sort of father of cancer research in this country, to his everlasting credit.

Ever since I have been in the Senate, I am in my 12th year, I have been fighting for additional money for cancer research and fighting against the subsidy of the tobacco industry, because I thought it was a ridiculous position for the United States to be spending millions and millions of dollars for cancer research, on the one hand, and subsidizing the tobacco industry on the other.

But it is not only cancer we are talking about. We are talking about heart disease, we are talking about emphysema, we are talking about hypertension. We are talking about all kinds of different related diseases that come from smoking.

One of the problems is, as the Senator from Indiana has well stated it, and I tried to state it earlier, that here we are spending all this money to try to cure cancer and try to improve our treatment of cancer and we are spending practically no money at all to try to prevent cancer. We are spending all kinds of money to try to cure heart trouble and emphysema, and a myriad of other diseases, and spending practically no money at all to try to prevent it. It just does not make any sense at all.

Here we come in with the Presidential request and a House allowance of $1.4 million. It is nothing. It cannot begin to educate the young people in this country, or anyone else in this country, to the dangers of smoking.

I hope the bill that the Senator from Kentucky referred to, that is, from the Health Subcommittee and the Human Resources Committee, will pass the U.S. Senate and pass the Congress. I will be very proud to vote for it. I think it sounds wonderful that that would be true.

But more people die before they would normally die because of disease directly attributable to tobacco usage than from any other preventable cause of disease. The National Institutes of Health has estimated that in 1977 more than 348,000 people died prematurely from heart disease, cancer, and respiratory diseases attributable to smoking.

I could go on with all kinds of statistics. I do not think we need to go into that. But I do want to point out to the Senator from Kentucky that the authorization for this purpose is $6 million in 1980, $8 million in 1981, and $8 million in 1982. So the authorization is already there, for 3 years, for those amounts.

All we have tried to do in the Senate, and I think to our credit, is go up at least to the authorization of $6 million. We did not go above it.

I cannot see for the life of me, what danger it would do, even if the bill the Senator is talking about is going to be passed, and let us pray that it is, or who is being harmed, by increasing this paltry amount from $1.4 million to $6 million.

I would say the answer is resoundingly "no one," and yet there is a possibility that a lot of young people may be saved, and that is the whole purpose for the Senate action.

I hope the Senator from Kentucky recognizes this and withdraws his amendment.

Mr. FORD. Will the Senator yield?

Mr. BROOKE. Yes.

Mr. FORD. Or may I have the floor in my own right?

Mr. BROOKE. Certainly.

Mr. FORD. The Senator from Massachusetts makes this great plea for children again. I agree. There is no question but what I will agree with that. But if we read the language of the bill, it covers the waterfront. It goes everywhere.

He says the $1.5 million would not be enough for the city of Washington, let alone the city of New York. But why not take $5 million and put it in the elementary and secondary education?

Mr. BROOKE. Fine.

Mr. FORD. I will agree to it.

Mr. BROOKE. All right, I will agree to it.

Mr. FORD. All right, we have an agreement.

Mr. BROOKE. We have an agreement.

Mr. BAYH. Mr. President, what I think we are about to do here is to do what most of us want to have accomplished anyhow, to have language, which is presently in the process of being drafted, which will confine the use of this money to the education of boys and girls, young men and women, in the educational process.

It will also permit the study, research programs, sufficient to find out what is the most effective tool to reach these boys and girls and also to determine the impact smoking might have on children in any regard.

We are talking about nailing this down to children.

Mr. MAGNUSON. Mr. President, I thought when this matter was brought up we were talking about kids, the school children. I wanted it limited to that because I thought it would be a very preventive measure, as the Senator from Massachusetts pointed out. That was my general understanding.

If this language is too broad, I hope we can straighten it around.

Mr. BROOKE. Fine. We will work out the language.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the amendment be temporarily set aside until we can work out the language.

Mr. FORD. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, for the sake of time——

Mr. NELSON. Will the Senator yield for a unanimous consent?

Mr. BAYH. I am glad to.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Peter Connolly of my staff be granted privilege of the floor during the course of debate and rollcalls on the pending legislation.

Mr. MAGNUSON. That is No. 47.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, inasmuch as the report is really a document of the committee and is already printed, perhaps my good friend from Kentucky, the Senator from Massachusetts and the chairman would listen to the efforts of the Senator from Indiana.

We might, as part of a colloquy, make this dialog part of the record as to what the report is really intended to mean and for what the money is intended. Let it so show that, at least as far as the Senator from Indiana is concerned, it is designed to permit the Secretary, working in conjunction with the Office of Education and other agencies of the Government including the National Clearing House on Smoking, to develop the most effective smoking education program possible directed at children in the educational system of this country.

Mr. BROOKE. Will the Senator yield?

Mr. BAYH. And in other matters affecting children's health relative to the detrimental aspects of smoking as far as young human beings are concerned.

Mr. FORD. Eliminate detrimental, just say smoking.

Mr. BAYH. The effect smoking will have on the premature death of human beings.

Mr. BROOKE. Will the Senator yield?

Mr. BAYH. Just say smoking.

Mr. FORD. Just say smoking, please.

Mr. BROOKE. I would agree with that language, but I think some protections are what the Senator from Kentucky would want, and since we cannot change the present report language. We have now by colloquy made known what the intent of the Senate is, but we could include it in the conference report.

Mr. FORD. That is it. That is what I wanted to say.

Now, Mr. President, may I have a moment?

Mr. MAGNUSON. I yield to the Senator.

Mr. FORD. Mr. President, I agree with the statement of the Senator from Indiana as it relates to what we want to do with this money. I was about to suggest that if we agree on the colloquy, that if the money is retained in conference, that it will come back with the language in the conference report setting out that this is an additional program for children; that is, it is to be used for research to find a greater or better way in which to get this information disseminated among young people.

So, Mr. President, I do not know what the parliamentary procedure would be except that I would withdraw my amendment.

There is one part of the amendment that I wish to retain, if we are going to stay in the $5 million category, that we retain, that no more than $1 million then would be used in an educational program as it related to the other health aspects because if we are not careful that will be commingled with the $5 million and make it $6 million and it could be then a broad brush.

Mr. BROOKE. That would be perfectly acceptable.

Mr. FORD. May I ask, then, my distinguished colleagues who I assume will be on the conference committee that they make an effort to have the language set out that this money that was added in this bill shall be used in this manner and the balance then used for other programs?

Mr. BROOKE. That is acceptable.

Mr. BAYH. That is acceptable to me, and I must say to my friend from Kentucky, and I think my friend from Massachusetts shares my concern, we will hold hearings in appropriations and on oversight on this. If we are really going to be successful, prevention seems to be the thing. I am for prevention.

Mr. MAGNUSON. I though the matter was settled.

Mr. BAYH. It is. The Senator from Indiana has to get this out of this system, if the chairman will indulge in a moment.

The most important building plant is education. It has to be good health education across the board, comprehensive, somewhat similar to the Berkeley program that not only covers smoking, but nutrition and other aspects of health. I am hopeful after we are through with the authorizing legislation coming along in the areas that the Senator from Kentucky referred to, this will be put together into a comprehensive program of health education.

Mr. FORD. Mr. President, I wish to say to my colleague from Indiana that several years ago we developed probably the finest health and smoking-related research lab in the country. We have some of the finest medical people, scientists, and researchers, in the world there. Dr. Wyatt, who heads up that research institute, is probably one of the most renowned individuals in this country.

Kentucky spends approximately $4 million of non-Federal dollars, just Kentucky dollars, as it relates to research in the smoking and health arena.

One of the greatest fights going on now, which is the best of two worlds, is that the industry itself is reducing the tar and nicotine content in its cigarettes, and recently there was a report that you could smoke *x* number of cigarettes a day and that would be as if you had not smoked any cigarettes at all.

So the industry is doing a terrific job, and I think it should be noted here that the industry itself is doing a tremendous amount of research into the field as it relates to health and smoking.

So, Mr. President, I am glad that we had this agreement, and I will be looking very closely at the conference report when it comes back to see if those aspects that we have discussed here today are included in the conference report.

The PRESIDING OFFICER. Mr. BAYH). Without objection, the Chair will recognize the Senator from Indiana to print in the RECORD a statement on behalf of the Directors of the National Institute of Cancer and the National Heart, Lung and Blood Institute relative to the issue just referred to by the Senator from Kentucky.

Mr. FORD. I hope the Senator will use the words "smoke-related" rather than some positive statements that have been made that might not necessarily be completely accurate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT BY DR. ARTHUR C. UPTON, DIRECTOR, NATIONAL CANCER INSTITUTE, AND DR. ROBERT I. LEVY, DIRECTOR, NATIONAL HEART, LUNG AND BLOOD INSTITUTE

As Directors of the National Cancer Institute and the National Heart, Lung and Blood Institute we reject any inference that scientists now believe the use of less hazardous cigarettes may be considered "tolerable" or safe.

We have reviewed the paper written by Dr. Gio Gori on low tar and nicotine cigarettes. We believe that Dr. Gori's conclusions about low tar and nicotine cigarettes rest on assumptions that have not been proved at the present time.

While some research has tended to show that reduced tar and nicotine reduces the risks of cancer, we do not know with any certainty how much the risk is reduced. Many other substances in cigarette smoke may contribute to the damaging effects of smoking in addition to the tar and nicotine content. To conclude that the risk of smoking cigarettes declines in direct proportion to the extent that tar and nicotine is removed from the smoke is at best premature—and may be wrong—on the basis of our current scientific knowledge. We therefore fear that Dr. Gori's paper may mislead the public.

We are even more concerned about Dr. Gori's assertion that the risk involved with low tar and nicotine cigarettes is "tolerable." Even if we accepted his assumptions, a regular smoker of low tar and nicotine cigarettes could more than double his or her risk of lung cancer or heart disease compared to a non-smoker. We do not find an activity that increases the actual risk of death from cancer or from heart disease by 100% or more to be tolerable.

Mr. FORD. Mr. President, I think it is in order that I withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right.

The amendment is withdrawn.

The Chair thanks the Senator from Kentucky.

Who seeks recognition?

Mr. ROBERT C. BYRD. Mr. President, Mr. Stennis has a defense authorization bill, and I would hope that we could continue to work this evening on the HEW appropriations bill.

I understand there are some amendments that are available to being called up yet today and on tomorrow morning Mr. STENNIS had hoped that he could begin consideration of his defense authorization bill, so as to pave the way for the defense appropriations bill.

There is a time agreement on the defense authorization bill so it should not delay Mr. MAGNUSON overly long on continuing on the HEW appropriations bill.

We could start on it at 9 o'clock tomorrow morning.

Mr. STENNIS. All right.

Mr. ROBERT C. BYRD. And continue with it and hopefully finish it, and then come back to the HEW appropriations tomorrow by which time I would hope that, if we could have a time agreement worked out on the HEW appropriations bill, Mr. HATCH has sought to contact and has contacted Mr. HELMS from North Carolina, and Mr. HELMS has indicated he might be amenable to a time agreement if we could wait until tomorrow.

UNANIMOUS-CONSENT AGREEMENT—DEFENSE AUTHORIZATION BILL

So Mr. President, if it is agreeable all the way around, I ask unanimous consent that tomorrow morning, after the orders for the recognition of Senators—I believe there is one in now and another one coming—after the orders for the recognition of Senators on tomorrow morning the Senate then proceed to the consideration of the defense authorization bill on which there is a time agreement and that upon the disposition of that bill the Senate then return to either the HEW appropriations bill or the paramutual bill on tomorrow.

Mr. FORD. That is fine.

Mr. ROBERT C. BYRD. The Senate has been making good progress.

Mr. MAGNUSON. Mr. President, reserving the right to object, and I shall not object, the Senator from Massachusetts and I jointly announce, so at least it is in the RECORD, that this is a bill of near $250 billion. It is a money bill, and if someone has some amendments to the appropriations or the expenditures, I wish to have them.

Mr. ROBERT C. BYRD. Or anything else, any amendment.

Mr. MAGNUSON. Well, anything else. But the anything else is always legislation, and I do not know why—it is amazing. We spend weeks and days on an appropriations bill on legislation and nothing on the amount of money.

I wish to have some amendments.

The Senator from Massachusetts and I wish to know if we will have proposed either an amendment to cut us or maybe once in a while add something, whether our judgment has been good on $220 or $230 billion.

Mr. BROOKE. We will not get any of those, I imagine.

Mr. MAGNUSON. But no one seems to challenge that or want to even talk about that.

So I hope, if there is any money amendments that they will be proposed.

Now I understand that the Senator from Utah is going to be in touch in the morning with the Senator from North Carolina, and I hope he will persuade him, or he may not be thinking about it, but he has 23 amendments, and I do not think that he really wants to bring them all up. Many of them are not germane. They are subject to a point of order. It just takes up time. But there are some, one or two, that he is deeply interested in, and I understand he wishes to propose them.

Mr. HATCH. Mr. President, if the Senator will yield on that point, the distinguished Senator from North Carolina is interested in some amendments and I have been chatting with him and hopefully he will cut down the number of amendments that he has.

He is going to try to come tomorrow, but if he cannot come, then I will be authorized to present them for him in order to expedite them.

Mr. MAGNUSON. Does he have any money amendments?

Mr. HATCH. Excuse me?

Mr. MAGNUSON. Does he have any amendments relating to the appropriations?

Mr. HATCH. I know of some of them, but I do not know of all of them. So I am not sure.

Mr. MAGNUSON. All right.

Mr. HATCH. But I will do my best, if he cannot come, to either present them or get him to withdraw them.

Mr. STENNIS. Mr. President, if the Senator will yield, and I shall not object, I think that a very wise decision that the Senator from Washington, the leader, and others involved made to give some equal time here to this military bill under which we already have a time agreement on both amendments and final passage.

I believe we can get it out of the way before noon or by noon tomorrow. I believe we can. And then that will pave the way for the appropriations bill which is already partly marked up and everyone will be here. They are notified it is set. We will be ready to go.

I thank the Senator.

Mr. ROBERT C. BYRD. I thank the distinguished chairman of the committee.

The PRESIDING OFFICER. Is there objection to the leader's request?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I hope Senators who have amendments now that they wish to offer to the HEW appropriations bill will come to the Chamber and offer them. The distinguished manager of the bill, Mr. MAGNUSON, and the distinguished ranking minority member, have been very patient today.

Mr. BROOKE. Mr. President, if the Senator will yield, I advise the distinguished majority leader that I know of two that are ready. One is an amendment of the distinguished Senator from Kansas (Mr. DOLE) who presumably is on his way, and then another is the amendment of the distinguished Senator from Oklahoma (Mr. BARTLETT) who should be here within 15 minutes.

Those are the two, and they are both OSHA amendments.

Mr. MAGNUSON. They are on OSHA.

Mr. ROBERT C. BYRD. And probably would require rollcall votes.

Mr. BROOKE. Probably.

Mr. MAGNUSON. For the record, tomorrow we do have to dispose of the abortion amendment and the so-called Eagleton-Biden busing amendment, and then an amendment on impacted aid by the Senator from Maryland, and we want to get it done.

I hope the majority leader's plea that you be here and present your amendment will be heeded, because I am tempted to go to third reading and pass the bill.

Mr. ROBERT C. BYRD. I simply cannot understand why, when Members have amendments, they cannot come to the floor and call them up.

I have one to call up right now. I would also hope that Senators who have impact aid amendments would come to the floor and call them up.

Mr. BROOKE. One is coming.

Mr. ROBERT C. BYRD. One is on his way?

Mr. BROOKE. Senator MATHIAS.

UP AMENDMENT NO. 1916

(Purpose: To add $10,000,000 relating to "black lung")

Mr. ROBERT C. BYRD. Mr. President, I send an amendment to the desk. I have discussed this with the distinguished chairman and the distinguished ranking member.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 1916:

On page 10, line 21, strike out the figure "$711,834,000" and insert in lieu thereof "$721,834,000".

Mr. ROBERT C. BYRD. Mr. President, my amendment would add $10 million for the Health Service Administration, for diagnostic and treatment clinics for victims of black lung.

This program is authorized by section 427 of the Black Lung Benefits Act of 1972 as amended this year by section 9 of Public Law 95–239, the Black Lung Benefits Reform Act of 1977.

This new law, enacted on March 1, 1978, requires that all claims for black lung benefits that have been denied be reviewed. In many cases this will require new medical tests for the claimants. There are not now sufficient medical testing facilities with the necessary sophisticated medical testing equipment to handle the workload that the additional review of all denied claims has created.

The authorizing committee recognized that the reconsideration of thousands of claims would overload the medical facilities of the coalfields and, therefore, reauthorized the program to provide grants for additional black lung clinics.

These clinics also provide treatment to victims of black lung disease. In one clinic there was a 35 percent reduction in hospitalization. Mr. President, whenever we can keep people out of the hospital we are saving money—lots of money.

Mr. President, my amendment will provide additional testing, diagnosis, and treatment facilities for a group of people—coal miners—to whom every person in America who turns on a light switch should be grateful.

I hope that the amendment can be accepted by the distinguished manager and ranking manager.

Mr. MAGNUSON. Mr. President, I have taken a look at this amendment, and I agree with the Senator from West Virginia that the cost of one examination that might prevent hospitalization of one of these coal miners would be 10, 12, 20 times over. If you catch some of these things in the clinic, it is so important to save money in the long run.

Mr. ROBERT C. BYRD. Yes, keep people out of the hospitals.

Mr. MAGNUSON. Yes, keep people out of the hospitals.

If the Senator from Massachusetts has no objection——

Mr. BROOKE. I have no objection. I concur with the chairman.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I thank the chairman (Mr. Magnuson) and the ranking member (Mr. Brooke) for their acceptance of the amendment.

Mr. President, I suggest the absence of a quorum. I would hope the cloakrooms would first try to stimulate a little more action on the part of Senators to come to the floor and call up their amendments. I would hesitate to call up some of those amendments myself, but it is perfectly proper under the rules. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have urged the cloakrooms to diligently pursue the prospect of getting an amendment up. Of course, the offices say the Senators are on their way, but time passes and they are not here for some reason or other. If a Senator is not here in 5 minutes to call up an amendment, I will suggest a quorum which will be live and, perhaps, that will get Senators over. I very much regret to impose on all Senators in order to get a few Senators over to call their amendments up.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BROOKE. It is my understanding that the Senator from Indiana (Mr. Bayh) has an amendment which can be disposed of in 5 minutes or approximately that time. If that is true, will the majority leader have the Senator relieved for the purpose of calling up his amendment, and then after that time, if no one has shown up on the floor, getting to a live quorum?

Mr. ROBERT C. BYRD. Yes. I would be glad to do that. I thank the Senator.

(Mr. PAUL G. HATFIELD assumed the chair.)

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1917

(Purpose: To increase the funding level for the National Cancer Institute)

Mr. BAYH. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Indiana (Mr. Bayh), for himself, Mrs. Humphrey, Mr. Sasser, Mr. Anderson, and Mr. Abourezk, proposes an unprinted amendment numbered 1917:
>
> On page 12, line 10, strike "$925,000,000" and insert in lieu thereof: "$950,000,000"

Mr. BAYH. Mr. President, for myself, Mrs. Humphrey, Mr. Sasser, Mr. Anderson, and Mr. Abourezk. I offer an amendment increasing the level of funding for the National Cancer Institute from $925 million to $950 million in fiscal year 1979.

During consideration of the budget request for cancer research by the Labor/HEW Subcommittee in June, I offered an amendment to provide $1 billion for this important research during the next fiscal year. Although the subcommittee did not agree to my proposal, we did approve a spending level of $950 million for NCI in the coming fiscal year. At the full committee level an amendment was offered to reduce that amount to $900 million and the committee finally agreed to a compromise figure of $925 million. Therefore, the effect of my amendment is to return the funding for the National Cancer Institute to the level approved earlier this year by the Subcommittee on Labor/HEW Appropriations.

Mr. President, the increase proposed by the amendment would only allow NCI to keep up with the effects of inflation. Without the additional $25 million, we will be looking at the potential for cutbacks in vital programs such as cancer prevention including work on the relationship between diet and cancer and investigation of potentially harmful chemicals; and clinical research including limitations on the numbers of clinical trials that can be run to determine the effectiveness of newly developed treatment regimes. We also run the risk of reducing support for a number of important study groups such as one on gynecologic oncology. This particular group is working in a long-neglected area of cancer research and is receiving less than $2 million from NCI. It is vital that such programs continue to be supported, if we are to continue to make progress in finding effective treatment and prevention of cancer.

One of the important avenues for breakthroughs in treatment and prevention comes from investigator initiated research projects. These projects are put through an intensive review by the National Cancer Advisory Board. This Board, composed of non-Government experts, reviews proposals to make judgments as to whether the project is worthy of funding. Last year, the Board approved 1,688 proposals for funding. Of that number only 744 received support from NCI. That means that the NCI has sufficient funds for only 44 percent of the projects judged worthy of support to fight cancer. I ask unanimous consent to have printed in the Record at this point a table showing the distribution of approved grants and the percentage receiving funds in various categories.

There being no objection, the table was ordered to be printed in the Record, as follows:

NATIONAL CANCER INSTITUTE'S FISCAL YEAR 1978 INVESTIGATOR-INITIATED APPROVED GRANTS, FUNDED AND UNFUNDED

Research category	Successfully passed competive review		Awards made		
	Number of grants	Approved (thousands)	Number made	Awarded	Percentage funded
Carcinogenesis	253	$15,329	110	$7,291	43.4
Clinical oncology	60	4,201	27	2,142	45.0
Diagnostic research and prevention	59	4,481	26	2,119	44.0
Drug development	297	17,908	125	8,510	42.0
Epidemiology	33	3,097	20	2,126	60.6
Immunology	358	24,939	160	12,084	44.6
Radiation	105	8,090	49	4,063	46.6
Tumor biology	322	21,512	143	10,611	44.4
Viral oncology	201	14,205	84	7,037	41.7
Total	1,688	113,762	744	56,033	44.0

(Mr. METZENBAUM assumed the Chair.)

Mr. BAYH. While $56 million was spent on these projects, this table shows that grants worth over $57 million were not able to receive any funds whatsoever. Obviously, my amendment for $25 million will not make up that difference, but these figures do illustrate that NCI currently does not have sufficient resources to follow up on projects that are judged to be of high-quality and having potential for important breakthroughs.

I will be the first person to admit that $950 million is a large sum of money to be spent in one institute at NIH. However, this figure is $60 million less than the authorization ceiling approved earlier this summer in the Senate and the National Cancer Institute itself submitted a budget request for $1 billion in fiscal year 1979. As the budget progressed through the Department of HEW and the Office of Management and Budget, the original request was reduced to $878.8 million—an increase of only $11.7 million over the resources available in fiscal year 1978. However, the fact still remains that those scientists who are the most informed about the state of research into cancer prevention and treatment felt that $1 billion was essential in order to continue to make progress in combating this killer of more than 374,000 Americans annually. The pending amendment is $50 million less than the amount judged necessary by this panel of experts.

It is true that the funding level for

this institute has steadily increased over the past years, while at the same time there has been criticism that there is no so-called "cure" for cancer. Part of the dissatisfaction with the progress that has been made may be due to the unrealistic expectations which resulted from the publicity given to the war on cancer begun in 1970. At that time there were significant increases in the level of resources directed toward the National Cancer Institute's research programs, and many people expected that a cure would be found overnight.

That this has not proved to be correct should be no surprise. In any area of scientific research, it is impossible to predict when and how dramatic breakthroughs will occur and this is particularly true in the case of such an extraordinarily complex disease as cancer. Its many forms attack every part of the body and the task of finding successful cures is going to be a tedious and long process. Among other factors, this search is increasingly concerned with the effect our environment and diet have upon the disease. Because this is a long process and will involve the investment of millions of dollars should not deter us from continuing to search for effective treatment and prevention for a disease that is the second leading cause of death in the United States.

Mr. President, I would like, before yielding the floor to my cosponsors of this amendment, to point out two basic facts. Frst of all, to those who say that there has been no cure, that there have been no results to show for the expenditure of all these taxpayers' dollars, I would suggest that they look again.

While no cure has been found for cancer, it is important that we not lose sight of the fact that the money which has been spent in cancer research has produced results. For example, more than 50 percent of children with acute childhood leukemia survive, with treatment, for more than 5 years. In the instance of Hodgkin's disease, 90 percent of the patients with early diagnosis and 79 percent of those where the disease is advanced will survive at least 5 years. One lung cancer team has achieved a 100 percent survival rate for 1 year and another one has achieved a 2½-year survival rate of 85 percent.

However, it is still tragically true that of all Americans now living, 55 million will develop cancer at some point in their lives. That means that cancer will strike two out of every three families. The 1970's will see 3.5 million deaths from cancer and 6.5 million new cases will be diagnosed.

In 1978 alone 700,000 new cases will be diagnosed and about one-third of these cases, or about 233,000 people, will survive with treatment for at least 5 years. However, the figures still show that out of every six persons who are diagnosed as having cancer, two will receive successful treatment and four will die. Of the four who die, one of them could have been saved with earlier detection and treatment but for the remaining three cases there has been no development of appropriate treatment. These figures dramatically illustrate the need for continued research in order to develop treatments for half of those who are diagnosed as having cancer.

Cancer causes great physical and emotional trauma, not only for the patients but for their families and friends. For these reasons alone, I believe it is important to continue our commitment to finding improved treatment and prevention. But there is also an economic argument which indicates that it is false economy not to increase our efforts in cancer research. Figures indicate that the cost of cancer runs about $22 billion per year. This includes cost of hospital care, drugs, doctor bills, and home care. There is also lost productivity and unemployment benefits to be considered in the cost to the Government. We cannot afford this continued drain on our economy.

Statisticians at the National Cancer Institute last year tried to work out how much improved treatment is saving the Nation. These figures showed that the extension of patients' lives through improved therapies is running at least $1 billion a year in economic value. Therefore, at the very least, we are getting better than a 1 for 1 return on our investment in cancer research.

There is no way to predict when cures will be found for all the varying forms of cancer but it is possible to predict that these cures will never be found if this Nation reduces its commitment to fund substantial research on cancer. I strongly urge the adoption of the pending amendment.

Mr. President, the hard, cold bottom line is the fact that we have tens of thousands of Americans living today as a result of the treatment we have made available to fight cancer. What concerns me is that we never know which one of these unfunded projects may hold the answer to that riddle that is still claiming tens of thousands of lives this year.

I think we better continue and press on. The fact that we have had some progress is no reason to lessen the effort but, rather, we should build on the positive results we have achieved and move on expecting to have even more success in the future.

The second factor that I would like to stress relates to the colloquy that we had earlier with the Senator from Kansas and the Senator from North Dakota, both of whom are rightly concerned about the impact nutrition plays on cancer. It also relates to the discussion we had with the Senator from Kentucky about education in the area of smoking. Hopefully, within the year, we will have a comprehensive health education program dealing with all of the habits that American citizens have which relate detrimentally to their health. Good health habits assimilated as a result of an adequate education program, can lead to longevity the likes of which we really only dream of now.

I would like to emphasize that I sense a division in the country. Instead of everybody being willing to wage war on cancer, we are dividing where some people are for research and some people are for nutrition and some people are for studying the environment.

I do not know why it is that if you are for more studies in nutrition and you are for more studies in environments you cannot also be for more studies in the area in developing better scientific research in cancer.

It seems to me we better recognize there is no one single solution to cancer. It is not one bug, one germ, one bacteria, one virus. It is a multitude of different viruses and we do not know what the causes are.

I think we ought to go flat out in every area that holds potential, whether it is a better diet, whether it is a safer workplace, or whether it is turning loose the ingenuity and expertise of our scientists who have already made progress. Let us spend this money so they can make even more progress in the future.

I appreciate the statements of the Senator from Tennessee and the Senator from Minnesota, both of whom have their particular expertise and, unfortunately, their own personal experience in regard to this matter.

Mr. SASSER. Mr. President, I want to join my colleague, the distinguished Senator from Indiana, in cosponsoring this amendment to restore funding for the National Cancer Institute of the National Institutes of Health.

Mr. President, I want to associate myself with the remarks made by the Senator from Indiana. I commend the Senator from Indiana for his efforts to restore funding for cancer research, not just today but for his efforts over the years, Mr. President, in attempting to do all that he could to see that this disease, which indeed is the scourge of mankind, will be eradicated and controlled. I think the statement of the Senator from Indiana today, and his concern over the years, is in the highest tradition of humanitarianism that the Senator from Indiana has associated himself with in his years in the U.S. Senate and during his distinguished career.

It is my feeling that we should not be pulling back on cancer research—we should be pressing forward. The fact is that this Nation is making substantial progress in this area of research. This progress should be recognized and accelerated. That is precisely what our amendment would do, provide additional funds for this much needed effort.

I would like to remind my colleagues that this is certainly a wise expenditure of the American tax dollar. I am convinced and I firmly believe the American people support cancer research. The American people want to see a cure developed for this dread disease. Cancer is the most feared and dreaded disease at this time. I do not believe the American people would want us to cut this program back or prevent it from realizing its potential.

Of course, there are those who oppose increasing this research effort. Some of the opponents point out that the National Cancer Institute receives the largest single appropriation of all the other national institutes. It is true that in the current year the Cancer Institute is receiving 34 percent of Federal appropriations provided the National Institutes of Health. But it is also true that 40 years ago, in 1938, the Cancer Institute received

86 percent and in 1948—30 years ago—it received 50 percent. My point is that we are retrogressing in the percentage of appropriations that goes for cancer research.

Cancer research, in my judgment, and I believe the American people agree with me, should receive a large portion of the health research dollar because the impact of this disease is so deep and so devastating in our society.

Mr. President, if I may be permitted a personal reference, I stand before you today 41 years of age. People of my generation, 1 in 4, if statistics are true, will die of cancer.

I doubt that there is a Member in this Chamber who has not been affected directly or indirectly by cancer. Cancer affects almost every family in America. Almost everyone has had a loved one or friend who has been the victim of cancer. Such a widespread disease deserves a substantial effort if we are to cure it or at least reduce its effects.

I would also like to point out that increased appropriations for cancer research have not deprived other NIH institutes from adequate funding. In 1965, 6 years before the National Cancer Act was passed, the other NIH institutes were receiving appropriations totaling $563 million per year. By 1971 that had increased 56 percent to $879 million. Since the National Cancer Act passed the Congress in 1971, NIH appropriation, excluding the Cancer Institute, has reached $1,684 million. This represents a 91 percent increase since the national cancer law was placed in the books.

I have mentioned, and the distinguished Senator from Indiana has eloquently stated, that progress is being made in cancer research. Today there are 11 types of curable cancers, thanks to the efforts of the National Cancer Institute. I would like to quote from the committee report which accompanies the Labor-HEW appropriations bill:

> Major advances have been made in the treatment and prevention of cancer and many lives are being saved. For example, 75 percent of patients with Hodgkin's disease are surviving five years. In 1969, the five year survival rate was about 55 percent. Another example: more than 50 percent of children with acute childhood leukemia treated at various centers now survive 5 years without disease. In 1969, the five year survival rate was about 10 per cent.

So I say, Mr. President, to those who are saying we are not making any progress with cancer research, and those who use the hackneyed, tired old phrase, "Well, it does not do any good to throw any more money into it," I ask them to educate themselves and to inform themselves and to read these figures.

Continuing the quote from the committee report itself:

> For many forms of cancer, evaluation of new treatment programs requires as long as three to five years. Considering the fact that increased funding for cancer research became available only six years ago, it is remarkable that significant accomplishments can be reported in such a short period of time.

Those words, Mr. President, are from the committee report. I believe they are adequate testimony to the fact that much has been accomplished, and yet, much remains to be done.

Mr. President, I appeal to my colleagues to join me in voting for this funding. We are talking about saving lives, about prolonging lives, about preserving families. We are talking about the most crucial thing that there is: We are talking about life and death. We are talking, Mr. President, about giving some people more time.

Oh, yes, we can talk about and discuss at great length the merits of adequate nutrition and the merits or demerits of nutrition with regard to what effect it has on cancer. That really does not help much those who are walking around now with undiagnosed tumors growing in their bodies at this very moment. That does not help those who have been diagnosed as having that dread disease.

The truth, Mr. President, is that that does not help much of anybody, except, perhaps, little children who, as they grow up, may learn adequate nutrition, whose mothers may teach them adequate or proper eating habits so that they will avoid those foods which might tend to promote cancer.

But that is something very far in the future. My point is that the funds which have been appropriated for cancer research have been well spent. I think this additional funding which the Senator from Indiana is urging will continue the progress which has been made. Quite frankly, Mr. President, considering the magnitude of the task before us and the challenge before us, I think the restoration of the $25 million cut by the committee is certainly appropriate and, I think, a modest amount.

I urge, Mr. President, that the amendment be agreed to.

Mr. BAYH. Mr. President, if the Senator will yield, I should like to express my appreciation for his very perceptive statement. He points out quite appropriately that there are probably close to 200 million Americans alive today who will benefit if we remove the problems resulting from environment and nutrition. However, it is still painfully true that we still lose 374,000 of our citizens every year from cancer. I salute him for his statement and I appreciate it.

Mr. SASSER. Mr. President, I thank the Senator from Indiana for his statement. I express to him once again my appreciation for his efforts in this field.

Mrs. HUMPHREY. Mr. President, I especially want to thank Senator BAYH from Indiana and Senator SASSER from Tennessee for their remarkable statements on this very, very important field of endeavor. I should like to add my statement to that.

Mr. President, with regard to the appropriations for the Departments of Labor, and Health, Education, and Welfare, I urge the Senate to approve a maximum level of funding for research programs in the war on cancer. Any reduction will severely endanger the cancer program and waste a significant part of an investment already made to research. Stop-and-go Federal funding is always wasteful of talent, manpower, and institutions. But of greater significance is the fact that we are dealing with a disease that is the No. 2 killer in this country—cancer.

To decrease the funding would mean reductions to nearly all the National Cancer Institute programs. Among those areas affected would be:

Research and testing of environmental chemicals, nutrition, clinical trials cancer control, and basic search and construction.

A reduction in funding would affect the research involving cancer prevention and the role of fat type and dietary level in the carcinogenic process. It is also becoming increasingly apparent that environmental factors, especially chemicals, are a cause of cancer, and a continuation of research and testing is urgently needed. There is evidence that 70 to 90 percent of cancer is associated with outside factors, including the carcinogenic influence of chemicals in the workplace. If this source of exposure is identified and removed, the danger has been averted.

Another area affected by a reduction in funding would be the studies being conducted on the effect of diet and nutrition and their role in the development, spread and treatment of cancer. The committee in its report expressed concern over the failure of the Institute to put greater emphasis on diet and nutrition as potentially significant links with cancer. In 1976, NCI testified before the Senate Select Committee on Nutrition and Human Needs that 40 percent of the cancers in men and 60 percent in women are nutrition related. I urge, along with the committee's recommendation, that NCI improve this program and use these funds to continue research along these lines.

Of great significance in fighting cancer is the new information that has come from clinical trials dealing with lung cancer, and cancer of the bladder, uterus, and of the head and neck. One type of research which should not be deferred is that of high energy radiotherapy, which may be a highly effective manner of treatment.

Dramatic advances have been made in countering leukemia, lymphomas, and other malignancies which attack children and young adults. Ninety percent of patients with Hodgkin's disease are enjoying long-term survival. Under the age of 45, improvement has been noted in the mortality rate from all forms of cancer. In older age groups, the results are less dramatic, but preliminary findings suggest that encouraging progress may be obtained through the application of chemotherapy as an adjuvant to surgery and radiation in the treatment of more common types of cancer.

A lack of funding would mean that new anticancer agents, such as new drugs, would not be readily available for clinical trials and eventual use in general medical practice.

Another area of research, the study of the growth of cells, provides essential information in cancer detection, diagnosis and treatment research, as well as providing insights into the progress of carcinogenesis useful to cancer prevention.

Throughout the country is a network of comprehensive and specialized cancer centers. These centers are the primary national resource for multidisciplinary cancer research and demonstration of advanced techniques for cancer diagnosis and treatment, and they operate as regional bases for cancer control activities. These centers would be seriously hampered in continuing their efforts if funds were slashed further.

Another area which would be limited by reduced funding is the education portion of the research manpower program. The clinical cancer education program supports improved cancer teaching in schools of medicine, dentistry, public health and in affiliated hospitals. Many students are attracted to oncology and many practitioners learn to use the best available cancer detection, diagnostic and treatment techniques.

I feel that the five reasons I set forth are strong arguments showing the need for retaining a maximum level of funding in a counterstrike and offensive move against cancer. I am fully aware and supportive of efforts to limit Federal spending, recognizing the corresponding tax burden borne by our citizens. But a simple broadax cutting back of funds can be a highly questionable plan. What we must do is determine those priorities that merit the Federal Government's attention and funding. Finding a cure for cancer has been clearly established over the last several years as a major national priority.

Beyond these budget considerations, it can be effectively argued that substantial benefits can accrue to our Nation in overcoming cancer.

For example, in addition to accomplishing improved treatment in Hodgkin's disease, NCI also has a new drug regimen for curing some 2.000 patients a year. This would mean that over the lifetime of these people $600 million would be added to the gross national product and $120 million in tax revenues would be paid.

There is a major challenge remaining before us. Stark statistics show how vast and pervading this enemy has become. For instance, there are 690,000 new cases of cancer per year. There are 385,000 deaths per year from cancer. In 1978 there were 98,000 new lung cancer cases, or 14 percent of all new cases, and 89,000 deaths, or 23 percent of all cancer deaths that year.

We cannot afford to abandon the progress that has been made in reducing cancer mortality. I am clearly aware that there has been some criticism of NCI's procedures of monitoring grants and contracts. However, the NCI has made significant changes in personnel and has reorganized to address these problems. They have, for example, divided the function of review and evaluation of contracts from program management. In addition, changes have been made with regard to review policies and management controls on large contracts.

I suggest to my colleagues that before you make the decision as to whether a maximum level of funding for cancer research should be provided, you should look about you in this Chamber, or think about the many families back home whom you regard as close friends—and then consider the estimate that two out of every 3 families in America today will suffer some form of cancer.

Mr. President, I have had a good bit of hesitation to speak on this subject because it is a very emotional one for me. It is close to me, but Senators will know how I feel.

We have had three experiences with cancer in our family. One was our son, who was 20 years old when he was diagnosed as having Hodgkin's disease. Thankfully, he was cured with the use of cobalt, which now is therapy, and X-therapy. He is still with us and he has a good chance of living a long and full life.

Hubert and I lost his brother. Now we have lost a Senator. There are other Senators we have lost over the years, but we seem to be losing more of them.

I cannot add more than that it is my feeling this amendment should be adopted to the funds already in the bill.

Mr. MAGNUSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I rise with some emotion about this matter because no one has been closer to cancer in their family than I have. I know how many people feel, such as the distinguished lady, the Senator from Minnesota, the Senator from Indiana, and many others in this Chamber, about cancer. I feel very strongly about it.

I have a difficult problem to suggest to my friends who worked so hard with me on cancer, including the late husband of the distinguished lady, the Senator from Minnesota, and many others, in trying to keep the cancer research at a level that we can sustain. If I had my own way, I would surely not only take this amendment, but I might even add something to it because I would rather err on the side of the hope that we might find something along the way because we had enough wherewithal to find it.

But the practical matter is that in the Appropriations Committee there were several members who sort of questioned just what was talked about, the priorities. It is awfully hard for Members of the Senate to agree on priorities and feel that we do not know, that we are probing in the field of cancer. As the Senator from Indiana said earlier today, there are so many forms.

We just do not know where. We are doing the best job on where we can start and see some light at the end of the tunnel.

So we try to do the best we can, without arguing about priorities within the Cancer Institute, within the Institute.

We have upped that amount. I think it is critical that we keep the momentum going, that basic research is the problem in cancer. It is hard to justify basic research.

The Senator from Massachusetts and I had people come up and testify on behalf of the National Cancer Institute. We say, "All right, we recommended so much money, but what have you accomplished, what have you got?"

Sometimes they do not know. We cannot determine the results of cancer research between July 1 and July 1, or October 1 and October 1.

After we finish this in the next few days, if we can establish our next fiscal 1979 program, there may be somebody that will show up in November with something that looks exciting. We try to take care of that with supplementals, the best we know how.

I know it is not a particularly cheering remark to say to someone whose family has been plagued with this, torn with all the agony and the misery of it, that we are making some progress.

It did not happen in a particular case. It did not happen in some other cases. But we are making progress and we are trying to give the Cancer Institute sufficient funds to keep them moving.

The Senate level is $925 million. That is way up, $120 million over fiscal year 1977.

But I think we should keep the momentum going.

All I can suggest is that you put the chairman of this committee in a very emotional problem if you try to say we shoud have more. My heart is with having more. But I think we have to be practical and we try to have the committee do that.

We know where the problems are. They are on priorities. There is always a lot of feuds going on—not feuds—but arguments whether you should do more with this or more with that in the cancer field.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. MAGNUSON. Just a minute.

I simply say that the Senator from Massachusetts, and, the Senator from Indiana, the Senator from North Dakota, and I have been involved in this deeply, as have other members of the committee. To use the expression, we are going to hold awfully tough in the conference.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. BAYH. This is one of the concerns I think all of us have. Of course, my distinguished chairman knows that I was temporarily successful at obtaining $950 million in subcommittee. Now we are down $25 million to $925 million which is $75 million below what that expert panel thought we needed to do the job.

If we are not careful we are going to get ourselves in the situation where those fellows over in the House of Representatives are going to pare off another slice. If so, we are not even going to be able to keep up with inflation, let alone take advantage of some of the new advances and pay particular attention to nutrition, and the problems of environment. How can we guarantee that we get $925 million?

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. BAYH. The Senator from Washington has the floor.

Mr. MAGNUSON. The only guarantee you have is that you and I and the Senator from Massachusetts, and some others I could name are going to hold tough. As a matter of fact, I still repeat that I personally wish to have more. I know of the things that happen between conferences, and I know how they get as much as they can possibly get without losing some. So we are $125 million over 1977 and we are $73 million over 1978. I do not know whether the Senator from Massachusetts will agree with me or not. But why not accept half of this amount, $12.5 million?

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MAGNUSON. And I will fight it out.

Mr. BROOKE. Mr. President, if the Senator will yield, I know I cannot add to what my distinguished chairman has said. I said earlier in the day that, so far as funding by the Federal Government for cancer research is concerned, WARREN MAGNUSON of Washington State is certainly the father of that program. And I would not care to try to add to the eloquent remarks so courageously spoken by my distinguished colleague from Minnesota, Senator MURIEL HUMPHREY.

Ever since I have been on the Appropriations Committee I have introduced amendments for increasing funds for cancer research. As a matter of fact, even this year, I introduced an amendment which would have provided $1,016,000,000 for cancer research, and we had to finally end up with a compromise of $950 million. That is the bare bones, the bottom, that the Institute said that it could use, considering inflation and a genuine continuation of its programs.

I have worked with the distinguished Senator from Indiana, who has certainly been one of the true leaders in this whole fight against cancer and for cancer research, and more recently with the junior Senator from Tennessee (Mr. SASSER) after he joined our Appropriations Committee; he has been a stalwart in this battle; and Senator BURDICK, who has left the Chamber, certainly is always there, and we have many others who are strong supporters of Federal funding for cancer research.

We have others who feel just as strongly, I am sure, about cancer research, but who feel that perhaps we have gone as far as we can go at this time because of financial problems that we face in the country. I know of one Senator who has already asked to be heard in the event that the chairman is interested in accepting all or part of the amendment of the Senator from Indiana. His amendment would add $25 million which would take us to the $950 million which I have already said is about the minimum that is required. But I do know that this Senator I speak of is joined by others who want not only not to increase this funding level but to decrease it substantially. I fear that, if we are to accept all or a part of the amendment of the Senator from Indiana, without any question there would be an amendment offered to cut back on funding from $925 million which we presently have to somewhat less than that.

That offers problems to us, very serious problems of a very practical nature because of the House funding level, and as we know, as practitioners of the art, if we go to conference with a lower level than we have now, we might end up with a funding level which is below the $925 million which we ultimately agreed upon in the Senate Appropriations Committee.

That is a very clear and a very present danger, and I think we should be mindful of that before we accept the Senator's amendment or any portion of the Senator's amendment.

If it were not for that, I would join with my distinguished chairman in accepting the entire amount that is proposed by the Senator from Indiana which would take it up to $950 million. But it is a matter that we should consider very seriously, in all due respect.

We had to notify that Senator, and I understand the Senator is on his way to the Chamber. It may be that he may be persuaded to agree to the amendment of the Senator from Indiana, and if he does I would say hallelujah. If he does not, then we might be in for further debate and a rollcall vote, which I again state very painfully, could result in a decrease from the $925 million which finally was the Senate Appropriations Committee's funding level.

I think that the Senator is in the Chamber and, as I have said, and I think it is only fair to say of the Senator, the Senator himself has always been interested in cancer research. He is one of the most able Senators in the Senate. He serves on the Budget Committee, and I am sure much of his concern is due because of the strong feeling he has about our fiscal responsibility.

I think if we had the money he would probably be very pleased himself to accept this, or even more. But he is here now, and I will let him speak for himself.

I yield to the Senator from Oklahoma, Senator BELLMON.

Mr. BELLMON. Mr. President, I thank my friend from Massachusetts.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. As the Senator from Massachusetts knows, we went into this matter thoroughly and carefully in the Appropriations Committee consideration of the HEW bill.

Our concern is, as the Senator from Massachusetts has already said, that there is a limit to the amount of resources we have available. Appropriations for cancer research have grown rapidly over recent years, and it seemed prudent that we not continue to expand the program more rapidly than the resources could be applied.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, we have had several discussions with the Senator from Oklahoma, who has been a strong supporter of cancer research all the time through the years, and we have some difficulties about this.

There is no difficulty about our desire to do the right thing. We thought that maybe we could take to conference not only the Senate bill, which was $925 million, but would add $12.5 million of the proposed $25 million amendment. If the Senator from Indiana would modify his amendment in that respect—

Mr. BAYH. I would be glad to modify my amendment.

Mr. MAGNUSON. The amount to be $937.5 million.

Mr. BAYH. That is right.

The amendment, as modified, is as follows:

> On page 12, line 10, strike "$925,000,000" and insert in lieu thereof: "$937,500,000."

Mr. BAYH. If the Senator has no objection, Mr. President, I ask unanimous consent to have the Presiding Officer, the Senator from Ohio (Mr. METZENBAUM) be a cosponsor.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. Without objection, it is so ordered.

Mr. MAGNUSON. We also thank the Senator from Oklahoma who has been trying to do—all of us have been trying to do—the right thing. This is a very sensitive, delicate subject that sometimes we feel maybe we ought to err on the right side. If it does not work out, then—I would hate to err on the wrong side against this dread disease.

Mr. BROOKE. Mr. President, for the minority, I would also like to commend Senator BELLMON because I said prior to the time he came into the Chamber I knew his only concern was that of the fiscal responsibility of this Congress and it has always been his concern, and I am sure it will always be his concern during his distinguished career in the U.S. Senate.

I want to thank him for understanding this matter and agreeing not to push an amendment to reduce cancer funding but to accept a compromise here of $12.5 million. For the minority I accept the amendment, as modified, of the distinguished Senator from Indiana, as cosponsored by the distinguished Senator from Tennessee (Mr. SASSER), by the distinguished Presiding Officer, the Senator from Ohio, and the distinguished Senator from Minnesota (Mrs. HUMPHREY). And since, as I said, I had offered an amendment in committee for $1.016 billion, I ask unanimous consent that I be added also as a cosponsor to the amendment, as modified, of the distinguished Senator from Indiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment, as modified, of the Senator from Indiana.

Mr. MAGNUSON. I hope I can be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, has the amendment been agreed to?

Mr. BAYH. Mr. President, will the Senator permit me just to say one word before we change the subject matter? I would like to thank the distinguished manager and the distinguished ranking member, the guiding light, Senator BROOKE. It is a tough battle sorting out priorities. We had a dialog earlier about nutrition. The Senator from Kansas is here. We have expressed our concern about doing something in this area, and the environment, and we appreciate more than we can say the understanding and the willingness of the Senators involved to cooperate with us.

Mr. BROOKE. I do not think the amendment was adopted.

The PRESIDING OFFICER. Does the Senator from Oklahoma wish to say something?

Mr. BELLMON. I would simply like to thank my friends from Massachusetts, Washington, and Indiana for what has been said here. I think the amendment has been reasonable and will take care of the need for research in this area.

I would like to say we are all eager to provide all the funds necessary for cancer research in line with the limitations we have on spending.

But there has been some concern that some programs have been suffering for lack of research funds while others have perhaps been overly funded, and we want to be certain that these moneys are well utilized. That was my concern, and I am glad to see this problem now resolved.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BELLMON. Mr. President, on another matter, during full Appropriations Committee markup, I proposed language which is designed to correct a situation which threatens continued existence of small community and specialized children's hospitals. This language was accepted by the committee and is thus part of the legislative history of the bill now before the Senate.

The problem addressed by this language stems from regulations which limit reimbursement under titles XVIII and XIX of the Social Security Act for hospitals not designated as sole provider institutions.

The 1972 Social Security Amendments (Public Law 92-603) provided that hospitals be reimbursed for reasonable costs for services to medicare and medicaid patients. HEW has implemented this provision by publishing ceilings for hospitals of different classifications. Section 223 of this act expanded upon the concept of reasonable costs and provided for limitations on the amount of reimbursement when a provider of services furnished items or services in excess of or more expensive than necessary in efficient delivery of quality care. Clearly, the purpose of this reimbursement limitation, as outlined in the report of the Committee on Finance which accompanied this legislation was to preclude payment for luxury, unnecessarily expensive services—services not generally considered necessary for efficient provision of appropriate care. As indicated in the committee report:

> Where the high costs do in fact flow from the provision of services substantially in excess of or more expensive than generally considered necessary to the efficient provision of appropriate care, patients may nevertheless desire such services. It is not intended that patients who desire unusual services should be denied the services. However, it is unreasonable for Medicare and Medicaid to pay for it.

The committee also recognized, Mr. President, that individuals often have limited choices in their selection of hospital facilities because only one institution is readily available for their use. Thus, provisions were made for individual hospitals to be designated as sole community providers. The reimbursement limitation—that is, the HEW reimbursements ceilings—did not apply to institutions with this designation. It should be emphasized that the committee intended that this designation would normally apply to any institution which represents the only hospital in the community. This is clear from the following language taken from page 183 of the Finance Committee's report on Public Law 92-603:

> The Committee expects that the provision (reimbursement limitation) will not be applicable where there is only one hospital in a community—that is, where if the provision were applied, additional charges could be imposed on beneficiaries who have no real opportunity to use a less expensive, nonluxury institution, and where the provision would be difficult to apply because comparative cost data for the area are lacking—the Committee recognizes that these provisions will apply to a relatively small number of institutions.

It is clear from the record, Mr. President, that the Congress did not intend to preclude sole provider status to a large number of institutions and that the primary objective in establishing reimbursement limitations was to prevent excessive utilization of luxury or unnecessary and expensive services. Implementing regulations as promulgated and administered, however, have created serious financial problems for many small community hospitals. These hospitals are located primarily in underserved, low-income areas, and as a result, depend upon medicare and medicaid for a large percentage of their revenues. Unlike large community hospitals, they cannot compensate for inadequate reimbursement by shifting costs to private patients and other third-party payors. Small community hospitals also typically have large fluctuations in patient loads and, consequently, per patient costs can vary greatly from month-to-month or even year-to-year. I am convinced that the Congress did not intend to penalize small community hospitals because they serve the needy or because of unique problems related to large fluctuations in the demand for care.

Mr. President, these hospitals are essential for many medically underserved communities. Physicians generally will not establish practices in communities without access to readily available hospital facilities. Currently, there are over 145 counties in the United States without any physicians or medical services. This has changed very little during the past 20 years despite massive Federal expenditures for expansion of medical schools, loan and grant programs to medical students, and the National Health Services Corporation. Only 7.3 percent of the physicians in the United States serve nonmetropolitan areas which contain over 17 percent of the population. Loss of community hospitals will mean that the millions of dollars spent to encourage better geographic distribution of health care will have been wasted. Ironically, it will also result in patients being forced to obtain care at hospitals located a considerable distance from their homes, with these hospitals often being approved for much higher reimbursement rates.

The report language which I requested and which is part of the legislative history of this Labor, Health, Education, and Welfare appropriation bill, is designed to assist these small community hospitals and to insure that the implementing regulations for section 223 of the Social Security Act are consistent with the original intent of the Congress. The language instructs the Secretary not to interpret the sole provider exception so as to preclude payment of full costs to short-term, acute-care hospitals which represent the only hospital in the community or to children's hospitals which constitute the only such facility in a metropolitan area. The Secretary may limit reimbursement to these institutions, however, if he finds that excessive costs are due solely to luxury or unnecessarily expensive services or services generally considered as unnecessary for efficient provision of appropriate care.

This language implies that any institution which constitutes the only hospital in a community or which represents the only specialized children's hospital in a metropolitan area (SMSA) would normally qualify for sole community provider designation. As such, it would be eligible for reimbursement for full costs except those costs which the Secretary determines to be due solely to luxurious, unnecessarily expensive, or inappropriate services.

It may be argued, Mr. President, that this language will increase costs to the medicare and medicaid programs. This might be true in the short run, as some institutions will become eligible for higher rates of reimbursement. I emphasize, however, that the impact upon total expenditures is likely to be relatively small. For example, according to HEW figures, there are approximately 2,223 nonmetropolitan hospitals with less than 4,000 annual admissions. These constitute about 38 percent of the total number of hospitals but account for only 7 percent of total spending for all community hospitals. Thus, 93 percent of the total expenditures will be relatively unaffected by this language.

As I have already indicated, I am convinced that in the long run, preservation of local, small hospitals will actually save money. Despite large variations in patient loads, costs in these facilities tend to be lower than those in larger tertiary facilities. Thus, if these small institutions are closed, patients will have to be transferred to more expensive institutions. I have a table which compares the costs of a group of small community hospitals and the closest referral hospital in my State and ask that it be inserted in the RECORD at this point. The data in this table show that total costs for patient care would have increased by $7.3 million in fiscal year 1976 if patients had been treated in the nearest referral hospital. This includes only cost increases due to differences in hospital per diem rates and do not take into account other possible higher costs due to transportation, greater intensity of services in the larger hospital or complications resulting from delays in getting access to care.

I am convinced, Mr. President, that failure to preserve the small community hospital will not only result in further deterioration of services to underserved areas, but will also in the long run, increase the costs of care. I urge that this language be retained in the bill and that the Senate conferees insist upon the Senate language when the bill goes to conference with the House.

Mr. President, I ask unanimous consent that the table to which I have referred be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—COMPARISON OF OKLAHOMA HOSPITALS, BASED ON TOTAL PER DIEM COSTS OF RURAL HOSPITALS AND MOST LIKELY REFERRAL HOSPITALS

Hospital	Title XIX per diem	Referral hospital	Title XIX per diem	Difference	DISRS title XIX days	DISRS title XIX increased cost	Title XVIII days	Title XVII estimated increased cost
Newman Memorial	$166.41	High Plains	$169.57	$3.16	236	$745.76	22,268	$70,366.88
Okmulgee Memorial	151.63	St. Francis	181.56	29.93	3,397	101,672.21	54,245	1,623,552.85
Stillwater Municipal	141.45	Hillcrest	169.36	27.91	1,415	39,492.65	40,532	1,131,248.12
Nowata General	101.12	Jane Phillips	127.93	26.81	524	64,551.56	22,204	595,289.24
St. Joseph (1976)	118.83	St. Mary's	123.19	4.36	2,025	8,829.00	23.470	102,329.20
Community—Elk City	108.33	Clinton	139.93	31.60	1,148	36,276.80	5,536	174,937.60
Healdton Municipal	101.95	Ardmore Advent	118.89	16.94	916	15,517.04	5,179	87,732.26
Latimer County	99.43	McAlester	105.12	5.69	538	3,061.22	22,544	128,275.36
Cordell Memorial	131.73	Clinton	139.93	8.20	110	902.00	5,536	45,395.20
Carnerie Tri-County	103.02	Anadarko	115.29	12.27	579	7,104.33	3,521	43,202.67
Fairfax	127.09	St. Joseph	145.23	18.14	441	7,999.74	15,178	275,328.92
Perry Municipal	110.11	Stillwater	141.45	31.34	140	4,387.60	11,028	345,617.52
Seminole Municipal	125.18	Shawnee	128.47	3.29	579	1,904.91	18,738	61,648.02
Okfuskee Memorial	133.85	St. Francis	181.56	47.71	458	21,851.18	54,245	2,588,028.95
Total						304,662.31		7,272,942.69

UP AMENDMENT NO. 1918

(Purpose: To promote the increased use of State Safety Consultation programs)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) on behalf of myself and Mr. SCHMITT, Mr. YOUNG, Mr. CHURCH, Mr. LUGAR, Mr. HATCH, Mr. WALLOP, and Mr. ZORINSKY, proposes an unprinted amendment, numbered 1918:

On page 8, line 7, before the period insert a colon and add the following:

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 7, before the period insert a colon and the following: "*Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such was identified either by the aforementioned consultant, or by any other person the employer consults subsequent to the receipt of the written report from the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained by such consultants or any person"

Mr. DOLE. Mr. President, the amendment I am proposing, I think, is in line with current thought about the Occupational Safety and Health Administration. Everyone agrees that the Occupational Safety and Health Act should insure that American workers have safe places to work. The Government, employers and employees must cooperate to make Americans' workplaces the safest in the world.

The bill before us takes several steps to make the administration of OSHA laws less offensive to most businessmen and thereby more workable. The bill, in both the House and Senate Appropriations Committee versions, exempts from coverage under the act farms with 10 or fewer employees. This is an exception for which the Senator from Kansas has long pushed and fully supports.

The present language of the bill also restricts the imposition of penalties in first instance violations. This will provide businesses which are cited for minor violations some monetary relief. I might add, it has long been the contention of this Senator that it is not a revenue-raising measure in any event; it is supposed to be for the purposes of insuring safety and health.

No penalty may be assessed in the first instance unless 10 or more violations are detected. I believe that this amendment goes part of the way in encouraging voluntary compliance by employers, but does not go far enough.

I understand there has been some staff discussion about some way to compromise differences concerning the amendment I am offering, which would encourage use of State consultation programs. If an employer uses a State consultation service and complies with the recommendation, OSHA can later require correction but not fine the employer. The employer would have to meet three tests. First, the employer must voluntarily request consultation under an OSHA-approved plan. Second, the consultant must have examined the condition or area. Third, the employer must make a good faith effort to correct the violations noted in the consultant's report.

The cornerstone of a worker's safety program must be voluntary compliance by the employer. Yet, OSHA regulations take up 1240 pages in the Code of Federal Regulations. It is obvious that the normal employer cannot understand all the requirements that the law imposes on him.

What I propose is increased consultation through which the owner of the business would have a better opportunity to voluntarily comply. It has been my observation that he would much rather do this than to have some Federal bureaucracy penalize him after he has done everything to identify his shortcomings and acted to correct them.

In the process of voluntary compliance, State consultation programs are essential. As Dr. Bingham, head of OSHA, stated in announcing higher funding levels for State programs:

> Voluntary compliance with OSHA's program is essential to the realization of an American work environment free from dangers to our workforce. The new consultation program will promote employer efforts leading to safer workplaces and better protection for America's workers. I view on-site consultation as another indication of OSHA's "commonsense" approach to its regulatory responsibilities.

The whole idea of this amendment is that we already have State consultation systems that should be used by more employers. Since every successful businessman has at least a basic concern for a healthy and safe working environment for his employees, the great majority of those citations result simply from a lack of knowledge and understanding regarding the maze of OSHA regulations and requirements. OSHA has repeatedly emphasized the importance of State consultation programs to fill the gaps in OSHA inspections.

The way to address this problem is to improve the process by which every employer may become better informed about what constitutes a safe and healthy working place for his particular business. This can only be accomplished effectively in a spirit of cooperation and advice—not by heavy-handed and sometimes overbearing and authoritative chastisement and retribution—and that in turn calls for meaningful education and consultation.

What we are saying is that OSHA can never really reach its ultimate goals without the element of acceptance on the part of those subjected to its numerous and complex standards. By changing the thrust of the law's implementation to encourage voluntary compliance, therefore, we can realize much greater progress toward fulfillment of the Occupational Safety and Health Act's very purpose.

Smaller-sized employers have a greater burden in trying to achieve full compliance with the act. For the smaller employer, economically unable to afford the specialized talents of safety and health consultants, onsite consultation may be the only way to secure assistance in meeting health and safety standards. The current situation where a compliance inspection is the only onsite contact an employer may have with OSHA experts merely emphasizes the punitive nature of OSHA rather than its stated goal of achieving greater safety in the workplace for all employees.

All OSHA approved consultation plans are required to give first attention to the requests of smaller businesses. The OSHA regulations are very specific. "Priority shall be assigned to requests from smaller businesses, based on their number of employees, with emphasis on those workplaces of a highly hazardous nature." (29 C.F.R. § 1908.4(c)).

The primary beneficiaries of this amendment would and should be small businesses. Larger corporations can afford to employ outside experts to inspect their premises. OSHA has correctly focused its consultation support on small business. The Senator from Kansas feels strongly that OSHA should strictly follow these regulations when the pending amendment becomes law.

It should be noted that President Carter himself has said that we need more emphasis on consultation, education, and information. OSHA has committed itself to developing a "well-trained, highly qualified cadre of consultants." (Federal Register) vol. 42, No. 158, August 16, 1977).

The relationship between the employer and OSHA would not change. If the employer does not make the necessary efforts to correct the situation he will be liable and may still be fined. The incentive provided by a fine would be in full force when it would serve a useful purpose.

I am convinced, Mr. President, that advice and assistance are the key to having any Federal program work. If we are to have an Occupational Safety and Health Act, it should be administered in just such a spirit. I hope that increased attention by OSHA to consultation which would be made possible by this amendment will be a significant contribution to the goal which we all seek: A safer working environment for all Americans.

Mr. President, I think, to understand what the Senator from Kansas proposes to do, it might be helpful to read the amendment. It says very simply that—

> None of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such was identified either by the aforementioned consultant, or by any other person the employer consults subsequent to the receipt of the written report from the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained by such consultants or any person.

That, in essence, is the amendment. It is not offered in any way to hinder progress being made by OSHA, it is instead offered in the spirit of trying to respond to some of the legitimate requests from small businessmen and women all over this country who feel overtaxed and overregulated. There are numerous indications across the country that reflects an American attitude that says; "We have had enough."

The Senator from Kansas has been involved in marking up the tax bill all day, and I understand there has been some staff consideration. I would hope that the amendment might be accepted. I reserve the remainder of my time.

Mr. WILLIAMS. Will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. WILLIAMS. Mr. President, this amendment would greatly complicate the administration and enforcement of the Occupational Safety and Health Act and it would provide little in increased protection of workers. I listened to the Senator from Kansas as he indicated his strong support for the basic purposes of this act. I know that he is conscientious, and I know he is concerned for the safety, health, and well-being of the working population of this country. This was demonstrated by his support for legislation which is now being developed in the Human Resources Committee which would bring minimum Federal standards to workmen's compensation protection in this country.

I know his sincerity.

However, this particular amendment I find pernicious and, indeed, unnecessary for many reasons. Also, it would be inappropriate as a legislative act on an appropriation measure.

I know that the Senator's amendment last year dealt with the basic subject matter here. I know that it is his desire to enable business people to understand what is required of them under the Occupational Safety and Health Act and the regulation.

(Mr. STONE assumed the chair.)

Mr. WILLIAMS. Throughout the history of the implementation and enforcement of the Occupational Safety and Health Act, we have heard consistent complaints that small businesses just do not have the resources to understand their obligations under the law, and must avail themselves of the consultation and advice in order to know what to do.

Well, I believe that small businessmen, indeed, do not want to run unsafe shops and plants. And the Congerss and OSHA have responded to this problem of small businesses. Last year's conference report on the Labor/HEW appropriation directed the Secretary of Labor to:

> Develop a detailed plan for providing mandatory consultation services to all small businesses in all States and the territories and submit it to the House and Senate Appropriations Committees.

OSHA has responded to this directive, and in fact, has gone further, and has commenced implementation of this consultative program.

Currently, 39 States provide onsite consultation through programs under section 7(c)(1) or 18(b) of the act. Seven additional States have submitted plans for onsite consultation through the 7(c)(1) program, which are in the process of being approved by OSHA when funds are available. Funds are made available in this bill. OSHA is currently analyzing bids for contracts to provide onsite consultation by contractors in the remaining nine jurisdictions.

In fiscal year 1978, OSHA spent $11,500,000 for consultation through the 7(c)(1) program alone. I think out there that represents a significant contribution to the effort recommended by the Senator from Kansas.

But, it is important to note that consultation is not provided by employees of OSHA. Consultation is provided by employees of the States or by OSHA's private contractors. Strict OSHA guidelines require that consultation personnel be separate from enforcement personnel. Consultation personnel have no enforcement responsibility.

In other words, consultation in those 39 States is available whether they are operating under a State plan or under the Federal program. Consultation will soon be in place throughout the country.

The trouble with the amendment, as I see it, is that it would prohibit a civil penalty where an employer is found to be in violation of the act. We have for the past 2 years, in the appropriation bill, and in this bill, again, prohibited a civil penalty where the employer has demonstrated reasonable compliance with the act by not having more than 10 nonserious violations. The thrust of past efforts has been to reward the employer who substantially complies. The thrust of this amendment is to reward the employer who does not comply—who is found to have violated the act.

I cannot understand the reason for this sudden and dangerous departure. The argument in support of this amendment as I understand it, is basically that if an employer relies on a consultant, and makes significant expenditures to conform to the consultant's advice, that employer should not be assessed a penalty if that consultant's advice turns out to be wrong, or incomplete, or inadequate to bring the employer into compliance with the OSHA Act or the standards.

But there is a logical inconsistency in this reasoning, Mr. President, and for this reason the amendment should be defeated:

First. The consultant is not OSHA's agent. He or she is not even an OSHA employee. The consultant has no enforcement responsibilities, and there is no reason why OSHA enforcement personnel should be bound by the advice given by a consultant who is not OSHA's agent.

Second. The amendment rewards the employer who has not complied with the standard. This is not a means of increasing compliance with the act or even of improving the quality of consultation service provided by the States.

Third. There is just no evidence that the OSHA consultation is inadequate, and there is no way that this drastic upheaval of the OSHA enforcement scheme can improve the quality of consultation.

Fourth. And most important, the amendment ignores the basic concept of OSHA, that it is the obligation of the employer to furnish a safe and healthful workplace and that it is the obligation of the employer to comply with the standard.

OSHA can provide consultation, OSHA can provide educational services. OSHA can provide technical assistance, but the basic fact is that it is still the duty of the employer to provide a safe and healthful workplace. The statute does not impose that duty on OSHA, it does not impose that duty on the States, it does not impose that duty on the consultants.

Providing a safe and healthful workplace and complying with the OSHA standards is solely the duty of the employer. This amendment allows him to slough it off on someone else. Employers should not be able to shift their statutory responsibilities to consultants. Employers must be able to, should be required to, exercise their own judgment in running their own businesses.

The Senator from Kansas, and the proponents of this amendment argue that it will improve workplace safety by encouraging greater use of and reliance on consultation services. But, Mr. President, this begs the question of who shall ultimately be responsible for complying with OSHA standards and who is ultimately responsible for providing safe and healthful workplaces.

I think that we should encourage employers to use the consultation which is provided at considerable expense. But consultation is intended to enable employers to understand what they must do to meet the requirements of the standards. It is not and never was intended to be a substitute for compliance with the standards.

It is the obligation of our citizens to comply with the law. They can seek technical assistance and advice from all the experts available. But they cannot escape their responsibilities by seeking advice.

A taxpayer has the duty to file his returns and pay the taxes. He may seek the advice of an accountant or a tax lawyer, but even if he follows that advice, he is still responsible for paying his taxes. If he receives bad advice, it makes no difference, he must still pay the tax which is due.

The same rule should apply for OSHA's standards. An employer is obligated to comply. He may seek advice on how to comply, but in the end, it is his duty to comply.

We cannot take the employer off the hook just because he sought the advice of a consultant, just as we do not take the taxpayer off the hook, because he sought the advice of an accountant.

This amendment represents a fundamental departure from the way we enforce our laws, a dangerous departure. I strongly suggest that the Senate should not take this course.

Mr. President, I have been searching, trying to find somewhere in law any approach similar to this and could find none. I could identify no other Federal law, the enforcement of which is deferred to the activity of nongovernmental consultants.

I say, Mr. President, that this amendment is subject to a point of order as legislation on an appropriation bill. I should like to cite the reasons for stating that.

A prohibition on civil penalties in such a situation would amend the provisions of section 17(b) of the act which states that penalties "shall be assessed" for serious violations. Specifically:

> (b) Any employer who has received a citation for a serious violation of the requirements of section 5 of this act, of any standard, rule or order promulgated pursuant to section 6 of this act, or any regulations prescribed pursuant to this act, shall be assessed a civil penalty of up to $1,000 for each such violation.

A requirement that penalties be waived or reduced would amend the provisions of section 17(j) of the act which section establishes the criteria for the assessment of penalties by the commission: To wit:

> (j) The Commission shall have the authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, and the history of previous violations.

In either case, this amendment would amend the act by imposing an additional duty on OSHA, not assigned to it by the act—that OSHA determine whether a reasonable effort had been expended by the employer.

That is the affirmative legislative change that is required under this amendment; therefore, it is legislation on an appropriation bill and is subject to the point of order.

It also requires an independent judgment by an official as to whether he will perform his statutory duty, a judgment not required by the Occupational Safety and Health Act. I know that the most distinguished chairman of the Committee on Appropriations recognizes this as legislation on an appropriations bill. I suppose it has been done on occasion here. This is not the occasion for it. I suggest to my dear friend, the most able and distinguished Senator from Washington. I do it because we know the problems of OSHA. The intent of this whole effort was to make the workers live safe and healthier. The whole administration of that most laudable effort legislated here got off to a rocky, rocky start, we all know. It is only now beginning to catch up to the realization of what need be done to make life safer and healthier through this Act.

We did appropriate money for consultation; over $11 million has gone into it. That has made, is designed to make, enforcement better through the better understanding by businesses of what is required of them. I say that we would be better off continuing down the road that the Senator from Kansas wisely, I now say, took us, down the road of consultation. All of the States will be in on it very shortly. The business community will be better for it. They will know what is required of them.

It has been my experience that they want to do the right thing—not only the lawful thing, but the thing that will be better business for them: provide a safe place and now, increasingly, a healthier place for their workers. It is good business. This will throw roadblocks in front of the effectiveness of our program.

On its merits, I disagree with it. On its posture, I believe it is out of order under a point of order. I do not know whether the Senator from Washington has anything to say on that or not.

Mr. DOLE. Will the Senator withhold the point of order?

Mr. MAGNUSON. Mr. President, this is legislation on an appropriation bill, and, although I may agree with some of the premises of the Senator from Kansas on this matter, I do not know how to attack some of the abuses of OSHA. I think the Senator from Kansas did last year, and I believe I supported him, when we developed a mandatory consultation service program, which will be in operation in all States by the end of October.

I think that program should have a chance to demonstrate its effectiveness before a different approach is attempted. Therefore, I think it is unnecessary to have, although the idea may be good in some cases; I still think this is legislation on an appropriation bill. I shall join with the Senator from New Jersey in making the point of order.

I withhold that until the Senator from Kansas has a chance to reply.

Mr. DOLE. I just want to say that in the last year an amendment was offered by the Senator from Kansas and others that required consultation before a fine could be imposed, except on local violations. That amendment received 67 votes in this Chamber. The proposal this year is a large step backward. It simply says that the employer, first of all, has to meet three tests: He has to request a consultation under an OSHA-approved plan; the consultant must have examined the condition in question; and the employer must make a reasonable, good-faith effort to correct the violation noted in the consultant's report. Of course, fines can always be imposed for willful repeated violations and violations which pose an imminent danger. We do not change that at all.

Under the regulations of the assigned priority to small business, consultation will be through an OSHA-approved plan. Despite the fact that it may be a private consultant, it is still approved by the administration.

It seems to me that this is a recognition that perhaps last year, we may have gone a little too far, though 67 Senators did not think we had gone too far. We are not suggesting now that before there can be any fine, there has to be a consultation. We are suggesting that if you meet these three tests, then you ought to have that opportunity. It seems to me that if the employer meets all three of these requirements, we should not be spending money under this program for the imposition or assessment of any civil penalty for the violation or alleged violation of any standard, rule, or regulation, unless they are willful, repeated violations, or might pose imminent danger. If they have done all that, I think perhaps we ought at least to suggest that they are trying to get along.

Certainly, I agree totally with the Senator from New Jersey. I do not question for one moment his total commitment in trying to make everything work well and providing for the health and safety of the American working man and woman.

I do not know of anybody who would suggest that we do something that would expose anyone to danger. I believe the Senator from Kansas understands the necessity for that. But it would seem to me that we are making progress, and this would add to that progress.

I would hope the point of order not be raised. If it is raised, I would suggest I would raise the question of germaneness on the point of order against the amendment.

The legislation in this amendment was done by the House. My amendment simply extends the language already in the bill. I do not think, under those conditions, it is subject to a point of order.

Mr. MAGNUSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered..

Mr. MAGNUSON. I yield to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

UP AMENDMENT NO. 1918 (AS MODIFIED)

Mr. DOLE. Mr. President, I modify my amendment and send the modification to the desk.

I might say that what we have done is to limit the application of this to 10 or fewer employees, and put "serious" before "willful," also eliminated certain other language in the last 4 lines that was objectionable. I think on this basis the amendment would be acceptable.

The PRESIDING OFFICER. The amendment will be stated.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the amendment now be read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. The Senator has explained it.

The amendment is as follows:

On page 8, line 7, before the period insert a colon and the following: "*Provided further*, that none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of 10 or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under Section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to Section 7(c)(1) or Section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained by such consultants.

Mr. MAGNUSON. I think what he has done is to help with better enforcement of this. There have been so many abuses, I would be willing to accept this amendment, because I think it shapes up what we all intended by this and not a bunch of regulations to bother everybody working together to get a safe working place. Is that not it?

Mr. DOLE. That is right.

Mr. MAGNUSON. And that is what we have in mind.

Mr. DOLE. I appreciate it.

The Senator from Kansas could pursue this. We could have two or three rollcalls and might not succeed. I think we would.

But I certainly have every confidence in the Senator from New Jersey and the efforts his committee is making, along with the distinguished floor managers of the bill, the Senator from Washington and the Senator from Massachusetts.

It is not my intention to somehow thwart their efforts here, but to make it more workable.

Hopefully, now this would remain in conference. I know the Senators cannot underwrite that, but we have modified it. I think it is acceptable to Senator WILLIAMS.

Mr. WILLIAMS. Yes.

Mr. BROOKE. Mr. President, in view of this compromise, I want to commend the distinguished Senator from Kansas for working this out with the chairman of the Human Resources Committee who has authorizing jurisdiction over this legislation.

It certainly would avoid, as the Senator from Kansas said, many votes, and though he presumed, and he may be right, that the Senate may have adopted it, I think this compromise is in the best interests of all concerned.

Since the chairman has agreed to accept it, I would be very pleased to accept it, and I so move.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

So the amendment (UP No. 1918, as modified) was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, we were hopeful tonight that we could vote on some amendments. The Senator from Oklahoma has a further amendment on small business as it relates to OSHA. I do not see him here.

Mr. BROOKE. Will the chairman yield?

Mr. MAGNUSON. Yes.

Mr. BROOKE. We put a call in for the Senator. The Senator was getting a treatment. If he is up to it, he will press it tonight.

Mr. MAGNUSON. I think rather than pressing him to do that, maybe we ought to have his amendment up tomorrow.

Mr. BROOKE. If that is agreeable to the chairman, I would be very pleased to.

Mr. MAGNUSON. We understand his problem. I think it would be unfair to ask him to come over tonight and talk about it.

But I may suggest to other Senators, as far as I know, this is all we will have to do tonight on HEW. But, as the majority leader stated, we will begin at 9 o'clock in the morning to take up the Defense authorization bill.

Mr. BROOKE. Yes.

Mr. MAGNUSON. There is a time limitation on that of 4 hours.

So then we will go back, presumably, at 1:30, on HEW.

Mr. BROOKE. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. BROOKE. Mr. President, with the Senator's agreement, I would like to make a unanimous consent request that when the Senate returns to Labor-HEW appropriations bill on tomorrow next, that the amendment of the Senator from Oklahoma (Mr. BARTLETT) be pending business at that time.

Mr. MAGNUSON. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, I want to make the RECORD clear, I understand we still have the same agreement on the so-called gas pricing conference report, because I would say to my distinguished colleagues that there may be a motion to recommit that bill offered tomorrow, and I am not certain how long it might be discussed before there is a vote.

Mr. BROOKE. If the Senator will yield, Mr. President, it is my understanding that at any time that that deregulation bill motion can be called up, it would take priority. So this unanimous consent I have made would not affect it.

Mr. MAGNUSON. This is the gas conference report.

Mr. DOLE. Right.

But I do not want to impede the progress of this bill. I know the Senators have been waiting for some time.

Mr. MAGNUSON. But I hope they will let us finish HEW.

Mr. BROOKE. But we do understand.

Mr. DOLE. It is not the decision of the Senator from Kansas.

Mr. BROOKE. But we understand that has priority.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. KENNEDY. I am particularly concerned about the funding level contained in H.R. 12929 for capitation grants for schools of medicine. The committee proposes to reduce the appropriations level from $120.1 million for fiscal year 1978 to $102.1 million for fiscal year 1979.

The Nation's medical schools are a national resource engaged in training, service, and research for the benefit of the U.S. population as a whole. The reduction in funding proposed by the committee would put increased pressure on the medical schools to raise their tuition as a means of offsetting the reduction in capitation support. This will have the adverse effect of making it even more difficult than it is at present for students from economically disadvantaged backgrounds and even students from middle-class backgrounds from pursuing a medical education.

As chairman of the Subcommittee on Health and Scientific Research, I plan to hold extensive hearings next Congress on health manpower issues in general and on Federal support for medical schools in particular. The appropriate role of the Federal Government in providing financial support for medical schools and the conditions that should be placed on such support will be carefully examined. We have already started a positive, constructive dialog with the medical schools toward this end. In light of this, I believe now is not the time for Congress to go on record for a lessened financial commitment to one of our truly valuable national resources.

Mr. MAGNUSON. Last year we agreed to the House allowance in conference.

Many schools rely heavily on these capitation dollars and you can be sure that I will be keeping this in mind when we go to conference.

Mr. KENNEDY. I thank the chairman for his consideration.●

ROUTINE MORNING BUSINESS

(Routine morning business transacted today follows:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on September 22, 1978, he approved and signed the following acts:

S. 2928. An act to authorize appropriations for the fiscal year 1979 under the International Investment Survey Act of 1976, and for other purposes; and

S. 3107. An act to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy.

MESSAGES FROM THE HOUSE

At 4:35 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill and joint resolution, without amendment:

S. 1265. An act to amend chapter 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services; and

S. J. Res. 154. A joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from September 10, 1979, through September 13, 1979.

The message also announced that the House agrees to the amendment of the Senate to H.R. 10126, an act to amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service, and concurs therein with an amendment, and that the House agrees to the amendment of the Senate to the title of the bill.

The message further announced that the House disagrees to the amendment of the Senate to H.R. 12605, an act to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Staggers, Mr. Van Deerlin, Mr. Murphy of New York, Mr. Carney, Mr. Wirth, Mr. Russo, Mr. Markey, Mr. Luken, Mr. Gore, Ms. Mikulski, Mr. Waxman, Mr. Devine, Mr. Frey, Mr. Moore, Mr. Moorhead of California, and Mr. Marks were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 10173, an act to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Roberts, Mr. Teague, Mr. Montgomery, Mr. Brinkley, Mr. Hefner, Mr. Edgar, Mr. Hall, Mr. Hammerschmidt, Mr. Wylie, and Mr. Guyer were appointed managers of the conference on the part of the House.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. Eastland), from the Committee on the Judiciary, with amendments and an amendment to the title:

S.J. Res. 29. A joint resolution to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week" (Rept. No. 95–1238).

FUTURES TRADING ACT OF 1978—CONFERENCE REPORT

Mr. LEAHY, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2391) to extend the Commodity Exchange Act, and for other purposes (Rept. No. 95–1239).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. EAGLETON (for himself and Mr. Danforth):

S. 3522. A bill to terminate the authorization for Meramec Park Lake, Mo., and for other purposes; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 3371

At the request of Mr. DeConcini, the Senators from Utah (Mr. Garn and Mr. Hatch) were added as cosponsors of S. 3371, a bill to repeal certain provisions of law establishing limits on amounts of land which certain religious corporations can hold in any territory of the United States.

S. 3414

At the request of Mr. Wallop, the Senator from Tennessee (Mr. Baker), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) were added as cosponsors of S. 3414, a bill to amend the Internal Revenue Code of 1974 to provide that nonresident aliens are taxable on gain from the sale or exchange of farming property and undeveloped real property at capital gains rates.

S. 3441

At the request of Mr. Morgan, the Senator from Michigan (Mr. Riegle) was added as a cosponsor of S. 3441, a bill to amend the Internal Revenue Code to encourage the preservation of independent local newspapers.

S. 3496

At the request of Mr. Bayh (for Mr. Dole), the Senator from New Jersey (Mr. Williams) was added as a cosponsor of S. 3496, the Small Business Nonprofit Organization Patent Procedures Act.

SENATE JOINT RESOLUTION 152

At the request of Mr. Williams, the Senator from Indiana (Mr. Bayh), the Senator from Louisiana (Mr. Johnston), and the Senator from Maryland (Mr. Mathias) were added as cosponsors of Senate Joint Resolution 152, requesting the President to designate the month of June as "National First Aid Month."

SENATE RESOLUTION 557

At the request of Mr. Roth, the Senator from Alaska (Mr. Stevens) was added as a cosponsor of Senate Resolution 557, requesting the President to appoint a special prosecutor in connection with the GSA.

AMENDMENT NO. 3581

At the request of Mr. Schweiker, the Senator from Iowa (Mr. Clark) was added as a cosponsor of amendment No. 3581 intended to be proposed to H.R. 5285, tariff treatment of film, strips, sheets, and plates of certain plastics or rubber.

AMENDMENT NO. 3583

At the request of Mr. Schweiker, the Senator from Iowa (Mr. Clark) and the Senator from Georgia (Mr. Nunn) were added as cosponsors of amendment No. 3583 intended to be proposed to H.R. 5285, tariff treatment of film, strips, sheets, and plates of certain plastics or rubber.

AMENDMENT NO. 3584

At the request of Mr. Schweiker, the Senator from Iowa (Mr. Clark) was added as a cosponsor of amendment No. 3584 intended to be proposed to H.R. 5285, tariff treatment of film, strips, sheets, and plates of certain plastics or rubber.

SENATE RESOLUTION 568—SUBMISSION OF A RESOLUTION AUTHORIZING CERTAIN PAYMENT FROM THE CONTINGENCY FUND

Mr. MORGAN submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. Res. 568

Whereas, in the case of Zenith Radio Corporation v. Matsushita Electric Industrial Co., Ltd. et al, now pending in the United States District Court for the Eastern District of Pennsylvania (Civil Action No. 74–2451), subpenas duces tecum have been served on Bernard Nash for the production of certain papers and documents, including correspondence with the Senator from North Carolina (Mr. Morgan);

Whereas, the purpose of the correspondence demanded by the subpenas was to provide information to assist Senator Morgan in determining what action he should take with regard to legislation in the Senate;

Whereas, Bernard Nash has petitioned to intervene in order to move to quash these subpenas; and

Whereas, compulsory production of correspondence with a Senator infringes upon a Senator's right to receive information and assistance from his constituents and could lead to infringement of his constituents' rights under the First Amendment to the Constitution: Now, therefore, be it

Resolved, That the expenses, including attorneys' fees in an amount subject to the approval of the Committee on Rules and Administration, incurred by the Senator from North Carolina (Mr. Morgan) in supporting the motion to quash subpenas for the production of correspondence between him and Bernard Nash shall be paid from the contingent fund of the Senate on vouchers signed by Senator Morgan and approved by the Committee on Rules and Administration.

● Mr. MORGAN. Mr. President, my colleagues will recall my statement on August 25, 1978, wherein I reported a most disturbing infringement of a Senator's right to investigate coterminous with his legislative activity. I had requested an attorney to inform me fully regarding the effects of the then proposed Customs Procedural Reform Act on possible violations of current law by Japanese producers of television sets. The bill as then drafted would have possibly allowed those responsible for dumping Japanese television sets on the American market to escape all penalty. Disturbed by this fact, Senator Curtis and I drafted an amendment to make sure that the law on the books would continue to apply to any dumping violations which has occurred. I was pleased that the conference retained the Curtis-Morgan amendment.

Although I was not surprised by the highly active lobbying campaign to drop the Curtis-Morgan amendment, I was appalled to learn that attorney's representing the Japanese had subpenaed all the documents sent to me by the attorney from whom I had requested information. Mind you, they did not subpena my own files. They subpenaed from the attorney copies of everything he had sent me. They subpenaed every communication between him and any Member of the Senate or House. They subpenaed his correspondence with his client. They subpenaed his communications with public officials in the executive branch.

These subpenas, which appear at the end of my remarks in the Conrgessional Record of August 25, were issued in an antitrust suit pending in the eastern district of Pennsylvania. The attorney subpenaed is not a party to that suit and there is no direct connection between the suit and the Customs Procedural Reform Act, except for a similar cast of characters.

Today I am submitting a resolution which would authorize payment of my expenses out of the Senate contingent fund to intervene in that lawsuit to quash the subpenas as violative of my privileges pursuant to the speech or debate clause of the U.S. Constitution. I have decided that intervention is necessary in this case because if subpenas of this kind become a successful tactic, then American citizens might be penalized for cooperation with the Congress in its investigations.

Two points need to be made loud and clear. First, I have a privilege as does every Member of this Senate, to investigate coterminous with my legislative activity. Unless we are going to start issuing congressional subpenas every whipstitch, we must be able to depend on the willingness of interested parties to supply information to us. Second, every citizen has the absolute right under the first amendment to petition Members of the Senate for redress or grievances. A citizen ought to be able to exercise this right without the threat of having lobbyists on the other side of a question haul him into court.

I ask my colleagues in the Senate to consider the relationship between these two facts. How can we obtain information voluntarily from those who have it, if giving that information might subject a citizen to harassment including the subpenaing of his files wholesale? Who would want to cooperate if he know he might have to defend himself in a court in a distant city? What attorney would want to risk his attorney-client relationship by having companies, in direct competition with his clients in the marketplace and in court, have access to his files? This use of American legal process to undermine communication between legislators and informed outside sources can only have a chilling effect both on the exercise of the first amendment and on congressional investigations. We cannot allow our ability to investigate and legislate to be so infringed.●

AMENDMENTS SUBMITTED FOR PRINTING

POSTAL SERVICE AMENDMENTS OF 1978—H.R. 7700

AMENDMENT NO. 3645

(Ordered to be printed and to lie on the table.)

Mr. CHURCH submitted an amendment intended to be proposed by him to H.R. 7700, an act to amend title 39, United States Code, to insure the continuation of public services performed by the U.S. Postal Service, and for other purposes.

● Mr. CHURCH. Mr. President, the amendment I have submitted today to H.R. 7700, the Postal Service Amendments of 1978, would continue fair competition between Parcel Post and private enterprise.

H.R. 7700 as reported to the Senate would change present law so that Parcel Post would no longer be required to reflect "direct and indirect costs which are a consequence of providing" Parcel Post service. My amendment would maintain the congressional policy of fair competition which has been in effect since 1912. Consistently since that time and through many revisions, including the 1970 Postal Reorganization Act quoted above, Congress has specifically mandated that Parcel Post pay its full costs, so that there would be no unfair Government subsidy of Parcel Post rates against private enterprise.

In my view, the public interest will be well served by a reaffirmation by Congress and the Postal Service that the distribution of idea mail—letters, newspapers and magazines—must be seen as a service, and not a moneymaking activity used to subsidize a less efficient system for the delivery of merchandise. The House of Representatives has already taken this step in its consideration of H.R. 7700 by adopting an amendment identical to mine by an overwhelming vote, 292 to 112.

It is anticipated that the Senate will act on H.R. 7700 in the near future. After 66 years, Congress should not junk the successful parcel delivery service that fair competition has produced. I urge Senators to join in support of this amendment and I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 49, line 18, after the words "be attributable." insert the following sentence:

Revenues received from zone-rated parcels shall recover direct and indirect costs which are a consequence of providing services for zone-rated parcels, including attributable costs determined under this section without regard to the provisions of the preceding sentence, plus a fair share of all other costs.●

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS, 1979—H.R. 12929

AMENDMENTS NOS. 3646 THROUGH 3656

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted 11 amendments intended to be proposed by him to H.R. 12929, an act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes.

AMENDMENT NO. 3657

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to H.R. 12929, supra.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, September 26, and Thursday, September 28, to hold hearings on the National Tourism Policy Study.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the sessions of the Senate today (Monday), tomorrow (Tuesday), and Wednesday, September 27, to consider the tax cut bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

LONG ISLAND SOUND BRIDGE

● Mr. RIBICOFF. Mr. President, every now and then a local politician, a developer, a builder, or some other individual will propose that a bridge be constructed across Long Island Sound. Some suggest that the bridge connect the north shore of Long Island with some point in Connecticut whereas others have thought of building a span to connect two points in New York, such as between Rye in Westchester County with Oyster Bay in Nassau County. I have always been against this bridge and will continue to oppose it.

Regardless of its location, a bridge of this nature will have a tremendous harmful impact on the entire Long Island Sound region. Because its northern end may be located within my State or only a few miles from the Connecticut border, this bridge would funnel millions of cars and trucks onto the already overcrowded Connecticut Turnpike and Merritt Parkway. This additional flow of traffic would seriously worsen the ambient air quality problems now being experienced in Connecticut.

Furthermore, a cross-Sound bridge would result in increased noise, the deterioration of the Sound's water quality, and further strains on regional transportation systems. Wetlands at both ends of the bridge would be endangered and the Sound's entire ecosystem would be jeopardized by the construction of a massive bridge.

I have consistently opposed the building of a bridge across Long Island Sound and was troubled to learn recently that Governor Hugh Carey has directed the New York State Transportation Department to undertake a feasibility study of such a span. I have written to Governor Carey, voicing by concerns and urging that he reconsider his position. I ask unanimous consent that the text of my letter be placed in the RECORD, along with an editorial on the subject which appeared in Sunday's Hartford Courant.

U.S. SENATE,
COMMITTEE ON GOVERNMENT AFFAIRS,
Washington, D.C., September 22, 1978.
Hon. HUGH CAREY,
Governor, State of New York, Executive Chambers, Albany, N.Y.

DEAR HUGH: I am very concerned over reports that you have directed the New York State Transportation Department to undertake a feasibility study of a bridge across the Long Island Sound.

Regardless of its location, a bridge would pose a substantial hazard to the already-endangered ecology of Long Island Sound.

A Long Island Sound bridge, particularly one which would connect with Connecticut, would change the entire growth pattern in the Sound region. More traffic would be generated and residents of both states would be plagued by noxious fumes from automobiles and trucks—a situation which would worsen the already serious ambient air quality problems in Connecticut. Finally, I fear that a cross-Sound bridge would place additional strains on regional transportation systems.

As you know, I have previously opposed a Long Island Sound bridge and I will continue to do so. If necessary, I will again introduce legislation barring the use of any Federal funds to either study and/or construct a bridge across the Sound. I am hopeful, however, that you will carefully review and reconsider your position.

Sincerely,

ABE RIBICOFF,

[From the Hartford Courant, Sept. 24, 1978]

BURY THE BRIDGE PROPOSAL

New York's Governor Carey has revived a plan to construct a bridge across Long Island Sound to provide greater access to New England.

His proposal is still under study. Mr. Carey has asked his Transportation Department for a feasibility report by Jan. 1, 1980. While the bridge might be advantageous to New York, it would be disastrous for Connecticut.

The obligations have been stated time and again. Vastly increased Connecticut highway congestion and the air pollution resulting from the bridge traffic would have a detrimental effect. The anticipated flood of weekend visitors would be a serious strain on Connecticut's recreational facilities. The rural character of many shoreline areas would be endangered.

Connecticut's government leaders have long been vigorous in opposing the plan. Senator Ribicoff has warned that a bridge from Long Island would ruin the beaches that ring the sound. Governor Grasso has said of the bridge: "It's as ridiculous now as it was 20 years ago," when it was first proposed by Gov. Nelson Rockefeller. "Any plan that lands the bridge in Connecticut would create traffic madness." Mr. Rockefeller abandoned his plan in 1973, after opposition from the New York legislature, the courts and shoreline towns.

The threat this time could be more serious because Gov. Carey is considering a site, possibly Rye, in Westchester County for the connection with Long Island. This would prevent Connecticut from participating in the final decision. But with Rye or any neighboring New York town so close to the Connecticut border, the negative impact on the area would be just as great.

When first suggested in the 1950s, the cost of the bridge was pegged at $250 million. More recent estimates have placed the price tag at $1 billion. Because of inflation and possible delays in so difficult an engineering undertaking, the final figure is more likely to be $2 billion.

That is a huge sum to spend for so dubious a project. The bridge proposal should be permanently buried.●

U.S. POLICY IN AFRICA

● Mr. HATCH. Mr. President, the current situation in southern Africa has reached a point of crisis. The Salisbury Agreement, an accord reached between the moderate black leaders of Rhodesia and the government of Ian Smith, is on the verge of collapsing. The United States has remained passive toward this attempt at black majority rule from the beginning, opting to show support for the guerrilla forces operating outside the borders of Rhodesia. Even this support was minimal at best.

The United States was in a position to influence the outcome of this struggle to the benefit of the Western World. Economic sanctions that have been placed, and maintained, against the Smith regime have doomed any attempt at a successful solution. The Carter administration, through its spokesman on African policy, U.N. Ambassador Andrew Young, has steadfastly refused to take an active role in the negotiations. Mr. Young has been roundly criticized for his unwavering commitment to the likes of Robert Mugabe and Joshua Nkomo, the guerrilla leaders that are pro-Marxist and would seize power by the gun rather than the ballot box.

In the Washington Post today an Op-Ed piece appeared by Mr. Chester A.

Crocker, director of African studies at Georgetown University's Center for Strategic Studies. Mr. Crocker discusses the current situation and what might be done to alleviate the tension in the critical area of the world. He points out that the—

> main weakness in Western policy is that we started out with minimal direct influence on anyone, and have done little to develop it in the meantime.
>
> Rather we have played the role of lawyerly mediators seeking an out-of-court settlement among men of goodwill. Each recognized participant—and its non-Rhodesian supporters—has been granted a veto over the peacemaking process: We are prepared to do nothing unless all parties agree in advance. By removing any shred of ambiguity about our unwillingness to act, no matter what happens, Washington and London have in effect offered leverage to those who are best armed and most confident of their external support.

This is exactly the point that needs to be made about this problem. The United States should be supporting those parties that most closely identify with the principles of our own Nation.

Mr. President, I ask unanimous consent that the article by Mr. Crocker, entitled "The Trouble With Our Rhodesia Policy" be printed in the RECORD.

The article follows:

THE TROUBLE WITH OUR RHODESIA POLICY

(By Chester A. Crocker)

Any administration faces awesome obstacles in coming to grips with the Rhodesian problem: the absence of an effective sovereign power, continuing white determination to shape the transition to black rule, divided domestic sentiment on Rhodesia, sharp divisions among the black nationalist elites struggling to succeed Ian Smith, and the fresh memory of American paralysis in Angola. The Anglo-American initiative of the past 18 months increasingly resembles the hapless Air Rhodesia Viscount downed a few weeks ago by a nationalist missile: doomed, unarmed and innocent.

We have now entered a period of handwringing and deploring of events. The growing gloom about a Rhodesian settlement is based not only on a hardening of white attitudes following the Viscount crash. The much-publicized collapse of the recent secret talks between Smith and Joshua Nkomo has weakened the parlous unity of both the internal Rhodesian parties and the Patriotic Front. Until the parties have mended or rearranged their political fences, we will apparently stand aside, ready to resume a role if an opportunity presents itself.

What went wrong with the Anglo-American plan, and what alternatives exist now? The main weakness in Western policy is that we started out with minimal direct influence on anyone, and have done little to develop it in the meantime. Rather, we have played the role of lawyerly mediators seeking an out-of-court settlement among men of goodwill. Each, recognized participant (and its non-Rhodesian supporters) has been granted a veto over the peacemaking process: We are prepared to do nothing unless all parties agree in advance. By removing any shred of ambiguity about our unwillingness to act, no matter what happens, Washington and London have in effect offered leverage to those who are best armed and most confident of their external support.

In its defense, the administration argues that it has stood firmly for an early transfer of power to the black majority and for an African, rather than external, solution to the problem. In practice, however, the conflict now has little to do with issues of minority rule and much more to do with which Africans will govern Zimbabwe, how they will gain power, and at what cost to the lives and welfare of its citizens. The African solution we seek is a chimera, signifying only that we will help to ratify whatever political facts emerge from the momentum of events on the ground—events we cannot or will not shape.

This problem is compounded by an Anglo-American penchant for self-fulfilling prophesies that undercut even our supposed neutrality. Why have we been so quick to condemn security measures of the Salisbury government and so reluctant to criticize civilian atrocities committed by the guerrillas (while sometimes joining the propaganda chorus suggesting that the government is killing off missionaries)? If mediation rather than partisanship is called for, why do we tilt so consistently on the side of guerrilla groups led by Joshua Nkomo and his nominal Patriotic Front ally, Robert Mugabe? Why have we dramatized the imperfections of the March 3 agreement between Smith, Bishop Abel Muzorewa, the Rev. Ndabaningi Sithole and Chief Jeremiah Chirau and then gloated when it runs into trouble?

Fortunately, it may not be too late for the Western powers and the African frontline states to play a constructive role. There is a potential for influence because all the parties directly involved are so weak. The war, in a military sense, is still young and largely deadlocked. The multiracial interim government in Salisbury probably cannot win the contest unless it can broaden itself and concentrate on one rather than two fronts. By the same token, neither of the Patriotic Front wings is yet able to do serious damage to Salisbury or to each other. The politics and diplomacy of the conflict are in flux, largely because of uncertainties on all sides about who will come out on top and a determination to avoid being on the losing side.

In these circumstances, we need a new policy aimed at enabling the whites to hand power to as broadly representative a grouping of nationalists as possible in the next few months. The condition of requiring prior and universal acceptance by the "international community" should be dropped, as should the condition of elections prior to the transfer of power. The prospect of firm Western support—political, diplomatic and economic—for the black successor state should be made clear. Our goal in all this should not be to choose the new leaders of Zimbabwe but to minimize the bloodiness of the process by which they are chosen. The objective, in sum, is to transfer the reins of power to blacks while there is still some thing to transfer.

To do so, the British—with firm U.S. support and as much African and international involvement as is available—should offer to set up an interim, all-parties administration in Rhodesia in exchange for the resignation of the current provisional government and the ending of Unilateral Declaration of Independence. If Smith and his allies should agree to this proposal, London would move ahead with establishing allparties commissions and councils to take decisions on such matters as security, elections, the constitution and the civil service. All groups would be urged to participate but none would be offered a decision-making veto either through participation or abstention from the interim government.

Clearly, such a proposal contains major risks and responsibilities for the British and ourselves as well as the parties to the conflict. But the more comfortable burdens of current policy carry their own price tag. Without a major Western initiative soon, we face the prospect of open-ended, two-front war. If a black pariah state emerges in Zimbabwe, even the few restraints provided by current policy will be removed. ●

THE HOOVER INSTITUTION

● Mr. BARTLETT. Mr. President, in 1919, Herbert Hoover founded, at Stanford University, an archive of manuscripts and documents he had salvaged from war and revolution-torn Europe. Sixty years later, the Hoover Institution on War, Revolution, and Peace has become one of the world's most distinguished academic centers.

Its collection of approximately 1½ million books, pamphlets, and periodicals from more than 100 countries and its more than 4,000 individual manuscript collections attract scholars from all over the world. Recently, Alexander Solzhenitsyn visited the Hoover Institution and found its unique collection "of inestimable value" in his effort to recover facts of modern Russian history he had feared were lost. Soviet scholars even visit the Hoover Institution to examine Chinese writings which are not available in the Soviet Union. Best sellers such as Barbara Tuchman's "Stillwell and the American Experience in China: 1911–1945," and William L. Shirer's "The Rise and Fall of the Third Reich" were written largely on the basis of the Hoover collection.

In addition to visiting scholars, the Hoover Institution's includes such distinguished fellows as Nobel Laureates Alexander Solzhenitsyn, Milton Friedman, and Friedrich A. Hayek. Other fellows include Ronald Reagan, Edward Teller, Seymour Martin Lipset, Sidney Hook, Bertrand De Jouvenel, Robert Conquest, and many others equally distinguished.

In recent years, the Hoover Institution's domestic studies program has expanded until it is now approximately equal to the international studies program in size and scope. Studies concluded at the Hoover Institution are increasingly having an impact on Government policy. Fellows and former fellows of the Hoover Institution can be found in or working with all branches of Government.

On January 2, 1975, President Gerald Ford signed legislation appropriating $7 million in matching funds to the Herbert Hoover Federal Memorial. Through the Herbert Hoover Memorial Building and surrounding facilities, the expanded educational and research activities will serve as a "living memorial" to Herbert Hoover on the campus of Stanford University, his alma mater.

Mr. President, I commend to my colleagues the article by Kenneth Lamott which appeared in the New York Times magazine on July 23, 1978.

The article follows:

RIGHT-THINKING THINK TANK

By Kenneth Lamott

One day in May 1969, when university campuses throughout the country were turning into guerrilla theaters, W. Glenn Campbell, the director of the Hoover Institution on War, Revolution and Peace, found that his turn had come to defend the Bastille. Located on the Stanford University campus in Stanford, Calif., the Hoover Institution had not been a primary target of student insurgents—the engineering, business and medical schools had all been occupied by protesters during this period—but an assault was inevitable, given the Institution's reputation as a fountain of cold-war scholarship and its general political conservatism. Now antiwar activists were gathering on the steps of the Hoover Tower, Stanford's most striking architectural ornament and the home of a superb and irreplaceable library.

Mr. Campbell, who had declared that the stewardship of the library was a sacred trust, locked the front door of the tower behind him and confronted the demonstrators. Prominent in the crowd was H. Bruce Franklin, a Maoist professor of English who was later to be denied tenure on grounds that he had incited violence by urging the occupation of the campus computer center. Mr. Campbell, a short, soft-spoken, conservative economist, was provided with a microphone and spoke out in defense of the Hoover, which his opponents, in turn, accused of having contributed to the climate that made the Vietnam War possible. The argument continued for an hour, after which the protesters prepared to put an effigy of Mr. Campbell to the torch. Mr. Campbell withdrew from the auto-da-fé and the burning proceeded, but neither then nor at any other time did students occupy the Hoover Tower or destroy a single book or document.

Nearly 10 years later, at a time when some liberal think tanks, such as the Center for the Study of Democratic Institutions in Santa Barbara, Calif., are nearly defunct, and when liberalism as a political philosophy and force seems in disarray, the Hoover is flourishing. Its budget is bulging and the opinions of its scholars carry weight in Congress. Whereas in the past its fellows were frequently dismissed as rabidly anti-Communist cranks, now they include such well-known and widely respected scholars as philosopher Sidney Hook, sociologist Seymour Martin Lipset and the Nobel Prize-winning economist Milton Friedman. One-time critics of Mr. Campbell and the Hoover have moderated their tone. Even John G. Gurley, a Marxist professor of economics at Stanford who has done research at the Hoover, says, "I'm glad it's there." In short, what once seemed a backwater of American intellectual and political life has spilled into the mainstream.

The movement has not been entirely on the Hoover's part, however. For the mainstream appears to have altered its course, too. An obvious recent example of this is the passage by California voters of Proposition 13, mandating a nearly 60 percent cut in property taxes and thereby reducing almost to the poverty level budgets for social services, schools and even the police. The measure had been strongly endorsed by Mr. Friedman, who said, "If the state government has $7 billion less to spend, the public will have $7 billion more to spend, and will spend it more wisely."

Now that the Supreme Court has ordered Allan Bakke admitted to the medical school of the University of California at Davis, it is worth noting that Mr. Hook had argued publicly that minority students seeking admission to professional schools should make their way on merit without benefit of affirmative action programs, quotas or "reverse discrimination." The Court met Mr. Hook halfway, upholding affirmative action but ruling that racial quotas were unconstitutional.

As the Carter Administration seems to cool on the President's campaign promise of a national health-insurance package, one recalls that Rita Ricardo Campbell, a senior fellow at the Hoover and the wife of its director, has testified against such a program on several occasions on Capitol Hill.

President Carter also vowed during his campaign to curb Government regulation of business. In its efforts to make good on this promise, his Administration has consulted several times with Thomas G. Moore, head of the Hoover's domestic-studies program, who has also testified before the House Aviation Subcommittee and conferred with Senator Edward M. Kennedy about whether the Senate Antitrust and Monopoly Subcommittee should tackle the trucking industry. (It did.)

On May 1, Martin Anderson, another Hoover fellow, appeared before Senator Daniel Patrick Moynihan's Subcommittee on Public Assistance and testified against a guaranteed minimum income. It was not the first time Mr. Anderson had become involved in national policy: He conceived and drafted the legislation establishing the volunteer army, served as a special assistant to President Nixon, and advised Ronald Reagan in his last, unsuccessful run for the Presidential nomination.

As talk heats up about a new cold war and more and more people regard détente as a dirty word, the staunch anti-Communism that unites the Hoover scholars, whatever their differences of opinion on other matters, no longer seems out-of-step with the times. Not only Mr. Lipset, a registered Democrat, but Mr. Hook, who considers himself a socialist, are longstanding opponents of both domestic and Soviet communism. And then there is always Edward Teller, a senior research fellow at the Hoover. Like many others who worry about NATO's ability to defend Western Europe against a Soviet attack, "the father of the hydrogen bomb" is now an advocate of the neutron bomb.

Through its ties with the right wing of the Republican Party, the Hoover Institution is exerting increasing political influence. It is the brightest star in a small constellation of conservative think tanks that serve as workshops where out-of-office intellectuals can fabricate the underpinnings of domestic- and foreign-policy positions for the Republicans. Other such institutions include the American Enterprise Institute (closely allied with the Hoover) and the Georgetown Center for Strategic and International Studies, where Henry Kissinger is currently working on his memoirs, just four blocks from the White House. Both the A.E.I. and the Georgetown Center are in Washington, D.C., where their staffs have no difficulty in maintaining contacts on Capitol Hill and in the Federal bureaucracy. Even though 2,400 miles of jet lag separate the Hoover from Washington, its fellows make the trip frequently and it has been suggested that the Hoover performs some of the same functions for the Republicans that the Brookings Institution does for the Democrats, providing a reservoir of scholarly talent to be drawn on when the party returns from the wilderness. The parallel with Brookings is loose, but, as Glenn Campbell says, "If the Republicans win in 1980, I'd expect a certain number of my staff to ask for leave."

That staff has increased during Mr. Campbell's 18-year directorship from 35 to about 135. In addition to sponsoring research and publications in both domestic- and foreign-policy areas, the Hoover supports a national-fellows program that brings about a dozen young scholars a year to the campus for post-doctoral work. The Hoover Institution Press publishes as many titles as some major university presses—26 new titles, 10 co-published titles and five reprints in 1977 alone. Conferences and seminars are organized to bring together scholars from around the country.

An enterprise of this scope was not what Herbert Hoover initially had in mind.

The Hoover War Collection, as it was first known, originated with a gift of $50,000 that Herbert Hoover made to Stanford, his alma mater, while he was serving as Director General of Relief and Reconstrutcion in Europe after World War I. Historian E. D. Adams was thereupon commissioned to go to Europe at the head of a team of young scholars released from military service by General Pershing. Funded by an additional $100,000 from Mr. Hoover, Mr. Adam's young colleagues worked like pack rats. By 1921, nearly 80,000 items had been shipped to Stanford, including such choice finds as the files of the Okhrana, the czarist secret police. The next year, the collection became the Hoover War Library and was given a home in a wing of the Stanford Library.

In 1941; the collection was moved into a new structure of its own, a 285-foot, 23-level tower which, with its two associated research buildings—the Lou Henry Hoover Building and the just-completed Herbert Hoover Memorial Building—occupies a prime position in the heart of Stanford's lush 8,000-acre campus.

The end of World War II plunged the Hoover into another round of collecting as its agents mined more tons of paper from the occupied countries, including the diaries of Joseph Goebbels and Heinrich Himmler. Its holdings broadened to include substantial collections of political, economic and military documents from Western Europe, the Middle and Far East, Latin America and Africa.

Then, as the flood of postwar materials tailed off the Hoover Institution on War, Revolution and Peace (as it was renamed in 1957) came close to foundering. In his old age, the former President had become increasingly crusty and impatient with Stanford, an alienation that was translated into decreased support. Yet it was Mr. Hoover himself who assured a prosperous future for the institution as well as a new identity when, in 1959, he personally selected Mr. Campbell, a 35-year-old, Canadian-born economist, as its new director, A. Ph. D, from Harvard, Mr. Campbell had taught there as well and had worked for the United States Chamber of Commerce before becoming research director of the American Enterprise Institute. He had been brought to Hoover's attention by a "Dear Chief" letter from Raymond Moley, the former New Deal brain truster.

The manner of Mr. Campbell's appointment created the first of a series of storms that he was to ride out during the next 10 years. Mr. Hoover had simply ignored the existence of a campus search committee. But the appointment held, and Mr. Campbell moved into a suite of offices on the 11th floor of the tower, overlooking Stanford's red-tiled roofs.

The former President was responsible for another controversy before he mercifully withdrew from the scene. In a pamphlet prepared for the Stanford trustees, Mr. Hoover wrote in 1959, "The purpose of this Institution must be, by its research and publications to demonstrate the evils of the doctrines of Karl Marx—whether Communism, Socialism, economic materialism, or atheism—thus to protect the American way of life from such ideologies, their conspiracies, and to reaffirm the validity of the American system." Such a statement could hardly be expected to fly on the campus of a university sensitive to academic freedom, a university, furthermore, that at one time or another has welcomed to its faculty distinguished Marxists, economic materialists and atheists. The faculty demanded an explanation and the unhappy trustees were obliged to waffle.

Mr. Campbell, now 54 and graying, recently recalled that this incident had been responsible for some of the troubles the institution has had with its image as a bastion of anti-

Communism. Referring to the "unfortunate statement on Communism our Founder made," he explained that "what Mr. Hoover really meant in the context of the times was that the Hoover Institution has the finest collections on the rise and spread of Communism throughout the world, and he darn well wanted to see a research and publications program worthy of the collections." This interpretation may be a trifle disingenuous, but it seems to represent Mr. Campbell's own view of the Hoover's continuing program of publications dealing with international Communism.

Mr. Campbell did little during the 1960's to ease tensions on what had become an activist campus where civil rights, the antiwar movement and student sympathy with third-world issues all contributed to a radical-liberal ferment that lapped at the base of the Hoover Tower. Ruling a semiautonomous institution and responsible only to the president of Stanford, Mr. Campbell did not trim his sails. In 1964, he took leave to advise Barry Goldwater in his run for the Presidency. In 1968, California's Gov. Ronald Reagan appointed him to a 16-year term on the Board of Regents of the University of California. Since then, Mr. Campbell has predictably voted with the conservative bloc on such sensitive issues as raising student tuition, firing Angela Davis, keeping Eldridge Cleaver off campus and lowering the boom on an allegedly obscene art show.

As the 1960's turned into the 1970's, student opposition to the Hoover led not only to the confrontation on the steps, but also to window smashing. Conferences convoked by the Hoover were disrupted by protesters, who once drove Henry Cabot Lodge from the podium and later disrupted a conference celebrating the achievements of Iran. In the past five years, however, a rappochement of sorts has been achieved, thanks partly to the general easing of campus pressures but more particularly to the simple fact that Mr. Campbell has been successful. While withstanding the Goths and Vandals, he has also put the Hoover on its feet financially and set off bursts of energy in previously unexplored directions. The great tower, which had been in danger of becoming little more than a book-filled monument to Stanford's most famous alumnus, became headquarters for a departure into well-funded scholarly research in domestic matters.

The decision to expand the Hoover's scope to include domestic affairs was made by the board of overseers in 1972. One of Mr. Campbell's supporters in this move was David Packard, chairman of the board of Hewlett-Packard, formerly chairman of the board of Stanford's trustees and Deputy Secretary of Defense, and a longtime supporter of the Hoover. According to Peter S. Stern of Stanford's history department, "When somebody overcomes an inferiority complex and breaks through and gets on top of things, he finally manages to achieve his own identity. This happened at the Hoover when Glenn Campbell went about creating a national center for domestic studies, coming from the right rather than the left."

In order to broaden his base, Mr. Campbell went where the money was, to large corporations and foundations that were not put off—indeed, were heartened—by the Hoover's conservative reputation. For his board of overseers (which includes three members of the Hoover family), Mr. Campbell recruited high-ranking executives of such corporations as General Electric, Standard Oil of Indiana, Mobil Oil, the Times-Mirror Company and the Adolph Coors Company. The newest overseers, appointed at the end of 1977, include Alan Greenspan, former chairman of the Council of Economic Advisers, John R. Grey, president of Standard Oil of California, and former Secretary of the Treasury William E. Simon.

Although Mr. Campbell has signed up a lot of former Federal officials, he has avoided relying on the sort of Government contract work that is the bread and butter of think tanks and consultant firms like the Rand Corporation, S.R.I. (formerly the Stanford Research Institute) and Arthur D. Little Inc. And less than 10 percent of his operating budget comes from Government grants. The largest share of the budget, more than 40 percent, comes from individual, foundation and corporate gifts. During the past year, for instance, the Hoover has received large gifts from Mr. Packard, the Scaife Family Charitable Trusts (of Pittsburgh) and the Pew Memorial Trusts (of Philadelphia), and from Standard Oil of California and the Pacific Gas and Electric Company. Stanford contributes an additional 30 percent of the Hoover's budget, and publications sales and endowment income make up the rest. Since 1960, the operating budget has increased more than tenfold, from less than $400,000 to more than $4 million.

Few if any strings are attached to these funds. Hoover scholars go about their own business and, if they want, are left entirely to their own devices. Six years after his retirement from New York University, Sidney Hook enjoys the amenities of life in California and, at 76, continues to churn out books with the industry of a 40-year-old. What Edward Teller is up to is not entirely clear even to his colleagues, although a senior fellow told me, "We've heard that he's working on a general history of the growth of Western technology." The same man added, "No one ever tells you what to do, when to do it, or how to do it." A 10-minute talk with Mr. Campbell can assure the funding of a project which, if it depended on the usual Government or foundation sources, would require grantsmanship in quintuplicate. Furthermore, when it comes to dispensing money, Mr. Campbell is not a cheese parer—he is, indeed, liberal.

Curiously enough, it is not easy to find a card-carrying conservative in the halls of the Hoover. Rita Ricardo Campbell is a Republican but points out that in her field, the economics of health, she has sometimes taken stands identified with the liberals. Moreover, she is an active champion of the Equal Rights Amendment and has taken on Phyllis Schlafly in a lively debate. Milton Friedman, who spends half of each year at the Hoover, calls himself a 19th-century liberal in the somewhat misleading sense that he believes in the untrammeled operation of the free market. Peter J. Duignan, a respected scholar of African history, is a lifelong Democrat. Sidney Hook is prominent in the affairs of the Social Democrats, U.S.A., a group with close ties to the civil-rights and labor movements. Seymour Martin Lipset, a Democrat and self-described "old liberal," would rather not be labeled a neoconservative as he has been in the newsweeklies. "Nuances," he says, "are turned into chasms." True, a majority of the scholarly staff are Republicans, but their conservatism is qualified. The liberal visitor begins to suspect that conservatives are as uncomfortable with their label as liberals sometimes are.

Even Thomas Moore, the head of the domestic studies program, rejects the conservative label; he is, he says, a supporter of the Libertarian Party, currently our third-largest party in terms of votes cast. "A Libertarian," he explains, "is somebody who puts liberty and freedom as a primary goal. Usually this involves as few as possible government regulations. You should be free to smoke pot if you want to. Prostitution should not be illegal. Businesses should be free to make the kind of products they want to make, and consumers should be free to buy what they want." Asserting the right to smoke marijuana is far from a stereotypically conservative position.

Allen Weinstein, a Smith College historian and author of the controversial recent book "Perjury: The Hiss-Chambers Case," worked at the Hoover as a national fellow for several months in the fall of 1977 on a grant from the National Endowment for the Humanities. Although he was an antiwar activist and generally votes the straight Democratic ticket, Mr. Weinstein said that he found the Hoover a congenial place in which to work while he researched a book about the cold war and American society. "If the Hoover is going to be treated seriously in the 1980's," he said, "it can't afford to have a political means test. The American Enterprise Institute appears to be more monolithic, while at the Hoover they have a broader spread. Given the coherence of the conservative view, the irony of the place is its diffuseness."

Even though the Hoover Institution's conservatism is low-keyed, its trappings are a quantum jump away from the usual academic decor. The lobby of the Hoover Tower is a richly decorated votive shrine to the Founder and his wife. Photographs on the walls of the fellows' offices include the portraits of Ronald Reagan (an honorary fellow), Gerald Ford and Aleksandr Solzhenitsyn (also an honorary fellow). Indeed, photographs of Mr. Solzhenitsyn are found so frequently that a visitor might think the writer shared with the Founder the office of tutelary deity.

Mr. Solzhenitsyn has had a profound impact on the Hoover. He paid his first visit, just after his expulsion from the Soviet Union in 1974, in response to a cable from Stanford president Richard W. Lyman and Mr. Campbell—an invitation that contrasts honorably with the refusal of the Ford Administration to receive the refugee at the White House. At the Hoover he delivered a speech whose scathing criticisms of American society anticipated his recent commencement address at Harvard. In June 1975, Mr. Solzhenitsyn spent eight days in the Hoover's archives, working from 7:30 in the morning to 6:30 in the evening without breaking for lunch. A year later, he arrived without notice, the only hint of his imminent arrival being a telephone call to Richard Staar, the Russian-speaking associate director, from a member of the local Russian colony telling him that the writer had been seen in church that morning, which happened to be Russian Easter. Mr. Staar put this down to mistaken identity until Mr. Solzhenitsyn, whom he calls "the greatest human being I've ever met," telephoned him that night.

Mr. Solzhenitsyn is not the only Russian to have made use of the Hoover's formidable collections, which now total some 1,250,000 volumes and more than 4,000 archival units. The Soviet Government was obliged to ask the Hoover for a microfilm of its original edition of the first issue of Pravda (March 5, 1917). In spite of the Hoover's long identification with the anti-Communist cause, Soviet scholars visit each year to consult materials that aren't available at home. These include, notably, Chinese writings that can't be had in Russia but which come to the Hoover through an exchange agreement with the National Library in Peking.

The collections are open to anyone with a legitimate reason to study them. For their recent book "The File on the Tsar," the English writers Anthony Summers and Tom Mangold drew on revolutionary-era documents concerning the disappearance of the Romanovs that had been sewn into a black cloth bag and delivered to the tower by an unknown foreigner in 1936. After stipulating that the bag not be opened until 1950, the mysterious stranger hurried away. Other popular writers, such as Barbara Tuchman ("Stilwell and the American Experience in China: 1911–1945") and William L. Shirer

("The Rise and Fall of the Third Reich"), have made good use of the library. The depth of the collections, however, can be fully appreciated only by researchers working in the rarefied world of hard-core scholarship. As Peter Duignan told me, "We have the only copies in the United States of the major military journals of *all* the Western European powers. Take the Portuguese—only the National War College in Washington has the journal, and they only have it from 1900. I have it from 1840."

A San Franciscan who took his Ph.D. at Stanford, Mr. Duignan arrived at the Hoover four months before Mr. Campbell in order to become curator of the African collection. He saw the Institution as the answer to a scholar's prayer, offering the opportunity to do research while being freed from the burden of teaching. Of his *magnum opus*, which he edited with Lewis H. Gann, Mr. Duignan says, "Five volumes on colonialism in Africa, 70 contributors, 10 years in execution, a cash outlay of probably $300,000—there's not another place in the country that could have supported such a project."

Another of the Hoover's ambitious projects is being spearheaded by Seymour Martin Lipset, the newest star on the domestic staff and the biggest in terms of both reputation and physical stature. A large man who usually towers over everybody else in a room, Mr. Lipset, 56, came to the Hoover three years ago from Harvard, where he occupied an endowed chair in sociology and government. He now holds a joint appointment as a senior fellow at the Hoover and a professor in Stanford's sociology deparement. In his small and cluttered office, Mr. Lipset is organizing what will in effect be an institute for advanced studies in sociology and political science. He is assembling a team of scholars to collaborate on research in such policy-relevant fields as the structure of political parties, bureaucracies, the aged and housing.

Mr. Lipset's personal politics are distinctly Democratic. He is the vice chairman of the Coalition for a Democratic Majority, an organization in which he is associated with Senators Moynihan and Henrry M. Jackson, whose general political outlook he shares. Why did he make the move from Harvard to the Hoover? "The advanced-studies thing," he explains, "gives me the freedom and research support to do what I want without having to go out and peddle grant proposals."

How good are the publications and research that come out of the Hoover? The consensus is that they are good and getting better. According to Sanford A. Dornbusch, a professor of sociology at Stanford and sometime critic of the Hoover: "There's always been some high-level work, and then there was work there that reflected a right-wing political orientation that I thought was just junk. The proportion of junk has been declining. There's a lot of good work there, and that's increasing."

Allen Weinstein observes, "The economists at the Hoover are strong and treat ideas seriously. Would that liberals like myself would treat conservative ideas as seriously!"

In the preface to "The Liberal Imagination," the late Lionel Trilling wrote, "In the United States at the present time liberalism is not the dominant but even the sole intellectual tradition." Although he was writing in 1949, this proposition would probably still be endorsed by the majority of American scholars even in these confused times. Mr. Trilling went on to cite the high value which the liberal John Stuart Mill placed on his friendship with the brilliant conservative Samuel Taylor Coleridge: "He [Mill] said that the prayer of every true partisan of liberalism should be, 'Lord, enlighten thou our enemies . . .; sharpen their wits, give acuteness to their perceptions and consecutiveness and clearness to their reasoning powers. . . .' What Mill meant, of course, was that the intellectual pressure which an opponent like Coleridge could exert would force liberals to examine their position for its weaknesses and complacencies."

And so, I suggest, the Hoover Institution's highest contribution to the world of American intellectual endeavor may be as an op-ed page to the rest of the academic world, operating from base of honorable conservatism, first-rate scholarship, sharp wits, acute perception and clear reasoning.●

ERA—EQUALITY IS A PRIORITY

● Mr. BAYH. Mr. President, as Americans we cannot ignore the simple and just plea for equality. Such neglect makes a mockery of the principles we claim to cherish. The women and men of the Senate cannot, in good conscience, deny or delay access to equality for all Americans, both men and women. That the ERA deadline should be extended is obvious. There is no good reason or constitutional precedent which forbids it. That the extension should come quickly is also obvious, because the issue of equality for all Americans must be, and is, a national priority.

Below is a list of testimonies and letters from religious groups from around the country. Their sincere goal is not profit, not power, just equality for those so long denied it. Among these groups are the American Jewish Congress, represented by President Howard M. Squadron, the Priests for Equality, represented by National Secretary Reverend William R. Callahan, the National Council of Churches of Christ represented by Reverend Joan M. Martin, along with many others. I ask unanimous consent that their comments and letters be printed in the RECORD.

The material follows:

AMERICAN JEWISH CONGRESS,
New York, N.Y., Aug. 28, 1978.

Hon. JAMES O. EASTLAND,
Dirksen Office Building,
Washington, D.C.

DEAR SENATOR: The American Jewish Congress urges you to support the proposal to extend the time for ratification of the Equal Rights Amendment, when it comes to the floor of the Senate. We urge you also to oppose any weakening amendments, such as the proposal to allow states to rescind earlier ratifications, and to vote for cloture if it becomes necessary to stop a filibuster.

ERA would guarantee equal pay for equal work, equal rights to own and inherit property, equal rights to contract, and other fundamental rights. It should be supported because it would eliminate legally sanctioned discrimination and ban legislation that discriminates on the basis of sex.

We believe that ratification of the amendment by the necessary number of state legislatures has been impeded by a campaign of distortions having no basis in law or fact. Certainly, there is nothing in the language of the Equal Rights Amendment, as approved by Congress in 1972, that would change biology, alter family structure or impair the right of individual men and women to select their roles in personal relationships or in society.

Thirty-five states have already ratified ERA, but thirty-eighty are required to put the amendment into effect. The 1972 Congressional Resolution which put ERA before the states set a seven-year limit for ratification. Because there has been tremendous misunderstanding distortion and confusion about ERA, the seven-year period, which will end on March 22, 1979, has proved inadequate for full debate. The debate is continuing and the issue has demonstrated continuing vitality.

In these circumstances, a reasonable extension of the ratification period is necessary to provide an opportunity for 50 years before it was adopted, a modest extension to give the states and the people more than seven years for debate and action is not excessive. The legislative history of the 1972 Resolution indicates that the seven-year period was intended to avoid a situation where a proposed amendment lies about unratified for 50 years or more. No such eternity of waiting is proposed or expected for ERA. An extension would give the people the time they need for adequate consideration of this important issue.

Yours sincerely,
HOWARD M. SQUADRON,
President.

STATEMENT ON EXTENDING THE RATIFICATION PERIOD OF THE EQUAL RIGHTS AMENDMENT

My name is Rev. William Callahan. I am the National Secretary of Priests for Equality, a three-year old organization representing nearly 1700 Roman Catholic priests. We publicly suport equality for women and men in civil society and in the Roman Catholic Church. Our charter explicitly endorses the ratification of the Equal Rights Amendment to the U.S. Constitution. We also support an extension of time for discussion of this amendment. I appreciate the invitation to address this subcommittee.

I speak today with some difference. My Church has been totally controlled and directed by men. Although we have proclaimed our commitment to work for justice and to eliminate discrimination, we have shown more vigor in telling others of their faults than we have in acting justify within the structures of decision-making and ministry inside our own community.

Nevertheless I speak today with growing confidence. Part of that confidence comes from the rapid growth of Priests for Equality. Our membership currently extends into 47 states and 20 countries. It represents nearly 4% of the active priests in the United States.

Yet far more of my hope comes from our Catholic people. Recent surveys show powerful Catholic support for the ERA. The Gallup and CBS-NY Times polls show that almost 60% of the Catholic people now support the ERA while less than 25% oppose it, a margin of almost 2½ to 1. Our own recent survey of 5,500 church-going Catholics across the country indicates that 68% believe the ERA is needed. Since younger Catholics (those under 50 years) affirm the ERA with far greater strength than do older Catholics, it is clear that support for equality under the law is growing steadily within our church. While Catholic opponents of the ERA continue to fight a rearguard, blocking battle, they represent a dying position. Support for equality in law is the emerging consensus of the Catholic community. It is the only position with a future.

I intend to sketch briefly some of the Catholic heritage on the issue of equality in order to show the strong need for an extension of the time period for ratification.

CATHOLIC HERITAGE ON EQUALITY

After an initial movement toward equality for women and men during the time of Jesus and in the early years of the church, women were pushed slowly but surely into a subordinate role. Noble women of the Middle Ages occasionally occupied positions of authority over great abbeys, but this slight tendency toward equality was steadily reduced in succeeding centuries, reflecting the increasing male dominance of western civil society and the steady growth of church control by the clergy.

By the beginning of this century sexism had become so much a part of the life of the church that many U.S. Catholic bishops even opposed granting women the right to vote. Cardinal Farley's statement illustrates the "foresight" and "wisdom" of the bishops of his day:

"I think it is best for all women to leave to man, politics. It is my belief that women will soon tire of the ballot in states in which they have secured it. A fad, I do not believe it will last" (from an interview in Los Angeles)

Cardinal O'Connell of my native Boston described the terrors of the voting booth and its impact upon family life:

"* * * must the child, returning from school, go to the polls to find his mother?" (NY Globe, June 22, 1911)

But by 1963, times had changed, and the tradition of equality represented by Jesus came alive once again. Pope John XXIII, whose warm human instincts for justice far outreached our community's ability to act, spoke with favor about women's struggle to achieve equality in law and throughout society. In his spirit, the Second Vatican Council which he convoked set forth the official Catholic policy on sexual discrimination. It remains today, the most solemn teaching of our church on this subject:

"With respect to the fundamental rights of the person, every type of discrimination * * * based on sex * * * is to be overcome and eradicated as contrary to God's intent." (*Church in the Modern World*, No. 29–1965)

In 1971, the Roman Synod of Bishops urged our church to move more swiftly to implement and expanded role for women within its very structures.

Given our tradition of male dominance, this call to equality and justice for women has not been an easy path for the Catholic community to walk. Many of our Catholic leaders have been less than vigorous in their "affirmative action" programs. But the ground swell of grassroots Catholic opinion is forcing the issue.

In 1974, the U.S. Bishops began their great "Call to Action" consultation with U.S. Catholics. Although women's issues were little mentioned in the preparatory documents, in the hearings held across the United States over a period of two years, they emerged as the second most important concern of U.S. Catholics. It was a thrust which could not be denied.

When the 1400-delegate Conference was finally convened in Detroit in the fall of 1976, the delegates—92 percent of whom were bishops or appointed by the bishops—supported equality across-the-board for women and men both in the church and in civil society. Four separate times, by resounding margins, they endorsed ratification of the Equal Rights Amendment.

The Call to Action Conference took place at a time when debate on the ERA was becoming increasingly intense in the U.S. generally, and in the Catholic Church, in particular. It continues unabated to this day. As this brief survey indicates, intense debate on the Equal Rights Amendment is a very young issue in the Catholic community. For that reason I wish to urge an extension of the time period for ratification so that further development may take place.

WHY AN EXTENSION?

With vigorous debate now taking place in the Catholic community and in the U.S. generally, it would be most unfortunate if discussion were cut off by an arbitrary 7-year deadline. The issue has only recently been strongly joined and glimpses of resolution lie ahead. Our Catholic experience after the Second Vatican Council shows the value of sufficient time for discussion where issues of profound growth are at stake.

This Council, which closed in 1965, heralded major changes in Catholic policies and directions. Conflict marked the early years after the close of the Council. Some fought to prevent the mandated changes from occurring, while others sought to accelerate the rate of change.

In 1972, 7 years after the Council, the struggle was intense and showed strong polarization. Strong voices urged to Pope and Bishops to stop further changes. However, since 1972 enormous growth and resolution have taken place. Although a small Traditionalist Movement attempts to roll back the clock, the vast majority of Catholics have come to believe that the present directions, the directions of Vatican II, are the way of the future.

Had we cut off debate after 7 years, in 1972, the church would have been left with a festering polarization. I believe that the extension of the ratification period for the ERA will help the U.S. to avoid a similar problem of unresolved conflict and will allow growth and resolution comparable to that which the Catholic community has experienced.

An extension will give people of religious faith time to deal with the multiple distortions that opponents have raised by trying to pre-empt religious symbols. Opponents have mounted a campaign which claims that opposition to ERA is somehow pro-God, pro-family and pro-life. These attempts distort both the ERA and religious teaching.

The Scriptures, for example, show that man and woman before the fall were equal to one another. When sin entered the world, so did sexism—as part of that sin. To be "pro-God" is to rebuild an equality that overcomes the evil of sexism.

Families have their deepest strength in modern society when two people come together to pool their gifts and share life as equals. The ERA will thus strengthen family life, calling forth the talents of each person by removing legal barriers to equality. To be pro-family is to be pro-ERA.

It is also becoming clear that the only reverence for life which makes sense in Catholic circles is a reverence that cares for the born as deeply as the unborn, that recognizes both life and equality as integral to the dignity of all of the children of God.

Some Catholic opponents of ERA have tried to confuse the ERA with abortion. Others have tried to manipulate Catholic sensitivities on life issues in order to draw Catholics into alliances on a range of conservative issues. But Catholics by and large have not been drawn in. They know that it is impossible for the ERA to give pregnant men an "equal right" to abortion.

Our recent survey of 5,500 Catholic churchgoers showed that grassroots Catholics make such distinctions sharply. In fact, those who favored the ERA were consistently more reverent for human life on a broad range of social issues than were Catholics who oppose ERA. To be pro-life is to be pro-ERA.

Overcoming the distortions will take time, just as it took time to overcome the efforts to discredit the Second Vatican Council.

CATHOLIC OPPOSITION

Opposition to ERA within Catholic circles, although small and diminishing, tends to come from the more affluent sections of our community—from people whose positions of leadership often produce an impact out of proportion to their numbers.

Some opposition comes from the Catholic clergy and from some bishops who see their position in the church eventually threatened if equality for women and men occurs in civil society. For them, resisting the ERA is a way to avoid internal challenges to equality in the church.

Some opposition remains in a few former mainline Catholic organizations whose works of charity and philanthropy are impressive, but who have not yet successfully made the transition to the Church's modern thrust toward justice, and hence toward acceptance of equality for women and men in the law. In this they are unlike such organizations as the National Conference of Catholic Charities which has successfully walked this journey, including their endorsement of the ERA.

The number of Catholic groups in opposition is declining while those working for the ERA are increasing. I have included a partial list of these groups with my testimony.

ERA Extension and Poverty.—One final concern leads me to speak in favor of ERA extension and ratification: the poverty of women and children in the United States. I deal with this poverty in my own personal work and it greatly concerns me.

To be born a woman in the U.S. continues to mean denial of jobs, less education, fewer employment skills, responsibility for the children when marriages break up, and a wage scale that pays 57 cents for every dollar earned by men, and lower pay for doing the same work as men. As recent studies show, the wage gap between men and women is increasing, not decreasing.

In the Catholic tradition—and in other religious traditions—such economic discrepancies are blatantly unjust. Although the ERA is no panacea for this discrimination, it will guarantee that any laws dealing with employment and wage scales can never again discriminate on the basis of sex.

It is my belief that an unwillingness to treat women with equal economic justice underlies much of the opposition to ERA and opposition to the extension.

To turn our backs on the poverty of women is a betrayal of the American dream for their lives. It is for Catholics a betrayal of our commitment to a loving justice. Who will suffer the greater corrosion of spirit—those who suffer poverty and are denied an equal share of the earth's opportunities—those who turn their backs on those less privileged, and in so doing turn their backs on the dreams and principles of their own lives?

CONCLUSION

In closing, I would like to affirm strongly the extension of the ratification period for the Equal Rights Amendment. The debate on the ERA is young in the Catholic community and in the nation as a whole. The experience of my church suggests that 12–14 years is a perfectly reasonable and needed time period to debate such an issue until a consensus emerges. The signs of this consensus are growing rapidly in the Catholic community and give promise that the issue will be well and equitably resolved. When the ERA is ratified, then our country will have taken a long overdue step to make our dream of life, liberty and the pursuit of happiness a reality for all citizens of the U.S., both women and men.

Catholic Endorsements of the Equal Rights Amendment

Most Rev. Carroll T. Dozier, Bishop of Memphis.

Most Rev. George R. Evans, Auxiliary Bishop of Denver.

Most Rev. Michael F. McAuliffe, Bishop of Jefferson City.

Most Rev. Charles A. Buswell, Bishop of Pueblo.

Most Rev. Joseph Francis, Auxiliary Bishop of Newark.

Most Rev Robert Sanchez, Archbishop of Santa Fe.

Most Rev. Amedee W. Proulx, Auxiliary Bishop of Portland.

Most Rev. Ernest L. Unterkoefler, Bishop of Charleston.

National Conference of Catholic Charities.

Priests for Equality (PFE).

NETWORK.

Women's Ordination Conference (WOC).

Christian Feminists.

Catholic Women's Seminary Fund.

Catholics Act for ERA.

Leadership Conference of Women Religious (LCWR).

Center of Concern.

National Assembly of Women Religious (NAWR).

National Coalition of American Nuns (NCAN).

Quixote Center.

Baltimore Task Force on the Status of Women in the Church.

Catholic Committee on Urban Ministry (CCUM).

St. Joan's Alliance.

Chicago Catholic Women.

Good Shepherd Catholics for Shared Responsibility.

Religious Formation Conference.

Las Hermanas.

Dignity, Inc.

The Grail Movement.

Institute of Women Today.

PADRES.

Catholic Women for the ERA.

Eighth Day Center for Justice.

Sisters of St. Joseph of Buffalo, New York.

Intercommunity Center for Justice & Peace, New York.

Sisters of Mercy Provincialate.

National Center for Justice & Peace Education/N.C.E.A.

New Ways Ministry.

Religious of the Cenacle, Eastern Province.

IHM Sisters, Northwest Provincial Team.

Passionist Social Concerns Center.

Administration: Sisters of St. Joseph of Cleveland.

Sisters of Mercy of the Union National Office.

Oregon Center for Peace and Justice.

Sisters of the Most Holy Sacrament.

IHM Provincial Team of Province of Foreign Missions.

Center for Peace & Justice—Sisters St. Joseph of Peace.

Xaverian Brothers, Richmond, VA.

Executive Board of Mt. St. Francis Province, School Sisters of St. Francis.

Community of the Holy Spirit.

Community Council of Eucharistic Missionaries of St. Dominic.

Spokane Peace & Justice Center (Ecumenical Center).

Task Force on Women, Diocese of Raleigh, N.C.

Religious of Jesus & Mary—Provincial Council.

Medical Mission Sisters—Eastern District.

Adrian Dominican Congregation.

School Sisters of St. Francis, Executive Officers.

Sisters of Saint Dominic of Marymount, Tacoma, WA.

Provincial Team, School Sisters of Notre Dame—Dallas Province.

Provincial Council, St. Ignatius Province, Sisters of Providence, Spokane, WA.

New England Jesuit Office of Social Ministry.

Justice and Peace Office, Inc., Winter Park, Fla.

Institute for Education in Peace & Justice, St. Louis, MO.

Sisters of Charity of Saint Elizabeth—Northern Province.

Provincial Team — Franciscan Sisters, Wheaton, IL.

Western District Assembly/Medical Mission Sisters.

National Convergance of Justice and Peace Centers.

Sisters of St. Joseph of Medaille, Province of Cincinnati.

Ad Hoc Committee on Women's Issues, Sisters of Notre Dame, California Province.

Provincial Administration, Congregation de Notre Dame, Ridgefield, CT.

Patricia Crowley, Co-Founder, Christian Family Movement (CFM).

St. Susan Rink, President, Mundelein College.

Fr. William Guindon, President of the Jesuit School of Theology in Chicago.

Sr. Lucille Winnike, FSPA, Provincial, Central Province, Franciscan Sisters of Perpetual Adoration.

Sr. Betty Jean Goebel, General Coordinator, Dominican Sisters, Great Bend, KS.

Brother Camillus Dufresne, Provincial, La Salle Institute.

Rev. Mother Marie Daniel Hummel, Superior General, Sisters of Charity of Our Lady of Mercy.

Fr. Carroll Stuhlmueller, Professor of Old Testament Studies, Catholic Theological Union; President-Elect, Catholic Biblical Association of America.

Sr. Mary Daly, Major Superior, Sisters of Mercy of CT.

Sandra M. Schneiders, IHM, Asst. Professor of New Testament & Spiritual Jesuit School of Theology, Berkeley, CA.

Sr. Jeannette Halbach, President, Our Lady of Victory Missionary Sisters.

Shirley Nugent, SCN, Provincial, Member of the Executive Committee Sisters of Charity of Nazareth, KY.

Fr. James F. Bresnahan, Associate Professor of Christian and Social Ethics at the Jesuit School of Theology in Chicago.

Sr. Judith Cagney, President of Barat College.

Sr. Irenaeus Chekouras, President of St. Xavier College.

Fr. Joseph O'Brien, Chairperson of Association of Chicago Priests.

Fr. John Pawlikowski, Professor of Social Ethics, Catholic Theological Union.

National Council of Churches of Christ

Chairman Bayh and Committee Members, thank you for this opportunity to come before you to express the continuing need for the inclusion of the Equal Rights Amendment in the U.S. Constitution. I am Joan M. Martin, representing the National Council of Churches and the Religious Committee for the ERA, both of which are comprised of over 30 communions and ecumenical groups. In addition, I hold ecclesiastical standing as a duly ordained minister in the United Presbyterian Church in the U.S.A. Each of these religious bodies has publicly stated its support of the Equal Rights Amendment and is working for its ratification.

THE NEED FOR THE EQUAL RIGHTS AMENDMENT

As religious persons, we realize that the ERA sets forth the principle that equality (not sameness) shall be applicable to all laws regardless of sex; that the ERA will create a single standard for legislative enactment, reform, implementation and enforcement. This is important because, to date, there is no single standard by which most state or federal legislation or judicial body provide women with equal treatment under the law. There are no constitutional amendments, including the fourteenth, which consistently provide this guarantee. Historically, the judicial process has ruled on "Sex classifications" with a pattern of inconsistency, and at the Supreme Court level, has held sex as a "suspect" classification.[1]

The U.S. Commission on Civil Rights has reported, in *Sex Bias in the U.S. Code,* that sex discrimination pervades present federal laws to the extent that "the cumulative effect is reflective of a society that assigns to women, solely on the basis of their sex, a subordinate or dependent role. . . . All of them are vulnerable under the national commitment to eradicate gender-based discrimination, evidenced more dramatically by the overwhelming approval Congress gave to the equal rights amendment."[2]

For those people who would argue that state and federal laws should be revised, one at a time, in order to remove sex-bias from the law, the Commission's report indicates otherwise. Only with the inclusion of the Equal Rights Amendment into the Constitution would such a comprehensive revision most likely take place and provide a single standard which would achieve fairness for the majority of Americans. The amendment would have the same effect for state laws. In addition, "legislation at both the state and federal level which assures women equal rights can be easily revised and reversed; an amendment is more permanent".[3]

The recognition of the need for the Equal Rights Amendment by religiously motivated persons of the Judiac-Christian tradition confronts us when we search our Scriptures and experience the world as it is. "We affirm that the dignity of personhood has been bestowed equally on all individuals, both female and male, by our Creator. . . . As long as inequality under the law exists, the fullness of our humanity under God has not been realized."[4] The solid basis for our recognition of the need for the ERA from Christian scripture and theology is our baptismal covenant as expressed in Paul's letter to the Galatians that in Christ there is neither Jew nor Greek, slave nor free, male nor female (Galatians 3.28). To live out our faith and freedom, we must exercise it as whole persons; otherwise it has no meaning. In the context of the ERA ratification process, failure to pass the amendment hinders women from the exercise of our civil rights.

PROJECTED EFFECT OF THE ERA

By establishing the principle of equality regardless of sex to which all laws would conform, the ERA would impact several categories of legislation which discriminates on the basis of sex. These would include such areas as criminal law, domestic relations, employment and employment-related benefits, civil rights and public obligations, and anti-discrimination laws.

Within these areas, I would like to address some specific concerns which religious bodies have encountered in our ministries of social justice and which I have professionally witnessed within the scope of my own ministry as they relate to the projected impact of the ERA for both women and men.

There are two areas involving criminal justice which at present are indicative of the need for the ERA. The first is that of equal protection for physically and/or sexually abused women and its concomitant, self-defense. In exploring the problem of abused women, the Center for Constitutional Rights has found through its work on actual cases that:

"Women are forced to defend themselves against abuse because they do not receive adequate protection from the courts or from the police. . . . Women's need to protect themselves must be understood in the context of the failure of the judicial and law enforcement authorities to protect abused women."[5]

In the case of wife battering, police and courts are hesitant to interfere with domestic violence. The assumption is that a marriage license gives the husband the right to do what he wants with and to his wife. It is further assumed that as the victim, the wife has provoked or wanted the beating. Similar assumptions are made about the rape victim; supposedly sex-neutral equal protection is found lacking in the case of rape. This is especially true in the necessity for different evidentiary rules in rape cases than those applicable in other general criminal proceedings.

Footnotes at end of article.

Although women of all classes and backgrounds experience unequal treatment and protection regarding physical and/or sexual abuse, minority and poor women find the policy and courts even less responsive to their complaints and needs than do their white counterparts.[6] When women, out of frustration, desperation and fear defend themselves to the point of commiting a crime in self-defense, again law enforcement agencies and the courts respond with "sex-based stereotypical views of women, especially women who act violently, and a male orientation built into the law prevents an equal application of the law."[7]

The second area of concern regarding criminal justice is that of women in prison. Often the sentencing and parole requirements and rehabilitative measures available are different from those for incarcerated males. Within the context of conversations with women inmates and prison officials during a term as an assistant chaplain at New Jersey's Clinton Correctional Facilities for Women, and most recently in a present Prison Dialogue Program of the NCC at New York's Bedford Hills Correctional Facilities, I have learned that a primary source of sex-bias in prison sentencing generally mandates indeterminate sentences for women while men generally receive sentences with a minimum and maximum term. Often men receive this sentencing during the judicial process, while prison administrators and parole boards can determine the parameters of a woman's time. The trend is reversed in the case of parole: women usually are paroled earlier because there is no minimum sentence.

Moreover there exists no more than one women's prison per state at the present time. This is largely due to the lower percentage of adult women in prison.[8] These prisons are generally located further away from women's home as well as being isolated from any available resources which the community could offer. Other implications include the lack of job training and other rehabilitative measures for women, and the position of double jeopardy experienced by minority and poor women. As one perceives both the conditions which breed crime and lead to greater arrest and conviction of minority and poor persons and the sex-based discrimination, it becomes apparent that the ERA would impact on existing statutes.

In regard to the issue of physically and sexually abused women, the ERA would enable repeal of some laws which require different evidentiary rules; in other cases, laws would be replaced with statutes that extend protection against physical and sexual assault to individuals regardless of sex, and would protect the rightful interests of both complainant and defendant. In addition, the ERA would impact the movement of domestic violence into the mainstream of the law protecting persons in all states rather then just in those several states which have already sought legislative reform.

Within the dimension of sex discrimination in penal institutions, the ERA would bring into conformity for both men and women sentencing requirements for crimes of equal weight, and provide a necessary tool for overcoming the seemingly "separate but equal" system regarding job training and rehabilitative efforts. In any case the ERA would need to be reconciled with other constitutional amendments and guarantees. Such reconciliation would take into consideration the right to privacy, as an example.

Another major category with which the churches are concerned and which have tremendous importance for poor and minority women is that of employment. Again, many false assumptions prevail which place women in a position of second-class citizenry: that women are of secondary importance for the public sphere of employment; that women are dependent on men and that their proper place is in the home; that their income is less than essential to the financial security of their families and themselves; and that they need special protection when they do venture into the labor force. However, Department of Labor statistics would indicate otherwise as of March 1978:

49.3% women, 16 years or older participate in the labor force;

61.4% of all women 25–34 years or older participate in the labor force;

61.2% of all women 35–44 years or older participate in the labor force; and

56.7% of all women 45–56 years of age participate in the labor force.

Of significant importance is the fact that 53% of Black women and 45% of Hispanic women are engaged in the work force.[9] The ERA is a necessity as a tool in helping women, but especially minority and poor women. "One dominant characteristic of Black women is that many will spend a portion of their lives in poverty and increasingly will either be widowed, divorced or separated during their lifetime."[10] The relationship between potential ERA impact on women's employment and an impact on domestic relations is one which has been highly debated in religious circles. Let me state clearly that there is no one voice speaking for religious persons and especially Christians on this matter.

Since the majority of women who work are mothers with children in the home, the Equal Rights Amendment would serve to protect both working spouses and spouses who choose to work full-time in the home. In the strictly public employment sphere, laws excluding women from certain jobs would most likely be repealed unless it was based upon a "unique physical characteristic" that applies only to one sex. In reality, it seems the only such characteristic is that of reproduction. Laws which regulate the hours or conditions of work or prohibiting the lifting of weights over a certain maximum would be struck down by the ERA. Statutes providing supposed benefits would be extended to men.

In the private sector of the home, the ERA would require all laws regarding spousal support and alimony to be sex-neutral giving both spouses fairer treatment under the law The same would be true of tax, property and homestead benefits for widowers and widows alike. These are but two examples of the ERA's impact on the relationship between women's employment and domestic relations. It is fair to say that the amendment applies only to state and federal employment laws and not to private relations between spouses except in cases where state laws already exist.

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It is apparent to me in working directly with congressional study groups inquiring about the ERA, from religious groups requesting resource materials and from the volume of media editorials and letters from private citizens, that people are beginning to seriously wrestle with understanding the merits of the ERA. It is also apparent that a greater number of persons are understanding the deep-seated pervasiveness of sex discrimination in the law. As discussion, education and understanding are heightening it would be a travesty of justice to allow the ERA to be defeated because an extension was not passed.

Many of us in the religious community have been accused of wanting to change the rules in the middle of the game and of suggesting a dangerous precedent for future constitutional amendments. First of all, for a diversity of religious persons, the struggle for justice, equal rights and freedom is not a game; it is an everyday reality. It is no less of a serious matter than is our struggle to combat racism. For minority women especially, the luxurious choice of which oppression to fight is not a choice. We are confronted by racism and sexism everyday, and if we are poor we also face grinding poverty. Moreover, ERA supporters have worked with state legislatures through reasonable channels, but in some unratified states consideration of the merits of the amendment have been seemingly subject to less than "fair game rules".

However, the matter of extending the ratification as it relates to a questionable constitutional precedent seems to miss the mark. On two separate occasions, the Supreme Court has reviewed questions concerning the time limitations for amendments (*Dillion* vs. *Gloss*, 1921 and *Coleman* vs. *Miller*, 1939). In its reviews, the court indicated that Article V of the Constitution grants Congress the authority to determine ratification periods, and to determine what is a "reasonable" period. What some would claim as a dangerous precedent would in fact be a legitimate exercise of Congressional authority and power.

"Extension" is an issue of choice, and a diverse religious community supports the principle that justice has no time limit. We support it out of religious convictions, and urge you to support it out of your religious or moral and legal convictions.

FOOTNOTES

[1] *Frontiero vs Richardson*, 411 U.S. 677, 691 (1973).

[2] U.S. Commission on Civil Rights, *Sex Bias in the U.S. Code*, April, 1977, p. 204

[3] The Religious Committee for ERA, "Why Religious Groups Support the ERA", New York 1977, p. 2.

[4] *Ibid* p. 1.

[5] Schneider, Elizabeth and Jordan, Susan, *Representation of Women Who Defend Themselves In Response to Physical or Sexual Assault.* Center for Constitutional Rights New York 1978 p. 8.

[6] Theology in the Americas, Women's Project, *Women, Work and the Economy:* "We Come a Long Way to Stand Here", New York 1978. A filmstrip and case studies of Black, White and Hispanic women.

[7] Op. Cit., Schneider and Jordan, p. 6.

[8] Brown, Barbara and Freedman, Ann and others, *Women's Rights and the Law*, Praeger Publishing Company, New York 1977, p. 86.

[9] U.S. Department of Labor Bureau of Statistics *Employment in Perspective: Working Women*, Report 531 April 1978, p. 1.

[10] Joyce Ladner, "The Black Woman Today" *Ebony*, Vol. 23, No. 10, August 1977, Johnson Publishing Company, Chicago, p. 36.

SONIA JOHNSON—EQUAL RIGHTS AND THE MORMONS

Wherever we go with our bumper stickers, our buttons, our signs and banners that proclaim us Mormons who support the ERA, we are greeted with disbelief and amazement. This, in turn, amazes us. So few people remember that the church was once in the forefront of the equal rights movement, and that Mormon feminists played a significant part in that movement.

Women of great prominence in the church—Eliza R. Snow (wife of Joseph Smith and, after his death, of Brigham Young), Susa Young Gates, daughter of Brigham Young, Emmeline B. Wells, and many others—addressed themselves, in their Woman's exponent,[*] to the woman question. In the first issue Eliza R. Snow wrote that there were many rights which women were denied by custom and by law, and that among these was that each woman should have "access to every avenue of employment for which she has physical and mental capacity."[1]

Women were encouraged in these views by the leaders of the church. On one occasion,

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[*] Footnotes at end of article.

President Brigham Young told church members:

"We believe that women are useful, not only to sweep houses, wash dishes, make beds, and raise babies, but that they should stand behind the counter, study law, or physics, or become good bookkeepers and be able to do the business in any counting house, and all this to enlarge their sphere of usefulness for the benefit of society at large. In following these things they but answer the design of their creation."[2]

The same issues that presently distress church leaders arose one hundred years ago and were dealt with admirably by the Mormon women:

"I know several good reasons in favor of women's equality in law. . . . First, it would be better for women; and this fact includes Second, it would be better for men; and both these reasons lead to, Third, it would be better for children. . . .

"On emerging from monarchial and other despotisms, man has broken his own manacles and given his own limbs nature's freedom, but still assures the woman that nature intended her to wear manacles, and made her wrists and ankles slender on purpose to fit them; that they are eminently becoming to her, and that she would look immodest and altogether displeasing to him without them; and he beseeches her, in the name of his approval and the eternal fitness of things, to wear them gracefully. But since he cannot leave her behind, his own liberty loses half its value, and his progress toward perfection is very slow. . . . One human being may aggrandize himself by oppressing another, but he cannot thus ennoble himself. . . . I aver, from the best procurable evidence, both positive and inferential, that children will be born better endowed both physically and mentally when the artificial barriers between father and mother are swept away; when the greater contentment, the deeper cultivation, the broader development, the higher elevation of mothers—and fathers—will so richly endow their offspring with great aspirations and powerful intellects that the race of today will be mere pigmies beside them."[3]

Many modern Latter-day Saints are saying the same things, though perhaps not so eloquently. Here is a passage from a brochure, entitled "Another Mormon View of the ERA," distributed by the Equal Rights Coalition of Utah:

"It is our belief that passage of the ERA does not threaten the family unit. What it may do, however, is to encourage more conscious personal definitions of the shared responsibilities and commitments undertaken at the time of marriage. Commitment to the family can be as strong or stronger in marriages where the man and woman are afforded legal equality as in marriages where the state gives legal advantage to either spouse at the expense of the other."

The question we are most often asked is: How is it philosophically possible to remain affiliated with the church and still support the ERA?

Early Mormon feminists demonstrated that the movement for equal rights could be compatible with Mormon doctrine. That they are compatible is eminently clear to us. Joseph Smith, the founder of the church, once remarked that his method of governing the members was to teach them correct principles and let them govern themselves. In doing so, he was acting in accord with one of the most profound doctrines of the church—the human right to, and necessity for, free agency. Mormon scriptures are replete with assurances that this is an eternal principle. As one highly respected Mormon theologian writes:

"We believe that the entire human race existed as spirit beings in the primeval world and that . . . they were endowed with the powers of agency or choice while yet but spirits; and the divine plan provided that they be free-born inthe flesh, heirs to the inalienable birthright of liberty to choose and to act for themselves in mortality. . . .[4]

Behind such a doctrine lies great love and trust. The church teaches that our Father in Heaven knows that many of us will make self-limiting and destructive choices, but that his greatest desire is that we should one day become like him. He understands that for such tremendous growth it is essential for us to have full options, to take responsibility for choosing, to live somehow through the consequences of our choices, and to learn from them what constitutes full humanity. He trusts us with this precious gift, not because he thinks we will all use it wisely, but because he loves us so much he is willing to take the risk. The leaders of the church, though great and good men, are nevertheless mortal and not yet like our Father in the fullness of love. Because they love us less, they are willing to risk, less willing to trust us to make wise decisions. They have chosen instead to tamper with our agency, to attempt to compel us to do what they believe is right through the use of fear and of their considerable authority. Unlike the Lord, they are afraid now, having taught us correct principles, to let us govern ourselves.

The rhetoric of the modern church sounds much like that of former times, but there is one critical difference: women are supported in word only, not in deed, a practice which confuses and blinds many church members. In their official statement opposing the ERA, the leaders of the church affirm the "exalted role[5] of woman in our society," and then proceed to withdraw support from an amendment which would give her equal protection under the law. We can express our dismay at this equivocation no better than one Mormon sister expressed hers in 1880: "Is this all, this shadow without the substance, that our brethren can afford to give us?"[6]

She would have been angered to learn that less than a hundred years hence—in the late 1960's—our brethren would suddenly consider us too exalted to continue to offer prayers in our sacrament meetings, a right inherent in church membership from the very beginning, so exalted that they abolished the magazine which had been published in some form since 1872 by and for women of the church. We are so exalted that young women must be several years older than their male peers in order to serve a mission for the church, and are not encouraged to do so at any age. So exalted that we are not allowed to manage the budget for our own women's auxiliary, to organize, plan, or conduct major church services that are not primarily for females or children. So exalted that we cannot stand in the circle where our own babies are being christened by our husbands and male friends. So exalted that we are encouraged to sacrifice our educations to support our husbands in obtaining theirs, so exalted that we should do by far the greater share of the difficult task of parenting because our husbands are too busy with the "important" matters of church and business.

Where equality does not even pertain, the world "exalted" is a mockery. One wonders if the leaders of the church would gladly exchange their sex and become so exalted, and if not, what has happened to a church which professes to be the church of Jesus Christ and has forgotten his central teaching: "What you would that others would do unto you, do ye even so unto them."

Morman women do not wish to be exalted in this or any real way. As one of our courageous foremothers wrote:

"We want an open field and no favor; we want you to decide upon the merits of our case and not out of a spirit of chivalry to our sex. We want equal and exact justice, we want for our girls the same chances in the race that are provided for our boys. We want our colleges to admit young women to the same course and on the same conditions as they do young men. We want to be allowed to decide what our sphere is. . . . All these things and many more, we ask in the name of common humanity, and we will not be contented with the half loaf . . .[7]

We firmly believe that what our early sisters would have wanted, what they would be working for if they were here today, what constitutes the whole loaf with which they would be contented, is ratification of the Equal Rights Amendment. They left us a mighty heritage of courage and conviction, and we rejoice, as they did, that

This is a momentous age. Art and science are making wonderful strides. Everything, it would seem, which can benefit and interest the human family is being developed and improved. Woman cannot help feeling the impulse given to this generation. It is the spirit of God, and woman shares this influence. She is bound to rise, and no human power can stop her progress.[8]

FOOTNOTES

*The Woman's Exponent was an unofficial Mormon magazine begun at the instigation of Brigham Young. It was the first magazine published by and for women west of the Mississippi.

[1] Eliza R. Snow, "Woman's Rights and Wrongs," Woman's Exponent, 1 (June 1, 1872), 5.

[2] John A. Widtsoe, ed., Discourses of Brigham Young (Salt Lake City: Desert Book, 1973), pp. 216–217.

[3] Lucinda Lee Dalton, "Our Opinion," Woman's Exponent, 8 (February 15, 1880), 138.

[4] In church publications and practices, despite the lofty sentiments expressed, women are almost always regarded as "roles" rather than as individual human beings with interests and capacities as varied and significant as men's. A fine example of this appeared in the Congressional Record, May 26, 1978, pg. S8441, the churches statement opposing extension: "Because all human life begins with her, the Church of Jesus Christ of Latter-day Saints has always held her in revered light." It is our biological functions, our "role" as mothers which alone gives us values.

[5] James E. Talmage, Jesus the Christ (Salt Lake City, Desert Book, 1957), p. 17.

[6] Equal Rights, "Woman's Exponent, 8 (March 1, 1880), 146.

[7] "An Address," Woman's Exponent, 8 (February 15, 1880), 143.

[8] Flora S. Hill, "The Impulse of the Hour," Woman's Exponent, 8 (April 15, 1880), 171.

PROVO, UTAH, *Aug. 16, 1978.*

Senator ORRIN HATCH,
U.S. Senate,
Washington, D.C.

SENATOR HATCH: After reading the account in our local papers of your confrontation with Sonia Johnson, we must let you know that you were quite mistaken about the percentage of Utah women who oppose the ERA. We, the undersigned, are only a few among many who are for equality for both men and women as expressed in the Equal Rights Amendment. We think it most unfortunate that our church leaders came out against the ERA at a time when the amendment was receiving so much egregious publicity having nothing to do with its purpose.

The basic principle of equality of the sexes is in fact clearly stated in Utah's constitution, but it seems that few church and state leaders are aware of it, with the result that Utah women have not enjoyed the equal wages and civil rights they are entitled to. In particular, many single women of our state have need of equal justice under this law. Ratification of the ERA would ensure proper legal realization of it.

We applaud the courage of Sonia Johnson in speaking out for us Mormons, many of whom do not come out openly in favor of the ERA because of the church stand on this issue. We deplore the distortions of some of our women leaders whose stand against the amendment suggests that they speak for all Mormon women. They do not speak for us. They have hurt both the image and spirit of our church, and by their acts betray the achievements and ideals of our pioneer sisters who fought so courageously not only for suffrage but for equality as set forth in the ERA.

We have learned that you and Senator Garn threaten to filibuster against extension for debate and legislation on this issue. We hope you will reconsider. Such a tactic may sometimes have its place, but resorting to filibuster for the purpose of undermining so fundamental a principle of democracy as the ERA embodies would be nothing but the most irresponsible use of it.

Algie E. Ballif, Ruth Christensen, Rachel Camon Heninger, Nacona R. Earl, Carol B. Lambert, Dr. Jenniev Poulson, Lola Redford, Helen Stark, Letha Staheli, Phyllis Van Wagenen, and Thelma Weight.

SALT LAKE CITY, UTAH, *Aug. 4, 1978.*

Senator BIRCH BAYH,
Senate Judiciary Subcommittee on Constitution, U.S. Senate, Washington, D.C.

Utah needs help. The women of Utah would like to be included in the Constitution. We need extension of the deadline for ratification of E.R.A. to allow full debate in all the states, time should not be the issue.

Equal Rights Coalition of Utah (Comprising 400 individual members plus 35 different organizations).

TESTIMONY PRESENTED BY JUDY HERTZ TO SENATE JUDICIARY COMMITTEE, AUGUST 4, 1978

Mr. Chairman and Members of the Committee:

My name is Judith Hertz. I am a wife, a mother and an active volunteer in the religious and secular community. I served on the Board of Directors of the National Federation of Temple Sisterhoods. I am coordinator of this agency's Task Force on the Equal Rights Amendment and its liaison to the Religious Committee for the ERA. I have worked professionally as a social worker for the Department of Welfare in the City of New York, as a census and an opinion polltaker and general researcher for various corporate enterprises and publications.

The National Federation of Temple Sisterhoods has over 620 affiliates with more than 100,000 members in 47 states. We are the women's agency of the Union of American Hebrew Congregations which includes over 700 Reform congregations with over 1 million members in the United States. The National Federation of Temple Sisterhoods has been a pioneering agency in advocating the issues of rights for individuals, regardless of race, color, national origin or sex. In fact the establishment of our agency in 1913 was an expression of our equal rights status as women within our branch of Judaism. It is more than historic coincidence that many women active in the suffragist movement were among our organizers.

I speak here today on behalf of both Sisterhood and Congregation as well as other agencies of the Jewish community whose statements on extension are appended to my comments. Included are: American Jewish Committee, American Jewish Congress, B'nai Brith, B'nai Brith Women, the National Council of Jewish Women, National Jewish Community Relations Advisory Council, Pioneer Women, the United Synagogue of America, Women's League for Conservative Judaism, as well as the National Federation of Temple Sisterhoods and the Union of American Hebrew Congregations. The combined memberships of these groups are well in excess of 2½ million people. Although there are differing approaches and opinions in the Jewish community all these agencies support the Equal Rights Amendment and favor extension of the deadline for its ratification. Other Jewish agencies supporting the ERA have not yet had an opportunity to act on extension.

Intrinsic concerns of Judaism are justice and human rights. Regardless of the varieties and distinctions in cultural roles, Judaism has made no distinction in the degree of responsibility of men and women in relation to God and religious observance, to family and society.

Within my own religious community women are trained as rabbis, cantors, and educators; they are elected as presidents and officers and serve in other positions of leadership in the synagogue. In secular (in contrast to synagogue-related) Jewish agencies women can and do participate in leadership and decision making roles.

I speak for a religious community that places the highest value on family—on love and respect between husband and wife—on love and respect between parents and children. It is primarily through the family that children learn moral and ethical values. We believe that mothers and fathers are equal partners in responsibility for teaching and rearing children.

The family will be strengthened by eliminating differences in the treatment of men and women. The ERA simply guarantees equal protection under the law to both men and women. It gives dignity in the eyes of the law, and thus in society, to both. It is out of concern for the family that we believe that the ERA must be ratified.

The long historic struggle of women, on a state-by-state, statute-by-statute, and subject-by-subject basis toward eliminating discrimination, on the right to vote, the right to own property, the right to equal pay, to cite only some examples, indicates that the issues involved are complex, difficult to explain and difficult to understand. Considering the length of time which has been required to pass individual items of legislation on a piecemeal basis, it should not be surprising that ratification of the ERA by the required number of states may not be accomplished within the arbitrary 7-year time limitation.

I speak for the propriety of extension. Why? Perhaps a parable will help.

When Moses ascended Mt. Sinai to receive the Ten Commandments, the people he left behind retreated to their old ways. In his absence, they regressed; frightened and uncertain, they built and worshipped an idol—the Golden Calf. If Moses had not had the patience to continue his work, to reeducate and redeem his people, the whole of our history and the history of all civilization and religion might be different.

We must have patience and concern and be able to continue to work for what we know is right. The extension is essential because while recent polls show that the majority of people favor the ERA, state legislators have not always reflected or acted upon this point of view. It is evident that there are many misunderstandings about the issue. We are, through our work and reports of the media, all too aware of the increasing confusion and misinformation regarding the ERA. It was after opposition to the ERA, in the name of religion, was increasingly articulated, that the religious community recognized its responsibility to work cooperatively and actively on behalf of ratification. One reason we were late in speaking out was that it seemed so obvious that the ERA would be ratified.

One of the precious values in our society is the right to express one's point of view. However, we cannot condone, in the name of that principle, disseminating frightening, misleading and destructive information.

One of the strongest points of Judaism, and other religions, is that if there is a wrong done, that wrong should be righted as soon as possible. Judaism stresses the importance of redeeming by good acts those acts which are hurtful.

Ratification of the Equal Rights Amendment will guarantee long over-due equal rights and treatment for millions of women now still denied them primarily on the basis of their sex. It will guarantee opportunities for women to make choices. It will strengthen opportunities for men as well.

The extension is necessary so an educational opportunity can be presented to clear the air of those false representations and scare tactics which have been voiced by a small but very vocal minority. By those tactics they created an impression that they represent a large body of people although such is not actually the case. Our organizations are increasingly conscious of and impressed by our members' concern that opposition to the ERA is part of an attempt to restrict and limit rights for individuals contrary to the Constitution. Many groups and individuals are just coming to grips with the insidious nature of the opposition. Larger freedoms in America may be threatened. Failure to extend the deadline for ratification will prematurely cut off debate and discussion on the issue, will cut off the opportunity to fulfill the American standard of justice.

Reason and understanding, not passion and emotion just determine our behavior. While there may be differing opinions on strategies or technicalities, there is no disagreement that discrimination on the basis of sex must not be allowed. The law must guarantee the absence of such discrimination; the law of our land must protect all of our people.

Mr. Chairman, Members of the Committee we speak for and urge the extension of the deadline for ratification of the ERA.

NATIONAL FEDERATION OF TEMPLE SISTERHOODS

WOMEN'S RIGHTS: EQUAL RIGHTS AMENDMENT

The proposed 27th amendment to the Constitution of the United States declares that equality of rights under law shall not be abridged or denied by the United States, nor by any State, on account of sex. In addition it gives Congress the power of enforcement.

Although equality is of concern to all, women have a unique responsibility to increasingly press their role in advocating and supporting necessary legislation to eliminate all sex discrimination. Therefore, the National Federation of Temple Sisterhoods, on behalf of its United States members assembled in San Francisco affirms:

1. Continued support of the proposed 27th amendment to the Constitution of the United States which makes gender-based discrimination unconstitutional.

2. Constituents, particularly in those states which have not as yet ratified the 27th amendment should work toward its ratification; members in states which have taken action to rescind ratification, should work against such action.

In the event that the passage of the 27th amendment requires an extension, members in all states should work promptly and vigorously for extension of the time limit to ratify the 27th amendment.

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[Union of American Hebrew Congregations]

Resolution adopted by the Commission on Social Action for Reform Judaism March 19–20, 1978, Cincinnati, Ohio.

EQUAL RIGHTS AMENDMENT

The Commission calls for an extension of the time period for ratification of the ERA, which now expires in 1979.

Mission Helpers of the Sacred Heart,
Baltimore, Md., September 16, 1978.

Dear Senator: As the President of a Congregation of Women Religious engaged in religious education and evangelical ministry in the United States I represent a group of women who are immensely interested in all that concerns us as citizens of this country. We are an American foundation and are proud of this fact. We want to be proud of all that our country represents.

Serious discernment of the issue prompts us to ask you to vote for H.J. Res. 638 without crippling amendments. Please vote against the measure that would allow states to rescind their ratification of the ERA.

Further, we ask that you vote for cloture on the first cloture vote in case of filibuster. It is imperative that ERA get a fair hearing. Only in this way can justice be served.

We would like to submit that we see no connection between ERA and abortion. We are in favor of ERA. We are not in favor of abortion. You are aware that nearly 60% of the Catholic people nationally support ERA. We ask you to hear this 60%.

We ask you to vote for the extension of time for ERA.

Sincerely,
Sister M. Joanne Frey, M.H.S.H.,
General Director.

Office of Governmental Relations,
Washington, D.C., August 3, 1978.

Hon. Birch Bayh,
U.S. Senate,
Washington, D.C.

Dear Senator Bayh: I am writing to urge your support for S.J. Res. 134 extending the deadline for ratification of the Equal Rights Amendment by the States.

In June of 1978 the General Board, a representative body of the American Baptist Churches, USA, passed a resolution expressing "support for legislation which extends the time allotted for ratification of the ERA."

Given the seriousness of a Constitutional Amendment, it is crucial that a sufficient time be allotted to clarify the issue fully and to allow for an informed judgment on the part of the American people. Therefore, I urge you to recommend this bill without amendments, and give it your strongest support when it reaches the floor of the Senate.

Sincerely,
Rev. Pamela Barnett,
Office of Governmental Relations.

The Thomas Merton Center,
Pittsburgh, Pa., September 12, 1978.

Dear Senator: Our organization, The Thomas Merton Center, is ecumenical with a mailing membership of over 700 people. We support the ERA as an issue of social justice. We believe that the ERA is a step in the direction of eradication of discrimination based on sex in the U.S. The consistent social teaching of the Catholic Church calls for the opening up of all structures which inhibit the freedom of people to lead full human lives. The passage of the ERA would open up those legal structures which presently discriminate against people because of sex.

We know some of the opponents of the ERA have attempted to connect it with abortion—this is not true. ERA would prohibit discrimination based on sex dfferences but would not prohibit reasonable classification and special treatment based on characteristics unique to one sex, e.g. child bearing. Therefore, ERA is not applicable to present laws dealing with abortion The polls show that 50–60% of Catholic people nationally support ERA.

We urge you to vote for H.J. Res. 638 without crippling amendments including those which would make it possible for states to rescind their ratifications. We further encourage you to vote for cloture on the first cloture vote in case of filibuster.

When you vote, make your vote a vote for human rights.

Pat Morgan,
S. Joyce Rothermel,
Molly Rush,
Mary Ann Brownell.

United Methodist Church,
New York, N.Y., September 7, 1978.

Dear Senator: The Women's Division of the United Methodist Church, a national policy making body, urges Senate extension of ERA.

Our concerns are reflected in H.J. Resolution 638, voted by the House Judiciary Committee. We request support without further amendments.

We also ask for your affirmative vote on cloture feeling that this is an issue on which the Senate should be allowed to vote after reasonable time for debate.

Sincerely yours,
Theressa Hoover,
Associate General Secretary,
Women's Division.

Presbyterian Church,
Atlanta, Ga., August 30, 1978.

United States Senators.

This is an urgent appeal for your support of the Equal Rights Amendment extension compromise as voted by the House of Representatives on August 15.

The Committee on Women's Concerns of the Presbyterian Church in the United States strongly favors extension in order to provide adequate time for States to ratify the Equal Rights Amendment.

I urge you to vote against an amendment which would allow rescission by those states that have already ratified ERA. Legal and historical precedents are against allowing rescissions. Rules that apply to the ordinary state legislative process which allows states to change their minds in some cases, such as by repealing statutes or writing new statutes to supersede old ones, do not apply to the ratification process. See, for example, the Supreme Court opinions in Hollingsworth-V-Virginia, 3 U.S. 378 (1798), Hawke-V-Smith, 253 U.S. 221 (1919), Leser-V-Garner, 258 U.S. 130 (1921). Moreover, constitutional scholars agree that the appropriate time to decide the question of the validity of rescissions is after ¾ of the states have ratified an amendment.

Please vote also against an amendment that would require ⅔ of the Senators to vote in the affirmative for passage of the extension. The simple procedural act of Congress to extend the time limit requires only a majority vote.

I hope that you will support a cloture vote immediately in order to prevent the threatened filibuster of this important issue.

The Equal Rights Amendment is still timely, contemporaneous and important to the quality of life for all citizens.

Many church people support extension of the time limit because we realize that seven years has not provided adequate time for the thorough debate that must take place. It took women fifty years to gain the right to vote—an extension of time for the ERA is a modest request.

Sincerely,
Carole Goodspeed,
Staff, Committee on Women's Concerns.

Presbytery of Seattle,
Seattle, Wash., August 3, 1978.

Senator Birch Bayh,
Old Senate Office Building,
Washington, D.C.

Dear Senator Bayh: At its June 27th meeting the Presbytery of Seattle (representing 52 United Presbyterian Churches in the Greater Seattle Area) voted to support House Joint Resolution 638, calling for an extension of the Equal Rights Amendment ratification date.

Since we believe discussion of the Equal Rights Amendment on its merits is still politically, socially, and economically relevant, and because our church has consistently worked for equality of opportunity for all people, we urge you to support the resolution calling for an extension of the ratification date of the Equal Rights Amendment when it comes to a vote in the Senate Judiciary Committee and the Senate.

Thank you,
Rev. Patricia Campbell-Schmitt,
Chairwoman, Presbyterian Committee on Women.
Rev. Kenneth C. Miller,
Associate Synod Executive.

Lutheran Church in America,
New York, N.Y., August 24, 1978.

Re extension of time period for ratification of the equal rights amendment.

Hon. James O. Eastland,
U.S. Senate,
Washington, D.C.

Dear Senator Eastland: It is my understanding that SJRes 134 may be considered by the entire Senate some time following the Labor Day weekend in September 1978.

May I encourage your favorable consideration and a "Yes" vote on the ERA extension measure.

The Lutheran Church in America has acted to support the Equal Rights Amendment. On two occasions support was voted by the Lutheran Church in America in convention representing congregations and pastors. During the interim, action was taken by the Executive Council of the Lutheran Church in America, reaffirming the convention's previous action.

Your favorable consideration and "Yes" vote will mean much to many persons today and in the future.

Sincerely yours,
Kenneth C. Senft,
Executive Director, Division for Mission in North America/LCA.

Division of Church and Society,
New York, N.Y., August 2, 1978.

Senator Birch Bayh,
Chairperson, Senate Judiciary Subcommittee on the Constitution, Russell Senate Office Building, Washington, D.C.

Dear Senator Bayh: Thank you for your invitation to present testimony before the Subcommittee on the Constitution on August 4, 1978 regarding S.J. Resolution 134.

Enclosed, you will find the requisite fifty copies of the testimony to be presented to the Subcommittee. There are no questions which I perceive the Subcommittee would need to ask, so no sheet is attached. Lastly, I have provided, within the testimony itself, a brief description of who I am for the Subcommittee's information.

Again, thank you. I look forward to meeting you and presenting a statement on behalf of a segment of the religious community of our nation.

Respectfully yours,
The Reverend Joan M. Martin,
Staff Associate—Justice for Women.●

NATURAL GAS PRICING

Mr. BARTLETT. Mr. President, a few days ago I mentioned the probable reluctance on the part of State oil and gas regulatory agencies to assume the responsibility, workload, and financial burden of administering a hopelessly complex Federal law to regulate natural gas pricing.

The Chairman of the Interstate Oil Compact Commission, the Honorable Robert F. Bennett, Governor of the State of Kansas, has written to the Federal Energy Regulatory Commission, citing and expanding upon that very point. I ask unanimous consent that the complete text of Governor Bennett's letter, dated September 19, 1978, be printed in the RECORD.

The letter follows:

INTERSTATE OIL COMPACT COMMISSION,
Oklahoma City, Okla., September 19, 1978.
Hon. DON SMITH,
Commissioner, Federal Energy Regulatory Commission, Washington, D.C.

DEAR MR. SMITH: Since there is some probability that the Congress is preparing to adopt the Natural Gas Pricing Bill, and since you were designated by Chairman Curtis as liaison between FERC and the IOCC for the purpose of implementing state regulatory agency functions under the bill, I believe that you should be made aware of the attitude of a number of the oil and gas producing states toward certain aspects of this legislation.

As you know, the most recent measure which came out of Congress delegated to the state oil and gas regulatory agencies certain certification functions relative to natural gas pricing. Several months ago, when the present agreement was in memorandum form and not in final draft legislation, cooperative talks were held between the staffs of the Federal Energy Regulatory Commission and the Interstate Oil Compact Commission. It was a mutual goal at that time to urge the states to carry out their responsibilities under the act. The staff conferences indicated that most state regulatory agencies were in a position to fold the certification process into their present operations and that each state would be permitted to use its own system, within parameters, to carry out the responsibilities. We believe that it was in the best interests of the conservation of oil and gas and the orderly development of the resources to assist in these functions.

The staff advises me that the most recent draft, that is the draft presently being considered by the Congress, has made material changes from the assumptions made at the original staff conferences referred to above. Consequently, many of the states have indicated to the IOCC staff that they have little or no interest in being of assistance in carrying out these functions. We apprehend that the Congress has imposed upon FERC the duty to prepare the program without flexibility; draft the necessary forms; and become the "big brother" to all of the state oil and gas agencies.

On the other hand, the state regulatory official faces a huge volume of work for which he has received no appropriation, will expect no praise, and will probably get a certain amount of calumny. One state regulatory official has already written his Attorney General seeking an opinion as to whether his state (Oklahoma) can carry out a federally mandated program without the approval of the Legislature of the State of Oklahoma. Others are considering a similar approach.

If these agencies continue to reject being the certifying agency, then obviously this is of serious consequences to you. In view of the previous staff conversations, I thought that it would fair to advise you. For example, if the bill becomes law within the next 45 days there will be 1,700 applications for certification pending from the State of Louisiana alone. Texas estimates 3,000 hearings a year. Other states will have corresponding volumes.

Do not construe this letter as one that rejects cooperation between the IOCC and the FERC. Quite the contrary. It is because of our long cooperative association that I feel it a proper thing to do to advise you of the attitude of the states. If we can assist you and your commission in any way in this matter or in any others—keeping in mind that we are restricted by the desires of our member states—please advise me.

Sincerely,

ROBERT F. BENNETT,
Governor of Kansas.●

S. 1185, INTERSTATE HORSERACING ACT OF 1978

● Mr. STEVENSON. Mr. President, the Senate will soon consider S. 1185, a bill which would for the first time have legal wagering on horseraces regulated by Federal statute. I oppose the bill and plan to call up some of the amendments I filed last Tuesday. Apparently, few Members have given the bill much attention, and I am finding much confusion about its provisions and my amendments. Perhaps the following summary will be helpful to Members and their staffs who may not have had time to puzzle out the provisions of S. 1185 as reported by the Judiciary Committee.

First. The bill prohibits a legal off-track betting agency from accepting wagers, either parimutuel of nonparimutuel, on horseraces in other States except under the conditions prescribed below;

Second. Interstate wagering on horseraces is permitted only with the consents of:

First, the racing commissions of the host racetrack State and the off-track betting State,

Second, the host racetrack (the bill uses the term "host racing association),

Third, the horsemen's group (defined as the group representing the owners and trainers at the racetrack. The consent of the group takes the form of a written agreement between the group and the racetrack. It is a condition precedent to any agreement between the track and the off-track agency. Thus, the horsemen's group has a veto over the contract. They may use it either to prevent a contract between the track and the off-track agency, or to bargain with the racetrack for a share of the proceeds the track will receive under its contract with the off-track agency.

Fourth, with certain exceptions, all currently operating tracks within 60 miles of an off-track agency, or when there is no track within 60 miles, the closest currently operating track in an adjoining State, regardless of the distance of the track from the off-track agency.

Third. Exception to the requirement of the consent of the horsemen's groups (third above): A nonprofit racetrack in a State where distribution of off-track betting revenues is set by law is not required to get the consent of its horsemen's group before entering into a contract with an off-track agency. I understand that this exception applies to three major racetracks in New York which are "nonprofit."

Fourth. Exceptions to the requirement of third-party racetrack consents (fourth above):

First, a State which had off-track but not on-track betting on May 1, 1978, is not required to obtain the consents of third-party racetracks;

Second, in an off-track betting State with at least 250 days of on-track wagering, the consent of third-party racetracks is not required for up to 60 racing days if there is no racing of the same type on the same day within 60 miles of an off-track betting office. Their consent is also not required for up to 25 special events a year, such as the Kentucky Derby. New York is the only State with off-track betting and at least 250 days of on-track wagering.

Fifth. General exceptions to the act:

First, the act would not apply to any contract between an off-track betting agency and a racetrack existing on May 1, 1978;

Second, the act would not apply to any form of legal nonparimutuel off-track wagering existitng in a State on May 1, 1978.

Sixth. Enforcement. The host racetrack State, the racetrack whose race is used by the off-track system, and the horsemen's groups are given rights of action against an off-track system. Civil suits may be brought in Federal district courts regardless of diversity of citizenship, amounts in controversy, or the existence of a Federal question. Thus, actions on the contracts, not involving interpretations of the act, would be tried in Federal rather than State courts.

Seventh. Damages are set as "an amount equal to that portion of the takeout which would have been distributed to the host State, host racing association and the horsemen's group, as if each such interstate off-track wager had been placed at the host racing association." This calculation of damages is based on a hypothetical case in which all who placed bets on the race at an off-track agency would have traveled to the racetrack to place their bets if the off-track agency had not offered the race.

Mr. President, I oppose S. 1185 because I believe it would be unwise of the Congress to undertake to regulate legal gambling, a subject we have always left to the States. While the horseracing industry has problems, real or imagined, they do not rise to the level of a national concern. Further, if we decide that Federal regulation is necessary, we should at least be evenhanded. This bill, while it contains a maze of exceptions and special provisions to protect existing off-track betting systems, discriminates generally against off-track betting in favor of on-track betting. States which now have neither but may in the future decide to establish off-track systems will be discouraged from doing so by the burden of restrictions imposed by this bill. Their interests are not protected. It is a bill for the protection of the special interests who participated in patching it together. It protects one form of gambling against the competition of another form. It is both anticompetitive and unfair. While I do not plan to call up each one of my amendments, I will call up at least those that would strike the required consents of those who are not parties to the contract between racetracks and off-track betting agencies.●

THE COMPROMISE NATURAL GAS BILL

● Mr. STONE. Mr. President, although I believe the compromise natural gas bill has many deficiencies, most of which were not inherent in the Pearson/Bentsen bill which I cosponsored and which the Senate passed last year, I am supporting passage of the compromise bill and believe it is essential that the U.S. Senate adopt it.

As many in this body know, one of my primary concerns since being elected to the Senate has been this Nation's growing energy vulnerability. I have participated actively both as a member of the Energy Committee and as a member of this body in deliberating about our energy problem and its possible solution. Indeed, we have been deliberating about our energy problem and its possible solution. Indeed, we have been deliberating on this problem for too long and only now have the opportunity to take some constructive steps toward solving it.

The oil embargo of 1973–74 dramatically underscored our vulnerability. Since then, we experienced the winter of 1976–77 which again demonstrated how dependent our modern society is on energy and how much hardship can be inflicted by inadequate energy supplies. Throughout the last 5 years we have continued to increase the percent of our petroleum supplies which is coming from foreign sources and increasingly the sources for this supply have shifted from the Western Hemisphere to the Middle East and Africa. In addition to the vital question of the security of these supplies, the outflow of U.S. dollars to procure them has now reached such a level that the stability of the U.S. dollar is at issue.

I believe we as a nation must finally begin taking those steps necessary to put prices on new gas immediately; I believe the price ceilings established in the compromise bill are realistic both from the standpoint of producers and consumers; I believe the deregulation of natural gas from deep wells within 12 months of enactment will significantly simulate exploration and development of some of this country's most promising remaining natural gas resources; application of the price ceilings over both the interstate and intrastate markets will once again permit natural gas supplies to move across State lines without suffering penalties and thus more equitably distribute all of this country's natural gas supplies; and the phasing out of price ceilings on many of this Nation's natural gas supplies by the mid-1980's should encourage significant new long-term investments in the development of our domestic natural gas resources.

Overall, I am convinced that the compromise natural gas bill will result in the development of significant new domestic natural gas supplies and thus will reduce the Nation's dependence on foreign energy supplies. In addition to improving the energy security of our country, the development of new supplies here at home versus purchasing incremental energy supplies from foreign sources will create additional American jobs and income while reducing the outflow of dollars and the adverse effects of this outflow on the value of the dollar in world money markets. We have surely passed the time when we have the luxury to once more face a decision on natural gas pricing and decide that the best action is to make no decision at all and to again consider the issue at a later time. The hour for action is surely late and we must now face up to our responsibility and establish reasonable rules and guidelines by which the private market system can begin solving the natural gas problem.

As indicated, I do have a number of concerns about the compromise natural gas bill. I believe it is unduly burdensome and complex in its multitude of definitions and regulations; I believe the definition of new gas, particularly for the offshore area, is inordinately restrictive and will discourage development of some of our promising natural gas resources; and as previously indicated, I would much prefer to see all price ceilings phased out at a much earlier date than is specified in this bill.

But I suppose my most serious concern with this bill has to do with the possible misadministration of the incremental pricing provisions. The bill does provide for certain of the costs associated with the higher cost supplies to be passed along initially to industrial boiler fuel customers. The intent of this provision is that residential and small commercial customers in particular be initially protected from some of the cost increases from these new higher priced supplies.

I do not quarrel with the concept of affording some price protection to high priority customers. But at the same time, I believe it is imperative that the incremental pricing provisions not be administered in such a way as to cause industrial users of natural gas to shift to imports of foreign oil.

The compromise gas bill provides that incremental pricing shall be applied to certain industrial customers only so long as the incrementally priced gas does not exceed the price of the industrial users alternative fuel. From my reading of the bill and the conference report, it is clear that if it is determined that the alternative fuel for a particular industrial user is No. 6 fuel oil, then incremental pricing to this user is less than the price of No. 6 fuel oil to this customer. Once the price of natural gas to this user equals the price of No. 6 fuel oil, then no further increases in price will be imposed to this user except to the extent necessary to keep the price of natural gas equal to the price of this user's alternative fuel, or in this case No. 6 fuel oil.

Indeed, I believe it would be ludicrous if we adopt a gas bill which is intended to encourage the development of new domestic natural gas supplies in order to reduce our dependence on foreign oil and then to allow the imposition of incremental pricing in such a way that industrial users are encouraged to shift from natural gas to No. 6 fuel oil or some other fuel. I trust that the FERC will use every possible prevention to see that this does not occur.●

EQUAL RIGHTS RATIFICATION

● Mr. GARN. Mr. President, one of the most gratifying aspects of the controversy over House Joint Resolution 638, the resolution purporting to extend the time for ratification of the equal rights amendment, is the outpouring of editorial opinion against the manner in which the extension is being handled. Of course, this is gratifying because of the serious problems raised by extension itself, but it is also gratifying because many of the newspapers which have editorialized are in favor of ERA ratification. We are fortunate indeed to have editorial writers and publishers who are able to separate their own feelings about the merits of ERA from the procedural problems raised by House Joint Resolution 638. There is a general understanding that the procedure must be fair and firm for every proposed amendment, not just for those that one favors. Also, it is generally understood that the precedent set by this Congress may come back to worry the Nation for decades to come.

I ask unanimous consent that editorials from the Denver Post, the New York Times, the Washington Post, the Plain Dealer and the Cleveland Press, the Chicago Tribune, and the New Republic be printed in the RECORD.

The editorials follow:

[From the Denver Post, Thurs., July 20, 1978]

DON'T RIG RULES FOR ERA

Should the deadline for ratification of the Equal Rights Amendment be abruptly moved up to today from the original March 22, 1979, for the specific purpose of killing the proposal?

Of course not. No one has even suggested so grossly unfair a distortion of a suppcsedly neutral constitutional process to hand victory to one side of a bitter political debate.

But what has been demanded, and now approved by the U.S. House of Representatives Judiciary Committee, is just as unfair to the other side. Under intense election-year pressure from ERA supporters, the committee has voted to extend the deadline by three years, three months and eight days.

That odd time figure is a supposed "compromise" with the original demand of ERA backers for seven more years. But the length of the extension is less important than the terms attached to it—and they are clearly designed to rig the rules utterly against ERA opponents.

This newspaper has consistently voiced editorial support for the ERA at both state and national levels. Indeed, as recently as May 30, we even approved the idea of a simple extension of the deadline because the ERA "is a right and just cause."

It is still right. It is still just. But the mounting debate over the extension proposal—particularly in the loaded fashion it emerged from the Judiciary Committee—has convinced us that this tactic is a dangerous and unfair means to this still noble end.

For it is now clear that the proponents aren't merely asking for more time for public consideration. They are demanding that the rules be rigged in "heads I win, tails we flip again, and again, and again," fashion. They want unlimited attempts for three more years to win ratifications in the 15 states which have still refused to approve the amendment. But they also seek to specifically prohibit any of the 35 states that have ratified from rescinding their approval as four have already tried to do.

Thus, it would be entirely possible in three years time to see 47 states on record against the ERA and only three ratifying—with the amendment still becoming the supreme law.

In the debate's heated rhetoric, opponents have protested "changing the rules in the middle of the game" and the supporters have replied "this is no game."

Indeed, amending the Constitution is no game. Which is exactly why it must be done with scrupulous fairness. Thus, a basic tenet of constitutional law has always been the requirement for "contemporaneous" approval of amendments by three-fourths of the states. That simply means they should all act within a reasonably limited time period to insure they actually reflect the will of the contemporary majority.

In actual fact, no successful constitutional amendment has ever taken more than four years to win the necessary majority. (The states rejected five proposals.)

Frankly, the arguments against the ERA continue to strike us as ranging from the insufficient to the preposterous. But the central point now is whether the many women and men who disagree with us also have a right to express their opinion in the political process.

If that process is distorted now, what's to keep it from being distorted by the passion of other political drives? Would the ardent feminists urging the present loaded proposal favor a similar "can't lose" approach for an amendment to outlaw abortion? Or to enact any of the dozens of proposals always floating around?

The ERA would not be necessary to "put women in the Constitution." They are already there, as fully as men. The ERA would reaffirm our national commitment to a fairer treatment of women in our national life. The fight for the amendment has led to many comparable state amendments (including, in Colorado) and fairer treatment of women throughout law and society.

The amendment can cap those achievements by going all the way without an extension—if voters this November care enough to defeat legislative opponents in the holdout states. Sadly, this appears unlikely.

For this touchstone of the "women's movement" is now actively opposed by a growing movement of other women with more conservative goals. But a nation cannot condition the right of women to wield its political processes on their willingness to uphold liberal banners.

ERA will be an honored part of the Constitution if it passes fairly. But if Congress tries to rig the rules in its favor it will dishonor the very tenets of democracy that ERA itself enshrines.

[From The New York Times, July 4, 1978]

THE RIGHT WAY TO FIGHT FOR E.R.A.

The pressure on Congress to extend the deadline for ratification of the Equal Rights Amendment will reach a crescendo next weekend as marchers and lobbyists descend on Washington. They see their just cause as a tantalizing three states short of the 38 needed for adoption and seek a reprieve from almost certain defeat in their seven-year struggle for women's rights. But the means by which they prevail should not be subordinated even to a noble end. To alter the amendment procedures with the extension they demand would, we think, cause even greater damage than a further delay in the ratification of the E.R.A.

The very process of amending the Constitution is at stake. If the E.R.A. were given a second seven-year term for ratification by the states it would be a clear case of manipulating the process in an effort to achieve a desired result. It would be particularly damaging if such an extension were decreed by a simple majority vote, as its sponsors hope, instead of the two-thirds majority constitutionally required for amendments. If the two-thirds vote were in fact to be found, the amendment process could be started all over again, albeit for a new round of struggle, state by state.

The nation's founders wisely prescribed a slow and difficult process for amending the Constitution, to protect it from transient politics and policy. They left it to Congress to decide how long the states would be given to vote their approval on an amendment. Any retroactive change in this time schedule, because the set period did not produce a desired result, would plainly offend the solemn spirit of the amendment process.

Moreover, once the rules are bent, all forces can play the same game. The next time around, on an amendment to forbid abortion, for instance, these same marchers would deeply resent a similar maneuver. The way to judge the wisdom of a procedure is to imagine your worst enemy having the benefit of it.

Besides questions of fair play, there are also some important questions of tactics. An extension might not in fact serve the cause of those who seek it. Four of the 35 states that have already approved E.R.A. have since voted to rescind the endorsement. The validity of such rescission has not been established. If the deadline were extended, no one knows how the courts would treat past rescissions and future ones.

Other amendments have been the object of even longer and more grueling battles. It took women nearly 75 years to gain the constitutional right to vote. Amendments to abolish slavery, to guarantee due process and to extend the vote to black men could be passed only after a bloody Civil War. The E.R.A., like other just constitutional causes of the past, will eventually be adopted. If the current version lapses next March, another should soon take its place, with another, perhaps even longer but duly considered deadline for state action.

As the battle continues, let us hope it will be better fought than in recent years. The tactics against the E.R.A. in some state legislatures have been deplorable, but they could have been more ably countered. The propaganda of some opponents of the amendment has also been shabby, frightening some people into believing that the constitutional equality of the sexes would end their separation in public restrooms, or reduce widows' Social Security benefits, or force women to work outside the home or to leave their young children with caretakers. These scare stories are easier to concoct than to refute, but they, too, can be more ably countered.

Finally, there has been a more subtle problem afflicting the sponsors of the E.A.R. Although more than half the population still favors its passage, public support has declined. In part, this may be due to a feeling of reduced urgency; 16 states have adopted their own versions of the amendment, and court decisions as well as legislation have asserted some of the same rights. But the decline in support may also reflect a growing impression that the E.R.A. is some kind of elite measure designed mainly to improve the lives of highly educated women who want full-time jobs outside the home. In this view, it seems to have little to offer to poor women in routine jobs or women who intend to devote themselves fully to children and home.

We recall the ticket seller in an Albany train station who said in 1976 that she had voted against New York's referendum on a state E.R.A. Asked why, she pointed to the restrooms in the station, saying, "I didn't know what the E.R.A. meant, but I thought it was a women's libber type thing. . . .You'll probably think I'm stupid, but I'm not a women's libber at all. Except for equal pay, of course. I'm all for that."

And so, of course, is the E.R.A. But somehow that message was lost. Until the way to reassert it is found, we fear the amendment, too, will remain lost.

From The Washington Post, June 14, 1978

ERA: ILLINOIS AND BEYOND

The equal rights Amendment is still three states short with just nine months to go. Right now the crucial battleground is Illinois. Last week a ratification vote in that state's House of Representatives fell slightly short, largely because it got entangled in a leadership dispute among black delegates from Chicago. This week the pro-ERA forces are going to try again. If they can finally muster a three-fifths majority, required by an extraordinary state rule, the fight will shift to the state Senate. A major factor there will be Republican Gov. James Thompson's ability to line up enough GOP votes to carry the ERA through.

If the strong bipartisan pro-ERA campaign in Illinois should fail, the chances for victory in three other states before March 22, 1979, would be bleak. Even with Illinois, the prospects elsewhere would be uncertain at best. Thus, while redoubling their efforts in the field, many of the amendment's backers are also asking Congress to extend the ratification deadline to 1986. A House Judiciary subcommittee endorsed that by a 4-to-3 vote last week.

Perhaps in seven more years the idea of ending discrimination on grounds of sex will become irresistible in North Carolina, Florida, Missouri, Virginia and other states where the ERA has not yet prevailed. But extending the deadline is, in our view, a bad idea. It smacks of the same kind of expedient rules-changing that anti-ERA forces have managed in some states—and pro-amendment groups rightly resent.

Congress has put time limits on recent proposed amendments for good reason: to ensure that ratification, if achieved, will reflect a national consensus on a fundamental constitutional change. If the time period for approving ERA is going to be extended at the last minute, surely states that have already ratified should be allowed to reconsider and, if they wish, rescind those votes. The pending legislation would not permit that.

We think advocates of the ERA should regard next March's deadline—however frustrating—as firm, and concentrate on their campaigns in the states. They still have time—and, in most of the balky states, this fall's elections—to show that their cause does have substantial public backing and political force. Indeed, the deadline ought to help them persuade some key state legislators that there's no time left for shyness, procrastination or political sporting with the ERA.

[From The Cleveland Plain Dealer, Aug. 18, 1978]

SEVEN YEARS CLOUD ERA

Supporters of the Equal Rights Amendment have successfully lobbied the House of Representatives to breathe an additional 39 months of life into the time left for the states to ratify it.

The Senate has yet to act. When it does, we hope it kills the time extension or, failing that, allows those states that wish to rescind an earlier ratification to do so. So far 35 of the 38 required state legislatures have voted to ratify. Four of the 35 legislatures voted to rescind their earlier vote and the governor in one of the four vetoed the vote to rescind.

The Plain Dealer supports ratification by the states of the proposed amendment to the Constitution. It proposes that "Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

In examining 26 Articles of Amendment to the Constitution, none has taken anywhere near seven years for the states to ratify.

much less the 10 years and three months the House would give to ERA. The longest period for ratification was less than four years. The shortest period was less than four months.

Seven years is indication enough of the growing reservation many in the nation have for ERA's merits. Moving the deadline from March 22, 1979, to June 30, 1982, will do nothing to erase the cloud of doubts hanging over the merits of ERA. It would only add to the divisiveness in the nation.

Article 5 of the Constitution does not require a time limit on states ratifying proposed amendments. However, beginning with the 18th Amendment, the custom of putting a seven-year time limit on ratification was begun by Congress. It is a good test of reasonableness.

[From The Cleveland Press, July 24, 1978]

EXTENDING ERA

Supporters of the Equal Rights Amendment couldn't be blamed for cheering in the House Judiciary Committee's hearing room the other day.

The committee handed them the only victory they've tasted for a long time—an extension of the amendment's ratification deadline by a little more than three years, to June 30, 1982. The original seven-year ratifying period is due to expire next March 22.

Unfortunately, the extension faces as uncertain a future as the amendment itself. While it is expected to be approved by the whole House with no difficulty, ERA opponents in the Senate have threatened to filibuster it to death.

Sen. Robert C. Byrd is reported to have said privately that he won't even let the measure come to the floor in this session, and as majority leader, he has the muscle to see that it doesn't.

That would mean the extension movement would have to start from scratch again in the new Congress next January. That would be getting very close to the wire.

The extension fight has also left some bitterness in its wake because the legislation carries no provision permitting states to rescind, or withdraw, their ratifications. Three states out of the 35 which have ratified the amendment (38 are needed to make it part of the Constitution) have since voted to rescind, although the legality of such action has never been determined.

ERA forces have been accused of trying to change the ground rules in the middle of the game. A fairer comparison would be that they are asking for a sudden-death overtime period.

We think they should get it. The Equal Rights Amendment, which we supported from the beginning, is such an important issue that an extension of the national debate over it is clearly in order.

The question is whether Congress will grant it. We're seriously afraid that in refusing to compromise on the rescission question, and thus appearing to ride rough-shod over the rights of others, the ERA forces may have committed a strategic blunder.

[From the Chicago Tribune, Aug. 17, 1978]

UNEQUAL RIGHTS FOR ERA

Most of us, according to polls, would like to see the Equal Rights Amendment adopted. But the polls also show that most of us would like to see it adopted by the same rules that have applied to other amendments. It is a mockery of the amendment itself to suggest that the women are entitled to special, favored treatment in getting the amendment adopted, especially treatment that stretches the Constitution.

And so it was shocking to watch the House make a shambles of reason Tuesday as it bent every rule in favor of ERA. There were three issues involved, and every one of them is a matter of bitter constitutional dispute:

First, should the seven-year deadline for ratification of ERA be extended? True, the Constitution itself puts no time limit on the process, but the Supreme Court has held that it must be completed within a reasonable time so as to reflect contemporary opinion. How long is reasonable?

Second, if the deadline is extended, may a state that has already ratified the amendment change its mind and rescind that ratification?

Third, can these decisions be made by a simple majority vote, or do they require the two-thirds vote specified in the Constitution for the approval of amendments?

On each of these questions, the House resolved all doubts in favor of ERA. In holding that 10 years and more is a "reasonable" time, it raises the question as to when "reasonable" ends, if ever. In denying states the right to rescind, even during the extension, it is saying in effect that a state may always change its mind from no to yes, but may never change its mind from yes to no. If this policy were applied to women individually, in other contexts, it would surely and properly be denounced as the height of male chauvinist sexism.

The House might in good conscience have resolved one or even two of these issues in favor of ERA. But to bend all three rules, and to allow apparent public opinion to be flouted by a slim majority—much less than two-thirds—is a colossal mistake.

Now that the House has indulged its emotions, it is up to the Senate to repair the damage. If it acts at all on the matter [which is by no means obligatory], it should either reject the whole package or, if it insists on extending the time period, make it clear that a state can rescind its approval at least during the extension. And whatever it does would carry more weight if it did it by a two-thirds majority.

[From the New Republic, July 29, 1978]

ERA: START FROM SCRATCH

This has become the summer of the ERA. The Equal Rights Amendment was originally scheduled by Congress to be ratified or rejected by the states after a seven year period ending on a cool day now eight months away: March 22, 1979. But still three states short of the 38 needed for ratification and running out of time, the ERA was brought back to the capital in the July heat for a new lease on life. On July 9, a crowd in white sweated under the DC sun and posed a grand question: can there be a time limit on justice, the cause of equal human rights? Others in ordinary dress, both for and against the ERA, have been asking a more prosaic question: is extension of the ratification deadline for the ERA a fair or advisable procedural innovation? Sitting bleached under the TV lights in the committee room last week, opponents and proponents of the extension got their answers from the House Judiciary Committee. Yes, there is a time limit—until June 30, 1982; but yes, extension is fair and advisable—for three and a quarter years. Proponents clapped at the results. We support the ERA, but we doubt this is the way to achieve it.

The long day of debate dealt with the constitutional procedure of extension, not with the substance of the ERA. Citing Supreme Court precedents and the testimony of constitutional scholars, the committee members generally agreed that Congress has the power to enact an extension of a ratification time limit that Congress itself has imposed. Here the consensus stopped. Committee members disagreed on the policy of exercising that power. Among those who supported an extension, there were three points of controversy. First, the length of the extension. How many years satisfies the vague standard that three-fourths of the states approve an amendment "contemporaneously"? Second, the issue of rescission. If states that have ratified an amendment wish to change their minds, is this merely fair play or a dangerous constitutional innovation? Third, the question of method. Must an extension be approved by the two-thirds majority required to start the amendment process, or only by a simple majority?

These procedural problems make us doubt the wisdom of extension. The controversy over procedure is not likely to be resolved easily, and it shouldn't be. It is a constitutional controversy and involves, like the ERA debate, principles we like to think are fundamentally important. But neither the constitution nor the ERA need be sacrificed to the other. If the extension passes, it may mean bad press for the ERA and a bad precedent for the constitutional process of amending. An extension could be the arbitrary time limit that ends up killing the ERA; if it fails to be ratified, even with a three-year extension—which can't be ruled out—the amendment will be dead.

Even if the ERA is ratified after an extension, its symbolic power may be diminished by general sentiment that the ratification procedure smacked of foul play, especially if rescissions are not allowed. To tamper with the constitutional amendment procedure now makes it more susceptible to tampering later, when the purpose may not appeal to liberals who want to fiddle now.

Instead of extending the ERA, why not start from scratch if its deadline expires without three more ratifications? A conservative House Judiciary Committee has passed an extension and is hopeful that it will pass a full House, even with a two-thirds majority, if the Rules Committee calls for it. This makes it hard to believe that a new ERA, unencumbered by constitutional problems, wouldn't be approved. Ratification would be a bigger project with a fresh start, but there would be more time and fewer public relations problems. Polls show that most people support the ERA on its merits. A new beginning would shift the debate back to those merits. If the ERA is an important and necessary amendment, and we feel it is, an examination of what it really means should give it the full and informed support it may now lack.●

THE PROPOSED ABANDONMENT OF CERTAIN RAILROAD SERVICES IN THE STATE OF WASHINGTON

● Mr. MAGNUSON. Mr. President, passage of S. 2981, the Railroad Amendments Act of 1978, is a matter of vital concern to the citizens of my State. One of the major carriers serving the Pacific Northwest, the Chicago, Milwaukee, St. Paul, and Pacific Railroad, is now in reorganization pursuant to section 77 of the Bankruptcy Act. Additionally, the entire future of rail transportation in the Pacific Northwest will be greatly affected in the coming months by the actions of the Federal Railroad Administration and the ICC working with the remaining carriers to bring about a restructuring of rail service through the 401 process under the 4–R Act, and through efforts to assure that essential local services now being performed by the Milwaukee Railroad are transferred to either the State of Washington or other responsible parties.

A matter of particular concern to me, and one that I have followed closely in recent months, is the proposed abandonment application by the Milwaukee Road pertaining to 61 miles of track from

Metaline Falls, Wash., to Newport, Wash. In response to the pending abandonment application filed by the Milwaukee Road, citizens of Pend Oreille County have formed a port district to acquire and upgrade the line rather than allow it to be abandoned. Preliminary information suggests that this line returns an operating profit, so I believe it is vitally important that parties who would be affected by the proposed abandonment be given a reasonable opportunity to acquire and upgrade the Metaline Falls to Newport track. Furthermore, the local economy would be vitally affected by an abandonment of service on this line.

The allocation formula for project funding contained in S. 2981 corrects a deficiency in the existing law under which funds were allocated to States based on the State's percentage of total mileage abandoned since the 4–R Act was enacted. This allocation of funds based on past abandonments does not take into account future need based on potential future abandonments. For example, railroads in my own State of Washington have identified over 500 miles of line as potential abandonments, and it is these lines, rather than those already abandoned, which are being analyzed in connection with the Washington State rail plan as possible candidates for assistance.

Given the fact that the Commerce Committee has chosen to adopt the suggestion of the administration to make lines eligible for capital assistance prior to the time that an abandonment certificate has been issued by the ICC, the change in the formula for distribution of funding appropriated under this act is all the more important, and I hope that the House will see the unworkable dichotomy in making lines available for assistance prior to final abandonment but not making the requisite change in the allocation formula.

During the next 3 years, subsidies provided under S. 2981 will be vitally important to the people of the State of Washington in attempting to prevent further abandonments resulting from the bankruptcy of the Milwaukee Railroad, so I hope that this legislation will be sent to the President as soon as possible.●

APPLICATIONS OF THE STATES FOR A CONSTITUTIONAL CONVENTION

● **Mr. McGOVERN.** Mr. President, on April 1, 1976, and again on November 2, 1977, I inserted studies in the Congressional Record on the issue of a Federal convention to amend the Constitution. Today I want to share with my colleagues a third study of that question by Mr. Jim Stasny, author of both the previous works.

The point of this study is that confusion persists on the nature and number of applications for a convention submitted by the States. That point is well taken. Much more work obviously needs to be done by the Congress before the matter can be resolved.

As I have indicated before, it is not my view that a convention would be to the national advantage, and the study also concludes with some speculation outside a technical analysis of the individual applications which I do not find wholly persuasive. Nevertheless, because the idea of amending the Constitution through a convention is largely a blank sheet, I believe this study deserves careful attention as a serious effort to fill out the body of opinion in this important yet uncharted area.

Mr. President, I ask unanimous consent that Mr. Stasny's article on convention applications be printed in the Record.

The article follows:

A Federal Constitutional Convention: Anomalies in the Application Process

Through September 15, 1978, twelve states during the second session of the 95th Congress have submitted 14 applications to Congress requesting a convention to amend the federal constitution on topics including busing, appointment of federal judges, abortion and a balanced budget. Like most of the twelve applications submitted to the first session of the 95th Congress, many unresolved questions remain on the content of the applications, the procedures used by the states in submitting them and the reliability of Congressional procedures used to process the applications.

This paper will examine each of the 14 applications received between January 19, 1978 and September 15, 1978 and discuss several of the questions raised by them.

I. GROWING INTEREST IN CONSTITUTIONAL CONVENTION

There are problems with the application process. In a paper Senator George McGovern inserted in the November 2, 1977 issue of the Congressional Record, Jim Stasny noted that not only were the states imposing conditions in the texts of their applications but also Congress itself was occasionally remiss in processing the applications.[1] The paper went on to detail the procedures Congress used and examined several of the applications to point out both textual problems and submission anomalies. After listing a series of recommendations for improving the process, the November 2 study went on to urge that "Congress open to fresh hearings the entire question of a constitutional convention."

Six months later, on May 3, 1978 David Huckabee, an analyst in American Government with the Congressional Research Service, published a study on constitutional convention applications related to deficit spending. Huckabee went a step beyond the Stasny presentation and examined not only the applications Congress received requesting a convention, but also applications passed by state legislatures that apparently were not received. Huckabee pointed out that on the issue of deficit spending, "although at least twenty-one States have passed resolutions applying to Congress for a Constitutional convention to consider an amendment in this area, only a maximum of fifteen applications have been officially noted by the Congress." [2]

The 1977 Stasny paper had outlined in some detail the exact processing steps used by both the U.S. Senate and the House of Representatives in processing state applications.[3] Huckabee added to that by noting other "impediments" to tracking and cataloging convention applications. Huckabee observed,

"Since some legislatures address the memorials to officers other than the Speaker and the Vice President (President of the Senate), a major problem results because the *Congressional Record Index* currently indexes the receipt of memorials under the headings "Speaker of the House" and "Vice President." If copies of the resolutions are not forwarded to these officers, receipt of the memorials is never officially noted in the *Journals*, or in the *Record*." [4]

Stasny had raised a similar point earlier. In discussing applications from Arkansas in 1975 and Massachusetts in 1976, he observed, "In both cases, the memorials were printed in full in the Senate portion of the Congressional Record while no mention was made of either memorial in the House. The practical impact of not having the memorial noted in the Record by the House is that it is, therefore, not printed in the Journal since the Journal Clerk merely clips the Record as a source of informations on memorials." [5]

The Huckabee study pinpointed another troubling problem in tracking the applications for a convention. He wrote, "The requirement in the House and the procedure in the Senate that Committees forward their records to the National Archives at the end of each Congress also contributes to the problem of accurate record keeping. State legislative campaigns memorializing Congress for a convention relating to a specific subject often span many Congresses. Since individual memorials do not become significant in a constitutional sense until they are aggregated and approach the necessary two-thirds of the States, the early petitions of legislatures often are misplaced or buried among hundreds of other petitions and memorials in the committee's official records at the Archives." [6]

Gradually, the problems identified in both these studies are winning the notice of the Congress and some preliminary steps are underway to correct them. Senator Birch Bayh, Chairman of the Subcommittee on the Constitution has stated that he has "an interest in this issue" and has directed his staff "to compile all available information about the resolutions and petitions dealing with the amendment process." Bayh also notes that "the Subcommittee staff has gathered a great deal of information and materials and is working closely with the Congressional Research staff and the Judiciary Committee staff to coordinate an effective method for gathering as much information as exists about the resolutions, petitions, etc. from the various states over the years. The staff has also spoken to the Parliamentarians and Secretaries of both the Senate and House concerning their separate records and materials as they have been received from the various states." [7] Secretary of the Senate Stann Kimmit has similarly advised that the procedures of his "office will be reviewed to insure that proper actions are taken as required by the Senate Rules." [8]

These are encouraging steps and come none too soon in view of the rising profile of the convention method of amendment. On July 26, 1978, Jason Boe, President of the National Conference of State Legislatures, said he believed that "within five years there would be a national constitutional convention on ways to limit the financial powers of the federal government." [9] George Gallup, commenting on proposals to reform government including shortening presidential campaigns and reforming the electoral college, has observed "a surer way to get the proposals considered by the nation . . . is through the alternate method of amendment prescribed by the Constitution—a constitutional convention . . ." [10]

Beyond this Senator Dole the day following California's adoption of Proposition 13, wrote the Governors of all fifty states to ask that they "consider requesting and working with (their) state legislature to petition Congress to establish a Constitutional Convention calling for a Federal balanced budget" [11] All of this unfolds against the background of debate on the extension of

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the Equal Rights Amendment and the amendment to give the District of Columbia full voting representation in both the Senate and the House of Representatives. Debate on those two issues covered material which is equally important to a number of unanswered dilemmas surrounding the convention process of amendment. A number of those will be addressed later in this study.

II. EFFECTIVENESS OF STATE APPLICATIONS FOR A CONVENTION

Congress divides notices received from people and states into two categories; petitions and memorials. As a practical matter the distinctions between the two are blurred. A recent publication released through the office of the Secretary of the Senate defines petitions as "documents asking (petitioning) the government for a redress of grievances. The right to so petition can be exercised by any organization or individual, as provided by the First Amendment to the Constitution."[12] The term "Memorial" is defined simply as "documents memorializing the government to do or not to do something."[13]

A recent California case cast some serious doubt on the obligations of Congress to respond to a petition. A California resident, disputing a decision of the Social Security Administration, wrote Senator Kennedy asking him to present a petition on his behalf to resolve his social security problem. Kennedy forwarded the petition application to Senator Cranston who apparently did not act to present the petition. The petitioner brought the matter to the attention of the Chairman of the Senate Ethics Committee, Senator Stevenson, then filed suit in the U.S. District Court for the Southern District of California. On July 12, 1977, the Court dismissed the suit stating that "the plaintiff has not been denied his right to petition the government . . . " The Court continued, "The plaintiff has confused his right to petition with a supposed right to have his petition granted or acted upon in a certain way. But no such right is found in the Constitution. The Constitution gives the people the right to submit petitions to their Senators in unlimited quantities, if the people so desire, but it does not require that the Senators do anything in particular with those petitions once they have been received. Neither party has cited and the court has not found, any authority whatsoever that requires a Senator to do anything with a petition or that restrains a Senator from doing anything he pleases with a petition."[14]

On the basis of that decision and in view of the blurred operational distinctions between petitions and memorials, the question might reasonably be asked if Congress has any larger obligation to respond to action requested in a convention memorial.

This question was addressed by Norman J. Small of the Library of Congress in 1965 when writing on the procedures for amending the federal constitution he attempted to distinguish between memorials and petitions. He said, "the former (memorials) are merely exhortations to the Congress to exercise its power to originate, approve, and submit for ratification a specific proposal as an amendment to the Constitution. As an exhortation, such memorials are deemed to give rise to no more than a moral obligation on the part of Congress to respond affirmatively thereto when tendered by a substantial number or even by as many as two-thirds, of the States. Whether, on the other hand, petitions calling a constitutional convention addressed to Congress by a like number of States are possessed for greater significance or of binding legal effect presents a question which also has never been definitively resolved."[15]

What, then, of the obligation of the Congress to call a convention should the required two-thirds of the states submit such demands within a contemporaneous time frame.

The opinion of the authorities on this question seems to leave little room for doubt that Congress would have no choice but to set in motion the machinery to set up a convention.

Senator Ervin: "I have no doubt that the article is preemptory and that the duty is mandatory, leaving no discretion to the Congress to review the wisdom of the state applications."[16]

Paul G. Kauper, Professor of Law, University of Michigan: "Not much need be said about the duty of Congress to call a convention to propose amendments after two-thirds of the states have petitioned Congress to do so. The language 'the Congress . . . shall call a convention' is imperative."[17]

Arthur Earl Bonfield, Professor of Law, University of Iowa: "Article V states: 'On the Application of the Legislatures of two-thirds of the several States (Congress) shall call a Convention for proposing Amendments.' From this language alone it would seem clear that Congress was intended to be under a firm and nondiscretionary obligation to call a convention when sufficient applications from two-thirds of the States are tendered. The word 'shall' as used in article V is clearly mandatory."[18]

Alexander Hamilton: "The words of this article are preemptory. The Congress 'shall call a convention.' Nothing in this particular is left to the discretion of that body."[19]

There would appear to be little doubt that Congress would have to call a convention, faced with the required number of applications, timely filed. There is, however, needless uncertainty surrounding the terms "petitions" and "memorials." A reasonable procedure by the Congress would be to establish a third functional category in their classification of petitions and memorials. That category would be termed simply "applications," just as it appears in Article V, and the only documents listed under it would be requests received from the State legislatures to call a constitutional convention. It would be a mechanical term of art established through the office of the Secretary of the Senate and the Clerk of the House and would appear separately along with memorials and petitions in the Congressional Record. It would have the advantage of giving a separate identity to these State requests authorized by Article V. It would be useful in tracking the requests in the Congressional Record and be of material value should a subsequent Congress decide to make a forthright judgment on the question of whether, as the Constitution appears to make clear, these requests do in fact impose a mandatory, unavoidable obligation on the Congress to act.

III. STATE APPLICATIONS REVIEWED

Few of the 14 applications received during the second session of the 95th Congress through September 15, did not raise at least some policy or procedural question. For example, five of the applications were printed in the Senate but went unrecorded in the House. Some were printed twice in either or both of the House portion of the RECORD. Others made the convention process an alternate to the Congressional submission of the amendment. Many others attached conditions to their proposals. An individual critique of each application received by the Congress thus far in the second session follows:

Delaware (Federal Judges). On January 30, 1978 notice was given in the House portion of the Congressional Record that Delaware had requested Congress to call a convention for amending the Constitution. (Page numbers at which each application appears are listed in the Appendix). On January 31, notice was given a second time of the Delaware application. In neither instance did the House summary of the application identify the subject matter of the amendment which was to be considered. House Judiciary records show that the Delaware Legislature sent two separate copies of the same memorial. The likely explanation for the House printing the Delaware application twice is that the Legislature directed that copies be sent not only to the President of the Senate and the Speaker of the House, but also to the Secretary of the Senate and the Clerk of the House.

Massachusetts (Busing). On April 5, 1978 the Senate printed the Massachusetts application in full in the Congressional Record. No corresponding application appeared in the House Record as a memorial formally constituting an application for a constitutional convention on the same topic that year. Despite the fact that this Massachusetts application was submitted in April of 1978, the resolution transmitting it contained this statement: "If Congress proposes an amendment to the Constitution identical with that contained in this resolution before *January 1, 1974*, this application shall no longer be of any force or effect . . ." (emphasis added).

Colorado (Balanced Budget). In a rare occurrence, the application of Colorado for a convention to devise a balanced budget amendment, was received and recorded in both the Senate and the House of Representatives on April 5, 1978. The Colorado application, however, did contain a condition which stated, "That this application and request be deemed null and void, rescinded and of no effect in the event that such convention not be limited to such specific and exclusive purpose." As in a number of other applications, this raises the policy question of whether a state has the power to impose conditions generally and allow rescission in particular.

Kentucky (Abortion). The Kentucky convention application was noted by the House on April 11, 1978. The application was not recorded in the "Petitions" section in the Senate portion of the Congressional Record. Rather, it was separately brought to the attention of the Senate at the request of Senators Ford and Huddleston of Kentucky. In the requesting clause of the Kentucky application (as opposed to the text of the intended amendment itself) it was made clear that the convention would consider only an amendment on abortion. In addition, Section 3 of the amendment presented by Kentucky would give to both the States and the Congress the power to enforce the article.

Tennessee (Two applications: Tenure of Federal Judges and Balanced Budget). Both applications were printed in the Senate on April 25, 1978. In each instance, no corresponding applications were recorded in the Congressional Record by the House of Representatives. The omission is the more peculiar in view of the following excerpt which appeared in both applications: ". . . it is requested that receipt of this application by the Senate and the House of Representatives of the Congress of the United States be officially noted and duly entered upon their respective records, and that the full context of this resolution be published in the official publication of both the Senate and the House of Representatives of the Congress." It should be noted that neither Tennessee application was directed to either the presiding officer or main administrative official of either house. Rather, they were simply directed to "the Senate and the House of Representatives of the Congress of the United States."

No state has met with less success than Tennessee in the convention application process.

Both applications at least implied that Tennessee felt it had the power to rescind its application. In the application requesting a convention to propose a balanced budget amendment, the legislature argued that if Congress submitted a similar amendment within 60 days of the time it received ap-

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plications from two-thirds of the states demanding a convention, the convention need not be held.

Oklahoma (Balanced Budget). The Oklahoma application was printed in full in the Congressional Record by the Senate on May 3 after it had been noted by the House on May 1. The application made the convention mode an alternative to Congressional submission of the amendment. The House notice made no mention of the fact that it was an alternative but rather made it appear that it was the one and only method requested by Oklahoma.

Wyoming (Balanced Budget). The House of Representatives noted receipt of the Wyoming application on May 11, 1978 and the Senate printed the application on May 17. The application was not submitted to either the presiding officer of the House or the Senate or to an administrative officer of either House. Rather it was directed to the Chairman of the Judiciary Committee of both the Senate and the House of Representatives and "the chairman of the Joint Committee on Budget Control of the Congress." Although each House of Congress has a separate Budget Committee and, while there is a Congressional Budget Office and a Joint Economic Committee, there is no Joint Committee on Budget Control. The Wyoming application also requested an amendment either through congressional initiative or via a convention. Perhaps as a result, the House notice of the application does not mention the convention alternative.

Kansas (Balanced Budget). The House of Representatives recorded receipt of the Kansas memorial on May 17 and the Senate printed it in the Congressional Record on May 19. The preface to the Kansas application appearing in the Senate portion of the Congressional Record incorrectly identifies the application as coming from the "Legislature of the State of Arkansas." The Kansas application also makes the convention an alternative to Congressional submission. Unlike the Wyoming application recorded in the House May 11, 1978 which did not mention that the convention mode was an alternative route to amendment, the House notice of the Kansas application mentions both alternatives.

South Carolina (Balanced Budget). The House noted the South Carolina application on May 22, 1978 and the Senate printed it in the Congressional Record on May 26, 1978. On May 25, Senator Thurmond submitted a copy of the South Carolina memorial which was duly printed in the Congressional Record again.

Delaware (Abortion). The Delaware application was printed in the Senate portion of the Congressional Record on June 9. No corresponding application appeared in the House Record as a memorial formally constituting an application from Delaware for a constitutional convention on this topic that year.

Louisiana (Balanced Budget). The Senate printed the Louisiana application in the Congressional Record on July 14, 1978. No corresponding application appears in the House Record as a memorial formally constituting an application from Louisiana for a constitutional convention on this topic that year.

Pennsylvania (Abortion). The House of Representatives, on April 24, 1978 recorded receipt of the Pennsylvania application. The next day, the application was printed in full in the Senate portion of the Record.

Two petitions related to the Pennsylvania application were also submitted. One petition came from Governor Shapp of Pennsylvania in which he claimed that the application of the state legislature was invalid. The Governor had vetoed the bill containing the application and argued that his veto "was not overridden in accordance with the Commonwealth's constitutional process." The Governor included in his petition a copy of his veto message but it was not printed anywhere in the Congressional Record. The Shapp petition although noted in the House portion of the Congressional Record was apparently not entered in the Senate portion of the Record.

A second petition related to the Pennsylvania application was submitted by State Senator Clarence D. Bell of Media, Pennsylvania. It was his contention that the Governor's veto was without effect. Although the Bell petition was noted in the House portion of the Congressional Record it was apparently not recorded in the Congressional Record by the Senate.

Nebraska (Abortion). The Nebraska application was noted in the House portion of the Congressional Record on May 1. On May 3, notice was given again of the Nebraska application The likely explanation for the dual entry is that the Nebraska resolution forwarding the application directed that copies be sent to both the Speaker of the House of Representatives and the Clerk of the House of Representatives. The records of the House Judiciary Committee show that two copies of the application dated April 25, 1978 and separately addressed to the Speaker and the Clerk of the House were received. The application addressed to the Clerk of the House carries two date stamps of the House of Representatives. One date stamp shows receipt on May 1, 1978 at 10:17 A.M. The other date stamp shows receipt on May 2, 1978 at 3:43 P.M. The application addressed to the Speaker was received May 1, 1978 at 2:18 P.M.

The Nebraska petition was printed in full in the Senate portion of the Record on May 3. On May 4 it was printed in full again. As in the case on the House side, the likely explanation for the dual printing is that the application was submitted to both the presiding officer of the Senate as well as the chief administrative officer.

Moreover, in contrast to the Pennsylvania application discussed above, the Nebraska application specifically required that "this resolution shall be submitted to the Governor for signature in the same manner as a legislative bill." In addition it expressly conditioned the continuing validity of the application on (1) Congress' establishing clear procedures for a convention including a limitation on subject matter, (2) provisions that if a convention departs from the subject matter the convention be dissolved, and (3) that selection of delegates to a convention be determined by the state legislatures.

IV. EFFECT OF CONDITIONS

As the preceding discussion illustrates, convention applications often attempt to impose certain conditions either on the conduct of the convention generally or attempt to condition the validity of the applications themselves. The applications of Kansas, Oklahoma, and Wyoming first request Congress to submit a balanced budget amendment to the states. Each state application then proceeds to list the convention method as an alternative means of accomplishing the same end.

Both Tennessee applications provide that even if the necessary two-thirds of the fifty state legislatures request a convention, it need not be held if Congress submits a similar amendment within 60 days of the time the necessary number of applications have been received.

Ten state applications would require the convention to limit itself only to the amendment listed in those applications.

Three state applications make specific provision for their automatic invalidation. The Massachusetts and Kansas applications would become void if Congress submitted an amendment first. The Colorado application would become "null, void and rescinded" if the convention dealt with an amendment outside the subject area of its application. The Colorado approach could conceivably up grade confusion to chaos. If exactly two-thirds of the states requested a convention, Colorado's objections would force dissolution and nullification if the gathering turned its attention beyond the subject matter of its application.

Like an uncounted number of issues surrounding the convention method of amendment, conditions in the applications remains an untested question. Nevertheless, some of these matters were broached during Congressional discussions on extension of the Equal Rights Amendment. While the convention application process and the state ratification process are clearly separate matters, debate on the ERA gives some insight on congressional attitudes on the "condition" issue generally.

House Judiciary Committee hearings on the Equal Rights Amendment extension contained an outline of the Justice Department's position on the effect of conditions attached to a state's ratification of an amendment. In an October 31, 1977 memo to Robert L. Lipshutz, Counsel to the President, the Department of Justice quoted a letter from James Madison to Alexander Hamilton as the "sole expression" on the impact of conditions. The question triggering the correspondence was a New York view that they would ratify the Constitution if certain amendments were added later. Madison, in a brief note, said, "In short any condition whatever must viciate (sic.) the ratification." Using that as the main basis for their argument, the Justice Department maintained that "ratification must be unconditional and irrevocable." [20]

John Harmon, Assistant Attorney General elaborated on that position in his formal remarks presenting the Department of Justice view. He said: "Article V gives to the States the power to ratify a proposed amendment, but not the power to reject. This proposition has been consistently accepted by every Congress which has faced a question as to the validity of a State's ratification. In 1926 a resolution was introduced in the Senate to propose an amendment to Article V to give the States the power to rescind a prior ratification of a constitutional amendment at any time before the amendment has been accepted by three-fourths of the States. That resolution failed." [21]

In introducing the subject of recission Harmon touched on one of the thorniest conditions attending the ratification process. The question was addressed in greater detail during the August 15, 1978 House debate on extension of the Equal Rights Amendment. Congressman Railsback introduced an amendment to the extension resolution that would have permitted rescission during the extension period of any state ratfication passed during the original seven year ratification period. A second feature of the Railsback amendment would have made it clear that Congress and not the General Services Administration was the final arbiter of when overall ratification took effect.[22]

Arguing against the Railsback rescission proposal, Congressman Edwards reasoned that, "Here is what the message would say: Congress says that ratification can be conditional. It is not a serious matter. You can just pass ratifications lightly because next year you can rescind, which you cannot do now. It would make every statehouse in the nation a battleground at every session . . ." [23]

Congressman Cohen summarized the testimony of witnesses testifying in hearings before the House Judiciary Committee on the question of rescission. Cohen took the position that rescission ". . . is a question the Congress considers at the time the ratification by the necessary three-fourths of the States occurs. Whatever Congress that is, it is not this one. Any decision with regard to

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Footnotes at end of article.

rescission made prior to that time is premature, not binding and constitutes a serious break with precedent."[24]

On the other side of the rescission question, Professor Charles Black of Yale posited the "lobster trap" theory. Black noted that it would be possible to arrive at a situation in which 37 states ratified an amendment while 20 of those states had passed rescission resolutions. With the addition of one more ratification it would be possible to attach an amendment to the Constitution with only 18 states on record in support of it. Black defending rescission termed that possibility a lobster trap in which a state that enters is "forever caught therein." Later in his same testimony on the ERA extension he noted, Black said disallowing rescission converts the ratification process into a game of tag. "Tag, you are it forever," he said, ". . . with no chance to back out."[25]

The House of Representatives chose not to reach a final determination on the question of rescission and relied to some extent on the position of Harvard Law Professor Laurence Tribe to defend its action. Tribe argued against "some mechanical per se rule . . . that Congress must always accept rescissions or that Congress can never accept them."[26] He preferred to leave the decision to the Congress that must decide whether an amendment has been validly ratified. The House Judiciary Committee report agreed but added that the "committee believes it important to point out that its own analysis of this issue revealed that past congressional and judicial precedent stand for the proposition that rescissions are to be disregarded."[27]

Accordingly, the House of Representatives on August 15, 1978 defeated the Railsback amendment permitting rescission by a vote of 196–227. That vote did not represent a definitive statement on the issue. Rather, it merely reflected the preference of the House for deferring judgment on rescissions until such time as ratifications by three-fourths of the states have been received. That in itself raises some interesting possibilities. For example, it is conceivable that final adoption of an amendment could be suspended in political gelatin as both Houses of Congress considered the pros and cons of rescissions. Given the thin precedents on the issue, it is unlikely some future judgement would be based on any better information than is already available. Moreover, Congress would be operating in a more highly charged and possibly less objective atmosphere.

Next, assuming it was the decision of the Congress at that time that rescission was permissible, they would be forced to review and pass upon the individual actions of the rescinding state legislatures. The battleground envisioned by Congressman Edwards would shift from the states to the Congress. It would fall to the Congress to determine whether the arithmetic of the amendment process and the national sentiment on a given amendment still fit precisely. That, of course, would be a political judgment conceivably resulting in a situation in which Congress had decided not only whether an amendment should be submitted but also whether, in fact, it should be ratified. Given the inclination of the Congress to dominate the amendment process it would not be surprising if subsequent determinations found rescission impermissible in the ratification process but allowable on applications requesting a constitutional convention.

Rescission of convention applications has been considered by the Congress but never settled. A 1952 staff report of the House Judiciary Committee dealt with applications for a convention to amend the Constitution. Addressing itself in part to the rescission question, the report used arguments similar to those of Professor Black in his testimony on extension of ERA. The report noted, ". . . it must be seriously questioned whether rescission of an application for a constitutional convention should be considered in the same light as rejection or rescission in the course of ratification. There are many reasons for believing not. The substantive implications of ratification are far more extensive than those of a petition calling for a convention, and the problems raised by rescission of State action are accordingly magnified in the former instance. If petitions for a convention are intended to reflect a general dissatisfaction with the constitution of a contemporary nature, then reconsideration by the State legislature at a subsequent time might well be desirable. Should changing conditions modify circumstances at first thought compelling enough to warrant a convention, to hold States irrevocably to their request for a convention might result in a Federal conclave desired by no one which might in turn propose amendments long since in public disfavor. Thus there exists good reason for Congress to recognize rescission of State applications requesting a constitutional convention."[28]

This reasoning supporting rescission should not be surprising when considered against events of the time. An ever increasing number of states were demanding a convention in order to propose an amendment limiting federal tax rates. Five years later in a study by Cyril Brickfield published by the House Judiciary Committee, it was noted that in the preceding 12 years, 12 states had submitted resolutions to the Congress rescinding earlier requests for a convention.[29] What the study failed to point out was that the House Select Committee on Small Business had circulated information among the state legislatures warning against the evils of a tax limitation amendment.[30] Faced with the prospect of a convention, Congress acted to head it off.

The evolution of congressional proposals setting procedures for a constitutional convention demonstrate an intent by the Congress to accord the states every chance to change their minds about asking for a convention. An early proposal, the Constitutional Convention Act of 1953 permitted rescission.[31] A second proposal appeared in a 1957 House Judiciary Committee print.[32] The measure would have allowed rescission up until the time two-thirds of the states had actually applied and provided that the Congress would have the sole power to determine whether the rescission application had been made on time. It was also made clear that questions concerning the legislative procedure and the validity of the adoption of a State resolution are to be resolved by the individual state legislature and that its decisions will be binding on state and federal courts and the Congress of the United States. Under the terms of this bill, rescissions of ratifications would also have been permitted.

The original Ervin bill on constitutional conventions S. 2307 introduced in August of 1967 contained provisions nearly identical to the 1957 House Judiciary proposals. However, following hearings on that measure, the version that finally passed the Senate contained some noteable changes. In terms of convention applications, Congress was now to have more than just the power to determine if the applications had been timely filed. According to the Senate-passed bill Congress would be able to resolve application rescission questions generally. Beyond that, questions concerning the adoption of a state resolution relating to a convention were no longer to be within the power of the states. That power would be reserved to the Congress and would be universally binding.

That change illustrates the lengths to which the Congress is willing to go to dominate the amendment process. To give the Congress the authority to penetrate procedural acts of individual legislatures appears to be at odds with prior practice. According to Cyril Brickfield, "the customary rules of order and routine, such as every deliberative body must have, are always understood to be under its control, and subject to change at its will."[33]

Brickfield cited the case of ***Field* v. *Clark*** which noted that procedural requirements of legislation are deemed to have been properly met when the legislation is certified as correct by the presiding officer. According to Brickfield's summary, "only the legislators themselves may question whether a bill has been duly enacted into law, and their acquiescence in the record of the legislative proceedings is deemed to be an acknowledgement that the legislative requirements to the passage of the act have been performed. Once performed, such action cannot be questioned by the courts, though there may be patently an error . . . in the legislation itself."[34]

Brickfield concluded that "While Congress could defeat the internal workings of State legislatures by simply refusing to recognize their actions if they did not comply with congressional mandates, it would be more prudent in the light of court decisions and historical precedents to recognize the established rule that deliberative bodies have the right to regulate their own proceedings and to accept State applications when certified to, as having been validly adopted."[35]

The record of the Congress established in legislation passed by the Senate to govern conventions suggests that it would be willing to permit rescission in the manner most likely at the time to preserve its hegemony in the amendment process.

FOOTNOTES

[1] "State Memorials Requesting a Constitutional Convention," *Congressional Record*, Daily Edition, November 2, 1977, p. S.18494. (Hereafter cited as Stasny '77.)

[2] David C. Huckabee, "Constitutional Convention Applications: Addressing the Controversy of Counting State Applications Relating to a Deficit Spending Amendment," Library of Congress, May 3, 1978, p. 7.

[3] Stasny '77, *op. cit.*, p. S. 18495.

[4] Huckabee, *op. cit.*, pp. 3 and 4.

[5] Stasny '77 *op. cit.*

[6] Huckabee, *op. cit.*

[7] June 13, 1978 letter from Senator Bayh to the author.

[8] January 4, 1978 letter from J. Stanley Kimmit to the author.

[9] "Tax-Limit Proponents Seek U.S. Spending Amendment," *Washington Star*, July 26, 1978.

[10] George Gallup in remarks of Senator James Abourezk on "Voter Initiative Amendment", *Congressional Record*, August 11, 1978, p. 13181.

[11] Senator Robert Dole, *Congressional Record* (Daily Edition), June 7, 1978, p. S. 8638.

[12] *Legislative Procedural Flow*, U.S. Government Printing Office, Washington, July 1978, p. 42.

[13] *Ibid.*

[14] *Chase v. Kennedy*, Civil Action No. 77–305–T, U.S. District Court, Southern District of California, July 12, 1977. Appears in Report of the Select Committee on Congressional Operations, Part 2, U.S. House of Representatives, 95th Congress, 1st Session, page 237.

[15] Norman J. Small, "Procedures for Amending the United States Constitution", Congressional Research Service, Library of Congress, January 15, 1965, p. 4.

[16] Senator Sam J. Ervin, Jr., in Michigan Law Review, March 1968, Vol. 66, No. 5, p. 885. (Hereafter cited as Michigan Law Review.)

[17] Paul G. Kauper, Michigan Law Review, p. 905.

[18] Arthur Earl Bonfield, Michigan Law Review, p. 976.

[19] *Federalist Papers*, No. 85.

[20] "Equal Rights Amendment Extension"

Hearings before the House Subcommittee on Civil and Constitutional Rights, Serial No. 41, 95th Congress, First and Second Sessions, p. 19, footnote number 38. (Hereafter cited as ERA hearings.)

[21] *Ibid*, p. 7.

[22] Congressman Railsback, *Congressional Record* (Daily Edition), August 15, 1978, p. H8639.

[23] Congressman Edwards, *Congressional Record* (Daily Edition), August 15, 1978, p. H8643.

[24] Congressman Cohen, *Congressional Record* (Daily Edition), August 15, 1978, p. H8647.

[25] Charles Black, ERA Hearings, pp. 72 and 78.

[26] Laurence Tribe, Proposed Equal Rights Amendment Extension, Report No. 95–1405, 95th Congress, Second Session, U.S. House of Representatives, August 1, 1978.

[27] *Ibid.*, p. 13.

[28] "Problems Relating to State Applications for a Convention to Propose Constitutional Limitations on Federal Tax Rates," Staff Report to House Judiciary Committee, 82d Congress, 2d Session, 1952, p. 13.

[29] Cyril Brickfield, "Problems Relating to a Federal Constitutional Convention," Committee Print of the House Judiciary Committee, 85th Congress, 1st Session, 1957. (Hereafter cited as Brickfield '57.)

[30] "Constitutional Limitation on Federal Income, Estate, and Gift Tax Rates," Joint Committee on the Economic Report, 82d Congress, 2d Session, 1952.

[31] "Problems Relating to State Applications for a Convention to Propose Constitutional Limitation on Federal Tax Rates," Staff Report to House Judiciary Committee, 82d Congress, 2d Session, 1952, pp. 21–24.

[32] Brickfield '57, *op. cit.*

[33] *Ibid.*, p. 14.

[34] *Ibid.*

[35] *Ibid.*

STATE MEMORIALS REQUESTING A CONSTITUTIONAL CONVENTION, FEBRUARY 1978 TO SEPT. 15, 1978

State	Subject	Noted in House	Received by Senate	Sent to—	Share with other State legislature
Delaware	Appointment of Federal judges	Jan. 30, 1978, p. H. 372 and Jan. 31, 1978, p. H. 453.	Feb. 6, 1978, p. S. 1189	Speaker, President of Senate clerk and Secretary.	No.
Massachusetts	Busing		Apr. 5, 1978, p. S. 4830	Speaker and President of Senate	No.
Colorado	Balanced budget	Apr. 5, 1978, p. H. 2522	Apr. 5, 1978, p. S. 4830	Clerk and Secretary	Yes.
Kentucky	Abortion	Apr. 11, 1978, p. H. 2761	Apr. 17, 1978, p. S. 5694	Clerk and Secretary	Yes.
Pennsylvania	Abortion	Apr. 24, 1978, p. H. 3160	Apr. 25, 1978, p. S. 6304	Speaker and President of Senate	Yes.
Tennessee	Terms of Federal judges		Apr. 25, 1978, p. S. 6303	House and Senate	Yes.
Tennessee	Balanced budget		Apr. 25, 1978, p. S. 6303	House and Senate	Yes.
Nebraska	Abortion	May 1, 1978, p. H. 3393 and May 3, 1978, p. H. 3572.	May 3, 1978, p. S. 6867 and May 4, 1978, p. . 6964.	Speaker, President of Senate, clerk and Secretary.	No.
Oklahoma	Balanced budget	May 1, 1978, p. H. 3393	May 3, 1978, p. S. 6867	Congress	Yes.
Wyoming	Balanced budget	May 11, 1978, p. H. 3827	May 17. 1978, p. S. 7638	Chairmen of Senate and House Judiciary Committees.	Yes.
Kansas	Balanced budget	May 17, 1978, p. H. 4133	May 19, 1978, p. S. 7849	Clerk and Secretary	Yes.
South Carolina	Balanced budget	May 22, 1978, p. H. 4412	May 26, 1978, p. S. 8449	Speaker and President of Senate	No.
Delaware	Abortion		June 9, 1978, p. S. 8932	Speaker, President of Senate clerk and Secretary.	No.
Louisiana	Balanced budget		July 14, 1978, p. S. 10815	Clerk and Secretary	Yes.

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THE DETECTION OF BOMBS

● Mr. STEVENSON. Mr. President, according to FBI statistics, over 40 percent of all explosive devices used by criminals or terrorists in the United States in the last 2 calendar years were manufactured with black and smokeless powders. This fact shows why it is essential that these powders be included in the tagging program contained in S. 2236, an Act to Combat International Terrorism.

Taggants are microscopic particles which are coded to identify the type of explosive material and the factory run in which it was produced. This information will provide valuable investigative leads for the FBI, the Bureau of Alcohol, Tobacco and Firearms, and State and local police in their efforts to apprehend bombers.

In the near future, the technology of tagging these powders will be perfected to the point where devices will be able to detect the presence of explosives before detonation. Pipe bombs using black or smokeless powders and other such devices could then be disarmed before they do damage.

In response to an inquiry I made, the International Association of Chiefs of Police, the well-known association of State and local law enforcement officials, strongly supported a provision requiring the tagging of all explosive materials including black and smokeless powders. I share the response of the International Association of Chiefs of Police with my colleagues, and, Mr. President, ask that it be printed in the RECORD.

The letter follows:

INTERNATIONAL ASSOCIATION OF
CHIEFS OF POLICE, INC.
Gaithersburg, Md., September 19, 1978.

Hon. ADLAI STEVENSON, III,
Select Committee on Intelligence,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENSON: The International Association of Chiefs of Police would like to express our grave concern regarding section 12(u) of S. 2236, which excludes black and smokeless powders from the explosive taggants provision in this bill.

Bombings presently constitute the principal manifestation of terrorism in the United States. The indiscriminate character of bombings, and the patent innocence of so many of the victims, generates a great deal of public support for strong action in this area.

Preliminary figures released by the FBI Bomb Data Center which the IACP originally developed and subsequently turned over to the FBI in 1975, show that 1,314 bombing incidents occurred in the United States and Puerto Rico in 1977. As a result of these incidents, 22 persons were killed and 159 persons were injured. Resulting property damage exceeded $8.9 million.

During 1977, 984 of the 1,314 incidents involved explosive bombs and 330 were incendiary. There were 1,538 devices used. One thousand and sixty-three were explosive and 475 incendiary.

The leading targets were residences, with 292 attacks. Of the setbacks, 182 were explosive and 110 incendiary. There were 281 against commercial operations and office buildings, of which 211 were explosive and 70 incendiary. One hundred and seventy-four attacks were made against vehicles, 125 explosive and 49 incendiary. School facilities were targets in 100 attacks. Eighty-two involved explosive bombs and 18 incendiary. Thirty-six attacks were directed at law enforcement, 18 of which were explosive and 18 incendiary. The remaining 431 attacks were widely distributed among a variety of other targets.

In 1976, 42.5% of the personal injuries suffered from bombings were incurred by innocent bystanders. Intended victims and subjects accounted for 24.5 percent each. Law enforcement officers accounted for 6.6 percent of the personal injuries suffered in 1976.

In February 1976, a sample month, there were 179 explosive devices incidents and 88 incendiary devices incidents reported to the NBDC.

The Explosive Filler was broken down into the following types for a total of 223 devices:

		Percent
1. Black Powder	45	20
2. Dynamite	49	22
3. Military Explosives	7	3
4. Military Ordnance	10	5
5. Smokeless Powder	19	9
6. Other (low explosive)	32	14
7. Other (high explosive)	16	7
8. Unknown	45	20

In 1976, 39% of all known fillers were black and smokeless powders, a figure which is increasing. Pipe bombs have become the most frequently used explosive.

The IACP questions the soundness of excluding these powders from the taggants provision. It does not take very much foresight to realize that if other explosives are subject to taggant requirements, bombers will simply use black and smokeless powders in order to escape detection. It is not difficult to obtain—it can be purchased by anyone without question at stores which sell ammunition. A bomber who wants to destroy property or injure people can accomplish his goal just as easily with black or smokeless powders as he can with other types of explosives.

Considering the extent of their use, their undiscriminating availability, and their serious consequences, it is doubtful to the association that there is a justifiable reason for excluding black and smokeless powders from the taggants provision.

Tagging explosives at the time of manufacture with a taggant material that can survive detonation, be recovered, and provide an investigative lead has been seriously studied for several years. This concept has gained widespread support among many law enforcement groups because of the scant clues that can presently be found among bombing residues.

In 1972, the efforts of private and government investigators in the area of explosives tagging began to gain national visibility through the joint establishment by the Bureau of Alcohol, Tobacco and Firearms (AFT) and the Federal Aviation Administration (FAA) of an ad hoc committee on explosives seeding. This led to the formation in 1973 of the Advisory Committee on Explosives Tagging chaired by ATF, which acts to coordinate the activities of the various federal agencies concerned with the control of the illegal use of explosives.

The explosives identification and tagging program is intended to clearly demonstrate and document the technical feasibility of adding identification taggants to explosives. ATF has concluded that tagging black and smokeless powders is not only feasible, it is highly desirable.

Law enforcement has the grave public responsibility of protecting society from those who engage in illegal bombing activities. Therefore, we work jointly with ATF and other agencies which are attempting to develop methods which facilitate the prevention and detection of criminal activities. Unfortunately, our progress will be severely hampered unless legislation is passed to reinforce our efforts. We hope that Congress will not lose sight of the real purpose of this provision, the protection of every citizen in the United States, because of pressure from the NRA.

The IACP strongly urges the inclusion of black and smokeless powders in the taggants provision.

Thank you for considering our position on this matter.

Sincerely,

GLEN R. MURPHY,
Director, Bureau of Governmental Relations and Legal Counsel.●

DELAWARE IS FIRST STATE TO ADMIT WOMEN VFW MEMBERS

Mr. BIDEN. Mr. President, since Delaware became the first among the original 13 American States to ratify the U.S. Constitution, Delaware has valued its designation as "The First State."

I am proud that at 0001 hours on Sunday, September 24, 1978, Delaware became the first State in the Nation to admit women as members of the Veterans of Foreign Wars, under a resolution adopted by the national VFW convention in August 1978.

I was privileged to see the VFW "Oath of Obligation" administered to and the Cross of Malta conferred upon Mrs. Ruth Bashford and Miss Rose A. Ramsey, both Delaware residents and former members of the Army Nurse Corps, by the Corporal Theodore J. Chason Memorial Post No. 7582, VFW.

The scene of this historic occasion was the Veterans' Administration Hospital and Nursing Home in Elsmere, Del., where Miss Ramsey is now a patient.

I call the attention of my colleagues in the Senate to this occasion, not only because it reaffirms Delaware's status as "The First State," but also because it represents an important milestone in the history both of the Veterans of Foreign Wars and of the movement to better recognize the contributions of women to our society. Women throughout the Nation are now eligible to become members of the VFW, and Delaware once again has shown the way.

It is all the more fitting that this first induction of women into full membership in the Veterans of Foreign Wars took place during an official visit to Delaware by Mrs. Arlene McDermott, National President of the VFW Ladies Auxiliary, who was present at the induction ceremony.

Miss Rose A. Ramsey joined the U.S. Army Nurse Corps in 1942, shortly after the entry of the U.S. into World War II. She saw service overseas in England during 1944 and 1945.

Merle Ruth Walker joined the Army as a 2d Lieutenant in 1966, serving in 1968 and 1969 in the 95th Evacuation Hospital at Danang, Vietnam, after training as a nurse at the Dougherty School of Nursing in Corpus Christi, Tex. Now a member of the U.S. Army Reserve, she was married in 1971 to Robert Bashford and is now the mother of two children.

It would be difficult to find two women more representative of those who have served in the U.S. Armed Forces.

My gratitude for their service to their country and my congratulations upon becoming the first women accepted into full VFW membership go both to Miss Ramsey and to Mrs. Bashford.

My congratulations go also to the Corporal Theodore J. Chason Memorial Post 7582 of the Veterans of Foreign Wars for its readiness to break new ground for the VFW by including women among its members. The leadership of the Chason Post is gratifying to all Delawareans, especially the 5,600 members of the VFW Department of Delaware and the 2,000 members of its Ladies Auxiliary.

Post Commander Albert L. McMullin, the 1976 State Commander and an All American State Commander, presided at the historic induction ceremony. Also in attendance were post members Egidio P. Carnevale, Daniel C. Conly, Joseph Corcoran, Charles W. Martin, Thomas L. Smith, and Thomas G. Lewis, who is also a member of my Senate staff. An especially appropriate witness to the event was William Penn Frank, a journalist with the Wilmington News-Journal newspapers and a distinguished Delaware historian. No doubt the proudest witness, however, was Mr. Robert Bashford, the husband of one of the pioneering inductees.

It was a rare privilege to participate in such history in the making and to see Delaware once again "The First State."

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1131.

The PRESIDING OFFICER (Mr. MUSKIE). The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 558) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 2329.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, reserving the right to object, I do not have my calendar here.

Mr. ROBERT C. BYRD. It is a budget waiver for H.R. 2329.

Mr. BAKER. Calendar Order No. 1131?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, we have no objection to proceeding to the consideration of that calendar order.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1208), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Because H.R. 2329 authorizes the enactment of new budget authority in fiscal year 1979 and was reported after May 15, 1978, a resolution waiving section 402(a) with regard to H.R. 2329 must be adopted before the Senate may consider the bill. In reporting favorably on Senate Resolution 558, the Budget Committee is recommending that the Senate proceed to consideration of H.R. 2329, but is not otherwise prejudging the merits of the bill.

COMMITTEE CRITERIA

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 402(a) of the Budget Act. This section was included in the Budget Act to insure that all authorizing legislation is consideerd as far as possible in advance of the fiscal year in which it will take effect so that it could be considered in the formulation of the first concurrent resolution. In addition, this section was included to provide the Appropriations Committee with some reasonable notice of needed appropriations for the coming fiscal year so that the Appropriations Committee can meet the appropriations timetable spelled out in the Budget Act.

Legislation authorizing the enactment of new budget authority which is reported to the Senate after May 15 could delay the enactment of appropriations bills past the Budget Act deadline of 7 days after Labor Day for the completion of the entire appropriations process. The legislative history of the Budget Act indicates that the May 15 reporting deadline is not to be lightly waived. Under these circumstances, the Budget Committee, in deciding whether to favorably report resolutions waiving section 402(a) of the Budget Act, will consider factors including: The reporting committee's effort to meet the May 15 deadline, the delay in the appropriations process engendered by the late reporting of the authorization, and whether the enactment of the authorization will significantly affect the national priorities established in the congressional budget.

BUDGET CONSIDERATIONS

H.R. 2329 provides principally for needed reforms in fish and wildlife programs. The bill also authorizes $2.5 million for fiscal year 1979 for a council to review alternate routes within Central America for the construction of a sea-level canal. It is only this authorization that necessitates waiver of section 402.

According to the Environment and Public Works Committee, without enactment of this bill, there could be delays in enactment of the main provisions in the legislation, including improvements in the administration of fish and wildlife programs and the compromise Sikes Act reauthorization. The establishment of the Interoceanic Canal Study Council could also be delayed because of the uncertain prospects for enactment of H.R. 8309 which contains substantially the same provisions.

The Environment and Public Works Committee reported the bulk of its authorizing legislation by the May 15 deadline.

To permit orderly consideration of H.R. 2329, the Budget Committee reports favorably on Senate Resolution 558 and recommends its adoption.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974 the provisions of section 402(a) of such Act are waived with respect to consideration of H.R. 2329, an Act to improve the administration of fish and wildlife programs, and for other purposes.

Such waiver is necessary to permit consideration of H.R. 2329, a House-passed measure which was not received in the Senate until after May 15, 1978. Title III as reported by the Committee on Environment and Public Works contains authorizations available in fiscal year 1979. This title, however, was a provision in another bill which has already passed the Senate and was added to H.R. 2329 to expedite consideration in the House of Representatives.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HODGES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FISH AND WILDLIFE IMPROVEMENT ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar order No. 1098.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2329) to improve the administration of fish and wildlife programs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I announce that calendar item 1098 is cleared on our calendar as well.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works with amendments as follows:

On page 1, line 4, strike "1977" and insert "1978";

On page 2, beginning with line 9, strike through and including page 4, line 15;

On page 4, line 16, strike "(b)" and insert "(a)";

On page 5, line 18, strike "(c)" and insert "(b)";

On page 7, line 4, strike "(d)" and insert "(c)";

On page 7, line 13, strike "(e)" and insert "(d)";

On page 7, line 18, strike "(f)" and insert "(e)";

On page 7, beginning with line 25, strike through and including page 8, line 6;

On page 8, line 7, strike "(h)" and insert "(f)";

On page 8, line 8, strike "Section" and insert "The final sentence of section";

On page 8, line 11, following the colon, strike through and including the period in line 15;

On page 8, line 15, insert quotation marks before "Any";

On page 8, beginning with line 21, strike through and including page 9, line 8, and insert the following:

(g) BEAR RIVER MIGRATORY BIRD REFUGE.—Section 6(b) of the Act of April 23, 1928 (45 Stat. 449; 16 U.S.C. 690e) is amended by striking at the end thereof the term "and disposed of as directed by the court having jurisdiction." and inserting in lieu thereof the term "and disposed of as directed by the Secretary of the Interior, in accordance with law."

On page 9, beginning with line 16, strike through and including page 10, line 8;

On page 10, line 9, strike "(1)" and insert "(h)";

On page 10, line 9, strike "Section" and insert "(1) The final sentence of section";

On page 10, beginning with line 12, strike through and including the period in line 20;

On page 10, line 20, insert quotation marks before "All";

On page 11, beginning with line 9, insert the following:

(2) In accordance with the various migratory bird treaties and conventions with Canada, Japan, Mexico, and the Union of Soviet Socialist Republics, the Secretary of the Interior is authorized and directed to issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.

(3) The Secretary of the Interior is authorized to issue such regulations as may be necessary to implement the provisions of the convention between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, the convention between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the convention between the United States and the Government of Japan for the protection of migratory birds in danger of extinction, and their environment concluded March 4, 1972, and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environment concluded November 19, 1976.

On page 12, line 9, strike "(m)" and insert "(1)";

On page 12, line 10, strike "Section" and insert "The final sentence of section";

On page 12, beginning with line 13, strike through the period in line 20;

On page 12, line 20, insert quotation marks before "Any";

On page 12, beginning with line 23, strike through and including line 14;

On page 13, beginning with line 15, insert the following:

(j) TITLE 18.—(1) Sections 3054 and 3112 of title 18, United States Code, are each amended by striking at the end thereof the word "court" and including in lieu thereof the word "Secretary".

(2) Section 1114 of such title 18 is amended by inserting immediately before "or of the Department of Labor" the following: ", the Department of Commerce,".

On page 16, line 13, strike "1978, 1979, and 1980" and insert "1980, 1981, and 1982";

On page 16, line 15, before "Section" insert "(a)";

On page 17, beginning with line 10, insert the following:

(b) Section 10(a) of such Act (16 U.S.C. 715i(a)) is amended by striking out "Mexico and Canada" and inserting in lieu thereof "Mexico, Canada, Japan, and the Union of Soviet Socialist Republics".

(c) Section 11 of such Act (16 U.S.C. 715j) is amended by inserting the words "the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) and" before the words "this title", and by inserting a comma immediately before the period at the end thereof and the following: "and the Convention between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and their Environment concluded March 4, 1972, and the Convention between the United States and the Union of Soviet Socialist Republics for the Conservation of Migratory Birds and their Environment concluded November 19, 1976".

On page 18, line 12, before "Section" insert "(a)";

On page 18, beginning with line 16, insert the following.

(b) Section 3 of such Act is amended by inserting immediately after "treaty" the following: "or convention".

On page 19, beginning with line 4, insert the following:

SEC. 9. BALD EAGLE PROTECTION ACT.

Section 2 of the Act of June 8, 1904 (16 U.S.C. 668a) is amended by deleting the period at the end thereof and adding the following: "Provided further, That the Secretary of the Interior, pursuant to such regulations as he may prescribe, may permit the taking of golden eagle nests which interfere with resource development or recovery operations.".

TITLE II—SIKES ACT AUTHORIZATIONS

SEC. 201. Section 106 of the Act of September 15, 1960 (16 U.S.C. 670f(b)) is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) There are authorized to be appropriated to the Secretary of Defense not to exceed $1,500,000 for each of the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982, to carry out this title, including the enhancement of fish and wildlife habitat and the development of public recreation and other facilities. The Secretary of Defense shall, to the greatest extent practicable, enter into agreements to utilize the services, personnel, equipment, and facilities, with or without reimbursement, of the Secretary of the Interior in carrying out the provisions of this section.

"(c) There are authorized to be appropriated to the Secretary of the Interior not to exceed $3,000,000 for each of the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982, to carry out such functions and responsibilities as the Secretary may have under cooperative plans to which such Secretary is a party under this section, including those for the enhancement of fish and wildlife habitat and the development of public recreation and other facilities.".

Sec. 202. Section 209 of the Act of September 15, 1960 (16 U.S.C. 670o), is amended to read as follows:

"Sec. 209. (a) There are authorized to be appropriated the sum of $10,000,000 for each of the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982, to enable the Secretary of the Interior to carry out his functions and responsibilities under this title, including data collection, research, planning, and conservation and rehabilitation programs on public lands. Such funds shall be in addition to those authorized for wildlife, range, soil, and water management pursuant to section 318 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1748), or other provisions of law.

"(b) There are authorized to be appropriated the sum of $12,000,000 for each of the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982, to enable the Secretary of Agriculture to carry out his functions and responsibilities under this title. Such funds shall be in addition to those provided under other provisions of law. In requesting funds under this subsection the Secretary shall take into account fish and wildlife program needs, including those for projects identified in the State comprehensive plans as contained in the program developed pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1601–1610).".

TITLE III—INTEROCEANIC CANAL STUDY

Sec. 301. This Title May Be Cited as the "Interoceanic Canal Study Act of 1978".

Sec. 302. Findings.

The Congress finds and declares the following:

(1) The potential improvements in interoceanic transit resulting from a new Atlantic-Pacific canal are of great national and international significance.

(2) The Atlantic-Pacific Interoceanic Canal Study Commission report in 1970 concluded that there were no technical obstacles of sufficient magnitude to prevent successful construction and operation of a sea-level canal between the Atlantic and Pacific Oceans. Since the issuance of that report the political, economic, and military circumstances concerning such a canal may have changed.

(3) The effect of a sea-level canal upon the environment is unknown, but there is a possibility that substantial impacts on marine ecosystems might result from the construction and operation of such a canal.

(4) The most current information on the benefits and costs of the possible construction and operation of a sea-level canal between the Atlantic and Pacific Oceans should be available to the Congress and the public in view of the economic and national security importance of a new canal.

Sec. 303. Purposes.

The Congress declares that the purposes of this title are the following:

(1) To provide for the completion of the studies and investigations necessary to make current the findings of the report of the Atlantic-Pacific Interoceanic Canal Study Commission and to determine the environmental effects of a possible sea-level canal between the Atlantic and Pacific Oceans.

(2) To provide for the determination, based on the best and most current information available, of the feasibility of and the most suitable site for the construction of a new interoceanic canal between the Atlantic and Pacific Oceans.

(3) To provide for study and comparison of the trade demands and economic alternatives for the transit of vessels or movement of cargoes between the Atlantic and Pacific Oceans.

Sec. 304. Definitions.

For the purposes of this title—

(1) The term "Council" means the Interoceanic Canal Study Council established by section 311.

(2) The term "Commission" means the International Sea-Level Canal Study Commission established by section 321.

(3) The term "host country" means the foreign country which, as a result of studies determining that the most advantageous route for construction of a sea-level canal lies within that nation's boundaries, undertakes to form with the United States the International Sea-Level Canal Study Commission established in part B of this title.

Part A—Interoceanic Canal Study Council

Sec. 311. Establishment.

There is hereby established the Interoceanic Canal Study Council.

Sec. 312. Duties.

The Council shall conduct a review and assessment of alternate routes for the construction and operation of a new interoceanic canal across the Americas. The review and assessment by the Council shall include, but not be limited to, with respect to each major alternate route—

(1) an assessment of the general environmental effects of construction and operation of a new interoceanic canal along such route;

(2) an estimation of the United States economic benefits that would be derived from construction of such a canal along such route, and an estimation of the economic benefits that would be derived from means and systems other than a new interoceanic canal for transit of cargo between the Atlantic and Pacific Oceans;

(3) an estimation of the United States national security benefits that would be derived from construction of such a canal along such route; and

(4) an estimation of the engineering problems entailed in the construction of such a canal along such route.

Sec. 313. Membership.

(a) Number and Appointment.—The Council shall consist of seven members, who are United States citizens, as follows:

(1) One member shall be appointed by the President pro tempore of the Senate.

(2) One member shall be appointed by the Speaker of the House of Representatives.

(3) Five members shall be appointed by the President.

A vacancy in the Council shall be filed in the manner in which the original appointment was made.

(b) Chairman.—The Chairman of the Council shall be elected by the Council from among its members.

Sec. 314. Powers.

(a) Hearing.—The Council or, if authorized by the Council, any committee of one or more members may, for the purpose of carrying out the provisions of this part, hold such hearings and sit and act at such times and places as the Council or such committee deems advisable.

(b) Other Powers.—The Council has such other powers as are set forth in section 331.

Sec. 315. Report and Recommendations of Council.

Not later than one year after the date of the enactment of this title, the Council shall submit to the President and the Congress a document setting forth the result of the review and assessment carried out by it under section 312.

Sec. 316. Transition.

The Council shall cease to exist on whichever of the following days first occurs after the date of the submission of its report under section 315:

(1) The last day of the six-month period beginning on the date of such submission.

(2) The day on which the Secretary of State notifies the Congress that the host country in which is deemed to be located the most advantageous route for construction of an interoceanic canal has accepted participation in the International Sea-Level Canal Study Commission.

Sec. 317. Taking Effect of Part B.

Part B shall take effect if, and only if—

(1) the Council declares in its report submitted under section 315 that the United States and the country in which the most advantageous route for construction is located both recognize that a sea-level canal may be important for international navigation in the future;

(2) both the Senate and the House of Representatives have not, within sixty days of receiving the report of the Council submitted under section 315, agreed to a resolution stating their disapproval of such report: *Provided*, That the sixty-day period referred to in this paragraph shall be computed by excluding (i) the days on which either House is not in session because of an adjournment of the Congress sine die, and (ii) any Saturday and Sunday, not excluded under subparagraph (i), when either House is not in session; and

(3) the Congress is notified by the Secretary of State that the country in which the most advantageous route for construction is deemed to be located has accepted participation in the International Sea-Level Canal Study Commission established in part B of this title.

The effective date of such part shall be the date on which (1), (2), and (3) of this paragraph shall have occurred.

Part B—International Sea-Level Canal Study Commission

Sec. 321. Establishment.

Upon the taking effect of this part, there is established the International Sea-Level Canal Study Commission.

Sec. 322. Duties.

(a) In General.—The Commission shall conduct such studies and investigations as may be necessary, including onsite surveys, and including an updating of the report of the Atlantic-Pacific Interoceanic Canal Study Commission (submitted pursuant to Public Law 88–609), to assess the feasibility of a sea-level canal in the host country and to prepare an environmental report in accordance with section 102 of the National Environmental Policy Act and in connection with such studies and investigations. The results of the review and assessment by the Council under part A shall be considered by the Commission in conducting such studies and investigations.

(b) Report of Commission.—Within three years after the date on which the initial appointment of all members of the Commission is completed the Commission shall submit to the President, the Congress, and the host country a report of its findings and recommendations. The report of the Commission shall include, but not be limited to—

(1) an environmental report in accordance with section 102 of the National Environmental Policy Act;

(2) an inventory and assessment of flora, fauna, and ecosystems of the host country as they relate to the construction and operation of a sea-level canal, including but not limited to—

(A) potential migration of marine organisms through a sea-level canal and the potential ecological effects of any such migration;

(B) natural or manmade barriers that might mitigate the effects of any such migration; and

(C) other potential environmental effects of a sea-level canal;

(3) an analysis of the best techniques and equipment presently available or which could be developed to excavate a sea-level canal;

(4) the preparation of alternative designs for financing the construction of a sea-level canal;

(5) an assessment of the economic feasibility of a sea-level canal, including, but not limited to—

(A) an analysis of a sea-level canal in relation to alternative transportation modes;

(B) an evaluation of the potential contribution of a sea-level canal to alleviate the problem of world energy shortages;

(C) an assessment of the impact of a sea-level canal on world commodity movements and world port development;

(D) an analysis of world ship population profiles associated with projected interoceanic trade flows;

(6) an assessment of the national security ramifications of a sea-level canal; and

(7) an assessment of the general interest expected by individuals, public and private organizations, and nations engaged in international commerce in connection with construction and operation of a sea-level canal.

SEC. 323. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) Except as provided in paragraph (2), the Commission shall consist of fourteen members as follows:

(A) One member appointed by the President pro tempore of the Senate.

(B) One member appointed by the Speaker of the House of Representatives.

(C) Five members appointed by the President.

(D) Seven members appointed by the host country.

(2) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—The Chairman of the Commission shall be elected by the Commission from among its members.

SEC. 324. POWERS.

(a) HEARINGS.—The Commission or, if authorized by the Commission, any committee consisting of one or more members may, for the purpose of carrying out the provisions of this part, hold such hearings and sit and act at such times and places as the Commission or such committee deems advisable. In the conduct of hearings, testimony and evidence may be given in either English or the language of the host country, and transscripts, reports, and materials of the Commission shall be made available in both languages.

(b) OTHER POWERS.—The Commission has such other powers as are set forth in section 331.

SEC. 325. ACTION BY COUNCIL ON ENVIRONMENTAL QUALITY.

When the Commission submits the environmental report required under section 322(b)(1), the Council on Environmental Quality shall promptly thereafter afford interested persons an opportunity to present oral and written data, views and arguments respecting the environmental impact statement included in such environmental report. Not later than ninety days after the date on which such report is so submitted, the Council on Environmental Quality shall submit to the President and the Congress a document, which shall be made available to the public at the same time, summarizing any data, views, and arguments received from the public and setting forth the views of the Council on Environmental Quality concerning the legal and factual sufficiency of such environmental impact statement.

SEC. 326. TERMINATION OF COMMISSION.

The Commission shall cease to exist sixty days following the submission of its report under section 322.

PART C—POWERS OF COUNCIL AND COMMISSION AND ADMINISTRATIVE PROVISIONS

SEC. 331. POWERS.

(a) IN GENERAL.—For purposes of carrying out its duties under this title, the Council and the Commission may each—

(1) secure directly from any department or agency of the United States information necessary to enable it to carry out such duties, and, upon reqeust of the Chairman of the Council or the Commission, the head of such department or agency shall furnish such information to that body subject to applicable law;

(2)(i) accept, hold, administer, and utilize gifts, donations, services and bequests of property, both real and personal, including those from any nation or international organization, for the purposes of aiding or facilitating the work of the Council or the Commission. Gifts and bequests of money, and the proceeds from the sale of any other property received as gifts or bequests, shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Council or the Commission.

(ii) For purposes of Federal income, estate, and gift taxation, property accepted under subparagraph (i) of this paragraph shall be considered as a gift or bequest to or for the use of the United States.

(iii) Upon reqeust of the Council or the Commission the Secretary of the Treasury may invest and reinvest, in securities of the United States, any moneys contained in the fund authorized in subparagraph (i) of this paragraph. Income accruing from such securities, and from any other property accepted to the credit of such fund, shall be disbursed upon the order of the Council or the Commission.

(iv) Upon the termination of the Council in accordance with paragraph (2) of section 316, any property accepted under subparagraph (i) of this paragraph and not previously disposed of pursuant to the provisions of this paragraph, shall be conveyed to the Commission. Upon the termination of the Council in accordance with paragraph (1) of section 316, or upon termination of the Commission, any property accepted under subparagraph (i) of this paragraph and not previously disposed of pursuant to the provisions of this paragraph, shall—

(A) be returned to the original donor or his designee, if so requested by the donor; or

(B) be returned to the heirs of a deceased donor, if so requested by the heirs; or

(C) in the case of property accepted from a citizen of the United States, and in the case of any property not otherwise disposed of, revert to the miscellaneous receipts of the Treasury or be disposed of in accordance with applicable provisions of law; (3) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States;

(4) to such extent, or in such amounts, as are provided in advance in appropriation Acts, enter into contracts, agreements, or other transactions without regard to section 3709 of the Revised Statutes of the United States; and

(5) utilize, on a reimbursable basis or otherwise, the personnel and facilities of other departments and agencies of the United States, and accept and utilize the services of voluntary and uncompensated personnel.

(b) ADDITIONAL COMMISSION POWERS.—

(1) The Commission may utilize, on a reimbursable basis or otherwise, the personnel and facilities of any agency of the host country for purposes of carrying out its duties under part B.

(2) The Commission may employ non-United States citizens or nationals of the host country, notwithstanding any other provision of law.

SEC. 332. DIRECTOR AND STAFFS OF COUNCIL AND COMMISSION.

(a) DIRECTOR.—The Council and the Commission shall each appoint a Director who shall be compensated at a rate not to exceed that in effect for level II of the Executive Schedule.

(b) STAFF.—The Council and the Commission may each appoint and fix the pay of such additional personnel as it deems desirable.

(c) APPLICABILITY OF CIVIL SERVICE LAW.—The Director and staff of the Council and of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(d) FEDERAL EMPLOYEES.—Any Federal employee subject to the civil service laws and regulations who may be detailed to either the Council or the Commission shall retain civil service status without interruption or loss of status or privilege.

(e) EXPERTS AND CONSULTANTS.—The Council and the Commission may each procure temporary and intermittent services to the same extent as is authorized by section 3109 (b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

SEC. 333. PAY AND TRAVEL EXPENSES.

(a) IN GENERAL.—Except as provided in subsection (b) members (if citizens or nationals of the United States) of the Council and of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for level II of the Executive Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council or the Commission. The compensation of members of the Council or the Commission who are citizens or nationals of the host country for service thereon shall be as provided for under the law of such country.

(b) EXCEPTION.—Members of the Council and the Commission who are full-time officers or employees of the United States or Members of Congress or full-time officers or employees of the host country's government shall receive no additional pay on account of their service on the Council or the Commission.

(c) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Council or the Commission, members thereof (whether or not citizens or nationals of the United States) shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

PART D—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 341. AUTHORIZATION OF APPROPRIATIONS.

(a) FOR COUNCIL.—There are authorized to be appropriated for fiscal year 1979, for purposes of carrying out part A not to exceed $2,500,000.

(b) FOR COMMISSION.—There are authorized to be appropriated, without fiscal year limitation, for purposes of carrying out part B such sums as may be necessary, but not to exceed $5,500,000.

SEC. 342. EFFECTIVE DATES.

(a) PART A.—Part A shall take effect on the date of enactment of this title.

(b) PART C.—

(1) The provisions of part C which apply with respect to the Council shall take effect on the date of the enactment of this title.

(2) The provisions of part C which apply wtih respect to the Commission shall take effect on the date on which part B takes effect under section 317.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

The first committee amendment was agreed to.

The PRESIDING OFFICER. The next committee amendment will be stated.

Mr. BAKER. Mr. President, might I inquire what the Chair just announced?

The PRESIDING OFFICER. The amendment is agreed to.

Mr. BAKER. That is the only amendment?

The PRESIDING OFFICER. There is more than one.

Mr. BAKER. This is only the first.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HODGES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HODGES. Mr. President, I ask unanimous consent that Kathi Korpon and George Jacobson of the Environment and Public Works Committee and Jon Abele, of my staff, be accorded the privilege of the floor during debate and vote on H.R. 2329.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HODGES. Mr. President, I ask unanimous consent that the amendments of the Committee on Environment and Public Works to H.R. 2329 be adopted en bloc and be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. HODGES. I yield to the Senator from California.

Mr. CRANSTON. Is it in order for me, as far as the Senator's schedule, to proceed to an amendment which I think is acceptable to the Senator at this time?

Mr. HODGES. Yes.

UP AMENDMENT NO. 1919

Mr. CRANSTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 1919.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 10, insert the following:

SEC. 10. Waterfowl habitat conservation in the San Joaquin Valley. The Act of August 27, 1954 (68 Stat. 879) is amended by deleting the last sentence of section 6 and inserting in lieu thereof the following: "If and when available, such water shall be delivered from the Central Valley project to the contracting entity, and the cost of furnishing the water shall not be reimbursable or returnable under the Federal reclamation laws: *Provided*, That, in order for the delivery of such water to continue on a nonreimbursable or nonreturnable basis—

"(a) the public organizations or agencies contracting with the Secretary of the Interior, excluding the State of California, shall deliver annually to the United States Fish and Wildlife Service (hereinafter referred to as the 'Service'), at no cost to the United States, not less than three thousand five hundred acre-feet of water during the period October 1 through November 30, inclusive, and not less than four thousand acre-feet of water during the period May 1 through September 30, inclusive, if available: *Provided*, That such amounts of water and times of delivery may be changed upon approval of the Secretary of the Interior;

"(b) the public organizations or agencies, excluding the State of California, shall construct, operate, and maintain any water conveyance facilities necessary to deliver the water referred to in section 6(a) of this Act to a point or points within the boundaries of such public organization or agency as designated by the Service, or to such points as may be mutually agreed upon by the public organization or agency and the Service. The Service shall be responsible for delivering the water from such point or points to appropriate locations within lands under its jurisdiction;

"(c) any contract entered into by the Secretary of the Interior and any public organization or agency pursuant to this Act shall provide that in the event the public organization or agency for any reason fails to carry out the obligations imposed upon it by said contract or by this Act, the rights of use of any facilities referred to in subsection (b), and the rights to all water contracted for by the organization or agency pursuant to this Act shall revert to the Secretary of the Interior for migratory waterfowl purposes in accordance with the laws of the State of California; and

"(d) in accordance with existing or future contracts, the use of lands located within the boundaries of the public organizations or agencies shall be restricted by covenants requiring that such lands be used only for the purpose of waterfowl and wildlife habitat conservation or other uses as may be mutually agreed upon by the public organizations or agencies and the Service.".

SEC. 2. The Act of August 27, 1954 (68 Stat. 879), is further amended by adding at the end thereof the following new section:

"SEC. 8. The Secretary is hereby authorized to negotiate amendments to existing contracts to conform said contracts to the provisions of this Act.".

Mr. CRANSTON. Mr. President, this amendment would add a new section to the bill to provide for the preservation and enhancement of critical waterfowl habitat in the San Joaquin Valley of California.

Very briefly the grasslands area of the San Joaquin Valley is one of the most important wintering areas for waterfowl in the Pacific flyway and the Nation. But today there are growing economic pressures on the private landowners in the grasslands area to convert their land from waterfowl purposes to more economically attractive uses. This amendment would provide an economic incentive to private property owners to maintan their land for waterfowl by providing for the delivery of water at no cost.

This measure passed the Senate as S. 691 on September 8, but to insure House action on the measure and enactment this year, I am offering the provision as an amendment to this bill. I understand the amendment is acceptable to the floor manager, and trust it can be adopted.

Mr. HODGES. Mr. President, the amendment is satisfactory to the manager of the bill on the majority side and we are perfectly willing to accept it. I understand it is acceptable to the minority side.

Mr. WALLOP. It is acceptable to us.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. GRAVEL. Mr. President, will the Senator yield for a unanimous-consent request? I ask unanimous consent that Richard Harris, Hal Brayman, and Bill Hoffman be permitted access to the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HODGES. Mr. President, the Senate is currently considering H.R. 2329, the Fish and Wildlife Improvement Act of 1978. This legislation is intended to improve the administration of several fish and wildlife conservation programs which are administered by the Secretaries of Interior and Commerce.

The first of these is the cooperative units assistance program, through which research is undertaken by universities and other State agencies in cooperation with the Fish and Wildlife Service (FWS) on fish and wildlife ecology and resource management. H.R. 2329 expands the flexibility of this program by authorizing the Secretary of the Interior to provide financial assistance for projects funded by the program. Federal participation is currently limited to the assignment of personnel and other technical assistance.

An important factor in the enforcement of Federal fish and wildlife programs is the ability of the Fish and Wildlife Service and the National Marine Fisheries Service (NMFS) to obtain the cooperation of other Federal and State agencies in this effort. H.R. 2329 helps to insure the continued support of these agencies by providing FWS and NMFS with specific authority to enter into formal cooperative agreements with them for the enforcement of fish and wildlife laws. The bill also authorizes these two agencies to assist in the training of State, local, and regional fish and wildlife law enforcement personnel.

Another important tool available to the Fish and Wildlife Service for their conservation efforts is the ability to protect fish and wildlife habitat through acquisition. Unfortunately, current law restricts the Secretary's authority to the purchase or rental of the fee simple title of lands. This restriction is both costly and limiting on the Secretary's ability to preserve ecologically significant areas. Therefore, H.R. 2329 authorizes the Secretary to acquire easements and other partial interests in lands and waters.

The National Wildlife Refuge Administration Act currently limits to 40 percent the area of a refuge which may be open to hunting. At times, however, waterfowl mortality from communicable diseases could be minimized through control of bird populations by hunting. In these instances, H.R. 2329 authorizes the Secretary of the Interior to open more than 40 percent of a refuge to hunting. Before doing so, however, the Secretary must demonstrate that such action would benefit the species involved.

Other provisions of the bill authorize the Secretaries of Interior and Commerce to dispose of wildlife parts abandoned or forfeited to the United States; retain June 30 of each year as the redemption date of the migratory bird hunting and conservation stamp; implement the Migratory Bird Conservation Treaties with Russia, Japan, and Canada; and facilitate the implementation of the Bald Eagle Protection Act. In addition, the committee adopted an amendment to authorize a study of a sea level canal in South America. A similar provision was approved by the Senate earlier this year as part of H.R. 8309.

Mr. President, enactment of this legislation will greatly facilitate the ability of the Fish and Wildlife Service and the National Marine Fisheries Service to protect our country's fish and wildlife resources. I urge my colleagues to approve it.

The PRESIDING OFFICER. Are there further amendments?

Mr. WALLOP. Mr. President, I would like to add my general support for all of the provisions of this comprehensive legislation, H.R. 2329, and to address some of the specific provisions in which I am especially interested.

One important although small provision in this bill authorizes the Secretary of the Interior to acquire partial interests in land and waters for U.S. Fish and Wildlife Service programs. Under both the Fish and Wildlife Act of 1956 and the Migratory Bird Conservation Act, which are the two major acquisition authorities for the USFWS, the Service is limited to purchase acquisition of refuge lands. Increasing land costs and escalating public appreciation for wildlife habitat is forcing Congress and Federal land acquisition agencies to look at new and innovative ways to protect natural areas by methods other than fee title acquisition. Many areas could be protected by easements, for example, and this bill gives the USFWS authority to acquire easements, as well as accept gifts and bequests. I hope the USFWS will take full advantage of this new authority, for I believe it may help us meet preservation objectives on private lands and in many other instances at a cost savings to the American taxpayer.

The committee discussed the land acquisition policy of the U.S. Fish and Wildlife Service, and is planning to hold hearings on that subject next year. I have personally been concerned over Federal agency condemnation practices in my State, and feel that this is an area which needs to be considered very carefully. This committee recognizes that the Fish and Wildlife Service must acquire some lands or interests therein for wildlife habitat, but feels that acquisitions should be on a willing-buyer willing-seller basis. Condemnation authority should be used only when thoroughly justifiable, and after good-faith negotiations have been exhausted.

The 1979 Senate Interior Appropriations report requires that the Fish and Wildlife Service and the Forest Service seek approval from that committee for certain acquisitions and for all proposed takings. Presently National Park Service acquisitions and condemnations are reviewed in this manner, and I feel that extension of this review to the Fish and Wildlife Service and Forest Service will give Congress a chance to safeguard against any inequities while expediting necessary purchases. As the Environment and Public Works Committee has jurisdiction over refuge land acquisition policies under the Fish and Wildlife Act of 1956, the committee has asked that the Fish and Wildlife Service notify it in writing at the same time it seeks Appropriations Committee approval for all takings. This will give this committee a chance to work with the Appropriations Committee on these takings, which has indicated it would welcome such input.

Another feature of this bill which I think is important to Western States in particular is an amendment which I added to the bill, with the support of the administration, to alleviate potential conflicts between golden eagles and mining activities.

The Eagle Protection Act of 1940 was originally enacted to protect bald eagles, and was later amended to include golden eagles because of the resemblance of golden and bald eagle young. The law prohibits the taking, including molestation and disturbance, of eagles, parts, nests, and eggs. However, it makes certain exceptions for golden eagles for certain specified purposes as permitted by the Secretary of the Interior. While golden eagles may be taken for livestock protection, for example, no exceptions are made to allow nest relocation or habitat manipulation when there is a conflict with mining.

These provisions of the Eagle Protection Act present potential problems for mining and reclamation projects in Western States. While no one knows the complete extent of the problem, it is anticipated that virtually every major coal strip mine or reclamation area in certain areas may affect eagles or their abandoned nesting sites. Under present law these activities may not proceed if a golden or bald eagle nest would be disturbed, even if the nest is abandoned and the activity would improve the environment or is compatible with preservation of the species.

The amendment which the committee adopted modifies the Eagle Protection Act to allow the Secretary of the Interior to resolve anticipated conflicts while at the same time retaining complete ability to protect eagles. The Secretary is to develop regulations which allow the taking of golden eagle nests in certain instances if there is a conflict with a resource development or recovery operation. Since the administration has worked out this provision, and since it applies only to golden eagles which are not threatened and does not include bald eagles which are endangered in most States, I believe the amendment will provide the flexibility needed to effectively administer the laws of our land. Without this kind of reasonable provision, I fear that parties finding an eagle nest might otherwise not report or even destroy eagle nests when they come across them in the course of mining or reclamation activities. This provision provides incentive for compliance with the law and thereby adequate protection of both bald and golden eagles and their young.

Finally, Mr. President, I would like to add my support for Senator HART's amendment to delete title II, to reauthorize the Sikes Act, and substitute as a new title II the Federal Aid in Nongame Fish and Wildlife Conservation Act of 1978 in its place.

Since the time I first learned of the Sikes Act, I have supported its goals and reauthorization, which must occur this year. Congress sent a strong Sikes Act authorization measure to the President for his signature earlier this year, but the President vetoed the bill. While I did not agree with his reasons, both the House and Senate committees with jurisdiction over this legislation have been able to work out some modified provisions which the White House will accept by previous agreement and which will help accomplish the goals of the law. The Senate Environment and Public Works Committee added the Sikes Act reauthorization legislation to S. 2329 to insure its passage, with the understanding that if the House passed its own Sikes Act bill we would pass that bill and delete the same provision from S. 2329. Since we are passing H.R. 13745 today, this change will avoid duplication. I would also add my strong support for Senator Hart's amendment for nongame legislation. Hopefully the House will pass its nongame legislation in time for this important milestone in nongame protection and management to be signed into law this year.

The PRESIDING OFFICER. Are there further amendments?

UP AMENDMENT NO. 1920

(Purpose: To clarify certain provisions of H.R. 2329)

Mr. HODGES. Mr. President, I send an unprinted amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. HODGES) proposes an unprinted amendment numbered 1920.

Mr. HODGES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, line , insert the following: delete everything beginning with line 9 through line 24, page 33, and insert in lieu thereof:

(2) (i) accept, hold, administer, and utilize funds and utilize services and property, both real and personal, provided by the host country or any international organization, in which the United States and the host country are both members, for the purpose of aiding or facilitating the work of the Council or the Commission. Bequests of money shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Council or the Commission: *Provided*, That the total amount in any year of funds and the value of services and property used may not exceed the sum appropriated for such year.

(ii) Upon request of the Council or the Commission the Secretary of the Treasury may invest and reinvest, in securities of the United States, any moneys contained in the fund authorized in subparagraph (i) of this paragraph. Income accruing from such securities, and from any other property accepted to the credit of such fund, shall be disbursed upon the order of the Council or the Commission.

(iii) Upon the termination of the Council in accordance with paragraph (2) of section 316, any property accepted under subparagraph (i) of this paragraph and not previously disposed of pursuant to the provisions of this paragraph, shall be conveyed to the Commission. Upon the termination of the Council in accordance with paragraph (1) of section 316, or upon termination of the Commission, any property accepted under subparagraph (i) of this paragraph and not previously disposed of pursuant to the provisions of this paragraph, shall—

(A) be returned to the original donor or his designee, if so requested by the donor; or

(B) in the case of any property not otherwise disposed of, revert to the miscellaneous receipts of the Treasury or be disposed of in accordance with applicable provisions of law;

On page 5, line 13, strike "fiscal year 1978" and insert in lieu thereof "fiscal year 1980".

On page 24, lines 13 and 14 and page 29, line 16, insert "and foreign policy" after "national security".

On page 25, line 3, and page 30, line 5, strike "Five" and insert in lieu thereof "Three".

On page 30, line 6, strike "Seven" and insert in lieu thereof "Five".

On page 26, line 19, strike "both" and on line 22 insert "joint" before "resolution".

Mr. HODGES. Mr. President, I send to the desk on behalf of the Committee on Environment and Public Works four amendments to H.R. 2329 and ask that they be considered en bloc.

The first clarifies that authorizations for title I of the bill will not be available until fiscal year 1980.

There are also three amendments to title III, the interoceanic canal study.

The State Department has requested language to clarify that, in making recommendations regarding the feasibility and location of the sea level canal, the Interoceanic Canal Study Council and the International Sea-Level Canal Study Commission will prepare an assessment of the canal's foreign policy ramifications.

Another amendment reduces from seven to five the number of members on the Council and from 14 to 10 the number of members on the Commission. It is hoped that this change will permit these bodies to function more efficiently.

The third amendment to title III substantially narrows the focus of language which provides that in some instances contributions may be made to help defray the costs of the Commission.

As modified section 331(2) (i) provides that the host country selected by the Council or certain international organizations in which both the United States and the host country are members may contribute funds or provide services of the use of real property, such as office space, or personal property, such as transportation facilities, to assist the Commission in carrying out its function. In no instance may a potential host country contribute to the operation of the Council which is composed of U.S. members only and which is charged to select a feasible corridor for a canal for study by the Commission. It is the feeling of the committee that to do otherwise would create the untenable situations where several potential host countries might feel compelled to compete through such contributions for selection by the Council.

In no instance may any private citizen, private enterprise, or any public organization other than those specifically described in the amendment contribute to the operation of either the Council or Commission.

The modification to section 331 also clarifies that the Commission may not accept title to or hold contributions of real or personal property. While such property may be used by the Commission during its existence and in the performance of its mission, such property may not be retained or disposed of by the Commission.

In no case may the total value of contributions received by the Commission in any year from all sources, including the fair market value of any services or property used by the Commission, exceed the amount appropriated in that year. The committee feels that in order to assure appropriate representation of domestic interests the contribution of the United States to the operation of the Commission must not be less than 50 percent.

It is anticipated that all contributions both monetary and otherwise will be planned by the contributor in advance and made known to the appropriate committees of Congress in a manner which assures an adequate opportunity to plan appropriations in compliance with this formula.

These amendments are from the committee. I understand they are acceptable to the distinguished Senator from Alaska, who is a moving force behind title III, and I understand they are also acceptable to the minority. I move their adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

Mr. HODGES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1921

Mr. WALLOP. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an unprinted amendment numbered 1921.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, beginning with line 11 strike all through line 9 on page 21.

Mr. WALLOP. Mr. President, this amendment removes the Sikes act authorization from H.R. 2329, because it has been attached to H.R. 13745, a bill which the Senate will consider in a moment. We lose nothing. It merely removes the provision from this bill to avoid redundancy in legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment of the Senate amendments and the third reading of the bill.

The bill (H.R. 2329) as amended was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HODGES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HODGES. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFUGE REVENUE-SHARING ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar order No. 1097.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, calendar order No. 1097 is cleared on our calendar, and I have no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8394) to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works with amendments as follows:

On page 1, beginning with line 7, strike through and including page 2, line 14, and insert in lieu thereof the following:

(A) by inserting "salmonoid carcassas," after "animals,"; and

(B) by inserting after "National Wildlife Refuge System" the second time it appears "National Fish Hatcheries or other areas".

On page 3, beginning with line 21, strike through and including page 4, line 6, and insert in lieu thereof the following:

(2) At the end of each fiscal year the Secretary shall pay out of the fund for such fiscal year to each county in which any reserve area is situated, an amount equal to 25 per centum of the net receipts collected by the Secretary in connection with the operation and management of such area during such fiscal year: *Provided*, That when any such area is situated in more than one county the distributive share to each county from the aforesaid receipts shall be proportional to its acreage of such reserve area.

On page 8, line 6, after "Service." strike the quotation mark;

On page 8, beginning with line 7, insert the following:

"(5) The term 'county' means any county, parish, or organized or unorganized borough.".

On page 9, line 12, after the period, insert "No authorization for appropriation shall be available under this Act before the fiscal year ending September 1980."

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. HODGES. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HODGES. What bill was just dealt with?

The PRESIDING OFFICER. Calendar order No. 1097, H.R. 8394.

Mr. HODGES. I ask unanimous consent that the vote by which the bill was passed be vitiated. There was an additional amendment by Mr. Bumpers.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be sent back to second reading.

The PRESIDING OFFICER (Mr. Matsunaga). Without objection, the bill will be returned to second reading.

UP AMENDMENT NO. 1922

(Purpose: To provide for certain payments to be made in connection with inactive military installations and payments relating to lands acquired by State for donation to Federal government)

Mr. HODGES. Mr. President, in behalf of Senator Bumpers, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. Hodges) for Mr. Bumpers, proposes an unprinted amendment numbered 1922.

Mr. HODGES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

Sec. 3. The act entitled "An Act to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality", approved October 20, 1976 (90 Stat. 2662, 31 U.S.C. 1601) is amended as follows:

(1) in subsection (a) of section 6 delete clause (4) and insert in lieu thereof the following new clause:

"(4) effective October 1, 1978, lands on which are located semiactive or inactive installations, not including industrial installations, retained by the Army for mobilization purposes and for support of reserve component training: or".

(2) at the end of section 5 insert the following new subsection:

"(c) Nothing in this Act shall authorize any payments to any unit of local government for any lands otherwise entitled to receive payments pursuant to subsection (a) of section 6 if such lands were owned and/or administered by a State or unit of local government and exempt from payment of real estate taxes at the time title to such lands is conveyed to the United States, except that, beginning in fiscal year 1979, this subsection shall cease to be applicable to payments for any land which is or was acquired by a State or unit of local government from private parties for the purpose of donation of such land to the Federal Government and which is or was so donated within eight years of the date of acquisition thereof by the State or unit of local government."; and

(3) at the end of section 3 insert the following new subsection:

"(e) Notwithstanding the provisions of subsection (c) of section 6 of this Act as it applies to the State of Alaska, for purposes of this section, beginning in fiscal year 1979 a unit of local government in Alaska located outside the boundaries of an organized borough which acts as the collecting and distributing agency for real property taxes shall be eligible to receive payments under the foregoing provisions of this section.".

Amend the title by adding at the end of the title: ", and for other purposes."

● Mr. BUMPERS. Mr. President, I am pleased to offer this amendment to H.R. 8394 to provide payments to those counties in which inactive military installations are located.

The Federal Government owns approximately 1,090,516 acres of land that are designated by the Army as semiactive or inactive installations and are retained by the Army for mobilization purposes or for support of reserve training. These are inactive military installations which are tax exempt.

I am particularly familiar with this category of military installation because Fort Chaffee, a semiactive Army installation, occupies 10,932 acres in my home county in Arkansas. The tax immunity of these public lands places an unfair burden on the taxpayers within the counties and local government units where the lands are located.

The Public Land Law Review Commission best summed up the problem with this recommendation:

> If the national interest dictates that lands should be retained in federal ownership, it is the obligation of the United States to make certain that the burden of that policy is spread among all the people of the United States and is not borne only by those states and governments in whose area the lands are located. Therefore, the federal government should make payments to compensate state and local governments for the tax immunity of federal lands.

Recognizing this responsibility in the 94th Congress, Congress passed Public Law 94–565, the Payments in Lieu of Taxes Act, in order to partially compensate States and local governments for the impact of Federal ownership.

When the Senate Interior Committee considered this act late in the session, the committee unanimously recommended that counties where semiactive or inactive Army installations are located were entitled to payments under the payments in lieu of taxes bill.

However, this amendment and all of the other amendments which had been added in the Senate Interior Committee were not considered by the full Senate when the House bill, H.R. 9719, was brought to the floor. If the Senate bill with the amendments had been passed, the legislation would have been returned to the House for concurrence, and that would have effectively defeated the bill during the waning hours of the session.

This legislative history is important to understand the reasons for my support of this amendment to H.R. 8394, to provide for payments to those countries where semiactive military installations are located to correct this omission in the Payments in Lieu of Taxes Act.

As I said at the beginning of my statement, the Federal Government owns approximately 1,090,516 acres of land that are designated by the Army as semiactive or inactive installations and are retained by the Army for mobilization purposes or for support of Reserve component training. These installations are located in Arkansas, California, Georgia, Maryland, New York, Pennsylvania, South Carolina, Utah, Virginia, Washington, and Wisconsin.

However, it is important to note that the largest installation in this category, Fort Irwin in California, which consists of 668,940 acres, will not have any financial impact on this amendment to the Payments in Lieu Act. The base is located in San Bernardino County, Calif., which already receives $1 million under the Payments in Lieu Act, and the county cannot exceed that payment limit.

The total cost of this portion of the amendment is $313,661. In many ways the counties where the inactive military installations are located have experienced a greater hardship than counties entitled to payments under the Payments in Lieu Act. Most of these counties prospered when the bases were active and have had nothing to replace this revenue when the bases have been closed.

Over the years, the Congress has established programs to partially compensate States and local governments for the impact of Federal ownership, but in most cases the revenues that they receive do not approach what would be received from property taxes if these lands were in private ownership.

I consider this amendment for a long overdue step toward solving a problem that is straining the fiscal health of those local governments where inactive military installations are located.●

● Mr. GRAVEL. Mr. President, I am pleased to join my colleague, Senator BUMPERS, in offering an amendment to the refuge revenue sharing legislation that would expand the payments-in-lieu of taxes program enacted by Congress in 1976.

The Bumpers amendment contains a provision which would allow units of local government located outside the boundaries of organized boroughs in the State of Alaska which act as the collecting and distributing agency for real property taxes to be eligible to receive payments under section 3 of the PILT Act.

This provision is designed to correct a technical oversight which occurred in the PILT Act. The only community in Alaska which would presently qualify for payments upon enactment of this section will be Skagway, Alaska. In 1976, the Congress passed Public Law 94–323, which established the Klondike Gold Rush National Park, which included lands to be acquired in Skagway. The cost of this section, if enacted, for the Skagway acquisition is estimated to be $6,565 a year for 5 years.

The administration has indicated to no objection to enactment of this provision. It has already been approved by the Senate on May 19, 1978, as part of S. 74.

I appreciate the willingness of my colleague from Arkansas to include this section within his amendment and share his hope for early enactment of the entire measure.●

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WALLOP. Mr. President, for the record, the minority has considered the amendment and finds it acceptable.

● Mr. CULVER. Mr. President, the Senate is currently considering H.R. 8394, amendments to the Refuge Revenue Sharing Act.

The Refuge Revenue Sharing Act was enacted by Congress in 1935 to provide more equitable payments to counties for lands within their boundaries which are administered by the Fish and Wildlife Service (FWS). These payments offset the loss of revenues resulting from land being removed from the local tax rolls for use by FWS. Revenues received from the sale of refuge products, such as timber, hay, and minerals, must be deposited in a special U.S. Treasury account. Net receipts from the account are distributed to the counties in which refuge lands are located for use on roads and public schools. For refuge lands acquired in fee, the county receives three quarters of 1 percent of the adjusted cost of the land or 25 percent of net receipts collected from the area, whichever is greater. For lands withdrawn from the public domain, the county receives 25 percent of net receipts.

Unfortunately, several provisions of the Refuge Revenue Sharing Act are outdated and work to the detriment of counties and the refuge system as a whole. First, net refuge receipts are currently insufficient to meet county entitlements. The Service estimates that if present trends continue, by 1983 only 25 percent of accrued county entitlements will be paid annually.

Second, the method used by the Department of the Interior to determine "adjusted costs" of acquired refuge lands is based upon periodic adjustments in the original cost of the land. Many swamps and marshlands, considered to be of little value when acquired in the 1930's, are now of great value. Other lands purchased during periods of inflated land value are currently overvalued.

Third, expenditure of distributed funds by counties is presently limited to work on public schools and roads and is not available for other uses. Finally, payments are made to counties without regard for other tax-levying bodies that lose revenues when lands are withdrawn.

These problems have resulted in local resistance to the Fish and Wildlife Service's habitat and refuge acquisition program. The Service is concerned that unless the refuge revenue sharing formula is improved, counties will begin to resist further acquisitions.

H.R. 8394 makes several changes in existing law to correct these shortcomings. These revisions are to some extent based on provisions of Public Law 94–565, the Payment in Lieu of Taxes Act, which established a system of payments to local government units based on the amount of Federal "entitlement lands," such as National Park and Forest Service lands, within each local jurisdiction.

The proposed amendments would distinguish between lands acquired in fee and lands withdrawn from public domain. This distinction recognizes that the financial impact on counties tends to be greater when lands are directly withdrawn from taxation than when the refuge unit is created out of public domain lands which have not been subject to property taxes.

H.R. 8394 would require that counties with lands withdrawn from the public domain receive 25 percent of the net receipts from the area. Any payments to counties containing lands withdrawn from the public domain will be entirely consistent with the provisions of the Payment in Lieu of Taxes Act.

The appraisal system would be based on current tax value rather than the adjusted cost system in the present law. Nonrefuge lands for which payments are not being made under the existing law are to be appraised first, followed by all other acquired lands in the order in which such areas were first established by the Service.

This bill would remove the current restriction that payments to counties must be spent only on public schools, permitting these funds to be spent for any local governmental purpose.

Finally, H.R. 8394 would authorize the passthrough of payments to units of local government, in addition to counties which have incurred the loss or reduction of real property taxes, because of the existence of Fish and Wildlife Service lands within their boundaries.

The Environment and Public Works Committee, without prejudice, struck from this measure a provision which specified that revenues from crude petroleum, natural gas, and other minerals derived from public domain refuges would be distributed pursuant to the Refuge Revenue Sharing Act rather than the Mineral Leasing Act. The disposition of these receipts from the Kenai Moose Range in Alaska is now being considered by the Ninth Circuit Court of Appeals in the case of Kenai Peninsula Borough against Andrus. Under the Revenue Sharing Act, the Kenai Peninsula Borough would receive 25 percent of these receipts and the Federal Government the remaining 75 percent. Alternatively, the Mineral Leasing Act would distribute 90 percent of these receipts to the State, 10 percent to the Federal Government, and none to the borough.

The committee felt it would be inappropriate to address this issue before a final determination by the court and decided to let existing practice stand for now. Though the Kenai Moose Range in Alaska is the only area currently affected by this dispute, other refuges could be affected in the future. Therefore, the committee may decide to take this matter up again after the Kenai decision has been handed down by the court.

Mr. President, revenue-raising activities on Service lands, when conducted in a manner which is compatible with the primary purpose for which the area is established, are an integral part of the agency's mission to conserve our Nation's fish and wildlife resources. In this regard national wildlife refuges can and should serve as models of effective conservation, indicating that the wise management of all components of an ecosystem ultimately benefits wildlife. Enactment of this legislation is vitally important in preserving this ethnic and will help to continue the support of local governments for our national program of fish and wildlife habitat protection.

As chairman of the Senate Resource Protection Subcommittee, I want to commend the distinguished Senator from Arkansas (Mr. HODGES) who took a personal interest in this bill. He conducted the subcommittee hearings on H.R. 8394, and has devoted much attention to assuring consideration of this bill. I am hopeful the Senate approves this measure without further delay.●

● Mr. GRAVEL. Mr. President, the legislation before us is important in two regards: It changes existing law with regard to acquired lands in order to encourage the purchase of refuge lands; and it retains existing law with regard to the distribution of proceeds from reserve public domain lands in Alaska. I am pleased to endorse this approach taken by the Environment and Public Works Committee. Clearly, we should be eager to assure protection of wetland areas—areas of wildlife habitat—by eliminating the prospect of loss of revenues to counties that are farsighted enough to pursue such efforts for protection of habitats. Further, it is important to make nonrefuge areas such as fish hatcheries, eligible for payments under this approach.

H.R. 8394 is also very important for the manner in which it deals with revenues derived from reserved public domain lands. Currently, this provision is only applicable in one area of Alaska, but there may be future applicability in other areas of Alaska. The Environment and Public Works Committee agreed that it would be inappropriate at this time to change the law as it now exists for reserved lands, thus reversing the position taken by the House in its version of this measure. The committee was right, and I would like to explain why the committee was correct in its assessment that a change now would be inappropriate.

Alaska became a State in 1958. As part of the Alaska Statehood Act, Alaska was granted a method of distributing the proceeds of sales, bonuses, royalties, and rentals from Federal public domain lands in the State. To be specific, the Statehood Act amended the formulas set out in the Mineral Leasing Act and the Coal Leasing Act as they applied to Alaska. Congress decided that the State should be compensated for the fact that it would not be eligible for participation in the reclamation fund. In other Western States, proceeds from public domain lands go into the reclamation fund. That portion of revenues from reserve public domain lands in Alaska that would otherwise go into the reclamation fund was instead deemed to be distributed appropriately to the State of Alaska. The point is that Congress made a decision to provide these sums to the State of Alaska as a provision of statehood. That compact with a State should not be violated, even if there are some who would now like to use those sums in some other manner.

Prior to 1964, proceeds of mineral activities on reserved public domain lands were distributed under the Mineral Leasing Act, rather than under the Refuge Revenue Sharing Act. In 1964, the Refuge Revenue Sharing Act was amended to: First, include proceeds from minerals for the first time; and second, alter the distribution formula so as to differentiate between acquired and reserved lands for the first time. However, the proceeds from mineral activity on reserved lands in Alaska (the only place where such revenues were derived) continued to be distributed under the Mineral Leasing Act until 1975, when a decision was made to tap the Alaska proceeds and disregard the Statehood Act and the Mineral Leasing Act provisions as applicable to Alaska. Suit was filed in Federal District Court in Alaska. The court found that the primary purpose of the amendments to the Refuge Revenue Sharing Act in 1964 was to foster the acquisition of waterfowl habitats; and that the distribution of proceeds from mineral activities applies only to acquired, not to reserve lands. Hence, the court concluded that the amendments to the Refuge Revenue Sharing Act did not amend the Mineral Leasing Act as applied to the distribution of proceeds from minerals from reserved lands to the State of Alaska. That decision is now on appeal in the ninth circuit.

Because the issue is in litigation at this time, the committee feels it is inappropriate to legislate in this area, since any such legislation could affect the outcome of the litigation. Further, the committee decided it inappropriate to legislate with regard to the future distribution of mineral proceeds in Alaska. Hence, all provisions of existing law as applied to Alaska were retained. The only changes made to provisions with applicability to Alaska were conforming in nature, and not substantive.

I might observe that this is a matter of grave importance to my State. I am seriously concerned that this Nation provide the sums necessary to assure increased protection of our valuable waterfowl habitats before there are further irretrievable losses. I will work to help secure adequate appropriations for such measures. But I cannot abide by an alteration of our Statehood Act and all that will mean to my State's efforts to provide some semblance of stability to our State's economy. I need not repeat the statistics that demonstrate that Alaska has the highest cost of living, the highest rates of unemployment, and suffers greatly as a result of boom and bust cycles resultant from outside development interests. Thus, in the Alaska Statehood Act, Congress intended to provide the State with some source of funds as a means to achieving a social economy.

One other thought. Action by the House in this regard had the potential effect of pitting boroughs in Alaska against the State of Alaska. If the formula were changed, it would be to the advantage of the boroughs and at the expense of the entire State. (In recognition of this fact, the Kenai Borough went on record in opposition to the House version of H.R. 8394 and in support of the Senate's approach in retaining the status quo for Alaska.) I view this matter as more of a local one, which must be resolved by boroughs in Alaska sitting down with the State of Alaska to review revenue needs, and the mineral receipts from the Mineral Leasing Act distribution formula as one appropriate source of meeting those needs. I have given my support to the boroughs in encouraging them to sit down with the State in an attempt to resolve this matter. But I view this as a State matter in that the question is how the State should expend revenues granted the State under its Statehood Act.

I think it important the record clearly reflect the issues surrounding this most vital issue to my State, and would therefore request that following my remarks there appear in the RECORD a memorandum provided me at my request by the special counsel and Washington representative of the State of Alaska, and a copy of the opinion rendered in the Federal district court of Alaska.

The material follows:

[Civ. Nos. A76-94 & J76-3, United States District Court, D. Alaska, Aug. 17, 1977]

KENAI PENINSULA BOROUGH, Plaintiff, v. CECIL D. ANDRUS, Defendant: STATE OF ALASKA, Plaintiff, v. CECIL D. ANDRUS et al., Defendants

Borough and State brought actions against Secretary of Interior seeking distribution of mineral leasing revenues from wildlife refuge which was created by reservation of land in public domain. The actions were consolidated and parties cross-moved for summary judgment. The District Court, von der Heydt, Chief Judge, held that word "minerals" as used in statute providing for distribution of all revenues received by Secretary of Interior from "sale or other disposition of * * * minerals" in connection with operation of areas of National Wildlife Refuge System would be read restrictively so that such statute would govern distribution of minerals leasing revenues only from acquired land; therefore, distribution of mineral leasing revenues from wildlife refuge which was created by reservation of land in public domain was governed by Mineral Leasing Act.

Charles K. Cranston, Gallagher, Cranston & Snow, Anchorage, Alaska, for Kenai Borough.

Avrum Gross, Atty. Gen., State of Alaska by Frederick Boness, Asst. Atty. Gen., Juneau, Alaska, for plaintiff.

G. Kent Edwards, U.S. Atty., Anchorage, Alaska, for defendant.

MEMORANDUM AND ORDER

Von der Heydt, Chief Judge.

This cause comes before the court on cross motions for summary judgment. The precise issue before the court is whether the distribution of revenues from mineral leases within the Kenai National Moose Range is governed by the Mineral Leasing Act, 30 U.S.C. § 191, or 16 U.S.C. § 715s.

The Kenai National Moose Range was created by the reservation of land in the public domain.[1] From statehood until the events leading to this lawsuit the State of Alaska received mineral leasing revenues from the Kenai National Moose Range, pursuant to 30 U.S.C. § 191. Under that statute the State received 90% of the lease revenues, with the remaining 10% accruing to the United States as miscellaneous receipts. On July 29, 1975, the Comptroller General issued an opinion stating that mineral leasing receipts from wildlife refuges created by reservation, as well as receipts from wildlife refuges created by acquisition, were governed by the distribution scheme of 16 U.S.C. § 715s. The Comptroller General determined that 16 U.S.C. § 715s, as amended in 1964, required distribution of 25% of the net receipts from mineral leases on reserved refuges to the counties in which the refuge was located, with the remaining 75% distributed to the wildlife refuge fund. The State of Alaska objected to the Comptroller General's opinion, and upon reconsideration the original position was affirmed by the Comptroller General in an opinion issued on June 11, 1976.

On May 14, 1976, Kenai Peninsula Borough, the borough in which Kenai National Moose Range is located, filed suit against the Secretary of Interior seeking distribution of mineral leasing receipts in conformity with 16 U.S.C. § 715s. On July 8, 1976, the State of Alaska filed suit against the

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[1] In general, reserved lands are lands which were never in state or private ownership while acquired lands are those granted or sold to the United States by a state or citizen. *Wallis* v. *Pan American Pet. Corp.*, 384 U.S. 63, 65 n. 2. 86 S. Ct. 1301, 16 L. Ed. 2d 369 (1966).

United States seeking distribution as provided by 30 U.S.C. § 191. The actions were consolidated on August 12, 1976, with jurisdiction founded on 28 U.S.C. § 1331(a). The facts are undisputed, and the controversy is purely one of statutory interpretation.

Before proceeding with the disposition of the motions it is necessary to outline the interplay of the statutes involved in this suit. As noted above, the Mineral Leasing Act of 1920, 30 U.S.C. §§ 181, 191, requires the United States to distribute 90% of mineral leasing receipts from public domain lands to the states. *Wallis v. Pan American Petroleum Corp.*, 384 U.S. 63, 65 n. 2, 86 S. Ct. 1301, 16 L. Ed. 2d 369 (1966). Revenues from mineral leases on acquired lands of the United States are distributed under the Mineral Leasing Act for Acquired Lands, 30 U.S.C. §§ 351–359, which requires mineral lease receipts to

> "be paid into the same funds or accounts in the Treasury and * * * distributed in the same manner as prescribed for other receipts from the lands affected by the lease." 30 U.S.C. § 355.

Prior to the 1964 amendment, 16 U.S.C. § 715s, at least as interpreted by the State of Alaska and the Comptroller General, did not apply to mineral lease receipts on reserved public lands.[2] However, all non-mineral actvity receipts from refuges were distributed under 16 U.S.C. § 715s. In summary, prior to 1964, receipts from activities on wildlife refuges were distributed in the following manner:

1. All non-mineral activity receipts were distributed 25% to the counties and 75% to a federal wildlife refuge fund;
2. Mineral leasing receipts from reserved lands were distributed 90% to the State of Alaska and 10% to a federal fund for miscellaneous receipts;
3. Mineral leasing receipts from acquired lands were distributed like refuge receipts from non-mineral activity—25% to the counties and 75% to the wildlife refuge fund.

In 1964, 16 U.S.C. § 715s(a) was amended to read:

> Beginning with the next full fiscal year and for each fiscal year thereafter, all revenues received by the Secretary of the Interior from the sale or other disposition of animals, timber, hay, grass, or other products of the soil, *minerals*, shells, sand, or gravel, from other privileges, or from leases for public accommodations or facilities incidental to but not in conflict with the basic purposes for which those areas of the National Wildlife Refuge System were established, during each fiscal year in connection with the operation and management of those areas of the National Wildlife Refuge System that are solely or primarily administered by him, through the United States Fish and Wildlife Service, shall be covered into the United States Treasury and be reserved in a separate fund for disposition as hereafter prescribed. (emphasis added).

At the same time, the distribution scheme was changed to differentiate between receipts from reserved lands and receipts from acquired lands. 16 U.S.C. §§ 715s(c)(1) and 715s(c)(2). The position of the United States and Kenai Peninsula Borough is that 16 U.S.C. §§ 715s(a), 714s(c)(1), as amended, requires that 25% of the mineral leasing receipts from reserved lands be distributed to Kenai Peninsula Borough. In contrast, the State of Alaska would have this court interpret the word "minerals" restrictively to apply only to acquired lands so that mineral leasing receipts from a wildlife reserve created by withdrawal of land from the public domain would be distributed 90% to the State of Alaska and 10% to the miscellaneous fund.

[1, 2] The Kenai Peninsula Borough argues that prior to 1964 16 U.S.C. § 715s governed the distribution of mineral leasing receipts from public land. Specifically, Kenai Peninsula Borough argues that the language "other privileges" was intended to include mineral leasing receipts from reserved and acquired land. This interpretation ignores the fact that mineral leasing receipts from reserved land within wildlife refuges generated prior to 1964 were in fact distributed under 30 U.S.C. § 191. Moreover, it ignores the fact that the government continues to adhere to its construction of 16 U.S.C. § 715s as it read prior to amendment.[3] Such a longstanding, contemporaneous, and practical interpretation by the executive officers charged with administration of a statute is strong evidence of the meaning of a statute. *Fleming* v. *Mohawk Co.*, 331 U.S. 111, 116, 67 S.Ct. 1129, 91 L.Ed. 1375 (1947). *See generally*, Sutherland, Statutory Construction § 49.03, at 233 (4th ed. 1972). The borough cites obscure, often ambiguous evidence of a contrary administrative interpretation. The ambiguous material is consistent with the State of Alaska's position, and to the extent that the evidence contradicts the State's interpretation it pales in the face of the actual fact of distribution. Neither the legislative history nor the policy of management of the refuges requires a different result.

[3, 4] Rejection of Kenai Peninsula Borough's interpretation of 16 U.S.C. § 715s(a) as it read prior to the 1964 amendment, of course, is only the beginning of the inquiry. The primary issue is whether 16 U.S.C. § 715s(a), as amended in 1964, should be construed literally or restrictively. The general rule of statutory construction is that there is no occasion for construction where the language is clear and unambiguous and does not lead to absurd or impracticable results. *Caminetti v. United States*, 242 U.S. 470, 485, 37 S.Ct. 192, L.Ed. 442 (1917). *See generally* Sutherland, Statutory Construction § 46.01, at 48 (4th ed. 1972). In determining whether a statutory term is clear and unambiguous, the court generally looks to the Act itself to make a prima facie determination. *See Foley Bros. v. Filardo*, 336 U.S. 281, 284, 69 S.Ct. 575, 93 L.Ed. 680 (1949). *See generally* Sutherland, Statutory Construction, § 46.05, at 55–56 (4th ed. 1972). In the case at bar, there is nothing in 16 U.S.C. § 715s which would support a restrictive construction of the word "minerals". Thus, a literal approach to statutory construction would dictate an expansive definition including both reserved and acquired lands.

[5, 6] However, there are limits to literalism. All statutes must be interpreted in light of their statutory purpose, and a literal reading which would be contrary to the legislative purpose is to be avoided if the statute can be read in a manner consistent with the words and purpose. *Haggar Co. v. Helvering*, 308 U.S. 389, 394, 60 S.Ct. 337, 84 L.Ed. 340 (1940). *See generally* Sutherland, Statutory Construction § 46.07, at 65 (4th ed. 1972). Where a literal interpretation would result in applications beyond the purpose for which the statute was enacted, courts construe the language restrictively in order to give effect to the spirit of the statute. *See generally* Sutherland, Statutory Construction, §§ 54.04, at 358, 54.06, at 368, 46.07, at 66 (4th ed. 1972).

[7] The primary purpose of the 1964 amendment of 16 U.S.C. § 715s was undoubtedly to facilitate the acquisition of waterfowl habitat areas. The Secretary of the Interior was authorized to acquire such land, but only if the governor of the state in which the land was located approved the acquisition. The governors generally refused to approve acquisitions because when land was acquired it was withdrawn from the tax rolls. Local communities were deprived of property tax revenues and would not benefit from the 25% distribution scheme if the land was not producing revenue. Consequently, the distribution scheme for acquired wildlife refuge land, 16 U.S.C. § 716s(c) had to be amended to facilitate acquisition. H.R. Rep. No. 1753, 88th Cong., 2d Sess. 1 (1964); S. Rep. No. 1096, 88th Cong., 2d Sess. 2(1964), U.S. Code Cong. & Admin. News 1964, p. 3265.

[8] While the purpose of amending 16 U.S.C. § 715s(c) is clear, there is little evidence of the purpose behind adding "minerals" to the product list of 16 U.S.C. § 715s (a). If the court accepts Kenai's view this silence is surprising given the substantial reallocation of revenues which would result if the amendment did effect distributions from reserved lands. If the addition of "minerals" was intended to alter the distribution, one would expect mention of this fact in discussions which focused on 16 U.S.C. § 715s (a), and one would expect vigorous objection from the states. Cf. H.R. Rep. No. 1753, 88th Cong., 2d Sess. 77 (1964), U.S. Code Cong. & Admin. News 1934, p. 3265. More Equitable Payments to Counties Having Wildlife Refuges: Hearings on S. 179, S. 1363, S. 1720, and S. 2498 Before Committee on Commerce, 88th Cong., 2d Sess. 77 (1964). Of course "the search for significance in the silence of Congress is too often the pursuit of a mirage." *Scripps-Howard Radio v. Comm'n*, 316 U.S. 4, 11, 62 S.Ct. 875, 880, 86 L.Ed. 1229 (1942). The State of Alaska's restrictive reading, however, is supported by more than the mere silence of Congress. First, if Congress had intended to change the distribution scheme for mineral leasing revenues from reserved lands, the estimated payments to counties after the 1964 amendment would have substantially increased over past payments. However, no increase in payments to Kenai Peninsula Borough was projected in the cost estimate considered by Congress. The 1963 payments from the Kenai wildlife refuge receipts were $1,768. The estimated payments in 1963, assuming the 1964 amendment had been in force in 1963, were identical. H.R. Rep. No. 1793, 88th Cong., 2d Sess. 3 (1964); S. Rep. No. 1096, 88th Cong., 2d Sess. 13 (1964).

These estimated distributions were estimates for both acquired and reserved lands. This is evident from the inclusion of payments from the Kenai wildlife refuge in the projections. There is also explicit recognition of this fact in footnote 3 to the cost estimate.

Secondly, Congressional intent is evident in the Congressional expectation that the wildlife refuge fund would decrease if the 1964 amendment was adopted. H.R. Rep. No. 1753, 88th Cong., 2d Sess. 12 (1964). If mineral leasing receipts from public lands were intended to be distributed in conformity with 16 U.S.C. § 715s(c)(1), the wildlife refuge fund would have been substantially increased, and not reduced, as 75%

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[2] Prior to 1964, 16 U.S.C. § 715s(a) provided that 25% of money received by the United States "from the sale or other disposition of surplus wildlife, or sale of timber, hay, grass, or other spontaneous products of the soil, shell, sand, or gravel, and from other privileges on refuges established under the Migratory Bird Conservation Act of February 18, 1929, or under any other law, proclamation, or Executive order, * * * shall be paid at the end of such year by the Secretary of the Treasury to the county or counties in which such refuge is situated, * * *"

[3] On June 11, 1976, the Comptroller General held: "The Attorney General states, and we agree, that prior to the 1964 amendment, oil and gas lease revenues were not included in the coverage of 16 U.S.C. § 715s and that to the extent the counties benefited from oil and gas lease revenues from wildlife refuges prior to 1964, it was only with respect to acquired lands, by virtue of 30 U.S.C. § 355, supra." Comptroller General B–118678, at 3 (June 11, 1976). See also Comptroller B–118678, at 1–2 (June 11, 1976).

of the mineral leasing receipts from reserved lands would have been reallocated to the wildlife refuge funds. Finally, it should be observed that the administrative agency charged with distribution of the fund distributed mineral lease revenues from public land for more than ten years after amendment as provided by 30 U.S.C. § 191. Only recently has the Secretary taken a contrary position.

Thus, this court concludes that the word "minerals" as used in the 1964 amendment of 16 U.S.C. § 715(a) must be read restrictively rather than literally. The 1964 amendment of 16 U.S.C. § 715(a) was not intended to amend 30 U.S.C. § 191 to require distribution of mineral leasing receipts from reserved land in accordance with 16 U.S.C § 715s(c). To hold otherwise would require an application of literalism in violation of the apparent Congressional purpose. The interpretation adopted does not make "minerals" superfluous as 16 U.S.C. § 715s does continue to govern the distribution of mineral lease receipts from acquired land. Cf. Sutherland, Statutory Construction § 46.06, at 63 (4th ed. 1972). Moreover, this construction is consistent with the rule of construction disfavoring implied amendments. Sutherland, Statutory Construction § 22.13, at 139 (4th ed. 1972).[4]

Accordingly, it is ordered:

1. That the State of Alaska's motion for partial summary judgment is granted.

* * * * *

STATE OF ALASKA,
Washington, D.C., August 18, 1978.

Re: H.R. 8394, Pending Before the Senate Committee on Environment and Public Works, Subcommittee on Resource Protection.

Hon. MIKE GRAVEL,
U.S. Senate
31st Dirksen Building
Washington, D.C.

DEAR SENATOR GRAVEL: Pursuant to your request that the State of Alaska submit for the record additional information which may be helpful to the Committee in its consideration and deliberation of the provisions of H.R. 8394, we are happy to furnish a discussion of the interplay between Alaska's non-participation in the Reclamation Act of 1902 and the additional mineral lease revenue allocated to Alaska under its Statehood Act. As a means of providing a perspective on that interplay, we have taken the liberty of discussing the language adopted by the House Committee which we find inimical to the mineral lease revenue benefit conferred under the Statehood Act. We believe in the concept of wildlife refuges—as you are well aware, Alaska will probably become the wildlife refuge capital of the world—but we strongly believe that a financial benefit given to the State, at the time of statehood, should not be taken away to fund conservation programs. We believe that the allocation formula conferred by Congress, in the Statehood Act, reflected an attempt to insure that the State of Alaska receives benefits comparable to the other western states and to insure its fiscal viability and growth.

The State of Alaska's objection to H.R. 8394 stands not on the fact that it contains the word "minerals", but the attempt to make "minerals" applicable to reserved lands and to modify an allocation of revenue under the Mineral Leasing Act which was conferred on the State by the Statehood Act. The authors of H.R. 8394, cognizant of Judge von der Heydt's decision (436 F.Supp. 288) in the summer of 1977, in which the government's argument was rejected that the mere addition of the word "minerals" was sufficient to impose a distribution scheme for the revenue derived from oil and gas leases from reserved lands similar to acquired lands, drafted the bill to explicitly make "minerals" applicable to reserved lands and to effectuate an allocation scheme pursuant to the Refuge Revenue Sharing Act rather than the Mineral Leasing Act. This conclusion is confirmed by the language in the report filed by the House Committee on Merchant Marine and Fisheries to accompany H.R. 8394, to wit:

"The words 'crude petroleum and natural gas' were added to insure that all oil and gas revenues from both acquired lands . . . and public domain lands . . . are distributed under the provisions of this act.

* * * * *

"The language has been added to insure that as of the date of the enactment of this act all oil and gas receipts from the Kenai National Moose Range are to be distributed under the terms of this act rather than the Mineral Leasing Act. House Rep. No. 95–1197, 95th Cong., 2d Sess. (1978)."

It is this intent of the proposed bill which the State believes is offensive to prior congressional action and inequitable in its application to Alaska.

The attempt to deprive the State of revenue derived from the leasing of public lands in Alaska under the provisions from the Refuge Revenue Sharing Act is in conflict with past Congressional action which conferred upon the State that benefit. The benefit arises in the context of the Alaska Statehood Act (Public Law 85–508), which was passed by Congress in 1958. Specifically, Section 28 of the Act provides:

"(a) The last sentence of section 9 of the Act entitled 'An Act to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes, approved October 20, 1914 (48 U.S.C. 439), is hereby amended to read as follows: 'All net profits from operation of Government mines, and all bonuses, royalties, and rentals under leases as herein provided and all other payments received under this Act shall be distributed as follows as soon as practicable after December 31 and June 30 of each year: (1) 90 per centum thereof shall be paid by the Secretary of the Treasury to the State of Alaska for disposition by the legislature thereof; and (2) 10 per centum shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.'

"(b) Section 35 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920, as amended (30 U.S.C. 191), is hereby amended by inserting immediately before the colon preceding the first proviso thereof the following: ', and of those from Alaska 52½ per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof'.".

The legislative language as to the allocations to the State of Alaska of revenues derived from certain mineral leases is clear. In particular, Subsection (b) states that Alaska will receive an additional 52½ per cent[1] of revenue derived from leases under Section 191. This was to insure that the total benefits received by the State would be comparable to the other western states.

In contrast to the other western states which were agrarian and water-short and which derived a substantial benefit from the provisions of the Federal Reclamation Act of 1902 and the Fund therein, Alaska was neither agrarian nor water-short. As such, there was no need to extend the benefit of that Act to Alaska, nor for Alaska to pay into the Fund because it would not derive any benefit. However, Congress provided a substitute benefit to the State—an additional allocation of revenue derived from the lease of public domain lands. The Congressional intention is clear. The House report language states:

"A second provision in section 28 amends the Mineral Leasing Act of 1920, as amended, by granting 52½ per cent per annum of the net proceeds realized from coal, phosphates, oil, oil shale, and sodium on the public domain in Alaska shall be paid to the State of Alaska for disposition by the legislature thereof.

"*The payment of these proceeds is recommended in return for Alaska not being covered by the Reclamation Act of 1902, as amended.* The Reclamation Act provides that in the 17 Western States, 52½ per cent of the oil- and gas-lease revenues goes into the Reclamation Fund; 37½ per cent is returned to the respective States, and the remaining 10 per cent is retained by the Federal Government for administration purposes." 1958 U.S. Code Cong. & Ad. News 2940. (Emphasis added).

To deprive the State of Alaska of revenue derived from the lease of reserved lands would constitute an inequitable result because the State of Alaska would receive a zero benefit, but its 17 sister states would nonetheless receive the benefit of the Reclamation Act. This consequence is clear when one contrasts a western state with Alaska under the proposed Refuge Revenue Sharing bill: assume a western state containing a refuge created from reserved land and an allocation of 37½ per cent (now 50 per cent per Pub. L. 94–377) from revenues derived from oil and gas leases on the land and the applicability of the proposed bill, the western state would receive zero dollars but would continue to receive substantial benefits under the Reclamation Act and its Fund. Applying the same assumption to Alaska, it would receive nothing—no benefit from either the Reclamation Act or Fund—nor any revenue. There is no justification for this inequitable consequence.

Another reason Congress gave Alaska an additional allocation rather than participation in the Reclamation Act program was that Alaska needed the money. The State had little or limited development of its basic industries. It was thought that by providing an allocation to the State of the mineral lease revenues, the development of the oil and gas industry would grow and improve the chance for the fiscal survival of the State. See 1958 U.S. Code Cong. & Ad. News 2939–40.

We trust that this additional information will prove helpful to the Committee. It appears that the thrust of denying Alaska its allocation of mineral lease revenues is a vehicle by which other conservation programs of the Fish and Wildlife Service can be funded. It is hoped that Congress could effectuate a remedy for those programs which would not have the effect of denying to the State of Alaska a benefit which was conferred under its Statehood Act. Congress should be loath to change or retract a benefit on which the citizens of Alaska relied in joining the Union. Finally, we are hopeful that Congress, cognizant of the inequity that would result between Alaska and its sister western states in depriving Alaska of its allocation of mineral revenue from reserved lands, will not approve any bill that would make that inequity a reality.

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[4] Because of this result the court is not required to determine: Whether section 317 of the Federal Land Policy and Management Act, in amending the Mineral Leasing Act of 1920, impliedly amended the 1964 amendment to 16 U S.C. § 715s. Nor does the court need determine whether the 1964 amendment to 16 U.S.C. § 715s constitutes a breach of compact between the State and the United States.

[1] The State is entitled to a total of 90 per cent, to wit: 52½ per cent is allocated under Subsection (b) of Section 28 of the Statehood Act and 37½ per cent, as previously allocated to all states and the Territory of Alaska, under 30 U.S.C. § 191.

Sincerely,

DOUGLAS A. RIGGS,
Special Counsel to the Governor.●

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. HODGES. I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HODGES. I ask unanimous consent that the Secretary of the Senate be authorized to make necessary clerical and technical corrections in the engrossment of the Senate amendments to H.R. 8394.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1174), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

GENERAL STATEMENT

In 1935, Congress enacted the Refuge Revenue Sharing Act to share with counties and other local governmental units revenues from lands placed in the National Wildlife Refuge System. The counties in which refuges were located received 25 percent of the net receipts from revenues obtained from the sale or other disposition of surplus wildlife, timber, hay, sand, or gravel. These revenues are placed into a fund known as the refuge revenue sharing account.

The act was amended in 1964 to establish a payment-in-lieu-taxes program for the Fish and Wildlife Service (FWS). This provides compensation to counties for lands removed from the tax rolls for use as national wildlife refuges. This new provision distinguished between acquired lands which have been purchased by the Service, and lands which were withdrawn from the public domain for administration by the agency.

Under this language, for refuge lands acquired in fee, the county received three-fourths of 1 percent of the adjusted cost of the land, or 25 percent of the net receipts collected from the area, whichever is greater. The cost of the land is adjusted by the Secretary every 5 years. For lands withdrawn from the public domain, the county continues to receive 25 percent of net receipts.

Funds are distributed to the counties from the refuge receipts remaining after the Secretary has deducted the cost of administering the revenue-generating activities. In the event that there are insufficient receipts in the fund to meet county entitlements, all payments are reduced proportionately. A 1976 amendment to the act provided that any funds remaining after payments to the counties have been made are transferred to the migratory bird conservation fund.

The Refuge Revenue Sharing Act contains a number of inequities which work to the detriment of these counties and to the Wildlife Refuge System as a whole.

First, as expenses incurred in administering revenue-generating activities have increased and receipts received from these actvities have decreased, funds deposited in the refuge account have become insufficient to meet county entitlements. In 1976, for instance, receipts fell approximately 27 percent short of entitlements. In 1977, the deficit was 26 percent. The Fish and Wildlife Service estimates that if present trends continue, by 1983 it will be able to pay only 25 percent of the amount due to the counties.

Second, the method used by the Department of Interior to determine the adjusted cost of acquired refuge lands is based upon periodic adjustments in the original cost. By using the Agricultural Land Index to adjust original cost, discrepancies in land values have been exaggerated. Many swamps and marshlands, considered to be of little value when acquired during the 1930's, are now of great value. Other lands are overvalued.

Third, expenditure of those funds by the counties is limited to work on public schools and roads, and therefore is not available for the variety of other activities and services undertaken by local governments.

Finally, payments are made only to counties without regard for other tax-levying bodies that lose revenues when lands are withdrawn.

These problems have resulted in local resistance to the habitat acquisition program of the Fish and Wildlife Service. Under the Wetlands Loan Act, no lands can be acquired with funds from the Migratory Bird Conservation Act without the approval of the Governor of the State. The Fish and Wildlife Service has testified that unless the refuge revenue sharing formula is improved, counties will resist further acquisitions. North Dakota, for instance, has already passed a law requiring approval of the county commissioner for any Federal wetland acquisition.

This acquisition program is critical to the continued protection of the Nation's waterfowl habitat. In 1976, the Service identified 1.9 million acres of habitat that warrant protection, and began an accelerated 10-year acquisition program. In his May 1977 environmental message, President Carter recommended a budget increase of $10 million a year for wetland acquisition and further recommended that Congress increase the price of the duck stamp to make available more money for this purpose. Without legislation to provide equitable and consistent payments to counties, land acquisition with funds from the migratory bird conservation account may be severely restricted, and the most important tool for protecting wetlands will become ineffective.

The PRESIDING OFFICER subsequently said: Without objection the title to H.R. 8394 is appropriately amended.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 1132 on page 26 of today's calendar through 1158 on page 30.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, these items are cleared on our calendar, as identified by the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORLANDO FUSILERO BRAVO

The bill (S. 141) for the relief of Orlando Fusilero Bravo was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That, for the purposes of the immigration and Nationality Act, Doctor Orlando Fusilero Bravo shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required number during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1209), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSES OF THE BILL

The purposes of the bill is to grant the status of permanent residence in the United States to Dr. Orlando Fusilero Bravo. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 36-year-old native and citizen of the Philippines who first entered the United States June 25, 1969, as an exchange visitor. He received a medical doctor's degree from the Far Eastern University in Manila. He was married on May 6, 1977, to a native of the Philippines who entered the United States on July 10, 1967, as an exchange visitor. Neither one is subject to the 2-year foreign residence requirement applicable to exchanges. Both of them have third preference priority dates of December 8, 1972, and July 8, 1970, respectively. In addition, Dr. Bravo is the beneficiary of a sixth preference visa petition approved May 5, 1978. Numbers are presently unavailable under both preferences.

DR. LAURENCE, EDITH, AND LORRAINE GAYAO

The bill (S. 148) for the relief of Dr. Laurence T. Gayao, his wife, Edith Gayao, and their child, Lorraine Gayao, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Laurence T. Gayao, his wife, Edith Gayao and their child, Lorraine Gayao, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) and of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1210), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Dr. Laurence T. Gayao, his wife, Edith Gayao, and their child, Lorraine Gayao. The bill provides for the payment of the required visa fees and for appropriate visa number deductions.

STATEMENT OF FACTS

The beneficiaries of the bill are a 32-year-old husband, his 31-year-old wife, and their 6-year-old daughter who entered the United States on March 9, 1973. They currently reside in Santa Ana, Tex., and Dr. Gayao has been asked to serve as the county health officer and the city health officer for Baird, Tex. He is one of only four physicians providing medical care for the residents of Callaghan County.

LOI LIN IRENE CHUNG (TSUI)

The bill (S. 152) for the relief of Loi Lin Irene Chung (Tsui), was considered, ordered to be engrossed for a third reading, read the third time and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Loi Lin Irene Chung (Tsui) shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in the Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1211), explaining the purpose of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Loi Lin Irene Chung (Tsui). The bill provides for payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 30-year-old native and citizen of Hong Kong who is married to Dr. Timothy Kam-Hung Chung, the beneficiary of S. 153 which passed the Senate, August 11, 1978. She resides in Rugby, N. Dak., with her husband and their two U.S. citizen children. She was admitted to the United States on June 13, 1969, as the spouse of an exchange visitor.

MARCELINO S. AND EMILIE M. SILVA

The bill (S. 953) for the relief of Marcelino S. Silva and his wife, Emilie M. Silva, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Marcelino S. Silva and his wife, Emilie M. Silva, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residences to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1212), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Marcelino S. Silva and his wife, Emilie M. Silva. The bill provides for the payment of the required visa fees and for appropriate visa number deductions.

STATEMENT OF FACTS

The beneficiaries of the bill are a 38-year-old husband and his 28-year-old wife who are natives and citizens of the Philippines. The male beneficiary entered the United States August 5, 1973 as the dependent of a temporary worker, his wife. On April 30, 1974 his status was changed to that of a temporary worker of distinguished merit and ability. He is employed as a physician and surgeon at Gary Job Corps Center in San Marcos, Tex. His mother is a lawful permanent resident of the United States who lives in San Francisco with another son, a naturalized citizen of the United States. The female beneficiary entered the United States on February 8, 1973, as a temporary worker of distinguished merit and ability and is presently employed as a nurse in Lockhart, Tex.

JIN SUK PARK

The bill (S. 1398) for the relief of Jin Suk Park, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America and Congress assembled, That, for the purposes of the Immigration and Nationality Act, Jin Suk Park shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1213), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Jin Suk Park. The bill provides for payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 33-year-old native and citizen of Korea who entered the United States on September 29, 1971 as a visitor. He is single and has no close relatives in the United States. His parents are deceased. Although he resided in Mississippi for many years, he currently resides in Huntington Park, Calif., and is employed at a shoe store there.

MARGARET PERRY

The bill (S. 2349) for the relief of Margaret Perry, was considered. ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Margaret Perry may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed in their behalf by Mr. and Mrs. Michael Perry, citizens of the United States, pursuant to section 204 of such Act. The natural brothers and sisters of the said Margaret Perry shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1214), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States as an immediate relative of the adopted child of citizens of the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 22-month-old native of Malaysia who has been adopted by citizens of the United States residing in Honolulu. The adoptive father is program director for Honolulu radio station KKUA. He has no children from either his first marriage or from his present marriage. The adoptive mother is not presently employed. Information is to the effect that the adoptive parents are financially able to care for the beneficiary.

CHING WU WANG

The bill (S. 2677) for the relief of Ching Wu Wang, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods of time Ching Wu Wang has resided in the United States and any State since his lawful admission for permanent residence on July 10, 1973, shall be held and considered to meet the residence and physical presence requirements of section 319 of the Immigration and Nationality Act, and his petition for naturalization may be filed in any court having naturalization jurisdiction under section 310 of such Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 95-1215), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to file a petition for naturalization.

STATEMENT OF FACTS

The beneficiary of the bill is a 58-year-old native of China and citizen of the Republic of China who first entered the United States as a student February 2, 1945. He was employed with the World Bank as an economist and loan officer from 1946 to 1973. His wife, a naturalized U.S. citizen, filed an immediate relative petition in his behalf which was approved and his status was adjusted to that of permanent residence July 10, 1973. In July of 1973, the beneficiary accepted a position as executive vice president of a landholding company in Manila, Philippines, which he held until December, 1975. He, his wife, and two children returned to the United States December 17, 1976. He is desirous to take advantage of employment opportunities which require U.S. citizenship.

KYUNG HEE KIM, DONG CHOON KIM, AND DONG HO KIM

The bill (S. 2834) for the relief of Kyung Hee Kim, Dong Choon Kim, and Dong Ho Kim, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Kyung Hee Kim, Dong Choon Kim, and Dong Ho Kim may be classified as children within the meaning of section 101 (b)(1)(F) of the Act, upon approval of a petition filed in their behalf by Mr. and Mrs. Orton Wisegarver, citizens of the United States, pursuant to section 204 of this Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationships, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Sec. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 95-1216), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status as immediate relatives of the prospective adopted children of U.S. citizens, notwithstanding the fact that the adoptive parents have had the maximum number of petitions approved.

STATEMENT OF FACTS

The beneficiaries of the bill are three siblings, aged 11, 9, and 5 who are natives and citizens of Korea. They are to be adopted by citizens of the United States who have previously adopted two Korean children. The beneficiaries were in the custody of the Social Welfare Society of Korea and resided with Father Zweber, a Catholic Missionary, in Inchon City prior to their parole into the United States on July 6, 1978. Information is to the effect that the prospective adoptive parents are financially able to care for the beneficiaries.

YANG SOO KO

The bill (S. 2841) for the relief of Yang Soo Ko, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Yang Soo Ko may be classified as a child within the meaning of section 101(b) (1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Guy Wegener, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 95-1217), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status as an immediate relative of the prospective adopted child of U.S. citizens, notwithstanding the fact that the adoptive parents have had the maximum number of petitions approved.

STATEMENT OF FACTS

The beneficiary of the bill is a 4-year-old native and citizen of Korea who was found abandoned on June 13, 1977, and has been in the custody of the Social Welfare Society in Seoul. In May 1978, he was paroled into the United States to reside with his prospective adoptive parents in Maple Grove, Minn. The couple has one natural born child and one from Mrs. Wegener's previous marriage. They also adopted two females, one born in Bangkok, Thailand, and the other one in Seoul, Korea. Information is to the effect that they are financially able to care for the beneficiary.

MARY JO AND REGINA NATIVIDAD

The bill (S. 3042) for the relief of Mary Jo Natividad and Regina Natividad, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That, in the administration of the Immigration and Nationality Act, Mary Jo Natividad and Regina Natividad may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of petitions filed in their behalf by John M. Phelan and Jane J. B. Phelan, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 95-1218), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status as immediate relatives of the children to be adopted by citizens of the United States.

STATEMENT OF FACTS

The beneficiaries of the bill are sisters who are natives and citizens of the Philippines born July 3, 1959, and December 2, 1960, respectively. They were admitted to the United States as students on November 16, 1974, and have been living with their prospective adoptive parents. Mrs. Phelan, who is the aunt of the beneficiaries, assumed financial and legal responsibility for them as a result of of their abandonment by their natural father and because their natural mother has been unable to adequately care for them. Information is to the effect that the adoptive parents are financially able to care for them.

YOM CHONG OK

The bill (S. 3066) for the relief of Yom Chong Ok, was considered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Yom Chong Ok may be classified as a child within the the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mr. Ronald Heinritz, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 95-1219), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States as an immediate relative of the child to be adopted by citizens of the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 14-year-old native and citizen of Korea who was found abandoned in Inchon and presently resides in the Star of the Sea Orphanage there. She is to be adopted by citizens of the United States who reside in Thiensville, Wis. Information is to the effect that the prospective adoptive parents are financially able to care for the beneficiary.

DOUGLAS JAGDISH DEGENHARDT

The bill (S. 3124) for the relief of Douglas Jagdish Degenhardt (adoptive name), was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, (a) in the administration of the Immigration and Nationality Act, Douglas Jagdish Degenhardt (adoptive name) may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Edwin and Dawn Degenhardt, citizens of the United States, pursuant to section 204 of the Act. Sections 204(c) of the Act, relating to the number of petitions which may be approved in behalf of children, shall be inapplicable in this case.

(b) The parents, brothers, and sisters of Douglas Jagdish Degenhardt (adoptive name), shall not, by virtue of that relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1220), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status as an immediate relative of the child to be adopted by citizens of the United States not withstanding the fact that the adoptive parents have had the maximum number of petitions approved.

STATEMENT OF FACTS

The beneficiary of the bill is an 8-year-old native and citizen of India whose natural parents are unknown. He formerly resided in an orphanage in Bombay. However, humanitarian parole was authorized and he is now living with his adoptive parents, citizens of the United States. They have eight other children, all of whom are adopted. Information is to the effect that they are financially able to care for the beneficiary.

TAK-MING BERNARD AND JANNY CHUN LEE LEUNG

The Senate proceeded to consider the bill (S. 135) for the relief of Leung, Tak-Ming, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 4, strike "Leung, Tak-Ming" and insert "Tak-Ming Bernard Leung and Janny Chun Lee Leung";

On page 1, line 8, strike "fee" and insert "fees";

On page 1, line 11, strike "one number" and insert "two numbers";

On page 2, line 2, strike "alien's" and insert "aliens'";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Tak-Ming Bernard Leung and Janny Chun Lee Leung shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct two numbers from the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Tak-Ming Bernard Leung and Janny Chun Lee Leung.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1221), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Tak-Ming Bernard Leung and Janny Chun Lee Leung. The bill provides for the payment of the required visa fees and for appropriate visa number deductions. The purpose of the amendment is to include the beneficiary's wife who was the beneficiary of S. 1705.

SAMUEL S. H., CAROL O. K., JOHNNY C. Y., AND JIMMY C. M. LEUNG

The Senate proceeded to consider the bill (S. 144) for the relief of Samuel S. H. Leung, his wife, Carol O. K. Leung, and his sons Johnny C. Y. Leung and Jimmy C. M. Leung, which had been reported from the Committee on the Judiciary with an amendment on page 1, beginning with line 3, strike through "Act," in line 5, and insert in lieu thereof "That, for the purposes of the Immigration and Nationality Act," so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Samuel S. H. Leung, his wife Carol O. K. Leung, and his sons Jimmy C. Y. Leung and Jimmy C. M. Leung, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1222), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Samuel S. H. Leung, his wife Carol O. K. Leung, and his sons Johnny C. Y. Leung and Jimmy C. M. Leung. The bill provides for the payment of the required visa fees and for appropriate visa number deductions. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiaries of the bill are a 37-year-old native of Hong Kong, his 38-year-old wife, a native of China, and two sons aged 10 and 8, natives of Hong Kong, all of whom are British subjects. The principal beneficiary is employed by Motorola, Inc. Semi-Conductors Division, Phoenix, Ariz., as a Device Engineer. The family last entered the United States on July 20, 1974 as nonimmigrant intracompany transferees.

NARCISO MICHELENA

The Senate proceeded to consider the bill (S. 1701) for the relief of Narciso Michelena, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 4, strike "Michina" and insert "Michelena", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Narciso Michelena shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residences to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Narciso Michelena.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1223), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Narcisco Michelena. The bill provides for payment of the required visa fee and for an appropriate visa number deduction. The bill has been amended to correct the spelling of the beneficiary's last name.

STATEMENT OF FACTS

The beneficiary of the bill is a 47-year-old native and citizen of the Philippines who entered the United States January 31, 1975 as a visitor. On April 3, 1975 he applied for political asylum claiming he feared assassination by a Communistic organization in the Philippines, which application was denied August 8, 1977. The beneficiary's brother filed a fifth preference petition in his behalf on April 3, 1975.

LUZBELLA Y. IMASA, M.D.

The Senate proceeded to consider the bill (S. 1778) for the relief of Luzbella Y. Imasa, doctor of medicine, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, for the purposes of the Immigration and Nationality Act, Luzbella Y. Imasa, doctor of medicine, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1224), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Luzbella Y. Imasa, doctor of medicine. The bill provides for payment of the required visa fee and for an appropriate visa number deduction. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a 31-year-old native and citizen of the Philippines who entered the United States on June 23, 1973, as an exchange visitor. She is employed as a staff physician at a State hospital; she is unmarried and has no relatives in the United States. The beneficiary plans to request her employer to submit a third preference petition in her behalf. She is subject to the 2-year foreign residence requirement but will apply for a waiver in conjunction with the visa petition.

DR. COSME R. AND LINDA SAN DIEGO CAGAS AND THEIR CHILDREN

The Senate proceeded to consider the bill (S. 2203) for the relief of Dr. Cosme R. Cagas, his wife, Linda San Diego Cagas, and his children, Elcee Cagas, Chess Cagas, Georgina Cagas, and Chester Cagas, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, for the purposes of the Immigration and Nationality Act, Doctor Cosme R. Cagas, his wife, Linda San Diego Cagas, and his children, Elcee Cagas, Chess Cagas, Georgina Cagas, and Chester Cagas shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1225), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Dr. Cosme R. Cagas, his wife, Linda San Diego Cagas, and his children, Elcee Cagas, Chess Cagas, Georgina Cagas, and Chester Cagas. The bill provides for payment of the required visa fees and for appropriate visa number deductions. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiaries of the bill are a husband, his wife, and four children who are natives and citizens of the Philippines. The principal beneficiary is a pediatric endocrinologist-physician in Belleville, Ill., and his services are urgently needed. A factual report was never furnished by the Immigration and Naturalization Service, since it appeared that the family would be able to adjust their status. However, no visas were available for their use.

SAVITA NANDINI

The Senate proceeded to consider the bill (S. 2315) for the relief of Savita Nandini, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 4, strike "Miss" so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Savita Nandini may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Victor J. Locastro, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act, and the provisions of section 204(c) of that Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1226), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the adjustment of status as an immediate relative of the prospective adopted child of U.S. citizens, notwithstanding the fact that the adoptive parents have had the maximum number of petitions approved. The amendment is technical in nature.

STATEMENT OF FACTS

The beneficiary of the bill is a 6-year-old native and citizen of India who was paroled into the United States in May 1978 to reside with her prospective adoptive parents. Information is to the effect that they are financially able to care for the beneficiary.

SHYY WEN-HUEI

The Senate proceeded to consider the bill (S. 2421) for the relief of Shyy Wen-Huei, which had been reported from the Committee on the Judiciary with an amendment on page 2, line 2, after "under" insert "paragraphs (1) through (8) of" so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Shyy Wen-Huei shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agree to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1227), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Shyy Wen-Huei. The bill provides for payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 47-year-old native of China and citizen of the Republic of China who last entered the United States on November 22, 1977, as a visitor and is presently with her daughter in Charlotte, N.C., helping to care for her grandchild. When the beneficiary was widowed, she gave her three children up for adoption in 1961 because she could not afford to support them. They were adopted by U.S. citizens and are now naturalized citizens of the United States. The beneficiary remarried in 1965 and her husband and two children of that marriage presently reside in Taiwan. Her U.S. citizen children are precluded from conferring immigration status on their mother, as they were irrevocably released by the beneficiary for adoption.

CAROLINE VALDEZ SULFELIX

The Senate proceeded to consider the bill (S. 2446) for the relief of Caroline Valdez Sulfelix, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 6, beginning with "Mrs." strike through and including "shall," at the end of line 9, and insert in lieu thereof "Mr. and Mrs. Simon Sulfelix, a lawful permanent resident and a citizen of the United States, respectively, pursuant to section 201 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not," so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Caroline Valdez Sulfelix shall be classified as a child within the meaning of section 101(b)(1)(E) of such Act, upon approval of a petition filed on her behalf by Mr. and Mrs. Simon Sulfelix, a lawful permanent resident and a citizen of the United States, respectively, pursuant to section 204 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1228), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the admission into the United States as an immediate relative of the adopted child of a lawful permanent resident and a citizen of the United States. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a 13-year-old native and citizen of the Philippines. She was adopted on December 29, 1970. The beneficiary's natural father is the brother of her adoptive mother. She and her husband reside in Hawaii and have provided for the beneficiary financially since her adoption.

TSO TUNG TANG

The Senate proceeded to consider the bill (S. 2451) Tso Tung Thang, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, for the purposes of the Immigration and Nationality Act, Tso Tung Tang shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required number during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Tso Tung Tang.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1229), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Tso Tung Tang. The bill provides for payment of the required visa fee and for an appropriate visa number deduction. The bill has been amended in accordance with established precedents and to correct the beneficiary's name.

STATEMENT OF FACTS

The beneficiary of the bill is a 30-year-old native of Hong Kong and citizen of the United Kingdom who entered the United States on September 6, 1969, as a student. He has been employed on the campus of the University of Utah since 1972 teaching theory, conducting, and administrative work for which he receives approximately $5,000 per year. He is working on a doctorate degree in music. He is single, his father is deceased, and his mother and brothers reside in Hong Kong.

JANET ABRAHAM

The Senate proceeded to consider the bill (S. 2670) for the relief of Janet Abraham, also known as Janet Susan Abraham, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 9, beginning with "No" strike through and and including "shall" in line 10, and insert in lieu thereof "The natural parents, brothers, or sisters of the beneficiary shall not", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Janet Abraham, also known as Janet Susan Abraham, shall be classified as a child within the meaning of section 101 (b)(1)(E) of such Act, upon approval of a petition filed on her behalf by Mr. and Mrs. Vincent T. Abraham, citizens of the United States, pursuant to section 204 of such Act. The natural parents, brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendmment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1230), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the admission into the United States as an immediate relative of the adopted child of citizens of the United States. The amendment is technical in nature.

STATEMENT OF FACTS

The beneficiary of the bill is a 19-year-old native and citizen of the Philippines who presently resides there with her natural parents. She is in her second year of college seeking a degree in nursing. She was adopted in the Philippines August 29, 1975, by citizens of the United States who reside in Hawaii. The adoptive mother is a cousin of the beneficiary's natural mother. Information is to the effect that the adoptive parents are financially able to care for the beneficiary.

MASAMI YAMADA

The Senate proceeded to consider the bill (S. 2671) for the relief of Masami Yamada, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 6, beginning with "by" strike through and including "shall" in line 9 and insert in lieu thereof "by Mr. and Mrs. Raymond Itsuo Yamada, a citizen and a lawful permanent resident of the United States, respectively, pursuant to section 204 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not" so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Masami Yamada shall be classified as a child within the meaning of section 101(b)(1)(E) of such Act, upon approval of a petition filed on her behalf by Mr. and Mrs. Raymond Itsuo Yamada, a citizen and a lawful permanent resident of the United States, respectively, pursuant to section 204 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1231), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the admission into the United States as an immediate relative of the adopted child of a citizen and lawful permanent resident of the United States. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a 7-year-old native of Okinawa and citizen of Japan who resides with her natural parents. She was adopted in Okinawa in March 1977, by a citizen and a lawful permanent resident of the United States who resides in Hawaii and has no natural children. The adoptive mother is a sister of the beneficiary's natural mother. Information is to the effect that the adoptive parents are financially able to care for the beneficiary.

TSUTOMU TANAKA

The Senate proceeded to consider the bill (S. 3051) for the relief of Tsutomu Tanaka, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 6, strike "Timothy M. Killian, a citizen of the United States" and insert "Mr. and Mrs. Timothy M. Killian, citizens of the United States"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Tsutomu Tanaka shall be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed on his behalf by Mr. and Mrs. Timothy M. Killian, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, if any, of Tsutomu Tanaka shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1232), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the adjustment of status as an immediate relative of the adopted child of citizens of the United States. The amendment is technical in nature.

STATEMENT OF FACTS

The beneficiary of the bill is a 15-year-old native and citizen of Japan who was adopted on June 12, 1978 in the Yokohama Family Court by citizens of the United States who have four other children. The beneficiary was paroled into the United States, July 26, 1978 to reside with his adoptive parents. The adoptive father is a career noncommissioned officer with the U.S. Navy.

DEBBIE AGATTA HEPBURN

The Senate proceeded to consider the bill (S. 3106) for the relief of Debbie Agatta Hepburn, which had been reported from the Committee on the Judiciary with an amendment on page 1, beginning with line 7, strike through and including "shall" in line 10, and insert in lieu thereof "the Reverend and Mrs. Israel W. Hepburn, a citizen and a lawful permanent resident of the United States, respectively, pursuant to section 204 of such act. The natural parents, brothers, or sisters of the beneficiary shall not," so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Debbie Agatta Hepburn shall be classified as a child within the meaning of section 101(b)(1)(E) of such Act, upon approval of a petition filed on her behalf by the Reverend and Mrs. Israel W. Hepburn, a citizen and a lawful permanent resident of the United States, respectively, pursuant to section 204 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1233), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the adjustment of status as an immediate relative of the adopted child of a U.S. citizen and a lawful permanent resident. The amendment is technical in nature.

STATEMENT OF FACTS

The beneficiary of the bill is an 18-year-old native and citizen of the Bahamas whose natural parents are deceased. She entered the United States as a visitor October 23, 1969, February 17, 1970, and August 22, 1970, and departed as required. On August 21, 1971, she entered the United States as a student and was last admitted to the United States January 24, 1975, as a student. She was adopted by Reverend and Mrs. Israel Hepburn on January 5, 1976, in Florida. The adoptive parents have five natural children residing with them ranging in age from 16 to 24 years.

SHAVJI PURSHOTTAM AND VASANTI SHAVJI DUSARA AND THEIR CHILD

The Senate proceeded to consider the bill (S. 3114) for the relief of Shavji Purshottam Dusara, Vasanti Mohanlal Gajjar Dusara, and their three children, Shareed, Mebal, and Saloni Dusara, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, for the purposes of the Immigration and Nationality Act, Shavji Purshottam Dusara, Vasanti Shavji Dusara, and their child, Shreedhar Dusara, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Shavji Purshottam Dusara, Vasanti Shavji Dusara, and their child, Shreedhar Dusara.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1234), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Shavji Purshottam Dusara, Vasanti Shavji Dusara, and their child, Shreedhar Dusara. The bill provides for the payment of the required visa fees and for appropriate visa number deductions. The bill has been amended in accordance with established precedents and to delete the names Mehul and Saloni Dusara, since they are U.S. citizens.

STATEMENT OF FACTS

The beneficiaries of the bill are a 42-year-old husband, his 33-year-old wife, and their 10-year-old son who were all born in Daressalaam, Tanzania. They last entered the United States April 14, 1973, the father and the son as students and the mother as a dependent of a student. The family resides in Provo, Utah and the principal beneficiary is pursuing a doctorate at Brigham Young University.

ROCIO EDMONDSON

The Senate proceeded to consider the bill (S. 3169) for the relief of Rocio Edmondson, which had been reported from the Committee on the Judiciary with an amendment on page 2, line 2, after "under" insert "paragraphs (1) through (8) of" so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Rocio Edmondson shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1235), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Rocio Edmondson. The bill provides for payment of the required visa fee and for an appropriate visa number deduction. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a 43-year-old native and citizen of Mexico who resides in Keene, N.H., with her two U.S. citizen daughters. She first entered the United States as an immigrant on August 29, 1959, having married a citizen of the United States. During her residence, two daughters were born. In 1970, while she was still residing in Mexico, her husband divorced her. She entered the United States on July 25, 1974, as a visitor and her status was changed to that of a student. She graduated from Keene State College with a bachelor of arts degree.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that motions to reconsider on the passage of the preceding bills may be made en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make that motion.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WALLOP. Events are moving more rapidly than the Senator from Wyoming can accommodate to. May I ask what measure the Senate just considered?

Mr. ROBERT C. BYRD. Yes; calendar orders beginning on page 26 with Calendar Order No. 1132, and going through Calendar Order No. 1158 on page 30. Those bills have been cleared by the distinguished minority leader, and are all private relief bills.

The PRESIDING OFFICER. The Senator from Wyoming has no objection.

TAX REFUND ON CERTAIN ALCOHOLIC BEVERAGE LOSSES

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1920.

The PRESIDING OFFICER laid bebefore the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1920) entitled "An Act to amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale", with the following amendments:

1. Page 3, line 1 of the Senate engrossed amendment, strike out "or" the second time it appears, and insert: "on".

2. Page 4, line 1 of the Senate engrossed amendment, strike out "AMENDMENTS.—", and insert: "Amendment.—".

Mr. BENTSEN. Mr. President, I urge the Senate to approve H.R. 1920 which merely provides a refund of certain excise taxes on alcoholic beverages that have been paid by a taxpayer in the event these alcoholic beverages are destroyed.

This bill passed the House earlier this year and was recently reported by the Senate Finance Committee.

Prepaid excise taxes constitute a high proportion of the cost of alcoholic products, as compared with excise taxes on other products. The tax on the production of distilled spirits is $10.50 per gallon; the beer tax generally is $9 per barrel (equivalent to about 29 cents per gallon); and the wine tax ranges from 17 cents to $3.40 per wine gallon (depending upon the type or alcoholic content of the wine).

Accordingly, if alcoholic products held for sale are destroyed after taxes and duties have been paid, a large portion of the loss will be attributable to prepaid taxes which cannot be passed on to consumers.

Under present law, the Treasury can make payments for such taxes and duties only if the cause of loss is a Presidentially declared major disaster. There are certain circumstances which, while not constituting such a major disaster, can likewise result in substantial losses of distilled spirits, wines, rectified products, or beer. The Finance Committee concluded that losses of such products caused by fire, flood, casualty, or other disasters, or by vandalism or malicious mischief (not including theft), should be given the same treatment with respect to tax and duty repayments as is now accorded to losses of such products caused by Presidentially declared major disasters.

H.R. 1920 is consistent with Congress intent to impose an excise tax only on alcohol consumption and sale. If beer is destroyed at the brewery, Congress has provided a rebate of the Federal tax to brewers. Any tax paid by a brewer may be refunded or credited to the brewer if the beer is lost or destroyed or otherwise rendered unmarketable "by fire, casualty, or act of God" prior to sale. In addition, any tax paid by a brewer on beer which is returned to any brewery or voluntarily destroyed pursuant to IRS regulation, is also rebated.

H.R. 1920 expands the definition of the circumstances under which a loss of distilled spirits, wines, rectified products, or beer held for sale gives rise to payments by the Treasury, to those holding the products for sale, of amounts equal to the excise taxes and customs duties earlier paid on these products. At present, the only recognized circumstance which can give rise to such payments is a Presidentially declared "major disaster." The bill provides for payments on account of losses resulting from fire, flood, casualty or other disaster, or from damage (not including theft) resulting from vandalism or malicious mischief.

As under present law with respect to Presidentially declared major disasters, payment is not to be available for taxes, or taxes and duties, the loss of which was indemnified by insurance or otherwise.

Present law does not impose any "floor" or minimum amount for which a claim for repayment of taxes, or taxes and duties, may be filed under the Presidentially declared major disaster provision. The bill imposes a $250 floor on any claim arising from any single disaster or damage, other than one for which a claim would have been allowable under present law. The bill makes no change on this point with respect to claims that would have been allowable under present law.

The bill provides that no claim under this section is allowable unless it is filed within 6 months after the date of the loss, except that in the case of a Presidentially declared major disaster, the claim period is not to expire before the day which is 6 months after the date on which the President determined the disaster occurred.

Mr. President, I move that the Senate concur in the amendments to the Senate amendment of the House of Representatives.

The motion was agreed to.

Mr. BENTSEN. I move to reconsider the vote by which the motion was agreed to.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPROPRIATIONS FOR CONSERVATION PROGRAMS ON MILITARY RESERVATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a mesage from the House of Representatives on H.R. 13745.

The Presiding Officer laid before the Senate H.R. 13745, an act to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. CULVER. Mr. President, H.R. 13745 extends the authorization for appropriations under the Sikes Act for 2 years.

The Sikes Act, first enacted by Congress in 1960, authorized the Secretary of Defense to join with the Secretary of the Interior and appropriate State conservation agencies in conducting fish and wildlife conservation and public recreation programs on over 25 million acres of military lands located throughout the Nation. In 1974, Congress significantly expanded the scope of this law by directing the Secretaries of Agriculture and the Interior to develop similar Federal-State cooperative arrangements for conservation plans on lands under the jurisdiction of the Forest Service. the Bureau of Land Management (BLM), the National Aeronautics and Space Administration, and the Department of Energy. This expanded coverage included specific requirements for improvement of wildlife habitat, range rehabilitation, and protection of endangered species.

The Sikes Act is significant because it, for the first time, gave the States an equal partnership with the Federal Government in developing recreation and conservation programs on Federal lands. In addition, it encouraged comprehensive management of these resources on an ecosystem rather than a species-by-species basis.

We have made progress in the implementation of this important program. For instance, approximately 237 agreements covering 19 million acres of military lands have been concluded between the Defense Department, the Fish and Wildlife Service, and those States in which these lands are located. In addition, the Bureau of Land Management has negotiated agreements with 11 Western States and is currently instituting over 20 management plans for the protection of fish and wildlife in specific areas. Prior to 1974, the Forest Service had negotiated cooperative agreements with over 40 States and subsequently has developed 36 new plans under the Sikes Act.

Nonetheless, testimony received during hearings by the Subcommittee on Resource Protection earlier this year indicates that implementation of the Sikes Act has fallen far short of its potential and of congressional expectation. For instance, according to an August 1977 report by the General Accounting Office, "significant recreation opportunities may be lost, because neither Defense nor Interior has systematically attempted to identify where such recreation opportunities exist or where the need for such opportunity is greatest." Similarly, during subcommittee hearings last November witnesses from various State fish and wildlife agencies and national conservation organizations criticized the lack of progress by the Forest Service and BLM in developing these programs.

While Federal land management agencies have testified that funding shortages have been the major obstacle to the effective implementation of the Sikes Act, they have not requested nor has the Office of Management and Budget approved adequate funds in the budget process for activities under the Sikes Act.

In order to improve this situation, last May the Senate passed a bill, H.R. 10884, to require that, in the event funds requested by an agency under the Sikes Act are less than those authorized, the Secretary of the Interior shall specifically set forth reasons for requesting the lessor amount. This bill also authorized an appropriation for Sikes Act programs of $51 million in fiscal year 1979 and $61 million in fiscal year 1980 and 1981 each. Unfortunately, the bill was vetoed by President Carter on July 11, 1978. While the President felt that the authorization levels were somewhat high, he objected to the "accountability clause" as an unacceptable intrusion on the President's obligation and authority as Chief Executive. This was certainly not our intention. Rather, we sought to assure that this program would receive the attention it deserves and to address its current shortcomings.

Since that time, we have worked with administration officials to develop legislation, H.R. 13745, which addresses both our concern and the administration's reasons for vetoing H.R. 10884. The total authorization has been reduced to $26.5 million for each fiscal year through 1981, an amount that the agencies have indicated will be sufficient for them to carry out their responsibilities under the Sikes Act. Furthermore, while the language requiring explanations for agency requests for funding less than that authorized has been removed, the Office of Management and Budget (OMB) has indicated that it will approve specific funding for the Department of the Interior, Agriculture and Defense to carry out Sikes Act programs beginning in fiscal year 1980.

I am greatly excouraged by the assurances we have received from OMB and the various Federal agencies involved of their full commitment to the program, and I am confident that the Sikes Act will be more effectively implemented.

Mr. President, the Sikes Act is a vitally important conservation law which has the strong support of the State fish and wildlife agencies, the conservation community, and now the administration as well. I urge my colleagues to approve H.R. 13745, which reauthorizes this program at an effective level.●

Mr. WALLOP. Mr. President, I join the chairman of the Resource Protection Subcommittee, Senator CULVER, in support of H.R. 13745, which will authorize Public Law 93-452, commonly known as the Sikes Act. This program expires at the end of fiscal year 1978, and I feel confident my colleagues will join me in support of continuation of this important wildlife and recreation program.

Last year the Resource Protection Subcommittee of the Senate Environment and Public Works Committee held oversight hearings to decide if the Sikes Act should be reauthorized, and to examine the need for changes in the law. Those hearings brought a number of problems associated with implementation of this law to light, and also evinced strong support from State game and fish agencies and conservationists for the provisions of this law. The bill we are passing today is designed to rectify some of those problems and to serve notice to the Federal agencies which administer this law to implement it in conjunction with their other fish and wildlife conservation mandates.

Title I of the Sikes Act provides the only statutory funding authorization to carry out fish and wildlife habitat improvement and outdoor recreation enhancement on approximately 26 million acres of military lands. During the course of our hearings it became apparent that the full fish, wildlife, and recreational potential of these lands on military reservations has not been realized. The administration has never requested any appropriations for the Secretary of Defense or the Secretary of Interior to carry out their duties on military lands under the Sikes Act. While the Secretary of Interior has been able to provide limited technical assistance to DOD installations in this regard through his general appropriations budget, DOD has had to rely on hunting and fishing fee revenues for this purpose. While these funds are sizable, they fall far short of what is needed. The GAO reports that there is an estimated $2 million backlog in unfunded fish and wildlife projects on military bases. While many military bases are to be commended for good fish and wildlife and recreation programs, the American public could benefit greatly from increased opportunities under effective Sikes Act implementation.

Title II directs the U.S. Forest Service and Bureau of Land Management, NASA, and AEC to develop Federal-State cooperative agreements for improved wildlife habitat, range rehabilitation, and endangered species protection. This law complements their more general land management programs for the Forest Service and BLM, and focuses on a conservation need historically given low priority and funding. State game and fish agencies testified that progress has been made since 1974 in developing cooperative management plans with the Forest Service and BLM, but that the administration again has never requested and therefore Congress has never appropriated funds under this law. The States have worked long and hard to formulate acceptable management plans in cooperation with these Federal agencies, and are therefore understandably dismayed over inadequate funding.

In view of these findings, the House and Senate approved and sent to the President legislation containing higher authorization levels for fiscal years 1979, 1980, and 1981 reflecting agency and State needs, along with an "accountability" clause which would have required that when an agency requests appropriations below the levels authorized by the Sikes Act, it must report to Congress the reason for the lower request figure. The committee felt this would encourage agencies to upgrade the wildlife programs on public lands and State involvement in planning such programs.

On July 10 President Carter vetoed H.R. 10882, stating that the funding authorizations were too high as they were in addition to authorizations in other, more general land management programs, and that the reporting requirement was an unacceptable intrusion on the President's authority.

Subsequently both the House and the Senate have worked out a compromise bill which is acceptable to the President, H.R. 13745. This bill deletes the accountability clause and reduces the authorization levels. It is understood that in return for these changes the Office of Management and Budget agrees to utilize the Sikes Act in its efforts to upgrade fish and wildlife programs in the Federal agencies covered under this law.

The House has passed H.R. 13745 and sent it to the Senate. In order to insure passage of this legislation, I also was able to add an identical reauthorization provision as an amendment to S. 2329 during recent consideration of that fish and wildlife bill in committee. The committee joined me in my hope that the House would be able to pass either H.R. 13745 or S. 2329, thereby insuring passage of this Sikes Act reauthorization. Since the House has passed the former, I would urge the Senate to pass it as well. The Environment and Public Works Committee has already deleted this provision from S. 2329.

Mr. President, while I remain unsatisfied with the levels of funding in this bill, and with the administration veto of the original reauthorization measure, I am nevertheless hopeful that by enacting this legislation we will move toward full and effective implementation of the Sikes Act.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 13745) was read the third time, and passed.

Mr. HODGES. I move to reconsider the vote by which the bill was passed.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTERSTATE COMMERCE ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 10965.

The PRESIDING OFFICER laid before the Senate H.R. 10965, an act to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation."

Mr. ROBERT C. BYRD. I ask unanimous consent that the bill be considered as having been read the first and second time, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1923

Mr. PAUL G. HATFIELD. Mr. President, I send to the desk a technical amendment to H.R. 10965, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Montana (Mr. Paul G. Hatfield) offers an unprinted amendment numbered 1923:
>
> Page 74, line 8, strike "real" and insert "rail".

Mr. PAUL G. HATFIELD. This amendment merely corrects a typographical error found by the staff of the Senate Judiciary Committee in the engrossment of the House bill. I might say to my colleagues that, when the Committee on the Judiciary ordered favorably reported the text of the House bill, its professional staff was instructed to review the engrossed bill for potential, even if unintentional, substantive changes in the law. This technical amendment would cure a possible conflict in language by eliminating an inconsistency caused by a typographical error. With the exception of this one amendment, I am satisfied that no further changes in the House version are required.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PAUL G. HATFIELD. Mr. President, on behalf of the members of the Committee on the Judiciary, I rise in support of H.R. 10965 and urge my colleagues to support it.

The PRESIDING OFFICER. The Chair reminds the Senator we have not considered his second amendment. The clerk will report the second amendment.

Mr. PAUL G. HATFIELD. There is only one amendment.

The PRESIDING OFFICER. Oh, there is only one amendment?

Mr. PAUL G. HATFIELD. Yes.

The PRESIDING OFFICER. The Chair stands corrected. The Senator from Montana is recognized.

Mr. PAUL G. HATFIELD. H.R. 10965 is a bill to revise, codify, and enact, without substantive change, the Interstate Commerce Act and related laws as subtitle IV of title 49, United State Code, entitled "Transportation."

The bill before us is a revised version, but nonetheless a companion measure to S. 2361, introduced last December by the distinguished majority leader on behalf of Senators Magnuson, Pearson, and Long. S. 2361 was referred to the Judiciary Committee, where it has been under study. On August 18, I chaired a hearing before the full committee on this bill, at which representatives of the Interstate Commerce Commission and the Office of the Law Revision Counsel of the House of Representatives testified in support of it. On September 20, the committee ordered favorably reported by unanimous vote the Senate bill with an amendment in the nature of a substitute, which substitutes the language of the bill now before us.

Mr. President, S. 2361, as amended, will not be reported formally by the Judiciary Committee since it is now identical in every respect to the bill just taken from the desk. By not filing a report on the amended bill, we will save the taxpayers untold thousands of dollars which would otherwise be obligated, since it would be necessary to print in linetype a 180-page bill, a 181-page bill printed in italics, and a voluminous report saying essentially what the House report, which has been printed and which runs to 260 pages, says already.

Mr. President, this bill is the culmination of a process begun in 1966 at the urging of Senator Magnuson. In its preliminary stages, the bulk of the work was performed by the Law Revision Counsel in cooperation with the Interstate Commerce Commission and the Department of Transportation. After S. 2361 and its companion bill, H.R. 9777, were introduced in late 1977, the draft bill was distributed to more than 1,000 interested persons, companies, and agencies. Several hundred comments were received from members of the public. After extensive study by the Law Revision Counsel and the staff of the Interstate Commerce Commission, numerous changes were made in the House bill by the counsel, which resulted in the introduction of a clean bill. As reported to the House, H.R. 10965 included several additional perfecting changes and a number of technical amendments. What we now consider is the result of over 2 years of concentrated effort.

It is no surprise that no one could be found to appear at the committee's hearing in opposition to the House bill, as reported. The Law Revision Counsel took great care to put on notice all interested parties as to the content of this recodification and, as suggestions and comments were received, changes were made to accommodate all legitimate objections.

Mr. President, let me reemphasize to my colleagues that this bill would make no substantive changes, intentional or unwitting, in substantive law. The House report says as much. Moreover, you need not rely on my assurances or the report of the other body alone. Section 3 of the bill, at page 178, provides, in part:

> Sections 1 and 2 of this Act restate, without substantive change, laws enacted before May 16, 1978, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced . . .

Thus, by enacting H.R. 10965, we are not making any new law; we are merely making existing law more understandable.

The House report explains this comprehensive undertaking in comprehensive fashion and, perforce, is voluminous. As I have said, because we are undertaking to act on the House bill in this fashion, there will be no Senate report. Accordingly, I ask unanimous consent that, at the conclusion of my remarks there be inserted in the Record a three-page document entitled, "Appendix" which has been prepared by the Law Revision Counsel to correct technical errors in the House report as filed and ordered to be printed. This was done for two reasons: To obviate the necesssity of filing a Senate report and avoiding the unnecessary expense of a star print of the House version.

Mr. President and my colleagues, this bill is as important as it is noncontroversial. It passed the other body by voice vote under suspension of the rules. I urge the Senate to finish the legislative job today, so that this recodification and revision can become law.

Mr. President, I ask unanimous consent to have printed in the Record an appendix showing technical corrections made to the House of Representatives Report No. 951395.

There being no objection, the material was ordered to be printed in the Record, as follows:

Appendix

The following technical corrections are made to the House of Representatives Report No. 95–1395:

Section 10323: Page 36, strike out the first and 2d full paragraphs immediately below the source citations.

Section 10325: Page 39, in the 2d line, strike out "requirements" and substitute "requirement".

Section 10326: Page 39, in the 2d sentence, insert ending quotation marks after "this title" and strike out "as" and substitute "an".

Section 10521: Page 55, in the U.S. Code column of the source citations related to 49:302(a), 303(a), strike out "word" and substitute "words", and immediately before "(A)", insert "cl.".

Section 10521: Page 56, in the 7th line, strike out "services" and substitute "service".

Section 10526: Page 58, in the Revised Section column, strike out "10526(a) (1) (8)" and substitute "10526(a) (1)–(8)".

Section 10543: Page 61, in the first line strike out "Notwithstanding" and substitute "notwithstanding".

Section 10701: Page 67, in the 6th line of the 3d paragraph, strike out "(6)" and substitute "(b)".

Section 10704: Page 72, in the 5th line of the last paragraph, strike out "substitle" and "lawful" and substitute "subtitle" and "lawfulness", respectively.

Section 10721: Page 82, in the first sentence of the 4th paragraph, strike out "transportion" and substitute "transportation".

Section 11121: Page 140, in the Statutes at Large column of the source citations related to "11121(b)". strike out "397" and substitute "379".

Section 11322: Page 157, in the 5th line of the 2d paragraph, strike out "property" and substitute "properly".

Section 11342: Page 160, in the 2d sentence of the first full paragraph, insert "filed" after "agreement or combination".

Table I–A: Page 224, strike out footnotes 1 and 2 and references to those footnotes, renumber footnotes 3–6 as footnotes 1–4, respectively, and renumber references to footnotes 3–6 as references 1–4, respectively.

Table I–B: Page 230, item 216(e) (proviso), strike out "11521" and substitute "10521".

Table I–B: Page 231, item 303(j), (k), strike out "11541" and substitute "10541".

Table I–B: Page 235, related to chapter 390 of Aug. 24, 1912, immediately below "11 (5th par.)", add the following matter that is between the quotation marks:

Section II (last par.), volume 37, page 568, United States Code Revised, title 49, sections 10503, 11321.

Table I–B: Page 237, related to chapter 280 of Aug. 18, 1922, strike out "107223" and substitute "10723".

Table I–B: Page 242, related to section 1 of chapter 318 of May 16, 1942, strike out "Sec. 421(e)" and "421(e), (t)" and substitute "Sec. 421(d)" and "421(e), (f)", respectively.

Table I–B: Page 243, related to chapter 272 of June 29, 1949, insert between sections 1 and 5 the following matter that is between the quotation marks:

Section 2, volume 63, page 281, United States Code Revised, title 49, section 11705.

Table I–B: Page 246, strike out footnote 1 and references to that footnote, renumber footnotes 2 and 3 as footnotes 1 and 2, respectively, and renumber references to footnotes 2 and 3 as references 1 and 2, respectively.

Table II–B: Page 256, related to chapter 272 of June 29, 1949, in the Section column strike out "Sec. 204a(6) 406a(6)" and substitute "Secs. 204a(6), 406a(6)".

The PRESIDING OFFICER. Without objection, it is so ordered.

If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 10965), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HODGES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WATER RESEARCH AND DEVELOPMENT ACT OF 1978

Mr. HODGES. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2704.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2704) entitled "An Act to promote a more adequate and responsive national program of water research and development, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: This Act may be cited as the "Water Research and Development Act of 1978".

SEC. 2. The Congress finds and declares that—

(a) providing for the protection of the Nation's water resources, assuring an adequate supply of water of good quality for the production of food, materials, and energy for the Nation's needs, and increasing the efficient use of the Nation's water resources are essential to national economic stability and growth, and to the well-being of our people;

(b) the Nation's capabilities for technological assessment and planning and for policy formulation for water resources must be strengthened at both the Federal and State levels;

(c) there should be a continuing national investment in water-related research and technology which is commensurate with growing national needs; and

(d) the manpower pool of scientists, engineers, and technicians trained in fields related to water resources constitutes an invaluable natural resource which should be increased, fully utilized, and regularly replenished.

SEC. 3. It is the purpose of this Act to assist the Nation and the States through water resources science and technology—

(a) to provide a supply of water sufficient in quantity and quality to meet the Nation's expanding needs for the production of food, materials, and energy;

(b) to preserve and enhance our water resources and the water-related environment;

(c) to promote conservation and efficient use of the Nation's water resources;

(d) to promote research and development, demonstration, and technology transfer dealing with both quality and quantity of water resources;

(e) to identify and find practical solutions to the Nation's water and water resources related problems;

(f) to promote the training of scientists, engineers, and other skilled personnel in the fields related to water resources;

(g) to foster and supplement present programs for the conduct of research, technology development and transfer, and innovative water resources management, conservation, and operating practices;

(h) to provide for research, development, technology demonstration, and transfer with respect to converting saline and other impaired waters to waters suitable for municipal, agricultural, industrial, recreational, or other beneficial uses;

(i) to disseminate information through the maintenance of a water resources scientific information center with adequate information bases so that the Nation's water research community, by utilizing the center, can be fully informed of research activities and other types of information necessary for them to effectively conduct their work;

(j) to better coordinate the Nation's water resources and development programs; and

(k) to enhance the capacity of the Federal water establishment, and of water interests nationwide for recommending to the President and the Congress changes in national water resources research and technology policy as appropriate.

TITLE I—WATER RESOURCES RESEARCH AND DEVELOPMENT

SEC. 101. (a) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is hereby authorized and directed to assist in carrying on the work of a competent and qualified water resource research and technology institute, center, or equivalent agency (hereinafter referred to as "institute") at one college or university in each State, which college or university shall be a college or university established in accordance with the Act approved July 2, 1862 (12 Stat. 503; 7 U.S.C. 301ff), entitled "An Act donating public lands to the several States and territories which may provide colleges for the benefit of agriculture and the mechanic arts" or some other institution designated by Act of the legislature of the State concerned: Provided, That (1) if there is more than one such college or university in a State established in accordance with said Act of July 2, 1862, funds under this section shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to the one such college or university designated by the Governor of the State to receive the same, subject to the Secretary's determination that such college or university has, or may reasonably be expected to have the capability of doing effective work under this title; (2) two or more States may cooperate in the designation of a single institute or regional institute, in which event the same assignable to all of the cooperating States shall be paid to such institute; (3) the designated State institute shall cooperate closely with other colleges and universities in the State with demonstrated research, information dissemination, and graduate training capabilities in developing a statewide program directed to resolving State and regional water and related land problems; and (4) the designated State institute shall cooperate closely with regional consortia, as may be designated by the Secretary, to increase the effectiveness of the nationwide network of institutes and for the purpose of regional coordination, particularly with river basin commissions and other interagency river basin organizations as may be established by the Congress.

(b) (1) It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college or university with which it is affiliated or other qualified colleges or universities within the State, to conduct competent research and development including investigations and experiments of either a basic or practical nature, or both, in relation to water resources, to promote dissemination and application of the results of these efforts, and to provide for the training of scientists and engineers through such research, investigations, and experiments;

(2) The research, investigations, experiments, and training may include, without being limited to, aspects of the hydrologic cycle; supply and demand for water; saline water conversion; conservation and best use of available supplies of water and methods of increasing such supplies; water reuse; and economic, legal, social, engineering, recreational, biological, geographic, ecological, and other aspects of water problems; scientific information dissemination activities, including identifying, assembling, and interpreting the results of scientific and engineering research on water resource problems; and pro-

viding means for improved communication of research results, having due regard for the varying conditions and needs of the respective States and regions, for water research and development projects now being conducted by agencies of the Federal and State governments, the agricultural and engineering experiment stations, and other university research centers and for the need to avoid undue displacement of scientists and engineers elsewhere engaged in water resources research and development;

(3) The annual program submitted by the State institutes to the Secretary for approval shall include assurances satisfactory to the Secretary, that such programs were developed in close consultation and collaboration with leading water resources officials within the State and region to promote research, training, information dissemination and other work meeting the needs of the State. Additionally, it shall be the duty of each State institute to provide the Secretary with periodic information, at the Secretary's discretion, on water resources research and development activities, needs, and priorities within the State which shall be coordinated with State, local, regional and river basin entities, and to cooperate with the Secretary in preparing periodic reports of ongoing research within the State and its funding by both Federal and non-Federal organizations. Institutes are required to see that notices of research projects are submitted to the center referred to under title III, section 302; and

(4) The designated State institutes shall cooperate with the Secretary in the development of five-year water resources research and development goals and objectives.

(c) There is further hereby authorized a program of technology transfer and/or information dissemination to be carried out by the State institutes. Such funds, as are appropriated for this purpose, shall be made available on a competitive basis to the State institutes, based on the merit of project or program proposals submitted to the Secretary, for the purpose of transferring research and development results to other organizations for further development, demonstration, and practical application.

Sec. 102. Funds appropriated pursuant to this title, in addition to being available for expenses for research and development experiments, and training conducted under authority of this title, shall also be available for printing and publishing the results thereof in the furtherance of technology transfer and for planning and direction. The institutes are hereby authorized and encouraged to plan and conduct programs financed under this title in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the water problems involved, and funds appropriated pursuant to this title shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

Sec. 103. (a) The Secretary is hereby charged with the responsibility for the proper administration of this title and, after full consultation with other interested Federal agencies, may prescribe such procedures, rules, and policies as may be necessary to carry out its provisions. He shall require a showing that institutes designated to receive funds have, or may reasonably be expected to have, the capability of doing effective work. He shall furnish such advice and assistance as will best promote the purposes of this title, participate in coordinating research initiated by the institutes under this title, indicate to them such lines of inquiry as to him seem most important, and assist the establishment and maintenance of cooperation among the institutes, other research organizations, the United States Department of the Interior, and other Federal establishments.

(b) The Secretary shall develop a five-year water resources research program in cooperation with the institutes and appropriate water entities, indicating goals, objectives, priorities, and funding requirements.

(c) The Secretary shall annually ascertain that the requirements of subsection 101(b) have been met as to each institute, whether it is entitled to receive its share of the annual appropriations for water resources research and development under section 401(a) of the Act and the amount which it is entitled to receive.

Sec. 104. Nothing in this title shall be construed to impair or modify the legal relation existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this title shall in any way be construed to authorize Federal control or direction of education at any college or university.

Sec. 105. (a) The Secretary is authorized to make grants to institutes to match, on a dollar-for-dollar basis, funds available to institutes from non-Federal sources to meet the necessary expenses of specific water and related land resources research projects which the institute could not otherwise undertake, including the expenses of planning and coordinating regional projects by two or more institutes. Each application for a grant pursuant to this subsection shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the importance of the project to the Nation, region, and State concerned, its relation to other known research projects theretofore pursued or currently being pursued, and the extent to which it will provide opportunity for training of water resources scientists. No grant shall be made under this subsection except for a project approved by the Secretary, and all grants shall be made upon the basis of the merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of water resources scientists.

(b) The Secretary is authorized to make grants to, and finance contracts and matching or other agreements with qualified educational institutions; private foundations or other institutions; and with private firms and individuals whose training, experience, and qualifications are adequate in his judgment for the conduct of water research and development projects; and with local, State, and Federal Government agencies to undertake research and development concerning any aspect of water-related problems which he may deem desirable in the national interest.

Sec. 106. Water resources research and development programs carried out in accordance with this title may include, without being limited to water use conservation and efficiencies; water and related planning; saline water conversion; water reuse; management and operations; legal systems; protection and enhancement of the water-based environment; institutional arrangements; salinity management; and economic, social, and environmental impact assessment. Due consideration shall be given to priority problems identified by water and related land resources planning, data acquisition, and like studies conducted by other agencies and organizations.

Sec. 107. As used in this title, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and other locations under the jurisdiction of the United States.

Sec. 108. Contracts or other arrangements for water resource work authorized under this title with an institute, educational institution, or nonprofit organization may be undertaken without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529) when, in the judgment of the Secretary, advance payments of initial expenses are necessary to facilitate such work.

Sec. 109. (a) The Secretary is authorized to study, design, implement, operate, and maintain water resources programs and activities demonstrating the technical and economic viability of processes, systems, or techniques for the purpose of improving the water or water-related environment and to demonstrate the application of water resources research and development results and technology for beneficial purposes.

(b)(1) Funds appropriated pursuant to the authority provided by sections 401(d) and 403 for use under this section may not be expended until thirty calendar days (including days on which either the House of Representatives or the Senate are not in session because of an adjournment of more than three calendar days to a day certain) have elapsed following transmittal of a report to the chairman of the Committee on Interior and Insular Affairs and the chairman of the Committee on Science and Technology of the House of Representatives and the chairman of the Committee on Environment and Public Works of the United States Senate.

(2) Such report shall present information that includes, but is not limited to, the location of the demonstration activities, the characteristics of the water and water-related problem, the processes or concepts to be demonstrated, the estimated initial investment cost of the demonstration, the estimated annual operating cost of the demonstration, the source of energy for the demonstration and its cost, environmental consequences of the demonstration; and the estimated costs associated with the demonstration considering the amortization of all components of the demonstration.

(3) Such report shall also be accompanied by a proposed contract or agreement between the Secretary and a duly authorized Federal or non-Federal public or private entity, in which such entity shall agree to share cost to the extent deemed important to the purposes of the activity as determined by the Secretary. Such proposed contract or agreement may provide that either the contractual entity or the United States will develop the activity described in the report and that the United States will either operate and maintain the activity or may participate in the operation and maintenance during which, in either case, access to the activity and its operating data will not be denied to the Secretary or his representatives.

(4) The Secretary is authorized to include in the proposed contract or agreement a provision for conveying all rights, title, and interests of the Federal Government to the Federal or non-Federal, public or private entity, subject to a future right to reenter the activity for the purpose of financing at Federal expense modifications for advanced technology and for its operation and maintenance for a successive term under the same conditions as pertain to the original term.

TITLE II—WATER RESEARCH AND DEVELOPMENT FOR SALINE AND OTHER IMPAIRED WATERS

Sec. 200. Consistent with the Federal responsibility for water resources development and conservation by means of comprehensive planning, water resources development projects, protection of water quality standards, and other measures for the beneficial use of water from various sources, the Congress finds it necessary to provide for the development of technology for the conversion of saline and other impaired waters for beneficial uses. It is the policy therefore to assist and encourage the development of practical means to utilize saline water technology to convert impaired waters of any type from any source to a quality suitable for municipal, industrial, agricultural, and other beneficial uses to transfer research and development results.

SEC. 201. The Secretary is authorized and directed to—

(a) conduct, encourage, and promote basic scientific research and fundamental studies to develop effective and economical processes and equipment for the purpose of converting impaired water into water suitable for beneficial uses;

(b) pursue the findings of research and studies authorized by this title having potential practical applications, including application to matters other than water conversion, and to other supply sources such as brackish waters, staged development, and use with energy sources;

(c) conduct engineering and technical work including the design, construction, and testing of various processes, systems, and pilot plants to develop saline water conversion processes to the point of demonstration;

(d) study of methods for recovery, beneficial uses and disposal of residuals, and marketing of byproducts resulting from the improvement or conversion of impaired water in an environmentally acceptable manner;

(e) undertake economic studies and surveys to determine present and prospective costs of producing water for beneficial purposes in various parts of the United States by saline water conversion processes and, by means of models, or other methodologies, prepare and maintain information concerning the relation of such conversion processes and systems to other aspects of State, regional, and national comprehensive water resources planning.

SEC. 202. (a) The Secretary is authorized to conduct preliminary investigations and explore potential cooperative agreements with non-Federal utilities and governmental entities in order to develop recommendations for Federal participation in the design, construction, operation, and maintenance of demonstration and prototype plants utilizing advanced saline water technologies for the production of water for beneficial use.

(b) In carrying out the provisions of this section, the Secretary shall utilize the expertise of the water and power marketing agencies of the Department of the Interior or of other Federal agencies to insure that the recommended project and the supporting agreements are fully integrated and compatible with the water and power systems of the region.

(c) The Secretary is authorized to accept financial and other assistance from any State or public agency in connection with studies or surveys relating to impaired water and facilities and to enter into contract with respect to such assistance.

SEC. 203. The Secretary may issue rules and regulations to effectuate the purposes of this title.

SEC. 204. As used in this title—

(a) the term "saline and other impaired water" includes but is not limited to seawater, brackish water, mineralized ground or surface water, irrigation return flows, and other similarly contaminated waters;

(b) the term "United States" extends to and includes the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of The Pacific Islands, and other locations under the jurisdiction of the United States;

(c) the term "pilot plant" means an experimental unit of sufficient size used to evaluate and develop new or improved processes or systems and to obtain technical and engineering data;

(d) the term "demonstration" means a plant of sufficient capacity and reliability to demonstrate on a day-to-day operating basis that the process or system is feasible and that such process or system has potential for application to water system improvement;

(e) the term "prototype" means a full-size, first-of-a-kind production plant used for the development and study of full-sized technology, energy, and process economics.

SEC. 205. (a) Subsection 2(a) of the Act of August 2, 1977 (Public Law 95–84) is hereby amended by striking "four" and inserting "six" and by striking "Puerto Rico, Virgin Islands, and Guam:" and inserting "the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and other locations under the jurisdiction of the United States:".

(b) Subsection 2(b) of the Act of August 2, 1977 (Public Law 95–84) is hereby amended by striking the period at the end of the third full sentence and adding the following: ": *Provided*, That, the Secretary may waive the obligation of the non-Federal public entity to furnish brine disposal facilities if he finds that such entity is unable financially to bear the cost of such facilities."

(c) In addition to the sums previously authorized to be appropriated to carry out the purpose of section 2 of the Act of August 2, 1977 (Public Law 95–84) there is hereby authorized to be appropriated for the fiscal year ending September 30, 1980 and thereafter, the sum of $20,000,000 to remain available until expended.

TITLE III—TECHNOLOGY TRANSFER AND INFORMATION DISSEMINATION

SEC. 300. The Secretary is authorized to conduct a research assessment and technology transfer program which transfers research and development results to other organizations and individuals for further development and practical application to water and water-related problems. The Secretary may enter into agreements with the State and local governments and with other public and private organizations and individuals, including cost-sharing or cost-participation agreements, for the transfer or application of research results for the solution of water-related problems and to further the transfer developed by programs authorized under this Act. The Secretary may issue publications and may conduct seminars, conferences, training sessions, or use other such techniques he deems necessary to expedite the transfer of research results and technology development. The technology transfer activities will be coordinated with activities undertaken under titles I and II of this Act.

SEC. 301. The Secretary is further authorized to maintain a national center for the acquisition, processing, and dissemination of information dealing with all areas of water resources research, technology development, and demonstraton. Each Federal agency engaged in water resources including research, technology development, and demonstration, shall cooperate by providing the center with documents and other pertinent information. The center shall (a) maintain for general use a collection of water resources information provided by Federal and non-Federal government agencies, colleges, universities, private institutions, and individuals; (b) issue publications or utilize other media to disseminate research, technology development, and demonstration information for the purposes of this Act and enter into agreements with public or private organizations or individuals to stimulate acquisition and dissemination of information, thus contributng to a comprehensve, nationwide program of research and development in water resources and the avoidance of unnecessary duplication of effort; (c) make generally available abstracts and other summary type information concerning water resources activities including research projects accomplished and in progress by all Federal agencies and by non-Federal agencies, private institutions, and individuals, to the extent such information can be obtained, and reports completed on research projects funded under provisions of this Act; and (d) in carrying out the information dissemination activities authorized by this section, the Secretary shall to the extent feasible use the resources and facilities of other agencies and of the clearinghouse for scientific, technical, and engineering information established in the Department of Commerce pursuant to sections 1151 through 1157 of title 15, United States Code.

SEC. 302. There shall be established, in such agency and location as the President determines to be desirable, a center for cataloging current scientific research in all fields of water resources. Each Federal agency doing water resources research shall cooperate by providing the cataloging center with information on work underway. The cataloging center shall classify and maintain for general use a file of water resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of government, colleges, universities, private institutions, firms, and individuals as voluntarily may make such information available.

TITLE IV—GENERAL PROVISIONS

SEC. 400. (a) As used in this Act, the term "Secretary" means the Secretary of the Interior.

(b) In carrying out his functions under this Act, the Secretary may:

(1) make grants to educational institutions and scientific organizations, and enter into contracts with institutions and organizations and with industrial or engineering firms;

(2) acquire the services of chemists, physicists, engineers, and other personnel by contract or otherwise;

(3) utilize the facilities of Federal scientific laboratories;

(4) establish and operate necessary facilities and test sites to carry on the continuous research, testing, development, and programing necessary to effectuate the purposes of this title;

(5) acquire processes, technical data, inventions, patent applications, patents, licenses, land and interests in land (including water rights), plants and facilities, and other property or right by purchase, license, lease, or donation pursuant to the Federal Property and Administrative Services Act (40 U.S.C. 471) as amended, where applicable;

(6) assemble and maintain pertinent and current scientific literature, publications, patents, licenses, land and interests in land (including water rights thereto);

(7) cause onsite inspections to be made of promising projects, domestic and foreign, and in the case of projects located in the United States, cooperate and participate in their development when the purposes of this title will be served thereby;

(8) foster and participate in regional, national, and international conferences relating to water resources;

(9) accept financial and other assistance from any local, State, Federal, or other agency or entity in connection with studies or surveys relating to water problems and facilities and enter into contracts with regard to such assistance;

(10) coordinate, correlate, and publish information with a view to advancing the

development of practicable water conversion projects; and

(11) cooperate with other Federal departments and agencies, with State and local departments, agencies, and instrumentalities, and with interested persons, firms, institutions, and organizations.

Sec. 401. (a)(1) There is hereby authorized to be appropriated for the purpose of carrying out the program described in subsection 101(a) of this Act an amount sufficient to provide $150,000 to each participating institute, on a cost-sharing basis, for the fiscal year ending September 30, 1979, and an amount sufficient to provide $175,000 to each participating institute on a cost-sharing basis, for the fiscal year ending September 30, 1980.

(2) There is authorized to be appropriated, on a cost-sharing basis, for the purpose of carrying out the provisions of subsection 101 (c) of this Act the sum of $750,000 for the fiscal year ending September 30, 1979, and the sum of $1,350,000 for the fiscal year ending September 30, 1980, all to remain available until expended.

(2) Cost sharing under sections 101(a) and 101(e) shall be on the basis of two Federal shares to not less than one non-Federal share. Federal funds made available under this section shall not be used for support of indirect costs as defined by current Federal regulations; however, such indirect costs may be credited as a non-Federal contribution to the total cost of activities to be carried out pursuant to the Federal grant or contract.

(b) There is authorized to be appropriated for purposes of carrying out the provisions of section 105(a) of this Act for the fiscal year ending September 30, 1979, the sum of $6,000,000, and for the fiscal year ending September 30, 1980, the sum of $10,000,000, all to remain available until expended, to match on a dollar-for-dollar basis, funds made available by non-Federal sources to meet the necessary expenses of specific water resources research and development projects which could not otherwise be undertaken.

(c) There is authorized to be appropriated for purposes of carrying out the provisions of section 105(b) of this Act for the fiscal year ending September 30, 1979, the sum of $5,200,000, and for the fiscal year ending September 30, 1980, the sum of $10,000,000 all to remain available until expended, which shall be available on a competitive basis to any organization or individual to finance grants, contracts, matching grants, or other arrangements which equal 100 per centum, or any lesser per centum of the total cost of the project involved.

(d) There is authorized to be appropriated for purposes of carrying out the provisions of section 109 of this Act for the fiscal year ending September 30, 1980, the sum of $1,000,000 to remain available until expended, which shall be available on a competitive basis to any organization or individual to finance projects pursuant to the terms of said section 109.

Sec. 402. (a) There is authorized to be appropriated to carry out the provisions of title II of this Act for the fiscal year ending September 30, 1979, the sum of $12,000,000, and for the fiscal year ending September 30, 1980, the sum of $16,000,000, all of which is to remain available until expended. The funds authorized to be appropriated for the fiscal year ending September 30, 1979, shall be obligated in accordance with the categories and subcategories of saline water conversion research and development activity set forth in the Committee Report accompanying this legislation. Funds authorized to be appropriated for the fiscal year ending September 30, 1980, shall be distributed to categories of activity as determined by budgetary priorities prevailing at the time of appropriations.

(b) No more than 5 per centum of the funds to be made available in any fiscal year for research under the authority of this title may be expended for foreign activities subject to the approval of the Secretary of State to assure that such activities are consistent with the foreign policy objectives of the United States, in cooperation with public or private agencies in foreign countries for research useful to the programs in the United States.

Sec. 403. There is authorized to be appropriated the sum of $4,464,000 for the fiscal year ending September 30, 1979, and the sum of $5,100,000 for the fiscal year ending September 30, 1980, to carry out the sections of titles I, II, III, and IV of this Act other than those for which special specific authorizations are made.

Sec. 404. Each application for a grant, pursuant to this Act, shall, among other things state the nature of the project to be undertaken, the period during which it will be pursued, the water problem it addresses, the qualifications of the personnel who will direct and conduct it, the importance of the project to the water-related economy of the Nation, the need for and expected utilization of the results, the region and the State concerned, its relation to other known research projects previously conducted or currently being pursued, the procedures by which the results can be disseminated, and the extent to which it will provide opportunities for the training of water resources scientists and engineers. No grant shall be made except for projects approved by the Secretary and all grants shall be made upon the basis of the merit of the project, the need for the knowledge it is expected to produce when completed, and the opportunities it provides for the training of water resources scientists and engineers.

Sec. 405. (a) Sums appropriated pursuant to this Act may be paid at such times and in such amounts during each fiscal year as determined by the Secretary and upon vouchers approved by him. Except as may be otherwise specified by this Act, funds received pursuant to such payment may be used for any allowable costs within the meaning of the Federal procurement regulations that establish principles for determining costs applicable to research and development under grants and contracts with educational institutions.

(b) Each State institute operating pursuant to title I of this Act shall have an officer appointed by its governing authority who shall receive and account for all funds paid to the institute under the provisions of this Act and who shall provide to the Secretary an annual statement of the amounts received under any of the provisions of this Act during the preceding fiscal year, and of its disbursement. If any of the moneys received by the authorized receiving officer of any State institute under the provisions of this Act shall, by any action or contingency, be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced and until so replaced no subsequent disbursement of Federal funds shall be made to any institute of such State.

Sec. 406. (a) The Secretary shall cooperate fully with, and shall obtain the continuing advice and cooperation of, all agencies of the Federal Government concerned with water problems, State and local governments, and private institutions and individuals, to assure that the programs conducted under this Act will supplement and not duplicate other water research and technology programs, will stimulate research and development in neglected areas, and will provide a comprehensive, nationwide program of water resources research and development. In order to further these purposes, as well as to assure research undertaken by the Secretary on wastewater treatment and treatment of water for potable use is most responsive to needs in implementing the Federal Water Pollution Control Act, as amended (Public Law 92-500), and the Safe Drinking Water Act, as amended (Public Law 93-523), the Secretary will consult with the Administrator of the Environmental Protection Agency in developing and implementing programs in these areas. The Secretary will encourage utilization of the center referred to in title III, section 302, for cataloging current research projects in order to assure that programs conducted under this Act will supplement and not duplicate other research and technology programs and will encourage other Federal agencies to do likewise.

(b) The President shall, by such means as he deems appropriate, clarify agency responsibilities for Federal water resources research and development and provide for interagency coodination of such research, including the research authorized by this Act. Such coordination shall include (1) continuing review of the adequacy of the Government-wide program in water resources research and development and identification of technical needs in various water resources research categories, (2) identification and elimination of duplication and overlaps between two or more programs, (3) recommendations with respect to allocation of technical effort among the Federal agencies, (4) review of technical manpower needs and findings concerning the technical manpower needs and findings concerning the technical manpower base of the program, (5) recommendations concerning management policies to improve the quality of the Government-wide research effort, and (6) actions to facilitate interagency communication at management levels.

(c) The Secretary shall report within one year of the date of enactment of this Act to the chairman of the Committee on Science and Technology of the House of Representatives concerning actions taken by the Secretary and the President to implement this section.

Sec. 407. (a) Property acquired by the Secretary under this Act for use in furtherance of the purposes of this Act may be conveyed to a cooperating institute, educational institution, or nonprofit organization in accordance with the Federal Property and Administrative Services Act of 1949, as amended.

(b) The Secretary may dispose of water and byproducts resulting from his operations under this Act. All moneys received from dispositions under this Act shall be paid into the Treasury as miscellanous receipts except where such operations may be undertaken as a part of a Federal reclamation project in which case the financial provisions of the reclamation laws (32 Stat. 388 and Acts amendatory thereof and supplementary thereto) shall govern.

Sec. 408. With respect to patent policy and to the definition of title to, and licensing of inventions made or conceived in the course of, or under any contract or grant pursuant to this Act, and notwithstanding any other provision of law, the Secretary shall be governed by the provisions of sections 9 and 10 of the Federal Nonnuclear Energy, Research, and Development Act of 1974 (Public Law 93-577; 88 Stat. 1887, 1891; 42 U.S.C. 5908, 5909): *Provided, however*, That subsections (l) and (n) of section 9 of such Act shall not apply to this Act: *Provided further, however*, That, subject to the patent policy of section 408, all research or development contracted for, sponsored, cosponsored, or authorized under authority of this Act, shall be provided in such manner that all information, data, and know-how, regardless of their nature or mediums, resulting from such research and development will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be usefully available for practice by the general public consonant with the purpose of this Act.

Sec. 409. The institutes shall submit a summary report to the Secretary on or before January 31 of each year which highlights research and development work accomplished during the preceding fiscal year, the status of projects underway, and recommended future projects. This report is in addition to such other reports as may be required by sections 101(b) and 405(b) of this Act. The Secretary shall submit a summary report to the President and the Congress on or before April 1 of each year which summarizes program activities of the preceding fiscal year and projects for the future.

Sec. 410. (a) The Water Resources Research Act of 1964 (Public Law 88–379, 78 Stat. 329; 42 U.S.C. 1961 et seq.), as amended, and the Saline Water Conversion Act of 1971 (Public Law 92–60, 85 Stat. 159; 42 U.S.C. 1959 et seq.), as amended, are hereby repealed.

(b) Nothing elsewhere in this Act is intended to repeal, supersede, or diminish existing authorities or responsibilities of any agency of the Federal Government concerning water resources.

(c) Nothing in this Act shall be construed to alter existing law with respect to the ownership and control of water.

Sec. 411. Any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by the Secretary of the Interior in connection with, or affecting, the adminiistration of any program authorized by this Act or by section 2 of the Act of August 2, 1977 (Public Law 95–84) shall be transmitted to the Speaker of the House of Representatives and the President of the Senate and shall not become effective for forty-five days after the date of such transmittal. The forty-five day period shall be deemed to run without interruption except during periods when either House is in adjournment to a day certain for a period of more than four consecutive days.

Sec. 412. Notwithstanding any other provision of this Act. authority to enter into contracts or cooperative agreements and to make payments under this Act shall be effective only to the extent or in such amount as are provided in advance in appropriation Acts.

UP AMENDMENT NO. 1924

Mr. HODGES. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. Hodges) proposes an unprinted amendment numbered 1924.

Mr. HODGES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

1. On page 7, after line 12, insert the following:

"(5) The designated institutes will receive comment on and transmit all research and development proposals from the academic community to the Secretary for consideration and funding."

2. On page 11, line 9, "Sec. 107." is amended to read as follows;

"Sec. 107. As used in this title, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam the Virgin Islands the Northern Mariana Islands, and the Trust Territory of the Pacific Islands."

3. On page 16, line 22, subsection (b) is amended to read as follows;

"(b) the term 'United States' extends to and includes the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands."

4. On page 17, line 16, strike all through line 23 and insert the following:

Sec. 205. (a) Subsection 2(a) of the Act of August 2, 1977 (Public Law 95–84) is hereby amended by striking "four" and inserting "five" and by striking "Puerto Rico, Virgin Islands, and Guam:" and inserting "the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands:".

5. On page 18, line 10, strike "$20,000,000" and insert in lieu thereof "$10,000,000".

6. On page 23, line 24, strike "$10,000,000" and insert in lieu thereof "$8,500,000".

7. On page 24, line 8, strike "$10,000,000" and insert in lieu thereof "$8,000,000".

8. On page 24, line 20, Sec. 402(a) is amended to read as follows:

"Sec. 402. (a) There is authorized to be appropriated to carry out the provisions of title II of this Act for the fiscal year ending September 30, 1979, the sum of $12,000,000, and for the fiscal year ending September 30, 1980, the sum of $14,000,000, all of which is to remain available until expended. The categories for which such funds are authorized are research. development and demonstration plant studies. The funds appropriated to such authorization shall be distributed to the foregoing categories as determined by prevailing budgetary priorities.".

9. On page 31, lines 24 and 25, delete the words "forty-five" in both places and insert in lieu thereof "thirty" in both places.

Mr. HODGES. Mr. President, I move that the Senate concur in the amendment of the House to S. 2704, with the amendment of the Senate which I have sent to the desk, and I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HODGES. Mr. President, I move that the Senate concur in the amendment of the House to S. 2704 with the amendment of the Senate.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. HODGES. Mr. President, they have been cleared with the minority side.

Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WALLOP. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HODGES. I thank the Chair.

Mr. WALLOP. Mr. President, the minority has no objection.

Mr. President, the minority has a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WALLOP. The inquiry is, Mr. President, whether only the amendments to S. 2704 were passed or whether the bill, including the amendments, was passed.

The PRESIDING OFFICER. The Senate agreed to the House amendment with an amendment, which is embodied in the Hodges unprinted amendment numbered 1924.

Mr. WALLOP. I thank the Chair.

Mr. President, the minority appreciates the consideration of the Senator. I ask unanimous consent that a statement by Senator Domenici be printed in the Record at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Domenici

Mr. President, I support these amendments, which will resolve the relatively minor differences that exist between the House-passed and Senate-passed versions of this important bill. Our action today will eliminate the need for a Conference on this legislation, for we have received assurances from the leaders of the House Committee that these amendments are acceptable to them. Therefore, I urge passage of this bill, with these amendments.

I would like to commend Chairman Meeds of the House Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs, and my colleague from New Mexico, Mr. Lujan, the ranking Republican on that Subcommittee, for their cooperation and work in resolving our differences on this bill.

The purpose of this legislation is to establish an organic act for the Department of the Interior's Office of Water Research and Technology (OWRT), and to provide more effective controls and support for this needed work. This bill consolidates the Water Resources Research Act of 1964 (Public Law 88–379) and the Saline Water Conservation Act of 1971 (Public Law 92–60); and expands somewhat the authority of the Water Research and Conservation Act of 1977 (Public Law 95–84).

S. 2704 provides greater emphasis on technology development and demonstration, the coordination of research and development, and the dissemination, transfer, and practical applications of research and technology developments. The development of knowledge about the use of the Nation's limited resources of water is essential if we are to meet our needs for additional supplies of water. The bill authorized appropriations for fiscal year 1979 consistent with the President's budget request and the levels appropriated, plus higher funding for fiscal year 1980.

The OWRT program must serve as an integral component of the Nation's policy for wise and effective management of our water resources. This program received strong emphasis several years ago, reaching a peak level of appropriations in fiscal year 1971. However, the program has declined sharply since then, stabilizing somewhat below the present level of $27,000,000 annually.

Title I of this bill re-enacts the authority for Federal matching grants to the State water institutes for water research. The bill sets the authorization for each institute at $150,000 in fiscal year 1979 and $175,000 in fiscal year 1980. While this is below the current level of authorization, it is substantially above the $110,000 actually appropriated annually to each institute in recent years. I would hope that we can move toward greater funding of this important work.

Matching grants for additional special research by the institutes are authorized at a level of $6,000,000 in F.Y. 1979 and $8,500,000 in F.Y. 1980 in this bill. The compromise, in addition, authorizes $5,000,000 in F.Y. 1979 and $8,000,000 in F.Y. 1980 for research grants to be available to any interested party on a competitive basis. Such competition will encourage a more effective program, one that strengthens the national effort to find more effective ways to use and improve water.

Title I also involves technology transfer. A separate authorization might limit the flexibility of the institutes, to the detriment of their overall programs. It is anticipated that each institute will utilize some of its funding to implement an effective technology transfer effort in the State. In addition, the bill authorizes $750,000 in F.Y. 1979 and $1.350,000 in F.Y. 1980 for additional technology transfer grants. These sums will be made available on a competitive basis, with the institutes receiving preference. This money is intended to emphasize special new initiatives, particularly when an effort can be made to develop regional technology transfer programs.

I believe that Title II, which authorizes research on the improvement of saline or other types of impaired waters, represents the most significant aspect of this bill. This title is designed to enhance the program for research at existing facilities. Totals of $12 million in F.Y. 1979 and $14 million in F.Y. 1980 are authorized for this activity.

The Administration's original bill failed to include a proper and sufficient emphasis for the development of the saline water conversion demonstration plants. These plants were authorized by Congress last year in the Water Research and Conservation Act of 1977 (Public Law 95–84). Section 2 of that 1977 Act authorized construction of four such demonstration projects at a total cost of $40,000,000. The House bill added two demonstrations, raising the total authorized to $60,000,000. Our compromise provides a total $50,000,000 for five demonstrations. This bill leaves in place the directive to the Secretary of the Interior that he "study, design, construct, operate, and maintain desalting plants demonstrating the engineering and economic viability of membrane and phase-change desalting processes at not more than four locations in the United States . . . provided, that at least two such plants shall demonstrate desalting of brackish ground water."

I would hope that the Department will give this program the highest priority, so that these demonstrations can go forward as rapidly as possible.

I would point out that the representatives of the Administration testified to the Committee on Environment and Public Works: "Demonstrations are needed to obtain cost and performance data needed by water planners and water suppliers to make judgments and decisions regarding how saline water technology can be applied to solve or mitigate real world water problem situations. Technology that is only developed to the pilot plant stage is not adequate to assure the viability of saline water conversion technology as a solution to real world water problems."

As the Senate Committee's report on this bill (S. Report 95–836) noted, one opportunity for such a demonstration is in the Tularosa Basin of New Mexico, where sufficient underground brackish water exists that, if purified, could meet regional water needs for centuries. I would anticipate that a second plant in New Mexico should be reasonable, due to the increase in this compromise, because of the major saline problems in New Mexico.

Mr. President, I believe this is a good bill, one that should improve our knowledge and ability to utilize our water resources more effectively. I urge the adoption of these amendments to the House bill, which are in keeping with the Senate's original approach.

ORDER TO HOLD H.R. 13418 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as it is received H.R. 13418 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL SEA GRANT PROGRAM AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 10822.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 10822) entitled "An Act to improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes", with the following amendments:

1. Page 1, line 7, after "SEC. 2." insert (a).

2. Page 1, after line 9, insert:

(b) Section 202(a)(3), 203(3), 204, and 211 are each amended by striking out "national sea grant program" each place it appears therein and inserting in lieu thereof "national sea grant college program".

(c) The section heading of such section 204 is amended to read as follows:

"SEC. 204. NATIONAL SEA GRANT PROGRAM."

3. Page 2, line 10, strike out "25", and insert: 205.

4. Page 2, line 18, strike out "26", and insert: 206.

5. Page 4, strike out lines 2 and 3, and insert in lieu thereof the following: ment Act of 1976 (33 U.S.C. 1124a) is amended—

(1) by striking out "National Sea Grant Program Act" each place it appears therein and inserting in lieu thereof "National Sea Grant College Program Act";

(2) by amending subsection (a)(2) to read as follows:

"(2) promote the exchange among the United States and foreign nations (including, but not limited to, developing foreign nations) of information and data with respect to the assessment, development, utilization, and conservation of such resources."; and

(3) by amending the first sentence of subsection (c) to read as follows:

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

REFERRAL OF A BILL—S. 2793

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2793, a bill to provide for appellate review of decisions of the High Court of American Samoa, be referred to the Committee on Energy and Natural Resources for not to exceed 60 calendar days.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I believe there is one order for the recognition of a Senator tomorrow; is that correct?

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR RECESS UNTIL 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Chair understand the time has been changed from 8:30 a.m. 8:45 a.m.?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The RECORD will so show.

ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I believe the order has already been entered, has it not, for the Senate to take up the Defense authorization bill following the recognition of the Senator under the order previously entered?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And what further orders are there for tomorrow, if any?

The PRESIDING OFFICER. Under the present orders, upon completion of the Defense authorization bill the Senate will proceed to the Labor-HEW appropriations or to S. 1185, the parimutuel wagering legislation.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I would anticipate several rollcall votes tomorrow. There is a time agreement on the Defense authorization bill, and amendments to the HEW appropriations bill may be called up tomorrow. I would hope they would be. Possibly the Senate can dispose of that bill. So there will be rollcall votes tomorrow. The Senate will come in early and go out late.

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 8:45 a.m. tomorrow.

The motion was agreed to; and at 7:17 p.m. the Senate recessed until Tuesday, Setpember 26, 1978, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate September 25, 1978:

IN THE COAST GUARD

The following Reserve officers of the U.S. Coast Guard to be permanent commissioned officers in the Regular Coast Guard in the grades indicated:

Lieutenant commander

Richard B. Cole.

Lieutenant

Michael M. Abbene.
Donald L. Hale.
William E. Lewis.

Lieuenant (junior grade)

Robert W. Renoud.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be lieuteant colonel

Ferre, George A., 265–44–3979.

DENTAL CORPS

To be captain

Fitzpatrick, Warren A., 561–70–9613.
Lukosik, David R., 354–34–6394.

The following persons for appointment as Reserve of the Air Force, in the grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated.

MEDICAL CORPS

To be lieutenant colonel

Acostamelendez, Antonio E., 581–46–9776.
Affleck, John H., 257–50–7716.
Battaglia, Carl J., 036–26–1303.
Blakely, Lee A., Jr., 251–40–5844.
Calico, Forrest W., 403–52–7899.
Cooper, Robert R., 049–05–3842.
Danielson, Harry A., 540–40–7863.
Hendley, John E., 258–42–8965.
Hunter, Laurel V., 215–22–4118.
James, Carroll F., 305–22–0253.
Palzinski, Lawrence E., 335–18–1330.
Sewell, Sidney R., 230–42–8376.
Wilson, Robert D., 427–05–6807.

The following officer for appointment as Reserve of the Air Force, in the grade indicated, under the provisions of section 593, title 10, United States Code:

LINE OF THE AIR FORCE

To be lieutenant colonel

Trainer, Thomas R., 285–22–4182.

The following persons for appointment as Reserve of the Air Force (ANGUS), in the grade indicated, under the provisions of sections 593 and 8351, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Baldi, Aldo G., 106–30–0333.
Jenkins, John T., 572–36–2622.

The following officer for appointment as Reserve of the Air Force (ANGUS), in the grade indicated, under the provisions of sections 593, 8351, and 8392, title 10, United States Code:

LINE OF THE AIR FORCE

To be colonel

Darst, James E., Jr., 493–30–3354.

The following officers for promotion in the Air Force Reserve, under the provisions of sections 8376 and 593, title 10, United States Code:

MEDICAL CORPS

Lieutenant colonel to colonel

Hessert, Edmund C., Jr., 154–22–7820.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Carlile, Billy R., 525–84–0123.
Cooper, Charles R., 249–60–3230.
Galindo, Raymond, 114–30–8053.
Kelley, Francis J., 409–64–6739.
Noblitt, Richard C., Jr., 280–34–5598.
Rusnak, Charles M., Jr., 080–32–6175.

CHAPLAIN CORPS

Herbert, Douglas G., 148–20–4401.

MEDICAL CORPS

Komer, Robert A., 365–38–4603.
Acevedo, Julio E., 047–40–4236.
Berger, Bernard W., 563–44–3982.
Brandt, Eldon D., 499–38–4098.
Chua, Ernesto L., 319–42–8595.
Hathaway, Ralph E., 004–26–9532.
Kennedy, Russell V., 028–18–1354.
Klint, Kenneth, 531–34–2776.
Luz, Pablito S., 218–56–5393.
Null, Donald M., Jr., 206–34–9534.
Rizzo, Patricia A., 021–28–3439.
Suter, Darvin K., 171–28–1574.
Viscardi, Andrew C., 453–50–9144.
Winer, Stephen F., 048–34–1656.

NURSE CORPS

Kippel, Eugene J., 074–34–7222.

The following named officer for promotion in the U.S. Air Force in the temporary grade indicated, under the appropriate provisions of chapter 839, title 10, United States Code, as amended:

LINE OF THE AIR FORCE

Major to lieutenant colonel

Kasperbauer, James C., 479–44–3002.

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under the provisions of title 10, United States Code, sections 3442 and 3447:

MEDICAL CORPS

To be colonel

Egan, Thomas J., 367–46–4917.
Griffith, Donne G., 543–36–0472.

ARMY PROMOTION LIST

To be lieutenant colonel

Bulger, John P., 100–28–9049.
Burke, Robert J., 115–30–1201.
Cohen, James M., 369–38–2465.
Hamblen, John B., 342–28–9028.
Harriman, Charles T., 017–30–2737.
Hollis, Neil B., 442–38–5167.
Maimbourg, Eddie L., 445–34–2588.
Merriam, Charles S., 412–58–3964.
Smith, Doyle E., 432–68–3987.
Tait, Donald A., 554–52–8377.

CHAPLAIN CORPS

To be lieutenant colonel

Dick, Anthony W., 409–50–6591.

JUDGE ADVOCATE CORPS

To be lieutenant colonel

Stockstill, Charles J., 435–40–2046.

MEDICAL CORPS

To be lieutenant colonel

Ball, Robert M., 530–26–4442.
Griffith, James S., 544–52–7391.
Madden, William A., 572–62–1750.
Meinert, William J., 296–36–6068.
Salander, James M., 009–30–0537.
Sharma, Ashok, K., 062–46–3192.
Thomsen, Russel J., 537–38–8650.

The following-named officers for promotion in the Regular Army of the United States, under provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be major

Abbott, Michael H., 271–38–9933.
Ackels, Alden D., 571–52–9277.
Adam, Leroy A., 518–44–1268.
Adams, Bertram E., 222–28–4625.
Adams, Curtis H., 249–68–9254.
Adams, Luther M., 240–56–3123.
Adams, Nolan J., 435–66–1235.
Adams, Ronald E., 417–58–5264.
Ahrens, Roger W., 147–32–8562.
Aldrich, Clifton H., 021–30–1047.
Alexander, Duane R., 514–34–4022.
Alexander, Edward G., 411–68–2689.
Alexander, John B., 388–38–3091.
Alger, John I., 068–36–8641.
Aljets, John W., 498–42–2384.
Allen, Cary D., 424–56–7883.
Allport, George H., 171–34–1101.
Ambrose, Richard S., 252–64–6170.
Ammon, Stephen L., 254–62–8737.
Anderson, Cecil T., 466–70–1633.
Anderson, Gary L., 492–46–3351.
Anderson, Joseph B., 509–38–5843.
Andresen, Martin W., 484–50–2611.
Angel, Philip N., 225–52–3207.
Appler, Donald E., 417–52–2504.
Applin, Frank M., 038–26–3482.
Armenta, Hector, 459–64–7387.
Armijo, Gabriel C., 451–66–8226.
Armstrong, Curtis L., 267–58–2809.
Armstrong, Douglas, 132–30–5167.
Arnold, David B., 264–60–2094.
Arnold, Jimmy R., 255–58–0851.
Ashley, Kenneth W., 249–54–2544.
Asplund, Ralph E., 367–42–0312.
Asselin, Leo J., 264–60–5955.
Atchley, Oscar L., 410–70–2909.
Aux, George W., 089–36–0100
Avant, Jack B., 421–52–3337.
Ayres, Larry F., 491–44–9566.
Azuma, Eric K., 575–42–6282.
Babich, James M., 452–68–2399.
Baer, Barry S., 575–44–4751.
Bailey, Richard E., 452–66–0058.
Bailey, Ronald B., 226–56–4413.
Baird, Raymond P., 285–36–7789.
Baker, Hugh M., 223–50–3301.
Baker, James L., 574–14–7853.
Baldinger, Robert W., 126–34–2552.
Ball, Michael G., 436–58–2771.
Ballard, Joe N., 438–62–7544.
Bambini, Adrian P., 263–68–5700.
Banta, Donald J., 559–46–7892.
Barber, Paul F., 390–42–1881.
Bardot, Kenneth H., 495–46–6330.
Barker, Ballard M., 562–58–8487.
Barnaby, Richard J., 338–36–0406.
Barnes, James H., 487–46–8810.
Baron, David V., 375–38–0188.
Barry, Russell W., 181–32–9443.
Barton, Jay W., 204–32–7713.
Bartosik, Harry J., 187–34–3189.
Basham, Owen D., 406–52–9741.
Batts, William M., 462–68–8371.
Bauer, Stephen M., 451–70–3879.
Bayliss, William A., 151–32–2974.
Beamer, Ralph D., 223–52–1382.
Beaton, Edward A., 028–30–1074.
Beck, James W., 151–34–0457
Becknell, Jerry L., 417–52–6507.
Beegle, Charles L., 413–66–9073.
Behler, Gene R., 351–30–3873.
Behnke, Arthur R., 391–34–2162.
Beinlich, William A., 527–58–6665.
Bell, Douglas J., 516–42–7037.
Beller, Richard L., 458–66–2313.
Belson, Norman D., 138-32–3025.
Belt, Richard L., 578–56–8951
Benoit, Edmond J., 038–24–5089.
Benton, David L., 068–36–8645.
Berggren, Tommy H., 526–62–0093.
Bernabe, Gilbert A., 554–52–0723.
Berry, Rolland H., 230–50–4319.
Best, David S., 013–30–8193
Bezek, Robert J., 295–42–6724.
Bhalla, Arun K., 303–44–2300.
Bielenberg, Douglas, 153–30–8572.
Bierden, John A., 472–46–3381.
Bippes, Jackie E., 532–40–0563.
Birchfield, Walter, 235–65–2566.
Birdseye, William S., 460–66–9872.
Bishop, Gilbert L.. 553–50–0820.
Bishop, Glade M., 068–36–8648.
Bisno, Chester J., 564–56–9807.
Bittenbender, Edward, 230–52–7527.
Black, Elbert C., 428–86–8190.
Blacker, Blair K., 231–58–6364.
Blackwell, Paul E., 249–66–6308.
Blake, Bruce A., 221–28–3702.
Blanchard, James A., 021–30–5434.
Blieberger, Anton G., 508–52–4484.
Bliss, Stephen M., 183–34–4818.
Blizzard, Bardon Jr., 286–40–1870.
Blodgett, David S., 034–30–0701.
Blood, George H., 223–54–7607.
Blue, Thomas J., 385–40–1502.
Bodelson. Patrick J., 501–46–8105.
Boegler, Kenneth G., 034–30–8181.
Boerckel, Richard A., 210–32–0376.
Bogan, Robert, 095–32–0296.
Bohannon, John R., 499–44–0973.
Bohannon, Melvin L., 466–60–4580.
Bohonak, Michael, Jr., 251–72–1625.
Bolin, Daniel H., 287–40–8828.
Bolin, Harold E., 486–40–8988.
Boling, Joseph E., 565–60–9688.
Bonn, Larry L., 277–34–4189.
Bonnett, Mitchell E., 215–42–5301.
Bonney, Charles E., 455–56–0233.
Bostley, Arch D., 166–32–1131.
Bouchard, Raymond E., 085–32–2218.
Bowen, Wallace J., 429–78–0105.
Bowers, John E., 424–48–7155.
Bowers, Norman L., 489–42–4930.
Bowman, Kenneth M., 543–46–9779.
Boyle, David J., 034–28–8071.
Bozeman, John R., 405–48–1590.
Braccia, Joseph C., 044–34–2839.
Brackett, Thomas R., 223–48–7350.

Brammer, Craig W., 255–56–3253.
Bratcher, Arnold T., 560–58–5726.
Brauer, Vaughn D., 518–42–1037.
Braun, Bruce A., 315–40–5207.
Brawley, Michael J., 014–32–7333.
Brede, Lawrence, Jr., 576–42–2039.
Breeden, Kenneth R., 233–54–2392.
Brennan, Timothy E., 038–26–3836.
Brewer, Dennis W., 578–54–0719.
Brickman, James F., 492–44–8803.
Brinkley, Barry A., 234–64–7704.
Brinkley, William A., 419–54–7248.
Briscoe, Charles H., 177–34–2056.
Brock, George R., 068–36–8650.
Brock, Thomas S., 063–34–1821.
Brooke, Ronald M., 455–70–4254.
Brown, Lloyd K., 519–46–8431.
Brown, Robert D., 068–36–8651.
Browne, John T., 135–44–4167.
Brownlee, William R., 251–54–6994.
Brumley, Leland J., 447–40–6901.
Bryant, James A., 227–54–0278.
Bryant, John T., 402–54–7238.
Bryant, Michael W., 115–32–0127.
Buchan, James C., 295–38–4716.
Budzyna, Fred K., 028–28–7851.
Buehler, Christian, 216–38–4327.
Bunch, Ronald C., 197–32–4384.
Bunner, Ronald C., 557–56–7363.
Buntz, Burke O., 289–38–3382.
Burch, William C., 143–32–8753.
Burdge, Lloyd H., 441–48–5160.
Burgett, Robert C., 452–54–4982.
Burney, Samuel M., 565–56–9492.
Burpee, David H., 539–40–3813.
Burres, Stephen W., 303–46–2536.
Burtnett, John W., 203–32–0456.
Bush, Charlie L., 247–76–0464.
Butcher, Joe L., 432–62–5768.
Bynum, Welfert L., 458–58–0308.
Cabanillas, Claude, 434–60–6764.
Cabaniss, Edward H., 050–34–7455.
Cabell, Lawrence C., 008–30–2163.
Caggiano, Anthony F., 154–34–3042.
Cahill, Peter J., 284–38–3807.
Cain, Joel M., 549–52–7160.
Calloway, Charles T., 013–34–2946.
Calvert, Russell W., 265–62–4489.
Camia, Dante A., 151–32–5425.
Campbell, David H., 408–74–0223.
Campbell, Douglas B., 146–36–0767.
Campbell, Robert T., 499–46–4323.
Campbell, Robert W., 416–54–7545.
Campbell, Vernon A., 006–42–1730.
Cancellare, Joseph, 567–50–5815.
Cape, James W., 249–64–6763.
Carden, Charles H., 261–52–1316.
Cardona, Lannie D., 514–40–5536.
Carlsen, Dale A., 517–50–3144.
Carlson, Ronald W., 351–32–1568.
Carlson, Roy S., 534–36–1683.
Carpenter, Bernard, 008–30–8208.
Carpenter, Thomas B., 439–54–7055.
Carr, Byron H., 452–62–4064.
Carr, Terry A., 238–60–5619.
Carstensen, Harold, 477–48–2722.
Cart, Frederick, J., 502–46–5753.
Carter, Hubert C., 239–70–2747.
Carter, William D., 579–56–6809.
Carter, William G., 104–36–3026.
Cary, Richard B., 131–30–0113.
Castleberry, Johnny, 422–54–0626.
Cato, Robert B., 226–54–0250.
Catron, Donald J., 402–58–4426.
Cavanaugh, Charles, 070–34–7239.
Cejka, David C., 391–38–8452.
Cerone. Daniel T., 278–38–8783.
Cestaro, Michael J., 106–30–9347.
Chaboudy, Carl H., 285–38–9942.
Chambers, Roy E., 525–80–8974.
Chandler, Nicholas, 024–30–2850.
Chantelau, William, 068–34–7506.
Chapman, Jesse L., 442–42–2773.
Chapman, Richard W., 068–36–8657.
Chapman, Thaddius, 223–56–0839.
Chappelle, John C., 230–56–2612.
Charles, Frederick, 144–34–2082.
Chartier, Larry M., 534–34–3513.
Chase, Emery J., 227–54–4398.
Chesarek, William D., 517–46–7793.
Chiaramonte, William, 585–10–2888.
Christman, Daniel W., 302–36–9745.
Christopher, Edwin, 287–38–2397.
Christy, William B., 315–38–5760.
Cimral, Ted A., 561–56–5306.
Cindric, Thomas A., 170–34–1704.
Clark, Alexander J., 461–66–3214.
Clark, David W., 027–28–8606.
Clark, Solomon C., 259–50–6479.
Clark, William B., 264–64–4764.
Clarke, Bruce B., 515–40–3410.
Class, John B., 388–40–9431.
Clegg, Douglas W., 256–68–7953.
Clements, Miles T., 259–60–8134.
Clements, Theodore, 207–34–0890.
Clemer, Donald E., 255–60–4843.
Clover, Robert L., 479–50–8244.
Coates, Edward J., 493–38–9576.
Cobb, Alvin B., 448–40–9792.
Coburn, George C., 449–64–6189.
Cochrane, Charles B., 458–72–6089.
Cocks, Alan R., 139–32–0934.
Colgan, Eugene D., 128–32–6113.
Collins, Patrick W., 503–48–3230.
Collins, Philip R., 077–32–5481.
Collum, Charles E., 431–68–3435.
Combs, Dudley D., 527–48–0816.
Comi, Thomas R., 070–34–6592.
Concannon, John F., 016–32–5510.
Conklin, Gary P., 548–62–4863.
Connolly, William J., 033–30–1670.
Connor, John E., 186–34–2021.
Connor, Michael J., 516–42–7392.
Conoboy, Richard J., 285–38–0766.
Conrey, Robert W., 499–38–9707.
Conway, George L., 510–44–3372.
Conway, Peter J., 551–48–8153.
Cook, John A., Jr., 465–64–1762.
Cook, Theodore L., 526–60–4162.
Cooper, Philip R., 054–34–8536.
Corcoran, Charles A., 247–76–9988.
Cornick, Thomas H., 068–30–8565.
Cosand, Charles L., 311–38–0253.
Cossey, Gerald R., 403–58–5422.
Coughlin, James M., 033–30–0772.
Counts, Clyde G., 184–32–6423.
Coupe, Dennis F., 549–62–7520.
Courte, John P., 376–36–1064.
Covington, Terrell, 247–66–5703.
Cox, Robert S., 443–44–5688.
Craig, Kervin A., 497–46–0459.
Crawford, David H., 257–66–7787.
Creel, Joe C., 423–58–0614.
Crimmins, Walter J., 013–32–6081.
Cross, Ned G., 459–62–5074.
Cross, William R., 526–60–6593.
Crowe, Bobby N., 421–52–5476.
Crown, Francis J., 231–56–8225.
Croy, Roy D., Jr., 269–32–8981.
Crybiskey, Harry E., 165–34–3785.
Csoka, Louis S., 192–32–6202.
Cullen, Peter, 525–96–5489.
Cummings, Donald L., 158–32–9322.
Cummings, Joseph M., 554–56–6418.
Curtin, Thomas P., 173–34–9084.
Curtis, William A., 013–34–0738.
Curtiss, Norman L., 081–32–4616.
Dahlen, Karl R., 210–32–2273.
Dahlin, Stanley C., 576–42–2081.
Daly, Thomas H., 322–32–8652.
Dambrosia, James R., 524–52–6584.
Dangelo, Joseph S., 560–54–3566.
Daniele, Thomas N., 023–32–7113.
Danielson, Ralph M., 377–44–1396.
Daverso, Frank S., 076–32–5461.
Davis, Chester H., 521–54–8423.
Davis, Guy W., 232–62–2250.
Davis, John S., 068–36–8662.
Davis, Wilbur J., 054–32–8498.
Dawson, Robert G., 450–56–9846.
Deakin, Craig E., 021–34–8555.
Dean, Wilbert M., 231–56–5571.
Deason, Robert L., 263–60–5830.
Deasy, Kevin B., 033–30–3617.
Deberry, Thomas P., 234–68–6116.
Deems, John M., 216–42–7134.
Deen, Don E., 439–46–5290.
DeFrain, Dennis A., 506–56–2565.
DeFrancisco, Joseph, 069–34–7511.
Dehncke, Rae W., 364–44–4231.
Deist, Robert P., 285–34–3443.
DeJong, Robert V., 511–42–1659.
Delaar, Robert A., 147–32–0650.
Deline, Donald A., 499–46–1869.
Delorme, Leon T., 094–32–3924.
Demoor, Maurice A., 254–56–0936.
Dempsey, Harry J., 257_66–1119.
Denison, Gordon R., 365–42–2080.
Dent, Charles A., 430–80–9311.
Dent, Norman M., 287–30–9415.
Dermody, Henry M., 013–30–0581.
Devine, Michael R., 405–48–5972.
Devitto, John C., 125–32–4191.
Devney, Alan E., 284–34–3052.
Devoe, Smith A., 265–56_9292.
Dewitt, Clyde H., 323–32–4894.
Dimsdale, Roger, 483–46–8973.
Dodge, Steven B., 055–32–5504.
Dodson, Richard M., 493–42–7129.
Doerfel, John S., 567–38–0819.
Doerfler, Donald W., 313–34–5389.
Donaldson, Charles, 561–56–1621.
Donohue, Jeremiah F., 109–28–8124.
Donovan, John J., 350–40–3702.
Dorney, Christopher, 087–32–7047.
Doughty, Robert A., 438–64–0724.
Douglass, David G., 272–38–5970.
Dowden, Russell H., 430–74–9699.
Dowdy, James T., 223–56–3657.
Dower, James P., 008–26–6774.
Dowling, John F., 414–68–6642.
Drake, Van T., 525–86–4577.
Drew, Joseph E., 562–58–8469.
Drinkwater, David M., 564–54–3392.
Durate, Henry E., 056–34–0713.
Dubay, Donald A., 004–38–3463.
Duck, Theodore A., 185–34–8779.
Duckworth, Walter L., 439–58–9959.
Duedall, Robert L., 541–44–0957.
Duffie, Robert D., 373–42–8146.
Duggleby, Robert W., 254–54–7241.
Duke, Wayne M., 518–48–4897.
Dull, Dolan J., 365–36–7791.
Dunkelberger, James, 502–44–7708.
Dunning, Jeffrey P., 454–68–2641.
Durbin, James P., 456–64–8277.
Duval, Aaron D., 270–32–6252.
Dysart, James E., 276–38–3967.
Early, Gerald H., 517–38–4401.
Earp, Edwin L., 216–46–6840.
Echols, Eugene W., 418–50–9715.
Echols, William H., 426–76–3581.
Edwards, John T., 415–66–6864.
Eichorn, Frederic N., 528–48–5037.
Elley, George D., 503–40–5484.
Ellis, Donald A., 456–62–5879.
Emerson, William K., 515–40–8348.
Emmons, James B., 542–38–9742.
Engen, Gary O., 258–64–3522.
Engle, Clifford L., 411–68–9592.
Ervin, Charles P., 242–64–5694.
Esposito, Anthony L., 092–32–1050.
Essig, Frederick H., 265–70–6550.
Estes, Donald L., 402–58–3866.
Etheridge, John T., 262–56–8895.
Eubanks, Bobbie R., 496–42–8639.
Evans, Melvin R., 511–40–3572.
Ewart, Loel A., 262–54–6257.
Eyler, Christopher, 365–40–2367.
Falke, William P., 359–34–5776.
Farmelo, Gene R., 163–34–3671.
Farmer, Marvin R., 254–70–1592.
Faulk, Albert W., 420–46–0411.
Faulkner, William L., 405–54–3255.
Featherston, George, 461–68–6993.
Featherston, Michael, 430–74–3522.
Feight, James W., 195–26–2286.
Felder, Jerry W., 450–66–1248.
Feret, John M., 183–34–3561.
Ferguson, James E., 332–34–6739.
Ferguson, Walter N., 260–66–1909.
Fergusson, Thomas, G., 068–36–8665.
Fernandez, Carlos M., 266–60–7838.
Feuerborn, Thomas L., 442–34–7417.
Fiebig, Heinz, 396–38–4743.
Findlater, John W., 362–42–1619.
Finn, Russell N., 226–56–4320.
Fish, Grosvenor W., 563-58-3759.
Fitt, Charles B., 210–32–1628.
Fitzpatrick, James, 142–34–4687.
Fleig, Franz W., 516–46–6739.
Flesch, Joseph E., 161–32–5748.

Floca, Samuel W., 460–66–3195.
Foley, Dennis R., 267–62–2755.
Forbes, Gary L., 447–40–0646.
Fordiani, Daniel C., 160–32–8679.
Forster, Paul H., 366–42–4284.
Forster, William H., 427–68–5996.
Fortenberry, Cleveland, 527–42–9591.
Forville, David R., 309–40–9771.
Foster, Frank C., 251–64–6779.
Foster, Garry D., 459–70–3001.
Fowler, James R., 537–36–7268.
Foy, June M., 241–64–8020.
Frank, Robert T., 145–34–6091.
Franklin, William A., 241–62–9618.
Fraser, James H., 556–50–7325.
Frazer, Joe N., 452–64–1502.
Fredricks, Grant L., 558–58–9698.
Freedman, Albert, 199–28–4263.
French, John D., 409–76–0769.
Frenn, Gary A., 534–38–0348.
Friel, George E., 232–68–3079.
Frier, Ronald C., 255–44–1866.
Fritts, Richard O., 536–36–7964.
Fryer, Eugene D., 258–64–2322.
Fuller, John D., 228–56–4009.
Fulmer, Lemos L., 435–58–9543.
Fulton, John S., 256–60–0094.
Galloway, Joseph W., 404–58–7252.
Gamboa, Anthony H., 545–56–0499.
Garner, David W., 309–44–1547.
Gass, James M., 510–42–7777.
Gehringer, George S., 068–36–9953.
Gelsthorpe, Joseph, 460–68–1162.
Genega, Stanley G., 135–34–0493.
Genetti, Thomas R., 503–48–5347.
Gentine, Carl W., 564–58–3563.
Gentle, Howard B., 497–42–2310.
Gerlach, Stephen R., 473–46–3137.
Gerzel, John I., 331–34–0538.
Gesick, Edward J., 457–70–6548.
Gettig, Charles E., 195–28–9684.
Getz, John E., 193–34–1423.
Gibson, Stephen C., 397–38–5080.
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Pickler, John M., 411–64–5130.
Pierce, Harold D., 525–84–0823.
Pinomarina, Nestor, 262–78–6446.
Pittman, John V., 217–40–2988.
Pitzer, James R., 232–64–0257.
Platt, Richard A., 531–36–9066.
Pochert, Lynn C., 536–38–7088.
Poessiger, Peter H., 505–52–5832.
Pope, Robert J., 556–56–7289.
Porter, Charles W., 439–52–6097.
Potter, Leland W., 402–58–6723.
Potts, Robert E., 534–38–1331.
Powell, Robert L., 260–66–4183.
Powers, Thomas P., 326–36–0068.
Pozniak, Edward J., 335–34–2668.
Pryor, Charles A., 212–42–8577.
Pryor, Kenneth W., 451–64–0683.
Pylant, Julian E., 227–56–9761.
Quekemeyer, Henry B., 227–56–5346.
Quesenberry, John R., 547–60–8692.
Quick, Burnet R., 423–56–2293.
Quinn, Jimmie B., 430–80–1938.
Rackovan, John, Jr., 170–30–9045.
Rackstraw, James T., 362–46–3105.
Radcliffe, Robert F., 032–32–3954.
Raduege, Floyd A., 285–36–5443.
Ragus, Leonard A., 439–56–4100.
Raiford, John A., 247–70–1804.
Raines, John W., 467–70–8980.
Randles, Douglas L., 540–42–9846.
Ransberger, Lawrence, 309–42–0347.
Rawlerson, Franklin, 229–56–4981.
Ray, Larry H., 418–54–7561.
Ray, Lloyd C., 423–56–1751.
Raymond, Daniel A., 424–58–7825.
Read, Robert J., 258–64–3243.
Reaves, Donald W., 430–78–5090.
Reaves, George F., 261–52–2532.
Reavis, John R., 533–42–8074.
Rector, David W., 164–34–7010.
Redwine, Leslie C., 253–66–5591.
Reed, Charles L., 315–38–4059.
Reed, Rodney P., 448–40–0440.
Reh, Donald C., 543–46–2434.
Reiman, Lawrence N., 497–48–0776.
Reller, Frank X., 068–36–8710.
Renschen, Paul S., 473–46–3784.
Rhodes, Charles E., 488–38–2139.
Rice, Glenn M., 432–70–8603.
Rice, Richard A, 030–32–0127.
Rice, Robert R, 464–64–0681.
Richardson, Douglas, 494–46–5880.
Richardson, Edwin W., 062–32–9530.
Richardson, John W., 405–58–7634.
Richey, Rodny M., 259–64–1682.
Rickert, John E., 394–34–2077.
Ricketson, Bertram, 254–66–5743.
Riddick, Robert L., 241–62–8004.
Riggins, Hiram T., 264–50–8437.
Riley, Harry G., 579–50–7463.
Riley, Melvin E., 519–38–2343.
Riley, Richard E., 204–34–7534.
Rinecker, Johann G., 298–36–3825.
Ritcey, Lawrence A., 031–30–8189.
Ritch, William N., 110–32–9863.
Rizzato, Bruno F., 393–40–2977.
Roark, Thomas E., 400–60–9575.
Roberts, Nathaniel, 264–60–1616.
Roberts, William H., 417–54–9258.
Robinson, John C., 169–32–8117.
Roebuck, Zigmund J., 068–36–8713.
Rogers, John B., 419–54–5789.
Rogowski, Kenneth A., 425–80–0174.
Rohde, Paul A., 215–40–0495.
Roix, Robert J., 390–40–1014.
Rojas, Donald C., 551–56–3397.
Rolle, Edward N., 216–36–2674.
Romero, Silvio J., 098–32–9200.
Rood, Robert D., 564–58–8643.
Roper, Robert W., 259–64–4371.
Rosenberg, Ralph G., 535–40–2412.
Ross, Jerry A., 517–46–5656.
Ross, Thomas P., 516–44–1856.
Rosser, Henry E., 466–60–9090.
Roth, Leonard W., 498–44–1862.
Rountree, Rance H., 259–54–2002.
Rowe, Donald S., 028–32–4574.
Rozga, Anthony A., 391–46–2292.
Ruhl, Garrett E., 566–50–2945.
Runyon, George W., 235–64–6713.
Rushforth, Durward, 138–34–2917.
Russell, Richard D., 445–40–6726.
Rutledge, Edward E., 447–40–5587.
Rutledge, John H., 163–38–4533.
Ryan, Terrance C., 505–52–1032.
Ryan, William F., 525–94–2313.
Saley, Richard W., 528–52–3638.
Salinas, Carlos R., 459–70–0770.
Salter, Avery T., 079–34–4281.
Samuels, Charles W., 413–66–2039.
Sanchez, Desi J., 527–42–6486.
Sanford, Gaylord B., 518–46–2839.
Sasfy, Stephen M., 555–60–1772.
Sauer, James B., 522–50–1941.
Schallenberger, Morris G., 504–48–4631.
Schlottman, James C., 208–32–9912.
Schmeelk, Peter G., 110–34–9498.
Schmus, Richard J., 106–30–8737.
Scholl, Wayne J., 391–40–3900.
Schreiner, David M., 410–64–6647.
Schreyach, Jon C., 157–30–2248.
Schurter, William A., 545–54–0365.
Schwartz, Wayne E., 568–50–3337.
Scott, David G., 302–34–2254.
Scott, James L., 224–54–1951.
Scruggs, Hugh F., 401–60–8446.
Seawell, John P., 458–68–0819.
Selkis, Robert F., 089–32–2485.
Selzer, Robert A., 056–32–4059.
Sette, Domenic R., 179–32–7226.
Settimo, Richard J., 076–32–0660.
Severson, Daniel J., 097–32–7071.
Shaver, Michael P., 468–48–5337.
Shaw, Charles G., 228–50–5379.
Shaw, Clarence R., 242–66–2566.
Shaw, Hubert S., 006–42–5912.
Shaw, Ralph T., 260–58–1117.
Sheer, Tracy B., 537–40–9170.
Sheldon, Frederick, 265–64–9455.
Sherrell, William W., 051–34–9570.
Shiley, Roger D., 267–56–8779.
Shinseki, Eric K., 576–38–3256.
Shiver, Eustice M., 265–58–2312.
Shuford, John H., 251–58–1102.
Shukis, Charles A., 196–34–3926.
Shuler, Lucius, Jr., 157–28–8672.
Siegrist, George E., 097–30–3840.
Siemon, Patrick G., 364–42–9829.
Silva, Manuel J., 014–28–3649.
Simmons, Richard P., 236–64–3975.
Sinclair, Richard N., 364–42–4581.
Sinnreich, Richard, 056–34–0197.
Sivigny, Michael J., 220–40–4968.
Skidmore, Francis R., 231–56–0731.
Skinner, Willie R., 239–60–1518.
Slaughter, Frank L., 434–56–6949.
Slifka, John, III, 185–30–5200.
Slover, Harold L., 126–32–5118.
Smith, Chester C., 411–66–8966.
Smith, Edgar A. P., Jr., 119–32–5849.
Smith, Herbert J., II, 372–44–4078.
Smith, Houston W., 430–74–7172.
Smith, James W., 458–68–0735.
Smith, John E., 239–70–0523.
Smith, Larry J., 249–68–0077.
Smith, Lee H., 585–05–9922.
Smith, Peter M., 146–30–8467.
Smoot, Charles V., 229–46–3120.
Snow, Glen L., 510–36–2386.
Snyder, David L., 163–34–6821.
Snyder, Robert A., 519–40–8268.
Sobichevsky, Vladimir, 563–52–2761.
Sokness, Gary L., 502–44–9314.
Solomon, Mendel S., 452–54–3684.
Sorensen, James R., 562–50–2494.
Sorensen, Kenneth C., 529–50–0344.
Soron, Vitold J., 129–32–6872.
Sorrentino, George, 151–32–5383.
Souvenir, Stanley J., 540–42–3590.
Sowell, Russell W., 455–54–2325.
Sparkman, Ira H., 412–66–5035.
Sparks, William T., 467–64–5164.
Spearman, Ronald K., 249–70–2344.
Sperry, Steven M., 507–52–7462.
Spiegel, Dennis J., 163–34–6099.
Sponberg, Darrell L., 455–60–1621.
Sport, William M., 417–50–4089.
Sprague, John F., 123–34–2046.
Stair, Gary L., 579–54–4515.
Stamilio, Michael E., 132–32–6563.
Stammer, Nelson F., 220–34–9372.
Stanford, Larry R., 186–36–5465.
Stanley, Richard A., 042–32–0230.
Starbuck, Todd R., 345–36–7482.
Starr, Garrett C., 158–30–4780.
Statz, John R., 052–32–0668.
Stein, Walter J., 287–32–7437.
Stephens, Charles E., 260–66–9229.
Sterbenz, Henry W., 068–36–8725.
Stevens, T. J., 243–56–1604.
Steverson, James R., 521–54–8550.
Stgermain, Henry J., 046–34–5354.
Stilwell, Richard G., 079–34–6570.
Stocker, Ronald W., 464–62–4180.
Stoewe, Russell J., 271–36–2243.
Stokes, John P., 379–44–8208.
Stokes, Willie J., 263–52–1761.
Stolfi, John R., 161–36–8559.
Stone, Frank D., 415–64–8874.
Stracensky, Gary C., 284–38–1200.
Strich, Richard A., 045–34–5355.
Strom, Larry J., 558–58–4435.
Stuart, Rodney K., 530–24–2162.
Stull, Joseph E., 439–64–0163.
Stull, Michael D., 402–56–1389.
Sullivan, Leon W., 216–40–2805.
Sullivan, William C., 578–60–6629.
Sultenfuss, Benjamin, 466–64–0831.
Suminski, Leonard T., 377–38–8025.
Surles, Thomas B., 575–38–8342.
Sutherland, Bryan A., 312–42–4676.
Suydam, Martin J., 157–32–8339.
Swain, Oren, Jr., 523–52–9408.
Sweeden, William E., 449–56–7783.
Sweeney, John E., 089–32–4306.
Swensson, John K., 224–58–1578.
Szymanski, Ronald F., 143–32–8052.
Tabar, Roger G., 278–38–4751.
Tabor, Woody R., 452–56–6027.
Taksar, Ronald J., 045–30–0033.
Talley, James R., 431–80–1490.
Tarowsky, Edward G., 235–66–5829.
Tarr, Richard C., 012–32–8985.
Tate, Roy W., 425–88–6942.
Tavernetti, Leonard, 559–52–8271.
Taylor, James A., 573–46–2313.
Taylor, John W., 430–76–1162.
Taylor, John W., 222–24–6262.
Taylor, Larry A., 273–36–4433.
Taylor, Wesley B., 068–36–8728.
Tepper, Elliott I., 095–34–8486.
Terrell, Thompson A., 252–66–7150.
Thames, John W., 426–78–9955.
Thomas, Charles A., 464–62–6922.
Thomas, Cleveland J., 249–68–1548.
Thompson, Clark J., 527–52–6165.
Thompson, John C., 424–52–8331.
Thompson, Michael H., 477–46–2829.
Thomson, James L., 023–32–6303.
Thomson, John H., 534–88–2151.
Thornhill, Frank W., 428–76–6720.
Thornton, Harold E., 461–52–1661.
Thrash, Gerald W., 370–42–7106.
Throckmorton, Terri, 484–46–2089.
Tiggle, Charles B., 227–46–0858.
Timmerman, Frederick, 213–42–7670.
Timmons, Richard F., 231–56–0272.
Tobias, James W., 391–42–1247.

Tragakis, Chris S., 036–28–5834.
Tragemann, Richard, 166–32–5045.
Trainor, Timothy J., 223–56–7608.
Travis, Stuart B., 259–64–9418.
Treadwell, David O., 257–62–1498.
Tredennick, William, 172–34–0269.
Trew, Grady, 450–60–5303.
Trimble, Joseph F., 439–62–0255.
Tucker, David G., 033–28–3238.
Tuohig, Paul J., 138–34–3854.
Tupa, George L., 501–42–6652.
Turner, Gary D., 466–48–6921.
Turner, George H., 416–52–7352.
Turner, Lewis T., 229–46–7767.
Tutton, James R., 532–40–1000.
Tyner, Saint Elmo P., 530–60–0856.
Vanderland, Peter A., 051–34–5016.
Vanderwal, Wouter K., 545–66–2023.
Vandeven, Martin L., 393–36–0394.
Vanhorn, Fredrick E., 245–52–2395.
Vann, David B., 497–46–9519.
Vann, John M., 515–42–7442.
Vannest, John E., 003–30–7992.
Vasey, Dennis P., 390–36–2828.
Vasquez, Leopoldo R., 465–68–0786.
Vaughn, Charles G., 421–56–9660.
Vaughn, Jay E., 068–36–8733.
Vaughn, Robert R., 226–50–7965.
Verdier, Bernard L., 509–36–1111.
Vernon, Albert E., 220–40–1652.
Viani, Michael L., 519–46–8243.
Vidourek, John C., 281–34–6184.
Vincent, John R., 552–56–1331.
Viner, Tommy J., 438–66–8473.
Vlasics, Robert F., 178–34–5809.
Voda, John J., Jr., 188–32–6035.
Voelker, Edward M., 124–34–8747.
Voisine, Victor K., 370–36–4893.
Wagner, Nelson R., 055–32–7637.
Wagner, Robert L. 307–38–3630.
Wagner, Timothy W., 263–72–9893.
Wakelin, John R., 017–32–0506.
Walden, Robert J., 526–54–5500.
Waldrop, Richard S., 423–46–3096.
Walker, Glenn D., 231–58–4644.
Walker, John C., 281–34–5769.
Wallace, John R., 372–38–2180.
Walsh, Mark R., 074–32–4077.
Walter, Ronald L., 570–60–6403.
Wamble, James B., 216–42–8780.
Ward, James E., 427–64–2004.
Ward, Samuel R., 266–52–2768.
Warren, James F., 424–56–5949.
Waters, Steve R., 238–58–5621.
Watkins, Thomas G., 429–74–9004.
Watson, James M., 488–46–0492.
Wattendorf, John M., 579–56–4229.
Weaver, John M., 403–50–1983.
Webb, Dois D., 467–58–1574.
Webb, James R., 525–94–5491.
Webb, Thomas J., 397–34–9033.
Weiss, James A., 477–46–2465.
Welborn, Larry D., 422–88–1311.
Welch, Douglas M., 442–36–3706.
Wells, Geoffrey F., 054–34–6837.
Welsh, Leo F., 185–28–9078.
West, Johnny F., 451–66–1119.
West, Lowry A., 068–36–8734.
Westerberg, James F., 524–44–0183.
Westpheling, Ernest, 245–64–2072.
Wetherill, Roderick, 079–34–5218.
Whaley, Robert E., 230–54–5280.
White, Randolph C., 190–32–6960.
White, Roberts C., 275–38–0934.
White, Thomas R., 521–54–3430.
Whitehead, Howard E., 224–54–5257.
Whitehouse, Benjamin, 015–34–8744.
Whitely, Robert L., 405–48–5932.
Whitfield, Steven K., 036–26–9475.
Whittle, William A., 260–64–7715.
Wicks, Bruce J., 033–30–8376.
Wiese, Frederick W., 368–38–2774.
Wilder, Thomas F., 048–32–2629.
Williams, Charles F., 245–56–5735.
Williams, Edwin A., 460–70–2868.
Williams, George F., 224–50–8447.
Williams, Hugh A., 482–48–7683.
Williams, Jerry C., 545–58–4270.
Williams, Reeve N., 191–30–4785.
Williams, Richard C., 226–50–1451.
Williams, Ronald N., 499–44–7896.
Williams, Wayne L., 262–60–7332.
Williams Welborn J., 465–68–7876.
Willis, Roy R., 436–56–2182.
Wilmeth, James L., 163–34–7964.
Wilson, Charles R., 263–64–2608.
Wilson, Daniel M., 519–36–6529.
Wise, Franklin F., 430–74–7078.
Wisneski, Larry E., 187–34–1433.
Wissinger, Dennis O., 220–40–3939.
Wolfe, John R., 376–44–2243.
Wolfgram, Steven W., 389–40–8079.
Woltersdorf, John W., 416–52–7230.
Wood, James H., 068–36–8738.
Wood, William M., 248–64–1643.
Woodward, William B., 418–58–1415.
Woolley, Bobby J., 449–62–9689.
Wright, Gerald W., 257–64–3472.
Wu, Daniel, 084–34–5208.
Wurm, Charles M., 131–30–0597.
Yanchar, Joseph J., 473–46–2526.
Yates, Stanley F., 415–68–9580.
Yeager, Brian, 192–36–0671.
Yolch, Andrew A., 274–36–0355.
York, John M., 519–40–2554.
Zachar, Frank, 232–66–1934
Zais, Barrie E., 068–36–8739.
Zak, William E., 535–40–1393.
Zakaluk, Stephen C., 062–34–4776.
Zalar, Joseph, Jr., 215–38–8417.
Zdrojewski, Michael, 092–34–8983.
Zehnder, Joseph L., 120–32–2858
Zeigler, George H., 248–72–5898.
Zerull, Dietmar W., 129–30–2624.
Ziegler, Alfred J., 378–38–2031.
Ziegler, Bernard L., 473–48–0823.
Zimlich, Patrick D., 422–54–9947.
Zimmerman, Charles, 135–34–3184.

CHAPLAIN CORPS

To be major

Anderson, Garry B., 472–38–7138.
Brander, William, 366–38–1257.
Dresin, Sanford L., 050–34–6432.
Dytkowski, Louis M., 182–28–9847.
Fly, Francis L., 415–64–2643.
Holley, Richard H., 176–32–4724.
Iskowitz, Joel J., 109–32–7794.
Kelly, Lawrence A., 248–40–9796.
Mathis, Roy N., 248–54–3468.
McAllister, William, 143–32–0359.
McSwain, Donald W., 243–58–9842.
O'Loughlin, Stanley, 142–24–9783.
Pond, Douglas E., 465–48–1234.
Richardson, Eugene, 202–30–0486.
Robnolt, James H., 432–60–6001.
Sanner, James E., 188–24–9691.
Sharp, Billy R., 452–54–5692.
Smith, John B., 477–30–4201.
Towley, Carl K., 470–32–0597.
Webb, William P., 261–30–3519.
Williams, James A., 146–28–7858.

WOMEN'S ARMY CORPS

To be major

Clark, Doris M., 105–32–6545.
Davis, Rosemary L., 287–34–1563.
Devlin, Barbara, 137–30–1898.
Evankovich, Genevieve, 172–34–2357.
Ferrell, Constance, 056–32–2689.
Martin, Glenice J., 554–58–3242.
McFarland, Alice J., 428–94–8874.
Roberts, Janice I., 372–40–6282.
Smith, Mary J., 423–56–0675.
Spencer, Dorothy E., 187–34–3316.
Stripling, Maria J., 258–68–1225.

DENTAL CORPS

To be major

Ahlers, Robert C., 359–34–4643.
Allen, Mark V., 558–54–2303.
Antonini, Charles J., 439–60–0582.
Beebe, John E., 521–44–0320.
Butler, Gerald V., 443–42–9870.
Codd, Joseph D., 542–46–2425.
Comella, Martin C., 539–38–4914.
Cuddy, John J., 503–46–0867.
Fay, James R., 048–32–9447.
Ficara, Anthony, J., 102–36–9834.
Ganong, Stephen L., 206–32–6935.
Godat, Ronald F., 438–64–3030.
Kallio, Donald M., 029–32–6888.
Kestner, Allan T., 182–30–2365.
Kokos, Ross D., 361–40–5103.
Kuhn, John B., 092–34–7544.
Lessin, Michael E.. 338–34–9386.
McMahon, Robert E., 570–62–4333.
Nelson, Donald F., 513–42–0398.
Oleskevich, James M., 524–54–1369.
Rampton, Jon B., 528–60–0229.
Smith, Malcolm G., 424–52–8465.
Stanley, Philip J., 265–74–6335.
Tesch, Thomas N., 395–42–3690.

MEDICAL CORPS

To be major

Arkangel, Carmelito, 575–44–4596.
Bernier, Barre S., 213–42–7015.
Cavanaugh, Daniel G., 510–36–6247.
Davis, Richard C., 454–70–7741.
Doelle, John C., 364–46–9658.
Faulk, Charles W., Jr., 158–32–3915.
Finney, Jackie L., 442–44–7329.
Goodloe, Samuel, Jr., 408–72–9016.
Kramer, Kenyon K., 146–36–2069.
McDonald, Paul T., 457–66–7940.
Privitera, Charles, 101–34–2190.
Raines, David R., 183–32–6515.
Speilman, Daniel E., 233–68–1153.
Taylor, Ronald G., 223–56–8284.
Tramont, Edmund C., 047–30–2280.
Zawadsky, Peter M., 152–34–8860.
Zurlo, Joseph A., 108–34–3811.

MEDICAL SPECIALIST CORPS

To be major

Adams, Idus W., 255–66–8122.
Anderson, Kenneth W., 547–58–3182.
Arnt, Stephen W., 519–44–4702.
Aulick, Louis H., 405–52–6348.
Baker, Michael C., 554–52–7432.
Bauer, Robert S., 489–40–9978.
Blalock, William R., 263–66–5434.
Borzotra, Winslow F., 229–50–8020.
Bradshaw, Edward G., 453–72–3578.
Braun, William W., 388–42–9013.
Bronson, Marion M., 265–56–7597.
Brown, Henry H., 247–68–1115.
Byrne, Terrence R., 394–32–3416.
Case, Harry M., 309–42–3797.
Chappell, George B., 227–56–4985.
Charlton, William T., 188–26–0748.
Choate, Philips S., 006–40–0055.
Christman, Laurence, 263–60–6753.
Collopy, Eugene A., 096–32–3874.
Cooper, Clarence C., 552–52–8302.
Coventry, John A., 411–72–0361.
Covington, Bobbie J., 465–64–0983.
Crissey, Melvin P., 257–66–5624.
Davis, George H., 266–60–1446.
Debonville, Robert, 019–28–2257.
Dohany, Alexander L., 261–64–0336.
Fischer, Arthur K., 498–46–1847.
Fitz, Robert J., 562–58–5974.
Frohman, Ellis M., 040–34–2222.
Gabriel, Donald E., 397–38–1438.
Galey, James H., 444–34–7570.
Gilkey, John H., 409–60–1518.
Ginn, James P., 255–62–1679.
Glick, David D., 214–32–4456.
Hames, William H., 258–64–4781.
Hartzell, Richard E., 391–30–7896.
Harvey, William L., 411–72–1294.
Heinz, Ronald H., 265–50–3647.
Hinton, Samuel M., 223–56–7919.
Holberton, Roger E., 078–30–6637.
Howard, John R., 232–56–2272.
Hoxie, Ferman C., 456–66–4773.
Hula, Roger P., 440–44–6387.
Jacobs, Gerald D., 465–50–1872.
James, Charles H., 464–66–5880.
Jones, Thomas C., 429–78–0869.
Keel, Hugh N., 419–54–4155.
Lenz, Ernest J., 073–30–6447.
Lull, Robert W., 522–52–0231.
Lynch, Edward F., 079–34–0842.
Manning, Randolph, 255–56–9579.
Manoil, Robert, 553–48–8315.
Matt, John E., 453–70–5752.
McKelvey, L. Patrick, 461–60–2548.
McLaughlin, Peter M., 002–28–2049.
Micek, Jerome J., 505–50–2691.
Mohn, John R., 267–62–1677.

Moore, Robert T., 298-34-4944.
Morelli, Nicholas, 525-90-6805.
Myrland, Eric H., 236-64-5848.
Newbill, John L., 216-42-7484.
O'Brien, Robert M., 388-40-2700.
Odum, David J., 262-64-3017.
Paxton, Robert C., 545-52-9286.
Plank, Gordon H., 165-32-1619.
Platte, Ronald J., 284-34-7806.
Pommett, Francis A., 113-34-7087.
Porter, Steven J., 483-46-9228.
Pyle, John F., 535-40-0462.
Reid, Willis A., 238-64-3100.
Roberts, Daniel C., 401-56-7879.
Robertson, James W., 526-58-9317.
Schuyler, Linden E., 538-34-8068.
Scofield, Thomas C., 416-52-1398.
Scott, James A., 212-34-4090.
Seefeld, Herman W., 427-82-9068.
Sellers, Maurice E., 302-28-5740.
Sierra, Albert J., 265-62-7438.
Slone, Charles W., 400-60-8569.
Sorensen, Wayne B., 469-44-0821.
Steenken, Wehland G., 450-54-1742.
Tonniges, Gary L., 505-48-4893.
Usry, Robert T., 424-48-3904.
Watson, Robert J., 510-30-5055.
Weiss, Joseph D., 182-30-1620.
Wesselmann, Albert, 494-40-3249.
Whitesell, Thomas C., 179-32-0905.
Wiggins, David E., 228-5-8772.
Wilson, Edward B., 243-64-3977.
Wisdom, Harry A., 502-32-9968.
Yox, John E., 215-42-0377.

ARMY MEDICAL SPECIALIST CORPS

To be major

Bajema, Sheldon L., 532-34-5546.
Cronin, Martha A., 024-32-9990.
Ellsworth, Paul D., 263-60-0304.
Ingeman, Peter L., 330-32-8528.
Martin, Mary E., 513-42-0871.
Naranjo, Carmen J., 580-98-0376.
Palm, Leah, 515-36-0963.
Reid, Barbara C., 461-74-2671.
Stitley, Judith A., 203-34-4139.
Swift, Roy A., 513-40-3574.

VETERINARY CORPS

To be major

Alexander, Leslie L., 267-64-1644.
Deen, Wallace A., 438-64-0452.
Hall, William C., 201-32-0724.
Kelch, Willliam J., 385-44-6936.
Kolaja, Gerald J., 363-42-8073.
Konermann, Leo L., 282-38-1832.
Marrs, Glen E., 455-66-0759.
Moch, Ronald W., 492-44-8739.
Morrissey, Robert L., 349-32-1087.
Rice, Bennie, Jr., 142-34-0667.
Scharding, John H., 412-74-5208.
Staley, Leo G., 483-48-5500.
Volkmann, Heiko W., 537-40-5243.
Ward, George S., 524-58-1055.

ARMY NURSE CORPS

To be major

Allen, Jimmy M., 375-40-2586.
Anundson, William D., 502-30-7008.
Berry, Richard L., 190-30-1628.
Blackwood, Lynn G., 537-40-5698.
Brinsfield, Carroll, 214-38-7363.
Brisendine, Esther, 520-46-6250.
Brown, Irvin L., 505-44-2109.
Burke, Carole A., 538-36-6323.
Burke, Gerald W., 549-48-9427.
Cade, Carolyn S., 301-36-1099.
Chase, Harold M., 008-24-8788.
Christner, John K., 490-40-7324.
Cooper, Marie G., 232-68-3168.
Daugherty, Marcus A., 466-50-4008.
Delacruz, Jesse M., 511-42-7769.
Diskin, Patricia A., 208-32-2819.
Ewing, Donna M., 211-30-6456.
Freidhoff, Terrance, 191-28-2935.
Fritz, John F., 343-34-8537.
Garman, Anita A., 547-60-4769.
Gaynor, Mary E., 173-28-4571.
Grenon, David K., 015-28-9459.
Griebling, Harry W., 302-32-0287.
Gruenewald, Armie K., 503-48-1717.
Gumbert, Terrence B., 209-32-1683.
Gurley, Marshall E., 524-46-9285.
Hanna, Jerry N., 458-54-9175.
Hazle, Elaine H., 372-38-3355.
Hertel, Arthur J., 394-40-5337.
Hooper, William R., 357-34-5097.
Johnson, Tony B., 509-38-0966.
Jones, Jane A., 353-36-0732.
Kanusky, Joseph T., 191-32-3387.
Kazmierczak, Eugene, 318-30-6037.
King, Kenneth E., 205-32-8580.
Koba Barbara Z., 535-42-0576.
Kurlansik, Edward, 171-34-6018.
Lackovich, Sophie M., 198-32-1332.
Lambert, Sharon L., 474-46-7183.
Learmann, Paul C., 391-36-5993.
Lebel, Leo A., 001-32-3811.
Lockhart, Sarah G., 092-32-9843.
Lyde, Willie J., 239-40-7835.
McCamley, John J., 203-28-1651.
McNamara, Sally A., 374-42-7951.
Moriarty, Francis M., 023-32-8708.
Morres, Anna V., 186-28-0930.
Myers, Nancy R., 240-52-3548.
Olson, Thomas J., 469-44-6498.
Oswald, George E., 513-30-9065.
Pack, John T., 284-36-4506.
Page, Peggy A., 239-74-1048.
Parsons, Robert W., 126-32-6081.
Pastrano, Charles O., 451-48-7946.
Rovinski, Charles J., 206-30-1073.
Sauter, Joseph G., 180-32-2205.
Spine, Mary L., 194-28-4600.
Stanfield, John C., 255-58-1490.
Taylor, Byron H., 068-30-7750.
Walchek, Dennis E., 506-38-0006.
Walckner, Edward, 080-34-2709.
Weddell, Rose M., 561-58-7965.
Wehner, Robert J., 296-38-1492.
Welch, Denise F., 021-32-9769.
Wicki, Carol A., 155-32-6970.

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3299:

MEDICAL CORPS

To be captain

Hadley, Phillip E., 265-80-3010.

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of Title 10, United States Code, sections 3284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Abbott, James W., 500-58-4917.
Abbott, Verlin L., 496-62-7364.
Abe, Gary K., 567-84-1954.
Abreu, Michael H., 576-58-4252.
Adame, Pedro C., 463-92-5162.
Adams, Gary L., 442-46-5331.
Adams, James C., 259-90-7161.
Adams, Paul F., 570-86-3879.
Adams, Stephen C., 545-88-1831.
Adelizzi, Michael A., 180-42-7696.
Adkins, Richard W., 236-86-1803.
Africa, Thomas C., 108-46-5393.
Aide, Lewis G., 460-94-4202.
Albertelli, Paul D., 049-50-4298.
Alexander, David N., 400-82-5976.
Alexander, Marcus A., 567-98-3576.
Alexander, Steven M., 011-46-3145.
Alexander, Thomas V., 227-72-9995.
Alford, Leon E. Jr., 423-64-3347.
Alford, Robert L., 569-94-9403.
Allen, Charles M., 080-46-8784.
Allen, Kenneth D., 449-94-1902.
Allison, Charles R., 264-02-1915.
Alvarado, Gilbert, 453-90-3946.
Amico, Peter A., 129-38-4572.
Anastas, Kevin P., 320-50-8837.
Anderholm, James E., 468-62-6338.
Andersen, William E., 409-98-9527.
Anderson, Bradley A., 502-66-0918.
Anderson, David F., 287-50-3711.
Anderson, James D., 139-50-5584.
Anderson, James R., 255-94-3942.
Anderson, Robert B., 533-48-1555.
Anderson, Steven D., 049-50-3471.
Anderson, Steven H., 522-86-8529.
Andraschko, Steven, 503-66-8591.
Andrews, Curtis C., 147-44-5857.
Andrews, Laurence W., 326-40-3907.
Angell, John J., 169-44-6602.
Annunziato, Gary, 081-48-4100.
Antee, Terry G., 449-02-0920.
Apple, Dale A., 286-44-3389.
Apt, David R., 188-42-8937.
Araneo, Gerald P., 136-48-3899.
Archie, Sergei, 171-44-2501.
Argo, Reamer W., 083-44-1542.
Arnone, Robert F., 216-66-0575.
Arny, Jan W., 230-76-9853.
Asada, Michael K., 136-48-9264.
Ashbaugh, Larry M., 282-46-9203.
Asher, Riley L., 500-62-5354.
Askins, Thomas R., 294-52-9019.
Aubry, Paul J., 370-48-0869.
Austin, Clinton W., 522-84-7318.
Austin, Maynard A., 251-04-4665.
Averett, Robert D., 528-80-9332.
Avila, Mario, 466-88-1938.
Babb, Michael A., 473-64-9286.
Babula, Steven R., 136-50-9069.
Baca, Michael D., 585-70-0251.
Baccus, Rick, 378-60-5697.
Baggott, Christopher, 579-94-8642.
Baggott, John E., 569-94-8638.
Baker, Allen S., 431-86-2970.
Baker, Darrell A., 423-74-0748.
Baker, Michael R., 511-48-6929.
Baldwin, Stephen G., 585-40-4489.
Baldwin, William D., 547-74-1203.
Bales, James A., 411-96-3402.
Balint, Stephen P., 441-58-9700.
Ball, Charles R., 342-48-1937.
Ball, David A., 214-54-3074.
Balliet, Norman L., 230-80-8485.
Balzer, Craig J., 395-58-8611.
Banken, Paul R., 267-15-6026.
Banks, Larry M., 429-96-6584.
Banks, Steven F., 509-62-9467.
Baratta, Robert T., 194-46-5354.
Barber, Fletcher Jr., 237-90-2722.
Barbero, Michael D., 165-46-1169.
Bardsley, Lance W., 212-66-6630.
Barker, Devlyon S., 400-80-5731.
Barletta, Dennis M., 162-46-6109.
Barnes, Eric R., 006-54-7390.
Barnhill, Curtis A., 217-60-6909.
Barno, David W., 117-48-9794.
Barrett, Steven E., 585-52-0708.
Bartley, John R., 220-58-7891.
Bartz, Timothy J., 516-64-0597.
Bauereis, David L., 511-58-9140.
Bautista, Robert S., 079-42-9665.
Baxter, Scott W., 004-48-5599.
Bayer, Russell J., 507-62-3824.
Beale, Michael D., 025-44-3597.
Beard, Casey F., 539-48-6063.
Bearup, Wylie K., 527-06-4117.
Beatty, Jeffrey K., 158-44-0335.
Bednarek, John M., 228-68-5704.
Beegle, Scott K., 207-44-3861.
Begeman, Leon J., 503-74-4044.
Beimler, Robert R., 348-50-8103.
Bell, Michael L., 217-66-8133.
Belser, John H., 223-82-4425.
Bembenista, Marcus, 118-48-8147.
Bent, Edward A., 549-72-6999.
Bergeron, Noel B., 267-25-1688.
Berkstresser, Robert, 184-42-6254.
Bernardi, Robert E., 550-06-4983.
Berry, Mark E., 436-94-8603.
Berwick, Bruce A., 516-72-6136.
Best, Steven P., 319-50-7173.
Betancourt, Daniel, 403-80-9572.
Bhatta, William K., 200-48-0104.
Bielefeldt, Kurt O., 071-50-4153.
Biestek, Frederick, 047-44-8287.
Bifulco, Richard P., 072-46-4338.
Birznieks, John A., 085-44-9726.
Bishop, Daniel B., 512-48-6864.
Bissell, David R., 454-84-6943.
Bissell, Rodney C., 435-84-4030.
Bivens, Nolen V., 250-98-6799.
Bivins, Demetrius K., 463-08-4688.
Black, Bruce E., 266-13-4168.

Black, Robert C., 452-76-4000.
Blair, Bernard R., 458-04-0651.
Blakeney, Charles D., 438-86-8206.
Bland, Andrew R., 248-44-8290.
Bland, Arthur J., 552-78-7507.
Blankinship, Bruce, 219-56-1480.
Blose, Todd E., 463-98-4730.
Blue, Rayford O., 258-86-8196.
Bobbitt, Alan R., 034-36-2205.
Bogusky, Richard L., 172-46-5774.
Bohle, Franklin C., 214-62-0365.
Boles, Vincent E., 094-46-8885.
Boll, Kenneth H., 478-64-9760.
Bolton, Edwin A., 165-40-3880.
Boltz, Steven J., 546-06-7065.
Bondy, Frank R., 366-62-6199.
Bonneau, Stephen D., 567-88-6689.
Booth, Donald V., 370-58-2813.
Borchard, William R., 478-66-6245.
Borg, Axel E., 212-64-1688.
Bornhoft, Gregory R., 223-66-1596.
Borows, Stephen D., 221-38-3721.
Borrell, Ronald A., 566-96-5343.
Borum, Tracy L., 408-98-3749.
Botto, Vincent S., 266-21-8179.
Boughton, David C., 244-90-0722.
Bourgeois, Steven A., 003-36-0034.
Bourgoine, Daniel J., 261-15-4883.
Bowen, Patrick D., 278-50-3059.
Bowen, Thomas W., 557-92-6542.
Bowens, Curtis M., 225-84-5242.
Bowerman, Rand D., 527-78-1545.
Bowerman, Richard D., 451-98-8450.
Bowie, Cephas, Jr., 436-90-1113.
Bowles, Floyd E., 027-44-4273.
Bowman, Richard B., 164-46-3483.
Boyd, Herchell A., 310-62-0508.
Bozeman, Michael, R., 228-78-7556.
Bracht, Gary A., 531-62-5304.
Braden, Randall R., 484-58-9321.
Brady, Michael W., 156-48-9755.
Bragg, Philip C., 262-13-1683.
Brame, William L., 420-68-8529.
Brandt, Peter V., 420-68-9530.
Brege, James M., 375-52-3201.
Brenes, Julio, 081-46-3320.
Brennan, Edward J., 018-46-5524.
Brenneman, John L., 161-46-1730.
Brey, Warren J., 178-46-5142.
Brinn, Rufus T., 240-92-0967.
Briscoe, William F., 524-70-7844.
Brisson, Richard H., 001-42-4488.
Brogden, Theodore E., 456-13-6320.
Bromfield, Roy W., 044-50-2647.
Brooke, James L., 226-84-1520.
Brooks, Jeffrey C., 564-02-5101.
Brooks, Steven G., 255-94-1520.
Brotherton, Jamie P., 059-40-3528.
Brower, John R., 155-50-6160.
Brown, Douglas M., 222-44-2182.
Brown, John C., 587-94-9750.
Brown, Louis H., 216-62-1574.
Brown, Mark L., 553-98-2775.
Brown, Michael T., 219-68-4717.
Brown, Ransom S., 388-60-7876.
Brown, Ronald E., 264-02-9847.
Brown, Thomas G., 526-11-4361.
Brown, William F., 413-92-7426.
Bruckner, Jeffrey M., 233-90-1989.
Bryant, Alan C., 460-96-2932.
Bryant, Bradford J., 050-48-0796.
Bryant, Dennis A., 420-72-5458.
Bryant, Monte E., 182-44-5487.
Buckingham, Andrew, 177-42-0428.
Buckon, Neal J., 273-52-8297.
Buckstad, Robert D., 139-48-7644.
Bulger, James D., 267-19-2127.
Bulman, Lee A., 502-62-8695.
Bunch, Parker R., 212-58-0390.
Burch, James R., 561-72-1199.
Burdette, Randall P., 236-88-6669.
Budgess, Louis G., 526-11-2269.
Burgland, Andrew W., 508-56-0461.
Burke, Richard W., 312-52-6806.
Burks, Della P., 587-50-6451.
Burks, Larry, 587-84-2724.
Burnette, Ollen L., 416-82-5821.
Bursley, John C., 215-68-7921.
Busa, Santiago, Jr., 553-94-2899.
Bush, Gregory E., 216-56-9647.
Bush, Howard J., 098-40-1148.
Bush, Paul D., 219-62-3229.
Bussey, James L., 530-44-6461.
Buterbaugh, Roger W., 255-94-3169.
Butler, Randall J., 557-78-6117.
Butler, Samuel J., 569-94-7892.
Butler, Stephen J., 095-48-9276.
Butler, Steven G., 261-94-3918.
Byrne, Michael W., 559-04-1533.
Byrne, Patrick E., 468-64-7183.
Cal, John M., 047-52-4166.
Caldwell, William B., 097-44-8600.
Callahan, Michael P., 054-42-1961.
Cambria, Salvatore, 022-42-8655.
Cambron, James D., 423-74-9520.
Cammuse, Oscar L., 223-82-8167.
Camp, Glenn G., 259-86-9497.
Campbell, Kim M., 137-40-4017.
Canale, Steven J., 026-42-7462.
Candelore, Craig A., 087-44-3375.
Cannon, Carl A., 574-24-6571.
Cannon, David J., 342-48-4614.
Cannon, Peter R., 529-78-4760.
Canosa, Stephen R., 130-46-4061.
Cantrell, Michael, 253-92-6924.
Cantrell, Pierce E., 460-82-8306.
Capka, David M., 218-54-6757.
Caponegro, Francis, 080-42-6344.
Capps, Steve G., 070-40-8901.
Cardenas, Eduardo, 466-04-8195.
Carey, Richard S., 278-56-3371.
Cariker, Rodney D., 462-80-2072.
Carlile, Gale P., 447-54-7119.
Carlin, Richard A., 372-50-5209.
Carlson, Michael P., 506-62-4847.
Carlson, Richard E., 333-44-0795.
Carlton, Brad A., 486-56-7584.
Carlton, William B., 260-92-5058.
Carmichael, John M., 184-44-4234.
Carney, Edward T., 060-50-0070.
Caron, Paul J., 015-42-7398.
Carroll, Allan B., 552-98-7873.
Carroll, James E., 499-58-7443.
Carroll, Stuart A., 504-56-0654.
Carter, Thomas J., 301-52-5987.
Cartledge, James C., 255-94-2085.
Cartner, Bruce W., 504-66-3298.
Cartwright, Patrick, 457-90-6057.
Casmus, David M., 184-44-7635.
Cass, Stephen H., 484-56-9361.
Castro, Duane S., 225-80-6373.
Cato, Charles M., 524-82-0829.
Catten, Lorenzo L., 227-72-3356.
Caudill, Daniel E., 329-40-5390.
Cavender, Thomas F., 004-56-3652.
Cawley, Edward F., 004-56-6015.
Centric, James H., 298-48-6689.
Cerny, Frank D., 251-02-4622.
Cerow, Gordon D., 069-42-6559.
Cervantes, Arturo, 462-96-3080.
Chadwick, Charles R., 587-88-5033.
Chamales, Constantine, 504-70-2135.
Chambless, Michael, 585-52-7168.
Champagne, Peter M., 039-36-9930.
Champion, Herbert W., 563-80-8917.
Chaney, Anthony W., 401-84-5159.
Chapman, Anthony, 247-04-3937.
Chapman, Steven T., 587-48-6448.
Chappo, Richard J., 073-46-5305.
Chase, Jonathan P., 001-46-5475.
Chase, Robert P., 514-60-2275.
Chastain, Kenneth W., 424-78-6361.
Chedester, Tommy R., 428-96-4989.
Childress, Bruce A., 587-28-2155.
Christensen, Eric R., 507-78-9788.
Christensen, Gary L., 457-06-6163.
Christensen, Kevin, 457-02-4615.
Christman, Douglas, 382-58-4861.
Chubb, John A., 204-44-5012.
Chubon, Stephen P., 120-44-3568.
Chudoba, James B., 231-80-6916.
Chung, Randolph, 570-02-3571.
Citizen, Gregory D., 434-94-1849.
Clapper, Patrick W., 536-54-4823.
Clarizio, Roger M., 338-44-8753.
Clark, Joseph W., 418-78-5281.
Clemence, Neil J., 135-42-4820.
Cleve, Richard A., 483-68-5093.
Cline, Robert A., 501-64-0492.
Clingempeel, William, 241-96-7346.
Clouse, Robert C., 277-44-2774.
Coet, Ewald H., 531-48-0378.
Cogliandro, Antonio, 462-04-6152.
Colchado, Edmundo M., 548-82-3418.
Cole, Edward P., 268-54-1998.
Coleman, Michael J., 422-76-6466.
Coletta, Robert D., 299-52-7009.
Colie, Robert W., 474-68-1042.
Collier, Scott T., 227-78-0787.
Collins, Francis D., 226-76-1423.
Collins, Love, III, 260-92-9010.
Coman, Rodger E., 453-90-1696.
Comeford, Lawrence, 353-38-7065.
Compton, J. W., 558-86-9966.
Conn, Richard L., 311-48-5360.
Conte, Richard L., 269-54-7694.
Converse, Wayne L., 509-62-5343.
Cook, Hugh T., 587-72-8354.
Cook, Joseph R., 423-78-8504.
Cook, Virgil W., 363-50-4004.
Cooksey, Otis E., 512-64-0262.
Coomer, Mark C., 304-52-6905.
Copeland, Steven A., 436-82-7028.
Copus, Robert E., 316-62-1888.
Cordier, Eugene B., 280-56-3914.
Cordova, Vincent R., 585-48-2367.
Cornell, C. F., 285-46-5667.
Corney, Lee B., 553-88-4941.
Corpac, Peter S., 554-94-4941.
Corral, John J., 458-02-3678.
Cortner, Scott C., 265-13-1117.
Coulter, Eric J., 265-15-4294.
Coulter, Robert N., 527-98-3271.
Covert, James E., 079-44-2222.
Cox, Alan L., 549-72-3031.
Cox, Donald H., 224-88-5014.
Coxe, Robert L., 179-46-4773.
Crafton, John B., 368-62-9473.
Crawford, Darrell E., 404-80-6589.
Crawford, Robert L., 575-62-9215.
Crecy, Warren G., 559-84-8979.
Creighton, William, 156-42-6845.
Critchlow, James R., 224-68-2191.
Croak, Daniel K., 546-98-3526.
Crocker, Vernon B., 447-56-2762.
Croghan, Jerry R., 518-68-4248.
Cronin, Steven M., 030-44-5931.
Crosby, Robert G., 587-54-0626.
Croshal, Frank A., 524-64-4082.
Crotteau, Craig A., 537-62-0757.
Crouch, Alan M., 460-92-9358.
Crouch, David G., 538-58-1140.
Crow, Gerald K., 543-50-3059.
Crow, Stanley E., 551-96-8977.
Crown, John L., 238-82-5439.
Crozier, Ted A., 257-94-2306.
Cuellar, Jose A., 573-88-4656.
Cummings, John R., 024-46-1412.
Cummings, Walter C., 244-90-2580.
Cunningham, Kevin R., 137-46-7145.
Curl, William W., 257-90-4939.
Curley, Mark, 442-56-1268.
Curtis, Clyde W., 496-50-2750.
Dalena, Stephen J., 186-46-3983.
Daley, Calvin B., 479-70-9021.
Dalton, Robert T., 253-94-6504.
Dandrea, Antonio, 185-40-4766.
Dandrea, Paul M., 039-36-3290.
Danelishen, Larry, 284-50-0926.
Dangerfield, Curtis, 247-78-9492.
Daniecki, Bruce J., 212-46-8360.
Daniel, Steven S., 075-48-5779.
Daniels, Luther C., 224-78-0388.
Daniels, Mark D., 223-86-8130.
Danzeisen, William, 215-70-3916.
Daron, James R., 223-82-6579.
David, Leo J., 436-90-3035.
Davidson, Ronald J., 407-76-8713.
Davies, John H., 328-50-0827.
Davis, Charles E., 451-02-0969.
Davis, Danny M., 432-08-0733.
Davis, Harold, Jr., 450-06-3930.
Davis, Jeffrey W., 149-50-7119.
Davis, John B., 287-52-8446.
Davis, John E., 182-44-4191.
Davis, Kenneth C., 112-42-0644.
Davis, Michael H., 256-94-0595.
Davis, William H., 183-46-3049.
Davoren, John E., 514-60-3064.
Day, Jesse L., 264-08-5562.
Dean, Richard E., 499-58-6897.
Dearing, John S., 406-78-2195.
Decker, Timothy R., 497-58-0455.
Decker, Todd R., 478-72-4937.

Deeter, David B., 213–62–5063.
Dehler, Mark F., 254–76–0046.
DeJohn, Michael A., 269–44–6938.
DeLaney, Michael A., 209–44–4812.
DeLapena, Rene G., 585–42–0130.
DeLarede, Michael J., 112–48–6504.
Dellarocco, Gary L., 112–44–7716.
Demarco, Michael P., 273–52–9540.
Denny, Hugh M., 536–62–7640.
Depue, Mark R., 480–68–4783.
Dettman, James W., 564–98–3831.
Devlin, Mark J., 576–64–3890.
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Rollinson, Martin R., 254–82–2997.
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Ragain, James C., 411-92-3239.
Rogers, Jody R., 399-48-5709.
Rogers, Wessie C., 245-84-1384.
Rosado, Hector H., 125-40-4217.
Sakala, Mary E., 295-42-3494.
Salmons, Michael W., 054-48-9877.
Simpson, Paul M., 483-54-5889.
Smith, Noel L., 437-72-9036.
Stamour, Douglas E., 009-40-9633.
Stegall, Richard E., 422-66-7874.
Tate, Michael G., 231-82-2385.
Testa, Michael J., 030-38-7778.
Thompson, Ian M., 500-56-1781.
Thoreson, Brian D., 504-60-8841.
Trent, Neal H., 348-40-4026.
Vandaele, Walter E., 099-46-9575.
Vincent, Dale S., 451-08-6484.
Walker, Thomas S., 455-78-2492.
Walsh, James P., 136-40-1645.
Wesley, Gordon P., 264-27-6848.
Young, Anthony W., 266-29-5125.

ARMY NURSE CORPS

To be first lieutenant

Weyhrich, Donald R., 346-40-1619.

In the Navy

The following-named chief warrant officers, W-2 of the U.S. Navy for temporary promotion to the grade of chief warrant officer, W-2, pursuant to title 10, United States Code, section 5787c, subject to qualification therefor as provided by law:

Aban, Ernesto A.
Abernethy, Charles G.
Acoba, James D.
Adams, John N.
Aitken, Robert P.
Alexander, Russell, L.
Alexander, Jose A.,
Allen, Merrile J., Jr.
Allie, Warren J.
Allison, James C.

Almaraz, Vito G.
Anderson, Jon G.
Anderson, William G. J.
Anderson, Andrew E., Jr.
Anderson, Milburn M.
Andrews, Emerson L.
Apontecestero, Reynaldo L.
Appleby, Edward R.
Arezzini, John E.
Armstrong, Vernon L.
Arnold, Harlon R.
Arsenault, Raymond T.
Arthur, Joseph H.
Arvin, James W.
Ashworth, Rodney E.
Aucoin, Dennis G.
Bagley, Ronald M., Jr.
Baker, Charles T.
Baker, Michel W.
Balgos, Nelson B.
Ball, William A.
Balz, David A.
Barrow, Maxie R.
Barrs, Daniel
Bartee, Lacy H.
Bartleman, James P.
Bartlett, Robert L.
Bassett, Kenneth R.
Bast Robert, A.
Bates, Kameron E.
Baugh, Ronnie D.
Baxter, Franklin E.
Beauregard, Roger P.
Beaver, Steven D.
Beavers, Harvie D., Jr.
Beck, Richard L.
Beckstead, Harry W.
Benjamin, Michael A.
Bennett, Donald S.
Bennett, Steven D.
Bennett, Gregor F.
Benson, John C.
Berkley, Erik E.
Bewall, Douglas A.
Biggs, Cleo R.
Bikowski, Joseph J.
Blalock, Gary F.
Bodkin, David M.
Bogart, Kenneth D.
Bogstad James R.
Bonham, Arthur J.
Bonnett, William R.
Booker, Charles M.
Boothe, John P.
Borchers, Robert C.
Borkowski, Edward F.
Bowen, James C. III
Boyd, Roger E.
Brakhage, Harles H.
Breslau, Bruce A.
Breunig, John V.
Brinley, Laird E.
Brooks, Jimmie E.
Broussard, Wilfred
Brown, Carey E.
Brown, Cleveland, Jr.
Brown, Thomas H.
Brush, Michael R.
Bucheister, Raymond C.
Buckley, Thomas F.
Buckman, John A.
Bunker, Edward J.
Burke, Michael L.
Burtoft, John N.
Bush, Gary E.
Bushby, Francis R.
Buss, Randall D.
Byers, Douglas W.
Calzada, Freddy
Caponis, John A.
Carbonell, Jose N.
Carlson, Erik
Carr, Joseph W.
Carson, Bill
Carter, Lorenza
Carter, Paul L.
Cashat, Harry S.
Castro, Stephen M.
Casucci, Michael J.
Chacon, Victor H.
Chandler, Robert F.
Chaney, David F.
Childers, Apama K.
Chirdon, Vincent W.
Christman, Peter T.
Christensen, John J.
Clark, Bruce G.
Clark, Raylan F.
Clark, Richard O.
Claytor, Linwood C.
Clayton, Thomas S.
Cleghorn, John T.
Clements, Jerry E.
Clemmer, Virgil E.
Coe, Kenneth W., Jr.
Cohen, Michael E.
Coleman, Charles R.
Collier, Joseph L.
Colon, Pedro A.
Comer, Louis J.
Compton, Wesley B.
Conley, Amos B., Jr.
Connor, Ernest
Cook, Roger A.
Cooper, Henry D.
Cope, James D.
Cope, Ronald M.
Costa, Salvadore I.
Cox, Houston L.
Crandall, Roland E.
Crawford, Frank L., Jr
Crawford, Gary L.
Crawford, James W.
Crossman, David C.
Crowell, Bill N.
Crowhorn, James R.
Cruz, Adelbert, Jr.
Cullison, Richard C.
Curran, Richard C.
Currey, Charles J.
Curtis, Charles C.
Cush, John E.
Dailey, Roosevelt
Darling, Peter L.
Davidson, Robert H.
Davis, Mars F.,
Day, Dale S.,
Dean, Theodore P.
Deaner, James
Deas, James D.
Deitzler, Edward L.
Demers, Roland J.
Devries, Vernon C.
Dew, Harold W.
Dickerson, Robert C.
Dickert, Michael B.
Dill, Richard L.
Diorio, Nicholas
Dominey, Joseph J., Jr.
Doolittle, Richard F.
Doss, Larry W.
Douglas, Herschel T.
Douglas, Robert M.
Doyle, William T.
Draheim, Richard L.
Drain, Michael E.
Driscoll, Steven L.
Drury, William F.
Duncan, Stephen M.
Dunlap, Robert B.
Dupraw, Douglas H.
Eastman, Guy W.
Eaton, Ronald B.
Eberly, Robert D.
Edenfield, Dewitt L. J.
Ekardt, Dennis E.
Ellsworth, Richard H.
Enderez, Reynaldo D.
Engele, Leo H.
Erbe, Robert F.
Ervin, Donald C.
Eubanks, George T.
Fahey, Edward F.
Fairbanks, John
Faulkner, William F.
Fay, John S.
Fears, Paul L.
Felscher, Walter C., Jr.
Fenwick, Francis C. J.
Fields, Charles E.
Fillmore, Kenneth L.
Fletchall, Roger D.
Folkenroth, Jan P.
Foster, Carl J.
Found, Rodger F.
Franzen, Gerald J.
Freshhour, Lynn E.
Fry, Robert E.
Gainey, John C.
Garrett, Frank B., Jr.
Garrido, Stanley S.
Gaupel, Robert M.
Geary, John R.
Gee, Travis L.
Giddings, Joseph E., III.
Giusti, Richard F.
Glidden, William M.
Glover, Luther P.
Godwin, James M.
Goldin, Milton, Jr.
Goldsberry, Richard E.
Gomez, Jose G.
Goodlet, Sammie.
Gough, Jeffrey L.
Grass, Richard J.
Gravelle, John A.
Graves, Robert J.
Green, Rheuben W. J.
Greer, Jerry D.
Griffin, Roy D.
Gross, Robert H., III.
Guss, James R.
Guy, William P.
Habel, Gareth R.
Hackett, George M.
Hainzle, Ronald J.
Hale, George T.
Hale, Lorne B.
Hall, Douglas P.
Hall, Jesse J.
Hamby, Richard R.
Hamilton, Ellis.
Handy, Christopher C.
Hannah, Arnold V., Jr.
Hannah, James M.
Hannon, Robert C.
Hardy, Michael C.
Harmon, David L.
Harrion, Robert E.
Harrison, Jonathan C.
Harris, Charles R.
Harritt, John D.
Harvey, Thomas E.
Hatfield, Gary L.
Hayes, John H.
Helton, Milford R.
Hendrickson, Wayne.
Herd, Andrew M., Jr.
Heriford, David S.
Hernandez, Steve J.
Herrick, Michael L.
Herringdine, Howard R.
Hewitt, Jack L.
Hewitt, John R.
Hill, Jeffery D.
Hobart, David C., Sr.
Hobday, Edward C.
Hoffman, John J.
Hopkins, Ronald D.
Horn, Norman C.
Horn, Stevie W.
Houck, Norman L., Jr.
Houston, Grady.
Howard, William D.
Howland, James C.
Hubbard, David L.
Huck, Hugh J., Jr.
Huff, David L.
Hufford, Robert C.
Hurst, Dennis L.
Hutchinson, Daniel J.
Hutson, Michael T.
Ivie, Perry G.
Jahnke, Donald A.
Jaillite, Jere K.
Jaimeyfield, Roger T.
Jay, John J., Jr.
Jelley, Kenneth I.
Jellison, James A.
Jerome, Robert N.
Jewell, James A.
Johann, Charles L.
Johnson, Sidney E.
Johnson, William D.
Jones, Hubert S.
Jones, Phillip E.
Joyce, Robert A.
Kahler, Thomas G.
Kanning, Diederick E.
Kazmar, Stephen J.
Kelley, Sammie L.
Kelley, Steven J.
Kelly, Peter J.
Kelly, Venson J.
Kennamer, Oliver W.
Kennedy, Thomas J., Jr.
Kenney, William P.
Kent, William C.
Kerner, James C.
Kidd, Ronald J.
Killingbeck, David A.
King, Clyde D.
King, John H., Jr.
Kislingbury, Wayne J.
Kline, Lowell L.
Knesel, James E.
Knight, John C.
Knight, William D.
Knutson, Eugene L.
Koblentz, Larry L.
Kolosky, Frank J.
Koon, Charles C.
Kraft, Harold A., Jr.
Krakie, George J.
Kreis, Jack A.
Krieg, Donald W.
Kunkle, Gailard L.
Kurz, Dennis L.
Labonte, Roger S.
Locombe, Michael E.
Lake, Kenneth D.
Lanear, Edward A. J.
Lantefield, Paul D.
Laun, Gary L.
Law, Donald G.
Lawson, J. R.
Lee, James E.
Lee, Robert L.
Lehtinen, Elaine F.
Leroy, John W.
Ley, John L., III
Lighthill, Lanny D.
Lindsey, Charles A.
Loboda, Edward J.
Logue, Thomas T., Jr.
Lohafer, Carl W.
Long, Robert D.
Lovitt, Richard L.
Lowd, Wayne F.
Lumpkin, Robert L.
Lynch, John F.
Lyons, Davis E.
MacDonald, Edward J.
MacKay, Robert G.
Mahaffey, Robert E., Jr.
Mandapat, Rolando B.
Mangum, David L.
Mara, George
Marion, Wade H., Jr.
Mars, Fred
Martin, John K.
Martin, Lawrence R.
Maughmer, Earl K.
McCallum, David L.
McCrary, Thomas S.
McGaughey, Philip
McGrath, Michael S.
McGuire, John E.
McKinney, Frank A.
McKnight, Rhodus
McLaughlin, Terry D.
McMillan, Charles L.
McMullen, Richard L.
Meeker, William H.
Melay, William D.
Merideth, Allen T.
Merrell, Richard I.
Mertz, Craig W.
Metcalf, Thomas E.
Meyer, John M.
Michaelson, John D., II
Milby William C.
Miller, Douglas E.
Miller, Larry E.
Moffett, John H., Jr.
Monroe, Gregory E.
Moody, Robert E.
Morley, Keith L.
Morgan, John D., Jr.
Morgan, Robert L.
Morin, Robert W.
Morris, James L.
Moss, Meredith A.
Mott, John S.
Moultrie, Freddie Jr.
Murry, James R.
Muth, Lee R.
Nace, Niles E., Jr.
Nance, Horace W.
Nanney, Kenneth C.
Napper, Robert E.
Newton, Howard W.
Nisgore, Mark J.
Norman, Edgar W.
Norton, James L.
Novinger, Larry L.
Ocker, Kenneth R.
Odonnell, James M.
Ogden, Charles T.
Oldroyd, Wayne F.
Oleary, John T.
Oliver, Walter S.
Oltman, Carl F.
Osburn, Walter M.
Otte, Everett F.
Oubre, Sidney J., Jr.
Pace, James R.
Pacetti, Frank O.
Patnaude, Wilfred A.
Patterson, Allen H.
Patton, William J.
Pauls, Thomas E.
Paulson, Robert A.
Peck, John M.
Persyn, Michael O.
Peters, Bryan Q.
Philbrook, Keith A.
Phillips, Charles S.
Phillips, Kendell J.
Phillips, Kim A.
Piner, Steven E.
Plotz, Kenneth W.
Poland, Thomas R.
Popovich, Michael L.
Poppe, Gilbert C.
Powell, Thomas G.
Powers, Van L.
Pressley, Weston L.
Probasco, Richard J.
Pugh, Robert W.
Quiggle, Thomas E.
Ramirez, Ray
Range, James N., Jr.
Rangel, Raynold
Reher, Laurence W., II
Reiss, Harry V.
Reiter, Michael L.
Rhodes, Francis S.
Rich, James M.
Richardson, Randall M.
Rill, Douglas B.
Ringstaff, Archie L.
Ritchie, Donald D.
Roby, David A.
Rodger, Ronald J.
Rodriguez, Jose P.
Roger, William E.
Rominger, Bobby L.
Ross, Douglas J.
Rothe, Edward L., Jr.
Rudy, James M., Jr.
Rundall, Stanley R.
Saine, Paul M.
Samson, Andrew W.
Sanders, Stanley G.
Sawicki, Gerald S.
Sawyer, Robert H.
Scates, Timothy E.
Schamp, Richard M.
Scheeler, Robert L.
Schmitz, David C.
Schorr, Gary N.
Schulte, Paul E.
Scribner, Terance R.
Seater, Robert E.
Sellers, Gary T.
Serota, Barry M.
Service, James W.
Seteroff, Sviatoslav S.
Shank William E.
Shanklin, John L.
Shannon, David R., Jr.
Sheldon, James A.
Silvernail, Paul J.
Simons, Alan R.
Simpson, David P.
Sims, Hollis E.
Skinner, Tommie W.
Smith, Harold R., Jr.,
Smith, James H.
Smith, Kenneth J.
Smith, Stephen C.
Snock, Maximillion R.
Snow, Richard C.
Soldo, Terrence L.
Solt, Harrison H., III
Spangler, Ercell D.
Sparks, Jack R.
Sprangers, Michael J.
Stancik, Robert F.
Steelman, Carrol J.
Stein, James E.
Stein, Jerry T.
Stemkoski, Joseph
Sterling, Guy B.
Stevenson, Robert G., Jr.
Stewart, James A.
Sturges, Guy P.
Sudik, John P.
Summey, Roger A.
Sumner, Frederick S. J.
Sweany, William G.
Swenson, Samual, Jr.
Szakas, John F.
Tarlton, William H.
Taylor, Connie G.
Taylor, Jerry A.
Taylor, Virgil L.
Taylor, Walter T.
Theriault, Stephen E.
Thomas, David
Thomas, Walter E. III
Thompson, Tom N.
Thompson, Larry E.
Thrul, Henry A.
Tierce, Clemon L.
Timmons, Ronald
Tissot, John E.
Toland, Raymond J.
Tommaselli, Richard N.
Treat, John M.
Tripp, Charles W.
Tucker, Daniel W.
Tugbang, Ruby T.
Tyrrell, Marvin F.
Utgard, Gary J.
Vernon, Mickey D.
Viau, Raymond A.
Vinson, Charles W.
Vredenburgh, Richard H.
Wahl, Robert A.
Ward, Francis P.
Warren, Shirley L.
Watkins, Alfred R.
Webb, Alvin C.
Webb, Clyde Q.
Wenze, Bishop J.
West, Joseph S. L.

Wheeler, Fredric R., II
Whitaker, James P.
Whitener, Ronald W.
Wild, Lawrence A.
Williams, Richard F.
Winckler, Robert A.
Witkowski, John A.
Wood, David L.
Woodburn, Harold J.
Woods, Hubert F., Jr.
Wright, Harry A.
Wright, James M.
Wright, Vernon M., Jr.
Wurtz, Richard R., Jr.
Yatsko, George P.
Yelken, Robert L.
Yoke, Robert S., Jr.
Young, John W.
Young, William R.
Youngblood, Adrian C.
Yuhas, Robert V.
Zembuch, John A.

IN THE NAVY

The following-named ensigns of the U.S. Navy for temporary promotion to the grade of lieutenant (junior grade) in the line, pursuant to title 10, United States Code, sections 5784 and 5791, subject to qualification therefor as provided by law:

Black, Robert L
Duke, Paul R., Jr.
Dusterhoft, Bruce M.
Runyan, Michael F.

IN THE NAVY

The following-named commanders of the U.S. Navy and Naval Reserve for temporary promotion to the grade of captain in the various staff corps of the U.S. Navy and Naval Reserve, as indicated, pursuant to title 10, United States Code, sections 5773 and 5793 (Medical and Dental Corps officers), subject to qualification therefor as provided by law:

MEDICAL CORPS

Belmont, Anthony P.
Benninger, Charles J.
Bercier, Charles H., Jr.
Bethel, James W.
Blount, Edgar R., Jr.
Bollinger, Charles W.
Bullock, Ronald E
Case, Robert G.
Case, Roger S.
Chambers, John T.
Clark, Thomas L.
Cupples, John T.
Dupuy, Theodore E.
Eder, Kenneth W.
Fassett, Richard L.
Fletcher, John R.
Gallup, Donald G.
Georges, Leon P.
Gerber, Frederic H.
Gill, William L.
Hagen, Donald F.
Harris, Michael A.
Henn, Thomas W.
Igleciafernandez, Raymo
Jervey, George M.
Kiepfer, Richard F.
Larese, Ricci J.
Lee, Charles D., Jr.
Lestage, Daniel B.
Mahaffey, William B.
Mantel, Lewis
McCurley, William S.
Mock, Charles R.
Murphy, Michael O.
Nicodemus, Honorato F.
Permowicz, Stanley E.
Pleet, Albert B.
Robinson, Donald M.
Sass, Donald J.
Skoglund, Rayburn R.
Smith, Robert W.
Swope, John P.
Thompson, Bruce A.
Thrasher, James W.
Vieweg, Walter V. R.

SUPPLY CORPS

Andersen, Thomas C.
Avilesalfaro, Bolivar, Jr.
Balding, David W.
Basse, Warner P.
Beyer, Robert K.
Bryant, James N.
Cobb, James L.
Cole, Brady M.
Connolly, Robert I.
Craft, Thomas G.
Crouch, Robert L.
Delduca, Ronald M.
Drury, William R.
Dunn, Bernard D.
Fischer, Gregory F.
Fish, Dennis J.
Garner, Fred S.
Hinz, Dan H.
Hogan, Richard C.
Kachigian, George N.
Klein, Carl C.
Konopik, Joseph F., Jr.
Lee, Gerald L.
McCarthy, Donald L.
McKelvey, Paul N.
Mummert, Dale R.
Murray, Harlan E., Jr.
Nace, Wilbert J.
Nygaard, Richard B.
Phillips, Robert A.
Powell, William E., Jr.
Reed, John D.
Rook, Eugene C., Jr.
Shirley, Kenneth R.
Tatten, Richard J.
Vail, James C.
Wilber, James R.
Wolcott, John N.
Zanetti, Allen G.

CHAPLAIN CORPS

Ahern, Bernard J.
Kukler, Richard.
McElroy, John W.
McMorrow, James E.
Murray, Frederick J.
Parker, Alton M., Jr.
Spencer, Carroll, R.
Sullivan, Alan P.
Takesian, Eli.
Vogel, Leroy E.

CIVIL ENGINEER CORPS

Christenson, Carl E.
Clearwater, John L.
Connor, William C.
Devicq, David C.
Dunn, Jerome R.
Fegley, Charles E., III.
Fort, Arthur W.
Gawarkiewicz, Joseph J., III.
Gibowicz, Charles J., Jr.
Kelley, Frederick G.
Kirkpatrick, James D.
Lowery, Richard A.
Westcott, John A.

DENTAL CORPS

Bell, Walter C.
Gordon, Glenn E.
Lamarche, Robert G.
Smith, Carl J.
Taylor, Raymond W.
Triplett, Robert G.

JUDGE ADVOCATE GENERAL'S CORPS

Coughlin, Leo J., Jr.
Gass, James D.
Gresens, Larry W.
Hilligan, Thomas J.
Howard, Ronald C.
Slater, Richard L.

MEDICAL SERVICE CORPS

Anderson, Francis G., Jr.
Angelo, Lewis E.
Auton, William J.
Brideau, Donald J.
Erwin, Richard E.
Goodson, James E.
Graves, Joseph L.
Sowers, Hubert H., Jr.
Springer, Martha J.
Surface, Robert L.
Swindall, Victor A.
Tandy, Roy W., Jr.
Thompson, James C.
White, Sheldon A.

NURSE CORPS

Birkhimer, Marion L.
Brouillette, Marie, J. E.
Frazier, Frances M.
Harrison, Alvina M.
Lundquist, Nancy L.
O'Neill, Elizabeth.
Sanford, Emily F.
Schrock, Doris M.
Sparks, Beverly J.
Staab, Patricia L.
Sullivan, Elinor M.

The following-named lieutenants of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the line and staff corps of the U.S. Navy, pursuant to title 10, United States Code, sections 5769 (line) and 5773 (staff corps), subject to qualification therefor as provided by law:

LINE

Green, Gordon.

CHAPLAIN CORPS

Gundlach, John F., III.
McAdoo, Larry W.

The following-named lieutenants (junior grade) of the U.S. Navy for temporary promotion to the grade of lieutenant in the line, of the U.S. Navy, pursuant to title 10, United States Code, section 5769, subject to qualification therefor as provided by law:

Fageres, Michael A.
Kobelski, John H.
Lheureux, Paul J.
Sanders, Fred G., III
Shilliday, David A.
Smith, John W.
Vernon, Robert J.
Wagner, Charles J.

The following-named woman commander of the U.S. Navy, for permanent promotion to the grade of captain in the Supply Corps, of the U.S. Navy, pursuant to title 10, United States Code, section 5771, subject to qualification therefor as provided by law:

Maugans, Nellie K.

The following-named ensigns of the line, of the U.S. Navy, for appointment in the Civil Engineer Corps of the U.S. Navy as permanent ensigns, pursuant to title 10, United States Code, section 5582(b), subject to qualification therefor as provided by law:

Hough, Ted E., Jr.
Kinnaman, Terry P.

The following-named chief warrant officers, W-2 of the U.S. Navy for permanent promotion to the grade of chief warrant officer, W-3, of the U.S. Navy, pursuant to title 10, United States Code, section 563, subject to qualification therefor as provided by law:

Aardahl, Lyle N.
Adams, James P., Jr.
Adams, Orland I.
Adkins, Edward J.
Altman, Kenneth B., Jr.
Anderson, Howard J.
Applebee, Harold J.
Asbury, Virgil W.
Ascione, Raymond A.
Atchison, Laurence J. H.
Axelrod, William H.
Bacon, William F.
Bailey, Dallam
Baldwin, Robert E.
Barber, Theodore, Jr.
Barry, Michael J.
Bassett, William T.
Beck, Harold R.
Becker, William E.
Beer, Bill E.
Bessette, Donald R.
Bigelow, Jerry B.
Bigelow, Johnathon M.
Blair, Richard
Bledsoe, John R.
Boehl, Richard W.
Bolton, Frederick A.
Bottorff, Jerry L.
Boyar, John A.
Boycourt, Ivon G., Jr.
Briley, Earl G.
Brittingham, Robert P.
Brownhill, Lloyd D.
Burgess, Thomas C.
Byrne, Paul M.
Cage, Benjamin L.
Cahoon, Doyle E.
Calabrese, Geoffrey J.
Calhoun, Jimmy R.
Carlson, Morris E.
Carpenter, Jeffery R.
Chandler, Susan R.
Childress, G. H.
Christensen, Erik T.
Clark, James H.
Clayton, Leroy A.
Coffman, Bert U.
Collins, Richard W.
Combs, Charles R.
Comfort, Terrence J.
Corradi, Edward B.
Cox, Travis B.
Crawford, Michael W.
Crooks, Dennis J.
Curry, Dennis S.
Daugherty, Duane L.
Davidson, Richard C.
Davis, Francis P.
Decker, Charles E.
Demarco, Jimmy W.
Demers, Robert P.
Denam, Harvey E.
Deneen, Brian M.
Dewald, Bruce F.
Dillingham, John M.
Doan, Carl E.
Donnelly. John P.
Dooling, Franklin J.
Dowden, Richard C.
Drane, Robert L.
Earnest, William G.
Enos, Russell W., Jr.
Eshleman, Joe K.
Eubanks, Vernon R.
Evans, Gary W.
Evans, George P.
Fahner, Richard B.
Fairchild, David R.
Faircloth, John B.
Feeser, Elmer L.
Fehrs, Thomas L.
Ferguson James H. Jr.
Finley, Charles C.
Fluck, John D.
Ford, Terrance J.
Foreman, John E.
Forgays, Reginald E.
Fortier, Charles H.
Fox, Ronald G.
Furst, David E.
Gaffey, John A. A.
Gaines, Eugene
Garon, Norman G.
Gates, Franklin C.
Gay, Vurgel I.
Gentry, Ronald E.
Gestalter, Rolf J.
Giersch, John L.
Gilbert, Jon C.
Glidden, Eric S.
Godfrey, Thomas J.
Goforth, George T.
Good, Steve H.
Gracia, Javier
Gravely, Robert O.
Greer, Arthur W.
Griffin, John L., Jr.
Gustin, Bruce A. III
Hahn, Kurt R.
Hamler, Walter E.
Hammerle, Gerald T.
Hammontree, James D.
Harris, Leslie A.
Harris, Robert R.
Hartman, Keith E.
Haskins, James H.
Hastings, Robert T.
Hatcher, Billy G.
Hedelund, Richard D.
Henry, James P.
Herron, Delmar C., Jr.
Hill, Donald W., Jr.
Hill, Lamar K.
Hines, William J.
Honer, John G.
Hopkins, Michael R.
Houfek, Harold D.
Howard, John L.
Howard, Stanley E.
Hudgens, Robert T.
Hudson, Thomas G.
Hull, Roger L.
Hulse, Reynold N.
Hurley, Lawrence E.
Hutchins, George R.
Hutchins, Robert T.
Ireland, John A., Jr.
Johnson, Lester
Johnson, Patrick H.
Johnson, Paul N.
Johnson, PaulR., Jr.
Johnson, William S.
Jones, Howard L.
Julian, Thurman J.
Justet, Patrick K.
Kaye, Donald D.
Keesling, Robert A.
Kempa, Aloysius F.
Kennedy, Robert L.
Kisslinger, John L., Jr.
Knight, Cletius D.
Knueppel, Wolfgang W.
Kroeger, Daniel R.
Lambing, Edward W.
Lamont, Jerry E.
Lancharic, James V.
Landick, Richard E., Jr.
Laporte, Charles R.
Lathrop, Bobby G.
Law, George L.
Lawler, Glenn H.
Leal, Pedro G.
Lebert, David L.
Lemke, Thomas E.
Ligon, Thomas M.
Logan, Howard L.
Lord, James M.
Lose, Jay D., Sr.
Lovett, Joel D.
Lunt, Robert T.
Lutz, Philip E.
MacDonald, Donald J.
Maguire, Thomas F.
Mahoney, John M.
Maney, Timothy J.
Marchi, Joseph A.
Marinacci, Charles R.
Marsh, Robert W., Jr.
Martin, Kenneth R.
Martin, Marion L.
Matthews, Julian T.
Maurer, Paul M.
McAllister, Archibald A.
McBrayer, Gary D.
McCluskey, Arthur P.

McClymonds, Samuel L., Jr.
McConville, Brian S.
McDaniel, Eldon L., Jr.
McDermott, Kenneth R.
McMullen, John W.
McNabb, Donald G.
Meeks, John D.
Mergen, William L.
Miller, Earl Y.
Miller, Edward L.
Miller, Paul E.
Minnick, Hubert W.
Mitchell, Kenneth R.
Moilanen, Thomas E.
Mone, Frederick P.
Montoya, Kenneth E.
Moore, Donald R.
Moore, Johnnie C., Jr.
Moore, Richard A.
Morris, Erwin C., Jr.
Morrison, Ronald G.
Mosher, Robert D.
Mow, Warren C.
Mundy, Charles T., Jr.
Nice, Dan E., Jr.
Oakes, Robert P.
Odom, Phillip M.
Olsen, Harvey E., Jr.
Opseth, Don E.
Ovsak, Gary A.
Parker, Kenyon B.
Parks, James E.
Parsons, Robert M.
Paulikonis, John F.
Paulsen, Howard N.
Pease, Milton L.
Peay, Larry G.
Petty, William M.
Pfadenhauer, John J., Jr.
Phillips, Frankie L.
Phipps, Frank P.
Piccini, Peter G.
Pierce, Billie J.
Pierson, Robert G.
Poch, Richard R., Sr.
Poffinbarger, James C., Jr.
Poston, Charles B.
Pratt, George T.
Pribesh, John W.
Querry, Calvin H.
Ramsey, John C.
Ray, David G.
Rea, Jerry F.
Reilley, Miles L.
Reinke, Gerald G.
Rhine, Russell L.
Ritchie, Freddie W.
Roberson, William W.
Robinson, James E.
Robinson, Warren E.
Roper, Thomas W.
Ruddy, Charles L., Jr.
Russell, Robert D.
Ruybal, George N.
Rylander, Jon L.
Safford, Russell M.
Schaefer, Michael R.
Schander, Lawrence E.
Schlomer, Gary L.
Schoenberg, William D.
Schroeder, Kenneth R.
Schropp, John T.
Schultz, Edward J.
Sciuto, John J.
Seal, Warren G.
Seitz, Gary L.
Sharkey, Edward R.
Sheehan, Leroy E.
Sheridan, Dennis D.
Shipley, Thomas E.
Shoaf, Charles W.
Shuttlesworth, Jack L.
Siar, Richard K., Jr.
Slack, Robert H.
Smeltzer, Lowell L.
Smith, Danny F.
Smith, Donald M.
Smith, John F.
Smothers, Curtis J.
Snyder, Jerry M.
Sooy, Richard A.
Spangler, Ralph G.
Stegeman, Ronald A.
Stevenson, Billy W.
Stewart, James H.
Stewart, William J.
Stout, Chester H.
Stuntz, Richard L.
Sulman, Bernard L.
Svensson, Ike L.
Swarner, David M.
Swepston, Carl E.
Talley, James A., Jr.
Tanner, Richard F.
Taskoski, Joseph L.
Tavares, Michael H.
Thomas, Richard H.
Todd, Jerry L.
Tomlinson, Johnny S.
Toombs, Jon L.
Treubel, Craig R.
Trimmer, Thomas A.
Vaden, Don R.
Varvel, Michael P.
Vasta, Alfio J.
Vlcek, Ralph M.
Vongehr, Kurt J.
Walden, William R.
Walker, Charles R.
Walsworth, Danny L.
Walter, Mervyn D.
Watson, John L.
Weavil, Richard L.
Webb, John A.
Weckerle, Richard S.
Welsh, Kenneth H.
Westfall, Donald L.
Wetmore, Walter G.
White, Frank H., Jr.
Wickham, Larry R.
Widerburg, Oliver L.
Wilcox, William L.
Wilhelm, Wallace W.
Willard, Jimmy W.
Williams, Comer L.
Williams, George B.
Wise, Carlton J.
Wise, Herbert F.
Witmer, Mark H.
Wollam, Neil R.
Wolstenholme, Albert H.
Wood, James W.
Wood, Kenneth H.
Woodbury, John S.
Yeatman, Richard W.
Zabielski, Robert A.
Zakrajsek, Michael J.
Zetsch, Kurt J., Jr.

The following-named chief warrant officer, W-2 of the U.S. Navy, for permanent promotion to the grade of chief warrant officer, W-2, of the U.S. Navy, pursuant to title 10, United States Code, section 563, subject to qualification therefor as provided by law:

Childers, Apama K.

The following-named officer of the line, of the U.S. Navy, for appointment in the Supply Corps of the U.S. Navy as a permanent lieutenant (junior grade) and temporary lieutenant, pursuant to title 10, United States Code, section 5582(b), subject to qualification therefor as provided by law:

Bain, Maurice D.

IN THE MARINE CORPS

The following-named Naval Reserve Officer Training Corps graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, U.S. Code, section 2107, subject to the qualifications therefor as provided by law:

Alexander, Kelly R.
Cameron, Bryce K.
Gotay, Angel R.
Heim, Bruce R.
Humphrey, Kevin A.
Jones, Steven M.
Rivera, Jose E.
Yee, Derwin G.

The following-named Marine Corps enlisted commissioning education program graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, U.S. Code, section 5583, subject to the qualifications therefor as provided by law:

Binneweg, Donna L.
Bishop, Samuel H.
Crazythunder, Robert J.
Deryckere, George W.
Fournier, David E.
Howes, Curtis W.
Jacob, Ronald D.
Jarrett, Larry E.
McDowell, William R.
Popplewell, Harold E., Jr.
Turlo, Timothy R.

The following-named Navy enlisted scientific education program graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, U.S. Code, section 5583, subject to the qualifications therefor as proided by law:

Jones, Michael J.
Lacy, Paul D.
Moore, Terry M.
Reisdorph, Kim B.
Taylor, Steven H.
Wentz, Gary L.

The following-named chief warrant officer (W-2), U.S. Marine Corps Reserve, for appointment to Chief Warrant Officer (W-2) in the U.S. Marine Corps, pursuant to title 10, U.S. Code, section 555, subject to the qualifications, therefor as provided by law:

Mahoney, Patrick T.

The following-named temporary disability retired officer for reappointment to the grade of captain in the U.S. Marine Corps, pursuant to title 10, U.S. Code, section 1211, subject to the qualifications therefor as provided by law:

Sherman, John F.

EXTENSIONS OF REMARKS

PLIGHT OF WHALES

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. RYAN. Mr. Speaker, many people in this country are keenly aware of and concerned about the plight of whales around the world. We are reminded of the need of Eskimos to have the right to hunt a limited number of bowhead whales. We have seen on TV the brave people from Greenpeace placing themselves between the Soviet and Japanese whalers' harpooners. We are worried about the welfare of the California gray whales, which Californians enjoy seeing migrate every year.

Many thought that the United States was taking the policy lead by refusing to allow the importation of whale products and by putting pressure on the leading whaling nations, the U.S.S.R. and Japan, to be more responsive.

However, the results of the meeting this year of the International Whaling Commission (IWC) appear to indicate that this is not the case. As Lewis Regenstein points out in the following newspaper article, the United States has failed miserably to stop the senseless massacre of whales. Not only does the United States lack a firm policy and commitment to stop the extinction of certain species of whales, our delegates to the last meeting of the IWC have allowed the quotas to raise again, which is completely contrary to our previous actions and policy.

The U.S. Congress in a Joint Resolution in 1972 called for a 10 year moratorium on the killing of whales. This had been the United States policy at IWC meetings until recently. Jimmy Carter supported this policy before he became President and through his efforts the whale issue was brought up at the Stockholm meeting of the International Conference on the Environment.

Why aren't the U.S. delegates to the IWC following that policy? I can't believe that the President has lost his interest in whales. Who is setting and implementing U.S. policy at IWC? Who do these representatives represent? I commend the following article to my colleagues.

[From the Washington Post, September 14, 1978]

SELLING OUT THE WHALES

(By Lewis Regenstein)

Until recently, the United States led the fight to save the great whales from extinction. But now that policy has been largely abandoned.

In 1972, after the United Nations Conference on the Human Environment and after Congress passed resolutions calling for a 10-year moratorium on commercial whale-killing, America assumed the lead in pushing for international whale conservation. When the eight great whales were added to the U.S. endangered-species list, the last U.S. whaling company was put out of business and the import of whale products into the United States was banned. Throughout the rest of the Nixon and Ford administrations, the United States fought to end or drastically reduce commercial whale-killing (some 85 percent of which is carried out by Japanese and Soviet whalers). The result was the achievement of significantly lower quotas and the protection of several depleted or endangered whale species and population stocks.

But the Carter administration has effec-

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

tively abandoned that leadership position in saving the whales—despite the fact that Jimmy Carter said repeatedly during the 1976 presidential campaign that he favored a 10-year moratorium on deep-sea whaling and would use this country's 200-mile limit as a bargaining tool.

But the officials appointed by Carter to carry out policy on whales have ignored and reversed those commitments. Instead of fighting for whale protection, the administration has endorsed an increase in their killing.

At the June 1977 meeting of the International Whaling Commission, the U.S. delegation, led by Commissioner William Aron and Deputy Commissioner Tom Garrett, obtained a reduction of 10,000 whales in the following year's quota, which many people felt might put the whaling industry out of business. That was accomplished in part through a very strongly worded message sent by Carter, including a clear warning that the United States might use economic sanctions against any nations that "diminish the effectiveness of the conservation regime of the IWC."

But that victory for the whales was largely nullified at a subsequent IWC meeting last December. Richard Frank, administrator of the Commerce Department's National Oceanic and Atmospheric Administration, in effect forced the resignation of Aron as whaling commissioner and took the position himself. He then proceeded to vote in favor of an increase of 6,000 sperm whales to be killed by the Soviet and Japanese whaling industries. That was done even though it was ostensibly U.S. policy to seek a 10-year moratorium on commercial whaling, and despite the fact that the sperm whale is on the endangered-species list. By voting to increase the 1978 sperm whale quota from 763 to 6,444, Frank helped guarantee the perpetuation of the foreign commercial whaling industry.

At this year's IWC meeting, the U.S. delegation, led by Frank, again failed to work for effective whale-conservation measures. Although the United States paid lip service to the moratorium, no real effort was made to push for it or even for significantly lower overall quotas.

Indeed, a few days before the meeting, Frank publicly suggested that the California gray whales had recovered sufficiently so that commercial hunting could possibly be revived. "Grounds exist for optimism that the gray whale may be removed from the protected list," Frank said in a news release, thus virtually inviting the slaughter of those whales, which winter and calve off Baja California and have been protected for some 40 years.

Sure enough, at the IWC meeting the California gray whale was removed from the protected list without U.S. objection, and the Russians were given a quota of 178 to be killed for their aboriginal population and reportedly to be fed to ranch-raised fur-bearing animals such as mink. Although there will be no additional commercial killing of them this season, there is now no effective mechanism to prevent it from being resumed and expanded in future years.

Nor did the United States protest when Japan successfully pressured Panama to fire its pro-conservation whaling commissioner and drop its proposal for a moratorium on commercial whaling, reportedly under threat of cancellation of a $10-million sugar purchase from Panama.

In the end, the United States went along with the quotas set by the IWC at basically the same levels as last year (except for sperm whales), when 23,520 whales were killed by the whaling industry. Although there was an overall quota reduction of only 5 percent, Frank pronounced the IWC meeting a success.

As Deputy Commissioner Garrett put it, "Leadership in the fight to save the great whales passed from U.S. hands." A major reason for this change of policy seems to be Frank's determination not to provoke the Japanese and Soviet delegations, whose support he sought to increase by 50 percent the number of gravely endangered bowhead whales—probably the most critically imperiled of all whale species—to be killed by Alaskan Eskimos. According to Garrett, "The dominant concern seemed to be getting more bowheads for the Eskimos; protecting the great whales was entirely subordinate to that."

It is difficult to understand what the administration hopes to gain politically by abandoning this worldwide movement. Until the president orders or persuades his appointees to bring about a change in policy, his often-repeated commitment to whale conservation will remain unfulfilled. And the great whales will continue to be slaughtered until these awe-inspiring leviathans are gone forever.●

DR. JANETTA MacPHAIL ELECTED TO AMERICAN ACADEMY OF NURSING

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. STOKES. Mr. Speaker, It has recently come to my attention that Dr. Janetta MacPhail of Cleveland, Ohio, has been named a fellow of the American Academy of Nursing. Dr. MacPhail, Ph. D., R.N., is one of 50 fellows named to the academy in recognition of outstanding contributions to the nursing profession.

Mr. Speaker, Dr. MacPhail is the distinguished dean and professor of the Frances Payne Bolton School of Nursing of Case Western Reserve University. She is also an administrative associate in nursing at the University Hospitals of Cleveland. On many occasions Dr. MacPhail has visited my congressional offices to discuss increased funding for the Nation's schools of nursing. She has also been deeply involved in solving the health care delivery problems in our city, especially in the low income, minority areas. I have always had high regard for Dr. MacPhail and I am very proud that she has been awarded such a distinguished honor.

Mr. Speaker, I would like to take this opportunity to inform my colleagues of Dr. MacPhail's outstanding career.

Dr. MacPhail is well known for her efforts to unify nursing education and nursing service. She was the project director of an experiment in nursing which involved the Frances Payne Bolton School of Nursing and the University Hospitals of Cleveland. In this demonstration, funded by a grant from the W. K. Kellogg Foundation, Dr. MacPhail formulated positions of professor-nurse clinician that have led to major changes in education and practice.

Since she was named dean in 1972, Dr. MacPhail has continued to be an innovator. In 1972–74, she served as the principal investigator for a "primary health practitioner" program funded by the Department of Health, Education, and Welfare, Public Health Service.

Other studies for which she serves as program director are Graduate Study in Maternity and Pediatric Nursing, which is funded by the Maternal and Child Health Service of DHEW, and Graduate Education Leading to a Ph. D. in Nursing, which is funded by the Division of Nursing, DHEW.

Mr. Speaker, Dr. MacPhail serves as the chairperson of the ANA Commission on Nursing Services. She has also provided leadership to the American Association of Colleges of Nursing, having served on the executive committee and as treasurer before there was a professional staff.

Dr. MacPhail has published widely; she has presented numerous papers throughout the country, and in her native Canada. She received her B.S. degree from Teachers College, Columbia University, her M.S.N. from Wayne State University, Detroit; and her Ph. D. in administration in higher education from the University of Michigan, Ann Arbor.

Mr. Speaker, at this time, I ask that my colleagues join me in commending Dr. MacPhail for her exemplary service to the nursing and medical profession. Let us wish her well in her future endeavors, and look forward to her continuing service to her profession and the Nation. ●

TWO BILLS TO REDUCE GOVERNMENT OVERREGULATION

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. BROWN of Ohio. Mr. Speaker, there has been an astronomical growth in Government regulation and its costs the past few years. The Code of Federal Regulations now covers 65,000 pages in 38 volumes and fills a 15-foot shelf. Thousands of new regulations are added each year. And the costs are unbelievable. Murray Weidenbaum, professor at Washington University in St. Louis, in a recent study for the Joint Economic Committee, showed a regulatory bill of $4.8 billion for administration and $97.9 billion for private sector compliance costs in fiscal 1979.

Much of the regulator activity represented by this huge $103 billion burden is well intentioned. Concerns over safety, the environment, and consumer protection are legitimate concerns.

But by creating regulatory agencies which are unaware of, or incapable of measuring, the burden they impose on the private sector causes real headaches. Overregulation can break the back of American business.

Actually, the ultimate costs are not borne by the business community. Consumers pay the costs of regulation through increased prices on goods. These prices stem from two sources: First is the direct dollar expense of compliance, currently costing us nearly $100 billion in the aggregate. As a micro example, Government safety and pollution-control devices add $660 to the price of the average automobile. Second is the adverse impact on productivity. When scientists and researchers are diverted from the constructive pursuits for which they are trained and qualified, to collecting data and filling out forms for Government agencies, productivity declines. Edward F. Denison of the Brookings Institution has estimated that in recent years Government regulations have caused a loss of approximately one-fourth of the potential annual increase in productivity. This, of course, exacerbates our already disturbing inflationary pressures.

Something must be done. Americans want these burdens removed; they want action now.

Today I am introducing legislation to begin work on lifting these burdens. Senator LLOYD BENTSEN of Texas is introducing identical legislation in the Senate. The Brown-Bentsen bills will stem the tide of stifling Government regulation. One of the bills deals with the broad scope of regulatory costs. The other bill would remove individual regulations that are contradictory and duplicative.

THE REGULATORY COST REDUCTION ACT

Under this legislation, beginning with fiscal year 1979 and for the 4 following years, the President is required to submit recommendations to Congress for reducing by up to 5 percent each year the cost imposed on society by Federal regulations. The heads of independent regulatory agencies must submit similar recommendations. These Presidential and agency recommendations will go into effect 60 days following their submission unless disapproved by Congress. The Office of Management and Budget or any other agency designated by the President will establish a uniform method of determining the costs imposed on society by each agency's rules and regulations, and the General Accounting Office will evaluate the recommendations and each agency's progress in meeting the 5-percent annual goal.

Any agency failing to achieve a 5-percent compliance cost reduction during any year is required to provide a full explanation of its failure and to cite all provisions of law which may have prevented it from achieving the goal.

If this legislation did nothing more than make Federal regulators "cost-of-compliance" conscious, it would be worth the effort. But it does do more. The legislation is simple and effective.

I am aware that the major problem in the bill will be determining the compliance costs. But it can be done. Professor Weidenbaum has given us a solid base to build on. Industry committees can help. Frankly, the Office of Management and Budget has done a poor job in this area; they are capable of better work.

We worked through, and came up with, the tax expenditure concept about 10 years ago. Now we can do the same for the regulatory budget. The Congress, the executive departments, businessmen, academicians, and private technicians will all be involved.

The American people are entitled to know the costs Federal regulations impose on them; not only to know those costs, but to have those costs reduced. That is the goal of this legislation, and it is a worthy goal.

THE REGULATORY CONFLICTS ELIMINATION ACT

Under this legislation, the Office of Management and Budget will annually report to Congress and the President on Federal agency rules or regulations which duplicate or conflict with rules or regulations promulgated by other Federal agencies or by State and local governments. At the start of each fiscal year, the President will submit his recommendations for resolving or eliminating duplication or conflicts among rules or regulations at the Federal, State, and local levels. The recommendations affecting Federal agencies go into effect 60 days following their submission unless Congress disapproves. The GAO will evaluate the President's recommendations as well as each agency's progress in implementing the recommendations.

It is senseless for a businessman to be put squarely between the rock and the hard place where complying with one regulation requires violating another. For example, at April 1978 hearings before the Joint Economic Committee, the owner of a sausage company testified:

> In our plant, USDA (U.S. Department of Agriculture) requires that our sausage kitchen floors be washed repeatedly for sanitary purposes, yet OSHA (Occupational Safety and Health Administration) requires that floors must be kept dry. What is a man to do?

My legislation is designed to eliminate the irrationality of overlapping and contradictory regulations.

Mr. Speaker, the bills I am introducing today are not aimed at the legitimate efforts of Government to clean up our environment and to improve worker health and safety. We all want that. Actually, enactment of this legislation will make the entire regulatory process more efficient and hence more effective in carrying out the work of protecting our environment and improving the quality of life for all citizens.

My efforts are directed at excessive and unnecessary Federal regulation.

Human effort, our richest resource, blooms best in an economic environment in which personal liberty and security are in optimum balance, with liberty at its maximum and regulation at its lowest safe level.●

PERSONAL EXPLANATION

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. MADIGAN. Mr. Speaker, I was unavoidably absent from the House of Representatives on Friday, September 22, 1978. Had I been present, I would have cast my vote in the following manner:

Rollcall No. 817, an amendment seeking to add $1 billion to Comprehensive Employment and Training Act public service employment programs, I would have voted "no."

Rollcall No. 818, a motion to recommit the Comprehensive Employment and Training Act authorization back to the Education and Labor Committee with instructions, I would have voted "no."

Rollcall No. 819, final passage of H.R. 12452, to extend and amend the Comprehensive Employment and Training Act of 1973, I would have voted "yea."

Rollcall No. 820, an amendment seeking to strike language in H.R. 11733 making changes in the Highway Beautification Act, I would have voted "no."●

PHILADEPHIA SELECTED FOR AIRPORT PROGRAM

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. EILBERG. Mr. Speaker, I am pleased to announce that Philadelphia's International Airport has been selected for an experimental program geared to accelerate the inspection of baggage for overseas travelers.

The airport is already widely known in the airline industry for its speedy and courteous processing of arriving international passengers by Federal agencies. The new program is designed to clear each arriving passenger in 90 seconds or less after baggage claim, and became effective at the airport's overseas terminal just this week.

Philadelphia is the first airport in the Nation selected for the program, because of the spaciousness of its overseas terminal and because its flight activities are well spread out throughout the day.

"The selection of Philadelphia for this experimental program acknowledges this administration's continuing effort to make our airport one of the Nation's leading transportation centers," according to Aviation Director Austin B. Brough.

Called "One Stop Inspection," the pilot program enables passengers to show their passports and have their baggage inspected at counters staffed by both U.S. Customs and Immigration officers. If there is need for a secondary inspection by either agency, it will be promptly done in another area in order to keep the primary line moving quickly.

The test program here resulted from an agreement by U.S. Customs, the Immigration Naturalization Service and the Department of Agriculture. Previously, passengers had to first pass through immigration inspection, then retrieve their baggage and have it checked at another location by Customs inspectors.

The airlines, Federal agencies, and multilingual receptionists of the city of Philadelphia are involved in a cooperative, public information program to familiarize travelers with the new inspection system.●

INFLATION: CAUSES AND REMEDIES

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. FOWLER. Mr. Speaker, our country must find a way to stop spiraling inflation without falling back into a serious recession. To halt the shrinking of the dollar, we must attack inflation at its sources. Inflation may be triggered by—

The effects of Government policy decisions;

The structure of the economy; and

The impact of external events.

I. GOVERNMENT DECISIONS: THE NEED TO CUT SPENDING AND INCREASE EFFICIENCY

It is possible for the Government to spend so much that it actually creates inflation. Also, specific Government actions or regulations, such as the raising of the minimum wage or the imposition of environmental requirements, may impose additional costs on employers and industries, and these costs may be passed on to the consumer as higher final product prices, thereby contributing to inflation.

This is one place that the Congress can act decisively, and I think that we have seen the beginning of such action this year. I have voted for, and in many cases helped pass, across-the-board spending cuts in a variety of agencies and programs including reductions in appropriations for Departments of Labor, HEW, State, Justice, HUD, Commerce, the Federal judiciary, the legislative branch, parks and recreation areas, water projects, and foreign aid. One of the more encouraging actions has been the reduction of the Federal deficit to the lowest level in 5 years—even taking into account the $16.3 billion tax cut recently passed by the House. I anticipate that we will be able step-by-step to eliminate the deficit within the next few years. The momentum has begun.

One of the best ways to reduce spending is to increase efficiency and productivity on the part of the Federal bureaucracy. Despite the fact that this is frequently a discouraging battle, some progress is being made. President Carter has instituted a new budgeting procedure, "zero-base budgeting," which has not had a revolutionary impact but which has saved millions of dollars thus far according to one study. Also, civil service reform has passed the House and Senate and promises some improvement in the morale and performance of Government workers.

I am also supporting "sunset" legislation which would require a periodic review of every program in the Federal Government. Each program would have to be explicitly reauthorized or else it would automatically end. Currently, programs can often continue year after year, regardless of how well they are working. Under "sunset" legislation Congress would periodically be forced to take a more careful look at those programs and decide if they are worth continuing.

Finally, policies can be followed which will help stabilize prices. I was one of the original congressional supporters of the domestic grain reserve, which has already been successful in keeping food prices from fluctuating by taking surplus grain off the market—thereby protecting the farmer and the consumer from erratic price changes. I am currently cosponsoring legislation to establish an international grain reserve, which would further the domestic effort, while it protects people abroad who face starvation in times of natural disaster.

II. THE STRUCTURE OF OUR ECONOMY: THE NEED FOR MORE COMPETITION

Some product markets in the country, such as the oil industry, are dominated by relatively few suppliers. In these cases, the prices the consumer pays are partially decided by the suppliers and are not entirely the result of competitive market forces. In other words, the principle of supply and demand is not completely working. Under these circumstances inflation can result because prices will tend to rise at times when demand is brisk but will not lower by much, if at all, when demand is slack.

The existence of a large labor union, such as the United Auto Workers, that dominates a single industry which has relatively few corporate participants can also have inflationary effects. The manner in which wage settlements are reached in such cases more nearly resembles the process of monopoly than haggling in a competitive market.

There have been a number of policies proposed to address this structural source of inflation: First, wage and price controls; second, more vigorous antitrust prosecution by the Justice Department; third, reduced Government regulation to encourage more competition in industries; fourth, "jawboning" in which the President encourages labor unions and industries to hold down wage demands and prices; and fifth, a tax-based incomes policy (TIP).

In studying the thoughtful responses to my newsletter questionnaire and in thinking about this problem, I have come to the conclusion that several approaches to this structurally caused inflation are advisable. I do not believe, however, that wage and price controls, with the inevitable inequity and hardship which accompany them, should be instituted, except as a last resort. On the other hand, encouraging competition within industries—by vigorous enforcement of antitrust laws and by reducing unnecessary Government regulation—is a sensible and practical approach.

The Congress recently passed, and I voted for, a bill which to a large degree will serve to deregulate the airline industry. This deregulation had essentially already begun this summer, and the results were very apparent: Airlines were allowed to compete in ticket prices, and these prices went down. With deregulation legislation they will continue to go down.

I am working to identify and alter Federal laws which weaken competition and which prevent the law of supply and demand from working. As other measures arise to lessen Government regulation responsibly, I will support them. In addition, I support President Carter's effort to encourage labor unions and industries voluntarily to hold down their wage demands and price increases.

One other method of controlling inflation which is being increasingly discussed is a tax-based income policy or TIP. This idea is more simple than its lengthy name suggests. A better name might be the carrot approach. Under TIP businesses and labor would be rewarded through tax incentives for keeping wage demands and prices down. No such policy has been instituted, but it is being considered.

III. THE IMPACT OF EXTERNAL EVENTS: THE NEED TO REDUCE THE TRADE DEFICIT AND TO INSTITUTE A STRONG ENERGY POLICY

Many analysts feel that the U.S. trade deficit, which was $31.4 billion in 1977, is the ultimate cause of dollar depreciation. And they believe dollar depreciation, in turn, contributes to inflation in the United States.

One of the main factors thought to cause the large trade deficit is the high level of U.S. oil imports—$42 billion in 1977 (out of total U.S. imports of $147 billion), up from $32 billion in 1976. The increase in the value of oil imports results from the increased price of foreign oil, the increase demand for oil, and decrease domestic output.

Another important factor leading to the trade deficit is the relatively slow economic growth of foreign industrial economies in 1977. The slow growth of other industrial economies lately has restrained the demand for U.S. exports. At the same time, the relatively rapid growth of the U.S. economy has increased the U.S. demand for foreign goods.

There is no easy solution to the problem of dollar depreciation and the large trade deficit. The administration's policy has been to encourage foreign industrial countries to stimulate their economies, as well as urging passage of energy legislation in the United States.

A strong energy policy is doubly important. First, other Western industrial countries have indicated a willingness to stimulate their economies only if the United States is willing to restrain oil imports. And, second, it is necessary in any case to exercise such restraint because of the inflationary impact of the oil imports themselves.

A key portion of the President's energy bill—natural gas deregulation—has finally been worked out in Congress with the result that an energy package has at last been put together. This legislation will encourage domestic production, alternative energy sources, and a reduction in oil imports.

It is inevitable, however, that the cost of energy will increase and this fact points to a more general conclusion about fighting inflation. All of us must come to recognize the seriousness of the inflation problem and be willing to bear the costs of eliminating it. The costs are not abstract. They will be felt in such things as lower wage increases and higher gasoline prices. But these costs are much less severe than the ravages of spiraling inflation.●

RETREAT FROM REFORM

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, the House Democratic Study Group, widely heralded as being in the vanguard of the congressional reform movement over the past decade, has suddenly done an about-face and is now sounding "retreat" on its reform bugle. Having largely succeeded in its bid to overthrow the old order, the DSG membership has come to the startling realization that, to paraphrase Pogo, "We have met the Establishment, and they is us." It is little wonder then that the DSG is being transformed from being on the cutting-edge of reform to the dulling edge of retrenchment.

I offer these observations after reviewing a DSG "reform survey" circulated to its members by its chairman on September 16, 1978. According to the cover memo, the survey consists of "proposed House and caucus rules changes being considered by the DSG Executive Committee and others," and "several of these proposals will be offered at the 96th Congress organizational caucuses which will be held in early December." There follows some 28 proposals, many of which, according to the memo, "are specifically designed to reduce time pressures in the House to enable Members to carry out their responsibilities more effectively."

While that certainly sounds like a laudable objective, a careful examination of these proposals reveals that they run directly contrary to the openness, accountability, and democratization that were the rallying cries of the DSG reform movement in the late sixties and early seventies.

Proposal No. 1, for instance, suggests increasing the requirement "to get a record vote on an amendment in the Committee of the Whole from 20, to 25," or "to 33." In other words, this would make it more difficult to make it possible for the public to know how their Representatives have voted on important amendments.

Proposal No. 2 presents the alternative of requiring a record vote if the sponsor of an amendment "submitted the signatures of 25 or 33 Members." This is but another device to permit Members to stay away from the House floor while important business is conducted—a new form of proxy or absentee voting. And, one can imagine that this form of proxy voting will be subject to the same abuse now so evident in committees where blank check proxies are signed, in violation of the present House rule which requires specific proxies.

Proposal No. 3 would authorize the Speaker "to refer and then cluster votes on passage of routine, noncontroversial bills and resolutions with voting time reduced to 5 minutes each, the same as with suspension bills." Notice that this would give the Speaker discretion to determine which bills and resolutions are "routine" and noncontroversial." If our experiences with clustered suspension votes is any indicator of the advisability of this proposal, we can expect even further confusion and ignorance of what is being voted on. Again, this is a clear invitation for more sloppy, hasty, and uninformed legislating.

Proposal No. 4 suggests prohibiting "pointless procedural votes (approval of the Journal, ordering seconds, and resolving into the Committee of the Whole) unless such a vote is specifically demanded by — Members." While admittedly some of these procedural votes do seem pointless given the lopsided nature of the vote, they nevertheless do serve an important purpose. Should a chairman, for instance, be permitted to automatically force the resumption of consideration of a bill which was begun on an earlier date, even without advance warning to the House of such resumption? Should the House be forced to a final vote on a matter under suspension without advance warning and the opportunity to vote on its consideration, which is the function of ordering a second? Are the procedural motions in parentheses intended to be the only ones which could be dispensed with, or could the Speaker determine that other procedural motions should not be voted on?

Proposal No. 5 would "eliminate the 1-hour debate time on noncontroversial rules, unless debate is specifically demanded by — Members." Who would determine what rules are noncontroversial? What if a potential controversy could only be brought out through debate? As a member of the Rules Committee it has been my experience that noncontroversial rules rarely take more than 5 or 10 minutes debate time at the most; the House does not unnecessarily consume a full hour on a noncontroversial rule, even as a dilatory tactic.

Proposal No. 6 would "establish strict standards to restrict bills on suspension to those which are truly routine and which do not contain authorizations in excess of $1 million." I think most Members would agree to placing stricter standards on bringing matters up under a suspension of the rules, but the $1-million standard is the only one suggested in this proposal. It is probably too low and therefore would elicit more negative responses than the first part of the question would otherwise suggest. What about the additional standards of committee authorization to bring a matter up under suspension, at least 1 day's advance notice, notification and advance publication of any amendments a chairman will send to the desk with the suspension bill?

Proposal No. 7 would "prohibit or restrict the offering of riders on appropriations bills." This is perhaps the most undemocratic proposal in the whole batch, for it in effect would deny the right of Members to place restrictions on the expenditure of Federal funds, often the only way to retain proper control on the executive branch.

Proposal No. 16 would permit the signature of 100 Members in favor of a germane amendment to offer that amendment, even though the rule specifies that no amendments can be offered. This is a variation on the present Democratic caucus rule which has not been utilized lately. Its effect would be to condone more closed rules and permit fewer amendments to be offered on the floor.

While some of the other DSG "reform" proposals are commendable, the thrust of the ones which I have just cited is truly frightening, coming as they do from the former fountainhead of House reforms. It is as if the aging organization has concluded that, "legislating is getting to be such a bothersome and tiresome affair; do not confuse us with the details, keep us away from the House Chamber as much as possible, and do not make us go on record so much."

Perhaps the DSG should now rename itself the Dinosaur Slumber Group.

DEMOCRATIC STUDY GROUP,
Washington, D.C., September 6, 1978.

To: DG Members.
From: Ab Mikva, Chairman.
Subject: Reform Survey.

Attached is a survey of proposed House and Caucus rules changes being considered by the DSG Executive Committee and others.

Many of the proposals are specifically designed to reduce time pressures in the House to enable Members to carry out their responsibilities more effectively. Other proposals continue the process of democratization, while others are designed to deal with various specific problems.

Several of these proposals will be offered at the 96th Congress organizational caucuses which will be held in early December.

The Executive Committee therefore requests your cooperation in responding to this survey so that appropriate priorities may be established.

The Executive Committee also would appreciate any recommendations or suggestions.

Thank you.

NOTE.—Please return reform survey to DSG Office, 1422 Longworth, as soon as possible.

DSG REFORM SURVEY

1. Increase the requirement to get a record vote on an amendment in Committee of the Whole from 20: To 25. To 33, Keep at 20.

2. If the record vote requirement were increased to 25 or 33, would you also favor requiring a record vote if the sponsor of an amendment submitted the signatures of 25 or 33 Members? This would be an optional way of obtaining a record vote; the present procedure requiring a specified number of Members to stand would also be retained. Yes. No.

3. Authorize the Speaker to defer and then cluster votes on passage of routine, noncontroversial bills and resolutions with voting time reduced to five minutes each, the same as with suspension bills. Yes. No.

4. Prohibit pointless procedural votes (approval of the Journal, ordering seconds, and resolving into the Committee of the Whole) unless such a vote is specifically demanded by ____ Members. Yes. No.

5. Eliminate the one hour debate time on noncontroversial rules, unless debate is specifically demanded by ____ Members. Yes. No.

6. Establish strict standards to restrict bills on suspension to those which are truly routine and which do not contain authorization in excess of $1 million. Yes. No.

7. Prohibit or restrict the offering of riders on appropriations bills: Yes. No.

8. Limit the number of subcommittee as-

signments a Member may hold. (171 Members have four or more assignments: 51 have four, 56 have five, 41 have six, 17 have seven, five have eight, and one Member has ten assignments.) Limit to 4. Limit to 5. No change.

9. Eliminate any subcommittee which, as a result of limiting the number of subcommittee assignments a Member may hold, does not have a sufficient number of Members. Yes. No.

10. Extend the term limit for members of the Budget Committee from two to three terms. Yes. No.

11. Elect the Whip. Yes. No.

12. Eliminate exemptions in caucus rules which permit Members of certain committees to chair more than one subcommittee. (Caucus Rules permit Members of the House Administration Committee to chair subcommittees on that committee as well as on any other committee.) Yes. No.

13. Prohibit committee chairmen from also chairing a subcommittee on their committee. Yes. No.

14. Limit the terms of committee chairmen. Yes. No.

15. Provide that if a conference is closed, members of the Committee which reported the legislation shall nonetheless be permitted to attend. Yes. No.

16. Provide that if 100 Members sign a statement demanding a vote on a particular germane amendment, said amendment shall be in order even though the rule may be closed. Yes. No.

17. In cases where a Committee chairmanship is vacant, permit a direct election between opposing candidates rather than requiring a caucus to reject a nominee of the Steering & Policy Committee in order to have an opportunity to consider another candidate. This would not apply in any instances where the Steering & Policy Committee recommended that an incumbent chairman be reelected for another term. Yes. No.

18. Require the Steering & Policy Committee to nominate two candidates for a committee chairmanship when its first nominee is age 70 or over. (This would result in a direct election between two candidates.) Yes. No.

19. Adopt the Obey Commission recommendation that all administrative operations of the House be centralized under an administrator selected by the Speaker. Yes. No.

20. Create a Select Committee on Committees to recommend realignment of committee jurisdictions. Yes. No.

21. Establish a Fair Employment Practices Panel to mediate staff grievances against individual Members. Yes. No.

22. Annualize Members' clerk-hire allowance so that clerk-hire funds not used one month can be accumulated and used in later months. Yes. No.

23. Amend clerk-hire rules so that only one Member must provide a staff slot for an employee who is on the payroll of two or more Members in any month. Yes. No.

24. Permit Members who are not now authorized a committee staffer to employ one committee aide. (Funds for this staff position would come from the contingent fund, not from Members' clerk-hire account.) Yes. No.

25. Permit Members who are not so authorized to designate one staff person to attend closed committee meetings on the same basis as committee staff. (This would not require any additional staff funds.) Yes. No.

26. Provide for the appointment of part-time employees so that a Member may divide a staff slot between two part-time employees. Yes. No.

27. Require all ad hoc groups to certify monthly that their employees are engaged in legitimate legislative activities and file an annual report of expenditures and contributions. Yes. No.

28. Establish clerk-hire holding accounts for large broadly based ad hoc groups which provide Members with legislative services on a regular basis. Yes. No.

NOTE: Please return to DSG Office, 1422 Longworth.●

ANTIOCH BAPTIST CHURCH CREDIT UNION: YEARS OF OUTSTANDING SERVICE TO THE COMMUNITY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. STOKES. Mr. Speaker, it gives me great pleasure to rise on this occasion to salute one of the outstanding financial enterprises in Cleveland, Ohio, the Antioch Baptist Church Credit Union.

Mr. Speaker, this institution provides financial assistance to thousands of families and individuals, many who are unable to secure credit from conventional lending groups. After 30 years of service, Antioch Credit Union boasts assets in excess of $1 million and a membership of approximately 1,600.

Antioch Credit Union is a fine example of what an industrious, socially conscious group of individuals can achieve. In 1947, Mr. Speaker, a veterans bible class at Antioch Baptist Church developed the idea of a credit union to better the economic plight of the church's membership and the larger black community. During the early months, business was conducted in the chapel of the church out of a cigar box. But not for long. Staffed always by a hardworking and informed group of volunteers, the credit union grew slowly but surely, showing steady increase each year. At the end of 10 years, the credit union showed assets of over $185,000 and a membership of 1,200. The dream had become a thriving, healthy reality. Along the way, many shareholders were able to weather emergencies, buy homes and cars, send their children to colleges, and generally raise their standard of living.

On November 10, 1968, the Antioch Credit Union opened a new, modern office building adjacent to the church. In 1975, in an effort to better serve its membership, operations of the credit union were computerized and office hours were increased to 5 days per week.

This week, Mr. Speaker, the Antioch Baptist Church Credit Union will mark the culmination of its "Million Dollar Celebration" with a banquet at the Cleveland Plaza Hotel. Certainly, this will be a proud moment for its founding officers and all those who have benefited from the organization's excellent service.

Mr. Speaker, at this time, I would like to call on my colleagues in the House to join me in applauding Antioch Credit Union. May they continue to grow and thrive in the years to come. And may they continue to provide assistance and hope to the thousands of families who are struggling for economic security and a better way of life.●

THE IMPORTANCE OF AN INFLATION ADJUSTMENT FOR CAPITAL GAINS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. ARCHER. Mr. Speaker, an article appeared in this morning's Wall Street Journal which I hope my colleagues in the Congress will take the time to read.

It deals with the provision in the House-passed Revenue Act of 1978 providing for an inflation adjustment for capital gains, and it is most timely in view of the Senate Finance Committee's consideration of the matter during the coming days.

The article follows:

[From the Wall Street Journal, Sept. 25, 1978]

FOR INDEXING CAPITAL GAINS

(By Frederick W. Hickman)

Taxes affect capital formation because they take away a part of the return which potential investors will earn from new investment. In the House version of the current tax bill, a key capital formation provision is the so-called Archer amendment, which would "index" capital gains for inflation. It is important both for what it would do directly and for the salutary effect of the principle it would establish.

It was voted on separately by the full House, where, to the surprise of many seasoned tax watchers, it carried by a 3-to-2 margin. Its fate in the Senate is uncertain, as the Finance Committee last week took a different tack by expanding the House-passed reduction in the rate on capital gains. The House version would reduce the maximum rate to 35% from 49%; the Finance Committee would reduce it still further to 25%.

Folklore to the contrary, the capital gains tax is neither the heaviest nor the most significant tax on capital. The corporate income tax, for example, exacts nine times more revenue and plays a much greater role in the capital formation process. However, the capital gains tax has a structural importance that transcends the bare numbers because it affords a partial detour around the fact that corporate earnings are taxed twice if distributed.

SOME UNDESIRABLE RESULTS

That double tax has a number of undesirable results: It inhibits investments in corporate form, discriminates against low bracket investors, encourages high debt-equity ratios, traps income in entities where it may not be put to optimum use and encourages corporate mergers and acquisitions that would be otherwise undesirable.

Some of those results are mitigated by the capital gains tax if corporations retain rather than distribute their earnings. The value of corporate stock tends to rise by the amount of earnings retained, and when earnings are ultimately realized by selling stock at appreciated value, the stockholder pays tax at capital gains rates. Corporate earnings are still taxed twice, but the second tax is reduced.

Corporate financial policies have long been geared to these tax factors. Anything which increases capital gains rates increases the amounts that corporations must earn to provide stockholders with after-tax market returns and generally unsettles the ground rules for investment.

In the last decade exactly that has happened. Congress raised the maximum rate on capital gains from 25 percent to 35 percent in 1969, and then, in effect, raised the

36 percent to 49 percent through the minimum and maximum tax. On top of the near doubling of statutory rates, inflation, by causing income to be grossly mismeasured, created a "multiplier effect" that increased the effective rate on real income still further, often to levels greatly in excess of 100 percent.

A taxpayer who earned $15,000 last year will need to earn $16,000 this year to preserve comparable purchasing power. But under a progressive income tax, the tax rate on $16,000 is higher than on $15,000. Persisting inflation causes a steady upward creep of tax rates for everybody. The remedy is general tax reduction.

Inflation also causes income mismeasurement. This happens when a taxpayer purchases in one period and sells in another. He has real income only if the transaction leaves him "better off." Properly measured, income is the amount by which sales proceeds exceed the amount required to "stay even."

If he purchases for $100 and sells after there has been 20 percent inflation, he must receive at least $120 to stay even. Only the excess over $120 is real income. But for tax purposes income is mismeasured as the excess over $100, notwithstanding that the first $20 of any excess is not real, but illusory.

If the illusory gain is large compared with the real gain, the effective tax rate can be multiplied many times over. If, for example, the illusory gain is four-fifths of the total gain—as would be the case if the property were sold for $125—income would be overstated five times. The taxable income would be $25, but the real income would be only $5. The result is the same as if the tax rate were multiplied by five. A 35 percent capital gains rate becomes 165 percent and a 49 percent rate becomes a 245 percent rate. The effects are devastating.

For most investors, appreciation of equities has been largely or completely illusory, and the tax multiplier effect has been enormous. Capital gains taxes have in large degree been transformed from taxes on income into confications of capital. The effect on capital formation has been chilling.

Because inflation causes income mismeasurement wherever income is measured by comparing outlays in one period with receipts in later periods, major mismeasurements also occur in connection with depreciation, inventories and debt obligations. Some argue that it would be unfair to correct the mismeasurement of capital gain without also correcting other mismeasurements. But evils will never be corrected if all of them must be corrected at once and capital gains are the item on today's political menu. The mismeasurement of capital gain is a good place to start.

A major drawback to correcting mismeasurement is added complexity. Some complications can be avoided if Congress can resist the tendencies of tax technicians to fine-tune endlessly, but substantial additional complexity is inevitable and must be endured to excise the cancer.

The desire to avoid complexity causes some to favor alternative measures, such as increasing from 50% the percentage of capital gains which is excluded from income. But such proposals miss the mark. First, they give too much to the top bracket, superwealthy stockholder whose stock has risen from $1 to $100. He has a relatively minor mismeasurement of income and a low multiplier because the illusory gain is so small a part of the total gain. Raising the exclusion from 50% to 70% and eliminating capital gains as a preference item, the proposal now pending in the Finance Committee, would nonetheless lower the maximum rate for that taxpayer from 49% to nearly 25% (or to 21% for taxpayers with significant other income).

More important, a larger exclusion percentage does not respond to the problem of capital formation. It would lower the statutory rate but it does nothing about the more serious multiplier effect. In the current period when nearly all of the gain has been illusory, it is the tax multiplier that confiscates principal. A prospective investor anticipating 8% appreciation and 7% inflation is looking at a multiplier of 8, turning even a nominal 21% rate into a real rate of 168%.

The objection that correcting the mismeasurement of capital gain would help the rich is a specious argument, equally applicable to legislation saving them from the guillotine. Correction would bring real tax rates back in line with intended statutory rates and protect all savers—wealthy and nonwealthy alike—from taxes that would consume all their investment income plus a part of their principal. The Treasury will lose only revenue to which it is not entitled, that produced by the unintended multiplication of statutory rates.

A particularly misguided argument is that the Archer amendment would facilitate inflation by making it painless, a contention sometimes intertwined with the notion that it would open the door to total indexing, Brazilian style.

TWO PROBLEMS

The argument follows from the failure to distinguish indexing to eliminate rate creep—where the argument may have some validity—from the separate problem of income mismeasurement. Indexing of far more pervasive sorts already exists, for example in rent escalation, variable interest rate and cost-of-living wage adjustment clauses.

The Archer amendment is only a pebble on the existing beach. It deals with a limited problem and those affected by it will remain exposed to other adverse effects of inflation, such as depressed profits, reduced value of incomes, increased costs and higher taxes caused by "rate creep." They would be protected only from the taxation of nonexistent profits. Failure to provide that protection will only fuel inflation.

We will escape from the inflationary spiral only when increases in wages and prices cease to outrun productivity increases, which will be achieved only by accelerating productivity increases and slowing down wage and price increases. Greater capital formation is a key element in greater productivity. Productivity will not rise at optimum rates so long as the tax system so mismeasures real income that taxes will eat up the potential returns from new investment.●

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Ms. KEYS. Mr. Speaker, on Friday, September 22, 1978, I was unavoidably absent from the House. Had I been present, I would have voted on matters coming before the House as follows:

"Nay" on rollcall No. 818, a motion to recommit the bill, H.R. 12452, CETA amendments, back to the Committee on Education and Labor with instructions to report it back forthwith containing an amendment to limit the use of funds for public service employment programs to 30 percent of appropriated funds.

"Yea" on rollcall No. 819, on final passage of H.R. 12452, to extend and amend the Comprehensive Employment and Training Act of 1973.

"No" on rollcall No. 820, on an amendment that sought to strike language in the bill making changes in the Highway Beautification Act.●

AN EXPERT'S OBSERVATIONS ON IRA ROLLOVERS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. ARCHER. Mr. Speaker, I would like to call to the attention of my colleagues a speech presented today at the IRA/Keogh seminar of the Texas Savings and Loan League by one of my constituents, Elizabeth Rockwell of Heights Savings Association in Houston.

These comments from an acknowledged expert in the field present a valuable insight into the actual workings of the law and the need for those administering such programs to take extreme care in the interpretation of existing laws and regulations affecting individual retirement account rollovers:

CAUTION: TAX-FREE ROLLOVERS COULD BE A TAX DISASTER!

The rollover plan is absolutely fantastic for individuals receiving lump sum settlements from qualified pension, profit sharing, thrift. savings plans. When you stop to think that an individual need not pay taxes based on the total amount, but on lesser amounts as it is received.

It is certainly putting many needed dollars in the pockets of individuals retiring, terminating, or being involved with a plan that has been terminated. IRA Contributory plans are $1,500 or $1,750 maximum per year, but as the regulation states for a rollover, "there is no upper dollar limit".

The rollover is, to say the least, tricky. In 1975 when the IRA rollover became law, there were no regulations. Even today, we do not have all the necessary regulations in print. Maybe the absence of all regulations makes it "tricky"; however, there are enough established facts, that you can function very well.

Instead of rehashing the well-known rules, I would like to talk about problem areas . . . areas where there have been close calls, or calls too close for comfort. I want to refer to some of the horror stories that have come to light, and from them we can hopefully learn some valuable lessons about rollover accounts.

I'm not another Agatha Christie for writing horror stories, but this is all based on actual cases at either a brokerage house, a commercial bank, or a savings association.

The law provides the special tax-free rollover break for lump-sum distributions from qualified plans. Therefore, if the entire distribution, including the cash and identical assets received in the distribution are contributed to an IRA-rollover within 60 days after receipt, taxation will be deferred until benefits are paid from the rollover. Subsequently the law was amended to permit payouts from qualified plans because of a plan termination to be rolled over, even though they may not technically qualify as lump-sum distributions and even the participant has not completed five full years of participation.

From this statement ask yourself these questions:

What is the definition of lump sum distribution?

What is a qualified plan?

What is entire distribution?

What is a terminated plan? How does it differ from the other distributions?

Not every lump-sum payout from a qualified retirement plan is a "lump-sum distribution". Specifically, the law says that the term "lump-sum distribution" means the payment within one taxable year of the recipient of the balance to the credit of an employee that becomes payable or is made available to the recipient. The first reason given is "because of the death of the employee".

One of the top five oil companies read this law just that way, and published forms accordingly that stated this rule. The only assumption to be made is that "because of the death of the employee" the only one capable of establishing a rollover would be the Beneficiary. On this basis the forms were printed and distributed throughout the USA.

The widow of an employee, who was not retired, tried to establish a rollover based on the information from the oil company. Fortunately, the widow was unsuccessful with her attempt, but through her inquiry, considerable conversation developed with the legal counsel of the company. Later they apologized to her and withdrew all forms known to be in existence. What is not known is the number of widows who did create a Rollover, and will possibly have serious tax consequences in the future.

The tax law uses the wording "the entire distribution" frequently. Many times the funds received will include employee contributions. It seems that this is not considered a distribution, but a return of employee contributions. It is a little tricky, but most important.

Let me tell you about someone who resigned his position to take a better position with a new employer. As a result of his termination, he received a $21,000 lump sum distribution. Within 60 days after receiving the check, he established a rollover. So far so good . . . with his new company he was not covered by a qualified retirement plan for a year, so before the end of the year, he deposited $1,500 in the same account as his rollover.

The next year, he was included in the qualified plan of his new employer. So far, our friend thought he was getting exactly what he wanted. But POW!!!

It was discovered that of the $21,000 lump-sum settlement, $13,000 represented his own contributions to the plan. So, instead of a completely tax-free Rollover, he now found himself with an $8,000 tax-free rollover and a $13,000 excess contribution on which he had to pay an excise tax of 6 percent or $780. Guess what else? Had this man paid taxes on his distribution from the start, he would have had to pay $560. So now he has the net result of incurring an excise tax liability of $780 to save $560 in tax!

But remember the $1,500? Well, that too is excess and also subject to the 6 percent penalty! The IRS says in essence that one individual cannot be covered during the tax year by two plans. This is a pretty gloomy story, isn't it? But there is more . . .

Our friend did not discover his error until after the due date of his tax return and this brings up another problem. He is less than 59½ years of age; therefore, withdrawing the money will be classified as a premature distribution subject to a 10-percent excise tax. In addition, the excess contribution in the first place, he would have paid tax twice on his $13,000 contribution.

When I heard the last report of this case, the calculators were still adding and subtracting 6 percent here and 10 percent there.

What about the words "cash and identical assets received", do you always receive just that?

This can bring up a large volume of stories. One person went to a savings association with a distribution sheet and was told very definitely that "a stock certificate is not cash" therefore, you might want to place the certificate in your safety deposit box for safekeeping. Fortunately, the individual discovered the error prior to the 60th day, and what happened? The savings association that was so proud of its new rollover account, was also the proud possessor of a withdrawal. The information imparted to the customer was incorrect, and the money went elsewhere along with the stock certificate.

This is a very common occurrence and also has happened with one of the five largest banks in the state.

"Identical assets" also is a problem. A retiree from a large steel company received stock certificates for his distribution plus a small check (representing his partial share). He did what he was supposed to do,. that is present all of this to a trust bank to retain the stock as stock, but, along the way he converted his steel company shares to something else. The monies were the same, but nevertheless, the assets he rolled over were not the identical assets he received.

This stock was accepted by the bank with the proviso that the bank would accept no responsibility if the rollover was disallowed by IRS. It is however, before the IRS as a test case.

Sometimes a retiree wants to keep the stock shares as the return of employee contribution. Why not? Very simply because the regs state that the "same assets" will be first applied to the rollover portion and then to the employee contribution. So, this is really not the place for the beginners.

The only way an individual could retain some of his stock shares would be if, and I emphasize IF, the distribution sheet identified that the employee contributions purchases "X" dollars of stock. In that case, you could use the per share value of the stock, as of distribution date, and furnish that many shares to equal the stated amount. Seldom would it come out even, so that extra dollars would have to be paid back to the employee in cash.

Recently we saw this with a total distribution of only 11 shares of stock. The stock was valued at about $39 per share and $298 of the employee contributions had been used to purchase stock. As it wound up, 4 shares of stock were liquidated for the Rollover and 7 shares were reissued in the employee's name. Big Deal!, but that is what she wanted.

Another oil company was involved with a distribution that was split by a divorce court some 15 years ago. They contended that the ex-wife qualified for a Rollover. The IRS however, said that the ex-wife was never an employee and the Rollover benefits are for employees who have been active plan participants.

So, the husband could have a Rollover on his share, but the wife was turned down. However, had the distribution occurred after the entire sum was in a Rollover, it would have worked. But this was set up by divorce action many years before anyone had ever heard of a Rollover.

Frequently in the regs it refers to multiple payments from a qualified plan. The multiple distributions will qualify for a Rollover, if they are all received during the individual's same tax year . . . not during two or three. If a second distribution is received in another tax year, the second one can be handled as long-term capital gains.

A smaller oil company statement was incorrect. As a consequence the retiree rolled over a lesser amount. The IRS ruled that the small amount not included could be included as capital gains and was corrected before April 15th.

The Distribution statements are very important. Not only is it important to verify the figures, but it is also a way to verify what assets were distributed.

What if a company has more than one plan, can a Rollover occur? First, you need to examine what the plans are; are they both pension plans, or both profit sharing, or both savings? If they are two of the same type of plan, then, if one plan is rolled over, the second one must do likewise. If one is pension and one profit sharing, then they could receive monthly benefits from one and a lump sum from the other.

Pension Plan distributions need more examination than do the other types. As the rule stands now, if an individual has received a lump sum from a pension plan, and if the normal retirement date in the plan is age 65, the Rollover distributions should not occur until age 65. Don't ask me why, but that is the way it stands at this time . . . tomorrow there may be a change.

Terminated plan distributions offer a new set of rules. Yes, it is true that the five year participation is waived for a Rollover, but an individual over 59½ has the choice of capital gains treatment.

Do you verify that the individual has been in the plan five plan years prior to the year of distribution? This is important; also you might find it helpful to know what the alternative tax treatment is for anyone not meeting this requirement.

Not only do you need to know the regs concerning a Rollover but you should also know some related regulations, such as the waiver of C.D. penalties for individuals receiving income after age 59½, for distributions due to death or disability. I had a bank talk to me at depth about a customer they had who was 66 years old. The bank could use only 6 year C.D.'s at the time, and how in the world could they make a distribution to him? I asked about a 4 year C.D., but only 6 year could be used, but they had no knowledge whatsoever of the penalty waiver.

Another one of our good banks told a widow her only option was to receive a lump sum payment sometime during the next five years. They knew nothing about the Tax Reform Act of 1976 and the exclusion from Federal Estate Tax and furthermore, the bank would make no periodic payments on an account of less than $30,000. This lack of knowledge was very upsetting to the widow, at a time when she did not need further upsets. When she requested a trustee-to-trustee transfer of the funds to another institution, they quickly contacted the various banking associations and did find out that they could give the widow monthly payments for a 5 year period.

Several institutions have refused to accept Rollover funds because the individuals had deposited the check in their bank account and were writing a personal check to cover. This is no problem insolong as the amounts jibe.

Are you beginning to wonder why this Rollover is not for the beginners?

What about a Rollover for an individual just turned 75 a few weeks prior to receiving the distribution? Look carefully at the law; it is spelled out. In essence it states that distributions must occur from a Rollover by the tax year in which an individual is age 70½. This gentleman was past 70½ when the law went into effect and he does not qualify for a Rollover. This engineering company does have a 10-year payout option, which the person needs to examine. The payout from a Rollover would be based on 9.6 years (at age 75) and the 10 year payout will stretch it out just a little bit further.

Has a self-employed person ever brought his Keogh distribution to you for a Rollover? Check him over, the employee can but not the employer.

Has anyone just left stock certificates with you? One institution will accept stock; give you a safe-keeping receipt and then, all they do is file the stock in the vault. One day I asked the officer in charge how he was going to value this asset at year end. And you know what he answered, he hasn't!

Tax-free Rollovers: Handle with care, a slipup can mean a tax disaster! This potent statement came from a Prentice Hall booklet on this subject.

We have been handling the Rollovers ever since January, 1975 and they must be treated very carefully. Truly, they are nothing for amateurs to fool around with. So, if you are to handle tax-free Rollovers, make doubly sure you know exactly what you are doing. The safest procedure, of course, is to seek expert professional assistance.●

BILLARD BARBELL SOFTBALL TEAM WINS SECOND STRAIGHT AMERICAN SOFTBALL NATIONAL CHAMPIONSHIPS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. YATRON. Mr. Speaker, in the weeks ahead as the 95th Congress works to conclude its business, we are going to see the concept of teamwork in action. We must all strive to work together if we are to successfully complete the most ambitious legislative agenda in the history of this Nation. As the days melt into nights, and the nights slip into the early morning hours, tempers may become short and patience may wear thin; but it is precisely at this time that a sterling example of teamwork can serve to inspire.

On September 16, the Billard Barbell softball team of Reading, Pa., capped an outstanding season by taking their second straight American Softball Association National Championship. The team presented Manager Rocky Santilli with 9-2 victory over Clearwater on his birthday.

Pitcher Larry Bergh tossed a complete game, striking out nine, allowing nine hits and one walk. A five-run fifth inning lifted Billard from a slim 2-1 edge to an imposing 7-1 lead. Bergh helped himself with a single and a double, while Rich Rabin, Jeff Seip, Rick Gruber, Paul Troika and Jody Koch contributed to the offense with key hits. Barry Distasio, Jeff Taylor and Art Weida distinguished themselves by their defensive play.

This second fastpitch title in as many years (the Billard also won the 1976 championship under the name of the Rising Sun) probably is the most significant thus far. Never before, has the concept of teamwork been so precisely articulated in a delicate balance of strategy and physical skill. The team's exemplary efforts have brought honor and distinction to Reading and Berks County. The players, Manager Santilli, and sponsor Abe Goodman can be very proud of this momentous achievement. I would like to publicly congratulate the Billard Barbells and commend their outstanding performance to the attention of our colleagues.●

THE NEED FOR H.R. 9158, TRIBALLY CONTROLLED COMMUNITY COLLEGE ACT

HON. MICHAEL T. BLOUIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. BLOUIN. Mr. Speaker, as chairman of the Advisory Study Group on Indian Education, of the Committee on Education and Labor, it has been my privilege to work in this long neglected field. The legislation which we have formulated has been kindly received, first by the Education and Labor Committee and then this Chamber. Tomorrow, the final piece of the package, H.R. 9158, the Tribally Conrolled Community College Act of 1978, will come up for a vote. The staff of the Advisory Study Group has prepared a memo explaining some of the background and rationale of this legislation, and I'd like to share it with the Members:

H.R. 9158

STATUS OF INDIAN POSTSECONDARY EDUCATION

The current status of Indian postsecondary education is a disaster. A recent G.A.O. report (The Bureau of Indian Affairs Should Do More To Help Educate Indian Students, November 3, 1977) found that Indian students have lower test scores and lower cumulative grade point averages than the general student population. Indian students completing their first year of college were below the minimum grade point average needed to graduate. About 54% of Indian freshmen do not return to the institution in which they enrolled initially, and only about 10% of Indian freshmen eventually graduate.

WHY THE POOR RECORD?

The causes for these sad statistics are geared to a variety of factors, the chief one being the fact that traditional higher education opportunities have often been either unavailable or inappropriate. The geographic isolation of Indian reservations has meant that traditional institutions have not provided services to these areas, forcing young Indian men and women to leave their homes and families and seek education in a distant, alien, and often hostile environment. The result has been disaster, as substantiated by the G.A.O.

WHAT HAS BEEN DONE TO CORRECT THESE DEFICIENCIES?

Tribes have taken the initiative to address these problems by creating their own community colleges. Beginning in 1968 with the inception of the Navajo Community College, 24 tribally controlled community colleges have been established and are in operation. The most successful of these institutions is the Navajo Community College. This is a direct result of the separate authorization for grants to the college, through the Navajo Community College Act of 1971. This has provided N.C.C. with a stable funding source which has allowed them to become a fully accredited postsecondary institution educating over 900 reservation based students.

NEED FOR A STABLE SOURCE OF FUNDING

The success of other tribally controlled community colleges is dependent on the establishment of a stable source of funding. Because of Federal action, there is no tax base from which foundation funding for reservation institutions can be derived. Thus, unlike other political jurisdictions, the only form of aid comes in the form of either grants from provisions of the Higher Education Act (which are basically supplemental in nature) or from the Bureau of Indian Affairs' tribal sources. Tribal funding—limited as it is—must be used by the tribes to fund a whole range of tribal needs—from social services to land development and housing to road maintenance. Education is only one of those needs. Thus, the amount of dollars going to fund a community college will vary each year. This lack of stable funding has caused accreditation to be more of a dream than a reality.

HOW DOES H.R. 9158 ADDRESS INDIAN POSTSECONDARY NEEDS?

H.R. 9158, which is a three-year authorization, would provide those community colleges which are tribally controlled and tribally operated grants by which to operate. The total educational cost of the program as determined by the Congressional Budget Office would be no more than $32.9 million for the first year—$28.2 million for the Tribally Controlled Community College provision (Title I), and $4.7 million for the Navajo Community College provision (Title II). The final year authorization is expected to reach $33.2 million for Title I and $6.3 million for Title II, totaling $39.5 million.

Construction needs are to be studied but construction funds would require additional authorizing legislation. The one exception is the construction needs for the Navajo Community College, which has been in existence for ten years. Due to the extreme size of the Navajo reservation—as large as the state of West Virginia—and because of its need to expand by constructing satellite facilities to service the educational needs of this large and far-flung population, a construction authorization is provided. However, a thorough study of construction needs has to be conducted and approved by the Secretary of Interior prior to actual request and disbursement.

QUALITY OF EDUCATION

The funding will provide these community colleges with the dollars necessary to establish a quality program. The bill also addresses the quality of the education program by requiring each institution to either be accredited or to satisfy the Commissioner of Education that it is moving toward accreditation. If these provisions are not met, the institution would lose its grant. This provision assures a quality education program. The base of young, educated Indians which this educational opportunity will provide will lead to economic growth in reservation areas, and the orderly development of the abundant resources on reservation areas, and the orderly development of the abundant resources on reservation land. Obviously, this will be of immense benefit to the entire nation.

A PRECEDENT FOR INSTITUTIONAL AID—THE FACTS

Would H.R. 9158 establish a precedent of direct institutional aid for the higher education community? Can Indian community colleges receive sufficient Federal dollars from the same kind of programs as other institutions of higher education, i.e., programs authorized by the Higher Education Act? The answer to both of these questions is "NO". The bill is based on the legal relationship which exists between the Federal government and the Indian nations. Under this unique trust relationship, the Federal government stands in the same relationship to Indian tribes as a source of funding as States or local governments stand with regard to their own schools. This has already been recognized by the Federal government with respect to elementary-secondary education. For example, the Federal government currently provides over $260 million in the form of basic support for BIA operated and Indian controlled contract schools at the elementary-secondary level and has done so for over 100 years. In both cases—BIA schools and schools operated under contract with the BIA—such basic support funding is provided by the Federal government to fulfill an affirmative obligation to provide education to Indian students. H.R. 9158 isn't really a new commitment for Federal educational assistance, but an intensification of the existing commitment.

A reinforcement to the point that this legislation should not be interpreted by the higher education community to be a precedent for a Federal commitment toward direct institutional support funding for postsecondary education, is the fact that the Department of Interior is in charge of the administration of the program. H.R. 9158 is a program built around the special legal relationship that exists between the Federal Government and Indian nations.

WILL EVERY TRIBE ESTABLISH A COLLEGE?

The answer to this question is best addressed in Section 105 of the bill which requires that each tribe or combination of tribes requesting funding for a tribally controlled community college, request a feasibility study by the Secretary before receiving consideration for funding. Only upon approval of such a feasibility study will a community college be eligible to apply for funds. Factors to be considered by the Secretary include: numbers of students to be served, type of program proposed, and possible alternative sources of education delivery (i.e., close proximity of non-Indian institution). The feasibility study is meant to assist the tribe or tribes and the Secretary of Interior in determining how best to address the educational needs of a tribe(s) with the ultimate decision being whether or not a tribally controlled community college is needed to meet those needs. If a legitimate need is not established, regardless of the other criteria, funding would not be granted. The number of grants allotted the first year shall be no less than 8 nor more than 15, with a maximum of 30 being foreseen in the future.

WHY NOT DELAY UNTIL THE 96TH CONGRESS?

Although there is no question as to the legal precedent involved, making it a part of the reauthorization of the Higher Education Amendments of 1979, as some suggest, would only give those in the higher education community who want to confuse the issue of direct institutional support, the opportunity to do so.●

FIFTH MEMBER OF KIM FAMILY TO BECOME EAGLE SCOUT

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. AKAKA. Mr. Speaker, Sunday, August 27, Emery Kim of Wailuku, Hawaii achieved scouting's highest award, the rank of Eagle Scout. This was a proud moment for Emery and his family, but the occasion becomes even more significant in light of the fact that Emery is the fifth member of his family to receive this prestigious award.

His four older brothers, Sterling (Eagle 1968), Eric (1970), Elson (1974) and Jason (1978) were there with his parents to attend this ceremony. Emery is 16 years old, a student at St. Anthony High School and joins a select company in becoming an Eagle Scout. Max Mata, advisor to Explorer Post 149, estimates that the national average for Eagle Scouts is about 1 in a 100.

Mr. Speaker, I believe that my colleagues will wish to join me in congratulating Emery Kim, his four brothers and their proud parents, Mr. and Mrs. Bomani Kim.●

SOVIET PERSONNEL IN AFRICA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. DORNAN. Mr. Speaker, many of my distinguished colleagues have voiced their concern during recent months over the increasing presence and role of the Soviet Union in Africa. Indeed, there are signs that the Soviets intend nothing less than the conquest of the entire continent. The intention of these Soviet colonialists poses a threat to our own national security as well as to the freedom and independence of the African peoples.

We all know that the Soviets are in Africa, but to date very little documentary proof of their presence and of the role they are playing has been made public. However, I have now had an opportunity to personally examine a set of documents that unmasks a group of Soviets working in one African nation. It is a nation with which the administration still wishes us to trade despite its government's abysmal human rights record and despite this very House's passage of a resolution condemning that government. It is the nation of Uganda whose President is the barbarous murderer Idi Amin.

What I have examined is an official request of the Soviet Ministry for Foreign Affairs made to the Ugandan Embassy in Moscow for entry visas for a group of Soviet specialists whose purpose may be readily surmised from their request's own language:

> Ministry for Foreign Affairs of the USSR * * * requests kindly to issue entry service visas for a group of Soviet specialists * * * who are going to the Republic of Uganda for 2 years to work under additional contract No. 1 of April 27, 1973, with the Ministry of Defense of the Republic of Uganda.

The request is accompanied by the actual visa applications of nine men, each application bearing the seal of the Uganda Embassy in Moscow. The application states that the "reason for journey" of these Soviets slated to work at the Defense Ministry in Kampala is to give "technical assistance." We can imagine the nature of the assistance.

The applications indicate that these technical assistants were due to arrive in Kampala during June and July of this year. We may assume that by now they are in place and busy advancing their Government's design for the conquest and colonial enslavement of Africa. At this time I want to identify these technical assistance, all of whose photographs accompany the visa applications and which I have seen. They are:

Valeri Afanassiev, born in 1940 in the Brianski region, married, resident of Moscow, traveling on a service passport.

Valeri Bondar, born in 1955 in the Adygueiskaya region, single resident of Moscow, traveling on a service passport.

Victor Khlebnikow, born in 1952, in Moscow, married, taking his daughter Maria (born in 1976), resident of Moscow, traveling on a service passport.

Victor Kholdeev, born in 1936 in the Smolenskaya region, married, resident of Moscow, traveling on a service passport.

Vassili Koriuk, born in 1945 in Zhitomir, married, resident of Moscow, traveling on a service passport.

Alexandre Kourotchkene, born in 1955 in Briansk, single, resident of Moscow, traveling on a service passport.

Serguei Moutiev, born in 1951 in the Kemerov region, married, resident of Moscow, traveling on a service passport.

Antoli Ouchakov, born in Estonia, married, resident of Moscow, traveling on service passport.

Nikolai Sitnikov, born 1954 in Arkhangelsk, married, resident of Moscow, traveling on a service passport.

As I say, I have personally examined the visa applications of these "technical assistants" on their way to do their imperialistic work in Uganda. I have looked into their faces on their official identification photographs. I cannot describe the uncanny feeling that came over me as I studied their faces and imagined the evil to which they and innumerable others like them throughout Africa lend themselves.

I wish to conclude by extolling the courage of the brave Ugandan opponents of the tyrannical Idi Amin who had to risk a great deal—certainly their underground cover and therefore their lives—to see to it that the documents reached the outside world as proof of Soviet activities in Uganda and elsewhere in Africa. I also want to acknowledge that the documents were brought to my attention by Catholics for Christian Political Action—CCPA—a national political education and action organization that promotes the Christian interest on important political and social issues. I am transmitting these documents to the Defense Intelligence Agency for further analysis. I have also returned the original documents to CCPA but have copies available for any wish to see them.●

CONSUMERS SUPPORT WAYS AND MEANS SUGAR BILL; VETO OF PRICE-ESCALATING BILL RECOMMENDED

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. VANIK. Mr. Speaker, within a few days, the House of Representatives will have the opportunity to vote on sugar legislation. The bill before the House contains a proposal by the Ways and Means Committee and one by the Agriculture Committee—with the Ways and Means Committee version being $3.5 billion less costly to consumers and users.

I have just received the following letter from Esther Peterson, Special Assistant to the President for Consumer Affairs, in support of the Ways and Means proposal. As Ms. Peterson, one of the leading consumer advocates in the Nation, notes:

> Each of us must do what we can to reduce the rate of inflation and regain control over this aspect of our economy. Your support of the Ways and Means bill will be an important contribution to this common objective.

She also notes that the alternative proposal, the Agriculture Committee version of the sugar legislation, would automatically escalate the price to consumers of sugar:

> I believe that many of the President's advisors would recommend that he veto any sugar bill which automatically escalates the market price of sugar.

Following is the full text of the letter.

THE WHITE HOUSE,
Washington, D.C., September 21, 1978.

Hon. CHARLES A. VANIK,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN VANIK: The House will soon consider a bill which will determine the cost of sugar for consumers over the next several years and the minimum price which farmers will receive for sugar grown in the U.S. I hope that you and your fellow Members will produce legislation which does not contribute to greater inflation and which is fair to producers. Both objectives can be served and I urge you to consider how the Administration believes you can do this.

The Administration supports—with modifications—the basic provisions of the Ways and Means Committee version of H.R. 13750, the International Sugar Stabilization Act of 1978. This bill would authorize the President and the Secretary of Agriculture to: (1) Establish a minimum market price objective of 15 cents a pound; (2) employ duties, fees, and quotas on imported sugar to protect the domestic market price; and (3) carry out the provisions of the International Sugar Agreement to protect consumers from excessively high sugar prices and farmers from disastrously low producer prices.

The Agriculture Committee version of H.R. 13750 would fix the initial market price support objective of the sugar program at 16 cents a pound, and would require future price support levels to be determined by an escalator provision, which could add as much as $4 billion to consumer food bills in the next five years.

Automatic escalation will hurt consumers more than it would help sugar producers. It would increase the prices consumers must pay for all sweeteners consumed in this country, including imported sugar. It would lead to a never-ending inflationary spiral of higher costs of land, production, and prices. Given the importance of this issue, I believe that many of the President's advisors would recommend that he veto any sugar bill which automatically escalates the market price of sugar.

The Ways and Means version, which does not contain an escalator provision, will protect producer income through other procedures which are not inflationary. At present, most farm programs use a deficiency payment system to insure a fair return to producers, and this is the technique we would use for sugar, too. Thus, while the market price objective would remain constant over time, the return to producers would be adjusted higher to take into account future changes in production costs.

I am, like you and your constituents, very much concerned about inflation and the corrosive impact it has on every aspect of our lives. Each of us must do what we can to reduce the rate of inflation and regain control over this aspect of our economy. Your support of the Ways and Means bill will be an important contribution to this common objective.

Sincerely,

ESTHER PETERSON,
Special Assistant to the President for Consumer Affairs.●

WHITEWASH OF THE CAROL FOREMAN AFFAIR

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. ASHBROOK. Mr. Speaker, a whitewash is underway at the U.S. Department of Agriculture to protect Assistant Secretary Carol Foreman. Since the USDA seems unable to appropriately deal with an apparent conflict of interest by Mrs. Foreman, I have requested that the U.S. Attorney General investigate the matter.

The USDA's Food Safety and Quality Service has come in for a great deal of criticism and scrutiny recently, and for good reason. We have seen the Service's director resign under fire. That, however, is simply the tip of the iceberg as far as the improprieties and mismanagement of that Agency's affairs are concerned.

Indeed, the circumstances involving the conflict of interest that led to former Director Robert Angelotti's resignation would seem to be relatively minor compared to the widespread instances of conflict of interest that continue to prevail in the operation of the Food Safety and Quality Service.

The most flagrant of these cases involve Dr. Angelotti's superior, Assistant Secretary of Agriculture Carol Tucker Foreman. Having come to her present office directly from the executive directorship of the Consumer Federation of America, Mrs. Foreman is apparently unwilling and unable to sever her political and ideological ties with that organization.

No better evidence of Assistant Secretary Foreman's CFA connection can be found than the favoritism shown the Consumer Federation of America in the award of a special study contract by Mrs. Foreman's office. I have no doubt that if what we had here was a businessman in Government whose agency was awarding lucrative study contracts to his former company, the Washington news media would be in full cry against this abuse of official power. It seems, however, that a double standard operates where a so-called spokesman for the public interest, like Mrs. Foreman, is concerned.

The result is that Assistant Secretary Foreman has been permitted to go her own way, virtually untouched, in seeing to it that her former CFA employer is on the receiving end of Federal contract awards.

While the attention of the press is now turned to what has been going on in the General Services Administration over the years, I might suggest that a few inquisitive eyes might be turned to the contract awards system practiced in the office of Assistant Agriculture Secretary Foreman.

I have completed a study of the USDA Inspector General's audit review of the circumstances surrounding the award of a $23,500 contract to CFA by the Food Safety and Quality Service. This contract, to study the Department's new net weight labeling proposals, has come under criticism for a number of reasons—not the least of which because the USDA has agreed to pay CFA for a purported study of an issue on which the Consumer Federation has a public position.

CFA had, in fact, already testified in favor of the net weight labeling proposals at the time it was awarded its study contract. Since the proposals are among Assistant Secretary Foreman's pet projects, it doesn't take too much imagination to understand that what we have here is a case of a Government agency paying out Federal money to get back a so-called report supporting its position on a public issue. The unfairness and questionable ethics of that sort of arrangement are obvious. Indeed, so obvious that Mrs. Foreman, by her actions since the award of the contract, has frantically been trying to cover up her participation in the decisionmaking process leading up to the award, evidently with the full cooperation of the USDA Inspector General.

In light of the known facts surrounding the net weight labeling contract award, what are we to say of the USDA Acting Inspector General's whitewash audit review of this case which, while noting certain inadequacies in the Food Safety and Quality Service procurement process, finds "no improper action by Assistant Secretary Foreman"?

Mr. Speaker, not many years ago this Capital was filled with rhetoric concerning the lessons of Watergate, the abuse of administrative power, and charges of top-level coverup of improprieties. I am not suggesting that what we have here is another Watergate scandal. But what I do suggest is that the very techniques of coverup and whitewash that characterized the events of a few years back can be found, albeit on a smaller scale, in the manner in which Carol Tucker Foreman has assiduously attempted to insulate herself from responsibility for the well-documented favoritism shown the Consumer Federation of America in the award of a contract subject to her jurisdiction.

And now we see, in the USDA Acting Inspector General's review of Mrs. Foreman's actions and those of her subordinates, a familiar pattern of whitewash. That is, one hand of the USDA hierarchy covering up for another. I say this because, on its face, the Acting Inspector General's review of the CFA net weight labeling contract award presents patent evidence of manipulation of the contract award procedure.

For example, USDA rejected the only bid received in response to the original request for monetary quotation because that bid exceeded $10,000, the Department's small purchase authority limit. Yet the Consumer Federation of America ultimately received the contract on a $23,550 bid. Moreover, USDA entered into negotiations with CFA on the basis of this $23,550 bid without affording the original bidder an opportunity to come up with a competitive offer—and after Mrs. Foreman informed CFA of the amount of that one competing bid.

How the Inspector General's Office can see a situation so blatantly stack in favor of one bidder and emerge with the conclusion that this represents only, I quote again—"certain inadequacies"—is astonishing. Nor is that all. The record is replete with evidence of the pervasive influence of CFA in the contract award process. USDA and CFA officials were in constant contact, in person and by telephone, working out the details of the contract, to the extent that the bidding process itself can be said to have been fashioned to the exact specifications of CFA and no other bidder.

Again, there is evidence on the record that those working under Assistant Secretary Foreman were well aware of the conflict of interest aspects of the contract award. Watergate-like, secretaries of Department officials working under Mrs. Foreman have stated that they were asked by their superiors to lie about records kept on USDA-CFA telephone conversations regarding the contract. And Mrs. Foreman herself, though she claims a detached innocence from these manipulations, was specifically advised by one Department official that the contract in question, I quote, "should probably not be awarded to CFA because of the potential concerns of conflict of interest."

All of this, as I say, is on the record furnished by the USDA Acting Inspector General in his audit review. Yet that division of the Agriculture Department, which is presumed to be an enforcement arm, has opted to ignore such evidence and thereby, through inaction, to assist Assistant Secretary Foreman's coverup efforts.

Shades of the GSA system of "you scratch my back, I'll scratch yours." To be sure, it is precisely this sort of slipshod Inspector Generalship that led to the pernicious growth of favoritism and cronyism in the award of that Government department's contracts.

In view of the foregoing, I have no intention of dropping my interest in Carol Tucker Foreman's questionable conduct of the contract award mechanism in her operations at the Department of Agriculture. I have asked the Attorney General to pursue the serious questions raised by USDA favoritism shown the Consumer Federation of America, with particular attention given to Assistant Secretary Foreman's conflict of interest in this area of legal and ethical concern●

STUDENT POETRY: A COLLECTION

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. PEPPER. Mr. Speaker, I would like to call the attention of our colleagues to an anthology of student poems collected by a dear friend of mine, Gene Griener. Gene Griener has been described as an ex-fighter turned poet. He actually was writing poetry during his 20 years as a Navy prizefighter. Then he worked for the Federal Aviation Agency for 22 years before retiring to south Florida. Gene is a former councilman of Virginia Gardens; poet laureate of the Dade County League of Cities; and serves as a community resource volunteer for the Dade County public schools.

These poems reflect the imagination and special love inherent to young children. The value of this collection cannot be estimated, as the wonders of youth are both invaluable and fleeting. The special moments captured in these poems will bring a sense of joy to all who read them. I request permission for the insertion of these poems at this point in the RECORD:

MUHAMMAD ALI

He is fast, he is strong—
Talks a lot, is never wrong;

Norton knows it, so does Frazier—
Ali punches like a razor.

—ELIJAH NEWSON, AGE 10.

SOMEONE UP THERE

While walking to school
A thought came to mind,
I walked looking down—
I was walking blind.
Trees pointed upward
All birds flew high,
I saw only ground
And never the sky.
Why was I afraid
To lift up my head?
I would not stumble
Could look straight ahead.
I found confidence—
What more can I say
For someone up there
Is guiding my way.

—*Emma Candelas*, age 10.

MY DEAR LITTLE SISTER

My dear little sister is lovely and sweet
From the top of her head right down to her feet;
On one of her hands she carries a plum,
Which actually is a dear little thumb.

Sometimes we fight at a terrible pace,
And often she'll sock me right in the face;
But all in all we have a good life
With a lot more love than there is strife.

Dee Dee Wichett, age 8.

MY DAD

My dad works hard day after day
For there are bills he has to pay;
Bills for paving and Heaven knows

Our home—our car—and all our clothes.
My Dad's job is to fly a plane,
I'm proud of him, he has a brain;
I hope someday I will achieve
Gold Wings and Bars on chest and sleeve.

—*Dana Smith*, age 10.

DOVES' FALL

It is hunting season!
So said the mother dove,
And we will have to leave
Children we dearly love.
As dove must daily face
The hunters' blasts of hell;
Our young are safe within
Their hidden citadel.
And so in early dawn,
As babies cried in vain;
Their parents braved the storm,
Flew South through Autumn rain.

—*Eddie Arrington*, age 10.

MY AMBITION

When I grow up I want to be
A Chemical Engineer;
Discover things to heal the ill,
To help someone most dear.
And in my search I hope to find,
To put my mind at ease;
Like cures for cancer, heart attacks,
Some other rare disease.
I want my parents to be proud
Of what I want to be;
I pray our Nation, we all love,
Continues to be free.
This is my ambition in life,
My hopes and inner need;
I will keep on studying real hard,
Someday I shall succeed.

Libia Ricalo, age 11.

MY AMBITION

I want to be a football star,
I'd like to be a running back;
I'd like to be like Gale Sayers.
The best back in the pack.
I hope I don't do any wrong,
And never have to face the shame
Of taking bribes or other things;
I'd like to go to Hall of Fame.
I'd like to be an artist too
And illustrate all football stars;
The sport heroes in every sport
Brave astronauts who fly to Mars.

Enid Mir, age 11.

MY AMBITION

I want to grow up—be something
And if I don't live like a King
Will try to have a nice family
And live together happily.
And if I can I'll study art
Because painting lives in my heart;
I'll paint and paint life's pretty things
Like colored birds with open wings.
So if I can that's what I'll be,
It's my ambition you can see.

Enid Mir, age 11.

A SILENT WISH

I was walking along the beach
On a peaceful Summer night;
When I looked up and saw a star,
Like frightened bird in flight.
I knew it was a falling star
It looked like a soapy dish;
And as it slipped and disappeared
I made a silent wish.

Marlene Amaro, age 11.

THE WIND AND I

What's that strange blowing down my neck?
It feels so good and cool;
I felt it on my face and hair
While on my way to school.
I turned around and then I saw
Green ferns upon the ground;
I saw some leaves that seemed to dance
Although I heard no sound.
I though and thought what is this thing?
This thing I can not see
That helps the trees and plants to grow
And many times helps me.

Marlene Amaro, age 11.

SEEDS OF AMBITION

When I grow up I want to be
A doctor and some other things
Like movie star and President
A song writer whose music sings.

My ambition is great and small,
Someday I know I will succeed;
My teachers are the gardeners
Who daily help me plant the seed.
Tammy Royce, age 11.

A BIRD FROM THE SKY

When I looked up into the sky,
A lovely bird was flying by;
I watched it climb, I watched it glide,
Its colored wings were stretched out wide.

I saw it dive, circle around
Then skid along the muddy ground;
It shook its feet then looked at me
A frightened bird—no longer free.
Hugh John Kilbride, age 11.

AN AIRLINE STEWARDESS

I want to be a Stewardess,
The best one in the land;
Helping the young, also the old,
Giving to all a hand.
To make all flights enjoyable
For passengers and crew;
The sky my home away from home
With ceiling painted blue.
Maryann Petty, Age 11.

I WANT TO BE A NURSE

I want to be a nurse someday,
That's what I really want to be;
I will help everyone I can,
I will, I will and you will see.
Why do I want to be a nurse
To help the people all the time?
It is a dream that I have had,
That I have tried to put in rhyme.
Cheryl Sargent, age 11.

A GIFT OF SNOW

An old black crow
Shook down on me
A gift of snow
From maple tree;
Thank you dear crow
For your small part,
You changed my mood,
You healed my heart.
Joy Beauchamp, age 11.

A STAR OF STARS

When I grow up I want to be
A famous TV Star;
Bring happiness to everyone
With my grandad's guitar.
Then old friends in my neighborhood
Will say, "Danny my boy,
You've really made it big young man,
You bring us lots of joy."
Danny Medina, age 11.

THE GREAT BIG BIRD

One day when I was walking home
I looked up at the sky
And saw a cute little blue bird
Flying way up so high.
He was looking at the people
Inside a Silver Bird;
He checked his wings as if to say,
"This bird is quite absurd"
Brenda Walls, age 11.

THE SAME AS YOU AND ME

I have a friend who is so nice,
She's just the same as you and me;
Except we live in different worlds,
For she is blind and cannot see.
Yes, we are friends—I have no doubt,
She pats my head, she understands;
When I am sad she comforts me,
Our friendship shows in our clasped hands.
Edith Neal, age 11.

I WANT TO BE A PILOT

I want to be free as the breeze
Above mountains all seven seas;
In our world of wonderous things,
Where I could share the gift of Kings.

Yes this is what I'm going to be,
A future pilot of the air
And fly to Jupiter and Mars;
This is my dream—my daily prayer.
Orlando Valea, age 11.

MY CHILDHOOD IMAGINATION

When I'm at home most every day,
There is a game I like to play;
And I pretend that I'm not me,
But someone else I'd like to be.

Doctor or Nurse or Teacher too,
Explorer in a big canoe,
Indian Brave about to hide;
Then mother calls, "Joy, come inside!"

I look around . . . What do I see?
A little girl—Joy Lyn—Just me!
Joy Lyn Austin, age 11.

THESE ARE THE THINGS I LOVE

The beauty of a baby's hand,
The waves that wash upon the sand,
The trees that grow upon the land;
These are the things I love.
The wind that blows upon my face,
The beauty of a lady's lace,
The roses in a plain white vase,
The love in mother's warm embrace.
These are the things I love!
Sylvia Williamson, age 11.

A SHIP'S CAPTAIN

When I grow up I want to be
Commander of a ship at sea;
I'll run my ship with firm iron hand,
Sea laws my crew must understand.
In early morning I might hear
A fog horn blowing very near;
A ship's captain must have belief,
Not run his ship upon the reef.
Saul Alvey, age 11.

I WANT TO BE A TENNIS PRO

To have a racquet in my hand
And play the game across the land;
Smashing the ball across the net,
Serving an Ace—the best thrill yet.

Winning all points is name of game,
Becoming famous in Hall of Fame;
These are my reason you should know
Why I must be a Tennis Pro.
David Clark, age 11.

A MAGICAL PLACE

A child's mind is a magical place
Where the world is never sad;
Where life is always an adventure,
Filled with good and never bad.
But this world is only make-believe,
It always has an end;
So isn't it an awful shame—
That grown-ups can't pretend.
Pam Kloostra, age 14.

DARKNESS

There is a kind of darkness,
That is peaceful, yet so sad;
A mystifying darkness,
In which our souls are clad.
This darkness is a gentle sleep,
Many of us dread;
This darkness is the darkness,
Guarded by the dead.
And though while walking through it,
It seems a peaceful night;
And though while walking through it,
There seems to be no fright.
For when you've stopped your searching
After a motionless flight;
You see a glowing spectrum,
You've reached eternal light.
Lisa Fagen, age 14.

MY WISHES

I want to be a star of stars!
Own lots of beads and lots of cars!
I'd like to dance upon my toes!
And help my friends forget their woes!
I'd like to sail upon the seas!
To smell flowers, climb up tall trees!
And I am thankful I am free!
For what I need is to be me.
Laura Thomas, age 11.

THE PLACE OF LOVE

The path to love goes on and on,
Once you step up then you are gone.
You'll see a tree with a flower,
Then you'll see a lovely tower.
As you go on you'll see some land,
That seems to say "Come take my hand!"
When you go in you'll see a dove,
My friend, this is—The Place of Love.
Rochelle Halpern, age 11.

I come home I look at the sky,
I try to see shapes way up high;
I need sun glasses because I can't see,
The blinding sun hides shapes from me.
Clouds that form ducks and dogs and cats,
Angels, Fairies, soft things like that;
Visions of these have filled my day,
Until breezes blow them away.
Heather McAndrews, age 11.

ALL ALONE

Sometimes I like being alone to think
About life and my cares;
I disconnect my telephone,
My private things I do not share.
I think past and future in mind,
I think of people that have died;
And people who I really love,
And then I have peace inside.
Gisela Sanchez, age 10.

THE PLANETS

The moon is made of silver,
The sun is made of gold;
Jupiter is made of tin,
So the ancients told.
Mars is made of iron,
Saturn is made of lead;
Neptune is made of copper,
So the ancients said.

But what the earth was made of,
Very long ago,
The ancients never told us,
Because they didn't know.
Pam Wojas, age 10.

THE SOUNDS OF SILENCE

A leaf dropping in the Fall,
A man staring at the wall,
Sadness among us all;
People who see and talk
But cannot hear at all.
Kris Krol, age 10.

THE VIETNAM VETERANS ACT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. LAFALCE. Mr. Speaker, the Vietnam Veterans Act will be submitted today by my colleague, DAVID BONIOR, and 12 others of us comprising the Vietnam Veterans in Congress Coalition. The entire coalition has worked hard to formulate this legislation, which is the most comprehensive bill ever presented to assist the Vietnam veteran.

There is a tremendous difference in the treatment we have accorded the Vietnam veteran compared to veterans of previous wars. Most of it stems from the nature of the Vietnam conflict. Vietnam was not a popular war, and was actually opposed by a great many Americans. Opposition grew until it forced the U.S. Government to withdraw from Vietnam. Nobody won. And yet, countless American lives were given in that conflict.

As a veteran of that era, I want to help redress the problem this war created. There is very little we can do to change the image of the Vietnam war. But there is much we can do to change the image of the Vietnam veteran. For example, the members of the Vietnam Veterans in Congress Coalition are advocating passage of House Joint Resolution 1091 proclaiming the week of Nov. 11, 1978 as "Vietnam Veterans Week," during which time the people of the United States and interested groups and organizations, as well as the Federal Government, would be called upon to organize and coordinate appropriate ceremonies and activities recognizing those who served in Southeast Asia during the Vietnam conflict. Vietnam started in 1965. We concluded our activities there in 1974. And we have yet to declare a national Vietnam Veterans Week. It seems this is the least we can do, and yet the response from my colleagues in the House has been less than enthusiastic. I understand we have about 162 cosponsors for this resolution to date. From a body which should be well attuned to the importance of symbolism, this is indeed a poor showing. Saying that individuals deserved to be honored in the first step in honoring them—hardly a controversial premise. I certainly hope that more than 162 of my colleagues believe the Vietnam veteran is deserving of honor and recognition.

Beyond the symbolism, however, there is much, much more. Take education for example. With our World War II and Korean veterans, the Government decided to pick up a high percentage of their tuition costs plus offer them living stipends. Not so for the Vietnam veteran. To be sure, we offered them some benefits, but as a percentage to total tuition costs it was meager in comparison. While a good number of Vietnam veterans have taken advantage of the GI bill, high tuition costs in many parts of the country have precluded participation by a significant percentage of Vietnam veterans. The legislation submitted today corrects this inequity.

Employment is another problem area. Of the 9 million Vietnam era veterans, 2 million have incomes under $7,000. Further, 855,000 earn less than $4,000 per year. When taken with the fact that the average Vietnam veterans is 32 years old, this is disheartening news. This gross underemployment indicates that the private sector must be encouraged to hire and train the Vietnam veteran for decent jobs. The legislation submitted today corrects this injustice.

Readjustment assistance cannot be complete without adequate health care through programs which recognize the psychological counseling needs of combat veterans. Many have war-related disorders which have not been fully understood or treated to date, owning in part to the unique nature of the Vietnam conflict. It is time we accorded hero status to these soldiers, it is time we acknowledged the pathetic welcome they received when they returned home. I think it is wrong that the harmful effects of the Vietnam conflict have lingered longest on those who served in it.

The remedy is before us. I hope my colleagues will give it their strong support to make the lives of Vietnam era veterans more hopeful.●

TOXIC PESTICIDE ISSUE

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. RYAN. Mr. Speaker, the toxic pesticide issue continues to be unresolved. There is a need to examine this matter in a comprehensive manner. As a matter of public policy, we may need to bar entirely the production and use of highly toxic pesticides in the United States. This was done very effectively with DDT.

Once such a policy context and focus are established applied research efforts in this country can go forward with developing nontoxic pesticides. Perhaps this is the kind of policy approach that is necessary to provide the incentives and encouragement for a greater use of safe, nontoxic biological pest control measures.

It is clear that the practices described in the following article from the L.A. Times should be stopped. If it is dangerous to produce highly toxic pesticides in this country, we should not allow the importation of such chemicals after the manufacturing company moves its operations to Mexico or other countries, in order to escape our safety standards.

The article follows.

PRODUCTION OF HIGHLY TOXIC PESTICIDE SHIFTS TO MEXICO

The cancer-causing pesticide DBCP, which has been linked to sterility in chemical workers and can no longer be produced in the United States, is being made in Mexico and imported into this country.

A Mexican official has told The Times that recent tests show many of the chemical workers in Mexicali plants formulating the controversial DBCP for use in the United States and elsewhere either are sterile or have "very low sperm counts."

Even though DBCP is no longer produced in the United States, a complicated series of federal and state emergency actions allow farmers to use it in every state except California.

"Giving way to agribusiness arguments that without DBCP California grape and tree-fruit farmers will suffer $151 million in crop losses, the state Department of Food and Agriculture is expected to approve the use of the chemical, after holding hearings in Sacramento next week.

DBCP is a highly toxic substance that has produced stomach cancers and mammary tumors in laboratory animals. It is volatile and difficult to handle, according to both proponents and opponents of its continued use.

The proposed California safety regulations emphasize this point by warning: "There are no protective clothing materials . . . that completely prevent penetration of this material."

The federal Environmental Protection Agency has control over the use of pesticides in the nation, and the Occupational Health and Safety Administration sets production safety standards.

This has created a complicated situation. EPA allows the use of DBCP, but OSHA standards for the manufacture of the material are so stringent that all American production has stopped. DBCP is now imported, primarily from Mexicali, by a Los Angeles firm, Omvac Chemical Co. which distributes the chemical.

The Times has learned the State Department, concerned about the implications of "exporting" worker health hazards to other countries, has arranged for OSHA experts to work with their counterparts in the Mexican government in an effort to upgrade the work environment in the Mexicali plants.

Dr. Enrique Marquez Mayaudon, a Mexican federal occupational health expert, tested the 23 DBCP workers in the two Mexicali plants in December, 1977, and again in April. All but two were seriously affected, he told The Times.

In the Quimica Organica de Mexico plant, half of the 12-man DBCP work force had a zero sperm count. The other six workers had "very low sperm counts."

In the second Mexicali plant, Quimica Agrosano, Marquez Mayaudon said three workers had a "zero count," and six had low counts. Two were not affected. In the Quimica Organica de Mexico plant, worker exposure to DBCP—primarily through inhalation and dust that settles on the skin—ranged from a period of two and a half years to as little as seven months in those workers showing zero sperm counts, he said.

Federal OSHA officials who worked with Marquez Mayaudon briefly last summer reported that both Mexicali plants have improved the work environment greatly by providing protective clothing and breathing apparatuses.

Marquez Mayaudon was not as optimistic about the improvements as the OSHA experts. He said that while the Quimica Organica de Mexico plant had made major improvements and workers were reasonably well protected, he felt there was still some danger to the workers and even to people passing by the Quimica Agrosano plant.

According to Marquez Mayaudon, the Quimica Agrosano plant has recently expanded its production from 2,000 tons a year to 3,000 tons a year. Most of the material is being exported to the United States.

No EPA official in Washington, D.C. or in the Western regional office in San Francisco would or could say how much DBCP was being imported, nor would they reveal how many companies were importing the product or say where else it is being manufactured.

EPA considers such information "proprietary and confidential."

Neither OSHA or the State Department could say whether DBCP was manufactured in countries other than Mexico or being imported by companies other than AMVAC.

AMVAC President Glenn Wintemute confirmed that his company imports DBCP and distributes it to farming states outside of California. He declined to say how much DBCP the company imports and said AMVAC has no financial interest in the Quimica Agrasano plant.

Wintemute said DBCP is transported by truck in 30-gallon drums that carry EPA labels and warnings.

EPA officials reported that the current emergency use restrictions on DBCP are about to be lifted and permanent use regulations will be issued, "probably sometime next week."

The permanent regulations are expected to closely parallel those now in existence, prohibiting use of DBCP only on those crops that have been found to carry DBCP residues into the food chain.

The California Department of Food and Agriculture is conducting a series of hearings to clear the way for resumption of DBCP use in California under stringent regulations.

A hearing on these regulations will be held in Sacramento Monday, and agricultural interests, environmentalists and poverty lawyers representing farm laborers are expected to clash.

Department of Food and Agriculture officials and agriculture experts contend that citrus growers would lose $30 million a year without DBCP to control nematodes, and that grape growers would lose $100 million and stone fruit growers would suffer similar losses.

Allen Mills, executive vice president of the California Grape and Tree Fruit League, said the nematodes are tiny worms that attack plant roots, obstructing and disrupting the flow of plant nutrients and cutting production 15 to 25 percents.

Mills said, "We would like to be able to use DBCP, under reasonable controls that safeguard workers, controls that guarantee the least amount of exposure to workers and the environment."

Agribusiness experts say there is no substitute for DBCP in perennial crops because all other nematocides are so toxic they kill plants and nematodes alike. DBCP alone can be applied to the soil without destroying trees and vines, they say.

But the material is so volatile and toxic that Department of Food and Agriculture scientists are creating an unprecedented set of regulations to insure that DBCP vapors or the liquid concentrate do not escape into the environment or accidentally spill onto workers.

Only "closed systems" will be used to inject the DBCP into the soil, or apply it through furrow irrigation systems or "drip" irrigation systems, according to Jake Mackenzie, assistant director of the department.

Mackenzie has written EPA officials, urging them to "carefully consider the unique place DBCP has filled for controlling nematodes on perennial crops and every effort (should) be made to permit its continuation if possible."

Opponents of DBCP, led by California Rural Legal Assistance attorney Ralph Lightstone, are expected to renew their effort Monday to block the reregistration of DBCP in California.

Lightstone and other opponents contend there is no safe way to protect workers from DBCP accidents, that the threat of sterility and of cancer are so prevalent that the material should not be used at all.

David B. Roe, regional counsel for the Environmental Defense Fund, pointed out that the new regulations require, among other things, monthly sperm tests, gas masks, protective clothing and application only in temperatures below 85 degrees.

He said, "All this makes a pretty strong case for how dangerous DBCP is, and makes you wonder why they're so eager to let it be used again. Do they really think these elaborate precautions will be strictly followed?"

Roe added, "This is unbelievably dangerous stuff." ●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 26, 1978, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 27

9:00 a.m.

Human Resources
Labor Subcommittee
To mark up proposed National Labor Relations Procedures and Remedies Act.
4232 Dirksen Building

9:30 a.m.

*Banking, Housing, and Urban Affairs
To hold oversight hearings on financing of future energy needs.
5302 Dirksen Building

10:00 a.m.

Energy and Natural Resources
To continue consideration of proposed legislation designating certain Alaska lands as national parkland.
3110 Dirksen Building

Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings on S. 28 and S. 3216, to provide Federal assistance to State and local criminal justice agencies.
2228 Dirksen Building

Conferees
On H.R. 11318, to amend and extend through FY 1980 authorizations for the Small Business Administration.
2359 Rayburn Building

12:00 noon

Select on Ethics
To hold a closed business meeting.
S-224, Capitol

1:30 p.m.

Conferees
On H.R. 15, authorizing funds through FY 1983 for elementary and secondary education programs.
S207, Capitol

SEPTEMBER 28

9:30 a.m.

Commerce, Science, and Transportation
To hold hearings on national export policy.
235 Russell Building

Human Resources
To hold joint hearings with the House Subcommittee on Labor Management Relations of the Education and Labor Committee on the administration of the Service Contract Act (P.L. 89-286).
2175 Rayburn Building

Judiciary
To hold hearings on the nominations of Norval Morris, of Illinois, to be Administrator, Homer F. Broome, Jr., of California, and Henry S. Dogin, of New York, each to be a Deputy Administrator, of the Law Enforcement Assistance Administration, Department of Justice.
2228 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
To mark up legislation to provide for the maintenance of reserves held in Federal Reserve banks; S. 3499, to eliminate the interest rate differential on preauthorized transfer accounts newly authorized as of November 1, 1978; and S. Con. Res. 9, expressing the sense of the Congress that the Federal Home Loan Bank Board authorizes the use of a wide variety of mortgage instruments.
5302 Dirksen Building

Foreign Relations
To hold hearings on and to consider the nomination of John Gunther Dean, of New York, to be Ambassador to the Republic of Lebanon, and the Treaty on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (Exec. K, 95th Cong., 2nd sess).
4221 Dirksen Building

Human Resources
To hold hearings on S. 2020, to clarify longshoremen's and harbor workers' compensation coverage to employees engaged in certain manufacturer, repair, servicing, or sale of recreational boats.
4232 Dirksen Building

Select Small Business
To resume hearings to explore problems concerning capital formation of small independent enterprises.
424 Russell Building

Conferees
On H.R. 12050, to provide a Federal income tax credit for tuition.
H-208, Capitol

Conferees
On H.R. 5037, a private bill, and to establish a comprehensive National Energy Conservation Policy.
2123 Rayburn Office Building

2:00 p.m.

Commerce, Science, and Transportation
To resume hearings on the objectives a national tourism policy should seek to achieve.
235 Russell Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To hold oversight hearings on the Basic Educational Grant Family Contribution Program to determine the Federal government's educational assistance program to student loans.
4232 Dirksen Building

Select on Ethics
To hold an open followed by a closed business meeting.
Room to be announced.

Conferees
On H.R. 15, authorizing funds through FY 1983 for elementary and secondary education programs.
S-207, Captiol

SEPTEMBER 29

9:00 a.m.

Human Resources
To mark up proposed National Labor Relations Procedures and Remedies Act.
4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
To hold oversight hearings on problems of small business defense contractors.
5302 Dirksen Building

Energy and Natural Resources
To resume consideration of proposed legislation designating certain Alaska lands as national parkland.
3110 Dirksen Building

Joint Economic
To hold hearings on the inadequacies of U.S. export policy.
S-207, Capitol

Select on Intelligence
To hold a closed business meeting.
S-407, Capitol

1:30 p.m.

Conferees
On H.R. 12467, to extend programs established under the Rehabilitation Act, and to establish a comprehensive services program for the severely handicapped.
S-146, Capitol

OCTOBER 2

10:00 a.m.

Energy and Natural Resources
Public Lands and Resources Subcommittee
To resume hearings on proposed Interior Department regulations to implement the Surface Mining and Reclamation Act (P.L. 95-343).
3110 Dirksen Building

OCTOBER 3

9:30 a.m.
Human Resources
Labor Subcommittee
To hold oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91–596).
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

OCTOBER 4

9:00 a.m.
*Governmental Affairs
Civil Service and General Service Subcommittee
To hold hearings on S. 1390, to authorize certain National Guard employment to be credited for civil service retirement, and S. 1821, to provide paid leave for Federal employees participating in athletic activities as an official representative of the U.S.
3302 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91–596).
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

OCTOBER 5

9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91–596).
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold oversight hearings on international housing programs.
5302 Dirksen Building

OCTOBER 6

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue oversight hearings on international housing programs.
5302 Dirksen Building

OCTOBER 9

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold hearings on national health insurance programs.
4232 Dirksen Building

OCTOBER 10

9:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To hold hearings on alleged abuses in U.S. Marine Corps recruiting practices.
1114 Dirksen Building

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To continue hearings on national health insurance programs.
4232 Dirksen Building

OCTOBER 11

9:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To continue hearings on alleged abuses in U.S. Marine Corps recruiting practices.
1114 Dirksen Building

OCTOBER 13

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To resume hearings on national health insurance programs.
4232 Dirksen Building

CANCELLATIONS

SEPTEMBER 26

10:00 a.m.
Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings to receive testimony on nuclear reactor safety systems from NRC Chairman Hendrie.
4200 Dirksen Building

SENATE—*Tuesday, September 26, 1978*

(Legislative day of Saturday, September 23, 1978)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by Hon. DONALD W. RIEGLE, JR., a Senator from the State of Michigan.

PRAYER

The Rev. John Andrew, D.D., Rector, Saint Thomas Church, New York, N.Y., offered the following prayer:

Incline Thy merciful ear, O Lord, to our prayers as we ask for wisdom to be given to those called to lead and to govern this Nation. Help us to know that by seeking Thy righteous will, we in fact perform it, and by seeking strength to perform it we in fact are given it; that whatever we ask in Thy Son's name is bestowed by the Giver of all things, the source of all true wisdom, the fulfillment of all true hope, and the goal of all noble striving for justice on the Earth.

We wait upon Thy loving-kindness, O Lord, as we pledge heart and mind to the tasks before us this day. For Thy light, Thy goodness, we ascribe to Thee, the God of our fathers in whose help we trust, all might, all majesty, all dominion, all power, for time and eternity. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 26, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD W. RIEGLE, JR., a Senator from the State of Michigan, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. RIEGLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved.

Mr. BAKER. Mr. President, I object.

MOTION TO ADJOURN FOR 2 SECONDS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate adjourn for 2 seconds. Apparently, the filibuster has already begun.

Mr. BAKER. Mr. President, reserving the right to object. There is no filibuster in progress, Mr. President. I shall be happy to confer with the majority leader on this subject and at this point. If he cares to renew his request later, it is possible I will do it. At this point, it is not possible for me to do it.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 2 seconds.

Mr. BAKER. Mr. President, I object.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment for 2 seconds.

Mr. BAKER addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, this motion is not debatable.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

QUORUM CALL

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

[Quorum No. 13 Leg.]

Baker
Byrd, Robert C.
Garn
Morgan
Proxmire
Riegle
Schmitt
Stennis
Weicker

The ACTING PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of the absentees.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CLARK), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Illinois (Mr. STEVENSON), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Alabama (Mr. SPARKMAN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from New Jersey (Mr. CASE), the Senator from Missouri (Mr. DANFORTH), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from North Carolina (Mr. HELMS), the Senator from New York (Mr. JAVITS), the Senator from Indiana (Mr. LUGAR), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The result was announced—yeas 51, nays 1, as follows:

[Rollcall Vote No. 402 Leg.]

YEAS—51

Baker
Bellmon
Bentsen
Brooke
Burdick
Byrd, Robert C.
Chafee
Church
Cranston
Culver
Curtis
DeConcini
Dole
Domenici
Ford
Garn
Hansen
Hart
Hatch
Hatfield, Mark O.
Hatfield, Paul G.
Hayakawa
Heinz
Hodges
Humphrey
Jackson
Laxalt
Leahy
Long
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Proxmire
Randolph
Riegle
Roth
Sasser
Schmitt
Stennis
Stone
Talmadge
Thurmond
Tower
Young
Zorinsky

NAYS—1

Weicker

NOT VOTING—48

Abourezk
Allen
Anderson
Bartlett
Bayh
Biden
Bumpers
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Clark
Danforth
Durkin
Eagleton
Eastland
Glenn
Goldwater
Gravel
Griffin
Haskell
Hathaway
Helms
Hollings
Huddleston
Inouye
Javits
Johnston
Kennedy
Lugar
Magnuson
Mathias
Matsunaga
McClure
McIntyre
Muskie
Packwood
Pearson
Ribicoff
Sarbanes
Schweiker
Scott
Sparkman
Stafford
Stevens
Stevenson
Wallop
Williams

The ACTING PRESIDENT pro tempore. On this vote the yeas are 51, the nays are 1. A quorum is present, and the motion is agreed to.

ADJOURNMENT

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to adjourn for 2 seconds.

The motion was agreed to, and at 9:29 a.m., Tuesday, September 26, 1978, the Senate adjourned for 2 seconds.

AFTER ADJOURNMENT

TUESDAY, SEPTEMBER 26, 1978

The Senate met at 9:29:02 a.m. pursuant to adjournment, and was called to order by the Acting President pro tempore (Mr. RIEGLE).

THE JOURNAL

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, objection was made earlier to the request that I made that the Journal of the proceedings be approved to date. Obviously, the intention here is to build up a big Journal so that when it does have to be read it will take 6 or 8 hours.

Now, Mr. President, all I want to do is get the reading of the Journal dispensed with so they do not build up that Journal, that is all. Therefore, I ask unanimous consent that the reading of the Journal be dispensed with.

Mr. BAKER. Mr. President, reserving the right to object, I objected earlier, Mr. President, because at that point it was not possible to confer with certain Senators on this side of the aisle with respect to their plans and arrangements. I explained this to the majority leader, and I think he understands that. There was a remark made earlier that a filibuster had begun. As far as I am concerned, there is no filibuster.

Mr. ROBERT C. BYRD. That was my remark.

Mr. BAKER. There is no filibuster.

Mr. ROBERT C. BYRD. Under rule III the reading of the Journal has to be dispensed with the very first thing. Under rule III, after the Presiding Officer takes this chair, a quorum being present, the Journal is to be read. It cannot wait.

Mr. BAKER. As soon as we adjourn, of course, that is so.

Mr. President, what I am preparing to say to the majority leader is that time has not expired, and there has been an opportunity to confer, and I will not now object to the reading of the Journal.

Mr. ROBERT C. BYRD. I thank the Senator. Then we will dispense with that and it will be all right.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

RECOGNITION OF LEADERSHIP

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be dispensed with, and that the time for recognition of the two leaders, under the standing order, be in effect preceding the statement by Mr. MORGAN.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

THE UNFINISHED BUSINESS OF THE SENATE

Mr. ROBERT C. BYRD. Now, Mr. President, for whatever reason the distinguished minority leader objected, I have no responsibility for that. If he objected because Members on his side of the aisle wanted him to object, that is his responsibility, and he has to fulfill his duty as he sees fit; and I respect him for that.

But for whatever reason, when I asked unanimous consent that the Journal of the proceedings be approved to date, and there was an objection, you can say all you want to about waiting to clear that with people on the other side of the aisle, but somebody over there—somebody; I am not saying the minority leader, but he has apparently been under instructions from somebody over there to object to the approval of the Journal.

For what reason? To keep that Journal building up so that, at a given point, when the Senate has to adjourn for some reason, and all that Journal has built up, if there is then one objection to suspending the reading of the Journal, that entire Journal has to be read; and if it has built up for 2 or 3 or 4 days, or 5 or 6, whatever, that means the Senate can be tied up just that much longer while the Journal is being read.

Mr. President, there is apparently—and I make no attempt to cast aspersions on any single Senator, and I certainly want to say that the distinguished minority leader and the distinguished minority whip have attempted to assist in getting time agreements on certain measures—I have stated that the Senate can complete its business by the 14th of October, which is Saturday 2 weeks from this coming Saturday, and it can be done. But there is apparently some concern here that ERA may be called up, that Humphrey-Hawkins may be called up, or that hospital cost containment may be called up. I have urged that there be a time agreement on ERA, and I would urge that there be a time agreement on Humphrey-Hawkins, and I would urge that there be a time agreement on hospital cost containment, so that if they are called up, the Senate can work its will up or down.

I have an open mind on ERA. I have no idea how I would vote if that matter comes up for an extension. But there is no point in starting a filibuster at this point. Let us get time agreements. We have other important bills before the Senate today. We have the defense authorization bill, the HEW appropriations bill, the parimutuel bill, the natural gas conference report. Let us get time agreements, try to cooperate, and get our work done, and get out by October 14.

Last Thursday, we saw a slowdown in the Senate's work. The rules were used—and any Senator has a right to utilize the rules. Any Senator, a single Senator, can hold up the work of the Senate. But there was an objection to adopting the committee amendments en bloc, and the Senate then took them up one by one.

Now we find an objection to the approval of the Journal, and the only purpose can be to build up that Journal, because at some point in time, once the Senate adjourns, the Journal has to be read unless its reading is suspended by unanimous consent. No motion is in order to suspend the reading of the Journal.

So I just want the Senate to be aware of what is going on. I would hope we could avoid these tactics, that the Senate would get on with its work, and, at such time as ERA is called up, if and when it is called up, or at such time as Humphrey-Hawkins is called up, if and when it is called up, or at such time as hospital cost containment is called up, if it is called up, I would hope we would have time agreements on those bills.

There is some concern with labor reform being called up. I have no disposition to call it up, but if and when the Committee on Labor and Public Welfare reports that bill, it will then ipso-facto be the pending business of the Senate. That is the order of the Senate, not my order. Whether or not the committee reports that bill I cannot say, but until it reports it, it will not be the pending business, and when it does report it it will be the pending business, if it reports it.

So I would hope we would stop looking for ghosts under every bed.

Mr. GARN. They are there.

Mr. ROBERT C. BYRD. Right. Stop looking for ghosts under every bed and in every corner, and get on with the business of the Senate.

Mr. BAKER. Mr. President, you do not have to look far; and they are not under the bed, Mr. President, they are out here as the subject of conversation and the remarks by the distinguished majority leader.

October 14 is a very important time in my life. I would like to get out of here and go home, and I think every other Member would, too; and I am about to say something that may not be popular with everybody, but it needs to be said.

With the litany of measures the majority leader has described, it is absolutely essential that the minority have the opportunity to examine every motion and every procedural step before it concurs in any unanimous consent request.

On Saturday, at 7:45 in the morning, there were three Senators present on the floor: the majority leader, the minority leader, and one other. It was necessary for me at that time to object, or at least to reserve my right to object, to certain matters until I could confer with some parties who were interested in the matter at hand and clear, at that time, an adjournment for 2 seconds.

Mr. President, I must say to my friend the majority leader that, in these waning days of the session, every aspect of the rules that is necessary to protect the rights of the minority will be invoked to protect the minority. There is no filibuster in place. I do not propose a filibuster. I am simply protecting the rights of Senators on this side of the aisle, as I perceive them.

The 14th of October, as I said earlier, is an important time. But if we have to rush on matters of this importance in order to adjourn on October 14, we are doing a disservice to ourselves and to the country. I would far rather come back for a bobtail session after the election than rush to judgment on matters of such critical concern to this body.

I will join the majority leader in trying to arrange and order the business of the Senate to accomplish an October 14 deadline, but I will not rush on matters of such importance. I will not proceed in any way except as the rules provide, but I will not hesitate to object when it is necessary to gain time for an orderly and deliberate consideration of the matters being presented to the Senate, in the light of the interests of the minority.

Mr. ROBERT C. BYRD. Mr. President, the minority leader has no monopoly on the desire to get the work of the Senate done and do it well, and not rush through these measures, as the Senator has said. My desire is to get the work of the Senate done, to do it well, and to vote up or down.

To vote up or down. Let us have a time agreement on ERA, if that is what the Senator is concerned about on his side of the aisle. Let us have a time agreement on Humphrey-Hawkins. Let us have a time agreement on hospital cost containment, and vote up or down. The time agreements can be for 10 hours, 20 hours, or 30 hours; the measure does not have to be rushed through. It can be given adequate time for debate.

But objecting to the approval of the Journal is not getting any work done. The Senator says every aspect of the rules will be utilized. Of course they will. They are right there for every Senator to utilize. That is the problem now; they have been overly utilized. They have been abused in some instances. But that will be a subject for another day's discussion.

The minority leader did not abuse them by objecting to the approval of the Journal. I am not implying that; that was within his rights. But the majority will also utilize the rules. The joint majority and the minority leadership have the responsibility to get the Senate's work done. It is not just the responsibility of the majority leader or of the majority side of the aisle; it is the responsibility of both sides of the aisle. And I have had excellent cooperation from the minority leader and from the minority whip. Sometimes they cannot give me time agreements. Sometimes they cannot waive the 3-day rule, because there are objections on their side of the aisle.

But when it comes to the rules, we both will use them. They will use them and we will use them.

Now as to a bobtail session. Mr. President, I have been involved in bobtail sessions before. I was in the House when the able minority leader's illustrious father served over there. A bobtail session is not anything new to this Senator. But if one wants to avoid ERA, or Humphrey-Hawkins, or hospital cost containment, or labor reform, or whatever it is that may be troubling one, then were we to come back here for a bobtail session we can get everything thrown at us but the kichen sink, everything.

If we can dispose of some of these matters by October 14, however, then whatever remains to be done can be done next year. Next year is not too far away. But to those who would rather have a bobtail session, it is entirely in their hands. They can force it. All they need to do is string out the time of the Senate. They can invoke certain rules, making it hard on the Senate to do its work, and they can have a bobtail session. But along with it, they may get a lot of things they do not want. They are going to get a lot of things brought up they do not want to see brought up. So a bobtail session is all right with me. I will probably be around here most of the time anyhow. But it is up to Senators. If they want to get out on October 14, they can cooperate in giving time agreements and work long hours and Saturdays.

On last Saturday we had only 52 Senators here on three votes. We are going to be in every Saturday from here on out. We are going to be in this Saturday and next Saturday and we will be in on October 14.

We can complete our work. I know enough about the schedule. I know enough, I think, about the Senate to know that we can finish on October 14. But it is going to take every ounce of cooperation that we can get. We cannot guarantee we will be out on October 14, but I will almost guarantee one thing if we have a bobtail session: we will be around several days and there will be some legislation called up that some people probably do not want to see called up. In addition to that, there will be a lot of soreheads, long faces, and down-at-the-mouth Senators. I have never seen those bobtail sessions that were really very productive, and I do not like them.

If everybody will work with me and cooperate with me, we will not have a bobtail session.

Mr. BAKER. Mr. President, I was standing here as the kitchen sink went swirling past my head because the distinguished majority leader is not waiting for a bobtail session. He is threatening the Senate, and I use that word advisedly, with the very matters before October 14 that he holds out as a disincentive for after October 14.

Mr. President, I want to get out, too. I have said that. I mean that. I want to cooperate. But I do not want to abrogate my views and my opinion and that of the minority, on major and fundamental issues that will confront the Senate.

The majority leader lists hospital cost containment, a rereporting of the labor reform bill, ERA extension, and goodness knows what else. It is like my preacher friend who was preaching about the evils of youth, who were smoking, drinking, gambling, and goodness knows what else. Somebody said, "Preacher, what else is there?"

Well, I wonder what else there is on the agenda besides what the majority leader has suggested.

Mr. President, I do not want us to come back after October 14, but I am perfectly prepared to come back on October 14 if it is necessary to prevent the passage of bad legislation.

It is no small matter to stand here and say that it is necessary to protect the rights of Senators on this side of the aisle in respect to the scheduling of legislation which many people on this side of the aisle object to. But that is precisely what I must say. We may win; we may lose. The majority leader is right, there will be long faces and there will be angry tempers. There will be strained moments.

Mr. ROBERT C. BYRD. It will not be mine.

Mr. BAKER. Nor mine.

There will be strained moments, but that is the price you pay. Nobody said this is an easy job. I would like to yield first to the distinguished Senator from Utah and then the Senator from Kansas.

Mr. GARN. I thank the distinguished minority leader. Inasmuch as the majority leader has made so much of the possibility of ERA coming up and a filibuster, I would like to bring out in the open what I think everybody knows: I am the Senator who threatens to filibuster that bill. I would like to assure the majority leader again, because I talk to him almost daily, that I do not want to filibuster that bill. I, too, would like to be out on October 14 and get away from the wonderful wizards of the Potomac. But the point is that I am actively working each day, talking to my colleagues and the majority leader. Most of them know what my objection is: I believe there should be a two-thirds vote on the extension, and there should be a recission amendment which would allow States to vote either way during the period of extension.

If those two amendments were adopted, not only would there be no filibuster but I would vote for the extension. I do not want to filibuster. I do not want to delay the Senate, and I have no intention of doing so. I will continue to work every day in discussions with the majority leader and others to see if we cannot work out a time agreement so that one is removed. I wanted everyone on the floor to know that. The majority leader does know that. I talked to him yesterday and today. I will continue to try and work to see if we can come up with a time agreement on that particular issue and work hard for the two amendments which I believe would make an extension fair to both sides.

Mr. BAKER. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. I might just suggest after listening to all the conversations that if the majority leader and minority leader would give us an agenda saying this is what we want to do before October 14, and not have one list, a must list, and some other list, I do not think there would be any trouble in getting agreements. We do not know what the majority leader wants to bring up in time agreements. That is how you build up a cushion of 2 or 3 days and that is how we get socked with some legislation that should not be brought up.

Why not give us an agenda saying these are the 10 bills? We will probably get agreements on our side if we knew precisely what the agenda was. But every day it changes. Every day somebody moves something from the maybe list to the must list. It is difficult for those of us who have an interest in the tax bill and other bills to make much of a determination.

I do not quarrel with the majority leader and never have, that I can recall, in the 10 years that I have been in the Senate, but it seems to me an orderly procedure would be to say these are the 10 bills and when we finish these 10 bills we go home. What happens is that 10 changes to 11 or 12 or 14 and we cannot get an agreement. Maybe that is in the offing, I do not know.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, first of all, Mr. Baker said something about preventing the passage of bad bills. All we need to do to prevent the passage of a bad bill is to vote it down. Let us have a vote. Let us have a vote up or down on the "bad bills." It is for each Senator to decide what bill is bad, what bill is good, what bill is in between. Voting on bills does not necessarily mean they will pass. I have seen bills voted down after long debate.

The distinguished minority leader also referred to reporting labor reform. I do not know that it will be reported. It has been in the committee now for a good many weeks following the order of the Senate to recommit. Whether it will be reported, I cannot say. But if we come back for a bobtail session, I would imagine it probably will be reported, if not before then. I do not know that it will be reported before then.

The distinguished Senator from Utah has spoken of his desire to get a time agreement on the ERA bill. He has made a valiant effort and is continuing to try to get a time agreement on that measure. He is working hard and has talked to me a number of times. I hope he is successful in helping to get a time agreement.

Finally, Mr. Dole talks about an agenda, saying that we ought to be given an agenda, not one list that is a "must" list and another list that is a "high priority" list, and so on and so on.

Well, it is easy for one Senator on the other side of the aisle to say the leadership ought to do this, and this is the way the Senate ought to be run, this is the way it ought to be done, and all that. Sometimes, the idea may be good. But I submitted a list to the minority, and it was a list of "must" legislation, which included the appropriations bills, the expiring authorizations, the tax bill, and the energy legislation. The energy question has been the top priority since April 1977. I also presented another list of "high-priority" legislation, which included ERA, hospital cost containment, Humphrey-Hawkins, and so on and so on. I suggested that we get time agreements and that we make every effort to get out by October 14, because the Democratic Policy Committee and the chairmen have voted overwhelmingly to try to complete our work by then if it is achievable, and it appeared to be so at that time, and still does.

The response came back to the effect that the date is achievable, that we probably can get time agreements on those "must" bills, such as appropriations and expiring authorizations, tax cut, energy conference reports, and so on. But, there was also a request that I make a commitment not to offer a cloture motion on the high-priority items, or certain of the high-priority items. I could not and cannot make a commitment of that kind. I cannot make a commitment on a cloture motion. So the whole thing was off temporarily, and so we have been trying to get agreements just from day to day.

That is the effort that was made with regard to submitting an agenda to the minority. I could make no commitment that this bill or that bill on the high-priority list would not be called up. I could make no commitment that a cloture motion would not be offered on this bill or that bill on the high priority list. If I had made such a commitment, I guess we could have time agreements on the remaining "must" business. But I could not do it.

So I did what I could in the effort to submit a list and get time agreements. The distinguished minority leader did what he could in taking it up with people on his side, discussing it, seeing if time agreements could be given. Apparently, they could not be unless there was a commitment not to call up certain measures on the high-priority list and, if they were called up, not to offer a cloture petition. I could not give that commitment.

The ACTING PRESIDENT pro tempore. The Chair is sorry to interrupt, but the time of the two leaders has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time be extended for 1 minute on each side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. That is where we stand, Mr. President. I urge that we have the utmost cooperation in trying to move the work of the Senate forward. I am not saying, I have not said to anyone, that I have intended to call up the ERA. I have never said that. I have said for weeks that I hoped that the Senate could take a crack at it, that I had voted for it in the first place, but that I had an unresolved question in my own mind about the wisdom of setting a precedent; I also have an unresolved question about the matter of rescission. But I have said for weeks that I hoped the Senate could take it up. I have never said I was not bringing it up, never said I was against it. I can come down on either side of the question right now. But I have said that the Senate ought to give it a try.

I should like to see Humphrey-Hawkins brought up. The distinguished Senator from Minnesota (Senator HUMPHREY) will not be with with us next year because of her own decision, which I regret. I should like to see it brought up while she is a Member of this body. But I have never said it would be brought up.

Labor law reform is out of my hands. I have nothing to do with that one. It is all in the hands of the Human Resources Committee.

Hospital cost containment is one of the President's key items in his anti-inflation drive. I do not know whether it will be brought up or not.

So I have never said any of these would definitely be brought up. I have not said they will not.

There is where we stand. I am afraid that these efforts to delay and drag out the time and work of the Senate are not accomplishing anything except delaying the Senate in doing its work. They are not making sure we vote up or down on a "bad" piece of legislation. They are simply delaying the time when we might have to vote up or down on legislation.

So, Mr. President, I say all I have said in good spirit. I have the utmost respect for the distinguished minority leader. I have, time and time again, thanked him and the minority whip and the minority for their cooperation. I meant every word of it and I hope that we shall continue to have it.

Mr. BAKER. Mr. President, I think the colloquy this morning and the proceedings this morning have been useful. I think we have a clear picture of what is in prospect on both sides of the aisle. I think that the net result of this colloquy has been to suggest that the majority leader has an understandable desire to move, or at least to preserve his option to move, important legislation. The minority has a determination to be careful and to examine the issues one at a time. I think we can live with that, Mr. President. I think today's discussion has illuminated the subject considerably.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina (Mr. MORGAN) is recognized for not to exceed 15 minutes.

ORDER OF PROCEDURE

Mr. STENNIS. Mr. President, will the Senator yield to me for half a minute for a question?

Mr. MORGAN. I am happy to yield, Mr. President.

Mr. STENNIS. Mr. President, may we have a statement from the Chair as to what is the next pending matter here and let me give a 15-second response?

The ACTING PRESIDENT pro tempore. The Chair advises the Senator from Mississippi that the next pending matter is S. 3486.

Mr. STENNIS. Mr. President, that is the military procurement authorization bill, if I may say so on the Senator's time, and we have some amendments. We have agreed on time on the bill and on the amendments. There will doubtless be some rollcall votes. It is highly important, in my opinion, at this end of the fiscal year to get the authorization bill moving and the appropriations bill to follow, to keep the entire military program from going under the disabilities of a continuing resolution. I hope we can dispose of them this morning.

PRIVILEGE OF THE FLOOR

Mr. MORGAN. I yield briefly to the Senator from Iowa.

Mr. CULVER. Mr. President, I ask unanimous consent that Mr. Charles Stevenson, of my staff, be granted the privilege of the floor during consideration of the military authorization bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. PROXMIRE. Will the Senator yield for a unanimous-consent request?

Mr. MORGAN. Yes.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Ron Tammen and Richard Kaufman be granted the privilege of the floor during the debate on the military appropriations measure.

Mr. HAYAKAWA. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MORGAN. Mr. President, yes, I yield.

Mr. HAYAKAWA. I thank the Chair.

Mr. President, I ask unanimous consent that Miss Peggy Haberstroh of my staff be granted the privilege of the floor during the proceedings on military appropriations.

Mr. DOLE. I make the same request for Jack Nutter of my staff.

Mrs. HUMPHREY. Mr. President, I make the same request for Maureen Norton of my staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF EDUCATION

Mr. MORGAN. Mr. President, last week, the Senate began considering S. 991, a bill to establish a separate Cabinet-level Department of Education. When I first became aware of this proposal, I was inclined to favor it. I believed it would lead to the improved management of Federal education programs, something every Member of the Senate would admit that we need, and the bill seemed to be an appropriate way to make progress toward that end.

But, in the last year, as I have become more familiar with this measure and its consequences, my position has slowly changed to one of opposition. Because of that, and because of time limits on debate of the bill itself, I have asked for time during the morning hour.

I now believe that enactment of S. 991 would be a serious mistake.

The most serious problem with establishing a separate Department of Education is that it will, inevitably, lead to vastly increased Federal influence over education policy in this country. Frankly, it is hard for me to imagine a worse thing we could do in the field of education.

The specter of increased Federal influence and control is implicit in the bill itself, in the committee report, and in almost every statement made to support the concept, notwithstanding the repeated, ritualistic disclaimers.

This reorganization proposal is not just an exercise in better management as many believe. For that matter, no reorganization is. Congressman BRADEMAS, the House majority whip, and a most distinguished patron of the arts and humanities, for which I commend him, stated this quite clearly:

> . . . too often reorganizations omit—some of them perhaps deliberately—an explicit recognition that reorganization of the executive branch . . . is not simply an exercise in improving the efficiency of government. Reorganization is a fundamentally political act, not political in the partisan sense, but political in that every organization—and every reorganization—means a distribution or redistribution of power and influence over the substance of policy . . .

As far as I can tell, the main proponents of this bill fully intend that the Federal influence over and direction of educational policy in this country increase. Last week, I received a letter from my good friend, the Vice President, asking me to support S. 991. He listed a number of reasons for supporting this bill of which the first, and presumably the most important, was to "bring increased attention to the needs of education by providing new focus and direction at the highest levels of Government." James McIntyre, Director of the Office of Management and Budget, stated in testimony before the Senate Governmental Affairs Committee, and again I quote:

> The establishment of a cabinet department of education will provide a base for national leadership . . .

Perhaps the clearest statement came from John Ryor, president of the National Education Association, when he said:

> Creating a department of education is, indeed, a profound step in which the federal government will be recognizing, for the first time, that it has a responsibility for education in and of itself.

Some people might argue that these quotes do not reflect the intentions or the direction of this legislation. So, let me direct the Senate to S. 991's statement of purposes. The first purpose mentioned is to "insure that education receives the appropriate emphasis at the

Federal level." In this context, "appropriate emphasis" must mean "greater emphasis," for if it meant less emphasis there would be no reasons for the legislation.

The second purpose is to "enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness."

A vote for S. 991 is a vote to establish a department with a charter to coordinate all education activities nationwide. This must lead to greater Federal influence over educational policy.

The third purpose of S. 991 is equally revealing. It is to "continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities." The committee report, in explaining this, states that—

> Equal education opportunity has been and must remain a major educational goal of the Federal Government.

This is a gross misreading of history. It has never—this must be emphasized—never been the policy of the U.S. Congress to promote equal educational opportunities for its own sake.

It has been the policy of the Congress and the will of the people, that all Americans have an equal opportunity in life, that Americans should not be denied this opportunity simply because they are part of a racial minority, or female, or handicapped, or because they have not had the chance to learn to speak proper English at home.

The Congress has provided assistance to State, local, and private education programs because it realized, wisely I think, that equal opportunity is best insured if everybody receives an equal education. Equal educational opportunity has not been the goal, but the means. Equal opportunity, without any limiting adjectives, has been the goal.

The same is true of every other education program, or education-related program, enacted by the Congress. There is not a single such program which has been justified on the basis that it is good for education. Student assistance programs exist to help attain equal opportunities for all. Indian education programs exist partly for equal opportunity reasons, and partly because of the unique trust status of the Indian tribes. The GI bill, which helped me to go to college, was enacted to provide veterans with needed help and to compensate them for their services. And we do not make research grants to universities to subsidize higher education, which it does, but in order that we might maintain our technological leadership in the case of National Science Foundation programs, to improve the health of all Americans in the case of health-related research, and so forth.

In fact, this is why there has been such difficulty in deciding what belongs in this new department. Let me list the many education-related programs which will not, or might not, be included in this bill: Veterans' education, social security education benefits, the many National Institutes of Health, the school lunch and related programs, the Indian schools, the Department of Defense schools for overseas dependents, the National Science Foundation education programs, Head Start, and the manpower training programs in the Department of Labor. We had no comparable difficulties in deciding what to put in the Department of Energy, which to me implies there was a much better rationale for creating it.

Purpose 6 of S. 991 is an open-ended prescription for Federal interference in local and State-controlled schools. It tells us that we need this bill "to promote the quality and relevance of education to individual needs, including the assurance of an adequate level of skill development * * *." To quote from an article by David Breneman and Noel Epstein, which I will describe more fully in a minute:

> Who decides what is "an adequate skill level"? Is Washington to establish minimum skill requirements? Are we talking about paving the way for a national test, a move proposed . . . but successfully thwarted thus far?

Albert Shanker, president of the American Federation of Teachers, in a statement opposing the establishment of this new department, described the problem of Federal control extremely well. He said:

> Our public school system is built upon a system of local control by lay school boards. That this system needs a larger share of federal assistance is beyond dispute.

Before I go further, I must say that I am not at all sure I agree with this last statement, largely because of what Mr. Shanker said next:

> But the degree to which this should mean a greater amount of federal control is a question that has not been discussed. None of the plans to create a separate department of education address this thorny and difficult issue. Namely, what is the federal role on education policy? No other domestic sector of cabinet level status compares with education in terms of the clear limits of federal authority. Is the creation of a cabinet level department in an area which constitutionally is left to the states and localities wise without at least exploring these questions further?

Senator SCHMITT sent each of us a letter last week, in which he enclosed a reprint of an article, one that I quoted from a few minutes ago, that appeared in the August 6 Washington Post. This article, written by David Breneman, of the Brookings Institution, and Noel Epstein, an editor for Outlook and formerly for the Washington Post, contains a brilliant description of the danger that this bill will bring about Federal control over education, and I urge all my colleagues to read it before voting on final passage. The article concluded with the following sentence:

> A department (of education) is either a prescription for increased central influence over education or for excessive expectations that will only lead to more, not less, frustration.

Now, what are these excessive expectations?

Many supporters of S. 991 believe that a separate department will lead to improvements in Federal education policy. I do not feel there is any basis for that conclusion; there certainly is not, judging by our experiences with the Department of Housing and Urban Development.

Establishing a separate department will expand the bureaucracy, and will almost surely increase the pressure on Congress to spend more money on education, but neither of these will bring about, by themselves, better policy.

In fact, there is a good chance that having a separate department will lead to worse policy. It is interesting to note that the one Federal education program about which we never get complaints, the one which I believe to be working the best, is not controlled by the education bureaucracy. I am, of course, referring to the Head Start program.

The Head Start program, which is operated by HEW's Administration for Children, Youth, and Families, is not strictly an educational program, but rather, and I now quote from the the committee report on S. 991:

> Provides comprehensive services, including health, nutrition, education, dental, mental health, parental involvement and social services. The outstanding success of this program can be partially attributed to Head Start's unique characteristics—significant parental involvement, comprehensive services and a diverse Federal-to-local delivery system.

The Governmental Affairs Committee decided, unanimously, not to place the most successful Federal education program in the new department, because they were afraid that it might become dominated by narrow educational interests. This unanimous decision does not say much for confidence in the new department. Let me quote Albert Shanker again:

> One of the problems with education policy-making thus far is that it has been too narrowly conceived. A separate department would only exacerbate this tendency.

Creation of a separate department will also not magically lead to new, major initiatives in education, although, as I said, it will lead to more spending on bureaucracy. At the present time, the dominant role in the formation of policy initiatives, within the administration, is held directly by the White House through the Office of Management and Budget. Establishing the new department will not change this, unless the President so decides, and he has given no indication that he will so decide.

Many also believe that this bill will allow the Federal Government to save money through the ending of program duplication and better program coordination. In the first place, Congress could bring about that result simply by ordering a reorganization of the education bureaucracy with HEW. It could start by combining the Office of the Commissioner of Education and that of the Assistant Secretary for Education. We do not need a new department to deal with this problem.

Second, this bill will cost the taxpayers money, according to Congressional Budget Office estimates, in order to pay for the additional bureaucracy. The cost is small, but it is there, and it will only grow.

I might say, parenthetically, that I have tried to defend the new Department of Energy, for which I voted. I have tried to defend it with my constituents by saying that, really, we did not create all this bureaucracy; we just brought together many fragmented agencies, such as ERDA, and so forth; and there is some merit in what it has been doing. But as I look at the real figures, I find that the bureaucracy has grown over and beyond that previously existed elsewhere in Government.

Mr. President, I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. The estimated cost of this bill is $3.3 million in fiscal 1979, $5.7 million in fiscal 1980, $8.6 million in fiscal 1981, $10.4 million in fiscal 1982, and $11.1 million in fiscal 1983, for a 5-year total of $39.1 million.

Finally, I would like to add some cautionary notes. As a Washington Post editorial stated last April:

> One of the principal risks of creating a separate education department is that it will become a creature of its clientele. That clientele would not necessarily be the school children and their parents . . . but much more probably it would be the National Education Association. In a way, this would be giving them their own department.

It makes no sense to give narrow special interest groups their own department, and the groups we are talking about here are too often hostile to the needs and desires of school children and their parents. Many educational groups, for example, were opposed to Senator Hatch's amendment to the Elementary and Secondary Education Act that required parental consent before any child could be subjected to psychiatric or psychological examination, testing or treatment, or before any child could be placed in an innovative program aimed at behavioral modification.

Equally, many education interest groups are bitterly opposed to the demand, by parents, for minimum competency testing in the schools. Do we really want to shift power, in setting education policy, from parents to these groups?

Finally, considering the declining number of children in this country, we may be creating this new department right at the time when the Federal role in education would normally begin to decline. The Senate has a bill before us, S. 1780, which also will lead to a declining Federal bureaucratic role in education.

If a breaking up of HEW is desirable, other options may be much more desirable. For example, the Federal role in health policy has been growing constantly, and there is currently a bill before the Senate to establish a separate health department. If we enact comprehensive national health insurance, may we want a Department of Health and a Department of Education and Welfare? We might want a Department of Education and Labor. There are other options, and making this change now will preclude the Congress from adopting a better choice, one which might become clear in the near future.

I certainly agree that better management of Federal education programs and improvements in policy are necessary. I also agree that we must simplify our existing education bureaucracy, eliminate program duplication, and establish better coordination between programs. All these could be accomplished without establishing a new Cabinet-level department.

I do not believe that we need this new department. I also do not believe the majority of American people want this department. I know that the American Federation of Teachers does not want this, I know that the U.S. Catholic Conference does not want this, and I know that many civil rights activists do not want this. So far, most of the debate over this department has only been limited to the education community. As more people become aware of this proposal, I believe a great deal of opposition will surface.

Passing S. 991 is not a good idea, and I urge my colleagues to vote against it.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. MORGAN. I yield, if I have time.

The PRESIDING OFFICER. Under the previous order——

Mr. SCHMITT. Mr. President, I ask unanimous consent to speak for 1 minute, in support of the Senator from North Carolina.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SCHMITT. Mr. President, I compliment the Senator from North Carolina on his presentation and his very clear understanding of the issues which are involved in the establishment of a Department of Education. I feel very strongly about this subject, in much the same vein as he does.

I believe there is no question in the mind of either of us that this Nation, or any other democratic nation, will rise or fall on the basis of the quality of its educational system. The success of this Nation in many respects, over the 200 years of its existence, has been based on our ability to tap the diversity of our people through a locally-based educational system. If we move or take steps toward a national system, which this bill certainly would do, then we are beginning to eliminate the availability of this reservoir of diversity that has been so valuable to this country.

Again, I compliment the Senator for his remarks, and I hope that our colleagues will begin to consider the bill in a much more enlightened manner than perhaps we have in the past.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Under the previous order, the Senate will now proceed——

Mr. ROBERT C. BYRD. Mr. President, it has been my practice now for 10 years to object to extending 15-minute orders; because, if we start allowing 15-minute orders to be extended, then the whole morning—the whole day, for that matter—can be taken up by discussion of a matter that is not legislative business.

So, if Senators wish to get additional time, if they would let the majority leader know in advance, I would be glad to get them additional time. I got Mr. Morgan time, and I could have gotten Mr. Schmitt additional time if I had been so informed on yesterday.

If I had been here, I would have objected to extending the time, and I hope that the Chair in the future will reserve the right to object if there is a request to extend 15-minute orders. I hope that the Chair, whoever is in the chair, will reserve that right to object until I can get to the floor, at which time I will object.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I would just as soon that the Record did not show the colloquy and did not show that the Senator got a 1-minute extension.

So I ask unanimous consent that the request for the 1-minute extension be deleted. No, leave it in.

Mr. SCHMITT. Mr. President, I object to that.

Mr. ROBERT C. BYRD. I want the Record to show that it has been the policy for 10 years, no matter if the request came from this side of the aisle or that side of the aisle, to object to an extension of a 15-minute order. Senators can get additional time by getting orders in advance, and they do do it. But this business of extending the time beyond 15 minutes can go on and on and on and on. I have seen committee chairmen sit here for 2 or 3 hours and ranking minority members sit here for 2 or 3 hours attempting to get up legislative business that was scheduled and be delayed because a 3-minute limitation in the morning business period was often extended to 10 minutes, 15 minutes, and then to 20 minutes, and a debate on some extraneous matter sometimes went on for hours.

So the policy of entering 15-minute orders was inaugurated years ago, and I have tried to uphold it. This is no complaint about the Senator from New Mexico because he was not aware of this policy, but I want to say that I want the Chair to reserve the right to object until I can get to the floor. I am listening to what is going on on the floor in my office but before I can get into the Chamber request is acceded to, as it was in this instance.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. SCHMITT. I realize the distinguished majority leader's intent by his remarks, but I do think that reasonably short extensions are extremely valuable.

Mr. ROBERT C. BYRD. They are valuable. But it has been the policy to object. I stated they are valuable. But if the Senator wants 10 minutes I can get him 10 minutes on tomorrow or 15 minutes, if he will let know. I can get him an order for it.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. SCHMITT. I am merely trying to point out that as a deliberative body a major value of such deliberations is the opportunity to interreact. The synergism of this floor is one of the major contributions we make on an issue.

Mr. ROBERT C. BYRD. Of course it is. I have been here 20 years and I know all about that. I have taught some legislative process seminars. The Senator does not have to lecture me on the value of talk in a deliberative body.

There is a way to secure an order, and

also a way to get on with our legislative business. I am not singling the Senator out. Any Senator who asks for an extension of the 15-minute order is going to get it objected to if I am on the floor.

Mr. SCHMITT. I hope that the majority leader will reconsider his firm policy.

Mr. ROBERT C. BYRD. The majority leader is not going to reconsider it after 10 years. The Senator has not been here 10 years. I have been here 20 years, and I have been objecting for 10 years, and I am going to continue to object.

Mr. SCHMITT. I am sorry.

Mr. ROBERT C. BYRD. I hope he will not take up further time of the Senate at this point. I am going to continue to object.

If the Senator wants an order to speak at an early hour, let him speak on an order that is previously entered.

Mr. TOWER. Regular order, Mr. President.

Mr. SCHMITT. I am sorry to hear the distinguished majority leader take that hard position because I think there is a great deal that can be added in the course of deliberations by this body by a small extension of time.

Mr. TOWER. Mr. President, a parliamentary inquiry. Under whose time is the colloquy taking place?

DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 3486 which the clerk will state by title.

The second assistant legislative clerk read as follows:

A bill (S. 3486) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve Component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Armed Services with amendments as follows:

On page 2, line 16, strike "force" and insert "Force";

On page 2, line 18, strike "$4,261,500,000" and insert "$4,470,500,000";

On page 3, line 23, strike "$933,400,000" and insert "$933,400,000,";

On page 8, line 15, strike "reelists" and insert "reenlists";

On page 8, line 23, after "$450", insert "before "$900",";

On page 11, line 4, strike "FORM" and insert "FROM";

On page 35, line 19, after "House" strike "and";

So to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Appropriation Authorization Act, of 1979".

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $972,400,000; for the Navy and Marine Corps, $4,381,100,000; for the Air Force, $7,028,200,000.

MISSILES

For missiles: for the Army, $738,100,000; for the Navy, $1,583,700,000; for the Marine Corps, $23,100,000; for the Air Force, $1,626,500,000.

NAVAL VESSELS

For naval vessels: for the Navy, $4,470,500,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,419,400,000; for the Marine Corps, $24,300,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $366,800,000.

OTHER WEAPONS

For other weapons: for the Army, $109,000,000; for the Navy, $102,000,000; for the Marine Corps, $30,200,000; for the Air Force, $300,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. Funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $2,661,701,000.

For the Navy (including the Marine Corps), $4,504,268,000.

For the Air Force, $4,164,500,000, of which $10,000,000 may be obligated and expended only for the North Atlantic Treaty Organization Airborne Warning and Control System (AWACS) program, but such $10,000,000 may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft.

For the Defense Agencies, $933,400,000, of which $27,600,000 is authorized for the activities of the Director of Test and Evaluation Defense.

EXTREMELY LOW FREQUENCY (ELF) COMMUNICATION SYSTEM

SEC. 202. None of the funds authorized to be appropriated by this Act for the development of the Extremely Low Frequency (ELF) communication system may be obligated or expended for the development of such system unless the President certifies to the Congress in writing that the use of funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system, and in no event may any of the funds authorized to be appropriated by this Act be used for full scale development or construction of another test-bed facility for an Extremely Low Frequency (ELF) communication system.

REPORT RELATING TO DEVELOPMENT OF SURVIVABLE LAND-BASED INTERCONTINENTAL BALLISTIC MISSILE SYSTEM

SEC. 203. The Secretary of Defense shall, not later than September 30, 1978, report to the Committees on Armed Services of the Senate and the House of Representatives the decision of the executive branch regarding full scale development of a survivable land-based intercontinental ballistic missile system. In the event that no final decision regarding such matter has been reached by the executive branch by such date, the Secretary of Defense shall—

(1) notify such committees on or before such date that no final decision has been reached and the reasons why such decision has not been made;

(2) inform such committees of the technical, political, or other considerations necessitating a delay in making such decision;

(3) indicate the date the Secretary believes a final decision will have been made with respect to such matter; and

(4) submit a report to such committees once every 30 days on the status of the decision on such matter (including in each such report information relating to the matters contained in clauses (2) and (3) of this section) until a final decision by the executive branch has been made and such committees have been informed of such decision.

REPEAL OF FISCAL YEAR 1978 AWACS RESTRICTION

SEC. 204. Section 201 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95–79, 91 Stat. 323), is amended by striking out ", but such $15,700,000 may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft".

TITLE III—ACTIVE FORCES

SEC. 301. For fiscal year 1979, each component of the Armed Forces is authorized an end strength for active duty personnel as follows:

(1) The Army, 775,800.

(2) The Navy, 523,550.

(3) The Marine Corps, 190,000.

(4) The Air Force, 566,400.

TITLE IV—RESERVE FORCES

SEC. 401. (a) For fiscal year 1979, the Selected Reserve of each Reserve component of the Armed Forces shall be programed to attain an average strength of not less than the following:

(1) The Army National Guard of the United States, 362,200.

(2) The Army Reserve, 195,750.

(3) The Naval Reserve, 87,000.

(4) The Marine Corps Reserve, 33,000.

(5) The Air National Guard of the United States, 92,150.

(6) The Air Force Reserve, 53,075.

(7) The Coast Guard Reserve, 11,700.

(b) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

EDUCATIONAL ASSISTANCE PROGRAM FOR ENLISTED RESERVES

SEC. 402. (a) Section 2132(b)(1) of title 10, United States Code, relating to eligibility for educational assistance, is amended—

(1) by striking out "automatically extended by two years" and inserting in lieu thereof "not less than six years"; and

(2) by striking out "eighth anniversary" and inserting in lieu thereof "last day of the term".

(b) Section 2135 of title 10, United States Code, is amended by striking out "1978" and inserting in lieu thereof "1980".

REENLISTMENT BONUS FOR MEMBERS OF SELECTED RESERVE

SEC. 403. (a) Subsection (a) of section 308b of title 37, United States Code, relating to reenlistment bonuses for members of the Selected Reserve, is amended to read as follows:

"(a) An enlisted member of a reserve component who—

"(1) has completed less than ten years of total military service; and

"(2) reenlists or voluntarily extends his enlistment for a period of three years or for a period of six years in a designated military skill, or in a designated unit, as determined by the Secretary concerned, in the Selected Reserve of the Ready Reserve of an armed force;

may be paid a bonus as provided in subsection (b).".

(b) Subsection (b) of such section is amended by inserting "an amount not to exceed" before "$450", before "$900", and before "$150".

(c) Subsection (g) of such section is amended by striking out "1978" and inserting in lieu thereof "1980".

BONUS FOR ENLISTMENTS IN THE SELECTED RESERVE

SEC. 404. (a) Chapter 5 of title 37, United States Code, is amended by inserting after section 308b the following new section:

"§ 308c. Special pay: bonus for enlistment in the Selected Reserve

"(a) Any person who, after September 30, 1978, enlists in the Selected Reserve of the Ready Reserve of an armed force for a term of enlistment of not less than six years, is a graduate of a secondary school, and has never previously served in an armed force may be paid a bonus as provided in subsection (b).

"(b) The amount and method of payment of a bonus to be paid under subsection (a) shall be determined in accordance with regulations prescribed under subsection (c), except that the amount of such bonus may not exceed $2,000 and—

"(1) one-half of the bonus shall be paid upon completion of the initial active duty for training of such person; and

"(2) the remainder of the bonus may be paid in periodic installments or in a lump sum, as determined by the Secretary concerned.

"(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy.

"(d) A member who fails to participate satisfactorily in training with his unit during a term of enlistment for which a bonus has been paid to him under this section shall refund an amount which bears the same ratio to the amount of the bonus which has been paid to him as the unexpired part of such term of enlistment bears to the total length of such term of enlistment.

"(e) The Secretary of Defense shall submit a report to the Congress every three months stating the number of members of the Selected Reserve of the Ready Reserve who at the time of such report are serving a term of enlistment for which a bonus has been paid under this section and listing each unit of the Selected Reserve of the Ready Reserve to which any such member is assigned at the time of such report. The first such report shall be made not later than December 31, 1978.

"(f) No bonus may be paid under this section to any enlisted member who, after September 30, 1980, enlists in the Selected Reserve of the Ready Reserve of an armed force.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 308b the following new item:

"308c. Special pay: bonus for enlistment in the Selected Reserve.".

RESTRICTION ON TRANSFER FROM READY RESERVE TO STANDBY RESERVE

SEC. 405. (a)(1) Section 269 of title 10, United States Code, relating to transfers from the Ready Reserve, is amended—

(A) by striking out "eligible to transfer" in subsection (a) and inserting in lieu thereof "transferred";

(B) by striking out the colon at the end of the third sentence in subsection (d) and inserting in lieu thereof a period;

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) Subject to subsection (g) and under regulations prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member in the Ready Reserve may be transferred to the Standby Reserve."; and

(D) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) A Reserve who is qualified and so requests may be transferred to the Retired Reserve under regulations prescribed by the Secretary concerned and, in the case of the Secretary of a military department, approved by the Secretary of Defense.".

(2) The amendments made by paragraph (1) shall not apply with respect to a member of the Ready Reserve of an Armed Force who served on active duty (other than for training) before the date of the enactment of this Act.

(b) Section 271 of such title, relating to continuous screening of the Ready Reserve, is amended—

(1) by inserting "(a)" before "Under regulations";

(2) by striking out "significance" in clause (1) and inserting in lieu thereof "significant"; and

(3) by adding at the end thereof the following new subsection:

"(b) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, any member of the Ready Reserve who is designated as a member not to be retained in the Ready Reserve as a result of screening under subsection (a) shall, as appropriate, be transferred to the Standby Reserve, discharged, or, if such member is eligible and applies therefor, transferred to the Retired Reserve.".

(c)(1) Section 511(b) of such title, relating to terms of enlistments in Reserve components, is amended—

(A) in the first sentence—

(i) by striking out "the Secretary concerned" and inserting in lieu thereof "the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy"; and

(ii) by striking out "sections 451–473 of title 50, appendix" and inserting in lieu thereof "the Military Selective Service Act (50 U.S.C. App. 451–473)"; and

(B) in the second sentence—

(i) by inserting "not less than" in clause (1) before "two years" and by adding "and" at the end of such clause;

(ii) by striking out clause (2); and

(iii) by redesignating clause (3) as clause (2) and striking out "Standby Reserve" in such clause and inserting in lieu thereof "Ready Reserve".

(2) The amendments made by paragraph (1) shall not apply with respect to a person who enlisted as a Reserve for service in the Armed Forces under section 511(b) of title 10, United States Code, before the date of the enactment of this Act.

(d)(1) Chapter 37 of such title, relating to general service requirements, is amended by adding after section 651 the following new section:

"§ 652. Ready Reserves: requirements of notification of change of status

"Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, each member of the Ready Reserve who is not a member of the Selected Reserve shall notify the Secretary concerned of any change in such member's address, marital status, number of dependents, or civilian employment and of any change in such member's physical condition which would prevent him from meeting the physical or mental standards prescribed for his armed force.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 651 the following new item:

"652. Ready Reserves: requirement of notification of change of status.".

REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON RESERVE FORCES

SEC. 406. (a) Section 264 of title 10, United States Code, is amended by striking out subsection (c).

(b)(1) Section 279 of such title is repealed.

(2) The table of sections at the beginning of chapter 11 of such title is amended by striking out the item relating to section 279.

TITLE V—CIVILIAN PERSONNEL

SEC. 501. (a) For fiscal year 1979, the Department of Defense is authorized an end strength for civilian personnel of 1,005,500.

(b) The end strength for civilian personnel prescribed in subsection (a) of this section shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c) In computing the authorized end strength for civilian personnel there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency), whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized in subsection (a) of this section, but such additional number may not exceed 1¼ percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

TITLE VI—MILITARY TRAINING STUDENT LOADS

SEC. 601. (a) For fiscal year 1979, each component of the Armed Forces is authorized an average military training student load as follows:

(1) The Army, 50,738.

(2) The Navy, 57,996.

(3) The Marine Corps, 21,324.

(4) The Air Force, 44,410.

(5) The Army National Guard of the United States, 11,793.

(6) The Army Reserve, 5,959.

(7) The Naval Reserve, 991.

(8) The Marine Corps Reserve, 3,074.

(9) The Air National Guard of the United States, 2,471.

(10) The Air Force Reserve, 1,184.

(b) In addition to the number authorized for the Army in subsection (a), the Army is authorized a military training student load for fiscal year 1979 of not less than 17,205 to be utilized solely for One Station Unit Training.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized in subsection (a) of this section for fiscal year 1979 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components in such manner as the Secretary of Defense shall prescribe.

REDUCTION OR REALIGNMENT OF THE TRAINING BASE

SEC. 602. (a) Notwithstanding any other provision of law, no action may be taken to effect or implement any substantial reduction of the training base (as defined in subsection (c)) or any substantial force structure realignment of the training base planned as a part of the fiscal year 1979 Defense manpower program unless and until the provisions of subsection (b) are complied with.

(b) No action described in subsection (a) with respect to a substantial reduction or realignment of the training base may be taken unless and until—

(1) the Secretary of Defense or the Secretary of the military department concerned notifies the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the specific reduction or realignment proposed;

(2) the Secretary of Defense or the Secretary of the military department concerned certifies that such reduction or realignment is in the best interest of the national security and provides for the most cost effective and efficient management of the training base, both in time of peace and in ability to meet mobilization requirements; and

(3) a period of thirty legislative days expires following the date on which the notification and certification referred to in clauses (1) and (2) have been submitted to such committees, during which period no irrevocable action may be taken to effect or implement such reduction or realignment.

For the purpose of clause (3), a legislative day is a day in which either House of Congress is in session.

(c) For the purposes of this section, the term "training base" means the composite of installations, posts, camps, stations, and bases that have as a primary or secondary mission the conduct of formal entry level, advanced individual, or specialty training.

TITLE VII—CIVIL DEFENSE

AUTHORIZATION FOR DEFENSE CIVIL PREPAREDNESS AGENCY

SEC. 701. There is hereby authorized to be appropriated for the programs of the Defense Civil Preparedness Agency for fiscal year 1979 for the purpose of carrying out the provisions of the Federal Civil Defense Act of 1950 the sum of $96,500,000.

CIVIL DEFENSE STUDY

SEC. 702. (a) From the funds authorized to be appropriated pursuant to section 701 of this Act, the sum of $200,000 shall be used for a study of the special defense needs of areas of the United States which contain significant elements of the United States strategic nuclear retaliatory forces or significant defense-related research laboratories or facilities.

(b) The study provided for in subsection (a) shall include the following:

(1) An identification of areas of the United States which, because they contain significant elements of the United States strategic nuclear retaliatory forces or significant defense-related research laboratories or facilities, are prime targets in case of a nuclear attack.

(2) A determination of what civil defense evacuation and shelter plans and warning systems are now available or are proposed to be made available to such areas.

(3) An evaluation of the effectiveness of such existing evacuation and shelter plans and warning systems.

(4) A determination of the feasibility of establishing more effective evacuation and shelter plans and warning systems for such areas and a determination of the potential costs and methods of financing such plans and systems.

(5) A detailed analysis of the specific effects of a nuclear attack on each such area.

(6) A determination of the need for educating, and the most effective methods of educating, the public in such areas on civil defense matters.

(c) The study required by this section shall be completed, and copies shall be filed with the Committees on Armed Services of the Senate and House of Representatives, before April 1, 1979.

TITLE VIII—GENERAL PROVISIONS

EXTENSION OF AUTHORITY FOR SPECIAL PAY FOR HEALTH PROFESSIONALS

SEC. 801. (a) The second sentence of section 2 of the Act entitled "An Act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services", approved May 6, 1974 (88 Stat. 96; 37 U.S.C. 302 note), is amended to read as follows: "The authority for the special pay provided by the amendments made by the first section of this Act shall expire on September 30, 1980.".

(b) Sections 302a(c) and 303(c) of title 37, United States Code, are each amended by striking out "September 1978" and inserting in lieu thereof "September 1980".

AUTHORITY FOR ENLISTMENT AND REENLISTMENT BONUSES

SEC. 802. (a)(1) Section 308(a) of title 37, United States Code, is amended—

(A) by inserting "(1)" after "(a)" and by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(B) by striking out "designated as having a critical military skill" in paragraph (1)(B) (as redesignated by subparagraph (A)) and inserting in lieu thereof "qualified in a military skill designated as critical"; and

(C) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1)(B) of this subsection, a member who agrees to train and reenlist for service in a military skill which, at the time of that agreement, is designated as critical, may be paid the bonus approved for that skill, at the rate in effect at the time of agreement, upon completion of training and qualification in that skill, if otherwise qualified under this subsection and even if that skill is no longer designated as critical at the time the member becomes eligible for payment of the bonus.".

(2) The amendments made by paragraph (1) shall take effect on October 1, 1978.

(b) Sections 308(f) and 308a(c) of title 37, United States Code, are each amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

EXTENSION OF AUTHORITY FOR SUBSISTENCE ALLOWANCE FOR MARINE CORPS PLATOON LEADER CLASSES

SEC. 803. The Act entitled "An Act to provide subsistence allowances for members of the Marine Corps officer candidate programs", approved November 24, 1971 (85 Stat. 491; 37 U.S.C. 209 note), is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

CAREER SEA PAY

SEC. 804. (a)(1) Effective October 1, 1978, chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by inserting after section 305 the following new section:

"§ 305a. Special pay: career sea pay

"(a) Under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay and who (1) is in pay grade E-4 or above, and (2) has served more than three years of sea duty, is also entitled, while on sea duty, to special pay at the applicable rate under subsection (b).

"(b)(1) For sea duty performed during fiscal year 1979 or 1980, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	Monthly rate
Over 3	$20
Over 5	35
Over 12	55

"(2) For sea duty performed during fiscal year 1981, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	Monthly rate
Over 3	$25
Over 5	35
Over 7	45
Over 12	55".

(2) Effective October 1, 1981, subsection (b) of section 305a of title 37, United States Code (as added by paragraph (1)), is amended to read as follows:

"(b) The monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	Monthly rate
Over 3	$25
Over 5	35
Over 7	45
Over 9	55
Over 10	65
Over 11	75
Over 12	100".

(3) In determining the amount of sea duty to be credited to an enlisted member of a uniformed service for purposes of section 305a of title 37, United States Code (as added by paragraph (1)), the Secretary concerned shall credit such member with all periods of service by such member before October 1, 1978, during which such member served in a sea duty status.

(b)(1) Section 305 of such chapter is amended—

(A) by striking out all of subsection (a) that precedes the table therein and inserting in lieu thereof the following:

"(a) Except as provided by subsections (b) and (c) of this section, under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay may, while on duty at a designated place outside the 48 contiguous States and the District of Columbia, be paid special pay at the following monthly rates:";

(B) by adding at the end thereof the following new subsection:

"(c) A member receiving special pay under section 305a of this title may not be paid special pay under this section for the same period of service."; and

(C) by striking out "sea duty or" in the section heading.

(2) The table of sections at the beginning of such chapter is amended—

(A) by striking out "sea duty or" in the item relating to section 305; and

(B) by inserting after such item the following new item:

"305a. Special pay: career sea pay.".

(3) The amendments made by this subsection shall take effect on October 1, 1978.

(c) Any individual who on September 30, 1978, is an enlisted member of a uniformed service shall be eligible to receive special pay under section 305(a)(1) of title 37, United States Code, as in effect on September 30, 1978, for any period of sea duty performed by such individual during the period beginning on October 1, 1978, and ending on September 30, 1981, for which such individual does not receive special pay under section 305a of such title (as added by subsection (a)).

CHIEF OF ARMY DENTAL CORPS; AIR FORCE ASSISTANT SURGEON GENERAL FOR DENTAL SERVICES

SEC. 805. (a) Section 3040(b) of title 10, United States Code, is amended by inserting after the first sentence thereof the following new sentence: "The Assistant Surgeon General is Chief of the Dental Corps and is responsible for making recommendations to the Surgeon General and through the Surgeon General to the Chief of Staff on all matters concerning dentistry and the dental health of the Army.".

(b)(1) Chapter 307 of title 10, United States Code, is amended by adding at the end thereof the following new new section:

"§ 3081. Dental Corps: Chief, functions

"(a) The Chief of the Dental Corps shall be an officer of that corps appointed as prescribed in section 3040 of this title.

"(b) Under such regulations as the Secretary of the Army may prescribe, all dental functions of the Army shall be under the direction of the Chief of the Dental Corps. All matters relating to dentistry shall be referred to the Chief of the Dental Corps.

"(c) The Chief of the Dental Corps shall—

"(1) establish professional standards and policies for dental practice;

"(2) initiate and recommend action pertaining to organization requirements and utilization of the Dental Corps and dental auxiliary strength, appointments, advancement, training assignment, and transfer of dental personnel; and

"(3) serve as the advisor to the Office of the Surgeon General on all matters relating directly to dentistry.

"(d) Under such regulations as the Secretary of the Army may prescribe, dental and dental auxiliary personnel throughout the Army shall be organized into units commanded by a designated Dental Corps officer. Such officer will be directly responsible to the commander of installations, organizations, and activities for all professional and technical matters and such administrative matters as may be prescribed by regulation."

(2) The table of sections at the beginning of chapter 307 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"3081. Dental Corps: Chief, functions.".

(c)(1) Chapter 807 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 8081. Assistant Surgeon General for Dental Services

"There is an Assistant Surgeon General for Dental Services in the Air Force who is appointed by the Secetary of the Air Force upon the recommendation of the Surgeon General from officers of the Air Force above the grade of major who are designated as dental officers under section 8067(b) of this title. The term of office of the Assistant Surgeon General for Dental Services is four years but may be increased or decreased by the Secretary of the Air Force.".

(2) The table of sections at the beginning of chapter 807 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"8081. Assistant Surgeon General for Dental Services.".

CEILING FOR PAYMENTS TO PHYSICIANS UNDER CHAMPUS

SEC. 806. (a)(1) Section 1079 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Payment of a charge for physician services for which a claim is submitted under a plan contracted for under subsection (a) may be denied because the charge is in excess of a predetermined charge level based upon customary charges made for similar services in the same locality only to the extent that such charge is in excess of the charge level that, on the basis of statistical data and methodology acceptable to the Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, is equivalent to the 90th percentile of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing before the start of the twelve-month period (beginning July 1 of each year) in which the claim for the payment is submitted.".

(2) Section 1086 of such title is amended by adding at the end thereof the following new subsection:

"(f) The provisions of section 1079(h) of this title shall apply to payments for physician services under a plan contracted for under subsection (a).".

(b) The amendments made by subsection (a) shall apply with respect to claims submitted for payment for services provided on or after the first day of the first calendar year beginning after the date of enactment of this Act.

MARINE CORPS COMMANDANT—MEMBER OF JOINT CHIEFS OF STAFF

SEC. 807. Section 141 of title 10, United States Code, is amended by—

(1) striking out "and" at the end of subsection (a)(3);

(2) striking out the period at the end of subsection (a)(4) and inserting in lieu thereof a semicolon and the word "and";

(3) adding after subsection (a)(4) a new clause (5) as follows:

"(4) the Commandant of the Marine Corps.";

(4) striking out subsection (c); and

(5) redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

ASSIGNMENT OF WOMEN TO NAVAL VESSELS

SEC. 808. The last sentence of section 6015 of title 10, United States Code, relating to restrictions on the assignment of women members of the Navy, is amended to read as follows: "However, women may not be assigned to duty on vessels or in aircraft that are engaged in combat missions nor may they be assigned to other than temporary duty on vessels of the Navy except hospital ships, transports, and vessels of a similar classification not expected to be assigned combat missions".

MILITARY TRAINING FOR FEMALE UNDERGRADUATES AT MILITARY COLLEGES

SEC. 809. (a) The Secretary of Defense shall require that any college or university designated by the Secretary of Defense as a military college shall, as a condition of maintaining such designation, provide that qualified female undergraduate students enrolled in such college or university be eligible to participate in military training at such college or university, but, notwithstanding any other provision of law, the Secretary of Defense may not require that, as a condition of maintaining such designation or for any other purpose, such college or university require female undergraduate students enrolled in such college or university to participate in military training.

(b) The Secretary of Defense shall prescribe such regulations as the Secretary determines necessary or appropriate to carry out the provisions of this section.

NAVY SHIPBUILDING POLICY

SEC. 810. (a) It is the policy of the United States to modernize the combatant forces of the United States Navy through the construction of advanced, versatile, survivable, and cost-effective combatant ships in sufficient numbers and having sufficient combat effectiveness to defend the United States against enemy attack and to carry out such other missions as may be assigned to the Navy by law. In order to achieve such policy, the Navy should develop plans and programs for the construction and deployment of weapon systems, including naval aviation platforms, that are more survivable, less costly, and more effective than those presently in the Navy.

(b) In order that the Congress may be kept currently informed regarding compliance with the policy expressed in subsection (a), the President shall include in all requests made to the Congress for the authorization of any ship for the combatant forces, including any aircraft carrier, (1) his conclusions with respect to the survivability, cost effectiveness, and combat effectiveness of such ship, (2) a recommendation whether such ship should be nuclear or conventionally powered, and (3) the reasons for such conclusions and recommendations.

(c) Title VIII of the Department of Defense Appropriation Authorization Act, 1975 (88 Stat. 408), is repealed.

CARRIER SERVICE LIFE EXTENSION PROGRAM AND DDG–2 DESTROYER CONVERSION

SEC. 811. (a) Notwithstanding any other provision of law and except as provided in subsection (b), the Secretary of the Navy may not take any action with respect to the use of either public shipyards or private shipyards for conversion, overhaul, or repair work under the Service Life Extension Program (SLEP) or under the program for the modernization of DDG–2 class guided missile destroyers, or for the employment of additional personnel for, or the transfer of additional personnel to, any public shipyard as a part of the necessary buildup of manpower for carrying out either such program, until—

(1) the Secretary of the Navy conducts a comprehensive least-cost approach study (A) comparing the costs of carrying out such programs at public shipyards with the costs of carrying out such programs at private shipyards, and (B) evaluating such other factors as the Secretary of the Navy considers should be taken into account in assigning work in connection with the conversion, overhaul, repair, or modernization of vessels to public or private shipyards;

(2) a written report containing the results of such study is submitted, after the date of the enactment of this Act, to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives; and

(3) a period of sixty days of continuous session of Congress expires following the date

on which such report is submitted to such committees.

(b) Nothing in this section shall prevent the Navy from conducting advanced planning or purchasing long lead items in connection with either program described in subsection (a) so long as such planning or purchasing is not related to the performance of work in connection with either such program at any particular shipyard.

(c) For purposes of subsection (a)(3), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such sixty-day period.

SEA-BASED AIRCRAFT PLATFORM STUDY FUNDS

SEC. 812. The unobligated balance of $40,000,000 authorized to be appropriated in section 201 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95–79; 91 Stat 323), for conducting comprehensive evaluation studies of sea-based aircraft platforms shall after the date of the enactment of this Act be available and primarily applied toward performing any design work related to any such sea-based aircraft platform authorized by this Act.

CERTIFICATION OF CLAIMS

SEC. 813. Notwithstanding any other provision of law, none of the funds authorized to be appropriated for the Department of Defense by this or any other Act shall be used for the purpose of paying any contract claim, request for equitable adjustment to contract terms, request for relief uder Public Law 85–804, or other similar request, which exceeds $100,000 unless a senior company official in charge at the plant or location involved has certified at the time of submission of such contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85–804, or other similar request, that such claim or request is made in good faith and that the supporting data are accurate and complete to the best of such official's knowledge and belief. The requirements of this section shall not apply to claims, requests for equitable adjustment to contract terms, requests for relief under Public Law 85–804, or other similar requests submitted before the date of enactment of this Act.

RESTRICTION ON CONTRACTING OUT COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS

SEC. 814. (a) The Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and House of Representatives providing the details of any proposed change in policy or regulations, from those in effect before June 30, 1976, regarding the determination of whether commercial or industrial type functions at Department of Defense installations located in any State, the District of Columbia, the Commonwealth of Puerto Rico, and Guam should be performed by Department of Defense personnel or by private contractors during the period beginning on October 1, 1978, and ending on September 30, 1979.

(b) No commercial or industrial type function at any Department of Defense installation referred to in subsection (a) shall be performed by private contractors unless such contractor performance began before the date of the enactment of this Act or performance would have been allowed by the policy and regulations in effect before June 30, 1976. The prohibition in the preceding sentence shall apply until the end of the sixty-day period beginning on the date the report required by subsection (a) is received by the Committees on Armed Services of the Senate and House of Representatives.

PROHIBITION ON SALE OF CERTAIN DEFENSE ARTICLES FROM DEPARTMENT OF DEFENSE STOCKS

SEC. 815. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense

"(a)(1) Except as provided in subsections (b) and (c), the sale outside the Department of Defense of any defense article designated or otherwise classified as Prepositioned Material Configured to Unit Sets, as decrement stock, or as Prepositioned War Reserve Stocks for United States Forces is prohibited.

"(2) In this section, 'decrement stock' means such stock as is needed to bring the armed forces from a peacetime level of readiness to a combat level of readiness.

"(b) The President may authorize the sale outside the Department of Defense of a defense article described in subsection (a) if—

"(1) he determines that there is an international crisis affecting the national security of the United States and the sale of such article is in the best interests of the United States; and

"(2) he reports to the Congress not later than 60 days after the transfer of such article a plan for the prompt replenishment of the stocks of such article and the planned budget request to begin implementation of that plan.

"(c)(1) Nothing in this section shall preclude the sale of stocks which have been designated for replacement, substitution, or elimination or which have been designated for sale to provide funds to procure higher priority stocks.

"(2) Nothing in this section shall preclude the transfer or sale of equipment to other members of the North Atlantic Treaty Organization.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense.".

ASSISTANCE TO 1980 OLYMPIC WINTER GAMES

SEC. 816. (a) Notwithstanding any other provision of law, the Secretary of Defense is authorized—

(1) to provide logistical support and personnel services to the XIII Olympic winter games;

(2) to lend and provide equipment to officials of the Lake Placid Olympic Organizing Committee; and

(3) to provide such other services as the Lake Placid Olympic Organizing Committee may consider necessary and the Secretary may consider advisable.

(b) There is authorized to be appropriated to the Secretary of Defense for fiscal year 1979 an amount not to exceed $2,000,000 for the purpose of carrying out subsection (a). No funds may be obligated or expended for such purpose unless specifically appropriated for such purpose.

REALIGNMENT OF MILITARY INSTALLATIONS IN THE CANAL ZONE

SEC. 817. None of the funds authorized to be appropriated by this Act shall be used for the realignment of any military installation in the Canal Zone unless such use is consistent with the responsibility of, and necessity for, the United States to defend the Panama Canal or with legislation which may be enacted to implement the Panama Canal Treaties of 1977.

TECHNICAL AMENDMENT RELATING TO THE LIMITATION ON NUMBER OF ADMIRALS AND VICE ADMIRALS IN THE NAVY AND GENERALS AND LIEUTENANT GENERALS IN THE MARINE CORPS

SEC. 818. (a) The first sentence of section 5231(b) of title 10, United States Code, is amended by striking out "the active list of the Navy" and inserting in lieu thereof "active duty".

(b) Section 5232(b) of such title is amended by striking out "the active list of the Marine Corps" and inserting in lieu thereof 'active duty".

COMMISSARY BAGGERS

SEC. 819. Notwithstanding any other provision of law, an individual who performs bagger or carryout service for patrons of a commissary of a military department may not be considered to be an employee for purposes of the Fair Labor Standards Act of 1938 by virtue of such service if the sole compensation of such individual for such service is derived from tips.

The **PRESIDING OFFICER**. Time for debate on this bill is limited to 1 hour, to be equally divided and controlled by the Senator from Mississippi (Mr. STENNIS) and the Senator from Texas (Mr. TOWER), with 30 minutes on any amendment except one to be offered by the Senator from Texas (Mr. TOWER), on which there shall be 2 hours; one to be offered by the Senator from Wisconsin (Mr. PROXMIRE) on which there shall be 2 hours; and three to be offered by the Senator from Wisconsin (Mr. PROXMIRE), on each of which there shall be 40 minutes; and with 15 minutes on any debatable motion, appeal, or point of order.

The Senator from Mississippi.

Mr. **STENNIS**. Mr. President, I yield myself 10 minutes on the bill and state to the membership that this time agreement is very good indeed. I feel that we will all be able to live within it and perhaps conclude the debate considerably short of the total amount of time as mentioned in the agreement.

Mr. **TOWER**. Mr. President, will the Senator yield to me for a quick unanimous-consent request?

Mr. **STENNIS**. I yield.

Mr. **TOWER**. Mr. President, I ask unanimous consent that Winslow Wheeler, of Senator JAVITS' staff, be accorded the privilege of the floor during consideration of S. 3486 and amendments thereto and debate and votes thereon.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **STENNIS**. Mr. President, I say to the Members of the Senate that this is a highly important proceeding here on a bill that is really all of the authorization and all the money for the entire military weapons program for fiscal 1979.

I believe that the amendments proposed will be few and debate will be adequate but not prolonged.

Mr. President, I shall first explain rather fully what is meant by the Department of Defense in particular having to operate the vast worldwide military program under a continuing resolution. A continuing resolution merely provides that the departments named in the resolution may continue to expend money but only at the rate of the current or preceding fiscal year. That means that as to all new programs, new starts, and added matters, even added airplanes, nothing can be spent under that continuing resolution that was not authorized already under the old authorization act, in this case fiscal 1978, or before.

In other words, if there are 50 airplanes in this bill that are authorized for the first time, not a dime of that money can be spent on those airplanes under a continuing resolution. They would have to wait, even if the provision was in the bill, until they had come into their own in the budget year which would be 1979 and the money appropriated.

So when we open this bill up to the extent that we force a continuing resolution, we cut off automatically all of these new programs. I emphasize that because it is not generally realized, and we have estimated to be around $2.3 billion in the way of procurement programs that would be cut off if the Department of Defense has to go under a continuing resolution.

I will just mention one of them for illustration. There is $312 million in here for the F–18 Navy fighter procurement program. They could not spend a dime of that money if the Department of Defense is operating under a continuing resolution.

So when this bill was vetoed, I looked at the calendar, as did others, and a lot of us decided that the only thing that was practical was to make a drive to try to get this bill enacted into law, and the appropriation bill that follows enacted into law, so that all these new programs could also proceed, and the Pentagon could operate under a full budget for fiscal 1979 rather than a lame budget or a budget that was fixed up really for fiscal 1978.

This fiscal year ends this coming Saturday, and the new fiscal year starts. So it is just an impossibility to make any major rewritings of this military program at this point for fiscal 1979 without taking time far beyond this week, which means we would have a continuing resolution and, as I understand, the proposal is to go on and make it 6 months, because when you have these continuing resolutions it makes no difference what the subject matter of the bill is. Frequently here come these abortion amendments and others are proposed, and there is a great deal of delay.

In particular I think all of us know that with reference to a ship program, our committee, and the House committee too, has emphasized the shipbuilding program for 3 years.

We have tried to get a shipbuilding program moving. We have tried to get out of the way the obstacles to a program of that kind. We had one this year that satisfied the legislative branch of the Government mighty well—not unanimously, but it was worked out. It came here and the committee version was not amended. It came back from the conference and was approved unanimously, not challenged. But it did not satisfy the President, and, within his prerogatives, he certainly had the right to veto the bill, which he did, and the veto was sustained by the House.

Our committee, considering these facts, I have related here—and we have to consider the practical facts—reconsidered this military procurement bill that had been vetoed. The President said his veto was based squarely on the Nimitz-type carrier, the nuclear-powered large carrier, so we took that out of the bill and sewed the bill back up, so to speak, with one exception, and brought it here for the consideration of this body. The House is going to take it up tomorrow. The House has already passed an appropriation bill. They will modify it now as to the carrier, of course.

We were almost finished writing up the appropriation bill that the Senate will consider when the word of the veto came, so we suspended in midair, but we can finish that up perhaps in 2 or 3 hours.

If this bill becomes law this week, which I certainly hope it will, and I believe this body will overwhelmingly vote that way if they understand the facts, then we will get a bill passed here during the first 10 days of October which will be in time to avoid this continuing resolution.

But there could not be more of an impediment, put on the Department of Defense concerning our worldwide military program, including all new starts of ships, submarines, planes, missiles and everything else, ground-launched cruise missiles sea-launched cruise missiles, those programs and all, for they will all fall by the wayside and will have to sit there until there is a final authorization and appropriation bill passed.

Here is one special item that is in this bill that was not in the preceding bill. Our committee, and all those familiar with the problem, has been urging that there be a settlement of the ship claims that have been filed by various large shipbuilding contractors based on contracts that have been in operation since 1970 during those heavy inflation years.

Finally, under the work—and it was real hard work—of the civilian Secretary of the Navy, Mr. Claytor, Assistant Secretary of the Navy, Mr. Hidalgo, ably assisted by the Deputy Secretary of Defense, Mr. Duncan, a settlement has been worked out with these contractors.

We put the money in here to settle those claims, if they were not disapproved, or if the money was approved, so as to permit removal of that definitely well-known obstacle from the shipbuilding program.

I have no doubt about it myself that this is a good settlement for the Government under all the conditions. This was some extraordinary work done by these three men whom I have already named, some of whom are outstanding men in the world of business and I commend them very highly for the way they worked on this matter and for the results they have obtained so far.

Even though I hate to have to settle them this way—it is the only practical way under law now—these men have done an excellent job. The General Accounting Office said when they looked it over, that they had no alternative or they could see no alternative way of settling these matters.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. STENNIS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

Mr. President, today the Senate is being asked to consider a new Department of Defense authorization bill. I have previously expressed my concern and disappointment over the President's veto of our original authorization bill, which I felt was a very adequate bill and which resulted from many long hours of hearings and consideration. That particular bill contained a nuclear aircraft carrier which, contrary to the President's assertions, provided great balance to the bill and did not detract from the overall military capability.

From reading the President's veto message, it seemed to me he had vetoed the wrong bill since many of his remarks appeared to be more applicable to the Defense appropriations bill. There are numerous examples that have been given that support this contention and, in particular, I refer my colleagues to the testimony of Secretary of Defense Brown when he appeared before our committee in support of the new authorization bill. His reclama contained approximately $1.5 billion in items that required only appropriation, not authorization. So the President's assertion that funds were cut from the previous authorization bill to make room for the CVN is simply not true.

The President said in his veto message in referring to the CVN that:

> We need a fleet that includes more vessels that can perform the Navy's mission but that are not, as this one would be, so designed as to be prohibitively expensive to build.

I do not agree with the President on the CVN, but I do agree that more ships were required and, consequently, I plan to offer an amendment that would add two FFG guided missile frigates and one landing helicopter assault ship for the Marine Corps.

Mr. President, I am concerned that this bill is less than the President requested. In actual dollars, it is about $300 million less than the original request, but it must be remembered that this bill now contains an additional $209 million to support the Navy's shipbuilding claims. Therefore, in buying power for combat capability, the bill represents a $500 million reduction below what the President had requested. I would remind my colleagues that the congressional budget resolution recommended more than the President's request. So this is a very lean bill indeed.

Referring to the claims issue, the bill contains $209 million for Navy's cost growth—claims—account, which the DOD reports will provide a total amount adequate to cover the settlement for General Dynamics—Electric Boat Division—and Litton Industries. It was the unanimous opinion of the Armed Services Committee that the Navy should be granted relief under the provisions of Public Law 85–804 and, with that understanding, the committee is recommending the addition of these funds.

I would also point out that the committee was unanimous in tabling resolutions of disapproval to use the relief provisions of Public Law 85–804 and, therefore, the committee has expressed its belief that it is time to put this shipbuilding claims issue behind us and get on with building the necessary ships for Navy's fleet.

Mr. President, I reiterate that this authorization bill is less than the one originally submitted by the President—which was too low—and will, therefore, buy less combat capability. I am hopeful the Senate will accept my amendment to add to that combat capability, but if that does not happen, this bill, in real terms, will be less than the fiscal year 1978 authorization bill.

The PRESIDING OFFICER. Does the Senator from Texas yield the floor?

Mr. TOWER. Mr. President, I yield 6 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 6 minutes.

Mr. THURMOND. I thank the distinguished ranking minority member of the committee.

I ask unanimous consent that Mr. Edward Kenney of the Senate Armed Services Committee staff be accorded the privilege of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise in support of S. 3486, the fiscal year 1979 military authorization bill, which has been offered as a substitute by the committee in the place of the earlier bill vetoed by President Carter.

Essentially this new bill is identical to the conference report legislation approved earlier by both Houses except in two instances. First, it no longer contains the *Nimitz* class nuclear aircraft carrier; and second, it does include $209 million in funds to help pay Navy shipbuilding claims settlements.

Mr. President, I wish to say again, it is my view the Congress has made a bad mistake by not overriding the President's veto and funding the nuclear aircraft carrier in this bill. By not doing so, Congress has given up $2 billion in badly needed defense funds for a needed ship.

NAVY CLAIMS SETTLED

As to the other change in this bill, the addition of $209 million to be used to pay Navy claims, I strongly support this funding. This money is included in title I for payments of settlements under Public Law 85-804 of ship claims agreements with Litton Industries and General Dynamics. Prior to approving these initial funds, the committee voted to table resolutions of disapproval of the two proposed claim settlements.

Mr. President, I understand an amendment will be offered to disallow these claims settlements. Neither party is generally satisfied on a claims settlement, and both sides have to give. Negotiations of these settlements have been going on for over 6 years, and some ships in construction now are being built under court order.

This long period of litigation has created bad feelings between the Navy and its contractors, and the proposed settlements will hopefully move such relationships back to normal. Both contractors have been assessed a large fixed loss, as a detriment to any precedent being established by this agreement.

Therefore, I hope the Senate will accept the fact that testimony from the Navy Department, Defense Department, and General Accounting Office supports this settlement as a fair one to all concerned.

BILL NOT SUFFICIENT

Mr. President, before closing these remarks I would like to say to the Senate that, in my opinion, this bill does not meet our legitimate military requirements. Because of the President's veto, $2 billion has been stripped from this bill and only $209 million restored. That makes the bill $1.8 billion below what Congress approved in the budget resolution, and about $200 million below the President's request.

The advocates of military parity with the Soviet Union have been quiet lately, because they see as clearly as anyone that the Soviets are driving for definite military superiority. In response, the strategic programs of our Nation are in disarray with the B-1 bomber terminated, the MX missile program delayed, and even the Trident submarine program bogged down in construction problems.

This Congress has the responsibility to see that our Nation is adequately defended. Our people rightfully look to us for leadership. Yet too many in the Congress are accepting a Navy shipbuilding program one-half of what is obviously required. Further, our strength in NATO is lacking, our bases in the Mediterranean disappearing, our fallback in Southeast Asia so pronounced that Communist powers are competing for control of our former allies. We are sending to the world the wrong signals—troop withdrawals from Korea, veto of the nuclear aircraft carrier, reduced defense spending, transfer of defense related technology to the Soviets.

Mr. President, I hope the administration and the Congress will soon awake to the dangers some are now ignoring. Also, I wish to remind my colleagues that military strength is not built in a day—it takes years of research and development, and years to procure the necessary weapon systems. The programs we are failing to fund today will leave us weak in the 1980's, and when their need is finally recognized some will discover we cannot buy them overnight.

The days we live in of so-called détente are more dangerous than those days of the cold war. Then we recognized the enemy, today we seem to be ignoring that enemy. Mr. President, I hope things will change, and soon.

(The following proceedings occurred during the consideration of Mr. PROXMIRE's amendment and are printed at this point by unanimous consent.)

The PRESIDING OFFICER. Will the Senator withhold for a moment? Apparently the Senator's amendment is not in order until the committee amendments have been considered, without unanimous consent.

Mr. PROXMIRE. Mr. President, under the circumstances, I ask unanimous consent that the amendment be in order so that we can dispense with this amendment and then take up the committee amendments. Whatever the manager wants to do, however, is fine with me.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Will the Chair indulge me for a moment?

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, if I may respond in this way, we have one committee amendment here and part of it does relate to the claims. Part of the amendment says to take out the carrier and the other part says to put the claims in.

We can have it this way: We can adopt the committee amendments without impairing the right of the Senator from Wisconsin to offer his amendment.

Mr. PROXMIRE. Mr. President, I ask that my amendment be set aside and that the proceedings to this point not count on my time so the committee amendments can be brought up.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Mississippi.

Mr. STENNIS. I thank the Senator, Mr. President. He has demonstrated his constant and usual cooperation.

Mr. President, it being in order now, I move the adoption of the committee amendments to which I have just referred but without excluding the Senator from Wisconsin from having the right to offer his amendment with reference to the claims.

The PRESIDING OFFICER. Does the Senator ask that they be considered original text also?

Mr. STENNIS. Yes, to be considered as original text.

The PRESIDING OFFICER. Is there objection? Without objection, the amendments are agreed to en bloc.

Mr. STENNIS. That leaves the Senator from Wisconsin free to offer his amendment.

The PRESIDING OFFICER. The Senator is correct.

Does the Senator also seek unanimous consent that this colloquy and discussion appear without interruption?

Mr. PROXMIRE. I ask unanimous consent that it appear before I secure the floor to offer my amendment so that the statement thus far will appear after the committee amendments have been adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. I thank the Chair.

(Conclusion of proceedings that occurred during Mr. PROXMIRE's remarks.)

UP AMENDMENT NO. 1925

(Purpose: To eliminate funds for ship building claims)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 1925.

The amendment is as follows:

On page 2, line 19, strike out "$4,470,500000" and insert in lieu thereof "$4,261,500,000".

Page 3, after line 4, add the following new section:

SEC. 102. None of the funds authorized to be appropriated by this Act may be used to make any payment under—

(1) the modifications to contracts num-

bered N00024-71-C-0268 and N0024-74-C-0206 between the United States and the Electric Boat Division of General Dynamics Corporation of which the Committees on Armed Services of the Senate and House of Representatives were notified by the Secretary of the Navy on June 22, 1978, under the provisions of the first section of Public Law 85-804 (50 U.S.C. 1431); or

(2) the modifications to contracts numbered N00024-69-C-0283 and N00024-70-C-0275 between the United States and the Ingalls Shipbuilding Division of Litton Systems, Inc., of which the Committees on Armed Services of the Senate and House of Representatives were notified by the Secretary of the Navy on June 24, 1978, under the provisions of the first section of Public Law 85-804 (50 U.S.C. 1431).

Mr. PROXMIRE. Mr. President, this is the 2-hour amendment that I have, and I ask the Chair to recognize that fact, so that I will have, as I understand it, 1 hour on this side.

The PRESIDING OFFICER. The Senator is correct, and the Chair thanks the Senator.

Mr. PROXMIRE. Mr. President, my amendment takes out of the defense authorization bill $209 million for shipbuilding claims. This amount was tacked on by the Armed Services Committee after the bill was returned to the committee following the President's veto of the nuclear carrier. The money was not in the original bill. It is an add-on, virtually the only major change in the bill since the carrier veto was sustained.

But the $209 million does not tell the whole story. That sum is a fraction of a large amount intended to be used to bail out two defense contractors, General Dynamics and Litton. The Navy wants to spend nearly $1 billion for the shipbuilding claims filed by the two firms.

Over $700 million has been accumulated by the Navy in a bailout slush fund from prior authorizations. The funds in this bill would be added to the slush fund to pay the two contractors. Mr. President, we are talking about an item that is 25 percent pork, 25 percent hush money, and, as far as the taxpayers are concerned, 100 percent fat. The $209 million tacked onto this bill will not buy a single ship or even a mop to swab the deck of an old ship.

Mr. President, if anyone wonders why there is so much unrest and disaffection in the country at a time of economic growth and expansion, he has only to look at the AP story just off the wire a few minutes ago. The AP story reflected that wages increased last month, but once again prices went up so much that real wages fell.

Mr. President, that happened in a month when, according to this morning's AP story, food prices actually declined.

Mr. President, prices rose last month by 0.6 of 1 percent for a 7.2 percent annual rate. The cost of living is rising at 7.2 percent. At a time when food prices are falling, imagine what will happen when food prices, as they inevitably will, begin once again to rise. So that AP wire tells us once again that inflation is indeed our number one major social and economic problem.

What has that to do with this amendment? The answer, Mr. President, is plenty. A major reason for inflation is excessive Government spending. Does that apply to this ship claims settlement? Here is the essence of the kind of Government spending that is most inflationary. The Navy Secretary is proposing to spend $541 million for what? For an overrun, for nothing. The claims settlement will not give us a submarine, a destroyer, or even a rowboat. It will give us nothing.

Mr. President, Government spending that pays out hundreds of millions of dollars and gets nothing is the most inflationary of all.

OVERRUNS

The $209 million, which is part of the $541 million to be paid to these contractors involved in the claims the Navy says is owing to them, is bailout money occasioned by large cost overruns on ship construction. Let us keep this fact in mind while the pork gets passed around in the Senate: The underlying cause of shipbuilding claims is cost overruns. The issue before us is, who should pay for the cost overruns of inefficient private defense contractors? The defense authorization bill says the taxpayer should pay. I say, let the private contributors pay for their own mismanagement and incompetence.

It is amazing how the Senate can carry on in a business-as-usual manner in the face of the rising public outrage against wasteful Government spending. The taxpayers have shown in every possible way that they are ready to put a stop to Government waste. They want needed public services for their tax dollars, not boondoggles or fleeces.

The shipbuilding bailout money in this bill tells the taxpayer to take a walk. It says we will buy pork, or fat, or corporate incompetency with public funds. We will shift the responsibility for cost overruns on Government contracts from the contractors to the taxpayer.

There has been much written lately about the scandals between GSA and its contractors. We witness today a scandal of equal magnitude. I am not alleging theft or wrongdoing, but the results as far as the taxpayer is concerned are the same. The public pocket is being picked for the benefit of two private corporations.

BAILOUT

Navy Secretary Claytor argues that the companies are being forced to take fixed losses in exchange for the Government payments. I will examine this argument and the details of the Navy's plan shortly. For now, it is enough to say that the two companies are lobbying actively for the bailouts and the value of their stock has risen sharply since the bailouts were announced.

Incidentally, the Secretary said these companies are taking a big beating, the biggest losses in their history. What happened after they announced this? Their stock went up. It is close to the alltime high for both companies.

The market has apparently concluded that General Dynamics and Litton have gotten a good deal out of the Navy. Investors are putting their money on these two firms now that the Navy has announced the agreements with them.

The investing public has shed no tears over the two contractors and neither should we. Our task should be to examine the Navy proposal to bail out the two companies and judge whether to do so is in the taxpayer's interest.

Secretary Claytor says the bailouts will "facilitate National Defense." They do just the opposite. To use defense funds to pay for cost overruns is to trade military muscle for military fat.

Mr. President, this is a complicated subject because of the large amount of claims, the number of ship programs, and the involved claims review procedure and the negotiations that have taken place. When Secretary Claytor announced this past June that he had "settled" the claims disputes the matter was further confused because technically claims are only settled through the claims review process and the Secretary had acted through the extraordinary relief provisions of Public Law 85-804.

CLAIMS RESULT FROM OVERRUNS

It will make it easier to understand the issues if these basic points are kept in mind:

First, as a general rule claims are caused by cost overruns. General Dynamics' and Litton's claims were both caused by large cost overruns. Of course, there are many possible explanations for cost overruns. The contractors say they are all the fault of the Navy. The Navy says they are mostly the responsibility of the contractors. But it must be emphasized that the claims resulted from cost overruns in the construction of the ships which General Dynamics and Litton contracted to build.

The central issue is, who should pay for cost overruns, the contractors or the taxpayer?

Second, there are two types of payments being made to the shipbuilders, shipbuilding claims payments and financial relief payments.

I want to carefully distinguish, Mr. President, between two types of payments, shipbuilding claims payments, which are one type, which I can support, and financial relief, which is entirely different.

Keep in mind the fact that the two firms filed $1.6 billion in claims. The Navy's professional claims review specialists, after a thorough evaluation, concluded the claims are worth $437 million, or about 27 cents on the dollar. The claims review experts would pay $437 million for the claims. However, Secretary Claytor wants to give the companies an additional $541 million in financial relief over the amount the Navy claims experts say is due. They say only $437 million is the fault of the Navy. They have been very careful about this. Their findings have not been challenged by the contractors. The contractors have not gone to the Board of Contract Appeals. They say that is all that is due. So the remaining $541 million is strictly financial relief. It is not claims issue at all. We are faced with a relief measure to help these firms which otherwise would suffer larger losses.

FINANCIAL RELIEF PAYMENTS CONTESTED

This financial relief payment is entirely separate from the claims payment. The two types of payments—for the claims on one hand, for financial relief on the other—total $978 million.

No one challenges the claims payments. I am willing to accept the verdict of the Navy experts that the claims are worth $437 million. It is the financial relief payments which are being contested.

The issue here is, should the two contractors be given more than one-half billion dollars in financial relief in addition to $437 million for their claims?

The third point is implicit in the second. It is that there is a sharp division within the Navy as to how to resolve the claims disputes. I believe it is fair to say that the career, professional side of the Navy—not only Admiral Rickover, not only Admiral Manganaro, but all the professionals who testified before us—would prefer to settle claims on their merits. They would proceed step-by-step in accordance with the established claims review procedures.

The other side of the Navy—the political appointees—want to short-circuit the normal procedures. They want a quick fix and they have chosen to employ the extraordinary remedy of Public Law 85–804 as a supplement to the normal claims procedure.

Mr. President, I want to summarize the pertinent facts about the shipbuilding claims in question because the facts themselves demonstrate why the Navy should be prevented from carrying out their bailout plan.

THE LITTON CASE

Litton first filed its claim in 1972 because of cost overruns on the landing helicopter assault ships, the LHA. The original claim was for $475 million. The Navy tried to evaluate Litton's claim but Litton refused to provide the necessary documentation and in 1973 the Navy contracting officer concluded the company was not entitled to any price increase.

The contracting officer also determined that Litton had been paid $55 million in excessive progress payments and he ordered that they be returned to the Navy. Litton went to court to block the return of the money and did succeed in obtaining a temporary injunction from the Federal court in Mississippi. But the Navy appealed to the court of appeals and the appellate court reversed the Mississippi court and Litton had to return the excess payments.

I mention this incident, although it digresses from the main issue because it demonstrates that the courts will sustain the Navy's position when the facts are in the Navy's favor. Secretary Claytor seems to have developed a phobia over the possibility of litigation with the contractors. The fear of fighting for the public's interest in court if necessary is unwarranted, unwise, and unsupported by recent experiences.

In 1975 Litton revised its claim upwards to $505 million, submitting the claim directly to the Armed Services Board of Contract Appeals, without bothering to supply the Navy with the documentation to back up the revised claim.

In 1976 Litton agreed to provide the documentation to the Navy but in the summer of that year it formally notified the Navy of its intent to stop construction of the LHA. At this point, Litton had provided some but not all of the documentation. The Navy was now forced to seek a court injunction to prevent the shutdown. The court granted the injunction.

In 1977 Litton again revised its claims upwards, adding $373 million for cost increases on the DD–963 destroyer contract. By September 1977, the claim was $1.1 billion. Litton had still not voluntarily supplied the Navy with all the documentation. The Navy finally did obtain the documentation. but as a result of the discovery requirements of the Federal courts. It took 8 years for the Navy to obtain the documents it needed to carry out its responsibilities to evaluate the claim.

As I mentioned earlier, the Navy claims examiners concluded that Litton's claim is worth $312 million. That is, $312 million out of $1.1 billion filed, or 29 cents on the dollar.

As Secretary Claytor's agreement provides that the Navy will pay the $312 million for the claim plus $182 million for financial relief. Claytor argues that after paying the extra $182 million, Litton will still suffer a $200 million loss on the LHA contract.

Secretary Claytor has employed a variety of rationales in explanation of the extra payment.

To comply with the Public Law 85–804 statute, he says that granting the relief will "facilitate the National Defense."

In the memorandum sent to Congress, the Secretary implies that if the extra payment is not made the company will go under.

It is also argued that the extra payment will avoid years of litigation, disruption of shipbuilding, and possible greater cost to the Government.

Secretary Claytor has not pursued the argument that Litton would go bankrupt or cease to be financially viable without the bailout because it is not supported by the audit of Litton's finances that the Navy requested.

Each of the other arguments falls apart on examination. I will return to discuss them one by one, but first I will summarize the facts in the General Dynamics case.

THE GENERAL DYNAMICS CASE

General Dynamics filed a $544 million claim on its 688 nuclear submarine contracts in 1976. But this was not the first time General Dynamics filed a claim on the 688's. Its first 688 claim was filed in 1975 and settled in 1976 when the Navy awarded the company $97 million for a claim in the amount of $220 million. So the present claim is General Dynamics' second bite out of the 688 apple.

The $544 million claim was referred for evaluation to a claims review team headed by Adm. F. F. Manganaro. But a funny thing happened to the Manganaro Board's evaluation on the way to completion. Late in 1977, the board was ordered by Secretary Claytor and Assistant Secretary Edward Hidalgo to stop working on the claim and to send the files to Secretary Hidalgo's office. This order came as a shock to the members of the Manganaro Board, who had spent about 10 months of hard work evaluating the claim.

In a hearing before the Subcommittee on Priorities and Economy in Government in December 1977, I asked Secretary Hidalgo to explain his action. Obviously it was disruptive to the orderly evaluation of the claim and had caused much consternation within the Navy. His explanation was that he had ordered the board to stop its work for organizational reasons.

Now, that was a strange explanation, because the same board was working on several large claims filed by Tenneco, and another Navy team headed by Captain Jones was working on the Litton claim. They were not ordered to suspend those reviews and send the files to Secretary Hidalgo's office. So the explanation was curious.

The mystery was cleared up in hearings I conducted just 2 weeks ago. In those hearings, a letter from General Dynamics to the Navy was disclosed, showing that Claytor and Hidalgo had discussed the General Dynamics claim in a meeting with company officials in October 1977. In that meeting, company officials agreed to withdraw their threat to stop construction of the 688 submarines in exchange for an agreement to expedite the review of the claims. It is clear from the letter and the circumstances that part of the agreement was to take the claim away from the Manganaro Board.

I mention this incident because it illustrates the way the Navy has repeatedly kow-towed to demands by the contractors and especially shipbuilders' threats to shut down operations.

In March of this year, General Dynamics again threatened to shut down. The Navy's response was to offer a $60 million provisional claims payment. The company accepted on condition that full settlement would be achieved shortly and it set June 12, 1978, as the deadline. General Dynamics told the Navy it would shut down on this date if a full settlement was not reached.

The Navy's reaction to this ultimatum represents perhaps the worst defeat suffered in the history of the Navy. John Paul Jones would have died of humiliation.

The Navy, instead of insisting that claims are to be settled only on their merits and not at the point of a gun, simply collapsed. The $209 million for claims in this bill is a token of that collapse.

On June 9, a few days before General Dynamics' deadline, the Navy announced it had settled the controversy. The Navy and the company had agreed that the Navy would pay the value of the claim placed on it by the claims examiners—$125 million, plus $359 million in financial relief.

The extra $359 million was derived, as in the Litton case, by dividing the estimated losses on the ship contracts after payment of the $125 million. In this case, the hypothetical losses were equally divided with the Navy and the company, each absorbing half.

HOW THE RIPOFF WORKS

Mr. President, the facts show a similar pattern of behavior in each case. The shipbuilder files a large claim and makes it difficult for the Navy experts to examine it. Litton took 5 years to provide full documentation and then only because the courts required it to turn them over. General Dynamics persuaded the Navy Secretary to take its claim away from the claims review team.

The shipbuilder threatens it will stop construction unless its demands are met. The Navy capitulates by agreeing to pay hundreds of millions of dollars over and above the values of the claims.

The whole point of the shipbuilders' tactics seems to be to prevent a settlement from being made on the merits of the claims. If the settlement were based on the merits alone, General Dynamics would get "only" $125 million and Litton would get $312 million.

Secretary Claytor's capitulation accommodates this approach. He would sweeten the settlement by $541 million in financial relief under Public Law 85–804.

Now let us take another look at Claytor's justification.

When he first announced the settlements, it was strongly implied that the companies would go under if financial relief were not involved. Public Law 85–804 has frequently been used to prevent failing companies from going under before completion of their defense contracts.

CONTRACTORS CAN STAND LOSSES

In the intervening weeks since the agreements were announced, this argument has been abandoned. The audit reports of both companies show they could absorb the full potential losses. Neither audit report concludes that bankruptcy is in the picture.

In fact, we are dealing with two of the Nation's largest industrial corporations. Both are conglomerates. Litton is the 69th largest industrial corporation in the United States; General Dynamics is the 85th largest.

Litton recorded $3.4 billion in sales last year and had over $2 billion in assets. Litton has over $800 million in net worth. General Dynamics recorded $2.9 billion in sales and had assets of $1.6 billion; it has well over $700 million in net worth. In both cases, shipbuilding is only one of many corporate activities. Both are among the largest defense contractors and they do much defense work other than shipbuilding.

The potential losses they face are large, but we must ask ourselves whether the taxpayer should be forced to pick up losses of a private defense contractor. If the principle which the Committee on Armed Services asks us to establish today is established, that the Government is prepared to insulate contractors against part or all of their losses, then what is the point of using private firms to do Government work? The premise of private enterprise is that firms are free to make profits or losses, they are free to succeed or fail. They have a tremendous incentive to hold down their costs; otherwise, they would lose however much their costs exceed their profits. We abridge that here.

The major factor in the success or failure of firms in a free market system should be their efficiency. If they are inefficient they deserve to lose money and no form of Government subsidy or bailout should protect them from the consequences of their own inefficiency.

MISMANAGEMENT BY LITTON

What do we have in the present case? We have two shipbuilders whose mismanagement and inefficiency are well documented. The low productivity of the General Dynamics and Litton shipyards is notorious and a matter of record, documented by witness after witness before the Joint Economic Committee.

Litton's problems date from the opening of its new shipyard in Pascagoula, Miss. In 1971 an article in Forbes magazine, entitled, "Litton: Seasick," discussed the problems that had already developed in the new yard during early construction of the LHA.

By 1972, the president of Litton, Roy Ashe, was meeting with Navy officials to suggest that they come to Litton's financial rescue. In a memorandum printed in the hearings recently published by the Subcommittee on Priorities and Economy in Government, Mr. Ashe is reported as having told the Navy in that meeting that if he did not get help for his company, he would meet with the Navy Secretary and go to the White House if necessary.

In 1973, the General Accounting Office published the results of an investigation of the Litton shipyard.

According to GAO "absenteeism has been a major problem. The ability to attract and retain critical skills such as welders has been a problem." Productivity in the west yard, where the LHA and DD–963 destroyer are under construction, was appallingly low. At one time, the West yard was appraised as only 42 percent as productive as the east yard, Litton's older shipyard facility. GAO also concluded that "weaknesses in the contractor's organization and management the problems of cost growth and slippage." GAO found that between 1969 and 1973, the Litton shipbuilding division had three presidents, five vice presidents of finance, five vice presidents of operations, six LHA program managers, two DD–963 program managers, and four directors of quality control.

The record for General Dynamics is equally dismal. The low productivity in that shipyard has been a continuing problem and a subject of discussion in the Armed Services Committees. Year after year Navy officials have held out the promise of improved productivity at the General Dynamics yard. There has been no improvement.

As in Litton's case, there has been several corporate reorganizations and numerous attempts to improve performance.

My Subcommittee on Priorities and Economy in Government held hearings just this past May on the problem of low productivity in the General Dynamics shipyard. The testimony from present and former employees of the shipyard and from the Navy left no doubt whatsoever about the poor management, and the low efficiency in this shipyard. The list of problems is similar to what GAO found in its Litton investigation. But they were described in much more graphic terms. They included poor labor-management relations, the use of drugs, numerous other problems in the workforce.

Perhaps the most serious of all General Dynamics problems was described by Adm. C. R. Bryan, commander of the Naval Sea Systems Command. According to Admiral Bryan, General Dynamics expanded its work force at the shipyard in order to perform its Navy contracts from 11,000 employees in 1972 to almost 26,000 in 1976, an increase of 15,000 in a 4-year period. In the process, the shipyard was not able to maintain an adequate proportion of skilled workers and it did not have an adequate training program to take care of the new workers. The percentage of skilled workers at the shipyard declined from 80 percent of trained personnel in 1972 to 35 percent.

It is no wonder that General Dynamics' costs of construction for the 688 submarines are $50 million higher than Newport News' costs, using the same designs in the same period of time.

The two shipyards experienced similar problems with their work forces. First, they assured the Navy by bidding on and obtaining new contracts that they would have the necessary number of skilled workers to perform the work for the agreed upon price. Then the contractors found what they knew or should have known at the outset, namely, that enlarging their work forces was a difficult and costly undertaking requiring managerial skills and great industry.

The companies did not have the managerial skills or the industry or both. They are equally unsuccessful in finding the skilled workers or training the unskilled workers that were needed. The fact is, both companies promised more than they could deliver. Whose fault is that? Surely, the taxpayer should not have to pay for such mistakes of private contractors.

It is worth noting that, except for Tenneco, whose claims are now being negotiated, the Navy's other shipbuilders do not seem to be having the same problems. A lot of people will say, well, claims are part of shipbuilding; when you get into these situations, you are going to have costs you cannot foresee. All the shipbuilders have trouble. You have an inflation problem, you have a management problem, you have a labor problem. Mr. President, if this is true, why is it that the other shipbuilders do not have that kind of problem?

There are no other major claims pending, and I take that to indicate that there are no other large cost overruns on other ship programs. Of course, someone might file a claim tomorrow, but as of now there are no other major claims. The giant shipbuilders seem to be in a tub of their own making.

DISRUPTION—NOT AN ISSUE

Another argument that Secretary Claytor has employed is that the bailouts will avoid disruption of the shipbuilding program. What does he mean by this? I believe that he means to suggest that if the Navy does not give in to the contractor's demands they will carry out their threat to halt construction.

I also believe some Senators have been persuaded that this is true. When I testified to the Armed Services Committee, the distinguished Senator from Nevada (Mr. CANNON) said that the Navy's recommendations are the only way out, and he went on to say that without this kind of settlement, we could be tied up in 10 years of litigation and not have the hardware.

I put the question to Secretary Claytor when he testified before my subcommittee. I asked him if he feared the ships would not be built unless the payments were made. Secretary Claytor said he knew the ships would be built. He knew the Navy could get an injunction requiring the contractor to build the ships.

FEARS GROUNDLESS

So the fears created by the Secretary turn out to be groundless. In fact, the Navy can get its ships built if it wants them. I can understand that Senators might be concerned about this in light of the action of the Navy, but the concerns are groundless.

Mr. President, it is incredible that such groundless fears have produced such an imprudent proposal. First there was the fear that companies would go bankrupt. It proved groundless. Nobody charges that now. We know they will not go bankrupt.

Then there was the fear that ships would not be built. The Navy Secretary admits it is groundless. Now there is the fear of years of litigation.

I say a lawsuit to enforce the Government's rights is better than a bailout, especially when the bailout will establish a bad precedent for others to follow.

If the contractors refuse to settle on reasonable terms, then they ought to be required to follow the normal administrative procedures. The Navy has not come up with a way to eliminate the underlying causes of claims. The Navy has not even come up with a way to settle the claims. The Navy is only proposing to throw good money after bad. It wants to pay the value of the claims plus a bonus payment of $541 million to the two shipyards.

In my judgment, this is a proposal to reward mismanagement and inefficiency.

The distinguished cartoonist, Herblock, who has such an eagle eye for ripoffs against the public interest, spotted this in the two cartoons I have in the back of the room.

The first, on the left, shows the shipbuilders with smiles on their faces, with cigars in mouths, pointing their cannon at the Pentagon and saying, "We always put the guns in place first," and indicating, "Pay us a few hundred million more or we shut down."

Of course, the Pentagon is waiving a flag of surrender to give in.

The other cartoon is even more vivid. It shows the money saved, the hundreds of millions of dollars saved, by stopping the aircraft carrier coming in on one ship and the taxpayer expecting to be rewarded. Then going out on another ship on the other hand, is this $541 million to buy nothing. At least with an aircraft carrier we would have it, but with this we buy zero.

It will not reduce the likelihood of future claims. It will encourage future claims. There is a high probability that within a year or so we will be faced with new claims from the same contractors and we will find ourselves in the same predicament we are in today.

CONCLUSION

The message the Navy is sending out is this: If you are a large contractor and you dominate an important portion of the defense market, file an inflated claim and the Navy will pay the true value of the claim plus as much as 50 percent of the remaining portion.

The Navy is also telling the defense contractor community not to worry too much about the professional Navy claims examiners. After the claims examiners finish their work and determine, from the Government's perspective, what the claims are worth, the Navy's political appointees will take over.

We do not have to worry about going to the Board or to court. We just deal with the Navy Secretary and the Assistant Secretary. All the contractors have to do is wait for the political appointees to move in and deal directly with them. Likely as not, the political appointees will work out a way to bail you out.

I urge my colleagues to vote for my amendment striking the $209 million claims item from the bill.

Mr. President, I reserve the remainder of my time.

Mr. STENNIS. Mr. President, I yield 5 minutes, or additional time if he needs it, to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. YOUNG. Mr. President, I will only make a brief statement.

Mr. STENNIS. Mr. President, may we have quiet? I mean by that, conditions where people can hear if they wish on the floor.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

The Senator from North Dakota.

Mr. YOUNG. Mr. President, I will only make a brief statement, more by way of a summary of this whole problem.

According to the information I get, the whole problem started back about 1971 when we first engaged in total cost procurement contracts, with a terrific amount of inflation, far higher than the Government or any industry could estimate.

These costs, the overruns, became huge. The first claim by Electric Boat, a division of General Dynamics, was in 1973 and it increased to December 1976, when it was $544 million.

Litton's claim started in 1975 and was significantly increased to September 1977, at which point it reached $1 billion.

The Pentagon has been troubled with these type contracts for some time. The problem has not only been with the Navy, but the Air Force has had its problems with these type contracts and overrun costs.

I believe this settlement was reached as the best possible negotiation, handled by very able men. I think it was a fairly reasonable settlement. The total settlement figures given me by Admiral Kilcline this morning was $397 million, the remainder to be paid on this claim, $209 million, which is a part of this pending bill.

If we can settle the whole claim for the remaining $209 million and get on with the kind of construction we need without this troublesome problem with shipbuilding companies, it would be well worth the price.

I do not see any other way in which we could settle it for less than this. If we go into long court litigation, the cost to the Federal Government may be far greater than it is now.

Mr. STENNIS. Mr. President, I certainly thank the Senator from North Dakota.

In long years of service on the Senate Appropriations Committee, this subcommittee handling these military matters makes the judgment, the information, highly worthwhile.

Mr. President, I am glad to yield to the Senator from Connecticut (Mr. RIBICOFF). I yield the Senator 10 minutes, Mr. President.

The PRESIDING OFFICER. The Senator from Connecticut may proceed for 10 minutes.

Mr. RIBICOFF. Mr. President, I would like to explain to the Senate the background of the General Dynamics' Electric Boat dispute and my personal involvement in its resolution.

In the late 1960's, the Navy decided it had an urgent need for a new advanced attack submarine. Because of the urgency, the Navy departed from its historically proven approach for the design and construction of a new class. Historically, the Navy would lead up to the production of a new class through detail, design, and construction of a prototype or lead ship. Instead, the Navy proceeded to contract for detail design of this class of submarines with a shipyard that had never designed a nuclear submarine before. Up to this point Electric Boat had designed and constructed the lead ship on every nuclear submarine class in the fleet. The Navy ignored this valuable design capability and went to another design agent, Newport News. But the Navy's folly was not confined to this decision. At virtually the same time it awarded the design and lead ship contract to this other company, the Navy also awarded construction contracts.

Thus Electric Boat found itself the winning bidder on a contract to produce seven SSN-688 class submarines only a few short months after the Navy had awarded the design and lead ship contract to an inexperienced shipyard, Newport News. Not only was Newport News 6 to 9 months late in issuing the initial drawings and 26 months late in delivering the lead ship, but also, the drawings themselves required over 35,000 revisions.

From the outset, Electric Boat was badly positioned. The bulk of the blame at this point rests squarely with the Navy. Electric Boat did bid on a fixed-price, incentive fee contract. That is the way the Navy set up the ground rules. But that type of contract—which the Navy has subsequently abandoned as unworkable for a new weapons system—did not provide room for the double-digit inflation of the mid-1970's. And Electric Boat also had serious manpower and management problems.

Regardless of Electric Boat's own failures, the onus is clearly on the Navy.

On December 1, 1976, Electric Boat filed a claim against the Navy for $544 million, alleging the Government was responsible for that amount of increased costs through November 1, 1976. The Navy's Claims Settlement Board, following a strict entitlement analysis, allowed only $125 million of the $544 million claimed by Electric Boat.

In late 1977, several things happened. First, Electric Boat brought in a new shipyard manager who immediately laid off 3,000 employees. While this was a very uncomfortable moment for the people whose livelihood depended upon Electric Boat, the new management began a top to bottom shakedown at the shipyard that has significantly improved productivity.

At the same time, the Navy and Electric Boat began negotiating on an overall settlement of their dispute which would encompass not only the formal claims already filed, but also a reformation of the contract under Public Law 85–804. This extraordinary procedure allows the President to reform contracts when he "deems that such action would facilitate the national defense."

On the morning of March 13 Electric Boat announced that it would discontinue work on April 12, 1978, on the SSN–688 program. Electric Boat claimed that it had already spent $400 million of its own money to continue production and that it was losing $15 million more each month. Electric Boat said it could no longer sustain these losses and that the negotiations on an overall settlement were at an impasse.

Mr. President, I was obviously concerned about the fate of thousands of workers in Connecticut and the effect a shutdown would have on the economy of my State. But I was also concerned about the national defense. For better or for worse, we need the attack submarines being produced at Electric Boat. And we also need the Trident submarines being produced in the same yard. There is no way that the rancor and uncertainty that swirled about the SSN–688 program would not have a bad effect on the Trident program.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. RIBICOFF. May I have 5 additional minutes?

Mr. STENNIS. I yield 5 additional minutes to the Senator from Connecticut.

Mr. RIBICOFF. At the request of Governor Grasso, I convened a meeting in my office later that day with Secretary of Navy, Graham Claytor and Assistant Secretary, Edward Hidalgo, the Connecticut and Rhode Island congressional delegations, and the Governors of the two States, Secretary Claytor explained that the Navy was considering at least two options, among which were seeking an injunction in Federal court ordering Electric Boat to continue work or declaring the contracts breached and going into the yard and managing the program itself.

On Tuesday, March 14, I was contacted by both the Navy and General Dynamics, each of whom explored with me the possibility of using my office as neutral ground for one more round of talks before the issue went to litigation.

Because I felt the future of Electric Boat was so important to our national defense and to the workers and the economy of Connecticut, I agreed to bring the parties together. So, on March 21, 1978, I convened a meeting in my office. Present at the meeting were: Deputy Secretary of Defense Charles Duncan; Secretary of the Navy Graham Claytor; Assistant Secretary of Navy Edward Hidalgo; Col. Henry Crown, chairman of the executive committee of General Dynamics; David Lewis, chairman of the board of directors of General Dynamics, and Max Golden, vice president—contracts and pricing, General Dynamics.

After 3 hours of intense and frank discussions in which all the figures were laid on the table, I told the participants that I felt the national defense was too important to let the matter go to protracted litigation without at least one more attempt at negotiating. We then developed the plan for a 2-month cooling-off period. Electric Boat agreed to hold off its April 12 stopwork order and the Navy agreed to make immediate provisional cash payments which would substantially eliminate Electric Boat's negative cash flow during the 2-month period. The parties then resumed negotiations.

On June 9, 1978, 3 days shy of the end of the cooling-off period, the Navy and Electric Boat announced the overall agreement of their disputes.

That proposed settlement contemplates that General Dynamics, Electric Boat absorb a loss of $359 million by the time it delivers the last of 18 nuclear attack submarines to the Navy. For over 75 years Electric Boat has been the world's leading designer and builder of submarines. During that period Electric Boat has delivered 266 submarines to the U.S. Navy. The $359 million loss Electric Boat is prepared to absorb on these 18 attack submarines is greater than the profits EB has made on all—repeat, all—of the other submarines it has delivered to the Navy in three-quarters of a century. There is no way this settlement can be called a bailout for General Dynamics. I am confident, Mr. President, that once Senators have examined the settlement they will find that this is a fair and justifiable resolution of a very complicated situation, a conclusion shared by the General Accounting Office.

Navy Secretary Claytor and Assistant Secretary Hidalgo as well as the management of General Dynamics are to be commended for reaching a settlement that is in the interest of the taxpayers and the national defense. Had they not reached this agreement, the issue would have gone to costly and protracted litigation. And while this litigation dragged on, damaging delays in construction of both the nuclear attack submarines and the Trident submarines would have been inevitable.

A short personal note bears directly on this point. Recently, I went to Groton, Conn., to be the principal speaker at the commissioning of the nuclear attack submarine *Groton*, SSN–694, made by General Dynamics' Electric Boat Division. Both in the official ceremonies and in informal conversations I sensed a buoyant spirit. A huge cloud which hung over the Thames River and darkened relations between the Navy and the shipyard had been pushed out to sea by this settlement. Workers and management were busily at the task of building the finest nuclear submarines in the world. There was a sense of pride and rededication now that the long months of uncertainty are behind them. The attitude was one of "Let's get on with the next ship." That kind of spirit, that kind of production morale will be translated into quality ships delivered on time at a fair price.

Mr. President, I commend the Armed Services Committee, under the leadership of the distinguished chairman, the Senator from Mississippi (Mr. STENNIS), for the hard work and the time they have given this complex issue.

Also, I commend the Senator from Wisconsin, who is deeply concerned with the cost of running this Government. No man has been more responsible for economy in the executive branch of our Government. I understand his concern. But I think he should keep in mind a complex situation. He should keep in mind that this is not a bailout. He should keep in mind that for all the ships that General Dynamics has built in 75 years, their profits will not exceed the sum of money involved in this settlement.

I believe that what has happened with the new management and the new spirit in Electric Boat will mean better submarines, at a lower price, for the benefit of the people of this country.

Mr. PROXMIRE. Mr. President, I yield myself 3 minutes to respond to my good friend from Connecticut and once again commend him on the very powerful and effective statement he has made. He has brought in a new point here that has not been discussed before, to wit, that the design was separated from construction and that undoubtedly made it much more difficult for Electric Boat and General Dynamics to proceed.

Mr. President, I wish to make two responses to that. One is from Admiral Rickover's July 28, 1978, memorandum to the Secretary of the Navy, and I will read from that, and I want to read from one other document which I think refutes my colleague's case, in my judgment.

Admiral Rickover writes:

> In the case of the SSN 688 Class, all three bidders were furnished complete sets of the specifications and contract drawings and all had access to full scale mockups of significant portions of the ship, including the propulsion plant. On 18 April 1974, the General Manager of Electric Boat, who had been in the position for 7 years, and who had been a submarine design engineer for more than 20 years, put this matter into perspective when he told Messrs. Don L. Lynch and George H. Foster, Jr., of the staff of the Senate Armed Services Committee the following:
>
> ". . . Electric Boat Division does not have problems that the rest of the industry expresses in working with the Navy because Electric Boat Division and the Navy work hand-in-glove from conceptual design through the construction phase. This assures that we are a party to the establishment of requirements to which the ships are built.
>
> ". . . The cheapest way to conduct a sub-

> marine program is to build the ships in the shortest possible time. This necessitates construction starting as soon as possible. Our experience is that construction should start when less than 5% of the plans are available, with 20% available at keel laying and 80% available at launch. Over a period of years, we have worked in this fashion without excessive contract changes and it has proven to be the most cost effective program.
>
> "We have had no major problems working with Newport News' design. While certain of their details are different than we are used to, we have been able to accommodate them."
>
> This statement was made two weeks after launch of the SSN 688 at Newport News and six months prior to the launch of the SSN 690 at Electric Boat. By that time more than 80% of the detailed design drawings had been issued.

Further, there is a very interesting point paper by Captain Masily of the Naval Sea Systems Command who was confronted with certain statements by Secretary Claytor about Electric Boat. I will quote the statements first and then the very brief comments of Captain Masily in response.

The statements were these:

> The Navy elected to develop an alternate design capability for submarines after exclusive use of EB design talent for almost 20 years.

No. 2:

> EB had been the submarine Design Agent for all nuclear submarines from the early 1950s until the SSN 688 program came along in 1970.

Then the second statement:

> Second, Newport News was designated Design Agent for the SSN 688, whereas EB had served in this capacity for all previous nuclear submarines.
>
> This changed with the SSN 688 because EB suddenly was just a builder rather than a designer/builder. It is true that the Navy instituted controls in an attempt to make the Newport News/EB interface work. However, there can be no question that there were serious problems associated with this new arrangement.

Here is Captain Masily's rebuttal to this.

> The Navy has not used EB exclusively for the design of nuclear submarines nor was the role of follow shipbuilder new to EB. Mare Island Naval Shipyard has performed as a nuclear submarine designer as has Portsmouth Naval Shipyard, which designed the SSN 593 Class in which specific case EB was a follow shipbuilder.
>
> Regarding the Newport News Design Agent interface communications with EB, it is a matter of record that open and direct communications were established at the outset of the SSN 688 program. These communications which included NAVSEA, EB and Newport News (designer and builder) included bidder's questions, mock-up visits, Liaison Action Requests (LAR), Design Agent Shipbuilder Conferences and complete availability to EB of all Design Agent prepared data. In addition EB had their own on-site representatives at the Design Agent's plant on a full-time basis.
>
> Further, EB as a submarine Design Agent and follow builder on SSN 593 Class, was completely familiar with design yard/follow yard relationship and how to work under it.

The PRESIDING OFFICER (Mrs. HUMPHREY). The Senator's time has expired.

Mr. PROXMIRE. Madam President, I yield myself 2 additional minutes.

So here you have, it seems to me, about the strongest documentation you can get that the separation of design and construction was not a problem for Electric Boat according to the Electric Boat people themselves, and according to history; history shows that in the past they separated design from construction without problems.

I reserve the remainder of my time.

Mr. RIBICOFF. Madam President, if I may respond for just a few minutes, first, it should be kept in mind that the design was 6 to 9 months late in bringing the issue.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Madam President, the Chair says the time has expired. There are several who wish to speak. The Senator from Connecticut wants an additional minute.

Mr. RIBICOFF. I want to refute the statement made.

Mr. STENNIS. Madam President, I yield 1 additional minute to the Senator from Connecticut.

Mr. RIBICOFF. What you had here was delay in delivering initial drawings and 26 months late in delivering the lead ship. There were 35,000 revisions, which made changes necessary during construction.

So there was 3 years' delay and during the 3 years' delay you had double digit inflation which increased the costs.

Mr. PROXMIRE. Madam President, I yield myself 1 minute.

All the delays caused by the Navy, all of them, were included in the $125 million, which I would concede should be paid in claims.

But what I am talking about is the financial relief which would not be a matter of Navy delay.

I reserve the remainder of my time .

Mr. STENNIS. Madam President, I am glad to yield 5 minutes to the Senator from Rhode Island (Mr. CHAFEE) a former Secretary of the Navy, and I thank the Senators from Wisconsin and Connecticut for their fine points of view.

Mr. CHAFEE. Madam President, I direct myself to some of the problems that have been discussed here in the Chamber and echo again the very able statement made by the senior Senator from Connecticut, who very clearly outlined the problems that have been involved.

Let me just say this: There is nothing more complicated in the world to construct than a nuclear submarine. As a matter of fact, all warships are extremely difficult to construct.

As Admiral Thomas Moorer once said:

> Shipbuilding is not a production matter; it is a construction matter.

Every single submarine and warship that is built involves incredibly difficult problems.

I particularly wish to address the matter of change orders.

Let us not go into reviewing the dispute that has taken place as to whether the General Dynamics' Electric Boat shipyard was kept up to date on what was taking place in Newport News. What I am more concerned with are change orders. Change orders result during ship construction, when a new technique, a new type of weapon, any new type of fixture is developed, whatever it might be, and the Navy chooses to have that inserted in the vessel that is being constructed. These change orders are incredibly difficult to evaluate as to how much they will cost, and that really is the basis of the problem here.

Now the Navy says they will cost so much, and the shipyard says they will cost so much. When we have some 35,000 of these being debated, the question of what to do becomes very serious.

One way of settling the question is to go into court and quibble over every single change order. That would take up months and indeed years of everyone's time, from top management on down, on the sides of both the Navy and the shipyard.

But there comes a time in these cost disputes, whether in private industry or in the relationship between the Navy and a contractor, when commonsense has to prevail. You have to step in and say: "We have a dispute involving millions and millions of dollars. Let us settle it. We are not going to debate every single one of these change orders. We are going to split the difference in some manner."

And that is what happened here. It was not a case of the Navy giving away the company store. We had hard-headed businessmen negotiating this settlement. Secretary Claytor came from the outside industrial world, where he was president of a railroad, and he is hardly one to give away Federal money. The same with Assistant Secretary Hidalgo. This simply was not a case of just giving in to General Dynamics.

If everyone listened carefully to the recounting of what took place as outlined by the senior Senator from Connecticut, they now know the facts.

The Navy came up with a proposal. General Dynamics would not accept it. No, they said. And then General Dynamics came forward with a countering proposal. No, said the Navy, they would not accept it. And this thing went right down to the line.

Now it is easy to say, "Send it into court, do not give in to these big corporations," whether it is the 85th biggest corporation, or the 110th biggest corporation, whatever it might be. But what do we want? Do we want to tie everyone up for years and years without the ships we need, and then have the cost go up when we do get them? No one debates that the cost will go up in any kind of delay. That is the price we pay for inflation. It is with us every day.

Now, more than any other time, commonsense has to prevail.

I might say that this is a settlement that has been approved by the Navy's watchdog on costs, Gordon Rule. There are some who say Gordon Rule is not as tough as he used to be. Well, I do not intend to debate that. I simply point out that he has approved this settlement.

I would also like to quote from Mr. Jerome Stolarow, of the General Accounting Office. This is what he said:

> We feel that this is about the only option open to us; that this is a reasonable way to approach it. Any alternative that you look at just does not make sense.

That is the case. There is no better way, as much as we wish there was. I might say there is plenty of blame to go around on all sides. There is blame in the Navy, and blame in General Dynamics. General Dynamics now has a new officer in charge of their yard, Mr. Veliotis. He is tough, and he is hard. As you have already heard from Senator RIBICOFF, he really shook up the place.

Maybe things should have been better on both sides, but we have got to take the case of where we are now. And, Mr. President, looking at all the facts, looking at where we are, and looking at a future of escalation, this is the best possible settlement that can be obtained for the United States of America.

I urge this body to reject the amendment of the distinguished Senator from Wisconsin.

I thank the Chair.

Mr. STENNIS. Madam President, I am glad to yield to the Senator from Rhode Island.

Mr. PELL. I thank the chairman of the Armed Services Committee very much indeed.

I join my colleague from Rhode Island and others in rising in opposition to the amendment by the Senator from Wisconsin to delete funds from the military procurement bill needed to implement the shipbuilding claims settlement announced by the Navy last June.

I am particularly familiar with the terms of the Navy/General Dynamics settlement because the Electric Boat Division employs some 26,000 people in southeastern New England, over 5,000 of whom are constituents of mine.

A brief look at the history of this dispute is necessary to understand why the Government has no alternative to the negotiated settlement announced in June.

When the Navy determined some 10 years ago that a new class of nuclear attack submarines was urgently needed because of advances in submarine technology, the Navy decided to go with a private shipyard that had never designed a submarine as design agent and lead shipbuilder. And, because of the urgency, the Navy deviated from its practice of leading up to a new class of ship through detail design and construction of a prototype ship. The Electric Boat Division accepted fixed price contracts with little cost growth flexibility, even though Electric Boat had no control over the design of the new 688-class subs.

Electric Boat had been the design agent for all nuclear submarines from the early 1950's until the 688 program came along. The high level of performance achieved by Electric Boat during those years, when Electric Boat delivered ships an average of 2.4 months ahead of schedule, was due in large part to the communication link between design and construction, which did not exist in the case under discussion now. Under production contracts for 18 new 688 class submarines. Electric Boat was faced with delays of 6 to 9 months in the furnishing of drawings by the Navy's new design agent, which impacted severely on the production schedule and escalated costs.

The design agent and lead shipbuilder delivered the first 688 some 27 months after the original contract delivery date. Additionally, the engineering plans and specifications finally furnished to Electric Boat were defective, as evidenced by the fact that the Navy imposed over 35,000 revisions to the plans. As the Nation entered a period of uncontrollable double digit inflation, Electric Boat and the Navy found themselves in the midst of a shipbuilding program 2 years behind schedule and with mounting losses. Yet the fault rested with the design agent who had been earlier designated.

In December of 1976, Electric Boat filed a claim for $544 million under the two 688 contracts. In March of this year, General Dynamics estimated that its total losses over the life of the 688 contracts, expected to take 6 years to complete, would be $843 million. In the course of negotiating the claim, General Dynamics provided extensive financial and other data. Coopers and Lybrand, an independent auditing firm retained by the Navy, concluded that General Dynamics employed reasonable procedures in arriving at this amount. The General Accounting Office also supports this analysis.

The projected loss of $843 million is based on an average labor inflation of 7 percent per year, and a material inflation of 6 percent per year over the 6 remaining years to complete the contracts. Almost $400 million of the anticipated loss has already been sustained by General Dynamics. Should the costs to complete the contracts prove greater than the current estimate, the Navy and General Dynamics will share such cost growth evenly up to $100 million, beyond which General Dynamics will assume exclusive responsibility. General Dynamics has released all claims to date, and covenanted to promptly negotiate any contract changes ordered by the Navy subsequent to the settlement. Because the settlement covers all cost growth and future inflation contingencies, further claims by this contractor on the 688-class submarines are highly unlikely.

A considerable amount of General Dynamics and Navy resources have been diverted by nearly 4 years of often bitter claim negotiations. Neither side, having defended its respective interests to the hilt, is anxious to repeat the process again. So tenacious was the Navy in defense of Government interests that General Dynamics broke off the settlement talks in March of 1978 and announced a stop work order as of April 12. After intervention by members of the Connecticut and Rhode Island delegations, General Dynamics extended the stop work deadline to June 12, and both sides began a final effort to reach an out-of-court resolution. I was in contact with both Secretary Claytor and General Dynamics Chairman Lewis in the final week of negotiations and am aware that both sides made major concessions to arrive at a bottom line settlement.

The settlement announced June 9 removed the economic uncertainty for thousands of workers that would have resulted from any shutdown. The Navy was prepared to seek a court injunction to force Electric Boat to continue producing ships, but it is likely that the end result of 6 to 8 years of court battle would be greater in cost to the taxpayer than this settlement. This is so because Electric Boat would have raised another $750 million in claims over and above the $544 million in claims through November 1, 1978. Faced with evidence of Government caused delays and design changes, the contractor was in a strong position to obtain a substantial court-ordered payment of unreimbursed costs. It is simply unrealistic in light of the evidence to think that the Navy would come out of a lengthy court battle with no liability. The court could find that both sides breached the contracts and measure the award to the contractor by the cost to complete the submarines. The lengthy court battle would continue the bitterness between the Navy and an essential shipbuilder at a time when it is imperative from a strategic standpoint that Electric Boat get on with the business of building ships in a timely fashion.

The Armed Services Committees of both the House and Senate have held hearings on the settlement and voted down resolutions of disapproval. Both the Navy and General Dynamics have learned valuable if painful lessons from this claim process which assure that we are not opening the door to future claims by ratifying this one. Let the record of these proceedings plainly indicate that the Congress views this settlement as a one-time action, in the words of Public Law 85-804, "to facilitate the national defense" by laying this claim controversy to rest. These settlements are expressly contingent upon the necessary appropriations, and I urge my colleagues not to upset a painfully negotiated agreement and further disrupt our vital shipbuilding program.

All told, I think every effort has been made to make sure that the public got its fair share. There was great effort made to see what the differences were, and, finally, to split the differences. The fault that arose here can be evenly divided between the contractor and the Navy as the settlement does.

I hope very much indeed that the amendment will be defeated.

Mr. STENNIS. Madam President, I yield 2 minutes to the Senator from Connecticut (Mr. WEICKER).

Mr. WEICKER. Madam President, we are being asked to delete $209 million to enable the Navy to dispose of the Litton and General Dynamics settlements. These settlements, negotiated by the Navy, are the only realistic options the Government has to deal with the difficult problems presented by shipbuilding cost overruns.

There is no need to expound on the superior quality of the product and our Nation's need for it. The 688 class submarine is second to none and is a vital link in our national defense. No other company could build an equivalent product today for less money.

There are approximately 11,000 skilled craftsmen at Electric Boat who are responsible for building the 688 class boats. Any further disruption in the settlement process would mean layoffs for between 8,000 and 9,000 of these dedicated workers and would result in a severe negative impact on the economy of Connecticut.

This is no time to point fingers. The past lack of leadership and inflexibility at the union level, the corporate level and the Government level has been well documented. But past animosities and failures at mangement levels should not be the cause for unduly penalizing the men and women whose livelihood, and those of their families, depend on continued work at this facility.

An agreement is more than we have had for the past 2 years. Yes, we could reject this agreement, and let the company and the Navy spend the next 8 to 10 years in court. The taxpayers would lose, the employees would lose, the national defense would lose. The only ones who would not lose would be the lawyers.

Or we could shut down the 688 program entirely. This would put thousands of people out of work severely impacting the economy of an entire State. In addition, the Trident program would become more expensive due to the economies of employees working on both systems. Furthermore, our national defense strategy would lose a vital link.

Finally, the Government could take over 688 production at the shipyard. I think we are all only too aware of how inefficient an operation this would be.

Hence, while the settlement before us may not be ideal, it is the only practical option to follow.

These ships cannot be built in a shipyard where there is acrimony and strife. The only way to gain a spirit of mutual trust and confidence is to accept this settlement and let everyone get back to work.

I urge my colleagues to vote against the Proxmire amendment.

I want to pay a special tribute to my colleague, Senator RIBICOFF, as being instrumental in achieving this agreement.

I think that a good settlement, as I learned it anyway as a young lawyer, is one that leaves everyone a little bit unhappy. Apparently it has done just that, but it has left the Senator from Wisconsin feeling very unhappy. On the other hand, we can sit here and argue and litigate and get into court or we can go ahead and build submarines and attend to the security of this Nation.

I think it is well-established by the comments that have been made here this morning that everybody had a hand in the fault, the Navy, Electric Boat, the Congress, the unions, the management. There is plently of fault to go around.

On the other hand, from the point of view of saving the taxpayers' money and from the sense of doing the job from the national security point of view, I suggest that we reject the amendment and get on with the agreement, which has left everybody a little bit unhappy.

We can spend the next 5 years in court or we can get the business done here on the Senate floor, get the business done in the shipyards at Electric Boat and, in thus doing so, fulfill our responsibilities and Electric Boat's responsibility to the people of this country.

Mr. STENNIS. Madam President, I yield 10 minutes to the Senator from Nevada who is a member of our committee, and who has handled similar matters before.

Mr. CANNON. Madam President, I thank the chairman of the committee for yielding to me. I hope that does not give one any expertise, the fact that he has handled similar matters as this before, because they are always very unpleasnt any time we have to handle a matter that results in additional payments from the Government.

Madam President, today witnesses an attempt to delay the settlement of the Navy's shipbuilding claims by the introduction of an amendment to delete $209 million of additional funds authorized for this purpose. The Senate Armed Services Committee conducted a hearing on August 24, 1978, to hear testimony on the proposed settlements of shipbuilding disputes with General Dynamics' Electric Boat Division and with Litton Corporation's Ingalls Shipbuilding Division. These proposed settlements are in the form of reformation of contracts under the authority of Public Law 85–804. Under the provisions of this law, the Navy notified the committee of the proposed settlements by letters dated June 22, 1978, and June 26, 1978. The proposed settlement can take effect after 60 days of continuous session of the Congress. Based on the schedules of both Houses, the required 60 days expired for the General Dynamics settlement on September 19 and for the Litton settlement on September 23, 1978. Both settlement agreements can now take effect once sufficient funds are authorized, appropriated, and obligated to fully fund the reformed contracts. This will require the authorization of an additional $209 million. To deny this authorization would put a roadblock in the way of carrying out these negotiated agreements.

The Navy's estimated total added cost of the proposed settlement is $931 million. The payment for settlement of already filed claims amounts to $390 million and the Navy's agreed to share of the additional costs to complete the contracts amounts to $541 million. This latter payment of $541 million would be accomplished through reformation of the contracts under the authority of Public Law 85–804.

Each contractor will incur a sizable loss, and filed claims against the Government approximately $1.6 billion, plus the right to claims based on events up to the date of the settlement, will be withdrawn by the contractors. A total of four Navy contracts will be reformed as a result of the proposed settlements—two contracts with General Dynamics involving 18 nuclear attack submarines and two contracts with Litton involving 5 LHA amphibious assault ships and 30 DD–963 destroyers.

I would like to emphasize that this ship claims business is a very messy subject to get into. Some of these claims have been pending for several years. However, the matter has been very thoroughly investigated by the Navy's Secretary Claytor, Deputy Secretary of Defense Duncan, and Assistant Navy Secretary Hidalgo.

The goal of all of us is that fair and equitable settlements be reached which serve the national interest. It is my belief that the proposed settlements are the best of the alternative solutions to this difficult problem. This belief is shared by the General Accounting Office, which thoroughly reviewed the proposals by the Senate Armed Services Committee, and, of course, by the Navy and the contractors involved. It cannot be overemphasized that these proposed settlements remove the obstacles in the way of continued construction of vitally needed Naval ships.

CONTRACTOR INCURRED LOSS

Let me point out at the offset that under the terms of the proposed settlements both contractors will incur a substantial loss as a result of these settlements.

Madam President, I repeat that. Both contractors will incur a substantial loss as a result of these settlements.

General Dynamics, in completing the contracts for 18 688 class submarines, will absorb a loss of $359 million—a loss, mind you, of $359 million.

Litton Industries, in completing the contracts for the 5 LHA ships and the 30 DD–963 destroyers, will absorb a loss of $200 million. Again, Litton Industries will absorb a loss of $200 million in completing these contracts under the proposed settlements.

In our discussion today we should not lose sight of this fact—both contractors are absorbing substantial losses under the proposed agreements. There is no way that this settlement can be called a bailout or an incentive for inefficient management, as has been suggested. I believe it is the best solution of a very complicated situation.

Madam President, I ask unanimous consent that two tabular summaries which detail the elements of the settlement agreements with General Dynamics and with Litton be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—*Financial data of General Dynamics/Navy settlement*

Pre-agreement terms of contract:
First flight (7 ships), $637 million.
Second flight (11 ships), $1,188 million.
Total value $1,825 million.
General Dynamics filed claims totaled $544 million (as of 1 December 1976):
Evaluation by NCSB equaled $125 million.
Provisional payment of $66.5 million in April 1978.
Estimated additional cost to complete contracts:
Additional cost $843 million. Total contract cost $1.825+$.843=$2.668 billion.
Agreement:
Navy pays entitlement for filed claims.
$125 million entitlement.

Navy/GD share additional cost-to-completion:

$843 million—$125 million entitlement—$718 million.

Navy assumes $359 million cost increase.
GD assumes $359 million fixed loss.

Should additional cost exceed $843:

Navy/GD share 50/50 up to $100 million increase. Any increase beyond $100 million GD assumes 100 percent.

Should additional cost be less than $843 million, Navy/GD share 50/50.

Agreement predicated on inflation rate of 7 percent for labor and 6 percent for material.

Should inflation exceed 7/6, Navy absorbs the increase.

Labor/material inflation rate based on BLS statistics for the industry.

Implementation:

Navy to contribute $300 million of its share to contract upon finalization of agreement.

General Dynamics will absorb unreimbursed costs of about $45 million and will progress the remainder of its loss of $359 million on a monthly basis for remainder of contract period (72 months).

TABLE II.—*Financial data on Litton/Navy settlement*

Pre-agreement terms of contract:
LHA (5 ships), $1,014 million.
DD-963 (30 ships), $3,065 million.
Total value $4,079 million.
Litton filed claims totaled $1.088 billion:

Evaluation by NAVSEA Claims Team equaled $312 million.

Provisional payment allowed of $47 million.

Estimated additional cost to complete contracts:

Additional cost: $647 million ($486 million for LHA; $161 million for DD-963. Total contract cost, $4.079+.647=$4.726 billion.

Agreement:

Navy pays entitlement for filed claims:

$312 million entitlement—$47 million previously allowed—$265 million proposed payment.

Navy/Litton share additional cost-to-complete:

$647 million—$265 million claims payment—$382 million.

Navy assumes $182 million cost increase.
Litton assumes $200 million fixed loss.

Should additional cost exceed $647:

Navy/Litton share 50/50 up to $100 million increase. Any increase beyond $100 million Litton assumes 100 percent.

Should additional cost be less than $647 million, Litton/Navy share 80/20.

No coverage on inflation (only two years remaining).

Some contract provisions being modified to reflect change from Total Package Procurement.

Implementation:

Navy to contribute $97 million of its share upon finalization of agreement.

Litton will absorb unreimbursed costs of about $18 million and will progress the remainder of its loss of $182 million for remainder of contract period.

Manufacturing Process Development (MPD) costs:

Litton will not invoice any of the $133 million MPD costs on LHA or DD-963; will release $62 million of MPD costs.

Mr. CANNON. Let me simply mention the two major aspects of the proposed settlements. First, the Navy proposes to pay General Dynamics $125 million of the $544 million in filed claims and to pay Litton $265 million—(plus $47 million in prior adjustment)—of the $1.088 billion in filed claims. It should be emphasized that in each instance the proposed payment corresponds exactly to the "entitlement" value as determind by the Naval Claims Settlement Board.

Thus, for a total proposed payment of $390 million plus $47 million in prior adjustments—giving a sum total of $437 million—filed claims totaling $1.632 billion will be withdrawn.

The second major aspect of the settlement agreements relates to the estimated additional costs to complete the General Dynamics and Litton contracts. The estimated additional costs to complete the General Dynamics contracts are $843 million or $718 million above the $125 million settlement for filed claims. The Navy proposes to pay General Dynamics $359 million, or one-half the $718 million estimate, with General Dynamics absorbing a $359 million loss. The estimated additional costs to complete the Litton contracts are $647 million or $482 million above the $265 million settlement for filed claims. The Navy proposes to pay Litton $182 million of the estimated $482 million of additional costs with Litton absorbing a $200 million loss. So, the Navy proposes to pay a total of $541 million of the estimated $1.2 billion of additional costs—above the filed claims settlements—to complete the contracts.

ACTUAL VALUE OF CLAIMS

It must be emphasized that the actual worth of the filed claims or the accountability for the additional cost to completion cannot be rigorously established except through formal litigation—a costly and time-consuming process. I noted that the distinguished Senator from Connecticut, a few minutes ago, said 5 or 6 years, but our best estimate is that to complete the litigation would take from 8 to 10 years to complete, in this very difficult and complicated matter.

It is impossible, then, to state unequivocally at this time whether the monetary settlements proposed are too high or too low. We do know, however, that in the case of Litton there was a temporary court order requiring them to continue ship construction and requiring the Government to pay 91 percent of the invoice costs. Under these terms, the Government would have paid out to Litton approximately $300 million above the contract ceiling for the LHA's and still would be facing litigation for over $1 billion in claims.

Madam President, I cannot stand here today and tell you whether the taxpayers would pay more or less if the Navy chose litigation over the proposed settlements. There is evidence that it could cost the taxpayers considerably more. I can tell you that I am not willing to gamble with the taxpayers' money while risking continued disruption of the construction of these vital ships. I will not gamble with the taxpayers' money and I will not risk jeopardizing our national defense.

Therefore, in my view, there is no reasonable alternative to a settlement of this type. The General Accounting Office stated in testimony before the House committee on August 3:

> We feel that this is about the only option open to us, that it is a reasonable way to approach it and any alternative that you look at just does not make much sense.

LESSONS LEARNED

Madam President, one final but very important point should be made. In reviewing the proposed settlements of the shipbuilding claims, it was extremely important to the Senate Armed Services Committee that "lessons learned" from these shipbuilding controversies be incorporated into future contracting procedures. The Navy testified that contracting procedures have been changed substantially as a result of these experiences and that further changes are anticipated as a product of a recently completed "Naval Ship Procurement Process Study." That this be done in order to reach a permanent solution to the shipbuilding claims problem was absolutely essential in the view of our committee.

It is our opinion that these procedural changes are in fact being made. This coupled with an atmosphere of mutual trust, confidence, and cooperation, is the best insurance against future claims. Conversely, the adversary relationship inherent in litigation would rekindle the distrust that has characterized the relationship between the Navy and its shipbuilders in recent years.

The distinguished Senator from Connecticut pointed out, in his remarks a few minutes ago, the complete change in attitude of the shipbuilders, now that this matter has been brought to a head. But I can assure the Senate, Madam President, that if these claims were to be subjected to a court proceeding, with 8 or 10 years of litigation, the adversary relationship would quickly return, and the Navy would have to face the question, "Are we going to be able to get the ships we need and, if so, what are we going to have to pay in the interim period?"

It was very impressive to me, and I point this out to the Senator from Maine, because I know he is concerned about this——

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. STENNIS. Madam President, I yield the Senator 2 additional minutes.

Mr. CANNON. It was impressive to me that with court orders for 91 percent of the invoice cost for completion, if we were going to keep this process going, that had to be paid by the Government, and with 91 percent of the invoice cost paid by the Government, those costs alone would amount to more than the cost of settlement under this proposal; and we would still have over a billion dollars of unresolved claims that would be the subject of litigation that would carry on over 8 or 10 years. That was one of the problems that gave me a great deal of concern when we heard Mr. Hidalgo and Secretary Claytor testify before our committee.

Madam President, it is my belief that it is in the best interests of the taxpayer, the Nation, and the shipyard employees that these agreements arrived at after such long and difficult negotiations between the Navy and the shipbuilders be put into effect. I hope my colleagues will join me in voting down this amendment to delete the additional funds required to fully fund the settlement agreement.

Mr. STENNIS. Madam President, I

especially thank the Senator from Nevada. He has made a real contribution. I yield 2 minutes to the Senator from Texas (Mr. TOWER).

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Madam President, I think I can add very little to what has been said in defense of the committee position here. I do want to reemphasize the fact that the contractors involved will not be making any money. They will, in effect, take a loss on the ships which have been constructed.

I think this move is necessary to make sure that our future Navy shipbuilding plans are not imperiled. One thing I believe we have learned is that, in fact, the shipbuilding capability in the United States is more limited than it should be if we are to achieve the kind of naval growth and modernization that we are going to require over the next few years.

I would not like to see us continue inhibitions on the shipbuilding capability that we have by the adoption of the amendment of the Senator from Wisconsin (Mr. PROXMIRE).

Therefore, I join my colleagues in urging the Senate to reject the amendment of the Senator from Wisconsin.

Mr. STENNIS. Madam President, I yield 2 minutes to myself for a moment. Then I will yield to the Senator from Texas, and then to the Senator from South Carolina.

Madam President, I fully understand the undesirable feature, or some undesirable features, of this settlement or any settlement near this figure of this kind even. But the Congress years ago recognized the great difficulty that goes with a contract of this kind which extends over a period of years. And what terrible years since 1970 and 1971. Inflation years, with all the other problems that go with inflation, almost without precedent.

Nevertheless, after this matter has been worked on and worked on, here comes an unusually capable trio of men of business experience, Claytor, Hidalgo, and Duncan; they have worked on this matter for about 12 months. I can testify that they have covered a mountain of work, and it seems to me they have gotten down to real results. Forget me as a witness, however.

What did the General Accounting Office say about this effort? Under examination by the House committee and our committee, what did they say? They did not make an exhaustive analysis of every phase as an auditor would, but they looked at all the major points and then they came in and testified:

> Yes, there are some things we do not like about this, but, under the circumstances, there are no alternatives that we can offer which we think would do better for the government.

When this matter was all heard, our committee voted 13 to 0 in favor of the payment of these claims as being the best under the circumstances which we could get, with everything considered. The House committee passed on these settlements by votes of 24 to 13 and 28 to 9. It has not passed the House yet, of course. Those are practical things.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I yield 2 minutes to the Senator from Texas.

Mr. BENTSEN. Will the Senator yield 5 minutes?

Mr. STENNIS. I doubt that I have that much time remaining. Make it 3 minutes.

Mr. BENTSEN. I thank the Senator.

Let me say something about Charles Duncan, the Deputy Secretary of Defense. I have known him a good part of my life. He is a neighbor of mine and one of the toughest, most able businessmen I have known. The two Duncan brothers are able and good businessmen. In fact, I felt that so strongly that I made one of the brothers the trustee of my blind trust. When you turn that over, it shows the confidence you have.

I also served on the board at Lockheed for years, and I know some of the problems that company had and the incredible problem of the contracts in the 1969–73 period. Congress put an inflation factor in there to try to take care of those problems. No one could foresee what was going to happen to this economy. We saw the capital and surplus of a company almost wiped out, because of overruns beyond those kinds of guidelines.

I think this settlement is a fair settlement.

When we talk about changing orders on the building of ships, it is like changing the order on the building of a house. You can hardly anticipate some of the problems you will run into, and you will have those kinds of cost overruns.

I know that there are some people in the Defense Department who really do not want to have a reasonable settlement. I will say why, because they would like the Government to build all of these ships in Navy-owned shipyards, where they could have shipbuilding under their thumb and they could have total control of it. But I think the taxpayer is going to get a lot better return for his money as long as we can keep those ships being built in the private sector to the extent we can. Unless we come up with some kind of a reasonable settlement here, private shipbuilders are going to finally throw up their hands and say:

> We do not want any more Government business. Go ahead and build them in the Navy shipyards.

Again, that is what a few of those fellows over there in the Navy would like to see accomplished. I think that would be a tragedy for this country.

I would urge very strongly, Madam President, that this settlement which has been proposed be accepted. I do not believe it will be any precedent. We have had a substantial change in the way these contracts now will be meted out and the terms of those contracts since 1975. I think we will be able to avoid many of these problems in the future.

Madam President, the settlement with General Dynamics is fair, timely, and necessary to maintain continuity in the Nation's vital shipbuilding programs. Long, costly years of litigation will be avoided by this equitable solution to the problem of past cost overruns. The contracts of the 1969–73 period have had extraordinary defects. Previous overruns have been the fault of all parties concerned in the contracts, but new Navy contracting procedures adopted since 1975 seem likely to protect both the shipbuilders and the Navy from the recurrence of similar disputes over cost increases. The reforms in the Navy shipbuilding process instituted since 1975 make it doubtful that Public Law 85–804 will ever have to be used on this scale again to settle cost disputes. Hence we do not need to worry much about the precedent we are creating now. These large scale Public Law 85–804 settlements are necessary now to provide timely completion of ships needed for our national defense. With more efficient Navy procedures and better contracts, we will probably not have to rely on Public Law 85–804 in the future.

I yield back whatever remains of the 3 minutes.

The PRESIDING OFFICER. (Mr. NUNN). The Senator's 3 minutes have expired.

Mr. STENNIS. I yield 3 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I hold the able author of this amendment in high esteem, but rise in opposition to the pending amendment which would strike from S. 3468 authorization for funds in the amount of $209 million for the purpose of initial payments of Navy claims settlements.

There are several reasons why I feel the Congress should allow settlement of these claims as proposed by the Navy Department and the Defense Department.

First, the General Accounting Office, the investigative arm of the Congress itself, has presented testimony that there is simply no better alternative to these settlements. To deny them would result only in continued litigation, construction under court orders, and possibly eventual greater costs to the Government.

Second, these settlements deal with claims resulting from procurement procedures and policies no longer followed. They go back 5 to 8 years. We are not setting a precedent in the sense that the same circumstances could face us tomorrow.

Third, our Navy shipbuilding programs have become endangered by these lengthy and destabilizing claims. Great hostility has developed between the Navy and the contractors. These settlements place blame and costs on both sides, and should end the bad feelings and get important Navy programs moving forward again.

Fourth, I place considerable value in the fact that the new leadership in the Navy was told from the beginning to give these matters the highest priority and this is the settlement they recommend. They are competent men and they know the situation in more detail than any of us. The GAO review indicates their advice on this issue is sound.

Mr. President, I hope the Senate will reject this amendment. We must get these matters settled for the good of the Navy.

Mr. STENNIS. Will the Chair indulge me for one moment?

Mr. President, as far as I know now there are no other Senators who wish to speak on this amendment except the author. If I may take a few minutes, I am going to review some of the things which have been said. Before going any further, however, Mr. President, I think it is highly important to mention the continuing resolution. I do not want to see the Department of Defense have to operate under a continuing resolution which hamstrings them to the 1978 budget level.

That is all that a continuing resolution covers. We have procurement programs estimated to total $2.3 billion that could not be started until fiscal year 1979 is resolved and operating under the new law and the new appropriation.

I think it is highly urgent that we pass on this matter now. It seems to me, of course, we have been going over this thing for 6 or 7 years, and this undoubtedly is a part of the roadblock that we have now toward getting military contracts for ships.

We now have in the process of construction or authorized and the money appropriated for 100 ships. I have the list of them here for anyone who might be interested. The ships have already been authorized and appropriated.

I hope that we can agree soon on a real forward-looking program for the Navy vessels—ships, carriers, whatever it is going to be. The Senate cannot do it alone, the White House cannot do it alone, the Navy cannot do it alone, the Department of Defense cannot do it alone. It is going to take the coordinated effort of all those groups. This time, we had such a bill, except the President did not want to go that far with a nuclear carrier. Those matters can be overcome.

My plea is, let us close ranks now, and complete this bill today—I hope without any amendment—and let it move right on, this week, to the White House. We were about 2 hours away from the committee's concluding action on the appropriations bill when the word came about the veto. That suspended everything under our system. We can get this thing back on the track today. The House is going to pass on the authorization tomorrow. Then we can send the whole military program into operation under the 12-month budget year beginning October 1.

That $2.3 billion item that I referred to, that cannot move unless we avoid a continuing resolution, includes, for instance, the Navy fighter F–18. There is $312 million for that alone in the bill, and it cannot move until all this passes into law and the appropriation is made.

With respect to the claims, I believe that, even though we may not like every part of it, we find this is the best settlement we can get. I would not know where to turn, and I do not know anyone else who would know, to get a better settlement than this. We went to the General Accounting Office and they said; "We cannot recommend anything better than what you already have." They were unhappy, just as everyone else is unhappy, to a degree. But they did not have any other recommendation to make.

I do not believe we will ever get any company, that can contract over a long period of time on what they call a total package, for large sums of money, running into hundreds of millions of dollars without some problems. I think if we are going to have privately owned shipyards, we are always going to have to have some avenue of escape. We are in the realm of fancy, I think, if we think we can successfully carry on these contracts, running over a period of years, without having to stop once in a while and make some kind of adjustment.

I think these settlements are highly commendable and I do not believe there is any way to do better than this except to go to court. With all deference to the court, they are not geared up to take up this kind of matter. It would take 5 to 7 to 8 or maybe 10 years to finalize all of this in a court and then, in the end, someone has to estimate just what is the right settlement figure. That is what a jury does, that is what a judge does without a jury. Do not let anybody fool you; it takes an estimate in the end. I believe this is the best settlement we can get. We had better go on and settle it and not look back and not look forward.

I yield the floor.

Mr. PROXMIRE. Mr. President, I shall take just a few minutes to respond to some of the arguments by my distinguished colleagues in the Senate, particularly my good friend, the chairman of the Committee on Armed Services and manager of the bill, Senator STENNIS of Mississippi.

Senator STENNIS has argued that this is not a bailout. Mr. President, if anything was ever a bailout, it seems to me this is a bailout and a pork-out. The fact that there may not be any profits on the contract is irrelevant. The fact that there may be losses is also irrelevant. The only relevant factor, as far as the taxpayer is concerned, is that we are being asked to go along with a $541 million financial relief package to two giant defense contractors above the amount that the experts tell us is owing to the contractor—above that amount.

It is not a matter of splitting a claim, half paid by the Government and half paid by the contractor. The contractor gets all of the amount that the Navy said was the Navy's fault—all of it. That amounts to $400 million, $437 million, to be exact. Then we split the difference in the remainder.

I am not against relief or welfare in all cases. I can imagine a situation where I might approve putting a defense contractor on the welfare rolls. If it were a failing corporation and we needed it to continue on vital weapons, then I might approve a handout. But those conditions do not exist in this case. It is not a failing corporation. No one has claimed in either case that General Dynamics or Litton would go bankrupt. We have two healthy, financially viable conglomerate corporations. If they lose money on this contract, it is their fault. They have mismanaged their shipbuilding programs, they have been inefficient. The low productivity in the General Dynamics and Litton shipyards is well known and documented, it is a matter of record. It is on the record based on testimony before congressional committees; there is no question about it.

If Government funds are used to eliminate or reduce losses in Government contracts where the losses are the result of contractor inefficiency, I say that is a bailout. Those are precisely the facts before us. I most respectfully disagree with my distinguished friend. What we have here is a double bailout in spades.

The distinguished chairman of the Armed Services Committee stated in his "Dear Colleague" letter of yesterday that these are settlements of old claims on old contracts. Mr. President, when it is bailout time in the Senate, they are always old claims on old contracts. It takes quite a number of years for cost overruns on major weapons systems to ripen into fullfledged bailouts. When we bailed out Lockheed on the C–5A, we were dealing by then with an old contract and an old demand by Lockheed. When we get around to bailing out General Dynamics and Litton on the Trident, which is coming up, and on the DD–963 destroyer program, the same arguments will probably be heard: It will be said that they are old claims on old contracts, and in the future, we will not have more bailouts. The future is going to be the bailout that is coming up on the Trident. We have been informed that there is at least a several hundred million cost overrun on the Trident contract. The cost overruns on these contracts are getting larger and older.

Those who argue the bailout is the only way out are just plain wrong. They are wrong and forgetful. I guess it is easy and perhaps convenient to forget the bailouts of the past. They take place 2 or 3 years apart, because the programs take years to complete.

Mr. President, a number of Senators implied we would not get the ships on time if we do not agree on this settlement and they will be delayed in construction.

Mr. President, that was answered by the Secretary of the Navy when he testified before our committee and stated that he was not concerned about that.

We had this cartoon. We showed it to him. He said that it was wrong, that we are not waving the white flag. They know they can go to court and they will get an injunction.

The Senator from Nevada said that under the injunction the Navy had to pay 91 percent. I am surprised they did not have to pay 100 percent. With an injunction, the court has to act precipitately and does not have time to examine the facts; so it will be a very high percentage. But that is not a final settlement. When the court finally litigates the matter, the Federal Government will be able to get what the Federal Government has owing to it, even though the Federal Government has paid much more in advance.

So, Mr. President, the fact that on a temporary injunction at one time 91 percent was required by the court to be paid, it seems to me does not persuade us it is likely we will lose money if we proceed in court, as we should.

In any event, Mr. President, we should demand the contractors exhaust their remedies. What is wrong with the normal procedure? It is the procedure everyone else has to use.

These contractors have not gone to the Board of Contract Appeals. They have not appealed the finding by the Navy. Why should we not at least require that? Why should we not, rather than split the difference 50–50? There has been no detailed justification as to why it ought to be 50–50 instead of 40–60, or some other formula.

Mr. President, what this all boils down to is the argument that if we do not settle this, we will have years of litigation.

Mr. President, that is what the courts are for. Why should the courts not determine the facts? We have not had a trial. We do not know the facts. We are just guessing.

I think anybody would agree that 50–50, when we are talking about hundreds of millions of dollars, just will not satisfy the American taxpayer. He is entitled to a trial, to find out how much he should pay and how much the contractor should pay.

So, Mr. President, I do hope this amendment is accepted. If this amendment is accepted, it will mean the precedent will be very clear. It means contractors will be put on notice, that it will be evident to them that in the future, if they engage in the kind of waste and extravagance that both Ingalls and Electric Boat engaged in, they can expect to have to pay for it, rather than be bailed out to any extent.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. PROXMIRE. I am happy to.

Mr. METZENBAUM. Would the Senator from Wisconsin tell me exactly the total amount being paid in settlement to these two contractors?

Mr. PROXMIRE. The total amount being paid in settlement now—the Navy has agreed to pay—is $437 million, $125 million to General Dynamics, $312 million to Litton, and that is because of Navy fault; the Navy's delay, the Navy's changes, the Navy's failure to provide adequate information. That is being paid. I am not disputing that.

But, in addition to that, there is $541 million that is proposed to be paid, of which $209 million is in this bill. The rest was already available.

Mr. METZENBAUM. So that under this arrangement, we will be spending more than half a billion dollars——

Mr. PROXMIRE. Over and above the amount the Navy has agreed to pay on the claim. That is correct.

Mr. METZENBAUM. Let me ask my friend from Wisconsin, who I think is providing the Senate with very valuable information and great leadership on this issue, we have been told that if this does not occur, there may be a long court battle which will disrupt the Nation's shipbuilding program and ultimately cost taxpayers more than the negotiated settlement.

I do not understand how or why a long court battle is that disadvantageous to the Government since it seems to me the contractor needs and wants the money.

Second, I do not see in any way possible that can disrupt the Nation's shipbuilding program.

Last, I see no basis whatsoever, unless my friend from Wisconsin can explain to me, how this will ultimately cost the taxpayers more than the negotiated settlement and how anybody knows at this point what the costs are going to be at some point.

Mr. PROXMIRE. The Senator is correct. In all fairness, nobody said it will cost the Government more. They say it may. One Senator indicated at one point, not 50 percent, as in this case, but 91 percent was ordered paid.

But, may I say to my friend from Ohio, I pointed out that was a temporary injunction in which the court could be expected to require the contractor's costs be paid. I was surprised it was not 100 percent for that temporary period.

But there is no evidence, none, that the Government would lose if they went to court on this.

It seems to me, if we have one-half billion dollars at stake, we ought to go to court and fight for it. Even if $1 million is at stake, I would think so. For $500 million, of course we should.

Mr. METZENBAUM. I could not agree more. But I should say to the distinguished Senator from Wisconsin that we have been involved in form, not that it may. But the language of the letter on my desk says in unequivocal language:

> We urge our colleagues to view the General Dynamics settlement in light of the realistic alternative: a long court battle which will disrupt the nation's shipbuilding program and ultimately cost the taxpayers more than the negotiated settlement.

Mr. PROXMIRE. I did not announce the first part, that it will disrupt the Nation's shipbuilding program.

I know the only evidence we have, and the outstanding authority, I presume, is the Secretary of the Navy. He is sympathetic to this settlement, and he would make that argument, if he felt he could.

What did he say? He said in testimony that there is no question in his mind he could require the shipbuilders to perform, and there is no example, none, zero, in which the courts have refused to provide an injunction. In every case they have done that. In no case have they refused to give an injunction requiring the shipbuilder to perform.

There is no question the ships will be built. The only question is whether or not we want to go through this litigation. That is the issue to be decided by the Senate when we vote on this amendment in a few minutes.

Mr. President, if the Senator from Mississippi is ready to yield back his time on the amendment——

Mr. METZENBAUM. Mr. President, is there a limitation of time on this amendment? May I have 5 minutes?

Mr. PROXMIRE. My time is almost exhausted.

Mr. STENNIS. I will yield.

Mr. PROXMIRE. I will yield the Senator 5, I think I have 5. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator has 20 minutes remaining.

Mr. METZENBAUM. I thank the Senator from Wisconsin, and the Senator from Mississippi, for indicating his willingness to yield me 5 minutes.

Mr. President, this is an issue in which I am not going to say I am an expert, because I am not. I think the Senator from Wisconsin has provided very able leadership in bringing the issue to the floor of the Senate.

However, I hear on the floor of the Senate and I read in the newspapers regularly about economy in Government. I hear about people going around the country talking about cutting taxes. I see amendments coming to the floor of the Senate, day in and day out, providing that the President shall be required to balance the budget by a specific date. But every time I see a matter of this kind come to the floor of the Senate, the very people who offer those amendments, who fight for those amendments, who support those amendments, who talk about being the most cost conscious, are those who say to us that we should pay out $540 million in a settlement to which reasonable business people would not agree.

Reasonable business people would let the matter be decided by the courts. Reasonable business people would not let themselves be held over a barrel, as the U.S. Senate apparently was at one point, so much so that a denial had to be issued by the Secretary of the Navy.

This is an instance in which it does not make sense for the U.S. Senate to authorize the payment of this kind of money in settlement of a disputed claim, when the courts have not had an opportunity to adjudicate the issue.

Mr. CHAFEE. Mr. President, will the Senator yield 30 seconds?

Mr. METZENBAUM. I yield to the distinguished Senator from Rhode Island.

Mr. CHAFEE. This is an example of a reasonable businessman's settlement. I think businessmen all over this country shy away from getting into the courts.

We have here, negotiating this settlement, not some bureaucrat, but a man straight from business, the Secretary of the Navy, Mr. Claytor, who was the president of a railroad, and the Assistant Secretary, Mr. Hidalgo.

These are the two men who negotiated this claim, personally. They did not have somebody else do it. They did it themselves. They arrived at the businesslike conclusion that this is the best possible settlement for the United States—not dragging it through the courts forever and ever. So it is a business settlement.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I say to my good friend from Rhode Island, who is a fine Senator and was a great Secretary of the Navy, that I think he will agree that it is one thing when you are dealing with your own corporation's money and it is something else when you are dealing with Federal money, the taxpayers' money.

In this case, I agree that Mr. Claytor and Mr. Hidalgo are fine and able men. But you have an entirely different attitude when you are in a position of dealing with $540 million in a $500 billion budget, on the one hand, and when you are dealing with your own money, and here they are dealing with the taxpayers' money.

Mr. METZENBAUM. I could not agree more.

Probably no legislative body ever has had greater leadership than that we get from the chairman of the Armed Services Committee in connection with trying to economize and to use the American taxpayers' dollars wisely. But the fact is that, day in and day out, we have a failure to use competitive bidding by the military. We have a constant cost overrun. Here we have a situation in which a company comes along and says they are not going to agree to continue to build the ships unless they get a settlement. Then a court injunction occurred, and then a settlement was negotiated as a consequence thereof.

I say that this is not the kind of economy that people in government should provide the American people. This is the kind of situation that should be resolved in the courts.

I do not know what the merits of the issue are but whatever the merits, the American taxpayers have a right to have the matter adjudicated, not to write a blank check for $540 million.

I do not believe it makes good sense, and it certainly does not make for good fiscal responsibility on the part of this body, to authorize the appropriation in this amount.

Mr. PROXMIRE. Mr. President, I am ready to yield back the remainder of my time.

Mr. STENNIS. I will take only 1 minute, Mr. President.

I refer to the fact that the personnel in the Government who were closely connected with this problem over a period of time, and with special responsibilities in connection with it, were the two Navy Secretaries and Mr. Duncan, the Deputy Secretary of Defense. They are all highly capable men, and they came to this conclusion. They put their name and their honor at stake here. That is not a casual thing. It is not a happy, easy thing.

In the Armed Services Committee—and I am not dealing in personalities—13 members were there when it was voted on, after hearing all the testimony by the Navy, by the Department of Defense, by the General Accounting Office, and they had knowledge of these matters in other fields, including the Navy. They voted unanimously and reached the same conclusion, that this was the best settlement that could be made under the circumstances.

The House committee consists of a large group of able men, many of them with a great deal of experience. They heard the facts, the testimony; they heard the General Accounting Office and others; and they voted 24 to 13 and 28 to 9 in favor of going on and settling these disputes and letting us look to the future in shipbuilding.

The General Accounting Office was asked, "what alternative could you suggest?" They said they could not suggest a better method or better way to get at this problem.

So it seems to me that no one is taking any chance with respect to reaching the wrong conclusion or doing the wrong thing in settling these claims.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I yield back my time on the amendment.

Mr. STENNIS. I yield back my time on the amendment.

The PRESIDING OFFICER. All time having been yielded back on the amendment, the question is on agreeing to the amendment. On this question yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. BAKFR. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The result was announced—yeas 15, nays 76, as follows:

[Rollcall Vote No. 403 Leg.]

YEAS—15

Abourezk
Bayh
Biden
Burdick
Clark
DeConcini
Domenici
Hatfield, Mark O.
Melcher
Metzenbaum
Muskie
Proxmire
Riegle
Sarbanes
Zorinsky

NAYS—76

Anderson
Baker
Bartlett
Bellmon
Bentsen
Brooke
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chafee
Chiles
Church
Cranston
Culver
Curtis
Danforth
Dole
Durkin
Eagleton
Eastland
Ford
Garn
Glenn
Gravel
Hansen
Hart
Hatch
Hatfield, Paul G.
Hayakawa
Heinz
Hodges
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Morgan
Moynihan
Nunn
Packwood
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Sasser
Schmitt
Schweiker
Scott
Stafford
Stennis
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tower
Wallop
Weicker
Williams
Young

NOT VOTING—9

Allen
Goldwater
Griffin
Haskell
Hathaway
Helms
McIntyre
Nelson
Sparkman

So the amendment (UP No. 1925) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1926

(Purpose: To provide for audit and review by the Comptroller General of the United States of funds used for the relief of certain contractors)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 1926.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add a new section as follows:

AUDIT AND REVIEW OF CERTAIN FUNDS

SEC. .(a) Any funds authorized by this or any other Act to provide relief to contractors under authority of the first section of the Act entitled "An Act to authorize the making, amendment, and modification of contracts to facilitate the national defense", approved August 28, 1958 (72 Stat. 972; 50 U.S.C. 1431), in connection with contracts entered into prior to the date of enactment of this section for the procurement for the United States of helicopter assault vessels (LHA) and SSN 688 nuclear attack submarines, and paid by the United States to such contractors, shall be subject to such audits and reviews by the Comptroller General of the United States as the Comptroller General shall determine necessary to insure that such funds are used only in connection with such contracts and to insure that the prime contractors concerned do not realize any profit on such contracts.

(b) No funds described in subsection (a) may be used to provide relief to any contractor described in subsection (a), in connection with any contract described in such subsection, to the extent that the use of such funds would result in any profit on such contract, as determined by the Comptroller General of the United States.

(c) The Comptroller General of the United States shall keep the appropriate committees of the Congress currently informed regarding the expenditure of funds referred to in subsection (a) and shall submit to the Congress annually, until the completion of the contracts referred to in subsection (a), a written report on the status of the contracts referred to in subsection (a), on the expenditure of the funds referred to in such subsection, and on the results of the audits and reviews conducted by the Comptroller General under authority of this section.

Mr. STENNIS. Mr. President, may we have quiet, please?

The PRESIDING OFFICER. The Chair will ask the Senator to answer a question for the Chair. Is this one of the 40-minute time limitation amendments?

Mr. PROXMIRE. The Senator is correct.

The PRESIDING OFFICER. I thank the Senator.

Mr. PROXMIRE. This amendment provides for an audit and review by the Comptroller General of funds used for the relief of the two shipbuilders, General Dynamics and Litton.

This amendment contains language similar to that which was incorporated in the law several years ago when financial relief was granted to Lockheed because of the large cost overruns it had incurred on the C-5A aircraft program.

The amendment provides that the financial relief granted to General Dynamics and Litton shall be subject to the audits and reviews by the Comptroller General as he determines necessary to insure that such funds are used only in connection with the contracts on which the claims are based and for which financial relief has been granted.

The amendment goes on to state that the Comptroller General shall insure that the contractors concerned do not realize any profits on the contracts in question.

Some people may say they are not going to realize a profit. The fact is, Mr. President, it would be a relatively simple matter for a contractor to overestimate his losses. The Government comes in and pays half of those estimated losses. The losses turn out to be overestimated by 100 percent, and the contractor in that event, although he has lost a great deal of money, will, in fact, lose nothing.

In fact, as I can show very easily, the contractor can make money out of this even if he has actually lost money unless we make this provision part of this bill.

Finally, the amendment provides that the Comptroller General shall keep the appropriate committees of Congress currently informed regarding the expenditure of the funds provided for financial relief, and shall submit to Congress annual reports of the results of his audits and reviews.

As I mentioned, the purpose of the amendment is similar to the language adopted in the Lockheed case. The contractors have alleged that there will be large losses on specific Navy contracts. The Navy has provided financial relief to the contractors on the basis of the allegations that there will be large losses on the contracts.

That was the whole argument given here, that if there had been a profit on the contract, they say they would not have asked for this kind of a settlement. They say there would be losses.

It stands to reason that the Senate is entitled to assuring itself and the public that, first, the financial relief will be used exclusively by the contractors to finance construction of the ships under the contracts in question; and, second, that the funds being provided for financial relief will not result in profits on these contracts.

Mr. President, it would be intolerable if we were to learn that taxpayers money was used for the financial relief of two contractors who had problems with certain Navy contracts but that the funds were diverted to finance other contracts or commercial activities. The Navy has stated that these funds are necessary for the completion of work on specific ships being built under specific Navy contracts. We have a right to insist that the funds are used to construct those ships and only those ships.

By the same token, the Navy has assured us that the settlement of the claims will result in large fixed losses for the contractors despite the fact that more than half a billion dollars is being granted for financial relief.

The large losses that have been cited by the Navy are hypothetical losses because many of the ships are still under construction and the contracts will not be completed for many months. It is at least theoretically possible for the contractor to end up with large profits rather than losses, with the aid of the financial relief that the Navy has provided.

If the contractor overstated his costs to complete the work on the ships, it might be possible for him to underrun the costs and come in with a profit.

Let me give you an example for simplicity purposes: Supposing that a claim was for $400 million. The claim of loss was $400 million. The Federal Government then pays out $200 million. Say the loss turns out to be $100 million. In that event, the contractor would be profiting to the extent of $100 million, unless we provide this in the bill here which would eliminate that kind of profit.

I do not think there is one Senator out of 100—I do not think there is any Senator here, who would favor providing relief under those circumstances. This would be totally unacceptable and an irresponsible use of public funds. If the contractors need financial relief that is one thing. But the financial relief should not be used for windfall profits. I believe we ought to at least draw the line at that point. We ought not to permit contractors to obtain financial relief on the grounds that they are facing large losses on Navy contracts and end up with profits that they would not have realized without the financial relief.

In summary, all my amendment does is tie up some of the loose ends that remain in the shipbuilding settlements. It provides for GAO audits, for assurance that financial relief will not result in windfall profits and for annual GAO reports to Congress.

I was hopeful the distinguished Senator from Mississippi would accept this amendment, but there may be some difficulty, in which case we will just have to have a rollcall on it. But I am hopeful he will be able to accept it in view of the fact, as I say, it would seem to me to be a completely fair amendment and to meet the arguments which the opponents of the preceding amendment offered when they opposed my other amendment.

Mr. STENNIS addressed the Chair.

Mr. PROXMIRE. Mr. President, I reserve the remainder of my time.

Mr. STENNIS. Mr. President, I yield myself 5 minutes.

With great deference to the Senator from Wisconsin—and I have not seen this amendment yet to read it—I have a memorandum here, a point paper, by a staff member of ours regarding this proposed amendment.

On these large contracts up to the time of the settlement no profits are being made. But if that contract runs on further and they are able to squeeze a little profit out of it, it seems to me they would be entitled to it.

But the main point I make now, Mr. President—I want to wait, without being charged for the time until things can clear up down here. I cannot possibly get the attention of the Chair with the impediments I have to speak over.

The PRESIDING OFFICER (Mr EAGLETON). There will be order in the Chamber.

Mr. STENNIS. The main point I see here, Mr. President, is that this is an involved matter, very much involved, involving these three contracts, requiring audits, checkups about the profits—important points and all. But I think, with all deference, the amendment ought to be curried with many combs by people who are experienced in the field and know auditing procedures, and then get together some hard law after hearings and explanations of how it will work.

As far as I am concerned our committee would be glad to entertain such a bill upon which we could have hearings and try to supplement the law.

Otherwise, I just feel that under the present conditions I would be compelled, after the arguments are completed, to ask the Senate to table this amendment. That would make it a matter without prejudice to being brought up again in the form of a bill.

Mr. President, I yield the Senator from Texas whatever time he may desire.

Mr. TOWER. Mr. President, I support the chairman on this matter. I think it is something that is too complex for us to act on with just a few minutes of floor consideration. It is a matter on which hearings should be held. I frankly am not prepared to make a judgment on the amendment on its merits, and would therefore support the chairman on a motion to table, so that we might at some point in time, in the committee, consider the proposal on its merits.

Mr. PROXMIRE. Mr. President, I yield myself 3 minutes.

The reason this amendment is being offered is because the committee bill contains absolutely no safeguards against what might happen. Here we are, paying $209 million of the taxpayers' money to two different contractors. Why? Because otherwise, it is alleged, they will suffer enormous losses, the largest losses in the history of defense contracting.

But we do not know whether that is true. Therefore, I believe we are setting a dangerous precedent. They were talking about future losses, estimated future losses. Mr. President, if this amendment is not accepted, it seems to me we are really opening up the door to a ripoff of the taxpayers.

Can you imagine what contractors could do in the future? All they have to do is make a huge overestimate.

In this case it may or may not be an overestimate; no one knows. But they may originally make a huge overestimate, settle on a 50-50 basis with the Federal Government and, as I pointed out in the example, they may estimate a quarter of a billion dollar loss, suffer a $100 million loss, and the Federal Government pays them $200 million, and, although they were inefficient and incompetent, they would, by virtue of the overestimate, make a profit of $100 million.

The only other provision here is for a

fair audit to determine that this money is spent on these contracts and these contracts only, and also that we get reports back from the GAO on it. I cannot possibly see any objection to that proposition, and I think we ought to have a rollcall to see whether the Senate feels we ought to give them the same kind of opening in the future. Otherwise, in matters such as this, involving a $541 million payment to be paid, there will be no further opportunity to act on it, on the supposition that there may be losses; but in the end result there may well be a profit.

I think the Senate ought to stand up and be counted on it, and under the circumstances I am ready to yield back my time and have a vote. I do not yield back my time for the moment, however; I reserve the remainder of my time to see what my friends are going to do.

The PRESIDING OFFICER. Does the Senator from Mississippi intend to yield back his time?

Mr. STENNIS. Well, Mr. President, this is a perplexing matter. No one objects to an audit as such, but just to vote in an amendment of this type, when I had not seen it until 3 or 4 minutes ago does concern me. Senator Proxmire mentioned it to me a couple of days ago, or more, and I said, "Well, it might be something we could agree to."

But anyway, the amendment is not clear, as I am advised, as to just how this would apply to profit that was made in the future, after one of these settlements is already made.

The Senator from Wisconsin referred to the fact that you could blow up a situation and get around it and make some profit; but that in itself proves there ought to be more skill in the draftsmanship of legislatioin of this kind.

I do not know what kind of impediment it would be on the Government, how much advantage it would be, or what it would do to a contractor. I just do not know, that is all; I do not have any opinion, no idea about it.

So I feel that I should make a motion to table, with the idea that that would not imperil the future course of the proposal. If this matter were talked out to where it is clear, I might support the amendment in some form. But I do not see how we can just go at it blindly, and pass it now.

Mr. PROXMIRE. May I say to my friend from Mississippi that I do not think we are going at this blindly. We had a long, extended debate this morning, as the Senator knows, for a couple of hours, on the substance of the claims, and that was decided very decisively by the Senate. All I am appealing for, in what I think is a housekeeping amendment, is to make sure that we meet the objectives and proponents and opponents all agreed on, that they should not be able to make a profit out of this particular payment, which was a financial relief payment designed to ease the big losses that otherwise the corporations would suffer, that they will not be able to convert these payments into profits on these particular contracts.

They say there is going to be large fixed losses; that was almost the sole justification given.

Mr. STENNIS. Yes.

Mr. PROXMIRE. The Navy may object to this kind of treatment for Newport News, which is making a profit. Newport News wants to use Public Law 85–804, too, but the Navy may say there is no way to do it for a corporation making profits on their contracts.

All I am saying is, now let us tie that up.

Mr. STENNIS. I repeat, Mr. President, just this: that future change orders should be allowed to include a small profit for that specific work. The amendment may prohibit that even though it would not result in an overall profit.

Mr. PROXMIRE. May I say it would not result in no profit on future change orders. All I say by this amendment is that they shall not have an overall profit on something they said would result in a big loss.

In all the testimony given to us, and I think in all the testimony given to the Armed Services Committee, at no point did the Navy indicate that these companies would achieve a profit, but I want to button it down and make sure they do not in these cases. I cannot imagine a less desirable situation than that they would make a profit on this $541 million relief payment, the only justification for which is that otherwise they would suffer even larger losses which they should not be required to bear.

Mr. STENNIS. Mr. President, this is repetition, but as I see it, the only way to cover that is to have it written out clearly, that they would not be precluded from a profit on any future change orders. Not from any past settlement, but in the future. Until that is accomplished, we just have to move to table the amendment, when the Senator finishes.

Mr. PROXMIRE. Yes, in offering the amendment, I want to make it clear it is not the intention to prevent profits on future change orders. I want to make clear that on these contracts, overall, we will not have General Dynamics and Litton coming in with a profit on the overall situation on which we have paid them $541 million.

Mr. STENNIS. This just proves that that kind of legislation ought to have some kind of combing and testing and consideration before it comes to the floor. To meet that, we just have to move to table, after debate.

Does the Senator from Texas wish full time?

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time consumed be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Melcher). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the pending amendment be laid aside without prejudice and that the time remaining will remain when we resume consideration of it so that I may send another amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3627

(Purpose: To abolish the Women's Army Corps)

Mr. PROXMIRE. Mr. President, I call up amendment No. 3627 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. Proxmire) proposes an amendment numbered 3627.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To abolish the Women's Army Corps)

At the end of the bill add a new section as follows:

ABOLISHMENT OF WOMEN'S ARMY CORPS

Sec. 820. (a) Section 505 of title 10, United States Code, is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (c).

(b) Chapter 307 of such title is amended by striking out section 3071 and by striking out of the table of sections at the beginning of such chapter the item relating to section 3071.

(c) Chapter 331 of such title is amended—

(1) by striking out "; Women's Army Corps" in the catchline of section 3209;

(2) by striking out the subsection designation "(a)" at the beginning of subsection (a) of section 3209 and striking out subsection (b) of such section;

(3) by striking out section 3215;

(4) by striking out "and the Women's Army Corps" in clause (1) of the third sentence of section 3220; and

(5) by striking out in the table of sections at the beginning of such chapter "; Women's Army Corps" in the item relating to section 3209 and by striking out the item relating to section 3215.

(d) Chapter 335 of such title is amended—

(1) by striking out ", in the Women's Army Corps," in subsection (a) of section 3283 and by striking out "and the Women's Army Corps" in subsection (b) of such section;

(2) by striking out clause (2) of section 3296(b) and redesignating clause (3) as clause (2);

(3) by striking out in the third sentence of section 3297(a) "a selection board considering promotion-list officers of the Women's Army Corps under section 3300 (a) or (b) of this title may include officers of the Regular Army in that corps whose regular or temporary grades are above major, and ";

(4) by striking out section 3311; and

(5) by striking out in the table of sections at the beginning of such chapter the item relating to section 3311.

(e) Chapter 337 of such title is amended—

(1) by striking out "and the Women's Army Corps" and "or corps, as the case may be" in the first sentence of section 3363(g) and by striking out "or the Women's Army

Corps" in the second sentence of such section;

(2) by striking out "and the Women's Army Corps" in section 3364(a);

(3) by striking out "or to the Women's Army Corps" and "or corps" in section 3364 (b);

(4) by striking out "or to the Women's Army Corps" in section 3364(c); and

(5) by striking out the second sentence of section 3383(b).

(f) Chapter 345 of such title is amended by striking out section 3580 and by striking out in the table of sections at the beginning of such chapter the item relating to section 3580.

(g) Section 3818 of such title is amended—

(1) by striking out clause (2) of subsection (a) and inserting in lieu thereof the following:

"(2) the appointment of a female warrant officer, or the enlistment of a female member, of the Regular Army."; and

(2) by striking out "of the Women's Army Corps" in subsection (c).

(h) Section 3848(d) of such title is amended by inserting "or" before "the Army Medical Specialist Corps" and by striking out "or the Women's Army Corps,".

(i) Section 3916(b) of such title is amended—

(1) by inserting "and" at the end of clause (1);

(2) by striking out "Women's Army Corps," in clause (2);

(3) by striking out the semicolon and the word "and" at the end of clause (2) and inserting in lieu thereof a period; and

(4) by striking out clause (3).

The PRESIDING OFFICER. Will the Senator from Wisconsin advise the Chair if this is one of his three remaining amendments?

Mr. PROXMIRE. Yes. This is one of the amendments which has 20 minutes on a side.

The PRESIDING OFFICER. The time for debate on this amendment is 40 minutes equally divided.

Mr. PROXMIRE. Mr. President, this amendment would abolish the Women's Army Corps and allow for a simpler, fairer system of administering Army personnel.

The proposed legislation would eliminate the statutory requirement for a separate promotion system, the appointment in commissioned grades of women to the Women's Army Corps, and the enlistment of women in the Regular Army only in the Women's Army Corps. The positions of Director and Deputy Director of the Women's Army Corps were abolished by a Department of Defense reorganization order of March 7, 1978, but the statute requiring those officers remains in the Code. This legislation would delete that now-superfluous statute.

This legislation has the blessing of the Office of Management and Budget. It is a part of the Department of Defense legislative program and has the active support of the Department of the Army. In fact, the Army has urged that this proposal be considered and acted upon at the earliest possible moment. I have distributed to each Senator a copy of the letter which I received Friday from Secretary of the Army Alexander reaffirming his support for this amendment.

It is easy to understand why the Army desires this legislation. Currently, women may be detailed to all branches within the Army with the exception of Infantry and Armor. There is no present intent to assign women to the mentioned combat arms branches, and this legislation would not require sending women into combat. Nor would it make it easier for women to press for entry into these forbidden branches.

It would merely allow the Army to assign women routinely to the branch where they plan to make their career. Thereafter, their management and career development would be handled just like their male counterparts.

WOMEN NOW AN IMPORTANT PART OF THE ARMY

Fiscal year 1978 figures show that 6,378 of the Army's officers are women (6.58 percent) as are 51,000 of the Army's enlisted soldiers (7.58 percent). In 1984 these figures will rise to 12,283 officers (12.29 percent) and 80,000 enlisted (11.67 percent). As the Army accepts more and more women, the current dual system makes less and less sense.

I think we recognize the only way the Volunteer Army can succeed is to be able to recruit women. We found that women have greatly improved the quality of the military from almost every standpoint. Their record of absenteeism has been much better, their intelligence tested higher, their educational background has been better, and I think anybody will recognize that the overwhelming majority of jobs in the military can be handled just as well by a female as by a male.

Women are trained alongside their male counterparts in the Army and work every day with men in the Army. Women officers command males, and male officers command women. There are women military police who patrol, stand guard, and routinely perform the various duties of their male counterparts in the Military Police Corps. Women perform as truck drivers, mechanics, personnel administrators, finance clerks, military attorneys, signal technicians and in many other functions in the Army to maintain an effective military organization.

Imagine a separate personnel system for blacks or Catholics or Chicanos. The country would not stand for such a thing.

The Army reflects our population in the United States, and women in the Army are vital to the continued proficiency of Army operations. The maintenance of a separate branch for women in the Army precludes the most efficient organizational structure.

UNNECESSARY REDTAPE

Male line officers of the Regular Army are appointed directly to a particular branch according to their professional qualifications and the needs of the Army.

Under current statute, however, Regular Army women officers may be appointed only to the Women's Army Corps.

Thus, for example, male line officers may be appointed "Regular Army, Corps of Engineers," while their female counterparts must be appointed "Regular Army, Women's Army Corps" and then detailed to the Corps of Engineers.

This two-step process makes no sense. Since 1974 the same personnel managers have handled male and female assignments, but even so, the Army's automated files still must maintain a separate Women's Army Corps designation.

Within this awkward arrangement is a perceived inequality—an unnecessary distinction between male soldiers and the female soldiers who work side-by-side with them.

Moreover, when it is time to consider Army women officers for promotion, a separate special Regular Army consideration board must be convened and a separate promotion list maintained within the Department of the Army. And this is where a serious question of fairness comes into play.

CURRENT SYSTEM UNFAIR TO MEN AND WOMEN

Although women competing within the WAC promotion list are given the same promotion rate as their male counterparts on the Army promotion list, inequities can occur. For example, a selection board considering 15 WAC officers for promotion to captain using a 90-percent selection rate can select only 14 for promotion. An unfair disadvantage occurs if the one WAC who is nonselect has a stronger record and greater potential than many of her male counterparts who are selected because they are competing separately.

Conversely, an unfair advantage occurs when the overall quality of the WAC promotion list is lower than the Army promotion list and WAC officers are selected who have less potential than their male counterparts who are not selected, again because they are competing separately.

If my proposal is enacted, the Army will be able to institute a fairer system with less redtape.

NOW IS THE TIME TO ACT

The Women's Army Corps is the last vestige of a segregated Military Establishment. The Marine Corps has abolished the separate administration of the Women Marines. There are no more WAVES or WAF's. That is, there is no separate corps for female naval personnel or Air Force personnel.

All that the Army is asking is that it be allowed to streamline its system as the other services have done.

In anticipation of statements that the Senate has not had time to study this proposal, let me say that this same legislation is contained in DOPMA, the Defense Officer Personnel Management Act, which has been before the Congress since 1974.

I have opposed DOPMA, which is an immense, complicated revision of title 10 of the United States Code, believing that such a massive revision should be approached with caution.

But this particular section of DOPMA has great merit. It is not complicated; it seeks merely to simplify complex administration regulations currently in use. And it seems to me that it is unnecessary to hold this legislation captive until the Senate decides to act on DOPMA as a whole.

Mr. President, I hope that the Senate will support my position on this matter, which is to say the administration's and the Army's position.

WAC's have served this country with great courage and effectiveness. Women will continue to serve our country in the military—but in the mainstream of the services, without restrictions on their service, without special privileges, or special obstacles to their advancement.

This legislation would benefit women by removing bureaucratic obstacles to assignment and promotion; it would benefit the Army by streamlining personnel administration; and it would benefit the Nation as a whole by making it easier for the Army to field a strong, efficient, fighting force.

Mr. President, I am almost through. I shall take just 1 more minute to read a letter from Clifford Alexander, Jr., Secretary of the Army, dated 22 September 1978.

DEAR BILL: This letter is to reconfirm my personal support for the proposed legislation to amend Title 10, United States Code, to abolish the Women's Army Corps (WAC), which we submitted to the Congress on 12 July 1978.

It is my understanding that you intend to introduce this legislative proposal in the Congress on the 26th of September 1978 as an amendment to the 1979 Defense Procurement Authorization Bill. The WAC legislation is of greatest importance to the Army in achieving full utilization of men and women to the maximum extent of their talents. I support your effort for its passage during this Congress.

Your assistance is deeply appreciated.

Sincerely,

CLIFFORD L. ALEXANDER, Jr.

Mr. President, I reserve the remainder of my time.

Mr. STENNIS. Mr. President, this amendment, no doubt, is important. I think it is important. Our committee knows who runs the country; namely, the ladies. But this matter is of import. I had not heard of it until some time this morning. One of the purposes of the committee is to have a chance to make a study and have the staff help and so forth. Here we have the Army come in and say they like this and so forth, but they have not told the committee that. They have not come before us and we have had no hearings. I think this ought to be cleared up and changed. But there is a way to do those things.

They forget, we have a committee over here—maybe. They do not take seriously these matters and give the committee a chance to get into this and see what we recommend at the proper time. With great respect to the Senator from Wisconsin, I am going to move to lay this amendment on the table. I had already mentioned the subject matter to the Senator from Texas.

Mr. TOWER. Mr. President, I agree with the Senator from Mississippi. I agree that this should be done; I agree totally with the thrust of what the Senator from Wisconsin is trying to do. However, this is one of the matters contained in the omnibus DOPMA measure. It should not be placed in this procurement bill.

I certainly support any attempt to bring this out as independent legislation and to do so very shortly. The matter has not come before the committee in this form as independent legislation, so I think it would be unwise for us to try to deal with it on the floor.

Mr. STENNIS. We have a subcommittee that looks after personnel matters in a special way.

Mr. TOWER. I do want to go on record as favoring what the Senator from Wisconsin is trying to do. I do agree it should be done.

Mr. STENNIS. There is a better method of doing it, though, as I said. I favor the subject, too.

Mr. TOWER. Right.

Mr. PROXMIRE. Mr. President, the Senator from Mississippi makes a very powerful point to the Senate. I am chairman of a committee and I certainly expect that the Senate will respect the committee and give us an opportunity to act on these things. At the same time, as chairman of a committee, having been here more than 20 years, I recognize that Senator are free to bring up amendments. It is a matter of whether the Senate as a whole feels there has been enough time to consider it. As both Senators concede, this is in legislation that came up 4 years ago, the DOPMA legislation. Furthermore, it was in the Army's budget request this year. It has been before the committee for some time. I have not heard any substantive argument against it. Both Senators indicate that they favor the thrust of the amendment.

It is very simple. It is precisely what the Secretary of the Army has said to me in a letter that he wants. The Office of Management and Budget say they want it. Certainly, women in this country are entitled to it. It is something that the Marine Corps and the Air Force have already done. This is the only remaining vestige of this kind of separation and separate treatment. Of course, you can imagine why women in the military resent it.

Incidentally, the military is the biggest employer in this country. It is bigger than any corporation or any agency of the Government. It employs 2 million people. We should do everything we can to let women know that they have an equal opportunity to serve and to compete. The WAC prevents that, as I pointed out in my initial statement.

I should think something this straightforward, simple, clear, supported by the administration, considered at great length by the administration, that has been before the Senate for 4 years—under the circumstances, it seems this kind of amendment should be acceptable to the Senate and I hope we can accept it.

Mr. STENNIS. Mr. President, if I may, I yield myself 1 minute.

This shows we should not bring these matters up piecemeal when they have not been studied. I learn now that, as part of a larger bill, this item is under active consideration by our committee. Senator NUNN is chairman of our personnel subcommittee and he is digging rather deeply into this bill to which the Senator refers. The Army says that they approve the idea, but they do not need it for this year. Those are the exact words, as I understand them. So that really cancels out the Army's recommendation so far as this bill is concerned and goes to prove further that these things have to be checked out and ironed out.

Also, here is the Navy. What are we going to do about the Navy? They have special groups or a special corps. They are going to be considered, too, in the other bill, but not by this amendment.

Mr. PROXMIRE. Mr. President, I yield myself 2 minutes.

I think that the issue here is whether we should act this year. I am sure that the distinguished Senators, the chairman and the ranking minority member of the Armed Services Committee, are honest and will do their best to get this out sometime later. But the Army has asked for it now. The people involved want it now. They need it now. Nobody has said there is anything wrong with this. The Navy has already done this, the Marine Corps has already done it. Under these circumstances, Mr. President, I think I simply have to persist in urging that the Senate vote up or down on this amendment. If the Senator wants to move to table, I shall just have to ask for a rollcall on that motion.

I understand that in order to move to table, we have to yield back our time.

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. Mr. President, I yield myself one-half minute.

We can yield back our time and get a rollcall order, but defer it until we have some more passed on. Can we do it back to back?

Mr. PROXMIRE. That is fine.

Mr. STENNIS. Mr. President, we have debated this amendment and, as I understand it, the Senator is agreeable that we yield back our time now. Then I shall move to table.

Mr. PROXMIRE. Mr. President, before I yield back my time, I want to be sure of the parliamentary situation.

I understand the intent of the Senator from Mississippi is that we yield back out time, that he make a motion to table, but that we not have a vote right away; instead, that we consider these other amendments and have votes back to back.

That is fine. I think it is much more efficient to accommodate the Senate. But I want to be sure the parliamentary situation is such that can be done properly by unanimous consent.

The PRESIDING OFFICER. It can be done that way, by unanimous consent, but the unanimous-consent request——

Mr. PROXMIRE. Then I ask unanimous consent that the Senator from Mississippi and I be allowed to yield back our time, that he be allowed to make a motion to table, that we be allowed to ask for the yeas and nays, but that the actual rollcall vote will take place after we debate another amendment that is pending.

Mr. TOWER. Reserving the right to object——

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, it is the custom of the leadership to accommodate the minority on Tuesdays at this period of time when their Policy Committee meeting is held.

Mr. BENTSEN. Will the Senator use his microphone?

Mr. TOWER. Therefore, what we

would like to do is postpone any votes until 2 o'clock in the afternoon.

What I would suggest is that we go ahead and proceed to debate these amendments. It is not necessary to ask unanimous consent, because I believe, probably, there will be enough debate to occupy us until 2 o'clock, but, if the amendments can be temporarily laid aside, otherwise I will be glad to propound a consent agreement to the effect that any votes on amendments not occur until 2 o'clock.

The PRESIDING OFFICER. Does the Senator from Wisconsin with to modify his request?

Mr. PROXMIRE. I am happy to modify it to accommodate the distinguished Senator from Texas and ask, in addition to my request, the vote not occur before 2 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator's request is to temporarily lay aside the amendment, is it not?

Mr. STENNIS. I thought while we were at it, we could just yield back the time, I would make the motion to table, and that would automatically be before us.

Mr. PROXMIRE. As I understand it, this is on the Women's Army Corps amendment only that we are yielding back our time on. We did not yield back on the other amendment.

The PRESIDING OFFICER. That is correct.

Is all time yielded back?

Mr. STENNIS. I yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. STENNIS. Mr. President, I now ask unanimous consent that I may make a motion to table the amendment with the understanding we will later ask for the yeas and nays and have the vote later

The PRESIDING OFFICER. The Senator does not need unanimous consent to make the tabling motion.

Does the Senator make the tabling motion at this time?

Mr. STENNIS. Yes.

Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion to table and the vote will not occur prior to 2 p.m.

Mr. PROXMIRE. Mr. President, I wish to ask for the yeas and nays on the tabling motion. I understand the unanimous consent permits me to do that.

The PRESIDING OFFICER. The Senator may do it now or at a later time.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the tabling motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. PROXMIRE. Then I will renew my request later.

Mr. STENNIS. Mr. President, I understand now the vote will be deferred until 2 o'clock, at least.

Mr. TOWER. That is right.

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. All right.

Mr. President, we thank the Senator. If there are other matters now that anyone wants to bring up, we might take them up now.

UP AMENDMENT NO. 1926, AS MODIFIED

Mr. PROXMIRE. Mr. President, we have been debating the amendment I called up that would have provided for two things, principally. One is a GAO audit to assure us that the $541 million agreed by defeating my amendment previously could be paid these two firms will be used only on certain contracts on which there will be no overall profit, and that the GAO make reports to us on this matter.

That amendment I will modify. We have not ordered the yeas and nays. I guess there is a time agreement. So I would have to have unanimous consent to modify it.

On page 2, line 11, I would add after LHA, "DD–963 vessels," and then on the same page, line 18, so that I say "that the prime contractors concerned do not realize any total overall profit on such contracts."

So that it is not simply a matter of my expressed intent, which was that, but that the statutory language specify that I am talking about total overall profit, not profit on specific future changes.

The PRESIDING OFFICER. Is there objection to the Senator's modification of the amendment?

The Chair hears none. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the end of the bill add a new section as follows:

AUDIT AND REVIEW OF CERTAIN FUNDS

SEC. . (a) Any funds authorized by this or any other Act to provide relief to contractors under authority of the first section of the Act entitled "An act to authorize the making, amendment, and modification of contracts to facilitate the national defense", approved August 28, 1958 (72 Stat. 972; 50 U.S.C. 1431), in connection with contracts entered into prior to the date of enactment of this section for the procurement for the United States of landing helicopter assault vessels (LHA), DD–963 vessels, and SSN 688 nuclear attack submarines, and paid by the United States to such contractors, shall be subject to such audits and reviews by the Comptroller General of the United States as the Comptroller General shall determine necessary to insure that such funds are used only in connection such contracts and to insure that the prime contractors concerned do not realize any total overall profit on such contracts.

(b) No funds described in subsection (a) may be used to provide relief to any contractor described in subsection (a), in connection with any contract described in such subsection, to the extent that the use of such funds would result in any profit on such contract, as determined by the Comptroller General of the United States.

(c) The Comptroller General of the United States shall keep the appropriate committees of the Congress currently informed regarding the expenditure of funds referred to in subsection (a) and shall submit to the Congress annually, until the completion of the contracts referred to in subsection (a), a written report on the status of the contracts referred to in subsection (a), on the expenditure of the funds referred to in such subsection, and on the results of the audits and reviews conducted by the Comptroller General under authority of this section.

The PRESIDING OFFICER. Is the Senator reoffering the amendment at this time?

Mr. PROXMIRE. Yes.

Mr. President, I had asked unanimous consent it be laid aside. I ask unanimous consent now that we resume consideration of that amendment.

The PRESIDING OFFICER. The Senator has the right to call up his amendment.

The amendment as modified is now before us.

Mr. PROXMIRE. Mr. President, I will speak very briefly on this because I understand we have discussed it in some detail.

What this amendment would do would be, No. 1, to assure that on these two contracts overall, on which we have just indicated we would permit a $541 million settlement to be made above the amount that the Navy experts say would be owing to the contractors, that no overall profit would be permitted, and that the GAO audit the contract to make sure that the $541 million is spent on the contracts in question and not on other business of the contractor's, and that the GAO will make regular reports to the Armed Services Committee and Congress.

It seems to me those are very modest, limited, housekeeping provisions which would meet the intent of virtually every Senator.

I hope we have the opportunity to accept that. The chairman has indicated he feels it is complicated and that it would somewhat confuse the bill. It is my understanding he will offer a motion to table that amendment. When we vote on the WAC amendment, I presume we will vote on this tabling motion, too.

Mr. STENNIS. That is right.

Mr. PROXMIRE. Under those circumstances, I am willing, if the Senator from Mississippi is, to yield back the remainder of my time on the amendment.

Mr. STENNIS. I yield back the remainder of my time with the understanding we have a motion to table thereon and a vote when the others come.

The PRESIDING OFFICER. Does the Senator from Mississippi make such a request?

Mr. STENNIS. Yes, I make such a request.

The PRESIDING OFFICER. Without objection——

Mr. ROBERT C. BYRD. Reserving the right to object, what is the request?

Mr. STENNIS. Mr. President, I say to the leader, I am glad he came in. We have had up two amendments that were somewhat surprising to us.

We worked on this language. We debated it some. We agreed the rollcalls would be deferred, though, until 2 o'clock. We have the minority conference going on. That was one reason.

The interim time I am expecting to be

used on another proposal here that can be debated, and perhaps it would be 2 o'clock before we concluded that.

Mr. ROBERT C. BYRD. I think that is a wise suggestion.

Mr. STENNIS. We were not deviating, but trying to move it forward.

Mr. ROBERT C. BYRD. I think that is wise.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from Mississippi care to make the tabling motion now?

Mr. STENNIS. No, Mr. President. I thank the Chair.

I think the Senator from Texas has in mind asking for the floor.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3622

(Purpose: To increase funds for the procurement of certain naval vessels)

Mr. TOWER. Mr. President, I call up my amendment No. 3622.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Texas (Mr. TOWER) proposes an amendment numbered 3622:
>
> On page 2, line 19, strike out "$4,470,500,000" and insert in lieu thereof "$5,555,500,000, of which $1,918,100,000 may be used only for the procurement of ten FFG guided missile frigates and $700,000,000 may be used only for the procurement of one landing helicopter assault ship (LHA).".

The PRESIDING OFFICER. There are 2 hours on this amendment, equally divided between both sides.

Mr. TOWER. Mr. President, there is an error in the printed version of the amendment, on line 4. The figure $700,000,000 should be deleted, and the figure $770,000,000 should be substituted. I modify my amendment to that extent.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. TOWER. It does not require unanimous consent, unless the yeas and nays have been ordered.

The PRESIDING OFFICER. The Senator is not correct because there is a specific time agreement on the Senator's amendment and that constitutes Senate action on the amendment.

Mr. TOWER. Mr. President, the purpose of this amendment is to add two FFG guided-missile frigates and one landing helicopter assault ship (LHA) to the Navy's fiscal year 1979 shipbuilding program. The cost of these three ships is $385 million for the two frigates and $700 million for the LHA. The bill already contains $70 million for long-lead procurement items for the LHA.

We are all aware that the President vetoed the first authorization bill the Congress sent to him, because of the nuclear aircraft carrier. Personally, I do not agree with the President's view on the CVN. I believe an additional large-deck carrier is required and that such a carrier should be nuclear powered, but that is an issue we can face in the next Congress.

However, I did note the President said in his veto message, when he referred to the CVN, that—

> We need a fleet that includes more vessels that can perform the Navy's mission but that are not, as this one would be, so designed as to be prohibitively expensive to build.

Certainly I agree that more ships are required and that is what my amendment attempts to do.

Let me review the fiscal year 1979 shipbuilding program contained in the bill now before the Senate. This bill, I regret to say, contains only nine combat ships: eight guided missile frigates and one SSN-688 attack submarine. This has to be one of the lowest shipbuilding authorizations in recent years.

In addition, the administration, in a budget amendment, asked to delete the one SSN-688 attack submarine in this bill and transfer the funds to Navy's cost growth (claims) account. This budget amendment, while not accepted, would have further reduced the number of combatants this year to only eight. However, I am pleased to note that this was not accepted and the committee added an additional $209 million for the settlement of claims.

The situation is not going to get any better next year. In the fiscal year 1980 budget, the administration plans to request only 10 combat ships, and included in that number is the small conventionally powered aircraft carrier, the CVV, which may or may not actually be requested. The other ships planned for request are five EFG's, one DDG-47, one SSN-688 attack submarine, and one Trident submarine.

Mr. President, it appears the Navy's shipbuilding program may be in for further cuts. In an article by L. Edgar Prina, entitled "Navy Shipbuilding Suffers Setback," that appeared in the San Diego Union on September 14, 1978, Mr. Prina reports that—

> The Carter administration plans to cut the Navy's five-year shipbuilding plan for the second consecutive year, this time to a new total of 65 ships, an average of 13 per year.

I would point out that the 13 per year also includes support ships, so the number of combat ships to be requested each year is going to be even less.

Mr. Prina indicates his data comes from, "a secret memorandum that Navy Secretary W. Graham Claytor, Jr., sent to Defense Secretary Harold Brown in response to fiscal guidance from the Defense Department for fiscal year 1980-84 programs."

Mr. President, it was only last year that this administration indicated a 5-year shipbuilding program for 160 new ships, and 30 of those were going to be requested in the 1979 budget. That 160-ship program was even 3 ships more than the Ford administration's 5-year program, and would have supported a 600-ship Navy to provide the numbers of combat vessels necessary to meet the increasing Soviet threat. However, the Carter administration did not stick to that plan, and the actual fiscal year 1979 request was for 15 rather than 30 ships. The administration had reduced its 5-year program by more than half, from 160 ships to 70 ships. Now Mr. Prina is reporting the administration's revised 5-year program is being reduced to 65 ships.

Mr. President, I request unanimous consent that the article by Mr. Prina be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. PROXMIRE. I simply want to try to clarify the parliamentary situation.

It was my understanding, in asking for the unanimous-consent request, that the votes would occur sometime after 2 o'clock. I think that was the understanding of the Senator from Texas and the Senator from Mississippi.

Mr. TOWER. That is correct.

Mr. PROXMIRE. The Parliamentarian tells me that it was his understanding that the vote would occur at 2 o'clock, precisely.

The PRESIDING OFFICER. The Chair understood that it was after 2 o'clock.

Mr. PROXMIRE. Fine. Is that clarified now? I thank the Senator.

The PRESIDING OFFICER. The vote will not occur prior to 2 o'clock. It will occur sometime after 2 o'clock.

Mr. TOWER. Mr. President, in view of the reduced number of combatants that will be requested over the next 5 years we must not pass up the opportunity to add needed combat capability to Navy's shipbuilding program. The opportunity is in this bill and the addition would not exceed budget resolution ceilings.

Let me address the concern that the House would object to the addition of anything to the bill and that such additions by the Senate would complicate and prolong a conference. Of course, only the ships would be in conference, with the exception of one language disagreement, and we would be able to determine very quickly whether the House would accept. There would be no trading, other than the House might suggest taking only part of the package.

Let me assure the chairman of our committee that I would not move to delay or stall the conference if the House would not recede. The chairman has my word on that.

Mr. President, it was suggested in our committee markup of this bill that these ships I am proposing today might, more appropriately, be added to a supplemental bill. I do not accept that because, primarily, a supplemental request is really a sort of emergency request. A supplemental is supposed to cover those matters that have arisen since the original request was made and cannot wait until the next year's budget.

Of course, we can add whatever the majority agrees to on any supplemental, but that is not the appropriate bill, in my opinion. More importantly, there is no assurance of when, or if, a supplemental will be submitted. Secretary Brown, in his appearance before our committee, could not tell us the answer to that question.

So, Mr. President, I have no assurance of when, or if, a supplemental will be submitted, and I have no assurance my amendment would be acceptable then rather than now. If the requirement for these ships is valid, and it is, then their being added to this bill should be just as acceptable as their being added to a supplemental. Actually, even more so.

In prior years, 26 FFG's have been authorized and funded, 8 were requested for fiscal year 1979 and the remaining 18, for a 52-ship total, are in the current 5-year defense plan. The addition of the two FFG's, as I am proposing, would not change the total number of ships planned but would merely expedite the planned acquisition and more quickly provide the number of combat ships Navy requires.

Turning to the LHA, the vetoed bill contained authorization to convert an LPH amphibious ship to a light carrier (V/STOL support ship) at a cost of $45 million. In approving that conversion, our committee recognized that one additional LHA would be required to make up the shortfall in lift created by the LPH conversion, and the bill now before the Senate provide $70 million in long lead funding for an LHA.

Mr. President, the Senate Armed Services Committee indicated in its report on the authorization bill that providing the $70 million long lead was a firm commitment to full funding of a sixth LHA in fiscal year 1980. The language is quite clear in the report that the committee expects to replace the LPH that is being converted to an amphibious ship, with an LHA. That was part of the package that was agreed to in committee.

Now it is obvious the administration is not going to request an LHA next year, and I have already indicated what is planned to be requested. In fact, no LHA is included in the administration's 5-year shipbuilding program. Therefore, now is the proper time for the Senate to authorize this ship, based on the recommendation of the Armed Services Committee that a sixth LHA is required. I can assure my colleagues that there will be funding problems in next year's bill and I do not want to see the LHA have to compete against other systems that have been requested, especially when it was the action of our committee that created this shortfall in the Marine Corps' amphibious lift capability by authorizing the conversion of the LPH.

In summary, my amendment to add three combat ships to this bill, two for the Navy and one for the Marine Corps, takes advantage of the $1.9 billion that was deleted for the nuclear aircraft carrier. The amendment attempts, in a small way, to meet the request of the President that he wants a fleet that includes more vessels that can perform the Navy's mission, but that are not prohibitively expensive to build. The two FFG's are not prohibitively expensive to build, nor are they in addition to the current 5-year shipbuilding program. Their authorization this year would merely bring them into the inventory sooner than now planned. The LHA is included because its requirement was created as the result of the bill authorizing conversion of an LPH amphibious ship to a light carrier V/STOL support ship, thus creating a shortfall in Marine Corps amphibious lift.

Mr. President, if we are going into the 1980's and 1990's and have a Navy that is capable of performing its multifarious missions and a Navy that is comparable in capability to that of the Soviet Navy, we are going to have to proceed apace with a modernization of our Navy and increasing the number of Navy vessels.

I believe that the modernization of the Navy is an urgent matter and I, therefore, urge the Senate to accept this amendment.

EXHIBIT 1

NAVY SHIPBUILDING SUFFERS SETBACK

(By L. Edgar Prina)

WASHINGTON.—The Carter administration plans to cut the Navy's five-year shipbuilding program for the second consecutive year, this time to a new total of 65 ships, an average of 13 per year.

This was indicated in a secret memorandum, (a copy of which was shown to Copley News Service) that Navy Secretary W. Graham Claytor Jr. sent to Defense Secretary Harold Brown in response to fiscal guidance from the Defense Department for fiscal 1980 and 1980–1984 programs.

The current five-year shipbuilding program (fiscal years 1979–83) calls for construction of 70 ships, 16 of them auxiliaries, for an average of 14 per year.

In his message vetoing the 1979 defense authorization bill and its $2 billion, 95,000-ton nuclear aircraft carrier, President Carter asserted that barring construction of the big ship would allow the Navy to buy larger numbers of smaller ships which it urgently needs. He apparently meant at some time after 1984.

On May 19, 1977, Mr. Carter announced a five-year program for 160 new ships, with 30 of them to be built in fiscal 1979. But the Navy was permited to request only 15 when the 1979 budget went to Capitol Hill last January.

Only 10 ships are listed for the 1984 program: two Trident ballistic missile submarines, one nuclear attack submarine, two DDG–47 Aegis missile defense destroyers, three guided-missile frigates, one amphibious ship of the new LSD–41 class, and one new class destroyed.

Claytor told Brown that the 1980 Navy program would provide maritime forces "marginally superior" to those of the Soviets in the early 1980s, but he warned that the unfavorable trend could tip the balance toward them.

Claytor told Brown the Navy's budget for shipbuilding has been cut back by $9 billion.

This extremely austere shipbuilding program is almost certain to be greeted with derision by the House and Senate armed services panels next January. The committees, still feeling the wounds of the Carter veto of the 1979 defense authorization bill because it included a nuclear carrier, have been highly critical of the administration's "failure" to request what they believe to be an adequate naval ship construction program.

Claytor said the Navy planned to retire three older cruisers in 1980 and to cancel the modernizations of 13 guided missile destroyers and cancel or delay virtually all Marine Corps modernization programs not yet begun, because of fiscal constraints.

Claytor was concerned, too, about personnel. He said recruiting problems would require a reduction in enlisted personnel to 465,000 (from a planned 478,000) for 1980.

"This projected inability to recruit to the numbers required points up vividly the increasing difficulty we will face in the eighties with a decrease in the size of the national manpower pool."

The secretary also noted in his memorandum that the Navy would experience "a shortage of about 20,000 midgrade petty officers in critical ratings," although manning in the fleet and Fleet Marine Force would remain near 100 percent. But he added:

"The Marine Corps will cadre nine additional rifle companies, bringing the total number in cadre to 27, which is 25 percent of all rifle companies in the active structure" (of all services).

Mr. THURMOND. Mr. President, I rise in support of the pending amendment by the senior Senator from Texas (Mr. TOWER) which adds to the military procurement bill funds to authorize three ships.

These vessels include two FFG guided missile frigates and one landing helicopter assault ship.

Mr. President, the total amount of this proposal is about $1 billion which, if accepted, would provide a new authorization of about $36 billion, still well below the vetoed bill.

The addition of these two FFG's would not change the total number of ships planned, but would merely expedite the planned acquisition and more quickly provide the number of combat ships the Navy requires. These ships are part of a larger program of which 26 have already been authorized and funded.

On the LHA addition, the Armed Services Committee had provided $70 million in long-lead funding for a sixth LHA in the vetoed bill which was a firm commitment to full funding in fiscal year 1980. Since the committee supports a sixth LHA for the Marine Corps, I believe we should take advantage of the opportunity now before us and authorize a sixth LHA this year.

Mr. President, in vetoing the first military procurement bill to strike the nuclear carrier, President Carter argued that this step was necessary in order to obtain more ships for the Navy. This amendment moves in that direction and enables us to have a bill more in line with the budget level sought by the President and an even higher budget level approved by the Congress.

I urge the Senate to favorably consider this amendment. If we fail to do so we will be passing a military authorization bill well below the budget resolution of the Congress and even below the request of the President.

The PRESIDING OFFICER. Does the Senator from Mississippi yield time?

Mr. STENNIS. Mr. President, I yield, but first the Senator from Colorado is here. He wishes to ask a question as I understood.

Does the Senator from Colorado wish to proceed now?

I was going to make a short argument.

Mr. HART. Mr. President, I request the chairman to yield to me 3 minutes on his time.

Mr. STENNIS. I yield 3 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 3 minutes.

Mr. HART. Mr. President, I am in full agreement with the purpose of the amendment offered by the Senator from Texas relating to the funding of the LHA. We are committed to building a sixth LHA as part of what the Senator from Texas has rightly identified as a vital important light carrier program, a program to provide our Navy with a larger number of smaller aircraft carriers. In order to move ahead quickly with the light carriers, this bill provides for the conversion of an LPH-class amphibious ship as the first of those light carriers.

To prevent this conversion from reducing Marine Corps amphibious lift, the bill also provides long-lead funds for another LHA. In that way, we are committed to build this LHA, and the only question is whether to provide full funding this year.

The reasons for providing full funding this year are also compelling. If a final large carrier is authorized next year—and the President has stated he will request one in his fiscal year 1980 budget—we face the prospect of a shipbuilding budget almost double that of this year. Clearly, there will be less budgetary impact if the LHA is funded this year.

However, while I believe we should full-fund the LHA this year, I do not believe this bill is the appropriate vehicle for doing so. Unless we can move this bill through quickly, and avoid a joint conference with the House, it will be extremely difficult for the Appropriations Committee to provide an appropriations bill in time to avoid a continuing resolution. A continuing resolution would have a severe negative impact on many programs, for the Navy as well as the other services. In particular, vital R. & D. programs would be slowed down, at a time when we need to move quickly to maintain our technological superiority over possible opponents.

Therefore, although I am in full agreement with at least part of the purpose of the amendment, I feel compelled reluctantly to not support it.

However, I am ready to join immediately with the Senator from Texas to begin work on a supplemental fiscal year 1979 authorization bill, if the chairman of the committee and our other colleagues on the committee are in agreement with that approach which will include full funding for the LHA. In my view, a supplemental is the correct vehicle for providing these funds. It will take some of the strain off the fiscal year 1980 shipbuilding budget, and at the same time avoid further delay in providing funds for fiscal year 1979.

The light carrier program is vitally important for the future of the Navy. If our naval aviation is to remain viable in the face of the current and future threat, it must be dispersed onto a larger number of smaller aircraft carriers. These smaller carriers will not entirely replace the large carriers, but rather will supplement them in many vital tasks, especially antisubmarine warfare.

The light carrier program will move ahead more quickly if the LHA is provided full funding in fiscal year 1979. I fully support such funding, and I hope we can provide that funding and will work for it in a supplemental authorization if in fact we can get committee approval on that. There can be no doubt that we are fully committed to this sixth LHA, and there is equally no doubt funding is best provided in the mechanism of a fiscal year 1979 authorization supplemental and not in the bill presently before the Senate.

The supplemental and not this bill is, in my judgment, the proper place to provide this needed funding.

I wish once again to congratulate the Senator from Texas for bringing this very crucial matter to our attention.

I thank the chairman for yielding.

Mr. STENNIS. Mr. President, I yield myself 7 minutes or so much additional time as I might use.

Mr. President, I think we are at a very important part of this whole military program for the year. I think we made headway today in passing on the claims matter. I believe that will be settled the same way by the House of Representatives tomorrow.

Mr. President, may we have order in the Senate? I want it where anyone who wants to listen can hear.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. Mr. President, for several years the committees of the House and the Senate have made special efforts to make some added headway with reference to naval vessels of various kinds. We have had the *Nimitz* carrier up, for instance, twice in the last few years. President Ford recommended the lead-time item and Congress agreed to it. Then he failed to follow up the next year and did not request it, and I do not say this critically. I am pointing to it as an illustration showing that we tried to move.

This year, in trying to get a more affirmative program, the Senate committee first, the House committee, and all then agreed on a carrier, which happened to be the *Nimitz*, again, the nuclear carrier. That was vetoed by President Carter, and I am not criticizing him now for that even though, as I said, I thought it was an error. But anyway we are back now without a strong naval ship program in motion as I wish very much to see.

As one who has been through all of this matter, I would like very much to see some plus signs on our naval building program. At the same time, I know the restrictions, the restraints, the almost horror of the Department of Defense at having to operate under a continuing resolution. Sunday next starts the new fiscal year. If we can get the bill, the appropriation bill, 10 days after then, why, there will be no disruption.

But again to start off on a continuing resolution, they can only apply money, spend money, on matters that were in motion in fiscal 1978 and years prior thereto. There is $2.3 billion worth of procurement items they cannot touch, they cannot start, under a continuing resolution.

There are other handicaps to get a continuing resolution passed. It comes before the House, then over here, then the committees, and there are abortion amendments and everything else they try to hang onto a continuing resolution.

So I know it will take weeks and weeks, maybe months, where we would have to operate under the continuing resolution after we got it. I have understood that Mr. Mahon said if they are going to have one they were going to make it for 6 months.

So I am just exceedingly concerned, and that was my immediate reaction when the veto came. It seemed to me we ought to move to try to avoid a continuing resolution, especially since it has gotten to where they try to hang on amendments that cause delay and uncertainty.

We talk about having sine die adjournment or a session after the elections. If we are going to do that, we are going to be operating the Department of Defense and others on a continuing resolution.

So I just hope we can keep this bill clear of items that might delay it. If ships are placed in the bill now, does anyone think we are going to write off the House committee? They are not going to be satisfied with just a cursory look into this matter if we send it over there with major ships in the bill.

I think I was the first one to mention the idea of a supplemental bill to really consider the ship affair. I am reminded that a minute ago I mentioned this Secretary Brown testimony, but we just passed on over. Neither of us discussed it before.

I would like to see—this is what I would like and I speak only for myself—the House committee, the Senate committee, the Navy, and I mean the uniformed Navy, the Secretary of the Navy, and others in the Pentagon, the Secretary of Defense, and the White House, including President Carter, make a real effort to put together a supplemental authorization for ships only and not have it tied in with what the Air Force wants and what the Marines want or what the Navy personnel should be or what this or that should be. Let this be a supplemental on ships, Navy ships, military ships, and try to find a consensus and give it priority timewise—I want the Senator from Texas to hear what I am saying—give it that preference of consideration timewise at least partly removed from all these other considerations that go into these bills.

It has gotten to where our military authorization bill has just lots and lots of things hung on it. But that is neither here nor there right now.

I would like to see an effort made, because I have seen other efforts fail, to get this naval matter moving along the lines I have outlined. I cannot speak for anyone except myself, but I speak with emphasis on what I would like, and with equal emphasis on the idea that I am certainly not speaking for anyone else and trying to get ahead of the House. I would want their counsel. I am not trying to get ahead of the White House or anyone else. I just bring that out here because of the importance of it, as I see it. The Senator from Texas is concerned about this thing, as I know many are.

I heard what the Senator from Colorado said, he is another one who is very much interested in it.

I would like now to yield to the Senator from Texas on this point.

Mr. TOWER. I can understand the concern of the distinguished chairman for avoiding a conference, if possible, and acting expeditiously, knowing, of course that the Appropriations Committee cannot act until the authorization bill is passed.

But I do have some great concern. I would hope we do not pin our hopes on a supplemental bill purely on whether or not the administration is likely to recommend a supplemental. I would hope we would take an initiative of our own if there is not something forthcoming in a timely way from the administration.

So I might say to my friend from Colorado I do not think we can expect that the administration is going to recommend the LHA.

Mr. STENNIS. No.

Mr. TOWER. I think if the LHA gets built, we are going to have authorize it on our own initiative, based on our own judgment. I am concerned because already this administration has a couple of times scaled back its projections on what our naval requirements are going to be in the future.

I am also concerned that a few years hence we are not going to have the sea power to keep the sealanes open to protect American shipping; in the event of conflict to be able to combat Soviet naval forces.

I am worried about this, and I think we should be worried. The Soviets already have more ships than we do. We exceed them in tonnage, and I think in many areas we have a qualitative edge, but we had better worry because numbers can at some point overpower the qualitative edge. I think we had better get to work and build some ships.

That is why I offer this proposal. Maybe it is untimely. Maybe it is an inconvenience, because we are trying to get the authorization bill and get the appropriation bill passed. But I want to be able to look the next generation in the eye and tell them we did everything we could to preserve the United States of America as the No. 1 naval power.

I just worry that if we do not take advantage of the opportunity we have here, with this gap having opened up in our budget, the opportunity will not present itself again.

I would like to ask the distinguished chairman, if I might, would he anticipate that we would take some initiatives and try to get a supplemental up at the earliest possible moment next year? We are going to run into our posture hearings, and the procurement bill for next year, which we want to get into as early as possible next year. Will we have an opportunity to consider a supplemental before that time?

(Mr. JOHNSTON assumed the chair.)

Mr. STENNIS. Well, for several years we have been considering these matters already. There are several places you have to stop and confer. You do not have to let anyone control, but to get results, we are going to have to have a lot of people and a lot of other groups in on this thing. The House and the Senate, for instance. The President has to be given every chance to be in on it, and the Navy; I want to know just what they think. I am tired of one group of people in uniform telling us one thing and another group another; there just comes a time when we have to shut that off. But we need their advice and counsel to start with.

I do not want it thrown up to me, "Well, you guaranteed that we would have a supplemental." The Senator from Texas is an experienced legislator, and a good one; he knows one man cannot guarantee a supplemental. But I guarantee the effort on my part to make a reality of this proposal, a high priority, and a lot of getting ready in advance for it. But I just know we cannot do it now as a quickie in a few days, and it is a great mistake to throttle the whole military program here arguing about these ships.

Yes, it would be a major item with me, and I would make every effort to that end, and put things in writing, you know.

Mr. HART. Mr. President, will the Senator from Texas yield to me?

Mr. TOWER. I am delighted to yield to my friend from Colorado.

Mr. HART. I agree completely with the Senator from Texas——

Mr. STENNIS. Mr. President, could we have it quiet back here, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HART. That if the LHA is going to be funded, it will be because the administration has demanded or requested it would be funded. I do not agree that the administration is scaling down, necessarily. I do not believe they have scaled it in any direction, up, down, or sideways.

Our committee has had more effect on what the shipbuilding program should be, I think, than the Navy or any other institution. I think that is the role we should play, together with the House and its committee. That is why it is so tragic that this bill had to be vetoed.

But I am fully prepared to support the initiative of the Senator from Texas in getting the LHA fully funded this year, I think it would be a good thing for our committee to do.

Mr. TOWER. I might say to my friend from Mississippi that I know he cannot guarantee anything. Nobody can guarantee anything. The majority leader of the Senate cannot guarantee anything, because, as the Senator knows, the Senate is made up of 100 different people, some of whom are prima donnas—none of whom are on this floor right now, but there are probably a few around.

So we can never predict what will happen. But I do hope that the Senator will follow through with what he has said he is willing to do, and that is make this a matter of priority, and perhaps start to work on it right away, get the staff to work on it.

Mr. STENNIS. Yes.

Mr. TOWER. And let us see if we cannot have something prepared early in the next session.

Mr. STENNIS. Yes.

Mr. TOWER. We have to go through the throes of reorganization, as we always do in a new Congress, and that will result in a delay; but I would certainly hope we can get consideration of this matter before we get into our big procurement bill, because otherwise it will be lost in the shuffle, and the fiscal year, for all practical purposes, will be down the drain anyway.

So, with the assurance of the distinguished Senator from Mississippi that every honest effort will be made, with all deliberate speed, to get a supplemental that we can consider early in the next session, if the Senator from Mississippi is willing to make that undertaking, then I would withdraw my amendment.

Mr. STENNIS. Does the Senator want me to respond?

Mr. TOWER. Yes.

Mr. STENNIS. Mr. President, I have listened very closely to what the Senator from Texas said, and he knows the realities of things. We have been through a lot together on this as well as other problems.

What he has outlined here is right in line with what I said and what I would try to do.

We do emphasize, though, that this is not an effort, now, to launch something out in advance of everyone else, and get ahead of the House committee or the White House, or anything like that. It is going to take some basic cooperation and urging, and that is exactly what I would propose to do.

We could get some joint staff, which is what I would hope for, with the House committee, to get to work very soon, and let the Pentagon know that we are dead serious about this matter, and that we are going to follow up on it.

I know that you have to have the executive in on building a Navy. They have to be in on it a good bit. You just cannot do it without it being an executive program, too, in part.

But I believe we have a good chance now, to move forward. We have threshed it out here, and the legislative viewpoint is clear, and I believe we can pull those strings together and move forward.

Let me say one word here, if I may, about the LHA. Those already approved are being built in Mississippi, and if there is another one, that yard will have a chance to get it, perhaps a better chance than anyone else.

But that is certainly not any motive with me in this matter. It is too serious a matter to be based on one ship, or where any ships are going to be built.

I do not think its priority is very high; I know it is not. It should come in as a part of a plan, that would increase its chances. I mention that in passing because I do not want my motive to be misunderstood.

I believe, with the proper approaches and determination, that the thing can be worked out. We would have some influence with the White House, just as the White House has some influence with us in matters that are common to all, and this would give everybody a chance to have their say.

I am talking now about a shipbuilding program, and not the other phases of our military program.

Mr. TOWER. I appreciate what the Senator from Mississippi has said, and will make a comment.

Mr. President, given the assurances of my distinguished friend the chairman (Mr. STENNIS)—and his assurances are always good ones—and with the understanding that we will move as expeditiously as possible to formulate a supplemental to consider additional authorization for naval ships, I will, then, withdraw the amendment.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. TOWER. Before I do that, let me yield to the Senator from Washington.

Mr. MAGNUSON. I just want to add this: I have every reason to believe that we will have a supplemental sometime in early March.

So what the two Senators have been talking about essentially has been moving fast. They should have it ready by the time the subcommittee has the supplemental. It is very important.

Mr. TOWER. I thank my friend from Washington for the assurance, which I believe is very valuable to this. Therefore, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. Without objection. the amendment is withdrawn.

Mr. STENNIS. Mr. President, the Senator from Wisconsin is here. If we could have the Chair's attention, let the Chair state what the situation is parliamentary-wise. We have had certain agreements here which should be restated.

The PRESIDING OFFICER. The question now recurs on the motion to table amendment No. 3627 proposed by the Senator from Wisconsin. The yeas and nays have not yet been ordered.

Mr. STENNIS. Mr. President, I yield myself 1 minute.

Mr. President, we have two pending amendments and the prospects of another amendment. They are going to be voted upon. We have agreed there will be a vote, though it will be in the form of a motion to table.

I think we ought to take a few minutes to bring together the contents of the amendments, pro and con. To that end, if we could take 3 minutes to the side on each of the amendments which have been offered, I think it would be helpful. I ask unanimous consent, in view of the fact that we have these two amendments ready to be voted upon, that we have 3 minutes to each side on each of the amendments and then we proceed to the yeas and nays.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STENNIS. Let the Senator who offered the amendments go first.

Mr. PROXMIRE. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. PROXMIRE. Will the Chair state which amendment will be the first one? Is it the WAC amendment, the one which will abolish the Women's Army Corps?

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. Let me ask for the yeas and nays, if I may.

Mr. PROXMIRE. I yield.

Mr. STENNIS. Mr. President, on the motion to table this amendment and the next amendment, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Is the Senator seeking the yeas and nays on a motion to table both amendments?

Mr. STENNIS. Separate votes; yes.

The PRESIDING OFFICER. Is the Senator asking for unanimous consent?

Mr. STENNIS. Is ask unanimous consent, if it is necessary.

The PRESIDING OFFICER. Without objection, it is in order to order the yeas and nays on both amendments.

Mr. STENNIS. I ask for the yeas and nays on the motions to table both amendments.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3627

Mr. PROXMIRE. As I understand, we will each have 3 minutes on each amendment. May I ask, after we each take 3 minutes on the first amendment and vote on the first amendment, will we then each have 3 minutes on the second amendment, to be followed by a vote? Is that the understanding of the Senator from Mississippi?

Mr. STENNIS. Yes.

Mr. PROXMIRE. The pending amendment is the amendment to abolish the Women's Army Corps. It has been requested by the Army and the administration. It has been pending before the committee for 4 years in the form of the personnel bill. It is an amendment which has the support of the Army because they want to be in the same status as the Navy, the Marine Corps and the Air Force, all of which have abolished their female department that puts women into a separate situation.

As I pointed out in my amendment, this is a particularly bad situation now where the WAC is the one service which identifies, separates, and segregates the women. It is unfair to women and it is unfair to men, because if there is a limit on the number of officers who can be promoted, then instead of getting the most efficient person, what you do is you have a certain allocation of promotions for the women and for the men.

Mr. President, it is understandable why women are particularly concerned about this, because the Army, Navy, and Air Force are the biggest employer we have. They employ 2 million people. Women have been concerned about the fact that only 6 percent of the officers are female. That is expected to improve. The only way they can be treated equally is not to segregate them the way we have in the past segregated blacks and the way we segregate women now only in the Army and not in the Navy or the Air Force.

Mr. President, this amendment, as I say, has been considered at great length by the Army, and they have requested that it be adopted. I have a letter from Secretary Alexander asking that it be accepted on this particular bill. It is supported by the Office of Management and Budget. I earnestly hope that under these circumstances the Senate will move ahead and adopt this amendment in the interest of a more efficient Army, and in the interest of fairness and equity to the women who serve in the Army.

Mr. STENNIS. Mr. President, I yield myself 1½ minutes, and I will save time for the Senator from Texas.

Mr. President, may we have a condition where the Senators who want to hear may hear?

The PRESIDING OFFICER. Let there be order in the Senate. There is only a short time for debate.

Mr. STENNIS. Mr. President, this is a floor amendment. We have this matter as part of a very large, comprehensive, in-depth personnel bill now being considered by our committee. There will be some parts of it, at least, reported soon.

The Senator from Texas, partly due to the fact that he saw the wisdom of moving the bill along and not having a continuing resolution, under certain conditions, withdrew his amendment about ships, over $1 billion worth.

There is already in process in our committee the machinery which is bringing this other matter to the floor. With great deference I hope the motion to table will prevail and that we will leave this matter untouched, with no prejudice.

I yield to the Senator from Texas.

Mr. TOWER. Mr. President. I would again reemphasize that I am strongly in support of the objective of the Senator from Wisconsin.

However, I do not believe that this is the orderly and timely way to accomplish his objectives. It would force us into a conference and would perhaps prevent speedy action on both the authorization and subsequent appropriations bills. Therefore, I will support the motion to table.

Mr. President, I ask unanimous consent that Allen Moore, of Senator DANFORTH's staff, and Claudia Louis, of Senator STEVENS' staff, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

Mr. STENNIS. Mr. President, I yield back the remainder of my time. I move to table the amendment.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Wisconsin to abolish the Women's Army Corps. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. STEVENS. I announce that the

Senator from Arizona (Mr. GOLDWATER) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The result was announced—yeas 46, nays 46, as follows:

[Rollcall Vote No. 404 Leg.]

YEAS—46

Baker
Bartlett
Bellmon
Bentsen
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Culver
Curtis
Danforth
Eastland
Ford
Gravel
Hansen
Hart
Hatch
Hatfield, Paul G.
Hayakawa
Hodges
Huddleston
Inouye
Jackson
Johnston
Laxalt
Lugar
Magnuson
Matsunaga
McClure
Morgan
Muskie
Nunn
Pell
Sasser
Scott
Stafford
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Wallop
Weicker
Young

NAYS—46

Anderson
Bayh
Biden
Brooke
Bumpers
Burdick
Case
Church
Clark
Cranston
DeConcini
Dole
Domenici
Durkin
Eagleton
Garn
Glenn
Griffin
Hatfield, Mark O.
Heinz
Hollings
Humphrey
Javits
Kennedy
Leahy
Long
Mathias
McGovern
Melcher
Metzenbaum
Moynihan
Nelson
Packwood
Pearson
Percy
Proxmire
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Stevenson
Williams
Zorinsky

NOT VOTING—8

Abourezk
Allen
Goldwater
Haskell
Hathaway
Helms
McIntyre
Sparkman

So the motion to lay on the table, Amendment No. 3627, was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I yield myself 5 minutes on the bill.

Mr. STENNIS. Mr. President, may we have order in the Senate? We cannot hear back here.

The PRESIDING OFFICER. Let there be order in the Senate. Senators will take their seats.

The Senator from Texas.

Mr. TOWER. Mr. President, I supported the motion to table the amendment of the Senator from Wisconsin. In the process of explaining my reason for supporting the tabling motion, I noted that the adoption of this amendment would force the bill into conference; that, indeed, this provision is included in other legislation now being considered by the Armed Services Committee and is something that we expected to act upon in a timely fashion.

I would say that probably every Member of the Senate—I cannot speak for everybody, but I do not know of any dissent—feels that this is a move we should take to integrate the Women's Army Corps into the Regular Army, as already has been done in the case of the Navy, the Air Force, and the Marine Corps.

Probably many Senators were concerned that their votes might be misinterpreted if they voted to table this amendment, and therefore they voted against the tabling motion, which caused it to fail.

Under the circumstances, I urge the chairman of the committee to accept the amendment. In the meantime, I hope our distinguished colleague from Wisconsin will encourage his friends in the House to accept it, so that we will not have to take this bill to conference. That was the primary reason for moving to table the amendment of the Senator from Wisconsin.

We all want to see the women in the Army given the same treatment as women in the other services, and we want to make sure they are not discriminated against.

Since it is apparent now that the tabling motion has failed, I have no doubt that the amendment itself would succeed by a very large margin, if not perhaps unanimously. So I suggest that we accept the amendment and adopt it by voice vote.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. PROXMIRE. I thank the distinguished Senator from Texas. He is absolutely right. This is an amendment which has the support of women's groups but also has the support of the Army, the administration, the Office of Management and Budget. Administratively, it makes sense. It is an amendment which has been before us since 1974. We cannot say this is something we have not had a chance to consider. It was in the budget request this year, and the Secretary of the Army has written me a letter, which I have here, indicating his strong support for this amendment on this bill.

So I am grateful to the Senator, and I am delighted, and I will do all I can to persuade the people in the House to act. They have not voted as yet, and it seems to me that, under the circumstances, it would be no problem for them to consider this amendment and act affirmatively on it.

Mr. TOWER. May I say, in response to a comment by the Senator from Wisconsin, that I am aware that the Secretary of the Army informed him that he supports such an amendment to this bill. Unfortunately, he did not so inform the committee prior to the time we reported this bill, or perhaps we could have incorporated it into the bill at that time.

So I do feel that the point should be made perfectly clear. The Army did not suggest that we consider this matter at the time we were considering this authorization bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. STENNIS. Mr. President, I yield myself 2 minutes on the bill.

This illustrates how difficult it is to get a matter fully understood just by a floor amendment. The committee had no chance to go into it. I knew nothing about it.

I do not want to prolong this matter further. We have one more amendment to vote on, and then we will have final passage. That is the situation now. We have used up more time already than we asked the leaders for today in order to get this bill passed.

Under the circumstances, I am willing to have the amendment voted upon by a voice vote, if that is acceptable, and we can go to the other amendment, with 3 minutes to a side. Then I think we can have final passage.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3627) was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Before the next motion to table, there is time for debate of 3 minutes to each side. Who yields time?

UP AMENDMENT NO. 1926, AS MODIFIED

Mr. PROXMIRE. I yield myself 3 minutes. I may not use it and may reserve part of it.

Mr. President, let me refresh the recollection of Senators. We debated this amendment at some length earlier today.

This is an amendment which is related to the $541 million settlement which the Senate agreed to by rejecting an earlier amendment of mine. This amendment provides safeguards with respect to that settlement, to make sure that the money that is provided here will be provided only on certain contracts, will be provided only with a limitation that there be no profit on the contracts overall; because the whole purpose of the settlement, we argued over and over, was to help contractors who will have large losses and otherwise are going to suffer even larger losses. This would provide that.

The only other provision is that the General Accounting Office will audit, to make sure the money is spent on the contracts, and will inform the Armed Services Committee about its findings.

Finally, Mr. President, I reiterate a point I made when I offered the amendment earlier—that is, that the bill containing the financial relief for Lockheed on the C–5A cost overruns several years ago contained the same kind of safeguards I am urging here. We required General Accounting Office audits of the funds provided for Lockheed. We provided strict controls on profits. We assured ourselves that there would be a fixed loss on the C–5A contract.

The proponents of the General Dynamics and Litton settlements say that there will be large fixed losses on the Navy contracts. We are not sure about that. The losses are estimated by the contractor. There is no way we control whether there will be losses or not. It is possible that they have grossly overexaggerated, in which case they may suffer a loss but actually come out with a very substantial profit, paid for on the basis of this settlement that we agree to here.

The major argument for providing them with financial relief was that there would still be large fixed losses when their contracts were completed. My amendment simply puts into the bill what the Senate has been told, and it adds a requirement for a General Accounting Office audit so that we can be assured that the funds given to the two firms because of cost overruns on ship contracts would be used to build the ships under those contracts.

How can there by any objection to that? We could have a situation otherwise, in which a contractor estimates a $400 million loss and the Federal Government pays $200 million, and it turns out instead to be $100 million; and although it is a loss, the contractor realizes a profit. No Senator wants to do that, and that is the safeguard I am putting in this amendment.

I reserve the remainder of my time.

Mr. STENNIS. Mr. President, just briefly, if we can make ourselves understood on this, this amendment relates to the matter that already has been voted on by a very large vote and has been approved. We bottom the case on that—partly on the fact that no profits would be allowed for things that already have happened. The Senator is correct. But we do not believe his language makes crystal clear that, under the same contracts, future change orders would be permitted to have any profits.

We want them to move forward and finish those contracts, finish the vessels. As to any profits they make within the rules from now on, of course they would be allowed that money, just as anyone else is, in a profit-and-loss situation, in our capital system. We do not think that language is satisfactory. It is very serious, by its very nature. There are other claims, to be settled. This, in a way, would be changing the rules, whatever it is held to mean, in midstream.

We favor the audit part. GAO is permitted to follow this money and audit it, to see that it goes for that purpose and no other purpose. That is all right. And we will write them tonight that we want them to do it.

I think this amendment could well be tabled under all the circumstances, and we could let this bill, 4 days before the expiration of fiscal year 1978, move on, and we could get the appropriation bill up here and get it all finished.

This will not be the last time the Senate will meet, There will be a chance to amend this law in the regular way, if the Senator thinks it is not strong enough now. I respectfully submit that the law already is strong enough to take care of this problem.

Mr. President, I yield such time as he needs to the Senator from Texas.

Mr. TOWER. Mr. President, I concur with my distinguished chairman and join with him in the moton to table and urge the Senate to adopt it.

Mr. PROXMIRE. Mr. President, do I have time remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. PROXMIRE. Mr. President, I my 1 minute, let me say that this amendment would not prevent profits on future changes, but I say that they cannot make a profit on the overall contracts and I wrote it specifically in the bill, that they should not realize any total overall profit, for this precise reason.

Furthermore, there is nothing in the law now that requires a GAO audit on this, these claims agreements, nothing. That is why I put in the amendment that there be no overall profit and that there be a GAO audit and GAO report. That is all the amendment does.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment, as modified, of the Senator from Wisconsin.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The result was announced—yeas 39, nays 53, as follows:

[Rollcall Vote No. 405 Leg.]

YEAS—39

Baker
Bartlett
Bentsen
Brooke
Byrd, Harry F., Jr.
Cannon
Case
Chafee
Curtis
Danforth
Eastland
Garn
Glenn
Gravel
Hansen
Hatfield, Paul G.
Hayakawa
Johnston
Laxalt
Long
Lugar
Mathias
McClure
Nunn
Pearson
Pell
Ribicoff
Schmitt
Scott
Stafford
Stennis
Stevens
Talmadge
Thurmond
Tower
Wallop
Weicker
Williams
Young

NAYS—53

Anderson
Bayh
Bellmon
Biden
Bumpers
Burdick
Byrd, Robert C.
Chiles
Church
Clark
Cranston
Culver
DeConcini
Dole
Domenici
Durkin
Eagleton
Ford
Griffin
Hart
Hatch
Hatfield, Mark O.
Heinz
Hodges
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Packwood
Percy
Proxmire
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stevenson
Stone
Zorinsky

NOT VOTING—8

Abourezk
Allen
Goldwater
Haskell
Hathaway
Helms
McIntyre
Sparkman

So the motion to lay on the table UP amendment No. 1926, as modified, was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment, as modified, of the Senator from Wisconsin.

The amendment (No. 1926), as modified, was agreed to.

The PRESIDING OFFICER (Mr. BUMPERS). Who yields time?

Mr. STENNIS. Third reading, Mr. President, so far as I know.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STENNIS. Yes, I yield back all the time I have, Mr. President.

I do want to request the yeas and nays.

The PRESIDING OFFICER. Does the Senator from Texas yield back all of his time?

Mr. TOWER. I yield back the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass? The clerk will call the roll.

The second assistant legislative clerk called the roll.

(Mr. LEAHY assumed the chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "yea."

The result was announced—yeas 89, nays 3, as follows:

[Rollcall Vote No. 406 Leg.]

YEAS—89

Anderson
Baker
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chafee
Chiles
Church
Clark
Cranston
Culver
Curtis
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Eastland
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart
Hatch
Hatfield, Paul G.
Hayakawa
Heinz
Hodges
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Scott
Stafford
Stennis
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tower
Wallop
Weicker
Williams
Young
Zorinsky

NAYS—3

Hatfield, Mark O.
McGovern
Proxmire

NOT VOTING—8

Abourezk
Allen
Goldwater
Haskell
Hathaway
Helms
McIntyre
Sparkman

So the bill (S. 3486) was passed, as follows:

S. 3486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1979".

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $972,400,000; for the Navy and Marine Corps, $4,381,100,000; for the Air Force, $7,028,200,000.

MISSILES

For missiles: for the Army, $738,100,000; for the Navy, $1,583,700,000; for the Marine Corps, $23,100,000; for the Air Force, $1,626,500,000.

NAVAL VESSELS

For naval vessels: for the Navy, $4,470,500,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,419,400,000; for the Marine Corps, $24,300,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $366,800,000.

OTHER WEAPONS

For other weapons: for the Army, $109,000,000; for the Navy, $102,000,000; for the Marine Corps, $30,200,000; for the Air Force, $300,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. Funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $2,661,701,000.

For the Navy (including the Marine Corps), $4,504,268,000.

For the Air Force, $4,164,500,000, of which $10,000,000 may be obligated and expended only for the North Atlantic Treaty Organization Airborne Warning and Control System (AWACS) program, but such $10,000,000 may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft.

For the Defense Agencies, $933,400,000, of which $27,600,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

EXTREMELY LOW FREQUENCY (ELF) COMMUNICATION SYSTEM

SEC. 202. None of the funds authorized to be appropriated by this Act for the development of the Extremely Low Frequency (ELF) communication system may be obligated or expended for the development of such system unless the President certifies to the Congress in writing that the use of funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system, and in no event may any of the funds authorized to be appropriated by this Act be used for full scale development or construction of another test-bed facility for an Extremely Low Frequency (ELF) communication system.

REPORT RELATING TO DEVELOPMENT OF SURVIVABLE LAND-BASED INTERCONTINENTAL BALLISTIC MISSILE SYSTEM

SEC. 203. The Secretary of Defense shall, not later than September 30, 1978, report to the Committees on Armed Services of the Senate and the House of Representatives the decision of the executive branch regarding full scale development of a survivable land-based intercontinental ballistic missile system. In the event that no final decision regarding such matter has been reached by the executive branch by such date, the Secretary of Defense shall—

(1) notify such committees on or before such date that no final decision has been reached and the reasons why such decision has not been made;

(2) inform such committees of the technical, political, or other considerations necessitating a delay in making such decision;

(3) indicate the date the Secretary believes a final decision will have been made with respect to such matter; and

(4) submit a report to such committees once every 30 days on the status of the decision on such matter (including in each such report information relating to the matters contained in clauses (2) and (3) of this section) until a final decision by the executive branch has been made and such committees have been informed of such decision.

REPEAL OF FISCAL YEAR 1978 AWACS RESTRICTION

SEC. 204. Section 201 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95-79, 91 Stat. 323), is amended by striking out ", but such $15,700,000 may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft".

TITLE III—ACTIVE FORCES

SEC. 301. For fiscal year 1979, each component of the Armed Forces is authorized an end strength for active duty personnel as follows:

(1) The Army, 775,800.

(2) The Navy, 523.550.

(3) The Marine Corps, 190,000.

(4) The Air Force, 566,400.

TITLE IV—RESERVE FORCES

SEC. 401. (a) For fiscal year 1979, the Selected Reserve of each Reserve component of the Armed Forces shall be programed to attain an average strength of not less than the following:

(1) The Army National Guard of the United States, 362,200.

(2) The Army Reserve, 195,750.

(3) The Naval Reserve, 87,000.

(4) The Marine Corps Reserve, 33,000.

(5) The Air National Guard of the United States, 92,150.

(6) The Air Force Reserve, 53,075.

(7) The Coast Guard Reserve, 11,700.

(b) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

EDUCATIONAL ASSISTANCE PROGRAM FOR ENLISTED RESERVES

SEC. 402. (a) Section 2132(b)(1) of title 10, United States Code, relating to eligibility for educational assistance, is amended—

(1) by striking out "automatically extended by two years" and inserting in lieu thereof "not less than six years"; and

(2) by striking out "eighth anniversary" and inserting in lieu thereof "last day of the term".

(b) Section 2135 of title 10, United States Code, is amended by striking out "1978" and inserting in lieu thereof "1980".

REENLISTMENT BONUS FOR MEMBERS OF SELECTED RESERVE

SEC. 403. (a) Subsection (a) of section 308b of title 37, United States Code, relating to reenlistment bonuses for members of the Selected Reserve, is amended to read as follows:

"(a) An enlisted member of a reserve component who—

"(1) has completed less than ten years of total military service; and

"(2) reenlists or voluntarily extends his enlistment for a period of three years or for a period of six years in a designated military skill, or in a designated unit, as determined by the Secretary concerned, in the Selected Reserve of the Ready Reserve of an armed force;

may be paid a bonus as provided in subsection (b).".

(b) Subsection (b) of such section is amended by inserting "an amount not to exceed" before "$450", before "$900", and before "$150".

(c) Subsection (g) of such section is amended by striking out "1978" and inserting in lieu thereof "1980".

BONUS FOR ENLISTMENTS IN THE SELECTED RESERVE

SEC. 404. (a) Chapter 5 of title 37, United States Code, is amended by inserting after section 308b the following new section:

"§ 308c. Special pay: bonus for enlistment in the Selected Reserve

"(a) Any person who, after September 30, 1978, enlists in the Selected Reserve of the Ready Reserve of an armed force for a term of enlistment of not less than six years, is a graduate of a secondary school, and has never previously served in an armed force may be paid a bonus as provided in subsection (b).

"(b) The amount and method of payment of a bonus to be paid under subsection (a) shall be determined in accordance with regulations prescribed under subsection (c), except that the amount of such bonus may not exceed $2.000 and—

"(1) one-half of the bonus shall be paid upon completion of the initial active duty for training of such person; and

"(2) the remainder of the bonus may be paid in periodic installments or in a lump sum, as determined by the Secretary concerned.

"(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy.

"(d) A member who fails to participate satisfactorily in training with his unit during a term of enlistment for which a bonus has been paid to him under this section shall refund an amount which bears the same ratio to the amount of the bonus which has been paid to him as the unexpired part of such term of enlistment bears to the total length of such term of enlistment.

"(e) The Secretary of Defense shall submit a report to the Congress every three months stating the number of members of the Selected Reserve of the Ready Reserve who at the time of such report are serving a term of enlistment for which a bonus has been paid under this section and listing each unit of the Selected Reserve of the Ready Reserve to which any such member is assigned at the time of such report. The first such report shall be made not later than December 31, 1978.

"(f) No bonus may be paid under this section to any enlisted member who, after September 30, 1980, enlists in the Selected Reserve of the Ready Reserve of an armed force.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 308b the following new item:

"308c. Special pay: bonus for enlistment in the Selected Reserve.".

RESTRICTION ON TRANSFER FROM READY RESERVE TO STANDBY RESERVE

SEC. 405. (a)(1) Section 269 of title 10, United States Code relating to transfers from the Ready Reserve, is amended—

(A) by striking out "eligible to transfer" in subsection (a) and inserting in lieu thereof "transferred";

(B) by striking out the colon at the end of the third sentence in subsection (d) and inserting in lieu thereof a period;

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) Subject to subsection (g) and under regulations prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member in the Ready Reserve may be transferred to the Standby Reserve."; and

(D) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) A Reserve who is qualified and so requests may be transferred to the Retired Reserve under regulations prescribed by the Secretary concerned and, in the case of the Secretary of a military department, approved by the Secretary of Defense.".

(2) The amendments made by paragraph (1) shall not apply with respect to a member of the Ready Reserve of an Armed Force who served on active duty (other than for training) before the date of the enactment of this Act.

(b) Section 271 of such title, relating to continuous screening of the Ready Reserve, is amended—

(1) by inserting "(a)" before "Under regulations.";

(2) by striking out "significance" in clause (1) and inserting in lieu thereof "significant"; and

(3) by adding at the end thereof the following new subsection:

"(b) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, any member of the Ready Reserve who is designated as a member not to be retained in the Ready Reserve as a result of screening under subsection (a) shall, as appropriate, be transferred to the Standby Reserve, discharged, or, if such member is eligible and applies therefor, transferred to the Retired Reserve.".

(c)(1) Section 511(b) of such title, relating to terms of enlistments in Reserve components, is amended—

(A) in the first sentence—

(i) by striking out "the Secretary concerned" and inserting in lieu thereof "the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy"; and

(ii) by striking out "sections 451–473 of title 50, appendix" and inserting in lieu thereof "the Military Selective Service Act (50 U.S.C. App. 451–473"; and

(B) in the second sentence—

(i) by inserting "not less than" in clause (1) before "two years" and by adding "and" at the end of such clause;

(ii) by striking out clause (2); and

(iii) by redesignating clause (3) as clause (2) and striking out "Standby Reserve" in such clause and inserting in lieu thereof "Ready Reserve".

(2) The amendments made by paragraph (1) shall not apply with respect to a person who enlisted as a Reserve for service in the Armed Forces under section 511(b) of title 10, United States Code, before the date of the enactment of this Act.

(d)(1) Chapter 37 of such title, relating to general service requirements, is amended by adding after section 651 the following new section:

"§ 652. Ready Reserves: requirement of notification of change of status.

"Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, each member of the Ready Reserve who is not a member of the Selected Reserve shall notify the Secretary concerned of any change in such member's address, marital status, number of dependents, or civilian employment and of any change in such member's physical condition which would prevent him from meeting the physical or mental standards prescribed for his armed force.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 651 the following new item:

"652. Ready Reserves: requirements of notification of change of status.".

REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON RESERVE FORCES

SEC. 406. (a) Section 264 of title 10, United States Code, is amended by striking out subsection (c).

(b)(1) Section 279 of such title is repealed.

(2) The table of sections at the beginning of chapter 11 of such title is amended by striking out the item relating to section 279.

TITLE V—CIVILIAN PERSONNEL

SEC. 501. (a) For fiscal year 1979, the Department of Defense is authorized an end strength for civilian personnel of 1,005,500.

(b) The end strength for civilian personnel prescribed in subsection (a) of this section shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act in the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c) In computing the authorized end strength for civilian personnel there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency), whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized in subsection (a) of this section, but such additional number may not exceed 1¼ percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

TITLE VI—MILITARY TRAINING STUDENTS LOADS

SEC. 601. (a) For fiscal year 1979, each component of the Armed Forces is authorized an average military training student load as follows:

(1) The Army, 50,738.

(2) The Navy, 57,996.

(3) The Marine Corps, 21,324.

(4) The Air Force, 44,410.

(5) The Army National Guard of the United States, 11,793.

(6) The Army Reserve, 5,959.

(7) The Navy Reserve, 991.

(8) The Marine Corps Reserve, 3,074.

(9) The Air National Guard of the United States, 2,471.

(10) The Air Force Reserve, 1,184.

(b) In addition to the number authorized for the Army in subsection (a), the Army is authorized a military training student load for fiscal year 1979 of not less than 17,205 to be utilized solely for One Station Unit Training.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized in subsection (a) of this section for fiscal year 1979 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components in such manner as the Secretary of Defense shall prescribe.

REDUCTION OR REALIGNMENT OF THE TRAINING BASE

SEC. 602. (a) Notwithstanding any other provision of law, no action may be taken to effect or implement any substantial reduction of the training base (as defined in subsection (c)) or any substantial force structure realignment of the training base planned as a part of the fiscal year 1979 Defense manpower program unless and until the provisions of subsection (b) are complied with.

(b) No action described in subsection (a) with respect to a substantial reduction or realignment of the training base may be taken unless and until—

(1) the Secretary of Defense or the Secretary of the military department concerned notifies the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the specific reduction or realignment proposed;

(2) the Secretary of Defense or the Secretary of the military department concerned certifies that such reduction or realignment is in the best interest of the national security

and provides for the most cost effective and efficient management of the training base, both in time of peace and in ability to meet mobilization requirements; and

(3) a period of thirty legislative days expires following the date on which the notification and certification referred to in clauses (1) and (2) have been submitted to such committees, during which period no irrevocable action may be taken to effect or implement such reduction or realignment.

For the purpose of clause (3), a legislative day is a day in which either House of Congress is in session.

(c) For the purposes of this section, the term "training base" means the composite of installations, posts, camps, stations, and bases that have as a primary or secondary mission the conduct of formal entry level, advanced individual, or specialty training.

TITLE VII—CIVIL DEFENSE

AUTHORIZATION FOR DEFENSE CIVIL PREPAREDNESS AGENCY

SEC. 701. There is hereby authorized to be appropriated for the programs of the Defense Civil Preparedness Agency for fiscal year 1979 for the purpose of carrying out the provisions of the Federal Civil Defense Act of 1950 the sum of $96,500,000.

CIVIL DEFENSE STUDY

SEC. 702. (a) From the funds authorized to be appropriated pursuant to section 701 of this Act, the sum of $200,000 shall be used for a study of the special defense needs of areas of the United States which contain significant elements of the United States strategic nuclear retaliatory forces or significant defense-related research laboratories or facilities.

(b) The study provided for in subsection (a) shall include the following:

(1) An identification of areas of the United States which, because they contain significant elements of the United States strategic nuclear retaliatory forces or significant defense-related research laboratories or facilities, are prime targets in case of a nuclear attack.

(2) A determination of what civil defense evacuation and shelter plans and warning system are now available or are proposed to be made available to such areas.

(3) An evaluation of the effectiveness of such existing evacuation and shelter plans and warning systems.

(4) A determination of the feasibility of establishing more effective evacuation and shelter plans and warning systems for such areas and a determination of the potential costs and methods of financing such plans and systems.

(5) A detailed analysis of the specific effects of a nuclear attack on each such area.

(6) A determination of the need for educating. and the most effective methods of educating, the public in such areas on civil defense matters.

(c) The study required by this section shall be completed, and copies shall be filed with the Committees on Armed Services of the Senate and House of Representatives, before April 1, 1979.

TITLE VIII—GENERAL PROVISIONS

EXTENSION OF AUTHORITY FOR SPECIAL PAY FOR HEALTH PROFESSIONALS

SEC. 801. (a) The second sentence of section 2 of the Act entitled "An act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services", approved May 6, 1974 (88 Stat. 96; 37 U.S.C. 302 note), is amended to read as follows: "The authority for the special pay provided by the amendments made by the first section of this Act shall expire on September 30, 1980.".

(b) Sections 302a(c) and 303(c) of title 37, United States Code, are each amended by striking out "September 1978" and inserting in lieu thereof "September 1980".

AUTHORITY FOR ENLISTMENT AND REENLISTMENT BONUSES

SEC. 802. (a)(1) Section 308(a) of title 37, United States Code, is amended—

(A) by inserting "(1)" after "(a)" and by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively.

(B) by striking out "designated as having a critical military skill" in paragraph (1)(B) (as redesignated by subparagraph (A)) and inserting in lieu thereof "qualified in a military skill designated as critical"; and

(C) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1)(B) of this subsection, a member who agrees to train and reenlist for service in a military skill which, at the time of that agreement, is designated as critical, may be paid the bonus approved for that skill, at the rate in effect at the time of agreement, upon completion of training and qualification in that skill, if otherwise qualified under this subsection and even if that skill is no longer designated as critical at the time the member becomes eligible for payment of the bonus.".

(2) The amendments made by paragraph (1) shall take effect on October 1, 1978.

(b) Sections 308(f) and 308a(c) of title 37, United States Code, are each amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

EXTENSION OF AUTHORITY FOR SUBSISTENCE ALLOWANCE FOR MARINE CORPS PLATOON LEADER CLASSES

SEC. 803. The Act entitled "An Act to provide subsistence allowances for members of the Marine Corps officer candidate programs", approved November 24, 1971 (85 Stat. 491; 37 U.S.C. 209 note), is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

CAREER SEA PAY

SEC. 804. (a)(1) Effective October 1, 1978, chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by inserting after section 305 the following new section:

"§ 305a. Special pay: career sea pay

"(a) Under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay and who (1) is in pay grade E-4 or above, and (2) has served more than three years of sea duty, is also entitled, while on sea duty, to special pay at the applicable rate under subsection (b).

"(b)(1) For sea duty performed during fiscal year 1979 or 1980, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	*Monthly rate*
Over 3	$25
Over 5	35
Over 12	55

"(2) For sea duty performed during fiscal year 1981, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	*Monthly rate*
Over 3	$25
Over 5	35
Over 7	45
Over 12	55".

(2) Effective October 1, 1981, subsection (b) of section 305a of title 37, United States Code (as added by paragraph (1)), is amended to read as follows:

"(b) The monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	*Monthly rate*
Over 3	$25
Over 5	35
Over 7	45
Over 9	55
Over 10	65
Over 11	75
Over 12	100".

(3) In determining the amount of sea duty to be credited to an enlisted member of a uniformed service for purposes of section 305a of title 37, United States Code (as added by paragraph (1)), the Secretary concerned shall credit such member with all periods of service by such member before October 1, 1978, during which such member served in a sea duty status.

(b)(1) Section 305 of such chapter is amended—

(A) by striking out all of subsection (a) that precedes the table therein and inserting in lieu thereof the following:

"(a) Except as provided by subsections (b) and (c) of this section, under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay may, while on duty at a designated place outside the 48 contiguous States and the District of Columbia, be paid special pay at the following monthly rates:";

(B) by adding at the end thereof the following new subsection:

"(c) A member receiving special pay under section 305a of this title may not be paid special pay under this section for the same period of service."; and

(C) by striking out "sea duty or" in the section heading.

(2) The table of sections at the beginning of such chapter is amended—

(A) by striking out "sea duty or" in the item relating to section 305; and

(B) by inserting after such item the following new item:

"305a. Special pay: career sea pay.".

(3) The amendments made by this subsection shall take effect on October 1, 1978.

(c) Any individual who on September 30, 1978, is an enlisted member of a uniformed service shall be eligible to receive special pay under section 305(a)(1) of title 37, United States Code, as in effect on September 30, 1978, for any period of sea duty performed by such individual during the period beginning on October 1, 1978, and ending on September 30, 1981, for which such individual does not receive special pay under section 305a of such title (as added by subsection (a)).

CHIEF OF ARMY DENTAL CORPS; AIR FORCE ASSISTANT SURGEON GENERAL FOR DENTAL SERVICES

SEC. 805. (a) Section 3040(b) of title 10, United States Code, is amended by inserting after the first sentence thereof the following new sentence: "The Assistant Surgeon General is Chief of the Dental Corps and is responsible for making recommendations to the Surgeon General and through the Surgeon General to the Chief of Staff on all matters concerning dentistry and the dental health of the Army.".

(b)(1) Chapter 307 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 3081. Dental Corps: Chief, functions

"(a) The Chief of the Dental Corps shall be an officer of that corps appointed as prescribed in section 3040 of this title.

"(b) Under such regulations as the Secretary of the Army may prescribe, all dental functions of the Army shall be under the direction of the Chief of the Dental Corps. All matters relating to dentistry shall be referred to the Chief of the Dental Corps.

"(c) The Chief of the Dental Corps shall—

"(1) establish professional standards and policies for dental practice;

"(2) initiate and recommend action pertaining to organization requirements and utilization of the Dental Corps and dental auxiliary strength, appointments, advancement, training assignment, and transfer of dental personnel; and

"(3) serve as the advisor to the Office of the Surgeon General on all matters relating directly to dentistry.

"(d) Under such regulations as the Secretary of the Army may prescribe, dental and dental auxiliary personnel throughout the Army shall be organized into units commanded by a designated Dental Corps officer. Such officer will be directly responsible to the commander of installations, organizations, and activities for all professional and technical matters and such administrative matters as may be prescribed by regulation.".

(2) The table of sections at the beginning of chapter 307 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"3081. Dental Corps: Chief, functions.".

(c)(1) Chapter 807 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 8081. Assistant Surgeon General for Dental Services

"There is an Assistant Surgeon General for Dental Services in the Air Force who is appointed by the Secretary of the Air Force upon the recommendation of the Surgeon General from officers of the Air Force above the grade of major who are designated as dental officers under section 8068(b) of this title. The term of office of the Assistant Surgeon General for Dental Services is four years but may be increased or decreased by the Secretary of the Air Force.".

(2) The table of sections at the beginning of chapter 807 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"8081. Assistant Surgeon General for Dental Services.".

CEILING FOR PAYMENTS TO PHYSICIANS UNDER CHAMPUS

SEC. 806. (a)(1) Section 1079 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Payment of a charge for physician services for which a claim is submitted under a plan contracted for under subsection (a) may be denied because the charge is in excess of a predetermined charge level based upon customary charges made for similar services in the same locality only to the extent that such charge is in excess of the charge level that, on the basis of statistical data and methodology acceptable to the Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, is equivalent to the 90th percentile of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing before the start of the twelve-month period (beginning July 1 of each year) in which the claim for the payment is submitted.".

(2) Section 1086 of such title is amended by adding at the end thereof the following new subsection:

"(f) The provisions of section 1079(h) of this title shall apply to payments for physician services under a plan contracted for under subsection (a).".

(b) The amendments made by subsection (a) shall apply with respect to claims submitted for payment for services provided on or after the first day of the first calendar year beginning after the date of enactment of this Act.

MARINE CORPS COMMANDANT—MEMBER OF JOINT CHIEFS OF STAFF

SEC. 807. Section 141 of title 10, United States Code, is amended by—

(1) striking out "and" at the end of subsection (a)(3);

(2) striking out the period at the end of subsection (a)(4) and inserting in lieu thereof a semicolon and the word "and";

(3) adding after subsetcion (a)(4) a new clause (5) as follows:

"(5) the Commandant of the Marine Corps.";

(4) striking out subsection (c); and

(5) redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

ASSIGNMENT OF WOMEN TO NAVAL VESSELS

SEC. 808. The last sentence of section 6015 of title 10, United States Code, relating to restrictions on the assignment of women members of the Navy, is amended to read as follows: "However, women may not be assigned to duty on vessels or in aircraft that are engaged in combat missions nor may they be assigned to other than temporary duty on vessels of the Navy except hospital ships, transports, and vessels of a similar classification not expected to be assigned combat missions.".

MILITARY TRAINING FOR FEMALE UNDERGRADUATES AT MILITARY COLLEGES

SEC. 809. (a) The Secretary of Defense shall require that any college or university designated by the Secretary of Defense as a military college shall, as a condition of maintaining such designation, provide that qualified female undergraduate students enrolled in such college or university be eligible to participate in military training at such college or university, but, notwithstanding any other provision of law, the Secretary of Defense may not require that, as a condition of maintaining such designation or for any other purpose, such college or university require female undergraduate students enrolled in such college or university to participate in military training.

(b) The Secretary of Defense shall prescribe such regulations as the Secretary determines necessary or appropriate to carry out the provisions of this section.

NAVY SHIPBUILDING POLICY

SEC. 810. (a) It is the policy of the United States to modernize the combatant forces of the United States Navy through the construction of advanced, versatile, survivable, and cost-effective combatant ships in sufficient numbers and having sufficient combat effectiveness to defend the United States against enemy attack and to carry out such other missions as may be assigned to the Navy by law. In order to achieve such policy, the Navy should develop plans and programs for the construction and deployment of weapon systems, including naval aviation platforms, that are more survivable, less costly, and more effective than those presently in the Navy.

(b) In order that the Congress may be kept currently informed regarding compliance with the policy expressed in subsection (a), the President shall include in all requests made to the Congress for the authorization of any ship for the combatant forces, including any aircraft carrier, (1) his conclusions with respect to the survivability, cost effectiveness, and combat effectiveness of such ship, (2) a recommendation whether such ship should be nuclear or conventionally powered, and (3) the reasons for such conclusions and recommendations.

(c) Title VIII of the Department of Defense Appropriation Authorization Act, 1975 (88 Stat. 408), is repealed.

CARRIER SERVICE LIFE EXTENSION PROGRAM AND DDG-2 DESTROYER CONVERSION

SEC. 811. (a) Notwithstanding any other provision of law and except as provided in subsection (b), the Secretary of the Navy may not take any action with respect to the use of either public shipyards or private shipyards for conversion, overhaul, or repair work under the Service Life Extension Program (SLEP) or under the program for the modernization of DDG-2 class guided missile destroyers, or for the employment of additional personnel for, or the transfer of additional personnel to, any public shipyard as a part of the necessary buildup of manpower for carrying out either such program, until—

(1) the Secretary of the Navy conducts a comprehensive least-cost approach study (A) comparing the costs of carrying out such programs at public shipyards with the costs of carrying out such programs at private shipyards, and (B) evaluating such other factors as the Secretary of the Navy considers should be taken into account in assigning work in connection with the conversion, overhaul, repair, or modernization of vessels to public or private shipyards;

(2) a written report containing the results of such study is submitted, after the date of the enactment of this Act, to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives; and

(3) a period of sixty days of continuous session of Congress expires following the date on which such report is submitted to such committees.

(b) Nothing in this section shall prevent the Navy from conducting advanced planning or purchasing long lead items in connection with either program described in subsection (a) so long as such planning or purchasing is not related to the performance of work in connection with either such program at any particular shipyard.

(c) For purposes of subsection (a)(3), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such sixty-day period.

SEA-BASED AIRCRAFT PLATFORM STUDY FUNDS

SEC. 812. The unobligated balance of $40,000,000 authorized to be appropriated in section 201 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95-79; 91 Stat. 323), for conducting comprehensive evaluation studies of sea-based aircraft platforms shall after the date of the enactment of this Act be available and primarily applied toward performing any design work related to any such sea-based aircraft platform authorized by this Act.

CERTIFICATION OF CLAIMS

SEC. 813. Notwithstanding any other provision of law, none of the funds authorized to be appropriated for the Department of Defense by this or any other Act shall be used for the purpose of paying any contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85-804, or other similar request, which exceeds $100,000 unless a senior company official in charge at the plant or location involved has certified at the time of submission of such contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85-804, or other similar request, that such claim or request is made in good faith and that the supporting data are accurate and complete to the best of such official's knowledge and belief. The requirements of this section shall not apply to claims, requests for equitable adjustment to contract terms, requests for relief under Public Law 85-804, or other similar requests submitted before the date of enactment of this Act.

RESTRICTION ON CONTRACTING OUT COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS

SEC. 814. (a) The Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and House of Representatives providing the details of any proposed change in policy or regulations, from those in effect before June 30, 1976, regarding the determination of whether commercial or industrial type functions at Department of Defense installations located in any State, the District of Columbia, the Commonwealth of Puerto Rico, and Guam should be performed by Department of Defense personnel or by private contractors during the period beginning on October 1, 1978, and ending on September 30, 1979.

(b) No commercial or industrial type function at any Department of Defense installation referred to in subsection (a) shall be performed by private contractors unless such contractor performance began before the date of the enactment of this Act of performance would have been allowed by the policy and regulations in effect before June 30, 1976. The prohibition in the preceding sentence shall apply until the end of the sixty-day period beginning on the date the report required by subsection (a) is received by the Committees on Armed Services of the Senate and House of Representatives.

FROM DEPARTMENT OF DEFENSE ARTICLE

SEC. 815. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense

"(a)(1) Except as provided in subsections (b) and (c), the sale outside the Department of Defense of any defense article designated or otherwise classified as Prepositioned Material Configured to Unit Sets, as decrement stock, or as Prepositioned War Reserve Stocks for United States Forces is prohibited.

"(2) In this section, 'decrement stock' means such stock as is needed to bring the armed forces from a peacetime level of readiness to a combat level of readiness.

"(b) The President may authorize the sale outside the Department of Defense of a defense article described in subsection (a) if—

"(1) he determines that there is an international crisis affecting the national security of the United States and the sale of such article is in the best interests of the United States; and

"(2) he reports to the Congress not later than 60 days after the transfer of such article a plan for the prompt replenishment of the stocks of such article and the planned budget request to begin implementation of that plan.

"(c)(1) Nothing in this section shall preclude the sale of stocks which have been designated for replacement, substitution, or elimination or which have been designated for sale to provide funds to procure higher priority stocks.

"(2) Nothing in this section shall preclude the transfer or sale of equipment to other members of the North Atlantic Treaty Organization.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense.".

ASSISTANCE TO 1980 OLYMPIC WINTER GAMES

SEC. 816. (a) Notwithstanding any other provision of law, the Secretary of Defense is authorized—

(1) to provide logistical support and personnel services to the XIII Olympic winter games;

(2) to lend and provide equipment to officials of the Lake Placid Olympic Organizing Committee; and

(3) to provide such other services as the Lake Placid Olympic Organizing Committee may consider necessary and the Secretary may consider advisable.

(b) There is authorized to be appropriated to the Secretary of Defense for fiscal year 1979 an amount not to exceed $2.000.000 for the purpose of carrying out subsection (a). No funds may be obligated or expended for such purpose unless specifically appropriated for such purpose.

REALIGNMENT OF MILITARY INSTALLATIONS IN THE CANAL ZONE

SEC. 817. None of the funds authorized to be appropriated by this Act shall be used for the realignment of any military installation in the Canal Zone unless such use is consistent with the responsibility of, and necessity for, the United States to defend the Panama Canal or with legislation which may be enacted to implement the Pamana Canal Treaties of 1977.

TECHNICAL AMENDMENT RELATING TO THE LIMITATION ON NUMBER OF ADMIRALS AND VICE ADMIRALS IN THE NAVY AND GENERALS AND LIEUTENANT GENERALS IN THE MARINE CORPS

SEC. 818. (a) The first sentence of section 5231(b) of title 10, United States Code, is amended by striking out "the active list of the Navy" and inserting in lieu thereof "active duty".

(b) Section 5232(b) of such title is amended by striking out "the active list of the Marine Corps" and inserting in lieu thereof "active duty".

COMMISSARY BAGGERS

SEC. 819. Notwithstanding any other provision of law, an individual who performs bagger or carryout service for patrons of a commissary of a military department may not be considered to be an employee for purposes of the Fair Labor Standards Act of 1938 by virtue of such service if the sole compensation of such individual for such service is derived from tips.

ABOLISHMENT OF WOMEN'S ARMY CORPS

SEC. 820. (a) (Section 505 of title 10, United States Code, is amended by striking out subsection (d) and by designating subsection (e) or subsection (c).

(b) Chapter 307 of such title is amended by striking out section 3071 and by striking out of the table of sections at the beginning of such chapter the item relating to section 3071.

(c) Chapter 331 of such title is amended—

(1) by striking out "; Women's Army Corps" in the catchline of section 3209;

(2) by striking out the subsection designation "(a)" at the beginning of subsection (a) of section 3209 and striking out subsection (b) of such section;

(3) by striking out section 3215;

(4) by striking out "and the Women's Army Corps" in clause (1) of the third sentence of section 3220; and

(5) by striking out in the table of sections at the beginning of such chapters "; Women's Army Corps" in the item relating to section 3209 and by striking out the item relating to section 3215.

(d) Chapter 335 of such title is amended—

(1) by striking out ", in the Women's Army Corps," in subsection (a) of section 3283 and by striking out "and the Women's Army Corps" in subsection (b) of such section;

(2) by striking out clause (2) of section 3296(b) and redesignating clause (3) as clause (2);

(3) by striking out in the third sentence of section 3297(a) "a selection board considering promotion-list officers of the Women's Army Corps under section 3300 (a) or (b) of this title may include officers of the Regular Army in that corps whose regular or temporary grades are above major, and";

(4) by striking out section 3311; and

(5) by striking out in the table of sections at the beginning of such chapter the item relating to section 3311.

(e) Chapter 337 of such title is amended—

(1) by striking out "and the Women's Army Corps and "or corps, as the case may be in the first sentence of section 3353(g) and by striking out "or the Womens Army Corps in the second sentence of such section;

(2) by striking out "and the Womens Army Corps in section 3364(a);

(3) by striking out "or to the Women's Army Corps and "or corps" in section 3364(b);

(4) by striking out "or to the Women's Army Corps" in section 3364(c); and

(5) by striking out the second sentence of section 3383(b).

(f) Chapter 345 of such title is amended by striking out section 3580 and by striking out in the table of sections at the beginning of such chapter the item relating to section 3580.

(g) Section 3818 of such title is amended—

(1) by striking out clause (2) of subsection (a) and inserting in lieu thereof the following:

"(2) the appointment of a female warrant officer, or the enlistment of a female member, of the Regular Army."; and

(2) by striking out "of the Women's Army Corps" in subsection (c).

(h) Section 3848(d) of such title is amended by inserting "or" before "the Army Medical Specialist Corps" and by striking out "or the Women's Army Corps,".

(i) Section 3916(b) of such title is amended—

(1) by inserting "and" at the end of clause (1);

(2) by striking out "Women's Army Corps," in clause (2);

(3) by striking out the semicolon and the word "and" at the end of clause (2) and inserting in lieu thereof a period; and

(4) by striking out clause (3).

AUDIT AND REVIEW OF CERTAIN FUNDS

SEC. 821. (a) Any funds authorized by this or any other Act to provide relief to contractors under authority of the first section of the Act entitled "An Act to authorize the making, amendment, and modification of contracts to facilitate the national defense", approved August 28, 1958 (72 Stat. 972; 50 U.S.C. 1431), in connection with contracts entered into prior to the date of enactment of this section for the procurement for the United States of landing helicopter assault vessels (LHA), DD–963 vessels, and SSN 688 nuclear attack submarines, and paid by the United States to such contractors, shall be subject to such audits and reviews by the Comptroller General of the United States as the Comptroller General shall determine necessary to insure that such funds are used only in connection with such contracts and to insure that the prime contractors concerned do not realize any total overall profit on such contracts.

(b) No funds described in subsection (a) may be used to provide relief to any contractor described in subsection (a), in connection with any contract described in such subsection, to the extent that the use of such funds would result in any profit on such contract, as determined by the Comptroller General of the United States.

(c) The Comptroller General of the United States shall keep the appropriate committees of the Congress currently informed regarding the expenditure of funds referred to in subsection (a) and shall submit to the Congress annually, until the completion of the contracts referred to in subsection (a), a written report on the status of the contracts referred to in subsection (a), on the expenditure of the funds referred to in such subsection, and on the results of the audits and reviews conducted by the Comptroller General under authority of this section.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 3486, the bill just passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I also

ask unanimous consent that the bill be printed, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. I thank the Chair. I yield the floor.

FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

Mr. KENNEDY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1566.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives on S. 1566, to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. KENNEDY. Mr. President, I move that the Senate agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. Kennedy, Mr. Abourezk, Mr. Metzenbaum, Mr. Bayh, Mr. Biden, Mr. Morgan, Mr. Thurmond, Mr. Scott, Mr. Garn, and Mr. Mathias conferees on the part of the Senate.

AIR SERVICE IMPROVEMENT ACT OF 1978

Mr. CANNON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2493.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2493) to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes.

(The amendment of the House is printed in the Record of September 21, 1978, beginning at page 30709.)

Mr. CANNON. Mr. President, I move that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees.

Mr. METZENBAUM. Mr. President, reserving my objection, may I inquire of the chairman, is this the bill that has the $4 billion in it for subsidies to the airlines?

Mr. CANNON. No; it is not.

Mr. METZENBAUM. I have no objection.

The motion was agreed to; and the Presiding Officer appointed Mr. Cannon, Mr. Magnuson, Mr. Stevenson, Mr. Ford, Mr. Stevens, Mr. Schmitt, and Mr. Danforth, conferees on the part of the Senate.

Mr. CANNON. I thank the Chair.

OCEANS '78 CONFERENCE

Mr. MAGNUSON. Mr. President, I ask unanimous consent that there be printed in the Record at this point a very able address by the Secretary of Commerce, Juanita M. Kreps, on the occasion of the Oceanography '78 Conference held in Washington, D.C. It is very thought provoking and I recommend it to the Senate.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by Juanita M. Kreps, Secretary of Commerce

It is an honor to share the platform with Senator Magnuson. His efforts on behalf of oceans programs have moved our nation to the forefront on important policy issues. For his vision and leadership, I know you join me in extending our thanks—the thanks of the professional groups which you represent, and those of the American people.

Few areas of endeavor are more critical to the country's future than the one we address here this evening. For that reason, I am pleased to join the Oceans '78 meeting. Your program indicates that you will be addressing a wide range of topics: undersea technology, ocean engineering, coastal zone management. These are complex issues; they pose problems that will not be solved easily. Yet further postponement of such questions would be at our own peril.

The ocean has had great influence on the life and culture of this Nation. Our forefathers depended on the sea for food, transportation and security. The sea has also given us romantic culture and lore. We still look back nostalgically at the eras of the yankee clippers, the New England whalers and the salty fishermen who went down to the sea in ships.

Today's challenges are different. Small coastal settlements of colonial times have become our great cities. The tall ships have given away to modern tankers and freighters. Whales are now endangered, and while fishermen still go down to the sea in ships, their ships are not the fishermens' dorys of the past but modern trawlers capable of netting thousands of tons of fish on a single voyage.

As a result, the importance of the ocean has grown, and its resources promise even greater value to the future.

The oceans' riches are well known to this group.

Two-thirds of the recoverable resources of oil and natural gas in the United States lie in the ocean under the outer continental shelf and coastal margins of Alaska.

More than 10 billion tons of nodules containing nickel, cobalt, copper and manganese are thought to lie on the floor of the deep. More extensive use of these materials will be necessary as land supplies dwindle.

American coastal waters and estuaries are the most productive fisheries in the world, yielding almost one-fifth of the world's harvestable supply. Commercial fishing contributes nearly four billion dollars in processed fish and provides hundreds of thousands of many-years of employment.

The ocean is a great natural transportation resource. More than $63 billion of oceanborne commerce moved through U.S. ports in 1976. In fact, almost all of our commerce with international trading partners moves over the sea lanes and through port facilities.

In addition, the ocean's edge—the coastal zone—is an important industrial, residential and recreational resource. Nearly half the Nation's industrial jobs are located in coastal counties, where 42 percent of our population lives and plays.

Finally, seawater itself may become an important source of energy in the future. Developments in fusion technology hold promise for creating the sun's energy under controlled conditions within 20 to 30 years. If this proves practicable, the waters of the ocean will be the source of the heavy hydrogen atoms needed as fuel for the process.

Although the ocean contains this vast store of resources, we are currently using but a fraction of its potential. This oldest and most-used of our resources is, therefore, in a sense our "last frontier." We know far more about the physics, dynamics, and the atmosphere of outer space, where few people have been, than we know about the oceans which man has traversed for centuries.

In recent history, our expectations of the ocean's output have shifted. Back in the 1960's, the ocean was seen as a cornucopia of riches. Its fisheries, we were told, would provide the world with a bountiful source of protein. Oil and gas would flow in limitless supply.

We have since learned that ocean development is not so simple; that the ocean is not infinite and that fish and other living resources can be damaged by man's avarice and carelessness. We have learned too that, while oil and gas exist in large quantities in the continental shelf and beyond, they are not easy to find nor inexpensive to produce.

These have been useful lessons, but they have also greatly reduced our enthusism and narrowed our vision. It is now time to rekindle this enthusiasm and begin looking again at the ocean as a focus for national economic development.

This development must be viewed realistically, with full understanding of the constraints we face. As demand for the oceans' resources increases, the technology for tapping those resources will develop. That has been the historical pattern. Already oil and gas demand has spurred advances in American offshore petroleum technology. Demand for gas has brought great strides in LNG tanker technology. Demand for new mineral supplies is similarly producing technological innovation in ocean mining.

But if we are to develop our ocean resources in an orderly manner, it will require a joint effort—a partnership between government and the private sector. As a text for considering the problems of public-private interaction, I cite your charge for this afternoon's plenary session: "Government as a partner may be vital to the success of a venture but run counter to our free enterprise system and prove quite restrictive. Government regulatory action seeks a balance between the benefits and the costs of controlling private activity, but consensus on how to strike the balance is seldom realized."

Let us examine the problem further. Government must ensure that the Nation's economic and regulatory climate is conducive to orderly development. This means reducing the unpredictability of regulations that increase risks and discourage investment. It means encouraging industrial innovation in the private sector. In some instances, it may mean direct participation in technology development where the prospects for immediate return are too low to attract private capital.

But by and large, government can only create the conditions in which development can take place. It is the private sector which must bear the major financial risks.

And in all this, we must recognize that technology is a double-edged sword. It can both create and destroy. The Government's responsibility to foster and promote the development of the ocean is paralleled by its responsibility to conserve and protect the ocean and its resources.

Within the Department of Commerce, we are exploring ways to achieve both objectives by breaking the age-old pattern in which industry "proposes" and Government "opposes."

The business community complains that government regulation strangles initiative; that needed capital must be diverted to meet requirements that have no market value; that domestic regulations place American industry at a competitive disadvantage in the world market.

There is truth in some of these allegations, However, if we are to reduce regulatory costs, industry and the government must agree on mutual goals. And we must have an overall strategy for achieving them.

Toward this end, we must develop new procedures. We did so in the fisheries area. The Fisheries Conservation and Management Act created eight regional fisheries councils to develop management plans and policies for guiding fishing in our new 200-mile conservation zone. These councils include representatives of industry and government, and are given responsibility for managing fish stocks on a regional basis. While it is still too early to judge finally the effectiveness of the councils—certainly, some councils have had some problems—they are an example of the sort of innovative approach we need to bring government and industry closer together.

A similar forum is needed to bring industry and government together to advance ocean technology. This council could pool the talents of the two sectors to help identify the goals and strategies for future ocean development. Such a dialogue is needed to ensure that the plans of government and industry are consistent with our national goals.

The formulation of government policy is sometimes more complex than the development of the technology it regulates. Seabed mining is an example. American industry now has the ability to mine and process nickel, copper, manganese and cobalt from the ocean floor under thousands of feet of water. The minerals found on the seabed—particularly manganese and cobalt—are critical to national security. Unless alternative sources are developed, we will, within two decades, be largely dependent upon southern Africa and the Soviet Union for manganese and on Zaire for cobalt. By the year 2000, without a functioning ocean mining industry, the United States may become a captive in a seller's market.

But the financial risks of development are enormous—estimates run as high as $700 million for a single venture. And a major part of that risk has nothing to do with cost and sales projections but with the fact that until the U.N. Law of the Sea Conference resolves the seabed issue, operating on the high seas means operating without the protection of property rights.

We must resolve the seabed issue if development is to go forward. The legislation now pending in the Congress (with minor modifications) will provide industry with the operating climate it needs until the international questions are resolved. Again, I refer to your program: "The economic wellbeing of U.S. industry cannot be abandoned to international arrangements and U.S. international commitments cannot be vacated without very good reasons. Yet, the 'common heritage of mankind' approach to nodule mining must be placed in the context of the enlightened self-interest of our society."

In summary, then: Though our visions of the ocean's wealth may have peaked in the 1960's, the ocean and its resources probably are more important to us now than then. The question before us now is not whether to develop them but "how." How to bring industry, government and the citizenry together to deal with these issues? How to spur marine science and technology? How to blend technology and public policy in a way that will provide at the same time access to resources and protection of the marine environment?

These are the questions that confront you in the ocean community and us in government. They are the questions appropriate for what your program calls the "Challenge Banquet" of your meeting. Answers must come from all of us working together in an alliance for the ocean. We must be as innovative in solving the policy problems facing ocean use as we are in developing ocean technology. Then, with a touch of impatience, we must insist that the nation get on with it.

Those of us who are committed to moving ahead on ocean programs—in the Administration and in the Congress—welcome the support of the scientific and industrial community. But far more important, we welcome your ideas. For if we are to solve the "Ocean Challenge" it will be because part of the "common heritage of mankind" that is intellectual and searching and stubbornly persistent is brought to bear on the difficult issues of public policy now before us.

We offer leadership, and we ask your present knowledge, and your continued probing for ways to develop our ocean resources.

FISH AND WILDLIFE IMPROVEMENT ACT OF 1978

Mr. GRAVEL. Mr. President, I ask unanimous consent that the motion to table the motion to reconsider, the motion to reconsider final passage of H.R. 2329, and the third reading of the bill be vitiated, and that an amendment which is at the desk be adopted, that the bill again advance to third reading and pass, and that a motion to reconsider final passage be laid on the table. In conformance with amendments adopted earlier by the Senate, the amendment at the desk clarifies that the Interoceanic Canal Study Council shall consist of five members, and that the International Sea-Level Canal Study Commission shall consist of 10 members.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

UP AMENDMENT NO. 1927

On page 24, line 21, strike "seven" and insert in lieu thereof "five".

On page 29, line 25, strike "fourteen" and insert in lieu thereof "ten".

Mr. GRAVEL. Mr. President, I would like to extend my support for H.R. 2329, the Fish and Wildlife Improvement Act of 1978. This act would make several miscellaneous changes in law designed to better conserve our fish and wildlife resources and improve the operation of our National Wildlife Refuge System.

One amendment adopted by the committee to the House bill is of particular concern to me and to my State. The language contained in section 5 of the bill puts into the existing law the provisions of the U.S.-U.S.S.R Migratory Bird Convention ratified by the Senate earlier this session. Specifically, the special subsistence provisions contained in this convention relating to subsistence users in Alaska can now be implemented and now be used as model for future negotiations with Canada and perhaps other countries with which we have signed migratory bird treaties.

Some subsistence provisions in these earlier treaties. notably the old 1916 United Kingdom-United States Migratory Bird Treaty negotiated for Canada, address subsistence uses by rural Alaskans in a very unrealistic way and have resulted in much ill will and poor resource management. As pointed out in the committee report the Soviet convention contains the most modern and workable language on subsistence and avoids the errors of the past. Acting with the understanding that the administration is actively seeking to renegotiate the provisions dealing with subsistence in the earlier treaties to bring them in line with the Soviet convention, the committee included language in the amendment which would implement all the various treaties, once amended, to bring them into conformance within existing law. Thus, as soon as these other treaties can be amended by our negotiators and ratified, we can at least put to rest one of the most longstanding, volatile issues facing rural Alaskan users of migratory birds. At the same time we will be able to develop a reasonable regulation program which will more effectively conserve our valuable migratory bird resources.

I strongly support passage of this legislation and encourage my colleagues to act positively on this measure.

The PRESIDING OFFICER. Without objection, the amendment is agreed to, and without objection the bill, as amended, is passed.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

Mr. DOLE. Mr. President, would it be in order at this time to propose a motion relative to the natural gas conference report?

The PRESIDING OFFICER. The Senator has that right under the unanimous-consent agreement.

Mr. DOLE. Mr. President, I submit a motion in writing, and ask for its immediate consideration, and I ask for the yeas and nays.

The PRESIDING OFFICER. The motion will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) moves as follows:

MOTION

I move that the conference report on H.R. 5289, the Natural Gas Policy Act of 1978, be recommitted to the Committee of Conference with instructions, that it be reported back with all references to the pricing of natural gas deleted therefrom, and that it embody the language contained in titles III, V, and VI of the conference report with such conforming language and/or definitions as may be required. The conferees are specifically instructed to report back with the following sections excluded from the conference report: Section 2, subsections 2–14, 18, 19, 22, 23, 30–32, 36; sections 101 through 208; section 303(d); sections 402 and 404, sections 502(d), 503, 504(a)(1), 504(b)(3), 505, 506(d), 507, and 508; and sections 601(a)(1)(A), 601(a)(1)(B), 601(a)(1)(E), 601(b)(1)(A), 601(b)(1)(E), 601(c)(1), 601(c)(2)(B), and 602(a).

Provided, however, that all provisions of the conference report pertaining to natural gas produced in Alaska be incorporated in the conference report reported back.

The PRESIDING OFFICER. Is there a sufficient second to the request of the Senator from Kansas for the yeas and nays?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. Mr. President, can the distinguished Senator state whether or not this is the recommittal motion that the Senate is expected to vote on and will vote on before the vote on passage of the conference report, or does the Senator anticipate that if this recommittal motion is voted on, there is another recommittal motion? Does the Senator know of another one?

Mr. DOLE. As far as the Senator from Kansas knows, there will not be another motion to recommit. I am speaking now only for this Senator, but I have been in touch with other Senators who have the same concern.

I see the minority leader standing. He may have additional information, but as far as I am concerned, it is the only one.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator and the distinguished minority leader, under the order, Mr. BARTLETT was to be recognized in the event he wanted to call up a recommittal motion. Does the Senator know whether or not that will occur?

Does the minority leader know?

Mr. BAKER. Mr. President, if the Senator will yield, I advise the majority leader that it is my understanding that the Bartlett motion to recommit with instructions has been incorporated into this motion to recommit with instructions. I do not mean by that statement to extinguish any rights of the distinguished Senator from Oklahoma, but that is my understanding and I shall try to verify that in the next few minutes. It is my impression that this is the only remaining motion to recommit on this side.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Kansas and the distinguished minority leader.

Mr. DOLE. Mr. President, I think we can vote here any minute. I understand that the Senator from Ohio and the Senator from Wyoming, and perhaps others, might like to discuss this.

What the motion does is recommit with instructions. It includes the four parts of the conference report—first, authority for the President to allow sales during time of emergencies; second, permit surplus gas in the intrastate market to be sold in the interstate market without Federal jurisdiction; third, all those provisions in the conference report pertaining to natural gas produced in Alaska; and fourth, the amendment which we are offering today, which is sections 401 to 403, report back those provisions of the conference report which give agricultural users priority for gas in times of curtailment.

That is the effect of the addition. The amendment just adds that one area, that one of those sections dealing with agriculture in times of curtailment. It seems to me that this is, in essence, as has been indicated, what the distinguished Senator from Oklahoma (Mr. BARTLETT) may have had in mind, and others of us who come from farm States.

I do not know that there is any great need for discussion. It seems to this Senator that, after the distinguished Senator from Ohio has a chance to express his views and, perhaps, the Senator from Wyoming, as far as the Senator from Kansas knows, there are no further requests for time on our side. We shall be prepared to vote in the next 20 or 30 minutes.

I yield to the distinguished Senator from Ohio.

Mr. METZENBAUM. I thank my friend from Kansas. I shall very briefly.

Mr. President, I commend the Senator from Kansas for offering this motion, which is a new approach. It adds to the matter before the Senate instructions to send the bill back to conference, including all the provisions that were before the Senate the other day, as well as the priority for agricultural users.

The earlier congressional alternative eliminated all of the pricing provisions and this eliminates all of the pricing provisions. The addition provides that priority for agricultural users that so many Members of the Senate have a special concern about. I include myself in that group.

In effect, the addition means that the Senate recognizes that agriculture, the industry that feeds this country and much of the world, must have priority in times of gas shortage over users that are not as vital to the well-being of the American people.

It is only fair to point out, and it should be pointed out, that this language is in the conference committee report that is before the Senate. But it means that we can have the best provisions of the conference committee report without taking with it the very onerous provisions. The Dole motion provides the kind of priority for agricultural users that we need and should have. It places essential agricultural use in a category just below that accorded to the homes, schools, and hospitals that comprise the very highest priority. It assures, in other words, that farmers will get the energy they need to grow, harvest, and process the Nation's food and fiber. It provides that the production of fertilizer and agricultural chemicals will continue in order to assure us that we will have ample food in future years.

Mr. President, this motion addresses a priority that is of great concern to many Senators, myself included. It gives us a motion to recommit that will do what is essential—provide emergency powers, permit interstate movement of surplus gas, encourage development of Alaskan reserves, and give emergency protection to agriculture—without saddling American consumers and producers with the disaster that is the balance of the conference report.

Mr. President, the Senate once again has the opportunity to act constructively on natural gas.

The Senate once again has the chance to enact an alternative to a piece of legislation that is distinguished only by excessive cost to consumers, excessive regulation of producers, and an excessive selling job by an administration that apparently wants a victory more than it wants the Nation to have fair and workable natural gas legislation.

The Senate, in other words, has a chance to say to the administration that the conference report is just not good enough.

We have the chance to say that this cumbersome legislation is not worthy of enactment.

We have the chance to say that we can and will do better.

We have the chance to say that we do not want a C-minus bill.

And we have the chance, Mr. President, to pass legislation that we know will work, because these provisions of the conference committee report that are proposed under the Dole amendment are provisions that will work and can work.

We have the chance to enact legislation that is acceptable to both consumers and producers.

The solution proposed in the Dole motion is not the final word on natural gas policy.

It is not a panacea. It does not provide all of the answers. But it provides a far better answer than which is provided for in the pending natural gas pricing bill that is before the Senate under the conference committee recommendation.

We who support the Dole motion do not claim that it is the total answer, but we do claim that it is far superior and far less costly and far more beneficial to the American people than will be the conference report.

We claim that it represents a solution that is far more prudent and far more responsible and far more in keeping with the long-term interests of our country.

Mr. President, I urge my colleagues, in the strongest possible terms, to vote in favor of this motion. It gives us a positive answer. It gives us an affirmative answer. It gives us an alternative that protects the farmers, that provides for consideration with respect to Alaskan gas, that makes it possible to move intrastate gas in the interstate market when there is a surplus, and it gives the President the emergency powers that he needs in order to provide priority for residential users, hospitals, and schools.

Mr. President, it does much more than that. It says that we are not going to be the architects of raising the gas bills of the American people on an escalating basis, as provided for in the conference report during the next 7 years, and then the sky is the limit thereafter. It says that we have a concern about consumers. It says that we are concerned about inflation and what it is doing to the American pocketbook. It says that we are not going to try to fight inflation while, at the same time, raising utility bills for all Americans who use natural gas.

Mr. President, I cannot urge the Members of this body strongly enough to accept this affirmative answer, this affirmative alternative, to the legislation that will otherwise be before the Senate on an up or down vote tomorrow.

I yield to the Senator from Wyoming.

Mr. HUDDLESTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HANSEN. Yes.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Tim Dudgeon of my staff be granted the privilege of the floor during debate on the pending measure and on the offtrack betting bill when it is called up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. FORD. Mr. President, I was going to allow those who support this recommittal motion to speak as long as they want to and I should be delighted to yield them the time. It is strange that the distinguished Senator from Kansas now comes with his big agricultural amendment, the big defender of the farmer. When we had the recommittal vote last week, the farmers were not in it and he voted to recommit. At that time, he voted against the farmers.

Mr. DOLE. I have done that before.

Mr. FORD. I understand that.

But as we are now looking at this recommital motion, last week they forgot the Alaskan pipeline. So they got an amendment to put the Alaskan pipeline on.

Last week they forgot the farmers. So now this week they are trying to put the farmers on.

If this does not work, they will try to put on something else. But I am glad to know this will be, in the words of the Senator from Kansas and the distinguished minority leader, in all probability, the last motion to recommit with instructions.

It is strange to me that some of the people who are representing the agricultural community are not for the motion to recommit. I wonder if the Senator from Kansas or the Senator from Ohio have the American Feed Manufacturers Association on their side. I do not think they do.

I wonder if the National Council, farmer cooperative——

Mr. DOLE. Will the Senator give me the names of the people we should contact?

Mr. FORD. They are already committed to us. They have sent us a telegram and they are for the conference report. They are not for the motion to recommit.

The National Grange, United Fresh Fruit and Vegetable Association, these people are for the conference report.

These are the farmers that have written to us, sent telegrams, and supported this amendment.

I was pleased when they gave some credit to the junior Senator from Kentucky getting this amendment on the natural gas conference report, and this protects the farmer.

But the Senator from Kansas, I think, is aware, he has been around here long enough, he understands this arena very well, and the Senator from Ohio has been here for some time, he understands the real world as it relates to this piece of legislation, and the Senator from Wyoming (Mr. HANSEN) who will speak later understands that if this bill is recommitted the farmers lose. There is no way that the farmers can win if this bill is recommitted because there will not be any bill and the farmers will not have priority.

So as we dangle this, another carrot, so to speak, and try to pick up another vote or two because it is helping the farmers, it is not helping the farmers.

It does not help the farmer in any way because there will be no natural gas to legislate during this session of Congress and, therefore, those people who are saying that this is a great piece of legislation for the farmer are just putting up a smokescreen. This smokescreen is going to be blown away, if this Senator has the opportunity.

Now, the Senator from Ohio says it is not a good bill, not going to be a good bill, it cannot be a good bill, so we will just send it back and try to get it reconstructed, and we will have a piece of legislation that is going to assure that the prices are going up without any certainty.

Sure, prices are going up. The senior Senator from Arkansas debated very eloquently last week that prices are going up with uncertainty. This bill will say that the price will go up with certainty.

Now, let me just say to the distinguished Senators supporting this piece of legislation as it relates to agriculture, if this bill goes back to conference, we have no bill, and FERC now refuses to give agricultural producers under present law priority.

If we are trying to get farmers priority, we ought to be for the conference report so they can have it.

Mr. President, this tactic of trying to recommit to kill the energy bill on the basis of helping the farmer just will not wash, particularly with this Senator.

We will say, "Vote with us and we will include special treatment for agricultural users and special treatment for process users."

Those people are concerned and they know that if this goes back to the conference committee they do not have any priority because the bill will not come out. What they are saying is, "Please don't ask us about incremental pricing, we can't agree and will leave it to FERC."

That will not wash, either. Take that out, please do not ask about ceiling prices, we are going to leave it to FERC and let them. They are past due anyhow in giving a raise, and I believe those that dealt with this conference will admit that.

If this bill does not pass, then FERC can do whatever they want and set whatever price they want to. We have no guarantee what prices are certainties.

I recall very well what the distinguished senior Senator from Arkansas said, that the industrial community said, "Give us some certainty so we can plan on the future, so we will know where we are going."

If this bill is recommitted, then we have no certainty. If this bill is recommitted, then we have no certainty. We have left them right where they are today, with uncertainty.

I am sure they do not want that. I hope Members of this Chamber will not give them that, because half of us here know that FERC, if it is turned over to them, will hold down prices, while the other half of us know it will raise prices, but we all know we both cannot be right.

There is no way. Those who want to send it back say that FERC will hold prices down. The other half that want to send it back say that FERC will raise the prices. By golly, there is only one side right. So, in order to set the prices, why not pass legislation that does and that gives some incentive over a period of time?

So are we willing to let the country take that gamble?

If we do not take care of the farmer, we are taking care of swizzle sticks instead of the farmers. Swizzle sticks are given priority instead of the farmers.

So if we are going to vote for this motion to recommit, we are saying to the people of this country, to the consumers, that we are in favor of swizzle sticks. The manufacturers of swizzle sticks over the first priority for agriculture.

If they can stand up and defend that, I think they ought to do it, and I want to listen to them defend giving swizzle sticks priority over farmers.

If this bill goes back, it will never come back to this body to be considered. Let us not let this country gamble on what FERC will do, or we are willing to let the country escape the price ceilings that are in the conference report.

We say what the prices are going to be. We set out what the price is and what they can expect. We set out the incentives and we know what the prices are going to be.

Also, we know that one-ninth of the cost of sending natural gas to New York is at the wellhead prices. Eight-ninths of it is the cost to get it there for Mrs. Jones to turn her gas on to heat her soup for the evening meal.

Mr. President, I do not intend to speak too long. I also have a few other thoughts. But I see a lot of pencils being moved here, a lot of comments being made, so I am sure that there is going to be some rebuttal to my remarks. I hope they start defending swizzle sticks and letting the farmers go down the drain. That is what I want them to start doing, defending swizzle sticks and not give farmers priority, because that is exactly what they are doing with this motion to recommit.

Mr. DOLE. Mr. President, I do not know anything about swizzle sticks, but I know about farmers.

I would say to my good friend from Kentucky, I understand that there may be some telegrams around from different farm organizations saying they support the legislation. But I am not certain how many farmers were contacted before somebody affixed their name to a telegram.

It just seems to me that they are sort of forced into supporting this bill because they will guarantee a shortage under this bill and they will have to have a priority.

Mr. FORD. Will the Senator yield for just a moment?

Mr. DOLE. That is why we have to have priorities, because the managers of this great natural gas bill, in effect, guarantee a shortage.

So when you guarantee a shortage, you have to figure out some priority system. That is when farmers get panicky, as everyone else does, when they are pushed and squeezed. Certainly, they support the measure. I hope that my record for support of farmers and agriculture generally has been adequate.

I understand the arguments for and against the legislation. I understand what the proponents think it might do. I understand that there probably are some who fear that we are going to pass a bill or FERC might set the price higher in the bill and we might end up paying as much for domestic gas as we pay for Algerian gas and Canadian gas and maybe even Mexican gas, if that deal is put together. We understand those arguments.

Of course, it is a very difficult piece of legislation. Some people are for it and some people against it, and most of us do not fully understand it.

There are those who, like the Senator from Kentucky, have been working hard in the conference month after month, and certainly have a better understanding of it than some others in this body. But that does not deny us the right to stand up and speak out as to whether we support or oppose the legislation.

I do not think any other motion to recommit will be offered. But if the Senator from Kentucky knows some other areas that we should include in a motion to recommit, if he will communicate those thoughts to me, I will be happy to include them in another motion to recommit.

Mr. FORD. I am for the contents of the conference report, and I think my intentions are well known. If the Senator from Kansas will put that in his motion to recommit, I think it will be agreed to.

Mr. DOLE. It would be close. We want to look at it, and we want to look at all the options, which is more than I can say for some of the proponents of the proposed legislation.

We are looking at what will happen if the motion to recommit is agreed to. I am not under an illusion that the motion to recommit will be agreed to. I know that the leadership on the other side is busily checking to see how many absentees there are and what the vote will be on the motion to recommit. I assume that as soon as that is determined, they will decide whether we are going to vote today or tomorrow, sometime before the 1 o'clock vote on the conference report. We understand that.

Those of us who oppose the bill and have been working with the leadership have not been trying to obstruct any other legislation. This is only the second motion to recommit that has been offered since last week. So there has not been an effort to slow down anything or displace any legislation.

It seems to some of us that there might be some who voted against the last motion to recommit, particularly Senators from farm States, who are justly concerned about curtailment in agricultural areas, as to whether or not there are priorities for agricultural users. That is the reason why the Senator from Kansas would amend the motion previously submitted by the distinguished Senator from Ohio. I suppose that some Senators who represent rural States might at least want to have time to think about it. Perhaps that is why we should discuss it at least for an hour or two.

Mr. President, my motion to recommit is important to the agricultural community. I remind the distinguished Senator from Kentucky that the American Farm Bureau Federation, which is a fair-sized farm organization, does not support his position. I suggest that probable other farm groups do not. I have not seen the entire list. There are literally hundreds of farm organizations throughout this country, if we count the commodity groups and the State groups, and I suggest that not everyone has lined up behind the conference report or against it. That, in itself, is an indication that there is a division in this country, a division among farm groups, a division among Senators, whether Democrat or Republican, from producing or nonproducing States. That is a division.

The Senator from Kansas has been here long enough to count. I assume the other side will prevail, but that does not suggest for one moment that we do not have a responsibility on this side to present every argument and make every argument we can in order to present what we consider to be a very bad bill from becoming law.

My motion allows an opportunity to preserve the portion of the conference report which I believe to be in the national interest. It would delete the sections on gas pricing. I believe that this course is the only way to avoid the unnecessary regulation this bill involves.

Knowing the farmers as I do and the farm organizations as I do, I cannot believe that they would vote for more regulation. They do not really have that choice. They cannot vote on the conference report a section at a time. It is a matter of "take it or leave it." That is what they were told, and that is how they responded.

This will inflict higher prices on the American consumers, and the farmers are the biggest consumers of all. They are going to pay the higher prices under this bill. There is no guarantee of any new supplies in natural gas, and it is going to have an adverse impact on the rate of inflation in the country, which is going higher and higher by the week, and I think it is going to be significant.

I am not able to repeat all the arguments that have been made in this Chamber about the proposed legislation. Everyone knows there are several classifications of gas created and different prices. We have different prices for stripper gas, for nonassociate wells producing 60 Mcf per day over 60 consecutive months. They are going to have a different classification for onshore gas wells from 1977.

We go on and on, and the whole pricing system, I think, defies an explanation. If somebody can stand up and point out to the Senator from Kansas all the different pricing and explain how incremental pricing is going to work and do all these things for the American consumer, and make it understood, then perhaps we will be in a better position to judge the proposed legislation.

I know the arguments that are made about the fact that we are going to have an energy bill: It is important to the dollar. It is important to inflation. It is important to the President. It is important to Congress.

I was heartened this morning, in the Finance Committee, to hear our distinguished chairman, Senator LONG, say that it appeared that the crude oil tax was dead, because it was not many months ago that we were being told almost daily, by someone in the administration, that the centerpiece of the Carter energy package was a crude oil equalization tax. When it became rather obvious, several months ago, that the crude oil equalization tax was dead—I think it was totally obvious after the passage of proposition 13 in California. The American people said, "We have had enough taxes. We don't care what they are called; we've had enough. Call it crude oil tax, call it whatever you like, we have had all the taxes we can stand."

If there was any doubt about the life or death of the crude oil tax, I think the people in California saved the rest of the people of this country from another tax imposed on the consumer, another tax proposed by this administration, to add on a social security tax of $225 billion and a crude oil tax of $125 billion.

It seems to this Senator that, suddenly, when the crude oil tax was dead, there was a cosmetic shift, an effort to find something about which to claim victory, so we hit upon this piece of legislation as being the centerpiece of this administration's energy program. Maybe it is the centerpiece. It is in a lot of pieces, and it is all over the lot.

I do not know how many farmers have read the proposed legislation or how many have read the committee report and how many understand what it means for the American farmer, but the simple fact is that we are not going to do anything about the dollar if we pass this bill. That story was being peddled by some as recently as 2 weeks ago.

The simple fact is that domestic inflation is causing the decline of the dollar; and until we start controlling inflation—and I am not blaming Congress or blaming the administration or blaming the Government wholly—but until we in America, all of us, start controlling inflation, we will have difficulty trying to convince the Europeans and the Japanese that by the passage of this so-called natural gas bill we have taken care of all those problems. They are much more sophisticated than that.

Mr. President, my motion to recommit, with instructions, as I said before, includes four parts. It includes the authority for the President to allow emergency allocation sales. That was in the last motion to recommit. It permits surplus gas in the interstate market to be sold in the intrastate market without Federal jurisdiction attaching. That was in the last motion to recommit. It provides all the provisions in the conference report pertaining to natural gas produced in Alaska. That was added to the last motion to recommit. But, in addition, it makes a very substantial change.

Again, I address my remarks to those who may be in this Chamber and who may be in their offices, who represent farmers in America.

Farmers do not want the gas pricing section. Farmers do not want increased regulation. They are covered up now with regulation.

Farmers are told, in effect, that we are not certain what is going to happen under this bill, that we are not going to produce any more natural gas. On that basis they have to have some priority.

If that is the case, we are still going to allow them that priority by adding that there shall be a special priority to agricultural users for gas in times of curtailment. It would seem to me that this is really what it is all about.

This is a positive effort. If adopted, it will constitute a national policy on natural gas.

It seems to me that under the status quo FERC would set the price. Charles Curtis was quoted as saying drilling costs reflected a price of around $2.60, but the conference report holds down the lid on that price that is less than we buy from Canada, as I have said before. It is less than we pay Algeria for gas. It is less than we pay any foreign country.

That has always been a mystery to the Senator from Kansas. The same was true with the crude oil tax. We are not willing to pay people in this country a fair price, but we are willing to pay everyone else a fair price, whether it is Canadian, Mexican, or some foreign country such as Algeria. We are willing to pay the price.

We pay an arbitrary price to all the OPEC countries. We hold down the domestic price of oil. We are willing to impose import fees—at least President Carter talked about import fees of $5 to $6 a barrel, again to raise the price and to invite OPEC countries to raise their prices. But somehow there is I guess a policy determined by someone in the administration to keep down domestic prices, whether it is farm prices or energy prices. If they are produced domestically. keep the price down, regulate it, and save your money to buy all the foreign products at a higher price.

That is hard to explain to the American farmer. Talk about the American farmer. Talk about someone who is not making a living. Talk about the fact that they were so frustrated they turned 100 goats loose on the Capital about 6 or 9 months ago, not because they were looking for a Federal check or a Federal subsidy or a handout but because they wanted to make a living. They wanted a market price. I was on that conference and I remember being told by someone in the administration that it is easier to send the farmer a check because then you do not rile up the consumers. You just take it out of the Treasury and send the farmer a check for not producing or to supplement his income.

Farmers do not like that system. They will take their chances in the marketplace.

So I think it is fair to say that we are concerned about domestic production and again I do not ascribe to anything but the best of intentions to anyone on either side of this legislation.

We can have strong differences of opinion. We can disagree on this particular legislation, but we have a big problem of balance of payments and national security.

I am not certain where the policy will take us if this bill is eventually passed as I assume it will be passed. I am not certain what will happen next year when we get back and talk about maybe something to replace the crude oil equalization tax. But I do not know of any survey that has been taken in the past year or 6 months or 2 years that does not indicate at least two or three things: The American people are primarily concerned about inflation. That is No. 1. And they are concerned about taxes. That is No. 2. And they are concerned about regulation. That is generally No. 3.

Under this administration plan they are going to get more of all three: more inflation, more taxes, and more regulation. The very three things the American people oppose the most we are going to double for them.

Some may feel that there is so much in this bill that is good that there is no other choice. And I recall, as I looked over some of the debate, that I know of many of my colleagues who sort of come to the Chamber and sort of apologize for the bill and then say: "We have to vote for it. It is the best we have."

It could be made better. We could recommit it with these mild instructions. It has been said that will kill the bill. I do not want to go through all that debate because I have every confidence in the distinguished chairman of that committee, the Senator from Washington, that he would carry out the wishes of the Senate and that it would not kill the bill or kill the effort.

So I just suggest, as one Senator from a farm State who is concerned about regulation, taxes, and a lot of other things, and not having all the answers, I might add, that I hope after some discussion we might have a resolution of this motion to recommit.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DOLE. Yes; I am pleased to yield without losing my right to the floor.

Mr. ROBERT C. BYRD. I wish to explore the possibility of getting a time agreement to vote on this motion up or down this afternoon. As I understand it, the Senator who is the author of the motion is willing to do that.

I suggest that Senators be on notice that a vote very well may occur on this motion this afternoon and not stray too far away, like the old song, "Don't Stray too Far From the Shore."

So I will make an attempt, I will touch some bases, and it may be possible to get some votes this afternoon.

I thank the Senator for his willingness.

Mr. DOLE. I am willing. We are touching a few bases, also, and I think the bases are empty so far. But we will keep touching.

Mr. FORD. Is the Senator finished?

Mr. DOLE. I yield to the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I say to the majority leader that I hope we will vote this afternoon on this motion, and I do not think there is any thought on the part of any of us to delay debate but rather anticipate voting on it at some time probably before 6 p.m. even.

Mr. ROBERT C. BYRD. Let me see if I can do it. I hope that it can be done, but I am not sure. But I am glad to note the willingness of the distinguished Senator.

Mr. METZENBAUM. Will the distinguished leader not agree that when debate has concluded, unless the opponents of the motion to recommit attempt to engage in what I call a minifilibuster, the question before the Senate is, "Is the motion to recommit agreed to?" It is my understanding that the Senator from Wyoming expects to be heard from. I do not know that the Senator from Kansas or the Senator from Ohio expects to be heard from much more than we have already spoken, and we may be ready very early, even without a motion specifically agreed to.

Mr. ROBERT C. BYRD. I say to the distinguished Senator, I would be careful to use the word "filibuster" on this motion in view of the fact that the last date that a motion to recommit was voted on was Tuesday a week ago today and in the meantime there has been ample opportunity for additional motions to recommit to be offered, but they were not offered.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Continuing to answer the Senator's question, now today a week later the motion to recommit comes in and it was offered—what would the Senator say—an hour or an hour and a half ago, at that time any way the Senator wishes, but I would not consider a discussion of this motion this afternoon. Against those background facts, I would not construe that to be a filibuster. But let one do as he wishes.

I will seek to ascertain if I can the possibility of voting this afternoon.

Mr. DOLE. Mr. President, I appreciate the remarks of the distinguished majority leader. As I said earlier when he was not present, there has certainly been no effort to delay because there has been a lot of legislation considered since the last motion to recommit was defeated. I think we understand that the votes are here right now to defeat this motion to recommit. We are not suggesting that.

The point is we wish to make our case. As I said to the distinguished Senator from Kentucky, we may not agree but we have a right to express the disagreement. We have a right to try to strengthen our motion to recommit. We certainly have a right to try to encourage or persuade our colleagues to come over to our side. We may not be successful. Maybe the bases are empty. But I will check a few places and if the majority leader has already been there then I will be right back.

(Mr. ZORINSKY assumed the Chair.)

Mr. FORD. We might have a pinch runner or two. I do not know whether we have any hitters or not.

Mr. ROBERT C. BYRD. I want to say for the record that the distinguished Senator from Kansas is generally ready, willing, and able to call up his amendments and vote on them without very much discussion. That has been characteristic of him, and I compliment him on this occasion again.

Mr. FORD. Mr. President, I want to say to the distinguished Senator from Kansas that he always defends his position well, and I think he has found me, as it relates to the farmer, with him more times than I am opposed to him.

Mr. DOLE. I want to make it clear that we support each other on farm legislation whether it is wheat or tobacco.

Mr. FORD. I want to be sure that the official reporter understood exactly what the Senator from Kansas said, and I think I quote him correctly, that we stand together on the agricultural issues, be it wheat or tobacco.

Mr. DOLE. Or both.

Mr. FORD. Or both.

Now, Mr. President, the Senator from Kansas makes the statement that the conference report on the bill will only do one thing, and that is create a shortage. The distinguished Senator from Ohio (Mr. METZENBAUM) says that we are raising prices on a surplus of natural gas.

Here again I wish they would get together. I wish they would get together and say that this is going to create a shortage or it is going to create a surplus, that we are going to create a shortage and, therefore, the price is going to go up. The Senator from Ohio says we have got a surplus and we are going to put higher prices on the surplus. They are no closer to that point on prices than they are to some of the others.

I want to take the statement of the Senator from Kansas and give a good example about the complexity of the bill. The Senator from Kansas (Mr. DOLE) said, he took stripper well prices——

Mr. DOLE. Mr. President, will the Senator from Kentucky yield for just a moment?

Mr. FORD. Yes.

Mr. DOLE. I hate to leave the Senator while discussing something I said, but I have to offer an amendment in the Committee on Finance.

Mr. FORD. While the Senator is there I hope it reduces taxes. [Laughter.]

Mr. DOLE. We are working on it.

Mr. FORD. I will yield to the Senator to let him go to the Committee on Finance. I will talk about the Senator and the Senator can read it in the RECORD in the morning. [Laughter.]

Mr. HANSEN. Mr. President, will the Senator from Kentucky yield further?

Mr. FORD. Yes, I will be glad to yield without losing my right to the floor.

Mr. HANSEN. It was the hope of the Senator from Wyoming that we might vote very quickly on this amendment. I gather that is not to be, and if I may, without seeming to display any discourtesy to my friend from Kentucky, I, too, would like to go to the Committee on Finance where we are having a markup on the tax bill. I am ready to vote, but I gather from what the majority leader has said he would like to check to see who is absent.

Mr. FORD. I think it is a courtesy to those Senators. The Senator from Kansas, I think, announced that he may bring up his amendment. I can put in a quorum.

Mr. HANSEN. Fine.

Mr. FORD. Can I just finish my statement?

Mr. HANSEN. Yes; you just yielded to me, and you may do whatever you like.

Mr. FORD. Mr. President, the distinguished Senator from Kansas (Mr. DOLE) pulled out one item of the conference report language as it relates to stripper wells, and he said the stripper well could be uncapped and it would flow for 90 days and he could then determine whether it would be eligible for a price reduction. This is one added problem as it related to the classification of gas.

Well now, there are scores of prices on stripper wells, absolutely scores of prices on stripper wells, and this eliminates all of them, and we come down with one price. I cannot see how this is going to in any way complicate the ability of setting a price or complicating the administration of this piece of legislation.

I might say that when the conference legislation goes into effect that it eliminates partially—I will not say all of it, but in a partial manner—present-day law, and that present-day law says that once the price is set on natural gas by FERC they are entitled to a penny more, and that would be 4 cents a year. Every time they acquire that additional penny those are 11,000 applications that are now being handled every year that will be eliminated.

It seems to me that this curtails the administrative problems of the natural gas field.

I agree with the Senator from Kansas that we should be willing to pay the American producer, whether he be the smallest wildcatter or the largest company in this country, pay them the same we pay foreign suppliers of energy paid to foreign countries.

So, Mr. President, we find again where the Senator from Ohio (Mr. METZENBAUM) and the Senator from Kansas (Mr. DOLE) disagree. The Senator from Ohio says:

> We do not want to give them any more. We want the Americans to pay higher prices overseas. But do not pay the American producer any more. Hold his price down.

What are we going to pay Mexico, what are we going to pay Canada, what are we going to pay Algeria? I am just quoting the Senator from Kansas and the Senator from Ohio who are supporting each other. I suspect I will get a little rise out of that.

If we have no legislation it is my understanding that it is going to be very, very difficult to encourage any of the Members of the House or Senate to try to develop an energy bill in the next session, but I do understand, and I think I understand very well, that if we have a piece of legislation and it goes into place and we find the problems from actually working and attempting to administer this legislation, that we very quickly by legislation can knock the rough edges off.

So, Mr. President, it is my firm conviction that the attempt to add agricultural priority to this motion to recommit damages my farm friends. The argument is for the farmer and his ability to go to the free market and make a living, give him an opportunity to make a profit; those are the things we want. But I cannot see if we leave them under present-day policy, and we have seen FERC time and again refusing to give the farmer priority, that then we have a piece of legislation that helps the farmer, helps the food processor, in the things that will result in their ability to improve the farm community.

So, Mr. President, there are two sides here, one of which wants no legislation, or really wants deregulation. They feel like next year they will have a better opportunity.

I do not believe that is so, and I do not think down in their hearts they believe it is so. Those who are opposed to any type of incentive to the American producer, who say they want to hold prices down, have in no way, I think, presented a case that would give us anything but uncertainty.

Mr. President, if the Senator from Ohio wishes to speak, I will be glad to yield him the floor. Otherwise, I have been asked by the distinguished Senator from Wyoming to put in a quorum call. They have gone to the Finance Committee.

I yield the floor, Mr. President.

Mr. METZENBAUM. Mr. President, it seems to me that the time has come when debate has run out. If the Senator from Wyoming wants a quorum call, I certainly would respect that. But I would hope we would be able to go ahead, to move forward to a vote very promptly.

Mr. FORD. Mr. President, I will say to the distinguished Senator from Ohio that many Senators on both sides of the aisle have asked to be consulted prior to any unanimous-consent agreement as it relates to time. That is happening now. In the meantime, I would like to suggest the absence of a quorum. We have Senators who are of the other point of view who have gone to the Finance Committee. They are working on other items, so they would not want a unanimous-consent agreement with them absent.

Mr. METZENBAUM. I might say to my good friend from Kentucky that I have no thought of making any unanimous-consent request, it being my thinking that when the debate runs down, you do not need a unanimous-consent request, you can merely bring the matter to a vote.

I wanted to make it clear to the majority leader and others who are supporting this legislation that I think the time is rapidly approaching when we ought to vote, and we do not need to do it by unanimous-consent request.

Mr. President, I am now informed that Senator HANSEN will be completely satisfied if we go to a vote immediately.

Therefore, I want to make it clear, Mr. President, that those of us who feel that a motion to recommit should lie, those of us who were urged at an early point not to be involved in delaying tactics, are not.

We said we would bring this matter up on Tuesday, and it is no surprise to anyone, because I indicated to the chairman of the Energy Committee several days ago that I expected we would bring something up on Tuesday. It is Tuesday, and it is up. I have not attempted to fool anyone. We have made it clear to the press that we thought we would come up with something on Tuesday.

The majority leader raised a question earlier as to what happened last week. It is obvious what happened last week. That is that a large number of the Members of the Senate were on the so-called "tax blitz."

Though I was not supportive of that tax blitz, that was their way, to be out on it. It was a part of their responsibilities, as they saw it, as U.S. Senators, and it seemed to me to be inappropriate, when a large bloc of Senators were absent, to bring something as controversial as this to the floor of the Senate.

On Saturday that blitz was over, and the Senator from Ohio gave very serious consideration to bringing up the motion to recommit on Saturday. I was inquired of as to whether I would bring up the motion to recommit on Saturday, and I knew that there were only 52 Senators present. I am not so sure but that we might have been able to prevail at that point. But it did not seem to me to be the appropriate thing to do. It seemed to me to be the kind of gameship I did not desire to participate in.

However, today we are getting 92 votes, approximately, on each of the measures on which we are voting. That means almost all Members of the Senate are present, with very few absences.

I have no doubt in my mind that this motion to recommit will not prevail, because it is not too difficult to count the figures. But I think we ought to get on about the Senate's business.

We started out this morning at 9. We thought at that time we would have a rollcall, because there were exchanges and talk about moving forward with the Senate's business.

Therefore, it seems to me to be our responsibility that the clerk call the roll, and if there are those who want to drag the matter out beyond this point, I think they should accept the responsibility that they attempted last week to place upon us, and say we were delaying the vote.

Mr. FORD. You know, Mr. President, I like this type of debate. It is amusing.

Mr. METZENBAUM. Why do we not vote?

Mr. FORD. Just a minute; I did not interrupt you. The debate has been on that side; the filibuster has been on that side, and I would like to shuck that image myself. Now they come up beating the drum, "Man, you know, we want to vote today; we are losing, but we want to vote."

Well, that is fine, but the Senator from Kansas (Mr. Dole) brought up the amendment, not the Senator from Ohio.

The Senator from Kansas said, "I will probably bring it up Saturday," and nothing happened. He said, "I will probably bring it up Monday," and nothing happened. And we were not sure he was coming today, and no one is sure yet if this will be the last one; they just think it is.

So who is running by jerks and leaps and bounds? Not this side. Not the proponents of the conference report. It is the opponents who want to keep us off balance, and I do not blame them.

But, boy, I would try to shuck the image now, as far as delaying the Senate, and the filibuster, and that sort of thing. I do not want to be a Joe Btfsplk. I do not want a cloud hanging over me. I want the sunshine, and I have an idea we are going to see a little bit. But I do not want anybody to say I am trying to delay. We have had one vote in a week, and thank goodness we have a complete crowd, so we can go on about the people's business.

We were ready to vote last week, and the opposition said, "No, no, we have to wait." We argued and debated, and then we waited a week. We extended by unanimous consent over a week—8 days, I guess—in order to come down on a final time. It is the opposition that has insisted on waiting. Now they come in and say, "Let's push, let's move, and now it is not our fault."

Mr. JACKSON. Mr. President, I suggest——

Mr. FORD. Mr. President, we suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Regular order, Mr. President.

Mr. FORD. I object. Mr. President, I think the tactics which are now being used here are trying to impress Senators while we are trying to check with all Senators, to check them out, and some who may be on the side of the Senator from Ohio. I do not think it is a proper move to be made, in all fairness. I know exactly what he is trying to do. I understand that very well, but I do not think I can, in good conscience, do things when we have Senators who have asked to be notified. We have some Senate committees in meetings, for example, the Finance Committee. We have at least two conference committees going on. They would like to be notified so they can prepare their business.

In all fairness to these Senators, I do not want to yield the floor. I would be willing to stand here and debate it with the Senator from Ohio. I believe I must defend my colleagues I have been asked to defend. I would prefer that the Senator from Ohio not be like Joe Btfsplk, but would allow us to have a quorum call and we would go from there. If he is willing to do that, fine.

I am trying to take some of the heat from the majority leader who is not in here right now. He does not have to have anybody to take his heat, but I can understand the position he is placed in sometimes trying to placate and accommodate Senators. I am willing to do that. I will not be placed in the position of——

The PRESIDING OFFICER. Does the Senator from Kentucky yield?

Mr. FORD. I will yield to the Senator from Ohio without losing my right to the floor provided he does not make a motion. If he is about to make a motion, I will not yield to him.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senate agree to vote on this motion to recommit at such time today as is designated by the junior Senator from Kentucky.

Mr. JACKSON. Mr. President, reserving the right to object, I think the Senator from Ohio knows under the customs and the traditions in the Senate the normal way in setting votes and other procedures is to consult the majority leader and the minority leader.

I am rather disappointed in my friend from Ohio in indulging in this kind of a tactic. We cannot have orderly business in this body unless we do adhere to the established rules and customs in that regard.

The PRESIDING OFFICER. Is there objection?

Mr. JACKSON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. Mr. President, I do not wish to do anything that creates a problem for the majority leader, the minority leader, or any of the parties concerned about voting on this measure, but I have sat here through many a day and talked about the problem of bringing matters to a vote. I am very happy, if the majority leader is available, to discuss the subject with him. I thought I tried to make it clear with him that I did not think we needed a unanimous-consent resolution in order to bring this matter to a vote. I do not have any delusions that we are going to prevail. But I think that once a matter has been thoroughly discussed, and this one has been, the parties have unquestionably made up their mind. I do not want anybody to be precluded from having an opportunity to vote. The fact is that the debate has come to a conclusion. I am not trying to make it right this minute. If that is not convenient, it is all right with me if it is at 5:30, 6:30, 7:30, or any other time. But I think we ought to vote on this measure today.

If the Senator from Kentucky or the Senator from Washington can tell me what the problem is, I will be very happy to accommodate them.

Mr. JACKSON. May I say to my good friend I have been here every day since we agreed to the unanimous-consent request. We met on Saturday. I was informed by Senator Dole on the floor that he was going to call up the motion to recommit. We waited around. If the Senator had in mind on Saturday, yesterday or this morning that he wanted to vote today, all he had to do was come in and make a unanimous-consent request.

I think the Senator knows there is an election being held today. There is an election being held in Alabama. It has been customary on a key vote, or certainly an important vote, not to have it on election day.

If the Senator wants to give notice, we have had notice since Wednesday. We have been waiting for all these months to get action. To come in on an afternoon and indicate that he wants to vote later that afternoon I do not think really is in order. I think the Senator knows that.

Mr. METZENBAUM. Mr. President——

Mr. FORD. Mr. President——

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. First, Mr. President, I would like to respond to my good friend from Washington. First, or A, we voted last Tuesday or Wednesday, according to my recollection. We were prepared to vote last Tuesday when there were elections taking place, and that was not the major problem. I know there is an election today. There is always something that causes some of our Members to be out of the city. It is not the fact, I say to the Senator from Washington, that I said last week I thought I would offer a motion to recommit next Tuesday.

Mr. JACKSON. I have been hearing these rumors. We have had to go to the press to find out what is going on. They found it difficult. My point is that we had our vote last Wednesday. We understood there would be motions to recommit. Here we are the day before the final, Tuesday before the vote tomorrow, and I think it is just a matter of really giving Members an opportunity to act. The staff reminds me that the vote was last Tuesday, not Wednesday.

That is all I am saying.

Mr. FORD. Mr. President, I want to reiterate something the distinguished Senator from Washington said. It is common courtesy in this Chamber to check with the majority leader and the minority leader. The majority leader was on the floor within the hour. He suggested to the Senator from Kansas if he would be willing to have an up and down vote and if he would be willing to try to do it today. The Senator from Ohio did not submit a motion to recommit. The Senator from Kansas submitted that. Now the Senator from Ohio is trying to take a vote on a motion that was submitted by the Senator from Kansas, who is at the Finance Committee meeting. At least the majority leader came in and showed the Senator from Kansas the courtesy of asking him if he would be willing, and then he left here to try to work out, with other Senators, arrangements with those people, and I presume the minority leader, to see if it would be in order and at what time today to have a vote.

Now the Senator from Ohio comes in and asks to move right ahead without any consideration of either leader. I am sure he has talked with the Senator from Wyoming. When he left he suggested he had a statement he wanted to make. He has not been able to make it. He had to go to the Finance Committee. He looked at me and suggested we have a quorum call so he could go to the Finance Committee and come back and make his statement. Yet the Senator from Ohio is trying to usurp that.

The majority leader is meeting right now.

Mr. METZENBAUM. Will the Senator yield for 1 minute?

Mr. FORD. Yes.

Mr. METZENBAUM. I have been informed by representatives of the Senator from Wyoming that he was prepared to vote or I would not have moved forward.

Mr. FORD. But the Senator was here when he said he wanted to make a statement. He, too, had to go to the Finance Committee. He wanted to put his statement in the RECORD. He asked that we suggest the absence of a quorum, and he said he would appreciate that. If the Senator wants to go ahead to an immediate vote, that is fine, but I do not think we should do that to other Senators without checking with the leaders.

Mr. METZENBAUM. My unanimous-consent request indicated that as far as I was concerned the time could be any time today, and I was perfectly agreeable to having the time set by the Senator from Kentucky.

Mr. FORD. I am not the majority leader and I would not have his job. He has to have the patience of Job to put up with people who are trying to jerk things and jockey things around. He has a tremendous job. I am just trying to defend him so he can placate the majority of Senators so we can have a time certain today, not tomorrow. He is trying to work it out today. That is where they are right now, trying to do it, I say to the Senator.

Mr. METZENBAUM. I hope we can vote today.

Mr. FORD. I hope we can, too.

Is it all right now if I suggest the absence of a quorum?

The PRESIDING OFFICER. Does the Senator from Kentucky yield?

Mr. FORD. I just want to say to the Senator from Kansas that there have been some motions made on the floor to try to move to an immediate vote, immediate consideration, that sort of thing. I am just saying that the majority leader asked the Senator from Kansas earlier about working out a time, and he was perfectly agreeable. The majority leader left here to touch base with his colleagues and mine to see if we could not work out a time certain and to discuss it with the minority leader. I was trying to prevent it from going to a vote, based on a discussion the majority leader had with the Senator from Kansas. The majority leader is not on the floor now, so I was trying to protect against any attempt to usurp any agreement the majority leader had with the Senator from Kansas.

I yield the floor now.

Mr. DOLE. Mr. President, I am sorry I missed all that.

Mr. FORD. Oh, it was good.

Mr. DOLE. I shall try to read the RECORD tomorrow if everything else goes well.

In any event, we are marking up the so-called tax reduction bill and we are trying to keep the American people whole. If we are not going to give them a tax cut, we hope we can give them enough to take care of inflation and the increased costs of social security. If we pass this bill, I am not certain we will not have to have another little catch-up tax bill next year, because this is going to add to inflation.

That is really beside the point. I understand the majority leader is doing some checking and I do not think he has to check too carefully. I am certain they have a margin of six or seven or eight votes. But as long as it is understood that both sides are willing to vote at a moment's notice, I think all the arguments have been made. We can make them over, but I do not know whether they are any more persuasive the second, third, or fourth time. If they were not particularly persuasive before the first vote, I do not know how persuasive they will be before the second vote. I should like to suggest the absence of a quorum and perhaps we can find the majority leader.

Mr. FORD. Mr. President, the Senator from Kentucky is perfectly willing for the Senator to suggest the absence of a quorum. The Senator from Ohio is the one who tried to call it off and go to an immediate vote. I was trying to protect the position of the Senator from Kansas and that of the majority leader, under the understanding they had.

Mr. DOLE. I appreciate that very much.

Mr. FORD. I should be glad for the Senator to make the motion.

Mr. DOLE. Mr. President, I suggest the absence of a quorum until I check with the people who have the votes around here and see what is going on.

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I understand that my good friend from Kentucky (Mr. FORD), during my absence, spoke about wanting to protect my rights, assuming that I wanted to make a speech. He may not have heard, but just as I left the floor, I said that as far as the Senator from Wyoming was concerned, he was ready to vote.

I think it sort of begs the question to imply that this subject needs more debate. If there were ever any subject that has been debated, it has to be the natural gas bill. I will admit that for a long time, for 7 long months, those of us who did not agree with the selected group really did not know what was going on because, despite the fact that we are supposed to be legislating in the sunshine, for 7 long months, this conference between the Senate and the House never met formally. They had sessions; only certain anointed persons were invited to those meetings. So I do admit that it took some time for us really to learn what is going on. But as far as this Senator is concerned, he is ready to vote now.

There have been all sorts of charges made that we are trying to delay things.

The Republicans in the Senate have been criticized from time to time by many persons, including the majority leader, for delaying and attempting to filibuster. I think it should be noted that, insofar as I know, there is no disposition to filibuster on the part of the proponents of this amendment to recommit with instructions.

It was said earlier today that as far as we know, this will be the only motion to recommit that may be offered between now and, if this motion fails, a vote on the passage of the conference report tomorrow. I could go through the whole litany of points that have been discussed ad infinitum. I see no reason to do that. I think the issue is clear.

It has been contended by the proponents of the gas bill—I remember when the distinguished Senator, my good friend from Kentucky, was on the MacNeil-Lehrer Show. He made a very persuasive case that we should be willing to pay producers in this country what they are being paid in other countries, what we would be willing to pay Canadian producers and producers in Mexico. The only trouble with his argument was that this conference report may never get to that happy state of affairs, for one good reason. In the first place, right now, the amount of deregulated gas in the United States is roughly 48 percent. If this conference report were to pass and become law, immediately, all of the gas produced in the United States would be controlled in one form or another—either price-controlled or allocation-controlled, all of it. There would not be any gas outside of regulation. After 7 years, Mr. President, according to the terms of the bill, 37 percent of the gas would be decontrolled.

So, to argue, as my good friend from Kentucky did, let us be willing to pay people in this country what the foreign producing suppliers are paid is simply not the case. He is talking about a never-never land. He is not talking about this conference report, because there is serious doubt that the formula that is included in this bill would ever get near enough to the real-world price of gas as to commit an administration inclined, as this one is, to deregulate.

There is authority in the bill to reimpose, by Presidential dictum, controls. Then, if the spread is wide enough, hopefully, there are those who say the pressures would be great enough upon Congress to continue controls. I do not think that would necessarily happen, because it is my conviction that a good many Americans today are beginning to realize that even Congress, despite all of its power, cannot repeal the laws of supply and demand.

I say simply, let us forget the argument that has been made and was used very effectively here by Senator Ford in saying, let us let the price go up. That is not going to be the case.

Now, it is true, as Senator Ford said, that one-ninth of the cost of gas at the burner tip reflects the wellhead price and that eight-ninths of the cost reflects the transportation charges. But the one part of the market that has contributed to the increased supply of natural gas in this country has been the intrastate market, that part of the market that has not been price-controlled.

It seems strange indeed to assume, despite all of the predictions by the Secretary of Energy and by various administration officials who, just about a year ago, were saying if we were to pass Pearson-Bentsen, it would not produce any more gas. Now their fancy footwork is clearly in evidence on many occasions and the predictions are that there will be quite an increase in gas.

I can find no documentation insofar as their earlier assertions were concerned to support that conclusion.

I would like to point out, Mr. President, that the present situation is that gas exploration is up sharply.

Mr. President, today's Wall Street Journal in an editorial, "The Lesson of Experience," spotlights the inconsistencies of crude oil pricing regulations and the litigation resulting from the multi-tier pricing system.

An interesting sidelight to all these proceedings, the editorial points out, is that if a firm is found guilty of overcharges, it has to refund the money not to the customer overcharged, but to the U.S. Treasury. DOE explains that the customers are too hard to find. Congratulations. The administration has found a way to pass COET after all; with money sloshing around, it was always a good bet it would end up in the hands of the politicians.

So litigation proceeds to sort out the tiers of oil pricing, now expanded a bit by "new, new oil," "stripper oil," and maybe some we have forgotten. No doubt employment will be provided for a generation of lawyers and accountants trying to straighten out the five or six tiers of oil prices. Meanwhile, the Congress is deliberating on a bill that will create 17 to 23 tiers of natural gas prices.

Mr. President, I ask unanimous consent that the full text of the Wall Street Journal editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The Lesson of Experience

In the wake of the world oil price explosion, Congress clamped a lid on the price of crude oil produced in the United States. Since this forced oil producers to sell their oil for less than its replacement value, even Congress had to relent a bit by allowing the world price for newly discovered oil. Thus the two-tier oil price was born.

Whether this has had any effect on the price to the consumer is far from clear. Gasoline out of the pump sells for the same price whether it is made from old oil, new oil or imported oil. If economics teaches us anything, it teaches that prices are set on the margin. As close readers of these columns know, two Rand Corp. economists were able to make a powerful argument that this means U.S. consumers pay the world price. Others disputed this conclusion, but clearly abolishing all price controls would not raise the price of gasoline by more than 7 cents a gallon; our guess is something far closer to the zero cents the Rand economists contended.

What the two-tier price structure clearly does, though, is create a huge slush fund. This is the money producers of old oil would get—and spend trying to replace it by finding more—if the law allowed them to. Distributing this fund has been the principal preoccupation of energy policy ever since. Some of it has been trickled away in things like the "small refiner" preferences. Most of it has gone to Saudi Arabia, thanks to the "entitlements" program, under which refiners of U.S. oil pay a subsidy to refiners of imported oil. With the late and unlamented Crude Oil Equalization Tax, the politicians in Washington tried to grab the whole slush fund for themselves.

Now comes the Department of Energy's special section investigating the pricing practices of energy companies under these rules. It has started various arguments with most oil companies about how the two-tier pricing rules were interpreted and applied four years ago. Mostly the problem is separating old oil from new oil. DOE has started proceedings against Exxon, Texaco, Cities Service, Getty, Shell, Ashland, Arco, Standard of California, Standard of Indiana and so on. The total amount involved comes to $1.3 billion, and DOE officials estimate that when all the audits are complete it could come to "several billion dollars."

Most companies are vigorously defending themselves, contending DOE is changing rules in the middle of the game. The special section won a settlement, though, from Gulf. DOE wanted $79.1 million, but settled for $42.2 million. Paul Bloom, the department's special counsel, explained that the government agreed to settle for less than 100 cents on the dollar because otherwise the litigation would go on "indefinitely" and be very expensive. It would be equally expensive for Gulf, of course, and we note that the agreement is pretty close to a neat 50–50 split.

The department's other big win was getting a piddling $3 million from Conoco on a "no contest" plea to charges that it deliberately violated the rules. Now DOE is urging the Department of Justice to prosecute four Texas oil middlemen for an alleged scheme to turn old oil into new oil.

An interesting sidelight to all these proceedings is that if a firm is found guilty of overcharges, it has to refund the money not to the customer overcharged, but to the United States Treasury. DOE explains that the customers are too hard to find. Congratulations! The administration has found a way to pass COET after all; with money sloshing around, it was always a good bet it would end up in the hands of the politicians.

So litigation proceeds to sort out the tiers of oil pricing, now expended a bit by "new, new oil," "stripper oil," and maybe some we've forgotten. No doubt employment will be provided for a generation of lawyers and accountants trying to straighten out the five or six tiers of oil prices. Meanwhile, the Congress is deliberating on a bill that will create 17 to 23 tiers of natural gas prices.

Under this bill, you start by finding every gas well in the country; we're told there are something like 150,000 of them. Around each you draw a circle of 2½ miles, extending 1,000 feet in a depth from the current well. Gas found inside those cylinders is old gas; if you can find it outside the cylinders it is new gas and gets a different price. And so on through the rest of the 17 to 23 distinctions.

To administer the gas bill, Charles Curtis, chairman of the Federal Energy Regulatory Commission, testified the other day, will require an additional 300 bureaucrats with salaries totaling $9.6 million a year. The FERC chairman emphasized that these were preliminary estimates.

Very preliminary.

Mr. HANSEN. Mr. President, one of the arguments for the adoption of the conference report has been that we need to bring certainty and confidence to the industry in order that it can move forward.

Yet, Chairman Curtis of FERC and Sheila Hollis of the Enforcement Division of FERC both say that this will be a nightmare to administer. Mr. Curtis has said he will need not fewer than 300 new staff members and, in addition to the amount of money that the Department already has, he will need not less than $10 million extra to administer.

There are predictions also that the cases that are inevitably going to arise through the administration of this bill will probably drag on in the courts for not fewer than at least 10 years.

I might also point out that when FERC took over the responsibilities of the old Federal Power Commission, there were then pending some 12,000 cases. Today, the number of cases that are awaiting decision by FERC have increased to 20,000.

It is sheer folly to think the adoption of this conference report will make the administration of a bad law now easier. It is going to become a far more difficult job.

I just think there is no doubt at all but what by the adoption of the ultimate proposal we now offer, to extend the emergency powers of the President which have expired, to move gas where needed and when needed, the authority to move gas through either intrastate or interstate pipeline so as to be able to take it from where it is in surplus supply and to move it to areas where it is needed, so long as no brokering occurs, without the resultant assumption of the powers of the Federal Government to regulate the gas, because of that movement, it will be a distinct step forward.

While I am convinced there was already on the books adequate authority to provide for the construction of the Alaska natural gas pipeline, we picked up that proposal.

I think, third, the Alaska pipeline provision was put in here so as to leave no doubt in the minds of anyone that we did want to address that issue. As I say, we already had passed legislation which, in my mind, provided aequate authority, but that simply was to offer a backstop for that.

It is true that it is the hope of this Senator, and other Senators as well who support the proposal to recommit, that Senators who had little reason, except to yield to the arm-twisting by the administration, might be persuaded that this is a better alternative through the inclusion of the agricultural exemption to vote for a bill that will definitely move America's energy policy forward.

I do not have any great illusions about this motion passing. I would predict that the earlier prognostication by my good friend from Washington (Mr. JACKSON) is true, it will fail. But I think, nevertheless, it is important we have a vote on it because I am persuaded that until we finally get command of our senses and realize we cannot repeal the laws of supply and demand, that there is no reason to hold the price of natural gas down to an arbitrarily low level, on the one hand, any more than there is to hold the price of oil down to an arbitrarily low level, as it is now roughly $5 a barrel, when we pay the OPEC nations for their oil delivered as much as $14.50 a barrel.

I am still convinced that until we reach that decision that we are going to live in the real world, we ought to be on record, because I cannot believe that if we should adopt this natural gas compromise as it has been worked out that we are going to solve the Nation's energy problem.

It will not be solved. It is going to be made far more complex and complicated than it is. It is going to be far worse to administer than it is. It is going to be an administrative nightmare, as has been pointed out, and instead of moving the gas from where it is in surplus supply to where it is needed, we are going to be adding to that problem all of the redtape in the world.

I think that Senators fail to see the wisdom in a far simpler measure which we now offer, than the one approved by both the House and Senate conferees, and which I believe could be enacted into law, is a better alternative than the adoption of the natural gas compromise.

So, as far as I am concerned, Mr. President, I am ready to vote.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. CULVER). The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I think that Senators should be given a little notice that a vote will probably occur, so I suggest the absence of a quorum, and it will be a live quorum, so that we will have all Senators here. Everything will be right on the table. Nobody will be caught halfway downtown or on the way home.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. DOLE. When would the majority leader have the live quorum?

Mr. ROBERT C. BYRD. Right now.

Mr. DOLE. I do not want to delay the vote. I would like to have some time—perhaps 10 or 15 minutes. I wonder whether we might have the live quorum, say, at 20 minutes to 6 and vote at 6.

Mr. ROBERT C. BYRD. Why do we not have the live quorum now, with the understanding that the Senator then could make his remarks, and he probably would have a larger audience?

Mr. DOLE. I have been talking to the ranking Republican all day long.

Mr. FORD. If the Senator from Kansas is going to have an audience as relates to his proposal, I do not want to let it tilt. I have some things I would like to ask the Senator from Wyoming about wanting to let us pay higher prices, when he has joined with the Senator from Ohio, who wants to hold prices down and not pay anybody an increase.

Mr. DOLE. If we agreed to vote at 6 o'clock, everybody would have plenty of time to get here.

Mr. ROBERT C. BYRD. Mr. President, I make this suggestion: that we have a live quorum call and that we go right to a vote, with the understanding that the opponents give to the proponents, and vice versa, live pairs for those known positions that would be absent. So there would be an even break. In other words, if the opponents have four Senators out and if the proponents have five Senators out, we would know their positions. There are a few question marks among Senators. I do not think the Senator knows how they are going to vote, and I do not. But we do know how those Senators who were out on the last rollcall vote would vote. In that case, the opponents of the conference report would give to the proponents of the conference report one pair, and vice versa. If the opponents have six out and the proponents have four out, we will give the opponent two pairs.

Mr. DOLE. Mr. President, reserving the right to object, I would have to discuss that. I am new at this.

Mr. HANSEN. Mr. President, will the Senator from Kansas yield?

Mr. ROBERT C. BYRD. I still have the floor.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. HANSEN. Mr. President, reserving the right to object, let me make this point.

Earlier today, it was perhaps not implied but it was at least suggested that we were kind of springing a new one here; that there had not been very much advance notice about it, despite the fact that I have heard it talked about for 2 or 3 days that we would probably bring up a second recommittal motion today.

I point that out only to suggest that it was implied that perhaps there were Senators who were not aware that this motion might be made. If there is some credence to be given to that contention, it seems strange indeed now that the distinguished majority leader would presume that everyone who is absent knows what the issues are and has already positioned himself on those issues. If that is the case, I cannot quite fit those two pieces together.

Mr. ROBERT C. BYRD. I know the position of my colleague, Senator RANDOLPH, for example. He is not here. He had to leave at 3:30.

Mr. HANSEN. I know what Senator GRIFFIN's position is. It may not be what the Senator from West Virginia thinks it is.

Mr. ROBERT C. BYRD. I know what Senator HASKELL's position is. He has told me. I know what Senator HELM's position is. He has told me.

Mr. HANSEN. I object, Mr. President, and I do so reluctantly, but I do it because I think there may be some merit, despite the feeling of the majority leader that everyone has heard all the arguments and—he has not really said this, so I do retract that. But it seems to be implied that all Senators have made up their minds and that it would not matter what kind of package was put together, that it would not change that a bit. If that is the case, then all I can say is that there really is not much point debating anything on the floor. if everyone's mind is made up already. On that basis, I would have to object to giving pairs.

Mr. ROBERT C. BYRD. All right.

Mr. President, I do not suggest the absence of a quorum yet. However, I suggest that we have a quorum call and make it live, so that all Senators will be here. Then we will determine a time to vote, while all Senators are here.

Mr. DOLE. That is fine.

Mr. HANSEN. That is fine.

Mr. METZENBAUM. That is fine.

Mr. ROBERT C. BYRD. Does everybody like that? [Laughter.]

QUORUM CALL

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 14 Leg.]

Abourezk
Burdick
Byrd, Robert C.
Cranston
Culver
Dole
Domenici
Ford
Hansen
Hatch
Huddleston
Jackson
Magnuson
Matsunaga
McClure
Metzenbaum
Muskie
Stevens
Young

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 407 Leg.]

YEAS—88

Abourezk
Baker
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chafee
Chiles
Church
Clark
Cranston
Culver
Curtis
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Eastland
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart
Hatch
Hatfield, Mark O.
Hatfield, Paul G.
Hayakawa
Heinz
Hodges
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Scott
Stafford
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Wallop
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—12

Allen
Anderson
Goldwater
Haskell
Hathaway
Helms
Inouye
McIntyre
Randolph
Sparkman
Stevenson
Weicker

So the motion was agreed to.

THE PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. ROBERT C. BYRD. Mr. President, how many Senators are present?

The PRESIDING OFFICER. Eighty-eight.

Mr. ROBERT C. BYRD. Mr. President, I propose the following time agreement: that the Senate vote at 6 o'clock p.m. on the motion to recommit, with the understanding that, in accordance with Senator LONG's proposal, each side pair off the other side's absentees, provided the votes of those absentees are known.

I think it is pretty well known. I will read the list of absentees at this moment: Mrs. ALLEN, Mr. ANDERSON, Mr. GOLDWATER, Mr. HASKELL, Mr. HATHAWAY, Mr. HELMS, Mr. INOUYE—some of these may really be here—Mr. MCINTYRE, Mr. RANDOLPH, Mr. SPARKMAN, Mr. STEVENSON, and Mr. WEICKER.

Now, I am willing to enter into pairing arrangements, because I think we know what the position of each of those absentees is, and we could vote at 6 o'clock.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. ROBERT C. BYRD. I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object, if the majority leader will yield, it seems to me there are about as many out on our side as on the other side. I think it is sort of a bad precedent to make a blanket agreement to pair. I think if anybody wants a live pair, they can do that, as always.

Mr. LONG. Mr. President, reserving the right to object, I am not going to object. I have proposed this type of thing many times, and I do not care which side may prevail, it seems to me that, if this can be regarded as a precedent, whenever we are trying to move ahead, that whichever side has fewer absentees will accord enough live pairs so as to achieve the same result as if everybody were here, I would be willing to consent and allow a pair any time on that basis.

Mr. ROBERT C. BYRD. I thank the Senator from Louisiana.

Mr. LONG. I am not committing myself to pair in the future, you understand.

Mr. ROBERT C. BYRD. I understand that; that is not my proposal.

Out of the 12 Senators who are absent, 7 of those would vote with the proponents of the conference report against the motion to recommit, and there are 5 absentees who would vote with the opponents of the conference report and for recommital. That means those who favor recommittal would pair two, would give two pairs to two absent Senators of those who support the conference report.

Mr. ABOUREZK. Mr. President, one more word——

Mr. ROBERT C. BYRD. It may be, as I say, that some of these absentees will show up for this vote.

Mr. ABOUREZK. Mr. President, I do not see why we cannot just vote at 6 o'clock and forget about all this other stuff; and I object on those grounds.

The PRESIDING OFFICER. Objection is heard. Is there objection to the 6 o'clock vote?

Mr. ROBERT C. BYRD. No, that was all one request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, what was the order of the Chair? What did the Chair say?

The PRESIDING OFFICER. Was there objection to the 6 o'clock vote. There was objection to the pairing arrangement.

Mr. BAKER. I understood the majority leader to say that it was all part of one request.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. All right. Mr. President, let us vote at 6 o'clock.

Mr. DOLE. Mr. President, reserving——

Mr. ROBERT C. BYRD. I ask unanimous consent that the vote occur right now on the motion to recommit.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. And I ask for the yeas and nays—they are already ordered.

Mr. DOLE. The majority leader will remember that we talked about this earlier: Not that I could persuade anyone, but I would like to make one or two points about the changes in this motion over the other motion. I do not want to take advantage of anyone, or keep anyone here. I will not take but a minute or two.

Mr. ROBERT C. BYRD. All right. I ask unanimous consent that the Senator from Kansas (Mr. DOLE) be recognized for 2 minutes, and the Senator from Washington (Mr. JACKSON) for 2 minutes.

Mr. BAKER. Mr. President, reserving the right to object, and I am not going to object, I want to see if there is anyone else who wishes to speak, to extend this beyond 4 minutes.

Apparently there is not. I do not object.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Kansas.

Mr. DOLE. Mr. President, if I may remind those Senators who come from farm States, who are really concerned about this bill and looking for a way to satisfy not just the farmers, but all the real concerns expressed on this bill, I would just point out that all we have done to this motion is amend the original motion to provide for a special priority to agricultural users, providing for gas in times of curtailment.

It seems to me that with this addition we have satisfied the concerns of the great majority of the American people. I would also suggest that, with all the arguments made against this proposition, those of us from farm States have some obligation——

Mr. HANSEN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Is my time over? Has my time expired?

The PRESIDING OFFICER. No, the Senator from Kansas may continue.

Mr. DOLE. I would just suggest, as I have, that those of us from farm States have some obligation to agriculture, and not just to farmers but to everyone who eats.

If you want to fight more inflation, as you will do under this bill, more regulation, and higher taxes, then you can vote against the motion to recommit.

If you can vote for the motion to recommit with all the protections in the original motion plus the one that gives agriculture priority in times of curtailment, to me that makes a great deal of sense, and I hope some of my colleagues who may have been on the other side last time will be on the right side this time.

I yield back the remainder of my time.

Mr. JACKSON. Mr. President, I yield my time to the Senator from Kentucky.

Mr. FORD. I thank the Senator from Washington, the chairman of the Energy Committee.

Mr. President and my colleagues: This is just another afterthought. The last recommittal, the afterthought was the Alaskan pipeline. The afterthought this time is the agricultural amendment.

Somehow or other, I take some pride in placing the agricultural amendment on the conference bill.

Reality tells all of us that if this bill is sent back to conference, we get no bill and we revert back to present law, and present law gives priority to making swizzle sticks instead of to the farmers.

If we are going to take care of the farmers and those Senators from farm States want to protect their farmers, then they ought to vote against recommittal. So, Mr. President, it just comes down to the fact that I have a telegram in my hand from a dozen farm groups, a dozen farm groups and those interested in food processing, saying, "Be for the conference bill, not for the vote to recommit."

Mr. President, all the arguments, I think, have been made but for gosh sakes and for the sake of the farmers do not

Mr. ROBERT C. BYRD. Mr. President,

vote to recommit and damage the farmers any more.

I ask unanimous consent that this be a 20-minute rollcall vote, with the warning bell to sound after 12½ minutes.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard. The question is on agreeing to the motion to recommit.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. Those in favor will vote "Yea;" opposed, "No."

Mr. ROBERT C. BYRD. Will the Chair state the motion?

The PRESIDING OFFICER. It is the motion of the Senator from Kansas to recommit, with instructions.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask that the clerk——

Mr. ABOUREZK. Regular order.

The PRESIDING OFFICER. The majority leader is recognized. The clerk has not called the roll.

Mr. ABOUREZK. But we have a time agreement, to vote, Mr. President.

Mr. ROBERT C. BYRD. Regular order is any Senator can make a unanimous-consent request. I ask that the clerk call the names and how they voted after each vote, and that tally sheets be distributed.

Mr. ABOUREZK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. The majority leader is trying to delay the vote. I think that is unconscionable, Mr. President.

[Laughter.]

The PRESIDING OFFICER. The clerk will call the roll.

(Mr. PAUL G. HATFIELD assumed the chair.)

The assistant legislative clerk called the roll.

Mr. LONG. Mr. President, on this vote, I have a pair with the distinguished Senator from West Virginia (Mr. RANDOLPH). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "aye." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 36, nays 55, as follows:

[Rollcall Vote No. 408 Leg.]

YEAS—36

Abourezk
Anderson
Baker
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brooke
Byrd,
  Harry F., Jr.
Curtis
Dole
Garn
Hansen
Hatch
Hayakawa
Hollings
Humphrey
Johnston
Kennedy
Laxalt
Lugar
McGovern
Metzenbaum
Nelson
Packwood
Proxmire
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Scott
Thurmond
Tower
Wallop

NAYS—55

Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chafee
Chiles
Church
Clark
Cranston
Culver
Danforth
DeConcini
Domenici
Durkin
Eagleton
Eastland
Ford
Glenn
Gravel
Griffin
Hart
Hatfield,
  Mark O.
Hatfield,
  Paul G.
Heinz
Hodges
Huddleston
Inouye
Jackson
Javits
Leahy
Magnuson
Mathias
Matsunaga
McClure
McIntyre
Melcher
Morgan
Moynihan
Muskie
Nunn
Pearson
Pell
Percy
Ribicoff
Sasser
Stafford
Stennis
Stevens
Stevenson
Stone
Talmadge
Williams
Young
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Long, for.

NOT VOTING—8

Allen
Goldwater
Haskell
Hathaway
Helms
Randolph
Sparkman
Weicker

So the motion to recommit the conference report, with instructions, was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTERSTATE HORSERACING ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, under the order previously entered, the Senate proceed to the consideration of Calendar Order 1038, and I would anticipate further rollcall votes.

I ask Senator MAGNUSON to come over and manage the bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1185) to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment and from the Committee on the Judiciary with an amendment.

The amendment of the Committee on Commerce, Science, and Transportation is on page 6, line 10, strike "off-track" and insert "on-track".

The amendment of the Committee on the Judiciary is to strike all after the enacting clause and insert the following:

This Act may be cited as the "Interstate Horseracing Act of 1977".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that—

(1) the States should have the primary responsibility for determining what forms of gambling may legally take place within borders;

(2) the Federal Government should prevent interference by one State with the gam-

bling polices of another, and should act to protect identifiable national interests; and

(3) in the limited area of interstate off-track wagering on horseraces, there is a need for Federal action to ensure States will continue to cooperate with one another in the acceptance of legal interstate wagers.

(b) It is the policy of the Congress in this Act to regulate interstate commerce with respect to wagering on horseracing, in order to further the horseracing and legal off-track betting industries in the United States.

DEFINITIONS

Sec. 3. For the purposes of this Act the term—

(1) "person" means any individual, association, partnership, joint venture, corporation, State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other organization or entity;

(2) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(3) "interstate off-track wager" means a legal wager placed or accepted in one State with respect to the outcome of a horserace taking place in another State;

(4) "on-track wager" means a wager with respect to the outcome of a horserace which is placed at the racetrack at which such horserace takes place;

(5) "host State" means the State in which the horserace subject to the interstate wager takes place;

(6) "off-track State" means the State in which an interstate off-track wager is accepted;

(7) "off-track betting system" means any group which is in the business of accepting wagers on horseraces at locations other than the place where the horserace is run, which business is conducted by the State or licensed or otherwise permitted by State law;

(8) "off-track betting office" means any location within an off-track State at which off-track wagers are accepted;

(9) "host racing association" means any person who, pursuant to a license or other permission granted by the host State, conducts the horserace subject to the interstate wager;

(10) "host racing commission" means that person designated by State statute or, in the absence of statute, by regulation, with jurisdiction to regulate the conduct of racing within the host State;

(11) "off-track racing commission" means that person designated by State statute or, in the absence of statute, by regulation, with jurisdiction to regulate off-track betting in that State;

(12) "horsemen's group" means, with reference to the applicable host racing association, the group which represents the majority of owners and trainers racing there, for the races subject to the interstate off-track wager on any racing day;

(13) "parimutuel" means any system whereby wagers with respect to the outcome of a horserace are placed with, or in, a wagering pool conducted by a person licensed or otherwise permitted to do so under State law, and in which the participants are wagering with each other and not against the operator;

(14) "currently operating tracks" means racing associations conducting parimutuel horseracing at the same time of day (afternoon against afternoon; nighttime against nighttime) as the racing association conducting the horseracing which is the subject of the interstate off-track wager;

(15) "race meeting" means those scheduled days during the year a racing association is granted permission by the approoriate State racing commission to conduct horseracing;

(16) "racing day" means a full program of races at a specified racing association on a specified day;

(17) "special event" means the specific individual horserace which is deemed by the off-track betting system to be of sufficient national significance and interest to warrant interstate off-track wagering on that event or events;

(18) "dark days" means those days when racing of the same type does not occur in an off-track State within 60 miles of an off-track betting office during a race meeting, including, but not limited to, a dark weekday when such racing association or associations run on Sunday, and days when a racing program is scheduled but does not take place, or cannot be completed due to weather, strikes and other factors not within the control of the off-track betting system;

(19) "year" means calendar year;

(20) "takeout" means that portion of a wager which is deducted from or not included in the parimutuel pool, and which is distributed to persons other than those placing wagers;

(21) "regular contractual process" means those negotiations by which the applicable horsemen's group and host racing association reach agreements on issues regarding the conduct of horseracing by the horsemen's group at that racing association;

(22) "terms and conditions" includes, but is not limited to, the percentage which is paid by the off-track betting system to the host racing association, the percentage which is paid by the host racing association to the horsemen's group, as well as any arrangements as to the exclusivity between the host racing association and the off-track betting system.

PROHIBITION

Sec. 4. No person may accept an interstate off-track wager except as provided in this Act.

REGULATION

Sec. 5. (a) An interstate off-track wager may be accepted by an off-track betting system only if consent is obtained from—

(1) the host racing association, except that—

(A) as a condition precedent to such consent, said racing association (except a not-for-profit racing association in a State where the distribution of off-track betting revenues in that State is set forth by law) must have a written agreement with the horsemen's group, under which said racing association may give such consent, setting forth the terms and conditions relating thereto; provided,

(B) that where the host racing association has a contract with a horsemen's group at the time of enactment of this Act which contains no provisions referring to interstate off-track betting, the terms and conditions of said then-existing contract shall be deemed to apply to the interstate off-track wagers and no additional written agreement need be entered into unless the parties to such then-existing contract agree otherwise. Where such provisions exist in such existing contract, such contract shall govern. Where written consents exist at the time of enactment of this Act between an off-track betting system and the host racing association providing for interstate off-track wagers, or such written consents are executed by these parties prior to the expiration of such then-existing contract, upon the expiration of such then-existing contract the written agreement of such horsemen's group shall therafter be required as such condition precedent and as a part of the regular contractual process, and may not be withdrawn or varied except in the regular contractual process. Where no such written consents exist, and where such written agreement occurs at a racing association, which has a regular contractual process with such horsemen's group, said agreement by the horsemen's group may not be withdrawn or varied except in the regular contractual process;

(2) the host racing commission;

(3) the off-track racing commission.

(b) (1) In addition to the requirement of subsection (a), any off-track betting office shall obtain the approval of—

(A) all currently operating tracks within 60 miles of such off-track betting office; and

(B) if there are no currently operating tracks within 60 miles then the closest currently operating tracks in an adjoining State.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, any off-track betting office in a State with at least 250 days of on-track parimutuel horseracing a year, may accept interstate off-track wagers for a total of 60 racing days and 25 special events a year without the approval required by paragraph (1), if with respect to such 60 racing days, there is no racing of the same type at the same time of day being conducted within the off-track betting State within 60 miles of the off-track betting office accepting the wager, or such racing program cannot be completed. Excluded from such 60 days and from the consent required by subsection (b) (1) may be dark days which occur during a regularly scheduled race meeting in said off-track betting State. In order to accept any interstate off-track wager under the terms of the preceding sentence the off-track betting office shall make identical offers to any racing association described in subparagraph (A) of subsection (b) (1). Nothing in this subparagraph shall be construed to reduce or eliminate the necessity of obtaining all the approvals required by subsection (a).

(c) No parimutuel off-track betting system may employ a takeout for an interstate wager which is greater than the takeout for corresponding wagering pools of off-track wagers on races run within the off-track State except where such greater takeout is authorized by State law in the off-track State.

LIABILITY AND DAMAGES

Sec. 6. Any person accepting any interstate off-track wager in violation of this Act shall be civilly liable for damages to the host State, the host racing association and the horsemen's group. Damages for each violation shall be based on the total of off-track wagers as follows:

(1) If the interstate off-track wager was of a type accepted at the host racing association, damages shall be in an amount equal to that portion of the takeout which would have been distributed to the host State, host racing association and the horsemen's group, as if each such interstate off-track wager had been placed at the host racing association.

(2) If such interstate off-track wager was of a type not accepted at the host racing association, the amount of damages shall be determined at the rate of takeout prevailing at the off-track betting system for that type of wager and shall be distributed according to the same formulas as in paragraph (1) above.

CIVIL ACTION

Sec. 7. (a) The host State, the host racing association, or the horsemen's group may commence a civil action against any person alleged to be in violation of this Act, for injunctive relief to restrain violation and for damages in accordance with section 6.

(b) In any civil action under this section, the host State, the host racing association and horsemen's group, if not a party, shall be permitted to intervene as a matter of right.

(c) A civil action may not be commenced pursuant to this section more than 3 years after the discovery of the alleged violation upon which such civil action is based.

(d) Nothing in this Act shall be construed to permit a State to be sued under this section other than in accordance with its applicable laws.

JURISDICTION AND VENUE

SEC. 8. (a) Notwithstanding any other provision of law, the district courts of the United States shall have jurisdiction over any civil action under this Act, without regard to the citizenship of the parties or the amount in controversy.

(b) A civil action under this Act may be brought in any district court of the United States for a district located in the host State or the off-track State, and all process in any such civil action may be served in any judicial district of the United States.

(c) The jurisdiction of the district courts of the United States pursuant to this section shall be concurrent with that of any State court of competent jurisdiction located in the host State or the off-track State.

EFFECTIVE DATE; APPLICABILITY

SEC. 9. (a) The provisions of this Act shall take effect on the date of enactment of this Act, and, except as provided in subsection (b) of this section, shall apply to any interstate off-track wager accepted on or after such date of enactment.

(b)(1) The provisions of this Act shall not apply to any interstate off-track wager which is accepted pursuant to a contract existing on May 1, 1978.

(2) The provisions of this Act shall not apply to any form of legal non-parimutuel off-track betting existing in a State on May 1, 1978.

(3) The provisions of subsection (b) of section 5 of this Act shall not apply to any parimutuel off-track betting system existing on May 1, 1978, in a State which does not conduct parimutuel horseracing on the date of enactment of this Act.

The PRESIDING OFFICER. Time for debate on this bill is limited to 1 hour, to be equally divided between and controlled by the distinguished Senator from Washington (Mr. MAGNUSON) and the distinguished Senator from Kansas (Mr. PEARSON), with 30 minutes on any amendment, except two amendments to be offered by the Senator from Illinois (Mr. STEVENSON), on each of which there shall be 1 hour, with 20 minutes on any debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished chairman yield?

Mr. MAGNUSON. I yield.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Iowa (Mr. CULVER) has a conference report to call up. I understand that he can do it in 3 minutes. Will the Senator from Washington yield to him for that purpose?

Mr. MAGNUSON. I yield.

ENVIRONMENTAL RESEARCH AND DEVELOPMENT AUTHORIZATIONS, 1979—CONFERENCE REPORT

Mr. CULVER. Mr. President, I submit a report of the committee of conference on H.R. 11302 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11302) to authorize appropriations for environmental research, development, and demonstration for fiscal year 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 20, 1978.)

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. FORD: David Leader and Martha Moloney; Mr. STEVENSON: Mary Ellen Miller; Mr. MATHIAS: Robert McNamara and Ralph Omen.

Mr. CULVER. Mr. President, this bill extends through fiscal year 1979 the authorization for appropriations for the environmental research and development program conducted by the Environmental Protection Agency.

The Subcommittee on Resource Protection held a hearing February 1, 1978, on the Environmental Protection Agency's fiscal year 1979 budget for research and development. The hearing revealed certain shortcomings in the administration's request and the current research program. These problems were addressed in the bill reported by the Committee on Environment and Public Works in the nature of a substitute for the House-passed legislation. On May 26, the full Senate passed this bill by voice vote.

As modified in conference, H.R. 11302 authorizes $351 million for the Agency's ongoing general research programs. In addition, it includes authorizations of $7 million for grants to support long-term research, $15 million for recycling and reuse of waste water demonstration projects, $3 million for grants to support citizens groups engaged in future studies, $1 million for a study of the coordination and application of environmental research in the Federal Government, and $5 million for research at the National Bureau of Standards. The conference report also contains language added by the Senate to address the proposed transfer of research on energy-related pollution control technologies from the Environmental Protection Agency to the Department of Energy (DOE). Further, it encourages the Agency to respond to increasing demands on its staff by developing training and education programs designed to improve the technical and scientific capabilities of the researchers. The conferees have included a Senate provision which gives special emphasis to development of opportunities for women and minority groups.

Mr. President, section 2 of the act includes the proposed authorization levels for various environmental programs in fiscal year 1979. These can be described briefly.

WATER QUALITY

The authorization for water quality research and development is $82.9 million, of which $29.5 million is for the energy program. The additions fall under the activities of the health and ecological effects research programs. Two million dollars of the increase is intended for studies on the Great Lakes water quality program, which was designed to fulfill EPA responsibilities under the Great Lakes Water Quality Agreement of 1972 between the United States and Canada. Specific topics for study include the effects of nutrient enrichment on lakes, problems associated with electric power production, the sources and effects of various water pollutants, and the development of predictive models which relate responses of lake ecosystems to the degree of pollution.

In the Clean Water Act Amendments of 1977, I offered an amendment establishing a $200 million conservation cost-sharing program for controlling nonpoint source pollutants in agricultural areas. This program is being administered by the Department of Agriculture in cooperation with the Environmental Protection Agency. In some circumstances, simply controlling soil erosion may not be a remedy for poor water quality because certain chemical pollutants may be dissolved in runoff water and not attached to soil particles. Therefore, some management practices may be more useful than others in meeting the goals of the Clean Water Amendments of 1977. The bill agreed to by the conferees includes $1 million for research leading to the most effective management strategies for reducing nonpoint source pollution.

AIR QUALITY

For air quality activities, H.R. 11302 includes a $160 million authorization of which $100 million is for the energy program. The proposed budget for fiscal year 1979 included a personnel cut of 27 positions in the area of ecological effects research. The 27 positions would come from the only research lab in the Environmental Protection Agency which conducts research on basic terrestrial ecology. This shift away from intra-agency research in this vital subject apparently results from the emphasis placed on health-related research in this year's proposed budget.

The conferees recognize that EPA must give increasing support to health-related research. Nevertheless, the Environmental Protection Agency is the lead agency, and in effect the only Federal agency, responsible for overall environmental quality. The Public Health Service, the National Institutes of Health, the Food and Drug Administration, and the Occupational Safety and Health Administration are all concerned with aspects of human health. I think it is inappropriate for the EPA to shift its research activities toward health issues completely, at the expense of other environmental research. In addition to deemphasizing this important area of inquiry, such an approach ignores the wealth of information derived from basic ecological research that ultimately applies to human health problems.

ENERGY FROM MUNICIPAL WASTES

An important $1 million addition agreed to by the conference committee in the air category falls in the energy program. Following passage of the Resource Conservation and Recovery Act there has been an increasing emphasis on energy production from municipal wastes, or so-called refuse-derived fuel (RDF) process. The conferees are interested in the recovery of fuel from waste and support research and demonstration projects to overcome the remaining technical obstacles to the environmentally and economically sound use of this technology.

Resource recovery operations represent a potential conservation of material and an excellent source of energy, and the Federal Government has been conducting vital research on the feasibility of such activities. One of the principal source recovery facilities is the Ames, Iowa municipal refuse-derived-fuel system, which is now demonstrating the capabilities of such an operation. Mr. President, I have personally toured this plant, and I believe it is providing significant opportunities for energy conservation.

EPA should continue its research at this and similar facilities. The research should focus on the application of the RDF technique in large and small communities, and on extending the break-even point for RDF in small and medium-sized cities. It is especially important that the emissions control technologies involved with combustion of municipal wastes be monitored and carefully developed. The $1 million addition for fiscal year 1979 is intended specifically to support continuing studies at the Ames facility and others of its kind.

NOISE CONTROL

The conferees agreed to a Senate provision for research and development in the area of noise control at the level of $4 million. This represents an increase of $4 million over the administration's request and a similar increase over the level of spending for fiscal year 1978. The Environmental Protection Agency discontinued its noise research program several years ago at a time when the entire noise abatement and control program was neglected within the Agency. The Senate recently passed a bill developed by the Resource Protection Subcommittee, "The Quiet Communities Act," S. 3083, which reauthorizes for 2 years the Noise Control Act of 1972. This legislation gives special emphasis to the research needs in the field of noise control, and provides guidance to the Agency on which areas should be the focus of research efforts. There is a special emphasis on nonauditory health effects and on development of effective noise control technologies. Few other sources of background and supporting information exist for communities and States which have noise control programs, and they have little or no research capabilities of their own.

A growing body of evidence has developed in recent years on the relationship of excessive noise levels to diseases involving physiological stress and sleep disturbance. In addition, there have been indications that individuals exposed to excessive noise for long periods of time may experience significantly higher rates of birth defects and mental health problems.

Research on noise abatement and control technology is almost nonexistent. Few of the regulations promulgated thus far by the Environmental Protection Agency for noise control have been effective in stimulating technology development in industry, and few private-sector institutions are conducting such research at this time. Therefore, the increased authorization for noise control research is divided equally between the health and ecological effects program and the industrial processes program. The funds should initiate basic research on noise control technologies and support further studies on the health effects of noise pollution, with specific attention to nonauditory effects. I want to emphasize the intent of the conferees that, in carrying out this research program, EPA's Office of Research and Development should work in close coordination with the Office of Noise Abatement and Control.

TRANSFER OF RESEARCH

Mr. President, the Office of Management and Budget on January 11, 1978, proposed a transfer of $14 million in pollution control research from the Environmental Protection Agency to the Department of Energy. In exchange, the Department of Energy was to transfer $14 million in the energy-related control technology program to the Environmental Protection Agency budget.

Congress very clearly opposed a similar transfer by the Nixon administration in 1974. In establishing the Energy Research and Development Administration, Congress defined in very specific language the proper roles for the concerned agencies. The legislative history clearly states that the Environmental Protection Agency must retain the capability to "force technology." It is not enough for EPA to maintain an ability simply to "assess" pollution control developments.

It is unsound public policy to separate pollution control technology from pollution control regulation. Enforcement policies should be based on good research and adequately demonstrated techniques, so that the Agency can make informed decisions about effective pollution control regulations.

The conferees do not question the importance of the Department of Energy having a strong environmental component. However, it should not replace or duplicate EPA's activities. Full coordination between the Environmental Protection Agency and DOE should be required to assure that EPA's research capability is utilized. The conferees agreed on the importance of this role for EPA, and directed that the $14 million in the President's budget for pollution control technology, referred to in the OMB memorandum of January 11, 1978, must be spent by EPA. It is the firm intention of the conferees that this issue be closed, and that the will of Congress not be subverted.

GRANTS FOR LONG-TERM RESEARCH

The Environmental Research, Development, and Demonstration Act of 1978 also includes $7 million for grants to universities and similar institutions conducting research and training to support continuing programs of long-term environmental research. The Subcommittee on Resource Protection gave specific attention last year to the need for more long-term research in the Environmental Protection Agency. Studies by the National Academy of Sciences and the Office of Technology Assessment have demonstrated this research focus has not been undertaken on a comprehension basis.

The Agency should develop a continuous source of highly trained and dedicated professionals, with expertise needed to upgrade the research program within the Agency itself. At the same time, the institutions which are assisted should be involved in research that is so significantly needed to support the activities of long-term research. Each grant should be for approximately 3-years duration, and should be awarded, after critical peer review, to approximately 30 to 50 institutions.

GRANTS FOR FUTURES STUDIES

Mr. President, I have had a longstanding interest in the capability of our governmental institutions to anticipate changes in our quality of life. This conference report includes $3 million for grants to support and encourage qualified groups of citizens to forecast how long-term societal, technological, and environmental trends will affect their area, and to assist them in setting goals and identifying efforts designed to improve the quality of life.

In recent years, we have been hit from the blindside by the energy crisis, economic hardships, and food shortages. Federal, State, and local governments have not always anticipated major problems or planned for orderly changes. All too often, we have become aware of cataclysmic developments only after it is too late to implement effective, responsive programs.

A number of States, localities and regions have established organizations to discuss long-term developments and appropriate public policies for addressing anticipated problems. For example, Iowa 2000 and alternatives for Washington have effectively anticipated future developments which might affect those States, and they have recently placed special emphasis on issues related to energy and natural resources. On May 24, in fact, I had the pleasure of addressing the Iowa 2000 State Convention on the subject of, "Land, Water, and Energy." Similar programs in other States have provided an important forum for discussing the need for and enhancing the role of foresight in public policy. I offered this amendment to the original bill during Senate consideration in the hope that these and other similar groups would be encouraged and supported.

A maximum of $50,000 per year may be provided by the Environmental Protection Agency to any one of these groups to support as much as 75 percent of the costs of the program or various projects. The Administrator may renew the grants, on the condition that the applicant submits a report summarizing the progress made during the previous year and the plans for the succeeding year.

PERSONNEL IMPROVEMENT

A continuing problem for EPA has been a shortage of qualified personnel in the research program. H.R. 11302 provides authority for the Agency to have greater flexibility to meet these staff needs. Section 7(a) authorizes 75 personnel positions to be used by the Agency for assigning employees to full-time academic training, thereby improving the ability of those employees to function in a particular capacity in the Agency.

Second, this legislation authorizes EPA to utilize the postdoctoral research program administered in cooperation with the National Research Council of the National Academy of Sciences. This will allow young scientists who are acquainted with the most current research techniques and findings to work in the Agency. The conferees fully expect this factor to provide the Agency additional talent and an increased enthusiasm for rigors and excellence in the research program.

The conferees further agreed to a Senate provision requiring the Administrator to give special emphasis on education and training for women and minority groups. The Committee on Environment and Public Works has examined, in the course of considering several nominations for Agency personnel, the hiring records for the Agency and the Office of Research and Development, in particular. The analyses revealed that women and minorities are very poorly represented in positions of responsibility in the Agency, especially in the grades GS 12–18. I recognize that this unfortunate record is shared by many other Federal agencies, but the situation in the Environmental Protection Agency should be remedied.

Mr. President, I wish to express my appreciation to Senator RANDOLPH, chairman of the Committee on Environment and Public Works, Senator MUSKIE, chairman of the Subcommittee on Environmental Pollution, and Senator WALLOP, the ranking minority member of the Subcommittee on Resource Protection, as well as the distinguished conferees from the House of Representatives for their assistance and support during consideration of this legislation. I think we all agree that the bill developed in conference should serve as the basis for a stronger research program in EPA. I urge my colleagues to support the conference report.

● Mr. WALLOP. Mr. President, I am pleased to rise in support of the conference report on H.R. 11302. The Subcommittee on Resource Protection of the Environment and Public Works Committee has taken a close look at the Environmental Protection Agency's research and development program.

A number of issues regarding this program were examined by the subcommittee and while all have not been resolved in this bill the committee has through its work on the bill given the agency guidance concerning the implementation of their research programs.

The subcommittee is generally disturbed at the overlap and duplication of effort in the entire effort made by the Federal Government in the area of environmental research and development. I am sure that the subcommittee will continue to intensify its efforts to make sure that those Federal dollars given to Federal research and development programs are expended efficiently and in a manner assuring that the research will be useful to others who must use it in carrying other Federal activities.

The committee was particularly disturbed by the shift in emphasis within EPA's research efforts. It appeared that the agency was greatly reducing their research efforts into the ecological effects of pollution. This issue was discussed in our hearings, and it was found that research of this type was badly needed in certain EPA programs. The committee agreed with the agency that in certain respects the change in emphasis might be justified but encouraged the agency to pinpoint those areas where ecological effects work is badly needed and then to make every effort to insure that research efforts on these subjects are not deleted as part of the agencies overall change in research priorities. I am sure that this will be the subject of further review by this committee in the future and that our oversight will, with the cooperation of the agency, yield a balanced research program.

Once again Mr. President I would like to praise the committee and subcommittee for their work on this bill and would urge my colleagues to support the conference agreement before us today.●

● Mr. MUSKIE. Mr. President, I rise in support of the conference report on H.R. 11302. This conference agreement represents a fair compromise between the Senate and House bills and will, in my estimation, provide adequate support and guidance for the research and development program of the Environmental Protection Agency during the next fiscal year.

I have followed the progress of the research, development, and demonstration program at EPA since its beginning. It has provided the scientific underpinning for EPA regulations over the last decade. In addition, the Office of Research and Development (ORD) has provided leadership in promoting new environmental control technologies. This authorization should maintain that forward-looking approach.

This year's authorization bill has special significance. The Office of Management and Budget, in a memorandum of January 11, 1978 signed by Director James McIntyre, directed a major shift in emphasis of the EPA research program focus. That memorandum proposed to transfer the responsibility for energy-related pollution control technology from the Environmental Protection Agency to the Department of Energy (DOE). In response, an equivalent budget for health and ecological effects research in DOE was to be transferred to EPA. The language of H.R. 11302 and its accompanying report unequivocally and completely rejects the January 11 proposal as it applies to the pollution control technology transfer.

This proposal would have had far-ranging consequences. It would have realined EPA's priorities such that necessary functions would have been stripped from EPA. The Clean Air Act and the Clean Water Act established a dynamic relationship between EPA's research and regulation efforts. These acts contemplated the upgrading of standards in concert with the development, under EPA leadership, of technologies not yet achieved. The R. & D. program in EPA which has supported many of the achievements in this area reflects the Congress commitment to the process of improving technology and establishing sound, attainable, and defensible standards. This transfer would have weakened the EPA program and threatened that good working relationship. The conference bill language reflects the conferees' intent to expressly forbid the transfer of resources as well as programs from EPA to the Energy Department for research, development, and demonstration of environmental control technologies.

In this agreement, the conferees have reiterated their understanding of the proper division of labor between environmental and energy-mission agencies. The conferees took notice of, and endorsed without reservation, the legislative and report language of the 1974 Energy Reorganization Act, which carefully defined agency responsibility for those agencies having to work with energy-related environmental control technologies. In the 1974 act, Congress reaffirmed its position that the Environmental Protection Agency should continue to have a strong program in the pollution control research field. The conference report noted that EPA's mandate is not to wait for development of appropriate and workable control technologies, but to press for breakthroughs. Senator JACKSON indicated the following in a letter to me in 1974 concerning the transfer proposed in that year:

> I agree with your objective to insure that EPA will continue to have the confirmatory research capability to back up its regulatory responsibilities regarding the Clean Air Act. I also appreciate the need for EPA to have "in-house" technical competence in the pollution control technologies which are associated with automotive and stationary power plant emissions.

Divorcing pollution control research from the related regulatory agency does not make sense. Research and regulation must go hand-in-hand. Each Member of Congress has, at one time or another, heard constituents and interest groups complain about regulations and enforcement policies. They fear that legal requirements may be based on inadequately tested technology. These concerns should not be answered by removing testing and demonstration programs from the Environmental Protection Agency. The answer, rather, should be an expansion of EPA's efforts. Therefore, the conferees have directed EPA to pursue regulatory research at bench, pilot and demonstration levels in furtherance of their regulatory mission.

Some of my colleagues will no doubt comment that the Environmental Protection Agency should not be the sole Federal receptacle of environmental knowledge. It is essential to provide environmental information to most agencies of Government so that actions of the agreement can be taken in the environmentally sensible fashion. I agree.

As was agreed in 1974, the Energy Research and Development Administration, now the Energy Department, should also be cognizant of environmental values and constraints in its development of new energy sources and technologies. The legislative history of the 1974 Energy Reorganization Act is also clear that the Department of Energy environmental programs should not be developed at the expense of the Environmental Protection Agency. The statistics showing the environmental research and development efforts of the major Federal agencies are instructive. I ask that attachments A and B be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ATTACHMENT A

OUTLAYS

[Millions of dollars]

	NSF		DOI		DOC		NASA		DOE		EPA		HEW		USDA		DOT		OSHA		Smithsonian		Other		Total	
	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979
1. Observation and measurement to describe and predict weather and ocean conditions and disturbances such as earthquakes	65.3	68.8	31.4	31.4	56.9	64.1	67.8	73.5	2.1	3.2					2.0	2.0							13.9	14.1	239.4	257.1
2. Locating and describing natural resources	10.4	11.7	125.1	129.4	8.2	8.5	83.1	132.6	5.8	7.2					15.2	14.7							3.2	3.7	251.0	307.8
3. Survey activities to describe the physical environment for purpose of preparing maps and charts	1.5	1.5	6.6	7.1	1.7	1.6	9.7	9.2							1.5	1.6							7.7	9.3	28.7	30.3
4. Weather modification activities	1.5		7.9	6.3	5.0	5.2									.3	.3							2.5	2.4	17.2	14.2
5. Research on the impact of the environment on man	5.8	6.3	4.6	5.1					54.5	53.8			218.5	241.4	2.1	2.2				.5	2.0	2.2	3.8	4.4	291.3	315.9
6. Ecology and other basic Environmental research	80.5	87.5	23.0	26.9	15.7	23.3	16.5	21.0	38.8	38.4					16.8	16.8	.5	.5	25.3	31.6	10.4	10.5	6.4	6.0	233.9	262.5
7. Pollution sources and effects (primary)	.6	.6	4.9	7.0	.3	.3	4.7	5.3	14.8	14.5	99.4	94.1			8.8	8.4	.6	1.3					11.8	11.6	145.9	143.1
8. Pollution control technology (primary)			29.4	28.2	.1	.8	14.3	18.1	32.1	30.0	82.1	81.9			10.9	9.6	8.2	8.4					22.2	19.8	199.3	196.8
9. Health effects research (primary)					.1	.1			97.7	96.4	82.0	88.0			.8	.8	.2	.2					4.0	4.2	184.8	189.7
10. Monitoring research (primary)			.7	1.0	1.3	1.3	27.5	23.1	21.4	21.3							4.6	4.4					2.3	2.7	57.8	53.8
11. Administrative costs for programs in lines 7–10			2.3	2.3	1.3	1.4	25.1	24.7	.2	.2	18.0	22.0			3.7	3.4	2.7	2.6					.6	.6	53.9	57.2
12. Pollution sources and effects (secondary)			4.6	7.3			4.4	5.2	10.0	11.5					19.5	19.5	.2	.3					1.7	1.8	40.4	45.6
13. Pollution control technology (secondary)			18.8	20.4					44.5	46.0					11.2	12.6	52.0	51.3					3.3	6.0	129.8	136.3
14. Administrative costs for programs in lines 12–13			1.5	.3			2.8	2.4	4.1	4.4					4.4	4.2	.1	.1					.6	.6	13.5	12.0
15. Grants for R. & D. (primary)											30.5	32.0			14.0	15.0							.2	.2	44.7	47.2
16. Grants for R. & D. (secondary)					.5	.5									12.0	12.6									12.5	13.1
17. Administrative costs for programs in lines 15–16															.6	.6	2.1	2.8							2.7	3.4
Total	165.6	176.4	260.8	272.7	91.1	107.1	255.9	315.1	326.0	326.9	312.0	318.0	218.5	241.4	123.8	124.3	71.2	71.9	25.3	32.1	12.4	12.7	84.2	87.4	1,946.8	2,086.0

ATTACHMENT B

BUDGET AUTHORITY

[Millions of dollars]

1. Observation and measurement to describe and predict weather and ocean conditions and disturbances such as earthquake	69.2	70.5	31.7	31.7	60.5	69.7	64.1	69.4	1.9	3.1					2.0	2.0							16.4	16.5	245.8	202.9
2. Locating and describing natural resources	11.0	12.0	126.5	130.8	8.7	9.2	100.5	146.1	6.5	7.9					15.2	14.7							2.8	5.0	271.2	325.7
3. Survey activities to describe the physical environment for purpose of preparing maps and charts	1.5	1.5	6.8	7.3	1.8	1.8	12.2	5.8							1.5	1.6							7.9	12.3	31.7	30.3
4. Weather modification activities	1.5		7.6	6.0	5.3	5.6									.3	.3							2.5	2.4	17.2	14.3
5. Research on the impact of the environment on man	6.2	6.5	4.7	5.2					58.7	56.2			243.6	256.1	2.1	2.2				.8	2.0	2.2	3.6	6.0	320.9	335.2
6. Ecology and other basic environmental research	85.4	89.5	23.7	27.7	16.7	25.3	17.5	22.3	40.2	38.7					16.8	16.8	.7	.6	25.8	32.2	10.4	10.5	6.4	6.0	243.6	269.6
7. Pollution sources and effects (primary)	.6	.6	5.1	7.2	.3	.3	4.9	5.3	15.8	15.0	116.0	85.4			8.5	8.5	.8	1.4					12.2	11.9	164.2	135.6
8. Pollution control technology (primary)			24.9	27.1	.1	.8	16.4	20.8	36.3	33.9	65.3	75.0			10.9	9.8	9.2	9.6					25.7	24.2	188.8	201.2
9. Health effects research (primary)					.1	.1			103.3	99.0	81.9	102.3			.8	.8	.2	.2					5.9	6.2	192.2	208.6
10. Monitoring research (primary)			.7	1.0	1.3	1.3	26.9	13.5	23.3	22.8							4.5	5.2					3.6	4.0	60.3	47.8

	NSF		DOI		DOC		NASA		DOE		EPA		HEW		USDA		DOT		OSHA		Smithsonian		Other		Total	
	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979
11. Administrative costs for programs in lines 7–10			2.3	2.3	1.3	1.4	25.1	24.7	.2	.3	18.9	23.4			3.6	3.4	2.7	2.9					1.2	1.3	55.3	59.7
12. Pollution sources reflects (secondary)			4.7	7.4			5.0	4.7	11.7	11.6					19.5	19.7	.2	.3					1.7	1.8	42.8	45.5
13. Pollution control technology (secondary)			23.9	7.3					49.8	47.8					10.7	12.6	61.2	60.3					8.3	6.4	153.9	134.4
14. Administrative costs for programs in lines 12–15			1.5	.3			2.8	2.4	4.2	4.4					4.2	4.2	.1	.1					.7	.8	13.5	12.2
15. Grants for R. & D. (primary)											42.0	42.0			14.2	15.2							.2	.2	56.4	57.4
16. Grants for R. & D. (secondary)					.5	.5									12.0	12.6									12.5	13.1
17. Administrative costs for programs in lines 15–16															.6	.6	2.1	2.8							2.7	3.4
Total	175.4	180.6	264.1	261.3	96.6	116.0	275.4	315.0	351.9	340.7	324.1	328.1	243.6	256.1	122.9	125.0	81.7	83.4	25.8	33.0	12.4	12.7	99.1	104.7	2,073.0	2,156.9

Mr. MUSKIE. Mr. President, these figures indicate that EPA is not even the major spender on environmental research. The Department of Energy is. Compare EPA's role in either budget authority or outlays and it becomes clear that EPA is not dominating the field. In fact, EPA has only 15 percent of the environmental research budget of the Federal Government. That should be expanded, not reduced.

I agree with the state desire of OMB to eliminate overlap of unneeded research programs. Too few demonstration project are being undertaken in this critical area to create duplication problems. Even if the two agencies were undertaking similar projects, the very different orientations of the two sponsoring agencies practically guarantee different research products. Research done for EPA is geared to reducing harmful pollutants in our environment; research in DOE is aimed at developing new and more reliable sources of energy. Both goals are desirable, both research efforts deserve support, and both must proceed in a cooperative framework.

Clearly, such cooperation between agencies is desirable. Yet, under the proposal that has now been rejected, the Office of Management and Budget would require that the Environmental Protection Agency "buy" cooperation from DOE with the transfer of these important pollution control programs to the Department of Energy. This is not only unsound policy, but also contradictory to clear legislative intent. In the 1974 Energy Reorganization Act, Congress specified a good model for interagency cooperation. In that act, the Congress specified that the Energy Research and Development Administration could contract with other Federal agencies to accomplish needed research ends. The idea of transferring this program from EPA to the Department of Energy has been rejected. I would suggest that the administration follow the legally authorized course provided by the contracting-coordinating alternative. This option would leave the Environmental Protection Agency mission intact, while at the same time providing for better coordination between agencies.

Mr. President, if the responsibility for the development of technology were to be shifted to an agency whose primary mission is to develop new sources of energy, pollution control would likely take a back seat to other considerations. Rather than being based on environmental results, pollution control achievements would tend to be based solely on energy priorities. Energy self-sufficiency and environmental protection must go hand-in-hand. One cannot dominate the other. The proposed transfer would have left the fox guarding the chicken coop. That is unacceptable. For these reasons, the Congress should accept this conference bill which rejects the ill-advised proposal of the January 11, 1978 memorandum from the Office of Management and Budget.

Mr. President, I ask unanimous consent that copies of the January 11 memorandum, as well as the correspondence I have exchanged with the administration, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., January 11, 1978.

Memorandum for James R. Schlesinger and Douglas M. Costle.
From James T. McIntyre.
Subject DOE-EPA Environmental Research and Development Programs.

As you are aware the President's FY 1979 Budget will provide for a change in program emphasis, under existing agency authorizations, in the Environmental Protection Agency (EPA) and the Department of Energy (DOE). The intent of this action is to improve the overall Federal effort in environmental protection and energy technology development. OMB staff has discussed the specific nature of this funding change with your staffs. In summary, $14 million of environmental control technology projects previously conducted in EPA will be administered by DOE and $14 million of environmental and health effects research previously conducted in DOE will be incorporated into the ongoing EPA research program. Attached is a detailed description of this budgetary action.

It has been agreed that the specific management details of this action will be negotiated between OMB, DOE and EPA over the next 120 days. In addition, the following guidelines and language have been drafted to describe the basic nature of the change and the subsequent agency responsibilities. These will also serve to guide the more detailed discussions over the next 120 days.

ENVIRONMENTAL CONTROL TECHNOLOGY

DOE will assume responsibility for $14 M of EPA environmental control technology development programs. DOE will be the lead Agency responsible for development of energy environmental control technology. EPA will continue to do bench-scale research on environmental control technology and may proceed to conclusion with its existing NO_x program. Future environmental control technology development programs are the responsibility of DOE, including future NO_x initiatives. EPA may not initiate any new pilot or demonstration plant projects in environmental control technology development without consulting with DOE but will be provided resources for continued bench-scale investigations into the state-of-the-art developments in control technologies.

DOE guarantees EPA access to all facilities, data, and methodology employed in the energy technology program provided that DOE is notified in advance.

ENVIRONMENTAL AND HEALTH EFFECTS RESEARCH

EPA will assume responsibility for $14 M of DOE environmental research projects. EPA will support these research projects at the National Laboratories for two years unless a project is concluded as determined in consultation with DOE and OMB. EPA will be the lead Agency responsible for research in support of long range environmental goals and regulatory standards. The particular management details and guidelines for future program responsibility will be formulated during the 120 day period of negotiation. However, with the exception of site-specific or effluent-specific research in support of energy technology development, DOE may take no new initiatives in health and environmental effects research without consulting with EPA.

The results of *all* EPA research projects will be entered into the Federal Environment and Safety Research Inventory developed by DOE.

Please designate two individuals to represent your agency in the discussions addressing the specific management details of this budgetary action.

Attachment.

JANUARY 23, 1978.

Mr. JAMES T. MCINTYRE, Jr.,
Acting Director, Office of Management and Budget, Washington, D.C.

DEAR MR. MCINTYRE: We are writing to express our concern over the proposal in the President's FY 79 Budget to shift some of the pollution control research and development responsibilities from the Environmental Protection Agency to the Department of Energy. Such a shift is contrary to the intent of Congress that these responsibilities belong with the Environmental Protection Agency. It is also contrary to the intent in the legislation that established the Energy Research and Development Administration.

In 1974, the Nixon Administration proposed shifting these and other research programs from EPA to the Energy Research and Development Administration. The proposed transfer was stricken from the Senate bill and only a small portion of that transfer was retained in the House bill. The conference agreement excluded transfer of EPA programs except for the Alternative Automotive Power Systems Program. The Congressional intent to preclude the transfer of pollution control technology is quite specific. There was no reversal or modification of that intent when the Department of Energy was created in 1977.

The arguments against such a shift are stated in the Senate report accompanying the Energy Research and Development Administration legislation. In brief, they are (1) the Environmental Protection Agency has a record of aggressively pursuing the development of pollution control technology, while the Department of Energy would be more likely to emphasize energy production; (2) in developing regulations, the Agency needs to retain a strong technical basis that can come only with the kind of responsibility associated with such research programs; and (3) it is not enough for EPA to have the ability to assess such developments—the Agency must be able to stimulate such developments.

In our view, the proposed transfer of funds from EPA to the Department of Energy for pollution control and research development would result in the Department of Energy performing unauthorized research. We would be happy to discuss this matter further with you at your convenience.

Sincerely,

EDMUND S. MUSKIE, U.S.S.,
Chairman, Subcommittee on Environmental Pollution.

COMMITTEE ON GOVERNMENTAL AFFAIRS, SUBCOMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C., March 14, 1978.

Hon. JAMES T. MCINTYRE,
Director-Designate, The Office of Management and Budget, Washington, D.C.

DEAR JIM: I understand that the Committee on Governmental Affairs has scheduled a hearing on your nomination as Director of the Office of Management and Budget for Thursday, March 16. It would be useful in connection with this hearing to clarify your views on three subjects where OMB has responsibility and which affect the Committees on which I serve.

First, I would like to have your views regarding the proper interpretation of Section 201(d) of the Congressional Budget and Impoundment Control Act of 1974. That section relates to the authority of the Director of the Congressional Budget Office to secure budget information from the Executive Branch and other agencies which she determines necessary to the performance of her duties and functions.

We put this provision in the Budget Act to eliminate any question about the obligation of OMB and other departments and agencies to respond promptly and completely to requests by the Director of CBO for information, data, estimates and statistics.

The only exception to the obligation of the Executive Branch to provide such material promptly upon its request is where disclosure of the material would be a violation of another specific statute.

I understand a question arose in January as to whether OMB was required pursuant to Section 201(d) to provide CBO the so-called "Budget Tape" as soon as it is completed. I understand that various representatives of OMB maintained that that statute did not require the release of such information at all or at least did not require its release immediately.

I understand OMB was concerned that other agencies of Congress were also interested in obtaining the tape and was concerned that a broad distribution of the tape prior to the release of the budget itself might result in a breach of the tape's confidentiality. While I am sympathetic to such concerns, I am hopeful that OMB is not misreading the Budget Act and accepts its proper interpretation: that OMB must produce promptly whatever information, data, estimates and statistics the CBO Director determintes to be necessary in performance of her duties. I am also hopeful you agree with the clear statement of Section 201(d) so that further inquiry into this question may be dispensed with.

Second I continue to be concerned with the impoundment issue. While Congress addressed and resolved the problem of impoundment of funds in the Budget Act, no similar procedure has been developed to deal with impoundments which results from limits on personnel made available to implement programs. I would like to know what your views are on this problem. What methods are available which would assure that authorized programs are implemented as intended?

Third I am concerned about the proposed transfer of pollution control demonstration projects from the Environmental Protection Agency to the Department of Energy, as recommended in the President's fiscal 1979 budget submission. I wrote to you about this on January 24 and urged you to reconsider. Since that time both Senate Committees with jurisdiction over the agencies involved (Environment and Public Works and Energy and Natural Resources) have sent recommendations to the Senate Budget Committee objecting to this transfer.

Authorization for the Department of Energy to conduct the research which would be funded by the transfer was expressly rejected in the legislation which created the Department of Energy. An amendment to the Department of Energy Act would be required to permit these funds to be used for the purposes intended. I would like to know what your plans are with regard to submittal of such a proposal. Can we expect a proposed amendment from the Administration or do you intend to pursue another course of action, and if so, under what authority?

While I realize there is only a short period of time prior to the hearing on your nomination, I would appreciate your response to these issues in advance of committee consideration.

With best wishes.

Sincerely,

EDMUND S. MUSKIE.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., March 16, 1978.

Hon. EDMUND S. MUSKIE,
Committee on Government Affairs, Subcommittee on Intergovernmental Relations Washington, D.C.

DEAR SENATOR MUSKIE: I am pleased to be able to respond to your letter of March 14, asking for a clarification of my views on three subjects in advance of consideration of my nomination as Director of OMB by the Committee on Government Affairs. My responses to your questions are as follows:

We agree with your interpretation of Section 201(d) of the Congressional Budget and Impoundment Control Act. Specifically, OMB and all other agencies must furnish information upon request by the Congressional Budget Office.

During the last two years we have furnished the budget tape to the Congressional Budget Office several days in advance of the President's budget submission. We are happy to cooperate with the CBO and provide the tape as soon as feasible. We believe that the CBO is satisfied with the way this matter has been handled. You will recognize that since the tape reflects the data in the President's budget the timing of its transmittal must depend upon the President's final determinations on the budget. I am sure that we will be able to furnish the tape at least a few days prior to the transmittal of each budget.

You also expressed concern about our intentions with regard to assuring that authorized programs are implemented as intended. There are several mechanisms in existence to assure that programs are carried out as intended by the Congress. These mechanisms are designed to achieve the most effective use of authorized funds, while permitting some latitude to program managers to assure that program objectives are accomplished in the most efficient way possible. The Department of the Treasury certifies the availability of funds provided by Congress through a warranting process. Funds warranted by Treasury are further allotted through an apportionment process managed by the Office of Management and Budget to assure that resources are allocated efficiently.

Executive agencies and the President are required by the Impoundment Control Act to report to the Congress any actions that would delay or halt use of funds provided by the Congress. The General Accounting Office establishes the rules for accounting for funds, for determining the validity of expenditures and monitors Executive Branch reporting under the Impoundment Control Act. All of these individual mechanisms are important to assure implementation of authorized programs.

Limits on Federal employment are intended not to restrain programs below authorized levels but to help assure that programs are implemented in the most efficient manner.

These institutional mechanisms together form a means for making effective use of the financial and staff resources available to the government in executing authorized programs. I assure you that we will not use personnel ceilings to stop or delay carrying out any program established by the Congress.

I will now address your questions concerning certain environmental control technology programs currently undertaken by the Environmental Protection Agency and certain health effects research programs currently undertaken by the Department of Energy.

First, let me clarify what is proposed in the President's budget. No programs or authorities are proposed to be transferred from one agency to another. Rather, the funding for EPA's energy-related control technology development activities would be reduced from $52M in FY 78 to $38M in FY 79, while EPA's energy-related health effects research funds would be increased from $40M to $54M. As far as DOE's budget is concerned, its control technology development activities would be increased from $55M to $69M, and its fossil fuels health effects research funds cut from $49M to $39M. Both agencies would continue to be active in both program areas, pursuant to the authority of the Clean Air Act and other EPA statutes and the Department of Energy Organization Act and other DOE statutes.

The intended results of these changes in funding levels would be an increased capacity in the EPA to undertake the health effects research that provides the critically needed basis for its regulatory programs, and an increased capacity in the Department of Energy to undertake the development of fuel and combustion cycles that will be necessary to meet strict environmental standards. At the same time, EPA will maintain a significant research capability in the control technology development area, so that it can help force the development of new technology and confirm what is or ought to be available. Similarly, DOE will maintain a significant capability in the health effects research area, so that it can understand and take into account the environmental and public health consequences of energy technologies that it is helping to develop.

To be more specific, EPA will continue to conduct bench scale research and retain its current engineering expertise. In addition, EPA will retain in full its important program in the control of oxides of nitrogen. Further, EPA will have guaranteed and protected access to all of DOE's data and research methodologies in these areas. Finally, IV, through a new interagency working group—which OMB will oversee—and through new cross-agency zero-based budgeting procedures, EPA will be given more ability to influence the program planning and implementation at DOE.

Why did we propose this shift in budget emphasis between agencies in these areas?

Without reservation, it is the policy of this Administration—and of genuine personal concern to President Carter—that our energy production objectives must be met in a manner consistent with our environmental goals and standards. To do this, we must develop energy technologies that make the most environmentally and economically advantageous use of clean fuels, clean combustion processes, and clean emissions controls. We are convinced that these components must be researched and demonstrated together—in combination with each other—so that the best available control technologies will be developed; so that ambient, new source performance, and prevention of significant deterioration standards can be met; and so that growth, economic development, and energy production needs can be met.

At the same time, we must also be sure—surer than we are now—that the health of the American people will be protected in the use of these new energy technologies. For that reason, we felt it necessary to provide for EPA the primary responsibility and increased resources to conduct energy-related health effects research.

The FY 79 budget was prepared consistent with these objectives, and we believe that the changes in budget emphasis will move us closer to the goals that I know we share with you.

I will be happy to discuss these questions with you at the hearings.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Acting Director.

COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, D.C., March 21, 1978.

Mr. JAMES T. MCINTYRE,
Director-Designate, Office of Management and Budget, Washington, D.C.

DEAR JIM: Thank you for your reply to my letter of March 14. I have read your response, yet I remain concerned about two issues raised in connection with your nomination to be Director of the Office of Management and Budget.

First, I am strongly opposed to the proposed transfer of responsibility for development and demonstration of large scale conventional pollution control technologies from the Environmental Protection Agency to the Department of Energy. The transfer neither recommends itself on sound public policy grounds, nor is it statutorily authorized.

You stated in your March 16 letter to me that "no programs or authorities are proposed to be transferred from one agency to another." This interpretation seems strained. The rationale stated in your memorandum of January 11, 1978 to Douglas Costle and James Schlesinger seems to clearly identify a transfer:

"14 million of environmental control technology projects previously conducted in EPA will be administered by DOE and $14 million of environmental health effects research previously conducted in DOE will be incorporated into the ongoing EPA research program."

At the minimum, it appears that ownership of the facilities involved will be transferred from EPA to DOE.

You also indicated in your March 16 letter that:

"Both agencies would continue to be active in both areas, pursuant to the authority of the Clean Air Act and other EPA statutes and the Department of Energy Organization Act and other DOE statutes."

Yet in your January 11 memorandum, you actually prohibited EPA involvement in some of these important areas:

"Future environmental control technology development programs are the responsibility of DOE, including future NO_x. EPA may not initiate any new pilot or demonstration plant projects in environmental control technology without consulting with DOE but will be provided resources for continued bench scale investigations into the state-of-the-art developments in control technologies."

Your decision fails to consider the Muskie-Javits Amendment to the Energy Reorganization Act of 1974 (P.L. 93-438) which stated specifically that the creation of ERDA (now DOE) should not remove energy-related environmental research and development responsibilities from EPA.

While you indicated that EPA will retain in full its important program in the control of oxides of nitrogen, EPA will immediately lose equally important SO_x, particulates, and any other large scale demonstration projects in the future. For example, it is essential that EPA begin research in combustion modification and post-combustion clean-up of diesel particulates. It is also important that EPA begin developing bench studies relating to the control of heavy organics associated with fly ash. Under the OMB guidelines as stated in your January 11 memorandum, EPA will be unable to pursue either of these projects through the demonstration level.

Pollution control research must be approached holistically. That is, an idea must be explored in the lab, developed at the bench and pilot levels, and then applied to an operating facility to demonstrate feasibility. If EPA is restricted to bench studies in these critical areas, the agency will not gain "hands on" experience with technologies such as scrubbers, and therefore will be in no position to independently evaluate the reliability and effectiveness of proposed technologies let alone accelerate their improvement. In effect, the transfer will leave EPA in the "ivory tower", unable to "force technology".

At the heart of the issue for both agencies is the question of access to data and facilities. Your January 11 memorandum indicated that in exchange for the projects in question, EPA would be guaranteed access to all DOE facilities, data, and methodologies related to energy technology. It is contrary to the legislative language and intent of the 1974 Act, however, to force EPA to purchase this type of cooperation with the transfer of essential research and development projects. These projects should not be used as a bargaining chip. The better solution would be to encourage a "multiple use" concept of all Federal facilities, as embodied in the Energy Reorganization Act of 1974. Section 140(1) of that Act affords the Department of Energy access through contracting mechanisms of any other Federal agencies, including those of EPA, whose personnel have special expertise or whose labs are particularly appropriate to a given investigation. This provision could be used to force joint agency problem definition, project planning, design, management and budgeting. Information-sharing and cooperation agreements are essential to the use of research and development dollars; however, this transfer seems unnecessary to guarantee that end.

I recognize OMB's problem in evaluating demands for increasingly scarce Federal resources, but severing the research effort to EPA's standards-setting functions from the EPA is neither wise, authorized, nor acceptable. It seems to me that the best option is to mandate cooperative efforts through provisions such as section 140(1) of the 1974 Act.

My second concern relates to what amounts to "impoundment of positions" in Federal agencies by the Office of Management and Budget through the imposition of personnel ceilings. The Carter Administration has taken the position that it will not impound funds appropriated by Congress. How does the refusal by OMB to release appropriated positions differ from an impoundment of funds?

The Environmental Protection Agency, for instance, is falling far short of its water quality effort simply due to understaffing. The FY 1978 supplemental was intended to correct this deficiency; however, because the positions have not been "released", important goals cannot be accomplished. To exacerbate the situation, additional legislative burdens have been added to that agency's mandate due to the 1977 Clean Water Amendments, which the Carter Administration supported. This is only one of many examples which highlights the importance of clarifying your views and those of the President on the impoundment question.

I wanted to raise these issues with you in person during the Governmental Affairs Committee hearings on your nomination to be Director of the Office of Management and Budget, but was unable to do so. I want to emphasize, though, that these are problems of deep personal concern. I would appreciate your attention to these matters.

Sincerely,

EDMUND S. MUSKIE, U.S.S.,
Chairman, Subcommittee on Environmental Pollution.

OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C., May 4, 1978.

Hon. EDMUND S. MUSKIE,
Chairman, Subcommittee on Environmental Pollution, Committee on Environment and Public Works, Washington, D.C.

DEAR MR. CHAIRMAN: I have received your thoughtful letter regarding the shift of responsibility for demonstration of large scale pollution control technologies from the Environmental Protection Agency to the Department of Energy.

You state in your letter that at the heart of the issue for both agencies is the question of access to data and facilities. I agree that this is indeed critical and have insisted on guaranteed EPA access to all DOE facilities, data and methodologies. As you point out, such access is essential in order to ensure EPA the "hand on" experience with energy control technologies necessary to evaluate the effectiveness and reliability of the technologies. In the past, this access has not been assured. In fact, the proposal goes even further, giving EPA a joint role in determining which facilities will be built by the Department of Energy. This is the key to developing the "multiple use" facilities which you suggest. EPA will be expected to utilize any facility that demonstates energy control technology.

EPA has been given a great deal more ability to influence program planning and implementation at DOE. We have established an interagency working group which OMB oversees. The working group will be given the responsibility to develop an energy/environment joint budget request utilizing cross-agency zero based budgeting procedures. Thus, EPA will be helping to determine the entire Federal energy control technology development program, as well as the environmental research program.

If EPA proposed to demonstrate technology in any of the key areas you mentioned, I am sure that such a project would be judged on its merits. Any problems would be brought to OMB's attention. Additionally, we will be establishing a joint oversight committee of outside scientific and technical experts to insure the joint approach produces an environmentally sound energy development research program. We do not intend that EPA have an ivory tower position; on the contrary, our proposal will give EPA more than adequate leverage to force technology—in some respects, perhaps, even more leverage than it has now.

Let me restate the demonstrated policy of this Administration: Energy production objectives must be met in a manner consistent with our environmental goals and standards. Energy technologies must make the most environmentally and economically advantageous use of clean fuels, clean combustion processes, and emissions controls.

This is exactly the holistic approach you feel must be made to energy pollution control. This is why we feel that all components must be researched and demonstrated together, with a joint planning and budgeting process for all components which includes both EPA and DOE.

I believe this proposal will lead to a more environmentally sound energy research program, and to the attainment of our national environmental goals.

You also expressed concern over the relationship of employment ceilings to the Impoundment Control Act of 1974. Limits on Federal employment are not used to restrain programs below authorized levels but to help assure that programs are affected in the most efficient and economical manner in relation to the use and productivity of Federal employees. The presence of an employment ceiling does not preclude the use of funds for the legitimate purposes provided in law.

It is not our intention to use employment ceilings to stop or delay authorized programs. However, cases may arise when it is possible to carry out the full objectives and scope of a program with fewer Federal employees than originally intended by the Congress. In such cases, when dollar savings result after considering other legitimate uses of the funds within the intent of Congress, then it is our responsibility to realize these savings and report the action to the Congress pursuant to the Act.

In specific reference to the water quality program which you mention, I can assure you that the Administration's support for an effective implementation of the Clean Water Act is firm. We have requested and received appropriations to substantially increase our efforts in the development of toxic effluent guidelines. We are currently completing a review of EPA's budget amendment request for FY 1979 for both personnel and resources to improve implementation of the recently enacted amendments to the Clean Water Act. In addition, EPA has specific plans to reprogram resources to meet other requirements of the Clean Water Act. I believe we can achieve an effective balance between personnel and overall resources to implement the Clean Water Act in a manner consistent with the statute and efficient management practices.

Sincerely,

James T. McIntyre, Jr.,
Director.●

Mr. CULVER. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTERSTATE HORSE RACING ACT TO 1978

The Senate continued with the consideration of the bill.

Mr. PEARSON. Mr. President, I ask unanimous consent that the time allotted to the minority be managed by the Senator from Alaska (Mr. Stevens).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I shall be very brief, because I do not want to detain the Senate any longer than necessary on this matter. We do have a time limitation.

I support S. 1185 because I believe that passage of this measure is essential if we are to provide the needed Federal regulation of interstate offtrack betting which is causing and threatens to cause severe harm to the racing industry in various States.

The best example, of course, is that, only last week, Narragansett decided to close its doors because it did not have enough people there. I suppose it was a result of people picking up the telephone and betting in places that have offtrack betting, to the severe harm of the racing industry, which employs thousands of people.

For example, since 1970, the last year there was offtrack betting in New York, the average daily attendance at the tracks in that State declined by about 41 percent. In addition, there was a decrease of more than 30 percent in the average daily handle at the New York racetracks since the advent of offtrack betting.

The important part is that, as originally introduced, S. 1185 would have provided for a total prohibition of interstate offtrack betting on horse races. An identical bill passed the House of Representatives by a wide majority in the 94th Congress, but it failed because the Senate did not have sufficient time and opportunity to consider the measure.

S. 1185, as originally, would have enabled a horse owner, racetrack operator, or State racing authority to bring a civil action for damages against any offtrack betting operation in one State which takes wagers on a race in another State.

Hearings were held on this legislation before the Senate Commerce Committee. All interested parties were provided with ample opportunity to testify, and they did, and then the bill was sent to the Judiciary Committee. They looked at it and reported it favorably.

So two committees have looked at this matter in some detail.

Minority comments on S. 1185 were filed by the distinguished Senator from Nevada (Mr. Cannon) and the distinguished Senator from Illinois (Mr. Stevenson), calling for "a less destructive alternative" to an outright ban on interstate off-track betting. I believe that the substitute version of S. 1185, as reported by the Judiciary Committee, is that less destructive alternative, and, while it does not go as far as I would prefer, it is a fair compromise.

The need for this legislation is clear. The industry which this bill seeks to protect represents a sizable portion of the U.S. economy. The horse racing industry employs more than 170,000 individuals in this country, not including people who supply needs to the industry, such as farmers, feed people, and harness people. Overall, it would probably total 300,000 people. It spends $13 billion annually for operating expenses, taxes, and capital investment. Annual revenues exceed about $1 billion. The popularity of this sport is indicated by the fact that total attendance at tracks, whether it be flat racing, quarterhorse racing, trotting, pacers, or even county fairs which have various kinds of racing, far exceeds the combined attendance for major league baseball and professional football.

It is a big industry, and apparently the American people take to it, and they have done so since the dawn of the American Republic. It is the same in other countries.

If offtrack betting is allowed to continue to grow unrestrained, it is estimated that thoroughbred racing will be reduced dramatically, causing a severe hardship to thousands of employees of the horseracing industry.

The sport of horseracing exists for greater reason than serving the convenience of people who bet. If we allow small racetracks to be destroyed or economically damaged by unrestrained off-track betting, horse breeders will not be able to afford the extensive breeding necessary to produce champions or horses that we read about. I point out that it took the breeding of approximately 800 foals to find the right combination to produce one Seattle Slew or an Affirm. So it is a big industry and they take chances with it. The farmers take chances. The people who run these farms take chances. So it is clear that not all horses are winners or moneymakers in this particular sport.

The substitute version of S. 1185, which banned it altogether, which the House passed by a vote of 315 to 86, is a result of long months of negotiation between the representatives of the horseracing industry and the off-track betting industry who came to a common agreement that a total prohibition of off-track betting (OTB) was probably not in the best interests of either party. This compromise proposes a means for adding discipline to the growth of interstate off-track betting, but would not totally prohibit these activities when they could be beneficial to the racing industry, the off-track betting industry, and the individual States where racing occurs.

This legislation is supported by the American Horse Council, the American Quarterhorse Association, the Harness Tracks of America, the Horsemen's Benevolent and Protective Association, the Jockey's Guild, the National Association of Off-Track Betting, the Thoroughbred Owners and Breeders Association, the Thoroughbred Racing Associations, the U.S. Trotting Association, and perhaps most important of all, the National Association of State Racing Commissioners.

The most important feature of this legislation is that it establishes the proprietary relationship of the horseracing industry; that is, the horsemen and the racetracks, over its own races. Having established that relationship, the bill provides that interstate bets cannot be taken on those races within a particular State without proper compensation to the industry. Therefore,, the essense of S. 1185 is consent. The three partners in racing—the tracks, the horsemen, and the States—must be in agreement on an equitable share of the off-track revenues before the off-track betting corporation may accept interstate wagers. If the contract offered to a racing association is not acceptable to the parties, no contract can be approved, and the off-track betting corporation must revise its offer or seek an agreement with another track.

Mr. President, it is important to note that this bill does not result in any expansion of the Federal bureaucracy, nor does it necessitate any Federal intervention or Federal monitoring of the industry. The bill will enable the industry or the State where racing is held to undertake a civil court action for injunctive relief in cases of violations. The bill also contains provisions to protect the market areas of racetracks and to permit off-track betting corporations to operate in a normal manner. The opponents of any form of off-track betting will argue that this legislation does not go far enough. They would prefer an outright ban. The opponents of any Federal regulation of the interstate wagering on horseracing will argue that this legislation goes too far. They would prefer to see no legislation at all.

They can make any arrangement they wish, and that is the compromise that we reached in the bill. Some argue the legislation might go too far; some would prefer no legislation at all, but I think this compromise version represents a reasonable compromise between these opposing viewpoints. Because of the wide support that this compromise enjoys, and because of its absolute necessity because of what is happening in this industry, I urge favorable consideration of this legislation in its present form.

Mr. President, I yield to the Senator from Kentucky who is one of the cosponsors of the bill.

Mr. FORD. I thank the floor leader and the distinguished Senator from Washington.

Mr. President, since the early days of the 94th Congress those of us who have a vital interest in the future well-being of the Nation's horse industry have been working to draft a piece of legislation to protect that industry against the uncontrolled growth of off-track betting.

At the same time, we have tried to strike an effective balance by not imposing undue restrictions or unnecessary Federal encroachment on legal off-track betting operations in the United States. Another prime concern was preserving the rights of States to determine their own policies as they related to off-track wagering.

After 53 different drafts of the legislation, we have finally reached agreement on a bill that is acceptable to everyone involved. Unlike most compromises, which usually are less than what either side hoped to attain, this piece of legislation, in my opinion, is better than the original bill which died in the last days of the 94th Congress.

Mr. President, the real issue at stake in this measure is not only the health, stability, and long-term economic well-being of horseracing but the entire equine industry in this country. There are more than 23,500 horse farms in the country, some 400 racetracks, and more than 200,000 individuals whose livelihood is directly dependent on horseracing. Little wonder then that racing is a $13 billion business, with far-reaching implications for many segments of this country's economy.

The birth of off-track betting operations several years ago raised the specter of unknown, but potentially grave consequences to the future of the horse industry.

As the interest in off-track betting expanded in many areas of the country, it became apparent to those of us concerned about the future of the horse industry that a national policy as it related to off-track betting was needed and, in fact, overdue.

This proposal now before the Senate would establish such a policy.

Just what does this measure accomplish?

It provides for a peaceful coexistence between the racing industry and interstate off-track betting, whenever mutually acceptable arrangements can be worked out between the track and State where racing is held and an off-track betting corporation in another State.

It keeps Federal involvement at a minimum and does not require any expansion of the Federal bureaucracy.

It protects the smaller racetracks as well as the larger tracks.

Finally, it guarantees the right of a State to determine its own policies, so long as they do not interfere with those of another State.

Let me make it clear that the sole purpose of any restrictive provisions in this measure is to control the unregulated proliferation of off-track betting. This measure maintains regulated off-track betting as a viable option for State consideration as both a revenue raising measure and a means of increasing interest in the sport of racing.

Let me also emphasize that this is not a bill legislating against off-track betting; rather it is a bill that allows States to protect these revenue-producing industries from outside and illegal competition.

If we fail to enact this legislation, I feel very strongly that the uncontrolled growth of off-track betting could lead to the demise of many smaller tracks and do irreversible harm to the horse industry and those States which rely heavily on tax revenues from racing.

Mr. President, I am convinced that this is a fair and equitable measure which will aid and protect the horse industry, States, and the off-track betting interests. This bill assures the continued vitality of the racing industry, while at the same time establishing the lines of cooperation necessary for the expansion of interstate off-track betting operations. Without this legislation, it is extremely unlikely that the cooperation necessary for the peaceful coexistence of all parties involved can ever be realized.

In essence, Mr. President, we have here a national interest in preserving the rights of States to decide for themselves the extent of interstate wagering on racing within their borders; and with so much at stake, I strongly urge that the Senate move forward in enacting this bill.

I thank the Senator from Washington for allowing me time to make my statement for the record.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and thus be considered as original text for the purpose of amendment without waiving any points of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I yield to the junior Senator from Kentucky such time as he may need.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I wish to correct that. He is the senior Senator from Kentucky and I do not want to unsurp any of his seniority here. I want my colleague to have what is due him.

Mr. MAGNUSON. I seldom make those mistakes. I apologize.

Mr. HUDDLESTON. It is true that the distinguished floor manager seldom makes that kind of mistake or any other kind of mistake, I might add.

Mr. President, I rise to voice my support for S. 1185, the Interstate Horse Racing Act of 1977. It has already been detailed how the evolution of this bill transpired, and I can say that it is the result of long and arduous hours of discussion and compromise among the horse industry, the off-track betting interests, and the State through the National Association of State Racing Commissioners.

In essence, this bill regulates the acceptance of an interstate off-track wager that is placed or accepted in one State on the outcome of a horserace taking place in another.

The bill prohibits such wagering unless all the parties involved in racing—the track, the horsemen, the off-track betting interests, and the racing associations of the States involved—agree, either directly or indirectly, regarding the terms and conditions of such wagering. This bill will prevent an off-track betting system in one State from using a race in another State without the permission of the parties that have a "proprietary" interest in that race.

At the same time, the bill will permit off-track betting to expand in an appropriate and orderly way. In sum, the bill protects the ordinary contractual process that parties usually go through when negotiating the purchase or sale of a desirable commodity. It is for these reasons that all segments of the racing industry support this legislation.

Having been very closely associated with the progress of this legislation over the past 3 years, I can tell you that the bill before us today is much more preferable to all the parties involved than the outright prohibition of interstate off-track betting previously proposed. It should be pointed out that this prohibition was in fact approved by a 315 to 86 vote in the House of Representatives in the 94th Congress.

Mr. MAGNUSON. My 3-to-1 is better than that. It was 4-to-1 for a much more severe bill.

Mr. HUDDLESTON. That is correct. The floor manager is correct.

The Commonwealth of Kentucky, as we all know, is synonymous around the world with horses and the horse industry. Kentucky is not just noted for thoroughbreds either, thoroughbreds represent an industry with a valuation of more than $1 billion in my State alone. We also have a multimillion dollar standardbred industry in the State and a rapidly growing quarter horse industry, in addition to which we have always had a large number of people who are just pleasure riders.

In addition to the direct contribution of the horse industry to the economy of our State:

Through direct parimutuel taxes which amounted to more than $10 million last year;

Through track and occupational licenses, which amounted to another half-million dollars last year;

Through admissions taxes, et cetera, which contributed well over $400,000;

Through sales taxes on some $75 million worth of horses which were auctioned in the State last year;

Through property taxes on approximately $40 million worth of land devoted to raising horses; and

Through payroll taxes on the thousands of people who work on these farms and at these racetracks.

In addition to all these direct contributions to the economy of the Commonwealth of Kentucky, the horse industry is of inestimable value to the State as the principal attraction of our large and thriving tourist industry. All the taxes derived from these vital industries go toward education, toward health programs, toward the delivery of all the services associated with the operation of Kentucky's State Government.

I should point out that this vast investment, this vast economic contribution, is only a portion of the economic impact of the racing and breeding industries of the United States. Kentucky's total direct parimutuel revenue, some $11 million last year, represents only 2 percent of the more than $700 million which the 30 racing States received in similar revenue during the same period. Kentucky's 15,500 people who are licensed to make their living in the racing industry, represent only a fraction of the 200,000 people who are in the National Association of State Racing Commissioner's file of persons licensed to make their living in the parimutuel racing industry. This employment figure is for the racing portion of the industry only, and does not include the people employed in the breeding and other associated industries.

There is virtual unanimity among experts in the horse industry on the subject of what will happen if interstate off-track betting is allowed to develop in an unregulated, haphazard fashion.

Teletheaters and OTB parlors will replace racetracks.

As a result, racetracks will close with just a few tracks located strategically around the country, so the number of horses and people necessary to put on the show will plummet. When the need for horses declines, the need for breeding farms declines, as does the need for people to man the farms. As the number of tracks and farms declines, the need for people to make saddles declines, as does the need for people to grow oats, the need for people to transport horses, et cetera.

There is also agreement among the experts of the horse industry that, if interstate off-track betting is allowed to go to its logical extreme, there could be racing at two, or maybe three, tracks in the country, with a drastic reduction in the number of horses and people necessary to conduct racing at those tracks, and a concomitant reduction in the number of horses and people in the breeding industry.

So the question is: can we afford to permit a drastic reduction of a $14 billion industry? Can we afford to jeopardize the ability of 186,000 people who are licensed to make their living through the racing industry—most of them unskilled—to make that living?

Finally, can we afford to jeopardize more than $700 million a year which the 30 racing States receive in parimutuel revenue each year? I think not. Therefore, I urge approval of this compromise legislation.

I reiterate what has already been said that this legislation represents an effort to protect only the proprietary rights of those who are engaged in racing and, at the same time, protect the rights of individual States to move in whatever direction they see fit as far as off-track betting is allowed. I think it reaches the proper balance that makes legislation very desirable, and makes it possible to head off what could be a very serious development as far as the horse business in the United States is concerned.

So I urge passage of this legislation. I thank the Chair.

Mr. STEVENS. I want to commend Senator MATHIAS and the Judiciary Committee and its staff for engineering this compromise which protects the horse industry and permits OTB systems in Connecticut and in New York to continue.

The bill we are considering today, S. 1185, the Interstate Horseracing Act, prohibits two States from setting up an off-track betting system if objections are raised by either the horsemen or racetracks in either of the two States involved, or of the tracks or horsemen in a third State which feel they may be damaged by the OTB operation. Basically, the bill enables the horse industry to be compensated for their contribution to the successful operation of an OTB system.

Horse owners, trainers, and others who make a living through the breeding, racing, and caring of horses, have been concerned about the potential of the interstate off-track betting (OTB) system to bring about a decline in track attendance. Financial losses could seriously impair the ability of the tracks to pay sufficient purses to encourage continued racing. Small tracks, which comprise about 75 percent of the industry, are the breeding grounds for the larger tracks.

Those representing the OTB interests, namely New York State and Connecticut, have argued that sufficient protections have been built into their systems to protect the tracks and their market areas. Horse people disagree. The State of Nevada, carving out its own position, views the prospect of any Federal legislation as a bad omen and intrusion into the gambling industry which constitutes the backbone of that State.

Legislation prohibiting off-track betting was first considered in the 94th Congress, but time ran out before a bill was passed in the Senate. During the interim, Connecticut voted to establish an interstate off-track betting system, tying into the New York OTB. Presently, no other States are actively considering OTB, although the matter has been brought up in several legislatures. Many compare OTB to the lottery because of its potential revenue-producing advantages. Additionally, OTB generates significantly increased job opportunities. These two factors have been particularly meaningful to the State of New York.

The Commerce Committee held 2 days of hearings on S. 1185 in June and July of 1977. A bill was voted out of committee which would require the New York and Connecticut OTB systems to be phased out by no later than April 30, 1983.

S. 1185 was then referred to the Judiciary Committee. It is there that this compromise was worked out which is acceptable to both sides of the controversy.

I commend Senator MATHIAS and the Judiciary Committee staff for engineering this compromise which protects the horse industry and permits the OTB systems in Connecticut and New York to continue.

Mr. MAGNUSON. Mr. President, I yield such time as he may need to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, I thank the distinguished Senator from Washington.

Mr. MAGNUSON. The Senator comes from the State that is the father of all horseracing in the United States.

Mr. MATHIAS. Yes, the Senator is right. The first thoroughbred in America, Selima, a great mare, was brought to America in about the middle of the 18th century, and she was the property of the Governor of Maryland, the colonial Governor of Maryland, at his farm called Belair, which is just a short distance from Washington. Horseracing and horses have been part of the Maryland tradition ever since that time.

Mr. STEVENS. She must have been the one I bet on the first time I went to the horseraces.

[Laughter.]

Mr. MATHIAS. I want to thank the Senator from Alaska for his very kind remarks and for his support and encouragement. I want to urge the Senate to support this bill as it now stands before us, without amendment.

It is legislation that has endured a prolonged career, and as a result of that long process of discussion, negotiation, thought, and deliberation, it represents a fair and balanced compromise that I think fully protects the interests of millions of Americans who enjoy horse racing, which is the sport of kings and which, as the chairman has suggested, is the pride of Maryland.

During the closing days of the last session of Congress, the House passed H.R. 14071 by a vote of 315 to 86. That bill prohibited entirely interstate off-track wagering. The legislation was not considered by the Senate, however. In March 1977, S. 1185, the same bill passed by the House, was introduced and referred to the Senate Committee on Commerce, Science, and Transportation. Two days of hearings were held and that Committee ordered the bill reported to the Senate, and referred to the Senate Judiciary Committee in September, 1977. Again this bill prohibited entirely interstate off-track wagers.

I was soon aware of the practical problems and the opposition that would arise from an absolute prohibition, and the Senator from Delaware (Mr. Biden) and I drafted a bill that would permit interstate off-track wagering with the proper safeguards. In our view, this approach would protect the public without injuring the horsemen.

Senator Biden and I introduced this compromise bill in the Senate Judiciary Committee as an amendment in the nature of a substitute to the original S. 1185, and it was reported favorably to the Senate on August 14.

As a Marylander, I think I understand the horsemen's concern that interstate off-track betting, if allowed to spread in an uncontrolled or unregulated manner, will result in the closing of a large number of the country's racetracks and the diminution of the sport.

The PRESIDING OFFICER. All of the time of the Senator from Washington has expired. The Senator from Alaska has 21 minutes remaining.

Mr. STEVENS. I yield the Senator from Maryland such time as he may require.

Mr. MATHIAS. I thank the Senator from Alaska. It will really result, I think, in the end of this traditional American sport. I think that concern is shared by the public, which enjoys the exhilaration of the color and drama of a day at the races.

We have talked a lot in the Senate recently about proposition 13, about worrying about how we are going to support local government. I would like to point out here that any decline in attendance at tracks throughout the country would result in a loss of revenue to the States involved. A significant percentage of every dollar bet at a track is withdrawn from the parimutuel pool in order to pay State taxes. In addition, horseracing provides substantial revenue to the States through direct taxation of gross wages and a number of other additional taxes, and provides employment for thousands of individuals. Any damage to this activity would significantly shrink these revenues and benefits that all the public enjoys, whether they go to the track or not.

This bill is designed to insure a continued flow of tax revenue from parimutuel wagering, to protect horseracing and legal off-track betting in the United States, and to insure the cooperation of States in the regulation and acceptance of legal interstate wagers. It is supported by all segments of the public, the horsemen, the States, and the off-track betting interests.

I urge all of my colleagues to support it.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MATHIAS. I am happy to yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, for many years I opposed, in New York, the State having any participation in gambling, but when I realized what was happening, the inevitable was that we did not participate but all the rackets and organized crime did. The people really wanted it, and I simply had to yield, myself, and our Governor had to yield.

In my State, it means a very large sum of money to the State, and also to New York City, which needs it very, very badly. This bill as originally introduced was a grave threat to our State, because we have such long periods of time when no racing can be scheduled because of inclement weather. So, if we were prohibited from interstate offtrack betting, this would mean a real blow to major interstate events like the Kentucky Derby, and it would make quite a dent in the New York State treasury if offtrack betting were not allowed in connection with those great interstate events, of which, as I understand, there are 10.

Finally, as Senator Mathias, with the aid of Senator Magnuson, Senator Huddleston, and other Senators who are directly interested have worked it out, this bill will be of considerable benefit to my State; and my State has asked me to state that it finds this particular measure acceptable, and feels that offtrack betting corporations are assured of sufficient interstate wagering operations to maintain their operations without interruption when New York racetracks are closed, and also that the various interlocking consent requirements assure adequate protection for the racing industry against possible harmful consequences of unregulated interstate offtrack betting. It is fair to the crowds, fair to the offtrack betting corporations, and fair to the horsemen who race the horses.

So I approve the bill, and hope very much the Senate will pass it unamended.

Mr. MATHIAS. The Senator from New York, as he so often does, has stated the case in a cogent, concise, and correct way. I thank him for his remarks and for his sportsmanship.

Mr. President, I reserve the balance of the time yielded to me by the Senator from Alaska.

Mr. CANNON. Mr. President, I ask unanimous consent that Tim Lynch of the Commerce Committee staff be granted the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Will someone yield me 3 minutes?

Mr. MAGNUSON. Yes, I am sure the Senator from Alaska would. I have no time left.

Mr. MATHIAS. Mr. President, from the time yielded to me by the Senator from Alaska, I yield the Senator 3 minutes.

Mr. CANNON. I thank the Senator.

Mr. President, my opposition to S. 1185 has from the beginning been grounded in the fact that this legislation would substitute the judgment of the Federal Government for that of the individual States in an area—gambling—that as a matter of principle I believe should remain the right and prerogative of the States. The States have traditionally made the determination to prohibit or to permit gambling in any form, in order to raise revenue or for other reasons, according to the wishes, of their citizens, and in my view this tradition should be continued as a matter of policy in the United States.

I recognize that the controversy regarding legal interstate off-track betting has been a long and bitter one, and that the horseracing industry has problems. However, during the course of the hearings on S. 1185 and subsequent extended congressional debate over the issues involved, the proponents of this legislation simply have not made substantial arguments which would justify Federal intervention.

I believe that certain of the statements included in the findings and policy section of the bill are not fully accurate. I do not agree that any State is now "interfering" with the gambling policies of another. Nor do I think that the problem is one of cooperation between the States. It is rather obvious that it is one between elements of the horseracing industry.

The bill, ostensibly to solve a problem involving the interests of the States, imposes conditions on the right to enter contracts; gives liberal Federal disrict court jurisdiction in all cases under the act, and, constricts the rights of any State which may in the future wish to establish an off-track betting system.

As the record already shows, I have been assiduous in defending the rights of the States in this matter since Senator Marlow Cook introduced S. 1185 into the 93d Congress. In this defense I have opposed S. 1185 during the deliberations of the Commerce Committee.

I agree with the Commission on the Review of the National Policy on Gambling that passage of the legislation would be "an unwarranted intrusion by the Federal Government into an area of regulation better left to the States." The Commission found no national interest, nor do I.

Though I may support several of the amendments which might be offered to improve this legislation, I do not intend to vote for it. I would greatly prefer that settlement of the interstate off-track betting controversy not take the form of legislation by the Congress.

It is unfortunate that all parties to this dispute feel so strongly about the need for Federal regulation. I fear that in the long run it may come to haunt them since regulation often invites more regulation.

I would say in conclusion, Mr. President, that is one of the things we have been criticizing the Federal Government about, too much regulation; and this is an opportunity to keep it up.

I thank the Senator for yielding.

AMENDMENT NO. 3607

(Purpose: Deletes all third-party consent requirements)

Mr. STEVENSON. Mr. President, I call up my amendment No. 3607.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an amendment numbered 3607:

On page 15, line 10, strike 'association—'

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 10, strike "association, except that—" and insert in lieu thereof "association.".

On page 15, strike line 11 through line 25 on page 17.

Mr. STEVENSON. Mr. President, this bill, S. 1185, is a bill for the relief of racetracks and racehorse owners. Its purpose is to regulate off-track betting. Its purpose is to severely restrict off-track betting throughout the country, with the exception of only two States.

The distinguished Senator from New York a moment ago indicated to the Senate that he would support this bill. He did so saying that he would support it because it protected New York State's revenues by permitting off-track betting.

Just before that, the distinguished Senator from Maryland had indicated that it protects State revenues by outlawing off-track betting.

The fact of the matter is it effectively outlaws off-track betting throughout the country, with the exception of New York, whose revenues will be protected by some complex procedures which seem to be designed to protect that State and that State alone, and others which protect Connecticut.

The fact of the matter is, Mr. President, as the Senator from Nevada has mentioned, there is no justification whatsoever for the Federal Government to get involved in the business of regulating legal gambling, a business which has been left historically to the States and with no evidence now that they are not thoroughly competent to exercise that responsibility.

There is no evidence of a national interest so compelling that the Congress must, for the first time, interfere in the decisions of the States on legal gambling, effectively preventing all but two from legalizing off-track betting, should they want to do so.

It is true that there are conflicts within the horseracing industry. It is yet to be proved that that industry is seriously threatened by off-track betting systems. In any event, Congress has no duty to step in and to regulate the relationships within this industry. The sponsors of the bill have claimed that it serves the interests of all concerned, and that is true, it does, and those concerned are these special interests, the racetracks, the horsemen's groups, the off-track betting agencies, the State regulatory commissions. But it ignores the interests of any State that might in the future decide to establish legal off-track betting. It serves no public interest.

Mr. President, this is one of the amendments to which 1 hour has been assigned by the order. I do not intend to use anywhere near all that time, nor do I intend to bring up all of the amendments I have introduced.

This amendment is addressed to the elaborate procedure that would have to be followed for a State to operate off-track betting. That procedure requires the consent of the racing commission in the host State; it requires the consent of the off-track betting commission; the horsemen's groups, and also the third party racetracks. In other words, what it does is to say to a State,

"This is no longer a matter of public policy, it is not a matter for the State government to decide as it has historically. This, now, is a matter for the industry to decide."

Before a State could operate off-track betting, the consent of the racetracks in that State and their horse owners' associations would have to be obtained. In other words, racetracks in the vicinity, in the area, of the proposed off-track betting, and the horse owners, would have a veto power over the State's ability to determine whether there should be legal off-track betting.

This amendment would eliminate that veto which this bill would confer on the racetracks and on the horse owners associations.

(Mr. CLARK assumed the chair.)

Mr. STEVENSON. I might add, Mr. President, I am not unsympathetic to the problems of this industry, but it is yet to be demonstrated that they need this help. What clearly is demonstrated is that States would be deprived of a power which they have exercised wisely so far as I can tell from the past, and which they are perfectly competent to exercise in the future, for the benefit not only of their revenues but also the affected horsemen and racetracks within their jurisdictions.

This elaborate procedure is not a device for protecting the public interest. It puts the Federal Government in the business of assuring that horse owners get a fair share of the take from offtrack betting systems. There is no national interest that justifies such Federal interference in the relations between horsemen and racetracks.

This amendment, Mr. President, would simply eliminate that veto power that the bill gives the horsemen and the racetracks in a State which wants to operate offtrack betting. As a matter of fact, the bill even confers that veto power in certain situations on racetracks outside of the State.

That veto power over public policy of State governments would be deleted by this amendment. That would mean that before there could be offtrack betting the State would have to approve and the offtrack betting facility would enter into a contract with the racetrack for the races on which it proposed to place bets. The question would be left to the principals and not to third parties, as well as the affected States.

A similar amendment which I offered in the Commerce Committee failed on a 6-6 vote, a tie vote. I offer it again and urge the Senate to accept it.

The PRESIDING OFFICER. Who yields time to the Senator from Nevada?

Mr. STEVENSON. I yield to the Senator.

Mr. CANNON. Mr. President, let me reiterate from the out-set my long-held belief that Federal intervention into the problems of the horseracing industry is not warranted. It is for this reason that I join my colleague, Senator STEVENSON, in this amendment which would delete all the requirements of consents from the horseracing commission, the off-track betting commission, and the horsemen's groups as well as other third-party racetracks.

In this instance, if one examines the provisions of section 5 of S. 1185 in detail, one finds that the bill provides that interstate off-track wagers can only be accepted if a rather complex set of consent provisions are followed. These consent provisions are riddled with exceptions, and exceptions to the exceptions. In the final analysis, section 5 appears to amount to unjustified Federal market protection and unnecessary Federal interference with the right to contract.

Though I see no need for Federal legislation in this area, adoption of this amendment would go a long way toward reducing the harmful effects of the legislation.

Mr. MATHIAS. Will the Senator yield for a unanimous-consent request?

Mr. MAGNUSON. Yes.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Patty White, of the staff of Senator HAYAKAWA, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington is recognized.

Mr. MAGNUSON. The amendment eliminates all consent requirements from the bill. The purpose of the bill is a little like what the Senator from New York asked me about today. I said,

It is a little like when you produce a show in New York. You spend all the money; New Yorkers produce it. I cannot take that show to Seattle and put it on the air, or I cannot take it and put it in a theater, or I cannot even bet whether it is going to be a hit or not, unless I pay a little royalty to the people who did it.

The argument that is made here does not at all consider the time, the money, the help, the whole effort that is put into producing the thing on which these people, who have nothing to do with it, want to bet.

They can make an arrangement to bet on it; that is it. But this amendment would destroy the bill because it removes the horseman who put on the race; it removes the racing commission in the State, which is responsible; and it leaves the decision on off-track betting to tracks in the off-track betting system.

Racing is heavily regulated in the States and they should have a right to say something about it. I do not think it is overwhelming to have consent agreements. They just do not want to have somebody some place destroying their racetrack by having a bookie pick up a telephone and make a bet on the track for a fellow who, maybe, should go out to the track if he wants to, because all this money, effort, and the sport itself is produced at home.

That is what happens. That is what happened at Narragansett. Narragansett just folded up because a fellow could pick up a phone, and call New York and make a bet on Aqueduct or Belmont or those tracks, so nobody went to the Narragansett track, so they are folding, all the horses and all the things that are involved in this great industry. All you are doing is making it die.

I think we compromised as much as we could on this bill. As a matter of fact, I am not so sure that we could not have passed a complete ban. The House has already passed that last session. They did it by 315 something to 86. They are willing to take a complete ban. I thought we were helping out these people. I do not know what is happening in Illinois. I have not any idea what they want to do. They can have off-track betting in Chicago if they want to. They can bet on their own racetracks. They have some good ones in Chicago. They can have it. But when you bet on a race that is going on in Seattle, that we are producing, through a bookie, we think we ought to have a little consideration; that is all we are asking.

You can do what you want in Chicago. I have no doubt that there are bookies all over. I am sure there are some in Chicago. I have heard there are some bookies in Chicago. I have read about it.

Mr. STEVENSON. Will the Senator yield?

Mr. MAGNUSON. They can take all the bets they want. This is a bill against interstate gambling and hurting people who are producing the show.

Mr. STEVENSON. Will the Senator yield?

Mr. MAGNUSON. I intend to move to table the amendment unless someone wants to comment.

Mr. HUDDLESTON. Will the Senator yield for a comment on a couple of charges made by the distinguished Senator from Illinois and the Senator from Nevada?

Mr. MAGNUSON. Yes.

Mr. HUDDLESTON. They referred repeatedly to this being a Federal intervention into the rights of the States to enact or participate in off-track betting. Of course, it does not deal at all with intrastate off-track betting. There is no prohibition whatsoever against any State that wants to enact an off-track betting law and permit it. It simply provides a mechanism that is fair and reasonable.

When one person or one group uses a product produced by another at great expense, many times, there is provided a way for the producer of the product to be compensated. Nobody would suggest that when the Redskins play football out here in RFK Stadium, that is a product that is available to anybody to exploit in any way they see fit for their own personal gain, without adequate compensation to the Redskin organization. Nobody can do that. There are very strict regulations and you see flashed across the screen, when the announcements are made, "This presentation," if it happens to be a television presentation, "is for a specific purpose," for the viewers. And any other use of that product has to have the permission of the producing organization.

We have other situations where, in the case of the National Collegiate Athletic Association, they put in restrictions on what games can be telecast when another school is participating in order to keep from damaging a school and a game that is being produced for a specific purpose. This is not totally unlike those situations.

What can be more fair than simply requiring that any State or any off-track betting organization that wants to use a product that is produced by another organization in another State and use it in such a way that might be harmful, both financially and otherwise, to the original producer, requiring that that organization that wants to make money out of this project should enter into an agreement where the producer has his interest protected? That is all this bill attempts to do.

The amendment that has been offered, of course, by the Senator from Illinois would eliminate this consent arrangement and would thereby eliminate the possibility that the very people who make the racing industry what it is, the very people who produce these events that attract great attention around the country, that provide recreation for many people, provide a livelihood for many people, have some way to protect their interests. It seems to me that that would be eliminating the good that this bill can do. Therefore, I am very much opposed to the amendment of the Senator from Illinois.

Mr. MAGNUSON. I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, very briefly, I say the Senator from Kentucky has touched on the word that is important in relation to this amendment. I think if this amendment were passed, it would invite exploitation of the horsemen. It would invite the exploitation of all of their efforts by people who are indifferent to the sport, people who are indifferent to the kind of personal commitment that many of these people have to a sport in which they invest their whole lives. We are going to allow them to be exploited by what the Senator from Washington calls bookies. Well, in England, they are a little more polite. They do not call them bookies; they call them turf accountants.

The Senator from Washington and the Senator from Kentucky have made the point that the horsemen, the people who are out there because it is a way of life for them, are going to be exploited by the bookies if this amendment passes.

Mr. STEVENSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 20 minutes remaining.

Mr. STEVENSON. Mr. President, I yield myself 5 minutes and I hope that will be enough.

The Senator from Kentucky has put his finger on the wrong amendment. This amendment requires the consent of the so-called producer. It requires the consent of the racetrack at which the race takes place. It requires agreement between the off-track betting agencies and the racetrack before there can be any off-track bets on that race.

I do not think we should go that far. I do not see any justification whatsoever for creating more Federal regulation—in this case, regulation of an industry that is already regulated greatly by the States. This bill goes way beyond the consent of the so-called producer. If Illinois wanted off-track betting and bets were to be placed on that racetrack up in Seattle, it would have to get the consent of Seattle; it would have to get the consent of the racetracks in Kentucky. The bill goes beyond that to say you have to get the consent of the racetracks in Illinois and beyond that, even to get the consent of the horse owners in Illinois. Everybody is getting cut in on this pie except the public.

Because they are all getting cut in, it may have the practical effect of making offtrack betting impossible, in those States which want to make it possible, and some States may want to legalize it in order to get the betting out in the open.

This bill could prove also to be a bill for the relief not just of the horsemen's groups, the off-track betting agencies, the racetracks, the State regulatory commissions and the oat producers and everybody else who has been mentioned, but also the bookies—by effectively outlawing, by Federal law, legal off-track betting throughout the United States, forcing betting underground in those States that want to legalize it.

With that, Mr. President, I am prepared to yield back the remainder of my time.

Mr. MAGNUSON. Several other Senators have asked me, so may I ask the Senator from Illinois, before I move to table, whether he wants a rollcall on this, or not?

Mr. STEVENSON. Yes. I do intend, if the motion is made, to ask for the yeas and nays.

Mr. MAGNUSON. The Senator wants the yeas and nays?

Mr. STEVENSON. Yes.

Mr. MAGNUSON. Mr. President, I move to table the amendment.

Mr. STEVENSON. Mr. President, I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUDDLESTON. Mr. President, if the Senator will yield for a unanimous-consent request, I ask unanimous consent that Tom Dougherty of Senator GLENN's staff be granted privilege of the floor during the debate and voting on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to lay on the table amendment No. 3607 of the Senator from Illinois. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from West Virginia (Mr. ROBERT BYRD), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Maryland (Mr. SARBANES), the Senator from Alabama (Mr. SPARKMAN) and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea".

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 75, nays 6, as follows:

[Rollcall Vote No. 409 Leg.]

YEAS—75

Anderson
Baker
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brooke
Bumpers
Byrd, Harry F., Jr.
Case
Chafee
Chiles
Church
Clark
Cranston
Curtis
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Eastland
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hatch
Hatfield, Mark O.
Hatfield, Paul G.
Hayakawa
Heinz
Hodges
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Lugar
Magnuson
Mathias
McClure
McGovern
McIntyre
Melcher
Metzenbaum
Morgan
Moynihan
Nelson
Nunn
Packwood
Pearson
Pell
Proxmire
Riegle
Roth
Sasser
Schmitt
Schweiker
Scott
Stafford
Stevens
Stone
Talmadge
Thurmond
Tower
Wallop
Williams
Zorinsky

NAYS—6

Burdick
Cannon
Culver
Muskie
Percy
Stevenson

NOT VOTING—19

Abourezk
Allen
Byrd, Robert C.
Goldwater
Hart
Haskell
Hathaway
Helms
Humphrey
Laxalt
Long
Matsunaga
Randolph
Ribicoff
Sarbanes
Sparkman
Stennis
Weicker
Young

So the motion to lay on the table amendment No. 3607 was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, I yield 2 minutes to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank the Senator from Maryland and I will not take 2 minutes.

Mr. President, horseracing is appreciated throughout this country as a sport, as a source of revenues to the States, and as an industry which provides employment for more than 175,000 people, including owners, trainers, jockeys, drivers, racing officials, and many others in related endeavors.

The advent of legalized offtrack parimutuel wagering in some States has added a new dimension to horseracing which is a potential threat to the sport, the industry, and interstate economic relationships. The New York experience illustrates the impact of offtrack betting on horseracing. Since New York legalized offtrack betting, track attendance at the ordinary day-to-day races has dwindled. Sooner or later, it is inevitable that racetracks will not be able to attract enough people to provide purses and to support the industry. The future of horseracing is in jeopardy unless some means is devised, before it is too late, to protect the economic interests of all interested parties.

S. 1185 provides a logical solution to the problem. This legislation prohibits interstate offtrack bets unless consent is obtained from the racetrack where the race is run and the racing commissions of the two States involved. The horsemen's group which represents the majority of the persons who own and train horses racing at the track is given an indirect role in the track's consent to interstate offtrack wagering. The bill also contains market area consent provisions which are designed to protect race tracks which would be adversely impacted by unregulated interstate offtrack betting—the small tracks that are not able to compete with offtrack betting on stronger races.

The legislation will not directly involve the Federal Government in the horseracing industry. On the contrary, no Government enforcement of this law is envisioned. Instead, S. 1185 creates a private cause of action for the host State, the host racing association and/or the horsemen's group for money damages or injunctive relief for violation of this act.

The big races at the big tracks—the Preakness, the Belmont Stakes, the Kentucky Derby—will go on with or without this legislation. It is the small tracks and others that will be protected by the Interstate Horseracing Act of 1978. S. 1185 will protect those persons who are dependent on track attendance—the small racetracks, the State in which the track is located, and the horsemen—from predatory raids by other States which seek to raise money internally from betting on races occurring in other States. S. 1185 will insure the continuation of horseracing as a sport, an industry, and a revenue-raiser for the States and for that reason should be supported.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, the Senator from New Jersey has a statement.

Mr. WILLIAMS. Mr. President, I strongly support this bill.

I rise in support of this bill, the Interstate Horse Racing Act of 1978. As the Members know, I supported a stronger bill, which would have prohibited interstate offtrack wagering entirely, because I believed that the unregulated expansion of interstate offtrack wagering could only harm the racing industry.

The horse industry in the State of New Jersey is a significant industry which provides great employment opportunities—over 25,000 people—substantial revenue—according to statistics prepared in 1977 by the National Association of State Racing Commissioners, racing generated over $25 million in total revenue to the State—and entertainment for over 8 million people. It is an important industry deserving protection.

Since the original bill was reported out of the Commerce Committee, the various parties involved in this industry—the racetracks, the horsemen, the offtrack betting interests, and the States themselves—have developed the "Mathias amendment," which is the bill in its present form. I believe that whenever all parties involved in a controversy, particularly when 30 of those persons are sovereign States, agree on a position which is reasonable, lawful, and desirable, it must have great merit to it.

New Jersey has a particular interest in this bill for several reasons. First, it has horseracing. More important, it borders upon New York State, which has offtrack betting and Pennsylvania, and Maryland, which have racing of their own. New Jersey is thus surrounded by States that have parimutuel wagering on horseracing. These provisions will assist us in protecting our State's racing industry, particularly the smaller tracks and the horsemen who race at such tracks, from the uncontrolled, and sometimes selfish actions of other States.

This bill is not a progambling bill. Nor is it an infringement on States rights. Rather it is a bill to protect an important and valuable part of interstate commerce — the racing industry and the fledging off-track betting industry. The bill permits both to act responsibly, to cooperate, if it is advantageous, and hopefully to prosper with the States and our citizens as the ultimate winner.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Mr. President, 2 years ago at this same time of year the Senate was urged to pass an earlier version of this bill. I said then that bills for the relief of racetracks and racehorse owners have a way of emerging from the back alleys and corridors in the closing days of a session. It has happened again. S. 1185 has been remodeled, but it is still a bill for the relief of racetracks and racehorse owners.

This time, Mr. President, the argument is that the bill should be passed because it is a compromise to which all the interested parties have agreed after long months of negotiation. This is persuasive. We could pass the bill and get rid of the subject, at least for a while. But I am not persuaded.

First, there is no evidence of a national interest so compelling that the Congress must for the first time interfere in the decisions of the States on legal gambling. Conflicts within the horseracing industry are real; that the industry is seriously threatened by offtrack betting systems is doubtful. In any event the Congress has no duty to step in to regulate the relationship among them.

Second, sponsors of the bill claim that it serves the interests of all concerned. It does. Those concerned are special interests—the racetracks, the horsemen's groups, the off-track betting agencies, and the State regulatory commissions. It ignores the interest of any State that might in the future decide to establish legal off-track betting, and it serves no public interest.

Third, even if we could justify enacting a Federal statute to solve the real or imagined problems of the horseracing industry, this bill offers some strange solutions. It is cumbersome, overly detailed, and patently contrived to serve each of the special interests which helped to patch it together. To those who doubt my description I offer as proof the following explanatory paragraph taken from the report of the Senate Judiciary Committee:

> The operational requirements of off-track betting systems are provided for under this market area consent by giving to off-track betting systems in States with 250 or more days of scheduled parimutuel racing a year the option of accepting interstate wagers without market area consents on days during a scheduled race meeting when no racing of the same type in fact occurs (or is begun but cannot be completed in the off-track State within 60 miles of the off-track betting office accepting interstate wagers due to factors including but not limited to weather, strikes, Sunday racing, or other factors not under the control of the off-track betting system, provided an identical offer is made to any currently operating track within 60 miles of the off-track betting office accepting interstate wagers. It is intended that on such dark days off-track betting systems in States with 250 or more days of scheduled parimutuel racing a year shall have the choice of counting such interstate wagering days against the 60 days excepted from the market area consents or of utilizing the dark day option.

Mr. President, that paragraph is the committee's explanation of the market area protections set forth in section 5(b) of the bill beginning at line 25 on page 16. I think we could all use a diagram.

I have filed 15 amendments. Each one seems to me reasonable. Nevertheless, I will not call them all up. Instead, I will discuss some of the weaknesses in the bill to which the amendments are addressed, in the hope that Senators will focus on the bill itself rather than on its supporters.

The findings and policy section begins on page 10. The second finding states—

> The Federal Government should prevent interference by one State with the gambling policies of another, and should act to protect identifiable national interests.

This sounds reasonable, although I wonder why we should choose this bill to announce that the Federal Government should act to protect identifiable national interests. The finding is more objectionable, however, because it precedes a bill that not only does not prevent one State from interfering with the gambling policies of another but confers on the States a right to interfere. Moreover, no national interest is identified in the bill. The interests it protects are those of the racetracks and horsemen's groups who all want a share of the income generated by off-track betting. While I understand their motive, I cannot see that it rises to the level of national interest.

The third finding asserts that there is a need for Federal action to insure that States will continue to cooperate in the acceptance of legal interstate wagers. This is an admission that the States are now cooperating. Legislation is not needed for offtrack betting systems to continue to enter into contracts with racetracks in other States. They are doing so now, and the racetracks are receiving income from offtrack wagers on their races. The conflict is not between the States as such but among elements of the racing industry. Yet, to protect the rights of States and insure their cooperation, the bill imposes a set of complex conditions on the right to enter into contracts; makes State agencies liable to suits brought by citizens of other States; gives the Federal district courts jurisdiction in all cases under the act; and constricts the rights of States that may in the future wish to establish offtrack betting systems.

Section 2(b) states that it is the policy of the Congress to regulate "in order to further the horseracing and legal offtrack betting industries in the United States." The truth is that the bill might further the horseracing industry but it imposes burdens on the offtrack betting industry. The Congress has no particular interest in furthering either group by interfering in its business, but if we must interfere, we ought to be evenhanded.

Moving to page 15 of the bill we reach the operative sections. Section 4 makes it illegal to accept an interstate offtrack wager except as provided in this bill. I note here an interesting change from the earlier version of the bill. That version read:

> No person may accept any interstate offtrack *parimutuel wager* . . .

The new version covers both parimutuel and nonparimutuel wagers. One State now has legal offtrack nonparimutuel wagering on horseraces. The earlier bill would not have affected it, or any other State that might establish a similar system in the future. This version exempts that State by a grandfather clause, but covers all others. I see no reason to regulate any nonparimutuel system authorized by a State.

Section 5 sets out the conditions under which offtrack betting will be permitted. The first requirement is a contract between the offtrack betting agency in one State and the out-of-State racetrack whose races will be used by the offtrack system. If we insist on passing a bill, this simple contract provision would be adequate. In fact, it corresponds to the amendment I offered when the bill came before the Commerce Committee. My amendment failed by a 6-to-6 tie vote of the Members present.

Unfortunately, the authors of the new version of the bill did not stop there. They added a series of provisions requiring the consents of third parties, without which the principals; that is, the host racetracks and the offtrack systems, cannot enter into valid contracts.

First, as a condition precedent to the contract, the host racetrack must obtain the written agreement of its horsemen's groups, that is, the representative organizations of horse owners and trainers at the racetrack. Mr. President, here lies a primary motive for this bill—to help the horsemen get a share of the income received by the racetrack under its agreement with the offtrack agency. The horsemen have been unhappy with the racetracks on this question of money. I have no objection to their seeking a larger share of the pie, but I see no reason to guarantee them a share by Federal statute.

At this point the bill contains the first of several exemptions for special interests. Nonprofit racetracks in a State where the distribution of offtrack betting revenues in that State is set by law are not required to obtain the consent of their horsemen's groups. I am told that this excuses the three large racetracks in New York from the necessity for obtaining the consent of their horsemen's groups. If I understand the provision, it means that these three New York tracks may enter into a contract with Connecticut's offtrack system without the consent of their horsemen's groups, but a track elsewhere in New England, in Illinois, or elsewhere could not enter into a similar contract with Connecticut without the horsemen's consent.

Section 5(b) gives another group of third parties a veto over the contract. This provision is the most complex and specialized of the consent requirements, and in my view the most unconscionable one. It gives racetracks which are not parties to the contract, whose races are not being used by the offtrack system, market protection against the competition of offtrack systems for the bettor's dollar.

Before an offtrack agency can enter into a contract with an out-of-State racetrack it must obtain the consent of all currently operating racetracks within 60 miles of an offtrack office, whether in the offtrack State or in another State. If there are no racetracks within 60 miles, the consent of the nearest track in an adjoining State must be obtained, even if that track is hundreds of miles away from an offtrack betting office. In short, the bill gives these third-party racetracks, which otherwise have no rights with respect to the contract between the principals, a monopoly right, which they may keep or waive as they choose. They would now have a salable property—their consents—and they are not likely to give them away for nothing. Each consent could be exchanged for a cut of the income of the offtrack betting agency.

We may wonder why the offtrack betting agencies which helped to negotiate this bill agreed to this market area protection provision. In fact, they did not; that is, not for themselves. The bill includes some exemptions for them. A State which on May 1, 1978, had an offtrack system but no ontrack betting is not required to obtain the consents of third-party racetracks. That takes care of Connecticut. New York was a little more complicated, and I am not sure that I understand it very well. The bill seems to say that an offtrack system need not obtain the consents of third-party racetracks for up to 60 racing days a year, if the offtrack State has at least 250 days a year of ontrack betting, and if no racetrack within 60 miles of the offtrack office has racing of the same type at the same time of day as the race which the offtrack system is using. In addition to the 60-day exemption an offtrack system may also use 25 special event races a year without getting third-party racetrack consents.

Thus, the bill takes care of the two States that now have offtrack parimutuel betting.

Section 5 also requires the consents of the racing commission of the host racetrack State and of the offtrack State's regulatory commission. While I do not object to their participation, I wonder why it is necessary to write the requirement into Federal law. It seems to me that the States themselves should decide on the authorities of their own regulatory commissions.

My amendment No. 3607 would strike all the third-party consent requirements—the racetracks to which the bill gives "market protection," the horsemen's groups given Federal backing for their demands against racetracks, and the State regulatory authorities whose powers should be defined by their own States. The first two groups have no responsibilities or proprietary rights under the contracts between racetracks and offtrack betting systems. Why should Federal law give them a veto, thus making their consents a salable property?

The enforcement sections of the bill, sections 6, 7, and 8, are as questionable as the operative sections. Having conferred veto rights on the horsemen's groups, the bill now gives them a right of action against the offtrack agencies. Yet, their contracts are with the racetracks, not the offtrack agencies.

Damages are set by section 6 as the amount a racetrack would have received if all the bets illegally accepted by an offtrack agency had been placed at the racetrack instead. Of course, the racetrack could be 3,000 miles away, so it can hardly claim that the bets would have been placed at the track but for the action of the offtrack agency. In short, the damages are penalties, not true measures of actual damages. I suppose we should be pleased that the damages formula in the latest version of the bill is so modest. As introduced, the bill provided for treble damages. I do not understand why the measure of damages is not left to the courts.

Section 8 gives jurisdiction over cases under the bill to the Federal district courts without regard to diversity of citizenship or amount in controversy. I see no reason to exempt the parties in these cases from the standard rules of diversity and amount in controversy. The cases are likely to entail issues of contract law which State courts handle every day. They are not issues of broad national concern that might justify treating them as Federal questions. To give the parties automatic access to the Federal courts would only add unnecessarily to the burdens of those courts.

Mr. President, I regret having taken the time of the Senate to discuss the provisions of this bill. It is not an issue of major national concern, nor does it have much immediate effect in my State. Illinois has racetracks, and it has recently rejected a proposal to establish offtrack betting. But it seems to me each of us ought to take a stand against special interest legislation in areas which Congress should avoid. We have always left it to the States to make their own decisions on legal gambling. If we now abandon that policy, other gambling interests may come to us for relief, dog tracks for example, or casino gambling interests. Why should the Congress be the referee among these commercial competitors?

Mr. President, this is a bill for the relief of racetracks and race owners and it should be defeated.

Mr. MAGNUSON. Mr. President, I yield to the Senator from New Hampshire.

Mr. DURKIN. Mr. President, I rise in support of this legislation, though it has changed substantially since it was reported out of the Commerce Committee. The bill I supported then was a total prohibition on interstate off-track wagering. The bill, before us today, however, leaves it to the parties involved—the States, racetracks and horsemen—to determine for themselves the future of the interstate off-track wagering. Nevertheless, it represents a realistic compromise, and I endorse it.

There is one provision in this bill which I would like to bring to the attention of my colleagues because it may parallel situations existing in their States. Section 5(d) of the bill requires that before an off-track betting office may offer wagering on out-of-State races, it must obtain the approval of all currently operating tracks within 60 miles of the office and, if there are no such currently operating tracks within 60 miles, then the closest currently operating track in an adjoining State.

As some of the Members may know, Massachusetts, which presently has parimutuel horseracing, has been considering the operation of an off-track betting system for some time. New Hampshire has no desire to question the operation of Massachusetts' intrastate racing or intrastate off-track wagering. At the same time, however, New Hampshire must protect itself when Massachusetts enters into interstate commerce by offering off-track wagering in Massachusetts on races run elsewhere. The small tracks in New Hampshire are rightly concerned that Massachusetts off-track wagering offices, by offering wagers on races run in other States, may entice New Hampshire and Massachusetts fans to an off-track betting office rather than to the New Hampshire track itself.

The practical effect of section 5(d) of this bill will be that before any off-track betting system in Massachusetts can offer off-track wagering on out-of-State races, the system would have to secure the permission of racetracks in Southern New Hampshire that are within 60 miles of a Massachusetts off-track betting office. This provision offers substantial protections to the viability and well-being of such tracks, its horsemen, and employees.

This bill protects the interests of all the parties involved. It has broad support, including the 30 States that presently have parimutuel horseracing, even though most of these States will have to comply with the bill in setting up off-track systems to take bets on out-of-State races. I support the legislation, and look forward to the effort of my colleagues. I also want to commend my colleague from Maryland for his fine work on this bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Does the Senator from Washington yield back the remainder of his time?

Mr. MAGNUSON. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Alaska yield back the remainder of his time?

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (S. 1185), as amended, was passed, as follows:

S. 1185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

This Act may be cited as the "Interstate Horseracing Act of 1977".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that—

(1) the States should have the primary responsibility for determining what forms of gambling may legally take place within their borders;

(2) the Federal Government should prevent interference by one State with the gambling policies of another, and should act

to protect identifiable national interests; and

(3) in the limited area of interstate off-track wagering on horseraces, there is a need for Federal action to insure States will continue to cooperate with one another in the acceptance of legal interstate wagers.

(b) It is the policy of the Congress in this Act to regulate interstate commerce with respect to wagering on horseracing, in order to further the horseracing and legal off-track betting industries in the United States.

DEFINITIONS

SEC. 3. For the purposes of this Act the term—

(1) "person" means any individual, association, partnership, joint venture, corporation, State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other organization or entity;

(2) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(3) "interstate off-track wager" means a legal wager placed or accepted in one State with respect to the outcome of a horserace taking place in another State;

(4) "on-track wager" means a wager with respect to the outcome of a horserace which is placed at the racetrack at which such horserace takes place;

(5) "host State" means the State in which the horserace subject to the interstate wager takes place;

(6) "off-track State" means the State in which an interstate off-track wager is accepted;

(7) "off-track betting system" means any group which is in the business of accepting wagers on horse-races at locations other than the place where the horserace is run, which business is conducted by the State or licensed or otherwise permitted by State law;

(8) "off-track betting office" means any location within an off-track State at which off-track wagers are accepted;

(9) "host racing association" means any person who, pursuant to a license or other permission granted by the host State, conducts the horserace subject to the interstate wager:

(10) "host racing commission" means that person designated by State statute or, in the absence of statute, by regulation, with jurisdiction to regulate the conduct of racing within the host State;

(11) "off-track racing commission" means that person designated by State statute or, in the absence of statute, by regulation, with jurisdiction to regulate off-track betting in that State;

(12) "horsemen's group" means, with reference to the applicable host racing association, the group which represents the majority of owners and trainers racing there, for the races subject to the interstate off-track wager on any racing day;

(13) "parimutuel" means any system whereby wagers with respect to the outcome of a horserace are placed with, or in, a wagering pool conducted by a person licensed or otherwise permitted to do so under State law, and in which the participants are wagering with each other and not against the operator;

(14) "currently operating tracks" means racing associations conducting parimutuel horseracing at the same time of day (afternoon against afternoon; nighttime against nighttime) as the racing association conducting the horseracing which is the subject of the interstate off-track wager;

(15) "race meeting" means those secheduled days during the year a racing association is granted permission by the appropriate State racing commission to coduct horseracing;

(16) "racing day" means a full program of races as a specified racing association on a specified day;

(17) "special event" means the specific individual horserace which is deemed by the off-track betting system to be of sufficient national significance and interest to warrant interstate off-track wagering on that event or events;

(18) "dark days" means those days when racing of the same type does not occur in an off-track State within 60 miles of an off-track betting office during a race meeting, including, but not limited to, a dark weekday when such racing association or associations run on Sunday, and days when a racing program is scheduled but does not take place, or cannot be completed due to weather, strikes and other factors not within the control of the off-track betting system;

(19) "year" means calendar year;

(20) "takeout" means that portion of a wager which is deducted from or not included in the parimutuel pool, and which is distributed to persons other than those placing wagers;

(21) "regular contractual process" means those negotiations by which the applicable horsemen's group and host racing association reach agreements on issues regarding the conduct of horseracing by the horsemen's group at that racing association;

(22) "terms and conditions" includes, but is not limited to, the percentage which is paid by the off-track betting system to the host racing association, the percentage which is paid by the host racing association to the horsemen's group, as well as any arrangements as to the exclusivity between the host racing association and the off-track betting system.

PROHIBITION

SEC. 4. No person may accept an interstate off-track wager except as provided in this Act.

REGULATION

SEC. 5. (a) An interstate off-track wager may be accepted by an off-track betting system only if consent is obtained from—

(1) the host racing association, except that—

(A) as a condition precedent to such consent, said racing association (except a not-for-profit racing association in a State where the distribution of off-track betting revenues in that State is set forth by law) must have a written agreement with the horsemen's group, under which said racing association may give such consent, setting forth the terms and conditions relating thereto; provided.

(B) that where the host racing association has a contract with a horsemen's group at the time of enactment of this Act which contains no provisions referring to interstate off-track betting, the terms and conditions of said then-existing contract shall be deemed to apply to the interstate off-track wagers and no additional written agreement need be entered into unless the parties to such then-existing contract agree otherwise. Where such provisions exist in such existing contract, such contract shall govern. Where written consents exist at the time of enactment of this Act between an off-track betting system and the host racing association providing for interstate off-track wagers, or such written consents are executed by these parties prior to the expiration of such then-existing contract, upon the expiration of such then-existing contract the written agreement of such horsemen's group shall thereafter be required as such condition precedent and as a part of the regular contractual process, and may not be withdrawn or varied except in the regular contractual process. Where no such written consents exist, and where such written agreement occurs at a racing assoication which has a regular contractual process with such horsemen's group, said agreement by the horsemen's group may not be withdrawn or varied except in the regular contractual process;

(2) the host racing commission;

(3) the off-track racing commission.

(b)(1) In addition to the requirement of subsection (a), any off-track betting office shall obtain the approval of—

(A) all currently operating tracks within 60 miles of such off-track betting office; and

(B) if there are no currently operating tracks within 60 miles then the closest currently operating track in an adjoining State.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, any off-track betting office in a State with at least 250 days of on-track parimutuel horseracing a year, may accept interstate off-track wagers for a total of 60 racing days and 25 special events a year without the approval required by paragraph (1), if with respect to such 60 racing days, there is no racing of the same type at the same time of day being conducted within the off-track betting State within 60 miles of the off-track betting office accepting the wager, or such racing program cannot be completed. Excluded from such 60 days and from the consent required by subsection (b)(1) may be dark days which occur during a regularly scheduled race meeting in said off-track betting State. In order to accept any interstate off-track wager under the terms of the preceding sentence the off-track betting office shall make identical offers to any racing association described in subparagraph (A) of subsection (b)(1). Nothing in this subparagraph shall be construed to reduce or eliminate the necessity of obtaining all the approvals required by subsection (a).

(c) No parimutuel off-track betting system may employ a takeout for an interstate wager which is greater than the takeout for corresponding wagering pools of off-track wagers on races run within the off-track State except where such greater takeout is authorized by State law in the off-track State.

LIABILITY AND DAMAGES

SEC. 6. Any person accepting any interstate off-track wager in violation of this Act shall be civilly liable for damages to the host State, the host racing association and the horsemen's group. Damages for each violation shall be based on the total of off-track wagers as follows:

(1) If the interstate off-track wager was of a type accepted at the host racing association, damages shall be in an amount equal to that portion of the takeout which would have been distributed to the host State, host racing association and the horsemen's group, as if each such interstate off-track wager had been placed at the host racing association.

(2) If such interstate off-track wager was of a type not accepted at the host racing association, the amount of damages shall be determined at the rate of takeout prevailing at the off-track betting system for that type of wager and shall be distributed according to the same formulas as in paragraph (1) above.

CIVIL ACTION

SEC. 7. (a) The host State, the host racing association, or the horsemen's group may commence a civil action against any person alleged to be in violation of this Act, for injunctive relief to restrain violations and for damages in accordance with section 6.

(b) In any civil action under this section, the host State, the host racing association and horsemen's group, if not a party, shall be permitted to intervene as a matter of right.

(c) A civil action may not be commenced pursuant to this section more than 3 years after the discovery of the alleged violation upon which such civil action is based.

(d) Nothing in this Act shall be construed to permit a State to be sued under this section other than in accordance with its applicable laws.

JURISDICTION AND VENUE

SEC. 8. (a) Notwithstanding any other provision of law, the district courts of the United States shall have jurisdiction over any civil action under this Act, without regard to the citizenship of the parties or the amount in controversy.

(b) A civil action under this Act may be brought in any district court of the United States for a district located in the host State or the off-track State, and all process in any such civil action may be served in any judicial district of the United States.

(c) The jurisdiction of the district courts of the United States pursuant to this section shall be concurrent with that of any State court of competent jurisdiction located in the host State or the off-track State.

EFFECTIVE DATE; APPLICABILITY

SEC. 9. (a) The provisions of this Act shall take effect on the date of enactment of this Act, and, except as provided in subsection (b) of this section, shall apply to any interstate off-track wager accepted on or after such date of enactment.

(b) (1) The provisions of this Act shall not apply to any interstate off-track wager which is accepted pursuant to a contract existing on May 1, 1978.

(2) The provisions of this Act shall not apply to any form of legal non-parimutuel off-track betting existing in a State on May 1, 1978.

(3) The provisions of subsection (b) of section 5 of this Act shall not apply to any parimutuel off-track betting system existing on May 1, 1978, in a State which does not conduct parimutuel horseracing on the date of enactment of this Act.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

ORDER OF PROCEDURE

Mr. CRANSTON. Mr. President, in regard to further rollcall, I believe there will be no further rollcalls, but I am not absolutely certain. We are seeking to reach by telephone Senator ROBERT C. BYRD, who is in his automobile. I think we can momentarily and I think we can advise, and I think the advice will be no more rollcalls.

Mr. LEAHY. Mr. President, will there be a hot line sent out?

Mr. CRANSTON. Yes.

Mr. MAGNUSON. Mr. President, I say to the Senator from California that the pending business is, of course, the continuation of HEW appropriations, and if I could get on the telephone with the majority leader I would suggest that we have been working pretty hard all day and there would be no use to go on with some of these controversial amendments on the HEW appropriations bill until tomorrow. But the Senator would like to know probably what time we are going to meet tomorrow. I hope we meet early at 9 o'clock.

Mr. BAKER. There was talk about changing it to 10 o'clock just a few minutes ago.

Mr. MAGNUSON. 9 o'clock. I am not sure. They were talking about changing it to 10.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. CRANSTON. I thank the Senator for yielding.

There will be no more rollcall votes tonight.

ROUTINE MORNING BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend for 30 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. With no resolutions coming over under the rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:33 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S.2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes, with amendments in which it requests the concurrence of the Senate; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. HAWKINS, Mr. DENT, Mr. BEARD of Rhode Island, Mr. MICHAEL O. MYERS, Mr. LE FANTE, Mr. WEISS, Mr. CLAY, Mr. CORRADA, Mr. QUIE, Mr. SARASIN, Mr. JEFFORDS, and Mr. PURCELL were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to H.R. 11318, an act to amend the Small Business Act and the Small Business Investment Act of 1958; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ADDABBO, Mr. SMITH of Iowa, Mr. ST GERMAIN, Mr. STEED, Mr. CORMAN, Mr. RICHMOND, Mr. NOLAN, Mr. GONZALEZ, Mr. FOWLER, Mr. MCDADE, Mr. CONTE, Mr. KASTEN, and Mrs. FENWICK were appointed managers of the conference on the part of the House.

The message further announced that the House has passed the following bills, without amendment:

S. 409. an act to designate the Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center";

S. 2946. An act to authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control;

S. 2951. An act to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs;

S. 3045. An act to amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products;

S. 3274. An act to designate the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, as the "Carl Hayden Bee Research Center"; and

S. 3342. An act to name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake."

The message also announced that the House disagrees to the amendments of the Senate to H.R. 12931, an act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. LONG of Maryland, Mr. OBEY, Mr. CHARLES WILSON of Texas, Mr. YATES, Mrs. BURKE of California, Mr. MCHUGH, Mr. ROYBAL, Mr. STOKES, Mr. MAHON, Mr. YOUNG of Florida, Mr. CONTE, Mrs. SMITH of Nebraska, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The message further announced that the House insists upon its amendments to the bill (S. 1566) to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BOLAND, Mr. MURPHY of Illinois, Mr. MAZZOLI, Mr. RODINO, Mr. KASTENMEIER, Mr. BOB WILSON, Mr. MCCLORY, and Mr. ERTEL, solely for considering the language providing for special courts and that United States district courts shall have jurisdiction over orders for surveillance, were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 13418. An act to amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes; and

H.R. 13767. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the recovery of replacement cost of motor vehicles and other related equipment and supplies.

HOUSE BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 2507. An act to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes;

S. 3040. An act to amend the Rail Passenger Service Act to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes;

H.R. 3702. An act to amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes;

H.R. 8449. An act for the relief of Lourdes Marie Hudson;

H.R. 8812. An act to name a certain Federal building in Jonesboro, Arkansas, the "E. C. 'Took' Gathing Building";

H.R. 9071. An act to confer jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claim of John T. Knight;

H.R. 11291. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration;

H.R. 11567. An act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979 and 1980, and for other purposes;

H.R. 12222. An act to amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes;

H.R. 12443. An act to amend section 201 (a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy;

H.R. 12508. An act to amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children;

H.R. 12598. An act to authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes;

H.R. 12841. An act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes;

H.R. 12936. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes;

S. J. Res. 133. A joint resolution to authorize and request the President to issue a proclamation designating September 24, 1978, as "National Good Neighbor Day";

H. J. Res. 1007. A joint resolution authorizing and requesting the President to proclaim the 7-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week"; and

H. J. Res. 1088. A joint resolution providing financial assistance for the city of New York.

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore (Mr. EASTLAND).

At 4:46 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 286. An act to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes;

S. 425. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lieutenant General Ira C. Eaker, United States Air Force (retired); and

S. 1267. An act to amend sections 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents.

The message also announced that the House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 90. A concurrent resolution authorizing the printing of additional copies of volumes 1 and 2 of the committee print entitled "A Legislative History of the Water Pollution Control Act Amendments of 1972";

S. Con. Res. 96. A concurrent resolution authorizing the reprinting of book II of the Senate report entitled "Intelligence Activities and the Rights of Americans" (S. Rept. 94-755); and

S. Con. Res. 97. A concurrent resolution authorizing the printing of additional copies of the committee print entitled "Preliminary Guide to Export Opportunities to Japan".

The message further announced that the House has passed the bill (S. 1029) to authorize the Smithsonian Institution to construct museum support facilities, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 3259) to authorize the permanent establishment of a system of Federal information centers, with amendments in which it requests the concurrence of the Senate.

At 6:25 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has passed the following bill, without amendment:

S. 3036. An act to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes.

HOUSE BILL HELD AT DESK

The following bill was read by title and held at the desk, pursuant to order of September 25, 1978:

H.R. 13418. An act to amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes.

HOUSE BILL REFERRED

The following bill was read twice by title and referred as indicated:

H.R. 13767. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the recovery of replacement costs of motor vehicles and other related equipment and supplies; to the Committee on Governmental Affairs.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 26, 1978, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 2507. An act to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes;

S. 3040. An act to amend the Rail Passenger Service Act to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes; and

S.J. Res. 133. A joint resolution to authorize and request the President to issue a proclamation designating September 24, 1978, as "National Good Neighbor Day".

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-4345. A communication from the Assistant Secretary, International Affairs and Commodity Programs, Department of Agriculture, transmitting, pursuant to law, the initial commodity and country allocation table showing the proposed programs under Public Law 480 Title I for fiscal year 1979; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4346. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a copy of his letter to the President of the United States through the Director, Office of Management and Budget, which reports a violation of Section 3679 of the Revised Statutes, as amended; to the Committee on Appropriations.

EC-4347. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to approve the sale of a certain naval vessel, and for other purposes; to the Committee on Armed Services.

EC-4348. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Iran for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4349. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, the Navy's Determination and Findings Number 78-11 indicating the necessity and approval to exclude the clause concerning examination of records by the Comptroller General from contracts with the Portuguese Government for standard depot level maintenance and emergency repair services to U.S. Navy C1-A, C-131, and US2B/C aircraft; to the Committee on Armed Services.

EC-4350. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Austria for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4351. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Department on the administration of the Marine Mammal Protection Act of 1972 for the period of April 1, 1977, through March 31, 1978; to the Committee on Commerce, Science, and Transportation.

EC-4352. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, a report concerning the impact on competition and on small business of voluntary agreements and plans of action to implement provisions of the International Energy Program; to the Committee on Energy and Natural Resources.

EC-4353. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report of the Secretary on the Antirecession Fiscal Assistance Program for calendar year 1977; to the Committee on Environment and Public Works.

EC-4354. A communication from the Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, on the 1978 budgeted level of operation for Radio Free Europe/Radio Liberty, Inc.; to the Committee on Foreign Relations.

EC-4355. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, reporting, pursuant to law, justification of an increase in the funding level of their proposed FY 1978 program in Tunisia; to the Committee on Foreign Relations.

EC-4356. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, reporting, pursuant to law, justification of an increase in the funding level of their proposed FY 1978 program in Upper Volta; to the Committee on Foreign Relations.

EC-4357. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Development of a National Make-Or-Buy Strategy—Progress and Problems," September 25, 1978; to the Committee on Governmental Affairs.

EC-4358. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Cost Waivers Under the Foreign Military Sales Program: More Attention and Control Needed," September 26, 1978; to the Committee on Governmental Affairs.

EC-4359. A communication from the Executive Director, National Center for Productivity and Quality of Working Life, transmitting, pursuant to law, their final report, entitled Productivity in the Changing World of the 1980's"; to the Committee on Governmental Affairs.

EC-4360. A confidential communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need for more attention to and control of cost waivers granted by the Department of Defense under the Foreign Military Sales program; to the Committee on Government Affairs.

EC-4361. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Sewage Sludge—How Do We Cope With It?" September 25, 1978; to the Committee on Governmental Affairs.

EC-4362. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "NORAD's Information Processing Improvement Program—Will It Enhance Mission Capability?" September 21, 1978; to the Committee on Governmental Affairs.

EC-4363. A communication from the Comptroller General of the United States, transmitting, pursuant to law a report entitled "Federal Agencies Can, And Should, Do More To Combat Fraud In Government Programs" September 19, 1978; to the Committee on Governmental Affairs.

EC-4364. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, reporting, pursuant to law, Educational Equity Research Grants Program, National Institute of Education, Final Regulations; to the Committee on Human Resources.

EC-4365. A communication from the Under Secretary of Defense, Research and Engineering, transmitting, pursuant to law, a report of Defense Procurement from Small and Other Business Firms for October 1977–March 1978; to the Select Committee on Small Business.

EC-4366. A communication from the Under Secretary of Defense, Research and Engineering, transmitting, pursuant to law, a report of Defense Procurement from Small and Other Business Firms for October 1977–February 1978; to the Select Committee on Small Business.

EC-4367. A communication from the Under Secretary of Defense, Research and Engineering, transmitting, pursuant to law, a report of Defense Procurement from Small and Other Business Firms for October 1977–January 1978; to the Select Committee on Small Business.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-800. A resolution adopted by the Legislature of the State of Hawaii; to the Committee on Energy and Natural Resources:

"RESOLUTION

"Whereas, the people of the State of Hawaii recognize the wrongs committed against the Hawaiian people when, in 1893, the kingdom of Hawaii, the lawful and indigenous government of Hawaii, was unlawfully overthrown by a group of non-Hawaiian residents, all of whom conspired with the United States minister and the Armed Forces of the United States; and

"Whereas, on December 18, 1893, in a message to the Congress President Cleveland did recognize this wrong in a statement he issued which acknowledged that "by an act of war, committed with the participation of a diplomatic representative of the United States and without the authority of the Congress, the government of a feeble but friendly and confiding people has been overthrown", that "a substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires that we endeavor to repair", and that "the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation"; and

"Whereas, a claim for repair of these wrongs to the Hawaiian people was presented to the Government of the United States of America by Queen Liliuokalani, the lawful monarch of Hawaii and on July 15, 1893, a petition for redress was also presented by the Hawaiian Patriotic League, representing the Hawaiians; and

"Whereas, in 1898, Hawaii was annexed to the United States, and by such annexation, among other things, the United States acquired ownership of vast landholdings that had been common property of the Hawaiians prior to the overthrow of their government; and

"Whereas, the Constitution Convention of 1978 recognizes that the Hawaiian people can never be made whole again for the wrong that was committed; and

"Whereas, the people of the State of Hawaii have looked to and relied on the federal government to take the steps to investigate the wrongs committed and to provide redress if necessary; and

"Whereas, Senate Joint Resolution No. 4 was introduced in the Senate of the United States on January 10, 1977 by Mr. Inouye and Mr. Matsunaga; and

"Whereas, upon approval, Senate Joint Resolution No. 4 will establish a Hawaiian Native Claims Settlement Study Commission to conduct a study of the culture, needs and concerns of Hawaiians; the nature of the wrong committed against, and the extent of the injuries to, the Hawaiians by reason of the actions listed below regarding the overthrow of the indigenous and lawful government of the Hawaiian people; and the various means to remedy such wrongs; and to submit a report of its findings of the means and recommendations to remedy such wrongs to the Congress; and

"Whereas, Senate Joint Resolution 4 passed the Senate of the United States during the 1977 session; and

"Whereas, on May 23, 1978, a majority of the House of Representatives of the United States voted to support Senate Joint Resolution 4, which fell short of the necessary two-thirds vote; and

"Whereas, on September 8, 1978, Senate Joint Resolution 4 was recommitted to the House Committee on Interior and Insular Affairs for further committee work; and

"Whereas, it is essential to the Hawaiians and all the people of the State of Hawaii that the federal government conduct an investigation of the wrongs committed upon the Hawaiian people which could be accomplished through the Hawaiian Native Claims Settlement Study Commission; and

"Whereas, because of the wrongs committed to the Hawaiian people, it is essential to the Hawaiians and all the people of the State of Hawaii that there be a remedy for these wrongs committed, the recommendation for which could be developed by the Hawaiian Native Claims Settlement Study Commission; now, therefore,

"Be it resolved by the Constitutional Convention of Hawaii of 1978, that the House Committee on Interior and Insular Affairs is requested to return Senate Joint Resolution 4 to the House of Representatives of the United States for a vote; and

"Be it further resolved that the House of Representatives of the United States act favorably on Senate Joint Resolution 4; and

"Be it further resolved that duly authentical copies of this Resolution be transmitted to the President of the United States, the House Committee on Interior and Insular Affairs, the members of the House of Representatives of the United States, the members of Hawaii's delegation to Congress, the President of the Senate of the United States and the Governor of the State of Hawaii."

POM-801. A resolution adopted by the Legislature of the State of Pennsylvania; to the Committee on Environment and Public Works:

SENATE OF PENNSYLVANIA

"RESOLUTION

"Whereas, Pennsylvania's motoring public paid and continues to pay tens of millions of dollars to the Federal Government as a result of the Federal gasoline and related taxes; and

"Whereas, Pennsylvanians are faced with the loss of $56,000,000 in Federal highway construction moneys by October 1, 1978, and up to an additional $178,000,000 in the next year because of the Federal matching aid requirements; and

"Whereas, Such highway construction aid is vital to job development, retention and individual development in Pennsylvania; and

"Whereas, The United States Secretary of Transportation has discretionary powers to waive the prohibition against back funding road projects which have been built totally with State funds; and

"Whereas, Equity requirements that take Pennsylvania-generated tax dollars shall not be denied to the beneficial use of Pennsylvanians; therefore be it

"Resolved, That the Senate of the Commonwealth of Pennsylvania does hereby memorialize the Congress of the United States to waive matching aid requirements for funds that might otherwise lapse on October 1, 1978, and through the calendar year 1979; and be it further

"Resolved, That the Secretary of Transportation do authorize the retroactive participation of Federal aid for costs of highway construction previously funded entirely by State or local sources and retroactive participation could be credited for use to provide the State matching requirements for Federally aided highway projects which have been approved by the Pennsylvania Transportation Commission; and be it further

"Resolved, That a copy of this resolution be hand delivered by a delegation appointed by the President pro tempore, to the United States Secretary of Transportation, the President of the Senate, the Speaker of the House of Representatives and each Congressman and United States Senator representing the Commonwealth of Pennsylvania."

POM-802. A resolution adopted by the City Council of Parma Heights, Ohio, relating to social security; to the Committee on Finance.

POM-803. A resolution adopted by the county legislature of Suffolk County, Riverhead, N.Y., relating to proposed elimination of the Nassau/Suffolk region as a standard metropolitan statistical area; to the Committee on Governmental Affairs.

POM-804. A resolution adopted by the American Theatre Association, Washington, D.C., relating to the lifelong learning project; to the Committee on Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 6503. An act to amend the Intercoastal Shipping Act, 1933, and for other purposes (Rept. No. 95-1240).

By Mr. LONG, from the Committee on Finance, with amendments and an amendment to the title:

H.R. 8755. An act to make specific provisions for ball or roller bearing pillow block, flange, takeup, cartridge, and hanger units in the Tariff Schedules of the United States (Rept. No. 95-1241).

H.R. 9911. An act to continue until the close of June 30, 1981, the existing suspension of duties on certain forms of zinc (Rept. No. 95-1242).

H.R. 12165. An act to extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal (Rept. No. 95-1243).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 560. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 7700 (Rept. No. 95-1244).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LONG, from the Committee on Finance:

Paula Stern, of the District of Columbia, to be a Member of the U.S. International Trade Commission.

Stanford G. Ross, of the District of Columbia, to be Commissioner of Social Security of the Department of Health, Education, and Welfare.

(The above nominations from the Committee on Finance were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIEGLE:

S. 3523. A bill to amend the Natural Gas Act in order to expand the regulatory jurisdiction under such act; to the Committee on Energy and Natural Resources.

By Mr. MATHIAS:

S. 3524. A bill for the relief of Javid Saadian; to the Committee on the Judiciary.

By Mr. ABOUREZK:

S. 3525. A bill for the relief of Paul Sakwa; to the Committee on Foreign Relations.

By Mr. NELSON:

S. 3526. A bill to amend the Internal Revenue Code of 1954 to provide for rapid amortization of property required to be placed in service for occupational safety and health purposes, and for other purposes; to the Committee on Finance.

By Mr. TOWER:

S. J. Res. 164. A joint resolution designating October 4, 1978, as "CB Radio Recognition Day"; to the Committee on the Judiciary.

By Mr. PROXMIRE (for himself, Mr. SPARKMAN, Mr. WILLIAMS, Mr. McINTYRE, and Mr. BROOKE):

S.J. Res. 165. A joint resolution to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIEGLE:

S. 3523. A bill to amend the Natural Gas Act in order to expand the regulatory jurisdiction under such act; to the Committee on Energy and Natural Resources.

NATURAL GAS ACT AMENDMENTS OF 1978

● Mr. RIEGLE. Mr. President, 12 days ago I addressed this body on the subject of the natural gas compromise report which is now before us. At that time, I stated that it was a bad bill, one which I could not support. At the same time, I discussed the problems created by the dual market regulatory structure, and proposed, as an alternative to the administrative monstrosity represented by the conference report, a much simpler and more rational approach to the problem. I would like to cite several paragraphs from my earlier statement:

> But, in addition, I think Congress has to take another step, and I would be very interested in hearing if any of the proponents of this bill will state that it is time to find a scheme to bring intrastate gas and interstate gas together under the same regulatory umbrella, which I support. I wonder if any of them would be prepared to do it now and to get that done in one fell swoop legislatively, as we can without going through this approach of phased price increases over the next 7 years which are going to cost this country $41 billion and have basically no beneficial effects that one can identify, short of the tiny fractional increase in supply.
>
> We can do that. If one studies the Constitution and one looks at the body of case law in the last several decades in this country it is clear, in my judgment, if this Congress were to legislate in a fashion to capture and bring intrastate gas under Federal regulation and under Federal price control we are absolutely free to do that.
>
> The only thing that holds us back is the inertia, and if the administration wants to make a bold proposal, if they want to take a good step that makes sense, and do it at once, something that is going to impress the international observers and have some practical economic effect, and hold down inflation in this country, that is the way to do it. It is to blend these two markets into one and take that step. It is a bold step. It is probably too bold for a lot of folks around here. And that is too bad, but that is a much wiser step and a much stronger and sounder step than the one that is being proposed here. I would say, in addition, it is a step that is long overdue.

Mr. President, the legislation I am introducing today would implement precisely the strategy outlined in my remarks. It would extend Federal regulatory powers to cover intrastate natural gas on the same basis as interstate gas is now covered. It would end the currently existing inequities in gas pricing, which permit intrastate gas prices to float independently of the federally regulated price for interstate gas, thereby hurting consumers and siphoning off needed gas from the interstate system.

I recognize, with regret, that the Senate will probably endorse the natural gas compromise report tomorrow. The other body may or may not concur in that action. If the report is agreed to, in its present unfortunate form, that may well make any further rational response to the natural gas problem difficult if not impossible for years to come. In that sense, my introduction of this bill today may be seen by some as a symbolic action, since it seems unlikely that any additional natural gas legislation will receive serious consideration by the Congress in the near future.

Nevertheless, I feel obligated to introduce this bill as a response to those who argue that we must agree to the conference report, because the alternative would be to do nothing. Mr. President, that is purely and simply a fallacious argument. The Senator from Ohio (Mr. METZENBAUM) has proposed a sound alternative to this bill in his recommittal motion. I believe that I am today proposing another. In any event, I hope that those who intend to vote for the conference report will first examine all of the available alternatives, and that if they should still decide to support it, they will do so on the merits as they see them, and not on the basis of the absurd proposition that this misconceived compromise is the only game in town.

By Mr. NELSON:

S. 3526. A bill to amend the Internal Revenue Code of 1954 to provide for rapid amortization of property required to be placed in service for occupational safety and health purposes, and for other purposes; to the Committee on Finance.

RAPID RECOVERY OF OCCUPATIONAL SAFETY AND HEALTH EXPENDITURES ACT OF 1978

● Mr. NELSON. Mr. President, I introduce a bill entitled "The Rapid Recovery of Occupational Safety and Health Expenditures Act of 1978." I ask that it be referred to the Committee on Finance and that the text of the measure be printed following my remarks.

WHAT THE BILL WOULD DO

The purpose of this proposal is to allow businesses to recover more quickly the investment in equipment they are required to purchase to comply with the Occupational Safety and Health Act. Under current law, it takes 7 years for a business to get back the amount it invested through tax deductions. This bill would shorten the period to 5 years without loss of the investment credit provided elsewhere in the Internal Revenue Code.

Present law permits a 5-year recovery period for pollution control facilities under section 169. However, this provision is not fully utilized, because the election of this section requires the loss of one-half of the investment credit. The other choice is to take the full investment credit, but to sacrifice the 5-year amortization, since a 7-year useful life is required to qualify for the full investment credit.

This bill would accomplish two objectives: it would add expenditures mandated by the Occupational Safety and Health Act to section 169; and it would allow businesses to elect the 5-year recovery period without losing one-half of the investment credit.

NEED FOR THE LEGISLATION

I believe that this bill is needed, because American industry is now spending about $3 billion a year to comply with Occupational Safety and Health Act requirements. This is a very significant amount of capital devoted to these purposes. Of necessity, these funds must be diverted from facilities which could earn profits for these businesses.

As a result, there is a marked decline in both profitability and productivity among these businesses, and these are two of our national problems. In some cases, the necessity of substantial expenditure is imperiling the existence of smaller firms which have lesser access to capital.

The Government has mandated these capital expenditures. They must be made at a time of capital shortage, which creates a particularly acute problem for smaller and independent businesses. The Government should attempt to help in resolving the problem by allowing recovery of the investment as speedily as practicable. Some years ago, we amended the Small Business Act to provide for compliance loans so businesses could make the investments required by the new Federal standards. It is also appropriate that we adjust the tax laws for the legitimate purpose of recovering the funds needed to pay off those loans as early as possible.

FORMAT OF THE BILL

In form, this bill parallels the provision already adopted by the House of Representatives in its version of the Revenue Act of 1978 (H.R. 13511).

This bill would permit a 5-year write off of expenditures for OSHA-related equipment to the same extent that section 313 of the House provision permits rapid amortization for pollution-control facilities.

FINDINGS BY HOUSE WAYS AND MEANS COMMITTEE

The House report on H.R. 13511 itemizes the reasons which the House found persuasive in shortening the amortization period for pollution-control equipment. They may be summarized as follows:

(1) The purchase of this equipment increases neither capacity nor productive efficiency;

(2) The cost of the equipment must be included in product prices, which creates inflationary pressure;

(3) The requirement to use capital in this way diverts it from investment in the production process; and

(4) As a result, the overall rate of return on investment is reduced.

The report summarized in these terms:

> The Committee has reexamined this area and concluded that it is desirable to make the full Investment Credit available in conjunction with the election of 60-month amortization because the taxpayer has incurred these costs in order to carry out a social policy. The Committee also believes that the consequent reduction in the cost of complying with the antipollution regulations will free internally-generated funds for investment in equipment which will increase productive capacity and efficiency.

Information reaching me from industries which are important in my own State of Wisconsin is that OSHA expenditures have become very significant for many firms. Thus, all of the reasons detailed by the House of Representatives for modifying the Code as to pollution control apply with equal force to OSHA expenditures.

For example, in the foundry industry, there are stringent requirements for noise abatement. As a consequence, the industry is making extensive expenditures to protect work places against excess sound. This has very desirable benefits for workers' health and safety, but it is also very expensive.

Ever since iron ore was discovered in the Mesabi Range of Minnesota, it has been used in Wisconsin to make farm implements that create the miracle of American farm production. Many related industries in the Midwest such as heavy equipment, automobiles, and manufacturing also rely on these skills. Foundries are a progressive industry in my State, employing over 25,000 persons, and have actually expanded employment during the past several years.

But the medium-sized and smaller foundries which have less internally generated funds, and have greater problems obtaining credit and equity funds from outside the corporation for any purpose, thus find it especially difficult to comply with the higher OSHA standards.

I think everything possible should be done to rationalize Government tax policies so that progressive expenditures for safety and health can be encouraged rather than resisted.

REVENUE EFFECT OF THE BILL

All of these desirable objectives can be accomplished with very minimal revenue costs. The primary reason for this is that most companies have elected under the present law to take the full investment credit. This would mean that a change such as advocated by this bill would mean, in practicality, that the amortization period would be reduced from 7 to 5 years in most cases. Because of this, I am advised by the Joint Committee on Taxation that the revenue costs would be approximately one-third of that projected for the pollution-control or, as follows:

	Million
Calendar year 1979	$2.4
Calendar year 1980	7.5
Calendar year 1983 (peak)	33.6

REASONS FOR ADVANCING THE MEASURE AT THIS TIME

The bill which I introduce is a practical measure which can be made a part of the pending 1978 tax legislation. It can help industry, small business, the worker, and all of society at minimum revenue cost.

I recognize that other proposals have been made for shorter amortization periods for OSHA equipment. However, this measure has the advantage of being in a form that the Senate can act upon at this time. I, therefore, urge that this measure be favorably considered by the Senate Finance Committee and the Senate so that it may be enacted as a part of the Revenue Act of 1978.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3526

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SEC. 1. Short Title. This Act may be cited as the "Rapid Recovery of Occupational Safety and Health Expenditures Act of 1978."

SEC. 2. (a)(1) Subsection (d) of section 169 of the Internal Revenue Code of 1954 (relating to amortization of pollution control facilities) is amended by adding at the end thereof the following new paragraph:

"(5) Modification of place of employment subject to the Occupational Safety and Health Act of 1970—

"(A) The term "modification of place of employment subject to the Act" means a modification of some aspect of a place of employment required to comply with the Occupational Safety and Health Act of 1970, or safety or health standards promulgated pursuant to that Act; but includes only tangible property (not including a building and its structural components, other than a component which is subject to an occupational safety and health inspection) which is of a character subject to the allowance for depreciation provided in section 167, and

"(B) does not significantly—

"(i) increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or "(ii) alter the nature of the manufacturing or production process or facility."

(A) Paragraph (2) of section 169(d) of such Code is amended—

(i) by striking out "and" after "Act"; and

(ii) by inserting ", and, in the case of occupational safety and health, the State agency designated to administer a plan under section 18 of the Occupational Safety and Health Act of 1970" after "Clean Air Act".

(B) Paragraph (3) of section 169(d) of such Code is amended—

(i) by striking out "and" after "Interior"; and

(ii) by inserting ", and, in the case of occupational safety and health, the Secretary of Labor" after "Welfare".

(3) Subsections (a), (b), and (f) of section 169 of such Code are each amended by inserting "or occupational safety and health" after "pollution control" each place it appears.

(4) Section 169(e) of such Code is amended by inserting "or (d)(3)(A)" after "(d)(1)(B)".

(5) Paragraph (4) of section 57(a) of such Code is amended by inserting "or occupational safety and health" after "pollution control" in the heading and text thereof.

(b) Paragraph (5) of section 46(c) of such Code (relating to applicable percentage in the case of certain pollution control facilities) is amended to read as follows:

"(5) Applicable percentage in the case of certain pollution control and occupational safety and health facilities.—

"(A) In general.—Notwithstanding paragraph (2), in the case of property—

"(i) with respect to which an election under section 169 applies, and

"(ii) the useful life of which (determined without regard to section 169) is not less than 5 years,

100 percent shall be the applicable percentage for purposes of applying paragraph (1) with respect to so much of the adjusted basis of the property as (after the application of section 169(f)) constitutes the amortizable basis for purposes of section 169.

"(B) Special rule where property is financed by industrial development bonds.—To the extent that any property is financed by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, subparagraph (A) shall be applied by substituting '50 percent' for '100 percent'.".

(c) The amendments made by this section shall apply to—

(1) property acquired by the taxpayer after December 31, 1978, and

(2) property the construction, reconstruction, or erection of which was completed by the taxpayer after December 31, 1978 (but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date).●

By Mr. TOWER:

S.J. Res. 164. A joint resolution designating October 4, 1978, as "CB Radio Recognition Day"; to the Committee on the Judiciary.

CB RADIO RECOGNITION DAY

● Mr. TOWER. Mr. President, October 4, 1978, will mark the 20th anniversary of the citizens band broadcast industry in the United States. In that period of time the use of the "CB" by people in every walk of life has grown to the point where today there are approximately 30,000,000 operators.

In recognition of this event, it is understood that all 50 Governors of the several States, as well as Federal officials will be participating in various activities, and pronouncements declaring a "10-4 day."

The great State of Texas has the honor of having the largest "CB" population of any in the Nation. I therefore consider it a privilege to introduce the attached Senate resolution for consideration and adoption by the Senate.

I might note that similar legislation has been introduced in the House by my good friend and colleague from Virginia, Congressman FISHER. I ask unanimous consent that my resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 164

Whereas, 1978 marks the 20th anniversary of CB radio, which has enjoyed unique success and popularity since its inception;

Whereas, since the Federal Communications Commission established the Class D Citizens Radio Service in 1958, nearly 14,000,000 station licenses have been issued authorizing the use of 30,000,000 CB transceivers by over 20,000,000 CB radio users;

Whereas, Americans use CB radio for local two-way communications between homes, offices, cars, boats, and airplanes; and

Whereas, CB radio helps to form friendships, breaks the monotony of tedious journeys, facilitates communications between home and business, provides emergency help and information, averts disaster, and keeps citizens informed. Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 4, 1978, is designated as "CB Radio Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon interested individuals and organizations to observe such day with appropriate ceremonies and activities.●

By Mr. PROXMIRE (for himself, Mr. SPARKMAN, Mr. WILLIAMS, Mr. MCINTYRE, and Mr. BROOKE):

S.J. Res. 165. A joint resolution to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. PROXMIRE. Mr. President, I am introducing today a joint resolution to extend essential housing programs which are scheduled, under existing law, to expire at the end of this month. The proposed resolution would extend these essential programs for 30 days, through October 31, 1978.

As you know, the Senate and House are now in conference on legislation which would extend and improve the operation of our housing and community development programs. There are serious differences between the Senate and House bills. It is possible the resolution of these differences may not be possible before September 30.

In order to insure the uninterrupted availability of FHA mortgage insurance, Farmers Home Administration programs, national flood insurance, crime insurance and several other related authorities. I urge the Senate to act promptly on this resolution.

The proposed resolution would extend for 30 days the following specific authorities:

HUD-FHA mortgage insurance authorities: title I—property improvement and mobile home loan insurance; section 203—basic home mortgage insurance; section 207—rental housing insurance, section 213—cooperative housing insurance; section 220—rehabilitation and neighborhood conservation housing insurance; section 221—housing for moderate income and displaced families; section 222—mortgage insurance for servicemen; section 223—miscellaneous housing insurance, including insurance in older, declining urban areas and for existing multifamily housing projects; section 231—housing for the elderly; section 232—nursing homes; section 233—experimental housing; section 234—condominiums; section 235—homeownership for low-income families; section 236—rental and cooperative housing for lower income families; section 237—special mortgagors; section 240 — homeowner purchases of fee simple title; section 241—supplemental loans for multifamily housing projects; section 242—hospitals; section 243—homeownership for middle-income families; section 244—mortgage insurance on a coinsurance basis; section 245—variable interest rate mortgages; title VIII—armed forces-related housing; title X—land development; and title XI—group practice facilities;

Authorities of the Farmers Home Administration rural housing programs under title V of the Housing Act of 1949;

The authority of the Government National Mortgage Association to enter into new commitments to purchase mortgage under the interim mortgage purchase authority contained in section 313 of the National Housing Act;

The authority of HUD to make special planning assistance grants to private new community developers and State land development agencies for planning new community development programs; and

The authority of the Federal Insurance Administration to provide new Federal crime insurance and riot reinsurance coverages; to enter into new flood insurance contracts under the National Flood Insurance Act of 1968; and to provide subsidized flood insurance under the "emergency program."

ADDITIONAL COSPONSORS

S. 3414

At the request of Mr. WALLOP, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 3414, a bill to amend the Internal Revenue Code to provide that nonresident aliens are taxable on gain from the sale or exchange of farming property and undeveloped real property at capital gains rates.

S. 3417

At the request of Mr. ANDERSON, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 3417, a bill to increase the amount for which loans may be made by the Commodity Credit Corporation to farmers for the construction or remodeling of grain storage facilities on the farm.

AMENDMENT NO. 3588

At the request of Mr. STEVENS, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of amendment No. 3588, proposed to S. 991, to establish a Department of Education, and for other purposes.

SENATE RESOLUTION 569—SUBMISSION OF A RESOLUTION TO ELIMINATE CERTAIN ITEMS IN THE DESIGN OF THE HART SENATE OFFICE BUILDING

Mr. PERCY (for himself, Mr. GARN, Mr. MOYNIHAN, and Mr. THURMOND) submitted the following resolution, which has referred to the Committee on Rules and Administration:

S. RES. 569

Whereas, the design of the Hart Senate Office Building includes certain unnecessary or luxury items which have added to the building's estimated cost; and

Whereas, the design of such structure is still sufficiently flexible to permit elimination of certain unnecessary items; and

Whereas, the American people deserve the most cost-effective expenditure of their tax dollars;

Now, therefore, be it resolved by the Senate of the United States of America that the Architect of the Capitol—

(1) is directed to modify the design of the Hart Senate Office Building as follows:

(A) convert the proposed physical fitness facility into office space for use by Senators, their staff, and their committees;

(B) convert the multi-media center into a hearing room without elaborate communications facilities for use by the news media; and

(C) design the rooftop restaurant as a restaurant for use by the general public, rather than one for use by Senators.

The Architect of the Capitol is further directed—

(1) to eliminate from the design those appointments that are either not cost effective, or necessary to the normal operation of the Senate; or provide a long-term value to the taxpayers of the United States;

(2) to utilize as fully as possible the space in the existing Russell and Dirksen Senate Office buildings, as well as the Senate wing of the United States Capital, as office space for Senators and Senate Committees; and

(3) upon completion and occupancy of the Hart Senate Office Building, to relocate staff members now occupying the buildings located on Square 724 into the Russell, Dirksen, and Hart Buildings, and then to raze the buildings on Square 724, and convert that square into a public park.

Mr. PERCY. Mr. President, today I am submitting along with my distinguished colleagues Senators GARN, MOYNIHAN and THURMOND a resolution directing the Architect of the Capitol to eliminate certain items in the design of the Hart Senate Office Building now under construction.

Our reasons for doing so are very simple. We believe we have a duty to the American taxpayer to keep the cost of this building as low as possible and to make the most efficient use of the space it will add to the operation of the Senate. As inflation and increasing taxation continue to erode the economic well-being of every American family, we can do no less than insure their money is spent wisely and that these expenditures will ultimately benefit them, rather than ourselves.

When we were first confronted with the question of whether or not to stop construction on the Hart Building early last month I had to support going ahead with the project. I did so because at that time the cost to terminate construction was estimated at $31 million and because I was convinced by the argument presented at that time that more office space was needed. Those two factors coupled with data showing the Hart Building's cost to be comparable in today's dollars with other private and Federal buildings led me to believe it was in the best interest of the American taxpayers to complete the building as quickly as possible.

While I commended my distinguished colleague from Rhode Island (Mr. CHAFEE) and those who supported his efforts for their goals in attempting to halt construction even at this late date, I personally did not believe the taxpayer would have received an equitable return on his investment. However, at the same time I stated on the floor that I supported the elimination of items in the design that were not necessary to the efficient functioning of the Senate. Today, with this resolution we are offering the Senate the opportunity to express its commitment to seeing that whatever construction is completed, is done in the most cost-efficient manner possible.

Specifically, our resolution directs the Architect of the Capitol to convert the proposed physical fitness facility into office space for use by Senators, their staff and their committees; convert the multimedia center into a hearing room without elaborate communications facilities for use by the news media; and design the rooftop restaurant as a restaurant for use by the general public, rather than one for use by Senators only.

It also directs the Architect to eliminate from the design those appointments that are either not cost effective, or necessary to the normal operation of the Senate or provide a long-term value to the taxpayers of the United States.

Further, this resolution directs the Architect to utilize as fully as possible the space in the existing Russell and Dirksen Senate Office Buildings, as well as the Senate wing of the U.S. Capitol, as office space for Senators and Senate committees. Last, upon completion and occupancy of the Hart Building the Architect is directed to relocate staff members now occupying 152,000 net square feet of office space in the buildings located on square 724 into the Russell, Dirksen and Hart Buildings (1,151,657 square feet of net office space), raze the buildings on square 724 and convert that square into a public park.

This resolution will accomplish three goals: First, reduce the cost of the building, second, insure that the building will be used to the greatest extent possible for office and working space, and third, put the Senate on record in its commitment to limit the future growth of its staff.

First, by eliminating certain luxury appointments, we can reduce the cost of this building. Using the Architect's own estimates and list of possible cost reduction items contained in his report of May 17, 1978 to the Senate Office Building Commission, I believe the following should be seriously considered as deletable items:

Wood paneling for Senators' private offices to be replaced with painted plaster, $1,500,000.

Interior artwork, $400,000.

All interior marble in the atrium and galleria spaces to be replaced with painted plaster and terrazzo floor, $2,900,000.

Phase VI which consists of alterations to the existing Dirksen Building, including an entrance along First Street. (This was proposed on the basis of the closing of the street, but since the street closing has been abandoned, phase VI could be eliminated.), $4,016,000.

Athletic equipment, $16,000.

That totals $8,826,000. Now, that may not appear to be an enormous savings when we consider the total cost of the building estimated at $122 million. But we cannot deny that it is millions of taxpayer dollars we can save.

Second, the deepest concerns expressed to me have been about the expenditure of tax dollars for some of the facilities to be included in the building, namely, the physical fitness facility, the multimedia facility, and the rooftop restaurant. I am convinced we need more office space, but I do not consider it essential that we have a gym, a specially equipped room for the media or another restaurant for Senators.

By converting the physical fitness facility and the multimedia room into office and working space, we can better utilize this room for increased and more efficient service to our constituents. By opening the restaurant to the public we are simply allowing the taxpayers to use their own facility.

Last, with this resolution the Senate will be on record in its goal to harness the ever-increasing size of its staff. Since 1958 when the Dirksen Building was occupied, the number of Senate staffers has increased 150 percent, largely due to increased constituent demands. The space now provided per Senate employee is half the minimum standard provided to the executive branch of Government. Constituents who visit the Senate are the most inconvenienced. Citizens have a right to have their letters promptly and fully researched and answered and to have someone here to talk with them when a personal visit is required. At the same time, however, we must insure that future growth of the Senate staff does not exceed what is absolutely necessary to meet constituent demands. By directing the Architect to raze the buildings on square 724 once the staff is relocated, the Senate can accomplish this.

The Senate has already appropriated $85 million for the Hart Building. To complete the final phase of construction, the Senate will have to appropriate additional moneys in the coming fiscal year. It is my sincere hope that the Senate will consider and accept this resolution so that steps can be taken immediately to redesign the building and limit to the smallest sum possible the additional moneys which will be required. This is the least we can and should do for the taxpayers of this country.

AMENDMENTS SUBMITTED FOR PRINTING

PROGRAM REAUTHORIZATION AND EVALUATION ACT OF 1978—S. 2

AMENDMENT NO. 3658

(Ordered to be printed and to lie on the table.)

Mr. MUSKIE (for himself, Mr. Robert C. Byrd, Mr. Cranston, Mr. Roth, Mr. Glenn, Mr. Ribicoff, Mr. Percy, Mr. Biden, Mr. Pell, Mr. Anderson, Mr. Bellmon, Mr. Bentsen, Mr. Burdick, Mr. Harry F. Byrd, Jr., Mr. Chafee, Mr. Chiles, Mr. Church, Mr. Clark, Mr. Culver, Mr. Dole, Mr. Domenici, Mr. Durkin, Mr. Eastland, Mr. Griffin, Mr. Hart, Mr. Haskell, Mr. Hatch, Mr. Mark O. Hatfield, Mr. Paul G. Hatfield, Mr. Hathaway, Mr. Heinz, Mrs. Humphrey, Mr. Kennedy, Mr. Leahy, Mr. Lugar, Mr. Mathias, Mr. Matsunaga, Mr. McIntyre, Mr. Metzenbaum, Mr. Morgan, Mr. Nunn, Mr. Riegle, Mr. Sasser, Mr. Schweiker, Mr. Stafford, Mr. Stone, Mr. Tower, Mr. Williams, Mr. Huddleston, and Mr. Bayh) submitted an amendment intended to be proposed by them, jointly, to S. 2, a bill to require authorizations of new budget authority for Government programs at least every 5 years, to provide for review of Government programs every 5 years, and for other purposes.

SUNSHINE ACT OF 1978

● Mr. MUSKIE. Mr. President, I am submitting today, with Senators Robert C. Byrd, Cranston, Roth, Glenn, Ribicoff, Percy, Biden, Pell, Anderson, Bellmon, Bentsen, Burdick, Harry F. Byrd, Jr., Chafee, Chiles, Church, Clark, Culver, Dole, Domenici, Durkin, Eastland, Griffin, Hart, Haskell, Hatch, Mark O. Hatfield, Paul G. Hatfield, Hathaway, Heinz, Humphrey, Kennedy, Leahy, Lugar, Mathias, Matsunaga, McIntyre, Metzenbaum, Morgan, Nunn, Riegle, Sasser, Schweiker, Stafford, Stone, Tower, Williams, Huddleston, and Bayh, an amendment in the nature of a substitute to S. 2, commonly known as the sunset bill.

I am particularly pleased to be joined in this amendment by the distinguished majority leader and the distinguished majority whip. I am also pleased that 45 other Members of the Senate have joined in this amendment.

This amendment represents the latest of many refinements in the sunset legislation, as we attempt to fashion the best and most workable bill possible to bring to the Senate floor in the days ahead.

Mr. President, I believe sunset is a weapon the Congress must have to help bring Federal spending and inflation under control and reduce the burden on the American taxpayer.

Sunset is a rational, workable, and sensible way of getting a grip on wasteful and low priority Federal spending.

Sunset is really a very simple idea. It attacks the notion that Government programs once enacted should remain forever on the books. Instead, it proposes that a program should continue only if Congress decides that it is needed and is still going well. If a program cannot meet these conditions, it goes out of business.

Under my amendment, virtually all Federal programs would come up for systematic review and reauthorization on a rotating 10-year basis. The amendment also proposes that similar programs be considered at the same time. That way we can see whether dozens, and sometimes hundreds, of programs in a particular functional area are still needed.

I believe sunset should be enacted for a number of reasons.

First, it will complement the budget process as an important weapon in bringing Government spending—and thus inflation—under control.

Second, it will strengthen the congressional authorization process, the most important policy process the Congress has.

Third, it will enhance the ability of the Congress to respond to changing national problems.

And, fourth, it responds rationally and responsibly to the public mood which demands that Government programs be brought under control and that tax dollars be spent more effectively.

Mr. President, sunset legislation has been approved by both the Committee on Governmental Affairs and the Committee on Rules and Administration. It has been endorsed by the President and it has been sponsored by more than 150 Members of the House of Representatives.

I believe the time for Senate action on sunset is now, and I urge my colleagues to support the amendment I am introducing today.

Mr. President, I ask unanimous consent that a summary of my amendment, a comparison of its provisions with S. 2—a comparison of its provisions with those in S. 2—the text of the amendment, and a section by section analysis be included in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Comparison of Muskie Amendment and S. 2 as Reported by Rules Committee

The Muskie substitute amendment and S. 2, as reported by the Committee on Rules and Administration, would, for the most part, achieve the same objectives. The Muskie amendment is primarily a refinement of earlier versions of the sunset bill.

Both S. 2 and the Muskie amendment would require reauthorization and review of most Federal programs according to a five-Congress schedule set out in the bill.

Both would end permanent authorizations (for all but exempted programs) and limit new authorizations to ten years.

Both would terminate permanent appropriations, in accordance with the sunset schedule.

Both call for more in-depth re-examination of selected programs each Congress.

And both would depend heavily on the rules of the Senate and House for enforcement of the sunset process.

But while the two proposals seek the same objectives and will likely achieve the same results, there are differences. These differences, which occur primarily in Titles I and III, are outlined below.

REQUIRED REAUTHORIZATIONS OF PROGRAMS (TITLE I)

There are two classes of programs that presently do not come up for regular Congressional reauthorization—permanent appropriations and permanent authorizations. S. 2 and the Muskie amendment establish procedures that will affect those programs in slightly different ways.

Under both bills, a program funded by a permanent appropriation would terminate unless it was reauthorized by its scheduled reauthorization date. However, the termination mechanisms used are slightly different. In S. 2, that mechanism consists of a bar against obligating or expending funds for a program not reauthorized. Under the Muskie amendment, a permanent appropriation ceases to be effective for the purpose of funding the program.

Procedures in the two bills for handling permanent authorizations are also slightly different, although once again the effect would be the same.

S. 2 deals with permanent authorizations as follows: If a program permanently authorized is not reauthorized by its scheduled reauthorization date, the President can neither obligate nor expend any funds for it (the same as for permanent appropriations under S. 2). If that bar against spending goes into effect, an appropriation to continue funding for the program would be subject to a point of order.

Under the Muskie amendment, if the program is not specifically reauthorized by its scheduled reauthorization date, it would be out of order in either House to consider an appropriation for it. The Muskie amendment requires that a "required authorization" exist for a program before an appropriation funding program could go forward, under the rules of both Houses. A "required reauthorization" is one enacted *during* or *after* the Congress in which the program is scheduled for reauthorization. It cannot authorize appropriations for more than 10 years, or beyond the next scheduled reauthorization date for the program.

In other words, under the Muskie amendment, a previously enacted authorization extending past the next scheduled reauthorization date (a permanent authorization, for example), would cease to be a "required authorization" as of the reauthorization date, for purposes of appropriating funds.

REPORTS ON REAUTHORIZATION BILLS (TITLE I)

Both S. 2 and the Muskie amendment would make it out of order to consider a reauthorization bill unless a review of that program had been completed and included in the report accompanying the reauthorization bill.

However, the language of S. 2 implied that the Parliamentarian would have to have a qualitative judgment concerning the adequacy of the review in determining whether the reauthorization bill would be out of order. Under the Muskie amendment that language has been deleted, so that the Parliamentarian only has to rule on whether or not the report includes the categories of information required.

EXEMPTED PROGRAMS (TITLE I)

The exemptions in the two bills are essentially the same, with one exception. In the Muskie amendment, a new exemption had been added for the permanent appropriation providing refunds to taxpayers. That new exemption is consistent with the philosophy of other exemptions in the bill.

CHANGING THE SCHEDULE OR THE EXEMPTIONS (TITLE I)

Under S. 2, the review schedule could only be changed by enactment of a law. Under the Muskie amendment, reauthorization dates for programs not funded by permanent appropriations could be changed by concurrent resolution. However, under the Muskie amendment a law would still have to be enacted to change the reauthorization dates for permanent appropriations, or to change the list of exemptions.

MODIFICATION OF PROGRAM RE-EXAMINATION PROVISIONS (TITLE III)

Title III of both S. 2 and the Muskie amendment provides for the in-depth evaluation of selected programs during each Congress. However, the Muskie amendment contains some modification of this provision.

Under S. 2, each House is required to enact a simple resolution, at the beginning of each Congress, detailing which programs would be the subject of intensive evaluation during that Congress.

Under the Muskie amendment, the committees in the Senate would include, along with their funding resolution submitted at the beginning of each Congress, a list of programs they intend to examine in depth over the next one to three years. To protect committees from being forced to re-examine programs without sufficient funding, the committee of jurisdiction and the Rules Committee must be advised of any amendments to funding resolutions by January 20 of the session in which the resolution is considered.

WAIVER OF REAUTHORIZATION REQUIREMENT (TITLE V)

S. 2 provides for privileged consideration of a current services reauthorization if a bill to reauthorize a program according to the schedule had been debated for 50 hours. That current services reauthorization could extend the authorization for the program for two years at a level no more than its current services appropriations level.

The Muskie amendment substitutes a "required reauthorization waiver resolution" for the current services reauthorization bill. Such a resolution would waive the requirement for a "required authorization" for a program before an appropriation could be considered. A "required reauthorization waiver resolution" would allow a one-year appropriation to be considered for a program, at a level not to exceed current services. Such a waiver resolution would be in order in either House when the reauthorization bill for the program had been vetoed, and, in the Senate, if the reauthorization bill had been debated for at least 15 hours, with no time limitation agreement.

SUMMARY OF MUSKIE SUBSTITUTE AMENDMENT FOR S. 2, THE SUNSET ACT OF 1978

TITLE I—REAUTHORIZATION OF GOVERNMENT PROGRAMS

Title I requires that all government programs, except for a number of specifically listed exemptions, be reviewed and reauthorized at least once every ten years, in accordance with a five-Congress schedule.

The schedule, set forth in the amendment, groups programs for reauthorization by subfunctional categories of the budget. The schedule is designed to enable Congress to reauthorize similar programs at the same time and to balance its workload over the ten year cycle.

Title I establishes procedures to force the reauthorization according to the sunset schedule of all programs whether they are now periodically authorized, permanently authorized, or permanently appropriated.

Those procedures would:

Limit new authorizations to ten years by making it out of order for either House of Congress to consider legislation authorizing a program for a longer period.

Tie the reauthorization of programs to the sunset schedule by making it out of order to consider legislation authorizing a program beyond its next scheduled reauthorization date.

Establish a new category of authorizing legislation called a "required authorization"—an authorization enacted at least once every ten years in accordance with sunset procedures.

Provides that a required authorization be enacted for every program before an appropriation for that program could be in order for consideration in either House. (Programs currently permanently authorized which are not specifically reauthorized in accordance with the sunset schedule and procedures as detailed above, would not have a required authorization and, as a result, appropriations for those programs would be out of order in both Houses.)

Provides that permanent appropriations would cease to have effect for the purpose of providing funds if the programs they fund are not reauthorized in accordance with sunset procedures.

Requires that any appropriations legislation, or the report accompanying it, cite the required authorization that exists for each program it funds or be out of order in both Houses.

Title I also—

Requires Committees of Congress to include a "reauthorization review"—which answers basic questions about the legislation—in any report accompanying an authorization bill they report in accordance with sunset procedures.

Lists the specific programs exempted from the reauthorization requirements.

Assures that the Committees of the Congress will have a direct role in shaping the schedule and that, within each sunset reauthoriaztion cycle the schedule—except for programs funded by permanent appropriations—can be changed by concurrent resolution.

TITLE II—PROGRAM INVENTORY

Title II—

Directs the General Accounting Office, with the assistance of the Congressional Budget Office and input from the authorizing committees, to compile an inventory of Federal programs prior to the beginning of the first sunset cycle. The inventory is to advise and assist the Congress in carrying out the reauthorization and review requirements of sunset and will in no way infringe on the legislative or oversight responsibilities of Congressional committees.

Requires the General Accounting Office to regularly update its inventory of programs and take into account Congressional action reauthorizing or terminating programs under the sunset process. The update would include changes in the fiscal status of the programs as provided by the CBO.

TITLE III—PROGRAM RE-EXAMINATION

Title III—

Establishes a procedure by which Senate and House committees can select a number of programs under their jurisdiction for a more comprehensive re-examination.

Requires committees to list such programs in their funding resolution in the first session of each Congress.

Requires, to the extent feasible, that committees submit reports of their re-examinations at the same time a program is up for reauthorization according to the schedule.

Requires a Senate committee to complete its re-examinations on time or have its next funding resolution subject to a point of order.

Requires executive agencies responsible for administering a program selected for re-examination to submit their own re-examination of the program to the Congress at least six months before the completion date for the committee's study.

TITLE IV—CITIZENS' COMMISSION ON THE ORGANIZATION AND OPERATION OF GOVERNMENT

Title IV—

Authorizes the establishment of a blue-ribbon commission for the purpose of studying the efficiency and the effectiveness of the government at all levels. It could also assist the Congress in the implementation of the sunset process.

TITLE V—MISCELLANEOUS

Title V—

Provides for the submission, at the request of a committee of the Congress, of agency budget requests and materials supporting those requests at any time following the submission of the President's budget to the Congress.

Provides an expedited and privileged procedure for waiving the requirement that a required reauthorization exist before an appropriation funding a program is in order for consideration in both Houses. Such a "required reauthorization waiver resolution" would be in order and considered under privileged and expedited procedures in either House if a reauthorization bill for that program were vetoed and the veto sustained or if the reauthorization bill had been debated for at least 15 hours and no time limitation on debate had been agreed to. Such a required reauthorization waiver resolution would allow it to be in order for both Houses to consider a one-year appropriation for the program at an amount not to exceed the amount certified by CBO as necessary to fund the program at its current services level.

Provides that procedures established by this legislation may be waived by majority vote in the Senate.

AMENDMENT NO. 3658

Strike all after the enacting clause and insert the following: "That this Act may be cited as the 'Sunset Act of 1978'.

"SEC. 2. The purposes of this Act are—

"(1) to require that most Government programs be reauthorized according to a schedule at least once every ten years;

"(2) to limit the length of time for which Government programs can be authorized to ten years;

"(3) to bar the expenditure of funds for Government programs which have not been provided for by a law enacted during the ten-year sunset reauthorization cycle; and

"(4) to encourage the reexamination of selected Government programs each Congress.

"SEC. 3. (a) For purposes of this Act:

"(1) The term 'budget authority' has the meaning given to it by section 3(2) of the Congressional Budget Act of 1974.

"(2) The term 'permanent budget authority' means budget authority provided for an indefinite period of time or an unspecified number of fiscal years which does not require recurring action by the Congress, but does not include budget authority provided for a specified fiscal year which is available for obligation or expenditure in one or more succeeding fiscal years.

"(3) The term 'Comptroller General' means the Comptroller General of the United States.

"(4) The term 'agency' means an executive agency as defined in section 105 of title 5, United States Code, except that such term includes the United States Postal Service and the Postal Commission but does not include the General Accounting Office.

"(5) The term 'sunset reauthorization cycle' means the period of five Congresses beginning with the Ninety-seventh Congress and with each sixth Congress following the Ninety-seventh Congress.

"(b) For purposes of this Act, each program (including any program exempted by provision of law from inclusion in the Budget of the United States) shall be assigned to the functional and subfunctional categories to which it is assigned in the Budget of the United States Government, fiscal year 1979. Each committee of the Senate or the House of Representatives which reports any bill or resolution which authorizes the enactment of new budget authority for a program not included in the fiscal year 1979 budget shall include, in the committee report accompanying such bill or resolution (and, where appropriate, the conferees shall include in their joint statement on such bill or resolution), a statement as to the functional and subfunctional category to which such program is to be assigned.

"(c) For purposes of titles I, II, III, and V of this Act, the reauthorization date applicable to a program is the date specified for such program under section 101(b).

"TITLE I—REAUTHORIZATIONS OF GOVERNMENT PROGRAMS

"SEC. 101. (a) Each Government program (except those listed in section 103) shall be reauthorized at least once during each sunset reauthorization cycle during the Congress in which the reauthorization date applicable to such program (pursuant to subsection (b)) occurs.

"(b) The first reauthorization date applicable to a Government program is the date specified in the following table, and each subsequent reauthorization date applicable to a program is the date ten years following the preceding reauthorization date:

"Programs included within subfunctional category	First reauthorization date
254 Space, Science, Applications and Technology.	
272 Energy Conservation.	
301 Water Resources.	
352 Agriculture and Research Services.	
371 Mortgage Credit and Thrift Insurance.	
376 Other Advancement and Regulation of Commerce.	
501 Elementary, Secondary, and Vocational Education.	
601 General Retirement and Disability Insurance.	
602. Federal Employment Retirement and Disability.	
703 Hospital and Medical Care for Veterans.	
806 Other General Government.	
851 General Revenue Sharing	Sept. 30, 1982.
051 Department of Defense—Military.	
053 Atomic Energy Defense Activities.	
154 Foreign Information and Exchange Act.	
251 General Science and Basic Research.	
306 Other Natural Resources.	
351 Farm Income Stabilization.	
401 Ground Transportation.	
502 Higher Education.	
553 Education and Training of Health Care Work Force.	
701 Income Security for Veterans.	
752 Federal Litigative and Judicial Activities.	
802 Executive Director and Management.	
803 Central Fiscal Operations	Sept. 30, 1984.
054 Defense Related Activities.	
152 Military Assistance.	
155 International Financial Programs.	
253 Space Flight.	
255 Supporting Space Activities.	
274 Emergency Energy Preparedness.	
302 Conservation and Land Management.	
304 Pollution Control and Abatement.	
407 Other Transportation.	
504 Training and Employment.	
506 Social Services.	
554 Consumer and Occupational Health and Safety.	
704 Veterans Housing.	
751 Federal Law Enforcement Activities.	
801 Legislative Function.	
852 Other General Purpose Fiscal Assistance	Sept. 30, 1986.
153 Conduct of Foreign Affairs.	
271 Energy Supply.	
303 Recreational Resources.	
402 Air Transportation.	
505 Other Labor Services.	
551 Health Care Services.	
604 Public Assistance and Other Income Supplements.	
702 Veterans Education, Training, and Rehabilitation.	
753 Federal Correctional Activities.	
805 Central Personnel Management.	
902 Other Interest	Sept. 30, 1988.
151 Foreign Economic and Financial Assistance.	
276 Energy Information, Policy and Regulation.	
372 Postal Service.	
403 Water Transportation.	
451 Community Development.	
452 Area and Regional Development.	
453 Disaster Relief and Insurance.	
503 Research and General Education Aids.	
552 Health Research.	
603 Unemployment Compensation.	
705 Other Veterans Benefits and Services.	
754 Criminal Justice Assistance.	
804 General Property and Record Management.	
901 Interest on the Public Debt	Sept. 30, 1990.

"(c)(1) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which authorizes the enactment of new budget authority for a program for a period of more than ten fiscal years, for an indefinite period, or (except during the Congress in which such next reauthorization date occurs) for any fiscal year beginning after the next reauthorization date applicable to such program. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment to the bill or resolution which would make the authorization period conform to the requirement of such sentence.

"(2)(A) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which provides new budget authority for a program for any fiscal year beginning after the first (or any subsequent) reauthorization date applicable to such program under paragraph (b), unless the provision of such new budget authority is specifically authorized by a law which constitutes a required authorization for such program.

"(B) For the purposes of this subsection, the term 'required authorization' means a law authorizing the enactment of new budget authority for a program, which complies with the provisions of paragraph (1) and is enacted during the Congress in which the reauthorization date for such program occurs, or during a Congress after such date and prior to the Congress in which the next reauthorization date for such program occurs.

"(3) No new budget authority may be obligated or expended for a program for a fiscal year beginning after the last fiscal year in a sunset reauthorization cycle unless a provision of law providing for the continuation of such program has been enacted during such sunset reauthorization cycle.

"(4) Any provision of law providing permanent budget authority for a program shall cease to be effective (for the purpose of providing such budget authority) on the first reauthorization date applicable to such program.

"(5) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which provides new budget authority for a program unless the bill or resolution, or amendment thereto, (or the report which accompanies such bill or resolution) includes a specific reference to the provision of law which constitutes a required authorization for such program. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment which provides such reference to the appropriate provision of law.

"SEC. 102. (a) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which has been reported by a committee and which authorizes the enactment of new budget authority for a program for a fiscal year beginning after the next reauthorization date applicable to such program, unless a reauthorization review (to the extent the committee or committees having jurisdiction deem appropriate) of such program has been completed during the Congress in which the reauthorization date for such program occurs (or during a subsequent Congress when such required authorization is considered), and the report accompanying such bill or resolution includes a separate section entitled 'Reauthorization Review' recommending, based on such review, whether the program or the laws affecting such program should be continued without change, continued with modifications, or terminated, and also includes, to the extent the committee or committees having jurisdiction deem appropropriate, each of the following matters:

"(1) Information and analysis on the organization, operation, costs, results, accomplishments, and effectiveness of the program.

"(2) An identification of any other programs having similar objectives, and a justification of the need for the proposed program in comparison with those other programs which may be potentially conflicting or duplicative.

"(3) An identification of the objectives intended for the program, and the problems or needs which the program is intended to address, including an analysis of the performance expected to be achieved, based on the bill or resolution as reported.

"(4) A comparison of the amount of new budget authority which was authorized for the program in each of the previous four fiscal years and the amount of new budget authority provided in each such year.

"(b) It shall not be in order in either the Senate or the House of Representatives to consider a bill or resolution, or amendment thereto, which authorizes the enactment of new budget authority for a program for which there previously has been no such authorization unless the report accompanying such bill or resolution sets forth, to the extent that the committee or committees having jurisdiction deem appropriate, the information specified in subsection (a)(2) and (3).

"(c) Each committee having legislative jurisdiction over a program included in section 103 shall conduct a review of such program of the type described in subsection (a) at least once during each sunset reauthorization cycle, during the Congress in which the reauthorization date applicable to such program occurs, and shall submit to the Senate or the House of Representatives, as the case may be, a report containing its recommendations and other information of the type described in subsection (a) to the extent that the committee deems appropriate. It shall not be in order to consider a bill or resolution reported by the committee having legislative jurisdiction which authorizes the enactment of new budget authority for such program unless such report accompanies such bill or resolution, or has been submitted during the Congress in which the reauthorization date for such program occurred as provided in section 101(b), whichever first occurs.

"SEC. 103. (a) Section 101(c) shall not apply to the following:

"(1) Programs included within functional category 900 (Interest).

"(2) Any Federal programs or activities to enforce civil rights guaranteed by the Constitution of the United States or to enforce antidiscrimination laws of the United States, including but not limited to the investigation of violations of civil rights, civil or criminal litigation or the implementation or enforcement of judgments resulting from such litigation, and administrative activities in support of the foregoing.

"(3) Programs which are related to the administration of the federal judiciary and which are classified in the fiscal year 1979 budget under subfunctional category 752 (Federal litigative and judicial activities).

"(4) Payments of refunds of internal revenue collections as provided in title I of the Supplemental Treasury and Post Office Departments Appropriation Act of 1949 (62 Stat. 561), but not to include refunds to persons in excess of their tax payments.

"(5) Programs included in the fiscal year 1979 budget in subfunctional categories 701 (Income security for veterans), 702 (Veterans education, training, and rehabilitation), 704 (Veterans housing), and programs for providing health care which are included in such budget in subfunctional category 703 (Hospital and medical care for veterans).

(6) "Social Security and Federal employee retirement programs including the following:

"(A) Programs funded through trust funds which are included within subfunctional categories 551 (Health care services), 601 (General retirement and disability insurance), or 602 (Federal employee retirement and disability).

"(B) Retirement pay and retired pay of military personnel on the retired lists of the Army, Navy, Marine Corps, and the Air Force, including the Reserve components thereof, retainer pay for personnel of the Inactive Fleet Reserve; and payments under section 4 of Public Law 92–425 and chapter 73 of title 10, United States Code (survivor's benefits), classified in the fiscal year 1979 budget in subfunctional category 051 (Department of Defense-military).

"(C) Retirement pay and medical benefits for retired commissioned officers of the Coast Guard, the Public Health Service Commissioned Corps, and the National Oceanic and Atmospheric Commissioned Corps and their survivors and dependents, classified in the fiscal year 1979 budget in subfunctional category 551 (Health care services).

"(D) Retired pay of military personnel of the Coast Guard and Coast Guard Reserve, members of the former Lighthouse Service, and for annuities payable to beneficiaries of retired military personnel under the retired serviceman's family protection plan (10 U.S.C. 1431–1446) and survivor benefit plan (10 U.S.C. 1447–1455), classified in the fiscal year 1979 budget in subfunctional category 403 (Water transportation).

"(E) Payments to the Central Intelligence Agency Retirement and Disability Fund, classified in the fiscal year 1979 budget in subfunctional category 054 (Defense-related activities).

"(F) Payments to the Civil Service Retirement and Disability Fund for financing unfunded liabilities, classified in the fiscal year 1979 budget in subfunctional category 805 (Central personnel management).

"(G) Payments to the Foreign Service Retirement and Disability Fund, classified in the fiscal year 1979 budget in subfunctional category 153 (Conduct of foreign affairs).

"(H) Payments to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, classified in the fiscal year 1979 budget in various subfunctional categories.

(I) Administration of the retirement and disability programs set forth in this section.

"(b) If a question is raised in the Senate with respect to the application of any paragraph of subsection (a) to any bill, resolution, or amendment, or to any provision of law, the Presiding Officer shall submit the question to the Senate for decision.

"SEC. 104. (a) It is the sense of the Congress that all programs should be considered and reauthorized in program categories which constitute major areas of legislative policy. Such authorizations should be for sufficient periods of time to enhance oversight and the review and evaluation of Government programs.

"(b) The reauthorization schedule contained in section 101(b) may be changed by concurrent resolution of the two Houses of the Congress (except that changes in the schedule affecting permanent appropriations may be made only by law), but it shall not be in order to consider any such concurrent resolution (or bill), or amendment thereto, if such concurrent resolution (or bill) or amendment proposes to change a reauthorization date applicable to a program to a date after the last fiscal year in the sunset reauthorization cycle then in progress.

"(c) All messages, petitions, memorials, concurrent resolutions, and bills proposing changes in section 101(b) and all bills proposing changes in section 103(a), shall be referred first to the committee with legislative jurisdiction over any program affected by the proposal and sequentially to the Committee on Rules in the House of Representatives or to the Committee on Rules and Administration in the Senate as provided for in subsection (d).

"(d) Except as provided in subsection (f), the Committee on Rules in the House of Representatives or the Committee on Rules and Administration in the Senate shall report any concurrent resolution or bill referred to it under the provisions of subsection (c) and which previously has been reported favorably by a committee of legislative jurisdiction within thirty days (not counting any day on which the Senate or the House of Representatives is not in session), beginning with the day following the day on which such resolution or bill is so referred, with its recommendations.

"(e) The recommendations of the Committee on Rules or the Committee on Rules and Administration pursuant to subsection (d) or (f) shall include a statement on each of the following matters:

"(1) The effect the proposed change would have on the sunset reauthorization schedule.

"(2) The effect the proposed change would have on the jurisdictional and reauthorization responsibilities and workloads of the authorizing committees of Congress.

"(3) Any suggested grouping of similar programs which would further the goals of this Act to make more effective comparisons between programs having like objective.

"(f) Any concurrent resolution or bill proposing a change in section 101(b) or 103(a) which has been reported by a committee before June 1, 1980, shall be referred in the House to the Committee on Rules and in the Senate to the Committee on Rules and Administration. Such committee shall report an omnibus concurrent resolution or bill containing its recommendations regarding the proposed changes by July 1, 1980, and consideration of such bill or resolution shall be highly privileged in the House of Representatives and privileged in the Senate. The provisions of section 1017(d) of the Impoundment Control Act of 1974, insofar as they relate to consideration of rescission bills, shall apply to the consideration of concurrent resolutions and bills proposing changes reported pursuant to this subsection, amendments thereto, motions and appeals with respect thereto, and conference reports thereon.

"(g) It shall not be in order in the Senate or the House of Representatives to consider a bill or resolution reported pursuant to subsection (c), (d), or (f) which proposes a reauthorization date for a program beyond the final reauthorization date of the sunset reauthorization cycle then in progress. Notwithstanding the preceding sentence it shall be in order to consider a bill or resolution for the purpose of considering an amendment which meets the requirements of this subsection.

"TITLE II—PROGRAM INVENTORY

"SEC. 201. (a) The Comptroller General and the Director of the Congressional Budget Office, in cooperation with the Director of the Congressional Research Service, shall prepare an inventory of Federal programs (hereafter in this title referred to as the 'program inventory').

"(b) The purpose of the program inventory is to advise and assist the Congress in carrying out the requirements of titles I and III. Such inventory shall not in any way bind the committees of the Senate or the House of Representatives with respect to their responsibilities under such titles and shall not infringe on the legislative and oversight responsibilities of such committees. The Comptroller General shall compile and maintain the inventory, and the Director of the Congressional Budget Office shall provide budgetary information for inclusion in the inventory.

"(c) Not later than July 1, 1979, the Comptroller General, after consultation with the Director of the Congressional Budget Office and the Director of the Congressional Research Service, shall submit the program inventory to the Senate and House of Representatives.

"(d) In the report submitted under this section, the Comptroller General, after consultation and in cooperation with and consideration of the views and recommendations of the Director of the Congressional Budget Office, shall group programs into program areas appropriate for the exercise of the review and re-examination requirements of this Act. Such groupings shall identify program areas in a manner which classifies each program in only one functional and only one subfunctional category and which is consistent with the structure of national needs, agency missions, and basic programs developed pursuant to section 201(i) of the Budget and Accounting Act, 1921.

"(e) The program inventory shall set forth for each program each of the following matters:

"(1) The specific provision(s) of law authorizing the program.

"(2) The committees of the Senate and the House of Representatives which have legislative or oversight jurisdiction over the program.

"(3) A brief statement of the purpose or purposes to be achieved by the program.

"(4) The committees which have jurisdiction over legislation providing new budget authority for the program, including the appropriate subcommittees of the Committees on Appropriations of the Senate and the House of Representatives.

"(5) The agency and, if applicable, the subdivision thereof responsible for administering the program.

"(6) The grants-in-aid, if any, provided by such program to State and local governments.

"(7) The next reauthorization date for the program.

"(8) A unique identification number which links the program and functional category structure.

"(9) The year in which the program was originally established and, where applicable, the year in which the program expires.

"(10) Where applicable, the year in which new budget authority for the program was last authorized and the year in which current authorizations of new budget authority expire.

"(f) The inventory shall contain a separate tabular listing of programs which are not required to be reauthorized pursuant to section 101(c).

"(g) The report also shall set forth for each program whether the new budget authority provided for such programs is—

"(1) authorized for a definite period of time;

"(2) authorized in a specific dollar amount but without limit of time;

"(3) authorized without limit of time or dollar amounts;

"(4) not specifically authorized; or

"(5) permanently provided,

as determined by the Director of the Congressional Budget Office.

"(h) For each program or group of programs, the program inventory also shall include information prepared by the Director of the Congressional Budget Office indicating each of the following matters:

"(1) The amounts of new budget authority authorized and provided for the program for each of the preceding four fiscal years and, where applicable, the four succeeding fiscal years.

"(2) The functional and subfunctional category in which the program is presently classified and was classified under the fiscal year 1979 budget.

"(3) The identification code and title of the appropriation account in which budget authority is provided for the program.

"SEC. 202. The General Accounting Office, the Congressional Research Service, and the Congressional Budget Office shall permit the mutual exchange of available information in their possession which would aid in the compilation of the program inventory.

"SEC. 203. The Office of Management and Budget, and the Executive agencies and the subdivisions thereof shall, to the extent necessary and possible, provide the General Accounting Office with assistance requested by the Comptroller General in the compilation of the program inventory.

"SEC. 204. Each committee of the Senate and the House of Representatives, the Congressional Budget Office, and the Congressional Research Service shall review the program inventory as submitted under section 201 and not later than October 1, 1979, each shall advise the Comptroller General of any revisions in the composition or identification of programs and groups of programs which it recommends. After full consideration of the reports of all such committees and officials, the Comptroller General in consultation with the committees of the Senate and the House of Representatives shall report, not later than December 31, 1979, a revised program inventory to the Senate and the House of Representatives.

"SEC. 205. (a) The Comptroller General, after the close of each session of the Congress, shall revise the program inventory and report the revisions to the Senate and the House of Representatives.

"(b) After the close of each session of the Congress, the Director of the Congressional Budget Office shall prepare a report, for inclusion in the revised inventory, with respect to each program included in the program inventory and each program established by law during such session, which includes the amount of the new budget authority authorized and the amount of new budget authority provided for the current fiscal year and each of the five succeeding fiscal years. If new budget authority is not authorized or provided or is authorized or provided for an indefinite amount for any of such five succeeding fiscal years with respect to any program, the Director shall make projections of the amounts of such new budget authority necessary to be authorized or provided for any such fiscal year to maintain a current level of services.

"(c) Not later than one year after the first or any subsequent reauthorization date, the Director of the Congresional Budget Office, in consultation with the Comptroller General and the Director of the Congressional Research Service, shall compile a list of the provisions of law related to all programs subject to such reauthorization date for which new budget authority was not authorized. The Director of the Congressional Budget Office shall include such a list in the report required by subsection (b). The committees with legislative jurisdiction over the affected programs shall study the affected provisions and make any recommendations they deem to be appropirate with regard to such provisions to the Senate and the House of Representatives.

"SEC. 206. The Comptroller General and the Director of the Congressional Budget Office shall include in their respective reports to the Congress pursuant to sections 202(f) and 702(e) of the Congressional Budget Act of 1974 and assessment of the adequacy of the functional and subfunctional categories contained in section 101(b) for grouping programs of like missions or objectives.

"SEC 207. (a) The Director of the Congressional Budget Office shall tabulate and issue an annual report on the progress of congressional action on bills and resolutions reported by a committee of either House or passed by either House which authorize the enactment of new budget authority for programs.

"(b) The report shall include an up-to-date tabulation for the fiscal year beginning October 1 and the succeeding four fiscal years of the amounts of budget authority (1) authorized by law or proposed to be authorized in any bill or resolution reported by any committee of the Senate or the House of Representatives, or (2) if budget authority is not authorized or proposed to be authorized for any of the five fiscal years, the amounts necessary to maintain a current level of services for programs in the inventory.

"(c) The Director of the Congressional Budget Office shall issue periodic reports on the programs and the provisions of laws which are scheduled for reauthorization in each Congress pursuant to the reauthorization schedule in section 101(b). In these reports, the Director shall identify each provision of law which authorizes the enactment of new budget authority for programs scheduled for reauthorization and the title of the appropriation bill, or part thereof, which would provide new budget authority pursuant to each authorization.

"TITLE III—PROGRAM REEXAMINATION

"SEC. 301. (a) Each committee of the Senate and the House of Representatives periodically shall provide through the procedures established in section 302, for the conduct of a comprehensive reexamination of selected programs or groups of programs over which it has jurisdiction.

"(b) In selecting programs and groups of programs for reexamination, each committee shall consider each of the following matters:

"(1) The extent to which substantial time has passed since the program or group of programs has been in effect.

"(2) The extent to which a program or group of programs appears to require significant change.

"(3) The resources of the committee with a view toward undertaking reexaminations across a broad range of programs.

"(4) The desirability of examining related programs concurrently.

"SEC. 302. (a)(1) The funding resolution first reported by each committee of the Senate in 1980, and thereafter for the first session of each Congress, shall include a section setting forth the committee's plan for reexamination of programs under this title. Such plan shall include each of the following matters:

"(A) The programs to be reexamined and the reasons for their selection.

"(B) The scheduled completion date for each program reexamination: *Provided*, That such date shall not be later than the end of the Congress preceding the Congress in which the reauthorization date applicable to a program occurs as provided in section 101(b), unless the committee explains in a statement in the report accompanying its proposed funding resolution the reasons for a later completion date, except that reports on programs scheduled for reauthorization during the 97th Congress and selected for reexamination in a committee's plan adopted in 1980 may be submitted at any time until February 15, 1982.

"(C) The estimated cost for each reexamination.

"(2) The report accompanying the funding resolution reported by each committee in 1980 and thereafter for the first session of each Congress, shall with respect to each reexamination include in its plan both the following matters:

"(A) A description of the components of the reexamination.

"(B) A statement of whether the reexamination is to be conducted (i) by the committee, or (ii) at the request and under the direction of or under contract with, the committee, as the case may be, by one or more instrumentalities of the legislative branch, one or more instrumentalities of the executive branch, or one or more nongovernmental organizations, or (iii) by a combination of the foregoing.

"(3) It shall not be in order to consider a funding resolution reported by a committee of the Senate in 1980, and thereafter for the first session of a Congress unless—

"(A) such resolution includes a section containing the information described in paragraph (1) and the report accompanying such resolution contains the information described in paragraph (2); and

"(B) the report required by subsection (c) with respect to each program reexamination scheduled for completion during the preceding Congress by such committee has been submitted for printing.

"(4) It shall not be in order to consider an amendment to the section of a funding resolution described in paragraph (1) reported by a committee for a year—

"(A) if such amendment would require reexamination of a program which has been reexamined by such committee under this section during any of the five preceding years;

"(B) if such amendment would cause such section not to contain the information described in paragraph (1) with respect to each program to be reexamined by such committee; or

"(C) if notice in writing of intention to propose such amendment has not been given to such committee and the committee on Rules and Administration in the Senate not later than January 20 of the calendar year in which such year begins or the first day of the session of the Congress in which such year begins, whichever is later. The notice required by this subparagraph shall include the substance of the amendment intended to be proposed and, if such amendment would add one or more programs to be reexamined, shall include the information described in paragraph (1) and (2) with respect to each such program. This subparagraph shall not apply to amendments proposed by such committee or by the Committee on Rules and Administration, as the case may be.

"(b) In order to achieve coordination of program reexamination each committee shall, in preparing each reexamination plan required by subsection (a), consult with appropriate committees of the Senate or appropriate committees of the House of Representatives, as the case may be, and shall inform itself of related activities of and support or assistance that may be provided by (1) the General Accounting Office, the Congressional Budget Office, the Congressional Research Service, and the Office of Technology Assessment, and (2) appropriate instrumentalities in the executive and judicial branches.

"(c) Each committee shall prepare and have printed a report with respect to each reexamination completed under this title. Each such report shall be delivered to the Secretary of the Senate not later than the date specified in the resolution and printed as a Senate document. To the extent permitted by law or regulation, such number of additional copies as the committee may order shall be printed for the use of the committee. If two or more committees have legislative jurisdiction over the same program or portions of the same program, such committees may reexamine such program jointly and submit a joint report with respect to such reexamination.

"(d) The report pursuant to subsection (c) shall set forth the findings, recommendations, and justifications with respect to the program, and shall include to the extent the committee deems appropriate, each of the following matters:

"(1) An identification of the objectives intended for the program and the problem it was intended to address.

"(2) An identification of any other program having potentially conflicting or duplicative objectives.

"(3) A statement of the number and types of beneficiaries or persons served by the program.

"(4) An assessment of the effectiveness of the program and the degrees to which the original objectives of the program or group of programs have been achieved.

"(5) An assessment of the relative merits of alternative methods which could be considered to achieve the purposes of the program.

"(6) Information on the regulatory, privacy, and paperwork impacts of the program.

(e) A report submitted pursuant to this section shall be deemed to satisfy the reauthorization review requirements of title I.

"Sec. 303. Each department or agency of the executive branch which is responsible for the administration of a program selected for reexamination pursuant to this title, shall, not later than six months before the completion date specified for reexamination reports pursuant to section 302(a)(1) section 302(d), and the Office of Management and Budget and to the appropriate committee(s) of the Senate and the House of Representatives a report of its findings, recommendations, and justifications with respect to each of the matters set forth in section 302(d) and the Office of Management and Budget shall submit to such committee(s) such comments as it deems appropriate.

"Sec. 304. For the purposes of this title:

"(1) The term 'funding resolution' means, with respect to each committee of the Senate, the first authorization resolution reported by such committee for a year under section 133(g) of the Legislative Reorganization Act of 1946, or any action taken in lieu of such funding resolution, which in any event shall occur not later than May 15.

"(2) An amendment to a funding resolution includes a resolution of the Senate which amends such funding resolution.

"TITLE IV—CITIZENS' COMMISSION ON THE ORGANIZATION AND OPERATION OF GOVERNMENT

"Sec. 401. There is authorized to be established, as an independent instrumentality of the United States, the Citizens' Commission on the Organization and Operation of Government (hereinafter in this title referred to as the 'Commission').

"Sec. 402. It is hereby declared to be the policy of the Congress to promote economy, efficiency, and improved service in the transaction of the public business in the departments, agencies, independent instrumentalities, and other authorities of the executive branch of the Government.

"Sec. 403. (a) The Commission shall conduct a nonpartisan study and investigation of the organization and methods of operation of all departments, agencies, independent instrumentalities, and authorities of the executive branch of the Government in the following major policy areas:

"(1) International affairs and defense.

"Functions:

"050—National defense.

"150—International affairs.

"(2) Resources and technology.

"Functions:

"250—General science, space, and technology.

"270—Energy.

"300—Natural resources and environment.

"(3) Economic development.

"Functions:

"350—Agriculture.

"370—Commerce and housing credit.

"400—Transportation.

"450—Community and regional development.

"(4) Human resources.

"Functions:

"500—Education, training, employment, and social services.

"550—Health.

"600—Income security.

"700—Veterans benefits and services.

"(5) General Government.

"Functions:

"750—Administration of justice.

"800—General Government.

"850—General purpose fiscal assistance.

"900—Interest.

The Commission shall make such recommendation as it determines necessary to—

"(1) increase the effectiveness of Government services, programs, and activities by changing the structure and execution of administrative responsibilities;

"(2) improve delivery of services through elimination of needless duplication or overlap, consolidation of similar service, programs, activities, and functions, and termination of such services, programs, and activities which have outlived their intended purpose;

"(3) maintain expenditures at levels consistent with the efficient performance of essential services, programs, activities, and functions;

"(4) simplify and eliminate overlaps in agency regulatory functions by review of the laws, regulations, and administrative reports and procedures; and

"(5) determine the appropriate responsibilities of each level of government, the manner and alternative means for each level of government to finance such responsibilities, the forms and extent of intergovernmental aid and assistance, and the organization required for proper balance and division of respective Federal, State, and local government roles, responsibilities, and authorities.

"(b) The Commission shall submit to the President, the Committee on Governmental Affairs of the Senate, and the Committee on Government Operations of the House of Representatives such interim reports as it deems advisable, and, not later than four years after the appointment and qualification of a majority of the Commission Members, a final report setting forth the Commission's findings and recommendations. The final report of the Commission shall include the comments of the appropriate congressional committees.

"(c) At least once every year for two years after the submission of the final report, the Comptroller General shall report to the Congress on the status of actions taken on the Commission's final report.

"Sec. 404. (a) The Commission shall be composed of fifteen members appointed from among individuals with extensive experience in or knowledge of United States Government as follows:

"(1) Five members appointed by the President, by and with the advice and consent of the Senate.

"(2) Five members appointed by the President pro tempore of the Senate, three upon recommendation of the majority leader and two upon recommendation of the minority leader of the Senate.

"(3) Five members appointed by the Speaker of the House of Representatives, three upon recommendation of the majority leader and two upon recommendation of the minority leader of the House.

"(b)(1) Two members appointed under subsection (a)(1) shall be appointed to serve as Chairman and Vice Chairman (as provided in paragraph (2) of this subsection) and shall not engage in any other business, vocation, or employment. Such two members shall not be of the same political affiliation.

"(2) The member described in paragraph (1) who is, when appointed, not of the same political affiliation as the President shall serve as Chairman of the Commission and the other such member shall serve as Vice Chairman of the Commission.

"(c) Of the members appointed and qualified under subsection (a)(1) other than the members to whom subsection (b) applies, not more than two shall be of the same political affiliation.

"(d) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

"(e) Eight members of the Commission shall constitute a quorum, but the Commission may establish a lesser number to constitute a quorum for the purpose of holding hearings.

"Sec. 405. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable.

"(b)(1) Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by him and shall be served by any person designated by the Chairman or such member. Any member of the Commission may administer oaths or affirmation to witnesses appearing before the Commission.

"(2) The provisions of section 1821 of title 28, United States Code, shall apply to witnesses summoned to appear at any such hearing. The per diem and mileage allowances to witnesses summoned under authority conferred by this section shall be paid from funds appropriated to the Commission.

"(3) Any person who willfully neglects or refuses to appear, or refuses to qualify as a witness, or to testify, or to produce any evidence in obedience to any subpena duly issued under the authority of this section shall be fined not more than $500, or imprisoned for not more than six months, or both. Upon the certification by the Chairman of the Commission of the facts concerning any such willful disobedience by any person to the United States attorney for any judicial district in which such person resides or is found, such attorney may proceed by information for the prosecution of such person for such offense.

"(c) The Commission is authorized to secure directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission deems useful in the discharge of its duties. All departments, agencies, independent instrumentalities, and other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission in accordance with existing law.

"Sec. 406. (a) Subject to such rules and regulations as may be adopted by the Commission, the Commission shall have the power—

"(1) to appoint and fix the compensation of an Executive Director and such additional staff personnel as it deems necessary in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, and—

"(A) in the case of the Executive Director, at a rate equal to that of level V of the Executive Schedule under section 5316 of title 5, United States Code; and

"(B) in the case of not more than three additional staff members, at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

"(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

"(b) The Commission is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of the General Services Administration.

"Sec. 407. (a) The Chairman of the Commission shall receive compensation at a rate equal to the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, and the Vice Chairman shall receive compensation at a rate equal to the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) All other members of the Commission who are not officers or employees of the Federal Government shall receive compensation at the rate of $200 for each day such member is engaged in the performance of the duties vested in the Commission.

"(c) Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred in connection with their activities as members of the Commission.

"Sec. 408. The Commission shall cease to exist ninety days after the submission of its final report.

"Sec. 409. There is authorized to be appropriated until September 30, 1983, without fiscal year limitations, the sum of $4,000,000 to carry out the provisions of this title.

"Sec. 410. The Commission shall be subject to the Federal Advisory Committee Act.

"TITLE V—MISCELLANEOUS

"Sec. 501. Section 206 of the Budget and Accounting Act, 1921 (31 U.S.C. 15), is amended by inserting immediately before the period a comma and 'or at the request of a committee of either House of Congress presented after the day on which the President transmits the budget to the Congress under section 201 of this Act for the fiscal year'.

"Sec. 502. Nothing in this Act shall require the public disclosure of matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order, or which are otherwise specifically protected by law. In addition nothing in this Act shall require any committee of the Senate to disclose publicly information the disclosure of which is governed by Senate Resolution 400, Ninety-fourth Congress, or any other rule of the Senate.

"Sec. 503. (a) The provisions of this section and sections 101(a), 101(b), 101(c)(1), 101(c)(2), 101(c)(5), 102, 103(b), 104(a), 104(c), 104(d), 104(e), 104(f), 104(g), title III (except section 303), section 505, and section 506 of this Act are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"(b) In the Senate, paragraphs (2) and (5) of section 101(c) shall also be treated as amendments to rule XVI of the Standing Rules of the Senate.

"(c) Any provision of this Act which is enacted as an exercise of the rulemaking power of the Senate may be waived or suspended in the Senate by a majority vote of the Members voting.

"Sec. 504. (a) To assist in the review or reexamination of a program, the head of an agency which administers such program and the head of any other agency, when requested, shall provide to each committee of the Senate and the House of Representatives which has legislative jurisdiction over such program such studies, information, analyses, reports, and assistance as the committee may request.

"(b) Not later than six months prior to the first reauthorization date specified for a program in section 101(b) the head of the agency which administers such program or the head of any other agency, when requested by a committee of the Senate or House of Representatives, shall conduct a review of those regulations currently promulgated and in use by that agency which the committee specifically has requested be reviewed and submit a report to the Senate or the House of Representatives as the case may be, setting forth the regulations that agency intends to retain, eliminate, or modify if the program is reauthorized and stating the basis for its decision.

"(c) On or before October 1 of the year preceding the Congress in which occurs the reauthorization date for a program, the Comptroller General shall furnish to each committee of the Senate and the House of Representatives which has legislative jurisdiction over such program a listing of the prior audits and reviews of such program completed during the preceding six years.

"(d) Consistent with the discharge of the duties and functions imposed by law on them or their respective Offices or Service, the Comptroller General, the Director of the Congressional Budget Office, the Director of the Office of Technology Assessment, and the Director of the Congressional Research Service shall furnish to each committee of the Senate and the House of Representatives such information, analyses, and reports as the committee may request to assist it in conducting reviews or evaluations of programs.

"Sec. 505. (a) For purposes of this section and title I, the term 'required authorization waiver resolution' means only a resolution of the Senate or the House of Representatives—

"(1) which is introduced by the chairman of a committee pursuant to subsection (b);

"(2) which waives the provisions of subsection 101(c)(2) of this Act for the purpose of allowing consideration of a bill or resolution providing new budget authority for a program for not more than one fiscal year in an amount which does not exceed the amount of new budget authority required to maintain the current level of services being provided during the fiscal year preceding the fiscal year for which new budget authority would be provided; and for purposes of this section, such current level of services shall be determined initially from the report submitted to the Congress pursuant to section 605 of the Congressional Budget Act of 1974 and shall be certified by the Director of the Congressional Budget Office; and

"(3) the matter after the resolving clause of which is as follows: 'That it is in order in the Senate (House of Representatives) to consider a bill (resolution) providing new budget authority for ——— for the fiscal year ——— in an amount not to exceed $———.' (with the first blank space being filled with identification of the program; the second blank space being filled with the fiscal year for which the new budget authority would be provided; and the third blank space being filled with the amount of new budget authority necessary to maintain the current level of services for such program for the fiscal year preceding the fiscal year for which such new budget authority would be provided)

"(b) The chairman of the committee of the Senate or the House of Representatives having legislative jurisdiction over a program or programs shall introduce a required authorization waiver resolution for such program or programs not later than the fifth day (not counting any day on which the Senate or the House, as the case may be, is not in session) following the occurrence of either of the following:

"(1) A bill authorizing the enactment of new budget authority for the same program or programs has been under consideration for not less than fifteen hours, including debate on the motion to consider the authorization bill, and no limitation of debate has been agreed to; or

"(2) A bill authorizing the enactment of new budget authority for the same program or programs has been vetoed by the President and such veto has been sustained by either the Senate or the House of Representatives.

"(c) A required authorization waiver resolution relating to a program introduced in, or received by, the Senate or the House of Representatives, shall be referred to the appropriate committee of the Senate or the House of Representatives, as the case may be; except that any resolution introduced, received after September 1 of the second session of a Congress shall immediately be placed on the appropriate calendar. With respect to any resolution still pending before a committee on September 1 of the second session of a Congress, the committee shall be automatically discharged and the resolution placed on the appropriate calendar.

"(e) The provisions of section 912 of title 5, United States Code, relating to the consideration of resolutions of disapproval of reorganization plans shall apply in the House of Representatives and the Senate to the consideration of required authorization waiver resolutions.

"Sec. 506. The Committees on Governmental Affairs and on Rules and Administration of the Senate and the Committees on Government Operations and on Rules of the House of Representatives shall review the operation of the procedures established by this Act, and shall submit a report not later than December 31, 1986, and each five years thereafter, setting forth their findings and recommendations. Such reviews and reports may be conducted jointly.

"Sec. 507. There are hereby authorized to be appropriated through fiscal year 1990 such sums as may be necessary to carry out the review requirement of titles I and III and the requirements for the compilation of the inventory of Federal programs as set forth in title II.".

Section-by-Section Analysis

Section 2 sets out the purposes of the legislation. It is intended that the bill—

(1) require most Government programs to be reauthorized, according to a schedule at least once every 10 years;

(2) limit the length of time for which Government programs can be authorized to 10 years;

(3) bar the expenditure of funds for Government programs which have not been provided for by a law—either an authorization or an appropriation—enacted during a 10-year reauthorization cycle; and

(4) encourage re-examination of selected Government programs during each Congress.

Section 3(a)(1) defines the term "budget authority" as in section 3(2) of the Congressional Budget Act of 1974. That is authority provided by law to enter into obligations which will result in immediate or future outlays involving government funds, except for authority to insure or guarantee the repayment of indebtedness incurred by another person or government. This authority is the "seed bed" for all expenditures. It is granted not only through appropriation measures, but in legislation which bypasses the appropriations process (backdoor spending), such as measures providing permanent appropriations, contract authority, borrowing authority, and mandatory entitlements.

Section 3(a)(2) defines the term "permanent budget authority" as budget authority provided for an indefinite period of time or an unspecified number of fiscal years which does not require renewal action by the Congress. It does not include budget authority provided for a specified fiscal year which is available for obligation or expenditure in one or more succeeding fiscal years. The definition in this act is qualified to assure that it does not include funding which has been appropriated for a specific fiscal year, such as contract authority for a construction project, but which may be obligated or spent in succeeding fiscal years.

Section 3(a)(3) defines the term "Comptroller General" as the Comptroller General of the United States.

Section 3(a)(4) defines "agency" under the act to include all agencies subject to 5 U.S.C. 105 plus the U.S. Postal Service and the Postal Rate Commission. It does not include the General Accounting Office.

Section 3(a)(5) defines the term "sunset reauthorization" to mean to period of five Congresses beginning with the 97th Congress and with each sixth Congress following the 97th Congress.

Section 3(b) assigns each government program to the subfunctional category to which it was assigned in the fiscal year 1979 Budget of the United States as the basis for scheduling programs for review and reauthorization under this act, including programs and activities exempted by provisions of law from inclusion in the Budget of the United States (the so-called off-budget programs). The effect of this section is to use the subfunctional categories in the fiscal 1979 budget as the basis for making the initial groupings of programs for the sunset review and reauthorization schedule. Subsequent changes in the functional or subfunctional categories will not affect the point at which program appears on the schedule. Once the reauthorization schedule is determined on the basis of the fiscal 1979 subfunctional categories, it can only be changed by congressional action.

The subfunctional categories represent the most readily usable grouping of government programs according to similarity of objectives. Scheduling programs classified in the same subfunctional category for review and reauthorization during the same Congress is intended to encourage the consideration of similar programs in relation to each other.

This section also requires that a report of an authorizing committee accompanying future legislation creating a new program include a statement from the authorizing committee recommending the appropriate functional and subfunctional classification for such program.

Section 3(c) provides that for the purposes of titles I, II, III and V of this act, the reauthorization date applicable to a program is the date specified in the schedule set out in section 101(b).

TITLE I—REAUTHORIZATION OF GOVERNMENT PROGRAMS

Section 101(a) requires that each program of the Government (except those listed in section 103) be specifically authorized or reauthorized at least once during each sunset reauthorization cycle, in accordance with the schedule of reauthorization dates set forth in section 101(b).

Section 101(b) sets forth a schedule for the reauthorization of programs. The reauthorization date for a program is that which corresponds in the schedule to the subfunctional category in which the program is classified (unless the program is rescheduled under the provisions of section 104 for reauthorization during another two-year cycle period in the cycle). The reauthorization cycle is 10 years or five Congresses beginning with the 97th Congress. At the end of the 10-year period, the cycle repeats. A program can be reauthorized more frequently if the Congress deems it appropriate. But, as provided elsewhere in title I, a program (unless exempt) must be reauthorized during the Congress in which occurs its reauthorization date in section 101(b), and reauthorizations in that Congress must be accompanied by review reports which are not required for reauthorizations in other years.

Review and reauthorization is scheduled over a full Congress rather than one year to provide a timetable for program examination and reauthorization which is more appropriately suited to the congressional process. The schedule includes all subfunctional categories and is intended to cover all programs, unless specifically exempted under section 103.

Section 101(c)(1) would make it out of order for either House of the Congress to consider legislation authorizing a program for more than 10 years, for an indefinite period, or beyond the year in which it is next scheduled for reauthorization. In the case of an authorization bill for a program under consideration during the Congress in which the program is scheduled for reauthorization, the next reauthorization date technically is September 30 of the second session. Therefore, this section makes it clear that the next reauthorization date means the September 30 date 10 years following the same date in the second session. This section does, however, make it in order to consider such an authorization bill for the purpose of considering an amendment which would bring that bill into compliance with the provisions of this subsection.

Section 101(c)(2)(A) is the key to forcing periodic reauthorization of most Federal programs. It would make it out of order in either House of Congress to consider an appropriation bill or resolution for a program unless the appropriation is specifically authorized by a law which constitutes a "required authorization" for the program in accordance with the sunset reauthorization schedule (the only exception would be the consideration of an appropriations bill to continue a program for one year at a current level of services following the approval of a "required authorization waiver resolution" pursuant to section 505).

Section 101(c)(2)(B) defines a "required authorization" to constitute the following elements—

(1) it must comply with the provisions of section 101(c)(1), in that it cannot authorize the program for longer than ten fiscal years, for an indefinite period of time, or for a fiscal year which begins after the next reauthorization date for the program. The next reauthorization date would recur in the fifth Congress following the Congress in which the reauthorization date appears on the schedule, so that it would not be confused with the September 30 reauthorization date which occurs during the Congress in which the program authorization is under consideration.

(2) it must be enacted during the Congress in which the reauthorization date for the program occurs, or during a Congress after such date, but prior to the Congress in which the next reauthorization date for such program occurs. This section is designed to assure that the schedule for reauthorization of programs is followed.

Otherwise an authorization could be adopted for more than the 10 years, in the Congress just prior to the scheduled reauthorization Congress, and the goal of considering related programs at the same time would be avoided. The "required authorization" could be enacted in a Congress following the Congress in which the reauthorization date occurs, in the event that the program might be allowed to lapse for a period and then be renewed. However, that reauthorization could not extend beyond the next reauthorization date for the program.

In addition to enforcing the reauthorization requirement, this section protects a central concept of the bill—that the Senate and House act on bills to reauthorize related programs in the same Congress. This will provide a greater opportunity for the comparison of similar and duplicative programs and permit the Congress to make more informed judgments in setting program priorities.

Section 101(c)(3) would bar the obligation or expenditure of funds for a program which Congress has not acted to continue during the five-Congress sunset cycle. That bar would go into effect beginning with the first fiscal year after the end of the cycle. It is understood that Congressional action to continue a program could take the form either of a new authorization or a new appropriation.

Section 101(c)(4) provides that any law providing a permanent appropriation for a program covered by the reauthorization provisions would cease to be effective for the purposes of providing funds as of the first reauthorization date for that program. The effect of this provision will be to bring the programs covered by it under the regular periodic reauthorization and appropriations processes. Therefore, any new law enacted to continue such a program would be subject to the provisions of subsections 101(c)(1) and (2).

Once the provisions of this subsection are in effect, they will have the effect of making the exemptions listed in section 103 the only Federal programs which have either multiyear permanent authorizations or permanent appropriations.

Section 101(c)(5) provides that an appropriations bill (or resolution), or the report accompanying it, must include a citation to the provision(s) of law which constitutes a "required authorization" for each program the legislation would fund. It would be out of order in either House to consider an appropriation if the legislation and report accompanying it did not include this citation. This section would, however, make it in order to consider such a bill for the purpose of considering an amendment which would bring an appropriations bill into compliance with its provisions.

Section 101 does not change the substantive law which underlies each program. Rather it sets up new authorization dates for such programs and new procedures in the Senate and House for enforcing those dates. In the case of permanent appropriations, the section amends the law providing the appropriation by providing that it ceases to have any effect after the first reauthorization date for the affected program to the extent that the section provides or authorizes the provision of an appropriation for the program.

Section 102(a) requires Senate and House committees to conduct a "reauthorization review" of a program during the Congress in which the program is scheduled for reauthorization. The review could be prepared in the detail and to the extent the committee deems appropriate. In the case of a program which the committee intends to reauthorize, the report accompanying the reauthorization legislation is required to contain a separate "reauthorization review" section which includes certain specific items. Without this section, it will not be in order for either House to consider a reauthorization bill reported by the committee which authorizes the enactment of appropriations for the program beyond its reauthorization date. The only exception would be in the case of a bill which is up for consideration pursuant to a required authorization waiver resolution as set forth in section 505.

This is an internal enforcement mechanism for the Senate and House of Representatives to assure that the committee recommending reauthorization has considered basic questions regarding the continuation of a program. In particular, the committee is required, to the extent it deems appropriate, in the section on "reauthorization review", to include the following information:

(1) Information and analysis on the organization, operation, costs, results, accomplishments, and effectiveness of the program.

(2) An identification of any other programs having similar objectives, and justification of the need for the program in light of findings that the other programs are potentially conflicting or duplicative.

(3) An identification of the objectives intended for the program, and the problems or needs which the program is intended to address, including an analysis of the performance estimated to be achieved, based on the bill or resolution as reported.

(4) A comparison of amounts authorized for the program in each of the previous four fiscal years and the amounts of new budget authority provided in each such year.

This section is intended to insure that the above items are included in a report accompanying a bill reauthorizing a program in accordance with the sunset reauthorization schedule. It is not intended, however, to allow a point of order to lie against a bill based in any way on the adequacy of the information contained in the report. It is for that reason that the language of this section makes it clear that the information must be supplied, but only to the extent the committee reporing the bill deems appropriate.

Section 102(b) requires the report accompanying legislation to establish a new program to include the following information, but in the detail and to the extent the committee reporting the legislation deems appropriate:

(1) An identification of any other programs having similar objectives.

(2) An identification of the objectives of the new program.

A point of order would lie against consideration of such legislation unless the report accompanying it contained these two references.

Section 102(c) requires the committees of the House and Senate having jurisdiction over programs exempted from the reauthorization requirements of section 101 to conduct a review of those programs at least once during each sunset cycle. That report should contain the Committee's recommendations and the information required for reauthorization reviews under section 102(a) and must be submitted either during the Congress in which the program comes up for review, according to the schedule, or in the first Congress during a 10-year sunset cycle when the committee reports legislation authorizing the enactment of appropriations for that program, whichever occurs first.

Section 103(a) enumerates specific programs which are not subject to the reauthorization requirement in section 101(c). The exemptions include interest on the public debt (clause 1); Social Security and Federal retirement and disability programs (clause 6); medicare (clause 6); civil rights (clause 2); veterans benefits programs (clause 5); programs related to the administration of the Federal judiciary (clause 3); and income tax refunds (clause 4).

The category for interest on Federal debts was exempted from the reauthorization schedule because of the catastrophic impact the reconsideration of Federal interests payments could have on the national economy.

Certain Federal retirement programs in subfunctional category 601 (only those which are funded through trust funds) are exempted by (clause 6). These programs include Social Security Retirement and the accompanying medical benefits provided through Medicare, and the Railroad Retirement Trust Fund. The exemption also includes the Civil Service retirement program. In each of these programs, workers in the private sector or Federal employees contribute a part of their salaries to a trust fund in the expectation that upon their retirement they will receive certain retirement benefits.

The exemption for civil rights programs (clause 2) includes Federal government activities to enforce civil rights guaranteed by the Constitution of the United States and the anti-discrimination laws of the United States. Enforcement would extend to affirmative action programs and activities, even though not conducted pursuant to an express court order. Federal civil rights enforcement activities are conducted largely pursuant to authority granted by statutes such as the Civil Rights Act of 1964, the Civil Rights Act of 1968, the Rehabilitation Act of 1973, as well as authority granted to the Attorney General to represent the interests of the United States under sections 516 through 519 of title 28, United States Code. The subsection also would cover criminal prosecutions under those statutes in chapter 13 of title 18, United States Code, which are designed to provide criminal sanctions for interference with constitutional rights. The subsection also would cover programs for defensive as well as prospective constitutional litigation. The subsection also would cover the implementation or enforcement of judgments resulting from civil rights litigation. The definition of civil rights guaranteed by the Constitution is meant to be fluid and evolving, and not limited to the rights that may exist at the date of enactment. However, the programs or activities exempted do not include underlying federal grant or contract programs.

Clause (6) also extends exemptions to Federal retirement programs for members of the armed forces, the Coast Guard and National Oceanic and Atmospheric Commissioned Corps, the Public Health Service Commissioned Corps and employees of the Central Intelligence Agency. These Federal workers are not covered by the Civil Service Retirement System but by retirement programs established for their various services and agencies. They differ in some respects from Civil Service in that not all of them require periodic deductions from salaries for contributions to a trust fund, but traditionally the commitment to a period of service in these agencies has been regarded as constituting an entitlement to the retirement benefits.

Clause (5) includes Veterans' Administration programs of benefits and services that are included in functional category 700, as disability compensation, pension, dependency and indemnity compensation, insurance, GI Bill educational assistance, vocational rehabilitation, health care, burial benefits, and VA home-loan programs.

Clause (3) involves an exemption for programs related to the administration of the Federal judiciary which was adopted by the Governmental Affairs Committee out of a concern that the required reauthorization of judicial activities could constitute an unnecessary intrusion by the legislative branch into the activities of the judicial branch.

Clause (4) would exempt a permanent appropriation which is made for the payment of refunds from tax returns to the taxpayer, but is not intended to include refunds to persons in excess of their tax payments.

Section 103(b) directs the Presiding Officer of the Senate to submit any question raised about the application of any exemption provision to the full Senate for a decision. Therefore, challenges to the scope of any exemption would be decided not on a parliamentary ruling alone, but by the Senate as a whole.

Section 104(a) expresses the sense of the Congress that programs should be reauthorized in broad program categories which constitute major areas of legislative policy. It is the goal of this legislation to foster authorizations across related subject areas and for such periods of time as will encourage better oversight and enhanced opportunities for program analysis, evaluation, and review. As an example, some committees might wish to consider consolidating all related programs classified within a single subfunctional category into a single authorization bill, with creation of new programs treated as amendments thereto.

Section 104(b) specifies that Congress may adopt amendments to the reauthorization schedule by concurrent resolution or by law. However, it would be out of order to consider such a resolution or bill if it provides a reauthorization date outside of the 10-year sunset reauthorization cycle. Any changes in the exemptions set forth in section 103(a) must be enacted by law.

Sections 104 (c), (d), and (e) establish the procedures for consideration of bills or resolutions to amend the reauthorization schedule or bills proposing laws to change the exemptions provided in section 103(a).

All proposals for changes in the schedule or exemptions which are introduced will be referred first to the committee or committees with legislative jurisdiction over the affected programs. After the committee or committees report the measure, the legislation will be re-referred to the Committee on Rules in the House and the Committee on Rules and Administration in the Senate.

If a measure has been reported favorably by an authorizing committee, the respective Rules Committee must report it within thirty days with its recommendations or be discharged from jurisdiction.

The 30 days will include only those days on which the House or Senate was in session. The counting of days will begin with the day following the day of introduction of the legislation.

If the respective Rules Committee recommends a change in the exemptions or schedule, its report on the legislation must include a statement on the following—

(1) the effect the proposed change would have on the sunset reauthorization schedule;

(2) the effect the proposed change would have on the jurisdictional and reauthorization responsibilities and workloads of the authorizing committees of the House or Senate; and

(3) any suggested grouping of similar programs which would further the goals of this act to make more effective comparisons between programs having like objectives.

Section 104(f) provides a two year period after the enactment of this act during which proposed changes to the review schedule are not subject to the thirty day time limit on Rules Committee consideration. For proposed changes submitted before June 1, 1980, each Rules Committee shall report by July 1, 1980, an omnibus bill or resolution containing its recommendations for changes in section 101(b) and 103(a).

Consideration of the bill would be highly privileged in the House and privileged in the Senate. This would occur two years before the first reauthorization date in section 101 (b) and six months after completion of the program inventory required by title II. The provisions of the Impoundment Control Act of 1974 governing floor consideration of rescission bills or resolutions are made applicable to the omnibus bill reported under this section.

Section 104(g) makes it out of order in both Houses to consider a bill, resolution, or amendment thereto that would amend the schedule by proposing a reauthorization date for a program beyond the final date of the sunset reauthorization cycle in progress while the bill, resolution, or amendment thereto is under consideration. It would be in order to consider a bill or resolution, solely for the purpose of considering an amendment which would bring the bill or resolution into compliance with the preceding requirement—such as changing the proposed date to one which falls wihhin the current sunset cycle.

TITLE II—PROGRAM INVENTORY

Section 201(a) assigns to the Comptroller General and the Director of the Congressional Budget Office, joint responsibility for the preparation of an inventory of Federal programs, working in cooperation with the Director of the Congressional Research Service.

Section 201(b) states that the purpose of the inventory is to assist the Congress in carrying out the requirements of titles I and III of the Sunset Act. Thus, the language states clearly that the inventory is to be prepared for the use of the Congress and is in no way intended to be binding on or to infringe upon the legislative or oversight responsibilities of congressional committees.

This section assigns the responsibility to GAO for compiling and maintaining the inventory for the support of the oversight process and to the CBO for providing budgetary information for inclusion in the inventory.

Section 201(c) sets the date for submission of the inventory for congressional review as July 1, 1979.

Section 201 (d), (e), (f), (g), and (h) set forth the required contents of the inventory for each program.

Section 201(f) requires that programs exempted from the reauthorization provisions of section 101(c) shall be listed separately in the inventory. This is in addition to being included in the main body of the inventory.

Section 202 requires the General Accounting Office, the Congressional Research Service, and the Congressional Budget Office to exchange information which would aid in compilation of the inventory.

Section 203 requires OMB, as well as other Executive agencies and their subdivisions to provide assistance to the GAO in compilation of the inventory.

Section 204 requires congressional committees, CRS, and CBO to review the draft inventory submitted by GAO to the Congress, and advise the GAO by October 1, 1979, any recommendations for change. GAO is required to report a revised inventory to Congress by December 31, 1979, after consultation with congressional committees.

Section 205(a) requires the GAO to update the inventory after each session of Congress. The mid-Congress updates are intended to be summaries of changes resulting from action completed by the Congress during the first session, and the updates after the second session are intended to be publications of revised, complete inventories reflecting the legislative enactments of the Congress just ended.

Section 205(b) requires the CBO to furnish budgetary information and estimates to GAO for inclusion in the updates of the inventory. The updated information should indicate for each program in the inventory, and each new program created in the previous session, the amount and length of time of the authorization for the program, and the amount of appropriations approved for the program for the current fiscal year and the five succeeding fiscal years. If no appropriations have been authorized or provided, or if they have been authorized or provided for an indefinite amount, the Director should project the amount of funding which would be necessary to maintain a current level of services for the program.

Section 205(c) deals with the status of the substantive laws relating to programs which have not been reauthorized. This legislation has no immediate impact on such underlying laws. However, one year after each review date, the Director of the Congressional Budget Office, in consultation with the Comptroller General and Director of the Congressional Research Service, is required to compile a list of the provisions of law related to programs which were not reauthorized as required by sections 101 (b) and (c). The CBO Director is required to include that list as part of the report required by subsection 205(b), and it will be the responsibility of the committees with legislative jurisdiction over the affected programs to examine those laws and report recommendations for the disposition of them.

Section 206 requires the Comptroller General and the Director of CBO to include in their respective reports under Sections 202 (f) and 202(e) of the Congressional Budget Act an assessment of the adequacy of the functional and subfunctional categories contained in the sunset schedule for grouping programs of like missions and objectives.

Section 207 establishes an important new scorekeeping function to assist the Congress in weighing the budgetary impact of its authorizing decisions. The Director of the Congressional Budget Office would be required to issue annual reports which would track congressional action on bills and resolutions which authorize appropriations. The reports would be required to include up-to-date tabulations for the next fiscal year and the succeeding four fiscal years for programs in the inventory of the amounts of appropriations which have been (1) authorized by law or proposed to be authorized in any bill or resolution reported by any committee of the Senate or House, or (2) if an appropriation has not been authorized or proposed to be authorized for a program or program areas for each of the next five fiscal years, the amounts necessary to maintain a current level of services.

Section 207(c) requires the director of CBO to issue periodic reports each Congress as the programs and legislation are scheduled for reauthorization. These reports should cite the authorization and appropriation law, or section thereof, for each program.

TITLE III—PROGRAM RE-EXAMINATION

Title III establishes procedures for the selection of specific programs for comprehensive re-examination by the committees of each House.

In the Senate, a committee would include a plan for the re-examination of selected programs as a part of the funding resolution it reports to the Senate for the first session of each Congress. The requirement is enforced by making it out of order to consider the funding resolution for the committee unless it includes a plan for re-examination and unless the reports on previously scheduled program re-examinations have been completed as provided by those plans. Program re-examinations should be scheduled for completion to coincide with the schedule for reauthorization of the program.

Section 301(a) states the purpose of the title—the selection of programs for comprehensive re-examination.

Section 301(b) directs each committee, in selecting programs and groups of programs for re-examination, to consider several factors. Programs would be likely candidates for re-examination if a substantial amount of time had passed since the program had been in effect, or if the program appeared to require significant change; also stressed is the desirability for examining related programs in the same year. Also to be considered are the resources of the committee, and committees are encouraged to anticipate the need for sufficient staff and support to complete a program re-examination when they prepare their budgets.

Section 302(a)(1) requires the committees of the Senate to incorporate their plan for re-examination of programs under this title in the funding resolution they report during January 1980 and thereafter for the first session of each Congress. The plan should include (A) an identification of the programs to be reviewed and the reasons for their selection, (B) the scheduled completion date for the re-examination, and (C) the estimated cost of the study. The completion date for submitting a study under this title is not to be later than the end of the Congress preceding the Congress in which the program is scheduled for reauthorization under section 101(b). This requirement is designed to make the re-examination report available to the Congress during the Congress it has to renew a program. A committee could propose a later completion date if it explains its reasons in a statement filed with its funding resolution.

A special provision allows re-examination reports for programs scheduled for reauthorization in the first Congress of the first sunset reauthorization cycle to be submitted as late as February 15 of the second session. This is to allow committees ample time to conduct re-examination of programs which are scheduled for reauthorization in the 97th Congress.

It is not intended, however, that all re-examinations initiated during a Congress be completed during the same Congress. Re-examinations spanning more than one Congress could be provided for in the funding resolution for each session during which they were in progress. Re-examination completion dates could be amended in subsequent funding resolutions, or by other simple resolution, in the event the committee finds it necessary and the Senate agrees.

Section 302(a)(2) specifies what is to be included in the report accompanying the funding resolution about the committee re-examination plan. For each program under study the report is to set forth a description of the components of the re-examination and indicate whether the study is to be conducted by the committee, or at the request and under the direction of the committee but under contract with one of the instrumentalities of the Legislative branch such as CBO, GAO, OTA, or CRS, or whether it is to be conducted by a non-governmental organization. A committee may also indicate that the study will be done by a combination of those alternatives.

Section 302(a)(3) provides an "enforcement mechanism" through a point of order against a funding resolution if, (A) the funding resolution does not contain the re-examination plan, and the information required by subsections (a)(1) and (a)(2), or (B) or if a report (required under subsection (c)) previously due to have been completed has not been completed and submitted for printing.

Inclusion of the re-examination plan in the funding resolution has the effect of providing Senate approval to the committee plan. Specifically, this makes the conduct of the study and its completion on a timely basis a Senate-sanctioned activity and requirement. Also, this affords the Senate the opportunity to amend a plan to require a committee to undertake reviews other than or in addition to the reviews proposed by the committee. Linking the re-examination plans to the funding resolutions also provides a means whereby the Senate can consider the resource requirements of the reviews together with the review efforts and make provision accordingly.

Section 302(a)(4) provides that floor amendments to re-examination plans must contain all three components as in the plans themselves. That is, they must specify the programs to be reviewed and the reasons for their selection, the completion dates, and the cost.

In addition, amendments could not require a re-examination of a program if it had been studied under this section during the last five years. Finally, an amendment would be out of order unless it had been submitted to the committee of jurisdiction and to the Rules Committee before January 20 or the beginning of the session, whichever is later. The notice must contain information on the three points required to be in the resolution (and the amendment): (1) identification of the program and reasons for selection, (2) estimated cost, and (3) completion date. Also, the two points required to be in the committee's report must be included in the notice: (1) the nature of the review, and (2) by whom the review would be conducted. These two latter points are to be included only by way of conveying to the committee the nature of the review envisioned by the sponsor(s) of the amendment.

The purpose of this requirement is to allow the committee of jurisdiction and the Rules Committee to take into consideration the concerns of other Senators and either to incorporate them into the review plan or to be able to explain when and how the concerns will be addressed. The January 20 alternative date is to provide newly elected Senators an opportunity to participate in this process in their first session.

Section 302(b) recognizes that the primary responsibility for the design and conduct of program re-examination rests with the committees having legislative jurisdiction over the programs and there is a need to provide them with adequate flexibility and resources to carry out that responsibility. Because of the many important interrelationships between programs under the jurisdiction of different committees and the other types of program review undertaken by committees, by agencies of government, and by such legislative support agencies as the General Accounting Office, the Congressional Research Service, the Congressional Budget Office, and the Office of Technology Assessment, this section constitutes a coordination directive to committees that they should make appropriate use of and engage in appropriate consultation with such sources of assistance in the conduct or planning of program reviews.

Section 302(c) requires each committee to compile the findings and recommendations which result from a program re-evaluation under this title for printing as an official Senate document. The report could be in the form of an official committee recommendation or the findings and recommendations of the committee staff. The report shall be delivered to the Secretary of the Senate by the completion date set forth in the funding resolution of the commitee conducting the re-examination.

Publication of the reports as Senate documents places them in an established distribution system that supplies about 2,000 copies to government agencies, depository libraries, and others. The section also provides for additional copies to be printed for the use of the committee.

Section 302(d) requires each report to set forth specific findings, recommendations and justifications with respect to the program under re-examination, to the extent which the committee deems appropriate, including—

(1) an identification of the objectives intended for the program and the problem it was intended to address;

(2) an identification of any other program having potentially conflicting or duplicative objectives;

(3) information on the number and type of beneficiaries served by the program;

(4) an assessment of the effectiveness of the program and the degrees to which the original objectives of the program or group of programs have been achieved;

(5) an assessment of the relative merits of alternative methods which could be considered to achieve the purposes of the program; and

(6) information on the regulatory, privacy, and paperwork impacts of the program.

Additionally, a committee may want to include one or more of the following points within the scope of a program re-examination, where applicable;

(1) an assessment of the costs and accomplishments of the program or group of programs since the last previous review compared with the results anticipated at the time of that review;

(2) an assessment to the extent practicable of the effect of the program or group of programs on the national economy, including, but limited to, the effects on competition, economic stability, employment, unemployment, productivity, and price inflation including costs to consumers and to businesses:

(3) an assessment, if applicable, of the impact of the program or group of programs of the Nation's health and safety;

(4) an assessment of the degree to which the overall administration of the program or group of programs, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the department or agency executing the program or group of programs, meet the objectives of the Congress in establishing the program or groups of programs;

(5) a projection to the extent practicable of the anticipated costs to accomplish the objectives of the program or group of programs, including if applicable an assessment of the date on which, and the conditions under which, the program or group of programs may fulfill such objectives;

(6) the relation of other Government and private programs dealing with the objectives of the program or group of programs;

(7) results of studies of public perceptions of the need for or success of the program or group of programs or of activities of the type contained in the program or group of programs to provide a measure of public need; and

(8) an examination of the adequacy and appropriateness of the formulas used to allocate Federal funds under the program or group of programs.

Other evaluation components could also be included.

Section 302(e) provides that a report submitted pursuant to this title would satisfy the reauthorization review requirements of title I.

Section 303 requires each department and agency of the executive branch which administers a program selected for re-examination to undertake its own re-examination of that program and submit its findings, recommendations, and justifications with respect to the program to the Congress at least six months before the committee re-examination is scheduled for completion. The Office of Management and Budget is required to offer its comments on the re-examinations submitted by the departments and agencies.

Section 304 defines some of the terms which have particular relevance to this title, including:

(a) the term "funding resolution" which means with respect to each committee of the Senate, the first authorization resolution reported by such committee for a year under section 133(g) of the Legislative Reorganization Act of 1946, or any action taken in lieu of considering such funding restrictions, which in any event shall occur not later than May 15; and

(b) an amendment to a funding resolution shall include a resolution of the Senate which amends such funding resolution.

D. TITLE IV—CITIZENS' COMMISSION ON THE ORGANIZATION AND OPERATION OF GOVERNMENT

ESTABLISHMENT OF COMMISSION

Section 401 authorizes the establishment of the Citizens' Commission on the Organization and Operation of Government as an independent instrumentality of the United States.

The establishment of this Commission is not intended to delay other efforts to improve operations of the Federal Government, such as reorganization and regulatory reform proposals.

PURPOSES OF THE COMMISSION

Section 402 states that the policy of the Congress in establishing the Commission is the promotion of economic, efficient and improved service in the transaction of the public business in the departments, agencies, independent instrumentalities, and other authorities of the executive branch of the Government.

Section 403(a) directs the Commission to conduct a non-partisan study and investigation of the organization and methods of operation of all departments, agencies, independent instrumentalities, and other authorities of the executive branch of the Government, and to make such recommendations as it determines necessary to—

(1) increase the effectiveness of Government services, programs, functions, and activities by changing the structure and execution of administrative responsibilities;

(2) improve delivery of services through elimination of needless duplication or overlap, consolidation of similar services, programs, activities, and functions, and termination of such services, programs, activities, and functions which have outlived their intended purpose;

(3) maintain expenditures at levels consistent with the efficient performance of essential services, programs, activities, and functions;

(4) simplify and eliminate overlaps in agency regulatory functions by review of the laws, regulations, and administrative reports and procedures; and

(5) determine the appropriate responsibilities of each level of government, the manner and alternative means for each level of government to finance such responsibilities, the forms and extent of intergovernmental aid and assistance, and the organization required for proper balance and division of respective Federal, State and local government roles, responsibilities, and authorities.

The Commission is to organize its study and its report and make its recommendations with respect to five major policy areas: (1) international affairs and defense, (2) resources and technology, (3) economic development, (4) human resources, and (5) general government.

Section 403(b) requires the Commission to submit such interim reports it deems advisable, and, not later than four years after the appointment and qualification of a majority of the Commission members, a final report to the President and to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

Section 403(c) requires the Comptroller General to report one and two years after the submission of the Commission's final report on the status of actions taken pursuant to the report.

MEMBERSHIP OF THE COMMISSION

Section 404(a) provides for 15 members of the Commission to be appointed from among individuals with extensive experience in knowledge of American Government as follows:

(1) Five members appointed by the President, by and with the advice and consent of the Senate.

(2) Five members appointed by the President pro tempore of the Senate, three upon recommendation of the majority leader and two upon recommendation of the minority leader of the Senate.

(3) Five members appointed by the Speaker of the House of Representatives, three upon recommendation of the majority leader and two upon recommendation of the minority leader of the House.

Section 404(b) provides that one of the members appointed by, but of a different political affiliation from the President, shall be appointed to serve as chairman, and a member appointed by the President and of the same political affiliation shall serve as vice chairman. Both shall be required to serve as full time officers of the Commission and are precluded from holding other positions.

Section 404(c) provides that of the remaining three members appointed by the President, no more than two shall be of the same political affiliation.

Section 404(d) provides that any vacancy in the Commission shall not affect its power but shall be filled in the same manner as the original appointment.

Section 404(e) requires 8 members of the Commission to constitute a quorum, but permits the Commission to establish a lesser number to constitute a quorum for holding hearings.

Section 405(a) authorizes the Commission, any subcommittee or member thereof, to hold such hearings and sit and act at such times and places, administer such oaths, and require by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable for the purpose of carrying out the provisions of this title.

Section 405(b)(1) permits the Chairman, or any member of the Commission designated by him, to issue subpenas and permits subpenas to be served by any person designated by the Chairman or such member. Any member of the Commission may administer oaths or affirmation to witnesses appearing before the Commission.

Section 405(b)(2) provides for the payment of per diem and mileage expenses to witnesses who are summoned to appear under this section and that such expenses will be paid from funds appropriated to the Commission.

Section 405(b)(3) makes it a Federal misdemeanor for a person to willfully neglect, or refuse to appear, or to qualify as a witness, or to testify or produce any evidence in violation of a lawful Commission subpena and makes such offense punishable by a fine of not more than $500 or imprisonment of not longer than 6 months. This section further establishes venue over a willful violator of this section in the judicial district in which such person resides or is found and authorizes the United States Attorney for that district to prosecute for such offense.

Section 405(c) requires all departments, agencies, independent instrumentalities, and other authorities of the executive branch to cooperate with the Commission and furnish any information it requests to the extent that it is in accordance with existing law.

ADMINISTRATIVE PROVISIONS

Section 406(a) gives the Commission the power to appoint and pay an Executive Director and the additional staff it needs in accordance with the limitations of the requirements of the Civil Service Commission laws and regulations relating to classifications and pay rates. However, the Executive Director may be paid no more than the rate for a Level V on the Executive Schedule which is $47,500, and not more than three other personnel at rates no higher than that for a GS–18 of the General Schedule, which is $47,500. The Commission may also hire experts and consultants at a daily rate not to exceed that for a GS–18 on the General Schedule.

Section 406(b) authorizes the Commission to obtain financial and administrative services by entering into agreements with the General Services Administration. Payment for these services will be by reimbursement from Commission funds in such amounts as the Chairman and the Administrator of GSA shall agree.

COMPENSATION OF MEMBERS

Section 407 provides for the chairman of the Commission to be paid at a rate for Level III of the Executive Schedule which is $52,500, and the Vice Chairman at a Level IV which is $50,000. All other members of the Commission who are not officers or employees of the Federal government shall be paid $200 for each day the member is performing commission duties. This section also provides for members to be reimbursed for travel, subsistence and other necessary expenses incurred in connection with their activities as members of the Commission.

Section 408 provides for the Commission to cease to exist ninety days after submitting its final report.

AUTHORIZATION OF APPROPRIATIONS

Section 409 authorizes to be appropriated without fiscal year limitations $4,000,000 to carry out the provisions of this title.

APPLICATION OF OTHER LAWS

Section 410 provides that the Commission shall be subject to the Federal Advisory Committee Act.

E. Title V—Miscellaneous

Section 501 amends section 206 of the Budget and Accounting Act, 1921 (31 U.S.C. 15), by inserting immediately before the period a comma and "or at the request of a committee of either House of Congress presented after the day on which the President transmits the budget to the Congress under section 201 of the Budget and Accounting Act, 1921, for the fiscal year".

This section assures that committees of the Congress may request and obtain from the agencies of the government estimates or requests for appropriations or requests for increases in an item of any such estimate or request, and recommendations as to how the revenue needs of the government should be met.

Without this amendment, section 206 is subject to the interpretation that this budget information may be requested by only the Senate or House of Representatives. This section makes it clear that any committee of either House may request and receive agency budget requests submitted to the Office of Management and Budget as well as the internal budget requests submitted to an agency head by individual bureaus or divisions at any time after the President submits his annual budget to the Congress. The Office of Management and Budget has stated that this amendment also will permit committees to obtain zero base budget information prepared by agencies.

Section 502 makes it clear that this legislation is neutral on the question of public disclosure of information affected by this Act. Nothing in the Act requires the public disclosure of matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order. In addition, nothing in the Act would require the disclosure of matters specifically protected by law. It is intended that these exemptions be interpreted in the same manner as exemptions one and three of the Freedom of Information Act (5 U.S.C. 552(b) (1) and (3)). Nor does it require a committee to disclose publicly information, the disclosure of which is governed in the Senate by S. Res. 400, which established the Senate Intelligence Committee in the 94th Congress, or by any other rule of the Senate or House of Representatives.

Section 503(a) is a statement of the provisions of this Act which are adopted as an exercise of the rulemaking power of the Senate and the House of Representatives and are to be considered part of the rules of the Senate or House, respectively. They are the provisions of this section of this Act and sections 101(a), 101(b), 101(c)(1), 101(c)(2), 101(c)(5), 102, 103(b), 104(a), 104(c), 104(d), 104(e), 104(f), 104(g), title III (except section 303), section 505, and section 506.

Section 503(b) provides that any rule established by this Act may be waived in the Senate by majority vote or unanimous consent. It is intended that this provision would be used only to deal with circumstances which could not be anticipated at the time of adoption of this Act, and that in no instance should it be used to routinely avoid the Act's requirements.

Section 504(a) directs the agency which administers a program under review pursuant to this Act and any other agency, when requested, to assist the committee in the review or evaluation of a program by providing to each committee of the Senate and House of Representatives which has legislative jurisdiction over such program, such information, analyses, reports, and assistance as the committee may request.

Section 504(b) directs the head of an agency which administers a program or the head of any other agency, upon the request of a committee of the Senate or House of Representatives, to conduct a review of the regulations the committee has specifically identified and which are currently promulgated and in use by that agency, and submit his report to the Senate or House of Representatives, as the case may be. That report should set forth the regulations that the agency intends to retain, eliminate, or modify if the program is reauthorized, and state the basis for the agency's decision.

Section 504(c) requires the Comptroller General to furnish a list of prior audits and reviews of any program scheduled for reauthorization in a particular Congress under section 101(b), on or before October 1 of the year before that Congress, to each committee of the Senate and the House of Representatives which has legislative jurisdiction over the program. The list is to set forth audits and reviews completed during the six years preceding the review year for the program.

Section 504(d) directs the Comptroller General, the Director of the Congressional Budget Office, the Director of the Office of Technology Assessment, and the Director of the Congressional Research Service to furnish each committee of the Senate and House of Representatives such information, analyses, and reports that the committee may request to assist it in conducting reviews or evaluations of programs. Such assistance shall be provided consistent with the discharge of duties and functions imposed by law on them or the respective offices or service.

Section 505(a) provides the definition and text of a "required authorization waiver resolution" and the procedures for the consideration of such resolution in the Congress.

The waiver resolution is designed to assure that the Congress will have an opportunity to vote to continue a program for one year at a current level of services if the reauthorization for the program is threatened by filibuster in the Senate or a veto.

It would do this by suspending, under a waiver resolution adopted in each House, the requirement that a required authorization must be enacted before it is in order to consider an appropriation for the program. The resolution would waive the point of order only to the extent of making it in order to consider an appropriation to maintain a current level of services for one year for the particular program.

The level of current services would be determined from the most recent report submitted to the Congress pursuant to section 605 of the Congressional Budget Act of 1974 as certified by the Director of the Congressional Budget Office. The CBO could recommend in what way the current services level at the time the resolution is under consideration has changed from the estimate submitted pursuant to section 605.

Section 505(b) sets out the conditions under which it would be in order to consider a required authorization waiver resolution. It must be introduced by the chairman of the Senate or House committee which has legislative jurisdiction over the particular program not later than five days after either of the following occurs:

(1) An authorization bill for the program has been under consideration for not less than 15 hours (which shall include debate on the motion to consider the authorization bill) and no agreement has been reached to set a time limit on the debate; or

(2) A Presidential veto of an authorization bill for the particular program has been sustained.

Section 505(c) requires that the waiver resolution be referred to the appropriate committee of the Senate or House, as the case may be, except that a resolution introduced or received, or pending in Committee after September 1 of the second session would be placed immediately on the appropriate calendar of the Senate or House to assure consideration without delay.

Section 505(d) applies the provisions of section 912 of title 5, United States Code, relating to the consideration of resolutions of disapproval of reorganization plans, to the consideration of required authorization waiver resolutions, amendments, and motions and appeals with respect thereto.

This would assure that debate on a waiver resolution and on debatable motions and appeals in connection therewith, would be limited to not more than 10 hours with the time equally divided between those who favor and those who oppose the resolution. The procedures relating to consideration of the resolution would be as follows:

When the committee has reported, or has been deemed to be discharged (after September 1 of the second session of a Congress) from further consideration of, a required authorization waiver resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

Immediately following the conclusion of the debate on the resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final approval of the resolution shall occur.

Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be to the procedure relating to a resolution plan shall be decided without debate.

The required authorization waiver resolution has a special purpose for this legislation. It is designed to assure that either House will have an opportunity to vote to waive the Act's reauthorization requirement for the purpose of considering a one-year current services appropriation if the authorization is being filibustered, or if a presidential veto of the reauthorization has been sustained in either House. Since the Act establishes strict requirements for the adoption of a required authorization for a program before it is in order to consider an appropriation to fund it, it was felt that the Congress should be assured of an opportunity to vote on a limited waiver of that required authorization under certain prescribed circumstances.

Section 506 requires the Committees on Governmental Affairs and on Rules and Administration of the Senate and the Committees on Government Operations and on Rules of the House to review the operation of this act every five years, with the first report due December 31, 1986. The reviews may be conducted jointly. The bill links two major subjects, (1) the efficiency and effectiveness of Government programs, and (2) the effective operation of the Senate and the House of Representatives and their committees. It is expected that in their reviews of the operation of this act the Senate Committee on Governmental Affairs and the House Committee on Government Operations would focus on the first major subject and that the Senate Committee on Rules and Administration and the House Committee on Rules would focus on the latter.

Section 507 contains a "such sums" authorization for appropriations through fiscal year 1990 for the review, evaluation and inventory requirements. Title IV has a separate $4 million authorization for the Citizens' Commission.●

● Mr. ROTH. Mr. President, there are few more pressing needs facing this Congress than to strengthen the control we exercise over spending for Federal programs. The American public deserves and will be satisfied with nothing less than careful scrutiny over every Federal program expenditure. I am convinced that we must adopt procedures to assure that the operations of the Federal Government be periodically reviewed and measured against tough standards of performance. The taxpaying citizens of this Nation are demanding stronger controls over our vast national budget and expanding national debt and I believe that the carefully crafted processes we have set forth in S. 2 will help us to exercise such control.

More than 2 years ago, I authored a proposal with Senator MUSKIE to confront the need for tighter control over our national budget. Our bill—S. 2925—became known as the sunset bill because, under the procedures in the legislation, the "Sun" would set on outmoded, inefficient, or poorly functioning Government programs. The authorizations for nearly every Government program would automatically terminate after 10 years unless a convincing case was made that the program was satisfying its objectives at reasonable cost. No longer would some Government programs be continued with a wink of the eye and a pat on the head from the gentle congressional father.

Last year, we reintroduced our proposal as S. 2. We have spent a considerable amount of time refining and improving the procedures in the sunset bill. Today, I am pleased to join with Senator MUSKIE in offering this substituting amendment to S. 2. After months of hard work I believe this bill represents a sound, constructive, and well-balanced approach in providing for the systematic review of most Federal programs. We in the Congress must adopt such an approach if we are ever to gain control over our Federal budget and I hope our colleagues will join with us in supporting this important legislation.●

● Mr. CHILES. Mr. President, I welcome the opportunity to once again, join with Senator MUSKIE and others as a cosponsor of "Sunset" legislation. I wish to applaud Senator MUSKIE's long and hard effort to write legislation that all Members of this distinguished body can support.

I feel very strongly that the Senate should vote and pass S. 2 this session. The entire Congress should commit itself to "Sunset" procedures and reform that way it conducts the peoples' business. A workable way to force reauthorization and reevaluation of Federal programs is a step the citizens of this country understand and want—the sooner, the better.

The November elections are less than 2 months away.

Clearly, what to do about inflation is a major issue. Let us not forget how cruel inflation can be to the elderly on fixed incomes or to young couples struggling to save a nest egg.

Uncontrolled deficit spending by the Federal Government contributes to inflation substantially. This sunset measure is a long-term means to get a "handle," to better control, the way Federal programs proliferate and Federal spending grows exponentially. S. 2 does not represent a quick fix. Rather, it establishes a procedure that provides the Congress an opportunity to persuade the people of this country that Federal spending and the seeming irrationality of Government bureaucracy can be controlled.

I do not need to remind this body of public opinion poll findings on the level of citizen confidence in Congress. There is work to be done and S. 2 provides a way to do it.

No other single measure that I know offers the same potential for regulatory reform or for paperwork and redtape reduction as this sunset legislation.

The Paperwork Commission estimated conservatively that Federal paperwork requirements showered on individuals, businesses, and State and local governments cost over $100 billion annually. We need to get at the basic processes that establish programs if we are to cut this figure. Every 1 percent reduction of this $100 billion cost represents a billion dollars. Again, the sunset procedure gives us a way, program by program.

Voters are also concerned about fraud and abuse in Government programs. Americans want a dollar's worth of services for a dollar's worth of taxes.

We are not getting our money's worth.

My subcommittee on Federal spending practices is presently looking at operations of the General Services Administration. In public hearings we have heard of false claims, false statements, and false payments—one ripoff after another.

But it is not just the General Services Administration. Yesterday the Comptroller General testified and told us the results of a self-initiated study GAO performed on fraud governmentwide.

The Government's $250 billion annually in economic assistance programs are vulnerable targets of fraud and white-collar crime. Everywhere the Government actively looks for fraud it can find it. The Justice Department estimates that 1 to 10 percent of that $250 billion—that could amount to $25 billion—goes up in smoke every year.

That is intolerable. The public should take a Proposition 13 approach if steps are not taken to correct this susceptability.

Among the causes for Government's vulnerability cited by the Comptroller were basic flaws in authorizing legislation and the inability of Congress to approach the oversight of Federal programs in a metnodical fashion.

I agree with those two conclusions. Again, as the Comptroller mentioned in his testimony, sunset legislation provides the Congress a means to attack this problem of fraud, abuse, and waste.

The case for S. 2 is overwhelming. During my first term I spent considerable time trying to persuade this body we should adopt "Sunshine" measures to open Government to public view. I believe the public is better off for what was done. I believe just as strongly that where the Sun "shines" it should also "set." ●

● Mr. WILLIAMS. Mr. President, I wish to take special note of the importance of the introduction of a revised S. 2, the Sunset Act of 1978, and to express my support and my hopes for the success of this historic legislation.

The measure which I join in introducing today is an innovation in legislative thinking and procedure. It would mark the first time that the Congress of the United States has established a continuing, comprehensive, and incisive method of reviewing its past enactments with a view toward policy needs of the future across all dimensions of Government. It symoblizes a mandate that the decisions we make in reauthorizing programs be accompanied by the best possible evidence of impact of Federal policies and programs. It stands as a commitment that the Congress will guarantee constant review of Government efforts on behalf of the citizens of this Nation. It stipulates that the taxpayers' investment in their Federal Government is entitled to periodic assessment. It provides a means for citizen review of Government effectiveness.

During consideration of earlier versions of sunset legislation, I expressed concern that a single and inflexible approach to program review would hinder, rather than aid, our efforts to improve the quality and responsiveness of Government. I repeatedly expressed the necessity to maintain the integrity of our policies and programs that guarantee, implement, and enforce the constitutional rights granted our citizens. I urged that full consideration be given to strengthening the ability of congressional committees to undertake their legislative and oversight responsibilities. I opposed those elements of sunset legislation which I viewed as deficient in their treatment of these crucial issues.

The substitute measure introduced today largely remedies and improves earlier bills to reauthorize and comprehensively review Government programs, an objective which I constantly have favored. It sets a direction and pattern which could well enhance the efficiency of the Congress while improving our ability to assure the effectiveness of Government programs and agencies. It challenges the utilization of best evaluation of Federal programs and promotes the accountability of Federal agencies.

The challenge to the authorizing committees of the Congress is plain in this measure. We are directed to become active initiators of incisive and far-reaching program evaluation and oversight. We must acquire and utilize a new group of program review techniques and staff. We must have at our disposal the human and technical resources with which to implement systematic policy analysis and program oversight in order to master the challenge.

As the chairman of a committee of the Senate, I welcome the challenge. I am prepared to implement the provisions of this measure.

When the Committee on Human Resources in late 1977 conducted the first congressional hearings on the cost, management, and utilization of program evalution, we established a foundation for such implementation. We became aware of both the strengths and limitations of evaluative research in legislative work. We were sobered by the extent of the financial investment required to produce useful policy analysis and program evaluation.

It will come as no surprise to the Senate that additional funds will be required to carry out the provisions of S. 2. These funds must defray the cost of the increased committee and Senate workloads mandated by sunset activities. But the investment will prove small in comparision to the massive expenditures of Federal Government programs, and they will be absolutely essential to effective execution of our promise to the American people that more manageable, more responsible Government will result from the Sunset Act. Our success is essential to restoring the confidence of Americans in their Government.

Mr. President, my distinguished colleague, Senator EDMUND S. MUSKIE, of Maine, has been the driving force and the creative spark of the Sunset Act. His commitment to effective and realistic Government expenditures has earned for him nationwide recognition and respect. That commitment is repeated in the provisions of this legislation. I wish to take this opportunity to commend Senator MUSKIE and express my own satisfaction in collaborating with him in its design. I look forward to future collaboration when the Congress has adopted this important measure and we are ready to put its provisions to work in the interest of the men and women of this Nation who look to the Congress for Government's assistance in improving the quality of all aspects of our lives.●

DEPARTMENT OF ENERGY CIVILIAN PROGRAMS AUTHORIZATIONS—S. 2692

AMENDMENTS NOS. 3659 THROUGH 3662

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted four amendments intended to be proposed by him to S. 2692, a bill to authorize appropriations for the civilian programs of the Department of Energy for fiscal year 1979, and for other purposes.

TARIFF ON FILM, STRIPS, SHEETS, AND PLATES OF CERTAIN PLASTICS OR RUBBER—H.R. 5285

AMENDMENTS NOS. 3663 AND 3664

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted two amendments intended to be proposed by him to H.R. 5285, an act to amend the Tariff Schedules of the United States with respect to the tariff treatment accorded to film, strips, sheets, and plates of certain plastics or rubber.

NOTICES OF HEARINGS

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

● Mr. CANNON. Mr. President, the Committee on Commerce, Science, and Transportation has scheduled a hearing on President Carter's export policy recommendations, which were released on September 26, for Thursday, September 28, 1978, in room 235, Russell Senate Office Building, commencing at 9:30 a.m.

Witnesses appearing and testifying in behalf of the administration will be Secretary of Commerce, Juanita Kreps; Assistant Secretary of the Treasury for International Affairs, C. Fred Bergsten; Chairman of the Export-Import Bank, John L. Moore; and Mr. William Nordhaus, member of the Council of Economic Advisers. Mr. William Wearly, chairman and chief executive officer of the Ingersoll-Rand Co., will also appear.

The hearing will be chaired by Senator HOWARD CANNON. For further information, contact Eric Lee at 224-6742.●

COMMITTEE ON HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, Committee on Human Resources will conduct hearings for Armando Miguel Rodriguez and J. Clay Smith, Jr., to be members of the Equal Employment Opportunity Commission on Tuesday, October 3, 1978, in 4232 Dirksen Senate Office Building, at 9 a.m.●

INTERNATIONAL TRADE SUBCOMMITTEE

● Mr. ROTH. Mr. President, on behalf of the International Trade Subcommittee of the Finance Committee, I want to announce a hearing on proposed adjustment assistance legislation. This hearing will take place at 10 a.m., Monday, October 2, in room 2221, Dirksen Senate Office Building.●

CONFERENCE ON H.R. 10173

● Mr. CRANSTON. Mr. President, I would like to announce for the information of the Senate and the public that the House-Senate conference on H.R. 10173, the proposed "Veterans' and Survivors' Pension Improvement Act" scheduled for 9:30 a.m., September 27, 1978, in S-207 of the Capitol Building has been rescheduled for Friday, September 29, at 9:30 a.m., in Room S-146 of the Capitol.●

CONFERENCE ON H.R. 11318

● Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business and the Committee on Small Business of the House of Representatives will hold a conference on H.R. 11318 (the SBA omnibus minority legislation) on Wednesday, September 27 at 10 a.m. in room 2359 of the Rayburn House Office Building.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to mark up the Alaska D-2 lands legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the session today, beginning at 9:30 a.m., to hold a hearing on the nomination of the Director of TVA.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE REVEREND JOHN ANDREW

● Mr. WEICKER. Mr. President, it is a personal privilege for me to introduce our guest chaplain, the Reverend John Andrew of St. Thomas Episcopal Church of New York.

Dr. Andrew was born in Scarborough, Yorkshire, England, in 1931 and educated at Oxford University, after 2 years of service in the Air Force. He received his BA and MA degrees in theology at Keble College, Oxford, and his seminary training at Cuddeseon College, Oxford.

He served as assistant to the rector of St. George's-by-the-River in Rumson, N.J., and in September 1960, was recalled by the Most Reverend Michael Ramsey, archbishop of York and later archbishop of Canterbury, to be his chaplain at Bishopthorpe. In February 1969, he became vicar of Preston in Lancashire.

In March 1972, Dr. Andrew was elected rector of St. Thomas Episcopal Church of New York, with institution in December 1972.

Mr. President, I join with my colleagues in welcoming the Reverend John Andrew.●

CHAPLAIN PATRICK J. RYAN

● Mr. ANDERSON. Mr. President, Minnesota lost a very extraordinary citizen when Chaplain (major general) Patrick J. Ryan passed away recently. While Pat was both friend and military man, he was above all a priest.

As a soldier priest fighting in the Army of Jesus Christ, Pat won numerous decorations for distinguished service, and, in 1947, was titled Monsignor by Pope Pius XII. While accolades are enough for some, Pat's real satisfaction came from the priesthood itself, for the lifeblood of his faith was to continue the mission the priesthood has represented for centuries.

Each of us who knew him will remember him. Having known him and what he stood for, we become better and more enlightened men. So that my colleagues may know more about this remarkable man, I submit for the RECORD the biography of Msgr. Patrick J. Ryan, together with two homilies.

CHAPLAIN (MAJOR GENERAL) PATRICK J. RYAN, USA (RET)

Chaplain Ryan was born in Litchfield, Minnesota on December 3, 1902. He received a BA degree from the College of St. Thomas, St. Paul, Minnesota, in 1923 and a Bachelor of Sacred Theology degree from St. Paul Seminary in 1927.

Chaplain Ryan was appointed to the Organized Reserve Corps on April 27, 1928 and entered active duty in the Regular Army on October 5, 1928. During World War II he served as the 3d Infantry Division Chaplain in North Africa and later as the Fifth Army Chaplain in Italy. Chaplain Ryan served as the Deputy Chief of Chaplains on two separate tours (April 1946–July 1948; August 1952–April 1954). From May 1, 1954 until his retirement on October 31, 1958, Chaplain Ryan served as the Army Chief of Chaplains.

Among the many military awards and decorations that Chaplain Ryan received were the Legion of Merit, the Bronze Star, the Legion of Honor (France), the Bronze Medal of Valor with Star. (Italy), and the Distinguished Service Medal. In June 1947 Chaplain Ryan was elevated to the rank of Domestic Prelate by Pope Pius XII, with the title of Monsignor. He also received honorary Doctor of Law degrees from College of St. Thomas, Loyola University and Aquinas College, Grand Rapids, Michigan.

Chaplain Ryan, following retirement, became Vice President of The Catholic Digest, which is published in St. Paul, Minnesota, and remained on its board until his death. He was the author of a book: "A Soldier Priest Speaks to Youth."

He was a member of the Military Chaplains Association of the U.S.A. and served an unprecedented five terms as its president.

Chaplain Ryan was a Grand Prior in the Order of the Military and Hospitallers of St. Lazarus of Jerusalem, a papal order of knighthood.

Chaplain Ryan is survived by his foster sister, Mrs. Mary Croyle, of New Kensington, Pennsylvania, and by many cousins in Minnesota, including Msgr. James Ryan, a retired priest of the Archdiocese of St. Paul and Minneapolis.

EULOGY FOR MSGR. (MAJ. GEN.) PATRICK A. RYAN, USA, CHIEF OF CHAPLAINS, RET.

Ego sum resurrection et vita . . .

I am the resurrection and the life; he who believes in me though he be dead, shall live; and he who lives and believes in me, shall never die. Do you believe this?

Your Excellencies, Archbishop Jadot, Bishop Moran, Fellows in Arms, Friends:

I know someone who fully believed this. We are gathered here this morning doing reverence to the mortal remains of a man whose whole life was a proclamation of his belief in this great truth of the resurrection. Msgr. Patrick Ryan . . . Pat to his host of friends and acquaintances . . . was a man who lived in two worlds; and in both he found his belief in the resurrection his greatest standby.

As a priest and man of God, Msgr. Ryan proclaimed that truth each time he said Mass, baptized, assisted at the marriage, or ushered someone of his friends, acquaintances or charges into eternity. As a military man, he faced death himself, and gave strength to the thousands of men and officers with whom he was associated, again buttressed by this belief.

It is not my purpose, this morning, to review Pat Ryan's virtues and accomplishments; or to call to mind the human weaknesses he shared with most of us. Those of us who knew him intimately admired and loved him with both his faults and great virtues. Those who only knew of him could not but have respected his integrity, his high sense of justice and honor, and above all, his loyalty to his supreme commander above, and to his Church and military commitments, here below.

I am certain that last Sunday morning, when Patrick Ryan suddenly found himself in HQ of the Supreme Command, standing before the Supreme Inspector General . . . he had died with his boots on . . . he was received with the honor and mercy that he well deserved, and came through that final inspection with flying colors as he had all through his long, somewhat turbulent, but totally devoted career.

As a young priest in 1927, Father Patrick Ryan was chosen by the archbishop of St. Paul, Minnesota, to serve in the military. An excellent horseman as well as a sterling padre, he earned his spurs in his first assignment with the cavalry at Ft. Riley, Kansas. He thus joined a distinguished group of graduates of St. Thomas College, who gave lustre to the military. Among his contemporaries there was Alfred M. Guenther; and on his first assignment overseas he traveled to Hawaii as a shipmate of Loris Norstad. With the outbreak of World War II, he found himself in North Africa with the Third Infantry Division, and he fought the battle of Italy as chaplain to Mark Clark's Fifth Army, serving invaluably in the negotiations that surrounded the liberation of Italy and the great relief missions organized through the Vatican.

Making no secret of his love for the army, Patrick Ryan used his gifts and political skills to achieve the height of his ideal, and become Chief of Chaplains in 1954. His ambition stopped there. He was content with the honorary title of Monsignor . . . technically a member of the papal household . . . that he felt befitted his military position. And when he received the Medal of the Legion of Honor at a great Military Pilgrimage to Lourdes in 1958, he said expressly he had no desire to become a bishop. Instead, he used his talents in retirement to promote Catholic literature and such charitable works as the Knights of St. Lazarus.

Patrick Ryan was a nobleman of the old school in both the Church and the Military; but with his good sense and great loyalty, he accepted the great changes that came over both these institutions, however reluctantly. Precise in attention to detail in his military activities, he was likewise set on excellence in his preaching, saying Mass, and attention to his prayers.

In the military, Mons. Ryan was friend, confidant, confessor, and counsellor to the men and their facilies as well as to the commanders of all grades; and he served frequently in the Councils of State.

In the Church he occupied an equally catholic position as friend, confessor and confidant of the troubled and downfallen, the lowly and the highly placed. He was on familiar terms with altar boys and seminarians, school girls and mothers superior, Cardinals Cook and Spellman, as well as monsignori and Vatican officials. He was warmly received by three popes . . . Pius XII, John XXIII, and Paul VI.

But none of these honors or achievements were on his mind last Sunday morning as he suddenly found himself privy to the great secret that St. Paul shares with us in his Epistle to the Corinthians that "in a flash, in the twinkling of an eye, at the last trumpet call, the trumpet will sound, and the dead will rise immortal, and we shall all be changed."

As Patrick Ryan's trumpet call sounds for the last time here, this morning, we all know that he is already well established in the land of the living beyond us, awaiting that final trumpet. There sooner or later we hope to join him. Meanwhile, we pray humbly, May he rest in peace.—Francis X. Murphy, C.SS.R., Holy Redeemer College, Washington, D.C.

Funeral Homily for Msgr. Patrick J. Ryan Delivered by Fr. Francis Garvey at St. Philip's Church Litchfield, Mich.

On June 15, 1977, one year ago, Monsignor Ryan celebrated with many of us here in this church, a Mass commemorating and thanking God for his fifty years as a priest. Today, June 10, 1978, one year later, we gather with him to celebrate a Mass thanking God for the many blessings He gave him in his 75 years of living and his 51 years as a priest of Jesus Christ, and to pray that God will grant him an eternal priesthood in heaven.

I would like very briefly to review the roots of Msgr. Ryan, or Father Pat, as most of the family clan called him.

He was born on December 3, 1902, on a farm north of Manannah to Patrick Ryan and Hannah Cassidy. His father died before he was born, and so his mother, through hard work without a husband, raised Patrick, being both a mother and father and provided for him. They moved from the farm to the village of Manannah when Monsignor began his elementary education in the local school. After completing the 8th grade, they moved to St. Paul where he began his academic work toward the priesthood. He attended St. Thomas Academy for his 4 years of High School and then St. Thomas College, after which he entered the St. Paul Seminary.

He was ordained in June of 1927 and came back here to St. Phillips Parish to celebrate his First Solemn Mass. The reason for that, rather than at the Church of Our Lady in Manannah, was that his mother, after Patrick had begun his studies at St. Thomas College, came back here to the City of Litchfield and worked in the local hotel, and by that work made a living for herself and her son. After his ordination, Monsignor served for a short time in St. Helena's Parish and then he began that fantastic, almost unbelieveable Army career that was to span 30 years and even beyond because he continued to be very active even after he retired.

I will not begin to attempt to list the honors that this man achieved and received while serving as a Chaplain in the U.S. Army. He was honored in 1947 by being made a Monsignor by Pope Pius XII. In 1967 Pope Paul VI made him a Prothonotary Apostolic, the next step to the Bishopric. He then retired, as it were, from military service, but he spent a great deal of energy travelling in this country and abroad giving talks and compiling some of his memoirs on microtape, which he once shared with me when I was visiting him in Washington, D.C.—memoirs that concerned him as a military Chaplain especially in World War II.

Monsignor Ryan was a first-class soldier. He loved the challenge and he was a courageous soldier who loved the discipline of the military, which was to give him the rank of a Major General. He was a first-class politician and diplomat. He knew the protocol that made him the friend of several of our presidents and of many dignitaries throughout the world. He was an intelligent and scholarly man which enabled him to compile a number of articles and addresses, as well as a book that he entitled, "A Chaplain Speaks to Youth". He had a fantastic memory and those of us who had the opportunity of sitting down with him knew how he could go on for hours reminiscing about his early life; about his military career; and, if you had the time, he could take you all through World War II.

He was a good looking physical man—he kept himself in great shape as a soldier should, and he had a wonderful personality that made him a friendly man and a great conversationalist. But above all these human characteristics, he was foremost a Priest—a soldier in the Army of Jesus Christ—and of all the honors and of all the things that he accomplished there was nothing that meant more to him than to be a priest, as he related to us just one year ago from this pulpit on the occasion of his 50th Anniversary.

To show how much this priesthood meant to him, I would like to share with you this morning a sermon that he wrote and gave on the priesthood, called the "Priest Source of Blessing" that he preached on the 1st of March, 1959, which happened to be on the occasion of my First Solemn Mass. He preached it in the Church of Our Lady in Manannah, and it describes his feelings and concepts about the priesthood that he loved so much.

A priest is an intermediary between God and men. He brings to God from men homage and sacrifice. He brings to men from God divine truth and blessings. A priest is one in whom all can find consolation, trust and friendship. A priest is one who shares all sufferings and knows all secrets.

If there is a guiding truth in the world today, it is because the priesthood has ever clung to the teachings of Him Who is Truth Incarnate. If there is purity and respect for womanhood, it derives from the example and counsel of the priest who teaches and speaks the Way of Christ.

If there are ears in the world today, ever ready to catch the pitiful sounds of other Peters as they cry out, "Save us, we perish" they are the ears of the priest. If there are feet ever hurrying on errands of mercy to the sick and dying, they are the feet of the priest. If there are eyes anxiously watchful for the first false step of the innocent and the belated return of the prodigal, they are the eyes of the priest.

If there are lips to whisper words of hope, comfort, encouragement, and peace, they are the lips of the priest. All this we can say and yet we have not begun to tell of the dignity and sublimity of the priest—of this other Christ.

Who of us can sound the depths of the priesthood as we watch one whom we know bend low over the altar and cause the bread which he holds to become truly the Living Christ? The first man, Adam, was great because God appointed him king of the whole universe. Josua was great when he said to the sun "Stay thy course" and the sun stood still. Moses was great because by a word he separated the waters of the sea.

But here we have a man infinitely greater. Here is one who every day opens wide the gates of heaven itself and speaking to the Son of God says to Him, "Descend from Thy throne. Come down that I may place Thee where I will, that I may give Thee to whom I please, that I may immolate Thee to Thy Father." Here is a man who commands the omnipotent God and is always obeyed.

Can we understand the power of priestly words and the strength of priestly hands which can reach into heaven and bring God to our hearts. Can we understand the dignity of this man who ascends to the miraculous altar of God? Would that we could catch just a fleeting glimpse of priestly grandeur as it appears to the eyes of God.

Who of us is there who has not miserably found himself sometime or other in the mire of sin? In that anxious hour of dreadful need, to whom did we turn? Was it the great men of the world? But the world only casts off the sinner. Was it to the angels? But we know the angels to be helpless. Was it the Blessed Mother in heaven? But Mary could only pray for us.

No, it was to the priest that we went. What joy was in our hearts as we confidently realized that this priest possessed the tremendous power to forgive sins. Kneeling there beneath that mercifully outstretched hand of the priest, we felt the friendship of God flow abundantly once again into our souls. We thank God for giving us this wondrous person.

This is the priest, my dear friends. This is the man who towers above all the greats of this world. This is the man who is continuing the noble mission and command which has been his for centuries. Fighting in the army of Jesus Christ, it is the mission of the priest to conquer the most impregnable fortress in the world, to conquer the fortress of each human soul and raise aloft there the banner of divine grace—that is the work and mission of the priest.

For this struggle he uses no deadly weapons forged in the arsenal of hatred and envy, but rather life-giving aids fashioned in the Sacred Heart of Love Itself. To us, God has given the priest. May we always have the priest. Because always we shall need his miraculous help.

Monsignor Ryan then closed his address with the beautiful words that so miraculously describes the man we are honoring today:

"To live in the midst of the world without wishing its pleasures; to be a member of every family, yet belonging to none; to share all sufferings; to penetrate all secrets; to heal all wounds; to go from men to God and offer Him their Sacrifice and prayers; to return from God to men and bring pardon and hope; to have a heart of fire for charity and a heart of bronze for chastity; always to teach and pardon, always to console and bless. . . . My God, what a life! And it is yours, O priest of Jesus Christ!"

It is with this that we say our farewell and our salute to Monsignor Ryan, our friend, our cousin, and above all, a fellow priest.●

RHODESIA

● Mr. HATCH. Mr. President, yesterday, I spoke about a very critical matter, the deteriorating situation in Rhodesia. I think that all of my colleagues will agree on one point, that continued bloodshed in this area of the world is both unnecessary and unwanted. At that time I pointed out that the United States had failed to use the proper measures to best utilize the influence we should possess in this matter. The current administration has continued its support for those forces whose intent is to overthrow the current government in Rhodesia. They argue that this is the only just action, citing the long years of subservience that the black majority have had to endure. What they fail to mention is the wishes of the majority of the black population in Rhodesia.

Mr. President, in October 2 issue of U.S. News and World Report an editorial appears. Written by Marvin Stone and entitled "Compassion in Rhodesia," this editorial sends out the message once again that the United States has failed in its obligation to the people of the Western world. Mr. Stone points out the danger of continuing the economic sanctions we have placed against the Salisbury government. By continuing these sanctions we have doomed the Salisbury Agreement to failure. His editorial states:

> Lack of normal relations with the outside world has denied the Salisbury coalition the strength to survive, and thus has withered any prospect for bloodless transition to a substantially black-ruled nation of Zimbabwe.

He continues and emphasizes the reasons why the guerrilla forces will not come to the bargaining table.

> Guerrilla leaders Joshua Nkomo and Robert Mugabe have refused to take part in the government. And why should they feel compelled to take part? Communist Cuban support is undescored by Mugabe's meeting on September 18 with Fidel Castro. Nkomo has a base in Zambia and access to all the Russian arms he might need, whereas the Salisbury government has no such access anywhere. Nkomo's terms are total power, which whites will not yield, or total war, in which many blacks will die but the whites may be wiped out.

Mr. President, it should be evident to every Member of this body that the guerrilla forces in Rhodesia have no intention of forming a government that will permit members of both races, black and white, to live in harmony. They are Marxist organizations that will not benefit the United States in any way. When we considered legislation on Rhodesia this year, we sent to the President a mandate that if the current government in Rhodesia was to make efforts to bring the guerrilla forces to the bargaining table, and the guerrilla forces were to refuse, then the sanctions against the Salisbury Government should be lifted. With the recent disclosure that Ian Smith met with Joshua Nkomo, and the refusal of Mr. Nkomo to continue the talks, as evidenced by the destruction of a commercial aircraft with civilian passengers on board, I think that the time has now arrived for the Congress to insist that the administration uphold this mandate and remove the economic sanctions against Rhodesia.

Mr. President, I also ask that the editorial from U.S. News & World Report be printed in the RECORD.

The editorial follows:

[From the U.S. News & World Report]

COMPASSION IN RHODESIA

(By Marvin Stone)

Now that the United States has helped bumble away the last likely chance of a peaceful settlement in Rhodesia, it is time to take stock.

Are American opponents of a black-white compromise at Salisbury truly humane in their motives? Is continued bloodshed preferable in their consciences?

Are the "Front Line" black African states really so formidable in their influence that this country must temper its policy to their demands, in fear of suffering rejection on the whole continent?

Congress has just sent President Carter a bill enabling him to take a positive stand on peace in Rhodesia. It comes very late. It permits less action than many legislators asked, though more than Carter wanted. His negative attitude in the past makes it doubtful that he will pursue his new power, but events counsel that he try.

Specifically, words wedged into an aid bill empower the President to lift trade sanctions against Rhodesia as soon as he finds that Ian Smith's black-white coalition has tried to negotiate with the Patriotic Front guerrillas and has held free elections.

Lack of normal relations with the outside world has denied the Salisbury coalition the strength to survive, and thus has withered any prospect for bloodless transition to a substantially black-ruled nation of Zimbabwe.

Guerrilla leaders Joshua Nkomo and Robert Mugabe have refused to take part in the government. And why should they feel compelled to take part? Communist Cuban support is underscored by Mugabe's meeting on September 18 with Fidel Castro. Nkomo has a base in Zambia and access to all the Russian arms he might need, whereas the Salisbury government has no such access anywhere. Nkomo's terms are total power, which the whites will not yield, or total war, in which many blacks will die but the whites may be wiped out.

Nkomo does have a talking point: The plan of the coalition includes a somewhat disproportionate voice for the whites through years just ahead. This would provide a mild guarantee that the whites, in giving up their rule, would not be dispossessed, or worse, without being heard. There still would be a black majority in the Parliament.

Thus the coalition, though falling short of the maximum Nkomo wants, is enough of a compromise to justify the U.S. in establishing normal relations. Might Nkomo still come to the table if the U.S. were to give the coalition the strength of recognition?

Needed now is an intimation from President Carter that he prefers a coalition including Nkomo, but will eventually recognize one, either with or without him. This would require courage to buck the opposition of political elements in the United States and the hostility of the Front Line states.

It would be naive to hope for much, but even a forlorn hope is better than none. And Rhodesia is not the end of the story, for South Africa is the next target. It is crucially important that the U.S. make its policy plain: that we do not require that any minority—white, in this case—be exposed to destruction or death while abdicating power.

White rules in Africa have acted with arrogance and cruelty, even as some in America have done in the past. Yet peaceful transfer and cooperation are the compassionate roads. Is the U.S. intimidated by those who don't want it that way?

"We've been patient a long time," you hear from a black leader. This is true, and to the credit of those who were patient. But also, when you talk to backers of the Patriotic Front guerrillas, you hear: "I think the war will have to go on for a while till somebody becomes convinced. . . . It's funny you bleed so now about some whites' suffering the way they've made the blacks suffer all these years."

So much for compassion and compromise. So much for revenge.●

GLOBAL FOOD AND DEVELOPMENT ISSUES

● Mr. CLARK. Mr. President, for some time now I have been following the efforts of the Overseas Development Council of Washington, D.C., and the Charles F. Kettering Foundation of Dayton, Ohio, to involve leaders throughout the world in a continuing discussion on global food and development issues. During 1976 and 1977, for example, the two organizations sponsored three international dialogs among peoples of developing countries in Latin America, West

Africa, and South Asia, American groups traveled to Ecuador, Mali, Senegal, India, and Sri Lanka to inspect rural development programs and trade experience with local experts. In order that Americans can become aware of the growing importance of our relationship with the developing nations, I submit for the RECORD to enter "The Progress Report on Transnational Dialogues on Global Food and Development Issues."

The report follows:

PROGRESS REPORT—APRIL 1978

BACKGROUND

Beginning in 1976, the Overseas Development Council and the Charles F. Kettering Foundation began to undertake a series of three Transnational Dialogues, concerned with the political, social, and economic aspects of world food and development problems. The purpose of these Dialogues, in broad terms, was to contribute to a better understanding in the United States and in developing countries of each other's perspectives on these complex issues. To do this, field trips and consultations were planned in Latin America, West Africa, and South Asia, to encourage dialogue among people from diverse backgrounds in the U.S. and in developing countries. The specific topics for each dialogue varied as they were selected in consultation with groups and individuals in the developing countries visited. The field experiences were designed to illustrate practical aspects of the issues discussed during the consultations.

The diverse composition of the three U.S. groups has been the key element of the project. As our nation's economic links with other countries have grown in an interdependent world, people from many sectors of the U.S. public are increasingly affected by events and decisions far beyond our borders. This means that people other than foreign policy specialists are likely to play a role in shaping future U.S. foreign policy and will, therefore, need to enlarge their own understanding of the ideas and experiences of people in other countries especially in the Third World, and how these people and countries are important to U.S. domestic issues and concerns.

The 50 American participants in the Transnational Dialogues, recognized leaders of significant national, state or local constituencies, as well as government specialists responsible for devising policies responsive to national and global concerns, have come from 19 states, representing a wide range of personal and professional interests, backgrounds and organizations. They are representative of some of the many competing interests in the United States on food and development issues and policies and were invited to participate because of their skills, experiences, and willingness to present their own perspectives on food and development issues.

Throughout the project, the dialogue among the U.S. participants before, during and after the travel experience, has been as important as the dialogue which occurred in the developing countries. In addition to sorting out some of the problems in defining U.S. policy, this intra-group dialogue has encouraged each participant to evaluate his or her own opinions in terms of the views expressed by individuals with different backgrounds and experiences both from the U.S. and from the Third World. This part of the Dialogue is crucial if the experience and knowledge gained from travel is to have long term significance.

LATIN AMERICA

The first Transnational Dialogue was held August 1–8, 1976, at Chorlaví and Quito, Ecuador. The focus was on rural development and food production in Latin America, U.S.-Latin American food trade relations, and international agricultural research. In addition, the American participants examined some of the parallels that exist on economic and political problems in Latin America and the United States. The Foro-Latinamericano and the Institute for Latin American integration both based in Buenos Aires, co-sponsored this meeting and the Government of Ecuador, through its Comisión de Valores-Corporación Financiera Nacional and Ministry of Foreign Affairs, served as host. Thirty-three people ultimately participated in the 4 days of discussions, and the two field visits, one to a large, privately owned farm and another to a rural collective. Following the meeting at Chorlaví, the group returned to Quito for a round of discussions with representatives of the Ecuadorian Government, business and academic communities.

Among the eighteen U.S. participants that formed this dialogue task force were state and federal government officials, foreign policy specialists, and individuals representing the views of small and large U.S. farmers, migrant workers, Southern rural cooperatives, the U.S. academic community, agribusiness, and other interest groups. The Latin American contingent included fifteen participants, representing seven South and Central American countries, with extensive experience in official Latin American and international development efforts.

WEST AFRICA

From April 30 to May 15, 1977, eighteen Americans, again representing a wide range of U.S. interests and constituencies, visited Mali and Senegal for the second Transnational Dialogue. Their objective was to obtain a firsthand assessment of the long-term development prospects for these two countries and for the Sahelian region as a whole. The U.S. task force travelled extensively in the rural areas of both countries, meeting with the people responsible for rural and agricultural development efforts directed at overcoming the effects of the recent drought and designed to contribute to the long-term development of the region. The field visits in each country were followed by a seminar with officials of the governments of Mali and Senegal. These discussion sessions provided an opportunity to assess the individual projects visited by the U.S. task force within the broader context of each country's development plans. The role of international cooperation, including public and private support from the United States, in the long-term development programs of the Sahelian region was also discussed.

The planning and carrying out of the West African Dialogue was greatly facilitated by the cooperation of numerous groups and individuals in the United States and overseas. Most helpful among these were the governments of Mali and Senegal, Africare, a private U.S. assistance agency with agricultural development projects in Mali and other Sahelian countries, the Office of Sahelian and Francophone Affairs, U.S. Agency for International Development, and the Ambassadors of several West African states.

SOUTH ASIA

From October 21 to November 7, 1977, a task force of eighten Americans traveled to India and Sri Lanka for the South Asian Dialogue. This dialogue focused on "self-reliant development" in South Asia, its implications for U.S. and South Asian food policies especially regarding increased food production and improved nutrition and on meeting the basic needs of the poorest people in this region. The Council was assisted in the South Asian Dialogue by the Marga Institute, a private Sri Lankan research organization located in Colombo which has done numerous studies analyzing the developing experiences of Sri Lanka which has achieved a quality of life above that of other nations with similar average income levels.

While in India, the group visited agricultural and rural development sites in the states of Punjab and Guparat and other projects in Delhi and Bombay. They also met with private individuals and government officials responsible for developing India's economic development plans. In Sri Lanka the group made numerous field visits around the country in both rural villages and towns, and met with government officials, including the Prime Minister of Sri Lanka, to discuss among other things, the role of the U.S. in cooperating with this democratic country to promote an improved quality of life for its people. The Dialogue concluded with a two-day intensive discussion at the Marga Institute of self-reliant development in Sri Lanka, basic human needs and food for the world's poorest billion and the food production potential for South Asia.

FOLLOW-UP: THE DIALOGUE CONTINUES IN THE UNITED STATES

The Dialogue on global food and development issues does not end with the travel experience overseas. It is continued by the participants in a variety of ways through their organizational affiliations, mass media, governmental agencies, and community education programs. After each of the transnation Dialogues a Follow-Up Workshop has been held at the Wingspread Conference Center in Racine, Wisconsin, with the support of the Johnson Foundation. These meetings have enabled the U.S. participants to evaluate their dialogue experiences, to discuss further the political, social and economic aspects of food and development in each of the developing regions and in the United States, and most importantly, to plan for continuing activities aimed at involving many more Amercans in dialogue on these crucial issues.

In February 1978, a workshop was held for all the participants in the Transnational Dialogues. The purpose of the three-day meeting at Wingspread was (1) to discuss global food and development issues and to share information and insights related to all the TND experiences in Latin America, West Africa and South Asia; (2) to discuss present U.S. policy responses to these issues and future policy alternatives for the U.S; and (3) to discuss means of making the American public more generally aware of global food and development concerns, particularly as they relate to U.S. domestic interests. The Workshop also provided an opportunity for participants to meet and talk with people from other dialogues who shared their professional or regional interests. As a result, TND Task Force members began to plan ways of collaborating on a variety of projects and programs to sensitize particular American audiences and constituencies to global issues.

The February Workshop was an important step in the longer-term Follow-Up process. In the coming months, participants from all three dialogues will continue to be involved in promoting a dialogue on food and development through a variety of communication channels. To date, the participants have shared their experiences and insights with American educators, religious, labor, and business leaders, colleagues in government and non-governmental organizations, farmers' groups, and research institutes. Task Force members have also given numerous radio and television interviews and have contributed to over 100 articles in newspapers and journals relating to the experience and/or global food and development issues generally. In addition, a Seed Fund has been established to help participants to plan and carry out local community education and action programs building on the TND experience.

For further information and/or copies of the Summary of Discussions from the Wingspread Workshop, contact Jayne Millar Wood, Project Director, Transitional Dialogues or Nadine Horenstein, Assistant to the Director, Overseas Development Council.●

BAY WATERMEN TO PARTICIPATE IN FOLKLIFE FESTIVAL

● Mr. MATHIAS. Mr. President, last month I urged my colleagues to take advantage of the unique opportunity offered by the Calvert County Marine Museum to explore the Chesapeake Bay on the skipjack *Ladie Katie*. I spoke of the wonderful ways of Chesapeake Bay's watermen and of the customs and courtesies of a bygone era, practiced and perfected in the backwaters of the Eastern Shore.

Today, for those who were not able to act upon my earlier suggestion, I am happy to be able to announce that the watermen of the Chesapeake Bay are coming to Washington. They are coming to take part in the American folklife festival sponsored by the Smithsonian Institution and the National Park Service October 4 through 9.

Visitors to the festival, which will be open daily from 10 to 5, may learn to shuck oysters; watch craftsmen make sails, carve decoys, or build model ships; and listen to stories about life in the bay communities.

A blacksmith from Crisfield, Md., will make and repair crab scrapes (used in catching crabs), oyster tongs, and other equipment needed by the watermen.

Henry Brown of Deal Island, Md., will make sails the same way his father and grandfather have done for years, taking special pride in doing so much of the work by hand.

Watermen's wives will share their recipes for seafood and demonstrate the proper way to prepare hard- and soft-shell crabs, oysters, and clams. For visitors who cannot bear just to look at the food, a nearby concession and raw bar will sell crabcakes, fish sandwiches, oysters, and clams.

Indoor crafts will also include a decoy carver and a man who carves and paints decorative birds modeled on the wildfowl of the bay. Smith Islander Alex Kellum will tell stories of the watermen's community. His conversations are sprinkled with the yarns, poems, and songs of Tangier Sound.

The 20 participants in the festival's Chesapeake Bay area come from families who have worked in the water trades for generations.

The watermen's workshops and demonstrations will be held in the Museum of Natural History's Hall of Life in the Sea and outdoors near the Museum's Constitution Avenue entrance and the mall entrance.

To give a hint of the riches in store for a visitor to the folklife festival I would like to insert in the RECORD at this point two articles on Chesapeake Bay life which are included in the program book of the 1978 Festival of American Folklife. The first—by Charles Camp entitled "Region and Community: The Chesapeake Bay"—gives an idea of the economic role the bay plays in the life of Maryland and the second—an excerpt from William W. Warner's Pulitzer Prize winning book, "Beautiful Swimmers"—conveys the incomparable atmosphere of a bay community.

I ask that the articles as described above be printed in the RECORD.

The articles follow:

REGION AND COMMUNITY: THE CHESAPEAKE BAY

(By Charles Camp)

The Chesapeake Bay has long been appreciated as one of the Middle Atlantic's prizes of nature—an area both beautiful to the tourist's eye and bountiful to the waterman's nets. The Bay has served to define the geographical and historical identity of the region—a place from which the lines of culture have traditionally been drawn.

The Bay occupies a special place in the minds of Marylanders, who have come to define themselves, their foodways, and their ambivalence toward modern times in terms of the Bay and its people. The fluctuating price of crabmeat is not a simple indicator of nationwide economic trends; it is the expression of a complex biological and economic system that is made all the more compelling by its many human participants. The waterman is the central figure in this order—the human link that both generates the system's complexity and makes it comprehensible. The watermen catch the wily crab, itself the subject of considerable folk wisdom, and all of modern science and economics cannot draw the crab unwillingly into the pot.

In the states that border the Bay, the waterman has achieved the status of a folk hero, an individual believed to possess an understanding of his world which surpasses that of his fellow-men, and powers of will and strength that enable him to perform heroic feats. Unlike most folk heroes, however, the waterman works alone in a world where silence prevails, and the heroics—real and fictive—exist chiefly in the stories told outside work. These stories, of bad weather, good captains, and great catches, serve to define the way of life the watermen share, and maintain the line between insiders and outsiders which describes the folk group.

In part because the folklore of the watermen tends to focus upon the relationship between individuals and the natural world in which they work, outsiders are not accustomed to thinking of the people of the Chesapeake Bay region as members of tightly-knit communities. There are exceptions—the more isolated islands of the lower Eastern Shore, including Tilghman, Smith, and Deal, have long been considered places where older values, including a strong sense of community, continue to prevail. But with these exceptions, the Bay region and the lower Eastern Shore in particular are seldom viewed as a network of towns and hamlets which by their interdependence constitute a very special sort of economic and social community. Most of the towns that encircle the Bay at first appear to be simply places where people live and work. The towns seem more the products of expediency than planning or the thoughtful decision of families to settle together in one place.

Like many other aspects of the Bay, these initial impressions are misleading. The dependence that Bay area community members place upon each other is subtle, yet it dramatically shapes the way life is lived and the rewards of living it. Like the waterman, who requires the services of a shipwright, marine blacksmith, net gearer, mechanic, and fuel supplier to make his living, Bay towns are formed as much by mutual reliance as self-sufficiency. The economic chain that extends from the Chesapeake waters to the Middle Atlantic markets is dependent not only upon individual watermen, but also upon the Bay communities for the delivery of oysters, crabs, and clams to waiting consumers. Recent changes in this chain, and the increase of large-scale commercial fishing in the Bay have not altered the principles of independence and mutual support which, despite their superficial incompatibility, form the foundation of community life.

The Bay is changing, as all people and their communities change, but the identity of the region in the minds of those who live within its bounds remains strong. Like the crab that challenges the waterman to seek him in his home and on his terms, the Bay is a vital, yet ever elusive force, shaping those who live upon its fortunes.

SMITH ISLAND: FROM "BEAUTIFUL SWIMMERS"

(By William W. Warner)

Smith Island's population is divided among the separate villages of Ewell, Tylerton and Rhodes Point. The population of the whole island presently does not exceed 650.

The village of Ewell, Smith Island's largest community, is divided into two roughly equal parts called "Over the Hill" and "Down the Field". It is periodically flooded by storm tides during which graves have been dislodged and coffins known to float away. But the islanders have learned to live with these floods, and some even consider the island's vulnerability an advantage of sorts. A group of older men in Filmore Brimer's general store once took great care to explain why this is so.

"We got it nice some ways," one said. "Water passes right over the island. People think we fare bad, but the island's low and it's got plenty of outlets. If it weren't for that, we'd be sunk for rain and tide!"

"Oh, my heavens, yes," a second agreed. "Now you take Crisfield. High tides and a southwest storm, the water pushes right up into town and stays there. In Hurricane Hazel it went clear up to the stoplight and they was crab floats all over Main Street. Course, it's true Hazel come over us, too, and all them coffins went adrift. You remember that, Stanley? But the people put on their boots and fetched the coffins back all right, they did. And you know the water didn't stay very long."

"That's right," the first speaker concluded. "Also you got to think we don't get squalls like they do over to the western shore. Sunnybank and places like that. Get more waterspouts there."

Low land notwithstanding, Ewell gives the visitor a remarkably secure feeling. In spite of its name the Big Thorofare is narrow and well protected, or what cruising guides like to call a snuggery. The wind may be busy above, bending the pines and cedars, but down on the water there are only wavelets and cat's paws. Ewell's main street—it has no formal name—is similarly snug. The neatly painted houses, white clapboard with green or red shutters, retain ornamental picket fences or are sufficiently separated not to require any. In summer there is always shade. On nearly every front lawn there are fig trees and elaborate birdhouse hotels for purple martins. Out back are nicely kept shacks, also white clapboard, where the men putter with their gear, and round brick pump houses with conical slate roofs that somehow remind you of Williamsburg. For the weary sailor, Ewell is a delight.

Tylerton offers similar pleasures, although keel boats may come to grief in getting down shallow Tyler Ditch. Quiet and isolated, Tylerton has a reputation of being very conservative. "Ewell, that's too noisy for us," Tylertonians protest. "Cars, all those lights! Might as well be city folks." Rhodes Point, the Rogues Point of yore, is the smallest of Smith Island's three towns.

Smith Island may not be to everyone's

liking, but for those who want to see the water trades at their traditional best, Smith will never disappoint. Smith Island's greatest fascination lies with the memory of its older citizens, who enjoy telling how it was only thirty years ago living without electricity and working the water mainly by sail. With the exception of Deal Island, there is no better place on the Bay to learn of forgotten craft and the skills required to take crabs and oysters under a full press of canvas. The older watermen like to talk most about the sporty little Smith Island crab skiffs—"dinkies'" they were called locally—that went in flotillas to spend the week trotlining or dipping for peelers up around Bloodsworth or South Marsh. Not much more than eighteen feet in length, the dinkies had a single large sprit-sail and carried one hundred pound sandbags as movable ballast, the dexterous placement of which was essential to maintaining an upright position. "Breeze up strong and didn't we go!" says William Wilson Sneade, seventy-three, who now occupies himself making fine buster floats of cedar and spruce. "Just wicker [luff] the sail a little, move your bags around and you made out all right. But come squalls, you could capsize easy enough! Thing to do was head for the shallers, where you could get your feet on the bottom, unstep the mast and right your boat. Then step her up, set your spreet pole and off you go again!"

"That's right," laughs Omar Evans, the proprietor of Smith Island's lone crab house. "Capsizing, it made you so mad you scooped out like half of the water and then drank the balance for cussedness."

Both men remember how bad the bugs were when they spent the week in little shanties on the uninhabitated islands up north. "You walked in the high grass," Evans recalls. "And the green flies carried you off." (They still do.) Sneade's memory of trotlining techniques is especially clear. "Tide up and a smart breeze, we put out our lines," he explains. "You set them fair with the wind, hoisted a little pink of sail, sailed downwind running the lines—you couldn't reach, that made the line too shaky for the crabs—and then you tacked back up and did it all over again. Tide down and slick pretty ca'm, we poled and dipped for peelers, standing right on the bow. Sometimes we took along a sharp-ended gunning skiff, also good for poling."

Evans is an expert on the larger boats used in crab scraping. There were the Jenkins Creek catboats, "one-sail bateaux," he calls them, and the bigger jib-headed sloops, out of which the skipjacks probably evolved, that could pull three crab scrapes in good breeze. "We built them good here," he says with pride. Both recall that it was hard work hauling in the scrapes. "No winches, like they got later," Sneade reminds you. "You slacked off on the sail a bit and just pulled in your scrapes through main strength and awkwardness."

"Couldn't do that no more," he adds. "I'm all stove in. Ailing more this year than the last ten. Age is coming to me, that's the thing."

Age is coming. To the islands as a whole, many observers believe. Whether Smith can in fact hold out is a question that is now sometimes raised. "Oh, no, the islands will never fail," an experienced picking plant owner in Crisfield recently reassured me. "Not as long as there are crabs in the Bay." He went on to explain very patiently that nobody in the Bay country caught more crabs, knew more about them, or went at it harder than the island people. "Why, they study crabs," he finished in tones of awe. "And the thing is they pass on all what they know to the young ones." ●

SEPTEMBER DAYS CLUB

● Mr. NUNN. Mr. President, I recently had the pleasure of meeting with Mr. Tom C. Lawler, vice president of Days Inns of America, Inc., which is headquartered in Atlanta, Ga. During this meeting, Mr. Lawler discussed with me a unique and rewarding program which is sponsored by Days Inn entitled "The September Days Club."

The purpose of this club, which is open to persons who are 55 years of age and older, is to provide older citizens with incentives to travel, meet new and interesting persons, participate in group activities and generally enjoy their senior years. To encourage these activities, the club provides for its members 10 percent discounts for all lodging, food, and other purchases at Days Inns, discounts at major theme parks and attractions in the United States and Canada, travel opportunities, conventions, fiestas for fun and fellowship and a quarterly magazine which features articles by senior citizens and news of travel and fellowship opportunities for club members. The membership fee which includes these discounts and the magazine subscription is $5 per year.

The September Days Club was not established by Days Inn for the purpose of making a profit for the corporation; in fact, the club is operated on a cost basis so that more senior citizens can participate in their activities. The response by our older citizens has been enthusiastic with a club membership of over 600,000 persons in the United States and Canada and a growth rate of more than 1,000 new members a day.

I share the Days Inn philosophy that private enterprise can play an important role in providing citizens with enriched and rewarding senior years. I would like to commend Cecil Day, the chairman of the board of Days Inn of America, Inc., and Tom Lawler, vice president of the corporation, for their dedication to this worthwhile program. I would like to encourage other private companies to review this program and consider what they can do to assist our citizens in enjoying their senior years. ●

NUCLEAR TEST BAN: ANOTHER TREATY BLUNDER?

● Mr. DOLE. Mr. President, the Carter administration's efforts to conclude a 5-year total ban on nuclear weapons testing raises a number of serious questions about the advisability of rushing into an accord of this type at this particular time.

In the wake of serious controversy and doubts about the administration's judgment in the Panama Canal and SALT treaty negotiations, one is inclined to ask: Are we about to blunder into another treaty fiasco, without proper reflection and adequate precautions? The Panama Canal Treaty passed the Senate with one vote to spare. With the SALT treaty debate near at hand, chances for approval appear slim at this time. Most of the major doubts surrounding both of these treaties center on negotiating concessions by the administration, and the absence of effective guarantees to safeguard national security interests.

Perhaps, therefore, the President would be well advised to reflect at length upon these aspects before plunging forward into yet another treaty of questionable value and uncertain equitability.

A comprehensive nuclear test ban, for example, will degrade confidence in the reliability of the American nuclear stockpile, and it will hamper efforts to counter the ever improving Soviet strategic capability. The effect of such an agreement on nuclear proliferation and the arms race is less certain.

Many nuclear-capable nations, having previously forgone weapons development, may be inclined to begin strategic weapons programs as their doubts in the credibility of the U.S. deterrent increase. President Carter's decision to press for a comprehensive test ban (CTB), despite ample evidence that such a treaty is not in the best interests of free nations, seems to be prompted more by political and person motivations than by careful analysis of the larger security considerations. The Senate must carefully consider any zero yield ban treaty since it could impose undesirable and asymmetrical constraints on the United States without the promise of restraining the overall arms race. We should reject any such proposal where the Soviet Union, and not the cause of world peace, would be the primary beneficiary.

VERIFICATION IN QUESTION

Opposition to a zero-yield test ban within the executive branch and the scientific community initially centered around the issue of verification. For the test ban to be equitable, each superpower must be able to insure the other's compliance with the agreement. In letters that Senator McClure inserted into the June 30, 1977, Congressional Record, the distinguished directors of the Nation's two nuclear weapons laboratories stated that we do not yet possess the capability to insure Soviet adherence to a zero-yield test ban. Dr. Harold Agnew of the Los Alamos Scientific Laboratory wrote:

> I do not believe that a comprehensive ban on underground nuclear explosions is now verifiable by national technical means. However, I believe a threshold ban at a yield of about five to ten kilotons (of TNT) in hard rock is verifiable unless deliberate evasion techniques are used.

Dr. Roger Batzel of the Lawrence Livermore Laboratory concurred:

> Under a CTB treaty that provided for no in-country monitory system, it is believed the Soviet Union could carry out a number of low-yield (5–10 kiloton) nuclear tests per year with only a small risk of detention by the United States using national technical (seismic) means.

Verification efforts could be further complicated if the Soviet Union employs any of several methods that would drastically reduce the riks of a proscribed nuclear test being detected. These methods include conducting tests in dry soil rather than in hard rock, firing a group of nuclear explosions to simulate an earthquake, and using a natural earthquake to hide a clandestine weapons test. Another possibility is the use of large air-filled salt cavities to "decouple" nuclear explosions from the surrounding rock. Dr. Batzel believes these cavities could be used to accommodate tests of up to 50 kilotons without detection. The consensus among leading authorities is clear, then: Soviet nuclear tests below a certain threshold would be very difficult to detect.

Thus, a CTB could well impose asymmetrical constraints upon the two signatories of the treaty. American press and public reaction would not tolerate, nor would any President consider a test in violation of the terms of the treaty. For the Soviet Union, however, a zero-yield test band would be no more restrictive than a threshold test ban treaty with a 5- or 10-kiloton ceiling. A CTB may appear to impose the same limitations on both superpowers, but without ironclad verification this equivalence is illusory. We must not be misled by the wishful hopes of some administration officials.

IMPEDE TESTS AND WEAPONS DEVELOPMENT

Opposition within the Carter administration to a CTB is not based solely on the issue of verification. In their presentations on the test ban, ACDA officials assume that a halt to American nuclear testing would help contribute to world stability. Those who are charged with the duty of certifying the Nation's stockpile disagree. As Secretary of Energy James Schlesinger warned in a recent memo to Mr. Carter, nuclear testing is essential to maintain warhead reliability. These concerns were reiterated in a June 13 session with the President. While our stockpile tests have been few in number, they have provided indispensable data, and uncovered some crucial miscalculations in the past.

In continuing his quest for a comprehensive test ban, President Carter has chosen to ignore not only his technical adviser's warnings, but also past incidents that demonstrate the need for periodic nuclear tests to assure stockpile reliability. "Prooftesting" alerted American officials to the deterioration of the nuclear material used in the Polaris missile system. Without such checks, the deterrent value of the entire submarine component of our strategic triad would have been neutralized.

The need for nuclear testing still exists. Just recently, a defective warhead was discovered at the Nevada test site. Increasingly delicate and complex nuclear weapons systems are being deployed, and a CTB would lessen both American and allied confidence in the reliability of the U.S. strategic arsenal.

A prohibition of testing would also impede the development of new weapons systems, and would in effect preclude the United States from making a credible response to the massive upgrading of the Soviet strategic forces. Top military officials, as well as nuclear scientists, have stressed the need for a limited number of low-yield tests to complete development of new systems, especially the cruise missile and the mobile MX. Neither our allies nor our adversaries would be convinced that untested weapons could adequately counter the threat posed by the thoroughly tested Soviet missiles that are currently being deployed.

There is irony, indeed hypocrisy, in the position taken by administration disarmament officials who repeatedly assure us we need not worry about the massive numerical superiority and megatonnage of Soviet nuclear weapons because we have technological superiority—and now urge us to abandon our abilitiy to compete technologically by accepting a CTB.

CTB-inspired doubts will have an adverse effect on efforts to control nuclear proliferation. If our European allies and other nations that depend on the United States for protection from Soviet aggression can no longer rely on a credible American nuclear deterrent, the pressures to develop their own nuclear weapons will mount. Nations such as Israel, Taiwan, and South Africa cannot realistically be expected to forego weapons development if our ability to shield them from challenges to their national security diminishes. Arms control advocates may prefer that these considerations not surface, but other nations will not ignore their own most basic interests. Those who anticipate that a CTB will halt nuclear proliferation may well be disappointed.

Illusory thinking among arms control advocates is demonstrated by their disregard of states that have shown no previous inclination to aquiesce in arms control agreements. The most important of these nations are France and the People's Republic of China. In particular, the People's Republic of China has given no indication that it will halt testing, whether or not a CTB is concluded. Almost certainly, it will not do so until the technological gap between it and the two nuclear giants is narrowed. The Soviet Union is unlikely to abide by a complete test ban for long, unless China is similarly constrained. Again, those who support the CTB have refused to acknowledge the legitimate security concerns of other nations.

Why then does Mr. Carter continue to press for a zero-yield test ban? Those officials entrusted with the responsibility for maintaining reliable weapons systems to provide a credible U.S. deterrent to Soviet adventurism have repeatedly warned the President that CTB is not in the best interests of the country. These objections have been voiced by many different groups and concern several different issues. A comprehensive test ban would not adequately constrain the Soviet Union. Nor would it permit us to retain confidence in the reliability of the American nuclear stockpile. The ban would hamper our ability to react to everincreasing threats posed by the Soviet military forces. Furthermore, accepting these risks to Western security will not help to significantly reduce nuclear proliferation or to curb the arms race. Those nations currently developing an independent nuclear capability will continue their efforts, and several nuclear-capable states may begin their own, as the credibility of the U.S. deterrent declines. In short, a comprehensive test ban entails acceptance of many unnecessary risks in return for a measure that is unlikely to accomplish much. Those of us who are aware of the serious defects of the impending test ban strongly urge the President to reconsider this unwise course of action.●

DODDS TRANSFER TO DEPARTMENT OF EDUCATION

● Mr. NUNN. Mr. President, I ask unanimous consent to have printed in the Record a statement by Mr. McIntyre.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Mr. McIntyre

It has been my privilege to be a cosponsor of S. 991, which will finally give education the priority attention it needs, and which will consolidate federal education programs spread throughout over 40 agencies and departments.

One of the transfers to be effected by this legislation is that of the Department of Defense Overseas Dependent School System to the new department. Today, there are 135,000 students in 24 different foreign countries being served by this school system. However, this system has not in its thirty years of existence received the oversight and support that it needs and deserves. As noted by the Senate Governmental Affairs Committee in its report on S. 991, the DOD schools have never been fully statutorily authorized. Direction and guidance usually came in the form of Congressional Committee reports. This situation indicates that more effective and responsive policies should govern the DOD schools, and these goals can better be met by the transfer of the DoDDS system to the Department of Education. Our goal should be to provide the best possible education for dependents of overseas military personnel, and the transfer is consistent with this goal.

The new department will have an Office of Education for Overseas Dependent Children, to be headed by a high level administrator who will report directly to the Secretary of Education. This is consistent with the original purpose of the DOD schools which is to provide a quality education to the students it serves. Obviously, the primary purpose of the Department of Defense is not to provide educational services, and the DOD schools have as a result not been able to prosper. However, the primary purpose of the Department of Education is to be in daily contact with educational issues, and the DOD schools will undoubtedly thrive in this environment.

I am satisfied that the Government Affairs Committee has gone to great lengths to assure that the transfer will be accomplished with a minimum of disruption. S. 991 provides for a three year phase-in, and provides for the efficient operation of these schools during the transfer.

Finally, this transfer is supported by an impressive array of interested groups, including the administration and the Department of Defense. I was particularly impressed by the testimony of Carl A. Moore, the Executive Director and General Counsel of the Overseas Education Association before the Governmental Affairs Committee. He said in part: "Our teachers have long felt that important educational policies have been inhibited, ignored, and misconstrued by a bureaucracy whose expertise and objectives are not educationally oriented. Important educational concepts, already widely accepted in public school systems in the states, are often difficult to realize even when the Association, teachers and the DoDDS administration support them. We cannot help but believe that our system will improve and prosper if it is nurtured in an environment dedicated to education."

The mission of the Defense Department is not to provide quality education to the dependents of military personnel. As a Member of the Senate Armed Services Committee, I congratulate the Defense Department for recognizing this fact and for supporting the transfer. The change we advocate will benefit the students who will receive improved and more innovative educational services, and will broaden the scope and perspective of the Department of Education. This is consistent with our desire to provide these children with an education of the highest quality. I urge the Senate to retain this transfer directed by S. 991.●

REGULATION Q AND EFT LEGISLATION

● **Mr. SCHMITT.** Mr. President, I wish to bring to the attention of the Senate my concern that efforts may be made at the executive session of the Senate Banking Committee this coming Thursday, September 28, to encumber legislation to extend the authority for rate control on savings accounts—regulation Q—with controversial bills which would prevent final action this year on this needed extension authority.

My particular concern is that efforts may be made to attach S. 3156, the Fair Fund Transfer Act, to the regulation Q extension legislation when it is brought before the Banking Committee. S. 3156, which is purported to provide for consumer rights and safeguards in electronic fund transfer systems, is an imperfect piece of legislation. When it was reported by the Senate Banking Committee on May 26, additional views were filed by five Senators in a nonpartisan effort to bring to the attention of this body the problems of the bill as reported and the need for comprehensive redrafting.

Our basic concern was that the committee bill, which is a typical case of over-regulation, would be counter-productive, denying many Americans the convenience of modern payments services at a reasonable cost and would be burdensome to small financial institutions and businesses. We introduced 10 amendments in July to correct the major imperfections in the committee bill.

Since these amendments are strongly supported by a number of associations representing literally thousands of small financial institutions and business firms, they would be brought up when the bill reaches the floor.

By contrast, the House of Representatives, on August 14, passed H.R. 13007, a bill to provide a workable approach to consumer protection in the electronic fund transfer environment. Since there are at least 15 major differences between H.R. 13007 and S. 3156 reported by the Senate Banking Committee, it is difficult to imagine that the House would accept the Senate Committee bill without changes. Consequently, the attachment of the Senate Committee bill to regulation Q legislation would serve only to delay and endanger passage of the regulation Q legislation in this Congress.

As ranking minority member of the Senate Consumer Affairs Subcommittee, I worked in committee long and hard to report a reasonable piece of EFT legislation which would be helpful to the consumer and yet not place an unreasonable burden on small business. If it is felt that the EFT legislation should be enacted in this session of Congress, I would support taking H.R. 13007 off the calendar and passing it as is. This would immediately move the legislation to the President for signature. It would also leave regulation Q to be decided upon its own merits.●

ELDERLY AND HANDICAPPED TRANSPORTATION—S. 2441

● **Mr. STEVENSON.** Mr. President, S. 2441, the Federal Public Transportation Act of 1978, is forward-looking legislation. It restructures the mass transit program so that it more effectively meets transit needs and provides authorizations sufficient to permit modest growth in public transportation programs, growth which is essential if public transportation is to be effective in urban areas. It is, on balance, a good bill. However, it does not address one of the most important questions facing public transportation today—how to best provide transportation services to the elderely and handicapped. I support the goal of appropriate transportation services for all elderly and handicapped travelers. I am concerned, however, that not enough consideration has been given to the question of how that service should be provided.

Some handicapped want all transit vehicles and systems to be "fully accessible" to the elderly and handicapped. They view the issue in civil rights terms; they want to be able to board every transit vehicle, buses and fixed-rail cars, and use every transit station. There is considerable controversy, however, as to whether a full accessibility policy will provide the most transit service to the elderly and handicapped, and whether it represents the most effective use of scarce financial resources.

I agree that, if the Federal Government is subsidizing public transportation, transportation systems should provide service to all the people, including the handicapped. But a "fully-accessible" system is not, in many cases, the best way to provide that service at greater costs than other alternatives. Mobility is the real issue, not civil rights. Transportation is not an end in itself; it exists to take people where they want to go, when they want to go. Transportation service for the elderly and handicapped should accomplish the same. Federal assistance should be designed to provide transportation systems that will provide real service to the elderly and handicapped, systems that will make them truly mobile, not systems that only provide the illusion of mobility. However, Congress has not addressed the issue of how best to provide transportation service to the elderly and handicapped; it has delegated this question to the Department of Transportation. The Congress has told the Department that service must be provided, but has not given the Department sufficient policy guidance to help it in determining how to do so.

In the absence of explicit congressional guidance, the Department has chosen full accessibility and has taken two major steps toward implementing that policy. First, it has issued regulations requiring cities, after September 30, 1979, to purchase a new design bus called the Transbus—a low-floor, wide-door, ramp-equipped bus that DOT feels will be fully accessible to the handicapped. Second, the Department has issued draft regulations, known as the section 504 regulations, which will require all public transportation facilities, including existing fixed-rail rapid transit facilities, to be made fully accessible to the elderly and handicapped.

The Department uses two statutes as a justification for its actions: Section 16 of the Urban Mass Transportation Act of 1964 and section 504 of the Rehabilitation Act of 1973.

Section 16 declares it to be national policy that:

> Elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; [and] that special efforts shall be made in the planning design of mass transportation facilities and services so that the availability to elderly and handicapped persons of mass transportation which they can effectively utilize [emphasis added] will be issued.

Section 504 states that:

> No otherwise qualified handicapped individual in the United States, as defined in Section 7(6), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial assistance.

Both statutes are declarations of policy, both make it national policy to provide transportation service to the elderly and handicapped, but both provide little guidance as to how that transportation is to be provided. The Department interprets the statutes to require them to move toward full accessibility. I do not think that interpretation is unreasonable, but I do think the statutes can be, and should be interpreted to allow some flexibility on how to provide the service.

The courts, to date, have not held that the law requires a full accessibility policy. In fact, the courts seem to be confused as to what the statutes do require. In the case of Atlantis Community against Adams, for example, Federal District Judge Richard P. Matsch said, referring to the statutes on transportation of the elderly and handicapped:

> The statutory provision under consideration here are compassionate. The plaintiffs, however, do not want compassion or sympathy, they want access to transportation. That cannot be achieved by the announcement of goals or by the pretense that the passage of platitudes serves the purpose of prescribing public policy.

And yet that is exactly what the Congress has done. We have passed platitudes and set vague goals and delegated the public policy decisions to the Department of Transportation. Before we implement a full accessibility policy or any other policy, we should know how effective that policy would be in providing service to the elderly and handicapped, and how much it would cost. To answer these questions, the elderly and handicapped to be served must be identified.

According to Department of Transportation figures, there are approximately 4.3 million handicapped individuals in urban areas of the United States. Of this number, approximately 2.1 million can use transit systems as they now exist, although they may have some difficulty. Another 1.2 million people are handicapped to such an extent that they are confined to the house and would not be able to use even a fully accessible fixed-route system.

Approximately 1 million people have handicaps which prevent them from using transit systems as they exist today. Proponents claim that full accessibility would enable this group to make use of public transit, and that those who now use public transit with difficulty would also benefit.

However, this assumes that a fully accessible system is, in fact, accessible—that elevators, ramps, lifts, and changes in bus and rapid transit car design will make a fixed route system—buses and/or rapid transit vehicles running down fixed streets or routes according to fixed schedules—usable by the handicapped. But it is not at all certain that a "fully accessible" system will be truly accessible.

The handicapped groups supporting a "full accessibility" policy have argued that the handicapped would be able to use an accessible fixed-route system. It is important to note, however, that over 60 percent of the one million handicapped that cannot use existing transit systems are over 65 years old, and that the handicapped, including the elderly and handicapped, have overcome a number of real problems in order to use an accessible fixed route system. For example, the Chicago transit system design assumes that people can walk up a one-fourth mile to reach bus or rapid rail stops. If a handicapped individual cannot negotiate that one-fourth mile, it becomes irrelevant to that person whether the bus is accessible or not; the transit system, for that handicapped person, is not accessible.

And that one-fourth mile must be negotiated on cold, snowy winter days, during severe weather of all kinds; if a handicapped person could only reach the stop during good weather, then the system becomes less than fully accessible. Because of the problems involved, the handicapped have not used present fully accessible services in large numbers.

In the St. Louis area, for example, the transit system operates 157 lift-equipped buses that are accessible to the wheelchair handicapped. Those buses have been in operation for over a year, but in that time only 1,000 one-way rides have been made by the wheelchair handicapped, averaging only 3 to 5 rides per day. In Washington, D.C., where the subway system is accessible, only about a dozen handicapped persons per day use the elevators.

Problems related to distance from stops and weather are only examples of the kinds of problems that the handicapped must overcome in order to use a fully accessible fixed-route system. A study done for the Urban Mass Transportation Administration suggests other problems that could prevent handicapped individuals from using such a system.

The study, compiled from interviews of over 2,000 handicapped individuals, concludes that: the physical difficulty caused by waiting long periods of time for buses, lack of bus shelters, fear of using the subway system, fear of traveling alone, and, in some cases, the inability to travel alone, are all factors that prevent the handicapped from using fixed-route public transportation.

These problems would not be solved by making the system accessible. If substantial numbers of the elderly and handicapped are prevented from using an accessible-vehicle system because of these or other problems, then it is not accessible.

And yet DOT is moving forward with a full accessibility policy, a policy that could cost billions of dollars to implement, without adequately addressing these problems, and without adequate direction from Congress on how to address them.

DOT estimates that it will cost approximately $1.7 billion in 1977 dollars to make all transit systems fully accessible. The cost estimates in inflated dollars, using a 6 percent annual inflation rate, range between $2.8 billion and $4.7 billion, depending whether the compliance period is 12 years or 30 years.

However, it is possible that the estimate is too low. The American Public Transit Association estimates that it could cost as much as $8 billion to make all transit systems fully accessible within 12 years. Chicago area transit officials estimate that it could cost over $1 billion to make its transit system accessible.

Further, transit construction projects have proven to be very difficult to estimate. For example, in 1969 the cost of constructing a 100-mile, fixed-rail, rapid transit system in Washington, D.C. was estimated to be about $2.5 billion. Today that same system is estimated to cost about $6.6 billion, an increase of over 164 percent. The DOT cost estimate may prove to be similarly low.

Almost all of these costs, $1.6 billion of the total $1.7 billion, if you accept the DOT estimate, would be incurred in retrofitting older fixed rail systems to make them accessible, and the great bulk of these costs would be concentrated in four cities—New York, Chicago, Philadelphia, and Boston. It would cost at least $1 billion to retrofit the fixed-rail system in these four cities alone.

Mr. President, I do not raise the cost issue to suggest that we should not provide transportation services to the elderly and handicapped; I believe that we should be doing much more than we have been doing, to insure that service is provided. I also believe, however, that, before we make such a large investment, we should be sure that the investment is cost effctive, that it provides the most service possible for each dollar invested.

It is imperative that the services to the elderly and handicapped be provided in the most cost-effective manner possible because Federal funds for public transportation are going to continue to be scarce, and transit needs are enormous. According to the Senate Banking Committee report on S. 2441, seven cities alone—New York, Chicago, Philadelphia, Pittsburgh, Boston, Cleveland, and San Francisco—have long-term capital needs of over $15 billion.

To the extent that transportation service to the handicapped is not provided in the most cost-effective manner, less money will be available to meet these needs, and all other transit needs which means that there will be less public transportation for everyone.

Mr. President, I do not claim that a full-accessibility policy is not the most cost-effective means to provide transportation services to the elderly and handicapped in some circumstances. However, I believe that a more flexible policy could provide more service, making more handicapped and elderly mobile, and at lower cost.

A more flexible policy would give local communities the ability to select a method of service that provides the handicapped with the greatest degree of mobility and which is the most cost-effective. A community could select full-accessibility, if that option would provide the most service to the handicapped of that community for the most reasonable cost, but would also have the flexibility to select other options, perhaps including dial-a-ride or some other form of door-to-door services if that option would provide more mobility to the elderly and handicapped at a more reasonable cost.

Because a more flexible policy, providing service tailored to the needs of the elderly and handicapped in each community, would provide much more useful transportation service to the elderly and handicapped service which would be more cost-effective, I believe that the Congress should review the full-accessibility policy. As a first step in that review process, I wrote the Secretary of Transportation, Brock Adams, requesting him to study the alternative means of providing service to the elderly and handicapped, and the costs of each alternative.

I am disappointed that Secretary Adams has chosen not to do so. I had intended to offer an amendment directing DOT to conduct such a study. However, there are a number of initiatives now underway that should provide the factual background necessary for an examination of the full-accessibility policy. The Council on Wage and Price Stability is currently reviewing the Department's draft regulations.

The Congressional Budget Office, at the request of the Senate Budget Committee, will soon begin a study of the issues involved. And DOT has recently completed its hearings on the draft regulations. Because material from all three sources should be available for use early in the next Congress, I urge the Senate Banking Committee to conduct oversight hearings on the issues involved early next year.

The full accessibility policy needs to be reviewed. Other alternatives exist that promise to provide more service to the handicapped at a more reasonable cost. These alternatives need to be considered before we are irrevocably committed to full accessibility.

But Congress must make its own decision on how best to provide transportation service to the elderly and handicapped. The issues are too important to be delegated to the Department of Transportation.

Mr. President, I ask that the attached newspaper editorials and articles that provide further information on the issues involved be printed in the RECORD.

The attachments follow:

[From the Washington Star, Sept. 18, 1978]

TRANSIT AND THE HANDICAPPED

Did Congress, when it passed the Rehabilitation Act of 1973, intend to require local, state and federal governments to spend billions of dollars to make mass transit facilities available to the handicapped? Or did executive agencies again go to excessive lengths in interpreting anti-discrimination laws?

Whatever the case, transit agencies are struggling with what *The Star's* Thomas Crosby referred to the other day as a "multi-billion-dollar time bomb" dropped in their lap by the Department of Health, Education and Welfare's Office of Civil Rights. Estimates of the cost of complying with the HEW edict to make transit facilities fully accessible to the handicapped run as high as $8 billion over the next dozen years.

Transit agencies that get federal financial help for constructing and operating transportation systems—which include those in most big cities would be required to comply with the HEW rules. New fleets of specially designed buses would have to be bought or old buses would have to be specially equipped to handle wheelchairs. Elevators would be required at all subway and commuter rail stations.

The Baltimore *Sun* reported recently that New York State transit officials estimate that elevator installation would cost from $1.5 billion to $2.4 billion in New York City alone. Besides huge capital outlays, annual operating costs would be increased substantially. The American Public Transit Association estimates that the additional operating cost for New York City would be $2 million a year.

A principal element of the argument is the cost-to-benefit ratio. One study commissioned by the Department of Transportation estimated that of 7.4 million transportation-handicapped people in the United States, only 25,000 couldn't get to work because of lack of transportation. The DOT study estimated that making public transportation fully accessible would benefit perhaps as few as 3 per cent of handicapped persons.

Washington's Metro was required, as a result of a lawsuit, to install elevators in its subway system, at a cost of $65 million. It is estimated that the elevators are used by about a dozen handicapped persons a day.

Not only are transit officials agonizing over the high costs of complying with the HEW guidelines but administration officials reportedly are concerned about the inflationary impact.

There are alternatives to making every bus, subway and commuter rail system completely accessible. The Baltimore transit system, for example, provides a "mobility service" in which handicapped persons can arrange by telephone to be picked up by specially designed small buses. According to a state transit official, that service costs $719,00 a year while the cost of making one-half of the system's bus fleet accessible to wheelchair users would be 10 times that much a year.

Critics of the HEW guidelines do not lack compassion for the handicapped. The issue is how far government should go, and at what cost, to ease their burden.

The cost of complying with the HEW edict seems to us to be out of balance with the benefits. We doubt that's what Congress had in mind when it passed the 1973 law.

[From the Chicago Tribune, Sept. 13, 1978]

ON MIXING BUSES AND WHEELCHAIRS

There's one good thing to say about that $1 billion estimated cost for making Chicago area public transportation facilities accessible to passengers in wheelchairs. The price tag is so far beyond the realm of possibility that it should force eager federal agencies to rethink their goals.

No one denies that handicapped persons confined to wheelchairs would benefit from easy access to public transportation. No one denies that whenever possible, architectural and transportation barriers limiting their participation in community life should be removed.

But our great sympathy for the problems of the handicapped cannot blind us to the hard cost-benefit realities. There are no more than 1,750 people confined to wheelchairs in the Chicago area, of whom only about 900 would use public transportation if it were available, according to testimony at the Department of Transportation [DOT] hearings on proposed regulations.

Even if the proposed changes prompted every one of these individuals to use public transportation, the estimated cost of providing it would work out to more than half a million dollars per person. And even if all buses were equipped with wheelchair lifts, all elevated stations had elevators, and all commuter trains were accessible, people in wheelchairs would still have trouble getting from their homes to transportation in bad weather.

Pointing out the financial and practical absurdity of these DOT proposals doesn't mean giving up on helping the handicapped. Much more serious study needs to be given to establishing and expanding door-to-door service by specially equipped vans or other alternatives. The cost would be far less than adapting the entire public transportation system to the special needs of a very few, and the handicapped would get safer, easier, more convenient service.

It's easy for Congress to pass laws aimed at helping small special interest groups—especially when they can claim to be treated unfairly or unequally—and to dump on public agencies the intricate problems of implementing the legislation. But already, and in many areas, the vast proliferation of federal regulations is beginning to paralyze the country and to cost taxpayers far more than the benefits are worth.

It defies common sense to spend more money to provide transportation for a few hundred people than the total cost of the entire CTA from 1890 to the present. It's time to object strenuously to the proposed DOT regulations—and if necessary, to urge changes in the legislation requiring the new rules.

[From the Sun-Times, Sept. 13, 1978]

CTA AND THE HANDICAPPED

It depends on who's estimating, but making CTA buses and trains accessible to the handicapped could cost from $360 million (a U.S. Transportation Department official's figure) to $910 million (the projection of George Krambles, CTA's executive director).

Those huge figures emerged from Transportation Department hearings here on proposed federal regulations making mass transit easier to use for persons in wheel chairs and other handicapped people.

Such a program obviously would mean a huge capital expenditure—one that would help less than 1 per cent of the Chicago Transit Authority's potential riders, according to Krambles.

We have consistently supported the right of the physically disabled to the greatest possible public access, but we wonder whether such a costly venture is worth the money.

This is not an undertaking comparable to, say, ramping curbs when rebuilding them or making certain public buildings and restrooms are accessible to people confined to wheel chairs. Indeed, it might require rebuilding crucial—and expensive—parts of the whole region's transit system.

Wouldn't it be more prudent to amend the plans (part of proposed federal regulations discussed at the hearings here) so they would require such access on future public transit construction, but need not require conversion of existing structures?

Couldn't transit planners provide the handicapped with alternate transportation less expensively, perhaps on the model of the "dial-a-ride" services found elsewhere? Those systems, reserved exclusively for the handicapped, can use vans with special ramps, elevator devices and wide doors for "customized" transit.

And might not subsidies to such services—even for door-to-door transportation areawide—be much more economical than subsidies to a full-access program?

Milton Pikarsky, chairman of the Regional Transportation Authority, urged a thorough cost-benefit study of the proposed regulations. That's the least anyone can ask.

[From the Chicago Tribune, Sept 11, 1978]

OFFICIAL FINDS 'L' NO SPOT FOR HANDICAPPED

(By William Griffin)

A Federal transportation official rode a Chicago Transit Authority rapid transit train around the Loop Sunday and found it was no place for a handicapped person.

The special train ride was set up for Chester Davenport, assistant United States transportation secretary, who is here for hearings to be held Monday on proposals to require new equipment in public transportation to benefit the handicapped.

What Davenport saw on the trip were the nine Loop elevated stations with platforms too narrow for wheelchairs; steel-bar turnstyles through which the chairs cannot pass; and steep stairways to the ground below.

Speaking over the train's public address system, George Krambles, executive director of the CTA, described the difficulties that the handicapped persons have in using the elevated and the problems he would have in adapting the 80-year-old system to their needs.

"We're not opposed to the idea of helping the handicapped to use public transportation," Krambles said. "We're just concerned about the cost and how much these new requirements would stall other planned improvements of facilities."

Davenport estimated that the cost of changing the facilities would be $1.8 billion nationally. Most of that would go to older public transit systems, such as in Chicago, where he estimated the cost at $360 million; all but $72 million would come from the federal government.

The hearings will be held Monday from 9

a.m. to 10 p.m. at McCormick Inn, 23d Street and Lake Shore Drive.

Reasonable Aid to Handicapped

The federal government, which has a penchant for jumping off the deep end, is being urged to look before it leaps. That good advice was given to officials of the Department of Transportation at a regional public hearing in Chicago on making mass transit more accessible to the handicapped.

Providing a helping hand to people who are physically handicapped is a praiseworthy goal; however, the government would be well advised to pay close attention to the matter of costs. New regulations being considered by DOT, requiring all transit systems in the country to be accessible to the handicapped, would carry an astronomical price tag.

Barry M. Locke, executive director of Bi-State Development Agency, is among officials who urged DOT to employ caution in drawing up new regulations.

There are justifiable grounds for concern. Up to now the federal government has been behaving as if most of the population were handicapped. Actually, it is the other way around. According to the Urban Mass Transit Administration, an estimated 410,000 persons in the U.S. are confined to wheelchairs and only one-third of that number are in physical shape to utilize mass transit services.

Automatic lifts went into operation on Bi-State Transit buses here in mid-August last year. A total of 157 buses are equipped with the devices, but their use and performance have been disappointing. In all that time only 1,000 one-way rides have been made by individuals forced to rely on wheelchairs. Generally, the number of such riders is a mere three to five a day.

The cost for providing service to this small number of riders is tremendous. Lift equipment increases the cost of a new bus by $7,000—but that is only the beginning. Locke says Bi-State has expended more than $650,000 in staff time and materials on the accessible-bus operation. The lifts leave a lot to be desired. About 50 to 60 percent are inoperable on any given day, Locke says. He blames "a basic lack of refinement" for the poor performance record.

The breakdowns are extremely costly.

Expenditure of such massive sums does not necessarily guarantee top-notch service. Alternatives, including shared taxi rides, dial-a-bus service and a separate mass transit system for the handicapped, were among recommendations offered at the hearing.

Because of the small number of potential riders, alternative services could be operated more economically than by outfitting and maintaining the entire transit fleet with lifts. In some areas of metropolitan St. Louis dial-a-bus service could be a less costly and more convenient alternative, Bi-State acknowledges. In other areas shuttle buses and vans equipped with lifts possibly could be utilized effectively to transport the wheelchair passengers.

This is not an attempt to shortchange the handicapped, who are deserving of compassionate consideration by the public and government. Throwing massive sums of money around has proven time and again that such an approach is rarely a cure-all. A long hard look should be employed in seeking the best way to provide mobility for the handicapped.

[From the Chicago Sun-Times, Sept. 11, 1978]

$360 Million To Fix CTA for Disabled: U.S.

(By Dennis Byrne and Phillip J. O'Connor)

A top federal transportation official estimated Sunday that it would cost $360 million to make the CTA system accessible to wheelchair users and other handicapped persons.

Chester Davenport, assistant U.S. Transportation secretary, said he expects the federal government to pay 80 percent of the cost, with local sources providing $72 million.

Davenport made the estimates as members of the news media accompanied him on an L car tour of the CTA's Loop L stations. The car was halted at the Quincy-Wells and La Salle-Van Buren stations and then again at the Merchandise Mart station to show the problems a person in a wheel chair would face at each station.

Davenport made the tour on the eve of a regional public hearing Monday in Room 7 of the McCormick Inn, 23d and Lake Shore. The hearing is to present the views of the handicapped, transit officials and others on proposed regulations to make the nation's transportation system more accessible to the handicapped.

George Krambles, CTA executive director. who accompanied Davenport on the Loop tour, said, "We have 13,400 bus stops and 140 rapid-transit stations, and we can see relatively inexpensive solutions in only a dozen or so of these rapid transit stations."

Many of the suggested changes are planned to take place in three years if the Department of Transportation decides to make the proposed rules final later this year.

RTA officials have said the cost of complying with the proposed federal regulations would be at least $1 billion in Chicago alone.

Transit for Handicapped Cost Pegged at $1 Billion

(By David Young)

Chicago area transportation agencies will have to spend more than $1 billion to make the public transit system here accessible to handicapped persons, transportation officials testified Monday.

A succession of officials from the Chicago Transit Authority, the Regional Transportation Authority, and commuter railroads told federal officials at a public hearing that it would be impractical to modify the mass transit system in the Chicago area.

The officials, from the United States Department of Transportation, were here to solicit comments on proposed new regulations requiring every transit system in the U.S. to be accessible to the handicapped.

The regulations would require:

All CTA trains to have at least one car accessible to persons in wheelchairs and all stations to be equipped with elevators.

All buses to be equipped with wheelchair lifts or ramps.

All commuter railroads to have at least one car per train accessible to the handicapped.

George Krambles, general manager of the CTA, testified that it would cost the CTA alone $910 million to install all the equipment needed to make the system accessible to handicapped persons and would add $29 million a year in operating and maintenance costs to the financially hard-pressed CTA.

"This is more [money] than has been expended to build and improve the CTA rail system [from] 1890 to the present," said Krambles.

He presented photographs he said showed that it would be impossible to modify some old CTA stations to make them accessible to persons in wheelchairs without demolishing nearby buildings and completely rebuilding the stations.

Roberta Nelson, executive director of the Illinois Epilepsy Association, said that there are probably no more than an estimated 1,750 persons confined to wheelchairs in the Chicago area, of which only about 900 would use mass transit.

Milton Pikarsky, former chairman of the RTA, said Chicago area transit agencies favor providing separate transit systems for the handicapped rather than modifying the existing transit bus and trains.

[From the Chicago Sun-Times, Sept. 12, 1978]

Handicapped Testify for Transit Aid

(By Michelle Stevens)

When Bonnie Ferneau was a child, getting to school and back home every day was a lengthy and costly ordeal.

"Four and a half hours a day of my life were spent in the back of a seedy taxi," said Ferneau, a pretty blond paraplegic who uses a wheel chair. It took more than two hours travel each way from her suburban home to a Chicago school.

"So you can see why I am so enthused about these proposals to make public transportation fully accessible to the handicapped."

Ferneau, who represented the Illinois Division of Vocational Rehabilitation, spoke Monday at a daylong hearing held by the U.S. Transportation Department at the McCormick Inn, 23d and Lake Shore.

The hearing was planned to get public comment on federal government proposals requiring handicapped persons to have full use of existing facilities on trains, buses and planes within three to five years.

Most persons representing handicapped groups in the Midwest lauded the proposal as an idea whose time had come, but they said the money needed to adapt existing facilities could best be used to implement or expand door-to-door service.

"If the handicapped are to be served by mass transportation, that transportation should be individualized, specialized and sensitized to accommodate special problems," said Kay Neil, a transportation specialist for the University of Nebraska Medical Center

"That requires an accessible transportation system," said Neil, a polio victim who uses crutches. "It's not enough that the buses or trains on the regular routes are accessible. The handicapped have to be able to get to those buses or trains."

She said a combination of vehicles should be put in use to get handicapped people from their homes to the major transit lines.

Chicago and suburban transit officials said they agreed that the handicapped should be able to use their facilities, but they said the effect on regular riders and on the companies' finances would be 'devastating."

Ted Schuster, vice president of the Burlington Northern R.R., told the panel the 45-minute trip from Naperville to Chicago on a five-stop express train would take twice as long if five wheel chairs were loaded at each stop.

"I won't even calculate the effect that would have on a local train making all 26 stops," Schuster said.

Milton Pikarsky, former chairman of the Regional Transportation Authority, estimated the cost of revamping the system for the handicapped at "well over $1 billion in the Chicago metropolitan region alone."

He told the panel that only about 8,500 new users would be expected to use the modified system and that they would generate about 5,000 trips a day.

[From the Washington Star, Sept. 14, 1978]

Mass Transit's Emotional Blockbuster

(By Thomas Crosby)

On Jan. 13 the Department of Health, Education and Welfare dropped a multibillion-dollar time bomb into the lap of the mass transit industry.

On that day HEW said transit vehicles across the nation must be equipped within three years so that handicapped people can use them and issued guidelines to implement the Rehabilitation Act of 1973.

Preliminary estimates put the cost over the next dozen years at between $1.8 billion and $8 billion in capital outlays, but one federal study said that even with this type of funding only 113,900 handicapped people would actually use mass transit unless other barriers to them are eliminated.

Metro General Manager Theodore C. Lutz said that he has agonized over the issue "as much (if not more) than any other" facing Metro.

Richard S. Page, head of the federal Urban Mass Transportation Administration, and the HEW regulations "are the most sweeping and significant . . . ever proposed which affect the public transit community."

The American Public Transit Association (APTA) is fighting the HEW regulations, and has distributed stacks of statistical ammunition to transit agencies to use in testifying at U.S. Department of Transportation (DOT) regional public hearings later this month.

Handicapped groups are orchestrating their testimony aided by lawyers, watching for a chink in the legal armor if DOT fails to implement the HEW regulations fast enough.

A non-participant that may become active, if the political pot boils over enough to reach the White House, is the Council on Wage, and Price Stability. It is concerned about the possible inflationary impact of the HEW regulations, which apply to all federally funded projects, not just transportation.

The hearings, began last week in New York and are continuing this week in Chicago, Denver, and San Francisco, and September 19 in Washington.

The hearings are emotionally charged, with the handicapped insisting on the same rights as able-bodied individuals to enjoy public facilities and transit spokesman countering with cold hard statistics.

It is an issue with three basic themes.

For taxpayers the main concern is the cost; for the handicapped, it is how many of them will use mass transit if it is made accessible; and for the transit industry it is whether some alternative to altering established transit systems can be found that will make transportation more accessible to the handicapped.

Cost. The U.S. Department of Transportation has said it will cost at least $1.6 billion to make all subways and commuter rail systems accessible by installing 3,710 elevators in the nation's 1,700 rail transit stations. The operating cost is expected to be an additional $27.5 million a year.

APTA feels this figure is way too low. It does not include the effect of inflation in paying for the elevators over the next 10 or more years, or the costs of land acquisition, utility relocation, design and engineering, project administration, special parking facilities, renovating track crossovers or station relocation.

The final price tag could approach $8 billion, according to APTA's financial analysis, if they are allowed 12 years to make buses and subway stations accessible to the handicapped.

Also, buses equipped with special ramps will cost approximately $120,000 as compared to $80,000 for non-lift or ramp-equipped buses. Over the next six years, HEW said all transit systems must have accessible buses.

If lifts are added to old buses to meet the three-year deadline, it may cost as much as $15,000 a bus and there are indications that keeping the lifts operable would require additional maintenance personnel.

DOT said the annual operating cost for buses would be about $42 million, while APTA points out New York City alone estimates the added cost will be $200 million a year.

In a separate action, DOT Secretary Brock Adams ordered all buses bought by transit companies after Sept. 30, 1979 to be Transbuses, vehicles with ramps especially designed for use by infirm and disabled passengers.

Metro has already ordered 131 lift-equipped buses, due to operate on 44 heavily traveled routes every hour beginning in November, and is seeking a two-year $240,000 federal grant to train bus operators and attract handicapped riders.

The handicapped have "been paying taxes for a zillion years," said Gerry Bertier, of Rehab, Inc., an Arlington-based consulting firm for the handicapped. "They have a right to the same public services (as able-bodied individuals)."

"There is going to be a cost involved," said John Lancaster, advocacy director for Paralyzed Veterans, a Bethesda organization, "But you don't measure civil rights in dollars. That's the bottom line. You just don't do it."

Usage—If transit systems do make it easier for the handicapped to use buses and subways, will they ride?

Metro, which had handicapped elevators in five of six stations when it opened a 4.6-mile segment in March 1976, found that the handicapped did not use the subway much.

From July 1, 1976, to June 30, 1977, the elevators were used 1,482 times—or roughly six times a day.

A Council of Governments study in 1976 found that in Washington there are 6,400 wheelchair-confined people, with roughly a fourth of them getting around in their own automobiles.

Adding fuel to this experience is a study commissioned by DOT called Summary Report of Data From National Survey of Transportation Handicapped People.

The study, by Grey Advertising Inc. of New York, found that of the estimated 7.4 million transportation-handicapped people in the United States only 25,000 couldn't get to work because of a lack of transportation.

If subways and buses were made usable to them, the study found, 1,621,000 handicapped nonusers of public transit felt they would use the system but "only 143,900 nonusers would actually be able to (unless other barriers were removed)."

Those "barriers," according to the study, were such things as difficulty getting to and from the transit stop, inability to travel alone, and in the case of the subway, fear of traveling underground.

Bertier disputes the findings of the Grey study, noting that in Portland, Ore., where buses with lifts are being used, "6,000 handicapped are already using the system."

Martin Convisser, director of DOT's Office of Environment and Safety, also disputes the Grey study. Convisser said Grey asked people about their handicap and whether they would use transit, resulting in a skewed "self-perception" survey that would have had higher ridership projections if the survey had been more objective.

Convisser, whose office is scheduled to oversee the implementation of the handicapped programs, also feels the Metro handicapped ridership figures are a phony issue.

He said the truncated 4.6-mile system didn't go anywhere where the handicapped wanted. (It ran from Farragut Square to Rhode Island Avenue).

Also, Metro's handicapped elevators are poorly located in many Metro stations because they were added after the station had already been designed, Convisser said.

Richard Heddinger agrees. A polio victim confined to a wheelchair, Heddinger, and others, filed a court suit against Metro in 1972 that eventually forced Metro to install $65 million worth of elevators for the handicapped in its subway stations.

Alternatives. APTA's director, B.R. Stokes, has attacked the idea of making entire transit systems fully accessible as "absolute nonsense."

The handicapped would get better service, according to APTA, if alternative methods, could be developed by individual cities and tailored to meet that city's handicapped needs.

"If a person can't get out of their house, over the curb and up the hill, what good is it for them to know that four blocks away is a public bus with a ramp on it?" said David Lee, APTA's director of planning and policy.

But alternatives are just as expensive as fixing up the main-line system, retorts Lancaster of Paralyzed Veterans. He said APTA conducted an in-house study to find out the cost of operating separate systems for the handicapped, such as door-to-door van service.

APTA found the annual operating cost would be $1.8 billion, Lancaster said.

Rehab Inc. operates a van service for its handicapped employees, but Bertier bridles at the suggestion this is an acceptable alternative.

"I have to ride a special vehicle that no one else rides," he said.

In addition to purchasing buses accessible to the handicapped for use on regular routes, Metro is exploring using smaller, lift-equipped buses during rush hours in the suburbs—sort of like taxis. The handicapped would call a central number and the smaller buses would pick them up, but details have not been worked out yet.

DOT has set Oct. 20 as the deadline for comments on the proposal. A decision is not expected this year.●

COMPREHENSIVE TEST BAN

● Mr. GARN. Mr. President, among the most significant arms control initiatives pursued by the Carter administration is that of a zero-yield comprehensive test ban (CTB). While public attention has focused almost exclusively on the outlines of the elusive SALT II pact, the provisions of the CTB, currently being negotiated by the United States, the Soviet Union, and the United Kingdom with the hope of attracting other parties, have unfortunately been spared the kind of rigorous scrutiny their importance merits. I wish to address this issue today because I believe that a cessation of all underground nuclear tests, as a supplement to the atmospheric restrictions incorporated into the limited Test Ban Treaty of 1963, and in light of the international political environment in which we operate, may have the most critical impact on the future viability of our national security posture.

To accept this statement as a verity may seem unreasonable to those who feel that completion of a SALT II Treaty is paramount, yet I would offer this note of caution: Arms control Issues cannot realistically be negotiated or analyzed in a vacuum. The political, military, and economic effects of the product of one set of negotiations will invariably temper the climate, if not the outcome, of related negotiations. For this reason, among others, the CTB must be evaluated in tandem with other parleys designed to control sophisticated strategic and conventional weaponry, such as SALT and Mutual and Balanced Force Reduction in Central Europe (MBFR).

In so doing, I must conclude that the test ban as proposed by the Carter administration would be most disadvantageous to the security interests of the United States and would seriously degrade confidence in the reliability of those forces which form the backbone of our strategic nuclear deterrent. Before elaborating, let me say that I hope to impress upon my colleagues the urgent need to examine the CTB issue in greater depth, with attention to the implications it holds not only for our capacity to effect those innovations which a SALT II Treaty might necessitate, but also for the long-term maintenance of a resilient technology base upon which the security of the free world ultimately depends.

In his Wake Forest speech last March, President Carter stressed that "we will not allow any other nation to gain military superiority over us." Without going into detail, I think it is clear that the relevant trends of the superpower strategic balance are increasingly unfavorable to this country, with Soviet superiority in certain critical indexes of military strength frankly conceded. This is due both to the relentless Soviet military buildup and to certain acts of unilateral disarmament on our part.

Unfortunately, President Carter appears to have decoupled pursuit of a CTB from consideration of whether the arms limitation process has rendered results which would make a complete halt to underground nuclear testing at least theoretically plausible. The linkage should be obvious. Testing is simply a principal element of our ability to develop and maintain credible nuclear deterrent capabilities. Computer models and laboratory calculations do not resolve the important technical questions which require underground testing. Moreover, many preliminary calculations regarding a system's performance reliability have been disproved by subsequent testing.

The United States justified its acceptance of Soviet numerical superiority in missile launches and total throw-weight in SALT I on the premise that our qualitative advantages in warhead design, guidance systems and the accuracy of our reentry vehicles offset the perceived imbalances favoring the Soviets. It is well to remember that since SALT I, the U.S.S.R. has likewise made significant improvements in the qualitative characteristics of its deployed and programed weapons systems. Whatever one's assessment of this reasoning—or that implied by our strategic doctrine of mutual assured destruction, the point to be made is that the capacity for technical upgrading of our weapons systems and confidence in our existing stockpile require a continuous research, development, and testing program. Until real arms control measures substantially reduce the Soviet threat to United States and allied security, we must retain the technical competence and qualitative flexibility necessary to meet that threat as it presently exists and as it is likely to evolve.

An important assumption underlying the U.S. commitment to a comprehensive test ban has been that it would result in an equal degradation of stockpile reliability between east and west and therefore would not affect the delicate strategic balance. I believe this assumption to be without foundation. A comprehensive test ban would result in significant military asymmetries which would adversely affect out relative security posture.

For example, in a closed society like the Soviet Union, the necessary technology base could be sustained and stockpile problems alleviated by testing at yields so low as to be unobservable from outside the U.S.S.R. The reason for this is that problems that arise in the stockpile generally involve very low-yield "fission trigger" detonations used for strategic thermonuclear weapons.

The current verification threshold for tests conducted inside the Soviet Union, as estimated by leading nuclear scientists from our weapons design laboratories, lies in the range of 5 to 10 kilotons for explosions in hard rock, with test firings in softer media, such as SALT cavities, increased by a factor of five. Since a significant proportion of stockpile problems depend on testing programs for their solution, Soviet tests below the vertification threshold would be adequate for technology maintenance, stockpile repair or renewal, and new weapons development. Under a CTB, Soviet abstention from tests below 10 or several tens of kilotons would have to be taken on faith. Given the Soviets' past record of noncompliance with test bans particularly during the 1958–1961 moratorium, such "assurances" as the Soviets offer are hardly sufficient to underwrite the kinds of risks the United States would incur under a CTB. It follows that any treaty restricting testing in the United States to levels below those that must be presumed available to the Soviet Union, taking into account present and future estimates of our verification capability, could eventually result in severe disadvantage to the free world's forces.

Indeed, with the system of virtual self-verification which would be imposed on the United States, this country would be prohibited from doing any testing at all. As such, a comprehensive test ban would represent a unilateral qualitative control on U.S. military capacity and defense potential.

Proponents of a CTB assert that current U.S. seismic detection capabilities are more than adequate to monitor Soviet compliance with the provisions of a treaty. Such optimism is unwarranted by the facts, however. According to Dr. William J. Perry, Under Secretary of Defense for Research and Engineering:

> Current political initiatives toward a complete ban on nuclear testing have focused attention on a number of deficiencies in test detection, identification and yield verification capability which do not appear capable of solution in the near term.

Critical problems associated with these initiatives include the vast uncertainty in current seismic yield estimates and the limited ability to discriminate between earthquakes and underground explosions in the low-kiloton energy range. The Soviets could actually time variable-yield detonations to coincide with natural tremors that register a comparable magnitude reading on the Richter scale, thus complicating the verification process. Moreover, even if such a distinction could be verified adequately, the tests involved, without the kind of on-site inspection which the U.S.S.R. adamantly opposes, would not tell us anything about the warhead design characteristics which the heavier payload Soviet missiles could accommodate. This is serious concern whose consequences proponents of a CTB have not meaningfully addressed.

CTB advocates in the Senate have sponsored two resolutions—numbers 67 and 124—which, while expressing the conventional platitudes regarding the effects of a treaty on the global nonproliferation campaign, exhibit a curious myopia concerning the strategic function of nuclear testing. They argue that all that can be accomplished through testing has indeed been accomplished, so that there is nothing more to be gained, yet assume that testing furthers the qualitative arms race, so that to cease testing will "curb the arms race."

To appeal for a suspension of U.S. underground testing on the assumption that "there is no prospect" of new technological breakthroughs while arguing simultaneously that "the CTB has acquired new relevance as a check on qualitative nuclear improvements" is indeed puzzling, not to mention contradictory.

Either testing is significant for nuclear weapons development and stockpile reliability or it is not. If testing is not significant, then one cannot realistically assert that a CTB will "curb the arms race." If, on the other hand, testing does matter, then the risks incurred by a cessation of testing must be assessed against the alleged benefits. Beyond stressing the desirability of a comprehensive ban on nuclear testing as an important arms control measure, advocates rarely explain how the strategic environment will be affected.

I would conclude by reiterating my strong reservations concerning a zero-yield comprehensive test ban treaty. I believe that, under present and foreseeable conditions, it represents the wrong agreement at the wrong time. Far more is at stake than a cosmetic political agreement designed to revive this administration's flagging fortunes or resuscitate the threatened "detente" relationship between the superpowers. Instead of passively accepting the contention that a CTB is innately beneficial, congress and the American people must examine the issue closely in terms of its impact on the credibility of our overall deterrent capabilities and an increasingly precarious strategic balance.●

OUR NATIONAL SECURITY POLICY

● Mr. McCLURE. Mr. President, I find myself increasingly perplexed, not to mention disturbed, by the incoherence of the Carter administration's policies relating to our national security posture. Though numerous specific examples could be cited, I would simply note that the cumulative impact of these separate actions (and inactions) has been to degrade the credibility of our strategic and conventional deterrent forces despite an expanding Soviet military threat.

The President has recently proposed

a treaty embracing the complete cessation of underground nuclear testing as a step toward braking the arms race and controlling the potential proliferation of nuclear weapons to states currently not possessing them. Apart from whatever political merits the administration may perceive in pursuing this initiative, a test ban decision will require a judgment about the feasibility of accepting stringent limitations on the U.S. capacity to maintain its qualitative technological competence. As such, and given the present international political climate, I believe it would be inappropriate at this time to conclude a comprehensive test ban (CTB) as proposed. I am concerned that it would be contrary to the security interests of the United States and its allies and that it would jeopardize the status of the strategic retaliatory capabilities upon which Western defense is predicated.

Unfortunately, the few public references to the CTB have been characterized by esoteric technical considerations which obscure rather than enlighten. Congress and the American people have understandably been confused, since the implications of a CTB for our national defense have not been adequately explained. Moreover, to analyze a CTB solely in terms of its technicalities is to focus on particulars without relating them in a meaningful sense to the larger framework of political and strategic competition between the United States and the Soviet Union.

Arms control initiatives derive substance when cast against the backdrop of a state's fundamental foreign and military policy objectives, and must be evaluated as to whether or not they help promote those objectives. That such initiatives, whatever their immediate political value, might prove inimical to our longer term security interests must be frankly appreciated.

Most importantly, we must ask ourselves what role testing plays in the development and maintenance of our deterrent force capabilities. The answer to this question will obviously influence a determination regarding the military practicability of a test ban treaty. I would submit that the qualitative competence which underwrites our strategic doctrine and force posture cannot be sustained in the static environment of a complete halt on weapons testing. The requirements of strategic deterrence are partly a function of both the dynamics of defense technologies and the changing array of threats we face. One cannot therefore underestimate the political/military significance of deployment flexibility, nor be ambivalent about the risks and possible compromise of vital elements of our defense capability which a test ban would affect.

SALT I codified a Soviet numerical lead in total strategic launchers and missile throwweight. Furthermore, since 1972 the Soviet Union has vastly improved the quality of its military forces across the spectrum of capabilities. Although SALT II would include an equal ceiling for aggregate missile launchers, the momentum of Soviet qualitative improvements continues unabated. The most destabilizing dimension of the emerging strategic balance is the U.S.S.R.'s development of a hard-target counterforce capability threatening our silo-housed Minuteman ICBM's. A combination of increased warhead accuracy and improved yield-to-weight ratios has endowed the latest generation of Soviet "heavy" intercontinental missiles with the capacity to destroy a large portion of our landbased deterrent in a pre-emptive strike. The United States must consequently upgrade its strategic survivability and enhance its ability to respond discriminately to limited nuclear attacks.

This country accepted the quantitative inequities of SALT I on the premise that the qualitative superiority of our strategic systems was a reliable compensating factor. However, the steady growth and flexibility of Soviet counterforce capabilities, in conjunction with the damage-limiting defensive measures now taking place, have necessitated changes in our force planning. Because planning is by nature somewhat conjectural, Mr. President, we must retain the capacity to retaliate in kind to any conceivable application of Soviet military power, not only as it presently exists, but also as we anticipate it will evolve in the future. As such, nuclear testing is essential to the modifications in our weapons development program which new technological threats may necessitate.

The United States must assure the maintenance of secure second-strike capabilities as well as satisfy the more basic requirement of guaranteeing qualitative equivalence in overall strategic force development. If the lead-time factor in new weapons development is realistically understood, the ability to conduct periodic testing in order to compare findings with those of laboratory research is even more critical. Such refinements and adaptations in nuclear weapons design technology as result from this process are incorporated into new weapons systems to increase their operational flexibility and reduce their cost. Where specific limitations, such as in the size of U.S. ballistic re-entry vehicles, make new warhead design innovations necessary, testing is imperative in order to permit the required yield-to-weight improvements.

The security of our nuclear weapons inventory depends on several factors, not the least of which is the impact aging may exert on performance reliability. All stockpiled weapons have an estimated maximum life-span beyond which their continued operational effectiveness cannot be guaranteed. Experience has demonstrated that even apparently minor alterations can result in an unworkable device.

The uncertainty in the reliability of our weapons stockpile generated by a comprehensive test ban would have major repercussions on the actual and perceived credibility of our strategic deterrence posture. A potential adversary might be tempted to take unwarranted risks in the belief that the United States could not respond effectively to certain military provocations. Allied confidence in the security supposedly afforded by the American "nuclear umbrella" would be profoundly shaken, possibly spurring efforts to develop independent nuclear capabilities. Not only would the administration's objective of halting the spread of nuclear weapons be placed in jeopardy, but an element of instability would be injected into future crises with unpredictable consequences.

Moreover, a comprehensive test ban which is decoupled from meaningful progress in the SALT and MBFR negotiations would only compound the dangers inherent in the emerging strategic realities. The importance of even minimal testing as an integral component of our national security planning cannot be stressed strongly enough.

Therefore, Mr. President, I would urge my colleagues in the Senate to ponder the implications of a treaty which would effectively deprive this country of the capacity to maintain, let alone modernize, its strategic and tactical deterrent capabilities. The Soviet Union's poor track record in complying with the provisions of negotiated arms control agreements likewise does not justify the optimism of CTB proponents concerning Soviet adherence to a cessation of underground weapons testing.

Nor can it be argued that minor violations do not matter. Even if this were true (which it is not), the fact that such circumventions of an accord were indeed taking place would undermine the arms control process to which both superpowers are ostensibly committed.

We simply cannot allow the process of unilateral disarmament to continue by constraining our qualitative competence in weapons development. I believe that the security interests of the United States and its allies demand that the test ban as proposed by the administration be rejected in favor of a more thoughtful approach, one less susceptible to the asymmetries which would jeopardize our national defense posture.●

ALLOCATION OF SECTION 416 FUNDS—HEW APPROPRIATIONS

● Mr. DOMENICI. Mr. President, I am very pleased that Appropriations Committee Chairman Senator MAGNUSON, and my colleague from South Carolina, Senator HOLLINGS, have clarified the intent of the committee report with regard to the Secretary of HEW's discretion in allocation of funds authorized by section 416 of the General Education Provisions Act. The Office of the Assistant Secretary for Planning and Evaluation receives its primary funding for education purposes from this authority. As a member of the Senate Budget Committee, I have been deeply involved over the past few years with educational issues, particularly with regard to fiscal policy and funding estimates. It has been my experience that the Office of the Assistant Secretary for Planning and Evaluation has consistently provided timely and accurate information for use in determining appropriate educational policy. The model for estimating costs under the basic educational opportunity grant was developed under this authority, as were the impact aid options, revisions in the ESEA title I formula, and the cost impact analysis of tuition tax credits. These analyses prepared by the Assistant Secretary's Office have been of unusually high quality.

I am particularly pleased that secretarial discretion to allocate funds to the Assistant Secretary are not affected by this bill, since there are a number of studies mandated by the reauthorization of Elementary and Secondary Act (S. 1753) which require the use of these funds by the Assistant Secretary. I am particularly interested in several reports required concerning bilingual education, particularly the study identifying the number of children in each State with limited English-speaking proficiency. Provision for these bilingual education reports was originally contained in S. 2807, the Bilingual Education Act amendments introduced by Senator HART and myself.

Another report for which the Assistant Secretary for Planning and Evaluation will need the use of these funds in the school finance study authorized by S. 1753. This study is of utmost importance to federal education policy. I believe that student access to equal educational opportunities is the most important issue facing local, State and Federal education policymakers. School finance reform at the State and Federal levels need the attention of the excellent research, planning and evaluation personnel in the ASPE office.

Mr. President, I would like to reiterate my support for the clarification of the committee report language, with regard to the Secretary's discretion to allocate section 416 funds to the Assistant Secretary for Planning and Evaluation.●

AN HISTORIC DAY FOR MINORITY BUSINESS DEVELOPMENT

● Mr. GLENN. Mr. President, on Sunday, October 1, 1878, the Nation's first and only black-owned cable television system, KBLE Ohio, Inc., will begin operations in Columbia, Ohio.

Mayor Moody has proclaimed Sunday "KBLE Day" in Columbus and the day's events will include a presentation ceremony, parade, public ceremony, and other community events at the Mt. Vernon Plaza. Mt. Vernon Plaza is a new, minority-owned commercial development that I joined President Carter in dedicating last Saturday.

This is an exciting and vitally important time for the black community in Columbus. KBLE will, hopefully, be the first of many successful minority-owned cable television companies throughout the Nation. Cable television, like the energy and transportation industries, represents enormous growth potential in the years ahead. Minority businesses should share in this growth as full, equal partners. Mr. William T. Johnson, president of KBLE, is a real modern-day pioneer. I commend and honor him for his efforts. I also look forward to many exciting and significant community television events through KBLE. I will be visiting the KBLE facility in the very near future. I had hoped to be at Sunday's ceremony. However, President Carter requested my presence at a ceremony in Florida that morning.

Obviously, KBLE has my total support and warmest best wishes for success. Ohio and the Nation should be very proud of this effort.●

THE EXPORT PROGRAM

● Mr. STEVENSON. Mr. President, today the President announced the administration's export program. I commend the President, the Secretary of Commerce and in particular the Assistant Secretary of Commerce, Frank Weil, for their attention to the subject. The trade deficit, the sinking dollar, inflation and economic stagnation are as much the result of declining U.S. exports as the better publicized oil imports. This program is only a beginning—but it is a sound beginning. We should go on now to address the structural defects in the economy which are eroding the ability of American industry and agriculture to compete in the world. That will require attention to the quality of American products and the technology they embrace, their marketing abroad, a range of factors which diminish the relative productivity of the United States in the world, as well as repairs to the world monetary and trading systems.

As much as anything, a comprehensive export policy requires an end to our habit of shooting ourselves in the foot with well-intentioned but misguided and counterproductive attempts to legislate standards of conduct for other nations. We are depriving ourselves of authority and markets in the world by clumsy efforts to legislate human rights, environmental protection, and other such objectives that would be better served by the discrete efforts of the United States which enhanced its economic strength in the world.

This week I hope the Eximbank legislation will finally come before the Senate and give us the chance to undo a mischievous attempt to subject Eximbank financing to compliance with the National Environmental Protection Act. So that the Members may better understand the history of this particular issue and the stakes for U.S. exports, Mr. President, I ask that an article by Tom Bethell entitled "Exporting Pettifoggery" in the October issue of Harper's be printed in the RECORD.

The article follows:

EXPORTING PETTIFOGGERY

(By Tom Bethell)

Within the past year there has been a good deal of comment about the nation's unfavorable balance of trade, which amounted to an excess of imports over exports of $27.8 billion in 1977. By contrast, ten years ago the country enjoyed a $4 billion trade surplus. Thus dollars have been flowing abroad, and the value of the dollar in relation to some other currencies has been declining. The customary explanation for this—favored by President Carter and others in his Administration—is that we now have to import greater quantities of much more expensive oil. We are therefore implored to use less oil so that our trade might be brought back into balance.

Upon examination, this explanation turns out to be a tendentious, not to say ideological, way of looking at the matter. Germany and Japan, for example, import greater quantities of oil in relation to their gross national product than the United States does. And so they have done for many years. It is not so much our imports that have been increasing as our exports that have been decreasing. America's market share of world exports has steadily declined from 18 percent in 1960 to 12.7 percent in 1977. (Had our market share remained at 18 percent, U.S. exports last year would have been $60 billion greater, converting the large trade deficit into an even larger surplus.) That is another way of looking at the matter: perhaps equally ideological, but less often discussed.

It is sometimes said that the United States does not have an "export ethic." Within the past few years, however, the truism has been given a new twist. Neglect is turning into positive abhorrence. Exports are in danger of being labeled "unethical." Carter's human rights policy under Assistant Secretary of State Patricia M. Derian is having the effect, apparently intentional, of converting former allies and trading partners into enemies. ("Two years ago I was standing on the flag," Derian told a group of Democratic contributors recently. "Now it is on the wall behind me.") The nuclear nonproliferation pact has caused Brazil to shift *all* its government purchases away from the United States.

Further, the U.S. government does not provide the same assistance and commercial promotion abroad that other governments routinely do. After more than a year and a half in office, Carter still has not appointed anyone to the President's Export Council. Inflation prompts potential businessmen to turn instead to bonds and other government paper. The pervasive anti-business background (e.g., restrictive tax policies limiting venture capital) also hurts exports. Finally, but not least, we should pay attention to the vigorous activities of those who are fashionably counterproductive, notably the environmentalists.

Consider the lawsuit filed by a "public interest" law center called the Natural Resources Defense Council (and filed jointly by the National Audubon Society) a week before the Carter Administration took office. NRDC is one of the largest of approximately 100 public-interest law centers, a number of which were initially funded, and are currently sustained, by grants from the Ford Foundation, which in the past nine years has spent $20 million on such institutions. That is nearly half of all financial support given to public-interest law centers.

The lawsuit, filed in the U.S. District Court for the District of Columbia, sought to require Eximbank, the Export-Import Bank of the United States, to apply the same procedures for the protection of *foreign* environments as have been developed in recent years to protect the domestic environment. In short, Eximbank, which makes loans to foreign countries to facilitate their purchases of U.S. goods, technologies, and services, would be required to file an "environmental impact statement" before making a foreign loan.

The Washington law firm of White & Case, which represented the Mid-America Legal Foundation when it intervened on behalf of Eximbank several months after the initial filing, noted in a status memorandum early this year that the ramifications of this lawsuit, if successful, could be enormous. In 1976, for example, Eximbank credits and guarantees supported nearly $12 billion in U.S. export sales to 157 markets. These sales were related to an Eximbank-estimated 500,000 American jobs. If even a small portion of these sales were lost through the encumbrance of Eximbank with the time-consuming, tedious, and expensive process of preparing gratuitous assessments of foreign environmental effects, the result would be disastrous.

There are two principal reasons for this foretaste of disaster. In the first place, America no longer enjoys a technological or manufacturing advantage over foreign competitors, and therefore the deciding factor in a major foreign sale is often the speed with which Eximbank's financing can be provided. Eximbank usually reacts to applications for loans within a matter of a few weeks; but a study by the General Accounting Office showed that environmental impact statements on average, delayed projects by thirty-one months. Clayton Norris, as deputy vice-president of Eximbank's Project Development Division, has said that "speed is of the essence in working out successful export transactions." Bank loan procedures, if subjected to environmental impact statements, "would totally collapse, and bank operations would come to a virtual standstill."

The other difficulty would arise out of the breach of confidentiality involved in making the extensive economic and environmental inquiries in the foreign countries involved, and then promulgating these findings in accordance with the National Environmental Policy Act, or NEPA.

The Congress, perhaps unconsciously, delivered a powerful weapon into the hands of the public-interest law movement when, in 1969, it enacted NEPA, according to which the government is required to assess the "environmental impact" of any "major" federal action ("major" has never been precisely defined). This assessment takes the from of an "environmental impact statement," to be written by the federal agency contemplating the action in question.

From the point of view of the public-interest lawyer, by now comfortably ensconced within the Environmental Defense Fund, or the Natural Resources Defense Council, or the Sierra Club Legal Defense Fund, or the Center for Law and Social Policy, and financed in part by the proceeds from the sale of Ford automobiles, the beauty of the environmental impact statement was that it could always be challenged in court. A show of solicitousness for the environment, far from mollifying the environmentalists, tends to act as the red flag to the bull. Hitherto unsuspected complications within the environment could always be pointed out, thus delaying and delaying a proposed project. It was precisely in anticipation of such legal challenges that preparing environmental impact statements became such a time-consuming business. And it was in the tireless *deployment* of such legal challenges that the environmentalist eventually became the object of the following suspicion; that it wasn't so much the smoke coming out of the factory chimney that he objected to, as the activity going on within the factory itself.

Not long after the environmental movement was firmly established at home the discovery was made that it might also be possible to "export" environmentalism. The legislative history of NEPA is not precise on the subject of how far the "environment" extends, perhaps because Congress did not anticipate the fanaticism that would come to surround the subject. The act had said merely that "major federal actions significantly affecting the quality of the *human* environment" shall be assessed; but Sen. Henry Jackson of Washington had also inserted into the CONGRESSIONAL RECORD, during a floor debate on October 8, 1969, the following summary of an early House-Senate conference: "Although the influence of the U.S. policy will be limited outside its own borders, the global character of ecological relationships must be the guide for domestic activities."

It was not long before lawsuits were filed challenging federal actions overseas. In 1974, for example, the Sierra Club and the Natural Resources Defense Council jointly sued the Atomic Energy Commission and Eximbank, requiring that they prepare impact statements on the "nuclear power export program." The issue of the extraterritorial application of NEPA was not decided in court, however, because the Atomic Energy Commission agreed to prepare a "generic" impact statement (as opposed to a specific one).

Concern about nuclear reactors seems reasonable enough. As Charles Warren, the current chairman of President Carter's Council on Environmental Quality, has pointed out, Eximbank authorized a loan of $277 million in December, 1975, to permit the Philippines to buy a nuclear reactor, and an environmental impact statement, had one been written, would have revealed that "the Philippine Islands are located in an earthquake belt."

But the suit filed in early 1977 by NRDC against Eximbank shows that environmentalists are also prepared to go to unreasonable lengths in pursuit of what is now occasionally described as "environmental imperialism." For several years, the Republic of Gabon has been attempting to build a 440-mile railroad across the heart of Gabon. The railroad, passing through swamps and forests, is intended to link the mineral-rich interior of the country to the coast, and so has been described as "the backbone of that country's future economic development." Numerous firms from different countries have joined in its construction, including a New York engineering firm, which was engaged to provide "consultative quality control services" for the continuing construction of the railroad. This firm received a $4.6 million loan commitment from Eximbank. (The entire railroad will cost more than $1 billion.)

"Modest though the American involvement may be," Charles N. Brower of the White & Case law firm has noted, "it has now become the basis of an attempt to extend the procedural provisions of NEPA into the heart of Gabon." The construction may endanger the "habitats" of gorillas, crocodiles, buffalo, and elephants, the NRDC has warned in its suit against Eximbank, and so environmental impact statements that would no doubt take months if not years to prepare, inevitably resulting in the government of Gabon's purchasing its quality control services elsewhere.

The lawyer in the Justice Department responsible for defending Eximbank against this challenge turned out to be James W. Moorman, who was appointed Assistant Attorney General of the Lands and Natural Resources Division in May, 1977. Other lawyers in Washington who have been following this case have expressed doubts as to Moorman's enthusiasm for defending Eximbank, because before coming to the Justice Department, Moorman was, from 1971 to 1977, executive director of and attorney for the Sierra Club Legal Defense Fund. It was, of course, the Sierra Club that had brought the almost identical suit against the AEC and Eximbank three years earlier, and Moorman, while executive director, had recommended that the Sierra Club be party to that suit.

Moorman's subsequent involvement in the case raised the thorny matter of "conflict of interest," but with a difference. Normally the phrase refers to the possibility that someone might give financial assistance to former colleagues by construing the government's rules in such a way as to help them. In Moorman's case, the appearance of conflict of interest was ideological, not financial. Although he had worked for the Sierra Club, and was now in the position of defending against a challenge by NRDC, the two organizations shared many of the same goals and had, in fact, jointly sued the government at least ten times while Moorman was with the Sierra Club. Moorman and Thomas B. Stoel, Jr., counsel for NRDC, had served as co-counsel in the case that delayed construction of the Alaska pipeline for three years.

It was certainly arguable that the "extreme" environmentalist—as Moorman had been characterized in a letter to the Senate Judiciary Committee opposing his nomination—would put loyalty to the environment above all else, and so would be a weak advocate for the government against environmentalist attack.

Moorman's subsequent handling of the case did indeed raise the question of where his loyalty lay. A key issue whenever an environmentalist sues the government is that of "standing." That is, why should environmentalists in Manhattan be allowed to sue the government on behalf of Gabonese crocodiles, unless the environmentalists are able to show that they are personally going to suffer injury as a result of the death of such crocodiles? To show such a connection in court is to show one's legal "standing."

Thomas Stoel, representing NRDC, had candidly written to the Justice Department on the "standing" question: "Our problem is that we have virtually no knowledge of the current activities of the Bank, so we have no way of demonstrating the connection between those activities and the plaintiffs' members." In which case, why had NRDC brought suit in the first place? Clearly it was not in fact representing its members. It was representing a cause.

Despite the exceedingly weak legal position adopted by his current adversary (and former partner), in September, 1977, Moorman withdrew an earlier governmental motion challenging NRDC's standing—a motion that had been filed while the Justice Department was still staffed by Ford Administration appointees. Thus, at one stroke Moorman was able to dismantle what he himself, in his public-interest lawyer days, had described as "the greatest hurdle in a suit with the federal government." There now would be no challenge to NRDC's standing.

In December, 1977, Moorman was attacked in a memorandum filed in court that suggested "an appearance of impropriety" in his role. He then temporarily withdrew from representation of Eximbank, pending a "review" of his status by the Justice Department's Office of Legal Counsel. Eight months later, this review still has not been completed.

Meanwhile, the Eximbank case is being handled by Lois Schiffer, chief of the General Litigation Section under Moorman. She previously worked for the Center for Law and Social Policy, an organization that "has been steadily plugging the extraterritorial application of NEPA since it was enacted," according to a Washington lawyer who has taken an interest in this case. Moorman, incidentally, is also an alumnus of the Center for Law and Social Policy, having worked there as a staff attorney from 1969–71. As Charles N. Brower noted in December, 1977, "Mr. Moorman is at least bureaucratically the man in charge," and even if he no longer is, it is clear that Eximbank will continue to be defended by lawyers more interested in the environment than in exports. Eximbank has expressed dissatisfaction with its legal representation, and has tried, unsuccessfully, to be represented by lawyers of its own choosing.

As matters have developed in the past few months, all three branches of government are wrangling over the complex matter of exports, the environment, and the law. In January, 1978, the Council on Environmental Quality issued draft provisions unequivocally stating that the "application of NEPA to significant environmental effects [is] not confined to the United States." The environmentalists had won this round, but there was much criticism of the draft regulations within some government departments, notably Commerce and State. Rowland Evans and Robert Novak wrote a column in which they claimed that "the proposed regulations were drawn secretly by CEQ planners with apparent help from the Natural Resources Defense Council." Although this has not been independently confirmed, it is at least suggestive that Gus Speth, one of three CEQ members, was formerly an attorney with NRDC.

In response both the NRDC suit against Eximbank and to CEQ's draft regulations, the National Legal Center for the Public Interest (a public-interest law firm that, among other things, keeps an eye on what other such firms are up to) held a conference in April on 'Environmental Restraints on U.S. Exports." The overall tone of the conference was critical of the overseas application of NEPA. Florencio Acosta, Mexico's Minister Counselor for Commercial Affairs, citing a recent cancellation of Eximbank financing in his country (due to U.S. domestic squabbling), noted that "the immediate repercussions on U.S. exports was the cancellation of steel pipe orders at a time when relief to the ailing U.S. steel industry would have been welcomed. Fortunately for Mexico, the existence of other money markets permitted the construction of the pipeline to develop a resource that would help better the conditions of our people."

An administrative assistant to Sen. Adlai E. Stevenson III, of Illinois, attended the conference and reported back his findings, and, in the early summer, Stevenson introduced to a bill extending Eximbank's charter an amendment that would have exempted the bank from any restrictions under NEPA. (Illinois is one of the principal exporting states.) But this amendment, which was passed by the Senate Banking Committee, was then "sequentially referred" to the Senate Committee on the Environment—chaired by Sen. Edmund Muskie of Maine—where it was, as expected, unanimously opposed. (Maine has more scenery than factories.) There the matter stands in Congress. Senators are undoubtedly hoping that they will not have to commit themselves in a floor vote to being either against exports or against the environment.

Although the Carter Administration at the middle levels is riddled with environmentalists, word does seem to have reached the White House, belatedly, that all the world does not necessarily love them. Public-opinion polls on the subject tend to be misleading. If asked "Do you want clean air?" nearly everyone will say yes. But if the phrase "at the expense of exports" is added to the question, most people will say no. Weeks passed, then months, and still CEQ's draft regulations were not recast into final and unalterable form. An Executive order has been issued that steers circumspectly between the extremes of commercialism and environmentalism, but that does not resolve, once and for all, the disputed legal question of whether Eximbank must conform to the provisions of NEPA.

As for the progress of the lawsuit against Eximbank at U.S. District Court, there has been very little action there, either, in recent months. In fact, eighteen months after the suit was filed, the government still has not filed a reply—a most unusual delay, and one that has been condoned by the judge in the expectation, it is thought, that one or another branch of government would alter the statutory rules in such a way as to render the case moot. But to date this has not happened. Everyone involved is waiting for someone else to make the first move. Eximbank meanwhile continues to operate without the burden of NEPA on its back.

The American government, it has been said, is constructed in such a way as to make it extremely difficult for those newly arrived at the seats of power to do good. For this we may be grateful, however, because as the events surrounding the Eximbank case suggest, the same machinery of government makes it just as difficult for well-intentioned visionaries to do harm.●

EDWARD WHITE RAWLINS

Mr. MATHIAS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1445.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 1445) entitled "An Act conferring jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claim of Commander Edward White Rawlins, United States Navy (retired)."

Mr. MATHIAS. Mr. President, as the Chief Commissioner of the Court of Claims has stated, the subject of this bill, Comdr. Edward White Rawlins, has "suffered nonpromotion to the grade of captain as a probable consequence of improper and inequitable actions within the Department of the Navy" and that the "Navy Department's repeated refusals to agree to consideration of the plaintiffs case by the Board for the Correction of Naval Records was indefensible." Due to these facts, I feel that it is imperative that we today take action to see that H.R. 1445 is sent as quickly as possible to the President for his approval so that Commander Rawlins can commence the suit in the Court of Claims that the bill authorizes.

I therefore move that the Senate recede from its amendment to this bill which would have allowed the Court of Claims to award attorneys fees should the Commander be successful in his suit, and that the Senate clear the bill for transmittal to the President.

The motion was agreed to.

WHY NOT TAKE A CHANCE ON FREEDOM?

Mr. PROXMIRE. Mr. President, I introduced in 1975—and then again last year—the First Amendment Clarification Act, also known as S. 22.

The purpose of this legislation is to give fuller meaning to our first amendment's guarantee of freedom of the press by abolishing the so-called fairness doctrine and the equal time rule.

Broadcasting—radio and television—is the preferred source of news for 76 percent of the American people. Yet, because of governmental controls like the fairness doctrine and the equal time rule, broadcasters are second-class citizens when it comes to first amendment rights.

Just last week, I spoke at some length on the Senate floor about this vital issue. I shall not repeat those arguments and comments again today.

But in my remarks a few days ago, I stressed, as I have on earlier occasions, that the case for increased freedom for the electronic media can be reduced to this simple thought—why not take a chance on freedom?

Mr. President, I was delighted to read in the September 24, 1978, issue of the Washington Star that our former colleague, Eugene McCarthy, has sounded this same theme in advocating the elimination of the fairness doctrine and the equal time rule.

Eugene McCarthy is a man of intelligence and judgment. He has consistently been "ahead of his time" in discovering and articulating the key issues of the day. And time after time, his judgment and his wisdom have been vindicated by the unfolding of events.

Once again, in my view, Eugene McCarthy is right on target. He has written a forceful and eloquent defense of freedom in arguing for decreased Government controls over our electronic media.

As Senator McCarthy points out so well, the fairness doctrine "actually discourages coverage of controversial issues, especially those of political character." That doctrine achieves, in other words, the exact opposite of its intended effect. It is, therefore, self-defeating.

And, as our former colleague so correctly states, the equal time rule "has been whittled down to a point where it is nearly meaningless." He combines this conclusion with a skillful and compelling analysis of our 1976 experience with this ill-conceived limitation on broadcasting freedom.

Senator McCarthy ends his article by stating that:

> It is the mark of a liberal society to take a chance on the side of freedom.

Why not take a chance on freedom? It has worked for newspapers, which are free of Government control. It can work for broadcasters, too. And it is the American people who will be the prime beneficiaries of this new freedom.

Mr. President, Eugene McCarthy's article represents an important contribution to the current debate on the proper role of Government in regulating the broadcasting industry. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TELEVISION IN THE GRIP OF FEAR AND GREED

(By Eugene J. McCarthy)

Mr. James Quello, a member of the Federal Communications Commission, recently told a House subcommittee that, if television had existed in 1776, the founding fathers would have extended to it the guarantee of free speech.

Television has proved to be such a distraction for the country that it seems more relevant to say that, had it existed in 1776, the American Revolution would not have been fought. No one would have bothered to read Tom Paine or listen to Sam Adams.

Nevertheless, Mr. Quello has a point. And the House Subcommittee on Communications, through its hearing, on a bill to reduce government regulation of broadcasting, is providing a worthwhile debate on free speech.

The television networks, under existing law and rules, operate somewhere between greed and fear. Neither motive has been demonstrated to be a wholly constructive force for good.

The greed is obvious. The fear, less obvious, is of loss of licenses and of regulation which might limit profit-making potential. Though it would be ideal if the networks could be freed from both greed and fear, such perfection is not likely to be achieved for a long time. "For," as Sir Thomas More said, "it is not possible for all things to be well, unless all men are good—which I think will not be this good many years."

If a choice of eliminating one or the other (greed or fear) must be made, and such a choice does seem necessary, the Congress should move first against fear, allowing greed to run on.

Giving broadcasters greater security in their licenses is a necessary first step. No matter how much freedom they are given, they will not use it unless they have security in their licenses.

The bill now before the House subcommittee, H.R. 13015, would extend television license terms from three to five years and would make them indefinite ten years after enactment of the bill. A better alternative might be the procedure now used in granting leases to cattle and sheep owners for grazing rights on public lands. Although there is some variation in the length of the grazing leases, depending on terrain and other things, the general range of the leases is from seven to ten years. If grazing on the public lands is handled this way, it seems logical that the right to graze on the public mind and will could be handled in somewhat the same way. When the broadcasting license runs out, title would revert to the government, which could then re-issue the license at fair-market price.

The pending bill would limit multiple ownership of broadcasting stations—a worthwhile goal, but one which the subcommittee has not carried far enough. An individual or company should be limited to one station in the top 50 markets. More licenses held by more persons and groups could take care of many problems of programming, as the issuance of many radio licenses has resulted in greater diversity of programming in that medium.

The "equal time" provision of communications law, a section which supposedly provides equal opportunities to political candidates, should be eliminated. Through the years, by amendment and interpretation, it has been whittled down to a point where it is nearly meaningless; and in 1976 it provided equal time only for Democrats and Republicans. Since the FCC and the courts held that sponsorship of the 1976 presidential debates by the League of Women Voters freed the debates from the rule of equal time, it is difficult to see where a line could be drawn. If it was all right for the league to sponsor televised debates between Democratic and Republican candidates only, why not let them—or Common Cause, a Kiwanis Club, or a volunteer fire department—sponsor a televised speech by just one candidate? Only fear of the Democrats and the Republicans gives any substance to "equal time."

The Fairness Doctrine, which requires that broadcasters "afford reasonable opportunity for the discussion of conflicting views on issues of public importance," should also be eliminated. As it is now interpreted, it actually discourages coverage of controversial issues, especially those of political character.

Regulations should be limited, to the extent that they are imposed at all, to negatives. Television and radio stations should not be required to do anything positive.

Regulation should be kept to a minimum, because it is very difficult and lends itself to political abuse. It is likely to impinge on both freedom of speech and freedom of the press. And it can leave the networks and stations still caught between fear and greed.

Some witnesses before the House subcommittee have suggested that deregulation may result in deterioration of the quality of television programming, both in entertainment and in public affairs. Yet television without regulation could scarcly be any worse than it is with regulation. Without regulation, it might even improve.

It is the mark of a liberal society to take a chance on the side of freedom.

THE LETELIER ASSASSINATION: ANOTHER REMINDER OF THE NEED FOR RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, Thursday, September 22, marked the second anniversary of a brutal assassination. The victim: a political exile who strongly opposed the human rights violations occurring in his homeland.

A political act? Yes. But a murder that has taken on greater symbolic importance.

On September 22, 1976, the former Chilean Ambassador to the United States, Orlando Letelier, was seated in his car at Sheridan Circle, right here in Washington. A bomb exploded. The car ripped apart. Letelier and his American secretary, Ronni Moffitt, lay dead.

The 2-year investigation since then leads back to Chile and a stronghold of power and repression—DINA, the old Chilean secret police force. Last Wednesday, U.S. investigators delivered an extradition request for three top DINA officers to the foreign ministry in Santiago.

Mr. President, Orlando Letelier was an eloquent, impassioned, and persistent critic of the present Chilean Government—particularly, of its gross violations of human and political rights.

The Chilean Government, it seems, simply thought it could apply its own low value of human life wherever it pleased. They simply silenced another critic.

Americans, while appalled by horror stories from abroad, have a certain detachment toward such human rights violations. Understandably, since our own personal and political rights are virtually unquestioned in this country.

But here, Mr. President, the significance of this assassination becomes clear—crystal clear.

The Letelier assassination demonstrates that human rights violations are not something that just affect people in foreign lands—Cambodia, Uganda, and Chile. They affect our environment here in Washington; they affect the conscience of every American. The assassination of Orlando Letelier underscores the fact that we cannot ignore the continuing violations by the Chilean government of human and political rights.

The positive effect of President Carter's concern for human rights proves that the converse of this syllogism is also true; what we do about human rights here has an effect abroad. As the Geneva Convention on the Treatment of Prisoners of War helped to improve the treatment of prisoners worldwide, so too will our positive action on the human rights treaties before us have a constructive effect on human rights abroad.

Just think, Mr. President, how our failure to ratify the Genocide Convention is interpreted by the world community. Of all the possible actions the world can take to protect and promote human rights, the Genocide Convention is particularly important. It does not, of course, safeguard Chilean political rights, nor does it apply to Mr. Letelier's assassination.

The Genocide Convention, however, by defining and outlawing genocide, protects the most fundamental right—the right to live. The right to live, Mr. President, for all ethnic, racial, religious, and national groups.

Is it not time, after almost 30 years, that the U.S. Senate took a stand against genocide?

Is it not high time, Mr. President, that we join with 82 other nations to outlaw genocide and safeguard the right to live?

Mr. President, we must ratify the Genocide Convention.

We must take a stand.

We must affirm our membership in the world community.

GOOD NEWS FROM BHUTAN

Mr. PERCY. Mr. President, I was interested in and pleased by a news report published in the Christian Science Monitor of September 7, 1978, indicating that the remarkable kingdom of Bhutan intends to pursue a foreign policy independent of India, and that India supports the change.

This is a favorable development because all would agree that Bhutan's sovereignty should be affirmed and fully supported.

I ask that the Christian Science Monitor article, by Mohan Ram, be printed in the RECORD for the information of my colleagues and others who may not have seen it.

The article follows:

BHUTAN TAKES SOME OF ITS FOREIGN POLICY INTO OWN HANDS

(By Mohan Ram)

NEW DELHI.—By upgrading its New Delhi mission to an embassy the tiny Himalayan kingdom of Bhutan has served notice it intends to pursue a foreign policy independent of India.

India approved the change, if only to emphasize its commitment to an independent sovereign Bhutan.

Under a 1949 treaty India pledged not to interfere in Bhutanese internal affairs, while Bhutan agreed to be "guided" by Indian advice in its internal affairs.

Bhutan has been maintaining that it will seek India's advice voluntarily and that any advice given by New Delhi will not be mandatory.

India, apparently, accepts this interpretation. But a recent resolution of the Bhutan National Assembly asked for revision of the 1949 treaty and deletion of Article II inhibiting Bhutan's sovereignty in foreign relations.

In March, India agreed that Bhutan should be entitled to enter into direct trading relations with other countries. This ended India's privileged position with Bhutan because in the past Bhutan could sell third countries only goods India did not want to buy from it.

Analysts feel that India has already lost much goodwill in the Himalayas (Nepal is the only sovereign Himalayan kingdom left besides Bhutan after Sikkim's controversial merger with India) by clinging to British India's imperial privileges.

So they think India should agree to revision of the 1949 treaty so that there is nothing to suggest that Bhutan is an Indian protectorate despite its formal status as a sovereign country.

TRADING WITH JAPAN

Mr. PERCY. Mr. President, at the end of August the Commerce Department released the trade balance figures for July. It is more appropriate to refer to the release of the trade "imbalanced" statistics, however, because in July, we recorded the fourth largest deficit in our history, $2.99 billion.

The previous month's imbalance, at $1.6 billion, had given us hope that the disastrous trade trend might be on the wane. The June imbalance followed the decline of the dollar vis-a-vis the Japanese yen and several European currencies. It had been widely expected that this devaluation would lead to a rise, if not a boom, in U.S. exports and a corresponding drop in our import levels. The hope of June turned to the dismay of July however, adding even more uncertainty to the future of the battered dollar.

The cumulative deficit for the first 7 months of this year stands at $19.4 billion, compared with a $13.6 billion shortfall for the same period of time a year ago.

There are of course many reasons for our trade imbalance, not the least of which is our voracious appetite for foreign oil. Our own export potential is not being filled in other commodities and products and the economies of our major trading partners have not grown as fast as our own this year. There is also some evidence that unfair trade practices by our trading partners are partially responsible for the continuing strength of imports.

Mr. President, in the September-October edition of the Harvard Business Review, John Nevin, chairman of the board of Zenith Radio Corp., has written a thoughtful article on our Japanese trade policy.

Mr. Nevin says that:

> The experience of the television industry suggests that U.S. policy in foreign trade matters continues to be based on what has been aptly described as the "Marshall Plan" mentality. That mentality sees Europe and Japan as so weak that they require very substantial U.S. concessions in trade and other economic matters and the United States as so strong that it is immune from economic injury, no matter what concessions are made by its government. Such an appraisal is simply no longer valid.

Mr. Nevin's analysis should generate discussion on this important economic issue and I commend it to my colleagues.

Mr. President, I ask that the article and accompanying tables be printed in the RECORD.

The material follows:

CAN U.S. BUSINESS SURVIVE OUR JAPANESE TRADE POLICY?

(By John J. Nevin)

In recent years, few U.S. industries have experienced more widespread employee layoffs, plant shutdowns, or inadequate financial results or have been more characterized by mergers and acquisitions than the television industry. In the last decade, some 60,000 jobs in television manufacturing have been eliminated and about two dozen American communities have suffered the social and economic burdens that result when a major television plant shuts down.

In 1973, a year in which color television sales in the United States surpassed all previous records, 5 of the 11 U.S. television manufacturers lost money. In 1974, 7 of the 11 domestic manufacturers lost money. In late 1973 and 1974, an inability to operate profitably forced such widely recognized U.S. television producers as Admiral, Motorola, Magnavox, and Philco into mergers or acquisitions.

Zenith Radio Corporation has long contended that the primary cause of the economic chaos in the U.S. television industry has been the ability of some Japanese television companies to engage in practices that have violated U.S. antidumping, customs fraud, and antitrust laws. Spokesmen for Zenith or the television industry have not been alone, however, in complaining of unfair and/or unlawful international trade practices.

In his 1977 report to stockholders, Edgar B. Speer, chairman of United States Steel Corporation, stated that in 1977 "almost 19 percent of the total steel used domestically was supplied by foreign producers, and most of it was at prices which did not cover the total cost of production and delivery." Speer went on to write:

"The inevitable result of this unfair trade practice has been depressed domestic steel prices and profits. Corollary results included shutdown of certain operations in the industry, with an attendant unfortunate loss of thousands of steelworker and related jobs, and economic chaos in many steel-based communities.

"Perhaps out of these traumatic developments will come some long-term benefits, for there are indications that the nation has at last begun to squarely face and answer some critical questions: Will America's steel needs be supplied principally by efficient, competitive domestic producers providing jobs for American steelworkers; or will the steel consumers of this country become hostage to the predatory pricing policies and governmental practices of foreign nations?

"By year-end, there were indications that many in government and the public-at-large were beginning to recognize the important duty of the government to enforce and strengthen our existing domestic laws against unfair foreign trade practices, which is the heart of the problem. It is important that there be effective and immediate action to enforce the laws of this nation. When the unfair trade practices are halted, domestic steel producers will be the economic low cost suppliers of steel for the United States market."

In an interview published in *Time*, Thomas A. Murphy, chairman and chief executive officer of General Motors Corporation, comments on what he views to be unfair competition from Japan:

"The government and the business people and the bankers there move as one. The Japanese sell more than 1 million vehicles a year in the United States, but they import fewer than 50,000 vehicles from all countries. They have a way of operating to make sure that their markets are served by their own manufacturers. When I look at the value of the yen today compared with its value three years ago, I have to conclude that their autos are not fairly priced because the value of the yen has appreciated a heckuva lot more than they have raised their prices. In the United States, we have to take a hard look to make sure that we are not victims of our own desire to continue on a free-trade course. Any alternative would be bad for the United States and bad for the world, but I don't think the game should be rigged against us."[1]

In early 1977, several leading U.S. semiconductor manufacturers organized the Semiconductor Industry Association in response to what they perceived to be an unfair and perhaps unlawful assault by Japanese semiconductor companies. Charles E. Sporck, the president of National Semiconductor Corporation and cofounder of the association, said in March 1978:

"Japanese companies, operating in the form of government supported groups, intend to dominate the U.S. semiconductor industry just as similar efforts have overtaken many other American industries. Unless the federal government of the United States institutes and enforces free-trade rules for Japanese-made products now, the semiconductor industry here will be overrun and destroyed within ten years.

"Successful domination of markets by Japanese companies has weakened or destroyed the corresponding industry in the United States. Consider the fate of such industries as steel, motorcycles, CB radios, television receivers, high-fidelity electronics, sewing machines, calculators, and various passive electronic components. These industries once represented thriving segments of the U.S. economy but are now dominated by Japanese companies which gained control through predatory pricing of goods exported to the United States."[2]

When Congress passed the Trade Act of 1974, it stated that one of its objectives was "to assure a swift and certain response to foreign import restrictions, export subsidies, and price discrimination (dumping) and other unfair foreign trade practices."

In its efforts to obtain relief from unfair trade practices, Zenith has found little willingness on the part of either the Department of the Treasury or the Department of Justice to provide the "swift and certain" response to unfair or unlawful acts that Congress sought to assure. Instead, Zenith has witnessed what has appeared to be a continuing willingness on the part of both the Treasury and Justice departments to accommodate diplomatic conveniences even when that accommodation has required the avoidance of law enforcement responsibilities.

The long history of unfair and/or unlawful trade practices in the U.S. television market and of the failure of the responsible federal law enforcement agencies to take action is one that has involved serious economic injury to the employees and stockholders of many U.S. television companies. It is a record that provides a warning of possible future injury to the employees and stockholders of other U.S. industries, and it is a record that suggests the time has come to reconsider this nation's attitudes toward the ideal of "free trade" in today's world.

FOREIGN IMPORT RESTRICTIONS

No nation has benefited more than Japan from the willingness of other nations to relax import restrictions and to permit a free exchange of goods. Japan, however, while exploiting opportunities in the markets of its trading partners, has persisted in pursuing a protectionist policy at home. In 1976, color television sales in Japan exceeded 5 million units; fewer than 500 of these units were imported (see Exhibit I). The exclusion of foreigners from the Japanese color television market has, so far, been close to absolute.

The lack of television competition from abroad in Japan does not result from home market prices that are so low as to make importation unattractive. The least expensive 19-inch color television table models available for sale in Japan are priced at about ¥150,000, or, at the current exchange rate, about $700. Similar imported and domestically manufactured sets are selling in the United States for less than $350.

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[1] *Time*, March 27, 1978, p. 70.

[2] "The Japanese Threat: Courteous Destruction," speech presented to the Los Angeles Society of Security Analysts, March 8, 1978.

The price differences between the Japanese and U.S. markets are even bigger in the case of large-screen console receivers. Prices of these large furniture models in Japan begin at about ¥390,000, or $1,800. Furniture consoles with comparable features and screen sizes are readily available in the United States for about $750.

Spokesmen for the Japanese television industry sometimes explain the absence of import competition in Japan by suggesting that U.S. television manufacturers are uniquely inept in marketing their products abroad. These spokesmen fail to note, however, that even such European television giants as Philips, Telefunken, and Grundig, which actively participate in most of the television markets of the world, have also been unable to find a place in Japan's home market.

Matsushita, Hitachi, Sanyo, Sharp, and other Japanese television manufacturers have plants in Taiwan where labor costs are substantially lower than those in Japan's home islands. The output of the Taiwan plants moves in volume to Japan's export markets; but Japan's Ministry of Finance reports that no television receivers have been imported into Japan from Taiwan.

Six years ago, the Nixon administration showed great concern over a growing U.S. trade deficit with Japan. In reply, the Japanese launched a major public relations effort, not unlike the one we are seeing today, to communicate their intention to lower trade barriers and increase imports from the United States.

As a part of that public relations effort, considerable press attention was given to Motorola's announcement in 1972 that it would market large-screen U.S.-made television receivers in Japan with the assistance of a Sony affiliate, AIWA. Motorola estimated that it could sell 60,000 units annually and obtain about 1% of the Japanese market. The president of AIWA was quoted in the press as stating that the planned $1,245 price for a 25-inch Motorola receiver would compare favorably with the prices of large-screen models then available in the Japanese market.

In the spring of 1974, Matsushita acquired Motorola's television assets. The plan to export television receivers made in the United States to Japan died with the acquisition, and it has not since been resurrected.

In 1973, with the help of C. Itoh & C., one of Japan's largest trading companies, Zenith attempted to develop a plan for exporting Zenith color television products to Japan. C. Itoh completed the research necessary to provide Zenith with a complete analysis of the Japanese market. At about that time, Seibu, one of Japan's leading department stores, had entered into an agreement with Sears, Roebuck & Co., which provided that the Sears catalog would be made available in a number of Seibu stores to permit Japanese buyers to purchase Sear's offerings.

C. Itoh's report to Zenith stated that Japanese customers who were interested in buying the color television sets (among them, Japanese-made models) shown in the Sears catalog were advised that they would have to multiply the dollar television prices shown in the catalog by 600 to establish the yen price. A conversion rate of about 300 yen to the dollar was then being used for other catalog items.

At a ¥300-to-the-dollar rate, Japanese buyers would have been able to buy Japanese-made television sets through the Sears catalog at prices 30 percent or more below the prices at which similar products were available for sale in Japan. At the ¥600 conversion rate, the difficulty was eliminated. The Seibu store subsequently announced that it was not ready to accept any orders for Sears color television receivers. Zenith subsequently concluded the time was not yet right for an effort to sell Zenith products in Japan.

There are import restrictions in Japan's automobile market also. In 1976, over 2 million automobiles were sold in Japan's domestic market; approximately 40,000 were imported. No British, German, French, Italian, or U.S. automobile manufacturer has been able to penetrate the nontariff barriers that protect Japan's automakers from meaningful foreign competition.

In order also to protect its very inefficient farmers, Japan has established quotas to limit the importation of food, such as fruit and beef. In the absence of such quotas, Japan's fruit and beef producers would be economically destroyed by imports. About one in every six persons in Japan's work force is employed in agriculture, and farmers constitute a critical source of support for Japan's ruling Liberal Democratic party. In addition, Japan's political leadership is seriously concerned with any course of action that might cause Japan to rely so completely on imported food as to be vulnerable to possible future supply interruptions.

Economic justification?

An arguable humanitarian, political, and national-interest case could be made to explain Japan's policy of protecting its farmers. In the case of automobiles and television receivers no similar explanations are available. The exclusion of foreign competition from the Japanese television market, however, has provided Japanese television producers with profits substantial enough in their protected home market to permit them to sell their products abroad at prices so low that they displace and/or destroy local competitors.

The low prices at which Japanese television receivers are sold in the United States are not a result of superior efficiency on the part of Japanese television manufacturers. There is certainly no evidence of that superior efficiency in the prices at which Japanese television receivers are sold in Japan's home market. In addition, there is no major television plant in Japan that U.S. manufacturing and engineering executives have not visited on many occasions. Had the Japanese developed some extraordinary new manufacturing process, Americans would have learned of it as a result of their visits; or they would have suspected it because those visits were no longer welcomed. Neither has happened.

Many U.S. observers have visited the extremely automated and very efficient manufacturing facilities of which the Japanese are justly proud. These plants are not, however, typical of all Japanese manufacturing facilities. About 70% of all Japanese production workers are employed in companies with under 300 employees. Only about 40% of U.S. production workers are employed in companies of a comparable size. The small Japanese companies do not approach the level of capital investment per employee or the level of output per man-hour that is achieved in the larger U.S or Japanese plants.

The U.S. Bureau of Labor Statistics reports that in 1975, the latest year for which data are available, the output per man-hour in Japanese manufacturing was about 64.9% of the output per man-hour in the United States. Expressed differently, the average American worker produced 50% more per man-hour than his Japanese counterpart. Exhibit II shows the Japanese output per man-hour from 1960 through 1975 as a percentage of the U.S. output.

In recent years, many Americans have been led to believe that the explanation for this country's trade problems with Japan was to be found in an American labor force unable to match the productivity of a Japanese work force that was thought to be more efficient and more industrious. There is simply no evidence to support that belief.

Although Japanese television manufacturing is probably more efficient than Japanese manufacturing as a whole, the explanation for the success of Japanese television receivers in the United States is not to be found in superior labor productivity. The explanation lies in advantages Japanese manufacturers have obtained from tax rebates and from their continued ability to violate U.S. antidumping, customs fraud, and antitrust laws.

EXPORT SUBSIDIES

On April 3, 1970, Zenith petitioned the U.S Treasury Department asking it to impose countervailing duties on Japanese television imports. Attached to the Zenith petition was a copy of a U.S. State Department memorandum describing the nearly dozen programs through which the government of Japan assisted television exporters with export trade bills, export insurance, plant and equipment needed to produce for export, and expenses incurred in developing overseas markets. The Japanese government even provided special tax treatment for costs incurred in entertaining foreign buyers.

The Zenith petition also addressed the issue of the remission of Japan's commodity tax. Japan assesses a commodity tax equal to 15% to 20% of the factory level value of all television receivers produced for sale in the domestic market, but remits the tax when the products are exported. The Zenith petition contended that under the terms of U.S. law, the remission of the commodity tax amounted to a "bounty or grant" to exporters and that thus they should be subject to a countervailing duty.

On January 7, 1976, after a delay of almost six years, the Treasury Department issued a "final negative determination" denying the Zenith petition. The delay made it impossible for Zenith to pursue, within a reasonable period of time, its contentions with respect to bounties and grants other than the remission of the Japanese commodity tax.

Early in 1976, Zenith filed suit in the U.S. Customs Court asking that the Treasury be required to impose countervailing duties to offset benefits that accrued from commodity tax remissions. The case raised a legal issue involving the authority of the Secretary of the Treasury the resolution of which would have very substantial international economic consequences.

The General Agreement on Tariffs and Trade (GATT), which both the United States and Japan signed in 1947, permits signatory nations to rebate so-called "indirect" taxes when a product is exported. "Direct" taxes may not be rebated. Value added, commodity, excise, and sales taxes levied on the basis of the selling price of the goods themselves are considered to be indirect. Social Security, property, and corporate income taxes levied on wages, property values, or profits are considered to be direct.

The Treasury Department maintained that imposing countervailing duties to offset what it found to be "nonexcessive" rebates of indirect taxes would have involved a serious violation of the GATT and would have disrupted world trade. Zenith asserted that the United States had acceded to the GATT only "to the fullest extent not inconsistent with existing legislation" and that existent U.S. law and Supreme Court interpretations of that law require that even rebates of indirect taxes be countervailed.

In April 1977, Zenith's position was unanimously upheld by a three-judge panel in the U.S. Customs Court. The Customs Court decision was subsequently reversed by a 3-to-2 margin in the Court of Customs and Patent Appeals. In June 1978, the U.S. Supreme Court resolved the legal issue when it ruled unanimously that the Secretary of the

Treasury's interpretation of the countervailing duty statute had been reasonable and thus should not be reversed by the courts.

Economic justification?

While the legal issue has been resolved by the Supreme Court, the economic issue involving remissions of indirect but not direct taxes in foreign trade is likely to continue. When the GATT was adopted in 1947, economists were persuaded that indirect taxes were always and completely shifted forward into the final price of a product and that direct taxes were always and completely shifted backward to become a cost of production. Thus it was concluded that rebating indirect taxes would not provide competitive price advantages but that rebating direct taxes would.

The United States obtains virtually all of its national revenues from direct taxes. Japan, as well as most European countries, obtains very substantial portions of its national revenues from indirect taxes. I can illustrate the disadvantage that the GATT tax conventions place on American manufacturers with a simplified example:

Assume that products produced in both Country A and Country B are priced at $100, inclusive of all taxes, when sold in the home market. Assume further that Country A assesses only indirect taxes, Country B assesses only direct taxes, and the total of all taxes assessed in each country is equal to 10% of the value of the products sold in those countries. Finally, assume that freight and tariff costs between the two countries are insignificant.

If a producer in Country A exports to Country B, $10 of indirect taxes would be remitted on the exported product. Thus, when competing in Country B, the producer from Country A would be able to price his product at $90 against locally produced products that are priced at $100 and are carrying the full burden of Country B's taxes. When a producer in Country B exports to Country A, he would already have paid $10 of direct taxes in his own country, which would not be remitted. When his goods enter Country A, they would be assessed the indirect tax that applies to all products sold there. The products of Country B would thus be priced at $100 or more in Country A where the domestic product is priced at $100. In either case, the producers from Country A have the advantage.

Zenith can demonstrate that each of its color television receivers goes to market carrying approximately $85 of federal, state, and local taxes (see Exhibit III). About $28 is accounted for by income, payroll, and property taxes paid by Zenith itself. Another $27 is accounted for by income and payroll taxes paid by Zenith's employees and stockholders on salaries, wages, and dividends that are earned through Zenith's television sales. The final $30 is an estimate of the taxes that are passed on to Zenith by domestic suppliers and that must be recovered by Zenith in the prices of its television receivers.

A Japanese exporter avoids virtually all of the tax burdens carried by products produced in the United States. The exporter also benefits from rebates of indirect taxes from his government. He thus obtains substantial price advantages that are attributable to inequitable tax treatment and not to competitive superiority. The problem of tax in equity is not limited to the television market. It is present in the steel, automobile, and other industries subject to import competition.

The United States spends about 6% of its gross national product for defense. Defense expenditures in European countries amount to less than 3% of gross national products, and defense expenditures in Japan amount to less than 1% of gross national product. As a result, American industry carries a very heavy tax burden in absolute terms relative to its overseas competitors.

It is improbable that American industry will be able indefinitely to bear these higher tax burdens, accept disadvantageous tax treatment in international trade, and compete successfully at home and abroad. A resolution of the tax issue, however, will now have to come from Congress or from international trade negotiations rather than from American courts.

PRICE DISCRIMINATION (DUMPING)

On March 4, 1971, the U.S. Tariff Commission (later the International Trade Commission) found that the U.S. television industry "is being injured by reason of the importation of television receivers from Japan, which are being sold at less than fair value." The phrase "importation . . . at less than fair value" means dumping, or the sale of Japanese television receivers in the United States at prices lower than those at which they are sold in Japan.

Both U.S. law and the General Agreement on Tariffs and Trade prohibit dumping and provide for the assessment of dumping penalties if it is discovered. Following the Tariff Commission finding, the U.S. Treasury Department became responsible for assessing dumping penalties. The Treasury required that the importers of Japanese television receivers, other than Sony, post a 9% bond to cover dumping duties that might ultimately be assessed, but it took little action to assess the required dumping penalties. Sony was exempted from the bonding because it was found not to have been involved in the dumping.

Between the 1971 dumping finding and early 1977, the U.S. Customs Service, which reports to the Treasury, sought to establish the difference between the value of imported Japanese receivers and the value of comparable receivers sold in Japan. Customs believed that the value of receivers imported into the United States had been accurately stated on importation documents, and it concentrated its efforts on determining, through information supplied by Japanese manufacturers, the value of comparable receivers sold in Japan.

However, in early 1977, when an importer volunteered to pay extra duties on Japanese sets that he had imported earlier, the validity of the pricing data on importation documents became subject to serious doubt. In an internal Customs Service memorandum, the acting assistant commissioner of Customs wrote that a Japanese manufacturer had been "presenting Customs an invoice showing one price while the actual or true price was in fact lower."

A review by U.S. Customs investigators of the Zenith antitrust case public records disclosed other cases of double pricing. The memorandum to the commissioner of Customs stated that the Office of Investigations "undertook a massive inquiry of large importers of televisions, including large mass retailers as well as subsidiaries of Japanese television producers. The investigation revealed rebate schemes as well as other practices directed to the masking of potential antidumping duties."

The U.S. Customs investigations uncovered schemes in which importers had been billed at what is known as a "check" price, which was also used on customs documents. Of course, the secret rebates were not reported to Customs, thus reducing the risk of incurring future dumping penalties.

The *Chicago Sun-Times* reported that the secret payments involved deposits in Swiss bank accounts and in yen accounts in Japan and that, in some instances, satchels of cash had allegedly been brought into the United States.[3] In June 1977, *Time* reported that officials of the U.S. Embassy in Toyko were convinced a major scandal was about to break.[4] Nine months later, in March 1978, the Customs Service turned over to the Criminal Division of the Department of Justice the evidence it had accumulated to support possible prosecutions under U.S. customs fraud statutes.

After uncovering the rebate schemes, the Customs Service investigated the accuracy of foreign market value data submitted by the Japanese manufacturers. In a meeting with attorneys representing television importers, Customs reported on the results of those investigations. It found that "a significant number of the foreign market value submissions appeared questionable on their face when compared to cost of production submissions." When Customs formally requested access to Japanese cost of production data that had been submitted to the International Trade Commission, the manufacturers "either refused to supply the information, or refused to respond at all. * * *"

Furthermore, the Customs investigators borrowed technical experts from the International Trade Commission and the Federal Communications Commission to check the pairings of imported sets with sets sold in Japan that had been submitted. The experts concluded that "in a substantial number of cases the sets identified by the manufacturers as the sets sold in the Japanese home market most comparable to the sets exported to the United States were, in fact, not the most comparable, but, rather, quite different."

Japanese manufacturers, noting that labor in Japan is paid on the basis of seniority, had claimed that "only the most experienced workers were used to manufacture sets sold in Japan, while the relatively inexperienced workers were used in producing the sets exported to the United States." Customs investigators found this claim of labor saving "virtually impossible to verify." They also noted that "the information submitted by all manufacturers regarding foreign market value was remarkably similar" and concluded that "if the information furnished by a substantial number of manufacturers was not reliable, all of it might be unreliable."

In an October 1977 letter to the Treasury, the commissioner of Customs described the rationale that had led the Customs Service to seek a new method for establishing foreign market value in the television case. He wrote:

"In the television case we have uncovered considerable evidence that the basic information submitted to Customs by a number of Japanese television manufacturers is false. Further, aside from the question of the integrity of the information received, we are also of the opinion that the existing administrative procedures necessitating the collection and analysis of vast amounts of commercial information before an antidumping appraisement can be performed represents a perversion of the intent of the act, in that delays for unreasonable periods of time negate the remedial protection intended by Congress for the affected United States industry."

To establish home market values, the Customs Service adopted a formula accepted by the government of Japan for determining fair market values in assessing Japan's commodity tax. In his October letter, the commissioner of Customs wrote:

"This approach will give us an almost immediate access to usable foreign market value information, vis-a-vis the current procedures which now take at best two to three years. This approach of appraisement has been cleared by the responsible Customs legal authorities (a copy of their analysis and findings is attached)."

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[3] "U.S. Probes TV Import Kickbacks," *Chicago Sun-Times*, July 7, 1977.

[4] "Scandals—Kickbacks in Living Color," *Time*, June 13, 1977.

In December 1977, the Treasury's General Counsel wrote to the commissioner of Customs approving the use of the commodity tax formula for setting foreign market television values.

In mid-March of 1978, the Customs Service intended to assess importers some $400 million in dumping duties covering a period that extended through April 1977. Customs officials had mailed written instructions covering assessments totaling about $400 million to all field offices. Customs had also prepared bills for distribution to importers calling for the payment.

On March 27, 1978, Minister Yoshio Kawahara delivered to the Treasury Department a copy of a note addressed to the State Department from the government of Japan. The note strongly protested the method Customs had used to establish dumping duties. Following the meeting with Kawahara, Treasury decided to delay the assessment of some $350 million in television-dumping penalties.

On March 30, 1978, telegrams were sent to all U.S. Customs field offices directing that television-dumping assessments relating to shipments made subsequent to June 1973 be deleted from notices that were to be posted on March 31, 1978. The necessary deletions were made by hand by Customs field personnel before the bulletins were posted.

On March 31, 1978, the Treasury announced that the Customs Service had assessed dumping duties of $46 million against importers of Japanese television receivers. The $46 million assessment covered a time period from the beginning of 1972 through June of 1973. The Treasury's decision to limit assessments to the period ending in June 1973 was made despite a strenuous written recommendation by the commissioner of Customs that the Treasury proceed with the previously approved plan to assess television-dumping duties through April 1977.

On April 10, 1978, Congressmen Charles A. Vanik and Dan Rostenkowski issued a strongly worded statement released to the press questioning the action the Treasury had undertaken. They said:

"We understand that the department limited its original action in this long drawn-out case to one year of assessments so as to minimize the adverse impact on importers—and, probably, to avoid banner headlines on the extent of Japanese dumping in the American market. But the magnitude of the present dumping liability on imported Japanese televisions is a problem of Treasury's own making, since it is responsible for its failure to enforce the antidumping act in a vigorous and timely fashion.

"The history in this particular case of the lack of enforcement of the law as it was written calls for a reconsideration by the Congress of where the responsibility for administering the act should be placed. The degree to which counsel for importers have been permitted to tie the hands of government counsel in procedural snarls raises serious questions as to whether Treasury intends to enforce the antidumping act at all. It is unfortunate that the Treasury Department thought it appropriate to consult both with counsel for the importers and representatives of the Japanese government as to its proposed action in this case but did not see fit to consult with Congress or representatives of the domestic industry."

The congressmen's concern with respect to the impact of private meetings between Treasury officials and representatives of Japanese manufacturers was echoed in an April 18, 1978 memorandum written by U.S. Customs attorneys to the assistant commissioner of Customs. The attorneys had been asked to hold disclosure conferences with attorneys for both U.S. importers and Japanese manufacturers, and certain Japanese government officials. They wrote:

"As it has developed, Office of Regulations and Ruling attorneys have found it necessary to assume much responsibility for structuring and directing these meetings. This task has proved difficult because, with regard to a number of matters vital to the future conduct of this case, Treasury has given Customs neither the authority to establish policy nor the information necessary to accurately relate policy as set by Treasury.

"Our difficulties at these meetings have been compounded by the fact that Treasury has issued vague and conflicting information to the affected importers/manufacturers/government of Japan officials, concerning particular facets of its policy, while again providing very little direct communication with Customs. Effectively, Customs has been placed in the position of discovering Treasury policy through the often dubious representations of the affected parties.

"The entire range of problems which have surfaced during the disclosure conferences (especially the conference with Japanese government officials) seem to be related to the parties' understanding that the liquidations of March 31 were in some way considered to be 'provisional' in nature, that Treasury took this action primarily because of Congressional pressure, and that Treasury does not expect that the $46 million in dumping duties assessed to date in any way represents a final ascertainment of the liability due and owing.

"Rather, those affected anticipate that the assessed amount will be mitigated through informal government-to-government negotiations, or relatively informal contacts, between manufacturers and Treasury."

Economic consequences

In March 1971, the U.S. Tariff Commission found that the dumping of Japanese television sets in the United States had contributed substantially to declining domestic prices and, hence, to injury to the television industry. In recent years, dumping has made it impossible for domestic television producers to raise prices. In the last two years, the prices of Japan's Toyota, Datsun, and Honda automobiles have increased by 25% to 26%. The prices of Japanese television imports, despite changing yen-dollar relationships, have risen about 3% during the same period.

To stay competitive, the U.S. television industry has resisted raising prices to offset its rapidly escalating costs, which has resulted in financial chaos. In 1977, the U.S. consumer price index showed television prices at a level of 102, an increase of about 2% during ten years in which labor and material costs doubled.

Data produced by the Trade Commission show that U.S. television manufacturers other than Zenith earned pretax profits equal to 2.1% of sales on their television-manufacturing operations during the ten-year period of 1968 to 1977. The return of sales in television manufacturing was a small fraction of the 8% to 10% earned in other U.S. manufacturing activities. For the five-year period of 1973 to 1977, domestic television industry profits, excluding Zenith's, were 0.4% of sales (see Exhibit V).

The profit problems in the U.S. television industry cannot be blamed on inept management. Both the Ford Motor Company and Motorola have distinguished records of success in other manufacturing activities, but both abandoned the U.S. television market because they could not earn profits in it. And in recent years, companies with equally impressive records in other industries, such as General Electric, GTE Sylvania, and Rockwell International, have reported losses or very inadequate profits in television activities.

The $400 million dumping finding suggests that during the 1972-to-1977 period, the average Japanese television set had been imported into the United States at about $40 under its fair market value. A $40 advantage at the time of importation would give the Japanese television sets a retail price advantage, relative to the products of domestic producers, of $65 to $75. That price advantage did not result because the Japanese were more efficient than their U.S. competitors, but rather because they had violated American antidumping statutes.

In my view, unless the television dumping is stopped, the weaker of the remaining domestic manufacturers will not survive and the stronger ones will find it impossible to earn the profits necessary to modernize plants, invest in new products, and maintain strong technical organizations. If that happens, no U.S. television manufacturer will retain the capacity to compete effectively.

More than seven years have elapsed since the Tariff Commission found that the domestic television industry was being seriously injured by the dumping of television sets imported from Japan. In my opinion, the record of deceit and delay in the television-dumping case is without precedent. Despite substantial evidence of both customs fraud in the importation of television receivers from Japan and deceit in the home market pricing submissions of Japanese television manufacturers, the Treasury Department appears still to be unwilling to enforce the applicable laws. It seems that the Treasury believes the relations between the Untied States and Japan will be enhanced if action to pursue the customs fraud matter and to collect dumping duties is delayed or avoided.

But, it seems to me, relations between the United States and Japan are no more likely to be improved by our tolerating dumping and other unfair acts by Japanese producers exporting to the United States than they would be by our tolerating bribery by U.S. manufacturers exporting their products to Japan. Bribery, dumping, and other unfair acts are likely to improve the trade position of the user only in the short term. In the long term, these acts inevitably antagonize other nations, and trade relations have to suffer severely.

OTHER UNFAIR PRACTICES

In the spring of 1974, Zenith learned that Matsushita, the world's largest consumer electronics company, proposed to buy Motorola's television assets. In a letter to the Antitrust Division of the Department of Justice, Zenith protested the proposed acquisition. Magnavox joined the protest contending that if the Motorola acquisition was not stopped, it would result in a drastic restructuring of the U.S. television industry.

The protest was based on the belief that Matsushita and other Japanese television companies had, through predatory pricing associated with dumping, so weakened the U.S. television companies that they were easy prey for acquisition or merger proposals. Zenith and Magnavox maintained that permitting the acquisition to proceed would allow Matsushita to benefit from the fruits of that behavior. In addition, the protest contended that Matsushita, at the time, had a significant share of the U.S. television market and a dominant position in the U.S. stereo market through its already wholly owned Panasonic affiliate. Finally, the protest asserted that because Matsushita was the largest manufacturer of television components in the world, permitting it to combine its existing manufacturing capability in the Orient with Motorola's marketing assets would be seriously anticompetitive.

The Department of Justice acknowledged that it had been secretly investigating the Matsushita-Motorola proposal since November 1973. The secrecy contrasted sharply with the manner in which the Justice Department had proceeded in an investigation of a concurrent television acquisition proposal involving White Consolidated Industries and Ford Motor Company.

In December 1973, White had entered into negotiations with Ford to buy Ford's Philco consumer electronics business. White was not then involved in the consumer electronics industry. Philco's consumer electronics business was a fraction of the size of Motorola's. The Antitrust Division, while secretly studying the Matsushita proposal, advised Ford and White that their negotiations would have to be publicly disclosed because the Justice Department, in order to investigate the proposal thoroughly, wanted to seek the views of executives in the U.S. consumer electronics industry.

In February 1974, Zenith received a letter from Justice asking that Zenith express a view as to whether White Consolidated could be considered as a possible entrant into the consumer electronic business if it did not acquire the Philco properties. The only inquiry Zenith had received regarding the Matsushita case was a telephone call asking for information with respect to Zenith sales volumes. The caller carefully avoided giving any information as to why the inquiry was being made.

After completing its review, the Justice Department concluded that despite what it acknowledged were serious "antitrust questions," it would not object to the Matsushita acquisition if the sale were delayed for 30 days and if Motorola used that time period to seek another buyer. At the end of the 30-day period, Justice and Motorola announced that no qualified alternate buyer had been found. A Zenith offer to buy certain Motorola plants had been found to be anticompetitive.

The extensive search for an alternate buyer had overlooked North American Philips, an affiliate of N. V. Philips Glocilampenfabrieken of The Netherlands, which a few weeks later made a tender offer to acquire Magnavox. Matsushita and Philips were joint owners of a Japanese company considered to be the world's largest producer of components for consumer electronics products. A subsequent SEC investigation disclosed that North American Philips had begun discussions with Magnavox prior to the widely publicized search for an alternative Motorola buyer.

On September 20, 1974, Zenith filed an antitrust suit in the federal court in Philadelphia charging that a number of Japanese television companies and their subsidiaries had violated American antitrust and antidumping laws. By late 1976, when the International Trade Commission was holding hearings on unfair methods of competition associated with the importation of television receivers, a considerable amount of evidence had been accumulated in Philadelphia to support the antitrust litigation.

That evidence included copies of documents that had been signed by executives of the defendant Japanese television companies providing that they would not sell television receivers at prices lower than those specified in the agreements. In addition, the parties had agreed not to sell television receivers to any U.S. customers prior to registering those customers with a "council," consisting of executives of the signatory companies.

Japan's Ministry of International Trade and Industry had previously written to the court in Philadelphia to explain those agreements. The Ministry advised the court that the Japanese television companies had entered into the minimum, or check, price agreements pursuant to its direction, which according to the Ministry's letter had "a compulsory power equivalent to the law." The Ministry wrote that the agreements were intended to implement Japan's trade policy, which was described as follows:

"In order that Japanese exports do not cause unnecessary disruptions in the national economics of Japan's trading partners, one of the basic trade policies is to assure that Japanese exporting is carried on in as orderly a manner as possible. . . ."

When the agreements were publicly disclosed during the International Trade Commission hearings, the Department of Justice took the position that it was not concerned because they only set minimum prices. Had RCA and Zenith been parties to such agreements, their senior executives would certainly have been prosecuted.

In January 1977, Senator Edward Kennedy of the Senate Judiciary Committee wrote to the Department of Justice's Antitrust Division to express his concern with the division's failure to initiate its own civil or criminal investigation of the agreements:

"To me, the material thus far produced suggests a classic cartel situation, involving price fixing, market allocation, and customer allocation.

". . . when foreign companies conspire—with or without their home government's acquiescence or direction—to fix prices, to allocate markets, and to allocate customers in the United States, I believe the outermost permissible limits of our national interest in stimulating entry of foreign competitive products into the United States may have been breached."

Kennedy's letter had been addressed to Donald I. Baker, then assistant attorney general, Antitrust Division, who replied saying that the Antitrust Division found no adequate reason to conduct an investigation of the agreements. When John H. Shenefield was appointed assistant attorney general, Antitrust Division, the Senate Subcommittee on Antitrust and Monopoly requested again that an investigation be conducted.

On April 12, 1978, Shenefield advised the senators that, after a detailed review of the evidence, he had found "no evidence of ongoing concerted activity by Japanese enterprises aimed at the U.S. market." With respect to the agreements about which Kennedy had initially written, Shenefield wrote:

"As you are, I am aware of the check price agreements of an earlier period. However, we have no evidence that these agreements continued beyond 1973. In addition, we found no evidence that, even in earlier periods, any concerted activity was intended to or did serve a predatory purpose. . . ."[5]

As I have noted, two weeks earlier, in March 1978, the Treasury Department had assessed $46 million in dumping penalties, covering the 1972-to-1973 period, against television importers. Almost all of the Japanese television companies that had signed the check price agreements had been involved in the dumping. In my opinion, it would be difficult to describe dumping on that scale as anything but "predatory." It would also, it seems to me, be difficult to conclude that the Japanese companies had succeeded in keeping prices high in Japan while dumping in the United States without being involved in "a concerted effort."

Two weeks before Shenefield reported to the Senate subcommittee, the Criminal Division of the Justice Department had received from Customs the evidence to support possible customs fraud prosecutions. The purpose of the "double pricing" schemes was to make it possible to sell television receivers in the United States at prices lower than the check prices used in the pricing agreements. Since the check prices were described as being intended to protect the U.S. market, it would be very difficult to describe the schemes to avoid the check price minimums as being anything but predatory.

The U.S. Customs Service investigation concluded that all but a few of the Japanese television manufacturers had provided U.S. importers with secret rebates and kickbacks that they could use to avoid possible future television-dumping penalties. Customs also established that a large number of U.S. buyers had been involved in the schemes; as many as 85 U.S. companies were at one time reportedly under scrutiny. If knowledge of the schemes had been successfully kept from the Ministry of International Trade and Industry, the effort to keep that knowledge from the Ministry must certainly have been concerted. If the Ministry had knowledge of the schemes to deceive U.S. Customs officials, that knowledge would certainly not have made the schemes any less predatory or any less concerted; it would simply have implicated the Ministry.

Japan has a somewhat relaxed attitude toward cartel or price-fixing agreements in its own country. Also, restrictions on price fixing and cartel practices vary widely among other trading nations. The United States cannot demand that the rest of the world adopt its view on antitrust law. It can and must, however, demand that foreign companies comply fully with American antitrust law when doing business in the United States.

A SWIFT AND CERTAIN RESPONSE?

The experience of the television industry suggests that U.S. policy in foreign trade matters continues to be based on what has been aptly described as a "Marshall Plan" mentality. That mentality sees Europe and Japan as so weak that they require very substantial U.S. concessions in trade and other economic matters and the United States as so strong that it is immune from economic injury, no matter what concessions are made by its government. Such an appraisal is simply no longer valid.

In today's world, U.S. attitudes toward reductions in trade barriers should not differ markedly from our attitudes toward reductions in armaments. It is widely understood that if the United States were to reduce armaments unilaterally, it would be left exposed to serious military injury from any foreign power that decides to use an unrestrained military capability to accomplish its purposes. The United States has taken, however, what have come close to being unilateral actions to reduce trade barriers. As a result, this country has been left exposed to serious economic injury from foreign powers willing to use an unrestrained economic capability to accomplish their objectives.

A more rational U.S. trade policy would have as its first priority that trade concessions be truly reciprocal. It would demand that a reliable control mechanism be established to ensure that the parties to trade agreements act in a manner fully consistent with the commitments they undertake in signing those agreements, particularly with respect to access to their home markets.

Perhaps most important of all, a more rational trade policy would ensure that our government is both willing and able to provide the "swift and certain" response to unfair trade practices that Congress has intended be available.

EXHIBIT I.—JAPANESE COLOR TELEVISION DOMESTIC SALES AND IMPORTS

	1975		1976	
	Number	Percent	Number	Percent
Japanese domestic sales	5,021,000	------	5,011,000	------
Imports into Japan	11,644	0.23	452	0.01

Source: Information on imports was obtained from the U.S.-Japan Trade Council, on domestic sales from the Electronics Industry Association, Japan.

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[5] Senator Kennedy's letter, the Justice Department's responses, and other relevant documents are available in files of the Senate Judiciary Committee.

EXHIBIT II.—OUTPUT PER MAN-HOUR IN JAPANESE MANUFACTURING AS A PERCENTAGE OF U.S. OUTPUT

	Percent
Year:	
1960	27.4
1963	30.4
1966	35.8
1969	50.8
1972	58.0
1975	64.9

Source: U.S. Department of Labor, Bureau of Labor Statistics, 1977.

EXHIBIT III.—DIRECT AND INDIRECT TAXES OF THE ZENITH RADIO CORP. FOR 1976

	In millions of dollars			Taxes per Zenith color receiver
	Federal	State and local	Total	
Zenith income, payroll, property, and other taxes	$40	$12	$52	$28.50
Zenith employee payroll taxes and taxes on stockholder dividends	46	5	51	27.30
Subtotal	86	17	103	55.80
Estimated taxes on goods purchased from domestic suppliers	46	9	55	30.00
Total	132	26	158	85.80

Source: Zenith Radio Corp. financial statements, 1976.

EXHIBIT IV.—PROFITABILITY OF U.S. DOMESTIC TELEVISION INDUSTRY

[Dollar amounts in millions]

	Sales	Pretax operating profit	Profit as percentage of sales
1968 to 1977:			
Zenith	$8,096	$669	8.3
All others	17,638	366	2.1
Total industry	25,734	1,035	4.0
1973 to 1977:			
Zenith	4,732	284	6.0
All others	8,376	34	.4
Total industry	13,108	318	2.4
1977:			
Zenith	966	39	4.0
All others	1,942	42	2.2
Total industry	2,908	81	2.8

Source: U.S. International Trade Commission reports, 1968 through 1977.

"GROWING OLD IN AMERICA"

Mr. PERCY. Mr. President, a few years ago, McGraw-Hill published my book, "Growing Old in the Country of the Young," which I had researched for a number of years, on the many serious problems of senior citizens in our Nation.

Last Sunday, September 24, the Chicago Tribune began publishing a remarkable special report entitled "Growing Old In America." This major series of articles, which will run for 14 days, once again focuses our attention on the problems of the elderly. It is of vital importance that this be done. As stated in the opening article of this series:

> The aging of America promises to be the most dramatic population trend of the next half century, comparable in its impact to the post-World War II baby boom that helped give the country its current fixation on youth.

This is not an idle statement. Those persons over age 65 comprise the fastest growing segment of our population. Presently, almost 10 percent of our population is age 65 or older. By the year 2025, that figure will be almost 25 percent. As the Tribune states:

> This trend will profoundly affect lifestyles, employment patterns, and the way in which America spends its resources.

The Chicago Tribune is not a newcomer to elderly issue. It was a major assistance to the Senate Special Committee on Aging when we conducted our investigations into nursing home fraud and abuse several years ago. Those investigations have already led to significant improvements in the operation of nursing homes. Last year, the Medicare-Medicaid Anti-Fraud and Abuse Amendments Act was signed into law. This law will strengthen the capability of both the Federal and State governments to detect, prosecute, and punish instances of fraud and abuse in these programs.

In addition, in the near future the Senate will consider the Medicare-Medicaid Administrative and Reimbursement Reform Act. This bill would simplify reimbursement formulas, make the U.S. Department of Health, Education, and Welfare the final certifying agency for nursing homes serving medicaid patients, and remove some of the restrictions which discourage the provision of home health care services.

Improvements have also been made in the physical condition of nursing home facilities. Nursing homes are, by and large, cleaner and more sanitary than they were when the committee began its initial set of investigations 8 years ago. However, as brought out in the Tribune series and as also mentioned in a recent investigation by the Better Government Association and WLS-TV in Chicago, abuse of nursing home residents continues. On August 30, I chaired a hearing of the committee in Chicago to further explore abuse of nursing home residents. I found that better coordination between Federal, State, and local governments in regulating nursing homes is needed. I also found that more emphasis needs to be placed on home care services. Most elderly persons want to stay in their own homes. We should be facilitating this, instead of continuing programs and regulations which force them into unwanted and often unnecessary institutional care. This would not only be better for the individual, but also less costly.

However, nursing home abuses are not the main focus of the Tribune special report. The main focus is how this country should address the problems of an often forgotten but increasingly populous and vocal segment of our society.

In a recent taping I did for the public television show "Over Easy," I stated that the greatest problem facing senior citizens today is inattention. For example, through mandatory retirement laws, society decides when elderly persons have reached the end of their productive lives. When housing and other social welfare programs are developed, the needs of the elderly are considered almost as an afterthought. This perception of senior citizens as useless members of our society is, thankfully, gradually changing. We are beginning to pay more attention to senior citizens and their problems, not in a patronizing fashion, but in recognition of the many things they continue to contribute to our society.

Two current activities of the Senate Special Committee on Aging illustrate this point. In a series of hearings which we began this summer and will continue into next year, the committee is exploring the issues of "Retirement, Work, and Lifelong Learning." One issue to be addressed is the role of the older worker in the labor force. Many persons over age 65 are able and willing to work. Congress recognized this when it raised the mandatory retirement from 65 to 70. However, many people believe that older workers deprive younger workers of needed jobs or advancement in their present jobs. This seeming conflict between the needs of the younger workers and those of older workers is a clear example of the complex questions facing us as we face an increasingly aging society.

The committee is also beginning a series of hearings on "Neighborhoods and Older Americans." A recent report by the National Urban Coalition entitled "Displacement: City Neighborhoods in Transition" names the elderly as "the most often displaced." This series of hearings will focus on the role of senior citizens in our communities. It will also address the problems the elderly face in obtaining housing and needed social services.

Mr. President, the Chicago Tribune's special report on "Growing Old in America" promises to be a superb journalistic and analytic study of a nation in transition. I submit for the RECORD the articles from the first 3 days of the report. I am sure that my colleagues will find these articles to be highly informative and thought-provoking. The full text of the Tribune's special report will be inserted in the RECORD when the series is completed.

The articles follow:

[From the Chicago Tribune, Sept. 24, 1978]

GROWING OLD IN AMERICA

The aging of America promises to be the most dramatic population trend of the next half century, comparable in its impact to the post-World War II baby boom that helped give the country its current fixation on youth.

One of every nine Americans today is 65 years of age or older. The ratio will gradually narrow until by the year 2025, according to some experts, nearly one of every four persons will be in that age group.

The trend will profoundly affect lifestyles, employment patterns, and the way in which America spends its resources.

The Tribune Task Force has spent six months examining the phenomenon of aging and seeking answers to the question of how American society cares for the growing army of its elderly.

Reporters worked undercover in nursing homes, home health care agencies, health insurance companies, and firms that sell retirement properties. They found and documented disturbing evidence of neglect, abuse, and exploitation of one of the most vulnerable segments of the population.

But they also found, in interviews around the country with experts on aging, that the outlook for the elderly is increasingly hopeful; in the last two decades, America has made significant strides toward assuring its older generation a secure, happy, and healthful life.

ONE WHO SUFFERED SYSTEM'S INDIGNITY

(By William Recktenwald)

The life of Mrs. Johnie Horton, filled with disappointment and tragedy, is an extreme example of the vicissitudes that can still afflict the old, the sick, the helpless in American society.

Mrs. Horton, suffering from a serious heart condition and having lost a leg to amputation, spent the last five years in nursing homes.

For more than a year, the Illinois Department of Public Aid failed to pay the First Church of Deliverance convalescent home, 4316 S. Wabash Av., for her care.

By May, 1977, the bill for Mrs. Horton, a former country schoolteacher, had climbed to $4,179.70.

So the home's administrator, Ralph Goodpasteur, evicted her from the home—in a manner that prompted James D. Williams, public aid supervisor, to comment that Goodpasteur had shown "little or no regard for the health, safety, or welfare of mankind."

Goodpasteur called an ambulance, and Mrs. Horton was carried away on a stretcher as she clutched her only possessions, a purse and a radio.

On Goodpasteur's instructions, the ambulance crew drove to the public aid office and deposited her in the fifth-floor office of Mrs. Leona H. Levin, supervisor of nursing home services.

Mrs. Levin looked down at the stretcher and saw a woman "very upset and confused." She said she was worried that Mrs. Horton might die at any moment.

On her instructions, the ambulance took Mrs. Horton to the Ora G. Morrow nursing home, 5001 S. Michigan Av.

Williams was outraged by Goodpasteur's action and recommended proceedings to revoke his administrator's license.

He said Goodpasteur had not been paid because the Department of Public Aid had mistakenly canceled Mrs. Horton's eligibility for assistance in May, 1976. Goodpasteur had been told on three occasions that payment would be resumed when he signed a necessary form, Williams said, but "for some reason that we do not know, he did not follow the caseworker's instructions."

A state hearing resulted in a warning and reprimand to Goodpasteur, but he was allowed to keep his license.

As Goodpasteur sees it, he is the aggrieved party. He has filed suit against the public aid department, asking $4,700 for Mrs. Horton's care.

Goodpasteur was reluctant to discuss the case with The Tribune, but his attorney, Bernard Allan Fried, said public aid officials had treated Mrs. Horton as "a nonperson" and "we simply couldn't take it anymore."

Mrs. Horton spent three months at the Morrow home. Then she was transferred to the Normandy Terrace nursing home, 820 W. Lawrence Av. A Tribune reporter found her there last July, tied with a bedsheet to her wheelchair, a gash over her right eye from a recent fall.

She said she had no friends at the Normandy home, and "I'm lonely all the time because I don't want to be here." When the reporter took her out in her wheelchair, Mrs. Horton remarked that she had not been outside the home in nine months.

She had nothing to do all day but "just sit in this chair," she said, but she seemed resigned to her fate: "When you're old, poor, and ain't got but one leg, you generally do what they say and go where they tell you."

On Aug. 21, Mrs. Horton's travail came to an end. After a nine-day illness, she died in Thorek Hospital at the age of 89. She was buried a week later at Lincoln Cemetery.

THE IMAGE OF INCAPACITY PERSISTS—WITH TELEVISION'S HELP

(By Ray Moseley)

Old people are sick, tired and ugly. They can't do anything but sit and rock, go to church, or be pushed in wheelchairs.

Those are some of the ways that 180 Maryland children, age 3 to 11, described the elderly in interviews conducted by the University of Maryland's Center on Aging.

"The physical characteristics of age—wrinkles, white hair, false teeth—were viewed with horror by the children," said Prof. Edward Ansello, associate director of the center. "But children also described older people as being wonderful, kind, and rich."

His overall conclusion: "The children love, pity, and fear older persons."

In another survey, Duke University and Pennsylvania University faculty members expressed the opinion that a majority of elderly live in poverty. The correct proportion: 15 per cent or less.

In America's youth-oriented culture, many old people have to contend not only with the physical and financial difficulties of growing old but with stereotyped images and lack of understanding that prevail among younger people.

Former Sen. Frank Moss, 67, of Utah, who was a member of the Senate Committee on Aging, once commented: "It is hell to be old in this country. . . . We have made old age in this country a wasteland. It is T. S. Eliot's rats walking on broken glass. It's the nowhere in between this life and the great beyond."

Still, no matter how much they may view old age with distaste, many Americans apparently have not lost sight of the fact that their turn will come to be old. A national survey has found a surprisingly high degree of public support for programs to assist the elderly.

Americans older than 75 often face special problems—eyesight may start to dim, hearing to fade, the sense of touch to diminish.

As result, they may move more slowly—much to the irritation of younger people around them.

Dr. Leon A. Pastalan, a University of Michigan gerontologist, tries to help his students gain a better appreciation of the problems of this group by, in effect turning them into old people.

He outfits students with what they call "granny glasses"—specially developed spectacles with slightly opaque lenses to create the kind of cloudy view of the world that many elderly experience.

He puts plugs in their ears to simulate loss of hearing and applies two thin coats of a liquid bandage to their hands to cause a loss of tactile sensation.

"Like everybody else, I used to call old people Sunday drivers and tell them to get off the road," said Peter Karamitsanis, 26, a graduate architecture student. "But this program helps you to understand why some old people don't dare go over 20 miles an hour.

"I have come to appreciate them more because they are very alive people. They know a lot and are willing to share it, if people take the trouble to talk to them."

Pastalan developed his program principally to help achitecture students become aware of the hazards old people encounter because of their limited vision and hearing.

For example, students learn that the typical supermarket, with its huge windows, presents a particular problem. As the lens of the eye becomes opaque, tiny prisms are formed; every prism picks up light and scatters it, producing starburst effects.

Thus, because of the glare from the windows, old people often are unable to see clearly the merchandise on display.

Medical students, social workers, policemen, but drivers and others who have frequent contact with the elderly also have changed their perceptions of old people because of Pastalan's program.

Medical students, for example, learn that a hospital often presents confusing images to old people. Light reflecting on a scrubbed tile floor can produce a sharp glare that makes it difficult for the patient to see even the doctor, particularly one dressed in white.

"The worst thing a doctor can wear is a white coat," Pastalan said.

He contends that industry, which has long been aware of the teen-age market, has been slow to realize the potential of the elderly market. As the proportion of elderly in the population grows, industry may have to adapt product designs, packaging, the size of type used on labels, and its advertising to a different market.

In much TV advertising and programming, old people are either ignored or portrayed in terms of ridicule.

The Gray Panthers, an organization of young and old people that seeks to promote a more positive image of the elderly, has made television a special target of its efforts.

"When old people are portrayed [on TV], we are usually stereotyped," Maggie Kuhn of Philadelphia, founder of the Panthers, told the U.S. House Committee on Aging.

"In appearance, our faces are blank and expressionless, our bodies are bent over, and the senior shuffle is just a step away from the embalming room. Our clothing is frumpy and ill-fitting. Our voices are high-pitched and querulous. . . . We are shown as stubborn, rigid, inflexible, forgetful, and confused."

Two special targets of Gray Panther wrath have been the Carol Burnett Show [no longer a network show] and Johnny Carson's Aunt Blabby.

Claude Pepper, the 77-year-old chairman of the House committee, asked: "Are we so victimized by our own stereotypes that we only recognize as elderly those televised characters who are toothless, sexless, humorless, witless, and constipated?"

In truth, this is the healthiest, best-educated, and most vigorous generation of old people in America's history. And medical studies have concluded that no other age group displays such diverse physical and mental characteristics. But the stereotypes persist.

"When I was younger, I was able to conduct my own business, and people accepted me on my reputation as a businesswomen," said Mary Miller, 71, a member of the Chicago Gray Panthers. "Now suddenly they look at my gray hair, and it closes doors to me.

"Some doctors treat you as if you are so far gone they needn't bother with you. If anything ails you, they just say it's because you are getting old."

When Amydelle Shah, 69, was forced to retire as a head nurse at the University of Illinois hospital last fall, she went out to find another job and was interviewed by a man in his 30s.

"When he found out I was 69, he said, 'Fantastic.' I went out of there feeling awful," she said. "I felt like a bug you put under a microscope."

The company hired her. Now, she says with irony, "they think I'm doing a 'fantastic' job."

The Aged: Rising Challenge to a Nation

(Notes.—My money runs out at the last of the month. I never go out. I read my prayers at night. I listen to the radio. It's not much.—Mrs. Isabel Hansen, 71, widow.

I am old. As soon as you can say that, you're over the hump. It's not a dirty word. I've earned every one of these gray hairs, and I'm not ashamed of them.—Stella Francis, 74, president, Chicago Gray Panthers.

I buy secondhand clothes; I don't mind. They say these are the Golden Years, but you can't prove it by me.—Caroline Arangelovich, 71, retired waitress.

There are many persons who are retired from a job but who do not wish to retire from life. I'm not satisfied with standing around looking out the window; that's a great way to deteriorate.—Henry Grant, 70, retired teacher.)

They are a mixed chorus, the voices of the elderly in America. Some, bowed by age, declining health, and loss of income, would agree with Ptah-hotep, an Egyptian philosopher, who wrote in 2500 B.C.: "Old age is the worst of misfortunes that can affect a man."

Others cling fiercely to their pride and self-esteem and see old age as a period not to be endured but savored.

For all, it is a time of sudden and sometimes painful adjustments. They must contend with loss of spouses and friends, loss of income, a gradual loss of physical well-being, and a loss of the sense of belonging in a youth-oriented, highly mobile society.

Most of them, no matter how fortunate their circumstances in old age, are burdened with a degree of fear—of being alone, sick, helpless, abused, disdained, or ignored. Some also are afraid of dying; others, in their despair, long for it.

The Tribune Task Force has spent six months assembling a portrait of the elderly in America today. Reporters worked undercover in nursing homes, boarding homes, home health agencies, insurance companies specializing in health insurance for the elderly, and firms that sell retirement properties.

They interviewed scores of experts on problems of the aged throughout the country and examined the operation of public and private programs designed to benefit the elderly.

The picture that emerged is no more uniform than the voices of the old.

America has made big strides in the last two decades in enabling its growing population of elderly to live out their live in security and dignity. But the elderly remain particularly vulnerable to the greedy and rapacious, to confidence men and to common criminals. And some government programs for the elderly in short of their goals.

A National survey found that the major concerns of the old are crime. poor health, declining income, and loneliness.

Although few old people will experience the personal disasters that they dread, the catalog of troubles they can encounter is substantial, the Task Force learned.

Medicare, the government health insurance program for the aged that was begun in 1966, often covers only a fraction of medical expenses, forcing many of the elderly to make huge out-of-pocket payments. Sometimes it takes months for Medicare to come through with reimbursements.

Salesmen exploit the fears of elderly persons about poor health and high medical costs to sell expensive health insurance, some of it worthless or nearly so.

Sizable numbers of the elderly, financially unable to move out of decaying neighborhoods, are easy victims of muggers, purse-snatchers, and home invaders. Their recourse is to imprison themselves in their homes.

Many nursing and boarding homes are filthy and short-staffed, provide inadequate services, and keep elderly patients drugged to make them easier to handle. At one home, a reporter working undercover was left alone on the night shift with seriously ill residents, though she had said her only previous work experience was as a waitress.

Control over the homes is divided among a bewildering array of federal, state, and city bureaucracies—with the result that there is little control at all.

Home health care, touted by many government officials as a means of serving the elderly outside nursing homes, is being financially exploited by some private, not-for-profit companies that charge three to five times as much as profit-making ones.

Retired persons who buy property in the Sun Belt, hoping to live out their years in a comfortable climate, sometimes find they have bought uninhabitable patches of barren land, without water or electricity and miles from the nearest town and shopping facilities.

Such problems, if not corrected now, are likely to multiply in the decades ahead, when old people are expected to be the fastest-growing segment of the American population.

In 1900, Americans 65 and older—the usual definition of "elderly"—numbered 3 million, or just 4 percent of the population. Today, numbering 23 million, they constitute nearly 11 percent of the population, and the percentage is rapidly rising: Every day, more than 1,000 people in the United States reach age 65.

By the year 2000, according to most projections, there will be at least 30 million elderly. And by 2025, when the post-World War II "baby boom" generation reaches old age, they will number 45 million, or 14 percent of the population.

Those projections may be too conservative. The Futures Group, a "think tank" organization in Glastonbury, Conn., believes that increases in life expectancy will be so dramatic that 72 million people aged 65 or over will be alive in 2025—roughly 22 percent of the projected population.

Life expectancy at birth has increased by about 25 years since 1900. Then a person could expect to live 47 years; today, the average is 72 years [77 for women, 69 for men]. The average age of Americans, 29.4 today, is expected to be 41 in the year 2000.

The Futures Group predicts that life expectancy at birth will average 86 by 2025.

The trend toward a more elderly population will have profound implications for the American economy and lifestyle. Social Security, pensions, health care costs, the job market, and retirement policies all will be affected.

America's preoccupation with youth will have to be tempered; instead of such films as "Saturday Night Fever," we may in 20 years be deluged with movies about life and romance in a retirement community.

"This trend will affect every institution one can imagine," said Robert C. Benedict, U.S. commissioner on aging.

"It will have an impact on how we teach doctors to practice medicine, architects to design buildings, and community planners to do their job."

As America's population gets older and improvements in health care extend life expectancy, the group that University of Chicago gerontologist Bernice L. Neugarten calls the "old-old"—those 75 and over—is expected to grow fastest of all.

Today the elderly include 14.5 million persons who are 65 to 74, 6.7 million who are 75 to 84, and 2 million who are 85 or older.

The "young-old"—the 65–74 group—are expected to increase by only 39 per cent between 1975 and 2010, but the 75–84 group will group by 52 per cent and those 85 and older 111 per cent.

That alone portends a boom for the nursing home industry. Only 5 per cent of the elderly—about 1 million persons—are in nursing homes and similar institutions today.

"By the time we get to a doubling of the 65-plus population, we will have 2½ to 3 million people in nursing homes," said Dr. Robert N. Butler, director of the National Institute on Aging.

Most old people who enter nursing homes die there; the average stay is 1.1 years.

In an earlier time, most old people lived in the same home as their children, and families bore most of the burden of supporting them and caring for them when illness and disability struck.

That is still largely true in the black and Latino communities. But in an age marked by rapid mobility, it is no longer the case for most whites.

Contrary to popular myth, however, vast numbers of old people have not been deserted by their children or dumped in institutions to put them out of the way.

"Nursing homes are a last choice, not the first," said Mr. Ethel Shanas, a University of Illinois gerontologist whose studies on how families care for their elderly have done much to explode the myth.

Even though old people are less likely now to live with their children, 48 per cent of those living alone have a child within 10 minutes of their home, Shanas found. Three out of four see one of their children at least once a week—more than half do so nearly every day—and only 11 per cent go more than a month at a time without seeing at least one of their children.

But in a modern, urban society, care of the elderly increasingly is seen as a responsibility of the entire society rather than of the family alone. This concept developed in Europe many years ago but is relatively new to the United States.

Just 20 years ago, vast numbers of old people lived in poverty and misery. Social Security payments often were inadequate; few people were covered by private pensions, and some who were found that the pensions vanished as firms went bankrupt. The cost of health care turned many into paupers.

Since then, Medicare and Medicaid—the government health insurance program for the indigent—have been enacted, Social Security coverage has been greatly expanded, private pensions have spread with safeguards built into them, and a broad range of new federal, state, and city programs for the elderly have come into being.

The number of elderly living in poverty has declined steadily. Today, according to federal estimates, 15 per cent of the elderly—slightly more than 3 million persons—fall below the official poverty line [$3,417 annually for couples and $2,720 for individuals], compared with 11.8 per cent of the general population who do. The government says another 10 percent of old people live in "near poverty."

Prof. James H. Schulz of Brandeis University, perhaps the nation's foremost authority on the economics of aging, believes the true figure for the elderly poor is 5 to 12 per cent when non-money income—such as food stamps, Medicare, and Medicaid—is considered.

Whether the figure is 1 million or 3 million, it represent people who have to struggle merely to survive in this affluent society. They bring the median income for all persons 65 and over to just $161 a week for families, $67 for individuals.

At the other end of the scale, nearly 8 million older persons live in households with incomes of $15,000 or more. Many of America's elderly are doing quite well, and the public emphasis on problem areas tends to obscure the fact that this is generally the most prosperous, healthiest, and best-educated older generation in the nation's history.

As noted, 95 per cent of the elderly manage to live outside institutions, and 81 per cent enjoy sufficient health to be able to move about independently. More old people own their own homes than do persons under 65, and 82 per cent of the elderly homeowners have paid off their mortgages.

Although life remains bleak for a minority of the elderly, University of Chicago gerontologist Robert Havighurst says: "I don't think the elderly are especially poorly treated in this country. The middle-class elderly can take care of themselves. The problem is with people living alone."

Statistical evidence bears that out. Except for minority groups, those facing the most severe problems in income, housing, and health are elderly widows or people who never married, and they constitute only a small segment of the elderly.

"We always talk about gaps in services, and that reflects an assumption that all old people need services," said Jack Ossofsky, executive director of the National Council on Aging in Washington.

"One-third of the elderly need significant help. Largely, they are the older of the old. But as we deal with the vulnerable old and the socially isolated, society thinks we are talking about all old people. This reinforces the negative stereotype of the elderly that prevails in this country."

But even most government programs for the elderly make no distinction as to need, and the costs have become immense.

Joseph Califano, secretary of Health, Education, and Welfare, recently estimated that such programs cost $112 billion a year—5 percent of the gross national product and 24 percent of the federal budget.

Several experts on aging have challenged his figures, but even allowing for a margin of exaggeration it is clear that the elderly represent a major cost to the American economy.

Nonetheless, the United States continues to lag behind some European countries—notably the Scandinavian countries, West Germany, and the Netherlands—in the care it gives its old people.

These countries have achieved higher standards of care by taxing themselves at a higher rate than Americans pay. A major question for American society is how much its citizens are willing to pay to assure a decent life for their grandparents, their parents, and ultimately themselves in old age.

Some press reports have forecast a developing "intergenerational warfare," with the shrinking number of younger persons in the work force rebelling at the burden of supporting a growing army of oldsters.

The recent approval by California voters of Proposition 13, which sharply reduced that state's property taxes, has fueled that argument.

But a Louis Harris survey found widespread support among younger people for programs to benefit the elderly, even if it means higher taxes. And most experts on aging discount the reports of "intergenerational warfare."

"The political system will work out change with compromise," said Schulz. "The young won't get everything they want, and neither will the old.

"The whole discussion is framed somewhat improperly. We continue to focus on the idea of somebody providing support for somebody else. But economists argue that the correct way to view it is the extent to which you are willing to defer income for your own old age."

Even if there are no major new programs for the elderly, Califano estimates, the cost of serving them will reach $350 billion by 2010 and, in the 15 years after that, will jump to $635 billion—more than 10 percent of projected GNP and more than 40 percent of the federal budget.

Commissioner Benedict agrees that there will be increased costs in serving the elderly in the years ahead—but he sees pluses as well.

"To the extent that the elderly require services, it means jobs," he said. "Just as there was a boom in the electronics industries after World War II, in the next half century a whole new services field for the elderly wil start to develop, and it will bring jobs with it."

He predicts a boom not only in the nursing home industry but also in nursing and other services to the elderly in their homes.

At least one expert worries that the elderly may be demanding too much.

"Any day now, the old can be in the same boat with the minorities, finding they have used up their potential for demanding more," said Dr. Wilma Donahue, 77, director of the International Center for Gerontology in Washington.

"It may be that we don't have much choice but to ask the family to provide more services to the old that they can't provide themselves. At the same time, we may have to evaluate more stringently how we determine who must have services so as not to give them to old people who are able to care for themselves."

This selective approach may not be politically acceptable, but it may require consideration in view of the rapid growth in the numbers of the elderly.

As Benedict puts it: "The demographics are alarming. Older people are increasing by 500,000 each year, and 80,000 to 100,000 of these need assistance and care of some kind."

The only alternative to meeting these needs, Ossofsky said with a touch of hyperbole. "is what once was called the Final Solution. We have to react with greater humanity to people who are vulnerable."

Retirement Well Planned, He "Goes Like 60"

(By John Gorman)

Calvin "Pete" Pfingst goes out at 6:30 every Monday morning to play golf, works a few hours every Tuesday at a North Shore social center, and drives several friends to church every Sunday.

What makes all of that remarkable is that Pfingst is 95.

He typifies the many older Americans who remain vigorous, alert, and active in their retirement years.

Last May 22, Pfingst was one of 50 persons inducted into the Chicago Senior Citizens Hall of Fame by Mayor Bilandic in ceremonies at City Hall.

"He sets an example for persons of advanced years in leading a well-balanced life, which includes physical and mental activity," said the citation from the Mayor's Office for Senior Citizens.

Pfingst, a former principal of William Penn Elementary School and assistant principal of Lane Tech High School, retired in 1948 after more than 28 years of work for the Board of Education. A native of Wolcottville, Ind., he graduated from the University of Chicago and received a master's degree in education from Northwestern University. His first job was as a $40-a-month teacher at a school in Indiana.

"I still drive," he says with pride. "I took the test the last time in 1976, and the tester said, 'Is this right? You're 93?' He passed me after seeing how well I could drive. I drive some people to church every Sunday [in Wilmette]."

Pfingst lives at the Presbyterian Home, a retirement home in northwest Evanston. His wife died 10 years ago, and they had no children.

He walks with a quick, sure strike and has no hearing or sight problems.

He attributes his good health and long life partly to heredity—his mother lived to 97 and her parents lived into their 90s. But the rest, he said, is the result of his lifestyle.

"I have avoided being habitual in any way that would be derogatory to my health," he said. "I don't drink. I don't smoke. I also take my time to do what I want to do. I am not in a rush. I take a walk each day.

"On Mondays, I go golfing with a friend [85 years old]. We play until we are tired. We usually go out by 6:30 a.m. and play the back nine so we are not rushed."

Pfingst, who does his own cooking, said he also tries to be careful about what he eats. "I try to eat good food—fiber foods, lots of fruits—and I avoid sweets," he said.

On Tuesdays, Pfingst works for a few hours at the North Shore Senior Center, 620 Lincoln Av., Winnetka. Some of his former students from Lane Tech, now retired themselves, show up there and still remember the days when he taught them mathematics. Several have told him they became engineers because they enjoyed his classes so much.

Pfingst handles the biographies of the center's more than 700 senior members. He transcribes them in longhand, he said, because his penmanship is still sure and steady.

Some of his free time is spent reading, generally from the classics or the Bible, and he plays bridge several times a week.

Pfingst said he and his wife, who was also a teacher, planned well for their retirement; when the Presbyterian Home opened for membership in 1961, they were the first in line.

"I have no worries now," he said. "If I become ill, I can go to the infirmary and they will take care of me. It is all taken care of in the monthly fee."

His income from Social Security and his pension as a teacher, is adequate for his needs, he said.

"What you need the most in later life are friends," he said. "And it's something you have to work at. My friends are my capital, and they create interest. I'm a very wealthy man because I have so many friends.

"Last night, I took a girlfriend out to dinner, and we wound up playing bridge with another couple."

[From the Chicago Tribune, Sept. 25, 1978]

The Nursing Homes—"A Place To Wait for the End"

> (In most countries [the nursing home] is utterly inhuman—no more than a place to wait for the end, a deathbed.—Simone de Beauvoir, "The Coming of Age")

Zeno Carter appeared to be near death when the night shift nurse's aide looked in on him at the Uptown Shelter Care Home, 4646 N. Beacon St.

Carter, 66, a man of average height, was a wasted, skeletal figure weighing about 80 pounds. He told the aide he was unable to keep any food down, complained of two lumps in his abdomen, and said he was having hot and cold flashes.

He was so weak he could barely lift his head.

In reality, the nurse's aide was Tribune reporter Jane Fritsch, a member of a Task Force team that investigated nursing home conditions as part of a six-month examination of problems of the elderly.

Fritsch had walked in off the street two days before and, although she said her only previous work experience was as a waitress, had been hired on the spot by the administrator, Joan Adams.

Though she was a new employe, Fritsch was left in sole charge at night of the 42 residents of the home, an old, rundown, and dreary converted mansion in a seedy section of Uptown.

She checked the nursing charts and found that Carter had been ill for days. Dr. Mitchell Sokoloff, the physician for the home, had been telephoned about him twice in three days but had not come in to examine Carter, according to the records. The second call had been made earlier that day, when Carter became pale, weak, and incontinent.

The records stated: "No PO [physician's order] received. Dr. states he will visit in a.m."

Fritsch immediately phoned Sokoloff, although it was nearly midnight, and told him it was urgent that Carter be hospitalized.

"Can't it wait until morning?" Sokoloff asked.

She insisted that it was urgent.

"Well, what excuse should I use when I call the hospital?" he asked.

Fritsch exploded. "I don't care. Make something up. This man is very sick and should have been put in a hospital long before I got here tonight."

Sokoloff called back minutes later and said hospitalization had been arranged. He told Fritsch to list "extreme weakness" as the reason for admission.

Zeno Carter died 16 days later at Martha Washington Hospital. Whether he would have survived if he had been hospitalized earlier is impossible to say. But at least there was someone on duty to try to save his life that night.

That is not always the case at the Uptown home, Fritsch was told. Aides and patients said that when the scheduled employee does not show up, residents are left alone at night, even though some former mental patients among them have a tendency to wander away.

Sokoloff subsequently declined to discuss his handling of the Zeno Carter case with The Tribune. To do so, he said, would violate "the patient's right to privacy." He also declined to say how long he had been associated with the Uptown home or with similar institutions.

Fritsch was one of several Tribune reporters who worked undercover in nursing and boarding homes in Illinois, Michigan, and Ohio during the investigation.

The reporters found that, although conditions have improved in some homes since a 1971 Tribune investigation uncovered widespread scandals, many can still be categorized as warehouses for the dying.

In the three states, reporters found:

Patients left to sit in their rooms all day and deteriorate, with few activities conducted for them. Typically, a daily schedule of activities was listed, but they never took place.

Patients drugged to make them easier to handle.

Incontinent patients left sitting for hours in their own wastes.

Filthy conditions that attracted hordes of rats, mice, and cockroaches.

The nursing home industry is a $14 billion-a-year business, much of it controlled by private entrepreneurs who in many cases appear to put profit before patient care.

There are more than 1 million patients in 23,000 homes. Dr. Robert N. Butler, director of the National Institute on Aging, told The Tribune that half of them are in third-rate homes.

"If we had a flood that left half a million people homeless, this nation would respond in a humanitarian way and declare a national emergency," he said. "But somehow this doesn't get declared a national emergency."

A U.S. Senate committee report in 1976 said: "Long-term care for older Americans stands today as the most troubled, and troublesome, component of our entire health care system."

Tribune reporters examined federal records and found scores of reports by inspectors citing flagrant violations of regulations, some alleging theft of patients' funds by administrators.

Yet there were few indications that any of e reports were ever acted upon. The reason apparently lies in the diffusion of responsibility for control of nursing homes among at least seven agencies.

With so many authorities involved, reports on violations are often simply passed from one to another, with none taking action, the Task Force found.

Edward C. Stec, director of health standards and quality for the U.S. Department of Health, Education, and Welfare in Chicago, said HEW conducts its own inspections of homes offering skilled nursing care but pays the state to inspect intermediate care homes, which mainly provide custodial care.

He said HEW can decertify homes from participation in Medicare or Medicaid but cannot close them. That responsibility, he said, rests with the state.

Another HEW official said he could not think of an offense short of murder that would result in a closure.

William Irvine, head of long-term care for the Illinois Department of Public Health, said there have been about 150 decertification hearings in the last two years, but only four or five homes have been decertified.

Irvine said homes can be fined for violations only if they have been found guilty in a court. "In seven years, we have never been able to assess a fine," he said.

Citizens For Better Care, a Detroit organization, has suggested there should be alternatives to closure, such as a financial penalty, a ban on admissions until faults are corrected, medical receiverships, and decertification of a portion of beds in a home until standards are met.

Dr. Butler said the task of inspection is too big for the number of inspectors available. He suggested establishment of a voluntary inspection system by a national organization, what he called "a PTA for nursing homes."

"What a difference it makes if a family visits a patient," he said. "The home tidies her up because her daughter is coming. But 50 percent of the patients have no family.

"If a national organization would take this on, the nursing home operators would make improvements. The volunteers could do hair styling and grooming, take patients on trips, and inspect for fire and physical hazards. The homes might even find it attractive."

The Illinois Health Care Association in Springfield, an organization of nursing home operators, told The Tribune that the way to better nursing home standards is more money.

"Seventy per cent of the patients are on Medicaid, and with Medicaid reimbursing only $19 a day, the basic level of care suffers," said Lynn May; an association spokesman.

May was also critical of the diffusion of responsibility for control of nursing homes.

"We did a survey and found there were about 75 offices that had some regulatory powers," he said. "One will say one thing and that will be contradicted by another. We are thinking of pushing a bill that would establish one inspection agency."

Reporter Fritsch worked two nights at the Regent Plaza nursing home, 901 S. Austin Blvd., formerly called the Austin Congress. She described it as "depressing, dirty, understaffed, and poorly maintained."

Again she walked in off the street and was hired, this time after a two-minute interview with nursing supervisor Catherine Wilde.

On Fritsch's first night at work, Mrs. Emogene Gaines, a licensed practical nurse, sat in the entrance lounge and refused to begin work until learning whether anyone else was going to show up.

She said she was fed up with short staffing and had worked too many midnight shifts when she was alone on duty.

"Up till now they've been able to talk me into staying, but my family won't let me do it anymore. It's just too much work," she said. Eventually, three other employes arrived and Mrs. Gaines stayed.

When morning came, Fritsch was told to dress the patients. The men got undershirts, shirts, and pants—no undershorts. The women got T-shirts and dresses—no other underwear. Both got men's socks, which weren't in matching pairs.

One resident said that his daughter used to bring him shirts, but after he wore them once they would be put in a common laundry. "I'd see them on some guy down the hall later," he said. "I've been here for seven years, and I'd rather be dead than spend another seven years here."

Most patients needed baths before dressing, Fritsch said, "but I was told they only get baths once a week."

In many homes where Tribune reporters worked, the non-nursing staff was paid only the federal minimum wage, $2.65 an hour, for what is often backbreaking work. Nationally, nursing homes experience a 75 per cent turnover of staff each year.

Many doctors are evidently reluctant to work in nursing homes, perhaps because of the depressing atmosphere of most such institutions.

The American Medical Association has said: "Sadly, the one individual who can significantly upgrade the quality of patient care . . . and simultaneously improve the morale of both patients and staff absents himself from the scene. That individual is the physician."

More than 65,000 registered nurses are working in the nation's 23,000 nursing homes, but a Senate report says that "unlicensed aides and orderlies with little or no training provide 80 to 90 per cent of the care."

Although some staff members seemed indifferent to patients, Tribune reporters found no instance of outright violence against patients. And they heard some employes express sympathy for patients.

"I've been here two months, and I just don't know about these old folks," a janitor told reporter William Recktenwald when both were working for a chain of five homes in Cincinnati.

"They should have something for them to do. They ain't got nothing to do; they just sit and wait on death to come."

And violent abuse of patients does occur. Administrator Susan Moore, who interviewed Recktenwald for a job with Quality Health Services, Inc., in Cincinnati, told him: "We have had bad luck with orderlies here. The last one we hired raped a patient."

Recktenwald drove a small truck carrying food to the five Quality Health homes. Linen, often soiled with urine and feces, was carried at the same time.

The day after the homes' pharmacist reviewed patient records, dietitian Brenda Sheppard told Recktenwald: "I want every home to get extra orange juice. They need it to give medication."

An aide later explained to him: "It's that magic orange juice. The nurse puts some medicine in it, and the patients go to sleep. They are no trouble after that orange juice."

A Senate committee report in 1975 said tranquilizers and other drugs affecting the central nervous system constitute almost 40 percent of the medication given in nursing homes. The purpose, it said, is to make patients easier to handle.

Because of a shortage of nurses, drugs often are dispensed by unqualified personnel. A Senate report estimated that 20 to 40 per cent of the medications are given in error.

The average patient gets four to seven kinds of medication a day, some of them more than once. In 1976 the average drug bill for nursing home patients came to $300 a year; for elderly persons who were not institutionalized, the average was $87.

Little concern is shown for patient privacy and dignity in some homes, the Task Force found.

At the Forestview Home in Cincinnati, part of the Quality Health chain, Recktenwald saw an elderly woman sitting naked in a wheelchair, trying in vain to cover herself with her hands as aides dressed her. The door to her room had been left open and the privacy curtains pushed aside.

Reporter John Gorman and photographer Frank Hanes witnessed a similar incident in the Lehrer Home, 4636 N. Beacon St., Chicago.

Still the conditions in nursing homes appear to be better than those in some boarding homes for the elderly.

The boarding home industry mushroomed several years ago when state governments began transferring thousands of persons out of mental hospitals. This was largely an economy move; the states paid the full bill for hospitals, but care in boarding homes is financed by federal Supplementary Security Income benefits for the indigent.

In New York, Deputy Atty. Gen. Charles J. Hynes investigated boarding homes last year and found many residents living what he called "a drab, barren existence that often sinks to levels that offend basic human dignity."

Harold Gordon of the Maryland Health Department said there are "horrendous" conditions in his state's boarding homes.

"We have seen residents literally stuffed into attics, basements, and, in one case, a barn," he said. "We have seen food being prepared that I would be hesitant to feed my dog. We have had reason to believe that the operators of some of our worst homes were in fact stealing the residents' Social Security funds."

Neither nursing nor boarding homes, of course, are uniformly bad.

Fritsch worked one day in the Lake Shore Nursing Centre, 7200 N. Sheridan Rd., and described it as a clean, well-run facility that appeared to offer good care.

Recktenwald worked at the Maria Parkway nursing home in Cleveland, which had lost its certification earlier because of understaffing and unsanitary conditions. When he worked there, the home was under new ownership, a large number of nurses and aides had been hired, and the staff was cleaning up the facility.

But reporters also visited homes where inspectors previously had cited violations and found the violations continuing, with no action taken by government authorities.

For example, the last annual inspection report on the Pleasantview nursing home in suburban Niles complained of understaffing, medications distributed by unlicensed personnel, and food equipment, walls, and floors in need of cleaning.

Fritsch worked at Pleasantview one day and reported a smell of urine permeating the facility, incontinent patients left sitting in wet clothes, roaches overrunning the women's shower room, and staffing problems.

A nurse told her that none of her aides had shown up the previous day.

A 1977 report on the Michigan Terrace Nursing Center, 3405 S. Michigan Av., told of staffing hardships due to high absenteeism; a male resident seen using the toilet while a woman was in the room; lack of observation of patients by nurses, resulting in frequent accidents; many patients in need of clean clothing; nine residents without shoes; and a roach in a water pitcher.

Tribune reporters who visited Michigan Terrace this year found an overpowering stench of urine in one room, an incontinent patient sitting in wet pants, and roaches in patients' rooms and food storage rooms.

There are scores of reports on similar violations at other nursing homes throughout the area. Some date back seven or eight years. They are filed in the Chicago HEW offices, and most are gathering dust.

"There Is No Pressure to Treat the Old People Better"

(By John Gorman)

Many nursing home residents are left in their rooms with nothing to do all day, "like one more piece in a potato salad," and gradually withdraw into a private world as their self-esteem vanishes.

That description comes from Mrs. Lilo Salmon, who sees hundreds of the elderly in nursing homes in her capacity as program director for the Little Brothers of the Poor, 1658 W. Belmont Av.

"When we visit these people, we ask them to draw a picture of something they would like to do," she said. "Many of them draw a picture of a house with smoke coming out of the chimney. Because that's where they would like to be—in a house, not a nursing home."

The overwhelming majority of nursing home patients are elderly women, most of them widows.

The median age of the patients is 80. About 96 percent are white, and 60 to 80 percent are poor. Seventy-two percent are widowed or divorced. Only 12 percent have a living spouse, and 16 percent never married.

Eighty-five percent of those who enter a nursing home die there. The average length of stay is 1.1 years.

Although only 5 percent of the elderly population are in nursing homes at any one time, about 20 percent of all old people eventually spend some time in one.

"I never met a person in a nursing home who liked the food," Mrs. Salmon said. "Not only is it bad, it isn't enough. They draw pictures of food.

"They sometimes draw pictures of people sitting around a table, friends. Very often all they need is a little hope. Consciously they really think there is nothing left for them but dying."

Mrs. Gisela Mengin, a group worker for the Little Brothers, said nursing home regimes encourage the elderly to become passive and dependent.

"When all their decisions are made for them—when to get up, when to eat, what to eat, when to bathe—this narrows their lives, and after a while they let the nurses make all the decisions for them," she said.

"Then it's disastrous. You see the degeneration as more and more of their decisions are taken away from them. They suffer the loss of self-determination, of self-worth, the loss of being successful in any way."

A survey by the National Center for Health Statistics showed that more than half of nursing home patients are confined to the premises, to their beds, or to chairs.

Twenty percent were thought to be in homes because there was no one to look after them in their own homes; 23 percent were considered too hard to handle at home; and 44 percent needed permanent care.

About 55 percent are mentally impaired, according to the survey, 45 percent are often incontinent, and 59 percent are unable to manage their income or spending money.

Mrs. Salmon said it takes more than meeting the legal requirements for space, cleanliness, and staffing to make a good nursing home.

"If there is no personal involvement, it can be a terrible place," she said.

When we take them flowers or some candy or take them on an outing, we see the beauty still left in these old people, and they light up, come to life.'

Mrs. Mengin agreed. "Very often the people who run the nursing homes are much more concerned with fulfilling the government requirements than with caring for the human needs of the patients," she said.

"They feel the threat of the government to meet the law, but there is no pressure to treat the old people better"

[From the Chicago Tribune, Sept. 26, 1978]

Our "Exterminators" Find Nursing Home Filth

(You don't find many early or primitive societies that treat old people as badly as civilized societies do.—Anthropologist Margaret Mead.)

"THIS IS cockroach heaven," announced the young administrator of the Stratford Home, a boarding home at 4131 N. Sheridan Rd., as he led the extermination crew into the dining room.

"Behind the milk machine and under the sink in the kitchen there are thousands of them," he said. "When you turn the lights on at night, they're all over the place."

At the Bethune Plaza nursing home, 4537 S. Drexel Blvd., a nurse screamed as a mouse appeared in a doorway, and the mouse fled. "I saw a rat in the laundry basket last week," she said. "It was a big one." Large rat traps were all along the walls.

In Illinois, Ohio, and Michigan, Tribune Task Force reporters conducting an investigation of nursing and boarding homes—part of a six-month examination of the problems of the elderly in America—found that thousands of old people are living amid almost indescribable filth in buildings overrun with insects and rodents.

"The Task Force Pest Control Co."—a bogus firm staffed by reporters carrying extermination gear and a photographer with a concealed camera—visited scores of homes to document the findings.

The extermination fluid they used to spray the homes was a harmless deodorizer. It was not completely useless, for many of the homes they visited reeked of urine.

Many nursing and boarding homes in Chicago are in the Uptown area, their squalor often in keeping with that of the surrounding neighborhood's burned-out apartment shells, boarded-up stores, vacant lots cluttered with trash and auto parts, walls and gutters littered with broken glass.

The boarding home industry in particular has thrived since Illinois began removing mental patients from state hospitals several years ago in a budgetary move to make them wards of the federal government rather than the state.

Uptown became, a boarding home center because it was a deteriorating area where property could be bought cheaply.

So many former mental patients are jammed into Uptown boarding homes that it has been called a "psychiatric ghetto." The patients often sit on curbs or wander the neighborhoods, asking passers-by for money or cigarets.

The Task Force Pest Control Co. offered its services to nursing and boarding homes as a free demonstration. Many administrators snapped up the offer eagerly, some saying that they had no regular extermination program—though state regulations require them to keep premises free of infestations of insects and rodents.

The Stratford Home is a four-story, brick structure on the corner of a decaying Uptown block.

From "cockroach heaven"—the dining room—the Task Force crew made its way to the boiler room.

"When we turn the lights on in here, there are cockroaches and water beetles all over the place," said the administrator, Gary Mellman. "I've killed about six mice in here myself with traps."

Throughout the facility the crew found mouse droppings, open garbage cans, filthy floors, broken windows, bathrooms without toilet paper, and large holes in baseboards.

Several residents told of seeing mice in their rooms.

At Bethune Plaza, a converted old hotel on the South Side, a woman patient told of seeing roaches come through the windows.

"The other night they ran across Molly's bed," she said, referring to her roommate. "I'm afraid they are going to run into her mouth while she's snoring."

In a second-floor dining room there were food particles all over the floor. A nurse said many patients need help with eating, and the staff does not always clean up after them.

"I've got to talk to the administrator about this," she said.

As the Task Force crew stepped into a corridor at Bethune Plaza, reporters saw a young orderly grappling with an elderly patient, his hand in the patient's trouser pocket.

"Come on, gimme that dollar and I'll give you a shave," he said. Then, seeing the visitors, he quickly withdrew his hand and said, "Lend me a dollar, will you?"

A nurse said nothing to the orderly, although patients are not supposed to have to pay to be shaved.

The Regent Plaza nursing home, 901 S. Austin Blvd., was also visited by the "exterminators," and reporter Jane Fritsch worked there as a nurse's aide for two nights.

"The entire building, including the first-floor lobby, reeked of urine," she said, "The floors were dirty, and our shoes stuck to them."

She found cockroaches running through cracks in the walls where the molding had fallen away. Windows were filthy, and drapes were ragged, dirty, or missing.

A bathroom had no toilet paper or towels. The linen closets on all four floors were virtually empty. Floors were flooded from rain that poured through a leaking roof.

"Every time it rains, this place floods," one aide said. No one mopped up the water.

A large elevator had not been working for at least four months, according to a nurse. The lock on the front door was broken and there was no security guard in the building, which is just across the street from where a woman had been murdered several weeks earlier.

When the Task Force "exterminating" crew arrived at Regent Plaza, administrator Martin Baskin told them: "The place can always use a spraying—they [roaches] are all over the place."

On the fifth floor, the crew found a decomposing mouse beside a bed. A nurse said a nearby activities room was overrun with roaches and mice.

"I've caught two mice myself, and I've only been here two weeks," she said. "But I'm leaving on Friday."

The crew also sprayed the Uptown Shelter Care Home, 4646 N. Beacon St.; the Lehrer home, 4636 N. Beacon; the Michigan Terrace nursing home, 3405 S. Michigan Av.; the Park House nursing home, 2320 S. Lawndale Av.; and the Hearthside nursing home, 1223 W. 87th St.

Conditions at all the homes were similar—filth in the rooms, mouse droppings and dead roaches on the floors. In one darkened room of the Hearthside home, the crew was almost forced back by the overpowering stench of urine.

In some homes, reporters learned, the staff usually knew in advance when an inspection was to take place. At those times, unsanitary conditions suddenly were cleaned up.

In Cincinnati, reporter William Recktenwald worked as a driver and janitor for the five homes in the Quality Health Services chain and found several of them filthy.

At that chain's Forestview home, he said, "We mopped floors that could not have been washed in weeks, if not months. Patients sit in their own wastes as the nurse works on charts."

At the Gardenview home, part of the same chain, there was a strong odor, floors were dirty, and dishes and silverware were unclean. In another home, roaches crawled across the dietitian's desk.

"We have a big cleanup to get ready for the inspectors," a janitor told him. "They hire extra people. You wouldn't recognize the place at inspection time; everything is bright and shining."

Citizens for Better Care, a Detroit citizens group formed in 1969, has been working for legislation to make it a misdemeanor for a state employe to inform a nursing home when an inspection is scheduled.

"However, they know anyway," said Doug Roberts, a staff member. "There is a grapevine going. Because the inspections are scheduled by computer, nursing home operators can get together and closely pinpoint the day of an inspection.

"What's bad about this is that they hire extra people, clean the place up real nicely, and then the state pats them on the back and says they are doing a good job."

Reporter William Gaines worked as a janitor at the Conner Convalescent Center in Detroit, where one woman patient told him she had broken her hip when she slipped in a puddle of urine three months earlier.

A visitor riding an elevator with Gaines complained of the smell in the home and said, "They must keep elephants here."

Gaines observed one man seated in the main hallway near the second floor dining room with urine staining the floor beneath him. He was still there hours later.

State inspection reports examined by Tribune reporters at the Illinois Department of Public Health offices in Springfield showed numerous sanitary violations, many of them with no indication that any action had been taken.

"Bugs [ants] on stoves . . . poor staffing . . . roaches noted in and about kitchen . . . residents complained of no towels, no washcloths, and no toilet paper," said a report on Hamlin House, 6 N. Hamlin Blvd. The administrator is Julius J. Underwood.

"Staffing inadequate. Patients poorly groomed. No underclothing for women. Progress reports of doctor are minimal. No bedspreads on [some] beds," said a report on the Uptown Shelter Care Home.

"Food service personnel do not practice hygienic food-handling techniques. . . . Cook rinsed hands in sink that chicken was standing in. . . . Facility not implementing procedures for investigating, controlling, and preventing infection," said a report on the Drexel Home, Inc., 6140 S. Drexel Blvd.

In Cincinnati, a federal inspector said "sanitation deficiencies have always been present" during inspections of the Garden of Eden nursing home, and "attempted compliance is never good or complete." He concluded his report: "Condition of regular sanitation—filthy."

On June 8, reporter Fritsch wrote to the Chicago office of the U.S. Department of Health, Education, and Welfare in charge of nursing homes.

Giving only her name and address as identification, she wrote that she had visited the Michigan Terrace nursing home and had noticed the building was infested with cockroaches.

"I saw roaches along the baseboards, behind and in the night stands, and crawling up and down the privacy curtains," she wrote.

Not until almost two months later, on Aug. 2, did she get an answer from HEW. Her letter was forwarded to William A. Irvine, chief of long-term care programs for the state Department of Public Health, and he wrote to her Aug. 10 saying an inspection visit would be made at Michigan Terrace.

An official of HEW later told The Tribune that inspections usually take place within two weeks after receipt of letters such as the one from Fritsch. In this case, the official said, there was a backlog and Fritsch's letter was slow in making its way through the bureaucratic pipeline.

Nationally, many nursing and boarding homes are not only filthy but are firetraps as well.

The National Fire Protection Association in Boston said that in 1975, the latest year for which figures are available, there were 9,300 fires in boarding and nursing homes throughout the country—an average of 26 per day.

The U.S. House Committee on Aging has estimated that half of the nursing homes have no automatic sprinkler system, although the value of such systems has been shown.

Chicago has required sprinkler systems in such buildings since 1977, following the deaths of 23 persons in a nursing home fire. Federal legislation has been introduced to require them in all homes receiving federal money.

The congressional General Accounting Office estimates the cost of adding such protection at $250 million to $400 million.

How to Select a Nursing Home

(By William Recktenwald)

When a member of your family requires the care of a nursing home, the most difficult problem you face may be to find a good one.

Former Sen. Frank E. Moss, 67, of Utah, who served 12 years as chairman of the Senate Subcommittee on Long Term Care and is co-author of the book "Too Old, Too Sick, Too Bad," offers this advice on how to select a nursing home:

Obtain a list of such homes published by state health departments, and eliminate from consideration those that are too far away to permit regular visits by family and friends.

Visit some of the homes that remain on your list. Make the visit between 7 and 8 a.m., when shifts change and breakfast is being served, or between 11 a.m. and 1 p.m., when you can observe the noon meal. A return visit at night also may be revealing. Be wary of homes that sharply limit visiting hours or refuse to let you see the entire home.

Observe whether the staff treats patients with kindness and respect and whether doors are closed and privacy screens used when patients are given a bath. Are patients' clothes neat and clean? Are the men clean-shaven, and have the women had their hair done?

Look over the physical plant. Is the building well-maintained, brightly painted, and free from odors of urine and feces?

Visit the kitchen. Is it clean, free of insects and rodents? Are those preparing the food wearing hairnets and clean aprons? Does the home have the services of a dietitian? Is the food appetizing and in adequate portions? Are snacks available between meals and at bedtime?

Look for an activities program: without recreation, a stay in a nursing home can be unbearable. Is there anything for patients to do besides watch television? Do volunteers provide instruction in arts and crafts?

Some persons may also wish to view the state inspection records of a particular nursing home. To do so, contact the state Department of Public Health or your local Social Security office to learn where the records are kept.

More Care a Matter of Cash, Say Homes' Execs

(By William Gaines)

Nursing home operators whose facilities were investigated by The Tribune generally acknowledged that they have some serious problems and said the solution to most of them is more money.

A few operators refused to talk to reporters about findings of The Tribune Task Force that their homes fail to provide adequate patient care or lack proper sanitation.

"Nursing homes are always going to be a problem," said Joan Hayden, administrator of the Conner Convalescent Home in Detroit. "The employes are low-paid and hard-working. They are always criticized; no one ever says, 'You're doing a good job.' "

She said staff pay is low because most patient care is financed by Medicaid, the government health insurance program for the indigent, and "Medicaid doesn't pay enough."

A similar comment came from Jacob Lustig, owner of five Quality Health Services homes in Cincinnati.

"We get patients here from Cincinnati General Hospital," he said. "The hospital gets more than $200 a day per patient, but we are expected to take care of them for $22 per day."

Whether such complaints are justified is a matter of controversy.

A staff study for the U.S. Senate Committee on Aging several years ago showed that most nursing home operators cut corners to maximize profits and that most were doing very well financially.

At that time, nursing home stocks were among the glamor issues of the stock market.

A New York state commission reported in 1976 that a nursing home could easily show a profit of 25 per cent or better each year while complying with federal and state standards.

A 1974 report of the federal Cost of Living Council said, "There is immense profitability in owning and operating nursing homes."

Citizens for Better Care, a Detroit organization, calculated before-tax profits for 147 Michigan homes in 1975 at 40.48 per cent.

The AFL-CIO, which surveyed nursing home conditions last year, found that about 100 private corporations control 20 per cent of nursing home beds. From 1969 to 1972, it said, these companies experienced a growth of 116 per cent in average net income.

Nelson Cruikshank, President Carter's chief adviser on the elderly, told The Tribune: "I don't think the nursing home is an appropriate place for private investment. In a profit situation, it is inevitable that managers will make choices between quality of care and the profit-and-loss account."

The AFL-CIO has recommended a gradual phasing out of private nursing homes operated for profit and their replacement by nonprofit homes, perhaps church-affiliated or government-owned.

Most operators contacted by The Tribune were frank in discussing problems the Task Force uncovered.

Mrs. Hayden acknowledged the accuracy of a report that a woman patient had slipped in a puddle of urine on the floor of the Detroit home and broken her hip.

"That has happened more than once," she said. "These things are going to happen when you let patients move around. We want them to be as independent as possible."

Lustig said he had recently observed some aides leaving the door open while they gave a patient a bath and had reprimanded them. "It can happen, but it is not our policy," he said.

He said that carrying food and dirty linen in the same truck, discovered by a Tribune reporter working for the Cincinnati homes, has been stopped.

Operators whose homes were infested with rats, mice, and roaches all said they have hired exterminators or are planning to do so.

Elliot Pure, owner of the Stratford Home, 4131 N. Sheridan Rd., said the rodent and roach problem has been aggravated by the fact that the city has razed a large number of buildings in the area. He said the city is not doing enough to exterminate pests that flee such buildings.

"The homes I operate are 500 times better than they were nine years ago," he said. "But they're 500 per cent from where I'd like them to be."

Pure said his biggest problems are money and finding competent employes. "A home cannot be run on $14.27 a day, which is what the Department of Public Aid pays per patient," he said. "If they took away all the 'brick and mortar' regulations, we could provide more services for the patients."

Joseph Davis, owner of the Pleasantview home in Niles, said the short-staffing found in his home is a problem throughout the industry. "We try, but we can't find good help for that position [aide]," he said.

Asked about incontinent patients seen sitting in their own wastes, he said: "That irritates me. Understaffing is no excuse. You may clean someone up and then two seconds later they are wet again. We are constantly working to improve conditions."

Ralph Scorpio, owner of the Uptown and Lehrer homes in Uptown, blamed "negligence on the part of an aide" for an incident in which a woman in the Lehrer home was given a bath with the door left open.

He denied findings that some windows in the Uptown home were without screens and some windows were broken.

Jerry Morgan, assistant administrator of the Bethune Plaza nursing home, 4537 S. Drexel Blvd., expressed outrage when told that an orderly attempted to take money from a patient's pocket as a "tip" for shaving him.

"That sort of thing is never permitted," he said. "I'd like to know who was involved so action can be taken."

When asked about food scraps found on a dining room floor, Morgan said the kitchen and dining areas are cleaned three times a day. "There could have been a time when it was dirty, but it would have been a short time," he said.

He also said the home has hired an exterminator, adding, "We have problems getting the city to treat public areas nearby."

Ralph Goodpasteur, administrator of the First Church of Deliverance convalescent home, 4316 S. Wabash Ave., who was accused in a state audit report of comingling patients' money with his personal funds, told The Tribune he knew nothing about that charge.

He also denied knowing about an order requiring him to refund some Department of Public Aid payments.

Operators who refused to comment were from the Hearthside nursing home, 1223 W. 87th St.; Michigan Terrace, 3405 S. Michigan Ave.; and Regen Plaza, 901 S. Austin Blvd.

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1979

ORDER OF PROCEDURE

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order making the Bartlett amendment the next order of business be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the amendment of the Senator from Maryland be made the pending order of business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from Maryland have an amendment?

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Bartlett amendment be the pending business after disposition of the Mathias amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS' AND SURVIVORS PENSION IMPROVEMENT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 10173.

The Presiding Officer laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 10173) to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. CLARK) appointed Mr. CRANSTON, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. DURKIN, Mr. MATSUNAGA, Mr. STAFFORD, Mr. THURMOND, and Mr. HANSEN conferees on the part of the Senate.

PART-TIME CIVIL SERVICE CAREER EMPLOYMENT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 10126.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 10126) entitled "An Act to amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service", with the following amendment:

Page 7, line 10 strike out "1979." and insert: 1980.

Resolved, That the House agree to the amendment of the Senate to the title of the bill.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

AUTHORIZATION FOR THE COMMITTEE ON THE BUDGET TO FILE A REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Budget Committee have until midnight tonight to file a report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER HOLDING H.R. 13069 AND H.R. 13972 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as they are received H.R. 13069 and H.R. 13972 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL CONFEREES—S. 1566

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Maine (Mr. HATHAWAY), and the Senator from Wyoming (Mr. WALLOP) be named as conferees on S. 1566.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER HOLDING VARIOUS BILLS AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as they are received the following bills be held at the desk pending further disposition: H.R. 13372, H.R. 12603, H.R. 10661, H.R. 7749, and H.R. 11870.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER APPOINTING CONFEREES—H.R. 8200

Mr. ROBERT C. BYRD. Mr. President, pursuant to the previous order of the Senate, I ask the Chair to appoint conferees on H.R. 8200, the bankruptcy bill.

The PRESIDING OFFICER (Mr. CLARK) appointed Mr. EASTLAND, Mr. DECONCINI, Mr. BIDEN, Mr. THURMOND, and Mr. WALLOP conferees on the part of the Senate.

ANTIRECESSION AND SUPPLEMENTARY FISCAL ASSISTANCE FOR STATE AND LOCAL GOVERNMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action taken Saturday with respect to the tabling of the motion to reconsider H.R. 2852, and the final vote on that measure, and the vote on the motion to advance the bill to third reading be vitiated; that I be permitted on behalf of the Senator from Missouri (Mr. DANFORTH) to offer amendments en bloc to make certain technical and clerical corrections; that they be agreed to en bloc; that the bill again be advanced to third reading, passed, and the motion to reconsider again laid on the table. The amendments offered at this time are in lieu of unprinted amendment No. 1909 agreed to previously.

This matter has been discussed with the chairman of the Committee on Finance, Senator LONG; Senator MOYNIHAN, the floor manager of the bill; and Senator MUSKIE, chairman of the Budget Committee. It is my understanding that there is no objection to this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1928

(Purpose: To deny supplementary assistance to State governments, to limit such assistance to local governments with unemployment in excess of 6 percent, and for other purposes)

On page 3, line 23, strike out "State and local".

On page 6, between lines 15 and 16, insert the following:

(b) Section 203 of such Act (42 U.S.C. 6723) is amended by adding at the end thereof the following new subsection:

"(d) Reallocation of Undistributed Reserve Amounts.—If, for any calendar quarter, the amount reserved under subsection (a) (1) for payments to State governments or under subsection (a) (2) for payments to local governments exceeds the sum of the amounts payable to State or local governments because of the limitation contained in subsection (c) (5) or because of the suspension-of-payments requirement contained in section 210(b), then the Secretary shall reallocate the excess among State governments or local governments, as the case may be, receiving payments for the calendar quarter and pay to each such State or local government an amount which bears the same ratio to the amount of the excess as the amount of the payment made to such government for the calendar quarter without regard to this subsection bears to the sum of the payments made to all State or all local governments, as the case may be, for the calendar quarter without regard to this subsection.".

On page 9, line 11, strike out "4.5" and insert in lieu thereof "6".

On page 9, line 18, strike out "4.5" and insert in lieu thereof "6".

On page 11, line 12, strike out "State and".

On page 11, line 13, strike out "4.5" and insert in lieu thereof "6".

On page 11, line 17, strike out "State and".

On page 11, line 24, strike out "$125,000,000," and insert in lieu thereof "$85,000,000,".

On page 12, line 1, strike out "this subtitle and".

On page 12, line 3, strike out "State and".

On page 12, beginning with line 20, strike out through line 2 on page 14.

On page 14, line 3, strike out "(c)" and insert in lieu thereof "Sec. 232. (a)".

On page 14, line 5, strike out "from amounts reserved under subsection (a) (2)" and insert in lieu thereof "amounts appropriated under the authorization contained in section 231(c)".

On page 14, lines 8 and 9, strike out "reserved under subsection (a) (2)" and insert in lieu thereof "appropriated".

On page 15, beginning with line 20, strike out through line 9 on page 17, and insert in lieu thereof the following:

"(b) Reallocation of Undistributed Amounts.—If, for any calendar quarter, the amount appropriated under section 231(c) for payments to local governments exceeds the sum of the amounts payable to local governments because of the limitation contained in subsection (c) (3) or because of the suspension-of-payments requirements contained in subsection (c), then the Secretary shall reallocate the excess among local governments receiving payments for the calendar quarter and pay to each such local government an amount which bears the same ratio to the amount of the excess as the amount of the payment made to such government for the calendar quarter without regard to this subsection bears to the sum of the payments made to all local governments for the calendar quarter without regard to this subsection.

On page 17, line 10, strike "(e)" and insert in lieu thereof "(c)".

On page 17, line 13, strike out "State or".

On page 17, line 16, strike out "State or".

On page 17, line 18, strike out "4.5" and insert "6".

On page 17, line 21, strike out "State or".

On page 18, lines 1 and 2, strike out "State or".

On page 18, line 2, strike out "4.5" and insert "6".

On page 18, between lines 2 and 3, insert the following:

"(d) For purposes of this subtitle, each term used in this section which is defined or described in paragraph (3) of section 203(c) shall have the meaning given to it in that paragraph.

On page 18, beginning with line 3, strike out through line 13.

On page 18, line 16, strike out "Sec. 234." and insert "Sec. 233.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the title of the bill be amended to read: "An act to amend title II of the Public Works Employment Act of 1976 to extend the antirecession provisions of that act, and to establish a supplementary antirecession fiscal assistance program for local governments suffering severe unemployment."

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, the convening hour of the Senate tomorrow is 9 o'clock, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MAGNUSON. No, Mr. President, may I ask both Senators when we temporarily laid aside the HEW bill, the Senator from Massachusetts asked that the pending order of business be an amendment by the Senator from Oklahoma, who is unavoidably detained at this time.

So, as I understand it, at 9 o'clock, if we are going to take up HEW, that would be the pending order of business?

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. MAGNUSON. Yes.

Mr. BAKER. At the request of the Senator from Oklahoma and the Senator from Maryland, the order was reversed, and the distinguished assistant majority leader asked unanimous consent that that occur, and that order has been entered.

Mr. MAGNUSON. Very well. So we will start tomorrow at 9 on such amendments as are available?

Mr. BAKER. No, on the Mathias amendment.

Mr. ROBERT C. BYRD. On the amendment by Mr. MATHIAS.

Mr. MAGNUSON. Which is on impacted aid.

Mr. BAKER. And the one following that, then, according to the order previously entered, would be the Bartlett amendment.

Mr. MAGNUSON. The Bartlett amendment?

Mr. BAKER. Yes.

Mr. MAGNUSON. I just wanted to get that straight.

ORDER FOR RECOGNITION OF SENATORS HATCH AND BAKER ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday after the two leaders or their designees have been recognized under the standing order, the Senator from Utah (Mr. HATCH) and the Senator from Tennessee (Mr. BAKER) be recognized for not to exceed 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, is there an order for recognition of any Senator tomorrow?

The PRESIDING OFFICER. There is no special order.

Mr. ROBERT C. BYRD. Automatically, then, after the two leaders are recognized under the standing order tomorrow, the Senate will resume the consideration of the bill making appropriations for the Departments of Labor and HEW.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. That would be about 9:15 or before, and the pending question will be on agreeing to the amendment by Mr. MATHIAS.

I hope it will be possible to get a time agreement on this bill in the morning. I have discussed this with Mr. HATCH today. He was not in a position to call Mr. HELMS, but Mr. HATCH said he thought it might be possible.

That is about all I can say on the measure at this point, except that I hope an agreement can be achieved.

RECESS UNTIL 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9 o'clock tomorrow morning.

The motion was agreed to; and at 8 p.m. the Senate recessed until tomorrow, Wednesday, September 27, 1978, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 26, 1978:

THE UNITED NATIONS

The following-named persons to be representatives and alternate representatives of the United States of America to the Twentieth Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization:

Representatives:

John E. Reinhardt, of Maryland.

Esteban Edward Torres, of Virginia.

Hale Champion, of the District of Columbia.

Sarah G. Power, of Michigan.

William Attwood, of Connecticut.

Alternate representatives:

Mathilde Krim, of New York.

Joseph D. Duffey, of the District of Columbia.

Maurice A. Ferre, of Florida.

Arthur K. Solomon, of Massachusetts.

Leila Fraser, of Wisconsin.

HOUSE OF REPRESENTATIVES—*Tuesday, September 26, 1978*

The House met at 10 a.m.

The Reverend Frank Ready, Nativity Parish, Burke, Va., offered the following prayer:

Almighty Father, we acknowledge Your presence among us. Thank You for the gift of today.

Guide our Congress as it responsibly addresses each task presented. Help them meet the challenges which face them. May their actions build unity, strengthen peace.

Guide them so as to legislate in such a way that all the people be able to recognize that they are treated fairly and equally. May our people be truly sustained in hope.

Give to this select body Your choicest blessings. Place among them Your prudence, to act wisely; Your temperance, to avoid severity and excessive extremes; Your courage, to overcome fear of rejection in the struggle for good; and especially Your justice, to measure each position honestly, while keeping in mind the needs of all the people.

This we ask through Christ, Your Son. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 13745. An act to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 8394. An act to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries;

H.R. 10965. An act to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to bills of the House of the following titles:

H.R. 1920. An act to amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale; and

H.R. 10822. An act to improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9214) entitled "An act to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 135. An act for the relief of Tak-Ming Bernard Leung and Janny Chun Lee Leung;

S. 141. An act for the relief of Dr. Orlando Fusilero Bravo;

S. 144. An act for the relief of Samuel S. H. Leung, his wife Carol O. K. Leung, and his sons Johnny C. Y. Leung and Jimmy C. M. Leung;

S. 148. An act for the relief of Dr. Laurence T. Gayao, his wife, Edith Gayao, and their child, Lorraine Gayao;

S. 152. An act for the relief of Loi Lin Irene Chung (Tsui);

S. 953. An act for the relief of Marcelino S. Silva and his wife, Emilie M. Silva;

S. 1701. An act for the relief of Narciso Michelena;

S. 2203. An act for the relief of Dr. Cosme R. Cagas, his wife, Linda San Diego Cagas, and his children, Elcee Cagas, Chess Cagas, Georgina Cagas, and Chester Cagas;

S. 2349. An act for the relief of Margaret Perry;

S. 2421. An act for the relief of Shyy Wen-Huei;

S. 2446. An act for the relief of Caroline Valdez Sulfelix;

S. 2371. An act for the relief of Masami Yamada;

S. 2677. An act for the relief of Ching Wu Wang;

S. 3042. An act for the relief of Mary Jo Natividad and Regina Natividad;

S. 3051. An act for the relief of Tsutomu Tanaka;

S. 3066. An act for the relief of Yom Chong Ok; and

S. 3124. An act for the relief of Douglas Jagdish Degenhardt (adoptive name).

REV. FRANK READY

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, it is my great pleasure at this time to present to my colleagues, and to welcome to the House of Representatives, the Reverend Frank J. Ready, founder and pastor of the Nativity Church in Burke, Va.

While he has been actively engaged in nurturing the growth of this new congregation since June of 1973, Father Ready informs me that the church is scheduled for completion in the spring of 1979. This is a fitting tribute to his first 20 years in the priesthood, which began with his ordination in Richmond in 1959.

Father Ready, a native of Framingham, Mass., has given much to the church and the Nation, having served a series of parishes in Pennsylvania and New York, as well as in my State of Virginia. Prior to his current assignment to Nativity Church, he helped establish St. Theresa's Parish in Portsmouth, Va., served in St. Michael's Parish in Annandale, and worked as executive director of the Catholic Home Bureau.

I am happy to witness today to the service of Father Frank Ready as a leader in his church and in our community.

RESIGNATION AS MEMBER OF COMMITTEE ON RULES

The **SPEAKER** laid before the House the following resignation as a member of the Committee on Rules:

WASHINGTON, D.C.,
September 20, 1978.
Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: This is to notify you of my intention to resign from the House Committee on Rules. My resignation will be effective on September 25.

Your attention to this decision will be appreciated.

Sincerely,
DEL CLAWSON,
Member of Congress.

The **SPEAKER**. Without objection, the resignation is accepted.

There was no objection.

ELECTION AS MEMBER OF COMMITTEE ON RULES

Mr. **RHODES**. Mr. Speaker, I offer a privileged resolution (H. Res. 1381) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1381

Resolved, That ROBERT E. BAUMAN, of Maryland, be and he is hereby elected a member of the Committee on Rules.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONSENT CALENDAR

The **SPEAKER**. Pursuant to the order of September 22, 1978, this is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

DESIGNATING U.S. DEPARTMENT OF AGRICULTURE'S BEE RESEARCH LABORATORY, TUCSON, ARIZ., AS "CARL HAYDEN BEE RESEARCH CENTER"

The Clerk called the bill (H.R. 7432) to designate the U.S. Department of Agriculture's Bee Research Laboratory in Tucson, Ariz., as the "Carl Hayden Bee Research Center."

There being no objection, the Clerk read the bill, as follows:

H.R. 7432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, shall hereafter be known and designated as the "Carl Hayden Bee Research Center". Any reference to such laboratory in any law, regulation, document, record, or other paper of the United States shall be deemed a reference to it as the Carl Hayden Bee Research Center.

● Mr. **FOLEY**. Mr. Speaker, H.R. 7432 designates the U.S. Department of Agriculture's Bee Research Laboratory in Tucson, Ariz., as the "Carl Hayden Bee Research Center" in honor of Senator Hayden who was largely responsible for its establishment. The Bee Research Center employs 13 research professionals, 9 technicians, and 70 other employees who, in conjunction with the University of Arizona, engage in all aspects of bee research as it relates to agriculture. This research has resulted in many benefits including the development of a greater understanding of the vital pollination function of bees and the intricacies of honey and beeswax production.

During his tenure in the Senate and throughout his 50-year career in public service, Senator Hayden maintained an active interest in agriculture in general and in the bee industry in particular. He was instrumental in the creation of this center, and as a result of his efforts the Bee Research Center has made significant contributions to the bee industry and, by extension, to all crops which depend upon bees for pollination.

In view of Senator Hayden's longstanding concern for the bee industry, which resulted both in national recognition of its importance and in Federal programs to insure its viability, it is fitting that the USDA Bee Research Laboratory in Tucson, Ariz., bear his name.

Mr. Speaker, I urge the Members to join me in support of this legislation.●

● Mr. **RHODES**. Mr. Speaker, I would like to take this opportunity to ask for unanimous support for H.R. 7432, the legislation which will designate the U.S. Department of Agriculture Bee Research Center in Tucson, Ariz. as the "Carl Hayden Bee Research Center." Not only is this legislation significant to the bee industry, but it is a symbol of our appreciation for the late Senator Hayden.

Carl Hayden was born in Tempe, Ariz.—an area which it is now my privilege to represent. He was the first Arizonian to be elected to the House of Representatives upon our being granted statehood in 1912. Senator Hayden then continued to serve both Arizona and the United States as a Member of Congress for the next 57 years. Arizona owes its gratitude to Senator Hayden's tireless efforts, which included the establishment of the Grand Canyon National Park, one of the seven natural wonders of the world, and the Central Arizona Project, upon which the future of many Arizonians depends.

Significantly, Carl Hayden had a keen appreciation of bees and the future of the bee industry. From an interest which dated back in his childhood in the 1800's, Senator Hayden was instrumental in promoting a national recognition of the bee industry and the complementary Federal programs to insure its vitality. These programs include the current bee indemnification program as well as the establishment of a bee research facility in Tucson.

Since its founding in 1949, the bee research center in Tucson has been continually expanding. For example, in 1965, during Senator Hayden's tenure as chairman of the Senate Appropriations Committee, nearly a half-million dollars was funded to provide for the construction of a laboratory research facility in Tucson. At this time, there are nine professional researchers at the center who study honey bee nutrition, pollination, bee behavior, the problems of pesticides in relation to honey bees, and a host of other related areas. In all, the Tucson center is one of the largest in the world. Further, I do not have to remind my colleagues of the vital role bees play in the production of a vast array of agricultural goods, from fruits such as cantalope to staples such as cotton and corn.

The Senate has seen fit to pass this legislation to honor both the late Senator Hayden and the bee industry. Now, I urge my colleagues in the House to consent to H.R. 7432.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. **FOLEY**. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 3274) to designate the U.S. Department of Agriculture's Bee Research Laboratory in Tucson, Ariz., as the "Carl Hayden Bee Research Center," an identical bill to H.R. 7432 as passed by the House, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The **SPEAKER**. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, shall hereafter be known and designated as the "Carl Hayden Bee Research Center". Any reference to such laboratory in any law, regulation, document, record, or other paper of the United States shall be deemed a reference to it as the Carl Hayden Bee Research Center.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 7432) was laid on the table.

PRODUCTION CREDIT ASSOCIATION LOANS FOR FISHING BOATS

The Clerk called the bill (H.R. 11079) to amend the Farm Credit Act of 1971

(85 Stat. 583) to extend the term for production credit association loans to producers or harvesters of aquatic products.

There being no objection, the Clerk read the bill as follows:

H.R. 11079

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Farm Credit Act of 1971 is amended by inserting in the first sentence of section 2.4, after the words "seven years", the following: "(fifteen years if made to producers or harvesters of acquatic products)".

● Mr. FOLEY. Mr. Speaker, H.R. 11079 would amend the Farm Credit Act of 1971 to provide that loans made by Federal intermediate credit banks and production credit associations to producers or harvesters of acquatic products may be repaid over a period of up to 15 years instead of the maximum 7-year repayment period presently applicable to all loans by such institutions.

Federal intermediate credit banks and production credit associations provide short-term and intermediate-term credit to farmers, ranchers and producers and harvesters of aquatic products. These lenders are part of the nationwide borrower-owned Farm Credit System which operates under the authority contained in the Farm Credit Act of 1971. Since the Farm Credit System is privately owned, it operates at no cost to the Government. Its banks and associations are supervised and examined by the Farm Credit Administration, an independent agency in the executive branch of the Government. All the expenses of the Farm Credit Administration are paid by assessments collected from the banks and associations of the system. Thus, enactment of H.R. 11079 will occasion no expense to the taxpayer.

The cost of new fishing vessels and equipment has in some cases nearly doubled since 1971, and more sophisticated vessels and equipment are needed to exploit the fresh opportunities presented by the new 200-mile limit. U.S. fishermen simply cannot pay off within 7 years the larger loans required to finance the acquisition of needed equipment. Thus, while the present 7-year term has proven adequate for most agricultural purposes, the high cost and extended useful life of fishing vessels and related equipment and facilities require that the term for repayment of aquatic loans be extended. Fishing vessel loans typically call for repayment over a period of from 15 to 20 years.

In 1956 the United States ranked second among the world's commercial fisheries. By 1974 it had slipped to fifth. The U.S. General Accounting Office estimated that it will take a $400 million investment in new vessels and $800 million for processing plan expansion to bring U.S. commercial fishermen a 50-percent share of the U.S. market by 1985. Additionally, nearly $400 million will be needed to replace vessels that are scrapped or otherwise lost to the fleet.

The authority to tailor the repayment period of Federal intermediate credit bank and production credit association aquatic loans to the needs of the modern fishing industry will have a beneficial effect, not only on the industry, but also on the welfare of coastal communities and the Nation's balance of trade. All this will be accomplished without cost to the Federal Government. Mr. Speaker, the Committee on Agriculture strongly recommends enactment of this bill.●

The bill was ordered to be engrossed and read a third time, and was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products."

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 3045) to amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products, a bill identical to H.R. 11079, as passed by the House, and ask for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The clerk read the Senate bill as follows:

S. 3045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Farm Credit Act of 1971 is amended by inserting in the first sentence of section 2.4 after the words "seven years", the following: "(fifteen years if made to producers or harvesters of aquatic products)".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11079) was laid on the table.

REDESIGNATING THE U.S. MEAT ANIMAL RESEARCH CENTER IN HONOR OF SENATOR ROMAN L. HRUSKA

The Clerk called the Senate bill (S. 409) to designate the Meat Animal Research Center located near Clay Center, Nebr., as the "Roman L. Hruska Meat Animal Research Center."

There being no objection, the Clerk read the Senate bill as follows:

S. 409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Department of Agriculture Meat Animal Research Center located near Clay Center, Nebraska, is designated as the "Roman L. Hruska Meat Animal Research Center", in honor of former Senator Roman L. Hruska.

SEC. 2. Any reference to such facility in any law, rule, document, map, or other record of the United States is deemed to be a reference to such building by the name designated for such facility by the first section of this Act.

● Mr. FOLEY. Mr. Speaker, S. 409 designates the Department of Agriculture's Meat Animal Research Center near Clay Center, Nebr., as the "Roman L. Hruska Meat Animal Research Center" for the purpose of honoring former Senator Roman L. Hruska for the role he played in establishing this center and in furthering the field of livestock research.

Prior to the establishment of this research center in 1964, the Department of Agriculture's livestock research activities were scattered throughout the country. The role this Nation plays as the largest beef producing and consuming country in the world underscored the need for a centralized location for these activities which would result in greater efficiency and coordination.

Senator Hruska, who is an ardent supporter of American agriculture, served on the Senate Appropriations Committee where he became the ranking member of the Subcommittee on Agricultural Appropriations. From this position, he was instrumental in passing in 1964 legislation which established the Meat Animal Research Center and in securing as a location for the center the former naval ammunition depot at Hastings, Nebr. He also helped secure appropriations for the center sufficient to permit it to expand into a comprehensive research and development facility.

The center has expanded and now occupies 35,000 acres of land in central Nebraska. It serves as the central location of Government research and development into ways of improving livestock quality, controlling livestock diseases, and developing feeding and management practices which will enhance production while minimizing pollution caused by animal wastes.

In light of Senator Hruska's longstanding interest in agriculture and his monumental efforts which were instrumental in the establishing and development of the U.S. Meat Animal Research Center, renaming this Nebraska facility after Senator Hruska is fitting recognition for the great service he has provided the State of Nebraska and the Nation.

Mr. Speaker, I urge my colleagues to join me in support of this measure.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REDESIGNATING THE DEPARTMENT OF AGRICULTURE S PECAN FIELD STATION IN HONOR OF REPRESENTATIVE W. R. "BOB" POAGE

The Clerk called the bill (H.R. 11123) to designate the United States Department of Agriculture's Pecan Field Station in Brownwood, Tex., as the "W. R. 'Bob' Poage Pecan Field Station."

There being no objection, the Clerk read the bill as follows:

H.R. 11123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Department of Agriculture's Pecan Field Station in Brownwood, Texas, shall hereafter be known and designated as the "W. R. 'Bob' Poage Pecan Field Station". Any reference to such laboratory in any law, regulation, document, record, or other paper of the United States shall be deemed a reference to it as the W. R. "Bob" Poage Pecan Field Station.

● Mr. FOLEY. Mr. Speaker, H.R. 11123 names the USDA Pecan Field Research Station in Brownwood, Tex., in honor of our esteemed colleague, BOB POAGE, in whose congressional district the station is located.

Mr. POAGE's service to agriculture in the Congress is unparalleled. He became a member of the House Committee on Agriculture at the beginning of the 77th Congress in January 1941, and rose to serve as chairman of that committee for the 90th through 93d Congresses. He was the committee's vice chairman from the 82d through the 89th Congresses and for the 94th and 95th Congresses. No Member of Congress has served agriculture more diligently. His reputation as an expert on virtually all aspects of agriculture is well established. Some of Mr. POAGE's major legislative contributions include: 1949—Rural Telephone Service Act; 1954—Watershed Protection and Flood Prevention Act; 1954—Food for Peace Act; 1958—Humane Slaughtered Act; 1960—the Great Plains Conservation Act; 1965—Poage-Aiken Rural Water and Sewer Act; 1970—Agricultural Act of 1970; 1971—the Farm Credit Act of 1971; 1972—Rural Telephone Bank Act; 1972—Rural Development Act; 1973—Agriculture and Consumer Protection Act.

In addition to these accomplishments, Mr. POAGE was intrumental in establishing the Department of Agriculture's Pecan Field Station near Brownwood, Tex. This research station occupies 160 acres of land near Brownwood, Tex., and employs 12 persons. The station was established for the purpose of conducting breeding and culture studies on pecans with emphasis on: the development of new varieties; the development of superior root stocks; studies of high density planting; and methods of controlling pecan insects. The field station is also in the process of establishing a pecan germplasm repository. This will involve the collection and preservation of superior native and wild pecan seedlings which will be made available to pecan breeders for the development of superior future varieties.

Raising pecans is in many areas of the country a large commercial business with significant impact on local populations. Mr. POAGE is aware of the importance of the industry and was instrumental in the establishment of this field station even though it was not in his district at the time it was created. Through the years he has been an avid supporter of the field station and as a result of his efforts, the station has had a significant impact on the industry and has been of particular benefits to the many small farmers who raise pecans as a cash crop.

All facets of American agriculture and particularly this pecan field station owe a great debt to Congressman POAGE for his dedicated work. The Committee on Agriculture feels that by naming this station the "W. R. 'Bob' Poage Pecan Field Station" some modest recognition will be given to Mr. POAGE's numerous contributions to American agriculture.

Mr. Speaker, I urge the Members to join me in supporting enactment of this measure.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3467) to designate the U.S. Department of Agriculture Pecan Field Station in Brownwood, Tex., as the "W. R. 'Bob' Poage Pecan Field Station", and to designate the U.S. Department of Agriculture Meat Animal Research Center located near Clay Center, Nebr., as the "Roman L. Hruska Meat Animal Research Center," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3467

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

W. R. "BOB" POAGE PECAN FIELD STATION

SECTION 1. The United States Department of Agriculture Pecan Field Station in Brownwood, Texas, is designated as the "W. R. 'Bob' Poage Pecan Field Station". Any reference to such pecan field station in any law, regulation, map, or other record of the United States shall be held and considered to be a reference to the W. R. "Bob" Poage Pecan Field Station.

ROMAN L. HRUSKA MEAT ANIMAL RESEARCH CENTER

SEC. 2. The United States Department of Agriculture Meat Animal Research Center located near Clay Center, Nebraska, is designated as the "Roman L. Hruska Meat Animal Research Center". Any reference to such meat animal research center in any law, regulation, map, or other record of the United States shall be held and considered to be a reference to the Roman L. Hruska Meat Animal Research Center.

MOTION OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FOLEY moves to strike out all after the enacting clause of the Senate bill, S. 3467, and to insert in lieu thereof the text of the bill H.R. 11123, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The title of the Senate bill was amended so as to read: "A bill to designate the United States Department of Agriculture's Pecan Field Station in Brownwood, Texas, as the W. R. 'Bob' Poage Pecan Field Station."

A similar House bill (H.R. 11123) was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

ACCEPTANCE OF GIFTS BY THE SECRETARY OF AGRICULTURE

The Clerk called the Senate bill (S. 2951) to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs.

There being no objection, the Clerk read the Senate bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Secretary of Agriculture is authorized to accept, receive, hold, utilize, and administer on behalf of the United States, gifts, bequests, or devises of real and personal property made for the benefit of the United States Department of Agriculture or for the carrying out of any of its functions. For the purposes of the Federal income, estate, and gift tax laws, property accepted under the authority of this Act shall be considered as a gift, bequest, or devise to the United States. Any gift of money accepted pursuant to the authority granted in this Act, or the net proceeds from the liquidation of any property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate fund and shall be disbursed upon order of the Secretary of Agriculture. The Secretary of Agriculture may promulgate regulations to carry out the provisions of this Act.

● Mr. FOLEY. Mr. Speaker, S. 2951 authorizes the Secretary of Agriculture to accept, hold, and administer on behalf of the United States, gifts, bequests, and devises of real and personal property made for the benefit of the Department of Agriculture. Property so received would be considered a gift, bequest, or devise to the United States for the purpose of Federal income, estate, and gift tax laws and any gifts of money, or proceeds from the liquidation of any property received, would be deposited in the Treasury in a separate fund to be disbursed on order of the Secretary.

The Department of Agriculture is frequently offered gifts such as research libraries, land, equipment, and other agriculture-related items for the benefit of its programs. However, the Comptroller General has ruled that such gifts may not be accepted in the absence of statutory authority. At the present time the Secretary possesses specific statutory authority to accept and administer only gifts offered to the National Arboretum, the National Agricultural Library, or for national forest purposes.

In the past, gifts have been offered which would have greatly benefited the programs of the Department. However, they could not be accepted in the absence of authorizing legislation. S. 2951 would alleviate this problem by providing the Secretary of Agriculture with general authority to accept and administer gifts, devises, and bequests of real and personal property for the benefit of the Department of Agriculture or any of its programs. The authority provided for in this bill would not be unique since similar authority is presently possessed by the armed services and by several other agencies including the Departments of Commerce, Housing and Urban

Development, and Transportation, and by the General Services Administration.

Mr. Speaker, this measure will permit the Government to acquire without cost gifts which will help the Secretary of Agriculture to advance the interests of all the American people. It is a good bill and I urge the Members to support it.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING SECRETARY OF AGRICULTURE TO RELINQUISH EXCLUSIVE LEGISLATIVE JURISDICTION OVER PROPERTY UNDER HIS CONTROL

The Clerk called the Senate bill (S. 2946) to authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control.

There being no objection, the Clerk read the Senate bill as follows:

S. 2946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of Agriculture may, whenever he considers it desirable, relinquish to a State all or part of the legislative jurisdiction of the United States over lands or interests under his control in that State. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor of the State concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State may otherwise provide.

● Mr. FOLEY. Mr. Speaker, S. 2946 authorizes the Secretary of Agriculture, whenever he considers it desirable, to relinquish to a State all or part of the legislative jurisdiction of the United States over lands or interests under his control in that State. The United States exerts several kinds of legislative jurisdiction over land under its control—the broadest of which is exclusive jurisdiction. Under this type of jurisdiction, the United States has sole authority to administer the land to the exclusion of all State and local authority. Exclusive legislative jurisdiction is typically exercised over military installations where adequate Federal law enforcement personnel are available.

Lands under the control of the Department of Agriculture are generally not subject to the exclusive legislative jurisdiction of the United States. However, occasionally the Department acquires property, from the Department of Defense for example, over which the United States holds such jurisdiction. In such situations, unless Federal law enforcement personnel are readily available, the Department of Agriculture experiences difficulty in protecting personnel and property because State and local law enforcement officials are powerless to assist.

The Meat Animal Research Center in Nebraska serves to illustrate the problem. The Department of Agriculture operates this research center on the site of a former naval munitions depot near Clay Center, Nebr., over which the United States has exclusive jurisdiction. Adequate Federal law enforcement is unavailable at this location and the Department has at times been unable to control vandalism and other crimes perpetrated against its employees and visitors.

The Secretary of Agriculture has requested the authority provided in this bill in order that he may relinquish exclusive legislative jurisdiction over any land administered by the Department. The States would then have concurrent jurisdiction over such land, and this would permit State and local law enforcement authorities to assist in controlling criminal activities.

The bill does not mandate the relinquishment of exclusive legislative jurisdiction but merely authorizes the Secretary to relinquish it whenever it is considered desirable. Relinquishment can be accomplished by filing a notice of relinquishment with the Governor of the State concerned or as the laws of such State may otherwise provide. This is desirable legislation and I hope that the House will consider it favorably.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RESTORING POSTHUMOUSLY FULL RIGHTS OF CITIZENSHIP TO JEFFERSON F. DAVIS

The Clerk called the joint resolution (H.J. Res. 1041) to restore posthumously full rights of citizenship to Jefferson F. Davis.

There being no objection, the Clerk read the joint resolution as follows:

H.J. Res. 1041

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That, in accordance with section 3 of amendment XIV of the Constitution of the United States, the legal disabilities placed upon Mr. Jefferson F. Davis are hereby removed, and that Mr. Jefferson F. Davis is posthumously restored to the full rights of citizenship, effective December 25, 1868.

● Mr. MONTGOMERY. Mr. Speaker, I rise in strong support of this measure and urge its passage by my colleagues. The legislation will right a wrong which was committed over 100 years ago when the U.S. Government denied the restoration of citizenship to Jefferson Davis of Mississippi following the War Between the States. Even though he received a general amnesty under a proclamation by President Andrew Johnson in 1868, he was specifically exempted from the restoration of his rights as a citizen.

I feel quite strongly that it was wrong not to restore Jefferson Davis' citizenship in view of the fact that he was never tried.

Mr. Speaker, an even more compelling reason to restore the rights of citizenship to Jefferson Davis is based on the outstanding service which he provided this Nation. He was a graduate of the U.S. Military Academy and became a wounded hero of the battle of Buena Vista in the Mexican War. He served as a member of the U.S. House of Representatives and as a member of the U.S. Senate where as a freshman he became chairman of the Military Affairs Committee. Jefferson Davis was appointed Secretary of War in the administration of President Franklin Pierce and masterminded the Gadsden Purchase.

It is only right and proper that we should honor this outstanding American by posthumously restoring the full rights of citizenship to Jefferson Davis effective December 5, 1968.●

● Mr. LOTT. Mr. Speaker, today we have the opportunity to set the record straight with respect to the life of a man who made a great contribution to this Nation—Jefferson Davis. Although he is undoubtedly remembered primarily for serving as President of the Confederate States of America, Jefferson Davis had a very distinguished career of service to the United States of America.

A graduate of the Military Academy at West Point, he was severely wounded in the Mexican War. He was later elected to the U.S. House of Representatives and subsequently served as chairman of the Military Affairs Committee as a U.S. Senator from Mississippi. He was appointed Secretary of War in the administration of President Franklin Pierce and masterminded the Gadsden Purchase.

Following the Civil War, Davis was imprisoned until dangerously near death. Although he was indicted, he was never tried. Though he received the general pardon issued by President Andrew Johnson in 1868, the 14th amendment to the Constitution required that, in order to have full rights of citizenship restored, a two-thirds vote of the Congress is required. Unfortunately, Jefferson Davis died before the passage of such a resolution, which came in 1898.

In his farewell to the Senate, Davis urged peace between brothers. The enactment of this measure serves as a symbol of the peace and reconciliation that this Nation now enjoys and gives to this man some recognition of the significant role he played in the development of our country.●

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and (two-thirds having voted in favor thereof) the joint resolution was passed and a motion to reconsider was laid on the table.

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of a similar Senate joint resolution (S.J. Res. 16) to restore posthumously full rights of citizenship to Jefferson F. Davis, and I ask for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There being no objection, the Clerk read the Senate joint resolution as follows:

S.J. Res. 16

Whereas Jefferson Davis served honorably and well as an officer in the United States Army, and earned a hero's reputation for his part in the battle of Buena Vista in the Mexican War; and

Whereas Jefferson Davis was both a United States Representative and a United States

Senator from Mississippi prior to the War Between the States, and was generally recognized as one of the outstanding men in Congress; and

Whereas Jefferson Davis served as Secretary of War in the administration of President Franklin Pierce; and

Whereas after his arrest in 1865 Jefferson Davis was imprisoned in Fort Monroe, Virginia, and held there without trial for two years under the most inhumane conditions; and

Whereas despite his never being convicted of any crime or even brought to trial for any crime Jefferson Davis was denied full citizenship rights as a United States citizen after his release from prison, and was specifically excluded from the general amnesty bill of 1876: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Mr. Jefferson Davis is posthumously restored to the full rights of citizenship, effective December 5, 1968.

MOTION OFFERED BY MR. EILBERG

Mr. EILBERG. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. EILBERG moves to strike out all after the resolving clause of Senate Joint Resolution 16 and to insert in lieu thereof the provisions of House Joint Resolution 1041 as passed by the House.

The motion was agreed to.

The Senate joint resolution was ordered to be read a third time, and was read the third time.

Mr. EILBERG. Mr. Speaker, I move to strike the preamble of the Senate Joint Resolution 16.

The motion was agreed to.

The SPEAKER. Under the Constitution the vote on final passage requires a two-thirds vote of the Members present.

The question is on the Senate Joint Resolution.

The question was taken and (two-thirds having voted in favor thereof) the Senate Joint Resolution was passed.

A motion to reconsider was laid on the table.

A similar House Joint Resolution (H.J. Res. 1041) was laid on the table.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the legislation just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CARSON CITY SILVER DOLLAR SALES

The Clerk called the bill (H.R. 9937) to amend the One Bank Holding Company Act of 1970.

There being no objection, the Clerk read the bill, as follows:

H.R. 9937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205(a) of the One Bank Holding Company Act amendments of 1970 (84 Stat. 1769, 32 U.S.C. 317e note) is amended by deleting the second sentence thereto and substituting the following: "The Administrator is authorized to sell such coins as may remain by negotiation at such prices, including fixed prices, in such manner, and upon such terms and conditions as may be deemed proper by the Administrator. This provision shall be effective upon enactment of this section".

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That section 205(a) of the Bank Holding Company Act Amendments of 1970 (84 Stat. 1769; 31 U.S.C. 317e note) is amended by deleting the second sentence thereto and substituting the following: "The Administrator is authorized to sell such coins as may remain by negotiations at such prices, including fixed prices, in such manner, and upon such terms and conditions as may be deemed proper by the Administrator.".

SEC. 2. The amendment made by the first section of this Act shall take effect upon the date of its enactment.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Bank Holding Company Act Amendments of 1970".

A motion to reconsider was laid on the table.

PROVIDING FOR THE PRINTING OF THE PROCEEDINGS INCIDENT TO THE PRESENTATION OF A PORTRAIT OF THE HONORABLE AL ULLMAN

The Clerk called the resolution (H. Res. 1285) providing for the printing of the proceedings incident to the presentation of a portrait of the Honorable AL ULLMAN.

There being no objection, the Clerk read the resolution as follows:

Resolved, That the transcript of the proceedings in the Committee on Ways and Means of August 2, 1978, incident to the presentation of a portrait of the Honorable Al Ullman to the Committee on Ways and Means be printed as a House document with illustrations and suitable binding.

SEC. 2. In addition to the usual number, there shall be printed one thousand copies of such document with two hundred of that one thousand being casebound for the use of the Committee on Ways and Means.

The resolution was agreed to

A motion to reconsider was laid on the table.

PROVIDING FOR THE PRINTING OF REPORT ENTITLED "FREEDOM OF INFORMATION ACT REQUESTS FOR BUSINESS DATA AND REVERSE-FOIA LAWSUITS"

The Clerk called the resolution (H. Res. 1338) providing for the printing of the report entitled "Freedom of Information Act Requests for Business Data and Reverse-FOIA Lawsuits."

There being no objection, the Clerk read the resolution as follows:

H. RES. 1338

Resolved, That there shall be reprinted for the use of the Committee on Government Operations seventeen hundred copies of the report entitled "Freedom of Information Act Requests for Business Data and Reverse FOIA Lawsuits".

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF VOLUMES 1 AND 2 OF THE COMMITTEE PRINT ENTITLED "A LEGISLATIVE HISTORY OF THE WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972"

The Clerk called the Senate concurrent resolution (S. Con. Res. 90) authorizing the printing of additional copies of volumes 1 and 2 of the committee print entitled "A Legislative History of the Water Polluton Control Act Amendments of 1972".

There being no objection, the Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 90

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of Senate Committee on Environment and Public Works one thousand additional copies each of volumes 1 and 2 of its committee print of the Ninety-third Congress entitled "A Legislative History of the Water Pollution Control Act Amendments of 1972".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING THE REPRINTING OF BOOK II OF THE SENATE REPORT ENTITLED "INTELLIGENCE ACTIVITIES AND THE RIGHTS OF AMERICANS"

The Clerk called the Senate concurrent resolution (S. Con. Res. 96) authorizing the reprinting of Book II of the Senate report entitled "Intelligence Activities and the Rights of Americans."

There being no objection, the Clerk read the Senate concurrent resolution as follows:

S. CON. RES 96

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Select Committee on Intelligence six hundred copies of book II of the final report of the Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities, Ninety-fourth Congress, second session, entitled "Intelligence Activities and the Rights of Americans" (S. Rept. 94–755).

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF THE COMMITTEE PRINT ENTITLED "PRELIMINARY GUIDE TO EXPORT OPPORTUNITIES TO JAPAN"

The Clerk called the Senate concurrent resolution (S. Con. Res. 97) authorizing the printing of additional copies of the committee print entitled "Preliminary Guide to Export Opportunities to Japan."

There being no objection, the Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 97

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Banking, Housing, and Urban Affairs two thousand additional copies of its committee print of the Ninety-fifth Congress, second session, entitled "Preliminary Guide to Export Opportunities to Japan."

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

REQUIRING MANDATORY APPLICATION OF THE GENERAL RECORDS SCHEDULES

The Clerk called the Senate bill (S. 1267) to amend sections 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3303a of chapter 33, title 44, United States Code, is amended:

(a) by deleting subsection (b) of section 3303a in its entirety, and substituting in lieu thereof:

"(b) Authorizations granted under lists and schedules submitted to the Administrator under section 3303 of this title, and schedules promulgated by the Administrator under subsection (d) of this section, shall be mandatory, subject to section 2909 of this title. As between an authorization granted under lists and schedules submitted to the Administrator under section 3303 of this title and an authorization contained in a schedule promulgated under subsection (d) of this section, application of the authorization providing for the shorter retention period shall be required, subject to section 2909 of this title.";

(b) by striking out the word "may" and substituting in lieu thereof the word "shall" in the first sentence of subsection (d); and

(c) by inserting immediately after the last sentence of subsection (d) the following new sentence: "A Federal agency may request changes in such schedules for its records pursuant to section 2909 of this title.".

SEC. 2. Section 1503 of chapter 15, title 44, United States Code, is amended by deleting the fifth sentence and substituting in lieu thereof the following sentence: "The original shall be retained by the General Services Administration and shall be available for inspection under regulations prescribed by the Administrator, unless such original is disposed of in accordance with disposal schedules submitted by the Administrative Committee of the Federal Register and authorized by the Administrator pursuant to regulations issued under chapter 33 of this title; however, originals of proclamations of the President and Executive orders shall be permanently retained by the Administration as part of the National Archives of the United States.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PRESENTATION OF GOLD MEDAL TO MRS. ROBERT F. KENNEDY

The Clerk called the bill (H.R. 8389) authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy.

There being no objection, the Clerk read the bill as follows:

H.R. 8389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to present, in the name of Congress, an appropriate gold medal to Mrs. Robert F. Kennedy, in recognition of the distinguished and dedicated service which her late husband gave to the Government and to the people of the United States. For such purposes, the Secretary of the Treasury shall cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary. There is authorized to be appropriated the sum of $3,000 to carry out the provisions of this section.

SEC. 2. The Secretary of the Treasury is authorized to strike and make available for sale to the public—

(1) full-sized duplicates in bronze, and

(2) replicas in bronze, one and five-sixteenths inches in diameter,

of the medal authorized by section 1.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MEDALS IN COMMEMORATION OF THE XIII OLYMPIC WINTER GAMES

The Clerk called the bill (H.R. 13174) to provide for the striking of national medals to commemorate the XIII Olympic Winter Games to be held in Lake Placid, N.Y., in 1980.

There being no objection, the Clerk read the bill as follows:

H.R. 13174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in commemoration of the XIII Olympic Winter Games to be held in Lake Placid, New York, from February 13, to 24, 1980, the Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall strike and deliver to the Lake Placid 1980 Olympic Winter Games, Incorporated, a nonprofit corporation (hereinafter in this Act referred to as the "Corporation"), not more than five hundred thousand bronze, silver, and gold medals of such size or sizes as shall be determined by the Corporation, with the approval of the Secretary and bearing such emblems, devices, and inscriptions as shall be determined by the Corporation, with the concurrence of the Commission of Fine Arts, subject to approval by the Secretary.

SEC. 2. The medals authorized under this Act are national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368), and may be disposed of by the Corporation at a premium.

SEC. 3. The medals authorized shall be struck and delivered at such times as may be required by the Corporation in quantities of not less than two thousand, but no such medals shall be struck after December 31, 1980.

SEC. 4. The Secretary shall cause such medals to be struck and delivered at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus a surcharge equal to 25 per centum of such cost of manufacture. Such surcharge shall be deposited in the Treasury as miscellaneous receipts. Security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for the full payment of such costs.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PRESENTATION OF GOLD MEDAL TO LT. GEN. IRA C. EAKER

The Clerk called the Senate bill (S. 425) to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lt. Gen. Ira C. Eaker, U.S. Air Force (retired).

The Clerk read the Senate bill as follows:

S. 425

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is hereby authorized to present, on behalf of the Congress, to Lieutenant General Ira C. Eaker, United States Air Force (retired), a gold medal of appropriate design in recognition of his distinguished career as an aviation pioneer and Air Force leader. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Air Force with the approval of the Secretary of the Treasury. There are authorized to be appropriated not to exceed $5,000 to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be struck and sold at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus 25 per centum of such cost of manufacture. The appropriation then current and chargeable for the cost of manufacture of such duplicate medals shall be fully reimbursed from the payment required by this section and received by the Secretary: *Provided*, That any money received in excess of the actual cost of manufacture of such duplicate medals shall from time to time be covered into the Treasury. Security satisfactory to the Director of the Mint shall be furnished to fully indemnify the United States for the payment required by this section.

● Mr. RHODES. Mr. Speaker, it is most fitting that the House is today authorizing a medal in honor of a distinguished American, Gen. Ira Eaker.

Over the past 60 years, the development of America's prowess in the air has been pioneered largely by the military. General Eaker was in the forefront of innovations in our air defenses during a career that spanned three decades, beginning in 1918. He served on the staffs of all the chiefs of this Nation's air arm from 1924 until his retirement in 1947. He established an endurance record in a Fokker C-2 which used the new, inflight refueling. During World War II, he was in command of the 8th Air Force and the Allied Mediterranean Air Force.

Our Nation has long been the leader in exploring the potential of flight, and it is most appropriate that Congress has moved to recognize the outstanding contribution to our aerial progress by Gen. Ira Eaker. He has served this Nation with dedication and distinction, and I join my colleagues in expressing our gratitude for his devotion to the service of his country.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MEDALS IN COMMEMORATION OF DR. MARTIN LUTHER KING, JR.

The Clerk called the bill (H.R. 13643) to provide for the striking of medals in commemoration of the life and ideals of Dr. Martin Luther King, Jr.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. ASHBROOK. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANIMAL AND PLANT QUARANTINE NOTICE REQUIREMENTS

The Clerk called the Senate bill (S. 286) to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes.

There being no objection, the Clerk read the Senate bill, as follows:

S. 286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Act of May 29, 1884 (23 Stat. 32, as amended; 21 U.S.C. 117), is further amended to read as follows: "Any person or persons operating any railroad, or master or owner of any boat or vessel, or owner or custodian of, or person having control over, cattle or other livestock or live poultry who shall knowingly violate the provisions of section 6 of this Act shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than $5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.".

SEC. 2. Section 1 of the Act of March 3, 1905 (33 Stat. 1264, as amended; 21 U.S.C. 123), is further amended to read as follows: "The Secretary of Agriculture is authorized to quarantine by regulation any State or Territory or the District of Columbia, or any portion of any State or Territory or the District of Columbia, when he shall determine the fact that any animals or live poultry in such State or Territory or District of Columbia are affected with any contagious, infectious, or communicable disease of livestock or poultry or that the contagion of any such disease exists or that vectors which may disseminate any such disease exist in such State or Territory or the District of Columbia.".

SEC. 3. Section 3 of the Act of March 3, 1905 (33 Stat. 1265, as amended; 21 U.S.C. 125), is further amended to read as follows: "It shall be the duty of the Secretary of Agriculture, and he is authorized and directed, when the public safety will permit, to make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, treatment, handling, and method and manner of delivery and shipment of quarantined animals or live poultry from a quarantined State or Territory or the District of Columbia, and from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia.".

SEC. 4. Section 8 of the Act of August 20, 1912 (37 Stat. 318, as amended; 7 U.S.C. 161), is further amended by:

(a) deleting the following from the first sentence thereof: "; and the Secretary of Agriculture is directed to give notice of the establishment of such quarantine to common carriers doing business in or through such quarantined area, and shall publish in such newspapers in the quarantined area as he shall select notice of the establishment of quarantine"; and

(b) deleting the following from the fourth sentence thereof: "; and the Secretary of Agriculture shall give notice of such rules and regulations as hereinbefore provided in this section for the notice of the establishment of quarantine".

● Mr. FOLEY. Mr. Speaker, the bill S. 286 would repeal outdated and ineffective notice provisions contained in three animal and plant quarantine statutes administered by the Secretary of Agriculture. The bill would also delete the provisions for a minimum fine of $100 under the act of May 29, 1884, and clarify that the Secretary has discretion to determine whether or not to impose an animal disease quarantine under the act of March 3, 1905.

Under certain provisions of statutes enacted in 1884, 1905, and 1912, the Secretary of Agriculture is required to purchase an advertisement in a local newspaper, and give written notices to every railroad and steamship line each time he detects the existence of a livestock or poultry disease or establishes a quarantine, because of such a disease or because of the existence of a plant disease or insect infestation. The Secretary is required to give like notice of the issuance of regulations implementing these statutory provisions. The written notices must be given to the railroads and steamship line even though in modern times most of the livestock, poultry, plants, and other materials are transported by trucks to which these statutes do not apply.

Animal and plant quarantine notices are issued by the Secretary with great frequency. A quarantine or notice of contagion issued one day may be removed or altered the next as the situation demands. These activities are monitored and reported upon by the local media, particularly the broadcast media, in each area affected.

The Administrative Procedure Act already requires publication in the Federal Register of the notices which the Secretary is required to provide by these statutory provisions. In addition, the Secretary issues a release to the press and broadcast media at the time of each quarantine or other action of which such public notice is required.

Since each of the Nation's railroads now serves virtually the entire United States, either directly or by interchange of traffic with other roads, a written notice of each quarantine action must be mailed to each of over 200 railroads and several steamship lines. These companies then attempt to notify all personnel whose duties might be affected. Several days are consumed in preparation and mailing of these notices and more time is lost disseminating the information within each transportation company.

Frequently several quarantine notices affecting one area are issued in quick succession. Yet some rural areas are served only by local newspapers which publish as infrequently as every 2 weeks. In these situations, the paid advertisement and written notices to the railroads are often obsolete when they are published or received. At the very least, the news is stale since the information has already been received via the media. Farmers and the carriers, particularly the railroads, have for years relied upon the media for up-to-date information.

Notwithstanding these facts, the animal and plant quarantine statutes still require the Secretary to purchase local newspaper advertising, and mail written notice of each animal and plant quarantine action to all railroads and steamship lines. In this day and age, the time, effort, and expense involved is utterly wasted. The railroads and steamship lines have several times urged the Secretary to discontinue sending written notices as they are costly to process and serve no useful purpose. The Department of Agriculture has estimated that enactment of the bill would result in annual manpower, postage, and newspaper advertising savings of up to $25,000.

This bill also clarifies that the Secretary's quarantine authority under section 1 of the act of March 3, 1905, is discretionary, and deletes a provision of the act of May 29, 1884, which provides for a minimum fine. Neither of these provisions is controversial.

Mr. Speaker, I urge my colleagues to support enactment of S. 286. It is important to eliminate these archaic but costly statutory provisions which have outlived their usefulness.●

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. The Chair would like to announce that the legislation just considered comprised all the legislation that was eligible on the Consent Calendar.

Therefore, this concludes the call of the Consent Calendar.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on all the legislation just passed on the Consent Calendar.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

CALL OF THE HOUSE

Mr. ASHBROOK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 831]

Ambro
Ammerman
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashley
Aspin
Beard, R.I.
Bevill
Bonker
Brooks
Burke, Calif.
Burke, Fla.
Burton, John
Caputo
Chappell
Chisholm
Clay
Cochran
Cohen
Conyers
Cornwell
D'Amours
Davis
Dellums
Dickinson

Diggs
Dingell
Downey
Drinan
Erlenborn
Fithian
Flood
Flowers
Ford, Mich.
Forsythe
Gammage
Garcia
Giaimo
Gibbons
Hansen
Harrington
Harsha
Hawkins
Heckler
Hollenbeck
Huckaby
Ichord
Ireland
Krueger
LaFalce
Leggett
Lehman
McCloskey
McDonald
McKay
McKinney
Markey
Mathis
Metcalfe
Mikva
Milford
Miller, Calif.
Mitchell, Md.
Moffett
Moorhead, Pa.
Nix
O'Brien
Pepper
Pettis
Pressler
Preyer
Quie
Rangel
Risenhoover
Rodino
Roybal
Ruppe
Russo
Santini
Sarasin
Satterfield
Scheuer
Schroeder
Shipley
Shuster
Skubitz
Solarz
Staggers
Stark
Steiger
Stokes
Teague
Thompson
Thone
Tucker
Udall
Walker
Walsh
Whitley
Wiggins
Wirth
Young, Alaska
Young, Tex.

The SPEAKER. On this rollcall 327 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

JOINT REFERRAL OF S. 419, H.R. 12818, H.R. 13424, AND H.R. 13518 TO COMMITTEE ON SCIENCE AND TECHNOLOGY

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the bills S. 419 and H.R. 12818, H.R. 13424, and H.R. 13518, the Federal Oil Shale Commercialization Test Act, be jointly referred to the Committee on Science and Technology.

The SPEAKER pro tempore (Mr. Roncalio). Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 12931, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS ACT, 1979

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12931) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. YOUNG of Florida. Reserving the right to object, Mr. Speaker, I do so only for the purpose of having a brief colloquy with the chairman. As the chairman knows, when the other body was considering this legislation, they ran out of time toward the end of the bill, and a number of amendments that were included in the House version were stricken by just one broad swipe of their amending brush.

My question is: Is it the chairman's intent to strongly abide by the House's position as to the provisions which were eliminated by the Senate without so much as a discussion or debate?

Mr. LONG of Maryland. If the gentleman will yield. I cannot speak for every one of the amendments the gentleman is referring to, but the one the gentleman is particularly interested in, human rights and the International Financial Institutions, is one which I have very strong sympathy for, and I certainly intend to stick with the House position. Of course, I hope to stand by the House position in as many issues as I can, but one cannot make any guarantees on that in a conference.

Mr. YOUNG of Florida. I thank the chairman, Mr. Speaker, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Maryland? The Chair hears none, and appoints the following conferees: Messrs. Long of Maryland, Obey, Yates, and Charles Wilson of Texas, Mrs. Burke of California, Messrs. McHugh, Roybal, Stokes, Mahon, Young of Florida, and Conte, Mrs. Smith of Nebraska, and Mr. Cederberg.

APPOINTMENT OF CONFEREES ON S. 1566, FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

Mr. BOLAND. Mr. Speaker, pursuant to clause 1 of rule XX, and at the direction of the Permanent Select Committee on Intelligence and the Committe on the Judiciary, I move to take from the Speaker's table the Senate bill (S. 1566), the Foreign Intelligence Surveillance Act of 1978, with House amendments thereto, insist on disagreement, and request a conference with the Senate thereon.

The Clerk read the title of the Senate bill.

The SPEAKER. The question is on the motion offered by the gentleman from Massachusetts (Mr. Boland).

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees: Messrs. Boland, Murphy of Illinois, Mazzoli, Rodino, Kastenmeier, Bob Wilson, McClory, and, as an additional conferee, Mr. Ertel, but only for the purpose of considering differences with the Senate which relate to elimination of language providing for special courts and providing that U.S. district courts shall have jurisdiction over orders for surveillance.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

PROHIBIT UNION ORGANIZATION IN ARMED FORCES

Mr. STRATTON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 274) to amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the Armed Forces, and for other related purposes, as amended.

The Clerk read as follows:

S. 274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. (a) The Congress makes the following findings:

(1) Members of the armed forces of the United States must be prepared to fight and, if necessary, to die to protect the welfare, security, and liberty of the United States and of their fellow citizens.

(2) Discipline and prompt obedience to lawful orders of superior officers are esential and time-honored elements of the American military tradition and have been reinforced from the earliest articles of war by laws and regulations prohibiting conduct detrimental to the military chain of command and lawful miiltary authority.

(3) The processes of conventional collective bargaining and labor-management negotiation cannot and should not be applied to the relationships between members of the armed forces and their military and civilian superiors.

(4) Strikes, slowdowns, picketing, and other traditional forms of job action have no place in the armed forces.

(5) Unionization of the armed forces would be incompatible with the military chain of command, would undermine the role, authority, and position of the commander, and would impair the morale and readiness of the armed forces.

(6) The circumstances which could constitute a threat to the ability of the armed forces to perform their mission are not comparable to the circumstances which could constitute a threat to the ability of Federal civilian agencies to perform their functions and should be viewed in light of the need for effective performance of duty by each member of the armed forces.

(b) The purpose of this Act is to promote the readiness of the armed forces to defend the United States.

Sec. 2. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 975. Membership in military unions, organizing of military unions, and recognition of military unions prohibited

"(a) In this section:

"(1) 'Member of the armed forces' means (A) a member of the armed forces who is serving on active duty, or (B) a member of a Reserve component while performing inactive-duty training.

"(2) 'Military labor organization' means any organization that engages in or attempts to engage in—

"(A) negotiating or bargaining with any civilian officer or employee, or with any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of military service of such members in the armed forces;

"(B) representing individual members of the armed forces before any civilian officer or employee, or any member of the armed forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of military service of such member in the armed forces; or

"(C) striking, picketing, marching, demonstrating, or any other similar form of concerted action which is directed against the Government of the United States and which is intended to induce any civilian officer or employee, or any member of the armed forces, to—

"(i) negotiate or bargain with any person concerning the terms or conditions of military service of any member of the armed forces,

"(ii) recognize any organization as a representative of individual members of the armed forces in connection with complaints and grievances of such members arising out of the terms or conditions of military service of such members in the armed forces, or

"(iii) make any change with respect to the terms or conditions of military service of individual members of the armed forces.

"(3) 'Civilian officer or employee' means an employee, as such term is defined in section 2105 of title 5.

"(b) It shall be unlawful for a member of the armed forces, knowing of the activities or objectives of a particular military labor organization—

"(1) to join or maintain membership in such organization; or

"(2) to attempt to enroll any other member of the armed forces as a member of such organization.

"(c) It shall be unlawful for any person—

"(1) to enroll in a military labor organization any member of the armed forces or to solicit or accept dues or fees for such an organization from any member of the armed forces; or

"(2) to negotiate or bargain, or attempt through any coercive act to negotiate or bargain, with any civilian officer or employee, or any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of service of such members;

'(3) to organize or attempt to organize, or participate in, any strike, picketing, march, demonstration, or other similar form of concerted action involving members of the armed forces that is directed against the Government of the United States and that is intended to induce any civilian officer or employee, or any member of the armed forces, to—

"(A) negotiate or bargain with any person concerning the terms or conditions of service of any member of the armed forces,

"(B) recognize any military labor organization as a representative of individual members of the armed forces in connection with any complaint or grievance of any such member arising out of the terms or conditions of service of such member in the armed forces, or

"(C) make any change with respect to the terms or conditions of service in the armed forces of individual members of the armed forces; or

"(4) to use any military installation, facility, reservation, vessel, or other property of the United States for any meeting, march, picketing, demonstration, or other similar activity for the purpose of engaging in any activity prohibited by this subsection or by subsection (b) or (d).

"(d) It shall be unlawful for any military labor organization to represent, or attempt to represent, any member of the armed forces before any civilian officer or employee, or any member of the armed forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of service of such member in the armed forces.

"(e) No member of the armed forces, and no civilian officer or employee, may—

"(1) negotiate or bargain on behalf of the United States concerning the terms or conditions of military service of members of the armed forces with any person who represents or purports to represent members of the armed forces, or

"(2) permit or authorize the use of any military installation, facility, reservation, vessel, or other property of the United States for any meeting, march, picketing, demonstration, or other similar activity which is for the purpose of engaging in any activity prohibited by subsection (b), (c), or (d). Nothing in this subsection shall prevent commanders or supervisors from giving consideration to the views of any member of the armed forces presented individually or as a result of participation on command-sponsored or authorized advisory councils, committees, or organizations.

"(f) Whoever violates subsection (b), (c), or (d) shall, in the case of an individual, be fined not more than $10,000 or imprisoned not more than five years, or both, and in the case of an organization or association, be fined not less than $25,000 and not more than $250,000.

"(g) Nothing in this section shall limit the right of any member of the armed forces—

"(1) to join or maintain membership in any organization or association not constituting a 'military labor organization' as defined in subsection (a)(2) of this section;

"(2) to present complaints or grievances concerning the terms or conditions of the service of such member in the armed forces in accordance with established military procedures;

"(3) to seek or receive information or counseling from any source;

"(4) to be represented by counsel in any legal or quasi-legal proceeding, in accordance with applicable laws and regulations;

"(5) to petition the Congress for redress of grievances; or

"(6) to take such other administrative action to seek such administrative or judicial relief, as is authorized by applicable laws and regulations.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"975. Membership in military unions, organizing of military unions, and recognition of military unions prohibited.".

The SPEAKER pro tempore. Is a second demanded?

Mr. BEARD of Tennessee. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. STRATTON) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. BEARD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. STRATTON).

GENERAL LEAVE

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill S. 274, under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. STRATTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the support of the House in passing S. 274, as amended, a bill to prohibit union organization and membership in the Armed Forces.

The purpose of this bill is to promote the readiness of the Armed Forces by prohibiting the membership of military personnel in military labor organizations, prohibiting the enrollment of military personnel in such organizations, and prohibiting the recognition of such unions by members of the Armed Forces or by civilian officers and employees of the Government.

On September 19, 1977, S. 274 was jointly referred to the Committees on Armed Services and Post Office and Civil Service. The Armed Services Committee amended the bill by striking all after the enacting clause and substituting a new text. The Post Office and Civil Service Committee acted on the referral by reporting specific amendments.

By agreement of the committees the text of the bill to be considered today will be the bill as amended by the Armed Services Committee, with the exception of the definition of a military labor organization on pages 11 and 12. The definition of military labor organization is that reported by the Post Office and Civil Service Committee.

First, I want to emphasize that neither the bill reported by the Armed Services Committee, nor that of the Post Office and Civil Service Committee, would affect the right of civilian technicians employed by National Guard or Reserve units to join or maintain membership in labor organizations. The bill would affect those technicians only during the time they are engaged in inactive-duty training.

S. 274, as amended, would make it unlawful for a member of the Armed Forces who knows of the activities or objectives of a military labor organization to join or to maintain membership in such organizations or to attempt to enroll any other member in such organizations. A member of the Armed Forces is defined as one serving on active duty or a member of a Reserve component while performing inactive-duty training. Reserve and National Guard personnel would be considered members only during their weekly or monthly drill meetings and during their summer encampments.

The bill would also make it unlawful for any person: First, to enroll any member of the Armed Forces in a military labor organization or to solicit or accept dues or fees for such an organization; second, to negotiate or bargain on behalf of members of the Armed Forces concerning terms or conditions of service; third, to organize any strike, picketing, march, or demonstration intended to induce a civilian officer or employee, or any member of the Armed Forces to negotiate or bargain concerning the terms or conditions of service of any Armed Forces member, recognize a military labor organization as a representative of members in connection with a complaint arising from the terms or conditions of service, make any change in conditions of service in the Armed Forces; or fourth, to use any military installation or facility for meetings, picketing, demonstration, or similar activity for the purpose of engaging in any activity prohibited by the act.

The bill would also make it unlawful for any military labor organization to represent a member of the Armed Forces in connection with any grievance or complaint of the member arising out of the terms or conditions of military service.

The bill would also prohibit any member of the Armed Forces, or any civilian officer or employee, first, from negotiating or bargaining on behalf of the United States concerning the terms or conditions of military service of members of the Armed Forces with any person who represents those members, or second, from permitting the use of any military installation or facility for any meeting, march, or picketing for the purpose of engaging in activities prohibited by the bill.

I should point out that the prohibitions of the bill are not directed toward all labor organizations, but only those which fit the definition of a military labor organization as contained in the bill.

This definition of military labor organization as I mentioned earlier is taken from the bill reported by the Post Office and Civil Service Committee. According to that definition, a military labor organization is one which engages in, or attempts to engage in, specifically defined actions to alter the terms or conditions of military service. If an organization seeks to negotiate or bargain on behalf of military personnel concerning the terms or conditions of their military service, or if it seeks to represent members of the military in grievances or complaints relating to the terms or conditions of military service, or if it employs traditional concerted labor union actions such as striking or picketing to induce military or civilian personnel to bargain or negotiate, to recognize the organization as a representative of members in grievance proceedings, or to make any change in the terms or conditions of military service, then it is a military labor organization within the prohibition of the bill.

The bill, however, would not prevent a member of the Armed Forces from retaining membership in a union to which he had belonged in civilian life, unless it fits the definition of a military labor organization. Nor would the bill prevent a member of the Armed Forces from joining a union relating to after duty, part-time employment, such as a musician, bartender, or store clerk. Service or fraternal organizations, which seek to improve the life of military personnel by legislative lobbying, also would not come within the prohibition. Thus, we believe the bill has carefully circumscribed the organizations which would be affected by its prohibition.

S. 274, as amended, does not prohibit civilian technicians from belonging to labor unions. A civilian technician is a person who is a member of a National Guard or Reserve unit and who is also employed full time by that same organization in a civilian capacity at such jobs as mechanical work, maintaining equipment, and so forth.

The deletion of the prohibition on civilian technicians belonging to labor unions is the principal distinction between S. 274 as amended and the bill passed by the Senate a year ago. Our committee heard testimony from representatives of several labor unions, all of whom opposed that portion of the bill. We also had testimony from the distinguished constitution lawyer, Erwin Griswold. Dean Griswold testified that it was his belief that prohibiting civilian technicians from belonging to labor unions could be construed as an infringement of their first amendment rights. As a result of that testimony, the committee deleted all reference to civilian technicians.

Our committee also amended the Senate bill to provide that nothing in it shall limit the right of any member of the Armed Forces to seek or receive counseling from any source. This amendment was included in response to concerns expressed by religious and other organizations which offer counseling services to military personnel. The committee sought to insure that their opportunity to counsel armed services personnel would not be infringed by the bill. In including that right, the committee had the dictionary definition of counseling in mind; that is, a practice or professional service designed to guide an individual to a better understanding of his problems or potentialities. The committee did not intend that the counselor should be permitted to act as a representative of the members in grievance or disciplinary proceedings.

A counselor may, if he chooses, accompany a member who has been absent without leave on his return to his military organization and assist him in surrendering to military authorities. He might even attempt to assist the member in explaining the cause of his unauthorized absence. But he would not be permitted to interject himself into the chain of command by acting as a representative of the individual in dealing with his superior officers. Legal counsel is provided for that purpose, and we saw no need to provide for any other counselor in such proceedings.

It is the committee's intent that the normal rule of judicial construction concerning severability of its various provisions will apply to the bill. Thus, if a court should determine that any one of those provisions were unconstitutional, either on its face or in its application, that finding would have no effect upon the remainder of the bill.

Several members circulated a Dear Colleague letter last week in which they advocated regulation issued by the Department of Defense as an alternative to S. 274.

On that point, I would like to quote the testimony of Dean Griswold when he appeared before our subcommittee:

> I can say, Mr. Chairman, that if a case involving this problem gets to the Supreme Court, and if I were the Solicitor General, which I won't be, I would much rather stand on a legislative enactment than on a directive of the Secretary of Defense.
>
> That is particularly because of something that has been very rarely, if at all, mentioned here this morning, although I know it is in everyone's mind. But it is something which, in the memorandum I have seen from the Department of Defense, is not given as much emphasis as I would give it. It is, namely, the specific power given by the Constitution to the Congress to make rules and regulations for the government of the armed forces.
>
> I don't think that is unlimited. I think the Levy case shows the first amendment is there. Congress has to take these things into account. If one were before the Supreme Court and could say that the Constitution gives Congress power to make rules and regulations for governments of the armed forces and it has made this regulation, that it is reasonable and rational, then I would think you would be on stronger ground than if you said that Congress hasn't done anything about this but the Secretary of Defense made a very thoughtful regulation.

Mr. Speaker, I believe that the bill, as amended, is an adequate response to the threat of military unions. I believe we have addressed the threat, and at the same time have scrupulously attempted to protect the constitutional rights of the members of the Armed Forces. For these reasons, I urge the support of my colleagues on the passage of S. 274.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I will be happy to yield to the distinguished gentleman from California (Mr. CHARLES H. WILSON), a member of the committee.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding.

Do I understand the gentleman to say that the bill is identical to the one passed in the House committees with the exception of the definition of military labor organizations?

Mr. STRATTON. It is identical with the bill which was passed out by the Committee on Armed Services with the exception of the definition of military labor organizations. The Committee on Post Office and Civil Service originally undertook to make some other amendments but the bill which we now have was one that the Post Office and Civil Service Committee accepted, and the only difference in the bill that was originally reported by our Committee on Armed Services is a change in the definition of military labor organizations.

Mr. CHARLES H. WILSON of California. This bill does include the definition that was worked out between the two committees?

Mr. STRATTON. That is correct.

Mr. CHARLES H. WILSON of California. About military labor organizations?

Mr. STRATTON. That is correct.

Mr. CHARLES H. WILSON of California. If the gentleman will yield further, Mr. Speaker, while I was not a signer of the letter which went out, and Dean Griswold notwithstanding, I was impressed with the testimony of the legal counsel of the Department of Defense, who held that there was a greater opportunity for unions becoming active and organized with this legislation because of the possibility of its being ruled unconstitutional, and it would be preferable if we continue on the basis of Executive orders.

When unions took their referendum, they defeated it by 80 percent of the members, and I just cannot foresee any possibility at all that unions would be allowed in the military under Executive orders presently in existence.

I recognize, however, that this is a "motherhood"-type bill and that there are going to be very few Members who will have the courage to vote against it. Nevertheless, I do want to express this very serious concern I have about the legislation.

Mr. STRATTON. Mr. Speaker, I thank the gentleman for his remarks. I would hope that there would be no Members who would be so foolish as to vote against the bill. I think this is a very good bill. I think it strengthens our defense, and I think it deserves support.

As I say, I am not a lawyer myself, so I would not want to get into a hassle between the very distinguished, able, and capable general counsel of the Department of Defense and the former dean of Harvard Law School; but I will say that the general counsel of the Defense Department was a student at Harvard Law School, I believe under Dean Griswold; and of course, we have a difference of opinion between them. I would prefer, however, to accept the view of the dean, which I think perhaps is based upon a greater weight of the evidence and is not affected by the fact that the Department of Defense has opposed our enacting legislation of this kind for some time.

It was not until this bill was passed by the Senate of the United States that the Department of Defense even thought about issuing a regulation about unionism.

Mr. Speaker, I reserve the balance of my time.

Mr. BEARD of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleagues in supporting passage of S. 274, as amended, a bill to prohibit union organization of the Armed Forces. I believe that passage of this bill is essential to the preservation of good order and discipline of the armed services. Gen. George Brown, the former chairman of the Joint Chiefs of Staff, said that every nation which has had a serviceman's union has paid a terrific price in operational effectiveness.

I know that some of my colleagues are unhappy with this bill, since it does not prohibit civilian technicians from belonging to labor unions. I too had similar feelings until I heard the testimony of Dean Griswold about the possible constitutional infirmity which might result from that provision. I am convinced that our most urgent need is to prohibit unionization of uniformed personnel, and that is what we address in this legislation. If the civilian technician problem continues, I believe it can be addressed by administrative action of the Department of Defense, or by subsequent legislation. I do not believe, however, that we should run the risk of burdening this bill with a prohibition which might be found unconstitutional.

I believe that a brief background on efforts to organize military personnel would be helpful in understanding the need for this legislation.

The concept of union organization of military personnel has been frequently discussed in recent years. Several public opinion surveys have indicated that a substantial portion of military personnel would favor such labor unions.

Several unions have expressed an interest in enrolling members of the Armed Forces, and the efforts blossomed to a substantial degree.

However, organizational effort lost much of its momentum when the membership of a major union, in a referendum, voted overwhelmingly against initiation of the organizing campaign. While that vote halted the most prominent organizational effort, there are indications that some of the other unions are still studying plans to enroll members of the Armed Forces.

In recognition of the imminence of labor organizational efforts, the Department of Defense in October 1977 promulgated a new directive which established policies and procedures concerning labor organizations which seek to organize or represent armed services personnel. While that directive did not prohibit members of the military from joining labor unions, it would prohibit them from striking and picketing when it was related to the terms or conditions of military service.

The Department of Defense directive prohibits membership only in those organizations where a determination has been made that the organization presents a clear and present danger to discipline, loyalty or obedience to lawful orders, because it engages in actions prohibited by the directive or conspires to violate specific actions of the Uniform Code of Military Justice. The directive would also prohibit military commanders and supervisors from engaging in negotiations or collective bargaining with any labor organization.

Unionization of military personnel would almost certainly increase the already high costs of the All-Volunteer Army. Those costs already consume about 60 percent of our defense budget. Any further increase would be at the expense of military research and development and weapons procurement.

The Armed Services Committee believes that unionization of the military would be incompatible with good order and discipline in service. It also believes that legislation, rather than administration action, is the preferable means for dealing with the threat of union organization. Accordingly, the committee favors adoption of this legislation which squarely addresses the problem of military unions and, at the same time, protects the constitutional rights of armed services personnel.

For these reasons I urge each of you to vote in favor of S. 274.

I would like to make a statement briefly about the opinion expressed earlier that there would be no possibility of union activities in the military because of the mandate by the membership of the American Federation of Government Employees Union. In a 1977 interview of U.S. News & World Report Kenneth Blaylock stated when asked the question:

> Do you have organizers working on the military now?
>
> A. No. We're not actively organizing the military yet. We haven't made the final decision to move. The American Federation of Government Employes could have a final decision by the first of May.

They subsequently did and voted not to conduct union activities.

However, I think it is important to point out his second statement:

> But I'll say this: If AFGE decides not to move, the military will organize anyway. They may turn to the Teamsters; they may turn to some of the independents; they may convert their own military professional organization to unions—I don't know—but they will organize.

So it is because of this attitude and because of the problems that could arise as a result of any type of union activity on military bases that I urge each Member of the House to vote in favor of S. 274.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's yielding.

Mr. Speaker, I rise in support of S. 274, legislation to prohibit union organization and membership in the Armed Forces. I am a strong supporter of this proposal and have cosponsored similar legislation, H.R. 3262.

Unions have no place in our armed services. The Uniform Code of Military Justice prohibits union activities for military personnel. However, it is vital that the House pass S. 274 to absolutely preclude any unionization of the military so that no question of unionization may occur in the future.

During hearings on this legislation held by the Subcommittee on Civil Service, the General Counsel for the Department of Defense, Deanne C. Seimer, stated that—

> The Department is strongly opposed to unionization of the military and to any military union organization. We think it is inappropriate. We think it would be harmful to the chain of command. We think it would be harmful to readiness and effectiveness in combat.

I agree with the Department of Defense statements; however, I disagree strongly with the DOD view that unionization of the military can be prevented strictly on the basis of the present directive and UCMJ provisions. In support of this point, I quote once again from the General Counsel:

> I am not willing to say there is no problem or no possibility of unionization activity within the military. There are military commanders who feel strongly that there is a possibility, that it is a threat.

If we are convinced that any union activity in the military is dangerous and undesirable, we should put that conviction into statute so that any future questions can be easily dealt with by force of law.

Mr. Speaker, this legislation passed the Senate on September 16, 1977, by a vote of 72 yeas to 3 nays. The bill was jointly referred to the Post Office and Civil Service Committee and the Armed Services Committee. Action by the Civil Service Subcommittee deleted the provisions prohibiting union activity by National Guard technicians and my colleague (Mr. LOTT) attempted to amend the bill in full committee to allow technicians to join unions, but preventing bargaining or consultation on behalf of the technicians by the Federal unions. This amendment was defeated; however, the case remains strong that such a prohibition is necessary. Indeed, the Senate bill does contain strict prohibition on union membership for National Guard technicians. It is unfortunate that the method under which this bill is being considered here in the

House does not allow this body to express its view on the technician question.

Commonsense, and committee hearings in both the House and the Senate, hold that unions do not belong in military organizations. Discipline, chain of command, and strict adherence to orders are essential for the protection of our country and for the protection of the individual member of the military organization. Unionization, and its accompanying "distractions," would not further the mission of our armed services and would not serve the best interests of the country as a whole. Collective bargaining, shared decisionmaking, and grievance arbitration have no place in the military establishment. The threat of unionization efforts exists and the enactment of S. 274 is necessary to neutralize that threat.

The danger of military unionization should be apparent to my colleagues. I urge the passage of S. 274.

Mr. STRATTON. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I appreciate the gentleman yielding and giving me an opportunity to rise in strong support of S. 274. From the standpoint of the future of our national defense, this will probably be one of the most important bills considered in the 95th Congress.

I regret the bill is being considered under the suspension of the rules, but I realize the necessity to do so because of the lateness of the second session. However, if it had been possible to offer amendments to the bill, I would have offered one to extend the prohibition on unionization to National Guard technicians. This provision was in the original bill I introduced last year and it was also in the bill as passed by the Senate. Unfortunately, the provision was deleted, in committee, in the House. I would hope this committee would next year hold hearings on unionization of National Guard technicians. This is where the problem is.

Mr. Speaker, the military cannot be compared to private industry, or even to Federal civilian employment. Rules that govern bargaining between labor and management in industry cannot be imposed on military organizations, which are of necessity authoritarian.

Discipline is the indispensable ingredient in military operations. The military is not, and cannot be, a democratic organization in the purest sense of the word. There is no room for negotiation or arbitration on whether or not commands are to be followed. National security demands that commanders be assured of instant and unfailing obedience to orders.

It doesn't take much imagination to realize what the consequences would be if a military union were to require a vote on which target to assault or whether to assault at all. The same is true in training situations where the union might want to dictate the food to be served, how long hikes are to be, the weight of field packs and the list could go on and on. Such situations would lead to total chaos and a weakening of our national defense structure the like of which we have never seen.

Senator BARRY GOLDWATER said it best when he noted, "it stands to reason that unionizing the uniformed military personnel of this Nation would not strengthen, but seriously weaken America's preparedness. It would destroy the military chain of command and ruin the discipline so necessary for performance of military missions."

Some of those supporting military unions say they are needed in order to protect the rights of individual servicemen and women. They fail to realize these rights are already amply protected under current military regulations. There is the monthly formation where the serviceman can air his gripes. He or she can take their problems to the chaplain or Inspector General. A serviceman can also come to his Congressman or Senator if he feels he has been wronged. We in the Congress already deal with military problems and will continue to do so in the best interest of maintaining a high morale in the Armed Forces.

I have discussed military unions with civilian labor leaders in Mississippi and elsewhere in the Nation. They generally agree with my position because they realize a union would completely destroy the command structure that is so vital to an effective fighting force.

Mr. Speaker, while voicing strong opposition to military unions, I would also like to voice equally strong support for the benefits to which our service personnel are entitled and need. I will continue to work for improved incentives and benefits for our Armed Forces.

However, I feel the proper way to preserve and improve the present incentives and benefits of military personnel is through the legislative process and not unionization. Therefore, I urge a favorable vote and passage under suspension of the rules of S. 274 to prohibit unionization of the Armed Forces.

Mr. BEARD of Tennessee. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, although I intend to support S. 274 "An act to prohibit union organization and membership in the Armed Forces," I have reservations about the way this piece of legislation was brought before us today. The reason why I am opposed to considering this legislation under suspension was stated in the supplemental views of the committee print.

Certainly, I am not opposed to the right of any American to exercise his right to join a union. However, I do have strong reservations about the unionization of the military, in any shape or form. To permit unionization of the military is to divide loyalties, and, in the process, erode discipline.

S. 274, as passed by the Senate by a 72 to 3 vote, prohibits union membership by dual status technicians of the National Guard and Reserve. The report of the Senate Armed Services Committee determined if its conclusions regarding the incompatibility of unionism and military life were valid, they ought to apply across the board.

The Senate Armed Services Committee advanced the argument that technicians should be prohibited from union activity, saying "a technician's job (is) essentially a military one, and that his status as a Reserve member, liable for callup with the unit provided sufficient reason for prohibiting any union activity connected with his employment."

The National Guard Association testified that the military readiness of the Guard is hampered by collective bargaining procedures which currently apply to technicians. Labor-management negotiations take up an inordinate amount of otherwise productive time, the NGA said, to the extent that mission responsiveness and combat readiness is being compromised.

Strong differences of opinion exists between Federal employee unions and National Guard leadership over the "purely civilian" nature of the jobs performed by technicians; so strong, in fact, that some National Guard leaders declare the situation "has produced an intolerable adversary relationship between technicians and their military commanders."

Hundreds of man hours are spent each year in labor negotiations, at a cost of thousands of dollars in each State, resulting in a nationwide expenditure of millions of dollars. If the resources consumed in labor negotiations were utilized for mission-related activities, combat readiness of National Guard units would be greatly improved.

I believe that the data provided me by the States' adjutants general shows conclusively that unions are attempting to become more and more involved in matters of a pure military nature. It is for these reasons I reserved the right to amend section III of S. 274 in our Committee Report when it came to the floor.

The amendment I intended to offer would have prevented the Department of Defense from according recognition or consultation rights to unions representing civilian technicians. However, it does not bar membership in unions. It would also preclude the various State adjutants general from entering into agreements with unions representing civilian technicians.

I agree completely with Chairman JOHN C. STENNIS of the Senate Armed Services Committee when he said:

> If we are going to leave within the military groups in the United States the privilege of belonging to a union that deals with the military, I think we leave within the very terms of the bill itself, the germ that could cause discontent and dissatisfaction.

S. 274 as reported out by the House Post Office and Civil Service Committee retains that germ of unionism in the U.S. Armed Forces. That germ has produced an adversarial relationship within the National Guard which must be eliminated.

Due to the hour of this session and the importance of this legislation, I intend to support the passage of S. 274, although I regret that the procedure used for the bill's consideration denies the House the opportunity to express its will on the question of the National Guard technician unions. I hope the language in section III as amended by the House Post Office and Civil Service Committee will be deleted in conference and conform to the original language in the Senate bill. However should this not happen, I will urge early action on a separate bill in the next Congress.

Mr. STRATTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Speaker, I rise in support of S. 274, a bill to prohibit military personnel from unionizing.

The importance of this piece of legislation cannot be understated. For many weeks I sat through congressional hearings on the House Armed Services Committee listening to the testimony supporting and opposing this legislation. Despite the strong statements by the bill's opponents that the threat of a strike would not be relevant, I believe we would be naive and myopic to take this argument on face value.

Across the country, schoolchildren are enjoying an extended summer vacation because their teachers are boycotting classes. In many cases, the teachers are actually defying court orders to return to work.

Just last month, in Memphis, Tenn., firemen and policemen struck the city over a labor dispute. The city was forced to impose a curfew to attempt to curtail looting and arson.

Only 4 short weeks ago, the postal union threatened to strike if a new postal contract was not ratified. This action would have been in direct defiance of antistrike laws and only last minute Federal intervention prevented the unions from striking. It did not, however, prevent several wildcat strikes in the Northeast.

Mr. Speaker, the defense of this country is the most important responsibility of this Federal Government. To interfere with our chain of command from the Commander in Chief to the troops, to permit union bosses to dictate to our military personnel, to subject our national defense to the whims of wildcat strikes and work slowdowns, no matter how illegal, would be a travesty.

I should sincerely hope that this legislative body will persevere over the whims of our union leaders and pass under suspension S. 274.

Mr. STRATTON. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I thank the gentleman from New York for yielding this time to me.

Mr. Speaker, I rise in support of this legislation, which would prohibit union organization in the Armed Forces of the United States.

In 1976, almost exactly 2 years ago this month, as I sought reelection to Congress, I announced that in the 95th Congress I would sponsor legislation to prohibit unions in the U.S. Armed Forces. I promised I would vigorously seek to secure its passage. Therefore, I am most pleased today, as we pass this bill, to be able to see the fulfillment of my campaign promise.

Mr. Speaker, there is clearly a proper place—an important place—in our society for labor unions and labor organizations. There is even a place, with certain restrictions on activities, for labor associations in the public sector, but there is no place for labor unions in the military services of the United States.

The national defense of this Nation is involved, the discipline and response of the military service is involved. It is important for this Congress to go unequivocally on record as saying there shall be no unions in the armed services of the United States which could interfere with proper military disciplines as affect the ability of our forces to defend this Nation.

Mr. Speaker, I commend the gentleman from New York (Mr. STRATTON) for his efforts in bringing this legislation to the House and I urge its adoption.

Mr. BEARD of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, I rise in support of S. 274. As a member of the Armed Services Committee, I am convinced that there is no room for union activities in the military. After studying this issue closely, I introduced H.R. 384 which is similar to the bill we are considering today.

It is my belief that the overall effectiveness of the Armed Forces would be seriously impacted should we allow unionization of military personnel. Unionization would cause discipline to deteriorate until the readiness of our military would be weakened.

It is interesting to note that the rank and file of the American Federation of Government Employees voted last year not to support unionizing efforts in the military. Several surveys have shown that the large majority of military personnel do not favor unionization. There is wide recognition of the fact that unionization of the Armed Forces is not in the best interest of the Nation.

To his credit, Assistant Secretary of Defense John White promulgated regulations last year establishing new policies and procedures controlling unionizing efforts. However, these regulations do not go far enough in the sense that they allow some limited union activities. It is my opinion, and I believe the majority opinion of the Armed Services Committee, that no union activity should be allowed. While I do not believe that the AFGE or any other union would purposely undermine our national security, I believe the Congress should put to rest and eliminate any doubt concerning permissible union activities by prohibiting them completely. The security of this Nation demands no less than such a move.

S. 274 is a good bill. Section 2(f) of the Senate-passed version restricting union activities of the Reservist has been eliminated. As reported from the House Armed Services Committee, S. 274 places the proper sanctions against union activities and deserves the support of this body.

Mr. STRATTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. LLOYD), a member of the committee.

Mr. LLOYD of California. Mr. Speaker, I rise in support of the bill before us. Clearly, this bill will pass, there is no question of that. I can count the House, and I think the other Members can, too.

I am not here just to waste time and to say that I indeed am for this bill and say we need a clear-cut area of decision-making processes from the commanding officer all the way down to the lowest man in the ranks. Everyone understands that, and I do not think anyone, including the unions of the United States themselves, would be in disagreement with that concept.

I think, though, that what we are really talking about here is this: We are setting a precedent by saying that there are areas in our society where the good of the Nation and the good of all the people really rise above our social involvements. That is exactly what we are doing here today. We are not doing something which is monumental from the point of view of making a great decision, requiring an emotional fever pitch on either side. What we are really doing is making a decision for the future. What we are doing is—we are saying there is a traditional concept in the military force of vertical integration; that is to say an order starts at the top and goes to the bottom, and nothing should interfere with that.

Mr. Speaker, I think clearly that is what this bill is about, and I urge my colleagues to join with me in voting for this bill.

Mr. BEARD of Tennessee. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I strongly support passage of S. 274, a bill prohibiting union organization and membership in the Armed Forces. I have been a cosponsor of similar legislation for several years.

I believe that unionization of the military would jeopardize our Nation's security. A unionized military is incompatible with the structure and discipline required in our Armed Forces. It would undermine the necessary authority of commanders as well as threaten the preparedness of our military services.

Despite these dangers, several labor organizations have indicated an interest in organizing military personnel. The American Federation of Government Employees for instance, amended its constitution in 1976 to allow the admission of military personnel. Later the membership voted against this idea.

Other labor organizations, however, may well try to unionize the military. It is essential that we take steps now to prevent this from happening. S. 274 will help protect our Nation's security and I urge its adoption.

Mr. Speaker, sometimes satire tells a lot more than substance. I saw a cartoon the other day which showed an Army tank before unionization and an Army tank after unionization. Before unionization, there was a three-man crew. After unionization, it had a driver for left turns, a driver for right turns, and a driver for straight ahead. It had a fireman and other featherbed new members. It had a caption at the bottom which I think kind of parallels the railroad unions. It said, "A new crew available after 100 miles."

I do not think we want that in the Army. I do not think we want that in the service. This is one of the reasons this bill should pass.

Mr. BEARD of Tennessee. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Speaker, I rise in support of S. 274, prohibiting unionization of the armed services.

In January of last year I introduced legislation, H.R. 51, which would prohibit the union organization of or membership among personnel of the Armed Forces in their military capacity. The basis for my introduction of that bill and similarly the basis for my support of S. 274 is threefold.

First, members of the Armed Forces are public employees. As a result, when public employees win increased salaries or benefits the cost of these increases is passed directly on to the taxpayer. The taxpayer has no other choice but to ante up and, in this particular case, would have no alternative for the provision of defense services.

A second concern addresses the obvious incompatibility of unions with the military mission. The military requires discipline and the unquestioned compliance to orders. There exists no room for collective bargaining or negotiation in the accomplishment of the role we have set for our Armed Forces. I remain convinced that unionization would only serve to impair our overall combat effectiveness.

A final point is the case, albeit rare, when military personnel are called upon to assist or replace existing local civil enforcement personnel in instances of civil unrest. I believe that it is in the best interest of all, that the military not be affiliated with any national or international organization representing other employees in other fields under such circumstances.

Mr. Speaker, the Congress has historically been the serviceman's union, there is no need to change that relationship. The idea that we can trust the lives of dedicated Americans to their superiors in wartime but not their welfare in peacetime is ludicrous. It is time we put this issue to rest with passage of S. 274.

Mr. BEARD of Tennessee. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, I rise in support of S. 274, which prohibits union organization of the Armed Forces.

Mr. Speaker, I rise in support of S. 274, the purpose of which is to promote the readiness of U.S. Armed Forces by prohibiting the membership of military personnel in military labor organizations.

In short, it prohibits the unionization of the military. The bill would make it unlawful for a member of our Armed Forces who knows of the activities of a particular military labor organization to join or maintain membership in such an organization. The bill presently before the House is similar to legislation I cosponsored during the opening days of the 95th Congress. Upon introduction of that bill in January 1977, I said that I found attempts to unionize the military to be "an outrageous proposition which, if implemented, would weaken our defense and bring down the military chain of command."

Despite a flood of arguments in favor of allowing the military to unionize my opposition remains as strong today as previously stated.

Almost a year ago to this day, the Senate approved legislation to prohibit unionization in the military ranks by a 72-to-3 vote. The House would be wise to follow the Senate's action.

I personally consider this issue extremely important, Mr. Speaker, because it deals with the very foundation of our Constitution and the distinction between military and civilian authority. The U.S. Constitution specifically charges Congress with responsibility of making "rules for the Government and regulation of the land and naval forces." Therefore, allowing labor unions permission to speak for military personnel would infringe on this authority. Obedience is absolutely essential to the maintenance of military discipline—and military discipline is absolutely essential to quick and decisive action on the battlefield—such an intrusion would be very dangerous. The framers of the Constitution 200 years ago never would have dreamed of a unionized Army or Navy. I do not intend to see that concept changed today.

The key elements in a strong national defense are effective military hardware and a strong system of command. Lawful orders of officers and noncommissioned officers must be obeyed swiftly. Such a system, essential to the needs of Armed Forces serving a democratic society, cannot work if servicemen believe that orders, rules, and regulations are all subject to negotiation. This notion, if it prevails, would produce a breakdown of discipline and a collapse of combat-ready forces.

The Armed Forces are not simply another industrial occupation group. They are the defenders of freedom. Men and women who serve in the Armed Forces of the United States are sworn to defend the Constitution of the United States. As such, they are the defenders of the American people. They can have only one loyalty—to the Constitution and the lawful Government authorities under that Constitution. The right to negotiate should not come into conflict with a serviceman's responsibilities to the country and to lawful military orders.

Unionization of the military has been attempted in Western Europe with disastrous results. Unionization of soldiers and sailors is strong in the Netherlands. As a result, the appearance of the Dutch Armed Forces has become a scandal. Dutch troops are unkempt, and their state of discipline is a matter of widespread concern, making the effectiveness of these troops in battle highly questionable. The American people certainly do not want a similar deterioration to take place in our Armed Forces.

There are other considerations which favor nonunionization of the military. Given the rapid buildup of Soviet forces and the stalled SALT talks, this country can not afford the luxury of allowing our Nation's defense posture to be further compromised—especially from within.

Also, anyone who has contended with the bureaucracy knows that unionization of a federally supported entity would automatically bring with it the nightmare of more administrative rules, regulations and redtape. Imagine, if you can, the problems associated with negotiating a strike for higher pay and more lucrative military benefits. The paperwork would bury us, and the problems presented by such a situation would be overwhelming. Military personnel costs—which already account for over half the defense budget—would skyrocket in the wake of an Armed Forces strike. Were a strike successful and benefits jacked up, the same defense budget that many now call top heavy and fat with waste would balloon and cripple the Federal treasury.

The bill before us to prevent unionization deserves our serious consideration, and I trust that my colleagues will join me in supporting this measure.

● Mr. DON H. CLAUSEN. Mr. Speaker, I remain unalterably opposed to unionization of our Armed Forces. The Defense Department must retain complete control over its forces, otherwise, it poses real threat to this control and the Nation's ability to respond in a time of national emergency.

The American Federation of Government Employees, the union which has spearheaded the drive toward unionizing our military, recently polled its membership which overwhelmingly rejected the concept of organizing military personnel and the union's leadership has announced that it would not attempt to organize the military. Despite this assurance, I support the passage of legislation to explicitly prohibit the formation of unions and to prohibit a member of the Armed Forces from joining a military labor organization or attempting to enroll any other member of the Armed Forces in the organization. I intend to support S. 274 as it contains these specific provisions.

I also support the amendments which have been adopted to clarify the intent of the legislation to apply to military labor organizations and to insure that it does not impose any unwarranted restrictions on civilian technicians.

This legislation clearly demonstrates the strong opposition of this Congress to the unionization of our military personnel. It represents the mood of the people we represent. I have heard personally from several hundred constituents of my congressional district who feel that unionization of the military would erode military discipline and seriously threaten the security of our Nation. They foresee the day when servicemen would strike or picket on matters related to military service leaving our country inadequately prepared in times of national emergency.

While I support this legislation, I feel it is equally important for us to reemphasize our equally strong commitment to retaining a high level of military benefits including medical, retirement, pay levels, and fringe benefits as well as maintaining the best possible working conditions for military personnel.

If the Congress is willing to live up to these commitments, a need for union representation should not arise.●

● Mr. CLAY. Mr. Speaker, I rise in support of the amendment in the nature of a substitute to S. 274, a bill to prohibit unionization of the military.

S. 274, as reported by the House Post Office and Civil Service Committee, was virtually the same as the bill approved by the House Committee on Armed Services, except for clarifying language defining the term "military labor organization." Both committees excluded civilian technicians of the National Guard and Reserve Forces from the bill's coverage.

S. 274, as passed by the Senate, is an overreaction to the perceived threat of some employee organizations to unionize the military. Assuming that unionization of the military might weaken this Nation's military preparedness—and the committee took no position on that issue—the issuance of regulations by the Department of Defense is an adequate method of dealing with the perceived threat.

There also appears to be a strong possibility that S. 274 could be successfully challenged in the courts on the grounds that it might violate the constitutionally guaranteed rights of free speech and free association. Two constitutional lawyers—former Solicitor General Erwin Griswold and Prof. Charles A. Wright—whose opinions were solicited by the chairman of the Senate Committee on Armed Services, testified that although Congress may legislate to prohibit strikes or even collective bargaining, the flat prohibition against the right of association raised serious questions.

The alternative to legislation is to handle the issue through regulations issued by the Department of Defense. The Department has long prohibited military commanders from engaging in collective-bargaining proceedings with any individual or group purporting to represent military members. Secretary of Defense Brown issued further regulations last year banning strikes, slowdowns, work stoppages, or "coercive picketing." The directive also bars any onbase recruiting by labor unions or other organizations for purposes of negotiating or bargaining about the terms or conditions of military service.

Given the failure of any organization to ratify a unionization drive in the military, and the lack of substance to any other organizing efforts. The most prudent step the Congress should take is to carefully monitor the defense department directives, review their effectiveness, and if necessary, consider available options. However, until such a need presents itself, we believe the enactment of S. 274 to be premature and unwise.

S. 274, as passed by the Senate, would also deny to civilian technicians the right to representation in collective bargaining. This right has been available to such employees since 1968 under Executive Order 11491. The committee was not persuaded by the argument that collective bargaining activities by employees representatives detracted from the preparedness of the National Guard. Indeed, available information and testimony of the Department of Defense indicated that it was in the national interest for these dual-status employees to enjoy representation in their civilian capacities.

S. 274 is also deficient because it treats civilian technicians as if they were full-time members of the military.

The committee could not accept the premise of S. 274 as passed by the Senate, that civilian technicians, while serving in their civilian capacity, are members of the military. Yet, certain provisions of the Senate bill would, in effect, convert them to this status. S. 274 would deny them their existing right to representation in collective bargaining. It would further impose criminal sanctions for violations of the act.

Accordingly, the committee struck those provisions of the bill which would have had the effect of including civilian technicians within the provisions of the bill.

In summary, the committee believes that S. 274 as passed by the Senate is an overreaction to a potential danger of very restricted proportions. Such a danger, in the unlikely event that it does exist, can be dealt with more effectively by strong, carefully drawn regulations. Such regulations have already been promulgated by the Department of Defense.

I urge adoption of this substitute amendment.●

Mr. **STRATTON**. Mr. Speaker, I have no further requests for time.

Mr. **BEARD** of Tennessee. Mr. Speaker, I have no further requests for time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from New York (Mr. STRATTON) that the House suspend the rules and pass the Senate bill (S. 274), as amended.

The question was taken.

Mr. **STRATTON**. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, prior proceedings on this motion will be postponed.

HYDROELECTRIC POWERPLANTS AUTHORIZATIONS

Mr. **MEEDS**. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9333) to authorize the Secretary of the Interior to construct hydroelectric powerplants and various existing water projects, and for other purposes, as amended.

The Clerk read as follows:

H.R. 9333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, acting pursuant to the Federal Reclamation laws (Acts of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplemental thereto) is authorized to construct, operate, and maintain hydroelectric powerplants and appurtenant switchyards on existing reclamation project facilities at locations and in the approximate capacities set forth in section 3 of this Act. In carrying out the purposes of this Act, the Secretary of the Interior is authorized to modify the capacity of the powerplant as determined to be necessary and desirable during postauthorization study and design, and after consultation with and approval by the Secretary of Energy.

Sec. 2. The Secretary of Energy is authorized to construct, operate, and maintain transmission interconnections as required physically to interconnect the hydroelectric powerplants authorized by section 3 of this Act to existing power systems as he determines necessary to accomplish distribution and marketing of power generated pursuant to this Act.

Sec. 3. (a) Friant powerplant unit, Central Valley project, California, consisting of—

(1) a turbine generator unit of two thousand seven hundred kilowatts on the river outlet from Friant Dam;

(2) a turbine generator unit of five thousand kilowatts on the outlet to the Madera Canal at Friant Dam; and

(3) a turbine generator unit of fifteen thousand kilowatts on the outlet to the Friant-Kern Canal at Friant Dam.

(b) Hoover Dam powerplant modifications, Arizona-Nevada, consisting of replacing existing powerplant units A–8 and A–9 with a single generating unit of three hundred and fifty thousand kilowatts.

(c) Buffalo Bill Dam powerplant replacement, Wyoming, consisting of one twenty thousand kilowatt unit in replacement of an existing five thousand kilowatt unit.

Sec. 4. (a) Hydroelectric power generated by facilities constructed pursuant to this Act shall be delivered to the Secretary of Energy for distribution and marketing through existing Federal hydroelectric power marketing systems in accordance with existing law and policy consistent with the provisions of this Act.

(b) The plants authorized by section 3 of this Act shall be financially integrated with and the power marketed under rate schedules in effect for the several systems as follows:

(1) Friant powerplant unit shall be marketed through the Central Valley project;

(2) Buffalo Bill Dam powerplant replacement shall be marketed through the Western Division, Pick-Sloan Missouri Basin program power system; and

(3) Hoover Dam powerplant modifications shall be marketed through the Boulder Canyon project power system.

Sec. 5. Powerplants authorized by this Act shall be designed, constructed, and operated in such a manner as to not limit, restrict, or alter the release of water from any existing, reservoir, impoundment, or canal adverse to the satisfaction of valid existing water rights or water delivery to the holder of any valid water service contract.

Sec. 6. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the facilities authorized by this Act shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the works authorized by each subsection of section 3 is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

Sec. 7. There are hereby authorized to be appropriated in fiscal year 1981 and thereafter for the construction work authorized to be performed by the Secretary of the Interior under this Act the amount set forth below at the price levels indicated, plus or minus such amounts as may be justified by reason of ordinary fluctuations of construction cost indexes applicable to the type of construction work involved herein;

(1) Friant powerplant unit—$17,000,000 (January 1977 price levels);

(2) Hoover Dam powerplant modifications—$117,000,000 (January 1978 price levels);

(3) Buffalo Bill Dam powerplant replacement—$17,700,000 (January 1977 price levels).

There are also authorized to be appropriated such sums as may be required by the Secretary of Energy to accomplish interconnections of the powerplants authorized to be constructed by this Act; together with such sums as may be required for operation and maintenance of all works authorized herein.

Sec. 8. The authorizations hereinabove provided by this Act shall become final and effective twelve months after the date of enactment in the case of Buffalo Bill Dam powerplant replacement and Hoover Dam powerplant modifications and eighteen months after the date of enactment in the case of Friant powerplant unit: Provided, That such authorizations shall not become effective if the Secretary of the Interior has transmitted a feasibility report to the Speaker of the House of Representatives and the President of the United States Senate, by the aforesaid dates, establishing that the projects fail to meet contemporary tests of economic justification or create adverse environmental effects.

Sec. 9. The Secretary of the Interior is authorized to engage in feasibility investigations of the following potential hydroelectric power projects:

1. Whiskeytown powerplant, Trinity River Division, Central Valley Project, California;
2. Palisades powerplant enlargement, Palisades Projects, Idaho;
3. Canyon Ferry powerplant additions, Canyon Ferry Unit, Pick-Sloan Missouri Basin program, Montana;
4. Yellowtail Afterbay powerplant, Yellowtail unit, Pick-Sloan Missouri Basin project, Montana; and
5. Colorado-Big Thompson powerplant additions, Colorado-Big Thompson Project, Colorado.

The Secretary is directed to transmit completed feasibility reports to the Congress on each of the above-enumerated potential hydroelectric powerplant projects within twenty-four months from date of enactment of this Act irrespective of the status of review and processing required by the Flood Control Act of 1944 and irrespective of the States of any impact statements mandated by the National Environmental Policy Act.

Sec. 10. The Secretary is further to engage in feasibility investigations of the North Dakota Rural Domestic Water Supply System, Pick-Sloan Missouri Basin program, North Dakota.

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. Meeds) will be recognized for 20 minutes, and the gentleman from New Mexico (Mr. Lujan) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. Meeds).

Mr. MEEDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to explain and recommend H.R. 9333 to authorize the Secretary of the Interior to construct hydroelectric powerplants at various existing water projects, and for other purposes.

This measure originated in our Committee on Interior and Insular Affairs in an effort to salvage energy resources not now being utilized. In February 1977, the Department of the Interior published a report entitled the Western Energy Expansion study. This report inventoried scores of physical opportunities on existing reclamation projects to develop hydroelectric energy and capacity. Some of these potentials involved installing turbogenerators on the outlet works of irrigation reservoirs, increasing installed capacity at existing plants for peaking purposes; installing turbo-generators on canal drops and other opportunities.

Considerable study has been performed on many of the more evidently justifiable plant sites and our committee structured a bill to authorize construction at 13 sites on 8 projects. The units selected for authorization were those which clearly involved no apparent adverse postconstruction environmental effects. In others the waterflow and storage regimen after construction would be identical to that which now exists.

On the basis of the opposition of the administration, the committee amended H.R. 9333 to involve construction at only five units on three projects and authorized feasibility study on the other eight units at five projects.

The time required for seeking appropriations for further study, performing the studies, preparing and processing reports, and obtaining high level executive branch approval of a potential project can take years. Such delay can cause the estimated construction cost to increase by significant percentages; thus we can say that these units will never again be as inexpensive as they are today.

Second, these projects will become increasingly beneficial as time goes on in the sense that the cost of power from alternative sources such as all forms of steam-electric generation likely will continue to increase.

Third, there will be no change in waterflow regimen or storage levels in existing reservoirs. This means that we have no postconstruction adverse effects.

There are these reasons for going ahead with the program. The only reason that the administration cites for not going ahead is the failure to comply with its, the administration's internally mandated procedures. Insofar as this issue is concerned, the executive branch seems to be saying that its procedures are more important than the production of energy.

Finally let me point out an innovative feature of H.R. 9333 as recommended by the committee. We have provided for deferring the effective dates for the authorization of the powerplants in order for the Secretary of the Interior to complete his feasibility studies. If within 1 year, he completes feasibility reports on Hoover Dam powerplant enlargement and Buffalo Bill Dam powerplant replacement—18 months in the case of Friant Dam powerplants; transmits such reports to the Congress; and certifies that any or all of the units are economically unjustified or environmentally adverse the authorizations will not become effective.

Mr. Speaker, there is clear reason for this provision of the bill. The Department of the Interior has not completed an affirmative feasibility report and recommended authorization of a project in years, despite the fact that we continually authorize and fund such studies. It will be instructive to see whether it, the Department, can complete a negative report. If such proves to be the case, it will tell us something about the objectivity with which the Department of the Interior is approaching its responsibility for management and development of our western water resources.

One last word about the bill, it authorizes appropriations in the amount of $151,700,000 at current price levels with which to construct, replace and enlarge units as follows;

	Million
20,000 kw at Buffalo Bill Dam powerplant replacement, Wyoming	$17.7
22,000 kw at Friant powerplants, California	17.0
350,000 kw at Hoover Dam powerplant enlargement	117.0

Cumulatively, these units will support or save over 200,000 barrels of oil annually and will be the forerunner of many other units of equal or greater potential. The Congress should pass this measure overwhelmingly and get on with the realization of these benefits now going to waste.

Mr. CARR. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Michigan.

Mr. CARR. Mr. Speaker, one of the questions I have of the distinguished chairman is if these authorizations for construction are from 1981, why are we authorizing these things now? Why are we not just authorizing the studies now?

Mr. MEEDS. Because we felt first of all that almost feasibility studies have already been done and we felt that the quality of the studies which have already been done is nearly feasibility grade.

Second, we will save the time by proceeding under this arrangement. We can save up to 1 year and possibly 2 years and will give the administration an opportunity to go ahead. If we just authorized the feasibility study, they could come forward in a year and say, "We are sorry, we have not completed our feasibility study." So we are putting the burden on the administration. If they do not want to authorize these, if they do not want to proceed with these, then they have to come back to us and tell us why. That is really shifting of the burden.

Mr. CARR. Mr. Speaker, will the gentleman yield further?

Mr. MEEDS. I yield to the gentleman from Michigan.

Mr. CARR. When we are making it a feasibility study, I would assume that part of the feasibility ought to include the cost of construction and the cost of financing. Is that not true?

Mr. MEEDS. True.

Mr. CARR. Then I would ask the gentleman a question about section 6, which states how the interest rate for construction and the interest rates on unpaid balances of reimbursable costs should be computed. This is the section that this gentleman has the greatest interest in, as we had in our previous discussion.

Mr. MEEDS. I recall that, yes.

Mr. CARR. That is a long and complicated section, some 9 lines, and I would ask what the rate of interest is the Government is charging for the construction of additional hydroelectric generating capacity.

Mr. MEEDS. I cannot tell the gentleman what the rate of interest rate now is. It varies, but it will be exactly the same as it is in other instances.

Mr. Speaker, I yield to the gentleman from California (Mr. KREBS), who may have a specific answer on it.

Mr. KREBS. I thank the gentleman for yielding.

The interest rate is 6⅝ percent.

Mr. CARR. The interest rate is 6⅝ percent?

Mr. KREBS. That is correct.

Mr. CARR. If the gentleman will yield further, I think in our discussion in the full committee markup it was said that that was about 1 percent less than the going rate on the bond market in New York City, which is the rate which the other utility companies in America have to pay. Is that not the gentleman's understanding?

Mr. MEEDS. I could not tell you exactly what other utilities have to pay. I think that varies on the bond rating of various utilities but it will not be any lower than those for the construction of other Federal hydroelectric projects, and I would resist it being a bit lower.

Mr. KREBS. Mr. Speaker, will the gentleman yield further?

Mr. MEEDS. I yield further to the gentleman from California.

Mr. KREBS. Mr. Speaker, I thank the gentleman for yielding. The gentleman pointed out just a second ago that this interest rate is no lower than other projects and, as a matter of fact, it is higher than most projects.

Mr. MEEDS. I think that is correct, yes.

In summary, Mr. Speaker, I would just say that the subcommittee and the full committee agonized over this proposal. I think the very innovative answer is to, in effect, authorize the projects and then have the administration show, if they can, that they are not feasible, or are not economical or environmentally feasible, that they should come forward and do so.

In the final analysis we are talking about three projects here which will save 200,000 barrels of oil annually.

I think you know when we talk about saving energy and talk about providing for new energy it is time that we either put up or shut up on some of these things. The effect of this bill is to do exactly that.

Mr. KREBS. Mr. Speaker, if the gentleman will yield further, as a matter of fact what the gentleman is really saying is that the subcommittee which passed this legislation unanimously, to be followed by the full committee which also passed it unanimously, felt in essence that we should take a good look at the energy crisis, and that it is the moral equivalent of war, is that correct?

Mr. MEEDS. I seem to have heard those words somewhere before.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill and will add only that I am disappointed that it authorizes the installation of new generating units on only three existing dams. As originally written, the bill called for the installation of new generating units on eight existing dams. Our committee received very strong opposition from the administration on the addition of any new units, and I am convinced that our compromise of three units plus five feasibility studies is the best we can get at this time.

The energy that would be used to generate this new electricity is energy that is now going to waste. The dams are already built, and the water is already falling over those dams. All that is required is to hook up some new generating units to harness that water, and we get the cheapest, cleanest, most environmentally acceptable electricity that it is possible to produce. But the administration said it wants to study the situation for a few years before hooking up those new generators.

The truth of the matter, Mr. Speaker, is that this administration does not want to create new energy. It has taken the position that the only way to solve the energy crisis is to stop all economic growth by cutting back on our use of the energy we now have. Their slogan appears to be: "Millions for conservation but not one red cent for generation."

There is not the slightest doubt about these new generators being installed eventually. As we move farther along the road toward energy self-sufficiency, we will need every new source of electricity we can find. And the sad fact is that the longer we wait, the more costly these installations will be. The taxpayers get it in the neck twice: He must first do without the new power, then pay more taxes to produce it.

Mr. Speaker. I am convinced that it is the best bill we can expect to get past the President and his advisers at this time. If we were to go ahead and authorize all eight projects, I am personally convinced that the bill would either face a veto or that the administration would drag its feet and never get around to building any of them.

I urge my colleagues to support the bill. It is not the best bill, but it is the best we can get. It does not solve our national energy crisis, but it makes a small dent in it. And it does not use all of the falling-water energy that is now going to waste, but it will use some of it.

Mr. MEEDS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Speaker, among the hydroelectric facilities proposed in H.R. 9333 are three turbine generators to be located at Friant Dam, which is a part of the Federal Government's Central Valley project in my home State of California. Friant Dam and its reservoir, Millerton Lake, are located on the San Joaquin River and normally provide an annual firm water supply of 800,000 acre-feet, much of which serves California's 17th Congressional District, which it is my privilege to represent.

The initial features of the Central Valley project, authorized in 1935, included Friant Dam for the primary purpose of protecting the central San Joaquin Valley from crippling water shortages and menacing floods. The generation of hydroelectric power at Friant Dam was considered as early as 1931 in a report issued by the Corps of Engineers. The potential for generating clean hydroelectric power at Friant Dam was, therefore, recognized sometime ago, but has been looked upon with increasing interest as the cost of alternative energy sources has skyrocketed in recent years.

H.R. 9333, which was introduced by our distinguished chairman, the Honorable LLOYD MEEDS, represents an extension of an effort my colleague, the Honorable B. F. SISK, and I began in the 95th Congress when we introduced H.R. 4034, a bill to authorize the Secretary of the Interior to engage in a feasibility investigation concerning the development of power-generating facilities at Friant Dam. However, I later joined with our distinguished chairman in introducing H.R. 9333 in the firm belief that construction of hydroelectric power facilities at Friant Dam was indeed feasible and, in fact, became more so as each day passed. Every year we delay in tapping the potential hydroelectric power of Friant Dam we stand to lose over 130 million kilowatt hours of pollution-free energy.

Population growth and expansion in the agriculturally rich central San Joaquin Valley make the development of additional sources of energy both necessary and prudent. Aside from this obvious need, the Interior Department's Bureau of Reclamation estimates that the central valley project will fall short of meeting its 1050-megawatt contractually committed energy load to preference customers in approximately 1995. This, despite the fact that such a contractually committed energy load will extend through the year 2004.

It is important to note that construction and operation of the three proposed powerplants and related switching and transmission facilities would, according to the Bureau of Reclamation, have only minor environmental impacts on the area. Moreover, the facilities would not affect operation of the reservoir or downstream flows.

The Bureau of Reclamation has estimated that the annual equivalent power benefits which would result from the proposed facility would exceed $2,347,000, while annual equivalent costs—including amortization of construction costs and interest during construction, as well as operation, maintenance, and replacement costs—would approximate $1,501,000. The result is a benefit-cost ratio exceeding 1.56 to 1. The project is, therefore, justifiable both economically and environmentally.

The Bureau of Reclamation also estimates that in order to recover annual costs, the composite rate for energy produced by the proposed facilities must be at least 17 mils per kilowatt hour. Since comparable energy rates in the area currently exceed 30 mils per kilowatt hour, the proposed development is financially feasible as well.

H.R. 9333 would authorize $17,000,000—at January 1977 price levels—for construction of the three turbine generators proposed for development at Friant Dam. However, despite the evidence which has evolved to date to support the economic, financial, and environmental soundness of the proposed project, the bill contains yet another mechanism to assure that the project, when finally initiated, will indeed be in the best interests of the taxpaying public. This mechanism is reflected in language which would defer the authorization pertaining to Friant Dam for a period of 18 months after enactment of the legislation. If, during this period, the Secretary of the Interior submits a feasibility study to the Congress that establishes the project to be economically infeasible or environmentally damaging, the authorization would not become effective.

In the final analysis, then, the proposed facilities at Friant Dam afford us the unique opportunity to develop a pollution-free source of energy, the benefits of which significantly outweigh the costs. Given the nature of the proposed project, it would appear that we have an obligation in these times of energy shortages to take affirmative steps to bring it to fruition. I, therefore, urge my colleagues to support the legislation currently before the House.

In closing, Mr. Speaker, I want to express my appreciation to the chairman of the subcommittee, the gentleman from Washington (Mr. Meeds), for his leadership, and to thank the ranking minority member, the gentleman from New Mexico (Mr. LuJan), for his cooperation and his leadership in making this legislation possible.

Mr. MEEDS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. Carr).

Mr. CARR. I want to thank the distinguished chairman of the committee for yielding time to me.

Mr. Speaker, I reluctantly have to oppose this bill, not because the bill—as the gentleman who spoke previously have stated—is not a good idea. I think it has tremendous merit. I think we need additional electric generating capacity. I think we should improve those existing facilities which we already have. The thing that disturbs me is that it is on the Suspension Calendar. I know it is late in the session. And I know we do not have time for protracted debate. But what came out in the full committee markup session, deeply disturbed me. It came out that this would be in effect a 1-percent Federal interest subsidy for the construction of new electric generating capacity on hydroelectric projects in the West.

I am not opposed to the pollution-free hydroelectric generating capacity in the West, but I am opposed to utility companies in the West getting by with 1 percent interest subsidies that the people in my State, in the Midwest, and in other areas of the country do not get. That is an interest subsidy that is reflected over a 30- or 40-year period of time as these projects are amortized. It is an interest subsidy that will further give these particular energy users a rate that is less than competitive when compared with the rates that our utilities charge because they go to the bond market in New York City and pay the going rate.

We ought to have in this legislation a requirement that the Federal Government finance these projects, but at the going rate of interest; at the rate that other utilities in the country are going to have to pay when they try to expand their electric generating capacity as well.

I know that the authorization does not begin until 1981, but, as the chairman said, what we are immediately authorizing here is feasibility studies. One element of a feasibility study is what is this going to cost? It seems to me that we ought to tell those people who are making the feasibility studies that the interest rate should be computed at the federally subsidized rate. It seems to me that the feasibility studies ought to reflect that fact.

I am aware that in a suspension of the rules environment here at the end of the session I may not prevail so that I can offer an amendment when the bill would come up under the general procedure, but I want to give those people who are making that feasibility study some strong legislative history that there are those of us in the Congress who are concerned about rate advantages to certain regions of the country, to the exclusion of other regions of the country, and so that they will put in their feasibility studies the caveat that Bob Carr and a few people in the Congress might move before the authorizing year in 1981 to try to make these projects conform to a standard rate of interest as determined by the bond market.

I would like to have only one final comment, and that is to my good friend, the gentleman from California (Mr. Krebs). The statement was made by him that this hydroelectric authorization would not have an interest subsidy any greater than projects already in existence by the Federal Government and, indeed, perhaps more as a rate of interest than the other projects by the Federal Government. I could only tell my good friend, the gentleman from California, that I think that the time has come when we stop any interest rate subsidy to any States. When the Federal Government becomes a financier, a competitor with the private market, a private bond market, it ought to charge the going rate of interest or it ought to give an interest subsidy to my utilities out in Michigan who are desperately trying to add electrical generating capacity and who do not get such a break.

So, I would ask the House to reject this on suspension and allow us to bring it back on the regular calendar so that I might offer an amendment to make sure that hydroelectric generating capacity anywhere in America pays a fair and equitable rate as dictated by the private bond market.

Mr. KREBS. Mr. Speaker, will the gentleman yield?

Mr. CARR. I yield to the gentleman from California.

Mr. KREBS. I thank the gentleman for yielding.

Is the gentleman aware of the fact that the electricity that is going to be generated by the Central Valley project is not going to be sold to private utilities, as the gentleman has consistently stated, but instead is going to the Central Valley project which in turn is going to sell to preferred customers.

The **SPEAKER** pro tempore. The time of the gentleman from Michigan has expired.

Mr. MEEDS. I yield the gentleman 2 additional minutes.

Mr. KREBS. Mr. Speaker, if the gentleman will yield further, I would like the gentleman to respond.

Mr. CARR. The fact is that you cannot get a free lunch anywhere. Anywhere in America where there is a Federal subsidy to generate capacity, that reflects itself in rates, I do not care what the immediate incidence is, that incidence is passed on ultimately to someone operating an electric can opener or some industry operating aluminum extraction. I do not care where it is. The fact of the matter is that we ought to build into our economy equity from one portion of the country to another.

Mr. MEEDS. Mr. Speaker, I yield myself 2 minutes.

The **SPEAKER** pro tempore. The gentleman has 1 minute remaining.

Mr. MEEDS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I take this time just to respond very quickly to the gentleman from Michigan, who is a constructive and helpful Member to the committee. I understand the gentleman's position, but I think it is unfortunate that he raises the specter of regionalism in this bill. The citizens of California, the district of the gentleman from California, and the citizens from Nevada who benefit from this legislation did not benefit very much from the building of the St. Lawrence Seaway, which costs hundreds of millions of dollars and which benefits the gentleman's State greatly and makes freight rates in his area much less expensive than they are kept in the West and the State of California and other areas, which will benefit from this bill.

We could go on and on making illustrations of projects which help one part of the country, but do not help another part of the country. This is the kind of regional fractionalization which I do not think this Congress or the House of Representatives wants to get into and I regret it has been raised in this legislation.

Mr. CARR. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Michigan.

Mr. CARR. Mr. Speaker, let me just say, I think what is good for the goose is good for the gander. I have steadfastly supported efforts in this Congress, and I would urge my Midwestern and Great Lakes colleagues to support user fees, which pay for those programs. I do not believe I am inconsistent at all.

Mr. MEEDS. Mr. Speaker, very quickly, I will tell the gentleman, we have user fees on all these projects. These projects will pay for themselves. The Seaway is not paying for itself.

The **SPEAKER** pro tempore. The time of the gentleman from Washington (Mr. Meeds) has expired.

The Chair recognizes the gentleman from New Mexico (Mr. Lujan).

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Don H. Clausen).

Mr. DON H. CLAUSEN. Mr. Speaker, as a cosponsor of H.R. 9333 I rise in strong support of this bill which is a compromise measure authorizing needed construction of powerplants on three existing hydroelectric projects and which authorizes feasibility studies on six others

In summary, the construction authorized consists of increasing generation and transmission capacity at the Friant, Hoover, and Buffalo Bill Dam projects.

These three authorizations were selected because as additions to existing projects, they will have little, if any, adverse effect on the environment; be cost effective; and are supported by sufficient data on which to proceed. However, should an adverse feasibility report be received within 12 months in the case of the Buffalo and Hoover Dam projects, or within 18 months for the Friant project, the authorization will not become effective.

On the five other projects—Whiskeytown, Palisades, Canyon Ferry, Yellowtail Afterbay, and Colorado-Big Thompson—the committee authorized feasibility studies to be completed within 2 years. It is believed that there is a high potential in these selections for favorable reports for future construction which will enhance the development of hydroelectric power as an alternative source of energy. Another open-ended study is authorized for the North Dakota, Pick-Sloan Missouri Basin program.

H.R. 9333 as reported represents a compromise bill with bipartisan support. As originally introduced, the bill sought to authorize 18 new units on 13 powerplants at 8 reclamation projects.

The administration believed this proposal was unacceptable and recommended authorization of feasibility studies only. The committee believed the three projects authorized had a sufficient data base to begin construction. I therefore believe we have produced an acceptable compromise, and urge my colleagues to support this bill.

● Mr. WEAVER. Mr. Speaker, I rise in support of H.R. 9333.

During the last 50 years this Congress has authorized the construction of literally hundreds of water impoundment projects. These have varied from very small dams constructed under the authority of the Soil Conservation Service to the very largest in the world. One of the largest, Hoover Dam, was one of those facilities constructed both to control flood and irrigation water and to produce electric power for one of our Nation's fastest growing regions.

The last decade has brought an increasing awareness of the need for maximizing the energy potential of many underutilized sources. Among these sources are those water control facilities which can provide increased electric power generation.

This bill, H.R. 9333, takes an important step toward effective utilization of those resources. Rather than just talking about increased power production, this legislation would, pending the completion of feasibility studies, authorize the construction of three new or remodeled facilities to more effectively utilize the many of the dams and canals that this Congress has authorized over the years.

This goal is certainly not new. Congress recognized the need for this kind of action a number of years ago, and authorized the completion of various feasibility studies. Although three of those studies are substantially complete, the administration has failed to move ahead with the final investigations and analyses. This bill will mandate completion of these three studies, then authorize construction, pending their favorable results.

As the Southwest continues to grow, it is important that we find new alternative sources of energy. The act authorized by this legislation would be the replacement of two generators with a new, much more efficient facility. Without any significant environmental impact, without any huge outlay of funds, without the many, many problems inherent in any new project, we can substantially increase the power production of Hoover Dam. It seems very logical that this kind of an action should proceed as quickly as possible not only for Hoover, but for the other sites covered by this legislation.

We have constructed a huge system of dams, canals, and pipelines throughout this country to effectively use our water resources. Those facilities have the potential for a vastly increased energy production program. I urge my colleagues to support this bill as an important part of that program.●

● Mr. JOHNSON of California. Mr. Speaker, it is with pleasure that I speak in support of H.R. 9333. There are many projects in this legislation with which I have some familiarity, and I want to say that I think the committee has put together a very fine bill.

Of special interest to me is that portion of the legislation relating to the proposed Whiskeytown Powerplant. The present Whiskeytown Dam and Reservoir area are located in my congressional district, in western Shasta County, on Clear Creek, a tributary of the Sacramento River.

The dam and reservoir are part of the Trinity River division of the Central Valley project. These facilities were completed in 1964 to store and regulate imported water from the Trinity River Basin discharged from the Judge Francis Carr Powerhouse, as well as runoff from the Clear Creek drainage area. Release from the Whiskeytown Lake flows to the Spring Creek tunnel, the Whiskeytown conduit, and downstream in Clear Creek.

Whiskeytown Dam and supporting facilities were built when other more economical sources of power were available and fuel costs were lower. Today there is a demonstrable need for additional power. The Bureau of Reclamation has evaluated the potential of hydroelectric power development at Whiskeytown Dam and has recommended construction of a powerplant with a 3-megawatt capacity at the dam.

We have, in recent years, experienced a nationwide energy shortage. Northern California has suffered from this shortage as much as many other areas. Furthermore, a review of power requirements for the future shows an increasing need for power. Imported power from the Pacific Northwest has dropped in recent years and contractual commitments will not be met in the final decade of this century unless additional power is generated.

The Bureau has recommended to Congress the authorization of a plan which includes a powerplant with a 3-megawatt Francis-type turbine generator utilizing the existing outlet works at the dam. The plan also requires switchyard and transmission facilities with delivery of energy to the U.S. Department of Energy for distribution and marketing through the existing CVP power system. Operation of the powerplant would be semiautomatic, with the power output being controlled by the existing water-release pattern for other purposes.

Possible environmental effects of the construction and operation of these facilities would only be minor. The powerplant would not affect operation of the reservoir and downstream flow patterns. Furthermore, production of pollution-free hydroelectric energy would conserve fuels while helping to decrease air and water pollution from alternative power sources.

The estimated cost of the powerplant facilities, including a switchyard and transmission lines, is $2.3 million at January 1977 prices. Using the current discount rate of 6⅝ percent, the annual power benefit would be $306,700 with associated annual equivalent costs of $235,800.

In summary, Mr. Soeaker, population growth and agricultural and industrial expansion in northern California make development of additional sources of power necessary. I strongly support the recommendations of the Bureau of Reclamation that the Whiskeytown Powerplant be authorized. I hope that Members of this House will understand the merits of this legislation and vote for its adoption.●

Mr. MEEDS. Mr. Speaker, I have no further requests for time.

Mr. LUJAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. MEEDS) that the House suspend the rules and pass the bill H.R. 9333, as amended.

The question was taken.

Mr. CARR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROHIBIT RATE DISCRIMINATION BY SOUTHWESTERN POWER ADMINISTRATION

Mr. MEEDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13069) to prohibit discrimination in rates charged by the Southwestern Power Administration, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That power and energy marketed by the Southwestern Power Administration pursuant to section 825s of title 16, United States Code (1970), shall be sold at uniform systemwide rates, without discrimination between customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities constructed with appropriated funds, and customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities, the use of which is acquired by lease, wheeling, or other contractual arrangements.

SEC. 2. This Act shall not become effective until Contract No. 14–02–00001–1002, effective August 1, 1962, between the United States of America and Associated Electric Cooperative, Inc., Springfield, Missouri, has been amended in a manner mutually agreeable to the parties thereto.

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. MEEDS) will be recognized for 20 minutes, and the gentleman from New Mexico (Mr. LUJAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to explain and recommend H.R. 13069, a bill to prohibit discrimination in rates charged by the Southwestern Power Administration.

This measure, on its face, applies to the entire marketing area of the Southwestern Power Administration, an agency of the Department of Energy, which transmits and markets power produced at hydroelectric projects constructed by the Corps of Engineers in the four-State area of Missouri, Oklahoma, Arkansas, and northeastern Texas. Its practical application will be to extinguish a problem that exists as a consequence of the contractual relationship between the United States and Associated Electric Cooperative, Inc., of Springfield, Mo. This cooperative is a statewide generating and transmission agency which produces some power and wholesales Federal power to many distribution cooperatives throughout the State.

Associated has many interlocking relationships with the Southwestern Power Administration and the two entities furnish many reciprocal services all of which are covered by a contract negotiated approximately 15 years ago. By the terms of this instrument, Associated receives certain credits on its bill for purchasing Federal power from SPA. These are fixed amounts and in the aggregate they approach in magnitude the cost of all power received from SPA.

Management of SPA, feeling that the contracted credits were overstated in certain instances and unjustified in others, have sought for several years to amend the contract to reach a solution financially more advantageous to the United States. Failing to achieve this, the Administrator under the Secretary's statutory authority to establish and promulgate rates implemented a new rate schedule for "transmission service" to invoke a charge over and above the charges for purchase of power per se. Because the source of financing with which transmission lines serving Associated was through REA loans and other transmission lines in the SPA system were built with funds appropriated to SPA, the actual operation of the transmission rate schedule had the effect of imposing a charge on Associated that is not applicable to other purchasers of SPA power.

Associated successfully sued in Federal district court to enjoin collection of the transmission service charge. This verdict was reversed and remanded to the trial court for a judicial determination of whether other SPA customers should be similarly assessed. This matter is still pending, and in the meantime Associated has been required to pay one-half of the back charges and to make current payments.

In our hearings in this measure, both SPA and Associated testified to their willingness to renegotiate the existing contract to eliminate inequities perceived by both parties to the dispute. It was the committee's belief that a negotiated settlement is much to be desired. It is the committee's further belief that the discriminatory rate schedule should be set aside, as enactment of H.R. 13069 effectively would do, but only after all inequities have been negotiated out of the existing contract. In other words, we believed that to enact the measure as introduced would remove all incentive for Associated to negotiate in good faith and the practical effect of enactment would be to place the Cooperative in the position of "having its cake and eating it both".

For this reason the committee amended one bill to condition the effective date of the legislation to coincide with the successful negotiation of a mutually acceptable amendatory contract.

In adopting this amendment, the committee was completely mindful of the suggestion that the amendment would remove incentives for SPA to negotiate in good faith; thereby giving the United States all of the leverage in the negotiations. While the committee is appreciative of this possibility, the fact yet remains that SPA is a Federal agency subject to overview by the committee and is, indeed, reliant on the committee for appropriations authority on an annual basis. Given these facts and the firm intent of the committee, as now expressed in the committee report, carefully to monitor these negotiations, we believe we have taken the prudent course.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur with the distinguished chairman of our Water and Power Subcommittee, the gentleman from Washington, in his remarks on this bill, and will assure my colleagues on this side of the aisle that the bill has full minority support.

While the bill itself carries no new appropriations authority, there will be a short-term loss of income to the Southwestern Power Administration due to the cancellation of a special transmission charge that had been imposed on some of SPA's preferred customers. This loss of income could run to $2.6 million the first year. But after that, the rate adjustments that will be made by SPA across the board will cancel out that loss, and the Federal agency will then be operating in the black.

The bill is aimed at resolving a unique situation that should not reoccur, so the only effect it will have will be within the SPA marketing area.

I urge my colleagues to support the bill.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of H.R. 13069, a bill which prohibits rate discrimination among preference customers by the Southwestern Power Administration.

Simply stated, this legislation eliminates a "transmission service charge" which SPA has levied against the Associated Electric Cooperative of Missouri, a preference customer. The service charge was imposed by SPA, because it believed credits given to Associated under a negotiated contract were overstated and because SPA had been unable to generate the revenue needed through rates to repay Federal loan obligations. The charge has become subject to litigation and is serving as an impediment to contract renegotiations.

A new power delivery contract is needed, because SPA is mandated by law to recover the costs of building Federal dams and generating facilities which it cannot accomplish under existing rates. Rates cannot be changed without a new contract.

This bill removes the "service charge" as a disputed item but only upon successful completion of a new agreement between SPA and Associated. In this manner, both parties are encouraged to work out a settlement with the major impediment removed.

I urge my colleagues to join me in support of this bill as a fair solution to a pressing and difficult problem.

Mr. MEEDS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri (Mr. ICHORD), the author of this legislation and a Member who has been very helpful to us.

Mr. ICHORD. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I wish to express my appreciation to the Committee on Interior and Insular Affairs for bringing this bill to the floor of the House under the leadership of the distinguished gentleman from Washington (Mr. MEEDS) and the ranking minority member of the subcommittee, the distinguished gentleman from New Mexico (Mr. LUJAN).

As the gentleman from Washington (Mr. MEEDS) has stated, H.R. 13069 is a very complicated bill.

The bill does have a complicated history but it has a simple purpose: To affirm the long-held congressional principle of postage stamp rates in Federal power marketing areas. Without this legislation, Missouri's 380,000 rural electric customers will face drastic and discriminatory rate increases. And without this legislation, the policy of charging one basic rate for Federal power regardless of the location of the consumer—a policy which has been expressed for 30 years in committee reports, but never put in statutory language—will remain open to challenge by the bureaucracy and the courts.

The dispute between the Southwestern Power Administration and the Missouri Cooperatives arose, because Appropriations Committee directives in 1950 and 1956 provided that, instead of the Federal Government appropriating money for transmission lines in Missouri, the cooperatives would build them with money borrowed from the Rural Electrification Administration. SPA, in turn, was to pay rentals adequate to service that REA debt, as well as operation and maintenance costs. With the exception of this rental payment, rural electric cooperative customers were to be treated just like all other customers of the SPA system. Indeed, a 1956 Appropriations Committee report stipulated that SPA power and energy would be delivered to the load centers of all G. & T. contracting systems at the basic SPA, or postage stamp, rate.

In 1970, an SPA deficit was noted and amounts being credited to the Missouri cooperatives for certain services rendered to SPA were singled out as one of the causes for the failure to recover costs. These credits are now being closely examined by both parties and negotiations are underway to remove any existing inequities. At the time, however, SPA unilaterally changed the point of delivery in Missouri and, in a sleight of hand labelled "ratemaking authority," imposed a new transmisison service charge on the cooperatives. Oddly enough, this new charge was identical to the amount SPA has been paying to the same cooperatives for the use of their lines—$2,647,000.

Mr. Speaker, this new arrangement leaves the Missouri cooperatives in the absurd position of first, paying regular postage stamp rates for SPA power which, theoretically, should cover all SPA's cost for power produced and delivered to customers of the system; second, making payments on the REA loan which financed the lines delivered SPA power to its load centers; third, receiving payments from SPA to cover this REA debt; and fourth, paying this exact payment, not to REA, but back to SPA as a transmission charge. In effect, Missouri cooperatives are paying twice for transmission.

This action was challenged in court by the Missouri cooperatives. The Federal district court ruled in the cooperatives favor, but the ruling was reversed on appeal when the court of appeals chose to ignore the intent of Congress, because it was contained in Appropriations Committee reports rather than in statutory language.

H.R. 13069 incorporates in a statute Congress policy instructions, now of 30 years' standing. It is supported by the National Rural Electric Cooperative Association and similar legislation was passed by the Senate on May 15. While the immediate effect of H.R. 13069 would be to terminate the transmission service charge now levied against the Missouri cooperatives, its affirmation of congressional intent and the principle of postage stamp rates for Federal power is an issue of immense importance to us all. It is also a firm and needed answer to a Federal agency's attempt to bypass congressional directive and force Missouri's rural electric customers to bear a discriminatory charge that Congress clearly did not intend.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

Mr. Speaker, I, too, wish to commend the committee and the gentleman from Missouri (Mr. ICHORD) for showing leadership on this legislation which will correct prospective injustices to many people in Missouri. I commend the gentleman for all of his work and for his leadership on this. The people in his district should be very proud of him.

Mr. LUJAN. Mr. Speaker, I have no further requests for time.

Mr. MEEDS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. MEEDS) that the House suspend the rules and pass the bill H.R. 13069, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the further consideration of the Senate bill (S. 2249) to prohibit discrimination in rates charged by the Southwestern Power Administration and to require due process in the confirmation of such rates by the Federal Energy Regulatory Commission, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That power and energy marketed by the Southwestern Power Administration pursuant to section 825s of title 16, United States Code (1970), shall be sold at uniform system-wide rates, without discrimination between customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities constructed with appropriated funds, and customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities, the use of which is acquired by lease, wheeling, or other contractual arrangements. Agreed points of delivery shall not be changed unilaterally.

MOTION OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MEEDS moves to strike out all after the enacting clause of S. 2249 and to insert in lieu thereof the text of H.R. 13069, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to prohibit discrimination in rates charged by the Southwestern Power Administration."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13069) was laid on the table.

GENERAL LEAVE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills, H.R. 13069 and H.R. 9333.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

SUSAN B. ANTHONY DOLLAR COIN ACT

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12728) to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Susan B. Anthony Dollar Coin Act of 1978".

SEC. 2. Section 101(c)(1) of the Coinage Act of 1965, as amended (31 U.S.C. 391(c)(1)), is amended by striking out "1.500" and inserting in lieu thereof "1.043" and by striking out "$22.68" and inserting in lieu thereof "8.1".

SEC. 3. The one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, shall bear on the obverse side the likeness of Susan B. Anthony, and shall bear on the other side a design which is emblematic of the symbolic eagle of Apollo 11 landing on the moon.

SEC. 4. Section 203 of the Act of December 31, 1970 (31 U.S.C. 324b), is amended by striking out "initially" and by inserting "(d)" after "section 101".

SEC. 5. Until January 1, 1979, the Secretary of the Treasury may continue to mint and issue one-dollar coins authorized under section 101(c)(1) of the Coinage Act of 1965, as such section was in effect immediately prior to the date of enactment of this Act.

The SPEAKER pro tempore (Mr. EVANS of Colorado). Is a second demanded?

Mr. EVANS of Delaware. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without

objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentlewoman from Ohio (Ms. OAKAR) will be recognized for 20 minutes, and the gentleman from Delaware (Mr. EVANS) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me relate some of the facts about the Susan B. Anthony bill, H.R. 12728:

This bill does save the taxpayers money. Because this bill authorizes the mint to begin producing a smaller, lighter, more convenient dollar coin, it will enable the mint to save $4.5 million a year in production costs. Why? The Eisenhower dollar coin costs 8 cents each to produce. The Anthony coin will only cost 3 cents. Based on the mint's current production volume of 90 million Eisenhower dollar coins, the Anthony coin will save $4.5 million a year almost immediately.

Future savings. The dollar bill has an average of life 18 months. The Anthony coin will last an estimated 15 years. Significant savings can be realized if the public substitutes coins for bills. If 20 percent of the $2.4 billion in dollar bills outstanding were displaced by the Anthony coins, Treasury estimates annual production costs savings of $4.8 million, and the Federal Reserve estimates annual savings in handling costs of $0.8 million for a total annual savings of $5.6 million. Combine these savings with the $4.5 million on the Eisenhower coin, and we could save the Treasury in excess of $10 million a year.

Treasury also estimates that projected facility estimated to cost $100 million, for the Bureau of Printing and Engraving, can be postponed indefinitely if the coin gains acceptance and slows the demand for the dollar bill.

Design. This is the first coin in our circulating coinage system to have on its obverse side the portrait of an American woman. We have the opportunity to honor all American women. Susan B. Anthony, whose portrait will be on the coin, is almost single-handedly responsible for over half the population of this country being able to vote. The 19th amendment to the Constitution which enabled women to vote, is the Susan B. Anthony amendment.

Support for the bill. The Senate has already passed identical legislation. H.R. 12728 was reported out of the House Banking, Finance and Urban Affairs Committee by a vote of 37 to 1. There are 67 cosponsors of the legislation. It also has the support of the entire spectrum of women's organizations, including the Daughters of the American Revolution, the League of Women Voters, the National Organization of Women, and the Women's Political Caucus.

Consumer acceptance. The Mint has informed us that they are prepared to promote the usage of the new dollar coin. Where this has been done, for instance in Portland, Oreg., the Federal Reserve has heavily promoted the use of the $2 bill—consumers have used the new denomination. The $2 bill enjoys wide usage in that area.

There are over 5 million vending machines in the United States. Representatives of that industry have informed us that they are more than willing to adjust their machines so that the smaller dollar coin can be used by the consumer in the machines.

Mr. Speaker, this bill was discussed at length in subcommittee and in committee and it has already passed the Senate unanimously. In the Banking Committee it passed 37 to 1. And, actually, beyond the design of the bill, I just want to give a little information before yielding to the other side and to other Members. I do want to say that this bill would literally save the taxpayers $4.5 million a year because it is much cheaper to produce. This smaller dollar coin costs 3 cents, whereas the more cumbersome, large dollar coin costs 8 cents to produce. The Treasury Department estimates that this $4.5 million, plus the $0.8 million in terms of handling, will save the taxpayers $5.6 million. So there is a tremendous amount of interest in a smaller dollar coin itself, for that and for other reasons.

The question of design is very, very important, also, we feel. As the Members may know, the Treasury Department originally suggested that it once again be the design of Miss Liberty, and many, many groups across the country, women's groups, in particular, agreed on one individual, and the individual that they chose—I am speaking of groups such as the Daughters of the American Revolution, the League of Women Voters, the Women's Political Caucus, the National Organization of Women and many other groups—was the individual who, more than anyone else, for 50 years of her life attempted to aid and assist American women to fully participate in the democracy by giving us the right to vote.

And although she did not live long enough ever to get to vote herself—she died in 1906, and the Anthony or the 19th amendment did not pass until 1920—we feel that her model is especially relevant today because finally we have succeeded in having or we hope to have the first American woman who lived ever to be memorialized on a coin. For us it is a universal choice. For us it means a change in attitude.

We feel very strongly that based on numerous reports done on this issue, the consumer will not only be delighted at the savings in his and her tax dollars per year but also that the consumer will use the coin, it will be less cumbersome to carry, and more accessible.

Mr. Speaker, I reserve the balance of my time.

The **SPEAKER** pro tempore. The Chair recognizes the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all let me congratulate the chairman of the subcommittee, the gentleman from the District of Columbia (Mr. FAUNTROY). I believe he has attempted to be fair in considering this bill. I want to especially congratulate the gentlewoman from Ohio (Ms. OAKAR), for her zeal, her zest, and her aggressiveness and effectiveness in generating support for the new dollar coin. She has indeed been very effective in marshaling support. I would also like to congratulate my friend, and ranking minority member (Mr. LEACH) of Iowa.

But in congratulating them I would also like to point out that I believe they have made a mistake similar to the mistake that some of the Ford executives made when they produced the Edsel.

Let me point out at the beginning that I certainly respect the women of this country and the contributions they have made to America. Susan B. Anthony is included in that list of individuals I respect and she should be honored. So should Elizabeth Cady Stanton, Harriet B. Tubman, Lucretia Mott, Florence Nightingale, and Eleanor Roosevelt, and the pioneer women of America who stood under great pressure in building this country, and the mothers of yesterday and today who have meant so much to the family unit that has been so important in the past and I hope will continue to be important in the future of our country. It is proper to honor all of them but, Mr. Speaker, that is not the real issue here. The question of who should appear on the coin has overshadowed the merits of whether a new dollar coin is a good idea.

There are some very real questions that have not been answered and not even properly addressed, and I question why we are rushing pellmell to produce something that may never be accepted or used by the American consumer.

It was argued that there will be a net savings in the production of this coin for the American people. The reasoning is that coins last longer than paper currency. And that is true. However, as Governor Coldwell, a member of the Federal Reserve Board, stated in the hearings:

> If the proposed new coin is produced but fails to circulate or circulates without reducing the pool of dollar notes, additional costs rather than savings will be incurred by the Federal Reserve, with a consequent reduction in payments to the Treasury. And, our recent experience with the $2 note indicated that circulation of the proposed new coin is not automatically insured.

It costs, may I point out to the Members, 3 cents to mint each of the 500 million coins that are projected and that comes to $15 million. If the coin is not accepted then that is a $15 million experiment. I strongly question whether we should burden the American taxpayer with this cost unless there is some reasonable certainty that the coin will become widely accepted and circulated throughout the country.

There are additional costs to the American consumers. The vending machines of this country will have to be retrofitted and this cost will have to be passed on to the customers, the consumers of America.

The cost for retrofitting the vending machines alone has been estimated at anywhere from about $25 million to close to $200 million.

Because of the potential costs to the taxpayer and to the consumers of this country, I think we need to know where we are going.

The Director of the Mint, Ms. Stella B. Hackel wrote me on August 21 stating that no formal consumer survey has been conducted by the Treasury but that approximately 10,000 letters have been received by the Department concerning the coin, indicating a favorable attitude toward a smaller dollar coin.

What we are doing here, my friends, is not just minting a commemorative coin, we are producing a coin that eventually is supposed to take the place of the dollar bill. That is what the savings are predicated on. I think the least we can do is to determine through a scientific marketing survey whether or not the consumers of this country are willing to accept a new dollar coin.

I do not know about any of the rest of the Members here but I would probably suggest that people are not of the mind to carry around a lot of coins jangling in their pockets. I, for one, do not want to carry around a purse, at least not yet. I think it would be a mistake if we proceeded in this direction until we determine, with at least some degree of certainty, that there will be some opportunity for success. That is the least we owe the American taxpayers.

There are some other concerns that I have, Mr. Speaker, and they include the potential inflationary impact of a new dollar coin. I just have the feeling that an 85-cent sandwich purchased from a vending machine might go up to a dollar pretty darn fast.

Also, I think there is a question of the impact on our currency, the psychological impact on our currency abroad. The dollar bill has historically been the basic currency in international trade. With the declining value of our dollar in relationship to other currencies around the world, I think this is a most inappropriate time to start replacing the dollar bill with a new medium of exchange which might further erode confidence in our dollar.

Mr. Speaker, I think we already have enough problems with respect to the confidence in our dollar without proceeding with something like this. Further, in view of our experience with the $2 bill, I do not think we need another mistake rivaling the mistake which the people at Ford Motors made in the introduction of the Edsel.

Mr. Speaker, I reserve the balance of my time.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to comment on some of the things which I think really do not represent the truth.

First of all, this coin does not replace the dollar bill. The gentleman from Delaware (Mr. EVANS) knows that. As a member of the subcommittee, he should know that, especially if he read the reports and the testimony.

This coin replaces the cumbersome, heavy Eisenhower dollar coin. It does not replace the dollar bill, and that should be made very, very clear.

The Treasury has suggested that rather than having an inflationary effect—and they testified to this fact in this respect—it would have, a deflationary effect.

Mr. Speaker, another point which the gentleman from Delaware made which was totally erroneous was this one—and if he attended the hearings, he should know this point. The hearings were not devoted, for the most part, to discussing the image of what the American woman would be on the coin. That certainly was a viable and important part of the testimony, but there were numerous times when we had people from all dimensions, including the Treasury Department, who talked about the impact of this coin, the consumer use of this coin, and who talked about a study which was done very comprehensively. Other testimony included the composition and metallic make up of the coin.

That study, entitled "Review of the United States Coin? System Requirements to 1990," was done under the Research Triangle Institute and was recommended by President Ford, who recommended the minting of a smaller dollar coin.

Therefore, Mr. Speaker, I think it is very, very important that we not confuse and mislead Members on this issue.

The other point is that the gentleman compares this coin to an Edsel. The fact is quite the contrary. Ford Motors went back to the drawing board because of the Edsel and came up subsequently with the Mustang. This bill we are considering here today would permit the Treasury to take its "Edsel," to take the Eisenhower dollar coin which costs 8 cents to produce, and replace that "Edsel," as it were, to use the gentleman's analogy, with perhaps a "Mustang" or a "Pinto," which only takes 3 cents per coin to produce.

Mr. Speaker, with respect to having another survey done or a survey done for the benefit of consumers, that is like asking a consumer to tell us what he or she believes a product is like before that person has even used the product. We do not ask somebody to tell us what he or she thinks of a certain kind of toothpaste or food or clothing until that individual has a chance to evaluate and use it.

Mr. Speaker, we do think that because this coin is lighter, because it can be more easily handled, and because it has a longer lifetime, the consumer will use the coin frequently.

As far as its being produced at a higher cost to the consumer and the vending machine operators charging more and so forth, they testified before our committee at length. Those were the specific questions which I personally and others asked them. They claimed that this coin will increase the competition for consumers and that by having a smaller dollar coin and having them use it, the consumer will not absorb the cost which the vending machine operators will face in changing their machines over. They find that it will be easier, for example, to give change with the smaller dollar coin than the paper dollar right now.

Therefore, Mr. Speaker, if the gentleman from Delaware (Mr. EVANS) wants to save the consumer money, he ought to look over those hearings, read them very carefully, study them very carefully. After that, he can only conclude what every other member of the Committee on Banking, Currency and Urban Affairs, including the minority leader of the subcommittee and the minority leader of the full committee, were right in concluding that this is a boon for the consumer; and further, that it means very much to women and men who believe in the valuable role of women in American history.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentlewoman yield?

Ms. OAKAR. I certainly will yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Speaker, I want to commend the gentlewoman from Ohio (Ms. OAKAR) for the excellent work she has done.

Mr. Speaker, I support this legislation, but I would like to make an observation at this time with respect to a great lady in this Nation in its early days: Abigail Adams, who was the wife of a President, the mother of a President, the mother of diplomats. Down through 200 years of this Nation's history the Adams family has made great contributions to this country time after time.

I wonder if the gentlewoman could tell me whether in future years there is going to be an attempt made to recognize the great ability of this fine woman, Abigail Adams. Those in the House who are not acquainted with Abigail Adams might like to read the book "Those Who Love" by Irving Stone. It so epitomizes the greatness of this lady who lived back in Braintree, Mass., in those days, took care of the farm, raised a family, and spoke out on the need of recognizing women in those days, the great letters she wrote to her husband, John Adams, who was the President at that time, and then the fact that her son John Quincy Adams became the sixth President of this Nation. So I was wondering if the gentlewoman from Ohio could assure me that in the future there will be some recognition made of this gracious and fine lady.

Ms. OAKAR. Mr. Speaker, I want to assure the gentleman that, first of all, Abigail Adams is one of my personal heroines, and one of the wonderful things about having the discussions about actual viable American women who contributed so much to our history in terms of this dollar coin was the fact that we came up with many fine women, and Abigail Adams was one of the fine women. I want the gentleman to know that I would not consider this bill to be the last bill that will have an American woman memorialized, and certainly Abigail Adams would be one of my first choices. She is absolutely a heroine to so many of us who feel so strongly about being able to fully participate in American life as American citizens.

Mr. BURKE of Massachusetts. I thank the gentlewoman.

Ms. OAKAR. Mr. Speaker, I reserve the balance of my time.

Mr. EVANS of Delaware. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of the legislation and commend the committee for advancing it to this point. I support it all the way.

Mr. Speaker, I would like to call the attention of my colleagues to a most important piece of legislation that is long overdue. The Susan B. Anthony Dollar Coin Act of 1978 would authorize the minting and issuance of a new circulating dollar coin which would be slightly larger than a quarter.

This coin, for the first time, would bear the impression of a major female figure in U.S. history—Susan B. Anthony. It was through her leadership and dedication to the cause of women's rights that the 19th amendment to the U.S. Constitution was adopted, giving women the right to vote. But even more significant is the extraordinary courage she exhibited in leading the fight to secure the vote for women at a time when to do so required deep personal commitment and sacrifice.

Commemoration of her efforts and accomplishments is also a tribute to the role of women today. Now, as then, women are accepting the challenge of leadership in America and represent an increasingly significant and creative force in all facets of our society.

The Susan B. Anthony dollar coin will serve as an enduring symbol of the contribution that she and all women have made in our country to date and of their active involvement in shaping the future of America. I urge my colleagues to support this timely proposal.

Mr. EVANS of Delaware. Mr. Speaker, I yield myself 2 minutes to answer my friend, the gentlewoman from Ohio (Ms. OAKAR).

Mr. Speaker, first of all, the gentlewoman from Ohio (Ms. OAKAR), developed her thesis as to consumer acceptance on the basis of a survey conducted by the Research Triangle Institute. She also referred to the previous administration's support of a new dollar coin. I would like to say that just because one administration makes a mistake in judgment it does not mean that another one has to do the same thing. I think there is also a question of timing. What appears to be prudent at one point is not necessarily prudent at a different time. As far as the Research Triangle Institute's survey supporting consumer acceptance, the publication itself refutes that contention. The following is a quote directly from the report:

> Consumers are the ultimate users of coin. Unfortunately, a statistically reliable household survey of consumer attitudes and preferences towards coinage alternatives was not feasible within the constraints of the study, so their opinions were not solicited directly.

So I would say to the gentlewoman that perhaps she should have read the material more closely.

I would also say further to my friend, the gentlewoman from Ohio, that I have thoroughly reviewed the hearings and that I have attempted to secure answers from the Treasury and the Director of the Mint about the basic questions of inflationary impact and consumer acceptance. On the question of the inflationary impact to which you refer, their answer was that they do not believe there

Well, unfortunately, the word "material" is subject to all kinds of interpretations. This is not the time to embark on will be any material inflationary impact. something that is marginal and that might be inflationary.

I would have to disagree also with my friend, the gentlewoman from Ohio, on which issue has received the most attention. The issue that has been most closely addressed and certainly most widely publicized has been the question of who should appear on the coin.

The SPEAKER pro tempore (Mr. EVANS of Colorado). The time of the gentleman from Delaware has expired.

Mr. EVANS of Delaware. Mr. Speaker, I yield myself 1 additional minute.

I would agree strongly that it is very important to honor women. I think it is important to honor Susan B. Anthony, but I think it is important for all of us to approach this particular issue without letting emotion take precedence over logic and good sense. Let us approach this reasonably, rationally, logically, and sensibly. Before proceeding with an expenditure of millions of dollars of public funds, we should first determine if it makes sense. It is irresponsible to proceed with minting a new coin without thoroughly addressing the questions of consumer acceptance and potential inflationary impact.

Mr. Speaker, I yield 5 minutes to my friend, the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, first of all, I want to thank the gentleman from Delaware for yielding to me, so that I can make a few remarks on this legislation.

Mr. Speaker, I rise in support of the Susan B. Anthony Dollar Coin Act. I am very proud to do so for two reasons: First, as a cosponsor of this legislation; and second, as the Representative in this House of Susan B. Anthony's birthplace of Adams, Mass. The consideration of this legislation at this time has particular significance as the town of Adams celebrates its bicentennial this year.

I would like to focus on the choice of Susan B. Anthony as the first actual woman honored by the appearance of her likeness on an American coin. Though the stylized head of Miss Liberty has adorned millions of American coins, she remains a faceless personage—a mere symbol. By contrast, Ms. Anthony's life, while not without symbolic significance, was rooted in the realities of the 19th century struggle to reform American democracy and society. Her long life and half-century struggle for woman's suffrage offer an inspiring model of dedication, perseverance, and courage.

That life began in the western Massachusetts town of Adams, in my First Congressional District, in 1820. She was strongly influenced by her father, a pioneer cotton manufacturer who was accounted to be progressive even for a Quaker. His devotion to abolitionism revealed an uncompromising morality that was to be repeated in his strong-willed daughter—he sought to run his mills only on cotton that had not been produced by slave labor. Fortunately for young Susan, the Quakers espoused the radical notion that women were capable of absorbing advanced education and she studied in her new home in New York and for a brief time at a boarding school in Philadelphia.

Ms. Anthony worked as a school teacher and administrator for approximately 10 years, but her interest in the issues of the day made her restless in the small world of the classroom. Around 1850, she returned to the family home, now near Rochester, and found that the city and her father's parlor had become gathering places for some of the leading reformers of the time—Frederick Douglass, Wendell Phillips, and William Lloyd Garrison. She did her first major public work on behalf of temperance in the early and mid-1850's and then became a radical and uncompromising abolitionist.

She favored immediate and unconditional emancipation and opposed the nomination of Lincoln, because he merely exposed the extension of slavery into new territories. After the Civil War, she became an early advocate of black suffrage, and, from 1868 to 1870, collaborated in publishing a New York liberal weekly called the Revolution.

Woman's suffrage was the third great reform movement—after temperance and abolition—to which Susan B. Anthony devoted her energies. Her recurring confrontation with a prejudice against women's participation in public affairs marked her earlier struggles and convinced her that only through the achievement of equality could women become effective workers for general social betterment.

In 1870, Susan B. Anthony wrote:

> The fact is, women are in chains, and their servitude is all the more debasing because they do not realize it. Oh, to compel them to see and feel, and to give them the courage and conscience to speak and act for their own freedom, though they face the scorn and contempt of all the world for doing it.

She devoted most of her long adult life to opening the eyes of her countrymen and women and to instilling that courage and conscience in the face of widespread scorn and frequent setbacks. In 1872, she led a group of women to the polls in Rochester to test their right to vote and was arrested, tried, convicted, and fined—a fine she never paid. American women were to wait another 48 years to secure the right to vote in Federal elections, but Susan B. Anthony's actions, lectures, and organizing activities were instrumental in laying the groundwork for ratification of the 19th amendment. In 1869, she was an organizer of the National Woman Suffrage Association which sought passage of a constitutional amendment enfranchising women and from 1892 until her retirement in 1900, she served as president of the National American Woman Suffrage Association, formed by the merger of two leading women's groups of the day.

When she died in 1906, the battle for woman's suffrage remained unfinished and the struggle for complete equality continues today in our courts, our legislatures and our society at large, but her efforts to change our attitudes and laws were a significant contribution to this Nation's progress.

If this sounds like a lecture in history and civics, then so be it. The decision to put Susan B. Anthony on the dollar coin was made to honor her and publicize her life and cause.

I think this coin is a fitting memorial to Susan B. Anthony, her cause, and her spirit of struggle. I salute Ms. Anthony and urge your support of H.R. 12728, which will bring her likeness into the hands and wallets of the American people and, hopefully, will bring her legacy into their minds and spirits as well.

Mr. EVANS of Delaware. Mr. Speaker, I yield 2 minutes to my friend and colleague, the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, while the need for a new dollar coin tragically reflects the ravages of inflation, as the ranking minority member of the Historic Preservation and Coinage Subcommittee, I rise in support of H.R. 12728.

The striking of this coin can produce long-term production economies for the Treasury if the coin is used widely as a matter of personal preference. Where the Congress can be most effective in stimulating public acceptance of this coin is in our choice of design for it. Unfortunately, the matter of design became controversial, because the Mint originally recommended that symbolically we depict Liberty on the face of the coin—and suggested that because Liberty is female, this pays adequate tribute to American women. Women's organizations rightfully asked why, with so many real men on our coins, it is too much to suggest we honor a real woman. There is no answer to that. Although all the contemporary coins bear the likeness of former Presidents, we have in the past honored one non-President, Benjamin Franklin and, in the days when commemorative coins were minted, a number of others who never served in the Presidency. Administration witnesses testified before the subcommittee that it was imperative for precedent to be followed. Unfortunately, precedent and Presidents have all been male.

I was not convinced by Treasury logic. Years of effort to have a woman honored on our currency have suddenly been redirected toward this coin, and it is clear that if this is going to be a popular coin it should pay appropriate honor to the women of our country and the contributions they have made to American culture.

In this spirit, I introduced a bill which I thought properly honored all American women by having the new dollar coin bear the joint profiles of Susan B. Anthony and Harriet Ross Tubman. I selected these two individuals, because they were contemporaries who sought recognition of women's political rights and human rights for all people in complementary efforts.

However, in the final analysis and in the interest of harmony, I withdrew my proposal and have firmly supported the design of Susan B. Anthony and the other aspects of the legislation now before us. To the many who would see others honored, I can only say that I agree that many persons are deserving. I hope the subcommittee will consider in the near future how best to do that, possibly through a series of gold medallions and commemorative coins as several of us have suggested in legislation now pending before the Subcommittee on Historic Preservation and Coinage.

Mr. Speaker, I support H.R. 12728 and urge its adoption.

Ms. OAKAR. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK), a member of the committee and a cosponsor of the legislation.

Mrs. FENWICK. Mr. Speaker, I most gratefully thank the gentlewoman for yielding.

Mr. Speaker, I would like to speak for a moment about the striking of a gold medal in memory of Dr. Martin Luther King.

Ms. OAKAR. Mr. Speaker, if the gentlewoman will yield, I might say to the gentlewoman that there is a second piece of legislation, in terms of Dr. King. It is in the same spirit.

Mrs. FENWICK. It is in the same spirit, in the same time and the same motion. I will not be able to speak later, so I just want to say that I am happy that the memory of Dr. Martin Luther King will be recorded in this way and that the President will be instructed to present the medal to the widow of Dr. King, Mrs. Coretta Scott King.

Ms. OAKAR. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. ROUSSELOT), a cosponsor of the legislation.

Mr. ROUSSELOT. I thank the gentlewoman for yielding.

Mr. Speaker, I support the enactment of H.R. 12728, the Susan B. Anthony Coin Act of 1978. I urge my colleagues to vote its enactment.

Mr. Speaker, I do want to congratulate the members of the Subcommittee on Historic Preservation and Coinage for the changes which they made in the proposal that was originally submitted by the Bureau of the Mint. I would particularly commend the gentlelady from Ohio (Ms. OAKAR) for her suggestion and the fight she waged to have the image of Susan B. Anthony on the coin. I agree with Ms. OAKAR that it is high time that we honored our American women. I understand that there were many suggestions made for different people, but there is no doubt that Susan B. Anthony devoted her life to the cause of women's suffrage and made a contribution which we all applaud. Certainly, without women's suffrage we would not see women making the tremendous contributions they are today to this Nation and its economy—a contribution which is being continuously expanded as their talents are better recognized in the fields of Government and business.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I just want to make sure that all of the facts are put in the proper perspective.

No. 1, contrary to what my colleague has said, this does not replace the dollar bill. It replaces a more cumbersome, larger coin. Furthermore, it saves the taxpayer at least, at a conservative estimate, $6 million. The Treasury Department, however, projects that it will save the taxpayer annually at least $10 million.

The second point is that in the testimony before the committee, which we have not mentioned here, the Treasury Department indicated that they would put off building a $100 million new mint to see whether or not this acceptance of the coin would become viable, and they believe and they are committed to seeing that this particular coin is well circulated, and that is another $100 million we are saving.

Also, in terms of the comprehensive review that I mentioned by the Research Triangle Institute, what I said was—just to make the record clear—that they in fact recommended the smaller dollar coin. I did not refer to consumer analysis when mentioning them. I have already indicated that, in fact, that would be putting the cart before the horse, as it were, that consumers have to have an opportunity to use something before we can determine whether or not they will use it. We are not asking the consumer to do anything less on this issue than we would ask them to in the case of food, clothing, soap, or what have you. Use the product and let us know how you like it.

The third point that I would like to make concerns Susan B. Anthony. I was just delighted to hear the wonderful history that my friend, the gentleman from Massachusetts, recorded. She was a valiant woman who spent more than 50 years of her lifetime helping those less fortunate than herself and in trying to bring about what was so important to those of us who cherish being Americans, and that was that every American should fully participate in democracy.

So the proposal to place Susan B. Anthony on the new dollar coin has generated obviously some minimal opposition, and I emphasize minimal, because my friend, the gentleman from Delaware, was the only dissenting vote in committee. But the controversy is not surprising. Susan B. Anthony generated controversy and faced opposition all of her life. This fact, however, did not deter her from her noble cause or her attitude toward eventual victory, something she was not able to see in her lifetime. She was not able to see the Anthony amendment or the 19th amendment adopted in 1920, because she passed away unfortunately in 1906.

We welcome those who have spoken for her in this body and those who have spoken in committee, and in particular my colleague and friend, the gentlewoman from Colorado (Mrs. PAT SCHROEDER), and all the various women's groups who were so wonderful in fully participating and deciding on this one individual as the first woman to be memorialized.

We welcome the opportunity to speak up for her today. I believe it would be a very, very special honor to have this woman's portrait on the new dollar coin. By doing so we honor all Americans who cherish their democracy and their liberty, which has as its very fundamental basic concept the right to vote. Her motto "Failure is impossible" is what has sustained me in attempting to get this legislation passed. I wish to thank and commend Senator PROXMIRE on the Senate side, and the 67 cosponsors on the House side. Hopefully all of us can share in the victory that is at hand.

Mr. EVANS of Delaware. Mr. Speaker, first of all let me say I think everyone can see from the debate here on the floor that most of this discussion has centered on Susan B. Anthony. I do not question the fact that Ms. Anthony has made a substantial contribution to America. I am only saying that we should not proceed in haste, let us wait just a moment, let us at least determine whether there will be a market for this type of coin.

The gentlewoman says this smaller dollar coin will only replace the Eisenhower coin, but let me refer Members to the hearings, if I may, when Governor Coldwell, who is a member of the Federal Reserve Board, stated;

> If the proposed new coin is produced but fails to circulate or circulates without reducing the pool of dollar notes, additional costs rather than savings will be incurred . . .

The objective obviously is to replace the Eisenhower coin as well as the dollar bill.

I think there are some basic, unanswered questions that we still do not have in addition to the issue of consumer acceptance. (1) What is the potential inflationary impact? (2) What is the psychological impact on other nations as to the confidence they have in our dollar especially at a time when the value of our currency in relation to other currencies is falling. I do not oppose Susan B. Anthony. I think the women of America, including Ms. Anthony, have made substantial contributions to this Nation. And if the Members knew my wife, Mary Page, they would know I am a strong advocate of women's rights and appreciate greatly their contributions. But I think we are confusing the issue here and I realize it is a tough political vote, but I think we should wait. Clearly, commonsense dictates that we should go back to committee and at the very least proceed with a scientifically conducted market survey to determine consumer acceptance before reporting it out. I will not oppose it if there is some reasonable certainty that it will be used. However, I must oppose the coin at this time because we do not have the answers to some important and relevant questions. I urge my colleagues in the name of commonsense to oppose the bill. A "no" vote is a vote for reason and fiscal responsibility.

● Ms. HECKLER. Mr. Speaker, I rise in support of H.R. 12728, the Susan B. Anthony Coin Act of 1978, which will change the size, weight, and design of the one-dollar coin. H.R. 12728 calls for the minting of a new dollar coin containing the image of Susan B. Anthony.

It is ironic that only today on the other side of the Capitol, I joined with other ERA advocates in leading a rally to urge the Senate to give ERA extension full and fair consideration. In 1848, Susan B. Anthony began the long struggle for womens' participation in American democracy and today we are about to achieve a most important part of her dream—participation of women in the American Constitution. The work of Susan B. Anthony was in our hearts today and for me it is especially fitting to memorialize her spirit in a coin bearing her likeness 130 years after she began the long march to economic and legal equality for our Nation's women.

It is fitting that Susan B. Anthony be honored with this commemorative coin, for she, perhaps more than any other woman in history, changed our lives by her unending devotion to the ideal that all Americans should have the right to vote and participate in a democracy. In 1848, Anthony laid the groundwork for passage of the 19th amendment which, more than 70 years later, gave women their right of franchise.

The bill's importance is not limited to its historical significance, however. By supporting H.R. 12728, the 95th Congress can save taxpayers in excess of $10 million a year. Because the proposed Anthony coin is lighter and smaller—just slightly larger than a quarter—than the present dollar coin, production costs would decrease 5 cents per coin. Also, significant savings will result if even 20 percent of the 2.4 billion 1 dollar bills are displaced by the new coin, for the Anthony dollar will last an estimated 13½ years longer than the paper dollar, thus reducing Treasury expenses.

Consumers should accept this new coin readily, for previous promotions of other new denominations have proved successful. In particular, this is true with promotions of the $2 bill in Portland, Oreg.

I urge my colleagues to join me in supporting the Susan B. Anthony Coin Act of 1978. It would be a special tribute to this woman if her portrait is placed on the new dollar coin. By doing this, we honor all Americans who cherish their rights of democracy and freedom—which has as a fundamental concept, the right to vote.●

● Mr. RHODES. Mr. Speaker, Oscar Wilde once wrote that the worst work is always done with the best intentions. I am sure the House had only the best of intentions when it passed the bill that would mint a smaller dollar.

The spirit was commendable. The idea of honoring Susan B. Anthony is a worthy one. She was an outstanding woman whose dedication and courage earned an indelible place in our Nation's history.

I believe Congress has chosen an unfortunate vehicle in an attempt to honor this fine woman. The down-size dollar psychologically is demeaning, and has connotations of inferiority, even though perhaps it is accurate in light of the true value of the dollar today to have a shrunken coin. I note that its primary purpose will be to feed vending machines, which carries ominous tidings for the inflation-plagued consumer.

I would like to call the attention of my colleagues to the miscues already underway in the realm of our currency. Revival of the $2 bill was pushed through just like this diminished dollar, in the face of evidence that the financial community did not want it, and there was no real need for it. Two dollar bills are stacked up, unused. In addition, there are millions of full-sized dollar coins awaiting circulation, but Americans have shown they no longer want to carry around heavy money.

The greenback has been our traditional dollar, honored in every city and hamlet in the land. I feel it is a mistake to attempt to replace this universally accepted currency, with a redesigned quarter that is called a dollar.

I agree with my colleagues on the desirability of honoring Susan B. Anthony, but I believe they have acted in unseemly haste, and that the Anthony dollar will be long resented and ill-served its intended purpose.●

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio (Ms. OAKAR) that the House suspend the rules and pass the bill H.R. 12728, as amended.

The question was taken.

Mr. EVANS of Delaware. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the legislation just under consideration, H.R. 12728, the Susan B. Anthony Dollar Coin Act of 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

CONTRACT DISPUTES ACT OF 1978

Mr. DANIELSON. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 11002, to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies, as amended.

The Clerk read as follows:

H.R. 11002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Contract Disputes Act of 1978".

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "agency head" means the head or any assistant head of an executive agency, and may upon designation by the head of an executive agency include the chief official of any principal division of the agency;

(2) the term "executive agency" means an executive department as defined in section 101 of title 5, United States Code, an independent establishment as defined in section 104 of such title (except that such term does not include the General Accounting Office), a military department as defined in section 102 of such title, a wholly owned Government corporation, the United States Postal Service, and the Postal Rate Commission;

(3) the term "contracting officer" means a Government officer or employee authorized to execute a contract on behalf of the Government or any other Government officer or employee who is a properly designated contracting officer; and

(4) the term "contractor" means a party to a Government contract other than the Government.

APPLICABILITY OF ACT

SEC. 3. Unless otherwise specifically provided herein, this Act applies to any express or implied contract (including a contract of any nonappropriated fund activity described in sections 1346 and 1491 of title 28, United

States Code) entered into by an executive agency for—

(1) the procurement of property, other than real property in being;

(2) the procurement of services;

(3) the procurement of construction, alteration, repair, or maintenance of real property; or

(4) the disposal of personal property.

This Act shall also apply to any other contract or agreement with the United States which by its terms is expressly made subject to the provisions of this Act.

CLAIMS AND DISPUTES SETTLEMENT AUTHORITY

SEC. 4. Each executive agency is authorized to settle, compromise, pay, or otherwise adjust any claim by or against, or dispute with, a contractor relating to a contract entered into by it or another agency on its behalf, including a claim or dispute initiated after award of a contract, based on breach of contract, mistake, a misrepresentation, or other cause for contract modification or rescission, but excluding a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another agency is specifically authorized to administer, settle, or determine.

DECISION BY THE CONTRACTING OFFICER

SEC. 5. (a) All contract claims submitted by a contractor against the Government or by the Government against a contractor shall be in writing. After the submission of a contract claim, the contracting officer shall promptly issue a decision in writing and shall mail or otherwise furnish a copy of the decision to the contractor The decision shall state the reasons for the decision reached, and shall inform the contractor of his rights as provided in this Act. Specific findings of fact are not required, but, if made, shall not be binding in any subsequent proceeding.

(b) The contracting officer's decision on the claim shall be final and conclusive and not subject to review by a forum, tribunal, or Government agency, unless an appeal or suit is timely commenced as authorized by this Act.

(c) A contracting officer shall issue a decision on any submitted claim promptly and, in any event, he shall issue a decision within sixty days from his receipt of a written request from the contractor that a decision be rendered, and this period may be extended by written agreement between the contractor and the executive agency. Any failure by the contracting officer to issue a decision on a contract claim within the period required will be deemed to be a decision by the contracting officer denying the claim and will authorize the commencement of the appeal or suit or the claim as otherwise provided in this Act. In the event an appeal or suit is so commenced in the absence of a prior decision by the contracting officer, the tribunal concerned may, at its option, stay the proceedings to obtain a decision on the claim by the contracting officer.

INFORMAL ADMINISTRATIVE CONFERENCE

SEC. 6. (a) It is the policy of the Congress that contractor claims should be resolved by mutual agreement, in lieu of litigation, to the maximum extent feasible. Accordingly, a contractor shall be afforded at least one opportunity, after a contracting officer's decision pursuant to section 5, for an informal conference with the agency involved for the purpose of considering the possibility of disposing of the claim by mutual agreement. The conferees may consider any matter, written or oral, relevant to the claim, but testimony or evidence shall not be taken. Any documentary materials or oral statements submitted during the conference shall not be evidence in any subsequent appeal or suit in court on the claim unless offered anew and admissible under applicable rules of evidence of the agency board or court. Any offers of settlement or compromise during or resulting from the conference shall be without prejudice and shall not be evidence or referred to in any subsequent appeal or suit in court on the claim.

(b) The designee or designees of the agency head conducting the informal conference shall be selected from a level above the office to which the contracting officer is attached.

(c) Whenever an appeal or suit is initiated pursuant to this Act and the agency board or court determines that at least one informal conference requested by the contractor has not been held, the agency board or court shall stay any further proceedings until the conference is held or waived by the contractor.

CONTRACTOR'S RIGHT OF APPEAL TO BOARD OF CONTRACT APPEALS

SEC. 7. Within ninety days from the date of receipt of a contracting officer's decision under section 5, the contractor may appeal such decision to an agency board of contract appeals, as provided in section 8.

AGENCY BOARDS OF CONTRACT APPEALS

SEC. 8. (a) An agency head may establish within the agency a board of contract appeals when the volume of procurement by the agency justifies a full-time agency board of at least three members who shall have no other inconsistent duties. The members of agency boards of contract appeals shall be examined, selected and appointed in the same manner as hearing examiners appointed pursuant to section 3105 of title 5, United States Code, with the additional requirement that such members shall have had not fewer than five years of experience in public contract law and shall receive compensation in accordance with section 5362 of such title. Members of agency boards of contract appeals serving as such on the effective date of this Act shall be considered qualified. The Chairman and Vice Chairman of each agency board shall be designated by the agency head from members so appointed.

(b) If the volume of procurement is not sufficient to justify an agency board of contract appeals under subsection (a) or if he otherwise considers it appropriate, an agency head shall arrange for appeals from decisions by contracting officers of his agency to be decided by an agency board of contract appeals of another executive agency. In the event an agency head is unable to make such an arrangement with another agency, he shall submit the case to the Office of Federal Procurement Policy for placement with an agency board.

(c) Each agency board of contract appeals shall have jurisdiction to decide any appeal from a decision of a contracting officer (1) under a contract made by its agency, and (2) under a contract made by any other agency when such agency has designated the agency board to decide the appeal.

(d) An agency board of contract appeals, acting by one or more members in accordance with rules and regulations adopted by the agency board, which shall provide to the fullest extent practicable informal, expeditious, and inexpensive resolution of disputes, shall issue a decision in writing or take other appropriate action on each appeal submitted and shall mail or otherwise furnish a copy of the decision to the contractor and the contracting officer.

(e) The decision of an agency board of contract appeals shall be final, except that—

(1) a contractor may appeal such decision to a United States district court if the contract is a maritime contract or the amount is within the jurisdictional dollar limits, or to the Court of Claims within twelve months after the date of receipt of a copy of such decision or the final delivery of supplies or completion of the contract work, whichever is later; or

(2) at the request of the agency head of the agency aggrieved by such decision, the Attorney General may appeal the decision to a United States district court if the contract is a maritime contract or the amount is within the jurisdictional dollar limits, or to the Court of Claims within ninety days after the date of the decision in any case—

(A) where the agency board awards the contractor a total amount which exceeds $1,000,000 before interest, or

(B) where the Attorney General determines the existence of a compelling governmental interest affecting Federal procurement policy.

The authority hereby conferred on the agency head and the Attorney General shall not be delegable below the assistant head of an agency.

(f) The United States Court of Claims and the district courts of the United States shall have jurisdiction of appeals by the United States from decisions of agency boards of contract appeals under subsection (e) of this section.

SMALL CLAIMS

SEC. 9. (a) The rules of each agency board of contract appeals shall include a simplified procedure for the expedited disposition of small claims appeals. The small claims procedure shall be applicable at the sole election of the contractor and such election shall be exercised when the appeal is filed but in no event later than thirty-five days after docketing of the appeal by the agency board. The agency board's notice of docketing shall set forth the date when the election must be made.

(b) Appeals under the small claims procedure shall be resolved, whenever possible, within one hundred and twenty days from the date when the contractor elects to utilize such procedure.

(c) The small claims procedure shall facilitate the decision on appeals within the period set forth in subsection (b). Such appeals shall be decided by a single member of the agency board with such concurrences as may be provided by rule or regulation.

MARITIME CONTRACTS

SEC. 10. Appeals under paragraph (e) of section 8 and suits under section 11, arising out of maritime contracts, shall be governed by the Act of March 9, 1920, as amended (41 Stat. 525, as amended; 46 U.S.C. 741–752) or the Act of March 3, 1925, as amended (43 Stat. 1112, as amended; 46 U.S.C. 781–790) as applicable, to the extent that those Acts are not inconsistent with this Act.

SUIT IN COURT: JUDICIAL REVIEW OF BOARD DECISIONS

SEC. (11). (a)(1) In lieu of appealing the contracting officer's decision under section 5 to an agency board of contract appeals, a contractor may bring suit on the claim directly in a United States district court, if the contract is a maritime contract or if within the jurisdictional dollar limits, or the United States Court of Claims, notwithstanding any contract provision, regulation, or rule of law to the contrary, provided such suit is filed within twelve months from the date of the contracting officer's decision, or final delivery of supplies or performance of the work under the contract, whichever is later. Such suit shall proceed de novo in accordance with the rules of the court.

(2) Nothing in this Act shall be construed to give the Court of Claims jurisdiction in suits against, or founded on actions of, the Tennessee Valley Authority; nor shall the provisions of this Act be construed to amend or modify the provisions of the Tennessee Valley Authority Act of 1933, as amended, with respect to the settlement of contract claims, or with respect to suits by or against the Authority.

(b) In the event of an appeal by a contractor or the Government from a decision of an agency board pursuant to section 8, notwithstanding any contract provision, regulation, or rule of law to the contrary, the decision of the agency board on any question of law shall not be final or conclusive, but the decision on any question of fact shall be final and conclusive and shall not be set aside unless the decision is fraudulent or arbitrary, or capricious, or clearly erroneous.

(c) The court may render an opinion and judgment and remand the case for further action by the agency board of contract appeals with such direction as the court considers just and proper, or, in its discretion and in lieu of remand, it may retain the case and take such additional evidence or action as may be necessary for final disposition of the case.

(d) In a case of actual controversy within its jurisdiction, with respect to claims against the United States founded upon express or implied contract, the Court of Claims, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

(e) Except as otherwise provided in this Act, and notwithstanding any statute or other rule of law, or any contract provision, every claim founded upon the same express or implied contract with the United States shall constitute a separate cause of action for purposes of any suit in a court of competent jurisdiction, and such court may, in its discretion, consolidate separate claims for purposes of decision or judgment, or delay acting on any claim pending action on any other claim.

(f) In any suit filed pursuant to this Act involving two or more claims, counterclaims, cross-claims, or third-party claims, and where a portion of one such claim can be divided for purposes of decision or judgment, and in any such suit where multiple parties are involved, the court, whenever such action is appropriate, may enter a judgment as to one or more but fewer than all of the claims, portions thereof, or parties.

SUBPOENA, DISCOVERY AND DEPOSITION

Sec. 12. A member of an agency board of contract appeals may administer oaths to witnesses, authorize depositions and discovery proceedings, and require by subpoena the attendance of witnesses and production of books and papers, for the taking of testimony or evidence by deposition or in the hearing of an appeal by the agency board. In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States district court, the court, upon application of the agency board, shall have jurisdiction to issue the person an order requiring him to appear before the agency board or a member thereof, to produce evidence or to give testimony, or both. Any failure of any such person to obey the order of the court may be punished by the court as a contempt thereof.

INTEREST

Sec. 13. Interest on amounts found due contractors on claims shall be paid from the date of decision by the contracting officer under section 5, until payment following either a final decision of an agency board of contract appeals or a final decision of a court of competent jurisdiction, whichever is later. The interest provided for in this section shall be paid at the rate established by the Secretary of the Treasury pursuant to section 105(b)(2) of the Renegotiation Act of 1951 (50 U.S.C. App. 1215(b)(2)) which was in effect on the date of the contracting officer's decision.

APPROPRIATIONS

Sec. 14. (a) Any judgment against the United States on a claim under this Act shall be paid promptly in accordance with the procedures provided in section 1302 of the Supplemental Appropriation Act, 1957 (31 U.S.C. 724a).

(b)(1) Any monetary award to a contractor by an agency board of contract appeals shall be paid promptly in accordance with the procedures contained in subsection (a).

(2) Section 1302 of the Supplemental Appropriation Act, 1957 (31 U.S.C. 724a) is amended by inserting after "2677 of title 28" the words "and decisions of agency boards of contract appeals".

(c) Payments made pursuant to subsections (a) and (b) shall be reimbursed to the fund provided by section 1302 of the Supplemental Appropriation Act, 1957 (31 U.S.C. 724a) by the agency whose appropriations were used for the contract out of available funds or by obtaining additional appropriations for such purposes.

REPEALS AND AMENDMENTS

Sec. 15. (a) Section 1346(a)(2) of title 28, United States Code, is amended by striking out "not exceeding $10,000 in amount", and inserting in lieu thereof "not exceeding $25,000 in amount in contract cases or $10,000 in amount in other cases".

(b) Section 2401(a) of title 28, United States Code, is amended by striking out "Every" in the first sentence and inserting in lieu thereof "Except as provided by the Contract Disputes Act of 1978, every".

(c) Section 2414 of title 28, United States Code, is amended by striking out "Payment" in the first sentence and inserting in lieu thereof "Except as provided by the Contract Disputes Act of 1978, payment".

(d) Section 2517(a) of title 28, United States Code, is amended by striking out "Every" and inserting in lieu thereof "Except as provided by the Contract Disputes Act of 1978, every".

(e) Section 2517(b) of title 28, United States Code, is amended by inserting after "case or controversy" the following: ", unless the judgment is designated a partial judgment, in which event only the matters described therein shall be discharged".

(f) Public Law 365, Eighty-third Congress (41 U.S.C. 321, 322), is repealed.

EFFECTIVE DATE OF ACT

Sec. 16. This Act shall apply to contracts entered into after the effective date of this Act. Notwithstanding any provision in a contract made before the effective date of this Act, the contractor may elect to proceed under this Act with respect to any claim pending then or initiated thereafter.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD of California. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. Danielson) will be recognized for 20 minutes and the gentleman from California (Mr. Moorhead) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. Danielson).

Mr. DANIELSON. Mr. Speaker, I yield myself such time as I may consume.

The bill, H.R. 11002, would provide for a fair and balanced system of administrative and judicial procedures for the settlement of claims and disputes relating to Government contracts.

This bill, which is entitled the Contract Disputes Act of 1978, was introduced as a revised bill containing the recommendations of the Subcommittee on Administrative Law and Governmental Relations after it had conducted hearings and considered a group of bills providing for procedures for the consideration and settlement of contract disputes. The hearings were held on November 10 and 11, 1978, on the bills, H.R. 664, H.R. 3745, H.R. 4793, and companion measures. After markup sessions on February 1, 2, and 8, the bill H.R. 11002 was ordered reported to the full committee.

H.R. 11002 and the other bills on the subject were introduced as a result of the general recommendations made in volume 4 of the 1972 report of the Commission on Government Procurement. The Commission urged the establishment of a comprehensive, statutory framework for the settlement of disputes and claims arising out of contracts involving the Federal Government. The Commission also intended that the new legislation improve existing procedures and remedies by making substantive changes in the existing law concerning the handling and review of contract matters. The overall aim of these reforms and revisions is to provide for a more efficient and fair resolution of contract claims and disputes. The bill was introduced to implement these recommendations and would apply to contracts relating to Government procurement, construction, alterations, and maintenance of real property, the procurement of services or the disposal of personal property. Each executive agency would have the authority to settle, pay, or adjust any claim or dispute by a contractor or by the Government under an agency contract unless that authority was granted by statute to another agency.

The bill provides that the basic decision by the Government on a claim is to be made by the contracting officer and this decision is to be final unless the contractor appeals the decision to a board or court as provided in the bill. In addition, provision is made for an informal conference to encourage settlement prior to further proceedings with reference to the contracting officer's decision. The authority and composition of agency boards are defined in the bill. The decisions of boards are to be final unless the contractor appeals the administrative decision to the Court of Claims or, in appropriate cases, to the U.S. district court. The Government is accorded a right of appeal from such decisions where the award exceeds $1 million or where the Attorney General finds there is a compelling governmental interest affecting Federal procurement policy. In order to expedite small claims, each board is required to promulgate rules for the expeditious procedure for disposing of such claims.

As an alternative to appealing to an agency board of contract appeals, a contractor is given the option of going directly to either the U.S. Court of Claims or the U.S. district courts (disputes under $25,000), following an adverse decision by a contracting officer. Such suits before those courts are to be de novo.

In appeals by contractors from the administrative decision of an agency board, the decision as to any question of law shall not be final and conclusive but findings of fact will be final and conclusive unless fraudulent, arbitrary, capricious, or clearly erroneous. In appeals from administrative decisions, the court is given the additional authority to remand the case for further action by the court or in lieu of remand, it may retain the case and take additional evidence or action in order to finally dispose of the matter.

Under its jurisdiction over contract claims, the Court of Claims is given jurisdiction to grant declaratory judgment relief with respect to claims based on express or implied contract. In suits filed under the act which involve two or more claims, counterclaims, or third party claims, and where a portion of a claim can be divided for the purpose of judgment or decision and when multiple parties are involved in a suit, the court is empowered to take appropriate action and may enter judgment as to one or more, but fewer than all of the claims, portions thereof, or parties.

Every claim founded upon the same express or implied contract constitutes a separate cause of action for purposes of suit. A court may in its discretion consolidate separate claims for purposes of decision or judgment or delay acting on any claim pending action on another claim.

Agency boards are given authority to administer oaths, authorize depositions and discovery proceedings, and may require the attendance of witnesses and the production of books and papers by subpena.

Interest is to accrue on amounts due contractors on claims from the date of decision by the contracting officer until payment and this interest is to be at the rate in effect on the date of the contracting officer's decision established by the Secretary of the Treasury under the Renegotiation Act of 1951. Payment of claims pursuant to a decision of a board or a court is to be made as in the case of other judgments against the United States. The bill provides that such amounts shall be reimbursed to the Treasury by the agency whose appropriations were used for the contract out of available funds or by additional appropriations for that purpose.

The jurisdiction of the district courts under section 1346(a)(2) of title 28, United States Code, with reference to contracts is increased from $10,000 to $25,000. The Wunderlich Act provisions of sections 321 and 322 of title 41 of the United States Code providing for standards of review of administrative decisions in contract matters are repealed. H.R. 11002 would provide revised standards for such standards of review.

Mr. SPEAKER, as I have stated, the amended bill provides for a comprehensive and balanced statutory system for the resolution of contract disputes. I urge its favorable consideration.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, I am pleased today to speak on behalf of the passage of H.R. 11002, as amended, Contract Disputes Act of 1978, which I introduced along with my colleague, the gentleman from Ohio, and which would establish in law for the first time a clear and precise Government policy and process for resolving disagreements between the Government and outside contractors. The bill will reform a process that has evolved erratically over the years, a system that certainly needs improvement and is described by some as being in "total disarray." It would carry out the 1972 recommendations of the Commission on Government Procurement which concluded that the present system is too expensive and time-consuming for the taxpayer and contracting companies and needs significant overhaul to provide effective justice.

DEFECTS IN CURRENT SYSTEM

Currently, if there is a disagreement over the terms or meaning of a contract, there are three levels through which the dispute may be processed; First, the contracting officer; second, an administrative level other than the contracting officer, usually a board of appeals; and third, the courts.

It is not uncommon for current contract disputes to take 10 years to resolve. In order to reach settlement, both Government officials and private companies must spend many hours and dollars going through contracting officers, boards of contract appeals and the courts. The Commission found that 33 percent of all disputes took more than 6 months to resolve at the contracting officer level; of those appealed to boards, 70 percent took more than 6 months and 15 percent more than 2 years.

Lengthy delays in resolving disputes benefit no one, impairing the operations of Government, and economically devastating contractors, particularly small contractors. The cost of protracted legal actions to resolve a dispute discourages many businesses, again, particularly small ones, from even seeking business with the Federal Government. The complications and expenses of a cumbersome disputes-resolving process discourages companies from even selling goods and services to the Government—which defeats the whole purpose of a competitive contracting system. The Commission said:

> If the concerns about inequities and inefficiencies in disputes-resolving system procedures cause potential contractors to avoid Government work, the procurement process will suffer.

Additionally, the potential costs and chaos of pursuing a dispute causes those who do do business with the Government, to submit higher bids at the taxpayer's expense.

The current system is also unfair because the Government has the upper hand. The rights of parties are governed by the "dispute clause" in the contract which is both written and interpreted by the Government, one of the parties in the contract. This inequity is compounded by the unique feature of a Federal Government contract. The contractor is required to continue performing work even though there is a dispute. For example, if the Government and a contractor disagree over the cost of a specification included in the contract, the company must continue performing that work even though it may take months or years to resolve the dispute. Under the present system, a contractor must appeal the decision of a contracting officer with the agency board before taking the case to court. This layer can add unnecessary time and expense; and some cases, particularly the more complex ones, are more suited for court resolution.

The agency boards of contract appeals are problem areas as well. They do not have the procedural authority, such as discovery and subpena powers, to insure that all relevant facts and issues are brought before them. And although boards are essentially objective and independent, their members are appointed by agency heads and must depend on them for career advancement. The Commission found:

> The procedural safeguards in the boards and the quality and independence of the board members are uneven. Yet the findings of fact by the boards are essentially final on subsequent judicial review.

The Commission found no evidence of a comprehensive plan to improve the current system. The boards, on the one hand, have adopted judicial-like procedures and at the same time have tried to maintain a degree of flexibility and informality not usually found in court. This lack of planning in the executive branch has exacerbated the inefficiencies and expense.

HARRIS-KINDNESS WILL STREAMLINE GOVERNMENT OPERATIONS AND REDUCE COSTS

Government preoccupied with contract disputes cannot operate efficiently. H.R. 11002 establishes as a Government-wide policy that disputes should be resolved by mutual agreement when possible and requires at least one informal conference between the contractor and the agency before formal proceedings are begun. Agencies are authorized to establish full-time boards of appeals to hear and decide disputes. Both the Government and the contractor could go directly to court, bypassing the agency board. Also, boards are required to establish simplified procedures for the speedy handling of small claims. The bill includes specific deadlines for taking actions at the various levels and grants the boards clear powers to assure fairness to both the Government and the contractor.

I believe H.R. 11002 will provide a clear base in law for resolving contract disputes, which involve millions of contractor and taxpayer dollars. We have let a system evolve sporadically and that system has become cumbersome and expensive. This bill will help bring economic and legal justice to both the taxpaying citizen and private companies.

I would like to include in the RECORD at this point cases which point out some of the problems addressed by this legislation:

EXAMPLES OF CONTRACT DISPUTES

Carlo Bianchi & Co., Inc.—In July 1946, Carlo Bianchi & Co. entered into a contract with the Army Corps of Engineers for the construction of a flood control dam. Work was completed on June 30, 1949. In May 1947, the contracting officer rejected the company's claim that additional supports were needed in the water diversionary tunnel. In 1948 Bianchi's appeal was denied by the board and in 1954 Bianchi filed in the U.S. Court of Claims. In 1959 the Court of Claims entered judgment for the contractor and in 1963 the U.S. Supreme Court vacated the Court of Claims judgment on the ground that under the Wunderlich Act, the lower court should have confined itself to review of the administrative record. In 1964, on remand, the Court of Claims found the board's action to be supported by substantial evidence and dismissed the contractor's petition; a motion for reconsideration was denied. In September 1973, 26 years after the claim was rejected, settlement for $149,617.36 was announced following congressional reference to the Corps of Engineers. The settlement amount matched exactly the original award of the Court of Claims in 1959.

J. L. Simmons Co., Inc.—On October 5, 1949, J. L. Simmons Co., Inc. entered into a contract to construct a hospital for the Veterans' Administration and completed work on April 30, 1953. In 1951 the contracting officer denied the first of Simmon's claims for extra foundation work and a timely appeal was filed. In 1959, the board and the Assistant Administrator for Construction approved the board's action. Less than a month later, Simmons filed a petition with the Court of Claims alleging breach of contract and attacking the board's decision as arbitrary. The case became stalled becaused of the turmoil created by the Wunderlick, Bianchi, Utah and Grace cases. In June 1966, proceedings in the Court of Claims were suspended to permit the Board of Contract Appeals to correct defects in the record. In 1967, a second board decision was issued substantially increasing the award to Simmons. The Board decision was modified and affirmed by the Court of Claims on July 16, 1969. In August 1970, 19 years after the first claim was denied, a $650,000 judgment for the company was entered.

Utah Construction and Mining Co.—Utah Construction executed a contract in March 1953 to build a facility for the Atomic Energy Commission. After completion of the project in 1955, the contractor filed a claim under the changed conditions clause and the claim was denied by the contracting officer. The board held that there had been a changed condition but that relief was unavailable under the contract. In the subsequent breach of contract suit, the Court of Claims held that the claims were outside the disputes clause and were therefore subject to de novo review. In 1966, the Supreme Court affirmed the Court of Claims in its determination of the scope of the disputes clause but reversed the lower court because of failure to give finality to certain factual findings made by the board. In July 1966, the Court of claims withdrew its opinion and returned the matter to its Commissioner for further proceedings. In 1968, 13 years later, the parties entered a settlement stipulation for $100,000.

Mr. MOORHEAD of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support the "Contract Disputes Act of 1978" (H.R. 11002) which would infuse added procedural fairness and due process into the Government contracts system. Six years ago, the President's Commission on Government Procurement recognized the need to "equalize the bargaining powers of the parties" in Federal contract disputes. The Commission made a series of recommendations aimed at reforming the existing disputes resolution structure. The bill we consider today would fully implement 10 of the 12 recommendations made by the President's Commission in the Federal contract disputes area.

First, H.R. 11002 preserves and enhances the pivotal, threshold role of the Government contracting officer in resolving these disputes. Further, through the mechanism of the informal review conference, the bill also encourages the informal, quick resolution of disputes before they can develop into expensive and time-consuming administrative tangles or litigation. For the first time, the various agency boards of contract appeals are given statutory recognition and are preserved as one means of pursuing a solution to a contract dispute. Most importantly, private contractors would now have the option of "direct access" to the Federal courts, once an informal means of settlement has proven unsuccessful. The Federal Government is also granted the "right of review"—affording them the ability to seek court review of decisions adverse to the governmental interests by agency boards.

In developing this legislation, the members of the Subcommittee on Administrative Law and Governmental Relations and its staff worked closely with officials at the Department of Justice and the U.S. Court of Claims, as well as with representatives of the legal community—American Bar Association, Federal Bar Association, and District of Columbia Bar Association. This legislation is truly the product of bipartisan cooperation in our committee. My colleagues from Ohio (Mr. Kindness) and Virginia (Mr. Harris) are particularly deserving of praise for their time and efforts spent on behalf of this important measure.

As an original cosponsor of an earlier version (H.R. 5855), I am very pleased that we have reached this stage of progress. I urge the Members of the House to suspend the rules and support the enactment of H.R. 11002.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. Kindness).

Mr. KINDNESS. I thank the gentleman for yielding.

Mr. Speaker, I would like to commend the chairman of the subcommittee, the gentleman from California (Mr. Danielson) for the very important matter, I think, of bringing this legislation along to this point, and all of the members of the subcommittee and staff. But I would particularly like to direct my attention and comments to the varied energies and interests and hard work of the gentleman from Virginia (Mr. Harris) with respect to this legislation. I certainly commend him especially for his efforts.

Mr. Speaker, I rise in strong support of the "Contract Disputes Act of 1978" (H.R. 11002). It is fairly apparent to anyone who studies this problem in depth that there is a pressing need for the Congress to revise the existing situation for the settlement of Federal contract disputes. This long overdue measure would bring about these needed reforms, by infusing due process and flexibility into what is now a rigid and, often, unfair system.

The business of contracting with the Federal Government is often as frustrating as it could be lucrative. The current situation forces contractors—whether they be large corporations or small businesses—to forego their usual legal rights. Many small businessmen now hesitate to even bid on Federal contracts for that reason, knowing that if a dispute arises out of the contract their remedies are extremely limited and cumbersome and expensive. The existing system—if it can be callled a system—is demonstrably unfair to the contractors and often is unnecessarily expensive for the American taxpayer.

The "disputes clause," in essence, permits one party to the contract—this is, the Federal Government—to make the final decision on all disputes of fact arising under the contract. The disputes clause concept, which was intended to allow a specialized agency board to be the means for an informal, quick, and inexpensive settlement of claims, remains valid as an option for settlement. But it cannot and should not remain, in my view, as the sole mechanism for settlement of such disputes.

These problems have been carefully studied by the Commission on Government Procurement. Among other things, they emphasized the need to equalize the bargaining power of the parties—where and when a contract dispute exists. They urged remedial legislation which would establish a fair and flexible system to resolve disputes. The Commission observed that neither party should be limited to one forum to determine their rights and obligations under a contract.

H.R. 11002 would fully implement 10 of the 12 recommendations made by the Commission in the contract disputes area. Most importantly, a private contractor will have "direct access" to the Federal courts in those disputes that cannot be resolved at the agency level. At this point, I would ask that an outline of the major provisions of H.R. 11002 be inserted in the Record.

Outline: Major Provisions/H.R. 11002

1. *Coverage*. The procedures and remedies set down in the bill are applicable to all express or implied contracts entered into by the United States for (1) the procurement of property (other than the procurement of real property in being, which is governed by the laws of eminent domain); (2) the procurement of services; (3) the procurement of construction, alteration, repair, or maintenance of real property; or (4) the disposal of personal property (i.e. government "excess" property). The provisions of the bill can also be made applicable to any other contract or agreement with the United States simply by adding a contract provision to that effect. Section 3.

2. *Contracting Officer*. The contracting officer would remain as the initial representative of a Federal agency in the administration of a particular contract. His pivotal role would be preserved—making the first decision on a contract claim. The bill requires that his decision must be made in writing and be furnished to the contractor

bringing the claim. A stated rationale for the initial decision is also made mandatory. His decision is to be issued promptly (and can be "triggered" within 60 days through a written request by the contractor). Section 5.

3. *Informal Review Conference.* The bill establishes a mechanism for an informal, administrative review conference, where contract disputes might be settled in an early stage before they develop into expensive and time-consuming litigation. This would occur after a contracting officer's decision but before appeal to an agency board or court. Section 6.

4. *Agency Boards of Contract Appeals.* For the first time, the existence of the various agency boards would be recognized in a statute and they would be granted subpoena and discovery powers. The multiple agency board structure would be retained. However, their decisions would not carry the same finality that they do now and a contractor would have the option of going directly to court rather than appealing to an agency board. Section 8; Section 12.

5. *Small Claims.* Would establish a new statutory procedure for the resolution of small claims arising out of Government contracts. A simplified, expedited procedure for small claims resolution would be required as an option—the stated goal is to settle all such claims within a 120-day period. The existing agency boards are directed to set up such special procedures. No minimum dollar figure seting the limit of a small claim is placed in the bill. Section 9.

6. *Direct Access.* The contractor would be given the option of going directly to either the U.S. Court of Claims or the U.S. District Court (disputes under $25,000), following an adverse decision by a contracting officer. Of course, he still could appeal to the applicable agency board if he so chooses but an agency board decision would no longer be a prerequisite to court consideration. Section 11(a).

7. *Right of Review.* The Federal Government would also be granted the so-called "right of review", i.e. the opportunity to seek court review of an adverse agency board decision. This provision would reverse the Supreme Court decision in the case of *S. & E. Contractors, Inc.* v. *United States,* 401 U.S. 1 (1972). However, appeals by the Federal Government are limited to those cases where: (A) the disputed amount exceeds $1 million; or (B) the Attorney General finds "a compelling governmental interest affecting Federal procurement policy." Section 8(e); Section 11(b).

8. *Standard for Court Review.* Appeals by either a private contractor or the Government of adverse board decisions would be subject to a "clearly erroneous" test. Currently, appeals from agency board decisions are subject to the more restrictive "substantial evidence" standard, (such as is now applied to contractor appeals under the Wunderlich Act, 41 U.S.C. 321–2). Section 11(b).

9. *Declaratory Judgment*. The U.S. Court of Claims would be given the authority to issue declaratory judgments in contracts cases. That court currently has no such equitable powers. See: *Glidden* v. *Zdanok,* 370 U.S. 530 (1967). Section 11(d).

10. *Interest*. Would permit the payment of interest on successful contract claims which would be reimbursed from the defendant agency's appropriations. Section 13.

11. *Repeals Wunderlich Act.* The existing statute governing judicial review in contracts cases, 41 U.S.C. 321–2, would be repealed and, in essence, replaced by the statute proposed in H.R. 11002. Section 15(f).

12. *Amount in Controversy.* Right now a contracts disputes case can be appealed to a U.S. District Court only if the amount in controversy is $10,000 or *below.* 28 U.S.C. 1346(a)(2). H.R. 11002 would raise this maximum to $25,000. Section 15(a).

The Administrative Law Subcommittee began its work on this subject early in the 95th Congress. Numerous versions of contract disputes legislation were introduced. I sponsored one approach (H.R. 4793) and my able friend and colleague from Virginia (Mr. Harris) offered another (H.R. 3745). Yet another version (H.R. 664) was sponsored by Judiciary Committee Chairman Peter Rodino.

But while there were differences in details, all of us agreed that changes in the existing framework were essential Direct access, Government right of review, the powers and independence of the agency boards, the standards for judicial review, were all issues in controversy which were studied, and resolved through compromise. The result is a bill that strikes a fair and reasonable balance—a bill we all can support.

I urge the Members of this House to suspend the rules and pass H.R. 11002.

Mr. HARRIS. Mr. Speaker, will my colleague yield?

Mr. KINDNESS. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

I want to thank my colleague for his comments, his most gracious and generous comments. But I want to tell my colleague if he joins with me, we will have the great pleasure of seeing that this country at last has a Harris-Kindness bill. I think this country has needed a Harris-Kindness bill for a long time, and my colleague is equally important in bringing this great historical event to the country.

Mr. KINDNESS. The gentleman is very kind, and I would certainly suggest that when the two of us get together, there is something stirring.

Mr. HARRIS. Camp David had nothing on us.

Mr. KINDNESS. I thank the gentleman.

Mr. Speaker, I yield back the remainder of my time.

Mr. DANIELSON. Mr. Speaker, I have no further requests for time.

Mr. MOORHEAD of California. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Danielson) that the House suspend the rules and pass the bill, H.R. 11002, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS

Ms. HOLTZMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12509) to amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi government of Germany, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12509

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), relating to general classes of aliens ineligible to receive visas and excluded from admission, is amended—

(1) by striking out the period at the end of paragraph (32) and inserting in lieu thereof a semicolon; and

(2) by adding immediately after paragraph (32) the following new paragraph:

"(33) Any alien who during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

"(A) the Nazi government of Germany,

"(B) any government in any area occupied by the military forces of the Nazi government of Germany,

"(C) any government established with the assistance or cooperation of the Nazi government of Germany, or

"(D) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion."

(b) Section 212(d)(3) of such Act (8 U.S.C. 1182(d)(3)), relating to waiver of exclusions for certain nonimmigrants, is amended by striking out "(27) and (29)" and inserting in lieu thereof "(27), (29), and (33)" each place it appears.

Sec. 2. Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)), relating to general classes of deportable aliens, is amended—

(1) by striking out "or" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; or"; and

(3) by adding immediately after paragraph (18) the following new paragraph:

"(19) during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

"(A) the Nazi government of Germany,

"(B) any government in any area occupied by the military forces of the Nazi government or Germany,

"(C) any government established with the assistance or cooperation of the Nazi government of Germany, or

"(D) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion."

Sec. 3. Section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)), relating to withholding of deportation, is amended by inserting "(other than an alien described in section 241(a)(19))" after "The Attorney General is authorized to withhold deportation of any alien".

Sec. 4. Section 244(e) of the Immigration and Nationality Act (8 U.S.C. 1254(e)), relating to voluntary departure of aliens under deportation proceedings, is amended by striking out "or (18)" and inserting in lieu thereof "(18), or (19)".

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without

objection a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from New York (Ms. HOLTZMAN) will be recognized for 20 minutes, and the gentleman from New York (Mr. FISH) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge wholehearted support for this noncontroversial bill, which fills an unacceptable gap in our current immigration law. Since 1952 there has been no provision in our regular immigration law to exclude or deport Nazi war criminals who persecuted people for racial, religious, or other reasons. Enactment of this bill would close this loophole and put our Government squarely on record as denying sanctuary in the United States to Nazi war criminals.

The bill includes an amendment limiting the applicability of H.R. 12509, as reported out of the Committee on the Judiciary, to persons who engaged in persecution under the Nazis.

Mr. KASTENMEIER. Mr. Speaker, will the gentlewoman yield on that point?

Ms. HOLTZMAN. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, my recollection is that the bill as reported from the Committee on the Judiciary reports no such amendment. Where did the amendment come from?

Ms. HOLTZMAN. The bill as reported here contains an amendment that limits the language of the bill solely to those persons who engaged in war crimes under the direction of or in association with the Nazi government of Germany.

Mr. KASTENMEIER. Mr. Speaker, if the gentlewoman will yield further, in other words, what the gentlewoman is saying, this is not the same bill that passed the Committee on the Judiciary?

Ms. HOLTZMAN. This is the bill that passed the Committee on the Judiciary. It is being reported here with an amendment.

Mr. KASTENMEIER. The Committee on the Judiciary did not pass that particular amendment the gentlewoman is referring to?

Ms. HOLTZMAN. That is correct.

Mr. KASTENMEIER. So where did it come from?

Mr. EILBERG. Mr. Speaker, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Pennsylvania.

Mr. EILBERG. Mr. Speaker, the floor manager, under the rules of the House, has the power, as I understand, to offer an amendment to the bill. In fact, the amendment we are considering as a part of the bill before us was approved by the entire Subcommittee on Immigration, Citizenship, and International Law. There is no requirement that we go back to the full committee and amend the measure in the full committee.

Ms. HOLTZMAN. Mr. Speaker, if I may state to the gentleman from Wisconsin, the bill as amended has been discussed and cleared with all the members of the Subcommittee on Immigration, Citizenship, and International Law, the chairman and the ranking minority Member of the full Judiciary Committee and other members of the Committee on the Judiciary.

Mr. Speaker, with this amended language, the bill is virtually identical to H.R. 412 which I introduced earlier in this Congress, with the cosponsorship of over 100 Members of the House of Representatives. The bill provides grounds for exclusion, and direct authority for deportation, of any alien who, under the direction of or in association with the Nazi Government of Germany or its allies, persecuted any person, because of race, religion, national origin, or political opinion.

Let me state to my colleagues that the language of the bill is not new. Two prior laws—the Displaced Persons Act of 1948 and the Refugee Relief Act of 1953—contained language prohibiting the entry into the United States of persons who engaged in persecution on account of race, religion, or national origin. The term "persecution," itself has been in our immigration laws since 1917, and the volume of case law and administrative decisions interpreting this language is extensive.

The omission of such language from current law has hampered the Immigration Service's efforts to act against alleged Nazi war criminals. In fact, the Immigration Service presently has knowledge of suspected Nazi war criminals living in the United States against whom it cannot act, because of the loophole in the present law. Moreover, other persons who have engaged in Nazi war crimes cannot be prevented from freely entering the United States to live, visit, or conduct business. This obvious flaw must be corrected.

Consideration by the House of this legislation is especially appropriate at this time. This is a time of increased awareness of the horrors of the "Holocaust." This is a time when the inaction of our own Government over the last 25 years in proceeding against alleged Nazi war criminals living in the United States has become a matter of public record. This is a time of disturbing resurgence of Nazism and anti-Semitism worldwide—in the Soviet Union, in South America, and in other areas. This is a time when there is a greater consciousness throughout the world of the need to defend human rights. We cannot as a nation condone the presence in the United States of those who have engaged in these unspeakable acts of persecution, mass murder, and annihilation under the German Nazis regime.

Mr. Speaker, I would also like at this point to commend the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. EILBERG), who has worked tirelessly on the problem of Nazi war criminals in the United States and has shown determined leadership throughout. I would also like to commend my colleague, the gentleman from New York (Mr. FISH), for his fine efforts in this regard.

Mr. Speaker, the presence of Nazi war criminals in the United States constitutes the unfinished business of World War II. By taking a forthright stand against allowing these mass murderers a haven in this country, we will not only reaffirm our commitment to human rights but we will be making it clear that persecution in any form is repugnant to democracy and to our way of life.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Speaker, I rise in strong support of H.R. 12509, with the committee amendment. The enactment of this bill would serve as a clear reaffirmation of this country's commitment to the most basic of human rights—that is, the right to live one's life and practice one's belief without the fear of persecution.

Mr. Speaker, the purpose of this bill, which is cosponsored by all of the members of the Subcommittee on Immigration, Citizenship, and International Law, is to prevent the entry into, as well as facilitate the deportation from, the United States of aliens who have engaged in persecution based on race, religion, national origin or political opinion under the Nazis.

The bill has received the wholehearted support of both the Departments of State and Justice—the agencies which will be charged with its administration.

Mr. Speaker, this bill, as amended, is virtually identical to H.R. 412, the so-called Nazi war criminal bill, which is cosponsored by over 100 of my colleagues in this House. The bill would fill a highly undesirable gap in our current immigration statute, the Immigration and Nationality Act of 1952, by establishing additional grounds for exclusion and deportation of aliens based on engagement in war atrocities and other acts of persecution under Hitler's Third Reich.

The effect of the committee amendment is to limit the bill's applicability to persons who have engaged in persecution under the Nazis. It was felt that this language is preferable at this time pending further review of more expansive unqualified language.

Mr. Speaker, the unbelievable terror. destruction, and wholesale murder that took place at the hands of the Nazis should never be forgotten. Rather, that dreadful period in the history of mankind should forever serve as a tragic reminder to all civilized people of the terrible extremes to which an entire nation can be led by a small, but highly organized group of demented and ruthless leaders. This bill addresses itself to the members of that group—to the perpetrators of the "Holocaust."

Mr. Speaker, as a democracy committed to the idea of human rights, it is incongruous that our law does not already include the provisions of this bill. It is of the utmost importance that in the name of decency and democracy, we immediately address ourselves to this glaring deficiency in our immigration law.

Mr. Speaker, as many of my colleagues are aware, the Immigration and Naturalization Service has, as a result of public and congressional interest, given the problem of alleged Nazi war criminals in the United States the attention that it deserves. My subcommittee is monitoring that INS activity and I can assure my colleagues that the present effort shall be maintained. However, INS has been hampered by the omission in our law of the language of this bill. Passage of this measure will facilitate their work. Indeed right now the INS is aware of some cases of alleged Nazi war criminals residing in this country who, even if it were proved by unequivocal evidence, engaged in war atrocities, would not be deportable because of the lack of the statutory basis this bill provides.

Mr. Speaker, prior U.S. refugee enactments have contained language prohibiting the admission of "persecutors" into the United States. I urge my colleagues to resoundingly and unanimously approve this noncontroversial measure, and thereby announce to the world that the perpetrators of the devastation and inhuman oppression of the Third Reich are not welcome here.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding.

Mr. Speaker, I do want to congratulate the gentleman from Pennsylvania (Mr. EILBERG) and the gentlewoman from New York (Ms. HOLTZMAN) on the amended version of the bill. The reach of it is far less than that which was reported out of the full Committee on the Judiciary and which, the gentleman recalls, was opposed editorially in the Wall Street Journal and the New York Times because it would have reached people who may have persecuted others because of, among other things, political opinion. This I think restores the bill to the original intent, which was to reach the cases referred to by the gentlewoman from New York and by the gentleman from Pennsylvania. While I think some people, in principle, might even object to that, still I think in terms of what it represents it is a good bill.

Mr. EILBERG. I thank the gentleman for his comments, particularly since I am aware of the gentleman's objection in the full committee, and we have recognized the gentleman's objection by the amendment here included.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am happy to join with the gentlelady from New York (Ms. HOLTZMAN) and the gentleman from Pennsylvania (Mr. EILBERG) in support of the subcommittee's clean bill, H.R. 12509, as amended, to make persons guilty of persecution of others based on race, religion, national origin, or political opinion at the direction of the Nazi government or its allies, deportable or excludable from the United States. Yesterday, we advised our colleagues of our intent to restrict the scope of this bill to Nazi war criminals, as opposed to any person who persecutes.

The Immigration Service is presently proceeding against several alleged Nazi war criminals pursuant to the Displaced Persons Act of 1948 and the Refugee Relief Act of 1953. However, our permanent statute, the Immigration and Nationality Act, contains no language making persons guilty of such conduct deportable or excludable. Hence, it is necessary that we add this language to our permanent immigration laws.

It would be a statement that it is the policy of the United States to condemn such conduct.

The language contained in this bill is similar to the language defining persecution in section 203(a)(7) which defines refugees, and section 243(h), authorizing the attorney general to withhold deportation in certain cases. The Departments of State and Justice both support this bill.

I think it is important to point out that deportation under this amendment would not take place unless and until the Government proves the atrocities alledged by clear, convincing and unequivocal evidence.

I wish to congratulate the gentlewoman from New York (Ms. HOLTZMAN) who so effectively brought this matter to the attention of our subcommittee and the full House and secured over 100 cosponsors on her original bill H.R. 412, dealing with Nazi war criminals.

There has been criticism of the bill as originally reported as being too broad, raising potential future problems in its application. However, with the amendment to the bill which we now consider, this provision would be restricted in its application to those who engaged in persecution at the direction of the Nazi government.

Obviously, the passage of time makes the persons to whom this bill would apply a small and decreasing number. However, I feel this bill is a proper step to show our continuing condemnation of those perpetrators of the terrible holocaust.

I support the bill as amended, and urge an "aye" vote on the motion to suspend the rules and pass H.R. 12509.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 12509, Immigration and Nationality Act Amendments, legislation of which I am a cosponsor. I commend the Committee on the Judiciary, and particularly the distinguished subcommittee chairman (Mr. EILBERG), the ranking minority member, the gentleman from New York (Mr. FISH), and the gentlelady from New York (Ms. HOLTZMAN), for their diligent efforts in bringing this measure before the House. I support the committee amendment limiting the scope of this measure to those aliens engaged in persecution under the Nazis.

This legislation corrects a serious shortcoming in the Immigration and Nationality Act of 1952 which allowed certain individuals accused of Nazi war crimes to be admitted to this Nation. Passage of the measure now before us would establish under permanent U.S. immigration law provisions for the exclusion and deportation of aliens who engaged in the persecution under the Nazis of persons because of religion, race, national origin, or political opinion.

Also, under the terms of this proposal, entry of war criminals into this country would be prohibited.

This measure is a long overdue and well-fashioned device designed to plug a loophole in our immigration and naturalization laws which has allowed former Nazi officials residing in the United States to elude the preliminary steps which would bring them to justice for the heinous, inhumane crimes for which they are culpable.

The clear need for this legislation has been underscored recently by a report issued by the General Accounting Office following that agency's 17-month investigation into the relationship between the FBI and the CIA, and alleged Nazi war criminals. The report established that not only the FBI and the CIA, but also the Defense Department and the State Department, in one instance each, used these Nazi war criminals as "sources of information."

As a result of congressional pressure, action has now been undertaken by the Immigration and Naturalization Service against Nazi war criminals residing in the United States. A high-level task force directing the investigation and prosecution of these cases has been formed, and to date, seven denaturalization and five deportation actions have been initiated. The natural culmination of these efforts aimed at these Nazis would be passage of H.R. 12509.

Mr. Speaker, allegations of wartime atrocities have been directed at more than 200 persons living in this Nation. The memory of these odious crimes is such that it will sear the consciences of uncountable generations to come. The magnitude of these crimes clearly points out both to the survivors of the Holocaust and to the relatives of its victims, and to humankind now and in the future, that while the hands of man can create magnificent cathedrals, they can also construct the concentration camps in which millions of human beings were destroyed.

Mr. Speaker, passage of H.R. 12509 will put this Congress squarely on record as demanding that this Nation will under no circumstances be a sanctuary for individuals who have committed such inhumane crimes.

Accordingly, I urge my colleagues to support this long overdue measure in order to enable our courts to deal with Nazi war criminals as justice demands.

Mr. PRESSLER. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from South Dakota.

Mr. PRESSLER. Mr. Speaker I rise in strong support of this legislation.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Speaker, can the gentleman tell me how many persons will be affected by the bill as amended?

Mr. FISH. That we do not know because what the bill will do in part is to make excludable in the future any person who comes under the definition of Nazi war criminal who may apply for admission to the country.

Mr. WIGGINS. Let me refine my question: With respect to those who may be deportable as opposed to excludable, how many will be affected?

Mr. FISH. I heard reference to at least two cases of individuals whom we know about in the United States who entered under the immigration law and not under the laws I mentioned, the Refuge Relief Act or the Displaced Persons Act, and who are currently immune. That means just these two people are currently known. There may be others in the United States who may be affected.

Mr. WIGGINS. What are the names of the two people who will be affected?

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentlewoman from New York (Ms. Holtzman).

Ms. HOLTZMAN. Mr. Speaker, I think it would be wholly inappropriate to discuss the names of the particular cases under investigation. I do not know the names of the individuals involved in the cases. I would also say to my friend, the gentleman from New York, that there are over 200 investigations being conducted by the Immigration and Naturalization Service into allegations of suspected war criminals and further investigations will be conducted so it is impossible to say at this time how many persons would be deportable under the bill.

Mr. FISH. I thank the gentlewoman. That was my information, that the Immigration and Naturalization Service would not give out the names of those presently under investigation.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield the gentleman from California (Mr. Wiggins) 5 minutes.

Mr. WIGGINS. Mr. Speaker, I am here to voice my reluctant opposition to this bill. The amendments being proposed here today meet one of two major problems with the bill. As this bill left the Judiciary Committee, it was overbroad in its sweep, and that defect was noted by editorial comment in the New York Times and the Wall Street Journal. It was also noted, I might add, by a minority of the members of the Judiciary Committee when the bill passed that committee.

The bill as amended corrects the problem of overbreadth, but in doing so it exacerbates the second problem and that is whether or not this bill is in fact a bill of attainder and whether it is offensive to the ex post facto provisions of our Constitution.

The pending legislation directly implicates the limitations which the Constitution imposes upon Congress in article I, section 9. That section denies to Congress the power to enact a bill of attainder and an ex post facto law.

This bill is narrowly focused on a very limited number of persons whose identification is well known. I take exception to the statement made by the ranking members on both sides. I believe that the committee knows full well the names of the two individuals affected by this bill. For purposes of analysis therefore the situation is identical to the naming of individuals in this bill.

These two individuals apparently entered the United States lawfully. They have resided here so far as I know peacefully for many years. Their present status is either that of a citizen or that of a resident alien—I know not which.

The bill, if enacted, would subject these people to denaturalization and to deportation for conduct which occurred prior to their entry into the United States and which was not a bar to their entry at the time they came into this country. In short, we are legislating retroactively a significant penalty against those identifiable persons.

Is this a bill of attainder? I am not sure. Only a few cases have interpreted this part of our Constitution. In ex parte Garland, legislation directed against attorneys who participated in the rebellion was stricken as a bill of attainder.

In United States against Brown, a prohibition against Communists holding union office was also stricken.

It would seem clear, therefore, that the clause to which I refer applies to the denial of constitutional liberties, such as employment, as well as to the imposition of direct criminal penalties. Surely citizenship and a right to remain in the United States, after that right has been perfected, is a protected liberty of the highest order.

Also of concern is the ex post facto limitation.

It is accepted as Hornbook law that the ex post facto clause does not apply to deportation proceedings. Several cases have so held, although in the most recent case both Justices Douglas and Black dissented. The rationale of the majority adhered to the fiction that deportation is not punishment. Although the presence of punishment may be deemed essential under the ex post facto clause, it is not essential under the bill of attainder clause.

I might say to the Members that the status of these individuals as Nazis or former Nazis is utterly irrelevant to the constitutional question. It is my opinion, Mr. Speaker, that it is not necessary to decide these delicate and close questions which are, I admit, not free from doubt.

The marginal public benefit of deporting two or perhaps three old men who may have been Nazis 35 years ago does not warrant the risk of offending constitutional values which protect us all.

I urge a "no" vote on the bill.

Ms. HOLTZMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say to my colleagues that there is no statute of limitations on murder and there should be no statute of limitations on mass murder.

With respect to the arguments raised with regard to the ex post facto law, I think my colleague, the gentleman from California (Mr. Wiggins), is well aware that the Supreme Court has ruled specifically and explicitly that the Congress of the United States has the constitutional power to permit deportation of aliens retroactively.

Similarly, the portion of the bill dealing with deportation is in no way a bill of attainder. This bill applies to any person who committed war crimes under the Nazis and who lives in the United States. We do not know the exact number of persons the bill will reach.

Mr. WIGGINS. Mr. Speaker, will the gentlewoman yield?

Ms. HOLTZMAN. I would be happy to yield to the gentleman.

Mr. WIGGINS. The committee report says two.

Ms. HOLTZMAN. The committee report says that there are two persons who have been identified at this time, but the class of people who are subject to the bill is unknown in number. And I would say to my colleague that, given the stepped-up investigations of the Immigration and Naturalization Service with regard to Nazi war criminals, the number that can be expected to fall within this category is unknown and unpredictable. Perhaps the gentleman has a crystal ball and can read the future but I certainly cannot, and I cannot by any manner of means predict the number of people who will be found to come under the deportation provisions of this bill.

Mr. SEIBERLING. Mr. Speaker, will the gentlewoman yield?

Ms. HOLTZMAN. I yield 2 minutes to the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Speaker, I thank the gentlewoman for yielding me this time and I want to commend her particularly, and the gentleman from Pennsylvania, for their amendment to this bill which eliminates what I thought was a serious defect in the bill as reported out by the committee. Under the bill as reported out by the committee I would say a goodly proportion of the heads of states of the various nations of the world could not be admitted to the United States because in many cases—and what is going on in Nicaragua is an example—they have engaged in persecution of people for political and other reasons.

I would like to ask the gentlewoman from New York (Ms. Holtzman), however, for a clarification on one point here.

As written now, any person who, "under the direction of, or in association with the Nazi government of Germany," et cetera, "ordered, incited, assisted, or otherwise participated in the persecution" for the reasons stated, could be excluded or deported.

In a certain sense, the entire population of Germany, except for the resistance, participated in the persecution of Jews and others in Germany under the Nazi regime. I assume that it is not the intention to include all those who did not actively oppose the German Nazi regime actions within the sweep of this language; is that correct?

Ms. HOLTZMAN. If the gentleman will yield, Mr. Speaker, the bill is intended to cover active participation and not mere acquiescence by the population as a whole. The term persecution has been used in the Nuremberg trials. It has had ample definition in many prior immigration cases, I would tell the gentleman.

Mr. SEIBERLING. Would membership in the Nazi Party, standing by itself, constitute active participation?

Ms. HOLTZMAN. No.

Mr. SEIBERLING. Mr. Speaker, I thank the gentlewoman from New York, and I commend her for her initiative in seeking a clear legislative mandate to exclude from our country those who, by their active involvement in the unspeakable crimes of the Nazis, are a permanent affront to all decent and civilized human beings.

Ms. HOLTZMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. EILBERG.)

Mr. EILBERG. Mr. Speaker, I thank the gentlewoman for yielding.

I think it is important to say this in connection with the comments of the gentleman from California (Mr. WIGGINS), a very esteemed member of our full Committee on the Judiciary. He says that the bill before us now is in the nature of a bill of attainder.

I think the record ought to show that a bill of attainder is a legislative act which inflicts punishment on named individuals or easily ascertainable members of a group without the benefit of a judicial trial.

He refers to ex parte Garland, which held that attorneys could not be required to take an oath that they had taken no part in the Confederate rebellion against the United States.

Also, in the case of United States against Brown, the Supreme Court held void as a bill of attainder a statute making it a crime for a member of the Communist Party to serve as an officer or employee of a labor union.

Therefore, Mr. Speaker, it would seem to me that the bill before us is not a bill of attainder, and I certainly disagree with the interpretation of these cases which the gentleman from California (Mr. WIGGINS) places on them.

Mr. FISH. Mr. Speaker, I have no further requests for time and I reserve the balance of my time.

Ms. HOLTZMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I want to commend the gentlewoman from New York (Ms. HOLTZMAN) for the magnificent work she has done in this area.

I strongly urge the House to pass, as amended, the bill H.R. 12509, to amend the Immigration and Nationality Act. I am cosponsor of this important legislation to bar the immigration of those aliens who engaged in persecution under the Nazi regime. A bill, applying solely to Nazi war criminals, is necessary in order to close a loophole in the existing act. This loophole, has for too many years, allowed these criminals to find a sanctuary in the United States.

In 1977, the Immigration and Naturalization Service (INS) established a special litigation unit to process all cases of those accused of committing war crimes and other forms of persecution. As a result of the creation of this unit, the INS has now undertaken investigation of over 200 alleged cases of wartime atrocities. In the past, many of those criminals convicted of atrocities would be allowed to remain in the United States because current immigration law does not require their exclusion or deportation. With the enactment of this law, the Immigration Service will now be authorized to deport and exclude all those who persecuted others under the Nazi regime.

The United States must not continue to offer these criminals a haven from justice. The House has consistently pledged its support for upholding human rights, and our commitment to protect the violations of these rights around the world. Surely we must act now to redress this outstanding human rights violation which will forever be a mark in the history of mankind. I hope my colleagues will join with me in voting in favor of this legislation.

Ms. HOLTZMAN. Mr. Speaker, I have no further requests for time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. HOLTZMAN) that the House suspend the rules and pass the bill H.R. 12509, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. HOLTZMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 12509, just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

TRIBALLY CONTROLLED COMMUNITY COLLEGES

Mr. BLOUIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9158) to provide for grants to tribally controlled community colleges, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tribally Controlled Community College Assistance Act of 1978".

DEFINITIONS

(1) "Indian" means a person who is a member of an Indian tribe and is eligible to receive services from the Secretary of the Interior;

(2) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) "Secretary", unless otherwise designated, means the Secretary of the Interior;

(4) "tribally controlled community college" means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes, except that no more than one such institution shall be recognized with respect to any such tribe;

(5) "institution of higher education" means an institution of higher education as defined by section 1201(a) of the Higher Education Act of 1965, except that clause (2) of such section shall not be applicable;

(6) "national Indian organization" means an organization which the Secretary finds is nationally based, represents a substantial Indian constituency, and has expertise in the field of Indian education; and

(7) "full-time equivalent Indian student" means the number of Indians enrolled full-time, and the full-time equivalent of the number of Indians enrolled part-time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve) in each tribally controlled community college, calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term.

TITLE I—TRIBALLY CONTROLLED COMMUNITY COLLEGES

PURPOSE

SEC. 101. It is the purpose of this title to provide grants for the operation and improvement of tribally controlled community colleges to insure continued and expanded educational opportunities for Indian students.

GRANTS AUTHORIZED

SEC. 102. (a) The Secretary is authorized to make grants pursuant to this title to tribally controlled community colleges to aid in the postsecondary education of Indian students.

(b) Grants made pursuant to this title shall go into the general operating funds of the institution to defray the expense of activities related to education programs for Indian students. Funds provided pursuant to this title shall not be used in connection with religious worship or sectarian instruction.

ELIGIBLE GRANT RECIPIENTS

SEC. 103. To be eligible for assistance under this title, a tribally controlled community college must be one which—

(1) is governed by a board of directors or board of trustees a majority of which are Indians;

(2) demonstrates adherence to stated goals, a philosophy, or a plan of operation which is directed to meet the needs of Indians; and

(3) if in operation for more than one year, has students a majority of whom are Indians.

TECHNICAL ASSISTANCE CONTRACTS

SEC. 104. The Secretary shall provide, upon request, technical assistance to tribally controlled community colleges either directly or through contract. In the awarding of contracts for technical assistance, preference shall be given to an organization designated by the tribally controlled community college to be assisted. No authority to enter into contracts provided by this section shall be effective except to the extent authorized in advance by appropriations Acts.

FEASIBILITY STUDIES

SEC. 105. (a) The Secretary is authorized to enter into an agreement with the Assistant Secretary of Education of the Department of Health, Education, and Welfare to assist the Bureau of Indian Affairs in developing plans, procedures, and criteria for conducting the feasibility studies required by this section. Such agreement shall provide for continuing technical assistance in the conduct of such studies.

(b) The Secretary, within thirty days after a request by any Indian tribe, shall initiate a feasibility study to determine whether there is justification to encourage and maintain a tribally controlled community college, and, upon a positive determination, shall aid in the preparation of grant applications and related budgets which will insure successful operation of such an institution.

(c) Funds to carry out the purposes of this section for any fiscal year may be drawn from either—

(1) general administrative appropriations to the Secretary made after the date of enactment of this Act for such fiscal year; or

(2) not more than 10 per centum of the funds appropriated to carry out section 106 for such fiscal year.

GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES

SEC. 106. (a) Grants shall be made under this title only in response to applications by tribally controlled community colleges. Such applications shall be submitted at such time, in such manner, and will contain or be accompanied by such information as the Secretary may reasonably require pursuant to regulations. The Secretary shall not consider any grant application unless a feasibility study has been conducted under section 105 and it has been found that the applying community college will service a reasonable student population.

(b) The Secretary shall consult with the Assistant Secretary of Education of the Department of Health, Education, and Welfare to determine the reasonable number of students required to support a tribally controlled community college. Consideration shall be given to such factors as tribal and cultural differences, isolation, the presence of alternate education sources, and proposed curriculum.

(c) Priority in grants shall be given to institutions which are operating on the date of enactment of this Act and which have a history of service to the Indian people. In the first year for which funds are appropriated to carry out this section, the number of grants shall be limited to not less than eight nor more than fifteen.

(d) In making grants pursuant to this section, the Secretary shall, to the extent practicable, consult with national Indian organizations and with tribal governments chartering the institutions being considered.

(e) The Secretary shall report to Congress on January 15 of each year the current status of tribally controlled community colleges and his recommendations for needed action.

AMOUNT OF GRANTS

SEC. 107. (a) Except as provided in section 110, the Secretary shall, for each academic year, grant to each tribally controlled community college having an application approved by him, an amount equal to $4,000 for each full-time equivalent Indian student in attendance at such college during such academic year, as determined by the Secretary in accordance with such regulations as he may prescribe, except that no grant shall exceed the total annual cost of the education program provided by such college.

(b) The Secretary shall make payments, pursuant to grants under this title, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

(c) (1) Each institution receiving payments under this title shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may request.

(2) The Secretary shall, in consultation with the National Center for Education Statistics, establish a data collection system for the purpose of obtaining accurate information with respect to the needs and costs of operation and maintenance of tribally controlled community colleges. The Secretary shall report annually to the Congress on such needs.

EFFECT ON OTHER PROGRAMS

SEC. 108. Except as specifically provided in this title, eligibility for assistance under this title shall not, by itself, preclude the eligibility of any tribally controlled college to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

APPROPRIATIONS AUTHORIZED

SEC. 109. (a) (1) There are authorized to be appropriated, for carrying out section 106, $25,000,000 for each of the fiscal years beginning October 1, 1979, and October 1, 1980, and $30,000,000 for the fiscal year beginning October 1, 1981.

(2) There are authorized to be appropriated $3,200,000 for each of such three fiscal years, for the provision of technical assistance pursuant to section 104.

(b) Unless otherwise provided in appropriations Acts, funds appropriated pursuant to this section shall remain available until expended.

(c) Nothing in this title shall be deemed to authorize appropriations for the fiscal year beginning October 1, 1978.

GRANT ADJUSTMENTS

SEC. 110. (a) If the sums appropriated for any fiscal year for grants under this title are not sufficient to pay in full the total amounts which approved grant applicants are eligible to receive under this title for that fiscal year, the amounts which such applicants are eligible to receive under this title for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for the same fiscal year, such reduced amounts shall be increased on the same basis as they were reduced. Sums appropriated in excess of the amount necessary to pay in full such total eligible amounts shall be allocated by ratably increasing such total eligible amounts.

(b) In any fiscal year in which the amounts for which grant recipients are eligible to receive have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for reallocation to eligible grantees on a basis proportionate to the amount which is unfunded as a result of the ratable reduction, but no grant recipient shall receive, as a result of such reallocation, more than the amount provided for under section 106(a) of this title.

REPORT ON CURRENT FACILITIES

SEC. 111. The Secretary shall, not later than ninety days after the date of enactment of this Act, prepare and submit a report to the Congress containing a survey of existing and planned physical facilities of tribally controlled community colleges, including in his report a survey of Bureau of Indian Affairs existing and planned facilities which may be used for tribally controlled community colleges without disruption of current Bureau programs.

STUDY OF FACILITIES NEEDS

SEC. 112. The Secretary shall conduct a detailed survey and study of the academic facilities needs of tribally controlled community colleges and shall report to the Congress not later than November 1, 1979, the results of such survey and study. Such report shall include any recommendations or views submitted by the governing body of any such college and by the governing body of the tribe, and shall include detailed recommendations by the Secretary as to the number, type, and cost of academic facilities which are required, ranking each such required facility by relative need.

MISCELLANEOUS PROVISIONS

SEC. 113. (a) The Navajo Tribe shall not be eligible to participate under the provisions of this title.

(b) (1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specfic Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this title held by an institution determined to be in violation of paragraph (1).

RULES AND REGULATIONS

SEC. 114. (a) Within four months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national Indian organizations to consider and formulate appropriate rules and regulations for the conduct of the grant program established by this title.

(b) Within six months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(c) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations for the conduct of the grant program established by this title.

(d) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of this Act.

TITLE II—NAVAJO COMMUNITY COLLEGE

SHORT TITLE

SEC. 201. This title may be cited as the "Navajo Community College Assistance Act of 1978".

CONGRESSIONAL FINDINGS

SEC. 202. The Congress after careful study and deliberation, finds that—

(1) the Navajo Tribe constitutes the largest American Indian tribe in the United States;

(2) the Navajo Tribe has, through its duly constituted tribal council and representatives, established a community college within the boundaries of the reservation;

(3) the population of the Navajo Tribe and the best area of the Navajo reservation requires that the Navajo Community College expand to better serve the needs of such population; and

(4) the Congress has already recognized the need for this institution by the passage of the Navajo Community College Act.

AMENDMENT

SEC. 203. (a) The Navajo Community College Act (25 U.S.C. 640c) is amended by striking out section 4 and inserting in lieu thereof the following:

"STUDY OF FACILITIES NEEDS

"SEC. 4. (a) The Secretary shall conduct a detailed survey and study of the academic facilities needs of the Navajo Community College, and shall report to the Congress not later than August 1, 1979, the results of such survey and study. Such report shall include any recommendations or views submitted by the governing body of such College and by the governing body of the Navajo tribe, and shall include detailed recommendations by the Secretary as to the number, type, and cost of academic facilities which are required, ranking each such required facility by relative need.

"(b) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of the Tribally Controlled Community College Assistance Act of 1978.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 5. (a) (1) For the purpose of making construction grants under this Act, there are hereby authorized to be appropriate such sums as may be necessary for the fiscal year beginning October 1, 1979, and for the two succeeding fiscal years.

"(2) Sums appropriated pursuant to this subsection for construction shall, unless otherwise provided in appropriations Acts, remain available until expended.

"(b) (1) There is further authorized to be appropriated for grants to the Navajo Community College, for any fiscal year beginning on or after October 1, 1979, for operation and maintenance of the college, an amount equal to $4,000 for each full-time equivalent Indian student (determined in accordance with section 2(7) of the Tribally Controlled Community College Assistance Act of 1978) which the Secretary of the Interior estimates will be in attendance at such college during such year.

"(2) No grant under this subsection shall exceed—

"(A) $4,000 for each such full-time equivalent Indian student in actual attendance at such college; or

"(B) the total annual cost of the education program provided by such college, whichever is less.

"(3) The Secretary shall make payments pursuant to grants under this subsection, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

"(c) The Secretary of the Interior is authorized and directed to establish by rule procedures to insure that all funds appropriated under this Act are properly identified for grants to the Navajo Community College and that such funds are not commingled with appropriations historically expended by the Bureau of Indian Affairs for programs and projects normally provided on the Navajo Reservation for Navajo beneficiaries.".

(b) Nothing in this title or in the amendment made by this title shall be deemed to authorize appropriations for the fiscal year beginning October 1, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. QUIE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. BLOUIN) and the gentleman from Minnesota (Mr. QUIE) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Iowa (Mr. BLOUIN).

Mr. BLOUIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 9158, the Tribally Controlled Community College Assistance Act of 1978. There is absolutely no question in my mind that the legislation we are about to consider is vital. I say this, even though my own States does not stand to gain a thing from it. It is the final component of a legislative package that was formulated by the Education and Labor Committee through a special Advisory Group on Indian Education—an advisory group that conducted 18 months of the most comprehensive research and oversight ever given to this field.

If there is one thing I have learned over these past months as chairman of this group, it is that Indian education is a complex issue which is not given to simplistic or radical solutions. To truly understand and appreciate education for Indians, you have to visit reservations. You have to see, firsthand, the isolation and hardships, both physical and economic, to be endured. You have to sit in on tribal council meetings and speak through interpreters. You have to visit the fledgling community colleges—schools with names like Little Hoop, Sinte Gleska, Inupiat, Lame Deer. Names that evoke the very heart of Indian culture, traditions, pride, and aspirations.

In order to gain an understanding of the Indian's love for his land, his tribe, and his family, one must personally observe the way that the tribes have sacrificed to provide these; first toward postsecondary education for their young people. It will also put to rest the fallacy that he only wants to take from this country and not contribute. These schools are for breaking down walls, not building them.

This bill which is based on the special relationship between the Indian nations and the United States, is vital to this effort. Because the Federal Government controls Indian lands—to the great benefit of the country from oil, uranium, coal, timber, and grazing exploitation—and because Federal law mandates that these lands are tax exempt, there is no base for these schools to achieve financial stability. For one reason or another, the States have washed their hands of these Indian students. The attitude appears to follow the adage of "out of sight, out of mind." These funds will allow the schools to be financially secure and will hasten accreditation.

The bill, basically, has three parts. The first part authorizes grants on a per capita basis per full-time equivalent Indian student—others do attend, however—for basic support of schools. The grants were made on a per capita basis to insure that accreditation would be fostered by giving funding stability. However, a caveat against abuse was added so that the funds will be no more than those needed for the program.

These grants would be made only after an intensive feasibility study by the Secretary to insure that a quality education would be offered to a reasonable number of students, which are not being currently served by an institution of this type. Tests have shown that more than any other group, Indian students can achieve, if in a setting which is not alien or hostile. For this reason, community schools, not distant boarding or State facilities, is the aim of this legislation.

The second thrust of this bill is to provide information for the Congress. The Secretary is to carry out a needs assessment for construction for these schools. No money is authorized for construction. This will just let Congress get a handle on the problem.

The third thrust of the bill deals with a unique Indian institution: the Navajo Community College. This large, accredited and respected school is a classic example of what this legislation will accomplish. Though begun by the Navajo Tribe, its golden age began with legislation similar to H.R. 9158 which was enacted in 1971. Its graduates have served both the tribe and the country proudly.

This section calls for a study of construction needs by the Secretary of the Interior and, subject to recommendations to Congress and congressional action, funds to meet those needs.

The recommendations of the Secretary, based on his research of needs, are to be directed toward the building of academic facilities for satellite schools; that is, community branches located throughout the reservation. However, the needs assessment itself is to be broad and should include all needs of NCC, including dormitories. This needs assessment, when forwarded to the appropriate committees of Congress, will allow the committees to judge future needs based on solid data.

Additionally, general operating funds, along the lines of the first title, are authorized.

I am proud to have worked with Chairman PERKINS, Mr. QUIE, Mr. UDALL, and so many others on this bill. I am happy to be able to say that this is a truly bipartisan effort. I am proud that the Senate, which passed a similar bill unanimously last year, ratifies our work. I have been told by Senator ABOUREZK that they await our action and will gladly accept the House version.

Mr. Speaker, in closing I ask you to reflect for a moment. There is an entire segment of American youth which, at this moment, is literally being wasted because of a lack of opportunity. When such a small national investment would be needed to yield such a large return, I do not think the country can afford such waste.

Mr. Speaker, at this point I would like to insert into the RECORD the text of the letter of Senator ABOUREZK to Chairman PERKINS, dated September 25.

The letter is as follows:

U.S. SENATE,
Washington, D.C., September 25, 1978.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that on Tuesday, September 26, the full House is scheduled to consider H.R. 9158, the tribally controlled community colleges bill.

The intent of this letter is to inform you that we have reviewed the Committee-reported version and my recommendation to the Senate will be to accept the House Committee amendments when passed by the House and referred back to the Senate for approval.

The Select Committee on Indian Affairs and the House Advisory Study Group on Indian Education have worked long and hard with Indian tribes and Indian organizations to develop this legislation to the point where it is acceptable to all affected.

You may be assured that when the House acts favorably on H.R. 9158 and refers it back to the Senate, we will move expeditiously to approve the amendments and forward it to the President for signature.

With all good wishes, I remain
Sincerely yours,
JAMES ABOUREZK,
Chairman.

Mr. QUIE. Mr. Speaker, I yield 5 minutes to the gentleman from South Dakota (Mr. PRESSLER).

Mr. PRESSLER. Mr. Speaker, I rise in strong support of this bill.

A few weeks ago I was honored to be the commencement speaker at the Pine Ridge Reservation at the Oglala Sioux Community College graduation. I realized how important this legislation is, not only to South Dakota, but to our Nation.

Mr. Speaker, I want to strongly commend the gentleman from Iowa (Mr. BLOUIN) and the gentleman from Minnesota (Mr. QUIE) for their visits to South Dakota this year. There certainly are no votes for them there. I thank them for their patience in spending, I think, two weekends, when many Americans are taking the weekend off. I commend them for the work that they and others of the staff of the House Advisory Study Group on Indian Education, of which I am a member, have done on this particular bill.

I also want to thank Senator ABOUREZK for his letter to Chairman PERKINS.

I might say that the unemployment problem and increasing employment opportunities for young people has been a principal goal of mine to try to solve. In South Dakota we have an out-migration by so many of our young Indians who go to urban areas, such as Minneapolis or elsewhere, where they find they live in Indian ghettos and are not accepted. They then wish to return to the reservations. They in turn find that there is not sufficient employment.

We had a CETA amendment which we successfully sought the other day to put special emphasis on the problems of the lack of industrialization in a permanent job group; so we need to address both education and development of jobs on our Indian reservations, both near and off Indian reservations.

I have just this morning spoken with Lionel Bordeaux from South Dakota, a leader in this area and president of Sinte Gleska College on the Rosebud Reservation, who talked of the need in community colleges of developing nursing and other types of both vocational and higher education.

I also advocate the concept of Operation Bootstrap, a bill that I have introduced, that would provide major tax credits similar to those used in Puerto Rico to develop permanent-type jobs on Indian reservations. They could use the graduates of such colleges and utilize their skills; but most important was a sense of pride that I sensed when I was honored to be the graduation speaker in Pine Ridge, a sense that here is an opportunity for persons, young, middle-aged and old, to attend a college that has great relevance, that recognizes the culture, and that will prepare people for jobs that will exist.

Mr. Speaker, I rise in strong support of this legislation. I thank both the majority and the minority staff and the leadership of the Advisory Study Group on Indian Education, the gentleman from Iowa (Mr. BLOUIN), and the gentleman from Minnesota (Mr. QUIE), for the interest they have shown.

Mr. BLOUIN. Mr. Speaker, will the gentleman yield on that point?

Mr. PRESSLER. I yield to the gentleman from Iowa.

Mr. BLOUIN. Mr. Speaker, I do want to commend the gentleman from South Dakota (Mr. PRESSLER) for his involvement in this legislation and the support he and his staff have given us consistently over the past year to wrap this thing to the best likings of the Indian nations around the country. I commend the gentleman for his work.

Mr. QUIE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of this very important and long overdue legislation. H.R. 9158, the Tribally Controlled Comunity College Assistance Act of 1978, would provide for the first time a specific Federal commitment to the postsecondary needs of Indian nations.

There are several reasons why I believe the time is right for passage of this legislation. Over the last 2 years Education and Labor Committee has conducted a thorough and comprehensive study into the educational needs of Indians at all levels. H.R. 9158, which the House is considering today, is our best effort at addressing what we see are the most pressing educational needs.

The most evident need is a lack of any stable funding source to operate and maintain these tribally controlled community colleges. Unlike the Nation's other community and junior colleges these tribally controlled community colleges are located on nontaxable reservation lands and do not enjoy the funding derived from local revenues which nonreservation institutions use for operational support.

The American Association of Community and Junior Colleges (AACJC), the organization representing 90 percent of the Nation's community colleges, supports enactment of H.R. 9158, not because they see this as a precedent for a Federal commitment to institutional assistance, but because they too, recognize the unique problem of no tax-base which the tribally controlled community colleges suffer from.

There are over 20 known tribally controlled community colleges. Only two have gained accreditation. The lack of a stable source of basic funding has impeded more of these institutions from working toward accreditation.

The case can be made, I believe, that tribally controlled community colleges have a unique relationship to the Federal Government. This relationship would not be unlike that which already exists between the Federal Government and institutions like Gallaudet College and Howard University. Federal support that was channeled to the land grant colleges through the Morrill Act of 1862 provides another clear example of the historically accepted and well-recognized role the Federal Government plays in aiding selected institutions of postsecondary education.

Why should the tribally controlled community colleges be added to the few who are receiving Federal aid? Despite the many arguments about our political, moral and social responsibility to native Americans, I believe the strongest case is made for our legal responsibility.

The Federal Government has been involved since the Revolutionary War through treaty, statute and formal agreements, in an ongoing relationship of assistance to the native American Although many of the time frames for the treaties are expended, the intent expressed in those treaties finds its continuation in many of the acts which are administered today by the Bureau of Indian Affairs. The Snyder Act of 1921 (25 U.S.C. 13) stipulates that the Bureau of Indian Affairs "direct, supervise and expend moneys as Congress may appropriate for the benefit, care and assistance of Indians for the following general purposes: general support and civilization, including education."

To date, the greatest educational needs of Indian youth have been primarily at the elementary and secondary levels. As those students have completed those educational requirements, the need for additional educational assistance on the Federal level has become more pronounced. The recently released GAO report entitled "The Bureau of Indian Affairs Should Do More To Help Educate Indian Students" recommends that the Bureau provide better and more adequate postsecondary education opportunities to Native Americans. H.R. 9158 will provide that assistance not only by giving Native Americans the educational opportunity which they readily need, but by allowing their participation in shaping the future direction of their colleges consistent with the intent of the Indian Self-Determination and Educational Assistance Act (Public Law 93-638).

H.R. 9158 authorizes the Secretary of Interior to provide for the basic operation of tribally controlled community colleges. Title I provides for grants in the amount of $4,000 for each full-time equivalent Indian student in attendance at the institution. An institution is eligible to receive money under the title only after they have demonstrated to the satisfaction of the Secretary of Interior that there is an existing need for such services. The bill provides no construction authorization under title I. The original bill, which was amended in full committee, did provide for construction moneys. The construction authorization was unacceptable to the administration and a compromise netted the existing package which requires the Secretary to conduct a detailed survey of existing and planned facilities and to submit to the Congress a report on his findings by November 1, 1979.

Also included under this title is a technical assistance provision which gives the Secretary authority to provide assistance to tribally controlled community colleges, either directly or by contract, upon their request. The authorization level for this title is $25 million for the first 2 years and $30 million for the third year.

Title II is a reauthorization of Public Law 92-189, the Navajo Community College Assistance Act of 1971. For each full-time equivalent Indian student in attendance at the institution, the Secretary is directed to pay to the Navajo Community College $4,000. A "such sums" authorization is provided under title II for any academic facilities the Secretary deems are necessary after he conducts a survey of need at the Navajo Community College.

I urge each Member to consider favorably this legislation which will assist the Indian nations in securing local postsecondary educational opportunities for Indian students.

● Mr. UDALL. Mr. Speaker, I rise in support of H.R. 9158, the Tribally Controlled Community College Assistance Act. I wish to say just a few words in support of this bill.

When Congress passed Indian self-determination legislation several years ago, we said that Indians have the right to control their own lives, and the right to pass Indian cultures on to future generations. This bill would give Indian tribes the financial ability to do so. By providing tribes with funds to operate community colleges, schools which are fully a part of the tribal environment, we can be sure that Indians will receive the education they need without being submerged in an alien culture.

Young Indians who travel to large universities hundreds of miles from home face problems different from those of the usual college freshmen. They suffer from cultural shock, they are often not yet fully prepared to compete in the outside world, they often lack the financial resources needed to survive, and they lose the cultural bonds which tie them to their people.

Indian community colleges perform the vital role of allowing the tribes of America to educate their youth, within the tribal culture, and within the family structure, at a reduced cost.

In past years, in my home State of Arizona, Navajos and Hopis from the far north of the State had to travel great distances to Flagstaff, Phoenix, or Tucson in order to get an education.

Today, Navajos can go to the Navajo Community College, and Hopis and Navajos can go to Ganado College, but these schools cannot accommodate every student who wishes to attend. And they cannot handle the large number of potential students, many of whom are married, have children and fiancial responsibilities, and who simply cannot afford to go away to school to obtain a much needed education.

It is my understanding, and I hope that Mr. BLOUIN will correct me if I am wrong, that the provisions of this bill as we have it today would not exclude funds being allocated to Ganado College. For those of my colleagues who are not familiar with Ganado, it is a small, private school located in Arizona, serving primarily the Hopi and Navajo Tribes. It has a majority of Indian students, is controlled by an Indian board of directors, and has a statement purposes consistent with that required by this bill.

In addition, Ganado has entered into an agreement with the Hopi Tribe, in which the tribe sanctions Ganado College and supports its participation in this program. We have to wait for regulations to come out of BIA, and not every school will be supported every year, but nothing in this bill, and nothing in the committee report, can be taken to exclude Ganado. I hope that the BIA will fully consider Ganado when it gets around to recommendations under this legislation, and I urge my colleagues to support this bill.●

● Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 9158, the Tribally Controlled Community College Assistance Act of 1978.

Indian community colleges are uniquely dependent on Federal educational aid. Not only is their access to State and local funding virtually nonexistent, but the economically depressed environment of the reservation makes it nearly impossible to function without substantial Federal help. Lacking a tax base or other means of stable financing, these colleges have reached a point in their development where they require the kind of support embodied in H.R. 9158.

Many tribes have chosen the community college system as a means of strengthening the reservation by encouraging educational and social development within the community. Reservations have always been plagued with migrations of young talent away from the community. Upgrading the quality of the colleges will encourage development within the reservation and discourage the exodus of young adults which has left many reservations stagnant and unproductive.

In addition, the community college philosophy—to provide services to the community, close to home—is particularly appropriate for reservations. Because of geographic isolation, economic hardship, and cultural differences, the Indian community colleges are serving a large segment of the Indian population who otherwise would be totally cut off from postsecondary educational opportunities. The colleges have a tremendous potential for eliminating some of the adverse social conditions of the reservation.●

The SPEAKER pro tempore (Mr. SISK). The question is on the motion offered by the gentleman from Iowa (Mr. BLOUIN) that the House suspend the rules and pass the bill, H.R. 9158, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BLOUIN. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from further consideration of the Senate bill (S. 1215) to provide for grants to tribally controlled community colleges, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tribally Controlled Community College Assistance Act of 1977".

DEFINITIONS

SEC. 2. For purposes of this Act, the term

(1) "Indian" means a person who is a member of an Indian tribe and is eligible to receive services from the Secretary of the Interior;

(2) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) "Secretary", unless otherwise designated, means the Secretary of the Interior;

(4) "tribally controlled community college" means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes;

(5) "institution of higher education" means an institution of higher education as defined by section 1201(a) of the Higher Education Act of 1965, except that clause (2) of such section shall not be applicable;

(6) "national Indian organization" means an organization which is nationally based, represents a substantial Indian constituency, and has expertise in the field of Indian education; and

(7) "Indian full-time equivalent student" means the number of Indians enrolled full-time, and the full-time equivalent of the number of Indians enrolled part-time, in each tribally controlled community college.

TITLE I—TRIBALLY CONTROLLED COMMUNITY COLLEGES

PURPOSES

SEC. 101. It is the purpose of this title to provide grants for the planning and development, operation, and improvement of tribally controlled community colleges to insure continued and expanded higher educational opportunties for Indian students.

GRANTS AUTHORIZED

SEC. 102. (a) The Secretary is authorized to make grants pursuant to this title to tribally controlled community colleges to aid in the postsecondary education of Indian students.

(b) Grants made pursuant to this section may be used for the planning and development of educational programs and activities, basic operational costs, employment of instructional and administrative personnel, curriculum development, student services, and community service programs of tribally controlled community colleges. Funds provided pursuant to this title shall not be used in connection with religious worship or sectarian instruction.

ELIGIBLE GRANT RECIPIENTS

SEC. 103. To be eligible for assistance under this title a tribally controlled community college shall—

(1) be governed by a board of directors or board of trustees a majority of which are Indians;

(2) demonstrate adherence to a stated philosophy, stated goals, or a plan of operation which primarily serves American Indians;

(3) have a majority of students who are American Indians.

TECHNICAL ASSISTANCE

SEC. 104. The Secretary shall provide, upon request, technical assistance to tribally controlled community colleges either directly or through contract. In the awarding of contracts for technical assistance, preference shall be given to an organization designated by the tribally controlled community college to be assisted, or in the event the college does not designate such organization the Secretary shall give preference to Indian organizations.

FEASIBILITY STUDIES

SEC. 105. (a) The Secretary is authorized, upon the request of an Indian tribe to assist in the planning and development of feasibility studies to determine whether there is justification to start and maintain a tribally controlled community college.

(b) The Secretary, within thirty days after a request by an Indian tribe, shall initiate such feasibility study, and upon a positive determination, aid in the preparation of grant applications and related budgets which will insure successful operation of such college.

(c) The Secretary shall consult with the tribal government chartering the college being considered and to the extent practicable with national Indian organizations to determine the reasonable number of students required to support such tribally controlled community college. The Secretary shall consider such factors as tribal and cultural differences, isolation, and proposed curriculum.

(d) This section does not apply to a tribally controlled community college which meets the eligibility requirements in section 103.

(e) Funds to carry out the provisions of this section for any fiscal year may be drawn from—

(1) general administrative appropriations to the Secretary made after the date of enactment of this Act for such fiscal year; or

(2) not more than 10 per centum of the funds appropriated to carry out section 106 for such fiscal year.

(f) The Secretary shall consult with Indian tribes and national Indian organizations in developing plans, procedures, and criteria for conducting the feasibility studies required by this section.

GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES

SEC. 106. (a) Grants shall be made under this title only upon application by tribally controlled community colleges.

(b) Priority in grants shall be given to tribally controlled community colleges which are operating on the date of enactment of this Act and which have a history of service to the Indian people.

(c) The Secretary shall report to Congress on January 15 of each year the current status of tribally controlled community colleges and his recommendations for needed action.

GRANT FORMULA AND PAYMENTS

SEC. 107. (a) Each fiscal year the Secretary shall grant to each tribally controlled community college having an approved application, the aggregate of $125,000 plus an additional amount of $5,850 for each Indian full-time equivalent student in attendance at such institution.

(b) With respect to grants made after the first full fiscal year following the date of enactment of this Act, the Secretary may increase the per student amounts specified in subsection (a) of this section to reflect increases in costs beyond the control of the tribally-controlled community colleges.

(c) The Secretary may make payments pursuant to grants under this title in advance installments, not less than 50 per centum of the annual allocation to the eligible college, based on anticipated or actual numbers of Indian full-time equivalent students or such other factors as the Secretary determines to be appropriate with such adjustments for previous overpayments or underpayments, as may be necessary.

EFFECT ON OTHER PROGRAMS

SEC. 108. Eligibility for assistance under this title shall not supplant eligibility to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions. Eligibility under this title shall not reduce the level of funding for such programs. Assistance under any program authorized by such Higher Education Act of 1965 or any other program for which the Commissioner of Education, Department of Health, Education, and Welfare, has responsibility for administration, either by statute or by delegation shall be considered as supplemental to the assistance authorized under this title.

REPORT ON FACILITIES

SEC. 109. (a) The Secretary shall, not later than ninety days after the date of enactment of this Act, prepare and submit to the Congress a report containing a survey of existing and planned physical facilities of tribally-controlled community colleges together with his recommendations concerning meeting the needs of such institutions for improved and additional facilities, including a survey of existing and planned Bureau of Indian Affairs facilities which may be used for tribally controlled community colleges without disruption of current Bureau programs.

(b) The report under this section shall be done in consultation with Indian tribes and national Indian organizations.

APPROPRIATIONS AUTHORIZED

SEC. 110. (a) (1) There is authorized to be appropriated $30,000,000 for the first fiscal year beginning after the enactment of this Act and for the next succeeding fiscal year, and $35,000,000 in the third fiscal year following such date of enactment. The amount of such authorizations for fiscal years following the first full fiscal year after enactment of this Act shall be increased by the amount of any portions of the authorization available for the prior fiscal year for which funds were not appropriated.

(2) There is authorized to be appropriated in the fourth fiscal year following the date of enactment of this Act any unappropriated portion of the authorization available for the third such fiscal year.

(b) There are authorized to be appropriated $3,200,000, in the aggregate, for the provision of technical assistance grants to section 104 of this title.

(c) Unless otherwise provided in appropriations Acts, funds appropriated pursuant to this section shall remain available until expended.

(d) Funds appropriated pursuant to this section shall not be expended for any other purpose except as authorized in this title.

GRANT ADJUSTMENTS

SEC. 111. (a) If the sums appropriated for any fiscal year for grants under this title are not sufficient to pay in full the total amounts which approved grant applicants are eligible to receive under this title for that fiscal year, the amounts which such applicants are eligible to receive under this title for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for the same fiscal year, such reduced amounts shall be ratably increased. Sums appropriated in excess of the amount necessary to pay in full such total eligible amounts shall be allocated by ratably increasing such total eligible amounts.

(b) In any first year in which the amounts for which grant recipients are eligible have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for reallocation to eligible grantees on a basis proportionate to the amount which is unfunded as a result of the ratable reduction, except that no grant recipient shall receive more than the amount provided for under section 107(a) of this title.

RULES AND REGULATIONS

SEC. 112. (a) Within four months after the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with Indian tribes and national Indian organizations to consider and formulate appropriate rules and regulations for the conduct of the grant program established by this title.

(b) Within six months after the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(c) Within ten months after the date of enactment of this Act, the Secretary shall promulgate rules and regulations for the conduct of the grant program established by this title.

MISCELLANEOUS PROVISIONS

SEC. 113. (a) The Navajo Tribe shall not be eligible to participate under the provisions of this title.

(b) (1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this title held by an institution determined to be in violation of paragraph (1).

TITLE II—NAVAJO COMMUNITY COLLEGE

SEC. 201. Section 4 of the Act entitled "An Act to authorize grants for the Navajo Community College, and for other purposes", approved December 15, 1971 (85 Stat. 646), is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 4. (a) For the purpose of making grants under this Act, there is hereby authorized to be appropriated for each of the fiscal years 1979, 1980, 1981, 1982, and 1983, the sum of $10,500,000 for construction, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations from 1977 construction costs as indicated by engineering cost indexes applicable to the types of construction involved.

"(b) There is further authorized to be appropriated to the Navajo Community College, for operation and maintenance of the college, for each fiscal year an amount equal to $5,850 for each Indian full-time equivalent student in attendance at such college.

"(c) The Secretary of the Interior is authorized and directed to establish by rule procedures to insure that all funds appropriated under this Act are properly identified for grants to the Navajo Community College and that such funds are not commingled with appropriations historically expended by the Bureau of Indian affairs for programs and projects normally provided on the Navajo Reservation for Navajo beneficiaries.

"(d) Sums appropriated pursuant to this section for construction shall remain available until expended.".

MOTION OFFERED BY MR. BLOUIN

Mr. BLOUIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Blouin moves to strike out all after the enacting clause of S. 1215 and to insert in lieu thereof the text of H.R. 9158, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 9158) was laid on the table.

AMATEUR SPORTS ACT OF 1978

Mr. DANIELSON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2727) to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for U.S. amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes, as amended.

The Clerk read as follows:

S. 2727

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Amateur Sports Act of 1978".

OLYMPIC COMMITTEE REORGANIZATION

Section 1. (a) The Act entitled "An Act to incorporate the United States Olympic Association", approved September 21, 1950 (36 U.S.C. 371 et seq.), hereinafter in this Act referred to as "the Act", is amended in the first section—

(1) by striking out "That the following persons, to wit:" and inserting in lieu thereof the following:

"TITLE I—CORPORATION

"Sec. 101. The following persons to wit:";

(2) in the first sentence by striking out "corporation" before the period and inserting in lieu thereof "Corporation"; and

(3) by amending the last sentence thereof to read as follows: "The Corporation shall maintain its principal offices and national headquarters in such place in the United States as is determined by the Corporation, and may hold its annual and special meetings in such places as the Corporation shall determine.".

(b) The Act is further amended by striking out sections 2 through 12 and inserting in lieu thereof the following:

"Sec. 102. A majority of the persons named in section 101 of this Act, or their successors, are hereby authorized to meet to complete the organization of the Corporation by the adoption of a constitution and bylaws, the election of officers, and by doing all things necessary to carry into effect the provisions of this Act.

"Sec. 103. As used in this Act, the term—

"(1) 'amateur athlete' means any athlete who meets the eligibility standards established by the national governing body for the sport in which the athlete competes;

"(2) 'amateur athletic competition' means a contest, game, meet, match, tournament, regatta, or other event in which amateur athletes compete;

"(3) 'amateur sports organization' means a not-for-profit corporation, club, federation, union, association, or other group organized in the United States which sponsors or arranges any amateur athletic competition;

"(4) 'Corporation' means the United States Olympic Committee;

"(5) 'international amateur athletic competition' means any amateur athletic competition between any athlete or athletes representing the United States, either individually or as part of a team, and any athlete or athletes representing any foreign country;

"(6) 'national governing body' means an amateur sports organization which is recognized by the Corporation in accordance with section 201 of this Act; and

"(7) 'sanction' means a certificate of approval issued by a national governing body.

"Sec. 104. The objects and purposes of the Corporation shall be to—

"(1) establish national goals for amateur athletic activities and encourage the attainment of those goals;

"(2) coordinate and develop amateur athletic activity in the United States directly relating to international amateur athletic competition, so as to foster productive working relationships among sports-related organizations;

"(3) exercise exclusive jurisdiction, either directly or through its constituent members or committees, over all matters pertaining to the participation of the United States in the Olympic Games and in the Pan-American Games, including the representation of the United States in such games, and over the organization of the Olympic Games and the Pan-American Games when held in the United States;

"(4) obtain for the United States, either directly or by delegation to the appropriate national governing body, the most competent amateur representation possible in each competition and event of the Olympic Games and of the Pan-American Games;

"(5) promote and support amateur athletic activities involving the United States and foreign nations;

"(6) promote and encourage physical fitness and public participation in amateur athletic activities;

"(7) assist organizations and persons concerned with sports in the development of amateur athletic programs for amateur athletes;

"(8) provide for the swift resolution of conflicts and disputes involving amateur athletes, national governing bodies, and amateur sports organizations, and protect the opportunity of any amateur athlete, coach, trainer, manager, administrator, or official to participate in amateur athletic competition;

"(9) foster the development of amateur athletic facilities for use by amateur athletes and assist in making existing amateur athletic facilities available for use by amateur athletes;

"(10) provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis;

"(11) encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety;

"(12) encourage and provide assistance to amateur athletic activities for women;

"(13) encourage and provide assistance to amateur athletic programs and competition for handicapped individuals, including, where feasible, the expansion of opportunities for meaningful participation by handicapped individuals in programs of athletic competition for able-bodied individuals; and

"(14) encourage and provide assistance to amateur athletes of racial and ethnic minorities for the purpose of eliciting the participation of such minorities in amateur athletic activities in which they are underrepresented."

"Sec. 105. (a) The Corporation shall have perpetual succession and power to—

"(1) serve as the coordinating body for amateur athletic activity in the United States directly relating to international amateur athletic competition;

"(2) represent the United States as its national Olympic committee in relations with the International Olympic Committee and the Pan-American Sports Organization;

"(3) organize, finance, and control the representation of the United States in the competitions and events of the Olympic Games and of the Pan-American Games, and obtain, either directly or by delegation to the appropriate national governing body, amateur representation for such games;

"(4) recognize eligible amateur sports organizations as national governing bodies for any sport which is included on the program of the Olympic Games or the Pan-American Games;

"(5) facilitate, through orderly and effective administrative procedures, the resolution of conflicts or disputes which involve any of its members and any amateur athlete, coach, trainer, manager, administrator, official, national governing body, or amateur sports organization and which arise in connection with their eligibility for and participation in the Olympic Games, the Pan-American, world championship competition, or other protected competition as defined in the constitution and bylaws of the Corporation;

"(6) sue and be sued;

"(7) make contracts;

"(8) acquire, hold, and dispose of real and personal property as may be necessary for its corporate purposes;

"(9) accept gifts, legacies, and devises in furtherance of its corporate purposes;

"(10) borrow money to carry out its corporate purposes, issue notes, bonds, or other evidences of indebetedness therefor, and secure the same by mortgage, subject in each case to the laws of the United States or of any State;

"(11) provide financial assistance to any organization or association, other than a corporation organized for profit, in furtherance of the purposes of the Corporation;

"(12) approve and revoke membership in the Corporation;

"(13) adopt and alter a corporate seal;

"(14) establish and maintain offices for the conduct of the affairs of the Corporation;

"(15) publish a newspaper, magazine, or other publication consistent with its corporate purposes; and

"(16) do any and all acts and things necessary and proper to carry out the purposes of the Corporation.

"(b) The Corporation shall adopt and may amend a constitution and bylaws not inconsistent with the laws of the United States or of any State, except that the Corporation may amend its constitution only if it—

"(1) publishes in its principal publication a general notice of the proposed alteration of the constitution, including the substantive terms of the alteration, the time and place of the Corporation's regular meeting at which the alteration is to be decided, and a provision informing interested persons that they may submit materials as authorized in paragraph (2); and

"(2) gives to all interested persons, prior to the adoption of any amendment, an opportunity to submit written data, views, or arguments concerning the proposed amendment for a period of at least 60 days after the date of publication of the notice.

"Sec. 106. (a) Eligibility for membership in the Corporation shall be determined in accordance with the constitution and bylaws of the Corporation."

"(b) In its constitution and bylaws, the Corporation shall establish and maintain provisions with respect to its governance and the conduct of its affairs for reasonable representation of—

"(1) amateur sports organizations recognized as national governing bodies in accordance with section 201 of this Act;

"(2) amateur athletes who are actively engaged in amateur athletic competition or who have represented the United States in international amateur athletic competition within the preceding 10 years;

"(3) amateur sports organizations which conduct a national program or regular national amateur athletic competition in two or more sports which are included on the program of the Olympic Games or the Pan-American Games on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition; and

"(4) individuals not affiliated or associated with any amateur sports organization who in the Corporation's judgment represent the interests of the American public in the activities of the Corporation.

"SEC. 107. The Corporation shall be nonpolitical and, as an organization, shall not promote the candidacy of any person seeking public office.

"SEC. 108. The Corporation shall have no power to issue capital stock or to engage in business for pecuniary profit or gain.

"SEC. 109. The Corporation may acquire any or all of the assets of the existing unincorporated association, known as 'The United States Olympic Association', upon discharging or satisfactorily providing for the payment and discharge of all the liabilities of such unincorporated association."

"SEC. 110. (a) Without the consent of the Corporation, any person who uses for the purpose of trade, to induce the sale of any goods or services, or to promote any theatrical exhibition, athletic performance, or competition—

"(1) the symbol of the International Olympic Committee, consisting of five interlocking rings;

"(2) the emblem of the Corporation, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with five interlocking rings displayed on the chief;

"(3) any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the International Olympic Committee or the Corporation; or"

"(4) the words 'Olympic', 'Olympiad', 'Citius Altius Fortius', or any combination or simulation thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection with the Corporation or any Olympic activity;

shall be subject to suit in a civil action by the Corporation for the remedies provided in the Act of July 5, 1946 (60 Stat. 427; popularly known as the Trademark Act of 1946). However, any person who actually used the emblem in subsection (a)(2), or the words, or any combination thereof, in subsection (a)(4) for any lawful purpose prior to September 21, 1950, shall not be prohibited by this section from continuing such lawful use for the same purpose and for the same goods or services. In addition, any person who actually used, or whose assignor actually used, any other trademark, trade name, sign, symbol, or insignia described in subsections (a)(3) and (4) for any lawful purpose prior to enactment of this Act shall not be prohibited by this section from continuing such lawful use for the same purpose and for the same goods or services.

"The Corporation may authorize contributors and suppliers of goods or services to use the trade name of the Corporation as well as any trademark, symbol, insignia, or emblem of the International Olympic Committee or of the Corporation in advertising that the contributions, goods, or services were donated, supplied, or furnished to or for the use of, approved, selected, or used by the Corporation or United States Olympic or Pan-American team or team members.

"(c) The Corporation shall have exclusive right to use the name 'United States Olympic Committee'; the symbol described in subsection (a)(1); the emblem described in subsection (a)(2); and the words 'Olympic', 'Olympiad', 'Citius Altius Fortius' or any combination thereof subject to the preexisting rights described in subsection (a)."

"SEC. 111. As a condition precedent to the exercise of any power or privilege granted or conferred under this Act, the Corporation shall file in the office of the secretary of state, or similar office, in each State the name and post-office address of an authorized agent of the Corporation in such State upon whom local process or demands against the Corporation may be served.

"SEC. 112. The right to alter, amend, or repeal this Act at any time is hereby expressly reserved."

"SEC. 113. The Corporation shall, on or before the first day of June in each year, transmit simultaneously to the President and to each House of Congress a detailed report of its operations for the preceding calendar year, including a full and complete statement of its receipts and expenditures and a comprehensive description of the activities and accomplishments of the Corporation during the preceding year. Copies of the report shall be made available by the Corporation to interested persons at a reasonable cost."

"SEC. 114. In its constitution and bylaws, the Corporation shall establish and maintain provisions for the swift and equitable resolution of disputes involving any of its members and relating to the opportunity of an amateur athlete, coach, trainer, manager, administrator, or official to participate in the Olympic Games, the Pan-American Games, world championship competition, or other such protected competition as defined in such constitution and bylaws.".

NATIONAL GOVERNING BODIES

SEC. 2. The Act, as amended by section 1 of this Act, is further amended by adding at the end thereof the following new title:

"TITLE II—NATIONAL GOVERNING BODIES

"SEC. 201. (a) For any sport which is included on the program of the Olympic Games or the Pan-American Games, the Corporation is authorized to recognize as a national governing body an amateur sports organization which files an application and is eligible for such recognition, in accordance with the provisions of subsection (b) of this section. The Corporation shall recognize only one national governing body for each sport for which an application is made and approved. Prior to the recognition of a national governing body under the authority granted under this title and in accordance with the procedures and requirements of this section, the Corporation shall hold a hearing open to the public on the application for such recognition. The Corporation shall publish notice of the time, place, and nature of the hearing. Publication shall be made in a regular issue of the Corporation's principal publication at least 30 days, but not more than 60 days, prior to the date of the hearing.

"(b) No amateur sports organization is eligible to be recognized or is eligible to continue to be recognized as a national governing body unless it—

"(1) is incorporated under the laws of any of the several States of the United States or the District of Columbia as a not-for-profit corporation having as its purpose the advancement of amateur athletic competition, and has the managerial and financial capability to plan and execute its obligations;

"(2) submits an application for recognition, in such form as the Corporation shall require, as a national governing body and, upon application, submits a copy of its corporate charter and bylaws and any additional information as is considered necessary or appropriate by the Corporation;

"(3) agrees to submit, upon demand of the Corporation, to binding arbitration, conducted in accordance with the commercial rules of the American Arbitration Association in any controversy involving its recognition as a national governing body, as provided for in section 205 of this title, or involving the opportunity of any amateur athlete, coach, trainer, manager, administrator or official to participate in amateur athletic competition, as provided for in the Corporation's constitution and bylaws;

"(4) demonstrates that it is autonomous in the governance of its sport, in that it independently determines and controls all matters central to such governance, does not delegate such determination and control, and is free from outside restraint and demonstrates that it is a member of no more than one international sports federation which governs a sport included on the program of the Olympic Games or the Pan-American Games;

"(5) demonstrates that its membership is open to any individual who is an amateur athlete, coach, trainer, manager, administrator, or official active in the sport or which recognition is sought, or to any amateur sports organization which conducts programs in the sport for which recognition is sought, or to both;

"(6) provides an equal opportunity to amateur athletes, coaches, trainers, managers administrators, and officials to participate in amateur athletic competition, without discrimination on the basis of race, color, religion, age, sex, or national origin, and with fair notice and opportunity for a hearing to any amateur athlete, coach, trainer, manager, administrator, or official before declaring such individual ineligible to participate;

"(7) is governed by a board of directors or other such governing board whose members are selected without regard to race, color, religion, national origin or sex, except that, in sports where there are separate male and female programs, it provides for reasonable representation of both males and females on such board of directors or other such governing board;

"(8) demonstrates that its board of directors or other such governing board includes among its voting members individuals who are actively engaged in amateur athletic competition in the sport for which recognition is sought or who have represented the United States in international amateur athletic competition in the sport for which recognition is sought within the preceding 10 years, and the membership and voting power held by such individuals is not less than 20 percent of such membership and voting power held in that board of directors or other such governing board;

"(9) provides for reasonable direct representation on its board of directors or other such governing board for any amateur sports organization which, in the sport for which recognition is sought, conducts, on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition, a national program or regular national amateur athletic competition, and ensures that such representation shall reflect the nature, scope, quality, and strength of the programs and competitions of such amateur sports organization in relation to all other such programs and competitions in such sport in the United States;

"(10) demonstrates that none of its officers are also officers of any other amateur sports organization which is recognized as a national governing body;

"(11) provides procedures for the prompt and equitable resolution of grievances of its members;

"(12) does not have eligibility criteria relating to amateur status which are more restrictive than those of the appropriate international sports federation; and

"(13) demonstrates, if it is an amateur sports organization seeking recognition as a national governing body, that it is prepared to meet the obligations imposed on a national governing body under section 202 of this Act.

"(c)(1) Except as provided in paragraph (2), any amateur sports organization which on the date of enactment of this title is recognized by the Corporation to represent a particular sport shall be considered to be the national governing body for that sport. Such an organization is exempt for a period of 2 years from the date of enactment of the title from meeting the requirements of subsection (b) of this section, and during the 2-year period shall take the necessary actions to meet such requirements if it desires to retain its recognition. After the expiration of the 2-year period, such an organization shall continue as the national governing body for that sport unless the Corporation determines that such organization is not in compliance with the requirements of subsection (b) of this section, in which event the Corporation shall—

"(A) suspend the recognition of such national governing body:

"(B) revoke the recognition of such national governing body; or

"(C) extend the 2-year period for not longer than 1 year, if the national governing body has proven by clear and convincing evidence that, through no fault of its own, it needs additional time to comply with such requirements.

If, at the end of the extension period referred to in subparagraph (C) of this paragraph, the national governing body has not complied with such requirements, the Corporation shall revoke the recognition of such national governing body. Any such national governing body aggrieved by the Corporation's determination under this subsection may submit a demand for arbitration in accordance with section 205(e) of this title.

"(2) Notwithstanding the provisions of paragraph (1), the Corporation may suspend or revoke the recognition of a national governing body during the 2-year period if such suspension or revocation is for the same reason as the Corporation could have revoked or suspended such national governing body prior to the date of the enactment of this title.

"(d) Within 61 days after recognizing an amateur sports organization as a national governing body, in accordance with subsection (a) of this section, the Corporation shall recommend and support in any appropriate manner such national governing body to the appropriate international sports federation as the representative of the United States for that sport.

"Sec. 202. (a) For the sport which it governs, a national governing body is under duty to—

"(1) develop interest and participation throughout the United States and be responsible to the persons and amateur sports organizations it represents;

"(2) minimize, through coordination with other amateur sports organizations, conflicts in the scheduling of all practices and competitions;

"(3) keep amateur athletes informed of policy matters and reasonably reflect the views of such athletes in its policy decisions;

"(4) promptly review every request submitted by an amateur sports organization or person for a sanction (A) to hold an international amateur athletic competition in the United States; or (B) to sponsor United States amateur athletes to compete in international amateur athletic competition held outside the United States, and determine whether to grant such sanction, in accordance with the provisions of subsection (b) of this section;

"(5) allow an amateur athlete to compete in any international amateur athletic competition conducted under its auspices or that of any other amateur sports organization or person, unless it establishes that its denial was based on evidence that the organization or person conducting the competition did not meet the requirements stated in subsection (b) of this section;

"(6) provide equitable support and encouragement for participation by women where separate programs for male and female athletes are conducted on a national basis;

"(7) encourage and support amateur athletic sports programs for handicapped individuals and the participation of handicapped individuals in amateur athletic activity, including, where feasible, the expansion of opportunities for meaningful participation by handicapped individuals in programs of athletic competition of ablebodied individuals;

"(8) provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis; and

"(9) encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety.

"(b) As a result of its review under subsection (a)(4) of this section, if a national governing body does not determine by clear and convincing evidence that holding or sponsoring an international amateur athletic competition would be detrimental to the best interest of the sport, the national governing body shall promptly grant to an amateur sports organization or person a sanction to—

"(1) hold an international amateur athletic competition in the United States, if such amateur sports organization or person—

"(A) pays to the national governing body any required sanctioning fee, if such fee is reasonable and nondiscriminatory;

"(B) demonstrates that—

"(i) appropriate measures have been taken to protect the amateur status of athletes who will take part in the competition and to protect their eligibility to compete in amateur athletic competition,

"(ii) appropriate provision has been made for validation of records which may be established during the competition,

"(iii) due regard has been given to any international amateur athletic requirements specifically applicable to the competition,

"(iv) the competition will be conducted by qualified officials,

"(v) proper medical supervision will be provided for athletes who will participate in the competition, and

"(vi) proper safety precautions have been taken to protect the personal welfare of the athletes and spectators at the competition, and

"(C) submits to the national governing body an audited or notarized financial report of similar events, if any, conducted by the amateur sports organization or person; or

"(2) sponsor United States amateur athletes to compete in international amateur athletic competition held outside the United States, if such amateur sports organization or person—

"(A) pays to the national governing body any required sanctioning fee, if such fee is reasonable and nondiscriminatory;

"(B) submits a letter from the appropriate entity which will hold the international amateur athletic competition certifying that—

"(i) appropriate measures have been taken to protect the amateur status of athletes who will take part in the competition and to protect their eligibility to compete in amateur athletic competition,

"(ii) appropriate provision has been made for validation of records which may be established during the competition,

"(iii) due regard has been given to any international amateur athletic requirements specifically applicable to the competition,

"(iv) the competition will be conducted by qualified officials,

"(v) proper medical supervision will be provided for athletes who will participate in the competition, and

"(vi) proper safety precautions have been taken to protect the personal welfare of the athletes and spectators at the competition; and

"(C) submits a report of the most recent trip, if any, to a foreign country which the amateur sports organization or person sponsored for the purpose of having United States amateur athletes compete in international amateur athletic competition.

"Sec. 203. For the sport which it governs, a national governing body is authorized to—

"(1) represent the United States in the appropriate international sports federation;

"(2) establish national goals and encourage the attainment of those goals;

"(3) serve as the coordinating body for amateur athletic activity in the United States;

"(4) exercise jurisdiction over international amateur athletic activities and sanction international amateur athletic competition held in the United States and sanction the sponsorship of international amateur athletic competition held outside the United States;

"(5) conduct amateur athletic competition, including national championships, and international amateur athletic competition in the United States, and establish procedures for the determination of eligibilty standards for participation in such competitions, except for that amateur atheltic competition specified in section 206 of this title;

"(6) recommend to the Corporation individuals and teams to represent the United States in the Olympic Games and the Pan-American Games; and

"(7) designate individuals and teams to represent the United States in international amateur athletic competition (other than the Olympic Games and the Pan-American Games) and certify, in accordance with applicable international rules, the amateur eligibility of such individuals and teams.

"Sec. 204. The Corporation may review all matters relating to the continued recognition of a national governing body and may take such action as it considers appropriate, including, but not limited to, placing conditions upon the continued recognition of the national governing body.

"Sec. 205. (a)(1) Any amateur sports organization or person which belongs to or is eligible to belong to a national governing body may seek to compel such national governing body to comply with the requirements of sections 201(b) and 202 of this title by filing a written complaint with the Corporation. Such organization or person may take such action only after having exhausted all available remedies within such national governing body for correcting deficiencies, unless it can be shown by clear and convincing evidence that those remedies would have resulted in unnecessary delay. The Corporation shall establish procedures for the filing and disposition of complaints received under this subsection. A copy of the complaint shall also be served on the applicable national governing body.

"(2) Within 30 days after the filing of the complaint, the Corporation shall determine whether the organization has exhausted its remedies within the applicable national governing body, as provided in paragraph (1) of this subsection. If the Corporation determines that any such remedies have not been exhausted, it may direct that such remedies be pursued before the Corporation will further consider the complaint.

"(3) (A) Within 90 days after the filing of a complaint under paragraph (1) of this subsection, if the Corporation determines that all such remedies have been exhausted, it shall hold a hearing to receive testimony for the purpose of determining if such national governing body is in compliance with the requirements of sections 201(b) and 202 of this title.

"(B) If the Corporation determines, as a result of the hearings conducted pursuant to this subsection, that such national governing body is in compliance with the requirements of sections 201(b) and 202 of this title, it shall so notify the complainant and such national governing body.

"(C) If the Corporation determines, as a result of hearings conducted pursuant to this subsection, that such national governing body is not in compliance with the requirements of sections 101(b) and 202 of this title, it shall—

"(i) place such national governing body on probation for a specified period of time, not to exceed 180 days, which it considers necessary to enable such national governing body to comply with such requirements, or

"(ii) revoke the recognition of such national governing body.

"(D) If the Corporation places a national governing body on probation pursuant to this paragraph, it may extend the probationary period if the national governing body has proven by clear and convincing evidence that, through no fault of its own, it needs additional time to comply with such requirements. If, at the end of the period allowed by the Corporation, the national governing body has not complied with such requirements, the Corporation shall revoke the recognition of such national governing body.

"(b)(1) Any amateur sports organization may seek to replace an incumbent as the national governing body for a particular sport by filing with the Corporation a written application for such recognition. Such application shall be filed (A) within the 1-year period after the final day of any Olympic Games, in the case of a sport for which competition is held in the Olympic Games or in both the Olympic and Pan-American Games; or (B) within the 1-year period after the final days of any Pan-American Games, in the case of a sport for which competition is held in the Pan-American Games and not in the Olympic Games. If two or more organizations file applications for the same sport, such applications shall be considered in a single proceeding.

"(2) Any application filed under this subsection shall be filed with the Corporation by registered mail. The Corporation shall establish procedures for the filing and disposition of applications received under this subsection. A copy of any such application for recognition shall also be served on the applicable national governing body. The Corporation shall inform the applicant for recognition that its application has been received.

"(3) Within 180 days after receipt of an application filed under this subsection, the Corporation shall conduct a formal hearing to determine the merits of the application. The Corporation shall publish notice of the time and place of such hearing in a regular issue of its principal publication at least 30 days, but not more than 60 days, prior to the date of the hearing. In the course of such hearing, the applicant and the national governing body shall be given a reasonable opportunity to present evidence supporting their respective positions. During such hearing, the applicant amateur sports organization must establish a preponderance of the evidence that it meets the criteria for recognition as a national governing body under section 201(b) of this title, and that—

"(A) the national governing body does not meet the criteria of section 201(b) or 202; or

"(B) it more adequately meets the criteria of section 201(b), is capable of more adequately meeting the criteria of section 202, and provides or is capable of providing a more effective national program of competition, than the national governing body in the sport for which it seeks recognition.

"(4) Within 30 days of the close of the hearing required under this subsection, the Corporation shall—

"(A) uphold the right of the national governing body to continue as the national governing body for its sport;

"(B) revoke the recognition of the national governing body and declare a vacancy in the national governing body for that sport;

"(C) revoke the recognition of the national governing body and recognize the applicant as the national governing body; or

"(D) decide to place the national governing body on probation of not to exceed 180 days, pending the compliance of the national governing body, if such national governing body would have retained recognition except for a minor deficiency in one of the requirements of section 201(b) or 202 of this title.

If the national governing body does not comply within the prescribed time period, the Corporation shall revoke the recognition of the national governing body and either recognize the applicant as the national governing body, or declare a vacancy in the national governing body for that sport.

"(5) Within 61 days after recognizing an amateur sports organization as a national governing body, in accordance with this subsection, the Corporation shall recommend and support in any appropriate manner such national governing body to the appropriate international sports federation as the representative of the United States for that sport.

"(c)(1) The right to review by any party aggrieved by a determination of the Corporation under the requirements of this section or section 201(c) shall be to any regional office of the American Arbitration Association. Such demand for arbitration shall be submitted within 30 days of the determination of the Corporation. Upon receipt of such a demand for arbitration, the Association shall serve notice on the parties to the arbitration and on the Corporation, and shall immediately proceed with arbitration according to the commercial rules of the Association in effect at the time of the filing of the demand except that—

"(A) the arbritration panel shall consist of not less than three arbitrators, unless the parties to the proceeding mutually agree to a lesser number;

"(B) the arbitration hearing shall take place at a site selected by the Association, unless the parties to the proceeding mutually agree to the use of another site; and

"(C) the arbitration hearing shall be open to the public.

"(2) The arbitrators in any arbitration are empowered to settle any dispute arising under the provisions of this Act prior to making a final award, it mutually agreed to by the parties to the proceeding and achieved in a manner not inconsistent with the constitution and bylaws of the Corporation.

"(3) Each contesting party may be represented by counselor by any other duly authorzed representative at the aribtration proceeding. The parties may offer any evidence which they desire and shall produce any additional evidence as the arbitrators believe necessary to an understanding and determination of the dispute. The arbitrators shall be the sole judges of the relevancy and materiality of the evidence offered. Conformity to legal rules of evidence shall not be necessary.

"(4) All decisions by the arbitrators shall be by majority vote unless the concurrence of all is expressly required by the contesting parties.

"(5) Final decision of the arbitrators shall be binding upon the involved parties, if such award is not inconsistent with the constitution and bylaws of the Corporation.

"(6) The hearings may be reopened, by the arbitrators upon their own motion or upon the motion of any contesting party, at any time before a final decision is made, except that, if any contesting party makes such a motion, all parties to the decision must agree to reopen the hearings if such reopening would result in the arbitrators' decision being delayed beyond the specific period agreed upon at the beginning of the arbitration proceedings.

"Sec. 206. An amateur sports organization which conducts amateur athletic competition participation in which is restricted to a specific class of amateur athletes (such as high school students, college students, members of the Armed Forces, or similar groups or categories), shall have exclusive jurisdiction over such competition. If such an amateur sports organization wishes to conduct international amateur athletic competition to be held in the United States, or sponsor international amateur athletic competition to be held outside the United States, it shall obtain a sanction from the appropriate national governing body.".

FINANCIAL ASSISTANCE

Sec. 211. (a) The Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") is authorized to award grants to the Corporation to assist in the development of amateur athletics in the United States. The Corporation may apply to the Secretary for funds available under this section, and shall use such funds consistent with the provisions of the Act. The Secretary shall approve any application which meets the requirements of this section, and award grants to the Corporation, in a total sum not "exceeding $30,000,000 to finance the development and operation of any programs approved by the Corporation consistent with section 104 of the Act as amended by this Act."

(b) Each application for funds available under this section shall be in such form as the Secretary provides and shall contain provisions to assure that such funds are disbursed in accordance with the provisions of this section. For the purpose of review or audit, the Secretary shall have access to any books, documents, papers, and records which are relevant to any grant received under this section.

"(c) There are authorized to be appropriated to the Secretary not to exceed $30,000,000 in fiscal year 1980, such sums to remain available until expended."

The SPEAKER pro tempore. Is a second demanded?

Mr. KINDNESS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. DANIELSON) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. KINDNESS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2727, the Amateur Sports Act of 1978. The bill amends the current Federal charter of the U.S. Olympic Committee which was originally adopted in 1950, and the bill makes basic changes in that charter. The major purpose of these changes is to allow the Olympic Committee to become the coordinating body for amateur sports which relate to American participation in the Olympic games, the Pan-American games and other major international competitions.

In 1975, the President's Commission on Olympic Sports was established with the mandate to determine how best to correct many of the problems that beset amateur athletics in this country. The overall decline of American achievement in Olympic and international competition was apparent. For a Nation of over 200 million people, we were falling seriously below our potential to both field strong international teams and to guarantee greater athletic opportunities at the grassroots level. After 2 years of study, in 1977, the President's Commission reported its findings and made its recommendations. S. 2727 is based on those recommendations.

The bill, as amended, is divided into three sections. Sections 201 to 209 amend the existing charter to enlarge the purposes and powers of the Olympic Committee which will permit it to carry out its expanded role. Section 1 also adds to the charter a requirement that the governance of the affairs of the Olympic Committee must be conducted by representatives of all phases of the amateur athletic community.

Further, under the bill as amended, the Olympic Committee would be able to protect certain symbols, emblems, trademarks, tradenames and words by a civil action pursuant to the Trademark Act of 1946.

Finally, section 1 amends the charter to reflect the recent changes made in the Olympic Committee constitution and bylaws to allow for the swift resolution of disputes involving any of its members and relating to the opportunity of any amateur athlete, coach, trainer, manager, administrator or official to participate in certain protected competitions as defined in its constitution and bylaws.

Section 210 of the bill adds a new title II to the charter which will give the Olympic Committee the authority to recognize appropriate amateur athletic organizations to be national governing bodies in the United States for the sports included on the program of the Olympic games or the Pan-American games. This section specifies the requirements of, and the eligibility for, recognition as a national governing body and the duties and authorities of such organizations once selected. This section also provides for binding arbitration for any disputes arising out of this recognition process. Hopefully, this will help end the many controversies that have surrounded amateur sports in the past.

Section 211 authorizes the Secretary of the Treasury to award grants to the Olympic Committee in a total sum not to exceed $30 million to finance the development and operation of any programs approved by the Olympic Committee, consistent with its corporate purposes, and to assist in the development of amateur athletics in the United States. This is intended to be a one-time authorization. Representatives from the Olympic Committee testified that it will not seek funds from the Federal Government in the future. It is with this understanding that the Judiciary Committee included this section in this bill.

I think it is important to make clear that this is intended to be a one-time grant, and that the Olympic Committee is required to file, in its annual report, a complete statement of its receipts and expenditures so that the use of this money can and will be monitored.

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to paraphrase the words of Shakespeare, from one of his outstanding plays, "methinks they protesteth too much." Those who propose the passage of the measure before us with the authorization of $30 million in it continually protest and tell us that this is a one-time authorization request and the USOC will not be back, and so on. I think we ought to examine that just a little bit.

Since my involvement in the Amateur Sports Act of 1978 has been portrayed in a somewhat distorted fashion, in Sports Illustrated and elsewhere, I will be glad to take just a moment to try to clear up what that is all about.

At the outset, I would emphasize that I support the enactment of most of the provisions contained in this legislation and, particularly, in strengthening the coordinating powers of the U.S. Olympic Committee by amending its Federal Charter of Incorporation. Similarly, I support the disputes resolution features of S. 2727 which hold out the hope that the internecine war between AAU and NCAA will come to an end.

However, as is often the case under suspension of the rules, this House is asked to accept the bad with the good. This bill contains a $30 million authorization in the form of a grant to the U.S. Olympic Committee, which is literally a private corporation. It is of uncertain need and its intended purposes are even more questionable. Today, we are restricted by limited debate, no amendments are in order, the committee report was filed just yesterday and it is, even now, unavailable to the Members of this House. Yet we are asked to say "yes" or "no" to legislation which would begin a direct Federal involvement in amateur sports in this country.

As it came to us from the other body, the Amateur Sports Act was hardly a perfect product of legislative deliberation. It is, after all, supposed to be amendments to the Federal Charter of the U.S. Olympic Committee. Our subcommittee had before it a bill that contained vague, overly broad language that could have had unintended and inappropriate effects on amateur sports.

I was particularly concernd about any adverse side effects on high school athletics and would direct the attention of my colleagues to section 206 dealing with "restricted competition." This section as amended by our subcommittee makes it quite clear that amateur sports competition limited to a restricted class—that is, high schools, colleges, and the military—are not within the purview of this legislation.

But that was not clear originally.

There were other provisions in the bill that simply did not belong in the text of a corporation's Federal charter. For example, I offered a number of amendments at the subcommittee level to remove all references to Federal court jurisdiction. It did not belong in this bill. However, since I had the temerity to tamper with any part of the bill, I was considered by some to be an enemy of the overall purposes of the bill. I am not. My work on this legislation has been mislabeled and misrepresented by jingoistic PR men, who unfortunately purport to represent this country's finest athletes. I doubt it. I would not be surprised if some of these elitist sports bureaucrats did not know a javelin from a hockey stick.

This brings me to the $30 million authorization contained in this bill. By the admission of its own advocates, $18 million of this is "earmarked for the reorganization of the amateur sports bureaucracy." So the bulk of the money is intended to go to staff, salaries, administrative costs, consultants, computer hardware, computer software, and so forth. Even part of the remaining $12 million was earmarked in the bill produced by the other body to go for "feasibility studies" regarding the selection of permanent training sites. If Federal tax money is to be spent in support of our Olympic program, I would far prefer to see it spent on items of more tangible and direct assistance to our Olympic athletes. The American taxpayer should not be goaded into underwriting the costs of a new sports bureaucracy under the guise of improved circumstances for our Olympic athletes. American taxpayers should not be goaded into this thing.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Massachusetts.

Mr. DRINAN. I congratulate the gentleman from Ohio for a brilliant statement. I am delighted to have this rather rare occasion when I can agree completely with the gentleman. It is a brilliant statement. I agree, this is a very bad bill.

Mr. KINDNESS. It is an unusual day. I thank the gentleman.

Mr. METCALFE. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Illinois (Mr. METCALFE).

Mr. METCALFE. Mr. Speaker, may I say to the gentleman I have dealt with this problem for some 10 years. The problem has been with us over 50 years. The gentleman will recall that Gen. Douglas MacArthur attempted to address himself to the problem and was not successful in doing so.

I happen to have been fortunate to serve on the Sports Arbitration Commission, commonly known as the Kheel Commission. We thought we had a solution to this particular problem then. We did not have it. I, along with Congressmen MINETA, MICHEL and KEMP, from the House, as well as Senators STONE, STEVENS, CULVER and former Senator Beall of the Senate, served on the President's Commission on Olympic Sports and sat through many hours of hearings on this bill.

I would like to assure the gentleman that all his apprehensions would be dissipated if a dispassionate study of the amateur sports situation and this bill were made.

Mr. KINDNESS. If I may make the point before the gentleman criticizes it, I will be glad to yield again. But the point has not yet been made and I will be glad to make it.

Mr. METCALFE. If the gentleman will proceed, please.

Mr. KINDNESS. Mr. Speaker, the proponents like to call it "seed money." But the seeds are the seeds that may grow into the rank weeds of bureaucracy, choking out the ambitions of countless future athletes and spoiling the garden of freedom to compete. We ought to look at it much more carefully and determine how it is to be done before we put money into it.

The Olympic Committee has repeatedly stated that this is a one-time-funding request. I truly hope that the Members of this House hold the Olympic Committee to this oft-repeated promise. I hope the Members will pardon me if I express some doubt that this is or can be a one-time request. I would point out that a number of other Judiciary Committee members share my skepticism about the one-time "pronouncements." This skepticism is furthur substantiated by language in the financial assistance section of the original bill, directing the Federal Government to conduct a study to determine the "most appropriate means of providing continuing funding" to USOC. That language has been stricken from the bill.

That is the point we ought to consider, whether this is the correct thing to do, but this has not been approached in a manner to tell us it is really going to help the athletes. It is going to buy computers and software and pay bureaucrats.

Finally, I am extremely concerned that this legislation will be the beginning of direct Federal involvement in the Olympic program. Not everyone agrees that should be done. If this body is to make that kind of decision—and it may be a correct decision to make—it should be done thoughtfully and with full understanding that that is the case. Like most Americans, I am concerned about the quality of our performance in international athletic competition. But I recoil from the possibility of establishing a centralized governmental sports structure like that in the Soviet Union or East Germany.

While I desire that American athletes be able to effectively compete with those of other countries, I think that most Americans do not want to see us emulate that centralized authoritarian approach. The Members of this House should know that we may be talking about more than a revision of the Olympic Committee's Federal charter in S. 2727. Unfortunately, because we consider this bill under suspension of the rules, amendments are not in order to reflect our caution.

A final note—when we considered the $30 million authorization in the Administrative Law Subcommittee, the vote to strike the money was 5 to 0—3 Democrats and 2 Republicans. We studied the budget submission from the Olympic Committee and determined the money would have little impact on the performance of Olympic athletes. The vote to strike was a considered, bipartisan decision. The House considers the bill with the money restored and it should carefully consider what a vote in favor might mean. The full House should have the opportunity to vote "yes" or "no" for this $30 million authorization.

Therefore, somewhat timorously and regretfully, I urge a "no" vote under these restrictive procedural hobbles, and hope that this funding can be rationally considered later.

But I harbor very little conviction that this bill will not pass today under suspension of the rules. But the warning bell has been sounded; and an appropriation bill must pass this way some day.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank my friend, the gentleman from Ohio (Mr. KINDNESS).

The gentleman hits the nail on the head. We are considering rule changes, for those lucky enough to be here next year, which might take away the right to a second and the right to reserve an objection in the House. Today we will be considering a bill that has not even been on notice to the Members, and I think it is the next bill up. I think it ill behooves the leadership to ask for the cooperation of the Members when the leadership schedules for consideration under suspension, bills like this, because there was a vote of 18 to 13 in the committee when they scheduled this bill. That affords an indication that there was some controversy over this bill.

There was a time when suspension bills were largely brought up that had little or no opposition. This year we already have seen maybe a dozen bills defeated on suspension. Some of them find their way to the Rules Committee to get a rule. But this is bad procedure. I join my colleague in urging Members to vote down this bill, but the temptation to nibble at the trough will be a little too much perhaps and I suppose, all other things being equal, this will pass. But it is a bad precedent and bad legislation. Maybe, as the gentleman says, there will be another day.

Mr. KINDNESS. Mr. Speaker, I reserve the balance of my time.

Mr. METCALFE. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I am sorry, but I have all of the time committed.

Mr. DANIELSON. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I wish to express my appreciation to my colleague who is managing the bill, the gentleman from California (Mr. DANIELSON).

Mr. Speaker, I rise in wholehearted and enthusiastic support of S. 2727. As one of my constituents, Diane Holum, a former Olympic skating champion, aptly observed:

> I firmly believe that the Amateur Sports Act can do nothing but improve the present situation that exists in amateur sports in the United States today. It is a positive step forward, one that athletes and coaches have been dreaming of for years. . . .

Mr. Speaker, I authored the amendment offered in the full Committee on the Judiciary to restore the $30 million, which has been mentioned before, which I think is absolutely necessary in order to make this act meaningful at all.

As the Members probably know, the President's Commission on Olympic Sports, among other things suggested that this program would require about $125 million to start, and about $83 million a year thereafter to operate. What we have said here, and what we are talking about, is a one-time authorization, and that is why it is in a single $30 million increment rather than several over a period of years, is to say that "we will give you this modest amount as seed money." But also to make sure that the tradition in this country is carried forward making sure that amateur sports are not a governmental enterprise. I sincerely pray the Olympic Committee understands and that that is the way it will be operated in the future.

We must remember one thing, that the Congress—and the Senate has already passed this bill with the $30 million in it—has observed that we in this bill, and their charter, mandate the Olympic Committee to do many things in the public's interest, to aid the handicapped in sports, to assure that women have a rightful place in amateur athletics in this country, and to ensure that minorities and others participate fully. These are matters which the total society is interested in, and we impose these mandates, which they are willing to accept, on the Olympic Committee.

Let me say to you that there is a public interest in amateur sports in America. This bill is the only symbol, the only instrument we have to carry forward the President's Commission recommendations and to make sure that we have created a meaningful program in amateur sports generally and in Olympic competitions specifically in America.

Mr. KINDNESS. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, as one of the four original sponsors of the legislation, along with the gentleman from Illinois (Mr. METCALFE) the gentleman from New York (Mr. KEMP) and the gentleman from California (Mr. MINETA) who served on the President's Olympic Commission, I want to thank the members of the Judiciary Committee for holding hearings and expediting the consideration of this legislation.

May I say at the very outset that I think one of the reasons this Member along with several others were chosen to serve on that Commission was to make absolutely certain that we did not get the Federal Government involved in amateur athletics in this country, and that if there was any money to be appropriated it be only in the form of seed money, a one-shot proposition, if you please.

In less than 2 years American athletes will be competing in the Olympics. I suspect if we were considering this legislation only 3 or 4 weeks before those Olympic games there would be an entirely different kind of attitude exhibited here than there is on a day that is so far in advance of the games.

But we have to do today what we are proposing or it will not get done and we will have lost again a splendid opportunity to finally come to grips with this problem that has plagued us for so long.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I share the concern of the gentleman from Illinois (Mr. MICHEL) about this matter and I share his support of this bill.

Mr. Speaker, I just want to point out to my colleagues, as a member of the President's Commission on Olympic Sports, that what the gentleman in the well is saying is very true. Even more important, I think, is providing a climate in the country in which we can finally bring to an end this long-term dispute between amateur athletic governing bodies in this country, the dispute between the AAU and the NCAA, which has been going on ad infinitum.

Mr. Speaker, this bill is really a vehicle by which we can bring that dispute to an end under the organizational umbrella of the USOC.

Mr. Speaker, General MacArthur tried to mediate that dispute. Bobby Kennedy tried to mediate that dispute. Theodore Kheel, the labor negotiator, tried to mediate that dispute. We have not been able to do it in almost three decades. This is the first real opportunity we have had to bring to the amateur athletic bodies the type of umbrella solution that will ultimately redound to the benefit not only of amateur sports in this country, but to all of the amateur athletics in America.

Again, Mr. Speaker, I support the gentleman from Illinois in urging support for this legislation.

Mr. Speaker, I support enactment of S. 2727, the Amateur Sports Act, including the authorization for one-time appropriation of $30 million.

As a member of the President's task force on Olympic sports, I wish to make several points in addition to those made by my colleague from Illinois.

First, the USOC agreement keeps Congress from having to put into place some form of Federal authority, presumably a new agency, to carry out the Presidential Commission's recommendations. The last thing we need, in light of constantly rising expenditures and taxes, is another Federal bureaucracy.

Second, the appropriations which this bill now authorizes are for one-time. The USOC is not going to be back up here for additional funding. The amount of money involved here should be seen in that context: A one-time $30 million expenditure in order to avoid creation of a Federal authority that would spend millions upon millions year after year. And with the expenditure of those dollars and the creation and perpetuation of a staff would come increasing Government control over amateur sports, something I know the American people, amateur athletes, and amateur athletic organizations do not want to happen.

Third, and this is my principal purpose this afternoon, this bill has nothing to do with the 1980 Olympic games, except to facilitate the preparation of the American athletes for participation in those games and most specifically to help resolve the jurisdictional disputes within amateur sports that have plagued us for years.

No one in the House has been more vocal about the problems foreseen in having the 1980 summer games in the Soviet Union than I have. I have addressed this House on a number of occasions, detailing why the Soviets have forfeited their privilege of hosting the games and proposing alternative sites still available and fully capable of handling the events, especially Montreal. I have called upon the International Olympic Committee, the IOC, to consider moving the games, and I have called upon the USOC to intercede with the IOC in seeking that objective. Quite frankly, the USOC and I have been at odds, even in the national press, over what ought to be done with respect to this problem.

But this legislation is not addressed to this question, and neither are the duties of the USOC as this legislation would rewrite them. The work of the USOC with respect to carrying out the Presidential Commission's recommendations must go forward—and now—whether the games are held in the Soviet Union, at Montreal, or anywhere else.

The question of the 1980 summer games site and the U.S. role in those games, if they remain in the Soviet Union, is not before the House today.

Neither is the question of what our response ought to be with respect to the Soviet treatment of minorities and the press, in the context of the 1980 games.

Nor is our response to attempts by the Soviets and certain third world countries to exclude Israel and other countries from international sports competition, a matter of great and continuing concern to me.

These questions are important; they should be answered. But not in the context of the legislation now before us.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from New York (Mr. KEMP) for his contribution.

So many times, Mr. Speaker, we could not be certain if these groups were really interested in preparing for the Olympic games, participating in a debating society, or engaging in prolonged litigation.

Some nations will send to these games athletes who are a product of the totalitarian state. Well-conditioned, well-trained, raised by the state since childhood with the vision of an Olympic victory always in their mind, these athletes will reflect the values of the system in which they are raised. Discipline, obedience, subservience to the state that can both give and take away—these qualities will be present on many national teams.

American athletes will go into these same games as products of our way of life. I do not believe that it is the purpose of the games to set one way of life against another. But it cannot be denied that spectators, both in Moscow and all over the world, certainly will have such a thought in mind when the events take place. So it would be good for our nation and for the athletes who represent us if the cooperation, spirit of individuality, and personal freedom that are the great virtues of our system are allowed to exert their full influence in the games. Too often, in fact, for 50 years these virtues have been buried beneath the bickering between and among various amateur groups who claim to speak for the athletes.

Mr. Speaker, we have a chance today to put that all behind us. We have a chance to settle, once and for all, the disgraceful and chaotic squabbles and feuds that have so marred amateur athletic jurisdictional questions in the past.

While the bill's primary focus is to eliminate the jurisdictional disputes that have plagued amateur sports for too many years, the bill also infuses a strictly limited amount of taxpayers' dollars into a worthy cause. It is a chance for the best American athletes to get the best training and engage in the best competition under the best circumstances. In short, it is a bill whose effect will be as much a part of the American Olympic presence in 1980 and beyond as the athletes themselves. Morever, it will do this without setting up some new government agency or state-controlled apparatus, but through the prestigious U.S. Olympic Committee.

And it will not only be the great Olympic athletes who will benefit from provisions of this bill. Ultimately all Americans, whether two-day-a-week joggers or decathlon champions, those who think of themselves as athletically inclined and those who do not, will benefit from what is done at the training centers and through the sports medicine programs that will be created by this act.

Mr. Speaker, I know that serious questions have been raised with respect to some of the possible effects of this bill. I would like to take this opportunity to answer them.

Is this bill the start of Federal funding for amateur athletes in the United States?

I think the legislative history of this bill should show clearly and unequivocally that this bill is in no way intended to be the start of Federal funding for amateur athletics. Indeed, those of us who have sponsored the bill seek to do the opposite. We wish to make this a single, "one-shot," bill with a limited, specific purpose. This is not "a foot in the door." In fact, I can assure you that if anyone misconstrues the true limited purpose of this bill and tries to use it as a means of asking for federal funds for amateur athletics activities, I would have to oppose the move with all the vigor that is within me.

Are the bill's sponsors satisfied as to the way in which the money will be spent? Will this be a taxpayer rip-off to pad the payrolls of USOC executives?

In a letter to Chairman DANIELSON of the Subcommittee on Administrative Law and Government Relations of the Judiciary Committee, Executive Director F. Don Miller of the USOC outlined in considerable detail the way in which the money will be spent. Mr. Miller's letter should answer those questions concerning the use of the money. Briefly, as I said earlier, $18 million will be spent for three major purposes: management improvement, administration, and development. Not one cent will be spent for staff or development until needs have been justified by the national governing bodies. Twelve million dollars will be spent on the training centers and sports medicine program.

I will include with my remarks a chart showing a year-by-year breakdown of expenditures for the RECORD at the conclusion of my remarks.

Will other organization with Federal charters come to Congress to demand funds using this legislation as a precedent?

Again, Mr. Speaker, I emphasize the clear understanding of the sponsors of this bill that it is not in any way a "foot in the door" for future expenditures, either for athletics or for any other activity. This bill establishes no precedent for the simple reason that it is unique as to subject matter specific as to need and limited as to purpose.

Will this infusion of taxpayers funds to a private organization discourage private contributions?

It is not the purpose of this bill to replace private funds. Rather, it is our feeling this bill will stimulate more private contributions because amateur sports will now be well organized and managed and free from jurisdictional squabbles. I believe that this bill will strengthen rather than limit private funding of amateur athletics because for the first time, Americans will know that their donations will count, will be used wisely and economically and will, above all, be used in a way that helps rather than hinders effective American competition in international amateur athletics.

Will Congress now seek to pass amendments that seek to limit or in some way define the manner in which or the extent to which American athletes can or should compete in the games?

This is yet another variation of the "foot in the door" argument. I would be the last to deny that the Congress should be watched quite carefully when it comes to possible interfering in areas where congressional activity may do more harm than good. If we ran our Olympic teams the way we run the post office, our marathon runner would finish 3 days later than everyone else. No. Mr. Speaker, this bill in no way gives the Congress either the power or any good reason to dictate the conditions under which our athletes will compete.

When one considers the importance of amateur athletics to all Americans and their eagerness to participate in organized sports programs, one cannot but recognize the imperatives of this proposed legislation for greater coordination of our various athletic programs and for greater uniformity of athletic standards.

I am pleased to be one of the chief sponsors of this legislation, as well as to have served on the President's Commission on Olympic Sports, along with my distinguished colleagues Mr. KEMP, Mr. METCALFE, and Mr. MINETA. Since the bill's introduction on May 9, 1978, we have been joined in sponsorship by almost 100 of our colleagues in the House. This legislation reflects over 3 years of careful preparation and is in response to a problem which has been evident for over two decades.

We have seen many amateur sports programs hindered and the development of athletes' skills stymied by the fragmented and disjointed nature of our amateur sports organizations. There has been no clear policy or direction in amateur sports. Conflicts have arisen among various organizations regarding which group best represents a particular sport or a particular athlete's interests. Because there has been no means for settling these disputes, they have contributed to the declining performance by U.S. athletes representing our country in international competition. On occasion these disputes have gone beyond the amateur sports community and have affected all of us, both spectators and participants.

A good example of the problem is the controversy that surrounded the U.S.A. U.S.S.R. basketball series in 1973. The U.S. governing body for basketball arranged for the competition and selected the athletes to play without consulting other jurisdictions over those athletes. The games were threatened when the rival jurisdictions ordered that the selected athletes could not participate. It took a letter signed by 58 Senators to overturn that decision and let those athletes play. I could relay numerous such examples where organizational squabbles have victimized the individual athlete who has either been denied the opportunity to participate or forced to train and compete under conditions that were less than ideal.

Initiatives to address these problems facing American athletes involved in international competition go as far back as 1961–62 when President Kennedy asked General MacArthur to arbitrate an active dispute between the AAU and the NCAA in the area of track and field. Though General MacArthur dealt with the track and field problem, he did not deal with the other sports or with the overall organizational problems and thus only a temporary moratorium through the 1964 Olympic games resulted.

In 1965, the Senate Commerce Committee held hearings—still concerning track and field only—which resulted in the appointment by then Vice President Hubert Humphrey of the Theodore Kheel Arbitration Board. Again the organizational and voting problems were not addressed.

During this same period, the U.S. Olympic Committee contracted with the management consulting firm of Arthur D. Little to conduct a management improvement study of the USOC. While time and budgetary constraints precluded this study from attempting to resolve the organizational and voting control problems, the study stressed their importance.

In June of 1975 President Ford, concerned that we as a Nation were falling seriously below our potential to field strong international teams and to guarantee greater athletic opportunities at the grassroots level, established by Executive order the President's Commission on Olympic Sports. I had the privilege of participating in this Commission along with my colleagues Mr. KEMP, Mr. METCALFE, Mr. MINETA, Senators STEVENS, STONE, and CULVER and a number of other dedicated individuals including former Olympic participants, athletes, coaches, business executives, and educators.

The Commission sought to determine the best method by which to correct the jurisdictional problems facing amateur sports, to devise a process to select the best athletes for all international and Olympic competitions and to find ways to develop financial and other resources for amateur sports. In January 1977, after 1½ years of study, the Commission issued its final report recommending a vertical sports structure, utilizing the U.S. Olympic Committee as the coordinating body through which amateur sports organizations could work to be responsive to the needs of this Nations amateur athletes. We made it clear that we did not want the Federal Government running amateur athletics in this country, but asked Congress to legislate our recommendations by amending the 1950 Federal charter of the U.S. Olympic Committee.

The Amateur Sports Act of 1978 embodies the Commission's recommendations by expanding the authority of the U.S. Olympic Committee to enable it to serve as a coordinating body for amateur sports. The USOC is granted the power to organize, finance and control the representation of the United States in the Olympic and Pan-American games. It is authorized to facilitate the resolution of conflicts or disputes involving amateur athletes, national governing bodies and amateur sports organizations. To assist the USOC in fulfilling its new position, the bill authorizes a one-time expenditure of up to $18 million. Another $12 million is authorized for the operation and development of training centers and for a sports medicine program for U.S. athletes.

The second part of the bill sets forth criteria with which sports national governing bodies must comply, and provides for the prompt settlement of disputes between sports organizations, amateur athletes and national governing bodies through binding arbitration.

Third, S. 2727 requires the USOC in its constitution to provide for the protection of an athlete's right to compete. This is the first legislation to recognize the athlete's right to participate in the Olympics and other international competitions.

In summary, S. 2727 provides the House an opportunity to bring to an end the jurisdictional disputes and arguments among amateur sports organizations and help reverse the trend of declining performances by U.S. athletes that result from poor organization and lack of adequate training facilities.

BACKGROUND ON FINANCIAL ASSISTANCE

The bill authorizes that a one-time federal grant be awarded the U.S. Olympic Committee to assist in the development of amateur athletics in the United States. The Secretary of the Treasury may award up to $30 million to the USOC to finance programs consistent with section 104 of the Act.

The funds are to be appropriated in fiscal year 1980 and an annual accounting of their use is required to be made to Congress.

NECESSITY FOR FINANCIAL ASSISTANCE

1. Federal financial assistance is essential to, and inseparable from, accomplishing the purposes of the Act—the reorganization of amateur sports and the expanded programs for amateur sports administered by the U.S. Olympic Committee.

2. It is consistent with the findings and recommendations made by the President's Commission on Olympic Sports, after extensive study of the Nation's amateur sports programs, and supported by the Senate without a dissenting vote.

3. The amendment would provide for a one-time infusion of "seed" money to enable sports organizations to reorganize to become self-sustaining and does not represent a precedent for continuing federal financial assistance or intervention into amateur sports.

4. The funds would be disbursed according to a detailed four-year financial plan, supervised by the U.S. Olympic Committee, which currently is able to provide only one-quarter of the funds needed by the national governing bodies for their amateur sports programs.

5. The amount of the authorization must be kept in perspective. In comparison, the President's Commission on Olympic Sports estimated that a one-time requirement for funding of $215 million, with an annual requirement of $83 million, would be needed from all revenue sources to meet the financial requirements of amateur sports.

6. The funds are essential to help strengthen the American approach to a well-developed sports program for the youth of the Nation; to help finance the administrative and management reforms necessary to respond to the times and rapidly changing technical training conditions; and, to develop new and additional training programs to help support the U.S. Olympic effort.

Section 104 of the Act states:

The objects and purposes of the U.S. Olympic Committee shall be to:

"(1) establish national goals for amateur athletic activities and encourage the attainment of those goals;

"(2) coordinate and develop amateur athletic activity in the United States in order to foster productive working relationships among sports-related organizations;

"(3) exercise exclusive jurisdiction, either directly or through its constituent members or committees, over all matters pertaining to the participation of the United States in the Olympic Games and in the Pan-American Games, including the representation of the United States in such games, and over the organization of the Olympic Games and the Pan-American Games when held in the United States;

"(4) obtain for the United States, either directly or by delegation to the appropriate national governing body, the most competent amateur representation possible in each competition and event of the Olympic Games and of the Pan-American Games;

"(5) promote and support amateur athletic activities involving the United States and foreign nations;

"(6) promote and encourage physical fitness and public participation in amateur athletic activities;

"(7) assist organizations and persons concerned with sports in the development of amateur athletic programs for amateur athletes;

"(8) provide for the swift resolution of conflicts and disputes involving amateur athletes, national governing bodies, and amateur sports organizations, and protect the opportunity of any amateur athlete, coach, trainer, manager, administrator, or official to participate in amateur athletic competition;

"(9) foster the development of amateur athletic facilities for use by amateur athletes and assist in making existing amateur athletic facilities available for use by amateur athletes;

"(10) provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis;

"(11) encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety;

"(12) encourage and provide assistance to amateur athletic activities for women; and

"(13) encourage and provide assistance to amateur athletic programs and competition for handicapped individuals, including, where feasible, the expansion of opportunities for meaningful participation by handicapped individuals in programs of athletic competition for able-bodied individuals.

"(14) encourage and provide assistance to amateur athletes of racial and ethnic minorities for the purpose of eliciting the participation of such minorities in amateur athletic activities in which they are underrepresented."

I am including at this point excerpts from the material submitted by the U.S. Olympic Committee as part of their justification and 4-year budget plan of the funding provided for by this legislation:

U.S. OLYMPIC COMMITTEE,
Colorado Springs, Colo., July 18, 1978.

Hon. GEORGE E. DANIELSON,
Chairman, Subcommittee on Administrative Law and Government Relations, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMAN DANIELSON: This is in response to the request made by the Subcommittee on Administrative Law and Governmental Relations for a justification and break-out of the one-time federal appropriation of $30 million as set forth in Section 211 of H.R. 12626. On behalf of the United States Olympic Committee, I take this opportunity to express our deepest appreciation to you and the members of the Subcommittee for your interest in this very important national effort, and we urge your expeditious, favorable consideration of H.R. 12626.

Enclosed herewith for your information and review please find a detailed justification and break-out for the essential one-time federal appropriation of $30 million required to enhance amateur sports in the United States to a degree to which every American can be justifiably proud. It is reiterated that the subject appropriation is inseparable to the effective and efficient fulfillment of the other provisions of the Act.

I trust that the enclosed information is responsive to the Subcommittee's needs and that it will assist in its deliberations. However, should you desire additional information, please do not hesitate to call upon me at your earliest convenience.

With all good wishes, and many thanks for your interst in amateur sports, I remain, your interest in amateur sports, I remain,

F. DON MILLER.

JUSTIFICATION AND 4-YEAR BUDGET PLAN

INTRODUCTION

This justification is being furnished in the interest of providing the Subcommittee on Administrative Law and Governmental Relations, House Judiciary Committee, with an appreciation and better understanding for the need of amateur sports for financial assistance as outlined in Section 211 of H.R. 12626.

As indicated in the Final Report of the President's Commission on Olympic Sports (1975–1977), the development of a successful amateur sports program in the United States is tantamount to the availability of Federal financial assistance at an early date. It must be recognized that broad-scale amateur sports opportunities for a maximum number of individuals at all ages and all levels of ability not only serve as a deterrent to many of our current social problems, but also make a substantial contribution to the development of the individual and to our society. If the United States is to benefit from these opportunities, it is imperative that adequate funding be provided for the full spectrum of amateur sports programs designed for the beginner as well as the elite athlete.

Many of our national sports governing bodies, particularly those whose sports are designated as underdeveloped and emerging, are unable to generate sufficient financial support to provide the youth of our country with even the basic opportunities to participate in sports. The United States Olympic Committee does, as a result of the concern and generosity of the American public and corporations, provide some financial assistance to all National Governing Bodies; however, it is far from adequate. During this Quadrennial period (1977–1980), the United States Olympic Committee has a budgetary goal of $26 million of which $9.2 million is disbursed to National Governing Bodies as direct grants to assist them in the grass roots development of their respective sports. This sum is not enough to satisfy the full requirements of these bodies. The justified grant requests from National Governing Bodies is approximately four times the amount of money which has been budgeted by our Committee.

The only way this extreme dollar shortage can be resolved in the immediate future is through the Federal government providing one-time assistance under H.R. 12626. The $30 million set forth in H.R. 12626 to finance the development and operation of programs approved by the Corporation, consistent with the provisions of the act, is essential if the restructuring of amateur sports in the United States is to be successfully and quickly consummated under effective and efficient leadership.

As indicated in the Final Report of the President's Commission on Olympic Sports, the two most glaring deficiencies confronting U.S. amateur sports today were a lack of organizational cohesiveness and lack of funding. H.R. 12626, and its Senate-passed (May 8, 1978) companion legislation (S. 2727), attempt to address these two problems.

Until now, most of the effort expended by all parties to bring this legislation near to passage has been directed toward the organizational changes contained in the bill. It has been here that difficulties of long standing have manifested themselves. However, this paper discusses the need and use of strictly limited one-time federal funding for amateur sports.

The P.C.O.S. found that successful implementation of the desired organizational improvements was inextricably linked with funds made available to accomplish the reorganization. Therefore, the development of a successful amateur sports program in the United States is tantamount to the availability of a one-time federal assistance program. The Commission recognized that other programs must be instituted if the goals and objectives outlined below were ever to be accomplished. It is in this spirit that S. 2727 and H. R. 12626 are intended and a key reason for the USOC's and NGB's support of the legislation.

From analyzing the financial needs of U.S. amateur sports, the P.C.O.S. determined that a one-shot infusion of funds of $215 million was needed to accomplish the goals of reorganization, administration, development, facilities and competition and an ongoing need of $83 million per annum to be spread among these functions. Most of the one-shot infusion was for facilities ($160 million).

The Commission did not specify that all these funds had to come from federal sources. Rather, the Commission pointed out that sources of funds could range from a number of federal sources or federally sanctioned programs, to state funding and to corporate and other private sources.

The spirit of the Commission, S. 2727, H. R. 12626, and the United States Olympic Committee and its many member organizations is that the federal appropriation of $30 million contained in the legislation be for one-time only to accomplish the goals and objectives enumerated as follows:

(a) The strengthening of amateur sports as an educational benefit available to all American citizens;

(b) The increased participation by sportsmen and women at all levels of ability;

(c) The maximization of the opportunity to participate for all including such groups as the handicapped which have been largely excluded previously;

(d) The development of national training centers and sports medicine programs to assist meeting the three above goals and fill huge voids in the existing system;

(e) In the relatively new field of sports medicine, the development of techniques and findings that can benefit not only our sporting populace but the general public as a whole, particularly as it relates to preventative medicine involving both physical and mental health.

The on-time federal appropriation is designed to be spent to accomplish the reorganization of amateur sports and to attain the goals and objectives mentioned above. The end result of the prudent spending of these funds will be a self-sustaining, well organized and managed U.S. amateur sports system that will be capable of meeting the increased demands and interest on the part of the American public. Additional funds for other needed purposes, (e.g., specific development programs, competition, facilities, etc.), will come from the private sector (e.g., foundations, corporations and individuals), government initiatives requiring only federal sanctions (e.g., commemorative coins) and federal and state appropriations under existing authorities (e.g., facility construction under Bureau of Outdoor Recreation, Department of Interior). Additional funding will come only when the system is reorganized and better managed and is beginning to meet the goals and objectives enumerated above.

The remaining parts of this paper delineate how the $30 million will be spent to accomplish the reorganization and the goals and objectives for improvement of the U.S. amateur sports system. The money will be spent according to a well-defined four year plan designed to provide the country with long and sustained growth and to move ahead with programs that will only further the goals and objectives set down above. The plan is summarized at attachment one. (The justification in detail is omitted from original letter at this point.)

I. THE MANAGEMENT IMPROVEMENT PROGRAM

The management improvement program, to be initated in year one, is designed to bring the National Sports Governing Bodies to the point where a fully developed plan can be implemented to accomplish the "vertical structure" from the grass roots to the elite. Analysis will be conducted on a sport-by-sport basis. Topical areas outlined below will be analyzed and priorities and target goals will be set for each sport to achieve. Basically, the work will center on management improvement in the following areas:

A. Organization: A review of each sport to determine what steps it must take at all levels to meet the organizational criteria set forth in H.R. 12626. The needs will vary from sport to sport and from organization to organization.

B. Administration: A review of an N.G.B.'s staff, including volunteers, to ascertain an N.G.B.'s effectiveness in managing current programs; what administrative steps must be taken to increase athlete, coach and official identification, recruitment and classification; how can better communications be effected and participation programs developed; how can service costs such as mailing, publications, etc., be better managed; what additional staff are needed to achieve the N.G.B.'s goals and objectives?

C. Development: A review of development activities for coaches, athletes, and officials from the grass roots level up to, but not including elite development for specific international competitions. A review of activities relating to training camps, development camps, clinics, seminars, training manuals and international exchanges for athletes, coaches and officials, to make management changes and plans consistent with the goals and objectives of an improved amateur sports system.

D. Competition: An evaluation of how the goals of providing competitive opportunities are met and whether they are consistent with growth, management improvement, equal opportunity, and the goals and objectives of an improved system.

E. Facilities: Consistent with goal of providing broad-based opportunity for all, facilities in each sport will be analyzed to determine the need for new ones and, more important, the opportunity for a more cooperative use of facilities (this is tied to organization improvement to some degree).

F. Funding: The status of each sport's funding levels will be assessed and methods developed to increase self-sustaining efforts.

Based upon these evaluations, a plan in consort with the N.G.B.'s will be developed for each sport to achieve the goal of self-perpetuation and growth. Each of the needs above will be prioritized and a monetary value to achieve them will be developed. Some sports will require more funding than others; some will require more for administration; still others will require more for development. Below is a more detailed background on the implementation of management improvement.

II. ADMINISTRATION

Administrative efforts will focus in three general areas: (a) automated management systems; (b) augmentation of paid staff of the N.G.B.'s; and, (c) USOC support services for N.G.B.'s in Colorado Springs.

The development of an automated data processing system will link together the N.G.B.'s, the USOC and the training centers. The hardware needs anticipated can be handled by an IBM System 3, Model 15D, with a high speed printer and telecommunications capability. The system will perform numerous functions to serve as an effective management tool: (a) accounting systems for the USOC, each N.G.B. and the training centers; (b) membership lists; (c) mailing lists for varying purposes (fund raising, membership, subscription, etc.); (d) individualized sports programs such as international ski performance ratings and age group performance for swimmers; (e) talent bank for jobs within the sports system as well as amateur athletes seeking corporate positions under "broken-time" payments; (f) sports medicine information retrieval system (see sports medicine) and, (g) coach, athlete and judges classifications to include progress by handicapped in these areas.

The use of federal funds to hire paid staff for the N.G.B.'s is designed to allow the N.G.B.'s to become expansive, self-sustaining and growth oriented consistent with the goals and objectives of amateur sports and the USOC over the four year period. As stated earlier, some N.G.B.'s will require more assistance than others in this area. Some of the roles of the increased paid staff will be: (a) to organize and develop programs for those previously not enjoying sufficient opportunity to participate such as those for women and the handicapped; (b) to increase volunteer participation in the sport to achieve greater membership, better organized and administered programs at the grass roots level; (c) to participate in general fund raising; (d) to implement improved communication systems within the N.G.B.; (e) to implement the automated management system as described above; (f) to implement developmental programs; (g) to assist in the development of a facilities inventory and determine the most efficient and cooperative ways of utilization; (h) to assist in implementing the organizational plan for the N.G.B. as developed during the initial management improvement phase.

Up to twenty National Sports Governing Bodies have indicated an interest in moving their headquarters to Colorado Springs. This move will reduce the total costs of N.G.B. administrative support as the USOC will provide space at no cost, but the USOC will require funds to initially support these N.G.B.'s on site. Funds will be used to modernize (interior painting and cosmetics) and furnish the N.G.B. building in Colorado Springs (not new structures) and other administrative support services.

If these tasks are achieved consistent with the management improvement plan, N.G.B.'s will be able on their own to sustain growth and increase programs to include financial solvency in the years ahead.

III. DEVELOPMENT

Development consists of improved opportunities for athletes, coaches and officials. For each, the goals will be: (a) identification, recruitment, classification and education; (b) improved communication; (c) increased participation programs and (d) the organization of an overall development plan.

A. Identification, recruitment, classification and education: For athletes, this work will be performed by the paid and volunteer staff. A wide disparity of problems exists in this area from sport to sport. For example, biathon and team handball have acute problems in expanding their grass roots programs while soccer does not. All sports need to take steps to improve opportunities in athete recruitment of women and the handicapped. Similarly, coaches will be identified by the full time staff and by volunteers. In contrast with some sports, qualified coaches and officials are an acute problem for soccer at the grass roots level because the sport does not currently have sufficiently trained coaches to meet the ever increasing demand of athlete participants.

B. Communication: Many sports National Governing Bodies are unable to communicate effectively information on competitions, try-outs, clinics, training camps, etc. Increased registration of athletes would also be a major effort here. The work would be performed by the paid and volunteer staff.

C. Participation programs: In most sports, there are not sufficient numbers of clinics, seminars, training camps, competitions, technical publications, handbooks, equipment and international exchanges for athletes, coaches and officials. In addition, very little is done outside of schools to teach the lessons of sport as part of the educational process. Efforts will be effected in these areas by the paid staff and by the volunteers.

D. Overall development plan: Staff and volunteers will be encouraged to think ahead and make decisions on development consistent with the achievement of short and long term goals.

E. Competition: Competition is an on-going expenditure as defined earlier, However, once initial seed money is provided from federal sources this program will become self-sustaining through assistance from the private sector.

F. Facilities: No federal money considered on H.R. 12626 will be used to construct facilities.

G. Funding: As defined earlier, funding only refers to an analysis of existing sources and uses of funds and appropriate re-ordering of priorities.

In concluding this section, it should be noted that no expenditures for paid staff or development will be made until needs have been justified by the National Governing Bodies. Automated systems work will commence concurrently with the management improvement plan. (See Attachment Two for Four-Year Budget Summary).

IV. THE TRAINING CENTER AND SPORTS MEDICINE PROGRAMS (GENERAL)

The United States Olympic Committee feels strongly that the $12 million set forth in H.R. 12626 to help finance the operation and maintenance of training centers and the operation of a sophisticated sports medicine program is a critical item. The Training Center Concept envisions the establishment of several of these Centers across the geographical limits of the United States, as well as establishing supplementary training programs at selected educational institutions where facilities and coaching expertise exist in a particular sport.

Individuals at all levels of ability are selected by the National Governing Bodies to participate in this Training Center program at no cost to the individual. At the present time, the United States Olympic Committee is underwriting the full cost of operation and maintenance at its Regional Training Centers in Squaw Valley, California, and in Colorado Springs, Colorado. Other sites are under consideration for the near future.

Since June of 1977, more than 7,000 young men and women of all levels of ability, representing 27 sports on the Olympic Games program, have participated in programs at the Regional Training Centers. The current cost of the program, approximately $1 million a year each for operation and maintenance, has been underwritten by the United States Olympic Committee. The financing of this operation has taxed our resources and prevented a more rapid expansion of the Training Center Concept. Further, because of a shortage of funds we have been unable to purchase many essential items of equipment required to effectively train athletes in a myriad of diversified amateur sports activities. Without federal financial assistance, it is questionable if the United States Olympic Committee can continue to make this opportunity available to our fine young amateur athletes.

The Training Center has become the hub of the USOC Sports Medicine program. The role of sports medicine has become increasingly important in the total development of well-conceived amateur sports programs. Not only will activation of the USOC Medicine program fill a long-existing void in amateur sports, but it will also result in a significant contribution to our total society. It is interesting to note that in the United States we spend billions of dollars for research in training disease states, but in comparison very little is spent on promoting and maintaining health, and, in particular preventing physical and mental disorders. Much has been accomplished by many individuals and organizations in this regard.

However, in this country, Sports Medicine has lacked direction. Sports Medicine must be coordinated to achieve optimum results for the sports community and the general public. Development of an information retrieval and dissemination system for wide distribution of pertinent data must be accomplished. The Regional Training Centers provide a unique environment which is conducive to the exchange of ideas for the application of medical and scientific knowledge which can be synthesized and applied. The United States Olympic Committee has, therefore, established the Sports Medicine Committee, consisting of selected sports medical and scientific experts to develop, coordinate and implement programs in the following areas:

(a) Basic Sciences:
1. Exercise Physiology.
2. Biomechanics.
3. Sports Psychology.
4. Nutrition.

(b) Medical Services:
1. Health Care.
2. Training Services.
3. Injury Rehabilitation.

(c) Education:
1. Information Retrieval and Dissemination.
2. Conferences, Clinics and Symposia.
3. Continuing Sports Medicine Education and Certification Programs for Physicians, Coaches, Trainers and Physical Educators at all levels of the athletic spectrum.

The Committees goals and objectives are to:

1. Analyze various theories of training and conditioning so that optimal, safe and efficient training programs may be developed.

2. Develop systems for periodic analysis of each athlete's training program.

3. Help prescribe effective and safe individualized training programs based on sound scientific and medical criteria.

4. Examine the varieties of ergogenic aides to determine effectiveness and safety of supplementation (vitamins, protein supplements, medications, etc.).

5. Assess modes of adaptation and acclimatization to optimize training and performance in all types of environment: heat, cold, altitude.

6. Evaluate relatively undefined phenomena and difficult problems in sport: Second wind, stitch, staleness, fatigue, muscular soreness, sleep and rest, and diet (training and pre-performance).

7. Perfect a data base for each position and event in each sport so as to evaluate norms and trends.

8. To provide the best possible medical coverage for all amateur athletes training and competing in domestic, international, Pan American and Olympic Games competition.

9. Assemble and disseminate relative Sports Medicine and Science information in acceptable, communicable and accessible form for athletes, coaches, trainers, physical educators, and administrators throughout the country.

10. Foster development of Sports Medicine programs and personnel at the grass roots, regional, national and international levels.

11. To promote sound concepts of physical fitness, nutrition and health *for all* based upon knowledge derived from an Olympic Sports Medicine program.

12. To develop, identify, interpret and disseminate reliable information and data relevant to improving the health and well-being of those with specific medical problems (i.e., the handicapped, cardiovascular patients, diabetics, hypertensives, arthritics, the mentally ill and others).

13. To establish criteria and guidelines for those involved in Sports Medicine and Science in order to promote the highest standards of practice.

To accomplish the goals and objectives set forth in the preceding paragraph, Federal financial assistance is needed to hire qualified sports medicine personnel, provide essential items of sports medicine equipment and supplies, and to finance an information retrieval service for the analysis and dissemination of sports medicine information. The United States Olympic Committee has initiated the program at an initial cost of $1 million; however, it will not be able to maintain the program without federal financial assistance.

A. The training center program

The training center concept is a new development in the United States and is gaining rapidly in popularity. As a result, it is expected that as the centers become more developed that private sources will help fund the operations of the centers. In fact, already several corporations have donated equipment, services and construction assistance to the centers. As the training center concept and what it can accomplish becomes better known, it is anticipated that there will be a well-spring of private support for the concept.

Many of the funds associated with the training center project are clearly one-shot, one-time; other allocations are seed money to accomplish widespread attraction from the private sector.

The training center funding needs are broken down into three categories: (a) general equipment requirements; (b) feasibility studies for new training centers, and (c) a federal contribution for part of the fixed operating expenses. Three operational centers are anticipated.

(a) General Equipment Requirements: General equipment requirements will encompass one-time one-shot equipment needs at all three centers. These are: (1) office and dorm maintenance equipment (e.g., videotape machines, closed circuit television, etc.); (2) security equipment (e.g., an alarm system at one of the centers); (3) operational (athlete) equipment including such items as mats, gymnastics and track and field equipment; (4) social and recreational equipment, i.e., items to outfit a "rec hall"; (5) food service equipment to include broilers, deep fat fryers, etc.; (6) building and grounds equipment (e.g., lawn tractors, snow removers, and the upgrading of existing structures).

(b) Feasibility Studies of Training Centers: This requirement anticipates several finite training center feasibility studies to determine sites for new centers.

(c) Fixed Operating Expenses: This category anticipates that federal dollars will sustain only a portion of the projected $3.4 million of fixed operating expenses over three years. The federal contribution will ensure seed money to start up the program with additional operating expenses coming from other sources. The categories are (1) administrative (office supplies, telephone, leases);

(2) operations (rental of facilities, team support, etc.); (3) services (security, dining, recreational, housekeeping, transportation, etc.); (4) building and grounds (heat, electricity, etc.); (5) personnel—all divisions.

B. Sports medicine

Sports Medicine is broken down among the following required one-time assistance items: 1) Equipment; 2) Implementation and development of a Sports Medicine information and retrieval system; 3) Sport testing (explained below); and 4) Specifically finite research projects.

1. Equipment:

(a) Medical: This equipment is required to maintain the daily health care of the athlete, including equipment necessary to promote and facilitate physical rehabilitation. Injury rehabilitation systems and techniques and applied at the regional training centers will find wide application in major medical facilities as well as for the general public as a whole.

(b) Exercise Physiology and Nutrition: Equipment necessary for studies in these fields is used to evaluate the functional status of the athletes cardiovascular, pulmonary, metabolic and neuromuscular systems as these change and adapt to the stresses of training and competition. The role that nutrition plays in various types of conditioning and athletic performance must be critically evaluated. Knowledge and information obtained will be of immeasurable value to the general public in both preventative medicine and the treatment of diseases.

(c) Biomechanics: This science analyzes the intricacies of human motion. Biomechanics requires a highly sophisticated laboratory which includes advanced cinemaphotographic equipment, computerized force platforms, digitizing equipment and interpretive display systems. The Biomechanics laboratory represents a uniquely important and effective tool for all coaches and scientists involved in each Olympic sport in helping to improve technique and safety in athletic performance. In addition, this facility will develop significant new techniques and equipment for injury rehabilitation which clearly will be applicable to the population as a whole.

(d) Sports Psychology: This equipment will be used to develop clinically oriented programs applicable to the individual and to the athlete. Sports Psychology seeks to help the coach and athlete gain a better understanding of approaches and attitudes as they relate to maximizing athletic performance. Information derived from this program will be of considerable importance in encouraging and properly motivating the people of this nation to improve their physical fitness and nutritional habits.

(e) Strength and Flexibility: Various types of equipment used for testing and improving strength and flexibility must be available for each type of event and sport in order that the athlete can maximize his performance and specifically help lower the incidence of injury in sport. Properly designed programs should positively effect the level of physical fitness in the entire country.

2. Sports Medicine Information Retrieval System.

This system, which will be programed on the computer discussed under the Administration section of this paper, is designed to gather and disseminate to all the most up-to-date research and literature associated with Sports Medicine issues. The only equipment requirement will be a storage unit.

3. Sport Testing.

Each sport has different physiological, biomechanical and nutritional characteristics. By testing and identifying these parameters, profiling procedures will be developed to encourage and help direct our youth to participate in sports for which they may be best suited. This will also help to broaden participation in underdeveloped sports, while at the same time, will provide sports medical scientists the opportunity to encourage participation in healthful "lifetime" sports.

4. Research Studies: Specifically fine research studies will be conducted in two areas of immediate concern to athletes of today, but whose findings will be applicable to all. These are: (a) the impact of various drugs on athletic performance, and (b) the role nutrition plays in improving athletic performance.

5. Fixed Operating Expense.

Fixed operating expense categories for Sports Medicine are: (a) personnel and, (b) consumable items.

C. Budget summary

At attachment three please find a budget summary for Olympic Training Centers and Sports Medicine Programs.

ATTACHMENT

FOUR-YEAR FINANCIAL IMPROVEMENT PLAN

I. YEAR ONE

(A) Management Improvement of the U.S. Amateur Sports System—

1. Survey of the specific needs of each sport together with organizational changes.

2. Administration: (a) the development of automated systems to accomplish the goals of improved management and synergism among the various sports groups; (b) gradual development of administrative National Sports Governing Body support.

3. Development: Selected developmental programs to improve the number and quality of athletes, coaches and officials at all skill levels.

(B) Training Center and Sports Medicine Activities—

1. Sports Medicine: to include purchase of necessary equipment; development of a retrieval and dissemination sports medicine information system; sport-by-sport testing; finite research studies;

2. General Equipment Requirements: These are one-time, one-shot expenditures for equipment needs at the existing centers;

3. Fixed operating activities associated with the centers and sports medicine program designed to make the centers and sports medicine program self-sustaining.

II. YEAR TWO

(A) Management Improvement Follow-Up—

1. Make adjustments in planning initiated in first year;

2. Administration: complete software development and increase administrative support;

3. Development: increase developmental support.

(B) Training Center and Sports Medicine Activities—

1. Continue operating activities designed to make centers and sports medicine program more efficient and effective.

III. YEAR THREE

(A) Management Follow-up and Evaluation—

1. Make any adjustments in management procedure and evaluate progress thus far;

2. Administration: maintain administrative support but adjust use of funds as determined by evaluation;

3. Development: maintain developmental support but adjust mix of programs as a result of evaluation.

(B) Training Center and Sports Medicine Activities—

1. Evaluate and activate plan for self-sustaining growth;

2. Continue operating activities.

IV. YEAR FOUR

Management Evaluation for sustained progress and growth, and continue administration and developmental programs and support of N.G.B.'s. Throughout the four year cycle, up to 20% of the funds appropriated may be allocated to organizations not members of the USOC. This work will amplify and augment the management and evaluation process and will contribute to the development of programs for the handicapped, sports medicine research, training centers and other areas of need.

BUDGET SUMMARY

OLYMPIC TRAINING CENTERS AND SPORTS MEDICINE PROGRAMS

Activities	Year 1	Year 2	Year 3
Sports medicine:			
Equipment:			
General medical	120,000		
Exercise physiology	650,000		
Biomechanics	501,000		
Sports psychology	100,000		
Strength education	360,000		
Information retrieval system equipment	250,000		
Sport testing	825,000		
Research studies	150,000		
General equipment requirements:			
Office and dormitory	100,000		
Security	46,000		
Operational (athletic)	337,000		
Social and recreation	13,000		
Food servicer	52,000		
Buildings and grounds	800,000		
Feasibility studies		250,000	250,000
Fixed operating expenses:			
Training centers:			
Administrative	194,000	338,000	338,000
Operations	150,000	250,000	250,000
Services	340,000	561,000	561,000
Buildings and grounds	150,000	250,000	250,000
Personnel	624,000	1,000,000	1,000,000
Sports medicine:			
Personnel	185,000	310,000	310,000
Consummables	50,000	41,000	41,000
Total	6,000,000	3,000,000	3,000,000

BUDGET SUMMARY

MANAGEMENT IMPROVEMENT PROGRAM

Activities	Year 1	Year 2	Year 3	Year 4
Management improvement:				
Initial survey	300,000			
Followup		150,000		
Followup and evaluation			150,000	
Evaluation				150,000
Administration:				
Computer systems:				
Hardware	1,000,000			
Software	300,000	200,000		
Administration—Continued				
Paid staff	1,200,000	1,800,000	1,800,000	1,800,000
USOC support services	600,000	200,000	200,000	200,000
Development:				
Athletes	367,000	717,000	783,000	783,000
Coaches	367,000	717,000	783,000	783,000
Officials	367,000	717,000	783,000	783,000
Total	4,500,000	4,500,000	4,500,000	4,500,000

Mr. DANIELSON. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. Drinan).

Mr. DRINAN. Mr. Speaker, I rise not only in opposition to this legislation but to the way it has been brought before us today. H.R. 2727 should not be on a Suspension Calendar. It is a complex piece of legislation which contains a $30 million authorization.

The Amateur Sports Act did not meet with smooth sailing in the full Judiciary Committee. I and at least three other members presented dissenting views which are not available to our colleagues, because the report is not yet printed. The measure was reported out of the House Judiciary Committee only last Thursday.

During the 2 days of discussion on this legislation by the full Judiciary Committee, much concern was expressed over the advisability of providing for this unprecedented intrusion by the Federal Government into the arena of amateur sports.

Many of the bill's advocates would have us believe that it is a simple measure that is needed to fully implement the recommendations of the President's Commission on Olympic Sports. The Commission, which met between 1975 and 1977, had as its task to establish a framework for resolving the conflicts in the organized amateur sports community which are attributed with hindering domestic and international competition. Yet, no persuasive case was made for just how this legislation would resolve these longstanding disputes. I note that the Amateur Athletic Union of the United States, which is the world's largest amatuer sports organization, having 371,000 registered athlete members, strongly opposes this bill.

According to that organization, instead of furthering international sports competition, this legislation will hinder—if not totally prevent—the AAU as a national sports governing body from fulfilling its obligations with respect to regulations governing international competition. The AAU is the national governing body for eight Olympic sports programs.

It is unclear why this legislation has been advanced as a panacea for the internal problems which have plagued the amateur sports community. Many of the recommendations of the President's Commission have already been implemented and I assume any further administrative cleanup could be accomplished without legislation.

The crux of S. 2727 is not the reorganization of amateur athletics, but the $30 million authorization. The Subcommittee on Administrative Law of the House Judiciary Committee voted unanimously to delete the money. The funds were restored in full committee by a vote of 18 to 13.

Despite argument by the representatives of amateur sports organizations who lobbied strongly for this bill, that the administrative framework contained in S. 2727 is as important as the $30 million authorization, representatives of these organizations acknowledged that the subcommittee's action in unanimously voting to delete the funds, had "gutted the bill."

The uses of the $30 million are couched in general terms and 14 broad objectives outlined in section 104 of the measure. Many of the objectives are commendable but no one has been able to explain to me exactly what use will be made of the money.

Apparently the Olympic Committee did provide the Subcommittee on Administrative Law with a general breakdown of what the funds would be used for, but could not have made a compelling case as the subcommittee voted nonetheless to delete the authorization.

We were also told over and over again, that this $30 million would be a onetime expenditure. We are all only too familiar with the difficulty of weaning any project from Federal money and I see no reason to believe that the sports community will react any differently than any other organization.

In conclusion, Mr. Speaker, I urge my colleagues to vote against this measure. The American people, athlete and spectator alike, will be better served by our continued reliance on volunteerism to support amateur athletics.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. DRINAN. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding.

When was that testimony in the Record?

Mr. DRINAN. I am not on the subcommittee, I will say to the gentleman. Maybe it is not in the Record.

Mr. MICHEL. It is not in the Record, and that is what really burns me. We get a telegram at the last minute from an executive director, a hired staff person, saying he is opposed to the legislation. He had every opportunity to testify before the subcommittee as well as the full committee. Never once was it said, "We are opposed to this legislation."

Mr. DRINAN. That demonstrates again, if I may reclaim my time, the fact that we should not be giving $30 million to organizations that are so disorganized. This legislation will hinder, if not totally prevent, the AAU as a national sports governing body from fulfilling its obligation. The crux of this bill, Mr. Speaker, is $30 million. The subcommittee of the Committee on the Judiciary voted unanimously to delete this money. It was restored by the House Committee on the Judiciary.

Mr. KEMP. Mr. Speaker, will the gentleman yield for a question?

Mr. DRINAN. I will be happy to yield to the gentleman from New York.

Mr. KEMP. I appreciate the gentleman's yielding.

Does the gentleman mean to suggest that the money is going to the AAU?

Mr. DRINAN. By no means.

Mr. KEMP. I appreciate the gentleman's clarifying that, because the money is not going to the AAU, or the NCAA. The money goes to the USOC as the umbrella organization which my colleague the gentleman from Illinois (Mr. Michel), has been discussing so eloquently. So I hope the impression is not given to my colleagues here on the floor that the money is going to the AAU or NCAA.

Mr. KINDNESS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. Railsback).

Mr. RAILSBACK. Mr. Speaker, I rise in support of S. 2727, the Amateur Sports Act of 1978. I want to commend the gentleman from Illinois (Mr. Michel) who is an ex-athlete himself and has played a most important role in moving this legislation.

In recent years, jurisdictional disputes have plagued amateur athletic activities in this country. The result: A failure of our Nation to realize its full potential in expanding athletic opportunities at the grassroots level and in fielding the very best international teams. I am confident that this legislation will bring about many of the reforms needed to boost our amateur sports program.

The pending proposal presents the best opportunity that has existed in over 50 years to effectively reorganize our amateur sports community. The result will be a better coordinated program with more opportunities for all of our Nation's youth. For some, it will open the door to their participation as our representatives to the Olympic games. Most significant, in my opinion, is that the Federal seed money contained in this measure will help amateur sports at a national level to stand on its own feet and at the end of approximately 4 years be self-supporting through private sector funding.

The potential beneficiaries of this legislation extend well beyond the present field of amateur athletes and may include all Americans in some way. It will, for example, address a long-neglected need for financial assistance to expand amateur athletic activities for women and handicapped individuals. In addition, the sports medicine program promises to provide new medical knowledge of assistance to us all, just as has occurred in the field of space medicine in recent years. Finally, and perhaps most importantly, our U.S. Olympic teams will be better able to represent us as our athletic ambassadors to the world if S. 2727 is adopted.

S. 2727 does not, in my view, overstep the bounds of reasonable Federal involvement in the development of amateur sports activities. Instead, it provides a limited response to a troublesome problem. Both the objectives of a better coordinated amateur sports program, capable of standing on its own feet, and the initial development of a number of significant programs, make this legislative action justifiable. I encourage my colleagues on both sides of the aisle to support passage of the Amateur Sports Act of 1978.

Mr. DANIELSON. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Mineta).

Mr. MINETA. Mr. Speaker, as one of the four original House sponsors of the Amateur Sports Act. I rise in support of this legislation. Having had the privilege of serving on the Presidential Commission on Olympic Sports, this bill is the work product of many hours of discussion and negotiation.

The Amateur Sports Act is designed to promote the best interests of amateur sports in the United States and to help coordinate our Nation's amateur sports programs by developing a rational and logical sports structure. This legislation will give amateur sports the ability to foster a spirit of compromise and good will among amateur sports organizations. The Amateur Sports Act of 1978 is the product of many hours of discussion, negotiation, and, above all, compromise among the various members of our Nation's amateur athletic community.

Amateur athletics has become an integral and vital factor in the social, physical, and moral fabric of American society. For millions of Americans of all ages and backgrounds, sports represents one of the most enjoyable and rewarding leisure activities. For millions more, athletic accomplishments represent an inspirational stimulus that can have a significant impact on their everyday lives.

Unfortunately, many times our amateur sports programs are hindered and the ability of our amateur athletes stymied by the fragmented and disjointed nature of our amateur sports organizations. There is no clear policy or direction in amateur sports, and as a result, conflicts arise among various amateur sports organizations regarding which group best represents a particular sport or a particular athlete's interests. On occasion, these disputes have gone beyond the amateur sports community and affected all of us, both passive spectator and active participant.

Ultimately, the real victim of these organizational squabbles is the individual athlete who either has been denied the opportunity to participate in athletic competition or forced to train and compete under conditions less than adequate.

In order to determine the best method by which to correct the jurisdictional problems facing amateur sports, the President's Commission on Olympic Sports was established in 1975. Serving on that Commission was one of my first tasks as a Member of Congress. We conducted an exhaustive, 2-year study that culminated in a final report in January 1977 regarding the major problems facing amateur athletics and recommendations for the resolution of those problems.

The major recommendation we made was the need for establishing a central sports organization that would coordinate all amateur sports activities in the United States. This bill attempts to incorporate the recommendations of the Commission by means of redrafting the Federal charter of the U.S. Olympic Committee.

With this legislation, the House has an opportunity to bring an end to the jurisdictional disputes and arguments among amateur sports organizations and to help reverse the trend of declining performance by U.S. athletes that result from poor organization and lack of adequate training facilities. Specifically, the legislation is designed to encourage and provide better opportunities for participation in amateur athletics for U.S. citizens. In this regard, the bill has four primary goals.

First, the bill restructures the U.S. Olympic Committee so that it can serve as the coordinating body for the development of amateur athletic activity in the United States. In support of this effort, the legislation authorizes a one-time Federal authorization of $30 million to the USOC.

Mr. Speaker, I want to point out to my colleagues that this authorization represents a one-time infusion of "seed" money to enable sports organizations to reorganize to become self-sustaining. It does not represent a precedent for continuing Federal financial assistance or intervention into amateur sports.

The funds would be disbursed according to a detailed 4-year financial plan, supervised by the U.S. Olympic Committee. I would point out to my colleagues that the USOC is currently able to provide only one-quarter of the funds needed by the national governing bodies for their amateur sports programs.

These funds are essential to help strengthen the American approach to a well-developed sports program for the youth of the Nation. They will help finance administrative and management reforms necessary to respond rapidly to expanding needs in amateur sports.

Second, the bill provides a mechanism by which the right to govern a particular sport is awarded to the most representative and capable amateur sports organization. In this regard, the bill provides procedures for the recognition of national governing bodies and the resolution of disputes between organizations through binding arbitration.

Third, the bill provides for the protection of amateur athletes ability to participate in amateur competition by recognizing certain rights for amateur athletes. The U.S. Olympic Committee is directed to establish and maintain provisions for the swift and equitable resolution of disputes involving the opportunity for an amateur athlete to participate and compels a national governing body to submit to binding arbitration over any controversy involving the athlete's right to compete.

Finally, the Amateur Sports Act will vastly improve athletic opportunities for athletes with physical or mental handicaps. This legislation makes it clear that the task of improving these opportunities shall be one of the purposes of the U.S. Olympic Committee, as they are enumerated in its Federal charter. The President's Commission on Olympic Sports concluded that athletics are an effective means for all individuals to improve the qualities of their lives. Yet, in the case of the handicapped, it is extremely difficult to use athletics to enrich their lives. Public attitudes reflecting ignorance, apathy, or a lack of awareness of the needs of handicapped athletes are the major problem in this regard. Passage of this legislation will place on the U.S. Olympic Committee an obligation to play a leadership role in looking more aggressively at the problems encountered by the handicapped when entering sports.

In closing, Mr. Speaker, let me emphasize that the Amateur Sports Act is the product of many hours of discussion and negotiation. It represents, as nearly as possible, a consensus of all organizations participating in the effort to encourage broad participation in amateur athletic activities. The legislation is a delicate balance of views and positions of the various amateur sports organizations and has forced each group to give a little in the spirit of compromise.

I urge my colleagues to support the Amateur Sports Act.

Mr. DANIELSON. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, I wish to join those opposed to the bill being on the Suspension Calendar. I would like to point out that this bill was just reported out of the Committee on the Judiciary last Thursday. The report was filed only last night. We have not seen a copy of it. We have not read it. There has not been a Member of this House probably that has had a chance to read the report on this bill; yet we have it here and we have to take it up today. It can wait until next week. It can wait to have a rule.

I say that there are serious questions about this bill. The amount of $30 million is a serious question. Thirteen members of the Committee on the Judiciary voted to remove that; yet we cannot offer an amendment in this body.

I would like to say that I am quite interested in seeing the gentleman who spoke earlier, the gentleman from Illinois and the gentleman from New York, who said that we should now become involved in Government regulation of amateur athletics.

An amendment was offered in the Committee on the Judiciary which would have prevented our athletes from participating in any athletic events in any country where human rights are not recognized. That amendment was germane. That amendment some day can be enacted.

Should we give $30 million to the Olympic Committee? Are the taxpayers entitled to know how that money is to be spent? Are they entitled to know how it is to be spent, for what, and how amateur athletics ought to be conducted? Should we go into this domain? Should this Congress go into the field of regulation of amateur athletics?

I am very interested to see those two gentlemen, who cannot resist the temptation for Federal regulations of a private corporation, much less a public body, and this is a private corporation. We should not have anything to do with it. We are now saying we will give you $30 million and do with it what you will. No oversight, no control as to how the money is to be spent or used. We do not even do that for our own agencies. What happened to those gentlemen's support for less Government regulation and cutting spending? They are now espousing more Federal regulation and more spending.

Mr. KINDNESS. Mr. Speaker, if the gentleman from California has more than one speaker, I have one left.

Mr. DANIELSON. Mr. Speaker, I thank the gentleman from Ohio.

Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Speaker, I imagine that Typhoid Mary would receive a finer reception in this House than one who is against this bill. Nevertheless, I stand very definitely aganist the bill.

I was against it in the subcommittee. I was against it in the full committee. I am against it in this body. I hope that the House has wisdom enough to rise up and strike this bill down.

At the same time, let me explain, I have shared the same goose flesh that all of us have when we saw the Star-Spangled Banner raised on high in Munich or Montreal. I want it raised in Moscow in 1980 and in Lake Placid next winter. But, I do not think we want it done at the expense of the taxpayer. And, I do not think Congress should be sucked into the battle—into the combat—between the AAU and the NCAA.

I might say to those who worry about the athletes, when our committee sought to put protections for athletes in the bill, supporters of the bill went in exact separate directions. They would not agree to put athlete-protection providing in this bill.

Let me suggest, this is what I call a xenophobic bill. Those who read about xenophobia know it is the love of country carried to an unhealthy degree. This is the genesis of this bill. We want to win the Olympics so bad in 1980, we will let nothing stand in our way.

The procedure is bad. The bill smells and it ought to be defeated.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I appreciate the gentleman's yielding.

Mr. Speaker, I have great regard for the gentleman in the well, and I understand the perspective from which he speaks. I share the gentleman's antipathy for any attempt by the Federal Government to control amateur sports. However, I want to remind my colleagues, this bill is not going to control sports but referring to the statement made earlier about controls, the USOC, the U.S. Olympic Committee, was set up by an act of the Congress in 1950 and this is an honest attempt to make it work better.

Mr. MAZZOLI. Mr. Speaker, I thought the gentleman would try to answer the questions that have been raised.

Mr. KEMP. Mr. Speaker, I am, all we are doing today is amending the charter of USOC to help it reorganize so as to resolve the jurisdictional problems that have plagued amateur sports in the past.

Mr. MAZZOLI. Mr. Speaker, I think the gentleman is wrong, and I think this bill is wrong.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. MAZZOLI) has expired.

Mr. KINDNESS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Speaker, I rise in support of this legislation.

The Amateur Sports Act of 1978 (S. 2727) aims at bringing about certain reforms in amateur sports in the United States through amendments to the existing Federal charter of the U.S. Olympic Committee. 36 U.S.C. 371-383. The Amateur Sports Act reflects many of the recommendations made by the President's Commission on Olympic Sports in January 1977.

The bill represents an attempt to deal with the disorganization and factional disputes which plague amateur sports in our country. Using the USOC charter as the vehicle for change, the intent is to make that organization: (1) the principal coordinator of amateur sports in the U.S. (particularly, with respect to international competition); (2) the major policymaker in U.S. amateur athletics; and (3) the forum for the settlement of disputes involving an athlete's right to compete in international events or involving amateur sports organizations (such as the NCAA and AAU) over jurisdiction or the sanctioning of events.

The major provisions in this legislation, as reported by the Judiciary Committee, are as follows:

MAJOR PROVISIONS

1. USOC Authority (Sections 104–106). The powers and purposes of the U.S. Olympic Committee are expanded. Specifically, the USOC is vested with the authority to coordinate and develop amateur athletic activity in the U.S. where it directly relates to international competition. USOC is directed to establish national goals for amateur athletics and to settle disputes involving athletes and/or amateur sports organizations. The Corporation is also to encourage research in "sports medicine" and provide assistance to special sports programs for women, the physically handicapped and minorities.

2. Olympic Designations (Section 110). The USOC is granted exclusive use protection, typical in Federal Charters, with respect to the Olympic name, international symbol, and emblem.

3. Athlete's Rights (Section 114). The charter is amended to reflect the recent changes made in the Constitution and by-laws of the USOC concerning an athlete's opportunity to compete in international events. The bill makes it clear that otherwise qualified athletes, trainers, coaches, etc. have a right guaranteed in the USOC Constitution to compete in the Olympic Games, Pan-American Games, world championship competition, and other "protected competition" as designated by the Corporation. (The USOC Constitution contains binding arbitration provisions as a means of enforcing these participatory rights.)

4. National Governing Bodies (Sections 201–205). The USOC is given the power of initial, and continuing, recognition as to which amateur sports organization is to be the "national governing body" (NGB) in each Olympic and Pan-American Games sport. The selection of the NGB is significant, because each NGB acts as this country's representative in the corresponding international sports federation for that sport. It directs policy in the sport it governs and has the power to sanction international competitions, held in the U.S., in their sport.

The bill outlines criteria to be applied by USOC in the selection of an NGB and it also spells out arbitration procedures to deal with disputes arising out of the NGB recognition process. The most important criterion is that each NGB must "demonstrate that it is autonomous". This new autonomy requirement, reflecting a very recent addition to the USOC Constitution, means that a multi-sport organization can no longer be the NGB for more than one Olympic sport.

5. Restricted Competition (Section 206). The bill makes it clear that amateur sports competitions, restricted to a specific class of athletes (i.e. high schools, colleges, military), are beyond the scope of this legislation. This section reflects the concerns of both high school sports officials and the NCAA, that there not be any interference with the internal governance of interscholastic or intercollegiate athletes.

6. Financial Assistance (Section 3). Authorizes $30 million in a one-time-only Federal grant to the USOC for fiscal year 1980. The money is to be used as "seed money" to assist in the restructuring of amateur sports contemplated in the bill, as well as for the selection and operation of permanent training facilities.

I know of no area that is as important to the morale of the American people or to the prestige that we have abroad than amateur sports. We can help the Olympic Committee get hold of the disputes that have taken place in amateur sports and to get some control over the bickering that has been involved in this area. Our young people are being punished by the fights and the petty squabbing we have had in amateur sports. I think we will go a long way toward helping our country have an Olympic team of which we can be proud, one that will represent truly the best of our country and demonstrate the kind of product that we can bring out. If we pass the Amateur Act of 1978.

I do not want the Government to control sports any more than anyone else does. I think the Olympic Committee is an ideal private organization, and that, working with other amateur athletic organizations such as the NCAA, the AAU, and others, it can really give our young people a chance to excell in amateur athletics.

There has been opposition to the $30 million provided in this bill. I have not liked that too well myself, but it represents only about 14 cents for every American person. I know that when the people of this country are watching the Olympic games 2 years from now, they will get far more out of those games for the 14 cents they spent than they would from many other programs. For that money we will get our people in amateur sports working together as a team, and we will be trying to build American youth into a quality Olympic team.

Mr. Speaker, I think we have a good bill here. I think we have one that keeps the Government out of athletics and enables the people in amateur sports to work out the agreement they have made together. The few dollars we put into this will be well spent in the best interest of our young people and the people of America.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of California. I am happy to yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I just want to make one last point. I did not get the chance to finish my remarks in an earlier colloquy on the importance of this legislation.

The USOC operates under a charter of the U.S. Congress, and all we are attempting to do is, not to control amateur sports, but to amend the charter. The USOC charter has not worked to its optimum, and all we are trying to do is to make it work better so as to help adjudicate the differences in amateur sports organizations.

This is not an attempt to control amateur sports. It is an attempt to make sure we will never get to a point where in which stronger steps will be taken out of necessity.

Mr. Speaker, I certainly endorse the gentleman's sound arguments in behalf of this bill.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, I rise in support of this legislation, and I wish to associate myself with the remarks of the gentleman from Illinois (Mr. Metcalfe), the gentleman from Illinois (Mr. Michel), the gentleman from Illinois (Mr. Railsback), the gentleman from New York (Mr. Kemp), and the gentleman from California (Mr. Mineta).

Mr. DANIELSON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Speaker, I must confess that it is with some amusement that I watch the spectacle of many of the so-called fiscal conservatives over on the other side of the aisle suddenly embracing the opportunity to spend $30 million.

They also seem to be in favor of extending the long arm of Federal regulation into what up to now has been the quintessence of private initiative—amateur athletics.

To anybody who thinks that this bill would not try to do that, let me just read from section 104, which purports to set forth the powers of the corporation which is set up to run the Olympic Committee. Among other things, it would be empowered to "coordinate and develop amateur athletic activity in the United States."

And then, turning to paragraph (8), it says: To—

> provide for the swift resolution of conflicts and disputes involving amateur athletics, national governing bodies, and amateur sports organizations, and protect the opportunity of any amateur athlete . . . to participate in amateur athletic competition.

Mr. Speaker, I suggest to the Members that this is not the province of the U.S. Government. I do not know any constitutional basis for us to mandate that a Federal corporation coordinate and provide for the resolution of conflicts in amateur athletics.

It is rather interesting, also, to note that, if you ring for a copy of the bill and committee report, the page will bring you instead, a copy of the bill in the form it passed the Senate, not the bill as reported by the committee, and, instead of a committee report, he will bring you a pamphlet prepared by the U.S. Olympic Committee on the Amateur Sports Act of 1978.

I believe in amateur athletics. I was an erstwhile amateur athlete myself before I came to this institution. I also personally support the U.S. Olympic Committee and will continue to do so, but I will do so as a private individual, in keeping with the tradition of amateur athletics.

However, Mr. Speaker, I have heard a lot of talk, from some of the gentlemen who are supporting this bill, about no new spending programs, about cutting expenditures, and about keeping the Government off our backs. I suggest that this is a good place to start.

Mr. DANIELSON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. Metcalfe), a star of the 1936 Olympics.

Mr. METCALFE. Mr. Speaker, I rise in support of the Amateur Athletics Sports Act, a bill which I cosponsored in the House.

This bill is a landmark for the development and improvement of amateur sports in our country. I strongly urge my House colleagues to quickly pass this important legislation so that our amateur athletic house can finally be put in order.

I am especially enthusiastic about this legislation because, over the years, I have been actively involved in efforts seeking solutions to the problems plaguing amateur athletics. My personal involvement in this area convinced me that factional disputes among rival sports organizations have hurt the quality of U.S. teams in the Olympics, and other international amateur sports competition.

This bill presents the opportunity to finally end the jurisdictional squabbling among various sports bodies. It would be a travesty if we let slip from our grasp the opportunity to end over 50 years of quarreling between the National Collegiate Athletic Association and the Amateur Athletics Union. Their squabbles have only served to penalize our amateur athletes. I was a victim of their disputes. I have seen other victims of their disputes. With this bill the amateur sports community is presented with the unique opportunity to forge a common purpose, to follow a single direction to improving our athletes' performances on the international level.

But there are three other important points I would like to stress. First: This bill would benefit all Americans who wish to involve themselves in amateur sports. It would encourage athletic participation by minorities in sports in which they generally do not participate. Also, it would expand athletic opportunities for women, the handicapped and sports novices.

Second: The $30 million authorization is inseparable from the purposes of this bill. Without the $30 million authorization S. 2727 is rendered meaningless, and the delicately achieved compromises worked out among rival sports bodies will be threatened. I have heard reservations that this $30 million authorization would be used by the U.S. Olympic Committee to build a personnel bureaucracy. I have heard Members express concern that the $30 million authorization would be used for acquisition of expensive machinery and computer hardware. Nothing could be further from the truth. This funding is essential to implement reorganization and administrative reforms of the U.S. Olympic Committee. Furthermore, in serving as seed money for reorganization, these funds will spur private sector contributions to the U.S. Olympic Committee and will help develop better athletes of Olympic caliber.

Third: This bill does not signal an attempt by the Federal Government to become involved in amateur sports governance, operation or financing—either now or in the future. This bill is simply a recognition of the fact that, absent tangential Federal intercession, these rival sports bodies would never resolve their differences.

Look at where we are now. We are in the year 1978 preparing for the 1980 Olympics, and as we look at the record we see there have been events in which Americans used to excel. We no longer excel in them because we cannot compete against athletes from the Iron Curtain, who are subsidized. We see there are sports in which we have never developed great athletes because we have not had the know-how and we have not had the facilities in order to develop them.

This is a good bill, and it deserves the vote of every Member of this esteemed body.

The SPEAKER pro tempore (Mr. Sisk). The question is on the motion offered by the gentleman from California (Mr. Danielson) that the House suspend the rules and pass the Senate bill S. 2727, as amended.

The question was taken; and on a division (demanded by Mr. Ashbrook) there were—ayes 34, noes 16.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII and the prior announcement of the Chair, further proceedings on the motion will be postponed.

The point of order is considered withdrawn.

AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT OF 1978

Mr. FOLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13356) to require foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have, particularly on family farms and rural communities, and for other purposes, as amended.

The Clerk read as follows:

H.R. 13356

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Agricultural Foreign Investment Disclosure Act of 1978".

REPORTING REQUIREMENTS

Sec. 2. (a) Any foreign person who acquires or transfers any interest, other than a security interest, in agricultural land shall submit a report to the Secretary of Agriculture not later than 90 days after the date of such acquisition or transfer. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

(1) the legal name and the address of such foreign person;

(2) in any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) in any case in which such foreign person is not an individual or a government, the nature of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) the type of interest in agricultural land which such foreign person acquired or transferred;

(5) the legal description and acreage of such agricultural land;

(6) the purchase price paid for, or any other consideration given for, such interest;

(7) in any case in which such foreign person transfers such interest, the legal name and the address of the person to whom such interest is transferred and—

(A) in any case in which such transferee is an individual, the citizenship of such transferee; and

(B) in any case in which such transferee is not an individual or a government, the nature of the legal entity holding the interest, the country in which such transferee is created or organized, and the principal place of business of such transferee;

(8) the agricultural purposes for which such foreign person intends, on the date on which such report is submitted to the Secretary, to use such agricultural land; and

(9) such other information as the Secretary may require by regulation.

(b) Any foreign person who holds any interest, other than a security interest, in agricultural land on the day before the effective date of this section shall submit a report to the Secretary not later than 180 days after such effective date. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

(1) the legal name and the address of such foreign person;

(2) in any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) in any case in which such foreign person is not an individual or a government, the nature of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) the type of interest in agricultural land which is held by such foreign person;

(5) the legal description and acreage of such agricultural land;

(6) the purchase price paid for, or any other consideration given for, such interest;

(7) the agricultural purposes for which such foreign person—

(A) is using such agricultural land on the date on which such report is submitted to the Secretary; and

(B) intends, as of such date, to use such agricultural land; and

(8) such other information as the Secretary may require by regulation.

(c) Any person who holds or acquires (on or after the effective date of this section) any interest, other than a security interest, in agricultural land at a time when such person is not a foreign person and who subsequently becomes a foreign person shall submit a report to the Secretary not later than 90 days after the date on which such person becomes a foreign person. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain the information required by subsection (b) of this section. This subsection shall not apply with respect to any person who is required to submit a report with respect to such land under subsection (b) of this section.

(d) Any foreign person who holds or acquires (on or after the effective date of this section) any interest, other than a security interest, in land at a time when such land is not agricultural land and such land subsequently becomes agricultural land shall submit a report to the Secretary not later than 90 days after the date on which such land becomes agricultural land. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain the information required by subsection (b) of this section. This subsection shall not apply with respect to any person who is required to submit a report with respect to such land under subsection (b) of this section.

(e) With respect to any foreign person, other than an individual or a government, who is required by subsection (a), (b), (c), or (d) of this section to submit a report, the Secretary may, in addition, require such foreign person to submit to the Secretary a report containing—

(A) the legal name and the address of each person who holds any interest in such foreign person;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the nature of the legal entity holding the interest, the country in which such holder is created or organized, and the principal place of business of such holder.

(f) With respect to any person, other than an individual or a government, whose legal name is contained in any report submitted under subsection (e) of the section, the Secretary may require such person to submit to the Secretary a report containing—

(A) the legal name and the address of any person who holds any interest in the person submitting the report under this subsection;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the nature of the legal entity holding the interest, the country in which such holder is created or organized, and the principal place of business of such holder.

CIVIL PENALTY

SEC. 3. (a) If the Secretary determines that a person—

(1) has failed to submit a report in accordance with the provisions of section 2, or

(2) has knowingly submitted a report under section 2—

(A) which does not contain all the information required to be in such report, or

(B) which contains information that is misleading or false.

such person shall be subject to a civil penalty imposed by the Secretary. The amount of any such civil penalty shall be determined in accordance with the provisions of subsection (b) of this section. Any such civil penalty shall be recoverable in a civil action brought by the Attorney General of the United States in an appropriate district court of the United States.

(b) The amount of any civil penalty imposed by the Secretary under subsection (a) of this section shall be such amount as the Secretary determines to be appropriate to carry out the purposes of this Act, except that such amount shall not exceed 25 percent of the fair market value, on the date of the assessment of such penalty, of the interest in agricultural land with respect to which such violation occurred.

INVESTIGATIVE ACTIONS

SEC. 4. The Secretary may take such actions as the Secretary considers necessary to monitor compliance with the provisions of this Act and to determine whether the information contained in any report submitted under section 2 accurately and fully reveals the ownership interest of all foreign persons in any foreign person who is required to submit a report under such section.

REPORTS TO CONGRESS AND THE PRESIDENT

SEC. 5. (a) In accordance with the schedule set forth in subsection (b) of this section, the Secretary shall—

(1) with respect to each period set forth in such subsection, analyze information obtained by the Secretary under section 2 and determine the effects of foreign persons acquiring, transferring, and holding agricultural land, particularly the effects of such acquisitions, transfers, and holdings on family farms and rural communities; and

(2) transmit to the President and each House of the Congress a report on the Secretary's findings and conclusions regarding—

(A) each analysis and determination made under paragraph (1); and

(B) the effectiveness and efficiency of the reporting requirements contained in section 2 in providing the information required to be reported by such section.

(b) An analysis and determination shall be made, and a report on the Secretary's findings and conclusions regarding such analysis and determination transmitted, pursuant to subsection (a) of this section—

(1) with respect to information obtained by the Secretary under section 2 during the 6-month period following the effective date of section 2, within 9 months after such effective date of section 2, within 9 months after such effective date;

(2) with respect to information obtained by the Secretary under section 2 during the 12-month period following the effective date of section 2, within 15 months after such effective date; and

(3) with respect to each calendar year following the 12-month period referred to in paragraph (2), within 90 days after the end of such calendar year.

REPORTS TO THE STATES

SEC. 6. Not later than 30 days after the end of each 6-month period beginning after the effective date of section 2, the Secretary shall transmit to each State department of agriculture, or other appropriate State agency as the Secretary considers advisable, a copy of each report which was submitted to the Secretary under section 2 during such 6-month period and which involved agricultural land located in such State.

PUBLIC INSPECTION

SEC. 7. Any report submitted to the Secretary under section 2 shall be available for public inspection at the Department of Agriculture located in the District of Columbia not later than 10 days after the date on which such report is received by the Secretary.

REGULATIONS

SEC. 8. Not later than 90 days after the date of the enactment of this Act, the Secretary shall prescribe regulations for purposes of carrying out the provisions of this Act.

DEFINITIONS

SEC. 9. For purposes of this Act—

(1) the term "agricultural land" means any land located in one or more States and used for agricultural, forestry, or timber production purposes as determined by the Secretary under regulations to be prescribed by the Secretary;

(2) the term "foreign government" means any government other than the Federal Gov-

ernment or any government of a State or a political subdivision of a State;

(3) the term "foreign persons" means—

(A) any individual—

(i) who is not a citizen or national of the United States;

(ii) who is not a citizen of the Northern Mariana Islands or the Trust Territory of the Pacific Islands; or

(iii) who is not lawfully admitted to the United States for permanent residence, or paroled into the United States, under the Immigration and Nationality Act;

(B) any person, other than an individual or a government, which is created or organized under the laws of a foreign government or which has its principal place of business located outside of all the States;

(C) any person, other than an individual or a government—

(i) which is created or organized under the laws of any State; and

(ii) in which, as determined by the Secretary under regulations which the Secretary shall prescribe, a significant interest or substantial control is directly or indirectly held—

(I) by any individual referred to in subparagraph (A);

(II) by any person referred to in subparagraph (B);

(III) by any foreign government; or

(IV) by any combination of such individuals, persons, or governments; and

(D) any foreign government;

(4) the term "person" includes any individual, corporation, company, association, firm, partnership, society, joint stock company, trust, estate, or any other legal entity;

(5) the term "Secretary" means the Secretary of Agriculture; and

(6) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

EFFECTIVE DATES

SEC. 10. (a) Except as provided in subsection (b) of this section, this Act shall become effective on the date of the enactment of this Act.

(b) Section 2 shall become effective on the date on which regulations prescribed by the Secretary under section 8 become effective.

The SPEAKER pro tempore. Is a second demanded?

Mr. GRASSLEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. FOLEY) and the gentleman from Iowa (Mr. GRASSLEY) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 13356, the Agricultural Foreign Investment Disclosure Act of 1978. The bill would establish a reporting system which will give the Secretary of Agriculture information which he needs to analyze the extent and impact of foreign investment in U.S. agricultural land.

The bill is a comprehensive but responsible attempt to deal with an issue which has recently been receiving widespread publicity. Media accounts have highlighted a number of purchases of large tracts of land by foreign investors, including 12,000 acres in Illinois, 10,000 acres in Texas, and 23,000 in Wyoming.

There is a considerable amount of speculation about the extent of foreign purchases and a great deal of concern being expressed about what the ultimate effects of these purchases will be.

Unfortunately, there is no accurate and complete data available on the extent of foreign ownership of agricultural land. Although the Departments of Agriculture and Commerce have conducted some limited surveys in this area, they concede that the extent of our present knowledge is skimpy and unsatisfactory. The committee believes that until accurate data is available no responsible decisions by the Federal or State governments can be made regarding what if anything should be done about the issue.

This bill will provide the Secretary of Agriculture with the mechanism needed to obtain this information.

The bill would require any foreign person who holds, acquires, or transfers any interests in agricultural land (other than a security interest) to submit a report to the Secretary of Agriculture. The report must include the name and citizenship or country of organization of the person, the acreage, legal description, purchase price, and intended agricultural uses of the land.

A foreign person as defined in the bill would include any organization in which a significant interest or substantial control is exercised directly or indirectly by any foreign person.

These reports are to be analyzed by the Secretary and are also to be made available for public inspection within 10 days of their receipt.

The bill authorizes the Secretary to determine who are the beneficial owners of foreign organizations investing in U.S. agricultural land by requiring, at his discretion, reports which will reveal the names of those persons who own an interest in the organization purchasing the land. The Secretary is also authorized to conduct further investigations to determine whether the reports received under the act accurately reveal the ultimate owners of the organizations purchasing U.S. agricultural land.

The Secretary is also required periodically to provide the President and the Congress with an analysis of the information contained in the reports and to include within that analysis the effects of foreign purchases on family farms and rural communities.

To insure compliance with the reporting provisions, the bill provides a civil penalty of up to 25 percent of the land in question for persons who fail to submit reports or who knowingly submit reports which are false or misleading.

Mr. Speaker, I urge the Members to join me in support of this measure.

Mr. GRASSLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I make my comments on the bill before us, I want to compliment the gentleman from Washington (Mr. FOLEY), the chairman of the committee, for allowing this bill to be brought before the full committee and his support for the bill. I also compliment the gentleman from Minnesota (Mr. NOLAN) who, through several days of hearings on this important piece of legislation, laid for the first time of which I know any sort of really official, well-documented basis for this legislation. Before that, all we really had was a lot of panic published in the newspapers about what was or was not supposedly a problem in the area of foreigners buying American farmland.

Lastly, Mr. Speaker, I want to compliment the gentleman from California (Mr. KREBS), because of the great diligence to which he went to see that a near perfect piece of legislation was finally put together before it, in fact, was introduced by the gentleman from California (Mr. KREBS), by the gentleman from Minnesota (Mr. NOLAN), and myself.

To the rest of the Members of the House, Mr. Speaker, I would simply say at this point, "Don't panic." There is no evidence to this point that we ought to panic, because the Agriculture Committee did not uncover any concrete evidence that Arabs or any other foreign nationals are buying up all of rural America.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I want to compliment the gentleman from Iowa (Mr. GRASSLEY) not only for his work on this bill, but for making clear, as he has just done, that the purpose of this legislation is not to cause a panic that American agricultural land is going to fall into the hands of some syndicates representing foreign interests, but to find out what the realities are so that we can make a dispassionate, calm judgment in this matter.

Mr. Speaker, I think the gentleman from Iowa and many of his colleagues on the committee have done an exceptional job, and I just want to underscore the statement he has just made which, I think, is most important in the background of this legislation.

Mr. GRASSLEY. Mr. Speaker, I thank the gentleman from Washington for his statement and kind words.

On the other hand, Mr. Speaker, we had as a basis for the Agriculture Committee on this legislation, disturbing reports, mostly from the secondary sources of the news media, as to the amount of U.S. farmland being purchased by foreign nations. Some estimates go as high as 40 percent in some isolated areas of America; some even say that the nationwide average is 20 percent, but on the other hand a study by the Federal Reserve Bank in Chicago states that less than 1 percent of the land in America is owned by foreigners.

In my State we have reason to believe that it is probably less than in most States. But the point is we get disturbing reports like this, because we do not have any factual basis for making a determination and, hence, the reason for this bill.

Another reason is before I ever came to the Congress, in my life as a public official I found it very difficult to explain rumors in various counties in my State—and the Members have heard them also in their States. It almost appeared that if some foreign national came in to look at even as small a plot of ground as 40 acres, somehow one got the impression that the foreign national, or foreign nationals generally, was going to buy up the whole countryside.

We have had recent reports from Georgia that this might be the case, but in my particular State it is not so. On the other hand, that sort of psychological hysteria going around the countryside, involving undue pressure to purchase farmland, economic pressure, probably does not do any good for Americans who want to buy or sell. So information that a bill like this might bring out would have a tendency to modify those sorts of extreme rumors.

Also another disturbing fact that indicates we need additional information is the fact that in the real estate interests of America—and let me say the larger real estate interests of America and also the investment interests of America—there is a very sophisticated approach to the interesting of foreign nationals in American farmland. I point out to the Members a handbook entitled "Handbook for Foreign Investors in American Agriculture" put out by the Oppenheimer Industries, Inc., as one example telling one as a foreign national just what a good investment American agriculture land is, and for this reason I think we need to get these facts out. We do not know where we are. We know from our hearings that the Department of State, the Department of the Treasury, and the Department of Commerce say there is no problem and they say Congress should not be rocking the boat.

We know that the Department of Agriculture says we need more information, but they want to spend a half million dollars and have a year's survey just to tell us in the Congress what sort of questions we ought to be asking, and they are unwilling at this point, or until lately, to say that this bill was really needed. They have changed their position on that and now are supportive of this bill.

In summarizing, we need to know the facts. We need to put a stop to pure, unadulterated speculation on this subject. We are not here to prejudge whether or not foreign ownership of American agricultural land is right or wrong, or whether there is even a problem. But we are saying that we do not have enough information to make that decision, and the information to be presented to the Congress by this bill is just the very information we need to make those other determinations that our constituents are asking us about on this general subject of foreign ownership of American farmland.

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. I thank the gentleman for yielding.

Mr. Speaker, I want to compliment the gentleman from Washington and the gentleman from Iowa for their work on this. I strongly support this bill. There is a great deal of interest and concern in my area. There are rumors, as the gentleman says. We need to know the facts.

In Nebraska we have a law that limits foreign ownership of land, but we do not enforce it because we do not know whether it is foreign money coming in or not.

Mr. Speaker, the adoption of H.R. 13356, the Agricultural Foreign Investment Act of 1978, is most important.

Over the past year we have seen some alarming headlines about foreign investment in U.S. farmland. In my files I have news stories with headlines' such as these: "Foreign Investors Go on a Spree in the U.S. Buying Land Property;" "Foreigners Flock to Buy U.S. Farms;" "Foreign Investors Buy U.S. Farms;" and "New American Land Rush is led by Foreign Buyers."

These are ominous enough in themselves, but when we start looking into how much of our valuable farmland is held or coveted by foreigners, and who actually is involved, we find the details are sadly lacking. Estimates range from 1 percent to more than 6 percent, but no one seems to know for sure.

Since the United States is one of the few nations which does not monitor such investment, it is understandable why we do not know whether this is a serious threat, or whether the furor has been caused by some alarmists at work.

This bill would require foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture, and directs the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have, particularly on family farms and rural communities. The bill places no Federal restrictions on foreign investment in U.S. farmland, but establishes a system to obtain information on the extent and rate of such investment.

It is important for all of us to know how extensive the foreign holdings are; where they are; and who has them. That is why I cosponsored this legislation and urge its adoption.

We need this reporting requirement and the subsequent analysis of the reports. This will enable us to determine just how real this threat is and what should be done about it. Then, the States can act to take whatever steps are necessary to impose limitations and/or prohibitions on a possible foreign takeover of our agricultural production capacity.

Mr. HAGEDORN. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding.

I, too, want to commend the work of the gentleman from Iowa (Mr. GRASSLEY) and the chairman, the gentleman from Washington (Mr. FOLEY), and the subcomittee chairman, the gentleman from Minnesota (Mr. NOLAN), for the work they have done in attempting to get some basic information so that the American farmers in particular, as well as all American citizens, have a better knowledge and feel for how much foreign money is coming in and being invested in our basic natural resources, the great productive soil throughout the land of this country.

Mr. Speaker, I rise in support of H.R. 13356, the Agricultural Foreign Investment Disclosure Act of 1978, which is designed to give the public and the Government full information on foreign ownership of American farm and forest land by requiring that all nonresident aliens who transfer, acquire, or hold interests in agricultural land report such transactions to the Secretary of Agriculture.

This legislation stems from widespread speculation that foreign investment of American farmlands is reaching a national average of 20 percent. An article in the March 27 issue of Business Week points out that U.S. farmland is the single hottest area for foreign investors. A private consulting firm based in Brussels, European Investment Research Center, estimates that foreigners invested some $800 million in farmland last year. In addition, the General Accounting Office reports that—

> There is no reliable data on the amount of U.S. farmland owned by nonresident aliens or on recent trends of such ownership.

Such findings, coupled with the unknown effects it may have on the American economy, has expedited passage of this legislation through the House Agriculture Committee and hopefully through the House Chambers today.

Last year, the State of Minnesota, of which I am proud to represent the Second District, passed "landmark" legislation which prohibited the purchase of land in Minnesota by aliens unless they prove intent to live on the land and become U.S. citizens. In addition, the legislation set a deadline for all alien interests to register their holdings with the Minnesota Department of Agriculture.

I believe it is prudent for Congress to monitor the amount of U.S. farmland that is purchased by foreign investors. These buyers are able to take advantage of special tax breaks which are not available to U.S. citizens and thus gives them a significant advantage over domestic investors.

The passage of this legislation will provide the necessary framework to promulgate a coherent and uniform national reporting system to gather information on the extent of foreign farmland purchases that is not now available anywhere. Furthermore, it will enable us to analyze the correlation between foreign ownership and escalating costs of U.S. farmland.

Once we have collected this data, we will be in a better position to evaluate and assess the facts to determine if additional legislation is warranted.

I feel strongly, however, that we will see that the real culprit with spiraling farmland prices is inflation, which has depressed the U.S. dollar in the world market, and not foreign investors. Foreign and domestic buyers alike view U.S. farmland as a strong hedge against inflation and are willing to invest in a fixed asset which historically has appreciated in value in relationship to the declining purchasing power of the dollar. What we are witnessing with farmland prices is merely paper dollars chasing real property. Until we stabilize the value of our dollar in the international and domestic monetary markets, we will see little relief in escalating land prices.

I do feel, however, and I have stated on many occasions, that the declining value of the American dollar has done more than anything to lose this type of investment in the United States than a stable type of commodity that in the past has appreciated, as the dollar has declined. Once our Government is able to get it under control, we will see much less of this foreign involvement in the purchase of our farmlands that we seem to think and know is going on today.

Mr. GRASSLEY. Mr. Speaker, I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Speaker, I appreciate my colleague yielding.

I would like to ascribe to what the gentleman says and also point out to my colleagues that in a front-page article in today's Wall Street Journal there is a story of a 50-year-old abdominal surgeon from Germany who has come over and purchased a dairy farm in Culpeper, Va. He spent more than $4 million for that dairy farm. He thinks it is an excellent investment and in 15 or 20 years he intends to retire out there.

The article also points out a similar farm with the same stock of cattle would cost half again as much, $6 million in Germany.

I think this points out two things; one, the interest of foreign investors; and second, the underpricing of American farm commodities vis-a-vis the commodity markets in most of the other parts of the world. The investor who comes from Germany, where farm prices are based on $5-a-bushel wheat and beef product prices twice as high as here finds, indeed, bargains in the U.S. farmland market.

I think my colleague, the gentleman from Iowa, certainly is on the right track.

I would also hope to attract the attention of my colleagues to the fact that farm commodity prices in the United States are certainly underpriced as compared to prices in the rest of the world as this article would indicate.

Mr. GRASSLEY. Mr. Speaker, I yield to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I, too, wish to associate myself with the chairman's remarks and I want to commend the gentleman from Iowa (Mr. GRASSLEY) for his efforts in bringing about the consideration of this legislation.

This measure, H.R. 13356, the Agricultural Foreign Investment Disclosure Act of 1978, requires foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture, and directs the Secretary to analyze such investments and their effect on U.S. agriculture and in particular, on our Nation's family farms.

Reports presented to the House Committee on Agriculture reveal that foreign purchases of U.S. farmland might total as much as 40 to 50 percent of all land purchases in some areas, and up to 20 percent nationally. These figures reflect the effect of the depreciation of the U.S. dollar, U.S. political and social stability, rising land costs, and tax breaks unavailable to U.S. citizens.

While this trend toward increased foreign purchase of U.S. farmland has been readily identified, the most effective response has as yet been formulated due to the continuing lack of hard data concerning the trend.

H.R. 13356 provides for an evaluation of this trend and the extent that such investment poses a threat to American agriculture in the nature of increasing land prices, and thus accelerating the cost-price squeeze on family farms.

This measure is designed to produce a study providing data necessary for the formulation of a coherent and reasonable policy regarding foreign purchase of U.S. farmland. It also provides enforcement procedures assuring reporting compliance by involved investors.

Mr. Chairman, in the 93d Congress, I introduced the Foreign Investment Study Act, legislation authorizing studies of foreign direct and portfolio investment in the United States. The result was the first attempt at a realistic study of such investment in this Nation.

More recently, in the 95th Congress, I was pleased to see the House pass H.R. 12589, International Investment Survey Act amendments, legislation of which I am a cosponsor. This measure enabled us to fund, under the International Investment Act of 1976, efforts during fiscal year 1979 to collect data on overall foreign investment in the United States, and the effect of such investment on this Nation's economy.

As foreign investment in U.S. farmland sharply increases, our need increases equally to more directly focus in upon the effect of such investment upon our Nation's agricultural sector.

Reporting requirements and enforcement provisions contained in H.R. 13356 will help assure that the data collected will accurately identify the level and nature of foreign purchases of U.S. farmland.

I am confident that this measure will dovetail with our earlier efforts to assess foreign investment in the United States, and I urge my colleagues on the Committee on International Relations and on the Committee on Agriculture to work closely together in responding to the findings and conclusions that this study produces.

Accordingly, I urge my colleagues to support this timely and important legislation.

Mr. GRASSLEY. Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. WALKER), who I believe was the first gentleman in the House, at least on my side of the aisle, to introduce a bill or this subject.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think we should look into this matter of the whole legislation we have brought forward. I have been interested in this for a long time and testified on the subject. I think we have come forward with a good bill. It is a bill that deserves the support of the House. I think it is something which the American people are looking for.

A recent GAO study pointed out the need specifically for this kind of legislation. I think it is a good thing to be done.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, first of all, how small a piece of land do you have to report on, a foot square, 2 feet square, 3 feet square or what?

Mr. GRASSLEY. Any piece of agricultural land that will be used for that purpose.

Mr. GIBBONS. Mr. Speaker, if the gentleman will yield further, how about a family garden or a pea patch or something like that, do you have to report on that? I have a lot of Cuban-born people that have no thoughts of going back to Cuba. They probably are foreigners, I guess.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. Mr. Speaker, may I inquire how much time I have left?

The SPEAKER pro tempore. The gentleman from Iowa has consumed 12 minutes.

Mr. GRASSLEY. Mr. Speaker, I yield to the gentleman from Washington, and then I have to save some time for others who have asked to speak.

Mr. FOLEY. Mr. Speaker, whatever time I take from the gentleman, I will replace.

Mr. Speaker, I will advise the gentleman from Florida that the bill says that agricultural land means any land located in one or more States and used generally for agricultural, forestry, or timber production purposes as determined by the Secretary under regulations to be prescribed by the Secretary.

I think it is within the authority of the Secretary to determine what the use level is and to avoid the totally de minimis amount of acreage the gentleman is concerned about.

Mr. GIBBONS. Mr. Speaker, what is the definition of a foreigner?

The SPEAKER pro tempore. The Chair will state that the gentleman from Iowa (Mr. GRASSLEY) controls the time.

Mr. GRASSLEY. Mr. Speaker, I yield to the gentleman from Indiana (Mr. JOHN T. MYERS).

Mr. JOHN T. MYERS. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I rise in support of the legislation. However, the language in the report, on page 9 does alarm me somewhat. In fact it says:

> That effective control or monitoring of foreign investments in U.S. farmland through State legislation is a long way off.

I do not know how else we really could effectively control the ownership of land except through State law at this particular time. There is nothing in this legislation, I will quite agree—and I will have to go back to my own State for an example—that would accomplish this for several years.

We have required registration of alien ownership of farmland, and within 5 years, if the individual owning land in Indiana has not applied for citizenship, then he must reduce those holdings or limit those holdings to 300 acres.

I think something like this would be effective, but I agree that effective control is a long way off. This, it seems to me, would be going a long way, and I thought that is what the intent of the legislation was.

Mr. GRASSLEY. Mr. Speaker, the intent of the legislation is to get some current information that we do not now have, without any inference that foreign ownership ought to be regulated in any way. There definitely is not any inference that if there is not any regulation at the State level, it ought to be done at the Federal level.

Mr. JOHN T. MYERS. Mr. Speaker, I concur and agree with that, but this one paragraph in the report did concern me very much.

Mr. GRASSLEY. In summary I want to make these closing comments.

This legislation was prompted by deep concern over the short- and long-term implications of what appear to be substantial increases in purchases of U.S. farmland by foreign investors, and the impact of foreign ownership on U.S. agriculture, on the family farms and rural communities of this country, and, in the final analysis, on the U.S. consumer. Our investigation has shown that no accurate, reliable data on the extent, rate, or effects of foreign investment in U.S. farmland exist at the present time, and that none are likely to be produced through planned or ongoing efforts at any level of government. Therefore, it is important that the information-gathering system we propose in this bill be implemented at the earliest possible time.

As one of the three principal authors of this legislation, I feel that the time, careful thought, and hard work of the gentleman from California, Mr. KREBS and the gentleman from Minnesota, Mr. NOLAN—the other two principal authors—deserve special recognition by the Members of this body. The expertise and concern which they brought to this joint effort has resulted in what I believe to be a well-written and well-considered proposal.

The intent of this legislation is to obtain useful new data and information on foreign investment in U.S. farmland in the most resourceful and expeditious manner, without excessive expenditure of public funds, the creation of any new bureaucracy, or additional unnecessary burdens on anyone. Existing Federal resources should be utilized to the maximum extent feasible in the implementation and monitoring of this new system, including the personnel and resources of the nationwide network of the Agricultural Stabilization and Conservation Service, and other agencies of the U.S. Department of Agriculture.

My own State of Iowa currently administers the most effective similar reporting system in the United States and I believe much can be learned from this experience. Close cooperation with the States in the administration of this new program will be necessary, and, I hope, forthcoming. Such cooperation and exchange of information will aid the effectiveness of this new program and assist the States in decisionmaking on issues relating to foreign investment within their borders.

Finally, a thorough ongoing evaluation of the effectiveness of this reporting system will be necessary to determine its usefulness and the adequacy of the information it produces, so that improvements can be made where needed. I hope such evaluation will come from all who are directly involved or have an interest in foreign investment in U.S. agricultural land, and the implications of such investment.

Accurate analyses, responsible action, and sound policy decisions can be made only on the basis of solid, reliable data, and a through knowledge of the facts. The purpose and intent of this legislation is to provide a means of obtaining such facts.

Mr. Speaker, I reserve the balance of my time.

Mr. FOLEY. Mr. Speaker, I yield myself 3 minutes, and I will respond to a question by the gentleman from Florida (Mr. GIBBONS), if he wishes me to do so.

Mr. GIBBONS. Yes. Will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, I would like to find out what the definition of a "foreigner" is under this act. I looked in the act, and I could not find it. Perhaps it is in there. I am told just now it is page 14.

Mr. FOLEY. Mr. Speaker, to clarify this point I will read the definition of "foreign person" which is found on page 18 of the bill:

> (3) the term "foreign person" means—
>
> (A) any individual—
>
> (i) who is not a citizen or national of the United States;
>
> (ii) who is not a citizen of the Northern Mariana Islands or the Trust Territory of the Pacific Islands; or
>
> (iii) who is not lawfully admitted to the United States for permanent residence, or paroled into the United States, under the Immigration and Nationality Act;
>
> (B) any person, other than an individual or a government, which is created or organized under the laws of a foreign government or which has its principal place of business located outside of all the States;
>
> (C) any person, other than an individual or a government—
>
> (i) which is created or organized under the laws of any State; and
>
> (ii) in which, as determined by the Secretary under regulations which the Secretary shall prescribe, a significant interest or substantial control is directly or indirectly held—
>
> (I) by any individual referred to in subparagraph (A);
>
> (II) by any person referred to in subparagraph (B);
>
> (III) by any foreign government; or
>
> (IV) by any combination of such individuals, persons, or governments; and
>
> (D) any foreign government;

Mr. GIBBONS. Mr. Speaker, does that prohibit anyone from buying stock in a corporation? How much stock do they have to own in a corporation to qualify?

Mr. FOLEY. Mr. Speaker, the Secretary determines whether a significant interest or substantial control is exercised by a foreign person or persons.

Mr. GIBBONS. Mr. Speaker, why do we not just turn the whole thing over to the Secretary and ask him to get some reports?

Mr. FOLEY. Mr. Speaker, I will respond to the gentleman by saying that it is necessary to give the Secretary some discretion in this area in order to give full effect to the purposes of the bill. The purpose of this legislation is to obtain some greatly needed information. Its purpose is not to prevent foreign purchases of land, nor to restrict foreign beneficial interests in agricultural land.

We are not taking any action here and we are not intending to take any action here that makes foreign ownership of land impossible or unduly difficult. The purpose is to try to find out to what extent these stories of widespread foreign investment in farmland have a basis in fact.

The bill provides the Secretary with discretion in this area for the very reason the gentleman noted. I do not think every square foot of foreign owned land need be reported.

If the Secretary decides that certain types of acquisitions do not involve significant agricultural production then he has discretion to not require reports resulting from these acquisitions. Neither the commitee nor the Department want to unduly burden everybody with reporting requirements which do not further the intent of the legislation.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield further?

Mr. FOLEY. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, this does cover partnerships and corporations, no matter how small the ownership by a foreigner is in that corporation or partnership?

Mr. FOLEY. The test would be significant interest or substantial control as determined by the Secretary.

Mr. GIBBONS. How big is a "significant interest"?

Mr. FOLEY. That would depend on the size of the organization and the size of the investment both in terms of its monetary value and the percentage of ownership it represents.

Mr. GIBBONS. What is the penalty for not reporting?

Mr. FOLEY. Forefeiture of up to 25 percent of the value of the land in question.

Mr. GIBBONS. Forfeiture of what?

Mr. FOLEY. Under the bill, of up to 25 percent of value of the interest in land in question.

The SPEAKER pro tempore. The time of the gentleman from Washington (Mr. FOLEY) has expired.

Mr. FOLEY. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I would advise the gentleman that the penalty is a maximum and is predicated upon a showing that a person has knowingly submitted a report which does not contain all required information or which contains information that is misleading or false. An inadvertent, unknowing failure does not trigger this penalty.

The SPEAKER pro tempore. The time of the gentleman from Washington

(Mr. FOLEY) has again expired. Does the gentleman from Washington desire to yield further time?

Mr. FOLEY. Unfortunately, Mr. Speaker, I have made commitments to others who wish to speak. I would like to carry on a discussion with the gentleman from Florida (Mr. GIBBONS), but I have made commitments on this side to Members who wish to speak. I have already interfered with their time. I will be glad to yield further at a later time if we have sufficient time.

Mr. GRASSLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. WAMPLER).

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in strong support of this legislation.

Mr. Speaker, it is imperative that we know the true extent of foreign investments and ownership of U.S. farmland. As a cosponsor of the Agricultural Foreign Investment Disclosure Act, I support this legislation as it will give us the means by which to answer this difficult question.

I would like to commend my colleagues on the House Agriculture Committee for their thoroughness in addressing this issue and their willingness to move ahead with this important legislation. The distinguished chairman of the committee, the gentleman from Washington (Mr. FOLEY), the chairman of the Subcommittee on Family Farms, Rural Development and Special Studies, the gentleman from Minnesota (Mr. NOLAN), and my colleagues the ranking minority members on the full committee and subcommittee, the gentleman from Virginia (Mr. WAMPLER) and the gentleman from Iowa (Mr. GRASSLEY) have done an excellent job in developing on this issue but also focusing attention on the lack of information and the need for a comprehensive analysis of the extent to which foreigners are investing in U.S. agricultural land.

Our bill, H.R. 13356, directs the Secretary of Agriculture to conduct an analysis of foreign ownership of farmlands and report the results of this study to the President and the Congress. More specifically, it requires the secretary to determine the effects of foreign persons acquiring, transferring, and holding agricultural land, particularly the effects of such acquisitions, transfers and holdings on our family farms and rural communities.

Any foreign person who holds, acquires or transfers any interest in U.S. farmland must submit a report to the secretary detailing the acreage, legal description, purchase price and intended agricultural uses of such land.

Any person in violation of the law will be subject to a civil penalty not to exceed 25 percent of the fair market value of the violator's interest in the agricultural land in question.

Our bill is not an attempt to cut off foreign investment in farmland as we do not yet know the true impact of this type of investment. It is simply an attempt to gather the necessary information to make this determination and provides us with the necessary enforcement powers to insure that all relevant information is reported.

I urge my colleagues to support this legislation.

Mr. WAMPLER. Mr. Speaker, I rise in support of H.R. 13356. The question of how much U.S. farmland is owned or is being purchased by foreign interests needs to be answered.

The reports of increased purchases are of growing concern, and it is important that we determine their validity. In June, the General Accounting Office released a report on this subject entitled "Foreign Ownership of U.S. Farmland—Much Concern, Little Data." That is the problem in a nutshell. There is much concern, but little data on what is actually happening.

The GAO report concluded that "Of the alternatives considered, GAO believes a Federal registration system, similar to the current resident alien registration system, may be the simplest and best means for obtaining nationwide data." This bill would establish such a system, and would require the Secretary of Agriculture to analyze the information received to determine the impact of foreign investment on our family farms and rural communities.

This legislation would place no undue burdens on anyone. It would require foreign owners and buyers of U.S. agricultural land to simply report the facts of their ownership and land transfers to the Secretary of Agriculture. It would not require a new bureaucracy to administer this reporting system. A few people could handle it at little expense, and it would give us the benefit of facts that are presently unobtainable by any other means.

Our farmland is a very attractive investment to foreign buyers. With our dollar declining relative to other currencies, it may become even more attractive. What does this mean to us? How extensive are these purchases? Do they have adverse consequences to family farms and rural communities? Are they a threat to agriculture? It is incumbent on us to find out, Mr. Speaker, and this legislation would provide us the means to obtain that information.

I would urge my colleagues to support passage of H.R. 13356.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. Mr. Speaker, I rise in support of this legislation, H.R. 13356, the Agricultural Foreign Investment Disclosure Act. As you are aware, this legislation requires disclosure of foreign holdings, acquisitions, transfers of any interest, or other security interest of foreigners in U.S. agricultural lands. My colleagues may be interested to learn that I recently conducted an agricultural advisory poll of the farm community in my district on this subject. I conduct this poll periodically to receive the input of the farmers in my district on legislation that may be of interest to them. The results of the poll on the Agricultural Foreign Investment Disclosure Act were most impressive. After describing the provisions of the legislation, I asked whether they favored or opposed it. I found that nearly 90 percent favored this bill. In addition, I pointed out that the legislation may call for additional personnel for the Department of Agriculture to carry out its provisions.

Mr. Speaker, I am sure that it is no surprise to you that there is overwhelming concern within the agricultural community over the size of the Federal bureaucracy. Despite this possibility, the response in favor of this legislation was great. It is now clear that this bill will not require additional personnel. As such, the principal concern over the bill has been resolved. In addition, the Agriculture Committee has estimated that this legislation will entail no additional cost to the Government.

Mr. Speaker, I have often heard that foreign investment in our farmlands is a growing problem. At this time, however, we do not have sufficient information as to the extent of foreign investment, nor sufficient information regarding the impact of such investments. This legislation will allow us to collect the data we need so that we may formulate an effective and fair policy regarding foreign investments in agricultural lands. As such, I urge my colleagues to support this bill.

Mr. BAUCUS. Mr. Speaker, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Montana.

Mr. BAUCUS. I thank the gentleman for yielding.

Mr. Speaker, I stand to support H.R. 13356. This legislation will require foreign interests who invest in American farmlands to report their interests to the Secretary of Agriculture.

Opponents are sometimes saying that this legislation puts too much of a burden on foreign investors. I do not buy that argument. I think it is essential that we know the extent of foreign interests in our most valuable natural resource.

The problem currently is that we have no idea how much farmland is owned by foreigners and what the trend in foreign ownership is. An extensive GAO investigation of foreign ownership concluded, "Adequate nationwide information on the magnitude of foreign investment in U.S. farmland is not readily available." The GAO investigators recommended a national reporting system like the one that would be established by H.R. 13356.

Farmers throughout the country are concerned about the trend of foreign ownership. Foreign buyers, assisted by tax breaks and attracted by the security of farm investments, are willing to pay prices above market rates.

These prices reduce the ability of young farmers to purchase farmland and existing family farm operations to expand. Thus, the American system of owners working their own land is jeopardized.

Newspaper reports in Montana recently disclosed that at least three ranches totaling more than 30,000 acres are now controlled by foreign investors. And the investigators estimated that foreigners probably control at least 100,000 more acres in my State.

Determining the extent of foreign ownership is particularly difficult because efforts are made to conceal not only the names, but also the nationalities of the buyers. Because of this concealment, the amount of foreign investment that has been disclosed may just be the tip of the iceberg.

Foreign buyers in Montana have acquired land by four methods. They have used direct purchases, stock trading, trust purchases by large, out-of-State banking firms, and limited partnership agreements. In all cases, attempts have been made to conceal the true identities of the owners.

The bill we are considering today requires that foreigners report their purchases and provide stiff penalties for those who fail to do so. The information collected by the Secretary of Agriculture will be shared with individual States so they can make intelligent decisions about whether to restrict foreign ownership.

I would urge my colleagues to join me in voting for this legislation. I am not against foreign investments per se, but I believe that at the very minimum, we should require foreigners to disclose their interests in this country.

Mr. GRASSLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, when I read about this bill, I checked the cosponsors to see what their past voting experience has been in causing this problem. I found that, of the 11 cosponsors, 8 of them had voted for the emergency oil bill that brought on a crisis on foreign imports. Eight out of the 11 voted for the foreign import bill of 1973. At that time a barrel oil was selling for $5.25 in the United States, and the price is frozen so it is still selling at that, but now we are paying $14.50 a barrel to the Arabs for their oil. Back then we were importing $5 billion in oil. This year we are importing $50 billion in oil, and the United States has to pay for it. We have to pay for it either in farmland or we can pay with our banks and buildings. There is only one answer. It is not farm registration. It is to stop importing so much foreign oil. We should pay the same price for domestic as we do foreign oil. Let us stabilize the American dollar on the balance of payments, so we ship goods and crops with a balance in our trade. We can produce all our needs in U.S. oil. Otherwise, we will be giving as payments for foreign oil more of our farmland.

Mr. GRASSLEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 13356, the Agricultural Foreign Investment Disclosure Act of 1978.

As a principal author of legislation requiring collection and disclosure of investment data, such as the Foreign Investment Study Act of 1974 and the International Investment Survey Act of 1976, I commend the efforts of our colleagues on the Agriculture Committee in bringing this initiative before us.

We should, however, try to coordinate legislative efforts in this area. The International Relations Committee has already sponsored, and the Congress has passed, legislation which requires a feasibility study for a monitoring system of foreign investment in U.S. real property. The interim findings are due next month, and a final report a year from then. Until such time as we have these studies in hand, we should be cautious in our endorsement of the as-yet unevaluated and untested monitoring methods laid out in H.R. 13356. For example, it is not at all clear that they are the most appropriate ones to determine the overall impact of foreign investment in U.S. agriculture, on income, employment, prices, and the U.S. balance of payments—not just the impact on family farms and farm prices as is spelled out in H.R. 13356.

In conclusion then, I would seek two understandings from the sponsors of this legislation. The first is that there will be the opportunity for a full scale review and amendments after 1 year of operation of this bill, as has been requested of you by the Agriculture Department. The second is an affirmation that the legislation is in no way designed to prejudge as-yet unavailable data, and is clearly aimed at monitoring, not discouraging, foreign investment in U.S. farmland.

Mr. FOLEY. Mr. Speaker, I yield myself 30 seconds to advise the gentleman that the Agriculture Committee will review this legislation on a continuing basis. I am sure next year we will give it a full review. There is no intent to end the program after only 1 year. However, the committee will be examining it.

Second, on the question as to whether there was any intention to discourage agricultural land purchase, the purpose of this bill is to seek information, not to take any action one way or the other to restrict ownership. The purpose of the bill was very ably explained by the gentleman from Iowa (Mr. GRASSLEY).

Mr. WHALEN. I thank the gentleman.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, many farmers in this country, and indeed many other Americans as well, are deeply concerned about rumors and reports that huge tracts of our finest agricultural land are being purchased by absentee foreign investors.

I need not reiterate the countless stories of foreign investment which have appeared in the press. Certainly, there is clear evidence that overseas interests have already purchased substantial parcels of American farmland.

However, in attempting to establish sound public policy, we are faced with a severe lack of reliable information. The Family Farms, Rural Development, and Special Studies Subcommittee heard extensive testimony from administration officials, representatives of the agricultural community and many other persons interested in the impact of foreign investment on the family farm and small rural communities. Nearly every witness conceded that data on the amount of foreign investment in U.S. farmland are minimal or nonexistant.

In June of this year, the GAO issued a report on the foreign ownership of U.S. farmland citing the total lack of information and recommending the establishment of a nationwide registration system for foreign owners of U.S. agricultural land. Such an approach, according to the GAO, would provide comprehensive and reliable data at minimal cost and without a major bureaucracy.

It is precisely this approach which Mr. GRASSLEY, Mr. NOLAN, and I used in drafting the legislation before us this afternoon. And, recognizing the clear need for a nationwide system for monitoring farmland acquisition by nonresident aliens, the Committee on Agriculture recently considered and overwhelmingly reported H.R. 13356, the Agricultural Foreign Investment Disclosure Act of 1978, which would respond to this need.

Some of my colleagues have argued that foreign investment in the United States is beneficial. I agree, investment from overseas often provides new capital which helps to expand our productive resources, create new jobs, and improve our balance of payments. However, we must be careful to distinguish between investment in capital-labor-intensive enterprises, such as factories, and investment in agricultural land which does not result in the creation of new jobs.

Our farmland is a limited resource, with only 3 percent of the total coming onto the market each year. Foreign investors, often assisted by cheap American dollars held abroad and tax breaks in their home countries, are attracted by the relatively high rates of return on a secure and stable investment in the United States, and are willing to pay prices well above current market values. The result is inflated land prices which have fueled the present trend of increasing farmland value, forcing sharply higher property assessments and, consequently, higher property taxes. The effect on the family farmer can be disastrous, reducing the ability of young farmers to purchase land and preventing marginal farmers from expanding in order to succeed in their present operations.

Some have claimed that this legislation will prevent foreign investment in the United States. Nothing could be further from the truth. The bill makes no attempt to regulate or limit foreign investment in U.S. agricultural land. It would, however, require foreign investors—whether individuals, partnerships, corporations, governments, or other entities—to make full and complete disclosure of their agricultural landholdings, purchases, and transfers.

Others have stated that this legislation is simply not necessary, that the information is already available. They claim the most useful data may be found in county land records. A GAO investigation of these records in numerous States has indicated that this information source is misleading, difficult to interpret, inaccessible, and noncomprehensive.

Even if the information supplied by

county land records were reliable, it would still be relatively inaccessible, since it is located in each of the various county courthouses throughout the Nation. For these reasons, the GAO concluded that checking the county records to determine foreign ownership "was not a feasible or productive approach."

At the Federal level, the agricultural census conducted every 5 years does not seem suitable as a timely reporting instrument since results take several years to be tabulated and many farmers simply refuse to supply requested information. Finally, there are several foreign investment surveys being conducted by both the Agriculture and the Commerce Departments. However, the USDA admits that its sampling is quite limited and the Commerce Department has not been willing to isolate agricultural land for special study or specifically analyze the impact of foreign investment on farmland.

Clearly, there is a need for a comprehensive, reliable, inexpensive reporting system if we are to fully understand the degree of foreign investment in agricultural land.

H.R. 13356, cosponsored by 75 of my colleagues, will provide reliable data on foreign ownership, squelching the rumors concerning foreign purchases and analyzing the impact of such investment.

Mr. Speaker, the legislation we are now considering will establish a simple, straightforward reporting system which does not require an expensive bureaucracy and does not place added burdens on local government or America's farmers.

However, it is clear that if this system is to succeed, the penalties for failure to report must be substantial and consistent with the extent of the investment. For this reason, H.R. 13356 provides for the imposition of a sliding scale not to exceed 25 percent of the fair market value of the interest in the farmland on the date of assessment. In contrast to a fixed penalty, such a flexible approach provides strong incentives to report for large and small investors alike.

It is also important that the reporting system circumvent the attempts of foreign investors to hide purchases through various organizational schemes. H.R. 13356 authorizes the Secretary of Agriculture to investigate those U.S. corporations which are "substantially controlled" by foreign investors to determine with whom the actual interests really lie. For example, foreign purchasers might establish an American corporation as a front to avoid reporting. Under our legislation, the Secretary of Agriculture may require that the corporation file a report which would include the legal name, citizenship, and address of each person holding any interest in the corporation. Additionally, in the case of any person whose name is listed in such report, the Secretary may go even further to determine who is in actual control.

Not only will data on foreign ownership be acquired and made public as soon as possible, but the effects of such investments will be analyzed. Our bill provides that within 1 year of enactment the Secretary of Agriculture will issue a report to Congress specifying all foreign holdings of American farmland and examining the trend and effects of such investments on our Nation's rural communities and family farms.

Passage of this legislation is essential if Congress and the American people are to have a clear picture of the nature, the extent, and the concentration of foreign ownership of U.S. farmland. Moreover, it is essential if we are to develop a sound foundation on which to make the difficult decisions which must be made regarding the future of this Nation's most valuable natural resource.

I urge my colleagues on both sides of the aisle to join with me in approving this most important and necessary legislation.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I support this bill.

I would like to bring two other facts to the attention of this House. This bill has a parallel in the Federal securities laws where under the Securities Acts of 1933 and 1934 the public disclosures of purchases by foreigners of U.S. securities are required to be made and penalties are levied for failure to file that information on securities. The powers given to the SEC rule-making authority are very similar to that given to the Secretary of Agriculture here.

In many cases a subterfuge can be used to hide foreign interests, so the bill requires disclosure of beneficial as well as the obvious and legal ownerships.

I think the gentleman from Florida (Mr. GIBBONS) has raised some interesting points. I believe the Secretary of Agriculture has the appropriate discretion to take care of those concerns.

I urge adoption of the bill.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Speaker, I rise in strong support of H.R. 13356, the Agricultural Foreign Investment Disclosure Act of 1978. I have cosponsored similar legislation in this Congress, H.R. 13670.

The issue of foreign ownership of domestic farmland is becoming more and more important to the agricultural States, including my own State of North Carolina, especially in light of recent studies indicating that thousands of acres of land in rural areas are falling under the control of foreign interests and investors each month.

As we debate this legislation, we should keep in mind one highly pertinent question: who will own America in the year 2000?

The answers we get over the next several years may well play a large role in determining the long-term future of agricultural-based economies upon which so many of our States and localities depend heavily.

Mr. Speaker, there is much concern—and rightfully so—that foreign investors might one day establish too great a degree of control over prime agricultural land, thereby being largely able to call the shots on American food and fiber production, the prices consumers everywhere pay, and agricultural exports to other countries.

In addition, Mr. Speaker, the purchase price of farmland might be driven to points beyond the financial reach of many of our rural people. Clearly, too much foreign investment could eventually hurt one of our most important and traditional institutions, one dating back to the founding of America—the family farm.

At the same time, we must remember that the right to ownership of private property is one of our most cherished heritages. As a result, we should not enact irresponsible, confiscatory legislation, or legislation which would deprive anyone of due process of law. However, we do need to find out more about the current picture so that the Federal Government—and concurrently, the State governments, using information gained from the reports required by this legislation, and from other sources—can take responsible and effective actions to protect the interests of American farmers and rural landowners, without unduly infringing upon the rights of others.

In the same vein, the Congress and the Federal bureaucracy should exercise restraint in this area, and leave the primary responsibility for formulating real property law in the hands of the State legislatures—where it has historically and properly rested.

Mr. Speaker, the reporting and disclosure requirements embodied in H.R. 13356 are a reasonable first step in finding some of the answers to these potential problems. It is important to note that this bill will not create an additional layer of bureaucracy, but that its provisions can be implemented at existing personnel and budget levels. I urge my colleagues to join me in supporting this legislation.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. NOLAN).

Mr. NOLAN. Mr. Speaker, I want to commend the gentleman from Iowa (Mr. GRASSLEY) and the gentleman from California (Mr. KREBS), the primary sponsors of this legislation, as well as to commend our chairman, the gentleman from Washington (Mr. FOLEY), for their work in bringing this legislation to the House.

Simply stated, what the bill does is to provide the legislative authority to give us accurate information on the extent of foreign investment transactions in U.S. farmlands. This is information that is badly needed for the purpose of making policy in the future.

Today the House takes up for consideration, H.R. 13356, the Agricultural Foreign Investment Disclosure Act of 1978. The bill boasts 75 cosponsors and was recently reported from the Committee on Agriculture by a vote of 32 to 2. As a coauthor of this legislation, and as chairman of the subcommittee which took initial action on this measure, I am proud of the bill's widespread support. In three separate hearings before the subcommittee, over 50 witnesses offered testimony in support of this legislation.

These witnesses covered a wide range of farm organizations and public and private individuals, interest groups and organizations.

The issue is simply this. The American public needs and demands accurate information on the extent of foreign investment in U.S. farmland. None of the existing Government efforts can produce this information without the authority this bill provides, that is, a legal requirement on foreign investors to file a report and identify their farmland holdings.

In testimony before our subcommittee, the Department of Agriculture stated:

> We are acutely aware of the extensive publicity on purchases of U.S. real estate by foreigners. Unfortunately, insofar as we know, there are no accurate estimates of the quantity of land in foreign ownership or the number of foreign owners.

When monitoring efforts at the Department of Commerce revealed only three purchases of farmland by foreign investors during 1976 and 1977, they offered this explanation: "Our experience shows that while our system of monitoring works well for industrial investments, it simply is inadequate for real estate."

Neither the State Department nor the Treasury Department offered any estimate of current farmland holdings by foreign investors, with the State Department stating flatly, "We, at the Department of State, would have no problem in seeing the development of more statistics and more information."

Finally, the General Accounting Office in their report of June 12 summarized their findings this way: "There is virtually unanimous agreement among persons at all levels of Government and in the private sector that, currently, there is no reliable data on the amount of U.S. farmland owned by nonresident aliens or on recent trends of such ownership. Such information would be very helpful to the Congress if it wishes to formulate and implement a national policy on nonresident aliens owning farmland in the United States. Clearly efforts need to be started now to produce useful and meaningful information."

The report recommended establishment of a nationwide registration system for foreign owners of U.S. land as the most feasible method of providing this data.

Following passage of H.R. 13356 by the Committee on Agriculture, the Department of Agriculture offered a letter expressing their support for this legislation provided the House accept the Senate's sunset provision, and the Senate retreat from requiring leaseholds of 5 years or longer to be reported. I believe both bodies are interested in reaching this kind of agreement.

Mr. Speaker, this legislation deals with a critical issue, the ownership of American farmland. The fact is that the price of farmland today bears no relationship to the productive value of the land. Farmland values have soared in recent years as competition between existing farmers and outside investors increases. A young farmer, today, cannot afford to buy a homestead and pay for it out of his farm earnings. These trends may forever change the face of rural America.

We do not know what the role of foreign investors is in this trend at the present time. If foreign investment in farmland continues, and continues to increase as most predict, we need—at the very least—to accurately monitor those investments and their impact.

Mr. Speaker, this is important legislation, and the product of careful and thorough consideration on the part of the subcommittee and the committee. I urge it's adoption, as amended, by this body.

Thank you.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, as a member of the Subcommittee on Family Farms, and as a cosponsor of this legislation, I urge its passage. In the hearings of the subcommittee, which were extensive, we determined that the United States has over one-half of all the prime agricultural land in the world. This is a vital natural resource and we ought to know who is purchasing it and what is happening to it. The fact is that there are presently three agencies who are responsible for reporting on foreign investments at the Department of the Treasury, the Department of Commerce, and the Department of Agriculture. All agree that we do not have reliable data in this area. The GAO conducted a study and the conclusion of the study this year, in 1978, was that there is no reliable data on the amount of U.S. farmland owned by foreign investors. There are concerns because extensive foreign investments can impact on land values, they can impact on family farmers and they can impact on foreign policy depending on what foreign investors control large areas of our commodity crops in this country.

It is for these reasons we need better information for the sake of family farmers and for the sake of U.S. agriculture.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I rise in support of this legislation, H.R. 13356.

Mr. Speaker, I have participated in the hearings on foreign purchase of U.S. farmland in the Committee on Agriculture and have come to recognize that some action is required. I think that the bill before us is probably the best way to approach this overall problem. It does not commit us to any particular policy action but does give us a sound base of information and I thoroughly support it.

Mr. GRASSLEY. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I rise in support of this legislation as a sponsor of a companion bill. I certainly want to commend the committee and its members for addressing the problem which has confronted many of us in our congressional districts in the last year or two.

I know that on the Eastern Shore of Maryland and in Southern Maryland, local governments as well as the farm community have become highly concerned about the sudden acquisition of large tracts of land by foreign absentee ownership totally unrevealed by any of the land records in the area.

Mr. Speaker, I want to echo the statements of my colleagues that the very least we can expect is legislation of this nature which will give us full information about that foreign ownership and its impact.

Mr. Speaker, I thank the gentleman from Iowa for yielding.

Mr. GRASSLEY. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. SEBELIUS).

Mr. SEBELIUS. Mr. Speaker, in closing the remarks on this side, I merely want to state that the purchase of U.S. farmland by foreigners is bugging my farmers out in western Kansas and everybody else.

In fact, last November I wrote to our subcommittee chairman, the gentleman from Minnesota (Mr. NOLAN), asking him to hold hearings, which he promptly did.

We had the pleasure of debating Mr. Oppenheimer, who was referred to earlier in the Family magazine, on the "pro" side of this very subject.

Mr. Speaker, I think very, very importantly, we need to address this subject and review all of the facts.

Therefore, Mr. Speaker, I urge all of my colleagues to support this legislation.

Mr. Speaker, the purchase of U.S. farmland by foreigners is of great concern to many farmers these days. Although comments by the Department of Agriculture and others have been intended to allay the fears of those who think the acquisition of farmland by foreign buyers is dangerous, there have been numerous reports that foreign purchases of farmland are escalating. I have talked with realtors in the high plains of western Kansas and eastern Colorado who have either sold farmland to foreigners or who know of such transactions within the past year or so.

The reason for so much interest in farmland by foreigners and potential domestic absentee owners is obvious. Kansas farmland values have more than doubled (130 percent) since 1973. I understand that in some States it has tripled. Furthermore, between 1972 and 1976, the capital gains possible on all U.S. farmland were estimated at $339 billion, while the income earned off the production of that land was less than half—$144 billion.

A recent business article indicated that 32 percent of the farmland is owned by absentee owners who do not farm. Although most purchasing of farmland today is done by older farmers who have paid for their land and can spread the cost of new land over their entire acreage, there will be an increasingly greater trend toward more absentee ownership, especially by foreigners, if we are not careful.

Mr. Speaker, at this time, I do not see wisdom in passing a bill which would impose restrictions on foreigners buying land. There are too many rumors, half-truths, and suppositions that need to be checked for authenticity. And presently, only about 3 percent of all farmland changes hands in a year. However, I think it is necessary to monitor the situation closely and accumulate the facts on farm ownership so the true situation will be clear. For that reason, I strongly support H.R. 13356 and urge my distinguished colleagues to vote for its passage.

Mr. FOLEY. Mr. Speaker, I yield myself 3 minutes.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, first I want to say that I am not here supporting any foreigners' privileges or rights to buy American farmland, However, I am worried about the reports which many Americans are going to be required to file under a very severe penalty of forfeiture for failure to file reports.

Can the chairman enlighten me on that subject?

Mr. FOLEY. Mr. Speaker, I may have confused the gentleman on the amount of the penalty. The penalty is the equivalent of 25 percent of the value of the land. It is not a forfeiture of the land, but of money.

Mr. GIBBONS. Either land or money; that does not make much difference. Twenty-five percent is pretty heavy. Who is going to have to file these reports? For instance, suppose we have a U.S. corporation, perhaps organized in Delaware or in Maryland or in Florida or anyplace else, and it is a publicly held corporation. Then we have a few foreigners who somehow bought some stock in that corporation, as any person is allowed to these days. Does that corporation have to file a report on every piece of vacant land which it buys?

Mr. FOLEY. No. That corporation will not have to file a report on every vacant piece of property which it buys for two reasons.

First, a relatively unsubstantial amount of foreign ownership would not trigger the reporting requirement.

Second, land ownership, even by foreign corporations, is only required to be reported if the land is agricultural land. That means land used for agricultural, forestry or timber production purposes.

I am sure I am also speaking for the other side by taking this opportunity to make legislative history.

There is no desire on the part of this committee for this legislation to be unnecessarily burdensome. We are just trying to get information. We are not trying to use the reporting system in a manner which will make it impossible, difficult or onerous for foreign individuals or organizations to purchase land.

Furthermore, we certainly do not want to impose upon the Secretary impossible and totally unnecessary bureaucratic requirements.

Mr. GIBBONS. Will the gentleman assure us that when we go home to face another election, we are just not going to be faced by a bunch of constituents who will say, "What crazy reports are you requiring us to file now as you do every time we do anything in this country?"

This looks like another one of those acts.

Mr. FOLEY. I assure the gentleman that is not our intention, but I cannot speak for his constituents. I assume that it was the intent of the committee that the act be administered in a manner not offensive to commonsense.

Mr. GIBBONS. I would feel better about it had the committee put a few more standards in here and not just given all this power to the Secretary.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to one of the principal sponsors of the bill, the gentleman from California (Mr. KREBS).

Mr. KREBS. I thank the chairman for yielding.

I would like to assure the gentleman from Florida (Mr. GIBBONS) that this bill was introduced a few months ago, and to this date I have not received a single letter in opposition to this legislation. I have received numerous letters in support of this legislation. I have had numerous comments in and out of the House in support of this legislation.

I do, however, wish to caution, in all fairness to the gentleman from Florida, that should he take a trip to Europe or Saudi Arabia, I am sure he is going to find substantial opposition to this legislation.

● Mr. ALEXANDER. Mr. Speaker, I rise in strong support of H.R. 13356, legislation which will establish a reporting system nationwide to obtain information on the extent and rate of foreign investment in U.S. agricultural land.

When Arkansas farmers came to Washington early this year, one of the concerns that they expressed to me was the growing investment in prime agricultural land by foreign interests. Many expressed concern that such investment was resulting in inflated land prices, to the detriment of other landowners and to those farmers who rent their farmland.

In response to those concerns I introduced legislation, H.R. 11709, which establishes a similar reporting system and study of this issue as contained in the legislation before us today. My bill, along with four others, was the basis for hearings by the Family Farms and Rural Development Subcommittee. From those hearings evolved the Foreign Investment Disclosure Act of 1978.

As the hearings bore out, the real extent of foreign ownership of U.S. farmland cannot presently be measured with existing data, and there are few statutes on the books at even the State level that either restrict, prohibit, or require the reporting of such foreign purchases.

The Department of Commerce estimates that purchases of farmland alone by overseas interests will total $1 billion this year. And that estimate is based only on transactions that are likely to be made public.

A June 12, 1978, General Accounting Office report entitled "Foreign Ownership of U.S. Farmland—Much Concern, Little Data" highlights the lack of data that is presently available to assess the extent of this problem.

GAO found that while 25 States have laws that place some constraints on foreign ownership of land, only two, Iowa and Missouri, require registration. Only nine States (Connecticut, Indiana, Kentucky, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, and Oklahoma) prohibit aliens from owning land. Five (Missouri, Iowa, Wisconsin, Pennsylvania, and South Carolina) have ceilings on total acreage.

However, Commerce Department officials point out that many land purchasers operate through fronts, making it difficult, if not impossible, for those few States that do monitor foreign purchases to trace real owners.

A number of States, including my own, have under consideration legislation to require the reporting, and in some measure restriction, of foreign investment in farmland.

In view of the absence of any present comprehensive State or Federal plan to obtain data that will help in assessing the impact of foreign investment on such things as the price of farmland, commodity prices, and local taxes, I do believe the approach contained in H.R. 13356 is needed.

The GAO study, which I am pleased to note is to be expanded to get more definitive data, cites three reasons why States like Arkansas view foreign investment in farmland as a potential problem:

> Foreign investors might drive up the price of farmland beyond the reach of local residents.

Arkansas farm real estate values have more than doubled during the past 7 years. From 1971 to 1977, per acre values rose from $255 to $547 on the average.

The increase is, of course, attributable to a number of factors—inflation, farm programs, the advantages of large farms and farm credit. Yet, Arkansas farmers believe that foreign purchases of prime land have been a factor as well.

Foreign investors, looking for long-term investments and noting that the rate of inflation in the United States is, in many instances, less than in their own country, are willing to pay premium prices. And though a large portion of the farms bought by overseas concerns continue to be worked by the former owners, rent payments have escalated, to a level that has caused many a farmer to reconsider whether farming is worth it any more.

In assessing what the future holds for land prices in my State, Clay R. Moore, Arkansas extension economist, was quoted in the July 7, 1978, edition of Delta Farm Press as follows:

> Only those farmers with considerable financial reserves will be in a sound position to buy additional land. . . .

That tells me that the door may well be opening for additional foreign purchases.

The GAO report continues:

> Too much foreign investment could eventually enable foreign interests to gain some control of the available farmland, especially prime agricultural lands. They could then gain some control over food production and possibly food prices.

Mr. Speaker, I think the reception that particular prospect gets from Arkansas producers and consumers alike needs little elaboration.

The GAO report further predicts:

> Too much foreign investment could adversely affect the continuation and expansion of small family farms.

I can think of no greater harm to the economy at large than for the family farm to give way to the inefficiencies of corporate farming.

Big is not necessarily better. The family farmer is the most efficient, yet least appreciated, partner in our economic system today.

At a time when the President has already signed into law legislation adopted by this Congress to give the young and beginning farmer a chance to make it, growing ownership of large tracts of land by overseas interests jeopardizes the ability of these new producers to be efficient and to compete.

H.R. 13356 requires that any foreign person who holds, acquires or transfers any interest in U.S. farmland to report to the Secretary of Agriculture within 90 days of such acquisition or transfer, detailing the acreage, legal description, purchase price, intended agricultural uses and type of interest held in such land. The report must also contain the legal name, address, and citizenship of a foreign person, or if the foreign purchaser is not an individual, the nature of the legal entity, principal place of business and country of organization. In the case of a transfer of U.S. farmland, the legal name and citizenship or country of organization of the transferee would also be required.

All such transactions occurring before the enactment of this bill would have 180 days after the effective date of these requirements to comply.

A civil penalty of up to 25 percent of the fair market value of the interest in the land in question could be imposed for failure to comply or for the submission of false reports.

The Secretary is also required under the bill to make periodic reports to the President and the Congress with an analysis of the information compiled in such reports.

Mr. Speaker, I want to emphasize that this bill in no way restricts the purchase of farmland by foreign investors. It merely provides for a registration system that will enable the Congress to evaluate the extent of such ownership and the impact that ownership has on the agricultural sector of our economy. It will give us the data we need to determine if restrictions somewhere down the road are, indeed, warranted.

As a cosponsor of this legislation, Mr. Speaker, I urge its adoption.●

● Mr. MARLENEE. Mr. Speaker, I rise in support of the study on foreign investment in farmland. Such legislation will supply the States with needed information on the degree to which land in their States is being purchased by alien investors. This legislation does not mandate action to control such purchases, but allows only for monitoring of land acquisitions.

Farmers have been justly concerned about the inflationary impact on land prices caused by the influx of foreign dollars into land purchases. From witnesses who came before the Agriculture Committee we now more fully understand that too little is known about the extent of foreign transactions in our rural areas and, more importantly, we understand that a potential threat exists in the person of the foreign buyer.

Congress knows that the purchase of U.S. land is a consequence of low income due to depressed agricultural prices. These land purchases, we also know, arise from the declining value of the dollar and the strength of the "Eurodollar." And, we can also assume that these increased purchases arise from different social and economic conditions in foreign countries.

Therefore, we recognize that many times the merchants of American land are not American agricultural producers. Instead, American agricultural producers are being forced to sell, because of causes beyond their control.

In addition, often times the foreign investor does not have the intention of placing the land into agricultural production. This means that although he can outbid the domestic farmer for neighboring farmland, once the alien investor acquires the land, its primary value is not as a produce-yielding farm but as a value accruing blue chip investment.

The recent GAO report on alien investment in U.S. farmland (June 12, 1978) highlighted the need for greater data on the extent of such purchases. Only about half of the States have any restrictions or guidelines on the purchase of agricultural lands by aliens. And a further difficulty exists in determining the extent of alien land ownership, because many of the land purchases are done through an intermediary.

I believe that American agriculture needs a centralized accounting of foreign investment through the Office of the Secretary of Agriculture.

Such accounting provides the States with needed information so that the States would have the information and ability to make their own laws regarding foreign investment within their boarders. This legislation, while placing the information gathering role at the Federal level, allows the States to take any action they feel necessary to control such land purchases.●

● Mr. BINGHAM. Mr. Speaker, I rise in support of H.R. 13356. This legislation would require foreigners to report all transactions and holdings of agricultural land. It further requires specific impact statements by the Secretary of Agriculture.

Clearly, the U.S. Government does not have adequate information on foreign investment in this country in agricultural or urban real estate; nor, for that matter, on international investment flows in general. However, in part because the Congress has already addressed this problem, I do have three concerns about the bill before us.

First, the administration should coordinate its current mandates in the area of foreign investment. The International Relations Committee recommended, and the Congress has already approved, a major feasibility study of the best methods for collecting foreign investment information as part of a comprehensive data collection program—in the International Investment Survey Act of 1976. The feasibility study must be completed within a year for those parts dealing with agricultural investment. It may well establish that a reporting system such as that in H.R. 13356 for foreign investments in U.S. farmlands is feasible. Until then, however, I think we should be wary of drawing down limited funds appropriated for data collection. We should also not expect much in the way of results. The monitoring in H.R. 13356 has not yet been evaluated for feasibility.

My second concern is the motivation for this legislation. Unlike the International Investment Survey Act, it deals only with farmland investments. Understandably, it comes at a time when economic conditions in the United States and worldwide are stimulating greater investments in U.S. farmlands by everyone—both Americans and foreigners. But, it also comes amidst calls by some for arbitrary restrictions on investment flows. And this worries me.

The free flow of investment among nations is clearly in our national interests. Not only does foreign investment reflect the strength of our domestic economy, it also bolsters our balance-of-payments position and is consistent with U.S. investment opportunities abroad. We clearly need to improve our information on international investment flows. But this should not be a first step toward investment restrictions. Therefore, it should be clear for the record that our purpose in this bill is strictly in monitoring, not discouraging foreign investment in U.S. farmlands.

And this brings me to my third concern—the scope of the analyses required by this legislation. H.R. 13356 only directs USDA to determine the impact of foreign investment on family farms and farm prices. This is an extremely narrow basis for assessing foreign investment impact. The proposed studies should be expanded to include assessments of the total economic impact of foreign investment in U.S. agriculture. And this means how foreign investment affects agricultural productivity, income and employment, the U.S. balance of payments, and, very importantly, our foreign economic policy objectives.

The International Investment Survey Act requires such a broad look at urban and farmland investment surveys and reports. The administration now has sufficient funds to carry out such studies. Once again, this underlines the need for the administration to coordinate all its legislative mandates in the area of international investment to insure timely and useful information on foreign investment in U.S. farmlands, as well as other sectors of the economy.●

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Washington (Mr. FOLEY) that the House suspend the rules and pass the bill H.R. 13356, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3384) to require foreign persons who acquire, transfer, or hold interests in U.S. agricultural land to report such transactions and holdings to the Secretary of Agriculture, and to direct the Secretary to assess and report the effects of such transactions and holdings, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Foreign Investment Information Act of 1978".

DEFINITIONS

SEC. 2. For purposes of this Act, the term—

(1) "agricultural land" means any land located in the United States that is generally used for producing agricultural commodities (including forest products), raising livestock or poultry, or other agricultural purposes as defined in regulations to be prescribed by the Secretary;

(2) "foreign nation" means any nation other than the United States;

(3) "United States" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the territories and possessions of the United States;

(4) "foreign person" means—

(A) an individual who is not a citizen of the United States and who has not been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act;

(B) a person, other than an individual or a government, that is created or organized under the laws of a foreign nation or that has its principal place of business in a foreign nation;

(C) a person, other than an individual or a government, that is created or organized under the laws of a State of the United States, the District of Columbia, or a territory, possession, or Commonwealth of the United States and that, as defined in regulations to be prescribed by the Secretary, is substantially controlled by individuals referred to in subparagraph (A) of this paragraph, persons referred to in subparagraph (B) of this paragraph, governments of foreign nations, or any combination of such individuals, persons, or governments; and

(D) a government of a foreign nation;

(5) "person" includes any individual, corporation, company, association, firm, partnership, society, joint stock company, trust, estate, and any other similar entity; and

(6) "Secretary" means the Secretary of Agriculture.

REPORTING REQUIREMENTS

SEC. 3. (a) Any foreign person who holds any interest (including leaseholds of five or more years and beneficial interests in the land under contracts of sale or similar arrangements), other than a security interest, in agricultural land on the day before the effective date of this Act shall submit, or have a designated agent submit, a report to the Secretary not later than one hundred and eighty days after the effective date of this Act. Such report shall be submitted in such manner as the Secretary shall prescribe by regulation and shall contain—

(1) the legal name and address of the foreign person;

(2) in any case in which the foreign person is an individual, the citizenship of the foreign person;

(3) in any case in which the foreign person is not an individual or a government—

(A) the nation in which the foreign person is created or organized;

(B) the principal place of business of the foreign person;

(C) the legal name and address of each person who holds a substantial interest (as defined in regulations to be prescribed by the Secretary) in the foreign person and, in any case in which the holder of such an interest is an individual, the citizenship of the holder and, in any case in which the holder of such an interest is not an individual or a government, the nation in which the holder is created or organized and the principal place of business of the holder;

(4) the type of interest in the agricultural land that is held by foreign person;

(5) a legal description of the agricultural land, including the State and county in which the land is located and the total acreage involved;

(6) the date of acquisition of the interest and the purchase price paid for, or any other consideration given for, the interest; and

(7) such other information as the Secretary may require by regulation.

(b) Any foreign person who acquires or transfers any interest (including leaseholds of five or more years and beneficial interests in the land under contracts of sale or similar arrangments), other than a security interest, in agricultural land shall submit, or have a designated agent submit, a report to the Secretary not later than thirty days after the date of such acquisition or transfer, except that the reporting of any such transaction occurring during the first one hundred and eighty days after the effective date of this Act may be deferred until thirty days after expiration of the one-hundred-and-eighty-day period. Such report shall be submitted in such manner as the Secretary shall prescribe by regulation and shall contain—

(1) the legal name and address of the foreign person;

(2) in any case in which the foreign person is an individual, the citizenship of the foreign person;

(3) in any case in which the foreign person is not an individual or a government—

(A) the nation in which the foreign person is created or organized;

(B) the principal place of business of the foreign person;

(C) the legal name and address of each person who holds a substantial interest (as defined in regulations to be prescribed by the Secretary) in the foreign person and, in any case in which the holder of such an interest is an individual, the citizenship of the holder and, in any case in which the holder of such an interest is not an individual or a government, the nation in which the holder is created or organized and the principal place of business of the holder;

(4) the type of interest in the agricultural land that is acquired or transferred by the foreign person;

(5) a legal description of the agricultural land including the State and county in which the land is located and the total acreage involved;

(6) the purchase price paid or received for, or any other consideration given or received for, the interest;

(7) in any case in which the foreign person transfers the interest, the legal name and the address of the person to whom the interest is transferred and—

(A) in any case in which the transferee is an individual, the citizenship of the transferee; and

(B) in any case in which the transferee is not an individual or a government, the nation in which the transferee is created or organized and the principal place of business of the tranferee; and

(8) such other information as the Secretary may require by regulation.

(c) With respect to any person whose legal name is contained in any report submitted under subsection (a) or (b) of this section, the Secretary may take such actions as the Secretary considers necessary to determine—the legal name and address of any person who holds any interest in the person whose legal name is contained in the report and—

(1) in any case in which the holder of such interest is an individual, the citizenship of the holder; and

(2) in any case in which the holder of such interest is not an individual or a government, the nation in which the holder is created or organized and the principal place of business of the holder.

REPORTS AND MONITORING

SEC. 4. (a) The Secretary shall—

(1) develop and distribute within sixty days after the effective date of this Act a standard report form (and related instructions) that will facilitate automated data processing, analysis, and reporting of the information collected under section 3 of this Act;

(2) seek the cooperation and assistance of States and county governments, make maximum effective use of Department of Agriculture field offices, and use such other means as may be necessary, to make wide distribution of the standard report forms and instructions, publicize the reporting requirements and procedures established under section 3 of this Act, and collect the reports required under section 3 of this Act;

(3) analyze information obtained by the Secretary under section 3 of this Act and determine the trends with respect to ownership or control of United States agricultural land by foreign persons and the actual and potential effects that the acquisition, transferring, and holding of United States agricultural lands by foreign persons have or will have on the agricultural industry of the United States, on the economy of the United States, on the foreign relations of the United States, and on such other matters as the Secretary determines of interest or concern to the President or Congress; and

(4) transmit, as prescribed in subsection (b) of this section, to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, reports on the Secretary's findings and conclusions regarding analyses and determinations made under paragraph (3) of this subsection.

(b) The Secretary's findings and conclusions regarding the analyses and determinations required under subsection (a) of this section shall be transmitted—

(1) with respect to information obtained by the Secretary under section 3(a) of this Act, within ten months after the effective date of this Act; and

(2) with respect to information obtained by the Secretary under section 3(b) of this Act, on an annual basis, beginning with calendar year 1979, within three months after the end of each calendar year.

(c) The Inspector General of the Department of Agriculture shall conduct periodic studies to determine the reliability of the information reported under section 3 of this Act and the effectiveness of the Secretary's procedures for obtaining, analyzing, and reporting information under this section.

CIVIL PENALTY

SEC. 5. (a) Whoever violates any provision of section 3(a) or 3(b) of this Act or any regulation issued thereunder shall be subject to a civil penalty imposed by the Secretary. The civil penalty for any such violation may not exceed an amount equal to 25 percent of the fair market value, as determined by the Secretary, on the date of the assessment of the penalty, of the interest in agricultural land with respect to which the violation occurred.

(b) The Attorney General shall recover the amount of any civil penalty assessed under subsection (a) of this section in a civil action in an appropriate district court of the United States unless the person pays the penalty to the Secretary. In such action, the validity and appropriateness of the penalty shall not be subject to review.

EFFECTIVE PERIOD

Sec. 6. The provisions of this Act shall become effective October 1, 1978, and shall be effective through September 30, 1981.

MOTION OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Foley moves to strike out all after the enacting clause of the Senate bill S. 3384 and insert in lieu thereof the provisions of H.R. 13356, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time and was read the third time and passed.

The title was amended so as to read: "A bill to require foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have, particularly on family farms and rural communities, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 13356, was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CHESAPEAKE BAY RESEARCH COORDINATION ACT OF 1978

Mr. BREAUX. Mr. Speaker, I move to spspend the rules and pass the bill (H.R. 12631) to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12631

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Chesapeake Bay Research Coordination Act of 1978".

Sec. 2. Findings and Statement of Purpose.

(a) The Congress finds that—

(1) the Chesapeake Bay area is one of the greatest national resources in the United States of America, continuously serving the people of Maryland, Virginia, and other States of the Union, as an abundant source of seafood, recreation, beauty, and enjoyment;

(2) the Chesapeake Bay area serves as one of the world's major waterways, each year carrying millions of tons of waterborne shipping to and from all parts of the globe;

(3) the productivity and beauty of the Chesapeake Bay area in recent years has been diminished and threatened by water pollution, shoreline erosion and excessive sedimentation;

(4) numerous Federal agencies have initiated and supported research projects to study, manage, enhance, protect, preserve, or restore the resources of the Chesapeake Bay area; and

(5) the various research projects relating to the Chesapeake Bay area could be more effectively coordinated in order to obtain maximum benefits.

(b) The purposes of this Act are—

(1) to identify unnecessary duplication of effort in the federally supported research conducted for the improvement of knowledge about the Chesapeake Bay;

(2) to discern any undesirable gaps or imbalances in the research effort;

(3) to organize the knowledge gained through the research effort in a manner which will facilitate the identification of key resource management issues;

(4) to identify the needs and priorities for such additional research projects as are required for the improvement of knowledge about the Chesapeake Bay and for the support of management objectives; and

(5) to encourage the utilization of the results and findings of research projects, and of other relevant information, in the management decisionmaking processes which impact on the Chesapeake Bay.

Sec. 3. Definitions.

As used in this Act—

(1) The term "Chesapeake Bay area" means the waters of the Chesapeake Bay (including the tributaries thereto to the extent of tidal action), the lands within and under such waters, and the wetlands adjacent to such waters.

(2) The term "research effort" means the aggregate of all research projects in the Chesapeake Bay area; and the term "research project" means any study or research program ar activity—

(A) the purpose of which is to promote the understanding, improved management, and protection of the marine or coastal-related resources of the Chesapeake Bay area; and

(B) which is funded (in whole or in part) by any department, agency, or independent establishment of the Federal Government.

The latter term includes, but is not limited to, studies and research programs or activities with respect to water quality, coastal zone management, navigation, shoreline erosion, fisheries, shellfish, and wildlife.

(3) The term "Secretary" means the Secretary of Commerce.

(4) The term "Administrator" means the Administrator of the Environmental Protection Agency.

Sec. 4. Office for Chesapeake Bay Research Coordination.

(a)(1) There is established in the executive branch an independent establishment known as the Office for Chesapeake Bay Research Coordination (hereinafter referred to in this Act as the "Office").

(2)(A) The Office shall be headed by a Director who shall be appointed by the Secretary in consultation with the Administrator, and who, by reason of his knowledge and experience, is qualified to serve as an adviser with respect to research. There shall also be in the Office a Deputy Director who shall be appointed by the Secretary. The Deputy Director shall perform such functions as the Director may from time to time prescribe.

(B) Before making any appointment under subparagraph (A), the Secretary shall seek the recommendations of the Governor of Maryland and the Governor of Virginia with respect to individuals who are qualified to serve as the Director and Deputy Director.

(3) The Director may appoint such additional personnel for the Office as he deems desirable, and as is provided for under this Act.

(b) The Office, after consultation with the Chesapeake Bay Advisory Committee, shall—

(1) ensure the existence of a clearinghouse for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning all research which is ongoing or completed or for which funds have been requested, and which is conducted in or affects the Chesapeake Bay area;

(2) review and evaluate, on a continuing basis, and in a manner consistent with an acceptable scientific peer review process, the research effort—

(A) to ascertain the extent, if any, to which any research project unnecessarily duplicates any other research project which is ongoing or completed, or for which funds have been requested; and

(B) to ascertain the extent, if any, to which undesirable gaps and discontinuities exist in the research effort;

(3) identify the need for, and the priority of, additional research projects which could be of benefit to such area;

(4) establish an effective mechanism for coordinating the research projects with the research of State and local government agencies for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area;

(5) assist in monitoring ongoing research projects and disseminate the results and findings of such projects;

(6) conduct periodic meetings with representatives of the departments, agencies, and independent establishments of the Federal Government having responsibility for the administration of research programs in the Chesapeake Bay area and representatives of appropriate State and local agencies in order to obtain and exchange information relating to such programs; and

(7) submit an annual report to the Congress and to the Secretary with respect to the administration of this subsection, together with any recommendations for improving the research effort or other related activities.

The first report under paragraph (7) shall be submitted within one year after the members of the Advisory Committee are appointed.

(c) The Office may—

(1) recommend to the appropriate Federal, State, and local government agencies improved methods for the carrying out, in an orderly, efficient, and balanced manner, of their activities relating to the development, use, and conservation of the resources of the Chesapeake Bay area;

(2) consider the need for, and desirability of, public works and improvements relating to the water resources in the Chesapeake Bay area or any portion thereof;

(3) consider means of improving and maintaining the fisheries of the Chesapeake Bay area; and

(4) recommend means of improving the environmental quality of the Chesapeake Bay area.

(d)(1) The Secretary shall make available, without reimbursement, to the Office such administrative services and temporary staff as may be reasonably required by the Office to enable it to carry out its functions under this Act.

(2) The Office may request from any department, agency, or independent establishment of the Federal Government (A) any information concerning grants made by such department, agency, or establishment for research in the Chesapeake Bay area, and (B)

any other assistance or information which the Office deems necessary to enable it to carry out its functions under this Act. Each such department, agency, or independent establishment shall furnish, with or without reimbursement, to the Office any such assistance or information so requested consistent with other Federal law.

Sec. 5. Chesapeake Bay Advisory Committee.

(a) There is established a committee to be known as the Chesapeake Bay Advisory Committee (hereinafter referred to in this section as the "Committee").

(b) (1) The Committee shall consist of not more than 15 members, of whom—

(A) two shall be selected by the Governor of Virginia and two by the Governor of Maryland;

(B) one shall be the Director of the Office, who shall serve ex officio; and

(C) the remainder shall be appointed by the Secretary, in consultation with the Administrator, from among individuals who, by reason of their knowledge and experience, are qualified to perform the functions of the Committee.

The Secretary shall insure, in making appointments under subparagraph (C), that the interests of State and local government, industry, the public, and the scientific and environmental communities are represented.

(2) Before making any appointments under paragraph (1) (C), the Secretary shall seek the recommendations of the Governor of Maryland and the Governor of Virginia with respect to individuals who are qualified to serve as members of the Committee.

(c) The Chairman of the Committee shall be elected annually by the membership of such Committee.

(d) The Committee shall—

(1) advise the Director of the Office with respect to the carrying out of the duties and responsibilities set forth in this Act; and

(2) review, evaluate, and comment upon the annual report required by section 4(b) (6) and provide any comments or recommendations which it may have for improving the effectiveness of the Office (with such review and evaluation and any such comments and recommendations being submitted as an appendix to such annual report).

(e) Members of the Committee (other than those who are employees of the Federal Government) may, while serving on business of the Committee, receive compensation for travel expenses and per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in Government service employed intermittently.

Sec. 6. Authorization of Appropriations.

There are authorized to be appropriated to the Office for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, such sums, not to exceed $300,000 per annum, as may be necessary to carry out the purposes of this Act.

Sec. 7. Relationship of Act to Existing Federal, State, and Local Powers.

(a) Nothing contained in this Act shall be construed to affect the jurisdiction, powers, or prerogatives of any department, agency, or officer of the Federal Government or of any State or local government.

(b) In administering this Act the Secretary, the Office, and the Advisory Committee shall take into account, and (in the annual report required by section 4(b)(6)) shall make such recommendations as may appear appropriate with respect to, any existing laws which may affect or be involved in the research effort.

Sec. 8. Termination.

This Act and the authority conferred by this Act shall terminate three years after the date of its enactment. At such time the Secretary, in consultation with the Administrator, shall submit to the Congress an evaluation of the effectiveness of the Office and of the Act. In the preparation of such report, comments shall be widely solicited from Federal agencies, the Governors of Maryland and Virginia, and the research institutions, industries, and environmental and citizen's groups concerned with the Chesapeake Bay.

The SPEAKER pro tempore. Is a second demanded?

Mr. FORSYTHE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. Breaux) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. Forsythe) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. Breaux).

Mr. BREAUX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker the bill before the House today is of great importance concerning the decisions made which effect the marine resources in the Chesapeake Bay area.

Chesapeake Bay is indeed one of the most biologically productive estuaries in the world with considerable potential for increased production, but only if it is managed properly. In order to make full use of the bay area as a vital marine production resource, as an important waterway to the United States, and as a recreational facility to all persons in its area we must begin to establish management programs for all research projects conducted in the Chesapeake Bay area.

The purpose of this bill is to establish a clearinghouse through which all research projects will be reviewed and to utilize that clearinghouse to its fullest capacity to insure that these projects are indeed needed and required. The clearinghouse will be known as the Office for Chesapeake Bay Research Coordination. This will increase the effectiveness of the overall research capability in the bay. In the past, there has been an overlapping of the research conducted by research scientist and projects managed by the Federal Government. Hopefully, this bill will eliminate any confusion in this matter.

In addition to establishing programs, this bill calls for the formation of an Advisory Committee with representatives from the States of Virginia and Maryland who would advise the Director of the Research Coordination Office.

The passage of this bill, along with S. 1617, the National Ocean Pollution Research and Development Monitoring Act which passed the House during the 95th Congress, will require the Federal agencies to review and evaluate all Federal ocean pollution research efforts. The bill calls for a 5-year plan which requires a priority listing of research projects, based upon a determination of national needs.

I feel, with the passage of this bill, we can begin to evaluate other shoreline States whose productivity has been diminished and threatened by shoreline erosion and pollution. If these programs are effective, it can be an asset to the United States as a whole.

As a Congressman who has a great interest in the field of ocean pollution research, I urge you to join with me in voting "aye" to H.R. 12631. Thank you.

Mr. Speaker, I yield to the gentleman from California (Mr. Brown).

Mr. BROWN of California. Mr. Speaker, I rise in support of H.R. 12631, a bill to provide for the coordination of Federal research efforts in the Chesapeake Bay and for other purposes. I am pleased to say that this bill represents not only a successful example of cooperation between the Merchant Marine and Fisheries Committee and the Committee on Science and Technology, but also between the majority and minority members. I would therefore like to praise Mr. Murphy, the chairman of the full Merchant Marine Committee, Mr. Breaux, chairman of the subcommittee, and Mr. Bauman, the sponsor of this bill, for their efforts in developing this legislation.

The needs for improved coordination of environmental research efforts and management of information resources have become apparent as man has increasingly attempted to understand and manage his environment. However, these needs are not easy to fulfill, due to the interdisciplinary nature of this research, the staggering amount and variety of scientific and technical information, and to the multitude of agencies at all levels of government, private institutions, and individuals who are involved. This legislation represents what I would consider a landmark experiment in regional coordination and management of environmental research and information. It would establish a mechanism for reviewing the research effort relevant to the Chesapeake Bay area to establish areas of need and priority, and for encouraging the application of the research results and findings to the management of the Bay. Furthermore, this bill would insure the establishment of a regional clearinghouse for information on the bay's coastal and marine resources.

The experimental nature of this legislation stems from the Science and Technology Committee's desire to establish the usefulness and applicability of the experience gained through this program to other regions of the country.

I would like to comment briefly that there has been some discussion as to the criteria for considering legislation under suspension of the rules. I think this bill meets every criteria I have heard suggested. It is an important bill, but is regional in its application. It authorizes a program of not more than $300,000 per year. It contains provisions for oversight. It contains a termination clause which provides that it shall expire at the end of 3 years in order to give the Congress an opportunity to review it and determine if it has been useful.

Mr. Speaker, I believe that, in the short term, this legislation will contribute to the improved management of research and information in the Chesapeake Bay area. More importantly, however, I believe that in the long run it will help guide similar attempts in other regions of the country. I therefore urge that we act responsibly both by passing this legislation, and by carrying out appropriate oversight.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation. It has been very adequately detailed and explained by both the chairman of the Subcommittee on Oceanography of the Committee on Merchant Marine and Fisheries, the gentleman from Louisiana (Mr. BREAUX); and by the gentleman from California (Mr. BROWN), the chairman of the Subcommittee on Science, Research, and Technology, of the Committee on Science and Technology.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. BAUMAN), a Member of the Committee on Merchant Marine and Fisheries.

Mr. BAUMAN. Mr. Speaker, I want to express my appreciation to the Members of the Subcommittee on Oceanography, as well as the Subcommittee on Environment and the Atmosphere and to thank both these committees for considering this legislation. It has broad philosophical and bipartisan support, as evidenced by the fact that my colleagues from Maryland, Ms. MIKULSKI, Mrs. HOLT, and Mr. BYRON, have cosponsored this legislation.

I particularly want to express my appreciation to all those on the staff who have worked for some months through two lengthy hearings and several conferences on the legislation.

Mr. Speaker, I have sponsored H.R. 12631 in order to address a problem that is of great concern to the people of my district as well as all those who enjoy the commercial, recreational or esthetic benefits of the Chesapeake Bay, the Nation's largest estuary. I am pleased that I am joined in sponsoring this legislation by my very able colleagues from Maryland, Ms. MIKULSKI, Mrs. HOLT, and Mr. BYRON as well as the chairman of the Oceanography Subcommittee of the House Merchant Marine and Fisheries Committee, JOHN BREAUX and the chairman of the full Merchant Marine and Fisheries Committee, JOHN MURPHY. In addition to this bipartisan, and I believe philosophically balanced, list of cosponsors, this bill has received the support of the chairman of the Environment and the Atmosphere Subcommittee of the House Science and Technology Committee, GEORGE BROWN. His able support and valuable suggestions for this legislation have added greatly to its merits. In addition, his thorough knowledge of the scientific community, as well as the problems faced in the public funding and coordination of scientific research has contributed greatly to the clarity of the issues involved and the direction of this legislation.

This bill has traveled a long road to this Chamber today. It has been considered by two committees and has had two complete sets of hearings. In addition, during its consideration by the Environment and the Atmosphere Subcommittee in Science and Technology, an open forum was conducted for all interested parties for a full consideration of the many aspects and questions involved. In light of this thorough hearing process, I think it is all the more significant that this bill has been passed unanimously by all levels in the committee hearings. Between these two committees there are 81 members, and this bill has yet to receive a single negative vote.

The purpose of this legislation is quite simple. It is to insure that the greatest possible gain will be realized from the taxpayers' money we spend to conduct research on an environmental resource such as the bay. There are over 60 Federal, State, and local agencies that are presently conducting research on the Chesapeake Bay, most with their separate mandate and distinct objectives. There are at least 28 academic institutions working in this area and a wide assortment of private and community interest groups conducting research into one field or another. This bill represents the first time that all of these research projects will be brought under one roof and that coordination of the federally funded efforts will be made.

Like so many other environmental resources, the Chesapeake Bay extends beyond any single political jurisdiction; and like other resources, this fact has made the coordination effort far more difficult in the past. This bill addresses this circumstance by establishing an advisory committee that will provide considerable State and local input into the coordination effort. During the consideration of the bill in the subcommittee of the gentleman from California (Mr. BROWN) suggested that the concept embodied in this bill may serve as a model for possible application in other areas of the country where similar problems exist.

During the consideration of this legislation there have been a number of significant compromises between interested parties. Perhaps this goes without saying when discussing a bill that has such diverse cosponsorship, but I believe these compromises have strengthened this legislation and have improved its prospects for success. If this office does not succeed, it will be quickly disposed of because we have inserted a 3-year sunset clause.

This bill has received the endorsement of the State of Maryland, in whose borders most of the bay lies; and the generous support of the very able secretary of the Maryland Department of Natural Resources, James B. Coulter. His support has been demonstrated by the fact that on three occasions during the exhaustive hearings on this bill he has made the trek to Washington himself or has provided for the attendance of his expert assistant, Henry Silberman. The support of these officials has resulted from their desire to see the Federal activities coordinated so that the State could better conduct their own programs. They have called for leadership from the Federal level if only to the extent that the Federal Government get some control and organization over its activities in this area.

There is a great deal that could be said about this bill. I have been working on the problems of the Chesapeake Bay for over 5 years and I believe that this is a sound piece of legislation that will make a positive contribution. I urge my colleagues to support this bill.

Mr. FORSYTHE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WALKER), a member of the Committee on Science and Technology.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the bill, H.R. 12631, the Chesapeake Bay Research Coordination Act. This legislation represents an important first step toward improved coordination of federally funded research in the Chesapeake Bay area.

To accomplish the major goals of this legislation, the bill would establish an independent Office for Chesapeake Bay Research Coordination within the Department of Commerce. This Office in consultation with an advisory committee, also established in the bill, would maintain a clearinghouse for all information related to research in the Chesapeake Bay area and would review and evaluate on a continuing basis, all Federal research efforts in the Chesapeake Bay. The Office would also develop a priority listing of additional research needed in the Chesapeake Bay area. The bill would establish an advisory committee consisting of no more than 15 members including the Director of the Office who would serve ex-officio, 2 members appointed by the Governor of Virginia, 2 members appointed by the Governor of Maryland, and the remainder who would be appointed by the Secretary of Commerce in consultation with the Administrator of the Environmental Protection Agency.

We have included in the bill a 3-year authorization with a sunset provision. The legislation also requires the Secretary of Commerce to report to the Congress upon the effectiveness of both the Office for Chesapeake Bay Research Coordination and the act itself.

The bill does authorize $300,000 per year for each fiscal year from 1979 through 1981.

Mr. Speaker, at this point I would like to take a moment to compliment the gentleman from Maryland (Mr. BAUMAN) who is the chief sponsor of this legislation. It has only been through his untiring efforts that this bill has moved through both the Merchant Marine and Fisheries Committee and the Committee on Science and Technology. He has been a strong and effective advocate for improving the coordination of federally supported and conducted research in the Chesapeake Bay area. I believe it is wholly fitting that in one of the major tidal areas of our Nation that the Government should be conducting a substantial amount of research, however Mr.

BAUMAN'S efforts have indicated the strong probability that much of the Federal funding is wasted on duplicative or repetitive research efforts. At the same time there seem to be a number of important areas which have not been properly addressed because there was not sufficient funding left over to reach them. If this legislation is enacted not only would the duplication and replication of research efforts be ended, but a priority listing would be established to insure that Federal resources to the maximum extent possible are allocated to the most important research waiting to be done.

Mr. Speaker, this legislation represents the best possible mixture of the original legislation reported by the Committee on Merchant Marine and Fisheries and the addition of several important amendments by the Committee on Science and Technology. I believe that it merits the support of all of my colleagues, and I urge its adoption.

● Ms. MILKUSKI. Mr. Speaker, today the House of Representatives passed by voice vote a bill that is of utmost importance to the State of Maryland. The Chesapeake Bay Research Coordination Act will provide for the establishment of an office in the Commerce Department which will coordinate all federally funded research of the Chesapeake Bay—one of the most productive estuaries in this country.

The bay plays a vital role in the recreational and economic well-being of both the State of Maryland and Virginia and all efforts must be made to assure that the Bay is not allowed to deteriorate environmentally. It is for this reason, that I am hopeful that the legislation passed by the House today will go a long way to guarantee that coordinated, nonduplicative research is done by the Federal Government to assure the future of one of my State's most illustrious natural resources.

I urge my colleagues in the Senate to follow the lead taken by this body, so that future generations will be able to appreciate and enjoy the many merits that the Bay offers.●

● Mr. PRITCHARD. Mr. Speaker, I rise in support of H.R. 12631, the Chesapeake Bay Research Coordination Act. This bill is designed to recognize the importance of the Chesapeake Bay ecosystem as a focus for research efforts. Although there have been a proliferation of Federal agency programs which have extended into the management of the marine environment, including Chesapeake Bay, there has been very limited success in coordinating these broad-ranging research efforts. This bill is intended to achieve improved coordination of these efforts, and to identify existing gaps and discontinuities in the research program, which usually result from agency-specific and resource-specific activities in the Chesapeake Bay.

The Chesapeake Bay area, for the purposes of this legislation is defined as the waters of Chesapeake Bay, including the tributaries to the extent of tidal action, the lands within and under these waters and the adjacent wetlands. The bill would establish an independent Office for Chesapeake Bay Research Coordination within the executive branch. The director for this Office would be appointed by the Secretary of Commerce with the Administrator of EPA playing only a consultative role in the selection process. The bill would also require the establishment of a Chesapeake Bay Advisory Committee which would consist of not more than 15 members, of which the Governors of Maryland and Virginia would each appoint two and the remainder would be appointed by the Secretary of Commerce. These appointments would be required to represent a variety of interests, including scientific and environmental communities.

One of the primary responsibilities of the Office would be the development of a clearinghouse for information regarding research in the Chesapeake Bay area. This clearinghouse function would provide a mechanism for identifying research gaps, leading to improved coordination of the Federal research effort. This information could then be more effectively disseminated to local resource managers, planners, scientists, and the general public.

Earlier this year, the Merchant Marine and Fisheries Committee and the Science and Technology Committee acted jointly in passing the Ocean Pollution Research and Monitoring Program Act of 1978 (Public Law 95–273). This bill would require the establishment of an ocean pollution research plan, which would enable a more efficient use of available research funds. This act would require the priority listing of national ocean pollution research problems. This priority listing would be the basis for the development of the research plan and would hopefully lead to an improved allocation of research funds. The Chesapeake Bay Research Coordination Act is somewhat similar in this regard, except that it is more focused at the regional level—in this case, the Chesapeake Bay ecosystem. With this type of regional focus, balanced with the Federal agency efforts, an improvement would result in the quality of input of more localized information in the establishment of research priorities. I feel that this is an important feature of this legislation which provides for a clearer identification of research needs and a sharper focus of research efforts. Mr. Speaker, I commend Mr. BAUMAN for his initiative in this area and I support the enactment of this legislation with an authorization level of $300,000 for fiscal years 1979, 1980, and 1981.●

● Mr. MURPHY of New York. Mr. Speaker, today a most important bill is brought before the House concerning the need for marine resource management in the Chesapeake Bay area.

The bay area is known as one of productivity and beauty. It is one of the greatest national resources in the United States, continuously serving the people of Maryland, Virginia, and other States of the Union. Not only does the bay serve the area as a recreational facility, it also serves as a waterway for importation and exportation to and from all parts of the globe.

This bill would provide an organization for Federal research projects to identify unnecessary duplication of programs conducted for the improvement of the bay area and also to organize the knowledge through the research effort to assure us of key resource management issues. To deny the bay area this legislation would be to deny the United States as a whole any future necessary programs to prevent pollution, shoreline erosion, and excessive sedimentation.

In order for the Congress to help other ocean areas in our country, we must begin by realizing the need for better marine resource management. This will assure us of protection of the marine and coastal-related resources of the bay area as well as other coastal areas.●

Mr. FORSYTHE. Mr. Speaker, I have no further requests for time.

Mr. BREAUX. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BREAUX) that the House suspend the rules and pass the bill H.R. 12631, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 12631, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

MEDALS IN COMMEMORATION OF DR. MARTIN LUTHER KING, JR.

Mr. FAUNTROY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13643) to provide for the striking of medals in commemoration of the life and ideals of Dr. Martin Luther King, Jr., as amended.

The Clerk read as follows:

H.R. 13643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That, in commemoration of the life and ideals of Doctor Martin Luther King, Junior, the Secretary of the Treasury shall strike and furnish to the Martin Luther King, Junior Center for Social Change (hereinafter referred to as the "center") no more than five hundred thousand medals with suitable designs, emblems, and inscriptions to be determined by the center, with the concurrence of the Commission of Fine Arts, subject to the approval of the Secretary of the Treasury. The President is authorized to present in the name of Congress, an appropriate gold medal to Mrs. Martin Luther King, Junior. The medals shall be made and issued at such times and in such quantities as may be required by the center and subject to the approval of the Secretary of the Treasury, but no medals shall be made after December 31, 1981. The medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368).

SEC. 2. The medals shall be furnished by the Secretary of the Treasury to the center at a price equal to the cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus a surcharge equal to 25 per centum of such cost to manufacture. Such surcharge shall be deposited in the Treasury as miscellaneous receipts. Security satisfactory to the Director of the Mint shall be furnished by the center to indemnify the United States for full payment of the costs of manufacture.

SEC. 3. The medals authorized to be issued pursuant to this Act shall be struck in bronze, silver, and gold and shall be of such size or sizes as is determined by the Secretary of the Treasury in consultation with the center.

The SPEAKER pro tempore. Is a second demanded?

Mr. ASHBROOK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from the District of Columbia (Mr. FAUNTROY) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 20 minutes.

The Chair recognizes the gentleman from the District of Columbia (Mr. FAUNTROY).

Mr. FAUNTROY. Mr. Speaker, I yield myself such time as I may consume.

This bill was unanimously favorably reported by both the Subcommittee on Historic Preservation and Coinage and the Committee on Banking, Finance and Urban Affairs.

This bill, like the bill passed this morning on the Consent Calendar with respect to the Lake Placid Olympic, would authorize the Secretary of the Treasury to strike and furnish no more than 500,000 national medals in commemoration of the life and ideals of Dr. Martin Luther King, Jr. The medals may be struck until December 31, 1980. The medals shall be furnished to the Martin Luther King Center at a price equal to the cost of manufacture, plus a surcharge equal to 25 percent of the cost of manufacture. The medals may be struck in bronze, silver, and gold. In addition to commemorating Dr. King, the medals could be sold at a profit by the center. The bill would further authorize the President to present, in the name of Congress, an appropriate gold medal to Mrs. Martin Luther King, Jr.

The Bureau of the Mint has indicated that it has no objection to the bill. The bill would not require any appropriation of funds since the mint would be reimbursed for the cost of manufacture by the King Center. The Government would, in fact, realize a profit due to the 25-percent surcharge provision.

The amendments adopted by the committee basically (1) increase the number of medals that may be struck from 104,000 to 5,000,000; (2) extend the period during which the medals could be struck from December 31, 1979, to December 31, 1981, and (3) authorize the President to present in the name of Congress a gold medal to Mrs. Martin Luther King, Jr.

H.R. 13643—COMMITTEE AMENDMENTS

Amendments 1, 2, and 3 for consideration en bloc:

1. Page 1, line 7, delete "104,000" and insert in lieu thereof "500,000"
2. Page 2, line 4, delete "1979" and insert in lieu thereof "1981"
3. Page 1, line 11, after the word "Treasury," add the following new sentence "The President is authorized to present, in the name of Congress, an appropriate gold medal to Mrs. Martin Luther King, Jr."

Explanation: The above amendments would:

1. Increase the maximum number of medals that could be struck from 104,000 to 500,000
2. Extend the period of time during which the medals could be struck from December 31, 1979 to December 31, 1981
3. Authorize the President to present, in the name of Congress, an appropriate gold medal to the widow of Doctor Martin Luther King, Jr.

Mr. ASHBROOK. Mr. Speaker, I yield such time as he may require to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, we support H.R. 13643 and the committee amendments thereto. The amendments increasing the number of medals authorized and extending the times during which they may be struck were in response to a suggestion for various sized medals in various metals to be made available at varied prices so that widespread circulation might be achieved.

We on the minority side felt that this was most appropriate, as the gentleman from the District of Columbia is aware.

The other amendment authorizing a gold medal to Mrs. Martin Luther King, Jr., was proposed by the gentlewoman from New Jersey (Mrs. FENWICK).

Mr. Speaker, I am very pleased to support this bill. I am especially pleased because of the contributions that Dr. Martin Luther King, Jr., has made to the basic cause of human rights.

Mr. ASHBROOK. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I urge that this bill be defeated but I know there will not be many Members who will vote against it.

I previously have made statements for the record on Mr. King when the subject of a statue was brought up. I thought the record at least ought to be made clear that someone in this Chamber does not think the subject should be Martin Luther King, so far as memorialization on a coin is concerned.

My friend and colleague, the gentleman from the District of Columbia, noted that this came out of the Historic Preservation Subcommittee. We try to preserve a lot of history, and a lot of history is being made. A lot of it is being rewritten. The only thing I can say is that there is no doubt in my mind that if his life and career were looked at with the same scrutiny as the press has looked at John F. Kennedy, J. Edgar Hoover, Richard Nixon, and others we would not be urging the coinage of this medal at this time. That is probably a little too much to hope for, because I think we all know we in this body are selective in our standards. But I would like to have the record show that someone in this Chamber does not think Mr. King should be memorialized on a coin at least a coin struck by the Government which he attacked so much during his lifetime.

● Mr. LEACH. Mr. Speaker, I enthusiastically support H.R. 13643 which authorizes the striking of national medals to honor Martin Luther King, Jr., one of this Nation's greatest black leaders.

As the ranking minority member of the Historic Preservation and Coinage Subcommittee, which initiated this legislation, I feel these medals are a significant commemorative expression not only of Dr. King's life but also of the ideals for which he fought so courageously. It was a great privilege to meet Mrs. Coretta Scott King during her appearance before our subcommittee. Her gracious comments provided us with a very special, personal perspective of her husband's ideals and goals. The proceeds from sales of the medal will be used for construction of Freedom Hall as the centerpiece of the Martin Luther King, Jr., Center for Social Change in Atlanta, Ga. Freedom Hall is a 10th anniversary project of the center and will join the Truman, Eisenhower, and Johnson Libraries, the Roosevelt Memorial at Hyde Park and the Gettysburg National Military Park as an historic memorial. As Mrs. King described it:

> Freedom Hall will be a living, working legacy dramatically highlighting the principles of Dr. King, extending to succeeding generations in appreciation of his contributions.

When completed, Freedom Hall, along with the Center for Social Change, will be the only place and program of its kind honoring a black American. The sale of the Martin Luther King, Jr., medal will enable thousands of Americans of modest means to make a contribution to Freedom Hall and at the same time receive a handsome medal in his honor.

Mr. Speaker, I urge adoption of H.R. 13643.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from the District of Columbia (Mr. FAUNTROY) that the House suspend the rules and pass the bill, H.R. 13643, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order is considered withdrawn.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion, on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order:

S. 274, by the yeas and nays;
H.R. 9333, by the yeas and nays;
H.R. 12728, by the yeas and nays;
S. 2727, de novo; and
H.R. 13643, de novo.

The Chair will reduce to 5 minutes the time for any electronic votes after the first vote in this series.

PROHIBIT UNION ORGANIZATION IN ARMED FORCES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 274, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. STRATTON) that the House suspend the rules and pass the Senate bill, S. 274, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 395, nays 12, not voting 25, as follows:

[Roll No. 832]

YEAS—395

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Dornan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—12

Beilenson
Bonior
Conyers
Dellums
Drinan
Garcia
Mitchell, Md.
Moss
Richmond
Stark
Weiss
Wilson, C. H.

NOT VOTING—25

Ammerman
Anderson, Ill.
Armstrong
Burke, Calif.
Burton, John
Caputo
Cochran
Cohen
Diggs
Downey
Flowers
Hansen
Harrington
Krueger
McDonald
Miller, Calif.
Murphy, N.Y.
Ottinger
Pepper
Sarasin
Shipley
Slack
Teague
Thone
Walsh

The Clerk announced the following pairs:

Mr. John L. Burton with Mr. McDonald.
Mr. Slack with Mr. Anderson of Illinois.
Mr. Teague with Mr. Caputo.
Mr. Ammerman with Mr. Sarasin.
Mr. Pepper with Mr. Thone.
Mr. Krueger with Mr. Walsh.
Mrs. Burke of California with Mr. Cochran of Mississippi.
Mr. Diggs with Mr. Cohen.
Mr. Downey with Mr. Hansen.
Mr. Shipley with Mr. Harrington.
Mr. Murphy of New York with Mr. Flowers.
Mr. Miller of California with Mr. Ottinger.

Mr. CLEVELAND changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "An act to amend title 10, United States Code, to prohibit union organization of the Armed Forces, membership in military labor organizations by members of the Armed Forces, and recognition of military labor organizations by the Government, and for other purposes."

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) (3), rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

HYDROELECTRIC POWERPLANTS AUTHORIZATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 9333, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. MEEDS), that the House suspend the rules and pass the bill H.R. 9333, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 263, nays 143, answered "present" 1, not voting 25, as follows:

[Roll No. 833]

YEAS—263

Abdnor
Akaka
Alexander
Anderson, Calif.
Andrews, N. Dak.
Archer
Aucoin
Badham
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blouin
Boggs
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Coleman
Conable
Corcoran
Corman
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Delaney
Derwinski
Devine
Dickinson
Dicks
Dingell
Dornan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Calif.

Emery
Erlenborn
Evans, Colo.
Evans, Del.
Evans, Ga.
Fascell
Fenwick
Fish
Flippo
Flood
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Frenzel
Garcia
Gilman
Ginn
Glickman
Goldwater
Gore
Gradison
Grassley
Green
Guyer
Hagedorn
Hamilton
Hanley
Hannaford
Harkin
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Holland
Horton
Howard
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kindness
Krebs
LaFalce
Lagomarsino
Latta
Leach
Leggett
Lehman
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McEwen
McFall
McKay
McKinney
Madigan
Mahon
Marks
Marlenee
Marriott
Mathis
Mazzoli
Meeds
Metcalfe
Milford
Miller, Ohio
Mineta
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Moss
Myers, John
Natcher
Nix
Nolan
Nowak
Oakar
Oberstar
Panetta
Patterson
Pattison
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Pritchard
Quie
Quillen
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Ruppe
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stark
Steed
Steers
Steiger
Stratton
Stump
Symms
Taylor
Thompson
Thornton
Traxler
Treen
Trible
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wylie
Young, Alaska
Young, Mo.
Young, Tex.
Zablocki

NAYS—143

Addabbo
Ambro
Andrews, N.C.
Annunzio
Applegate
Ashbrook
Ashley
Aspin
Bauman
Bennett
Blanchard
Boland
Bonior
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Burke, Fla.
Carr
Cavanaugh
Clay
Collins, Ill.
Collins, Tex.
Conte
Conyers
Cornell
Cornwell
Cotter
Coughlin
Crane
Davis
Dellums
Dent
Derrick
Dodd
Drinan
Early
Edgar
Edwards, Okla.
Eilberg
English
Ertel
Evans, Ind.
Fary
Findley
Fisher
Fithian
Florio
Forsythe
Fountain
Fowler
Fraser
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Goodling
Gudger
Hall
Hammerschmidt
Harris
Heftel
Hollenbeck
Holt
Holtzman
Hughes
Jacobs
Jenrette
Jones, N.C.
Jones, Okla.
Jordan
Kildee
Kostmayer
Le Fante
Lederer
Lent
Long, Md.
Luken
McDade
McHugh
Maguire
Mann
Markey
Martin
Mattox
Meyner
Michel
Mikulski
Mikva
Minish
Mitchell, Md.
Moffett
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Neal
Nedzi
Nichols
O'Brien
Obey
Patten
Pease
Pike
Price
Pursell
Quayle
Rahall
Railsback
Rangel
Reuss
Richmond
Rodino
Roe
Runnels
Russo
Ryan
Seiberling
Sharp
Stanton
Stockman
Stokes
Studds
Tucker
Vanik
Volkmer
Waggonner
Walgren
Whalen
Whitley
Wolff
Wydler
Yates
Yatron
Young, Fla.
Zeferetti

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—25

Ammerman
Anderson, Ill.
Armstrong
Burke, Calif.
Burton, John
Caputo
Cochran
Cohen
Diggs
Downey
Flowers
Hansen
Harrington
Krueger
McDonald
Miller, Calif.
Mollohan
Murphy, N.Y.
Ottinger
Pepper
Sarasin
Shipley
Teague
Thone
Walsh

The Clerk announced the following pairs:

On this vote:

Mr. Mollohan and Mr. Ottinger for, with Mr. McDonald against.

Until further notice:

Mr. John L. Burton with Mr. Anderson of Illinois.

Mr. Downey with Mr. Hansen.

Mr. Ammerman with Mr. Sarasin.

Mr. Teague with Mr. Cohen.

Mr. Krueger with Mr. Walsh.

Mr. Murphy of New York with Mr. Cochran of Mississippi.

Mr. Diggs with Mr. Caputo.

Mr. Miller of California with Mr. Flowers.

Mr. Pepper with Mr. Shipley.

Mrs. Burke of California with Mr. Harrington.

Messrs. MARTIN, ROE, VANIK, and COTTER changed their vote from "yea" to "nay."

Messrs. FORD of Michigan, DINGELL, RISENHOOVER, SATTERFIELD, and WEISS changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof), the motion was rejected.

The result of the vote was announced as above recorded.

SUSAN B. ANTHONY DOLLAR COIN ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 12728, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio (Ms. OAKAR) that the House suspend the rules and pass the bill H.R. 12728, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 368, nays 38, not voting 26, as follows:

[Roll No. 834]

YEAS—368

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cotter
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dicks
Dingell
Dodd
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Pursell
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stark
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Thompson
Thornton
Traxler
Treen
Trible

Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Tex.
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—38

Ashbrook
Badham
Beard, Tenn.
Broyhill
Burgener
Burleson, Tex.
Clawson, Del
Collins, Tex.
Cornwell
Coughlin
Crane
Devine
Dickinson
Evans, Del.
Flynt
Forsythe
Grassley
Jacobs
Leggett
Michel
Milford
Murphy, Pa.
Neal
Poage
Quayle
Rhodes
Schulze
Skubitz
Stanton
Steed
Stump
Symms
Taylor
Walker
Wilson, Bob
Wilson, C. H.
Winn
Young, Fla.

NOT VOTING—26

Ammerman
Anderson, Ill.
Armstrong
Burke, Calif.
Burton, John
Caputo
Cochran
Cohen
Diggs
Downey
Flowers
Hansen
Harrington
Krueger
McDonald
Miller, Calif.
Mollohan
Murphy, N.Y.
Ottinger
Pepper
Sarasin
Shipley
Teague
Thone
Walsh
Wydler

The Clerk announced the following pairs:

On this vote:

Mr. Mollohan and Mr. Ammerman for, with Mr. Teague against.

Mr. Ottinger and Mr. Krueger for, with Mr. McDonald against.

Until further notice:

Mr. John L. Burton with Mr. Sarasin.
Mr. Murphy of New York with Mr. Hansen.
Mr. Downey with Mr. Walsh.
Mr. Pepper with Mr. Wydler.
Mrs. Burke of California with Mr. Caputo.
Mr. Shipley with Mr. Anderson of Illinois.
Mr. Miller of California with Mr. Cochran of Mississippi.
Mr. Diggs with Mr. Cohen.
Mr. Harrington with Mr. Flowers.

Mr. **KEMP** and Mr. **HUGHES** changed their vote from "nay' 'to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Ms. **OAKAR**. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the Senate bill (S. 3036) to amend the Coinage Act of 1965 to change the size, weight, and design of the $1 coin, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Susan B. Anthony Dollar Coin Act of 1978".

SEC. 2. Section 101(c)(1) of the Coinage Act of 1965, as amended (31 U.S.C. 391(c)(1)), is amended by striking out "1.500" and inserting in lieu thereof "1.043" and by striking out "22.68" and inserting in lieu thereof "8.1".

SEC. 3. The one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, shall bear on the obverse side the likeness of Susan B. Anthony, and shall bear on the other side a design which is emblematic of the symbolic eagle of Apollo 11 landing on the moon.

SEC. 4. Section 203 of the Act of December 31, 1970 (31 U.S.C. 324b), is amended by striking out "initially" and by inserting "(d)" after "section 101".

SEC. 5. Until January 1, 1979, the Secretary of the Treasury may continue to mint and issue one-dollar coins authorized under section 101(c)(1) of the Coinage Act of 1965, as such section was in effect immediately prior to the date of enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 12728) was laid on the table.

AMATEUR SPORTS ACT OF 1978

The **SPEAKER** pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 2727, as amended.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIELSON) that the House suspend the rules and pass the Senate bill, S. 2727, as amended.

The question was taken.

Mr. **DANIELSON**. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 244, nays 158, answered "present" 1, not voting 29, as follows:

[Roll No. 835]

YEAS—244

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
Aspin
Aucoin
Bafalis
Baldus
Barnard
Beard, R.I.
Benjamin
Biaggi
Blanchard
Boggs
Bolling
Bonker
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Buchanan
Burgener
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Byron
Carter
Cederberg
Chisholm
Clausen, Don H.
Clay
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornwell
Cotter
Coughlin
D'Amours
Davis
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Dornan
Early
Eckhardt
Eilberg
Emery
Evans, Colo.
Evans, Del.
Evans, Ga.
Fary
Fascell
Fish
Fisher
Flood
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Garcia
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Green
Gudger
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hannaford
Hawkins
Heckler
Heftel
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Jenrette
Johnson, Calif.
Jordan
Kasten
Kastenmeier
Kemp
LaFalce
Le Fante
Leach
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lott
Lundine
McClory
McCloskey
McCormack
McEwen
McFall
McHugh
McKinney
Madigan
Maguire
Mann
Markey
Marks
Marriott
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, Pa.
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Patten
Patterson
Pattison
Perkins
Pettis
Pickle
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Reuss
Rhodes
Richmond
Robinson
Rodino
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Rousselot
Roybal
Ruppe
Russo
Ryan
Santini
Sawyer
Schulze
Sebelius
Sharp
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Nebr.
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Steiger
Stokes
Stratton
Studds
Thompson
Thornton
Tsongas
Tucker
Ullman
Van Deerlin
Vander Jagt
Vanik
Waggonner
Walker
Wampler
Waxman
Weiss
Whalen
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wright
Wylie
Yatron
Young, Alaska
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—158

Andrews, N. Dak.
Applegate
Ashbrook
Badham
Baucus
Bauman
Beard, Tenn.
Bedell
Beilenson
Bennett
Bevill
Bingham
Blouin
Boland
Bonior
Breckinridge
Brinkley
Broyhill
Burke, Fla.
Burleson, Tex.
Carney
Carr
Cavanaugh
Chappell
Clawson, Del
Cleveland
Collins, Tex.
Conyers
Cornell
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Delaney
Dent
Dingell
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Ertel
Evans, Ind.
Fenwick
Findley
Fithian
Flippo
Florio
Flynt
Fountain
Fowler
Fuqua
Gammage
Gaydos
Gephardt
Gibbons
Gore
Gradison
Grassley
Hall
Hanley
Harkin
Harris
Harsha
Hefner
Hightower
Hollenbeck
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Keys
Kildee
Kindness
Kostmayer
Krebs
Lagomarsino
Latta
Lehman
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
McDade
McKay
Mahon
Marlenee
Martin
Mathis
Mattox
Mazzoli
Milford
Miller, Ohio
Moakley
Mottl
Murtha
Neal
Nedzi
Nichols
Obey
Panetta
Pease
Pike
Poage
Regula
Rinaldo
Risenhoover
Roberts
Roe
Rosenthal
Rudd
Runnels
Satterfield
Scheuer
Schroeder
Seiberling
Shuster
Sikes
Smith, Iowa
Snyder
Spellman
Stark
Steed
Steers
Stockman
Stump
Symms
Taylor
Traxler
Treen
Trible
Udall
Vento
Volkmer
Walgren
Watkins
Weaver
White
Whitley
Wilson, C. H.
Wirth
Yates
Young, Fla.

ANSWERED "PRESENT"—1

Brown, Ohio

NOT VOTING—29

Ammerman
Anderson, Ill.
Armstrong
Ashley
Burke, Calif.
Burton, John
Butler
Caputo
Cochran
Cohen
Diggs
Downey
Edwards, Calif.
Flowers
Hansen
Harrington
Krueger
McDonald
Miller, Calif.
Mollohan
Murphy, N.Y.
Ottinger
Pepper
Sarasin
Shipley
Teague
Thone
Walsh
Wydler

The Clerk announced the following pairs:

On this vote:

Mr. Mollohan and Mr. Krueger for, with Mr. Teague against.

Mrs. Burke of California and Mr. Pepper for, with Mr. Ottinger against.

Mr. Ammerman and Mr. Shipley for, with Mr. McDonald against.

Until further notice:

Mr. John L. Burton with Mr. Caputo.
Mr. Downey with Mr. Wydler.
Mr. Diggs with Mr. Hansen.
Mr. Edwards of California with Mr. Cochran of Mississippi.
Mr. Murphy of New York with Mr. Anderson of Illinois.
Mr. Ashley with Mr. Butler.
Mr. Miller of California with Mr. Cohen.
Mr. Flowers with Mr. Walsh.
Mr. Harrington with Mr. Thone.

Mr. WHITE changed his vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

MEDALS IN COMMEMORATION OF DR. MARTIN LUTHER KING, JR.

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 13643, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from the District of Columbia (Mr. FAUNTROY) that the House suspend the rules and pass the bill H.R. 13643, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DISTRIBUTION OF JUDGMENT FUNDS FOR INDIAN TRIBES

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10581), to provide for the distribution of certain judgment funds awarded by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Strike out all after the enacting clause and insert: That (a) for purposes of this Act, the term—

(1) "tribe" means the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation;

(2) "tribal governing body" means the governing body of a tribe or a committee of the members of such body designated by such body for purposes of this Act;

(3) "Secretary" means the Secretary of the Interior acting through (unless otherwise determined by the Secretary) the Superintendent of the Bureau of Indian Affairs Agency serving the tribe involved;

(4) "minor" means a member of a tribe, or descendant of a member of a tribe, who has not attained the age of eighteen years and who has a minor's share;

(5) "minor's share" means the per capita share of a judgment award, and the investment income accruing thereto, which is held in trust by the Secretary for a minor; and

(6) "parent" means the biological or adoptive parent or parents, or other legal guardian, of a minor.

(b) Notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466), the Act of March 12, 1968 (82 Stat. 47), or any other law, or any regulation or plan promulgated pursuant thereto, the minors' share of judgment funds heretofore or hereafter awarded by the Indian Claims Commission or the United States Court of Claims to a tribe may be disbursed to a parent of such minor pursuant to this Act.

(c) The minor's share of judgment funds may be disbursed in such amounts deemed necessary by such parent for the best interest of the minor for the minor's health, education, welfare, and emergencies under a plan governing such funds for each minor (or a plan governing funds of all minors in a family) approved by the Secretary and the tribal governing body of the minor's tribe.

(d) The Secretary shall provide a monthly report to each tribal governing body which has approved one or more plans pursuant to subsection (c). Each such report shall include the amount and purpose of every disbursement made during each month under such plans.

SEC. 2. Any part of any of the judgment funds referred to in the first section of this Act that may be distributed per capita to, or held in trust for the benefit of, the members of a tribe, including minor's shares, shall not be subject to Federal or State income tax, and the per capita payment shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act, or any other Federal or federally assisted program.

Amend the title so as to read: "An Act relating to judgment funds awarded by the Indian Claims Commission to certain Indian tribes, and for other purposes.".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendments and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, this is the legislation the gentleman from Arizona discussed with me dealing with the rights of minors in Indian tribes?

Mr. UDALL. If the gentleman will yield, it is, yes.

Mr. BAUMAN. I thank the gentleman and withdrew my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

VETERANS DISABILITY COMPENSATION AND SURVIVORS BENEFITS IMPROVEMENTS ACT OF 1978

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11886), to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for their survivors, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "Veterans Disability Compensation and Survivors Benefits Improvements Act of 1978".

TITLE I—VETERANS DISABILITY COMPENSATION INCREASES AND OTHER IMPROVEMENTS

SEC. 101. (a) Section 314 of title 38, United States Code, is amended by—

(1) striking out in subsection (a) "$41" and inserting in lieu thereof "$44";

(2) striking out in subsection (b) "$75" and inserting in lieu thereof "$80";

(3) striking out in subsection (c) "$113" and inserting in lieu thereof "$121";

(4) striking out in subsection (d) "$155" and inserting in lieu thereof "$166";

(5) striking out in subsection (e) "$216" and inserting in lieu thereof "$232";

(6) striking out in subsection (f) "$272" and inserting in lieu thereof "$292";

(7) striking out in subsection (g) "$322" and inserting in lieu thereof "$346";

(8) striking out in subsection (h) "$373" and inserting in lieu thereof "$400";

(9) striking out in subsection (i) "$419" and inserting in lieu thereof "$450";

(10) striking out in subsection (j) "$754" and inserting in lieu thereof "$809";

(11) striking out in subsection (k) "$937" and "$1,312" each time they appear and inserting in lieu thereof "$1,005" and "$1,408", respectively;

(12) striking out in subsection (l) "$937" and inserting in lieu thereof "$1,005";

(13) striking out in subsection (m) "$1,032" and inserting in lieu thereof "$1,107";

(14) striking out in subsection (n) "$1,172" and inserting in lieu thereof "$1,258";

(15) striking out in subsections (o) and (p) "$1,312" each time it appears and inserting in lieu thereof "$1,408";

(16) striking out in subsection (r) "$563" and inserting in lieu thereof "$604"; and

(17) striking out in subsection (s) "$843" and inserting in lieu thereof "$905".

(b) Section 314(p) of such title (as amended by subsection (a)(15) of this section) is further amended by inserting before the semicolon a period and the following new sentence: "In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of $1,408".

(c) The first sentence of section 314(r) of such title (as amended by subsection (a)(16) of this section), is further amended by—

(1) striking out "If" and inserting in lieu thereof "Subject to the limitations of section 3203(e) of this title, if";

(2) inserting "(1)" after "is in need of"; and

(3) striking out "subject to the limitations of section 3203(e) of this title" and inserting in lieu thereof "or (2) special aid and attendance, such veteran shall be paid, in addition to such compensation, an allowance of $900 per month, if the Administrator finds that such veteran, in the absence of such aid and attendance by another person, would require hospitalization, nursing home care, or other residential institutional care".

(d) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensaton payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. Section 315(1) of title 38, United States Code, is amended by—

(1) amending clauses (A) and (B) to read as follows:

"(A) has a spouse, $87, plus $55 for each child, if any;

"(B) has no spouse, $87 for the first child, plus $55 for each additional child, if any;";

(2) striking out clauses (C) through (G);

(3) redesignating clauses (H), (I), and (J) as clauses (C), (D), and (E), respectively;

(4) striking out "$37" in clause (C), as redesignated by clause (3) of this section, and inserting in lieu thereof "$40";

(5) striking out "$83" in clause (D), as redesignated by clause (3) of this section, and inserting in lieu thereof "$89"; and

(6) striking out "$70" in clause (E), as redesignated by clause (3) of this section, and inserting in lieu thereof "$75".

SEC. 103. (a) Section 360 of title 38, United States Code, is amended by inserting "(a)" before "Where" and inserting at the end of such section the following new subsection:

"(b) Where any veteran has suffered the loss or loss of use of an extremity as a result of service-connected disability so as to entitle such veteran to a rating of not less than 40 per centum and has suffered the loss or loss of use of the paired extremity as a result of non-service-connected disability, not the result of the veteran's own willful misconduct, which would, if service-connected, entitle such veteran to a rating of not less than 40 per centum, the Administrator shall determine the percentage increase, if any, which would be added to the combined value of such disabilities if both were service-connected and independently rated, and shall, in the same manner in which the Administrator would add such percentage to the combined value of less than total service-connected disabilities, add such percentage to the rating of such veteran's service-connected disability.".

(b) The catchline of section 360 of such title is amended to read as follows:

"§ 360. Special consideration for certain cases of blindness, bilateral kidney involvement, bilateral deafness, or the loss or loss of use of paired extremities".

(c) The table of sections at the beginning of chapter 11 of such title is amended by striking out

"360. Special consideration for certain cases of blindness or bilateral kidney involvement or bilateral deafness."

and inserting in lieu thereof

"360. Special consideration for certain cases of blindness, bilateral kidney involvement, bilateral deafness, or the loss or loss of use of paired extremities."

SEC. 104. Section 362 of title 38, United States Code, is amended by striking out "$203" and inserting in lieu thereof "$218".

TITLE II—DEPENDENCY AND INDEMNITY COMPENSATION INCREASES AND OTHER IMPROVEMENTS FOR SURVIVORS

SEC. 201. Section 411 of title 38, United States Code, is amended to read as follows:

"§ 411. Dependency and indemnity compensation to a surviving spouse

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate
E-1	$297
E-2	307
E-3	314
E-4	334
E-5	343
E-6	351
E-7	368
E-8	388
E-9	[1] 406
W-1	376
W-2	391
W-3	402
W-4	426
O-1	376
O-2	388
O-3	416
O-4	439
O-5	484
O-6	544
O-7	590
O-8	646
O-9	694
O-10	[2] 760

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by sec. 402 of this title, the surviving spouse's rate shall be $437.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by sec. 402 of this title, the surviving spouse's rate shall be $814.

"(b) If there is a surviving spouse with one or more children (of a deceased veteran) below the age of eighteen, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $87 for the first such child, plus $55 for each additional such child.

"(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $89 if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

"(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $45 if the spouse is so disabled as to be permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For purposes of this subsection, the requirement of 'permanently housebound' shall be met when the surviving spouse is substantially confined to such surviving spouse's house (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities reasonably certain to remain throughout such surviving spouse's lifetime.".

SEC. 202. Section 413 of title 38, United States Code, is amended by—

(1) striking out in clause (1) "$140" and inserting in lieu thereof "$150";

(2) striking out in clause (2) "$201" and inserting in lieu thereof "$216";

(3) striking out in clause (3) "$250" and inserting in lieu thereof "$278"; and

(4) striking out in clause (4) "$259" and "$52" and inserting in lieu thereof "$278" and "$56", respectively.

SEC. 203. Section 414 of title 38, United States Code, is amended by—

(1) striking out in subsection (a) "$83" and inserting in lieu thereof "$89";

(2) striking out in subsection (b) "$140" and inserting in lieu thereof "$150"; and

(3) striking out in subsection (c) "$71" and inserting in lieu thereof "$76".

SEC. 204. (a) Chapter 13 of title 38, United States Code, is amended by inserting after section 404 the following new section:

"§ 405. Special determinations

"(a) In any case under this chapter in which the Administrator is required to determine a number of months, the calendar month in which (1) a veteran is rated totally disabled, (2) a veteran died, and (3) a child will attain age 21, shall be considered as one full month.

"(b) In any case under this chapter where a monthly rate would contain a fraction of a dollar, such rate shall be fixed at the next higher dollar.".

(b) The table of sections at the beginning of such chapter is amended by inserting

"405. Special determinations."

below

"404. Special provisions relating to surviving spouses.".

SEC. 205. (a) Chapter 13 of title 38, United States Code, is amended by inserting after section 411 the following new section:

"§ 411A. Benefits for surviving spouses of certain totally disabled veterans

"(a) Whenever any veteran dies, not as the result of the willful misconduct of such veteran or such veteran's spouse, and (1) at the time of death such veteran had a service-connected disability or disabilities rated as total without regard to any increase in the rating resulting from a determination in an individual case that such veteran was unemployable, and (2) the Administrator has not determined that such veteran's death resulted from a service-connected or compensable disability, benefits shall be paid to the surviving spouse as provided in subsection (b) of this section.

"(b)(1) In any case in which the service-connected disability or disabilities of such veteran had been so rated as total continuously for a period of twenty years or longer immediately prior to such veteran's death or had been so rated continuously during the period from the date of such veteran's discharge to the date of such veteran's death and such period was ten years or longer, benefits shall be paid to the surviving spouse of such veteran at the appropriate monthly rate provided for under section 411 or 412 of this title in the same manner and to the same extent as if the Administrator had determined that such veteran's death had resulted from a service-connected or compensable disability.

"(2) In any case in which the service-connected disability or disabilities of such veteran had been so rated as total continuously for a period not meeting the requirements of paragraph (1) of this subsection, benefits shall be paid to the surviving spouse of such veteran at the appropriate monthly rate provided for in section 411 or 412 of this title, in the same manner and to the same extent as if the Administrator had determined that the veteran's death resulted from a service-connected or compensable disability, except that—

"(A) the period for which such benefits shall be paid shall not exceed a number of months equal to the number of months the disability of such veteran was continuously so rated, or

"(B) the monthly rate of benefits shall be determined by multiplying the monthly rate which would otherwise be applicable under such section 411 or 412 (had the Administrator found that such veteran's death resulted from a service-connected or compensable disability) by the number derived by dividing (i) the number of months such veteran was continuously so rated by (ii) the number of months of remaining life expectancy (using standard mortality tables) of the surviving spouse at the type of such veteran's death,

whichever method of determining benefits the surviving spouse elects. An election to receive benefits under clause (A) or (B) of the first sentence of this paragraph shall be irrevocable if any benefits are paid pursuant to such an election. In no event shall the benefits payable under this paragraph exceed those which would be payable under such section 411 or 412 if the Administrator had determined that the veteran had died from disability.

"(c) Surviving spouses receiving benefits under this section shall be entitled to all payments and the benefit of all other provisions of law under this title and other law, except benefits under sections 411 and 412 of this title, to which surviving spouses receiving dependency and indemnity compensation are entitled.".

(b) The table of sections at the beginning of such chapter is amended by inserting

"411A. Benefits for surviving spouses of certain totally disabled veterans."

below

"411. Dependency and indemnity compensation to a surviving spouse.".

Sec. 206. Section 412(b) of title 38, United States Code, is amended by striking out "In" and inserting in lieu thereof "Except in cases in which the surviving spouse is receiving benefits under section 411A(b) (2) (B) of this title, in".

Sec. 207. (a) Chapter 13 of title 38, United States Code, is amended by inserting after section 414 the following new section:

"§ 414A. Benefits for surviving children of certain totally disabled veterans

"(a) Whenever any veteran dies and (1) there is no surviving spouse, (2) at the time of death such veteran had a service-connected disability or disabilities rated as total without regard to any increase in the rating resulting from a determination in an individual case that such veteran was unemployable, and (3) the Administrator has not determined that such veteran's death resulting from a service-connected or compensable disability, benefits shall be paid to the surviving children (in equal shares) as provided in subsection (b) or (c) of this section, as appropriate, except that no benefits under this section shall be paid to any child if the veteran's death resulted from the willful misconduct of such child or the veteran.

"(b) (1) In any case in which the service-connected disability or disabilities of such veteran had been so rated as total continuously for a period of twenty years or longer immediately prior to such veteran's death or had been so rated continuously during the period from the date of such veteran's discharge to the date of such veteran's death and such period was ten years or longer, benefits shall be paid to the surviving children of such veteran at the appropriate rate provided for under sections 413 and 414 of this title in the same manner and to the same extent as if the Administrator had determined that such veteran's death had resulted from a service-connected or compensable disability.

"(2) In any case in which the service-connected disability or disabilities of such veteran had been so rated as total continuously for a period not meeting the requirements of paragraph (1) of this subsection, benefits shall be paid to the surviving child of such veteran in the same manner and to the same extent as if the Administrator had determined that the veteran's death resulted from a service-connected or compensable disability, except that the monthly amount payable to such child shall be determined by multiplying the monthly rate of dependency and indemnity compensation which would otherwise be payable under sections 413 and 414 of this title (had the Administrator found that such veteran's death resulted from a service-connected or compensable disability) by the number derived by dividing (A) the number of months such veteran was continuously so rated by (B) the number of months remaining from the date of the veteran's death until the child attains twenty-one years of age; but in no event shall the benefits payable under this paragraph exceed those which would be payable under sections 413 and 414 of this title if the Administrator had determined that the veteran had died from a service-connected or compensable disability.

"(c) In the case of any child of a deceased veteran described in subsection (a) of this section who became permanently incapable of self-support before attaining the age of eighteen, benefits shall be paid to or on behalf of such child at the rate provide under section 413 and, if applicable, section 414 of this title.

"(d) Surviving children receiving benefits under this section shall be entitled to all payments and the benefit of all other provisions of law under this title and other law, except benefits under sections 413 and 414 of this title, to which surviving children receiving dependency and indemnity compensation are entitled.".

(b) The table of sections at the beginning of such chapter is amended by inserting

"414A. Benefits for children of certain totally disabled veterans."

below

"414 Supplemental dependency and indemnity to children.".

Sec. 208. The first sentence of section 907 of title 38, United States Code, is amended by—

(1) inserting "(1) $1,500, or (2)" after "exceeding"; and

(2) inserting before the period a comma and "whichever is the greater".

Sec. 209. Section 906(b) of title 38, United States Code, is amended by striking out "dying in the service, and".

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Section 109(b) of title 38, United States Code, is amended by inserting (1) before "Persons" in the first sentence thereof and inserting at the end thereof the following new paragraph:

"(2) (A) Any person who (i) after August 31, 1939, and before December 8, 1941, entered into the active service of the armed forces of any government allied with the United States during World War II, (ii) was a citizen of the United States at the time of entrance into such active service, and (iii) suffered a service-connected disability or disabilities during such service and before January 1, 1947, shall be entitled to the benefits of chapter 11 of this title at the same rates, in the same manner, and to the same extent as a veteran of the Armed Forces of the United States, except that any benefits payable monthly under such chapter shall be reduced by the amount of any benefits received monthly (or, if payable other than monthly, by the prorated monthly amount) from such government on account of such disability. No such benefits shall be paid under authority of this paragraph to any person who is not a citizen and resident of the United States.

"(B) (i) The Administrator shall make an independent evaluation of any disability or disabilities compensable under subparagraph (A) of this paragraph.

"(ii) In the case of any person receiving benefits from such government which are based on a determination by such government that such person has suffered a disability during active service in the armed forces of such government, such disability shall be conclusively presumed to be service connected for all purposes of subparagraph (A) of this paragraph.

"(iii) Each person applying for or receiving benefits under subparagraph (A) of this section shall furnish (I) an authenticated certification from the allied government concerned attesting to the service of such person in the active service of the armed forces of such government and to the disability or disabilities suffered by such person in such service, and (II) such other proofs as the Administrator shall require in addition thereto or (if such person is unable to obtain from such government such certification, in lieu thereof) including information concerning receipt of monetary benefits from such government.".

Sec. 302. Section 562 of title 38, United States Code, is amended by striking out "$100" and inserting in lieu thereof "$200".

Sec. 303. Section 1902(a) of title 38, United States Code, is amended by striking out "$3,300" and inserting in lieu thereof "$4,100".

Sec. 304. (a) The Administrator of Veterans' Affairs shall carry out, in consultation with the Secretary of Defense, a comprehensive study of the disability compensation awarded to, and health-care needs of, veterans who are former prisoners of war. The Administrator shall include in such study—

(1) descriptions and analyses of the repatriation procedures for former prisoners of war, including physical examinations, and the adequacy of such procedures and the resultant medical records of former prisoners of war;

(2) the types and severity of disabilities that are particularly prevalent among former prisoners of war in various theaters of operation at various times;

(3) a description and analysis of procedures used, with respect to former prisoners of war in determining eligibility for health-care benefits and in adjudicating claims for disability compensation, including an analysis of the current use of statutory and regulatory provisions specifically relating to former prisoners of war; and

(4) a comparison with the treatment of, and any special consideration accorded to, former prisoners of war under the veterans' benefits programs of governments which were allied with the United States.

(6) Not later than March 1, 1979, the Administrator shall report to the Congress and the President on the results of such study, together with the Administrator's recommendations as to administrative and legislative actions necessary to assure that former prisoners of war receive compensation health-care benefits and for all disabilities which may reasonably be attributed to their internment.

Sec. 305. The third paragraph of the first section of the Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121), is amended by inserting immediately after the last sentence thereof the following new sentence: "Personnel employed as cemetery superintendents and assistant superintendents by the Commission shall be citizens of the United States.".

SEC. 306. The Secretary of Defense shall have placed in the Trophy Hall of the Memorial Amphitheater at Arlington National Cemetery a memorial plaque suitable for display before an international audience which shall bear the following inscription: "The people of the United States of America pay tribute to those members of its Armed Forces who served honorably in Southeast Asia during the Vietnam conflict.". To further honor those members of the Armed Forces who lost their lives in hostile action in Southeast Asia during the Vietnam conflict, the Secretary of Defense shall have placed near such plaque in a suitable repository a display of the Purple Heart Medal and other medals, ribbons, and decorations associated with service in Southeast Asia during the Vietnam conflict.

SEC. 307. None of the provisions of, or amendments made by, this Act, other than amendments providing new spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974 (Public Law 93–344), shall be deemed to authorize, directly or indirectly, the enactment of new budget authority.

TITLE IV—EFFECTIVE DATES

SEC. 401. (a) The amendments made by this Act to title 38, United States Code, shall become effective on October 1, 1978.

(b) All other provisions of this Act shall be effective on the date of enactment of this Act.

Amend the title so as to read: "An Act to amend title 38, United States Code, to increase the rates of disability compensation; to increase the rates of compensation for the loss or loss of use of three extremities; to increase the aid and attendance allowance for certain totally disabled veterans; to increase the rates of compensation for veterans with dependent spouses and children; to increase the rates of compensation for veterans with certain service-connected and non-service-connected disabilities of paired extremities; to increase the rates of dependency and indemnity compensation for surviving spouses, surviving spouses with dependent children, and surviving children; to increase the rates of special pension for persons awarded the Medal of Honor; to provide for payment of special benefits to surviving spouses and children of certain totally disabled service-connected disabled veterans; to increase the amount paid as burial and funeral expenses in the case of a veteran's death from a service-connected disability; and to provide for the payment of disability compensation to certain American citizens who served during World War II in the armed forces of nations allied with the United States; to increase the automobile assistance allowance for certain disabled veterans; and to provide for the furnishing of memorial headstones or markers to commemorate veterans who die after being honorably discharged and whose remains are not recovered; and to pay tribute to those members of the Armed Forces who served honorably in Southeast Asia during the Vietnam conflict; to require that only United States citizens be employed as superintendents and assistant superintendent of American Battle Monuments Commission cemeteries; and for other purposes.".

The SPEAKER pro tempore. The Clerk will report the House amendments to the Senate amendments.

The Clerk read the House amendments to the Senate amendments as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

That (a) this Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Act of 1978".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$41" in subsection (a) and inserting in lieu thereof "$44";

(2) by striking out "$75" in subsection (b) and inserting in lieu thereof "$80";

(3) by striking out "$113" in subsection (c) and inserting in lieu thereof "$121";

(4) by striking out "$155" in subsection (d) and inserting in lieu thereof "$166";

(5) by striking out "$216" in subsection (e) and inserting in lieu thereof "$232";

(6) by striking out "$272" in subsection (f) and inserting in lieu thereof "$292";

(7) by striking out "$322" in subsection (g) and inserting in lieu thereof "$346";

(8) by striking out "$373" in subsection (h) and inserting in lieu thereof "$400";

(9) by striking out "$419" in subsection (i) and inserting in lieu thereof "$450";

(10) by striking out "$754" in subsection (j) and inserting in lieu thereof "$809";

(11) by striking out "$937" and "$1,312" in subsection (k) and inserting in lieu thereof "$1,005" and "$1,408", respectively;

(12) by striking out "$937" in subsection (l) and inserting in lieu thereof "$1,005";

(13) by striking out "$1,032" in subsection (m) and inserting in lieu thereof "$1,107";

(14) by striking out "$1,172" in subsection (n) and inserting in lieu thereof "$1,258";

(15) by striking out "$1,312" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,408"; and

(16) by striking out "$843" in subsection (s) and inserting in lieu thereof "$905".

(b) Subsection (p) of section 314 (as amended by clause (15) of subsection (a) of this section) is further amended by inserting before the semicolon a period and the following new sentence: "In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate of intermediate rate, but in no event in excess of $1,408".

(c) Section 314(r) is amended by striking out the first sentence and inserting in lieu thereof the following new sentences: "Subject to section 3203(e) of this title, if any veterans, otherwise entitled to the compensation authorized under subsection (o) of this section or at the maximum rate authorized under subsection (p) of this section, is in need of regular aid and attendance, then in addition to such compensation under subsection (o) or (p) of this section—

"(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of $604; or

"(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of $900, in lieu of the allowance authorized in clause (1) of this subsection, if the Administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veterans' Administration or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician.".

(d) Section 314 is amended by adding at the end thereof the following new subsection:

"(t)(1) If the veteran (A) is entitled to receive compensation at any rate provided for under subsections (a) through (j) of this section and compensation under subsection (k) of this section, (B) has suffered the loss or loss of use of an extremity as a result of a service-connected disability ratable at 40 per centum or more, and (C) has suffered the loss or loss of use of the paired extremity as a result of a non-service-connected disability, not the result of the veteran's own willful misconduct, that would be rated, if service-connected, at 40 per centum or more, the monthly rate of compensation payable to such veteran shall be increased by $175.

"(2) If a veteran described in paragraph (1) of this subsection receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such paragraph, the increase in the rate of compensation otherwise payable under this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.".

(e) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by the amendments made by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

(1) by striking out "$46" in clause (A) and inserting in lieu thereof "$49";

(2) by striking out "$77" in clause (B) and inserting in lieu thereof "$83";

(3) by striking out "$98" in clause (C) and inserting in lieu thereof "$110";

(4) by striking out "$120" and "$22" in clause (D) and inserting in lieu thereof "$137" and "$27", respectively;

(5) by striking out "$30" in clause (E) and inserting in lieu thereof "$34";

(6) by striking out "$52" in clause (F) and inserting in lieu thereof "$61";

(7) by striking out "$77" and "$22" in clause (G) and inserting in lieu thereof "$88" and "$27", respectively;

(8) by striking out "$37" in clause (H) and inserting in lieu thereof "$40";

(9) by striking out "$83" in clause (I) and inserting in lieu thereof "$89"; and

(10) by striking out "$70" in clause (J) and inserting in lieu thereof "$75".

(b) Section 315 is further amended by striking out "50 per centum" in the matter preceding paragraph (1) and in paragraph (2) and inserting in lieu thereof "30 per centum".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$203" and inserting in lieu thereof "$218".

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION

FOR SURVIVING SPOUSES

SEC. 201. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

“Pay grade:	Monthly rate
E–1	$297
E–2	307
E–3	314
E–4	334
E–5	343
E–6	351
E–7	368
E–8	388
E–9	[1] 406
W–1	376
W–2	391
W–3	402
W–4	426
O–1	376
O–2	388
O–3	416
O–4	439
O–5	484
O–6	544
O–7	590
O–8	646
O–9	694
O–10	[2] 760

“[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $437.

“[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $814.”.

(b) Subsection (b) of such section is amended by striking out “$33” and inserting in lieu thereof “$35”.

(c) Subsection (c) of such section is amended by striking out “$83” and inserting in lieu thereof “$89”.

(d) Such section is further amended by adding at the end thereof the following new subsection:

“(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $45 if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of ‘permanently housebound’ will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.”.

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

Sec. 202. Section 413 is amended—

(1) by striking out “$140” in clause (1) and inserting in lieu thereof “$150”;

(2) by striking out “$201” in clause (2) and inserting in lieu thereof “$216”;

(3) by striking out “$259” in clause (3) and inserting in lieu thereof “$278”; and

(4) by striking out “$259” and “$52” in clause (4) and inserting in lieu thereof “$278” and “$56”, respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

Sec. 203. Section 414 is amended—

(1) by striking out “$83” in subsection (a) and inserting in lieu thereof “$89”;

(2) by striking out “$140” in subsection (b) and inserting in lieu thereof “$150”; and

(3) by striking out “$71” in subsection (c) and inserting in lieu thereof “$76”.

BENEFITS FOR SURVIVING SPOUSES AND CHILDREN OF CERTAIN TOTALLY DISABLED VETERANS

Sec. 204. Section 410 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection (b):

“(b)(1) Notwithstanding the provisions of subsection (a) of this section, when any veteran dies, not as the result of the veteran's own willful misconduct, if the veteran was in receipt of (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either (A) was continuously rated totally disabling for a period of ten or more years immediately preceding death, or (B) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty, the Administrator shall pay benefits under this chapter to the veteran's surviving spouse, if such surviving spouse was married to such veteran for not less than two years immediately preceding such veteran's death, and to such veteran's children, in the same manner as if the veteran's death were service connected.

“(2) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in paragraph (1) of this subsection, benefits under this chapter payable to such surviving spouse or child by virtue of this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

“(3) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this subsection shall be deemed eligibility for dependency and idemnity compensation under section 411 (a) of this title.”.

TITLE III—MISCELLANEOUS PROVISIONS

NONTAXABLE STATUS OF CERTAIN RETIRED PAY RECEIVED IN LIEU OF VETERANS' BENEFITS

Sec. 301. Section 3101 is amended by adding at the end thereof the following new subsection:

“(d) In the case of a person who—

“(1) has been determined to be eligible to receive pension or compensation under laws administered by the Veterans' Administration but for the receipt by such person of pay pursuant to any provision of law providing retired or retirement pay to members or former members of the Armed Forces or commissioned officers of the National Oceanic and Atmospheric Administration or of the Public Health Service; and

“(2) files a waiver of such pay in accordance with section 3105 of this title in the amount of such pension or compensation before the end of the one-year period beginning on the date such person is notified by the Veterans' Administration of such person's eligibility for such pension or compensation,

the retired or retirement pay of such person shall be exempt from taxation, as provided in subsection (a) of this section, in an amount equal to the amount of pension or compensation which would have been paid to such person but for the receipt by such person of such pay.”.

RATE OF SPECIAL PENSION FOR MEDAL OF HONOR RECIPIENTS

Sec. 302. Section 562(a) is amended by striking out “$100” and inserting in lieu thereof “$200”.

BURIAL BENEFITS

Sec. 303. (a) Section 902(a) and section 903(a)(1) are amended by striking out “$250” and inserting in lieu thereof “$300”.

(b) Section 906(b) is amended by striking out “dying in the service, and”.

(c) The first sentence of section 907 is amended by inserting “the greater of (1) $1,100, or (2)” after “not exceeding”.

AUTOMOBILE ALLOWANCE FOR CERTAIN DISABLED VETERANS

Sec. 304. Section 1902(a) is amended by striking out “$3,300” and inserting in lieu thereof “$3,800”.

STUDY OF HEALTH-CARE AND COMPENSATION NEEDS OF FORMER PRISONERS OF WAR

Sec. 305. (a) The Administrator of Veterans' Affairs, in consultation with the Secretary of Defense, shall carry out a comprehensive study of the disability compensation awarded to, and the health-care needs of, veterans who are former prisoners of war. The Administrator shall include in such study—

(1) descriptions and analyses of the repatriation procedures, including physical examinations, for former prisoners of war and the adequacy of such procedures and the resultant medical records of former prisoners of war;

(2) the types and severity of disabilities that are particularly prevalent among former prisoners of war in various theaters of operation at various times;

(3) a description and analysis of procedures used with respect to former prisoners of war in determining eligibility for health-care benefits and in adjudicating claims for disability compensation, including an analysis of the current use of statutory and regulatory provisions specifically relating to former prisoners of war; and

(4) a survey and analysis of the medical literature on the health-related problems of former prisoners of war.

“(b) The Administrator shall transmit to the Congress and to the President a report on the results of such study not later than February 1, 1980. Such report shall include recommendations for such administrative and legislative action as the Administrator considers may be necessary to assure that former prisoners of war receive compensation and health-care benefits for all disabilities which may reasonably be attributed to their internment.

REQUIREMENT OF UNITED STATES CITIZENSHIP FOR SUPERINTENDENTS AND ASSISTANT SUPERINTENDENTS OF CEMETERIES OPERATED BY THE AMERICAN BATTLE MONUMENTS COMMISSION

Sec. 306. The third paragraph of the first section of the Act entitled “An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes”, approved March 4, 1923 (36 U.S.C. 121), is amended by adding after the last sentence thereof the following new sentence: “No individual may be employed as the superintendent, or as an assistant superintendent, of a cemetery operated by the Commission unless such individual is a citizen of the United States.”.

MEMORIAL TO HONOR VETERANS OF THE VIETNAM CONFLICT IN MEMORIAL AMPHITHEATER OF ARLINGTON NATIONAL CEMETERY

Sec. 307. The Secretary of Defense shall have placed in the Trophy Hall of the Memorial Amphitheater at Arlington National Cemetery a memorial plaque which shall bear the following inscription: “The people of the United States of America pay tribute to those members of the Armed Forces of the United States who served honorably in Southeast Asia during the Vietnam conflict.”. To further honor those members of the Armed Forces who lost their lives in hostile action in Southeast Asia during the Vietnam conflict, the Secretary of Defense shall have placed near such plaque in a suitable repository a display of the Purple Heart Medal and other medals, ribbons, and decorations associated with service in Southeast Asia during the Vietnam conflict.

TITLE IV—EFFECTIVE DATES

SEC. 401. (a) Except as provided in subsection (b), the amendments made by this Act shall take effect on October 1, 1978.

(b) The amendment made by section 302 shall take effect on January 1, 1979.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to provide increases in the rates of disability and dependency and indemnity compensation for disabled veterans and their survivors, to provide for the payment of benefits to surviving spouses and children of certain totally disabled service-connected disabled veterans, to increase the amounts paid for funeral and burial expenses of deceased veterans, and for other purposes.".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I do not plan to object, I do think the House will want to know what we are agreeing to, and I yield to the gentleman from Mississippi (Mr. MONTGOMERY) to make this explanation.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, as the gentleman recalls, the House has passed a number of bills to benefit service-connected veterans. The Senate amendment except for two or three minor provisions contains the provisions of all bills passed by the House. I will briefly outline those provisions of the proposed amendment that are somewhat different from that proposed by the House:

First. Earlier this year, the House passed a bill to provide a 6.5 percent cost-of-living increase in the rates of compensation and dependency and indemnity compensation for service-connected disabled veterans and their eligible dependents and survivors. The Senate bill provides for a 7.3 percent increase based on an update of the inflation factor for the next fiscal year. The proposed House amendment contains the higher figure of 7.3 percent which is supported by the administration.

Second. The House has also passed a bill that would provide for dependency allowances to be paid to veterans with service-connected disabilities rated 40 percent or more. The Senate amendment provided for substantial increases in the Dependency allowances to be paid for veterans rated 50 percent or more. The proposed House amendment is a compromise in that it would allow for dependency allowances to be paid for veterans rated 30 percent and above.

Third. The proposed House amendment also provides for a maximum burial allowance of $1,100 to be paid by the Veterans' Administration in the event of a veteran's service-connected death—an increase of $300 over the current maximum allowed. In addition, it would provide an increase of $50 in the burial benefits (from $250 to $300) in the event of a veteran's nonservice-connected death. In addition, there is a provision to provide memorial markers for deceased veterans whose remains are unrecoverable.

Fourth. The proposed amendment would increase the automobile allowance paid on a one-time basis to certain severely disabled veterans. It would raise the amount from $3,300 to $3,800. This provision will only affect a very few severely disabled veterans.

Fifth. It would require that the Veterans' Administration in consultation with the Secretary of Defense, conduct a prisoner of war study to determine whether our former POW's are receiving adequate levels of compensation and health care benefits due to their internment.

Sixth. The proposed amendment would also provide that the American Battle Monuments Commission employ only U.S. citizens as superintendents and assistant superintendents of American Battle Monuments Commission cemeteries.

These are the major differences between House and Senate bills. I have not taken the time of the House to go into great detail concerning these differences. However, there follows a detailed statement explaining such differences:

H.R. 11886, "VETERANS' DISABILITY COMPENSATION AND SURVIVORS' BENEFITS ACT OF 1978"—EXPLANATORY STATEMENT OF HOUSE BILL, SENATE AMENDMENT, AND COMPROMISE AGREEMENT

TITLE I—VETERANS' DISABILITY COMPENSATION

RATE INCREASES

Secs. 101(a) and 103. The House bill and the Senate amendment would amend chapter 11 of title 38, United States Code, to increase the basic rates of service-connected disability compensation for veterans, the rates payable for more severe disabilities, and the annual clothing allowance. The House bill would increase those rates by 6.5 percent; the Senate amendment, by 7.3 percent.

The compromise agreement contains the Senate provision.

THREE-EXTREMITY LOSS

Sec. 101(b). The House bill and the Senate amendment would increase the rate of compensation payable to a 100-percent disabled veteran who has suffered the service-connected loss, or loss of use, of three extremities. The House bill would increase the rate payable to such a veteran to the next higher rate, not to exceed $1,397 per month; the Senate amendment, to the next higher rate or intermediate rate, not to exceed $1,408 per month. The Senate amendment also specified that the increased rate would be payable for any combination of loss or loss of use of three extremities.

The compromise agreement contains the Senate provision.

HIGHER AID-AND-ATTENDANCE ALLOWANCE

Sec. 101(c). The Senate amendment would provide that a veteran entitled to the regular aid-and-attendance allowance under section 314(r) of title 38, United States Code, who is in need of special aid and attendance, shall receive $900 per month for such purpose, in addition to other compensation, if the Administrator finds that, in the absence of care provided by another person, the veteran would require hospitalization, nursing home care, or other residential institutional care.

The House bill does not contain a comparable provision; but H.R. 11891, which passed the House on July 18, 1978, would provide that a veteran entitled to the regular aid-and-attendance allowance under section 314(r) who is in need of constant medical aid and attendance shall receive $900 per month for such purpose, in addition to other compensation.

The compromise agreement provides that if a veteran entitled to the regular aid-and-attendance allowance under section 314(r) is in need of a higher level of care and the VA finds that but for the provision of such care the veteran would require hospitalization, nursing home care, or other residential institutional care, the veteran shall receive $900 per month allowance in lieu of the regular aid-and-attendance allowance. Under this provision, a need for a higher level of care would be considered a need for personal health-care services provided on a daily basis in the veteran's home by a person who either is licensed to provide such services or who the Administrator finds is providing such services under the regular supervision of a licensed health-care professional.

The factors considered in determining whether a disabled veteran is in the need of regular aid and attendance under current law are specified in 38 C.F.R. § 3.352(a). They include, among others, the inability to dress or undress oneself; keep ordinarily clean and presentable; feed oneself; attend to the wants of nature; or to protect oneself from the hazards or dangers incident to one's daily environment. Individuals providing assistance to a veteran for these necessities ordinarily need not possess any specific health-care skills.

The Committees, however, recognize that the health-care needs of certain of the more seriously disabled veterans are such that higher levels of skill are required of those giving them aid and attendance, and that, in such cases, the costs of necessary aid and attendance are extraordinarily high. Therefore, the higher aid and attendance allowance would be paid to those whose need for such assistance extends beyond that for which the current rate is adequate. It is intended that entitlement to the higher rate be limited to those who, in addition to meeting the requirements for aid and attendance under 38 C.F.R. § 3.352(a), have a demonstrable need for and regularly receive the services of a licensed health-care professional (such as a doctor of medicine or osteopathy, a registered or licensed practical nurse, or a physical therapist) or an individual performing skilled health-care services under the regular supervision of a licensed professional, and who, but for the assistance of such person, would be institutionalized.

Examples of qualifying skilled health-care services for this purpose include, but are not limited to, physical therapy, administration of injections, placement of indwelling catheters, and the changing of sterile dressings, or like functions which are required on a regular basis and which require professional health care training or the regular supervision of a trained health care professional to perform. The need for such care is to be determined by a physician employed by the Veterans Administration, or in areas where no such physician is available, after examination by a physician retained under a contract or fee arrangement.

The Committees on Veterans' Affairs note that, ordinarily, the laws governing veterans' benefits are to be liberally construed but that in this instance it is their intention that this new provision be strictly construed by the VA and that the higher allowance be granted only when the need is clearly established and the amount of services required by the veteran each day is substantial.

DEPENDENTS' ALLOWANCES

SEC. 102. The House bill would provide for a 6.5-percent increase in dependents' allowances paid to a service-connected disabled veteran rated 50-percent or more disabled; and H.R. 11888, passed by the House on June 28, 1978, would provide for an extension of prorated dependents' allowances to veterans rated 40-percent disabled.

The Senate amendment would provide for substantial increases in the additional allowances for a spouse and children paid to a service-connected disabled veteran rated 50-percent or more disabled, and for a 7.3-percent increase in the rates payable for the veteran's dependent parents and helpless spouse.

The compromise agreement provides for a 7.3-percent increase in those rates, an extension of prorated dependents' allowances to veterans rated 30-percent and 40-percent disabled, and for small increases in the rates paid to veterans who have more than one child so that the additional amounts paid for additional children are uniform—generally, $34 for the first and $27 for each additional child.

PAIRED-EXTREMITY LOSS

Sec. 101d. The Senate amendment would amend section 360 of title 38 to provide that a veteran who has suffered the service-connected loss or loss of use of one extremity entitling the veteran to a rating of 40 percent or more, and who has also suffered the non-service-connected loss or loss of use of the paired extremity which, if service connected, would entitle the veteran to a rating of 40 percent or more, would be entitled to compensation based on a rating increased by the same amount that the rating would be increased by virtue of bilateral impairment if both disabilities were service connected and would not result in total disability, but not including an increase for the non-service-connected disability itself.

The House bill does not contain a comparable provision; but, H.R. 6501, which passed the House May 23, 1977, would amend section 360 to provide that a veteran who has suffered the service-connected loss or loss of use of one foot or hand and the non-service-connected loss or loss of use of the other foot or hand so as to render the veteran totally disabled shall be compensated as if the entire disability were service connected.

The compromise agreement amends section 312 to provide that a veteran (a) whose service-connected disabilities are less than total, and (b) who has suffered the service-connected loss or loss of use of one extremity so as to entitle the veteran to a rating of not less than 40 percent and the non-service-connected loss or loss of use of the other, paired extremity, which would, if service connected, be rated at not less than 40 percent, shall be entitled to a "statutory award" of $175 per month.

In formulating the compromise agreement on this provision, the Committees considered several alternatives based on certain agreed-upon principles, as follows: First, the concept embodies in the special consideration given under section 360 of title 38, United States Code, to veterans with certain bilateral organic impairments, part of which is non-service-connected, should not be extended to veterans with paired extremity impairments that are, in part, non-service-connected. Second, the increase in compensation benefits under this provision should never be greater than the amount of compensation payable for the veteran's service-connected extremity disability alone. Third, the increased compensation payable by virtue of the provision in the compromise agreement should not in any case result in the payment to any veteran with a partly non-service-connected "paired-extremity" impairment of an amount exceeding one-half of the difference between the rate payable to a veteran rated 90-percent service-connected disabled and one who is rated totally (100-percent) service-connected disabled. Fourth, no veteran who is already rated totally disabled as a result of service-connected causes should be provided an increase in benefits under this provision. Fifth, the increase should not alter the dependents' allowance or other statutory awards or benefits for which the veteran is eligible.

In attempting to arrive at a method of computing the increase in compensation under these principles, it was determined that none of the several alternatives to the above-described provision which were given thorough consideration could be administered with ease and also would produce equitable results for the several categories of veterans whom this provision would affect. For example, it seemed evident that it would not be equitable to provide an increase for a 90-percent-rated veteran that was substantially less than the increase for an 80-percent-rated veterans, as one alternative would have done. Under another alternative, the amount of the increase for "paired" veterans in different categories varied somewhat, but not substantially. The Committees, therefore, agreed that the administrative burdens which any of the several alternatives would have created could be forestalled, and the Committees' concern for equitable treatment in each case in accordance with the above principles could be met, by the provision described above. Under this provision, the dependents' allowance paid to such a veteran is to be based solely on the veteran's service-connected disability rating without regard to any such increase; the veteran is not made eligible for nor entitled to any increase in any additional statutory awards or other benefits by virtue of the special new statutory award; and, in the event of any award or settlement amount received by the veteran for the non-service-connected disability, the increase in compensation would not be paid until such time as the amount otherwise payable monthly equals the amount of the award or the settlement amount.

TITLE II—SURVIVORS' BENEFITS

RATE INCREASES

Secs. 201(a)–(c), 202, and 203. The House bill and the Senate amendment would amend chapter 13 of title 38, United States Code, to provide increases of 6.5 percent and 7.3 percent, respectively, in the basic rates of dependency and indemnity compensation (DIC) payable to the surviving spouses and surviving children of veterans who have died as the result of service-connected disability, including those surviving sponses in need of regular aid and attendance.

The compromise agreement contains the Senate provision.

DEPENDENTS' ALLOWANCES

The Senate amendment would provide for a substantial increase in the rate paid to a surviving spouse receiving DIC who has one dependent child and in the rate paid for additional children. The House bill would provide for a 6.5-percent increase in the rate paid to such a surviving spouse who has one or more dependent children.

The compromise agreement, consistent with the agreement on dependents' allowances for chapter 11, provides for a 7.3-percent increase in the rate paid to such a surviving spouse who has one or more dependent children.

"HOUSEBOUND" RATES

Sec. 210(d). Both the House bill and the Senate amendment would provide for a new "housebound" rate, at the rate of $44 per month and $45 per month, respectively, for a surviving spouse receiving DIC who is so disabled as to be substantially confined to such surviving spouse's home, or ward or clinical area, if institutionalized, but is not in need of regular aid and attendance.

The compromise agreement provides for the Senate rate.

BENEFITS FOR SURVIVING OF CERTAIN TOTALLY DISABLED VETERANS

Sec. 204. The Senate amendment would provide for benefits to be paid under chapter 13 of title 38 for the survivors of veterans who were rated totally (but not necessarily permanently) disabled from service-connected causes at the time of death but whose deaths were not the result of their service-connected disabilities, as follows: (A) at the full DIC rate to the survivors of a veteran whose death has not been determined to be service-connected and who had been rated totally disabled continuously (i) for 20 or more years at the time of death, or (ii) for 10 or more years continuously since the date of discharge from active service; (B) to the surviving spouses of all other veterans who at the time of death were rated totally disabled on the following alternative bases, between which the surviving spouse could elect: (i) payment at the full DIC rate for a period of time equal to the period during which the veteran was so rated, or (ii) monthly payments for life based on the amount payable under (i) spread out over the actuarially expected life of the surviving spouse (the monthly amount being calculated by multiplying the applicable DIC rate by a number derived by dividing the number of months the veteran was so rated by the number of months of remaining life expectancy of the surviving spouse); and (C) to the surviving children of veterans other than those described in (A) above, (i) at the full DIC rate to a child who became permanently incapable of self-support before reaching the age of 18 or a child of a veteran who has been rated totally disabled at the time of death continuously for a number of months greater than the number of months then remaining until the child reaches age 21, and (ii) in all other cases, at a rate to be determined by multiplying the applicable DIC rate by the number derived by dividing the number of months the veteran was continuously rated totally disabled by the number of months remaining before the child reaches age 21. Under this provision, ratings of total disability would not include such ratings based on individual determinations of unemployability; the current-law marriage requirements would apply to recipients; surviving parents would not be eligible for such benefits; and the surviving spouse and children would not be excluded from benefits in the event that the veteran's death was attributable to a cause other than natural; however, a survivor whose willful misconduct caused the veteran's death would not be entitled to benefits under this provision.

The House bill does not contain a comparable provision; but H.R. 11890, passed by the House on July 25, 1978, would provide for DIC eligibility to the surviving spouse, children, or parents of a veteran rated totally and permanently disabled at the time of death, if such rating had been in effect for 10 years or more or continuously from the date of discharge. For a surviving spouse to be entitled, the House bill requires that the marriage be in effect for the 5-year period immediately preceding the veteran's death. Survivors would be eligible only if the veteran's death was due to natural causes.

The compromise agreement provides for the payment of benefits under chapter 13 at the DIC rates to the surviving spouses and children of totally disabled veterans, including those whose ratings had been increased to total by reason of individual unemployability, if at the time of the veteran's death the rating had been in effect continuously for 10 years, or 5 years or more continuously from the date of discharge, and, in the case of a surviving spouse, the marriage to the veteran was in effect for two or more years immediately preceding the veteran's death. This provision does not exclude eligibility based on deaths occurring before the effective date. However, it does not provide for benefits for any period prior to the effective date. It also provides, as did both versions, that death resulting from the veteran's misconduct would not be covered. The provision does not exclude deaths resulting from natural causes; but it does provide that in the case of a judicial award or settlement amount received by the surviving spouse or child on account of the veteran's death, the benefits otherwise payable under chapter 13 would not be paid until such time as the amount otherwise payable under chapter 13 would amount of the award or settlement. Although the compromise agreement does not retain the specific Senate provision barring benefits in the case of the survivor's willful misconduct in connection with the veteran's death, the Committees have agreed to the provision in question in recognition of the VA regulation on this subject (38 CFR 3.11)—which embodies the common law prohibition against an individual profiting from his or her own wrongdoing—and its clear applicability to this new benefit.

TITLE III—MISCELLANEOUS PROVISIONS

BURIAL BENEFITS

Sec. 303. The Senate amendment would amend section 907 of title 38 to provide for the payment of (a) maximum burial allowance of $1,500 to be paid by the VA in the event of a veteran's service-connected death, a $700 increase over the current maximum of $800; or (b) the amount of the burial benefit paid in the event of a Federal employee's job-related death, whichever is the greater.

The House bill does not contain a comparable provision; but H.R. 12258, passed by the House on September 18, 1978, would amend section 902(a) of title 38 to provide for an increase of $100—from $250 to $350—in the burial benefit paid by the VA in the case of a veteran's non-service-connected death.

The Senate amendment would authorize the Administrator to provide memorial markers for deceased veterans whose remains are unrecoverable.

The House bill does not contain a comparable provision; but H.R. 12257, passed by the House on June 19, 1978, contains a similar provision.

The compromise agreement provides for (a) the payment of (i) a maximum burial allowance of $1,100 to be paid by the VA in the event of a veteran's service-connected death, an increase of $300 over the current maximum of $800, or (ii) the amount of the burial benefit paid in the event of a Federal employee's job-related death, whichever is the greater; (b) an increase of $50 in the burial benefit—from $250 to $300—in the event of a veteran's non-service-connected death; and (c) provision of memorial markers for decreased veterans whose remains are unrecoverable.

TAX EXEMPTION IN CERTAIN CASES OF MILITARY RETIREMENT PAY

Sec. 301. The House bill would amend section 3101 of title 38, United States Code, to provide, as did a recent Court of Appeals decision (*Strickland* v. *Commissioner of Internal Revenue*, 540 F. 2d. 1196 (4th Cir. 1976)), acquiesced in by the Internal Revenue Service, that the retired or retirement pay of an Armed Forces retiree or a commissioned officer of the National Oceanic and Atmospheric Administration or the Public Health Service who the VA determines would be eligible for pension or compensation but for the receipt of such retired or retirement pay would be exempt from taxation in an amount equal to the amount of pension or compensation that would have been retroactively paid to such a person but for the receipt of such retired or retirement pay. To gain the benefit of the exemption, the individual would have to file a waiver of such retired or retirement pay during the one-year period following the date of notice by the VA to such person of eligibility for pension or compensation.

The Senate amendment does not contain a comparable provision.

The compromise agreement contains the House provision with technical modifications.

MEDAL OF HONOR

Sec. 302. The Senate amendment would amend section 562(a) of title 38, United States Code, to increase by $100—from $100 to $200—the monthly rate of special pension paid to recipients of the Medal of Honor, effective October 1, 1978. The House bill does not contain a comparable provision; but H.R. 11889, passed by the House on July 25, 1978, would provide an identical increase, effective January 1, 1979.

The compromise agreement contains the provisions of H.R. 11889.

AUTOMOBILE ASSISTANCE ALLOWANCE

Sec. 304. The Senate amendment would amend section 1903(a) of title 38, United States Code, to increase $800—from $3,300 to $4,100—the maximum amount of the automobile assistance allowance paid on a one-time basis to certain severely disabled veterans. The House bill does not contain a comparable provision.

The compromise agreement contains an increase of $500—from $3,300 to $3,800—in this allowance.

PRISONER OF WAR STUDY

Sec. 305. The Senate amendment would require the VA to conduct, in consultation with the Secretary of Defense, a comprehensive study on issues relating to disability compensation awarded to, and the health-care needs of, former prisoners of war, including repatriation procedures, disabilities particularly prevalent among former prisoners of war, VA procedures in adjudicating compensation claims and in determining health-care eligibility, a comparison with other allied governments' benefits programs for their former prisoners of war, and a rationale for the VA's current interpretation of applicable law and regulations representing prisoner-of-war benefits; and to submit to the Congress and the President by March 1, 1979, a report on the results of that study, together with the VA's recommendations as to any administrative and legislative actions necessary to assure that a former prisoner of war receives compensation and health-care benefits for all disabilities reasonably attributable to his or her internment.

The House bill does not contain a comparable provision.

The compromise agreement contains the Senate provision relating to the study (with minor technical amendments) with a due date for its submission to Congress of February 1, 1980, and a deletion of the requirement of a comparative review of allied governments' programs for former prisoners of war and, in lieu thereof, provision for a survey and analysis of available literature on the health-care problems of former prisoners of war.

AMERICAN BATTLE MONUMENTS COMMISSION

Sec. 306. The Senate amendment would amend the law establishing the American Battle Monuments Commission (An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes, approved March 4, 1923 (36 U.S.C. 121)) to require the Commission to employ only United States citizens as superintendents and assistant superintendents of ABMC cemeteries.

The House bill does not contain a comparable provision.

The compromise agreement contains the Senate provision, with minor technical amendments.

MEMORIAL FOR VETERANS OF THE VIETNAM CONFLICT

Sec. 307. The Senate amendment would direct the Secretary of Defense to place, in the Memorial Amphitheater in Arlington National Cemetery, a memorial plaque honoring those members of the United States Armed Forces who served honorably in Southeast Asia during the Vietnam conflict.

The House bill does not contain a comparable provision; but H.R. 12261, passed by the House on July 17, 1978, contains an identical provision.

The compromise agreement contains this provision.

TITLE IV—EFFECTIVE DATES

Sec. 401. The House bill would provide an effective date of October 1, 1978, as do the other House-passed bills mentioned herein with the exception of H.R. 11889 (Medal of Honor pension) which would become effective on January 1, 1979, and H.R. 12261 (Vietnam memorial), which would become effective upon enactment.

The Senate amendment would provide an October 1, 1978, effective date for all amendments to title 38; other provisions would be effective upon enactment.

The compromise agreement provides for an effective date of October 1, 1978, for all provisions except the increase in the Medal of Honor pension, which would become effective on January 1, 1979.

PROVISIONS NOT INCLUDED IN COMPROMISE AGREEMENT

ADMINISTRATIVE CLARIFICATIONS

The House bill contains three provisions making minor changes in survivors' DIC and pension benefits: first, to provide that if dependency and indemnity compensation (DIC) has been awarded to a surviving child and subsequently an additional child becomes entitled retroactively, the retroactive amount paid to the additional child shall equal the difference between the total amount of the increased award for the retroactive period and the total award actually paid for that period; second, to provide for a similar result in the case of a surviving child who becomes retroactively entitled to pension benefits; and third, to provide that, where a surviving spouse is receiving DIC benefits for a child who, upon attaining age 18, is attending an approved educational institution and thus becomes eligible for DIC concurrently with the surviving spouse, the DIC benefit payable to the child for the month during which he or she attains age 18 shall be reduced by the amount paid to the surviving spouse for that month for the child.

The Senate amendment does not contain comparable provisions.

The compromise agreement does not contain these provisions.

AMERICANS WHO FOUGHT IN ALLIED FORCES DURING WORLD WAR II

The Senate amendment would amend section 109(b) of title 38, United States Code, to provide that Americans who, while citizens of the United States, volunteered between September 1, 1939, and December 8, 1941, to serve in the armed forces of the allies of the United States during World War II and suffered service-connected disabilities during such service would be entitled, while they are citizens and residents of the United States, to service-connected disability compensation in the same manner and to the same extent as veterans who served in the United States Armed Forces, reduced by the amount of any benefits received from the allied government.

The House bill does not contain a comparable provision.

The compromise agreement does not contain this provision; but the House Veterans' Affairs Commitee agrees to hold hearings during the First Session of the 96th Congress on the issues raised by the Senate provision and other related issues.

BUDGET AUTHORITY

The Senate amendment would clarify that none of the provisions of the Committee bill, other than amendments providing for new spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, would authorize directly or indirectly, the enactment of new budget authority.

The House bill does not contain a comparable provision.

The compromise agreement does not contain this provision.

COSTS

The following table shows the fiscal year 1979 budget authority costs (as estimated by the Congressional Budget Office) of H.R. 11886 as passed by the House (plus certain other House-passed bills indicated below); as amended by the Senate, and as included in the compromise agreement:

[In millions]

Provisions of compromise agreement	As passed by House	Senate amendment	Compromise agreement
Title I:			
Sec. 101(a)	$347.3 [1]	[7] $312.9	[7] $312.9
Sec. 101(b)	2.5	2.5	2.5
Sec. 101(c)	12.1 (H.R. 11891)	12.1	12.1
Sec. 101(d)	(2) (H.R. 6501)	(2)	(2)
Sec. 102	54.8 (H.R. 11888)	206.2	134.7
Sec. 103	(3)	(3)	(3)
Title II:			
Secs. 201 (a) and (c), 202, 203	(3)	67.7	67.7
Sec. 201(b)	(3)	46.1	(4)
Sec. 201(d)	1.5	1.5	1.5
Sec. 204	.7 (H.R. 11890)	22.3	11.1
Title III:			
Sec. 301	1.5 [5]	----------	1.5
Sec. 302	(2) (H.R. 11889)	(2)	(2)
Sec. 303(a)	31.7 (H.R. 12258)	----------	15.8
Sec. 303(b)	(2) (H.R. 12257)	(2)	(2)
Sec. 303(c)		7.7	3.3
Sec. 304		1.4	.9
Sec. 305		(2)	(2)
Sec. 306		0	0
Sec. 307	0 (H.R. 12261)	0	0
Title IV: Sec. 401	0	0	0
Total	452.1 [6]	[9] 680.4	[9] 564.0

[1] Includes secs. 103, 201 (a), (b), and (c), 202, and 203.

[2] Less than $500,000.

[3] Included in sec. 101(a).

[4] Included in secs. 201 (a) and (c), 202, 203.

[5] Reduction in tax revenues.

[6] Composite total—omits costs less than $500,000 and includes costs of House-passed bills indicated in parentheses.

[7] Includes sec. 103.

[8] Amount shown in S. Rept. 95-1054 is $682,800,000.

[9] Omits costs less than $500,000.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I concur in all the gentleman from Mississippi has said.

Mr. Speaker, I rise in strong support of the gentleman's motion to concur with the Senate amendments to H.R. 11886 with an amendment. This bill as amended will provide a long overdue measure of relief against the continually escalating cost of living for over 2 million veterans presently receiving compensation benefits as a result of disabilities incurred while serving in the Armed Forces of this Nation and for the survivors of those veterans who died in service or as a result of their service-connected disabilities.

Some of its major provisions are as follows:

The amended bill provides for an increase of 7.3 percent compared to the initially proposed 6.5 percent cost-of-living increase in the rates payable to veterans in receipt of compensation and for those survivors receiving dependency and indemnity compensation. This 0.8 percent increase is believed to more accurately reflect the change in the projected Consumer Price Index.

Another provision of major importance is a change in the threshold of compensation rates permitting a veteran to be entitled to additional allowance because of dependents. H.R. 11886 as amended establishes a 30-percent disability evaluation in lieu of the presently required 50 percent as the threshold at which a veteran commences to receive additional allowance because of dependents.

Another provision in the bill before us today is one which will provide an additional $300 monthly to certain veterans presently receiving special monthly compensation because of the need of aid and attendance of another person. This additional $300, over and above the regular aid and attendance allowance, is limited to those severely and catastrophically disabled veterans who require a higher level of care than that which would routinely qualify them for the basic aid and attendance rate. This additional so-called "second tier A & A" will provide necessary financial assistance to enable many of these catastrophically disabled veterans to avoid being permanently institutionalized since the additional $300 will permit many of them to obtain the necessary life sustaining services within the environs of their own home.

Another provision of this bill provides for a statutory award of $175 monthly in addition to the regular rate of compensation in those cases where the veteran is rated less than 100 percent and has suffered the loss of paired extremities—the loss of one extremity being of service-connected origin and the other not being due to service.

H.R. 11886 as now amended also provide that in those cases where the death of a veteran rated totally disabled by reason of service-connected disabilities is found to be of nonservice origin, the surviving spouse will be entitled to service-connected death benefits provided the veteran has been rated totally disabled for a period of 10 years or more immediately preceding death and the spouse was married to such veteran for not less than 2 years during the period the veteran was so rated. If discharged from service for less than 10 years the veteran must have been rated totally disabled for the last 5 years preceding death. Heretofore, DIC benefits to the spouse were denied in all cases where the veteran's death was due to other than service-connected disabilities even though he was in receipt of compensation at the 100 percent rate by reason of his service-connected disabilities. This legislation will go a long way in removing this inequity.

The bill now before us also provides for service-connected burial benefits being increased to $1,100 from the previous $800 limit and nonservice connected burial benefits being increased from $250 to $300. The bill also provides for an increase in the automobile allowance for certain disabled veterans from $3,300 to $3,800.

I shall support this legislation and urge my colleagues to do likewise. In so doing we are assuring our service-connected veterans, who have risked their lives so bravely, and the survivors of those who have paid the ultimate price in service to this Nation that a grateful Nation has not forgotten them.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Speaker, I rise to offer my support to H.R. 11886 as amended. This bill which has been informally agreed to includes provisions of several bills the House has passed in the last few months. I will not take time to examine each provision because my colleagues who have preceded me have already done so.

I would, however, like to cite a few points included in this legislation which I think are very important.

You will recall that back on August 7, the House passed the compensation bill which called for a 6.5 percent cost-of-living increase for service-connected disabled veterans and their survivors who are eligible for dependency and indemnity compensation (DIC). The bill we have before us provides a 7.3-percent increase. We reached this agreement because the CPI indicates that the cost of living will increase close to this percentage.

Another provision I believe merits our special attention is the establishment of a higher rate of aid and attendance payable to veterans who because of their service-connected disability require constant medical attention. This bill identifies the extra need some of our most seriously disabled veterans are faced with. The new level will provide the assistance necessary to help these veterans remain in their homes.

The bill also includes two bills, H.R.

12257 which provides placement of markers for veterans whose remains are unrecoverable and also H.R. 12261 which calls for the appropriate tribute to be placed at the Memorial Amphitheater at Arlington National Cemetery honoring those who served honorably in Southeast Asia during the Vietnam conflict. These are not provisions some think we should be considering as the 95th Congress draws to a close, but I can assure you that our heartfelt thanks to those who have honorably served is as important today as it ever has been.

I urge you in voting with me in support of this bill.

● Mr. ROBERTS. Mr. Speaker, I want to congratulate the very able chairman of the Subcommittee on Compensation, Pension, and Insurance, the distinguished gentleman from Mississippi, for the great work he has done in resolving the differences between the House and Senate on this compensation measure. It is an excellent bill designed to specifically enhance the lives of our service-connected veterans—those veterans for which we must continue to show concern. We owe a debt of gratitude to all veterans who fought in defense of their country and who were disabled during their period of service. I am delighted this bill will provide increased benefits for these veterans.

Mr. Speaker, I know of no man who works harder for our service-connected disabled veterans than the gentleman from Mississippi. Since he has become chairman of the Subcommittee on Compensation, Pension and Insurance, the gentleman's subcommittee has been one of the most active in the Congress. I cannot say too strongly, Mr. Speaker, how much we appreciate his efforts. As chairman of the full committee, I am personally grateful for his leadership.

Mr. Speaker, I have also in the past indicated my appreciation for the great work of the ranking minority member of the full committee, the Honorable John Paul Hammerschmidt of Arkansas. He too has provided great assistance to me and I want to again thank him for his splendid cooperation and for his work in helping to get this bill to the floor. My job would be an impossible task without his great work.

The gentleman from Ohio, the very able ranking minority member of the subcommittee, Chalmers Wylie, is a strong advocate for the service-connected disabled veteran. I must say, Mr. Speaker, that Sonny Montgomery and Chalmers Wylie make a great team. Usually when these two men recommend legislation to the full committee, seldom, if ever, is there a dissenting vote. The committee is very grateful for the total dedication of each of them.

Finally, Mr. Speaker, I want to pay tribute to every other member of the Subcommittee on Compensation, Pension and Insurance. They include: Tiger Teague, Jack Brinkley, Bill Hefner, Sam Hall, Bob Edgar and Tennyson Guyer. These individuals pay attention to their work. As chairman of the full committee, I want to acknowledge the effort of each of them, especially during this session of the Congress.

Mr. Speaker, this is a good bill. It will benefit so many of our more seriously disabled veterans injured or wounded in service and I urge that the House amendments be concurred in so that the President may soon sign this bill into law.●

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi (Mr. Montgomery).

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill, H.R. 11886.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

REVISING TRANSPORTATION LAWS

Mr. RODINO. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10965) to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation" with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 74, line 8, strike out "real" and insert "rail."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey (Mr. Rodino)?

Mr. McCLORY. Mr. Speaker, reserving the right to object, all this does is to correct a typographical error in the bill as acted upon by the Senate, and we are concurring in the Senate amendment?

Mr. RODINO. Mr. Speaker, if the gentleman will yield, the gentleman is correct. The word, "rail," is spelled "real," and this amendment was offered to correct it.

Mr. McCLORY. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12005, DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION ACT, FISCAL YEAR 1979

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1222 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1222

Resolved. That upon the adoption of his resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12005) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said amendment for failure to comply with the provisions of section 401(a) of the Congressional Budget Act of 1974 (Public Law 93–344) and clause 7, rule XVI, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. Murphy) is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Ohio (Mr. Latta), and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1222 provides for the consideration of H.R. 12005, the Department of Justice Appropriation Authorization Act for fiscal year 1979.

This is an open rule providing for 1 hour of general debate. The time is to be equally divided and controlled by the chairman and the ranking minority member of the Committee on the Judiciary. Although the bill was sequentially referred to the House Permanent Select Committee on Intelligence, there was no request for time on the rule.

The rule makes in order an amendment in the nature of a substitute recommended by the Committee on the Judiciary and now printed in the bill as the original text for purposes of amendment under the 5-minute rule.

The resolution also waives points of order that could be brought against H.R. 12005 for failure to comply with section 401(a) of the Congressional Budget Act because of contracting authority contained in section 9. Section 9 of the committee substitute authorizes the Federal Prison Industries, Inc., to make such contracts and commitments as may be necessary in carrying out various programs. This section fails to limit the availability of such contract authority, thus it would be subject to a point of order. Since the Committee on the Judiciary intends to offer a floor amendment to correct this violation, the Budget Committee has no objection to this waiver.

Points of order are also waived against the substitute for failure to comply with the provisions of clause 7 of rule XVI, the germaneness rule. Section 6 of the substitute authorizes sums to be appropriated for the activities of the Federal prison system to be used for the compilation of statistics related to prisoners in Federal penal and correctional institutions. Although this section is germane, the Rules Committee felt a germaneness waiver was necessary since this measure is only a 1-year authorization and these activities would continue for more than 1 year.

This rule also provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 12005 authorizes $1,657,224,000 for activities of the Department of Justice in fiscal year 1979. Specifically, the bill authorizes $28,996,000 for general administration, $89,884,000 for general legal activities, $46,377,000 for the Antitrust Division, $196,736,000 for U.S. attorneys and marshals, $20,144,000 for witness fees and expenses, $25,100,000 for support of U.S. prisoners, $5,353,000 for community relations, $560,250,000 for the FBI, $320,722,000 for the Immigration and Naturalization Service and $363,662,000 for the Federal prison system.

In addition, the bill contains two open ended authorizations for fiscal year 1979. The first of these is contained in section 16 of the bill for construction of a Federal Correctional Center in Los Angeles which the Congressional Budget Office estimates to cost $23 million. The second open ended authorization is contained in section 20 of the bill, for nondiscriminatory increases in salary, pay, retirement and employee benefits authorized by law which are estimated by the Congressional Budget Office to cost approximately $75 million.

Authorizations for Law Enforcement Assistance Administration (LEAA) and the Drug Enforcement Administration (DEA) are in previously enacted legislation, thus no amounts in this act may be used or obligated to carry out any of their activities.

H.R. 12005 would also require prior notification of the Judiciary Committee of reprograming of funds, or increases in personnel or funds and any new program or reorganization.

The Select Committee on Intelligence, to which this legislation was sequentially referred, intends to offer two committee amendments. One would reduce from $13,369,000 to $10,902,000 the funds authorized for the FBI's program for domestic security and terrorism. The other one would amend section 4 to require that reprograming requests involving those FBI programs within the jurisdiction of the Select Committee be referred to this committee as well as the Committees on Appropriations and Judiciary.

In 1976, legislation was enacted into law (P.L. 94503) which states that beginning in fiscal year 1979 specific authorizing legislation will now be required in order for the Department of Justice to qualify for the appropriating process. Thus, this is the first time that the Department of Justice has had to go before the Congress for authorization of its annual appropriations. This will allow the Congress to exercise greater oversight over this department.

Mr. Speaker, I urge the adoption of House Resolution 1222 in order that H.R. 12005 may be considered.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1222 provides for the consideration of the bill H.R. 12005 which authorizes appropriations for the Department of Justice. This is an open rule with 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule makes in order the committee amendment in the nature of a substitute, now printed in the bill, as an original bill for the purpose of amendment, and waives all points of order against the substitute for failure to comply with the provisions of section 401(a) of the Budget Act and clause 7 of rule 16. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, by way of explanation of the two waivers in the rule, section 401(a) of the Budget Act bars consideration of a bill which provides new contract authority which is not subject to annual appropriations acts.

Section 9 of this Justice Department authorization authorizes the Federal Prison Industries, Inc. to make such contracts and commitments as may be necessary in carrying out various programs. Since this section contains no limitation on the availability of such contract authority, a point of order could be made that the bill is in violation of section 401(a) of the Budget Act, thus preventing even the consideration of the bill. However, we have been assured that the Committee on Judiciary will offer an amendment on the floor to limit such contract authority to the extent or in such amounts as are provided in advance in appropriations acts, thus clearing up this Budget Act violation. With this understanding, the chairman of the Budget Committee (Mr. GIAIMO) has written to the Rules Committee stating he has no objection to this waiver.

The rule also waives clause 7 of House rule 16 which is the germaneness rule. This waiver was necessary because section 6 of the bill, at page 6, lines 9 through 12, authorizes the Federal prison system to compile statistics relating to prisoners in Federal penal and correctional institutions, among other things. Since it is anticipated that this survey of prisoners will extend beyond the fiscal year covered by this bill, this provision could be construed as being nongermane, going beyond the scope of the 1-year authorization provided by the bill. No objections to this waiver were raised in testimony before the Rules Committee. I think most Members would agree that such a survey should be properly done and with the assurance of continuity and sufficient funding.

Mr. Speaker, I think it should be pointed out that this bill was sequentially referred from the Judiciary Committee to the Permanent Select Committee on Intelligence for the consideration of those provisions which also fall within its jurisdiction. The Select Committee has issued its own report and recommended certain amendments which will be in order for consideration under this rule. But the Select Committee did not demand any additional time or separate control of any time under general debate, with the understanding that it will be given time to explain its amendments.

Mr. Speaker, the bill which this rule makes in order would authorize approximately $1.6 billion for the Department of Justice in fiscal year 1979. This is the first time we have ever had a separate authorization for the Department of Justice. In 1976, the Congress mandated that the Department be subject to authorization beginning in fiscal 1979. Of the overall Department of Justice request of $2.4 billion, approximately $800 million has already been authorized under separate bills—$641 million for the Law Enforcement and Assistance Administration, and $193 million for the Drug Enforcement Administration.

The bill was reported from the Judiciary Committee on a 30-to-2 vote, and from the Select Committee on Intelligence on a 6-to-2 vote. The rule making the bill in order was adopted on a voice vote in the Rules Committee. I urge its adoption.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—SUBPENA IN THE CASE OF SUSIE MAE PEOPLES AGAINST CHARLES P. HOWARD, JR.

Mr. MITCHELL of Maryland. Mr. Speaker, I rise to a question of the privileges of the House.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MITCHELL of Maryland. Mr. Speaker, I have been subpenaed to appear as a witness before the superior Court of Baltimore City, State of Maryland, to testify at 9:45 a.m., September 27, 1977, in the case of Susie Mae Peoples versus Charles P. Howard, Jr. Under the precedents of the House, I am unable to respond to the subpena without the permission of the House, the privileges of the House being involved.

I therefore submit the matter to the House for such action as the House may take.

The SPEAKER pro tempore. The Clerk will read the subpena.

The Clerk read as follows:

[Superior Court of Baltimore City]

SUSIE MAE PEOPLES vs. CHARLES P. HOWARD, JR.

Mr. Parren J. Mitchell you are hereby summoned to attend this Court, on Wednesday, the 27th day of September 1978, at 9:45 o'clock A.M., to testify for plaintiff the above named case, and to attend said Court daily until duly discharged.

Issued: September 13, 1978.

Be punctual in attendance or you will be attached.

By order of the Court.

George W. Freeberger,
Sheriff of Baltimore City.

(Bring this summons with you.)

Deputy No. 11.

Mr. FOLEY. Mr. Speaker, I offer a privileged resolution (H. Res. 1382) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1382

Resolved,

Whereas, Representative Parren J. Mitchell, a Member of this House, has been served with a summons to appear as a witness before the Superior Court of Baltimore City, State of Maryland, to testify at 9:45 a.m. on the 27th day of September, 1978, in the case of Susie Mae Peoples v. Charles P. Howard, Jr., Docket: 1977, Folio: 726, File: 12055; and

Whereas by the privileges of the House no Member is authorized to appear and testify but by order of the House: Therefore, be it

Resolved, That Parren J. Mitchell is authorized to appear in response to the summons of the Superior Court of Baltimore City, State of Maryland, at such time as when the House is not sitting in session; and be it further

Resolved, That a copy of this resolution be submitted to the said court as a respectful answer to the summons of said court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF 5,000 ADDITIONAL COPIES OF EULOGIES TO LATE SENATOR HUBERT H. HUMPHREY

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from the further consideration of the Senate concurrent resolution (S. Con. Res. 106) authorizing the printing of 5,000 additional copies of the eulogies to the late Senator Hubert H. Humphrey, and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 106

Resolved by the Senate (the House of Representative concurring), That there shall be printed five thousand additional bound copies of the eulogies to Hubert H. Humphrey, late a Senator from the State of Minnesota, to be furnished to his successor in office.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HAWKINS. Mr. Speaker, Senate Concurrent Resolution 106 calls for the printing of 5,000 additional copies of memorial tribute to the late Senator Hubert H. Humphrey. As many in this body know, following the death of a Member of Congress there are customarily printed 300 copies of the eulogies and tributes made to the decreased Member. Due to the preeminent stature of Senator Humphrey and the great love he engendered among the people of this country, an increased demand is expected for this document.

I ask for its approval.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION ACT, FISCAL YEAR 1979

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12005) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Brooks).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12005), with Mr. White in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. Brooks) will be recognized for 30 minutes and the gentleman from Illinois (Mr. McClory) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill before the Committee today, H.R. 12005, reflects an important change in the attitude of the Congress. The century-old free ride for the Department of Justice is over. The Department, as my colleagues may know, was created by act of Congress 108 years ago. And under rule X of the rules of the House, legislative jurisdiction over nearly every activity within the Department reposes in the Judiciary Committee. Yet, the Department, previously, has never been required to come before the Judiciary Committee, nor indeed before this House, for authorization of its annual appropriations.

Rather, the act of 1870 that created the Department and the subsequent creation of Department subdivisions and the authorization of certain Department activities have for more than a century been treated in themselves as the requisite authorization of appropriations. But no more.

Two years ago, the Congress enacted Public Law 94-503, title II of which explicitly states that beginning with fiscal 1979 no moneys may be appropriated for the Department unless specifically authorized by law.

Under the terms of the 1976 statute, without specific prior authorization, the Justice Department cannot qualify for the appropriating process. In other words, the Department—like the rest of the executive branch—must now abide by the terms of clause 2 of rule XI.

Early in 1978, the Department submitted to the committee a 1979 fiscal budget request of slightly greater than $2.4 billion. Of that figure, however, more than $641 million, the LEAA moneys—and more than $113 million, the DEA moneys—have already been authorized. Thus, of the Department's $2.4 billion request, H.R. 12005 addresses a request for only $1.6 billion.

The committee examined that request extremely closely. Because this was its first ever exercise of the new authorization responsibility, it chose to proceed carefully, and to use the hearing process to educate itself even further with regard to the day-to-day activities of the Justice Department. Nine days of hearings were held, testimony was received from public witnesses, and representatives appeared from every agency, every division within the Department seeking fiscal 1979 moneys.

Following the hearings, the committee marked up and reported this bill over a 3-day period and ultimately voted 30 to 2 to report this bill.

Briefly, the bill specifically authorizes $1.657 billion for previously unauthorized Department activities for fiscal year 1979. That is a slight increase over the $1.629 billion requested. The increase primarily is for the budget of the Immigration Service, but very small increases also appear in the line items for both the Bureau of Prisons and the FBI. But the overall bill is within a few percentage points of what the President and OMB had targeted.

The Congress enacted the 1976 statute we implement today largely because the Judiciary Committee believed the Congress could not adequately or responsibly discharge its oversight responsibilities without the lever of budgetary authorization. I believe that both the Department and the Congress will, in the long run, benefit greatly from the new, healthier arrangement.

But there is another issue, Mr. Chairman, that we need to think about as we debate this bill today. The process of authorization cannot work, it simply will not work, if the House does not better manage and plan for its own schedule in the future.

The State, Justice, Commerce appropriation bill for fiscal year 1979 came before this House several months ago. But nearly the entire Justice Department had not been authorized at that time since the bill we consider today had not yet reached the floor—despite the fact that the Committee on the Judiciary had reported it in advance of the May 15 budget deadline.

And so, point of order after point of order was raised and sustained, raised and sustained until there was virtually nothing left of the Justice Department's appropriations with which to proceed to conference.

And that is not the half of it. The Intelligence authorization did reach the floor despite the fact that a critical portion of it dealt with authorizing FBI moneys, moneys also authorized by the bill before us today. And there is a conflict between the Judiciary bill and the Intelligence bill on FBI funds—but the Intelligence bill has already been to conference and enacted into law. Now, what sense does that make?

Mr. Chairman, I realize this is the first year of the new authorization responsibility, and it is only the third full year of the operation of the Budget Act itself. So there are growing pains, understandably. But the House should know that the Committee on the Judiciary, led by our distinguished and able chairman, the gentleman from New Jersey, Peter Rodino, did reach and meet the May 15 deadline and still it is nearly October before we reach the floor—long after the appropriation bills and other related authorizations have come and gone.

Mr. Chairman, in fiscal 1980 the procedure must be different. For now, however, I urge the adoption of H.R. 12005.

Mr. McCLORY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased that at long last the House is considering the bill to authorize appropriations for the Department of Justice for fiscal year 1979. I wish to compliment Chairman Rodino who presided over several weeks of hearings and Chairman Brooks who presided over 3 days of markup of this most complex and comprehensive subject. Since this was the very first time in our history that a committee of the Congress has exercised the responsibility of a full-scale review of the purposes and the operation of the Department of Justice, the patience and skill of the chair was often tested but never wanting.

In our Government no department performs a more necessary or fundamental role than the Department of Justice. It is the department of departments, for without its services and counsel other departments cannot adequately function. For all too long the Department of Justice has been protected by the sanctity of its duties from the questioning eyes of congressional oversight. Those days are now behind us. And, in saying that I do not intend to demean the work of the Appropriations Committee in the work it has done.

Mr. Chairman, the scheduling of this legislation has been unduly delayed. Time and again, it has been placed on the schedule never to be brought up. Meanwhile, many of the issues relevant to the bill have been settled—by necessity more than by thoughtful debate—in various other ways. On some of these issues, procrastination may have been fatal. Are we now, as we are caught up in the torrent of legislation rushing toward adjournment, to join fresh battle with the other body to begin anew the debate on terrorism or to curb illegal aliens or to advance merit selection of Federal judges? Whatever the answer is, it is clear that the delays which have been countenanced by the leadership have not helped us to improve the quality of justice nor to enhance the security of our people. By scheduling this bill so late it is virtually impossible to accomplish anything beyond ratification of decisions and nondecisions which have occurred without the participation of the Committee on the Judiciary.

It is said that it was necessary to handle the appropriation bills first. Although that may be, I fail to perceive the wisdom of such a practice, and I believe that a great many of my colleagues have their doubts, too. When earlier this year the appropriations bill was before us, several Members indicated their concern with the irrational scheduling of the authorization and the appropriation bills.

I would hope that, when the rules for the next Congress are written, serious consideration is given to staggering the reporting deadlines for authorization and appropriation legislation in such a way as to permit the House authorizations to serve as a guide to House appropriations. In any event, it is clear that the present practice minimizes the role of the Congress in the authorization process. And I would hope that it is equally clear that this practice must come to a stop.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the full Committee on the Judiciary, the gentleman from New Jersey (Mr. Rodino).

Mr. RODINO. Mr. Chairman, I want to join in the remarks of the gentleman from Texas and I want to express my appreciation for the assistance he lent to the leadership of the committee at a time when a personal situation limited to a degree my own participation. His leadership and the contribution of the ranking minority member, the gentleman from Illinois, Mr. McClory are greatly appreciated.

Mr. Chairman, H.R. 12009 is a sound bill and I would hope the House might endorse it today. But I hope also that the House understands the significance of what we are considering. Since the Justice Department was established more than a century ago, it has never been required to come before this House for authorization of its appropriations. But under the provisions of the Public Law we enacted in 1976 that process has been altered—clause 2 of rule XI now will apply to the Justice Department, just as it does to other functions of the executive branch. And so now, with a responsibility to consider the budget of the Department, the Judiciary Committee and the full House will be in a stronger position to engage in appropriate oversight. The operation of the Department will ultimately be enhanced, its accountability to the American people will be made more visible.

Mr. Chairman, as the gentleman from Texas explained, H.R. 12005 addresses a budget request for $1.6 billion. Just under $1 billion additional for the Department have been authorized by other legislation. Mr. Chairman, the committee has worked very hard in the discharge of this its first exercise of authority under the 1976 statute. Our authorizing expertise will grow as we proceed in the years ahead and this process can only be made stronger as a result. As the gentleman from Texas has emphasized, the House will need to more carefully coordinate the scheduling of the authorizing and appropriating processes in the future. This process can and will be made to work. But in the meantime, I believe we have a good bill now—one that reflects long weeks of hearings and markup. We reported this bill well in advance of the May 15 deadline—it meets every requirement of the Budget Act of 1974. It is a good bill and should be adopted today.

Mr. Chairman, because the Judiciary Committee has given such careful scrutiny to this bill, because it has given it its overwhelming approval—by a vote of 30 to 2—I would hope that any amendment would be very seriously and very thoughtfully considered before we add it to the bill. I believe we have an excellent bill now and I hope we can go forward on this basis.

Mr. McCLORY. Mr. Chairman, I reserve the remainder of my time.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. Eilberg).

Mr. EILBERG. Mr. Chairman, I rise in support of H.R. 12005 and have requested this time in order to comment on those portions of the bill dealing with the Immigration and Naturalization Service. The Judiciary Committee has recommended an authorization level of $320,722,000 for INS—an increase of some $22 million over the budget request for fiscal year 1979.

This increase reflects the serious concerns of the Judiciary Committee and my Subcommittee on Immigration, Citizenship, and International Law as to the adequacy of the resources requested by the administration to enable INS to reduce the flow of illegal aliens into this country and to eliminate the enormous backlogs of petitions awaiting processing in district offices throughout the country.

The additional resources are directly targeted to both of these spheres of INS operations.

I am certain that I need not call your attention to the scope and seriousness of the illegal alien problem facing this country. I am sure each and every one of you face this problem to a varying degree, but nonetheless the problem is very much with us and becomes more serious with each passing day.

It seems completely logical to me to expend funds now in an effort to prevent more and more illegal aliens coming in, than to expend greater amounts in the future to investigate, locate, litigate, and deport them as surely we must do at some future date.

At present, the INS border patrol force is composed of 2,321 officers and support personnel of which 2,000 are assigned to the U.S./Mexican border. This force is responsible for patroling the longest border between a developed and developing country—some 1,945 miles.

The Commissioner told my subcommittee that "on any one shift we have rarely more than 350 persons on the U.S./Mexican border." This force, spread as thin as it is, accounted for over 900,000 apprehensions in 1977.

In the face of a critical need to maximize the reduction of illegal entries, the President's budget called for only 293 additional positions—an increase which hardly can be regarded as providing a major deterrent to illegal entry.

Of the $21 million increase, $19 million is earmarked for 707 additional border patrol personnel, equipment and communications in support of this personnel, and 5 additional helicopters.

In effect, our bill would increase the border patrol force in fiscal year 1979 by 1,000—293 in the budget plus 707 provided for in this bill. This really represents only one-half of the border enforcement force of 2,000 called for by the President in his August 4 message to Congress on undocumented aliens.

I do not mean to suggest that this augmented force will stop all illegal entries, I do emphasize that a dollar spent now on prevention and containment will save many dollars in the future on enforcement.

The increased authorized funds will also permit the expenditure of approximately $1,200,000 to increase the antismuggling investigative force to 200—45 above the budget request. The 155 positions allocated in the budget for this activity were destined for duty in the interior locations in the country. Experience has shown that a coordinated effort is necessary between investigations in the border areas and interior—the 45 additional investigators provided would be assigned to the border areas so that a balanced, coordinated investigative effort can be instituted and maintained from place of entry to place of destination.

In our numerous subcommittee oversight hearings, considerable evidence was presented attesting to the existence of highly sophisticated and well-organized alien smuggling rings. These unscrupulous individuals viciously exploit aliens and their families by extorting large sums of money, holding family members hostage, and subjecting them to all sorts of indignities and deplorable conditions.

An extremely important point to keep in mind is that this method of illegal immigration is one of the most potentially dangerous to our country in that it provides a ready means for entry of terrorists, subversives, criminals—in fact, all individuals who are excludable under our immigration laws.

In strengthening our enforcement effort, we must not lost sight of the fact that the Immigration and Naturalization Service is statutorily responsible for providing numerous services and benefits to our citizens and immigrants.

I cite the enormous backlogs faced by INS in this area—some 76,000 naturalization petitions and about 200,000 immigration petitions of various types.

I venture to say that there is not one Member of this body who has not been asked to intercede with INS on behalf of a constituent with a legitimate complaint against the Service for not receiving a proper and timely response to a written inquiry, a filed application or petition, or in many cases, to a phone call to the local INS office.

The Commissioner, in spite of numerous crash programs, advised our committee that due to the steady increase in new applications and the operation of his current work force at maximum productivity, he cannot expect backlogs to be reduced.

I do not honestly believe that the Congress should allow this serious and intolerable situation to continue.

Yet, in the face of this very critical backlog situation which after all seeks only to give the public its rightful benefits, the Department of Justice and OMB rejected every INS request for new positions in adjudications and naturalization. Not one single position for this important service function was included in the budget.

The increased funds in this authorization bill provides $2.4 million for 90 positions in the adjudication operation and 120 in the naturalization operation. We can reasonably expect that with these additional resources the backlogs can be decreased substantially in the near future, and in time be totally eliminated.

I would also like to say a word about the provisions in H.R. 12005 which relate to alleged Nazi war criminals.

We have in the United States almost 200 cases in litigation or under active investigation involving alleged Nazi war criminals. Most of these individuals succeeded in entering the United States under special displaced person or refugee legislation by lying about their past or deliberately concealing information which would have precluded their being admitted. They are now either legal permanent residents or U.S. citizens which means that each one must be prosecuted in either denaturalization or deportation proceedings or both.

The Judiciary Committee by specifically earmarking this amount of money, intends that—no matter what level of funding is eventually authorized or appropriated—at least $2,052,000 of INS' funds shall be expended in carrying out this mandate. The statement I have just made is supported by a legal memorandum which I have requested from the American Law Division of the Library of Congress and by a Comptroller General's decision which was issued in 1956. More specifically, the Library of Congress memorandum states that:

> While Congress may appropriate anything up to the authorized amounts for both the Immigration and Naturalization Service and the Nazi War Crime Litigation Unit and may expressly deny an appropriation for the Unit, silence with respect to the Unit, as would be the case in a lump sum appropriation for the agency, would appear to require an allocation of the authorized amount to the Unit.

The support for this legal opinion, as I mentioned, is derived from language in a 1956 Comptroller General's decision (36 Decisions of the Comptroller General 240, 242, September 27, 1956) in which it is stated that "as a general proposition, appropriations to carry out enabling or authorizing laws must be expended in strict accord with the original authorization both as to the amount of funds to be expended and the nature of the work authorized". In setting aside these funds the committee expects—rather, the committee directs—that the size of the special litigations unit be doubled. As indicated in the committee report, the committee intends that the legal staff be increased to at least 10 positions and the investigative staff to at least 8 positions, including 2 investigators who will be stationed in foreign countries.

I had hoped to introduce an amendment to the appropriations bill considered by the House last month to conform the appropriation level for the Immigration and Naturalization Service to the authorization level recommended in H.R. 12005. Unfortunately, a point of order raised by the gentleman from California (Mr. Rousselot) and conceded to by the gentleman from West Virginia (Mr. Slack) prevented me from doing so.

I am the first to realize that all the ills of a government agency cannot be cured by a massive infusion of personnel funds.

I also share the concerns of my colleagues and the American public that public spending must be curbed, and I will join in the effort to accomplish this objective.

But I submit that the money we spend now on the prevention and service activities of INS will eventually result in economic benefits—be it costs saving on enforcement or providing immigrants and U.S. citizens with benefits authorized by the Immigration and Nationality Act.

The Immigration and Naturalization Service has been playing "catchup ball" for many years. The lack of appreciation for the mounting obligations being placed on the Service year after year is now most graphically demonstrated by the current illegal alien problem.

This complex problem can only be resolved if Congress devises comprehensive and humane legislation which eliminates the economic magnet which draws illegal aliens to this country. Pending the enactment of such legislation, we must provide INS with the necessary resources to prevent this massive violation of our existing immigration law. The INS authorization level recommended in this bill, in the collective judgment of the Judiciary Committee, represents a reasonable effort to deter the entry of illegal aliens, and I urge my colleagues' support for H.R. 12005.

Mr. McCLORY. Mr. Chairman, before yielding to my colleague, the gentleman from New York (Mr. Fish), I want to concur in the views just expressed, that we do need to take action with regard to the whole subject of illegal aliens.

I would like to call to the attention of the Members a report of the gentleman from New York (Mr. Fish), which was printed and issued recently, which recounts the gentleman's experiences along the Mexican-American border and includes a review of the entire problem of illegal aliens. It is a comprehensive report with regard to the whole subject of illegal aliens. I commend it to the attention of my colleagues. It is very illuminating, very informative, and should be very useful with respect to future legislation in this body.

Mr. Chairman, I commend the gentleman from New York for his work in that behalf.

Mr. Chairman, I now yield 10 minutes to the gentleman from New York (Mr. Fish).

Mr. FISH. Mr. Chairman, I am happy to rise in support of the bill, H.R. 12005, as reported by the House Judiciary Committee.

I wish to commend the committee for increasing the authorization for the Immigration and Naturalization Service to

$320,700,000. Translated in positions, this represents a total of 1,000 additional Border Patrol personnel, including 6 helicopters, 200 new antismuggling investigators, 90 positions in adjudication, and 120 in naturalization. These levels have all been increased from the administration's request.

Ever since I became a member of the Subcommittee on Immigration, Citizenship and International Law, I have heard of shortages of personnel and blacklogs of petitions in the Immigration and Naturalization Service, and now more recently, of the ever-increasing inability of the Service to cope with illegal entries between our ports of entry on the Mexican border. Today, we have the opportunity and the means to address these issues.

Many of the difficulties I attribute to the lack of appreciation by the Department of Justice and OMB to the mission of the Service and the true needs for carrying out this mission.

My impression is that this departmental attitude continues today when we consider the inadequacies of the budget submitted for fiscal year 1979.

Earlier this year, I traveled to the United States/Mexican border to view firsthand the problems that the Immigration Service faces in controlling the flow of illegal aliens across that border. I recently sent a copy of the report of my findings on that trip to each Member of the House and the Senate. The bill we consider today includes authorization for several of the recommendations in my report; specifically, an increase in Border Patrol officers and support personnel, and helicopter surveillance capability; and increased emphasis on the prosecution of smugglers of aliens.

During that trip, I learned firsthand the enormous odds facing the Service in preventing illegal entries, apprehending and prosecuting smugglers of aliens, and providing timely benefits to our immigrants and U.S. citizens.

One needs only to go on a night patrol in a Border Patrol car and observe literally hundreds waiting on the other side of the Rio Grande to cross the river and slip through fences which contain carefully prepared holes, to realize the impossibility of the task assigned to the present complement of the Border Patrol. This bill authorizes 1,000 new positions for the Border Patrol, one-half the number the President, on August 4, 1977, indicated were necessary to properly control the border. Also, the bill authorizes six additional helicopters. Helicopters provide a highly visible and effective deterrent to illegal entry in densely populated areas and over large, remote areas. During fiscal year 1977, in the Chula Vista sector alone, the single helicopter patrol accounted for more than 50,000 apprehension assists and over 19,000 turnbacks.

I had the privilege in the Chula Vista sector of California of flying one of those patrols in a helicopter. I can assure you that it is an immensely valuable tool in the detection of illegal entrants, near the border, before they have had a chance to disappear in a metropolitan center or to set out across country.

Smuggling of aliens into the United States is the most vile aspect of the illegal alien problem. We are talking here of a network of operators both north and south of the border, American citizens as well as aliens, who profit by the smuggling of human bodies into the United States. These are highly sophisticated rings that recruit aliens and transport them from a rendezvous point in the United States to where a job is available.

However, because of the limited investigative staff, much intelligence is simply filed, with no followthrough, and the lack of thorough investigative work is hampering the work of U.S. attorneys to prosecute, particularly those who are into upper echelons of the smuggling racket.

Our bill authorizes 200 new positions for antismuggling investigators.

The bill also authorizes funds for 90 additional adjudication personnel and 120 in naturalization. In these areas, the Service is severely backlogged, and people wait an inordinate length of time for the Service to act on simple petitions. All of us in Congress have received complaints from constituents regarding these delays, and it is appropriate that we make an effort to allow the Immigration and Naturalization Service to perform its service function in a reasonably prompt manner.

The additional personnel by no means will fulfill all the needs of the Immigration and Naturalization Service, but it is a first step. The hundreds of thousands of aliens who each year evade detection by crossing the border between land ports of entry make it increasingly difficult to find solutions to the undocumented alien problem.

There is unanimous agreement that the most reasonable and humane administrative solution to this problem is to prevent the entry at the border, rather than to rely on locating and deporting aliens from the United States after they have been here for some period of time and have developed equities.

Mr. Chairman, the problem of illegal aliens will not be solved by improved border control alone. Many other steps must be taken in concert which will lessen the attraction of illegal entry. One step to create an economic disincentive would be to impose a sanction on employers hiring illegals. In addition, we must recognize that for Mexico, the problem is economic. We should take steps necessary to improve job opportunities for Mexican citizens in that country. Not even these actions address the problem posed by the millions presently in the United States.

What this bill authorizes, however, is a beginning toward a solution on one aspect of the problem—improved border control. The modest increase over the President's budget would undeniably enhance our border control capabilities. Unfortunately, the appropriation process does not include this increase. Unfortunately, we can look forward to another year of frustration on the part of the personnel on the border entrusted to carry out the law—a year of increases to the illegal alien population, exacerbating an already serious problem.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, I was very interested in the gentleman's report with regard to the subject of documented workers. I recall, I think it was in 1965, that I joined other Members of the House in voting to terminate the so-called bracero program which existed prior to that time. Yet it seems to me that the increased flow of illegal aliens came right on the heels of our termination of the bracero program. It seems to me that, since we do need these immigrant workers for certain types of labor in this country, we should be able to develop a lawful system of either documented workers or some sort of temporary permit that would enable Mexican workers to come into our country to be provided with adequate wages, appropriate housing, transportation, and other needs while they are here, during the harvest season, or whatever. After they perform their work they may then return to their country and return to their families and benefit from their earnings here, benefit their families and their country. That, it seems to me, is part of the theme that is set forth in part of the gentleman's report. Would the gentleman comment on his views with regard to some program of documented workers?

Mr. FISH. Mr. Chairman, I would say that the gentleman from Illinois (Mr. McCLORY) has made a very good general statement.

I think that if we do enough in the area—which I hope we do—of an economic disincentive, the penalty against the employer for knowingly hiring an illegal alien, then we must provide him with the labor he needs. It is my idea that a temporary documentary worker is actually a companion to the disincentive program that I advocate, so that the employer will be able to receive the labor needed. As the gentleman from Illinois so ably stated, the alien worker will benefit by a structured admission, where he will be identified, a cardholder, not in an illegal status, but a proud worker receiving the benefits of any other person under the law in this country, and that he will then be able to go back to his country with money in his pocket, which refers to the economic issue in Mexico to which I alluded earlier.

Mr. McCLORY. If the gentleman will yield further, in view of the comprehensive report which the gentleman has prepared—with the assistance of the very able staff from our committee, I might say—does the gentleman intend in the next Congress, if the gentleman returns to the next Congress, to try to implement the recommendations in your report through legislation?

Mr. FISH. I certainly do, yes.

Mr. McCLORY. I thank the gentleman.

Mr. BROOKS. Mr. Chairman, I have no further requests for time.

Mr. McCLORY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the report bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1979".

Sec. 2. There are hereby authorized to be appropriated for the fiscal year ending September 30, 1979, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof), the following amounts:

(1) For General Administration, $28,996,000.

(2) For General Legal Activities, $89,884,000.

(3) For the Antitrust Division, $46,377,000.

(4) For United States Attorneys and Marshals, $196,736,000.

(5) For Fees and Expenses of Witnesses, $20,144,000.

(6) For Support for United States Prisoners, $25,100,000.

(7) For Community Relations, $5,353,000.

(8) For the Federal Bureau of Investigation, $560,250,000, including $13,369,000 for the program of domestic security and terrorism.

(9) For the Immigration and Naturalization Service, $320,722,000, of which $2,052,000 shall be made available for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

(10) For the Federal Prison System, $362,662,000.

PERMANENT SELECT COMMITTEE ON INTELLIGENCE AMENDMENT

The CHAIRMAN. The Clerk will report the amendment by the Permanent Select Committee on Intelligence.

The Clerk read as follows:

Permanent Select Committee on Intelligence Amendment: Page 3, strike out lines 17 and 18 and insert in lieu thereof the following:

$556,750,000, of which not more than $10,902,000 shall be available for (a) the domestic security and terrorism program of the Bureau and (b) coordination by Bureau headquarters of domestic security and terrorism investigations.

Mr. BURLISON of Missouri. Mr. Chairman, on behalf of the House Permanent Select Committee on Intelligence, I ask unanimous consent to withdraw the Permanent Select Committee amendment.

The CHAIRMAN. Without objection, the committee amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: On page 3, after the word "terrorism" in line 18, add "and for providing a written report to a Member of Congress on any investigation conducted based on a threat on the Member's life pursuant to 18 U.S.C. 351.".

Mr. GONZALEZ. Mr. Chairman, at one point during consideration of this legislation by the Committee on the Judiciary I tried to find out if it would be possible to offer this type amendment. All it does is more or less complete the mandate under title 18, United States Code section 351, where the FBI is mandated in the case of threats or actions of violence against a Member of Congress and others to investigate the matter. That is, for the first time following after the assassination of President Kennedy, the FBI is given a mandate to investigate all these kinds of cases.

I had an experience, not once but several times, in which this happened, and it was very disconcerting to find the FBI refused to give a written report after ostensibly the cases had been closed. It was disturbing because of several things that happened in the course of receiving the notification of those threats.

I could not believe a Member of Congress particularly would not receive a written report after the FBI had concluded its investigations.

Mr. McCLORY. Mr. Chairman, if the gentleman will yield, if I understand the intent of the gentleman's amendment, it would be to provide the Member with a written report?

Mr. GONZALEZ. Yes.

Mr. McCLORY. It would not be a lengthy report and not contain raw data but would contain a report of the FBI to the Member and presumably would be relatively brief but presumably informative as far as the Member is concerned, after the case is closed.

Mr. GONZALEZ. That is the intent of this amendment.

Mr. McCLORY. I thank the gentleman. I think it is a very laudable and worthwhile amendment. I am pleased the gentleman has offered it. I for one intend to support it.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to my colleague, the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. Mr. Chairman, I would say to my distinguished friend, the gentleman from San Antonio, Tex., Mr. Gonzalez, that I have read the amendment and have discussed it earlier, and I see no objection to it whatsoever from my point of view.

Mr. GONZALEZ. I thank the distinguished chairman.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Gonzalez).

The amendment was agreed to.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if the distinguished chairman of the Subcommittee on Immigration would enter into a colloquy, I wish to ask about a matter of great concern to me.

The Special Investigations Unit which receives a specific funding authorization in this bill was created to carry out a high-level, professional, vigorous investigation of alleged Nazi war criminals in the United States. Having initially recommended that a special Nazi war crimes unit be established, I expected this unit to hold high promise for success. But I have been troubled about certain aspects of its operations and its effectiveness.

It is my understanding that this unit was to be responsible for any prosecutions, any deportation actions, and any denaturalization actions that took place with respect to Nazi war criminals, and that they would be responsible for making sure that those cases were effectively and diligently conducted.

It is also my understanding that, where necessary, the Special Investigations Unit would be authorized to supplant the local U.S. attorneys where necessary to assure that the war criminal cases were properly conducted; after all, this was a unit that could bring particular expertise and experience to bear on cases with which the U.S. attorney offices in most cases would be unfamiliar.

I am concerned about the issue of "supplantation" because there have been complaints that this unit has not been able or allowed to exercise full—or in some cases any—control over the pending cases.

I wonder if the chairman could tell me whether the Special Investigations Unit does in fact have authority to supplant the U.S. attorneys in certain cases, and whether that authority is being properly put to use and properly recognized by the Justice Department.

Mr. EILBERG. Mr. Chairman, if the gentlewoman would yield, the gentlewoman from New York brings up a topic which is of deep concern to the subcommittee and to the full committee. The creation of the Special Litigation Unit 1 year ago gave us some hope and expectation that cases then existing and those to be discovered through investigation, would be processed rapidly and with efficiency. I regret to tell the gentlewoman that as of Friday of last week the staff of the Special Litigation Unit had not even yet been fully implemented. That is a full year later.

Further, in specific answer to the gentlewoman, the Attorney General unequivocably gave the Special Litigation Unit, headed by Martin Mendelsohn, authority to supplant the U.S. attorneys anywhere throughout the United States in the case of denaturalization proceedings. I regret to tell the gentlewoman that this is not the case, and that there is real question as to whether the unit has any such power today.

Finally, I might add, that I am so concerned about this subject that late last week I wrote a letter to the Attorney General outlining the concerns which I have just expressed. At the proper time that letter will be made a part of this record of this debate.

The letter referred to is as follows:

Committee on the Judiciary,
Washington, D.C., September 21, 1978.

Hon. Griffin B. Bell,
Attorney General, Department of Justice, Washington, D.C.

Dear Mr. Attorney General: This is to express my deep and continuing concern over the Department of Justice's investigation and prosecution of alleged Nazi war criminals residing in the United States.

I have just reviewed the decision in the *Fedorenko* case and quite frankly, I am appalled by the government's handling of this particular case. As you know, we have received the invaluable assistance of the Israeli Government on all of our investigations; and I am extremely concerned that our government's treatment of the Israeli witnesses during the *Fedorenko* trial and the lack of proper witness preparation may jeopardize the future cooperation of that government.

I might add that Israeli officials and interested members of the Jewish community in this country have conveyed to me their strong sense of frustration and disappointment concerning the recent course of events surrounding the litigation of other active cases.

There is a general feeling that the government attorneys assigned to prosecute the various denaturalization and deportation cases are incompetent and ill-prepared. Furthermore, I remain confused as to the function and responsibilities of the Special Litigation Unit, which was established to coordinate the investigation and prosecution of these cases. It was my understanding that this Unit would exercise total authority over the handling of these cases and that appropriate instructions were issued to the various U.S. Attorneys' Offices to clarify that arrangement.

Evidently, these instructions were never implemented and, as a result, the current relationship between the Special Litigation Unit and the various U.S. Attorneys' Offices is unclear at best.

Moreover, I remain deeply disturbed by the inordinate delays which were, and continue to be, encountered in: (1) bringing the pending cases to a just conclusion; (2) instituting new cases; (3) staffing the Special Litigation Unit; and (4) obtaining eyewitness testimony from persons residing in the Soviet Union.

For example, I have just learned that, despite my continuous urgings, no investigators are currently employed by the Special Litigation Unit. Secondly, it is regrettable that Justice Department lawyers have just recently returned from the Soviet Union, when you consider that I originally made such a request in April of 1977.

Such delays are totally unacceptable and are a clear indication that the Department of Justice and the Immigration and Naturalization Service do not appreciate the urgency and importance of the task confronting our government. Unless the Department gives its full support and cooperation to this serious matter, I am convinced that these cases will not be diligently investigated nor will they be properly and expeditiously prosecuted.

I would request you to personally review the entire situation and I am most anxious to receive your comments on how the concerns, which I have expressed herein, can be alleviated.

With kind regards,

Sincerely,

JOSHUA EILBERG,
Chairman.

Ms. HOLTZMAN. I thank the gentleman and I share his concern. I would hope the Attorney General would permit this unit to have the proper authority to conduct these cases effectively so that this matter of Nazi war criminals in the United States can be handled expeditiously and properly.

The CHAIRMAN. Are there further amendments to this section?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 3. No amounts authorized to be appropriated by this Act may be used or obligated to carry out the activities of the Law Enforcement Assistance Administration or the Drug Enforcement Administration.

SEC. 4. During the fiscal year for which appropriations are authorized by this Act, each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the chairman and ranking minority members of the Committee on the Judiciary of the Senate and the House of Representatives a minimum of fifteen days prior to—

(1) the reprogramming of funds in excess of $150,000 or 10 per centum, whichever is less, between the programs within the Offices, Divisions, and Boards, as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(2) the reprogramming of funds in excess of $500,000 or 2 per centum, whichever is less, between programs within the Bureaus, as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(3) any reprogramming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of significant program changes and committing substantive program funding requirements in future years;

(4) the increase of personnel or funds by any means for any project or program for which funds or other resources have been denied or restricted;

(5) the creation of new programs or significant augmentation of existing programs;

(6) reorganization of offices or programs; or

(7) any significant relocation of offices or employees.

PERMANENT SELECT COMMITTEE ON INTELLIGENCE AMENDMENT

The CHAIRMAN. The Clerk will report the amendment by the Permanent Select Committee on Intelligence.

The Clerk read as follows:

Permanent Select Committee on Intelligence Amendment: Page 4, beginning on line 13, strike out "the chairman and ranking minority members of the Committees on the Judiciary" and insert in lieu thereof "the appropriate committees".

Mr. BURLISON of Missouri. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the purpose of this amendment is to make clear that the Permanent Select Committee on Intelligence will be a party to all reprograming actions affecting those FBI programs that fall within the jurisdiction of the Permanent Select Committee on Intelligence; namely, the foreign counterintelligence program and the domestic security and terrorism program. It does not purport to extend the jurisdiction of the committee beyond any intelligence program of the FBI. I do not believe this amendment is controversial and I understand that it is acceptable to the Committee on the Judiciary.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I just want to understand this matter.

As I understand, the reprograming, at least, the reprograming which is authorized by the Permanent Select Committee on Intelligence, is done by the committee. The language in the bill prior to the time of the offering of the committee amendment referred to the chairman of the Committee on the Judiciary and the ranking member of the Committee on the Judiciary.

Now, as I understand it, the reprograming which the gentleman is recommending through the committee amendment would be reprograming which would be authorized by the entire Permanent Select Committee on Intelligence and by the entire Committee on the Judiciary; in other words, it would be committee action of both the Committee on Intelligence and the Committee on the Judiciary; is that correct?

Mr. BURLISON of Missouri. For those items over which the Committee on Intelligence shares jurisdiction with the Committee on the Judiciary, to wit: The foreign counterintelligence program and the domestic security and terrorism program.

Mr. McCLORY. That is right. I understand that, but the import of the amendment is to require committee action of both the Committee on Intelligence and the Committee on the Judiciary with respect to subjects over which both committees have jurisdiction; is that correct?

Mr. BURLISON of Missouri. That is correct.

Mr. McCLORY. In other words, when the gentleman refers to the appropriate committees, he is referring to the Committee on the Judiciary in all cases and the Committee on Intelligence in those cases where the Committee on Intelligence has concurrent jurisdiction; is that correct?

Mr. BURLISON of Missouri. Yes. I would say to the gentleman that it is our understanding that that is generally the practice with respect to reprograming, that the appropriate committee has the jurisdiction to act rather than just the chairman and the ranking minority member.

Mr. McCLORY. If the gentleman will yield further, Mr. Chairman, I do not think I have any disagreement with that. However, with regard to the Committee on the Judiciary, we are talking about a pretty large committee, and I imagine that the reason the language was in the existing law—"the chairman and the ranking minority member"—was to sort of simplify procedures in the Committee on the Judiciary.

However, Mr. Chairman, I have no objection to the committee amendment.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I yield to the gentleman from Texas.

Mr. BROOKS. I thank the gentleman for yielding.

Mr. Chairman, there is no objection to it on my part.

Mr. BURLISON of Missouri. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Are there other amendments to section 4? If not, the Clerk will read.

The Clerk read as follows:

SEC. 5. (a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this Act and annual specific program evaluations of selected subordinate organizations' programs, as determined by priorities set either by the Congress or the Attorney General.

(b) The evaluations will be performed by the appropriate Department level program review staff.

(c) Subordinate Department of Justice organizations and their officials will provide all necessary assistance and cooperation to the Department level program review staff in the conduct of the evaluation, including full access to all information, documentation and cognizant personnel as required.

(d) Completed evaluations shall be made available to the Committees on the Judiciary of the Senate and House of Representatives.

SEC. 6. Sums authorized to be appropriated by this Act for the activities of the Federal Prison System may be used for compilation of statistics relating to prisoners in Federal penal and correctional institutions; assistance to State and local governments to improve their correctional systems; firearms, and ammunition; medals and other awards; payment of rewards; purchase and exchange of farm products and livestocks; construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code.

SEC. 7. Sums authorized to be appropriated by this Act for the activities of the Federal Prison System may be used for planning, acquisition of sites and construction of new facilities and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, such sums to remain available until expended. The labor of United States prisoners may be used for work performed under this authorization.

SEC. 8. Sums authorized to be appropriated by this Act for carrying out the provisions of sections 4351 through 4353 of title 18, United States Code, which established a National Institute of Corrections, are authorized to remain available until expended.

SEC. 9. The Federal Prison Industries, Incorporated, is authorized to make such contracts and commitments as may be necessary in carrying out the program set forth in the budget for fiscal year ending September 30, 1979 for that corporation.

SEC. 10. The Attorney General shall consult with the Secretary of Defense in order to develop a plan to assure that such suitable correctional facilities as the Department of Defense operates which are not in active use shall be made available for operation by the Department of Justice for the confinement of United States prisoners. Such plan shall provide for the return to the management of the Department of Defense of any such correctional facility upon a finding by the Secretary of Defense that such return is necessary to the operation of the Department.

SEC. 11. (a) On or before September 1, 1979, the Attorney General shall submit to the Congress—

(1) a plan to assure the closure of the United States Penitentiary on McNeil Island, Steilacoom, Washington, on or before January 1, 1982; and

(2) a report on the status of the Federal Prison Industries.

(b) The report made under this section shall include a long-range plan for the improvement of meaningful employment training, and the methods which could be undertaken to employ a greater number of United States prisoners in the program. Such report may include recommendations for legislation.

SEC. 12. No part of any funds authorized to be appropriated by this Act may be used for the purpose of transferring any border control activities of the Immigration and Naturalization Service (including patrol and inspections) to any other agency or department of the Federal Government.

SEC. 13. The sums authorized to be appropriated by this Act for the activities of the Immigration and Naturalization Service may be used for payment of expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including advance of cash to aliens for meals and lodging while en route; payment of allowances to aliens, while held in custody under the immigration laws, for work performed; payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies where provision for reimbursement by such State and local law enforcement agencies made; payment or rewards; payment of expenses, not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use, without regard to the general purchase price limitation for the current fiscal year, and hire of, passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition; refunds of maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payments of fines and passage money; operation, maintenance remodeling, and repair of buildings and the purchase of equipment incident thereto; acquisition of land as sites for enforcement fence and construction incident to such fence; benefits in accordance with those provided under sections 911 (9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9)-(11) and 22 U.S.C. 1157) under regulations prescribed by the Secretary of State; research related to immigration enforcement; payment of interpreters and translators who are not citizens of the United States; and distribution of citizenship textbooks to aliens without cost to such aliens.

SEC. 14. (a) Sums authorized to be appropriated by this Act for the activities of the Federal Bureau of Investigation may be used for expenses necessary for the detection and prosecution of crimes against the United States; protection of the person of the President of the United States and the person of the Attorney General; acquisition, collection, classification, and preservation of identification and other records and their exchange with, and for the official use of, the fully authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies; and such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General; including purchase for police-type use, without regard to the general purchase price limitation for the current fiscal year, and hire of, passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition; payment of rewards; benefits in accordance with those provided under section 911 (9) through (11) of the Foreign Service Act of 1946 (22 U.S.C. 1136(9)-(11)) under regulations prescribed by the Secretary of State and up to $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate.

(b) None of the funds authorized to be appropriated by this Act for the Federal Bureau of Investigation shall be used to pay the compensation of any civil service employee.

SEC. 15. Nothwithstanding the second of the paragraphs relating to salaries and expenses of the Federal Bureau of Investigation in Public Law 92-544 (86 Stat. 1115) sums authorized to be appropriated by this Act for such salaries and expenses may be used for the purposes described in such paragraph until but not later than the end of the fiscal year ending September 30, 1979.

SEC. 16. (a) The Attorney General shall take such steps as may be necessary to acquire or to construct, in Los Angeles County, California, a correctional center for Federal detainees. Such correctional center shall be capable of accommodating not less than five hundred such detainees.

(b) There are authorized to be approved such sums as may be necessary for the fiscal year ending September 30, 1979 to carry out the provisions of this section.

SEC. 17. The Attorney General shall undertake a study of the extent to which complaints of violations of Federal criminal laws are not prosecuted and shall make recommendations for improving the percentage of such complaints which are prosecuted by the Department. The study shall also analyze the cases that have not been prosecuted and make recommendations to assure that the decisions not to prosecute are in accordance with national policy. The study and recommendations shall be provided to the Committees on the Judiciary of the Senate and House of Representatives not later than March 31, 1979.

SEC. 18. In addition to any other sums authorized by this Act to be appropriated for the activities of the Federal Prison System, there are authorized to be appropriated $1,000,000 to bring the facilities of the Federal Prison System into compliance with fire safety standards of the localities in which such facilities are located. Not later than one hundred and eighty days after the appropriation of sums authorized for this purpose, the Federal Bureau of Prisons shall report to the Congress the extent to which such facilities have complied with such standards. Such report shall describe the purposes for which sums authorized to be appropriated have been or are to be expended.

SEC. 19. Sums authorized to be appropriated by this Act for carrying out the activities of the United States Marshals Service may be used for the purchase of firearms and ammunition.

SEC. 20. There are authorized to be appriated such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

SEC. 21. Sums authorized to be appropriated by this Act for General Legal Activities may be used for miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration or the Associate Attorney General or the Deputy Attorney General; and, expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate.

SEC. 22. The Attorney General is authorized to procure services with sums authorized to be appropriated by this Act, as authorized by section 3109(b) of title 5, United States Code.

SEC. 23. Sums authorized to be appropriated by this Act may be used for the purchase of insurance of motor vehicles operated on official Government business in foreign countries.

SEC. 24. Sums authorized to be appropriated by this Act may be used for (1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at costs not in excess of those authorized by the

Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents, and (2) transportation of those dependents between their places of residence and schools serving the area which those dependents would normally attend school when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

SEC. 25. Sums authorized to be appropriated by this Act which are available for expenses of attendance at meetings are authorized to be expended for such purposes in accordance with regulations prescribed by the Attorney General.

SEC. 26. Sums authorized to be appropriated by this Act may be used for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 27. Sums authorized to be appropriated by this Act for General Administration may be used for the hire of passenger motor vehicles; and, miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration or the Associate Attorney General.

Mr. BROOKS. Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any further amendments?

AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLINS of Texas: Page 14, line 18, add the following new section:

"Sec. 28. No sums authorized to be appropriated by this Act shall be used to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped."

Mr. COLLINS of Texas. Mr. Chairman, today we are deciding on funds for the Department of Justice, to carry out the Department's activities. The heart of these activities, the administration of justice and the interpretation of the laws of our country, will be implemented by these funds. As a result of recent events, a new duty will greatly add to the Department of Justice's responsibilities. This function concerns schoolbusing—forced busing through direct intervention by the Department of Justice rather than through administrative procedures originally handled by the Department of Health, Education, and Welfare.

As most of my colleagues realize, forced busing has proved to have minimal advantages at a great expense. Besides the injustice of busing any child from his neighborhood school, it does not make sound economic sense for a country trying to conserve energy to bus. We use millions of gallons of fuel daily to bus students across town. Yet, after 12 years, the quality of education has consistently declined, racial polarity is more pronounced, and qualified teachers have defected to private schools.

Last year, a provision was enacted into law in the Labor-HEW appropriations bill which precluded HEW from taking administrative action against school districts which refused to bus their students. The Biden-Eagleton amendment also passed the House on June 13, 1978, as a provision in the Labor-HEW Appropriations for 1979. Although HEW has been relieved of its responsibility for bringing busing suits to court, the power to enforce busing has now been effectively transferred to the Department of Justice. HEW's approach is now to turn over the cases where they believe that busing is required to the Department of Justice to seek busing by means of court order. This fact is clearly evidenced by what is now happening in Marion County, Fla.

In the Florida case, HEW attempted to get the school district to institute a voluntary busing plan, but negotiations between HEW and the school district reached an impasse. When the school district refused to submit a voluntary busing plan after a 10-day period, the matter was referred to the Justice Department which in turn filed suit against the school district. Most recently, a hearing was held in the U.S. district court on July 12, 1978, but a decision has not yet been reached.

As evidenced by the Florida case, the Biden-Eagleton amendment does not prevent the Department of Justice from swiftly taking over court ordered busing. HEW simply turns the cases over to the Justice Department, and the Biden-Eagleton amendment has no effect in eliminating the Government's power to institute busing requirements.

Today, I am offering an amendment to the Department of Justice Authorization Act for fiscal year 1979 which will prevent funds from being authorized for the Department of Justice to bring suit against any school district to require the transportation of any student to a school other than the school which is nearest to the student's home. My amendment will not effect those who are bused as a result of being physically or mentally handicapped.

I recently completed a study on forced busing and the changes which have occurred between the periods of the school years 1970–71 and 1977–78. Nine major metropolitan areas were polled by contacting the director of pupil transportation for the respective school board. Requests for information included: first, number of students bused versus the total student population; second, numbers of fleet miles traveled; third, total fleet gallons consumed; fourth, numbers of buses; and fifth, average daily student mileage.

The survey showed that busing for desegregation has increased 96.9 percent since 1970 and now accounts for approximately 63 percent of all fuel used in transporting public school children. This is a dramatic discovery in light of HEW's U.S. Civil Rights Commission's claims that busing for desegregation does not constitute more than 1 to 3 percent of all busing. The increased level of busing is readily indicated by the fact that the nine polled cities have purchased 2,639 buses since 1970 or an average of 293 per city.

My analysis showed that busing patterns vary widely across the country and that some areas realize better equipment usage than others. For example, Los Angeles operates one bus for every 36 students transported while Shelby County, Tenn., transported 154 students for each bus owned.

The average student bused travels 144.4 miles per year, but many of the school district transportation directors we spoke to admitted that students are often sent 40 miles per day to schools participating in cross-city, cross-county busing plans. I found it significant that in these desegregation plans the average fuel expenditure was $305,514 per city, with Boston spending the greatest amount at $448,000 for bus fuel.

Furthermore, approximately 80 percent of the school buses currently in use are less efficient gasoline users. Only the very newest programs have the more efficient diesel equipment.

I have included a table for your reference that details the number and percent of students bused in respect to the total enrollment, the percentage increases in numbers of students transported, the average yearly miles a student is bused, the percent of fuels used for desegregation plan busing, and the percent change in the number of buses since 1970.

	Number of students bused			Average yearly fleet miles per student bused	Percent of fuel used in desegregation plan	Percent change in number of buses
	1978	Percent of all students	Percent change since 1970			
Boston, Mass	38,000	54.2	100.0	156.9	100.0	100.0
Charlotte, N.C	45,915	58.1	108.0	138.1	54.8	123.9
Chicago, Ill	15,000	3.2	114.0	340 0	6.2	142.9
Fort Worth, Tex	30,000	42.9	566.0	162.7	77.9	600.0
Los Angeles, Calif	50,000	8.6	42.0	172.0	29.4	84.0
Louisville, Ky	74,000	52.9	100.0	130.9	100.0	9.0
Memphis, Tenn	29,378	25.6	100.0	101.1	100.0	50.0
Mobile, Ala	30,000	44.8	114.0	66.0	100.0	114.0
Shelby County, Tenn	20,700	90.0	29.0	31.7	[3] 20.0	(25.0)
Average	36,999	42.3	[1] 96.9	[2] 144.4	63.2	[1] 77.6

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[1] Adjusted for Fort Worth figures.

[2] This number may actually be much higher; where a 2-mi rule is in effect a student will travel 4 mi a day times 180 d or 720 mi in a school year.

[3] Estimate.

Nationally, I found that although student population in public schools has increased since 1973 by only 0.95 percent, the number of school buses used has increased by 39.9 percent since 1973. The detrimental effects of court ordered busing on the school districts involved was well-expressed by the Director of Pupil Transportation in Charlotte, where some children in Charlotte travel up to 80 miles a day. He noted that:

> A particular child may be forced by court order to travel 40 miles to school and 40 miles back home. The children are usually tired by the time they get to school; and by the time they get back home after 40 more miles, it is unreasonable to think they could effectively approach their homework assignments.

Thirty-five to forty percent of the locally transported children reside in rural areas and are regularly transported into metropolitan Charlotte schools for racial balance reasons.

My amendment will insure that the bureaucracy will no longer be able to play games with this crucial issue by passing it from one agency to another. My amendment will prevent the Justice Department from going to court and asking for involuntary busing.

My amendment will not prevent the Department of Justice from participating in court procedures on this issue. They simply will not be able to ask that a court implement busing requirements. The Department of Justice will be able to ask for any other remedy for integration purposes that they want or the court wishes to impose.

My amendment will not affect court ordered busing plans which are already in effect. The amendment is applicable prospectively, but not retrospectively.

My amendment will not affect the power of the courts to issue busing orders. The only effect of my amendment is to prevent the Justice Department from bringing action against a community. A private individual or group of individuals could still bring suit and the court could order busing as a remedy to racial imbalance.

My amendment will not affect the handicapped, the disabled, the gifted, or the talented child. These groups could still receive transportation at government expense.

My amendment will insure that the Department of Justice is not authorized responsibilities that HEW has been precluded from administering.

The CHAIRMAN. The time of the gentleman from Texas (Mr. COLLINS) has expired.

(At the request of Mr. MOTTL, and by unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 5 additional minutes.)

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Chairman, I appreciate the gentleman from Texas yielding. I would like to associate myself with the remarks of the gentleman from Texas and endorse them enthusiastically.

It was my amendment that was passed which tied the hands of HEW when they tried to circumvent the Byrd amendment. It prohibited HEW from using their funds to intimidate local school districts into forced busing programs. We were fortunate at that time to pass the HEW amendment. It passed in the Senate and was sponsored by Senator EAGLETON and Senator BIDEN at that time.

The NAACP has taken that language to court and tried to have ruled unconstitutional. Judge Sirica just ruled recently that the language is constitutional.

Now we should tie the hands of the Justice Department with this amendment so they cannot use any funds to force local school districts into a mandatory busing program. As the gentleman from Texas related, this has no effect on court-ordered busing. That is why I invite my colleagues to sign discharge petition No. 1, so we can have a constitutional amendment to prohibit the courts in their jurisdiction to impose forced busing on any school district. We could then uphold the concept of the neighborhood school.

I think it is important for three reasons to support the gentleman's amendment. First of all, we have seen that forced busing or mandatory busing, or whatever language we want to use, has led to white flight from the central cities to the suburban communities: thereby cheating the central cities from having the population of whites, as well as blacks.

It has also caused the use of an exorbitant amount of money. In the city of Cleveland today there are school children that are not attending classes because of court-ordered imposition of busing. It is unfortunate that school children today cannot attend classes because of the imposition of forced busing, whether it be bureaucratically imposed, Justice Department imposed, or court ordered.

Also, as the gentleman alluded to, we waste vast sums of gasoline and the President has advocated that we have a natural energy conservation policy; yet we only get 5 miles to the gallon of gasoline on these schoolbuses. There is exorbitant waste of oil by court-ordered, Justice Department or HEW forced busing programs.

So I strongly urge my colleagues to support the gentleman's amendment.

Mr. COLLINS of Texas. Mr. Chairman, I want to thank the gentleman from Ohio, who has taken such progressive leadership for the cause of better education.

Mr. RODINO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I call to the attention of the House that while the gentleman from Texas is well intentioned, his amendment is ill-advised.

It seems to me that this amendment would prohibit the Department of Justice from seeking appropriate remedies in Federal court suits concerning unconstitutional school segregations, and I believe that we would find it would be impossible to determine whether or not unconstitutional acts actually did occur.

The Department of Justice has been and is the only part of the executive branch which can go to Federal court and, after having secured a judicial determination that a school district or its officials discriminated against black or minority students, seek to acquire implementation of a plan that will practically and effectively remedy the proven constitutional violation. In this manner the Department seeks to insure the protection of important Federal rights under authority explicitly granted to the Department of Justice by Congress, most notably in title IV of the 1964 Civil Rights Act, 42 U.S.C. 2000c, and in the Equal Educational Opportunities Act, 20 U.S.C. 1706.

The proposed amendment would interfere with the exercise of the responsibility of the Department of Justice specifically conferred upon it by the Congress.

The gentleman from Texas also made some reference on the floor and again in a letter which he circulated wherein he states that—and I quote:

> Although HEW has been relieved of its responsibilities for bringing busing suits to court, the power to enforce busing has now been transferred to the Department of Justice.

The gentleman from Texas is incorrect, and I would like to bring this to his attention. HEW has never had the responsibility for school desegregation litigation in Federal court.

Moreover, the sole enforcement authority of the Department of Justice with respect to school desegregation is to sue in Federal court under one of the several congressional acts forbidding unlawful racial discrimination in schools. Thus the Justice Department has no authority to require busing or any other means of correcting unconstitutional segregation. Rather, its responsibility has been and is to present the relevant facts and on occasion to suggest remedies to the appropriate Federal court, leaving to the judiciary the determination as to whether the facts show a constitutional violation and, if so, what remedy is appropriate.

Mr. Chairman, for these reasons, I believe this amendment should be overwhelmingly defeated. We have gone through this time and time again, and I believe that we must recognize that Congress acted some time ago in authorizing the Justice Department to act as the agent to bring cases to the court involving matters of segregation, and that is all we are concerned with here.

Mr. Chairman, to do what the gentleman is asking us to do is merely to tie the hands of the Department of Justice and prohibit its fulfilling its very important role and responsibility.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield to me?

Mr. RODINO. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I certainly agree with what the distinguished chairman of the Committee on the Judiciary has said, and I think he said it very well.

If any Member does not like busing, then there are certainly ways of handling the matter other than by this amendment.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. RODINO) has expired.

(On request of Mr. EDWARDS of California, and by unanimous consent, Mr. RODINO was allowed to proceed for 2 additional minutes.)

Mr. EDWARDS of California. Mr. Chairman, if the gentleman will yield further, I would also agree with the gentleman from New Jersey (Mr. RODINO) that this amendment smacks of unconstitutionality. Article II of the Constitution makes it very clear that the Executive Department, the President and his officials, must faithfully execute the laws, and certainly the Supreme Court and this Congress has said that illegal discrimination in education is against the law and violates a very sacred constitutional right.

So, I certainly hope that this amendment is defeated. This is the wrong way to do what the gentleman from Texas has in mind. It is the wrong time. It is certainly a very anticivil rights amendment and certainly does not belong in this bill.

I would urge a "no" vote.

I requested that the U.S. Commission on Civil Rights review this amendment and provide its views on this important matter. Those comments, with which I am in agreement, are as follows:

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, D.C., September 26, 1978.

HON. DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights, House Annex, Washington, D.C.

DEAR CHAIRMAN EDWARDS: This is to respond to your request for the Commission's views on a proposed amendment to H.R. 12005, the Department of Justice Appropriation Authorization for Fiscal Year 1979. The Amendment, sponsored by Representative Collins, provides that "No sums authorized to be appropriated by this Act shall be used to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped." The Commission strenuously opposes enactment of this amendment on the grounds that it would further retard public school desegregation and that it would prevent the Federal government from fulfilling its Constitutional obligation not to support racially discriminatory activities.

Almost a quarter-of-a-century ago, the United States Supreme Court overturned the odious doctrine of "separate but equal" and held in *Brown* v. *Board of Education* that State-sanctioned school segregation violates the equal protection clause of the 14th Amendment. Nearly a decade ago, the Supreme Court declared that illegal school segregation must be eliminated "root and branch" and must be eliminated "now" [*Green* v. *County School Board of New Kent County* (1968) and *Alexander* v. *Holmes County Board of Education* (1969)]. Nevertheless, many of our nation's children continue to attend unconstitutionally segregated public schools and thereby continue to be deprived of an "equal educational opportunity."

Although education is primarily a concern of the States, Congress has assumed certain responsibilities for the conduct of public education through enactment of a variety of programs which provide financial assistance to State and local systems of education. Among these assumed responsibilities, the obligation to eliminate racial discriminaton in Federally-assisted educational programs is paramount. In the case of *Bolling v. Sharpe* (347 U.S. 497), decided the same day as *Brown v. Board of Education*, the Supreme Court held that the Fifth Amendment to the Constitution prohibits the Federal government from maintaining racially segregated public schools in the same manner that the 14th Amendment bars the States from doing so.

To implement the Constitutional prohibition against Federal support of racially discriminatory activities, Congress enacted Title VI as part of the Civil Rights Act of 1964. Section 601 of the Act provides:

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Section 602 of the Act directs all Federal departments and agencies which extend Federal financial assistance to "effectuate the provisions of section 601" and authorizes such agencies to issue appropriate "rules, regulations or orders." Section 602 further provides that "Compliance with any requirement adopted pursuant to this section may be effected by (1) termination of" the government funding "or (2) by any other means authorized by law."

The relationship between Title VI and the independent Constitutional mandate against Federal support of racially discriminatory programs was succinctly stated by a Federal District Court in 1973. The court stated:

"Title VI implements fundamental Fifth and Fourteenth Amendment prohibitions on government support to institutions which practice racial or national origin discrimination . . . and recent cases indicate that both Title VI and the Fifth Amendment impose upon federal officials not only the duty to refrain from participating in discriminatory practices, but the affirmative duty to police the operations of and prevent such discrimination by [government]." (*NAACP, Western Region* v. *Brennan*, 360 F. Supp. 1006, 1012 (D.D.C. 1973).

The Federal government has an affirmative Constitutional obligation to eliminate segregation in schools receiving Federal financial support. Title VI of the Civil Rights Act of 1964 statutorily reaffirms this obligation and authorizes Federal departments and agencies to take the administrative and judicial actions necessary to effectuate their Constitutional responsibilities.

The practical and Constitutional significance of the proposed amendment must be assessed in light of existing statutes which restrict the Federal government's ability to eliminate racial segregation in Federally-supported public schools. As part of the Equal Educational Opportunities Act of 1974, Congress adopted the Esch Amendment which restricts Federal efforts to eliminate school segregation. The Esch Amendment provides:

"No court, department, or agency of the United States shall . . . order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student." 20 U.S.C. 1714(a) (Supp. V 1975).

The sweep and impact of the Esch Amendment, however, was narrowed by a subsequent provision of the Act which states:

". . . the provisions of this Chapter are not intended to modify or diminish the authority of the courts of the United States to enforce fairly the fifth and fourteenth amendments to the Constitution of the United States." 20 U.S.C. 1701(b) (Supp. V 1975)

Last year, Congress acted to tighten its restriction on Federal school desegregation activity. As part of the legislation appropriating funds for the Department of Health, Education, and Welfare, Congress adopted the Eagleton-Biden Amendment which provides:

"None of the funds contained in this Act [HEW's appropriation] shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, in order to comply with Title VI of the Civil Rights Act of 1964. For the purposes of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools." Pub. L. No. 95–205, 91 Stat. 1460 (Dec. 9, 1977)

A suit challenging the constitutionality of the Esch and Eagleton-Biden amendments was brought in the United States District Court for the District of Columbia on behalf of a group of public school students who attended schools receiving Federal support. The plaintiffs, represented by leading civil rights advocates alleged that the Esch and Eagleton-Biden provisions were unconstitutional on their face as the amendments were "desegregation-inhibiting measures" that will inevitably bring the Federal Government into a position of having to support segregated educational systems.

However, Judge John J. Sirica held that neither Esch nor the Eagleton-Biden amendment was unconstitutional on its face. In reaching this conclusion, the court noted that HEW could secure compliance with Title VI by recipients of Federal funds through the alternative avenues of 1) administrative termination of Federal funding or 2) referral of the matter to the Department of Justice for litigation. Although the Esch and Eagleton-Biden amendments effectively prevent the Department of Health, Education, and Welfare from utilizing the administrative mechanism of fund termination to achieve compliance with Title VI, the Court ruled that a second enforcement alternative was still available to HEW:

"But the fact remains that the Esch and Eagleton-Biden amendments leave untouched the litigation enforcement option that permits the Civil Rights Division of the Department of Justice, upon referral of a case from HEW, to pursue legal action and obtain the full measure of appropriate relief, including student transportation if warranted, against the offending recipients." *Brown* v. *Califano*, D.C. D.C., C.A. No. 75–1068, July 17, 1978, p. 9.

The last paragraph of the Court's opinion in the *Brown* v. *Califano* case underscores the Constitutional significance of the Collins amendment to the Department of Justice Authorization bill. Judge Sirica stated:

"Should further proceedings in this case reveal that the litigation option left undisturbed by these provisions [Esch and Eagleton-Biden Amendments] cannot, *or will not*, be made into a workable instrument for effecting equal educational opportunities, the Court will entertain a renewed challenge by plaintiffs on an *as applied* basis." At pp. 12–13.

Enactment of the Collins Amendment would eliminate as a practical alternative the litigation option for enforcement of Title VI. Under the amendment, the Department of Justice could not seek judicial relief involving student transportation beyond the school nearest a student's home. The Federal Courts have, in many cases, found that student transportation beyond the closest school is necessary to effectuate a transition from a racially-segregated to a unitary system of public education.

By prohibiting the Department of Justice from seeking those remedies necessary to eliminate unconstitutional school segregation, the Collins amendment would deprive the Federal government of the only means it currently possesses for ensuring nondiscrimination in Federally-supported public schools. Such a result would not only constitute a repudiation of the policy set forth in Title VI of the Civil Rights Act of 1964, but more importantly, it would represent Congressional defiance of the Constitution.

I trust that the above information is responsive to your request. If you have any questions or desire further information, please have a member of your staff contact Lucy Edwards or Jim Lyons at 254–6626.

Sincerely,

Louis Nunez,
Acting Staff Director.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, I am also concerned about this amendment.

I realize the intent is to discourage school busing. That is a very highly controversial subject, and there may be very strong arguments that can be made against busing of schoolchildren, particularly to require busing in order to effect integration.

On the other hand, it seems to me that, as the gentleman from California stated, the Attorney General has a constitutional responsibility. As I understand it, there may be a court order, for instance, that would require school busing, or some other mandate, which the Attorney General would have to comply with. It would seem to me that we could not by legislation negate the constitutional responsibility of the Attorney General.

Do I understand the gentleman's position accurately on this? Have I stated the gentleman's position accurately?

Mr. RODINO. The gentleman has stated it correctly, yes.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. Rodino) has expired.

(On request of Mr. McClory and by unanimous consent, Mr. Rodino was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. If the gentleman will yield further, I think that placing the amendment in this legislation, at this time, by imposing this kind of restriction on the Attorney General would be unwise. I do not want to get into all of the other ramifications with regard to school busing, and I do not think we should have to on this bill, but with regard to impinging on the authority and prerogatives of the Attorney General, it seems to me that it is unwise in this authorization legislation to adopt this kind of an amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Chairman, it also seems to me that the amendment is defectively drafted, because it does not take into account the actual conditions in many school districts.

For example, in the Akron, Ohio, school district, the school system has launched a program of creating magnet schools that draw children from all over the district, because of their exceptional curriculum, including special programs that are not available in all schools in the district. This is one of the ways the district has tried to promote voluntary desegregation. The school system has also developed the "Akron plan," which involves closing certain schools that are highly segregated and reassigning pupils to less segregated schools. The total effect is a less segregated system. This is a voluntary action by the school district, yet it does not result in the students always attending the school nearest to their homes.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. Rodino) has again expired.

(On request of Mr. Seiberling and by unanimous consent, Mr. Rodino was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. If the gentleman will yield further, if the Attorney General should somehow become involved in litigation as to whether or not this is a constitutional plan under the various Supreme Court decisions, this would deny him the opportunity to counsel and advise and participate as a friend of the court, or otherwise; and, it seems to me, the amendment is a very unwise and unrealistic approach to a practical problem.

Mr. Chairman, I am the author in the House of a bill, which Senator Glenn first introduced in the Senate, to provide additional funds for magnet schools, and I am very happy to note that the distinguished gentleman from Kentucky (Mr. Perkins), when we had the Elementary and Secondary Education Act amendments before the House earlier this year, agreed to an amendment I offered that provides for additional funding to implement this concept. He assured me just last week that the conferees, he believes, are going to go along with that.

Are we going to tie the hands of the Attorney General so that he cannot try to help such programs and thereby help school districts avoid court-ordered busing?

Attending the nearest school is not always the best way to solve the problem. In many cases if the students have to be transported to the nearest school, the magnet plan and the Akron plan could not be implemented, and yet they are voluntary and provide to solve a very sticky problem.

I think we ought to allow the Attorney General the authority to counsel in a very realistic way to get us out of the predicament we are in. I do not see any other practical way out of the problem.

I oppose the amendment.

Mr. RODINO. The gentleman has made an excellent statement.

I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Collins).

The question was taken; and on a division (demanded by Mr. Mottl) there were—ayes 11, noes 16.

Mr. MOTTL. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 836]

Addabbo
Ambro
Ammerman
Anderson, Ill.
Archer
Armstrong
Beard, R.I.
Blanchard
Brademas
Burke, Calif.
Burton, John
Burton, Phillip
Caputo
Cederberg
Chappell
Cochran
Cohen
Conyers
Cornwell
Crane
Dellums
Dent
Diggs
Dingell
Downey
Fithian
Flowers
Garcia
Gaydos
Giaimo
Gibbons
Hansen
Harkin
Harrington
Harsha
Heckler
Ireland
Johnson, Colo.
Kemp
Krueger
Leggett
Lent
Lloyd, Calif.
Lundine
McCloskey
McDonald
McKinney
Mathis
Mazzoli
Meyner
Milford
Miller, Calif.
Mitchell, Md.
Mollohan
Moss
Murphy, N.Y.
Ottinger
Pepper
Pike
Pressler
Pursell
Railsback
Reuss
Roncalio
Runnels
Santini
Sarasin
Satterfield
Scheuer
Shipley
Sikes
Slack
Smith, Nebr.
Stark
Teague
Thone
Tucker
Udall
Waxman
Wiggins
Wilson, C. H.
Wydler
Young, Alaska
Young, Tex.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. White, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, H.R. 12005 and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 348 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. Mottl) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 235, noes 158, not voting 39, as follows:

[Roll No. 837]

AYES—235

Abdnor
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bevill
Biaggi
Blanchard
Boggs
Boland
Bonior
Bowen
Breaux
Brinkley
Broomfield
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Coleman
Collins, Tex.
Corcoran
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Delaney
Derwinski
Devine
Dickinson
Dingell
Dornan
Downey
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Eilberg
English
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fithian
Flippo
Flood
Florio
Flynt
Ford, Mich.
Fountain
Frey
Fuqua
Gammage
Gaydos
Gephardt
Gibbons
Ginn
Glickman
Goldwater
Goodling
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hubbard
Huckaby
Hyde
Ichord
Jacobs
Jenkins
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Keys
Kindness
Krebs
Lagomarsino
Latta
Le Fante
Leach
Lederer
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Luken
McDade
McEwen
McKay
Madigan
Mahon
Marlenee
Marriott
Martin
Mathis
Mattox
Michel
Mikulski
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
O'Brien
Oakar
Pease
Pettis
Pickle
Poage
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rooney
Rousselot
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sharp
Shuster
Sisk
Skelton
Skubitz
Snyder
Spellman
Spence
Stangeland
Stanton
Steed
Stockman
Stratton
Stump
Symms
Taylor
Traxler
Treen
Trible
Vander Jagt
Vanik
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wright
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—158

Addabbo
Akaka
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bingham
Blouin
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Burton, Phillip
Carney
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Danielson
Davis
Dellums
Dent
Derrick
Dicks
Dodd
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Erlenborn
Ertel
Evans, Colo.
Fascell
Fenwick
Findley
Fish
Fisher
Foley
Ford, Tenn.
Forsythe
Fowler
Fraser
Frenzel
Gilman
Gonzalez
Gore
Green
Harris
Hawkins
Holtzman
Horton
Howard
Hughes
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jordan
Kastenmeier
Kildee
Kostmayer
LaFalce
Leggett
Lehman
Long, Md.
Lundine
McClory
McCloskey
McCormack
McFall
McHugh
Maguire
Mann
Markey
Marks
Mazzoli
Meeds
Metcalfe
Meyner
Mikva
Mineta
Mitchell, Md.
Moffett
Moorhead, Pa.
Murphy, Ill.
Nix
Nolan
Nowak
Oberstar
Obey
Panetta
Patten
Patterson
Pattison
Perkins
Pike
Pressler
Preyer
Quie
Railsback
Rangel
Reuss
Richmond
Rodino
Rogers
Roncalio
Rose
Rosenthal
Rostenkowski
Roybal
Scheuer
Schroeder
Seiberling
Simon
Smith, Iowa
Solarz
St Germain
Staggers
Stark
Steers
Steiger
Stokes
Studds
Thompson
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vento
Volkmer
Waxman
Weaver
Weiss
Whalen
Whitley
Wiggins
Wirth
Yates

NOT VOTING—39

Ammerman
Anderson, Ill.
Armstrong
Burke, Calif.
Burton, John
Caputo
Cochran
Cohen
Crane
Diggs
Flowers
Garcia
Giaimo
Hansen
Harkin
Harrington
Ireland
Kemp
Krueger
McDonald
McKinney
Miller, Calif.
Mollohan
Moss
Murphy, N.Y.
Ottinger
Pepper
Sarasin
Shipley
Sikes
Slack
Smith, Nebr.
Teague
Thone
Thornton
Wilson, C. H.
Wydler
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Sikes for, with Mr. Garcia against.

Mr. Teague for, with Mr. Mollohan against.

Mr. McDonald for, with Mrs. Burke of California against.

Mr. Crane for, with Mr. Pepper against.

Mr. Hansen for, with Mr. Ottinger against.

Mr. Young of Alaska for, with Mr. Miller of California against.

Mr. BEARD of Rhode Island changed his vote from "aye" to "no."

Mr. EVANS of Georgia and Mr. D'AMOURS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise so that we can go into the continuing appropriations resolution which, as I understand, is scheduled for immediately after we rise.

Mr. Chairman, I hope that we will come back to this authorization bill at a later date, but not tonight.

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield, we were told that the conference report on agricultural appropriations would come up first after the Committee rose.

I did not want to object, but I did want some understanding about our conference report.

Mr. BROOKS. Mr. Chairman, I will advise the gentleman that I am not going to set that schedule. I am just a very small part of this. The schedule has been changed around, and I do not know when we are going to finish H.R. 12005, much less what is going to be taking place later tonight or tomorrow. We will probably be back on that favorite of all legislation, H.R. 1.

Mr. WHITTEN. If the gentleman will yield further, Mr. Chairman, the gentleman gave me the answer which I expected. By the same token, I call attention to the situation we have with respect to the conference report on agricultural appropriations.

Mr. O'NEILL. If the gentleman will yield, Mr. Chairman, we intend to go into the continuing resolution and then go into the conference report on the agricultural appropriations, after which we will be through for the evening.

Mr. WHITTEN. Mr. Chairman, I thank the Speaker very much. We are glad to cooperate.

Mr. O'NEILL. We certainly appreciate cooperation from the Members of the House.

Mr. BROOKS. Mr. Chairman, I renew my motion that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. WHITE, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12005) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice, and for other purposes, had come to no resolution thereon.

CONTINUING APPROPRIATIONS FOR 1979

Mr. MAHON. Mr. Speaker, pursuant to the order of the House of Thursday, September 21, 1978, I call up the joint resolution (H.J. Res. 1139) making continuing appropriations for the fiscal year 1979, and for other purposes, and ask for its immediate consideration in the House as in the Committee of the Whole.

The Clerk read the joint resolution as follows:

H.J. RES. 1139

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1979, namely:

SEC. 101. (a) (1) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1978 and for which appropriations, funds, or other authority would be available in the following appropriation Acts for the fiscal year 1979:

Departments of Labor, and Health, Education, and Welfare, and Related Agencies Appropriation Act: *Provided,* That notwithstanding any other provision of this joint resolution, none of the funds provided for in this subparagraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy; and

Department of Defense Appropriation Act

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act: *Provided*, That no provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act for 1978, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 1978, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1978, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority.

(4) Whenever an Act listed in this subsection has been passed by only one House as of October 1, 1978, or where an item is included in only one version of an Act as passed by both Houses as of October 1, 1978, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1978.

(b) Such amounts as may be necessary for continuing the following activities, not otherwise provided for, which were conducted in fiscal year 1978, but at a rate for operations not in excess of the current rate:

activities under the Community Services Act;

activities under the Environmental Education Act;

activities under the Educational Television Broadcasting Facilities and Telecommunications Demonstration Act;

activities under the Social Security Act;

activities under the Older Americans Act including provision of cash or commodities;

activities under the Rehabilitation Act;

activities under the International Health Research Act;

activities under the Development Disabilities Services and Facilities Construction Act;

activities under the Public Health Service Act;

activities under the Lead-based Paint Poisoning Prevention Act;

activities under the Community Mental Health Center Act;

activities under the Alcohol and Drug Abuse Education Act;

activities under the Child Abuse Prevention and Treatment Act;

activities under the Runaway Youth Act;

activities under the Comprehensive Employment and Training Act, except that such activities shall be continued at a rate for operations not in excess of the lower of the current rate or the rate authorized by H.R. 12452 as passed the House of Representatives;

activities under the Domestic Volunteer Services Act;

activities under the Public Broadcasting Financing Act;

activities for support of Home Health Services under Public Law 94–63; and

activities under the Drug Abuse Office and Treatment Act.

(c) Such amounts as may be necessary to permit payments and assistance mandated by law for the following activities which were conducted in fiscal year 1978—

activities under title XIX of the Social Security Act;

activities under sections 217(g), 229(b), 1168, and 1844 of the Social Security Act and sections 103(c) and 111(d) of the Social Security Amendments of 1965;

activities under title IV–B of the Higher Education Act;

activities under sections 228(g) and 1131 (b)(2) of the Social Security Act;

activities under title IV of the Federal Mine Safety and Health Act of 1977;

activities under titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act; and

activities under the Dependents' Medical Care Act (10 U.S.C., ch. 55) and section 22 of the Public Health Service Act.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1978, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) March 31, 1979, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(d)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1978.

SEC. 107. Any appropriation for the fiscal year 1979 required to be apportioned pursuant to section 665 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of sections 665 of title 31, United States Code.

SEC. 108. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

With the following committee amendment:

Committee amendment: On page 5, line 7, after the word "Act;" insert: , except that such activities shall be continued at a rate for operations not in excess of the lower of the current rate or the rate authorized by H.R. 12452 as passed the House of Representatives

AMENDMENT OFFERED BY MR. MAHON TO THE COMMITTEE AMENDMENT

Mr. MAHON. Mr. Speaker, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. MAHON to the committee amendment: On page 5, lines 9 and 10 delete "H.R. 12452" and insert "S. 2570"

Mr. MAHON. Mr. Speaker, I move to strike the last word.

When the Committee on Appropriations reported this joint resolution, there was pending in the House the bill, H.R. 12452, the Comprehensive Employment and Training Act Amendments of 1978. Subsequently passage of the House bill was vacated, and S. 2570, a similar Senate bill, was passed in lieu thereof after being amended to contain the language of the House bill as passed. Therefore, this amendment simply conforms with the later action of the House and is just a correction of the citation.

Mr. Speaker, I ask for the adoption of the amendment.

The SPEAKER. The question is on the amendment offered by the gentleman from Texas (Mr. MAHON) to the committee amendment.

The amendment to the committee amendment was agreed to.

The committee amendment, as amended, was agreed to.

Mr. MAHON. Mr. Speaker, I move to strike the last word.

Last Thursday, the Committee on Appropriations reported by voice vote House Joint Resolution 1139, a joint resolution making continuing appropriations for fiscal year 1979 which begins this coming weekend, specifically on October 1.

CONTENTS OF THE RESOLUTION

While a number of the regular annual appropriation bills have not yet been sent to the President this continuing resolution makes provision until March 31, 1979, only for those items for which the committee knew last week that appropriations would not be in place by the first day of the new fiscal year.

Specifically, the resolution before the House at this time has three principal operative features. It provides continuing appropriations for:

First. Items in the Labor-HEW bill;

Second. Items in the Defense bill; and

Third. Items which were not included in the regular Labor-HEW bill due to the lack of additional authorizing legislation.

The Defense appropriation bill passed the House August 9 but progress was suspended in the Senate when the President vetoed the defense authorization bill. With the appearance of a new authorization bill, I am hopeful that the Senate Appropriations Committee will soon report the appropriation bill so we can go to conference and clear the conference report through both bodies before adjournment.

Several months ago—on June 13, to be exact—the House passed the Labor-HEW bill. It was reported by the Senate Appropriations Committee on August 16, but consideration of the bill was not begun by the Senate until yesterday. I am hopeful that we can begin conference meetings this week but in view of the controversy that surrounds the abortion issue and in view of the difficulty we have had in reaching agreements in the past, we have made provision for this bill in the continuing resolution.

These are the two appropriation bills provided for in the continuing resolution presently before the House.

The third category provided for includes a wide range of health, education, and manpower programs which were omitted from the regular Labor-HEW bill because of lack of authorizing legislation at the time that bill was handled. There has now been some progress on some of these authorization bills but there is no realistic alternative at this time other than to provide interim appropriations in this continuing resolution.

We recognize that it may be necessary for the Senate to amend this resolution to provide for certain other departments and agencies if unforeseen problems arise in connection with other appropriation bills.

STATUS OF APPROPRIATION BILLS

Mr. Speaker, here is where we stand at this hour in regard to the 13 regular annual appropriation bills:

Five bills have been sent to the President. Included are Transportation, District of Columbia, military construction, legislative, and HUD-Independent Agencies.

Conference reports on three bills are pending either in the House or in the Senate. This category includes energy and water development, Agriculture, and State-Justice-Commerce.

Three bills—Interior, Treasury-Postal Service, and foreign aid, are in conference and will be the subjects of House-Senate conference meetings during the balance of this week. As I indicated, I am hopeful we can also go to conference on the Labor-HEW bill in the near future.

I would observe, Mr. Speaker, that last year at this time, 11 of the 13 appropriation bills had been sent to the President. While a year ago today the Labor-HEW bill was still in the midst of the abortion controversy, the original conference report had been filed for about 6 weeks. The remaining bill—District of Columbia—was delayed because of the lateness of submission of all the budget ingredients for the District of Columbia.

Last year and the year before the Congress, in my judgment, did an excellent job in operating within the time frame mandated by the Budget Act. And again this year, I think we did an excellent job in the House. The Senate, for a variety of reasons, has not kept pace. One of our most serious problems is the lack of timely authorizations.

The SPEAKER. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. MAHON was allowed to proceed for 1 additional minute.)

RATES UNDER THE RESOLUTION

Mr. MAHON. The mechanics of the resolution are similar to those of the past and are spelled out on page 2 of the report which has been available.

If a particular bill has passed only the House, programs and activities are provided for at the rate of the House bill or the current rate. The Defense bill falls in this category.

If a particular bill has passed both the House and the Senate, programs and activities are continued at the lower of the two rates. It appears the Labor-HEW bill will fall in this category.

The items which were omitted from the Labor-HEW bill because of the lack of further authorizing legislation are provided for at the current rate.

I wish to call special attention to the fact that the rates provided by the continuing resolution are to be interpreted as ceilings, not mandatory spending levels. There is a section in the committee report entitled "Compliance with Resolution" which I commend to the attention of those interested in programs covered by this resolution and to those Government officials responsible for the administration of the programs.

ABORTION LANGUAGE

I also wish to note that on page 2 of the resolution the existing abortion language is continued. I emphasize that it would be continued in the same manner and to the same extent that exists under current law. It would be continued until the matter is resolved in the regular bill. There seems to be no practical alternative on this measure to continuing what the Congress agreed to last year and what is contained in existing law. Any further abortion controversy must be resolved in the regular bill which hopefully will be in conference later this week.

OTHER FEATURES OF THE RESOLUTION

The rest of the provisions of the resolution are standard and have been carried in prior years. Section 102 of the resolution spells out the circumstances under which the continuing authority ceases to exist—when the pertinent bill is enacted or next March 31, whichever first occurs.

Section 103 sets aside the provisions of law applicable to the apportionment of regular appropriations.

The rest of the provisions of the resolution more or less speak for themselves, Mr. Speaker. I think that in view of the fact that the report of the committee is available to the Members, this is about all I need to say at the moment, and I yield back the balance of my time.

Mr. CEDERBERG. Mr. Speaker, I move to strike the last word.

The distinguished chairman of the Committee on Appropriations has already explained the continuing resolution and the need for the continuing resolution. I would only observe that here we are again participating in an exercise that we had hoped we were going to be able to avoid as a result of the Budget Act. But it appears that we are back in the same problem that we have had before.

I would only hope that during the coming session of the Congress some effort would be made to try to expedite these authorization bills. Certainly the Committee on Appropriations in its work and in its deliberations has completed the legislation on time. I recognize there are these problems that do occur, but certainly they ought to be avoided. We moved the fiscal year back to October 1, and hopefully that was to expedite the possibility of allowing the agencies downtown to have their appropriations in a timely fashion so that they could make wise judgments in the expenditures of the funds for their various departments.

But here we are again faced with this very serious problem. I really do not know of any action we can take other than that certainly of approving the continuing resolution. This was the action of the full Committee on Appropriations.

Again, Mr. Speaker, I would just say that I hope very serious consideration would be given some way somehow to avoid this situation, which I think is not in the best interests of trying to carry out the Government's business.

Mr. Speaker, I yield back the balance of my time.

Mr. MICHEL. Mr. Speaker, I move to strike the last word.

First, Mr. Speaker, I want to thank the chairman of the full committee for accepting as he did the amendment having to do with CETA which I had fully intended to offer but which was offered in my absence by the gentleman from Illinois (Mr. O'BRIEN). I think it is an improvement to the continuing resolution, and I am happy that it is incorporated in the continuing resolution.

AMENDMENT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I have an amendment that I would like to offer, and if it is consistent with the rule under which we are proceeding, I would ask at this time to have the Clerk read the amendment which is at the desk.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. MICHEL: On page 2, line 5, immediately before the word "Departments" insert the following: "Department of Defense Appropriation Act and".

On line 22, after the word "pregnancy" strike "; and ' and insert a "." and strike line 23.

Mr. MICHEL. Mr. Speaker, as I indicated in my earlier statement, I was necessarily absent from the committee during consideration of this continuing resolution, and in the full committee the gentleman from Illinois (Mr. O'BRIEN) offered the amendment to the CETA provisions which I had intended to offer. Another amendment which I had hoped to offer at that time had to do with the abortion issue.

We are dealing with a continuing resolution having to do with funding the Department of Defense and the Department of HEW. We have abortion language in our HEW appropriation bill, but there is a different language in the defense appropriation bill. It is my understanding the gentleman from California (Mr. DORNAN) intended to offer an amendment to the continuing resolution before us now.

I think that the Congress would be much more consistent if the abortion language currently being carried in the HEW appropriation bill were the same as that which is carried for the Department of Defense.

This is really the thrust of my amendment now, to make the language the same for both departments. It is my understanding that the chairman would be willing to accept that kind of amendment.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to my distinguished chairman, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. I thank the gentleman for yielding.

Mr. Speaker, as the Members know, after much controversy, many rollcalls, and much difficulty last year, we worked out a compromise on the abortion issue. That is now the current law.

Now, as I understand it, the gentleman is suggesting that we use this same language with respect to the Defense appropriation bill.

Mr. MICHEL. Yes.

Mr. MAHON. In drafting the continuing resolution we proposed to carry on existing programs. There was no existing abortion legislation applicable to the Defense bill. Therefore, it was not considered appropriate, according to the general rules under which we operated, to apply the language of the HEW bill to the Defense appropriation bill. But in view of the fact that the House earlier this year on the Defense appropriation bill did attach language involving abortion—not the language of the current law applicable to HEW, but language involving abortion—I think it may be appropriate, if the gentleman wishes to offer the language of the current law for tht Labor-HEW, to make it applicable to the Department of Defense. I propose to support the amendment of the gentleman from Illinois.

Mr. MICHEL. I thank the chairman for his comments.

Mr. Speaker, I would like, for a moment, to yield to the gentleman from California (Mr. DORNAN), who I understand had other language that he probably would have preferred, but he has been very conciliatory in the sense of possibly accepting our language here. I would hope so. I will yield to the gentleman.

Mr. DORNAN. I thank the distinguished gentleman for yielding.

Mr. Speaker, I again express my respect for the chairman and thank him for understanding my deep concern about this abortion crisis in our Nation. God willing, when I return next year, I will come back firmly with the original Dornan amendment language because on at least three points here in the HEW antiabortion language, I find fatal flaws—particularly the "two physicians copout." I am very uncomfortable with that meaningless arrangement. Last month in Russia I visited a fifth concentration camp, in Salispils, outside Riga, and also I visited the tragic site of Babi Yar outside of Kiev in the Ukraine, where the massive slaughter of Jews by Nazis began. While there I reflected again on how easily Hitler got educated doctors to join in nightmarish murdering. He had no trouble getting 2, 12, 20, 200, or 2,000 German doctors at any time to agree to euthanasia, all sorts of forced abortion, sick medical experiments, on helpless POW's resulting in their painful deaths. So I will be back with the tougher Dornan language next year. But in the spirit of fairness here about time constraints, as it is so close to election, and we have so much legislation heaped upon us, I will be willing to accept this very strained and tortured language that we used on the HEW bill, and I am only too willing to accede to the leadership so we can get on with this bill.

But I must tell you Mr. Speaker, that I have not received a single letter in protest about the Dornan amendment of August 9 from one military chaplain of any of our four services. As a matter of fact, just the opposite. The chief of chaplains in two of our military branches and chaplains throughout all of our services have written me in total support. I have received countless letters of congratulations from officers and enlisted troops of both sexes saying that they are proud once again to put on their military uniforms each morning because we are stopping abortions in the armed services of this Nation committed to the defense of all American lives.

The SPEAKER. The time of the gentleman from Illinois (Mr. MICHEL) has expired.

(On request of Mr. MAHON and by unanimous consent, Mr. MICHEL was allowed to proceed for 1 additional minute.)

Mr. MICHEL. Mr. Speaker, I want to thank the gentleman from California for his conciliatory attitude. I know he has strong, deep-seated convictions about this issue, as he has about a number of other issues that he has presented to this House.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. MAHON. If the gentleman will yield, I am pleased to see this conciliatory attitude with respect to a very emotional and difficult issue. We have all fought to work this thing out to the extent that it would be as satisfactory as possible to all Members and so that appropriations would be available to departments and agencies for essential functions which have no relation to the abortion issue.

I am rather encouraged and pleased to see this development.

Mr. MICHEL. Among men of good will there are miraculous things that can be accomplished.

I thank the chairman for his comment.

The SPEAKER. The question is on the amendment offered by the gentleman from Illinois (Mr. MICHEL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MAHON

Mr. MAHON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAHON: On page 5, delete lines 19 through 25.

On page 6, delete lines 1 through 13.

Mr. MAHON. Mr. Speaker, this amendment deletes section 101(c) of the joint resolution. Section 101(c) of the continuing resolution provides whatever additional amounts which may be required to make payments under certain mandatory programs. While H.R. 12929, the Labor-HEW appropriations bill provided basic amounts for these mandatory programs, the rate which would be available under section 101(a) of the continuing resolution had the Senate not passed that bill by October 1 would be the current rate or the rate allowed by the House bill, whichever was lower.

In other words, section 101(c) was included in the continuing resolution as insurance for these so-called mandatory programs in the event that it would not be possible for the Senate to act on the Labor-HEW bill before the beginning of the new fiscal year.

It has now been possible for the Senate to consider the Labor-HEW bill and that has changed the situation. Because of the Senate progress on H.R. 12929, this provision in the continuing resolution can now be deleted, thereby eliminating any possible confusion as to its meaning under the circumstances.

I ask for the approval of the amendment.

Mr. CEDERBERG. Mr. Speaker, we have no objection to the amendment.

The SPEAKER. The question is on the amendment offered by the gentleman from Texas (Mr. MAHON).

The amendment was agreed to.

Mr. MAHON. Mr. Speaker, I am happy to move the previous question on the joint resolution and all amendments thereto to final passage.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 349, nays 30, not voting 53, as follows:

[Roll No. 838]

YEAS—349

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
D'Amours
Daniel, R. W.
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frey
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Keys
Kildee
Kostmayer
Krebs
LaFalce
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Rudd
Runnels
Ruppe
Santini
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sharp
Shuster
Simon
Sisk
Skelton
Skubitz
Smith, Iowa
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Taylor
Thompson
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—30

Archer
Ashbrook
Bauman
Clawson, Del
Collins, Tex.
Conyers
Cunningham
Daniel, Dan
Dornan
Edwards, Okla.
Hammerschmidt
Holt
Hyde
Jeffords
Kindness
Lagomarsino
Latta
Mattox
Milford
Miller, Ohio
Mottl
Myers, Gary
Rousselot
Russo
Ryan
Satterfield
Snyder
Symms
Volkmer
Weaver

NOT VOTING—53

Ammerman
Anderson, Ill.
Armstrong
Burke, Calif.
Burton, John
Byron
Caputo
Cochran
Cohen
Crane
Danielson
Diggs
Evans, Colo.
Fenwick
Fraser
Flowers
Gammage
Garcia
Hansen
Harkin
Harrington
Holland
Hubbard
Kemp
Krueger
McDonald
McKinney
Mann
Miller, Calif.
Mollohan
Moss
Murphy, N.Y.
Nix
Ottinger
Patten
Pepper
Poage
Pursell
Quayle
Roncalio
Sarasin
Schroeder
Shipley
Sikes
Slack
Smith, Nebr.
Teague
Thone
Waxman
Wiggins
Wolff
Wydler
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Mollohan for, with Mr. Gammage against.

Mr. Murphy of New York for, with Mr. McDonald against.

Until further notice:

Mr. Ottinger with Mr. Anderson of Illinois.
Mrs. Burke of California with Mr. Young of Alaska.
Mr. Ammerman with Mr. Kemp.
Mr. Teague with Mr. Hansen.
Mr. Sikes with Mr. Caputo.
Mr. John L. Burton with Mrs. Fenwick.
Mr. Moss with Mr. Hubbard.
Mr. Slack with Mr. Thone.
Mr. Pepper with Mr. Wydler.
Mr. Diggs with Mr. Sarasin.
Mr. Miller of California with Mr. Quayle.
Mr. Krueger with Mr. Pursell.
Mr. Shipley with Mr. Holland.
Mr. Mann with Mr. Cochran of Mississippi.
Mr. Nix with Mr. Cohen.
Mr. Patten with Mr. Crane.
Mr. Danielson with Mr. Fraser.
Mr. Byron with Mr. Flowers.
Mr. Garcia with Mr. Evans of Colorado.
Mr. Wolff with Mr. Harrington.
Mr. Waxman with Mrs. Smith of Nebraska.
Mrs. Schroeder with Mr. Roncalio.
Mr. Harkin with Mr. McKinney.

Mr. BAUCUS changed his vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the House joint resolution (H.J. Res. 1139) just passed.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT ON H.R. 13125, DEPARTMENT OF AGRICULTURE APPROPRIATIONS

Mr. WHITTEN. Mr. Speaker, I call up the conference report on the bill (H.R. 13125) making appropriations for the Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 18, 1978.)

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentleman from North Dakota (Mr. ANDREWS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we bring to the Members today a conference report which I highly commend to my colleagues. This is the one annual appropriation bill which funds programs which are vital to agriculture, industry and labor, and to the national economy as well as the consumers, whether urban or rural, for agriculture furnishes food, clothing, and shelter, is industry's biggest market and the Nation's greatest dollar earner in world trade.

Mr. Speaker, this bill making appropriations for the Department of Agriculture, Rural Development and Related Agencies for fiscal year 1979 includes the Food and Drug Administration, the Commodity Futures Trading Commission, the school lunch and school milk programs, the food stamp program, and many other food programs relating to production, processing. and orderly marketing. The bill also includes funds for rural development and conservation.

The conference agreement, may I explain, includes an increase of $410,900,000 over the House amount to restore prior year expenditures of the Commodity Credit Corporation. These additional funds will not result in any additional budget outlays and, therefore, have no impact on the budget. Thus actually we are $210,000,000 under the budget, but by accepting this $410,000,000 bookkeeping adjustment, technically the figure will show $198,099,000 above the budget. In addition, the conference agreement is $7,006,261,000 less than the congressional budget target in the first concurrent budget resolution, which will remain available should future requirements arise.

I would like at this time to describe some of the highlights of this bill. The conference report recommends a total of $19,699,776,000 in total budget authority for fiscal year 1979. The amount agreed to by the conferees largely because of the 1977 Agriculture Act is $5,486,878,000 more than was appropriated in fiscal year 1978, $5,077,563,000 less than the Senate bill, $349,172,000 more than the House bill.

Mr. Speaker, what we need to recognize is the great job so few—the American farmers—are doing for all of us.

We need to move our surplus production into world trade. Our agricultural exports are our best dollar earner and they are needed by the world. Increased agricultural exports are our best opportunity to secure a lasting peace in the world.

In addition, Mr. Speaker, in developing this bill we have remained conscious of the need to protect our soil and our natural resources so we can keep our county solvent and protect it for future generations.

TITLE I AGRICULTURAL PROGRAMS

Mr. Speaker, for the Agricultural Research Service the conference agreement provides $338,416,000. Included in the agreement is the restoration of $6,000,000 out of the $7,448,000 cut the Senate had proposed for processing, storage and distribution efficiency research. The conference agreement allows most of the restorations spelled out on pages 38, 39, and 40 of the House report (95–1290). The conferees will expect the Department to closely follow the high priority items specified in both House and Senate reports, such as the plant disease reporter and the national poultry improvement plan, when allocating the $1,448,000 reduction, and apply the reduction only to completed projects or projects no longer yielding research benefits.

Also included in the agreement are funds for staffing and equipment for the Appalachian Fruit Research Station at Kearneysville, W. Va.; the Regional Veterinary School at Virginia Polytechnic Institute, and the Children's Nutrition Center at Baylor College of Medicine. In addition, the conference agreement includes $1,550,000 for new nutrition research initiatives.

For expanded research in tropical and subtropical areas, the agreement provides a total of $2,200,000. In addition, the conference provides an increase of $450,000 for sugarcane research at Houma, La., and an increase of $357,000 for research on the development of new varieties of sugarcane that are resistant to sugarcane smut.

Mr. Speaker, the conference agreement also includes $200,000, as proposed by the House, for establishing the National Herb Garden. This $200,000 will be used to match a like amount of contributions raised in the private sector. Mr. Speaker, during our subcommittee's hearings on this proposal, I recalled the great interest Clarence Cannon, a former chairman of the Appropriations Committee, had in the National Arboretum. In fact, I read into the Record the remarks he made at the dedication of the Administration Building at the National Arboretum on April 27, 1964. In view of Clarence Cannon's great interest in and dedication to the National Arboretum, I personally feel it would be most appropriate to name this new addition in his honor.

Mr. Speaker, for the Cooperative State Research Service the conference agreement provides $174,395,000. Included in the agreement is $109,066,000 in Hatch Act funds for our Land-Grant Colleges and $16,360,000 for our 1890 Colleges and Tuskegee Institute. The agreement provides $15,733,000 for special grants and contracts, including $10,000,000 which is primarily for animal health research. Also included is $15,000,000 for competitive grants, the same as last year, of which $5,000,000 is for human nutrition research and $10.000,000 is for basic research in the plant sciences. Also includes in the agreement is $5,000,000 for animal health and disease research under sections 1433 and 1434 of Public Law 95–113, and $500,000 for alcohol fuels research under section 1419 of Public Law 95–113.

For the Cooperative Extension Service the conference agreement provides a total of $275,399.000. Included in the agreement is $179,831,000 for cooperative extension work under the Smith-Lever Act, $10,115,000 for the 1890 Colleges and Tuskegee Institute, $3 milllion for urban gardening, $51,810,000 for the nutrition and family education program, $1,020.000 for farm safety work, and $2.5 millilon for rural development education.

Mr. Speaker, for the Animal and Plant Health Inspection Service the conference agreement provides $232,141,000. Included in the agreement is $64.355.000 for brucellosis eradication, $4.620,000 for cattle fever ticks and $5,370,000 for cattle scabies. The conferees agreed to $4,028,000 for the gypsy moth program, $800,000 for the Japanese beetle program, and a total availability of $7,655,000 for the fire ant program.

The conference agreement includes $200,000 for a program on hydrilla to be conducted in cooperation with Florida, and $550,000 for activities under the Federal Noxious Weed Act to be closely coordinated with other efforts of weed control, quarantine, and eradication.

Also included in the agreement is $3,726,000 for pink bollworm activities, $1,006,000 for the range caterpillar program, and $500,000 for West Indian sugarcane root borer.

TITLE II RURAL DEVELOPMENT PROGRAMS

Mr. Speaker, for the Farmers Home Administration the conference agreement provides an increase of 594 additional permanent positions, all of which are to be located outside of the Metropolitan Washington area. To fund the 594 additional positions, $7 million is included in the agreement.

The agreement provides $800 million for farm ownership loans and $825 million for operating loans. Also included in the agreement is $5 million in section 111 planning grants, $2.5 million for supervisory technical assistance grants, $3.5 million for rural fire protection grants, and $282,500,000 for water and waste disposal grants.

For the agricultural conservation program the agreement includes the $190,000,000 as first proposed by the House, plus revised language updating the program in line with the new farm bill. The conferees also agreed that the $1,772,000 for the Grand Valley salinity control project should not come out of Colorado's allocation. The conferees will also expect the Department to work toward getting the participation in ACP back up to the 1 million level.

In the case of the forestry incentives program, the agreement includes $15,000,000, the same as the House figure.

For the Soil Conservation Service programs the agreement includes $25,000,000 for resource conservation and development and $18,288,000 for the Great Plains conservation program.

For the nonpoint source pollution control program the conference agreement was to delete, without prejudice, all funds from the bill. This program is also referred to as the rural clean water program or the section 208 program. The agreement deletes this program from the bill since no additional funds or staff were requested for the program in the budget, and implementation of the program could well result in reducing the existing Soil Conservation Service programs and the agricultural conservation program.

The administration has taken the position that there should be a single consolidated cost-share program designed to meet the objectives of the agricultural conservation program (ACP), the Great Plains conservation program, and the new rural clean water program funded under the Agricultural Stabilization and Conservation Service (ASCS). Neither the House nor Senate concurred in this recommendation. In addition, the authorizing legislation specifies that the programs must be separately funded. The Secretary of Agriculture placed the rural clean water program under the Soil Conservation Service, but no funds or staff were requested to carry out this program under the SCS budget.

Therefore. the agreement was to delete all funds for this program from the bill, without prejudice. and await a supplemental request from the administration.

TITLE III DOMESTIC FOOD PROGRAMS

Mr. Speaker, the conference agreement includes an appropriation of $1,285,535,000 and provides a transfer of $1,411,575,000 from section 32 for child nutrition programs.

For the equipment assistance program the conferees agreed to $24,000,000, with priority consideration to be given to those schools without food service equipment. The Department is to develop better information on this program, and conduct a detailed survey of requirements and inventory of school food service equipment.

The conferees share the Department's concern that both proper nutrition and proper nutrition education be available to students. Consequently, the conferees agreed that the option of serving formulated grainfruit products, or other nutritional products, where there are insufficient facilities or personnel to provide a regular breakfast, shall be left to the determination of each school only through the school year which is now beginning.

Included in the conference agreement is $550,000,000 for the special supplemental food program (WIC) and $19,500,000 for the commodity supplemental food program.

TITLE IV INTERNATIONAL PROGRAMS

Mr. Speaker, with respect to the Foreign Agricultural Service, the conference agreement provides $53,645,000, including $29,311,000 for foreign market development. Funds for the Public Law 480 program were not in conference.

TITLE V RELATED AGENCIES

Mr. Speaker, for salaries and expenses of the Food and Drug Administration the conference agreement provides $295,154,000, including $250,000 for research on antibiotics in animal feeds and $300,000 for dietary and other nutrition studies.

Included in the agreement is $15,304,000 for the Commodity Futures Trading Commission, to be available for authorized purposes.

TITLE VI GENERAL PROVISIONS

Mr. Speaker, the conference agreement deletes the House amendment which would have prohibited the availability of funds to pay the expenses of parties intervening in regulatory proceedings or other activities.

The conferees agreed that no public participation programs shall be operated until the Department or agency has promulgated regulations that comply with the Comptroller General's rulings on the matter. Furthermore, except for expert witnesses whose technical expertise is required, no applicant shall be eligible to receive reimbursement if he is not a resident of the locality to be affected, or if the interest he seeks to represent is already adequately represented by the Department or another participant.

The Department and agencies are to provide information on a regular basis on the amounts spent for this purpose and the recipients of the funding. The Department is also to provide the Congress, within 90 days of enactment, with detailed estimates of the total costs of the financial assistance, the criteria by which the assistance would be allocated, and the requirements for recordkeeping, reporting, and auditing of amounts and persons paid.

Mr. Speaker, at this point in the RECORD I will provide a table showing the amounts agreed upon by the conferees:

Agency and title	New budget (obligational) authority enacted to date fiscal year 1978	Budget estimates of new (obligational) authority fiscal year 1979	New budget (obligational) authority recommended in House bill 1979	New budget (obligational) authority recommended in Senate bill 1979	New budget (obligational) authority recommended by Conferees	Increase or decrease (—) conference recommendations compared with—			
						1978 enacted	1979 budget estimate	1979 House bill	1979 Senate bill
TITLE I—AGRICULTURAL PROGRAMS									
Production, Processing, and Marketing									
Office of the Secretary	$2,829,000	$4,473,000	$3,791,000	$4,310,000	$4,310,000	+$1,481,000	—$163,000	+$519,000	
Departmental administration	15,042,000	17,696,000	17,483,000	18,647,000	18,597,000	+3,555,000	+901,000	+1,114,000	—$50,000
Economic management support center	3,171,000	(1)	(1)	(1)	(1)	—3,171,000			
Office of the Inspector General	21,161,000	32,186,000	22,945,000	31,564,000	22,945,000	+1,784,000	—9,241,000		—8,619,000
Transfer from food stamp program	(8,619,000)	(2)	(8,619,000)		(8,619,000)		(+8,619,000)		(+8,619,000)
Total, Office of the Inspector General	(29,780,000)	(32,186,000)	(31,564,000)	(31,564,000)	(31,564,000)	(+1,784,000)	(—622,000)		
Office of the General Counsel	10,030,000	10,325,000	10,251,000	10,251,000	10,251,000	+221,000	—74,000		
Federal Grain Inspection Service: Salaries and expenses	17,488,000	22,708,000	22,680,000	22,680,000	22,680,000	+5,192,000	—28,000		
Agricultural Research Service:									
Research	338,338,000	323,088,000	334,100,000	337,991,000	338,416,000	+78,000	+15,328,000	+4,316,000	+425,000
Special fund (reappropriation)	2,000,000	(2,000,000)	(2,000,000)	(2,000,000)	(2,000,000)	—2,000,000			
Buildings and facilities	(3)	500,000	35,720,000	15,000,000	35,720,000	+35,720,000	+35,220,000		+20,720,000
Scientific activities overseas (special foreign currency program)	5,750,000	7,500,000	5,750,000	5,750,000	5,750,000		—1,750,000		
Total, Agricultural Research Service	346,088,000	331,088,000	375,570,000	358,741,000	379,886,000	+33,798,000	+48,798,000	+4,316,000	+21,145,000
Animal and Plant Health Inspection Service:									
Disease and pest control	208,529,000	220,213,000	230,817,000	230,150,000	232,141,000	+23,612,000	+11,928,000	+1,324,000	+1,991,000
Meat and poultry inspection	241,581,000	(4)	(4)	(4)	(4)	—241,581,000			
Total, Animal and Plant Health Inspection Service	450,110,000	220,213,000	230,817,000	230,150,000	232,141,000	+217,969,000	+11,928,000	+1,324,000	+1,991,000
Food Safety and Quality Service [4]	14,000,000	271,475,000	271,019,000	271,104,000	271,104,000	+257,104,000	—371,000	+85,000	
Cooperative State Research Service	143,150,000	158,150,000	163,057,000	190,020,000	174,395,000	+31,245,000	+16,245,000	+11,338,000	—15,625,000
Extension Service	257,562,000	262,047,000	276,747,000	266,926,000	275,399,000	+17,837,000	+13,352,000	—1,348,000	+8,473,000
National Agricultural Library	7,113,000	7,631,000	7,527,000	7,527,000	7,527,000	+414,000	—104,000		
Statistical Reporting Service	38,855,000	(5)	(5)	(5)	(5)	—38,855,000			
Economic Research Service	32,441,000	(5)	(5)	(5)	(5)	—32,441,000			
Farmer Cooperative Service	3,585,000	(5)	(5)	(5)	(5)	—3,585,000			
Economic, Statistics and Cooperative service	(5)	80,008,000	79,860,000	80,137,000	80,112,000	+80,112,000	+104,000	+252,000	—25,000
Agricultural Marketing Service:									
Marketing services	50,283,000	49,231,000	46,502,000	49,070,000	46,502,000	—3,781,000	—2,729,000		—2,568,000
Payments to States and possessions	1,600,000		2,000,000		1,600,000		+1,600,000	—400,000	+1,600,000
Total, Agricultural Marketing Service	51,883,000	49,231,000	48,502,000	49,070,000	48,102,000	—3,781,000	—1,129,000	—400,000	—968,000

See footnotes at end of table.

Agency and title	New budget (obligational) authority enacted to date fiscal year 1978	Budget estimates of new (obligational) authority fiscal year 1979	New budget (obligational) authority recommended in House bill 1979	New budget (obligational) authority recommended in Senate bill 1979	New budget (obligational) authority recommended by Conferees	Increase or decrease (−) conference recommendations compared with—			
						1978 enacted	1979 budget estimate	1979 House bill	1979 Senate bill
Packers and Stockyards Administration	6,598,000	(6)	(6)	(6)	(6)	−6,598,000			
World food and agricultural outlook and situation board	(7)	1,009,000	1,009,000	1,009,000	1,009,000	+1,009,000			
Total, production, processing, and marketing	1,421,106,000	1,468,240,000	1,531,258,000	1,542,136,000	1,548,458,000	+127,352,000	+80,218,000	+17,200,000	+6,322,000
Farm Income Stabilization									
Agricultural Stabilization and Conservation Service:									
Salaries and expenses	228,428,000	227,816,000	227,552,000	217,527,000	227,527,000	−901,000	−289,000	−25,000	+10,000,000
(Transfer from Commodity Credit Corporation)	(100,942,000)	(99,865,000)	(99,865,000)	(99,865,000	(99,865,000)	(−1,077,000)			
Total, salaries and expenses ASCS	(329,370,000)	(327,681,000)	(327,417,000)	(317,392,000)	(327,392,000)	(−1,978,000	(−289,000)	(−25,000)	(+10,000,000)
Dairy and beekeeper indemnity program	4,050,000	3,240,000	3,240,000	3,240,000	3,240,000	−810,000			
Total, Agricultural Stabilization and Conservation Service	232,478,000	231,056,000	230,792,000	220,767,000	230,767,000	−1,711,000	−289,000	−25,000	+10,000,000
Federal Crop Insurance Corporation:									
Administrative and operating expenses	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000				
Federal Crop Insurance Corporation fund	(12,418,000)	(12,669,000)	(12,669,000)	(12,669,000)	(12,669,000)	(+251,000)			
Subscription to capital stock	50,000,000	(8)	(8)	(8)	(8)	−50,000,000			
Total, Federal Crop Insurance Corporation	(74,418,000)	(24,669,000)	(24,669,000)	(24,669,000)	(24,669,000)	(−49,749,000)			
Commodity Credit Corporation:									
New borrowing authority		4,509,100,000	4,509,100,000	9,509,100,000	4,509,100,000	+4,509,100,000			−5,000,000,000
(Liquidation of contract authority)		(990,900,000)	(990,900,000)	(990,900,000)	(990,900,000)	(+990,900,000)			
Total new authority to borrow		(5,500,000,000)	(5,500,000,000)	(10,500,000,000)	(5,500,000,000)	(+5,500,000,000)			(−5,000,000,000)
Reimbursement for net realized losses	524,342,000	990,900,000	580,000,000	990,900,000	990,900,000	+466,558,000		+410,900,000	
(Limitation on administrative expenses)	(45,750,000)	(50,100,000)	(50,100,000)	(45,898,000)	(50,100,000)	(+4,350,000)			(+4,202,000)
Total, Farm Income Stabilization	818,820,000	5,743,056,000	5,331,892,000	10,732,767,000	5,742,767,000	+4,923,947,000	−289,000	+410,875,000	−4,990,000,000
Total, title I, new budget (obligational) authority, agricultural programs	2,239,926,000	7,211,296,000	6,863,150,000	12,274,903,000	7,291,225,000	+5,051,299,000	+79,929,000	+428,075,000	−4,983,678,000
TITLE II—RURAL DEVELOPMENT PROGRAMS									
Rural Development Assistance									
Farmers Home Administration:									
Rural housing insurance fund:									
Direct loans	(15,000,000)	(24,000,000)	(24,000,000)	(24,000,000)	(24,000,000)	(+9,000,000)			
Insured loans	(3,379,000,000)	(3,588,200,000)	(3,774,200,000)	(3,776,000,000)	(3,776,000,000)	(+397,000,000)	(+187,800,000)	(+1,800,000)	
Guaranteed loans	(900,000,000)			(500,000,000)	(500,000,000)	(−400,000,000)	(+500,000,000)	(+500,000,000)	
Construction defects authorization		(5,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(+1,000,000)	(−4,000,000)		
Rent supplement authorization	(349,072,000)	(370,013,000)	(370,013,000)	(462,500,000)	(425,500,000)	(+76,428,000)	(+55,487,000)	(+55,487,000)	(−37,000,000)
Reimbursement for interest and other losses	327,402,000	320,192,000	320,192,000	320,192,000	320,192,000	−7,210,000			
Reimbursement for rent supplement payments	17,000,000	43,740,000	43,740,000	49,240,000	47,040,000	+30,040,000	+3,300,000	+3,300,000	(−2,200,000)
Total, rural housing insurance fund	(4,638,402,000)	(3,981,132,000)	(4,163,132,000)	(4,670,432,000)	(4,668,232,000)	(+29,830,000)	(+687,100,000)	(+505,100,000)	(−2,200,000)
Agricultural credit insurance fund:									
Insured real estate loans	(620,000,000)	(625,600,000)	(875,600,000)	(875,600,000)	(875,600,000)	(+255,600,000)	(+250,000,000)		
Soil conservation loans	(27,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(+3,000,000)			
Operating loans	(825,000,000)	(825,000,000)	(825,000,000)	(825,000,000)	(825,000,000)				
Emergency loans [9]	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)				
Reimbursement for interest and other losses	164,735,000	143,565,000	143,565,000	143,565,000	143,565,000	−21,170,000			
Total, agricultural credit insurance fund	(1,836,735,000)	(1,824,165,000)	(2,074,165,000)	(2,074,165,000)	(2,074,165,000)	(+237,430,000)	(+250,000,000)		
Rural development insurance fund:									
Reimbursement for losses	75,547,000	107,276,000	107,276,000	107,276,000	107,276,000	+31,729,000			
Water and sewer facility loans	(750,000,000)	(800,000,000)	(900,000,000)	(900,000,000)	(900,000,000)	(+150,000,000)	(+100,000,000)		
Industrial development loans	(1,000,000,000)	(1,100,000,000)	(1,100,000,000)	(1,100,000,000)	(1,100,000,000)	(+100,000,000)			
Community facility loans	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)				
Total, rural development insurance fund	(2,075,547,000)	(2,257,276,000)	(2,357,276,000)	(2,357,276,000)	(2,357,276,000)	(+281,729,000)	(+100,000,000)		

Agency and title	New budget (obligational) authority enacted to date fiscal year 1978	Budget estimates of new (obligational) authority fiscal year 1979	New budget (obligational) authority recommended in House bill 1979	New budget (obligational) authority recommended in Senate bill 1979	New budget (obligational) authority recommended by Conferees	Increase or decrease (—) conference recommendations compared with—			
						1978 enacted	1979 budget estimate	1979 House bill	1979 Senate bill
Rural water and waste disposal grants	300,000,000	265,000,000	300,000,000	265,000,000	282,500,000	−17,500,000	+17,500,000	−17,500,000	+17,500,000
Very low-income housing repair grants	9,000,000	24,000,000	24,000,000	19,000,000	19,000,000	+10,000,000	−5,000,000	−5,000,000	
Rural housing for domestic farm labor	7,500,000	38,000,000	38,000,000	33,000,000	33,000,000	+25,500,000	−5,000,000	−5,000,000	
Mutual and self-help housing	9,000,000	16,500,000	16,500,000	13,500,000	13,500,000	+4,500,000	−3,000,000	−3,000,000	
Self-help housing land development fund				1,000,000	1,000,000	+1,000,000	+1,000,000	+1,000,000	
Rural community fire protection grants	3,500,000		3,500,000		3,500,000		+3,500,000		+3,500,000
Rural development planning grants	5,000,000		5,000,000		5,000,000		+5,000,000		+5,000,000
Rural housing supervisory assistance grants			2,500,000		2,500,000	+2,500,000	+2,500,000		+2,500,000
Rural development grants	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
Salaries and expenses	195,733,000	209,891,000	219,566,000	217,582,000	218,432,000	+22,699,000	+8,541,000	−1,134,000	+850,000
(Tranfer from loan accounts	(3,500,000)	(3,500,000)	(3,500,000)	(3,500,000)	(3,500,000)				
Total, salaries and expenses	(199,233,000)	(213,391,000)	(233,066,000)	(221,082,000)	(221,932,000)	(+22,699,000)	(+8,541,000)	(−1,134,000)	(+850,000)
Total, Farmers Home Administration	1,124,417,000	1,178,164,000	1,233,839,000	1,179,355,000	1,206,505,000	+82,088,000	+28,341,000	−27,334,000	+27,150,000
Rural Development Service	1,738,000	(10)	(10)	(10)	(10)	−1,738,000			
Rural Electrification Administration:									
Rural electrification and telephone revolving fund: [11]									
Electric loans	(750,000,000)	(435,000,000)	(850,000,000)	(850,000,000)	(850,000,000)	(+100,000,000)	(+115,000,000)		
Telephone loans	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)				
Total, loans	(1,000,000,000)	(985,000,000)	(1,100,000,000)	(1,100,000,000)	(1,100,000,000)	(+100,000,000)	(+115,000,000)		
Capitalization of rural telephone bank [11]	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)				
Salaries and expenses	23,814,000	24,833,000	24,905,000	24,658,000	24,805,000	+991,000	−28,000	−100,000	+147,000
Total, Rural Electrification Administration	23,814,000	24,833,000	24,095,000	24,658,000	24,805,000	+991,000	−28,000	−100,000	+147,000
Total, rural development assistance	1,149,969,000	1,202,997,000	1,258,744,000	1,204,013,000	1,231,310,000	+81,341,000	+28,313,000	−27,434,000	+27,297,000
Conservatiion									
Soil Conservation Service:									
Conservation operations	250,360,000	258,659,000	262,491,000	255,296,000	255,466,000	+5,106,000	−3,193,000	−7,025,000	+17,000
River basin surveys and investigations	16,472,000	16,487,000	16,487,000	16,487,000	16,487,000	+15,000			
Watershed planning	12,587,000	5,759,000	12,587,000	5,759,000	11,847,000	−740,000	+6,088,000	−740,000	+6,088,000
Watershed and flood prevention operations	[12] 269,324,000	227,522,000	169,607,000	227,522,000	169,607,000	−99,717,000	−57,915,000		−57,915,000
Resource conservation and development	31,979,000	6,797,900	31,979,000	16,797,000	25,000,000	−6,979,000	+18,203,000	−6,979,000	+8,203,000
Great Plains conservation program	22,073,000	8,023,000	23,288,000	13,288,000	18,288,000	−3,785,000	+10,265,000	−5,000,000	+5,000,000
Nonpoint source pollution control-grant agreement and technical assistance				60,000,000					−60,000,000
Total, Soil Conservation Service	602,795,000	523,247,000	516,439,000	595,149,000	496,695,000	−106,100,000	−26,552,000	−19,744,000	−98,454,000
Agricultural Stabilization and Conservation Service:									
Agricultural conservation program:									
(Liquidation of contract authority)	(201,600,000)	(115,000,000)	(115,000,000)	(115,000,000)	(115,000,000)	(−86,600,000)			
Advance authorization (contract authority)	226,600,000					−226,600,000			
Appropriation		100,000,000	190,000,000	190,000,000	190,000,000	+190,000,000	+90,000,000		
Nonpoint source pollution control			25,000,000	20,000,000				−25,000,000	−20,000,000
Forestry incentives program	15,000,000	10,000,000	15,000,000	17,500,000	15,000,000		+5,000,000		−2,500,000
Water Bank Act program	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
Emergency conservation measures	30,000,000	10,000,000	10,000,000	10,000,000	10,000,000	−20,000,000			
Total, Agricultural Stabilization and Conservation Service	281,600,000	130,000,000	250,000,000	247,500,000	225,000,000	−56,600,000	+95,000,000	−25,000,000	−22,500,000
Total, conservation	884,395,000	653,247,000	766,439,000	842,649,000	721,695,000	−162,700,000	+68,448,000	−44,744,000	−120,951,000
Total title II, rural development programs: New budget (obligational) authority	2,034,364,000	1,856,244,000	2,025,183,000	2,046,662,000	1,953,005,000	−81,359,000	+96,761,000	−72,178,000	−93,657,000
TITLE III—DOMESTIC FOOD PROGRAMS									
Food and Nutrition Service:									
Child nutrition programs	1,488,344,000	1,281,535,000	1,365,535,000	1,281,534,000	1,285,535,000	−202,809,000	+4,000,000	−79,000,000	+4,000,000
(Transfer from sec. 32)	(1,014,557,000)	(1,411,575,000)	(1,336,575,000)	(1,411,757,000)	(1,411,575,000)	(+397,018,000)		+75,000,000	
Total, child nutrition programs	(2,502,901,000)	(2,693,110,000)	(2,701,110,000)	(2,693,110,000)	(2,697,110,000)	(+194,209,000)	(+4,000,000)	(−4,000,000)	(+4,000,000)
Special milk program	155,000,000	142,000,000	142,000,000	142,000,000	142,000,000	−13,000,000			
Special supplemental food program (WIC)	247,000,000	555,000,000	580,000,000	569,000,000	569,500,000	+322,500,000	+14,500,000	−10,500,000	

Agency and title	New budget (obligational) authority enacted to date fiscal year 1978	Budget estimates of new (obligational) authority fiscal year 1979	New budget (obligational) authority recommended in House bill 1979	New budget (obligational) authority recommended in Senate bill 1979	New budget (obligational) authority recommended by Conferees	Increase or decrease (—) conference recommendations compared with—			
						1978 enacted	1979 budget estimate	1979 House bill	1979 Senate bill
Food stamp program	5,627,000,000	5,779,200,000	5,779,200,000	5,779,200,000	5,779,200,000	+152,200,000			
Food donations program	31,400,000	12,800,000	12,800,000	12,800,000	12,800,000	—18,600,000			
Elderly feeding program	30,000,000	(13)	(13)	(13)	(13)	—30,000,000			
Food Program Administration	68,268,000	72,223,000	71,300,000	74,275,000	74,275,000	+6,007,000	+2,052,000	+2,975,000	
Total, title III, new budget (obligational) authority domestic food programs	7,467,012,000	7,842,758,000	7,949,835,000	7,859,310,000	7,863,310,000	+216,298,000	+20,552,000	—86,525,000	+4,0000,000
TITLE IV—INTERNATIONAL PROGRAMS									
Foreign Agricultural Service	46,806,000	51,663,000	53,645,000	56,403,000	53,645,000	+6,839,000	+1,982,000		—2,758,000
International development staff	(14)	199,000	199,000	199,000	199,000	+199,000			
Public Law 480:									
Title I and III—Credit sales	276,865,000	339,400,000	339,400,000	399,400,000	339,400,000	+62,535,000			
Title II—Commodities for disposition abroad	646,020,000	466,500,000	466,500,000	466,500,000	466,500,000	—179,520,000			
Sales manager	(3,474,000)	(4,202,000)	(4,202,000)		(4,202,000)	(+728,000)			(+4,202,000)
Total, Public Law 480	922,885,000	805,900,000	805,900,000	805,900,000	805,900,000	—116,985,000			
Total, title IV, new budget (obligational) authority, international programs	969,691,000	857,762,000	859,744,000	862,502,000	859,744,000	—109,947,000	+1,982,000		—2,758,000
TITLE V—RELATED AGENCIES									
Department of Health, Education, and Welfare									
Food and Drug Administration:									
Salaries and expenses	286,733,000	294,304,000	289,854,000	294,454,000	295,145,000	+8,421,000	—850,000	+5,300,000	—300,000
Buildings and facilities	6,665,000	11,984,000	10,459,000	10,459,000	10,459,000	+3,794,000	—1,525,000		
Total, Food and Drug Administration	293,398,000	306,288,000	300,313,000	305,913,000	305,613,000	+12,215,000	—675,000	+5,300,000	—300,000
Independent Agencies									
Commodity Futures Trading Commission	13,950,000	15,804,000	15,804,000	14,974,000	15,304,000	+1,354,000	—500,000	—500,000	+330,000
Farm Credit Administration (limitation on administrative expenses)	(9,942,000)	(15)	(10,575,000)	(10,575,000)	(10,575,000)	(+633,000)	(+10,575,000)		
National Alcohol Fuels Commission (16)				1,500,000					—1,500,000
Total, title V, new budget (obligational) authority, related agencies	307,348,000	322,092,000	316,117,000	322,387,000	320,917,000	+13,569,000	+1,175,000	+4,800,000	—1,470,000
RECAPITULATION									
Title I—Agricultural programs	2,239,926,000	7,211,296,000	6,863,150,000	12,274,903,000	7,291,225,000	+5,051,299,000	+79,929,000	+428,075,000	+4,983,678,000
Title II—Rural development programs	2,034,364,000	1,856,244,000	2,025,183,000	2,046,662,000	1,953,005,000	—81,259,000	+96,761,000	—72,178,000	—93,657,000
Title III—Domestic food programs	7,647,012,000	7,842,758,000	7,949,835,000	7,859,310,000	7,863,310,000	+216,298,000	+20,552,000	—86,525,000	+4,000,000
Title IV—International programs	969,691,000	857,762,000	859,744,000	862,502,000	859,744,000	—109,974,000	+1,982,000		—2,758,000
Title V—Related agencies	307,348,000	322,092,000	317,117,000	322,387,000	320,917,000	+13,569,000	—1,175,000	+4,800,000	+1,470,000
Total New budget (obligational) authority	13,198,341,009	18,090,152,000	18,014,029,000	23,265,764,000	18,288,360,000	+5,089,360,000	+198,049,000	+274,172,000	—5,077,563,000
Transfer from sec. 32	1,014,557,000	1,411,575,000	1,336,575,000	1,411,575,000	1,411,575,000	+397,018,000		+75,000,000	
Total obligational authority	14,212,898,000	19,501,727,000	19,350,604,000	24,777,239,000	19,699,776,000	+5,486,878,000	+198,049,000	+349,172,000	—5,077,563,000
Consisting of:									
1. Appropriations	12,969,741,000	18,090,152,000	18,014,029,000	23,365,764,000	18,288,201,000	+5,318,460,000	+198,049,000	+274,172,000	—5,077,563,000
2. Reappropriations	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
3. Contract authorizations	226,600,000					—226,600,000			
4. Direct and insured loan level	7,066,000,000	7,332,800,000	7,979,800,000	7,981,600,000	7,981,600,000	+915,600,000	+648,800,000	+1,800,000	
5. Guaranteed loan level	1,900,000,000	1,100,000,000	1,100,000,000	1,600,000,000	1,600,000,000	—300,000,000	+500,000,000	+500,000,000	
6. Rent supplement authorization	349,072,000	370,013,000	370,013,000	462,500,000	425,500,000	+76,428,000	+55,487,000	+55,487,000	+37,000,000
Memoranda:									
1. Appropriations to liquidate contract authorizations	201,600,000	1,105,900,000	1,105,900,000	1,105,900,000	1,015,900,000	+904,300,000			
2. Appropriations including appropriations to liquidate contract authority	13,171,341,000	19,196,052,000	19,119,929,000	24,471,664,000	19,394,101,000	+6,222,760,000	+198,049,000	+274,172,000	—5,077,563,000
3. Transfers from sec. 32	1,014,557,000	1,411,575,000	1,335,575,000	1,411,575,000	1,411,575,000	+397,018,000		+75,000,000	
4. Transfers from Commodity Credit Corporation	100,942,000	99,865,000	99,865,000	99,865,000	99,865,000	—1,077,000			

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[1] Functions of this account are now included in departmental administration and the new ESCS.

[2] The budget requested new budget authority in lieu of the transfer.

[3] This is a new line item previously included in "Research," above.

[4] The new FSQS now performs the meat and poultry inspection functions of APHIS, as well as certain AMS functions.

[5] SRS, ERS, and FCS have now been combined into the new ESCS.

[6] PSA functions are now performed by AMS.

[7] This is a new ogranizational entity created by the Secretary on June 3, 1977.

[8] As a result of heavy crop losses, in fiscal 1978 there has been a total of $30 million in new authority to enable the Secretary of the Treasury to subscribe and pay for capital stock on the Federal Crop Insurance Corporation.

[9] The budget request and bill provide no limitation for emergency loans. Funds are available in amounts necessary to meet the needs resulting from natural disasters.

[10] The budget request and bill provide for the activities previously carried out by the Rural Development Service to be conducted henceforth by the Farmers Home Administration.

[11] These amounts are excluded by law (Public Law 93-32) from the budget totals.

[12] Includes $10 million for sec. 216 emergency repair work.

[13] The budget request and bill include no funds for this program, which is now budgeted under the Department of Health, Education, and Welfare.

[14] This is a new organizational entity created by Secretary's Memorandum 1926 on Sept. 27, 1977.

[15] The budget requested deletion of the limitation.

[16] Senate bill proposed creation of a new commission.

Mr. ANDREWS of North Dakota. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we offer the Members a bill that is one of the best investments our Nation can make—the agriculture appropriations bill. Our entire economy is dependent upon a financially healthy American agriculture.

I was particularly pleased that we were successful in restoring the $10 million the Senate cut from the Agricultural Stabilization and Conservation Service. It is extremely important that we have adequate support at the grassroots level, and I was distressed that the Senate saw fit to cut back on the personnel in our local offices.

We were also successful in restoring funds for research in the Agriculture Research Service in the amount of $7 million. The administration had proposed to increase competitive research grants by $15 million by taking this largely from our land grant institutions and placing the decision for portioning this research in the hands of a few employees over in the Department of Agriculture instead of public hearings before Congress.

The present approach works well, and I am pleased that the House won. I certainly have a great deal more confidence in our land grant and regional laboratories than I do in any research directed, controlled, and initiated by Washington bureaucrats, no matter how good their motives may be.

The House conferees felt that shifting research decisions from the open hearings where everyone can participate to some back room in the Department was not in line with an open administration.

We also retained the House language to allow the continuation of those longstanding and important conservation programs under ACP to preserve our soil for future generations.

Passage of this conference report, Mr. Speaker, will mean adequate funding for these programs which have proven through the years to be most essential to the maintenance of a healthy agriculture and a strong national economy.

I urge all my colleagues to support this important piece of legislation.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I simply want to commend the gentleman from North Dakota (Mr. ANDREWS), the gentleman from Mississippi (Mr. WHITTEN), and the members of the subcommittee for the good job they did in the conference with the Senate in arguing specifically for the House position having to do with those research items to which the gentleman just referred.

I am personally most appreciative of this because of what it means to our own congressional district and the Northern Regional Laboratory in Peoria. I want the Members to know of our appreciation.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Speaker, our food and agriculture industries are the most vital of all activities to the well-being of the people and of the Nation. Two hundred years ago, it took 80 percent of the population to produce the food this Nation needed to survive. Today, it takes less than 5 percent of the population to feed not only this Nation, but a large number of the world poor.

With ever-increasing populations both here and abroad, animal health research promises to provide the big breakthroughs in agricultural production in the coming years. Since the amount of land that can be used for food production purposes is finite, we must find ways of increasing the productive capacity and cutting losses. The annual loss from animal diseases today is estimated at over $3 billion. Lower production and losses from disease mean less food for the market and higher prices to the consumer. Improved disease control benefits the producer and consumer alike, and increases tax revenue far in excess of the cost of the research to provide this disease control.

To accomplish this objective, we must have an adequate number of veterinarians to service the industry. We need to increase enrollment and establish new schools to supply the veterinarian medical manpower to meet the Nation's needs. Statistics show the need for greater numbers of veterinarians for our food animals. The American Veterinary Medical Association estimates that there are only 7,700 veterinarians devoting 50 percent or more of their time to cattle, swine, or sheep practices. Another 3,400 veterinarians will treat large animals, but get over 75 percent of their income from small animals. There are only 190 veterinarians to treat turkeys and chickens on the Nation's 360,000 farms, and less than 50 of these 190 are in private practice. Most of them work for poultry integrators, commercial firms, or State diagnostic laboratories.

Current inventories of major food animal species now number 1,179,945,000 and the total number of veterinarians available to treat these food animals is about 11,000. This results in an average of 107,266 food animals per available veterinarian. Compared with human medical care this number is unbelievably large. The American Medical Association estimates that there are 285,000 licensed physicians in the United States to care for approximately 210 billion humans—an average of one doctor for every 744 people.

I believe these statistics show a compelling need to increase our veterinary medical manpower, and I am especially pleased that the conference report on the agriculture appropriations bill contains a sum of $1,250,000 for staffing and equipment for a Regional Veterinary School at Virginia Polytechnic Institute and State University. These funds are contingent upon VPI and SU being designated as a regional veterinary school, and no commitment for funding in future years is included. The Regional Veterinary School has gained initial approval from the Virginia State Council of Higher Education, and the General Assembly of Virginia has appropriated $1.25 million for startup funding.

The aim of the proposed Veterinary School at VPI and SU is to help in our efforts to control disease and increase production of our food animals, and the facility will emphasize the need for veterinarians in this type practice.

One of the conditions of approval by the State Council of Higher Education is that "the college must emphasize, in its administration and curriculum, the need for large animal and public practice veterinarians." In addition to this emphasis, the school will be regional, serving students from other States without such a facility.

This provision, and the entire agriculture appropriations conference report deserves your support, and I urge your approval of the report including startup funds for the Regional Veterinary School at VPI and SU.

Mr. Speaker, I urge all our colleagues to support the conference report, and I commend the members of the committee for the fine job they did.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may require to the gentleman from Michigan (Mr. TRAXLER), a very distinguished member of the subcommittee.

Mr. TRAXLER. Mr. Speaker, I rise in complete support of the conference report to accompany H.R. 13125, a bill making appropriations for the Department of Agriculture and related agencies for fiscal 1979.

No one can deny the importance of providing adequate funding for the programs of the Department of Agriculture. We believe that the conferees have made every effort to represent the needs of all sectors of agriculture, both producers and consumers, within the framework of our agreement.

I want to compliment our distinguished chairman, Congressman JAMIE WHITTEN, for his excellent command of the matters before the conference. He held firmly to the House position on matters throughout the conference, and helped our colleagues in the Senate to understand the wisdom of sticking with the programs that have worked so well for so long rather than abandoning these proven elements in favor of someone's supposedly better idea.

This bill can be broken down into three major components: Research, conservation, and programs of assistance to rural communities and needy consumers.

Within this bill, we devote several hundred million dollars to research, both agricultural and nutrition research. While I regret the deletion of the $5 million for contractual grant research for nutrition that the House had originally approved, I can say that I feel more comfortable with the compromise we reached in maintaining our contractual grant outlook with no increase over fiscal 1978 in the competitive grant program.

We are going to give the Department one more chance with competitive grants. This year when they came before our subcommittee, not only could they not tell us what types of grants had been awarded, they could not even tell us what the regulations for the program were. I fully expect that next year the Department will be able to tell us what they are doing with this program. I also would expect that the Department will remember that the authorization of the competitive grant program in no way means that we are dropping our traditional formula grant programs under the Hatch Act.

I am particularly pleased that the conferees agreed to restore the House increase of $60,000 for pickle research in the ARS budget, and the $50,000 for dry bean and beet research at the Saginaw Valley Bean and Beet Farm, located in my congressional district in Michigan.

We must work to protect our vital farm land in order to guarantee the availability of adequate supplies of food in the future. No program has had a better record of conserving farm land than the agricultural conservation program. Every year it seems that we have to fight to keep this vital program. Every year we have been fortunate enough to win.

One hundred and ninety million dollars for agricultural conservation is not really much money. This program has been funded at this level for well over 20 years, and the lack of an increase in the appropriation for this program has hindered the total effectiveness of the program. But in times of budget constraints, we must be satisfied with maintaining the appropriation, and hope that in the future we can be more generous.

It also must be pointed out that a major reason for the success for this program is the people to people contact that it has. Agents of the Agricultural Stabilization and Conservation Service work together with individual farmers to design conservation practices best suited for each farm. This provides a realistic outlook on farm operations, rather than the traditional bureaucratic program of design by regulation that we see in so many other agencies. County ASCS Committees are appreciated by the farmers that they serve, and deserve our thanks for their excellent work.

We were able to maintain the programs under the Farmers Home Administration that are so important to the improvement of the quality of rural life. We kept the major grant programs, and were forced to reach some unhappy but budget-minded compromises on certain of these programs. The water and sewer grant program is essential to small rural towns that could not otherwise afford to improve their water and sewer systems.

The conferees are also quite concerned about providing better standards of nutrition to those who are in need of the various feeding programs operated by USDA. I am very happy that the conferees have concurred in the language of the House report which maintains the separate integrity of the commodity supplemental feeding program. I am also very happy that the conferees were able to acept a $1.25 million increase in the expanded food and nutrition education program that is operated by the Extension Service.

We were also able to restore other worthwhile extension programs like farm safety, urban gardening, and the Senate increase in the Smith-Lever funds that make it possible to provide adequate staffing for the Extension Service.

I am happy with the conference report that we bring to you today. It may not do all that we would like it to do, but no bill can at a time when we must be concerned with Federal expenditures and apportion our budget reductions in an equitable manner.

I urge my colleagues to vote yes on the adoption of the conference report to H.R. 13125, agricultural appropriations for fiscal 1979.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. ALEXANDER), a member of the subcommittee.

Mr. ALEXANDER. Mr. Speaker, there is a program funded under this bill that I want to take special notice of today. It is the agricultural conservation program operated by the Agricultural Stabilization and Conservation Service.

This program began in 1936. It is one of the earliest and oldest continuous efforts of our people and our Government to protect and enhance our environment with special emphasis on the protection of our soil and water quality.

The ACP is a partnership between farmers and the Federal Government in which each shares a part of the cost burden. Because of their constant contact with them, our farmers are daily aware of the need for protecting the quality of our air, water, and soil resources. More than most, they are sensitive to the adverse health and economic impacts of failure to conserve and enhance as well as to wisely use these irreplaceable natural resources.

Annually about 300,000 farmers, ranchers, and woodland owners participate in the cost-sharing ACP effort to protect these natural, national assets. In the more than 40 years that the program has been operating 188,400,000 acres of soil and water have received protection under the ACP.

Since everyone in the Nation benefits from the efforts of our conservationist farmers it is only fair and just that the Nation share the cost. That is what the ACP is about.

At the local level, ASCS operations are supervised by a democratically elected county committee. The people who sit on these committees have earned their places by earning the respect of their fellow farmers through their expertise, knowledge, and ability as farmers. They know the land and water and its needs. For this reason the House and Senate conferees have specifically recognized the importance of having the ASCS county committees take an active role in selecting the conservation practices to receive assistance under the ACP.

Mr. ANDREWS of North Dakota. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. JOHN T. MYERS).

Mr. JOHN T. MYERS. Mr. Speaker, I do not believe that anybody in this House this afternoon is completely satisfied with the conference report. But your House committee has worked diligently with the other body to resolve our issues. I think, on balance, we have a good bill. There are a couple of items which I would like to identify. One of them the gentleman from Arkansas has just identified. which is the conservation program, where we did restore, and it enables farmers to continue to build up their farms, to make them more productive. But the one I have disagreement with is the one which provides that we will now be paying intervenors if they qualify. I found difference with amendment No. 118, the fact that it is going to be so easy for an intervenor or a witness who wants to testify before a committee to qualify on almost any pretense. I do not blame the committee, because we worked for a good many hours and had to come back the next day to try to resolve this difference, and the language that has been worked out possibly is the best that could be worked out with the Senate. However, we do provide that regulators comply with the rulings of the Attorney General, and within 90 days the Secretary may come forward with a plan of how intervenors are to be paid, and also estimates of what the cost is going to be. But what bothers me about this conference report is that we are now letting the barriers down where we are going to pay intervenors to come in and testify against ourselves. We have just opened the door. We have opened the door by saying, "If you comply with the decision of the Comptroller General, if the department comes forth with estimates of what it is going to cost and has a program or a plan, and if the intervenor or the person testifying is not from one of the agencies of the Federal Government or providing other expert advice, all they have to do to qualify is to say that they have evidence they want to present that no one else has presented," and usually they come from the general area affected. This agricultural bill affects about every area of the country. So I find very strong disagreement with paying intervenors. I think everybody has the opportunity to testify, but to pay them to testify is quite different. So I think the House and the other body are making a terrible mistake in this instance.

Mr. ANDREWS of North Dakota. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman from North Dakota (Mr. ANDREWS), and, of course, the chairman of the subcommittee, especially, for the maintenance, the strong maintenance of funds for the farm safety program and the sugarcane research program, which I very much appreciate.

I would also like to ask the chairman of the subcommittee, in line with the remarks just made by the gentleman from Indiana, it was my amendment that prevented funds being used for the payment of expenses of parties intervening in regulatory proceedings or other activities against the Department of Agriculture, and that amendment has been stricken and language has been substituted on the part of the conference.

I assume, and I would ask the chairman of the subcommittee, if the reason for that amendment being stricken was because of the adamant position of the Senate, the other body, and the fact was the House preferred to maintain the language of my amendment?

Mr. WHITTEN. Let me say to my friend, the gentleman from Louisiana, I have a great deal of sympathy and agreement with the viewpoint he has taken and that he successfully put through in the House. We did stay in session from 10 o'clock until 5:45, I believe with 30 minutes off for lunch, insisting on the House position. We met again the next day. Let me read the language of the conference report. It says:

> Furthermore, except for expert witnesses whose technical expertise is required, no applicant shall be eligible to receive reimbursement if he is not a resident of the locality to be affected, or if the interest he seeks to represent is already adequately represented by the Department or another participant.

I hope that language will hold this thing in line, but it was essential that we have some agreement with the Senate; otherwise we would have been under this continuing resolution. I will not take the time to read out how many programs would have lapsed had that happened. So we took what we could get. We will watch this very carefully. Deep down we feel it could be abused, and we will watch it.

Mr. MOORE. I appreciate the chairman's remarks. I think he is being absolutely truthful and accurate in those remarks.

Would it be fair to say it was not the intent of the managers on the part of the House to expand this program that is already in effect any further than what was already going on?

Mr. WHITTEN. It is my desire, and I think I speak for myself and others on the committee, that we keep it very tight and that it should be so construed.

Mr. MOORE. Would it be the intent of the gentleman's subcommittee to look at the regulations which would be issued by the Department of Agriculture on recordkeeping and issuance and keeping of these funds?

Mr. WHITTEN. We do intend to do that. And we insist that those records be given to all the committees, not only this committee but also the Legislative Committee and other such committees that might have an interest in it.

Mr. MOORE. One last question, and that is: Will this subcommittee receive and be willing to share with the other legislative committees and Members of Congress the names of recipients and the amount of funds made by the Department of Agriculture to the intervenors?

Mr. WHITTEN. I should think we will have all those names. If not, I can assure the gentleman we will request them.

Mr. MOORE. I thank the gentleman for answering my questions. I think he has done the best he can. I am sorry my amendment was stripped, but I hope with the action of the gentleman's committee we can keep a tight rein on this and improve on it in the future.

Mr. JOHN T. MYERS. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Speaker, the conferees have directed the Department to provide Congress within 90 days the cost of financial assistance and criteria and all this, so there is going to be review by this subcommittee. The subcommittee was adamant, as the gentleman has indicated in the dialog with the chairman. In the interest of getting this legislation passed we had to make some concessions, but there is no intent here to open the door. I think it is something that was brought out in the dialog, that we have to safeguard against opening up the door not only for the Department of Agriculture but other agencies, too.

Mr. MOORE. I agree with the remarks of the gentleman fully.

Mr. ANDREWS of North Dakota. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. ROBINSON), a very valuable member of our subcommittee, who was able to help a great deal in this legislation.

Mr. ROBINSON. Mr. Speaker, I rise in support of this conference report. It represents in the main the House version of this very important piece of legislation. It represents also the strength and effectiveness of our chairman and the ranking minority member.

I appreciate the comment of the gentleman from North Dakota respecting the contribution of my efforts in support of my State, Virginia, in this conference report. He refers in the main, of course, to the inclusion of the funds to assist in the staffing and equipping of a regional school of veterinary medicine at our land grant university, the Virginia Polytechnic Institute and State University at Blacksburg, Va. This appropriation was part of a package of hotly debated items which were finally resolved only at the very end of our conference. I am most pleased to have had a part in successfully funding this most significant beginning of a very important project for Virginia's agricultural future.

Mr. ANDREWS of North Dakota. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SEBELIUS).

Mr. SEBELIUS. Mr. Speaker, I thank the gentleman for yielding. I first want to congratulate the members of the conference on their results in the conference report.

I would like to compliment the distinguished members who worked so diligently to resolve the differences in the conference committee on agricultural appropriations. On the whole, I think their decisions are well founded and in the best interest of the country.

However, I confess I am troubled by one of the committee's recommendations: That of awarding $21 million to construct a USDA adult human nutrition center at Tufts University in Massachusetts.

Mr. Speaker, I do not quarrel with the need for extensive human nutritional research. We all know that the 1977 Food and Agriculture Act placed increased emphasis on human nutrition. I agree that this is needed.

My concern stems from several problems that I see in this appropriation.

First, why Tufts? Why is it to be located where it is proposed?

Another problem is my concern over our rising budget deficit. The $21 million for construction is just the beginning. The facility will have an annual operating budget of at least $7.5 million and will employ 175 people.

Mr. Speaker, I would like to point out that the USDA already has a very fine human nutrition center at Grand Forks, N. Dak. There, scientists are studying metabolism and the importance of trace elements. Interestingly, it operates on an annual budget of $1.5 million.

Further, USDA is currently studying the feasibility of converting an Army hospital at the Presidio in San Francisco into a human nutrition research facility. And this year's appropriations bill provides a 1-year grant of $1.5 million to Baylor University to do postnatal nutritional research. It is my understanding that Baylor officials see the Tufts appropriation as a precedent, and that they may request funding for a similar building in the future.

Finally, I have to question the wisdom of building a Government facility at a private university when the same research could be conducted at existing Federal research facilities, at our Land Grant colleges, or through the USDA competitive grants process which awards contracts on the basis of an institution's merits.

Mr. Speaker, while I intend to vote for the conference committee report, I would like to dissociate myself from the Tufts project.

● Mr. CEDERBERG. Mr. Speaker, I would like to commend the chairman, the ranking minority member, and each member of the Agriculture Subcommittee for their hard work on this bill. The agriculture appropriations bill is very important to the farmers and other residents of the rural areas of our country, as well as to urban consumers.

There is one program in this bill that I feel is particularly important to the future of our agricultural resources and potential. That is the agricultural conservation program. This valuable program provides cost-sharing assistance to individual farmers and ranchers for carrying out approved soil building and soil and water conserving practices on their land. The most important thing we can do to guarantee food for future generations is to work now to preserve and enhance our water and soil resources. This is not a program to serve the wealthy; any individual participant cannot receive more than $3,500 in 50–50 matching grants from this program.

Despite the importance of this program the administration again proposed to reduce the funds appropriated for it. I am pleased to report that the bill we have brought back to the House has again restored this appropriation to the $190 million program level. I hope that the administration will finally recognize the valuable work the agriculture conservation program does toward protecting the agriculture resources of this country, and in the future will cooperate with the Congress to provide adequate funding for this program.●

● Mr. BROWN of California. Mr. Speaker, the conference report on the fiscal year 1979 agriculture appropriations represents a balancing act of countless needs, requests, and priorities. Properly done, compromise brings both pleasure and pique to the largest group possible while inching in a policy direction that the leadership determines to be the most desirable. The injection of election-year politics into this appropriations cycle has the potential for upsetting an already difficult process, but Mr. WHITTEN, in the style of Blondin, seems to have handled this situation in fine form.

In the spirit of compromise, I feel that I should list my sources of pleasure and pique in the conference report voted on today. The competitive grants program for agriculture research was funded at a level of $15 million, half of the program's authorization, but a maintenance of last year's funding. This valuable program can serve as a vital addition to existing research programs and, judging by the grants already announced, has proven to be a worthwhile investment. I hope that in the future, funding of this program can be increased to the full authorization level.

In restoring the funding for the competitive grants program, the specific appropriation of $2.5 million for solar research was deleted in favor of a reduced Senate proposed research program on alcohol fuels. A matching $2.5 million for model solar farms was deleted from the extension service budget. Together, these budget cuts leave the Agriculture Department with no specific funding for solar energy, drastically curtailing a program that I had drafted and attached as an amendment to last year's farm bill. I cannot understand how agriculture, the largest source of energy in this country, can turn its back on the source of its energy. With farmers complaining of increased energy costs, we have cut funding for a solution to their problem. I hope that this situation can be corrected in a supplemental appropriation.

As an avid gardener and a person who has encouraged gardening programs in my district, I was gratified to see that the House prevailed in its $3 million funding of the urban gardening program. This source of added nutrition also plays a valuable role in promoting a sense of community and aiding our redevelopment efforts. I was pleasantly surprised recently to learn that home gardeners in this country, currently numbering around 32 million people, had harvested $14 billion worth of fruits and vegetables last year. And the Department of Agriculture estimated that 11 percent of the fruits and vegetables consumed last year came from home gardens which cover about 6 million acres. I hope that the funding of this program encourages greater involvement in gardening on the part of the Department of Agriculture.

My last focal point in the bill concerns the funding of nonpoint source pollution. The conferees adjourned in technical disagreement due to a lack of a clear indication by the administration on the direction that these programs are to take. Promised consolidation and reorganization of the various agriculture pollution control programs has not been forthcoming and the conferees have adjourned awaiting a supplemental request.

In addition to administration confusion, there also seemed to be some disagreement on the part of the conferees on what branch of the Department of Agriculture should be given the authority to run the rural clean water program. This issue was being debated in spite of a clear mandate to all concerned contained in the authorizing legislation, the Clean Water Act of 1977. This act amends section 208 of the Federal Water Pollution Control Act by adding a new subsection which reads:

> (j) (1) The Secretary of Agriculture, with the concurrence of the Administrator, and acting through the Soil Conservation Service and such other agencies of the Department of Agriculture as the Secretary may designate, is authorized and directed to establish and administer a program to enter into contracts of not less than five years nor more than ten years with owners and operators having control of rural land for the purpose of installing and maintaining measures incorporating best management practices to control nonpoint source pollution for improved water quality in those States or areas for which the Administrator has approved a plan under subsection (b) of this section where the practices to which the contracts apply are certified by the management agency designated under subsection (c) (1) of this section to be consistent with such plans and will result in improved water quality.

I hope that the supplemental funding of this area of the Department of Agriculture's responsibility can be agreed to and I urge all parties concerned to work toward such a solution. The interest in the very successful demonstration project, "Operation Clearwater," that was held near Washington recently points to the need to control nonpoint source pollution.

I thank my colleagues for the opportunity to address myself to the debits and credits of this bill, as I see them. I would like to once again compliment the conferees for having completed a difficult process. Possessing no extraordinary powers of observation or prognostication, I am as unsure as any of us as to what the future holds. I only hope that this statement will have some impact on future deliberations.●

Mr. WHITTEN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GLICKMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 328, nays 31, not voting 73, as follows:

[Roll No. 839]

YEAS—328

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clay
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Delaney
Dellums
Dent
Derrick
Dicks
Dingell
Dodd
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flippo
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harris
Harsha
Hefner
Heftel
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Huckaby
Hughes
Hyde
Ichord
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Rahall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rostenkowski
Roybal
Runnels
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Steiger
Stockman
Stratton
Studds
Taylor
Thompson
Thornton
Traxler
Treen
Trible
Tsongas
Tucker

Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walsh
Wampler
Watkins
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Tex.
Winn
Wirth
Wright
Wylie
Yates
Yatron
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—31

Archer
Ashbrook
Broyhill
Clawson, Del
Cleveland
Collins, Tex.
Derwinski
Devine
Edgar
Fenwick
Frenzel
Gephardt
Gradison
Heckler
Jacobs
Kelly
Lagomarsino
Martin
Mikva
Miller, Ohio
Moorhead, Calif.
Motti
Myers, Gary
Rousselot
Rudd
Russo
Symms
Van Deerlin
Weaver
Wolff
Young, Fla.

NOT VOTING—73

Ammerman
Anderson, Ill.
Armstrong
Bingham
Breckinridge
Burke, Calif.
Burton, John
Byron
Caputo
Clausen, Don H.
Cochran
Cohen
Conyers
Crane
Danielson
Davis
Dickinson
Diggs
Drinan
Early
Erlenborn
Evans, Colo.
Evans, Ga.
Flood
Flowers
Gammage
Garcia
Hansen
Harkin
Harrington
Hawkins
Hollenbeck
Hubbard
Ireland
Jenkins
Kasten
Kemp
Krueger
McDonald
McKinney
Mann
Mathis
Milford
Miller, Calif.
Mollohan
Moss
Murphy, N.Y.
Nix
Ottinger
Pepper
Pursell
Quayle
Railsback
Roncalio
Rosenthal
Ruppe
Sarasin
Schroeder
Shipley
Skubitz
Slack
Stark
Stokes
Stump
Teague
Thone
Walker
Waxman
Wiggins
Wilson, Bob
Wilson, C. H.
Wydler
Young, Alaska

The Clerk announced the following pairs:

Mr. Ammerman with Mr. Anderson of Illinois.

Mr. John L. Burton with Mr. Young of Alaska.

Mr. Miller of California with Mr. Caputo.

Mr. Flood with Mr. Ruppe.

Mr. Teague with Mr. Sarasin.

Mr. Waxman with Mr. Walker.

Mr. Charles H. Wilson of California with Mr. Wydler.

Mr. Danielson with Mr. Cochran of Mississippi.

Mr. Byron with Mr. Don H. Clausen.

Mrs. Burke of California with Mr. Cohen.

Mr. Bingham with Mr. Thone.

Mr. Garcia with Mr. Quayle.

Mr. Hawkins with Mr. Railsback.

Mr. Stokes with Mr. Crane.

Mr. Rosenthal with Mr. Dickinson.

Mr. Pepper with Mr. Bob Wilson.

Mr. Ottinger with Mr. Wiggins.

Mr. Nix with Mr. Skubitz.

Mr. Murphy of New York with Mr. Erlenborn.

Mr. Davis with Mr. Hansen.

Mr. Diggs with Mr. McKinney.

Mr. Drinan with Mr. Pursell.

Mr. Krueger with Mr. Kemp.

Mr. Mann with Mr. Kasten.

Mr. Mathis with Mr. Hollenbeck.

Mr. Jenkins with Mr. McDonald.

Mr. Ireland with Mr. Milford.

Mr. Gammage with Mr. Flowers.

Mr. Harkin with Mr. Harrington.

Mr. Breckinridge with Mr. Evans of Colorado.

Mr. Conyers with Mr. Early.

Mr. Evans of Georgia with Mr. Hubbard.

Mr. Slack with Mr. Stark.

Mrs. Schroeder with Mr. Shipley.

Mr. Mollohan with Mr. Moss.

Mr. Stump with Mr. Roncalio.

Mr. MARTIN and Mr. LAGOMARSINO changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 10: Page 5, line 10, strike "$344,100,000", and insert $337,991,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$338,416,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 14: Page 8, line 10, strike out "$230,817,000" and insert "$228,150,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$232,141,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 82: Page 39, line 21, strike out: ", except that no participant in the Agricultural Conservation Program shall receive more than $3,500, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community): *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation material, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved 1970 farming practices to be selected by the county committees under programs provided for herein: *Provided further*, That no part of the funds in this Act may be used to obtain or require submission of information from participants in this program not required in carrying out the 1970 program)" and insert ": *Provided further*, That such amounts shall be available for financial assistance to agricultural producers for carrying out enduring conservation and environmental enhancement measures and practices to be selected by the county committees and approved by the Secretary of Agriculture under programs provided for herein: *Provided further*, That primary emphasis of such financial assistance will be directed toward the solution of critical soil and water conservation problems and pollution abatement problems on farms and ranches, and such assistance will not be used for carrying out measures and practices that are primarily production oriented or that have little or no conservation or pollution abatement benefits".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that Senate amendment No. 82 be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: ", except that no participant in the Agricultural Conservation Program shall receive more than $3,500, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community): *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation material, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out enduring conservation and environmental enhancement measures and practices, as specified in section 1501 of Public Law 95–113 (including those practices or programs which are deemed essential to maintain soil productivity, prevent soil depletion, or prevent increased cost of production, thus assuring a continuous supply of food and fiber necessary for the maintenance of a strong and healthy people and economy) as determined by the County Committees, approved by the State Committees and the Secretary, under programs provided for herein: *Provided further*, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 83: Page 42, line 4, insert "*Provided further*, That unexpected funds previously appropriated to liquidate outstanding obligations for the 1975 through 1978 Agricultural Conservation Programs shall be merged with the 1979 appropriation as of December 31, 1978.".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk

will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 84: Page 42, line 9, strike out:

NON-POINT SOURCE POLLUTION CONTROL

For necessary expenses for carrying out section 35 of the Clean Water Act of December 27, 1977 (33 U.S.C. 1251; 1288), and in accordance with the provisions of the Federal Water Pollution Control Act of October 18, 1972, as amended, for application and cost-sharing of water quality measures incorporating best management practices to control non-point source pollution for improved water quality, $25,000,000 for the period October 1, 1978 to December 30, 1978, to remain available until expended.

And insert:

NON-POINT SOURCE POLLUTION CONTROL COST-SHARING

For necessary expenses for making cost-sharing payments to landowners or operators for application of measures incorporating best management practices to control nonpoint source pollution for improved water quality, in accordance with the provisions of section 208(j) of the Federal Water Pollution Control Act of October 18, 1972, as amended (33 U.S.C. 1251, 1288), and regulations promulgated by the Secretary of Agriculture in 7 CFR 2.19 (f), (g); 7 CFR 2.62(a) (11), and 7 CFR 634–634.41, $20,000,000 to remain available until expended: *Provided*, That the Secretary of Agriculture may transfer up to 50 per centum of this amount to the appropriation, "Nonpoint Source Pollution Control—Grant Agreements and Technical Assistance" under the Soil Conservation Service head.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein with an amendment, as follows: Delete the matter stricken by the Senate and delete the matter proposed to be inserted by the Senate.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include tables, charts, and other extraneous material, on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PRESIDENT CARTER'S NATIONAL EXPORT PROGRAM

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Iowa. Mr. Speaker, I welcome President Carter's announcement today placing new emphasis on expanding this Nation's opportunities to export more goods and services.

But I question the part of his program which calls for a retargeting of $100 million of Small Business Administration loan authority for this purpose.

This year's budget request for SBA direct loans represented a $30 million reduction from the prior year, going from $190 million down to $160 million without any administrative retargeting. Following that reduced budget request, the administration, on three separate occasions, announced new initiatives in three separate areas: urban revitalization, minority enterprise, and women in business. In each instance, they said they would finance it from existing resources. When there is less SBA money to begin with it is impossible to retarget loan funds to new areas. Since no one is being turned down by SBA for guarantees of a bank loan due to lack of SBA authority and the tight money market makes it impossible for small business to find banks who will loan money with or without a guarantee, additional bank guarantees offer no help.

I am afraid that President Carter's export program relating to small business will merely build up false hopes. He has been given bad advice by his budget officials on the availability of small business loan money for this purpose. There is no money from existing direct loan sources for this purpose and guaranteeing nonavailable bank loans is a "no-program".

The House Small Business Committee has long been urging greater access to export opportunities for small firms. This year, over the administration's objections, the committee added $1 million to SBA's budget to establish a data base and to begin identifying small businesses that could successfully sell their goods and services abroad. It is time to do something other than just make an announcement or call for a new program. The administration should either seek a supplemental appropriation so direct loans can be made available or it should refrain from claiming that a new initiative is being launched.

VFW SUPPORTS FREE CHINA

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, some things change, many things change for the worse, some for the better. One of the few things that does not change in this country is the unswerving support of the veterans' organizations for American security and sound anti-Communist principles. At the 79th National Convention of the Veterans of Foreign Wars in Dallas, Tex., held August 18-25, two fine resolutions were passed which indicated once more the enduring quality of that fine organization's philosophic commitment to America.

Resolution No. 407 expressed the "Unshakable Support for the Republic of China on Taiwan." That resolution parallels my own House Concurrent Resolution 677 which has already been endorsed by thousands of Americans in a petition that I have circulated. The VFW is to be commended for pointing out to the American people the importance of this country not betraying our ally and friend, the Free China Republic on Taiwan. The VFW calls upon our Nation to honor the 1954 mutual defense treaty. The Communist Chinese insist that we abrogate that treaty and their apologists in the State Department would accede to that dastardly plot.

Resolution No. 424 expresses the VFW's support for reestablishment of the House Committee on Internal Security. Liberal leadership in the House has blocked that effort but we have not given up on this necessary action.

As the VFW puts it, "eternal vigilance is the price of liberty." All Americans can agree. The texts of the resolutions follow:

RESOLUTION NO. 407—UNSHAKEABLE SUPPORT FOR THE REPUBLIC OF CHINA ON TAIWAN

Whereas, the Republic of China on Taiwan, our historic ally, is politically, economically and militarily important to the United States of America in the Western Pacific; and

Whereas, particularly since its fabled leader, Generalissimo Chiang Kai-shek, has passed on, creating in the minds of some that American support for the government of the Republic of China on Taiwan may be reduced, or even withdrawn; and

Whereas, in an apparent acquiescence to the ambitions of the People's Republic of China (communist), U.S. military presence on Taiwan is being even further reduced; now, therefore

Be it resolved, by the 79th National Convention of the Veterans of Foreign Wars of the United States, that we call upon the United States to continue fully to honor our 1954 treaty commitment to defend the Republic of China from attack; and

Be it further resolved, that we continue to oppose the establishment of any diplomatic relations with the People's Republic of China so long as such relations would be detrimental to the sovereignty, security and economic status of the Republic of China; and

Be it further resolved, that we urge extreme caution in all discussions and contacts with the People's Republic of China; and

Be it further resolved, that the United States continue military aid and other assistance to the Republic of China which will enable her to advance freedom, prosperity and peace in the Far East; and

Be it further resolved, that the United States continue to maintain full diplomatic relations on an Ambassadorial level with the Republic of China on Taiwan.

RESOLUTION NO. 424—INTERNAL SECURITY AND THE CONGRESS

Whereas, there exists in the United States multiple groups of either a permanent or *ad hoc* character, whose clear and avowed mission is to overthrow our free institutions, as well as seek to embarrass and discredit the United States (i.e., two efforts to assassinate the President in 1975, "Hannafi Muslim" terroristic acts in Washington, etc.); and

Whereas, eternal vigilance is the price of liberty; now, therefore

Be it resolved, by the 79th National Convention of the Veterans of Foreign Wars of the United States, that the V.F.W. continues to support the Federal Bureau of Investigation as it continues and intensifies its legal and proper program of surveillance and reporting upon parties, groups and individuals whose actions are inimical to the domestic tranquility of the United States; and

Be it further resolved, that our Commander-in-Chief act forcefully to support the bi-partisan proposal being put forward by Congressmen McDonald (Ga.) and Ashbrook (Ohio) which would reconstitute, fund and staff the "House Internal Security Committee" as the responsible and responsive legislative body to investigate and report upon subversive and terroristic acts and movements arising from any source.

COMPREHENSIVE REHABILITATION SERVICES AMENDMENTS OF 1978

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 12467) to amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Strike out all after the enacting clause and insert: That (a) this Act may be cited as the "Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978".

(b) Except as otherwise specifically provided, whenever in title I of this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Rehabilitation Act of 1973 (29 U.S.C. 701).

TITLE I—AMENDMENTS TO THE REHABILITATION ACT OF 1973

VOCATIONAL REHABILITATION SERVICES: AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Section 100(b)(1) is amended by striking out "and" after "1977" and inserting before the period at the end of such paragraph a comma and "$813,000,000 for fiscal year 1979, $880,000,000 for fiscal year 1980, and $945,000,000 for fiscal year 1981".

(b)(1) Section 100(b)(2) is amended by striking out "and" after "1976," and by inserting after "1978" a comma and the following: "$45,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, and $55,000,000 for the fiscal year ending September 30, 1981".

(2) Section 100(b)(2) is further amended by striking out "and part D of this title (relating to the study of comprehensive needs of individuals with the most severe handicaps)".

(3) The last sentence of section 100(b)(2) is amended to read as follows: "Not less than twenty-five per centum of the sums appropriated under this paragraph for fiscal year 1979, and 30 per centum of such sums appropriated for the fiscal years 1980 and 1981, shall be available for independent living programs.".

(c) Section 112(a) is amended by inserting after "1978," the following: "and for each succeeding fiscal year ending prior to October 1, 1981".

STATE PLANS

SEC. 102. (a) Section 101(a)(6) is amended—

(1) by inserting "(A)" after "(6)";

(2) by inserting after the semicolon the word "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under the plan will comply with the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;".

(b) Section 101(a)(7) is amended by striking out "and" at the end of clause (A), and by inserting before the semicolon at the end thereof a comma and the following: "and (C) provisions relating to the establishment and maintenance of minimum standards to assure the availability of personnel, to the maximum extent feasible, trained to communicate in the client's native language or mode of communication".

(c) Section 101(a)(11) is amended by adding at the end thereof a comma and the following: "specifically including arrangements for the coordination of services to individuals eligible for services under this Act and under the Education of the Handicapped Act and the Vocational Education Act of 1963".

(d) Section 101(a)(18) is amended by inserting "personnel" before "working in the field of vocational rehabilitation".

(e) Section 101(a) is amended—

(1) by striking the "and" at the end of paragraph (18);

(2) by striking the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting at the end thereof the following new paragraph:

"(20) provide satisfactory assurances to the Commissioner that, except as otherwise provided in part D, the State shall provide vocational rehabilitation services to handicapped American Indians residing in the State to the same extent as the State provides such services to other significant segments of the population of handicapped individuals residing in the State.".

SCOPE OF SERVICES; TELECOMMUNICATIONS SERVICES

SEC. 103. (a) Section 103(a)(1) is amended by striking out "emotional" and inserting in lieu thereof "mental or emotional".

(b) Section 103(b) is amended by striking out "and" at the end of clause (1), by striking out the period at the end of clause (2) and inserting in lieu thereof a semi-colon and the word "and", and by adding at the end thereof the following new clause:

"(3) the use of existing telecommunication systems (including telephone, television, satellite, and radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programing to meet the particular needs of handicapped individuals.".

PROCEDURAL SAFEGUARDS

SEC. 104. (a) Part A of title I is amended by adding at the end thereof the following new section:

"PROCEDURAL SAFEGUARDS

"SEC. 105. (a) Any State agency which receives assistance under this Act shall establish and maintaiin procedures to assure that any individual served under this Act is guaranteed procedural safeguards.

"(b) The procedures required by this section shall include, but shall not be limited to—

"(1) an opportunity for the individual to examine all relevant records respecting the development and implementation of an individualized written rehabilitation program under this Act, or the refusal to develop or implement such a program;

"(2) written prior notice to the individual whenever a providing agency—

"(A) refuses to initiate or change,

"(B) refuses to develop, or

"(C) refuses to implement,

an individualized written rehabilitation program as provided under this Act; and

"(3) an opportunity to present complaints with respect to any matter described in clause (2) of this subsection.

"(c)(1) Whenever a complaint has been received under subsection (b) of this section, the individual shall have an opportunity for an impartial hearing which shall be conducted by the State agency. No hearing conducted pursuant to this paragraph shall be conducted by an employee of such agency or by any employee of any other agency or grantee, who is or was involved in the written individualized rehabilitation program of the individual, or by any person having a personal or professional interest which would conflict with his or her objectivity in the hearing.

"(2) Any party to any hearing conducted pursuant to paragraph (1) of this subsection shall be accorded—

"(A) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped persons,

"(B) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses,

"(C) the right to a written or electronic verbatim record of such hearing, and

"(D) the right to written findings of fact and decisions.

"(3) A decision made in a hearing conducted pursuant to paragraph (1) of this subsection shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (d) of this section. A decision made under subsection (d) of this section shall be final, except that any party may bring an action under subsection (e) of this section.

"(d) Any party aggrieved by the findings and decision made under subsection (c) of this section may appeal such decision to arbitration by a panel of three persons consisting of one person designated by the head of the State agency, one person designated by the individual, and one person selected by the head of the State agency and the individual. The person selected by the State agency and the individual shall serve as chairman.

"(e) Any party aggrieved by the findings and decision made under subsection (d) of this section shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this subsection the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

"(f) No civil action may be brought under this section for monetary damages.".

(b) The table of contents is amended by adding after item 104 the following new item:

"Sec. 105. Procedural safeguards.".

STATE ALLOTMENTS

SEC. 105. (a) Section 110(a) is amended by striking out "less than one-quarter of 1 per centum of the amount appropriated under subsection (b)(1) of section 100, or $2,000,000" and inserting in lieu thereof "less than one-third of 1 per centum of the amount appropriated under subsection (b)(1) of section 100, or $3,000,000".

(b) section 110(a) is amended by adding at the end thereof: "Notwithstanding the provisions of this section, the Secretary pursuant to regulations which the Secretary shall prescribe, shall make such adjustments in State allotments as is appropriate to reflect State efforts with respect to rehabilitating handicapped individuals.".

(c) The first sentence of section 110(b) is amended by inserting after "1973," the following: "or if a State received, due to the maintenance of effort provisions, less than 80 per centum as the Federal share expended by the State for the program (exclusive of non-Federal dollars used for construction),".

CLIENT ASSISTANCE

SEC. 106. Section 112(a) is further amended by striking out "no less than 7 nor more than 20".

AMERICAN INDIAN VOCATIONAL REHABILITATION GRANTS

Sec. 107. (a) Part D of title I is amended to read as follows:

"PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION PROGRAM

"VOCATIONAL REHABILITATION SERVICES GRANTS

"Sec. 130. (a) The Commissioner is authorized, in accordance with the provisions of this part, to make grants to tribal organizations of Indian tribes located on Federal and State reservations to pay 90 per centum of the costs of vocational rehabilitation services for handicapped American Indians residing on such reservations.

"(b) No grant may be made under this part unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—

"(1) is made at such time, in such manner, and contains such information as the Commissioner may require;

"(2) contains assurances that the rehabilitation services provided under this part to handicapped American Indians residing on a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other handicapped individuals residing in the State; and

"(3) contains assurances that the application was developed in consultation with the State agency designated under section 101(a)(1).

The provisions of clauses 1 and 3 of section 102(a) of the Indian Self-Determination and Education Assistance Act, shall be applicable to any application submitted under this part.

"(c) In addition to any amounts authorized to be appropriated under any other provision of this Act and for the purpose of carrying out grant programs for American Indian vocational rehabilitation services in accordance with the provisions of this part, there is authorized to be appropriated an amount equal to 1 per centum of the amount appropriated under section 100(b)(1) (for the purpose of making grants to States under part B) for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1981.

"(d) For the purpose of computing the allotment of any State under section 110(a), the number of American Indians residing on a reservation to be served under this part pursuant to such application shall be subtracted from the population used for such State in section 110(a)(1) as follows:

"(1) 33 per centum of such American Indians in the first fiscal year following the fiscal year in which such application was approved;

"(2) 66 per centum of such American Indians in the second fiscal year following the fiscal year in which such application was approved; and

"(3) 100 per centum of such American Indians in the third fiscal year following the fiscal year in which such application was approved.

"(e) Any application approved under this part shall be effective for not less than twelve months except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on a reservation whenever such State includes any such American Indians in its State population under section 110 (a)(1).

"(f) The term 'reservation' includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

"EVALUATION

"Sec. 131. Not less than thirty months after the date of enactment of the Rehabilitation, Comprehensive Services and Development Disabilities Amendments of 1978, the Secretary shall submit to the Congress an evaluation of the programs conducted under this part. Such evaluation shall be conducted by persons other than persons immediately responsible for administration of such programs. Such evaluation shall include, but not be limited to—

"(1) an examination of the comparability of vocational rehabilitation services provided under this part to services provided to other handicapped individuals under section 101; and

"(2) the extent to which services provided under this part have been made available to all handicapped American Indians residing on reservations wherein the tribal organization has been approved for a grant under this part.".

(b) The table of contents is amended by striking out Part D and inserting in lieu thereof the following:

"PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION PROGRAM

"Sec. 130. Vocational rehabilitation services grants.

"Sec. 131. Evaluation.".

INNOVATION AND EXPANSION GRANTS; SPECIAL REPORTS

Sec. 108. (a) The first sentence of section 121(a) is amended by—

(1) striking out "or" after "handicaps"; and

(2) inserting before the period a comma and the following: "or of special programs for independent living.".

(b) The first sentence of section 121(b) is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1981".

(c)(1) Title I is amended by adding immediately after section 131 (as added by section 107(a) of this Act) the following:

"PART E—COORDINATION WITH DISABILITY PROGRAMS

"SPECIAL REPORT

"Sec. 141. Within one year after the date of enactment of this section, the Secretary shall prepare and transmit to the Congress a study concerning the impact of vocational rehabilitation services provided under this Act on recipients of disability payments under titles II and XVI of the Social Security Act. The study shall examine the relationship between the vocational rehabilitation services provided under this Act and the programs under sections 222 and 1615 of the Social Security Act, and shall include—

"(1) an analysis of the savings in disability benefit payments under titles II and XVI of the Social Security Act as a result of the provision of vocational rehabilitation services under this Act;

"(2) a specification of the rate of return to the active labor force by recipients of services under sections 222 and 1615 of the Social Security Act;

"(3) a specification of the total amount of expenditures, in the five fiscal years preceding the date of submission of the report, for vocational rehabilitation services under this Act and under sections 222 and 1615 of the Social Security Act, and recommendations for the coordinated presentation of such expenditures in the Budget submitted by the President pursuant to section 201 of the Budget and Accounting Act, 1921; and

"(4) recommendations to improve the coordination of services under this Act with programs under sections 222 and 1615 of the Social Security Act, including recommendations for increasing savings in disability benefits payments and the rate of return to the active labor force by recipients of services under sections 222 and 1615 of the Social Security Act.".

(2) The table of contents is amended by adding after item section 131 (as added by section 107(b) of this Act) the following:

"PART E—COORDINATION WITH DISABILITY PROGRAMS

"Sec. 141. Special report.".

RESEARCH AND TRAINING; AUTHORIZATION OF APPROPRIATIONS

Sec. 109. (a) Section 201(a)(1) is amended by striking out "and" after "1976" and by inserting after "1978" the following: ", $38,000,000 for the fiscal year ending September 30, 1979, $44,000,000 for the fiscal year ending September 30, 1980, and $51,000,000 for the fiscal year ending September 30, 1981".

(b) Section 201(a)(2) is amended by striking out "and" after "1977," and by inserting after "1978" a comma and the following: "$34,000,000 for the fiscal year ending September 30, 1979, $38,000,000 for the fiscal year ending September 30, 1980, and $41,000,000 for the fiscal year ending September 30, 1981".

DECLARATION OF PURPOSE

Sec. 110. Section 200 is amended to read as follows:

"DECLARATION OF PURPOSE

"Sec. 200. The purpose of this title is to—

"(1) provide for a comprehensive and coordinated approach to the administration and conduct of rehabilitation research, rehabilitation demonstration projects, and related activities for the rehabilitation of handicapped individuals, including programs designed to train persons who intend to provide rehabilitation services and persons who intend to conduct rehabilitation research by authorizing Federal assistance in accordance with a plan for rehabilitation research developed under this title;

"(2) facilitate the distribution of information concerning developments in rehabilitation procedures, methods, and devices to rehabilitation personnel and to handicapped individuals to assist such individuals to live more independently;

"(3) improve the distribution of technological devices and equipment for handicapped individuals by providing finanical support for the development and distribution of such devices and equipment; and

"(4) increase the scientific and technological information presently available in the field of rehabilitation.".

NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

Sec. 111. Title II is amended by—

(1) redesignating section 202 as section 204, redesignating section 203 as section 206, and redesignating section 204 as section 207; and

(2) inserting immediately after section 201 the following new sections:

"NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

"Sec. 202. (a) In order to carry out the purposes of this title there is established, within the Department of Health, Education, and Welfare, a National Institute of Handicapped Research (hereinafter in this title referred to as the 'Institute').

"(b)(1) The Institute shall be headed by a Director (hereinafter in this title referred to as the 'Director') who shall be appointed by the Secretary, and shall be compensated at the rate prescribed for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code.

"(2) In the performance of the functions assigned to the Director under this title, the Director shall be directly responsible to and report to the Secretary, or to the Under Secretary, or an appropriate Assistant Secretary of the Department of Health, Education, and Welfare, as designated by the Secretary: *Provided*, That the Secretary, after consultation with appropriate committees of the Congress, may determine that the Director shall be directly responsible to and report to an individual other than the Secretary or such Under Secretary or appropriate Assistant Secretary if the Secretary finds that the purposes of this title would thereby be more effectively carried out.

"(3) The Director shall not delegate any of the functions assigned to the Director under this title to any officer who is not directly responsible to the Director.

"(4) There shall be a Deputy Director of the Institute (hereinafter in this title referred to as the 'Deputy Director') who shall be appointed by the Secretary. The Deputy Director shall be compensated at the rate provided for grade GS–17 of the General Schedule under section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director, exercising such powers as the Director may prescribe. In the case of any vacancy in the Office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1) of this section.

"5) The positions created by paragraphs (1) and (4) of this subsection shall be in addition to the number of positions placed in grades GS–18 and GS–17 of the General Schedule under section 5108 of title 5, United States Code.

"(c) The Director shall be responsible for—

"(1) overseeing all programs and activities carried out under this title;

"(2) disseminating information acquired through rehabilitation research funded by the Institute to other Federal, State, and local public agencies and to private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(3) coordinating, through the Interagency Committee established under section 203 of this Act, all Federal programs and policies relating to research in rehabilitation;

"(4) disseminating educational materials to primary and secondary schools, institutions of higher education, and public and private entities concerning the improvement of the quality of life of handicapped individuals;

"(5) conducting an education program to inform the public about ways of providing for the rehabilitation of handicapped individuals, including information relating to family care and self-care;

"(6) conducting conferences, seminars, and workshops (including in-serving training programs) for rehabilitation personnel concerning advances in rehabilitation research and rehabilitation engineering;

"(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title; and

"(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Social Security Administration, and such other Federal departments and agencies as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of handicapped individuals and disseminating such reports and studies to rehabilitation professionals and others to assist in the planning and evaluation of vocational and other rehabilitation services for handicapped individuals.

"(d) The Secretary, subject to the approval of the President, may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may compensate, with regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Secretary deems necessary to accomplish the functions of the Institute, in a number not in excess of one-fifth of the number of full-time, regular technical and professional employees of the Institute. The Director may not appoint any employee under this paragraph for a term in excess of three years.

"(e) The Secretary, after consultation with the Director, may obtain the services of consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(f) The Secretary, pursuant to regulations which the Secretary may prescribe, may establish and maintain research fellowships in the Institute, with such stipends and allowances, including travel and subsistence expenses provided for under title 5, United States Code, as the Secretary considers necessary to procure the assistance of highly qualified research fellows from the United States and foreign countries.

"(g) The Secretary, pursuant to regulations which the Secretary shall prescribe, shall provide for scientific review of all research grants and programs over which he has authority by utilizing, to the maximum extent possible, appropriate peer review groups established within the Institute and composed of non-Federal scientists and other experts in the rehabilitation field.

"(h) Not less than 90 per centum of the funds appropriated under paragraph (2) of section 201(a) to carry out section 203 shall be expended by the Director to carry out such section through grants or contracts with qualified public or private agencies and individuals.

"(i)(1) Within eighteen months of the date of enactment of this section, the Director shall submit to the appropriate committees of the Congress a long-range plan concerning the conduct of rehabilitation research under this title. Such long-range plan shall include goals and timetables for identifying the research activities to be conducted and identifying any research activities which should be conducted with respect to problems encountered by handicapped individuals in their daily activities, the funding priorities for the conduct of such activities, and the basis for such priorities. Such plan shall be reviewed by the Director not less than once every three years.

"(2) In developing the plan required to be submitted under this paragraph, the Director shall consult with the Commissioner, the Commissioner of Education (or successor thereto), appropirate officials responsible for the administration of the Developmental Disabilities Services and Facilities Construction Act, the Interagency Committee established by secion 203 of this Act, the Federal Council on Handicapped Individuals established under title II of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, and other appropriate individuals and organizations.

"INTERAGENCY COMMITTEE

"SEC. 203. (a) In order to promote cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Handicapped Research (hereinafter in this section referred to as the 'Committee'), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner, the Commissioner of Education (or successor thereto), the Administrator of Veterans' Affairs, the Director of the National Institutes of Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, and the Director of the National Science Foundation.

"(b) The Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of handicapped individuals.

"(c) The Committee, not later than eighteen months after the date of enactment of this section, and annually thereafter, shall submit to the Office of Management and Budget and appropriate committees of Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of handicapped individuals.".

RESEARCH BY PRIVATE ORGANIZATIONS

SEC. 112. (a) Section 204(a) (as redesignated by section 111(1) of this Act) is amended by striking out "public or nonprofit" and inserting in lieu thereof "public or private".

(b) Title II is amended by adding at the end thereof the following new section:

"DEFINITIONS

"SEC. 207. For the purpose of this title, the term 'public' or 'private agencies or organizations' means any such agencies or organizations whether nonprofit or profitmaking.".

RESEARCH AND TRAINING CENTERS

SEC. 113. (a) Section 204(a) (as redesignated by section 111(1) of this Act) is amended—

(1) by striking out "The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "The Secretary may";

(2) inserting "(including basic medical and scientific research)" after "activities"; and

(3) inserting after "social" a comma and "psychiatric".

(b) Section 204(b) (as redesignated by section 111(1) of this Act) is amended by striking out "the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "the Secretary may".

(c) Section 204(b)(1) (as redesignated by section 111(1) of this Act) is amended by striking out "rehabilitation research personnel" and inserting in lieu thereof "rehabilitation research and other rehabilitation personnel".

(d) Section 204(b)(2)(A) (as redsignated by section 111(1) of this Act) is amended by striking out "psychological" and inserting in lieu thereof "psychiatric, psychological".

(e) Section 204(b) (as redesignated by section 111(1) of this Act) is amended by inserting immediately at the end of paragraph (5) the following new paragraphs:

"(6) Conduct of a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, and radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of handicapped individuals.

"(7) Conduct of a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of handicapped and severely handicapped individuals.".

TRAINING

SEC. 114. (a) Section 205(b) (as redesignated by section 111(1) of this Act) is amended by inserting after "work" a comma and the following: "rehabilitation psychiatry".

(b) Section 205 (as redesignated by section 111(1) of this Act) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall measure and evaluate the impact of the training programs authorized by this section, shall determine training needs for personnel necessary to provide services to handicapped individuals, and shall develop a long-term rehabilitation manpower plan designed to target resources on areas of personnel shortage.".

SPECIAL FEDERAL RESPONSIBILITIES

SEC. 115. (a) (1) The first sentence of section 301(a) is amended by striking out "for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978" and inserting in lieu thereof "for each fiscal year ending prior to October 1, 1981".

(2) The last sentence of section 301(a) is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1983".

(b) Section 302(a) is amended to read as follows:

"SEC. 302. (a) For the purpose of making grants and contracts under this section, there is authorized to be appropriated such sums as may be necessary for each fiscal year ending prior to October 1, 1981.".

(c) (1) (A) Section 304(a) (1) is amended to read as follows:

"(1) For the purpose of making grants under this section for special projects and demonstrations (and research and evaluation connected therewith), there are authorized to be appropriated such sums as may be necessary for each fiscal year ending prior to October 1, 1981.".

(B) Section 304(b) (1) is amended by striking out "programs and facilities" and inserting in lieu thereof "and operating programs and the renovation and construction of facilities, where appropriate".

(2) Section 304 is amended by adding at the end thereof the following new subsections:

"(f) The Secretary, subject to the provisions of section 306, shall make grants to State and public nonprofit agencies and organizations for paying part or all of the cost of initiation of recreation programs to provide handicapped individuals with recreational activities to aid in the mobility and socialization of such individuals. The activities authorized to be assisted under this subsection may include, but are not limited to, scouting and camping, 4–H activities, sports, music, dancing, handicrafts, art, and homemaking. No grant may be made under the provisions of this subsection unless the agreement with respect to such grant contains provisions to assure that, to the extent possible, existing resources will be used to carry out the activities for which the grant is to be made, and that with respect to children the activities for which the grant is to be made will be conducted after school.

"(g) The Secretary, subject to the provisions of section 306, may make grants to any State agency designated under section 101, or existing private nonprofit national agencies or organizations—

"(1) to provide reading services to blind persons who are not otherwise eligible for such services through State and Federal programs; and

(2) to expand the quality and scope of reading services available to blind persons, and to assure to the maximum extent possible, the services provided under this Act will meet the reading needs of blind persons attending institutions providing elementary, secondary, or post-secondary education, and will be adequate to assist blind persons to obtain and continue in employment.".

(d) Section 305(a) is amended by striking out "for the fiscal years" and all that follows through "1978" and inserting in lieu thereof "for each fiscal year ending prior to October 1, 1981".

ADMINISTRATION AND EVALUATION

Sec. 116. (a) Section 400(a) (2) is amended by inserting after "work" a comma and the following: "rehabilitation psychiatry".

(b) Section 403 is amended by striking out "the fiscal years" and all that follows through "1978" and inserting in lieu thereof "each fiscal year ending prior to October 1, 1981".

(c) Section 405(d) is amended to read as follows:

"(d) There are authorized to be appropriated for carrying out this section $600,000 for each fiscal year ending prior to October 1, 1981.".

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 117. (a) (1) Section 502(a) is amended to read as follows:

"SEC. 502. (a) (1) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the 'Board') which shall be composed as follows:

"(A) Six members shall be appointed by the President from among members of the general public of whom five shall be handicapped individuals.

"(B) The remaining members shall be the heads of each of the following departments or agencies (or their designees whose positions are executive level IV or higher):

"(i) Department of Health, Education, and Welfare.

"(ii) Department of Transportation.

"(iii) Department of Housing and Urban Development.

"(iv) Department of Labor.

"(v) Department of the Interior.

"(vi) Department of Defense.

"(vii) Department of Justice.

"(viii) General Services Administration.

"(ix) Veterans' Administration.

"(x) United States Postal Service.

The President shall appoint, from among the public members who are handicapped individuals, the first Chairman of such Board who shall serve for a term of not more than two years; thereafter, the Chairman shall be elected by a vote of a majority of the Board for a term of one year.

"(2) (A) The term of office of each appointed member of the Board shall be three years; except that (i) the members first taking office shall serve, as designated by the President at the time of appointment, two for a term of one year, two for a term of two years, and two for a term of three years, and (ii) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

"(B) No individual appointed under paragraph (1) (A) of this subsection who has served as a member of the Board may be reappointed to the Board more than once unless such individual has not served on the Board for a period of two years prior to the effective date of such individual's appointment.

"(3) (A) Members of the Board who are not regular full-time employees of the United States shall, while serving on the business of the Board, be entitled to receive compensation at rates fixed by the President, but not to exceed the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, including traveltime, for each day they are engaged in the performance of their duties as members of the Board; and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

"(B) Members of the Board who are employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

"(C) For any matter upon which a vote of the Board is taken, any vote by a member specified in paragraph (1) (B) of this subsection shall be counted as one-half of one vote and any vote by a member appointed by the President shall be counted as one vote.".

(b) (1) Section 502(b) (1) is amended to read as follows: "(1) insure compliance with the standards prescribed pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968 (including the application of that Act to the United States Postal Service) including but not limited to enforcing all standards under that Act, and insuring that all waivers and modifications of standards are based upon findings of fact and are not inconsistent with the provisions of such Act and this section;".

(2) Section 502(b) is amended by striking out "and" at the end of clause (5), by striking out the period at the end of clause (6) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new clauses: "(7) establish minimum guidelines and requirements for the standards issued pursuant to the Act of August 12, 1938, as amended, commonly known as the Architectural Barriers Act of 1968; and (8) insure that public conveyances, including rolling stock, are readily accessible to, and usable by, physically handicapped persons.".

(c) (1) The first sentence of section 502(d) is amended by striking out "or contracts with," and by inserting after "organizations" "or contracts with private nonprofit or for-profit organizations".

(2) The second sentence of section 502(d) is amended by striking out "The" and inserting in lieu thereof "Except as provided in paragraph (3) of subsection (e), the".

(3) The last sentence of section 502(d) is amended by inserting "or public conveyance or rolling stock" after "building" and by striking out "prescribed pursuant to the Act cited in subsection (b) of this section" and inserting in lieu thereof "enforced under this section".

(4) Section 502(d) is amended by adding at the end thereof the following new sentences: "Pursuant to chapter 7 of title 5, United States Code, any complainant or participant in a proceeding under this subsection may obtain review of a final order issued in such proceeding.".

(5) Section 502(d) is further amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs:

"(2) The Executive Director is authorized, at the direction of the Board, to bring a civil action in the appropriate United States district court to enforce, in whole or in part, any final order of the Board under this subsection.

"(3) The Executive Director is authorized, at the direction of the Board, to intervene, appear, and participate, or to appear as amicus curiae, in any court of the United States or in any court of a State in civil actions which relate to this section, or to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968.

"(4) Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Executive Director may appear for and represent the Board in any civil litigation brought under this section.

"(5) The Board shall develop, in consultation and coordination with other concerned Federal departments and agencies and agencies within the Department of Health, Education, and Welfare, and provide appropriate technical assistance to any public or private activity, person, or entity affected by regulations prescribed pursuant to this title with respect to architectural and transportation barriers accessibility. Any funds appropriated to any such department or agency for the purpose of providing such assistance may be transferred to the Board for the purpose of carrying out this paragraph. The Board may arrange to carry out its responsibilities under this paragraph through such other departments and agencies for such periods as the Board determines is appropriate. In carrying out its technical assistance responsibilities under this paragraph, the Board shall establish a procedure to insure separation of its compliance and technical assistance responsibilities under this section.".

(d) Section 502(e) is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs:

"(2) The Executive Director shall exercise general supervision over all personnel employed by the Board (other than hearing examiners and their assistants). The Executive Director shall have final authority on behalf of the Board, with respect to the investigation of alleged noncompliance in the issuance of formal complaints before the Board, and shall have such other duties as the Board may prescribe.

"(3) For the purpose of this section, an order of compliance issued by a hearing examiner shall be deemed to be an order of the Board and shall be the final order for the purpose of judicial review.".

(e) Section 502(h) is amended by striking out "and" after "1976," and inserting before the period "and $3,000,000 for fiscal year 1979 and each of the two succeeding fiscal years".

GENERAL PROVISIONS AMENDMENTS

SEC. 118. (a)(1) Section 2(4) is amended to read as follows:

"(4) insure appropriate use of rehabilitation facilities in providing rehabilitation services to handicapped individuals, and assist in the construction, development, and improvement of such facilities;".

(2) Section 2(5) is amended by inserting before "psychological" the following: "psychiatric,".

(b) Section 3(b) is amended by inserting before "psychological" the following: "psychiatric,".

(c)(1) Section 7(1) is amended by striking out "alteration, and renovation" and inserting in lieu thereof "alteration, or renovation".

(2) Section 7(4)(B) is amended by inserting after "medical" a comma and the following: "psychiatric".

(3) Section 7(6) is amended—

(A) by striking out "The term" and inserting in lieu thereof "(A) Except as otherwise provided in subparagraph (B), the term";

(B) by striking out "(A)" after "individual who" and inserting in lieu thereof "(i)" and by striking out "(B)" after "and" and inserting in lieu thereof "(ii)"; and

(C) by striking out the last sentence and by adding at the end the following new subparagraph:

"(B) Subject to the second sentence of this paragraph, the term 'handicapped individual' means, for the purpose of titles IV and V of this Act, any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. For purposes of sections 503 and 504, the term 'handicapped individual' does not include any person who is an alcoholic or who is a drug abuser and whose condition of alcoholism or drug abuse renders that individual not qualified for employment by preventing him from performing the essential functions of the job in question.".

(4)(A) Section 7(10)(A) is amended by inserting after "medical" a comma and the following: "psychiatric".

(B) Section 7(10)(F) is amended by inserting before "phychological" the following: "psychiatric,".

(d) Section 7 is amended by inserting at the end of the section the following new paragraph:

"(15) The term 'independent living program' means, for purposes of title I of this Act, a set of organized specially designed services and activities of such scope and duration designed to assist individuals with the most severe handicaps in the achievement and maintenance of such life activities as self-care, communication, learning, mobility, and any other life activity necessary to enhance the ability to function in society and in the community and to prepare for appropriate employment.".

NONDISCRIMINATION PROGRAM PROVISIONS; INTERAGENCY COORDINATING COUNCIL

SEC. 119. (a) Title V of this Act is amended by adding at the end thereof the following new sections:

"REMEDIES AND ATTORNEY'S FEES

"SEC. 505. (a)(1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), including the application of section 706 (f) through (k) (42 U.S.C. 2000e–5 (f) through (k)), shall be available, with respect to any complaint under section 501 of this Act, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint. In fashioning an equitable or affirmative action remedy under such section, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternatives therefor or other appropriate relief.

"(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 504 of this Act.

"(b) In any action or proceeding to enforce or charge a violation of a provision of this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

"INTERAGENCY COORDINATING COUNCIL

"SEC. 506. There shall be established an Interagency Coordinating Council (hereinafter referred to in this section as the 'Council') composed of the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Attorney General, the Chairman of the United States Civil Service Commission (or successor authority), and the Chairman of the Architectural and Transportation Barriers Compliance Board. The Council shall have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section.".

(b) The table of contents is amended by adding the following items at the end of title V:

"Sec. 505. Remedies and attorney's fees.
"Sec. 506. Interagency Coordinating Council.

COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

"SEC. 120. (a) The Rehabilitation Act of 1973 is amended by inserting at the end thereof the following new title:

"TITLE VI—COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

"PART A—GENERAL PROVISIONS

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Comprehensive Services for Severely Handicapped Individuals Act of 1978'.

"DEFINITIONS

"SEC. 602. For purposes of this title:

"(1) The term 'severely handicapped individual' means an individual who has a mentally or physically handicapping condition or combination of such handicapping conditions which—

"(A) is expected to continue indefinitely;

"(B) indicates a need for life-long or extended duration for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services;

"(C) requires the provision of comprehensive services because of significant functional limitations in at least two of the following life activities:

"(i) self-care;
"(ii) communication;
"(iii) learning;
"(iv) mobility; or
"(v) capacity for independent living; and

"(D) constitutes a substantial barrier to such individual's ability to function in society.

"(2)(A) The term 'nonprofit facility for severely handicapped individuals' means a facility for severely handicapped individuals which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(B) The term 'nonprofit private institution of higher learning' means an institution of higher learning which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"INDIVIDUALIZED WRITTEN PROGRAM

"SEC. 603. (a) As a condition of receiving Federal funds under section 612, each State shall provide assurances to the Secretary that an individual written program is developed for each severely handicapped individual provided comprehensive services by the State. The Secretary shall prescribe regulations for the development of such individualized programs which are in accordance with the provisions of section 102 of this Act and regulations prescribed thereunder modified as may be appropriate to provide comprehensive services for severely handicapped individuals as defined in section 602 of this title.

"(b) The Secretary shall prescribe procedures to insure that the individualized written program required under this section shall, for each individual, be coordinated with the individualized written rehabilitation program, habilitation plan, or education program for such individual required under section 102 of this Act, section 112 of the Developmental Disabilities Services and Facilities Construction Act, and sections 612(4) and 614(a)(5) of the Education of All the Handicapped Children Act of 1975, respectively.

"PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

"SEC. 605. (a) The Secretary shall require as a condition to a State receiving an allotment under section 614 and payments under section 612 for any fiscal year after the fiscal year ending September 30, 1979, that the State provide the Secretary satisfactory assurances that (1) the State has in effect a system to protect and advocate the rights of severely handicapped individuals, and (2) such system will (A) have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such individuals who are receiving services under this title within such State, and (B) is independent of any State agency that provides services under this title to such individuals.

"(b) The Secretary shall take such action as may be necesary to insure that the States coordinate the system to advocate and protect the rights of such individuals with the system to protect and advocate the rights of persons with developmental disabilities required under section 113 of the Developmental Disabilities Services and Facilities Construction Act.

"(c)(1) In order to assist State in developing and maintaining systems to meet the requirements of this section, the Secretary shall allot to the States the sums appropriated under paragraph (2) of this section in the same manner as funds are allotted under section 614 of this title and paid under section 612 of this title.

"(2) In order to make payments of allotments under this subsection to carry out the purposes of this section there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1979, $7,500,000 for the fiscal year ending September 30, 1980, and $9,000,000 for the fiscal year ending September 30, 1981.

"(3) The provisions of section 1913 of title 18 of the United States Code shall be applicable to all moneys authorized under the provisions of this section.

"EMPLOYMENT OF HANDICAPPED INDIVIDUALS

"SEC. 605. As a condition of providing assistance under this title, the Secretary shall require that each recipient of assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals under the provisions of this Act which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.

"ADMINISTRATION

"SEC. 606. In the administration of this title, the Secretary is authorized to apply any provision of title I of this Act, modified as necessary to meet the special needs of severely handicapped individuals, which is consistent with the provisions of this title.

"PART B—STATE GRANTS FOR PROVISIONS OF COMPREHENSIVE SERVICES AND PLANNING FOR SEVERELY HANDICAPPED INDIVIDUALS

"DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

"SEC. 611. (a) The purpose of this title is to authorize grants to States to assist in developing and implementing comprehensive services for severely handicapped individuals.

"(b) In order to carry out the provisions of this title, there are authorized to be appropriated $90,000,000 for the fiscal year ending September 30, 1979, $110,000,000 for the fiscal year ending September 30, 1980, and $150,000,000 for the fiscal year ending September 30, 1981.

"(c)(1) Not less than 30 per centum of the funds paid to a State under section 614 shall be used by such State for the purpose of making grants pursuant to section 617 of this Act for the support of funding, coordination, and development of projects and programs with respect to independent living and other programs services.

"(2) The Secretary may waive all or part of such 30 per centum requirement specified in paragraph (1) if he determines, on the basis of evidence submitted by such State, that such State does not have and cannot feasibly use the funds required to be expended for the purposes specified in paragraph (1).

"PAYMENTS TO STATES

"SEC. 612. (a) From each State's allotment under this part for any fiscal year (including any additional allotments made to such State under section 614(b)), the Secretary shall pay to such State an amount equal to the Federal share of the cost of comprehensive services for severely handicapped individuals under the State plan approved under section 615, including expenditures for the administration of the State plan, except that the total of such payments to such State for such fiscal year may not exceed its total allotment under section 614, including any additional allotments made to such State under section 614(b) for such year. No payment shall be made in an amount which would result in a violation of the provisions of the State plan approved under section 615.

"(b) The method of computing and paying amounts under subsection (a) shall be as follows:

"(1) The Secretary shall, prior to the beginning of each calendar quarter or other period for payment which he prescribes by regulation, estimate the amount to be paid to each State under the provisions of subsection (a) for such quarter or period. Such estimate shall be based on such records and information furnished by the State as the Secretary may require, as well as any other investigation as the Secretary may find necessary.

"(2) The Secretary shall pay in each calendar quarter or payment period, from the allotment available for each State, the amount estimated for such quarter or period under paragraph (1). The Secretary shall reduce or increase as the case may be such payment by any amount which he finds that his estimate of the amount to be paid to the State for the prior quarter or payment period was greater or lesser than the amount which should have been paid to the State for such prior quarter or period under subsection (a). Payments shall be made—

"(A) prior to audit or settlement by the General Accounting Office;

"(B) through the disbursing facilities of the Treasury Department; and

"(C) in such installments as the Secretary may determine.

"(c) If the Secretary, after investigation, has reason to believe that any act (or failure to act) has occurred requiring action to withhold payments and after he has given the State agency so designated notice of opportunity for hearing pursuant to such section, payments under this section may be withheld, in whole or in part, pending corrective action or action based on such hearing.

"SCOPE OF COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

"SEC. 613. Comprehensive services for severely handicapped individuals provided under this title are any goods or services as may be necessary to enhance the ability of a severely handicapped individual to live independently or to function in society and, if appropriate, secure and maintain appropriate employment. Such goods and services may include—

"(1) those goods and services specified in paragraphs (1) through (11) (especially paragraphs (3), (4), (6), (8), (10), and (11)) of section 103(a) of this Act, to the extent such goods and services are appropriate to carry out the provisions of this title;

"(2) physical, mental, and psychotherapeutic services;

"(3) recreational and leisure time activities; and

"(4) preschool services, including physical therapy, development of language and communication skills, and general child development services.

"ALLOTMENT OF FUNDS

"SEC. 614. (a) From the sums appropriated for any fiscal year pursuant to section 611 (b) of this title, each State shall be allotted for payment under section 612 an amount which bears the same ratio to such sums as the population of such State bears to the population of all States, except that—

"(1) each State shall be allotted not less than one-half of 1 per centum of the amounts made available under section 611 (b) for the fiscal year for which the allotment is made except that for purposes of this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands; and

"(2) Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands shall each be allotted not less than one-eighth of 1 per centum of the amounts made available under section 611 (b) for the fiscal year for which the allotment is made.

"(b)(1) If by the end of the sixth month of the fiscal year for which sums have been appropriated under section 611(b) the amount allotted to a State has not been paid to such State under such section because of such State's failure to qualify for such sums in accordance with the provisions of this title, the Secretary shall make reallotment of the total amounts not paid to States in an amount which bears the same ratio to the total amount to be reallotted as the population of each qualifying State bears to the population of all qualifying States.

"(2) The Secretary may make available for reallotment in accordance with the provisions of paragraph (1) of this subsection such amounts paid in any fiscal year to any State under section 612 which he determines, after consultation with such State, will not be used by such State during such fiscal year for carrying out the provisions of this title.

"(3) If the Secretary determines pursuant to paragraph (2) that a State will not use any of the amounts paid pursuant to section 612, such State shall not be eligible for reallotment of funds under paragraph (1) or (2).

"(4) Funds made available by the Secretary through reallotment pursuant to paragraph (1) or (2) of this subsection shall remain available for expenditure until the end of the fiscal year following the fiscal year in which such funds become available for reallotment.

"(c) Whenever the State plan appeared in accordance with section 615 provides for participation of more than one State agency in administering or supervising the administration of designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary, is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of the State plan. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, if the purposes of the State plan will receive proportionate benefit from the combination.

"(d) Whenever the State plan approved in accordance with section 615 provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined in accordance with the agreements between the agencies involved.

"ANNUAL STATE PLANS

"SEC. 615. (a) For each fiscal year in which a State desires to participate in the program authorized under this title, a State shall submit to the Secretary for approval a State plan to provide for a program of comprehensive services for severely handicapped individuals designed to enhance the ability of such severely handicapped individuals to function in society and, if appropriate, secure and maintain appropriate employment. Such plan shall be submitted consistent with procedures established by the Secretary with respect to State plans submitted under section 101 of this Act and pursuant to any additional regulations the Secretary may prescribe. Such plan shall be prepared and submitted in accordance with the provisions of sections 616 and 619, and to the maximum extent feasible, in conjunction with the development and submission of the State plan prepared pursuant to section 101 of this Act.

"(b) The State plan required under subsection (a) shall—

"(1) designate the State agency or agencies administering the vocational rehabilitation plan pursuant to title I of this Act as the agency or agencies to administer the provisions of this title, unless the goals and objectives of this title can be more appropriately achieved through another State agency or agencies as certified by the Governor and approved by the Secretary;

"(2)(A) describe the quality, scope, and extent of the comprehensive services being provided to severely handicapped individuals and specify the State's goals and plans with respect to the distribution of grants pursuant to the independent living and service programs established under section 617 of this title; and

"(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under this title will comply with the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

"(3) provide assurances that comprehensive services will be provided only in accordance with the individualized written program required under section 603(a) and describe the efforts undertaken to assure appropriate coordination and consultation in the preparation of such written programs with the plan and programs specified in section 603(b);

"(4) provide that special efforts will be undertaken to provide technical assistance to urban and rural property areas with respect to the provision of comprehensive services for severely handicapped individuals and describe such efforts;

"(5)(A) provide assurances that efforts will be undertaken by the appropriate State agency or agencies to eliminate the inappropriate placement of severely handicapped individuals in institutions and to improve the quality of care provided by institutions providing services to severely handicapped individuals; and (B) describe the efforts undertaken by the State during the previous year with respect to such efforts;

"(6) provide for the maximum utilization of all available resources, including—

"(A) community education programs; and

"(B) volunteers serving under the Domestic Volunteer Service Act of 1973 and through other appropriate voluntary organizations, so long as volunteer services supplement and do not provide substitutes for the services of paid employees;

"(7) specify plans for maximizing the use of telecommunication systems, sensory, and other technological aids and devices which have the potential for improving and providing comprehensive services for severely handicapped individuals;

"(8) provide for the adequate staffing and support of the State council on severely handicapped individuals;

"(9) contain such additional information and assurances as the Secretary finds necessary to carry out the provisions of this part;

"(10) conform to such other requirements consistent with the purposes and provisions of this title as the Secretary by regulation may prescribe; and

"(11) specify that the plan required under this section is in accordance with goals and timetables set forth in the long-range plan required under section 616.

"(c) The provisions of subsections (b), (c), and (d) of section 101 of this Act shall apply to any State plan submitted to the Secretary pursuant to this section.

"LONG-RANGE PLAN

"SEC. 616. (a)(1) Within eighteen months of the date of enactment of this title, each State, as a condition of receipt therefore of its allotment under this title, shall submit to the Secretary a long-range plan concerning the provision of appropriate services under this Act for all severely handicapped individuals residing within such State. Such long-range plan shall include goals and timetables for identifying and providing services under this title to all severely handicapped individuals residing within such State and plans for coordinating available public and private resources with programs and activities to be carried out under this title.

"(2) As part of the annual State plan submitted under section 615 for the fiscal year ending September 30, 1980, and for each fiscal year thereafter, each State shall annually update its long-range plan submitted under paragraph (1).

"(b)(1) From the funds allotted and paid to a State under section 614—

"(A) not more than 10 per centum or $60,000, whichever is the greater, for the fiscal year ending September 30, 1979, and

"(B) not more than 3 per centum or $17,500, whichever is the greater, for the fiscal year ending September 30, 1980,

shall be used by each State for developing the long-range plan required under subsection (a)(1).

"(2) From the funds allocated and paid to a State under section 614—

"(A) not more than 3 per centum or $17,500, whichever is the greater, for the fiscal year ending September 30, 1980, and

"(B) not more than 6 per centum or $35,000, whichever is the greater, for the fiscal year ending September 30, 1981.

shall be used by each State for updating the long-range plan as required under subsection (a)(2).

"INDEPENDENT LIVING AND OTHER PROGRAMS

"SEC. 617. (a) A State receiving payments under this title shall make grants to local public agencies, private nonprofit organizations, or tribal organizations of Indian tribes located on Federal and State reservations, for the establishment or operation of centers to provide services for severely handicapped individuals, such as independent living centers, designed to enable such individuals to secure and maintain employment or to enhance their ability to live independently or function in the society.

"(b) In order to be eligible for a State grant under this section, an agency, organization, or tribal organization shall submit an application containing such information and assurances as shall be prescribed by such State agency, including assurances that such agency, organization, or tribal organization will provide services to severely handicapped individuals including—

"(1) attendant care and training of personnel to provide such care;

"(2) referral and counseling services with respect to attendant care;

"(3) intake counseling to determine the need for specific services;

"(4) community group living arrangements;

"(5) education and training necessary for living in the community and participating in community activities;

"(6) housing and transportation referral and assistance;

"(7) surveys, directories, and other activities to identify appropriate housing and accessible transportation and provide housing referral, transportation, and other support services;

"(8) health maintenance services;

"(9) peer counseling;

"(10) individual and group social and recreational activities; and

"(11) such other services as may be necessary and not inconsistent with the provisions of this title.

"FEDERAL SHARE; NONDUPLICATION

"SEC. 618. (a)(1) The Federal share of any allotment under this part may not exceed 80 per centum of the necessary cost thereof as determined by the Secretary, except that if the project is located in an urban or rural poverty area, the Federal share may not exceed 90 per centum of the project's necessary costs as so determined.

"(2) The non-Federal share of the cost of any project assisted by a grant or allotment under this title may be provided in kind.

"(b) In determining the amount of any State's Federal share of the expenditures incurred by it under the State plan approved under section 615, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than section 614, and (2) the percentage of non-Federal funds required to be expended in programs similar to the programs established under this title.

"STATE COUNCILS ON SEVERELY HANDICAPPED INDIVIDUALS

"SEC. 619. (a)(1) Each State which receives assistance under this part shall establish a State Council on Severely Handicapped Individuals which will serve as an advocate for severely handicapped individuals. The members of a State's Council on Severely Handicapped Individuals shall be appointed by the Governor of such State from among the residents of that State. The Governor of each State shall make appropriate provisions for the rotation of membership on the Council of his respective State. Each State Council on Severely Handicapped Individuals shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies and groups concerned with the provision of services to severely handicapped individuals in that State. At least one-half of the membership of such State Council shall consist of individuals who—

"(A) are severely handicapped individuals or the parents or guardians of such individuals;

"(B) are generally representative of the population of severely handicapped individuals in such State; and

"(C) are not officers or employees of any State agency or any other entity which receives funds or provides services under this part.

"(2) No more than 25 per centum of the members of a State Council appointed pursuant to paragraph (1) may also serve as members of that State's State Planning Council established under section 137 of the Developmental Disabilities Services and Facilities Construction Act. The Chairman of such State Planning Council or his designee shall serve as a nonvoting ex officio member of the Council established under this section.

"(b) Each State Council on Severely Handicapped Individuals shall—

"(1) advise regarding, supervise the development of, and approve the State plan required by this part;

"(2) monitor and evaluate the implementation of such State plan;

"(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting severely handicapped individuals prior to the submission of such State plan to the Secretary for approval;

"(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably require;

"(5) submit to the Federal Council on Handicapped Individuals, through the Governor, recommendations to assist the Federal Council on Handicapped Individuals concerning (A) the development of a national policy to address the needs of severely handicapped individuals and (B) the development of a plan to implement such policy; and

"(6) coordinate its activities with the State Planning Council established under section 137 of the Developmental Disabilities Services and Facilities Construction Act.

"(c) Each State receiving assistance under this part shall provide adequate staff and support for the State Council on Severely Handicapped Individuals to insure that the Council is able to carry out the provisions of this Act.

"Part C—Demonstrations and Models for Centers and Services to Meet Special Needs of Severely Handicapped Individuals

"DEVELOPMENT AND DEMONSTRATION OF MODELS FOR CENTERS AND SERVICES

"Sec. 621. (a) The Secretary is authorized and directed to provide financial assistance by grants to or contracts with public agencies or private nonprofit institutions for the development and demonstration of models for centers and the provision of services to meet the special needs of severely handicapped individuals. Such models shall include—

"(1) the establishment and operation of training centers to create and utilize the best methods of appraising and developing the employment potential of severely handicapped individuals, including programs to—

"(A) provide training and continuing education for habilitation and rehabilitation personnel and other employment-oriented personnel with respect to the employment of severely handicapped individuals;

"(B) develop model procedures for testing and evaluating the employment potential of severely handicapped individuals;

"(C) develop model training programs for severely handicapped individuals to teach skills which lead to appropriate employment;

"(D) develop new approaches and techniques for the placement and followup of severely handicapped individuals in employment; and

"(E) provide information services regarding education, training, employment, and placement for severely handicapped individuals;

"(2) the establishment and operation of models for independent living and community service centers for severely handicapped individuals, including—

"(A) a continuum of alternative living arrangements for severely handicapped individuals, which may include community-based group homes, other community living arrangements, or centers designed to enhance the ability of such individuals to function in society, including services for adults residing in such communities who are incapable of caring for themselves without help or supervision;

"(B) appropriate specialized, generic, and interdisciplinary services (which may include home support services), transportation, communication, recreation, and related services;

"(3) models of services for preschool age severely handicapped children, including—

"(A) early intervention, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of severely handicapped children up to the age of five, with a special emphasis on severely handicapped children up to the age of three;

"(B) such physical therapy, language development, pediatric, nursing, and psychiatric services as are necessary for such children; and

"(C) appropriate services for the parents of such children, including psychiatric services, parent counseling, and training.

"(b) No grant or contract may be made under this section unless an application therefor is submitted to and approved by the Secretary. Such an application shall be submitted in such form and such manner and contain such information as the Secretary may require. In determining whether to approve an application under this section, the Secretary shall consider the needs of the severely handicapped individuals in the area to be served by the applicant and the capability of the applicant to develop and apply new methods and techniques.

"(c) Pursuant to regulations which the Secretary shall prescribe, funds under this section may be be used to cover part of the cost of renovation or modernization of facilities to be used in connection with an activity assisted under a grant or contract made under this section.

"(d) The Secretary shall take such action as may be necessary to coordinate the program of models for independent living authorized under subsection (a)(2) with the special programs for independent living authorized under section 121(a) of this Act.

"(e)(1) There are authorized to be appropriated $50,000,000 for the fiscal year ending September 30, 1979, $55,000,000 for the fiscal year ending September 30, 1980, and $60,000,000 for the fiscal year ending September 30, 1981 to carry out the provisions of this section.

"(2) Not more than 10 per centum of the funds appropriated for any fiscal year under this subsection shall be used for renovation or modernization of facilities pursuant to subsection (c).

"RESEARCH, TRAINING, AND EVALUATION

"Sec. 622. (a) The Secretary, through the Commissioner, is authorized to make grants to and contracts with public agencies and nonprofit private organizations and academic institutions to pay part of the cost of projects for planning and conducting research, demonstrations, studies, and related activities to develop methods, procedures, and devices to assist in the provision of comprehensive services for severely handicapped individuals. The Commissioner shall coordinate grants and contracts under this subsection with grants and contracts under other appropriate programs of the Department of Health, Education, and Welfare.

"(b) The Secretary, through the Commissioner, is authorized to make grants to and contracts with public agencies and nonprofit private organizations and academic institutions to pay part of the cost of projects for training, traineeships, and related activities designed to assist in increasing the quality of training, and numbers of personnel trained to provide comprehensive services for severely handicapped individuals and perform such other functions as may be necessary to the development of such comprehensive services. The Commissioner shall coordinate grants and contracts made under this subsection with grants and contracts made under other appropriate programs of the Department of Health, Education, and Welfare.

"(c)(1) The Secretary shall provide for the continuing evaluation of all programs and activities conducted pursuant to this title. The evaluation process shall include an examination of—

"(A) the cost of all programs and activities in relation to their effectiveness in achieving stated goals;

"(B) the impact of all programs and activities on the lives of severely handicapped individuals; and

"(C) the implications of all programs and activities under this title for related programs.

"(2) The Secretary is authorized to require such information as may be needed from recipients of assistance under this title and to conduct, either directly or through grants or contracts, evaluation studies to carry out his duties under subsection (a) of this section.

"(d) The Secretary shall report to Congress annually concerning the conditions affecting severely handicapped individuals. The report shall include—

"(1) the results of the evaluations required under subsection (c);

"(2) a report on the level of accomplishment in research and development;

"(3) comments on the quality of services received by severely handicapped individuals; and

"(4) recommendations for future research, training, evaluation, services, procedures, and legislation needed to improve the lives of severely handicapped individuals.

"(e)(1) There are authorized to be appropriated $7,000,000 for the fiscal year ending September 30, 1979, $9,000,000 for the fiscal year ending September 30, 1980, and $11,000,000 for the fiscal year ending September 30, 1981 to carry out the provisions of this section.

"(2) Of the amounts appropriated under this subsection in each fiscal year, not more than 2 per centum shall be made available to carry out evaluations under subsection (c) with respect to programs carried out under Part B of this title.

"Part D—Coordination of Programs

"SPECIAL STUDY REQUIRED

"Sec. 631. Within two years after the date of enactment of this title, the Secretary shall prepare and transmit to the Congress a study concerning the impact of this title on eligibility requirements and service availability for severely handicapped individuals, and the relationship of eligibility requirements and service availability under this title to eligibility requirements and service availability under the Developmental Disabilities Services and Facilities Construction Act. The report shall include—

"(1) an analysis of the impact of the programs established by this title on the range of choice of services and programs for severely handicapped individuals, as defined in section 602(1) of this title, and for persons with developmental disabilities, as that term is used in the Developmental Disabilities Services and Facilities Construction Act;

"(2) a specification of the costs for the provision of services under this title and under the Developmental Disabilities Services and Facilities Construction Act, and a comparison of such costs;

"(3) an analysis of the effect on eligibility requirements under this title and under the Developmental Disabilities Services and Facilities Construction Act due to the use of functional rather than categorical definitions of the term 'severely handicapped individual' in section 602(1) of this title and of the term 'developmental disability' in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, as modified by section 301 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978; and

"(4) recommendations concerning the advisability of legislation to revise the definitions of 'severely handicapped individual' and 'development disability' in relation to the effect of such definitions on eligibility requirements.".

(b) The table of contents of such Act is amended by inserting at the end thereof the following new items:

"TITLE VI—COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

"Part A—General Provisions

"Sec. 601. Short title.
"Sec. 602. Definitions.
"Sec. 603. Individualized written program.
"Sec. 604. Protection and advocacy of individual rights.
"Sec. 605. Employment of handicapped individuals.
"Sec. 606. Administration.

"Part B—State Grants for Provision of Comprehensive Services and Planning for Severely Handicapped Individuals

"Sec. 611. Declaration of purpose; authorization of appropriations.
"Sec. 612. Payments to States.
"Sec. 613. Scope of comprehensive services for severely handicapped individuals.

"Sec. 614. Allotment of funds.
"Sec. 615. Annual State plans.
"Sec. 616. Long-range plan.
"Sec. 617. Independent living and other service programs.
"Sec. 618. Federal share; nonduplication.
"Sec. 619. State Councils on Severely Handicapped Individuals.

"PART C—DEMONSTRATIONS AND MODELS FOR CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF SEVERELY HANDICAPPED INDIVIDUALS

"Sec. 621. Development and demonstration of models for centers and services.
"Sec. 622. Research, training and evaluation.

"PART D—COORDINATION OF PROGRAMS

"Sec. 631. Special study required.".

STUDIES

SEC. 121. (a) The Secretary after consultation with the Commissioner of the Rehabilitation Services Administration, Commissioner of Education (or successor thereto), the Director of the National Institute on Handicapped Research, and other appropriate officials, organizations, and individuals, shall conduct a study of the special problems and needs of handicapped individuals who reside in rural areas in the United States. Upon the completion of such study, but not later than eighteen months after the date of enactment of this section, the Director shall submit the results of such study, together with such recommendations as the Secretary deems appropriate to the President, and appropriate Committees of the Congress.

(b) In consultation with appropriate Federal departments and agencies, the Secretary shall conduct a study of possible ways to structure Federal programs providing benefits to handicapped individuals in order to eliminate any disincentives for individuals receiving benefits under such programs to obtain and continue in employment. Upon the completion of such study, but not later than twenty-four months after the date of enactment of this section, the Secretary shall submit the results of such study, together with such recommendations as the Secretary deems appropriate to the President and the Congress.

TITLE II—FEDERAL COUNCIL ON HANDICAPPED INDIVIDUALS

COUNCIL ESTABLISHED

SEC. 201. There is established a Federal Council on Handicapped Individuals (hereinafter referred to as the "Council"), which shall provide advice and assistance to the President concerning the problems and needs of handicapped and severely handicapped individuals.

DUTIES OF THE COUNCIL

SEC. 202. (a) The Council shall—

(1) advise and assist the President on matters relating to the special needs of handicapped and severely handicapped individuals;

(2) review and evaluate on a continuing basis all policies, programs, and activities concerning handicapped individuals, severely handicapped individuals, and persons with developmental disabilities conducted or assisted by all Federal departments and agencies, including programs established or assisted under the Rehabilitaiton Act of 1973, the Comprehensive Services for Severely Handicapped Individuals Act of 1978, and the Developmental Disabilities Services and Facilities Construction Act, with a view toward determining the effectiveness of all Federal policies, programs, and activities in meeting the needs of handicapped and severely handicapped individuals;

(3) severe as an ombudsman on behalf of handicapped and severely handicapped individuals by making recommendations to the President and to the Congress with respect to Federal policies, programs, and activities concerning handicapped and severely handicapped individuals;

(4) inform the public about the problems and needs of handicapped and severely handicapped individuals by collecting and disseminating information, conducting or commissioning studies and publishing the results thereof, conducting public hearings, and by issuing publications and reports; and

(5) provide public forums for discussing and publicizing the problems and needs of handicapped and severely handicapped individuals by conducting or sponsoring conferences, workshops, and other such meetings.

(b) The Council shall make such interim reports as it deems advisable and shall make an annual report of its findings and recommendations to the President not later than March 31 of each year. The President shall transmit each such report to the Congress together with his comments and recommendations.

MEMBERSHIP OF THE COUNCIL; APPOINTMENTS; CONDUCT OF BUSINESS

SEC. 203. (a) The Council shall be composed of fifteen members, to be appointed by the President with the advice and consent of the Senate. The members of the Council shall be appointed so as to be representative of handicapped and severely handicapped individuals, national organizations concerned with severely handicapping conditions, providers of services to the handicapped, business concerns, and labor organizations. At least five members of the Council shall be handicapped or severely handicapped individuals.

(b) Members of the Council shall be appointed to serve for a three-year term, except that the terms of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, and five at the end of three years. Members shall be eligible for reappointment and may serve after the expiration of their terms until such time as their successors have been appointed by the President and have been confirmed by the Senate.

(c) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(d) The President shall designate the Chairman from among the members appointed to the Council. The Council shall meet at the call of the Chairman but not less often than four times a year. The Secretary of Health, Education, and Welfare shall be an ex officio member of the Council.

(e) Eight members of the Council shall constitute a quorum and any vacancy in the Council shall not affect its power to function.

(f) The Council shall make such bylaws, rules, and regulations as are necessary to carry out its functions under this Act.

COMPENSATION OF COUNCIL MEMBERS

SEC. 204. Each member of the Council who is not a regular full-time employee of the United States shall be entitled to receive compensation at a rate equal to the rate paid a GS-18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day he is engaged in the actual performance of his duties as a member of the Council, and while serving on the business of the Council away from his home or regular place of business, may be allowed travel expenses, including per diem in lieu or subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service. Members of the Council who are officers or employees of the United States Government shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

RESPONSIBILITIES OF THE SECRETARY

SEC. 205. The Secretary of Health, Education, and Welfare shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

AUTHORIZATION OF APPROPRIATIONS

SEC. 206. (a) There are authorized to be appropriated for the purpose of carying out the provisions of this title $1,200,000 for fiscal year 1979 and each succeeding fiscal year ending prior to October 1, 1981.

(b) Of the amounts appropriated under subsection (a), $200,000 shall be made available in each fiscal year for the employment of staff for the Council.

TITLE III—AMENDMENTS TO THE DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT

DEFINITIONS

SEC. 301. Paragraph (7) of section 102 of the Developmental Disabilities Services and Facilities Construction Act is amended so as to read as follows:

"(7) The term 'developmental disability' means a severe chronic disability of a person which—

"(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

"(B) is manifested before such person attains age twenty-two;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following areas of major life activity:

"(i) self-care;
"(ii) receptive and expressive language;
"(iii) learning;
"(iv) mobility;
"(v) self-direction;
"(vi) capacity for independent living;
"(vii) economic self-sufficiency; and

"(E) reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services to be individually planned and coordinated during the lifetime of such person or for an extended period of time.".

NATIONAL ADVISORY COUNCIL REPEALED

SEC. 302. Section 108 of the Developmental Disabilities Services and Facilities Construction Act is repealed.

SPECIAL REPORT REQUIRED

SEC. 303. The Developmental Disabilities Services and Facilities Construction Act is amended by inserting immediately after section 107 the following new section:

"SPECIAL REPORT REQUIRED

"SEC. 108. (a) The Secretary shall make a special report to the Congress concerning the impact of the modification of the definition of 'developmentally disabled' contained in section 102(7) of this Act made by section 301 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. The report shall include—

"(1) an analysis of the impact of the modification of such definition on all categories of persons with developmental disabilities receiving services under this Act prior to the date of enactment of such modification, and for each of the two succeeding fiscal years, including—

"(A) the number of persons with developmental disabilities in all categories served before and after the date of enactment of such modification; and

"(B) the amounts expended under this Act for all categories of persons with developmental disabilities before and after the date of enactment of such modification; and

"(2) an assessment, evaluation, and comparison of services provided to persons with developmental disabilities provided prior to the date of enactment of such modification and for each of the two succeeding fiscal years.

"(b) The Secretary shall submit the report required under subsection (a) within 30 months of the date of enactment of this section.".

EVALUATION SYSTEM

SEC. 304. (a) Section 110(a) of the Developmental Disabilities Services and Facilities Construction Act is amended by striking out "The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, shall" and inserting in lieu thereof "The Secretary shall".

(b) Section 110(d) of such Act is amended by striking out "The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, may" and inserting in lieu thereof "The Secretary may".

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 305. Section 113(b)(2) of the Developmental Disabilities Services and Facilities Construction Act is amended by—

(1) striking out "and" after "1977,"; and

(2) striking out the period at the end thereof and inserting in lieu thereof ", $8,000,000 for the fiscal year ending September 30, 1979, $10,000,000 for the fiscal year ending September 30, 1980, and $11,000,000 for the fiscal year ending September 30, 1981. The provisions of section 1913 of title 18 of the United States Code shall be applicable to all moneys authorized under the provisions of this section.".

AUTHORIZATION OF APPROPRIATIONS; DEMONSTRATION GRANTS

SEC. 306. Section 123(a) of the Developmental Disabilities Services and Facilities Construction Act is amended—

(1) by striking out "1977, and" and inserting in lieu thereof "1977,";

(2) by striking the period at the end thereof and inserting in lieu thereof a comma; and

(3) by adding immediately at the end thereof the following: "$8,000,000 for the fiscal year ending September 30, 1979, $10,000,000 for the fiscal year ending September 30, 1980, and $12,000,000 for the fiscal year ending September 30, 1981.".

AUTHORIZATION OF APPROPRIATIONS FOR ALLOTMENTS

SEC. 307. Section 131 of the Developmental Disabilities Services and Facilities Construction Act is amended—

(1) by striking out "and" after "1977," and

(2) by striking the period at the end thereof and inserting in lieu thereof ", $45,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, and $55,000,000 for the fiscal year ending September 30, 1981.".

STATE ALLOTMENTS

SEC. 308. Section 132(a)(1)(B)(i)(II) of the Developmental Disabilities Services and Facilities Construction Act is amended by striking out "$150,000," and inserting in lieu thereof "$250,000,".

STATE PLANS

SEC. 309. (a) Section 133(b)(6) of the Developmental Disabilities Services and Facilities Construction Act is amended—

(1) by inserting "(A)" after "(6)";

(2) by inserting after the semicolon the word "and"; and

(3) by adding at the end thereof the following:

"(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under the plan will comply with the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;".

(b) Section 133(b) of such Act is amended—

(1) by striking the word "and" at the end of paragraph (29);

(2) by striking the period at the end of paragraph (30) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by inserting the following new paragraph immediately after paragraph (30):

"(31) provide assurances that the State has undertaken affirmative steps to assure the participation in programs under this Act of individuals generally representative of the population of the State, with particular attention to the participation of members of minority groups.".

STATE PLANNING COUNCILS

SEC. 310. (a) Section 137(a) of the Developmental Disabilities Services and Facilities Construction Act is amended to read as follows:

"SEC. 137. (a) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities. The members of a State's State Planning Council shall be appointed by the Governor of such State from among the residents of that State. The Governor of each State shall make appropriate provisions for the rotation of membership on the Council of his respective State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies and groups concerned with services to persons with developmental disabilities in that State. At least one-half of the membership of such a Council shall consist of persons who—

"(1) are persons with developmental disabilities or the parents or guardians of such persons; and

"(2) are not officers or employees of any State agency or any other entity which receives funds or provides services under this part.".

(b) Section 137(b) of such Act is amended—

(1) by striking out in subsection (b)(1) "supervise" and inserting in lieu thereof "advise regarding and supervise";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting immediately after paragraph (3) the following new paragraph:

"(4) coordinate its activities with the State Council on Severely Handicapped Individuals established in the State under section 619 of the Comprehensive Services for Severely Handicapped Individuals Act of 1978, and".

GRANT AUTHORITY

SEC. 311. (a) Section 145(a) of the Development Disabilities Services and Facilities Construction Act is amended—

(1) by striking out "The Secretary, after consultation with the National Advisory Council on Services and Facilities in the Developmentally Disabled, may" and inserting in lieu thereof "The Secretary may";

(2) by striking out the word "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting a semicolon and the word "and"; and

(4) by inserting after paragraph (9) the following new paragraph:

"(10) developing or demonstrating innovative methods to attract and retain professionals to serve in rural areas in the habilitation of persons with developmental disabilities.".

(b) Section 145 of such Act is amended—

(1) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively;

(2) by inserting immediately after subsection (a) the following new subsection:

"(b) The Secretary shall establish procedures to insure participation of persons with developmental disabilities and their parents or guardians in determining priorities to be utilized by the Secretary in making project grants under the provisions of this section."; and

(3) by striking out the word "and" after "1977," in subsection (e), and by inserting immediately before the period in such subsection a comma and the following: "$20,000,000 for fiscal year 1979, $22,000,000 for fiscal year 1980, and $26,000,000 for fiscal year 1981".

SHORT TITLE

SEC. 312. Section 101 of the Developmental Disabilities Services and Facilities Construction Act is amended to read as follows:

"SHORT TITLE

"SEC. 101. This title may be cited as the 'Developmental Disabilities Assistance and Bill of Rights Act'.".

TITLE IV—READER SERVICES FOR THE BLIND; INTERPRETER SERVICES FOR THE DEAF

SHORT TITLE

SEC. 401. This title may be cited as the "Reader Services for the Blind, Interpreter Services for the Deaf, and Rehabilitation Services for the Older Blind Act of 1978".

PART A—READER SERVICES FOR THE BLIND

DECLARATION OF PURPOSE

SEC. 411. The purpose of this part is—

(1) to provide reading services to blind persons through (A) the employment of persons who by reading aloud can provide blind persons with ready access to printed information, (B) the purchase, production, storage, and distribution of Braille materials and sound recordings, and (C) the purchase, storage, and distribution of equipment which allows blind persons to have private individual access to printed materials by mechanical and electronic means;

(2) to authorize grants to States to provide reading services to blind persons who are not otherwise eligible for such services through State and Federal programs; and

(3) to expand the quality and scope of reading services available to blind persons by assuring that, to the maximum extent possible, the services provided pursuant to this part will meet the individual reading needs of blind persons in elementary, secondary, and postsecondary education, and employment.

AUTHORIZATION OF APPROPRIATIONS

SEC. 412. In order to carry out the purposes of this part, there are authorized to be appropriated $4,000,000 for the fiscal year ending September 30, 1979, $6,000,000 for the fiscal year ending September 30, 1980, and $8,000,000 for the fiscal year ending September 30, 1981.

STATE ENTITLEMENTS AND ALLOCATIONS

SEC. 413. (a) From the sums authorized under section 412 of this part, each State shall be entitled to an amount which bears the same ratio to the total amount of such sums as the population of the State bears to the population of all the States which apply for funds pursuant to section 414 of this part. In no case shall a State receive less than $25,000.

(b) Whenever the Secretary determines that any amount of a State's allocation for any fiscal year will not be utilized by such State in carrying out the purposes of this part, he shall make such amount available for carrying out the purposes of this part to one or more other States which he determines will be able to use additional amounts during such year for carrying out such purposes.

STATE APPLICATIONS

SEC. 414. (a) Any State that desires to receive payments pursuant to section 413 of this part for any fiscal year shall submit an application to the Secretary. Such application may be a part of the State's plan for vocational rehabilitation services for the blind submitted to the Secretary pursuant to section 101(a) of the Rehabilitation Act of 1973. In order to be approved by the Secretary, the application must—

(1) designate to administer the reading services program—

(A) the State blind commission or other agency of the State designated under the State plan for vocational rehabilitation services to the blind pursuant to section 101(a)(1) of the Rehabilitation Act of 1973, if such agency includes an identifiable administrative unit that—

(i) is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of the blind and is responsible for the vocational rehabilitation program provided to the blind by such State agency;

(ii) has a full-time director who is directly responsible to the chief administrative officer of such agency and whose functions may not be delegated to any other officer not directly responsible to such director;

(iii) has a staff employed on such rehabilitation work of such identifiable administrative unit all or substantially all of whom are employed full time on such work;

(iv) is located at an organizational level and has an organizational status within such State agency comparable to that of the other major organizational units of such agency; and

(v) develops and administers its own budget; or

(B) an agency of the State, other than an agency described in subparagraph (A) of this paragraph, if such agency is a State agency primarily concerned with vocational rehabilitation or vocational and other rehabilitation of handicapped individuals and includes a bureau division, or other identifiable administrative unit that meets the requirements set forth in clauses (i) through (v) of paragraph (1)(A) of this subsection.

(2) contain the plans, policies, and methods to be followed in providing reading services to the blind, including—

(A) a description of the quality, extent, and scope of reading services provided through any other federally or nonfederally assisted program and how funds allotted to the State pursuant to section 413 of this part will be used to complement and augment rather than duplicate or replace the services provided by such other programs;

(B) a description of the steps to be taken to ensure that, to the maximum extent possible, the reading services provided under this part meet the individual needs of blind persons for access to printed information related to their participation in elementary, secondary, and postsecondary education and in employment;

(C) assurances satisfactory to the Secretary that blind persons who receive the direct services of a reader shall have control over the recruitment, training, retention, scheduling, and supervision of such reader, and that such blind persons shall fix the rate of compensation of such reader within guidelines for compensation of readers to be established by the State agency designated to administer the reading services program under paragraph (1) of this subsection;

(D) assurances satisfactory to the Secretary that no person providing reading services to the blind under this part and receiving compensation for such services will be paid at an hourly rate which is less than the rate established under section 6(a) of the Fair Labor Standards Act, as amended (29 U.S.C. 206(a)(1); and

(E) a description of the conditions for eligibility for participation of blind persons in the reading services program authorized under this part and, where appropriate, a statement of the priorities for service that are based on an assessment of the needs of the blind for such service as determined by the State, and the procedures to insure that such conditions for eligibility and priorities for service shall be developed in consultation with interested blind persons and organizations of blind persons;

(3) provide assurances satisfactory to the Secretary that such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Secretary to be necessary will be followed;

(4) provide assurances satisfactory to the Secretary that eligibility of blind persons for reading services authorized under this part shall be determined without regard to individual economic need;

(5) provide assurances satisfactory to the Secretary that no residence requirement will be imposed that excludes from services under this part any blind person who is present in the State;

(6) provide assurances satisfactory to the Secretary that the views of blind persons and organizations of blind persons will be taken into account in resolving matters of general policy arising in the administration of the reading services program;

(7) provide assurances satisfactory to the Secretary that the State agency designated to administer the reader services program under paragraph (1) of this subsection will make such reports in such form and containing such information as the Secretary may from time to time reasonably require and will keep such records and afford such access thereto as the Secretary finds necessary to ensure the correctness and verification of such reports; and

(8) provide assurances satisfactory to the Secretary that the funds paid to the State under this part will be disbursed and accounted for in accordance with necessary fiscal control and fund accounting procedures.

(b)(1) The Secretary shall approve any application submitted by a State under subsection (a) if, after review of such application, he determines that it meets the requirements of subsection (a). The Secretary shall disapprove any application submitted by a State under subsection (a) if, after review of such application, he determines that it does not meet the requirements of subsection (a).

(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing, finds that a State agency, in the administration of an application approved under paragraph (1) has failed to comply with any requirements set forth in such application, the Secretary, after giving appropriate notice to the State agency, shall make no further payments to such State agency under section 415 of this part until the Secretary is satisfied that there is no longer any failure to comply with the requirements involved.

(3) If any State is dissatisfied with the Secretary's action under paragraph (1) or (2) of this subsection, such State may appeal to the United States district court for the district where the capital of such State is located and judicial review of such action shall be on the record in accordance with the provisions of chapter 7 of title 5, United States Code (5 U.S.C. 701).

PAYMENTS TO STATES

SEC. 415. (a) From the amounts alloted to each State pursuant to section 413 of this part, the Secretary shall pay to that State an amount equal to the amount expended by the State for carrying out the purposes of this part in such State, including expenditures for the administration for the reading services program, except that the total of such payments to such State for any fiscal year may not exceed its allotment for such year under section 413 of this part.

(b) Payments under this part may be made in advance or by way of reimbursement and in such installments as the Secretary may determine necessary.

DEFINITIONS

SEC. 416. For the purposes of this part—

(a) The term "blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees. In determining whether a person is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the person shall select.

(b) The term "reading services" means—

(1) employment of persons who through reading aloud affords blind persons ready access to printed information,

(2) transcription of printed information into braille or sound recording if such transcription is performed pursuant to individual requests from blind persons for such service,

(3) the storage and distribution of braille materials and sound records,

(4) the purchase, storage, and distribution of equipment and materials necessary for the production, duplication, and reproduction of such braille materials and sound recordings, and

(5) the purchase, storage, and distribution of equipment provided to blind persons that affords such persons private individual access to printed materials by mechanical or electronic means.

(c) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(d) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands; and for the purposes of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 514(a)(1) shall be the Governor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands, as the case may be.

PART B—INTERPRETER SERVICES FOR THE DEAF

FINDINGS AND PURPOSES

SEC. 421. (a) The Congress finds that—

(1) section 504 of the Rehabilitation Act of 1973 has provided a mandate that barriers to handicapped individuals must be removed;

(2) most efforts for the removal of such barriers have been directed toward the removal of architectural barriers; and

(3) there is a need to remove communications barriers which affect deaf individuals wherever they exist.

(b) It is the purpose of this part—

(1) to provide for the training of a sufficient number of interpreters to meet the needs of deaf individuals throughout the Nation; and

(2) to establish a mechanism for the efficient delivery of interpreter services to deaf individuals.

INTERPRETER SERVICES

SEC. 422. (a) Title II of the Rehabilitation Act of 1973 is amended—

(1) by redesignating section 207 (as added by section 110(b) of this Act) as section 208;

(2) by redesignating section 206 (as redesignated by section 111(1) of this Act) as section 207; and

(3) by inserting immediately after section 205 (as redesignated by section 111(1) of this Act) the following new section:

"INTERPRETER SERVICES

"SEC. 206. (a) The Secretary, through the Office for Handicapped Individuals in the

Office of Human Development Services (hereinafter referred to as the 'Office for Handicapped Individuals'), may establish not more than twelve programs under this section for the purpose of training a sufficient number of interpreters to meet the communications needs of deaf individuals. Such programs shall be established at locations throughout the Nation which are designed to provide for the most efficient delivery of interpreter services.

"(b) (1) The interpreter training programs specified in paragraph (2) shall be eligible to serve as base centers for purposes of providing services under this section, upon meeting the requirements established in this section.

"(2) The programs referred to in paragraph (1) are the interpreter training programs maintained at the following institutions: Gallaudet College in Washington, District of Columbia; Saint Paul Technical Vocational Institute in Saint Paul, Minnesota; California State University in Northridge, California; Seattle Central Community College in Seattle, Washington; Delgado College in New Orleans, Louisiana; and the National Technical Institute for the Deaf in Rochester, New York.

"(c) The Secretary may establish six additional centers which have ongoing operating programs for training interpreters and are so situated that they can provide training for individuals in State in geographic areas to insure that every part of the Nation is served.

"(d) Any base center or additional center which desires to maintain a program under this section may submit an application to the Office for Handicapped Individuals. Such application shall be submitted in such form, and in accordance with such procedures, as the Secretary may require. Any such application shall—

"(1) provide for the development of a five-year program which—

"(A) demonstrates the capacity to provide interpreter services to deaf individuals in need of such services; and

"(B) includes plans for the delivery of such services in specific areas of need designated by the Secretary; and

"(2) contain such other information as the Secretary may require.

"(e) The Office for Handicapped Individuals shall approve any application which meets the requirements of this section.

"(f) (1) Any base center or additional center which maintains a program under this section may, in connection with such program, provide for the training or retraining of teachers who are involved in providing instruction to deaf individuals but who are not certified as teachers of deaf individuals. Short-term, in-service training may also be provided to teachers of deaf individuals.

"(2) Interpreters who provide services required under the Education of the Handicapped Act may be trained in any program maintained by a base center or additional center under this section, except that funds for in-service training under this paragraph shall be drawn from funds appropriated under the Education of the Handicapped Act.

"(g) Any base center or additional center maintaining a program under this section may provide for the establishment and operation of satellite centers for the training of interpreters, upon a determination that such satellite centers are necessary or appropriate for the efficient delivery of interpreter services to deaf individuals in need of such services.

"(h) Any interpreter trained in any program maintained by a base center or additional center under this section shall be required to meet minimum standards established in the Registry for Interpreters of the Deaf.

"(i) There is authorized to be appropriated to carry out the provisions of this section $7,000,000 for the fiscal year ending September 30, 1979, $7,000,000 for the fiscal year ending September 30, 1980, and $8,000,000 for the fiscal year ending September 30, 1981.".

(b) The items relating to title II in the table of contents of the Rehabilitation Act of 1973 are amended to read as follows:

"TITLE II—RESEARCH AND TRAINING

"Sec. 200. Declaration of purpose.
"Sec. 201. Authorization of appropriations.
"Sec. 202. National Institute of Handicapped Research.
"Sec. 203. Research.
"Sec. 204. Interagency Committee.
"Sec. 205. Training.
"Sec. 206. Interpreter Services.
"Sec. 207. Reports.
"Sec. 208. Definitions.".

NATIONAL NETWORK OF SERVICES FOR DEAF INDIVIDUALS

SEC. 423. (a) Title III of the Rehabilitation Act of 1973 is amended by inserting immediately after section 304 the following new section:

"NATIONAL NETWORK OF SERVICES FOR DEAF INDIVIDUALS

"SEC. 305. (a) The Secretary shall establish a program under this section designed to provide for the establishment of information and referral centers, and interpreter referral centers for deaf individuals, in each State.

"(b) From sums appropriated under this section for any fiscal year, each State shall be entitled to an amount which bears the same ratio to such sums as the number of deaf individuals residing in all States.

"(c) Any State which desires to receive funds under this section may submit an application to the Secretary. Such application shall be submitted in such form, at such times, and in accordance with such procedures, as the Secretary may require. Such application shall—

"(1) provide assurances that such program will be operated throughout the State in areas specifically selected to provide central locations for the provision of services to deaf individuals;

"(2) include a plan which describes, in sufficient detail, the manner in which information and referral services, and interpreter referral services, will be provided to deaf individuals;

"(3) provide assurances that the State agency responsible for the program operated under this section will seek to enter into contractual or other arrangements, to the extent appropriate, with private nonprofit organizations comprised of deaf individuals (or private nonprofit organizations which have the primary purpose of providing assistance or services to deaf individuals) for the operation of such programs; and

"(4) contain such other information as the Secretary may require.

"(d) The Secretary shall approve any application which meets the requirements of this section.

"(e) (1) Interpreter referral services which are provided through any program operated under this section shall be designed to provide a pool of available interpreters for specific geographical areas. Such services may be made available to any public agency or private nonprofit organization which is involved in the delivery of assistance or service to deaf individuals, in order to assist in the efficient delivery of such services.

"(2) The costs of providing interpreter services may be defrayed by the referral center responsible for the provision of such services, during the first year in which such center is in operation. At the end of such period, agencies receiving such services through referrals made by the center shall reimburse the center for the cost of such services.

"(f) Any interpreter who desires to participate in services provided under this section shall be required to meet minimum standards established in the Registry for Interpreters for the Deaf.

"(g) Any funds allocated under this section for use by an interpreter referral center may be used only for provision of interpreter services. Such funds shall not be used to defray administrative or related costs.

"(h) No funds made available under this section may be used for the provision of assistance or services to deaf individuals who are receiving rehabilitation services as clients under any other provision of this Act.

"(i) Funds made available under this section may be used for the purchase or rental of equipment necessary to provide assistance or services to deaf individuals.

"(j) There is authorized to be appropriated to carry out the provisions of this section $12,000,000 for the fiscal year ending September 30, 1979, $13,000,000 for the fiscal year ending September 30, 1980, and $14,000,000 for the fiscal year ending September 30, 1981.".

(b) The item relating to section 305 in the table of contents of the Rehabilitation Act of 1973 is amended to read as follows:

"Sec. 305. National Network of Services for Deaf Individuals.".

PART C—REHABILITATION SERVICES FOR OLDER BLIND PERSONS

DECLARATION OF PURPOSE

SEC. 431. The purpose of this part is to authorize grants to States—

(a) to assist in the development of plans for meeting the needs for services of older blind persons;

(b) for evaluation of the needs of older blind persons for rehabilitation services and personal adjustment services; and

(c) for the provision of rehabilitation and personal adjustment services for older blind persons in order to assist such persons to adjust to blindness and to render such persons more capable of caring for their individual needs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 432. In order to carry out the purposes of this part, there are authorized to be appropriated $8,000,000 for the fiscal year ending September 30, 1979, $10,000,000 for the fiscal year ending September 30, 1980, and $12,000,000 for the fiscal year ending September 30, 1981.

SCOPE OF REHABILITATION SERVICES FOR OLDER BLIND PERSONS

SEC. 433. (a) Rehabilitation services for older blind persons provided under this part are any goods or services necessary to assist an older blind person to adjust to blindness and to render such person more capable of caring for his individual needs, including—

(1) prevention of blindness services, including outreach services, visual screening, surgical or therapeutic treatment necessary to prevent, correct, or substantially modify eye condition and other disabilities, and necessary hospitalization in connection therewith;

(2) provision of eyeglasses and other visual aids, and mobility and self-help aids;

(3) adjustment services such as mobility training, Braille instruction and equipment;

(4) daily living activities and other rehabilitation teaching services;

(5) individual and family counseling; and

(6) supportive services such as guide services, reader services, and transportation services necessary to assure delivery of services.

(b) Whenever rehabilitation services are **provided** for a group of older blind persons, **such services** may include—

(1) the establishment and maintenance of a register of the blind;

(2) the establishment and the maintenance of materials, equipment, and textbook centers and the distribution of such materials, equipment, and textbooks, including talking book machines, cassette tape players, brailled and large print books, special aids such as needles and Braille typewriters, talking books, and tapes;

(3) the warehousing, sale, and distribution of aids, appliances, and devices used by blind persons; and

(4) necessary costs of administering programs providing services for the blind under the State application approved in accordance with section 435.

(c) Any medical or medically related services (other than those related to screening and evaluation) or any supportive services related to maintenance under subsections (a) and (b) of this section shall be provided only after full consideration of eligibility of the blind individual for any similar benefit by way of pension, compensation, and insurance.

STATE ENTITLEMENTS AND ALLOCATIONS

SEC. 434. (a) From the sums authorized under section 432. each State shall be entitled to an amount which bears the same ratio to the total amount of such sums as the population of the State bears to the population of all the States which apply for funds pursuant to section 435.

(b) Whenever the Secretary determines that any amount of a State's allocation for any fiscal year will not be utilized by such State in carrying out the provisions of this part, he shall make such amount available for carrying out the provisions of this part to one or more other States which he determines will be able to use additional amounts during such year for carrying out such provisions.

STATE APPLICATIONS

SEC. 435. (a) Any State that desires to receive an allocation pursuant to section 434 for any fiscal year shall submit an application to the Secretary. Such application may be a part of the State's plan for vocational rehabilitation services submitted to the Secretary pursuant to section 101(a) of the Rehabilitation Act of 1973. The application must—

(1) designate to administer the older blind persons rehabilitation program established under this part—

(A) the State blind commission or other agency which administers the State plan for vocational rehabilitation services to the blind pursuant to section 101(a) of the Rehabilitation Act of 1973 if such agency includes an identifiable administrative unit that—

(i) is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of the blind and is responsible for the vocational rehabilitation program provided to the blind by such State agency,

(ii) has a full-time director who is directly responsible to the chief administrative officer of such agency and whose functions may not be delegated to any other officer not directly responsible to such director,

(iii) has a staff employed on such rehabilitation work of such identifiable administrative unit all or substantially all of whom are employed full time on such work,

(iv) is located at an organizational level and has an organizational status within such State agency comparable to that of the other major organizational units of such agency, and

(v) develops and administers its own budget; or

(B) an agency of the State, other than an agency described in subparagraph (A) of this paragraph, if such agency is a State agency primarily concerned with vocational rehabilitation or vocational and other rehabilitation of handicapped individuals and includes a bureau, division, or other identifiable administrative unit that meets the requirements set forth in clauses (i) through (v) of paragraph (1)(A) of this subsection;

(2) set forth the plans, policies, and methods to be followed in providing services for rehabilitation of older blind persons and for the administration and supervision of the program;

(3) describe the quality, extent, and scope of rehabilitation services for older blind persons through any other federally or nonfederally assisted program and how funds allotted to the State pursuant to section 434 of this part will be used to complement and augment rather than duplicate or replace the services provided by such other programs;

(4) describe the conditions for eligibility for participation of blind persons in the rehabilitation services program authorized under this part and, where appropriate, a statement of the priorities for services that are based on an assessment of the needs of the blind for such services as determined by the State, and a procedure to insure that such conditions and priorities will be developed in consultation with interested blind persons and organizations of blind persons;

(5) provide assurance satisfactory to the Secretary that eligibility of blind persons for rehabilitation services authorized under this part shall be determined without regard to individual economic need;

(6) provide assurances satisfactory to the Secretary that no residence requirement will be imposed that excludes from services under this part any older blind person who is present in the State;

(7) provide assurances satisfactory to the Secretary that the views of blind persons and organizations of blind persons will be taken into account in resolving matters of general policy arising in the administration of the rehabilitation services under the program established under this part;

(8) provide for cooperation by the State agency designated under paragraph (1) with other public and private agencies concerned with the blind or older persons and for joint undertakings among such agencies to further the effectiveness of rehabilitation services for older blind persons;

(9) provide such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Secretary to be necessary for the proper and efficient administration of the program;

(10) contain provisions relating to the establishment and maintenance of minimum standards governing facilities and personnel utilized in the provision of rehabilitation services for older blind persons consistent with the provisions of the State program for vocational rehabilitation services under title I of the Rehabilitation Act of 1973;

(11) provide that the State agency designated under paragraph (1) will make such reports in such form and containing such information as the Secretary may from time to time reasonably require to carry out his functions under this part, and comply with such provisions as he may from time to time find necessary to verify the correctness of such reports;

(12) provide assurances satisfactory to the Secretary that funds paid to the State under this part will be disbursed and accounted for in accordance with necessary fiscal control and fund accounting procedures.

(b)(1) The Secretary shall approve any application submitted by a State under subsection (a) if, after review of such application, he determines that it meets the requirements of subsection (a). The Secretary shall disapprove any application submitted by a State under subsection (a) if, after review of such application, he determines that it does not meet the requirements of subsection (a).

(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing, finds that a State agency, in the administration of an application approved under paragraph (1) has failed to comply with any requirements set forth in such application, the Secretary, after giving appropriate notice to the State agency, shall make no further payments to such State agency under section 435 of this part until the Secretary is satisfied that there is no longer any failure to comply with the requirements involved.

(3) If any State is dissatisfied with the Secretary's action under paragraph (1) or (2) of this subsection, such State may appeal to the United States district court for the district where the capital of such State is located and judicial review of such action shall be on the record in accordance with the provisions of chapter 7 of title 5, United States Code (5 U.S.C. 701).

PAYMENTS TO STATES

SEC. 436. (a) From the amounts allotted to each State pursuant to section 434 of this part, the Secretary shall pay to that State an amount equal to the amount expended by the State for carrying out the provisions of this part in such State, including expenditures for the administration of the rehabilitation services for the program established under this part, except that the total of such payments to such State for any fiscal year may not exceed its allotment for such year under section 434 of this part.

(b) Payments under this part may be made in advance or by way of reimbursement and in such installments as the Secretary may determine to be necessary.

DEFINITIONS

SEC. 437. (a) The term "blind" means a person who is blind under State law, including such a person who has one or more other disabling conditions.

(b) The term "older blind person" means individuals whose combination of blindness and age makes gainful employment unattainable.

(c) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(d) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, and for the purposes of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 435(a)(1) shall be the Governor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands.

TITLE V—PROHIBITION AGAINST CERTAIN RESEARCH AND DEMONSTRATION PROJECTS

PROHIBITION

SEC. 501. No funds appropriated under the Rehabilitation Act of 1973, the Older Americans Act of 1965, or the Child Abuse Prevention and Treatment Act may be obligated or expended for research, demonstration, or evaluation programs or projects which are not directly managed and monitored by the office charged by law with direct responsibility for carrying out such research, demonstration, or evaluation programs or projects under such Acts and which are not specifically authorized in full by one or more such Acts.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER. The Clerk will report the House amendments to the Senate amendments.

The Clerk read the House amendments to the Senate amendments, as follows:

Strike out the text proposed to be inserted by the Senate amendment and insert in lieu thereof the following:

That titles I through IV of this Act may be cited as the "Comprehensive Rehabilitation Services Amendments of. 1978".

TITLE I—AMENDMENTS TO THE REHABILITATION ACT OF 1973

VOCATIONAL REHABILITATION SERVICES; AUTHORIZATION OF APPROPRIATIONS

SEC. 101 (a) Section 100(b) of the Rehabilitation Act of 1973 is amended to read as follows:

"(b) (1) (A) For the purpose of allotments under the first sentence of section 110(a), there are authorized to be appropriated $808,000,000 for the fiscal year ending September 30, 1979, and the amount determined under subsection (c) for each fiscal year thereafter.

"(B) For the purpose of the allotment increases authorized by the second sentence of section 110(a), there are authorized to be appropriated $50,000,000 for the fiscal year ending September 30, 1980, and for each fiscal year thereafter.

"(2) (A) For the purpose of allotments under section 120(a) (1), there are authorized to be appropriated $100,000,000 for the fiscal year ending September 30, 1979, and for each of the four fiscal years thereafter. There are further authorized to be appropriated such sums as may be necessary for each such fiscal year.

"(3) For the purpose of making grants to Indian tribes under part D of this title, there are authorized to be appropriated for the fiscal year ending September 30, 1979, and for each of the four fiscal years thereafter—

"(A) an amount equal to 1 percent of the amount appropriated for that fiscal year under paragraph (1), for the purpose of carrying out section 130; and

"(B) such sums as may be necessary for the purpose of carrying out section 131.".

(b) Section 100 of the Rehabilitation Act of 1973 is amended by adding at the end the following new subsection:

"(c) (1) On the first November 15 occurring after the date of the enactment of this subsection, and no later than November 15 of each subsequent fiscal year, the Secretary of Labor shall publish in the Federal Register the percentage change in the price index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

"(2) (A) If in any fiscal year the percentage change published under paragraph (1) indicates an increase in the price index, then the amount authorized to be appropriated under subparagraph (A) of subsection (b) (1) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

"(B) If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the price index, then the amount authorized to be appropriated under subparagraph (A) of subsection (b) (1) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under paragraph (1).

"(3) For purposes of this subsection, the term 'price index' means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.".

(c) Section 110(a) of the Rehabilitation Act of 1973 is amended—

(1) by inserting "(A)" after "(b) (1)" where it first occurs;

(2) by striking out "under the first sentence of this subsection" and inserting in lieu thereof "under this subsection"; and

(3) by inserting after the first sentence the following new sentence: "Beginning with the fiscal year ending September 30, 1980, the amount of the allotment under the first sentence of this subsection may be increased by any amount appropriated under subsection (b) (1) (B) of section 100".

(d) Section 110(b) of the Rehabilitation Act of 1973 is amended by inserting "(1)" after "(b)", by striking out the last sentence, and by adding at the end thereof the following new paragraphs:

"(2) If a State receives as its Federal share under section 111(a) for any fiscal year, as a result of the maintenance of effort provisions of such section, less than 80 percent of the expenditure of such State for vocational rehabilitation services under the plan for such State approved under section 101 (including any amount expended by such State for the administration of the State plan but excluding any amount expended by such State from non-Federal sources for construction under such plan), such State shall be entitled to an additional payment for such fiscal year, subject to the same terms and conditions applicable to other payments under this part, equal to the difference between such payment under section 111(a) and an amount equal to 80 percent of such expenditure for vocational rehabilitation services.

"(3) Any payment attributable to the additional payment to a State under this subsection shall be made only from appropriations specifically made to carry out this subsection, and such additional appropriations are hereby authorized.".

(e) The second sentence of section 120(a) (1) of the Rehabilitation Act of 1973 is amended by striking out "three" and inserting in lieu thereof "five".

STATE PLANS

SEC. 102. (a) Section 101(a) of the Rehabilitation Act of 1973 is amended—

(1) by striking out "For each fiscal year in which" and all that follows through the dash and inserting in lieu thereof the following: "In order to be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services for a three-year period and, upon request of the Commissioner, shall make such minor annual revisions in the plan as may be necessary to insure the provision of accurate and current information. Each such plan shall—";

(2) in paragraph (5) (A) by inserting "(including the use of rehabilitation facilities)" after "methods";

(3) in paragraph (7) by striking out "and" at the end of clause (A) and by inserting before the semicolon at the end thereof a comma and the following: "and (C) provisions relating to the establishment and maintenance of minimum standards to assure the availability of personnel trained to communicate in the client's native language or mode of communication";

(4) in clause (C) of paragraph (9) by striking out "under section 401" and inserting in lieu thereof "under section 13";

(5) in paragraph (11) by inserting before the semicolon the following: "(specifically including arrangements for the coordination of services to individuals eligible for services under this Act, the Education of the Handicapped Act, and the Vocational Education Act)";

(6) in paragraph (12) by inserting "(A)" after "(12)", by striking out the semicolon and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph:

"(B) provide for entering into agreements with the operators of rehabilitation facilities for the provision of services for the rehabilitation of handicapped individuals;";

(7) in paragraph (15) by striking out "(including the State's needs for rehabilitation facilities)" and inserting in lieu thereof "(including the capacity and condition of rehabilitation facilities, plans for improving such facilities, and policies for the use thereof by the State agency)";

(8) in paragraph (18) by inserting "personnel" before "working in the field of vocational rehabilitation" and by striking out "and" at the end thereof;

(9) in paragraph (19) by striking out the period and by inserting in lieu thereof a semicolon; and

(10) by adding at the end the following new paragraphs:

"(20) provide satisfactory assurances to the Commissioner that, except as otherwise provided in section 131, the State shall provide vocational rehabilitation services to handicapped American Indians residing in the State to the same extent as the State provides such services to other handicapped individuals residing in the State;

"(21) provide that the State agency has the authority to enter into contracts with profitmaking organizations for the purpose of providing on-the-job training and related programs for handicapped individuals under part B of title VI; and

"(22) provide for the establishment and maintenance of information and referral programs (the staff of which shall include interpreters for the deaf) in sufficient numbers to assure that handicapped individuals within the State are afforded accurate vocational rehabilitation information and appropriate referrals to other Federal and State programs and activities which would benefit them.".

(b) Section 101(c) of the Vocational Rehabilitation Act of 1973 is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "(1)" before "the plan" and inserting in lieu thereof "(A)";

(3) by striking out "(2)" and inserting in lieu thereof "(B)";

(4) by adding at the end of paragraph (1) (as so redesignated by paragraph (1) of this subsection) the following new sentence: "The withholding of payments under this subsection shall continue, regardless of the filing of any appeal under subsection (d), until the Commissioner is satisfied that there is no longer a failure to comply with the State plan or until a court, after a full hearing on the merits of the case as a result of such appeal, issues a final order requiring the Commissioner to release such payments to the State."; and

(5) by adding at the end the following new paragraph:

"(2) The Commissioner may, in accordance with regulations he shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of subsection (a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment. For good cause shown, the Commissioner may waive the requirements of the preceding sentence.".

(c) Section 101(d) of the Rehabilitation Act of 1973 is amended to read as follows:

"(d) (1) Any State which is dissatisfied with a final determination of the Commissioner under subsection (b) or (c) may file a petition for judicial review of such determination which the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the thirty-day period beginning on the date such final determination was made. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by him for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which he based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

"(2) If, in an action under this subsection to review a final determination of the Commissioner under subsection (b) or (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within thirty days additional opportunity to make such submissions and presentations. Within such period, and Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3) (A) Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction (i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c), and (ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).".

SCOPE OF SERVICES; TELECOMMUNICATIONS SERVICES

Sec. 103. (a) Section 103(a)(1) of the Rehabilitation Act of 1973 is amended by inserting "mental or" before "emotional".

(b) Section 103(b) of the Rehabilitation Act of 1973 is amended—

(1) in pargraph (1) by striking out "and" after the semicolon;

(2) in paragraph (2) by inserting "(including services offered at rehabilitation facilities)" after "services" and by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraphs:

"(3) the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programing to meet the particular needs of handicapped individuals; and

"(4) the use of services providing recorded material for the blind and captioned films or video cassette for the deaf.".

STATE ALLOTMENTS

Sec. 104. Section 110(a) of the Rehabilitation Act of 1973 (as amended by section 101(c) of this Act) is further amended by striking out "less than one-quarter of 1 per centum of the amount appropriated under subsection (b)(1) of section 100, or $2,000,000" and inserting in lieu thereof "less than one-third of 1 percent of the amount appropriated under subsection (b)(1) of section 100, or $3,000,000".

CLIENT ASSISTANCE

Sec. 105. Section 112(a) of the Rehabilitation Act of 1973 is amended—

(1) by striking out "up to $1,500,000" and all that follows through "not more than 20" and inserting in lieu thereof "no less than $3,500,000 for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years, to establish";

(2) by inserting before the period at the end of the first sentence the following: ", including assistance in pursuing legal, administrative, or other appropriate remedies to insure the protection of the rights of such individuals under this Act".

AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

Sec. 106. Part D of title I of the Rehabilitation Act of 1973 is amended to read as follows:

"PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

"GRANTS FOR DEMONSTRATION PROJECTS

"Sec. 130. (a) The Commissioner is authorized to make grants to the governing bodies of Indian tribes on Federal and State reservations for demonstration programs under which the tribes shall develop vocational rehabilitation services for handicapped American Indians residing on or near to such reservations.

"(b) No grant may be made under this section unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless—

"(1) the application is made at such time and in such manner, and contains such information, as the Commissioner may require;

"(2) the application is developed in consultation with the State agency unit designated under section 101(a)(2)(A); and

"(3) the application contains assurances that the rehabilitation services provided under grants under this section to handicapped American Indians residing on or near to a reservation in a State shall be comparable to rehabilitation services provided under this title to other handicapped individuals residing in the State.

"(c) The Commissioner shall allocate any funds appropriated under section 100(b)(3) to carry out this section on an equitable basis among the tribes whose applications are approved under this section.

"GRANTS FOR VOCATIONAL REHABILITATION SERVICES

"Sec. 131. (a) The Commissioner is authorized to make grants to the governing bodies of Indian tribes on Federal and State reservations in order that such tribes may provide vocational rehabilitation services for handicapped American Indians residing on or near to such reservations. If the Commissioner makes a grant under this section to the governing body of an Indian tribe on a Federal or State reservation, during the fiscal year in which payments are made under such grant, the State or States in which such reservation is located, in administering the State plan of any such State under section 101, shall not be required to provide vocational rehabilitation services to handicapped American Indians residing on or near to such reservation. For purposes of computing the allotment of any State under section 110(a), the population of such State shall not be considered to include any Indian citizens of such State who, as a result of the preceding sentence, are not provided with vocational rehabilitation services by such State.

"(b) No grant may be made under this section unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless—

"(1) the application is made at such time and in such manner, and contains such information, as the Commissioner may require;

"(2) the application contains assurances that the rehabilitation services provided under grants under this section to handicapped American Indians residing on or near to a reservation in a State shall be comparable to rehabilitation services provided under this title to other handicapped individuals residing in the State; and

"(3) the application contains assurances that the tribe has demonstrated the capability to provide the services described in paragraph (2) and provide satisfactory documentation to support such assurances.

"(c) Sections 5, 6, 7(b), and 102 of the Indian Self-Determination Act shall be applicable to grants made under this section. For purposes of this subsection, any reference in such sections to the Secretary of Health, Education, and Welfare or to the Secretary of the Interior shall be considered to be a reference to the Commissioner.

"(d) The Secretary shall allocate any funds appropriated under section 100(b)(3) to carry out this section on an equitable basis among the tribes whose applications are approved under this section.".

DECLARATION OF PURPOSE

Sec. 107. Section 200 of the Rehabilitation Act of 1973 is amended to read as follows:

"DECLARATION OF PURPOSE

"Sec. 200. The purpose of this title is to—

"(1) provide for a comprehensive and coordinated approach to the administration and conduct a rehabilitation research, rehabilitation demonstration projects, and related activities for the rehabilitation of handicapped individuals, including programs designed to train persons who provide rehabilitation services and persons who conduct rehabilitation research by authorizing Federal assistance in accordance with a plan for rehabilitation research developed under this title;

"(2) facilitate the distribution of information concerning developments in rehabilitation procedures, methods, and devices to rehabilitation professionals and to handicapped individuals to assist such individuals to live more independently;

"(3) improve the distribution of technological devices and equipment for handicapped individuals by providing financial support for the development and distribution of such devices and equipment; and

"(4) increase the scientific and technological information presently available in the field of rehabilitation.".

RESEARCH AND TRAINING: AUTHORIZATION OF APPROPRIATIONS

Sec. 108. Section 201(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"Sec. 201. (a) There are authorized to be appropriated—

"(1) for the purpose of providing for the expenses of the National Institute of Handicapped Research under section 202, other than expenses to carry out sections 203 and 204, such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years;

"(2) for the purpose of carrying out section 203, $75,000,000 for the fiscal year ending September 30, 1979, $85,000,000 for the fiscal year ending September 30, 1980, $95,000,000 for the fiscal year ending September 30, 1981, $100,000,000 for the fiscal year ending September 30, 1982, and $125,000,000 for the fiscal year ending September 30, 1983;

"(3) for the purpose of carrying out section 204, such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years; and

'(4) for the purpose of carrying out section 205, $35,000,000 for the fiscal year ending September 30, 1979, $40,000,000 for the fiscal year ending September 30, 1980, $45,000,000 for the fiscal year ending September 30, 1981, $55,000,000 for the fiscal year ending September 30, 1982, $65,000,000 for the fiscal year ending September 30, 1983, and for each such fiscal year such additional sums as may be necessary.".

NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

Sec. 109. The Rehabilitation Act of 1973 is amended—

(1) by redesignating section 202 as section 203 and by redesignating section 203 as section 205; and

(2) by inserting after section 201 the following new section:

"NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

"Sec. 202(a) In order to promote and coordinate rehabilitation research and to more effectively carry out the programs under sections 203 and 204, there is established a National Institute of Handicapped Research (hereinafter in this title referred to as the 'Institute'), which shall be headed by a Director (hereinafter in this title referred to as the 'Director'). In the performance of his functions, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Health, Education, and Welfare to whom the Comimssioner is responsible under section 3(a) of this Act.

"(b) The Institute shall be responsible for—

"(1) administering the programs described in sections 203 and 204;

"(2) disseminating information acquired through rehabilitation research funded by the Institute to other Federal, State, and local public agencies and to private organizations engaged in research relating to rehabilitation services;

"(3) coordinating Federal programs and policies relating to research and rehabilitation;

"(4) disseminating educational materials to primary and secondary schools, institutions of higher education, and to public and private entities explaining how the quality of life of handicapped individuals may be improved;

"(5) conducting an education program to inform the public about ways of providing for the rehabilitation of handicapped individuals, including information relating to family care and self care;

"(6) conducting conferences, seminars, and workshops (including in-service training programs) for rehabilitation personnel to inform such individuals of advances in rehabilitation research and rehabilitation engineering; and

"(7) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Social Security Administration, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of handicapped individuals and disseminating such reports and studies to rehabilitation professionals and others to assist in the planning and evaluation of vocational and other rehabilitation services for the handicapped.

"(c)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate in effect from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code. In carrying out any of his functions under this section, the Director shall be governed by general policies of the National Council on the Handicapped established under title IV. The Director shall not delegate any of his functions to any officer who is not directly responsible to him.

"(2) There shall be a Deputy Director of the Institute (hereinafter in this section referred to as the 'Deputy Director') who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director, exercising such powers as the Director may prescribe. In the case of any vacancy in the office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1). The position created by this paragraph shall be in addition to the number of positions placed in grade GS–18 of the General Schedule under section 5108 of title 5, United States Code.

"(3) The Director may appoint, for terms not to exceed three years, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as he deems necessary to accomplish its functions and also appoint and compensate without regard to such provisions not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

"(d) The Director may establish and maintain research fellowships in the Institute, with such stipends and allowances, including travel and subsistence expenses, as the director considers necessary to procure the assistance of highly qualified research fellows from the United States and foreign countries.

"(e) The Director shall, by regulation, provide for scientific review of all research grants and programs over which he has authority by utilizing, to the maximum extent possible, appropriate peer review groups established within the Institute and composed of non-Federal scientists and other experts in the rehabilitation field.

"(f) Not less than 90 percent of the funds appropriated under paragraph (2) of section 201(a) to carry out section 203 shall be expended by the Director to carry out such section through grants or contracts with qualified public or private agencies and individuals.

"(g) The Director shall develop and submit to appropriate committees of the Congress within one year after the effective date of this section a long-range plan for rehabilitation research which shall—

"(1) identify any additional research which should be conducted respecting the problems encountered by handicapped individuals in their daily activities, especially problems related to employment; and

"(2) determine the funding priorities for research activities under this section and explain the basis for such priorities, including a detailed description of any new types of research recommended under this subparagraph for funding.

The plan required by this paragraph shall be developed by the Director in consultation with the National Council on Rehabilitation established under title IV, and with any other persons or entities the Director considers appropriate. Such plan shall be reviewed at least once every three years and may be revised at any time by the Director to the extent he considers necessary.

"(h)(1) The Institute shall undertake a study of the special problems and needs of handicapped individuals who reside in rural areas throughout the United States. Upon the completion of such study, but no later than 18 months after the effective date of this section, the Director shall submit the results of such study, together with his recommendations, to the Commissioner, the Secretary, the President, and the Congress.

"(2) The Institute shall undertake a study of the way in which Federal programs providing benefits to handicapped individuals might be restructured so as to eliminate any disincentives for persons receiving benefits under such programs to obtain and continue in employment. Upon the completion of such study, but no later than 24 months after the effective date of this section, the Director shall submit the results of such study, together with his recommendations, to the Commissioner, the Secretary, the President, and the Congress.

"(i) In order to promote cooperation among Federal departments and agencies conducting rehabilitation research programs, the Director shall consult with the administrators of such programs regarding the design of research projects conducted by such entities and the results and applications of such research.

"(j)(1) The Director shall take whatever actions he considers appropriate to provide for a comprehensive and coordinated rehabilitation research program under this title. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in rehabilitation research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this Act shall consult with the Director before establishing the project and provide the Director with sufficient opportunity to comment on the project.

"(2) Any person responsible for administering any program of the National Institutes of Health, the Veterans' Administration, the National Science Foundation, the National Aeronautics and Space Administration, the Bureau of Education for the Handicapped, or of any other Federal entity, shall consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this section.".

RESEARCH BY PRIVATE ORGANIZATIONS

Sec. 110. Section 203(a) of the Rehabilitation Act of 1973 (as so redesignated by section 109(1) of this Act) is amended—

(1) by striking out "The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "The Director may";

(2) by striking out "public or nonprofit" and inserting in lieu thereof "public or private";

(3) by striking out "provision of vocational rehabilitation services" and inserting in lieu thereof "provision of vocational and other rehabilitation services"; and

(4) by inserting after "restorative techniques" the following: ", including basic research where related to rehabilitation techniques or services".

RESEARCH AND TRAINING CENTERS

Sec. 111. Section 203(b) of the Rehabilitation Act of 1973 (as so redesignated by section 109(1) of this Act) is amended—

(1) by striking out "the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "the Director may";

(2) by amending paragraph (1) to read as follows:

"(1) Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of (A) providing training (including graduate training) to assist individuals to more effectively provide rehabilitation services, (B) providing coordinated and advanced programs of research in rehabilitation, and (C) providing training (including graduate training) for rehabilitation research personnel. The research to be carried out at each Center shall be determined on the basis of the particular needs of handicapped individuals in the geographic area served by the Center, and may include basic or applied medical rehabilitation research, research regarding the psychological and social aspects of rehabilitation, and research related to vocational rehabilitation. The Centers shall be encouraged to develop practical applications for the findings of their research. Grants may include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.";

(3) in clause (A) of paragraph (2) by inserting "psychiatric," before "psychological"; and

(4) by adding at the end the following new paragraphs:

"(6) Conduct of a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of handicapped individuals.

"(7) Conduct of a program of joint projects with the National Institutes of Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Office of Education, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

"(8) Conduct of a program of research related to the rehabilitation of handicapped children and of handicapped adults who are aged sixty or older.

"(9) Conduct of a research fellowship program to expand the number of professionals of various rehabilitation disciplines who undertake research careers.

(10) Conduct of a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to deaf individuals captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programing.".

TRAINING

Sec. 112. Section 205 of the Rehabilitation Act of 1973 (as so redesignated by section 109(1) of this Act) is amended—

(1) in subsection (a)—

(A) by striking out "The Secretary, through the Commissioner, in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "The Commissioner may";

(B) by inserting ", medical, social and psychological rehabilitation" after "vocational" and

(C) by striking out "and" before "in performing" and insert in lieu thereof the following: ", including personnel specially trained in providing employment assistance to handicapped individuals through job development and job placement services, and personnel trained";

(2) in subsection (b)—

(A) by inserting ", rehabilitation psychiatry" after "work"; and

(B) by inserting after "blind and deaf individuals," the following: "specialized personnel in providing job development and job placement services for handicapped individuals,";

(3) by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection:

"(b) The Commissioner may also make grants to undergraduate schools of medicine to support programs in rehabilitation medicine in order to provide expanded opportunities for medical students to become oriented to the medical care of handicapped individuals and to become familiar with the services which may be provided to such individuals."; and

(4) by adding at the end of the following new subsections:

"(d) The Commissioner shall evaluate the impact of the training programs under this section, shall determine training needs for personnel necessary to provide services to handicapped individuals, and shall develop a long-term rehabilitation manpower plan designed to target resources on areas of personnel shortage.

"(e) (1) The Commissioner may establish not more than 12 programs under this section for the purpose of training a sufficient number of interpreters to meet the communications needs of deaf individuals. Any applicant desiring to establish a program under this section shall provide for the development of a five-year program which demonstrates the applicant's capacity to train a sufficient number of interpreters for the deaf in such geographical areas as the Commissioner may prescribe.

"(2) Any applicant may, in connection with such program, provide for the training or retraining (including short-term or in-service training) of teachers who are involved in producing instruction to deaf individuals but who are not certified as teachers of deaf individuals. Such applicant shall provide assurances that any interpreter trained in such program shall meet minimum standards established by the Commissioner.".

SPECIAL FEDERAL RESPONSIBILITIES

Sec. 113. (a) (1) The first sentence of section 301(a) of the Rehabilitation Act of 1973 is amended by striking out "for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978" and inserting in lieu thereof "for each fiscal year ending before October 1, 1983".

(2) The last sentence of section 301(a) of the Rehabilitation Act of 1973 is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1984".

(b) Section 302(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"Sec. 302. (a) For the purpose of making grants and entering into contracts under this section, there are authorized to be appropriated such sums as may be necessary for each fiscal year ending before October 1, 1983.".

(c) Section 304(a) (1) of the Rehabilitation Act of 1973 is amended by striking out "For the purpose" and all that follows through "September 30, 1978" and inserting in lieu thereof the following: "For the purpose of making grants under this section for special projects and demonstrations (and for research and evaluation connected therewith), there are authorized to be appropriated such sums as may be necessary for each fiscal year ending before October 1, 1983".

(d) Section 304(b) (1) of the Rehabilitation Act of 1973 is amended—

(1) by striking out "and facilities" and inserting in lieu thereof "and, where appropriate, constructing facilities"; and

(2) by striking out "older blind individuals" and all that follows through "reached" and inserting in lieu thereof "and blind individuals and deaf individuals, irrespective of age or vocational potential, who can benefit from comprehensive services".

(e) Section 304 of the Rehabilitation Act of 1973, as amended in section 202, is further amended by adding at the end of the following new subsections:

"(1) The Commissioner may establish through the State agency units designated under section 101(a) (2) (A) a program of interpreter referral services in each State.

"(2) Any State agency unit designated under section 101(a) (2) (A) desiring to receive funds to establish a program under this subsection shall provide assurances that such program will be operated in central locations throughout the State.

"(3) Interpreter referral services which are provided through any program operated under this subsection shall be designed to provide a pool of interpreters for specific geographical areas in each State. Such services may be made available at no cost for a period not to exceed one year to any public agency or private nonprofit organization which provides assistance to deaf individuals. At the end of such period, agencies or organizations receiving such services through referrals shall make reimbursements for the cost of such services.

"(4) Any interpreter providing services for a program under this subsection shall be required to meet minimum standards established by the Commissioner.

"(5) Funds provided to any State agency unit for any program under this subsection shall not be used for administrative or related costs, nor shall funds made available under this subsection be used for assistance to deaf individuals who are receiving rehabilitation services as clients under any other provision of this Act.

"(f) The Commissioner may make grants to any State agency unit designated under section 101(a) (2) (A)—

"(1) to provide reading services to blind persons who are not otherwise eligible for such services through State and Federal programs; and

"(2) to expand the quality and scope of reading service available to blind persons by assuring that, to the maximum extent possible, the services provided under this Act will meet the reading needs of blind persons attending institutions providing elementary, secondary, or post-secondary education, and will be adequate to assist blind persons to obtain and continue in employment.".

LOAN GUARANTEES

Sec. 114. Section 303 of the Rehabilitation Act of 1973 is amended to read as follows:

"LOAN GUARANTEES FOR REHABILITATION FACILITIES

"Sec. 303. (a) It is the purpose of this section to assist and encourage the provision of needed facilities for programs for handicapped individuals primarily served by State rehabilitation programs.

"(b) The Commissioner may, in accordance with this section and subject to section 306, guarantee the payment of principal and interest on loans made to nonprofit private entities by non-Federal lenders and by the Federal Financing Bank for the construction of rehabilitation facilities, including equipment used in their operation.

"(c) In the case of a guarantee of any loan to a nonprofit private entity under this section, the Commissioner shall pay, to the holder of such loan and for and on behalf of the project for which the loan was made, amounts sufficient to reduce by 3 percent per annum the net effective interest rate otherwise payable on such loan. Each holder of a loan which is guaranteed under this section shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

"(d) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed $200,000,000.

"(e)(1) The Commissioner may not approve a loan guarantee for a project under this section unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this section.

"(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this section the amount of any payment made pursuant to such guarantee, unless the Commissioner for good cause waives such right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this section (including terms and conditions imposed under paragraph (1)) may be modified by the Commissioner to the extent he considers consistent with the interests of the United States.

"(C) Any loan guarantee made by the Commissioner under this section shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(D) Guarantees of loans under this section shall be subject to such further terms and conditions as the Commissioner considers necessary to assure that the purposes of this section will be achieved.

"(f)(1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Commissioner without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts—

"(A) to enable him to discharge his responsibilities under loan guarantees issued by him under this section; and

"(B) for payment of interest under subsection (c) on loans guaranteed under this section.

There are authorized to be appropriated such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Commissioner in connection with loan guarantees under this section and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

"(2)(A) If at any time the sums in the fund are insufficient to enable the Commissioner—

"(i) to make payments of interest under subsection (c); or

"(ii) to otherwise comply with guarantees under this section of loans to nonprofit private entities;

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury.

"(B) Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations.

"(C) The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph, and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as a public debt transaction of the United States.

"(D) Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from the fund.".

HELEN KELLER NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 115. Section 305 of the Rehabilitation Act of 1973 is amended—

(1) by amending subsection (a) to read as follows:

"SEC. 305. (a) The purpose of this section is to provide for the establishment and operation of the Helen Keller National Center for Deaf-Blind Youths and Adults. Any funds appropriated under this title for construction of the Center shall remain available until expended."; and

(2) by adding at the end the following new subsection:

"(d) To the extent feasible, the Helen Keller National Center for Deaf-Blind Youths and Adults shall seek to recover from States, private insurers, and other participating public and private agencies the costs of services provided to individuals by the Center."

COMPREHENSIVE CENTERS

SEC. 116. (a) The Rehabilitation Act of 1973 is amended (1) by transferring section 305 to title II, (2) by striking out section 204 and by redesignating such former section 305 as 204 and inserting it after section 203, and (3) by inserting after section 304 the following new section:

"COMPREHENSIVE REHABILITATION CENTERS

"SEC. 305. (a)(1) In order to provide a focal point in communities for the development and delivery of services designed primarily for handicapped persons, the Commissioner may make grants to any State agency unit designated under section 101 (a)(2)(A) (which unit shall hereinafter in this section be referred to as the 'State agency') to establish and operate comprehensive rehabilitation centers. The centers shall be established in order to provide a broad range of services to handicapped individuals, including information and referral services, counseling services, and job placement, health, educational, social, and recreational services, as well as to provide facilities for recreational activities.

"(2) To the maximum extent practicable, such centers shall provide, upon request, to local governmental units and other public and private nonprofit entities located in the area such information and technical assistance (including support personnel such as interpreters for the deaf) as may be necessary to assist those entities in complying with this Act, particularly the requirements of section 504.

"(b) No grant may be made under this section unless an application therefor has been submitted to and approved by the Secretary. The Secretary may not approve an application for a grant unless the application—

"(1) contains assurances that the State agency will use funds provided by such grant in accordance with subsections (c) and (d); and

"(2) contains such other information, and is submitted in such form and in accordance with such procedures, as the Secretary may require.

"(c)(1) The State agency may—

"(A) in accordance with subsection (e) make grants to units of general purpose local government or to other public or nonprofit private agencies or organizations and may make contracts with any agency or organization to pay not to exceed 80 percent of the cost of (i) leasing or constructing new or existing facilities to serve as comprehensive rehabilitation centers, (ii) operating such centers, or (iii) carrying out the activities specified in both clauses (i) and (ii); and

"(B) directly carry out the activities described in subparagraph (A), except that not more than 80 percent of the costs of providing any comprehensive rehabilitation center may be provided from funds under this section.

"(2) The State agency may provide for new buildings to be constructed to serve as comprehensive rehabilitation centers under subparagraph (A) or (B) of paragraph (1) only after determining that no existing structure in a particular locality is suitable for leasing, acquisition, alteration, or renovation as a center.

"(3) Funds made available to any State agency under this section for the purpose of assisting in the operation of a comprehensive rehabilitation center may be used to compensate professional and technical personnel required to operate the center, to deliver services in the center, and to provide equipment for the center.

"(d)(1) The State agency may approve a grant or enter into contract under subsection (c) only if the application for such grant or contract meets the requirements specified in paragraphs (1), (2), (4), and (5) of section 306(b) and if the application contains assurances that any facility assisted by such grant or contract shall be in reasonably close proximity to the majority of individuals eligible to use the comprehensive rehabilitation center.

"(2) Any State agency which directly provides for comprehensive rehabilitation centers under subsection (c)(1)(B) shall use funds under this section in the same manner as any other grant recipient is required to use such funds.

"(e) If within 20 years after the completion of any construction project for which funds have been paid under this section—

"(1) the owner of the facility ceases to be a public or nonprofit private agency or organization, or

"(2) the facility ceases to be used for the purposes for which it was leased or constructed (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so),

the United States shall be entitled to recover from the grant recipient or other owner of the facility an amount which bears the same ratio to the value of the facility (or so much thereof as constituted an approved project or projects) at the time the United States seeks recovery as the amount of such Federal funds bore to the cost of the construction of the facility. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(f) The requirements of section 306 shall not apply to funds allotted under this section, except that subsections (g) and (h) of such section shall be applicable with respect to such funds.

"(g) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year ending September 30, 1979, and for the four succeeding fiscal years.".

(b) Section 306(a) of the Rehabilitation Act of 1973 is amended by inserting in the first sentence before the period ", except as otherwise provided in section 305(g)".

NATIONAL COUNCIL ON THE HANDICAPPED

SEC. 117. The Rehabilitation Act of 1973 is amended by striking out title IV and inserting in lieu thereof the following new title:

"TITLE IV—NATIONAL COUNCIL ON THE HANDICAPPED

"ESTABLISHMENT OF NATIONAL COUNCIL ON THE HANDICAPPED

"SEC. 400. (a) There is established within the Department of Health, Education, and Welfare a National Council on the Handicapped (hereinafter in this title referred to as the 'National Council') which shall be composed of twenty members appointed by the President, by and with the advice and consent of the Senate, as follows:

"(1) At least five members shall be appointed from among persons who are responsible for directly administering State vocational rehabilitation programs.

"(2) At least five members shall be appointed from among persons who are engaged in conducting medical or other scientific research relating to rehabilitation.

"(3) At least five members shall be appointed from among persons who are handicapped individuals.

"(4) The remaining members shall be appointed from among persons who are knowledgeable with respect to the problems of handicapped individuals and who have an understanding of the programs funded under this Act.

"(b)(1) The members of the National Council shall serve for terms of three years, except that, of the members first appointed—

"(A) five shall be appointed for a term of one year;

"(B) five shall be appointed for a term of two years;

"(C) five shall be appointed for a term of three years; and

"(D) five shall be appointed for a term of four years;

as designated by the President at the time of appointment.

"(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(3) Any vacancy in the National Council shall be filled in the same manner by which the original appointment was made.

"(4) Members of the National Council shall, while serving on business of the National Council, be entitled to receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703(b) of title 5, United States Code.

"(c) The President shall designate the Chairman from among the members appointed to the National Council. The National Council shall meet the call of the Chairman, but not less often than six times a year.

"(d) Eleven members of the National Council shall constitute a quorum. Any vacancy in the National Council shall not affect its power to function.

"DUTIES OF NATIONAL COUNCIL

"SEC. 401. The National Council shall—

"(1) establish general policies for, and review the conduct of, the Rehabilitation Services Administration and the National Institute of Handicapped Research;

"(2) advise the Commissioner, the appropriate Assistant Secretary of the Department of Health, Education, and Welfare, and the Director of the National Institute of Handicapped Research on the development of the programs to be carried out under this Act;

"(3) make recommendations to the Secretary, the Commissioner, and the Director of the National Institute of Handicapped Research respecting ways to improve rehabilitation research, the administration of rehabilitation services, and the methods of collecting and disseminating the findings of such research, and make recommendations for facilitating the implementation of rehabilitation programs based upon such findings;

"(4) review all applications for financial assistance submitted under section 112 (relating to client assistance projects), section 130 (relating to Indian demonstration projects), title II (related to research and training), or title III (relating to supplementary services and facilities) and make recommendations for approval or disapproval of any application submitted under any such section or title to the head of any Federal agency or department responsible for administering the programs under any such section or title; and

"(5) submit not later than March 31 of each year (beginning in 1979) an annual report to the Secretary, the Congress, and the President, containing (A) a statement of the current status of rehabilitation research in the United States, (B) an analysis of the activities of the Rehabilitation Services Administration and the National Institute of Handicapped Research, and (C) such recommendations respecting the items described in clauses (A) and (B) as the National Council considers appropriate.

No person responsible for administering any program under any section or title referred to in paragraph (4) may approve or disapprove any application for financial assistance under such program until he has received the recommendation of the National Council respecting such application, unless the National Council fails to submit such a recommendation within a reasonable period of time (as determined under regulations issued by the person responsible for administering such program).

STAFF OF NATIONAL COUNCIL

"SEC. 402. (a) The National Council shall have a staff director who shall be appointed by the National Council and who shall be paid at a rate not to exceed the rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code. The National Council may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, not to exceed seven technical and professional employees to assist the National Council to carry out its duties.

"(b) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109 (b) of title 5, United States Code (but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code).

"(c) The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request

"ADMINISTRATIVE POWERS OF NATIONAL COUNCIL

"SEC. 403. (a) The National Council may prescribe such rules as may be necessary to carry out its duties under this title.

"(b) The National Council may secure directly from any department or agency of the United States such information as the National Council may require to carry out its duties under this title. Upon request of the Chairman of the National Council, the head of any such department or agency shall furnish such information to the National Council.

"(c) The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

"(d) The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

"(e) The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 404. There are authorized to be appropriated to carry out this title such sums as may be necessary.".

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 118. (a) Section 502(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"SEC. 502. (a)(1) There is established the Architectural, Transportation and Communication Barriers Compliance Board (hereinafter in this section referred to as the 'Board') which shall be composed of the heads of each of the departments or agencies specified in paragraph (2) (or their designees whose positions are level IV of the Executive Schedule under section 5315 of title 5, United States Code, or higher) and nine handicapped individuals appointed by the President from among persons who are not Federal employees and who have substantial background and experience in the problems of handicapped individuals related to architectural barriers. The Chairman of the Board shall be designated by the President from among its members.

"(2) The departments and agencies referred to in paragraph (1) are the following:

"(A) The Department of Health, Education, and Welfare.

"(B) The Department of Transportation.

"(C) The Department of Housing and Urban Development.

"(D) The Department of Labor.

"(E) The Department of the Interior.

"(F) The Department of Defense.

"(G) The General Services Administration.

"(H) The United States Postal Service.

"(I) The Veterans' Administration.

"(3) The appointed members of the Board shall serve for terms of six years, except that of the members first appointed—

"(A) three shall be appointed for a term of two years;

"(B) three shall be appointed for a term of four years; and

"(C) three shall be appointed for a term of six years;

as designated by the President at the time of appointment.

"(4) If any appointed member of the Board becomes a Federal employee, such member may continue as a member of the Board for not longer than the sixty-day period beginning on the date he becomes such an employee.".

(b) Section 502(b) of the Rehabilitation Act of 1973 is amended—

(1) by amending clause (1) to read as follows:

"(1) establish minimum guidelines and requirements for standards under the Act of August 12, 1968 (hereinafter in this section referred to as the Architectural Barriers Act of 1968), to enforce all standards prescribed by any Federal entity under such Act, to insure that any waiver or other modification of any standard is based upon findings of fact and is not arbitrary and capricious, and to insure that public conveyances, including rolling stock, are readily accessible to, and usable by, physically handicapped persons;";

(2) in clause (2) by inserting "communication," before "and attitudinal", and by inserting "telecommunication devices," before "public buildings"; and

(3) by striking out "and" before "(6)" and by inserting before the period the following: "; (7) submit a report to the President and to the Congress within twelve months after the effective date of this clause containing an assessment of the amounts required to be expended by each State (including any amounts required to be expended by political subdivisions thereof) to provide handicapped individuals with full access to all programs and activities receiving Federal assistance; and (8) in accordance with subsection (d) (2), make final determinations with regard to compliance with section 504 of this Act regarding architectural, transportation, and communication barriers confronting handicapped individuals.".

(c) Section 502(c) of the Rehabilitation Act of 1973 is amended by striking out "and" before "(3)" and by inserting before the period the following: "; and (4) to the extent practicable, provide technical assistance to any person or entity requesting such assistance for the purpose of assisting such person or entity in complying with this Act or with the accessibility standards promulgated under the Architectural Barriers Act of 1968".

(d) Section 502(d) of the Rehabilitation Act of 1973 is amended to read as follows:

"(d) (1) The Board may make grants to, or enter into contracts with, public or private organizations to carry out its duties under subsections (b) and (c). The Board may also make grants to any State agency unit designated under section 101(a) (2) (A) for the purpose of conducting studies to provide the cost assessments required by clause (7) of subsection (b). Before including in the report required by such clause the findings of any study conducted for the Board under a grant or contract to provide the Board with such cost assessments, the Board shall take all necessary steps to validate the accuracy of any such findings.

"(2) The Board shall conduct investigations, hold public hearings, and issue such orders as it considers necessary to insure compliance with the Architectural Barriers Act of 1968 and with section 504 (to the extent the Board has authority under subsection (b) (8). Except as provided in paragraph (3) of subsection (e), the provisions of subchapter II of chapter 5, United States Code, and of chapter 7 of title 5, United States Code, shall apply to procedures under this section, and any order of compliance issued by the Board shall be a final order for purposes of judicial review. Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building, public conveyance, or rolling stock found not to be in compliance with standards enforced under this section. The Board may sue and be sued in its own name, and may be represented by its own legal counsel in all Federal, State, and local courts.".

(e) (1) Section 502(e) of the Rehabilitation Act of 1973 is amended by inserting "(1)" after the subsection designation and by adding at the end the following new paragraphs:

"(2) The executive director shall exercise general supervision over all personnel employed by the Board (other than hearing examiners and their assistants). The executive director shall have final authority, on behalf of the Board, with respect to the investigation of alleged noncompliance in the issuance of formal complaints before the Board, and shall have such other duties as the Board may prescribe.

"(3) For the purpose of this section, an order of compliance issued by the hearing examiner shall be deemed to be an order of the Board and shall be the final order for the purpose of judicial review.".

(f) Section 502(h) of the Rehabilitation Act of 1973 is amended to read as follows:

"(h) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section such sums as may be necessary for each fiscal year ending before October 1, 1983.".

NONDISCRIMINATION UNDER FEDERAL PROGRAMS AND ACTIVITIES

SEC. 119. Section 504 of the Rehabilitation Act of 1973 is amended—

(1) in the section heading by inserting "and programs" after "grants"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof "or under any program or activity conducted by any Executive agency (as defined in section 105 of title 5, United States Code). The head of each such agency shall promulgate such regulations as may be necessary to carry out this section. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.".

ATTORNEYS' FEES

SEC. 120. Title V of the Rehabilitation Act of 1973 is amended by adding at the end the following new section:

"ATTORNEYS' FEES

"SEC. 505. In any action or proceeding to enforce any provision of section 501, section 503, or section 504, the court may allow any prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.".

SECRETARIAL RESPONSIBILITIES

SEC. 121. Title V of the Rehabilitation Act of 1973 as amended in section 120, is further amended by adding the following new section:

"SECRETARIAL RESPONSIBILITIES

"SEC. 506. (1) The Secretary is authorized to provide directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, technical assistance—

"(A) to persons operating rehabilitation facilities; and

"(B) with the concurrence of the Board established by section 502, to any public or nonprofit agency, institution, or organization;

for the purpose of assisting such persons or entities in removing architectural, transportation, or communication barriers. Any recommendations of the Board under this paragraph shall reflect its consideration of the cost studies carried out by States under section 502(d) (1).

"(2) Any such experts or consultants, while serving pursuant to such contracts, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily equivalent of the rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(3) In order to carry out this section, there are authorized to be appropriated such sums as may be necessary.".

APPLICATION OF OTHER LAWS

SEC. 122. The Rehabilitation Act of 1973 is amended by inserting after section 10 the following new section:

"APPLICATION OF OTHER LAWS

"SEC. 11. The provisions of the Act of December 5, 1974 (Public Law 93-510) and of title V of the Act of October 15, 1977 (Public Law 95-134) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.".

MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 123. (a) The Rehabilitation Act of 1973 is amended—

(1) by amending section 2 to read as follows:

"DECLARATION OF PURPOSE

"SEC. 2. The purpose of this Act is to develop and implement, through research, training, services, and the guarantee of equal opportunity, comprehensive and coordinated programs of vocational and independent living rehabilitation.";

(2) by amending the second sentence of section 3(a) to read as follows: "Unless otherwise specifically provided in this Act, such Administration shall be the principal agency of the Department of Health, Education, and Welfare and the Commissioner shall be the principal officer of such department for carrying out titles I through III of this Act, part A of title VI of this Act, and title VII of this Act.";

(3) in section 3(a) by adding at the end the following new sentence: "In carrying out any of his functions under this Act, the Commissioner shall be governed by general policies of the National Council of the Handicapped established under title IV of this Act.";

(4) by striking out section 3(b) and redesignating section 3(c) as 3(b);

(5) in section 7(1) by striking out "alteration, and renovation" and inserting in lieu thereof "alteration, or renovation";

(6) in section 7(3) by striking out "initial" in each place it appears;

(7) in section 7(6)—

(A) by striking out "The term" and inserting in lieu thereof: "(A) Except as otherwise provided in subparagraph (B), the term";

(B) by striking out "(A)" after "individual who" and inserting in lieu thereof "(i)" and by striking out "(B)" after "and" and inserting in lieu thereof "(ii)"; and

(C) by striking out the last sentence and by adding at the end the following new subparagraph:

"(B) Subject to the second sentence of this subparagraph, the term 'handicapped individual' means, for purposes of titles IV and V of this Act, any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. For purposes of sections 503 and 504, such term does not include any person who is an alcoholic or who is a drug abuser in need of rehabilitation.";

(8) in section 10 by inserting before the period at the end thereof the following: ",

except that this section shall not be construed to limit or reduce fees for services rendered by rehabilitation facilities".

(9) by adding after section 11 (as added by section 121 of this Act) the following new sections:

"ADMINISTRATION OF THE ACT

"SEC. 12. (a) In carrying out the purposes of this Act, the Commissioner may—

"(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

"(2) provide short-term training and technical instruction;

"(3) conduct special projects and demonstrations;

"(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

"(5) provide staff and other technical assistance to the National Council on the Handicapped.

"(b) In carrying out his duties under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

"(c) The Commission may promulgate such regulations as he considers appropriate to carry out his duties under this Act.

"(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"REPORTS

"SEC. 13. Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President for transmittal to the Congress a full and complete report on the activities carried out under this Act. Such annual reports shall include statistical data reflecting services and activities provided individuals during the preceding fiscal year.

"EVALUATION

"SEC. 14. (a) The Secretary shall evaluate the impact of all programs authorized by this Act, their general effectiveness in achieving stated goals and their effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

"(b) In carrying out evaluations under this section, the Secretary shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

"(c) The Secretary shall annually publish summaries of the results of evaluative research and evaluation of programs and project impact and effectiveness, the full contents of which shall be available to the Congress and the public.

"(d) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

"(e) Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available to him, upon request, by the departments and agencies of the executive branch.

"(f) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"INFORMATION CLEARINGHOUSE

"SEC. 15. (a) The Commissioner may establish a central clearinghouse for information and resource availability for handicapped individuals which shall provide information and data regarding (1) the location, provision, and availability of services and programs for handicapped individuals, (2) research and recent medical and scientific developments bearing on handicapped conditions (and their prevention, amelioration, causes, and cures), and (3) the current numbers of handicapped individuals and their needs. The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

"(b) The Commissioner may assist the Secretary to develop within the Department of Health, Education, and Welfare a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public, and private agencies and organizations, handicapped individuals and their families, professionals in fields serving such individuals, and the general public.

"(c) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"TRANSFER OF FUNDS

"SEC. 16. No funds appropriated under this Act for any research program or activity may be used for any purpose other than that for which the funds were specifically authorized.".

(b) Title I of the Rehabilitation Act of 1973, as amended by sections 101 through 107 of this Act, is further amended—

(1) in parts A through C by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner"; and

(2) in section 121(a) by inserting after the first sentence the following new sentence: "Payments may also be made under this section for the costs of the construction of facilities to be used in providing services under such State plan if provision for such construction is included in such State plan.".

(c) Title III of the Rehabilitation Act of 1973, as amended by sections 114 through 116 of this Act, is further amended—

(1) in section 300 by striking out "initial" in paragraph (1), by inserting "and" after the semicolon in paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4);

(2) in section 301 by striking out "initial" each place it appears and by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner";

(3) in section 302 by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner";

(4) in subsection (b) of section 304 and in subsection (d) of section 304 (as so redesignated by section 202 of this Act) by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner";

(5) in section 304(c) by striking out "Secretary" where it first occurs and inserting in lieu thereof "Commissioner";

(6) in subsections (a), (c), (e), (f), and (i) of section 306 by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner";

(7) by amending paragraph (3) of section 306(b) to read as follows:

"(3) provide that the agency or organization receiving Federal funds under this title will make an annual report to the Commissioner, which the Commissioner shall submit to the Secretary for inclusion (in summarized form) in the annual report submitted to the Congress under section 13;";

(8) in paragraph (4) of section 306(b) by striking out "Secretary" where it first occurs and inserting in lieu thereof "Commissioner"; and

(9) by striking out "SPECIAL FEDERAL RESPONSIBILITIES" in the title heading and inserting in lieu thereof "SUPPLEMENTARY SERVICES AND FACILITIES".

(d) Title V of the Rehabilitation Act of 1973 is amended by striking out "MISCELLANEOUS" in the title heading and inserting in lieu thereof "SPECIAL FEDERAL RESPONSIBILITIES".

(e) Section 1904 of title 38, United States Code, is amended—

(1) by striking out "section 202(b)(2)" and inserting in lieu thereof "and section 203(b)(2)"; and

(2) by striking out ", and section 405" and all that follows through "activities)".

(f) The table of contents for the Rehabilitation Act of 1973 is amended—

(1) by inserting after the item relating to section 10 the following new items:

"Sec. 11. Application of other laws.
"Sec. 12. Administration of the Act.
"Sec. 13. Reports.
"Sec. 14. Evaluation.
"Sec. 15. Information clearinghouse.
"Sec. 16. Transfer of funds.";

(2) by striking out the items relating to part D of title I and section 130 and inserting in lieu thereof the following:

"PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

"Sec. 130. Grants for demonstration projects.
"Sec. 131. Grants for vocational rehabilitation services.";

(3) by striking out the items relating to sections 202 through 204 and inserting in lieu thereof the following new items:

"Sec. 202. National Institute of Handicapped Research.
"Sec. 203. Research.
"Sec. 204. Helen Keller National Center for Deaf-Blind Youths and Adults.
"Sec. 205. Training.";

(4) by striking out the item relating to the heading of title III and inserting in lieu thereof the following:

"TITLE III—SUPPLEMENTARY SERVICES AND FACILITIES";

(5) by striking out the item relating to section 303 and inserting in lieu thereof the following new item:

"Sec. 303. Loan guarantees for rehabilitation facilities.";

(6) by striking out the item relating to section 305 and inserting in lieu thereof the following new item:

"Sec. 305. Comprehensive rehabilitation services centers.";

(7) by striking out the items relating to title IV and sections 400 through 407 and inserting in lieu thereof the following:

"TITLE IV—NATIONAL COUNCIL ON THE HANDICAPPED

"Sec. 400. Establishment of National Council on the Handicapped.
"Sec. 401. Duties of National Council.
"Sec. 402. Staff of National Council.
"Sec. 403. Administrative powers of National Council."
"Sec. 404. Authorizaion of appropriations.";

(8) by striking out the item relating to the heading of title V and inserting in lieu thereof the following:

"TITLE V—SPECIAL FEDERAL RESPONSIBILITIES";

and

(9) by adding at the end thereof the following new items:

"Sec. 505. Attorneys' fees.
"Sec. 506. Secretarial responsibilities."

TITLE II—COMMUNITY SERVICE PROGRAMS; PROJECTS WITH INDUSTRY

ESTABLISHMENT OF PROGRAMS

SEC. 201. The Rehabilitation Act of 1973 is amended by adding at the end thereof the following new title:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Employment Opportunities for Handicapped Individuals Act'.

"PART A—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR HANDICAPPED INDIVIDUALS

"ESTABLISHMENT OF PROGRAM

"SEC. 611. (a) In order to promote useful opportunities in community service activities for handicapped individuals who have poor employment prospects, the Secretary of Labor (hereinafter in this part referred to as the 'Secretary') is authorized to establish a community service employment program for handicapped individuals. For purposes of this part, the term 'eligible individuals' means persons who are handicapped individuals (as defined in section 7(6) of this Act) and who are referred to programs under this part by the State agency units designated under section 101(a)(2)(A).

"(b)(1) The Secretary may enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to carry out the program referred to in subsection (a). Such agreements may include provisions consistent with subsection (c) for the payment of the costs of projects developed by such organizations and agencies in cooperation with the Secretary. No payment shall be made by the Secretary toward the cost of any such project unless the Secretary determines that:

"(A) Such project will provide employment only for eligible individuals, except that if eligible individuals are not available to serve as technical, administrative, or supervisory personnel for a project then such personnel may be recruited from among other individuals.

"(B) Such project will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities.

"(C) Such project will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954, except for projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship.

"(D) Such project will contribute to the general welfare of the community in which eligible individuals are employed under such project.

"(E) Such project (i) will result in an increase in employment opportunities over those opportunities which would otherwise be available, (ii) will not result in any displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits), and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.

"(F) Such project will not employ any eligible individual to perform work which is the same or substantially the same as that performed by any other person who is on layoff from employment with the agency or organization sponsoring such project.

"(G) Such project will utilize methods of recruitment and selection (including the listing of job vacancies with the State agency units designated under section 101(a)(2)(A) to administer vocational rehabilitation services under this Act) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project.

"(H) Such project will provide for (i) such training as may be necessary to make the most effective use of the skills and talents of individuals who are participating in the project, and (ii) during the period of such training, a reasonable subsistence allowance for such individuals and the payment of any other reasonable expenses related to such training.

"(I) Such project will provide safe and healthy working conditions for any eligible individual employed under such project and will pay any such individual at a rate of pay not lower than the rate of pay described in paragraph (2).

"(J) Such project will be established or administered with the advice of (i) persons competent in the field of service in which employment is being provided, and (ii) persons who are knowledgeable with regard to the needs of handicapped individuals.

"(K) Such project will pay any reasonable costs for work-related expenses, transportation, and attendant care incurred by eligible individuals employed under such project in accordance with regulations prescribed by the Secretary.

"(L) Such project will provide appropriate placement services for employees under the project to assist them in locating unsubsidized employment when the Federal assistance for the project terminates.

"(2) The rate of pay referred to in subparagraph (I) of paragraph (1) is the highest of the following:

"(A) the prevailing rate of pay for persons employed in similar occupations by the same employer.

"(B) The minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 if such employee were not exempt from such Act under section 13 thereof.

"(C) The State or local minimum wage for the most nearly comparable covered employment.

The Department of Labor shall not issue any certificate of exemption under section 14(c) of the Fair Labor Standards Act of 1938 with respect to any person employed in a project under this section.

"(c)(1) The Secretary may pay not to exceed 90 percent of the cost of any project which is the subject of an agreement entered into under subsection (b). Notwithstanding the preceding sentence, the Secretary may pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Director of the Community Services Administration.

"(2) The non-Federal share of any project under this part may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

"(d) Payments under this part may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

"ADMINISTRATION

"SEC. 612. (a) In order to effectively carry out the provisions of this part, the Secretary shall, through the Commissioner of the Rehabilitation Services Administration, consult with any State agency designated under section 101(a)(2)(A) with regard to—

"(1) the localities in which community service projects of the type authorized by this part are most needed;

"(2) the employment situations and types of skills possessed by eligible individuals in such localities; and

"(3) potential projects suitable for funding in such localities.

"(b) The Secretary shall coordinate the program established under this part with programs authorized under the Emergency Jobs and Unemployment Assistance Act of 1974, the Comprehensive Employment and Training Act of 1973, the Community Services Act of 1974, and the Emergency Employment Act of 1971. Appropriations under this part may not be used to carry out any program under the Acts referred to in the preceding sentence.

"(c) In carrying out this part, the Secretary may, with the consent of any other Federal, State, or local agency, use the services, equipment, personnel, and facilities of such agency with or without providing such agency with reimbursement and may use the services, equipment, and facilities of any other public or private entity on a similar basis.

"(d) Within one hundred and eighty days after the effective date of this part, the Secretary shall issue and publish in the Federal Register such regulations as may be necessary to carry out this part.

"(e) The Secretary shall not delegate any function of the Secretary under this part to any other department or agency of the Federal Government.

"PARTICIPANTS NOT FEDERAL EMPLOYEES

"SEC. 613. (a) Eligible individuals who are employed in any project funded under this part shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

"(b) No contract shall be entered into under this part with a contractor who is, or whose employees are, under State law, exempted from operation of any State workmen's compensation law generally applicable to employees, unless the contractor shall undertake to provide for persons to be employed under such contract, through insurance by a recognized carrier or by self-insurance authorized by State law, workmen's compensation coverage equal to that provided by law for covered employment.

"(c) No part of the wages, allowances, or reimbursement for transportation and attendant care costs made available to an eligible individual employed in any project funded under this part shall be treated as income or benefits for the purpose of any other program or provision of State or Federal law.

"INTERAGENCY COOPERATION

"SEC. 614. (a) The Secretary shall consult with, and obtain the written views of, the Commissioner of the Rehabilitation Services Administration before establishing rules or general policy in the administration of this part.

"(b) The Secretary shall consult and cooperate with the Director of the Community Services Administration, the Secretary of Health, Education, and Welfare, and the heads of other Federal agencies carrying out related programs, in order to achieve maximum coordination between such programs and the program established under this part. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this part and in identifying individuals eligible for employment in projects assisted under this part.

"EQUITABLE DISTRIBUTION OF ASSISTANCE

"SEC. 615(a)(1) Preference in awarding grants or contracts under this part shall be given to organizations of proven ability in providing employment services to handicapped individuals under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts among the States, taking into account the needs of underserved States.

"(2) The Secretary shall allot for projects within each State the sums appropriated for any fiscal year under section 617 so that each State will receive an amount which bears the same ratio to such sums as the population of the State bears to the population of all the States.

"(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for such year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

"(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, and (2) the relative distribution of such individuals residing in rural and urban areas within the State.

"DEFINITIONS

"SEC. 616. For purposes of this part—

"(1) the term 'community service' means social, health, welfare, and educational services, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe;

"(2) the term 'program' means the community service employment program for handicapped individuals established under this part; and

"(3) the term 'attendant care' means interpreter services for the deaf, reader services for the blind, and services provided to assist mentally retarded individuals perform duties of employment.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 617. There are authorized to be appropriated to carry out the purposes of this part $80,000,000 for the fiscal year ending September 30, 1979, $100,000,000 for the fiscal year ending September 30, 1980, $125,000,000 for the fiscal year ending September 30, 1981, $150.000,000 for the fiscal year ending September 30, 1982, and $175,000,000 for the fiscal year ending September 30, 1983.

"PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"PROJECTS WITH INDUSTRY

"SEC. 621. (a)(1) The Commissioner, in consultation with State agency units designated under section 101(a)(2)(A), may enter into agreements with individual employers and other entities to establish jointly financed projects which—

"(A) shall provide handicapped individuals with training and employment in a realistic work setting in order to prepare them for employment in the competitive market;

"(B) shall provide handicapped individuals with such supportive services as may be required to permit them to continue to engage in the employment for which they have received training under this section; and

"(C) shall, to the extent appropriate, expand job opportunities for handicapped individuals by providing for (i) the development and modification of jobs to accommodate the special needs of such individuals, (ii) the distribution of special aids, appliances, or adapted equipment to such individuals, (iii) the establishment of appropriate job placement services, and (iv) the modification of any facilities or equipment of the employer which are to be used primarily by handicapped individuals.

"(2) Any agreement under this subsection shall be jointly developed by the Commissioner, the prospective employer, the appropriate State agency unit designated under section 101(a)(2)(A) and the handicapped individuals involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contains the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

"(b) No payment shall be made by the Commissioner under any agreement with an employer entered into under subsection (a) unless such agreement—

"(1) provides assurances that handicapped individuals placed with such employer shall receive at least the applicable minimum wage;

"(2) specifies that the Commissioner, together with the State agency unit referred to in subsection (a), has the right to review any termination of employment, and that, in the event such termination occurs less than three years after the date of the commencement of employment of the handicapped individual involved, the Commissioner shall be entitled to require the repayment of a portion of the funds made available to the employer if such termination is without reasonable cause, as determined by the Commissioner in consultation with such State agency unit; and

"(3) provides assurances that any handicapped individual placed with such employer shall be afforded terms and benefits of employment equal to those which are afforded to other employees of such employer, and that such handicapped individuals shall not be unreasonably segregated from other employees.

"(c) Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

"BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"SEC. 622. The Commissioner may make grants, to, or enter into contracts with, handicapped individuals to enable them to establish or operate commercial or other enterprises to develop or market their products or services. Within ninety days after the effective date of this section, the Commissioner shall promulgate regulations to carry out this section, including regulations specifying (1) the maximum amount of money which may be provided under this section to any participant, and (2) procedures for certification, by State agency units designated under section 101(a)(2)(A), of individuals eligible to participate in any program under this section.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 623. There are authorized to be appropriated to carry out the purposes of this part $25,000,000 for the fiscal year ending September 30, 1979, $25,000,000 for the fiscal year ending September 30, 1980, $30,000,000 for the fiscal year ending September 30, 1981, $35,000,000 for the fiscal year ending September 30, 1982, and $40,000,000 for the fiscal year ending September 30, 1983.".

CONFORMING AMENDMENTS

SEC. 202. (a) Effective October 1, 1978—

(1) section 304(d) of the Rehabilitation Act of 1973 is repealed; and

(2) section 304(e) of such Act is redesignated as 304(d);

(b) The table of contents for the Rehabilitation Act of 1973, as amended by section 120(c)(6), is further amended by adding at the end thereof the following:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"Sec. 601. Short title.

"PART A—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR HANDICAPPED INDIVIDUALS

"Sec. 611. Establishment of program.
"Sec. 612. Administration.
"Sec. 613. Participants not Federal employees.
"Sec. 614. Interagency cooperation.
"Sec. 615. Equitable distribution of assistance.
"Sec. 616. Definitions.
"Sec. 617. Authorization of appropriations.

"PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"Sec. 621. Projects with industry.
"Sec. 622. Business opportunities for handicapped individuals.
"Sec. 623. Authorization of appropriations.".

TITLE III—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

COMPREHENSIVE SERVICES

SEC. 301. The Rehabilitation Act of 1973, as amended by section 201 of this Act, is further amended by adding at the end the following new title:

"TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

"PURPOSE

"SEC. 701. The purpose of this title is to authorize grants (supplementary to grants for vocational rehabilitation services under title I) to assist State agency units designated under section 101(a)(2)(A) in providing independent living services designed to meet the current and future needs of individuals whose disabilities are so severe that they do not presently have the potential for gainful employment but may benefit from vocational rehabilitation services which will enable them to live and function independently.

"ELIGIBILITY

"SEC. 702. Services may be provided under this title to any individual whose ability to engage or continue in gainful employment, or whose ability to function normally and independently in his family or community, is so limited by the severity of his disability that vocational or comprehensive rehabilitation services appreciably more costly and of appreciably greater duration than those vocational or comprehensive rehabilitation services normally required for the rehabilitation of a handicapped individual are required to improve significantly either his ability to engage in gainful employment or his ability to function normally and independently in his family or community.

"ALLOTMENTS

"SEC. 703. (a) From sums appropriated for each fiscal year for the purpose of allotments under this section, each State whose comprehensive services plan has been approved under section 704 shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all of the

States. The allotment to any State under the preceding sentence for any fiscal year which is less than $200,000 shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

"(b) Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, he shall make such amount available for carrying out the purposes of this section to one or more of the States which he determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"STATE PLANS

"SEC. 704. (a) In order to be eligible for funds under this title, a State shall submit to the Commissioner a State plan for providing independent living services to severely handicapped individuals for a three-year period, and, upon request of the Commission, shall make such minor annual revisions in the plan as may be necessary. Each such plan shall—

"(1) designate any State agency unit designated under section 101(a)(2)(A) as the agency to administer the program funded under this title;

"(2) demonstrate that the State has studied and considered a wide variety of methods for providing comprehensive services to severely handicapped individuals (such as regional and community centers, halfway houses, and patient-release programs);

"(3) describe in detail the types of services to be provided by programs funded under this title, including information concerning the individuals served by such programs:

"(4) provide assurances that the State will conduct periodic reviews of the progress of individuals assisted under this title to determine whether services provided to such individuals should be continued, modified, or discontinued;

"(5) provide assurances that handicapped individuals shall have a substantial role in developing the plan; and

"(6) contain such other information, and be submitted in such form and in accordance with such procedures, as the Commissioner may require.

"(b) As soon as practicable after receiving a State plan submitted under subsection (a), the Commissioner shall approve or disapprove such plan. The Commissioner shall approve any State plan which he determines meets the requirements and purposes of this section.

"(c) For purposes of this title, the term 'independent living services' means any appropriate vocational rehabilitation service, as defined in title I of this Act, and any other service that will make a substantial contribution in helping a handicapped individual improve his ability to live independently or function normally within his family and community. Such services may include counseling, psychological and related services, housing incidental to the purpose of this section (including the accommodation to and the modification of any space), transportation, attendant care, physical rehabilitation, therapeutic treatment, needed prostheses and other appliances and devices, health maintenance, recreational activities, interpreter services, and preventive services to decrease the needs of such individual for similar services in the future.

"PAYMENTS TO STATES FROM ALLOTMENTS

"SEC. 705. (a) From each State's allotment for a fiscal year under section 703, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 704. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

"(b) For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

"(c) The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 704.

"(d)(1) The Commissioner may withhold from any State payments of funds appropriated under section 707(a) in the same manner as provided in section 101(c) of this Act for withholding payments under title I.

"(2) Any State may appeal the disapproval of a State plan under section 704 or the termination of payments under paragraph (1) in the same manner as provided in section 101(d) of this Act for appealing the disapproval of a plan or the termination of funds under title I.

"GRANTS FOR INDEPENDENT LIVING CENTERS

"SEC. 706. (a) The Commissioner may make grants to any State agency unit which qualifies for payments under section 705 to provide for the establishment and operation of independent living centers, which shall be facilities offering the services described in subsection (c)(2).

"(b) No grant may be made under this section unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application for a grant unless the application—

"(1) contains assurances that the State agency unit will use funds provided by such grant in accordance with subsection (c); and

"(2) contains such other information, and is submitted in such form and in accordance with such procedures, as the Commissioner may require.

"(c) Funds received by such State agency unit may be used to make grants to public or nonprofit agencies or organizations for the operation of independent living centers. An application for such a grant shall—

"(1) provide assurances that handicapped individuals will be substantially involved in policy direction and management of such center, and will be employed by such center;

"(2) contain assurances that the independent living center to be assisted by such grant shall offer handicapped individuals a combination of independent living services, including, as appropriate—

"(A) intake counseling to determine the client's need for specific rehabilitation services;

"(B) referral and counseling services with respect to attendant care;

"(C) counseling and advocacy services with respect to legal and economic rights and benefits;

"(D) independent living skills, counseling, and training, including such programs as training in the maintenance of necessary equipment and in job-seeking skills, counseling on therapy needs and programs, and special programs for the blind and deaf;

"(E) housing and transportation referral and assistance;

"(F) health maintenance programs;

"(G) peer counseling; and

"(H) other programs designed to provide resources, training, counseling, services, or other assistance of substantial benefit in promoting the independence, productivity, and quality of life of handicapped individuals; and

"(3) contain such other information, and be submitted in such form and in accordance with such procedures, as the Commissioner may require.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 707. (a) For the purpose of allotments under section 703, there are authorized to be appropriated $80,000,000 for the fiscal year ending September 30, 1979, $130,000,000 for the fiscal year ending September 30, 1980, $180,000,000 for the fiscal year ending September 30, 1981, and such sums as may be necessary for each of the next two fiscal years.

"(b) For the purpose of grants under section 706, there are authorized to be appropriated $50,000,000 for the fiscal year ending September 30, 1979, $80,000,000 for the fiscal year ending September 30, 1980, $110,000,000 for the fiscal year ending September 30, 1981, and such sums as may be necessary for each of the next two fiscal years.".

INDIVIDUALIZED CASE PLAN

SEC. 302. Section 101(a)(9) of the Rehabilitation Act of 1973 is amended in clause (A) by inserting at the end before the comma "or eligible for comprehensive services under title VII of this Act".

CONFORMING AMENDMENT

SEC. 303. The table of contents for the Rehabilitation Act of 1973, as amended in section 120(c)(6) and section 202(b), is further amended by adding at the end thereof the following:

"TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

"Sec. 701. Purpose.
"Sec. 702. Eligibility.
"Sec. 703. Allotments.
"Sec. 704. State plans.
"Sec. 705. Payments to States from allotments.
"Sec. 706. Grants for independent living centers.
"Sec. 707. Authorization of appropriations.".

TITLE IV—INTERAGENCY PROGRAMS AND MISCELLANEOUS PROVISIONS

RESEARCH AND DEMONSTRATION PROJECTS

SEC. 401. (a) The Secretary of Health, Education, and Welfare is authorized to make grants and contracts to public and nonprofit agencies for the purpose of research and demonstration projects specifically designed to address the multiple and interrelated service needs of handicapped individuals, the elderly, and children, youths, adults, and families in need of protective services. Projects should be evaluated and the final report submitted to the Congress within 4 months after the completion of the project.

(b) There are authorized to be appropriated to carry out this section such sums as may be necessary.

LIMITATIONS ON AUTHORIZATIONS

SEC. 402. No authorization of appropriations in this Act (other than in title II) shall be effective for any fiscal year beginning before October 1, 1978. Notwithstanding any other provision of this Act, no new borrowing authority or authority to enter into contracts under this Act (other than in title II) shall be effective except to such extent or in such amounts as are provided in advance in appropriations Acts.

EFFECTIVE DATE

SEC. 403. Titles I through IV of this Act shall take effect on October 1, 1978.

TITLE V DEVELOPMENTAL DISABILITIES ACT AMENDMENTS

SHORT TITLE; REFERENCE TO ACT

SEC. 501. (a) This Act may be cited as the "Developmental Disabilities Act Amendments of 1978".

(b) Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Services and Facilities Construction Act.

SHORT TITLE; FINDINGS AND PURPOSES

SEC. 502. Part A is amended by striking out section 101 and inserting in lieu thereof the following sections:

"SHORT TITLE

"SEC. 100. This title may be cited as the 'Developmental Disabilities Act'.

"FINDINGS AND PURPOSES

"SEC. 101. (a) The Congress finds that—

"(1) there are more than two million persons with developmental disabilities in the United States;

"(2) individuals with disabilities occurring during their developmental period are more vulnerable and less able to reach an independent level of existence than individuals who have a normal developmental period on which to draw during the rehabilitation process;

"(3) persons with developmental disabilities often require specialized services to be provided from birth to death and by many agencies in a coordinated manner in order to meet the persons' needs;

"(4) general services agencies and agencies providing specialized services to disabled persons tend to overlook or exclude persons with developmental disabilities in their planning and delivery of services;

"(5) it is in the national interest to strengthen specific programs, especially programs that reduce or eliminate the need for institutional care, to meet the needs of persons with developmental disabilities; and

"(6) there is a need for a national plan for persons with developmental disabilities which takes into account the needs common to the entire developmentally disabled population as well as those needs unique to each identifiable group in the population.

"(b)(1) It is the overall purpose of this title to assist States to assure that persons with developmental disabilities receive the care, treatment, and other services necessary to enable them to achieve their maximum potential through a system which coordinates, monitors, plans, and evaluates those services and which ensures the legal and human rights of persons with developmental disabilities.

"(2) The specific purposes of this title are—

"(A) to assist in the provision of services to persons with developmental disabilities, with priority to those persons whose needs cannot be comprehensively covered or otherwise met under the Education of All Handicapped Children Act, the Rehabilitation Act of 1973, or other health, education, or welfare programs;

"(B) to develop a national plan for meeting the identified and unmet needs of persons with developmental disabilities, which plan is coordinated with State plans relating to persons with developmental disabilities;

"(C) to assist States in appropriate planning activities;

"(D) to make grants to States and public and private, nonprofit agencies, in accordance with specified national priorities, to establish model programs, to demonstrate innovative habilitation techniques, and to train professional and paraprofessional personnel;

"(E) to make grants to university affiliated programs to assist them in administering, operating, planning, and developing demonstration programs for the provision of services to persons with developmental disabilities, and interdisciplinary training programs for personnel needed to provide specialized services for these persons; and

"(F) to make grants to support a system in each State to protect the legal and human rights of all persons with developmental disabilities without regard to age or eligibility for services funded under this title.".

DEFINITIONS

SEC. 503. (a) Section 102(1) is amended by inserting "the Northern Mariana Islands," after "Guam,".

(b) Paragraph (7) of section 102 is amended to read as follows:

"(7) The term 'developmental disability' means a severe, chronic disability of a person which—

"(A)(i) is attributable to mental retardation, cerebral palsy, epilepsy, autism, or dyslexia; or

"(ii) is attributable to any other condition of a person found to be similar to mental retardation, cerebral palsy, epilepsy, autism, or dyslexia because such condition results in similar impairment of general intellectual functioning or adaptive behavior and requires treatment and services similar to those required for such persons;

"(B) is manifest before the person attains 22 years of age;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following activities: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

"(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are lifelong or of extended duration and are individually planned and coordinated.".

(c) Paragraph (8) of section 102 is amended—

(1) by inserting "(A)" after "(8)";

(2) by striking out "means specialized services" and all that follows through "such term includes" and inserting in lieu thereof the following: "means priority services (as defined in subparagraph (B)), and any other specialized services or special adaptations of generic services for persons with developmental disabilities, including in these services the"; and

(3) by adding at the end thereof the following new subparagraphs:

"(B) The term 'priority services' means case management services (as defined in subparagraph (C)), child development services (as defined in subparagraph (D)), alternative community living arrangement services (as defined in subparagraph (E)), and nonvocational social-developmental services (as defined in subparagraph (F)).

"(C) The term 'case management services' means such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, educational, and other services; and such term includes—

"(i) follow-along services which insure, through a continuing relationship (lifelong if necessary) between an agency or provider and a person with a developmental disability and his family, that the changing needs of the person and the family are recognized and appropriately met; and

"(ii) coordination services which provide to persons with developmental disabilities support, access to (and coordination of) other services, information on programs and services, and monitoring of the persons' progress.

"(D) The term 'child development services' means such services as will assist in the prevention, identification, and alleviation of developmental disabilities in children, and includes (i) early intervention services, (ii) counseling and training of parents, (iii) early identification of developmental disabilities, and (iv) diagnosis and evaluation of such developmental disabilities.

"(E) The term 'alternative community living arrangement services' means such services as will assist persons with developmental disabilities in maintaining suitable residential arrangements in the community, and includes in-house services (such as personal aides and attendants and other domestic assistance and supportive services), family support services, foster care services, group living services, respite care, and staff training, placement, and maintenance services.

"(F) The term 'nonvocational social-developmental services' means such services as will assist persons with developmental disabilities who are over 18 years of age in performing daily living and work activities.".

(d) Paragraph (9) of section 102 is amended to read as follows:

"(9) The term 'State Planning Council' means a State Planning Council established under section 137.".

(e) Paragraph (10) of section 102 is amended to read as follows:

"(10) The term 'university affiliated program' means a program which is operated by a public or private nonprofit entity, which is associated with (or is an integral part of) a college or university, and which provides for at least the following activities:

"(A) Interdisciplinary training for personnel concerned with developmental disabilities and related handicapping conditions.

"(B) Provision of exemplary services relating to persons with developmental disabilities and related handicapping conditions.

"(C) Technical assistance and consultation for State and local public agencies, private agencies, service providers, State Planning Councils, protection and advocacy systems (described in section 113), and other similar entities.

"(D)(i) Dissemination of research findings, relevant to services provided to persons with developmental disabilities, to entities described in subparagraph (C), (ii) providing researchers and government agencies sponsoring such research with information on the needs for further service-related research, and (iii) conducting selected service-related research.".

NATIONAL ADVISORY COUNCIL ON SERVICES, FACILITIES, AND RIGHTS OF THE DEVELOPMENTALLY DISABLED

SEC. 504. (a) Paragraph (1) of section 108 (a) is amended to read as follows:

"(1)(A) There is established a National Advisory Council on Services, Facilities, and Rights of the Developmentally Disabled (hereinafter in this section referred to as the 'Council'). The Council shall consist of—

"(i) sixteen ex officio members, described in subparagraph (B); and

"(ii) twenty members appointed, in accordance with subparagraph (C) and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, by the Secretary from persons (I) who are advocates in the field of services to persons with developmental disabilities (including leaders in State or local government, in institutions of higher education, and in organizations which have demonstrated advocacy on behalf of such persons), and (II) who are not full-time employees of the United States.

"(B) The ex officio members (referred to in subparagraph (A)(i)) of the Council shall be twelve representatives from the Department of Health, Education, and Welfare, two representatives from the Department of Labor, one representative from the Department of Housing and Urban Development, and one representative from the Department of Transportation, each such representative to be designated by the Secretary of the respective Department.

"(C) Of the appointed members (referred to in subparagraph (A)(ii) of the Council—

"(i) eight shall be persons with developmental disabilities or with a milder form of any such disability;

"(ii)(I) seven shall be immediate relatives or guardians of persons with mentally impairing developmental disabilities, and (II) at least one of such relatives or guardians shall be an immediate relative or guardian of an institutionalized person with a developmental disability;

"(iii) one shall be the director of a protection and advocacy system (described in section 113) for developmentally disabled persons;

"(iv) one shall be the staff director of a State Plannning Council (established under section 137); and

"(v) three shall be selected from State and local direct service providers (both public and private) and from university affiliated programs.".

(b) Section 108(a)(3) is amended by striking out "twice" and inserting in lieu thereof "three times".

(c) Section 108(b) is amended—

(1) by inserting "office" after "shall hold", and

(2) by striking out "has expired" and inserting in lieu thereof "have expired".

(d) Subsection (c) of section 108 is amended to read as follows:

"(c) The Council shall—

"(1) develop a national five-year plan for persons with developmental disabilities, which plan identifies the unmet service needs of persons with developmental disabilities and the actual and potential infringements of the legal and human rights of these persons;

"(2) annually review and revise this five-year plan;

"(3) recommend to the Secretary priorities (consistent with the priority of the services described in section 102(8)(B)) for special projects authorized under part D of this title;

"(4) advise the Secretary with respect to any regulations promulgated or proposed for promulgation by the Secretary in the implementation of the provisions of this title;

"(5) monitor the execution of this title and report directly to the Secretary on any delay in the rapid execution of this title; and

"(6) submit to the Congress each year a report on the Council's activities under this subsection during the year and on any needs and priorities relating to persons with developmental disabilities not being met under this title.".

(e) Subsection (d) of section 108 is amended to read as follows:

"(d) The Secretary shall make available to the Council at least one full-time professional staff person and one full-time secretarial assistant, such other secretarial, clerical, and other assistance, such statistical and other pertinent data prepared by or available to the Department of Health, Education, and Welfare, and such other resources as the Council may require to carry out its functions.".

(f) The heading to section 108 is amended by striking out "SERVICES AND FACILITIES FOR" and inserting in lieu thereof "SERVICES, FACILITIES, AND RIGHTS OF".

(g)(1) Section 110(a) is amended by striking out "Services and Facilities for" and inserting in lieu thereof "Services, Facilities, and Rights of".

(2) Subsections (a) and (e) of section 145 are amended by striking out "after consultation with the National Advisory Council on Services and Facilities to the Developmentally Disabled" and inserting in lieu thereof "taking into consideration the priorities established by the National Advisory Council on Services, Facilities, and Rights of the Developmentally Disabled".

(h) Notwithstanding the amendment made by subsection (a) of this section, the appointed members of the National Advisory Council on Services and Facilities for the Developmentally Disabled (as established under section 108(a) of the Developmental Disabilities Services and Facilities Act as in effect before the date of the enactment of this Act) shall be considered appointed members of the National Advisory Council on Services, Facilities, and Rights of the Developmentally Disabled (as established under the amendment made by subsection (a) of this section) until their terms (as of the date of the enactment of this Act) expire or such members resign from their offices.

REGULATIONS

Sec. 505. The text of section 109 is amended to read as follows:

"Sec. 109. The Secretary, not later than one hundred and eighty days after the date of enactment of any Act amending the provisions of this title, shall promulgate such regulations as may be required for the implementation of such amendments.".

EVALUATION SYSTEM

Sec. 506. (a) Section 110(a) is amended—

(1) by striking out "within two years of" and all that follows through "Bill of Rights Act develop" in the first sentence and inserting in lieu thereof "develop, not later than October 1, 1979,";

(2) by striking out "Within six months after the development of such a system, the" in the second sentence and inserting in lieu thereof "The";

(3) by striking out "the receipt of assistance under this title, that each State" in the second sentence and inserting in lieu thereof "a State's receipt of assistance on and after October 1, 1980, under this title, that the State";

(4) by striking out "Within two years after the date of the development of such a system, the" in the third sentence and inserting in lieu thereof "The"; and

(5) by striking out "the receipt of assistance under this title, that each State" in the third sentence and inserting in lieu thereof "a State's receipt of assistance on and after October 1, 1982, under this title, that the State".

(b) Subsection (c) of section 110 is amended to read as follows:

"(c) Upon development of the evaluation system described in subsection (b), the Secretary shall submit to Congress a report on the system, which report shall include an estimate of the costs to the Federal Government and the States of developing and implementing such a system.".

(c) Section 110 is amended by striking out subsection (d).

RIGHTS OF THE DEVELOPMENTALLY DISABLED

Sec. 507. Section 111 is amended by adding at the end thereof the following new sentence:

"The rights of persons with developmental disabilities described in findings made in this section are in addition to any constitutional or other rights otherwise afforded to all persons.".

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

Sec. 508 (a) Section 113(a) is amended—

(1) by striking out "The Secretary shall require" and all that follows through "such system will (A)" and inserting in lieu thereof "In order for a State to receive an allotment under part C, (1) the State must have in effect a system to protect and advocate the rights of persons with developmental disabilities; (2) such system must (A)";

(2) by striking out "State" in clause (2)(B);

(3) by striking out "and (B)" and inserting in lieu thereof "(B) not be administered by the State Planning Council, and (C)";

(4) by inserting before the period at the end of the first sentence the following: "; and (3) the State must submit to the Secretary in a form prescribed by the Secretary in regulations (A) a report, not less often than once every three years, describing the system, and (B) an annual report describing the activities carried out under the system and any changes made in the system during the previous year"; and

(5) by striking out the last sentence thereof.

(b) The second sentence of section 113(b)(1) is amended to read as follows: "Allotments and reallotments of such sums shall be made on the same basis as the allotments and reallotments are made under the first sentence of subsections (a)(1) and (d) of section 132, except that no State in any fiscal year shall be allotted an amount which is less than the greater of $50,000 or the amount of the allotment to the State under this paragraph for the previous fiscal year.".

(c) Paragraph (2) of section 113(b) is amended to read as follows:

"(2) For allotments under paragraph (1), there are authorized to be appropriated $9,000,000 for the fiscal year ending September 30, 1979, $12,000,000 for the fiscal year ending September 30, 1980, and $15,000,000 for the fiscal year ending September 3, 1981.".

GRANT AUTHORITY, APPLICATIONS, AND AUTHORIZATION OF APPROPRIATIONS FOR UNIVERSITY AFFILIATED PROGRAMS

Sec. 509. (a) Part B is amended to read as follows:

"PART B—UNIVERSITY AFFILIATED PROGRAMS

"GRANT AUTHORITY

"Sec. 121. (a) From appropriations under section 123, the Secretary shall make grants to university affiliated programs to assist in the planning, development, administration, operation, and maintenance of the activities described in section 102(10), and of such additional activities as the Secretary determines to be appropriate to carry out the purposes of this title.

"(b) The Secretary may make one or more grants to a university affiliated program receiving a grant under subsection (a) to support one or more of the following activities:

"(1) Affiliation of the program with governmental and nonprofit organizations, in order to promote the provision of quality services to persons with developmental disabilities who reside in geographical areas where adequate services are not available.

"(2) Expansion of the program so it can assess the need for trained personnel in providing assistance to persons with developmental disabilities or with related handicapping conditions.

"(3) Provision of service-related training to practitioners providing services to persons with developmental disabilities or with related handicapping conditions.

"(4) Conducting a long-term applied research program which can develop methods for applying basic research findings to produce more efficient and effective methods (A) for the delivery of services to persons with developmental disabilities or with related handicapping conditions, and (B) for the training of professionals, paraprofessionals, and parents who provide these services.

"APPLICATIONS

"Sec. 122. (a) Not later than six months after the date of the enactment of the Developmental Disabilities Act Amendments of 1978, the Secretary shall establish standards for university affiliated programs. These standards for programs shall reflect the special needs of persons with developmental disabilities or with related handicapping conditions who are of various ages, and shall include performance standards relating to each of the activities described in section 102(10).

"(b) No grant may be made under section 121 unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application shall be approved by the Secretary only if the application contains or is supported by reasonable assurances that—

"(1) the making of the grant will (A) not result in any decrease in the use of State, local, and other non-Federal funds for services for persons with developmental disabilities and for training of persons to provide such services, which funds would (except for such grant) be made available to the applicant, and (B) be used to supplement and, to the extent practicable, increase the level of such funds; and

"(2) the applicant's program (A) is in compliance with the standards established under subsection (a), or (B)(i) is making reasonable progress toward complying with such standards and (ii) will, not later than three years after the date of approval of the initial application or the date standards are promulgated under subsection (a), whichever is later, comply with such standards.

"(c) The Secretary shall establish such a process for review of applications for grants under section 121 as will ensure that each Federal agency that provides funds for the direct support of the applicant's program reviews the application.

"(d) The amount of any grant under section 121(a) to a university affiliated program in a fiscal year shall not be less than $150,000.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 123. (a) For the purpose of making grants under section 121, there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1979, $18,000,000 for the fiscal year ending September 30, 1980, and $21,000,000 for the fiscal year ending September 30, 1981.

"(b) Of the sums appropriated under subsection (a), not less than—

"(1) $9,000,000 for the fiscal year ending September 30, 1979,

"(2) $10,000,000 for the fiscal year ending September 30, 1980, and

"(3) $11,000,000 for the fiscal year ending September 30, 1981,

shall be made available for grants under section 121(a) to qualified applicants which received grants under section 121(a) during the fiscal year ending September 30, 1978. The remainder of the sums appropriated for such fiscal years shall be made available as the Secretary determines, except that not less than 40 percent of such remainder shall be made available for grants under section 121(b).".

(b) Section 103(c) is amended—

(1) by striking out "university-affiliated facility or a satellite center" and inserting in lieu thereof "university affiliated program"; and

(2) by striking out "a project" and inserting in lieu thereof "a program".

(c) Section 112(a) is amended by striking out ", facility,".

AUTHORIZATION AND ALLOTMENTS FOR FACILITY GRANTS

SEC. 510. (a) The text of section 131 is amended to read as follows:

"SEC. 131. For allotments under section 132, there are authorized to be appropriated $60,000,000 for the fiscal year ending September 30, 1979, $75,000,000 for the fiscal year ending September 30. 1980. and $90 000 000 for the fiscal year ending September 30, 1981.".

(b) Section 132(a) is amended—

(1) by striking out subparagraph (B) of paragraph (1) and paragraphs (2), (3), and (4);

(2) by striking out "(A)" in paragraph (1)(A) and by redesignating clauses (i) through (iii) of such paragraph as subparagraphs (A) through (C), respectively; and

(3) by inserting at the end thereof the following new paragraphs:

"(2) For any fiscal year, the allotment under paragraph (1)—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may not be less than $100,000, and

"(B) to any other State may not be less than the greater of $250,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State under this subsection for the fiscal year ending September 30, 1978.

"(3) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services and facilities for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 133(b)(2)(B), in the State plan of such State.".

(c) Subsections (b) and (c) of section 132 are amended by striking out "134" and inserting in lieu thereof "133" each place is appears.

STATE PLANS FOR PROVISION OF SERVICES AND FACILITIES

SEC. 511. (a) Subsection (b) of section 133 is amended to read as follows:

"(b) In order to be approved by the Secretary under this section, a State plan for the provision of services and facilities for persons with developmental disabilities must meet the following requirements:

"State Planning Council and Administration of Plan

"(1)(A) The plan must provide for the establishment of a State Planning Council, in accordance with section 137, for the assignment to the Council of personnel in such numbers and with such qualifications as the Secretary determines to be adequate to enable the Council to carry out its duties under that section, and for the identification of the personnel so assigned.

"(B) The plan must designate the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise).

"(C) The plan must provide that each State agency designated under subparagraph (B) will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

"(D) The plan must provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this part.

"Description of Objectives and Services

"(2) The plan must—

"(A) set out the specific objectives to be achieved under the plan and a listing of the programs and resources to be used to meet such objectives;

"(B) describe (and provide for the review annually and revision of the description not less often than once every three years) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for federally assisted State programs as the State has relating to education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health, and under such other plans as the Secretary may specify;

"(C) for each fiscal year, assess and describe the extent and scope of priority services (as defined in section 102(8)(B)) being or to be provided under the plan in the fiscal year; and

"(D) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (A).

"Use of Funds

"(3) The plan must contain or be supported by assurances satisfactory to the Secretary that—

"(A) the funds paid to the State under section 132 will be used to make a significant contribution toward strengthening services for persons with developmental disabilities in the various political subdivisions of the State;

"(B) part of such funds will be made available by the State to public or nonprofit private entities;

"(C) the funds paid to the State under section 132 will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds; and

"(D) there will be reasonable State financial participation in the cost of carrying out the State plan.

"Provision of Priority Services

"(4)(A) The plan must—

"(i) provide for the examination not less often than once every three years of the provision, and the need for the provision, in the State of the four different areas of priority services (as defined in section 102(8)(B)); and

"(ii) provide for the development, not later than the second year in which funds are provided under the plan after the date of enactment of this paragraph, and the timely review and revision of a comprehensive statewide plan to plan, financially support, coordinate, and otherwise better address, on a statewide and comprehensive basis, unmet needs in the State for the provision of at least one of the areas of priority services, such area or areas to be specified in the plan, and (at the option of the State) for the provision of an additional area of services for the developmentally disabled, such area also to be specified in the plan.

"(B)(i) Except as provided in clause (iii), the plan must provide that not less than $100,000 or 70 percent of the amount available to the State under section 132, whichever is greater, will be expended, as provided in clause (ii), for service activities in the areas of services specified in the plan under subparagraph (A)(ii).

"(ii) For any year in which the sums appropriated under section 131 do not exceed—

"(I) $60,000,000, not less than $100,000 or 70 percent of the amount available to the State under section 132, whichever is greater, must be expended for service activities in no more than two of the areas of services specified in the plan under subparagraph (A)(ii), or

"(II) $90,000,000, not less than $100,000 or 70 percent of the amount available to the State under section 132, whichever is greater, must be expended for service activities in no more than three of the areas of services specified in the plan under subparagraph (A)(ii).

"(iii) A State plan, in order to comply with clause (i) for a fiscal year beginning before January 1, 1980, is not required to reduce the amount available to the State under section 132 which is expended for planning activities below the amount so expended in the preceding fiscal year, if substantially the remainder of the amount available to the State, which is expended for other than administration, is expended for service activities in the areas of services specified in the plan under subparagraph (A)(ii). For purposes of this clause, expenditures for planning activities do not include any expenditures for service activities (as defined in clause (iv)).

"(iv) For purposes of this paragraph, the term 'service activities' includes, with respect to an area of services, provision of services in the area, model service programs in the area, activities to increase the capacity of institutions and agencies to provide services in the area, coordinating the provision of services in the area with the provision of other services, outreach to individuals for the provision of services in the area, the training of personnel to provide services in the area, and similar activities designed to expand the use of availability of services in the area.

"(C) The plan must provide that special financial and technical assistance shall be given to agencies or entities which are providing or are planning to provide service activities in the areas of service specified in the plan under subparagraph (A)(ii) for persons with developmental disabilities who are residents of geographical areas designated as urban or rural poverty areas.

"Standards for Provision of Services and Protection of Rights of Recipients of Services

"(5)(A) The plan must provide that services furnished, and the facilities in which they are furnished, under the plan for persons with developmental disabilities will be in accordance with standards prescribed by the Secretary in regulations.

"(B) The plan must provide that services are provided in an individualized manner consistent with the requirements of section 112 (relating to habilitation plans).

"(C) The plan must contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this title will be protected consistent with section 111 (relating to rights of the developmentally disabled).

"Professional Assessment and Evaluation Systems

"(6) The plan must provide for—

"(A) an assessment of the adequacy of the skill levels of professionals and paraprofessionals serving persons with developmental disabilities in the State and the adequacy of the State programs and plans supporting training of such professionals and paraprofessionals in maintaining the high quality of services provided to persons with developmental disabilities in the State; and

"(B) the planning and implementation of an evaluation system (in accordance with section 110(a)).

"Additional Information and Assurances Required by Secretary

"(7) The plan also must contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part."

(b) Section 133(d)(1) is amended by striking out "for such purpose" and inserting in lieu thereof "for the total expenditures for such purpose by all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan".

(c) Section 133(d)(2) is amended by striking out "during the fiscal year ending June 30, 1975" and inserting in lieu thereof "during the previous fiscal year".

STATE PLANNING COUNCILS

SEC. 512. (a) Section 137(a) is amended—

(1) by inserting "higher education training facilities," after "representatives of the principal State agencies," in the third sentence; and

(2) by amending the fourth sentence to read as follows: "Of the members of the Council—

"(1) at least one-sixth shall be persons with developmental disabilities or with a milder form of such disability, and

"(2)(A) at least one-sixth shall be immediate relatives or guardians of persons with mentally impairing developmental disabilities, and (B) at least one of such relatives or guardians shall be an immediate relative or guardian of an institutionalized person with a developmental disability,

who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any State agency or of any other entity which receives funds or provides services under this part and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity.".

(b) Section 137(b) is amended to read as follows:

"(b) Each State Planning Council shall—

"(1) develop the State plan required by this part, including the specification of areas of services under section 132(b)(4)(A)(ii);

"(2) monitor, review, and evaluate, not less often than annually, the implementation of such State plan;

"(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities;

"(4) promote planning for training of personnel needed to provide services (including advocacy and training in consumer participation) to persons with developmental disabilities; and

"(5) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

The State shall provide, to the maximum extent feasible, an opportunity for the State Planning Council to prior review and comment on all its State plans described in paragraph (3).".

(c) Section 137 is amended by striking out subsection (c).

SPECIAL PROJECT GRANTS AND CONTRACTS

SEC. 513. (a) Section 145 is amended—

(1) by inserting ", and may enter into contracts with," in subsection (a) after "may make project grants to";

(2) by inserting "(particularly priority services)" after "otherwise improving services" in subsection (a)(1);

(3) by striking out ", including programs" and all that follows through the semicolon at the end of paragraph (1) of subsection (a) and inserting in lieu thereof "; and";

(4) redesignate paragraph (1) of subsection (a) as subparagraph (A);

(5) insert "(1)" in subsection (a) after "(a)";

(6) by inserting "or contract" after "grant" in subsection (b);

(7) by inserting "and contracts" after "grants" in subsection (c);

(8) by inserting "or contract" after "grant" each place it appears in subsection (c);

(9) by striking out "to make grants" in subsection (f) and inserting in lieu thereof "for grants or contracts";

(10) by striking out "subsection (d)" in subsections (e) and (f) and inserting in lieu thereof "subsection (e)" each place it appears;

(11) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively; and

(12) by inserting after paragraph (1) of subsection (a) the following (and redesignating paragraphs (2) through (9) of subsection (a) as paragraphs (1) through (8), respectively):

"(B) demonstrations (and research, training, and evaluation in connection therewith) for establishing programs which hold promise of expanding or otherwise improving protection and advocacy services related to the statewide protection and advocacy system (described in section 113).

"(2) The Secretary may make grants to, and enter into contracts with, public or nonprofit private entities for demonstrations (and research and evaluation in connection therewith) for determining the service needs of persons who are not developmentally disabled but who have a severe, chronic disability which (A) is attributable to a mental or physical impairment or combination of mental and physical impairments, (B) is manifest before the person attains 22 years of age, and (C) constitutes a substantial handicap to such person's ability to function normally in society.

"(3) The authority of the Secretary to enter into contracts under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(b) Grants and contracts provided under subsection (a)(1) shall include grants and contracts for—".

(b) The last sentence of section 145(c), as so redesignated, is amended by striking out "The Secretary" and inserting in lieu thereof "In the case of a project under subsection (a)(1), the Secretary".

(c) Section 145(e), as so redesignated, is amended to read as follows:

"(e) For the purpose of making payments under grants and contracts under subsection (a), there are authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1979, $28,000,000 for the fiscal year ending September 30, 1980, and $31,000,000 for the fiscal year ending September 30, 1981.".

(d)(1) The heading to part D is amended by inserting "AND CONTRACTS" after "GRANTS".

(2) The heading to section 145 is amended by inserting "AND CONTRACT" after "GRANT".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 514. (a) Section 112 is amended—

(1) by striking out "after September 30, 1976," in subsection (a);

(2) by striking out "Such" in subsection (b)(3) and inserting in lieu thereof "The"; and

(3) by striking out "an" before "objective criteria" in clause (B) of subsection (b)(3).

(b) Section 134 is amended—

(1) by striking out "CONSTRUCTION," in its heading;

(2) by striking out "(a)" in subsection (a); and

(3) by striking out subsection (b).

(c) Section 135 is amended—

(1) by striking out "CONSTRUCTION," in its heading;

(2) by striking out "(a)" in subsection (a); and

(3) by striking out subsection (b).

(d) The heading to part C is amended by striking out "CONSTRUCTION AND".

EFFECTIVE DATE

SEC. 515. The amendments made by this title shall apply to payments under title I of the Mental Retardation Facilities and Community Mental Health Center Construction Act of 1963 for fiscal years beginning on and after October 1, 1978.

Amend the title so as to read: "An Act to amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs under that Act, and for other purposes."

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I do so for the purpose of yielding to my colleague, the gentleman from Indiana (Mr. BRADEMAS), for an explanation of this request.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, on the request I have just made, I may say first to my friend, the gentleman from Ohio (Mr. ASHBROOK), that this has been cleared with the distinguished ranking minority member of the Committee on Education and Labor, the gentleman from Minnesota (Mr. QUIE).

Mr. ASHBROOK. The gentleman who may become the Governor of Minnesota.

Mr. BRADEMAS. The request has been cleared as well with the distinguished chairman of the Subcommittee on Health and the Environment, the gentleman from Florida (Mr. ROGERS).

This would enable us to go to conference both on the Rehabilitation Services Act of 1978, H.R. 12467, and on H.R. 12326, which is the developmental disabilities bill. It is for those reasons that I make this request.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for that explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana that the House amendments to the Senate amendments be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from Indiana?

There was no objection.

A motion to reconsider was laid on the table.

UNITED STATES OF AMERICA AGAINST CHARLES C. DIGGS, JR.—SUBPENAS DUCES TECUM IN CASE PENDING IN U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

The SPEAKER. The Chair has received communications from several officers and employees of the House relating to subpenas received by them in the case of *United States of America* v. *Charles C. Diggs, Jr.* (Crim. No. 78–142), now pending in the U.S. District Court for the District of Columbia. Pursuant to House Resolution 10, 95th Congress, and without objection, the subpenas and relevant court orders will be printed at this point in the RECORD.

There was no objection.

The subpenas are as follows:

[U.S. District Court for the District of Columbia, Crim. No. 78–142]

UNITED STATES OF AMERICA *v.* CHARLES C. DIGGS, JR.

SUBPOENA DUCES TECUM

The President of the United States to:

Honorable Kenneth R. Harding, Sergeant at Arms of the House of Representatives, Washington, D.C., or his authorized representative:

Bring with you:

(A) Any and all documents pertaining to any loans or advances of salary made to Charles C. Diggs, Jr., such documents to include loan applications, notes, note ledger sheets, instruments making payment to Diggs, instruments evidencing repayments by Diggs, journals, correspondence, and office memoranda from January 1, 1973 through March 2, 1977;

(B) Any and all documents pertaining to any checking account in the name of Charles C. Diggs, Jr., such documents to include monthly statements, checks, deposit slips, deposit items, debit and credit memos, correspondence and office memoranda from January 1, 1973 through March 2, 1977.

You are hereby commanded to attend the said Court on Tuesday the 26th day of September, 1978, at 9:00 A.M. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Court without leave of the Court or United States Attorney.

Witness: this 25th day of July, 1978.

OLIVER GASCH, *Judge.*

Attorneys for the United States: John T. Kotelly (739–2998); Eric B. Marcy (426–7113).

[U.S. District Court for the District of Columbia, Crim. No. 78–142]

UNITED STATES OF AMERICA *v.* CHARLES C. DIGGS, JR.

SUBPOENA DUCES TECUM

The President of the United States to:

Honorable Edmund L. Henshaw, Jr., Clerk of the House of Representatives, Washington, D.C., or his authorized representative:

Bring with you:

(1) All original and official payroll, tax and personnel documents, records and materials whether maintained by the Finance Office, the Committee on the District of Columbia, or any other internal House of Representatives body, relating to Jean G. Stultz, Felix Matlock, Ofield Dukes, Jeralee Richmond (sometimes referred to as Geralee Richmond), George G. Johnson and Hallison Young, for the period beginning January 1, 1972 through March 2, 1977, such documents and materials to include all applications for employment, W–4 and W–2 Federal Tax Forms (or their equivalents), clerk-hire and/or payroll authorization forms, personnel files, payroll ledgers or journals, and House of Representatives records reflecting all United States Treasury checks, by number, issued during that period which reflect payroll payments to Jean G. Stultz, Felix Matlock, Ofield Dukes, Jeralee Richmond, George G. Johnson and Hallison Young, and any evidence of the method by which those checks were transmitted to the payees, their banks, or their representatives;

(2) Any and all vouchers and/or certifications, including attachments thereto, made or submitted by or on behalf of Congressman Charles C. Diggs, Jr., on any and all accounts maintained by the House of Representatives including, but not limited to, the stationery account, the district office expense account, the district office telephone account, and the postage account from January 1, 1973 through December 31, 1976;

(3) Any and all statements and accounting records maintained on the accounts referred to in paragraph two, including the account card at the stationery store;

(4) Any and all House of Representatives records reflecting all United States Treasury checks, by number, issued as a result of the vouchers and/or certifications referred to in paragraph two;

(5) Any and all records relating to the rental of district office space in Detroit, Michigan, by or on behalf of Charles C. Diggs, Jr., for the period January 1, 1973 through December 31, 1976, including but not limited to rental agreements and correspondence.

You are hereby commanded to attend before the said Court on Tuesday the 26th day of September 1978, at 9:00 A.M. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Court without leave of the Court or United States Attorney.

Witness: this 25th day of July, 1978.

OLIVER GASCH, *Judge.*

Attorneys for the United States: John T. Kotelly (739–2998); Eric B. Marcy (426–7113).

[U.S. District Court for the District of Columbia, Crim. No. 78–142]

UNITED STATES OF AMERICA *v.* CHARLES C. DIGGS, JR.

SUBPOENA AD TESTIFICANDUM

The President of the United States to:

Honorable Robert V. Rota, Postmaster of the House of Representatives, Washington, D.C., or his authorized representative:

You are hereby commanded to attend the said Court on Tuesday the 26th day of September, 1978, at 9:00 A.M. to testify on behalf of the United States, and not depart the Court without leave of the Court or the United States Attorney.

Witness: this 25th day of July, 1978.

OLIVER GASCH, *Judge.*

Attorneys for the United States: John T. Kotelly (739–2998); Eric B. Marcy (426–7113).

[U.S. District Court for the District of Columbia, Criminal No. 78–142]

UNITED STATES OF AMERICA *v.* CHARLES C. DIGGS, JR.

SUBPOENA DUCES TECUM

The President of the United States to:

Honorable Jack Waltman, Manager, United States House of Representatives Restaurant, H–129, United States Capitol, Washington, D.C., or his authorized representative:

Bring with you:

Any and all records which would indicate payments to the House of Representatives Restaurant for the credit of Charles C. Diggs, Jr., for the period of March 1974.

You are commanded to attend the said Court on Tuesday, the 26th day of September, 1978, at 9:00 A.M. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Court without leave of the Court or United States Attorney.

Witness: this 19th day of September, 1978.

OLIVER GASCH, *Judge.*

Attorneys for the United States: John T. Kotelly (739–2998); Eric B. Marcy (426–7113).

[U.S. District Court for the District of Columbia, Criminal No. 78–142]

UNITED STATES OF AMERICA *v.* CHARLES C. DIGGS, JR.

SUBPOENA DUCES TECUM

The President of the United States to:

Honorable David Ramage, Majority Clerk, United States House of Representatives, United States Capitol, Washington, D.C., or his authorized representative:

Bring with you:

Any and all records reflecting credits to the account of Charles C. Diggs, Jr., from

March 1, 1974, through September 1, 1974.

You are commanded to attend the said Court on Tuesday, the 26th day of September, 1978, at 9:00 A.M. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Court without leave of the Court or United States Attorney.

Witness: this 19th day of September, 1978.

OLIVER GASCH, *Judge*.

Attorneys for the United States: John T. Kotelly (739-2998); Eric B. Marcy (426-7113).

[U.S. District Court for the District of Columbia, Criminal No. 78-142]

UNITED STATES OF AMERICA *v.* CHARLES C. DIGGS, JR.

SUBPOENA DUCES TECUM

The President of the United States to:

Honorable William Moody, Director, United States House of Representatives Recording Studio, United States Capitol, Washington, D.C., or his authorized representative:

Bring with you:

Any and all records reflecting credits to the account of Charles C. Diggs, Jr., from March 1, 1974, through September 1, 1974.

You are commanded to attend the said Court on Tuesday, the 26th day of September, 1978, at 9:00 A.M. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Court without leave of the Court or United States Attorney.

Witness: this 19th day of September, 1978.

OLIVER GASCH, *Judge*.

Attorney for the United States: John T. Kotelly (739-2998); Eric B. Marcy (426-7113).

[U.S. District Court for the District of Columbia, Criminal No. 78-142]

UNITED STATES OF AMERICA *v.* CHARLES C. DIGGS, JR.

SUBPOENA DUCES TECUM

The President of the United States to:

Honorable Raymond Young, Manager, United States House of Representatives Stationery Room, United States Capitol, Washington, D.C., or his authorized representative:

Bring with you:

Any and all records indicating credits to the account of Charles C. Diggs, Jr., for the period August 1, 1974, through December 1, 1974.

You are commanded to attend the said Court on Tuesday, the 26th day of September, 1978, at 9:00 A.M. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Court without leave of the Court or United States Attorney.

Witness: this 19th day of September, 1978.

OLIVER GASCH, *Judge*.

Attorneys for the United States: John T. Kotelly (739-2998); Eric B. Marcy (426-7113).

[U.S. District Court for the District of Columbia, Crim. No. 78-142]

UNITED STATES OF AMERICA *v.* CHARLES C. DIGGS, JR.

FINDING OF COURT

Upon consideration of *in camera* disclosure made by representatives of the Office of the United States Attorney for the District of Columbia, it is this 25 day of July, 1978,

FOUND that the documentary evidence, materials and individuals subpoenaed under the subpoenas dated July 26, 1978, and addressed to the Honorable Edmund L. Henshaw, Clerk of the House of Representatives, or his authorized representative, Kenneth R. Harding, Sergeant at Arms of the House of Representatives, or his authorized representative, and Robert V. Rota, Postmaster of the House of Representatives, or his authorized representative, facsimiles of which are attached hereto, are necessary, material and relevant to the trial of this case.

Wherefore, the court desires that the documentary evidence or certified true copies thereof which are the subject of the subpoenas duces tecum be supplied to the court and that the above-mentioned individuals or their authorized representatives attend court to testify.

OLIVER GASCH, *Judge*.

[U.S. District Court for the District of Columbia, Criminal No. 78-142]

UNITED STATES OF AMERICA *v.* CHARLES C. DIGGS, JR.

FINDING OF COURT

Upon consideration of *in camera* disclosure made by representatives of the Office of the United States Attorney for the District of Columbia, it is this 19th day of September, 1978,

Found that the documentary evidence, materials and individuals subpoenaed under the subpoenas dated September 19, 1978, and addressed to Jack Waltman, Manager of the House of Representatives Restaurant, or his authorized representative, David Ramage, Majority Clerk of the House of Representatives, or his authorized representative, William Moody, Director of the House of Representatives Recording Studio, or his authorized representative, and Raymond Young, Manager of the House of Representatives Stationery Room, or his authorized representative, facsimiles of which are attached hereto, are necessary, material and relevant to the trial of this case.

Wherefore, the court desires that the documentary evidence or certified true copies thereof which are the subject of the subpoenas duces tecum be supplied to the court and that the above-mentioned individuals or their authorized representatives attend court to testify.

OLIVER GASCH, *Judge*.

The SPEAKER. The Chair recognizes the gentleman from Indiana (Mr. BRADEMAS.)

Mr. BRADEMAS. Mr. Speaker, I offer a privileged resolution (H. Res. 1383) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1383

Whereas in the case of the United States of America against Charles C. Diggs, Jr., Criminal No. 78-142, pending in the United States District Court for the District of Columbia, subpenas duces tecum were issued by the said Court and addressed to Kenneth R. Harding, Sergeant at Arms of the House of Representatives, or his authorized representative; and Edmund L. Henshaw, Jr., Clerk of the House of Representatives, or his authorized representative, directing them to appear as witnesses before the said court on the 26th day of September, 1978, and to bring with them certain documents in the possession and under the control of the House of Representatives; and

Whereas a subpena ad testificandum was issued by the said Court and addressed to Robert V. Rota, Postmaster of the House of Representatives, or his authorized representative, directing him to appear as a witness before the said Court in the above-styled action; and

Whereas subpenas duces tecum were issued by the said Court and addressed to Jack Waltman, Manager, House of Representatives Restaurant; David Ramage, Majority Clerk, House of Representatives; William Moody, Director, House of Representatives Recording Studio; and Raymond Young, Manager, House of Representatives Stationery Room, or their authorized representatives, directing them to appear as witnesses before the said court and to bring with them certain documents in the possession and under the control of the House of Representatives; and

Whereas by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; and

Whereas pursuant to H. Res. 10, Ninety-documentary evidence, materials, and individuals subpenaed are necessary, material, and relevant to the trial of this case; and

Whereas pursuant to H.Res. 10, Ninety-fifth Congress, certified copies of the documentary evidence found material and relevant have been supplied to the said court: Therefore be it

Resolved, That the officers and employees named in the aforementioned subpenas duces tecum of the House of Representatives, or their authorized representatives, be authorized to appear at the place and before the court in the subpenas before mentioned, but shall not take with them any papers or documents on file in their offices or in possession of the House of Representatives; be it further

Resolved, That as a respectful answer to the subpenas duces tecum and the subpena ad testificandum a copy of these resolutions be submitted to the said court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT ON WEDNESDAY, SEPTEMBER 27, 1978, AND ON THURSDAY, SEPTEMBER 28, 1978, DURING 5-MINUTE RULE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation may be permitted to sit on Wednesday, September 27, 1978, and on Thursday, September 28, 1978, during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us what is going to occur? Is this just for the purpose of holding hearings?

Mr. MINETA. If the gentleman will yield, yes, on Wednesday we will be holding hearings, and on Thursday we will be continuing the hearings and marking up on a bill relative to the Pension Building here in Washington, D.C.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, there will be no bills considered on Wednesday, when this subcommittee meets?

Mr. MINETA. That is correct.

Mr. ROUSSELOT. And only one bill relating to the Pension Building on Thursday?

Mr. MINETA. That is correct.

Mr. ROUSSELOT. And that is all that is going to occur, other than hearings?

Mr. MINETA. That is correct.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

RESIGNATION AS CONFEREE AND APPOINTMENT AS CONFEREE ON H.R. 12050, TUITION TAX CREDIT ACT OF 1978

The SPEAKER laid before the House the following resignation as a conferee:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 22, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Noting I have been appointed a Conferee on the Tuition Tax Credit bill, this is to respectfully request that my name be withdrawn as a Conferee.

Having made other plans to be out of Washington at the time the Conference Committee plans to meet on this matter, it will simply not be possible for me to participate.

With many thanks and warm regards, I remain

Sincerely yours,
OMAR BURLESON.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. The Chair appoints as a member of the committee of conference on H.R. 12050, Tuition Tax Credit Act of 1978, the gentleman from Texas (Mr. PICKLE), to fill the existing vacancy.

The Clerk will notify the Senate of the change in conferees.

CARTER DRUG SCANDAL IS NOT OVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 10 minutes.

Mr. ASHBROOK. Mr. Speaker, those great sentinels at the door, the American newsmen, don't look much beyond the ends of their noses when it comes to sniffing around scandals which relate to their friends, the liberals. No better example can be given than the Bourne drug scandal at the White House. Old stuff, not like kicking Richard Nixon around which will be their sport for years to come. Yet, it does deserve closer scrutiny.

There are several important aspects to the Bourne scandal. First, from the law and order side, it shows how vigilant the President is when it comes to putting action behind his strong words. Human Events, one of the true champions of honest news reporting here in Washington, had this observation in this week's Capital Briefs section:

> The decision by President Carter and Atty. Gen. Griffin Bell to do nothing about the Peter Bourne drug case has angered many career Justice Department attorneys. As one told columnist Michael Novak last week: "Here is a President who can lecture lawyers about equal justice for the downtrodden and the big shots. A ghetto kid caught with a small amount of marijuana can go to jail but his own drug adviser—a federal official—escapes without even a federal investigation. If the President wants to crack down on big shots, he can begin right in his own office."

The other side of the coin is the political implications in the Bourne affair. We must question whether or not President Carter knows exactly what he is doing. I think so. To the good Americans he holds out the born again image, the "I won't lie to you" and "you can trust me" side. To the subculture in our society he holds out the beer drinking Billys, the Midge Costanzas meeting with the gays and misfits, the Greg Allmans and so forth. They understand this and simply tell their friends "He's with us all the way even though he has to posture a bit for the squares in society." He was a computerized, public relations agency candidate in 1976. He continues that process today, sending big type telegrams to taxpayers and small type memos to the spenders just as he does at the social and crony level. Rafshoon and company have been very successful, largely due to the docile press.

The record shows there is need for press scrutiny of the White House connections. But that scrutiny to date comes not from our own media but from an English newspaper. An article in the Daily Telegraph by reporter Robert Moss deserves close study. It explores the third aspect of the Bourne affair, the radical activists and subculture White House group.

Mr. Moss hits the nail on the head. There is a subculture in the White House coterie and the Carter administration that should be closely studied. The radicals of former times ranging from the Sam Brown of ACTION to the Ralph Nader brigade are there along with the drug cultists, the anti-American activists of the 1960's and a weird assortment of political radicals and social misfits. All too many of them are in a position of power and influence.

A careful examination of Mr. Moss' article would give some of the newsmen around the White House who are rapidly becoming kennel dogs, mesmerized by White House bones and cream, the incentive to become field dogs again and start following the scent to its source. We can always hope, anyway, and in that spirit I bring this fine article to the attention of this body.

[From the Daily Telegraph,
Aug. 7, 1978]

CARTER DRUG SCANDAL IS NOT OVER

(By Robert Moss)

It is little more than a fortnight since Dr. Peter Bourne, President Carter's English-born adviser on drug abuse, was obliged to resign in the midst of dramatic allegations that he had supplied narcotics to an attractive assistant under a false name and sniffed cocaine at a Washington party.

Yet the scandal seems all but forgotten. Many were astonished to find that, after all that it suffered through Watergate, the American presidency could still be subjected to new indignities.

Who, before the Bourne affair, would have presumed to ask the President in front of the television cameras whether he himself had been supplied with drugs?

All the same, there seems to be widespread readiness to accept that Dr. Bourne's use of drugs, like Mr. Hamilton Jordan's table manners, is just one more case of the frivolity of the Carter entourage, something we might as well grin and bear.

I believe that it would be as mistaken to dismiss the Bourne affair as a casual peccadillo as to shrug off Mr. Andrew Young's pronouncement on the state of the world as slips of the tongue—rather than calculated attempts to undermine the chances of an effectively anti-Soviet American foreign policy.

BIG QUESTIONS

We have barely begun to scratch the surface of the Bourne affair, and it will be interesting to see how deep America's much-vaunted new head of investigative reporters will care to dig. There are two very big questions to be answered.

1. How did Dr. Bourne, with his long record as a radical activist on political issues, as well as the drug question, become a trusted adviser of the President, with wide-ranging responsibilities in the White House?

2. How far have other radicals—many of them associated with the Institute for Policy Study (IPS)—succeeded in penetrating the Carter Administration?

Dr. Bourne's role as health adviser gave him a say in the selection of American doctors for foreign leaders who requested medical help. He also had broader duties—for example, a watching brief over international organizations that made him a regular visitor to Geneva.

It has also been alleged that he acted informally as the President's personal consultant since before his election as Governor of Georgia.

Dr. Bourne's position of influence—prior to the scandal—is the more remarkable given his earlier political career. He was a leading light in a radical organisation called Vietnam Veterans Against the War (VVAW), some of whose members led violent demonstrations at the Republican National Convention in Miami in 1972.

MARIJUANA CAMPAIGN

His involvement in the campaign to "decriminalise" marijuana was well-known.

Less known and more intriguing was his role as a trustee of an outfit called the Institute for Southern Studies (ISS), founded in Atlanta, Georgia, in March, 1970, as a direct subsidiary of IPS in Washington.

One of Dr. Bourne's fellow trustees was Mr. Marcus Raskin, co-director of IPS, who has recently been a moving figure in the anti-intelligence campaign (and in a group providing legal support for the Socialist Workers Party (US) campaign to expose FBI informants).

According to ISS literature, its staff consisted of "active participants in the struggles of the sixties"—in other words, the radical anti-Vietnam student movements.

Atlanta's first radical think tank declared its resolve to collect embarrassing data on private corporations in order to break their "colonial domination" of the southern states. The ISS has been notably active in campaigning against local defence projects.

One wonders how many of the people who voted for Mr. Carter in Georgia in 1976 were aware of the existence of this institute, let alone the involvement of Dr. Bourne, decribed in Carter's campaign material as a "longterm personal friend and adviser.".

The link with IPS is striking. The Institute for Policy Studies had been described as the "link between the revolutionary and the respecable Left" in Washington.

It is dedicated to (a) promoting a socialist economic system; (b) encouraging unilateral disarmament; (c) the disruption and ultimate disbanding of the intelligence services in their present form; and (d) support for radical governments and guerrilla movements in the Third World.

In a society as viscerally conservative as the United States, it is strange that an organisation with these objectives can lay claim to any degree of influence within the Administration. Yet Dr. Bourne is not the only IPS associate who achieved a significant post under President Carter.

Founded in 1963, IPS now occupies a small, five-story building at 1901 'Q' Street in Washington. It is not short of funds, which mostly come from private foundations.

Between 1970 and 1976 alone, five foundations provided a total of about $8 million for IPS and its offshoots. The largest contributor was the Samuel Rubin Foundation, set up by the retired chairman of the Faberge Corporation, whose son-in-law, Peter Weiss, is chairman of the Board of IPS.

The Rubin foundation has contributed heavily to the Transnational Institute, IPS's Amsterdam-based subsidiary, which has provided research grants for people like Tariq Ali, and is deeply involved in the campaign against the multinational companies.

Through seminars, conferences and study groups, the IPS has succeeded over the years in building an impressive range of contacts among congressional staffers and the media. In 1976, IPS was requested by 47 Left-wing Democrat Congressmen to prepare a critical analysis of the federal budget.

It has since prepared "alternative budgets" and even an "alternative defence budget," focusing on ways to bring about unilateral American disarmament, that have influenced congressional debates.

A current IPS project is to encourage government employees, especially intelligence officers, to become "whistle-blowers" and to leak official secrets.

IPS has even created a special "whistle-blowers hotline," answered by Institute staffers for the convenience of government employees who want to pass on classified information.

With the advent of the Carter Administration, some of the friends that the IPS organisers had made in previous years moved into offices in the federal government. The radical influx was particularly obvious in government agencies like ACTION, which controls the Peace Corps and other voluntary programmes.

Mary E. King, Dr. Bourne's wife, is deputy director of ACTION. Her boss, Mr. Sam Brown, had been involved in an IPS project called the National Conference on Alternative State and Local Public Policies (NCASLPP), and attended its conference in Denver last year.

Literature put out by this body with a long-winded title declares that it exists to bring together those who "share a radical or populist outlook" and also to build contacts with local government officials in Cuba.

Both Mr. Brown and the head of ACTION's adult education programme, Marge Tabankin, were leading anti-Vietnam war activists who have given public support to Hanoi.

IMPRESSIVE LIST

IPS associates pop up in more surprising areas of the Carter Administration. Mr. Sidney Harman, the Under Secretary of Commerce, is a former IPS trustee. Mr. Robert Pastor, a Latin American specialist on the National Security Council, who is reported to have asked the CIA to draw up a plan for topoling the Pinochet regime in Chile, had long been associated with Latin American projects supported by IPS.

The lists of IPS fellows contain an impressive number of people with government posts.

Since leading figures in IPS have aggressively supported Vietnam, Cuba, the Palestine Liberation Organizations and the Rhodesian terrorists and have drawn Marxist groups into a widening network, the links of a government official with the Institute may be a cause for legitimate concern.

The Bourne episode, and the evidence of radical penetration of the lower echelons of the Carter Administration, should focus attention on the recent testimony of Mr. Alan K. Campbell, the Chairman of the U.S. Civil Service Commission, to the Senate Committee of the Judiciary.

Mr. Campbell testified that mere membership of an extremist, violence-prone organization—including the Communist party, the Ku Klux Klan, and the Nazi party—is no longer a bar to federal employment in the United States.

The Civil Service Commission, responsible for vetting would-be government employees, is not even allowed to question them on their membership, past or present, of such organizations unless they are known to have committed an overt criminal act.

The Chairman of the Senate Committee concluded that "we do not have a federal employee security programme worthy of the name."

Will Mr. Carter now take heed?

S. 274—PROHIBIT UNION ORGANIZATIONS IN THE ARMED FORCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, aside from the dangerous precedent that unionization of our Armed Forces could set, I am especially concerned at this time about how our traditional allies view the possibility of bargaining rights for the U.S. military.

The strategic balance is in serious jeopardy as far as the Soviet Union is concerned, especially in Europe, Africa, and the Indian Ocean. Prayerfully, we will not have to commit American forces to a strategic hot spot now or in the future. But history provides no relief to such euphoria. While efforts are constantly underway to relieve tension in the traditional areas of conflict, there always exists the possibility that the President in consultation with the Congress may have to dispatch American forces to protect our legitimate interests.

What worries me is that if such an occasion arises, and assuming that Armed Forces personnel were organized, could the union or unions representing them say in effect that you do not have to obey an order from the Commander in Chief to take part in the conflict? It is a serious question, and it is a question that our allies, especially in Western Europe, are asking.

We no longer enjoy the luxury of waiting by and casually observing the results of a hostile action by an unfriendly power. The Soviets have massed an incredible array of forces in the Warsaw Pact nations that are ready, willing, and able to strike at the throat of Western Europe. Heaven forbid a situation in which a shooting war breaks out and American forces fail to respond because some union arbitrarily decided that it would violate the union contract.

We have got to put this issue to rest once and for all. Work stoppages, slowdowns, and outright refusal to obey the orders of the Commander in Chief have no place in our military. We have an all-volunteer force. A young man and woman realizes his and her obligations to the United States when taking the oath of office to serve. That oath cannot be taken lightly. It cannot be worn diffidently like a suit of clothes. Our military has a great, proud, and honorable tradition because men and women realize and understand that when you put on the uniform you are saying to the world, I am an American soldier, sailor, marine, and airman, and I will defend the United States at all costs.

I have introduced a comparable bill to the one before us today in the firm belief that to allow the unionization of our military would undermine the very basis of command and render our Armed Forces incapable of acting quickly and decisively in time of crisis.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. WINN) is recognized for 5 minutes.

● Mr. WINN. Mr. Speaker, I was present yesterday when we voted on H.R. 13488. The RECORD shows me as being absent. Had I been recorded correctly I would have voted "aye."●

S. 274: MILITARY UNIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BOB WILSON) is recognized for 5 minutes.

● Mr. BOB WILSON. Mr. Speaker, as a long-time sponsor of this legislation, I rise in strong support of S. 274 and urge my colleagues on both sides of the aisle to likewise lend their support to this most necessary measure.

An effective military force is built on discipline, patriotism, and responsiveness to command. Clearly, unionization of the Armed Forces, through the dilution of discipline and command responsiveness could endanger the effectiveness of our defense.

It is true that the military is suffering a continuous erosion of benefits. However, unionization is not and never will be the answer to this problem. There can be no limitations whatsoever upon the ability of the Armed Forces to respond swiftly and successfully to any military confrontation which could jeapordize this Nation's effectiveness and security. The command structure and disciplinary fabric of the Armed Forces must be continually strengthened and reinforced to meet all foreseeable challenges to the freedom of the United States.

The military services, by the very nature of their missions, do not lend themselves to many of the rules and regulations associated with labor unions. Even more basic is the effort to equate military service as just another job or means of employment. Military service is a career service that, to function effectively, requires highly motivated, dedicated people. There can be no adequate payment for the hardships and dangers to which the military may be subjected. Nor can hourly wage scales be meaningfully applied.

Mr. Speaker, any potential disruption of the ability of our Armed Forces to respond immediately to the country's needs is unthinkable. I therefore urge my colleagues, in the interest of our national defense, to support this legislation and place our military beyond any unionization.●

THE UNITED STATES-SOVIET STRATEGIC BALANCE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. CHARLES H. WILSON) is recognized for 20 minutes.

● Mr. CHARLES H. WILSON of California. Mr. Speaker, the U.S. Arms Control and Disarmament Agency recently published a study entitled "U.S. and Soviet Strategic Capability Through the mid-1980's: Comparative Analysis." This study devised a new method for measuring the strategic strength of the United States and the Soviet Union, and used that method in an attemot to show the adequacy of present and future U.S. strategic forces.

In its introduction, the ACDA study correctly points out that the many static measures used to compare United States-Soviet strategic forces—such as number of bombers, missiles, or total warheads—do not necessarily depict a realistic comparison of actual comparative United States-Soviet strategic capabilities. It is, therefore particularly unfortunate that the static measures which ACDA admits do not portray a true picture of strategic capabilities, are the foundation on which SALT II is now being negotiated. Indeed, the ACDA study recognizes that the proposed SALT II restrictions on United States-Soviet strategic forces could be far outweighed by other factors which the proposed agreement does not limit, or would adversely affect—such as the survivability of strategic forces, and their ability to penetrate defenses.

The ACDA report notes that a more realistic assessment and comparison of actual United States-Soviet strategic force capabilities comes, not from comparing the static measures I mention above—that is, what each side's forces look like—but instead from an examination of what each nation can do with the forces it has. Therefore, says the ACDA report, we must not only compare the numbers of bombers, missiles, weapons throwweight and megatons but also the readiness of forces their survivability, their ability to penetrate defenses, their accuracy and reliability, and what it is they have to attack.

Unfortunately, after such a promising introduction, the ACDA study incorrectly applied the method it proposed. The study's conclusions follow from its analysis, but the analysis itself has no correlation with the reality of the present and emerging United States-Soviet strategic balance, and the terribly difficult choices that would face a U.S. President in the event of a nuclear conflict.

The primary reason the ACDA study presents such a greatly distorted picture of actual and emerging United States-Soviet strategic capabilities is that the entire study is founded on the incorrect assumption that both the United States and the Soviet Union have an equal number of hard and soft targets.

It is well established that the Soviet hard target base is not only much harder than our own, but it is also significantly larger and growing at an impressive rate. For example, there are approximately 1,500 Soviet ICBM silos, including those operational at test ranges which are substantially harder than U.S. ICBM silos, as compared to less than 1,100 U.S. ICBM silos. Thus, in hard targets limited by SALT, the Soviets have a 27-percent numerical advantage. In hard targets not so limited, such as nuclear storage and hardened command centers, the United States has but a few hundred while the Soviets have many thousands, extending to protection for subsidiary echelons of conventional forces. Thus, a very serious asymmetry exists in the United States-Soviet hard target base structure.

The ACDA study then compounds this distortion by assuming that the small U.S. weapons will destroy just as many soft targets as an equal number of the much larger Soviet weapons. Specifically, a 40-kiloton warhead—which is the size of the U.S. Poseidon warhead and which would be the size preponderant for surviving U.S. soft target weapons—is assumed to be as effective as a 1-megaton warhead, which is the preponderant size of Soviet warheads. The fact is that a U.S. Poseidon warhead would have a destructive area of some 3 square miles against industrial facilities, while a Soviet 1-megaton warhead would have a destructive area of some 25 square miles. Obviously, the much bigger Soviet weapons will destroy larger soft target area, as well as larger facilities, than will the U.S. weapons, and this disparity is further worsened by the imbalance between United States and Soviet civil defenses.

The serious disparity that would exist in United States-Soviet soft target kill capability is illustrated in the following comparison. Whereas the average yield of U.S. weapons that would survive a Soviet attack and could be delivered to Soviet targets would be 175 kilotons, the average Soviet size warhead would be 1.75 megatons—a 10 to 1 Soviet advantage.

Measuring soft target kill capability can be done in yet another way, that is in terms equivalent megatons—so-called EMT. EMT takes into account both the weapon and target characteristics, thus providing a means to compare the destructive potential of different kinds of weapons against soft targets. By the mid-1980's, the Soviet advantage in EMT will approximate 3 to 1. In short, by any standard of measurement, a critical asymmetry in actual United States-Soviet soft target kill capabilities exists and will continue to grow.

Other assumptions in the ACDA report which concern me are, for example, the fact that all U.S. strategic forces are assumed to be on fully generated alert. This assumption is common to most U.S. studies, but the fact is that in the future we may not have the opportunity to fully generate our forces and a surprise Soviet attack could significantly erode the U.S. retaliatory capability beyond the best, or most optimistic, estimate assumed by ACDA.

The ACDA report, however, is deficient not only for what it includes in its assumptions, but also for what it omits. It ignores, as I mentioned earlier, an expansive Soviet hard target base, but it also ignores Soviet civil defense planning and preparations which could substantially degrade the U.S. retaliatory capability against Soviet economic recovery resources.

The ACDA report, in my view, is also seriously deficient because it fails to consider a Soviet grey area system like the SS-20 IRBM. The SS-20, which consists of the first two stages of the SS-16 could quickly be converted to an intercontinental missile by adding the SS-16's third propulsion stage. Alternatively, by taking away one of the SS-20's three warheads, the system could also be targeted against the United States. Since the SS-20 is not counted within the SALT limits, the Soviets have a system with dramatic breakout potential that could present a decisively different picture of the Strategic balance in a hostile environment.

Two of the most glaring examples, however, of what the ACDA report omits in comparing the strategic balance are:

First, the Soviet Backfire bomber, and

Second, the known Soviet capability to reload and reuse their modern ICBM silos.

To date the Soviets have over 100 Backfire bombers deployed, and by 1985—under the proposed restrictions of the SALT II agreement—the Soviets could have almost 400 Backfire bombers deployed. A fleet of 400 Backfire bombers would constitute approximately 40 percent of the radioactive contamination the Soviets would be capable of delivering against the United States, and approximately one-third the Soviet strategic megatonnage, in the 1985 time frame. Thus, a significant Soviet capability is omitted from the strategic force comparison. Moreover, considering that the United States lacks an adequate CONUS air defense, the United States would be extremely vulnerable to the Backfire.

An equally significant omission in the ACDA analysis is the Soviet capability to reload their ICBM silos with the extra missiles they are known to store. The proposed SALT II agreement language is a de facto recognition that these missiles exist and that the Soviets may produce and store as many of them as they wish. Indeed, the agreement only prohibits the Soviets from doing something that they are probably smart enough to not do; namely, store these missiles near the ICBM silos where they might be damaged by a U.S. retaliatory strike.

A further omission which concerns me is that the ACDA analysis apparently failed to consider that the SALT II limit on cruise missile range will make it much easier for the Soviets to counter the cruise missile—a future system on which the United States is heavily dependent because the President chose to unilaterally cancel production of the B-1 bomber, without attempting to exact Soviet concessions at SALT.

While the ACDA report shows a retention of U.S. retaliatory hard target kill capability all of this capability rests with the cruise missile. However, a report published earlier this year in Aviation Week, and confirmed by several knowledgeable experts, concluded that a forward Soviet air defense barrier extending 800 miles could deny the cruise missile access to well over half of the Soviet targets, whereas a barrier of 1,200 miles would almost completely negate the effectiveness of the cruise missile. In combination with the interceptor force and surface-to-air missiles that the Soviets are expected to have in the next decade, a significant attrition of penetrating cruise missiles would have to be expected.

An overall failure of the ACDA report is that it fails to distinguish between time urgent and nontime urgent hard target kill capability. The ACDA study ignores this distinction because it is attempting to diminish concern over very serious emerging asymmetries in United States-Soviet strategic capabilities. Implicitly the ACDA study accepts an "assured destruction only" posture as sufficient for U.S. strategic forces.

I have serious questions as to what constitutes an adequate capability to reliably deter a nuclear conflict and discourage nuclear blackmail, and whether deterrence would adequately be preserved if the United States could inflict only 10 million Soviet fatalities in a nuclear exchange, when our entire Nation would be at risk. But such a situation might well develop unless we maintain an adequate and survivable triad of strategic forces and, in particular, unless we redress the growing vulnerability of our silo-based ICBM force. A study which purports to address "what it is that the (U.S.) forces will be used against in the event of a nuclear exchange" should not ignore the disastrous consequences to the United States that could result from such use.

The strategic missile accuracy improvements and MIRVing permitted under a SALT II agreement will, within the time frame of that agreement, enable the Soviets to attack the U.S. strategic forces and hold a reserve force more powerful than that of the United States. The Soviets would have in reserve approximately 6,000 warheads with an average yield of 1¾ megatons each. The ACDA preposition is that the United States would use its cruise missiles to attack this Soviet reserve even though such an act could trigger the launch of the Soviet reserve missiles against the United States. The alternative postulated by ACDA is to attack Soviet industry, which would be almost certain to provide a response in kind.

In other words, would the United States after absorbing an attack on its strategic forces, and losing perhaps as many as 10 million American lives, risk an all-out attack against a superior Soviet strategic reserve force? Would the United States use its weapons in a manner likely to result in the slaughter of many tens of millions of Americans?

Our personal beliefs about how the United States might respond in such an event are less important than actual U.S. strategic policy guidelines and requirements. And present U.S. policy guidelines are very specific on this question—the United States must have essential equivalence with the Soviet Union; we must be able to maintain stability in a crisis, that is not present the Soviets with lucrative targets, we must be able to control escalation, terminate the hostility on terms favorable to the United States, and hold a flexible strategic reserve force.

Under the U.S. strategic posture envisioned in the ACDA study, the United States may not be able to deter an attack on its strategic forces, particularly since our increasingly vulnerable ICBM force would be an attractive target in a crisis period. We could not control escalation; we clearly could not hold a secure force in reserve for possible use in the wake of a major nuclear exchange, and we would be in a terribly weak position to negotiate terms for cessation of hostilities. Yet all of these objectives are integral components of the requirements for deterrence and U.S. strategic forces, as reaffirmed by the Carter administration.

A related matter of equal importance is that, following a Soviet attack on U.S. forces, the United States, as I have just mentioned, would be in a poor position to negotiate terms for a cessation of hostilities. After a Soviet first strike against U.S. strategic forces, this Nation's retaliatory capability would not endure. The long-term electrical power for our ICBM's is not adequately survivable and destruction of U.S. runways would foreclose retention of the bomber force. The communication facilities essential to operational control or our ballistic missiles submarines could not be expected to survive for an extended period. Hence, in the aftermath of a Soviet attack against the U.S. forces, a U.S. President would be faced with the dilemma of having to retaliate, with disastrous consequences for the American population, because our retaliatory forces are not of a long surviving nature, in contrast to the Soviet forces.

In concluding, then, let me emphasize that the ACDA report has failed to apply the guidelines it proposed. Both because of its assumptions and omissions the study does not provide a realistic portrayal of U.S. strategic requirements and capabilities. As a result, it presents a seriously distorted, inaccurate and misleading picture of the present and emerging United States-Soviet strategic balance, and what U.S. strategic forces could actually do against the real Soviet target base.

A more realistic and accurate assessment of the United States-Soviet strategic balance can be found in a very serious and detailed study that has been released by the Defense Nuclear Agency, entitled "Measures and Trends U.S. and U.S.S.R. Strategic Force Effectiveness." This study reveals that the Soviet Union has surpassed the United States in every relevant index of strategic power, except number of warheads deployed. This latter U.S. advantage could well be eclipsed as the Soviets MIRV not only their ICBM force, but also their SLBM force.

Moreover, the U.S. advantage in bomber payload could also wane if the Soviet Backfire bomber is counted in the strategic balance. Also, as I mentioned earlier, since U.S. warheads are significantly smaller than their Soviet counterparts, more of these warheads are required to do similar damage to soft target areas. The fact that the Soviets are rapidly closing the gap in missile accuracies also means that the United States no longer has a means to compensate for the large throwweight superiority possessed in the Soviet ICBM force. This Soviet throwweight superiority, in conjunction with the accuracy, now projected for their ICBM's in the mid-1980's, will provide a decisive Soviet counterforce advantage over the United States, and will lead to an unacceptable level of vulnerability for the U.S. ICBM force.

Finally, I would point out that in the key measures of strategic capability—those measures which take into account such factors as weapon yield, weapon accuracy, and target base characteristics, and which illustrate how much damage United States-Soviet strategic forces could do against each other—the Soviet ratio of advantage over the United States in ICBM throwweight will be 3.3 to 1; in total ICBM/SLBM gross yield it will be 4.2 to 1; in total ICBM/SLBM equivalent megations it will be 2.3 to 1; in ICBM hard target kill capability it will be 2.3 to 1; in ICBM/SLBM countermilitary potential it will be 2.2 to 1; and finally, in ICBM/SLBM retaliatory equivalent weapons it will be 2.1 to 1.

The following chart provides a clear illustration of the shifting strategic balance, and points to very serious growing and emerging United States-Soviet strategic asymmetries.

[Chart not printed in RECORD.]●

THE PLIGHT OF THE HUNGARIAN MINORITY IN ROMANIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, on May 13 a resolution concerning the plight of the Hungarian minority in Romania was adopted by the meeting of directors and delegates of the Polish-Hungarian World Federation and Affiliates. A copy of that resolution follows:

RESOLUTION ADOPTED BY THE MEETING OF DIRECTORS AND DELEGATES OF THE POLISH-HUNGARIAN WORLD FEDERATION AND AFFILIATES

Whereas the discrimination against the Hungarian, and other minorities, in Romania is continuing and worsening.

Whereas the Romanian government is conducting a campaign against the Hungarians, and, in particular, against their churches, suppressing their language, falsifying the statistical and historical data, and confiscating cultural archives, amounting to a blatant internal oppression.

Whereas there are 2 and ½ million Hungarians living in Transylvania, which they have inhabited for over 1,000 years, whose conditions are worsening from year to year.

Whereas if the tide of Romanian chauvinism is not turned soon by the intervention of the United States, based on its Human Rights policy, this tide will develop into cultural genocide.

Therefore, be it resolved that the Polish-Hungarian Federation, as our contribution to the cause of human freedom and dignity is protesting on behalf of the unfortunate peoples of Transylvania.

Be it resolved that proper action be undertaken in defense of the Hungarians in Transylvania for the purpose of achieving equality in cultural, national and civil rights.

Be it further resolved that we appeal to the American Administration and Congress to take the necessary steps to effect fundamental changes of Romanian policies toward the Hungarians to eradicate discrimination and create an acceptable status in Transylvania, whereby the Romanians and Hungarians can work out their destinies in mutual understanding.

The above resolution presented to the meeting of the Directors and Delegates of the Polish-Hungarian World Federation, held on May 13, 1978 by

Dr. KAROL RIPA,
President.
Deputy-Bishop DESMOND PARRAGH,
Director.

Mr. Speaker, a trade agreement between the United States and Romania took effect in August 1975, according that country with most-favored nation (MFN) trading status with more favorable rates of duty on imported Romanian products. Under this agreement and the Trade Act of 1974, Romania must allow its citizens the freedom of emigration or lose its MFN status. The President has the authority to waive this human rights prohibition on MFN treatment, however, if he determines that doing so will promote freedom of emigration.

A resolution was considered last year to disapprove the continuation of the President's authority to waive the freedom of emigration requirements for the granting of MFN status to Romania, not only because of the emigration situation but also because of the denial of human rights to ethnic Hungarians by the Romanian Government. The House Ways and Means Committee adversely reported this bill on the grounds that "the Government of Romania has made a sincere effort to live up to its human rights obligations," and on August 3, 1977, the resolution was indefinitely postponed, thus killing the bill without a recorded vote in the House of Representatives. Similar action was taken again this year by the Subcommittee on Trade of the House Ways and Means Committee, though no specific bill was considered.

I strongly urge my colleagues on the House Ways and Means Committee, especially those on the Committee's Subcommittee on Trade, to strictly monitor the actions of the Romanian Government with regard to the human rights of the oppressed Hungarian minority in that country, and insist that the Communists begin to adhere to basic principles of human dignity and begin to respect the rights of the Hungarians to their churches, their language, and their cultural heritage.

Mr. Speaker, I also want to take this opportunity to call to the attention of my colleagues a reply I have received from Assistant Secretary of State for Congressional Relations Douglas J. Bennet, Jr. in response to my recent communication to the department with regard to human rights for the Hungarian minority in Romania. The letter follows:

DEPARTMENT OF STATE,
Washington, D.C., September 19, 1978.

DEAR MR. ANNUNZIO: Thank you for your letter of August 25 forwarding a resolution from the Polish-Hungarian World Federation which expresses concern about human rights for the Hungarian minority in Romania.

We have discussed this question on several occasions with the Romanian authorities, and it was also raised with President Ceausescu during his April visit to the United States.

The Romanian Government has preferred to deal with the problems of minorities as an exclusively domestic question. Last year, however, the Romanian and Hungarian Governments publicly recognized the existence of a minority question in their respective countries. In a joint communique issued on June 17, 1977, President Ceausescu of Romania and First Secretary Kadar of Hungary declared that the existence of ethnic minorities in Romania and Hungary "is a major factor in the development of friendly relations between the two countries". The two sides agreed to approach this issue in accordance with the international norms adopted by the United Nations for the protection of the rights of ethnic minorities.

There is a considerable dialogue on this subject within Romania between the Government and leaders of the ethnic Hungarian community. In March of this year President Ceausescu publicly acknowledged certain shortcomings of Romania's past minority policy and called for specific improvements, including increased work opportunities in places of origin, improved education in the minority languages, and improved health care and medical education for members of minority groups.

We are encouraged by the fact that the parties primarily involved have openly discussed the issue. We hope there will be some concrete improvement in the situation as a result of these discussions. We believe that such a cooperative approach offers the best prospect for progress.

Sincerely,
DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

Mr. Speaker, there can be no compromise on the ideals and principles of freedom, as the peoples of Eastern Europe continue their struggle against the oppression of the Communist tyranny. In closing, I want to commend Dr. Karol Ripa, President of the Polish-Hungarian World Federation and Affiliates for the invaluable service that he and the members of his group are rendering in closely following developments in Romania and in extending whenever possible the moral support which is so vitally necessary to those in Eastern Europe who are continuing their struggle for freedom from oppression.●

VIETNAM VETERANS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, the Vietnam-era veterans in Congress have introduced comprehensive legislation to bolster our country's commitment to meeting the long-ignored needs of the veterans of the Vietnam era.

The Vietnam Veterans Act as introduced provides for tax credit and job voucher programs to encourage fuller employment opportunities for these veterans. The bill expands the responsibility of the Veterans' Administration for providing Vietnam veterans with psychological readjustment counseling and broadened alcohol and drug abuse treatment.

The bill also extends the GI bill delimiting date for use of education benefits until 1983, thus giving those veterans who have had a hard time orienting themselves in society a greater opportunity to improve themselves through higher education. A tuition equalizer is provided in the bill to make more equal the educational opportunity available to veterans who reside in different States with varying educational costs. The bill also repeals a requirement in the GI Bill Improvement Act of 1977 which makes "tuition acceleration" for VA loan forgiveness based upon unused educational entitlement contingent upon States providing matching funds. No State has yet to make funds available for this purpose, so veterans have yet to receive the benefits of the tuition acceleration program.

The bill proposes one remedy to the State home loan program involving payment from the VA to States to pay the administrative startup costs for establishment of a program similar to the one in California to provide direct loans at interest rates below the prevailing market rate.

The last title of the bill establishes a Commission to study all veterans benefits with a view toward improving the effectiveness of the VA in meeting the needs of all veterans.

Mr. Speaker, this legislation is truly pivotal in that enactment will demonstrate a willingness on the part of our Government to adjust programs and policies to the requirements of the times. True justice demands that we lawmakers establish policies which are flexible enough to meet the changing needs of the people we serve. The Vietnam veteran is a victim of an unfortunate war. But the legitimacy and popularity of wars should not determine the degree to which our Government reaches out to help those it called upon to serve. Vietnam veterans responded to that call, and now we must respond to our moral obligation to help them heal the scars which that service inflicted. Mr. Speaker, I hope that Congress acts quickly and affirmatively in adopting this important legislation. The following is a summary of this legislation:

SECTION-BY-SECTION ANALYSIS—VIETNAM VETERANS ACT

The Viet Nam Veterans Act amends Title 38 of the U.S.C. in order to correct longstanding inadequacies in Viet Nam veterans' benefits. The bill reaches employment, health, education, and housing problems. It is divided into Titles, with one Title for each area. The final Title V, commissions a study of veteran policy.

Practically every provision in this bill has its precedents in programs that have actually been part of the World War II GI Bill or that are currently underway or have been tested in states or local governments. None of them are revolutionary—they are merely evolutionary.

TITLE I—EMPLOYMENT

Viet Nam veteran employment initiatives have been predominantly limited to special consideration under public sector job programs. The two major exceptions have been marked by failure. The 1977 HIRE program developed a large number of job "pledges" but produced an inadequate record of actual hires. The VA's on-the-job training program has declined markedly, with enrollees down 50 percent between 1974 and 1977. It is held back by a basic structural limitation that precludes direct monetary incentives to employers.

Title I provides two alternate private sector employment programs targeted on the needs of veterans with serious employment problems: first, through a tax credit approach, modeled on the House-passed measure in H.R. 13511 (the 1978 tax bill), and second through a creative use of GI Bill entitlement to provide direct employer reimbursement.

Section 101: Targeted Tax Credit. This section incorporates the House-passed targeted tax credit for employers who hire certain Viet Nam era veterans. Under the section's provisions, up to $3,000 in tax credits are available per veteran hired during the first year of the veteran's employment and up to $1,000 during the second year. The credit is calculated at a rate of 50 percent of wages paid, up to the first $6,000, during the first year and 16⅔ percent during the second year. To be eligible a veteran must be receiving food stamps. A veteran who meets the income test for food stamps, but is not receiving them, can become eligible for the tax credit by simply registering for food stamps. Under the food stamp program, eligible income levels are approximately $4,780 for a single person and $8,545 for a family of four with higher levels for larger family units. Food stamp income levels are indexed to inflation and provide flexibility for adjusting to the various costs of living in different parts of the country.

Precedents: The tax credit is part of this year's tax bill and modifies an existing credit that is due to expire this year. *Business Week*, among others, has reported favorably on the operation of the existing program.

Section 102: Job Voucher Program. This section creates new use for existing GI Bill education entitlements. Under the provision's approach, a veteran may use up to one year of his GI Bill entitlement as a "voucher" which will provide employers direct monetary reimbursement. Eligibility would be confined to veterans meeting needs tests similar to those under CETA. The amount of the subsidy will equal the amount of the payment under full-time education enrollment: Section 1682(a)(1) of the GI Bill—$311 for a single veteran, $422 for a veteran with two dependents. Any use of the entitlement as a "voucher" will be subtracted from the veteran's total period of entitlement under the GI Bill, which presently runs to a maximum of 45 months. Employer eligibility for reimbursement is conditioned on provision of a training program.

Precedents: A job voucher program was tested in Orange County California with a $5 million Labor Department grant from 1972–1974. That voucher program was also tested in pilot projects in Philadelphia and Los Angeles. A Harvard professor, Dr. Martin Feldstein, has written often on the job voucher concept and has gotten much publicity in *Fortune, Time* and other publications.

Interrelation: These two programs are designed to provide alternative employment incentive programs to meet the needs of different employers and the political contours in Congress. Section 102((b)(3) of the act, accordingly, precludes attempts to "double claim" a veteran under both sections of the act.

These alternatives seek to complement the existing OJT program by providing a more specialized design. As distinct from the existing OJT program, these alternatives target in on the hard to employ. The OJT program is not need based. To give employers serious incentives to hire veterans with employment problems, they provide flexible direct employer incentives which are not supplied under the existing OJT program.

Section 103: Outreach. An effective program requires outreach, including both advertising and community-based services. Section 103 mandates a VA program of outreach to inform both veterans and prospective employers of the provisions of the act and their advantages.

TITLE II—HEALTH CARE

Section 201: Readjustment Counseling. Viet Nam veterans have faced significant readjustment problems that have resulted in disproportionate suicide and divorce rates, among other problems. A large number of veterans have been affected: the multi-year Cleveland study suggests 25–33% of noncombat and 40–50% of combat veterans face serious readjustment problems. Unfortunately the VA has felt that its ability to deal with these problems is limited both by their failure to appear until a significant time after military service, which leads to questions of VA responsibility, and by the fact that they do not always constitute serious enough disorders to be defined as a disease.

This section grants the VA special and new authority to treat readjustment problems. (To receive counseling, a veteran must request it within one year of discharge or two years of enactment, whichever comes later.) To help ensure that these services will actually be used by Viet Nam veterans who might need them and who are, in many cases, suspicious of the VA, the section is designed to leave maximum room for the use of contract services. In addition, the contracting approach prevents the need for VA to construct a huge counseling apparatus for a program which will only have to be phased out in a relatively limited time.

Precedents: Psychological readjustment legislation like that contained in Section 201 has passed the Senate in each of the last three Congresses, only to die in the House. Most recently, in September 1977, the Senate amended H.R. 5027 to add as Title III, S1693, the Veterans Health Care Amendments Act of 1977, including a readjustment counseling provision. Final passage now waits only on House action. While much attention was provided to World War II veterans to take care of shell shock problems, no systematic program for dealing with Viet Nam veterans' psychological problems was ever set up.

Section 202: Alcohol and Drug Abuse Treatment. In June, 1977, testimony before the Senate Veterans Affairs Committee, Administrator Max Cleveland emphasized the continued inadequacies in VA alcohol and drug abuse programs. The President's Commission on Mental Health estimates 1,400,000 Viet Nam veterans (16%) need treatment for alcoholism and 200,000 to 400.000 (5%) need treatment for drug abuse. The serious implications of substance abuse require that the VA develop a comprehensive drug abuse program. Section 202 grants authority to do that, along with specific mandates on types of treatment.

To ensure an effective response to the problem, treatment is provided for veterans who served in Southeast Asia and received discharges under other than honorable conditions but who have not committed any of the more serious actions that bar veterans from benefits under Section 3103. Many veterans who developed drug problems during their service in Viet Nam received undesirable or bad conduct discharges because of those drug problems. To bar those veterans from treatment prevents them from breaking the circle of drug abuse, bad discharge and further drug abuse. In addition, special contract authority is allowed to place veterans in treatment programs with members of their family when necessary.

Special coordination provisions seek to develop employment prospects for individuals receiving treatment under the program and seek to ensure that all veterans are adequately informed of their rights under military law if they have been discharged under conditions other than honorable.

Precedents: Drug and alcohol abuse programs were in the 1977 Senate Veteran Health Care Amendments Act, passed by the Senate in September 1977 in Title III of H.R. 5027 as amended, and the Senate 1976 Omnibus Health Care Act. The alcohol, drug abuse and mental health programs of HEW spend over $175 million a year.

Section 203: Choice of Health Care Facilities. For veterans who served in Southeast Asia, special options are provided for choice of facility for treatment under Sections 201 and 202. The veterans may be eligible to receive treatment from community mental health centers under the Community Mental Health Center Act, 42 USC 2689 et. seq. but the prospect of reimbursement by the VA would provide added incentive to treat Viet Nam veterans. In addition, to ensure the availability of services and to underline the overall intent of this title to maximize contracting, this section specifically provides for contracting for private services, whenever necessary, to ensure the availability of mental health care. Payment is limited to "reasonable" charges, but to ensure the barriers to use are not created by partial payment requirements, the VA is authorized to pay 100% of such "reasonable" charges. In addition, as a cost-saving measure, payment is excluded under this section where a veteran is enrolled in any other insurance plan providing for benefits similar to those under this section.

Precedents: Allowing Viet Nam theater veterans the option of seeking psychological counseling from the provider of their choice, allows veterans to do what Medicare and Medicaid patients can do and what users of the Defense Department's CHAMPUS program can do: select their own doctor. The VA itself already does extensive contracting.

Section 204: Ombudsmen for Patients. Despite the lapse of time since a 1970 *Life Magazine* article first exposed inadequate health care conditions in VA hospitals, care continues to be inadequate in many ways. According to a $6 million study by the National Academy of Sciences in 1977, both the quality of surgical care and the VA hospital environment were often deficient. To meet these needs in part, this section provides for each VA hospital to have a patient representative or ombudsman, hired by and accountable to the GAO, to assist veterans with complaints and to provide Congress with an oversight capacity in the hospital system.

TITLE III—EDUCATION

Two serious impediments have existed to adequate use of the GI Bill by Viet Nam veterans. The first is the GI Bill's statutory limitations allowing a veteran only ten years' use after discharge. For many veterans from the early period of the war, when benefits were inadequately low, the ten-year delimitation date has, in effect, excluded them from the GI Bill. The second is the lump sum payment procedure under which a veteran receives a fixed payment that must be used to meet both tuition and living expenses. No provision is included to allow for the varying cost of education in different states, which puts a real burden on veterans from states where public education is relatively expensive. Title III corrects each of these problems.

Section 301: Extension of the Delimitation Date. While some delimiting date may be necessary, the existing limitation works real inequities on veterans from the early period of the war when the GI Bill provided inadequate payments—only $100 per month—lower, without considering inflation, than Korean War payments. These veterans now find, when they try to take advantage of the post 1972–74 benefit program, that use is limited by the delimiting date. Eleven percent of all Viet Nam era veterans had only a year and a half after 1974 to get a college degree. This section extends the delimiting date for veterans who were discharged before December 31, 1970. Use of the new delimitation date for purposes of graduate training is excluded. The ten-year delimiting date continues to apply to veterans discharged after December 31, 1970. This partial and controlled extension not only limits costs, but it also focuses the delimitation date on those who need it, giving all veterans an equitable chance to use the benefit changes enacted in 1972 and 1974.

Precedents: The delimitation date extension of a more limited kind passed the Senate in 1977. A major House effort was made in 1975 and 1976 to extend the delimiting date. An earlier effort in 1974 was successful in giving people 10 years instead of the eight contained in the GI Bill.

Section 302: Tuition Equalizer. The higher cost of education in states like Pennsylvania has given them a disproportionately low usage rate, often as much as 50% below that of other states. In order to help veterans from states where tuition is more expensive, this section provides special and limited supplemental tuition allowances in addition to normal GI Bill payments. Use is again excluded for graduate study. Under the section's provisions, any veteran must meet the first $400 in tuition and fees out of the basic GI Bill payment. The VA shall then reimburse a veteran for 50% of up to the next $1,200 in tuition and fees. This provides a total available supplement tuition benefit of $600.

Precedents: A tuition equalizer passed the Senate in 1977 and in a slightly different in 1974. The World War II GI Bill virtually paid all of the veteran's tuition and gave all equal stipends to live on. The disabled veterans education program, in effect since 1966, allows for the payment of tuition and gives all veterans the same stipend for living expenses.

Section 303: Repeal of State Matching Requirement. Last year, the House limited a Senate-passed reform measure that offered Viet Nam era veterans a program of "tuition acceleration". Under a tuition acceleration program, a veteran who, upon completing school still has some unused entitlement, is allowed to use that entitlement to pay off any outstanding VA loans taken out to meet high tuition costs. Under the House modifications, however, the ability to do that was made contingent upon states providing a matching grant. In addition, the House required that the states set up a new fund specifically designed to meet that requirement. No state has yet passed matching legislation. Many states simply cannot afford to. The result is that the House provision has precluded tuition acceleration. Section 303 simply repeals the state matching requirement.

Precedents: Knocking out the state matching requirements restores the legislation to the condition in which it passed the Senate in 1977 unanimously.

TITLE IV—STATE HOME LOAN PROGRAM

The existing home loan program has been plagued by a number of problems. The first is that the VA ceiling on allowable interest rates, which is sometimes below the market rate, results in veterans being forced to compensate the seller for assessed points in one way or another. This often means a higher selling price for veterans. In addition, the level of home loan guarantees, now about to be raised to only $25,000, is not adequate to ensure a loan for an average priced home in today's market. While the original intent was that the guarantee should be for 60% of the loan to serve in place of the down payment, the average home now runs $52,000 to $58,000 and is rising daily. The result is that veterans who cannot personally supplement the VA loan are being forced to buy mobile homes and generally cannot compete in the first-home market.

Section 401: State Home Loan Program. This section attempts to encourage answers to the home loan problem. For example, in California, a special bond issue has been floated that meets both of these problems. First, it provides additional money to make available higher loans. Second, since the money comes from a special fund, it is lent at below market rates. Section 401 authorizes the VA to pay the administrative startup costs for states to establish similar programs. The state programs need not reproduce the California approach. They need only provide direct loans at interest rates below the prevailing market rate.

TITLE V—COMMISSION

The problems of Viet Nam era veteran policy have been relatively unstudied. While the President has established an inter-agency review of Viet Nam veteran policy, that review has remained within the confines of existing programs and has not brought into renewed question the underlying needs and structure of all veterans benefits. Not since President Eisenhower appointed the Bradley Commission has such a study been undertaken. Title V commissions a study that renews the mandate of the Bradley Commission.

TRIO OF ATHLETIC STARS FROM LOUISIANA REPRESENT UNITED STATES AT VOLKOV CUP 1978 COMPETITION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. BOGGS) is recognized for 5 minutes.

● Mrs. BOGGS. Mr. Speaker, on this day when we have been discussing the status of amateur athletics in the United States, I have been honored with the presence of three magnificent young athletic stars from Louisiana—Cricket Borgman, Gina Groves, and Debbie Dodd.

The trio has recently returned from the prestigious Volkov Cup 1978 competition in the U.S.S.R. where they were the bronze medal winners. They were chosen to represent the United States by the U.S. Sports Acrobatics Federation after winning the National USSAF trio title last May.

According to Bill Copp, the national coach to the last two World Cup Championships who accompanied the stars to Russia:

> The girls are young and still developing (Cricket and Gina are thirteen Debbie is eleven) but they are the best representation the U.S. has ever had.

The young athletes were accompanied here today by three of their parents, Dr. Theodore Borgman, Mrs. Carol Groves, and Mrs. Paul Dodd, and by their gifted trainer, Igor Ashkinaza, who has made New Orleans the center of high-level training in sports acrobatics.

These dedicated young Americans who have trained 4 hours a day, 7 days a week deserve our heartiest congratulations. Also, they should enjoy our expressions of gratitude for the championship quality of their demeanor which made of them young U.S. ambassadors of goodwill.●

TIME FOR ACTION ON SMALL BUSINESS CONTRACTING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 10 minutes.

● Mr. DRINAN. Mr. Speaker, on Friday, September 15, the Senate approved H.R. 11318, the Small Business Investment Act of 1978, with a number of committee amendments designed to give small businesses a better opportunity to compete for Government procurement contracts. The junior Senator from Maine (Mr. HATHAWAY) and the junior Senator from Wisconsin (Mr. NELSON) should be commended for drafting these reform provisions and steering them through the Senate Small Business and Governmental Affairs Committees.

S. 2259—the contracting reform legislation introduced by the two Senators and later approved as a committee amendment to H.R. 11318—was based largely on an earlier proposal which I introduced last year with the gentleman from Wisconsin (Mr. REUSS) and the gentleman from Iowa (Mr. BEDELL).

Our bill, the Small Business Government Contracting Reform Act. (H.R. 9321), has been cosponsored by the following 105 Members of the House of Representatives, which include 15 members of the House Small Business Committee: Messrs. AKAKA, MARK ANDREWS, AUCOIN, BALDUS, BENJAMIN, BLANCHARD, BLOUIN, BONKER, BRADEMAS, BRECKINRIDGE, GARRY BROWN, BUTLER, CARR, CAVANAUGH, CEDERBERG, COHEN, CONTE, CORNELL, CORNWELL, CORRADA, D'AMOURS, DOWNEY, ROBERT DUNCAN, EDGAR, DON EDWARDS, EILBERG, ERTEL, and FASCELL, Mrs. FENWICK, Messrs. FITHIAN, FLOOD, FOWLER, FRASER, GARCIA, GAYDOS, GEPHARDT, GLICKMAN, HARRINGTON, HEFTEL, and HILLIS, Ms. HOLTZMAN.

Messrs. HUCKABY, HUGHES, JENRETTE, and KASTENMEIER, Ms. KEYS, Messrs. KILDEE, LEACH, LEDERER, and LEFANTE, Mrs. LLOYD, Messrs. LLOYD, LUKEN, LUNDINE, MARKEY, MARKS, MAZZOLI, and McHUGH, Ms. MEYNER, and MIKULSKI, Messrs. MIKVA, MINETA, MITCHELL of Maryland, MOAKLEY, MOFFETT, MOSS, MOTTL, NEAL, NOLAN, and NOWAK, Mrs. OAKAR, Messrs. OTTINGER, PANETTA, PATTERSON, PATTISON, PEASE, PEPPER, RAHALL, RANGEL, RICHMOND, ROE, ROSE, ROSENTHAL, RYAN, and SANTINI, Ms. SCHROEDER, Messrs. SEIBERLING, SHARP, SIMON, and

SKELTON, Mrs. SPELLMAN, Messrs. STARK, STEERS, STOKES, STUDDS, THOMPSON, TSONGAS, WALGREN, WATKINS, WEISS, CHARLES WILSON of California, and YATRON.

The bill has also received the endorsement of the Smaller Business Association of New England, National Small Business Association, Council of Smaller Enterprises, and American Association of Small Research Companies.

Mr. Speaker, since time will not permit House committee consideration of H.R. 9321 before the adjournment of the 95th Congress, it is important that the 105 sponsors of the bill encourage the House conferees to support—if not strengthen—the parallel provisions already approved by the Senate. I urge my colleagues to briefly review the following chart, which compares the Drinan-Reuss-Bedell bill (H.R. 9321), the Hathaway-Nelson bill (S. 2259), and the relevant Senate amendments to H.R. 11318:

COMPARISON OF SMALL BUSINESS CONTRACTING REFORM PROPOSALS

Contracting simplification H.R. 9321	*Contracting simplification* S. 2259	*Contracting simplification* SENATE AMENDMENTS TO H.R. 11318
For each contract under $100,000, agencies must provide to small businesses, on request, copies of bid sets and specifications, a copy and summary of each federal law or regulation applicable to the performance of the contract, and the name and telephone number of an agency employee who can be contracted for additional information. For each contract over $100,000, agencies must provide small businesses, on request, copies of bid sets and specifications, and adequate citations to applicable federal laws and regulations. Requires that bidding materials and information described above "be supplied, to the extent practicable, at the local level."	Identical to H.R. 9321. Also authorizes the Office of Federal Procurement Policy to develop and promulgate "a single, simplified, uniform procurement Federal regulation" pursuant to PL 93-400, to assess the new regulation's impact on small firms, and to incorporate bidding, performance and procedural reforms which encourage small business contracting.	Similar to the original House and Senate legislation. Requires only that contracting agencies provide interested small businesses with bid sets and specifications, citations to applicable federal laws and regulations, and the name and number of an agency contact. Does not require the availability of summaries of federal laws and regulations applicable to small contracts. Authorization for the development of a uniform federal procurement regulation is identical to language of S. 2259.
Establishment of minimum bidding period	*Establishment of minimum bidding period*	*Establishment of minimum bidding period*
Requires that each contract opportunity be open for bidding at least 30 days after publication in the government's Commerce Business Daily, unless the agency head personally certifies the existence of emergency circumstances which make this impossible. Allows bidding deadlines to be changed with 15 days notice subsequent to the 30-day minimum period.	Identical to H.R. 9321.	No such provisions.
Adequate notice of contracting opportunities	*Adequate notice of contracting opportunities*	*Adequate notice of contracting opportunities*
Requires the Secretary of Commerce to study the feasibility of, and implement to the greatest extent practicable, notification of small businesses of all contract opportunities in their stated areas of ability and interest, and on which they are entitled to bid. Requires prompt publication in the Commerce Business Daily of all contract awards to small businesses and all contract opportunities set aside for small business participation.	Identical to H.R. 9321.	No such provisions.
Arbitration of contract disputes	*Arbitration of contract disputes*	*Arbitration of contract disputes*
Establishes contract arbitration panels within the Small Business Administration (SBA) to resolve, on a strictly voluntary basis, contract disputes between small business and federal contracting agencies.	Identical to H.R. 9321.	No such provisions.
Small business subcontracting	*Small business subcontracting*	*Small business subcontracting*
Requires prime contractors, as a condition of receiving a final contract award from a federal agency, to submit an acceptable small business subcontracting plan. This plan must describe the type and percentage of work to be performed by small businesses, and must be considered by the head of the agency in determining the responsibility of the apparent low bidder. In approving such plans, the agency head must determine that it provides "maximum practicable opportunity" for small businesses to participate in the performance of the prime contract.	Very similar to H.R. 9321, but establishes a $500,000 threshold on contracts which require the submission of a small business subcontracting plan. Also requires agency heads to consult with the SBA Administrator to determine whether the plans allow "maximum practicable opportunity" for small business participation. Establishes very specific requirements for the content of small business subcontracting plans.	Similar to the language of S. 2259. Also requires, in each contract exceeding $10,000, a standard clause which commits the contractor to achieve maximum participation of small and minority businesses in the performance of the contract. Requires, for each contract over $500,000 (on $1 million in the case of contracts to construct public facilities) the submission of detailed small business subcontracting plans, and their inclusion as part of such contracts. Authorizes SBA to review and report to agencies on the adequacy of individual plans; evaluate compliance; and report to the House and Senate Small Business Committees those plans which, in SBA's view, did not provide adequate small business or minority participation, yet which still received contracting agency approval.

Small business participation goals and set asides	*Small business participation goals and set asides*	*Small business participation goals and set asides*
Requires the head of each federal contracting agency to develop, in consultation with SBA, goals which realistically reflect the potential of small businesses to fulfill the agency's prime and subcontracts.	Also requires the establishment by federal agencies with contracting authority of goals for small business participation, including set asides. These goals must be jointly agreed upon by the agency and the SBA, and disagreements resolved by the Administrator of Federal Procurement Policy of the Office of Management and Budget. Requires the exclusive set aside of all contracts under $10,000 for bidding by small businesses, provided these contracts are subject to small purchase procedures and at least two bids can be obtained. For those categories of procurement deemed appropriate for small businesses by the SBA, federal agencies must gradually achieve at least 20 percent small business participation (by dollar value). The head of each federal agency with contracting authority must report to SBA and the House and Senate Small Business Committees each year on the extent of small business participation in its procurement contracts, and the reasons for any failure to meet established participation goals.	Very similar to language of S. 2259, but excludes requirement that federal agencies achieve 20 percent small business participation in procurement categories designated by SBA. Adds a requirement that the head of each federal agency with contracting authority report to SBA and the House and Senate Small Business Committees each year on the extent of small business participation in its procurement contracts, and the reasons for any failure to achieve the agency's small business participation goals.
Establishes a "small business representative" in each federal contracting agency to monitor compliance with set aside requirements; to assure that small firms have adequate information and assistance to bid on contracts; and to report to SBA each year on the number, dollar value and percentage of contracts set aside and awarded to small businesses.	No such provisions.	Creates an "Office of Small Business Utilization" within each federal contracting agency to provide technical assistance to small firms, and to implement and assure compliance with small business procurement policy.

Note: H.R. 11318, as it passed the House on March 20, 1978, contains original small business subcontracting provisions which formed the basis for the Senate's subcontracting amendments.

Clearly, the Senate has made great strides both in giving small businesses a larger role in subcontracting under Government contracts, and in making bidding materials and information more accessible to small firms. The House conferees—which include Messrs. ADDABBO, SMITH, ST GERMAIN, STEED, CORMAN, RICHMOND, NOLAN, GONZALEZ, FOWLER, MCDADE, CONTE, and KASTEN, and Mrs. FENWICK—should be strongly encouraged to retain these provisions in conference.

At the same time, the Senate bill is deficient in two major respects. First, it does not mandate a minimum period for bidding on routine Government contracts, thus perpetuating the existing system which discriminates against small firms receiving contract notices only by mail. Small companies should have the same opportunity to bid on contracts as large corporations, which receive advance notice of contracts from their representatives in Washington, and the establishment of a 30-day minimum bidding period is a responsible means of achieving this objective. Second, the Senate bill provides no means of resolving minor contract disputes other than through protracted appeals and litigation. The Small Business Government Contracting Reform Act would establish arbitration panels under SBA, for use on a voluntary basis to resolve minor disputes without the delays and prohibitive expense of contract appeals.

Mr. Speaker, it is my hope, and that of HENRY REUSS and BERKLEY BEDELL, that we can enact a bill this session which will give small businesses every possible opportunity to bid on Government contracts—legislation which has already proven to have broad, bipartisan support. We encourage each of our colleagues, in turn, to urge the House conferees to support the strongest achievable bill in conference.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. ASHBROOK, for 10 minutes today.

(The following Members (at the request of Mr. GARY A. MYERS) to revise and extend their remarks and include extraneous material:)

Mr. GOLDWATER, for 5 minutes, today.

Mr. DORNAN, for 60 minutes, on September 28.

Mr. WINN, for 5 minutes, today.

Mr. BOB WILSON, for 5 minutes, today.

(The following Members (at the request of Mr. BONIOR) to revise and extend their remarks and include extraneous material:)

Mr. CHARLES H. WILSON of California, for 20 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mrs. BOGGS, for 5 minutes, today.

Mr. DRINAN, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FASCELL, and to include extraneous matter.

Mr. SEIBERLING, and to include extraneous matter, during debate on H.R. 12005.

Mr. EDWARDS of California, to revise and extend his remarks and to include extraneous matter during consideration of the bill, H.R. 12005.

(The following Members (at the request of Mr. GARY A. MYERS) and to include extraneous matter:)

Mr. MILLER of Ohio in two instances.
Mr. MICHEL.
Mr. RAILSBACK.
Mr. BROWN of Michigan.
Mr. BROWN of Ohio.
Mr. GRASSLEY.
Mr. DORNAN.
Mr. KEMP in two instances.
Mr. STOCKMAN.
Mr. STEIGER.
Mr. MARLENEE.
Mr. DERWINSKI in two instances.
Mr. LENT.

(The following Members (at the request of Mr. BONIOR), and to include extraneous matter:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. ROE in two instances.
Mr. DODD.
Mr. FAUNTROY.
Mr. SOLARZ in two instances.
Ms. MIKULSKI.
Mr. CARNEY in two instances.
Mr. VANIK.
Mr. STARK.
Mr. LEHMAN.
Mr. WON PAT.
Mr. KOSTMAYER.
Mr. OTTINGER in two instances.
Mr. NOLAN.
Mr. BAUCUS.
Mr. ERTEL.

Mr. Downey.
Mr. Fascell.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 135. An act for the relief of Tak-Ming Bernard Leung and Janny Chun Lee Leung; to the Committee on the Judiciary;

S. 141. An act for the relief of Dr. Orlando Fusilero Bravo; to the Committee on the Judiciary;

S. 144. An act for the relief of Samuel S. H. Leung, his wife Carol O. K. Leung, and his sons Johnny C. Y. Leung and Jimmy C. M. Leung; to the Committee on the Judiciary;

S. 148. An act for the relief of Dr. Laurence T. Gayao, his wife, Edith Gayao, and their child, Lorraine Gayao; to the Committee on the Judiciary;

S. 152. An act for the relief of Loi Lin Irene Chung (Tsui); to the Committee on the Judiciary;

S. 953. An act for the relief of Marcelino S. Silva and his wife, Emilie M. Silva; to the Committee on the Judiciary;

S. 1701. An act for the relief of Narciso Michelena; to the Committee on the Judiciary;

S. 2203. An act for the relief of Dr. Cosme R. Cagas, his wife, Linda San Diego Cagas, and his children, Elcee Cagas, Chess Cagas, Georgina Cagas, and Chester Cagas; to the Committee on the Judiciary;

S. 2349. An act for the relief of Margaret Perry; to the Committee on the Judiciary:

S. 2421. An act for the relief of Shyy Wen-Huei; to the Committee on the Judiciary:

S. 2446. An act for the relief of Caroline Valdez Sulfelix; to the Committee on the Judiciary;

S. 2671. An act for the relief of Masami Yamada; to the Committee on the Judiciary;

S. 2677. An act for the relief of Ching Wu Wang; to the Committee on the Judiciary;

S. 3042. An act for the relief of Mary Jo Natividad and Regina Natividad; to the Committee on the Judiciary;

S. 3051. An act for the relief of Tsutomu Tanaka; to the Committee on the Judiciary;

S. 3066. An act for the relief of Yom Chong Ok; to the Committee on the Judiciary; and

S. 3124. An act for the relief of Douglas Jagdish Degenhardt (adoptive name); to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 13745. An act to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981;

H.R. 10822. An act to improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes; and

H.R. 1920. An act to amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1265. An act to amend chapter 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services.

ADJOURNMENT

Mr. BONIOR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 1 minute p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, September 27, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5029. A letter from the executive director, National Center for Productivity and Quality of Working Life, transmitting the Center's third and final annual report, covering fiscal year 1978, pursuant to section 206 of Public Law 94–136; to the Committee on Banking, Finance and Urban Affairs.

5030. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552 a(o); to the Committee on Government Operations.

5031. A letter from the Comptroller General of the United States, transmitting a report on the executive branch's policies and programs for obtaining commercial or industrial products and services for Government use (PSAD 78–118, September 25, 1978); to the Committee on Government Operations.

5032. A letter from the Chairman, Indian Claims Commission, transmitting the Commission's final determination in dockets No. 15-P, *The Potawatomie Nation of Indians, The Prairie Band*, et al, Plaintiffs, *Potawatomi Indians of Indian and Michigan, Inc.*, Intervenors, v. *The United States of America*, Defendant, No. 29-N, *The Hannahville Indian Community*, et al., Plaintiffs, *Potawatomi InIndians of Indiana and Michigan, Inc.*, Internors, v. *United States of America*, Defendant, and No. 306, *Citizen Band of Potawatomi Indians of Oklahoma*, et al., Plaintiffs, *Potawatomi Indians of Indiana and Michigan, Inc.*, Intervenors, v. *The United States of America*, Defendant, pursuant to section 21 of the Indian Claims Commission Act; to the Committee on Interior and Insular Affairs.

5033. A letter from the Chairman, Indian Claims Commission, transmitting the Commission's final determination in dockets No. 27-E and 202, *The Delaware Tribe of Indians*, and the *Ansentee Delaware Tribe of Oklahoma, Delaware Nation*, ex rel., *W. E. Exendine* and *Myrtle Holder*, Plaintiffs, v. *The United States of America*. Defendant. docket No. 29-D, *Hannahville Indian Community*, et al., Plaintiffs, *Citizen Band of Potawatomi Indians of Oklahoma*, *Prairie Band of Potawatomi Indians*. et al., and *Potawatomi Indians of Indiana and Michigan, Inc.*, Intervenors, v. *The United States of America*, Defendant, and docket No. 139, *Lawrence Zane*, et al., ex rel., *Wyandot Tribe*, et al., Plaintiffs, v. *The United States of America*, Defendant, pursuant to section 21 of the Indian Claims Commission Act; to the Committee on Interior and Insular Affairs.

5034. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a monthly report on sales of refined petroleum products for June 1978, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

5035. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license for the export of certain defense articles sold commercially to Iran (transmittal No. MC–32–78), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

5036. A letter from the Assistant Secretary of Agriculture for International Affairs and Commodity Programs, transmitting a report on the initial commodity and country allocations for fiscal year 1979 under title I of Public Law 83–480, pursuant to section 408(b) of the act; to the Committee on International Relations.

5037. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a monthly report on sales of retail gasoline for June 1978, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

5038. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

5039. A letter from the Comptroller General of the United States, transmitting a report on cost waivers granted by the Defense Department under the Foreign Military Sales program (FGMSD–78–48, September 26, 1978); jointly, to the Committees on Government Operations, and International Relations.

5040. A letter from the Comptroller General of the United States, transmitting a report on cost waivers granted by the Defense Department under the Foreign Military Sales program (FGMSD–78–48A, September 26, 1978); jointly, to the Committees on Government Operations, and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CONYERS: Committee on the Judiciary. H.R. 8853. A bill to amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes; with amendment (Rept. No. 95–1629). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. House Joint Resolution 747. Joint resolution to consent to an amendment of the constitution of the State of New Mexico to provide a method for executing leases and other contracts for the development and operation of geothermal steam and waters on lands granted or confirmed to such State; with amendment (Rept. No. 95–1630). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 13991. A bill to provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, Calif., approximately 120 acres of land; with amendment (Rept. 95–1631). Referred to the Committee of the Whole House on the State of the Union.

Mr. FISH: Committee on the Judiciary. H.R. 8930. A bill to confer U.S. citizenship posthumously upon Leopoldine Marie Schmid (Rept. No. 95–1634). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EILBERG: Committee on the Judiciary. H.R. 9568. A bill for the relief of Renate Irene McCord (Rept. No. 95–1632). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 8810. A bill for the relief of Kim In Hung; with amendment (Rept. No. 95–1633). Referred to the Committee on the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BYRON (for himself and Mr. EVANS of Delaware):

H.R. 14170. A bill to prohibit fuel adjustment clauses in electric utility rate schedules; to the Committee on Interstate and Foreign Commerce.

By Mr. EVANS of Colorado:

H.R. 14171. A bill to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for U.S. amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes; to the Committee on the Judiciary.

By Mr. HUCKABY (for himself and Mr. WAGGONNER):

H.R. 14172. A bill to amend section 1341 (b)(2) of the Internal Revenue Code of 1954 to clarify the computation of tax where taxpayer restores substantial amount held under claim of right; to the Committee on Ways and Means.

By Mr. LEACH (for himself and Mr. VENTO):

H.R. 14173. A bill to provide for the striking and public sale of a series of gold medallions commemorating outstanding individuals in the American arts; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MICHEL (for himself, Mr. MOAKLEY, Mr. WALGREN, and Mr. WEISS):

H.R. 14174. A bill to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for U.S. amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes; to the Committee on the Judiciary.

By Mr. CORCORAN of Illinois (for himself, Mr. GUYER, and Mr. YATRON):

H.R. 14175. A bill to amend the Communications Act of 1934 to establish requirements with respect to the television broadcasting of certain professional sports clubs' games; to the Committee on Interstate and Foreign Commerce.

By Mr. FASCELL:

H.R. 14176. A bill to amend section 312(c) of the Federal Aviation Act of 1958, relating to research and development, to require the Secretary of Transportation to coordinate the development of a collision avoidance system for use on all civil aircraft of the United States in the interest of safety in air commerce; to the Committee on Science and Technology.

By Mr. HORTON:

H.R. 14177. A bill to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws; to the Committee on the Judiciary.

By Mr. EVANS of Georgia:

H. Con. Res. 724. Concurrent resolution disapproving a proposed revenue procedure of the Internal Revenue Service relating to private tax-exempt schools; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HAGEDORN introduced a bill (H.R. 14178) for the relief of Stefano de Asarta, which was referred; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

(To the amendment in the nature of a substitute (H.R. 13850).)

H.R. 1

By Mr. ECKHARDT:

—Page 49, immediately after line 24 insert the following new subsection:

"(g) The prohibitions contained in subsection (c) of this section shall not apply with respect to any formal or informal appearance before or communication to a department or agency by a person who is a member in good standing before, and is licensed or certified to practice in a profession by, any Federal or State licensing or certifying authority for such profession, if the following conditions are met:

"(1) Such person is subject to discipline, including suspension or revocation of such person's license or certification to practice, by the licensing or certifying authority on account of—

"(A) a failure to possess the requisite qualifications to represent others,

"(B) a lack of character or integrity, or

"(C) engaging in unethical or improper professional conduct.

"(2) Such department or agency has in effect standards of ethical conduct—

"(A) for its officers and employees which, at a minimum, proscribe and subject such officers and employees to disciplinary action, including suspension or dismissal, for—

"(i) using public office for private gain,

"(ii) giving preferential treatment to any person,

"(iii) impeding Government efficiency or economy,

"(iv) compromising independence or impartiality,

"(v) making a Government decision outside official channels,

"(vi) affecting adversely the confidence of the public in the integrity of government;

"(vii) negotiating for future employment with any person who is opposing counsel in or is primarily affected by any matter in which the officer or employee is representing the department or agency; or

"(viii) acting on behalf of the department or agency in any capacity in a matter that, to the knowledge of the officer or employee, directly affects or has a substantial impact, direct or indirect, on any person with whom the officer or employee is discussing or considering any proposal for future employment with such person; and

"(B) for its former officers and employees which, at a minimum, provide for disciplinary action, including the suspension or revocation of the privilege of appearing or practicing before it, upon conviction of a violation of any provision of this section, or upon a finding (after notice and an opportunity for hearing) of—

"(i) a violation of any of the department's or agency's rules or regulations implementing the provisions of this subsection;

"(ii) inducing or trying to induce any officer or employee of the department or agency to commit any of the violations of ethical conduct set forth in clauses (i) through (viii) of subparagraph (A) of this paragraph; or

"(iii) any other unethical or improper professional conduct arising out of the relationship of such former officer or employee with the agency.

"(3) Such appearance before or communication to such department or agency is of a category exempted from the prohibitions contained in subsection (c), for purposes of this subsection, by general rule or regulation promulgated by the department or agency, in consultation with the Director of the Office of Government Ethics, and published in the Federal Register.

"(4)(A) Except as provided in subparagraph (B) of this paragraph, a file containing—

"(i) any such written communication (and responses thereto),

"(ii) memoranda stating the substance of any such oral communication (and responses thereto), and

"(iii) all written communications (and responses thereto) and memoranda stating the substance of all oral communications (and responses thereto) in connection with any such appearance,

is made available for public inspection and copying immediately upon request, notwithstanding any provision of section 552(a)(6) of title 5, United States Code.

"(B) Those communications and memoranda described in clauses (i), (ii), and (iii) of subparagraph (A) with respect to any matter referred to in section 552(b) of title 5, United States Code, shall not be made available for public inspection and copying, except that any such communication or memorandum shall be maintained by the department or agency and a copy thereof shall be transmitted to the Director of the Office of Government Ethics not later than ten days after receipt of the communication, or preparation of the memorandum, as the case may be.

"(5) Such appearance is not before, or communication is not with, any person under the direct supervision and control of such former officer or employee, while employed with such department or agency.

"(6) Such former officer or employee files a written declaration with the department or agency that he or she is currently qualified to appear in a representative capacity before the department or agency, and that the appearance or communication is not intended to have, and cannot reasonably be expected to have, any effect described in paragraph (2)(A)(i) through (vi) of this subsection.

For purposes of this subsection, the term "State" includes the District of Columbia and any territory or possession of the United States.

Page 49, line 25, strike out "(g)" and insert in lieu thereof "(h)".

Page 50, line 21, strike out "(h)" and insert in lieu thereof "(i)".

H.R. 1

By Mr. FRENZEL:

(To the amendment in the nature of a substitute.)

—On page 51, after line 19 insert the following new section and renumber accordingly:

"SEC. 243. Except where the employee's Agency, Department or other Federal employer shall have more restrictive limitations on outside earned income, all employees covered by this Act who occupy full-time positions appointment to which is required to be made by the President, by and with the advice and consent of the Senate, may not have in any calendar year outside earned income attributable to such calendar year which is in excess of 15 percent of their salary."

—In the matter proposed to be inserted by the amendment, strike out "shall be limited in outside income to not more than fifteen percent of their salary" and insert in lieu thereof "and who occupy full-time positions appointment to which is required to be made by the President, by and with the advice and consent of the Senate, may not have in any calendar year outside earned income attributable to such calendar year which is in excess of 15 percent of their salary".

H.R. 1

By Mr. HARRIS:

(To the amendment in the nature of a substitute.)

—Page 31, line 12, strike out "Each" and insert in lieu thereof "Except as provided in subsection (e) of this section, each".

Page 34, after line 13, insert the following new subsection:

(e)(1) Except as provided in paragraph (2) of this subsection, reports of officers and employees referred to in section 201(f)(3) and of officers and employees of the Postal Service shall not be made available to the public pursuant to this section if the Director of the Office of Government Ethics determines that withholding such reports from such public availability would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government.

(2) No report of an officer or employee who is in a position which is excepted from the competitive service by reason of being of a confidential or policymaking character may be withheld from public availability under paragraph (1) of this subsection.

H.R. 1

By Mr. RAILSBACK:

—On page 43 after line 21, insert the following new section.

SEC. 224. In promulgating rules and regulations pertaining to financial disclosure, conflict of interest and ethics in the executive branch, the Commission shall issue rules and regulations in accordance with section 553, title 5, United States Code. Any person may seek judicial review of any such rule or regulation.

Renumber subsequent Sections accordingly.

H.R. 1

By Mr. RYAN:

—Page 10 at line 11, strike out "his" and insert in lieu "ones".

—Page 24, line 7 insert after the word "source" the following: "other than a relative."

—Page 27, line 7 insert after the word "gift" the following: "with a fair market value over $35."

—Page 51, after line 22, insert the following:

SEC. 243. Unless otherwise provided by any statute enacted after the date of enactment of this Act, the amendments made by this title are hereby repealed effective on the first day of the first calendar month beginning five years after the date of the enactment of this Act. If such provisions are repealed by reason of this subsection, any reference to the Director of the Office of Government Ethics shall be deemed to a reference to the Chairman of the Civil Service Commission or his designee, and any reference to any agency ethics counselor or officer shall be deemed to be a reference to such Federal employee or officer as the Chairman of the Civil Service Commission may prescribe.

—Page 66, after line 10, insert the following:

SEC. 310. Unless otherwise provided by any statute enacted after the date of enactment of this Act, the amendments made by this title are hereby repealed effective on the first day of the first calendar month beginning five years after the date of the enactment of this Act. If such provisions are repealed by reason of this subsection, any reference to the Director of the Office of Government Ethics shall be deemed to be a reference to the Chairman of the Civil Service Commission or his designee, and any reference to any agency ethics counselor or officer shall be deemed to be a reference to such Federal employee or officer as the Chairman of the Civil Service Commission may prescribe.

H.R. 10909

By Mr. ROGERS:

—Page 2, in the table of contents add after the item relating to section 104 the following new item:

Sec. 105. Study of clinical laboratory services.

Page 4, line 12, strike out "(A)" and insert in lieu thereof "(i)".

Page 4, line 20, strike out "(B)" and insert in lieu thereof "(ii)".

Page 4, line 21, strike out "purposes" and insert in lieu thereof "purpose".

Page 8, line 6, strike out "(i)" and insert in lieu thereof "(1)".

Page 8, line 8, strike out "(ii)" and insert in lieu thereof "(2)".

Page 8, line 12, strike out "(iii)" and insert in lieu thereof "(3)".

Page 14, line 4, insert "and complexity" after "volume".

Page 14, line 5, insert before the period the following: "and may prescribe variances in such fees to reflect a laboratory's participation in an accreditation program conducted by a qualified public or nonprofit private entity with an agreement with the Secretary under section 377(a)".

Page 14, line 6, strike out "(1)".

Page 14, line 9, strike out "(A)" and insert in lieu thereof "(1)".

Page 14, line 11, strike out "(B)" and insert in lieu thereof "(2)".

Page 14, line 14, strike out "(C)" and insert in lieu thereof "(3)".

Page 14, line 14, insert "(A)" after "applicant".

Page 14, line 16, strike out "(i)".

Page 14, line 20, strike out "(ii)" and insert in lieu thereof "(B) to the Secretary of".

Page 15, strike out line 1 and all that follows through page 16, line 2.

Page 17, line 16, strike out "any" and all that follows through "services)" on line 22 and insert in lieu thereof "in violation of Federal or State law any remuneration".

Page 18, line 14, insert "reasonable" before "differences".

Page 18, line 18, strike out "(d)" and insert in lieu thereof "(d)(1)".

Page 19, strike out lines 1 and 2 and insert in lieu thereof the following:

"tion became final.".

"(2) The Secretary may revoke the license of a laboratory if any person who has a direct or indirect ownership or control interest of 5 percent or more in the laboratory, or who is an officer, director, agency, or managing employee (as defined in section 1126(b) of the Social Security Act) of the laboratory, is not eligible to apply for a license for a laboratory under paragraph (1).

Page 21, line 1, strike out "(b)" and insert in lieu thereof "(b)(3)".

Page 22, line 15, insert "and complexity" after "volume".

Page 22, line 16, insert before the semicolon the following: "and may provide for variances in such fees to reflect a laboratory's participation in an accreditation program conducted by a qualified public or nonprofit private entity with an agreement with the State under section 3377(a)".

Page 33, line 21, insert after the period the following sentence: "The authority of the Secretary to enter into contracts under subsections (a), (b), and (c) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

Page 34, line 6, strike out "tests and procedures" and insert in lieu thereof "clinical laboratory services" and in line 7 insert "clinical laboratory" before "services" the second time it occurs.

Page 34, line 26, strike out "section" and insert in lieu thereof "title".

Page 37, line 17, strike out the comma and strike out the comma in line 18.

Page 39, insert after line 21 the following:

(2)(A) Any clinical laboratory which refuses to participate in the study prescribed by subsection (a) in the manner requested by the Secretary shall, as prescribed by the Secretary and until regulations promulgated under subparagraph (B) take effect, be required to meet the standards in effect under section 371 of the Public Health Service Act on and after the date of the enactment of this Act for clinical laboratories engaged in business in interstate commerce.

Page 39, line 22, strike out "(2)" and insert in lieu thereof "B".

Page 40, line 8, insert "of title III" after "part H" and beginning in line 17 strike out "the Clinical Laboratory Improvement Act of 1978" and insert in lieu thereof "this Act".

Page 56, strike out lines 16 and 17 and insert in lieu thereof the following: "the applicable requirements of section 1861(e)(9), the second sentence of section 1861(s), or part H of title III of the".

Page 56, line 25, insert "reasonable" before "administrative".

Page 57, strike out lines 19 and 20 and insert in lieu thereof the following: "Laboratory Improvement Act of 1978 meets the applicable requirements of section 1861(e)(9) or the second sentence".

Page 58, line 3, insert "reasonable" before "administrative".

H.R. 11733

By Mr. GIBBONS:

—Page 140, line 24, after the period insert the following:

Each State shall annually thereafter report to the Secretary its current inventory.

Page 141, line 3, after the period add the following:

Each State shall annually thereafter report to the Secretary its current inventory.

Page 141, strike out lines 9 through 24, inclusive, and insert in lieu thereof the following:

(c) Not later than January 1 of the second calendar year which begins after the date of enactment of this section and each calendar year thereafter the Secretary shall submit to Congress an annual report together with such recommendations as the Secretary deems necessary on (1) the latest annual inventory of State systems of penalties required by subsection (a) of this section; (2) the latest annual inventory of State systems for the issuance of special permits required by subsection (b) of this section; (3) the annual certification submitted by each State required by section 141(b) of title 23, United States Code.

(d) Section 141 of title 23, United States Code, is amended to read as follows:

"§ 141. Enforcement of Requirements.

"(a) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with section 154 of this title. The Secretary shall not approve any project under section 106 of this title in any State which has failed to certify in accordance with this subsection.

"(b) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title.

"(c)(1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of such State under subsection (b) of this section.

"(2) If a State fails to certify as required by subsection (b) of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, then Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title.

"(3) If within one year from the date that the apportionment for any State is reduced in accordance with paragraph (2) of this subsection the Secretary determines that such State is enforcing all State laws respecting maximum size and weights, the apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States."

(e) Section 141(c)(2) and (3) of title 23, United States Code, shall be applicable to certifications required by such section 141 to be filed on or after January 1, 1980.

H.R. 13471

By Mr. KINDNESS:

—Page 3, line 12, insert "(1)" after "(d)", and on page 4, immediately after line 4, insert the following:

"(2) The United States shall pay to any member bank or person who prevails in an appeal pursuant to this section a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.

Page 5, line 25, insert "(A)" after "(4)" and on page 6, immediately after line 14, insert the following:

"(B) The United States shall pay to any member bank or person who prevails in an appeal pursuant to this section a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.

Page 8, line 10, insert "(A)" after "(4)", and immediately after line 24, insert the following:

"(B) The United States shall pay to any association or person who prevails in an appeal pursuant to this section a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.

Page 20, line 17, after the period insert the following: "The United States shall pay to any company or person who prevails in an appeal under section 9 a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.".

Page 24, line 15, after the period insert the following: "The United States shall pay to any company or person who prevails in an appeal pursuant to this section a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.".

Page 57, line 15, immediately after the period, insert the following: "The United States shall pay to any insured bank or person who prevails in an appeal pursuant to this subparagraph a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded against the United States.".

Page 60, line 2, after the period insert the following: "The United States shall pay to any insured institution or person who prevails in an appeal pursuant to this subparagraph a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.".

Page 62, line 13, after the period insert the following: "The United States shall pay to any association or person who prevails in an appeal under this clause a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.".

Page 65, line 2, after the period insert the following: "The United States shall pay to any insured credit union or person who prevails in an appeal pursuant to this subparagraph a reasonable attorney's fee and shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.".

Page 68, line 9, after the period insert the following: "The United States shall pay to any nonmember insured bank or person who prevails in an appeal pursuant to this subparagraph a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.".

H.R. 13471

By Mr. PATTISON of New York:

—Page 149, lines 1–4, delete subsection (2) and insert:

"(2) 'financial record' means an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer's relationship with the financial institution;".

Page 150, line 5, delete "or";

Line 9, delete "and" and insert "or".

Lines 10–12, delete subsection (7) and insert:

"(I) any state banking or securities department or agency; and

(7) "law enforcement inquiry" means a lawful investigation or official proceeding inquiring into a violation of, or failure to comply with, any criminal or civil statute or any regulation, rule, or order issued pursuant thereto."

Page 153, lines 22–24, delete subsection (1) and insert:

"(1) there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry;"

Page 154, line 5, delete the colon and insert "which shall state with reasonable specificity the nature of the law enforcement inquiry:".

Page 154, lines 13–25, delete paragraphs (1) through (3) and insert:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice.

"2. File the motion and statement by mailing or delivering them to the clerk of the United States District Court for the ——————.

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to ——————."

Page 155, line 2, delete "case" and insert "position".

Page 155, after line 2, insert:

"'5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.'"

Page 155, line 7, delete "available.'; and" and insert: "available. These records may be transferred to other government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer;" and".

Page 155, line 11, delete "an affidavit" and insert "a sworn statement".

Page 159, lines 22–24, delete subsection (1) and insert:

"(1) such subpena is authorized by law and there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry;"

Page 160, line 3, delete the colon, and after line 3 insert: "together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:".

Page 160, lines 11–23, delete paragraphs (1) through (3), and insert:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice.

"2. File the motion and statement by mailing or delivering them to the clerk of the —————— Court.

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to ——————."

Page 160, line 25, delete "case", and insert "position".

Page 160, line 25, insert:

"'5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.'"

Page 161, lines 22–24, delete subsection (3) and insert:

"(3) there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry; and"

Page 161, line 9, delete "an affidavit" and insert "a sworn statement".

Pages 162, line 3, delete the colon and insert: "which shall state with reasonable specificity the nature of the law enforcement inquiry:"

Page 162, line 11–25, delete paragraphs 1 through 4 and insert:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice.

"2. File the motion and statement by mailing or delivering them to the clerk of the United States District court for the ———.

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to ———.

"4. Be prepared to come to court and present your position in further detail.

"5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights."

Page 163, line 10, delete "an affidavit" and insert "a sworn statement".

Pages 163, line 17, delete "or 1108(4)" and insert: "1108(4), or 1112(b)".

Page 163, lines 23–25, delete subsection (2) and insert:

"(2) there is reason to believe that the records being sought are relevant to a legitimate law enforcement inquiry; and".

Page 165, line 10, delete the colon and insert: "which shall state with reasonable specificity the nature of the law enforcement inquiry:".

Page 166, line 25, delete the colon and insert: "which shall state with reasonable specificity the nature of the law enforcement inquiry:".

Page 168, lines 1–5, delete subsection (2) and insert:

"(2) stating the applicant's reasons for believing that the financial records sought are not relevant to the legitimate law enforcement inquiry stated by the Government authority in its notice, or that there has not been substantial compliance with the provisions of this title.

Page 168, lines 13–14, delete "made the requisite showing in" and insert: "complied with".

Page 169, lines 1–2, delete "there is reason to believe that the records sought contain information", and insert: "the Government authority has shown there is reason to believe that the records sought are".

Page 169, line 3, delete "purpose" insert "inquiry".

Page 169, lines 10–11, delete "there is reason to believe that the financial records do not contain any information" and insert: "the Government authority has not shown there is reason to believe that the financial records are".

Page 169, line 12, delete "purpose" and insert "inquiry".

H.R. 13750

By Mr. MICHAEL O. MYERS:

(Amendment to Agriculture Committee version.)

—Page 17, line 8, insert "yeast or" before "citric acid production."

(Amendment to Ways and Means Committee version.)

—Amend page 34, line 6, by adding at the beginning thereof, "As used in this subdivision, "molasses" does not include beet sugar molasses entered under item 155.40 for the purposes of yeast or citric acid production."

H.R. 13850

By Mr. GONZALEZ:

—Page 35, line 2: strike all of line 2 through line 11, at line 11, insert "The" in lieu of "Such".

Page 65, line 4: striek all of line 4 through line 8.

Page 44, line 1, strike "$1,000,000" and insert in lieu thereof $600,000"; and at line 2, strike "$1,000,000" and insert in lieu thereof "$675,000."

Page 48, line 8, strike all after "$10,000" and all of line 9; and page 50, line 19, strike the comma after "$5,000" and insert a period; and strike all of line 20.

EXTENSIONS OF REMARKS

PLIGHT OF THE U.S. FASTENER INDUSTRY

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. VANIK. Mr. Speaker, on September 11 and 12, the U.S. International Trade Commission held field hearings in Euclid, Ohio, on the problems facing the domestic fastener industry—the makers of ferrous nuts, bolts, and screws—due to import competition. This hearing is part of the third effort this industry has made to obtain GATT article XIX escape clause-type relief from import competition, so that they may restructure and rebuild their industry.

I would like to include in the RECORD at this point the testimony of Mr. John J. Lohrman, who spoke on behalf of the U.S. Fastener Manufacturing Group, describing the plight of the industry. The fastener case, whatever its outcome, will be a critical one in demonstrating the effectiveness of the Nation's trade laws, now and in the future.

Mr. Lohrman's statement follows:

STATEMENT OF JOHN J. LOHRMAN ON BEHALF OF THE U.S. FASTENER MANUFACTURING GROUP

Mr. Chairman, and other distinguished members of the International Trade Commission.

I appreciate the opportunity to appear before you today even though my task is a grim one. I must report to you that the condition of the domestic Nuts and Bolts Industry has grown progressively worse since your injury determination nine months ago.

That determination was largely based on economic data for the period 1969 through the first six months of 1977. Since then, we have had 6 plant closings—the latest one occurring in June of this year. Other closings are under active consideration.

The domestic industry—which this Commission placed on the "seriously injured" list last year—is fast becoming a candidate for the "critically injured" list.

IMPORT PENETRATION

Imports have increased from 372 million pounds in 1969 to 717 million pounds in 1977. In the first 6 months of this year, imports registered a 13 percent increase (in pounds) over the corresponding period last year. At that rate of increase, imports will reach 844 million pounds by the end of this year. The rate of increase in imports has averaged 10 percent per year since 1969, while domestic output has declined by an annual average of 2.5 percent. There is no end in sight to this trend, absent Governmental action to provide meaningful import relief.

As this Commission noted in its 1977 Report to the President, imports of bolts, nuts and large screws have increased their share of the domestic market since 1969 regardless of conditions in the economy. In 1939 imports occupied 21 percent of the market. By the end of 1977, the import share had reached 44 percent. Now, the import share of the domestic market stands at 47 percent according to the Commission's figures.

The extent of import penetration is actually worse than these figures show because bolts, nuts and large screws imported under the U.S.-Canadian Auto Agreement are not included in the import figures. An accurate picture of import penetration requires an adjustment in these figures. When that adjustment is made, we find that imports—in pounds—have captured about 50 percent of the U.S. market.

When measured by quantity—that is, pieces—the import share of the U.S. market is overwhelming. On that basis, imports have displaced about 65 percent of U.S. production of bolts and large screws and 82 percent of U.S. nut production.

The composition of these imports has changed over the years in question. At the outset they were concentrated in the smaller, high-volume standard products. Substantial import penetration was first seen in square and hex nuts. As U.S. market dominance in these products was achieved, the attendant economies of scale enabled foreign producers to expand their product lines for export to the U.S. market. By the middle 1970's, substantial inroads had been made with respect to the high-strength structural bolts, locknuts, and cap screws in progessively larger sizes and higher grades.

As the condition of the domestic industry has faltered, foreign producers have intensified their efforts to capture the few remaining segments of the domestic market that we still supply. Thus, at the 1975 United States Design Engineering Show, the Fastener Institute of Japan announced "the main feature of this year is the introduction of special and irregular shaped products with high added value, which show the future direction and expectation of our industry." Such efforts have apparently been quite successful. In the last two or three years, we have seen increased imports of automotive and other special fasteners. We know, for example, that Umebachi Fastener Co. of Japan has been selling large quantities of high tensile specials to the American market. Nippon Steel Bolten Co. has been exporting increased quantities of its patented TCSFS bolt/nut combination to the United States. Other examples of import expansion into the automotive and specials field are shown in Confidential Exhibits 1 and 3.

Perhaps the clearest demonstration of the ability of foreign producers to capture the so-called specials market is the fact that the Specialty Bolt and Screw Manufacturing Co. of Cleveland has recently been certified as eligible for adjustment assistance. Our information is that about 90 percent of that firm's production consists of special products covered by this investigation. In other words, the Commerce Department has found—as of July 31, 1978—that imports of competing products have "contributed importantly" to that firm's injury.

EFFECT ON DOMESTIC INDUSTRY

It must be clear, even to a casual observer, that the impact of the tremendous growth in imports—frequently at prices only marginally higher than our raw material costs—has been destructive to the domestic industry. In order to understand how destructive the impact has been, it is important to recognize that the Nuts and Bolts Industry is highly capital intensive, that its production workers are highly skilled, and that it is fragmented and highly competitive.

The heavy capital component of our industry has a profound bearing on its ability to adjust to unstable market conditions. It means our fixed costs are higher than in most other industries, and that the impact of a prolonged period of low capacity utilization is particularly devastating. The domestic industry is now into its fourth year of operating at aobut half its capacity.

Our capital-intensive nature also means that the risks associated with investment are greater, and that without a reasonable expectation of a profit commensurate with the higher level of risk, investment sources will dry up. Profits in this industry have dropped sharply for three straight years. Last year the average operating pre-tax profits on net sales were only 7.6 percent. We expect industry profits to be even less this year. The real significance of this can best be appreciated by comparing it to the performance of the footwear industry when this Commission found it to be seriously injured. In that case the Commission considered an average pre-tax profit of between 5 percent and 6 percent for that labor-intensive industry to be low. Consider how shattering it is for our industry, which is many times more capital intensive than the footwear industry, to have an average profit only slightly above that level. In terms of capital invested per dollar of sales, the industrial fasteners industry is probably the fifth most capital-intensive industry in the country.

Although we are not labor intensive, our labor component is very important. Most of our production workers are highly trained and highly skilled. It takes a minimum of 18 months, for example, to train a boltmaker operator. This means that a substantial reduction in our skilled labor force represents a substantial loss to the industry. Since 1969 we have lost over 7,300 jobs, or almost 40 percent of our work force. Most of that loss has occurred since 1974.

We are also a very fragmented industry. There are over 100 companies and some 180 plants producing nuts, bolts and large screws in the United States. As you know, such fragmented industries are typically the ones that are most vulnerable to import displacement.

Domestic production remains barely above its 1975 level when the national economy plunged into the deepest recession since the 1930's. In 1977 domestic production was well below any year in the pre-1975 period covered by this investigation. Production in the first 6 months of this year has actually declined from the corresponding period last year.

Since June 1977 there have been at least 6 plant closings, not counting warehouses and other allied facilities, as follows:

(1) July 1977. Federal Steel and Wire Corporation stopped production of track nuts and bolts at its Cleveland, Ohio plant.

(2) August 1977. Bethlehem Steel discontinued corporations at its Lanham Bolt Division plant in East Chicago, Indiana.

(3) September 1977. Stanadyne announced the closing of its bolt and cap screw plant in Elyria, Ohio. Some of the machinery was transferred to another plant; the rest is to be sold or scrapped.

(4) December 1977. Standard Pressed Steel of Jenkintown, Pennsylvania, announced that its Cleveland Cap Screw Division is terminating production of all standard cap screws. This company was the largest American producer of cap screws until two or three years ago.

(5) December 1977. The AVC Corporation shut down its nut-making facility in Cleveland, Ohio.

(6) June 1978. The Fastener Assembly Corporation closed its plant in Troy, Michigan, which had been engaged in the production of ¼" through 7/16" bolts for the automotive industry. The capacity of that plant, which was built in 1973, was 4 million pieces per week.

You will recall that your 1977 Report to the President noted import underselling by as much as 70%. The total delivered cost of imported bolts, nuts and large screws has generally been only marginally above the cost of steel to domestic producers. Such extraordinarily low import prices have caused disruption in the marketplace. As a result, domestic producers are presented with a terrible dilemma. They must either abandon domestic production altogether, or try to offset unprofitable operations with profits from importing activities. This becomes a vicious cycle, however, because of the fixed costs associated with capital-intensive fastener production. As the volume of domestic production drops, unit costs rise, making domestic production even less attractive. This in turn leads to additional substitution of imported products for domestic production and increasingly destructive competition among domestic producers for the rapidly shrinking market left to them.

NEW DEVELOPMENTS

There are a number of recent developments which will further contribute to the continued growth of imports and the continued evaporation of domestic production. One of these is the operation of the Trigger Price Mechanism (TPM). When the adoption of the TPM was announced on February 10th, it was recognized throughout the Executive Branch that its likely effect would be to divert foreign steel into the production of fabricated steel products—such as nuts, bolts and large screws—for shipment to the United States. On the same day the President denied import relief to the Nuts and Bolts Industry.

Experience and common sense tell us that the Triggering Price Mechanism (TPM) created an added incentive for the export of fasteners to the United States. Bolts, nuts and large screws offer an ideal conduit for exporting steel outside the restraining effect of the TPM. This was clearly demonstrated in the 1969–1974 period when the Voluntary Restraint Arrangements on steel were in effect.

Another important development is that Taiwan has recently become a producer of wire rod—the raw material from which nuts, bolts and large screws are made. Previously, Taiwanese fastener producers were heavily dependent on Japanese wire rod, as the Commission's staff memorandum of July 31, 1978 noted. That is no longer the case. We have recently obtained a 1975 report on the Taiwanese fastener industry which states:

"Japan is the normal source for raw material and quality is good. There is a local scrap-based steel industry but quality was described as poor. A major new steel complex is under construction in Koohsiung by a German-American consortium and this should make the island substantially self-sufficient by around 1977."

That facility is now on stream, as evidenced by the fact that imports of wire rod from Taiwan first began to show up in U.S. import trade statistics in the first half of this year. You will recall that in the 1977 hearing the spokesman for the Taiwanese fastener industry testified, in effect, that wire rod from Japan was being purchased at dumping prices, thus giving the Taiwanese fastener industry a considerable cost advantage. Taiwan now has the choice of its own low-priced fastener steel or bargain-priced steel from Japan.

It is important to note that in 1978, United States trade with Canada in bolts, nuts and large screws is in a substantial deficit position after many years of surplus. On the basis of official statistics for the first six months of this year, the deficit should be about $9.6 million by the end of 1978—as compared with a $7 million surplus last year and a $22 million surplus in 1975.

We have also learned from several sources that Korea has embarked on a major program to expand its fastener production with a view toward entering the U.S. market on a large scale. Confidential Exhibit 2 provides details on this development.

A few comments on the question of yen appreciation are in order. The Commission's staff memorandum of July 31 pointed out—quite correctly—that 25 percent of the yen appreciation effect on fasteners is offset by lower costs for Japanese steel attributable to raw materials purchased in dollars. Past experience also shows that the pricing of Japanese fasteners does not follow exchange rate fluctuations. Thus, the average unit values of Japanese bolts, nuts and large screws for all of 1977 were unchanged from the average unit values in January of that year, despite a 20 percent rise in the yen. This indicates rather strongly that Japanese fastener export pricing tends to be manipulated in a manner unrelated to cost, just as it was in the 1973–1975 period.

There are two other factors that further reduce the significance of the yen appreciation. First, the domestic Nuts and Bolts Industry has experienced cost increases of between 10 percent and 15 percent within the last 12 months. Second, Japanese fastener exporters have received special benefits under the High Yen Rate Measures Law which came into effect in February of this year. That program is designed to help compensate certain exporters for the adverse effects of the yen appreciation. We understand that about 300 fastener producers in Japan have received such benefits. It may be only a coincidence, but according to this Commission, there are 300 Japanese fastener companies that produce exclusively for the U.S. market.

In any case, imports of bolts, nuts and large screws from Japan during the first six months of 1978 were above their level for the same period in 1977. Under a system of floating exchange rates, the values of different national currencies in world money markets can experience sharp fluctuations over short spans of time. Because of recent Administration commitments to strengthen the value of the dollar, one can reasonably expect that the yen will depreciate against the dollar in the future. Finally, any slowing in the growth rate of fasteners imported from Japan has been more than offset by accelerated growth in imports from other countries, such as Taiwan, Canada and India.

On the subject of administrative guidance, we have made inquiries in Japan and learned that as of August 31 of this year, no export cartel had been formed. See Attachment A. Such a cartel would not solve our import crisis, anyway. I must say, in all candor, that we in the domestic industry take this talk of administrative guidance with a large grain of salt. For example, we are advised by the Office of Special Trade Representative early this year that MITI officials, pursuant to exploratory discussions initiated by U.S. trade officials, rejected the idea of an orderly marketing agreement because it was not administratively feasible in light of the large number of Japanese fastener producers. If it is true that an OMA cannot be enforced by Japan, then it is doubtful that "administrative guidance" can be enforced.

CONCLUSION

In this Commission's 1977 Report to the President two Commissioners determined that the domestic industry was experiencing serious injury at that time. One Commissioner determined that the industry was faced with an imminent threat of serious injury because of rising imports. Subsequent events have obivously validated the Commission's determination. Surely, the threat perceived by Commissioner Moore has come to pass. What Commissioners Bedell and Minchew saw as serious injury even then has grown markedly worse. In retrospect, we can say that all the dire predictions of the domestic industry have proved all too accurate.

We respectfully ask this Commission to determine, once again, that imports of bolts, nuts and large screws are increasing and are a substantial cause of serious injury to the domestic industry producing these products. We further urge that the Commission make a strong recommendation for import relief to the President.

REMEDY

In our judgment, the formulation of a remedy should be governed by the following principles, given the nature of the injury concerned and the nature of this industry.

1. The remedy should have sufficient restraining effect to give the domestic industry a real prospect of a substantial increase in the volume of production over the next 5 years.

2. Because of the longer planning time needed in this capital-intensive industry, the remedy should remain unchanged for the full period permitted by the statute—5 years.

3. The remedy should provide a high degree of certainty so that import prices could not be manipulated to frustrate the intent of the remedy, which is to permit a substantial increase in domestic production of bolts, nuts and large screws.

We think that the remedy, which Mr. Nehmer will describe in detail, would best conform to those principles.

Note: Attachment B briefly describes Japan's government-industry program to promote the export competitiveness of its fastener industry in the 1960's. Attachment C is the domestic industry's evaluation of the President's statement of reasons for rejecting the Commission's recommendation for import relief. We feel these materials should be part of the Commission's record in this proceeding.●

REPRESENTATIVE TIM LEE CARTER LAUDED

HON. JACK EDWARDS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. EDWARDS of Alabama. Mr. Speaker, over the years our own "doctor in the House," Tim Lee Carter, has often come to the aid of many of his fellow Members in need of medical help or advice.

A story in the Saturday, September 23, Louisville, Ky., Courier-Journal tells of another instance where Representative Carter has acted as a good samaritan. I offer that story for the Record:

Rep. Carter Gets Credit for Saving Woman's Life

Washington—The maitre d' at the San Souci, one of Washington's fanciest restaurants, says he'll never have any trouble recognizing U.S. Rep. Tim Lee Carter.

The Republican from Kentucky's 5th District has become a memorable figure at the restaurant, Paul Delisie said, because Carter saved the life of a woman guest who was choking on a piece of food last week.

"He did a very, very beautiful job," said Delisie, who has been the maitre d' at the San Souci for 16 years. "I think he saved her life."

Carter is one of two physicians in Congress, and the only one who has been a general practitioner.

The incident happened this way, according to Delisie and Johanna Schrambling, an aide to Carter.

A woman in her mid-30s, seated at a table near Carter and his wife Kathleen, began choking on a piece of food.

A waiter yelled for a doctor, and Carter rushed to the woman's side.

Pulling her from her chair, he grabbed her from behind, locked his arms around her and lifted her in a sharp, quick motion.

That, according to Ms. Schrambling, forced the woman to exhale sharply, dislodging the food stuck in her throat. The method, Ms. Schrambling said, is a standard one called "Heimlich Technique."

Delisie said he gave Carter a half bottle of wine for his efforts—and a standing offer of another if and when he returns.

The woman—whom Ms. Schrambling declined to identify—wrote Carter this week expressing her thanks.

"I was well aware that I needed knowledgeable fast help," the woman wrote. "And as soon as you took charge I felt a surge of hope."

Delisie said he didn't know the woman's name.●

IS THE LACK OF ADEQUATE ENFORCEMENT OF EXISTING LAWS THE FACTOR IN TOXIC SUBSTANCE THREATS TO THE ENVIRONMENT AND PUBLIC HEALTH?

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. KEMP. Mr. Speaker, last week I brought to the attention of my colleagues the first in a series of articles from the Buffalo Courier-Express on the extent of serious environmental contamination and the threat to public health arising from the improper disposal of toxic and hazardous substances.

That first article dealt with the extent of the problem, in terms of both the hazard and the national geographic distribution of it. It is indeed a national problem.

I wish to bring to the attention of the House this afternoon two additional articles from that series, one researched and written by Michael Desmond. These additional articles have a common denominator: The suspicion that the most serious problem in the control and disposal of these substances is the lack of adequate enforcement of existing laws, particularly Federal ones.

Our country has a Toxic Substances Control Act on the books. We also have a Safe Drinking Water Act, a Federal Water Pollution Control Act and program, and a Federal Air Pollution Control Act and program. Of particular importance here, we have the Resource Recovery and Conservation Act. Most of "the action" in the implementation of these statutes rests with the Environmental Protection Agency.

Unfortunately, according to these articles, the implementation has too often been the nonimplementation. Despite increased pollution in our water and air and increased burdens on our sewage treatment plants, the disposal of this kind of waste product has not been a priority with EPA. These articles detail the results of this lack of adequate enforcement of existing laws and point toward that being an area, perhaps the area, where we need to intensify most of the total effort.

The articles speak for themselves:

[Buffalo Courier-Express, Sunday, September 17, 1978]

EPA Slow in Fighting Chemical Peril: Behind Schedule in Writing Rules

(By Michael Desmond)

The federal Environmental Protection Agency is so snarled in its own bureaucracy that it apparently has not yet realized it is at war with a deadly enemy: The mountains and rivers of toxic wastes that are threatening the nation's health and safety.

There is no other way to explain why fewer than 200 of EPA's nearly 11,000 employees have been mustered to fight the chemical foe.

The building in which the EPA is located in Washington, D.C., is a perfect match for the agency—almost totally confusing.

The structure, called the Waterside Mall, is a mixture of two towers with a low slung office and shopping section connecting them. Visitors are issued maps to try to help them around the complex and EPA workers admit they frequently get lost themselves.

EPA is a young agency with burgeoning responsibilities. It is supposed to do everything from checking gas mileage on cars to controling the dumping of hazardous chemicals into the environment.

UNDER ATTACK

Nearly everything the agency does is controversial. Industry attacks EPA because proposals are too expensive. Environmentalists attack EPA because the agency isn't moving fast enough. Citizens attack EPA for not doing something about myriad problems.

And, even in an era of big government, EPA is big government.

Douglas M. Costle has been administrator of EPA since March 5, 1977.

In the federal fiscal year which start October 1, EPA will spend $1.2 billion. There are 10,946 budgeted EPA employes. Yet, only $25.2 million will be for hazardous wastes, and only 161 workers—in headquarters and in the 10 regional offices—are working on the problem. Of the $25.2 million, $15 million is going to the states to help them look into the problem.

Environmental groups have sued EPA for administrative sloth. On April 21, the agency was supposed to release regulations to put the Resource Conservation Recovery Act (RCRA) into effect. This was 18 months after President Gerald R. Ford signed the legislation into law. But EPA is 21 months behind schedule.

RCRA has three main goals. They are the encouragement of conserving resources rather than disposing of them; impoving the disposal of all solid wastes to protect public health and environmental quality; and, regulating hazardous wastes from generation to disposal. The laws encourage states to act on their own. But if they don't EPA will enforce the act.

TARGET DATE

Gary Dietrich, associate deputy assistant administrator for solid waste for EPA, told The Courier-Express in his Washington office the current target for "promulgation" of the regulations is January 1980. He called that schedule "pretty damn tight" at the present rate of progress.

Neither the State of Illinios nor the dual group of the Environmental Defense Fund (EDF) and Environmental Action (EA) have much sympathy for EPA.

Illinois Attorney General William J. Scott sued EPA on September 7 over its failure to produce the regulation. He said:

"We've got to provide safe means for storage and disposal of toxic wastes in order to both serve our industry and to protect the health of citizens. We can do it, the law is on the books, and now is the time for the federal government and its employees to live up to the law and act." "The threat to health posed by hazardous waste is clear," said EDF Science Associate Leslie Dach.

"Unless properly taken care of, it will come back to haunt us and our children," the EDF official continued.

MAJOR PROBLEM

A. Blakeman Early, a legislative representative for EA, noted, "One major problem is that those disposal site operators who know they can not meet EPA's regulations are loading toxic, poisonous wastes into their sites as fast as possible before these regulations are issued. The longer EPA waits to issue regulations, the more the toxic disposal problem grows."

Dach of EDF asked, "EPA acts as if the law were a meaningless scrap of paper. They sit around while nearly two billion more pounds of poisons are unsafely disposed of every week. How many more Love Canals do we need to get some action?"

"The "Love Canal" refers to a former chemical waste dump in Niagara Falls. In 1976, for reasons which are not yet clear, the dump began to leak high concentrations of chemicals, some of which cause cancer in humans and laboratory animals. New York State is committed to moving 237 families away from the area and cleaning it up.

A number of other groups are expected to sue EPA over its failure to issue new tough regulations.

LAW'S DELAY

Companies in the waste disposal field are reluctant to invest in new facilities to handle hazardous waste because they don't know if the facilities will meet the EPA regulations to be issued in 1980. Earlier proposed regulations have already been drastically changed and there will be more changes.

The money to go into hazardous waste management can be significant. Edward R. Shuster, vice president marketing sales for Newco Chemical Waste Systems Inc., in Niagara Falls, told The Courier-Express it might cost $20 million to just build one incinerator which could properly handle the widespread pollutant PCB.

Carl Goslin. assistant technical director of the Manufacturing Chemists Association (MCA), in Washington, commented. "It takes $10 million to build a properly designed plant—at an off hand estimate."

The MCA is the trade group for the great chemical companies.

There is no great rush into a field which remains so uncertain, without the final rules and regulation.

Much of the EPA effort has been fire fighting. Agency officials and workers are constantly being sent into areas where chemical situations have gone haywire.

In the old textile town of Lowell, Mass., a bankrupt chemical storage and treatment company site is leaking toxic chemicals into a nearby river which provides water for Lawrence, Mass. downstream. There are estimated to be 15,000 drums of a wide variety of chemicals on the site and hundreds of thousands of gallons of chemicals in storage tanks.

BIDS ASKED

Various chemical waste treatment companies have been asked for bids on cost of removal of the materials and cleanup of the site.

Even without the long-delayed regulations, EPA is stumbling into action. In the fiscal year which ends Sept. 30, the agency has given $3.8 million to states to survey chemical wastes and their ultimate disposal. In the fiscal year which starts Oct. 1, that will rise to $15 million.

According to Dietrich, EPA has to do this. "The statute is silent on inactive sites. It seems to deal with prospective problems," he noted. So, EPA is doing nothing itself about closed sites.

The view draws fire. Early, of Environmental Action, scoffs. "It's a reaction to realization that there are more wastes out there than EPA can handle," he said. This group is part of the coalition which sued EPA on Wednesday.

Some of the same groups sued EPA earlier over its failure to issue regulations under the Safe Drinking Water Act of 1974. Under a consent decree, the agency is still working to study list of 129 pollutants.

CONTROL METHODS

EPA has been required to establish methods for control and analysis of toxic substances in waste water. When the agency failed to do it, it was sued. On June 7, 1976, EPA signed the consent decree agreeing to do what it was supposed to do.

Of the 129 chemicals, it has finally reached a decision on how it will analyze all of them. Now, it plans to start measuring them at various places around the country. Then, based on the results, rules and regulations will be written.

Since EPA can't meet various deadlines in the consent decree, Early commented to The Courier-Express, "It raises the question of what can be done with a lawsuit." He noted the agency is 18 months late on the consent decree.

Much of the problem is that many of these chemicals have been used for years, without anybody knowing very much about them. Now sophisticated procedures have to be used to set limits on them in water.

EPA is also facing some internal problems. Environmentalists claim some of its regions are not very active in dealing with the problems of hazardous chemicals.

One region often cited is that headquartered in Dallas which covers Texas, Oklahoma, New Mexico, Louisiana and Arkansas. This is the heartland of America's petrochemical industry.

Dietrich noted a recent telephone conference among all regional directors to discuss the hazardous waste situation and a planned meeting this month in Washington. He wants all regions active on the problem.

But the regional structural weaknesses of EPA were clear when he commented, "We at EPA headquarters don't know how many hazardous waste sites there are out there." He said it was up to the states and the regional offices to know, but most of them don't know either.

In an admission that cuts to the heart of the entire problem, Dietrich said, "We don't know very much about where people are tossing hazardous wastes."

[Buffalo Courier-Express, Sept. 19, 1978]

Public Frets Over EPA "Laxity" on Dump Sites

(By Michael Desmond)

The federal Environmental Protection Agency is delaying more and better treatment of chemical wastes because of its tardiness in setting ground rules for the industry.

The federal Resource Conservation and Recovery Act (RCRA) of 1976 was designed to manage hazardous and chemical waste. But EPA, headed by administrator Douglas M. Costle, has not yet told potential investors what rules and regulations will be on waste handling. The act required the regulations to be written by April 1978. But EPA said it will not complete the work until 1980.

Sophisticated waste treatment is a small but growing field, facing growing opposition by neighbors of treatment plant sites.

Citizens are worried that the waste treatment plant set up in their neighborhood will go broke and leave behind lakes of chemicals and drums of unknown materials to pose a health threat.

There is reason for that kind of worrying:

Michigan recently spent $700,000 in Pontiac cleaning up 20,000 drums of toxic wastes after Ankerson Resource Recovery Systems went broke.

The Coast Guard has just spent $1.9 million in Oswego, cleaning up liquid wastes after Pollution Abatement Services (PAS) went out of business.

New York State's proposed supplemental budget includes $750,000 to be used to find out what is in the PAS drums and how much it will cost to process the wastes. The drums are split between Oswego and a warehouse in nearby Mexico, N.Y.

MAKE CLAIM

Companies in the waste treatment field claim that wastes can be "properly" disposed of. But, none says it's easy. And no one can say "permanently."

There is considerable skepticism in the industry about buried wastes. No matter how well designed and how well built the waste burial vaults are, no one is really certain how long they will last.

What burying the waste really does is leave today's problems for future generations.

TRADE GROUP

"When you get in that business, you have to be in the business of running a chemical plant," according to Carl Goslin, assistant technical director of the Manufacturing Chemists Association (MCA). The MCA is a trade group for chemical producers in Washington, D.C.

Goslin once ran a waste treatment site in Delaware. Since chemicals are going in and chemicals are going out, a treatment plant must be operated as if it were an initial maker of chemicals.

Proper disposal of chemicals and waste which cannot be turned to another use will cost a lot of money.

"We are going to have the costs of disposal built into the cost of the item," remarked Dr. Charles A. Johnson, technical director of the National Solid Waste Management Association. But one thing is for sure: the consumer will foot the bill.

No one can tell what the extra cost will be.

LOBBYING GROUP

Johnson's association is a lobbying group in Washington for the entire solid waste industry. A small segment of the group handles hazardous and chemical wastes.

Johnson admits the federal Resource Conservation and Recovery Act could be a real boon to his group's members in the chemical field. That is, if the EPA ever gets the regulations out to implement the law. EPA announced on Friday that it will issue its regulations in Jan. 1980—21 months late.

The regulations were due in April, 18 months after the RCRA became law.

On Sept. 7, Illinois Attorney General William J. Scott filed suit against the EPA for its failure to put the regulations into effect.

Last Wednesday, also in Federal District Court in Washington, two activist groups, Environmental Action and the Environmental Defense Fund, also sued EPA for the lack of regulations.

RELUCTANT TO INVEST

Without the rules, companies are reluctant to invest in the treatment field because the investments might wind up in violation of the final rules.

At the same time, the rules will guarantee the existence of the waste treatment industry. Basic to RCRA is the idea that the company which generates waste is responsible for whatever happens to it. Under the law, the company must prove its waste was properly disposed of in an approved site.

There will be much less opportunity for "midnight haulers," the clandestine operators who spill wastes into sewers, roadside ditches, drinking water sources or whatever.

CAN COP OUT

Now, chemical waste producers can simply cop out by saying to federal or state investigators they had hired a reputable hauler. The producers can claim to have no responsibility for later illegal disposal.

Jim Hunt, who oversees licensing of waste haulers for the Indiana Board of Health, noted:

"We don't have the controls or manpower to get totally on top of the problem. While this state has a liquid industrial wastes control program, there is still much illicit traffic. It is widespread, with a lot of interstate movement, and difficult to trace."

Basic to the whole problem is that no one really knows how much hazardous waste is generated, exactly where it goes or even exactly how to define hazardous waste.

ONLY 6 PERCENT

EPA throws around estimates of 98 billion pounds a year, with 80 percent going into on-premises factory sites and the other 20 percent going into the 20,000 private dump sites. Only 5.6 billion pounds are properly disposed of, EPA admits. That's only 6 percent.

Hazardous waste obviously include waste which can cause cancer, can cause birth defects, and cause genetic defects or even cause immediate death. But, there is also waste which can explode or waste which is dangerous only in very high concentrations.

Reputable waste treatment operators offer a variety of services.

PICK IT UP

Initially, they test to see exactly what it is a waste generator wants handled. If it is something the treatment firm can handle, the plant can even pick it up. When the material arrives, it is checked again to make certain it is what it is supposed to be.

Proper analysis should clear any obscurities caused by the use of chemical trade names which do not indicate the actual chemical.

Waste treatment firms maintain elaborate facilities for electronic, mechanical and chemical tests of waste to make certain the firm knows what the stuff is.

Some waste must simply be burned. The federal government requires that liquids of the highly toxic PCB family be burned in incinerators which can maintain a temperature of 2,100 degrees Fahrenheit for long periods.

PILING UP

Since not a single public incinerator in the country is licensed to do that, PCB is piling up all over the country. or, it is being illegally dumped.

EPA estimates that one million gallons a year of liquid PCB waste will be produced for the next 25 years. Disposal firms are unwilling to invest in building incinerators until the EPA issues its long-delayed regulations.

Some materials must be buried in "secure landfills." These aren't just dumps any more, as the Love Canal in Niagara Falls really was. Electrical materials made with PCB in solid form can be buried in secure landfills.

CAN BURN WASTE

Liquid wastes are handled differently. Treatment depends on exactly what they are. C. Edward Ashby, vice president/eastern region for Rollins Environmental Services Inc., Bridgeport, N.J., said his disposal firm can burn waste which is 99 percent water. Because of the possibility of a patent application, Ashby won't say how But apparently it involves using heat from the incinerator process to boil off most of the water in the incoming waste.

Right now, however, Rollins can't use the Bridgeport incinerator: Last December, an on site explosion of disputed cause killed six persons and knocked it out of service.

Some liquid wastes are mostly solvents, chemicals used to dissolve other chemicals. Through chemical treatment, some of these solvents can actually be cleaned and put back into use. Some solvents are cleaned and then simply used as fuel because it is not economically attractive to reuse them as solvents.

DIRTY WATER

Many wastes have a lot of water in them. Sometimes a "flocculant" can be added which turns the contaminant into residue, leaving dirty water. The residue is left to dry and then buried in a landfill. Sometimes various forms of bacteria can be put into the water which will literally eat the waste material.

Whatever liquid waste treatment process is involved, large amounts of water are produced which also must be cleaned. The water is pumped through giant tanks of activated carbon to remove organic wastes. Then, it is aerated to provide oxygen for bacteria and cleaning. Finally, the clean water is released.

FEARS ABOUND

But, people are afraid of places where solid hazardous waste is actually buried. Their fears are not without reason, The Courier-Express has found.

The little town of Wilsonville, Ill., fought and won a battle to get rid of a chemical waste dump in an abandoned coal mine there. Mrs. Gwen Molinar, a village trustee, explained to The Courier-Express:

"We've got a good water supply out there. There's no contamination yet. You know how you get the it's-all-right . . . now . . . feeling."

CHEMICAL GLOSSARY

PCB—The term used to describe about 200 chemicals known as polychlorinated biphenyls. They are used in the electrical industry and in plastics. Manufacture is now banned. They cause liver damage to humans and have a variety of bad effects on fish and wildlife.

Calcium Chloride—A salt familiar to the average person in small white pellets used during the winter to melt snow instead of rock salt. It is also used on dusty roads to keep down the dust.

Flocculant—One of various materials used to form a small solid particle out of contaminated water. For example, flocculants thrown into sewage will precipitate out solids in the waste, leaving much less contaminated water.

Acetylene—A gas originally produced by mixing water and calcium carbide. It is used in cutting torches and some safety lamps. After the gas is given off, a wet lime sludge is left for disposal.

Lime—A usually white solid material. It is usually produced by burning limestone. It can be produced in making acetylene. Lime is frequently used for soil conditioning.

Gypsum—Usually found in almost a rock form. When waste gases from burning coal which contains sulphur is mixed with lime, gypsum is produced. Gypsum is usually used for making wallboard.

LETTER TO THE PRESIDENT ON NICARAGUA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. McDONALD. Mr. Speaker, from the behavior of our State Department and indeed the executive branch, it is safe to conclude that its immediate objective in Nicaragua appears to be the removal of President Somoza. While the Department of State claims it just wants the shooting to stop, the kind of neutrality it is exercising dignifies the Sandanista guerrillas and their Marxian goals. A cursory perusal of pronouncements and news coverage from Washington would, therefore, lead to the conclusion that everyone is agreed that Somoza should go and turn the country over to these Cuban-inspired and directed terrorists. In order to let the President know that we do not all agree with this policy, the following letter was sent to the White House, Friday, September 22, signed by 78 Members of Congress, stating that we should not abandon our friend and ally. Members wishing detailed information on the reasoning behind this letter should consult the special order of last Friday, conducted by the gentleman from New York, Mr. MURPHY. It is found on pages 30750 through 30785 of the CONGRESSIONAL RECORD of September 21, 1978.

Below is the text of the letter, together with a list of the signers.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 22, 1978.

Hon. JIMMY CARTER,
President, The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Irrefutable evidence amply documents the fact that the campaign of violence, urban terrorism and near civil war in Nicaragua is being carried out by a revolutionary group whose leaders have been trained in Havana and Moscow and whose goal is to make Nicaragua the new Cuba of the Western Hemisphere.

We urge you to do your utmost to demonstrate the support of the United States Government for the Government of Nicaragua and President Anastasio Somoza, a long and consistent ally of the United States.

In the absence of expression of United States support for the Government of Nicaragua, and indeed with some expression of hostility toward Nicaragua, some sectors of Nicaraguan citizens have begun to collaborate with the Marxist revolutionaries. Should the lawful Government of Nicaragua fall, the Marxist terrorist forces would be the chief beneficiaries. Our country would certainly lose a long-standing and loyal ally.

We ask you to take immediate steps to correct the misguided application of your policies by the Department of State, particularly regarding unsubstantiated and erroneous allegations against the government of Nicaragua.

We further urge you to come publicly to the support of the Government of Nicaragua during this period of crisis.

Sincerely,

John M. Murphy, Charles Wilson, John M. Ashbrook, John J. Flynt, Jr., Larry P. McDonald, Eldon Rudd, Philip M. Crane, J. Kenneth Robinson.

Bob Stump, Doug Barnard, Billy Lee Evans, Dawson Mathis, Del Clawson, Edward J. Derwinski, Tom Hagedorn, David C. Treen, Dan Marriott, Gene Taylor, Robert W. Daniel, Jr.

Steven D. Symms, John H. Rousselot, Robert E. Bauman, Marjorie S. Holt, Richard Kelly, James M. Collins, Robert K. Dornan, Carlos J. Moorhead, John E. Cunningham, Clair W. Burgener, Dan Daniel.

Richard T. Schulze, Carroll Hubbard, Jr., Charles E. Grassley, Thomas N. Kindness, Robert L. F. Sikes, Larry Winn, Jr., Bill Nichols, G. V. (Sonny) Montgomery, Floyd Spence, Ronald M. Mottl, Gene Snyder.

Robert J. Lagomarsino, George Hansen, Joe D. Waggonner, Jr., Bill Chappell, Jr., John T. Myers, Trent Lott, Harold Runnels, Marilyn Lloyd, William C. Wampler, Mendel J. Davis, Don Young.

Ralph H. Metcalfe, Leo C. Zeferetti, Michael O. Myers, Robert L. Leggett, David E. Satterfield, Samuel S. Stratton, Fred B. Rooney, Joseph G. Minish, Edward J. Patten, John Paul Hammerschmidt, David R. Bowen, Henry J. Hyde, Robert S. Walker.

Mario Biaggi, Morgan F. Murphy, Frank Annunzio, Melvin Price, Jim Wright, Bill Alexander, John Breaux, Elwood Hillis, Benjamin A. Gilman, Robert E. Badham, W. G. (Bill) Hefner, Tim Lee Carter, Delbert Latta.●

LOOK AT WHAT'S HAPPENING IN PUERTO RICO: TAX RATE REDUCTIONS TO RESTORE THE ECONOMY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1978

● Mr. KEMP. Mr. Speaker, Gov. Carlos Romero Barcelo of Puerto Rico has shown decisive leadership in restoring that island's economy.

Governor Romero has announced that a 5-percent surtax enacted in 1954, known among the people as La Vampirita or the little vampire, will be abolished and that there will be a 10-percent cut in all income tax rates next year.

The Governor has embraced the tax rate reduction views reflected in the Laffer curve and the legislative approach embodied in the Kemp-Roth Tax Rates Reduction Act.

The role of taxes in producing economic growth or stagnation is not new to Puerto Rico. It has had its experiences firsthand with the incentive and disincentive effects of tax rates. When the strong growth of the Puerto Rican economy of the 1950's and 1960's collapsed in the early 1970's, a committee of American economists, bankers, and financiers convinced Puerto Rico to raise its taxes. It did and things did not improve. In 1976 the voters threw out the incumbent Governor and his political party. Governor Romero came into office on the campaign pledge of eliminating La Vampirita and reducing other rates. After experiencing no growth from 1974 through 1976, the economy under Governor Romero has expanded, last year by 5 percent.

The Puerto Rican economy is headed toward a full recovery. If the Governor is successful in getting his tax program fully enacted, there is no doubt of it. That will prove the Laffer curve to be right, as well as the Kemp-Roth approach to Federal tax rates.

An interesting and informative commentary on the Puerto Rican experiment in tax rate reduction appeared in the current issue of Forbes magazine, and I commend it to everyon's attention:

[From Forbes, Oct. 2, 1978]

LOOK AT WHAT'S HAPPENING IN PUERTO RICO

Economists and financial observers have ridiculed the Kemp-Roth bill (which would cut income tax rates 30% over three years at a projected cost of more than $100 billion), as well as the work of the economic guru behind it, University of Southern California Professor Arthur B. Laffer. Laffer says the lower taxes will stimulate the economy and would soon lead to even higher government revenues. Critics respond that Kemp-Roth would only exacerbate inflation.

But while Laffer is disdained in the U.S., his type of thinking is being embraced by Puerto Rico.

Since taking power 20 months ago, Governor Carlos Romero has been vigorously chopping away at the island's taxes. Two weeks ago he announced that a 5% surtax enacted back in 1954 would be abolished, and that next year there would be a 10% cut in *all* income tax rates.

If Romero's cuts work as expected, there will certainly be more of them. Puerto Rico has, in effect, become Laffer's laboratory, and this writer is betting that the results will confound the critics, that Professor Laffer will get the last laugh.

BAD ADVICE

In the 1950s and 1960s Puerto Rico experienced a German-like economic miracle. But in the early 1970s the economy sputtered and then, with the quadrupling of oil prices, economic growth disappeared.

The initial response of the Commonwealth's government compounded the island's problems. At the behest of a blue-ribbon committee of American economists, bankers and financiers, Puerto Rico raised taxes in 1974. The theory was that the increased exactions would reduce inflation and dampen consumer spending, which was considered "bad." Business investment was regarded as "good," and there were no new levies there.

The program was a flop. The economy continued to "sit down," as Puerto Ricans put it. In 1976 voters threw out the incumbent governor and his long-dominant party.

Thanks in large part to Romero's tax-cutting moves, Puerto Rico's economy is perking again. After experiencing no growth in 1974-76, it expanded almost 5% last year and should do even better this year.

What makes the new governor's Laffer-like actions the more noteworthy is that under the Commonwealth's constitution the budget must be balanced. Carlos Romero has little margin for error.

The governor has also raised eyebrows by slightly raising corporate taxes. He isn't, however, antibusiness. Says Laffer: "For a healthy economy, you should have a better balance of taxes on labor and business."

One need only look at the U.K. to see the truth of that. Britain, like Puerto Rico, has draconian taxes on personal income. Britain also has just about the most liberal corporate investment incentives in the West. Result: stagnation.

Puerto Rico bears close watching now, especially by the more conventional economists whose thinking still dominates U.S. economic policymaking. It is they who may deserve searching criticism, not the backers of Kemp-Roth.

AND BACK HOME . . .

The Kemp-Roth critics are overlooking inflation, Social Security and politics.

Thanks to inflation, personal income taxes will rise over $30 billion in the next three years. Social Security taxes are also slated to go up more than $30 billion. Corporations, because of inflation's impact on inventories and depreciation, will be overpaying Uncle Sam by about $30 billion during the same period. That adds up to more than $90 billion.

The Kemp-Roth reductions hardly seem unreasonable in the face of that.

As for the idea of reducing spending before lowering taxes, history shows how difficult it is for politicos to resist interest-group pressures to increase budgetary outlays. Given political realities, the best way to curb spending is to cut taxes.

Would Kemp-Roth lead to more inflation by reducing federal revenues? Unlikely. There have been 11 tax cuts since World War II. Within two years of every one, revenues were higher than before the reductions.●

CAPT. DALE G. ACKERSON—NATIONAL COMMANDER, DISABLED OFFICERS ASSOCIATION

HON. GARRY BROWN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. BROWN of Michigan. Mr. Speaker, it is with great pride that I bring to the attention of my colleagues the selection of one of my constituents; namely, Capt. Dale G. Ackerson, USAAF (Retired), as the national commander of the Disabled Officers Association.

Captain Ackerson was selected the association's new national commander at its biannual convention, which was held in Kalamazoo, Mich., earlier this year. As you know, the Disabled Officers Association is the second oldest national veteran's organization, having been preceded by the American Legion by only a few weeks—both having been established in 1919.

Captain Ackerson not only was elected at the convention held in Kalamazoo, but is also a resident of Kalamazoo and is the assistant director of placement at Western Michigan University in that city.

Captain Ackerson served as a member of the 670th Squadron, 416 Bomb Group, in the European Theater of Operations, his service having extended from January 27, 1943, to October 18, 1946. He is the recipient of the Silver Star, Purple Heart, and Air Medal with two clusters, having suffered severe injuries when the aircraft for which he served in the dual capacity of bombadier/navigator was hit badly over Germany during World War II, in which incident the pilot of the aircraft was also seriously wounded. Nevertheless, Captain Ackerson successfully landed the aircraft in a field near Bastogne, Belgium, where he and the pilot lay for some 18 hours during the Battle of the Bulge before being rescued.

Mr. Speaker, I am sure my colleagues join me in extending my sincere congratulations to Captain Ackerson upon his election as the national commander of the Disabled Officers Association and in expressing my thanks and appreciation for the extreme contribution he has made in his service to this country. I am sure we all wish him much success as the national commander of this respected organization.●

VIETNAM VETERANS READJUSTMENT ACT

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. DODD. Mr. Speaker, yesterday the Vietnam era veterans in Congress introduced the Vietnam Veterans Readjustment Act, which is the first comprehensive bill ever introduced to address the problems of our Nation's Vietnam veterans.

As a member of the Vietnam era veterans caucus I am hopeful that this legislation will help put these veterans who served in an unpopular war on equal footing with our veterans from other wars. The Vietnam Veterans Readjustment Act addresses the unresolved health care, educational, employment, and housing needs of our Nation's 8.8 million Vietnam veterans.

H.R. 14164 seeks to improve the educational opportunities for Vietnam era veterans by extending the delimiting date for GI bill benefits, and providing for a tuition equalizer that compensates for high tuition areas of the country. This legislation also provides for a repeal of the State matching requirement for loan forgiveness.

This legislation provides encouragement to employers to employ Vietnam veterans by providing a tax credit for employers hiring these veterans, and providing for the use of GI bill education benefits for job vouchers.

In the area of health care, this bill provides for the greatly needed establishment of a psychological readjustment program and drug and alcohol abuse treatment. Vietnam veterans will be permitted to obtain counselling services at non-VA facilities. The bill provides for the creation of a patient representative for all VA hospitals under the jurisdiction of the General Accounting Office.

H.R. 14164 authorizes startup costs to States to establish low-interest housing loans.

Finally, the bill commissions a study that renews the mandate of the Bradley Commission, directing the commission to make a comprehensive study of the structure, scope, and administration of the laws providing benefits to Vietnam veterans and their dependents.

The Vietnam Era Veterans Readjustment Act will provide the greatly needed opportunities for these veterans to readjust to civilian life. I hope that you will join the members of the caucus in supporting this comprehensive legislation.●

OPENING THE U.S. CAPITOL TO DISABLED PERSONS

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. BRADEMAS. Mr. Speaker, there are millions of people in our country with physical disabilities for many of whom much of our society remains closed. One of the major obstacles to their participation in society is that they cannot easily have access to buildings. It is, indeed, for this reason that Congress has on several occasions acted to discourage in public programs, buildings, and transportation systems, the barriers that keep out the disabled.

For example, in passing the Architectural Barriers Act of 1968, Congress required that all federally leased or financed public buildings be designed for accessibility to physically handicapped persons. This law authorized the General Services Administration to set standards for such accessibility.

Congress took two other important steps in this regard with passage of the Rehabilitation Act of 1973.

This law established an Architectural and Transportation Barriers Compliance Board with authority to insure compliance with the accessibility standards required by the Architectural Barriers Act.

The legislation also provided that no otherwise qualified handicapped individual should, solely by reason of his disability, be excluded from participation in any federally financed program or activity. This provision is contained in section 504 of the act.

Federal regulations to implement this section require recipients of Federal funds to identify in their facilities architectural features that pose barriers to disabled persons. Recipients are further required either to remove these barriers or otherwise insure that the barriers do not prevent disabled persons from participating in the programs.

Mr. Speaker, I should like to call attention to efforts which Congress itself is taking to make its buildings more accessible to disabled persons. I insert in the RECORD an article which appeared in the Washington Post of August 31, 1978. The article also points out the efforts being taken by the Public Citizen Visitors Center in conducting tours of the Capitol for disabled persons.

WHEELCHAIR TOUR LOOKS INTO WASHINGTON

(By Frances Sauve)

Sitting in a wheelchair, gazing at the Capitol's vast white steps, a handicapped person might think it simpler to hike to the moon.

"The Capitol is hardly a monument to barrier-free design," said Public Citizens Visitor Center director Mike Horrocks, "but we have designed a tour which takes in all the essential areas and permits handicapped individuals to see how their government works—and to see it with dignity."

The Public Citizen Visitors Center, established by Ralph Nader in 1974, provides visitors with a diversity of ways to learn about the federal government. Its motto: "Don't just look *at* Washington . . . look *into* it."

The center's tour of the Capitol, geared to the interests of participants, was designed to help people "avoid the usual plastic, packaged tours with the memorized guides," Nader said. In the last four years about 3,000 people have taken the 3½-hour tour.

The center's wheelchair tour is essentially the same as its regular guided tour. Small groups of visitors see their senator's office, attend congressional hearings, if they like, see the House and Senate in session and hear an historical description of the building and its contents. The center hopes to offer tours for the deaf and blind soon.

Before the accessible tour opened recently, it was given a trial run by Susan LoTempio, of Falls Church, director of public affairs at Mainstream, Inc., a nonprofit affirmative action program for the handicapped. LoTempio, paralyzed by polio when she was 8 months old, has spent her life in a wheelchair.

LoTempio gave a wry laugh as she told of her first attempt to tour the Capitol seven years ago. "The disabled weren't really included in Washington . . . (many people) just weren't aware that disabled people were there," she said. After a long search for a wheelchair ramp, she finally found one on the southeast side of the building. But when she reached the top, she recalls, "there was a revolving door"—with no attendant.

That was before Congress passed the Rehabilitation Act of 1973, which requires recipients of federal funds to make all new buildings accessible to handicapped people and to ensure that all programs in existing buildings also are accessible.

LoTempio declared the center's accessible tour a success, explaining, "Disabled people get used to going in the back doors of places . . . up the freight elevators." But on the center's new tour, she said, "You go in like people. You don't feel like you're hiding."

Since the Rehabilitation Act was enacted, studies have been made on hazards to accessibility all over Capitol Hill, and a $2.7 million grant to remove barriers was awarded in 1976 for work on the buildings and grounds of the Capitol, the House and Senate office buildings, the Library of Congress and the U.S. Botanical Gardens.

The project "is about 50 percent completed," said Elliott Carroll, executive assistant to the Architect of the Capitol. "Historic buildings are particularly difficult to adapt for use by the handicapped," he said, if one is to "preserve their historic fabric." Projects that have been completed or are under way include lower telephones, lower drinking fountains, lower elevator buttons, wheelchair ramps, accessible bathrooms, elevator numbers in braille, an audio designation for floors on the elevator and curb cuts in the vicinity.

Visitor's Center intern Beth Grove, a student at Michigan State University, recently led the first public tour. A wheelchair was waiting at the starting point, the United Methodist Building, at First Street and Maryland Avenue NE, when Mena Duistermars, an elderly woman from Glendale, Calif., arrived. She was in town for three weeks visiting her daughter, Beverly Trim, of Alexandria.

"I have a very bad knee, and I can't depend on it," Duistermars said, so a long walking tour of the Capitol wouldn't have been possible.

The first stop on their tour was the Dirksen Office Building. Except for one curb at First Street and Constitution Avenue, which had no curb cut for wheelchairs, it was not difficult to reach. The group took an elevator to the offices of Sen. S. I. Hayakawa (R-Calif.), and learned where constituent offices were located in their home state.

Then the group took an elevator down to the Capitol subway level. The subway is not accessible to those in wheelchairs, but a ramp runs alongside, taking visitors to the underground entrance to the Capitol where another elevator is available. Wheelchair ramps throughout the building made it effortless to get from one place to another.

In the Capitol rotunda, where leaders from Abraham Lincoln to Hubert Humphrey have lain in state, larger tour groups strained to hear their guides, while the small center tour heard a description of the drawings by Constantino Brumidi, who spent 25 years painting at the Capitol.

Armed with information on the process by which a proposal becomes a law, they listened to debates in the House and Senate from special viewing areas for people in wheelchairs. "I could sit there all day and not be bored," said Duistermars. "I guess I just like to hear people argue."

Later, Duistermars asked to see her representative, Carlos J. Moorhead (R-Calif.), so the group left the Capitol through a revolving door which was quickly folded back by a Capitol policeman. They took a ramp to the sidewalk. Another ramp led them to a side door of the Longworth House Office Building, where another revolving door was folded back.

Duistermars said that viewing the Capitol was "very exciting after reading about it for all these years. . . . Having an excellent guide did it."

The accessible tour begins at 10 a.m. Monday through Friday when Congress is in session. It costs $2.50 per person, and arrangements must be made one day in advance by calling (202) 659-9053, or writing to the Public Citizen Visitor's Center, 1200 15th St. NW, Washington, D.C. 20005.●

SECRETARY CALIFANO APPLAUDS ROLE OF EDUCATION IN EXPANDING MINORITY OPPORTUNITIES AT 111TH ANNIVERSARY CONVOCATION OF HOWARD UNIVERSITY IN WASHINGTON

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● **Mr. FAUNTROY.** Mr. Speaker, on September 22, 1978, Secretary of Health, Education, and Welfare, Joseph S. Califano, Jr., delivered the commencement address at the 111th Anniversary Convocation of Howard University in Washington, D.C.

In his address, Secretary Califano discussed the forces which have helped expand opportunities for minorities and how we can strengthen those forces in the future.

The tradition of higher education for black Americans has been an important force in expanding and strengthening minority opportunity in this country. Howard University has—and continues to be—a major power for the advancement of equal rights and human dignity.

Secretary Califano, in his commencement address to Howard University graduates, makes an important statement about new challenges facing traditionally black institutions, and for the benefit of my colleagues, I would like to share his remarks which follow:

REMARKS OF SECRETARY JOSEPH A. CALIFANO, JR.

I'm grateful for your hospitality—and humbled by the memory of so many great Americans who have received the distinction of a Howard degree.

Thirteen years ago President Lyndon Johnson came to this campus to speak to the graduates of 1965. He spoke less than a year after pressing through the Congress the most sweeping civil rights act since Reconstruction. He spoke only a few weeks before signing another, perhaps more far-reaching measure: the Voting Rights Act of 1965.

These laws and others were, we know now, to unleash an unparalleled surge of opportunity and achievement for black Americans.

Yet even in the afterglow of passing these historic laws, Lyndon Johnson's eyes were on the distant future.

"It is not enough," he said on that day, "just to open the gates of opportunity. All our citizens must have the ability to walk through those gates. This is the next * * * stage of the battle for civil rights."

Today as I speak, we are in the midst of that new phase. We have made progress, but the struggle continues.

In the sixties, black Americans fought for the right to be served at lunch counters in department stores.

In the sixties, black Americans fought for equal job opportunities in those stores.

Your challenge is to own the stores.

This is what it will mean in the eighties and nineties, to "walk through the gates of opportunity."

So today, at the beginning of this academic year in this institution that has meant so much to the struggle for human dignity, I think it is fitting to pause and reflect: to ask what forces, in the past, have helped expand opportunity for minorities—and how we can strengthen those forces in the future.

I want to talk about three of those forces:

First, the tradition of higher education for black Americans;

Second, the efforts of the Federal government to broaden opportunity for minority citizens;

And, finally, the energy and high expectations that have led black citizens not only to walk through the gates of opportunity, but to push them open even wider.

For more than a century, education has been at the center of that drive for equal rights and human dignity—particularly higher education

For more than a century, Howard and other institutions like it trained the black professionals: leaders who helped raise their fellow citizens up from slavery, then up from segregation; out of the shackles these malignant systems placed upon the human mind. The names of only a few distinguished leaders—faculty members and graduates of this one institution—sound forth like a clarion: John Hope Franklin; Kenneth Clark; Thurgood Marshall; Ralph Bunche; Patricia Roberts Harris; Andrew Young; Vernen Jordan.

For more than a century, institutions like Howard have had a special mission: to educate black scholars and leaders.

But what of the present and the future? It is one of the ironies of our progress in civil rights that today, many traditionally black institutions face new and serious challenges.

Opportunities at other institutions have now expanded; a wide range of choices has been opened; many traditionally white institutions are competing to recruit minority students.

Howard University, by virtue of its academic eminence and its unique relationship to the Federal Government, enjoys an enviable security. But many of its sister institutions across the Nation face formidable challenges—at a moment when the economic difficulties of private colleges, both black and white, are severe. For many private colleges, expenses are rising; sources of financial support are dewindling; enrollments are decreasing.

These colleges have been coping with change with admirable resilience and ingenuity. It is a striking fact that, of the 120 private two and four year colleges nationwide that have been forced to close their doors since 1970, not one has been an accredited black college.

This Administration is firmly committed, not only to helping these traditionally black institutions survive; we are committed to helping them succeed and gain new strength as they face a new era.

What does this mean in operational terms? Let me illustrate with two examples.

First, the President is directing each Department and Agency head throughout the Federal government personally to insure that predominantly black institutions get a fair opportunity to participate in Federal grant and contract programs. He is asking them to eliminate unintended barriers to full participation in Federal programs, and to consider the role that these institutions can play in new programs—programs of social and technical assistance to less-developed countries, urban programs, energy and environmental programs. He is asking that each Department establish a forum for continuing consultations with representatives from the traditionally black colleges and universities.

Second, in the past 20 months, in response to a lawsuit brought in 1970 by the NAACP Legal Defense and Education Fund, HEW has successfully negotiated plans in six southern states that will further desegregate their systems of higher education; eight other states are under active investigation, or soon will be, to determine whether their systems are sufficiently integrated.

These actions, inevitably, will affect traditionally black institutions as well as white ones. Yet we are aware that black citizens have special needs to which the black institutions have been sensitive and responsive.

So we have made a firm and fundamental resolution as we work to achieve desegregation in higher education: that the traditionally black colleges must not bear the heaviest burdens of desegregation; they must be strengthened, not weakened, in the desegregation process.

That principle can be seen at work in a desegregation settlement which we are announcing today concerning Oklahoma's system of higher education.

Last February HEW granted provisional acceptance to a desegregation plan from Oklahoma. Our final acceptance hinged on the State's commitment to strengthen the only traditionally black institution in the Oklahoma system: Langston University.

Recently the Oklahoma regents submitted a comprehensive proposal whose acceptance I am announcing today. The plan will desegregate Langston University; it includes one hundred special scholarships to attract white students. But the plan also includes a variety of proposals to enhance Langston's educational potential: The State regents are proposing a unique new urban mission for Langston with new degree programs in such areas as urban studies, physical therapy, and personnel management. The Regents also propose to establish a clinical center which will offer special internships and extension courses.

At many of the nation's traditionally black public colleges, in response to our efforts, new and enlarged initiatives are underway to equalize faculty salaries, expand libraries, build new facilities, increase student scholarships and improve the curriculum.

This suggests what we mean by strengthening traditionally black institutions.

Howard's President Emeritus James Mabrit used these words in describing Howard's mission in this new era:

". . . while we have a special regard for Negro youth, as was true of our Founders, we draw no lines of racial, religious or national distinction among the men and women who are moved to seek us out. Nevertheless we have an historic commitment to the education of the Negro and we shall not forsake that role."

Those words spell out a worthy goal not just for Howard, but for all the nation's traditionally black colleges in an era of swift change.

In recent years, a second major force has been at work in our society to secure the rights and opportunities of minority citizens. I am speaking, of course, of the Federal government, with its array of civil rights laws and programs.

In 1954, the Supreme Court demolished the legal basis for school segregation. Today, though the vestiges of segregation still haunt us, dual systems have been largely dismantled.

In 1964, the Civil Rights Act declared that segregated public accommodations were illegal; equal access became the law of the land.

A year later, in 1965, Congress enacted the Voting Rights Act—the law Lyndon Johnson considered his greatest domestic achievement.

In 1965, Alabama had 11 black elected officials; last year there were 201.

In 1965, Georgia had 3 black elected officials; last year there were 225.

In 1965, Louisiana, Mississippi, North Carolina, South Carolina and Virginia did not have a single black elected official. Last year Louisiana had 276; Mississippi, 295; North Carolina, 221; South Carolina, 182; Virginia, 82—a total exceeding 1,000.

Between 1969 and 1977, the total number of black elected officials in the nation nearly quadrupled—from fewer than 1200 to more than 4300.

In addition to these efforts to secure equal opportunity, the federal government has launched programs to remedy past discrimination—particularly in education and employment.

Consider these facts, taken from the field of education alone:

In 1966, less than five percent of all college students were black. Ten years later, in 1976, this figure had more than doubled—to nearly 11 percent. Today, a black high school graduate is almost as likely to go to college as his white classmate.

In just seven years, the percentage of minority students in the nation's medical schools has more than tripled—from 2.4 percent in 1968–1969 to 8.1 percent last year.

In 1968, two of every three black medical graduates from medical school were educated at traditionally black medical schools—at Howard or Meharry. The enrollments at Howard and Meharry have continued to grow. But I believe it is a sign of progress that the enrollment of black students at other medical schools has climbed even more quickly, so that Howard and Meharry today account for only 28 percent of all black medical-school graduates.

All this progress holds an important, hopeful lesson for the future: the efforts of this nation's government to secure equal rights can bear—and have borne—rich fruit.

But what of the future? What is the outlook for affirmative action programs, particularly in higher education?

A central question for the future concerns the Supreme Court decision in the Bakke case. What effect will that decision have? The narrow result of that case, of course, was to admit Allan Bakke to medical school. But far more important than the effect on one individual and one institution are the broader implications the decision is likely to have across the nation. Those implications, I am convinced, are likely to be two:

First, the decision leaves intact the power of the courts and of government agencies like HEW to order appropriate remedies when there is an official finding of illegal discrimination.

Our efforts at HEW to remedy such discrimination, therefore, will remain vigorous:

Within HEW, we have made a major effort to upgrade our enforcement efforts. We have dramatically increased productivity in the Office for Civil Rights, the office charged with enforcing major civil rights laws. In the past 20 months, the average number of cases completed by each investigator has risen from 4 per year to 12.5—a threefold increase.

We have also proposed a 100 percent increase in the budget of the Office for Civil Rights, and 900 new positions in that Office—an increase of more than 80 percent.

The second major lesson of the Bakke decision is this: Race may be taken into account by colleges and universities as part of their effort to promote diversity in their student bodies.

In the three months since Bakke, my staff and I have talked to many university presidents and admissions officers. These officials realize that Bakke establishes clearly their authority to continue their affirmative action efforts. Their commitment has not slackened, and I am confident these programs will grow in number and strength.

Shortly after Bakke was decided, I ordered a review of all HEW programs and regulations to determine their legality in light of the Supreme Court's decision. Although the final report is not quite complete, I can announce today the major conclusion we have reached: In general, the Bakke decision will not interfere with or restrict HEW programs of special value and concern to minority groups.

And today I can specifically name several important programs for which our review is complete; programs we will continue to support and strengthen:

The TRIO programs, which help qualified students from poor backgrounds finish high school, develop the skills and motivation they need to succeed in college. These programs will continue.

The CLEO program, which helps needy and minority students attend law school and enter the legal profession. This program will continue.

The Minority Grant programs in Biomedical sciences, which strengthen the ability of institutions with large minority populations, institutions like Howard, to train skilled minority scientists in biomedical research. These programs will continue.

The Graduate and Professional Opportunities Program, a new effort I initiated, which awards fellowships to minority students to pursue graduate careers in academic and professional fields. This program will continue.

I can think of no forum more appropriate than this to give you the results of our study of the last three months: The *Bakke* decision will not restrict our vital efforts to help minority and low-income students go to college and train for the professions. Affirmative action is alive and well.

A third force, finally, has been at work in America to guarantee opportunity and achievement for black Americans—and it is, in the end, the most powerful and relentless force of all: the force of human will and determination to achieve.

The word elite is not a popular one in America today. But I think it is fair to say that Howard, for 111 years, has proudly educated an elite: not an arrogant elite, but an elite devoted to service; to achievement on behalf of humankind: In Thomas Jefferson's words, "an aristocracy of merit."

The members of that aristocracy who have gone into the world from this University went forth armed not only with trained intellects; they were armed also with steely determination, great courage, and a formidable capacity for hard work. For all their many differences, the Howard Alumni I know—from Thurgood Marshall to Andy Young—are alike in those qualities. They have achieved great things despite great obstacles—because they have had the courage to storm the heights of achievement.

And today, even though wider opportunities are opening in education and employment; even though the Federal Government stands beside black citizens in their quest for opportunity, those personal qualities are still more necessary than ever.

We must remember that progress is not the same as success. And we must consider unblinkingly some unhappy facts along with the happy ones:

In 1977, fewer than one of every 50 faculty members at medical schools was black.

If American colleges and universities hired every black Ph. D. in industry, government, or else where—whether active or retired, living or dead—the result would still be fewer than three black faculty members per institution.

Preliminary figures in a new report of the American Association of Medical Colleges reveal that for the second straight year, the number of black applicants to medical school has stopped growing and in fact has begun to decline. The pattern at law schools is similar—last year, the number of black students enrolled in law schools declined by nearly 4 percent, from 5,500 to 5,300.

Between 1974 and 1977, the number of Ph. D.'s earned by black scholars in several important disciplines has declined: from 29 to 20 chemistry; from 16 to 10 in mathematics, and from 15 to 11 in engineering.

Changing these melancholy figures will require not only great efforts by institutions like Howard and the federal government; it will require that you aim for the far heights of excellence and achievement in America—not the middle reaches.

So I would urge, as this university strives to widen your intellectual horizons; as the government acts to enlarge the horizons of opportunity for you and your fellow citizens—that you strive to widen the horizons of your own imaginations.

I would charge you to aim, not only for a bachelors' degree, but for advanced graduate and professional training;

Aim not only for careers in business, but for control of banks and businesses and financial institutions in America.

Aim not only for careers in medicine, but for chairs on the nation's medical faculties and hospital boards.

Aim not only for status as members of a black elite, but for a seat in all the centers of national decision-making.

Aim, not only for participation in politics, but for the Presidency of the United States.

Visionary advice? Perhaps. I can only quote a line of Browning: "A man's reach should exceed his grasp, or what's a Heaven for?"

And I would remind you of so many other graduates and faculty of this University, who would accept no limits on their dreams: no limits imposed by law, no limits imposed by custom—and no limits imposed by self-doubt.

One of them was a man named Charles Drew. Dr. Drew was a distinguished member of Howard's faculty. He was also a pioneer in blood plasma research. One of his contributions to his nation was the concept of the blood bank. Ironically, at the time he set up the first blood bank, his own blood would have been rejected if he had offered it—because he was black.

But Charles Drew, like so many black Americans, gave to his nation more than it was willing to give to him. He dreamed dreams far more ambitious than the system in his day thought it proper for him to dream. And today we are, each one of us, the richer for it.

I think he would expect us, at the beginning of this 111th year for Howard, to strive at least as mightily as he strived, to hone the talents God has given us to their sharpest edge, and then to use those talents to build a more just and generous America.●

IPU CONFERENCE A SUCCESS FOR UNITED STATES

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. WON PAT. Mr. Speaker, earlier this month, I had the great pleasure of attending the 65th Conference of the Inter-Parliamentary Union in Bonn, Germany, with a number of our colleagues from both the Senate and the House.

The experience left me with a greatly improved understanding of the problems facing any convention that attempts to tackle serious world problems. I also came home with a sincere appreciation of the highly professional attitude and skills expressed by every member of the official U.S. delegation.

During our visit to Bonn, hundreds of legislators representing elected bodies in more than 75 countries, and ourselves, sought to convey to the world our concern over the growing use of terrorism and colonialism in the world today.

As a member of the U.S. delegation, I was doubly honored to be chosen by my colleagues as their spokesman on the important Committee on Non Self-Governing Territories and Ethnic Questions. There I repeatedly sought to gain support for the American position which urged that emerging nations should not resort to force in their drive toward independence. This goal was sought in the drafting session where I asked that language which sanctioned official violence, be struck from a resolution we were working on. Later in the plenary and again in the general session I urged, on behalf of the United States and Britain, New Zealand, Australia, and West Germany, that we not in any way condone violence. Unfortunately, these efforts were blocked by a number of Third World countries who appear to believe that violence is a solution to the ills surrounding colonialism. In the long run, however, I remain firmly convinced that our work in Bonn, Germany, will be effective in maintaining peace in such areas as South Africa and the Middle East.

The fact that so many elected representatives from so many countries could gather together and agree on a number of resolutions that seek an end to a number of crucial problems gives me hope for the future. They, like myself, have returned to their homes with a more thorough knowledge of current thinking among our fellow nations and it is through such contacts that the important ties of mutual interest and lasting friendships are made.

I can say with complete confidence that my own views on the complexities of international problems has been changed by my attendance at the Bonn conference. The experience of meeting with officials from so many countries was a most broadening one that I shall never forget.

Nor shall I quickly forget the pleasure and pride I felt as a result of being part of the U.S. delegation. Much credit should be given Senator ROBERT STAFFORD, who chaired our group, for a job well done. I also note the worthwhile contributions of my fellow delegates, including BILL LEHMAN, vice chairman of the delegation, DEL CLAWSON, and GUY VANDER JAGT, CHARLES WIGGINS, and BOB DUNCAN. Thank you.●

LIBERALISM AND PREJUDICE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. DORNAN. Mr. Speaker, occasionally, we spy an item that grabs our attention, and it brings back unpleasant memories or unhappy historical associations. We may indulge a flash of anger or indignation, but then lay the matter to rest, perhaps with the thought that it is best to leave one's outrage unspoken. We may even indulge the hope that the unpleasantness brought to our attention will, like so many unsavory things, pass away, drifting into the far recesses of our minds forgotten and, the slight, forgiven. But forbearance is not always a virtue. We feel our anger is just.

I experienced that feeling this morning when Mr. George Will's column in the Washington Post was brought to my attention. The subject of Mr. Will's remarks is a recurrent one: Anti-Catholicism in America. He commented on the forceful remarks of the distinguished Senator from New York, DANIEL PATRICK MOYNIHAN, who expressed his disappointment with the position taken by congressional colleagues during the tuition tax credit debate. The fact that the Senator's remarks were embodied in a circular letter to the Roman Catholic hierarchy in the United States indicate that his observations are his sincere and genuine reflections on the state of a respectable, often subtle, form of bigotry in the United States.

Anti-Catholicism has undergone many mutations. No longer are Roman Catholics burdened with crude and silly tales of papal conspiracies directed at American democratic institutions. Charges of Catholic disloyalty to American institutions are simply laughable. Far too much Catholic blood has been spilled in defense of this Republic for anyone, except possibly a genuine lunatic, to honestly believe such superstitions. No. The new anti-Catholicism is in the form of a cultural revolution in morality, especially sexual morality, and the Catholic church, among others, is viewed as a corporate bastion of resistance against the corrosive trends of modern secular society.

Liberals in the 1930's and the 1940's eagerly sought and won Catholic ethnic votes. The Catholic vote was crucial to the success of the New Deal political program. While Catholic ethnics, at least until very recently, have tended to view the expansion of Federal power benignly, their attachment to American liberalism was an attachment to a redistributionist ethic, vaguely understood to be in accordance with lofty charitable goals, the bettering of the condition of the working classes, and a higher standard of living for the less fortunate. The liberal-Catholic alliance was thus an alliance grounded in social and economic conditions, an alliance dictated by time and circumstance, not by any deeply rooted congruence of Catholic theological premises and modern liberal assumptions about the nature of man and society.

That is why the alliance is, and, has been, steadily disintegrating. Modern liberalism has not been content to sit in judgment over the means of production and distribution in our society; it has cast its net over numerous other issues, including problems of the human spirit. Modern liberalism, now more than ever, suggests a litmus test on a variety of social issues: abortion, permissive drug use, pornography, the limits of cultural change, and the nature of morality. Modern liberalism is secularistic, materialistic, and relativistic. From such premises, naturally, one derives a set of secularistic, materialistic, and relativistic conclusions about man and his life in society. The conclusions of modern liberalism are, when all is said and done, suicidal. We cannot contest the sovereignty of God without declaring for the absolute authority of man, with nothing or no one to whom he is or can be held accountable. I have never been able to fathom how we can maintain a free and open society when human authority, uninformed by a higher moral law restraining human actions or passions, is left unrestrained. As a student of history, I have never found a successful civilization, one that was strong, enthusiastic, and alive, that drowned itself in materialistic excesses or lost enduring standards of right and wrong. We have no excuses. We know enough from the study of states ancient and modern that the path of self-indulgence and the denial of the transcendent standards of morality is the way of death. That is what Alexandr Solzhenitsyn was trying to convey to us in his Harvard speech.

Mr. Speaker, the triumph of modern liberal premises will only serve to weaken a society, rendering it ever more vulnerable to its enemies, whether they attack from the extreme left or the extreme right.

The religious premises of Roman Catholicism, along with those of all devout Christians and Jews, are quite the reverse. Roman Catholicism is militantly theistic, assuming the sovereignty of God, possessed of a spiritual austerity, and committed to divinely ordained moral absolutes. Catholic schools transmit Catholic values. And indeed the moral and intellectual discipline that such institutions impart have won the admiration of virtually all Americans, including those who would otherwise be hostile or unfavorable to the Catholic faith.

Religious schools in this country, of whatever denomination, provide a bulwark of cultural and moral resistance. And that is what the debate over tuition tax credits, ultimately, comes down to: the preservation of intermediary social and educational institutions which can strengthen and maintain the moral and intellectual fabric of this country, independently of the power of the state. Secular humanists know it. So do Roman Catholics, Protestant Christians of virtually all denominations, and Jews.

Mr. Speaker, the issue of church and state is, and has been, a bogus issue. A direct tuition tax credit, dispensed equally to parents of any denomination, in no way does violence to the letter or the spirit of the Federal Constitution. We are not talking here of religious educational institutions receiving funds, mind you, but private citizens, individual parents.

I know there has been a body of constitutional scholarship and some eloquent spokesmen on the judicial benches who take issue with my interpretation. But I honestly believe that they do so only by engaging in a rewriting of the Constitution, ignoring the constitutional tradition of the country. They argue, improperly in my view, for a "wall of separation" between religion and the state, quoting Thomas Jefferson.

Thomas Jefferson was a great man. But Jefferson did not author the Constitution. He was not a participant in the debates of the Philadelphia Convention. He was only a commentator on the events surrounding the drafting of our fundamental law. If we are to be consistent in going back to our constitutional roots, then we should quote widely on the subject. There, among the great body of the Founding Fathers, there was no "wall of separation" between religion and the state. Not at all. The original intention of the framers of the first amendment, adopted shortly after the ratification of the Constitution, was to prohibit the establishment of denominational privilege. The framers feared, and rightly so, the establishment of a "state church," as had existed in Europe in the 16th, 17th, and 18th centuries: the Catholic Church in Spain, the Anglican Church in England, and the Protestant establishments in Sweden, Denmark, and Prussia. The first amendment did not erect a "wall of separation," per se, but only provided a prohibition against a denominational establishment or unequal treatment of Christians and Jews. Moreover, the restrictions applied to the "congressional establishment" of religion; there were still "state churches" in the various States of the Union, long after the ratification of the Philadelphia Constitution.

As I said, Mr. Speaker, the constitutional issue is a bogus issue. We are being asked to accept the secularistic ground of debate. That, for many, if not most of us, is simply impossible. Mr. MOYNIHAN knows that.

Mr. Will is to be congratulated for pointing out the lingering prejudices of the past.

Mr. Speaker, I ask that Mr. Will's excellent column be inserted in the RECORD.

LIBERALS' VERY OWN BIAS

(By George F. Will)

Sen. Daniel Moynihan's combativeness may be as much characteristic as systematic. He was, after all, Irish before he acquired the convictions on behalf of which he employs his gift for disputation. In any case, his combativeness is displayed in a letter he circulated among the American Catholic hierarchy after the Senate voted against tuition tax credits for parents with children in non-public schools.

"The institutions associated with social progress in American culture at this time," wrote Moynihan (D-N.Y.), are overwhelmingly against us on this issue." In opposing aid for parochial schools, Moynihan said, they were "vindictive," and the Carter administration was almost "vicious." "Our opposition . . . was led by Southern Senators," because as the South became "acculturated to Northern liberalism, anti-Catholicism was the one antebellum trait . . . which they were permitted to retain." Why? Because "anti-Catholicism is one form of bigotry which liberalism curiously seems still to tolerate."

My reading of the long, occasionally testy, often elegant debate in the Senate does not reveal bigotry on the part of Moynihan's worthy adversary, Ernest Hollings (D-S.C.), or other senators. And Moynihan knows that the public-education lobby, and its bureaucratic allies were moved primarily by avarice in their defense of the state's virtual monopoly on education.

But Moynihan, a Catholic gifted at looking with subtlety below the surface of things, expresses an anxiety shared by many Catholic laymen when he speaks of anti-Catholicism among what he is pleased to call "the institutions associated with social progress."

One of the affecting dramas of the day is Moynihan's struggle to think well of liberals. This is a duty for New York senators, but Moynihan would find it easier were it not the case, that, as Peter Viereck says, anti-Catholicism is "the anti-Semitism of the intellectuals."

In an opinion against aid to parochial schools, Justice William Douglas cited, as a source of reliable evidence about Catholic attitudes, a vituperative anti-Catholic book comparable in spirit to the Protocols of the Elders of Zion. Planned Parenthood, a pro-abortion lobby, recently distributed to some college newspapers anti-Catholic cartoons that belong to the Julius Streicher school of argument.

In the 19th century, anti-Catholicism became an American political movement, and the spirit of the Know-Nothing Party was alive in a recent letter sponsored by various "civil rights," education and other "public interest" lobbies. The letter warned that aid to non-public schools might foster "viewpoints" contrary to "American principles."

There, in that wispy accusation of "un-Americanism," is the old theme. Nineteenth century nativism expressed itself in the fear that unwashed immigrants, infected with Old World clericalism, could never become "real" or "integral" Americans and eventually would produce a demographic revolution, swamping "American principles." Today anti-Catholicism involves less lurid, even less conscious, assumptions, and rather obivous political motives. It is in part a manifestation of aggressive secularism; in part a vague contempt for old things; in part an expression of a timeless dilemma.

Half a century ago, in 1929, Walter Lippmann stated the anomalous position of churches, and especially of the church that considers itself the truth in corporate form, in a pluralist society: "Inwardly, to their communicants, they continue to assert that they possess the only complete version of the truth. But outwardly in their civic relation with other churches and with the civil power, they preach and practice toleration."

For Catholics, that logical and psychological difficulty has been eased by the dilution of "triumphalist" assertions, and by the related development, in the 1940s and 1950s, of a theory legitimizing an accommodation of Catholicism to pluralism. The principal theorist was John Courtney Murray, S.J., who was washed in the surf of Southampton, elevated to an almost unearthly glory (a cover of Time magazine) and accorded remarkable deference as arbitrator of good citizenship for Catholics: Ted Sorensen read him an advanced text of John Kennedy's campaign speech to the Houston Baptists.

The anti-Catholicism that Moynihan detects among liberals lacks the weight of older theories about the inherent instability of Catholicism toward "American principles." That is, to say no more, notable: Many of those who deprecate the role of Catholicism in the formation of attitudes about abortion and education have applauded church groups that advocate the liberal agenda.●

ALLEGED 121 FAILURE

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. ECKHARDT. Mr. Speaker, I would like to tell my colleagues of a report that I believe is highly relevant to some misstatements being made that certain truck brake safety equipment, installed in satisfaction of DOT's air brake standard No. 121, has caused accidents and death. The claim is made that antilock systems, which keep wheels from locking up during heavy braking, are not reliable and that they cause complete loss of brakes on a vehicle when they malfunction. I heard many such statements in hearings my subcommittee held this last spring on the question.

A primary misstatement in this regard involves a tragic accident that occurred in Magna, Utah, last summer, when a truck equipped with 121 brakes struck a car at an intersection, killing four teenagers and critically injuring another. The driver blamed the brake system, saying that he applied the brakes but that they failed.

My facts concerning that accident forcefully contradict the driver. They are from a recently completed and comprehensive accident report and analysis conducted by Dynamic Sciences, Inc., of Phoenix, Ariz. The investigators are independent accident researchers who regularly investigate motor vehicle accidents of all descriptions as experts in their field, and who prepared this report under Department of Transportation contract. That report is available in the office of my Subcommittee on Consumer Protection and Finance in the Commerce Committee.

The Utah accident occurred at an intersection, where the teenagers' vehicle was making a left turn and was struck by the oncoming tractor-trailer. The basic assertion is that the tractor-trailer driver attempted to stop, and could have stopped, but that antilock failure deprived him of all brakes and caused the fatal accident. The report, which is in the subcommittee, however, indicates that the 121 system could not have been at fault. The accident, plain and simple, was due to driver error. He ran the light.

The report shows that, by the account of several witnesses, the traffic light which the driver ran changed to red when he was some 250 to 300 feet away from it and going 50 miles per hour. Several seconds later, he went through the intersection. According to witness' observations, as confirmed by mathematical calculations, the tractor-trailer hit the teenagers' vehicle at about the same speed he was doing at 300 feet from the light. If the driver had so much as taken his foot off the accelerator coming into the intersection, his speed would have been considerably less because of engine drag and a special auxiliary braking system relying on engine speed. Thus, he could not have even attempted to apply his brakes (and indeed his brake lights only went on momentarily as the light changed), but instead chose to run the light.

This is a choice many drivers have to make every day, particularly when they face a slick road and carry a swinging load such as this driver did. And this driver's judgment may have been clouded by the fact that he only had 3½ hours sleep in the previous 26½. In this case, running the light turned out to be a fatally wrong choice, and the driver apparently tried to blame the braking system.

It seems to me that this accident is another indication of what I heard very much of during our hearings this last spring. Witnesses came in and stated in essence that their equipment had 121 brakes, that there had been an accident or a failure of brakes, and that, therefore, the fault lay with the 121 equipment. When I questioned them, it became clear over and over that the accident or failure in question could not have been due to 121, but rather to the fact that a driver made a mistake, or someone let the wires come loose or failed to maintain other elements of the brakes. Blithely blaming every brake failure on the safety equipment, without proof, is not only nonsense but does harm to the cause of highway safety.

I commend this accident report to my colleagues.●

TRIBUTE TO WALTER HILL

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. RAILSBACK. Mr. Speaker, recently Illinois lost one of its better citizens, Walter Hill. Walter served in the Illinois General Assembly from 1959 to 1962, and he also served locally in his hometown of Canton as a precinct committeeman. I valued his friendship greatly, and I would like to share the following article about this good man with my colleagues.

WALTER HILL DIES AT AGE 74

Long-time Canton resident and businessman and former Illinois State Representative Walter E. Hill died this morning at Graham Hospital following a lengthy illness.

He was 74.

Hill served as 46th District Representative in the Illinois General Assembly from 1959 to 1962. He was defeated for re-election in 1962 and later sought the position in 1964, but was defeated in the nominating convention called to name at-large candidates when the state's districts were reapportioned. He was also a member of the Canton Area Chamber of Commerce Board of Directors, completing his first three-year term.

He operated an insurance agency and a finance company in Canton for many years, but most recently was owner-operator of Atlas Camera Center.

Known in the Illinois House as a hardworking conservative Republican, Hill served locally as a precinct committeeman, representative committeeman and was involved with numerous civic projects. He was most especially acclaimed for his dedicated work with youth.

Hill moved to Canton with his parents from Havana when he was 12 years old.

A Canton attorney, longtime friend and associate in Republican party politics, Walter Sebo, said this morning that Hill was "a very, very intelligent human being with a great capacity in business and in a true level of politics.

"I have known Walter Hill since I came to town more than 25 years ago," Sebo said. "He devoted much of his time (politically) not seeking anything except a better way of life through government." Sebo said Hill had many close friends in Canton.

Hill served on the Banks and Savings and Loan Associations, the Military and Veteran Affairs, the Public Aid, Health, Welfare and Safety, and the Roads and Bridges committees while in the Illinois General Assembly

Suzanne Thompson, Executive director of the Canton Area Chamber of Commerce, said Hill had been active in local and state government affairs and had "done a great service for the community through many years."

"He is certainly going to be missed, I can assure you that," she said, upon hearing the news of his death.

"He was a wonderful fellow. There was just one like him," said Floyd "Skip" Emerick, a friend for nearly half a century.

"We both liked singing and photography and were in Kiwanis together for a good many years," Emerick said. "He was a good opera-type singer and performed in a weekly radio program in Peoria back before television."

Hill also performed on the Canton radio station and sang with the Metropolitan Opera in New York City.

"We sang in quartets in the '30s and again in 1966, Walter sang solos for some performance of a quartet. We sang once for Sen. Charles Percy when he came to Canton campaigning in the '60s.

"He was always willing to do anything to help anyone. That's just the kind of guy he was," Emerick said. "He was certainly a wonderful fellow."

Robert Welch, a former Democratic state senator from the area, recalled this morning when both he and Walter Hill served in the Illinois Legislature.

Welch said Hill had been elected as a Republican member of the House at the same time Welch was elected to the Senate.

"I knew him best from the Legislature," Welch said. "And as far as the Legislature is concerned, I feel Walter Hill was one of the hardest working representatives we had."

Welch said Hill would many times "take all the bills home to read them, and I've often remarked about this."

Welch, the current chairman of the Fulton County Board of Review, said he knew Hill "very well, and I thought an awful lot of him. I sure, sure regret this news."

U.S. Congressman Tom Railsback said from his Washington office that the news of Hill's death came as a shock.

"Walter Hill was my campaign manager and good friend. His death comes as a shock to me. I will sorely miss his friendship and wise counsel.

"His son, Tom, worked as an intern in my Washington office and, through the years, I have enjoyed the friendship of the entire Hill family. I want to send my deepest sympathy to all of them.

"Walter Hill will be missed by his entire community," Railsback concluded.

He died at 6:50 a.m. today in Graham Hospital.

He was born Sept. 30, 1903, in Oakford, a son of Joseph and Lilletta (Lancaster) Hill. He was first married July 7, 1929 to Evelyn Hicks, who died June 28, 1969. On Sept. 12, 1970, he married Victoria Ritchey at Canton.

Surviving are his wife; a son, Thomas W. of Columbus, Ohio; two stepchildren, Mrs.

Russell (Betty) Manock of Canton and Chester K. Phillips of Irvine, Calif.; two grandchildren, five step-grandchildren and two step-great-grandchildren.

Three brothers and one sister died earlier.

Mr. Hill was a member of the First Baptist Church at Canton where he taught a Sunday school class for 15 years and sang in the choir. He was a member of the Morning Star Lodge No. 734, Peoria Consistory; Kiwanis Club, Toastmasters Club and the American Legion at Canton; Canton County Club, AARP, and Canton Glee Club.

He was also a member of the Civil War Sentinal Committee and was a World War II veteran.

He owned and operated the Atlas Shoe Store and Camera Shop and the Atlas Loan Co., which was later changed to the Mid America Credit and now is the Heights Finance Co.

Services will be at 1:30 p.m. Saturday in the First Baptist Church, with the Rev. William Salsbery officiating. Burial will be in Greenwood Cemetery.

Friends may call from 6 to 8 p.m. Friday at the funeral home and one hour prior to services at the church. Masonic rites will be exemplified at 8 p.m. Friday at the funeral home.

Memorials may be made to the Fulton County Cancer Fund or to the First Baptist Church.●

GEORGIA-PACIFIC ON THE NATURAL GAS COMPROMISE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. STARK. Mr. Speaker, I would like to bring to my colleagues' attention a telegram sent to my office by the Georgia-Pacific Corp. regarding the natural gas compromise. The text follows:

Subject: Natural gas compromise.

FORTNEY H. (PETE) STARK,
U.S. Representative

I strongly urge you vote against the natural gas compromise. Georgia-Pacific has operations in your District which will be adversely impacted.

It will retard development of both natural gas and oil—often found together. It will needlessly complicate and distort the marketing of gas that is developed. It will move the nation further from a sensible, market-oriented national energy policy. The inevitable result of passage of this bill will be reduced employment, lower standard of living and further jeopardy to our national security.

Georgia-Pacific has consistently advocated deregulation of wellhead prices on new natural gas. The compromise does not do that. It extends regulation to intrastate gas, and so postpones deregulation (to 1985—and probably 1989), it is likely never to occur.

Aside from the "deregulation" issue, this bill is so complex, unworkable and ill conceived, it is also opposed by those who favor continued controls on natural gas pricing.

I hope you will not be misled by the argument the bill is needed to strengthen the dollar. Bad energy policy will hurt not help the dollar no matter what label is put on a bill.

Existing law on natural gas, with all its faults, is far preferable to the unworkable, counter-productive compromise.

ROBERT E. FLOWERREE,
Chairman and Chief Executive Officer.●

LABOR'S RIGHT-WING PARANOIA

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. MICHEL. Mr. Speaker, Mike LaVelle, columnist of the Chicago Tribune, recently demolished one of the favorite myths of the labor union bosses. LeVelle, whose column, "Blue Collar Views," gives a workingman's view of events and ideas, writes about the charge made by labor bosses that "the new right" is to blame for current union problems. LaVelle effectively refutes such a claim and points out that labor bosses would be better off examining their ties with the big spenders in Government rather than setting up a strawman to take the blame for dwindling union membership.

This column should be read by everyone with an interest in the rights of working men and women, but particularly by anyone who belongs to a union. LaVelle has performed a public service by saying what has to be said about the "paranoia" of the unions and the need for all of us to reexamine the political labels we so easily—and inaccurately—apply.

At this point I would like to insert in the RECORD "Labor's Right-Wing Paranoia" by Mike LaVelle, Chicago Tribune, Tuesday, September 26, 1978.

BLUE-COLLAR VIEWS: LABOR'S RIGHT-WING PARANOIA

(By Mike LaVelle)

The theme of the 'New Right' has been featured in various publications of organized labor and in speeches delivered at recent AFL-CIO state conventions.

In a recent conversation with an official of a public employes' union, I put forth the suggestion that organized labor seemed to be having a fit of paranoia.

I said that if such a thing as Proposition 13 in California was to be viewed as an indication of the New Rights by the leaders of organized labor [43 per cent of union members in California voted for it], then they were out of touch with many of their dues-paying members.

Rather than attack the tax revolt that is sweeping the nation as a right-wing movement, I told him, organized labor ought to be taking a closer look at government spending.

He partially agreed, but we never did get around to discussing a definition of the New Right bogeyman that has organized labor in such a frenzy.

It is not the fault of the New Right that organized labor represents only one fourth of our work force. It is not a right-wing plot that forces a 52-year-old factory worker with arthritis to tell me that she has no faith in her union's ability to get her an available job which would allow her to sit down, as recommended by her doctor. And the Teamster member who does not attend union meetings is not spreading right-wing propaganda when he tells me, "What's the use? The Teamsters have too much power. The average member is helpless."

For the last 40 years, the traditional ties of much of organized labor have been with liberals advocating bigger government participation in our lives and the increased cost of that participation.

The past few decades have produced a breed of politicians who get themselves elected by promising the most government goodies to the most people.

The next decade could be the era of politicians who get elected by promising the most government goodies to fewer people.

And we should not kid ourselves that a striking worker is not concerned with inflation simply because he wants a raise in wages. After he gets that raise he might well resist giving a raise to a teacher, policeman, or fireman because, as one factory worker told me, "We can't afford more taxes." This, by the way, was the same person who told me before his union's contract was signed, "We all have to make a living."

Is that factory worker a right-winger because he holds views toward public workers' salaries that he would have condemned as reactionary bossism if they had been voiced by his management during contract talks?

We even have the irony of a woman who is labeled a right-winger when she goes on a public demonstration to oppose integrating schools by busing suddenly becoming a left-winger when she marches holding a sign that reads, "On strike for fairer wages."

The fact is that with the complexities of today's society and its interest groups, "right wing" is difficult—if not impossible—to define.●

A STEP TOWARD A BALANCED BUDGET

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. LEHMAN. Mr. Speaker, the adoption of the second budget resolution for fiscal year 1979 is a major step toward the achievement of a balanced budget by fiscal year 1981.

This second budget resolution establishes a binding ceiling on Federal spending and a floor on revenues for the fiscal year beginning October 1, 1978. As a member of the House Budget Committee, I am encouraged by the fact that our projected deficit is $22 billion less than that originally proposed by the President in January and will be the lowest deficit since fiscal year 1974.

Although Congress has begun to do its share in the fight against inflation, there is still a long way to go. Our estimated deficit will be $38.8 billion. However, if we continue the good progress we have made this year and the economy remains healthy, I anticipate that we can balance our budget by 1981.

The House and the Senate have adopted a budget which must meet a wide variety of needs. It must provide sufficient stimulus to our economy without promoting additional inflation. It must allow for the continuation and improvement of vital Federal programs and at the same time demonstrate the fiscal discipline that Americans demand. I believe the second budget resolution fulfills these tough requirements.

The next 2 years will be full of hard decisions as we move closer to our goal of zero deficit. I look forward to my next term as a member of the House Budget Committee and to working on that balanced fiscal year 1981 budget.●

U.S. COOPERATIVES AID INDIA'S POOR

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. SOLARZ. Mr. Speaker, when foreign economic assistance is the topic, people want to know: "Does it really better the lives of poor people?"

The answer is not simple, but upon occasion there is a development effort which is so successful that one can answer an unqualified, "yes." Such an effort is the Anand Milk Union Ltd. (AMUL) of Gujarat, India. Recently the Washington Star featured an article about AMUL and its 840 village milk cooperatives. It stresses the economic and social benefits which the cooperatives bring to 250,000 farmer-members, many of them women.

The article, however, fails to mention the important role which our own farmer co-ops have played in AMUL, working through the Cooperative League of the U.S.A. (CLUSA). CLUSA's efforts, in turn, have been facilitated by U.S. foreign assistance funding.

This relationship between United States and Indian farmer cooperatives recently has moved into a new stage as the result of a new 3-year grant of $475,000 to CLUSA from AID to help the Indian Government improve the management of oilseed cooperatives and to increase by 25 percent the capacity to process oilseeds.

This project is modeled after the highly successful AMUL dairy cooperatives, and will embody the same principles which has helped transform the milk cooperatives into viable mechanisms for social, as well as economic, progress.

The American cooperative movement and CLUSA are to be commended for their farsighted activities in milk and oilseed production in India. With their help hundreds of thousands of low-income farm families have been, and will be, benefited.

This foreign assistance "success story" deserves wide attention. For that reason I am including in the RECORD at this point the Washington Star article and AID's description of the new oilseeds project.

(The items follow:)

ALL CASTES WAIT IN LINE TOGETHER—CO-OPS HELP BUOY INDIA'S DEMOCRACY

(By Lawrence Malkin)

NEW DELHI, INDIA.—Sunset. Women in brilliantly colored peasant dress, each peacefully bearing a brass jug of milk on her head, undulate down a dusty road to the Dovol village milk cooperative in the state of Gujarat. High-caste brahman and untouchable alike wait in line to pour a liter or two of milk into a common vat, once an unthinkable violation of caste taboo.

Each member is paid on the spot. Some promptly buy the co-op's processed cattle feed at cost from the truck that has also carried semen from high-yield breeding stock for artificial insemination of village animals.

In turn the truck will speed the milk to a modern dairy in the nearby town of Anand. Morning and evening the driver makes his milk run, taking calls for the co-op's veterinary service and, not least, establishing the idea of a time schedule, an idea to be welcomed anywhere in India.

Davol is just one of 840 village co-ops making up the Anand Milk Union Ltd. (AMUL), with 250,000 farmer-members. Neither a charity nor a demonstration project, the milk union does a profitable business in dairy products and baby food bearing the AMUL brand, which means "priceless" in Sanskrit.

With sales now edging past $100 million a year, Anand and five other unions patterned on it supply almost all the milk in Gujarat, dominate the supply in affluent Bombay and serve as the model for co-ops being organized in 11 other Indian states.

After years of struggle, these farmers have at last begun to escape gouging by middlemen and moneylenders by regulating the supply and hence the price of milk through their own refrigeration plant. Each animal yields a net profit of about $100 a year, in a nation whose annual per capita income averages only $50 above that.

Co-op profits also underwrite road, school and agricultural improvements. Inefficient or dishonest large landowners, often initially elected chairmen out of deference, have been speedily voted out at annual meetings in favor of cannier low-caste peasants. Says Bagh Singh, a four-acre farmer heading a new co-op in the Punjab: "When we get more money, everybody's brain will start working, and things will happen."

And, on a human scale, they do. Says one ebullient dairy manager: "We are talking here about men, not milk." And women too. Indian farm wives traditionally tend the cattle and collect the milk money. In the Anand area it averages almost half the family's cash income and is plowed back into land, more milk animals, house improvements and education.

Some women have even formed their own co-ops. A brand-new one in Jasibaghwali is headed by Mrs. Bhagwant Kaur, a 39-year-old mother with four children. Who keeps the milk money? "Me," she replies forcefully. "For educating the children. I no longer have to ask my husband."

Mehr Singh, obviously the village wit, remarks philosophically: "If Indira Gandhi can run the country, why not have a ladies' society? Anyway, my wife is prime minister of the house, and if I object, she will not prepare my meals." With the movement's growing strength, knocking out the middleman has been relatively easy. But not the tenacious bureaucrat.

Except for Anand, co-ops in general and milk in particular have long been under a paternalistic and patronage-wise government. The new dairy in Patna, for example, is directed by a civil servant recently transferred from the state prison system.

He promises that control will be shifted to the farmers only "in stages." But meanwhile, his functionaries are giving the white revolution a bad name by delaying milk payments and veterinary calls. But Verghese Kurien, the dynamic manager who developed Anand over 30 years, feels that their days are numbered.

"The local milk commissioners and directors of animal husbandry have their own empires. But the farmers are not dumb, and when they come into their own, they will not put up with incompetence, meddling and corruption," he says.

The potential is enormous: India has one-fifth of the world's 1.3 billion cows and buffaloes, yet produces only 5 percent of its milk. The goal is to create a nationwide co-op milk grid of 10 million farmers by the mid-1980s, double annual production, to more than 50 million tons, and establish farmer-owned dairies in every city of 100,000 people. It is no exaggeration to view the movement as a democratic alternative to China's authoritarian rural communes.

To encourage the co-op movement, the World Bank in June granted a $150 million loan to National Milk Product in India. The money will be spent over the next 10 years.

Kurien's accomplishments have impressed many foreign visitors, though one Asian agricultural official privately confesses that in his country, government meddling and the graft required would kill the idea.

Country: India.

PVO: CLUSA.

Project: Cooperative Oilseed Management Development Operational Program Grant (OPG).

Appropriation category: Section 103, Food and Nutrition.

Amount: $475,200.

This Operational Program Grant (OPG) is one of a number which are being provided to PVOs as indicated in the Presentation to the Congress (Asia Book FY 1978, page 183) but which are not described in detail.

PURPOSE

The development of an effective cooperative infrastructure within the oilseed sector.

BACKGROUND AND PROGRESS TO DATE

This project is a key component of a long range (10 year) strategy of the Government of India (GOI) to upgrade oilseed cooperative management capability and to increase by 25 percent oilseed processing capacity. It is the first of two grants proposed by the Cooperative League of the U.S.A. (CLUSA) to support the GOI program in this sector.

COOPERATIVE MODEL

This project is modeled after the highly successful Kaira District Cooperative Milk Producers Union at Anand in Gujarat State which often is called the "Amul Dairy Cooperative," after its products' brand name. The Cooperative has gained international recognition and praise for its achievements. Since its inception in 1946, the cooperative has increased its membership to 250,000 participants. The income of many of its members is double that of nearby villages without cooperatives. Thirty percent of its members are landless, while an additional 10 percent own one hectare of land or less. The dairy processing plant, animal husbandry services and livestock feed plants employ thousands.

The Amul Dairy Cooperative is responsible for almost the entire amount of the 50-percent increase in milk production over the last eight years in India and has increased dramatically per capita milk and milk products consumption by cooperative villages. Through a highly successful marketing development scheme, Amul has been able to ulitize all of its members' milk. Surplus milk collected during the winter months is converted to powdered milk. Amul Dairy products are not only noted for their reasonable prices but also for their quality. For example, Amul has marketed the first Indian baby food product which costs 17 percent less than its competitors and has captured 74 percent of the market.

Moreover, the underlying principle of the Amul Dairy Cooperative is that each member is an equal partner regardless of caste or sex. This principle transforms the cooperative into a viable mechanism for social progress.

OILSEEDS

Next to foodgrains, vegetable oil is the major caloric element in the Indian diet. Some 16 million hectares, i.e. 10 percent of the total cultivated land holdings in India, are devoted to producing oilseeds. The majority of the oilseeds producers are poor farmers with 10–20 hectares of land, often joint family holdings. More than 95 percent of their crop is grown in rainfed areas where no irrigation facilities exist. This results in widely fluctuating yields. In years when the monsoon is late or poor, widespread crop failures occur. Moreover an initial investment of up to Rs. 2,000 per hectare is required to obtain seed, fertilizer, and other agricultural inputs. The traditional sources of credit are money lenders and traders who frequently engage in monopolistic and speculative practices. Additionally, the oilseed mills which often are operated by money lenders and traders usually are small and inefficient.

NATIONAL COOPERATIVE DEVELOPMENT CORPORATION (NCDC) AND CLUSA

Based on the success of the milk cooperative movement, the GOI established the NCDC in 1963 to promote the development of cooperatives in other sectors. Because CLUSA had collaborated with the Indian dairy cooperatives since 1956, NCDC sought its technical advice and support in its efforts to expand cooperatives. CLUSA has provided advice in organizational management and in the methods of establishing fertilizer and oilseeds cooperatives.

HOST COUNTRY AND OTHER DONORS

The GOI will contribute $164,300 to the above stated three-year project. Over the long term (10 years), the GOI plans to contribute $148.7 million to this effort. During the life of this project, CLUSA will contribute $233,000. Indian cooperative will contribute $118,000.

FISCAL YEAR 1978 PROGRAM

CLUSA will assist NCDC (1) in developing a methodology for upgrading the management capability in the oilseeds cooperative units, and (2) in developing the capability within an Indian institution for training personnel serving in cooperative units.

BENEFICIARIES

The project will benefit (a) the poor farmers who are the producers in this sector, by providing a viable alternative to the traditional money lenders and traders; (b) the consumer, by providing price stability and a quality product; and (c) the rural nonfarm worker, by creating employment thus increasing his buying power. None of these oilseed products for export.

MAJOR OUTPUTS

At the completion of this OPG, policy guidance and training materials will have been developed; a minimum of six professionals will be trained in the use of and rationale for this system, as well as possessing the capability for training and advising others; and a minimum of 35 general managers in place and knowledgeable of the system and the policy guidance materials.

AID inputs

Long term advisors (2)	$334,000
Short term consultants	53,800
Advisory committee	40,700
Other U.S. and local expenses	46,700
Total AID contribution	475,200 ●

COMMENTS ON NITRITE PROJECT

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. GRASSLEY. Mr. Speaker, as we all know, there has been a lot of confusion and uncertainty regarding the use of nitrites as a preservative since the release of a study by the U.S. Department of Agriculture and the Food and Drug Administration carried out under contract with Dr. Paul Newberne at Massachusetts Institute of Technology. Many scientists familiar with this type of research have provided valuable comment about this project. One such individual is Dr. Steven Tannenbaum who is professor of food chemistry at Massachusetts Institute of Technology. On August 16 Mr. John Megown of WMT-stations in Cedar Rapids, Iowa, interviewed Dr. Tannenbaum. Following is the text of Mr. Megown's interview with Dr. Tannenbaum:

INTERVIEW WITH DR. STEVEN TANNENBAUM

This is John Megown reporting from WMT-Stations. We are interviewing a gentleman by the name of Dr. Steven Tannenbaum, Professor of Food Chemistry at Massachusetts Institute of Technology. We were put into contact with Dr. Tannenbaum by the Consumer Alert Council of Stamford, Connecticut.

What's involved here is the research report that received headlines and news coverage through the networks this past weekend involving nitrites in food—nitrites in tests with rats, actually. We have Dr. Tannenbaum on now and I would like to ask him a question about what he thought when he picked up the Saturday paper and first read the headline about the MIT test that the government was reporting.

TANNENBAUM. Well, I guess I was a little bit in a state of shock, because I had been somewhat familiar with the work that was going on. It was not going on in my laboratory. It was going on in one of my colleague's laboratory, but, I felt that there was a distinct air of overreaction on the part of the government, given the nature of the conclusions in the report.

MEGOWN. They talked about that this might suggest that the Delaney Clause should be invoked. What is your answer to that? Do you think that we have enough evidence at this point that the Delaney Amendment could be invoked, and try to do the same thing they tried to do with saccharin, or do you think more data is needed?

TANNENBAUM. Well, you have a very complex situation here. We're—nitrite has been tested many times in several different countries under a variety of conditions. And, up until now no one had ever demonstrated that nitrite itself caused tumors under any circumstances in the rat or other test animals. One which already has a very high incidence of lymphomas and probably caused by a virus. And, as I understand it, it's traditional in testing of this type to not use an animal that has a natural high rate of tumors because it's difficult to interpret what a small increase means above what you would find in a control group. So, when you come down to the question of whether or not the Delaney Clause should be invoked, I think that now you're talking about a definition of terms which would be in the hands of lawyers, because I don't know whether the words in the Delaney Clause "induce cancer" apply in this particular case.

MEGOWN. The Delaney Clause, I think, is very specific that if it causes cancer at any level in humans or animals it has to be invoked, so there is probably very little choice. The question now becomes as to whether the data are sufficient in scope and statistically significant, and that type of thing. One thing that I noticed was that they used the Sprague-Dawley rats, where the Canadians in their studies used the Wistar rats. You were mentioning that there is a difference in their susceptibility to contracting cancer, of the different ones. Is that maybe why there is a difference between the Canadian test with cooked bacon with nitrite in it and this one which was done with feeding nitrite to rats?

TANNENBAUM. There are several tests aside from the Canadian tests. There is one that was done in Germany with BG rats and there was one done in Holland with a different strain of rats, and the thing that's unique about this strain is that it apparently carries this virus which causes lymphomas, whereas, the other rats did not carry anything like that. And, the conclusion of Dr. Newberne, who was the investigator who conducted the study, is that this is not an initiator of cancer, but in fact is something which may modify the carcinogenic process—the kind of substance called the promoter, which is a substance which can not in itself cause cancer, but which can modify something else which causes cancer. So, one has to ask, then, whether given the fact that so many other negative studies have been done in similar species of rats, what the significance of the study is in the strain of rats that already has induced in it the kind of cancer that one finds from the test substance, namely nitrite.

MEGOWN. I want to ask you something related to this. I noticed that it was 8.4 percent of the two control groups that contracted lymphomas, whereas, it was 12.5 percent of the nitrite-receiving groups that did. Isn't that 8.4 percent an extremely high level for any control group?

TANNENBAUM. Extremely high, is the word for it. I mean, it's almost unheard of, except in a rat that's specifically susceptible to this sort of tumor. That's my point. I think that this tends to color the nature of the results with regard to their interpretation. I mean, it's an experiment which bears, I think, repeating under the conditions where the animals don't naturally have this high rate of lymphomas.

MEGOWN. I agree with you that the test probably needs to be repeated. One of the things that worried us the most is the way the news media handled it—because it received national attention with headlines, like "Nitrite Causes Cancer"—"Nitrite May Cause Cancer"—and there wasn't a newspaper in the United States, I guess, that didn't carry it either Saturday or Sunday, and there wasn't a network show that didn't have it on at least a couple of nights. This worries us as to why this happens. If you can show a negative, the news media seems to hop right in on it. If the MIT study had shown that nitrite didn't cause cancer do you think it would have gotten as much attention from the national news media?

TANNENBAUM. I'm sure it wouldn't. I think that an additional factor in this case is that it is the way the people in government associated with the release of the data, particularly Carol Foreman, handled the release. It's my understanding that it was released only to the news media and that no one else had a copy of it until several days later, and I think a lot of the way the headline writing came out had to do with the way the document was worded, particularly in the first paragraph. I think that if you would have read the articles and read past the headlines down to the second and third paragraphs, it came out reading quite a bit differently. Even though, with respect to where the nitrite comes from, I think that the government statement shows a clear bias against nitrite from the very start.

MEGOWN. I agree with you I've read the test, the report of the test in the news release and the stories in the newspapers. I think that with each step it grew in magnitude. The test points out some things. They carefully say things, like "The data are only suggestive" and "the biological significance of nitrite associate lesions of the lymphoreticular system is unclear," and things like this—carefully wording it, like a scientist would. Then, the news release, which I have read, seemed to go further, and the newspaper stories seemed to even go further than that. I think that this is one of the great problems we encounter with this type of thing. Don't you agree?

TANNENBAUM. I think that's equally true for foreign affairs as it is for food additives. That's a problem of newspaper headline writing. I think it's something I don't have much to comment on.

MEGOWN. I noticed in the wire stories that came in today that USDA and FDA have turned this over to the Justice Department, and asked if the Food Laws will allow the agencies to begin a phase in of a ban on nitrite. So, now we've moved from the scientific circles, to the bureaucratic circles, to the legal circles.

TANNENBAUM. Well, I think that that's where the final battle always takes place. I mean, there is a set of laws which governs the legislation of food additives, and the interpretation of those laws usually falls into the hands of the lawyers. And, I think it's how they ultimately will interpret the meaning of some of those words, like "induce," that I think will influence the outcome. But, I think, also, that a big problem is that the law itself doesn't allow the agencies to make value judgements on the use of an additive, for example, in comparison to the risk that would be entailed if one did not use the additive.

MEGOWN. This is the same thing that occurs, I think with the antibiotic situation that's going on with the FDA and Dr. Kennedy. We have to relate risk to benefit, but the law does not allow the government to relate these two things. This is probably why there is going to have to be some action from Congress to change the Delaney Clause to bring this around to where it should be.

TANNENBAUM. Well, that's right. And, in this particular case, I mean, the risk is botulism, which I think carries with it a very serious risk of death, so that one is dealing with a very specific benefit that would result in the shortening of life, so that I think this is a case that is quite different than many of the others and I think the government has to take into consideration the risks in this particular case.

MEGOWN. I noticed in *Food Chemical News* toward the end of last year, that you had reported on some work with nitrites, and you pointed out if nitrite in bacon were to be banned there could be up to 1,000 more cases of botulism a year. Now we're talking about taking nitrite out of hot dogs, bacon, luncheon meats, country cured hams and many other things. Obviously this risk of botulism will grow in magnitude beyond the estimated 1,000 cases—right?

TANNENBAUM. I think that the amount of risk is going to be gigantic, and I think that the cost to society is going to be gigantic because there isn't going to be any way for the commercial channels to handle this meat. You have a tremendous volume of meat that's been handled in a certain fashion and now all of a sudden the government is going to turn around and say that you can't handle it that way. You have thousands of meat processing plants. I mean, I just don't understand. What are they talking about? They'll be putting people out of work. It just doesn't make any sense, at all, except in the context that there's a political goal in mind here. And, I mean, certainly I don't see a rational health or economic goal in the kind of decision-making process that's being carried out here.

MEGOWN. Dr. Tannenbaum, I appreciate you giving us so much of your time. I realize you're on vacation and we appreciate the Consumer Alert Council putting us in contact with you.

We've been talking to Dr. Steven Tannenbaum, Professor of Food Chemistry at Massachusetts Institute of Technology, and this is John Megown reporting from WMT-Stations.●

TRIBUTE TO SET MOMJIAN OF HUNTINGTON VALLEY, PA.

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. KOSTMAYER. Mr. Speaker, I rise to pay tribute today to a good friend and a distinguished American, Set Momjian of Huntingdon Valley, Pa., who has just been appointed by the President as a Special Ambassador to the 33d session of the United Nation General Assembly.

I am delighted to report to my colleagues in the House that Set Momjian will be representing the United States at the United Nations this coming year. He joins a delegation headed by Ambassador Andrew Young, James B. Leonard, Senator JAMES B. PEARSON of Kansas and Senator ABRAHAM RIBICOFF of Connecticut. Among those who have in the past held Ambassador Momjian's post are, Mrs. Martin Luther King, Jr., Marian Anderson, Shirley Temple Black, Irene Dunn, and Pearl Bailey.

Set Momjian follows these distinguished ambassadors in taking on the task of being the "people's representative" to the General Assembly. I do not think there is a more appropriate man to be America's special representative in New York. For Set Momjian represents the American experience and it is his kind of love and devotion for our country which has helped to make it great.

Set is the son of Armenian immigrants. His parents, Julia and Charles Momjian, came to the United States from Armenia in the early part of this century. They came—as did so many of the immigrants who make up our Nation—through New York's Ellis Island. Julia and Charles Momjian never forgot what Ellis Island meant to them and the impact of their experience as Armenian immigrants was not lost on their son, Set.

Set Momjian, as he will proudly tell you, is 100 percent American, but he is nevertheless intensely proud of his Armenian heritage. During the Bicentennial, Set Momjian raised over $600,000 throughout the United States so that a $1 million tapestry by Albert Herter could be presented to the New York Metropolitan Museum as a Bicentennial gift from Armenian-Americans. In conjunction with this gift, Set Momjian organized a "Thank you America" banquet at the Waldorf-Astoria attended by 1,500 Armenian-Americans who gathered to proclaim their gratitude to America in its Bicentennial year and present their beautiful tapestry to the Metropolitan Museum. I was happy to be with Set and his family that evening in New York.

But this is not all he has done on behalf of Armenian-Americans. For the past 6 months, Set Momjian has traveled all over America raising funds for a special celebration to be held on Ellis Island on September 27. This celebration—called Ellis Island Remembered—will be attended by over 1,000 Armenian-Americans who are coming back to reflect upon the historic role Ellis Island played in their lives and to pay tribute to the place that first welcomed Armenian immigrants to America. The funds raised by Set Momjian will be donated to the U.S. Department of the Interior during the ceremonies that day as a special gift to pay for the upkeep and landscaping of Ellis Island. These proud Armenian-Americans, according to Set, are the first ethnic group in America to return to Ellis Island to make their mark on it as it once did on them and their families.

Set Momjian is a man of drive and spirit. I know, Mr. Speaker, that he will make a special mark on the General Assembly of the United Nations. Part of his great energy and spirit undoubtedly comes from his lovely and supportive family. I know that his wife, Joan Reed Momjian, his two sons, Bruce, age 16, and Christopher 13, and his brother Albert Momjian, a distinguished attorney in Philadelphia, are all justly proud of him.

At the United Nations, Set Momjian's major interest and concern will be human rights. I can assure my colleagues, Mr. Speaker, that having a man like Set at the United Nations will strengthen our delegation and will help maintain America's strong and unequivocal commitment to human rights here at home and around the world. I have no doubt that Set Momjian will serve America well and that his remarkable spirit of determination and love will be felt at the 33d session of the United Nations General Assembly.●

REMARKS EXPRESSING CONCERN OVER SOME BILLS PASSED UNDER SUSPENSION MONDAY, SEPTEMBER 25, AND TUESDAY, SEPTEMBER 26

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. ERTEL. Mr. Speaker, in the last 2 days we have passed 31 bills or resolutions under the suspension of the rules of the House. Suspending the rules has allowed us to handle these bills in a more rapid manner than under the normal procedure. This has helped deal with our heavy backlog. I am concerned, however, that several of these bills were inappropriate under the suspension process.

Mr. Speaker, I would point out that one of these bills will cost more than $100 million in a single fiscal year. This is an expensive bill which I believe should have been open to amendment. In addition, another of the bills we passed under suspension did not have printed copies of the committee report available a sufficient amount of time prior to House consideration. It was reported out of committee last Friday and taken up and passed on Monday.

Mr. Speaker, I understand that in this case there was no violation of the rules of the House. Under these rules, printed copies of committee reports need not be available more than 2 hours prior to floor consideration—except in the case of appropriation bills. I would submit, however, that printed copies should be available to Members at least 3 legislative days prior to floor action.

Mr. Speaker, when we handle expensive bills under suspension, and bills which are just reported out of committee, Members of this body are placed in an uncomfortable position. Are we to vote for a bill which we have not had sufficient time to study? Are we to vote for a bill which has a large cost, but not subject to amendment?

Mr. Speaker, I am not singling out any particular legislation, however, I would hope that we take care in our handling of bills under suspension. I do not believe we should take up a bill under suspension that has a cost of over $100 million in a single fiscal year. Nor do I believe that we should take up a bill for which printed copies of committee reports are not available at least 3 legislative days prior to consideration. Suspending the rules is an important tool in the conduct of our business, but this tool must be used with great care.●

A TRIBUTE TO GRAEME DALZELL

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. OTTINGER. Mr. Speaker, on June 16, the Cerebral Palsy Association of Westchester County paid tribute to an outstanding human being and community leader, Graeme Dalzell.

I have had the pleasure of knowing and working with Graeme for a number of years and am honored to be his friend. I would like to share with my colleagues at this time the tribute which appeared in the dinner program at his testimonial dinner.

United Cerebral Palsy Salutes Graeme Dalzell

Devoted family man, successful union leader, dedicated sports enthusiast, developer of young bodies and minds, humanitarian. All of these picture portraits aptly describe our guest of honor, Graeme Dalzell.

We could in good conscience honor Graeme solely for his outstanding contributions to the Cerebral Palsy Association in the course of the past nine years. To focus on only one facet of Graeme's life, however, would be a disservice since his is a full and multidimensional existence.

His athletic prowess as a star athlete at Yonkers High School excelling in basketball, baseball, track and cross country found expression in later life. Raised by Phyllis and Graeme Dalzell to respect education, sons George and Richard and daughter Margaret epitomized the college scholar-athlete. Son Jon, a high school honor student, is keeping the tradition alive and is being actively pursued by numerous colleges offering athletic scholarships.

As a founding father of the Colts Boys Club in 1949, Graeme has watched the organization grow from a group serving fourteen boys to an organization serving 750 boys and girls as of May '76. The two story building purchased in 1950 from the Nepera Park residents became the focal point of the entire community and was subsequently emulated by other youth oriented organizations. Baseball, basketball, track and field became the vehicle for molding character. Graeme repeated his success in Clarkstown (Rockland) when as youth director hired on a part time basis (1962–1967) he instituted recreational programs still in existence today.

Graeme has been a devoted member of Local 501, IBEW, for the past 29 years and currently serves as the union's business manager. He is a Vice President of the Westchester Building Trades Council, member of the Legislative Committee of the NYS Building Trades Council, Executive Committee member of the state wide Jobs & Energy Independence Group and a member of the Westchester County Labor Council.

Graeme's awards include the following: Yonkers Sportsman of the Year, Americanism Award, Westchester Coaches & Officials Award, Parents Magazine Award, Town of Clarkstown Chamber of Commerce Award, Knights of Columbus Award and United Cerebral Palsy's Humanitarian Award.

In his tenure as Telethon Chairman for Local 501, IBEW, more than $100,000 was raised for the cerebral palsied and developmentally disabled in our community. Graeme's influence and leadership in the last four years as overall Telethon Labor Chairman has transcended his own local and resulted in unprecedented giving by organized labor throughout Westchester County.

The Cerebral Palsy Association of Westchester County is pleased to number among its friends and outstanding citizens, Mr. Graeme Dalzell.●

PEACE IN OUR TIME

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. SOLARZ. Mr. Speaker, I am certain that each of us is thankful this week for the agreements reached at Camp David, which clearly mark the most dramatic step forward toward peace in the Middle East in the past 30 years. In fact, I believe that the Camp David summit may eventually prove to be the most significant diplomatic achievement in the history of the Republic.

As we all know, the Camp David accords have been greeted with a warm welcome by the Jewish community in this country. In this regard, I would like to call the attention of my colleagues to a comprehensive and thoughtful editorial that appeared in the September 22 issue of the Jewish Press. Published in Brooklyn, the Jewish Press is the largest circulation Anglo-Jewish newspaper in the world. Its views carry great weight, and its editorial opinion reflects the thinking of an important segment of the Jewish community.

One of the important features of this editorial is its demonstration of the continuing passionate hope of the Jewish community for an honorable peace providing for Israel's security. As the Jewish Press notes, it required great courage on the part of Menachem Begin to enter the talks, knowing he would have to return land drenched with the blood of innocent Israeli soldiers. Like the Jewish Press, we can only hope that the responsible leaders of the Middle East's other Arab families will see the light of a peaceful existence and join President Sadat and Prime Minister Begin in the search for a just and lasting peace insuring Israel's survival and security—and paving the way for peace and prosperity for all the countries of the region.

Mr. Speaker, I am delighted to ask that the Jewish Press editorial be included at this point in the Record:

Peace in Our Time

This week was one of the most historic in the 30 year history of Israel. It is the first time that a realistic peace is on the horizon.

President Carter's name will be recorded in history as the man who was able to bring together two of the important leaders in the Middle East.

Indeed, it took great courage on the part of Mr. Sadat to go through with the Camp David meeting, with pressure that was put on him by the other Arab states.

By the same token, it was equally courageous of Menachem Begin to enter the talks, knowing he would have to return land drenched with the blood of innocent Israeli soldiers.

The agreements that have been signed offer hope for the future. Indeed there are still a number of points still to be discussed.

Now that Mr. Sadat and Mr. Begin have joined hands and have shown their intention to develop a meaningful peace agreement, we hope the responsible leaders of the Middle East's other Arab families will see the light of a peaceful existence.

With peace in the Middle East, Israel and Egypt will prosper in the years to come as border guards become tourist guides. Prosperity, in the tourist trade alone will spark the Egyptian economy. The military economic strangulation forced on Israel can be reduced and used for the betterment of all Israelis. And their atomic research can now be used for medical and industrial endeavors.

The families of young men and women, knowing the threat of war no longer exists between these two nations, can set their minds at rest to concentrate on bigger and better hope for the future.

The scientific advances that Israel has made may be made available to Egypt, so that her industry can prosper and the financial dispair that has faced the Egyptian people in the past ten years, may begin to rise.

In Israel, life can be returned to normal to increase foreign investment for industry.

The only fear that lurks behind the joy that fills our heart is whether Mr. Sadat can control the Palestinian Liberation Organization. If only they would turn to reason, instead of violence, they too would stand to gain much in the years to come.

On the question of the new settlements in the Sinai, we know this was a bone in Mr. Begin's throat, because he had pledged his support to the new settlers. At this point in time, we do not know what the Knesset will do, or how Mr. Begin will resolve the problem. But, we do feel, if the price of peace depends on this point, we must pray to G-d for the proper solution.

Aside from Egypt and Israel gaining, we feel the United States and the President has gained much in the reestablishment of respect and prestige throughout the world.

We add our prayers to the millions of peace loving people throughout the world that we can and shall see peace in our Holy Land in our life-time.●

ILLEGAL DUMPING OF TOXIC SUBSTANCES PERILS THE UNITED STATES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. KEMP. Mr. Speaker, over the past several days I have brought to the attention of our colleagues the extent of the threat to our environment and to public health arising from the improper disposal of toxic substances.

This has been a matter of heightened national public attention in recent weeks as the media have focused on two specific incidents: the contamination of a housing area along Love Canal in Niagara Falls, N.Y., from the leeching through the soil of chemicals covered 25 years ago, and the illegal dumping of PCB waste along 210 miles of North Carolina highways this summer.

As disturbing as those two events are, one resulting from a disposal according to the best technology which existed at the time but which we now know not to have been good enough and the other resulting from an outrightly illegal dumping, they are only two examples from among thousands which have occurred.

The fact is that illegal waste dumps and dumping are common.

A recent article in the Michael Desmond series on the disposal of hazardous chemicals, appearing in the Buffalo Courier-Express, focused on exactly this What that article showed is that there are both illegal dump sites where chemicals are routinely disposed of improperly problem: illegal dumps and dumping. and that there is extensive illegal dumping in areas where no sites exist. Dumping is a matter controlled by Federal and State laws and local ordinances, but it is apparent that there is inadequate enforcement on all three levels. This must be corrected at the earliest possible date.

This article and two related ones from that same day's edition follow:

[From the Buffalo Courier-Express, Sept. 18, 1978]

"MIDNIGHT HAULERS" PERIL U.S.—ILLEGAL WASTE DUMPS COMMON

(By Michael Desmond)

There are two ways to dispose of hazardous chemical wastes—legally and illegally. And the illegal way is by far the most common.

"Midnight haulers," as illegal waste-dumpers are known, are familiar figures in the chemical industry. They are especially familiar among smaller chemically-oriented companies which cannot afford the high costs of legal waste treatment or disposal.

How expensive is legal waste treatment? One operator of a well-known chemical waste treatment plant cited this example to The Courier-Express: To turn one type of chemical into harmless material costs $5 a gallon. The chemical comes in 55-gallon drums. The cost, then, is $275 per drum. Multiplied by the thousands of drums which must be disposed of, and the costs would be astronomical.

DUPONT COSTS

E. I. duPont DeNemours & Co. Inc., for example will spend $35 million this year to operate its disposal system for chemical wastes from its own vast complex of plants across the nation. The firm said it expects to spend even more next year.

C. Edward Ashby, Jr., is well aware of the "midnight hauler" problem. He is vice president-eastern region for Rollins Environmental Services Inc. in Bridgeport, N.J., a disposal firm located not far from the state's rustic Pine Barrens. He grimaces when "midnight hauling" is mentioned as an alterative to proper disposal, but admits it is common.

New Jersey is a chemist's dream. From the industrial complex across the Delaware River from Philadelphia to the miles of industry across the Hudson River from New York City, the state is a giant test tube.

BIG WASTE PRODUCER

Currently, the state produces 350,000 tons of chemical waste a year and 1.2 billion gallons more which is dumped into the ocean, according to Dr. Ronald Buchanan, chief of the Bureau of Hazardous and Chemical Wastes in the state's Department of Environmental Protection in Trenton.

But, he is well aware of the Pine Barrens and its counterpart in North Jersey the Meadowlands, where illegal dumping is common.

Many states have equivalent illegal dumping areas. Kenneth Weiss, a research engineer for the Delaware Department of Natural Resources and Environmental Control in Dover, noted, "From what we have learned from our waste investigation, most of it is going out of state."

However, the department makes no attempt to verify records showing an out of state destination, he admitted.

Many states have laws or rules on the books to take care of hazardous wastes. But, there is little or no staff to enforce the laws, so they are largely just for show.

TIP OF ICEBERG

"We don't have the ability with our current staffing to do more than break the tip of the iceberg," was the comment of James Snyder, chief of the operations and compliance section of the Solid Waste Management Division of the Pennsylvania Department of Environmental Resources.

This isn't a problem confined to the large industrial states. "We're certain there are things that are going on we don't know about," commented Dennis Dalley, associate deputy director of health in the Environmental Health Services Branch in the Division of Health in the Utah Department of Social Services. He is one of three state employees in the hazardous waste field.

Louisville, Ky. found out about illegal dumping in the spring of 1977. A series of toxic chemicals used to make pesticides were dumped down a sewer. The chemicals contaminated the sewer system and sent 35 sewer plant workers for medical treatment.

SEWAGE DUMPED

For nearly three months, 100 million gallons of raw sewage a day was put into the Ohio River because the Morris Foreman Treatment Plant could not be used.

Final cleanup of sewer lines took more than a year, while much raw sewage continued to flow into a major river. A group of employees and officials of an Indiana chemical firm were indicted in federal court for violating the Federal Water Pollution Control Act.

Recently, midnight dumpers poured toxic PCB along 210 miles of road outside Raleigh, N.C.

"There are states, Minnesota is one, unlike New York who have put their head in the sands," commented Dr. Charles A. Johnson, technical director of the National Solid Wastes Management Association in Washington, D.C. He added:

"As long as we continue to be an industrial society we are going to have industrial wastes."

His group lobbied hard for the Federal Resource Conservation and Recovery Act (RCRA). At the same time, the association doesn't think the law provides enough protection into the distant future.

And, the future is the problem.

LOVE CANAL

When the Hooker Chemicals & Plastics Corp. buried its waste in the industrial dream that was the Love Canal area of Niagara Falls, it was using the standard approach of the time. The chemicals turned into a nightmare which haunts the quiet neighborhood and may haunt its residents for a generation or more.

So, as the horrible example of the Love Canal indicates, there are even problems with legal dumps.

The Love Canal was a chemical waste dump which went wrong. The bad dumps around the country—and there are probably many thousands of them—are ticking time bombs. In the Love Canal, the bomb has gone off. Chemicals from the leaking site are thought to have caused birth defects and miscarriages, and have forced evacuation of a section of Niagara Falls.

What former dump site will go off next? There is no way to tell. The U.S. Environmental Protection Agency, the government unit responsible for protecting the nation's health from such calamities, admits it does not even know where the sites are.

Some waste is supposed to be burned, Federal regulations require that PCBs be burned in special incinerators at 2,100 degrees. But, there is no public incinerator in the country licensed to burn liquid PCBs. So, they have to be stored until EPA can licence incinerators.

WASTE FUEL

Some chemicals are cleaned and mixed and used as fuels in industrial processes. Since the oil embargo of five years ago, industry is much more aware of this source of heat, one large treatment plant uses about 10 percent of the wastes it handles as a fuel supplement.

Some chemicals can be treated and cleaned and reused. This is especially true of industrial solvents. One plant recycles 10 percent on the average.

Some liquid waste can be treated to precipitate out the contaminant in the form of a sludge. The water is then cleaned and discharged. Usually the sludge is buried. But, some metals can be reclaimed if concentrated enough.

Sometimes waste itself can be exchanged with other companies and used as a source material by the second company. Currently, little of this is being done.

There are three last resorts. Dumping in a secure land fill is one. Pumping material several miles into the ground in a deep well is a second. And, hauling the material out into the ocean or Gulf of Mexico is the third.

REDUCE WASTES

Of course, there is an alternative companies have been reluctant to use as long as disposal, at present, is cheaper: Reducing the amount of waste to be disposed of. This can be done by making production more efficient or by changing the basic processes.

James Reilly, corporate director of environmental affairs for DuPont in Wilmington, Del., commented on efficiency: "That gets to be the topic of any manufacturing discussion."

Bruce Davis, executive vice president for Hooker's Industrial Chemicals Group, noted his firm has spent $5 million in Niagara Falls on one of its industrial processes. It resulted in "a hell of a lot more efficiency and one of the savings is less disposal of residue."

In another process in Niagara Falls, he said, "We've essentially eliminated any material going to landfill or sewer system."

Davis said the technology involved in this change will be sold to other companies in the field by Hooker. "We are one of the leading purveyors of chloralkali technology in the world," he noted. This involves turning salt and water into commercial chemicals.

Simply trying to throw away the wastes isn't the answer because it doesn't work.

Ocean dumping will be stopped, by law after Dec. 31, 1981. It has been the subject of fierce attack.

TEXAS PROTEST

On Aug 23, shrimp fishermen from Freeport, Texas attacked an EPA proposal to permit the federal energy department to dump salt brine into a fish spawning ground. The brine is being pumped out of an underground salt formation to make room for oil storage through the government's Strategic Petroleum Reserve Program.

The oil is being stored to be used in the event of another oil embargo. The brine is so much saltier than the ocean that it could pollute the spawning grounds.

Lonnie Vandergrifft is president of the Freeport Shrimp Association and a director of the Gulf Coast Fishermen's Defense Fund. Both groups are considering a federal court suit against the proposal. Vandergrifft said: "The EPA is supposed to be against ocean dumping. But, this will be just like a sewer line into the Gulf."

DUMPING SUPERVISED

Currently, the EPA is supervising the annual dumping of 1.5 million tons of waste off the New Jersey shore, Dr. Peter Anderson, chief of the Marine Protection Branch for EPA's Region 2 in New York City, told the Courier Express.

Most of the waste is either chemically basic, as is the ocean, or acidic which is neutralized into a salt by the ocean. Some toxic pesticide wastes and pesticides are also dumped. Anderson claimed they deteriorate in the ocean. Garbage and sewage are also dumped and have washed back to shore.

Rep. Bob Eckhardt, D-Texas, was influential in pushing for the now required end to most dumping. He pointed out to The Courier-Express that one steel company used to dump 1,000 pounds of cynide into the Houston Ship Channel each day. Eventually, former Texas Governor John Connally was called in by the company to get EPA off its back about the waste.

"Connally went up to Washington and had some conversations with the Department of Justice. It was out of EPA's hands," Eckhardt told The Courier-Express.

CASE REOPENED

Eckhardt said a letter turned up which showed EPA was ordered to reopen the case. Connally, who was also formerly treasury secretary, was later publicly praised by the president of the steel company.

Finally, tighter controls were put on by congress.

Eckhardt has been pushing on the dumping situation, even though he admits, "I really do have more of the chemical industry in my district than any other congressman."

TOUCHY ISSUE

The issue remains touchy:

On Aug. 23, the Ethyl Corp. withdrew a new application for ocean dumping in the Gulf of Mexico when EPA ruled that both Houston newspapers could use the Freedom of Information Act to find out what the company was dumping. Ethyl was the last company to have a federal permit to dump in the Gulf.

When EPA began to regulate Gulf dumping in 1973, there were seven companies dumping. Before that, the practice was loosely regulated by the Army Corps of Engineers.

It isn't known exactly what Ethyl wanted to dump, although in the past the firm has dumped calcium and sodium sludge in an area 50 miles off the Mississippi Delta. Instead, the company said it will incinerate its waste.

WASTE BURIED

Some other companies no longer dumping in the Gulf are now burying their waste.

At one time, the Gulf was close to being a main dumping ground for Middle America, Rep. Eckhardt noted:

"I started complaining a long time ago. People were shipping drums down the Ohio River to dump in the Gulf of Mexico."

OCEAN OFF N.Y. IS DUMPING SITE

The New York Bight is a giant blot in the Atlantic Ocean off Long Island and the shore of New Jersey.

The bight is formed by Montauk Point, Cape May, N.J., and the edge of the Outer Continental Shelf. Into this area, under EPA supervision, 1.5 million tons of municipal sludge, acid waste, construction debris and chemical wastes were dumped last year.

There are four specific areas for dumping inside the bight.

A number of scientific investigations have documented several adverse environmental impacts from the dumping.

Eighty-six percent of all ocean dumping allowed by EPA is in the New York Bight. Other dumping places are off the coast of Puerto Rico and the Pacific Coast.

N.C. PLANS TEST OF PCB CLEANUP ALONG ROADWAYS

RALEIGH, N.C.—A volunteer North Carolina Highway Department crew wearing respirators and special clothing Thursday will make a test pickup of PCB-contaminated roadside soil here.

Meanwhile, a political storm is brewing here over where to store the highly toxic material, sprayed along 210 miles of North Carolina highways, allegedly in late July and early August.

The men accused of causing the contamination remained in Chautauqua County Jail in Mayville, N.Y., awaiting the arrival of a governor's warrant to extradite them here for trial of felony and misdemeanor charges filed by the state.

Robert J. Burns, 49, of Lakewood, N.Y., who is president of the Transformer Sales Co. of Allegany, N.Y., and his sons Randall, 20, and Timothy, 23, also face action on federal charges filed in U.S. District Court here late last month.

BAIL NOT POSTED

Bail has been set at $5,000 for each of the men, but they have not posted it, apparently because they would be picked up by federal authorities immediately upon their release.

In North Carolina, highway departmental crews have already taken some preliminary samples at spot locations.

According to North Carolina State Highway officials, plans for next Thursday call for workmen to be screened for possible liver disease because PCB is believed to cause liver cancer.

They then will scrape up between 25 and 50 truck loads of dirt from the polluted roadside along North Carolina Route 58 in Warren County and haul it 16 miles to a highway maintenance yard near Warrenton for temporary storage.

The soil will be wrapped in four layers of plastic until a permanent burial site can be found.

RESIDENTS UNHAPPY

Warrenton residents were far from overjoyed to learn that the contaminated soil would be stored near them.

Warren County Manager Charles A. Hayes said, "It's kind of like being the victim of a crime. You're the one that's hurt, and you can't help it."

Warren County, northeast of this city, is almost on the Virginia border.

The state has canvassed 35 sites within a 75-mile radius of Raleigh, state officials said, but no permanent site has been selected.

Gov. James B. Hunt Jr. has been taking political flack from every county that has been mentioned as a possible site. But late last week he commented that, "a proper storage site will be found for the PCBs even if that angers nearby residents."

The alternative, highway officials said, is to truck the contaminated oil to an approved disposal system in Alabama. However, they said, they felt the cost, estimated at more than $2 million, would be prohibitive.

Federal officials, meanwhile, have ordered crops within 500 feet of any of the contaminated highways plowed under because they fear migration of the PCB chemical from the roadside.

EPA MONITORING

Federal Environmental Protection Agency (EPA) scientists will monitor Thursday's removal, state officials said, to make sure that no PCB-contaminated dust is spread by the operation.

PCB's, or polychlorinated biphenyls, are used in large electrical transformers where they are mixed with the insulating oil to retard heat buildup.

Burns has admitted he contracted with Ward Transformer Co. of Raleigh to dispose of approximately 33,000 gallons of the oil. Instead, the state claims, he and his sons sprayed it along the 210 miles of highways between here and the Virginia state line during the summer.

MANUFACTURE BANNED

Manufacture of PCB-impregnated oil has been banned by the EPA, but it can be recycled for use in transformers until 1984.

Burn's stock of PCB oil stored at Allegany was removed by orders from New York State. Another 27,000 gallons is stored in Youngsville, Pa., where no effort has been made to move it.

If Thursday's PCB pickup near Warrenton is successful, highway officials said, a final decision will be made about getting the rest of the material off the roadsides and finding a place to store the polluted soil.

The problem, one spokesman pointed out, will be to see how deep it will be necessary to dig to get all the contaminated dirt. Indications are that the oil used as a medium for the chemical may have seeped as much as a foot into the ground.●

CONSUMERS SUPPORT WAYS AND MEANS SUGAR BILL

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. VANIK. Mr. Speaker, the House will soon have the opportunity to vote on sugar legislation. There are two versions of this legislation: a Ways and Means bill which will support domestic producers without contributing to inflation and the Agriculture Committee version which will provide windfalls to producers and cost consumers $3.5 billion over the next 5 years.

Enclosed is a letter from the Consumer Federation of America opposing the Agriculture Committee version of the sugar bill and supporting the Ways and Means version:

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., September 26, 1978.

DEAR REPRESENTATIVE: Within the next several days you will have a unique opportunity to prove your sincerity in fighting food price inflation by voting against Title II of H.R. 13750, as reported by the House Agriculture Committee.

At a time when 220 million consumers are faced with double-digit inflation, this overly generous legislation would benefit 14,000 domestic sugar producers—less than 1 percent of our nation's farms—many of which are huge multinational conglomerates. It has been estimated by the U.S. Department of Agriculture that passage of the Agriculture Committee bill, which sets the initial support price for raw sugar at 16 cents per pound, with 7–8 percent annual increases, would cost consumers $3.9 billion over the next 5 years and add another half point to next year's Consumer Price Index for food. Moreover, as you will recall from the 1974 increase, a boost in sugar prices will surely be followed by higher prices for soft drinks, ice cream, bakery goods and virtually all other products made with sugar.

While CFA recognizes the importance of ensuring the continued viability of domestic sugar production, we firmly believe that the Ways and Means Committee bill can accomplish that goal without imposing an overwhelming financial burden on consumers. The Ways and Means bill, which establishes a market price objective of 15 cents per pound would cost consumers $485 million over the next five years. If replaced by a market price objective of 14.5 cents per pound—a price still above the current average cost of production—there would be no increase in consumer costs. Therefore, if a 14.5 cents a pound amendment is introduced to the Ways and Means bill, we sincerely hope that you will support it.

In addition to the dramatic cost savings which would be realized by passage of the Ways and Means bill, consideration should also be given to the following arguments for opposing the Agriculture bill:

1. THE COST OF CORN SWEETENERS WOULD ALSO INCREASE

Any measure designed to raise the price of sugar above reasonable levels, such as the Agriculture bill, will result in a further increase in the use of sugar substitutes, such as corn syrup. The projected cost increase under the Agriculture bill does not even take into account the consequentially higher cost of these sugar substitutes which historically jumps as a direct result of increased sugar prices. This situation could well result in hundreds of millions of dollars of additional costs to consumers. Corn sweeteners, which now account for about 27 percent of all sweeteners used in U.S. industrial food processing, pose a serious threat to the cane and beet sugar industries. In opening the door to increased competition by the corn sweetener industry, the Agriculture bill could actually push out the domestic sugar producers it is intending to help.

2. COSTS WOULD BE DISPROPORTIONATELY BORNE BY LOW INCOME CONSUMERS

According to recent studies of family budgets conducted by the Bureau of Labor Statistics, urban families of four living on lower budgets ($10,000/yr.) spend 61 percent as much on all goods and services as those on intermediate budgets ($17,000/yr.), but consume 82 percent as much sugar and sweets. When compared to those on higher budgets ($25,000/yr.), those on the lower budgets spend 42 percent as much on goods and services but consume 66 percent as much sugar and sweets.

Therefore, since sugar accounts for a larger percentage of the budgets of low-income consumers than other segments of our population, those who can least afford it will be hardest hit by rising sugar prices.

3. QUOTAS UNNECESSARILY TAX CONSUMERS

The Agriculture bill mandates quotas and guarantees 7 to 8 percent annual increases over the market price objective, regardless of world market conditions. This approach will disrupt supplies and drive up consumer prices artificially and unnecessarily high. Imposing these restrictive quotas is without a doubt the most expensive way to protect farmers.

Under the Ways and Means bill, the Secretary of Agriculture is authorized to make annual adjustments to the market price objective, based on world prices and other factors. Payments to producers, to be drawn from the U.S. Treasury, will be more than four times offset by duty and fee receipts.

4. THE FUTURE OF THE INTERNATIONAL SUGAR AGREEMENT MAY BE SERIOUSLY JEOPARDIZED

A stated purpose of the Agriculture bill is to implement the International Sugar Agreement, the objective of which is to stabilize world prices and guarantee a minimum price which will cover the costs of efficient producers. Passage of the Agriculture bill would clearly reduce the quantity of imported sugar. Annual U.S. sugar imports, approximately 4½–5 million tons, now account for about 25–30 percent of the total amount of sugar in free world trade. According to the USDA, passage of the Agriculture bill could result in a reduction of U.S. imports of 11½ million tons over the next four years. Assuming that the production capacity of corn sweeteners also increased, passage of this bill could eliminate all but a small portion of imports.

It is doubtful that a fledgling ISA could hold up under a drastic decrease in demand for world sugar. The much needed, long-term ISA approach might well be sacrificed to the short-term relief afforded by the Agriculture bill.

For all of these reasons CFA strongly urges you to oppose the Agriculture Committee's bill and support the Ways and Means version. Your vote will be tangible evidence to all American consumers that their economic interests cannot be dominated by those of a small special interest group.

Sincerely,

KATHLEEN F. O'REILLY,
Executive Director.
KATHLEEN D. SHEEKEY,
Legislative Director.●

TRIBUTE TO MRS. CHIPPI RUSSELL

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. OTTINGER. Mr. Speaker, recently, the Mamaroneck Village senior citizens program honored Mrs. Chippi Russell for over 20 years of volunteer service in the village's senior citizen program.

I would like to take this opportunity to share with my colleagues the article which appeared in the Daily Times describing the event:

150 TURN OUT TO HAIL SENIOR VOLUNTEER

Chippi Russell of Mamaroneck was honored recently at a surprise party for more than two decades of volunteer service in the Mamaroneck Village senior citizens program.

The party, held at the Mamaroneck Senior Nutrition Site, United Methodist Church, Mamaroneck, was attended by more than 150 seniors and guests, who paid tribute to the guest of honor.

Dubbed "Chippi Russell Day," the celebration included songs, speeches and presentation of gifts. Mrs. Russell has been working with the Mamaroneck seniors since they first became organized in the late '50s. They held their first meetings at the Mamaroneck Free Library, which they later outgrew. After a few years at the Knights of Columbus Hall, meetings were moved to the Methodist church, where the senior nutrition program was started. Mrs. Russell moved with the group.

Al Buncher, former Mamaroneck Village recreation director in the department of recreation and parks, acted as master of ceremonies. Festivities began with the "Star Spangled Banner," led by John Eller and Steve Johnston, and an invocation by George Brower.

The introduction and welcome was given by Shirley Romney of the Mamaroneck Village Human Resources Administration (HRA). Speakers were Armand J. Gianunzio, village manager, and Mary Soriano, a charter member of the senior group.

Alice Harkness led the party in serenading Mrs. Russell with "For She's a Jolly Good Person." The song leader also performed "At the Senior Citizens Ball," composed by Ted Koepper of Larchmont.

Mrs. Russell received three honors—a plaque from Gianunzio on behalf of the Village of Mamaroneck, a certificate from Al Croce, recreation leader, on behalf of the village's recreation department, and a cash gift from the senior citizens, presented by Mary Dellaporta.

Emeline Powell celebrated Chippi Russell Day by singing "God is Still on the Throne" and Linda Lett, an outreach worker for the seniors, read a poem, dedicating it to Mrs. Russell.

Guests at the party included Mamaroneck Village Justices Louis Zingesser and Richard E. Lanza; Mamaroneck Village trustees Arthur C. O'Neill and Gary Bastian; Joseph Fraioli village clerk-treasurer; Barbara Gasparini, representing her husband, Trustee Andreas (Hank) Gasparini; and Jule Sibley of the Human Resources Administration. Mrs. Russell's family filled three tables.

Elizabeth Covington, nutrition site manager, thanked the committee which arranged the party. Members were Shirley Romney, Ron Feldman, Eva Soares, Gay Rooney, Louise Haggerty, Christine Robinson, Vatina (Toots) Brower, Ida Jacobus, Lucy Tomassetti, and Marcia Cioffari.

Mrs. Russell was publicly thanked for her volunteer service at the most recent meeting of the Mamaroneck Village Board of Trustees.●

"NEW CONGRESSIONAL BUDGET OFFICE STUDY FORESEES MORE DECLINE OF FARMS, RURAL COMMUNITIES, UNLESS FEDERAL POLICIES CHANGED"

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. NOLAN. Mr. Speaker, the Congressional Budget Office has just completed a major study of how Federal laws and policies affect the well-being of America's small and medium sized farms and rural communities. The results confirm that unless Congress and the administration initiate significant policy changes, the present disastrous trend of rural decline will continue. My office has prepared a news release which summarizes the report well. I would like to share this information with my colleagues.

The press release follows:

PRESS RELEASE BY REPRESENTATIVE RICHARD NOLAN

Washington.—Rep. Richard Nolan (D-Mn.) has announced release of a new report by the Congressional Budget Office which asserts that unless U.S. farm policy is substantially redirected, small and medium sized farms and rural communities will continue to disappear from the national scene . . . perhaps at a faster rate than we are presently experiencing.

Nolan, Chairman of the House Subcommittee on Family Farms, Rural Development and Special Studies, had requested the study, titled "Public Policy and the Changing Structure of American Agriculture." The Minnesota lawmaker said the 70 page report "confirms much of what economists, sociologists, environmentalists, farmers, and local officials and businessmen throughout the country have been telling the subcommittee for two years: that federal policy is encouraging the trend toward fewer farms, larger farms, and more corporate and monopoly control of our entire system of food production and distribution."

As a base for a number of its conclusions, the study points out that U.S. farms are generally growing fewer and larger, replacing farm families and farm workers with expensive, energy intensive technology. Since 1945, for example, the actual number of farms in the U.S. has dropped from 5.9 million to 2.7 million, and the number of workers in the farm labor force has dropped from 11 million to 4 million.

Nolan cited the following as among the report's most significant conclusions, if the trend to fewer and larger farms is permitted to continue:

Individual farmers will find it more and more difficult to independently manage their operations as food processors, distributors, and farm supply firms increase their market power, and as creditors and processors get more involved in management supervision of farms. "This conclusion," Nolan observed, "is the most ironic of all. Those who have argued against government intervention in agriculture do so by denouncing production and marketing controls as a threat to their independence. But the report clearly states that without government action, the trend toward fewer and larger farms will continue, and the result will increasingly cost farmers their managerial independence."

The U.S. will be moved closer to monopoly control of the food industry, from seed to supermarket. The report asserts that the trend toward fewer and larger farms could well lead to "anti-competitive behavior" because "food processors, distributors, and production input suppliers would be in a stronger position" than individual farmers to gain and keep control of food production and marketing in the U.S. The report goes on to warn that "a few large agri-business firms may use (their monopoly position in the marketplace) "to dominate agricultural production and secure unnecessarily high food and fiber product prices from the American public."

Stable food supplies will be threatened in the future, and tough economic conditions will have a greater impact over the entire market.

"With greater concentration of production," the study explains, "and with farm workers unionized, consumers would be more likely to experience major interruptions in farm work, input supplies, or processing at critical times." On the other hand, the report goes on to say that "dispersed ownership, small farms, and heavy reliance on owner-operator labor rather than borrowed capital and hired labor provides a cushion of fixed costs that can be absorbed, or postponed, during times of adversity. This guarantees continuity in food supply, even if the economy is in the midst of a severe depression."

Rural areas and small communities will continue in economic decline.

"Large scale operators," asserts the report, "often find it feasible and advantageous to go outside their rural community to deal directly with machinery manufacturers, feed and seed companies, and major city banks." "Substantial increases in federal spending," it continues, "might ultimately be needed to assist displaced farm people and economically depressed rural communities."

The role of the family farmer (the husbandry function) will be undermined.

"With its relatively low variable costs, a high commitment of family labor and family-owned capital, and a capacity to defer fixed costs, the family farm has a strong incentive to maintain output even if farm product prices are very low. Stories of the resilience and staying power of the small family farm has a strong incentive to maintain output even if farm product prices are very low. . . . . personal experience endows a farmer with special farming knowledge and skills, which may significantly increase production efficiency." The study warns that without this special kind of knowledge as applied to food production, the system will suffer.

When all other effects of declining farm-rural way of life are taken into account, the issue of consumer food prices becomes secondary.

"Available research suggests . . . that the differences in retail food and fiber costs under alternative farm structures would be quite modest, relative to those between total cash receipts to farming, average net farm income, farm employment, and the viability of rural communities. Thus, the report concludes in its summary, "the highly publicized conflict between farmers and consumers—higher commodity prices versus lower retail food prices—may not be a primary consideration in decisions concerning the future structure of agriculture."

The study states that public policies could be used to reverse current trends and actually increase the number of farms by 300,000–400,000 by the year 2000. Among the possible tools cited are:

Targeting commodity benefits to small, diversified farms;

Eliminating commodity programs in favor of direct income subsidies to low income farmers;

Redirecting research and extension policies toward small and medium sized farms;

Liberalizing government credit to reduce cost of debt capital to small farms;

Eliminating 'tax loss farming' and other tax advantages of non-farm land holders;

Prohibiting agri-business corporations from engaging in farming or assuming farm management functions; requiring a large portion of products to move through open markets;

Promoting rural industrialization through government contracts;

Nolan termed the solutions "deficient because the most obvious policy tool has been overlooked: namely, raising farm commodity prices in the marketplace in order to generate earned income and stimulate economic activity in rural and urban areas."

Nolan said he intends to distribute the report to members of the House Agriculture Committee, and added that he will press for "serious consideration" of "every responsible alternative with the potential of reversing the present disastrous trend toward fewer and larger farming operations in the United States."●

CONGRESSIONAL SALUTE TO THE CLERGY AND PARISHIONERS OF ST. MICHAEL'S R.C. CHURCH HISTORIC LANDMARK, PATERSON, N.J., DURING ITS 75TH DIAMOND JUBILEE ANNIVERSARY CELEBRATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. ROE. Mr. Speaker, on Saturday, September 30, residents of my congressional district, State of New Jersey will join with the revered pastoral ministry team and the congregation of St. Michael's R.C. Church, an historic landmark, located in the city of Paterson, N.J., at a gala anniversary dinner commemorating the 75th diamond jubilee anniversary of the founding of this historical landmark national parish church incorporated in 1903 by the Italian American community of the city of Paterson.

In recognition of the fact that our Nation was founded on the cornerstone of our people's faith in God, which is truly the spirit, conscience, and very being of our society, I am pleased to call this historic event to your attention. I know that you and our colleagues here in the Congress will want to join with me in extending our heartiest congratulations and best wishes to the pastoral minstry team, Rev. Richard A. Rusconi, Rev. Frank A. Matarazzo and Deacon David Richardson, and to all of the parishioners of St. Michael's on this historic occasion. I particularly commend to you our citizens of Italian heritage who over these past three-quarters of a century have by their example engendered the esteem and respect to our people in their steadfast faith, hope, and charity in promulgating the richness of their religious culture through the establishment of St. Michael's R.C. Church.

Mr. Speaker, the quality of the leadership of members of the most reverend clergy and our citizens of Italian heritage who settled in the city of Paterson and founded St. Michael's R.C. Church is most eloquently intertwined in the history of the church. With your permission I would like to insert at this point in our historic journal of Congress an excerpt of several passages from a chronology that has been written on the events that have taken place in building St. Michael's R.C. Church. This excerpt which will convey the warmth, compassion and sincerity of purposes of its esteemed pastors and the priceless historic treasures that are embodied in this beautiful Romanesque church located in the heart of the Paterson-Great Falls Historic District which has earned its designation as an historic landmark by our State of New Jersey is, as follows:

HISTORY OF ST. MICHAEL R.C. CHURCH

Saint Michael's Roman Catholic Church was incorporated as a National Parish for the Italians of Paterson under the patronage of St. Michael the Archangel. This was June 12, 1903, with Bishop O'Connor as President, the Right Reverend Monsignor Sheppard, Vicar General, as Vice-President, and the Reverend Felice Di Persia as Secretary and Treasurer. Lay-trustees were Mr. Frank Puglia and Mr. Joseph Frank.

The first Mass was said on July 26 in the basement and the building was blessed and dedicated by Bishop O'Connor on October 25, 1903.

Rightly enough, the story of a parish becomes chiefly the story of the pastors who served it. They are the men who give direction and guidance; the planners, the captains who steer the ship through unknown waters. Their voice is heard clearly and authoritatively. Thus, the parish takes on the character of its shepherd, the pastor. But as a pastor will admit, his efforts would amount to little, his successes few were it not for his devoted parishioners. By their whole-hearted cooperation, good will, concern, sacrifices, both material and spiritual in all parish undertakings, was St. Michael's so abundantly blessed from its infant days to present.

Father Felice Cianci became the Pastor of St. Michael's Church in 1905.

In 1919, on account of his age and illness, Father Felice Cianci retired from the position of Pastor of Saint Michael's Parish and the Bishop granted him a pension with the right to stay on as Pastor Emeritus. At this time, Monsignor Carlo Cianci, Pastor of the Church of the Blessed Sacrament was transferred to Saint Michael's Parish as Pastor.

In 1967, because of Msgr. Carlo Cianci's poor health, Bishop Lawrence B. Casey accepted his resignation, and named him Pastor emeritus of St. Michael's Church, where he had served as pastor for 48 years. He resided in the parish rectory on Cianci St. (named after him) until his death March 21, 1968.

Reverend Joseph Ferrito, Administrator of the parish at the time of Msgr. Cianci's death, was made pastor of St. Michael's church. In 1967, Father Michael Castrilli had been assistant to Msgr. Cianci and now assisted Reverend Ferrito.

In 1971, Rev. Ferrito was assigned a new parish and Father Alphonse Tuozzo replaced him as pastor of St. Michael's Church.

When Father Alphonse Tuozzo was assigned another parish during the school year of 1974–75, Father Michael Castrilli was made pastor of St. Michael's Church.

Father Michael struggled endlessly to keep this parish financially above water and to maintain the spirit and love that has always been a part of St. Michael's. His appeal went to you, the present parishioners, parishioners of days long gone, friends, patrons of St. Michael. * * *

And so, the "Loyalty Fund" took shape, reaching out to all corners, to the thousands of people whose lives were somehow touched by St. Michael's. And the response was good. The loyalty, affection and generosity displayed is a living tribute to the two great Italian Priests, Fr. Felice Cianci and his nephew Msgr. Carlo Cianci, who founded and built this church; to the pastors and assistants that followed, and to you the people, the very core, the heart of the church, without whom the church would not exist.

Having accomplished all his goals, Fr. Michael passed his office on to the Pastoral Team of Father Frank A. Matarazzo, Father Richard A. Rusconi, and Deacon David Richardson.

September 23rd 1929 is a most memorable day in the history of Saint Michael's because on that day the Most Reverend Thomas Joseph Walsh, Bishop of Newark, assisted by many priests, layed the corner-stone. In 1929 the new Church of St. Michael the Archangel was dedicated by the Most Reverend Thomas Joseph Walsh.

Just 19 years later, in 1948, St. Michael's Church was consecrated by the most Rev. Thomas Aloysius Boland.

The church designed by Architect Joseph Bellomo, built by Antonio Giordano of Passaic, N.J., is constructed of light mottled faced brick, trimmed with solid granite steps and the lower sections are of cast granite; the trim in the campaniles are of terra cotta. It has a frontage of 63 feet and a depth of 95 feet. Spacious double doors in the center constitute the main entrance, flanked on either side by doors at the base of the towering campaniles which measure 96 feet to the top of the dome, upon each of which there is superimposed a large cross. Above the main entrance there is an alto-relief of Saint Michael the Archangel, Patron of the Church, executed and donated by the sculptor Gáetano Federici.

In the year 1935 the interior of the church was first decorated by D'Ambrosio Ecclesiastical Studios, made possible through the generosity of Mr. Antonio Scola. In the year 1953 to commemorate the Golden Jubilee Year of the founding of the Parish, the church was restored by the same artists of the D'Ambrosio Ecclesiastical Art Studios of N.Y. In 1975, the main altar was turned to face the people, conforming with the Vatican Ruling. However, the original marble altar is still in use. The beautiful and most valued stained glass windows were completely restored in 1978.

The bells were solemnly consecrated by His Excellency Archbishop Thomas J. Walsh of Newark and placed in the Campanile of the church in 1932. The largest bell is dedicated to St. Michael the Archangel in memory of the deceased Monsignor Felice Cianci. The second is dedicated to Our Lady of Mount Carmel and the third is dedicated to St. Gerard Maiella.

Things have changed since 1903. We are still in an age of transition. But we can not be less hopeful. The efforts must never end. 1978 will recall the naming and declaring of St. Michael's Church a "Historic Site" and Religious Center, long the efforts and vision of Fr. Michael Castrilli and his parishioners. Preserved in all its beauty and splendor, St. Michael's Church never again to be marred by the rumor of closing its doors.

In September 1978 together with the 75th Anniversary of the founding of this parish, we will gather together in joyful celebration and thank God for all that has been given to us through St. Michael's Church.

Mr. Speaker, St. Michael's has been a thriving church, foundress of many other parishes and schools as well as nursing homes and child care centers. The beauty of its edifice serves as a memorial to three-quarters of a century of community service which would not have been possible without the spiritual leadership of its pastorate dedicated to the noble cause of service to God and brotherhood, goodwill and understanding among all mankind.

In national tribute to the elegance of their faith and outstanding good works on behalf of our fellowman which have truly enriched our community, State, and Nation, we do indeed salute the pastoral team, Father Rusconi, Father Matarazzo, and Deacon Richardson, and all of the associate priests, sisters, and parishioners as they celebrate the 75th diamond jubilee anniversary of St. Michael's R. C. Church.●

CAMP DAVID SUMMIT USED FOR PR MOTIVE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1978

● Mr. DERWINSKI. Mr. Speaker, Harry Kelly, the Chicago Tribune's White House correspondent, is a knowledgeable, experienced, and necessarily pertinent observer of the Washington scene. He can also spot a good PR effort when he sees one.

His article, appearing in the Perspective section of the Monday, September 25 Tribune, is, in my judgment, a penetrating and objective commentary on the use of the Camp David summit for a PR motive. The article follows:

SUMMIT TARNISHED BY IMAGE-MAKERS

(By Harry Kelly)

WASHINGTON.—There was more going on than met the eye at the Camp David summit.

There was the perfect, astonishing ending of the story—almost as if Rogers and Hammerstein had been called in to fix up the third act of an O'Neill drama.

There has been two weeks of terrible suspense. Would the summit collapse? Would Sadat walk out? Would Begin be uncompromising? Would it become just another good Carter try that failed?

Then there they were, as if by magic, in the brightly illuminated East Room of the White House. Menachem Begin was embracing Anwar Sadat, calling him "my friend," as Jimmy Carter applauded and millions watched on television.

To prepare for that glowing moment, the image-makers had moved in to wring every ounce of favorable public relations they could for Carter from the Camp David summit.

And why shouldn't they? The President is a politician—which in a democracy shouldn't be a bad word—who has to worry about reelection. Also, he worked very hard at the summit. It was, as Begin said, "the Jimmy Carter conference." Very few people doubt that this deeply religious "born-again" Baptist has a profound desire to be peacemaker in the Holy Land. And that motive certainly came first.

Yet, stay a moment. This is a devious world. The important answers seldom are mathematical in their clarity. The answers usually lie in the gray uncharted land where motives are unclear—even sometimes to those with the motives.

So traveler, be cynical for a moment. Consider this cynical scenario:

In July, the White House hired Gerald Robinson, the "media whiz" who had handled the advertising for all of Carter's previous campaigns since 1966, to try to improve Carter's image as a take-charge, competent, tough President.

Mrs. Carter, who has talked about it in interviews, said she and the President didn't think the public was getting the true story about Carter's accomplishments.

The problem, according to some of the Carter's aides, was that the press corps was getting in the way between the President and the public, interpreting positions.

Rafshoon explained, "We have to have our own TV events, to use TV more directly to get our image across."

For a politician, the advantage of controlled television events and still photographs is that there is no reporter around to say, "On the other hand . . ."

In any event, since Rafshoon got on the job, the country has been treated to a flood of television pictures and still photographs of Carter pitching softball at Plains; walking through downtown Plains, as he did so successfully in the campaign; holding up peanut plants; rafting down the Salmon River; fishing and horseback riding in Jackson Hole, Wyo.; flanked by Sadat and Begin reviewing marines at Camp David; and, finally, ecstatic in the East Room.

At most of these pictorial events reporters were not allowed within half a mile. The press advance people, who have been put under Rafshoon along with speech writers, seemed honestly apprehensive that the press raft might accidentally come in sight of Carter on the Salmon when it wasn't supposed to or get close enough to ask questions when they weren't supposed to.

Carter had an honest reason for the news blackout at Camp David. Although he insisted during his campaign that he would conduct an open administration and denounced the secret diplomacy of past administrations, he has found it difficult to achieve anything with the prime ministers and foreign secretaries criticizing each other in the press.

But a side effect was that all the still photographs taken at the Camp David summit [except for those taken during the marine drill one evening] were the work of official photographers. All were screened by "media adviser" Robert Squier, who was hired by Rafshoon for the occasion to present Carter at his best.

Practically every photograph showed the summit politicians the way they like to be seen—smiling, as if they were part of one big, happy family.

But, we learn now, there were great tensions. That at the outset Sadat and Begin showed such hostility to one another Carter decided to keep them apart at negotiations. That members of both the Israel and Egyptian delegations threatened to pack up and go home. That key members of the American delegations were frustrated and deeply pessimistic about the outcome.

Then, at almost the moment of deadline, an agreement was reached. An administration official acknowledged the agreement on a key issue, the West Bank settlements, was fragile. "If we hadn't found a way to deal with it, we wouldn't have had those two men standing together . . . we wouldn't have had a deal."

For the East Room ceremony, where the two men stood together on each side of Carter, Rafshoon was busy making the arrangements. One of his PR associates escorted Barbara Walters, of ABC–TV, into the East Room. With Rafshoon, TV consultant Squier inspected the set, the podium the antique desk, the lights, the camera angles. Rafshoon coached Secretary of State Cyrus Vance, whose role was to pass around the documents for signing by Carter, Sadat, and Begin.

Sadat, Begin, and Carter were on prime-time television—with a particularly good audience because it was the first night of the networks' new shows—within 5½ hours of their agreement at Camp David, although they had not agreed to the wording on some of the most important issues.

Carter couldn't have got better publicity with both Sadat and Begin praising his efforts for peace.

But a woman who works at the White House, who was moved by the event, still found she was "personally affronted by it. I kept thinking Jerry Rafshoon had prompted Sadat and Begin to say nice things about the President."

And that is the trouble with imagemaking.

It leaves dirty fingerprints on even the best of things.●